

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

456- Energy Agency

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 8/8/78 Temporary Rule _____

Resubmitted and Received 8/29

DUE DATE 8/28/78

not to overlap for chap noted on effective

a. Returned to Agency w/o filing w/Secy of State 8/28

b. Approved 8/29 Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓.
2. Rules as Proposed ✓.
3. Certificate of Board's Authorizing Resolution, where applicable N.A.
4. Order for Hearing ✓.
5. Notice of Hearing ✓.
   (i) Sufficiency ✓.
6. Secretary of State's List ✓.
7. Certificate of Acquisition of Secretary of State's List ✓.
8. Affidavit of Mailing ✓.
   (i) At least 30 days prior to hearing ✓.
9. Statement of Need and Evidence ✓.
10. Hearing Examiner's Report ✓.
11. Agency's Findings of Fact ✓.
12. Certificate of Board's Resolution Adopting Rules, where applicable N.A.
13. Order Adopting ✓.
14. Report of Chief Hearing Examiner ✓.
    (i) Finding of No Substantial Change ✓.
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓.
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
17. Petition by Public, where applicable N.A.

OFFICIAL NOTICES

Department of Administration

Notice of Intent to Solicit Outside Opinion Governing 911 Emergency Telephone Service

Notice is hereby given that the Minnesota Department of Administration is considering proposed rules governing 911 Emergency Telephone Systems. To adequately determine the nature and applicability of such rules, the Department of Administration hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Mr. Herman G. Hamre
Minnesota Department of Administration
G-4 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours by telephone at 612/296-7104 and in person at the above address.

All statements of information and comment must be received by November 25, 1977. Any written material received on or before this date will become part of the hearing record.

The proposed rules, if adopted, would establish procedures and guidelines for implementation of locally planned 911 Emergency Telephone Systems and define eligibility for possible funding assistance.

Herman G. Hamre
911 Project Director

Department of Commerce Banking Division

Banking Division Bulletin No. 1781: Maximum Lawful Rate of Interest for Mortgages for the Month of November, 1977

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Section 47.20, Minnesota Statutes, the Conventional Home Loan Assistance and Protection Act, as amended by Laws of 1977, Ch. 350, hereby determines that the maximum lawful rate of interest for home mortgages for the month of November, 1977, is nine (9.00) percent.

Robert A. Mampel
Commissioner of Banks

Energy Agency

Notice of Intent to Solicit Outside Opinion

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Liquified Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, Minn. Regs. EA 701-791.

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "Agency") is seeking information or opinions from sources outside the Agency in preparing to propose the adoption of rules governing contents of applications for certificates of need and criteria for assessment of need for large liquified gas storage facilities, large underground gas storage facilities, and large gas pipelines.

The rules are required by Minn. Stat. § 116H.13, subd. 1 (1976). The Agency requests comments and information concerning the subject matter of the proposed rules.

Interested or affected persons or groups may submit statements of information and comment orally or in writing. Written statements may be addressed to:

Leticia A. Chard
Energy Facility Analyst
Minnesota Energy Agency
740 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8438, and in person at the above address.

A draft set of rules ~~are~~ IS available for public inspection during regular business hours at the above address. Single copies will also be sent upon request.

All statements of information and comment must be received by November 18, 1977, and will be used in writing the proposed rules. Any written material received by the

Agency shall become part of the hearing record in the event that the rules are promulgated.

Richard A. Wallen
Director
Certificate of Need Program

Energy Agency

Notice of Intent to Solicit Outside Opinion

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Oil Storage Facilities, Large Oil Pipelines, and Oil Refineries, Minn. Regs. EA 1001-1091.

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "Agency") is seeking information or opinions from sources outside the Agency in preparing to amend rules governing contents of applications for certificates of need and criteria for assessment of need for large oil storage facilities, large oil pipelines, and oil refineries.

The amendments would reflect changes in Minn. Stat. § 116H (1976) and would also effect better coordination between the subject set of rules and proposed rules governing large gas pipeline and storage facilities.

Interested or affected persons or groups may submit statements of information and comment orally or in writing. Written statements may be addressed to:

Leticia A. Chard
Energy Facility Analyst
Minnesota Energy Agency
740 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8438, and in person at the above address.

All statements of information and comment must be received by November 30, 1977. Any written material received by the Agency shall become part of the hearing record in the event that amendments to the rules are promulgated.

Richard A. Wallen
Director
Certificate of Need Program

Office of the Governor Statewide Health Coordinating Council

Nominations Solicited

Notice is hereby given that nominations are being accepted by the Governor to fill vacancies on the Statewide Health Coordinating Council (SHCC). Membership of individuals appointed to the SHCC for one year will expire in November, 1977. Pursuant to the provisions of the National Health Planning and Resources Development Act of 1974 (Public Law 93-641) and the SHCC operating procedures, the Governor appoints members to fill those vacancies. Each of these appointments to the SHCC will be for a term of three years. Consistent with SHCC operating procedures, any such vacancies hereafter will be filled by the Governor using this same nomination procedure.

Minnesota's SHCC has been established in accordance with P.L. 93-641, Section 1524 and Title 42 Code of Federal Regulations, Part 123.301-303, and Minnesota Executive Order 60A. The SHCC consists of 35 members representing both consumers and providers of health care. Twenty-one of these members are representatives of the state's seven health systems agencies (HSAs). Two of the HSA representatives are consumers of health care and one is a provider of health care. There are 13 at-large members and one representative of the Veterans Administration facilities in the state.

To comply with federal requirements and to insure an effective Council in the state, the Governor's office has reissued guidelines for selection of nominees to the SHCC. The process for selecting nominees to the SHCC from each HSA must be consistent with these guidelines:

1. Of the three representatives entitled to each HSA, two must be consumers of health care and one must be a provider of health care. In order to maintain this composition requirement, the HSA must submit to the Governor for his consideration, nominees to fill the appropriate consumer or provider vacancy.

a. To replace a provider representative at least five nominees must be submitted who are providers of health care representing each of the following categories:

i. health professionals

ii. health care institutions

iii. health care insurers

iv. health professions schools

v. allied health professions

Energy Agency

Notice of Intent to Solicit Outside Opinion Regarding Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Liquified Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "Agency") is seeking information or opinions from sources outside the Agency in preparing to propose the adoption of rules governing contents of applications for certificates of need and criteria for assessment of need for large liquified gas storage facilities, large underground gas storage facilities, and large gas pipelines.

The rules are required by Minn. Stat. § 116H.13, subd. 1 (1976). The Agency requests comments and information concerning the subject matter of the proposed rules.

Interested or affected persons or groups may submit statements of information and comment orally or in writing. Written statements may be addressed to:

Leticia A. Chard
Energy Facility Analyst
Minnesota Energy Agency
740 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8438, and in person at the above address.

All statements of information and comment must be received by August 26, 1977. Any written material received by the Agency shall become part of the hearing record in the event that the rules are promulgated.

Richard A. Wallen
Director
Certificate of Need Program

Ethical Practices Board

Notice of Public Opinion Sought

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion from Representative Tom Stoa prior to taking formal action.

Harold Chase, Chairman
Ethical Practices Board
Room 41
State Office Building
St. Paul, Minnesota 55155

June 23, 1977

Dear Mr. Chase:

I am writing to request an advisory opinion from the Commission to further clarify the expense reporting requirements for legislative reports distributed by legislators to constituents in and out of election years.

In Advisory Opinion #24, dated August, 1975, the Commission determined that expenses incurred by a legislator for a questionnaire and legislative report distributed to constituents in a non-election year need not be reported as campaign expenditures.

My question is — since such expenses are determined to be non-campaign expenses, would the expenditures need to be reported at all if the questionnaire and legislative report were paid for by the legislator out of his personal funds, rather than out of the campaign treasury?

Your consideration of this question will be appreciated.

Sincerely,

Tom Stoa
State Representative

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

August 3, 1978

Lee E. Sheehy
Special Assistant Attorney General
Department of Administration
G - 25 State Administration Building
50 Shurburne Avenue
Saint Paul, Minnesota 55155

Re: In the Matter of the Porposed Amendment of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, Minn. Regs. EA 701-791.

Dear Mr. Sheehy:

Enclosed pursuant to Minn. Stat. § 15.0412 subd. 4 (Supp. 1977) and Minn. Regs. Atty. Gen. 301 et. seq. is the entire record of the above-captioned proceeding.

Your expeditious processing of this matter would be appreciated.

Sincerely,

DWIGHT S. WAGENIUS
Special Assistant
Attorney General

720 American Center Building
150 East Kellogg Boulevard
Saint Paul, Minneosta 55101
(612) 296-8278

DSW/bw
Encl.

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Contents of Applicants for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, EA 701-791.	)	Docket No. EA - 79-001-WS STATEMENT OF COMPLIANCE WITH MANUAL OF RULEMAKING PROCEDURES

I, Special Assistant Attorney General Dwight S. Wagenius, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rulemaking Procedures has been followed.

Dated: August 4, 1978.

Dwight S. Wagenius

Special Assistant
Attorney General

COPIES OF DOCUMENTS

ARRANGED

IN ORDER

SPECIFIED

BY

ATTY. GEN.

RULES

Note:

Some original documents are jurisdictional exhibits and are included in the EXHIBITS envelope. ffw

MINNESOTA ENERGY AGENCY RULES GOVERNING CONTENTS OF APPLICATIONS FOR CERTIFICATES OF NEED AND CRITERIA FOR ASSESSMENT OF NEED FOR LARGE LIQUEFIED GAS STORAGE FACILITIES, LARGE UNDERGROUND GAS STORAGE FACILITIES, AND LARGE GAS PIPELINES

Chapter 7
EA 701 - 791

EA 701 DEFINITIONS

For purposes of these rules, the following definitions shall apply:

A. "Agency" means the Minnesota Energy Agency;

B. "Annual Gas Consumption" means the total annual amount of natural or synthetic gas used or disposed of in Minnesota for all purposes by either a utility or pipeline company. This definition shall not include natural gas in storage at the end of the reporting year;

C. "Construction" means significant physical alteration of a site to install or enlarge a large energy facility but not including activities incident to preliminary engineering or environmental studies;

D. "Curtailment" means reduction or cutoff of supply to interruptible contract customers which is related directly to deficiencies in gas supply;

E. "Design Day" means the 24-hour period of the greatest theoretical gas demand at a given average temperature;

F. "Design Day Availability" means the volume of each type of gas arranged to be available on the design day and the

maximum total volume of such supply;

G. "Director" means the director of the Minnesota Energy Agency;

H. "Equivalent Mcf" shall mean the volume in thousands of cubic feet (Mcf) of the liquefied gas if it were gasified, measured at 14.73 pounds per square inch absolute (psia) and 60°F;

I. "Firm Contract Customers" means customers served under schedules or contracts which neither anticipate nor permit interruption unless a state of emergency exists;

J. "Forecast Years" means the 18 calendar years consisting of the calendar year the application is filed with the Agency, the ten previous calendar years, and the first five, tenth and fifteenth subsequent calendar years;

K. "Gas Volume" means the volume of gas as measured at 14.73 psia and 60°F. All volumes shall be in Mcf unless otherwise stated;

L. "Interruptible Contract Customers" means customers served under schedules or contracts which anticipate or permit interruption of service during the term of the contract;

M. "Large Gas Pipeline" means any pipeline for transporting natural or synthetic gas at pressures in excess of 200 psia with more than 50 miles of its length in Minnesota;

N. "Large Liquefied Gas Storage Facility" means any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural or synthetic gas;

O. "Large Underground Gas Storage Facility" means any facility requiring a permit pursuant to Minn. Stat. §§ 84.57-.621;

P. "Liquefied Gas" means natural or synthetic gas stored or transported as a liquid;

Q. "Minnesota Service Area" means the geographical area within the State of Minnesota where a utility or a pipeline company serves ultimate consumers. The Minnesota service area for a pipeline company shall also include all Minnesota utilities it serves;

R. "MMcfpd-mile" means a descriptive unit used as a measure of the size of the pipeline, the quantity of which is obtained by multiplying (1) either the length in miles of the Minnesota portion of the new (sections of) pipeline, or 50 if the capacity expansion would be achieved by adding power, with (2) the new or additional design throughput in thousands of Mcf or equivalent Mcf per day (MMcfpd). If the capacity would be expanded by a combination of looping and adding power, then the MMcfpd-mile corresponding to each method of expansion shall be calculated and the pipeline size shall be the sum of the two quantities thus calculated;

S. "Natural Gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases and vapors found in porous geologic formations beneath the earth's surface, the principal constituent of which is methane;

T. "Off-peak Contract Customers" means customers served on special schedules or contracts on a firm basis but only for a specified time during the off-peak season;

U. "Peak Day" means the 24-hour period of greatest gas sendout;

V. "Person" means an individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or a government or governmental subdivision, unit or agency, other than a court of law;

W. "Petroleum Supplier" means any petroleum refinery in the state and any entity, other than a utility, engaged in the transmission or wholesale distribution of more than 100,000 gallons of crude petroleum or petroleum fuels or oil or their derivatives or liquefied gas, in this state;

X. "Pipeline Company" means an entity which operates a large gas pipeline;

Y. "Substantially Complete Application" means an application which is deemed by the director to be in substantial compliance with the informational requirements of these rules;

Z. "Synthetic Gas" means flammable gas created from gaseous, liquid, or solid hydrocarbons or other organic or inorganic matter. Synthetic gas shall include ethane, propane, butane, or their mixtures whether extracted from gas streams, lifted from oil and gas wells, or produced at refineries or fuel conversion plants. It shall also include hydrogen or methane produced at conversion plants;

AA. "System" means that combination of production, gathering, processing, transmission, and storage facilities of the pipeline company or utility for the delivery of natural or synthetic gas to other pipeline companies, other utilities or ultimate consumers and includes the company's geographic service area;

BB. "Utility" means any entity engaged in Minnesota in the transmission or distribution of natural or synthetic gas to ultimate consumers including, but not limited to, a private investor-owned utility or a public or municipally-owned utility; and

CC. "Ultimate Consumers" means end-use customers, who do not purchase natural gas or synthetic gas for resale.

EA 702 PURPOSE OF RULES

The purpose of these rules is to specify the contents of applications for certificates of need and to specify criteria for assessment of need for large liquefied gas storage facilities, large underground gas storage facilities and large gas pipelines for utilities and pipeline companies pursuant to Minn. Stat. § 116H.13.

EA 703 APPLICABILITY OF RULES

A. A petroleum supplier applying for a certificate of need to construct a large liquefied petroleum gas storage facility or large liquefied petroleum gas pipeline shall apply under Minn. Regs. EA 1001 et seq.; an energy user shall apply under 6 MCAR § 2.0801 et seq.

B. Each utility or pipeline company applying for a certificate of need to construct one of the following types of large energy facilities shall provide all information required by these rules:

1. a new large liquefied gas storage facility;
2. a new large underground gas storage facility;
3. a new large gas pipeline;
4. any project which, within a period of 2 years, would expand the liquefied gas storage capacity of an existing large liquefied gas storage facility in excess of either 20% of capacity or 100,000 gallons, whichever is greater;
5. any project which, within a period of 2 years, would expand the capacity of an existing large gas pipeline in excess of either 20% of rated design throughput or 17,000 Mcf per day (or equivalent Mcf per day), whichever is greater; and
6. any project which, within a period of 2 years, would expand the capacity of an existing large underground gas storage facility in excess of 20% of capacity.

C. Exceptions.

1. Any person who as of the effective date of these rules has begun or has completed construction of a large energy facility shall not be subject to these rules for that facility.

2. An interstate pipeline requiring a certificate of public convenience and necessity from the Federal Energy Regulatory Commission shall not be subject to these rules.

EA 704 APPLICATION PROCEDURES AND TIMING

A. Each applicant for a certificate of need shall apply in a form and manner prescribed by the director.

B. A minimum of seven (7) bound copies and one (1) unbound copy of the application shall be filed with the director. The director may require additional bound copies, not to exceed 100 copies total. All documents, forms, and schedules filed with the application shall be typed on 8 1/2" x 11" paper except for drawings, maps, and similar materials. Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these rules. The date of preparation and the applicant's name shall appear on the title page, as well as on each document filed with the application.

C. Subsequent to the filing of an application, any changes or corrections to the application shall comply with rule EA 704 B as to the number of copies and size of documents. In addition, each page of a change or correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the hearing examiner, and the remaining copies shall be submitted to the director.

D. Each application for a certificate of need shall

be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter shall specify the type of facility for which a certificate of need is requested and the number of copies of the application filed.

E. A hearing examiner shall be assigned, and a public hearing shall be scheduled to commence no later than eighty days after the receipt of the application, in accordance with Minnesota Energy Agency Rules of Procedure Governing Certificate of Need Program, Minn. Regs. EA 500 et seq., and the Hearing Examiner Rules for Contested Case Procedures, Minn. Regs. HE 201 et seq.

F. A decision on an application for a certificate of need shall be made by the director no later than six months from the receipt of the application, provided that the application as received is substantially complete.

G. The director shall notify the applicant within 15 days of the receipt of an application if the application is not substantially complete. Upon such notification, the applicant may correct any deficiency and may resubmit the application. A decision shall be made upon the revised application within six months of the date of resubmission, assuming it is then substantially complete.

H. Prior to the submission of an application, a person **shall** ~~may~~ be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in the request that the data requirement (1) is unnecessary to determine the need for the proposed facility or (2) may be satisfied by submission of another document. A request for exemption must be filed at least 20 days

prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt including reasons for the decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

I. When an application is denied, the director shall state the reason(s) for the denial.

EA 705 FILING FEES AND PAYMENT SCHEDULE

A. The fee for processing an application shall be:

1. $2,000 plus $10 per 4,000 Mcf of design storage capacity for a large underground gas storage facility;

2. $2,000 plus $10 per one hundred thousand gallons of design storage capacity for a large liquefied gas storage capacity; or

3. $5,000 plus $0.60 per MMcfpd-mile for a large gas pipeline;

plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility. In no event shall the total fee required of the applicant exceed $50,000.

B. Fifty percent of the fee set according to item A 1, A 2, or A 3 of rule EA 705 shall accompany the application and the balance shall be paid 90 days after submission of the application. The applicant shall be notified when any additional fees are due and shall pay them within 30 days of notification. The billing for such additional fees shall be accompanied by an itemized statement.

C. No certificate of need shall be issued unless all fees are paid in full.

EA 711 CRITERIA FOR ASSESSMENT OF NEED

A. Purpose of the Criteria. The criteria for assessment of need shall be used by the director in the determination of the need for a proposed large energy facility pursuant to Minnesota Statutes chapter 116H. The factors listed under each of the criteria below shall be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules. The director shall make a specific written finding with respect to each of the criteria.

B. Consideration of Alternatives. The director shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in rule EA 711 C.

C. Criteria. A certificate of need shall be granted to the applicant if it is determined that:

1. the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:

a. the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;

b. the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

c. the effects of the applicant's promotional practices which may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;

d. the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and

e. the effect of the proposed facility, or a suitable modification of it, in making efficient use of resources;

2. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of evidence on the record by parties or persons other than the applicant considering:

a. the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;

b. the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

c. the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and

d. the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;

3. the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate, considering:

a. the relationship of the proposed facility, or a suitable modification of it, to overall state energy needs;

b. the effects of the proposed facility, or a suitable modification of it, upon the natural and socioeconomic environments compared to the effects of not building the facility;

c. the effects of the proposed facility, or a suitable modification of it, in inducing future development; and

d. the socially beneficial uses of the output of the proposed facility, or a suitable modification of it, including its uses to protect or enhance environmental quality;

and that

4. it has not been demonstrated on the record that the design, construction or operation of the proposed facility will fail to comply with those relevant policies, rules and regulations of other state and federal agencies and local governments.

