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State of Minnesota  
HOUSE OF REPRESENTATIVES

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SESSION

HOUSE FILE No. **453**

January 29, 2007

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

A bill for an act

1.1 relating to energy; requiring utilities to meet certain renewable energy standards;  
1.2 regulating certificates of need for large energy facilities; modifying integrated  
1.3 resource planning requirements; modifying transmission planning process;  
1.4 providing for taxation of certain transmission lines; making technical changes;  
1.5 amending Minnesota Statutes 2006, sections 216B.1612, subdivision 5;  
1.6 216B.1645, subdivision 1; 216B.1691; 216B.2411, subdivisions 1, 3; 216B.2421;  
1.7 216B.2422; 216B.2425, subdivision 7; 216B.2426; 216B.243; 216C.053;  
1.8 216C.315; 272.02, by adding a subdivision; repealing Minnesota Statutes 2006,  
1.9 section 216B.169.  
1.10

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

1.12 Section 1. Minnesota Statutes 2006, section 216B.1612, subdivision 5, is amended to  
1.13 read:

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

1.20 Nothing in this section shall be construed to obligate a utility to enter into a power  
1.21 purchase agreement under a C-BED tariff developed under this section.

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

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

2.1 Sec. 2. Minnesota Statutes 2006, section 216B.1645, subdivision 1, is amended to read:

2.2 Subdivision 1. **Commission authority.** Upon the petition of a public utility, the  
 2.3 Public Utilities Commission shall approve or disapprove power purchase contracts,  
 2.4 investments, or expenditures entered into or made by the utility to satisfy the wind and  
 2.5 biomass mandates contained in sections ~~216B.169~~; 216B.2423; and 216B.2424, and to  
 2.6 satisfy the renewable energy ~~objectives~~ standards set forth in section 216B.1691, including  
 2.7 reasonable investments and expenditures made to:

2.8 (1) transmit the electricity generated from sources developed under those sections  
 2.9 that is ultimately used to provide service to the utility's retail customers, including  
 2.10 studies necessary to identify new transmission facilities needed to transmit electricity to  
 2.11 Minnesota retail customers from generating facilities constructed to satisfy the renewable  
 2.12 energy ~~objectives~~ standards, provided that the costs of the studies have not been recovered  
 2.13 previously under existing tariffs and the utility has filed an application for a certificate  
 2.14 of need or for certification as a priority project under section 216B.2425 for the new  
 2.15 transmission facilities identified in the studies; or

2.16 (2) develop renewable energy sources from the account required in section 116C.779.

2.17 Sec. 3. Minnesota Statutes 2006, section 216B.1691, is amended to read:

2.18 **216B.1691 RENEWABLE ENERGY OBJECTIVES STANDARDS.**

2.19 Subdivision 1. **Definitions.** (a) ~~Unless otherwise specified in law~~ For purposes of  
 2.20 this section, "eligible renewable energy technology" means an energy technology that:

2.21 ~~(1) generates electricity from the following a renewable energy sources source of~~  
 2.22 any kind, including, but not limited to: solar; wind; hydroelectric with a capacity of less  
 2.23 than ~~60~~ 100 megawatts; hydrogen, provided that after January 1, 2010, the hydrogen  
 2.24 must be generated from the resources listed in this clause; ~~or~~ biomass, which includes an  
 2.25 energy recovery facility used to capture the heat value of mixed municipal solid waste or  
 2.26 refuse-derived fuel from mixed municipal solid waste as a primary fuel; ~~or landfill gas. and~~

2.27 ~~(2) was not mandated by Laws 1994, chapter 641, or by commission order issued~~  
 2.28 ~~pursuant to that chapter prior to August 1, 2001.~~

2.29 (b) "Electric utility" means a public utility providing electric service, a generation  
 2.30 and transmission cooperative electric association, ~~or~~ a municipal power agency, or a  
 2.31 power district.

2.32 (c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year  
 2.33 by an electric utility to retail customers of the electric utility or to a distribution utility for  
 2.34 distribution to the retail customers of the distribution utility.

3.1 Subd. 2. **Eligible Renewable energy objectives standards.** (a) Each electric utility  
 3.2 shall ~~make a good faith effort to~~ generate or procure sufficient electricity generated by  
 3.3 ~~an eligible~~ a renewable energy technology to provide its retail consumers, or the retail  
 3.4 customers of a distribution utility to which the electric utility provides wholesale electric  
 3.5 service, so that at least the following percentages of the electric utility's total retail electric  
 3.6 sales are generated by renewable energy technologies by the end of the year indicated:

3.7 (1) 2015 - 10 percent

3.8 (2) 2020 - 20 percent

3.9 ~~(1) commencing in 2005, at least one percent of the electric utility's total retail~~  
 3.10 ~~electric sales is generated by eligible energy technologies;~~

3.11 ~~(2) the amount provided under clause (1) is increased by one percent of the utility's~~  
 3.12 ~~total retail electric sales each year until 2015; and~~

3.13 ~~(3) ten percent of the electric energy provided to retail customers in Minnesota is~~  
 3.14 ~~generated by eligible energy technologies.~~

3.15 ~~(b) Of the eligible energy technology generation required under paragraph (a);~~  
 3.16 ~~clauses (1) and (2), not less than 0.5 percent of the energy must be generated by biomass~~  
 3.17 ~~energy technologies, including an energy recovery facility used to capture the heat value~~  
 3.18 ~~of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste~~  
 3.19 ~~as a primary fuel, by 2005. By 2010, one percent of the eligible technology generation~~  
 3.20 ~~required under paragraph (a), clauses (1) and (2), shall be generated by biomass energy~~  
 3.21 ~~technologies. An energy recovery facility used to capture the heat value of mixed~~  
 3.22 ~~municipal solid waste or refuse-derived fuel from mixed municipal solid waste, with a~~  
 3.23 ~~power sales agreement in effect as of May 29, 2003, that terminates after December 31,~~  
 3.24 ~~2010, does not qualify as an eligible energy technology unless the agreement provides for~~  
 3.25 ~~rate adjustment in the event the facility qualifies as a renewable energy source.~~

