216B.492 FINANCING ORDER.

Subdivision 1. **Application.** (a) A utility may file an application with the commission requesting a financing order to enable the utility to recover extraordinary event costs by issuing extraordinary event bonds under this section.

(b) The application must include the following information, as applicable:

(1) a description of each natural gas facility to be repaired or replaced;

(2) the undepreciated value remaining in each natural gas facility under clause (1) that the utility proposes to repair or replace using financing obtained by issuing extraordinary event bonds under sections 216B.491 to 216B.499, and the method used to calculate the undepreciated value remaining;

(3) the estimated costs imposed on customers resulting from an extraordinary event that involves no physical damage to natural gas facilities;

(4) the estimated savings or estimated mitigation of rate impacts to utility customers if the financing order is issued as requested in the application, calculated by comparing the costs to customers that are expected to result from implementing the financing order and the estimated costs associated with implementing traditional utility financing mechanisms with respect to the same undepreciated balance, expressed in net present value terms;

(5) a description of (i) the nonbypassable extraordinary event charge utility customers must pay in order to fully recover financing costs, and (ii) the method and assumptions used to calculate the nonbypassable extraordinary event charge;

(6) a proposed methodology to allocate the revenue requirement for the extraordinary event charge among the utility's customer classes;

(7) a description of a proposed adjustment mechanism that is implemented when necessary to correct any overcollection or undercollection of extraordinary event charges, in order to complete payment of scheduled principal and interest on extraordinary event bonds and other financing costs in a timely fashion;

(8) a memorandum with supporting exhibits, developed by a securities firm that is experienced in the marketing of securitized utility ratepayer-backed bonds, indicating the proposed issuance satisfies: (i) the current published AA, Aa2, or higher rating; or (ii) equivalent rating criteria of at least one nationally recognized securities rating organization for issuances similar to the proposed extraordinary event bonds;

(9) an estimate of: (i) the timing of the extraordinary event bonds issuance; and (ii) the term of the extraordinary event bonds or series of bonds, provided that the scheduled final maturity for each bond issuance does not exceed 30 years;

(10) identification of plans to sell, assign, transfer, or convey, other than as a security, interest in extraordinary event property, including identification of an assignee and demonstration that the assignee is a financing entity that is wholly owned, directly or indirectly, by the utility;

(11) identification of ancillary agreements that may be necessary or appropriate;

(12) one or more alternative financing scenarios in addition to the preferred scenario contained in the application;

(13) the extent of damage to the utility's natural gas facility caused by an extraordinary event and the estimated costs to repair or replace the damaged natural gas facility;

(14) a schedule of the proposed repairs to and replacement of the damaged natural gas facility;

(15) a description of the steps taken to provide customers interim natural gas service while the damaged natural gas facility is being repaired or replaced; and

(16) a description of the impacts on the utility's current workforce resulting from implementing a repair or replacement plan following an extraordinary event.

Subd. 2. **Findings.** After providing notice and holding a public hearing on an application filed under subdivision 1, the commission may issue a financing order if the commission finds that:

(1) the extraordinary event costs described in the application are reasonable;

(2) the proposed issuance of extraordinary event bonds and the imposition and collection of extraordinary event charges:

(i) are just and reasonable;

(ii) are consistent with the public interest;

(iii) constitute a prudent and reasonable mechanism to finance the extraordinary event costs; and

(iv) provide tangible and quantifiable benefits to customers, either by providing lower overall costs or mitigating rate impacts relative to traditional methods of financing, that exceed the benefits achieved absent the issuance of extraordinary event bonds; and

(3) the proposed structuring, marketing, and pricing of the extraordinary event bonds:

(i) lower overall costs to customers or mitigate rate impacts to customers relative to traditional methods of financing; and

(ii) achieve customer savings or mitigate rate impacts to customers, as determined by the commission in a financing order, consistent with market conditions at the time of sale and the terms of the financing order.

Subd. 3. **Contents.** (a) A financing order issued under this section must:

(1) determine the maximum amount of extraordinary event costs that may be financed from proceeds of extraordinary event bonds issued pursuant to the financing order;

(2) describe the proposed customer billing mechanism for extraordinary event charges and include a finding that the mechanism is just and reasonable;

(3) describe the financing costs that may be recovered through extraordinary event charges and the period over which the costs may be recovered, which must end no earlier than the date of final legal maturity of the extraordinary event bonds;

(4) describe the extraordinary event property that is created and that may be used to pay, and secure the payment of, principal and interest on the extraordinary event bonds and other financing costs authorized in the financing order;

(5) authorize the utility to finance extraordinary event costs by issuing one or more series of extraordinary event bonds. A utility is not required to secure a separate financing order for each extraordinary event bonds issuance or for each scheduled phase to replace natural gas facilities approved in the financing order;

