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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 2218

March 19, 2007

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The bill was read for the first time and referred to the Energy Finance and Policy Division

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to utilities; specifying conditions and procedures for the payment of
1.3 compensation to certain intervenors in utility proceedings; amending Minnesota
1.4 Statutes 2006, section 216B.16, subdivision 10; repealing Minnesota Rules,
1.5 parts 7831.0100; 7831.0200; 7831.0300; 7831.0400; 7831.0500; 7831.0600;
1.6 7831.0700; 7831.0800.

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

1.8 Section 1. Minnesota Statutes 2006, section 216B.16, subdivision 10, is amended to
1.9 read:

1.10 Subd. 10. **Intervenor payment compensation.** (a) An organization or individual
1.11 granted formal intervenor status by the commission is eligible to receive compensation.

1.12 (b) The commission may order a utility to pay all or a portion of a party's intervention
1.13 compensate all or part of an eligible intervenor's reasonable costs not to exceed \$20,000
1.14 per intervenor in any proceeding of participation in a general rate case that comes before
1.15 the commission when the commission finds that the intervenor has materially assisted
1.16 the commission's deliberation and the intervenor has insufficient financial resources to
1.17 afford the costs of intervention and when a lack of compensation would present financial
1.18 hardship to the intervenor. Compensation may not exceed \$50,000 for a single intervenor
1.19 in any proceeding. For the purpose of this subdivision, "materially assisted" means that
1.20 the intervenor's participation and presentation was useful and seriously considered, or
1.21 otherwise substantially contributed to the commission's deliberations in the proceeding.

1.22 (c) In determining whether an intervenor has materially assisted the commission's
1.23 deliberation, the commission must consider, at a minimum, whether:

1.24 (1) the intervenor represented an interest that would not otherwise have been
1.25 adequately represented;

2.1 (2) the evidence or arguments presented or the positions taken by the intervenor
2.2 were an important factor in producing a fair decision;

2.3 (3) the intervenor's position promoted a public purpose or policy;

2.4 (4) the evidence presented, arguments made, issues raised, or positions taken by the
2.5 intervenor would not have been a part of the record without the intervenor's participation;
2.6 and

2.7 (5) the administrative law judge or the commission adopted, in whole or in part, a
2.8 position advocated by the intervenor.

2.9 (d) In determining whether the absence of compensation would present financial
2.10 hardship to the intervenor, the commission must consider:

2.11 (1) whether the costs presented in the intervenor's claim reflect reasonable fees for
2.12 attorneys and expert witnesses and other reasonable costs; and

2.13 (2) the ratio between the costs of intervention and the intervenor's unrestricted funds.

2.14 (e) An intervenor seeking compensation must file a request and an affidavit of service
2.15 with the commission, and serve a copy of the request on each party to the proceeding.
2.16 The request must be filed 30 days after the later of (1) the expiration of the period within
2.17 which a petition for rehearing, amendment, vacation, reconsideration, or reargument must
2.18 be filed or (2) the date the commission issues an order following rehearing, amendment,
2.19 vacation, reconsideration, or reargument.

2.20 (f) The compensation request must include:

2.21 (1) the name and address of the intervenor or representative of the nonprofit
2.22 organization the intervenor is representing;

2.23 (2) if necessary, proof of the organization's nonprofit, tax-exempt status;

2.24 (3) the name and docket number of the proceeding for which compensation is
2.25 requested;

2.26 (4) a list of actual annual revenues and expenses of the organization the intervenor is
2.27 representing for the preceding year and projected revenues, revenue sources, and expenses
2.28 for the current year;

2.29 (5) the organization's balance sheet for the preceding year and a current monthly
2.30 balance sheet;

2.31 (6) an itemization of intervenor costs and the total compensation request; and

2.32 (7) a narrative explaining why additional organizational funds cannot be devoted
2.33 to the intervention.

2.34 (g) Within 30 days after service of the request for compensation, a party may file
2.35 a response, together with an affidavit of service, with the commission. A copy of the
2.36 response must be served on the intervenor and all other parties to the proceeding.

3.1 (h) Within 15 days after the response is filed, the intervenor may file a reply with
3.2 the commission. A copy of the reply and an affidavit of service must be served on all
3.3 other parties to the proceeding.

3.4 (i) If additional costs are incurred as a result of additional proceedings following
3.5 the commission's initial order, the intervenor may file an amended request within 30
3.6 days after the commission issues an amended order. Paragraphs (e) to (h) apply to an
3.7 amended request.

3.8 (j) The commission must issue a decision on intervenor compensation within 60
3.9 days of a filing by an intervenor.

3.10 (k) A party may request reconsideration of the commission's compensation decision
3.11 within 30 days of the decision.

3.12 (l) If the commission issues an order requiring payment of intervenor compensation,
3.13 the utility that was the subject of the proceeding must pay the compensation to the
3.14 intervenor, and file with the commission proof of payment, within 30 days after the later
3.15 of (1) the expiration of the period within which a petition for reconsideration of the
3.16 commission's compensation decision must be filed or (2) the date the commission issues
3.17 an order following reconsideration of its order on intervenor compensation.

3.18 **Sec. 2. REPEALER.**

3.19 Minnesota Rules, parts 7831.0100; 7831.0200; 7831.0300; 7831.0400; 7831.0500;
3.20 7831.0600; 7831.0700; and 7831.0800, are repealed as they pertain to a general rate case
3.21 for a gas or electric utility held before the commission.