

Summary of 2007 Minnesota Legislation Relating to Community Wind

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Two major bills were passed during the 2007 Minnesota legislative session that contained provisions relating to community wind: SF 145 (policy bill) and SF 2096 (appropriation bill). Several earlier, separate proposals relating to community wind were rolled into these omnibus bills. Below is a summary of the major provisions relating to community wind in both of these bills. Excerpts of the relevant portions of the bills are provided in Attachment A (SF 145) and Attachment B (SF 2096). References in the summary to specific line numbers refer to the attachments.

In addition to these two major bills, two other bills passed in 2007 had provisions relating to community wind:

- SF 4 (Renewable Energy Standard) requires the Public Utilities Commission to consider maximizing local benefits in the implementation of the RES.
- SF 563 requires the MN Department of Employment and Economic Development to develop a strategy to obtain the maximum economic benefit to the state from the RES.

The following are from SF 145:

Community Based Energy Development (C-BED) statute revision and C-BED advisory committee

Some of the C-BED tariff language was changed, including the following:

- C-BED now includes other renewable technologies other than wind. (various places)
- Allows utilities to participate in C-BED projects. (line 30.20)
- Clarifies and provides for automatic utility rate recovery for C-BED projects. (line 30.28)
- As many of the major issues related to what qualifies for a C-BED project were not able to be resolved prior to the bill's passage, provides for an advisory committee to be established by the Legislative Electric Energy Task Force. (line 39.11)
- Eliminates the tariff price cap for C-BED projects (used to be 2.7 cents/kWh net present value over 20 year life of the project). (line 28.22)
- Requires PUC to study if curtailment payments unduly discriminate against community wind projects. (line 31.30)
- Competitive resource acquisition requirements are relaxed for C-BED projects, and Xcel is required to file a C-BED renewable energy plan by March, 2008. Xcel must include C-BED in its integrated resource plan. (line 32.5)

Local permit changes

- For projects of less than 25 MW, counties can choose whether to permit, or have the state permit. (line 34.27)
- The PUC must initiate a process to establish general permit standards for projects less than 25 MW. Counties may have a more stringent standard if they wish. The PUC and DOC shall provide technical assistance to counties for processing county site permit applications. (line 35.13)

Wind easement sunset clause

Wind easements and options are terminated after 7 years if a project doesn't achieve commercial operation by then. Applies to easements entered into after the law was passed. (line 36.15)

Dispersed generation study

- Dispersed generation defined as renewable generation between 10-40 MW. (line 37.8)
- Study conducted in two phases: first phase looks at potential to add 120 MW from each of 5 Minnesota transmission planning zones (600 MW total), to be completed by June 15, 2008. Second phase evaluates adding an addition 600 MW dispersed generation, to be completed by September 15, 2009. (line 37.16)
- Study to calculate the transmission upgrades and costs necessary to accommodate the 600 MW.
- Technical review committee established to guide the study. (line 38.17)
- Public input required, and three public meetings to be held for each study phase, in each transmission planning area (30 meetings total over 3 years).

Study of wind development property agreements

The Legislative Electric Energy Task Force to study whether state should regulate wind easements, leases and options to determine whether the duration and other terms should be limited. To be completed by February 1, 2008. (line 39.2)

Transmission authority and interconnection evaluation

The reliability administrator is directed to review other states with publicly-owned transmission authorities to see if there would be benefits to Minnesota of adopting this model. Also must assess potential for and barriers to interconnecting dispersed generation projects that wouldn't be subject to MISO requirements. To be completed by February 15, 2008. (line 40.14)

The following are from SF 2096:

Rural wind energy development revolving loan fund

Two million is appropriated for a revolving loan fund to be administered by the Dept. of Commerce for the purpose of funding C-BED project wind studies and interconnection studies. Interest rate for the loans is not to exceed 1.5 percent.

Rural wind energy development assistance program

One million is appropriated to give a grant to a non-profit to provide development assistance to community projects. The Center for Rural Policy and Development will issue an RFP and select the winner. Original bill language for two million was reduced to one million by governor's veto.

Attachment A: Excerpt of Senate File 145 (includes all of Article 4)

Full text available at:

http://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_detail.php?b=Senate&f=SF145&ssn=0&y=2007

