

Senators Rosen, Dille, Frederickson, Dibble and Anderson introduced--
S.F. No. 775: Referred to the Committee on Taxes.

1 A bill for an act
2 relating to taxation; sales and use; exempting sales
3 of stoves that burn biomass fuels; amending Minnesota
4 Statutes 2004, section 297A.67, by adding a
5 subdivision.
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
7 Section 1. Minnesota Statutes 2004, section 297A.67, is
8 amended by adding a subdivision to read:
9 Subd. 32. [BIOMASS FUEL STOVES.] Stoves designed to burn
10 agricultural products or other biomass fuels are exempt.
11 [EFFECTIVE DATE.] This section is effective for sales and
12 purchases made after June 30, 2005.

Senators Kubly, Dille, Metzen, Pogemiller and Johnson, D.E. introduced--
S.F. No. 1465: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to taxation; extending the construction date requirement applicable to a property tax exemption for a biomass electric generation facility; extending the duration of a sales tax exemption on construction materials for a biomass electric generation facility; amending Minnesota Statutes 2004, section 272.02, subdivision 47; Laws 2001, First Special Session chapter 5, article 12, section 67.

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

Section 1. Minnesota Statutes 2004, section 272.02, subdivision 47, is amended to read:

Subd. 47. [POULTRY LITTER BIOMASS GENERATION FACILITY; PERSONAL PROPERTY.] Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize poultry litter as a primary fuel source; and

(2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the Public Utilities Commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2003, and before December 31, ~~2003~~ 2005. Property eligible for this exemption does not include electric

1 transmission lines and interconnections or gas pipelines and
2 interconnections appurtenant to the property or the facility.

3 [EFFECTIVE DATE.] This section is effective for taxes
4 levied in 2005, payable in 2006, and thereafter.

5 Sec. 2. Laws 2001, First Special Session chapter 5,
6 article 12, section 67, the effective date, is amended to read:

7 [EFFECTIVE DATE.] This section is effective for purchases
8 and sales made after June 30, 2001, and before ~~January 17, 2003~~
9 July 1, 2007.

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



Fibrominn Biomass Power Project

WHO: Fibrominn LLC owned by Pennsylvania based Fibrowatt LLC was formed to develop a power plant in Minnesota using a technology licensed from Fibrowatt Ltd.

Fibrowatt Ltd. is a UK-based company that has built the world's first three power plants fueled by poultry litter.

WHAT: Fibrominn is constructing the first power plant in the US that will use poultry litter as the primary source of fuel.

When operational in 2007, it will generate 50 MW of renewable energy.

WHERE: The Fibrominn facility is being built in Benson, located in the heart of the poultry-growing region of Minnesota.

- WHY:**
- Electricity will be sold to Xcel Energy (formerly NSP) which helps them meet their obligation to purchase 110 MW of biomass power under the Biomass Mandate.
 - Provides the poultry industry with a year round alternative use for poultry litter generated from growing turkeys.
 - Makes an investment of over \$200 million in greater Minnesota will create 29 new skilled jobs at the plant and 100-200 indirect jobs providing support services to the facility. Additionally, 300 construction jobs will be needed to construct the facility.
 - Avoids more than 800,000 tons of carbon dioxide equivalent emissions from entering the atmosphere, equivalent to taking 500,000 cars off of Minnesota roads.

PROJECT STATUS:

- All the federal, state, and local permits and approvals necessary to construct the facility have been obtained.
- A \$200 million financing package has been put in place with a group of insurance companies lead by Prudential and John Hancock.
- At the end of February 2005, the design and construction of the Fibrominn facility is approximately 10% complete.
- The Fibrominn facility will begin generating electricity in early 2007.

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S.F. No. 1443 - Community-Based Wind Energy Tariff

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *UB*

Date: March 15, 2005

The bill requires the Public Utilities Commission to establish a community-based wind energy development tariff to facilitate wide-spread development of community-based wind energy projects throughout Minnesota. The tariff must be designed to optimize the economic development benefits of wind energy development. The rate for the tariff must have a net present value that is at least equal to the utility's avoided cost over a project's 20-year life, with a higher rate in the first ten years of the project to accelerate recovery of capital costs, unless a different rate and power purchase agreement is negotiated with the utility at the discretion of wind energy project developer. The tariff applies to all load-serving electric utilities in Minnesota and to wind energy projects that meet certain ownership requirements and the renewable energy objective or other renewable energy needs in statute. Wind energy development projects that are eligible for the tariff are to be given priority by the utility over other projects if they meet standard reliability criteria.

MSG:cs

Senators Anderson, Metzen, Ourada, Rosen and Frederickson introduced--
S.F. No. 1443: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to energy; regulating tariffs for certain
3 community-based wind energy developments; proposing
4 coding for new law in Minnesota Statutes, chapter 216B.

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

6 Section 1. [216B.1612] [COMMUNITY-BASED WIND ENERGY
7 DEVELOPMENT; TARIFF.]

8 Subdivision 1. [TARIFF ESTABLISHMENT.] The commission
9 shall establish a community-based wind energy development tariff.
10 The tariff must be designed to optimize local, regional, and
11 state rural agricultural resource economic development benefits
12 from wind energy development, and to facilitate widespread
13 development of community-based wind energy projects throughout
14 Minnesota.

15 Subd. 2. [TARIFF RATE.] The tariff must have a rate
16 schedule with a net present value rate over the 20-year life of
17 the contract that is at least equal to the utility's avoided
18 cost as determined by its most recently filed avoided cost
19 filing under section 216B.164 at the time of the execution of
20 the power purchase contract or as determined by the commission
21 if there is no available filing. The tariff must provide for a
22 rate that is higher in the first ten years of the contract than
23 in the last ten years to accelerate recovery of capital costs.
24 The discount rate required to calculate the net present value
25 must be the utility's normal discount rate used for other

1 business purposes.

2 Subd. 3. [APPLICATION OF TARIFF.] (a) The tariff applies
3 to wind energy conversion system projects described in this
4 subdivision regardless of project nameplate rating that have an
5 ownership that satisfies an ownership requirement of section
6 216C.41, subdivision 1, paragraph (c), clause (2) or (3).

7 (b) The tariff applies to:

8 (1) projects that meet an energy need identified in a
9 resource plan filed under section 216B.2422;

10 (2) community-based wind energy projects to satisfy an
11 order of the commission;

12 (3) projects to satisfy a statutory mandate; or

13 (4) projects to satisfy section 216B.1691.

14 (c) The tariff applies to all load-serving electric
15 utilities in Minnesota.

16 Subd. 4. [PRIORITY FOR TARIFF-ELIGIBLE PROJECTS.] If the
17 utility system is capable of accepting the project using
18 standard reliability criteria, a project eligible for the tariff
19 required by subdivision 1 must be granted a preference over
20 other projects.

21 Subd. 5. [ELECTION BY PROJECT DEVELOPER.] At the
22 discretion of the developer, a community-based project developer
23 and a utility may negotiate a different rate and power purchase
24 agreement with terms different from the tariff established under
25 subdivision 1.

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

28 Sec. 2. [TRANSITIONAL REQUIREMENT.]

29 The Public Utilities Commission shall expedite the
30 establishment of the tariff under section 1 to provide that
31 tariffs are available for use for all load-serving utilities no
32 later than September 1, 2005.

1 Senator moves to amend S.F. No. 1443 as follows:

2 Page 1, after line 14, insert:

3 "Subd. 2. [DEFINITIONS.] (a) The terms used in this
4 section have the meanings given them in this subdivision.

5 (b) "C-BED tariff" or "tariff" means a community-based
6 energy development tariff.

7 (c) "Qualifying owner" means:

8 (1) a Minnesota resident domiciled in any county in which a
9 proposed wind energy project is to be located;

10 (2) a limited liability corporation that is organized under
11 the laws of this state and that is made up of members who are
12 Minnesota residents;

13 (3) a Minnesota nonprofit organization organized under
14 chapter 317A;

15 (4) a Minnesota cooperative association organized under
16 chapter 308A or 308B, other than a rural electric cooperative
17 association or generation and transmission cooperative;

18 (5) a Minnesota political subdivision or local government
19 other than a municipal electric utility or municipal power
20 agency, including, but not limited to, a county, statutory or
21 home rule charter city, town, school district, or any other
22 local or regional governmental organization such as a board,
23 commission, or association; or

24 (6) a tribal council.

25 (d) "Net present value rate" equals the net present value
26 of the nominal payments to the project divided by the total
27 expected energy production of the project over the life of the
28 contract."

29 Page 1, line 15, delete "2" and insert "3"

30 Page 1, delete lines 16 to 21 and insert "schedule with a
31 2.7 cents per kilowatt-hour net present value rate over the
32 20-year life of the contract. The tariff must provide for a"

33 Page 2, line 2, delete "3" and insert "4"

34 Page 2, line 4, delete "an" and insert "a qualifying owner."

35 Page 2, delete lines 5 and 6

36 Page 2, line 16, delete "4" and insert "5"

1 Page 2, line 21, delete "5" and insert "6"

Rural Minnesota Energy Board

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January 24, 2005

RESOLUTION C-BED Wind Tariff

WHEREAS, Community-Based Energy Development (C-BED) provides significant local economic development, particularly in rural areas where the need for economic development is great; and,

WHEREAS, C-BED can provide society with clean, renewable, economic energy; and,

WHEREAS, financial markets are conventionally biased against community-based energy development, thereby dramatically diminishing the amount of community-based energy development that can occur; and,

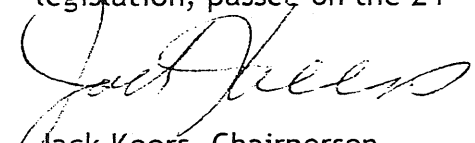
WHEREAS, prior attempts to address the bias financial markets have been against community-based energy development and have produced uncertain and limited subsidies that do not allow robust community-based energy development to occur; and,

WHEREAS, a C-BED Wind Tariff that accounts for the net present value of energy at the utilities avoided cost will create the long-term stable, fair and viable financial climate needed for capital to form around community-based energy development;

NOW THEREFORE BE IT RESOLVED, that the Rural Minnesota Energy Board hereby supports legislation to create a C-BED Wind Energy Tariff.

Motion by Commissioner Al Gertsma

Second by Commissioner Bob Fenske to adopt a resolution supporting C-BED legislation, passed on the 24th day of January 2005



Jack Keers, Chairperson
Rural Minnesota Energy Board



C

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Community-Based Energy Development (SF1443 & HF1332)

What does the Community-Based Energy Development (C-BED) bill do?

