

SENATE
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S.F. No. 1098

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A bill for an act

1.1 relating to energy; establishing an energy optimization goal for energy
1.2 optimization projects; allowing cogeneration projects to be included in energy
1.3 conservation plan programs; amending Minnesota Statutes 2014, sections
1.4 216B.1636; 216B.2401; 216B.241, subdivisions 1, 1c, by adding a subdivision.
1.5

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 216B.1636, is amended to read:

1.8 **~~216B.1636 RECOVERY OF ELECTRIC UTILITY INFRASTRUCTURE~~**
1.9 **~~COSTS ENERGY OPTIMIZATION.~~**

1.10 Subdivision 1. **Definitions.** (a) "Electric utility" means a public utility as defined in
1.11 section 216B.02, subdivision 4, that furnishes electric service to retail customers.

1.12 (b) "Electric utility infrastructure costs" or "EUIC" means costs for ~~electric utility~~
1.13 ~~infrastructure~~ energy optimization projects that were not included in the electric utility's
1.14 rate base in its most recent general rate case.

1.15 (c) ~~"Electric utility infrastructure~~ "Energy optimization projects" means projects
1.16 owned by an electric utility that:

1.17 (1) replace or modify existing electric utility infrastructure, including utility-owned
1.18 buildings, if the replacement or modification is shown to conserve energy or use energy
1.19 more efficiently, ~~consistent with section 216B.241, subdivision 1c; or~~

1.20 (2) conserve energy or use energy more efficiently by using (i) waste heat recovery
1.21 converted into electricity as defined in section 216B.241, subdivision 1, paragraph (n)-₂
1.22 or (ii) cogeneration as defined in section 216B.164, subdivision 2a, and are found by the
1.23 commission to be cost-effective and further the state's greenhouse gas emissions goals in
1.24 section 216H.02, subdivision 1; or

2.1 (3) may include, but are not limited to, energy storage, voltage control, and other
 2.2 infrastructure improvements that increase the overall efficiency of the utility's system.

2.3 Subd. 1a. **Energy optimization goal.** A public utility providing electric service
 2.4 must include in its energy conservation improvement plan, as described in section
 2.5 216B.241, subdivision 1c, annual energy savings from energy optimization projects
 2.6 approved by the commission under this section. These savings must be equivalent to or
 2.7 greater than 0.5 percent of gross annual retail energy sales, based on the most recent
 2.8 five-year weather-normalized average, but may not be used to satisfy the minimum energy
 2.9 savings goal in section 216B.241, subdivision 1c. Electric utility infrastructure costs
 2.10 to achieve these savings must be approved by the commission based on the criteria in
 2.11 subdivision 2 and may only be recovered through a filing under subdivision 2.

2.12 Subd. 2. **Filing.** (a) The commission may approve an electric utility's petition for
 2.13 a rate schedule to recover EUIC under this section. An electric utility may petition the
 2.14 commission to recover a an enhanced rate of return, income taxes on the rate of return,
 2.15 incremental property taxes, if any, plus incremental depreciation expense associated with
 2.16 EUIC.

2.17 (b) The filing is subject to the following:

2.18 (1) an electric utility may submit a filing under this section no more than once
 2.19 per year; and

2.20 (2) an electric utility must file sufficient information to satisfy the commission
 2.21 regarding the proposed EUIC or be subject to denial by the commission. The information
 2.22 includes, but is not limited to:

2.23 (i) the location, description, and costs associated with the project;

2.24 (ii) evidence that the ~~electric utility infrastructure~~ energy optimization project will
 2.25 conserve energy or use energy more efficiently than similar utility facilities currently
 2.26 used by the electric utility;

2.27 (iii) the proposed schedule for implementation;

2.28 (iv) ~~a description of the costs, and salvage value, if any, associated with the existing~~
 2.29 ~~infrastructure replaced or modified as a result of the project;~~

2.30 ~~(v) the proposed rate design and an explanation of why the proposed rate design~~
 2.31 ~~is in the public interest;~~

