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HOUSE FILE NO. 2253

FIRST COMMITTEE ENGROSSMENT

March 20, 2007

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The bill was read for the first time and referred to the Committee on Finance

Referred by Chair to Energy Finance and Policy Division.

March 21, 2007

Returned to the Committee on Finance as Amended.

A bill for an act

relating to energy; amending provisions regarding community-based energy development projects; regulating utility ownership and cost recovery for renewable energy projects; requiring Public Utilities Commission to establish policy regarding curtailment payments; regulating green pricing programs; requiring studies of potential for dispersed generation projects; extending expiration of reliability administrator position and transferring the position from Public Utilities Commission to Department of Commerce; limiting the length of wind easements if a project is not constructed; requiring reliability administrator to study need for and authority of state electric transmission authority and of enhancing ease of interconnecting dispersed generation projects to the grid; specifying aggregation procedures for purposes of permitting wind projects; allowing counties to issue permits for large wind energy conversion systems; removing sunset for renewable energy option program for utility customers; amending Minnesota Statutes 2006, sections 216B.1612; 216B.1645, by adding subdivisions; 216B.169; 216C.052; 500.30, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 216B; 216F; repealing Laws 2007, chapter 3, section 3.

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

Section 1. **CITATION.**

Sections 1 to 14 may be known as the "Community-Based Energy Development Act of 2007."

Sec. 2. Minnesota Statutes 2006, section 216B.1612, is amended to read:

216B.1612 COMMUNITY-BASED ENERGY DEVELOPMENT; TARIFF.

Subdivision 1. **Tariff establishment.** A tariff shall be established to optimize local, regional, and state benefits from ~~wind~~ renewable energy development and to facilitate widespread development of community-based ~~wind~~ renewable energy projects throughout Minnesota.

2.1 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given
2.2 them in this subdivision.

2.3 (b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

2.4 (c) "Qualifying owner" means:

2.5 (1) a Minnesota resident;

2.6 (2) a limited liability company that is organized under ~~the laws of this state~~ chapter
2.7 322B and that is made up of members who are Minnesota residents;

2.8 (3) a Minnesota nonprofit organization organized under chapter 317A;

2.9 (4) a Minnesota cooperative association organized under chapter 308A or 308B,
2.10 ~~other than~~ including a rural electric cooperative association or a generation and
2.11 transmission cooperative on behalf of and at the request of a member distribution utility;

2.12 (5) a Minnesota political subdivision or local government ~~other than~~ including,
2.13 but not limited to, a municipal electric utility or a municipal power agency on behalf
2.14 of and at the request of a member distribution utility, ~~including, but not limited to,~~ a
2.15 county, statutory or home rule charter city, town, school district, or public or private
2.16 higher education institution or any other local or regional governmental organization such
2.17 as a board, commission, or association; or

2.18 (6) a tribal council.

2.19 (d) "Net present value rate" means a rate equal to the net present value of the
2.20 nominal payments to a project divided by the total expected energy production of the
2.21 project over the life of its power purchase agreement.

2.22 (e) "Standard reliability criteria" means:

2.23 (1) can be safely integrated into and operated within the utility's grid without causing
2.24 any adverse or unsafe consequences; and

2.25 (2) is consistent with the utility's resource needs as identified in its most recent
2.26 resource plan submitted under section 216B.2422.

2.27 (f) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1,
2.28 paragraph (a).

2.29 (g) "Community-based energy development project" or "C-BED project" means a
2.30 new ~~wind~~ renewable energy project that:

2.31 ~~(1) has no single qualifying owner owning more than 15 percent of a C-BED project~~
2.32 ~~that consists of more than two turbines; or~~

2.33 ~~(2) for C-BED projects of one or two turbines, is owned entirely by one or more~~
2.34 ~~qualifying owners, with at least 51 percent of the total financial benefits over the life of the~~
2.35 ~~project flowing to qualifying owners; and~~

3.1 (1) provides that at least 51 percent of the total payments made as a direct result of a
3.2 power purchase agreement or similar agreement with a utility accrue to:

3.3 (i) qualifying owners, in the form of net cash payments under the power purchase
3.4 agreement that amount to no less than 35 percent made over the term of the power
3.5 purchase agreement;

3.6 (ii) owners of land upon which a project is sited, in the form of easement or lease
3.7 payments;

3.8 (iii) local units of government, in the form of taxes paid under section 272.029; and

3.9 (iv) lenders chartered under section 46.044, in the form of interest paid on C-BED
3.10 project debt financed by a lender;

3.11 (2) allows, if the project is a wind energy project consisting of more than two
3.12 turbines, no single qualifying owner to own more than 15 percent of the project;

3.13 (3) allows, if the project is a wind energy project, a public entity listed in paragraph
3.14 (c), clause (5), except for a municipal utility, to own more than 15 percent of the project;
3.15 and

3.16 ~~(3)~~ (4) has a resolution of support adopted by the county board of each county in
3.17 which the project is to be located, or in the case of a project located within the boundaries
3.18 of a reservation, the tribal council for that reservation.

