State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE NO. 553

February 1, 2007
Authored by Hilty
The bill was read for the first time and referred to the Energy Finance and Policy Division

A bill for an act

relating to energy; modifying renewable energy objective; requiring development of economic development strategy related to renewable energy; amending Minnesota Statutes 2006, section 216B.1691.

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

Section 1. Minnesota Statutes 2006, section 216B.1691, is amended to read:

216B.1691 RENEWABLE ENERGY OBJECTIVES.

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

(b) Unless otherwise specified in law, "eligible energy technology" means an energy technology that:

(1) generates electricity from the following renewable energy sources: solar; wind; hydroelectric with a capacity of less than ~~60~~ 100 megawatts; hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this clause; or biomass, which includes an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel; and

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

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

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

Subd. 2. **Eligible energy objectives.** (a) Each electric utility shall make a good faith effort to generate or procure sufficient electricity generated by an eligible energy technology to provide its retail ~~consumers~~ customers, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that:

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

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

~~(3)~~, when ten percent of the electric energy provided to retail customers in Minnesota is generated by eligible energy technologies; and

(3) the percentage required under clauses (1) and (2) must be increased by .... percent a year commencing in 2015 each year until 2020 when .... percent of the electric energy provided to retail customers in Minnesota is generated by eligible energy technology.

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

~~(c)~~ By June 1, 2004, and as needed thereafter, the commission shall issue an order detailing the criteria and standards by which it will measure an electric utility's efforts to meet the renewable energy objectives of this section to determine whether the utility is making the required good faith effort. In this order, the commission shall include criteria and standards that protect against undesirable impacts on the reliability of the utility's system and economic impacts on the utility's ratepayers and that consider technical feasibility.

~~(d) In its order under paragraph (c), the commission shall provide for a weighted scale of how energy produced by various eligible energy technologies shall count toward a utility's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels, and shall establish a system that grants multiple credits~~

~~toward the objectives for those technologies and fuels the commission determines is in the public interest to encourage.~~

(c) The commission may, on its own motion or upon petition, order an electric utility to have a good-faith objective that exceeds the percentage set by this subdivision for any date. The commission shall issue an order if it finds it is in the public interest. In making its public interest determination, the commission, in addition to any other consideration, shall consider the technical feasibility, rate impact, and grid reliability impacts of the increased percentage.

(d) The commission must delay or modify an objective for an electric utility if it finds that compliance with an objective is not in the public interest because compliance will either produce undesirable impacts on the reliability of the utility's system or on the utility's ratepayers or if it finds that compliance is not technically feasible. In making its public interest determination under this paragraph, the commission shall give strong consideration to the legislative policy of achieving the objectives established by this section and the preference for renewable energy. In addition, the commission may consider the load growth of an electric utility when considering whether to delay or modify its objective.

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

(1) the status of the utility's renewable energy mix relative to the good faith objective;

(2) efforts taken to meet the objective;

(3) any obstacles encountered or anticipated in meeting the objective; and

(4) potential solutions to the obstacles.

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

Subd. 4. **Renewable energy credits.** (a) To facilitate compliance with this section, the commission, by rule or order, ~~may~~ shall establish a program for tradable credits for

electricity generated by an eligible energy technology. In doing so, the commission shall implement a system that constrains or limits the cost of credits, taking care to ensure that such a system does not undermine the market for those credits.

(b) In lieu of generating or procuring energy directly to satisfy the renewable energy objective of this section, an electric utility may purchase sufficient renewable energy credits, ~~issued pursuant to this subdivision~~ approved by the commission's program, to meet its objective.

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

(d) The commission may consider whether a tradable credit program has been established when it makes its public interest determination under subdivision 2 to delay or modify an objective.

Subd. 5. **Technology based on fuel combustion.** (a) Electricity produced by fuel combustion may only count toward a utility's objectives if the generation facility:

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

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

(b) An eligible energy technology may blend or co-fire a fuel listed in subdivision 1, paragraph (a), clause (1), with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that clause can be counted toward an electric utility's renewable energy objectives.

Subd. 6. **Electric utility that owns nuclear generation facility.** (a) An electric utility that owns a nuclear generation facility, as part of its good faith effort under this subdivision and subdivision 2, shall deploy an additional 300 megawatts of nameplate capacity of wind energy conversion systems by 2010, beyond the amount of wind energy capacity to which the utility is required by law or commission order as of May 1, 2003. At least 100 megawatts of this capacity are to be wind energy conversion systems of two megawatts or less, which shall not be eligible for the production incentive under section 216C.41. To the greatest extent technically feasible and economic, these 300 megawatts of wind energy capacity are to be distributed geographically throughout the state. The utility may opt to own, construct, and operate up to 100 megawatts of this wind energy capacity, except that the utility may not own, construct, or operate any of the facilities that are under two megawatts of nameplate capacity. The deployment of the wind energy

capacity under this subdivision must be consistent with the outcome of the engineering study required under Laws 2003, First Special Session chapter 11, article 2, section 21.

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

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

Subd. 7. **Compliance.** The commission shall regularly investigate whether an electric utility is in compliance with this section and if it finds noncompliance may, among other things, order the electric utility to construct facilities or purchase credits to achieve compliance. In addition, if an electric utility fails to comply with an order under this subdivision, the commission may impose a financial penalty on the electric utility in an amount up to $..... per day of noncompliance. In setting the penalty, the commission shall consider the revenues of the electric utility. This subdivision is in addition to and does not limit any other authority of the commission to enforce this section.

Subd. 8. **Commissioner review.** Within 60 days of the enactment of a federal renewable energy standard, portfolio, or objective, the commissioner of commerce shall report to the chairs of the house of representatives and senate committees with primary jurisdiction over energy and environment policy issues any recommendations for regulatory or legislative action concerning this section.

Sec. 2. **USE OF CONSERVATION INVESTMENTS TO SATISFY RENEWABLE ENERGY OBJECTIVE; STUDY.**

The Department of Commerce shall consult with interested parties and report by November 15, 2007, to the chairs of the legislative committees with primary jurisdiction over energy issues on the feasibility and advisability of allowing energy savings from excess conservation investment program investments to serve to reduce an electric utility's good-faith objective under Minnesota Statutes, section 216B.1691.

Sec. 3. **RENEWABLE ENERGY OBJECTIVE; STATE ECONOMIC BENEFIT STRATEGY.**

The commissioner of employment and economic development, in consultation with the commissioners of commerce and agriculture and the Public Utilities Commission, shall develop a strategy to obtain the maximum economic benefit for the state and its citizens from the renewable energy objective prescribed by Minnesota Statutes, section 216B.1691. The strategy must assume that the installation of renewable energy generation facilities will be done in a manner that provides for the optimal reliability of the electric grid, gives consideration to the rate impact on customers, and is technically feasible. The commissioner may hold public meetings and otherwise engage the public in developing the strategy. The strategy must include consideration of both short-term and long-term opportunities for economic benefit. The commissioner of employment and economic development shall report on the strategic recommendations to the chairs of the legislative committees with primary jurisdiction over energy policy by November 15, 2007. The report must include recommendations for legislation necessary to implement the strategy. An interim report on the progress in developing the strategy must be made to the chairs by August 1, 2007.