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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4292

02/26/2024 Authored by Greenman

The bill was read for the first time and referred to the Committee on Climate and Energy Finance and Policy

1.1 A bill for an act
1.2 relating to public utilities; specifying certain utility expenses that may not be
1.3 recovered from ratepayers; amending Minnesota Statutes 2022, section 216B.16,
1.4 by adding a subdivision; repealing Minnesota Statutes 2022, section 216B.16,
1.5 subdivisions 8, 9, 17, 18.

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

1.7 Section 1. Minnesota Statutes 2022, section 216B.16, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 20. Miscellaneous utility expenses. (a) A public utility is prohibited from
1.10 recovering through rates any direct or indirect cost associated with:

1.11 (1) advertising;

1.12 (2) charitable contributions;

1.13 (3) travel, lodging, and entertainment expenses, including food, beverage, recreational,
1.14 and gift expenses, that are incurred by any of the public utility's executive officers or
1.15 members of the public utility's board of directors;

1.16 (4) lobbying;

1.17 (5) political contributions;

1.18 (6) membership dues, sponsorships, contributions to, and expenses related to activities
1.19 of organizations incorporated under section 501 of the Internal Revenue Code, as amended,
1.20 including trade associations;

1.21 (7) investor relations;

2.1 (8) penalties or fines issued against a public utility; and

2.2 (9) expenses related to owned, leased, or chartered aircraft.

2.3 (b) On or before March 1, 2025, and each March 1 thereafter, a public utility must file
2.4 a written report with the commission containing separate itemized expenses under each
2.5 clause listed in paragraph (a) incurred by the public utility during the previous calendar
2.6 year. Each itemization must: (1) include the date of the expense, the amount of the expense,
2.7 the vendor name, and the business purpose of the expense; and (2) be provided using standard
2.8 accounting reports already utilized by the public utility in a written or electronic format that
2.9 is acceptable to the commission. For expenses identified in paragraph (a), clause (3), the
2.10 public utility must report total amounts for each expense category and provide separate
2.11 itemization for expenses incurred by or on behalf of any employee at the level of vice
2.12 president or higher and for board members.

2.13 (c) The commission must order a public utility that violates paragraph (a) to refund to
2.14 ratepayers the amount improperly recovered by the public utility, plus interest, in a manner
2.15 prescribed by the commission. In addition to the refund, the commission must request that
2.16 the commissioner of commerce assess the public utility a nonrecoverable penalty up to the
2.17 amount improperly recovered. The commissioner of commerce must transfer ... percent of
2.18 any penalty amounts received under this paragraph to the commission, which must refund
2.19 the full transferred amount to ratepayers.

2.20 (d) For the purposes of this subdivision:

2.21 (1) "advertising" means publishing, disseminating, soliciting, or circulating written,
2.22 online, video, or audio communication intended to:

2.23 (i) promote the consumption of energy, except for purposes of beneficial electrification
2.24 or charging electric vehicles;

2.25 (ii) promote goodwill for the public utility or improve the public utility's public image;

2.26 (iii) influence public attitudes toward legislation or proposed legislation, an administrative
2.27 rule, a proposed rule, or an authorization or proposed authorization of the commission or
2.28 other government agency responsible for regulating a public utility;

2.29 (iv) justify or otherwise support or defend, outside of a proceeding before the commission,
2.30 a public utility's rate, proposed rate, practice, or proposed practice; or

2.31 (v) promote the use of nuclear power or to promote a nuclear waste storage facility;

2.32 (2) advertising does not include advertising:

3.1 (i) required or authorized by law, regulation, or commission order;

3.2 (ii) directly related to a purpose or program regarding income-based utility services,
3.3 special rates or pilot programs approved by the commission, energy conservation or
3.4 efficiency, informing consumers regarding financial services available from the public
3.5 utility, beneficial electrification, or charging electric vehicles;

3.6 (iii) regarding service interruptions, safety measures, or emergency conditions; or

3.7 (iv) employment opportunities with the public utility;

3.8 (3) "beneficial electrification" has the meaning given in section 216B.1691, subdivision
3.9 2b, paragraph (a);

3.10 (4) "charitable contribution" means a cash or property contribution to an organization
3.11 incorporated under section 501 of the Internal Revenue Code, as amended;

3.12 (5) "lobbying" means an attempt to influence legislative action, administrative action,
3.13 or the official action of a political subdivision by communicating with or urging others to
3.14 communicate with public officials. Lobbying includes any activity that directly supports
3.15 communication with or urging others to communicate with public officials, but does not
3.16 include a public utility's expenses in proceedings before the commission; and

3.17 (6) "political contribution" means a cash or property contribution to:

3.18 (i) a candidate for public office;

3.19 (ii) a political party;

3.20 (iii) a campaign committee, issue committee, or similar organization; or

3.21 (iv) a person or organization to advocate for the approval or defeat of a ballot question
3.22 or resolution presented to voters in an election.

