

**SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION**

S.F. No. 1355

(SENATE AUTHORS: ROSEN)

DATE	D-PG	OFFICIAL STATUS
03/04/2015	530	Introduction and first reading Referred to Environment and Energy

A bill for an act

relating to energy; modifying certificate of need exemptions; adding facilities eligible for alternative review of site and route permit applications; modifying review timelines; providing for local review; amending Minnesota Statutes 2014, sections 216B.243, subdivision 8; 216E.03, subdivision 9; 216E.04, subdivisions 2, 7; 216F.011; 216F.04; 216F.08; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Section 1. Minnesota Statutes 2014, section 216B.243, subdivision 8, is amended to read:

Subd. 8. **Exemptions.** This section does not apply to:

(1) cogeneration or small power production facilities as defined in the Federal Power Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and paragraph (18), subparagraph (A), and having a combined capacity at a single site of less than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or any case where the commission has determined after being advised by the attorney general that its application has been preempted by federal law;

(2) a high-voltage transmission line proposed primarily to distribute electricity to serve the demand of a single customer at a single location, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(3) the upgrade to a higher voltage of an existing transmission line that serves the demand of a single customer that primarily uses existing rights-of-way, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(4) a high-voltage transmission line of one mile or less required to connect a new or upgraded substation to an existing, new, or upgraded high-voltage transmission line;

2.1 (5) conversion of the fuel source of an existing electric generating plant to using
2.2 natural gas;

2.3 (6) the modification of an existing electric generating plant to increase efficiency,
2.4 as long as the capacity of the plant is not increased more than ten percent or more than
2.5 100 megawatts, whichever is greater; ~~or~~

2.6 (7) a wind energy conversion system ~~or~~, solar electric generation facility, or facility
2.7 that generates electricity from natural gas if the system or facility is owned and operated
2.8 by an independent power producer and the electric output of the system or facility is not
2.9 sold to an entity that provides retail service in Minnesota or wholesale electric service to
2.10 another entity in Minnesota other than an entity that is a federally recognized regional
2.11 transmission organization or independent system operator; or

2.12 (8) high-voltage transmission lines in excess of 200 kilovolts, if the line has been
2.13 approved by a federally recognized regional transmission organization or the board of
2.14 directors of an independent system operator during the transmission planning process.

2.15 Sec. 2. **[216B.247] LARGE SOLAR ENERGY SYSTEM OR LWECS**
2.16 **REPOWERING.**

2.17 (a) A large wind energy conversion system, as defined in section 216F.01,
2.18 subdivision 2, or a solar-powered large energy facility, as defined in section 216B.2421,
2.19 subdivision 2, engaging in a repowering project that will not result in the facility exceeding
2.20 the nameplate capacity under its most recent interconnection agreement is exempt from
2.21 the certificate of need requirements under section 216B.241.

2.22 (b) A large wind energy conversion system, as defined in section 216F.01,
2.23 subdivision 2, or a solar-powered large energy facility, as defined in section 216B.2421,
2.24 subdivision 2, engaging in a repowering project that will result in the facility exceeding the
2.25 nameplate capacity under its most recent interconnection agreement is exempt from the
2.26 certificate of need requirements under section 216B.241 if the Midcontinent Independent
2.27 System Operator certifies that capacity exists to accommodate the net power increase.

2.28 Sec. 3. Minnesota Statutes 2014, section 216E.03, subdivision 9, is amended to read:

2.29 Subd. 9. **Timing.** The commission shall make a final decision on an application
2.30 within 60 days after receipt of the report of the administrative law judge. A final decision
2.31 on the request for a site permit or route permit shall be made within one year after the
2.32 commission's determination that an application is complete. The commission may extend
2.33 this time limit for up to ~~three months~~ 30 days for just cause or upon agreement of the
2.34 applicant.

