

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ADMINISTRATION

Office Memorandum

TO : Duane Harves
Chief Hearing Examiner

DATE: 10/23/79

FROM : Stephen A. Ordahl, Manager
Office of the State Register

PHONE: 296-0864

SUBJECT: Correction of Hearing Report, File # DR-79-092-SM

This is a follow-up to our telephone conversation of October 22, 1979 in which we discussed the above report. There is an erroneous statement in paragraph 5 on page 2 of the report which reflects very poorly on this office and which I would like to see corrected in the record. The report states that an example, written to show the effect of some proposed rule changes, was not published in the Register, because someone in this office thought that " 'all those numbers were too hard to print.'" Attached is a memo from G. D. Garski, Manager of the State Assessed Properties section in the Department of Revenue. Mr. Garski was responsible for writing the rules (13 MCAR §§ 1.0001 - 1.0007) and ensuring that they were published in the State Register. As you can see, we were not requested to print the example because Garski and the assigned hearings examiner decided that it was "not very substantive to the rules."

As you know, our philosophy is to encourage agencies to print more than they are statutorily required to because we believe that in most cases such action will benefit the reader. Be assured that no one in this office would ever even contemplate suggesting to an agency that something not be printed because it might be too hard to do.

This should clarify our involvement in this particular issue. I hope you will take steps to ensure that the file reflects what actually happened.

SAO/clr

cc: Lee Sheehy, Attorney General's Office
Carol Porter, State Register Editor

RECEIVED
OCT 25 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

Office Memorandum

TO : CAROL PORTOR, Editor
State Register

DATE: October 15, 1979

FROM : G. D. GARSKI, Manager
State Assessed Properties

PHONE: 296-5134

SUBJECT: PUBLICATION OF THE DEPARTMENT OF REVENUE
AD VALOREM (PROPERTY) TAX RULES

As you know, the above mentioned rules were published in the State Register of Monday, April 30, 1979. You will recall that our Department experienced some difficulty in getting these rules ready to be published, a fact that was noted in the report of the hearings officer. The report of the hearings examiner mentions the fact that the State Register was "reluctant" to print the example.

Perhaps a review of the chain of events leading to the publishing of these rules in the State Register would be beneficial.

1. The Office of Hearings Examiners requires that all proposed rules be published at least 30 days prior to the public hearing date.
2. The hearing date for these rules had been set for June 6, 1979. A hearings officer had been selected, a room reserved and notice of hearing printed.
3. The publication date of April 30 was the last one which would have met the 30 day notice requirement.
4. The deadline for submitting material in the Proposed Rules section of the April 30 issue was April 16.
5. Because of a mix-up in our office, the necessary material was not submitted to you on time to meet the deadline. The documents were not submitted until April 17, 1979.

When I found that the material had not been submitted and a new hearing date would probably have to be scheduled, I decided to try to get the rules published to avoid this rescheduling.

I gathered up all of our material and took it first to the hearings examiner, Steve Mihalchick. Steve made a rather quick appraisal of the rules, noting that they seemed to be proper but were not typed in the correct form nor were they numbered properly with the MCAR coding. The material to be printed consisted of eight pages of narrative and five pages of numerical examples. Because of the time problem, both Steve and I agreed that the important thing to get published was the narrative and the examples, while useful, were not really substantive to the rules. I told Steve I would try to get the material published even though the deadline for submission had passed.

I then took the material to your office. Since both Steve and I had agreeed that the examples, which would be difficult to set up and print, were not substantive, I decided to try to get only the narrative printed. You were very helpful in accepting our material; you pointed out that it was not properly typed (being single spaced rather than double spaced) and the MCAR coding had not been applied. We rather hurriedly put in the MCAR numbers and because of

the problems our office had already caused with being late and using an improper format, I decided not to even ask you to print the examples, rationalizing you had done enough already and perhaps throwing the examples into the package might jeopardize the whole thing.

Therefore, your office showed no reluctance to print the examples; the reluctance was mine. If any blame is to be placed for not getting the examples printed, it should be placed on me. I apologize for any inconvenience I may have caused you. In the future I will try to have our material to be published better organized.

GDG:vh

Our File #545

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 9/28/79 Temporary Rule _____

Resubmitted and Received 10-19-79

DUE DATE 10/18/79 - 10-29-79

a. Returned to Agency w/o filing w/Secy of State 10/11 - 10/23
b. Approved 10/19 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 [redacted]
17. Petition by Public, where applicable N.A.

① Where are examples in 1.0007? No Chg? ¶ 5 of HE Rept.
— Do examples go beyond any in rules? contain anything which is not explicitly req by rules?
If so, If an effected person did not comply with example, would such action be incorrect?

(OVER)

② Broeker:

① M.S § 270.12 not applicable. Apportment discussed therein is irrelevant & discussed apportment in school districts & overlapping taxing jurisdic

② Dept. of Revenue uses income approach & tax based on that.

③ NSP ~~Mihalchick~~

II. ① NSP interp of the pollution exemption tax exemption arising 272.02 (1)(15) is broader than the statute permits.

② Nat'l. construction cost avg. don't break out pollution abatement

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT REVENUE

Office Memorandum

TO : LEE E. SHEEHY
Special Assistant Attorney General

DATE: October 17, 1979

FROM : DOROTHY A. McCLUNG
Research Attorney

PHONE: 6-1022

SUBJECT: REJECTION OF THE PROPOSED RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE AD VALOREM (PROPERTY) TAXES IMPOSED UPON UTILITY COMPANIES

In your memorandum of October 12, 1979, you requested some additional information and material before you act on the above-mentioned rules. Pursuant to your request, please find attached:

1. A copy of the Notice of Intent to Solicit Outside Opinions
2. A copy of the Certificate of Compliance with Rulemaking Procedures

Point 3 of your memo asks that the Department speak to the "Comprehensive Example" (3MCAR Section 1.0007) which unfortunately was not published along with the text of the rules in the State Register. In this regard, we ask you to bear in mind the following points:

1. The Hearing Examiner found that the example was not substantive to the rules hearing.

2. No testimony was taken on the Comprehensive Example, or lack of it, at the public hearing from any interested party.

3. The examples illustrate not what the taxpayers are expected to do, but what the Department of Revenue does with information supplied to the Department by the taxpayers.

Notwithstanding the above considerations, we would answer your question raised in Point 3 of "Is there any computation or consideration appearing in the example which is not explicitly required by the preceding rules?" in the negative.

We have attached to this memo a copy of both the old and new Comprehensive Examples for purposes of comparison. Any major changes between the two rules are underlined in red in the new examples. The listing below gives the cite within the text of the rules for the changes. Some changes are of such a nature that they are rather self-explanatory. For instance, if the depreciation amount on line #7 of Example A changes, then it follows that this change will affect many other numbers. This is logical and self-evident and should cause no confusion for anyone. Therefore, these changes will not be addressed.

Change		Cite
Example A:	Line 1 and others	13 MCAR Section 1.0001 para. 3
	Line 7	13 MCAR Section 1.0003 C
	Line 10	13 MCAR Section 1.0003 D
	Line 11	13 MCAR Section 1.0003 D

	Change	Cite
Example B:	This example was published in 13 MCAR Section 1.0003 C.	
Example C:	No changes.	
Example D:	Line 2e	13 MCAR Section 1.0003 C 13 MCAR Section 1.0005 D
Example E:	This example has been altered in major detail. The cite for these changes is 13 MCAR Section 1.0006 B. It should be repeated again that the taxpayer does not perform the apportionment of value; the Department does. Example E merely details what we do with the information furnished us by the taxpayer.	

We hope that the above meets your requirements for resubmission of the rules for approval. If there is any other material you require, please contact me and I will attempt to forward it to you.

DAM:lmm

Attachments

STATE REGISTER

STATE OF MINNESOTA

RULES

PROPOSED RULES

STATE CONTRACTS

OFFICIAL NOTICES

VOLUME 3, NUMBER 20

NOVEMBER 20, 1978

Pages 1025-1068

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce Banking Division

Maximum Lawful Rate of Interest for the Month of December, 1978

Bulletin No. 1989

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Section 47.20, Subd. 4, Minnesota Statutes, the Conventional Home Loan Assistance and Protection Act, hereby determines that the maximum lawful rate of interest for home mortgages for the month of December, 1978, is ten (10.00) percent.

November 14, 1978

Robert A. Mampel
Commissioner of Banks

Ethical Practices Board

Notice of Meeting

Preliminary Agenda

Room 22
State Office Building

Tuesday, November 28, 1978
1:30 p.m.

1. MINUTES (October 16; October 30)
2. CHAIRMAN'S REPORT
3. LEGAL COUNSEL REPORT
4. CERTIFICATION OF PUBLIC FINANCING ACCOUNTS
5. HEARING EXAMINER'S REPORT — SOCIALIST WORKERS' PARTY EXEMPTION



Aaron Goodrich (1807-1887) was the first chief justice of the Minnesota Territory. He was appointed by Zachary Taylor in 1849, after having served in the state legislature for two years. One of the early organizers of Minnesota's Republican Party, Goodrich was known as a skilled orator with a quick sense of humor. After a long political conflict, he was removed from office by Millard Fillmore in 1851. (Minnesota Historical Society)

6. EXECUTIVE DIRECTOR'S REPORT
   a) Status of Campaign Finance Reporting
   b) Waiver Requests For Late Filing Fees
7. OTHER BUSINESS
8. EXECUTIVE SESSION Pursuant to Minn. Stat. 10A.02, subd. 11

Department of Revenue

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Existing Rules Governing the Valuation of Public Utility Property for Ad Valorem Tax Purposes

Notice is hereby given that the Property Equalization Division of the Department of Revenue has begun consideration of proposed amendments to rules governing the valuation of property of public utility companies. In particular,

consideration will be given to the following factors involved in the valuation process:

1. Depreciation allowances.

2. Capitalization rate and income to be capitalized.

3. Average cost per kilowatt for electric generating plants.

Further, consideration will be given to the method used for apportioning value to taxing districts.

Persons or groups interested in or affected by these amendments are requested to participate. Statements of information and comment may be made orally or in writing. Written statements and comments should be addressed to:

Gerald D. Garski, Manager
State Assessed Properties
Property Equalization Division
Second Floor Centennial Office Bldg.
St. Paul, Minnesota 55145

November 6, 1978

Dennis J. Erno
Assistant Commissioner
Department of Revenue

Errata

1. At 3 S.R. 918, change "~~EDU 483~~ 8 MCAR § 4.004 Eligible costs." to read: "~~EDU 483~~ 8 MCAR § 4.2004 Eligible costs."

2. At 3 S.R. 918, change "~~EDU 484~~ 8 MCAR § 4.005 Applicable content." to read: "~~EDU 484~~ 8 MCAR § 4.2005 Applicable content."

3. At 3 S.R. 918, change "~~EDU 485~~ 8 MCAR § 4.006 Clientele served." to read: "~~EDU 485~~ 8 MCAR § 4.2006 Clientele served."

4. At 3 S.R. 918, change "~~EDU 486~~ 8 MCAR § 4.007 Standards of service." to read: "~~EDU 486~~ 8 MCAR § 4.2007 Standards of service."

5. At 3 S.R. 864, Rule 7 MCAR § 5.1031 B.8., the sixth line should read: "education activity~~.~~ which verify the information on the"

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT GOVERNING THE AD VALOREM (PROPERTY) TAXES IMPOSED ON UTILITY COMPANIES	)))))	STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Deputy Attorney General C. Hamilton Luther, do hereby declare that I have examined the proposed rules and all related documents and that, based on them them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

C. H. Luther
Deputy Attorney General

Dated: Oct. 17, 1979

Example A. COMPUTATION OF UNIT VALUATION OF AN ELECTRIC COMPANY.

		Amount	Reference
1.	Utility Plant (Cost)	$200,000,000	F.E.R.C. Report
2.	Construction in Progress	5,000,000	F.E.R.C. Report
3.	Additional Value From Average Cost per K. W. Computation	4,000,000	Example B, line 8
4.	Total Plant	209,000,000	1 + 2 + 3
5.	Non-Depreciable Plant (Land, Intangibles, C.W.I.P.)	19,000,000	F.E.R.C. Report
6.	Depreciable Plant	190,000,000	4 - 5
7.	Depreciation (Maximum 18%)	34,200,000	6 x 18%
8.	Total Cost Indicator of Value	174,800,000	6 - 7 + 5

		1976	1977	1978	
9.	Net Operating Income	$ 8,000,000	$ 8,500,000	$ 9,000,000	F.E.R.C. Report
10.	Capitalized Income @ 8.00%	100,000,000	106,250,000	112,500,000	Line 9 ÷ 8%
11.	Weighting Factor	25%	35%	40%	
12.	Weighted Capitalized Income	25,000,000	37,187,500	45,000,000	
13.	Total Income Indicator of Value			107,187,500	Total Line 12

14.	Total Cost Indicator of Value	174,800,000	Weighted @ 85%	148,580,000	Line 8
15.	Total Income Indicator of Value	107,187,500	Weighted @ 15%	16,078,125	Line 13
16.	Total Market Indicator of Value		Weighted @ 0%	-	-
17.	Unit Value			$164,658,125	

(Cite 1 S.R. 720)
11-8-76

Example B. COMPUTATION OF AVERAGE COST PER KILOWATT OF INSTALLED CAPACITY.