3.19 Subd. 3. **Tariff rate.** (a) The tariff described in subdivision 4 must have a rate
3.20 schedule that allows for a ~~rate up to a 2.7 cents per kilowatt-hour~~ net present value rate
3.21 over the 20-year life of the power purchase agreement. The tariff must provide for a rate
3.22 that is higher in the first ten years of the power purchase agreement than in the last ten
3.23 years. The discount rate required to calculate the net present value must be the utility's
3.24 normal discount rate used for its other business purposes.

3.25 (b) The commission shall consider mechanisms to encourage the aggregation
3.26 of C-BED projects.

3.27 (c) The commission shall require that qualifying and nonqualifying owners provide
3.28 sufficient security to secure performance under the power purchase agreement, and shall
3.29 prohibit the transfer of the C-BED project to a nonqualifying owner during the initial
3.30 20 years of the contract.

3.31 Subd. 4. **Utilities to offer tariff.** By December 1, ~~2005~~ 2007, each public utility
3.32 providing electric service at retail shall file for commission approval a community-based
3.33 energy development tariff consistent with subdivision 3. Within 90 days of the
3.34 first commission approval order under this subdivision, each municipal power
3.35 agency and generation and transmission cooperative electric association shall adopt a
3.36 community-based energy development tariff as consistent as possible with subdivision 3.

4.1 Subd. 5. **Priority for C-BED projects.** (a) A utility subject to section 216B.1691
4.2 that needs to construct new generation, or purchase the output from new generation, as
4.3 part of its plan to satisfy its good faith objective and standard under that section ~~should~~
4.4 must take reasonable steps to determine if one or more C-BED projects are available that
4.5 meet the utility's cost and reliability requirements, applying standard reliability criteria, to
4.6 fulfill some or all of the identified need at minimal impact to customer rates.

4.7 Nothing in this section shall be construed to obligate a utility to enter into a power
4.8 purchase agreement under a C-BED tariff developed under this section. A utility whose
4.9 renewable energy plan has been approved by the commission under section 216B.1645,
4.10 subdivision 2a, must negotiate in good faith with developers of C-BED projects that meet
4.11 the specifications of this paragraph and whose aggregated capacity is equal to the capacity
4.12 of C-BED projects identified in the plan from which the utility intends to purchase energy.

4.13 (b) Each utility shall include in its resource plan submitted under section 216B.2422
4.14 a description of its efforts to purchase energy from C-BED projects, including a list of the
4.15 projects under contract and the amount of C-BED energy purchased.

4.16 (c) The commission shall consider the efforts and activities of a utility to purchase
4.17 energy from C-BED projects when evaluating its good faith effort towards meeting the
4.18 renewable energy objective under section 216B.1691.

4.19 (d) A municipal power agency or generation and transmission cooperative must,
4.20 when issuing a request for proposals for C-BED projects to satisfy its standard obligation
4.21 under section 216B.1691, provide notice to its member distribution utilities that they
4.22 may propose, in partnership with other qualifying owners, a C-BED project for the
4.23 consideration of the municipal power agency or generation and transmission cooperative.

4.24 Subd. 6. **Property owner participation.** To the extent feasible, a developer of a
4.25 C-BED project must provide, in writing, an opportunity to invest in the C-BED project to
4.26 each property owner on whose property a high-voltage transmission line is constructed
4.27 that will transmit the energy generated by the C-BED project to market. This subdivision
4.28 applies if the property is located and the owner resides in the county where the C-BED
4.29 project is located.

4.30 Subd. 7. **Other C-BED tariff issues.** (a) A community-based project developer
4.31 and a utility shall negotiate the rate and power purchase agreement terms consistent with
4.32 the tariff established under subdivision 4.

4.33 (b) At the discretion of the developer, a community-based project developer and
4.34 a utility may negotiate a power purchase agreement with terms different from the tariff
4.35 established under subdivision 4.

5.1 (c) A qualifying owner, or any combination of qualifying owners, may develop a
5.2 joint venture project with a nonqualifying ~~wind~~ renewable energy project developer.
5.3 However, the terms of the C-BED tariff may only apply to the portion of the energy
5.4 production of the total project that is directly proportional to the equity share of the project
5.5 owned by the qualifying owners.