EA 721 CONTENTS OF APPLICATION

A. Each application for a certificate of need shall provide all information required by rules EA 731-743.

B. Joint Application. If the proposed application for a certificate of need is jointly submitted by two or more persons, each such person shall, when so specified, submit the information required by these rules.

C. Multi-Party Ownership and Use. Each application for a certificate of need for a facility which would be owned and/or used by two or more persons shall be considered as a joint application for purposes of these rules.

EA 731 GENERAL INFORMATION

A. Each application shall contain a general information section which shall include the following information:

1. the applicant's complete name and address, telephone number, and standard industrial

classification code(s);

2. the complete name, title, address and telephone number of the official or agent to be contacted concerning the applicant's filing;

3. a brief description of the proposed facility, its complete address (if known) or general location, a brief description of its planned use, its estimated cost, its planned in-service date, and its design capacity in gallons (liquefied gas storage), its design capacity in Mcf or equivalent Mcf (underground gas storage) or its length in miles and maximum design throughput in gallons per day or Mcf per day (gas pipeline);

4. the total fee for the application as prescribed by rule EA 705, and the amount of the fee submitted with the application; and

5. the signature(s), and title(s) of the applicant's officer(s) or executive(s) authorized to sign the application and the signature of the preparer of the application if prepared by an outside agent.

B. Each application shall contain a schedule in the general information section which lists all known federal, state, and local agencies or authorities with which the applicant must file for the proposed facility. The following information shall be included on the schedule:

1. the names of all known federal, state, or local agencies or authorities with which the applicant must file;

2. the title of each permit or certificate issued by the authorities named in response to rule EA 731 B 1;

3. for each permit or certificate listed in response to rule EA 731 B 2, the date an application was filed or the projected date of future application;

4. for each permit or certificate listed in response to rule EA 731 B 2, the actual date a decision was made on the application, or the anticipated decision date; and

5. for each permit or certificate listed in response to rule EA 731 B 2, for which an application was filed, the disposition or status of the permit or certificate.

EA 732 NEED SUMMARY

Each application shall contain a section which summarizes the major factors which justify the need for the proposed facility. The summary shall not exceed, without the approval of the director, 15 pages in length, including text, tables, schedules, graphs, and figures.

EA 733 SUMMARY OF ADDITIONAL CONSIDERATIONS

Each application shall contain a section which discusses the socioeconomic considerations listed below. The applicant shall explain the relationship of the proposed facility to each of the following:

A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;

B. promotional activities which may have given rise to the demand for the facility; and

C. the effects of the facility in inducing future development.

EA 734 CONSERVATION PROGRAMS

Each application shall contain a section which relates to the conservation of energy. Separate responses are required from each person submitting a joint application. The following information shall be included:

A. the energy committee or an individual responsible for determination or coordination of the applicant's energy needs;

B. the applicant's energy conservation and efficiency goals and objectives;

C. a description of the major energy conservation and efficiency programs the applicant has considered, a list of those which have been implemented, and the reasons why the other programs have not been implemented;

D. the major accomplishments in energy conservation and efficiency that have been made by the applicant within the past five years;

E. the major energy conservation and efficiency programs which will be implemented within the next five years;

F. the manner by which these energy conservation and efficiency programs have been reflected in the forecast given in response to rule EA 735.

EA 735 PEAK DEMAND AND ANNUAL GAS SALES FORECAST

In a joint application, separate responses are required from each person for information required by rule EA 735.

A. Scope. Each application shall contain actual data and forecasts of peak demand and annual gas consumption within the applicant's service area and system. When recorded data is not available, or when the applicant does not use the required data in preparing its own forecast, the applicant shall use an estimate and indicate in the forecast justification section (rule EA 735 C) the procedure(s) used in deriving the estimate. The application shall clearly indicate which are historical data and which are estimates. Data provided by the applicant should be reasonable and internally consistent.

B. Content. For each forecast year, the following

data shall be provided:

1. if the applicant's service area includes areas other than Minnesota, annual gas consumption by ultimate consumers within the applicant's Minnesota service area;

2. annual gas consumption by ultimate consumers and the number of such customers within the applicant's system in the following categories:

   a. residential firm (when gas is supplied through a single meter for both residential and commercial uses, it should be reported according to its principal use, and apartment buildings shall be reported as residential even if not metered separately);

   b. commercial firm who use less than 200 Mcf on peak day;

   c. commercial firm with a peak day requirement equal to or greater than 200 Mcf;

   d. industrial firm who use less than 200 Mcf on peak day;

   e. industrial firm with a peak day requirement equal to or greater than 200 Mcf;

   f. commercial and industrial interruptible;

   g. other (this category shall include storage gas and other sales or deliveries not covered in categories a through f);

   h. unaccounted for; and

   i. the sum of categories a through h;

3. an estimate of the daily demand for gas by ultimate consumers in the applicant's system for

each of the categories listed in rule EA 735 B 2 at the time of the applicant's system peak demand; and

4. the applicant's system peak demand by month.

C. Forecast Justification

1. Forecast Methodology. Each applicant may use a forecast methodology of its own choosing, with due consideration given to cost, manpower requirements and data availability. However, any forecasts provided by the applicant shall be subject to tests of accuracy, reasonableness and consistency. The applicant shall detail the forecast methodology employed to obtain the forecasts provided under section B of rule EA 735, including:

a. the overall methodological framework which is used;

b. the specific analytical techniques which are used, their purpose, and the component(s) of the forecast to which they have been applied;

c. the manner in which these specific techniques are related in producing the forecast;

d. where statistical techniques have been used:

(1) the purpose of the technique;

(2) typical computations (e.g., computer printouts, formulas used), specifying variables and data; and

(3) the results of appropriate statistical tests;

e. forecast confidence levels or ranges of

accuracy for annual peak demand and annual gas consumption, as well as a description of their derivation;

f. a brief analysis of the methodology used, including:

(1) its strength and weaknesses;

(2) its suitability to the system;

(3) cost considerations;

(4) data requirements;

(5) past accuracy; and

(6) other factors considered significant by the applicant; and

g. an explanation of any discrepancies which appear between the forecasts submitted to the Agency under these rules and those submitted under Minn. Regs. EA 301 et seq., or in the applicant's previous certificate of need proceedings.

2. Data Base. The applicant shall discuss the data base used in arriving at the forecast presented in its application, including:

a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how each was obtained, (e.g., monthly observations, billing data, consumer survey) or a citation to the source (e.g., population projection from the state demographer's office);

b. a clear identification of any adjustments made to raw data to adapt them for use in forecasts, including:

(1) the nature of the adjustment;

(2) the reason for the adjustment; and

(3) the magnitude of the adjustment.

The applicant shall provide to the director or the hearing examiner on demand copies of all data sets used in making the forecasts, including both raw and adjusted data, input and output data.

3. Assumptions and Special Information

a. Discussion. The applicant shall discuss each essential assumption made in preparing the forecast, including:

(1) the need for the assumption;

(2) the nature of the assumption; and

(3) the sensitivity of forecast results to variations in the assumption.

b. Subject of Assumption. The applicant shall discuss the assumptions made regarding:

(1) the availability of alternate sources of energy;

(2) the expected conversion from other fuels to gas or vice versa;

(3) future prices of gas for customers in the applicant's system and the effect that such price changes will likely have on the applicant's system demand;

(4) the assumptions made in arriving at any data requested in rule EA 735 B which are not available historically or not generated by the applicant in preparing its own internal forecast;

(5) the effect of existing energy

conservation programs under federal or state legislation on long-term gas demand; and

(6) any other factor considered by the applicant in preparing the forecast.

EA 736 LOAD AND CAPACITY INFORMATION

In a joint application, separate responses are required from each person for information required by rule EA 736.

The applicant shall describe the ability of its existing facilities to meet the demand forecast in EA 735 and the extent to which the proposed facility will increase this capability. In preparing this description, the applicant shall provide, for the last calendar year, the current calendar year, the first full calendar year before the proposed facility is expected to be in operation, and the first full calendar year of operation of the proposed facility:

A. an annual load duration curve consisting of a single graph for each year and accompanying tables indicating the total monthly consumption of gas in the following classifications:

1. residential firm;
2. commercial and industrial firm;
3. small volume interruptible;
4. large volume interruptible;
5. electric generation;
6. gas to storage; and
7. other dispositions and losses; and

B. for a utility, an annual supply curve consisting of a single graph for each year and showing the contributions from:

1. pipeline contract demand;
2. gas from storage;
3. synthetic gas other than propane;

4. liquefied natural gas;

5. propane peak shaving gas; and

6. the proposed facility; and

C. for a pipeline company, an annual supply curve showing the contributions from:

1. own production;

2. committed purchases from other gas producers;

3. gas from storage;

4. emergency purchases (historical year only); and

5. other sources; and

D. the applicant's design day availability and the mean temperature assumed for the design day.

EA 737 ALTERNATIVES

The applicant shall provide information pertaining to possible alternatives in the following format:

A. a description of the alternative, including its capacity and economic life; and

B. a cost/benefit analysis, comparing investment costs, annual operating and maintenance costs, environmental effects, safety and reliability aspects, and energy requirements of each alternative with those of the proposed facility.

EA 741 HISTORICAL FACILITY DATA

Each applicant (each person in a joint application) shall provide the following information:

A. a system map showing the route and mileage of its large gas pipelines, and the locations of pumping

or compressor stations, storage facilities, interconnections, and fuel conversion or processing plants;

B. the design capacity of each line in the system to transport natural or synthetic gas into Minnesota;

C. the design capacity of the system to transport natural or synthetic gas out of the state;

D. identification of the specific facilities listed in response to rule EA 741 A normally used to store or transport the type of gas which would be stored or transported in the proposed facility;

E. the end-of-year total capacity of the facilities listed in response to rule EA 741 D for each of the ten (10) years preceding the application;

F. average percentage utilization during the peak season and during the off-peak season of the facilities listed in response to rule EA 741 D;

G. maximum sendout at the beginning and end of the withdrawal cycle from the storage facilities listed in response to rule EA 741 D;

H. if any of the storage facilities listed in response to rule EA 741 D is a large underground gas storage facility, the method of containment of the stored natural or synthetic gas and the method of disposal of the water produced in or seeping into the facility;

I. if any of the storage facilities listed in response to rule EA 741 D is part of a liquefaction facility, a brief description of the system used to liquefy gas; and

J. if any of the storage facilities listed in response to rule EA 741 D is part of a fuel conversion or processing plant, a brief description of the plant.

EA 742 DESCRIPTION OF PROPOSED FACILITY

A. Design. The applicant shall provide the following

information pertaining to the design of the proposed facility:

1. the purpose and planned use of the facility, including its relationship to the system which requires it;
2. its initial and ultimate design capacity or throughput in the appropriate unit of measure;
3. if known, the complete name and address of the engineer and firm which would be responsible for the design;
4. the boiling point at 14.73 psia, critical point in degrees Fahrenheit and psia, and Btu content per Mcf or equivalent Mcf of the type(s) of gas which would be stored or transported;
5. the temperature and maximum operating pressure at which the natural or synthetic gas would be stored or transported;
6. preliminary engineering drawings, blueprints, and specifications for:
    a. tanks, pipes and valves with the maximum allowable operating pressure for each;
    b. compressors or pumps, including representative efficiency, diameter, maximum allowable operating pressure and maximum capacity; and
    c. prime movers, including representative type, efficiency, maximum power capacity in horsepower, allowable maximum and minimum operating temperatures, and daily energy requirement at the initial and ultimate design capacities;
7. its economic life; and

8. the estimated tariffs (proposed pipelines only), and capital, maintenance and operating costs of the facility during its economic life.

B. Construction. The applicant shall provide the following information pertaining to the construction of the proposed facility:

1. if known, the complete name and address of the company which would be responsible for the construction; and

2. the proposed date for commencement of construction and the proposed in-service date.

C. Operation. The applicant shall provide the following information on the operation of the proposed facility:

1. the expected average percentage of use of the proposed facility during the first five years of operation;

2. the expected maximum operating pressure and delivery rates of the proposed facility at peak demand;

3. the expected power requirement of the prime movers at peak demand (in kilowatts, Mcf per hour, or gallons per hour); and

4. for a proposed storage facility, the maximum delivery rate of the most likely modes of transportation that would be used to transport gas to the site.

EA 743 ENVIRONMENTAL DATA

If an Environmental Assessment Worksheet (EAW) on the proposed facility is sufficient to meet the requirements of the Minnesota Environmental Quality Board, a copy of the EAW may be submitted in lieu of specific answers to the requirements below. If permits for construction of said facility are required by

other state agencies, a copy of each permit application, or the information equivalent, shall also be submitted.

If an environmental impact statement (EIS) is required for the proposed facility, a draft EIS may be submitted with the certificate of need application in lieu of specific answers to the requirements of this section.

In all other cases the applicant for a certificate of need for a large energy facility subject to these rules shall provide environmental information for the proposed facility and for each alternative facility discussed in response to rule EA 737. Such information shall be provided in the format given below, to the extent that such data is applicable and reasonably available.

A. Location

1. On a suitable map, identify the site(s) or route(s) which in the opinion of the applicant could serve as the site or route for the proposed facility. For a proposed storage facility, indicate the county, township, range and section(s) of each identified site. For a proposed pipeline, indicate the cities or population centers through which the route passes. Indicate on the map trunk highways, railroads and airports within one mile of the site or along the route.

2. For each site or route identified in response to rule EA 743 A 1, list:

a. the general nature of the terrain;

b. the general soil types and approximate percentage of each;

c. the estimated maximum and minimum depths of groundwater;

d. for a proposed pipeline, the number

of miles of the route which passes through, respectively, federal lands, state lands, county or tax-forfeit lands, incorporated areas, and private land outside incorporated areas;

e. the types of vegetation (including forest, brush, marsh, pasture, and cropland) on the site or along the route, and the approximate percentage of each;

f. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within one mile of the site or along the route and the approximate percentage of each;

g. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails and national waterfowl production areas within one mile of the site or along the route, as mapped on the Inventory of Significant Resources by the State Planning Agency;

h. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated

trout lakes within one mile of the site or along the route, as mapped on the Inventory of Significant Resources by the State Planning Agency; and

i. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other cultural resources within one mile of the site or along the route, as indicated by the Minnesota Historical Society.

B. Wastewater, Projected Air Emissions and Noise Sources

1. Discharges to Water

a. Point Discharges. Indicate the location, route and final receiving waters for any discharge points. For each discharge point indicate the source, the amount and the nature of the discharge.

b. Area Runoff. Indicate the area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff.

2. Point Sources of Airborne Emissions. Estimate the quantity of gaseous and particulate emissions that would occur during full operation from each emission source and indicate the location and nature of the release point.

3. Noise. Indicate the maximum noise levels (in decibels, A scale) expected at the property boundary. Also, indicate the expected maximum increase over ambient noise levels.

C. Pollution Control and Safeguards Equipment

1. Air Pollution Controls. Indicate types of emission control devices and measures that would be used.

2. Water Pollution Controls. Indicate types of water pollution control equipment and runoff control measures that would be used to comply with applicable state and federal regulations and statutes.

3. Explosion and Fire Safeguards. Describe measures that would be taken to prevent or minimize the impact of an explosion or fire.

4. Other Safeguards and Controls. Indicate any other equipment or measures, including erosion control, that would be used to reduce impact of the facility. Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

D. Induced Developments

1. Vehicular Traffic. Estimate the amounts and types of vehicular traffic which would be generated by the facility due to construction activity and, later, operational needs.

2. Water Use. Indicate the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water, and how the water would be used.

3. Agriculture. Estimate the amount of land, including pasture land, that would be removed from agricultural use if the facility were constructed. Indicate known circumstances with regard to the facility that could lead to reduced

productivity of agricultural land on or near the site or along the route. Estimate the amount of excavation, backfilling, grading, soil compaction and soil mixture and ditching to be done in farm fields.

4. Relocation of Human Beings. Estimate the number of people that would have to relocate if the facility were constructed.

EA 781 OTHER DATA FILED WITH THE APPLICATION

In addition to the information required by the director, the applicant may desire to file other data. If, in the opinion of the applicant, additional relevant data should be submitted for consideration, such data should be filed in a separate section of the application.

EA 791 CERTIFICATE OF NEED MODIFICATIONS

A. Issuance of a certificate may be made contingent upon modifications required by the director.

B. The following changes in a facility previously certified by the director shall not require recertification:

1. capacity additions or subtractions of less than ten (10) percent of the capacity approved by the director;

2. pipeline length additions or subtractions of less than ten (10) percent of the length approved by the director; and

3. changes of less than two years in the in-service date.

C. If an applicant determines that a change greater or other than those specified in rule EA 791 B is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of

receipt of said statement notify the applicant whether the proposed change is acceptable without recertification.

APPROVED AS TO FORM AND LEGALITY
AUG. 29 1978
19
WARREN SPANNAUS, ATTORNEY GENERAL
BY Lee E. Shuby
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 29 1978
Joan Anderson Growe
Secretary of State
9 AM.

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, EA 701-791.	)	ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in Room D of the Veterans Service Building, 20 West 12th Street and Columbus Avenue between Wabasha and Iglehart, Saint Paul, on March 23, 1978, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Dated: February 3, 1978

John P. Millhone
Director

Energy Agency
Composit DEP. EX. 1
DATE 3/23/78 B.J.W. BJW

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines.	NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above entitled matter will be held in Room D of the Veterans Service Building, Saint Paul, Minnesota 55155 on March 23, 1978, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to William Seltzer, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 612/296-8105, either before the hearing or for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the Hearing Examiner.

All persons have the right to be notified of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. All persons also have the right to be informed of the date on which the hearing record has been submitted to the Attorney General by the Agency. If you desire to be notified, you may so indicate at the hearing or by written request sent to the Hearing Examiner prior to the close of the record.

The proposed rules, if adopted, would establish the

contents of applications for certificates and criteria for assessment of need for large liquefied gas storage facilities, large underground gas storage facilities, and large gas pipelines. After the assessment of need criteria have been promulgated, no large energy facility covered by these rules shall be sited or constructed in Minnesota without the issuance of a Certificate of Need by the Director of the Minnesota Energy Agency.

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Energy Agency, 720 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101. Copies will also be available at the door on the date of the hearing. The Agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 116H.08(a) and 116H.13 (1976).

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the Agency at the hearing justifying both the need for and the reasonableness of the proposed amended rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minnesota Statutes, chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more then $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another

year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone 612/296-5615.

Dated: February 3, 1978

John P. Millhone
Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

RECEIVED
FEB 24 1978
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities and Large Gas Pipelines, EA 701-791.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S MAILING LIST

Leticia A. Chard, being first duly sworn upon oath, deposes and says:

1) That she is an employee of the Minnesota Energy Agency of the State of Minnesota.

2) That on the 13th day of February, 1978, she made of the Office of the Secretary of State of the State of Minnesota a request for a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. § 15.0412 (1976).

3) That on the 15th day of February, 1978, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference herein.

Further affiant sayeth not.

Leticia A. Chard

Subscribed and sworn to before me this 15. day of February, 1978.