- The Public Utilities Commission (PUC) would establish a fair standard price and terms for Community-Based Wind Energy Development (C-BED). This "standard offer" (or tariff) would optimize local, regional, and state rural economic development benefits and be a good deal for ratepayers, for utilities, and for local economies. Wind energy will be a more viable business opportunity for local owners of wind power projects, like farmers, limited liability corporations (LLCs) school districts, colleges, and other community organizations.
- It would also facilitate the widespread development of community-based wind energy projects throughout the state by allowing for payment schedules that pay more in early years and less in later years, after the turbines are paid off. Because almost all of the cost of wind energy is the capital cost (the fuel is free!), it makes sense for ratepayers to keep overall costs down by helping to pay off the turbines early.



How does community-based energy development benefit Minnesotans?

- This legislation will create jobs and local economic development by dramatically increasing the ability of Minnesotans to own and operate renewable energy facilities, like wind projects.
- Minnesota has made commitments to significant amounts of wind energy, and more is under consideration in 2005. Some of the required development should be community-based. However, without legislation requiring a fair price for community-based energy, most of this development will go to large developers. But with legislation that establishes a process for getting a fair price for electricity, utilities can work with these smaller projects, and more of the new development will be local, keeping more benefits in Minnesota communities.



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George Crocker, Executive Director.

What will happen if this bill isn't passed?

- The overall need for more energy and the economics of power generation are driving the demand of wind farms. So the important question is, "Who will benefit the most from this additional renewable generation?" Community-Based Energy Development (C-BED) will ensure that the local community will own some of this new generation.
- This ownership provides significantly more financial benefits for the local communities and the state as a whole. These local and state economic benefits will improve the long-term economic health of our great state.



What are the local economic impacts?

- A September 2004 General Accounting Office (GAO) report compared the benefits of projects owned by "out of area" interests with locally owned projects.
- The evaluation looked at 3 counties in Iowa and 2 in Minnesota. For these 5 counties, local ownership provided 2.5 times more jobs and 3.7 times more total local area dollar impact.
- The GAO also reported "a single 40 MW (conventional wind farm) project built in Pipestone County, Minnesota, would generate about \$650,000 in new income for the county annually. In contrast, 20 locally owned projects at 2 MW each (40 MW total) would generate about \$3.3 million annually in the same county (page 80)."

What does the C-BED rate mean to stakeholders?

By using a front-loaded, 20-year contract with a fair "standard offer" price, C-BED will benefit all these stakeholders:

- RATEPAYERS Clean, stable, long-term, low-cost electricity that is not subject to fuel price increases or costly new environmental regulations.
- UTILITIES Each utility will have energy that costs them less over time, a source that mitigates the fuel price risk of natural gas, and helps the utility keep company-wide emissions down as the utility grows.
- RURAL COMMUNITIES C-BED can create hundreds of millions of dollars in economic development activity and thousands of jobs.
- STATE Increase in state-wide economic development. New, stable revenues from property taxes on generation and income taxes. Increase the state's ability to attract manufacturing and technology by creating a stable and expanding wind energy market.
- TRANSMISSION OWNERS Society's participation in wind energy ownership can help reduce local opposition to transmission siting and routing, successfully proven in southwestern Minnesota.
- LARGE WIND DEVELOPERS increases local support for all wind power, and helps to greatly expand the market for wind energy.

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S.F. No. 1460 - Community-Based Energy Projects

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *MB*

Date: March 15, 2005

Section 1 of the bill allows the Public Utilities Commission to develop financial incentives to encourage community-based energy generation projects in remote locations that cooperatively allocate the energy generated to the project owners.

Section 2 allows utilities to offer declining block pricing as an incentive for consumers to purchase larger amounts of electricity generated from renewable sources of energy.

Section 3 allows qualifying electrical associations and utilities to spend up to five percent of their required conservation improvement expenditures on community-based renewable energy development.

Section 4 adds a community-based energy generation project reporting requirement to the existing transmission projects report submitted by energy producers and transmission organizations to the Public Utilities Commission.

Section 5 requires the Reliability Administrator within the Department of Commerce to conduct analysis necessary to facilitate the interconnection of a community-based energy project to the electricity transmission or distribution system at the request of the project owner.

Section 6 establishes an effective date for sections 1-5 the day following final enactment.

MSG:cs

Senator Anderson introduced--

S.F. No. 1460: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

1
2 relating to energy; allowing Public Utilities
3 Commission to develop financial incentives for
4 utilities to encourage community-based generation
5 projects; providing price incentives to encourage
6 purchase of renewable energy; requiring utilities to
7 consider using community-based generation projects to
8 address transmission inadequacies; requiring
9 reliability administrator to conduct interconnection
10 studies at request of community-based generation
11 projects; amending Minnesota Statutes 2004, sections
12 216B.1611, subdivision 2; 216B.169, subdivision 2;
13 216B.2411, subdivision 1; 216B.2425, subdivision 2;
14 216C.052, subdivision 1.

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

16 Section 1. Minnesota Statutes 2004, section 216B.1611,
17 subdivision 2, is amended to read:

18 Subd. 2. [DISTRIBUTED GENERATION; GENERIC PROCEEDING.] (a)

19 The commission shall initiate a proceeding within 30 days of
20 July 1, 2001, to establish, by order, generic standards for
21 utility tariffs for the interconnection and parallel operation
22 of distributed generation fueled by natural gas or a renewable
23 fuel, or another similarly clean fuel or combination of fuels of
24 no more than ten megawatts of interconnected capacity. At a
25 minimum, these tariff standards must:

26 (1) to the extent possible, be consistent with industry and
27 other federal and state operational and safety standards;

28 (2) provide for the low-cost, safe, and standardized
29 interconnection of facilities;

30 (3) take into account differing system requirements and

1 hardware, as well as the overall demand load requirements of
2 individual utilities;

3 (4) allow for reasonable terms and conditions, consistent
4 with the cost and operating characteristics of the various
5 technologies, so that a utility can reasonably be assured of the
6 reliable, safe, and efficient operation of the interconnected
7 equipment; and

8 (5) establish (i) a standard interconnection agreement that
9 sets forth the contractual conditions under which a company and
10 a customer agree that one or more facilities may be
11 interconnected with the company's utility system, and (ii) a
12 standard application for interconnection and parallel operation
13 with the utility system.

14 (b) The commission may develop financial incentives based
15 on a public utility's performance in encouraging residential and
16 small business customers to participate in on-site generation,
17 including community-based generation projects in remote
18 locations that cooperatively allocate the energy generated to
19 project owners.

20 Sec. 2. Minnesota Statutes 2004, section 216B.169,
21 subdivision 2, is amended to read:

22 Subd. 2. [RENEWABLE AND HIGH-EFFICIENCY ENERGY RATE
23 OPTIONS.] (a) Each utility shall offer its customers, and shall
24 advertise the offer at least annually, one or more options that
25 allow a customer to determine that a certain amount of the
26 electricity generated or purchased on behalf of the customer is
27 renewable energy or energy generated by high-efficiency,
28 low-emissions, distributed generation such as fuel cells and
29 microturbines fueled by a renewable fuel.

30 (b) Each public utility shall file an implementation plan
31 within 90 days of July 1, 2001, to implement paragraph (a).

32 (c) Rates charged to customers must be calculated using the
33 utility's cost of acquiring the energy for the customer and must:

34 (1) reflect the difference between the cost of generating
35 or purchasing the renewable energy and the cost of generating or
36 purchasing the same amount of nonrenewable energy; and

1 (2) be distributed on a per kilowatt-hour basis among all
2 customers who choose to participate in the program; and

3 (3) offer declining block pricing as an incentive for
4 consumers to purchase larger amounts of electricity generated
5 from renewable sources of energy.

6 (d) Implementation of these rate options may reflect a
7 reasonable amount of lead time necessary to arrange acquisition
8 of the energy. The utility may acquire the energy demanded by
9 customers, in whole or in part, through procuring or generating
10 the renewable energy directly, or through the purchase of
11 credits from a provider that has received certification of
12 eligible power supply pursuant to subdivision 3. If a utility
13 is not able to arrange an adequate supply of renewable or
14 high-efficiency energy to meet its customers' demand under this
15 section, the utility must file a report with the commission
16 detailing its efforts and reasons for its failure.

17 Sec. 3. Minnesota Statutes 2004, section 216B.2411,
18 subdivision 1, is amended to read:

19 Subdivision 1. [GENERATION PROJECTS.] (a) Any municipality
20 or rural electric association providing electric service and
21 subject to section 216B.241 that is meeting the objectives under
22 section 216B.1691 may, and each public utility may, use five
23 percent of the total amount to be spent on energy conservation
24 improvements under section 216B.241, on:

25 (1) community-based energy development projects in
26 Minnesota to construct an electric generating facility that
27 utilizes eligible renewable energy sources as defined in
28 subdivision 2, such as methane or other combustible gases
29 derived from the processing of plant or animal wastes, biomass
30 fuels such as short-rotation woody or fibrous agricultural
31 crops, or other renewable fuel, as its primary fuel source; or

32 (2) projects in Minnesota to install a distributed
33 generation facility of ten megawatts or less of interconnected
34 capacity that is fueled by natural gas, renewable fuels, or
35 another similarly clean fuel.

36 (b) For public utilities, as defined under section 216B.02,

1 subdivision 4, projects under this section must be considered
2 energy conservation improvements as defined in section
3 216B.241. For cooperative electric associations and municipal
4 utilities, projects under this section must be considered
5 load-management activities described in section 216B.241,
6 subdivision 1, paragraph (i).

7 Sec. 4. Minnesota Statutes 2004, section 216B.2425,
8 subdivision 2, is amended to read:

9 Subd. 2. [LIST DEVELOPMENT.] (a) By November 1 of each
10 odd-numbered year, each public utility, municipal utility, and
11 cooperative electric association, or the generation and
12 transmission organization that serves each utility or
13 association, that owns or operates electric transmission lines
14 in Minnesota shall jointly or individually submit a transmission
15 projects report to the commission. The report must:

16 (1) list specific present and reasonably foreseeable future
17 inadequacies in the transmission system in Minnesota;

18 (2) identify alternative means of addressing each
19 inadequacy listed, including through increasing the number of
20 community-based energy generation projects;

21 (3) identify general economic, environmental, and social
22 issues associated with each alternative; and

23 (4) provide a summary of public input the utilities and
24 associations have gathered related to the list of inadequacies
25 and the role of local government officials and other interested
26 persons in assisting to develop the list and analyze
27 alternatives.

