

to serve Minnesota consumers shall provide the commissioner with notice of its intention.

#### Sec. 6. WIND INTEGRATION STUDY.

The commission shall order all electric utilities, as defined in Minnesota Statutes, section 216B.1691, subdivision 1, paragraph (b), to participate in a statewide wind integration study. Utilities subject to Minnesota Statutes, section 216B.1691, shall jointly contract with an independent firm selected by the reliability administrator to conduct an engineering study of the impacts on reliability and costs associated with increasing wind capacity to 20 percent of Minnesota retail electric energy sales by the year 2020, and to identify and develop options for utilities to use to manage the intermittent nature of wind resources. The contracting utilities shall cooperate with the firm conducting the study by providing data requested. The reliability administrator shall manage the study process and shall appoint a group of stakeholders with experience in engineering and expertise in power systems or wind energy to review the study's proposed methods and assumptions and preliminary data. The study must be completed by November 30, 2006. Using the study results, the contracting utilities shall provide the commissioner of commerce with estimates of the impact on their electric rates of increasing wind capacity to 20 percent, assuming no reduction in reliability. Electric utilities shall incorporate the study's findings into their utility-integrated resource plans prepared under Minnesota Statutes, section 216B.2422. The costs of the study are recoverable under Minnesota Statutes, section 216C.052, subdivision 2, paragraph (c), clause (2).

#### Sec. 7. EXPIRATION.

Section 3, paragraph (b), expires on January 1, 2010.

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### ARTICLE 3

#### ROUTING AND SITING AUTHORITY TRANSFER

Section 1. Minnesota Statutes 2004, section 116C.52, subdivision 2, is amended to read:

Subd. 2. ~~BOARD COMMISSION.~~ "Board" shall mean the Minnesota Environmental Quality Board "Commission" means the Public Utilities Commission.

Sec. 2. Minnesota Statutes 2004, section 116C.52, subdivision 4, is amended to read:

Subd. 4. HIGH VOLTAGE TRANSMISSION LINE. "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

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Sec. 3. Minnesota Statutes 2004, section 116C.53, subdivision 2, is amended to read:

Subd. 2. **JURISDICTION.** The board commission is hereby given the authority to provide for site and route selection for large electric power facilities. The board commission shall issue permits for large electric power facilities in a timely fashion. ~~When the Public Utilities Commission has determined the and in a manner consistent with the overall determination of need for the project under section 216B.243 or 216B.2425,~~ Questions of need, including size, type, and timing; alternative system configurations; and voltage are not within the board's siting and routing authority and must not be included in the scope of environmental review conducted under sections 116C.51 to 116C.69.

Sec. 4. Minnesota Statutes 2004, section 116C.57, subdivision 1, is amended to read:

Subdivision 1. **SITE PERMIT.** No person may construct a large electric generating plant without a site permit from the board commission. A large electric generating plant may be constructed only on a site approved by the board commission. The board commission must incorporate into one proceeding the route selection for a high voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant to the transmission system and whose need is certified as part of the generating plant project by the Public Utilities Commission under section 216B.243.

Sec. 5. Minnesota Statutes 2004, section 116C.57, subdivision 2c, is amended to read:

Subd. 2c. **ENVIRONMENTAL REVIEW.** The board commissioner of the Department of Commerce shall prepare for the commission an environmental impact statement on each proposed large electric generating plant or high voltage transmission line for which a complete application has been submitted. ~~For any project that has obtained a certificate of need from the Public Utilities Commission,~~ the board The commissioner shall not consider whether or not the project is needed. No other state environmental review documents shall be required. The board commissioner shall study and evaluate any site or route proposed by an applicant and any other site or route the board commission deems necessary that was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate sites or routes.

