

MREA LEGISLATIVE REPORT

2013 SESSION

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The 2013 legislative session officially adjourned late on Monday, May 21. While this was a challenging session for electric utilities, this turned out to be a very positive session for electric cooperatives. We were not only able to avoid most of the damaging proposals, we also passed legislative measures that will significantly benefit our members. MREA would like to thank everyone for your ongoing contact with your elected officials. We can't emphasize enough what a difference it makes when legislators hear from someone back home in the district.

New Challenging Landscape

The DFL victories in the 2012 general election brought one party control to Minnesota government for the first time since 1990. The change in majority party for both the House and Senate meant that new Energy Committee chairs would be named. Senator John Marty (DFL – Roseville) and Representative Melissa Hortman (DFL – Brooklyn Park) were given the gavels to lead Minnesota on energy policy.

For Minnesota's rural electric cooperatives, the committee roster of the House Energy Committee was particularly concerning in that only one rural member of the DFL was named. This left MREA with the task of educating the nearly all-metro majority on the difference and specific challenges of cooperatives and to have our rural supporters weigh in from outside the committee.

We saw proposals for everything from dramatic increases and carve-outs to the state's Renewable Energy Standard (RES) to efforts to help the city of Minneapolis "municipalize" its electric utility to a 25-fold increase in the current net metering cap. Omnibus Energy Bills in both bodies originally contained solar mandates, an increased RES to 40% by 2030, a sales tax on energy, multiple subsidies for solar installations, "Made-In-Minnesota" solar incentives, threats to allowing third parties into our service territories, and numerous other provisions, with the goal to fundamentally change the way electricity is generated and distributed in Minnesota.

Through the help of a great many legislators and the incredible response from MREA's membership who visited, called, and wrote their local senators and representatives, electric cooperatives were exempted from all of the harmful provisions proposed this year.

Here's a rundown of the key issues we faced this session:

Net Metering/Distributed Generation:

Minnesota's net metering laws continue to be a problem for electric cooperatives and there was some hope that we could address the issue during the session. MREA and our member cooperatives had participated in an 18-month stakeholder process and there seemed to be momentum to find a solution that would allow utilities to recover the fixed costs that were avoided under the current net metering regime and shifted onto neighbors.

The Dayton Administration, through the Division of Energy Resources (DER), originally introduced a proposal that would raise the cap for net metered systems from 40 kW to 1,000 kW and pay excess generation at avoided cost rather than retail rates. Excess generation would have been paid for in the form of credits on a customer's bill that would roll forward until the end of the year and then be trued up.

The DER's proposal also gave the utility the option of opting into a new system called the "value of solar" (VOS). This is based off of a model done by the municipal utility in Austin, TX which tried to determine what the true value of solar was to a utility and set the rate at that level.

While the 1,000 kW limit was not something that electric cooperatives could support, it was fairly clear in our discussion with lawmakers and DER staff that the limit was just a starting point. Unfortunately what was introduced and moved forward grew notably worse. The retail payments remained for generation under 40 kW and a retail floor was established for the VOS, which defeated the purpose of finding its true value.

At one point the Senate Energy Bill did have a fix for net metering for cooperatives by eliminated the retail payments, keeping the cap at 40 kW and allowing for utilities to charge a reasonable fee for to cover its costs for providing service. This provision was rejected in the conference committee.

In the end cooperatives and municipals were left with the status quo for net metering. Investor owned utilities (IOUs) saw a number of changes to net metering, which include:

- An increase on the cap for net metered accounts to 1,000 kW, with size based on 120 percent of annual usage.
- Retail payments for excess energy up to 40 kW. Avoided cost payments for excess energy up to 1,000 kW.
- The Public Utility Commission (PUC) will establish "allowable costs to be recovered by stand by charges" on systems over 100 kW. Stand by charges cannot be charged on systems under 100 kW.
- The PUC may implement a system wide cap on net metered accounts when a system reaches 4% penetration.
- Allows a customer to aggregate all of their meters on a contiguous piece of property.
- An IOU can apply with the PUC to establish a VOS. The VOS cannot be below retail rates for the first 3 years after it is established.