3.26 ~~(c) By June 1, 2004, and as needed thereafter, the commission shall issue an order~~  
 3.27 ~~detailing the criteria and standards by which it will measure an electric utility's efforts to~~  
 3.28 ~~meet the renewable energy objectives of this section to determine whether the utility is~~  
 3.29 ~~making the required good faith effort. In this order, The commission shall include criteria~~  
 3.30 ~~and standards that protect against delay or modify the standard for an electric utility if it~~  
 3.31 ~~finds that compliance with a standard is not in the public interest because compliance:~~

3.32 ~~(1) will produce undesirable impacts on the reliability of the utility's system and;~~

3.33 ~~(2) will produce undesirable economic impacts on the utility's ratepayers and that~~  
 3.34 ~~consider technical feasibility;~~

3.35 ~~(3) is not feasible due to delays in acquiring, or due to rejection of, necessary siting~~  
 3.36 ~~or other permitting approvals;~~

- 4.1 (4) is not feasible due to delays, cancellations, or nondelivery of necessary  
 4.2 equipment for the construction or commercial operation of a renewable energy facility;  
 4.3 (5) is not feasible due to transmission constraints preventing delivery of service; or  
 4.4 (6) is otherwise not technically feasible.

4.5 ~~(d) In its order under paragraph (c), the commission shall provide for a weighted~~  
 4.6 ~~scale of how energy produced by various eligible energy technologies shall count toward a~~  
 4.7 ~~utility's objective. In establishing this scale, the commission shall consider the attributes~~  
 4.8 ~~of various technologies and fuels, and shall establish a system that grants multiple credits~~  
 4.9 ~~toward the objectives for those technologies and fuels the commission determines is in~~  
 4.10 ~~the public interest to encourage.~~

4.11 (c) The commission must accept findings of fact related to this subdivision, as  
 4.12 determined and presented by the governing body of a generation and transmission  
 4.13 cooperative association or municipal power agency or power district.

4.14 **Subd. 3. Utility plans filed with commission.** (a) Each electric utility shall  
 4.15 report on its ~~plans, activities, and progress~~ compliance with regard to these ~~objectives~~  
 4.16 standards either in its filings under section 216B.2422 or in a separate report submitted  
 4.17 to the commission every two years, whichever is more frequent, demonstrating to the  
 4.18 commission ~~that the utility is making the required good faith~~ utility's effort to comply with  
 4.19 this section. In its resource plan or a separate report, each electric utility shall provide a  
 4.20 description of:

- 4.21 (1) the status of the utility's renewable energy mix relative to ~~the good faith objective~~  
 4.22 these standards;
- 4.23 (2) efforts taken to meet the ~~objective~~ standards;
- 4.24 (3) any obstacles encountered or anticipated in meeting the ~~objective~~ standards; and
- 4.25 (4) potential solutions to the obstacles.

4.26 (b) The commissioner shall compile the information provided to the commission  
 4.27 under paragraph (a), and report to the chairs of the house of representatives and senate  
 4.28 committees with jurisdiction over energy and environment policy issues as to the progress  
 4.29 of utilities in the state in increasing the amount of renewable energy provided to retail  
 4.30 customers, with any recommendations for regulatory or legislative action, by January  
 4.31 15 of each odd-numbered year.

4.32 **Subd. 4. Renewable energy credits.** (a) To facilitate compliance with this section,  
 4.33 the commission, by rule or order, ~~may~~ shall establish a program for tradable renewable  
 4.34 energy credits for electricity generated by ~~an eligible~~ a renewable energy technology that  
 4.35 treats all renewable energy equally, and shall do so no later than January 1, 2008. In doing  
 4.36 so, the commission shall implement a system that constrains or limits the cost of credits,

5.1 taking care to ensure that such a system does not undermine the market for those credits.  
 5.2 The program shall treat all renewable energy technology equally and shall not give more or  
 5.3 less credit to energy based on the state where the energy was generated or the technology  
 5.4 with which the energy was generated. The program shall provide for the banking of  
 5.5 unused credits to allow renewable energy generated in one year but not used to satisfy the  
 5.6 standard in that same year to be carried forward to satisfy the mandate in future years.

5.7 (b) In lieu of generating or procuring energy directly to satisfy the renewable energy  
 5.8 ~~objective standard~~ of this section, an electric utility may ~~purchase sufficient renewable~~  
 5.9 ~~energy credits, issued pursuant to this subdivision, to meet its objective~~ utilize renewable  
 5.10 energy credits issued pursuant to this subdivision. Each kilowatt-hour of renewable  
 5.11 energy credits shall be treated the same as a kilowatt-hour of renewable energy generated  
 5.12 or procured by an electric utility.

5.13 (c) ~~Upon the passage of a renewable energy standard, portfolio, or objective in~~  
 5.14 ~~a bordering state that includes a similar definition of eligible energy technology or~~  
 5.15 ~~renewable energy,~~ The commission ~~may~~ shall facilitate the trading of renewable energy  
 5.16 credits between states.

5.17 (d) An electric supplier may only utilize renewable energy credits generated by an  
 5.18 eligible energy technology if the credits were acquired after January 1, 2001, and the  
 5.19 credits can be demonstrated to have been sold only once.

5.20 Subd. 5. ~~Technology based on fuel combustion~~ **Renewable technology**  
 5.21 **restrictions.** (a) Energy production that was mandated by Laws 1994, chapter 641, or  
 5.22 by commission order issued under that chapter prior to August 1, 2001, does not apply  
 5.23 toward an electric utility's requirement under this section.

5.24 (b) To apply toward an electric utility's requirement under this section, energy must  
 5.25 be generated by a facility located in the United States that was originally placed in service  
 5.26 after January 1, 1975, unless the facility is a municipally owned hydroelectric plant in  
 5.27 Minnesota that provides electricity only to a municipal system.

