

OAH Docket No.: 8-2500-21395-2
MPUC Docket No.: IP-6701/WS-08-1233

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 NORTH ROBERT STREET
ST. PAUL, MN 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

**In the Matter of the Application of AWA
Goodhue Wind, LLC for a Wind Energy
Conversion System Site Permit for the 78
MW Goodhue Wind Project in Goodhue
County**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF INGRID E. BJORKLUND

1. My name is Ingrid E. Bjorklund. I am presently employed by the Minnesota Department of Commerce Office of Energy Security (OES) as a State Permit Manager/Wind Permit Coordinator. I have held that position for one year. My job responsibilities include facilitating the implementation of Chapter 216F of the Minnesota Statutes, including administering all aspects of the permitting process for assigned large wind energy conversion system projects, coordinating study efforts and enabling county participation in order to ensure compliance with state statutes and rules.

2. Prior to joining the OES, I was employed by Outland Renewable Energy, LLC, a renewable energy company that developed wind projects, and also provided operation and maintenance for wind projects. In my position as Vice-President of Government Affairs and Associate General Counsel, I provided counsel on energy regulatory matters and general corporate transactional matters and developed and led lobbying initiatives. I also managed a project to build private transmission lines to support Outland's wind projects. In Minnesota, this was called the Minnesota Independence Line. I also worked at Lindquist & Vennum, P.L.L.P. for two years as an associate attorney. My practice there involved lobbying for energy companies, and general corporate law for the biofuel and wind industries.

3. My education includes a Bachelor of Arts degree in International Relations from the College of St. Catherine, a Master of Arts degree in Environmental and Resource Policy from

The George Washington University, and a Juris Doctorate degree from William Mitchell College of Law.

4. I was given the task of reviewing the legislative history for legislation passed in 2007 relating to county permitting authority with regard to wind siting and standards for Large Wind Energy Conversion Systems (LWECS). I reviewed the relevant materials on the official website of the Minnesota State Legislature, which included listening to the available audio recordings of legislative committee meetings. I summarize the information I reviewed, as follows:

5. The energy policy omnibus bill, otherwise known as the Next Generation Energy Act of 2007, was introduced in the Minnesota House of Representatives as HF 0436, with Representative Hilty as the lead sponsor. In the Minnesota Senate, the bill was introduced as SF 145 with Senator Prettner Solon as the lead sponsor.

6. In addition to its inclusion in the Next Generation Energy Act of 2007, county delegation language was introduced in a separate bill addressing Community-Based Energy Development (C-BED) projects, authored by Representative A. Peterson (HF 2253) and Senator Kubly (SF 2084). Neither of these bills made it through the committee process for a floor vote.

7. Instead, the omnibus energy bill (Next Generation Energy Act of 2007) became the vehicle for the county delegation language in addition to C-BED and numerous other energy-related provisions. The Next Generation Energy Act of 2007 as initially introduced included proposed Minn. Stat. § 216F.08, with the following provision as subdivision 1(h) contained in the statute relating to assumption of permit authority by counties:

Subd. 1(h) Delegation to Counties. A county may adopt by ordinance standards for LWECS that are more stringent than standards in commission rules or in the general permit standards. The commission, in considering a permit for LWECS in a county that has adopted more stringent standards, shall incorporate and apply those standards, unless the commission finds there is good cause not to do so.

8. Attached to my affidavit are copies of the relevant sections of the Next Generation Energy Act of 2007 as initially proposed in the House and in the Senate. *See* Exhibit A. Proposed section 216F.08 included a number of provisions addressing a county's responsibility for wind permits if it assumed responsibility for processing applications for permits for Large Wind Energy Conversion Systems ("LWECS") less than 25 megawatts ("MW") in nameplate capacity.

9. Because the Senate passed its omnibus energy policy bill before the House did, the House bill (HF 0436) moved through the process in both the house and the senate as SF 145. The Senate's Energy, Utilities, Technology and Communications Committee met numerous times to hear testimony and to discuss SF 145 beginning in January 2007, but motions were entertained on April 10 and 12 of 2007. The amendment described as the "A-2 amendment" to SF 145 was moved by Senator Prettner Solon and adopted on April 10, 2007. Senator Prettner Solon noted it was not an author's amendment. A copy of the A-2 amendment is attached to my affidavit as Exhibit B.

10. According to the audio recording of the April 10, 2007 hearing, the A-2 amendment was a “delete-all” amendment to SF 145 and included C-BED provisions and provisions for assumption of permitting authority by counties. The A-2 amendment is not available in the archives on the website of the Minnesota State Legislature, but I obtained a copy of it from the Legislative Reference Library. In addition, I obtained a copy of the relevant pages of the Revisor’s Full-Text Side-by-Side used by the conference committee to compare House and Senate versions of the bill. *See Exhibit C to my affidavit.*

11. The first engrossment of SF 145 incorporates motions adopted on April 10 and April 12, 2007. The first engrossment of SF 145 reflects a change in the county delegation language as originally introduced, and it appears as though the A-2 amendment made a change by splitting proposed section 216F.08 into two sections by removing section 216F.08, subd. 1(h), and placing the language from that section (i.e., subd. 1(h)) in the new proposed section 216F.081.

12. Further, the language of the above-quoted provision was slightly re-written in the A-2 amendment, replacing “general permit standards” with “the Commission’s permit standards” and changing the title of the section. Section 216F.08 in SF 145 directed the Commission to establish by order “general permit standards.” This change was not substantive, since the initial bill also directed the Commission to establish general permit standards. The language in its entirety in the first engrossment of SF 145 for section 216F.081 (under the heading “Application of County Standards”) is as follows:

216F.081 Application of County Standards. A county may adopt by ordinance standards for LWECs that are more stringent than standards in commission rules or in the commission’s permit standards. The commission, in considering a permit for LWECs in a county that has adopted more stringent standards, shall incorporate and apply those standards, unless the commission finds there is good cause not to do so.

13. The audio recording for the Senate Energy, Utilities, Technology and Communications Committee on April 10, 2007, includes a discussion of the A-2 amendment. Senator Prettner Solon described the A2 amendment, noting that SF 145 was the result of dozens of hours of work by stakeholder groups that focused their meetings on community-based energy development and global warming. She also noted that the A-2 amendment contains the two final pieces of a four pronged approach to reduce greenhouse gas emissions and to ensure that Minnesota’s economy and workforce benefit from energy legislation passed earlier that session. She described the first two pieces, which were passed separately. Senator Prettner Solon stated that the third piece, which is included in the A-2 amendment, “works to ensure community ownership and local benefits with regard to renewable energy development and operation.”