5.6 (d) A project that is operating under a power purchase agreement under a C-BED
5.7 tariff is not eligible for net energy billing under section 216B.164, subdivision 3, or for
5.8 production incentives under section 216C.41.

5.9 (e) A public utility must receive commission approval of a power purchase
5.10 agreement for a C-BED tariffed project. The commission shall provide the utility's
5.11 ratepayers an opportunity to address the reasonableness of the proposed power purchase
5.12 agreement. Unless a party objects to a contract within 30 days of submission of the
5.13 contract to the commission the contract is deemed approved.

5.14 Subd. 8. **Community energy partnerships.** A utility providing electric service
5.15 to retail or wholesale customers in Minnesota and an independent power producer may
5.16 participate, and are encouraged to participate, in a community-based energy project, as
5.17 owner, equity partner, or provider of technical or financial assistance, subject to the limits
5.18 specified in this section.

5.19 Subd. 9. **C-BED advisory determination.** A developer of a proposed project may
5.20 request the commissioner of commerce to issue an advisory determination as to whether
5.21 the proposed project qualifies as a C-BED project under this section. The request must
5.22 be made on a form and under a procedure approved by the commissioner. A positive
5.23 advisory determination of the commissioner under this subdivision establishes a rebuttable
5.24 presumption that the project qualifies as a C-BED project.

5.25 Sec. 3. Minnesota Statutes 2006, section 216B.1645, is amended by adding a
5.26 subdivision to read:

5.27 Subd. 2a. **Utility ownership of renewable resources.** (a) A utility may construct,
5.28 own, and operate generation facilities used to satisfy the requirements of section
5.29 216B.1691, notwithstanding any competitive resource acquisition process established
5.30 under section 216B.2422, subdivision 5.

5.31 (b) In lieu of any competitive resource acquisition process, a utility that owns a
5.32 nuclear generation facility and intends to construct, own, or operate facilities under this
5.33 section must file with the commission on or before March 1, 2008, a renewable energy
5.34 plan setting forth the manner in which the utility proposes to meet the requirements of
5.35 section 216B.1691, including a proposed schedule for purchasing renewable energy from

6.1 C-BED and non-C-BED projects, a proposed schedule of acquisition and construction
6.2 of generation facilities and their expected in-service dates, and proposed transmission
6.3 resources associated with the facilities, including a proposed construction schedule and
6.4 expected in-service date for any transmission sources that need to be constructed to
6.5 deliver the electricity generated by the facilities. The plan must also contain alternative
6.6 means of providing the energy generated by the facilities described in the plan, and
6.7 must compare the costs of delivering energy from these alternative means and from the
6.8 facilities identified in the plan. The utility must update the plan as necessary in its filing
6.9 under section 216B.2422.

6.10 (c) The commission must approve the plan unless it determines, after public hearing
6.11 and comment, that the plan:

6.12 (1) imposes excessive costs on ratepayers;

6.13 (2) does not reasonably allocate resources among utility-owned generation facilities,
6.14 energy purchased from C-BED and non-C-BED projects, and generation facilities selected
6.15 in a competitive selection process under section 216B.2422, subdivision 5; or

6.16 (3) does not maximize benefits to Minnesota citizens, as required by section
6.17 216B.1691, subdivision 9.

6.18 Nothing in this section prohibits a utility from seeking and securing approval from the
6.19 commission to implement projects prior to submission of the plan required under this
6.20 section.

6.21 Sec. 4. Minnesota Statutes 2006, section 216B.1645, is amended by adding a
6.22 subdivision to read:

6.23 Subd. 2b. **Cost recovery for owned renewable facilities.** (a) A utility may petition
6.24 the commission to approve a rate schedule that provides for the automatic adjustment of
6.25 charges to recover prudently incurred investments, expenses, or costs associated with
6.26 facilities constructed, owned, or operated by a utility to satisfy the requirements of section
6.27 216B.1691, provided those facilities were previously approved by the commission under
6.28 section 216B.2422 or 216B.243. The commission may approve, or approve as modified, a
6.29 rate schedule that:

6.30 (1) allows a utility to recover directly from customers on a timely basis the costs of
6.31 qualifying renewable energy projects, including:

6.32 (i) return on investment;

6.33 (ii) depreciation;

6.34 (iii) ongoing operation and maintenance costs;

6.35 (iv) taxes; and

7.1 (v) costs of transmission and other ancillary expenses directly allocable to
7.2 transmitting electricity generated from a project meeting the specifications of this
7.3 paragraph;

7.4 (2) provides a current return on construction work in progress, provided that recovery
7.5 of these costs from Minnesota ratepayers is not sought through any other mechanism;

7.6 (3) allows recovery of other expenses incurred that are directly related to a renewable
7.7 energy project, provided that the utility demonstrates to the commission's satisfaction that
7.8 the expenses improve project economics, ensure project implementation, or facilitate
7.9 coordination with the development of transmission necessary to transport energy produced
7.10 by the project to market;

7.11 (4) allocates recoverable costs appropriately between wholesale and retail customers;

7.12 (5) terminates recovery when costs have been fully recovered or have otherwise
7.13 been reflected in a utility's rates.

