

**CHAPTER 97—S.F.No. 1197**

*An act relating to energy; modifying provisions related to software sale fund and renewable development account; clarifying Department of Commerce regional and national duties on energy policy; removing obsolete and redundant language; changing reporting requirements for energy conservation improvements; providing for cost recovery for certain pollution control products; authorizing the Public Utilities Commission to approve a multiyear plan for certain utilities; providing for nuclear power plant decommissioning and storage of used nuclear fuel; defining certain terms; requiring a report on the rate impact of activities of an electric utility; making clarifying and technical changes; making provisions for regulatory incentives granted to an innovative energy project; exempting certain utilities from the conservation improvement program; allowing assessments to energy utilities for department regional and national duties; providing an exemption from greenhouse gas emissions and conservation improvement program; providing a temporary prohibition on Public Utilities Commission approval of certain renewable development account expenditures; allowing the city of Melrose to increase the city's Public Utilities Commission membership; amending Minnesota Statutes 2010, sections 16E.15, subdivision 2; 116C.779, subdivisions 1, 3; 216A.07, by adding a subdivision; 216B.02, by adding a subdivision; 216B.026, subdivision 1; 216B.096, subdivision 3; 216B.16, subdivisions 6b, 7, 9, 15, by adding a subdivision; 216B.1691, subdivision 1, by adding a subdivision; 216B.1694, by adding a subdivision; 216B.2401; 216B.241, subdivisions 1, 1a, 1c, 2; 216B.2425, subdivision 2; 216B.49, subdivision 3; 216B.62, subdivisions 2, 3, by adding a subdivision; 216C.11; 216C.264; 216E.18, subdivision 3; 216H.03, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2010, sections 216A.085; 216B.242; 216C.052, subdivisions 1, 2, 4; 216F.09.*

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

Section 1. Minnesota Statutes 2010, section 16E.15, subdivision 2, is amended to read:

Subd. 2. **Software sale fund.** (a) Except as provided in ~~paragraphs~~ paragraph (b) ~~and (c)~~, proceeds of the sale or licensing of software products or services by the chief information officer must be credited to the enterprise technology revolving fund. If a state agency other than the Office of Enterprise Technology has contributed to the development of software sold or licensed under this section, the chief information officer may reimburse the agency by discounting computer services provided to that agency.

(b) Proceeds of the sale or licensing of software products or services developed by the Pollution Control Agency, or custom developed by a vendor for the agency, must be credited to the environmental fund.

~~(c) Proceeds of the sale or licensing of software products or services developed by the Department of Education, or custom developed by a vendor for the agency, to support~~

~~the achieved savings assessment program, must be appropriated to the commissioner of education and credited to the weatherization program to support weatherization activities.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2010, section 116C.779, subdivision 1, is amended to read:

Subdivision 1. **Renewable development account.** (a) The public utility that owns the Prairie Island nuclear generating plant must transfer to a renewable development account \$500,000 each year for each dry cask containing spent fuel that is located at the Prairie Island power plant for each year the plant is in operation, and \$7,500,000 each year the plant is not in operation if ordered by the commission pursuant to paragraph (d). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at Prairie Island for any part of a year. Funds in the account may be expended only for development of renewable energy sources. Preference must be given to development of renewable energy source projects located within the state. The utility that owns a nuclear generating plant is eligible to apply for renewable development fund grants. The utility's proposals must be evaluated by the renewable development fund board in a manner consistent with that used to evaluate other renewable development fund project proposals.

(b) The public utility that owns the Monticello nuclear generating plant must transfer to the renewable development account \$350,000 each year for each dry cask containing spent fuel that is located at the Monticello nuclear power plant for each year the plant is in operation, and \$5,250,000 each year the plant is not in operation if ordered by the commission pursuant to paragraph (d). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at Monticello for any part of a year.

(c) Expenditures authorized by this subdivision from the account may only be made after approval by order of the Public Utilities Commission upon a petition by the public utility. Commission approval is not required for expenditures required under subdivisions 2 and 3, section 116C.7791, or other law.

(d) After discontinuation of operation of the Prairie Island nuclear plant or the Monticello nuclear plant and each year spent nuclear fuel is stored in dry cask at the discontinued facility, the commission shall require the public utility to pay \$7,500,000 for the discontinued Prairie Island facility and \$5,250,000 for the discontinued Monticello facility for any year in which the commission finds, by the preponderance of the evidence, that the public utility did not make a good faith effort to remove the spent nuclear fuel stored at the facility to a permanent or interim storage site out of the state. This determination shall be made at least every two years.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2010, section 116C.779, subdivision 3, is amended to read:

Subd. 3. **Initiative for Renewable Energy and the Environment.** (a) Beginning July 1, 2009, and each July 1 through ~~2012~~ 2011, \$5,000,000 must be allocated from the renewable development account to fund a grant to the Board of Regents of the University of Minnesota for the Initiative for Renewable Energy and the Environment for the purposes described in paragraph (b). The Initiative for Renewable Energy and the Environment must set aside at least 15 percent of the funds received annually under the grant for

qualified projects conducted at a rural campus or experiment station. Any set-aside funds not awarded to a rural campus or experiment station at the end of the fiscal year revert back to the Initiative for Renewable Energy and the Environment for its exclusive use. This subdivision does not create an obligation to contribute funds to the account.