While we are happy to avoid the harmful changes made to net metering, we recognize that current law is unsustainable and will continue to work for a fix in future sessions.

Solar Mandate/Renewable Energy Mandate:

Establishing a solar mandate seemed to be the focus of the renewable energy advocates and the two chairs. The first mandate we saw was in HF 773, the so-called “Solar Advocates Bill” introduced by Rep. Will Morgan (DFL – Burnsville) and Sen. Chris Eaton (DFL – Brooklyn Center). This bill called for solar mandates as follows:

- 2016 - .5%
- 2020 – 1.5%
- 2025 – 4%
- 2030 – 10%

The eventual House Omnibus Energy Bill originally cut the solar mandate down to 4% by 2025, but kept the 10% mandate as an overall goal. Because of the significant opposition from electric cooperatives, munis and other utilities, that number was halved again in the bill that passed the House. The Senate Omnibus Energy Bill was more modest and was eventually decreased to 1% by 2025 when the bill had trouble getting to and off the Senate Floor.

The conference committee settled on 1.5% by 2020, which eventually became law; 10% of the mandated solar must be in the form of residential rooftop panels.

The wind advocates introduced a bill calling for an increase to the renewable energy mandate from the current 25% by 2025 to 40% by 2030. This provision excluded cooperatives and municipals after the first hearing in the House and was completely left out by the Senate. The increase was not included in the final bill.

Solar Energy Subsidies:

The House and the Senate Energy Bills were introduced with two mechanisms to subsidize solar energy. The first was a 1.33% sales tax on energy that would then be distributed by the DER as a production incentive for qualifying owners of solar panels. Cooperatives and municipals were exempted early on in the process. The sales tax for IOUs was passed off the House floor, but was eventually replaced with a Xcel only program in which they fund \$5 million per year of incentives for solar panels 20 kW or less.

The second subsidy for solar was an additional incentive for panels made in Minnesota. The incentive will be funded by using \$15 million from Xcel Energy’s Renewable Development Fund and from 5% of the IOU’s CIP dollars. Currently two companies qualify for this subsidy, TenK Solar in Bloomington and Silicon Energy in Mt. Iron.

Studies:

The following studies were passed in the Omnibus Energy Bill.

- Transmission Study for 40% renewables by 2030
- Value of On-Site Energy Storage
- Value of Solar Thermal Study

- Scope of Renewable Energy Study
- DOC-DER study: More stakeholder meetings

Contributions in Aid to Construction:

The Omnibus Tax Bill (HF 677) contained a provision that clarifies that payments made to utilities as a contribution in aid to construction are not subject to the sales tax. Over the past few years, the Minnesota Department of Revenue (DOR) has sporadically been charging sales tax on contribution in aid to construction payments. None of the IOUs or municipal power agencies have run into this problem. Whether or not a co-op was being charged sales tax seemed to depend on which tax auditor they were assigned.

MREA spoke with the DOR a number of times early in the session, but we couldn't seem to make any progress. The two tax chairs, Senator Rod Skoe (DFL – Clearbrook) and Representative Ann Lenczewski (DFL – Bloomington) decided to add language to the Tax Bill that would clarify in statute that sales tax should not be collected. During the Senate hearing, DOR staff testified that they have no record of collecting any sales tax on these payments. While hearing this was frustrating, it removed all controversy from the clarifying language and provided a fiscal note of zero on the provision.

Capital Equipment Sales Tax Exemption:

Also included in the Omnibus Tax Bill is an improvement to the statute exempting capital equipment from the sales tax. Previously the state would collect the sales tax and then send a refund back, typically 18 months later. Starting August 31, 2014, capital equipment will simply be exempted without the need to collect the tax and later refund it.

Department of Natural Resources Land Crossing Fees:

Senator Rod Skoe (DFL – Clearbrook) and Representative David Dill (DFL – Crane Lake) introduced legislation that would eliminate fees for land crossing applications if that crossing took place in a road right of way.