14. Senator Prettner Solon noted that Article 1 of the A-2 amendment would amend the existing C-BED statute. She further noted that the proposed amendment is the result of a stakeholder work group. Although Article 1 also contains sections 216F.08 and .081 regarding county delegation for LWECs up to 25 MW in size, the discussion in committee focused primarily on proposed changes to the C-BED statute.

15. Proposed sections 216F.08 and 216F.081 received little attention by the committee. Senator Prettner Solon described the sections by stating a workgroup consisting of small and large wind developers, the Department of Commerce, and counties developed sections relating to size determinations (section 7 of the amendment, making changes to Minn. Stat. § 216F.011) and permitting authority for certain wind generation projects by counties (sections 8 and 9 of the amendment, establishing new sections 216F.08 and 216F.081). In her description of the amendment, Senator Prettner Solon specifically stated:

Sections 8 and 9 allow counties that want to permit larger projects to permit projects up to 25 megawatts. Counties that don't want to aren't required to. And it also provides for uniform standards to be applied by either the state or the county in permitting these projects.

16. In committee discussion of Article 1 of the A-2 amendment, Mike Bull, the Assistant Commissioner of Renewable Energy and Advanced Technologies of the Department of Commerce, and Senator Prettner Solon were available to answer questions. Senator Prettner Solon stated that she had requested Mr. Bull's presence to assist her in answering committee questions. During a discussion of Article 1 of the A-2 amendment, Assistant Commissioner Bull responded to a question by Senator Olseen who inquired about a county's ability, through zoning, to prohibit wind turbines from being placed in areas such as lakeshore, which would be more restrictive than the state. Senator Olseen stated that in such a case, the state standard would then be a minimum and the county could be more restrictive.

17. Mr. Bull confirmed Senator Olseen's interpretation and added that the Commission will take under consideration more stringent standards *of counties that assume responsibility* for permitting wind generation projects up to 25 MW under proposed section 216F.08 when permitting projects 25 MW or larger, as agreed upon by the workgroup. Specifically, Mr. Bull responded:

"That's exactly right. And also, to the extent that counties opt in to decide to permit these projects under 25 megawatts they're also...have asked for, and the commission has agreed as within the workgroup, to say that the commission when siting projects larger than the 25 megawatts will look at the specific standards of that county for those projects and will work to...work with the county to apply...even though the state may have jurisdiction over the permitting for those larger projects, will work with the county...will take those more stringent standards into account when permitting."

18. There does not appear to be any explanation why the A-2 amendment separated the county delegation (now under the heading "Permit Authority; Assumption by Counties") and the application of county standards language into two sections (216F.08 and 216F.081). The provisions appear to have been separated without any public discussion. Mr. Bull's statement, and a statement by Senator Prettner Solon, as discussed below, appear to be the only public record on the matter. From the time the committee adopted the A-2 amendment, the provisions remained separated.

19. No public record exists with which to determine if there was any support for separation of the initial proposal or why the provisions were separated. The change was made outside the

public process. I assume that the person or persons who prepared the A-2 amendment made the change. This could have come from the Department of Commerce or from Senate counsel, or both. What is clear to me is that there is no indication in the legislative history that the A-2 amendment was meant to substantively change the section on county authority, which came from the workgroup as a provision that would allow stricter standards to be adopted for LWECS only by counties that also opt to assume authority over permitting LWECS up to 25,000 kilowatts.

20. The House version of the bill, which moved through the committee process under SF 145 (see unofficial engrossments for bill text), never separated the provisions regarding county delegation and application of county standards. Because the House and Senate versions of SF 145 differed, a conference committee was appointed, met, and prepared a conference committee report, dated May 19, 2007.

21. According to the audio recording for the conference committee on SF 145 on May 18, 2007, staff gave an overview of the House and Senate versions of SF 145 through review of the side-by-side (*see* Exhibit C), and made no mention of Section 9 beginning on line 5.23 in the senate version and (g) beginning on line 39.19 in the house version on page R37. The audio recording (part 3) for the conference committee on SF 145 on May 18, 2007, began with the conference committee already underway. Even though the first part of the sentence is missing from the audio recording, it is clear from the context that Section 9 on page R37 of the Senate version was adopted solely because the text of that provision was the same as the house version. The audio recording began with Senator Prettner Solon stating "...and what we've identified is sections 1, 3, 5, 7, 10, and 9 are virtually identical with perhaps the absence of an effective date, so we will be looking at adopting the Senate language on those." Representative Hilty moved adoption of the Senate language for sections 1, 3, 5, 7, 9, and 10 in the C-BED article of the side-by-side. Senator Prettner Solon reminded committee members that these sections are "virtually identical language with the exception of a start date." The conference committee's report was passed by both houses and became law. 2007 Minn. Laws 2829 (Chapter 136).

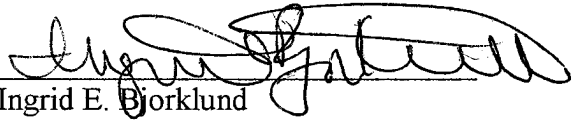
22. Based on my review of the audio recordings for the conference committee meetings on SF 145, I conclude that committee members did not intend Minn. Stat. § 216F.081 to apply to counties that did not undertake permitting responsibility of LWECS up to 25 MW. It is my opinion that Committee members did not perceive a difference between combining or separating the provisions in Minn. Stat. §§ 216F.08 and .081.

23. Based on my review of the legislative history, noted above, Mr. Bull accurately stated the intention of the stakeholder work groups as well as the likely intent of the statutory language that was finally enacted as Minn. Stat. § 216F.081. That is, that Minn. Stat. § 216F.081 was intended to require the Commission, in performing its duties to permit wind generation projects of 25 MW or larger located in counties that have chosen to undertake permitting responsibility for LWECS up to 25 MW, also to apply more stringent standards of counties (unless there is good cause not to apply them) when those counties have adopted the more stringent standards to apply to wind

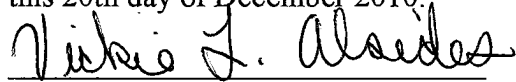
energy permitting applications up to 25 MW, for which the counties undertake permitting responsibility.

Further, your affiant sayeth not.