(b) Activities funded under this grant may include, but are not limited to:

(1) environmentally sound production of energy from a renewable energy source, including biomass and agricultural crops;

(2) environmentally sound production of hydrogen from biomass and any other renewable energy source for energy storage and energy utilization;

(3) development of energy conservation and efficient energy utilization technologies;

(4) energy storage technologies; and

(5) analysis of policy options to facilitate adoption of technologies that use or produce low-carbon renewable energy.

(c) For the purposes of this subdivision:

(1) "biomass" means plant and animal material, agricultural and forest residues, mixed municipal solid waste, and sludge from wastewater treatment; and

(2) "renewable energy source" means hydro, wind, solar, biomass, and geothermal energy, and microorganisms used as an energy source.

(d) Beginning January 15 of 2010, and each year thereafter, the director of the Initiative for Renewable Energy and the Environment at the University of Minnesota shall submit a report to the chair and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy finance describing the activities conducted during the previous year funded under this subdivision.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2010, section 216A.07, is amended by adding a subdivision to read:

Subd. 3a. **Regional and national duties.** The Department of Commerce has the duty and power to represent the interests of Minnesota residents, businesses, and governments before bodies and agencies outside the state that make, interpret, or implement regional, national, and international energy policy and that regulate and implement regional or national energy planning or infrastructure development. This subdivision does not limit regional, national, or international activities of the Public Utilities Commission.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 216B.02, is amended by adding a subdivision to read:

Subd. 1b. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Commerce.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2010, section 216B.026, subdivision 1, is amended to read:

Subdivision 1. **Election.** ~~(a)~~ A cooperative electric association may elect to become subject to rate regulation by the commission pursuant to sections 216B.03 to 216B.23. The election shall be approved by a majority of members or stockholders voting by mail ballot initiated by petition of not less than five percent of the members or stockholders of the association, as determined by membership figures submitted by the association to the Rural Electric Administration for the month in which the petition was submitted.

~~(b) For a cooperative electric association that is the product of a merger or consolidation of three or more associations between December 30, 1996, and January 1, 2001, the number of members or stockholders necessary to initiate the petition shall be no less than one percent of the members or stockholders of the association.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2010, section 216B.096, subdivision 3, is amended to read:

Subd. 3. **Utility obligations before cold weather period.** Each year, between September 1 and October 15, each utility must provide all customers, personally ~~or~~ by first class mail, or electronically for those requesting electronic billing, a summary of rights and responsibilities. The summary must also be provided to all new residential customers when service is initiated.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2010, section 216B.16, subdivision 6b, is amended to read:

Subd. 6b. **Energy conservation improvement.** (a) Except as otherwise provided in this subdivision, all investments and expenses of a public utility as defined in section 216B.241, subdivision 1, paragraph (i), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service.

~~(b) The commission shall not include investments and expenses for energy conservation improvements shall not be included by the commission in the determination of determining (i) just and reasonable electric and gas rates for retail electric and gas service provided to large electric customer facilities that whose electric utilities have been exempted by the commissioner of the department pursuant to under section 216B.241, subdivision 1a, paragraph (b) with respect to those large customer facilities; or (ii) just and reasonable gas rates for large energy facilities, large customer facilities whose natural gas utilities have been exempted by the commissioner under section 216B.241, subdivision 1a, paragraph (b) or commercial gas customer facilities whose natural gas utilities have been exempted by the commissioner under section 216B.241, subdivision 1a, paragraph (c).~~

(c) The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements. These rate schedules may be applicable to less than all the customers in a class of retail customers if necessary to reflect the requirements of section 216B.241. The commission shall allow a public utility, without requiring a general rate filing under this section, to reduce the electric ~~and gas~~ rates applicable to large ~~electric~~ customer facilities that have been exempted by the commissioner ~~of the department pursuant to under~~ section 216B.241,

subdivision 1a, paragraph (b), and to reduce the gas rate applicable to a large energy facility, a large customer facility or commercial customer facility that has been exempted by the commissioner under section 216B.241, subdivision 1a, paragraph (b) or (c), or by the commission under section 216B.241, subdivision 2, by an amount that reflects the elimination of energy conservation improvement investments or expenditures for those facilities. In the event that the commission has set electric or gas rates based on the use of an accounting methodology that results in the cost of conservation improvements being recovered from utility customers over a period of years, the rate reduction may occur in a series of steps to coincide with the recovery of balances due to the utility for conservation improvements made by the utility on or before December 31, 2007.

(d) Investments and expenses of a public utility shall not include electric utility infrastructure costs as defined in section 216B.1636, subdivision 1, paragraph (b).

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2010, section 216B.16, subdivision 7, is amended to read:

Subd. 7. **Energy and emission control products cost adjustment.** Notwithstanding any other provision of this chapter, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in:

(1) federally regulated wholesale rates for energy delivered through interstate facilities;

(2) direct costs for natural gas delivered; ~~or~~

(3) costs for fuel used in generation of electricity or the manufacture of gas; or

(4) prudent costs incurred by a public utility for sorbents, reagents, or chemicals used to control emissions from an electric generation facility, provided that these costs are not recovered elsewhere in rates. The utility must track and report annually the volumes and costs of sorbents, reagents, or chemicals using separate accounts by generating plant.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2010, section 216B.16, subdivision 9, is amended to read:

Subd. 9. **Charitable contribution.** The commission shall allow as operating expenses only those charitable contributions ~~which that~~ the commission deems prudent and ~~which that~~ qualify under section ~~290.21, subdivision 3, clause (b) 300.66, subdivision 3.~~ Only 50 percent of the qualified contributions ~~shall be~~ are allowed as operating expenses.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2010, section 216B.16, subdivision 15, is amended to read:

Subd. 15. **Low-income affordability programs.** (a) The commission must consider ability to pay as a factor in setting utility rates and may establish affordability programs for low-income residential ratepayers in order to ensure affordable, reliable, and continuous service to low-income utility customers. ~~Affordability programs may include inverted block rates in which lower energy prices are made available to lower usage customers. By September 1, 2007, A public utility serving low-income residential~~

ratepayers who use natural gas for heating must file an affordability program with the commission. For purposes of this subdivision, "low-income residential ratepayers" means ratepayers who receive energy assistance from the low-income home energy assistance program (LIHEAP).