ASSUME THAT A STUDY OF MOST RECENT CONSTRUCTION DATA AVAILABLE FROM THE F.E.R.C. SHOWS THAT THE AVERAGE COST PER KILOWATT OF INSTALLED CAPACITY IN A FOSSIL FUEL STEAM PLANT IS $150.000 PER KILOWATT.

		#1	#2
1.	Plant		
2.	Installed Capacity	100,000 K.W.	50,000 K.W.
3.	Date in Service	1960	1940
4.	Cost of Plant	$15,200,000	$3,500,000
5.	Cost Per K.W.	$152.00	$70.00
6.	Average Cost Per K.W.	$150.00	$150.00
7.	Difference (if any)	-	$80.00
8.	Additional Value	-	$4,000,000

Example C. ALLOCATION OF UNIT VALUATION OF ELECTRIC COMPANY TO MINNESOTA.

		Amount	Reference
1.	Utility Plant System	$200,000,000	F.E.R.C. Report
2.	Construction Work in Progress	5,000,000	F.E.R.C. Report
3.	Total Utility Plant System	205,000,000	1 + 2
4.	Utility Plant Minnesota	110,000,000	UTL Report
5.	Construction Work in Progress Minnesota	5,000,000	UTL Report
6.	Total Utility Plant Minnesota	115,000,000	4 + 5
7.	Minnesota Plant to System Plant	56.10%	6 ÷ 3
8.	Weighting Factor	90%	
9.	Minnesota Weighted % Original Cost	50.49%	7 x 8
10.	Gross Revenue System	105,000,000	F.E.R.C. Report
11.	Gross Revenue Minnesota	40,000,000	UTL Report
12.	Minnesota Revenue to System Revenue	38.10%	11 ÷ 10
13.	Weighting Factor	10%	
14.	Minnesota Weighted % Revenue	3.81%	12 x 13
15.	Total Minnesota Percent	54.30%	9 + 14
16.	Unit Value	164,658,125	Example A, Line 17
17.	Minnesota Portion of Unit Value	89,409,362	15 x 16

(Cite 1 S.R. 721)
11-8-76

Example D. COMPUTATION OF APPORTIONABLE VALUE OF UTILITY COMPANY.

		Amount	Reference
1. Minnesota Portion of Unit Value		$89,409,362	Example C, line 17
2. Excludable Items			
a. Land Assessed Locally		3,000,000	UTL Report
b. Land Rights		-	
c. General Plant Items	$10,000,000		UTL Report
d. Pollution Control Equipment	10,000,000		UTL Report
e. Less Depreciation @ 18%	3,600,000		(c + d) x 18%
f. Net General Plant & Pollution Control Items		16,400,000	(c + d) - e
g. Total Excludable Items		19,400,000	a + f
3. Minnesota Apportionable Value		70,009,362	1 - 2g

(Cite 1 S.R. 720)
11-8-76

Example E. APPORTIONMENT TO LOCAL TAXING DISTRICTS OF MINNESOTA PORTION OF UNIT VALUE AFTER ADJUSTMENTS.

ASSUME: TAX DISTRICT 1
TAX DISTRICT 2
TAX DISTRICT 3
ORIGINAL COST x 75% EXCEEDS LAST LIMITED MARKET VALUE IN TAX DISTRICT 1
MINNESOTA PORTION OF UNIT VALUE AFTER ADJUSTMENTS = $70,009,362

TAX DISTRICTS	1	2	3	Total
1. The Larger of: Last Limited Market Value, or, Original Cost x 75%				
a. Structures	$ 5,000,000	$10,000,000		$15,000,000
b. Machinery	10,000,000	20,000,000		30,000,000
c. Personal Property	1,000,000	8,000,000	$ 6,000,000	15,000,000
d. Total	$16,000,000	$38,000,000	$ 6,000,000	$60,000,000
2. Additions Including Construction in Progress at Original Cost		3,000,000	3,000,000	6,000,000
3. Retirements at Last Limited Market (Machinery)		(300,000)		(300,000)
4. Retirements at Original Cost (Machinery)	(700,000)			(700,000)
5.(1) Additional Value Due to Average Cost per Kilowatt Computation ($4,000,000 Less 18% Depreciation Allowance)	3,280,000			3,280,000
6. Updated District Total	$18,580,000	$40,700,000	$ 9,000,000	$68,280,000
7. Percent of Total (Line 6 by Tax District ÷ Line 6 Total)	27.21%	59.61%	13.18%	100.0%
8. Portion of Minnesota Adjusted Unit Value (Line 7 x $70,009,362)	$19,049,547	$41,732,581	$ 9,227,234	$70,009,362
9.(2) New Market Value				
a. Structures	6,248,251	13,329,386		19,577,637
b. Machinery	11,776,430	20,198,569		31,974,999
c. Personal Property	1,024,866	8,204,626	9,227,234	18,456,726
d. Total	$19,049,547	$41,732,581	$ 9,227,234	$70,009,362

(1) Line 5 is distributed as follows:

$$\text{Structures} - \frac{\text{Line 1a}}{\text{Line 1a + Line 1b}} \times \text{Line 5} \quad \left(\frac{5{,}000{,}000}{15{,}000{,}000} \times 3{,}280{,}000\right) = \$1{,}093{,}224$$

$$\text{Machinery} - \frac{\text{Line 1b}}{\text{Line 1a + Line 1b}} \times \text{Line 5} \quad \left(\frac{10{,}000{,}000}{15{,}000{,}000} \times 3{,}280{,}000\right) = \$2{,}186{,}776$$

Total Added Value $3,280,000

(2) Computed by finding the percentage of 1a, 1b, 1c plus any additions and minus any retirements in 2, 3, 4, 5 ÷ Line 6. This percentage x Line 8 equals new market value by classification. Example: District 2, Line 1a - ($10,000,000) plus Line 2 ($3,000,000) = $13,000,000 ÷ Line 6 ($40,700,000) = 31.94% x Line 8 ($41,732,581) = $13,329,386

(Cite 1 S.R. 721)
11-8-76

ADMIN 1000 (Rev. 1/78)
SF-00006-01

Our File #545

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : CLYDE E. ALLEN, JR.
Commissioner of Revenue

DATE: October 12, 1979

Attn: Dorothy McClung

FROM : LEE E. SHEEHY
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Revenue Governing the Ad Valorem (Property) Taxes Imposed Upon Utility Companies.

The above-captioned rules have not been approved by this office for the below numerated reasons. Following appropriate agency action, if any, the rules may be resubmitted to this office. At that time, please insure that the original of the Order Adopting and the Rules as Adopted accompany the resubmitted documents, as they are necessary for filing with the Secretary of State.

The above-captioned rules have not been approved for the following reasons:

1. Notice of Intent to Solicit Outside Opinion - While the Hearing Examiner's Report references the publication of the Notice of Intent to Solicit Outside Opinion regarding this matter, no such document was submitted to this office as required by Minn. Stat. § 15.0412, Subd. 6. A copy of such Notice of Intent must be submitted to this office.

2. No copy of the Certificate of Compliance with Rulemaking Procedures executed by the Attorney General representative for the agency was submitted to this office.

3. This office is concerned about the failure to publish amendments in the "Comprehensive Example" contained in 3 MCAR § 1.0007. Your staff has indicated that the example merely illustrates the application of the preceeding rules on a hypothetical utility company. However, this office is aware of the frequent legal significance of "examples" contained in the Department of Revenue's rules relating to taxation. Further, the "example" is a duly adopted rule which, to the best of this office's knowledge, has not been repealed. Therefore,

PRINTED ON RECYCLED PAPER

we are asking the agency to address the general issue of the legal significance of the "example" contained in Section 1.0007. Specifically, is there any computation or consideration appearing in the example which is not explicitly required by the preceeding rules? If so, would the computation, consideration and/or the means of computation impact on the rights of or procedures available to the public?

If you have any questions, do not hesitate to contact me.

LES/bw
cc: Duane Harves
Marshall Whitlock
Melvin Goldberg

Proposed ?

DEPARTMENT OF REVENUE

AD VALOREM TAX REGULATIONS

CHAPTER ONE: VALUATION AND ASSESSMENT OF ELECTRIC, GAS DISTRIBUTION, AND PIPELINE COMPANIES (UTILITY COMPANIES)

13MCAR §1.0001 ~~TaxAdVal 1~~ Introduction. On October 19, 1973, the Minnesota Supreme Court in Independent School District No. 99, et al. v. Commissioner of Taxation, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the "Hatfield Formula," was thus invalidated as a rule of general application.

These regulations are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.

Since the Commissioner of Revenue is by statute the assessor of some of the utility property in the State of Minnesota and has supervisory powers of all assessments of property, and may raise or lower values pursuant to Minn. Stat., §270.11, he will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts and the resulting valuation will be "allocated" or assigned to each state in which the utility company operates. Finally, by the process of apportionment, the portion allocated to Minnesota will be distributed to the various taxing districts within the state. All data used in the valuation, allocation, and apportionment process will be drawn from reports submitted to the Department of Revenue by the utility companies. These reports will include Minnesota Department of Revenue Annual Utility Reports (UTL Forms), Annual Reports to the Federal ~~Power~~ Energy Regulatory Commission and Annual Reports to the Interstate Commerce Commission. Periodic examinations of the supporting data for these reports will be made by the Department of Revenue.

The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in 13MCAR §§1.0003-1.0007 ~~TaxAdVal 3 through 7~~ for ~~1975~~ 1979 and subsequent years, or until, in the opinion of the Commissioner of Revenue, different conditions justify a change.

As in all property valuations the Commissioner of Revenue reserves the right to exercise his judgment whenever the circumstances of a valuation estimate dictate the need for it.

13MCAR §1.0002 ~~TaxAdVal 2~~ Definitions: As used in this chapter, the following words, terms and phrases shall have the meanings given to them by this regulation, except where the context clearly indicates a different meaning.

A. Allocation --- the process of dividing the unit value of a utility company among the states in which the utility operates.

B. Apportionment --- the process of distributing that portion of the utility company's unit value which has been allocated to Minnesota to the various taxing districts in which the utility company operates.

C. Book depreciation --- the depreciation shown by a utility company on its corporate books, and allowed the company by various regulatory agencies.

D. Capitalization rate --- the relationship of income to capital investment or value, expressed as a percentage.

E. Electric company --- any company engaged in the generation, transmission or distribution of electric power, excluding cooperatives and municipal corporations.

F. Gas distribution company --- any company engaged in the distribution of natural or synthetic gas excluding cooperatives and municipal corporations.

G. Installed capacity --- the number of kilowatts a power plant is capable of producing as shown by the nameplates affixed to the generators by the manufacturer.

H. Integrated company --- any company engaged in two or more utility operations within Minnesota, such as electric distribution and gas distribution, within the framework of one corporate structure.

I. Major generating plant --- any steam electric power plant capable of generating 25,000 KW (kilowatts) or more; or any hydroelectric, internal combustion, or gas turbine power plan capable of generating 10,000 KW or more.

J. Net operating earnings --- earnings from system plant of the utility after the deduction of operating expenses, depreciation, and taxes but before any deduction for interest.

K. Non-formula assessed property --- property of a utility which is valued by the local or county assessor rather than by the Commissioner of Revenue.

L. Operating property --- any property, owned or leased, except land that is directly associated with the generation, transmission, or distribution of electricity, natural gas,

gasoline, petroleum products, or crude oil. Examples of operating property include, but are not limited to substations, transmission and distribution lines, generating plants, and pipelines. Land, garages, warehouses, office buildings, pole yards, radio communication towers, and parking lots are examples of non-operating property.

M. Pipeline company --- any company engaged in the transmission of natural gas, gasoline, petroleum products or crude oil via a fixed line of pipes.

N. System plant --- the total tangible property, real and personal, of a company which is used in its utility operations in all states in which it operates.

O. Unit value --- the value of the system plant of a utility company taken as a whole without any regard to the value of its component parts.

P. Weighted pipe line miles --- the product obtained by multiplying the number of miles of each size of a pipeline by the diameter in inches of each size. Example: a 6 mile pipeline having 3 miles with a 10 inch diameter and 3 miles with a 30 inch diameter would have a weighted miles product of 120.

13MCAR §1.0003 ~~TaxAdVal 3~~ Valuation.