A few years ago, the legislature decided to move away from funding the DNR through the general fund and use a predominately fee based system. In doing so, state land crossing fees were increased from \$500 to \$5,000. They were, however, lowered to \$3,500 the following session. MREA argued that the burden of funding the DNR shouldn't fall on a few northern electrical cooperatives as they provide members (including the state) access to the electrical grid.

The bill hearing in the Senate went very well and Senator David Tomassoni (DFL – Hibbing) included the language in his Omnibus Bill. He even made the DNR whole by giving them a general fund appropriation to cover any losses.

The Environment and Natural Resources Conference Committee Report included the general fund appropriation starting in 2015, but left out any language regarding the collection of fees. MREA will be working with the DNR between now and 2015 to address the issue of lowering crossing fees.

Grassroots participation

The 2013 Session was outstanding in terms of grassroots participation. In addition to our Legislative Day at the Capitol and Grassroots Day, we saw consistently good participation in our weekly Legislative Teleconference Updates, as well as increased contact with legislators. That involvement in the legislative process has made a difference at the Capitol. It will also be vital going forward to the 2014 Session.

Thank you again for your involvement this session.

NEW LAWS

Omnibus Jobs, Economic Development, Housing, Commerce, and Energy Bill

(HF 729) Chapter 85 of 2012 Session Laws

The Omnibus Bill that Energy Omnibus Bill was amended onto. Key provisions are the solar mandate, solar subsidies, and increased limits to net metering for the IOUs.

This bill also included the language from HF 1000, which provided funding for the Clean Energy Resource Teams (CERTS).

Here is a summary of the key provisions in the bill.

Net Metering and Distributed Generation

- For All Units Less than 40 kW DG – Small Facilities
 - Average retail energy rate payments
 - No size to load
 - No standby charge
 - Same for all utilities

- Between 40 kW and 1 MW – Net Metered - IOUs only
 - Excess production is rolled month to month
 - Excess production at the end of the calendar year is at avoided cost
 - IOUs limit is 1000 kW and cannot impose standby charge for less than 100 kW (greater than 100 kW only allowed by the commission approval)

- Above 100 KW – Large Facilities - IOUs only
 - Excess energy paid at avoided cost
 - Can apply stand-by established by the Public Utilities Commission

- IOUs also have but Coops are exempt from:
 - Aggregation of meters
 - Can apply to Commission to limit DG at 4% of annual retail energy sales

- Size to load: wind and solar DG above 100 kW limited to 120% of customer's onsite annual energy needs
- Value of Solar in lieu of Small Facilities and Net Metering for (solar installations only);
 - DER will convene a stakeholder group to establish the calculation used to determine the rate for each utility
 - Commission can't approve a lower rate than Average Retail Energy Rate until 3 years after VOS methodology is approved
 - Customer under VOS must be paid the same rate per kWh for the length of the contract
- Xcel needs to fund a Renewable Energy Production Incentive (REPI) program for installations of less than 20 kW at \$5 million per year for the next five years. REPI payments are good for 10 years. (Similar to the wind incentive program from the late 1990s and early 2000s.) The Department of Commerce will determine the amount of the incentive payments.
- Xcel must create a Community Solar program. All utilities can be the owner of one.
- IOUs have a solar mandate of 1.5% by 2020. At least 10% of the mandate must be from less than 20 kW PV systems
 - Iron mining, paper mills, scam mining is exempt from calculation of cost of the solar mandate
- Made in Minnesota Incentive – Xcel will use its Renewable Development Fund, other IOUs pay 5% of minimum amount were to spend on CIP
 - 10-year contracts with amount determined by DOC
 - IOUS must furnish production meter
 - Also a Made in MN solar thermal rebate program
 - \$15 million in Made in MN account with \$250,000 each year just for solar thermal

Studies

- Transmission Study for 40% renewables by 2030 – The DER, along with stakeholders, will study how much renewable energy could be integrated into the existing transmission system and what we need to be built to accommodate a 40% RES.
- Value of On-Site Energy Storage – Looking at the cost and value of various on-site energy storage technologies
- Value of Solar Thermal Study – Looking at the value solar thermal installations could offer
- Scope of Renewable Energy Study – The Legislative Energy Commission will look at the possibility of making Minnesota the first state in the U.S. to generate all of its energy from renewable resources and create a roadmap if feasible. The LEC did not need legislation to do this, as it already has the authority.
- DER study on conservation: The DER will create a stakeholder process to look at the state's conservation goals and programs.