Sec. 6. Minnesota Statutes 2004, section 116C.57, is amended by adding a subdivision to read:

Subd. 9. DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL EXPERTISE AND OTHER ASSISTANCE. The commissioner of the Department of Commerce shall consult with other state agencies and provide technical expertise and other assistance to the commission or to individual members of the commission for activities and proceedings under this section, sections 116C.51 to 116C.697, and chapter 116I. This assistance shall include the sharing of power plant siting and routing

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staff and other resources as necessary. The commissioner shall periodically report to the commission concerning the Department of Commerce's costs of providing assistance. The report shall conform to the schedule and include the required contents specified by the commission. The commission shall include the costs of the assistance in assessments for activities and proceedings under those sections and reimburse the special revenue fund for those costs. If either the commissioner or the commission deems it necessary, the department and the commission shall enter into an interagency agreement establishing terms and conditions for the provision of assistance and sharing of resources under this subdivision.

Sec. 7. Minnesota Statutes 2004, section 116C.575, subdivision 5, is amended to read:

Subd. 5. **ENVIRONMENTAL REVIEW.** For the projects identified in subdivision 2 and following these procedures, the ~~board~~ commissioner of the Department of Commerce shall prepare for the commission an environmental assessment. The environmental assessment shall contain information on the human and environmental impacts of the proposed project and other sites or routes identified by the ~~board~~ commission and shall address mitigating measures for all of the sites or routes considered. The environmental assessment shall be the only state environmental review document required to be prepared on the project.

Sec. 8. Minnesota Statutes 2004, section 116C.577, is amended to read:

**116C.577 EMERGENCY PERMIT.**

(a) Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the ~~board~~ commission for an emergency permit ~~after providing~~. The application shall provide notice in writing to the Public Utilities Commission of the major unforeseen event and the need for immediate construction. The permit must be issued in a timely manner, no later than 195 days after the ~~board's~~ commission's acceptance of the application and upon a finding by the ~~board~~ commission that (1) a demonstrable emergency exists, (2) the emergency requires immediate construction, and (3) adherence to the procedures and time schedules specified in section 116C.57 would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner.

(b) A public hearing to determine if an emergency exists must be held within 90 days of the application. The ~~board~~ commission, after notice and hearing, shall adopt rules specifying the criteria for emergency certification.

Sec. 9. Minnesota Statutes 2004, section 116C.58, is amended to read:

**116C.58 ANNUAL HEARING.**

The ~~board~~ commission shall hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding any matters relating to the siting of large electric generating power plants and

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routing of high voltage transmission lines. At the meeting, the board commission shall advise the public of the permits issued by the board commission in the past year. The board commission shall provide at least ten days but no more than 45 days' notice of the annual meeting by mailing notice to those persons who have requested notice and by publication in the EQB Monitor and the commission's weekly calendar.

Sec. 10. Minnesota Statutes 2004, section 116C.61, subdivision 3, is amended to read:

Subd. 3. **STATE AGENCY PARTICIPATION.** (a) State agencies authorized to issue permits required for construction or operation of large electric power generating plants or high voltage transmission lines shall participate during routing and siting at public hearings and all other activities of the board on specific site or route designations and design considerations of the board, and shall clearly state whether the site or route being considered for designation or permit and other design matters under consideration for approval will be in compliance with state agency standards, rules, or policies.

(b) An applicant for a permit under this section or under chapter 116I shall notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land, as that term is defined in section 116I.01, subdivision 4. The commissioner may participate and advise the commission as to whether to grant a permit for the project and the best options for mitigating adverse impacts to agricultural lands if the permit is granted. The Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project.

Sec. 11. Minnesota Statutes 2004, section 116C.69, subdivision 2, is amended to read:

Subd. 2. **SITE APPLICATION FEE.** Every applicant for a site permit shall pay to the board commissioner of commerce a fee in an amount equal to \$500 for each \$1,000,000 of production plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production plant investment (\$1,000 for each \$1,000,000) to cover the necessary and reasonable costs incurred by the commission in acting on the permit application and carrying out the requirements of sections 116C.51 to 116C.69. The commission may adopt rules providing for the payment of the fee. Section 16A.1283 does not apply to establishment of this fee. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board commissioner of commerce to pay expenses incurred in processing applications for site permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less

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than the fee paid, to refund the excess to the applicant.