A. ~~(a)~~ General. Because of the unique character of public utility companies, such as being subject to stringent government regulations over operations and earnings, the traditional approaches to valution estimates of property (cost, capitalized income and market) must be modified when utility property is valued. Consequently, for the ~~1975~~ 1979 and subsequent assessment years, until economic and technological factors dictate a change, the value of utility company property will be estimated in the manner provided in this chapter.

B. ~~(b)~~ Market approach. Market value implies a price for which an entire public utility enterprise might reasonably change hands between willing and informed buyers and sellers. The term presupposes a market of normal activity, no urgency to buy or sell on the part of either buyer or seller, and continued operation of the utility as a single entity. Public utility property is seldom transferred as a whole unit under these circumstances. Consequently, after consideration of this approach, it has been decided that valuation of utility properties by this approach is speculative and unreliable and will not be employed as a method of valuation for utility property at this time.

C. ~~(c)~~ Cost approach. The cost factor that will be considered in the utility valution formula is the original cost less depreciation of the system plant, and improvements, plus the original cost of construction work in progress on the assessment date. Depreciation will not be allowed on construction work in progress. Depreciation

will be allowed as a deduction from cost in the amount allowed on the accounting records of the utility company, as such records are required to be maintained by the appropriate regulatory agency. Depreciation, however, shall not exceed the prescribed percentage of cost: for electric companies, ~~17~~ 18 percent; for gas distribution companies, 45 percent; pipeline companies, 45 percent.

When valuing electric company property the "average cost per kilowatt of installed capacity" will also be considered. Any excess of average cost per kilowatt of installed capacity over the actual cost of production plant (except land) multiplied by the kilowatts of installed capacity will be added to the original cost of the plant, and reduced by the same rate of depreciation applicable to the original cost. The average cost per kilowatt of installed capacity is computed by averaging the construction costs of production plant (except land) for major generating plants in the Continental U.S. by type of plant, as shown in the latest issues of the ~~Federal Power Commission~~ United States Department of Energy publications, Hydro-Electric Plant Construction Cost and Annual Production Expenses and Steam-Electric Plant Construction Cost and Annual Production Expenses and Gas Turbine Electric Plant Construction Cost and Annual Production Expenses. Average cost per kilowatt of installed capacity will be determined after excluding, federally constructed, multi-purpose projects, and nuclear electric generating plants. The ~~period~~ periods to be used for computing the ~~hydroelectric plant average will be 15 years. The period to be used for computing the steam-electric and gas turbine electric plant average will be six years~~ average will be as follows: hydroelectric plants, 15 years; steam electric plants, 10 years; gas turbine plants, 10 years.

The following examples illustrate this procedure. In both examples assume that the study of the most recent construction data available from Federal Power Commission publications indicates that the average cost per kilowatt of installed capacity in a fossil fuel steam plant is $150 per kilowatt. Each of the two plants is of this type.

1.	Plant	#1	#2
2.	Installed capacity	100,000 KW	50,000 KW
3.	Year in Service	1960	1940
4.	Cost of Plant	$15,200,000	$3,500,000
5.	Cost per KW	$152	$70
6.	Average cost per KW	$150	$150
7.	Excess (line 6 - 5)	---	$80
8.	Additional value (line 7 x 2) ..	---	$4,000,000

The cost indicator of value computed in accordance with this regulation will be weighted for each class of utility company as follows: electric companies, 85 percent; gas distribution companies, 75 percent; pipeline companies, 75 percent.

D.~~(d)~~ Income approach to valuation. The income indicator of value will be estimated by ~~averaging~~ weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year 40 percent; previous year, 35 percent; final year, 25 percent. After considering, as far as possible, all conditions

that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the ~~1975~~ assessment will be: electric companies, ~~7.75~~ 8.00 percent; gas distribution companies, ~~8.00~~ 8.25 percent; pipeline companies ~~8.25~~ 8.50 percent. The income indicator of value computed in accordance with this regulation will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; pipeline companies, 25 percent.

E. ~~(e)~~ Unit value computation. The unit value of the utility company will be the total of the weighted indicator of value.

The following is an example of the computation of the unit value:

Cost indicator of value	$5,000,000 x	75% =	$3,750,000
Income indicator of value	$4,800,000 x	25% =	$1,200,000
Unit Value of Pipeline Company		100%	$4,950,000

F. ~~(f)~~ Valuation of utility property of cooperatives. Cooperative associations shall have their utility property valued on the basis of historical cost only since they do not operate on the tradition profit making basis. Depreciation will be allowed as a deduction from cost at increments of 2.5 percent per year but the maximum shall not exceed 25 percent of property used in the generation, transmission or distribution of electric power.

(Cite 1 S.R. 718)
November 8, 1976

13MCAR §1.0004 ~~TaxAdVal 4~~ Allocation.

A. ~~(a)~~ General. After the unit value of the utility property has been estimated, the portion of value which is attributable to Minnesota must be determined. This process of dividing the unit value of a utility company among the states in which the utility operates is called allocation. Each of the factors in the allocation formula is assigned a weighted percentage to denote the relative importance assigned to that factor. The resulting sum of the weighted factors multiplied by the unit value yields the valuation of the utility property which will, after the adjustments described in 13MCAR § 1.0005 ~~TaxAdVal 5~~, be subject to ad valorem tax in the State of Minnesota.

The factors to be considerd in making allocations of unit value to Minnesota for the utility companies and the weight assigned to each factor for each class are specified in this regulation.

B. ~~(b)~~ Electric companies. The original cost of the utility property located in Minnesota divided by the total original cost of the property in all states of operation is weighted at 90 percent. Gross revenue derived from operations in Minnesota divided by gross operations revenue from all states is weighted at ten percent.

The following example illustrates this formula, assuming a unit value of $20,000,000.

Minnesota plant cost	($115,000,000)	x .90 =	50.49%
System plant cost	($205,000,000)		
Minnesota gross revenue	($ 40,000,000)	x .10 =	3.8 %
System gross revenue	($105,000,000)		
Total percentage allocable to Minnesota			54.29%
Unit value of system plant			$20,000,000
Amount of value allocable to Minnesota			$10,858,000

C.~~(c)~~ Gas distribution companies. The allocation of value of gas distribution companies shall be made considering the same factors as are used to determine the allocation of value of electric companies. The weight given to the original cost factor will be 75 percent, and gross revenue shall be weighted 25 percent.

D.~~(d)~~ Pipeline companies. In addition to the cost factor and the gross revenue factor, the factor of weighted pipeline miles shall be considered in allocating the value of pipeline companies. Weighted pipeline miles means the number of miles of pipeline multiplied by the diameter of the pipe, measured in inches. To illustrate, a pipeline 6 miles long has 3 miles of pipe with a diameter of 10 inches and 3 miles of pipe with a diameter of 30 inches. The weighted pipeline miles is 120.

3 miles x 10" diameter	= 30
3 miles x 30" diameter	= 90
Weighted pipeline miles	120

The following example illustrate the allocation of value of property of a pipeline company and the weights given to each factor.

Minnesota plant cost	($13,500,000)	x .75 =	25.76%
System plant cost	($39,300,000)		
Minnesota gross revenue	($ 2,980,000)	x .05 =	1.60%
System gross revenue	($ 9,300,000)		
Minnesota weighted pipeline miles ...	(9,500)	x .20 =	7.01%
System weighted pipeline miles	(27,100)		
Total percentage allocable to Minnesota			34.37%

13MCAR §1.0005 ~~TaxAdVal 5~~ Adjustments for non-formula assessed or exempt property.

A. After the Minnesota portion of the unit value of the utility company is determined, any property which is non-formula assessed or which is exempt from ad valorem tax, will be deducted from the Minnesota portion of the unit value. Only that qualifying property located within the State of Minnesota may be excluded.

B. The following properties will be valued by the local or county assessor and, therefore, the formula provided herein for the valution of utility property will not be applicable for such property.

1. Land

2. Non-operating property

3. Rights of way

C. The Minnesota portion of the unit value will be reduced by the original cost of these items except that in the case of non-operating property, the deduction shall be original cost, less the rate of depreciation applicable in the valuation process pursuant to 13MCAR §1.0003 ~~TaxAdVal 3~~.

D. A deduction from the Minnesota portion of the unit value shall also be made for property, real or personal, which is exempt from ad valorem tax. For instance, pollution control equipment for which an exemption has been granted is exempt. A deduction from the Minnesota portion of the unit value shall be made at original cost, less the applicable rate of depreciation used in the valuation process pursuant to 13MCAR §1.0003 ~~TaxAdVal 3~~. The value of personal property, such as office machinery and vehicles, which is not taxed, shall also be excluded from the Minnesota portion of the unit value. The deduction shall be at original cost less the applicable rate of depreciation utilized in the valution process.

E. The utility company shall have the burden of proof to establish that the value of any property should be excluded from the Minnesota portion of the unit value. Accordingly, the utility company shall have the responsibility to submit in the form required by the Commissioner of Revenue, such schedules of exempt or non-formula assessed property as he may require.

13MCAR §1.0006 ~~TaxAdVal 6~~ Apportionment.

A. After the unit valuation of the utility company has been allocated to the State of Minnesota and has been adjusted pursuant to 13MCAR §1.0005 ~~TaxAdVal 5~~, the determined amount shall be apportioned or distributed to the taxing districts in Minnesota in which the company operates. This apportionment will be made by the Commissioner of Revenue on the basis of information submitted by the utility companies in annual reports filed with the Commissioner.

B. The following information must be submitted for each taxing district:

1. The market value of the company's operating property by classification, as reflected in the last assessment, including the cost of leased taxable property.

2. ~~The original cost of any new additions since the last assessment, including work in progress on the assessment date.~~

The original cost of the company's operating property by classification, including the cost of leased taxable property.

~~2~~ 3. The original cost of any new additions since the last assessment, including work in progress on the assessment date.

~~3~~ 4. The market value of any retirements made after the last assessment, as reflected in that assessment.

5. The original cost of any retirements made after the last assessment.

C. ~~The last market value of each company's operating utility property in each taxing district, plus original cost of new construction, reduced by the last market value of property retired since the last assessment shall be divided by its total market value in Minnesota.~~ The total market value of each company's operating utility property in Minnesota shall be divided by the larger of:

1. The last market value of each company's operating utility property in each taxing district, plus original cost of new construction, reduced by the last market value of property retired since the last assessment.

2. The original cost x 75 percent of each company's operating utility property in each taxing district plus original cost of new construction reduced by the original cost of property retired since the last assessment.

D. For this purpose, the last market value and the last assessment shall mean the latest assessment immediately prior to the current assessment. The portion of unit value to be assigned to each taxing district will be the resulting percentage multiplied by the Minnesota portion of the unit value, as adjusted pursuant to 13MCAR §1.0006 ~~TaxAdVal 5~~.

E. If the market value of any parcel of property assessed pursuant to this chapter is increased, the increase entered on the assessment books shall be subject to the limitation provided in Minn. Stat. §273.11, Subd. 2. The amount of decrease in market value of such property, exclusive of property retired or destroyed since the last assessment, shall not exceed ten percent of the value in the preceding assessment.

13MCAR §1.0007 ~~TaxAdVal 7~~ Comprehensive example. An illustration of the methods and procedures described in 13MCAR §§1.0003 - 1.0006 ~~TaxAdVal 3~~, 4, ~~5~~ and ~~6~~ is as follows:

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT REVENUE

Office Memorandum

TO : Lee Sheehy
Special Assistant Attorney General

DATE: 9/28/79

FROM : Dorothy A. McClung
Research Attorney

PHONE: 6-1022

SUBJECT: Utility Valuation Rules

The entire file of the hearing on the rules governing valuation of utility property for ad valorem tax purposes is attached for your review. Included is the Chief Hearing Examiner's findings and a copy of the Notice sent to all persons who wanted to be notified when the file is submitted to the Attorney General. The notices were sent September 28 by first class mail.

DAM:lmm

Attachment

RECEIVED
SEP 28 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Governing the Ad Valorem (Property) Taxes Imposed on Utility Companies. (13 MCAR Secs. 1.0001-1.0007)

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing in Saint Paul on June 6, 1979, before Steve M. Mihalchick, Hearing Examiner. In this proceeding, the Department of Revenue has proposed amendments to existing Minn. Rules TaxAdVal 1-7 (13 MCAR Secs. 1.0001-1.0007).

The following persons appeared for the Department of Revenue: Lyle H. Ask, Director of Property Equalization; Dorothy McClung, Research Attorney; Gerald D. Garski, Manager, State Assessed Properties; and John C. Meyers, Utility Examiner. Thirty-five of the persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Department shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. The Department will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon the record herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On April 17, 1979, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On April 30, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1984.

