CHAPTER 3–S.F.No. 4

An act relating to energy; establishing renewable energy standard; amending Minnesota Statutes 2006, section 216B.1691; repealing Minnesota Statutes 2006, section 216B.169.

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

Section 1. Minnesota Statutes 2006, section 216B.1691, is amended to read:

216B.1691 RENEWABLE ENERGY OBJECTIVES.

Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy technology" means an energy technology that~~:~~

~~(1)~~ generates electricity from the following renewable energy sources: (1) solar; (2) wind; (3) hydroelectric with a capacity of less than ~~60~~ 100 megawatts; (4) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this clause; or (5) biomass, which includes, without limitation, landfill gas, an anaerobic digester system, and an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel~~; and~~

~~(2) was not mandated by Laws 1994, chapter 641, or by commission order issued pursuant to that chapter prior to August 1, 2001~~.

(b) "Electric utility" means a public utility providing electric service, a generation and transmission cooperative electric association, ~~or~~ a municipal power agency, or a power district.

(c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year by an electric utility to retail customers of the electric utility or to a distribution utility for distribution to the retail customers of the distribution utility.

Subd. 2. **Eligible energy objectives.** ~~(a)~~ Each electric utility shall make a good faith effort to generate or procure sufficient electricity generated by an eligible energy technology to provide its retail consumers, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that~~:~~

~~(1)~~ commencing in 2005, at least one percent of the electric utility's total retail electric sales to retail customers in Minnesota is generated by eligible energy technologies~~;~~

~~(2) the amount provided under clause (1) is increased by one percent of the utility's total retail electric sales each year until 2015;~~ and

~~(3) ten~~ seven percent of the electric ~~energy provided~~ utility's total retail electric sales to retail customers in Minnesota by 2010 is generated by eligible energy technologies.

~~(b) Of the eligible energy technology generation required under paragraph (a), clauses (1) and (2), not less than 0.5 percent of the energy must be generated by biomass~~

~~energy technologies, including an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel, by 2005. By 2010, one percent of the eligible technology generation required under paragraph (a), clauses (1) and (2), shall be generated by biomass energy technologies. An energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste, with a power sales agreement in effect as of May 29, 2003, that terminates after December 31, 2010, does not qualify as an eligible energy technology unless the agreement provides for rate adjustment in the event the facility qualifies as a renewable energy source.~~

Subd. 2a. **Eligible energy technology standard.** (a) Except as provided in paragraph (b), each electric utility shall generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota is generated by eligible energy technologies by the end of the year indicated:

(1)	2012	12 percent
(2)	2016	17 percent
(3)	2020	20 percent
(4)	2025	25 percent.

(b) An electric utility that owned a nuclear generating facility as of January 1, 2007, must meet the requirements of this paragraph rather than paragraph (a). An electric utility subject to this paragraph must generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota or the retail customer of a distribution utility to which the electric utility provides wholesale electric service so that at least the following percentages of the electric utility's total retail electric sales to retail customers in Minnesota is generated by eligible energy technologies by the end of the year indicated:

(1)	2010	15 percent
(2)	2012	18 percent
(3)	2016	25 percent
(4)	2020	30 percent.

Of the 30 percent in 2020, at least 25 percent must be generated by wind energy conversion systems and the remaining five percent by other eligible energy technology.

Subd. 2b. **Modification or delay of standard.** (a) The commission shall modify or delay the implementation of a standard obligation, in whole or in part, if the commission determines it is in the public interest to do so. The commission, when requested to modify or delay implementation of a standard, must consider: (1) the impact of implementing the standard on its customer's utility costs, including the economic and competitive pressure on the utility's customers; (2) the effects of implementing the standard on the reliability of the electric system; (3) technical advances or technical concerns; (4) delays in acquiring sites or routes due to rejection or delays of necessary siting or other permitting approvals; (5) delays, cancellations, or nondelivery of necessary equipment for construction

or commercial operation of an eligible energy technology facility; (6) transmission constraints preventing delivery of service; and (7) other statutory obligations imposed on the commission or a utility. The commission may modify or delay implementation of a standard obligation under clauses (1) to (3) only if it finds implementation would cause significant rate impact, requires significant measures to address reliability, or raises significant technical issues. The commission may modify or delay implementation of a standard obligation under clauses (4) to (6) only if it finds that the circumstances described in those clauses were due to circumstances beyond an electric utility's control and make compliance not feasible.

(b) When considering whether to delay or modify implementation of a standard obligation, the commission must give due consideration to a preference for electric generation through use of eligible energy technology and to the achievement of the standards set by this section.

(c) An electric utility requesting a modification or delay in the implementation of a standard must file a plan to comply with its standard obligation in the same proceeding that it is requesting the delay.