28 (b) To meet the requirements of this subdivision, entities
29 may rely on available information and analysis developed by a
30 regional transmission organization or any subgroup of a regional
31 transmission organization and may develop and include additional
32 information as necessary.

33 Sec. 5. Minnesota Statutes 2004, section 216C.052,
34 subdivision 1, is amended to read:

35 Subdivision 1. [RESPONSIBILITIES.] (a) There is
36 established the position of reliability administrator in the

1 Department of Commerce. The administrator shall act as a source
2 of independent expertise and a technical advisor to the
3 commissioner, the commission, the public, and the Legislative
4 Electric Energy Task Force on issues related to the reliability
5 of the electric system. In conducting its work, the
6 administrator shall:

7 (1) model and monitor the use and operation of the energy
8 infrastructure in the state, including generation facilities,
9 transmission lines, natural gas pipelines, and other energy
10 infrastructure;

11 (2) develop and present to the commission and parties
12 technical analyses of proposed infrastructure projects, and
13 provide technical advice to the commission, and, upon request of
14 an owner of any community-based energy project that meets the
15 specifications of section 216C.41, subdivision 1, paragraph (c),
16 clause (2) or (3), conduct analysis necessary to facilitate the
17 interconnection of the community-based energy project to the
18 electricity transmission or distribution system;

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

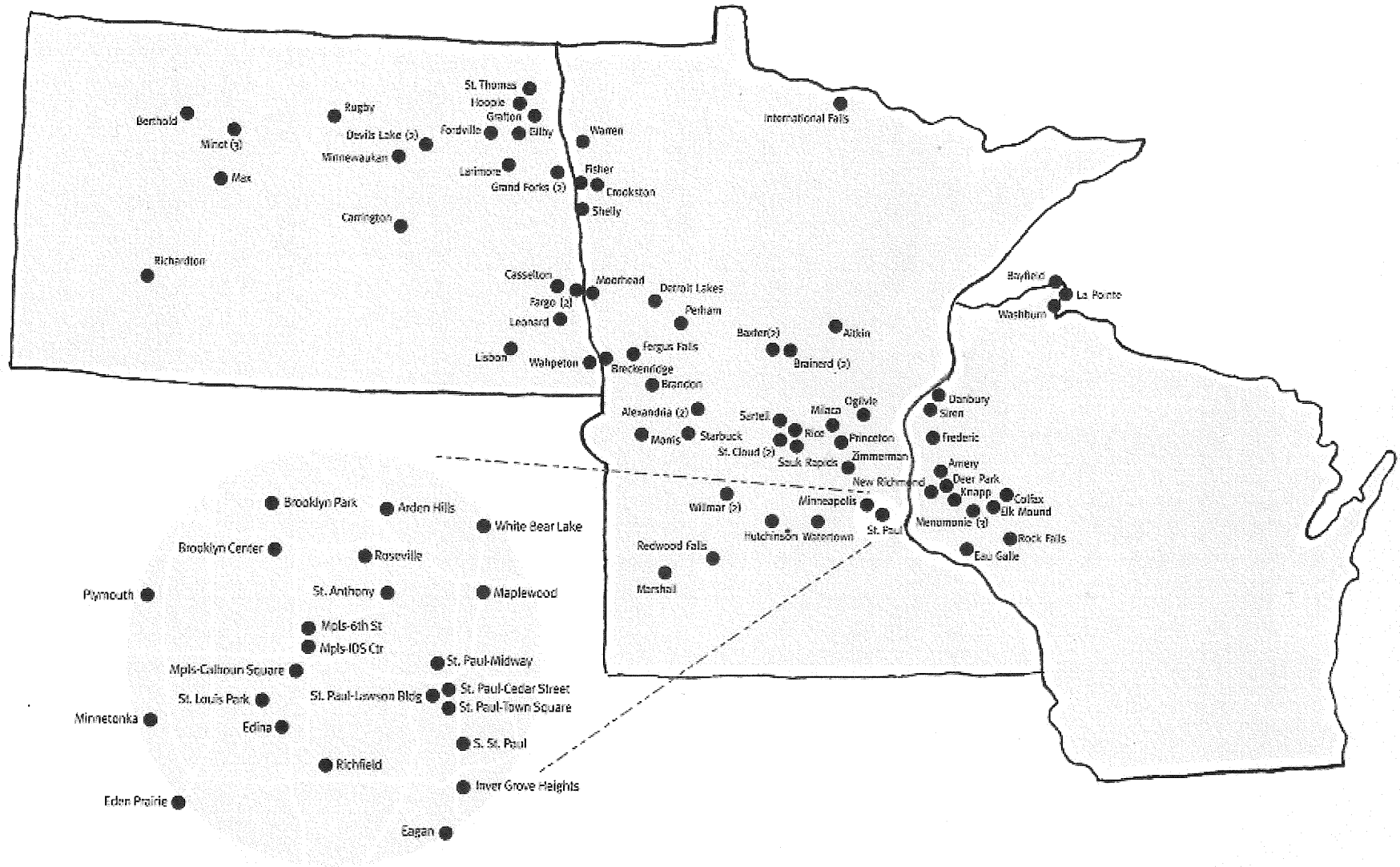
23 (b) Upon request and subject to resource constraints, the
24 administrator shall provide technical assistance regarding
25 matters unrelated to applications for infrastructure
26 improvements to the task force, the department, or the
27 commission.

28 (c) The administrator may not advocate for any particular
29 outcome in a commission proceeding, but may give technical
30 advice to the commission as to the impact on the reliability of
31 the energy system of a particular project or projects. The
32 administrator must not be considered a party or a participant in
33 any proceeding before the commission.

34 Sec. 6. [EFFECTIVE DATE.]

35 Sections 1 to 5 are effective the day following final
36 enactment.

D



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S.F. No. 1368 - C-BED Tariff

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *MS*

Date: March 15, 2005

Section 1 of the bill defines "C-BED tariff" as a community-based energy development tariff and establishes ownership requirements to qualify for the C-BED tariff. This section requires the Public Utilities Commission to establish by order a model C-BED tariff by January 15, 2006, and specifies criteria for the tariff rate structure and project eligibility.

Section 2 requires Public Utilities Commission approval of power purchase agreements, investments, or expenditures entered into or made by a utility to satisfy the Minnesota renewable energy objectives.

Section 3 establishes criteria related to renewable energy sources that the Public Utilities Commission must consider in determining whether to approve accelerated recovery of transmission facility expenditures.

Section 4 requires that transmission projects determined to be necessary to meet the renewable energy objective be given priority.

Section 5 adds an exemption from the certificate of need requirement for large energy facilities that generate electricity from wind energy conversion systems serving customers in Minnesota and specifically intended to meet the renewable energy objective, or address a resource need under the biomass mandate identified in a current PUC-approved or reviewed resource plan.

MSG:cs

Senators Anderson, Rosen, Ourada, Metzen and Kubly introduced--

S.F. No. 1368: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to utilities; requiring establishment and adoption of community-based energy development tariffs; modifying provisions relating to renewable energy resources and objectives; making clarifying changes; amending Minnesota Statutes 2004, sections 216B.1645, subdivision 1, by adding a subdivision; 216B.2425, subdivision 7; 216B.243, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Section 1. [216B.1612] [COMMUNITY-BASED ENERGY DEVELOPMENT; TARIFF.]

Subdivision 1. [DEFINITIONS.] (a) The terms used in this section have the meanings given them in this subdivision.

(b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

(c) "Qualifying owner" means:

(1) a Minnesota resident domiciled in any county in which a proposed wind energy project is to be located;

(2) a limited liability corporation that is organized under the laws of this state and that is made up of members who are Minnesota residents domiciled in counties in which proposed wind energy projects are to be located;

(3) a Minnesota nonprofit organization organized under chapter 317A;

(4) a Minnesota cooperative association organized under chapter 308A or 308B, other than a rural electric cooperative

1 association or generation and transmission cooperative;
2 (5) a Minnesota political subdivision or local government
3 other than a municipal electric utility or municipal power
4 agency, including, but not limited to, a county, statutory or
5 home rule charter city, town, school district, or any other
6 local or regional governmental organization such as a board,
7 commission, or association; or

8 (6) a tribal council if the project is located within the
9 boundaries of the reservation.

10 Subd. 2. [COMMISSION TO DEVELOP TARIFF MODEL.] By January
11 15, 2006, the commission shall establish, by order, a model
12 C-BED tariff. The intent of the model tariff is to provide a
13 rate structure conducive to the financing of community-based
14 energy projects while balancing ratepayer interests and
15 benefits, by:

16 (1) providing a higher rate in the initial years of the
17 tariff, which generally corresponds to the initial debt service
18 period of a project, in which the rate paid by the utility is
19 higher during the initial years of the contract and lower in the
20 later years;

21 (2) providing a lower rate during the later years of the
22 tariff, when the initial debt has been retired;

23 (3) offering net present value rate that is no higher than
24 the rate that would have been paid by the utility absent the
25 front-end-loaded tariff but no lower than the utility's avoided
26 cost as calculated under section 216B.164; and

27 (4) ensuring that the qualifying owners using the tariff
28 agree to abide by the terms of the tariff for the full term of
29 the tariff, which must be no less than 20 years, in order to
30 provide ratepayers with the benefit of lower rates in the later
31 years of the tariff in return for paying higher rates during the
32 earlier, debt-servicing years.

33 Subd. 3. [ELIGIBILITY.] To be eligible for a
34 community-based energy development tariff, a proposed wind
35 project must:

36 (1) be owned by one or more qualifying owners; and

1 (2) have a resolution of support adopted by the county
2 board of each county in which the project is to be located or,
3 in the case of a project located within the boundaries of a
4 reservation, the tribal council.

5 Subd. 4. [JOINT VENTURES.] Any qualifying owner, or any
6 combination of qualifying owners, may develop a joint venture
7 project with a nonqualifying wind energy project developer.
8 However, the terms of the C-BED tariff may only apply to the
9 portion of the energy production of the total project that is
10 directly proportional to the equity share of the project owned
11 by the qualifying owners.

