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To: MIKE LARSON  
IRRR

From: Tom M  
Excelsior

Mike — Here's a copy of the legislation that will be introduced. We have a good line-up of authors and co-authors, including Angie (for which we are thankful).

Will let you know the details of the Senate hearing.

Thanks,  
Tom

11 pages total

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1                                   A bill for an act

2           relating to energy and economic development; enacting

3           the Minnesota Economic, Environmental, and Energy

4           Security Act of 2002; making a legislative finding on

5           the need for additional electric generation capacity

6           in the state and encouraging construction of certain

7           energy facilities; amending Minnesota Statutes 2001

8           Supplement, section 116C.575, subdivision 2; proposing

9           coding for new law in Minnesota Statutes, chapter 216B.

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

11       Section 1. [SHORT TITLE.]

12       This act may be referred to as the "Minnesota Economic,

13       Environmental, and Energy Security Act of 2002."

14       Sec. 2. [LEGISLATIVE FINDINGS AND STATEMENT OF NEED.]

15       (a) The legislature finds that:

16       (1) the state has a near-term need for 1,000 megawatts of

17       new electric base-load generation capacity;

18       (2) there is a developing need for at least an additional

19       1,000 megawatts of electric base-load generation capacity to

20       meet projected demand for electricity in the state during the

21       current resource planning period;

22       (3) due to energy security, public health, economic

23       development, and other considerations, Minnesota needs to reduce

24       reliance on electric generation and transmission facilities

25       constructed outside the borders of the state;

26       (4) there is a need to reduce reliance on aging coal-fired

27       power plants, particularly in the Twin Cities metropolitan area.

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1 due to the low efficiency of these facilities and their  
2 emissions profile;

3 (5) there is uncertainty as to the continued reliance upon  
4 nuclear-generated electric power in the state;

5 (6) the state will benefit from the local development of  
6 innovative base-load electric generation technologies that  
7 utilize this country's most abundant energy resource while  
8 providing low-emission alternatives to traditional coal-fired  
9 generation;

10 (7) the state will benefit from new generation capacity  
11 that diversifies the state's electric generation portfolio and  
12 reduces reliance on natural gas use for nonpeaking power  
13 generation needs;

14 (8) construction of new base-load electric generation  
15 facilities within the state will bring critically needed jobs  
16 and other economic benefits to the state and will permit greater  
17 policy control over pollutants emitted regionally that affect  
18 Minnesota's natural environment and the health and welfare of  
19 its citizens;

20 (9) adding to the state's renewable generation resources  
21 further the state's emission reduction goals and helps position  
22 the state to meet future requirements for emissions reductions,  
23 including greenhouse gas emissions; and

24 (10) existing electric transmission facilities are at or  
25 near capacity and new electric transmission facilities will be  
26 needed to support new base-load electric generation and  
27 renewable generation capacity in the state and improve electric  
28 reliability in the region.

29 Therefore, the legislature finds that the state must act  
30 swiftly to encourage and expedite the construction of new  
31 base-load and renewable generation in the state, along with  
32 transmission capacity and associated facilities, to address the  
33 energy, economic, and environmental needs of the state and  
34 ensure the reliability of Minnesota's electric energy system,  
35 increase the competitiveness of its businesses, promote economic  
36 growth in all regions of the state, and protect the

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1 environmental health and welfare of the state.

2 Sec. 3. Minnesota Statutes 2001 Supplement, section  
3 116C.575, subdivision 2, is amended to read:

4 Subd. 2. [APPLICABLE PROJECTS.] The requirements and  
5 procedures in this section apply to the following projects:

6 (1) large electric power generating plants with a capacity  
7 of less than 80 megawatts;

8 (2) large electric power generating plants that are fueled  
9 by natural or synthetic gas;

10 (3) high voltage transmission lines of between 100 and 200  
11 kilovolts;

12 (4) high voltage transmission lines in excess of 200  
13 kilovolts and less than five miles in length in Minnesota;

14 (5) high voltage transmission lines in excess of 200  
15 kilovolts if at least 80 percent of the distance of the line in  
16 Minnesota will be located along existing high voltage  
17 transmission line right-of-way or transportation corridors;

18 (6) a high voltage transmission line service extension to a  
19 single customer between 200 and 300 kilovolts and less than ten  
20 miles in length; and

21 (7) a high voltage transmission line rerouting to serve the  
22 demand of a single customer when the rerouted line will be  
23 located at least 80 percent on property owned or controlled by  
24 the customer or the owner of the transmission line.