7.14 (b) A petition filed under this subdivision must include:

7.15 (1) a description of the facilities for which costs are to be recovered;

7.16 (2) an implementation schedule for the facilities;

7.17 (3) the utility's costs for the facilities;

7.18 (4) a description of the utility's efforts to ensure that costs of the facilities are
7.19 reasonable and were prudently incurred; and

7.20 (5) a description of the benefits of the project in promoting the development of
7.21 renewable energy in a manner consistent with this chapter.

7.22 **Sec. 5. [216B.1681] CURTAILMENT PAYMENTS.**

7.23 The commission shall, by September 1, 2007, initiate a review of curtailment
7.24 payments for wind energy projects to assess whether utilities are unduly discriminating
7.25 among project ownership structures in regard to the contractual availability of curtailment
7.26 payments.

7.27 Sec. 6. Minnesota Statutes 2006, section 216B.169, is amended to read:

7.28 **216B.169 RENEWABLE AND HIGH-EFFICIENCY ENERGY RATE**
7.29 **OPTIONS COMMUNITY-BASED ENERGY DEVELOPMENT GREEN PRICING**
7.30 **OPTION.**

7.31 Subdivision 1. **Definitions.** For the purposes of this section, the following terms
7.32 have the meanings given them.

7.33 (a) "Utility" means a public utility, municipal utility, or cooperative electric
7.34 association providing electric service at retail to Minnesota consumers.

8.1 (b) ~~"Renewable energy" has the meaning given in section 216B.2422, subdivision 1,~~
8.2 ~~paragraph (c) "Eligible energy technology" has the meaning given in section 216B.1691,~~
8.3 ~~subdivision 1.~~

8.4 (c) ~~"High-efficiency, low-emissions, distributed generation" means a distributed~~
8.5 ~~generation facility of no more than ten megawatts of interconnected capacity that is~~
8.6 ~~certified by the commissioner under subdivision 3 as a high-efficiency, low-emissions~~
8.7 ~~facility "Community-based energy development project" or "C-BED" has the meaning~~
8.8 ~~given in section 216B.1612, subdivision 2, paragraph (g).~~

8.9 Subd. 2. ~~Renewable and high-efficiency energy rate options~~ **C-BED green**
8.10 **pricing programs.** (a) Each utility shall offer its customers, and shall advertise
8.11 the offer at least ~~annually~~ quarterly, one or more options that allow a customer to
8.12 determine that a certain amount of the electricity generated or purchased on behalf of the
8.13 customer is ~~renewable energy or energy generated by high-efficiency, low-emissions,~~
8.14 ~~distributed generation such as fuel cells and microturbines fueled by a renewable fuel a~~
8.15 ~~community-based energy development project or is provided through the purchase of~~
8.16 ~~renewable energy credits from a C-BED project.~~

8.17 (b) Each public utility shall file an implementation plan within 90 days of July 1,
8.18 ~~2007~~ 2007, to implement paragraph (a).

8.19 (c) Rates charged to customers must be calculated using the utility's cost of acquiring
8.20 the energy for the customer and must:

8.21 (1) reflect the difference between the cost of generating or purchasing the ~~renewable~~
8.22 ~~C-BED energy or credits~~ and the cost of generating or purchasing the same amount of
8.23 ~~nonrenewable energy or credits from non-C-BED sources; and~~

8.24 (2) be distributed on a per kilowatt-hour basis among all customers who choose to
8.25 participate in the program.

8.26 (d) Implementation of these rate options may reflect a reasonable amount of lead
8.27 time necessary to arrange acquisition of the energy. The utility ~~may~~ must acquire the
8.28 energy demanded by customers, in whole or in part, through procuring or generating
8.29 ~~the renewable~~ C-BED energy directly, or through the purchase of credits ~~from a provider~~
8.30 ~~that has received certification of eligible power supply pursuant to subdivision 3 issued~~
8.31 ~~under the program established by the commission under section 216B.1691, subdivision~~
8.32 ~~4, if available.~~ If a utility is not able to arrange an adequate supply of ~~renewable or~~
8.33 ~~high-efficiency~~ C-BED energy or credits to meet its customers' demand under this section,
8.34 the utility must file a report with the commission detailing its efforts and reasons for
8.35 its failure.

