

1 A bill for an act

2
3 relating to energy; establishing a rate schedule for certain
4 renewable energy projects; requiring a report; proposing coding for
5 new law in Minnesota Statutes, chapter 216B.
6

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

8 Section 1. [216B.1601] [FINDINGS; PURPOSE; CITATION.]

9 (a) The legislature finds that:

10 (i) the state has a vital interest in ensuring that its citizens have a reasonable opportunity to
11 develop, own, and invest in renewable electricity generation;

12 (ii) the economic benefits of local renewable energy development to Minnesota's economy are
13 critical factors in state agency decision making regarding energy procurement and ratemaking;

14 (iii) opportunities to own renewable electricity generation projects are particularly important to
15 the future economic development and quality of life of the state's rural communities;

16 (iv) the citizens of Minnesota have a vital interest in participating in the state's efforts to limit
17 greenhouse gas emissions through the development and ownership of renewable electricity
18 generation projects;

19 (iv) the vast majority of Minnesotans are unable to benefit from the existing federal renewable
20 energy tax credit and other financial incentives supporting renewable energy projects, and are
21 therefore at a disadvantage relative to the large entities that are able to utilize these federal
22 incentives; and

23 (v) development of renewable energy in Minnesota requires that the state provide its citizens
24 with an opportunity to sell power at a just and reasonable price to the utilities that serve them.

25 (b) The purpose of the tariff is to:

26 (i) allow all Minnesotans to participate in renewable electricity generation by requiring that
27 utilities purchase such energy at a just and reasonable price;

28 (ii) stabilize the Minnesota marketplace for the development of renewable energy;

29 (iii) reduce the volatility of future electricity prices.

30 (iv) lower the long-term cost of electricity;

31 (v) stimulate the development of new jobs, technologies, and industry in Minnesota;.

1 (vi) enable the rapid and sustainable development of Minnesota's abundant renewable energy
2 resources for the generation of electricity with fewer environmental impacts, as required by
3 Minnesota's renewable energy standards under section 216B.1691;

4 (vii) assist Minnesota in achieving the greenhouse gas emissions reduction goals established
5 under section 216H.02, subdivision 1.

6 (viii) reduce air pollution from Minnesota's electric generation sector;

7 (ix) protect Minnesota's natural resources; and

8 (x) place Minnesota at the forefront among North America's renewable energy innovators.

9 (c) Sections 216B.1601 to 216B.1608 may be referred to as the Renewable Energy Feed-in Tariff
10 Act of 2008.

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12 Sec. 2. [216B.1602] [DEFINITIONS.]

13 Subdivision 1. **Adequate renewable energy development.** "Adequate renewable
14 energy development" means a rate of development necessary to accomplish the renewable
15 energy objectives and standards in section 216B.1691, subdivisions 2 and 2a.

16 Subd. 2. **Average specific yield.** "Average specific yield" means the average number of
17 kilowatt hours produced during the initial five years of production of a wind energy conversion
18 system, excluding the maximum and minimum years of production, divided by the rotor-swept
19 area in square meters.

20 Subd. 3. **Capacity.** "Capacity" means the nameplate capacity of a renewable electricity
21 generator.

22 Subd. 4. **Community-based energy development project or C-BED project.**
23 "Community-based energy development project" or "C-BED project" has the meaning given in
24 section 216B.1612, subdivision 2, paragraph (g).

25 Subd. 5. **Electric utility.** "Electric utility" means a public utility providing electric
26 service, a generation and transmission cooperative electric association, a municipal power
27 agency, or a power district.

28 Subd. 6. **Electrical distribution system.** "Electrical distribution system" means a system
29 to deliver electricity to consumers that does not require the voltage to be reduced in a power
30 substation.

31 Subd. 7. **Façade cladding project.** "Façade cladding project" means a project in which a
32 photovoltaic device is attached to the wall of a building.

1 Subd. 8. **Open field project.** “Open field project” means a photovoltaic device that has
2 no physical connection to a building other than electric lines to transport electricity.

3 Subd. 9. **Photovoltaic device.** “Photovoltaic device” has the meaning given in section
4 216C.06, subdivision 16.

5 Subd. 10. **Qualifying owner.** “Qualifying owner” has the meaning given in section
6 216B.1612, subdivision 2, paragraph (c)

7 Subd. 11. **Reasonable profit.** “Reasonable profit” means a rate of profit that is just and
8 reasonable, but not less than 10 percent per year.

9 Subd. 12. **Renewable electricity generator.** “Renewable electricity generator” means a
10 project (1) that generates electrical energy by means of an eligible energy technology as defined
11 in section 216B.1691, subdivision 1, but does not include an energy recovery facility used to
12 capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed
13 municipal solid waste as a primary fuel; and (2) in which one or more qualifying owners has at
14 least a 51% ownership interest.

15 Subd. 13. **Rooftop project.** “Rooftop project” means a project in which a photovoltaic
16 device is physically attached to the roof of a building.