Susan K. Riedinger
Notary Public

SUSAN K. RIEDINGER
Notary Public, Ramsey Co., Minn.
My Commission Expires
Dec. 7, 1982

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

RECEIVED
FEB 24 1978
OFFICE OF HEARING
EXAMINERS

In the Matter of the Proposed)
Adoption of Rules of the)
Minnesota Energy Agency)
Governing Contents of Applications)
for Certificate of Need and)
Criteria for Assessment of Need)
for Large Liquefied Gas Storage)
Facilities, Large Underground Gas)
Storage Facilities and Large Gas)
Pipelines, EA 701-791.)

CERTIFICATE OF DELIVERY
SECRETARY OF STATE LIST

I hereby certify that the attached 484 labels, 2 Sheets constitute the complete list of persons, associations, and interested groups who as of 9:30 o'clock A.M., this 15th day of February, 1978, have requested pursuant to Minn. Stat. § 15.0412 (1976) that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

JOAN ANDERSON GROWE
Secretary of State
State of Minnesota

By Cheri L. Mattson

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

TO WHOM IT MAY CONCERN:

Please be advised that the enclosed Notices of Hearing are for two separate sets of rules.

Dated: February 17, 1978

Leticia A. Chard
Leticia A. Chard
Energy Facility Analyst

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

TO WHOM IT MAY CONCERN:

Please be advised that the enclosed Notices of Hearing are for two separate sets of rules.

Dated: February 17, 1978

Leticia A. Chard
Leticia A. Chard
Energy Facility Analyst

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

TO WHOM IT MAY CONCERN:

Please be advised that the enclosed Notices of Hearing are for two separate sets of rules.

Dated: February 17, 1978

Leticia A. Chard
Leticia A. Chard
Energy Facility Analyst

The Following Names on the General Mailing List can be sent through Interoffice Mail

Anti-Trust Div., Attorney General, 160 State Office Bldg.

Brubacher, Richard, Comm. Adm., 208 Adm. Bldg.

Christiansen, Fredrik, Rm 505, Capitol Square Bldg.

Coleman, Nicholas, 208 State Capitol

Consumer Services Dept. Comm., 5th Floor, Metro Square Bldg.

Develop Disabilities Programs, State Plan, 101 Capitol Square Bldg.

Dispatch Pioneer Press, Press Rm, State Capitol

Ethics Comm., Rm 410, State Office Bldg.

Farseth, Paul, Welfare Dept., 690 N Robert Street, St. Paul

Giel, David, Rm B-28, State Capitol

House Appropriations Comm., Rm 109 State Capitol

Human Rights, 200 Capitol Square Bldg.

Human Services 414 Lafayette Rd., 5th Floor

Leg. Ref. Lib-Z. Dewitt, Rm 111, State Capitol

Levey, Jess, Met. State Univ., Metro Square Bldg., Rm 121

McLellan, Larkin, 215 Adm. Bldg. St. Capitol

Malone, E.I., Comm. Labor & Industry, 444 Lafayette Rd., 5th Floor

Met. Waste Control Comm., 350 Metro Square Bldg.

Metropolitan Council Library, 300 Metro Square

Miller, Michael, Admin. Agencies Div., G19K State Admin. Bldg

Minn Comm for Handicapped, Metro Square

Minn Pollution Control Agency, 1935 W Co Rd B2, Roseville

Minn State Retirement System, 529 Jackson St

Minn Water Resources Bd, Rm 206, 555 Wabasha St.

Mpls Star Press Room, State Capitol

Office of the Governor, 130 State Capitol

St. Paul Bur Hlth Dr P Cox, 555 Cedar St.

Schmidt, H.W. Teachers Retirement, 302 Capitol Square Bldg.

Schutz, Linda, Rm 328 Capitol Bldg.

Senate Coun. Office, Room 480, State Office Bldg.

Senate Finance Comm., 121 State Capitol

Senate Gov. Op. Comm. Rm 303, State Capitol

Senator Robert J. Tennessen, 309 State Capitol

Vandervoort, T.J., Met. Waste, 350 Metro Square Bldg.

Whitlock, Marshall, Rm. 3, State Capitol

ADDITIONAL NAMES FOR THE GENERAL LIST

State and Federal Agencies, Inc., 1101 - 15th N.W., Washington DC 20005

Ims, Paul, Echo, Minnesota

PROPOSED

MINNESOTA ENERGY AGENCY RULES

GOVERNING CONTENTS OF APPLICATIONS

FOR CERTIFICATES OF NEED AND

CRITERIA FOR ASSESSMENT OF NEED FOR

LARGE LIQUEFIED GAS STORAGE

FACILITIES, LARGE UNDERGROUND GAS

STORAGE FACILITIES, AND

LARGE GAS PIPELINES

Chapter 7
EA 701 - 791

EA 701 DEFINITIONS

For purposes of these rules, the following definitions shall apply:

A. "Agency" means the Minnesota Energy Agency;

B. "Annual Gas Consumption" means the total annual amount of natural or synthetic gas used or disposed of in Minnesota for all purposes by either a utility or pipeline company. This definition shall not include natural gas in storage at the end of the reporting year;

C. "Construction" means significant physical alteration of a site to install or enlarge a large energy facility but not including activities incident to preliminary engineering or environmental studies;

D. "Curtailment" means reduction or cutoff of supply to interruptible contract customers which is related directly to deficiencies in gas supply;

E. "Design Day" means the 24-hour period of the greatest theoretical gas demand at a given average temperature;

F. "Design Day Availability" means the volume of each type of gas arranged to be available on the design day and the

maximum total volume of such supply;

G. "Director" means the director of the Minnesota Energy Agency;

H. "Equivalent Mcf" shall mean the volume in thousands of cubic feet (Mcf) of the liquefied gas if it were gasified, measured at 14.73 pounds per square inch absolute (psia) and 60°F;

I. "Firm Contract Customers" means customers served under schedules or contracts which neither anticipate nor permit interruption unless a state of emergency exists;

J. "Forecast Years" means the 18 calendar years consisting of the calendar year the application is filed with the Agency, the ten previous calendar years, and the first five, tenth and fifteenth subsequent calendar years;

K. "Gas Volume" means the volume of gas as measured at 14.73 psia and 60°F. All volumes shall be in Mcf unless otherwise stated;

L. "Interruptible Contract Customers" means customers served under schedules or contracts which anticipate or permit interruption of service during the term of the contract;

M. "Large Gas Pipeline" means any pipeline for transporting natural or synthetic gas at pressures in excess of 200 psia with more than 50 miles of its length in Minnesota;

N. "Large Liquefied Gas Storage Facility" means any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural or synthetic gas;

O. "Large Underground Gas Storage Facility" means any facility requiring a permit pursuant to Minn. Stat. §§ 84.57-.621;

P. "Liquefied Gas" means natural or synthetic gas stored or transported as a liquid;

Q. "Minnesota Service Area" means the geographical area within the State of Minnesota where a utility or a pipeline company serves ultimate consumers. The Minnesota service area for a pipeline company shall also include all Minnesota utilities it serves;

R. "MMcfpd-mile" means a descriptive unit used as a measure of the size of the pipeline, the quantity of which is obtained by multiplying (1) either the length in miles of the Minnesota portion of the new (sections of) pipeline, or 50 if the capacity expansion would be achieved by adding power, with (2) the new or additional design throughput in thousands of Mcf or equivalent Mcf per day (MMcfpd). If the capacity would be expanded by a combination of looping and adding power, then the MMcfpd-mile corresponding to each method of expansion shall be calculated and the pipeline size shall be the sum of the two quantities thus calculated;

S. "Natural Gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases and vapors found in porous geologic formations beneath the earth's surface, the principal constituent of which is methane;

T. "Off-peak Contract Customers" means customers served on special schedules or contracts on a firm basis but only for a specified time during the off-peak season;

U. "Peak Day" means the 24-hour period of greatest gas sendout;

V. "Person" means an individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or a government or governmental subdivision, unit or agency, other than a court of law;

W. "Petroleum Supplier" means any petroleum refinery in the state and any entity, other than a utility, engaged in the transmission or wholesale distribution of more than 100,000 gallons of crude petroleum or petroleum fuels or oil or their derivatives or liquefied gas, in this state;

X. "Pipeline Company" means an entity which operates a large gas pipeline;

Y. "Substantially Complete Application" means an application which is deemed by the director to be in substantial compliance with the informational requirements of these rules;

Z. "Synthetic Gas" means flammable gas created from gaseous, liquid, or solid hydrocarbons or other organic or inorganic matter. Synthetic gas shall include ethane, propane, butane, or their mixtures whether extracted from gas streams, lifted from oil and gas wells, or produced at refineries or fuel conversion plants. It shall also include hydrogen or methane produced at conversion plants;

AA. "System" means that combination of production, gathering, processing, transmission, and storage facilities of the pipeline company or utility for the delivery of natural or synthetic gas to other pipeline companies, other utilities or ultimate consumers and includes the company's geographic service area;

BB. "Utility" means any entity engaged in Minnesota in the transmission or distribution of natural or synthetic gas to ultimate consumers including, but not limited to, a private investor-owned utility or a public or municipally-owned utility; and

CC. "Ultimate Consumers" means end-use customers, who do not purchase natural gas or synthetic gas for resale.

EA 702 PURPOSE OF RULES

The purpose of these rules is to specify the contents of applications for certificates of need and to specify criteria for assessment of need for large liquefied gas storage facilities, large underground gas storage facilities and large gas pipelines for utilities and pipeline companies pursuant to Minn. Stat. § 116H.13.

EA 703 APPLICABILITY OF RULES

A. A petroleum supplier applying for a certificate of need to construct a large liquefied gas storage facility or large gas pipeline shall apply under Minn. Regs. EA 1001 et seq.; an energy user shall apply under 6 MCAR § 2.0801 et seq.

B. Each utility or pipeline company applying for a certificate of need to construct one of the following types of large energy facilities shall provide all information required by these rules:

1. a new large liquefied gas storage facility;
2. a large underground gas storage facility;
3. a new large gas pipeline;
4. any project which, within a period of 2 years, would expand the capacity of an existing large liquefied gas storage facility in excess of either 20% of capacity or 100,000 gallons, whichever is greater;
5. any project which, within a period of 2 years, would expand the capacity of an existing large gas pipeline in excess of either 20% of rated design throughput or 17,000 Mcf per day (or equivalent Mcf per day), whichever is greater; and
6. any project which, within a period of 2 years, would expand the capacity of an existing large underground gas storage facility in excess of 20% of capacity.

C. Exceptions.

1. Any person who as of the effective date of these rules has begun or has completed construction of a large energy facility shall not be subject to these rules for that facility.

2. An interstate pipeline requiring a certificate of public convenience and necessity from the Federal Energy Regulatory Commission shall not be subject to these rules.

EA 704 APPLICATION PROCEDURES AND TIMING

A. Each applicant for a certificate of need shall apply in a form and manner prescribed by the director.

B. A minimum of seven (7) bound copies and one (1) unbound copy of the application shall be filed with the director. The director may require additional bound copies, not to exceed 100 copies total. All documents, forms, and schedules filed with the application shall be typed on 8 1/2" x 11" paper except for drawings, maps, and similar materials. Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these rules. The date of preparation and the applicant's name shall appear on the title page, as well as on each document filed with the application.

C. Subsequent to the filing of an application, any changes or corrections to the application shall comply with rule EA 704 B as to the number of copies and size of documents. In addition, each page of a change or correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the hearing examiner, and the remaining copies shall be submitted to the director.

D. Each application for a certificate of need shall

be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter shall specify the type of facility for which a certificate of need is requested and the number of copies of the application filed.

E. A hearing examiner shall be assigned, and a public hearing shall be scheduled to commence no later than eighty days after the receipt of the application, in accordance with Minnesota Energy Agency Rules of Procedure Governing Certificate of Need Program, Minn. Regs. EA 500 et seq., and the Hearing Examiner Rules for Contested Case Procedures, Minn. Regs. HE 201 et seq.

F. A decision on an application for a certificate of need shall be made by the director no later than six months from the receipt of the application, provided that the application as received is substantially complete.

G. The director shall notify the applicant within 15 days of the receipt of an application if the application is not substantially complete. Upon such notification, the applicant may correct any deficiency and may resubmit the application. A decision shall be made upon the revised application within six months of the date of resubmission, assuming it is then substantially complete.

H. Prior to the submission of an application, a person may be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in the request that the data requirement (1) is unnecessary to determine the need for the proposed facility or (2) may be satisfied by submission of another document. A request for exemption must be filed at least 20 days

prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt including reasons for the decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

I. When an application is denied, the director shall state the reason(s) for the denial.

EA 705 FILING FEES AND PAYMENT SCHEDULE

A. The fee for processing an application shall be:

1. $2,000 plus $10 per 4,000 Mcf of design storage capacity for a large underground gas storage facility;

2. $2,000 plus $10 per one hundred thousand gallons of design storage capacity for a large liquefied gas storage capacity; or

3. $5,000 plus $0.60 per MMcfpd-mile for a large gas pipeline;

plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility. In no event shall the total fee required of the applicant exceed $50,000.

B. Fifty percent of the fee set according to item A 1, A 2, or A 3 of rule EA 705 shall accompany the application and the balance shall be paid 90 days after submission of the application. The applicant shall be notified when any additional fees are due and shall pay them within 30 days of notification. The billing for such additional fees shall be accompanied by an itemized statement.

C. No certificate of need shall be issued unless all fees are paid in full.

EA 711 CRITERIA FOR ASSESSMENT OF NEED

A. Purpose of the Criteria. The criteria for assessment of need shall be used by the director in the determination of the need for a proposed large energy facility pursuant to Minnesota Statutes chapter 116H. The factors listed under each of the criteria below shall be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules. The director shall make a specific written finding with respect to each of the criteria.

B. Consideration of Alternatives. The director shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in rule EA 711 C.

C. Criteria. A certificate of need shall be granted to the applicant if it is determined that:

1. the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:

a. the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;

b. the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

c. the effects of the applicant's promotional practices which may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;

d. the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and

e. the effect of the proposed facility, or a suitable modification of it, in making efficient use of resources;

2. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of evidence on the record by parties or persons other than the applicant considering:

a. the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;

b. the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

c. the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and

d. the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;

3. the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate, considering:

a. the relationship of the proposed facility, or a suitable modification of it, to overall state energy needs;

b. the effects of the proposed facility, or a suitable modification of it, upon the natural and socioeconomic environments compared to the effects of not building the facility;

c. the effects of the proposed facility, or a suitable modification of it, in inducing future development; and

d. the socially beneficial uses of the output of the proposed facility, or a suitable modification of it, including its uses to protect or enhance environmental quality;

and that

4. it has not been demonstrated on the record that the design, construction or operation of the proposed facility will fail to comply with those relevant policies, rules and regulations of other state and federal agencies and local governments.

EA 721 CONTENTS OF APPLICATION

A. Each application for a certificate of need shall provide all information required by rules EA 731-743.

B. Joint Application. If the proposed application for a certificate of need is jointly submitted by two or more persons, each such person shall, when so specified, submit the information required by these rules.

C. Multi-Party Ownership and Use. Each application for a certificate of need for a facility which would be owned and/or used by two or more persons shall be considered as a joint application for purposes of these rules.

EA 731 GENERAL INFORMATION

A. Each application shall contain a general information section which shall include the following information:

1. the applicant's complete name and address, telephone number, and standard industrial

classification code(s);

2. the complete name, title, address and telephone number of the official or agent to be contacted concerning the applicant's filing;

3. a brief description of the proposed facility, its complete address (if known) or general location, a brief description of its planned use, its estimated cost, its planned in-service date, and its design capacity in gallons (liquefied gas storage), its design capacity in Mcf or equivalent Mcf (underground gas storage) or its length in miles and maximum design throughput in gallons per day or Mcf per day (gas pipeline);

4. the total fee for the application as prescribed by rule EA 705, and the amount of the fee submitted with the application; and

5. the signature(s), and title(s) of the applicant's officer(s) or executive(s) authorized to sign the application and the signature of the preparer of the application if prepared by an outside agent.

B. Each application shall contain a schedule in the general information section which lists all known federal, state, and local agencies or authorities with which the applicant must file for the proposed facility. The following information shall be included on the schedule:

1. the names of all known federal, state, or local agencies or authorities with which the applicant must file;

2. the title of each permit or certificate issued by the authorities named in response to rule EA 731 B 1;

3. for each permit or certificate listed in response to rule EA 731 B 2, the date an application was filed or the projected date of future application;

4. for each permit or certificate listed in response to rule EA 731 B 2, the actual date a decision was made on the application, or the anticipated decision date; and

5. for each permit or certificate listed in response to rule EA 731 B 2, for which an application was filed, the disposition or status of the permit or certificate.

EA 732 NEED SUMMARY

Each application shall contain a section which summarizes the major factors which justify the need for the proposed facility. The summary shall not exceed, without the approval of the director, 15 pages in length, including text, tables, schedules, graphs, and figures.

EA 733 SUMMARY OF ADDITIONAL CONSIDERATIONS

Each application shall contain a section which discusses the socioeconomic considerations listed below. The applicant shall explain the relationship of the proposed facility to each of the following:

A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;

B. promotional activities which may have given rise to the demand for the facility; and

C. the effects of the facility in inducing future development.

EA 734 CONSERVATION PROGRAMS

Each application shall contain a section which relates to the conservation of energy. Separate responses are required from each person submitting a joint application. The following information shall be included:

A. the energy committee or an individual responsible for determination or coordination of the applicant's energy needs;

B. the applicant's energy conservation and efficiency goals and objectives;

C. a description of the major energy conservation and efficiency programs the applicant has considered, a list of those which have been implemented, and the reasons why the other programs have not been implemented;

D. the major accomplishments in energy conservation and efficiency that have been made by the applicant within the past five years;

E. the major energy conservation and efficiency programs which will be implemented within the next five years;

F. the manner by which these energy conservation and efficiency programs have been reflected in the forecast given in response to rule EA 735.

EA 735 PEAK DEMAND AND ANNUAL GAS SALES FORECAST

In a joint application, separate responses are required from each person for information required by rule EA 735.

A. Scope. Each application shall contain actual data and forecasts of peak demand and annual gas consumption within the applicant's service area and system. When recorded data is not available, or when the applicant does not use the required data in preparing its own forecast, the applicant shall use an estimate and indicate in the forecast justification section (rule EA 735 C) the procedure(s) used in deriving the estimate. The application shall clearly indicate which are historical data and which are estimates. Data provided by the applicant should be reasonable and internally consistent.

B. Content. For each forecast year, the following

data shall be provided:

1. if the applicant's service area includes areas other than Minnesota, annual gas consumption by ultimate consumers within the applicant's Minnesota service area;

2. annual gas consumption by ultimate consumers and the number of such customers within the applicant's system in the following categories:

   a. residential firm (when gas is supplied through a single meter for both residential and commercial uses, it should be reported according to its principal use, and apartment buildings shall be reported as residential even if not metered separately);

   b. commercial firm who use less than 200 Mcf on peak day;

   c. commercial firm with a peak day requirement equal to or greater than 200 Mcf;

   d. industrial firm who use less than 200 Mcf on peak day;

   e. industrial firm with a peak day requirement equal to or greater than 200 Mcf;

   f. commercial and industrial interruptible;

   g. other (this category shall include storage gas and other sales or deliveries not covered in categories a through f);

   h. unaccounted for; and

   i. the sum of categories a through h;

3. an estimate of the daily demand for gas by ultimate consumers in the applicant's system for

each of the categories listed in rule EA 735 B 2, at the time of the applicant's system peak demand; and

4. the applicant's system peak demand by month.