2.32 ~~(vi) the magnitude and timing of any known future electric utility projects that the~~
 2.33 ~~utility may seek to recover under this section;~~

2.34 ~~(vii) the magnitude of EUIC in relation to the electric utility's base revenue as~~
 2.35 ~~approved by the commission in the electric utility's most recent general rate case,~~
 2.36 ~~exclusive of fuel cost adjustments;~~

3.1 ~~(viii) the magnitude of EUIC in relation to the electric utility's capital expenditures~~
 3.2 ~~since its most recent general rate case;~~

3.3 ~~(ix) the amount of time since the utility last filed a general rate case and the utility's~~
 3.4 ~~reasons for seeking recovery outside of a general rate case;~~

3.5 ~~(x) (v)~~ documentation supporting the calculation of the EUIC; and

3.6 ~~(xi) (vi)~~ a cost and benefit analysis showing that the electric utility infrastructure
 3.7 project energy optimization is in the public interest.

3.8 (c) Upon approval of the proposed projects and associated EUIC rate schedule, the
 3.9 utility may implement the electric utility infrastructure energy optimization projects.

3.10 Subd. 3. **Commission authority; orders.** The commission may issue orders
 3.11 necessary to implement and administer this section.

3.12 Sec. 2. Minnesota Statutes 2014, section 216B.2401, is amended to read:

3.13 **216B.2401 ENERGY SAVINGS POLICY GOAL.**

3.14 The legislature finds that energy savings are an energy resource, and that
 3.15 cost-effective energy savings are preferred over all other energy resources. The legislature
 3.16 further finds that cost-effective energy savings should be procured systematically and
 3.17 aggressively in order to reduce utility costs for businesses and residents, improve the
 3.18 competitiveness and profitability of businesses, create more energy-related jobs, reduce
 3.19 the economic burden of fuel imports, and reduce pollution and emissions that cause
 3.20 climate change. Therefore, it is the energy policy of the state of Minnesota to achieve
 3.21 annual energy savings equal to at least ~~1.5~~ 2.0 percent of annual retail energy sales of
 3.22 electricity and natural gas through cost-effective energy conservation improvement
 3.23 programs and rate design, energy efficiency achieved by energy consumers without
 3.24 direct utility involvement, energy codes and appliance standards, programs designed
 3.25 to transform the market or change consumer behavior, energy savings resulting from
 3.26 efficiency improvements to the utility infrastructure and system, and other efforts to
 3.27 promote energy efficiency and energy conservation.

3.28 Sec. 3. Minnesota Statutes 2014, section 216B.241, subdivision 1, is amended to read:

3.29 Subdivision 1. **Definitions.** For purposes of this section and section 216B.16,
 3.30 subdivision 6b, the terms defined in this subdivision have the meanings given them.

3.31 (a) "Commission" means the Public Utilities Commission.

3.32 (b) "Commissioner" means the commissioner of commerce.

3.33 (c) "Department" means the Department of Commerce.

4.1 (d) "Energy conservation" means demand-side management of energy supplies
4.2 resulting in a net reduction in energy use. Load management that reduces overall energy
4.3 use is energy conservation.

4.4 (e) "Energy conservation improvement" means a project that results in energy
4.5 efficiency or energy conservation. Energy conservation improvement may include waste
4.6 heat that is recovered and converted into electricity, but does not include ~~electric utility~~
4.7 ~~infrastructure~~ energy optimization projects approved by the commission under section
4.8 216B.1636. Energy conservation improvement also includes waste heat recovered and
4.9 used as thermal energy.

4.10 (f) "Energy efficiency" means measures or programs, including energy conservation
4.11 measures or programs, that target consumer behavior, equipment, processes, or devices
4.12 designed to produce either an absolute decrease in consumption of electric energy or natural
4.13 gas or a decrease in consumption of electric energy or natural gas on a per unit of production
4.14 basis without a reduction in the quality or level of service provided to the energy consumer.