5.28 (c) Electricity produced by fuel combustion may only count toward a utility's  
 5.29 objectives standard if the generation facility:

5.30 (1) was constructed in compliance with new source performance standards  
 5.31 promulgated under the federal Clean Air Act for a generation facility of that type; or

5.32 (2) employs the maximum achievable or best available control technology available  
 5.33 for a generation facility of that type.

5.34 ~~(b) An eligible~~ (d) A renewable energy technology may blend or co-fire a fuel listed  
 5.35 in subdivision 1, paragraph (a), clause (1), with other fuels in the generation facility, but

6.1 only the percentage of electricity that is attributable to a fuel listed in that clause can be  
 6.2 counted toward an electric utility's renewable energy ~~objectives~~ standard.

6.3 **Subd. 6. Electric utility that owns nuclear generation facility.** (a) An electric  
 6.4 utility that owns a nuclear generation facility, as part of its ~~good faith effort~~ requirement  
 6.5 under this subdivision and subdivision 2, shall deploy an additional 300 megawatts of  
 6.6 nameplate capacity of wind energy conversion systems by 2010, beyond the amount of  
 6.7 wind energy capacity to which the utility is required by law or commission order as of  
 6.8 May 1, 2003. At least 100 megawatts of this capacity are to be wind energy conversion  
 6.9 systems of two megawatts or less, which shall not be eligible for the production incentive  
 6.10 under section 216C.41. To the greatest extent technically feasible and economic, these  
 6.11 300 megawatts of wind energy capacity are to be distributed geographically throughout  
 6.12 the state. The utility may opt to own, construct, and operate up to 100 megawatts of this  
 6.13 wind energy capacity, except that the utility may not own, construct, or operate any of  
 6.14 the facilities that are under two megawatts of nameplate capacity. The deployment of the  
 6.15 wind energy capacity under this subdivision must be consistent with the outcome of the  
 6.16 engineering study required under Laws 2003, First Special Session chapter 11, article  
 6.17 2, section 21.

6.18 (b) ~~The renewable energy objective set forth in subdivision 2 shall be a requirement~~  
 6.19 ~~for the public utility that owns the Prairie Island nuclear generation plant. The objective is~~  
 6.20 ~~a requirement subject to resource planning and least-cost planning requirements in section~~  
 6.21 ~~216B.2422, unless implementation of the objective can reasonably be shown to jeopardize~~  
 6.22 ~~the reliability of the electric system. The least-cost planning analysis must include the~~  
 6.23 ~~costs of ancillary services and other necessary generation and transmission upgrades.~~

6.24 (c) Also as part of its ~~good faith effort~~ requirements under this section, the utility that  
 6.25 owns a nuclear generation facility is to enter into a power purchase agreement by January  
 6.26 1, 2004, for ten to 20 megawatts of biomass energy and capacity at an all-inclusive price  
 6.27 not to exceed \$55 per megawatt-hour, for a project described in section 216B.2424,  
 6.28 subdivision 5, paragraph (e), clause (2). The project must be operational and producing  
 6.29 energy by June 30, 2005.

6.30 **Subd. 7. Compliance.** The commission, on its own motion or upon petition,  
 6.31 may investigate whether an electric supplier is in compliance with the standard under  
 6.32 subdivisions 2 and 6. If the commission finds noncompliance it may order the electric  
 6.33 supplier to construct facilities or purchase credits to achieve compliance. If an electric  
 6.34 supplier fails to comply with an order under this subdivision, the commission may impose  
 6.35 a financial penalty on the electric supplier in an amount up to the electric supplier's

7.1 estimated cost of compliance, not to exceed the lesser of the cost to construct facilities  
7.2 or purchase credits.

7.3 Sec. 4. Minnesota Statutes 2006, section 216B.2411, subdivision 1, is amended to read:

7.4 Subdivision 1. **Generation projects.** (a) Any municipality or rural electric  
7.5 association providing electric service and subject to section 216B.241 that is meeting  
7.6 the ~~objectives~~ standards under section 216B.1691 may, and each public utility may, use  
7.7 five percent of the total amount to be spent on energy conservation improvements under  
7.8 section 216B.241, on:

7.9 (1) projects in Minnesota to construct an electric generating facility that utilizes  
7.10 eligible renewable energy sources as defined in subdivision 2, such as methane or other  
7.11 combustible gases derived from the processing of plant or animal wastes, biomass fuels  
7.12 such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its  
7.13 primary fuel source; or

7.14 (2) projects in Minnesota to install a distributed generation facility of ten megawatts  
7.15 or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another  
7.16 similarly clean fuel.

7.17 (b) For public utilities, as defined under section 216B.02, subdivision 4, projects  
7.18 under this section must be considered energy conservation improvements as defined in  
7.19 section 216B.241. For cooperative electric associations and municipal utilities, projects  
7.20 under this section must be considered load-management activities described in section  
7.21 216B.241, subdivision 1, paragraph (i).

7.22 Sec. 5. Minnesota Statutes 2006, section 216B.2411, subdivision 3, is amended to read:

7.23 Subd. 3. **Other provisions.** (a) Electricity generated by a facility constructed with  
7.24 funds provided under this section and using an eligible renewable energy source may be  
7.25 counted toward the renewable energy ~~objectives~~ standards in section 216B.1691, subject  
7.26 to the provisions of that section.

7.27 (b) Two or more entities may pool resources under this section to provide assistance  
7.28 jointly to proposed eligible renewable energy projects. The entities shall negotiate and  
7.29 agree among themselves for allocation of benefits associated with a project, such as  
7.30 the ability to count energy generated by a project toward a utility's renewable energy  
7.31 objectives under section 216B.1691. The entities shall provide a summary of the allocation  
7.32 of benefits to the commissioner. A utility may spend funds under this section for projects  
7.33 in Minnesota that are outside the service territory of the utility.