Dated: December 20, 2010

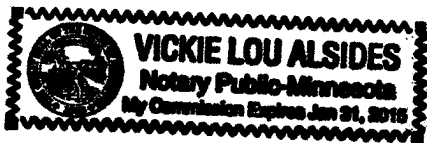

Ingrid E. Bjorklund

Subscribed and sworn to before me
this 20th day of December 2010.



Vickie Lou Alsidis
Notary Public

My Commission Expires 1/31/2015



1.1 A bill for an act
 1.2 relating to energy; enacting the Next Generation Energy Act of 2007; establishing
 1.3 state energy policy goals for fossil fuel-use reduction and renewable energy use;
 1.4 providing for electric utility renewable energy obligations of 25 percent by 2025;
 1.5 establishing provisions to promote community energy development; providing
 1.6 for transition to an energy savings requirement for electric and natural gas
 1.7 utilities; enacting provisions to address climate change; providing for delegation
 1.8 to counties for permitting wind projects under 25 megawatts; amending
 1.9 Minnesota Statutes 2006, sections 123B.65, subdivision 2; 216B.16, subdivisions
 1.10 6b, 6c; 216B.1612, subdivision 2, by adding a subdivision; 216B.1691,
 1.11 subdivisions 1, 2, 3, by adding subdivisions; 216B.2426; 216B.243, subdivisions
 1.12 2, 3, 3a, 5; 216C.05; 216C.31; 471.345, subdivision 13; 504B.161, subdivision 1;
 1.13 proposing coding for new law in Minnesota Statutes, chapters 216B; 216C; 216F;
 1.14 repealing Minnesota Statutes 2006, sections 216B.165; 216B.241; 216B.2411;
 1.15 216C.27; 216C.30, subdivision 5; Minnesota Rules, parts 4635.0110; 4635.0130;
 1.16 7365.0210; 7635.0100; 7635.0120; 7635.0140; 7635.0150; 7635.0160;
 1.17 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220; 7635.0230;
 1.18 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320;
 1.19 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500;
 1.20 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620;
 1.21 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020; 7635.1030;
 1.22 7655.0100; 7655.0120; 7655.0200; 7655.0220; 7655.0230; 7655.0240;
 1.23 7655.0250; 7655.0260; 7655.0270; 7655.0280; 7655.0290; 7655.0300;
 1.24 7655.0310; 7655.0320; 7655.0330; 7655.0400; 7655.0410; 7655.0420.

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

1.26 **ARTICLE 1**
 1.27 **GENERAL PROVISIONS**

1.28 Section 1. **TITLE.**

1.29 This act may be cited as the Next Generation Energy Act of 2007.

25.1 Subd. 2. **Regional activities.** It shall be an executive branch responsibility to work
25.2 with other states in the Midwest region to develop and implement a regional approach
25.3 to reducing greenhouse gas emissions from activities in the region. The commissioner
25.4 of commerce shall coordinate Minnesota's regional activities under this subdivision
25.5 and report by February 1 of each year on the progress made and recommendations for
25.6 further action.

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

25.8 **ARTICLE 6**
25.9 **WIND PROJECT PERMITTING**

25.10 Section 1. **[216F.015] SIZE DETERMINATION.**

25.11 (a) The total size of a combination of wind energy conversion systems for the
25.12 purpose of determining jurisdictional siting authority under sections 216F.01 to 216F.07
25.13 must be determined according to this section. The nameplate capacity of one wind energy
25.14 conversion system must be combined with the nameplate capacity of any other wind
25.15 energy conversion system that is:

25.16 (1) located within five miles of the wind energy conversion system;

25.17 (2) constructed within the same 12-month period as the wind energy conversion
25.18 system; and

25.19 (3) exhibits characteristics of being a single development, including but not limited
25.20 to ownership structure, an umbrella sales arrangement, shared interconnection, revenue
25.21 sharing arrangements, and common debt or equity financing.

25.22 (b) Upon written request of a project developer, the commissioner of commerce shall
25.23 provide an initial written determination under this section within 30 days of receipt of the
25.24 request and information necessary to develop a determination. The commissioner shall
25.25 prepare and make available the necessary forms and guidance for project developers to
25.26 make a request for determination. In the case of a dispute, the chair of the Public Utilities
25.27 Commission shall determine the total size of the system and shall draw all reasonable
25.28 inferences in favor of combining the systems.

25.29 (c) An application for a permit for a wind energy conversion system from a county is
25.30 not complete without a jurisdictional determination made pursuant to this section.

25.31 Sec. 2. **[216F.08] DELEGATION TO COUNTIES.**

25.32 Subdivision 1. **Counties; processing of applications for LWECS site permits.**

25.33 (a) Any Minnesota county board may, by resolution and upon written notice to the Public

26.1 Utilities Commission, assume responsibility for processing applications for permits
26.2 required under this chapter for LWECS with a combined nameplate capacity of less
26.3 than 25,000 kilowatts. The responsibility for permit application processing, if assumed
26.4 by a county, may be delegated by the county board to any appropriate county officer
26.5 or employee. Processing by a county must be done in accordance with procedures and
26.6 processes established under chapter 394.

26.7 (b) For the purposes of this subdivision, the term "processing" includes:

26.8 (1) the distribution to applicants of application and determination forms provided
26.9 by the commission;

26.10 (2) the receipt and examination of completed application forms, and the certification,
26.11 in writing, to the commission either (i) that the LWECS for which a permit was issued by
26.12 the county will comply with applicable rules and standards, or (ii) if the facility will not
26.13 comply, the respects in which a variance was required for the issuance of a permit; and

26.14 (3) rendering to applicants, upon request, assistance for the proper completion of
26.15 an application.

26.16 (c) A county board that exercises its option under paragraph (a) and assumes
26.17 responsibility for processing applications for permits for LWECS within its borders
26.18 is responsible for issuing, denying, modifying, imposing conditions upon, or revoking
26.19 permits pursuant to the provisions of this section or rules adopted pursuant to this section.
26.20 The action of the county board with regard to that permit application is final, subject
26.21 to appeal as provided in section 394.27.

26.22 (d) In adopting and enforcing rules or standards under this subdivision, the
26.23 commission and the commissioner shall cooperate closely with the delegated county
26.24 and other governmental agencies.

26.25 (e) The commission shall work with counties and wind developers to notify and
26.26 educate stakeholders with regard to rules or standards under this section at the time such
26.27 rules or standards are being developed and adopted and at least every two years thereafter.