17 Subd. 14. **Rotor-swept area.** “Rotor-swept area” means the frontal area of the wind
18 stream intercepted by a wind turbine, that is the area of circle swept by a conventional
19 horizontal-axis wind turbine rotor, or the area of the wind stream intercepted by a vertical-axis
20 wind turbine.

21 Subd. 15. **Small wind turbine.** “Small wind turbine” means a single wind turbine with a
22 rotor-swept area of no more than 1,000 square feet.

23 Subd. 16. **Wind energy conversion system.** “Wind energy conversion system” has the
24 meaning given in section 216C.06, subdivision 19.

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26 Sec. 3. [216B.1603] [TARIFF ESTABLISHED.]

27
28 A tariff is established to provide opportunities for Minnesotans to own and invest in renewable
29 electricity generation by requiring utilities to purchase electrical energy at a just and reasonable
30 price from Minnesota-owned renewable electricity generation projects connected to the electrical
31 distribution system in accordance with the standard terms and rates provided in sections
32 216B.1601 to 216B.1608.

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3 Sec. 4 [216B.1604] [TARIFF.]
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5 Subdivision 1. **Utilities to offer tariff.** By December 1, 2008, each electric utility providing
6 electric service at retail shall file for commission approval a tariff consistent with this section.

7 Subd. 2. **Tariff rates.** The tariff described in subdivision 1 must have a rate schedule as follows:

8 (a) for electricity generated by a wind energy conversion system, the lowest rate needed to
9 ensure adequate renewable energy development, plus a reasonable profit, but no less than the
10 following:

11 (1) for years 1 through 5 following commissioning of the project, \$0.105 per kilowatt hour;

12 (2) for years 6 through 20 following commissioning of the project:

13 (i) \$0.105 per kilowatt hour for projects with an average specific yield less than 700
14 kilowatt hours per square meter per year;

15 (ii) \$0.08 per kilowatt hour for projects with an average specific yield greater than 1,100
16 kilowatt hours per square meter per year; and

17 (iii) a linear extrapolation between the rates in (i) and (ii) for a project with an average
18 specific yield greater than 700 kilowatt hours per square meter per year but less than 1,100
19 kilowatt hours per square meter per year; and

20 (3) for a small wind energy conversion system, \$0.25 per kilowatt hour.

21 (b) for electricity generated from hydroelectric power, the lowest rate needed to ensure adequate
22 renewable energy development, plus a reasonable profit, but no less than the following:

23 (1) \$0.10 per kilowatt hour for a project with a capacity below 500 kilowatts;

24 (2) \$0.085 per kilowatt hour for a project with a capacity of 500 kilowatts but less than 10
25 megawatts; and

26 (3) \$0.065 per kilowatt hour for a project with a capacity of at least 10 megawatts but less than
27 20 megawatts.

28 (c) for electricity generated by an anaerobic digester system, as defined in section 216C.41,
29 subdivision 1, paragraph (e), or other biomass system, as defined in section 16C.051, subdivision
30 7, paragraph (g), clause (1), that operates at an efficiency of 60% or greater the lowest rate
31 needed to ensure adequate renewable energy development, plus a reasonable profit, but no less
32 than the following:

33 (1) \$0.145 per kilowatt hour for a project with a capacity below 150 kilowatts;

- 1 (2) \$0.125 per kilowatt hour for a project with a capacity of at least 150 kilowatts but less than
2 500 kilowatts;
3 (3) \$0.115 per kilowatt hour for a project with a capacity greater than 500 kilowatts but less than
4 5 megawatts; and
5 (4) \$0.105 per kilowatt hour for a project with a capacity of at least 5 megawatts but less than 20
6 megawatts.

7 (d) For electricity generated by landfill gas that operates at an efficiency of 60% or greater, the
8 lowest rate needed to ensure adequate renewable energy development, plus a reasonable profit,
9 but no less than the following:

- 10 (1) \$0.10 per kilowatt hour for a project with a capacity under 500 kilowatts;
11 (2) \$0.085 per kilowatt hour for a project with a capacity of 500 kilowatts or more.

12 (e) For electricity generated by a photovoltaic device, the lowest rate needed to ensure adequate
13 renewable energy development plus a reasonable profit, but no less than the following:

- 14 (1) \$0.50 per kilowatt hour for a free standing or open field project;
15 (2) \$0.65 per kilowatt hour for a rooftop project with a capacity below 30 kilowatts;
16 (3) \$0.62 per kilowatt hour for a rooftop project with a capacity of at least 30 kilowatts but less
17 than 100 kilowatts;
18 (4) \$0.61 per kilowatt hour for a rooftop project with a capacity of 100 kilowatts or more;
19 (5) \$0.71 per kilowatt hour for a façade cladding project with a capacity below 30 kilowatts;
20 (6) \$0.68 per kilowatt hour for a façade cladding project with a capacity of at least 30 kilowatts
21 but less than 100 kilowatts; and
22 (7) \$0.67 per kilowatt hour for a façade cladding project with a capacity of 100 kilowatts or
23 more.