9.1 Subd. 3. ~~Certification and tradeable credits.~~ (a) The commissioner shall certify a
9.2 power supply or supplies as eligible to satisfy customer requirements under this section
9.3 upon finding:

9.4 (1) the power supply ~~is renewable energy or energy generated by high efficiency,~~
9.5 ~~low-emissions, distributed generation~~ meets the requirements of section 216B.1612; and

9.6 (2) the sales arrangements of energy from the supplies are such that the power
9.7 supply is only sold once to retail consumers.

9.8 ~~(b) To facilitate compliance with this section, the commission may, by order,~~
9.9 ~~establish a program for tradeable credits for eligible power supplies.~~

9.10 Subd. 4. C-BED logo. (a) The commissioner of commerce shall design or
9.11 contract for the design of a logo that qualifying entities may affix to their products and
9.12 to advertising for their products that contains the words "100% Minnesota Renewable
9.13 Energy." The logo may also contain a standardized pictorial representation or design.

9.14 (b) The commissioner of commerce must certify in writing that an entity is
9.15 authorized to use the logo if the commissioner determines that all the electricity consumed
9.16 by an applicant is purchased directly, or by purchasing credits from a C-BED project. The
9.17 commissioner of commerce must develop forms and procedures to govern the application
9.18 and certification processes and the use of the logo by an entity that receives certification.
9.19 No person may use the logo without certification from the commissioner.

9.20 (c) For the purposes of this subdivision, "qualifying entity" means a person or entity
9.21 that has received certification from the commissioner of commerce granting the entity
9.22 authority to use the C-BED logo in the manner prescribed by the commissioner.

9.23 Sec. 7. Minnesota Statutes 2006, section 216C.052, is amended to read:

9.24 **216C.052 RELIABILITY ADMINISTRATOR.**

9.25 Subdivision 1. **Responsibilities.** (a) There is established the position of reliability
9.26 administrator in the ~~Public Utilities Commission~~ Department of Commerce. The
9.27 administrator shall act as a source of independent expertise and a technical advisor to
9.28 the commissioner, the commission, and the public on issues related to the reliability of
9.29 the electric system. In conducting its work, the administrator shall provide assistance
9.30 to the ~~commission~~ commissioner in administering and implementing the ~~commission's~~
9.31 department's duties under sections 216B.1612, 216B.1691, 216B.2422, 216B.2425, and
9.32 216B.243; chapters 216E, 216F, and 216G; and rules associated with those provisions:
9.33 Subject to resource constraints, the reliability administrator may also and shall also:

10.1 (1) model and monitor the use and operation of the energy infrastructure in the
10.2 state, including generation facilities, transmission lines, natural gas pipelines, and other
10.3 energy infrastructure;

10.4 (2) develop and present to the commission and parties technical analyses of proposed
10.5 infrastructure projects, and provide technical advice to the commission; and

10.6 (3) present independent, factual, expert, and technical information on infrastructure
10.7 proposals and reliability issues at public meetings hosted by the task force, the
10.8 Environmental Quality Board, the department, or the commission.

10.9 (b) Upon request and subject to resource constraints, the administrator shall
10.10 provide technical assistance regarding matters unrelated to applications for infrastructure
10.11 improvements to the task force, the department, or the commission.

10.12 (c) The administrator may not advocate for any particular outcome in a commission
10.13 proceeding, but may give technical advice to the commission as to the impact on the
10.14 reliability of the energy system of a particular project or projects.

10.15 Subd. 2. **Administrative issues.** (a) The ~~commission~~ commissioner may select the
10.16 administrator ~~who shall serve for a four-year term~~. The administrator must demonstrate
10.17 technical training, expertise, or experience in energy reliability issues, and may not have
10.18 been a party or a participant in a commission energy proceeding for at least one year
10.19 prior to selection by the ~~commission~~ commissioner. The ~~commission~~ commissioner
10.20 shall oversee and direct the work of the administrator, annually review the expenses of
10.21 the administrator, and annually approve the budget of the administrator. ~~Pursuant to~~
10.22 ~~commission approval~~; The administrator may hire staff and may contract for technical
10.23 expertise in performing duties when existing state resources are required for other state
10.24 responsibilities or when special expertise is required. The salary of the administrator is
10.25 governed by section 15A.0815, subdivision 2.

10.26 (b) Costs relating to a specific proceeding, analysis, or project are not general
10.27 administrative costs. For purposes of this section, "energy utility" means public utilities,
10.28 generation and transmission cooperative electric associations, and municipal power
10.29 agencies providing natural gas or electric service in the state.