3. On April 27, 1979, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On April 27, 1979, the Department filed the Statement of Need and Reasonableness. Contained in that Statement was a citation to 3 State Register 1063 (November 20, 1978) where a Notice of Intent to Solicit Outside Information or Opinions relative to these proposed rules was published. No written responses were received in response to that notice. The Statement also refers to seven open forum-type discussion meetings held by the Department, mostly in late 1978 and early 1979, at which the subject matter of the proposed rules was discussed. Lists of persons attending those meetings, agendas, meeting notes and correspondence received relative to those meetings were also filed on April 27, 1979.

5. On May 9, 1979, the Department filed a copy of 13 MCAR Sec. 1.0007. This "rule" is a comprehensive example illustrating the methods and procedures described in Sections 1.0003 through 1.0006. The example, amended to show the effect of the proposed changes, was not published in the State Register because personnel there thought that "all those numbers were too hard to print". Prior to publication of the Notice and other rules in the State Register, the Department contacted the Examiner about the State Register's reluctance to print the example. The Examiner determined at that time and

continues to find at this point that the example is not a "rule" as that term is defined in Minn. Stat. Sec. 15.0411, subd. 3, because it is not a "statement of general applicability and future effect . . . made to implement or make specific the law enforced or administered by" the Department. It is, instead, an illustration of such "statements" made in Sections 1.0001 through 1.0006. Since it is not a rule as that term is defined in the Administrative Procedure Act, it is not necessary to comply with the requirements of the Act in order to modify it.

6. On May 21, 1979, the Department filed the following documents:

(a) The Notice of Hearing as mailed.
(b) The Affidavit of Receipt of the Secretary of State's list.
(c) The Secretary of State's Certificate and list.
(d) The names of Department personnel who will represent the Agency at the hearing.

7. On May 23, 1979, the Department filed the Affidavit of Mailing of the Notice to all persons on the Secretary of State's list.

8. The documents listed in the last two Findings were not filed 25 days prior to the hearing as required by the Rules of the Office of Hearing Examiners, 9 MCAR Sec. 2.105. However, no one requested to review any of those documents at any time. The Statement of Need and Reasonableness, the document having the most significance for prehearing information purposes, was filed well before 25 days prior to the hearing and was the only document that any member of the public requested to review or copy. Therefore, the Examiner finds the failure to comply with the requirements of 9 MCAR Sec. 2.105 to be nonprejudicial and harmless error.

9. The record remained open through June 20, 1979, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 10 working days following the hearing.

Relevant Statutes

10. Minn. Stat. Sec. 270.06 (14) provides:

> The commissioner of revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law;

11. Minn. Stat. Sec. 270.06 (1) provides:

> It shall be the duty of the commissioner of revenue and he shall have the power and authority . . . to have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;

12. Minn. Stat. Sec. 270.11, subd. 1 and subd. 6 give the Commissioner the authority to review, modify, revise, raise or lower the assessed valuation of any real or personal property of any individual co-partnership company, association or corporation.

13. Minn. Stat. Sec. 273.11, subd. 1 provides, in part:

> . . . all property shall be valued at its market value.

14. Minn. Stat. Sec. 273.12 provides, in part:

> It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to every element and factor affecting the market value thereof . . . .

The Existing Rules

15. The current rules have been in effect since 1975, having been once amended in 1976. The rules were adopted in response to Independent School District No. 99 v. Commissioner of Taxation, 297 Minn. 375, 211 N.W.2d 886 (1973) which held invalid the assessment formula that had been used to value operating utility property since 1962. That method, commonly known as the "Hatfield Formula", set market value at original cost less limited depreciation without consideration of any other factors or methods of appraisal. The court held that application of a formula making original costs less limited depreciation synonymous with market value was arbitrary and unreasonable because it ignored the statutory mandate of Minn. Stat. Sec. 273.12 to "consider and give due weight to every element and factor affecting market value".

16. The general method of valuation of utility property is described in Section 1.0001, Introduction, as follows:

Since the Commissioner of Revenue is by statute the assessor of some of the utility property in the State of Minnesota and has supervisory powers of all assessments of property, and may raise or lower values pursuant to Minn. Stat. Sec. 270.11, he will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts and the resulting valuation will be "allocated" or assigned to each state in which the utility company operates. Finally, by the process of apportionment, the portion allocated to Minnesota will be distributed to the various taxing districts within the state. All data used in the valuation, allocation, and apportionment process will be drawn from reports submitted to the Department of Revenue by the utility companies. These reports will include Minnesota Department of Revenue Annual Utility Reports (UTL Forms), Annual Reports to the Federal Power Commission and Annual Reports to the Interstate Commerce Commission. Periodic examinations of the supporting data for these reports will be made by the Department of Revenue.

The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in TaxAdVal 3 through 7 for 1975 and subsequent years, or until, in the opinion of the Commissioner of Revenue, different conditions justify a change.

As in all property valuations the Commissioner of Revenue reserves the right to exercise his judgment whenever the circumstances of a valuation estimate dictate the need for it.

17. The first step of the process is described in Section 1.0003, Valuation. There are, as the rule describes, three traditional approaches to valuation of property: Cost, Income and Market. The Market approach involves making comparisons to sales of similar property. Because there is no market of normal activity in relation to public utility property, Section 1.0003 B. declares that the Market approach will not be used as a method of valuation for utility property.

Section 1.0003 C. states that the major indicator to be considered will be a valuation arrived at under a Cost approach and, in particular, original cost less depreciation on plant and improvements plus construction work in progress. The exact weight of the cost indicator varies according to type of utility: electric companies - 85%, gas distribution companies - 75%, pipeline

companies - 75%. Depreciation is limited to amounts specified in the rule. An additional factor, "average cost per kilowatt of installed capacity", is also considered in determining original cost.

Section 1.0003 D. describes the method of determining the Income approach indicator of value. Under the current rule, it is determined by averaging the net operating earnings of the utility company for the most recent three years and dividing that average by a capitalization rate: electric companies - 7.75%, gas distribution companies - 8.00%, pipeline companies - 8.25%. The resulting income indicator is then weighted (15% for electric companies and 25% for gas distribution and pipeline companies) and added to the weighted cost indicator for the utility to determine the total unit value of the company.

18. Section 1.0004 describes the second step of the process, allocation. Under this rule, the total unit value of a utility company is divided among the states in which the utility operates. The major factor in this allocation is the ratio of the original cost of utility property located in Minnesota to the total original cost of the property in all states of operation. This factor is weighted as follows: electric companies - 90%, gas distribution companies - 75%, pipeline companies - 75%. The second factor is the ratio of gross revenues derived from Minnesota operations divided by gross revenue from all states. This factor is weighted as follows: electric companies - 10%, gas distribution companies - 25%, pipeline companies - 5%. In the case of pipeline companies, the remaining 20% of the total allocation is determined by a factor denoted "weighted pipeline miles".

19. The third step of the process is described in Section 1.0006, apportionment. Under the current rule, the unit valuation of the utility company allocated to Minnesota is apportioned to the taxing districts on the basis of the last market value of each company's operating utility property in each taxing district with certain adjustments for new construction and retired property.

Proposed Amendments

20. A few cosmetic changes are made to the rules. The numbering of sections and paragraphs is changed to the Minnesota Code of Agency Rules

(MCAR) system, references to the Federal Power Commission are changed to the Federal Energy Regulatory Commission or United States Department of Energy as appropriate and references to the year 1975 are changed to 1979, to reflect the latest amendment of the rules. No specific justification was presented for these cosmetic changes, but none is necessary since they are necessary and reasonable on their face.

21. The Department's first substantive change is to increase the limit on the depreciation allowance for electric utilities from 17 to 18%. According to the Statement of Need and Reasonableness, the aggregate book depreciation of the four major electric utilities operating within Minnesota is currently at 22% of the original cost of plant in service. Even though the Department proposes to increase the depreciation limit, some utilities requested that it be larger; Otter Tail Power suggested that the limit should be set at 25%. Its depreciation as of December 31, 1978, on plant in service less nondepreciable land was 24.91%. Minnesota Power and Light also considered 25% to be a more reasonable limit and pointed to the fact that Section 1.0003 F. provides that limit on depreciation of utility property owned by cooperative associations.

According to the Statement of Need and Reasonableness, limiting depreciation to 18% is the Agency's method of calculating replacement costs for the utilities' property and acts as a hedge against inflation. It goes on to state:

> Our holding of the depreciation at a specified maximum attempts to recognize both the wearing out and obsolescence of the facilities together with the fact that to replace or reproduce the facility would produce more value. The Agency believes that the proposed 18% maximum depreciation allowance is a reasonable and viable method of accomplishing both these objectives.

In its post-hearing comments (Ex. N), the Department reiterated statements made at the hearing. It pointed out that the valuation process must be viewed as a whole and that it is unrealistic to quote depreciation rates allowed in one state without also discussing their capitalization rate, weighting factors, etc. Thus, while Otter Tail Power noted that North Dakota uses a depreciation limit of 25%, the Department pointed out that under its cost approach, North

Dakota uses a capitalization rate of only 6.5%, significantly lower than Minnesota's.

The Department's justification for its change is somewhat limited, but given that the current rule limits depreciation to 17% and given that electric utilities are typically above that limit in their book depreciation, some increase in justified and 18% is reasonable.

22. Otter Tail Power also requested that depreciation be allowed on construction work in progress. Such a change is beyond the scope of the amendments proposed by the Department at this hearing and would be a substantial change. An agency cannot be required to adopt rules it does not propose. It should be noted that the Department did state its reasons for not making such a change in its post-hearing comments.

23. The second substantive change proposed by the Department also occurs in Section 1.0003 C. Cost Approach, and increases the term of years for computing the average cost per kilowatt of installed capacity for steam plants and gas turbine plants from six to ten years. According to the Statement of Need and Reasonableness, this device is a method of determining replacement cost, another cost indicator. The Department has proposed the amendment to promote stability in the assessment of major generating plants. Testimony at the hearing indicates that average cost per kilowatt of installed capacity is increasing greatly for new plants. Extending the study period increases the number of plants in the study and de-emphasizes the radical increase in cost.

Understandably, the utility companies requested that this factor be eliminated completely from the formula because it increases original cost for valuation purposes beyond costs actually incurred. In its post-hearing comments, the Department stated:

> The agency would reiterate its original testimony as filed in its statement of need and reasonableness. We would stress that the fact that the average cost factor is nothing more than a way of computing replacement cost, or in other words, measuring the effect inflation has had on value. Any arguments that inflation should not be considered in computing a market value in today's economy is both unrealistic and unreasonable.

For the reasons stated by the Department, the change is necessary and reasonable.

24. The Department's third proposed change is in Section 1.0003 D. concerning the cost indicator. Instead of averaging the net operating earnings for the most recent three years, the Department proposes to weight them as follows: most recent year - 40%, previous year - 35%, final year - 25%. The proposal is necessary and reasonable for the reasons given in the Statement of Need and Reasonableness:

> The agency believes that this change is both logical and reasonable. As stated previously, all property in Minnesota is to be valued at "market value". Market value is defined as the price that a willing, able and well-informed purchaser would pay a willing and well-informed seller, with neither party acting under undue pressure, and a reasonable time being allowed to find such a purchaser. Certainly such a well-informed purchaser would be more interested in the most recent performance of the company; hence when arriving at the price he would pay for the company he would place more importance (weight) on the current year's earnings rather than those three years old. This is exactly what the agency has done in its revision; however, we have not altered the rating so drastically as to allow for large fluctuation in value which could upset the fiscal balance of both taxing districts and the utilities.

25. The Department's fourth proposed change is also to the income indicator and increases the capitalization rate .25% for each class of utility. The proposed rates would be 8% for electric companies, 8.25% for gas companies and 8.5% for pipeline companies.

The Department uses the band of investment method to determine the capitalization rate. This method is described in the Statement of Need and Reasonableness as follows:

> The computation of the capitalization rate using the band of investment method is done on the basis of an average utility within an industry, that is all companies within one industry (i.e. electric, gas distribution, pipeline) share the same rate. This is done as a matter of convenience due to the agency's lack of time and personnel. It is common practice for utility appraisers all across the country to apply a single capitalization rate to companies within the same industry.
>
> The information used in the computation of the cap rate is taken from the latest edition of Moody's Public Utility Manual and includes the following techniques:

1. A determination of what percent of the capital structure of the average utility is made up of long term debt, preferred stock and common equity.

2. A determination of the average interest rate for contracted indebtedness, commonly referred to as the embedded cost of debt. This average interest rate will make up the debt portion of the capitalization rate.

3. A determination of the average dividend rate of the preferred stock outstanding. This dividend rate will make up the preferred stock portion of the capitalization rate.

4. A determination of the rate of return for common equity; which will make up the equity portion of the cap rate.

5. The application of the rates developed to the various bands of investment to develop the capitalization rate for the average utility.

6. The final step is to assign a risk factor to each type of utility to establish a cap rate for that particular industry.

