

## CHAPTER 7--H.F.No. 7

*An act relating to energy; modifying electric utility renewable energy standard obligations; providing for certain utility cost recovery; exempting certain wind projects from certificate of need proceedings; including low-voltage transmission lines in the definition of "solar energy generating system" for siting purposes; adding provisions supporting local energy-related employment; modifying Public Utility Commission authority to issue site permits for electric generation facilities; making technical changes; amending Minnesota Statutes 2022, sections 216B.16, subdivision 13; 216B.1645, subdivision 2; 216B.1691, subdivisions 1, 2a, 2b, 2d, 2e, 2f, 3, 4, 5, 7, 9, 10, by adding subdivisions; 216B.2422, subdivisions 1, 3, 5, by adding subdivisions; 216B.243, subdivision 8; 216E.01, subdivision 9a; 216E.03, subdivisions 5, 7, 10, 11; 216E.04, subdivision 2; 216F.04; repealing Minnesota Statutes 2022, section 216B.1691, subdivision 2.*

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

Section 1. Minnesota Statutes 2022, section 216B.16, subdivision 13, is amended to read:

**Subd. 13. Economic and community development.** The commission may allow a public utility to recover from ratepayers the reasonable expenses incurred: (1) for economic and community development; and (2) to employ local workers, as defined in section 216B.2422, subdivision 1, to construct and maintain generation facilities that supply power to the public utility's customers.

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

Sec. 2. Minnesota Statutes 2022, section 216B.1645, subdivision 2, is amended to read:

**Subd. 2. Cost recovery.** (a) The following expenses are recoverable from utility ratepayers:

(1) expenses incurred to employ local workers, as defined in section 216B.2422, subdivision 1, to construct and maintain generation facilities that supply power to the utility's customers; and

(2) expenses incurred by the utility over the duration of the ~~an~~ approved contract or the useful life of the ~~an~~ investment and expenditures made pursuant to section 116C.779 ~~shall be recoverable from the ratepayers of the utility, to the extent, provided~~ they are not offset by utility revenues attributable to the contracts, investments, or expenditures.

**(b)** Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission under subdivision 1, which, in the case of transmission expenditures, are limited to the portion of actual transmission costs that are directly allocable to the need to transmit power from the renewable sources of energy. The commission may not approve recovery of the costs for that portion of the power generated from sources governed by this section that the utility sells into the wholesale market.

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

Sec. 3. Minnesota Statutes 2022, section 216B.1691, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meaning given them.

(b) "Carbon-free" means a technology that generates electricity without emitting carbon dioxide.

(a) (c) 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: (i) less than 100 megawatts; or (ii) 100 megawatts or more, provided that the facility is in operation as of the effective date of this section;

(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, except as provided in subdivision 1a, 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) (d) "Electric utility" means: (1) a public utility providing electric service; (2) a generation and transmission cooperative electric association; (3) a municipal power agency, or; (4) a power district; or (5) a cooperative electric association or municipal utility providing electric service that is not a member of an entity in clauses (2) to (4).

(e) "Environmental justice area" means an area in Minnesota that, based on the most recent data published by the United States Census Bureau, meets one or more of the following criteria:

(1) 40 percent or more of the area's total population is nonwhite;

(2) 35 percent or more of households in the area have an income that is at or below 200 percent of the federal poverty level;

(3) 40 percent or more of the area's residents over the age of five have limited English proficiency; or

(4) the area is located within Indian country, as defined in United State Code, title 18, section 1151.

(e) (f) "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 the day following final enactment.

Sec. 4. Minnesota Statutes 2022, section 216B.1691, is amended by adding a subdivision to read:

Subd. 1a. **Exception; energy recovery facility.** 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 is not an eligible energy technology, as defined in subdivision 1, if the energy recovery facility is located in a county with a population density that exceeds 1,500 persons per square mile but is less than 2,500 persons per square mile as of the effective date of this section.

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

Sec. 5. Minnesota Statutes 2022, section 216B.1691, subdivision 2a, is amended to read:

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 the electric utility generates or procures an amount of electricity from an eligible energy technology that is equivalent to at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota are 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         |
| (5) | <u>2035</u> | <u>55 percent.</u> |

(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 are 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 solar energy or wind energy conversion systems and the remaining five percent by other eligible energy technology. Of the 25 percent that must be generated by wind or solar, no more than one percent may be solar generated and the remaining 24 percent or greater must be wind generated.