C. Forecast Justification

1. Forecast Methodology. Each applicant may use a forecast methodology of its own choosing, with due consideration given to cost, manpower requirements and data availability. However, any forecasts provided by the applicant shall be subject to tests of accuracy, reasonableness and consistency. The applicant shall detail the forecast methodology employed to obtain the forecasts provided under section B of rule EA 735, including:

a. the overall methodological framework which is used;

b. the specific analytical techniques which are used, their purpose, and the component(s) of the forecast to which they have been applied;

c. the manner in which these specific techniques are related in producing the forecast;

d. where statistical techniques have been used:

(1) the purpose of the technique;

(2) typical computations (e.g., computer printouts, formulas used), specifying variables and data; and

(3) the results of appropriate statistical tests;

e. forecast confidence levels or ranges of

accuracy for annual peak demand and annual gas consumption, as well as a description of their derivation;

f. a brief analysis of the methodology used, including:

(1) its strength and weaknesses;

(2) its suitability to the system;

(3) cost considerations;

(4) data requirements;

(5) past accuracy; and

(6) other factors considered significant by the applicant; and

g. an explanation of any discrepancies which appear between the forecasts submitted to the Agency under these rules and those submitted under Minn. Regs. EA 301 et seq., or in the applicant's previous certificate of need proceedings.

2. Data Base. The applicant shall discuss the data base used in arriving at the forecast presented in its application, including:

a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how each was obtained, (e.g., monthly observations, billing data, consumer survey) or a citation to the source (e.g., population projection from the state demographer's office);

b. a clear identification of any adjustments made to raw data to adapt them for use in forecasts, including:

(1) the nature of the adjustment;

(2) the reason for the adjustment; and

(3) the magnitude of the adjustment.

The applicant shall provide to the director or the hearing examiner on demand copies of all data sets used in making the forecasts, including both raw and adjusted data, input and output data.

3. Assumptions and Special Information

a. Discussion. The applicant shall discuss each essential assumption made in preparing the forecast, including:

(1) the need for the assumption;

(2) the nature of the assumption; and

(3) the sensitivity of forecast results to variations in the assumption.

b. Subject of Assumption. The applicant shall discuss the assumptions made regarding:

(1) the availability of alternate sources of energy;

(2) the expected conversion from other fuels to gas or vice versa;

(3) future prices of gas for customers in the applicant's system and the effect that such price changes will likely have on the applicant's system demand;

(4) the assumptions made in arriving at any data requested in rule EA 735 B which are not available historically or not generated by the applicant in preparing its own internal forecast;

(5) the effect of existing energy

conservation programs under federal or state legislation on long-term gas demand; and

(6) any other factor considered by the applicant in preparing the forecast.

EA 736 LOAD AND CAPACITY INFORMATION

In a joint application, separate responses are required from each person for information required by rule EA 736.

The applicant shall describe the ability of its existing facilities to meet the demand forecast in EA 735 and the extent to which the proposed facility will increase this capability. In preparing this description, the applicant shall provide, for the last calendar year, the current calendar year, the first full calendar year before the proposed facility is expected to be in operation, and the first full calendar year of operation of the proposed facility:

A. an annual load duration curve consisting of a single graph for each year and accompanying tables indicating the total monthly consumption of gas in the following classifications:

1. residential firm;
2. commercial and industrial firm;
3. small volume interruptible;
4. large volume interruptible;
5. electric generation;
6. gas to storage; and
7. other dispositions and losses; and

B. for a utility, an annual supply curve consisting of a single graph for each year and showing the contributions from:

1. pipeline contract demand;
2. gas from storage;
3. synthetic gas other than propane;

4. liquefied natural gas;

5. propane peak shaving gas; and

6. the proposed facility; and

C. for a pipeline company, an annual supply curve showing the contributions from:

1. own production;

2. committed purchases from other gas producers;

3. gas from storage;

4. emergency purchases (historical year only); and

5. other sources; and

D. the applicant's design day availability and the mean temperature assumed for the design day.

EA 737 ALTERNATIVES

The applicant shall provide information pertaining to possible alternatives in the following format:

A. a description of the alternative, including its capacity and economic life; and

B. a cost/benefit analysis, comparing investment costs, annual operating and maintenance costs, environmental effects, safety and reliability aspects, and energy requirements of each alternative with those of the proposed facility.

EA 741 HISTORICAL FACILITY DATA

Each applicant (each person in a joint application) shall provide the following information:

A. a system map showing the route and mileage of its large gas pipelines, and the locations of pumping

or compressor stations, storage facilities, interconnections, and fuel conversion or processing plants;

B. the design capacity of each line in the system to transport natural or synthetic gas into Minnesota;

C. the design capacity of the system to transport natural or synthetic gas out of the state;

D. identification of the specific facilities listed in response to rule EA 741 A normally used to store or transport the type of gas which would be stored or transported in the proposed facility;

E. the end-of-year total capacity of the facilities listed in response to rule EA 741 D for each of the ten (10) years preceding the application;

F. average percentage utilization during the peak season and during the off-peak season of the facilities listed in response to rule EA 741 D;

G. maximum sendout at the beginning and end of the withdrawal cycle from the storage facilities listed in response to rule EA 741 D;

H. if any of the storage facilities listed in response to rule EA 741 D is a large underground gas storage facility, the method of containment of the stored natural or synthetic gas and the method of disposal of the water produced in or seeping into the facility;

I. if any of the storage facilities listed in response to rule EA 741 D is part of a liquefaction facility, a brief description of the system used to liquefy gas; and

J. if any of the storage facilities listed in response to rule EA 741 D is part of a fuel conversion or processing plant, a brief description of the plant.

EA 742 DESCRIPTION OF PROPOSED FACILITY

A. Design. The applicant shall provide the following

information pertaining to the design of the proposed facility:

1. the purpose and planned use of the facility, including its relationship to the system which requires it;

2. its initial and ultimate design capacity or throughput in the appropriate unit of measure;

3. if known, the complete name and address of the engineer and firm which would be responsible for the design;

4. the boiling point at 14.73 psia, critical point in degrees Fahrenheit and psia, and Btu content per Mcf or equivalent Mcf of the type(s) of gas which would be stored or transported;

5. the temperature and maximum operating pressure at which the natural or synthetic gas would be stored or transported;

6. preliminary engineering drawings, blueprints, and specifications for:

   a. tanks, pipes and valves with the maximum allowable operating pressure for each;

   b. compressors or pumps, including representative efficiency, diameter, maximum allowable operating pressure and maximum capacity; and

   c. prime movers, including representative type, efficiency, maximum power capacity in horsepower, allowable maximum and minimum operating temperatures, and daily energy requirement at the initial and ultimate design capacities;

7. its economic life; and

8. the estimated tariffs (proposed pipelines only), and capital, maintenance and operating costs of the facility during its economic life.

B. Construction. The applicant shall provide the following information pertaining to the construction of the proposed facility:

1. if known, the complete name and address of the company which would be responsible for the construction; and

2. the proposed date for commencement of construction and the proposed in-service date.

C. Operation. The applicant shall provide the following information on the operation of the proposed facility:

1. the expected average percentage of use of the proposed facility during the first five years of operation;

2. the expected maximum operating pressure and delivery rates of the proposed facility at peak demand;

3. the expected power requirement of the prime movers at peak demand (in kilowatts, Mcf per hour, or gallons per hour); and

4. for a proposed storage facility, the maximum delivery rate of the most likely modes of transportation that would be used to transport gas to the site.

EA 743 ENVIRONMENTAL DATA

If an Environmental Assessment Worksheet (EAW) on the proposed facility is sufficient to meet the requirements of the Minnesota Environmental Quality Board, a copy of the EAW may be submitted in lieu of specific answers to the requirements below. If permits for construction of said facility are required by

other state agencies, a copy of each permit application, or the information equivalent, shall also be submitted.

If an environmental impact statement (EIS) is required for the proposed facility, a draft EIS may be submitted with the certificate of need application in lieu of specific answers to the requirements of this section.

In all other cases the applicant for a certificate of need for a large energy facility subject to these rules shall provide environmental information for the proposed facility and for each alternative facility discussed in response to rule EA 737. Such information shall be provided in the format given below, to the extent that such data is applicable and reasonably available.

A. Location

1. On a suitable map, identify the site(s) or route(s) which in the opinion of the applicant could serve as the site or route for the proposed facility. For a proposed storage facility, indicate the county, township, range and section(s) of each identified site. For a proposed pipeline, indicate the cities or population centers through which the route passes. Indicate on the map trunk highways, railroads and airports within one mile of the site or along the route.

2. For each site or route identified in response to rule EA 743 A 1, list:

a. the general nature of the terrain;

b. the general soil types and approximate percentage of each;

c. the estimated maximum and minimum depths of groundwater;

d. for a proposed pipeline, the number

of miles of the route which passes through, respectively, federal lands, state lands, county or tax-forfeit lands, incorporated areas, and private land outside incorporated areas;

e. the types of vegetation (including forest, brush, marsh, pasture, and cropland) on the site or along the route, and the approximate percentage of each;

f. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within one mile of the site or along the route and the approximate percentage of each;

g. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails and national waterfowl production areas within one mile of the site or along the route, as mapped on the Inventory of Significant Resources by the State Planning Agency;

h. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated

trout lakes within one mile of the site or along the route, as mapped on the Inventory of Significant Resources by the State Planning Agency; and

i. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other cultural resources within one mile of the site or along the route, as indicated by the Minnesota Historical Society.

B. Wastewater, Projected Air Emissions and Noise Sources

1. Discharges to Water

a. Point Discharges. Indicate the location, route and final receiving waters for any discharge points. For each discharge point indicate the source, the amount and the nature of the discharge.

b. Area Runoff. Indicate the area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff.

2. Point Sources of Airborne Emissions. Estimate the quantity of gaseous and particulate emissions that would occur during full operation from each emission source and indicate the location and nature of the release point.

3. Noise. Indicate the maximum noise levels (in decibels, A scale) expected at the property boundary. Also, indicate the expected maximum increase over ambient noise levels.

C. Pollution Control and Safeguards Equipment

1. Air Pollution Controls. Indicate types of emission control devices and measures that would be used.

2. Water Pollution Controls. Indicate types of water pollution control equipment and runoff control measures that would be used to comply with applicable state and federal regulations and statutes.

3. Explosion and Fire Safeguards. Describe measures that would be taken to prevent or minimize the impact of an explosion or fire.

4. Other Safeguards and Controls. Indicate any other equipment or measures, including erosion control, that would be used to reduce impact of the facility. Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

D. Induced Developments

1. Vehicular Traffic. Estimate the amounts and types of vehicular traffic which would be generated by the facility due to construction activity and, later, operational needs.

2. Water Use. Indicate the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water, and how the water would be used.

3. Agriculture. Estimate the amount of land, including pasture land, that would be removed from agricultural use if the facility were constructed. Indicate known circumstances with regard to the facility that could lead to reduced

productivity of agricultural land on or near the site or along the route. Estimate the amount of excavation, backfilling, grading, soil compaction and soil mixture and ditching to be done in farm fields.

4. Relocation of Human Beings. Estimate the number of people that would have to relocate if the facility were constructed.

EA 781 OTHER DATA FILED WITH THE APPLICATION

In addition to the information required by the director, the applicant may desire to file other data. If, in the opinion of the applicant, additional relevant data should be submitted for consideration, such data should be filed in a separate section of the application.

EA 791 CERTIFICATE OF NEED MODIFICATIONS

A. Issuance of a certificate may be made contingent upon modifications required by the director.

B. The following changes in a facility previously certified by the director shall not require recertification:

1. capacity additions or subtractions of less than ten (10) percent of the capacity approved by the director;

2. pipeline length additions or subtractions of less than ten (10) percent of the length approved by the director; and

3. changes of less than two years in the in-service date.

C. If an applicant determines that a change greater or other than those specified in rule EA 791 B is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of

receipt of said statement notify the applicant whether the prcposed change is acceptable without recertification.

ENERGY AGENCY

Ashrae Energy Conservation Comm., Attn: E.H. Bartels, 733 Marquette Ave, Mpls 55402

Drawz, John E., 1100 First Nat'l Bank Bldg., Mpls 55402

Miller, Alvin, Hussmann North Central, 6100 Wayzata Blvd., Mpls 55416

Pooler, Albert L., Minn. Gas Co., 733 Marquette Avenue, Mpls 55402

Sievert, Sandra J., Industrial Coatings, Inc., Rt 2 Box 63C, Rogers 55374

Simonson Cashway Co., Attn: Glenn Lahm, 535 First St, NE, St Cloud 56301

Tegan, James, Brin Glass Co., 600 Washington Avenue North, Mpls 55401

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55101

ASSN OF MINN COUNTIES
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55103

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ANOKA MN
55303

BADALICH JOHN P
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SO ST PAUL MN
55075

BARTHOLOW HAROLD E FIRE CHF
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COON RAPIDS MN
55433

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ST PAUL MN
55106

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300 ROANOKE BLDG
MPLS MN
55402

BERGSETH THOMAS
1011 NICOLLET MALL
MPLS MN
55403

BLADIN PAPER CO W J LICKE
115 1ST ST SW
GRAND RAPIDS MN
55744

BLOMQUIST BARRY L

NORTH BRANCH MN
55056

BOWMAN & BRUNS ATTN P MASON
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ST PAUL MN
55101

BREHL JAMES W
332 HAMM BLDG
ST PAUL MN
55102

BROEKER JOHN
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BLOOMINGTON MN
55420

BROOKS WILLIAM F JR
854 MIDLAND BK BLDG
MPLS MN
55401

BRUBACHER RICHARD COMM ADM
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ST PAUL MN
55101

BRUNING C.R.DEPT.CLINIC.E
BURTON HALL
MPLS. MN
55455

BURGER ALBERT
600 DEGREE OF HONOR BLD
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MANKATO MN
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MPLS MN
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CHRYSALIS CENTER FOR WOMEN
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MPLS MN
55404

CITY CLERK
386 CITY HALL
ST PAUL MN
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2350 I.D.S. CENTER
MINNEAPOLIS MN
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CLAUSEN PHILLIP
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55040

