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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 234

- 01/12/2017 Authored by Baker, Garofalo, Pelowski, Davids, Nornes and others
- The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance
- 01/19/2017 Adoption of Report: Re-referred to the Committee on Ways and Means
- 01/26/2017 Adoption of Report: Placed on the General Register
- Read for the Second Time
- 02/09/2017 Calendar for the Day, Amended
- Read Third Time as Amended
- Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act

1.2 relating to energy; amending Public Utilities Commission regulation of municipal

1.3 electric utilities and rural electric cooperatives; amending Minnesota Statutes 2016,

1.4 section 216B.164, subdivisions 5, 9, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2016, section 216B.164, subdivision 5, is amended to read:

1.7 Subd. 5. **Dispute; resolution.** In the event of disputes between ~~an electric~~ a public utility

1.8 and a qualifying facility, either party may request a determination of the issue by the

1.9 commission. In any such determination, the burden of proof shall be on the public utility.

1.10 The commission in its order resolving each such dispute shall require payments to the

1.11 prevailing party of the prevailing party's costs, disbursements, and reasonable attorneys'

1.12 fees, except that the qualifying facility will be required to pay the costs, disbursements, and

1.13 attorneys' fees of the public utility only if the commission finds that the claims of the

1.14 qualifying facility in the dispute have been made in bad faith, or are a sham, or are frivolous.

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

1.16 Sec. 2. Minnesota Statutes 2016, section 216B.164, subdivision 9, is amended to read:

1.17 Subd. 9. **Municipal electric utility.** For purposes of this section only, ~~except subdivision~~

1.18 ~~5,~~ and with respect to municipal electric utilities only, the term "commission" means the

1.19 governing body of each municipal electric utility that adopts and has in effect rules

1.20 implementing this section which are consistent with the rules adopted by the Minnesota

1.21 Public Utilities Commission under subdivision 6. As used in this subdivision, the governing

1.22 body of a municipal electric utility means the city council of that municipality; except that,

2.1 if another board, commission, or body is empowered by law or resolution of the city council  
2.2 or by its charter to establish and regulate rates and days for the distribution of electric energy  
2.3 within the service area of the city, that board, commission, or body shall be considered the  
2.4 governing body of the municipal electric utility.

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

2.6 Sec. 3. Minnesota Statutes 2016, section 216B.164, is amended by adding a subdivision  
2.7 to read:

2.8 Subd. 11. **Cooperative electric association.** (a) For purposes of this section only, the  
2.9 term "commission" means the board of directors of a cooperative association that (1) elects,  
2.10 by resolution, to assume the authority delegated to the Public Utilities Commission over  
2.11 cooperative electric associations under this section, and (2) adopts and has in effect rules  
2.12 implementing this section. The rules must provide for a process to resolve disputes that  
2.13 arise under this section, and must include a provision that a request by either party for  
2.14 mediation of the dispute by an independent third-party must be implemented. A cooperative  
2.15 electric association that has adopted a resolution and rules under this subdivision is exempt  
2.16 from regulation by the Public Utilities Commission under this section.

2.17 (b) Except as provided in paragraph (c), any proceedings concerning the activities of a  
2.18 cooperative electric association under this section that are pending at the Public Utilities  
2.19 Commission on the effective date of this section are terminated on that date.

2.20 (c) The Public Utilities Commission shall limit its investigation in Docket No. 16-512  
2.21 determining whether the methodology used by cooperative associations to establish a fee  
2.22 under section 216B.164, subdivision 3, paragraph (a), complies with state law. The  
2.23 commission shall complete the investigation no later than December 31, 2017. A  
2.24 methodology determined by the commission to comply with state law may not be challenged  
2.25 in a dispute under section 216B.164. If the commission determines that a methodology does  
2.26 not comply with state law, it shall clearly state the changes necessary to bring the  
2.27 methodology into compliance, and the cooperative electric association shall proceed under  
2.28 paragraph (a).

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