Sec. 12. Minnesota Statutes 2004, section 116C.69, subdivision 2a, is amended to read:

Subd. 2a. **ROUTE APPLICATION FEE.** Every applicant for a transmission line route permit shall pay to the board commissioner of commerce a base fee of \$35,000 plus a fee in an amount equal to \$1,000 per mile length of the longest proposed route. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. In the event the actual cost of processing an application up to the board's final decision to designate a route exceeds the above fee schedule, the board may assess the applicant any additional fees necessary to cover the actual costs, not to exceed an amount equal to \$500 per mile length of the longest proposed route fee to cover the necessary and reasonable costs incurred by the commission in acting on the permit application and carrying out the requirements of sections 116C.51 to 116C.69. The commission may adopt rules providing for the payment of the fee. Section 16A.1283 does not apply to the establishment of this fee. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board commissioner of commerce to pay expenses incurred in processing applications for route permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Sec. 13. Minnesota Statutes 2004, section 216B.243, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FOR CERTIFICATE; HEARING.** Any person proposing to construct a large energy facility shall apply for a certificate of need prior to applying and for a site or route permit under sections 116C.51 to 116C.69 or prior to construction of the facility. The application shall be on forms and in a manner established by the commission. In reviewing each application the commission shall hold at least one public hearing pursuant to chapter 14. The public hearing shall be held at a location and hour reasonably calculated to be convenient for the public. An objective of the public hearing shall be to obtain public opinion on the necessity of granting a certificate of need and, if a joint hearing is held, a site or route permit. The commission shall designate a commission employee whose duty shall be to facilitate citizen participation in the hearing process. If Unless the commission and the Environmental Quality Board determine determines that a joint hearing on siting and need under this subdivision and section 116C.57, subdivision 2d, is not feasible, or more efficient, and may further or otherwise not in the public interest, a joint hearing under those subdivisions may shall be held.

Sec. 14. Minnesota Statutes 2004, section 216B.243, subdivision 5, is amended to read:

Subd. 5. **APPROVAL, DENIAL, OR MODIFICATION.** Within ~~six~~ 12 months of the submission of an application, the commission shall approve or deny a certificate of need for the facility. Approval or denial of the certificate shall be accompanied by

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a statement of the reasons for the decision. Issuance of the certificate may be made contingent upon modifications required by the commission. If the commission has not issued an order on the application within the 12 months provided, the commission may extend the time period upon receiving the consent of the parties or on its own motion, for good cause, by issuing an order explaining the good cause justification for extension.

Sec. 15. Minnesota Statutes 2004, section 216B.243, subdivision 7, is amended to read:

**Subd. 7. PARTICIPATION BY OTHER AGENCY OR POLITICAL SUB-DIVISION.** (a) Other state agencies authorized to issue permits for siting, construction or operation of large energy facilities, and those state agencies authorized to participate in matters before the commission involving utility rates and adequacy of utility services, shall present their position regarding need and participate in the public hearing process prior to the issuance or denial of a certificate of need. Issuance or denial of certificates of need shall be the sole and exclusive prerogative of the commission and these determinations and certificates shall be binding upon other state departments and agencies, regional, county, and local governments and special purpose government districts except as provided in sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

(b) An applicant for a certificate of need shall notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land, as that term is defined in section 116I.01, subdivision 4. The commissioner may participate in any proceeding on the application and advise the commission as to whether to grant the certificate of need, and the best options for mitigating adverse impacts to agricultural lands if the certificate is granted. The Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project.

