

HOUSE RESEARCH

Bill Summary

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Authors: Hilty

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Analyst: Bob Eleff

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Section

Article 1: General Provisions

- 1 **Title.** Specifies that this act is named the Next Generation Energy Act of 2007.
- 2 **[216C.05] Findings and purpose.**

Subd. 2. Energy policy goals. Establishes goals of reducing per capita fossil fuels used as an energy input by 15 percent by 2015 and reducing total state energy consumption by 25 percent by 2025.

Article 2: Energy Efficiency and Conservation

- 1 **[216B.16] Rate change; procedure; hearing.**

Subd. 1. Notice. Requires a cooperative electric association filing a rate change with the commission to reference the conservation improvement plan (CIP) of the generation and transmission cooperative that provides CIP to cooperative members.

- 2 **Subd. 6b. Energy conservation improvement.** Provides that a utility's expenses associated with conservation investments under CIP, including the difference between market-rate and utility-subsidized loan rates, may be treated by the commission as if they were directly incurred by the utility in providing service. Current law allows such treatment only for demand-side management and load management activities, which is discontinued under this provision.

Section

Provides that CIP expenses are excluded by the commission in its determination of just and reasonable gas rates for large energy facilities. Allows a public utility to reduce the gas rate of a large energy facility - an electric generating plant with a capacity of 50 megawatts or more - to reflect that exclusion outside of a general rate case.

3 [216B.1636] Recovery of electric utility infrastructure costs.

Subd. 1. Definitions. Defines "electric utility" as a public utility selling electricity at retail.

Defines "electric utility infrastructure projects" as those that replace or modify existing infrastructure and conserve energy or use it more efficiently, including as a result of waste heat recovery.

Subd. 2. Filing. Specifies what must be contained in a filing to the commission to allow recovery of electric utility infrastructure costs outside of a general rate case. A utility may recover a rate of return, income taxes thereon, incremental property taxes, and incremental depreciation associated with the project.

Subd. 3. Commission authority; orders. Authorizes the commission to issue orders to implement this section.

4 [216B.2401] Energy policy conservation goal. Specifies that state energy policy is to achieve annual energy savings equal to 1.5 percent of retail electricity and natural gas sales through energy conservation programs, rate design and other methods.

5 [216B.241] Energy conservation improvement.

Subd. 1. Definitions. Defines "energy efficiency" to include measures that target consumer behavior, equipment or processes that result in either an absolute decrease in energy use or a decrease in energy per unit of production while maintaining service quality.

Excludes gas sales to a large energy facility (see sec. 2 above) from "gross annual retail energy sales," which is the base from which required energy savings are measured. Also excluded are gas and electric sales to a large electric customer, if exempted by the commissioner under subdivision 1a.

Subd. 1a. Investment, expenditure, and contribution; public utility. Provides that the commissioner of commerce may rescind an exemption from contributing revenues towards a utility's CIP program granted to a large electric customer facility (defined as a facility with a peak demand of at least 20 megawatts) if the commissioner finds that the customer is not continuing to make reasonable efforts to identify, evaluate, and implement energy conservation improvements. (The current criterion for rescinding such an exemption is that cost-effective improvements are not available.)

Subd. 1b. Conservation improvement by cooperative association or municipality. Amends the criterion for a municipality providing natural gas service to be subject to

Section

this provision from those with gross operating revenues exceeding \$5 million to those selling more than 1 billion cubic feet of gas annually.

Strikes language requiring the commissioner of commerce to review electric cooperatives' and municipal utilities' evaluations of their CIP programs with regard to spending on programs that address renters and low-income persons (see subdivision 7).

Strikes language requiring a cooperative or municipality to file an overview of its CIP plan at least every four years, and requires submission of a CIP plan itself at least every three years, and more often if required by the commissioner of commerce.

Strikes language allowing a cooperative or municipality to spend up to 3 percent of its required CIP spending for program pre-evaluation, monitoring and evaluation, and allowing smaller cooperatives to report only the amount spent on CIP.

