



**NOTICE OF COMMENT PERIOD ON POSSIBLE DISTRIBUTED
GENERATION SUBCOMMITTEE UNDER MINN. STAT. §216A.03, SUBD. 8**

Issued: April 17, 2017

**In the Matter of a Commission Inquiry into the Creation of a Commission Subcommittee under
Minn. Stat. §216A.03, subd. 8.**

PUC Docket Number/s: E999/CI-17-284

Comment Period: Initial comment period closes May 22, 2017 at 4:30pm

Reply comment period closes June 2, 2017 at 4:30pm

Comments must be received by 4:30pm on the close date

Comments received after comment period closes may not be considered

Topic/s Open for Comment:

- Should the Commission establish a subcommittee as outlined in Attachment A that would more quickly move issues forward that are raised in customer complaints or other filings at the Commission?
- Is the intention and proposed process for the subcommittee reasonable?
- Are there other examples or types of issues that could be handled by the subcommittee?

Project Background: The Commission at times receives customer complaints and formal filings on Distributed Generation (DG) and solar issues that may benefit from the clarification that a subcommittee decision could provide because they do not involve the determination of high level policy considerations. Currently, decisions can only be issued through Orders at regular agenda meetings and parties engaged in a dispute or looking for clarification or approval from the Commission must use this process. To address delays and to allow the Commission to function more efficiently, staff proposes that a DG subcommittee be created. Minn. Stat. §216A.03, subd. 8 states that the Commission may create and appoint members to subcommittees and may delegate any of the Commission's functions to a subcommittee. See attached legislation. Under a subcommittee structure, the Commission would delegate some quasi-judicial functions to the subcommittee. The DG subcommittee would be a process to allow faster decisions to be issued for certain DG disputes (or undisputed filings). See Attachment A, staff proposal.

Filing Requirements: Utilities, telecommunications carriers, official parties, and state agencies are **required** to file documents using the Commission's electronic filing system (eFiling). All parties, participants and interested persons are encouraged to use eFiling: mn.gov/puc, select *eFiling*, and follow the prompts.

Submit Public Comments:

- Visit mn.gov/puc, select *Speak Up!*, find this docket, and add your comments to the discussion.
- *If you wish to include an exhibit, map or other attachment, please send your comments via U.S. Mail*
- email comments to consumer.puc@state.mn.us. Please include the Commission's docket number
- U.S. Mail to Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul MN 55101. Please include the Commission's docket number in all communications.

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Full Case Record: See all documents filed in this docket via the Commission's website - mn.gov/puc, select *Search eDockets*, enter the year (17) and the docket number (284), select *Search*.

Questions about this docket or Commission process and procedure? Contact Commission staff, Michelle Rebholz, at michelle.rebholz@state.mn.us or 651-201-2206.

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Attachment A: Staff Proposal

Summary of Problem: Staff has received a number of informal questions and complaints from customers, utilities, and others, related to DG disputes or questions that are in need of clarification or resolution. At times, these issues are raised in formal filings as well. These issues do not involve high level policy considerations and often do not involve significant interpretation of statute, rule, order, or tariff because the interpretation of the material is relatively clear; however, staff is unable to issue definitive advice and clarification. The issue may repeat itself because no definitive answer is provided.

Staff, utility, and customer time is taken up because answers cannot be provided.

Possible solution: Staff proposes the Commission create a DG subcommittee under Minn. Stat. §216A.03, subd. 8 where the Commission appoints members, including at least one Commissioner, to the subcommittee and delegates some quasi-judicial functions to it.