Sec. 16. Minnesota Statutes 2004, section 216C.052, is amended to read:

**216C.052 RELIABILITY ADMINISTRATOR.**

Subdivision 1. **RESPONSIBILITIES.** (a) There is established the position of reliability administrator in the Department of Commerce Public Utilities Commission. The administrator shall act as a source of independent expertise and a technical advisor to ~~the commissioner, the commission, and the public, and the Legislative Electric Energy Task Force~~ on issues related to the reliability of the electric system. In conducting its work, the administrator shall provide assistance to the commission in administering and implementing the commission's duties under sections 116C.51 to 116C.69; 116C.691 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and rules associated with those sections. Subject to resource constraints, the reliability administrator may also:

(1) model and monitor the use and operation of the energy infrastructure in the state, including generation facilities, transmission lines, natural gas pipelines, and other energy infrastructure;

(2) develop and present to the commission and parties technical analyses of proposed infrastructure projects, and provide technical advice to the commission;

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(3) present independent, factual, expert, and technical information on infrastructure proposals and reliability issues at public meetings hosted by the task force, the Environmental Quality Board, the department, or the commission.

(b) Upon request and subject to resource constraints, the administrator shall provide technical assistance regarding matters unrelated to applications for infrastructure improvements to the task force, the department, or the commission.

(c) The administrator may not advocate for any particular outcome in a commission proceeding, but may give technical advice to the commission as to the impact on the reliability of the energy system of a particular project or projects. ~~The administrator must not be considered a party or a participant in any proceeding before the commission.~~

Subd. 2. **ADMINISTRATIVE ISSUES.** (a) ~~The commissioner~~ commission may select the administrator who shall serve for a four-year term. The administrator may not have been a party or a participant in a commission energy proceeding for at least one year prior to selection by the ~~commissioner~~ commission. ~~The commissioner~~ commission shall oversee and direct the work of the administrator, annually review the expenses of the administrator, and annually approve the budget of the administrator. Pursuant to commission approval, the administrator may hire staff and may contract for technical expertise in performing duties when existing state resources are required for other state responsibilities or when special expertise is required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

(b) Costs relating to a specific proceeding, analysis, or project are not general administrative costs. For purposes of this section, "energy utility" means public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing natural gas or electric service in the state.

(c) ~~The Department of Commerce~~ commission shall pay:

(1) the general administrative costs of the administrator, not to exceed \$1,000,000 in a fiscal year, and shall assess energy utilities for those administrative costs. These costs must be consistent with the budget approved by the ~~commissioner~~ commission under paragraph (a). ~~The department~~ commission shall apportion the costs among all energy utilities in proportion to their respective gross operating revenues from sales of gas or electric service within the state during the last calendar year, and shall then render a bill to each utility on a regular basis; and

(2) costs relating to a specific proceeding analysis or project and shall render a bill to the specific energy utility or utilities participating in the proceeding, analysis, or project directly, either at the conclusion of a particular proceeding, analysis, or project, or from time to time during the course of the proceeding, analysis, or project.

(d) For purposes of administrative efficiency, the ~~department~~ commission shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision. The amount of the bills rendered by the ~~department~~ commission under paragraph (c) must be paid by the energy utility into an account in

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the special revenue fund in the state treasury within 30 days from the date of billing and is appropriated to the ~~commissioner~~ commission for the purposes provided in this section. The ~~commissioner~~ commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover amounts paid by utilities under this section. All amounts assessed under this section are in addition to amounts appropriated to the ~~commissioner~~ commission and the ~~department~~ by other law.

Subd. 3. **ASSESSMENT AND APPROPRIATION.** In addition to the amount noted in subdivision 2, the ~~commissioner~~ commission may assess utilities, using the mechanism specified in that subdivision, up to an additional \$500,000 annually through June 30, 2006. The amounts assessed under this subdivision are appropriated to the ~~commissioner~~ commission, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement those sections.

Subd. 4. **EXPIRATION.** This section expires June 30, ~~2006~~ 2007.