ARTICLE 4 C-BED AND RELATED ISSUES

- 27.4 Section 1. Minnesota Statutes 2006, section 216B.1612, subdivision 1, is amended to
27.5 read:
- 27.6 Subdivision 1. **Tariff establishment.** A tariff shall be established to optimize local,
27.7 regional, and state benefits from ~~wind~~ renewable energy development and to facilitate
27.8 widespread development of community-based ~~wind~~ renewable energy projects throughout
27.9 Minnesota.
- 27.10 Sec. 2. Minnesota Statutes 2006, section 216B.1612, subdivision 2, is amended to read:
- 27.11 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given
27.12 them in this subdivision.
- 27.13 (b) "C-BED tariff" or "tariff" means a community-based energy development tariff.
- 27.14 (c) "Qualifying owner" means:
- 27.15 (1) a Minnesota resident;
- 27.16 (2) a limited liability company that is organized under ~~the laws of this state~~ chapter
27.17 322B and that is made up of members who are Minnesota residents;
- 27.18 (3) a Minnesota nonprofit organization organized under chapter 317A;
- 27.19 (4) a Minnesota cooperative association organized under chapter 308A or 308B,
27.20 ~~other than including~~ a rural electric cooperative association or a generation and
27.21 transmission cooperative on behalf of and at the request of a member distribution utility;
- 27.22 (5) a Minnesota political subdivision or local government ~~other than including,~~
27.23 but not limited to, a municipal electric utility, or a municipal power agency on behalf
27.24 of and at the request of a member distribution utility, including, but not limited to, a
27.25 county, statutory or home rule charter city, town, school district, or public or private
27.26 higher education institution or any other local or regional governmental organization such
27.27 as a board, commission, or association; or
- 27.28 (6) a tribal council.
- 27.29 (d) "Net present value rate" means a rate equal to the net present value of the
27.30 nominal payments to a project divided by the total expected energy production of the
27.31 project over the life of its power purchase agreement.
- 27.32 (e) "Standard reliability criteria" means:
- 27.33 (1) can be safely integrated into and operated within the utility's grid without causing
27.34 any adverse or unsafe consequences; and
- 28.1 (2) is consistent with the utility's resource needs as identified in its most recent
28.2 resource plan submitted under section 216B.2422.
- 28.3 (f) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1,
28.4 paragraph (a).
- 28.5 (g) "Community-based energy development project" or "C-BED project" means
28.6 a new ~~wind~~ renewable energy project that either as a stand-alone project or part of a
28.7 partnership under subdivision 8:
- 28.8 (1) has no single qualifying owner owning more than 15 percent of a C-BED wind
28.9 energy project that consists of more than two turbines; or unless: (i) the C-BED wind

28.10 energy project consists of only one or two turbines; or (ii) the qualifying owner is a public
28.11 entity listed under paragraph (b), clause (5), that is not a municipal utility;
28.12 (2) for C-BED projects of one or two turbines, is owned entirely by one or more
28.13 qualifying owners, with demonstrates that at least 51 percent of the total financial benefits
28.14 gross revenues from a power purchase agreement over the life of the project flowing
28.15 will flow to qualifying owners and other local entities; and
28.16 (3) has a resolution of support adopted by the county board of each county in which
28.17 the project is to be located, or in the case of a project located within the boundaries of a
28.18 reservation, the tribal council for that reservation.
28.19 **EFFECTIVE DATE.**This section is effective the day following final enactment.

28.20 Sec. 3. Minnesota Statutes 2006, section 216B.1612, subdivision 3, is amended to read:
28.21 Subd. 3. **Tariff rate.** (a) The tariff described in subdivision 4 must have a rate
28.22 schedule that allows for a ~~rate up to a 2.7 cents per kilowatt-hour~~ net present value rate
28.23 over the 20-year life of the power purchase agreement. The tariff must provide for a rate
28.24 that is higher in the first ten years of the power purchase agreement than in the last ten
28.25 years. The discount rate required to calculate the net present value must be the utility's
28.26 normal discount rate used for its other business purposes.
28.27 (b) The commission shall consider mechanisms to encourage the aggregation
28.28 of C-BED projects.
28.29 (c) The commission shall require that qualifying and nonqualifying owners provide
28.30 sufficient security to secure performance under the power purchase agreement, and shall
28.31 prohibit the transfer of the C-BED project to a nonqualifying owner during the initial
28.32 20 years of the contract.
28.33 **EFFECTIVE DATE.**This section is effective the day following final enactment.

29.1 Sec. 4. Minnesota Statutes 2006, section 216B.1612, subdivision 4, is amended to read:
29.2 Subd. 4. **Utilities to offer tariff.** By December 1, ~~2005~~ 2007, each public utility
29.3 providing electric service at retail shall file for commission approval a community-based
29.4 energy development tariff consistent with subdivision 3. Within 90 days of the
29.5 first commission approval order under this subdivision, each municipal power
29.6 agency and generation and transmission cooperative electric association shall adopt a
29.7 community-based energy development tariff as consistent as possible with subdivision 3.
29.8 **EFFECTIVE DATE.**This section is effective the day following final enactment.

29.9 Sec. 5. Minnesota Statutes 2006, section 216B.1612, subdivision 5, is amended to read:
29.10 Subd. 5. **Priority for C-BED projects.** (a) A utility subject to section 216B.1691
29.11 that needs to construct new generation, or purchase the output from new generation, as
29.12 part of its plan to satisfy its good faith objective and standard under that section ~~should~~
29.13 must take reasonable steps to determine if one or more C-BED projects are available that
29.14 meet the utility's cost and reliability requirements, applying standard reliability criteria, to
29.15 fulfill some or all of the identified need at minimal impact to customer rates.
29.16 Nothing in this section shall be construed to obligate a utility to enter into a power
29.17 purchase agreement under a C-BED tariff developed under this section.
29.18 (b) Each utility shall include in its resource plan submitted under section 216B.2422
29.19 a description of its efforts to purchase energy from C-BED projects, including a list of the
29.20 projects under contract and the amount of C-BED energy purchased.
29.21 (c) The commission shall consider the efforts and activities of a utility to purchase
29.22 energy from C-BED projects when evaluating its good faith effort towards meeting the
29.23 renewable energy objective under section 216B.1691.
29.24 (d) A municipal power agency or generation and transmission cooperative shall,

29.25 when issuing a request for proposals for C-BED projects to satisfy its standard obligation
29.26 under section 216B.1691, provide notice to its member distribution utilities that they
29.27 may propose, in partnership with other qualifying owners, a C-BED project for the
29.28 consideration of the municipal power agency or generation and transmission cooperative.
29.29 **EFFECTIVE DATE.**This section is effective the day following final enactment.