Attached to this document is an example of the application of these techniques. You will note that the average utility cap rate as computed is 8.25%. We have adjusted this rate to allow for risk as follows:

1. Electric utilities - adjusted to 8.00% because they have lower than average interest rates and better than average earnings stability.

2. Gas distribution utilities - no adjustment made. This group represents the average utility.

3. Pipeline companies - adjusted to 8.50% because they are more risky than the average utility. Pipelines usually pay a slightly higher rate of interest, and because they do not have a monopoly, as do electric and gas companies, their earnings are less stable.

The agency believes that the amending of the present rules to incorporate these revisions to the current capitalization rates is both reasonable and logical. The major factor causing the proposed changes in the capitalization rates being proposed, over those current in use, is the increase in the interest rates. These rates have risen steadily over the past few years.

In the agency's judgment the rates as now proposed accurately reflect the proper capitalization rate to be applied to the proposed weighted income stream. The combination of these two elements into the income indicator of value will produce an acceptable estimate of the worth of a utility.

In making its computations, the Department used ten-year averages to determine average capital structure, average dividend rate of preferred stock outstanding and average rate of return for common equity. It used a 15-year study to determine the embedded cost of debt. The results of these computations are shown in the first column of the following table. Northern Natural Gas Company and Minnesota Power and Light Company both argued that the 10 and 15 year studies were too long and that, like using the last three years to determine the income to be capitalized, the capitalization rate should be based on the last three years data. Northern Natural Gas goes further and suggests that the three years should be weighted with the most recent year receiving the most weight. These utilities argue that the capitalization rate should more nearly reflect current interest and yield rates. Both of the utilities suggest that the capitalization should be something over 10%. The second column on the following table shows the computation of the average utility capitalization rate using the three most recent years data and giving them equal weight.

	10 & 15 Year Averages	3 Year Averages
1) Average Utility Debt Cost	7.08 %	8.91 %
2) Average Debt % of Capitalization	56. %	54. %
3) Weighted Debt Cap. Rate Factor	3.96 %	4.81 %
4) Average Utility Preferred Stock Yield	8.41 %	9.39 %
5) Average Preferred Stock % of Capitalization	9. %	9. %
6) Weighted Preferred Stock Cap. Rate Factor	.76 %	.85 %
7) Average Utility Equity Return	10.16 %	11.22 %
8) Average Equity % of Capitalization	35. %	37. %
9) Weighted Equity Capitalization Rate Factor	3.55 %	4.15 %
Average Utility Cap Rate	8.27 %	9.81 %
In the Appraisal Field it is Customary to Round Cap Rates; Therefore, Say	8.25 %	9.75 %

The Department's proposal to increase the capitalization rate of the average utility from 8.00 to 8.25% is an increase of just over 3% which, if all other factors remain constant, would have the effect of reducing the income indicator of market value by the same percentage. If the average capitalization rate were increased to 9.75%, as indicated by using three year averages, or to approximately 10.25% as requested by the two utilities, market value as indicated by the income approach would be reduced by approximately 22% or 28%, respectively. Such changes are far too drastic. The Examiner finds that the Department's capitalization rate is reasonable because it is being increased to reflect the current trends in the cost of capitalization without being too drastic.

26. The fifth and last change proposed by the Department is to Section 1.0006, Apportionment. The Agency proposes to change the basis of apportionment from last market value to the original cost of the property times 75% or the last market value, whichever is greater. Corresponding reporting requirements necessary to provide the data to implement this change are also added to the rule. The Department has proposed this change to correct a flaw in the current formula which is creating what it perceives to be an inequity. As explained in the Statement of Need and Reasonableness, when the rules were first adopted in 1975, apportionment was based on last market value within the taxing district for reasons of stability. The method accomplished its purpose: no county varied by more than 10% in comparable property from 1974 to 1975.

The Statement of Need and Reasonableness describes the inequity perceived by the Department and its approach to minimizing it as follows:

> Basically, it stems from the fact that the older properties, those built prior to 1975, have a market value which is based on depreciated original cost. The method which was employed to value utility property prior to 1975 specified that original cost of each utility's property within a taxing district was to be depreciated 2½% per year for ten years. This produced a maximum of 25% depreciation and a residual value of 75% of original cost. A property having an original cost of $1,000,000 in 1965 would have a market value of $750,000 in 1974. The distribution of the unit value in 1975 would be based on this $750,000 figure not the $1,000,000. The newer properties, those built after 1975, do not have this depreciation factor; therefore, their basis for distribution is larger. A property built

in 1977 for $2,000,000 would have as its basis for distribution the total original cost of $2,000,000; no depreciation reduces this cost.

Another factor which further compounds this problem is that of inflation. A utility may have two identical properties; for example electrical substations; both having the same capacity, both having the same function. If these two substations are built ten years apart; one in 1965, one in 1975; not only will the depreciation factor come into play but inflation will have pushed the cost of the substation built in 1977 to perhaps twice that of the earlier one. Thus, the new property receives an even greater share of the unit value.

In order to attempt to remedy this situation the agency has proposed to bring the older properties back to 75% of their original cost. This narrows the gap between the old and new properties yet it protects the taxing districts by minimizing any drastic shifts in value. The agency believes this change to be a reasonable and equitable method of correcting a problem which experience has brought to our attention.

The overall affect of this change is to shift some of the total valuation of a utility company from taxing districts in which that company has power plants built since 1975 to taxing districts in which that company has older power plants. Because the new power plants have been sited outside of the Twin Cities Metropolitan area, this generally means a decrease in the tax base of certain rural communities (e.g., Monticello, Becker, Red Wing) and an increase in a tax base of the Metropolitan taxing districts (e.g., Ramsey and Hennepin County). The following portion of the Department's post-hearing comments generally summarizes the testimony and comments made by the non-Metropolitan communities relative to this proposed change:

The major thrust of their arguments seemed to be that the proposed change was unreasonable because their taxing districts would lose some of their utility values. While this is true, some of the utility value would leave cities like Monticello and Becker, that fact in itself does not make the change unfair.

The Department firmly believes that the change will help correct an inequity which presently exists in our current apportionment formula. We request the hearing officer to pay particular attention to the numerical example attached to our statement of need entitled Apportionment Example. This document, together with the testimony of Gordon Moe,

Minneapolis City Assessor shows how the current apportionment formula operates, and how the inequity in apportionment exists. To fail to recognize the flaw in the current apportionment and take measures to correct it can only lead to the perpetuation and compounding of the error.

Some of the taxing districts stated that to shift values to higher mill rate areas, notably Hennepin and Ramsey counties, would only serve to increase the utilities taxes and ultimately the cost of energy to consumers which would be an unfortunate occurrence for the people of the state. To follow this argument to its logical conclusion, these same taxing districts should be proposing that we do not tax utilities at all, this would then lower energy costs and be a boon for the people of Minnesota. They are not proposing this.

It has been suggested in testimony at the public hearing that the proposed change in apportionment is part of a scheme encouraged by metropolitan area officials to institute a form of gross earnings tax. This is not the case. The gross earnings form of taxation is a use oriented tax in that the tax dollars would flow to the area where the revenue is earned. Clearly, cities like Minneapolis and St. Paul would profit substantially at the expense of a town like Becker if this method were adopted.

This idea of interjecting a use factor such as sales, kilowatts, or population has been suggested by some taxing districts, and in fact has been testified to as preferable to our present proposal by Gordon Moe, Minneapolis City Assessor. The agency has rejected these suggestions. Our proposal does not incorporate any such use factor. It is based on the original cost of the utility facility on a situs basis. No taxing district has any of its utility value unfairly exported to another district.

Mr. Weinberger, attorney for the City of Becker, seemed to believe that he passage of the Power Plant Siting Act (M.S. 116C) gave the Minnesota Environmental Quality Board the power to establish the tax base of a power plant host community. The agency does not take this position. We cannot find any reference to this authority being granted to the Environmental Quality Board within MS 116C. We believe that the statute gives the Board the power to specify where and how a power plant is to be built; however, the Department of Revenue, under the statutory authorities quoted in its Statement of Need and Reasonableness, has jurisdiction over the valuation of such power plants.

The agency realizes that a loss of tax to a taxing district can cause a very difficult situation. Witness our numerous

references to stability which run throughout our testimony. However, inequities cannot be tolerated for the sake of stability. If, for example, the Monticello nuclear plant were to be shut down, as some groups advocate, its loss would be a great blow to the tax base and fiscal policy of not only Monticello but the whole of Wright County. Yet the agency could not in fairness retain the current standard of utility values for the area just to promote stable mill rates.

Our present proposal does not create artificial distribution of utility values but merely helps to correct a flaw in the current formula. A close examination of the numerical evidence presented will confirm this point.

The Minneapolis City Assessor, like other representatives of Metropolitan area taxing districts, considered the Department's proposals to be an improvement over the current rules, but would prefer a modification to the rules ". . . that would come closer to accomplishing a return of value to the taxing district on essentially the same basis as is used in contributing value to the system as a whole." (Ex. 16) Mr. Moe notes that apportionment is still made on the basis of depreciated original cost and he suggests that adjustments should be made for average cost per kilowatt (which under current economic conditions adds value to older plants) and for the income contribution to value. Because utility companies in Minnesota do not maintain records of income according to the location of their property, Mr. Moe suggests that each utility's income be apportioned according to sales. In Exhibit 16, he provides an example of how his formula would apply to Northern States Power. In summary, he states:

> The existing formula had resulted in an apportioned value for January 2, 1978 of $124,716,352 for Minneapolis. The suggested formula that we have illustrated would have given Minneapolis approximately $147,135,000 of Market Value. We maintain that this value would be on the same basis that Minneapolis is contributing to NSP's System Value and would likewise do the same for all other taxing districts. The utility companies might have to do some further accounting to give the gross revenues by taxing districts. There are other factors which could also be used to reflect the net income contribution such as population or number of customers (weighting commercial accounts higher than residential).

27. On June 20, 1979, the last day of the comment period, the Minnesota Environmental Quality Board and the Minnesota Energy Agency filed comments

expressing their "great concern" that the proposed rules appeared to decrease the property tax benefits to local jurisdictions from new electric generating facilities. Each expressed concern about the affect of the proposed amendments upon the EQB's ability to site electric utility facilities. That same concern was expressed to some extent at the hearing and in much more detail in the post-hearing comments of the Becker School District (Ex. 21). From a legal standpoint, the Examiner can find no basis to support the argument that the Power Plant Siting Act restricts the Commissioner of Revenue's authority or judgment as an assessor. The Commissioner of Revenue is not included as a member of the EQB, and while there is reference in the Power Plant Siting Act to considering economic impact of proposed sites, there is no specific reference to taxes. Most importantly and very basically, it is difficult to imagine how the Power Plant Siting Act can be considered an element or factor affecting the market value of utility property, which is the basis upon which all valuations must be made.

The Becker School District further suggests that:

> By the proposed rule changes, the Department of Revenue approaches the power plant siting issue laterally, breaking the tacit agreement which the siting of Sherco 1 and 2 at Becker represents, and thus putting the Environmental Quality Board, the utilities, and state agencies generally in a position of being unable to offer assurances to a host community that the financial advantages of power plant siting can be relied upon over a reasonable period of time.

Host communities could not reasonably rely on any statement by any public official that the valuation of any proposed generating plant in their taxing district would be maintained at a certain dollar amount because no official could legally make such a statement. No person can guarantee what market value will be in the future. The host communities can reasonably expect that new large generating facilities will add greatly to their tax base, but they should reasonably expect that there will be some changes in the amount of that valuation as time goes by. The proposed amendments do not alter that.

The Becker School District also suggests that the proposed amendments create a de facto fiscal disparity system without legislative authority. In fact, however, the proposed amendments merely seek to make the valuation for assessment purposes a more accurate reflection of the market value of the property located within each taxing district.

28. The Department's presentation demonstrates that its proposed amendment is necessary and reasonable. From a tax assessment point of view, the change will mean that the share of the total property value of a utility apportioned to the taxing district in which the company has property will more closely approximate the market value of that property. At the same time, the adjustment will not be so radical as to disrupt the fiscal balance of the taxing districts or the utilities.

29. The Minnesota Gas Company expressed concern that it would not be able to prepare the information required by the amendments in a timely manner and requested that the proposed change be made optional for 1979 and mandatory thereafter. Minnegasco also offered some language changes which it thought might help clarify some of the rules. In its post-hearing comments, the Department expressed a willingness to offer a short term variance to Minnegasco under the authority of Section 1.0001, should that be necessary, and also stated that it thought the original language of the amendments carried out the intentions expressed in Minnegasco's suggested modifications. The Examiner agrees the proposed amendments are reasonably clear as written.

CONCLUSIONS

1. Due, timely and adequate notice of the hearing was properly served and published by the Department. All other substantive and procedural requirements of statute or rule have been fulfilled.