26.28 (f) The commission shall, by order, develop general permit standards to cover
26.29 requirements of site permits for LWECS pursuant to this section. These general permit
26.30 standards shall apply both to permits issued by counties and to permits issued by the
26.31 commission directly for LWECS with a combined nameplate capacity of less than 25,000
26.32 kilowatts. The order shall outline minimum standards necessary to ensure the protection
26.33 of human health and safety and wind resources on adjacent land. The initial order shall
26.34 contain standards that are consistent with the general provisions of wind permits issued by
26.35 the commission in the five years prior to enactment of this provision.

27.1 (g) The commission and the commissioner of commerce shall provide technical
27.2 assistance to a delegated county with respect to the processing of LWECS site permit
27.3 applications by that county.

27.4 (h) A county may adopt by ordinance standards for LWECS that are more stringent
27.5 than standards in commission rules or in the general permit standards. The commission, in
27.6 considering a permit for LWECS in a county that has adopted more stringent standards,
27.7 shall incorporate and apply those more stringent standards, unless the commission finds
27.8 there is good cause not to do so.

27.9 **Subd. 2. Notice of application for LWECS site permits; public participation.**

27.10 (a) A person who applies to a county board for a permit to construct or expand an LWECS
27.11 under this section shall follow the same notification requirements as applicants seeking
27.12 a permit from the commission.

27.13 (b) The county board shall provide for public participation commensurate with that
27.14 afforded the public through the commission permitting process.

27.15 **Subd. 3. Wind turbine database.** Any county assuming responsibility for
27.16 processing applications under this section shall provide the commission with an inventory
27.17 of all permitted LWECS in a format suitable for incorporation into a statewide wind
27.18 turbine database.

27.19 **EFFECTIVE DATE.** This section is effective January 15, 2008.

27.20 **ARTICLE 7**
27.21 **MISCELLANEOUS PROVISIONS**

27.22 Section 1. Minnesota Statutes 2006, section 123B.65, subdivision 2, is amended to read:

27.23 Subd. 2. **Energy efficiency contract.** (a) Notwithstanding any law to the contrary,
27.24 a school district may enter into a guaranteed energy savings contract with a qualified
27.25 provider to significantly reduce energy or operating costs.

27.26 (b) Before entering into a contract under this subdivision, the board shall comply
27.27 with clauses (1) to (5).

27.28 (1) The board must seek proposals from multiple qualified providers by publishing
27.29 notice of the proposed guaranteed energy savings contract in the board's official newspaper
27.30 and in other publications if the board determines that additional publication is necessary to
27.31 notify multiple qualified providers.

27.32 (2) The school board must select the qualified provider that best meets the needs of
27.33 the board. The board must provide public notice of the meeting at which it will select the
27.34 qualified provider.



1.1 Senator moves to amend S.F. No. 145 as follows:

Delete everything after the enacting clause and insert:

1.3 "ARTICLE 1

1.4 C-BED AND RELATED ISSUES

1.5 Section 1. Minnesota Statutes 2006, section 216B.1612, subdivision 1, is amended to
1.6 read:

1.7 Subdivision 1. **Tariff establishment.** A tariff shall be established to optimize local,
1.8 regional, and state benefits from ~~wind~~ renewable energy development and to facilitate
1.9 widespread development of community-based ~~wind~~ renewable energy projects throughout
1.10 Minnesota.

1.11 Sec. 2. Minnesota Statutes 2006, section 216B.1612, subdivision 2, is amended to read:

1.12 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given
1.13 them in this subdivision.

1.14 (b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

1.15 (c) "Qualifying owner" means:

1.16 (1) a Minnesota resident;

1.17 (2) a limited liability company that is organized under ~~the laws of this state~~ chapter
1.18 322B and that is made up of members who are Minnesota residents;

1.19 (3) a Minnesota nonprofit organization organized under chapter 317A;

1.20 (4) a Minnesota cooperative association organized under chapter 308A or 308B,
1.21 ~~other than including~~ a rural electric cooperative association or a generation and
1.22 transmission cooperative on behalf of and at the request of a member distribution utility;

(5) a Minnesota political subdivision or local government ~~other than including,~~
1.24 but not limited to, a municipal electric utility, or a municipal power agency on behalf
1.25 of and at the request of a member distribution utility, including, but not limited to, a
1.26 county, statutory or home rule charter city, town, school district, or public or private
1.27 higher education institution or any other local or regional governmental organization such
1.28 as a board, commission, or association; or

1.29 (6) a tribal council.

1.30 (d) "Net present value rate" means a rate equal to the net present value of the
1.31 nominal payments to a project divided by the total expected energy production of the
1.32 project over the life of its power purchase agreement.

1.33 (e) "Standard reliability criteria" means:

(1) can be safely integrated into and operated within the utility's grid without causing
1.35 any adverse or unsafe consequences; and

2.1 (2) is consistent with the utility's resource needs as identified in its most recent
2.2 resource plan submitted under section 216B.2422.

2.3 (f) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1,
2.4 paragraph (a).

2.5 ~~(f)~~ (g) "Community-based energy development project" or "C-BED project" means
2.6 a new wind renewable energy project that either as a stand-alone project or part of a
2.7 partnership under subdivision 8:

2.8 (1) has no single qualifying owner owning more than 15 percent of a C-BED wind
2.9 energy project that consists of more than two turbines; or unless: (i) the C-BED wind
2.10 energy project consists of only one or two turbines; or (ii) the qualifying owner is a public
2.11 entity listed under paragraph (b), clause (5), that is not a municipal utility;

2.12 (2) ~~for C-BED projects of one or two turbines, is owned entirely by one or more~~
2.13 ~~qualifying owners, with~~ demonstrates that at least 51 percent of the total financial benefits
2.14 over the life of the project ~~flowing will flow~~ to qualifying owners; and

2.15 (3) has a resolution of support adopted by the county board of each county in which
2.16 the project is to be located, or in the case of a project located within the boundaries of a
2.17 reservation, the tribal council for that reservation.

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

2.19 Sec. 3. Minnesota Statutes 2006, section 216B.1612, subdivision 3, is amended to read:

2.20 Subd. 3. Tariff rate. (a) The tariff described in subdivision 4 must have a rate
2.21 schedule that allows for a rate ~~up to a 2.7 cents per kilowatt-hour~~ net present value rate
2.22 over the 20-year life of the power purchase agreement. The tariff must provide for a rate
2.23 that is higher in the first ten years of the power purchase agreement than in the last ten
2.24 years. The discount rate required to calculate the net present value must be the utility's
2.25 normal discount rate used for its other business purposes.