12 Subd. 5. [ALL UTILITIES TO OFFER TARIFF.] Within 90 days
13 after the commission issues an order under subdivision 2:

14 (1) each public utility providing electric service at
15 retail shall file for commission approval a community-based
16 energy development tariff consistent with the model tariff
17 established under subdivision 2; and

18 (2) each municipal utility and cooperative electric
19 association shall adopt a community-based energy development
20 tariff consistent with the model tariff issued under subdivision
21 2.

22 Subd. 6. [APPLICATION OF TARIFF.] A C-BED tariff applies
23 to:

24 (1) projects selected to meet an energy need identified in
25 a resource plan filed under section 216B.2422;

26 (2) community-based wind energy projects to satisfy an
27 order of the commission;

28 (3) projects to satisfy a statutory mandate; or

29 (4) projects to satisfy the renewable energy objective law
30 contained in section 216B.1691.

31 Subd. 7. [ELECTION BY PROJECT DEVELOPER.] At the
32 discretion of the developer, a community-based project developer
33 and a utility may negotiate a different rate and power purchase
34 agreement with terms different from the tariff established under
35 subdivision 2.

36 Sec. 2. Minnesota Statutes 2004, section 216B.1645,

1 subdivision 1, is amended to read:

2 Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition
3 of a public utility, the Public Utilities Commission shall
4 approve or disapprove power purchase contracts, investments, or
5 expenditures entered into or made by the utility to satisfy the
6 wind and biomass mandates contained in sections 216B.169,
7 216B.2423, and 216B.2424, and to satisfy the Minnesota renewable
8 energy objectives under section 216B.1691, including reasonable
9 investments and expenditures made to transmit the electricity
10 generated from sources developed under those sections that is
11 ultimately used to provide service to the utility's retail
12 customers, or to develop renewable energy sources from the
13 account required in section 116C.779.

14 Sec. 3. Minnesota Statutes 2004, section 216B.1645, is
15 amended by adding a subdivision to read:

16 Subd. 5. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE
17 RESOURCES.] In determining whether to approve accelerated
18 recovery of expenditures under this section for construction of
19 transmission facilities to satisfy the renewable energy
20 objective under section 216B.1691, the commission must find that
21 the applicant has met the following factors:

22 (1) that the transmission facility is needed to allow the
23 delivery of power from renewable sources of energy to retail
24 customers in Minnesota;

25 (2) that the applicant has signed or will sign power
26 purchase agreements for resources to meet the renewable energy
27 objective that will use or is dependent upon the capacity of the
28 transmission facility to serve retail customers in Minnesota;
29 and

30 (3) that the installation and commercial operation date of
31 the renewable resources to satisfy the renewable energy
32 objective will match the planned in-service date of the
33 transmission facility.

34 Sec. 4. Minnesota Statutes 2004, section 216B.2425,
35 subdivision 7, is amended to read:

36 Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE

1 RESOURCES.] Each entity subject to this section shall determine
2 necessary transmission upgrades to support development of
3 renewable energy resources required to meet objectives under
4 section 216B.1691 and shall include those upgrades in its report
5 under subdivision 2. Transmission projects determined by the
6 commission to be necessary to support a utility's plan under
7 section 216B.1691 to meet its obligations under that section
8 must be certified as a priority electric transmission project,
9 satisfying the requirements of section 216B.243. In determining
10 that a proposed transmission project is necessary to support a
11 utility's plan under section 216B.1691, the commission must find
12 that the applicant has met the following factors:

13 (1) that the transmission facility is needed to allow the
14 delivery of power from renewable sources of energy to retail
15 customers in Minnesota;

16 (2) that the applicant has signed or will sign power
17 purchase agreements for resources to meet the renewable energy
18 objective that will use or is dependent upon the capacity of the
19 transmission facility to serve retail customers in Minnesota;
20 and

21 (3) that the installation and commercial operation date of
22 the renewable resources to satisfy the renewable energy
23 objective will match the planned in-service date of the
24 transmission facility.

25 Sec. 5. Minnesota Statutes 2004, section 216B.243,
26 subdivision 8, is amended to read:

27 Subd. 8. [EXEMPTIONS.] This section does not apply to:

28 (1) cogeneration or small power production facilities as
29 defined in the Federal Power Act, United States Code, title 16,
30 section 796, paragraph (17), subparagraph (A), and paragraph
31 (18), subparagraph (A), and having a combined capacity at a
32 single site of less than 80,000 kilowatts ~~or-to;~~ plants or
33 facilities for the production of ethanol or fuel alcohol ~~nor-in;~~
34 or any case where the commission ~~shall-determine~~ has determined
35 after being advised by the attorney general that its application
36 has been preempted by federal law;

1 (2) a high-voltage transmission line proposed primarily to
2 distribute electricity to serve the demand of a single customer
3 at a single location, unless the applicant opts to request that
4 the commission determine need under this section or section
5 216B.2425;

6 (3) the upgrade to a higher voltage of an existing
7 transmission line that serves the demand of a single customer
8 that primarily uses existing rights-of-way, unless the applicant
9 opts to request that the commission determine need under this
10 section or section 216B.2425;

11 (4) a high-voltage transmission line of one mile or less
12 required to connect a new or upgraded substation to an existing,
13 new, or upgraded high-voltage transmission line;

14 (5) conversion of the fuel source of an existing electric
15 generating plant to using natural gas; ~~or~~

16 (6) the modification of an existing electric generating
17 plant to increase efficiency, as long as the capacity of the
18 plant is not increased more than ten percent or more than 100
19 megawatts, whichever is greater; or

20 (7) a large energy facility that (i) generates electricity
21 from wind energy conversion systems, (ii) will serve retail
22 customers in Minnesota, and (iii) is specifically intended to be
23 used to meet the renewable energy objective under section
24 216B.1691 or addresses a resource need identified in a current
25 commission-approved or commission-reviewed resource plan under
26 section 216B.2424.

27 Sec. 6. [EFFECTIVE DATE.]

28 Sections 1 to 5 are effective the day following final
29 enactment.

Comparison of Transmission Legislation in Minnesota Senate Bills

Provisions	SF 1502 Senator Anderson Renewable Energy and Transmission	SF 1368 Senator Anderson Department of Commerce	SF 1332 Senator Anderson CapX 2020
Expedites cost recovery for transmission.	<ul style="list-style-type: none"> Allows expedited cost recovery for transmission studies and transmission constructed for the Renewable Energy Objective (REO). Sets criteria for expedited cost recovery including (1) the transmission facilities will transmit power primarily from renewable sources, (2) REO purchase will use the capacity on the new transmission facilities, and (3) operation of the REO generating facilities will precede or correspond with the transmission in-service date. 	<ul style="list-style-type: none"> Allows expedited cost recovery for transmission to fulfill the Renewable Energy Objective. Criteria for expedited cost recovery includes (1) if the transmission facility is needed for renewable energy, and (2) the REO purchase "will use or is dependent upon" the capacity of the transmission facility. 	<ul style="list-style-type: none"> Allows expedited recovery for transmission projects "to ensure reliability, encourage the development of renewable energy, and accommodate the economic transfer of energy within and between states."
Exempts wind generators from certificate of need.	<ul style="list-style-type: none"> Applies to a large energy facility that generates electricity from wind and serves Minnesota retail customers. 	<ul style="list-style-type: none"> Applies to wind generators to meet the Renewable Energy Objective or approved in a utility Integrated Resource Plan. 	
Requires utilities to identify transmission needed to meet the Renewable Energy Objective and move to regulatory approval process.	<ul style="list-style-type: none"> Sets a date by which utilities must identify transmission needed for the Renewable Energy Objective. Requires utilities to file certificate of need or certify transmission for the REO through the biennial transmission plan process. 	<ul style="list-style-type: none"> Transmission identified for the Renewable Energy Objective must be certified by the Public Utilities Commission as priority projects under the biennial transmission plan process. 	
Requires statewide wind integration study.	<ul style="list-style-type: none"> LEETF study of the impacts on reliability and operating costs of 20% wind power by 2020. 		
Requires LEETF study of transmission certification process.			<ul style="list-style-type: none"> Requires LEETF stakeholder group to study transmission certification process and report findings and recommendations to the legislature by January 15, 2006.
Allows utilities to transfer transmission assets.			<ul style="list-style-type: none"> Allows owners of transmission facilities, upon certain findings, to transfer transmission assets to a transmission provider subject to Federal Energy Regulatory Commission jurisdiction.
Adds evaluation of "regional energy needs" to certificate of need criteria.			<ul style="list-style-type: none"> In assessing need for transmission, PUC shall evaluate "relationship of the proposed line to regional energy needs," "benefits of enhanced regional reliability, access, or deliverability..., or to lower costs to electric consumers."
Requires PUC to develop Community Based Energy Developer (CBED) tariff.		<ul style="list-style-type: none"> Public Utilities Commission to establish a front-loaded model tariff for community based energy projects. All utilities to offer tariff. 	

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S.F. No. 1332 - Electric Transmission Cost Recovery

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *MS*

Date: March 15, 2005

Section 1 contains a legislative finding that encouraging additional electric transmission infrastructure is in the public interest. Permits the Public Utilities Commission to allow electric utilities to file a rate schedule providing for automatic annual adjustments of charges for changes in transmission costs, including investments in transmission facilities.

Section 2 requires the Public Utilities Commission to approve the transfer of ownership of transmission facilities if the Commission finds that it is in the public interest to do so and the transfer facilitates the development of transmission infrastructure necessary to ensure reliability, encourages development of renewable resources, and accommodates energy transfer between states. This section also allows for rate schedules which automatically adjust to recover the cost of transmission services purchased under tariff rates approved by the Federal Energy Regulatory Commission.

Section 3 modifies the requirement to show need for a large energy project to specifically include high-voltage transmission lines.

Section 4 requires the Legislative Electric Energy Task Force to convene a stakeholder group by June 15, 2005, to explore increasing the efficiency and effectiveness of current state administrative processes to certify and route high-voltage transmission lines.

Section 5 requires the Legislative Electric Energy Task Force stakeholder group created in section 4 to report its findings to the legislature by January 16, 2006.

MSG:cs

Senators Anderson, Kubly, Metzen, Ourada and Kelley introduced--
S.F. No. 1332: Referred to the Committee on Jobs, Energy and Community Development.

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A bill for an act

relating to energy; providing for automatic recovery of electricity transmission costs; amending certification requirements for high-voltage transmission lines; establishing stakeholder group to study state certification and routing processes; amending Minnesota Statutes 2004, sections 216B.16, by adding subdivisions; 216B.243, subdivision 3.