Anticipated Type of Subcommittee Work:

- Complaints filed with the Consumer Affairs Office or filed in formal dockets where it is fairly clear that a non-violation or a violation exists
- Undisputed DG filings that would benefit from streamlined approval
- Instances where high level policy issues do not need to be decided, and where clarity to the broader utility/customer/solar community would be useful. Priority would be given to disputes that have come up repeatedly and are affecting multiple parties. Possible examples include:
 - 1) Interpretation of Minn. Stat. §216B.164, 216B.1611, or related statutes, for example individual capacity system limits in Minnesota Statute §216B.164, subd. 4c, or where there is a specific situation that statute, rule or tariff does not address
 - 2) Customers on dual fuel or time of use customers who are unable to stay on those special rates while receiving net metering;
 - 3) Approval of deviations from the uniform statewide contract, under Minnesota. Rules 7835.9920;
 - 4) Interconnection costs or requirements for systems under 40 kilowatts (kW);
 - 5) Calculations of average retail rates under Minn. Rules 7835.1400 and related statutes, rules, and orders
 - 6) Clarifications on filing requirements under 7835.0300-.1800 and related rules, statutes, and orders.

The above are examples of possible work and staff suggests there be flexibility in referring appropriate disputes to the subcommittee.

What the Commission Would be Delegating:

Staff expects that the Commission would delegate to the Subcommittee its administrative and quasi-judicial functions to provide record development, set deadlines, and in cases where statute, rule, order, or tariff can be easily interpreted, issue short decisions. This delegation would include varying the Commission's Rules of Practice and Procedure in Minnesota Rules 7829 as appropriate for record development.¹

¹ For example, the subcommittee may decide to shorten comment periods for certain narrow or undisputed issues.

Proposed Workflow:

In the case of a complaint filed with the Consumer Affairs Office, staff suggests the following process:

- Customer files complaint with CAO.
- If determined to be an issue for subcommittee (either on its face or after CAO attempts mediation), CAO consults with staff assigned to subcommittee.
- If determined to be an issue for subcommittee, documentation added to edockets.² To the extent necessary, additional information is sought and filed in edockets.
- Comment deadlines set (if necessary, rules are varied to shorten comment periods)
- Subcommittee schedules hearing
- At hearing, the commissioner appointed to the subcommittee hears the matter, makes a decision; issues order or other written form of decision.

Staff presumes a very similar process if the issue were already made in a formal filing in edockets, with the exception of step #1.

Other procedure:

Staff presumes the subcommittee would issue notices as appropriate: for example, it would issue notices so that parties know a matter was referred to the subcommittee, would issue notices if comment periods were set or shortened, and would issue notice of the hearing. If reconsideration of a subcommittee decision is sought, staff presumes the procedures that would normally apply to a Commission decision would apply here.

Other Considerations

Staff believes the DG subcommittee may be one way to expedite outstanding disputes or filings while providing transparency to inquiries and complaints the Commission is receiving. It is understandable, however, that there may be concerns with the delegation of this authority. Interested parties should note that under Minn. Stat. §216A.03 subd. 8, a party or participant may request that the Commission not delegate the proceeding to a subcommittee, and the request must be granted. This provision can provide a further check on this delegation.

² It is yet to be decided whether each matter referred to the subcommittee would have its own docket number, or if one docket would be opened each calendar year with all of the subcommittee's work entered into that docket number.

Minn. Stat. §216A.03 subd. 8***Subd. 8. Delegations to commission subcommittees.***

(a) The commission may create and appoint members to standing or ad hoc subcommittees of the commission consisting of at least one commissioner. The commission, at a regularly scheduled agenda hearing, may delegate any of the commission's legislative, administrative, or quasi-judicial functions, as defined in section [216A.02](#), to a subcommittee of the commission.

(b) Upon objection by a party, a participant, or a commissioner, a decision by a subcommittee must be referred to the full commission. Subcommittee decisions for which no objection is filed with the commission within ten days from the date of receipt of the written decision of the subcommittee are deemed decisions of the full commission. If referred to the full commission, the full commission may rely on the record developed by the subcommittee but shall treat the subcommittee decision as advisory.

(c) In either their initial or reply filings with the commission, a party or a participant may request that the commission not delegate the proceeding to a commission subcommittee. The request must be granted.

(d) For the purposes of this subdivision:

(1) a "party" means a person by or against whom a proceeding before the commission is commenced or a person permitted to intervene in a proceeding under this chapter; and

(2) a "participant" means a person who files comments or appears to present views without becoming a party in a proceeding, other than public hearings held in contested cases and other commission proceedings conducted to receive general public comments