4.15 (g) "Gross annual retail energy sales" means annual electric sales to all retail
4.16 customers in a utility's or association's Minnesota service territory or natural gas
4.17 throughput to all retail customers, including natural gas transportation customers, on a
4.18 utility's distribution system in Minnesota. For purposes of this section, gross annual
4.19 retail energy sales exclude:

4.20 (1) gas sales to:

4.21 (i) a large energy facility;

4.22 (ii) a large customer facility whose natural gas utility has been exempted by the
4.23 commissioner under subdivision 1a, paragraph (b), with respect to natural gas sales made
4.24 to the large customer facility; and

4.25 (iii) a commercial gas customer facility whose natural gas utility has been exempted
4.26 by the commissioner under subdivision 1a, paragraph (c), with respect to natural gas sales
4.27 made to the commercial gas customer facility; and

4.28 (2) electric sales to a large customer facility whose electric utility has been exempted
4.29 by the commissioner under subdivision 1a, paragraph (b), with respect to electric sales
4.30 made to the large customer facility.

4.31 (h) "Investments and expenses of a public utility" includes the investments
4.32 and expenses incurred by a public utility in connection with an energy conservation
4.33 improvement, including but not limited to:

4.34 (1) the differential in interest cost between the market rate and the rate charged on a
4.35 no-interest or below-market interest loan made by a public utility to a customer for the
4.36 purchase or installation of an energy conservation improvement;

5.1 (2) the difference between the utility's cost of purchase or installation of energy
5.2 conservation improvements and any price charged by a public utility to a customer for
5.3 such improvements.

5.4 (i) "Large customer facility" means all buildings, structures, equipment, and
5.5 installations at a single site that collectively (1) impose a peak electrical demand on an
5.6 electric utility's system of not less than 20,000 kilowatts, measured in the same way as the
5.7 utility that serves the customer facility measures electrical demand for billing purposes or
5.8 (2) consume not less than 500 million cubic feet of natural gas annually. In calculating
5.9 peak electrical demand, a large customer facility may include demand offset by on-site
5.10 cogeneration facilities and, if engaged in mineral extraction, may aggregate peak energy
5.11 demand from the large customer facility's mining and processing operations.

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

5.14 (k) "Load management" means an activity, service, or technology to change the
5.15 timing or the efficiency of a customer's use of energy that allows a utility or a customer to
5.16 respond to wholesale market fluctuations or to reduce peak demand for energy or capacity.

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

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

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

5.26 (o) "Waste heat recovery converted into electricity" means an energy recovery
5.27 process that converts otherwise lost energy from the heat of exhaust stacks or pipes used
5.28 for engines or manufacturing or industrial processes, or the reduction of high pressure
5.29 in water or gas pipelines.

5.30 Sec. 4. Minnesota Statutes 2014, section 216B.241, subdivision 1c, is amended to read:

5.31 Subd. 1c. **Energy-saving goals.** (a) The commissioner shall establish energy-saving
5.32 goals for energy conservation improvement expenditures and shall evaluate an energy
5.33 conservation improvement program on how well it meets the goals set.

5.34 (b) Each individual utility and association shall have an annual energy-savings
5.35 goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the

6.1 commissioner under paragraph (d). The savings goals must be calculated based on the
6.2 most recent three-year weather-normalized average. A utility or association may elect to
6.3 carry forward energy savings in excess of 1.5 percent for a year to the succeeding three
6.4 calendar years, except that savings from ~~electric utility infrastructure~~ energy optimization
6.5 projects allowed under paragraph (d) may be carried forward for five years. A particular
6.6 energy savings can be used only for one year's goal.

6.7 (c) The commissioner must adopt a filing schedule that is designed to have all
6.8 utilities and associations operating under an energy-savings plan consistent with the goals
6.9 indicated in this subdivision by calendar year 2010 2017.

6.10 (d) In its energy conservation improvement plan filing, a utility or association may
6.11 request the commissioner to adjust its annual energy-savings percentage goal based on
6.12 its historical conservation investment experience, customer class makeup, load growth,
6.13 a conservation potential study, or other factors the commissioner determines warrants
6.14 an adjustment. The commissioner may not approve a plan of a public utility providing
6.15 electric service that provides for an annual energy-savings goal of less than one one
6.16 and one-half percent of gross annual retail energy sales from energy conservation
6.17 improvements and less than one percent of gross annual retail energy sales for a public
6.18 utility that provides natural gas service.

