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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **3708**

03/12/2018 Authored by O'Neill, Haley, Newberger, Rarick, Peppin and others  
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance  
04/23/2018 Adoption of Report: Placed on the General Register as Amended  
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act  
1.2 relating to energy; establishing a carbon reduction facility designation for certain  
1.3 large electric generating facilities; proposing coding for new law in Minnesota  
1.4 Statutes, chapter 216B.

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

1.6 Section 1. **[216B.1697] CARBON REDUCTION FACILITIES; NUCLEAR ENERGY.**

1.7 Subdivision 1. **Qualifying facilities.** An existing large electric generating power plant,  
1.8 as defined in section 216B.2421, subdivision 2, clause (1), employing nuclear technology  
1.9 to generate electricity qualifies for designation as a carbon reduction facility as provided in  
1.10 this section.

1.11 Subd. 2. **Proposal submission.** (a) A public utility may submit a proposal to the  
1.12 commission for designation of a qualifying facility as a carbon reduction facility under this  
1.13 section. The proposal must be filed within a public utility's new resource plan filing no  
1.14 earlier than February 1, 2019. The proposal shall include:

1.15 (1) a showing that the facility meets the requirements of subdivision 1;

1.16 (2) a proposed statement of the total expected costs, including, but not limited to, capital  
1.17 investments and operation and maintenance costs associated with the operation of the facility.  
1.18 The total expected costs shall cover a period not to exceed the planning period of the public  
1.19 utility's new resource plan;

1.20 (3) details about all costs currently included in rates, current operating costs if different  
1.21 than those currently included in rates, and an evaluation of the utility's forecasted costs  
1.22 prepared by an independent evaluator; and

2.1 (4) an analysis of how the proposed capital investments and operation and maintenance  
2.2 costs would impact rates if that impact is different than any described in the utility's most  
2.3 recently filed resource plan.

2.4 (b) If the information submitted in the original proposal changes because it was unknown  
2.5 and not capable of being known at the time of the original proposal, a utility may at any  
2.6 time file additional proposals for the same facility.

2.7 (c) The proposal may ask the commission to establish a sliding scale rate-of-return  
2.8 mechanism for the capital investments to provide an additional incentive for the utility to  
2.9 complete the project at or under the proposed costs.

2.10 Subd. 3. **Proposal approval.** (a) The commission shall approve, reject, or modify the  
2.11 proposed designation of the facility and the total expected costs submitted by the public  
2.12 utility. The commission shall make a final determination on the proposed designation  
2.13 concurrent with its order in the resource plan, or sooner, should the commission determine  
2.14 that it is in the public interest.

2.15 (b) When conducting the review in paragraph (a), the commission shall allow intervention  
2.16 by the Department of Commerce, the Office of the Attorney General, ratepayer advocates,  
2.17 the Prairie Island and Monticello communities, and other interested parties. The public  
2.18 utility shall pay the costs of any nuclear expert retained by the Department of Commerce.

2.19 (c) To the extent the commission modifies the proposal, the utility may choose whether  
2.20 to accept the modifications. If the utility does not accept the modifications, the commission  
2.21 shall deem the proposal withdrawn.

2.22 (d) With respect to any carbon reduction facility, the approval shall constitute a finding  
2.23 of prudence for the total expected costs contained in the proposal, meaning that the utility  
2.24 shall be entitled to recover, through a subsequent rate case, any actual costs not in excess  
2.25 of the total expected costs provided in its proposal for designation as a carbon reduction  
2.26 facility.

2.27 (e) Upon approval of a proposed designation of a facility and the total expected costs  
2.28 submitted by the utility, the utility shall provide biennial updates to the commission regarding  
2.29 its progress with respect to adhering to the approved costs. The commission may issue  
2.30 orders it deems necessary to ensure that the carbon reduction facility remains cost-effective  
2.31 for customers and financially viable for the utility.