

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 796

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3-19-82
DATE FOR REVIEW
DATE DUE 3-26-82

Adopted w/a hearing
Adopted w/o hearing
Temporary rule ✓

Approved 3-26-82 Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 3-26-82 Revisor approved / disapproved

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✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 3.19.82 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

Notice of rulemaking
Sufficiency

Affidavit of Mailing Notice or rulemaking
At least 30 days prior to hearing/adoption

✓ Mailing list Certificate

✓ Publication in State Register
2.22.82 At least ~~30~~/20 days prior to hearing/~~adoption~~

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
Approving agency action

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : KENT E. EKLUND
Commissioner of the Department of
Energy, Planning and Development

DATE: 2/26/82

ATTN: DWIGHT WAGENIUS, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Construction Loans under the District Heating Bonding Act, 6 MCAR §§ 2.4012-2.4034 (Temporary)

Enclosed herewith are the temporary rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

I would like to make the following recommendations for future use which should help to clarify the meaning of the rules and avoid confusion:

1. 6 MCAR § 2.4025.F refers to "the system" after previously stating "district heating system." Apparently, what is meant by "the system" is the present heating system being used as compared to the district heating system. If this is what is intended, a more specific reference to the present system would help to avoid confusion.

2. 6 MCAR § 2.4034 refers to "standards set forth A. and B." It is unclear what is meant by that phrase. Perhaps "set forth in paragraphs/subdivisions A. and B."

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw

Encs.
cc: Ms. Kathy Burek
Mr. Duane Harves

MINNESOTA LEGISLATURE

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OFFICE OF THE REVISOR OF STATUTES

☐ STATE CAPITOL, ROOM 3 ☒ STATE OFFICE BUILDING, ROOM 670
ST. PAUL, MINNESOTA 55155

(612) 296-2868

March 25, 1982

Dennis Devereaux
Department of Energy
Room 980
160 East Kellogg Blvd.
St. Paul, Minnesota 55101

Dear Mr. Devereaux:

Enclosed are copies of your temporary rules with the changes you requested. We have prepared them for submission to the Attorney General's Office.

On the same day you submit the temporary rules to the Attorney General's Office, you must also resubmit two copies of the rules to our office for final approval.

If you have any questions, please call.

Very truly yours,

Ann Bateson for Roger Helder

Roger J. Helder, Jr.
Assistant Revisor

RJH/mp
Enclosure
AR0165

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ENERGY, PLANNING & DEVELOPMENT

Office Memorandum

TO : Larry Starns
Assistant Attorney General

DATE: March 25, 1982

FROM : Dennis M. Devereaux
Ronald Sundberg
DEPD Energy Division

PHONE: 6-9078

SUBJECT: Temporary Rules for Construction Loans under the District Heating Bonding Act 6 MCAR § 2.4021 - 2.4034

We the above signed have had the entire responsibility for developing and writing the above quoted rules.

We have discovered a misstatement in 6 MCAR Section 2.4024 subd. E and ask that it be corrected before the rules become effective.

Subd. E now reads: "Debt service coverage" means the gross revenues of the project minus the sum of the operating expenses plus the debt service cost.

To reflect the intended meaning, Subd. E should be changed to read: "Debt service coverage" means the gross revenues of the project minus the operating expenses, plus the debt service cost.

We have contacted Roger Helder of the Revisor of Statutes Office and he has made the above change on their copy.

Thank you.

To: Larry
Date: 3/22/82
Re: Energy, Planning + Development

Rules as Adopted

p. 1 . 4024 E.
line 29. It is not clear what is the formula for debt service coverage. Could be

DSC = Gross Revenues - operating expenses + debt service cos

OR

"Sum of" DSC = Gross Revenues - (operating expenses + debt service cost

p. 3 . 4025 F
line 16 For greater clarity, "present" should be inserted
Agreed between "the" and "system".