Subd. 2c. **Use of integrated resource planning process.** The commission may exercise its authority under subdivision 2b to modify or delay implementation of a standard obligation as part of an integrated resource planning proceeding under section 216B.2422. The commission's authority must be exercised according to subdivision 2b. The order to delay or modify shall not be considered advisory with respect to any electric utility. This subdivision is in addition to and does not limit the commission's authority to modify or delay implementation of a standard obligation in other proceedings before the commission.

~~(c)~~ Subd. 2d. **Commission order.** ~~By June 1, 2004, and as needed thereafter,~~ The commission shall issue ~~an order~~ necessary orders detailing the criteria and standards by which it will measure an electric utility's efforts to meet the renewable energy objectives of ~~this section~~ subdivision 2 to determine whether the utility is making the required good faith effort. In this order, the commission shall include criteria and standards that protect against undesirable impacts on the reliability of the utility's system and economic impacts on the utility's ratepayers and that consider technical feasibility.

~~(d) In its order under paragraph (c), the commission shall provide for a weighted scale of how energy produced by various eligible energy technologies shall count toward a utility's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels, and shall establish a system that grants multiple credits toward the objectives for those technologies and fuels the commission determines is in the public interest to encourage.~~

Subd. 3. **Utility plans filed with commission.** (a) Each electric utility shall report on its plans, activities, and progress with regard to ~~these~~ the objectives and standards of this section in its filings under section 216B.2422 or in a separate report submitted to the commission every two years, whichever is more frequent, demonstrating to the commission ~~that~~ the ~~utility is making the required good faith~~ utility's effort to comply with this section. In its resource plan or a separate report, each electric utility shall provide a description of:

(1) the status of the utility's renewable energy mix relative to the ~~good faith~~ objective and standards;

(2) efforts taken to meet the objective and standards;

(3) any obstacles encountered or anticipated in meeting the objective or standards; and

(4) potential solutions to the obstacles.

(b) The commissioner shall compile the information provided to the commission under paragraph (a), and report to the chairs of the house of representatives and senate committees with jurisdiction over energy and environment policy issues as to the progress of utilities in the state, including the progress of each individual electric utility, in increasing the amount of renewable energy provided to retail customers, with any recommendations for regulatory or legislative action, by January 15 of each odd-numbered year.

Subd. 4. **Renewable energy credits.** (a) To facilitate compliance with this section, the commission, by rule or order, ~~may~~ shall establish by January 1, 2008, a program for tradable renewable energy credits for electricity generated by ~~an~~ eligible energy technology. ~~In doing so, the commission shall implement a system that constrains or limits the cost of credits, taking care to ensure that such a system does not undermine the market for those credits.~~ The credits must represent energy produced by an eligible energy technology, as defined in subdivision 1. Each kilowatt-hour of renewable energy credits must be treated the same as a kilowatt-hour of eligible energy technology generated or procured by an electric utility if it is produced by an eligible energy technology. The program must permit a credit to be used only once. The program must treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was generated or the technology with which the energy was generated. The commission must determine the period in which the credits may be used for purposes of the program.

(b) In lieu of generating or procuring energy directly to satisfy the ~~renewable~~ eligible energy technology objective or standard of this section, an electric utility may ~~purchase sufficient renewable energy credits, issued pursuant to this subdivision, to meet its objective~~ utilize renewable energy credits allowed under the program to satisfy the objective or standard.

(c) ~~Upon the passage of a renewable energy standard, portfolio, or objective in a bordering state that includes a similar definition of eligible energy technology or renewable energy,~~ The commission ~~may~~ shall facilitate the trading of renewable energy credits between states.

(d) The commission shall require all electric utilities to participate in a commission-approved credit tracking system or systems. Once a credit tracking system is in operation, the commission shall issue an order establishing protocols for trading credits.

(e) An electric utility subject to subdivision 2a, paragraph (b), may not sell renewable energy credits to an electric utility subject to subdivision 2a, paragraph (a), until 2021.

Subd. 5. **Technology based on fuel combustion.** (a) Electricity produced by fuel combustion may only count toward a utility's objectives or standards if the generation facility:

(1) was constructed in compliance with new source performance standards promulgated under the federal Clean Air Act for a generation facility of that type; or

(2) employs the maximum achievable or best available control technology available for a generation facility of that type.

(b) An eligible energy technology may blend or co-fire a fuel listed in subdivision 1, paragraph (a), clause (1), with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that clause can be counted toward an electric utility's renewable energy objectives.

