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Article 1 - Energy Planning

State transmission plan
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1 **Title.** Specifies that this act shall be known as the Minnesota Energy Security and Reliability Act.

2 **State transmission plan.**

Subd. 1. Plan. Requires the commission to maintain a state transmission plan, consisting of a list of certified high voltage transmission line projects.

Subd. 2. Plan development. Requires each entity that owns or operates electric transmission lines in Minnesota to jointly or individually submit a transmission projects report to the commission by November 1 of each odd-numbered year.

Subd. 3. Commission approval. Requires the commission to adopt a state transmission plan and to certify, certify as modified, or deny certification of the projects proposed under subdivision 2, by June 1 of each even-numbered year. Specifies that the commission may only certify a project that the commission finds is:

necessary to maintain or enhance the reliability of the electric service to Minnesota consumers;

needed, applying the certificate of need criteria;

a public purpose project, apply the considerations for such designations; and

in the public interest, taking into account electric energy system needs and economic, environmental, and social interests affected by the project.

- Specifies that each certified transmission project on an approved state transmission plan is exempt from additional commission review under section 216B.243 (Certificate of Need).
- 3 **Existing generation facilities.** Establishes that it is the policy of the state that existing base-load generation facilities be maintained and upgraded consistent with energy policy goals established pursuant to this chapter. Directs the commission, the department of commerce and other state agencies with regulatory jurisdiction over the operation of these facilities to "take all steps necessary" to incorporate this state policy in their regulatory decisions.
- 4 **Energy security and reliability.** Provides that it is a fundamental goal of the state's energy and utility policy that state policymakers maximize the state's energy security. Defines energy security as "ensuring that the state's energy sources are:
- (1) diverse, including traditional sources, such as coal, natural gas, waste-to-energy and nuclear facilities; renewable sources, such as wind, biomass, and agricultural waste generation; and high efficiency, low emissions distributed generation sources, such as fuel cells and microturbines;
 - (2) to the extent feasible, produced in the state;
 - (3) environmentally sustainable;
 - (4) available to consumers at affordable and stable rates or prices; and
 - (5) above all, reliable."
- Reliability is defined as ensuring that adequate resources and infrastructure are in place, and are planned for, to ensure that energy services to Minnesota consumers remains dependable, efficient and secure.
- 5 **Energy security blueprint.** Requires the commissioner to issue a draft energy security blueprint by December 31, 2001, and every 4 years thereafter.
- 6 **Energy security blueprint contents.** Specifies the contents of the energy security blueprint, including:
- the amount and type of projected statewide energy consumption over the next ten years;
 - a determination of whether and the extent to which existing and anticipated energy production and transportation facilities will or will not be able to supply needed energy;
 - a determination of the potential for conservation to meet some or all of the projected need for energy;
 - an assessment of the environmental impact of projected energy consumption over the next 10 years prepared by the commissioner of the pollution control agency; and
 - benchmarks to measure and monitor supply adequacy and infrastructure capacity, and to assess the overall reliability of the state's electric system.
- 7 **Energy goals.** Requires the blueprint to establish statewide goals and strategies for:
- energy conservation
 - limiting adverse environmental emissions from electric generation
 - renewable energy production
 - deployment of distributed generation (small generation facilities built close to where the electricity is used)
 - affordable and available energy service
 - minimizing the imposition of social costs on energy consumers through energy rates or prices; and
 - increasing the efficiency of the regulatory infrastructure and reducing regulatory and

administrative costs.

8 **Blueprint development.**

Subd. 1. Public participation. Requires the commissioner to invite public comment and participation during the development of the blueprint and to hold public meetings around the state.

Subd. 2. Notice and comment; blueprint issuance. Requires the commissioner to provide notice of all public meetings to discuss the proposed blueprint, and allow opportunity for written comment prior to issuing the final blueprint. Requires the commissioner to issue the final blueprint within 4 months of issuing the draft blueprint.

9 **Regional energy infrastructure planning.**

Subd. 1. Establishment. Requires the commission to establish geographic regional energy infrastructure planning regions by August 1, 2001. Requires the commission to also request comments on and approve, or approve as modified, each group's organizational, administrative, planning and voting structures.

