

CHAPTER 795-H.F.No.830

[Coded in Part]

An act relating to public utilities; reducing regulation of certain cooperative electric associations unless an election to continue regulation is made; amending Minnesota Statutes 1976, Sections 216B.01; 216B.02, Subdivision 4; 216B.06; 216B.17, by adding a subdivision; 216B.36; 216B.38, Subdivision 5; 216B.45; 216B.47; 216B.62, by adding a subdivision; repealing Minnesota Statutes 1976, Sections 216B.48, Subdivision 7; 216B.49, Subdivision 6; 216B.50, Subdivision 2; and 216B.51, Subdivision 2.

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

Section 1. Minnesota Statutes 1976, Section 216B.01, is amended to read:

216B.01 **LEGISLATIVE FINDING.** It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, to avoid unnecessary duplication of facilities which increase the cost of service to the consumer and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers. Because municipal utilities are presently effectively regulated by the residents of the municipalities which own and operate them, and cooperative electric associations are presently effectively regulated and controlled by the membership under the provisions of Minnesota Statutes, Chapter 308, it is deemed unnecessary to subject such utilities to regulation under Laws 1974, this chapter 429 except as specifically provided herein.

Sec. 2. Minnesota Statutes 1976, Section 216B.02, Subdivision 4, is amended to read:

Subd. 4. "Public utility" means persons, corporations or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured or mixed gas or electric service to or for the public ~~or its members~~, or engaged in the production and retail sale thereof but does not include a municipality or a cooperative electric association, organized under the provisions of Minnesota Statutes, Chapter 308 producing or furnishing natural, manufactured or mixed gas or electric service. Except as otherwise provided, the provisions of Laws 1974, Chapter 429 shall not be applicable to any sale of natural gas or electricity by a public utility to another public utility for resale. No person shall be deemed to be a public utility if it presently furnishes its services only to tenants in buildings owned, leased or operated by such person. No person shall be deemed to be a public utility if it presently furnishes service to occupants of a mobile home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it presently produces or furnishes service to less than 25 persons.

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A cooperative electric association may elect to become subject to rate regulation by the commission pursuant to sections 216B.03 to 216B.23. The election shall be (a) approved by July 1, 1978 by the board of directors of the association in accordance with the procedures for amending the articles of incorporation contained in section 308.15, subdivision 1, excluding the filing requirements; or (b) approved by a majority of members of stockholders voting by mail ballot initiated by petition of no less than five percent of the members or stockholders of the association. The ballot to be used for the election shall be approved by the board of directors and the department of public service. The department shall mail the ballots to the cooperative's members who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the cooperative shall count the ballots. If a majority of the cooperative's members who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after certified copies of the resolutions approving the election are filed with the commission. Any cooperative electric association subject to regulation of rates by the commission shall be exempt from the provisions of sections 216B.48, 216B.49, 216B.50, and 216B.51.

Sec. 3. Minnesota Statutes 1976, Section 216B.06, is amended to read:

216B.06 RECEIVING DIFFERENT COMPENSATION. No public utility shall directly or indirectly, by any device whatsoever, or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered by the utility than that prescribed in the schedules of rates of the public utility applicable thereto when filed in the manner provided in Laws 1974, Chapter 429, nor shall any person knowingly receive or accept any service from a public utility for a compensation greater or less than that prescribed in the schedules, provided that all rates being charged and collected by a public utility upon January 1, 1975 may be continued until schedules are filed. ~~Nothing in Laws 1974, Chapter 429 shall prevent a cooperative association from returning to its patrons the whole, or any part of, the net earnings resulting from its operations in proportion to their purchases from or through the association.~~

Sec. 4. Minnesota Statutes 1976, Section 216B.17, is amended by adding a subdivision to read:

Subd. 6a. For the purposes of this section, public utility shall include cooperative electric associations with respect to service standards and practices only.

Sec. 5. Minnesota Statutes 1976, Section 216B.36, is amended to read:

216B.36 FRANCHISES CONTINUED. Any public utility furnishing the utility services enumerated in Laws 1974, Chapter 429 or occupying streets, highways, or other public property within a municipality may be required to obtain a license, permit, right or franchise in accordance with the terms, conditions, and limitations of regulatory acts of the municipality, including the placing of distribution lines and facilities underground, and under the license, permit, right, or franchise, the utility may be obligated by any municipality to pay to the municipality fees to raise revenue or defray increased