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

Section 1. Minnesota Statutes 2004, section 216B.16, is amended by adding a subdivision to read:

Subd. 7b. [TRANSMISSION COST ADJUSTMENT.] The legislature finds that it is in the public interest to encourage additional investment in electric transmission infrastructure in order to ensure reliability, encourage the development of renewable energy, and accommodate the economic transfer of energy within and between states. Notwithstanding any other provision of this chapter, the commission may permit a public utility providing electric service to file a rate schedule providing for the automatic annual adjustment of charges for changes in transmission costs, including costs of investments in transmission facilities, a current return on construction work in progress for transmission facilities based on the utility's authorized rate of return, and related operations and maintenance expenses.

Sec. 2. Minnesota Statutes 2004, section 216B.16, is amended by adding a subdivision to read:

1 Subd. 7c. [TRANSMISSION ASSETS TRANSFER.] (a) Owners of
2 transmission facilities may transfer ownership of those assets
3 to a transmission provider subject to Federal Energy Regulatory
4 Commission jurisdiction. The Public Utilities Commission shall
5 approve a transfer if it finds that the transfer:

6 (1) is consistent with the public interest; and

7 (2) facilitates the development of transmission
8 infrastructure necessary to ensure reliability, encourage the
9 development of renewable resources, and accommodate energy
10 transfers within and between states.

11 (b) If a utility transfers ownership of its transmission
12 assets to a transmission provider subject to the jurisdiction of
13 the Federal Energy Regulatory Commission, the Public Utilities
14 Commission may permit the utility to file a rate schedule
15 providing for the automatic adjustment of charges to recover the
16 cost of transmission services purchased under tariff rates
17 approved by the Federal Energy Regulatory Commission.

18 Sec. 3. Minnesota Statutes 2004, section 216B.243,
19 subdivision 3, is amended to read:

20 Subd. 3. [SHOWING REQUIRED FOR CONSTRUCTION.] No proposed
21 large energy facility shall be certified for construction unless
22 the applicant can show that demand for electricity cannot be met
23 more cost effectively through energy conservation and
24 load-management measures and unless the applicant has otherwise
25 justified its need. In assessing need, the commission shall
26 evaluate:

27 (1) the accuracy of the long-range energy demand forecasts
28 on which the necessity for the facility is based;

29 (2) the effect of existing or possible energy conservation
30 programs under sections 216C.05 to 216C.30 and this section or
31 other federal or state legislation on long-term energy demand;

32 (3) the relationship of the proposed facility to overall
33 state energy needs, as described in the most recent state energy
34 policy and conservation report prepared under section 216C.18,
35 or, in the case of a high-voltage transmission line, the
36 relationship of the proposed line to regional energy needs, as

1 presented in the transmission plan submitted under section
2 216B.2425;

3 (4) promotional activities that may have given rise to the
4 demand for this facility;

5 (5) benefits of this facility, including its uses to
6 protect or enhance environmental quality, and to increase
7 reliability of energy supply in Minnesota and the region;

8 (6) possible alternatives for satisfying the energy demand
9 or transmission needs including but not limited to potential for
10 increased efficiency and upgrading of existing energy generation
11 and transmission facilities, load-management programs, and
12 distributed generation;

13 (7) the policies, rules, and regulations of other state and
14 federal agencies and local governments; and

15 (8) any feasible combination of energy conservation
16 improvements, required under section 216B.241, that can (i)
17 replace part or all of the energy to be provided by the proposed
18 facility, and (ii) compete with it economically; and

19 (9) with respect to a high-voltage transmission line, the
20 benefits of enhanced regional reliability, access, or
21 deliverability to improve the robustness of the transmission
22 system or to lower costs to electric consumers.

23 Sec. 4. [STAKEHOLDER PROCESS AND REPORT.]

24 Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the
25 Legislative Electric Energy Task Force shall convene a
26 stakeholder group consisting of one representative from each of
27 the following groups: transmission-owning investor-owned
28 utilities, electric cooperatives, municipal power agencies,
29 energy consumer advocates, environmental organizations, the
30 Minnesota Department of Commerce, the Minnesota Environmental
31 Quality Board, and the Minnesota Public Utilities Commission.

32 Subd. 2. [CHARGE.] (a) The stakeholder group shall explore
33 whether increased efficiencies and effectiveness can be obtained
34 through modifying current state administrative processes to
35 certify and route high-voltage transmission lines.

36 (b) In developing its recommendations, the stakeholder

1 group shall consider:

2 (1) whether the certification process established under
3 section 216B.2425, subdivision 3, can be modified to encourage
4 utilities to apply for certification under that section;

5 (2) whether alternative certification processes are
6 feasible for different types of transmission facilities; and

7 (3) whether additional cooperation between state agencies
8 is needed to enhance the efficiency of the certification and
9 routing process.

10 Subd. 3. [REPORT.] By January 15, 2006, the task force
11 shall submit a report to the legislature summarizing the
12 stakeholder group findings and any recommended changes to the
13 certification and routing processes for high-voltage
14 transmission lines.

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S.F. No. 1502 - Wind Energy Integration

Author: Senator Ellen R. Anderson

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) *MG*

Date: March 15, 2005

Section 1 requires the Public Utilities Commission to approve investments and expenditures made to conduct studies necessary to identify new transmission facilities needed to transmit electricity from generation facilities constructed to satisfy the renewable energy objectives to Minnesota retail customers, and to manage the intermittent nature of wind energy resources.

Section 2 requires the PUC to approve a rate schedule providing for the automatic adjustment of charges to recover commission-approved costs for construction of transmission facilities necessary to satisfy a utility's renewable energy objective, provided certain conditions are met.

Section 3 requires that applications for certificates of need for new or upgraded transmission facilities necessary to support renewable resources be filed with the PUC by December 31, 2005, and requires entities from multiple jurisdictions impacted by such transmission facilities to work with the applicable regulatory authorities to receive approval to construct the transmission facilities.

Section 4 exempts an aggregation of proximate wind energy conversion systems with a combined capacity of 50 megawatts or more serving Minnesota retail customers from the large energy facility certificate of need requirement.

Section 5 requires the PUC to order all public utilities providing electric service, all generation and transmission cooperative electric associations, and all municipal power agencies to participate in a statewide wind integration study by jointly contracting and cooperating with an independent firm selected by the Commissioner of Commerce. The study must be completed by November 30, 2006, and the costs of the study are recoverable. The study must examine the impacts on reliability and operating cost of increasing wind capacity in Minnesota to 20 percent of the total statewide retail electric energy sales by the year 2020. The study must also identify and develop options for utilities

to use to manage the intermittent nature of wind resources. The Department of Commerce shall manage the study and appoint a group of stakeholders with experience and expertise in engineering, power systems, and wind energy to review the study's methods and assumptions.

MSG:cs

Senators Anderson, Kubly, Rosen and Metzen introduced--
S.F. No. 1502: Referred to the Committee on Jobs, Energy and Community Development.

A bill for an act

relating to energy; exempting certain wind energy facilities from obtaining a certificate of need; providing for automatic recovery of certain electricity transmission costs; requiring owners of certain wind transmission facilities to apply for a certificate of need; requiring a study; amending Minnesota Statutes 2004, sections 216B.1645, subdivisions 1, 2; 216B.2425, subdivision 7; 216B.243, subdivision 8.

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

Section 1. Minnesota Statutes 2004, section 216B.1645, subdivision 1, is amended to read:

Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition of a public utility, the Public Utilities Commission shall approve or disapprove power purchase contracts, investments, or expenditures entered into or made by the utility to satisfy the wind and biomass mandates contained in sections 216B.169, 216B.2423, and 216B.2424, and to satisfy the renewable energy objectives set forth in section 216B.1691, including reasonable investments and expenditures made to;

(1) transmit the electricity generated from sources developed under those sections that is ultimately used to provide service to the utility's retail customers, or-to including studies necessary to identify new transmission facilities needed to transmit electricity to Minnesota retail customers from generating facilities constructed to satisfy the renewable energy objectives, provided that the costs of the

1 studies have not been recovered previously under existing
2 tariffs and the utility has filed an application for a
3 certificate of need for the new transmission facilities
4 identified in the studies;

5 (2) manage the intermittent nature of wind energy resources
6 it owns or has contracted for; or

7 (3) develop renewable energy sources from the account
8 required in section 116C.779.

9 Sec. 2. Minnesota Statutes 2004, section 216B.1645,
10 subdivision 2, is amended to read:

11 Subd. 2. [COST RECOVERY.] (a) The expenses incurred by the
12 utility over the duration of the approved contract or useful
13 life of the investment and expenditures made pursuant to section
14 116C.779 shall be recoverable from the ratepayers of the
15 utility, to the extent they are not offset by utility revenues
16 attributable to the contracts, investments, or expenditures.
17 Upon petition by a public utility, the commission shall approve
18 or approve as modified a rate schedule providing for the
19 automatic adjustment of charges to recover the expenses or costs
20 approved by the commission, which, in the case of transmission
21 expenditures, are limited to the portion of actual transmission
22 costs that are directly allocable to the need to transmit power
23 from the renewable sources of energy. The commission may not
24 approve recovery of the costs for that portion of the power
25 generated from sources governed by this section that the utility
26 sells into the wholesale market.

27 (b) Upon petition of any utility, the commission shall
28 approve or approve as modified a rate schedule providing for the
29 automatic adjustment of charges to recover the expenses or costs
30 approved by the commission for construction of transmission
31 facilities necessary to satisfy the utility's renewable energy
32 objectives, as set forth in subdivision 1, provided that the
33 utility has met all of the following conditions:

34 (1) demonstrated that the proposed transmission facilities
35 will transmit electricity primarily from renewable sources of
36 energy to Minnesota retail customers;

1 (2) signed power purchase agreements with electricity
2 generators supplying resources to meet the utility's renewable
3 energy objectives that will utilize the new transmission
4 resources to serve Minnesota retail customers, or made a
5 commitment to sign power purchase agreements prior to the
6 in-service date of the transmission line; and

7 (3) demonstrated that the proposed commercial operation
8 date of the generation resources matches the planned in-service
9 date of the new transmission facilities.