Subd. 2. Planning group. Requires each energy utility that operates in an identified region to participate in the regional energy infrastructure planning group for that region. Requires each group to include as voting members an equal number of representatives of utilities and representatives from each county included in the identified region, appointed by the county boards.

Subd. 3. Public meetings. Requires the group to hold public meetings on a regular basis.

Subd. 4. Report. Requires each planning group to issue a report to the commissioner and the administrator by November 1, 2001, and every two years thereafter:

identifying inadequacies and deficiencies in electric generation and transmission in the region;

listing alternative ways to address those inadequacies;

recommends alternatives to address identified inadequacies and deficiencies that ensure the reliability and security of the energy system in the region, while minimizing environmental and social impacts; and

identifying critical needs.

"Critical needs" are defined as those projects that are necessary to maintain reliable electric service to Minnesota consumers that meet or exceed the most stringent state or regional reliability standards.

Subd. 5. Deficiencies. Requires an electric that identifies a deficiency in its system to give notice of the deficiency within 90 days to the members of affected regional energy infrastructure planning groups, officials of potentially affected local governments, the commissioner and the administrator.

Defines deficiency as "a condition, or set of conditions, that materially limit the adequacy of electric supply, efficiency of electric service, or reliability of electric service to an electric utility's customers in the state that may require construction of a generation or transmission project."

10 **Legislative Electric Energy Task Force.** Extends the repeal date of the LEETF to June 30, 2003.

11 **Reliability administrator.**

Establishes a reliability administrator to "increase state agency technical expertise and understanding of reliability needs, and increase public confidence in infrastructure projects."

The reliability administrator is not a decision- or policy-maker. It does not add new duties to the department of commerce. Instead, those duties that are currently required of the department regarding reliability issues would be consolidated under this position. The reliability administrator would perform three functions:

- (1) provide technical analysis and advise to the commissioner and the public utilities commission
- (2) host public meetings around the state to present independent, factual, expert technical information on infrastructure proposals to affected citizens; and
- (3) develop and present to the commissioner a biennial reliability status report, with copies to the PUC and House and Senate chairs of the Legislative Electric Energy Task Force.

The administrator would also provide assistance to the LEETF. Requires the Department of Commerce to pay the costs of the administrator and to assess utilities for reimbursement of those costs. The assessment authority of the LEETF would be reduced by the amount of the general administrative costs of the administrator (no impact on the general fund). The LEETF has a current assessment authority of \$400,000. Requires a report to the House and Senate finance chairs in any year additional assessments are made.

- 12 **Effective date.** Makes article 1 effective the day following final enactment.

Article 2 - Essential Energy Infrastructure

Power plant siting streamlining
Certificate of need reform
Public purpose projects

- 1 **Commissioner to issue air permits.** Delegates authority from the PCA board to the PCA commissioner to issue air permits for generation facilities.
- 2 **Utility.** Expands the definition of a utility to include an entity that is intending to engage in the generation, transmission or distribution of electric energy in Minnesota.
- 3 **Jurisdiction.** Restricts the jurisdiction of the environmental quality board (EQB) to review the need for a proposed facility when the public utilities commission has previously determined the need for the project.
- 4 **Interstate routes.** Provides that either issuance of a certificate of need or placement on the public purpose list under section 216E.08 is required before a route permit can be issued for an interstate transmission line. The EQB reports that without a need decision on an interstate line, the siting process is both contentious and extensive. This language would recognize that the public must have been given an opportunity to be heard and to participate in a process to determine why a particular interstate transmission line is needed, before a decision on a specific route can be made by the EQB.
Site permit. Specifies that no person may construct a large electric power generating plant with a site permit from the EQB or a county. Requires the county to use terms, conditions, procedures, and standards no less stringent than those imposed and used by the EQB.
- 6 **Route permit.** Specifies that no person may construct a high voltage transmission line without a route permit from the EQB.
- 7 **Application for site or route permit.** Specifies the information that must be contained in a complete application. Clarifies that what initiates the beginning of the time period for a decision from the EQB on the proposal is the acceptance of the application by the chair of the EQB.
- 8 **Notice of application.** Adds a requirement that property owners adjacent to a proposed site or

along a proposed route are to be notified directly.