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

Sec. 6. Minnesota Statutes 2022, section 216B.1691, subdivision 2b, is amended to read:

**Subd. 2b. Modification or delay of standard.** (a) The commission shall modify or delay the implementation of a standard obligation under subdivision 2a, 2f, or 2g, in whole or in part, if the commission determines ~~it that modifying or delaying the standard obligation is in the public interest to do so~~. The commission, when ~~requested evaluating a request to modify or delay implementation of a standard, must consider:~~

(1) the impact of implementing the standard on its customers' utility costs, including the economic and competitive pressure on the utility's customers;

~~(2) the environmental costs that would be incurred as a result of a delay or modification, based on the full range of environmental cost values established in section 216B.2422, subdivision 3;~~

~~(2)~~ (3) the effects of implementing the standard on the reliability of the electric system;

~~(3)~~ (4) technical advances or technical concerns;

~~(4)~~ (5) delays in acquiring sites or routes due to rejection or delays of necessary siting or other permitting approvals;

~~(5)~~ (6) delays, cancellations, or nondelivery of necessary equipment for construction or commercial operation of an eligible energy technology facility;

~~(6)~~ (7) transmission constraints preventing delivery of service; and

~~(7)~~ (8) other statutory obligations imposed on the commission or a utility;

~~(9) impacts on environmental justice areas; and~~

~~(10) additional electric load from beneficial electrification and the greenhouse gas emissions savings associated with those loads as compared to serving the load with nonelectric energy sources.~~

For the purposes of this paragraph, "beneficial electrification" means the substitution of electricity for a fossil fuel, provided that the substitution meets at least one of the following conditions without adversely affecting either of the other two, as determined by the commission:

~~(i) saves a consumer money over the long run compared with continued use of the fossil fuel;~~

~~(ii) enables an electric utility to better manage the electric utility's electric grid network; or~~

~~(iii) reduces negative environmental impacts of fuel use, including but not limited to statewide greenhouse gas emissions.~~

**(b)** The commission may modify or delay implementation of a standard obligation under ~~paragraph (a), clauses (1) to (3)~~ (4), 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 ~~paragraph (a), clauses (4) to (6)~~ (7), 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.

**(c)** When evaluating transmission capacity constraints under paragraph (a), clause (7), the commission must consider whether the utility has:

(1) taken reasonable measures that are under the utility's control and consistent with the utility's obligations under local, state, and federal laws and regulations, and the utility's obligations as a member of a regional transmission organization or independent system operator, to acquire sites, necessary permit approvals, and necessary equipment to develop and construct new transmission lines or upgrade existing transmission lines to transmit electricity generated by eligible energy technologies; and

(2) taken all reasonable operational measures to maximize cost-effective electricity delivery from eligible energy technologies in advance of transmission availability.

~~(b)~~ (d) 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.

~~(e)~~ (e) An electric utility ~~requesting~~ that requests a modification or delay ~~in~~ to the implementation of a standard must file a plan to comply with its ~~the electric utility's~~ standard obligation ~~in~~ as part of the same proceeding ~~that it is requesting~~ in which the electric utility requests the modification or delay.

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

Sec. 7. Minnesota Statutes 2022, section 216B.1691, subdivision 2d, is amended to read:

Subd. 2d. **Commission order.** (a) The commission shall issue necessary orders detailing the criteria and standards ~~by which it will used to:~~ (1) measure an electric utility's efforts to meet the ~~renewable energy objectives of subdivision 2 to~~ standards under subdivisions 2a, 2f, and 2g; and (2) determine whether the utility is ~~making the required good faith effort~~ achieving the standards.

(b) In this the order under paragraph (a), the commission shall include criteria and standards that: (1) 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; and (2) require the commission to allow for partial compliance with subdivision 2g from:

(i) electricity generated from facilities that utilize carbon-free technologies for electricity generation, but only for the percentage that is carbon-free; and;

(ii) an electric utility's annual purchases from a regional transmission organization net of the electric utility's sales to the regional transmission organization, but only for the percentage of annual net purchases that is carbon-free, which percentage the commission must calculate based on the regional transmission organization's systemwide annual fuel mix or an applicable subregional fuel mix.