. 4034
p. 6 "in" should be inserted between "forth"
line 22 and "A"

Department of Energy, Planning and Development
Energy Division (Minnesota Energy Agency)
Alternative Energy Development Section

Adopted Temporary Rules for the Administration of the District Heating Bonding Act Regarding Construction Loans

Temporary Rules as Adopted

6 MCAR S 2.4021 [Temporary] Authority. Rules 6 MCAR SS 2.4021-2.4034 [Temporary] are authorized by Minn. Stat. S 116H.31 subd. 11.

6 MCAR S 2.4022 [Temporary] Purpose. Rules 6 MCAR SS 2.4021-2.4034 [Temporary] are promulgated to allow those district heating projects that have already completed comprehensive engineering, economic, and design studies to make prompt and proper application for construction loans. Rules 6 MCAR SS 2.4021-2.4034 [Temporary] set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

6 MCAR S 2.4023 [Temporary] Applicability. Rules 6 MCAR SS 2.4021-2.4034 [Temporary] apply to the department and to any municipality applying for construction loans under the act.

6 MCAR S 2.4024 [Temporary] Definitions.

A. Applicability. For the purposes of 6 MCAR SS 2.4021-2.4034 [Temporary] the terms defined in B.-K. have the meanings given them.

B. Act. "Act" means Laws of 1981, ch. 334.

C. Commissioner. "Commissioner" means Commissioner of the Department of Energy, Planning and Development.

D. Debt service cost. "Debt service cost" means the sum of all costs amortizing lease indebtedness, bond indebtedness, urban development action grant indebtedness, and any state indebtedness which is attributed to the project on an annual basis.

E. Debt service coverage. "Debt service coverage" means the gross revenues of the project minus ~~the sum of~~ the operating expenses, plus the debt service cost. The debt service coverage shall be expressed as a percentage of the debt service cost.

F. Department. "Department" means the Department of Energy, Planning and Development.

G. Financial consultant. "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the project.

H. Gross revenues. "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the project, the proceeds of any insurance which insures against the loss of gross revenues, any investment income from monies or securities derived from the state loan under the act, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived.

I. Operating expenses. "Operating expenses" means all expenses directly and properly attributable to the operation of the project on an annual basis. Examples are: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the project, all to the extent properly and directly attributable to the operation of the project. Operating expenses shall not include any costs or expenses for new construction or any allowance for depreciation.

J. Project. "Project" means district heating construction project as described by the business plan.

K. Take-or-pay contract. "Take-or-pay contract" means a contract between a district heating system and a thermal load

customer whereby the customer agrees to take a predesignated amount of thermal energy over a certain time period or to pay a sum equivalent to the value of the predesignated amount of thermal energy, even if less is taken.

6 MCAR S 2.4025 [Temporary] Contents of application. The application for construction loans shall contain the following information:

A. Name, address, and telephone number of the responsible official of the municipality;

B. A comprehensive business plan for the project, as described in 6 MCAR S 2.4026 [Temporary];

C. A resolution in support of the project from the governing body of the municipality, as described in 6 MCAR S 2.4030 [Temporary];

D. Identification of all licenses, permits, zoning regulations, and any other requirements of federal, state or local governments with which the project would be expected to comply, and present status of each;

E. A list of key personnel and their qualifications as they relate to the project;

F. An estimate of the type and amount of fuel saved per year from the full operation of the district heating system compared to the type and amount of fuel to be used by the system; and

G. A copy of the environmental assessment worksheet or environmental impact statement prepared for the project. If neither is required, then the applicant shall submit a statement as to the environmental effects of the project.

6 MCAR S 2.4026 [Temporary] The comprehensive business plan referred to in 6 MCAR S 2.4025 B. [Temporary] shall include all of the following information:

A. A complete engineering design of the project, as described in 6 MCAR S 2.4027 [Temporary];

B. A market study of customers of the district heating system defined by the business plan who represent 90 percent or more of the proposed thermal load, as described in 6 MCAR S

2.4028 [Temporary];

C. A preliminary plan that shows how the system could be expanded to serve other parts of the community;

D. A complete economic analysis, as described in 6 MCAR S 2.4029 [Temporary], that includes cash flow, income, and balance sheets for a 20-year planning period, and a financing and development plan for the district heating system prepared by a financial consultant;

E. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department if requested;

