

Staff Briefing Papers

Meeting Date March 28, 2024

Agenda Item 1

Docket No. N/A

In the Matter of a Participant Compensation Subcommittee Proposal

Issues Should the Commission create and delegate authority to a Participant Compensation Subcommittee to make decisions on participant compensation requests?

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✓ **Relevant Documents**

Date

None

BACKGROUND

Under Minn. Stat. § 216A.03, subd. 8(a), the Commission may create and appoint members to subcommittees of the Commission consisting of at least one Commissioner. The Commission may delegate any of its legislative, administrative, or quasi-judicial functions to a subcommittee at a regularly scheduled agenda meeting.

Commission staff has developed a proposal to create a Participant Compensation Subcommittee to make decisions on participant compensation requests under Minn. Stat. § 216B.631. The proposal offers a streamlined process for administering the participant compensation statute and resolving requests thereunder more efficiently and promptly in appropriate cases. The subcommittee process also maintains opportunities for parties, participants, and Commissioners to direct specific cases to the full Commission.

Attachment A to this briefing paper contains staff's proposed policy and operating procedure for the subcommittee.

DISCUSSION

I. Proposed Subcommittee Procedures

A. Decision-making Process

A party or participant involved in a participant compensation proceeding would have a right to include its initial or reply filings a request that the Commission not delegate the proceeding to the subcommittee.¹ In the event of a timely non-delegation request, the matter would be referred to the full Commission.²

For participant compensation requests not referred to the full Commission, staff would work with the delegated subcommittee to analyze any requests for compensation under Minn. Stat. § 216B.631 based on the record, as outlined in Attachment A.

The subcommittee would make all decisions necessary to resolve participant compensation requests on behalf of the Commission. Such decisions may include denying a request, granting a request and ordering a public utility to compensate all or part of a participant's costs, and requiring compliance filings related to the decision, consistent with applicable law.

Staff would prepare a written order on the subcommittee's decision, to be issued in the relevant docket.

¹ Minn. Stat. § 216A.03, subd. 8(c).

² *Id.*

B. Process After Subcommittee Decision

The order on the subcommittee's decision would be deemed a decision of the full Commission if no objection were filed within 10 days of order issuance.³

If any party, participant, or Commissioner objected to the subcommittee's decision within 10 days of order issuance, the matter would be scheduled for an agenda meeting for a decision by the full Commission.⁴ In such a case, the full Commission could rely on the record developed by the subcommittee, and the subcommittee's decision would be treated as advisory.⁵

II. Steps to Establish a Subcommittee

The Commission may effectuate this proposal by creating a Participant Compensation Subcommittee and delegating authority to the subcommittee to make decisions on requests for participant compensation (**Decision Option 1**).

If the Commission chooses to create a Participant Compensation Subcommittee, it should also appoint a Commissioner to chair the subcommittee and carry out the delegated actions. Commissioner Sullivan has been suggested for this role (**Decision Option 2**).

DECISION OPTIONS

1. Create a Participant Compensation Subcommittee, and delegate authority to the subcommittee to make decisions on requests for participant compensation.

And

2. Appoint Commissioner Sullivan to chair the Participant Compensation Subcommittee.

³ *Id.*, subd. 8(b).

⁴ *Id.*

⁵ *Id.*



Proposed Participant Compensation Subcommittee Policy and Operating Procedure

Purpose

This proposal outlines a policy and procedures for a Participant Compensation Subcommittee of the Commission to make decisions on requests for participant compensation under [Minn. Stat. § 216B.631](#).

Creation of Participant Compensation Subcommittee

Under [Minn. Stat. § 216A.03, subd. 8](#), the Commission may create and appoint members to subcommittees of the Commission consisting of at least one Commissioner. The Commission may delegate any of its legislative, administrative, or quasi-judicial functions to a subcommittee at a regularly scheduled agenda meeting.

Under this proposal, the Commission would create a Participant Compensation Subcommittee and delegate to the subcommittee the Commission's authority to issue decisions on participant compensation requests under Minn. Stat. § 216B.631.

The Commission would appoint a Commissioner to chair the subcommittee and carry out the delegated functions.

Decision-making Process

When a participant compensation request is filed in a docket, the Legal Unit Coordinator or other assigned staff will identify the applicable statutory deadlines for objections to the request, for replies to any objections, and for the Commission's decision on the request.

A party or participant in the docket may, in initial or reply filings, request that the Commission not delegate the proceeding to a subcommittee. If such a request is made, it must be granted, and the matter must be referred to an agenda meeting to be heard by the full Commission.

If no non-delegation request is made by the deadline for replies to objections (or by the objection deadline if no objections are timely filed), assigned staff will work with the delegated subcommittee to analyze the merits of the request under the applicable statute based on the record.

The delegated Commissioner will make all necessary decisions on the participant compensation request on behalf of the Commission. Such decisions may include, but are not limited to, denying the request, granting the request and ordering a public utility to compensate all or part of the participant's costs, and requiring compliance filings related to the decision, consistent with applicable law.

The Legal Unit Coordinator or other assigned staff will memorialize the subcommittee decision in a written order. The order will be filed and served in the docket in which the request arose.

Process After Subcommittee Decision

If no objection is filed within 10 days of order issuance, the decision of the subcommittee will be deemed a decision of the full Commission.

If any party, participant, or Commissioner objects to the subcommittee's decision within 10 days of order issuance, the matter must be referred to the full Commission. It should be scheduled for an agenda meeting date that will allow compliance with the 120-day statutory deadline to issue a decision on a participant compensation request.¹

If a subcommittee decision is referred to the full Commission, the subcommittee decision shall be treated as advisory. The full Commission may rely on the record developed by the subcommittee.

¹ Minn. Stat. § 216B.631, subd. 5(g). The Commission may extend the deadline for up to 30 days. *Id.*, subd. 5(h).