29.30 Sec. 6. Minnesota Statutes 2006, section 216B.1612, subdivision 7, is amended to read:
29.31 Subd. 7. **Other C-BED tariff issues.** (a) A community-based project developer
29.32 and a utility shall negotiate the rate and power purchase agreement terms consistent with
29.33 the tariff established under subdivision 4.

30.1 (b) At the discretion of the developer, a community-based project developer and
30.2 a utility may negotiate a power purchase agreement with terms different from the tariff
30.3 established under subdivision 4.

30.4 (c) A qualifying owner, or any combination of qualifying owners, may develop a
30.5 joint venture project with a nonqualifying ~~wind~~ renewable energy project developer.
30.6 However, the terms of the C-BED tariff may only apply to the portion of the energy
30.7 production of the total project that is directly proportional to the equity share of the project
30.8 owned by the qualifying owners.

30.9 (d) A project that is operating under a power purchase agreement under a C-BED
30.10 tariff is not eligible for net energy billing under section 216B.164, subdivision 3, or for
30.11 production incentives under section 216C.41.

30.12 (e) A public utility must receive commission approval of a power purchase
30.13 agreement for a C-BED tariffed project. The commission shall provide the utility's
30.14 ratepayers an opportunity to address the reasonableness of the proposed power purchase
30.15 agreement. Unless a party objects to a contract within 30 days of submission of the
30.16 contract to the commission the contract is deemed approved.

30.17 **EFFECTIVE DATE.**This section is effective the day following final enactment.

30.18 Sec. 7. Minnesota Statutes 2006, section 216B.1612, is amended by adding a
30.19 subdivision to read:

30.20 Subd. 8. **Community energy partnerships.** A utility providing electric service
30.21 to retail or wholesale customers in Minnesota and an independent power producer may,
30.22 subject to the limits specified in this section, participate in a community-based energy
30.23 project, including as an owner, equity partner, or provider of technical or financial
30.24 assistance.

30.25 **EFFECTIVE DATE.**This section is effective the day following final enactment.

30.26 Sec. 8. Minnesota Statutes 2006, section 216B.1645, is amended by adding a
30.27 subdivision to read:

30.28 Subd. 2b. **Cost recovery for owned renewable facilities.** (a) A utility may petition
30.29 the commission to approve a rate schedule that provides for the automatic adjustment of
30.30 charges to recover prudently incurred investments, expenses, or costs associated with
30.31 facilities constructed, owned, or operated by a utility to satisfy the requirements of section
30.32 216B.1691, provided those facilities were previously approved by the commission under
31.1 section 216B.2422 or 216B.243. The commission may approve, or approve as modified, a
31.2 rate schedule that:

31.3 (1) allows a utility to recover directly from customers on a timely basis the costs of
31.4 qualifying renewable energy projects, including:

31.5 (i) return on investment;

31.6 (ii) depreciation;

31.7 (iii) ongoing operation and maintenance costs;

- 31.8 (iv) taxes; and
31.9 (v) costs of transmission and other ancillary expenses directly allocable to
31.10 transmitting electricity generated from a project meeting the specifications of this
31.11 paragraph;
31.12 (2) provides a current return on construction work in progress, provided that recovery
31.13 of these costs from Minnesota ratepayers is not sought through any other mechanism;
31.14 (3) allows recovery of other expenses incurred that are directly related to a renewable
31.15 energy project, provided that the utility demonstrates to the commission's satisfaction that
31.16 the expenses improve project economics, ensure project implementation, or facilitate
31.17 coordination with the development of transmission necessary to transport energy produced
31.18 by the project to market;
31.19 (4) allocates recoverable costs appropriately between wholesale and retail customers;
31.20 (5) terminates recovery when costs have been fully recovered or have otherwise
31.21 been reflected in a utility's rates.
31.22 (b) A petition filed under this subdivision must include:
31.23 (1) a description of the facilities for which costs are to be recovered;
31.24 (2) an implementation schedule for the facilities;
31.25 (3) the utility's costs for the facilities;
31.26 (4) a description of the utility's efforts to ensure that costs of the facilities are
31.27 reasonable and were prudently incurred; and
31.28 (5) a description of the benefits of the project in promoting the development of
31.29 renewable energy in a manner consistent with this chapter.

31.30 **Sec. 9. [216B.1681] CURTAILMENT PAYMENTS.**

31.31 The commission shall conduct a study of curtailment payments for wind energy
31.32 projects to assess whether utilities are unduly discriminating among project ownership
31.33 structures in regard to the contractual availability of curtailment payments. The
31.34 commission shall submit the study to the chairs and ranking minority members of the
32.1 senate and house of representatives committees with primary jurisdiction over energy
32.2 policy by January 15, 2008.