25 Sec. 4. [216B.680] [QUALIFYING ENERGY PROJECT;  
26 DEFINITIONS.]

27 Subdivision 1. [SCOPE.] The terms used in sections  
28 216B.680 to 216B.685 have the meanings given them in this  
29 section.

30 Subd. 2. [COMPETITIVE BIDDING PROCESS.] "Competitive  
31 bidding process" means the process by which a request for  
32 proposals is administered and evaluated.

33 Subd. 3. [QUALIFYING ENERGY PROJECT.] "Qualifying energy  
34 project" is defined as a new power generation project that:

35 (1) utilizes innovative generation technology capable of  
36 using a variety of fuel stocks, including at least one solid

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1 fuel source, in a manner that reduces environmental impacts  
2 including, without limitations, integrated gasification combined  
3 cycle technology;

4 (2) deploys wind or other renewable generation in a ratio  
5 of at least 25 percent of the total installed capacity upon  
6 completion of the overall project; and

7 (3) provides economic development within a tax relief area  
8 as defined in section 273.134.

9 Subd. 4. [REQUESTING UTILITY] "Requesting utility" is any  
10 public utility that, as of January 1, 2002, had an outstanding  
11 request for proposals.

12 Subd. 5. [REQUEST FOR PROPOSALS] "Request for proposals"  
13 means an all-source supply proposal that had been approved or  
14 established by the commission pursuant to section 216B.2422,  
15 subdivision 5, paragraph (a).

16 Sec. 5. [216B.681] [COMPETITIVE BIDDING.]

17 Subdivision 1. [BIDDING PROCESS.] (a) Within 30 days of  
18 the effective date of this section, the commission shall order a  
19 requesting utility to amend its selection criteria for any  
20 pending competitive bidding process to incorporate those  
21 criteria listed in subdivision 2. A requesting utility shall  
22 then continue and complete any pending competitive bidding  
23 process in accordance with the terms of this section, and shall  
24 select a proposal, from a third party that filed a notice of  
25 intent to bid, in accordance with the terms of the amended  
26 competitive bid process.

27 (b) The deadline under the amended process for a sponsor of  
28 any qualifying energy project to submit a proposal, which must  
29 include all material commercial terms relating to the proposed  
30 qualifying energy project, is the later of 90 days after the  
31 effective date of this section or September 10, 2002, or a later  
32 date as the commission shall approve.

33 Subd. 2. [COMPETITIVE BIDDING CRITERIA.] In order to  
34 advance the state's energy, environmental, and economic policy  
35 goals identified in section 2, the criteria for evaluating and  
36 selecting qualified energy projects and other proposals received

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1 commission.

2 (b) In addition to negotiating with the sponsor of the  
3 qualified energy project selected by the commission, the  
4 requesting utility may negotiate with any other sponsor of any  
5 project which the requesting utility has selected as a finalist  
6 in its competitive bidding process under sections 216B.681 and  
7 216B.682.

8 Subd. 2. [AGREEMENT RECOMMENDATION AND APPROVAL.] Within  
9 90 days following commission notification under subdivision 1,  
10 the requesting utility shall present a signed power purchase  
11 agreement with a term of at least 25 years to the commission for  
12 the commission's approval for the selected qualifying energy  
13 project and for each finalist selected by the requesting  
14 utility. The requesting utility shall recommend to the  
15 commission which power purchase agreement best meets the  
16 criteria in section 216B.681, subdivision 2. Upon receipt of  
17 the signed power purchase agreements, the commission shall  
18 review the agreements and shall approve an agreement in  
19 accordance with subdivision 5.

20 Subd. 3. [INTERVENING PROPOSAL.] (a) Notwithstanding  
21 subdivisions 1 and 2 and section 216B.681, if prior to the  
22 requesting utility's selection of a finalist, a sponsor of a  
23 qualifying energy project submits to the commission an eligible  
24 proposal, the commission may require the requesting utility to  
25 select the proposal and negotiate in good faith a power purchase  
26 agreement consistent with the requirements of subdivision 4  
27 exclusively with the sponsor of that qualifying energy project.

28 (b) For purposes of this subdivision, an "eligible  
29 proposal" is a proposal that the commission determines:

30 (1) contains all material commercial terms;

31 (2) commits to a price for the generation output of the  
32 qualifying energy project that is within ten percent of the  
33 requesting utility's average cost of generation;

34 (3) shows a compelling need to act expeditiously; and

35 (4) is consistent with subdivision 5, paragraph (a).