2. The Department has demonstrated its statutory authority to adopt the proposed amendments.

3. The Department has demonstrated the need for and reasonableness of the proposed amendments by an affirmative presentation of facts.

4. While no legal impediment appears to exist to the adoption of the proposed amendments, the Commissioner of Revenue should consider the social and political effects of the proposed amendments, especially apportionment. In all likelihood, the proposed amendments would have little effect on future power plant sitings except to make persons involved in the process aware of the fact that property taxes are not a fixed or guaranteed thing and that minor changes in valuation should be expected. Siting of power plants obviously involves many social and economic considerations and taxes have been used to implement or foster certain social programs. However, it would seem

that if the property tax structure is to be used to assist in siting of power plants by giving extra rewards to host communities, such a policy should be explicitly adopted by the Legislature and not by freezing these rules in a formula that produces inequities from a property appraisal point of view. On the other hand, perhaps some consideration should be given to those host communities in which power plants have very recently been sited and the Commissioner could delay implementation of some or all of the amendments until the Legislature has had a chance to act.

R E C O M M E N D A T I O N

The Hearing Examiner recommends that the proposed amendments be adopted as proposed.

Dated: July //, 1979.

STEVE M. MIHALCHICK
Hearing Examiner

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APR 27 1979
OFFICE OF HEARING EXAMINERS

State of Minnesota
Department of Revenue

In the Matter of the Proposed Rules of the Department of Revenue Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

Statement of Need and Reasonableness

The above-captioned rules are being proposed in order to update and revise the current Rules and Regulations of the Department of Revenue Relating to Ad Valorem (Property) Taxes. The current rules have been in effect since 1975. They have been revised once in 1976; however, it is the announced intention of the Department of Revenue to revise the rules whenever conditions, economic or otherwise, dictate a need for revision. This intention is clearly expressed in 13MCAR § 1.0001, Introduction, of the current rules, "The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in 13MCAR §§ 1.0003 - 1.0007 for 1975 and subsequent years, or until, in the opinion of the Commissioner of Revenue, different conditions justify a change." (emphasis supplied) It is now the opinion of the Commissioner of Revenue that the rules should be revised.

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for, and reasonableness of the proposed new rules. It is submitted pursuant to 9MCAR § 2.104 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Information or Opinions in the preparation of these proposed rules was published in the State Register on Nov. 20, 1978, Volume 3, #20, page 1063. Open forum type discussion meetings were held on December 15, 1977, November 30, 1978, December 5, 1978, December 21, 1978, January 16, 1979, February 13, 1979 and March 15, 1979. These meetings were attended by members of the Department of Revenue together with city and county assessors and representatives of the various utility companies. Lists of those in attendance, agendas, meeting notes and correspondence received relative to these meetings will be submitted by the Department as an attachment to this document. Various suggestions and comments made at these meetings were received and duly considered.

Authority to Adopt Rules

Minn. Stat. § 270.06(14) state that the ..."Commissioner of Revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law"... Clearly, the above captioned rules are encompassed within this authority.

Further, Minn. Stat. § 270.11, Subd. 1 and 6 give the Commissioner of Revenue the authority to review, modify, revise, raise or lower the assessed valuation of any real or personal property of any individual,

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copartnership, company, association or corporation. The Commissioner of Revenue is also charged with the responsibility under Minn. Stat. §§ 273.33, Subd. 2; 273.37, Subd. 2;and 273.38 of assessing the... "personal property, consisting of the pipeline system of mains, pipes and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline or other petroleum products by pipe lines... all transmission and distribution lines, (of electric companies) and equipment attached thereto, having a fixed situs outside the corporate limits of cities... the distribution lines, and the attachments and appurtenances thereto, (of electric companies) used primarily for supplying electricity to farmers at retail...".

Adoption of Proposed Rules
Need and Reasonableness

13MCAR § 1.0003 Valuation, Cost Approach. This section has been revised in two areas. The first change increases the amount of depreciation allowed to electric companies from book depreciation or 17% whichever is less, to book depreciation or 18% whichever is less. The second change increases the study period to be used in computing the "average cost per kilowatt of installed capacity" factor for steam and gas turbine electric generating plants from six years to ten years. The need for, and reasonableness of these revisions is explalined below.

There are several types of cost which are used in the appraisal of utilities:

1. Original Cost - Original cost is the actual acquisition cost of a property when it was first acquired or constructed.
2. Book Cost - Book cost is the original cost of a property less accrued depreciation.
3. Reproduction Cost - Reproduction cost is the present dollar cost to reproduce a replica of the existing property. In other words, what the property would cost today. Reproduction cost is obtained by trending known costs up or down, depending on whether current construction costs are greater or less than when the property was first constructed.
4. Replacement Cost - Replacement cost is the present dollar cost to replace a property with one having similar or equal usefulness.

The estimating of value by use of the cost approach requires the use of the proper type of cost, and then computing the loss in value due to depreciation.

Depreciation is made up of three factors:

1. Physical deterioration which is the loss in value from original cost caused by normal use and wearing out of the property.
2. Functional obsolescence which is a loss in value because of functional deficiencies or inadequacies within the property itself. Normally, functional obsolescence would result from technological changes which result in better more efficient techniques.
3. Economic obsolescence which is a loss in value caused by factors outside the property itself.

In the case of electric utilities the various elements of depreciation are considered by the Federal Energy Regulatory Commission which then specifies what rates of depreciation are to be used by the various utilities for different classes of assets.

The four major electric utilities operating within Minnesota are currently at the following depreciation level:

Original Cost of Plant in Service		$3,196,935,538
Accrued Depreciation		691,986,454
Book Cost of Plant in Service		2,504,949,084
Ratio of Depr. to Original Cost	(Approx.)	22%

The rules propose to allow the companies a maximum of 18% depreciation. The difference between 22% and 18% is the agency's method of calculating replacement cost for the utility's property and acts as a hedge against inflation.

Minn. Stat. § 273.11, Subd. 1 requires that ..."all property shall be valued at its market value." With most types of property the concept of market value equates to replacement cost. The owner of a 20 year old three bedroom, 1000 square foot rambler does not have his property valued by the local assessor at the original cost of $15,000; neither does the assessor use book cost. The assessor would use some form of either reproduction or replacement cost. When the house was built in 1959 construction costs must have been approximately $15 per square foot; hence, the selling price, (market value, original cost) of $15,000. Today, inflation has pushed these same construction costs to $50 per square foot, so the market value or replacement cost of the property is $50,000.

The agency recognizes that a multimillion dollar utility does not sell in the same way a three bedroom rambler might. It also recognizes that in most instances the utility is limited in its earnings by its rate base; (rate base is normally original cost less depreciation). However, it is readily apparent that because of inflation the cost of replacing the facilities at today's prices would cost more than the original cost at the time of installation. Our holding of the depreciation at a specified maximum attempts to recognize both the wearing out and obsolescence of the facilities together with the fact that to replace or reproduce the facility would produce more value. The agency believes that the proposed 18% maximum depreciation allowance is a reasonable and viable method of accomplishing both these objectives.

The second charge in 13MCAR § 1.0003 also concerns adjusting electric utility property to take into account the effect of inflation on property values. The first change concerned a general type of adjustment to all property owned by an electric utility, the second proposal is aimed at a specific type of the utility's assets, the major generating plants.

The "Average cost per Kilowatt of Installed Capacity" is a method of replacement cost which computes the national average cost, over a specified term of years, of building a major generating plant. This average is then applied to all major plants operated by a utility. If the national

average is higher than the original cost of the plant the original cost is increased to that of the average; if the average is lower no adjustment is made.

The reason this average is computed and used again can best be explained by using the homeowner as a comparison. The appraiser can best estimate the value of the three bedroom rambler by using two methods; comparable sales, or cost per square foot of construction. It is apparent that major utility generating plants do not sell frequently on the open market, so this avenue of appraisal is not generally available to us. Major generating plants are also not built on a square foot basis, but rather on a capacity basis; they are measured and classed as to how many kilowatts they can produce operating at maximum capacity. Therefore, instead of using the square foot construction costs of generating plants to estimate current worth, as we would in the case of a house, we utilize cost per kilowatt.

We feel that this is a fair and workable technique of calculating an accurate measure of replacement cost for a number of reasons.

1. It follows accepted appraisal techniques of comparing construction costs for like properties.
2. It makes no adjustment on smaller standby type units which are often kept in working condition by a utility for emergency use only.
3. By using the national average the utility in Minnesota receives the benefit of warm weather building methods which are usually less costly.
4. The method gives the utility the advantage of the most advanced technology used in building power plants, and refutes the argument "We wouldn't build a plant like that today."
5. It typically produces an additional value only for older plants and does not produce an across the board increase for the newer plants.

The proposed revision would lengthen the study period for computing the national average from six to ten years for both steam and gas turbine plants. The agency believes that this revision is both necessary and reasonable because it provides a broader study base; and eliminates drastic yearly fluctuations which are inherent in a small sample base.

Attached to this document is a schedule showing the calculation of the ten year national average cost per kilowatt for steam plants for the assessment year 1979. Note that a ten year study encompasses 119 steam plants while a comparable six year study would look at only 77 plants or 35% fewer samples. A ten year study of gas turbine plant construction costs would survey 273 plants; a six year study only 123 or 55% few samples.

The agency recommends this revision very strongly because it will promote stability in the assessment of major generating plants. Most of these plants have a dynamic effect on the fiscal policies of local taxing districts and values must be kept stable to protect the taxing districts.

The two revisions in 13MCAR § 1.0003 D. both concern the income approach to valuation.

This approach utilizes the capitalization of income in a mathematical process in an attempt to derive a value which represents the present worth of the future earnings of the property. The capitalization process has two major factors: 1) the income to be capitalized and 2) the capitalization rate. We propose to change both of these factors.

We currently use three years of net utility operating income as the income to be capitalized. This is the income after expenses, depreciation and taxes, but before interest expense. This level of income is usually referred to as the income developed by the regulatory agency. It excludes all income from operations and investments that are not directly related to the operation of the company. This particular income stream is preferred by most utility appraisers and has the most acceptance throughout the country.

The agency uses three years of these net utility operating earnings in order to level out the peaks and valleys inherent in income determination. This leveling out provides for a relatively stable value, rather than a value which would vary widely from year to year. At present the three years are simply averaged mathematically; each year having the same weight as the other. In effect this provides a weight of 33 1/3% for each year. The proposed revision would change this weighting to 40% for the first year's income, 35% for the second and 25% for the third.

The agency believes that this change is both logical and reasonable. As stated previously all property in Minnesota is to be valued at "market value". Market value is defined as the price that a willing, able and well-informed purchaser would pay a willing and well-informed seller, with neither party acting under undue pressure, and a reasonable time being allowed to find such a purchaser. Certainly such a well-informed purchaser would be more interested in the most recent performance of the company; hence when arriving at the price he would pay for the company he would place more importance (weight) on the current year's earnings rather than those three years old. This is exactly what the agency has done in its revision; however, we have not altered the weighting so drastically as to allow for large fluctuation in value which could upset the fiscal balance of both taxing districts and utilities.

To this weighted income a capitalization rate is applied. The capitalization rate is an anticipated rate of return from an investment; a rate at which income is processed (capitalized) to indicate the probable capital value. Usually this rate is commensurate with the risk of the business venture.

In developing a capitalization rate three basic methods are available. They are:

1. The Summation Method - which uses the "safe rate" (usually that of government bonds) and adds to it an allowance for management, non-liquidity, and risk. This method is usually considered to be the least reliable and is not in common use by appraisers of utility property.

2. The Comparative Method - which computes a capitalization rate by measuring the actions of purchasers in the market place. However, since utilities very seldom sell as a unit there are few market transactions from which a rate can be developed. For this reason this method is rarely used in the field of utility valuation.
3. The Band of Investment Method - which is the combination of the rate applicable to the portion of the capital structure represented by debt with the rate applicable to the portion of the capital structure represented by equity. The rate developed is a weighted average, the weighting being for percentages of the mortgage and equity position or bonds of investment. This method, which is currently used by the agency, is the most generally accepted method of developing a capitalization rate for use in the appraisal of utilities.

The computation of the capitalization rate using the band of investment method is done on the basis of an average utility within an industry, that is all companies within one industry (i.e. electric, gas distribution, pipeline) share the same rate. This is done as a matter of convenience due to the agency's lack of time and personnel. It is common practice for utility appraisers all across the country to apply a single capitalization rate to companies within the same industry.

The information used in the computation of the cap rate is taken from the latest edition of Moody's Public Utility Manual and includes the following techniques:

1. A determination of what percent of the capital structure of the average utility is made up of long term debt, preferred stock and common equity.
2. A determination of the average interest rate for contracted indebtedness, commonly referred to as the embedded cost of debt. This average interest rate will make up the debt portion of the capitalization rate.
3. A determination of the average dividend rate of the preferred stock outstanding. This dividend rate will make up the preferred stock portion of the capitalization rate.
4. A determination of the rate of return for common equity; which will make up the equity portion of the cap rate.
5. The application of the rates developed to the various bands of investment to develop the capitalization rate for the average utility.
6. The final step is to assign a risk factor to each type of utility to establish a cap rate for that particular industry.

