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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1315

03/02/2015 Authored by Garofalo, Hortman, Baker, Scott, Mahoney and others

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to energy; allowing performance-based, multiyear rate plans; providing
1.3 for competitive rate schedules for energy-intensive trade-exposed electric utility
1.4 customers; amending Minnesota Statutes 2014, section 216B.16, subdivision 19,
1.5 by adding a subdivision; proposing coding for new law in Minnesota Statutes,
1.6 chapter 216B.

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

1.8 Section 1. Minnesota Statutes 2014, section 216B.16, subdivision 19, is amended to
1.9 read:

1.10 Subd. 19. **Multiyear rate plan.** (a) A public utility may propose, and the
1.11 commission may approve, approve as modified, or reject, a multiyear rate plan as
1.12 provided in this subdivision. For the purposes of this subdivision, the term "multiyear
1.13 rate plan" refers to a plan establishing the rates the utility may charge for each year of the
1.14 specified period of years, which cannot exceed three years, to be covered by the plan. The
1.15 commission may approve a multiyear rate plan only if it finds that the plan establishes
1.16 just and reasonable rates for the utility, applying the factors described in subdivision 6.
1.17 Consistent with subdivision 4, the burden of proof to demonstrate that the multiyear rate
1.18 plan is just and reasonable is on the public utility proposing the plan.

1.19 (b) Rates charged under the multiyear rate plan must be based only upon the utility's
1.20 reasonable and prudent costs of service over the term of the plan, as determined by the
1.21 commission, provided that the costs are not being recovered elsewhere in rates. Rate
1.22 adjustments authorized under subdivisions 6b and 7 may continue outside of a plan
1.23 authorized under this subdivision.

1.24 (c) The commission may, by order, establish terms, conditions, and procedures for a
1.25 multiyear rate plan necessary to implement this section and ensure that rates remain just

2.1 and reasonable during the course of the plan, including terms and procedures for rate
 2.2 adjustment. At any time prior to conclusion of a multiyear rate plan, the commission,
 2.3 upon its own motion or upon petition of any party, has the discretion to examine the
 2.4 reasonableness of the utility's rates under the plan, and adjust rates as necessary.

2.5 (d) In reviewing a multiyear rate plan proposed in a general rate case under
 2.6 this section, the commission may extend the time requirements for issuance of a final
 2.7 determination prescribed in this section by an additional 90 days beyond its existing
 2.8 authority under subdivision 2, paragraph (f).

2.9 ~~(e) A utility may not file a multiyear rate plan that would establish rates under the~~
 2.10 ~~terms of the plan until after May 31, 2012.~~

2.11 Sec. 2. Minnesota Statutes 2014, section 216B.16, is amended by adding a subdivision
 2.12 to read:

2.13 Subd. 20. Performance-based multiyear rate plan. (a) A public utility may
 2.14 propose, and the commission may by order approve, approve as modified, or reject, a
 2.15 performance-based multiyear rate plan as provided in this subdivision. For the purposes of
 2.16 this subdivision, the term "performance-based multiyear rate plan" refers to a business
 2.17 plan establishing the rates the utility may charge or the process for annually adjusting
 2.18 rates for each year of the specified period of years, which cannot exceed five years,
 2.19 covered by the plan. Consistent with subdivision 4, the burden of proof to demonstrate
 2.20 the performance-based multiyear rate plan is just and reasonable is on the public utility
 2.21 proposing the plan.

2.22 (b) The performance-based multiyear rate plan replaces a general rate case filing
 2.23 pursuant to this section. The commission may approve a performance-based multiyear
 2.24 rate plan if it finds that the plan results in just and reasonable rates and:

2.25 (1) aligns rate, resource planning, grid planning, and policy decisions during the
 2.26 plan period;

2.27 (2) bases a portion of the utility's revenue on the achievement of performance
 2.28 metrics described in paragraph (c), clause (1), as approved by the commission;

2.29 (3) is designed to encourage operational efficiency; and

2.30 (4) reduces a utility's disincentive to promote energy efficiency and other activities
 2.31 that result in reduced utility sales.