32.3 Sec. 10. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
32.4 subdivision to read:

32.5 **Subd. 7. Utility acquisition of resources.** A competitive resource acquisition
32.6 process established by the commission prior to June 1, 2007, shall not apply to a utility
32.7 for the construction, ownership, and operation of generation facilities used to satisfy the
32.8 requirements of this section unless, upon a finding that it is in the public interest, the
32.9 commission issues an order on or after June 1, 2007, that requires compliance by a utility
32.10 with a competitive resource acquisition process. A utility that owns a nuclear generation
32.11 facility and intends to construct, own, or operate facilities under this section shall file with
32.12 the commission on or before March 1, 2008, a renewable energy plan setting forth the
32.13 manner in which the utility proposes to meet the requirements of this section, including
32.14 a proposed schedule for purchasing renewable energy from C-BED and non-C-BED
32.15 projects. The utility shall update the plan as necessary in its filing under section
32.16 216B.2422. The commission shall approve the plan unless it determines, after public
32.17 hearing and comment, that the plan is not in the public interest. As part of its determination
32.18 of public interest, the commission shall consider the plan's allocation of projects among
32.19 C-BED, non-C-BED, and utility-owned projects, balancing the state's interest in:
32.20 (1) promoting the policy of economic development in rural areas through the
32.21 development of renewable energy projects, as expressed in subdivision 9;
32.22 (2) maintaining the reliability of the state's electric power grid; and

32.23 (3) minimizing cost impacts on ratepayers.

32.24 Sec. 11. Minnesota Statutes 2006, section 216C.052, is amended to read:

32.25 **216C.052 RELIABILITY ADMINISTRATOR.**

32.26 Subdivision 1. **Responsibilities.** (a) There is established the position of reliability
32.27 administrator in the ~~Public Utilities Commission~~ Department of Commerce. The
32.28 administrator shall act as a source of independent expertise and a technical advisor to
32.29 the commissioner, the commission and the public on issues related to the reliability of
32.30 the electric system. In conducting its work, the administrator shall provide assistance
32.31 to the ~~commission commissioner~~ in administering and implementing the commission's
32.32 department's duties under sections 216B.1612, 216B.1691, 216B.2422, 216B.2425, and
32.33 216B.243 ; chapters 216E, 216F, and 216G; and rules associated with those provisions-

32.34 ~~Subject to resource constraints, the reliability administrator may also~~ and shall also:

33.1 (1) model and monitor the use and operation of the energy infrastructure in the
33.2 state, including generation facilities, transmission lines, natural gas pipelines, and other
33.3 energy infrastructure;

33.4 (2) develop and present to the commission and parties technical analyses of proposed
33.5 infrastructure projects, and provide technical advice to the commission;

33.6 (3) present independent, factual, expert, and technical information on infrastructure
33.7 proposals and reliability issues at public meetings hosted by the task force, the
33.8 Environmental Quality Board, the department, or the commission.

33.9 (b) Upon request and subject to resource constraints, the administrator shall
33.10 provide technical assistance regarding matters unrelated to applications for infrastructure
33.11 improvements to the task force, the department, or the commission.

33.12 (c) The administrator may not advocate for any particular outcome in a commission
33.13 proceeding, but may give technical advice to the commission as to the impact on the
33.14 reliability of the energy system of a particular project or projects.

33.15 Subd. 2. **Administrative issues.** (a) The ~~commission commissioner~~ may select the
33.16 administrator who shall serve for a four year term. The administrator must have at least
33.17 five years of experience working as a power systems engineer or transmission planner, or
33.18 in a position dealing with power system reliability issues, and may not have been a party
33.19 or a participant in a commission energy proceeding for at least one year prior to selection
33.20 by the ~~commission commissioner~~. The ~~commission commissioner~~ shall oversee and
33.21 direct the work of the administrator, annually review the expenses of the administrator,
33.22 and annually approve the budget of the administrator. ~~Pursuant to commission approval,~~
33.23 The administrator may hire staff and may contract for technical expertise in performing
33.24 duties when existing state resources are required for other state responsibilities or when
33.25 special expertise is required. The salary of the administrator is governed by section
33.26 15A.0815, subdivision 2 .

33.27 (b) Costs relating to a specific proceeding, analysis, or project are not general
33.28 administrative costs. For purposes of this section, "energy utility" means public utilities,
33.29 generation and transmission cooperative electric associations, and municipal power
33.30 agencies providing natural gas or electric service in the state.

33.31 (c) The ~~commission~~ Department of Commerce shall pay:

33.32 (1) the general administrative costs of the administrator, not to exceed \$1,000,000 in
33.33 a fiscal year, and shall assess energy utilities for those administrative costs. These costs
33.34 must be consistent with the budget approved by the ~~commission commissioner~~ under
33.35 paragraph (a). The ~~commission department~~ shall apportion the costs among all energy
33.36 utilities in proportion to their respective gross operating revenues from sales of gas or
34.1 electric service within the state during the last calendar year, and shall then render a
34.2 bill to each utility on a regular basis; and

34.3 (2) costs relating to a specific proceeding analysis or project and shall render a bill to
34.4 the specific energy utility or utilities participating in the proceeding, analysis, or project
34.5 directly, either at the conclusion of a particular proceeding, analysis, or project, or from
34.6 time to time during the course of the proceeding, analysis, or project.