10 Sec. 3. Minnesota Statutes 2004, section 216B.2425,
11 subdivision 7, is amended to read:

12 Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE
13 RESOURCES.] Each entity subject to this section shall determine
14 necessary transmission upgrades to support development of
15 renewable energy resources required to meet objectives under
16 section 216B.1691 and shall include those upgrades in its report
17 under subdivision 2. By December 31, 2005, each entity shall
18 file an application for a certificate of need, if applicable,
19 with the Minnesota Public Utilities Commission for the necessary
20 transmission upgrades and new transmission facilities identified
21 in its most recent report under subdivision 2. If the
22 identified transmission facilities require approval from
23 multiple jurisdictions, each entity or group of entities shall
24 work with the applicable regulatory authorities to receive
25 approval to construct the transmission facilities.

26 Sec. 4. Minnesota Statutes 2004, section 216B.243,
27 subdivision 8, is amended to read:

28 Subd. 8. [EXEMPTIONS.] This section does not apply to:

29 (1) cogeneration or small power production facilities as
30 defined in the Federal Power Act, United States Code, title 16,
31 section 796, paragraph (17), subparagraph (A), and paragraph
32 (18), subparagraph (A), and having a combined capacity at a
33 single site of less than 80,000 kilowatts or to plants or
34 facilities for the production of ethanol or fuel alcohol nor in
35 any case where the commission shall determine after being
36 advised by the attorney general that its application has been

1 preempted by federal law;

2 (2) a high-voltage transmission line proposed primarily to
3 distribute electricity to serve the demand of a single customer
4 at a single location, unless the applicant opts to request that
5 the commission determine need under this section or section
6 216B.2425;

7 (3) the upgrade to a higher voltage of an existing
8 transmission line that serves the demand of a single customer
9 that primarily uses existing rights-of-way, unless the applicant
10 opts to request that the commission determine need under this
11 section or section 216B.2425;

12 (4) a high-voltage transmission line of one mile or less
13 required to connect a new or upgraded substation to an existing,
14 new, or upgraded high-voltage transmission line;

15 (5) conversion of the fuel source of an existing electric
16 generating plant to using natural gas; or

17 (6) modification of an existing electric generating plant
18 to increase efficiency, as long as the capacity of the plant is
19 not increased more than ten percent or more than 100 megawatts,
20 whichever is greater; or

21 (7) an aggregation of proximate wind energy conversion
22 systems as defined in section 216C.06, subdivision 19, that has
23 a combined capacity of 50 megawatts or more and that serves
24 Minnesota retail customers.

25 Sec. 5. [WIND INTEGRATION STUDY.]

26 The commission shall order all electric utilities, as
27 defined in Minnesota Statutes, section 216B.1691, subdivision 1,
28 paragraph (b), to participate in a statewide wind integration
29 study. Utilities shall jointly contract with an independent
30 firm selected by the commissioner of commerce through a
31 competitive bidding process to conduct an engineering study of
32 the impacts on reliability and operating costs of increasing
33 wind capacity to comprise 20 percent of Minnesota retail
34 electric energy sales by the year 2020, and to identify and
35 develop options for utilities to use to manage the intermittent
36 nature of wind resources. Utilities shall cooperate with the

1 firm conducting the study by providing data requested. The
2 Department of Commerce shall manage the study process and shall
3 appoint a group of stakeholders with experience in engineering
4 and expertise in power systems or wind energy to review the
5 study's proposed methods and assumptions and preliminary data.
6 The study must be completed by November 30, 2006. Electric
7 utilities shall incorporate the study's findings into their
8 utility integrated resource plans prepared under Minnesota
9 Statutes, section 216B.2422. The costs of the study are
10 recoverable under Minnesota Statutes, section 216B.1645,
11 subdivision 1.

12 Sec. 6. [EFFECTIVE DATE.]

13 Sections 1 to 5 are effective the day following final
14 enactment.

CITIZEN TESTIMONY

TO: Minnesota Senate
 Jobs, Energy and Community Development Subcommittee on Energy
 FROM: Laura and John Reinhardt, Citizen and Landowner Rights Advocates
 DATE: March 16, 2005
 RE: Senate File 1368—and any other legislative effort to avoid Minnesota’s
 Certificate of Need process for authorizing transmission line construction

**TOP 10 REASONS WHY MINNESOTA CITIZENS ARE ENTITLED TO
 CERTIFICATE OF NEED PROCEEDINGS WHEN TRANSMISSION LINES
 ARE PROPOSED TO BE CONSTRUCTED ON THEIR PRIVATE LANDS**
 (and why no law can be adopted to circumvent this important public process)

10. The Certificate of Need laws and rules are structured to comprehensively analyze the important issues of NEED, as well as size, type, timing, cost, alternatives, viability, and social and environmental impacts related to transmission facilities that would be constructed on citizens’ lands. There are no shortcuts for making these important determinations. Citizens are entitled by law to the protections afforded by this regulatory scrutiny.
9. Sidestepping the Certificate of Need process would deprive affected landowners of their right to participate in, analyze, debate, question and influence the administrative decision of whether to allow large energy facilities to be built on their own lands. Landowners are the **only stakeholders** that suffer direct and significant burdens from new transmission line construction, and they must be included in the decision making process.
8. Sidestepping the Certificate of Need proceeding would deprive affected landowners of the process by which to determine public necessity for taking citizens’ lands by condemnation. The Minnesota Supreme Court has held that “[I]t is important that landowners be given an opportunity to present their evidence on such a vital issue [public necessity for taking private lands for power line construction], and **the only reasonable opportunity to do so occurs at the need hearing.**” (*In Re Wilmarth Line of CU Project*, 299 N.W.2d 731 (Minn. 1980))
7. Sidestepping the Certificate of Need proceeding would deprive affected landowners of their Constitutionally-protected right to “judicial review of the public purpose and necessity of a condemnation prior to the actual taking of property.” Minnesota Courts have found that “Under the Minnesota Constitution, a property

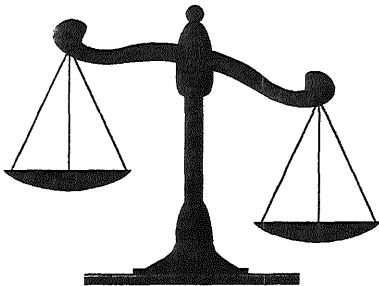
owner has a right to judicial review of a condemnation to ensure that the taking is for a public use or purpose, [and] also to ensure that the taking is necessary." (*City of Duluth*, 390 N.W.2d at 764). When the statutory scheme for taking private lands excludes judicial review—which is exactly what sidestepping the Certificate of Need process would do—landowners lose this guaranteed right. The Minnesota Court of Appeals has voided condemnation for that very reason. (*Rapp Condemnation Award*, C4-00-1124, 1.16.01)

6. The Certificate of Need proceeding protects affected landowners by ensuring that "siting of power plants and transmission lines [is] carried out in [an] orderly fashion according to a rational design, rather than haphazardly, and possibly unnecessarily, at the whim of individual public utilities, whose decisions might fail to consider or comport with the public's interest." (*No Power Line v. Minn. Environmental Quality Council*, 262 N.W.2d 312 (Minn. 1977)). Citizen protections included in the careful analysis required by the Certificate of Need proceeding cannot be stripped away.
5. The Reinhardts spent six long years convincing regulators to require direct mailed notice to landowners whenever a Certificate of Need proceeding is initiated that would impact citizens' land rights. Any exemption or other scheme to avoid the Certificate of Need proceeding for transmission line construction would deprive landowners of their right to direct mailed notice. One part of the new notice requirement is to advise landowners that their properties might be taken by eminent domain, so that they'll know that their property interests are affected. This notice requirement is so new that it hasn't even been used yet, but market participants are already trying to persuade the Legislature to let them shirk this legal duty. The right to landowner notification was hard won, and cannot be stripped away through avoidance of or exemption from the Certificate of Need requirements.
4. S.F. 1368 contains provisions to move transmission facility decisions out of the Certificate of Need process and into utility resource planning. This maneuver would unfairly exclude citizens from the process. Citizens are too busy going to work and raising families to figure out whether a massive resource planning process might affect their property rights. Further, citizens would not know which company's resource planning process to monitor in order to protect their property interests, so they'd literally have to participate in every single planning docket to figure this out. That sounds ridiculous because it is. Citizens don't have to stay on top of every resource planning docket, because they enjoy the legal protections contained in the Certificate of Need process whenever large energy facilities are proposed.
3. Those who seek statutory changes to circumvent the protections contained in our Certificate of Need process are those who know their transmission plans will not survive regulatory scrutiny. For example, the CapX 2020 "vision" is to build 3,300

miles of new super high voltage 345- and 500-kilovolt transmission lines across Minnesota citizens' lands to "meet the needs of all regional market participants" ... "regardless of the location of new power plants." The Certificate of Need process demands the location of the electrical load that would be served by new transmission lines, and then considers alternatives to transmission such as locating new generators near load. Minnesota citizens are entitled to the protections inherent in this analytical process.

2. There is no compelling reason to deprive citizens of the many legal protections afforded by the Certificate of Need proceeding except to cheat them out of their lands while they're not looking.
1. Taking away landowner rights is a deal killer. A landowner will be able to stop a project at the very end stage (condemnation) if he or she has been deprived of the rights and protections contained in Minnesota's Certificate of Need process. It is a foolish waste of time and money to push a transmission plan through to the very last stage only to be defeated by angry landowners who were stripped of legal rights by their own Legislature. If a transmission proposal cannot survive the Certificate of Need process, then it will not survive condemnation. It's that simple.

The Certificate of Need proceeding must not be circumvented through unfair avoidance tactics and exemptions. Citizens are entitled to the protections inherent in our Certificate of Need laws and rules, and are entitled to participate in the decision making process. Justice dictates that Minnesota lawmakers will protect citizens' rights; therefore, any statutory policy that would remove transmission decisions from this regulatory process must fail.



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Laura A. Reinhardt". The signature is written in a cursive style and is positioned above a horizontal line.

Laura A. Reinhardt

A handwritten signature in black ink, appearing to read "John C. Reinhardt". The signature is written in a cursive style and is positioned above a horizontal line.

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CITIZEN TESTIMONY

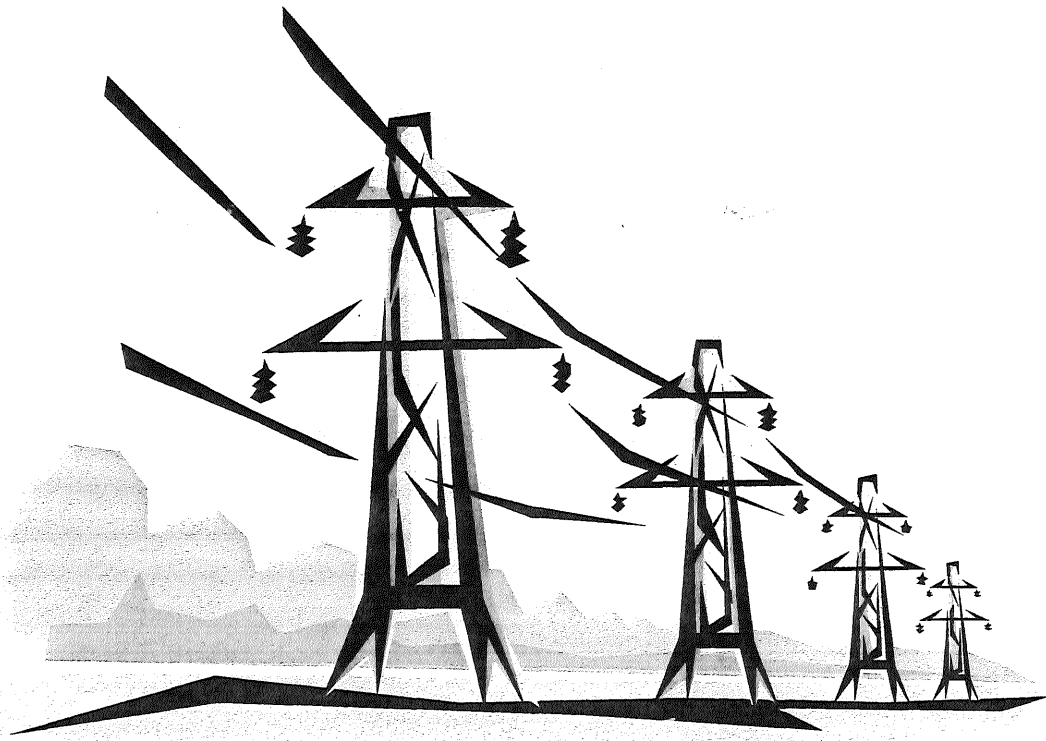
to

MINNESOTA SENATE
JOBS, ENERGY AND COMMUNITY DEVELOPMENT
SUBCOMMITTEE ON ENERGY

In Opposition To

SENATE FILE 1332:

Automatic Recovery of Electricity Transmission Costs, High-Voltage
Transmission Line Certification Requirements Modified, and Stakeholder
Group Established to Study State Transmission Certification Process



Submitted by:
Laura and John Reinhardt
Citizen and Landowner Rights Advocates

March 16, 2005

Senate File No. 1332 does not serve the public interest and would, in fact, harm Minnesota citizens and landowners. We offer our objections to this bill for your consideration.

1. S.F. 1332 would change our state's certificate of need requirements to include regional energy needs as a "showing required for construction" of high voltage transmission lines on citizens' lands. This provision is not in the public interest and would harm Minnesota citizens.

A. Interstate transmission infrastructure to serve regional market participants would siphon off native energy resources that were built and paid for by Minnesota ratepayers. Our state's energy resources must be protected.

- "A distinction must be drawn between MISO's original role as a transmission operator and its new initiative to implement a locational marginal pricing market," said Mike Stuart, Wisconsin Public Power vice president for legal and public affairs. "MISO was formed to operate the transmission system," Stuart said. "The controversy is caused by a market implementation that threatens to undermine the billions of dollars of investment in existing power supply portfolios. The value we provide to our customers derives from our past generation investments. We cannot support a market design if it threatens to deprive our customers of this value in the future." *Public Power* January-February 2004.
- "We have cheap electricity in this state. It is a huge economic benefit,' [Minnesota Attorney General] Hatch said. But if some of that power can be sold outside the state for a bigger profit, that's where it's going to go, Hatch warned – and such moves could leave his state worse off." *The Washington Post* 2.20.01.
- In his March 1, 2004 presentation entitled "ISO As The New Utility: Why Are the States Deferring?" Richard O'Neill, the Federal Energy Regulatory Commission's Chief Economic Advisor, sets forth the state's responsibility to protect the welfare of its *citizens*, by considering resource adequacy, demand response, management of transmission rights and native load, siting of generation and distribution, and property rights. Mr. O'Neill notes that "involuntary takings, eminent domain, market power, dirty water and air" are all unacceptable burdens associated with interstate electricity competition—a goal that is directly (and unfairly) fostered by SF 1332.

- Federal open access requirements for interstate transmission facilities trample an individual state's ability to plan for its own energy needs and to protect its own natural environment. States can't even build new transmission lines with any degree of certainty that they will be able to use them as intended! In its 2003 Order Granting Certificates of Need for Xcel Energy's four proposed high voltage transmission lines in Southwestern Minnesota, the Minnesota Public Utilities Commission was forced to admit that under federal open-access transmission rules, states that authorize power line construction assume the "risk that the transmission lines will not be used for the purpose for which they are intended and for which any certificates of need would be granted." That is unacceptable treatment of facilities that are constructed by a state's ratepayers for their own use.
 - B. Interstate transmission infrastructure to serve regional market participants would dump pollution from new coal plants in our state while allowing distant states to enjoy pollution reduction.
 - The *fedgazette* noted in its September 2004 article titled "The New Coal Rush," that "the number of publicly announced coal-fired power plant proposals at six in Montana, two in North Dakota, two in northern and western Wisconsin and one each in Minnesota and South Dakota," and these investors are desperate to have somebody build some new high voltage export power lines throughout our state. SF 1332 serves the interests of these power marketers to the detriment of Minnesota's own citizens.
 - In an April 2004 interview, FERC's Chairman Pat Wood III, said that "Coal is the net winner today, and it's going to export more power across the country."
 - Here's what Peabody Coal Company (the "largest coal company in the world!") wrote to the U.S. Department of Energy on 9.21.04:
 - ☞ "Electric High Voltage transmission lines are market enablers, promoting wholesale competition amongst generators which may be outside a given supply territory."
 - ☞ "The Midwest and North regions are home to our most abundant and low-cost coal reserves."
 - ☞ Transmission lines allow delivery of abundant, low-cost electricity to customers who reside in areas where the price of regional generation is significantly more expensive."

- Peabody Coal Company's presentation to the U.S. Department of Energy workshop on national transmission issues (7.14.04) acknowledges that eliminating transmission bottlenecks "will create greater incentives to build new coal plants in Middle US where lower mining costs are (or mine mouth) and ship coal by wire to the South and East." Peabody's presentation discloses 2003 average prices per kilowatt hour of 5.5¢ in North Dakota as compared to 11.7¢ in New York.
- Our neighbors in North Dakota have established a government/industry partnership called "Lignite Vision 21" which is designed to foster construction of up to six new coal plants in that state. All they need to realize this "vision" are some huge new power lines through Minnesota to ship that power to distant "regional" markets.
- In its December 5, 2002 presentation to a *wind* energy seminar held in St. Paul, Minnesota, the Midwest Independent System Operator admits that "The affect of a moderate amount of transmission can clearly be seen. Transmission releases the low cost coal energy to the market."
- The Federal Energy Regulatory Commission's Chairman, Pat Wood III, in May 19, 2004 testimony to a U.S. House of Representatives Energy Subcommittee, acknowledges that "Building and operating a transmission line can have economic and reliability consequences that go beyond any single State. Therefore, questions about who should pay for these consequences must, of necessity, be considered in ways that fully protect customers and citizens of the affected States."
- The Minnesota Pollution Control Agency has determined that "Minnesota permitting agencies have no authority in other states or countries, yet we are affected by the pollution these plants would create," so "the only opportunity the state may have to address these issues lies in the decision about future transmission capacity."
- In written materials provided for its 10.28.02 Energy Forum #2: Energy Infrastructure, the Minnesota Department of Commerce acknowledges that: "Minnesota is a likely candidate to be a pass-through state" to transport new energy resources out of the Dakotas [coal] and Manitoba [hydro]. Although the DOC refused to discuss these issues, Minnesota's status as a "pass-through state" must be carefully analyzed before we agree to impose large bulk power

transmission lines on our citizens' properties "to accommodate the economic transfer of energy between states."

- Minnesota's Environmental Policy Act and Environmental Rights Act specifically forbid environmental degradation merely to serve economic development interests.

Eastern and Southern markets would benefit not only from tapping into the Midwest's low electricity costs, but also from relocating the pollution caused by their own energy use to the Upper Midwest. When a state or region buys electricity from the "regional" power grid, it allows them to avoid the environmental consequences of their own energy use. Eastern and Southern States would enjoy lower costs *and* reduced pollution through regional transmission facilities contemplated in SF 1332, but Minnesota's citizens would be unfairly encumbered with higher energy costs, increased pollution *and* the intrusion of super high voltage transmission lines on our private and public lands.

C. Interstate transmission infrastructure to serve regional market participants would diminish the use of conservation, load management and energy efficiency measures.

- Minnesota's Legislative Auditor issued a report in January 2005 concerning our state's Energy Conservation Improvement Program noting that "cost-effective conservation will have the potential to reduce the state's energy needs by between 10 and 30 percent." (And *that* figure was based on studies carried out by investor-owned utilities!)
- The National Association of Regulatory Utility Commissioners' Report entitled "Efficient Reliability" notes that 40-50% of expected load growth over the next 20 years can be met through end-use efficiency and load management, which would lower electric costs and the environmental impacts of energy production. This Report states that in a competitive environment (that would be fostered by the interstate transmission lines contemplated in SF 1332), generators have no financial incentive to promote either efficiency or load management, and they profit handsomely from high peak prices.

Each state has to live with the consequences of its own energy decisions, (pollution, nuclear waste storage, etc.). While some states will rely on coal or nuclear facilities, other states will wisely turn to load management, energy efficiencies and renewable technologies for energy production. Minnesota citizens must be protected from the negative environmental impacts associated with generation for export to distant markets. A "transmission solution" to

electricity consumption that removes pollution from the consuming state (by sending it over to us) is a major disincentive for that state to turn to load management or energy-efficiency measures to meet its consumers' power needs. SF 1332 encourages pollution relocation to the Upper Midwest by authorizing transmission line construction that will serve other states and regions, which would harm Minnesota's citizens.