8.1 Sec. 6. Minnesota Statutes 2006, section 216B.2421, is amended to read:

8.2 **216B.2421 DEFINITION OF LARGE ENERGY FACILITY.**

8.3 Subdivision 1. **Applicability.** The ~~definition~~ definitions in this section ~~applies~~  
8.4 apply to this section and sections 216B.2422 and 216B.243.

8.5 Subd. 2. **Large energy facility.** "Large energy facility" ~~means~~ includes the  
8.6 following facilities described in clauses (1) to (6):

8.7 (1) "power plant" means any electric power generating plant or combination  
8.8 of plants at a single site with a combined capacity of 50,000 kilowatts or more and  
8.9 transmission lines directly associated with the plant that are necessary to interconnect the  
8.10 plant to the transmission system;

8.11 (2) "high-voltage transmission line" means:

8.12 (i) any high-voltage transmission line with a capacity of 200 kilovolts or more and  
8.13 greater than 1,500 feet in length, and associated transmission substations; or

8.14 ~~(3)~~ (ii) any high-voltage transmission line with a capacity of 100 kilovolts or more  
8.15 with more than ten miles of its length in Minnesota or that crosses a state line, and  
8.16 associated transmission substations;

8.17 ~~(4)~~ (3) "pipeline" means:

8.18 (i) any pipeline greater than six inches in diameter and having more than 50 miles of  
8.19 its length in Minnesota used for the transportation of coal, crude petroleum or petroleum  
8.20 fuels or oil, or their derivatives; or

8.21 ~~(5)~~ (ii) any pipeline for transporting natural or synthetic gas at pressures in excess of  
8.22 200 pounds per square inch with more than 50 miles of its length in Minnesota;

8.23 ~~(6)~~ (4) "storage facility" means:

8.24 (i) any facility designed for or capable of storing on a single site more than 100,000  
8.25 gallons of liquefied natural gas or synthetic gas; or

8.26 ~~(7)~~ (ii) any underground gas storage facility requiring a permit pursuant to section  
8.27 103I.681;

8.28 ~~(8)~~ (5) any nuclear fuel processing or nuclear waste storage or disposal facility; and

8.29 ~~(9)~~ (6) any facility intended to convert any material into any other combustible fuel  
8.30 and having the capacity to process in excess of 75 tons of the material per hour.

8.31 Sec. 7. Minnesota Statutes 2006, section 216B.2422, is amended to read:

8.32 **216B.2422 RESOURCE PLANNING; ~~RENEWABLE ENERGY.~~**

8.33 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this  
8.34 subdivision have the meanings given them.

9.1 (b) "Utility" means an entity with the capability of generating 100,000 kilowatts or  
 9.2 more of electric power and serving, either directly or indirectly, the needs of 10,000 retail  
 9.3 customers in Minnesota. Utility does not include federal power agencies.

9.4 (c) ~~"Renewable energy" means electricity generated through use of any of the~~  
 9.5 ~~following resources:~~

9.6 (1) ~~wind;~~

9.7 (2) ~~solar;~~

9.8 (3) ~~geothermal;~~

9.9 (4) ~~hydro;~~

9.10 (5) ~~trees or other vegetation; or~~

9.11 (6) ~~landfill gas;~~

9.12 (d) "Resource plan" means a set of resource options that a utility could use to  
 9.13 meet the service needs of its customers over a forecast period, including an explanation  
 9.14 of the supply and demand circumstances under which, and the extent to which, each  
 9.15 resource option would be used to meet those service needs. These resource options  
 9.16 include using, refurbishing, and constructing utility plant and equipment, buying power  
 9.17 generated by other entities, controlling customer loads, and implementing customer  
 9.18 energy conservation.

9.19 (e) ~~(d)~~ "Refurbish" means to rebuild or substantially modify an existing electricity  
 9.20 generating resource of 30 megawatts or greater.

9.21 Subd. 2. **Resource plan filing and approval.** A utility shall file a resource plan  
 9.22 with the commission periodically in accordance with rules adopted by the commission.  
 9.23 The commission shall approve, reject, or modify the plan of a public utility, as defined  
 9.24 in section 216B.02, subdivision 4, consistent with the public interest. In the resource  
 9.25 plan proceedings of all other utilities, the commission's order shall be advisory and the  
 9.26 order's findings and conclusions shall constitute prima facie evidence which may be  
 9.27 rebutted by substantial evidence in all other proceedings. With respect to utilities other  
 9.28 than those defined in section 216B.02, subdivision 4, the commission shall consider the  
 9.29 filing requirements and decisions in any comparable proceedings in another jurisdiction.  
 9.30 ~~As a part of its resource plan filing, a utility shall include the least cost plan for meeting~~  
 9.31 ~~50 and 75 percent of all new and refurbished capacity needs through a combination of~~  
 9.32 ~~conservation and renewable energy resources.~~

9.33 Subd. 2a. **Historical data and advance forecast.** Each utility required to file a  
 9.34 resource plan under this section shall include in the filing all applicable annual information  
 9.35 required by section 216C.17, subdivision 2, and the rules adopted under that section. To

10.1 the extent that a utility complies with this subdivision, it is not required to file annual  
 10.2 advance forecasts with the department under section 216C.17, subdivision 2.

10.3 **Subd. 3. Environmental costs.** (a) The commission shall, to the extent practicable,  
 10.4 quantify and establish a range of environmental costs associated with each method of  
 10.5 electricity generation. A utility shall use the values established by the commission in  
 10.6 conjunction with other external factors, including socioeconomic costs, when evaluating  
 10.7 and selecting resource options in all proceedings before the commission, including  
 10.8 resource plan and certificate of need proceedings.

10.9 (b) The commission shall establish interim environmental cost values associated  
 10.10 with each method of electricity generation by March 1, 1994. These values expire on the  
 10.11 date the commission establishes environmental cost values under paragraph (a).