F. A copy of the standard contract or contracts entered into with customers of the project with a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the project; and

G. A copy of the contract for the furnishing of the heat source or fuel for the project.

6 MCAR S 2.4027 [Temporary] Engineering design. The complete engineering design of the project referred to in 6 MCAR S 2.4026 A. [Temporary] shall include at least the following information:

A. An analysis of the proposed piping layout which addresses the areas of optimum service to the total designated area, reliability of service, system temperatures and pressure requirements, thermal and hydraulic operability for normal and emergency conditions, optimum piping configuration to provide service, and flexibility for future expansion;

B. An analysis of the proposed piping design which addresses the areas of reliability of service, ease of construction, ease of maintenance, installation methods, and specifications and standards; and

C. An analysis of the heat source design which defines the proposed roles of the following heat sources in the development and the future operation of the system: base load heating plant, peaking plants, large boiler plants in existing buildings, mobile boilers, accumulator and future heat sources

such as solid waste, solar, and industrial waste heat.

6 MCAR S 2.4028 [Temporary] Market study. The market study referred to in 6 MCAR S 2.4026 B. [Temporary] shall show detailed information on present fuel consumption or heating demand and the present heating system in each building.

6 MCAR S 2.4029 [Temporary] Economic analysis. The economic analysis referred to in 6 MCAR S 2.4026 D. [Temporary] shall include a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase or rental; operating and maintenance costs, excluding fuel costs; and building heating conversion costs.

6 MCAR S 2.4030 [Temporary] Resolution in support of project. The resolution referred to in 6 MCAR S 2.4025 C. [Temporary] must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's financial capability to sponsor the project.

6 MCAR S 2.4031 [Temporary] Application procedures.

A. Applications for construction loans under the act and 6 MCAR SS 2.4021-2.4034 [Temporary] shall be submitted to the commissioner.

B. Applications will be accepted beginning on the date 6 MCAR SS 2.4021-2.4034 [Temporary] become effective and continuing until either these temporary rules expire or are replaced by permanent rules, whichever occurs first.

C. Ten complete copies of the application shall be submitted to the commissioner.

6 MCAR S 2.4032 [Temporary] Feasibility assessment. The commissioner shall review each application as received according to the following feasibility assessment parameters:

A. The eligibility and priorities criteria of Minn. Stat. S 116H.31;

B. The debt service coverage represented by the business plan;

C. The debt service coverage from revenues currently under

contract;

D. The total cost of the project;

E. The ratio of the state loan under the act to the total cost of the project;

F. The terms of the contracts with customers; and

G. The total number of customers for the project.

6 MCAR S 2.4033 [Temporary] Evaluation of application. Upon reviewing each application, the commissioner shall award points based upon the following criteria.

A. Four points shall be awarded to those applicants that have a debt service coverage of at least 130 based upon the revenues currently under contract.

B. Four points shall be awarded to those applicants that have take-or-pay contracts for at least the term of the state loan under the act. Two points shall be awarded if the contracts are for a term less than the term of the state loan under the act.

C. Two points shall be awarded to those applicants whose total project cost is less than $5,000,000 or whose state loan under the act would be less than 50 percent of the project's total cost.

D. Two points shall be awarded to those applicants that have 50 customers identified in the marketing study of their business plans and such customers comprise at least 50 percent of the project's thermal load.

6 MCAR S 2.4034 [Temporary] Recommendation. The commissioner shall tally the points awarded to each applicant under 6 MCAR S 2.4033 [Temporary] and make recommendations based upon the standards set forth in A. and B.

A. For those applicants who have been awarded a total of no fewer than eight points, the commissioner shall recommend that the revenues of the project be pledged for repayment of the state loan under the act. In addition, the state loan may take a position subordinate to other financing.

B. For those applicants who have been awarded a total of

seven or fewer points, the commissioner shall recommend that the applicant pledge additional funds adequate to insure the repayment of the state loan under the act. If additional funds are not available or the applicant chooses not to pledge them, then the applicant may pledge to levy an ad valorem tax of a similar amount.