(b) Any affordability program the commission orders a utility to implement must:

(1) lower the percentage of income that participating low-income households devote to energy bills;

(2) increase participating customer payments over time by increasing the frequency of payments;

(3) decrease or eliminate participating customer arrears;

(4) lower the utility costs associated with customer account collection activities; and

(5) coordinate the program with other available low-income bill payment assistance and conservation resources.

(c) In ordering affordability programs, the commission may require public utilities to file program evaluations that measure the effect of the affordability program on:

(1) the percentage of income that participating households devote to energy bills;

(2) service disconnections; and

(3) frequency of customer payments, utility collection costs, arrearages, and bad debt.

(d) The commission must issue orders necessary to implement, administer, and evaluate affordability programs, and to allow a utility to recover program costs, including administrative costs, on a timely basis. The commission may not allow a utility to recover administrative costs, excluding start-up costs, in excess of five percent of total program costs, or program evaluation costs in excess of two percent of total program costs. The commission must permit deferred accounting, with carrying costs, for recovery of program costs incurred during the period between general rate cases.

(e) Public utilities may use information collected or created for the purpose of administering energy assistance to administer affordability programs.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2010, section 216B.16, is amended by adding a subdivision to read:

Subd. 19. **Multiyear rate plan.** (a) A public utility may propose, and the commission may approve, approve as modified, or reject, a multiyear rate plan as provided in this subdivision. The term "multiyear rate plan" refers to a plan establishing the rates the utility may charge for each year of the specified period of years, which cannot exceed three years, to be covered by the plan. The commission may approve a multiyear rate plan only if it finds that the plan establishes just and reasonable rates for the utility, applying the factors described in subdivision 6. Consistent with subdivision 4, the burden of proof to demonstrate that the multiyear rate plan is just and reasonable is on the public utility proposing the plan.

(b) Rates charged under the multiyear rate plan must be based only upon the utility's reasonable and prudent costs of service over the term of the plan, as determined by the commission, provided that the costs are not being recovered elsewhere in rates. Rate adjustments authorized under subdivisions 6b and 7 may continue outside of a plan authorized under this subdivision.

(c) The commission may, by order, establish terms, conditions, and procedures for a multiyear rate plan necessary to implement this section and ensure that rates remain just and reasonable during the course of the plan, including terms and procedures for rate adjustment. At any time prior to conclusion of a multiyear rate plan, the commission, upon its own motion or upon petition of any party, has the discretion to examine the reasonableness of the utility's rates under the plan, and adjust rates as necessary.

(d) In reviewing a multiyear rate plan proposed in a general rate case under this section, the commission may extend the time requirements for issuance of a final determination prescribed in this section by an additional 90 days beyond its existing authority under subdivision 2, paragraph (f).

(e) A utility may not file a multiyear rate plan that would establish rates under the terms of the plan until after May 31, 2012.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 13. **[216B.1614] NUCLEAR POWER PLANT DECOMMISSIONING AND STORAGE OF USED NUCLEAR FUEL.**

Subdivision 1. **Decommissioning costs.** (a) The Public Utilities Commission shall, when considering approval of a plan for the accrual of funds for the decommissioning of nuclear facilities filed in accordance with a commission order, include an evaluation of the costs, if any, arising from storage of used nuclear fuel that may be incurred by the state of Minnesota, and any tribal community, county, city, or township where used nuclear fuel is located following the cessation of operations at a nuclear plant.

(b) To assist the commission in making the determination required in paragraph (a), the filing shall provide cost estimates, including ratepayer impacts, assuming used nuclear fuel will be stored in the state for 60 years, 100 years, and 200 years following the cessation of operation of the nuclear plant.

Subd. 2. **Rate.** A public utility filing a decommissioning plan in accordance with a commission order and this section may include, as part of a general rate case petition, the costs of decommissioning accrual incurred in complying with a commission order implementing this section.

Subd. 3. **Commission report.** The commission shall prepare a nuclear decommissioning report after each of the commission's periodic review of nuclear decommissioning costs. The report shall be submitted within 180 days of the date of the final order related to that review to the chairs and ranking minority members of the legislative committees with primary jurisdiction over energy policy and public safety. That report shall, without limitation, include the following:

(1) an explanation of the commission's funding decisions regarding nuclear decommissioning;

(2) the progress of the United States Department of Energy to remove from Minnesota spent fuel produced by nuclear generating plants in Minnesota;

(3) an analysis of the financial and other obligations related to decommissioning and storage of used fuel of the utility holding title to spent nuclear fuel to the state and to host communities, including affected tribal communities; and

(4) any recommendations to the legislature on legislation or other actions that may be necessary for addressing long-term or indefinite storage costs.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 14. Minnesota Statutes 2010, section 216B.1691, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy technology" means an energy technology that generates electricity from the following renewable energy sources:

(1) solar;

(2) wind;

(3) hydroelectric with a capacity of less than 100 megawatts;

(4) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this paragraph; or

(5) biomass, which includes, without limitation, landfill gas; an anaerobic digester system; the predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge to produce electricity; 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.