34.7 (d) For purposes of administrative efficiency, the ~~commission~~ department shall
34.8 assess energy utilities and issue bills in accordance with the billing and assessment
34.9 procedures provided in section 216B.62, to the extent that these procedures do not
34.10 conflict with this subdivision. The amount of the bills rendered by the ~~commission~~
34.11 department under paragraph (c) must be paid by the energy utility into an account in the
34.12 special revenue fund in the state treasury within 30 days from the date of billing and is
34.13 appropriated to the ~~commission~~ department for the purposes provided in this section.
34.14 The commission shall approve or approve as modified a rate schedule providing for the
34.15 automatic adjustment of charges to recover amounts paid by utilities under this section.
34.16 All amounts assessed under this section are in addition to amounts appropriated to the
34.17 commission and the department by other law.

34.18 Subd. 3. **Assessment and appropriation.** In addition to the amount noted in
34.19 subdivision 2, the ~~commission~~ commissioner may assess utilities, using the mechanism
34.20 specified in that subdivision, up to an additional \$500,000 annually through June 30,
34.21 2008. The amounts assessed under this subdivision are appropriated to the ~~commission~~
34.22 commissioner, and some or all of the amounts assessed may be transferred to the
34.23 commissioner of administration, for the purposes specified in section 16B.325 and Laws
34.24 2001, chapter 212, article 1, section 3, as needed to implement those sections.

34.25 Subd. 4. **Expiration.** Subdivisions 1 and 2 expire June 30, ~~2007~~ 2012. Subdivision
34.26 3 expires June 30, 2008.

34.27 Sec. 12. **[216F.011] SIZE DETERMINATION.**

34.28 (a) The total size of a combination of wind energy conversion systems for the
34.29 purpose of determining what jurisdiction has siting authority under this chapter must
34.30 be determined according to this section. The nameplate capacity of one wind energy
34.31 conversion system must be combined with the nameplate capacity of any other wind
34.32 energy conversion system that:

- 34.33 (1) is located within five miles of the wind energy conversion system;
34.34 (2) is constructed within the same 12-month period as the wind energy conversion
34.35 system; and
35.1 (3) exhibits characteristics of being a single development, including, but not limited
35.2 to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue
35.3 sharing arrangements, and common debt or equity financing.

35.4 (b) The commissioner shall provide forms and assistance for project developers to
35.5 make a request for a size determination. Upon written request of a project developer, the
35.6 commissioner of commerce shall provide a written size determination within 30 days
35.7 of receipt of the request and of any information requested by the commissioner. In the
35.8 case of a dispute, the chair of the Public Utilities Commission shall make the final size
35.9 determination.

35.10 (c) An application to a county for a permit under this chapter for a wind energy
35.11 conversion system is not complete without a size determination made under this section.
35.12 **EFFECTIVE DATE.** This section is effective January 15, 2008.

35.13 Sec. 13. **[216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

35.14 (a) A county board may, by resolution and upon written notice to the Public Utilities
35.15 Commission, assume responsibility for processing applications for permits required
35.16 under this chapter for LWECs with a combined nameplate capacity of less than 25,000

35.17 kilowatts. The responsibility for permit application processing, if assumed by a county,
35.18 may be delegated by the county board to an appropriate county officer or employee.
35.19 Processing by a county shall be done in accordance with procedures and processes
35.20 established under chapter 394.
35.21 (b) A county board that exercises its option under paragraph (a) may issue, deny,
35.22 modify, impose conditions upon, or revoke permits pursuant to this section. The action
35.23 of the county board about a permit application is final, subject to appeal as provided
35.24 in section 394.27.
35.25 (c) The commission shall, by order, establish general permit standards, including
35.26 appropriate property line set-backs, governing site permits for LWECS under this section.
35.27 The order must consider existing and historic commission standards for wind permits
35.28 issued by the commission. The general permit standards shall apply to permits issued by
35.29 counties and to permits issued by the commission for LWECS with a combined nameplate
35.30 capacity of less than 25,000 kilowatts. The commission or a county may grant a variance
35.31 from a general permit standard if the variance is found to be in the public interest.
35.32 (d) The commission and the commissioner of commerce shall provide technical
35.33 assistance to a county with respect to the processing of LWECS site permit applications.
35.34 **EFFECTIVE DATE.**This section is effective January 15, 2008.

36.1 **Sec. 14. [216F.081] APPLICATION OF COUNTY STANDARDS.**

36.2 A county may adopt by ordinance standards for LWECS that are more stringent than
36.3 standards in commission rules or in the commission's permit standards. The commission,
36.4 in considering a permit application for LWECS in a county that has adopted more stringent
36.5 standards, shall consider and apply those more stringent standards, unless the commission
36.6 finds good cause not to apply the standards.

36.7 Sec. 15. Minnesota Statutes 2006, section 500.30, subdivision 2, is amended to read:
36.8 Subd. 2. **Like any conveyance.** Any property owner may grant a solar or wind
36.9 easement in the same manner and with the same effect as a conveyance of an interest in
36.10 real property. The easements shall be created in writing and shall be filed, duly recorded,
36.11 and indexed in the office of the recorder of the county in which the easement is granted.
36.12 No duly recorded easement shall be unenforceable on account of lack of privity of estate
36.13 or privity of contract; such easements shall run with the land or lands benefited and
36.14 burdened and shall constitute a perpetual easement, except that an easement may terminate
36.15 upon the conditions stated therein or pursuant to the provisions of section 500.20. A wind
36.16 easement, easement to install wind turbines on real property, option, or lease of wind
36.17 rights shall also terminate after seven years from the date the easement is created or lease
36.18 is entered into, if a wind energy project on the property to which the easement or lease
36.19 applies does not begin commercial operation within the seven-year period.
36.20 **EFFECTIVE DATE.**This section is effective the day following final enactment,
36.21 and applies to wind easements created and wind rights leases entered into on and after
36.22 the effective date of this section.