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

Sec. 8. Minnesota Statutes 2022, section 216B.1691, subdivision 2e, is amended 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 this section. In consultation with the Department of Commerce, the commission shall determine a uniform reporting system to ensure that individual utility reports are consistent and comparable, and shall, by order, require each electric utility subject to this section to use that reporting system. 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 May 28, 2011. 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) 2040.~~

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

Sec. 9. Minnesota Statutes 2022, section 216B.1691, subdivision 2f, is amended to read:

**Subd. 2f. Solar energy standard.** (a) In addition to the requirements of subdivisions 2a and ~~2b~~ 2g, each public utility shall generate or procure sufficient electricity generated by solar energy to serve its retail electricity customers in Minnesota so that by the end of 2020, at least 1.5 percent of the utility's total retail electric sales to retail customers in Minnesota is generated by solar energy.

(b) For a public utility with more than 200,000 retail electric customers, at least ten percent of the 1.5 percent goal must be met by solar energy generated by or procured from solar photovoltaic devices with a nameplate capacity of 40 kilowatts or less.

(c) A public utility with between 50,000 and 200,000 retail electric customers:

(1) must meet at least ten percent of the 1.5 percent goal with solar energy generated by or procured from solar photovoltaic devices with a nameplate capacity of 40 kilowatts or less; and

(2) may apply toward the ten percent goal in clause (1) individual customer subscriptions of 40 kilowatts or less to a community solar garden program operated by the public utility that has been approved by the commission.

(d) The solar energy standard established in this subdivision is subject to all the provisions of this section governing a utility's standard obligation under subdivision 2a.

(e) It is an energy goal of the state of Minnesota that, by 2030, ten percent of the retail electric sales in Minnesota be generated by solar energy.

(f) For the purposes of calculating the total retail electric sales of a public utility under this subdivision, there shall be excluded retail electric sales to customers that are:

(1) an iron mining extraction and processing facility, including a scrap mining facility as defined in Minnesota Rules, part 6130.0100, subpart 16; or

(2) a paper mill, wood products manufacturer, sawmill, or oriented strand board manufacturer.

Those customers may not have included in the rates charged to them by the public utility any costs of satisfying the solar standard specified by this subdivision.

(g) A public utility may not use energy used to satisfy the solar energy standard under this subdivision to satisfy its standard obligation under subdivision 2a. A public utility may not use energy used to satisfy the standard obligation under subdivision 2a to satisfy the solar standard under this subdivision.

(h) Notwithstanding any law to the contrary, a solar renewable energy credit associated with a solar photovoltaic device installed and generating electricity in Minnesota after August 1, 2013, but before 2020 may be used to meet the solar energy standard established under this subdivision.

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

Sec. 10. Minnesota Statutes 2022, section 216B.1691, is amended by adding a subdivision to read:

**Subd. 2g. Carbon-free standard.** In addition to the requirements under subdivisions 2a and 2f, each electric utility must generate or procure sufficient electricity generated from a carbon-free energy technology to provide the electric utility's retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that the electric utility generates or procures an amount of electricity from carbon-free energy technologies that is equivalent to at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota by the end of the year indicated:

- |            |             |   |
|------------|-------------|---|
| <u>(1)</u> | <u>2030</u> | <u>80 percent for public utilities; 60 percent for other electric utilities</u> |
| <u>(2)</u> | <u>2035</u> | <u>90 percent for all electric utilities</u>                                    |
| <u>(3)</u> | <u>2040</u> | <u>100 percent for all electric utilities.</u>                                  |

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

Sec. 11. Minnesota Statutes 2022, section 216B.1691, subdivision 3, is amended to read:

**Subd. 3. Utility plans filed with commission.** (a) Each electric utility shall report on its plans, activities, and progress with regard to the ~~objectives and standards of standard obligations~~ under 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 the 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 ~~objective and standards~~ standard obligations;
- (2) efforts taken to meet the ~~objective and standards~~ standard obligations;
- (3) any obstacles encountered or anticipated in meeting the ~~objective or standards~~; and standard obligations;
- (4) potential solutions to the obstacles;
- (5) the number of Minnesotans employed to construct facilities designed to meet the utility's standard obligations under this section;
- (6) efforts taken to retain and retrain workers employed at electric generating facilities that the utility has ceased operating or designated to cease operating for new positions constructing or operating facilities used to meet a utility's standard obligation;
- (7) the impacts of facilities designed to meet the utility's standard obligations under this section on environmental justice areas;
- (8) efforts made to increase the diversity of both the utility's workforce and vendors; and
- (9) for an electric utility utilizing renewable energy credits to satisfy any portion of the electric utility's obligations under this section, the following information:

- (i) the name and location of energy facilities that generated the energy associated with the credits;
- (ii) the dates when the energy associated with the credits was generated;
- (iii) the type of fuel that generated the energy associated with the credits; and
- (iv) whether the energy associated with the credits was purchased by the utility purchasing the credits.

(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.

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

Sec. 12. Minnesota Statutes 2022, section 216B.1691, subdivision 4, is amended to read:

**Subd. 4. Renewable energy credits.** (a) To facilitate compliance with this section, the commission, by rule or order, shall establish by January 1, 2008, a program for tradable renewable energy credits for electricity generated by eligible energy technology. 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, except that a credit may be used to satisfy both the carbon-free energy standard obligation under subdivision 2g and either the renewable energy standard obligation under subdivision 2a or the solar energy standard obligation under subdivision 2f, if the credit meets the requirements of each subdivision. 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 eligible energy technology objective or a standard of this section obligation under subdivision 2a, 2f, or 2g, an electric utility may utilize renewable energy credits allowed under the program to satisfy the objective or standard.

(c) The commission 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.

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

Sec. 13. Minnesota Statutes 2022, section 216B.1691, subdivision 5, is amended to read:

**Subd. 5. Technology based on fuel combustion.** (a) Electricity produced by fuel combustion through fuel blending or co-firing under paragraph (b) may only count toward a utility's objectives or standards standard obligation under subdivision 2a if the generation facility:

(1) was constructed in compliance with new source performance standards promulgated under the federal Clean Air Act, United States Code, title 42, section 7401 et seq., 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)(c), clause (5), 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~~ standard obligation under subdivision 2a.

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

Sec. 14. Minnesota Statutes 2022, section 216B.1691, subdivision 7, is amended to read:

Subd. 7. **Compliance.** The commission must regularly investigate whether an electric utility is in compliance with its ~~good faith objective under subdivision 2 and the electric utility's~~ standard obligation under subdivision subdivisions 2a, 2f, and 2g. 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. The commission must deposit financial penalties imposed under this subdivision in the energy and conservation account established in the special revenue fund under section 216B.241, subdivision 2a. This subdivision is in addition to and does not limit any other authority of the commission to enforce this section.

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

Sec. 15. Minnesota Statutes 2022, section 216B.1691, subdivision 9, is amended to read:

Subd. 9. **Local benefits.** (a) The commission shall take all reasonable actions within its ~~the commission's~~ statutory authority to ensure this section is implemented ~~to maximize~~ in a manner that maximizes net benefits to ~~all~~ Minnesota citizens, ~~balancing~~. Reasonable actions the commission must take and benefits that must be maximized include but are not limited to:

(1) the creation of high-quality jobs in Minnesota paying wages that support families;

(2) recognition of the rights of workers to organize and unionize;

(3) ensuring that workers have the necessary tools, opportunities, and economic assistance to adapt successfully during the energy transition, particularly in environmental justice areas;

(4) ensuring that all Minnesotans share (i) the benefits of clean and renewable energy, and (ii) the opportunity to participate fully in the clean energy economy;

(5) ensuring that statewide air emissions are reduced, particularly in environmental justice areas; and

(6) the provision of affordable electric service to Minnesotans, particularly to low-income consumers.

(b) The commission must also implement this section in a manner that balances 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 carbon-free standards~~, and the reliability of electric service to Minnesotans.

(c) When making investments to meet the requirements under this section, utilities are encouraged to locate new energy generating facilities in Minnesota communities where fossil-fuel-generating plants have been retired or are scheduled for retirement.

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

Sec. 16. Minnesota Statutes 2022, section 216B.1691, subdivision 10, is amended to read:

**Subd. 10. Utility acquisition of resources.** A competitive resource acquisition process established by the commission prior to June 1, 2007, shall not apply to a utility for the construction, ownership, and operation of generation facilities used to satisfy the requirements of this section unless, upon a finding that it is in the public interest, the commission issues an order on or after June 1, 2007, that requires compliance by a utility with a competitive resource acquisition process. A utility that owns a nuclear generation facility and intends to construct, own, or operate facilities under this section shall file with the commission ~~on or before March 1, 2008, as part of the utility's filing under section 216B.2422~~ a renewable energy plan setting forth the manner in which the utility proposes to meet the requirements of this section. ~~The utility shall update the plan as necessary in its filing under section 216B.2422.~~ The commission shall approve the plan unless it determines, after public hearing and comment, that the plan is not in the public interest. As part of its determination of public interest, the commission shall consider the plan's impact on balancing the state's interest in:

- (1) promoting the policy of economic development in rural areas through the development of renewable energy projects, as expressed in subdivision 9;
- (2) maintaining the reliability of the state's electric power grid; and
- (3) minimizing cost impacts on ratepayers.

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

Sec. 17. Minnesota Statutes 2022, section 216B.2422, subdivision 1, is amended to read:

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

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

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

- (1) wind;
- (2) solar;
- (3) geothermal;
- (4) hydro;

(5) trees or other vegetation;

(6) landfill gas; or

(7) predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge.

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

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

(f) "Energy storage system" means a commercially available technology that:

(1) uses mechanical, chemical, or thermal processes to:

(i) store energy, including energy generated from renewable resources and energy that would otherwise be wasted, and deliver the stored energy for use at a later time; or

(ii) store thermal energy for direct use for heating or cooling at a later time in a manner that reduces the demand for electricity at the later time;

(2) is composed of stationary equipment;

(3) if being used for electric grid benefits, is operationally visible and capable of being controlled by the distribution or transmission entity managing it, to enable and optimize the safe and reliable operation of the electric system; and

(4) achieves any of the following:

(i) reduces peak or electrical demand;

(ii) defers the need or substitutes for an investment in electric generation, transmission, or distribution assets;

(iii) improves the reliable operation of the electrical transmission or distribution systems, while ensuring transmission or distribution needs are not created; or

(iv) lowers customer costs by storing energy when the cost of generating or purchasing it is low and delivering it to customers when the costs are high.

(g) "Local job impacts" means the impacts of a certificate of need, a power purchase agreement, or commission approval of a new or refurbished energy facility on the availability of construction employment opportunities to local workers.

(h) "Local workers" means workers who:

(1) are employed to construct and maintain energy infrastructure; and

(2) are Minnesota residents, are residents of the utility's service territory, or permanently reside within 150 miles of a proposed new or refurbished energy facility.

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

Sec. 18. Minnesota Statutes 2022, section 216B.2422, subdivision 3, is amended to read:

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

(b) The commission shall provisionally adopt and apply the draft cost of greenhouse gas emissions valuations presented in the United States Environmental Protection Agency's EPA External Review Draft of Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances, released in September 2022, including the time horizon, global estimates of damages, and the full range of discount rates from 2.5 to 1.5 percent, with two percent as the central estimate. The commission shall adopt the estimates contained in the final version of the external review draft report when it becomes available.

(c) If, at any time, the estimates adopted by the commission under paragraph (a) are exceeded by estimates released by the federal Interagency Working Group on the Social Cost of Greenhouse Gases or its successors, the commission shall adopt the working group estimates.

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

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

Sec. 19. Minnesota Statutes 2022, section 216B.2422, is amended by adding a subdivision to read:

**Subd. 4a. Preference for local job creation.** As part of a resource plan filing, a utility must report on associated local job impacts and the steps the utility and the utility's energy suppliers and contractors are taking to maximize the availability of construction employment opportunities for local workers. The commission must consider local job impacts and give preference to proposals that maximize the creation of construction employment opportunities for local workers, consistent with the public interest, when evaluating any utility proposal that involves the selection or construction of facilities used to generate or deliver energy to serve the utility's customers, including but not limited to an integrated resource plan, a certificate of need, a power purchase agreement, or commission approval of a new or refurbished electric generation facility. The commission must, to the maximum extent possible, prioritize the hiring of workers from communities hosting retiring electric generation facilities, including workers previously employed at the retiring facilities.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to an integrated resource plan filed with the commission on or after that date.

Sec. 20. Minnesota Statutes 2022, section 216B.2422, is amended by adding a subdivision to read:

**Subd. 4b. Preference for domestic content.** The commission may give preference in resource selection to projects utilizing energy technologies produced domestically by entities who received an advanced manufacturing tax credit for those technologies under section 45X of the Internal Revenue Code, as allowed under the federal Inflation Reduction Act of 2022, Public Law 117-169.

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

Sec. 21. Minnesota Statutes 2022, section 216B.2422, subdivision 5, is amended to read:

**Subd. 5. Bidding; exemption from certificate of need proceeding.** (a) A utility may select resources to meet its projected energy demand through a bidding process approved or established by the commission. A utility shall use the environmental cost estimates determined under subdivision 3 ~~in~~ and consider local job impacts when evaluating bids submitted in a process established under this subdivision.

(b) Notwithstanding any other provision of this section, if an electric power generating plant, as described in section 216B.2421, subdivision 2, clause (1), is selected in a bidding process approved or established by the commission, a certificate of need proceeding under section 216B.243 is not required.

(c) A certificate of need proceeding is also not required for an electric power generating plant that has been selected in a bidding process approved or established by the commission, or such other selection process approved by the commission, to satisfy, in whole or in part, the wind power mandate of section 216B.2423 or the biomass mandate of section 216B.2424.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to an integrated resource plan filed with the commission on or after that date.

Sec. 22. Minnesota Statutes 2022, section 216B.2422, is amended by adding a subdivision to read:

**Subd. 8. Carbon dioxide emissions reduction.** (a) The commission may issue an order to reduce carbon dioxide emissions from coal-fired electric generating units located in Minnesota that do not have applicable capacity obligations with a regional transmission organization and are wholly owned by a public utility required to file a resource plan under this section. The order may:

(1) require the public utility to develop and implement a plan to operate coal-fired electric generating units only during the months of June, July, August, December, January, and February, other than for emergency or reliability purposes; or

(2) establish an annual limit on the carbon dioxide emissions from coal-fired electric generating units.

(b) Nothing in this subdivision affects a public utility's obligation to comply with the provisions of section 216B.1691.

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

Sec. 23. Minnesota Statutes 2022, section 216B.243, subdivision 8, is amended to read:

**Subd. 8. Exemptions.** (a) This section does not apply to:

(1) cogeneration or small power production facilities as defined in the Federal Power Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and paragraph (18), subparagraph (A), and having a combined capacity at a single site of less than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or any case where the commission has determined after being advised by the attorney general that its application has been preempted by federal law;

(2) a high-voltage transmission line proposed primarily to distribute electricity to serve the demand of a single customer at a single location, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(3) the upgrade to a higher voltage of an existing transmission line that serves the demand of a single customer that primarily uses existing rights-of-way, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(4) a high-voltage transmission line of one mile or less required to connect a new or upgraded substation to an existing, new, or upgraded high-voltage transmission line;

(5) conversion of the fuel source of an existing electric generating plant to using natural gas;

(6) the modification of an existing electric generating plant to increase efficiency, as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater;

(7) a large wind energy conversion system, as defined in section 216F.01, subdivision 2, or a solar electric generation facility energy generating system, as defined in section 216E.01, subdivision 9a, if the system ~~or facility~~ is owned and operated by an independent power producer and the electric output of the system ~~or facility~~:

(i) is not sold to an entity that provides retail service in Minnesota or wholesale electric service to another entity in Minnesota other than an entity that is a federally recognized regional transmission organization or independent system operator; or

(ii) is sold to an entity that provides retail service in Minnesota or wholesale electric service to another entity in Minnesota other than an entity that is a federally recognized regional transmission organization or independent system operator, provided that the system represents solar or wind capacity that the entity purchasing the system's electric output was ordered by the commission to develop in the entity's most recent integrated resource plan approved under section 216B.2422; or

(8) a large wind energy conversion system, as defined in section 216F.01, subdivision 2, or a solar energy generating system that is a large energy facility, as defined in section 216B.2421, subdivision 2, engaging in a repowering project that:

(i) will not result in the ~~facility system~~ exceeding the nameplate capacity under its most recent interconnection agreement; or

(ii) will result in the ~~facility system~~ exceeding the nameplate capacity under its most recent interconnection agreement, provided that the Midcontinent Independent System Operator has provided a signed generator interconnection agreement that reflects the expected net power increase.

(b) For the purpose of this subdivision, "repowering project" means:

(1) modifying a large wind energy conversion system or a solar energy generating system that is a large energy facility to increase its efficiency without increasing its nameplate capacity;

(2) replacing turbines in a large wind energy conversion system without increasing the nameplate capacity of the system; or

(3) increasing the nameplate capacity of a large wind energy conversion system.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to a large wind energy conversion system or a solar energy generating system whose owner has filed an application for a certificate of need with the Public Utilities Commission on or after that date.

Sec. 24. Minnesota Statutes 2022, section 216E.01, subdivision 9a, is amended to read:

**Subd. 9a. Solar energy generating system.** "Solar energy generating system" means a set of devices whose primary purpose is to produce electricity by means of any combination of collecting, transferring, or converting solar-generated energy, and may include transmission lines designed for and capable of operating at 100 kilovolts or less that interconnect a solar energy generating system with a high-voltage transmission line.

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

Sec. 25. Minnesota Statutes 2022, section 216E.03, subdivision 5, is amended to read:

**Subd. 5. Environmental review.** (a) The commissioner of the Department of Commerce shall prepare for the commission an environmental impact statement on each proposed large electric power generating plant or high-voltage transmission line for which a complete application has been submitted. The commissioner shall not consider whether or not the project is needed. No other state environmental review documents shall be required. The commissioner shall study and evaluate any site or route proposed by an applicant and any other site or route the commission deems necessary that was proposed in a manner consistent with rules concerning the form, content, and timeliness of proposals for alternate sites or routes, excluding any alternate site for a solar energy generating system that was not proposed by an applicant.

(b) For a cogeneration facility as defined in section 216H.01, subdivision 1a, that is a large electric power generating plant and is not proposed by a utility, the commissioner must make a finding in the environmental impact statement whether the project is likely to result in a net reduction of carbon dioxide emissions, considering both the utility providing electric service to the proposed cogeneration facility and any reduction in carbon dioxide emissions as a result of increased efficiency from the production of thermal energy on the part of the customer operating or owning the proposed cogeneration facility.

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

Sec. 26. Minnesota Statutes 2022, section 216E.03, subdivision 7, is amended to read:

**Subd. 7. Considerations in designating sites and routes.** (a) The commission's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

(b) To facilitate the study, research, evaluation, and designation of sites and routes, the commission shall be guided by, but not limited to, the following considerations:

(1) evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high-voltage transmission lines and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including baseline studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

(2) environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

(3) evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;

(4) evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

(5) analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;

(6) evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;

(7) evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;

(8) evaluation of potential routes that would use or parallel existing railroad and highway rights-of-way;

(9) evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

(10) evaluation of the future needs for additional high-voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

(11) evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and

(12) when appropriate, consideration of problems raised by other state and federal agencies and local entities:\_

(13) evaluation of the benefits of the proposed facility with respect to (i) the protection and enhancement of environmental quality, and (ii) the reliability of state and regional energy supplies;

(14) evaluation of the proposed facility's impact on socioeconomic factors; and

(15) evaluation of the proposed facility's employment and economic impacts in the vicinity of the facility site and throughout Minnesota, including the quantity and quality of construction and permanent jobs and their compensation levels. The commission must consider a facility's local employment and economic impacts, and may reject or place conditions on a site or route permit based on the local employment and economic impacts.

(c) If the commission's rules are substantially similar to existing regulations of a federal agency to which the utility in the state is subject, the federal regulations must be applied by the commission.

(d) No site or route shall be designated which violates state agency rules.

(e) The commission must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons.

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

Sec. 27. Minnesota Statutes 2022, section 216E.03, subdivision 10, is amended to read:

**Subd. 10. Final decision.** (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the commission. When the commission designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The commission shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route permit shall be issued in violation of the route selection standards and criteria established in this section and in rules adopted by the commission. When the commission designates a route, it shall issue a permit for the construction of a high-voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary, and with any other appropriate conditions. The commission may order the construction of high-voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The commission shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

(c) The commission must require as a condition of permit issuance, including issuance of a modified permit for a repowering project, as defined in section 216B.243, subdivision 8, paragraph (b), that the recipient of a site permit to construct a large electric power generating plant, including all of the permit recipient's construction contractors and subcontractors on the project: (1) pay no less than the prevailing wage rate, as defined in section 177.42; and (2) be subject to the requirements and enforcement provisions under sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

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

Sec. 28. Minnesota Statutes 2022, section 216E.03, subdivision 11, is amended to read:

**Subd. 11. Department of Commerce to provide technical expertise and other assistance.** (a) The commissioner of the Department of Commerce shall consult with other state agencies and provide technical expertise and other assistance to the commission or to individual members of the commission for activities and proceedings under this chapter and chapters 216F and 216G. This assistance shall include the sharing of power plant siting and routing staff and other resources as necessary. The commissioner shall periodically report to the commission concerning the Department of Commerce's costs of providing assistance. The report shall conform to the schedule and include the required contents specified by the commission. The commission shall include the costs of the assistance in assessments for activities and proceedings under those sections and reimburse the special revenue fund for those costs. If either the commissioner or the commission deems it necessary, the department and the commission shall enter into an interagency agreement establishing terms and conditions for the provision of assistance and sharing of resources under this subdivision.

(b) Notwithstanding the requirements of section 216B.33, the commissioner may take any action required or requested by the commission related to the environmental review requirements under chapter 216E or 216F immediately following a hearing and vote by the commission, prior to issuing a written order, finding, authorization, or certificate.

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

Sec. 29. Minnesota Statutes 2022, section 216E.04, subdivision 2, is amended to read:

**Subd. 2. Applicable projects.** The requirements and procedures in this section apply to the following projects:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants that are fueled by natural gas;
- (3) high-voltage transmission lines of between 100 and 200 kilovolts;
- (4) high-voltage transmission lines in excess of 200 kilovolts and less than five 30 miles in length in Minnesota;
- (5) high-voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high-voltage transmission line right-of-way;
- (6) a high-voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length;
- (7) a high-voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line; and
- (8) large electric power generating plants that are powered by solar energy.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to a high-voltage transmission line in excess of 200 kilovolts whose owner has filed an application for a route permit with the Public Utilities Commission on or after that date.

Sec. 30. Minnesota Statutes 2022, section 216F.04, is amended to read:

**216F.04 SITE PERMIT.**

- (a) No person may construct an LWECS without a site permit issued by the Public Utilities Commission.
- (b) Any person seeking to construct an LWECS shall submit an application to the commission for a site permit in accordance with this chapter and any rules adopted by the commission. The permitted site need not be contiguous land.
- (c) The commission shall make a final decision on an application for a site permit for an LWECS within 180 days after acceptance of a complete application by the commission. The commission may extend this deadline for cause.
- (d) The commission may place conditions in a permit and may deny, modify, suspend, or revoke a permit.
- (e) The commission must require as a condition of permit issuance, including issuance of a modified permit for a repowering project, as defined in section 216B.243, subdivision 8, paragraph (b), that the recipient of a site permit to construct an LWECS with a nameplate capacity above 25,000 kilowatts, including all of the permit recipient's construction contractors and subcontractors on the project: (1) pay no less than the prevailing wage rate, as defined in section 177.42; and (2) be subject to the requirements and enforcement provisions under sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

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

**Sec. 31. MINNESOTA PUBLIC UTILITIES COMMISSION PROCEEDINGS; REVISED AFFILIATE INTEREST AGREEMENTS.**

Nothing in this act affects consideration by the Minnesota Public Utilities Commission of revised affiliated interest agreements that were previously approved for an energy facility in docket number E015/AI-17-568. This section must not be interpreted to affect a public interest determination on this energy facility in any subsequent resource planning docket or a prudence determination in any subsequent rate case. Nothing in this section affects a public utility's obligation to comply with the provisions of Minnesota Statutes, section 216B.1691.

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

**Sec. 32. REVISOR INSTRUCTION.**

The revisor of statutes shall make any necessary cross-references changes in Minnesota Statutes and Minnesota Rules resulting from the changes made to Minnesota Statutes, section 216B.1691, subdivision 1, in this act.

**Sec. 33. REPEALER.**

Minnesota Statutes 2022, section 216B.1691, subdivision 2, is repealed.

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

Presented to the governor February 7, 2023

Signed by the governor February 7, 2023, 2:19 p.m.