(b) "Electric utility" means a public utility providing electric service, a generation and transmission cooperative electric association, 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. "Total retail electric sales" does not include the sale of hydroelectricity supplied by a federal power marketing administration or other federal agency, regardless of whether the sales are directly to a distribution utility or are made to a generation and transmission utility and pooled for further allocation to a distribution utility.

**EFFECTIVE DATE.** This section is effective retroactively from January 1, 2010, and applies to sales of electricity made on and after that date.

Sec. 15. Minnesota Statutes 2010, section 216B.1691, is amended by adding a subdivision to read:

Subd. 2e. **Rate impact of standard compliance; report.** Each electric utility must submit to the commission and the legislative committees with primary jurisdiction over energy policy a report containing an estimation of the rate impact of activities of the electric utility necessary to comply with section 216B.1691. The rate impact estimate must be for wholesale rates and, if the electric utility makes retail sales, the estimate



shall also be for the impact on the electric utility's retail rates. Those activities include, without limitation, energy purchases, generation facility acquisition and construction, and transmission improvements. An initial report must be submitted within 150 days of the effective date of this section. After the initial report, a report must be updated and submitted as part of each integrated resource plan or plan modification filed by the electric utility under section 216B.2422. The reporting obligation of an electric utility under this subdivision expires December 31, 2025, for an electric utility subject to subdivision 2a, paragraph (a), and December 31, 2020, for an electric utility subject to subdivision 2a, paragraph (b).

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2010, section 216B.1694, is amended by adding a subdivision to read:

Subd. 3. **Staging and permitting.** (a) A natural gas-fired plant that is located on one site designated as an innovative energy project site under subdivision 1, clause (3), is accorded the regulatory incentives granted to an innovative energy project under subdivision 2, clauses (1) through (3), and may exercise the authorities therein.

(b) Following issuance of a final state or federal environmental impact statement for an innovative energy project that was a subject of contested case proceedings before an administrative law judge:

(1) site and route permits and water appropriation approvals for an innovative energy project must also be deemed valid for a plant meeting the requirements of paragraph (a) and shall remain valid until the earlier of (i) four years from the date the final required state or federal preconstruction permit is issued or (ii) June 30, 2019; and

(2) no air, water, or other permit issued by a state agency that is necessary for constructing an innovative energy project may be the subject of contested case hearings, notwithstanding Minnesota Rules, parts 7000.1750 to 7000.2200.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2010, section 216B.2401, is amended to read:

**216B.2401 ENERGY CONSERVATION POLICY GOAL.**

It is the energy policy of the state of Minnesota to achieve annual energy savings equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly through energy conservation improvement programs and rate design, ~~such as inverted block rates in which lower energy prices are made available to lower-usage residential customers;~~ and indirectly through energy codes and appliance standards, programs designed to transform the market or change consumer behavior, energy savings resulting from efficiency improvements to the utility infrastructure and system, and other efforts to promote energy efficiency and energy conservation.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 18. Minnesota Statutes 2010, section 216B.241, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 216B.16, subdivision 6b, the terms defined in this subdivision have the meanings given them.

(a) "Commission" means the Public Utilities Commission.

(b) "Commissioner" means the commissioner of commerce.

~~(c) "Customer facility" means all buildings, structures, equipment, and installations at a single site.~~

~~(d)~~ (e) "Department" means the Department of Commerce.

~~(e)~~ (d) "Energy conservation" means demand-side management of energy supplies resulting in a net reduction in energy use. Load management that reduces overall energy use is energy conservation.

~~(f)~~ (e) "Energy conservation improvement" means a project that results in energy efficiency or energy conservation. Energy conservation improvement may include waste heat recovery converted into electricity but does not include electric utility infrastructure projects approved by the commission under section 216B.1636.

~~(g)~~ (f) "Energy efficiency" means measures or programs, including energy conservation measures or programs, that target consumer behavior, equipment, processes, or devices designed to produce either an absolute decrease in consumption of electric energy or natural gas or a decrease in consumption of electric energy or natural gas on a per unit of production basis without a reduction in the quality or level of service provided to the energy consumer.

~~(h)~~ (g) "Gross annual retail energy sales" means annual electric sales to all retail customers in a utility's or association's Minnesota service territory or natural gas throughput to all retail customers, including natural gas transportation customers, on a utility's distribution system in Minnesota. For purposes of this section, gross annual retail energy sales exclude:

(1) gas sales to:

(i) a large energy facility;

(ii) a large customer facility whose natural gas utility has been exempted by the commissioner under subdivision 1a, paragraph (b), with respect to natural gas sales made to the large customer facility; and

(iii) a commercial gas customer facility whose natural gas utility has been exempted by the commissioner under subdivision 1a, paragraph (c), with respect to natural gas sales made to the commercial gas customer facility; and gas and

(2) electric sales to a large electric customer facility whose electric utility has been exempted by the commissioner under subdivision 1a, paragraph (b), with respect to electric sales made to the large customer facility.

~~(i)~~ (h) "Investments and expenses of a public utility" includes the investments and expenses incurred by a public utility in connection with an energy conservation improvement, including but not limited to:

(1) the differential in interest cost between the market rate and the rate charged on a no-interest or below-market interest loan made by a public utility to a customer for the purchase or installation of an energy conservation improvement;

(2) the difference between the utility's cost of purchase or installation of energy conservation improvements and any price charged by a public utility to a customer for such improvements.