Attached to this document is an example of the application of these techniques. You will note that the average utility cap rate as computed is 8.25%. We have adjusted this rate to allow for risk as follows:

1. Electric utilities - adjusted to 8.00% because they have lower than average interest rates and better than average earnings stability.
2. Gas distribution utilities - no adjustment made. This group represents the average utility.

3. Pipeline companies - adjusted to 8.50% because they are more risky than the average utility. Pipelines usually pay a slightly higher rate of interest, and because they do not have a monopoly, as do electric and gas companies, their earnings are less stable.

The agency believes that the amending of the present rules to incorporate these revisions to the current capitalization rates is both reasonable and logical. The major factor causing the proposed changes in the capitalization rates being proposed, over those currently in use, is the increase in the interest rates. These rates have risen steadily over the past few years.

In the agency's judgment the rates as now proposed accurately reflect the proper capitalization rate to be applied to the proposed weighted income stream. The combination of these two elements into the income indicator of value will produce an acceptable estimate of the worth of a utility.

The final change is found in 13MCAR § 1.0006, Apportionment. Apportionment is defined as the process of distributing that portion of the utility company's unit value which has been allocated to Minnesota to the various taxing districts within the state in which the utility company operates. It provides the basis for the levying of taxes by the local taxing districts on the utilities.

Our present regulations provide that this distribution of value be made on the basis of the last market of the utility property within a taxing district. We chose this method when the regulations were first adopted in 1975 for one major reason - stability. One of the agency's primary aims has always been to protect the taxing districts from major fluctuations in value. The use of the last market value basis accomplished this purpose in 1975; changes in value were small, no county varying by more than plus or minus 10% in comparable property from 1974 to 1975.

The agency now proposes to change the basis of distribution from the last market value, to the original cost of the property x 75% or the last market value - whichever is greater. We believe that this change is necessary due to the fact that the present system seems to be creating inequitites in the distribution of utility values.

Attached to this statement is an example of how this inequity is brought about. Basically, it stems from the fact that the older properties, those built prior to 1975, have a market value which is based on depreciated original cost. The method which was employed to value utility property prior to 1975 specified that original cost of each utility's property within a taxing district was to be depreciated 2 1/2% per year for ten years. This produced a maximum of 25% depreciation and a residual value of 75% of original cost. A property having an original cost of 1,000,000 in 1965 would have a market value of $750,000 in 1974. The distribution of the unit value in 1975 would be based on this $750,000 figure not the $1,000,000. The newer properties, those built after 1975, do not have this depreciation factor; therefore, their basis for distribution is larger. A property built in 1977 for $2,000,000 would have as its basis for distribution the total original cost of $2,000,000; no depreciation reduces this cost.

Another factor which further compounds this problem is that of inflation. A utility may have two identical properties; for example electrical substations; both having the same capacity, both having the same function. If these two substations are built ten years apart; one in 1965, one in 1975; not only will the depreciation factor come into play but inflation will have pushed the cost of the substation built in 1977 to perhaps twice that of the earlier one. Thus, the new property receives an even greater share of the unit value.

In order to attempt to remedy this situation the agency has proposed to bring the older properties back to 75% of their original cost. This narrows the gap between the old and new properties yet it protects the taxing districts by minimizing any drastic shifts in value. The agency believes this change to be a reasonable and equitable method of correcting a problem which experience has brought to our attention.

CAPITALIZATION OF AVERAGE UTILITY WORKSHEET

ALL INFORMATION FROM 1977 MOODY'S PUBLIC UTILITY MANUAL: SPECIAL FEATURES SECTION

10 YEAR STUDY - HOW THE AVERAGE UTILITY IS CAPITALIZED

	YEAR	% OF DEBT	% OF PREFERRED	% OF COMMON
ELECTRIC COMPANIES	1967	53.5	9.6	36.9
	1968	54.4	9.9	35.7
	1969	55.8	9.7	34.5
	1970	55.8	10.9	33.3
	1971	54.8	11.7	33.5
	1972	53.8	12.4	33.8
	1973	53.8	12.4	33.8
	1974	55.0	12.7	32.3
	1975	53.5	12.8	33.7
	1976	52.5	12.9	34.6
AVERAGE		54.29	11.5	34.21
TRANSMISSION COMPANIES	1968	63.6	8.5	27.9
	1969	65.7	7.3	27.0
	1970	63.2	7.4	29.4
	1971	62.1	6.5	31.4
	1972	60.4	6.5	33.0
	1973	60.2	6.3	33.4
	1974	59.6	5.8	34.6
	1975	58.3	5.3	36.4
	1976	55.5	5.5	39.1
	1977	51.9	4.9	43.2
AVERAGE		60.05	6.4	33.54
DISTRIBUTION COMPANIES	1968	54.6	7.9	37.5
	1969	55.1	10.1	34.7
	1970	55.9	9.4	34.7
	1971	53.6	9.9	36.6
	1972	54.0	9.1	36.9
	1973	53.8	8.5	37.6
	1974	56.0	8.3	35.8
	1975	54.9	8.8	36.4
	1976	53.0	9.4	37.6
	1977	51.0	9.9	39.1
AVERAGE		54.19	9.13	36.69
			9.37	
ROUNDED AVERAGE OF THREE INDUSTRY AVERAGES		56 %	9 %	35 %

PUBLIC UTILITY STOCK YIELD WORKSHEET

ALL INFORMATION FROM 1977 MOODY'S PUBLIC UTILITY MANUAL: SPECIAL FEATURES SECTION

10 YEAR STUDY
PREFERRED STOCK YIELD

YEAR	YIELD IN %
1968	6.44 %
1969	7.75
1970	9.01
1971	7.74
1972	7.53
1973	7.50
1974	9.95
1975	10.63
1976	9.12
1977	8.43
AVERAGE	8.41 %

10 YEAR STUDY
COMMON STOCK YIELD AND GROWTH IN EARNINGS

YEAR	AVERAGE MARKET PRICE	DIVIDENDS PER SHARE	DIVIDEND YIELD %	EARNINGS PER SHARE	5 YEAR MOVING AV. EARN. PER SHARE	% EARN. PER SHARE INCREASE	INDICATED RATE
1968	$98.37	$4.50	4.57 %	$6.67	$6.19	5.81 %	10.38 %
1969	94.55	4.61	4.88	6.92	6.50	5.01	9.89
1970	79.06	4.70	5.94	6.89	6.69	2.92	8.86
1971	84.16	4.77	5.67	7.14	6.86	2.54	8.21
1972	80.20	4.87	6.07	7.73	7.07	3.06	9.13
1973	71.21	5.01	7.04	7.55	7.25	2.54	9.58
1974	48.26	4.83	10.01	7.63	7.39	1.93	11.94
1975	51.25	4.97	9.70	7.77	7.56	2.30	12.00
1976	60.10	5.18	8.62	7.86	7.71	1.98	10.60
1977	67.55	5.54	8.20	8.83	7.93	2.85	11.05
AVERAGE	$73.47	$4.90	7.07 %	$7.50	$7.12	3.09 %	10.16 %

PUBLIC UTILITY

15 YEAR COST OF MONEY STUDY

YEAR	AVERAGE YIELD ALL UTILITY BONDS	AVERAGE YIELD NEWLY ISSUED UTILITY BONDS		AVERAGE YIELD NEW, GAS, LIGHT, POWER BONDS
1963	4.39 %	4.34 %		4.40 %
1964	4.56	4.59		4.55
1965	4.68	4.37		4.61
1966	5.61	4.97		5.53
1967	6.01	5.35		6.07
1968	6.72	6.41		6.80
1969	7.99	7.07		7.98
1970	8.85	8.76		8.79
1971	7.71	7.47		7.70
1972	7.46	7.16		7.50
1973	7.88	7.45		7.91
1974	9.21	8.36		9.59
1975	9.76	8.90		9.97
1976	8.80	9.06		8.92
1977	8.35	8.17	Est.	8.30
AVERAGE	7.19 %	6.82 %		7.24 %

AVERAGE OF 3 COST OF MONEY INDICATORS:

7.08 %

COMPUTATION OF AVERAGE UTILITY CAPITALIZATION RATE

1)	AVERAGE UTILITY DEBT COST	7.08 %
2)	AVERAGE DEBT % OF CAPITALIZATION	56. %
3)	WEIGHTED DEBT CAP. RATE FACTOR	3.96 %
4)	AVERAGE UTILITY PREFERRED STOCK YIELD	8.41 %
5)	AVERAGE PREFERRED STOCK % OF CAPITALIZATION	9. %
6)	WEIGHTED PREFERRED STOCK CAP. RATE FACTOR	.76 %
7)	AVERAGE UTILITY EQUITY RETURN	10.16 %
8)	AVERAGE EQUITY % OF CAPITALIZATION	35. %
9)	WEIGHTED EQUITY CAPITALIZATION RATE FACTOR	3.55 %
	AVERAGE UTILITY CAP RATE	8.27 %

IN THE APPRAISAL FIELD IT IS CUSTOMARY TO ROUND CAP RATES; THEREFORE, SAY 8.25 %

STEAM PLANTS WORKSHEET

Average Cost Per K.W. of Installed Capacity - 10 Year Study 1975-1966
Source: Steam Electric Plant Construction Cost and Annual Production Expenses

Plant Name	Location	Study Year	Total Cost*	Land*	Cost Less Land*	Mega Watts
New Haven Har	CT	1st	$ 134,829	$ 3,994	$ 130,835	464.6
Gibson	IN	1st	160,276	2,775	157,501	668.0
Rodemacher	LA	1st	70,752	2,684	68,068	445.5
Waterford	LA	1st	123,480	2,821	120,659	891.0
Mystic 4 Unit #7	MA	1st	128,709	-0-	128,709	617.0
Dan E. Karn Unit #3	MI	1st	117,759	20	117,739	605.0
Bi[redacted]tone 1 2	SD	1st	163,185	705	162,480	455.8
Co[redacted]rip No. 1	MT	1st	158,543	1,507	157,036	358.4
Leland Olds No. 2	ND	1st	93,852	-0-	93,852	460.0
Miami Fort No. 7	OH	1st	118,901	2	118,899	557.1
West Loraine	OH	1st	45,088	197	44,891	235.3
Winyah No. 1	SC	1st	N/R			
Columbia 1 2	WI	1st	144,959	527	144,432	544.7
Neal 2 3	IA	1st	128,421	-0-	128,421	549.8
Gaston E.C. #5	AL	2nd	160,731	10	160,721	952.0
Navajo	AZ	2nd	400,393	29	400,364	1606.3
Santan	AZ	2nd	57,973	149	57,824	414.0
Anclote	FL	2nd	100,290	1,070	99,220	556.2
Ghent	KY	2nd	111,693	2,370	109,323	556.9
G. Andrews	MS	2nd	105,769	333	105,436	781.5
Newington	NH	2nd	80,781	405	80,376	414.0
Gilbert	NJ	2nd	33,146	238	32,908	205.2
Ro[redacted]ton	NY	2nd	321,770	537	321,233	1242.0
Be[redacted]s Creek	NC	2nd	349,464	14,129	335,335	2160.0
J. M. Gavins	OH	2nd	567,687	1,702	565,985	2600.0
Riverside	OK	2nd	53,858	959	52,899	472.5
B. M. Davis	TX	2nd	49,814	3,104	46,710	352.8
Ft. Phanton	TX	2nd	19,764	108	19,656	156.6
Huntington #2	UT	2nd	137,319	2,186	135,133	446.4
Jim Bridger	WY	2nd	362,267	362	361,905	1121.0
Ferguson TC	TX	2nd	57,953	270	57,683	408.9
Comanche	CO	3rd	187,565	134	187,431	778.5
Edge Moor #5	DE	3rd	75,578	-0-	75,578	445.8
La Cynge	KS	3rd	192,982	3,504	189,478	893.4
Conesville #4	OH	3rd	131,487	69	131,418	841.5
Comanche	OK	3rd	30,440	338	30,102	290.0
Brunot Island	PA	3rd	72,413	363	72,050	355.9

