

**SENATE**  
**STATE OF MINNESOTA**  
**NINETIETH SESSION**

**S.F. No. 3504**

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DATE	D-PG	OFFICIAL STATUS
03/15/2018	6529	Introduction and first reading Referred to Energy and Utilities Finance and Policy
03/29/2018	7027a	Comm report: To pass as amended
05/14/2018	7117	Second reading Special Order: Amended Third reading Passed

1.1 A bill for an act  
1.2 relating to energy; establishing a carbon reduction facility designation for certain  
1.3 large electric generating facilities; proposing coding for new law in Minnesota  
1.4 Statutes, chapter 216B.

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

1.6 Section 1. [216B.1697] CARBON REDUCTION FACILITIES; NUCLEAR ENERGY.

1.7 Subdivision 1. **Qualifying facilities.** An existing large electric generating power plant,  
1.8 as defined in section 216B.2421, subdivision 2, clause (1), that employs nuclear technology  
1.9 to generate electricity qualifies for designation as a carbon reduction facility as provided in  
1.10 this section.

1.11 Subd. 2. **Proposal submission.** (a) A public utility may submit a proposal to the  
1.12 commission for designation as a qualifying facility as a carbon reduction facility under this  
1.13 section. The proposal must be filed within a public utility's new resource plan filing no  
1.14 earlier than February 1, 2019. The commission has sole discretion to determine whether to  
1.15 consider this proposal. The proposal shall include:

1.16 (1) a showing that the facility meets the requirements of subdivision 1;

1.17 (2) a proposed statement of the total expected costs, including, but not limited to, capital  
1.18 investments and operation and maintenance costs associated with the operation of the facility.  
1.19 The total expected costs shall cover a period not to exceed the 15-year planning period of  
1.20 the public utility's new resource plan;

1.21 (3) details about all costs of the public utility approved in commission proceedings, in  
1.22 current dollars, including current and expected operating costs;

2.1 (4) an evaluation of the public utility's total expected costs prepared by an independent  
2.2 evaluator, whose selection shall be approved by the commission; and

2.3 (5) an analysis of how the total expected costs would impact rates.

2.4 (b) The proposal may ask the commission to establish a sliding scale rate-of-return  
2.5 mechanism for the capital investments to provide an additional incentive for the public  
2.6 utility to complete the projects at or under the total expected costs.

2.7 (c) The public utility submitting the proposal bears the burden of proof to demonstrate  
2.8 that total expected costs are reasonable, prudent, and in the public interest.

2.9 Subd. 3. **Proposal approval.** (a) The commission may consider proposals submitted  
2.10 under subdivision 2 at its sole discretion and may approve, reject, or modify a proposal to  
2.11 the extent the commission determines that the proposal is consistent with the public interest.

2.12 (b) If the commission considers a proposal submitted under subdivision 2, the commission  
2.13 shall allow intervention by the Department of Commerce, the Office of the Attorney General,  
2.14 ratepayer advocates, the Prairie Island and Monticello communities, and other interested  
2.15 parties. The public utility shall pay the costs of any nuclear expert retained by the Department  
2.16 of Commerce.

2.17 (c) If the commission modifies a proposal submitted under subdivision 2, the public  
2.18 utility may choose whether to accept the modifications. If the public utility does not accept  
2.19 the modifications, the commission shall deem the proposal withdrawn. All costs, including,  
2.20 but not limited to, capital investments and operation and maintenance costs associated with  
2.21 the operation of the facility shall be reviewed in a subsequent rate case.

2.22 (d) The commission's approval of a proposal submitted under subdivision 2 shall include  
2.23 approval of total expected costs for a carbon reduction facility under this section. Commission  
2.24 approval of total expected costs constitutes a presumption of prudence for the total expected  
2.25 costs.

2.26 (e) In future cost recovery proceedings, the commission shall presume that the public  
2.27 utility's actual expenditures, not in excess of the total expected costs approved by the  
2.28 commission, were prudent, provided that there is no presumption of prudence for any  
2.29 expenditure made:

2.30 (1) to extend the operation of the carbon reduction facility beyond the expiration of its  
2.31 operating license;

2.32 (2) to uprate the capacity of the carbon reduction facility; or

3.1 (3) to terminate operation of the carbon reduction facility before the expiration of its  
3.2 operating license.

3.3 (f) The commission shall presume that an expenditure for a carbon reduction facility is  
3.4 prudent under this section only if the public utility continues to operate the carbon reduction  
3.5 facility on which it made the expenditure. If the public utility is issued an order to discontinue  
3.6 operations of the carbon reduction facility, there is no presumption of prudence for any  
3.7 expenditures made on that carbon reduction facility after the date of the order.

3.8 (g) The presumption of prudence is rebuttable upon a showing by a preponderance of  
3.9 the evidence that the previously approved costs are not reasonable, prudent, and in the public  
3.10 interest.

3.11 (h) Notwithstanding the provisions of paragraph (e), the commission has sole discretion  
3.12 to approve any cost recovery in excess of total expected costs. The public utility bears the  
3.13 burden of proof to demonstrate that an expenditure exceeding total expected costs approved  
3.14 by the commission under paragraph (e) is reasonable, prudent, and in the public interest.

3.15 (i) Upon approval of a proposed designation of a facility and the total expected costs  
3.16 submitted by the public utility, the public utility shall provide biennial updates to the  
3.17 commission regarding its progress with respect to adhering to the approved costs. The  
3.18 commission may issue orders it deems necessary to ensure that the carbon reduction facility  
3.19 remains cost-effective for customers and financially viable for the public utility.