2.32 (c) As part of its performance-based multiyear rate plan, the utility must:

2.33 (1) propose a set of performance metrics that are quantifiable, verifiable, within the
 2.34 utility's ability to control, consistent with state energy policy, and that enhance system
 2.35 value or customer value;

3.1 (2) provide a general description of the utility's major planned investments and
3.2 expenses over the plan period, including the investments and expenses that support
3.3 achievement of the performance metrics and state policy goals; and

3.4 (3) propose tariffs that expand the products and services available to customers,
3.5 including but not limited to a rate option for energy-intensive trade-exposed electric
3.6 utility customers as described in section 216B.1696, an affordability rate for low-income
3.7 residential customers, and a rate that allows customers to choose a carbon-free energy mix.

3.8 (d) The commission shall approve by order a set of performance metrics that meet
3.9 the criteria in paragraph (c), clause (1), and the associated incentive mechanisms after
3.10 receiving recommendations from a stakeholder group that must include the utility and
3.11 that shall be convened by a lead commissioner, as provided under section 216A.03,
3.12 subdivision 9. The lead commissioner shall ensure that a report on the outcome of the
3.13 stakeholder process is presented to the commission within six months of the date the
3.14 stakeholder group is initially convened.

3.15 (e) The performance-based multiyear rate plan shall include:

3.16 (1) recovery of the utility's forecast rate base including its planned capital
3.17 investments and investment-related costs, including income tax impacts, depreciation,
3.18 and property taxes, as well as forecasted capacity-related costs from purchased power
3.19 agreements that are not recovered under subdivision 7, based on a formula, a budget
3.20 forecast, or a fixed escalation rate, individually or in combination;

3.21 (2) recovery of operations and maintenance expenses, excluding costs recovered
3.22 under clauses (4) and (5), and other cost adjustment mechanisms, based on an
3.23 electricity-related price index;

3.24 (3) rate moderation tools to lessen rate impacts and promote rate stability;

3.25 (4) recovery of energy conservation improvement expenses authorized in
3.26 subdivisions 6b and 6c, fuel and purchased energy costs authorized in subdivision 7, and
3.27 other costs recovered through cost-recovery riders that the commission determines are
3.28 appropriate and necessary for effective implementation of the rate plan;

3.29 (5) adjustments to the rates under the approved plan for:

3.30 (i) major capital investments, asset acquisitions, or divestitures exceeding
3.31 \$50,000,000 that are approved by the commission after approval of a utility's
3.32 performance-based multiyear rate plan; or

3.33 (ii) events that are beyond a utility's control and result in material positive or
3.34 negative cost impacts, including but not limited to natural disasters or changes in state
3.35 or federal law or regulation; and

4.1 (6) sharing of a portion of earnings above the authorized return, exclusive of any
4.2 incentives allowed under this subdivision and subdivision 6c.

4.3 (f) A utility may include in its performance-based multiyear rate plan a request for
4.4 an annual adjustment mechanism for costs of investments, expenses, and amortization
4.5 in nuclear generation beyond the levels established in a utility's most recent rate case,
4.6 including a rate of return, income taxes on the rate of return, and incremental property
4.7 taxes, if any, plus incremental depreciation expenses associated with a utility's nuclear
4.8 assets, provided that costs recovered through the nuclear cost adjustment mechanism
4.9 remain subject to an annual review process that ensures costs recovered through the
4.10 mechanism were prudently incurred.

4.11 (g) A utility may file a performance-based multiyear rate plan based on a prior final
4.12 rate order from the commission, provided the rate order was issued within 24 months of
4.13 submitting a performance-based multiyear rate plan. The commission shall issue a decision
4.14 on the plan within the period established under subdivision 2, paragraph (f). A utility
4.15 submitting a performance-based multiyear rate plan under this paragraph shall use the same
4.16 base return on equity for the first two years of its five-year business plan, as authorized in
4.17 the most recent general rate case. The utility may propose and the commission may approve
4.18 a different return on equity or a formula to adjust return on equity based on observed
4.19 changes in interest rates or other relevant factors for years three through five of the plan.

4.20 (h) A utility may request to implement interim rates for the first year of the
4.21 performance-based multiyear plan and, if needed due to the schedule for processing the
4.22 request, the subsequent year of the plan. Interim rates shall be implemented in the same
4.23 manner as interim rates under subdivision 3.

4.24 (i) If the commission issues a final order that modifies the utility's proposed
4.25 performance-based multiyear rate plan beyond any modifications agreed to in the
4.26 stakeholder process, the utility may opt out of the plan by providing written notice to the
4.27 commission within 45 days of the date of the order modifying the plan. A utility opting
4.28 out is authorized to collect rates at the commission-ordered revenue levels specified for
4.29 the first year of the plan.

4.30 (j) The utility or commission may request a substantive review with the option to
4.31 amend or cancel the plan if the utility's earned return in a given year is 250 basis points
4.32 above or below the authorized level.

4.33 **Sec. 3. [216B.1696] COMPETITIVE RATE FOR ENERGY-INTENSIVE**
4.34 **TRADE-EXPOSED ELECTRIC UTILITY CUSTOMER.**

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

5.3 (b) "Clean energy technology" is energy technology that generates electricity from a
 5.4 noncarbon-emitting resource, including but not limited to solar, wind, hydroelectric,
 5.5 and nuclear.

5.6 (c) "Energy-intensive trade-exposed customer" is defined to include:

5.7 (1) an iron mining extraction and processing facility, including a scam mining
 5.8 facility as defined in Minnesota Rules, part 6130.0100, subpart 16;

5.9 (2) a paper mill, wood products manufacturer, sawmill, or oriented strand board
 5.10 manufacturer;

5.11 (3) a copper, nickel, or precious metals mining extraction and processing facility;

5.12 (4) a steel mill and related facilities;

5.13 (5) an oil and liquids pipeline;

5.14 (6) a ceiling panel manufacturer; and

5.15 (7) any other globally competitive electric utility customer who can demonstrate
 5.16 that energy costs are a significant portion of the customer's overall cost of production and
 5.17 impede the customer's ability to compete in the global market.

5.18 (d) "EITE rate schedule" means a rate schedule of an investor-owned electric
 5.19 utility that establishes the terms of service for an individual or group of energy-intensive,
 5.20 trade-exposed customers.

5.21 (e) "EITE rate" means the rate or rates offered by the utility under an EITE rate
 5.22 schedule.

5.23 Subd. 2. **Rates and terms of EITE rate schedule.** (a) It is the energy policy
 5.24 of the state of Minnesota to promote competitive electric rates for energy-intensive,
 5.25 trade-exposed customers, as provided in this section. To achieve this objective, an
 5.26 investor-owned electric utility may propose an EITE rate schedule for commission
 5.27 approval that includes various EITE rate options, including fixed rates, market-based rates,
 5.28 and rates to encourage utilization of clean energy technology.

5.29 (b) Notwithstanding section 216B.03, 216B.05, 216B.06, 216B.07, or 216B.16, the
 5.30 commission shall approve a proposed EITE rate schedule if it finds the schedule provides
 5.31 net benefits to the utility and its customers, considering among other things:

5.32 (1) potential cost impacts to the utility customers;

5.33 (2) the net benefit to the local or state economy through the retention of or increase
 5.34 to existing jobs;

5.35 (3) a net increase in economic development in the utility's service territory; and

5.36 (4) avoiding a significant increase in rates due to a reduction of EITE customer load.

6.1 (c) An EITE rate offered by an electric utility under an approved EITE rate schedule
6.2 must be filed with the commission. The commission shall review and approve the EITE
6.3 rate offered by an electric utility if it finds the rate provides net benefits to the utility and
6.4 its customers as described above. The commission shall make a final determination in
6.5 any proceeding begun under this section within 90 days of a miscellaneous rate filing by
6.6 the electric utility.

6.7 (d) Upon approval of an EITE rate, the utility may recover the incremental costs
6.8 associated with providing service to a customer under the EITE rate from the utility's
6.9 nonenergy-intensive, trade-exposed customers, except low-income residential ratepayers,
6.10 as defined in section 216B.16, subdivision 15.