#### Sec. 17. **TRANSFERRING POWER PLANT SITING RESPONSIBILITIES.**

To ensure greater public participation in energy infrastructure approval proceedings and to better integrate and align state energy and environmental policy goals with economic decisions involving large energy infrastructure, all responsibilities, as defined in Minnesota Statutes, section 15.039, subdivision 1, held by the Environmental Quality Board relating to power plant siting and routing under Minnesota Statutes, sections 116C.51 to 116C.69; wind energy conversion systems under Minnesota Statutes, sections 116C.691 to 116C.697; pipelines under Minnesota Statutes, chapter 116; and rules associated with those sections are transferred to the Public Utilities Commission under Minnesota Statutes, section 15.039, except that the responsibilities of the Environmental Quality Board under Minnesota Statutes, section 116C.83, subdivision 6, and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010 to 4410.7070, are transferred to the commissioner of the Department of Commerce. The power plant siting staff of the Environmental Quality Board are transferred to the Department of Commerce. The department's budget shall be adjusted to reflect the transfer.

The Department of Commerce and the Public Utilities Commission shall carry out these duties in accordance with the provisions of Minnesota Statutes, section 116D.03.

#### Sec. 18. **TRANSFERRING RELIABILITY ADMINISTRATOR RESPONSIBILITIES.**

All responsibilities, as defined in Minnesota Statutes 2004, section 15.039, subdivision 1, held by the Minnesota Department of Commerce relating to the reliability administrator under Minnesota Statutes, section 216C.052, are transferred to the Minnesota Public Utilities Commission under Minnesota Statutes, section 15.039.

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**Sec. 19. REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall change the words "Environmental Quality Board," "board," "chair of the board," "chair," "board's," and similar terms, when they refer to the Environmental Quality Board or chair of the Environmental Quality Board, to the term "Public Utilities Commission," "commission," or "commission's," as appropriate, where they appear in Minnesota Statutes, sections 13.741, subdivision 3, 116C.51 to 116C.697, and chapter 116I. The revisor shall also make those changes in Minnesota Rules, chapters 4400, 4401, and 4415, except as specified in paragraph (b).

(b) The revisor of statutes shall change the words "Environmental Quality Board," "board," "chair of the board," "chair," "board's," and similar terms, when they refer to the Environmental Quality Board or chair of the Environmental Quality Board, to the term "commissioner of the Department of Commerce," "commissioner," or "commissioner's," as appropriate, where they appear in Minnesota Statutes, section 116C.83, subdivision 6; and Minnesota Rules, parts 4400.1700, subparts 1 to 9, 11, and 12; 4400.2750; and 4410.7010 to 4410.7070.

**Sec. 20. EFFECTIVE DATE.**

Sections 1 to 18 are effective July 1, 2005.

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**ARTICLE 4****ENERGY ASSISTANCE TECHNICAL CORRECTIONS**

Section 1. Minnesota Statutes 2004, section 13.681, is amended by adding a subdivision to read:

Subd. 5. ENERGY PROGRAMS. Treatment of data on individuals applying for benefits or services under energy programs is governed by section 216C.266.

Sec. 2. Minnesota Statutes 2004, section 119A.15, subdivision 5a, is amended to read:

Subd. 5a. **EXCLUDED PROGRAMS.** Programs transferred to the Department of Education from the Department of Employment and Economic Development may not be included in the consolidated funding account and are ineligible for local consolidation. The commissioner may not apply for federal waivers to include these programs in funding consolidation initiatives. The programs include the following:

- (1) programs for the homeless under sections 116L.365 and 119A.43;
- (2) emergency energy assistance and energy conservation programs under sections ~~119A.40 and 119A.42~~ 216C.263 and 216C.265;
- (3) weatherization programs under section ~~119A.41~~ 216C.264;
- (4) foodshelf programs under section 119A.44 and the emergency food assistance program; and
- (5) lead abatement programs under section 119A.45.

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