

HOUSE RESEARCH

Bill Summary

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Overview

This legislation is proposed by the Minnesota chamber of commerce and authorizes retail competition for power supply services (referred to generally as "electric industry restructuring") by January 1, 2003.

Section

1 **Title.** Refers to this act as the "Minnesota Retail Electric Competition Act."

2 **Definitions.**

Subd. 4. Competitive provider means a person providing power supply services, including a broker or power marketer.

Subd. 12. Market aggregator means a person that arranges for power supply services on behalf of another customer through a power pool or directly through a contract with a competitive provider.

Subd. 14. Power supply services means the provision of electric power supply or a related service to an end-use customer. Power supply services includes a service relating to the usage, measurement, purchase, or sale of electric capacity and energy, but does not include the operation of generation facilities, or distribution or transmission services. Marketing, customer service and billing are all power supply services.

3 **Purpose.**

4 **Retail electric competition standards.**

Subd. 1. Retail competition generally. Specifies that by January 1, 2003, all customers in Minnesota shall have the opportunity to choose a competitive provider of power supply services at prices established by a market.

Subd. 2. Retail competition order. Requires the public utilities commission to make such determinations as is necessary to implement this act. Specifies that for the first 3 years, the local distribution utility shall be the supplier for those customers that do not choose a competitive

provider ("default supplier"), and that thereafter, the commission may designate a competitive provider as the default supplier.

Subd. 3. Order contents. Specifies that the commission's orders under subdivision must be consistent with this act, and that the commission shall ensure that retail competition in Minnesota includes:

- customer protection measures;
- rate unbundling;
- mitigation of market power;
- regulation of utility affiliate relations; and
- customer education and information.

5 **Recovery of stranded costs.**

Subd. 1. General policy. Authorizes an electric utility to seek to recover from their customers up to 100 percent of their stranded costs, defined as "the value of prudently incurred, net, nonmitigatable, verifiable assets and investments directly related to the generation of electricity that have been included in an electric utility's rates but that may not be recoverable in a competitive market."

Requires that stranded costs be determined on a net basis, be verifiable, must not include distribution assets, and must be reconciled to actual market conditions annually.

Subd. 2. Recovery plans. Requires each electric utility to file a stranded cost recovery plan by January 1, 2002, documenting anticipating stranded costs, providing a mitigation proposal, and describe offsetting increases in the market value of other assets. Requires the commission to approve a recovery plan by October 1, 2002, for each electric utility submitting a plan. Restricts the commission to approving only those plans that:

- permit collection of a stranded cost recovery charge from all customers for a utility's stranded costs;
- establish the amount of stranded costs through the sale by public auction of the generation assets and power purchase contracts for which the utility is seeking recovery; and
- a limited recovery period.

Authorizes a provider affiliated with a local distribution utility to purchase the assets or contracts of its affiliated utility. Prohibits the commission from allowing the use of any recovery mechanism which it finds "impedes the development of competition" such as an entry or exit fee.

Subd. 3. Stranded cost recovery criteria. Imposes a duty on electric utilities to prudently, thoroughly, and aggressively mitigate stranded costs. Specifies that a utility's stranded costs be offset against the utility's stranded benefits, defined as "the value of an electric utility's assets whose market value exceeds their book value in a competitive market."

6 **Local distribution utility obligations.** Specifies that a local distribution utility shall continue to be obligated to customers in the utility's service territory to provide all regulated services, and to connect customers on nondiscriminatory and comparable service terms and conditions. Provides that as of January 1, 2006, a local distribution utility is no longer required to provide power supply services.

7 **Reliability and safety.** Requires the commission to maintain rules to ensure reliable and safe electric distribution services and local distribution utilities to take all steps necessary to preserve the integrity, safety, reliability, and quality of electric distributions services in Minnesota.

8 **Transmission system.** Establishes a state-law duty to comply with the federal regulations

requiring nondiscriminatory access to and use of the transmission system for buyers and sellers of electricity. Requires each utility that seeks to provide electric services to retail customers in the state to comply with federal requirements regarding operation of its transmission assets, and to certify its compliance to the commission.

Requires transmission operators to operate their transmission facilities in compliance with reliability standards set by the Mid-Continent Area Power Pool (MAPP), any Regional Transmission Organization (RTO) approved by the Federal Energy Regulatory Commission (FERC) for this region, or the North American Electricity Reliability Council (NERC).

Specifies that each electric utility that owns both generation and transmission assets must demonstrate to the commission that it is operating these assets independently of one another. Does not require membership in an independent transmission entity approved by the FERC (such as an Independent System Operator or RTO), but specifies that membership in such an organization is proof of independence.