APPROVED AS TO LEGALITY

March 26 1982

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 26 1982

Joan Anderson
Secretary of State

3:10 PM

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT
ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Temporary Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Construction Loans under the District Heating Bonding Act, 6 MCAR §§ 2.4021-2.4034 (Temporary)

ORDER ADOPTING TEMPORARY RULES

The above entitled matter was published in the State Register on February 22, 1982 as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5. After affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 6MCAR §§ 2.4021-2.4034 (Temporary) are adopted this 19th day of March, 1982. pursuant to authority vested in me by Minnesota Statutes section § 116H.31 subd. 11.

STATE OF MINNESOTA

Kent E. Ekhund

COMMISSIONER OF THE DEPARTMENT
OF ENERGY, PLANNING AND
DEVELOPMENT

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Temporary Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Construction Loans under the District Heating Bonding Act, 6 MCAR §§ 2.4021 - 2.4034 (Temporary)

ORDER FOR NOTICE OF INTENT TO ADOPT TEMPORARY RULES

IT IS ORDERED this 4th day of February 1982 that Notice of Intent to Adopt Temporary Rules in the above-entitled matter be published in the State Register.

MINNESOTA ENERGY AGENCY

MICHAEL J. MURPHY
Acting Director

Copies of this notice and the proposed rules are available and may be obtained by contacting James Beck.

John J. Feda, Secretary
State Board of Education

Rules as Proposed

EDU 380 School licensing.

B. Application.

~~6.~~ 5. Information to be submitted on instructor qualifications. To satisfy the requirements of ~~section~~ Minn. Stat. § 141.25, subd. 3, ~~paragraph~~ clause (f) the school shall name the instructors and supervisors currently employed for each specified field of instruction and certify that each instructor and teaching supervisor has met all teacher qualification requirements of the State of Minnesota in EDU 381 C. and has been approved ~~or certified~~ by the ~~Minnesota~~ Department of Education to teach in that specified field.

EDU 382 Catalog or brochure.

B. Contents.

3. Refund policy. The catalog or brochure shall contain the refund policy printed in its entirety. The policy shall be in accordance with ~~section 141.27~~ Minn. Stat. § 141.271. A simple statement indicating merely that the school is in compliance with Minnesota law or Minnesota refund policies will not suffice. Along with the printed policy shall be an explanation of the word "student,"~~,~~ as defined in EDU 385 ~~C~~.

EDU 385 Contracts; definition of student.

~~C. Definition. The word~~ A. Student defined. "Student" ~~where~~ used in ~~section 141.27~~ Minn. Stat. § 141.271 ~~shall be construed to mean~~ means the student ~~himself, if he~~ the student is the party to the contract, or ~~his~~ the student's parent or guardian or another person~~,~~ if the parent or guardian or other person is the party to the contract on behalf of the student.

EDU 386 Degree granting.

~~B. Approval, not exemption. Such approval for granting of degrees to schools covered under the Act shall~~ A school which offers both degree and non-degree programs shall obtain a license for its non-degree programs. The school is not ~~serve to~~ exempt ~~such schools from the Act under section~~ by reason of Minn. Stat. § 141.35, clause (a).

Repealer. Rules EDU 380 B.4., 4.a. and 4.b.; EDU 381 D.; EDU 385 A., A.1. and 2., B., B.1. and 2.; and EDU 386 A. and C. are repealed.

Renumbering and Relettering. Renumber EDU 380 B.5. as EDU 380 B.4. Reletter EDU 385 D. as EDU 385 B.

Department of Energy, Planning and Development Energy Division (Minnesota Energy Agency) Alternative Energy Development Section

Proposed Temporary Rules for the Administration of the District Heating Bonding Act Regarding Construction Loans

Request for Public Comment

Notice is hereby given that, in compliance with Laws of 1981, Chapter 334, § 1, known as the District Heating Bonding Act, the Department of Energy, Planning and Development (the Minnesota Energy Agency) is proposing the following temporary rules for the purpose of administering the act.

Persons interested in these rules have 20 days from this publication to submit data and views on the proposed temporary rules in writing: Comments should be submitted to:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Mr. Ronald Sundberg
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/296-9096

The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency.