10.12 ~~**Subd. 4. Preference for renewable energy facility.** The commission shall not  
 10.13 approve a new or refurbished nonrenewable energy facility in an integrated resource plan  
 10.14 or a certificate of need, pursuant to section 216B.243, nor shall the commission allow rate  
 10.15 recovery pursuant to section 216B.16 for such a nonrenewable energy facility, unless the  
 10.16 utility has demonstrated that a renewable energy facility is not in the public interest.~~

10.17 **Subd. 5. Bidding; exemption from certificate of need proceeding.** (a) A utility  
 10.18 may select resources to meet its projected energy demand through a bidding process  
 10.19 approved or established by the commission. A utility shall use the environmental cost  
 10.20 estimates determined under subdivision 3 in evaluating bids submitted in a process  
 10.21 established under this subdivision.

10.22 (b) Notwithstanding any other provision of this section, if ~~an electric~~ a power  
 10.23 ~~generating~~ plant, as described in section 216B.2421, subdivision 2, clause (1), is selected  
 10.24 in a bidding process approved or established by the commission, a certificate of need  
 10.25 proceeding under section 216B.243 is not required.

10.26 (c) A certificate of need proceeding is also not required for ~~an electric~~ a power  
 10.27 ~~generating~~ plant that has been selected in a bidding process approved or established by the  
 10.28 commission, or such other selection process approved by the commission, to satisfy, in  
 10.29 whole or in part, the wind power mandate of section 216B.2423 or the biomass mandate  
 10.30 of section 216B.2424.

10.31 **Subd. 6. Consolidation of resource planning and certificate of need.** A utility  
 10.32 shall indicate in its resource plan whether it intends to site or construct a ~~large energy~~  
 10.33 ~~facility~~ power plant. If the utility's resource plan includes a proposed ~~large energy facility~~  
 10.34 power plant and construction of that facility is likely to begin before the utility files its  
 10.35 next resource plan, the commission shall conduct the resource plan proceeding consistent  
 10.36 with the requirements of section 216B.243 with respect to the proposed facility. If the

11.1 commission approves the proposed facility in the resource plan, a separate certificate of  
 11.2 need proceeding is not required.

11.3 Sec. 8. Minnesota Statutes 2006, section 216B.2425, subdivision 7, is amended to read:

11.4 Subd. 7. **Transmission needed to support renewable resources.** (a) Each entity  
 11.5 subject to this section shall determine necessary transmission upgrades to support  
 11.6 development of renewable energy resources required to meet ~~objectives~~ standards under  
 11.7 section 216B.1691 and shall include those upgrades in its report under subdivision 2.

11.8 (b) Transmission projects determined by the commission to be necessary to ~~support~~  
 11.9 facilitate a utility's ~~plan under compliance with~~ section 216B.1691 ~~to meet its obligations~~  
 11.10 ~~under that section~~ must be certified as a priority electric transmission project, satisfying  
 11.11 the requirements of section 216B.243. In determining that a proposed transmission project  
 11.12 is necessary to ~~support~~ facilitate a utility's ~~plan under compliance with~~ section 216B.1691,  
 11.13 the commission must find that the applicant has met the following factors:

11.14 (1) that the transmission facility is necessary to allow the delivery of power from  
 11.15 renewable sources of energy to retail customers in Minnesota;

11.16 (2) ~~that the applicant has signed or will sign power purchase agreements, subject~~  
 11.17 ~~to commission approval, for resources to meet the renewable energy objective that~~  
 11.18 ~~are dependent upon or will use the capacity of the transmission facility to serve retail~~  
 11.19 ~~customers in Minnesota;~~

11.20 (3) that the installation and commercial operation date of the renewable resources to  
 11.21 satisfy the renewable energy ~~objective~~ standard will match the planned in-service date  
 11.22 of the transmission facility; and

11.23 (4) (3) that the proposed transmission facility is consistent with a least-cost solution  
 11.24 to the utility's need for additional electricity.

11.25 Sec. 9. Minnesota Statutes 2006, section 216B.2426, is amended to read:

11.26 **216B.2426 OPPORTUNITIES FOR DISTRIBUTED GENERATION.**

11.27 The commission shall ensure that opportunities for the installation of distributed  
 11.28 generation, ~~as that term is defined in section 216B.169, subdivision 1, paragraph (c);~~ are  
 11.29 considered in any proceeding under section 216B.2422, 216B.2425, or 216B.243.

11.30 Sec. 10. Minnesota Statutes 2006, section 216B.243, is amended to read:

11.31 **216B.243 CERTIFICATE OF NEED FOR LARGE ENERGY FACILITY.**

11.32 Subdivision 1. **Assessment of need criteria.** The commission shall, pursuant to  
 11.33 chapter 14 and sections 216C.05 to 216C.30 and this section, adopt assessment of need

12.1 criteria to be used in the determination of need for large energy facilities pursuant to  
12.2 this section.

12.3 Subd. 2. **Certificate required.** No large energy facility shall be sited or constructed  
12.4 in Minnesota without the issuance of a certificate of need by the commission pursuant  
12.5 to sections 216C.05 to 216C.30 and this section and consistent with the criteria for  
12.6 assessment of need.

12.7 Subd. 3. **Showing required for construction of large energy facility.** No proposed  
12.8 large energy facility, as defined in section 216B.2421, subdivision 2, clauses (3) to (6),  
12.9 shall be certified for construction ~~unless the applicant can show that demand for electricity~~  
12.10 ~~cannot be met more cost effectively through energy conservation and load-management~~  
12.11 ~~measures and~~ unless the applicant has otherwise justified its need. In assessing need,  
12.12 the commission shall evaluate:

12.13 (1) the accuracy of the long-range energy demand forecasts on which the necessity  
12.14 for the facility is based;

12.15 (2) the effect of existing or possible energy conservation programs under sections  
12.16 216C.05 to 216C.30 and this section or other federal or state legislation on long-term  
12.17 energy demand;

12.18 (3) the relationship of the proposed facility to overall state energy needs, as  
12.19 described in the most recent state energy policy and conservation report prepared under  
12.20 section 216C.18, ~~or, in the case of a high-voltage transmission line, the relationship of the~~  
12.21 ~~proposed line to regional energy needs, as presented in the transmission plan submitted~~  
12.22 ~~under section 216B.2425;~~