2.26 (b) The commission shall consider mechanisms to encourage the aggregation
2.27 of C-BED projects.

2.28 (c) The commission shall require that qualifying and nonqualifying owners provide
2.29 sufficient security to secure performance under the power purchase agreement, and shall
2.30 prohibit the transfer of the C-BED project to a nonqualifying owner during the initial
2.31 20 years of the contract.

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

2.33 Sec. 4. Minnesota Statutes 2006, section 216B.1612, subdivision 5, is amended to read:

2.34 Subd. 5. Priority for C-BED projects. (a) A utility subject to section 216B.1691
2.35 that needs to construct new generation, or purchase the output from new generation, as

3.1 part of its plan to satisfy its good faith objective or standard under that section should take
3.2 reasonable steps to determine if one or more C-BED projects are available that meet the
utility's cost and reliability requirements, applying standard reliability criteria, to fulfill
3.4 some or all of the identified need at minimal impact to customer rates.

3.5 Nothing in this section shall be construed to obligate a utility to enter into a power
3.6 purchase agreement under a C-BED tariff developed under this section.

3.7 (b) Each utility shall include in its resource plan submitted under section 216B.2422
3.8 a description of its efforts to purchase energy from C-BED projects, including a list of the
3.9 projects under contract and the amount of C-BED energy purchased.

3.10 (c) The commission shall consider the efforts and activities of a utility to purchase
3.11 energy from C-BED projects when evaluating its good faith effort towards meeting the
3.12 renewable energy objective under section 216B.1691.

3.13 Sec. 5. Minnesota Statutes 2006, section 216B.1612, is amended by adding a
3.14 subdivision to read:

3.15 Subd. 8. Community energy partnerships. A utility providing electric service
3.16 to retail or wholesale customers in Minnesota and an independent power producer may,
3.17 subject to the limits specified in this section, participate in a community-based energy
3.18 project, including as an owner, equity partner, or provider of technical or financial
3.19 assistance.

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

3.21 Sec. 6. Minnesota Statutes 2006, section 216B.1691, is amended by adding a
3.22 subdivision to read:

3.23 Subd. 7. Utility acquisition of resources. A competitive resource acquisition
3.24 process established by the commission prior to June 1, 2007, shall not apply to a utility
3.25 for the construction, ownership, and operation of generation facilities used to satisfy the
3.26 requirements of this section unless the commission issues an order on or after June 1,
3.27 2007, that requires compliance by a utility with a competitive resource acquisition process.

3.28 Sec. 7. [216F.011] SIZE DETERMINATION.

3.29 (a) The total size of a combination of wind energy conversion systems for the
3.30 purpose of determining what jurisdiction has siting authority under this chapter must
3.31 be determined according to this section. The nameplate capacity of one wind energy
3.32 conversion system must be combined with the nameplate capacity of any other wind
3 energy conversion system that is:

3.34 (1) located within five miles of the wind energy conversion system;

4.1 (2) constructed within the same 12-month period as the wind energy conversion
4.2 system; and

4.3 (3) exhibits characteristics of being a single development, including but not limited
4.4 to ownership structure, an umbrella sales arrangement, shared interconnection, revenue
4.5 sharing arrangements, and common debt or equity financing.

4.6 (b) The commissioner shall provide forms and assistance for project developers to
4.7 make a request for a size determination. Upon written request of a project developer, the
4.8 commissioner of commerce shall provide a written size determination within 30 days
4.9 of receipt of the request and of any information requested by the commissioner. In the
4.10 case of a dispute, the chair of the Public Utilities Commission shall make the final size
4.11 determination.

4.12 (c) An application to a county for a permit under this chapter for a wind energy
4.13 conversion system is not complete without a size determination made under this section.

4.14 **EFFECTIVE DATE.** This section is effective January 15, 2008.

4.15 **Sec. 8. [216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

4.16 (a) A county board may, by resolution and upon written notice to the Public Utilities
4.17 Commission, assume responsibility for processing applications for permits required
4.18 under this chapter for LWECs with a combined nameplate capacity of less than 25,000
4.19 kilowatts. The responsibility for permit application processing, if assumed by a county,
4.20 may be delegated by the county board to an appropriate county officer or employee.
4.21 Processing by a county shall be done in accordance with procedures and processes
4.22 established under chapter 394.

4.23 (b) A county board that exercises its option under paragraph (a) may issue, deny,
4.24 modify, impose conditions upon, or revoke permits pursuant to this section. The action
4.25 of the county board about a permit application is final, subject to appeal as provided
4.26 in section 394.27.

4.27 (c) The commission shall, by order, establish general permit standards, including
4.28 appropriate property line set-backs, governing site permits for LWECs under this section.
4.29 The order must consider existing and historic commission standards for wind permits
4.30 issued by the commission. The general permit standards shall apply to permits issued by
4.31 counties and to permits issued by the commission for LWECs with a combined nameplate
4.32 capacity of less than 25,000 kilowatts. The commission or a county may grant a variance
4.33 from a general permit standard if the variance is found to be in the public interest.

4.34 (d) The commission and the commissioner of commerce shall provide technical
4.35 assistance to a county with respect to the processing of LWECs site permit applications.

5.1 EFFECTIVE DATE. This section is effective January 15, 2008.

5.2 Sec. 9. [216F.081] APPLICATION OF COUNTY STANDARDS.

5.3 A county may adopt by ordinance standards for LWECs that are more stringent than
5.4 standards in commission rules or in the commission's permit standards. The commission,
5.5 in considering a permit application for LWECs in a county that has adopted more stringent
5.6 standards, shall consider and apply those more-stringent standards, unless the commission
5.7 finds good cause not to apply the standards.

5.8 Sec. 10. STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.

5.9 Subdivision 1. Definition. "Dispersed generation" means an electric generation
5.10 project with a generating capacity between ten and 40 megawatts that utilizes an "eligible
5.11 energy technology," as defined in Minnesota Statutes, section 216B.1691, subdivision 1,
5.12 paragraph (a).

3 Subd. 2. Study participants. Each electric utility subject to Minnesota Statutes,
5.14 section 216B.1691, must participate collaboratively in conducting a two-phase study of
5.15 the potential for dispersed generation projects that can be developed in Minnesota.