10.30 (c) The ~~commission~~ Department of Commerce shall pay:

10.31 (1) the general administrative costs of the administrator, not to exceed \$1,000,000 in
10.32 a fiscal year, and shall assess energy utilities for those administrative costs. These costs
10.33 must be consistent with the budget approved by the ~~commission~~ commissioner under
10.34 paragraph (a). The ~~commission~~ department shall apportion the costs among all energy
10.35 utilities in proportion to their respective gross operating revenues from sales of gas or

11.1 electric service within the state during the last calendar year, and shall then render a
11.2 bill to each utility on a regular basis; and

11.3 (2) costs relating to a specific proceeding analysis or project and shall render a bill to
11.4 the specific energy utility or utilities participating in the proceeding, analysis, or project
11.5 directly, either at the conclusion of a particular proceeding, analysis, or project, or from
11.6 time to time during the course of the proceeding, analysis, or project.

11.7 (d) For purposes of administrative efficiency, the ~~commission~~ department shall
11.8 assess energy utilities and issue bills in accordance with the billing and assessment
11.9 procedures provided in section 216B.62, to the extent that these procedures do not
11.10 conflict with this subdivision. The amount of the bills rendered by the ~~commission~~
11.11 department under paragraph (c) must be paid by the energy utility into an account in the
11.12 special revenue fund in the state treasury within 30 days from the date of billing and is
11.13 appropriated to the ~~commission~~ department for the purposes provided in this section.
11.14 The commission shall approve or approve as modified a rate schedule providing for the
11.15 automatic adjustment of charges to recover amounts paid by utilities under this section.
11.16 All amounts assessed under this section are in addition to amounts appropriated to the
11.17 commission and the department by other law.

11.18 Subd. 3. **Assessment and appropriation.** In addition to the amount noted in
11.19 subdivision 2, the ~~commission~~ commissioner may assess utilities, using the mechanism
11.20 specified in that subdivision, up to an additional \$500,000 annually through June 30,
11.21 2008. The amounts assessed under this subdivision are appropriated to the ~~commission~~
11.22 commissioner, and some or all of the amounts assessed may be transferred to the
11.23 commissioner of administration, for the purposes specified in section 16B.325 and Laws
11.24 2001, chapter 212, article 1, section 3, as needed to implement those sections.

11.25 Subd. 4. **Expiration.** Subdivisions 1 and 2 expire June 30, ~~2007~~ 2012. Subdivision
11.26 3 expires June 30, 2008.

11.27 Sec. 8. **[216F.011] SIZE DETERMINATION.**

11.28 (a) The total size of a combination of wind energy conversion systems for the
11.29 purpose of determining jurisdictional siting authority under sections 216F.01 to 216F.07
11.30 must be determined according to this section. The nameplate capacity of one wind energy
11.31 conversion system must be combined with the nameplate capacity of any other wind
11.32 energy conversion system that is:

11.33 (1) located within five miles of the wind energy conversion system;

11.34 (2) constructed within the same 12-month period as the wind energy conversion
11.35 system; and

12.1 (3) exhibits characteristics of being a single development, including but not limited
12.2 to ownership structure, an umbrella sales arrangement, shared interconnection, revenue
12.3 sharing arrangements, and common debt or equity financing.

12.4 (b) The commissioner shall prepare and make available the necessary forms and
12.5 guidance for project developers to make a request for determination. Upon written
12.6 request of a project developer, the commissioner of commerce shall provide a written
12.7 determination under this section within 30 days of receipt of the request and information
12.8 necessary to make a determination. In the case of a dispute, the chair of the Public Utilities
12.9 Commission shall determine the total size of the system, and shall draw all reasonable
12.10 inferences in favor of combining the systems.

12.11 (c) An application to a county for a permit for a wind energy conversion system is
12.12 not complete without a jurisdictional determination made under this section.

12.13 **Sec. 9. [216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

12.14 **Subdivision 1. Definition.** For the purposes of this subdivision, the term
12.15 "processing" means:

12.16 (1) the distribution to applicants of application and determination forms provided
12.17 by the commission;

12.18 (2) the receipt and examination of completed application forms, and the certification,
12.19 in writing, to the commission either that the LWECS for which a permit was issued by the
12.20 county will comply with applicable rules and standards, or, if the facility will not comply,
12.21 the respects in which a variance is required for the issuance of a permit; and

12.22 (3) rendering to applicants, upon request, assistance for the proper completion of
12.23 an application.

12.24 **Subd. 2. Counties; processing applications for LWECS site permits.** (a) Any
12.25 Minnesota county board may, by resolution and upon written notice to the Public Utilities
12.26 Commission, assume responsibility for processing applications for permits required
12.27 under this chapter for LWECS with a combined nameplate capacity of less than 25,000
12.28 kilowatts. The responsibility for permit application processing, if assumed by a county,
12.29 may be delegated by the county board to an appropriate county officer or employee.
12.30 Processing by a county shall be done in accordance with procedures and processes
12.31 established under chapter 394.

