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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3814

April 28, 2010

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The bill was read for the first time and referred to the Energy Finance and Policy Division

1.1 A bill for an act
1.2 relating to energy; modifying provisions related to electricity generated from
1.3 anaerobic digester systems; amending Minnesota Statutes 2008, section
1.4 216B.164, subdivisions 3, 4.

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

1.6 Section 1. Minnesota Statutes 2008, section 216B.164, subdivision 3, is amended to
1.7 read:

1.8 Subd. 3. **Purchases; small facilities.** (a) For a qualifying facility having less than
1.9 40-kilowatt capacity, and for base-load facilities that generate electricity from an anaerobic
1.10 digester system, the customer shall be billed for the net energy supplied by the utility
1.11 according to the applicable rate schedule for sales to that class of customer. In the case
1.12 of net input into the utility system by a qualifying facility having less than 40-kilowatt
1.13 capacity or a base-load facility that generates electricity from an anaerobic digester
1.14 system, compensation to the customer shall be at a per kilowatt-hour rate determined
1.15 under paragraph (b) or (c).

1.16 (b) In setting rates, the commission shall consider the fixed distribution costs to the
1.17 utility not otherwise accounted for in the basic monthly charge and shall ensure that the
1.18 costs charged to the qualifying facility are not discriminatory in relation to the costs
1.19 charged to other customers of the utility. The commission shall set the rates for net
1.20 input into the utility system based on avoided costs as defined in the Code of Federal
1.21 Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of
1.22 Federal Regulations, title 18, section 292.304, and all other relevant factors.

1.23 (c) Notwithstanding any provision in this chapter to the contrary, a qualifying facility
1.24 having less than 40-kilowatt capacity or a base-load facility that generates electricity

2.1 from an anaerobic digester system, may elect that the compensation for net input by the
 2.2 qualifying facility into the utility system shall be at the average retail utility energy rate.
 2.3 "Average retail utility energy rate" is defined as the average of the retail energy rates,
 2.4 exclusive of special rates based on income, age, or energy conservation, according to the
 2.5 applicable rate schedule of the utility for sales to that class of customer.

2.6 (d) If the qualifying facility is interconnected with a nongenerating utility which has
 2.7 a sole source contract with a municipal power agency or a generation and transmission
 2.8 utility, the nongenerating utility may elect to treat its purchase of any net input under
 2.9 this subdivision as being made on behalf of its supplier and shall be reimbursed by its
 2.10 supplier for any additional costs incurred in making the purchase. Qualifying facilities
 2.11 having less than 40-kilowatt capacity and base-load facilities that generate electricity
 2.12 from an anaerobic digester system may, at the customer's option, elect to be governed by
 2.13 the provisions of subdivision 4.

2.14 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to
 2.15 electricity produced by base-load facilities that generate electricity from anaerobic digester
 2.16 systems after January 1, 2011.

2.17 Sec. 2. Minnesota Statutes 2008, section 216B.164, subdivision 4, is amended to read:

2.18 Subd. 4. **Purchases; wheeling; costs.** (a) Except as otherwise provided in
 2.19 paragraph (c), this subdivision shall apply to all qualifying facilities having 40-kilowatt
 2.20 capacity or more, except base-load facilities that generate electricity from an anaerobic
 2.21 digester system, as well as qualifying facilities as defined in subdivision 3 which elect
 2.22 to be governed by its provisions.

2.23 (b) The utility to which the qualifying facility is interconnected shall purchase all
 2.24 energy and capacity made available by the qualifying facility. The qualifying facility shall
 2.25 be paid the utility's full avoided capacity and energy costs as negotiated by the parties, as
 2.26 set by the commission, or as determined through competitive bidding approved by the
 2.27 commission. The full avoided capacity and energy costs to be paid a qualifying facility
 2.28 that generates electric power by means of a renewable energy source are the utility's least
 2.29 cost renewable energy facility or the bid of a competing supplier of a least cost renewable
 2.30 energy facility, whichever is lower, unless the commission's resource plan order, under
 2.31 section 216B.2422, subdivision 2, provides that the use of a renewable resource to meet
 2.32 the identified capacity need is not in the public interest.

2.33 (c) For all qualifying facilities having 30-kilowatt capacity or more, and for a
 2.34 base-load facility that generates electricity from an anaerobic digester system, the utility
 2.35 shall, at the qualifying facility's or the utility's request, provide wheeling or exchange

3.1 agreements wherever practicable to sell the qualifying facility's output to any other
3.2 Minnesota utility having generation expansion anticipated or planned for the ensuing ten
3.3 years. The commission shall establish the methods and procedures to insure that except
3.4 for reasonable wheeling charges and line losses, the qualifying facility receives the full
3.5 avoided energy and capacity costs of the utility ultimately receiving the output.

3.6 (d) The commission shall set rates for electricity generated by renewable energy.

3.7 (e) For the purposes of this section, "anaerobic digester system" has the meaning
3.8 given in section 216C.41, subdivision 1, paragraph (e).

3.9 **EFFECTIVE DATE.** This section is effective August 1, 2010, and applies to
3.10 electricity produced by base-load facilities that generate electricity from anaerobic digester
3.11 systems after January 1, 2011.