24 For the purposes of this subdivision, “efficiency” means the sum of the net useful power output
25 plus the net useful thermal output of an electricity generating system divided by the total fuel
26 input.

27 **Subd. 3. Tariff terms.** (a) A power purchase agreement under a tariff under this section must
28 extend for a term not less than 20 years from the date of commissioning that are connected to the
29 electrical distribution system.

30 (b) A tariff under this section may apply only to a renewable electricity generator connected to
31 the electrical distribution system.

1 Subd. 4. **Reduction for other incentive programs.** The commission may not approve a rate
2 under the tariff established in this section if a project owner receives or intends to receive federal
3 or state subsidies, tax credits, or other financial incentives available to owners of renewable
4 electric generation facilities, unless those subsidies, incentives or credits have been deducted
5 from the rate. This subdivision does not apply to a tax under chapter 272 or to financial
6 incentives available to businesses that do not generate electricity from renewable sources.

7 Subd. 5. **Sale to non-qualifying owners limited.** During the term of a power purchase
8 agreement entered into under the tariff established in this section, no qualifying owner may
9 voluntarily sell its ownership interest in the renewable energy generator unless the sale is to
10 another qualifying owner and is approved by the commission. This subdivision does not restrict
11 transfers of interest by means other than voluntary sales.

12 Subd. 6. **Tariff review and adjustment.** (a) The commission shall review and adjust rates
13 adopted under the tariff in this section every two years as necessary to achieve adequate
14 renewable energy development, account for inflation, provide for a reasonable, but not excessive,
15 profit to owners of renewable electricity generators, promote development of C-BED projects,
16 and minimize costs to ratepayers of a utility's compliance with the renewable energy standards
17 under section 216B.1691.

18 (b) The commission may, after notice and hearing and upon finding that the objectives in section
19 216B.1691 are not likely to be met without extending this tariff to renewable electricity projects
20 connected to the electrical transmission system, require electric utilities to enter into power
21 purchase agreements with qualifying owners at rates in accordance with subdivision 2 as are
22 necessary to achieve adequate renewable energy development upon such terms needed to ensure
23 accomplishment of C-BED procurement goals and adequate local benefits as defined in section
24 216B.1691.

25 Subd. 5. **Interconnection.** The commission shall use its authority to ensure that renewable
26 electricity generators are interconnected to the electric power system to the maximum extent
27 allowed by federal law. The commission shall consult with the Federal Energy Regulatory
28 Commission, the Midwest Independent System Operator, and other appropriate entities to
29 establish an interconnection request review procedure to promptly and efficiently determine
30 whether or not the commission may interconnect a renewable energy generator that requests
31 interconnection under state authority. The commission shall issue orders necessary to establish
32 interconnection tariffs for the standardized, cost-effective, timely, reliable, and safe

1 interconnection of renewable electricity generators under state authority. The commission shall
2 establish standard interconnection contracts and interconnection schedules. The costs associated
3 with the interconnection of renewable electricity generators, including direct interconnection
4 costs, distribution system enhancements, and electric utility compliance costs, are recoverable as
5 provided in section 216B.1605.

6 **Subd. 6. Standard contract.** The commission shall approve a standard contract to be used in all
7 power purchase agreements under the tariff established under this section. The contract must
8 include the price paid for each kilowatt hour generated and a method to adjust the price for
9 inflation, and the duration of the contract.

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11 **Sec. 5. [216B.1605] [COST RECOVERY.]**

12 The commission shall require an electric utility to file rate schedules containing provisions for
13 the automatic adjustment of charges for electric utility service in direct relation to the cost of
14 electricity purchased from renewable electricity generators under the tariff established by this act
15 and all other costs required to comply with the tariff established under section 216B.1604.

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17 **Sec. 6. [216B.1606] [INFORMATION REQUIRED.]**

18 Renewable energy generators, qualifying owners that own all or part of a renewable energy
19 generator, and electric utilities shall, upon request, provide the commission any information that
20 may be relevant to the commission performing its duties under this act, including but not limited
21 to assessment of project development costs, equipment costs, electricity production costs,
22 interconnection costs, automatic rate adjustments, and compliance costs.

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24 **Sec. 7. [216B.1607] [LOAN ELIGIBILITY.]**

25 A renewable electricity generator is eligible for a loan under section 216C.39, subdivision 5.

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27 **Sec. 8. [216B.1608] [REPORT.]**

28 By January 1 of 2010 and 2011 and every 4 years thereafter, the commission shall submit a
29 report to the governor and legislature that shall include all of the following:

30 (a) the number of new renewable electricity generators in this state and the environmental effects
31 of the addition of those generators, including but not limited to the effects on progress toward
32 achieving the renewable energy objectives and standards in section 216B.1691;

1 (b) recommendations for legislation and changes to the rates in section 216B.1604, if any; and
2 (c) actions taken by the commission to implement this act and to use the tariff herein to achieve
3 the renewable energy objectives and standards in section 216B.1691.

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5 [EFFECTIVE DATE.] This section is effective the day following final enactment.

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