Omnibus Tax Bill

(SF552) Chapter 143 of 2013 Session Laws

The Omnibus Tax Bill contained the contribution in aid to construction and capital equipment tax exemptions that were mentioned in the session summary.

- **Contributions in Aid to Construction** - Clarifies that payments made to utilities as a contribution in aid to construction are not subject to the sales tax. . Over the past few years, the Minnesota Department of Revenue (DOR) has sporadically been charging sales tax on contribution in aid to construction payments. None of the IOUs or municipal power agencies have run into this problem. Whether or not a co-op was being charged sales tax seemed to depend on which tax auditor they were assigned.
- **Capital Equipment Sales Tax Exemption** - Also included in the Omnibus Tax Bill is an improvement to the statute exempting capital equipment from the sales tax. Previously the state would collect the sales tax and then send a refund back, typically 18 months later. Starting August 31, 2014, capital equipment will simply be exempted without the need to collect the tax and later refund it.

Omnibus Environment and Natural Resources, and Agriculture Bill (SF1170) Chapter 114 of 2013 Session Laws

This Omnibus Bill contained the DNR crossing fee provisions outlined in the session summary. The Environment and Natural Resources Conference Committee Report included the general fund appropriation starting in 2015, but left out any language regarding the collection of fees. MREA will be working with the DNR between now and 2015 to address the issue of lowering crossing fees.

Biomass Mandate & Certificate of Need for Transmission in Plymouth

(SF521) Chapter 57 of 2013 Session Laws

SF 521, authored by Rep. Carly Melin (DFL – Chisholm) and Sen. David Tomassoni (DFL – Hibbing) renews Xcel’s mandated purchase of biomass fuel at an increased price of \$109.20 per megawatt hour.

SF 521 was also the vehicle for a provision that requires a certificate of need proceeding for a transmission line in Plymouth, MN. The PUC can only approve the line if it can find clear and convincing evidence that there is no alternative possible.

These two unrelated topics were joined to build enough support to pass the bill.

“Buy the Farm” Law Expanded

(HF854) Chapter 132 of 2013 Session Laws

Legislation to intensify the state’s “Buy the Farm” law was eventually passed by amending HF 854 in the final days of the session. This tactic was needed after the Senate side of the Environment & Natural Resources Conference Committee refused to adopt it into the report. The new law will force electric utilities to buy land owners entire contiguous property when a transmission line crosses any portion of that land.

Expansion of Sick Time Benefits

(SF880) Chapter 87 of 2013 Session Laws

This bill requires employers that offer sick time benefits to allow them to be used by an employee for the purpose of taking care of a spouse, parent, or grandparent who is sick or injured. This bill does not require an employer that doesn't offer sick benefits to start doing so. It simply allows employees to use their sick days to provide care for immediate members of their family. Current state law only allows this sick time to be used when that individual employee or a minor child is sick or injured.

Campaign Finance Reform

(SF661) Chapter 138 of 2013 Session Laws

This bill will change a number of campaign finance laws for the upcoming session. Contribution and spending limits were nearly doubled for candidates who agree to a public subsidy agreement. The new contribution limits for the biennium are as follows:

- Governor - \$4,000 Election year (E), \$2,000 Non-election year (NE)
- Attorney General - \$2,500 E, \$1,500 NE
- Secretary of State - \$2,000 E, \$1,000 NE
- State Auditor - \$2,000 E, \$1,000 NE
- State Senate - \$1,000 E, \$1,000 NE
- State House - \$1,000 E, \$1,000 NE

SF661 also lifts the gift ban on meals in the event that the lobbyist or organization invites all 201 legislators to the event.