- 9 **Environmental review.** Provides that an environmental impact statement (EIS) must be prepared on each proposed project under the full siting process. Presently the environmental document prepared as part of the siting process is called an Environmental Impact Assessment. An EIA is essentially the same as an EIS, so this change will simply recognize that the documents are the same.
- 10 **Public hearing.** Continues the current requirement that a proposal be given a public hearing before an administrative law judge (ALJ) to develop the factual record upon which the EQB is to render its decision on the application. Part of the hearing must be held in the area of the state where the proposed facility is to be constructed.
- 11 **Technical amendment.**
- 12 **Timing.** Requires the board to make a final decision on the application within 60 days of receiving the ALJ report, and within one year of the chair's determination that the application submitted was complete. Current law allows an additional time extension of 6 more months. This section allows a time extension of 3 months for good cause and with the consent of the parties.
- 13 **Final decision.** Specifies that the board shall issue notice of its decision in the state register within 30 days of its final decision on the application. As with current law, if the project is not environmentally sound and does not meet the criteria and standards for such projects, the EQB will be required to deny the permit. Authorizes the EQB to condition the permit to address any concerns that are identified.

- 14 **Alternative review of applications.** Establishes an alternative for certain projects to the full review process described in sections 5 to 13. Replaces the current "exemption" process. Under current law, an applicant could propose to have certain projects exempted from the siting/routing process. Upon receiving an exemption after a rigorous review by the EQB, the applicant would then have to submit its project to review by local officials. If the exemption was denied, the applicant would have to resubmit the application to the EQB for a full review. This legislation would eliminate the exemption alternative.

Subd. 1. Alternative review. Authorizes an applicant proposing a project that fits within one of the eligible categories to petition the board for an expedited siting process, which the board shall grant within 30 days, unless the board finds good cause for denial.

Subd. 2. Applicable projects. Sets forth seven categories of projects for which the applicant may elect to follow the alternative process.

- (1) small power plants - any power plant between 50 megawatts and 80 megawatts, regardless of fuel type, fall within this category. Projects of this size are currently eligible for the an exemption under current law;
- (2) natural gas fired power plants - these projects are generally non-controversial;
- (3) retrofitting existing power plants - this language is from current law;
- (4) a natural gas peaking/storage facility;
- (5) short transmission lines (less than 5 miles) - this category is intended to cover those transmission lines of very short distance (a few hundred feet in many instances) connecting new power plants or new substations to existing transmission lines; and
- (6) existing rights-of-way - this category would include new lines along existing high voltage transmission rights-of-way.

Subds. 3 to 7. Procedures. Establishes the procedural requirements for projects under this alternative review process. One major change from the full process is that no EIS is required; a

modified environmental assessment worksheet is required instead. This bill requires that in developing the EAW, alternatives and mitigation must be evaluated. Specifies that no other state environmental review of a proposed project is required.

Another difference is that a contested case hearing before an administrative law judge is not required on these projects. Instead, a public meeting conducted by the EQB is sufficient. However the public is still given an opportunity to present comments and ask questions at the meeting, and the applicant is still required to create an evidentiary record that supports the issuance of the permit.

Subdivision 7 provides that a decision on a site permit or a route permit shall be made within six months after an application is accepted by the chair of the EQB as complete. This is half the time allowed for the full siting process. As with the full siting process, the time period commences when the chair of the EQB finds that the application is complete.

, 1616 **Emergency permit; annual hearing; public meetings.** Retains existing requirements.
and 17

18 **Scientific advisory task force.** Clarifies current law to specify that a particular proceeding on a route or site permit may not be extended to await the outcome of a generic investigation by a scientific advisory task force.