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municipal costs accruing as a result of utility operations, or both; including but not limited to a sum of money based upon gross operating revenues or gross earnings from its operations in the municipality so long as the public utility shall continue to operate in the municipality, unless upon request of the public utility it is expressly released from the obligation at any time by such municipality. All existing licenses, permits, franchises and other rights acquired by any public utility or municipality prior to the passage of Laws 1974, Chapter 429 including the payment of existing franchise fees, shall not be impaired or affected in any respect by the passage of Laws 1974, Chapter 429, except with respect to matters of rate and service regulation and service area assignments that have been vested to the jurisdiction of the commission by Laws 1974, Chapter 429. However, in the event that a court of competent jurisdiction determines, or the parties by mutual agreement determine, that an existing license, permit, franchise or other right has been abrogated or impaired by Laws 1974, Chapter 429, or its execution, the municipality affected shall impose and the public utility shall collect an excise tax on the utility charges which from year to year yields an amount which is reasonably equivalent to that amount of revenue which then would be due as a fee, charges or other thing or service of value to the municipality under the franchise, license or permit. The authorization shall be over and above taxing limitations including, but not limited to those of section 477A.01, subdivision 18. Franchises granted pursuant to this section shall be exempt from the provisions of chapter 80C. For purposes of this section, a public utility shall include a cooperative electric association.

Sec. 6. Minnesota Statutes 1976, Section 216B.38, Subdivision 5, is amended to read:

Subd. 5. "Electric utility" means persons, their lessees, trustees, and receivers, separately or jointly, now or hereafter operating, maintaining or controlling in Minnesota equipment or facilities for providing electric service at retail and which fall within the definition of "public utility" in section 216B.02, subdivision 4, and includes facilities owned by a municipality or by a cooperative electric association.

Sec. 7. Minnesota Statutes 1976, Section 216B.45, is amended to read:

216B.45 MUNICIPAL PURCHASE OF PUBLIC UTILITY. Any public utility operating in a municipality under a license, permit, right or franchise shall be deemed to have consented to the purchase by the municipality, for just compensation, of its property operated in the municipality under such license, permit, right or franchise. The municipality, subject to the provisions of Laws 1974, Chapter 429, may purchase the property upon notice to the public utility as herein provided. Whenever the commission is notified by the municipality or the public utility affected that the municipality has, pursuant to law, determined to purchase the property of the public utility, and that the parties to the purchase and sale have been unable to agree on the amount to be paid and received therefor, the commission shall set a time and place for a public hearing, after not less than 30 days notice to the parties, upon the matter of just compensation or the matter of the property to be purchased. Within a reasonable time the commission shall, by order, determine the just compensation for the property to be purchased by the municipality. In determining just compensation, the commission shall consider the original cost of the property less depreciation, loss of revenue to the utility, expenses resulting from

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integration of facilities and other appropriate factors. The order of the commission may be reviewed as provided in section 216B.52. Commission expenses arising out of the exercise of its jurisdiction under this section shall be assessed to the municipality. For purposes of this section, a public utility shall include a cooperative electric association.

Sec. 8. Minnesota Statutes 1976, Section 216B.47, is amended to read:

216B.47 **ACQUISITION BY EMINENT DOMAIN.** Nothing in Laws 1974, Chapter 429 shall be construed to preclude a municipality from acquiring the property of a public utility by eminent domain proceedings; provided that damages to be paid in eminent domain proceedings shall include the original cost of the property less depreciation, loss of revenue to the utility, expenses resulting from integration of facilities, and other appropriate factors. For purposes of this section, a public utility shall include a cooperative electric association.

Sec. 9. Minnesota Statutes 1976, Section 216B.62, is amended by adding a subdivision to read:

Subd. 5. The commission shall be authorized to charge cooperative electric associations their proportionate share of the expenses incurred in the adjudication of service area disputes and all of the costs incurred in the adjudication of complaints over service standards and practices. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.02, subdivision 4, shall be subject to this section.

Sec. 10. Minnesota Statutes 1976, Sections 216B.48, Subdivision 7; 216B.49, Subdivision 6; 216B.50, Subdivision 2; and 216B.51, Subdivision 2 are repealed.

Sec. 11. This act shall be effective on the date following final enactment. This act is effective in respect to applications for rate changes pending before the commission on the effective date; and no refunds of increased rates put into effect after suspension in proceedings pending before the commission on the effective date shall be necessary.

Approved April 7, 1978.

CHAPTER 796-H.F.No.1861

[Coded in Part]

An act relating to retirement; miscellaneous amendments; administrative amendments to the public employees retirement law; modifying the rate of deferred annuity augmentation; modifying certain benefits and increasing contributions for legislators retirement; improving benefits and increasing contributions for constitutional officers; amending Minnesota Statutes 1976, Sections 3A.01, by adding subdivisions; 3A.02, Subdivisions 2 and 4, and by adding a subdivision; 3A.03, Subdivision 1; 352.72, Subdivision 2; 352B.30, Subdivision 2; 352C.01; 352C.04, Subdivisions 1, 2a, and by adding a subdivision; 352C.09, Subdivisions 1 and 2; 352C.091, by adding subdivisions; 353.01, Subdivisions 12, 16, and 20; 353.017, Subdivision

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