(6) include a formula-based mechanism that must be used to make expeditious periodic adjustments to the extraordinary event charges authorized by the financing order that are necessary to (i) correct for any overcollection or undercollection, or (ii) otherwise provide for the timely payment of extraordinary event bonds, other financing costs, and other required amounts and charges payable in connection with extraordinary event bonds;

(7) specify the degree of flexibility afforded to the utility to establish the terms and conditions of the extraordinary event bonds, including but not limited to repayment schedules, expected interest rates, and other financing costs;

(8) specify that the extraordinary event bonds must be issued, subject to market conditions and the financing order's terms, as soon as feasible following the financing order's issuance;

(9) require the utility, at the same time extraordinary event charges are initially collected and independent of the schedule to close and decommission any natural gas facility replaced as the result of an extraordinary event, if any, to remove the natural gas facility from the utility's rate base and commensurately reduce the utility's base rates;

(10) specify a future ratemaking process to reconcile any difference between the projected pretax costs included in the amount financed by extraordinary event bonds and the final actual pretax costs incurred by the utility to retire or replace the natural gas facility, if any;

(11) specify information regarding extraordinary event bonds issuance and repayments, financing costs, energy transaction charges, extraordinary event property, and related matters that the natural gas utility is required to provide to the commission on a schedule determined by the commission;

(12) allow or require the creation of a utility's extraordinary event property to be conditioned on, and occur simultaneously with, the sale or other transfer of the extraordinary event property to an assignee and the pledge of the extraordinary event property to secure the extraordinary event bonds;

(13) ensure that the structuring, marketing, and pricing of extraordinary event bonds result in reasonable extraordinary event charges and customer savings or rate impact mitigation, consistent with market conditions and the financing order's terms; and

(14) specify that a utility that finances the replacement of one or more natural gas facilities after the natural gas facilities that are subject to the financing order are removed from the utility's rate base is prohibited from:

(i) operating the natural gas facilities; or

(ii) selling the natural gas facilities to another entity to operate as natural gas facilities.

(b) A financing order issued under this section may:

(1) include conditions different from those requested in the application that the commission determines are necessary to:

(i) promote the public interest; and

(ii) maximize the financial benefits or minimize the financial risks of the transaction to customers and to directly impacted Minnesota workers and communities; and

(2) select one or more underwriters for the extraordinary event bonds.

Subd. 4. **Duration; irrevocability; subsequent order.** (a) A financing order remains effective until the extraordinary event bonds issued under the financing order and all financing costs related to the extraordinary event bonds have been paid in full.

(b) A financing order remains effective and unabated notwithstanding the bankruptcy, reorganization, or insolvency of the utility to which the financing order applies or any affiliate, successor, or assignee of the utility to which the financing order applies.

(c) Subject to judicial review under section 216B.52, a financing order is irrevocable and is not reviewable by a future commission. The commission must not: (1) reduce, impair, postpone, or terminate extraordinary event charges approved in a financing order; (2) reduce or impair the extraordinary event property approved in a financing order or impair the collection or recovery of extraordinary event charges and extraordinary event revenue; or (3) change the customers required to pay extraordinary event charges.

(d) Notwithstanding paragraph (c), the commission may, on the commission's own motion or at the request of a utility or any other person, commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding extraordinary event bonds issued under the original financing order if:

(1) the commission makes all of the findings specified in subdivision 2 with respect to the subsequent financing order; and

(2) the modification contained in the subsequent financing order does not in any way impair the covenants and terms of the extraordinary event bonds being refinanced, retired, or refunded.

Subd. 5. **Effect on commission jurisdiction.** (a) Except as provided in paragraph (b), the commission, in exercising the powers and carrying out the duties under this section, is prohibited from:

(1) considering extraordinary event bonds issued under this section to be debt of the utility other than for income tax purposes, unless considering the extraordinary event bonds to be debt is necessary to achieve consistency with prevailing utility debt rating methodologies;

(2) considering the extraordinary event charges paid under the financing order to be revenue of the utility;

(3) considering the extraordinary event costs or financing costs specified in the financing order to be regulated costs or assets of the utility; or

(4) determining that any prudent action taken by a utility that is consistent with the financing order is unjust or unreasonable.

(b) Nothing in this subdivision:

(1) affects the authority of the commission to apply or modify a billing mechanism designed to recover extraordinary event charges;

(2) prevents or precludes the commission from (i) investigating a utility's compliance with the financing order's terms and conditions, and (ii) requiring compliance with the financing order; or

(3) prevents or precludes the commission from imposing regulatory sanctions against a utility for failure to comply with (i) the financing order's terms and conditions, or (ii) the requirements of this section.

(c) The commission is prohibited from refusing to allow a utility to recover any costs associated with the replacement of natural gas facilities solely because the utility has elected to finance the natural gas facility replacement through a financing mechanism other than extraordinary event bonds.

History: *1Sp2025 c 7 art 4 s 2*