

CHAPTER 355—H.F.No. 31

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CHAPTER 356—H.F.No. 1253

An act relating to energy; cogeneration and small power production; providing for establishment of prices paid for utilities' avoided capacity and energy costs; providing that the public utilities commission establish a preference for renewable resource energy production; amending Minnesota Statutes 1992, sections 216B.164, subdivision 4; 216B.2421, subdivision 1; and 216B.62, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 216B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 216B.164, subdivision 4, is amended to read:

Subd. 4. **PURCHASES; WHEELING.** (a) Except as otherwise provided in paragraph (c), this subdivision shall apply to all qualifying facilities having 40 kilowatt capacity or more as well as qualifying facilities as defined in subdivision 3 which elect to be governed by its provisions.

(b) The utility to which the qualifying facility is interconnected shall purchase all energy and capacity made available by the qualifying facility. The qualifying facility shall be paid the utility's full avoided capacity and energy costs ~~including the value of environmental costs avoided by the qualifying facility considered appropriate by the commission. To the extent possible, the commission shall quantify and value all environmental costs associated with each method of electricity generation as negotiated by the parties, as set by the commission, or as determined through competitive bidding approved by the commission. The full avoided capacity and energy costs to be paid a qualifying facility that generates electric power by means of a renewable energy source are the utility's least cost renewable energy facility or the bid of a competing supplier of a least cost renewable energy facility, whichever is lower, unless the commission's resource plan order, under section 216B.2422, subdivision 2, provides that the use of a renewable resource to meet the identified capacity need is not in the public interest.~~

(c) For all qualifying facilities having 30 kilowatt capacity or more, the utility shall, at the qualifying facility's or the utility's request, provide wheeling or exchange agreements wherever practicable to sell the qualifying facility's output to any other Minnesota utility having generation expansion anticipated or planned for the ensuing ten years. The commission shall establish the methods and procedures to insure that except for reasonable wheeling charges and line losses, the qualifying facility receives the full avoided energy and capacity costs of the utility ultimately receiving the output.

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(d) The commission shall set rates for electricity generated by renewable energy.

Sec. 2. Minnesota Statutes 1992, section 216B.2421, subdivision 1, is amended to read:

Subdivision 1. **APPLICABILITY.** The definition in this section applies to this section and sections 216B.2422 and ~~section~~ 216B.243.

Sec. 3. [216B.2422] **RESOURCE PLANNING; RENEWABLE ENERGY.**

Subdivision 1. **DEFINITIONS.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Utility" means an entity with the capability of generating 100,000 kilowatts or more of electric power and serving, either directly or indirectly, the needs of 10,000 retail customers in Minnesota. Utility does not include federal power agencies.

(c) "Renewable energy" means electricity generated through use of any of the following resources:

- (1) wind;
- (2) solar;
- (3) geothermal;
- (4) hydro;
- (5) trees or other vegetation; or
- (6) landfill gas.

(d) "Resource plan" means a set of resource options that a utility could use to meet the service needs of its customers over a forecast period, including an explanation of the supply and demand circumstances under which, and the extent to which, each resource option would be used to meet those service needs. These resource options include using, refurbishing, and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation.

(e) "Refurbish" means to rebuild or substantially modify an existing electricity generating resource of 30 megawatts or greater.

Subd. 2. PLAN FILING AND APPROVAL. A utility shall file a resource plan with the commission periodically in accordance with rules adopted by the commission. The commission shall approve, reject, or modify the plan of a public utility, as defined in section 216B.02, subdivision 4, consistent with the public interest. In the resource plan proceedings of all other utilities, the commission's order shall be advisory and the order's findings and conclusions

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shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings. With respect to utilities other than those defined in section 216B.02, subdivision 4, the commission shall consider the filing requirements and decisions in any comparable proceedings in another jurisdiction. As a part of its resource plan filing, a utility shall include the least cost plan for meeting 50 and 75 percent of all new and refurbished capacity needs through a combination of conservation and renewable energy resources.

Subd. 3. ENVIRONMENTAL COSTS. (a) The commission shall, to the extent practicable, quantify and establish a range of environmental costs associated with each method of electricity generation. A utility shall use the values established by the commission in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options in all proceedings before the commission, including resource plan and certificate of need proceedings.

(b) The commission shall establish interim environmental cost values associated with each method of electricity generation by March 1, 1994. These values expire on the date the commission establishes environmental cost values under paragraph (a).

Subd. 4. RENEWABLE PREFERENCE. The commission shall not approve a new or refurbished nonrenewable energy facility in an integrated resource plan or a certificate of need, pursuant to section 216B.243, nor shall the commission allow rate recovery pursuant to section 216B.16 for such a nonrenewable energy facility, unless the utility has demonstrated that a renewable energy facility is not in the public interest.

Subd. 5. BIDDING. A utility may select resources to meet its projected energy demand through a bidding process approved or established by the commission. A utility shall use the environmental cost estimates determined under subdivision 3 in evaluating bids submitted in a process established under this subdivision.

Subd. 6. CONSOLIDATION OF RESOURCE PLANNING AND CERTIFICATE OF NEED. A utility shall indicate in its resource plan whether it intends to site or construct a large energy facility. If the utility's resource plan includes a proposed large energy facility and construction of that facility is likely to begin before the utility files its next resource plan, the commission shall conduct the resource plan proceeding consistent with the requirements of section 216B.243 with respect to the proposed facility. If the commission approves the proposed facility in the resource plan, a separate certificate of need proceeding is not required.

Sec. 4. Minnesota Statutes 1992, section 216B.62, subdivision 5, is amended to read:

Subd. 5. ASSESSING COOPERATIVES AND MUNICIPALS. The commission and department may charge cooperative electric associations and

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municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 12:18 p.m.

CHAPTER 357—S.F.No. 553

An act relating to retirement; Minneapolis and St. Paul teacher retirement fund associations; providing additional funding from various sources; assessing active and retired members for certain teacher retirement fund associations supplemental administrative expenses; modifying certain post retirement adjustments; authorizing contributions by the city of Minneapolis; appropriating money; authorizing certain tax levies by special school district No. 1; amending Minnesota Statutes 1992, sections 354A.12, subdivisions 2, 2a, and by adding subdivisions; and Laws 1959, chapter 462, section 3, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 354A; repealing Laws 1987, chapter 372, article 3, section 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 354A.12, subdivision 2, is amended to read:

Subd. 2. **RETIREMENT CONTRIBUTION LEVY DISALLOWED.** Except as provided in subdivision 3b, paragraph (d), with respect to special school district No. 1, notwithstanding any law to the contrary, levies for teachers retirement fund associations in cities of the first class, including levies for any employer social security taxes for teachers covered by the Duluth teachers retirement fund association or the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association, are disallowed.

Sec. 2. Minnesota Statutes 1992, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **EMPLOYER REGULAR AND ADDITIONAL CONTRIBUTION RATES.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

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