Plant Name	Location	Study Year	Total Cost*	Land*	Cost Less Land*	Mega Watts
Williams	SC	3rd	94,479	676	93,803	632.7
Cumberland	TN	3rd	402,465	2,065	400,400	2600.0
Station II	KY	3rd	N/R			
Erickson	MI	3rd	33,747	498	33,249	160.0
San Juan	NM	3rd	93,225	132	93,093	328.7
Mill Creek	KY	4th	116,237	842	115,395	711.0
Big Lajan	LA	4th	32,274	594	31,680	230.4
New Madrid	MO	4th	143,907	1,123	142,784	650.0
Bowline Point	NY	4th	249,667	1,141	248,526	1242.0
Montour	PA	4th	255,837	2,879	252,958	1641.7
C. W. Sommers	TX	4th	92,703	5,343	87,360	892.8
Harrison	WV	4th	384,917	5,339	379,578	2052.0
Centralia	WA	4th	314,488	1,854	312,634	1460.0
McClellan	AR	4th	17,319	79	17,240	136.0
Powerton	IL	4th	352,189	3,116	349,073	1785.6
Mohave	NV	5th	194,424	497	193,927	1636.2
Ormond Beach	CA	5th	179,623	7,564	172,059	1612.8
A. B. Hopkins	FL	5th	N/R			
Bowen	GA	5th	446,873	1,319	445,554	3498.6
Monroe	MI	5th	564,411	3,358	561,053	3279.6
Mitchell	WV	5th	225,039	731	224,308	1632.6
Seminole	OK	5th	153,841	1,686	152,155	1724.6
E. Joslin	TX	5th	26,249	320	25,929	261.0
Jones	TX	5th	53,241	522	52,719	512.0
Naughton #3	WY	5th	52,419	-0-	52,419	326.4
J. E. Amos	WV	5th	514,060	1,804	512,256	2932.6
Morgontown	MD	6th	196,384	473	195,911	1251.0
Big Bend	FL	6th	139,623	4,500	135,123	891.0
Baldwin	IL	6th	344,604	2,588	342,016	1892.1
Wabash Unit #4	IN	6th	36,239	-0-	36,239	380.0
Cayuga	IN	6th	153,654	425	153,229	1062.0
Asbury	MO	6th	26,274	125	26,149	212.8
Lewis Creek	TX	6th	56,163	3,205	52,958	542.9
La Bodie	MO	6th	438,432	540	437,892	2482.0
M. R. Young	ND	6th	37,468	920	36,548	256.5
J. M. Stuart	OH	6th	375,805	1,269	374,536	2440.8
Cheswick	PA	6th	128,030	421	127,609	565.3
Conemaugh	PA	6th	236,488	1,416	235,072	1872.0
Jeffries #3 and #4	SC	6th	42,896	7	42,889	345.6
Wateree	SC	6th	101,697	363	101,334	771.8
Paradise B	KY	6th	156,095	301	155,794	1150.2
Tombigbee	AL	7th	14,543	96	14,447	75.0
Four Corners #4 and #5	NM	7th	170,544	61	170,483	1636.2

Plant Name	Location	Study Year	Total Cost*	Land*	Cost Less Land*	Mega Watts
F. E. Ratts	IN	7th	38,110	82	38,028	233.2
Coleman	KY	7th	72,355	176	72,179	521.3
Pathfinder	SD	7th	16,397	342	16,055	75.0
W. C. Beckjord	OH	7th	60,743	27	60,716	460.8
Homer City	PA	7th	205,967	3,190	202,777	1319.4
Hatfields Ferry	PA	7th	241,670	242	241,428	1728.0
New Genoa	WI	7th	51,634	376	51,258	345.6
Edgewater #4	WI	7th	44,522	268	44,254	351.0
Dallman	IL	8th	N/R	(Costs Included with Another Plant)		
Prarie Creek	IA	8th	23,488	133	23,355	148.8
Burlington	IA	8th	25,167	81	25,086	212.0
Canal	MA	8th	62,497	236	62,261	542.5
Al[redacted] S. King	MN	8th	84,241	566	83,675	598.4
Co[redacted]te, J. E.	MT	8th	21,701	66	21,635	172.8
Fort Churchill	NV	8th	33,590	45	33,545	210.0
Miller, R. W.	TX	8th	20,390	44	20,346	191.5
Naughton No. 2	WY	8th	25,656	-0-	25,656	217.6
Turkey Point	FL	9th	59,316	2,187	57,129	804.1
Kinkaid	IL	9th	150,896	5,904	144,992	1319.4
Petersburg	IN	9th	105,466	433	105,033	724.4
Stanton	ND	9th	24,916	151	24,765	172.0
Sioux	MO	9th	138,250	363	137,887	1099.6
Maddox	NM	9th	11,504	26	11,478	113.6
Northport	NY	9th	190,369	1,861	188,508	1161.3
Cardinal Units 1 and 2	OH	9th	143,325	260	143,065	1230.5
Keystone	PA	9th	205,237	3,995	201,242	1872.0
Bull Run	TN	9th	140,749	2,083	138,666	950.0
Fort Martin	WV	9th	142,820	97	142,723	1152.0
Carl Bailey	AR	10th	11,126	39	11,087	120.0
Cr[redacted]al River	FL	10th	92,773	1,688	91,085	964.3
Northside	FL	10th	56,721	367	56,354	595.0
Quindaro No. 3	KS	10th	33,052	-0-	33,052	239.1
Cleary, B. F.	MA	10th	4,211	47	4,164	28.3
Baxter Wilson	MS	10th	113,034	411	112,623	1327.6
Thomas Hill	MO	10th	61,720	40	61,680	470.0
Boxbord	NC	10th	216,621	8,381	208,240	1813.1
Leland Olds No. 1	ND	10th	35,776	241	35,535	240.0
Grainger	SC	10th	N/R			
P. H. Robinson	TX	10th	N/R			
V. H. Braunig	TX	10th	62,866	1,402	61,464	894.0
*millions		TOTALS	$15,927,340	$143,643	$15,783,697	99288.3

10 Year Average Cost per K.W.: Cost Less Land divided by Mega Watts $\frac{15,783,697}{99288.3}$ = $159 per K.W.

E

APPORTIONMENT EXAMPLE

ASSUME TWO PROPERTIES, EACH OF EQUAL CAPACITY

PROPERTY A BUILT IN 1965 - PROPERTY B BUILT IN 1975

				PROPERTY A		PROPERTY B	
YEAR				ORIGINAL COST	MARKET VALUE	ORIGINAL COST	MARKET VALUE
1965	*	Market Value @	97.5 %	$1,000,000	$975,000		
1966	*	Market Value @	95. %		950,000		
1967	*	Market Value @	92.5 %		925,000		
1968	*	Market Value @	90. %		900,000		
1969	*	Market Value @	87.5 %		875,000		
1970	*	Market Value @	85. %		850,000		
1971	*	Market Value @	82.5 %		825,000		
1972	*	Market Value @	80. %		800,000		
1973	*	Market Value @	77.5 %		775,000		
1974	*	Market Value @	75. %		750,000		
1975	**	Market Value @	94. %		705,000	$2,000,000	$1,880,000
1976	**	Market Value @	98. %		690,000		1,842,400
1977	**	Market Value @	97. %		670,000		1,787,128
1978	**	Market Value @	101. %		677,000		1,805,000

* Method of valuation used prior to 1975 specified that market value was to be determined each year by depreciating original cost 2½% per year for 10 years until 25% depreciation was reached; then value was frozen at 75% of original cost.

** New method specifies that the current market value is to be determined by using the unit value as a function of the total of the utility's prior year's market values. (i.e., in 1975 unit value would have equalled 94% of the total market values in all taxing districts.)

NOTE: In 1978 Property B, which had an original cost of twice Property A, received almost three times the value of Property A.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

Dept's Exhibit No. I
File No.
Date

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES)
OF THE DEPARTMENT OF REVENUE GOVERNING THE) NOTICE OF HEARING
AD VALOREM (PROPERTY) TAXES IMPOSED ON UTILITY)
COMPANIES)

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Room #51, Ground Floor, State Office Building, Wabasha Street and Park Avenue, Saint Paul, Minnesota 55155, on Wednesday June 6, 1979 commencing at 9:00 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 Steve M. Mihalchick, Office of Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, (612) 296-8112, either before the hearing or within five days after the close of the hearing, or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner.

The proposed rules if adopted will effectively amend the present rules and regulations of the Department of Revenue relating to ad valorem (property) taxes. The present rules deal generally with the valuation, allocation, and apportionment of electric, gas distribution, pipeline, and cooperative electric companies. The proposed rules would: 1) modify the cost approach to the valuation process for electric companies by: allowing an additional 1% depreciation on the original cost of the companies' assets, and increasing the study period to be used when computing the "average cost per kilowatt of installed capacity"; 2) revise the income approach to valuation for electric, gas, and pipeline companies by weighting the income to be capitalized and increasing the capitalization rate; 3) change the procedure used to apportion the market value of electric, gas, and pipeline companies to the various taxing districts in Minnesota.

Copies of the proposed rules are now available, and one free copy may be obtained by writing to G. D. Garski, Manager of State Assessed Property, Property Equalization Division, Second Floor, Centennial Office Building, Saint Paul, Minnesota 55101, (612) 296-5131. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statutes 270.06; 270.11, Subdivision 1 and 6; 273.37, Subdivision 2; and 273.38.

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 rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. "Lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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APR 17 1979
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE AD VALOREM (PROPERTY) TAXES IMPOSED ON UTILITY COMPANIES

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in Room #51, Ground Floor, State Office Building, Wabasha Street and Park Avenue, Saint Paul, Minnesota 55155, on Wednesday June 6, 1979 commencing at 9:00 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.

George W. Winter
Assistant Commissioner of Revenue

Date: April 17, 1979

ZMnh

Dept's Exhibit No. B
File No.
Date

RECEIVED
MAY 21 1979
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF REVENUE) AFFIDAVIT OF RECEIPT OF THE
GOVERNING THE AD VALOREM (PROPERTY)) SECRETARY OF STATE'S LIST
TAXES IMPOSED ON UTILITY COMPANIES:)

Judith M. Carling, being duly sworn on oath, deposes and says:

1. That she is an employee of the Revenue Department of the State of Minnesota.

2. That on the 19th day of April, 1979, she went to the Secretary of State's office for the State of Minnesota and requested 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 M.S. 15.0412.

3. That on the 19th day of April, 1979, in response to the above request, the Secretary of State provided her with such list, a copy of which is attached hereto and incorporated by reference.

Further, affiant sayeth not.

Judith M. Carling

Subscribed and sworn to before me this

21st day of May, 1979.

Dept's Exhibit No. J
File No.
Date

Katherine J. Zimmerman

KATHERINE J. ZIMMERMAN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1985

RECEIVED
MAY 21 1979
OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption
of Rules of Revenue Dept. ~~Division~~
Governing Ad Valorem (Property) Taxes

I hereby certify that the attached Mailer 3 sheets constitute the complete list of persons, associations, and other interested groups who as of 1:20 o'clock P. .M, this 19th day of April, 19 79, have requested pursuant to M.S. 19 76 , 15.0412 , 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.

Secretary of State
Joan Anderson Growe

By Kathy Kyelin

Dept's Exhibit No. K
File No.
Date

SM

RECEIVED
MAY 23 1979
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Lyle H. Ask, being first duly sworn, deposes and says that he is the Director, Property Equalization Division, Minnesota Department of Revenue, and as such is charged with the responsibility for mailing of Notice of Hearing to all interested parties in the matter of the proposed adoption of rules governing the ad valorem (property) taxes imposed on utility companies. As such affiant has caused to be mailed or sent inter-office messenger a Notice of Hearing to each person named on the attached list. These mailings were made April 27, 1979.

Further affiant sayth not.

by Lyle H. Ask

LYLE H. ASK, Director
Property Equalization Division
Minnesota Department of Revenue

Subscribed and sworn to before me this 27th
day of April, 1979

Patricia Zentzis Notary Public

Ramsey County, Minnesota

My commission expires May 9, 1982

PATRICIA ZENTZIS
Notary Public, Ramsey Co., Minn.
My Commission Expires
May 9, 1982

Dept's Exhibit No. M
File No.
Date

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE AD VALOREM (PROPERTY) TAXES IMPOSED ON UTILITY COMPANIES	FINDINGS OF FACT AND ORDER ADOPTING RULES

Pursuant to Minnesota Statutes, Section 15.0412, Subdivision 4, you are notified that the record of the hearing on the above-captioned rules is being submitted to the Attorney General for review. The rules as adopted will be identical to the proposed rules published in the State Register on April 30, 1979.

Dated: September 28, 1979

State of Minnesota
Department of Revenue

Dorothy A. McClung

DOROTHY A. McCLUNG
Research Attorney

D[redacted]79-092-SM

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES OF THE)
DEPARTMENT OF REVENUE GOVERNING)
THE AD VALOREM (PROPERTY) TAXES)
IMPOSED ON UTILITY COMPANIES.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on June 6, 1979, before Steve M. Mihalchick, 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 Department of Revenue on July 11, 1979; and

WHEREAS, the Department of Revenue has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Revenue has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; 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 Department of Revenue has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Revenue has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 24th day
of September, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner