

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.

(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

(iv) a pipeline facility; and

(2) electric sales to:

(i) a large 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; and

(ii) a pipeline facility.

(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.

(i) "Large customer facility" means 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 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.

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

(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.

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

(m) "Petroleum products" has the meaning given in section 296A.01, subdivision 42, and includes propane, as defined in section 216B.02, subdivision 3a.

(n) "Pipeline facility" means a pipeline located in Minnesota with a diameter of six inches or greater and through which natural gas, petroleum, or petroleum products are transported under pressure to a utility, petroleum refinery, or other wholesale customer. Pipeline facility includes natural gas compressor stations, petroleum pumping stations, and other facilities necessary to physically transport fuel through a pipeline to a wholesale customer, but does not include facilities used to transport natural gas, petroleum, or petroleum products within a petroleum refinery, storage, or manufacturing facility.

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

~~(n)~~ (p) "Waste heat recovered and used as thermal energy" means capturing heat energy that would otherwise be exhausted or dissipated to the environment from machinery, buildings, or industrial processes and productively using such recovered thermal energy where it was captured or distributing it as thermal energy to other locations where it is used to reduce demand-side consumption of natural gas, electric energy, or both.

~~(o)~~ (q) "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.

4.1 Sec. 2. Minnesota Statutes 2016, section 216B.241, subdivision 1a, is amended to read:

4.2 Subd. 1a. **Investment, expenditure, and contribution; public utility.** (a) For purposes
4.3 of this subdivision and subdivision 2, "public utility" has the meaning given it in section
4.4 216B.02, subdivision 4. Each public utility shall spend and invest for energy conservation
4.5 improvements under this subdivision and subdivision 2 the following amounts:

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

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

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

4.13 For purposes of this paragraph (a), "gross operating revenues" do not include revenues
4.14 from large customer facilities exempted under paragraph (b), ~~or~~ from commercial gas
4.15 customers that are exempted under paragraph (c) or (e), or from a customer that is a pipeline
4.16 facility.

4.17 (b) The owner of a large customer facility may petition the commissioner to exempt
4.18 both electric and gas utilities serving the large customer facility from the investment and
4.19 expenditure requirements of paragraph (a) with respect to retail revenues attributable to the
4.20 large customer facility. The filing must include a discussion of the competitive or economic
4.21 pressures facing the owner of the facility and the efforts taken by the owner to identify,
4.22 evaluate, and implement energy conservation and efficiency improvements. A filing
4.23 submitted on or before October 1 of any year must be approved within 90 days and become
4.24 effective January 1 of the year following the filing, unless the commissioner finds that the
4.25 owner of the large customer facility has failed to take reasonable measures to identify,
4.26 evaluate, and implement energy conservation and efficiency improvements. If a facility
4.27 qualifies as a large customer facility solely due to its peak electrical demand or annual
4.28 natural gas usage, the exemption may be limited to the qualifying utility if the commissioner
4.29 finds that the owner of the large customer facility has failed to take reasonable measures to
4.30 identify, evaluate, and implement energy conservation and efficiency improvements with
4.31 respect to the nonqualifying utility. Once an exemption is approved, the commissioner may
4.32 request the owner of a large customer facility to submit, not more often than once every
4.33 five years, a report demonstrating the large customer facility's ongoing commitment to
4.34 energy conservation and efficiency improvement after the exemption filing. The

5.1 commissioner may request such reports for up to ten years after the effective date of the
5.2 exemption, unless the majority ownership of the large customer facility changes, in which
5.3 case the commissioner may request additional reports for up to ten years after the change
5.4 in ownership occurs. The commissioner may, within 180 days of receiving a report submitted
5.5 under this paragraph, rescind any exemption granted under this paragraph upon a
5.6 determination that the large customer facility is not continuing to make reasonable efforts
5.7 to identify, evaluate, and implement energy conservation improvements. A large customer
5.8 facility that is, under an order from the commissioner, exempt from the investment and
5.9 expenditure requirements of paragraph (a) as of December 31, 2010, is not required to
5.10 submit a report to retain its exempt status, except as otherwise provided in this paragraph
5.11 with respect to ownership changes. No exempt large customer facility may participate in a
5.12 utility conservation improvement program unless the owner of the facility submits a filing
5.13 with the commissioner to withdraw its exemption.

5.14 (c) A commercial gas customer that is not a large customer facility and that purchases
5.15 or acquires natural gas from a public utility having fewer than 600,000 natural gas customers
5.16 in Minnesota may petition the commissioner to exempt gas utilities serving the commercial
5.17 gas customer from the investment and expenditure requirements of paragraph (a) with
5.18 respect to retail revenues attributable to the commercial gas customer. The petition must be
5.19 supported by evidence demonstrating that the commercial gas customer has acquired or can
5.20 reasonably acquire the capability to bypass use of the utility's gas distribution system by
5.21 obtaining natural gas directly from a supplier not regulated by the commission. The
5.22 commissioner shall grant the exemption if the commissioner finds that the petitioner has
5.23 made the demonstration required by this paragraph.

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

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

5.32 (1) not result in cost-effective energy conservation improvements; or

5.33 (2) otherwise not be in the public interest.

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