19 **Technical amendment.**

20 **Large energy facility; definition.** Amends the definition of a large energy facility (those facilities that must receive certificate of need (CON) approval from the PUC) to exclude smaller generation facilities and to include smaller transmission lines.

21 **Modifying existing large energy facilities.** Exempts projects to refurbish or upgrade existing large energy facilities from CON requirements, unless the changes lead to a capacity increase at a generation facility of more than 100 megawatts (or 10 percent of existing capacity, whichever is greater), or operation of a transmission line at more than 50 percent of its existing voltage.

22 **Merchant facilities excluded from CON.** Excludes "merchant facilities" (defined as a generation facility or natural gas peaking/storage facility not-owned by a utility and that is not included in a utility's rate base) under 500 megawatts and under from the CON requirement. Prohibits the PUC from issuing a CON for a coal-fired facility unless the commission finds that the facility implements the most stringent technology and processes technically achievable, to ensure the least impact on the state's environment from the facility.

23 **Public purpose designation.** Authorizes an applicant for a certificate of need to also petition the commission to designate the proposed large energy facility a public purpose project. The commission shall approve or reject the petition at the same time the commission renders its decision on the certificate of need. Eminent domain authority may only be used in constructing a large energy facility if the commission designates the facility a public purpose project.

In designating a facility a public purpose project, the commission must consider whether the facility:

remedies a condition, or set of conditions, that materially limit the adequacy of electric supply, efficiency of electric service, or reliability of electric service to Minnesota consumers;

was identified as a critical need by the relevant regional energy infrastructure planning group;

is consistent with all relevant state goals and strategies approved by the legislature under section 216B.017; and

is otherwise in the public interest.

- 24 **Showing required for a CON.** Amends the requirements for what a utility must demonstrate before being granted a CON. The new requirements would be:
- (1) the accuracy of the long-range energy demand forecasts on which the necessity for the facility is based;
 - (2) the relationship of the proposed facility to overall state and regional energy needs
 - (3) environmental and socioeconomic benefits of this facility, including its uses to protect or enhance environmental quality, to increase reliability of energy supply in Minnesota and the region, and induce future development;
 - (4) possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load management programs, and distributed generation;
 - (5) the policies, rules, and regulations of other state and federal agencies and local governments;
 - (6) feasible energy conservation improvements, required under section 216B.241, sections 216C.05 to 216C.30, or other available conservation programs that can (i) reasonably replace a significant part or all of the energy to be provided by the proposed facility, and (ii) compete with it economically and in terms of reliability; and
 - (7) whether the proposed large energy facility was recommended for construction by the relevant regional energy infrastructure planning group.
- 25 **Joint hearing.** Authorizes the commission and the EQB to hold a joint hearing on the siting and need determination for a project, if both bodies find a joint hearing is feasible, more efficient, and may further the public interest.
- 26 **Technical amendment.**
- 27 **Repealer.** Repeals certain provisions of the power plant siting act.
- 28 **Effective dates.** Specifies that article 2 is effective the day following final enactment.

Article 3 - Regulatory Efficiency

Long term contractingcontracting
Renewable energy rate optionsoptions
Conservation investment programprogram
Utility joint venturesventures

- 29 **Long term contracts.** Requires the commission to allow and encourage a utility to have a combination of measures to manage price volatility and risk, including an appropriate share of long and medium term contracts, in order to minimize consumer exposure to fuel price volatility.
- 30 **Renewable and high efficiency energy rate options.** Requires each public utility, municipal utility and cooperative association to offer one or more options that allow a customer to determine that a certain amount of the electricity provided to the customer is from a renewable or high efficiency/low emissions source. Requires these rate options to reflect the utility's costs of acquiring the energy for the customer and that sufficient lead time is given to arrange acquisition of the energy. Also, allows the commission to establish a program for tradeable credits to make acquisition of renewable energy easier for utilities.
- 31 **Conservation investment program.** Re-engineers the administration of the state's conservation program (CIP). Major differences include:
- replaces resource-intensive pre-approval process with an post-implementation audit for cost-effectiveness and adherence to program goals and requirements

allows use of CIP for agricultural energy projects, distributed generation and renewable energy technologies

expands availability of CIP opt-out provision for larger energy customers that have implemented all conservation initiatives with a 10 year payback

requires municipal and cooperative utilities to evaluate their conservation programs and report to the legislature by February 2002.

32 **Integrated resource plan approval.** Eliminates requirement that individual utilities receive commission approval for their resource plan.

33 **Utility joint ventures.** Authorizes rural electric cooperatives, municipal utilities and investor-owned utilities to form joint ventures for the provision of utility services. Patterned after legislation that passed in 1996 and 1997 authorizing joint ventures between cooperative and municipal utilities.

34 **Large customer opt-out extension.** Specifies that the commissioner of commerce cannot rescind an exemption from CIP requirements for a large customer that has qualified for the exemption for five years from the date the exemption was granted.

Article 4 - Interconnection of Distributed Resources

This article provides technical specifications for interconnecting distributed generation resources (small generation facilities installed close to load) to a utility's electric system. In addition, this article provides for tariffs to notify customers and others that install distributed generation facilities what they will get paid for the energy they generate.

Article 5 - Conforming Amendments

This article makes technical amendments to conform other statutory provisions to the changes made in this legislation.

Article 6 - Miscellaneous Provisions

1 **Chair of the PUC; expanded duties.** Expands the duties of the chair of the commission.

& 33 **Cold weather disconnection requirements.** Clarifies the state's cold-weather disconnection requirements.

4 **Customer protections.** Requires utilities to offer budget billing plans. Requires a utility to offer payment agreements to customers, unless the customer has the financial resources to make full payment. Provides additional disconnection protections for consumers that have medically necessary equipment in their home.

5 **Low income rate programs.** Eliminates references to a pilot program for low income rate programs and clarifies the purpose of such programs.

6 **Preventative maintenance.** Authorizes the commission to ensure that public utilities are making adequate investment in plants and other facilities used in the production, transmission or distribution of electricity, and are conducting preventative maintenance with respect to those plants and facilities.

7 **Renewable energy production incentive; limitation.** Specifies that, beginning January 1, 2002, a qualified wind energy conversion facility under section 216C.41 (production incentive) may not be located within five miles of another qualified wind energy conversion facility constructed within the same calendar year and owned by the same person.

8 **Renewable energy production incentive; ownership; default; cure.** Specifies that a wind energy conversion facility qualifies for the production incentive if it is owned at least 51 percent by one or more of any combination of the entities listed in section 216C.41. Also specifies that if: (1) the owner of the facility is in default of a lending agreement and the lender takes

possession of and operates the facility and makes reasonable efforts to transfer ownership of the facility to an entity other than the lender, the lender may continue to receive the incentive payment for electricity generated and sold by the facility for a period not to exceed 18 months; and (2) if a qualified facility loses the right to receive the incentive because of changes in ownership, the facility may regain the right to receive the incentive upon cure of the ownership structure that resulted in the loss of eligibility and may reapply for the incentive, but in no case may the payment period be extended beyond the original ten-year limit.

- 9 **Repealer.** Repeals the current CIP program, and the requirement for the department to prepare and publish the quadrennial "energy conservation and policy report."
- 10 **Effective dates.** Specifies that articles 3 to 6 are effective on the day following final enactment.

Article 7 - Safety and Service Standards

- to 77 **Safety and service standards.** Requires reporting on outages, interruptions and other reliability incidents.

Establishes performance benchmarks for each utility with over 10,000 retail customers.

Requires the commission to adopt standards for safety, reliability and service quality for distribution utilities and to annually report on the aggregate performance of the state's distribution utilities.

Requires the performance standards to treat similarly situated distribution systems similarly, and recognize differing characteristics of system design and hardware.

- 8 **Cost benefit analysis.** Requires the commissioner of commerce to provide an analysis of the costs and benefits to consumers and utilities of the sections 1 to 7, to the legislature by February 1, 2002.
- 9 **Effective date.** Makes sections 1 to 7 effective July 1, 2003. Section 8 is effective the day following final enactment.