

CHAPTER 216B

PUBLIC UTILITIES

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216B.01 LEGISLATIVE FINDING.

It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, to avoid unnecessary duplication of facilities which increase the cost of service to the consumer and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers. Because municipal utilities are presently effectively regulated by the residents of the municipalities which own and operate them, and cooperative electric associations are presently effectively regulated and controlled by the membership under the provisions of chapter 308A, it is deemed unnecessary to subject such utilities to regulation under this chapter except as specifically provided herein.

History: 1989 c 356 s 8

216B.02 DEFINITIONS.

[For text of subds 1 to 3, see M.S.1988]

Subd. 4. "Public utility" means persons, corporations or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured or mixed gas or electric service to or for the public or engaged in the production and retail sale thereof but does not include (1) a municipality or a cooperative electric association, organized under the provisions of chapter 308A producing or furnishing natural, manufactured or mixed gas or electric service or (2) a retail seller of compressed natural gas used as a vehicular fuel which purchases the gas from a public utility. Except as otherwise provided, the provisions of this chapter shall not be applicable to any sale of natural, manufactured or mixed gas or electricity by a public utility to another public utility for resale. In addition, the provisions of this chapter shall not apply to a public utility whose total natural gas business consists of supplying natural, manufactured or mixed gas to not more than 650 customers within a city pursuant to a franchise granted by the city, provided a resolution of the city council requesting exemption from regulation is filed with the commission. The city council may rescind the resolution requesting exemption at any time, and, upon the filing of the rescinding resolution with the commission, the provisions of this chapter shall apply to the public utility. No person shall be deemed to be a public utility if it furnishes its services only to tenants or cooperative or condominium owners in buildings owned, leased, or operated by such person. No person shall be deemed to be a public utility if it furnishes service to occupants of a manufactured home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it produces or furnishes service to less than 25 persons.

[For text of subds 5 to 9, see M.S.1988]

History: 1989 c 356 s 9

216B.027 COOPERATIVE ELECTRIC ASSOCIATION STOCKHOLDER RIGHTS.

[For text of subd 1, see M.S.1988]

Subd. 2. **Scope.** Cooperative associations organized under chapter 308A for the purpose of providing rural electrification at retail to ultimate consumers shall comply with the provisions of this section in addition to other applicable provisions of chapter 308A and other applicable state and federal laws.

[For text of subds 3 and 4, see M.S.1988]

Subd. 5. **Petitions; voting.** Notwithstanding the provisions of sections 308A.611 and 308A.615, upon receipt of a written petition concerning governance matters signed by at least 500 stockholders or five percent of the stockholders, whichever is less, of a retail cooperative electric association, the matter in the petition must be presented to the stockholders of the cooperative for a vote at the next annual meeting. Petitions must be received by the cooperative electric association 60 days prior to the scheduled annual meeting. For purposes of this section, "governance matters" means matters properly contained in the articles of incorporation or bylaws by adopting, amending, or repealing bylaws or the articles of incorporation.

[For text of subds 6 and 7, see M.S.1988]

History: 1989 c 144 art 2 s 3; 1989 c 356 s 10

216B.095 DISCONNECTION DURING COLD WEATHER.

The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:

(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;

(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;

(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total energy costs where the customer receives service from more than one provider;

(4) that a customer's household income does not include any amount received for energy assistance;

(5) verification of income by the local energy assistance provider, unless the customer is automatically eligible as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and

(6) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral to weatherization, conservation, or other programs likely to reduce the customer's consumption of energy.

For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis.

History: 1989 c 338 s 1; 1989 c 356 s 59

216B.241 ENERGY CONSERVATION IMPROVEMENTS.

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

(a) "Commission" means the public utilities commission, department of public service;

(b) "Department" means the department of public service;

(c) "Energy conservation improvement" means the purchase or installation of any device, method or material that increases the efficiency in the use of electricity or natural gas including, but not limited to:

- (1) insulation and ventilation;
- (2) storm or thermal doors or windows;
- (3) caulking and weatherstripping;
- (4) furnace efficiency modifications;
- (5) thermostat or lighting controls;
- (6) awnings; or

(7) systems to turn off or vary the delivery of energy. The term "energy conservation improvement" includes any device or method which creates, converts, or actively uses energy from renewable sources such as solar, wind, and biomass, providing such device or method conforms with national or state performance and quality standards whenever applicable.

(d) "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.

(e) "Public utility" has the same meaning as given that term in section 216B.02, subdivision 4. For the purposes of this section, "public utility" shall not include cooperative electric associations that become subject to rate regulation after April 16, 1980.

Subd. 2. Programs. The department may by rule 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 a two-year period. The department shall require at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass. The department shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The rules of the department must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, or material 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, seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable. The department may require a utility to make an energy conservation improvement investment or expenditure whenever the department 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 department shall nevertheless ensure that every public utility operate one or more programs, under periodic review by the department, that make significant investments in and expenditures for energy conservation improvements. The department shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization. The department shall ensure that at least half the money spent on residential programs is devoted to programs that directly address the needs of renters and low-income families and individuals unless an insufficient number of appropriate programs are available. For purposes of this section, "low income" means an income less than 185 percent of the federal poverty level. Invest-

ments and expenditures made under this subdivision must be treated for ratemaking purposes in the manner prescribed in section 216B.16, subdivision 6b. No utility shall make an energy conservation improvement pursuant to this section to a building envelope unless it is the primary supplier of energy used for either space heating or cooling in the building or unless the department determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise. A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, or the attorney general acting on behalf of consumers and small business interests, may petition the commission to modify or revoke a department decision to require a program under this subdivision, and the commission may do so if it determines that the program is ineffective, does not adequately address the needs of renters and low-income families and individuals, or is otherwise not in the public interest. The person petitioning for commission review has the burden of proof. 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.

The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department.

[For text of subds 3 and 4, see M.S.1988]

History: 1989 c 338 s 2,3