3.23 **Sec. 2. REPEALER.**

3.24 Minnesota Statutes 2022, section 216B.16, subdivisions 8, 9, 17, and 18, are repealed.

216B.16 RATE CHANGE; PROCEDURE; HEARING.

Subd. 8. **Advertising expense.** (a) The commission shall disapprove the portion of any rate which makes an allowance directly or indirectly for expenses incurred by a public utility to provide a public advertisement which:

(1) is designed to influence or has the effect of influencing public attitudes toward legislation or proposed legislation, or toward a rule, proposed rule, authorization or proposed authorization of the Public Utilities Commission or other agency of government responsible for regulating a public utility;

(2) is designed to justify or otherwise support or defend a rate, proposed rate, practice or proposed practice of a public utility;

(3) is designed primarily to promote consumption of the services of the utility;

(4) is designed primarily to promote good will for the public utility or improve the utility's public image; or

(5) is designed to promote the use of nuclear power or to promote a nuclear waste storage facility.

(b) The commission may approve a rate which makes an allowance for expenses incurred by a public utility to disseminate information which:

(1) is designed to encourage conservation of energy supplies;

(2) is designed to promote safety; or

(3) is designed to inform and educate customers as to financial services made available to them by the public utility.

(c) The commission shall not withhold approval of a rate because it makes an allowance for expenses incurred by the utility to disseminate information about corporate affairs to its owners.

Subd. 9. **Charitable contribution.** The commission shall allow as operating expenses only those charitable contributions that the commission deems prudent and that qualify under section 300.66, subdivision 3. Only 50 percent of the qualified contributions are allowed as operating expenses.

Subd. 17. **Travel, entertainment, and related employee expenses.** (a) The commission may not allow as operating expenses a public utility's travel, entertainment, and related employee expenses that the commission deems unreasonable and unnecessary for the provision of utility service. In order to assist the commission in evaluating the travel, entertainment, and related employee expenses that may be allowed for ratemaking purposes, a public utility filing a general rate case petition shall include a schedule separately itemizing all travel, entertainment, and related employee expenses as specified by the commission, including but not limited to the following categories:

(1) travel and lodging expenses;

(2) food and beverage expenses;

(3) recreational and entertainment expenses;

(4) board of director-related expenses, including and separately itemizing all compensation and expense reimbursements;

(5) expenses for the ten highest paid officers and employees, including and separately itemizing all compensation and expense reimbursements;

(6) dues and expenses for memberships in organizations or clubs;

(7) gift expenses;

(8) expenses related to owned, leased, or chartered aircraft; and

(9) lobbying expenses.

(b) To comply with the requirements of paragraph (a), each applicable expense incurred in the most recently completed fiscal year must be itemized separately, and each itemization must include the date of the expense, the amount of the expense, the vendor name, and the business purpose of the expense. The separate itemization required by this paragraph may be provided using standard accounting reports already utilized by the utility involved in the rate case, in a written format or an

APPENDIX
Repealed Minnesota Statutes: 24-06671

electronic format that is acceptable to the commission. For expenses identified in response to paragraph (a), clauses (1) and (2), the utility shall disclose the total amounts for each expense category and provide separate itemization for those expenses incurred by or on behalf of any employee at the level of vice president or higher and for board members. The petitioning utility shall also provide a one-page summary of the total amounts for each expense category included in the petitioning utility's proposed test year.

(c) Except as otherwise provided in this paragraph, data submitted to the commission under paragraph (a) are public data. The commission or an administrative law judge assigned to the case may treat the salary of one or more of the ten highest paid officers and employees, other than the five highest paid, as private data on individuals as defined in section 13.02, subdivision 12, or issue a protective order governing release of the salary, if the utility establishes that the competitive disadvantage to the utility that would result from release of the salary outweighs the public interest in access to the data. Access to the data by a government entity that is a party to the rate case must not be restricted.

Subd. 18. Election or ballot question expenses. The commission may not allow a public utility to recover from ratepayers expenses resulting from a contribution or expenditure incurred to promote or defeat a candidate for public office or to advocate approval or defeat of a ballot question. This subdivision does not prohibit a public utility from engaging in political activity or making a contribution or expenditure otherwise permitted by law.