Strikes language allowing a cooperative or municipality to contribute funds to the energy conservation account (see subdivision 2a) as part of its CIP spending.

Subd. 1c. Energy-saving goals. Requires each utility and association to have an annual energy-savings goal of 1.5 percent of gross retail energy sales, calculated on the most recent three-year weather-normalized average. The commissioner may, at a utility's request, reduce the goal to no lower than 1 percent. Electric utility infrastructure projects that increase energy efficiency and would not have occurred through normal maintenance may be counted towards the goal. A utility is not required to make an investment that is not cost-effective, i.e., where the cost savings to the utility exceed the cost of producing or purchasing an equivalent supply of new energy.

The commissioner must report annually, in aggregate and for each utility, on annual energy savings and corresponding carbon dioxide reductions realized through CIP activities during the most recent two-year period for which data is available.

By January 15, 2010, the commissioner is to report to the legislature whether the annual spending requirements in subdivisions 1a and 1b are necessary to achieve the energy savings goals.

Subd. 1d. Technical assistance. Strikes language applying to 2002-2005. Requires the commissioner to, by order, establish and update energy savings assumptions and an inventory of the most effective conservation programs and technologies to guide utilities in implementing them. The commissioner may assess up to \$800,000 annually through June 30, 2009, and \$450,000 annually thereafter for the purposes of this subdivision.

Subd. 1e. Applied research and development grants. Allows the commissioner of commerce to approve and award grants for applied R&D projects that identify new energy conservation technologies and strategies. Up to \$3.6 million annually may be assessed for these purposes.

Subd. 1f. Facilities energy efficiency. Requires the Departments of Administration and Commerce to maintain and, if necessary, revise the sustainable building guidelines, and to update the benchmarking tool developed in 2001 so that all public buildings may use it to track building performance. The commissioner must require

Section

utilities to include in their CIP plan programs to facilitate professional engineering verification to qualify a building as Energy Star or Leadership in Energy and Environmental Design (LEED) qualified. This subdivision sets a state goal of 1,000 commercial buildings to be Energy Star labeled and 100 to be LEED certified by the end of 2010. The commissioner may assess utilities up to \$500,000 annually for the purposes of this subdivision.

Subd. 2. Programs. Requires that public utilities' CIP programs be filed every three years, in contrast to the current four years. Prohibits a public utility from making energy conservation investments that directly benefit a large energy facility (see section 2 above). Strikes language requiring the commissioner to insure that a portion of residential CIP expenditures are targeted to renters and low-income persons, (see subdivision 7) and allowing up to 3 percent of CIP spending for pre-evaluation, testing, monitoring, and evaluating programs.

Subd. 2a. Energy and conservation account. Requires the commissioner to deposit funds assessed from utilities in the energy and conservation account in the special revenue fund.

Strikes language requiring the account to be used exclusively for programs targeting low-income persons and underserved areas and specifies that funds may be spent for the purposes of subdivisions 1d, 1e, 1f, and 7.

Subd. 2b. Recovery of expenses. Authorizes the commission to allow a cooperative electric association subject to rate regulation to recover CIP expenditures, load management expenses, and contributions to the energy and conservation account, unless recovery is inconsistent with a financial incentive proposal approved by the commission.

Subd. 2c. Performance incentives. Requires the commission to review, by the end of 2008, any incentive plan for energy conservation improvement under section 216B.16 and to adjust the performance incentives in light of the energy savings goals of subdivision 1c.

Subd. 7. Low-income programs. Requires the commissioner to insure that each utility and association provide low-income programs, and establishes a floor for those expenditures: 0.2 percent of gross operating revenue from Minnesota residential customers for gas utilities; 0.1 percent for electric utilities and associations until 2010, 0.2 percent afterward. In lieu of implementing programs targeting these customers, funds may be contributed to the energy and conservation account, to be spent on low-income programs established by the commissioner, which may be implemented by a utility, nonprofit or community organization.