COMMUNITY DESIGN CENTER
118 E 26TH ST
MPLS MN
55404

COUNTY ATTYS COUNCIL
95 SHERBURNE AVE S203
ST PAUL MN
55103

CRAVEN NORMAN
10637 THOMAS AVE S
BLOOMINGTON MN
55431

DAHLKE LOIS M
118 S EAGLE ST
BELLE PLAINE MN
56011

DANIELSON RODNEY L
418 AUDITORIUM
ST PAUL MN
55102

DAYTON CHAS SIERRA CLUB
800 MIDLAND BANK BLDG
MPLS MN
55401

DIEHL JOHN
26 KENWOOD PKWY
ST PAUL MN
55105

DISPATCH PIONEER PRESS
PRESS RM STATE CAPITOL
ST PAUL MN
55101

DOW CHEMICAL
47 BLDG
MIDLAND MI
48640

DUNN OLIVER PLUMBERS LOC
708 SO 10TH ST
MPLS MN
55404

E CENTRAL REG. DEV. COMM
COURTHOUSE 18 N VINE ST
MORA MN
55051

ELDER DR JAMES B
11140 WASHBURN AVE SO
BLOOMINGTON MN
55431

ELDRED R W ARMOUR & CO
UNION STOCK YARDS
SO ST PAUL MN
55075

ENNIS A F BOISE CASCADE
PO BOX 713
INTL FALLS MN
56649

ENV SERV-GEN RESOURCE COR
6340 INDUSTRIAL DR
HOPKINS MN
55343

ESSE KENNETH
4801 W 50TH ST
EDINA MN
55424

ETHICS COMM
RM 410 STATE OFF BLDG
ST PAUL MN
55155

FAEGRE & BENSON ATTN LIBR
1300 NW BANK BLDG
MPLS MN
55402

FARSETH PAUL FOOD STAMPS PRO
WELFARE DEPT 690 N ROBT
ST PAUL MN

FELHABER R S
W 1ST NATL BANK BLDG
ST PAUL MN
55101

FINNEGAN J.R.
55 E. 4TH
ST.PAUL MN
55101

FITZGERALD DR BOB
3007 LYNDALE AVE SO
MPLS MN
55408

FLADLAND CLINT MN L&P BUR
795 RAYMOND AVE
ST PAUL MN
55114

FORBES GORDON MINN RRS AS
203 HANOVER 480 CEDAR
ST PAUL MN
55101

FRANKLIN ROBERT B MPLS TRIB
426 PORTLAND
MPLS MN
55415

FREDIN CONRAD M
811 FIRST NATL BK BLDG
DULUTH MN
55802

FRIESEN MILLER A
RAHR BD 624 13TH ST S
VIRIGINIA MN
55792

FRISON FRANK NECA
RM 305 200 SO ROBERT
ST PAUL MN
55107

GARDNER HDW - R A JOHNSON
515 WASHINGTON AVE N
MPLS MN
55401

GEBERT K L
220 GRAIN EXCH
MPLS MN
55415

GLEESON MICHAEL
909 SOC SC BLDG U OF M
MPLS MN
55455

GLEN. HILLS HOSP.R.VAN HA
3901 GOLDEN VALLEY RD.
MPLS. MN
55422

GOODMAN DF TEL CABLE TV
302 E SUPERIOR
DULUTH MN
55802

GRAHAM THOS H
854 MIDLAND BK BLDG
MPLS MN
55401

GREEN DEL CITY MGR
BLOOMINGTON CITY HALL
BLOOMINGTON MN
55431

GREEN GARY J
41 SHERBURNE AVE
ST PAUL MN
55102

GUSTAFSON DAN-LABOR TEMPLE
312 CENTRAL
MPLS MN
55414

GUSTAFSON WALLACE
BOX 567
WILLMAR MN
56201

HAFNER DR A J
BOX393 MAYO U OF M
MPLS MN
55455

HALLBERG LEE & MCCABE
4927 34TH AVE S
MPLS MN
55417

HARRY RICK
RT 1 BOX 138
KETTLE RIVER MN
55757

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

HARTFELDT WILL
434 HAMM BLDG
ST PAUL MN
55102

HAVEN ROBT TWIN TN TREATM
1706 UNIV AVE
ST PAUL MN
55104

HEALTH MANPOWER C LARSON
717 DELAWARE ST SE
MPLS MN
55440

HEANEY BILL
30 W SUPERIOR ST
DULUTH MN
55802

HEISENFELT WM
BOX 516
BEMIDJI MN
56601

HELTZER JAMES DAYTON HUDS
777 NICOLLET MALL
MPLS MN
55402

HINRICHSEN PATRICK
MANKATO FREE PRESS
MANKATO MN
56001

HOLEY GEORGE
1509 SW SIXTH STREET
FARIBAULT MN
55021

HORNER WALDORF - KAZIUKEWICZ
PO BOX 3260
ST PAUL MN
55165

HOLT JOHN
517 4TH ST NW
FARIBUALT MN
55021

HULSTRAND ANDERSON & LARSON
PO BOX 130
WILLMAR MN
56201

HUMAN RIGHTS
200 CAPITOL SQ BLDG
ST PAUL MN
55101

HUTCHISON R.M. ANOKA CO.COMP
COURT HOUSE
ANOKA MN
55303

HYLAND DEAN
1501 W 50TH ST
MPLS MN
55419

INGEBRIGTSEN DR K H
23 SE 4TH ST
MPLS MN
55414

INGVALSON VERN MN.FARM BU
1976 WOODDALE BOX 43370
ST PAUL MN
55164

IUOE LOC 49 CHAS SWENSON
2580 UNIV AVE
ST PAUL MN
55101

IVERSON DR JOS DEPT ED
ST OLAF COLLEGE
NORTHFIELD MN
55057

JAIN NIRMAL ENIV PROCESS
1220 GLENWOOD AVE
MPLS MN
55405

JENOS INC
525 LAKE AVE SO
DULUTH MN
55801

JENSEN MRS GAYNOLD
111 WEST 107TH ST
MPLS MN
55420

JOHANSEN BUS SERV INC
19 DAYTON RD
CHAMPLIN MN
55316

JOHNSON G ROBERT
4344 IDS CENTER
MPLS MN
55402

JOHNSON LEROY
9939 BLUEBIRD ST NW
COON RAPIDS MN
55433

JONES C NORTHSIDE RES REDEV
1800 OLSON MEMORIAL HWY
MPLS MN
55411

KEABLE MIKE
909 6TH AVE N
ST CLOUD MN
56301

KEENAN RICHARD J
4444 IDS BLDG
MPLS MN
55402

KLUZ STEVEN J
1910 1ST NATL BK BLDG
MPLS MN
55402

KNOPP TIMOTHY
COLLEGE FORESTRY U OF M
ST PAUL MN
55108

KOLLER MR & MRS ERWIN A

1568 DULUTH ST
ST PAUL MN
55108

KOPP MRS VERNON

2050 65TH ST E
INVER GR HGHT MN
55075

KRONLOKKEN J E
10048 NORD RD
BLOOMINGTON MN
55437

KROON H CLIFTON
210 E WALNUT
MANKATO MN
56001

LABELLE JUANITA MRS
5816 AQUILA AVE NO
NEW HOPE MN
55428

LANOVSKI THOS
COTTAGE GROVE MN
55016

LARD BOLDER SUBEXCHANGE
MINNEAPOLIS MN
55402

LEAGUE MN MUNIC
300 HANOVER 480 CEDAR
ST PAUL MN
55101

LEAGUE WOMEN VOTERS OF MI
555 WABASHA
ST PAUL MN
55102

LEAVEY THOS
829 22ND AVE SE
MPLS MN
55414

LEWIS DR.G.M JR.
ABBOTT 110 E 18TH ST
MPLS MN
55403

LOCKNER GARY
R R 1 BOX 23
BAUDETTE MN
56623

LOWE DOUG
2701 N LEXINGTON AVE
ROSEVILLE MN
55113

MALECKI JAMES
1 SO STATE ST
NEW ULM MN
56073

MALONE E I COMM LABOR & I
444 LAFAYETTE RD 5TH FL
ST PAUL MN
55101

MANTHEY T J PICKANDS MATHER
1100 SUPERIOR AVE
CLEVELAND OH
44114

MARRINAN MARGARET M
1117 COMMERCE BLDG
ST PAUL MN
55101

MAYO FOUNDATION G ORWOLL
200 FIRST AVE NW
ROCHESTER MN
55901

MCCLURG EUNICE
1061 109TH AVE NE
BLAINE MN
55434

MCKIBBON MRS SHIRLEY
11 EVERGREEN LN
BABBITT MN
55706

MCNEILLY GREG MN VIEW ED
41 SHERBURNE AVE
ST PAUL MN
55103

MET TFR MEN ASSN A ROSENTHAL
1821 UNIV AVE
ST PAUL MN
55104

METROPOLITAN COUNCIL LIBR
300 METRO SQUARE
ST PAUL MN
55155

MILLER M ADMIN AGENCIES DIV
G19K STATE ADM BLDG
ST PAUL MN
55155

MILLER PAUL J PHARMACY SE
ST MARYS HOSP
ROCHESTER MN
55901

MINN APT ASSN
GRIGGS-MIDWAY BLDG
ST PAUL MN
55104

MINN ASPHALT PAVEMENT ASS
555 WABASHA RM 209
ST PAUL MN
55102

MINN. ASSN. PET RETAILERS
1115 2ND AVE. SO.
MINNEAPOLIS MN
55403

MINN ASSN VOL SOC SERVICE
1821 UNIV SUITE 389
ST PAUL MN
55114

MINN COMM FOR HANDICAPPED
METRO SQ 492 7TH & ROBT
ST PAUL MN
55101

MINN COMMUNITY DEVELOP SE
512 ROSSMOR BLDG
ST PAUL MN
55101

MINN FOOD RETAILERS ASSN
555 WABASHA
ST PAUL MN
55101

MINN GOV ENG COUNCIL
2400 SHERWOOD HILL RD
MINNETONKA MN
55343

MINN HWYS MANAGEMENT SERV
407 HWY BLDG
ST PAUL MN
55101

MINNE MINE CREDIT UNION
3000 HUDSON PK S 100
ST PAUL MN
55119

MINN.MTR.TRANSP. .J.N.D
1821 UNIV.
ST.PAUL MN
55104

MINN POULTRY & HATCHERY ASSN
BOX 158
MADELIA MN
56062

MN REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MINN RETAIL HARDWARE ASSN
3033 EXCELSIOR BLVD 313
MPLS MN
55416

MINN STATE BAR ASSN
100 MINN FED BLDG
MPLS MN
55402

MINN STATE MEDICAL ASSOC
STE 900 AM NATL BK BLDG
STPAUL MN
55101

MINN STATE RETIREMENT SYS
529 JACKSON ST
ST PAUL MN
55101

MINN. TURKEY GROWERS ASSN
2383 UNIV AVE
ST PAUL MN
55114

MINN VETERANS MED ASSN
2175 W HWY 36
ROSEVILLE MN
55113

MN AUTOMOBILE DEALERS ASSN
277 UNIV AVE
ST PAUL MN
55103

MN. ASN. C&IND H.D. PETERSO
480 CEDAR ST.
ST. PAUL MN
55101

MN ELECTRICAL ASSN
3100 HUMBOLT SO
MPLS MN
55408

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

MN STATE SER BLIND-K NATARDY
1745 UNIVERSITY AVE
ST PAUL MN
55104

MIXA FRANK LK MNTKA CONS
402 E LAKE ST
WAYZATA MN
55391

MORTON BUILDINGS INC
R #1
FOLEY MN
56329

MOSS DR JEROME
125 PEIK 159 PILLSBURY
MPLS MN
55455

MPLS ASSN RETARDED CITIZENS
3100 W LAKE ST
MPLS MN
55416

MPLS CITY ATTORNEY
325M CITY HALL
MPLS MN
55415

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

MURPHY DIANA E
4200 IDS-LINDQUIST VENN
MPLS MN
55402

NASS GEO V HENN CO GEN HO
5TH AND PORTLAND AVE
MPLS MN
55415

NATL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NEUMAN RALPH W
RT 2 BOX 125
EMBARRASS MN
55732

NO SUB MONTESSORI-S SADDL
2487 HELEN COURT
NO ST PAUL MN
55109

NURSING HOME RES ADV CO.
111 E FRANKLIN S210
MPLS MN
55404

NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

NYQUIST DEAN A
3707 53RD PL N
BROOKLYN CTR MN
55429

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

OLOFSON ARTHUR MBO & MAI
927 SOO LINE BLDG
MPLS MN
55402

PATTISON ORVIS
BOX 645
WILLMAR MN
56201

PFEIFER AND SHULTZ, INC
1433 UTICA AVE S
MPLS MN
55416

PINNETTI NICK M HALEY & ASS.
40 CENTRAL PARK S
NEW YORK NY
10019

POPOVICH PETER S
314 MINN BLDG
ST PAUL MN
55101

PORT AUTH CITY OF ST PAUL
330 MINNESOTA BLDG
ST PAUL MN
55101

POSS DONALD G
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
55430

PROCTOR&GAMBLE L THEOHAROUS
IVORYDALE TECH CENTER
CINCINNATI OH
45217

PULSCHER RBT SPRINGSTED I
813 OSBORN BLDG
ST PAUL MN
55102

RADMAN RICHARD-LABOR TEMPLE
418 AUDITORIUM
ST PAUL MN
55102

RALPH BURKE ASSOCIATES
7710 COMPUTER #S101
MPLS MN
55435

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

REARDON MRS HELEN
1125 S E 6TH ST
WILLMAR MN
56201

REGION FIVE REG. DEV. COMM.
102 6TH ST N
STAPLES MN
56479

REGION NINE DEV. COMM.
709 N FRONT ST
MANKATO MN
56001

RENQUIST ARTHUR NSP CO
414 NICOLLET MALL
MPLS MN
55401

RICHARDSON THOS
7851 METRO PKWY S 103
MPLS MN
55420

ROE DAVID
175 AURORA
ST PAUL MN
55103

ROBBIE JOSEPH
904 CARGILL BLDG NO CTR
MPLS MN
55402

ROSS ALFRED
6356 WARE RD
LINO LAKES MN
55014

ROSS ROY J
CLK TREAS
LITCHFIELD MN
55355

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

OLOFSON ARTHUR MBO & MAI
927 SOO LINE BLDG
MPLS MN
55402

PATTISON ORVIS
BOX 645
WILLMAR MN
56201

PFEIFER AND SHULTZ, INC
1433 UTICA AVE S
MPLS MN
55416

PINNETTI NICK M HALEY & ASS.
40 CENTRAL PARK S
NEW YORK NY
10019

POPOVICH PETER S
314 MINN BLDG
ST PAUL MN
55101

PORT AUTH CITY OF ST PAUL
330 MINNESOTA BLDG
ST PAUL MN
55101

POSS DONALD G
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
55430

PROCTOR&GAMBLE L THEOHAROUS
IVORYDALE TECH CENTER
CINCINNATI OH
45217

PULSCHER RBT SPRINGSTED I
813 OSBORN BLDG
ST PAUL MN
55102

RADMAN RICHARD-LABOR TEMPLE
418 AUDITORIUM
ST PAUL MN
55102

RALPH BURKE ASSOCIATES
7710 COMPUTER #S101
MPLS MN
55435

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

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1125 S E 6TH ST
WILLMAR MN
56201

REGION FIVE REG. DEV. COMM.
102 6TH ST N
STAPLES MN
56479

REGION NINE DEV. COMM.
709 N FRONT ST
MANKATO MN
56001

RENQUIST ARTHUR NSP CO
414 NICOLLET MALL
MPLS MN
55401

RICHARDSON THOS
7851 METRO PKWY S 103
MPLS MN
55420

ROE DAVID
175 AURORA
ST PAUL MN
55103

ROBBIE JOSEPH
904 CARGILL BLDG NO CTR
MPLS MN
55402

ROSS ALFRED
6356 WARE RD
LINO LAKES MN
55014

ROSS ROY J
CLK TREAS
LITCHFIELD MN
55355

SAN SIMEON DEVELOP CORP
OLD 1ST STATE BK BLDG
PAYNESVILLE MN

SANFORD S M
7000 PORTLAND AVE
RICHFIELD MN
55423

SPRAGUE CHARLOTTE B
AREA HOSPITAL BOX 339
WINDOM MN
56101

ST PAUL BUR HLTH DR P COX
555 CEDAR ST
ST PAUL MN
55101

SCARBOROUGH WILLIAM
DIV.ED. U.M.
MORRIS MN
56267

SCHAEN ETHEL
1745 UNIVERSITY AVE
ST PAUL MN
55104

SCHMIDT H W TCHRS RETIREMENT
302 CAPITOL SQ BLDG
ST PAUL MN
55101

SCHMIDT LARRY WCCO-TV NEW
50 S 9TH ST
MPLS MN
55402

SCHUTZ LINDA
RM 328 CAPITOL BLDG
ST PAUL MN
55155

SCHWARTAU NEAL METH HOSP
201 W CENTER ST
ROCHESTER MN
55901

SCHNEIDER & NEESER
706 1ST ST SO PO BX 876
WILLMAR MN
56201

SCHROEDER ALFRED H
2172 CARROLL AVE
ST PAUL MN
55104

SENATE FINANCE COMMITTEE
ROOM 121 STATE CAPITOL
ST PAUL MN
55155

SENATE GOV OP COMM
RM 303 STATE CAPITOL
ST PAUL MN
55155

SIAS JACK W
BOX 4366-1573 SELBY AVE
ST PAUL MN
55104

SILVERMAN JUDITH
8545 W 28TH ST
ST LOUIS PARK MN
55426

SIX W REG. DEV. COMM
128 W SORENSON
APPLETON MN
56208

SMERIKA WN.
BOISE CASCADE PAPERS
INTL FALLS MN
56649

SNYDER, R.W. U OF M
RM 248C CLASS OFF BLDG.
ST PAUL MN
55108

SODERBERG HAROLD J
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

STATE BD VETERINARY EXAMINER
C/O DR A C SPANNAUS DVM
WACONIA MN

STD AM LIFE & ANNUITY CO
3801 W 50TH ST
MPLS MN
55410

STUPKA & MOREM
MIDTOWN BLDG
AUSTIN MN
55912

SULLIVAN J KIRK
PO BOX 200
BOISE ID
83701

SUSSEL CO.ATTN:TED SCHWENKER
1850 COMO AVE.
ST PAUL MN
55108

SWANSON BURT E
W-2162 1ST NATL BK BLDG
ST PAUL MN
55101

TATE VERN 3M CO
3M CENTER 220/6W
ST PAUL MN
55101

THOMPSON HESSIAN ET AL
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

TIMESAVERS INC ATT R S VO
5270 HANSON COURT
MPLS MN
55422

UNION STOCK YARDS
ATTN PRES
SO ST PAUL MN
55075

VANDERVOORT T J MET WASTE
350 METRO SQUARE BLDG
ST PAUL MN
55101

VAN DRAKE STEPHEN R
BOX 353
PELICAN RAPID MN
56572

VIITALA, W.C. HONEYWELL
HONEYWELL PLAZA
MPLS MN
55408

VILLAGE OF WOODBURY
2100 RADIO DRIVE
WOODBURY MN
55042

WALTERS THOS H
4510 W 77TH ST STE 235
MPLS MN
55435

WANQUIST ALLEN
RM 252 FEDERAL BLDG
ST PAUL MN
55101

WATERS, DONNA M.
110506 WINDMILL COURT
CHASKA MN
55318

WEST CENTRAL REG. DEV.
ADM BLDG,COMMUNITY COLL
FERGUS FALLS MN
56537

WHITLOCK A G
ECON LAB OSBORN BLDG
ST PAUL MN
55102

WILCOX J PATRICK
1220 NORTHERN FED BLDG
ST PAUL MN
55102

WM.MITCHEL COLLEGE LAW LI
2100 SUMMIT AVE.
ST.PAUL MN
55105

WIS FEEDER PIG MARKET CO-OP

FRANCIS CREEK WI

WOLKERSTORTER THEODORE
676 17TH AVE NW
NEW BRIGHTON MN
55112

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

TEST PATTERN TEST PATTERN
ADDRESS TEST ADDRESS
CITY TESTCITY MN
55555

ALLEN M KARLS
2333 UNIV AVE SE
MPLS MN
55414

ALLENDORF MARSHALL
220 GRAIN EX 400 S 4TH
MPLS MN
55415

AM INST PROF GEOLOGISTS
2201 PRINCETON AVE
ST PAUL MN
55105

ANCHOR BLOCK COMPANY
PO BOX 3360
ST PAUL MN
55165

ANDERSON JAMES
7703 NORMANDALE RD
MPLS MN
55435

ANDERSON MARY
4425 RUTLEDGE AVE
EDINA MN
55436

ANTI-TRUST DIV.ATTY GEN.
160 STATE OFF BLDG
ST PAUL MN
55155

ARNOLD ROBERT MESPA
41 SHERBURNE
ST PAUL MN
55103

ARROWHEAD REGIONAL DEV COMM
200 ARROWHEAD PLACE
DULUTH MN
55802

ASMUSSEN,DENNIS,MPIRG
3036 UNIV AVE SE
MPLS MN
55414

ASSN RESIDENCES FOR RETARDED
459 RICE SUITE 301
ST PAUL MN
55103

BARATTO DIVINE M
1192 BUSH ST
ST PAUL MN
55106

BARRETT FRED
ST LOUIS CO COURT HOUSE
DULUTH MN

BEGALKA D REV
212 N ELK ST
BELLE PLAINE MN
56011

BEMIDJI STATE COLLEGE
PLACEMENT BUR.J.C.BRADY
BEMIDJI MN
56601

BEST FLANAGAN ET AL
4040 IDS CENTER
MPLS MN
55402

BEUTEL ROBERT
2200 SILVER LAKE RD
NEW BRIGHTON MN
55112

BLOOMINGTON CITY CLERK
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN
55431

BOLTON MALCOLM
422 ALDRICH AVE NO
MPLS MN
55405

BRICK PHILIP D
807 SELLWOOD BLDG
DULUTH MN
55802

BRIGGS & MORGAN - B F FRIEL
2200 W 1ST NATL BK BLDG
ST PAUL MN
55101

BROWN D M GOODRIDGE PUB SCH
IND DIST #561
GOODRIDGE MN
56725

BROWN H D
4961 KINGSBERRY LANE
MINNETONKA MN
55343

BUSCH NOEL
SUITE 705 510 MARQUETTE
MPLS MN
55402

BUCHHOLTZ CHARLES
5044 BRENT AVE E
INV GRV HTS MN
55075

BUR NATL AFFAIRS INC
1231 25TH ST NW
WASHINGTON DC
20037

CAIRNS JOHN A
47TH FLR IDS CENTER
MPLS MN
55402

CARLSON CARL L
7516 80TH ST S
COTTAGE GROVE MN
55016

CHAMBER OF COMMERCE
30 SO 1ST AVE EAST
ELY MN
55731

CHAVARRIA ADAM
1325 W 251/2 ST APT 206
MPLS MN
55405

CHRISTIAN SCI COMM ON PUB
1821 UNIV AVE SUITE 271
ST PAUL MN
55104

CHRISTIANSEN FREDRIK
RM 505 CAPITOL SQ BLDG
ST PAUL MN
55155

CITIZENS LEAGUE
530 SYNDICATE BLDG
MPLS MN
55402

CITY OF ROBBINSDALE
C LARSON 4221 LAKE RD
ROBBINSDALE MN
55422

CLAWSON CONNIE
HELP CT 317-17TH AV SE
MPLS MN

COLEMAN NICHOLAS
208 STATE CAPITOL
ST PAUL MN
55155

CONCORDIA COLLEGE
DEAN
MOORHEAD MN
56560

CROW WING CO PLANNING & ADV
COURT HOUSE
BRAINERD MN
56401

DAILEY THOMAS ECONOMICS LAB
370 WABASHA ST
ST PAUL MN
55102

DEVELOP DISABILITIES PROGRAM
STATE PLAN 101 CAP SQ
ST PAUL MN
55155

DORSEY MARQUART
2400 1ST NATL BANK BLDG
MPLS MN
55402

DUPONT MIKE
5720 EXCELSIOR BLVD
MPLS MN
55416

EBELING EDWARD H.
161 W. MAIN
PERHAM MN
56573

ELMER EDWIN W
2901 PLEASANT AVE
MPLS MN
55408

ERDMAN ROGER TENNANT CO
701 N LILAC DR
MPLS MN
55441

EVANS CHAS.L. PRENTICE-HALL
ENGELWOOD CLIFFS
NEW JERSEY

FARMERS ELEVATOR ASSN
852 GRAIN EXCH BLDG
MPLS MN
55415

FILTER LOREN
BOX 36
BRITT MN
55701

CONSUMER SERVICES DEPT COMM
5TH FLR METRO SQ BLDG
ST PAUL MN
55101

CUSHMAN J S DAYTON HUDSON
700 NICOLLET MALL
MPLS MN
55402

DANKERS,KENNETH
1200 WEST FOURTH STREET
RED WING MN
55066

DICKINSON MRS JOANNE
BOX 1065
MARSHALL MN
56258

DOUGLAS BELL ET AL
2212 AM.NATL BK BLDG
ST PAUL MN
55102

DZUGAN KEN ST PAUL PLANNING
421 WABASHA ST
ST PAUL MN
55102

EICHTEN DANIEL
3794 HAZEL
WHITE BEAR LK MN
55110

EMERICK RICHARD A
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MPLS MN
55402