6.19 A utility or association may include in its energy conservation plan energy savings
6.20 from ~~electric utility infrastructure projects~~ energy optimization projects based on the
6.21 commissioner of commerce's recommendation and approved by the commission under
6.22 section 216B.1636 or waste heat recovery converted into electricity projects that may
6.23 count as energy savings in addition to a minimum energy-savings goal of at least one
6.24 percent for energy conservation improvements. ~~Electric utility infrastructure~~ Energy
6.25 optimization projects must be cost-effective and result in increased energy efficiency
6.26 greater than that which would have occurred through normal maintenance activity.

6.27 (e) An energy-savings goal is not satisfied by attaining the revenue expenditure
6.28 requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the
6.29 energy-savings goal established in this subdivision.

6.30 (f) An association or utility is not required to make energy conservation investments
6.31 to attain the energy-savings goals of this subdivision that are not cost-effective even
6.32 if the investment is necessary to attain the energy-savings goals. For the purpose of
6.33 this paragraph, in determining cost-effectiveness, the commissioner shall consider the
6.34 costs and benefits to ratepayers, the utility, participants, and society. In addition, the
6.35 commissioner shall consider the rate at which an association or municipal utility is
6.36 increasing its energy savings and its expenditures on energy conservation.

7.1 (g) On an annual basis, the commissioner shall produce and make publicly available
7.2 a report on the annual energy savings and estimated carbon dioxide reductions achieved
7.3 by the energy conservation improvement programs for the two most recent years for
7.4 which data is available. The commissioner shall report on program performance both in
7.5 the aggregate and for each entity filing an energy conservation improvement plan for
7.6 approval or review by the commissioner.

7.7 ~~(h) By January 15, 2010, the commissioner shall report to the legislature whether~~
7.8 ~~the spending requirements under subdivisions 1a and 1b are necessary to achieve the~~
7.9 ~~energy-savings goals established in this subdivision.~~

7.10 Sec. 5. Minnesota Statutes 2014, section 216B.241, is amended by adding a
7.11 subdivision to read:

7.12 Subd. 5e. **Cogeneration projects.** (a) For the purposes of this subdivision, a
7.13 cogeneration project has the meaning given in section 216B.164, subdivision 2a, and that
7.14 is found by the commission to be cost-effective and further the state's greenhouse gas
7.15 emissions goals in section 216H.02, subdivision 1.

7.16 (b) A utility or association may include in its energy conservation plan programs for
7.17 the installation of cost-effective cogeneration projects. Energy savings from cogeneration
7.18 projects under this subdivision may not be counted toward the minimum energy-savings
7.19 goal in subdivision 1c, but may, if the conservation plan is approved:

7.20 (1) be counted toward energy savings above the minimum percentage; and

7.21 (2) be eligible for a performance incentive under subdivision 2c or section 216B.16,
7.22 subdivision 6c, that is distinct from the incentive for energy conservation as approved
7.23 by the commission.

7.24 (c) By June 1, 2016, the commissioner shall, by order, establish:

7.25 (1) methodology for attributing savings from a cogeneration project to the
7.26 energy-savings goals of participating electric and gas utilities. In developing this
7.27 methodology, the commissioner shall solicit feedback from interested parties in a manner
7.28 determined by the commissioner, and shall consider the efficiency of cogeneration projects
7.29 compared to purchased electricity from the participating electric utility; and

7.30 (2) criteria for determining the cost-effectiveness of a proposed cogeneration project,
7.31 including minimum standards for overall efficiency.

7.32 (d) The commissioner shall encourage participating electric and gas utilities to file
7.33 combined energy conservation programs that promote the installation of cost-effective
7.34 cogeneration projects and to encourage collaboration between utilities when it furthers
7.35 the public interest.