5.16 Subd. 3. First phase study content; report. In the first phase of the study,
5.17 participants must analyze the impacts of the addition of a total of 600 megawatts of
5.18 new dispersed generation projects distributed among the following Minnesota electric
5.19 transmission planning zones: the Northeast zone, the Northwest zone, the Southeast
5.20 zone, the Southwest zone, and the West-Central zone. Study participants must use a
5.21 generally accepted 2010 year transmission system model including all transmission
5.22 facilities expected to be operating in 2010. The study must take into consideration
5.23 regional projected load growth, planned changes in the bulk transmission network, and the
5.24 long-range transmission conceptual plan being developed under Laws 2007, chapter 3,
5.25 section 2. In determining locations for the installation of dispersed generation projects
5.26 that consist of wind energy conversion systems, the study should consider, at a minimum,
5.27 wind resource availability, existing and contracted wind projects, and current dispersed
5.28 generation projects in the Midwest Independent System Operator interconnection queue.
5.29 The study must analyze the impacts of individual projects and all projects in aggregate on
5.30 the transmission system, and identify specific modifications to the transmission system
5.31 necessary to remedy any problems caused by the installation of dispersed generation
5.32 projects, including cost estimates for the modifications. The study must analyze the
3 additional dispersed generation projects connected at the lowest voltage level transmission
5.34 that exists in the vicinity of the projected generation sites. A preliminary analysis to
5.35 identify transmission system problems must be conducted with the projects installed at

6.1 initially selected locations. The technical review committee may, after reviewing the
6.2 locations selected for installation, recommend moving the installation sites once to new
6.3 locations to reduce undesirable transmission system impacts. The commissioner of
6.4 commerce must submit a report containing the findings and recommendations of the first
6.5 phase of the study to the commission no later than June 15, 2008.

6.6 Subd. 4. Second phase study content; report. In the second phase of the study,
6.7 participants must analyze the impacts of an additional total of 600 megawatts of dispersed
6.8 generation projects installed among the five transmission planning zones, or a higher total
6.9 capacity amount if agreed to by both the utilities and the technical review committee. The
6.10 utilities must employ an analysis method similar to that used in the first phase of the study,
6.11 and must use the most recent information available, including information developed in
6.12 the first phase. The second phase of the study must use a generally accepted 2013 year
6.13 transmission system model including all transmission facilities that are expected to be
6.14 in-service at that time. The commissioner of commerce must submit a report containing
6.15 the findings and recommendations of the second phase of the study to the commission no
6.16 later than September 15, 2009.

6.17 Subd. 5. Technical review committee. Prior to the start of the first phase of
6.18 the study, the commissioner of commerce must appoint a technical review committee
6.19 consisting of between ten and 15 individuals with experience and expertise in electric
6.20 transmission system engineering, renewable energy generation technology, and dispersed
6.21 generation project development, including representatives from the federal Department
6.22 of Energy, the Midwest Independent System Operator, and stakeholder interests. The
6.23 technical review committee must oversee both phases of the study, and must:

6.24 (1) make recommendations to the utilities regarding the proposed methods and
6.25 assumptions to be used in the technical study;

6.26 (2) in conjunction with the appropriate utilities, hold public meetings on each
6.27 phase of the study in each electricity transmission planning zone prior to the beginning
6.28 of each phase of study, after the impact analysis is completed, and when a draft final
6.29 report is available;

6.30 (3) establish procedures for handling commercially sensitive information; and

6.31 (4) review the initial and final drafts of the study and make recommendations for
6.32 improvement, including problems associated with the interconnections among utility
6.33 systems that may be amenable to solution through cooperation between the utilities in each
6.34 zone. During each phase of the study, the technical review committee may recommend
6.35 that the installation of dispersed generation projects be moved to new locations that cause
6.36 fewer undesirable transmission system impacts.

7.1 **Sec. 11. WIND DEVELOPMENT PROPERTY AGREEMENTS; STUDY.**

7.2 The Legislative Electric Energy Task Force shall study whether the state should
7.3 regulate easements, leases, and other agreements to acquire an interest in real property
7.4 for the purpose of wind energy development. The purpose of the study is to determine
7.5 whether the duration and other terms of those interests should be limited to promote
7.6 wind energy development. The task force must report the results of its study and any
7.7 recommendations to the chairs of the energy finance and policy committees of the
7.8 legislature by February 1, 2008.

7.9 **ARTICLE 2**

7.10 **GLOBAL CLIMATE CHANGE; GREENHOUSE GAS EMISSIONS**

7.11 **Section 1. GREENHOUSE GAS EMISSIONS.**

7.12 Subdivision 1. **Greenhouse gas emissions reduction goal.** (a) It is the goal of the
7.13 state to reduce statewide greenhouse gas emissions across all sectors producing those
7.14 emissions to a level at least 80 percent below 2005 levels by 2050.

7.15 (b) For purposes of this section, statewide greenhouse gas emissions
7.16 include emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
7.17 perfluorocarbons, and sulfur hexafluoride emitted by anthropogenic sources within the
7.18 state and from the generation of electricity imported from outside the state and consumed
7.19 in Minnesota. Carbon dioxide that is injected into geological formations to prevent
7.20 its release to the atmosphere in compliance with applicable laws, and carbon dioxide
7.21 associated with the combustion of fuels other than coal, petroleum, and natural gas are not
7.22 counted as contributing to statewide greenhouse gas emissions.

7.23 Subd. 2. **Climate change action plan.** By February 1, 2008, the commissioner
7.24 of commerce, in consultation with the commissioners of the Pollution Control Agency
7.25 and the Departments of Natural Resources, Housing Finance Agency, Agriculture,
7.26 Employment and Economic Development, and Transportation, and the chair of the
7.27 Metropolitan Council, shall submit to the legislature a climate change action plan that
7.28 meets the requirements of this section.

7.29 Subd. 3. **Stakeholder process.** The plan required by subdivision 2 must be
7.30 developed through a structured, broadly inclusive stakeholder-based review of potential
7.31 policies and initiatives that will reduce statewide greenhouse gas emissions from a
7.32 broad range of sources and activities. The commissioner shall engage a nationally
7.33 recognized independent expert entity to conduct the stakeholder process. The report of
7.34 the stakeholder process must form the basis for the plan submitted by the commissioner
7.35 under subdivision 2.