These proposed temporary rules, with modifications, if any, shall be submitted to the Attorney General for final approval as to form and legality. The temporary rules shall take effect immediately upon the Attorney General's approval.

These temporary rules shall then be effective for 180 days or until they are replaced by permanent rules, whichever occurs first.

Michael J. Murphy
Acting Director

Temporary Rules as Proposed (all new material)

6 MCAR § 2.4021 [Temporary] Authority. Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] are authorized by Minn. Stat. § 116H.31 subd. 11.

6 MCAR § 2.4022 [Temporary] Purpose. Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] are promulgated to allow those district heating projects that have already completed comprehensive engineering, economic, and design studies to make prompt and proper application for construction loans. Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

6 MCAR § 2.4023 [Temporary] Applicability. Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] apply to the department and to any municipality applying for construction loans under the act.

6 MCAR § 2.4024 [Temporary] Definitions.

A. Applicability. For the purposes of 6 MCAR §§ 2.4021-2.4034 [Temporary] the terms defined in B.-K. have the meanings given them.

B. Act. "Act" means Laws of 1981, ch. 334.

C. Commissioner. "Commissioner" means Commissioner of the Department of Energy, Planning and Development.

D. Debt service cost. "Debt service cost" means the sum of all costs amortizing lease indebtedness, bond indebtedness, urban development action grant indebtedness, and any state indebtedness which is attributed to the project on an annual basis.

E. Debt service coverage. "Debt service coverage" means the gross revenues of the project minus the sum of the operating expenses plus the debt service cost. The debt service coverage shall be expressed as a percentage of the debt service cost.

F. Department. "Department" means the Department of Energy, Planning and Development.

G. Financial consultant. "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the project.

H. Gross revenues. "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the project, the proceeds of any insurance which insures against the loss of gross revenues, any investment income from monies or securities derived from the state loan under the act, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived.

I. Operating expenses. "Operating expenses" means all expenses directly and properly attributable to the operation of the project on an annual basis. Examples are: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the project, all to the extent properly and directly attributable to the operation of the project. Operating expenses shall not include any costs or expenses for new construction or any allowance for depreciation.

J. Project. "Project" means district heating construction project as described by the business plan.

K. Take-or-pay contract. "Take-or-pay contract" means a contract between a district heating system and a thermal load customer whereby the customer agrees to take a predesignated amount of thermal energy over a certain time period or to pay a sum equivalent to the value of the predesignated amount of thermal energy, even if less is taken.

6 MCAR § 2.4025 [Temporary] Contents of application. The application for construction loans shall contain the following information:

A. Name, address, and telephone number of the responsible official of the municipality;

B. A comprehensive business plan for the project, as described in 6 MCAR § 2.4026 [Temporary];

C. A resolution in support of the project from the governing body of the municipality, as described in 6 MCAR § 2.4030 [Temporary];

D. Identification of all licenses, permits, zoning regulations, and any other requirements of federal, state or local governments with which the project would be expected to comply, and present status of each;

E. A list of key personnel and their qualifications as they relate to the project;

F. An estimate of the type and amount of fuel saved per year from the full operation of the district heating system compared to the type and amount of fuel to be used by the system; and

G. A copy of the environmental assessment worksheet or environmental impact statement prepared for the project. If neither is required, then the applicant shall submit a statement as to the environmental effects of the project.

6 MCAR § 2.4026 [Temporary] The comprehensive business plan referred to in 6 MCAR § 2.4025 B. [Temporary] shall include all of the following information:

A. A complete engineering design of the project, as described in 6 MCAR § 2.4027 [Temporary];

B. A market study of customers of the district heating system defined by the business plan who represent 90 percent or more of the proposed thermal load, as described in 6 MCAR § 2.4028 [Temporary];

C. A preliminary plan that shows how the system could be expanded to serve other parts of the community;

D. A complete economic analysis, as described in 6 MCAR § 2.4029 [Temporary], that includes cash flow, income, and balance sheets for a 20-year planning period, and a financing and development plan for the district heating system prepared by a financial consultant;

E. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department if requested;