~~Subd. 6. **Electric utility that owns nuclear generation facility.** (a) An electric utility that owns a nuclear generation facility, as part of its good faith effort under this subdivision and subdivision 2, shall deploy an additional 300 megawatts of nameplate capacity of wind energy conversion systems by 2010, beyond the amount of wind energy capacity to which the utility is required by law or commission order as of May 1, 2003. At least 100 megawatts of this capacity are to be wind energy conversion systems of two megawatts or less, which shall not be eligible for the production incentive under section 216C.41. To the greatest extent technically feasible and economic, these 300 megawatts of wind energy capacity are to be distributed geographically throughout the state. The utility may opt to own, construct, and operate up to 100 megawatts of this wind energy capacity, except that the utility may not own, construct, or operate any of the facilities that are under two megawatts of nameplate capacity. The deployment of the wind energy capacity under this subdivision must be consistent with the outcome of the engineering study required under Laws 2003, First Special Session chapter 11, article 2, section 21.~~

~~(b) The renewable energy objective set forth in subdivision 2 shall be a requirement for the public utility that owns the Prairie Island nuclear generation plant. The objective is a requirement subject to resource planning and least-cost planning requirements in section 216B.2422, unless implementation of the objective can reasonably be shown to jeopardize the reliability of the electric system. The least-cost planning analysis must include the costs of ancillary services and other necessary generation and transmission upgrades.~~

~~(c) Also as part of its good faith effort under this section, the utility that owns a nuclear generation facility is to enter into a power purchase agreement by January 1, 2004, for ten to 20 megawatts of biomass energy and capacity at an all-inclusive price not to exceed $55 per megawatt-hour, for a project described in section 216B.2424, subdivision 5, paragraph (c), clause (2). The project must be operational and producing energy by June 30, 2005.~~

Subd. 7. **Compliance.** The commission must regularly investigate whether an electric utility is in compliance with its good-faith objective under subdivision 2 and standard obligation under subdivision 2a. If the commission finds noncompliance, it may order the electric utility to construct facilities, purchase energy generated by eligible energy technology, purchase renewable energy credits, or engage in other activities to achieve compliance. If an electric utility fails to comply with an order under this subdivision, the commission may impose a financial penalty on the electric utility in an amount not to exceed the estimated cost of the electric utility to achieve compliance. The penalty may not exceed the lesser of the cost of constructing facilities or purchasing credits. This subdivision is in addition to and does not limit any other authority of the commission to enforce this section.

Subd. 8. **Relation to other law.** This section does not limit the authority of the commission under any other law, including, without limitation, sections 216B.2422 and 216B.243.

Subd. 9. **Local benefits.** The commission shall take all reasonable actions within its statutory authority to ensure this section is implemented to maximize benefits to Minnesota citizens, balancing factors such as local ownership of or participation in

energy production, development and ownership of eligible energy technology facilities by independent power producers, Minnesota utility ownership of eligible energy technology facilities, the costs of energy generation to satisfy the renewable standard, and the reliability of electric service to Minnesotans.

Sec. 2. **TRANSMISSION FOR RENEWABLE ENERGY STANDARD.**

Minnesota electric utilities, as defined by Minnesota Statutes, section 216B.1691, subdivision 1, paragraph (b), must study and develop plans for the transmission network enhancements necessary to support the renewable energy standards and milestones established in Minnesota Statutes, section 216B.1691, subdivision 2a. The study process must be designed to identify and optimize delivery of that renewable energy to Minnesota retail customers while maintaining system reliability.

As part of the planning process, Minnesota electric utilities shall incorporate and build upon the analyses that have previously been done or that are in progress, including, but not limited to, the 2006 Minnesota Wind Integration Study and ongoing work to address geographically dispersed development patterns. The Minnesota electric utilities shall collaborate with the Midwest Independent System Operator to optimize and integrate to the extent possible Minnesota's transmission plans with other regional transmission considerations.

As part of the planning process, utilities shall convene and regularly consult with a group of stakeholders with experience and expertise in transmission system engineering and renewable generation technology to review the study's proposed methods and assumptions, preliminary results, and ongoing efforts.

Utilities shall submit a report to the Minnesota Public Utilities Commission by November 1, 2007, describing the activities undertaken pursuant to this section. The report shall include:

(1) a description of the analyses that have been undertaken and the results, including the critical issues that need to be addressed in order to develop the transmission needed to meet the standards and milestones of Minnesota Statutes, section 216B.1691, subdivision 2a;

(2) a comprehensive conceptual plan to guide ongoing planning efforts to develop the transmission necessary to support those standards and milestones;

(3) specific transmission line proposals necessary to meet those intermediate standards and milestones;

(4) a description of how the results of these studies have been reflected in the biennial transmission reports filed under Minnesota Statutes, section 216B.2425; and

(5) a five-year action plan that identifies with specificity the actions necessary to implement the specific proposals and to refine and further develop the transmission plans needed to support those standards and milestones, including initiating any certificate of need or other regulatory proceeding necessary to implement the specific proposals identified above.

Sec. 3. **REPEALER.**

Minnesota Statutes 2006, section 216B.169, is repealed.

EFFECTIVE DATE. This section is effective January 1, 2010.

Presented to the governor February 21, 2007

Signed by the governor February 22, 2007, 10:59 a.m.