3.1 Sec. 4. Minnesota Statutes 2014, section 216E.04, subdivision 2, is amended to read:

3.2 Subd. 2. **Applicable projects.** The requirements and procedures in this section
3.3 apply to the following projects:

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

3.5 (2) large electric power generating plants that are fueled by natural gas;

3.6 (3) high-voltage transmission lines of between 100 and 200 kilovolts;

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

3.9 (5) high-voltage transmission lines in excess of 200 kilovolts if at least 80 percent
3.10 of the distance of the line in Minnesota will be located along existing high-voltage
3.11 transmission line right-of-way;

3.12 (6) a high-voltage transmission line service extension to a single customer between
3.13 200 and 300 kilovolts and less than ten miles in length;

3.14 (7) a high-voltage transmission line rerouting to serve the demand of a single
3.15 customer when the rerouted line will be located at least 80 percent on property owned or
3.16 controlled by the customer or the owner of the transmission line; ~~and~~

3.17 (8) large electric power generating plants that are powered by solar energy; and

3.18 (9) high-voltage transmission lines in excess of 200 kilovolts, if the line has been
3.19 approved by a federally recognized regional transmission organization or the board of
3.20 directors of an independent system operator during the transmission planning process.

3.21 Sec. 5. Minnesota Statutes 2014, section 216E.04, subdivision 7, is amended to read:

3.22 Subd. 7. **Timing.** The commission shall make a final decision on an application
3.23 ~~within 60 days~~ after completion of the public hearing. A final decision on the request for
3.24 a site permit or route permit under this section shall be made within six months after
3.25 the commission's determination that an application is complete. The commission may
3.26 extend this time limit for up to ~~three months~~ 30 days for just cause or upon agreement of
3.27 the applicant.

3.28 Sec. 6. Minnesota Statutes 2014, section 216F.011, is amended to read:

3.29 **216F.011 SIZE DETERMINATION.**

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

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

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

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

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

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

4.15 Sec. 7. Minnesota Statutes 2014, section 216F.04, is amended to read:

4.16 **216F.04 SITE PERMIT.**

4.17 (a) No person may construct an LWECS without a site permit issued by the Public
4.18 Utilities Commission.

4.19 (b) Any person seeking to construct an LWECS shall submit an application to the
4.20 commission for a site permit in accordance with this chapter and any rules adopted by the
4.21 commission. The permitted site need not be contiguous land.

4.22 (c) The commission shall make a final decision on an application for a site permit for
4.23 an LWECS within 180 days after acceptance of a complete application by the commission.
4.24 The commission may extend this deadline by up to 30 days for cause.

4.25 (d) The commission may place conditions in a permit and may deny, modify,
4.26 suspend, or revoke a permit.

4.27 Sec. 8. Minnesota Statutes 2014, section 216F.08, is amended to read:

4.28 **216F.08 PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

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

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

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

5.7 ~~(c) The commission shall, by order, establish general permit standards, including~~
5.8 ~~appropriate property line set-backs, governing site permits for LW ECS under this section.~~
5.9 ~~The order must consider existing and historic commission standards for wind permits~~
5.10 ~~issued by the commission. The general permit standards shall apply to permits issued by~~
5.11 ~~counties and to permits issued by the commission for LW ECS with a combined nameplate~~
5.12 ~~capacity of less than 25,000 kilowatts. The commission or a county may grant a variance~~
5.13 ~~from a general permit standard if the variance is found to be in the public interest. The~~
5.14 ~~applicant shall notify the commission it has elected to seek local approval for a proposed~~
5.15 ~~project within ten days of submitting an application for eligible project approval to a local~~
5.16 ~~unit of government. If local approval is granted, a site or route permit is not required from~~
5.17 ~~the commission. If the applicant files an application with the commission, the applicant~~
5.18 ~~waives its right to seek local approval for the project.~~

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

5.21 (e) Upon receipt of an application for local approval of an eligible project under this
5.22 section, a local unit of government with jurisdiction over the project may petition the
5.23 commission to assume jurisdiction and grant or deny approval of the LW ECS site permit
5.24 under the provisions of this chapter. A local unit of government must file the petition to
5.25 assume jurisdiction within 60 days of receipt of an application for project approval by any
5.26 local unit of government. If one of the local units of government having jurisdiction over
5.27 the project requests that the commission assumes jurisdiction, jurisdiction over the project
5.28 transfers to the commission. If the local unit or units of government maintain jurisdiction
5.29 over the project, the commission shall select the local unit of government responsible for
5.30 conducting the environmental review of the project.

5.31 **Sec. 9. EFFECTIVE DATE.**

5.32 Sections 1 to 8 are effective the day following final enactment.