8.1 Subd. 4. General elements of the plan. The plan must:

8.2 (1) estimate 1990 and 2005 greenhouse gas emissions in the state and make
8.3 projections of emissions in 2015, 2025, and 2050;

8.4 (2) identify, evaluate, and integrate a broad range of statewide greenhouse gas
8.5 reduction options for all emission sectors in the state;

8.6 (3) assess the costs, benefits, and feasibility of implementing the options; and

8.7 (4) recommend an integrated set of reduction options and strategies for implementing
8.8 the options that will achieve the goal in subdivision 1 and interim goals recommended
8.9 under subdivision 5, including analysis of the associated costs and benefits to Minnesotans.

8.10 Subd. 5. Specific plan requirements. (a) The plan must evaluate and recommend
8.11 interim goals as steps to achieve the goal in subdivision 1. At a minimum, the plan must
8.12 evaluate and recommend the efficacy of reducing statewide greenhouse gas emissions to
8.13 a level at least 15 percent below 2005 emission levels by 2015 and to a level at least 30
8.14 percent below 2005 emission levels by 2025.

8.15 (b) The plan must determine the feasibility, assess the costs and benefits, and
8.16 recommend whether the state should adopt a regulatory system that imposes a cap on the
8.17 aggregate air pollutant emissions of a group of sources, requires those subject to the cap to
8.18 own an allowance for each ton of the air pollutant emitted, and allows for market-based
8.19 trading of those allowances. The evaluation must consider the ramifications of the state
8.20 implementing a cap and trade system alone, in coordination with other states, and as a
8.21 requirement of federal law applying to all states. The plan must recommend the parameters
8.22 of a cap and trade system that includes a cap that would prevent significant increases
8.23 in greenhouse gas emissions above current levels with a schedule for lowering the cap
8.24 periodically to achieve the goal in subdivision 1 and interim goals recommended under
8.25 paragraph (a). The evaluation must consider rate impacts on energy consumers in the state.

8.26 (c) The plan must include recommendations for improvements in the emissions
8.27 inventory and recommend whether the state should require greenhouse gas emissions
8.28 reporting from specific sources and, if so, which sources should be required to report. The
8.29 plan must also evaluate options for an emissions registry after reviewing registries in other
8.30 states and recommend a registry that will insure the greatest opportunity for Minnesota
8.31 entities to obtain marketable credits.

8.32 Subd. 6. Regional activities. The state must, with other states in the Midwest
8.33 region, develop and implement a regional approach to reducing greenhouse gas emissions
8.34 from activities in the region, including consulting on a regional cap and trade system.
8.35 The commissioner of commerce shall coordinate Minnesota's regional activities under
8.36 this subdivision and report to the legislative committees in the senate and house of

9.1 representatives with jurisdiction over energy and environmental policy by February 1,
9.2 2008, and February 1, 2009, on the progress made and recommendations for further
action."

9.4 Delete the title and insert:

9.5 "A bill for an act

9.6 relating to energy; providing for community-based energy development;
9.7 requiring a plan to reduce greenhouse gas emissions; amending Minnesota
9.8 Statutes 2006, sections 216B.1612, subdivisions 1, 2, 3, 5, by adding a
9.9 subdivision; 216B.1691, by adding a subdivision; proposing coding for new law
9.10 in Minnesota Statutes, chapter 216F."

- 37.18 commission and the department by other law.
- 37.19 Subd. 3. Assessment and appropriation. In addition to the amount noted in
- 37.20 subdivision 2, the commissioner may assess utilities, using the mechanism
- 37.21 specified in that subdivision, up to an additional \$500,000 annually through June 30,
- 37.22 2008. The amounts assessed under this subdivision are appropriated to the commission
- 37.23 commissioner, and some or all of the amounts assessed may be transferred to the
- 37.24 commissioner of administration, for the purposes specified in section 16B.325 and Laws
- 37.25 2001, chapter 212, article 1, section 3, as needed to implement those sections.
- 37.26 Subd. 4. Expiration. Subdivisions 1 and 2 expire June 30, 2007 2012. Subdivision
- 37.27 3 expires June 30, 2008.

4.12 Sec. 7. [216F.011] SIZE DETERMINATION.

- 4.13 (a) The total size of a combination of wind energy conversion systems for the
- 4.14 purpose of determining what jurisdiction has siting authority under this chapter must
- 4.15 be determined according to this section. The nameplate capacity of one wind energy
- 4.16 conversion system must be combined with the nameplate capacity of any other wind
- 4.17 energy conversion system that:
- 4.18 (1) is located within five miles of the wind energy conversion system;
- 4.19 (2) is constructed within the same 12-month period as the wind energy conversion
- 4.20 system; and
- 4.21 (3) exhibits characteristics of being a single development, including, but not limited
- 4.22 to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue
- 4.23 sharing arrangements, and common debt or equity financing.
- 4.24 (b) The commissioner shall provide forms and assistance for project developers to
- 4.25 make a request for a size determination. Upon written request of a project developer, the
- 4.26 commissioner of commerce shall provide a written size determination within 30 days
- 4.27 of receipt of the request and of any information requested by the commissioner. In the
- 4.28 case of a dispute, the chair of the Public Utilities Commission shall make the final size
- 4.29 determination.
- 4.30 (c) An application to a county for a permit under this chapter for a wind energy
- 4.31 conversion system is not complete without a size determination made under this section.

4.32 EFFECTIVE DATE. This section is effective January 15, 2008.

5.1 Sec. 8. [216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.

37.28 Sec. 8. [216F.011] SIZE DETERMINATION.

- 37.29 (a) The total size of a combination of wind energy conversion systems for the
- 37.30 purpose of determining jurisdictional siting authority under sections 216F.01 to 216F.07
- 37.31 must be determined according to this section. The nameplate capacity of one wind energy
- 37.32 conversion system must be combined with the nameplate capacity of any other wind
- 37.33 energy conversion system that:
- 37.34 (1) is located within five miles of the wind energy conversion system;
- 38.1 (2) is constructed within the same 12-month period as the wind energy conversion
- 38.2 system; and
- 38.3 (3) exhibits characteristics of being a single development, including but not limited
- 38.4 to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue
- 38.5 sharing arrangements, and common debt or equity financing.
- 38.6 (b) The commissioner shall prepare and make available the necessary forms and
- 38.7 guidance for project developers to make a request for determination. Upon written
- 38.8 request of a project developer, the commissioner of commerce shall provide a written
- 38.9 determination under this section within 30 days of receipt of the request and information
- 38.10 necessary to make a determination. In the case of a dispute, the chair of the Public Utilities
- 38.11 Commission shall determine the total size of the system and shall draw all reasonable
- 38.12 inferences in favor of combining the systems.
- 38.13 (c) An application to a county for a permit for a wind energy conversion system is
- 38.14 not complete without a jurisdictional determination made under this section.