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BABBITT MN
55706

FARRELL FRANK BUR NOR
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8138 HENSLOWE AVE S
COTTAGE GROVE MN
55016

FLEMING FREDERICK A
1860 HIGHLAND PARKWAY
ST PAUL MN
55116

FORSBERG AGR SERV
518 SUMMIT AVE
NEW ULM MN
56073

FOX W.E. LINDQUIST & VENNUM
4200 IDSCTR 80 S.8TH ST
MINNEAPOLIS MN
55402

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CANBY MN
56220

FREDRIKSON BYRON ET AL
47TH FLR IDS CENTER M
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55155

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MPLS MN
55408

GREATER MET AREA HOSPITALITY
5152 CEDAR AVE S
MPLS MN
55417

GREEN JANET
9773 N SHORE DR
DULUTH MN
55804

GRUMMERT REV DONALD
1435 ADAMS ST
MPLS MN
55413

H B FULLER CO
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ST PAUL MN
55108

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1200 ALWORTH BLDG
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HAROLD J WESTIN CONSTRUCTORS
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55402

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56082

HENDRICKSON MRS VIRGINIA
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55337

HOLMES EUSTIS ET AL
4610 IDS CENTER
MPLS MN
55402

HOPKINS WM.B. DIR.MISCCA
3915 GOLDEN VALLEY ROAD
GOLDEN VALLEY MN
55422

HOULE MELVIN
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SHOREVIEW MN
55112

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KNUTSON R N GRANNIS ETAL
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55075

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MPLS MN
55440

KROEGER CHARLES
122 NW 7TH STREET
FARIBAULT MN
55021

KUHL CARL
4421 4TH ST NE
COL HEIGHTS MN
55421

KVB ENGINEERING INC
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55426

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MINN ASSN WATERSHED DIST'S

ADA MN
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MINN CHAP ASSOC BLDRS-CONTRS
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MPLS MN
55426

MINN DEPT HEALTH J C MCKASY
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MINNESOTA FARMERS UNION
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MINN HEREFORD-LJ SCHAFER

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MINN LAND USE COMMITTEE
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MINN LP GAS ASSN
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MINN PETROLEUM COUNCIL
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MINN POLLUTION CONTROL AGCY
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MINN RESTAURANT ASSN
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MINN RETAIL FED INS
131 METRO SP
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55101

MINN STATE BD PHARMACY
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MINN STATE EMP UNION COUNC 6
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MINN TEAMSTERS CREDIT UNION
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MINN TBR PRODUCERS ASSN
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MINN WATER RESOURCES BD
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RED OWL STORES INC
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REINO O LAINE 3M COMPANY
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SELECTVISION INC FR VALENTIN
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10017

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55089

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10139

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities and Large Gas Pipelines, EA 701-791.	AFFIDAVIT OF MAILING

Susan M. Carpenter, being first duly sworn upon oath, deposes and says:

That on the 21st day of February, 1978, at the City of Saint Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail a true and correct copy thereof, properly enveloped, with first class postage prepaid, to all persons and associations at the addresses listed in the attached Certificate of the Secretary of State.

Susan M. Carpenter

Subscribed and sworn to before me
this 21 day of February, 1978.

Susan K. Riedinger
Notary Public

SUSAN K. RIEDINGER
Notary Public, Ramsey Co., Minn.
My Commission Expires
Dec. 7, 1982

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, EA 701-791.	)	Docket No. EA-78-001-WS STATEMENT OF NEED AND EVIDENCE

STATEMENT OF EVIDENCE

Agency Staff will introduce the following evidence: Minn. Regs. EA 301 et seq.; Minn. Regs. EA 501 et seq.; Minn. Regs. EA 601 et seq.; draft Minn. Regs. EA 701 et seq.; 6 MCAR § 2.0801 et seq.; 6 MCAR § 2.0901 et seq.; proposed amended Minn. Regs. EA 1001 et seq.; and memorandum on "Proposed Rules EA 701-791 Regarding Certificates of Need for Interstate Natural Gas Pipeline" dated September 13, 1977 by Dwight S. Wagenius, Special Assistant Attorney General. The following comments on the draft Minn. Regs. EA 701 et seq. will also be introduced: memorandum dated November 17, 1977 from Terry Hoffman of the Minnesota Department of Transportation; letter dated November 28, 1977 from A. L. Pooler of Minnegasco; and memorandum dated December 30, 1977 from C. A. Johannes of the Minnesota Pollution Control Agency.

One or more of the following expert witnesses employed by the Minnesota Energy Agency may be called upon to testify: Dr. Leticia A. Chard, Energy Facility Analyst; David L. Jacobson, Acting Manager, Certificate of Need Activity; Karen R. Cole, Environmental Coordinator; Dr. Arthur L. Adiarte, Energy Facility Analyst; Dr. Richard A. Wallen, Manager, Policy Analysis Activity; and Daniel L. Quillin, Research Analyst. The named individuals played a substantial role in developing the proposed rules or have experience in the implementation of the other

Agency rules. They will be available to testify on the need for and reasonableness of the proposed rules.

The following statutes and laws will be cited: Minn. Stat. ch. 116H (1976) (especially, but not exclusively, § 116H.13); Minn. Stat. ch. 116D (1976); Minn. Stat. § 16A.128 (1976); Minn. Stat. § 117.48; and Minn. Laws 1977 ch. 381 § 8.

Notices of Intent to Solicit Outside Opinion on the subject matter of the proposed rules were published in the State Register at 1 S.R. 75 and at 2 S.R. 901-902.

STATEMENT OF NEED

The above-captioned rules are not amendments to existing rules of the Minnesota Energy Agency. They are being proposed for initial adoption at this time.

The need to adopt rules specifying criteria for assessment of need and governing the contents of applications for certificates of need arises, in part, from legislative mandate.

> It shall be the duty of the director to:
>
> . . .
>
> (f) Require certificate of need for construction of large energy facilities . . . .

Minn. Stat. § 116H.07 subd. 1(f) (1976).

> Subdivision 1. The director shall, pursuant to chapter 15 and sections 116H.01 to 116H.15, promulgate assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section.
>
> Subd. 2. On and after the effective date of the assessment of need criteria adopted pursuant to subdivision 1, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of need.

Minn. Stat. § 116H.13 subds. 1-2 (1976). (Emphasis added.)

It is further provided in the Rules of Procedure Governing Certificate of Need Program that

> any person desiring to construct a new large energy facility in Minnesota shall submit an application for a certificate of need for said facility to the director prior to commencing construction of said facility . . . . The application shall contain the information required in the applicable substantive rules . . . .

Minn. Reg. EA 502(a). "Large energy facility" is defined to include

> . . .
>
> (e) Any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota;
> (f) Any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural or synthetic gas;
> (g) Any underground gas storage facility requiring a permit pursuant to section 84.57 . . . .

Minn. Stat. § 116H.02 subd. 5 (1976), as amended by Minn. Laws 1977 ch. 381 § 8.

The need to adopt a rule providing for inclusion of environmental data in applications for certificates of need arises from legislative mandate in the Energy Agency Act, Minnesota Statutes chapter 116H, and the Minnesota Environmental Policy Act, Minnesota Statutes chapter 116D, which read, in part, as follows:

> FINDINGS AND PURPOSE. The legislature finds and declares that the present rapid growth in demand for energy is in part due to unnecessary energy use; that a continuation of this trend will result in serious depletion of finite quantities of fuels, land and water resources, and threats to the state's environmental quality; that the state must insure consideration of urban expansion, transit systems, economic development, energy conservation and environmental protection in planning for large energy facilities; that there is a need to carry out energy conservation measures; and that energy planning, protection of environmental values, development of Minnesota energy sources, and conservation of energy require expanded authority and technical capability and a unified, coordinated response within state government.
>
> The legislature seeks to encourage thrift in the use of energy, and to maximize use of energy-efficient systems, thereby reducing the rate of growth of energy consumption, prudently conserving energy resources, and assuring statewide environmental protection consistent with an

adequate, reliable supply of energy.

Minn. Stat. § 116H.01 (1976).

No proposed large energy facility shall be certified for construction unless the applicant has justified its need. In assessing need, the director shall evaluate:

. . . .

(5) Socially beneficial uses of the output of this facility, including its uses to protect or enhance environmental quality;
(6) The effects of the facility in inducing future development;
(7) Possible alternatives for satisfying the energy demand including but not limited to potential for increased efficiency of existing energy generation facilities;
(8) The policies, rules and regulations of other state and federal agencies and local governments.

Minn. Stat. § 116H.13 subd. 3 (1976).

ACTION BY STATE AGENCIES. Subdivision 1. The legislature authorizes and directs that, to the fullest extent practicable the policies, regulations and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06.

Subd. 2. All departments and agencies of the state government shall:

. . . .

(c) Identify and develop methods and procedures that will ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations;
(d) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;
(e) Recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;
(f) Make available to the federal government, counties, municipalities, institutions, and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state as set forth in Laws 1973, Chapter 412;
(g) Initiate the gathering and utilization of ecological information in the planning and dev-

elopment of resource oriented projects . . . .
Minn. Stat. § 116D.03 (1976).

The rules are needed to inform each person applying for a certificate of need for a large liquefied gas storage facility, large underground gas storage facility, or a large gas pipeline, of the application procedures, the filing fees which must accompany the application, the criteria by which the need for the proposed facility shall be assessed, and the data elements which must appear in the application.

The justification of the need for and reasonableness of each of the rules is as follows:

EA 701 DEFINITIONS:

This proposed rule defines certain terms which are used within the rules. Many of the definitions have been taken from Minn. Stat. § 116H.02 or from previously promulgated rules. Statutory language is duplicated in the rules only where comprehension of the meaning and effect of a rule is crucial to potential applicants or other persons affected by the rules.

The key definitions are: "large gas pipeline" (EA 701 M), "large liquefied gas storage facility" (EA 701 N), "large underground gas storage facility" (EA 701 O), "MMcfpd-mile" (EA 701 R), "natural gas" (EA 701 S), and "synthetic gas " (EA 701 Z).

The definitions for the large energy facilities that would be governed by these rules, EA 701 M through O, have been taken from Minn. Stat. § 116H.02 subd. 5 (1976).

"Natural gas" is defined as in Minn. Regs. EA 302 R. The definition of "synthetic gas" complements that of "natural gas." In other words, "natural or synthetic gas" as used in Minn. Stat. chapter 116H and in the proposed rules would encompass all gaseous fuels, whether naturally-occurring or artifically-produced.

In a letter dated November 28, 1977, commenting on the draft set of rules, Minnegasco objected to the inclusion of ethane, propane, and butane in "synthetic gas." Agency Staff recognizes that these substances may occur naturally. However, they are

also produced at refineries. Either way, under normal temperatures and pressures, these substances exist in the gaseous state and thus form a subset of "natural or synthetic gas." The classification scheme proposed by the Agency Staff conforms to the common usage of "natural gas" to denote naturally-occurring methane. Industry usually includes propane under LPG (liquefied petroleum gas) or NGL (natural gas liquid). Propane may also be a feedstock for SNG (synthetic natural gas).

While drafting this set of proposed rules and proposed amendments to Minn. Regs. EA 1001-1091, the question of whether anhydrous ammonia pipelines are subject to the certificate of need requirement pursuant to Minn. Stat. chapter 116H arose. Ammonia is a gas at normal temperature and pressure, is generally considered nonflammable, readily liquefies with the application of pressure, is mainly produced using nitrogen from the air and hydrogen from hydrocarbons, and is used mainly as a fertilizer. Other uses or potential uses exist: as a refrigerant, as a working fluid for extracting energy from thermal gradients in oceans, or as a hydrogen (gaseous fuel) carrier. It is not clear that the proposer of an anhydrous ammonia pipeline has eminent domain powers under Minn. Stat. chapter 117, the statute that confers eminent domain rights to crude oil or petroleum product pipeline companies.

It appears that arguments exist on both sides of the issue. Requiring a certificate of need for an ammonia pipeline would be in furtherance of legislative intent spelled out in Minn. Stat. § 116H.01:

> . . . the state must insure consideration of urban expansion, transit systems, economic development, energy conservation and environmental protection in planning for large energy facilities; . . .
>
> The legislature seeks to encourage thrift in the use of energy, and to maximize use of energy-efficient systems, thereby reducing the rate of growth of energy consumption, prudently conserving energy resources, and assuring statewide environmental protection consistent with an adequate, reliable supply of energy.

However, the key question remains: if an ammonia pipeline has at least 50 miles of its length in Minnesota, and either has a diameter greater than six inches or has an operating pressure greater than 200 pounds per square inch, is it a large energy facility that requires a certificate of need?

Agency Staff is uncomfortable in arguing that fertilizer, providing as it does fuel for plant growth, is a form of energy. As the following excerpts from Minn. Stat. chapter 116H show, energy supply and demand is the rationale for the Agency's certificate of need program.

> (b) An estimate of statewide and geographical area energy need for the forthcoming five and ten year period which, in the judgment of the director, will reasonably balance requirements of public health and safety, preservation of environmental quality, and conservation of energy resources. Such forecasts established by the director shall serve as the basis for certification of large energy facilities in section 116H.13 . . . .

Minn. Stat. § 116H.11 subd. 1 (1976). (Emphasis added.)

> Subd. 2. On and after the effective date of the assessment of need criteria adopted pursuant to subdivision 1, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of need.
>
> Subd. 3. No proposed large energy facility shall be certified for construction unless the applicant has justified its need. In assessing need, the director shall evaluate:
>
> > (1) The accuracy of the long range energy demand forecasts on which the necessity for the facility is based;
> > (2) The effect of existing or possible energy conservation programs under sections 116H.01 to 116H.15 or other federal or state legislation on long term energy demand;
> > (3) The relationships of the proposed facility to overall state energy needs;
> > . . .
> > (7) Possible alternatives for satisfying the energy demand including but not limited to potential for increased efficiency of existing energy generation facilities. . . .

Minn. Stat. § 116H.13 (1976). (Emphasis added.)

A logical conclusion that may be drawn from these excerpts

is that a large energy facility does not require a certificate of need from the Agency unless it is intended to supply energy.

Agency Staff is aware of possible problems that may arise from this interpretation of the statute. What if a proposed pipeline is intended to transport petroleum or petroleum derivatives solely for nonenergy use, or even for both energy and nonenergy use? What are the implications on prioritizing the uses of energy sources? What about complications introduced by conversions of service, say from transporting energy sources to transporting nonenergy sources and vice versa? Agency Staff submits that these are questions more properly resolved in the public hearing process.

"MMcfpd-mile" is proposed as the unit of measuring the size of a pipeline governed by these rules. The definition is required because the proposed fee assessment for large gas pipelines is largely based upon it.

The definitions of "design day" (EA 701 E) and "firm contract customers" (EA 701 I) differ from the corresponding definitions in Minn. Regs. EA 301-315 (EA 302 G and EA 302 J) in response to written comments from Minnegasco on the draft set of rules.

A definition of "petroleum supplier" was included because applicants for a certificate of need for a large liquefied gas facility or large gas pipeline who fall within this definition should apply under Minn. Regs. EA 1001-1091. Informational requirements on historical energy use and supply/demand projections are different for petroleum suppliers on the one hand and utilities and gas pipeline companies on the other.

EA 702 PURPOSE OF RULES:

This rule states the purpose of rules EA 701-791. Incorporated by the reference to Minn. Stat. § 116H.13 are the following provisions all of which further justify rules EA 701-791: the director has the duty to determine whether

proposed large energy facilities are needed; the director must promulgate the assessment of need criteria which he will use in making the need determination; the proposers of large energy facilities must justify the need for the facilities "on forms and in a manner established by the director"; and, in reviewing the application the director must hold a public hearing pursuant to the Minnesota Administrative Procedure Act (the "A.P.A.") and the Hearing Examiner's rules promulgated pursuant to the A.P.A.

EA 703 APPLICABILITY OF RULES:

This proposed rule identifies the certificate of need applicants who, based upon the type of facilities proposed by the applicants, must comply with these rules.

Subdivision A directs petroleum suppliers to apply under Minn. Regs. EA 1001 et seq. and energy users to apply under 6 MCAR § 2.0801 et seq. The energy supply/demand informational requirements of those sets of rules are more appropriate for petroleum suppliers and energy users than those of the subject set of rules.

Subdivision B identifies the types of large energy facilities governed by the rules: new large liquefied gas storage facility, new large underground gas storage facility, new large gas pipeline, and certain expansions of these large energy facilities.

Minn. Stat. § 116H.02 subd. 9 (1976) defines construction as a "significant physical alteration of a site to install or enlarge a large energy facility." In the opinion of the Agency, construction, as it relates to gas storage or gas pipeline facilities, would be any new facility or significant physical alteration of a site or sites which increases the capacity of a facility above a certain threshold.

For a large liquefied gas storage facility, the certificate of need requirement applies if the proposed project would expand the capacity of an existing facility by either 20% of capacity or 100,000 gallons, whichever is greater, and if such expansion would take place within a two year period. The 100,000 gallon lower limit is the same as in the definition of "large liquefied gas storage facility." The alternative lower limit of 20% of existing capacity was drawn in analogy to the threshold for oil storage expansions:

> . . . unless the facility would be at an existing petroleum storage site and would constitute an increase of less than 20 percent in the storage capacity at that site . . .

Minn. Stat. § 116H.02 subd. 5 (1976). The time period during which the expansion would take place must be specified to remove an element of ambiguity. If the period is not specified, the capacity of an existing large liquefied gas storage facility could theoretically be doubled within a few years' time, using four expansion steps, without going through the certificate of need process.

Similar 20% and two-year provisions are recommended in applying the certificate of need requirement to proposed expansions of large underground gas storage and large gas pipeline facilities. An alternative threshold for large gas pipelines is 17,000 Mcf per day. This was set by requiring that the threshold for a propane pipeline be the same whether the certificate of need applicant is a petroleum supplier, in which case the lower limit could be 10,000 barrels per day, or a utility or gas pipeline company, for which the threshold could be 17,000 Mcf per day. Three hundred cubic feet of propane gas condenses to approximately one cubic foot of liquid propane.

Subdivision C exempts persons who have begun or completed construction of a large liquefied gas storage facility, large underground gas storage facility, or large gas pipeline prior to the effective date of these rules, pursuant to Minn. Stat. § 116H.13 subd. 2 (1976). Interstate gas pipelines requiring a certificate of public convenience and necessity

from the Federal Energy Regulatory Commission are exempted, pursuant to Minn. Stat. § 116H.13 subd. 8 (1976).

EA 704 APPLICATION PROCEDURES AND TIMING:

This proposed rule responds to the statutory mandate that applications for certificates of need "shall be on forms and in a manner established by the director." The rule provides the basic form and manner of application. It prescribes the number of copies of an application which are required, the form and size of documents filed, cover letter requirements, correction procedures, maximum processing duration, and procedures for applications which are not substantially complete.