36.23 **Sec. 16. RESOURCE ASSESSMENT.**

36.24 The reliability administrator shall conduct an engineering assessment of Minnesota's
36.25 electricity resource needs through 2025, with a focus on baseload resources. The
36.26 reliability administrator may contract with an independent entity to conduct all or part of
36.27 the study. The assessment must consider additional generation and transmission resources
36.28 necessary to meet the state's renewable energy standard under Laws 2007, chapter 3,
36.29 section 1, subdivision 2a, and projected energy savings resulting from the implementation
36.30 of article 2. The assessment, among other activities, must review and evaluate the most

36.31 recent Minnesota utility demand forecasts, integrated resource plans filed under section
36.32 216B.2422, and transmission projects reports filed under section 216B.2425, including
36.33 the assumptions underlying them, and provide independent projections of demand and
36.34 baseload and nonbaseload generation and transmission resources available to meet
37.1 projected demand in 2010, 2015, 2020, and 2025. The reliability administrator shall
37.2 manage the assessment process and shall appoint a technical review committee to review
37.3 the assessment's proposed methods, assumptions, and preliminary data and results. The
37.4 reliability administrator must submit a report on the assessment to the chairs and ranking
37.5 minority members of the senate and house of representatives committees with primary
37.6 jurisdiction over energy policy. The cost of the assessment is recoverable under section
37.7 216C.052, subdivision 2.

37.8 **Sec. 17. STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.**

37.9 **Subdivision 1. Definition.** "Dispersed generation" means an electric generation
37.10 project with a generating capacity between ten and 40 megawatts that utilizes an "eligible
37.11 energy technology," as defined in Minnesota Statutes, section 216B.1691, subdivision 1,
37.12 paragraph (a).

37.13 **Subd. 2. Study participants.** Each electric utility subject to Minnesota Statutes,
37.14 section 216B.1691, must participate collaboratively in conducting a two-phase study of
37.15 the potential for dispersed generation projects that can be developed in Minnesota.

37.16 **Subd. 3. First phase study content; report.** In the first phase of the study,
37.17 participants must analyze the impacts of the addition of a total of 600 megawatts of
37.18 new dispersed generation projects distributed among the following Minnesota electric
37.19 transmission planning zones: the Northeast zone, the Northwest zone, the Southeast
37.20 zone, the Southwest zone, and the West-Central zone. Study participants must use a
37.21 generally accepted 2010 year transmission system model including all transmission
37.22 facilities expected to be operating in 2010. The study must take into consideration
37.23 regional projected load growth, planned changes in the bulk transmission network, and the
37.24 long-range transmission conceptual plan being developed under Laws 2007, chapter 3,
37.25 section 2. In determining locations for the installation of dispersed generation projects
37.26 that consist of wind energy conversion systems, the study should consider, at a minimum,
37.27 wind resource availability, existing and contracted wind projects, and current dispersed
37.28 generation projects in the Midwest Independent System Operator interconnection queue.
37.29 The study must analyze the impacts of individual projects and all projects in aggregate on
37.30 the transmission system, and identify specific modifications to the transmission system
37.31 necessary to remedy any problems caused by the installation of dispersed generation
37.32 projects, including cost estimates for the modifications. The study must analyze the
37.33 additional dispersed generation projects connected at the lowest voltage level transmission
37.34 that exists in the vicinity of the projected generation sites. A preliminary analysis to
37.35 identify transmission system problems must be conducted with the projects installed at
38.1 initially selected locations. The technical review committee may, after reviewing the
38.2 locations selected for installation, recommend moving the installation sites once to new
38.3 locations to reduce undesirable transmission system impacts. The commissioner of
38.4 commerce must submit a report containing the findings and recommendations of the first
38.5 phase of the study to the commission no later than June 15, 2008.

38.6 **Subd. 4. Second phase study content; report.** In the second phase of the study,
38.7 participants must analyze the impacts of an additional total of 600 megawatts of dispersed
38.8 generation projects installed among the five transmission planning zones, or a higher total
38.9 capacity amount if agreed to by both the utilities and the technical review committee. The
38.10 utilities must employ an analysis method similar to that used in the first phase of the study,
38.11 and must use the most recent information available, including information developed in

38.12 the first phase. The second phase of the study must use a generally accepted 2013 year
38.13 transmission system model including all transmission facilities that are expected to be
38.14 in service at that time. The commissioner of commerce must submit a report containing
38.15 the findings and recommendations of the second phase of the study to the commission no
38.16 later than September 15, 2009.