~~(j)~~ (i) "Large ~~electric~~ customer facility" means ~~a customer facility that imposes all buildings, structures, equipment, and installations at a single site that collectively:~~ (1) impose a peak electrical demand on an electric utility's system of not less than 20,000 kilowatts, measured in the same way as the utility that serves the customer facility measures electrical demand for billing purposes, and for which electric services are provided at retail on a single bill by a utility operating in the state or (2) consume not less than 500 million cubic feet of natural gas annually. In calculating peak electrical demand, a large customer facility may include demand offset by on-site cogeneration facilities and, if engaged in mineral extraction, may aggregate peak energy demand from the large customer facility's mining and processing operations.

~~(k)~~ (j) "Large energy facility" has the meaning given it in section 216B.2421, subdivision 2, clause (1).

~~(l)~~ (k) "Load management" means an activity, service, or technology to change the timing or the efficiency of a customer's use of energy that allows a utility or a customer to respond to wholesale market fluctuations or to reduce peak demand for energy or capacity.

~~(m)~~ (l) "Low-income programs" means energy conservation improvement programs that directly serve the needs of low-income persons, including low-income renters.

(m) "Qualifying utility" means a utility that supplies the energy to a customer that enables the customer to qualify as a large customer facility.

(n) "Waste heat recovery converted into electricity" means an energy recovery process that converts otherwise lost energy from the heat of exhaust stacks or pipes used for engines or manufacturing or industrial processes, or the reduction of high pressure in water or gas pipelines.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 19. Minnesota Statutes 2010, section 216B.241, subdivision 1a, is amended to read:

Subd. 1a. **Investment, expenditure, and contribution; public utility.** (a) For purposes of this subdivision and subdivision 2, "public utility" has the meaning given it in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy conservation improvements under this subdivision and subdivision 2 the following amounts:

(1) for a utility that furnishes gas service, 0.5 percent of its gross operating revenues from service provided in the state;

(2) for a utility that furnishes electric service, 1.5 percent of its gross operating revenues from service provided in the state; and

(3) for a utility that furnishes electric service and that operates a nuclear-powered electric generating plant within the state, two percent of its gross operating revenues from service provided in the state.

For purposes of this paragraph (a), "gross operating revenues" do not include revenues from large ~~electric~~ customer facilities exempted ~~by the commissioner~~ under paragraph (b), or from commercial gas customers that are exempted under paragraph (c) or (e).

(b) ~~The owner of a large electric customer facility may petition the commissioner to exempt both electric and gas utilities serving the large energy customer facility from the investment and expenditure requirements of paragraph (a) with respect to retail revenues attributable to the large customer facility. At a minimum, the petition must be supported by evidence relating to competitive or economic pressures on the customer and a showing by the customer of reasonable efforts to identify, evaluate, and implement cost-effective conservation improvements at the facility. If a petition is filed on or before October 1 of any year, the order of the commissioner to exempt revenues attributable to the facility can be effective no earlier than January 1 of the following year. The commissioner shall not grant an exemption if the commissioner determines that granting the exemption is contrary to the public interest. The commissioner may, after investigation, rescind any exemption granted under this paragraph upon a determination that the customer is not continuing to make reasonable efforts to identify, evaluate, and implement energy conservation improvements at the large electric customer facility. For the purposes of investigations by the commissioner under this paragraph, the owner of any large electric customer facility shall, upon request, provide the commissioner with updated information comparable to that originally supplied in or with the owner's original petition under this paragraph. The filing must include a discussion of the competitive or economic pressures facing the owner of the facility and the efforts taken by the owner to identify, evaluate, and implement energy conservation and efficiency improvements. A filing submitted on or before October 1 of any year must be approved within 90 days and become effective January 1 of the year following the filing, unless the commissioner finds that the owner of the large customer facility has failed to take reasonable measures to identify, evaluate, and implement energy conservation and efficiency improvements. If a facility qualifies as a large customer facility solely due to its peak electrical demand or annual natural gas usage, the exemption may be limited to the qualifying utility if the commissioner finds that the owner of the large customer facility has failed to take reasonable measures to identify, evaluate, and implement energy conservation and efficiency improvements with respect to the nonqualifying utility. Once an exemption is approved, the commissioner may request the owner of a large customer facility to submit, not more often than once every five years, a report demonstrating the large customer facility's ongoing commitment to energy conservation and efficiency improvement after the exemption filing. The commissioner may request such reports for up to ten years after the effective date of the exemption, unless the majority ownership of the large customer facility changes, in which case the commissioner may request additional reports for up to ten years after the change in ownership occurs. The commissioner may, within 180 days of receiving a report submitted under this paragraph, rescind any exemption granted under this paragraph upon a determination that the large customer facility is not continuing to make reasonable efforts to identify, evaluate, and implement energy conservation improvements. A large customer facility that is, under an order from the commissioner, exempt from the investment and expenditure requirements of paragraph (a) as of December 31, 2010, is not required to submit a report to retain its exempt status, except as otherwise provided in this paragraph with respect to ownership changes. No exempt large customer facility may participate in a utility conservation improvement program unless the owner of the facility submits a filing with the commissioner to withdraw its exemption.~~

(c) A commercial gas customer that is not a large customer facility and that purchases or acquires natural gas from a public utility having fewer than 600,000 natural gas customers in Minnesota may petition the commissioner to exempt gas utilities serving the commercial gas customer from the investment and expenditure requirements of

paragraph (a) with respect to retail revenues attributable to the commercial gas customer. The petition must be supported by evidence demonstrating that the commercial gas customer has acquired or can reasonably acquire the capability to bypass use of the utility's gas distribution system by obtaining natural gas directly from a supplier not regulated by the commission. The commissioner shall grant the exemption if the commissioner finds that the petitioner has made the demonstration required by this paragraph.