- 9 **Competitive provider registration.** Requires registration with the commission for those entities that seek to provide power supply services to retail customers in Minnesota, and provides requirements and procedures for registration, approval and renewal.
- 10 **Unbundling of utility functions.** Requires unbundling of utility operations into separate corporate functions for generation, transmission and distribution operations by January 1, 2003.
- 11 **Access to transmission or distribution facility.** Requires each owner, operator or provider of a transmission or distribution facility or ancillary service to provide comparable and reciprocal access to the facility or ancillary service, to a buyer or seller on a nondiscriminatory basis, and to file an open access tariff with the appropriate regulatory body.
- 12 **Affiliate relations; rules.** Requires the commission to continue to enforce authority over utility affiliate relations under current law (Minnesota Statutes 2000, section 216B.48) and specifies that the commission may adopt additional rules to ensure that a utility does not directly or indirectly include in regulated rates any costs or expenses of an affiliated provider. Specifies that municipal utilities and cooperative associations are subject to these commission rules.
- 13 **Market aggregator.** Authorizes a customer to arrange for power supply services through a market aggregator. Requires a market aggregator seeking to provide services in Minnesota to arrange for power supply services solely from competitive providers registered with the commission, or be a registered competitive provider itself.
- 14 **Contract rights.** Specifies that nothing in this act interferes with or supercedes the rights of parties under a contract entered into before the effective date of this act.
- 15 **Applicability to other laws.** Provides that this act supercedes all contrary statutory provisions, unless otherwise specified.
- 16 **Remedies.** Specifies that an entity that owns or operates transmission or distribution facilities in this state is not liable for damages to a customer if that customer's competitive provider fails to deliver service. Authorizes a customer to seek an order from the commission compelling compliance with this chapter.
- 17 **Minnesota electric system public benefits fund.**
Subd. 1. Fund established.
Subd. 2. Appropriation and expenditures. Appropriates money in the fund to the commissioner of commerce to support public purpose programs relating to:
educating customers about the opportunities and concerns presented by the implementation of customer choice
low-income assistance

subsidizing the cost of renewable energy, through renewable energy tax credits

retaining dislocated workers

covering the administrative costs of the commission and the department of commerce of implementing this act.

Subd. 3. Nonbypassable surcharge. Requires the commissioner of commerce to develop and recommend to the commission an annual budget and an appropriate surcharge. Requires the commission to approve the budget and impose the surcharge sufficient to raise the budgeted amount. Authorizes the surcharge that an individual utility charges to reflect this base amount plus: any stranded costs approved for recovery by the commission; costs recoverable under section 216B.1645 (Prairie Island mandates); the utility's personal property tax replacement charge; and transition costs related to implementation of unbundling and retail competition.

Subd. 4. Collection. Requires each local distribution utility to collect the surcharge and remit the state portion to the commissioner of revenue.

Subd. 5. Conservation. Specifies that nothing in this act shall affect or apply to the state's conservation improvement plan program.

Subd. 6. Evaluation by legislative auditor. Specifies that this fund and the effectiveness of the programs funded by the surcharge be audited every two years.

Subd. 7. Tax credits for renewable development. Requires the commissioner of revenue to establish and administer a renewable tax credit program to subsidize the research, development and capital construction costs or renewable energy generation.

Subd. 8. Personal property tax replacement charge. Requires a local distribution utility to pay to local government units amounts equal to the amount the utility would have paid but for the personal property tax exemption in section 22.

Subd. 9. Transition costs. Requires the commission to approve recovery of the reasonable costs involved in corporate separation (unbundling) and the costs of implementing retail access.

18 **Customer education.** Requires the commissioner of commerce to establish a customer education program regarding the implementation of retail competition in Minnesota.

19 **Price to beat.** Specifies that for the first three years of retail competition, the default supplier provider (i.e. the local distribution utility) shall offer rates for power supply services equivalent to the rates for such services in effect on December 31, 2002. Requires such rates shall be known as the "price to beat."

20 **Market power issues.** Requires the commission to conduct an investigation of potential market power in the Minnesota electric generation market, by February 1, 2002. Requires the commission to order any utility found to have market power to file a market power mitigation plan, which can include divestiture of generation assets.

21 **Fuel source information.** Requires each electric utility, beginning July 1, 2002, to identify for consumers the percentage of its total retail energy sales that come from coal, nuclear, natural gas, wind, biomass, hydropower, or other sources.

22 **Personal property tax used to generate electricity.** Exempts personal property used to generate electricity from property taxation as of January 1, 2003.

23 **Instruction to revisor.**

24 **Appropriation.** Appropriates \$275,000 to the public utilities commission to offset costs associated with implementing this act. Appropriates \$..... in fiscal year 2002 and \$..... in fiscal year 2003 to the commissioner of commerce for customer education.

25 **Effective date.** Provides that this act shall be effective the day following final enactment.