38.17 Subd. 5. **Technical review committee.** Prior to the start of the first phase of
38.18 the study, the commissioner of commerce must appoint a technical review committee
38.19 consisting of between ten and 15 individuals with experience and expertise in electric
38.20 transmission system engineering, renewable energy generation technology, and dispersed
38.21 generation project development, including representatives from the federal Department
38.22 of Energy, the Midwest Independent System Operator, and stakeholder interests. The
38.23 technical review committee must oversee both phases of the study, and must:

38.24 (1) make recommendations to the utilities regarding the proposed methods and
38.25 assumptions to be used in the technical study;
38.26 (2) in conjunction with the appropriate utilities, hold public meetings on each
38.27 phase of the study in each electricity transmission planning zone prior to the beginning
38.28 of each phase of study, after the impact analysis is completed, and when a draft final
38.29 report is available;
38.30 (3) establish procedures for handling commercially sensitive information; and
38.31 (4) review the initial and final drafts of the study and make recommendations for
38.32 improvement, including problems associated with the interconnections among utility
38.33 systems that may be amenable to solution through cooperation between the utilities in each
38.34 zone. During each phase of the study, the technical review committee may recommend
38.35 that the installation of dispersed generation projects be moved to new locations that cause
38.36 fewer undesirable transmission system impacts.

39.1 **EFFECTIVE DATE.**This section is effective the day following final enactment.

39.2 Sec. 18. **WIND DEVELOPMENT PROPERTY AGREEMENTS; STUDY.**

39.3 The Legislative Electric Energy Task Force shall study whether the state should
39.4 regulate easements, leases, and other agreements to acquire an interest in real property
39.5 for the purpose of wind energy development. The purpose of the study is to determine
39.6 whether the duration and other terms of those interests should be limited to promote
39.7 wind energy development. The task force must report the results of its study and any
39.8 recommendations to the chairs of the energy finance and policy committees of the
39.9 legislature by February 1, 2008.

39.10 **EFFECTIVE DATE.**This section is effective the day following final enactment.

39.11 Sec. 19. **C-BED ADVISORY TASK FORCE.**

39.12 Subdivision 1. **Members.** The Legislative Electric Energy Task Force shall oversee
39.13 and appoint an advisory task force on community-based energy development (C-BED)
39.14 under Minnesota Statutes, section 15.059, subdivision 6, consisting of representatives
39.15 of the Department of Commerce, the Public Utilities Commission, public utilities,
39.16 independent power producers, municipal utilities, rural cooperatives, landowners currently
39.17 engaged in C-BED and non-C-BED wind development projects, advocacy organizations
39.18 for wind developers, and environmental organizations, as well as wind energy experts,
39.19 tribal representatives, and clean energy advocates.

39.20 Subd. 2. **Issues.** The task force shall study and make recommendations to the chairs
39.21 and ranking minority members of the senate and house of representatives committees
39.22 with primary jurisdiction over energy policy in a report submitted by January 15, 2008,
39.23 on the following issues:

39.24 (1) the definition of a C-BED qualifying owner;

- 39.25 (2) the definition of gross revenues with respect to community benefits;
- 39.26 (3) the ability of Minnesota and non-Minnesota financial institutions to provide
- 39.27 capital;
- 39.28 (4) compliance and enforcement;
- 39.29 (5) wind easements;
- 39.30 (6) feed-in tariffs for community energy;
- 39.31 (7) community energy models/project structure;
- 39.32 (8) credits toward utility renewable energy standard requirements for utility
- 39.33 participation;
- 39.34 (9) utility compensation for additional work for community ownership projects;
- 40.1 (10) types of incentives, compensation, and encouragement for utility participation;
- 40.2 and
- 40.3 (11) other topics related to and impacting the C-BED program, as determined by
- 40.4 the task force.
- 40.5 Subd. 3. **Expiration.** This section, and the advisory task force on community-based
- 40.6 energy development, expires January 16, 2008.
- 40.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

40.8 **Sec. 20. TRANSFERRING RELIABILITY ADMINISTRATOR**

40.9 **RESPONSIBILITIES.**

40.10 All responsibilities, as defined in Minnesota Statutes, section 15.039, subdivision

40.11 1, held by the Public Utilities Commission relating to the reliability administrator under

40.12 Minnesota Statutes, section 216C.052, are transferred to the Minnesota Department of

40.13 Commerce under Minnesota Statutes, section 15.039.

40.14 **Sec. 21. TRANSMISSION AUTHORITY AND INTERCONNECTION**

40.15 **EVALUATIONS.**

40.16 The reliability administrator shall, in consultation with interested stakeholders:

40.17 (1) review the structures, powers, and duties for constructing, owning, maintaining,

40.18 and operating transmission facilities of state transmission authorities established in

40.19 Kansas, North Dakota, South Dakota, and Wyoming, and evaluate whether the existence

40.20 of a similar organization in Minnesota would have the potential to increase the reliability

40.21 and efficiency of the electrical grid in the state; hasten the development of needed

40.22 transmission lines; accelerate the development of renewable energy projects, especially in

40.23 rural areas of the state; and reduce delivered energy costs to Minnesota ratepayers; and

40.24 (2) assess the potential for and barriers to interconnecting dispersed generation

40.25 projects to locations on the electric grid where a generator interconnection would not be

40.26 subject to the interconnection rules of the Federal Energy Regulatory Commission or the

40.27 Midwest Independent System Operator.

40.28 No technical or engineering analyses are necessary in order to complete these duties. The

40.29 reliability administrator must report its findings and any recommendations to the chairs of

40.30 the senate and house of representatives committees with jurisdiction over energy policy by

40.31 February 15, 2008.

Attachment B: Senate File 2096, conference committee report, as passed (excerpts)

Full text available at:

http://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_detail.php?b=Senate&f=SF2096&ssn=0&y=2007

(6) \$2,000,000 in the first year is for deposit with the rural wind energy development revolving loan fund under Minnesota Statutes, section 216C.39;

....