- D. The "reliability benefits" claimed by market participants to justify regional export transmission lines are not quantifiable.
- Minnesota's Public Utility Commission Chair LeRoy Koppendraye's February 2, 2005 testimony to the Minnesota Senate Energy Committee, accurately describes the drawbacks of using "reliability" as an excuse to build high voltage transmission lines: Mr. Koppendraye said that he has never heard a number—or a percentage—or specific measurable criteria—that demonstrates "reliability" to any certain degree. He also cautioned the committee that the State's role is to protect Minnesota's native load and its ratepayers.
 - The Midwest ISO's 2003 Transmission Expansion Plan states that: "Transmission system constraints to the flow of scheduled transmission service reservations, or that limit the availability of such service reservations, generally represent limits to the commercial use of the system, rather than limitations to the reliability of the system."

Generation is a viable alternative to transmission and must be considered through our state's certificate of need process. There is no public process to analyze alternatives to transmission on a regional level. Because Minnesota lawmakers and regulators have no jurisdiction outside our state's borders, transmission infrastructure that will allow other states to avoid building their own generating plants as an alternative to transmission in Minnesota is inappropriate and unjustifiable. Each state must reach its conclusions regarding adequate energy supplies for its own consumers.

2. S.F. 1332 allows cost recovery from Minnesota ratepayers to subsidize wholesale transmission facilities that will "accommodate the economic transfer of energy between states." This provision is clearly not in the public interest and would harm our state's citizens.

- The Federal Energy Regulatory Commission's Chief Economic Advisor, Richard O'Neill, says that the game is for beneficiaries of new transmission facilities to get others to pay!

- Many Public Utilities Commissions have asserted that they will not allow their ratepayers to suffer the cost for building transmission lines to “move merchant power to other customers” (Louisiana 10.17.04), or to “meet the needs of the wholesale market” (Ohio 9.15.04), or to “make low-cost power available in higher-cost regions” (South Carolina 9.20.04). The Ohio PUC “believes that market-oriented transmission lines should have to go through regulated cost justification and be paid for by the entities that benefit.” South Carolina’s PUC says that “Those that benefit from reduction of congestion should pay for the necessary infrastructure upgrades. This is particularly true for upgrades based primarily on commercial considerations.” And Minnesota? Our lawmakers have proposed SF 1332 to force our state’s ratepayers to subsidize wholesale power facilities for regional market participants!
- In an April 2004 interview, FERC Chairman Pat Wood III said that they’ve been talking about who will pay for regional transmission facilities, but so far they haven’t found the answer.
- In his 2.2.05 testimony to the Senate Energy Committee, Minnesota’s Public Utilities Commission Chair, LeRoy Koppendrayer, said that the wholesale power market should not cause native prices to go up and that energy generated here for sale to Chicago should not negatively impact Minnesota.
- The Citizens League’s December 2002 Report to the Minnesota Legislature called “Powering Up Minnesota’s Energy Future,” cautions that “as the electricity system becomes more regionalized, it is likely that Minnesota’s electricity pricing will have to rise to levels more comparable to the surrounding region,” that “if we move to a more market-based system, customers cannot be insulated from price increases,” and that “regional transmission operators will aim to tap the cheapest source of electricity” (which is coal).
- Minnesota’s largest utilities are proposing a new plan called “CapX 2020” (as in “*Capacity Export*”) to construct 3,300 miles of new super high voltage 345- and 500-kilovolt transmission lines across Minnesota citizens’ lands to “meet the needs of all regional market participants” ... “regardless of the location of new power plants.” Minnesota ratepayers cannot pay for energy facilities that will serve “regional” (out-of-state) electricity users and power marketers. CapX expects Minnesota’s ratepayers to build these wholesale power lines for them, but we’re not going to do it.

- CapX's December 2004 Interim Report complains that Minnesota regulators, "being required to follow only STATE law, promotes the STATE's interests over regional interests." *That's right.* Protecting our state's citizens and interests is the role of our government, as articulated in Article 1 of Minnesota's Constitution.

3. S.F. 1332 allows owners of transmission facilities to "transfer ownership of those assets" to an out-of-state transmission provider to "accommodate energy transfers between states." This provision is not in the public interest and would seriously harm our state's citizens.

SF 1332 allow our state's energy assets (built and paid for by Minnesota ratepayers) to be transferred to out-of-state owners (who are not accountable to Minnesota consumers) as if that would be good for our state. Minnesota must retain state control over our energy assets for the benefit of its own citizens.

- The Minnesota Attorney General's 2000 Report called "The Deregulation Experience" cautions that: "The experience with electricity restructuring, however, is that it transfers many economic decisions from a public regulatory board to a private board. ... In doing so, ISOs, like state regulatory authorities, can have significant impacts on the price of electricity. But, unlike state regulatory authorities, ISOs are not directly accountable to state and local elected officials."
- Minnesota cannot give up control of its energy infrastructure and then hope that regional or national regulators will adequately protect our energy interests. In examining California's 2000 electricity crisis, the United States Senate Committee on Governmental Affairs found "a shocking absence of regulatory vigilance on FERC's part" and said that "FERC did not fulfill its role to protect the consumer against abuses that can result if a market-based system is not adequately patrolled by those charged with doing so." That is exactly the fate Minnesotans can expect if we relinquish our transmission assets to out-of-state entities.
- The "National Rural Electric Cooperative Association and a group of mostly municipal transmission dependent utilities—calling themselves Midwest TDUs—" called MISO's positions and actions on their grandfathered transmission agreements "tenaciously defiant and wrong." (*Platts T&D News* 12.27.04)

- Kentucky's utilities have notified MISO that they plan to withdraw from the regional transmission organization following a cost-benefit analysis by their Public Utilities Commission that shows that their participation in MISO is not cost-effective. (*Energy Online* 12.29.04)
- A group of Wisconsin lawmakers told FERC that MISO was never intended to operate a complicated market and that a move to competitive markets could threaten reliability and significantly increase costs to ratepayers. (*Platts T&D News* 3.25.04)
- North and South Dakota have called on FERC to release their largest electricity provider from MISO's energy markets because MISO's new market "scheme" "threatens the economic vitality of North and South Dakota." (*Platts T&D News* 12.27.04)
- In January 2004, the Mid-Continent Area Power Pool, the Upper Midwest Reliability Organization complained to FERC about MISO's improper focus, its abrogation of grandfathered transmission contracts, inequities in allocating transmission service, escalating costs, and unrealized benefits.

Large regional transmission interconnections threaten the safety, security and reliability of Minnesota's transmission system, as vividly demonstrated by the August 14, 2003 Blackout where electric service shut down in eight U.S. states and two Canadian provinces. This Blackout developed in MISO's own service territory, but the Transmission System Operator just stood by and watched it happen. Minnesota's lawmakers must protect its citizens from the dangers associated with widespread grid interconnection. The security of our state's electric distribution system must be our top priority.

4. **S.F. 1332 excludes landowners from the "stakeholder group" that would be convened by statute to study modification of "state administrative processes to certify and route high-voltage transmission lines." This provision does not comport with the public interest.**

It is insulting to Minnesota citizens who would have regional power lines constructed on their lands that the authors of SF 1332 excluded them from the transmission line "stakeholder" group" it seeks to convene.

- Because privately-owned land rights are essential to the construction of any new high voltage transmission lines—and because everybody knows that citizens do not want their properties seized for that purpose—landowners are the ultimate stakeholders in these processes.

- Landowners are the **only** parties that have to shoulder direct burdens and impacts of large power lines marching over our homesteads, farmsteads, hunting/fishing/recreational and business properties. So why are we left out?
- Landowners are terrified of the potentially serious health impacts associated with electromagnetic fields that emanate from high voltage transmission lines.
- Landowners do not want the beauty of their beloved lands destroyed by large power lines to serve economic interests unrelated to our state's energy needs.

5. S.F. 1332 is Unconstitutional.

- A government act violates the constitution unless it “rationally relates to a legitimate governmental interest.” SF 1332 does not. Instead, it places Minnesota citizens in service to large energy producers.
- If a statute impacts the citizens’ “fundamental right” (*life, liberty property*), the action must be shown to fulfill a “compelling state interest.” If it does not, those impacted citizens are unconstitutionally deprived of their due process and equal protection rights. SF 1332 impacts citizens’ fundamental rights, without satisfying *any* “compelling state interest.”

MINNESOTA CONSTITUTION

Article I — Bill of Rights

Section 1. **OBJECT OF GOVERNMENT.** Government is instituted for the security, benefit and protection of the People, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the Public Good.

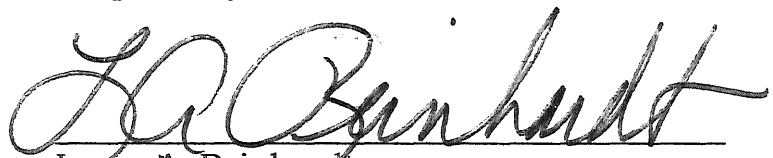
We have demonstrated that SF 1332 will not serve the Public Good. If wholesale power producers *really* want to build export transmission lines through our state, they're going to have to approach landowners with the respect they deserve as holders of an essential—and valuable—asset. "*Land values change when land use changes.*" Private lands are at the center of any discussion about regional power markets, so why are landowners shut out by the provisions of SF 1332?

Minnesota citizens need safeguards as regional power marketers encroach on states' regulatory processes and rights in an endless quest to satisfy their own economic objectives. Any attempt to construct an *interstate* wholesale electricity marketplace has to be wholly separate from the *intrastate* regulatory processes that are designed to protect our citizens.

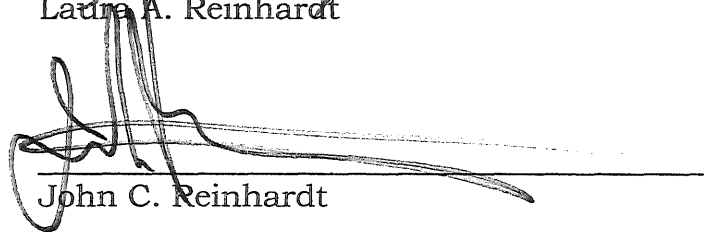
Remember what FERC's Chief Economic Advisor said: Involuntary takings, eminent domain, market power, dirty water and air are all unacceptable burdens associated with interstate electricity competition. The authors of SF 1332 should be ashamed to advocate for new laws that would foist these very burdens on Minnesota citizens.

We vehemently oppose this bill and beseech you to **REJECT S.F. 1332!**

Respectfully submitted,



Laura A. Reinhardt



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