12.23 (4) ~~promotional activities that may have given rise to the demand for this facility;~~

12.24 (5) benefits of this facility, including its uses to protect or enhance environmental  
12.25 quality, and to increase reliability of energy supply in Minnesota and the region;

12.26 (6) (5) possible alternatives for satisfying the energy demand ~~or transmission needs~~  
12.27 including, but not limited to, potential for increased efficiency and upgrading of existing  
12.28 energy generation and transmission facilities, load-management programs, and distributed  
12.29 generation;

12.30 (7) (6) the policies, rules, and regulations of other state and federal agencies and  
12.31 local governments; and

12.32 (8) (7) any feasible combination of energy conservation improvements, required  
12.33 under section 216B.241, that can (i) replace part or all of the energy to be provided by the  
12.34 proposed facility, and (ii) compete with it economically;

13.1 ~~(9) with respect to a high-voltage transmission line, the benefits of enhanced regional~~  
 13.2 ~~reliability, access, or deliverability to the extent these factors improve the robustness of~~  
 13.3 ~~the transmission system or lower costs for electric consumers in Minnesota;~~

13.4 ~~(10) whether the applicant or applicants are in compliance with applicable provisions~~  
 13.5 ~~of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a~~  
 13.6 ~~date certain an application for certificate of need under this section or for certification as~~  
 13.7 ~~a priority electric transmission project under section 216B.2425 for any transmission~~  
 13.8 ~~facilities or upgrades identified under section 216B.2425, subdivision 7;~~

13.9 ~~(11) whether the applicant has made the demonstrations required under subdivision~~  
 13.10 ~~3a; and~~

13.11 ~~(12) if the applicant is proposing a nonrenewable generating plant, the applicant's~~  
 13.12 ~~assessment of the risk of environmental costs and regulation on that proposed facility~~  
 13.13 ~~over the expected useful life of the plant, including a proposed means of allocating costs~~  
 13.14 ~~associated with that risk.~~

13.15 ~~Subd. 3a. **Use of renewable resource.** The commission may not issue a certificate~~  
 13.16 ~~of need under this section for a large energy facility that generates electric power by means~~  
 13.17 ~~of a nonrenewable energy source, or that transmits electric power generated by means of~~  
 13.18 ~~a nonrenewable energy source, unless the applicant for the certificate has demonstrated~~  
 13.19 ~~to the commission's satisfaction that it has explored the possibility of generating power~~  
 13.20 ~~by means of renewable energy sources and has demonstrated that the alternative selected~~  
 13.21 ~~is less expensive (including environmental costs) than power generated by a renewable~~  
 13.22 ~~energy source. For purposes of this subdivision, "renewable energy source" includes~~  
 13.23 ~~hydro, wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.~~

13.24 ~~Subd. 3b. **Nuclear power plant; new construction prohibited; relicensing.**~~

13.25 ~~(a) The commission may not issue a certificate of need for the construction of a new~~  
 13.26 ~~nuclear-powered electric generating plant.~~

13.27 ~~(b) Any certificate of need for additional storage of spent nuclear fuel for a facility~~  
 13.28 ~~seeking a license extension shall address the impacts of continued operations over the~~  
 13.29 ~~period for which approval is sought.~~

13.30 ~~Subd. 3c. **Showing required for construction of power plant.** No proposed power~~  
 13.31 ~~plant, as defined in section 216B.2421, subdivision 2, clause (1), shall be certified for~~  
 13.32 ~~construction unless the applicant can show that demand for electricity cannot be met~~  
 13.33 ~~more cost effectively through energy conservation and load-management measures and~~  
 13.34 ~~unless the applicant has otherwise justified its need. In assessing need, the commission~~  
 13.35 ~~shall evaluate:~~

14.1 (1) the accuracy of the long-range energy demand forecasts on which the necessity  
 14.2 for the facility is based;

14.3 (2) the effect of existing or possible energy conservation programs under sections  
 14.4 216C.05 to 216C.30, and this section or other federal or state legislation on long-term  
 14.5 energy demand;

14.6 (3) the relationship of the proposed facility to overall state energy needs, as  
 14.7 described in the most recent state energy policy and conservation report prepared under  
 14.8 section 216C.18;

14.9 (4) benefits of the facility, including its uses to protect or enhance environmental  
 14.10 quality, and to increase reliability of energy supply in Minnesota and the region; and

14.11 (5) possible alternatives for satisfying the energy demand including, but not limited  
 14.12 to, potential for increased efficiency and upgrading of existing energy generation and  
 14.13 transmission facilities, load-management programs, and distributed generation.

14.14 **Subd. 3d. Showing required for construction of high-voltage transmission line.**  
 14.15 **No proposed high-voltage transmission line, as defined in section 216B.2421, subdivision**  
 14.16 **2, clause (2), shall be certified for construction unless the applicant has otherwise justified**  
 14.17 **its need. In assessing need, the commission shall evaluate:**

14.18 (1) the relationship of the proposed line to regional energy needs, as presented in  
 14.19 the transmission plan submitted under section 216B.2425;

14.20 (2) possible alternatives for satisfying the transmission needs, including, but not  
 14.21 limited to, potential for upgrading existing transmission facilities;

14.22 (3) the benefits of the facility, including its uses to protect or enhance environmental  
 14.23 quality and to increase reliability of energy supply in Minnesota and the region;

14.24 (4) the benefits of enhanced regional reliability, access, or deliverability to the extent  
 14.25 these factors improve the robustness of the transmission system or lower costs for electric  
 14.26 consumers in Minnesota;

14.27 (5) whether the applicant or applicants have filed, or will file by a date certain,  
 14.28 an application for certification as a priority electric transmission project under section  
 14.29 216B.2425 for any transmission facilities or upgrades identified under section 216B.2425,  
 14.30 subdivision 7; and

14.31 (6) the commission may not make its determination of need for a new, or need for  
 14.32 upgrade of an existing, high-voltage transmission line based on the nature or character of  
 14.33 the source of the electric power that will be transmitted over the proposed line or lines.

