CHAPTER 23--S.F.No. 1047

An act relating to energy; authorizing a power purchase agreement for certain electric cogeneration activities; amending Minnesota Statutes 2020, section 216B.2424, by adding subdivisions.

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

Section 1. Minnesota Statutes 2020, section 216B.2424, is amended by adding a subdivision to read:

Subd. 5b. **Definitions.** (a) For the purposes of subdivision 5c, the following terms have the meanings given.

(b) "Agreement period" means the period beginning January 1, 2023, and ending December 31, 2024.

(c) "Ash" means all species of the genus *Fraxinus*.

(d) "Cogeneration facility" means the St. Paul district heating and cooling system cogeneration facility that uses waste wood as the facility's primary fuel source, provides thermal energy to St. Paul, and sells electricity to a public utility through a power purchase agreement approved by the Public Utilities Commission.

(e) "Department" means the Department of Agriculture.

(f) "Emerald ash borer" means the insect known as emerald ash borer, *Agrilus planipennis* Fairmaire, in any stage of development.

(g) "Renewable energy technology" has the meaning given to "eligible energy technology" in section 216B.1691, subdivision 1.

(h) "St. Paul district heating and cooling system" means a system of boilers, distribution pipes, and other equipment that provides energy for heating and cooling in St. Paul, and includes the cogeneration facility.

(i) "Waste wood from ash trees" means ash logs and lumber, ash tree waste, and ash chips and mulch.

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

Sec. 2. Minnesota Statutes 2020, section 216B.2424, is amended by adding a subdivision to read:

Subd. 5c. **New power purchase agreement.** (a) No later than August 1, 2021, a public utility subject to subdivision 5 and the cogeneration facility may file a proposal with the commission to enter into a power purchase agreement that governs the public utility's purchase of electricity generated by the cogeneration facility. The power purchase agreement may extend no later than December 31, 2024, and must not be extended beyond that date except as provided in paragraph (f).

(b) The commission is prohibited from approving a new power purchase agreement filed under this subdivision that does not meet all of the following conditions:

(1) the cogeneration facility agrees that any waste wood from ash trees removed from Minnesota counties that have been designated as quarantined areas in Section IV of the Minnesota State Formal Quarantine for Emerald Ash Borer, issued by the commissioner of agriculture under section 18G.06, effective November

14, 2019, as amended, for utilization as biomass fuel by the cogeneration facility must be accompanied by evidence:

(i) demonstrating that the transport of biomass fuel from processed waste wood from ash trees to the cogeneration facility complies with the department's regulatory requirements under the Minnesota State Formal Quarantine for Emerald Ash Borer, which may consist of:

(A) a certificate authorized or prepared by the commissioner of agriculture or an employee of the Animal and Plant Health Inspection Service of the United States Department of Agriculture verifying compliance; or

(B) shipping documents demonstrating compliance; or

(ii) certifying that the waste wood from ash trees has been chipped to one inch or less in two dimensions, and was chipped within the county from which the ash trees were originally removed;

(2) the price per megawatt hour of electricity paid by the public utility demonstrates significant savings compared to the existing power purchase agreement, with a price that does not exceed $98 per megawatt hour;

(3) the proposal includes a proposal to the commission for one or more electrification projects that result in the St. Paul district heating and cooling system being powered by electricity generated from renewable energy technologies. The plan must evaluate electrification at three or more levels from ten to 100 percent, including 100 percent of the energy used by the St. Paul district heating and cooling system to be implemented by December 31, 2027. The proposal may also evaluate alternative dates for implementation. For each level of electrification analyzed, the proposal must contain:

(i) a description of the alternative electrification technologies evaluated and whose implementation is proposed as part of the electrification project;

(ii) an estimate of the cost of the electrification project to the public utility, the impact on the monthly energy bills of the public utility's Minnesota customers, and the impact on the monthly energy bills of St. Paul district heating and cooling system customers;

(iii) an estimate of the reduction in greenhouse gas emissions resulting from the electrification project, including greenhouse gas emissions associated with the transportation of waste wood;

(iv) estimated impacts on the operations of the St. Paul district heating and cooling system; and

(v) a timeline for the electrification project; and

(4) the power purchase agreement provides a net benefit to the utility customers or the state.

(c) The commission may approve, or approve as modified, a proposed electrification project that meets the requirements of this subdivision if it finds the electrification project is in the public interest, or the commission may reject the project if it finds that the project is not in the public interest. When determining whether an electrification project is in the public interest, the commission may consider the effects of the electrification project on air emissions from the St. Paul district heating and cooling system and how the emissions impact the environment and residents of affected neighborhoods.

(d) During the agreement period, the cogeneration facility must attempt to obtain funding to reduce the cost of generating electricity and enable the facility to continue to operate beyond the agreement period to address the removal of ash trees, as described in paragraph (b), clause (1), without any subsidy or contribution

from any power purchase agreement after December 31, 2024. The cogeneration facility must submit periodic reports to the commission regarding the efforts made under this paragraph.

(e) Upon approval of the new power purchase agreement, the commission must require periodic reporting regarding progress toward development of a proposal for an electrification project.

(f) Except as provided in paragraph (a), the commission is prohibited from approving a power purchase agreement after the agreement period unless it approves an electrification project. Nothing in this section shall require any utility to enter into a power purchase agreement with the cogeneration facility after December 31, 2024.

(g) Upon approval of an electrification project, the commission must require periodic reporting regarding the progress toward implementation of the electrification project.

(h) If the commission approves the proposal submitted under paragraph (b), clause (3), the commission may allow the public utility to recover prudently incurred costs net of revenues resulting from the electrification project through an automatic cost recovery mechanism that allows for cost recovery outside of a general rate case. The cost recovery mechanism approved by the commission must:

(1) allow a reasonable return on the capital invested in the electrification project by the public utility, as determined by the commission; and

(2) recover costs only from the public utility's Minnesota electric service customers.

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

Presented to the governor May 21, 2021

Signed by the governor May 25, 2021, 8:19 a.m.