Sec. 28. [216C.39] RURAL WIND ENERGY DEVELOPMENT REVOLVING LOAN FUND.

Subdivision 1. **Establishment.** A rural wind energy development revolving loan fund is established as an account in the special revenue fund in the state treasury. The commissioner of finance shall credit to the account the amounts authorized under this section and appropriations and transfers to the account. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the account.

Subd. 2. **Purpose.** The rural wind energy development revolving loan fund is created to provide financial assistance, through partnership with local owners and communities, in developing community wind energy projects that meet the specifications of section 216B.1612, subdivision 2, paragraph (f).

Subd. 3. **Expenditures.** Money in the fund is appropriated to the commissioner of commerce, and may be used to make loans to qualifying owners of wind energy projects, as defined in section 216B.1612, subdivision 2, paragraph (f), to assist in funding wind studies and transmission interconnection studies. The loans must be structured for repayment within 30 days after the project begins commercial operations or two years from the date the loan is issued, whichever is sooner. The commissioner may pay reasonable and actual costs of administering the loan program, not to exceed interest earned on fund assets.

Subd. 4. **Limitations.** A loan may not be approved for an amount exceeding \$100,000. This limit applies to all money loaned to a single project or single entity, whether paid to one or more qualifying owners and whether paid in one or more fiscal years.

Subd. 5. **Administration; eligible projects.** (a) Applications for a loan under this section must be made in a manner and on forms prescribed by the commissioner. Loans to eligible projects must be made in the order in which complete applications are received by the commissioner. Loan funds must be disbursed to an applicant within ten days of submission of a payment request by the applicant that demonstrates a payment due to the Midwest Independent System Operator. Interest payable on the loan amount may not exceed 1.5 percent per annum.

(b) A project is eligible for a loan under this program if:

- (1) the project has completed an adequate interconnection feasibility study that indicates the project may be interconnected with system upgrades of less than ten percent of the estimated project costs;
- (2) the project has a signed power purchase agreement with an electric utility or provides evidence that the project is under serious consideration for such an agreement by an electric utility;
- (3) the ownership and structure of the project allows it to qualify as a community-based energy development (C-BED) project under section 216B.1612, and the developer commits to obtaining and maintaining C-BED status; and
- (4) the commissioner has determined that sufficient funds are available to make a loan to the project.

[NOTE: the governor's veto eliminated the second year of funding for the following]

(a) \$1,000,000 each year is to the Center for Rural Policy and Development at Minnesota State University at Mankato to make a grant to a nonprofit organization with experience dealing with energy and community wind issues to design and implement a rural wind energy development assistance program. This is a onetime only appropriation. The program must be designed to maximize rural economic development and stabilize rural community institutions, including hospitals and schools, by increasing the income of local residents and increasing local tax revenues. The grant may be disbursed in two installments. The program must provide assistance to rural entities seeking to develop wind energy electric generation projects and to sell the energy from the projects. Among other strategies, the program may consider combining rural entities and others into groups with the size and market power necessary for planning and developing significant rural wind energy projects.

(b) The program must provide assistance by, among other things:

- (1) providing legal, engineering, and financial services;
- (2) identifying target communities with favorable wind resources, community interest, and local political support;
- (3) providing assistance to reserve, obtain, and assure the maintenance over time of wind turbines;
- (4) creating market opportunities for utilities to meet their renewable energy obligations through purchases of rural community wind;
- (5) assisting in the negotiation of fair power purchase agreements;
- (6) facilitating transmission interconnection and delivery of energy from rural and community wind projects; and
- (7) lowering the market risk facing potential wind investors by supporting local wind development from start to finish.

The grantee must demonstrate an ability to sustain program functions with ongoing revenue from sources other than state funding and shall provide a 35 percent grant match in the first year. The grant must be awarded on a competitive basis. The center must use best practices regarding grant management functions, including selection and monitoring of the grantee, compliance review, and financial oversight. Grant management fees are limited to 2.5 percent of the grant.

(c) The commissioner of commerce shall monitor the activities of the rural wind energy development assistance program created under paragraphs (a) to (c). By November 1, 2008, the commissioner shall submit an evaluation of the program to the chairs of the house of representatives and senate committees with jurisdiction over energy policy and finance, including recommendations for legislative or administrative action to better achieve the program goals described in paragraph (a).

Governor's veto message for SF 2096 (excerpt):

Page 142, line 142.19: Chapter 57, Article 2, Section 3, page 142, appropriates "\$1,000,000 each year" to the Center for Rural Policy and Development at Minnesota State University at Mankato to make a grant to a non-profit organization. I am exercising an item veto to eliminate the words "each year" from the appropriation, thereby eliminating the \$1,000,000 appropriated for the second year. As a result, the \$1,000,000 appropriated for the first year of the biennium will remain in law and the \$1,000,000 for the second year of the biennium is vetoed and will not take effect. The \$1,000,000 appropriated in the first year is a reasonable amount to fund the purposes of this grant. This bill also provides \$2 million from the Renewable Development fund for financial assistance to these types of community wind projects.