(d) The commissioner may require investments or spending greater than the amounts required under this subdivision for a public utility whose most recent advance forecast required under section 216B.2422 or 216C.17 projects a peak demand deficit of 100 megawatts or greater within five years under midrange forecast assumptions.

~~(d)~~ (e) A public utility or owner of a large ~~electric~~ customer facility may appeal a decision of the commissioner under paragraph (b) ~~or~~, (c), or (d) to the commission under subdivision 2. In reviewing a decision of the commissioner under paragraph (b) ~~or~~, (c), or (d), the commission shall rescind the decision if it finds that the required investments or spending will:

- (1) not result in cost-effective energy conservation improvements; or
- (2) otherwise not be in the public interest.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 20. Minnesota Statutes 2010, section 216B.241, subdivision 1c, is amended to read:

Subd. 1c. **Energy-saving goals.** (a) The commissioner shall establish energy-saving goals for energy conservation improvement expenditures and shall evaluate an energy conservation improvement program on how well it meets the goals set.

(b) Each individual utility and association shall have an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather normalized average. A utility or association may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, except that savings from electric utility infrastructure projects allowed under paragraph (d) may be carried forward for five years. A particular energy savings can be used only for one year's goal.

(c) The commissioner must adopt a filing schedule that is designed to have all utilities and associations operating under an energy-savings plan by calendar year 2010.

(d) In its energy conservation improvement plan filing, a utility or association may request the commissioner to adjust its annual energy-savings percentage goal based on its historical conservation investment experience, customer class makeup, load growth, a conservation potential study, or other factors the commissioner determines warrants an adjustment. The commissioner may not approve a plan of a public utility that provides for an annual energy-savings goal of less than one percent of gross annual retail energy sales from energy conservation improvements.

A utility or association may include in its energy conservation plan energy savings from electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to ~~the~~ a minimum energy-savings goal of at least one percent

for energy conservation improvements. Electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity.

(e) An energy-savings goal is not satisfied by attaining the revenue expenditure requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the energy-savings goal established in this subdivision.

(f) An association or utility is not required to make energy conservation investments to attain the energy-savings goals of this subdivision that are not cost-effective even if the investment is necessary to attain the energy-savings goals. For the purpose of this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs and benefits to ratepayers, the utility, participants, and society. In addition, the commissioner shall consider the rate at which an association or municipal utility is increasing its energy savings and its expenditures on energy conservation.

(g) On an annual basis, the commissioner shall produce and make publicly available a report on the annual energy savings and estimated carbon dioxide reductions achieved by the energy conservation improvement programs for the two most recent years for which data is available. The commissioner shall report on program performance both in the aggregate and for each entity filing an energy conservation improvement plan for approval or review by the commissioner.

(h) By January 15, 2010, the commissioner shall report to the legislature whether the spending requirements under subdivisions 1a and 1b are necessary to achieve the energy-savings goals established in this subdivision.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to energy savings plans for calendar year 2012 and thereafter.

Sec. 21. Minnesota Statutes 2010, section 216B.241, subdivision 2, is amended to read:

Subd. 2. **Programs.** (a) The commissioner may require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover no more than a three-year period. Public utilities shall file conservation improvement plans by June 1, on a schedule determined by order of the commissioner, but at least every three years. Plans received by a public utility by June 1 must be approved or approved as modified by the commissioner by December 1 of that same year. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The commissioner's order must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, material, or project constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable.

(b) The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The

commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department.

(c) Each public utility subject to subdivision 1a may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

(d) A public utility may not spend for or invest in energy conservation improvements that directly benefit a large energy facility or a large electric customer facility for which the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision, a nonprofit corporation, or community organization.

(e) A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33 may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

(f) ~~The commissioner may order a public utility to include, with the filing of the utility's proposed conservation improvement plan under paragraph (a) annual status report,~~ the results of an independent audit of the utility's conservation improvement programs and expenditures performed by the department or an auditor with experience in the provision of energy conservation and energy efficiency services approved by the commissioner and chosen by the utility. The audit must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility that is the result of the spending and investments. The audit must evaluate the cost-effectiveness of the utility's conservation programs.

(g) A gas utility may not spend for or invest in energy conservation improvements that directly benefit a large customer facility or commercial gas customer facility for which the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b), (c), or (e). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision, a nonprofit corporation, or community organization.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 22. Minnesota Statutes 2010, section 216B.2425, subdivision 2, is amended to read:

Subd. 2. **List development; transmission projects report.** (a) By November 1 of each odd-numbered year, a transmission projects report must be submitted to the commission by each utility, organization, or company that:

(1) is a public utility, a municipal utility, a cooperative electric association, the generation and transmission organization that serves each utility or association, or a transmission company; and

(2) owns or operates electric transmission lines in Minnesota, except a company or organization that owns a transmission line that serves a single customer or interconnects a single generating facility.

(b) The report may be submitted jointly or individually to the commission.

(c) The report must:

(1) list specific present and reasonably foreseeable future inadequacies in the transmission system in Minnesota;

(2) identify alternative means of addressing each inadequacy listed;

(3) identify general economic, environmental, and social issues associated with each alternative; and

(4) provide a summary of public input related to the list of inadequacies and the role of local government officials and other interested persons in assisting to develop the list and analyze alternatives.

(d) To meet the requirements of this subdivision, reporting parties may rely on available information and analysis developed by a regional transmission organization or any subgroup of a regional transmission organization and may develop and include additional information as necessary.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 23. Minnesota Statutes 2010, section 216B.49, subdivision 3, is amended to read:

Subd. 3. **Commission approval required.** It ~~shall be~~ is unlawful for any public utility organized under the laws of this state to offer or sell any security or, if organized under the laws of any other state or foreign country, to subject property in this state to an encumbrance for the purpose of securing the payment of any indebtedness unless the security issuance of the public utility ~~shall be~~ is first approved by the commission, either as an individual issuance or as one of multiple possible issuances approved in the course of a periodic proceeding reviewing the utility's proposed sources and uses of capital funds. Approval by the commission ~~shall~~ must be by formal written order.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 24. Minnesota Statutes 2010, section 216B.62, subdivision 2, is amended to read:

Subd. 2. **Assessing specific utility.** Whenever the commission or department, in a proceeding upon its own motion, on complaint, or upon an application to it, shall deem it necessary, in order to carry out the duties imposed under this chapter ~~and section 216A.085~~ (1) to investigate the books, accounts, practices, and activities of, or make appraisals of the property of, any public utility, (2) to render any engineering or accounting services to any public utility, or (3) to intervene before an energy regulatory agency, the public utility shall pay the expenses reasonably attributable to the investigation, appraisal, service, or intervention. The commission and department shall ascertain the expenses, and the department shall render a bill therefor to the public utility, either at the conclusion of the



investigation, appraisal, or services, or from time to time during its progress, which bill shall constitute notice of the assessment and a demand for payment. The amount of the bills so rendered by the department shall be paid by the public utility into the state treasury within 30 days from the date of rendition. The total amount, in any one calendar year, for which any public utility shall become liable, by reason of costs incurred by the commission within that calendar year, shall not exceed two-fifths of one percent of the gross operating revenue from retail sales of gas, or electric service by the public utility within the state in the last preceding calendar year. Where, pursuant to this subdivision, costs are incurred within any calendar year which are in excess of two-fifths of one percent of the gross operating revenues, the excess costs shall not be chargeable as part of the remainder under subdivision 3, but shall be paid out of the general appropriation to the department and commission. In the case of public utilities offering more than one public utility service only the gross operating revenues from the public utility service in connection with which the investigation is being conducted shall be considered when determining this limitation.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 25. Minnesota Statutes 2010, section 216B.62, subdivision 3, is amended to read:

Subd. 3. **Assessing all public utilities.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to public utilities under sections ~~216A.085~~ and 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2, 6, 7, or 8. The remainder shall be assessed by the commission and department to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been transmitted via mail, personal delivery, or electronic service to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 26. Minnesota Statutes 2010, section 216B.62, is amended by adding a subdivision to read:

Subd. 3b. **Assessment for department regional and national duties.** In addition to other assessments in subdivision 3, the department may assess up to \$1,000,000 per fiscal year for performing its duties under section 216A.07, subdivision 3a. The amount in this subdivision shall be assessed to energy utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year and shall be deposited into an account in the special revenue fund and is appropriated to the commissioner of commerce for the purposes of section 216A.07, subdivision 3a. An assessment made under this subdivision is not subject to the cap on assessments provided in subdivision 3 or any other law. For the purpose of

this subdivision, an "energy utility" means public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing natural gas or electric service in the state. This subdivision expires June 30, 2015.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 27. Minnesota Statutes 2010, section 216C.11, is amended to read:

**216C.11 ENERGY CONSERVATION INFORMATION CENTER.**

The commissioner shall establish an Energy Information Center in the department's offices in St. Paul. The information center shall maintain a toll-free telephone information service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and alternative sources of energy.

The Energy Information Center shall serve as the official Minnesota Alcohol Fuels Information Center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs required by law or rule and programs developed and carried on voluntarily. ~~In particular, the information center shall compile and maintain information on policies covering disconnections or denials of fuel during cold weather adopted by public utilities and other fuel suppliers not governed by section 216B.096 or 216B.097, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 28. Minnesota Statutes 2010, section 216C.264, is amended to read:

**216C.264 COORDINATING RESIDENTIAL WEATHERIZATION PROGRAMS.**

Subdivision 1. **Agency designation.** The department is the state agency to apply for, receive, and disburse money made available to the state by federal law for the purpose of weatherizing the residences of low-income persons. The commissioner must coordinate available federal money with state money appropriated for this purpose.

Subd. 2. **Grants.** The commissioner must make grants of federal and state money to community action agencies and other public or private nonprofit agencies for the purpose of weatherizing the residences of low-income persons. ~~Grant applications must be submitted in accordance with rules promulgated by the commissioner.~~

Subd. 3. **Benefits of weatherization.** In the case of any grant made to an owner of a rental dwelling unit for weatherization, the commissioner must require that (1) the benefits of weatherization assistance in connection with the dwelling unit accrue primarily to the low-income family that resides in the unit; (2) the rents on the dwelling unit will not be raised because of any increase in value due solely to the weatherization assistance; and (3) no undue or excessive enhancement will occur to the value of the dwelling unit.

~~Subd. 4. **Rules.** The commissioner must promulgate rules that describe procedures for the administration of grants, data to be reported by grant recipients, and compliance with relevant federal regulations. The commissioner must require that a rental unit weatherized under this section be rented to a household meeting the income limits of the program for 24 of the 36 months after weatherization is complete. In applying this restriction to multiunit buildings weatherized under this section, the commissioner must require that occupancy continue to reflect the proportion of eligible households in the building at the time of weatherization.~~

Subd. 5. **Grant allocation.** The commissioner must distribute supplementary state grants in a manner consistent with the goal of producing the maximum number of weatherized units. Supplementary state grants are provided primarily for the payment of additional labor costs for the federal weatherization program, and as an incentive for the increased production of weatherized units.

Criteria for the allocation of state grants to local agencies include existing local agency production levels, emergency needs, and the potential for maintaining or increasing acceptable levels of production in the area.

An eligible local agency may receive advance funding for 90 days' production, but thereafter must receive grants solely on the basis of program criteria.

Subd. 6. **Eligibility criteria.** To the extent allowed by federal regulations, the commissioner must ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 29. Minnesota Statutes 2010, section 216E.18, subdivision 3, is amended to read:

Subd. 3. **Funding; assessment.** The commission shall finance its baseline studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site and route permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the commission against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the commission. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority

of this subdivision shall not exceed the sum of the annual budget of the commission for carrying out the purposes of this subdivision. The assessment for the ~~second~~ third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 30. Minnesota Statutes 2010, section 216H.03, subdivision 7, is amended to read:

Subd. 7. **Other exemptions.** The prohibitions in subdivision 3 do not apply to:

(1) a new large energy facility under consideration by the Public Utilities Commission pursuant to proposals or applications filed with the Public Utilities Commission before April 1, 2007, or to any power purchase agreement related to a facility described in this clause. The exclusion of pending proposals and applications from the prohibitions in subdivision 3 does not limit the applicability of any other law and is not an expression of legislative intent regarding whether any pending proposal or application should be approved or denied;

(2) a contract not subject to commission approval that was entered into prior to April 1, 2007, to purchase power from a new large energy facility that was approved by a comparable authority in another state prior to that date, for which municipal or public power district bonds have been issued, and on which construction has begun; ~~or~~

(3) a new large energy facility or a power purchase agreement between a Minnesota utility and a new large energy facility located outside Minnesota that the Public Utilities Commission has determined is essential to ensure the long-term reliability of Minnesota's electric system, to allow electric service for increased industrial demand, or to avoid placing a substantial financial burden on Minnesota ratepayers. An order of the commission granting an exemption under this clause is stayed until the June 1 following the next regular or annual session of the legislature that begins after the date of the commission's final order; ~~or~~

(4) a new large energy facility with a combined electric generating capacity of less than 100 megawatts, which did not require a Minnesota certificate of need, which received an air pollution control permit to construct from an adjoining state before January 1, 2008, and on which construction began before July 1, 2008, or to any power purchase agreement related to a facility described in this clause.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 31. **CONSERVATION IMPROVEMENT PROGRAM EXEMPTION;  
TEMPORARY COMMISSIONER AUTHORITY.**

The commissioner of commerce may, if the commissioner determines it is in the public interest, grant an initial exemption to a gas customer petitioning for an exemption under Minnesota Statutes, section 216B.241, subdivision 1a, paragraph (b) or (c), effective sooner than otherwise provided under Minnesota Statutes, section 216B.241, subdivision 1a. This section applies only to customers of a gas utility that on May 1, 2011, was subject to a Public Utilities Commission order temporarily exempting certain of its customers from the imposition of conservation improvement program charges associated with

obligations imposed on the utility under Minnesota Statutes, section 216B.241. This section expires December 31, 2011.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 32. **TEMPORARY PROHIBITION ON PUBLIC UTILITIES COMMISSION APPROVAL OF CERTAIN RENEWABLE DEVELOPMENT ACCOUNT EXPENDITURES.**

(a) Notwithstanding Minnesota Statutes, section 116C.779, the Public Utilities Commission may not approve expenditures from the renewable development account for which commission approval is required by Minnesota Statutes, section 116C.779, subdivision 1, during the period between the effective date of this section and July 1, 2012.

(b) This section does not prohibit commission approval for rate recovery rider filings for expenditures from the renewable development account.

(c) This section does not prohibit expenditures for projects approved by the commission before the effective date of this section.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 33. **MELROSE PUBLIC UTILITIES COMMISSION MEMBERSHIP.**

Notwithstanding Minnesota Statutes, section 412.341, subdivision 1, the city of Melrose may by ordinance increase the membership of the city's public utilities commission to a maximum of seven members. The ordinance may also provide for the terms of the commission members and the terms must be staggered, provide that residency within the city is not a qualification for serving on the commission, and permit one or more members of the city council to serve on the commission.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day after the governing body of the city of Melrose and its chief clerical officer complete in timely fashion their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 34. **REPEALER.**

(a) Minnesota Statutes 2010, sections 216A.085; 216B.242; 216C.052, subdivisions 1, 2, and 4; and 216F.09, are repealed.

(b) The repeal of section 216B.242 does not affect an inverted rate pilot program ordered by the Public Utilities Commission under that section before May 1, 2011.

Presented to the governor May 24, 2011

Signed by the governor May 27, 2011, 10:33 a.m.