36 Subd. 4. [AGREEMENT TERMS.] The power purchase agreement

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1 between a requesting utility and a sponsor of a qualifying  
 2 energy project must provide for:  
 3 (1) the purchase of at least 1,000 megawatts of nonpeaking  
 4 generation that will be operational no later than December 31,  
 5 2007;

6 (2) an option in favor of the sponsor to provide the  
 7 requesting utility with at least an additional 1,000 megawatts  
 8 of nonpeaking generation, subject to the conditions of section  
 9 216B.685, subdivision 2, that will be brought on line in a  
 10 manner that serves the requesting utility's next subsequent  
 11 forecasted nonpeaking needs; and

12 (3) the purchase of at least 1,000 megawatts of renewable  
 13 installed capacity to be deployed over a ten-year period  
 14 commencing in the second year of the power purchase agreement,  
 15 provided that the parties may, by mutual agreement subject to  
 16 commission approval, change the dates any of the facilities will  
 17 be brought on line.

18 Subd. 5. [COMMISSION OVERSIGHT AND APPROVAL.] (a) The  
 19 commission shall approve a power purchase agreement submitted  
 20 under this section and section 216B.682, if it finds that:

21 (1) the terms and conditions of the agreement and the  
 22 project selected best meet the criteria established in section  
 23 216B.681, subdivision 2;

24 (2) the agreement benefits the utility's ratepayers and  
 25 shareholders; and

26 (3) in the case of a qualifying energy project, the terms  
 27 of the power purchase agreement are consistent with subdivision  
 28 4.

29 (b) The commission shall issue an order approving,  
 30 approving as modified, or disapproving the power purchase  
 31 agreement within 90 days of its submission to the commission.

32 Subd. 6. [COST RECOVERY.] Subject to the commission's  
 33 approval of the power purchase agreement, and a finding by the  
 34 commission that the utility negotiated in good faith, the  
 35 utility may recover the costs of the power purchase agreement,  
 36 and any associated costs, including associated transmission

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1 facilities, without filing a general rate proceeding under  
2 section 216B.16.

3 Sec. 8. [216B.684] [DISPUTE RESOLUTION.]

4 In the event of a dispute between a utility and a  
5 qualifying energy project sponsor over any aspect of the  
6 competitive bidding process, the commission shall, within 45  
7 days after the filing of a notice of dispute, make a finding  
8 resolving the dispute. All actions of the commission under this  
9 section must give maximum consideration to advancing public  
10 interest criteria without placing unreasonable burdens on  
11 utility ratepayers.

12 Sec. 9. [216B.685] [AGENCY PROCESS.]

13 Subdivision 1. [NEW OR UPGRADED TRANSMISSION  
14 FACILITIES.] (a) For any new or upgraded transmission facilities  
15 located in the state that are reasonably necessary to connect a  
16 qualified energy project to the transmission system so that the  
17 output of the project can be transmitted to the areas of the  
18 state where the power is needed, and for other facilities  
19 related to or associated with those electric generation and  
20 transmission facilities:

21 (1) the commission need not make any additional findings of  
22 need under section 216B.243, but rather shall rely upon the  
23 competitive bidding exemption found in section 216B.2422,  
24 subdivision 5, and on the legislative determinations in section  
25 2 that the generation, transmission, and other associated  
26 facilities are needed; and

27 (2) all state and local agencies and all local units of  
28 government shall process any required approval, permit, or  
29 review of generation, transmission, and other associated  
30 facilities with the highest priority.

31 (b) The commission and all other state and local agencies  
32 shall treat the determinations made in section 2 as equivalent  
33 in all respects to a commission finding of need for those  
34 generation, transmission, and related or associated facilities  
35 pursuant to section 216B.243.

36 Subd. 2. [ADDITIONAL GENERATION CAPACITY.] (a) The



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1 construction of nonpeaking generation capacity, beyond the  
2 initial 1,000 megawatts, by a qualified energy project for which  
3 the commission has approved a power purchase agreement under  
4 subdivision 5, is subject to the commission's determination:

5 (1) that there exists the need for the additional capacity,  
6 following nomination for the capacity by the requesting utility;  
7 and

8 (2) that no alternative nonpeaking energy source is  
9 technologically viable, provides superior environmental  
10 performance at a comparable cost, and better satisfies the  
11 criteria set forth in section 216B.681, subdivision 2.

12 (b) The commission shall make these determinations in a  
13 manner that permits timely nomination and construction under the  
14 power purchase agreement of each additional capacity increment.

15 (c) If the commission determines that an alternative  
16 base-load energy source exists, the requesting utility is not  
17 obligated to nominate subsequent capacity additions from the  
18 qualified energy project to the extent the utility is ordered by  
19 the commission to take capacity from a project employing the  
20 alternative energy technology.

21 Sec. 10. [EFFECTIVE DATE.]

22 Sections 1 to 9 are effective the day following final  
23 enactment.