12.32 (b) A county board that exercises its option under paragraph (a) and assumes
12.33 responsibility for processing applications for permits for LWECS within its borders
12.34 is responsible for issuing, denying, modifying, imposing conditions upon, or revoking

13.1 permits under this section or rules adopted pursuant to it. The action of the county board
13.2 with regard to a permit application is final, subject to appeal as provided in section 394.27.

13.3 (c) In adopting and enforcing rules or standards under this subdivision, the
13.4 commission shall cooperate closely with counties and other governmental agencies.

13.5 (d) The commission shall work with counties and wind developers to notify and
13.6 educate stakeholders with regard to rules or standards under this section at the time the
13.7 rules or standards are being developed and adopted and at least every two years thereafter.

13.8 (e) The commission shall, by order, establish general permit standards governing site
13.9 permits for LWECS under this section. These general permit standards must apply both to
13.10 permits issued by counties and to permits issued by the commission directly for LWECS
13.11 with a combined nameplate capacity of less than 25,000 kilowatts. The order must contain
13.12 minimum standards necessary to ensure the protection of human health and safety and
13.13 wind resources on adjacent land and must be consistent with the general provisions of
13.14 wind permits issued by the commission in the five years prior to enactment of this section.

13.15 (f) The commission and the commissioner of commerce shall provide technical
13.16 assistance to a county with respect to the processing of LWECS site permit applications
13.17 by the county.

13.18 (g) A county may adopt by ordinance standards for LWECS that are more stringent
13.19 than standards in commission rules or in the commission's permit standards. The
13.20 commission, in considering a permit for LWECS in a county that has adopted more
13.21 stringent standards, shall incorporate and apply those more stringent standards, unless the
13.22 commission finds there is good cause not to do so.

13.23 Sec. 10. Minnesota Statutes 2006, section 500.30, subdivision 2, is amended to read:

13.24 Subd. 2. **Like any conveyance.** Any property owner may grant a solar or wind
13.25 easement in the same manner and with the same effect as a conveyance of an interest in
13.26 real property. The easements shall be created in writing and shall be filed, duly recorded,
13.27 and indexed in the office of the recorder of the county in which the easement is granted.
13.28 No duly recorded easement shall be unenforceable on account of lack of privity of estate or
13.29 privity of contract; such easements shall run with the land or lands benefited and burdened
13.30 and shall constitute a perpetual easement, except that an easement may terminate upon the
13.31 conditions stated therein or pursuant to the provisions of section 500.20. A wind easement
13.32 or lease of wind rights shall also terminate after five years from the date the easement is
13.33 created or lease is entered into, if a wind energy project on the property to which the
13.34 easement or lease applies does not begin commercial operation within the five-year period.

14.1 **EFFECTIVE DATE.** This section is effective the day following final enactment,
14.2 and applies to wind easements created and wind rights leases entered into on or after
14.3 the effective date of this section.

14.4 Sec. 11. **STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.**

14.5 Subdivision 1. **Definition.** "Dispersed generation" means an electric generation
14.6 project with a generating capacity between ten and 40 megawatts that utilizes an eligible
14.7 energy technology, as defined in Minnesota Statutes, section 216B.1691, subdivision 1,
14.8 paragraph (a).

14.9 Subd. 2. **Study participants.** Each electric utility subject to Minnesota Statutes,
14.10 section 216B.1691, must participate collaboratively in conducting a two-phase study of
14.11 the potential for dispersed generation projects that can be developed in Minnesota.

14.12 Subd. 3. **First phase study content; report.** In the first phase of the study,
14.13 participants must analyze the impacts of the addition of a total of 600 megawatts of
14.14 new dispersed generation projects distributed among the following Minnesota electric
14.15 transmission planning zones: the Northeast zone, the Northwest zone, the Southeast
14.16 zone, the Southwest zone, and the West-Central zone. Study participants must use a
14.17 generally accepted 2010 year transmission system model including all transmission
14.18 facilities expected to be operating in 2010. The study must take into consideration
14.19 regional projected load growth, planned changes in the bulk transmission network, and the
14.20 long-range transmission conceptual plan being developed under Laws 2007, chapter 3,
14.21 section 2. In determining locations for the installation of dispersed generation projects
14.22 that consist of wind energy conversion systems, the study should consider, at a minimum,
14.23 wind resource availability, existing and contracted wind projects, and current dispersed
14.24 generation projects in the Midwest Independent System Operator interconnection queue.
14.25 The study must analyze the impacts of individual projects and all projects in aggregate on
14.26 the transmission system, and identify specific modifications to the transmission system
14.27 necessary to remedy any problems caused by the installation of dispersed generation
14.28 projects, including cost estimates for the modifications. The study must analyze the
14.29 additional dispersed generation projects connected at the lowest voltage level transmission
14.30 that exists in the vicinity of the projected generation sites. A preliminary analysis to
14.31 identify transmission system problems must be conducted with the projects installed
14.32 at initially selected locations. The technical review committee may, after reviewing
14.33 the locations selected for installation, recommend moving the installation sites to new
14.34 locations to reduce undesirable transmission system impacts. The commissioner of