Subd. 8. Assessment. Authorizes the commissioner or department to assess utilities subject to this section to carry out the purposes of subdivisions 1d, 1e, and 1f.

6 [216B.2412] Decoupling of energy sales from revenues.

Subd. 1. Definition and purpose. "Decoupling" means separating a utility's revenues from its fluctuations in sales in order to remove utility disincentives to promote

Section

energy efficiency.

Subd. 2. Decoupling criteria. Requires the Public Utilities Commission to establish, by order, criteria and standards for decoupling that mitigate the impact on public utilities of meeting the energy savings goals while not adversely affecting ratepayers.

Subd. 3. Pilot programs. Authorizes the commission to allow one or more utilities to file a decoupling pilot plan for commission review and to implement it on a pilot basis for up to three years. The commission must report program results to the legislature.

7 **Effective date.** This article is effective July 1, 2007.

Article 3: Miscellaneous

1 **[123B.65] Energy efficiency projects.**

Subd. 2. Energy efficiency contract. Requires a school board entering into a guaranteed shared savings contract to provide a copy to the commissioner of education within 30 days of the contract's effective date.

2 **[216C.31] Energy audit programs.** Strikes language requiring the commissioner of commerce to administer certain energy audits required under an expired federal law. Requires the commissioner to develop programs to train energy auditors for residential and commercial buildings under section 216B.2412.

3 **[471.345] Uniform municipal contracting law.**

Subd. 13. Energy efficiency projects. Requires a municipality entering into a guaranteed shared savings contract to provide a copy to the commissioner of commerce within 30 days of the contract's effective date.

4 **[504B.161] Covenants of landlord or licensor.**

Subd. 1. Requirements. Requires the landlord to provide in a rental contract that the landlord will make the premises reasonably energy efficient, through installation of caulking, weather-stripping, storm windows, and storm doors.

5 **Repealer.** Repeals Minnesota Statutes, sections 216B.165 (governing residential energy audits performed under an expired federal law); 216C.27 (requiring the commissioner to adopt rules containing energy efficient standards for existing residences; and inspection and enforcement of those standards); and 216C.30, subdivision 5 (regarding enforcement against violations of chapter 216C and a provision of chapter 325F concerning specifications for the manufacture, labeling, and installation of insulation); and Minnesota Rules, chapter 7635 (pertaining to the Department of Commerce's residential energy conservation program) and chapter 7655 (pertaining to the qualification and certification of energy auditors, rules regarding energy audits, and minimum efficiency standards for rental buildings).

6 **Effective date.** This article is effective July 1, 2007.

Article 4: Community-Based Energy Development

1 **Citation.** Specifies that sections 1 to 14 may be known as the Community-Based Energy Development (C-BED) Act of 2007.

2 **[216B.1612] Community-based energy development; tariff.**

Subd. 1. Tariff establishment. Specifies that the tariff established pertains to renewable energy projects, not just wind energy projects, as in current law.

Subd. 2. Definitions. Allows a rural electric cooperative, generation and transmission cooperative, and political subdivision, including a municipal electric utility or a municipal power agency, to be a qualified C-BED owner on behalf of and at the request of a member distribution utility.

A C-BED project is defined as a renewable energy project that provides at least 51 percent of total payments resulting from a power purchase agreement to accrue to:

- qualified owners, who must receive at least 35 percent of net cash payments made under a PPA over the life of the agreement;
- landowners, in the form of lease payments;
- local units of government, in the form of wind energy production taxes; and
- chartered state banks, in the form of interest on project debt.

Wind projects consisting of more than two turbines may not have a single qualifying owner own more than 15 percent of the project. For a wind energy C-BED project, a public entity, except for a municipal utility, may own more than 15 percent of a project.

Subd. 3. Tariff rate. Removes the 2.7 cents per kWh cap in current law.

Subd. 4. Utilities to offer tariff. Requires utilities to file a C-BED tariff with the Public Utilities Commission by December 1, 2007.

Subd. 5. Priority for C-BED projects. Requires a utility with an approved plan under section 3 of this article to negotiate in good faith with C-BED project developers, up to an aggregate capacity for C-BED projects identified in the plan.

A municipal power agency or generation and transmission cooperative must provide notice to its distribution utilities that they may propose C-BED projects for consideration.

Subd. 8. Community energy partnerships. Allows and encourages utilities and independent power producers to participate in C-BED projects.

Subd. 9. C-BED advisory determination. A developer may request the commissioner of commerce to issue an advisory determination as to whether the project qualifies as a C-BED project.

3 **Subd. 2a. Utility ownership of renewable resources.** Allows a utility to construct, own and operate facilities to satisfy its renewable standard, notwithstanding an existing competitive resource acquisition process. Xcel Energy must file a plan with the commission before March 1, 2008, detailing how it intends to meet its renewable energy standard, including a schedule for purchasing energy from C-BED projects and proposed associated transmission resources. The commission must approve the plan unless it imposes excessive rate increases; does not reasonably allocate resources

Section

among utility-owned resources, purchased energy from C-BED and non-C-BED projects, and resources selected through its competitive resource acquisition process; or does not maximize benefits to Minnesotans, as required under the RES statute (section 216B.1691, subdivision 9).

4 **Subd. 2b. Cost recovery for owned renewable facilities.** Specifies the recovery mechanism allowed by the commission.

5 **[216B.1681] Curtailment payments.** Requires the commission to begin to assess, by September 1, 2007, to assess whether utilities are unduly discriminating among different project ownership structures in making curtailment payments to wind projects.

6 **[216B.169] Community-based energy development green pricing option.**

Subd. 2. C-BED green pricing programs. Requires utilities to offer customers the option of determining that a certain amount of electricity delivered to the customer is from a C-BED project or from the purchase of renewable energy credits from a C-BED project.

Subd. 4. C-BED logo. Requires the commissioner of commerce to design a logo qualifying entities may affix to their product and use in advertising affirming that the entity uses "100% Minnesota Renewable Energy."

7 **[216C.052] Reliability Administrator.** Transfers the Reliability Administrator from the commission to the Department of Commerce.

8 **[216F.011] Size determination.** Specifies how wind projects may be aggregated in order to determine whether the state or counties may issue siting permits.

9 **Permit authority; assumption by counties.** Authorizes counties to issue site permits for wind energy projects under 25Mw. Requires the commission to establish general permit standards governing these permits as well as those issued by the commission for larger projects.

10 **Statewide study of dispersed generation potential.** Requires utilities to participate fully in a study to determine the impacts of allocating 1,200 Mw of dispersed generation projects (10-40 Mw) across Minnesota's grid.

11 **Like any conveyance.** Specifies that a wind easement entered into after the effective date of this section terminates after five years if a wind energy project does not begin commercial operation within that time.

12 **Transferring reliability administrator responsibilities.** Transfers all reliability administrator responsibilities from the commission to commerce.

13 **Transmission authority and interconnection evaluations.** Requires the reliability administrator and stakeholders to review the powers and duties of state transmission authorities established in other states to evaluate the potential effect of a similar organization in Minnesota, and also to assess barriers to interconnecting dispersed generation to the grid.

Article 5: Global Warming Mitigation

1 **[216H.001] Findings; citation.** Lists findings regarding the state's vital interest in preventing or reducing negative impacts of global warming and the need to plan future carbon dioxide emissions from Minnesota sources. States that this chapter may be referred to as the Global Warming Mitigation Act of 2007.

Section

2 [216H.01] Definitions.

3 [216H.02] Greenhouse gas emissions-reduction goals. Establishes goals to reduce statewide greenhouse gas emissions from a 2005 baseline. The goals are to reach 15 percent below that level by 2015; 30 percent below by 2025; and 80 percent below by 2050.

4 [216H.04] Greenhouse gas emissions-reduction plan.

Subd. 1. Plan for achieving reductions. Requires the commissioners of the Pollution Control Agency and the Department of Commerce to submit a plan to the chairs of the energy and transportation committees in the house and senate by February 1, 2008, containing recommendations on how best to meet the goals established in section 216H.02, as well as a reduction of emissions 45 percent below the 2005 base by 2025. The plan must:

- estimate emissions in the 2005 base year and project emissions in 2015, 2025 and 2050;
- estimate emissions reductions expected from current state policies;
- include a cap and trade system, described in subdivision 3;
- recommend a reporting system for emissions; and
- evaluate exempting a project from the prohibition in section 5 against constructing or importing energy from a new large energy facility prior to the implementation of a cap and trade system if a fee is paid per ton of carbon dioxide emitted that is used to fund offset projects.

The commissioners are to consider the broadest possible set of policy tools to achieve emissions reductions, including expanding the cap and trade system to include other sources and greenhouse gases, imposing greenhouse gas taxes, and establishing financial incentives to promote emissions reductions.

Subd. 2. Planning process. Requires the plan to be developed through an inclusive stakeholder process administered by a nationally recognized independent expert.

Subd. 3. Cap and trade system. Requires the plan's recommended cap and trade system to incorporate statewide power sector carbon dioxide emissions and:

- set the initial cap at a level to prevent significant emissions increases, with a schedule for lowering the cap;
- evaluate whether credit should be given for offsetting emissions through sequestration or reducing emissions at facilities not subject to the cap;
- maximize the state's ability to enter into allowance trading relationships with other states;
- suggest ways to award credit to facilities that have voluntarily reduced emissions prior to the implementation of the cap and trade system; and
- recommend ways to minimize impacts on energy consumers.

Subd. 4. Regional activities. Requires the commissioner of commerce to coordinate the state's efforts to develop a regional approach to reducing emissions, and to report to the legislature on those efforts by February 1 of 2008 and 2009.

Section

5 [216H.05] No long-term increase from power plants.

Subd. 1. Long-term increased emissions from power plants prohibited. Prohibits the following actions until a cap and trade system is fully implemented:

- constructing a new large energy facility (an electric generation plant with a capacity of 50,000 kilowatts or greater) that would contribute to statewide power sector emissions;
- importing or committing to import electricity from a new large energy facility that would contribute to statewide power sector emissions; or
- entering into a power-purchase agreement to purchase 50 megawatts or more over a term of five years or longer that would contribute to statewide power sector emissions. Agreements in effect on January 1, 2007, or renewals of such agreements, are exempt from this prohibition.

Subd. 2. Exceptions for facilities that offset emissions. Specifies that the prohibitions in subdivision 1 do not apply if a proposer of an offset project convinces the Public Utilities Commission that the offset is at least as large as the new contribution to emissions and the project reduces emissions from an existing facility or is a purchase of allowances from a state with a mandatory carbon dioxide cap and trade system. In order to approve an offset project, the commission must find that a project produces offsets that are quantifiable, verifiable, enforceable, and would not have occurred otherwise.

Subd. 3. Enforcement. Provides that the commission or department may refer a violation or expected violation to the attorney general for appropriate legal action. The attorney general may enforce this chapter by seeking an injunction or a civil penalty in a court.

6 [216H.06] **Greenhouse gas emissions consideration in resource planning.** Requires the Public Utilities Commission, by January 1, 2008, to establish a likely range of the costs of carbon dioxide regulation on electricity generation, which estimate must be used in all electricity generation resource acquisition proceedings before the commission.

7 [216H.07] **Enforceability.** Provides that, in addition to other remedies provided by law, failure to carry out a requirement of this chapter will be treated as a violation of an environmental standard and is enforceable under chapter 116B, which allows a citizen to bring a civil action in district court.

Article 6: Renewable Energy Standards

1 **Subd. 5. Technology based on fuel combustion.** Specifies that electricity from combustion may count toward a utility's renewable energy objective or standard only if it meets certain environmental requirements and is blended or co-fired with biomass.

2 **Subd. 7.** Specifies that any penalties imposed on utilities for failure to achieve renewable energy standards must be deposited in the energy and conservation account.