Effective July 1st, 2013, the legislature has also reinstated the Political Contribution Refund Program. Individuals can submit a rebate for up to \$50 (married couples \$100) to the Department of Revenue.

Bills of Note That Did Not Pass

Renewable Energy Advocates Omnibus Bill

(HF 773/SF 680)

Authored by Rep. Will Morgan (DFL – Burnsville) and Sen. Chris Eaton (DFL – Brooklyn Park), this was a catch-all bill introduced by the renewable energy advocates coalition. This bill set the stage for what eventually became the Omnibus Energy Bill carried by the two chairs. The main difference was that cooperatives and municipals were not excluded. It also had a much higher solar mandate at 10%.

Limiting the Approval of Interim Rates

(HF 158/SF 92)

Authored by Rep. Deb Hilstrom (DFL – Brooklyn Park) and Sen. Chris Eaton (DFL – Brooklyn Park), this bill would have only allowed the PUC to approve and interim rate if an “immediate

and compelling necessity” was found. SF 92 was passed to the Senate floor. HF 158 never received a hearing.

Lifting the Nuclear Power Plant Moratorium (HF 254/SF 190)

While neither bill moved in the committee process, an amendment to the Omnibus Energy Bill to lift the nuclear moratorium was very narrowly voted down on the House Floor after a long and spirited debate.

Abolishing the Renewable Energy Standard (HF 306/SF 97)

Introduced by Rep. Mike Beard (R – Shakopee) and Sen. David Ingebrigtsen (R – Alexandria), neither bill received a hearing this session.

Increasing the Renewable Energy Standard (HF880/SF763)

This bill would have increased the Renewable Energy Standard to 40% by 2030. While these bills did not move, the language was included in the House version of the Omnibus Energy Bill until it was removed in conference committee.

Abolishing Retail Payments on Net Metering and Phase Out of CIP (HF1271/SF1358)

Introduced by Rep. Roger Erickson (DFL – Baudette) and Sen. Tom Saxhaug (DFL – Grand Rapids), these bill would have removed the retail payments on net metered accounts and ended the CIP goal requirements by 2015. This legislation was strongly supported by MREA, but did not receive a hearing.

Allowing Large Hydro to be used to meet the Renewable Energy Standard (HF1640/SF1488)

Authored by Rep. Peggy Scott (R – Andover) and Sen. Michelle Benson (R – Ham Lake), this legislation would have allowed all hydro to be used to meet the renewable energy standard. Current law caps the amount of hydro that can be used at 100 mW. Neither bill received a hearing.

Loss of Revenue not a Factor for a Municipal Purchase of a Utility (HF945/SF911)

This legislation eliminates loss of revenue as a factor for the compensation owed to a utility when amended by a municipality. Authored by Rep. Frank Hornstein (DFL – Minneapolis) and Sen. Jeff Hayden (DFL – Minneapolis) this bill is focused on lowering the price for a possible Minneapolis Municipal Utility.

Utility Notification of Disconnection to Cities Expanded (HF1001/SF903)

Currently law requires utilities to provide a city with information on currently disconnected properties between October 15th and April 15th. This legislation would require that information be provided year round. The House version of this bill was passed to the House Floor, while the Senate version did not receive a hearing.

PUC Membership Qualifications Regulated (HF643/SF456)

This bill would require at least one PUC Commissioner to reside in the service territory of an electric cooperative or municipal power agency. It did not receive a hearing in either body.

Energy Savings Spending Modified (HF843)

Introduced by Rep. Pat Garafalo (R – Farmington), HF 843 would have allowed utilities that met their energy savings goal without spending the amount of funds required to keep those funds as long as they contributed 1/3 of the unspent amount to the low-income energy savings program. The bill was heard in the House Energy Committee, but did not move forward.