15.1 commerce must submit a report containing the findings and recommendations of the first
15.2 phase of the study to the commission no later than June 15, 2008.

15.3 Subd. 4. **Second phase study content; report.** In the second phase of the study,
15.4 participants must analyze the impacts of an additional total of 600 megawatts of dispersed
15.5 generation projects installed among the five transmission planning zones, or a higher total
15.6 capacity amount if agreed to by both the utilities and the technical review committee. The
15.7 utilities must employ an analysis method similar to that used in the first phase of the study,
15.8 and must use the most recent information available, including information developed in
15.9 the first phase. The second phase of the study must use a generally accepted 2013 year
15.10 transmission system model including all transmission facilities that are expected to be
15.11 in-service at that time. The commissioner of commerce must submit a report containing
15.12 the findings and recommendations of the second phase of the study to the commission no
15.13 later than September 15, 2009.

15.14 Subd. 5. **Technical review committee.** Prior to the start of the first phase of
15.15 the study, the commissioner of commerce must appoint a technical review committee
15.16 consisting of between ten and 15 individuals with experience and expertise in electric
15.17 transmission system engineering, renewable energy generation technology, and dispersed
15.18 generation project development, including representatives from the federal Department
15.19 of Energy, the Midwest Independent System Operator, and stakeholder interests. The
15.20 technical review committee must oversee both phases of the study, and must:

15.21 (1) make recommendations to the utilities regarding the proposed methods and
15.22 assumptions to be used in the technical study;

15.23 (2) in conjunction with the appropriate utilities, hold public meetings on each phase
15.24 of the study in each electricity transmission planning zone prior to the beginning of each
15.25 phase of study, after the impact analysis is completed, and when a draft final report is
15.26 available; and

15.27 (3) review the initial and final drafts of the study and make recommendations for
15.28 improvement, including with respect to problems associated with the interconnections
15.29 among utility systems that may be amenable to solution through cooperation between the
15.30 utilities in each zone. During each phase of the study, the technical review committee
15.31 may recommend that the installation of dispersed generation projects be moved to new
15.32 locations that cause fewer undesirable transmission system impacts.

15.33 Sec. 12. **TRANSFERRING RELIABILITY ADMINISTRATOR**
15.34 **RESPONSIBILITIES.**

16.1 All responsibilities, as defined in Minnesota Statutes, section 15.039, subdivision
16.2 1, held by the Public Utilities Commission relating to the reliability administrator under
16.3 Minnesota Statutes, section 216C.052, are transferred to the Minnesota Department of
16.4 Commerce under Minnesota Statutes, section 15.039.

16.5 Sec. 13. **TRANSMISSION AUTHORITY AND INTERCONNECTION**
16.6 **EVALUATIONS.**

16.7 The reliability administrator shall, in consultation with interested stakeholders:

16.8 (1) review the structures, powers, and duties for constructing, owning, maintaining,
16.9 and operating transmission facilities of state transmission authorities established in
16.10 Kansas, North Dakota, South Dakota, and Wyoming, and evaluate whether the existence
16.11 of a similar organization in Minnesota would have the potential to increase the reliability
16.12 and efficiency of the electrical grid in the state, hasten the development of needed
16.13 transmission lines, accelerate the development of renewable energy projects, especially in
16.14 rural areas of the state, and reduce delivered energy costs to Minnesota ratepayers; and

16.15 (2) assess the potential for and barriers to interconnecting dispersed generation
16.16 projects to locations on the electrical grid where a generator interconnection would not be
16.17 subject to the interconnection rules of the Federal Energy Regulatory Commission or the
16.18 Midwest Independent System Operator.

16.19 No technical or engineering analyses are necessary in order to complete these duties. The
16.20 reliability administrator must report findings and any recommendations to the chairs of the
16.21 senate and house of representatives committees with jurisdiction over energy policy by
16.22 February 15, 2008.

16.23 Sec. 14. **REPEALER.**

16.24 Laws 2007, chapter 3, section 3, is repealed.