38.15 Sec. 9. [216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.

38.16 Subdivision 1. Definition. For the purposes of this subdivision, the term "processing" means:

- 38.17 (1) the distribution to applicants of application and determination forms provided by the commission;
- 38.20 (2) the receipt and examination of completed application forms, and the certification, in writing, to the commission either that the LWECs for which a permit was issued by the county will comply with applicable rules and standards or, if the facility will not comply, the respects in which a variance is required for the issuance of a permit; and
- 38.24 (3) rendering to applicants, upon request, assistance for the proper completion of an application.

38.26 Subd. 2. Counties processing applications for LWECs site permits. (a) Any Minnesota county board may, by resolution and upon written notice to the Public Utilities Commission, assume responsibility for processing applications for permits required under this chapter for LWECs with a combined nameplate capacity of less than 25,000 kilowatts. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to an appropriate county officer or employee.

38.32 Processing by a county must be done in accordance with procedures and processes established under chapter 394.

38.34 (b) A county board that exercises its option under paragraph (a) and assumes responsibility for processing applications for permits for LWECs within its borders is responsible for issuing, denying, modifying, imposing conditions upon, or revoking permits under this section or rules adopted pursuant to it. The action of the county board with regard to a permit application is final, subject to appeal as provided in section 394.27.

39.4 (c) In adopting and enforcing rules or standards under this subdivision, the commission shall cooperate closely with counties and other governmental agencies.

39.6 (d) The commission shall work with counties and wind developers to notify and educate stakeholders with regard to rules or standards under this section at the time the rules or standards are being developed and adopted and at least every two years thereafter.

39.9 (e) The commission shall, by order, establish general permit standards governing site permits for LWECs under this section. These general permit standards must apply both to permits issued by counties and to permits issued by the commission directly for LWECs with a combined nameplate capacity of less than 25,000 kilowatts. The order must contain minimum standards necessary to ensure the protection of human health and safety and wind resources on adjacent land and must be consistent with the general provisions of wind permits issued by the commission in the five years prior to enactment of this provision.

39.10 (f) The commission and the commissioner of commerce shall provide technical assistance to a county with respect to the processing of LWECs site permit applications by the county.

5.2 (a) A county board may, by resolution and upon written notice to the Public Utilities Commission, assume responsibility for processing applications for permits required under this chapter for LWECs with a combined nameplate capacity of less than 25,000 kilowatts. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to an appropriate county officer or employee.

5.7 Processing by a county shall be done in accordance with procedures and processes established under chapter 394.

5.9 (b) A county board that exercises its option under paragraph (a) may issue, deny, modify, impose conditions upon, or revoke permits pursuant to this section. The action of the county board about a permit application is final, subject to appeal as provided in section 394.27.

5.13 (c) The commission shall, by order, establish general permit standards, including appropriate property line set-backs, governing site permits for LWECs under this section. The order must consider existing and historic commission standards for wind permits issued by the commission. The general permit standards shall apply to permits issued by counties and to permits issued by the commission for LWECs with a combined nameplate capacity of less than 25,000 kilowatts. The commission or a county may grant a variance from a general permit standard if the variance is found to be in the public interest.

5.20 (d) The commission and the commissioner of commerce shall provide technical assistance to a county with respect to the processing of LWECs site permit applications by the county.

39.19 (g) A county may adopt by ordinance standards for LWECs that are more stringent
 39.20 than standards in commission rules or in the commission's permit standards. The
 39.21 commission, in considering a permit for LWECs in a county that has adopted more
 39.22 stringent standards, shall incorporate and apply those more stringent standards, unless the
 39.23 commission finds there is good cause not to do so.

5.22 EFFECTIVE DATE. This section is effective January 15, 2008.

5.23 Sec. 9. [216R081] APPLICATION OF COUNTY STANDARDS.

5.24 A county may adopt by ordinance standards for LWECs that are more stringent than
 5.25 standards in commission rules or in the commission's permit standards. The commission,
 5.26 in considering a permit application for LWECs in a county that has adopted more stringent
 5.27 standards, shall consider and apply those more stringent standards, unless the commission
 5.28 finds good cause not to apply the standards.

39.24 Sec. 10. Minnesota Statutes 2006, section 500.30, subdivision 2, is amended to read:

39.25 Subd. 2. Like any conveyance. Any property owner may grant a solar or wind
 39.26 easement in the same manner and with the same effect as a conveyance of an interest in
 39.27 real property. The easements shall be created in writing and shall be filed, duly recorded,
 39.28 and indexed in the office of the recorder of the county in which the easement is granted.
 39.29 No duly recorded easement shall be unenforceable on account of lack of privity of estate or
 39.30 privity of contract; such easements shall run with the land or lands benefited and burdened
 39.31 and shall constitute a perpetual easement, except that an easement may terminate upon the
 39.32 conditions stated therein or pursuant to the provisions of section 500.20. A wind easement
 39.33 or lease of wind rights shall also terminate after five years from the date the easement is
 39.34 created or lease is entered into, if a wind energy project on the property to which the
 39.35 easement or lease applies does not begin commercial operation within the five-year period.

40.1 EFFECTIVE DATE. This section is effective the day following final enactment.
 40.2 and applies to wind easements created and wind rights leases entered into on and after
 40.3 the effective date of this section.

40.4 Sec. 11. STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.

40.5 Subdivision 1. Definition. "Dispersed generation" means an electric generation
 40.6 project with a generating capacity between ten and 40 megawatts that utilizes an eligible
 40.7 energy technology, as defined in Minnesota Statutes, section 216B.1691, subdivision 1,
 40.8 paragraph (a).

5.29 Sec. 10. STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.

5.30 Subdivision 1. Definition. "Dispersed generation" means an electric generation
 5.31 project with a generating capacity between ten and 40 megawatts that utilizes an "eligible
 5.32 energy technology," as defined in Minnesota Statutes, section 216B.1691, subdivision 1,
 5.33 paragraph (a).