Since the Agency has only six months to review and approve or deny an application for a certificate of need, it is important that the form and content of the application are clearly defined, that an adequate number of copies are filed, and that the application as filed is substantially complete. These requirements will help to avoid untimely delays due to a lack of understanding of what is expected from the applicant. Further, it will standardize the applications, thereby reducing the time required by the Agency to review and become familiar with the applicant's request.

EA 705 FILING FEES AND PAYMENT SCHEDULE:

The authority to assess fees for processing applications is given to the director of the Agency in Minn. Stat. § 116H.13 subd. 6 (1976). Subdivision 6 provides two general factors to be considered in establishing a fee schedule: (1) the size or output of the facility and (2) the difficulty of assessment of need. In addition, Minn. Stat. § 16A.128 (1976) requires that the fee schedule be set so that the total fees received approximate the amount appropriated by the legislature, which implies that the certificate of need program must be self-

supporting. Therefore, the fee charged for a certificate of need application should approximate the cost of processing it.

Based on experience to date, the minimum cost of a public hearing is $700 if the application is not contested, and $5,000 if the application is contested. The probability of an application being contested depends upon the perceived impact of, and consensus on the need for, the proposed facility.

The numbers of staff hours required to process liquefied gas storage, underground gas storage, and gas pipelines are estimated to be:

	Pre-hearing	Hearing	Post-hearing	Total
liquefied gas storage	25-300	8-160	15-90	48-550
underground gas storage	50-300	24-160	32-90	106-550
gas pipeline	75-300	16-160	42-90	129-550

At a direct staff charge rate of $35/hour, the minimum cost of processing a liquefied gas storage application is estimated to be $2,380 (48 hours x $35/hour + $700), the minimun cost of processing an underground gas storage application is estimated to be $4,410 (106 hours x $35/hour + $700), and the minimum cost of processing a gas pipeline application is estimated to be $5,215 (129 hours x $35/hour + $700). Corresponding minimum fees under proposed rule EA 705 A are $2,010 for a 100,000 gallon liquefied gas storage facility, $4,500 for a one billion cubic feet underground gas storage facility, and $5,510 for expanding the capacity of a large gas pipeline by 17,000 Mcf per day, solely by adding power.

The proposed unit of pipeline size, on which the fee schedule is based, takes into consideration both the "output or capacity of the facility and the difficulty of assessment of need." [Minn. Stat. § 116H.13 subd. 6 (1976)]. The new or additional capacity would be multiplied by a "complexity"

factor. Agency Staff suggests that this complexity factor be the length of the new (sections of) pipeline, or 50 if the capacity would be expanded by adding power. The longer the pipeline, the greater the impact on the natural and socioeconomic environments and thus the more difficult the assessment of need. Similarly, adding power brings into play questions on efficient use of resources.

EA 711 CRITERIA FOR ASSESSMENT OF NEED:

The need to adopt a rule specifying criteria for assessment of need for proposed large energy facilities arises from legislative mandate.

> Subdivision 1. The director shall, pursuant to chapter 15 and sections 116H.01 to 116H.15, promulgate assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section.
>
> Subd. 2. On and after the effective date of the assessment of need criteria adopted pursuant to subdivision 1, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of need.

Minn. Stat. § 116H.13 subds. 1-2 (1976). (Emphasis added.) Criteria is generally defined to mean standards on which a judgment or decision may be based or standards by which to judge the correctness of a judgment or conclusion. The listing in Minn. Stat. § 116H.13 subd. 3 (1976) of eight items which the director shall evaluate in assessing need is a nonexclusive listing of factors which can be, and have been, incorporated into the certificate of need process.

The need to include environmental considerations in the criteria arises from legislative mandate in the Energy Agency Act (Minnesota Statutes chapter 116H) and the Minnesota Environmental Policy Act (Minnesota Statutes chapter 116D) which were cited on pages 3 and 4 of this Statement.

Proposed rule EA 711 establishes four criteria or standards upon all of which the director must make an affirmative determination before a certificate of need may be granted. The standards expressed in the criteria were developed after numerous discussions between the certificate of need staff and the director, after reflecting upon the experience gained in the prior certificate of need hearings, and after a careful examination of the statutes cited above. They include and reflect the eight statutory factors, listed in Minn. Stat. § 116H.13 subd. 3 (1976), that the director must evaluate in determining the need for the proposed facility and other factors the director considers relevant to the determination of need for a proposed facility.

Subdivision A states the purpose of the criteria and provides that the factors listed under each shall be evaluated to the extent that they are applicable and pertinent to the proposed facility. This provision is needed so that if a factor is neither applicable nor relevant, then lack of its evaluation would not indicate an inadequate determination of need. However, the director is required by this subdivision to make a specific written finding with respect to each criterion.

Subdivision B provides that the director shall consider only those alternatives proposed before the close of the public hearing and for which substantial evidence exists on the record with respect to each of the criteria. This is needed because an application could be denied if a more reasonable or more prudent alternative to the proposed facility can be demonstrated. The alternative should be subjected to the same criteria as the facility being proposed.

The first criterion provides the standard which the director will use to measure the validity of the applicant's asserted need for a new energy facility. Part of the Minnesota Energy Agency's charge from the legislature is to " . . .

maximize use of energy-efficient systems, thereby . . . assuring statewide environmental protection consistent with an adequate, reliable supply of energy." Minn. Stat. § 116H.01 (1976). (Emphasis added.)

In addition to items (1), (2), and (4), of subd. 3 of section 116H.13 which appear in the rule as factors (a), (b), and (c), the director deems it important to consider two other factors in determining need. Factor (d), the ability of current facilities and planned facilities not requiring a certificate of need to meet future demand, has been, and, in the opinion of Agency Staff, will continue to be, a major factor considered in determining the need for proposed large energy facilities. Factor (e) follows from a close reading of sections 116H.01 and 116D.03. In addition, it allows the director to consider arguments for the granting of a certificate not related to adequacy of supply. The Agency foresees, for example, applications for facilities needed to meet pollution control requirements and for facilities to replace outmoded, less efficient ones.

The second criterion is based upon Minn. Stat. § 116H.13 subd. 3(7) (1976) which requires the director to evaluate "(p)ossible alternatives for satisfying the energy demand . . . ." If there is an alternative more reasonable or prudent than the proposed facility, such a showing must be made on the record by parties other than the applicant. The director could deny a certificate of need or require modifications based upon such a showing.

In examining whether or not a more reasonable and prudent alternative has been demonstrated, the proposed rule requires the director to consider four factors. Each of these factors deals with the reasonableness of alternatives compared to the proposed facility. All four have been points of contention in previous certificate of need proceedings and are foreseen to be objects of contention in proceedings pursuant to these

rules.

Factor (a) deals with characteristics of the proposed facility that the director may choose to modify, pursuant to Minn. Stat. § 116H.13 subd. 5 (1976). The other three factors are based upon a close reading of Minn. Stat. § 116H.01.

The third criterion is met if the director determines that the consequences of granting the certificate of need are more favorable than the consequences of denying the certificate.

Under the third criterion, the director is required to consider four factors. The first, third and fourth factors correspond respectively to items (3), (6) and (5) of Minn. Stat. § 116H.13 subd. 3 (1976). The second factor requires that the effect of the proposed facility on the natural and socioeconomic environments be compared to the effect of not building the facility. This factor is based, to a large extent, upon a close reading of sections 116H.01 and 116D.03. Specifically, subdivision 2 of section 116D.03 states, "All departments and agencies of the state government shall: . . . (c) identify and develop methods and procedures that will ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations . . . ."

The fourth criterion requires that the director find that granting the certificate is consistent with policies, rules, and regulations of other state and federal agencies and local governments which have been considered during the hearing process. Obviously, the director will not grant a certificate of need if it is known to be inconsistent with applicable rules and regulations. However, all necessary information to make this determination may not be available at the certificate of need stage. In addition, the director has no authority to grant certificates subject to unknown or later-developed requirements. Therefore, the director can only

ascertain whether the granting of the certificate is consistent with the applicable rules and regulations considered during the certificate of need process.

In the most recent certificate of need rules hearings (for large high voltage transmission lines and large electric generating plants) conducted for the Agency, the same four criteria as proposed here were recommended for adoption. The third criterion evoked the most negative response from the regulated utilities. The main objection was that the proposed formulation:

> . . . it has been demonstrated by a preponderance of the evidence on the record that the consequences to society of granting the certificate of need are more favorable than the consequences of denying it . . .

was not objective enough. As finally adopted in the Agency's Chapter Six rules, the third criterion reads:

> . . . it has been demonstrated by a preponderance of the evidence on the record that the proposed facility, or a suitable modification thereof, will provide benefits to society in a manner compatible with protection of the natural and socioeconomic environments, including human health . . .

Minn. Regs. EA 611 C 3.

Agency Staff submits that a criterion should not only be objective, it should also be comprehensive yet concise. The factors listed under the third criterion relate to evaluating the outcome of having the proposed facility versus not having it. While they could be apportioned between the first and the second criteria, Agency Staff avers that it is important to determine separately whether the demand that would be met by the facility exists, apart from whether society would be better off having the facility (giving due consideration to benefits, risks and costs).

The federal government's space exploration program illustrates the importance of having a separate third criterion. Shortly after the Russians launched the first man-made satellite, the U.S. had to demonstrate technological parity with, if not

superiority over, the Russians. At that time, "need" was paramount, "cost" secondary. The smaller proportion of the budget allocated to the program now could just as well be attributed to society's changing priorities as to the attainment of the original objective to land man on the moon.

It is not sufficient only to compare the costs with the benefits of having the facility, especially if those who benefit from the facility do not bear all of the burden associated with it--the issue of what economists label "external costs." One way of incorporating external costs is to make "benefits of having the facility" include "costs of not having the facility" and "costs of having the facility" include "benefits of not having the facility." The position of the Agency is that the third criterion as proposed more clearly and more concisely expresses the determination that must be made.

Essentially, the four criteria boil down to the following questions:

(1) Does a social want exist, and can the proposed facility fill it?

(2) Is there no better means of filling the apparent social want?

(3) Would society be better off if the apparent social want is filled?

(4) Is the proposed facility legal and consistent with public policy?

Procedurally, the third question should be asked before the second.

EA 721 CONTENTS OF APPLICATION:

Subdivision A directs the applicant to the rules which require responses from all applicants. Subdivision B requires each person in a joint application to submit individual responses when directed to do so. Subdivision C requires each person who owns or uses a facility with other persons to comply with the requirements for joint applicants.

The requirement for specific responses from persons in joint applications of multi-party ownership and use facilities is necessary because combined data may obscure information that would be apparent from separate responses. This is particularly true of the data required on historical energy use and forecasted energy use. To accurately evaluate this data the director must obtain information from each of the individual persons involved in ownership and/or use of the facility.

EA 731 GENERAL INFORMATION:

Subdivision A requires the applicant to provide general information about itself. It also requires the applicant to provide summary information about the proposed facility, including a brief description, its cost, and how it would fit into the applicant's business. This information is needed to provide a reader with a quick summary of who is applying and what the application is for. The applicant is also required to provide the name of the contact person to whom questions concerning the application may be directed, which will facilitate and expedite communication between the Agency and the applicant. Finally, subdivision A requires the applicant to give the application fee, which will allow the Agency to quickly determine whether the applicant has correctly computed the fee.

Subdivision B requests a list of the other agencies or authorities with which the applicant must file and the present status of those filings. This will provide the Agency with a better understanding of the applicant's timetable for the proposed facility. It may also identify required applications or permits which have been overlooked by the applicant.

EA 732 NEED SUMMARY:

This proposed rule will provide the applicant with an opportunity to summarize in one place the key factors favoring certification of need for the proposed facility. It will also enable a reader of the application to quickly gain a general understanding of those factors before reading the entire application.

EA 733 SUMMARY OF ADDITIONAL CONSIDERATIONS:

The director in his assessment of need is required by Minn. Stat. § 116H.13 subd. 3 (1976) to consider "promotional activities" leading to demand for the proposed facility, "socially beneficial uses of the output of the facility," and "effects of the facility in inducing future development." This proposed rule requires the applicant to provide information on those three points, since specific information on them would not necessarily be provided in response to any other of the proposed rules.

EA 734 CONSERVATION PROGRAMS:

The director in his assessment of need is also required by Minn. Stat. § 116H.13 subd. 3 (1976) to consider the effect of existing or possible energy conservation programs. Data submitted in response to this rule will provide the director with an understanding of those specific conservation or energy efficiency programs which have been studied or implemented by the applicant. This information is needed by the director to help determine whether reasonable additional conservation measures by the applicant would affect the applicant's need for the proposed facility.

EA 735 PEAK DEMAND AND ANNUAL GAS SALES FORECAST:

In assessing need, the director is required by Minn. Stat. § 116H.13 subd. 3 (1976) to evaluate the accuracy of the applicant's long range energy demand forecasts.

Subdivision A includes additional requirements when estimates, rather than historical data, are used in preparing forecasts. For the sake of clarity, historical data, estimates, and projections must be delineated from each other.

Subdivision B requires information on gas demand in Minnesota supplied by the applicant, amount of consumption in various categories of consumers, and number of consumers

in each category. This information is important in making a sensitivity analysis of the applicant's forecast of energy demand and would assist anyone wanting to do an independent forecast. Data on peak demand is needed to understand the extent of the requirement for the new facility.

Subdivision C requires the applicant not only to explain the forecast but also to justify it as to reasonableness and accuracy. Although forecasts of statewide and geographical energy needs established by the director serve as the basis for certification of large energy facilities [Minn. Stat. § 116H.11 subd. 1(b) (1976)], the burden of justifying the need for a facility remains with the applicant. [Minn. Stat. § 116H.13 subd. 3 (1976)]. The methodology, data base and assumptions are important elements in generating the forecast which must be accessible to enable the director to determine the validity, reasonableness and consistency of the forecast.

EA 736 LOAD AND CAPACITY INFORMATION:

This proposed rule asks for a graphic representation of the applicant's supply/demand position. Information supplied in response to this rule would illustrate the extent to which existing facilities could meet present and future demand and how the proposed facility would improve the applicant's ability to meet future demand. Supply/demand information is requested for the last calendar year, the present calendar year (during which the certificate of need application is filed), the first full calendar year before the operation of the proposed facility, and the first calendar year of operation. The graphs would illustrate the effect of the proposed facility on the applicant's supply and demand.

Subdivision A asks for annual load duration or demand curves, and tables of monthly gas consumption for various classifications. This information is needed because of the generally seasonal nature of demand. Details on the total amount and seasonal variation of gas consumption in various categories are needed because the categories have different priorities assigned to them by regulatory agencies.

Subdivision B requests, for a utility, annual supply curves and the contributions from various sources while subdivision C requests the same information of pipeline companies.

Subdivision D asks for the theoretical maximum volume of gas that the applicant could arrange to be made available on a single day, and the average temperature assumed for that day. This information, in conjunction with peak demand forecasts, is needed to assess the applicant's ability to meet demand with and without the proposed facility.

EA 737 ALTERNATIVES:

Minn. Stat. § 116H.13 subd. 3 (1976) requires the director to consider possible alternatives to the proposed facility in assessing need.

The director needs to know the capability of each possible alternative to meet the projected demand, as well as the associated costs and benefits. This information will be considered by the director in determining whether the proposed facility is the most reasonable and prudent alternative available.

The second criterion puts the burden of proof for showing an alternative superior to the proposed facility on parties other than the applicant. However, it is reasonable and necessary that the applicant present information it has available with respect to each alternative.

EA 741 HISTORICAL FACILITY DATA:

This proposed rule requires information about the applicant's existing facilities. Data on capacity and utilization of existing facilities will assist the director in ascertaining whether alternative operating procedures or enhancement of existing facilities may be more favorable alternatives than the proposed facility. Other historical data requirements would enable the director to better understand the applicant's energy supply system.

EA 742 DESCRIPTION OF PROPOSED FACILITY:

Information submitted in response to this rule would assist the director in understanding the use of the proposed facility and its relationship to existing facilities. This would facilitate the director's evaluation of the proposed facility and its relationship to overall state energy needs, as required by Minn. Stat. § 116H.13 subd. 3 (1976).

Subdivision A requires data pertaining to the design of the proposed facility. This will facilitate access to the responsible designer, if necessary; economic evaluation of the proposed facility's benefits and impacts compared to those of alternative facility sizes, types and schedules; evaluation of the ways in which the proposed facility could augment the future supply of natural or synthetic gas in Minnesota; evaluation of the degree to which the proposed facility could augment the future supply of natural or synthetic gas in Minnesota; and comprehension of engineering input, including locations of facility components, locations of interconnections with other facilities, function and size of major components, margins of reliability and safety, and rate of energy consumption.

Subdivision B requires data pertaining to the construction of the proposed facility. This will facilitate: access to the responsible constructor, if necessary; evaluation of the construction impact duration, construction timetable reasonableness, and timeliness of the proposed facility compared to the same features of the alternate facilities considered; and evaluation of the potential for earlier availability of the proposed facility, e.g., in the event of an energy crisis or emergency, compared to the earliest availability of the alternate facilities considered.

Subdivision C requires data on the expected operation of the proposed facility to aid in the assessment of impacts on adequacy and reliability of energy supply for people served in and from Minnesota, pursuant to Minn. Stat. §§ 116H.01 and 116H.13.

EA 743 ENVIRONMENTAL DATA:

As indicated earlier in this document, the environmental aspects of a proposed large energy facility must be considered by the director in assessing need.

Proposed rule EA 743 requires quite detailed and specific information. As a result, other state agencies would be able to determine from the application whether construction or operation of the proposed facility would pose a substantial environmental problem. If so, it would benefit both the applicant and the state as a whole to determine this early in the certification process. Such information also would be a factor in the director's evaluation of alternatives.

Provision for special circumstances is proposed to prevent unnecessary duplication or expenditure of effort. Thus, if an environmental assessment worksheet is sufficient to meet the requirements of the Minnesota Environmental Quality Board, it would also be sufficient for Agency purposes. A draft environmental impact statement on the project may also be submitted in lieu of specific responses to the requirements of this section.

In all other cases, sufficient information must be made available to determine the effect of the proposed facility on the state's environmental quality and natural resources. Information provided pursuant to this rule would assist the director in applying the third criterion in proposed EA 711.

Subdivision A of proposed rule EA 743 requires information on the specific location of the proposed facility. It pinpoints the location of the site or sites which might be used for the proposed facility by the applicant.

Subdivision B requires information on the possible effects of the proposed facility with regard to state air and water resources.

Subdivision C would allow the applicant to explain the actions that would be taken to mitigate the possible adverse

effects of the proposed facility. This would also allow other state agencies to determine the extent of environmental degradation, if any, that would occur as a result of construction or operation of the proposed facility.

Subdivision D asks for induced developments. This is one of the statutory factors that must be evaluated by the director in assessing need.

EA 781 OTHER DATA FILED WITH THE APPLICATION:

This rule provides for a section within an application where the applicant may present additional data which has not been specifically required by these rules. Any data filed in this section will be considered by the Agency. The advantage of having this section is that it will allow the applicant to bring such additional data to the attention of the Agency.

EA 791 CERTIFICATE OF NEED MODIFICATIONS:

This rule is needed to specify those situations when recertification is required by a change in a facility previously certified by the director.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

July 31, 1978

Mr. Dwight S. Wagenius
Special Assistant Attorney General
720 American Center Building
St. Paul, Minnesota 55101

Re: Rules EA 701-791
EA-78-001-WS

Dear Mr. Wagenius:

Enclosed please find the entire record which you submitted to us for review on the issue of substantial change together with the Report of the Chief Hearing Examiner, pursuant to Minn. Stat. § 15.052, Subd. 3.

Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA ENERGY AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA ENERGY AGENCY GOVERNING THE CONTENTS OF APPLICATIONS FOR CERTIFICATES OF NEED AND CRITERIA FOR ASSESSMENT OF NEED FOR LARGE LIQUEFIED GAS STORAGE FACILITIES, LARGE UNDERGROUND GAS STORAGE FACILITIES AND LARGE GAS PIPELINES, MINN. REGS. EA 701-791.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on March 23, 1978, before William Seltzer, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Energy Agency on June 14, 1978; and

WHEREAS, the Energy Agency has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Energy Agency has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Energy Agency has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Energy Agency has the responsibility of submitting the complete hearing record and the rules as adopted by the Agency to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 31st day of July, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, EA 701-791.	)	Docket No. EA - 78-001-WS ORDER ADOPTING RULES

The above-entitled matter came on for hearing before William Seltzer of the Minnesota Office of Hearing Examiners for the Director of the Minnesota Energy Agency at 9:30 A.M. on March 23, 1978, in Conference Room "D", of the Veterans Service Building, Saint Paul, Minnesota. Proper notice required by Minn. Stat. § 15.0412 (Supp. 1977) was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all the evidence adduced, and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minn. Regs. EA 701-791 are adopted this 28th day of July, 1978, pursuant to authority vested in me by Minn. Stat. §§ 116H.08(a), 116H.13 (1976).

STATE OF MINNESOTA
MINNESOTA ENERGY AGENCY

John P. Millhone

JOHN P. MILLHONE
Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Amendment of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities, and Large Gas Pipelines, EA 701-791.	)	Docket No. EA - 78-001-WS DIRECTOR'S FINDINGS OF FACT, CONCLUSIONS AND DECISION

The hearing in the above-captioned matter was ordered on February 3, 1978, and was convened for the Minnesota Energy Agency (hereinafter "Agency") by Hearing Examiner William Seltzer of the Minnesota Office of Hearing Examiners at 9:30 A.M. on March 23, 1978, in Conference Room "D" of the Veterans Service Building, Saint Paul, Minnesota.

The hearing examiner made and issued his Report of Hearing Examiner on June 14, 1978. The hearing examiner recommended to the Agency that it adopt the Agency's proposed rules incorporating the language changes suggested by him.

The cross-outs and underlinings in the rules that are included below indicate changes from the rules as originally proposed.

The director of the Agency, upon the records certified to him by the hearing examiner and the Report of Hearing Examiner, hereby makes and issues the following Findings of Fact, Conclusions and Decision.

FINDINGS OF FACT

1. The hearing examiner did an excellent, thorough job of presenting his Findings of Fact in the above-captioned matter. The hearing examiner's Findings 1-7 and 10 are hereby adopted as Findings of the Director.

2. The Director agrees with the hearing examiner's Finding 8 and hereby adopts it as a Finding of the Director, but adds the following comments. It is noted on page 67 of the transcript of the public hearing in this matter that the record of the proceedings would remain open for 20 days, i.e., through April 12, 1978. That open record period is consistent with Minn. Stat. § 15.0412 subd. 4 (Supp. 1977) and Minn. Regs. HE 102(c)7, 104(b) and 105.

The latter rule specifically states that the record shall be closed upon the last date for receipt of written statements. However, the last two paragraphs of Finding 8 are addressed to a written submission of the Great Lakes Gas Transmission Company submitted on April 26, 1978, and received by the hearing examiner on April 27, 1978. Treatment of that submission by the hearing examiner, although correctly handled, was inappropriate. The late submission should have been disregarded. However, since the submission had no effect on the rules as proposed and adopted, the result is innocuous.

3. The Director agrees with hearing examiner's Finding 9 and hereby adopts it as a Finding of the Director, but makes the following additional comments. The Director agrees with the result of the hearing examiner's discussion of the treatment of anhydrous ammonia pipelines, but is still troubled by the possible construction of a pipeline which has the capacity, length, and all characteristics meeting the definition of a large energy facility except the product proposed to be transported in it. The ease of converting such a facility to the transportation of an energy source is apparent. The Agency will seek legislative clarification of its authority in such circumstances .

CONCLUSIONS

A. The Minnesota Energy Agency has duly acquired and now has jurisdiction over the subject proceeding.

B. All relevant substantive and procedural legal requirements have been complied with.

C. The Minnesota Energy Agency demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts.

D. It is the Director's opinion that the slight amendments, additions and language changes appearing in the adopted rules do not result in a substantial change from the rules as proposed for adoption.

DECISION

The Director accepts the recommendation of the hearing examiner to adopt the proposed rules and in a separate order adopts rules EA 701-791, incorporating the changes indicated in the Director's Findings. A copy of rules EA 701-791, as adopted, and indicating changes from the rules as proposed for adoption, is attached.

DATED: July 28, 1978

JOHN P. MILLHONE
Director

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

June 14, 1978

Mr. John P. Milhone, Director
Minnesota Energy Agency
Room 740, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

RE: In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency governing the contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities and Large Gas Pipelines, Minn. Regs. EA 701-791.
HE Docket No. EA-78-001-WS

Dear Mr. Millhone:

I enclose herewith and serve upon you by mail the Report of the Hearing Examiner in the above-entitled matter.

A copy of this Report, together with the official record and transcripts are being sent to Mr. Wagenius.

Yours very truly,

William Seltzer

WILLIAM SELTZER
Hearing Examiner

WS/eag
Encs.
CC: Mr. Dwight S. Wagenius
Special Assistant Attorney General

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency governing the contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Liquefied Gas Storage Facilities, Large Underground Gas Storage Facilities and Large Gas Pipelines, Minn. Regs. EA 701-791.

REPORT OF HEARING EXAMINER

The above-entitled matter came duly on for hearing before William Seltzer, Hearing Examiner, on the 23rd day of March, 1978, in Conference Room D, Veterans Service Building, St. Paul, Minnesota, commencing at approximately 9:30 a.m.

Dwight Wagenius, Special Assistant Attorney General, appeared for and on behalf of the Minnesota Energy Agency Staff (hereinafter sometimes referred to as "Agency Staff") in support of the within considered proposed rules.

A panel of Minnesota Energy Agency representatives consisting of Dr. Leticia A. Chard, Energy Facility Analyst; David L. Jacobson, Acting Manager, Certificate of Need Activity; and Dr. Arthur L. Adiarte, Energy Facility Analyst were available to answer questions during the hearing.

All interested persons, representatives of individuals or associations, and other interested groups present at the hearing, had an opportunity to present evidence and question witnesses.

The record of the proceedings remained open through the 12th day of April, 1978.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Minnesota Energy Agency shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in

the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Energy Agency on the issues of substantial changes, if any, in the proposed rules and compliance with Minn. Stat. § 15.0412 within ten calendar days after receipt of the advice and order of the Director of the Minnesota Energy Agency. Thereafter, the Minnesota Energy Agency shall be responsible for filing the rules with the Attorney General.

The proposed rules are not amendments to existing rules of the Minnesota Energy Agency. They are being proposed for initial adoption at this time.

The need to adopt rules specifying criteria for assessment of need and governing the contents of applications for certificates of need arises, in part, from legislative mandate.

It shall be the duty of the director to:

* * *

> (f) Require certificate of need for construction of large energy facilities. . . .

Minn. Stat. § 116H.07, subd. 1(f) (1976).

> Subdivision 1. The director shall, pursuant to chapter 15 and sections 116H.01 to 116H.15, promulgate assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section.
>
> Subd. 2. On and after the effective date of the assessment of need criteria adopted pursuant to subdivision 1, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of Need.

Minn. Stat. § 116H.13, subds. 1-2 (1976). (Emphasis added)

It is further provided in the Rules of Procedure Governing Certificate of Need Program that

> . . . any person desiring to construct a new large energy facility in Minnesota shall submit an application for a certificate of need for said facility to the director prior to commencing construction of said facility. . . . The application shall contain the information required in the applicable substantive rules. . . .

Minn. Reg. EA 502(a). "Large energy facility" is defined to include

* * *

(e) Any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota;

(f) Any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural or synthetic gas;

(g) Any underground gas storage facility requiring a permit pursuant to section 84.57. . . .

Minn. Stat. § 116H.02, subd. 5 (1976), as amended by Minn. Laws 1977, Ch. 381, § 8.

The need to adopt a rule providing for inclusion of environmental data in applications for certificates of need arises from legislative mandate in the Energy Agency Act, Minn. Stat. Ch. 116H, and the Minnesota Environmental Policy Act, Minn. Stat., Ch. 116D, which read, in part, as follows:

FINDINGS AND PURPOSE. The legislature finds and declares that the present rapid growth in demand for energy is in part due to unnecessary energy use; that a continuation of this trend will result in serious depletion of finite quantities of fuels, land and water resources, and threats to the state'e environmental quality; that the state must insure consideration of urban expansion, transit systems, economic development energy conservation and environmental protection in planning for large energy facilities; that there is a need to carry out energy conservation measures; and that energy planning, protection of environmental values, development of Minnesota energy sources, and conservation of energy require expanded authority and technical capability and a unified, coordinated response within state government.

The legislature seeks to encourage thrift in the use of energy, and to maximize use of energy-efficient systems, thereby reducing the rate of growth of energy consumption, prudently conserving energy resources, and assuring statewide environmental protection consistent with an adequate, reliable supply of energy.

Minn. Stat. § 116H.01 (1976).

No proposed large energy facility shall be certified for construction unless the applicant has justified its need. In assessing need, the director shall evaluate:

* * *

(5) Socially beneficial uses of the output of this facility, including its uses to protect or enhance environmental quality;

(6) The effects of the facility in inducing future development;

(7) Possible alternatives for satisfying the energy demand incldng but not limited to potential for increased efficiency of existing energy generation facilities;

(8) The policies, rules and regulations of other state and federal agencies and local governments.

Minn. Stat. § 116H.13, subd. 3 (1976).

ACTION BY STATE AGENCIES. Subdivision 1. The legislature authorizes and directs that, to the fullest extent practicable the policies, regulations and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06.

Subd. 2. All departments and agencies of the state government shall:

* * *

(c) Identify and develop methods and procedures that will ensure that environmental amenities and values, whether quatified or not, will be given at least equal consideration in decision making along with economic and technical considerations;

(d) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning uses of available resources;

(e) Recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(f) Make available to the federal government, counties, municipalities, institutions, and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state as set forth in Laws 1973, Chapter 412;

(g) Initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects. . . .

Minn. Stat. § 116D.03 (1976).

The rules will inform each person applying for a certificate of need for a large liquefied gas storage facility, large underground gas storage facility, or a large gas pipeline, of the application procedures, the filing fees which must accompany the application, the criteria by which the need for the proposed facility shall be assessed, and the data elements which must appear in the application.

The Hearing Examiner, upon all the record, files, evidence, arguments of counsel, and written comments filed before the close of the record, hereby makes and issues the following Findings of Fact, Conclusions and Recommendations:

FINDINGS OF FACT

1. That the Order for Hearing issued on the 3rd day of February, 1978, was, in all respects, proper in form, content, execution and filing.

2. That due, timely and adequate Notice of Hearing as ordered by the Minnesota Energy Agency, was properly served and filed on the 3rd day of February, 1978. Notice of Intent to Solicit Outside Opinion appeared at 2 State Register 75, and at 2 State Register 901-902. All other relevant, substantive and procedural requirements of statute or rule have been complied with for the purposes of establishing jurisdiction of the subject matter to proceed to public hearing pursuant to law.

3. That the authority of the Minnesota Energy Agency to promulgate the within considered rules is contained in the Minnesota Energy Agency Act, Minn. Stat. ch. 116H, and the Minnesota Environmental Policy Act, Minn. Stat. ch. 116D.

4. Certain minor changes to the Energy Agency's prefiled documentation were presented at the outset of the public hearing. Those minor changes to the documentation are reasonable and necessary and accepted by the Hearing Examiner and are specifically set forth in the Transcript of proceedings at PP 16-17, 56-58.

5. With exceptions otherwise noted herein, the Staff of the Minnesota Energy Agency adequately demonstrated the need for and reasonableness of the proposed rules in their Statement of Need as required by Minn. Stat. § 15.0412, subd. 4 (Supp. 1977), and Minn. Regs. HE 104(g). See EA Group Ex. No. 1.

6. The remainder of Findings in this Report will discuss areas wherein the Statement of Need does not suffice to establish the need and reasonableness of the rules recommended for adoption or those areas requiring further discussion for clarification purposes.

7. At the hearing, Agency Staff reasonably suggested that proposed EA 703A be modified to limit the types of gas storage or gas pipeline facilities for which petroleum suppliers are directed to apply for a certificate of need under the Energy Agency's Ch. 1000 series rules. The suggested change is reasonable

and necessary to make the proposed rule conform to the Notice of Hearing on the proposed amendment of the Energy Agency's Ch. 1000 series rules, which state that:

> The proposed rule amendments, if adopted, would . . . effect better coordination between the subject set of rules and proposed rules governing large gas facilities so that petroleum suppliers proposing to build LPG storage or pipeline facilities would be covered by the former instead of the latter set of rules, . . . (Emphasis added)

Accordingly, proposed EA 703 A should be adopted with the following language changes:

> A petroleum supplier applying for a Certificate of Need to construct a large liquefield petroleum gas storage facility or large liquefied petroleum gas pipeline shall apply under Minn. Regs EA 1001 et seq.; and energy users shall apply under 6 MCAR § 2.0801 et seq. . . . .

Energy Agency Staff also reasonably suggested that "new" be inserted between "a" and "large" in proposed EA 703 B.2. This change is reasonable and necessary because expansions of large underground gas storage facilities are addressed in proposed EA 703 B.6.

One of the questions raised regarding this rule sought a clarification of the 100,000-gallon threshold specified for liquefied gas storage facilities, in particular, whether that amount refers to the volume of the container. The point was made that normally the amount of LPG that can be stored in a container is less than the gross storage capacity of the container. To clarify that the quantity meant is the volume of liquefied gas which can be stored in the facility, it was reasonably proposed that "liquefied gas storage" be inserted between "expand the" and "capacity" in proposed rule EA 703 B.4. This proposed change is reasonable and necessary.

8. Before terminating discussion of proposed EA 703, note should be taken that the proposed rule makes the following exemption from the general applicability of the Certificate of Need requirements contained in Ch. 700:

> An interstate pipeline requiring a certificate of public convenience and necessity from the Federal Energy Regulatory Commission shall not be subject to these rules. [EA 703 C.2.]

For supporting documentation of the above-quoted exemption, readers are referred to EA Exhibit No. 8, and in particular the conclusions contained therein which are adopted and affirmed by the Hearing Examiner. [EA Ex. 8 embodies a memorandum from the Minnesota Attorney General's office to the Director of the Energy Agency addressing the following issue: If an interstate natural gas pipeline corporation has been issued a certificate of public convenience and necessity by the Federal Power Commission pursuant to the Natural Gas Act, may the State of Minnesota require that the corporation also obtain a State Certificate of Need?]

The Great Lakes Gas Transmission Company requested of the Hearing Examiner by letter dated April 26, 1978 a further exemption; to-wit:

> ". . . an intrastate pipeline for which FERC makes an evaluation of the environmental impacts shall not be subject to these rules."

In support of its position, Great Lakes Gas Transmission Company cites Alice Henry v. FPC, 168 U.S.App.D.C. 137; 513 F.2d 395 (D.C.Cir. 1975). The Company argued that in cases where the Federal Energy Regulatory Commission has jurisdiction over only a part of the total project, the Federal Energy Regulatory Commission is nevertheless required to take into consideration the environmental impacts of the total project including those of the non-jurisdictional part of such project. The Company then asserted that since, for the purpose of evaluation of the environmental impacts, the Federal Energy Regulatory Commission does not use any different standards for the non-jurisdictional part of a project, the Minnesota Energy Agency should not be required to make a second environmental evaluation of the non-jurisdictional part of such project.

Notwithstanding the arguments made by Great Lakes Gas Transmission Company, it is clear that the Company is not only asking for an exemption from the environmental information that may be required for the non-jurisdictional portion of a project regulated by the Federal Government, but also asks for a complete exemption from the Certificate of Need process established in the proposed rules. The exemption sought exceeds the argument made

by the Company. For this reason, the Hearing Examiner rejects the suggestion of Great Lakes Gas Transmission Company. Furthermore, there is no showing that any Federal Review process will coincide with the time constraints important to the Minnesota Energy Agency or that such Federal Environmental Review will suffice to meet the concerns of the Minnesota Energy Agency.

9. At issue in the within considered proposed rules, and proposed amendments to Minnesota Regulations EA 1001-1091, is the question of whether anhydrous ammonia pipelines are subject to the Certificate of Need requirement pursuant to Minnesota Statutes. Anhydrous ammonia is a gas at normal temperature and pressure, is generally considered non-flammable, readily liquefies with the application of pressure, is mainly produced using nitrogen from the air and hydrogen from hydrocarbons, and it is used mainly as a fertilizer. One must determine whether the Certificate of Need process applies to an anhydrous ammonia pipeline which otherwise meets the statutory criteria except for the question of whether it can be considered a large energy facility since the anhydrous ammonia is principally used as a fertilizer rather than an energy source such as natural gas or crude petroleum.

After reviewing applicable statutes, the Hearing Examiner finds that the Legislature did not intend to require a Certificate of Need for a product such as anhydrous ammonia which is not used directly as an energy source such as the obvious examples of natural gas or crude oil. The thrust of applicable legislation shows an intent to regulate direct energy sources but not substances which are used in non-energy producing activities. Indeed, if the Legislature meant to regulate substances such as anhydrous ammonia under the Certificate of Need provisions, the Legislature could have specifically declared its intent. Thus, it is found that the Certificate of Need program in Minnesota does not currently encompass anhydrous ammonia pipelines.

The larger question of whether the Certificate of Need program has jurisdiction over other facilities that are not intended to supply energy but can be considered in the sense of derived

demand, is not addressed in this Report. A cited example of the use of the concept of derived demand is the demand for plastic products which gives rise to a derived demand for the resources, such as petroleum, used in manufacturing plastic. Before determinations can be made on this larger issue, it is suggested that public hearings be conducted for the specific purpose of taking evidence on the issue. Naturally, the Minnesota Energy Agency may desire to obtain a clear mandate from the State Legislature and can attempt to accomplish that by suggesting specific legislation.

10. With the exceptions noted elsewhere hereinabove, it is found that the Energy Agency affirmatively established the need for and reasonableness of the proposed rules. Additionally, it is found that the adoption of the within considered rules in accordance with the Findings hereinabove is reasonable and necessary for the Minnesota Energy Agency to discharge its statutory obligations.

CONCLUSIONS

A. That the Minnesota Energy Agency and the Hearing Examiner duly acquired and now have jurisdiction over the within proceedings.

B. That all relevant, legal and procedural requirements of statute and regulation have been properly complied with.

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: That the Director of the Minnesota Energy Agency adopt the within subject rules, in accordance with the Findings hereinabove, any language changes, deletions or additions necessitated by the Findings hereinabove will be reviewed by the Chief Hearing Examiner when determining the issue of "substantial change".

Dated this 14th day of June, 1978.

William Seltzer

WILLIAM SELTZER
Hearing Examiner