14.34 **Subd. 4. Application for certificate; hearing.** Any person proposing to construct a  
 14.35 large energy facility shall apply for a certificate of need and for a site or route permit under  
 14.36 chapter 216E prior to construction of the facility. The application shall be on forms and in

15.1 a manner established by the commission. In reviewing each application the commission  
 15.2 shall hold at least one public hearing pursuant to chapter 14. The public hearing shall  
 15.3 be held at a location and hour reasonably calculated to be convenient for the public.  
 15.4 An objective of the public hearing shall be to obtain public opinion on the necessity of  
 15.5 granting a certificate of need and, if a joint hearing is held, a site or route permit. The  
 15.6 commission shall designate a commission employee whose duty shall be to facilitate  
 15.7 citizen participation in the hearing process. Unless the commission determines that a joint  
 15.8 hearing on siting and need under this subdivision and section 216E.03, subdivision 6, is  
 15.9 not feasible or more efficient, or otherwise not in the public interest, a joint hearing under  
 15.10 those subdivisions shall be held.

15.11 **Subd. 5. Approval, denial, or modification.** (a) Within 12 months of the  
 15.12 submission of an application, the commission shall approve or deny a certificate of need  
 15.13 for the facility. Approval or denial of the certificate shall be accompanied by a statement  
 15.14 of the reasons for the decision. Issuance of the certificate may be made contingent upon  
 15.15 modifications required by the commission. If the commission has not issued an order on  
 15.16 the application within the 12 months provided, the commission may extend the time  
 15.17 period upon receiving the consent of the parties ~~or on its own motion, for good cause, by~~  
 15.18 ~~issuing an order explaining the good cause justification for extension.~~

15.19 (b) The commission shall compile an annual report on their workload in relationship  
 15.20 to applications for certificates of need during the previous calendar year, including the  
 15.21 number of applications filed, the number pending at the beginning and at the end of the  
 15.22 calendar year, the nature of the applications, whether each application has been approved,  
 15.23 denied, or modified, and the status of each application that remains pending at the end of  
 15.24 the calendar year. The report shall identify whether the commission has acted on each  
 15.25 application within the 12 months provided. For each application that has not been acted  
 15.26 upon within the required 12-month period, the commission shall provide a description of  
 15.27 the reason for the delay. The commission shall provide the report annually to the chairs  
 15.28 of the committees of the house of representatives and the senate with jurisdiction over  
 15.29 energy matters by January 31 of each year.

15.30 **Subd. 6. Application fees; rules.** Any application for a certificate of need shall be  
 15.31 accompanied by the application fee required pursuant to this subdivision. The application  
 15.32 fee is to be applied toward the total costs reasonably necessary to complete the evaluation  
 15.33 of need for the proposed facility. The maximum application fee ~~shall be~~ is \$50,000,  
 15.34 except for an application for ~~an electric~~ a power generating plant, as defined in section  
 15.35 216B.2421, subdivision 2, clause (1), or a high-voltage transmission line, as defined in  
 15.36 section 216B.2421, subdivision 2, clause (2), for which the maximum application fee ~~shall~~

16.1 ~~be~~ is \$100,000. Costs exceeding the application fee and reasonably necessary to complete  
 16.2 the evaluation of need for the proposed facility shall be recovered from the applicant.  
 16.3 If the applicant is a public utility, a cooperative electric association, a generation and  
 16.4 transmission cooperative electric association, a municipal power agency, a municipal  
 16.5 electric utility, or a transmission company, the recovery shall be done pursuant to section  
 16.6 216B.62. The commission shall establish by rule pursuant to chapter 14 and sections  
 16.7 216C.05 to 216C.30 and this section, a schedule of fees based on the output or capacity  
 16.8 of the facility and the difficulty of assessment of need. Money collected in this manner  
 16.9 shall be credited to the general fund of the state treasury.

16.10 **Subd. 7. Participation by other agency or political subdivision.** (a) Other  
 16.11 state agencies authorized to issue permits for siting, construction, or operation of large  
 16.12 energy facilities, and those state agencies authorized to participate in matters before the  
 16.13 commission involving utility rates and adequacy of utility services, shall present their  
 16.14 position regarding need and participate in the public hearing process prior to the issuance  
 16.15 or denial of a certificate of need. Issuance or denial of certificates of need shall be the sole  
 16.16 and exclusive prerogative of the commission and these determinations and certificates  
 16.17 shall be binding upon other state departments and agencies, regional, county, and local  
 16.18 governments and special purpose government districts except as provided in sections  
 16.19 116C.01 to 116C.08 and 116D.04, subdivision 9.

16.20 (b) An applicant for a certificate of need shall notify the commissioner of agriculture  
 16.21 if the proposed project will impact cultivated agricultural land, as that term is defined in  
 16.22 section 216G.01, subdivision 4. The commissioner may participate in any proceeding on  
 16.23 the application and advise the commission as to whether to grant the certificate of need,  
 16.24 and the best options for mitigating adverse impacts to agricultural lands if the certificate is  
 16.25 granted. The Department of Agriculture shall be the lead agency on the development of  
 16.26 any agricultural mitigation plan required for the project.

16.27 **Subd. 8. Exemptions.** This section does not apply to:

16.28 (1) cogeneration or small power production facilities as defined in the Federal Power  
 16.29 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and  
 16.30 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less  
 16.31 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or  
 16.32 any case where the commission has determined after being advised by the attorney general  
 16.33 that its application has been preempted by federal law;

16.34 (2) a high-voltage transmission line proposed primarily to distribute electricity to  
 16.35 serve the demand of a single customer at a single location, unless the applicant opts to  
 16.36 request that the commission determine need under this section or section 216B.2425;

17.1 (3) the upgrade to a higher voltage of an existing transmission line that serves  
 17.2 the demand of a single customer that primarily uses existing rights-of-way, unless the  
 17.3 applicant opts to request that the commission determine need under this section or section  
 17.4 216B.2425;

17.5 (4) a high-voltage transmission line of one mile or less required to connect a new or  
 17.6 upgraded substation to an existing, new, or upgraded high-voltage transmission line;

17.7 (5) conversion of the fuel source of an existing ~~electric generating power plant~~  
 17.8 using natural gas;

17.9 (6) the modification of an existing ~~electric generating power plant~~ to increase  
 17.10 efficiency, as long as the capacity of the plant is not increased more than ten percent or  
 17.11 more than 100 megawatts, whichever is greater; or

17.12 (7) a large energy facility that (i) generates electricity from wind energy  
 17.13 conversion systems, (ii) will serve, directly or indirectly, retail customers in Minnesota,  
 17.14 and (iii) is specifically intended to ~~be used to meet the renewable energy objective~~  
 17.15 ~~under section 216B.1691 or addresses~~ address a resource need identified in a current  
 17.16 commission-approved or commission-reviewed resource plan under section 216B.2422;  
 17.17 ~~and (iv) derives at least ten percent of the total nameplate capacity of the proposed project~~  
 17.18 ~~from one or more C-BED projects, as defined under section 216B.1612, subdivision 2,~~  
 17.19 ~~paragraph (f).~~

17.20 Sec. 11. Minnesota Statutes 2006, section 216C.053, is amended to read:

17.21 **216C.053 RENEWABLE ENERGY DEVELOPMENT.**

17.22 The commissioner of commerce must engage in activities to encourage deployment  
 17.23 of cost-effective renewable energy developments within the state. The commissioner shall  
 17.24 compile and maintain information concerning existing and potential renewable energy  
 17.25 developments and resources in the state. ~~The commissioner shall provide, as appropriate,~~  
 17.26 ~~this information in proceedings for the determination of need for large energy facilities~~  
 17.27 ~~and for the review of a utility's integrated resource plan.~~ To the extent practicable, and in  
 17.28 addition to any other obligation of an electric utility to furnish information, an electric  
 17.29 utility seeking to add generation to its supply portfolio to serve Minnesota consumers shall  
 17.30 provide the commissioner with notice of its intention.

17.31 Sec. 12. Minnesota Statutes 2006, section 216C.315, is amended to read:

17.32 **216C.315 ALTERNATIVE ENERGY ECONOMIC ANALYSIS.**

17.33 The commissioner shall carry out the following energy economic analysis duties:

- 18.1 (1) provide continued analysis of alternative energy issues for the biennial report;  
18.2 ~~certificates of need~~, and legislative requests;
- 18.3 (2) provide alternative energy information to consumers and business;
- 18.4 (3) assist in the maintenance and improvement of alternative energy input-output  
18.5 multipliers and market penetration models;
- 18.6 (4) provide analysis of alternative energy data.

18.7 Sec. 13. Minnesota Statutes 2006, section 272.02, is amended by adding a subdivision  
18.8 to read:

18.9 **Subd. 85. New high-voltage transmission lines; exemption phase-out.**

18.10 Notwithstanding subdivision 9, clause (a), each high-voltage transmission line, as  
18.11 defined in section 216B.2421, subdivision 2, clause (2), and its associated transmission  
18.12 substations, the construction of which is commenced on or after January 1, 2007, is  
18.13 exempt for the first taxable year after the line or substation is initially placed in service,  
18.14 and property taxes as otherwise determined by law on the transmission line and its  
18.15 associated transmission substations must be reduced by:

- 18.16 (1) 75 percent for the second taxable year of operation of the transmission line;  
18.17 (2) 50 percent for the third taxable year of operation of the transmission line; and  
18.18 (3) 25 percent for the fourth taxable year of operation of the transmission line.

18.19 After the fourth taxable year of operation of the transmission line and associated  
18.20 transmission substations, the transmission line and its associated transmission substations  
18.21 are taxed in compliance with chapter 272.

18.22 For purposes of this subdivision, "initially placed in service" includes both new  
18.23 construction and substantial expansion of the carrying capacity of a preexisting line.  
18.24 "Substantial expansion" means an increase in carrying capacity of 50 percent or more.

18.25 Sec. 14. **REPEALER.**

18.26 Minnesota Statutes 2006, section 216B.169, is repealed.

**216B.169 RENEWABLE AND HIGH-EFFICIENCY ENERGY RATE OPTIONS.**

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

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

(b) "Renewable energy" has the meaning given in section 216B.2422, subdivision 1, paragraph (c).

(c) "High-efficiency, low-emissions, distributed generation" means a distributed generation facility of no more than ten megawatts of interconnected capacity that is certified by the commissioner under subdivision 3 as a high-efficiency, low-emissions facility.

Subd. 2. **Renewable and high-efficiency energy rate options.** (a) Each utility shall offer its customers, and shall advertise the offer at least annually, one or more options that allow a customer to determine that a certain amount of the electricity generated or purchased on behalf of the customer is renewable energy or energy generated by high-efficiency, low-emissions, distributed generation such as fuel cells and microturbines fueled by a renewable fuel.

(b) Each public utility shall file an implementation plan within 90 days of July 1, 2001, to implement paragraph (a).

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

(1) reflect the difference between the cost of generating or purchasing the renewable energy and the cost of generating or purchasing the same amount of nonrenewable energy; and

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

(d) Implementation of these rate options may reflect a reasonable amount of lead time necessary to arrange acquisition of the energy. The utility may acquire the energy demanded by customers, in whole or in part, through procuring or generating the renewable energy directly, or through the purchase of credits from a provider that has received certification of eligible power supply pursuant to subdivision 3. If a utility is not able to arrange an adequate supply of renewable or high-efficiency energy to meet its customers' demand under this section, the utility must file a report with the commission detailing its efforts and reasons for its failure.

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

(1) the power supply is renewable energy or energy generated by high-efficiency, low-emissions, distributed generation; and

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

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