F. A copy of the standard contract or contracts entered into with customers of the project with a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the project; and

G. A copy of the contract for the furnishing of the heat source or fuel for the project.

6 MCAR § 2.4027 [Temporary] Engineering design. The complete engineering design of the project referred to in 6 MCAR § 2.4026 A. [Temporary] shall include at least the following information:

A. An analysis of the proposed piping layout which addresses the areas of optimum service to the total designated area, reliability of service, system temperatures and pressure requirements, thermal and hydraulic operability for normal and emergency conditions, optimum piping configuration to provide service, and flexibility for future expansion;

B. An analysis of the proposed piping design which addresses the areas of reliability of service, ease of construction, ease of maintenance, installation methods, and specifications and standards; and

C. An analysis of the heat source design which defines the proposed roles of the following heat sources in the development and the future operation of the system: base load heating plant, peaking plants, large boiler plants in existing buildings, mobile boilers, accumulators and future heat sources such as solid waste, solar, and industrial waste heat.

6 MCAR § 2.4028 [Temporary] Market study. The market study referred to in 6 MCAR § 2.4026 B. [Temporary] shall show detailed information on present fuel consumption or heating demand and the present heating system in each building.

6 MCAR § 2.4029 [Temporary] Economic analysis. The economic analysis referred to in 6 MCAR § 2.4026 D. [Temporary] shall include a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase or rental; operating and maintenance costs, excluding fuel costs; and building heating conversion costs.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

6 MCAR § 2.4030 [Temporary] Resolution in support of project. The resolution referred to in 6 MCAR § 2.4025 C. [Temporary] must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's financial capability to sponsor the project.

6 MCAR § 2.4031 [Temporary] Application procedures.

A. Applications for construction loans under the act and 6 MCAR §§ 2.4021-2.4034 [Temporary] shall be submitted to the commissioner.

B. Applications will be accepted beginning on the date 6 MCAR §§ 2.4021-2.4034 [Temporary] become effective and continuing until either these temporary rules expire or are replaced by permanent rules, whichever occurs first.

C. Ten complete copies of the application shall be submitted to the commissioner.

6 MCAR § 2.4032 [Temporary] Feasibility assessment. The commissioner shall review each application as received according to the following feasibility assessment parameters:

A. The eligibility and priorities criteria of Minn. Stat. § 116H.31;

B. The debt service coverage represented by the business plan;

C. The debt service coverage from revenues currently under contract;

D. The total cost of the project;

E. The ratio of the state loan under the act to the total cost of the project;

F. The terms of the contracts with customers; and

G. The total number of customers for the project.

6 MCAR § 2.4033 [Temporary] Evaluation of application. Upon reviewing each application, the commissioner shall award points based upon the following criteria.

A. Four points shall be awarded to those applicants that have a debt service coverage of at least 130 based upon the revenues currently under contract.

B. Four points shall be awarded to those applicants that have take-or-pay contracts for at least the term of the state loan under the act. Two points shall be awarded if the contracts are for a term less than the term of the state loan under the act.

C. Two points shall be awarded to those applicants whose total project cost is less than $5,000,000 or whose state loan under the act would be less than 50 percent of the project's total cost.

D. Two points shall be awarded to those applicants that have 50 customers identified in the marketing study of their business plans and such customers comprise at least 50 percent of the project's thermal load.

6 MCAR § 2.4034 [Temporary] Recommendation. The commissioner shall tally the points awarded to each applicant under 6 MCAR § 2.4033 [Temporary] and make recommendations based upon the standards set forth in A. and B.

A. For those applicants who have been awarded a total of no fewer than eight points, the commissioner shall recommend that the revenues of the project be pledged for repayment of the state loan under the act. In addition, the state loan may take a position subordinate to other financing.

B. For those applicants who have been awarded a total of seven or fewer points, the commissioner shall recommend that the applicant pledge additional funds adequate to insure the repayment of the state loan under the act. If additional funds are not available or the applicant chooses not to pledge them, then the applicant may pledge to levy an ad valorem tax of a similar amount.

Department of Energy, Planning and Development
Energy Division (Minnesota Energy Agency)
Alternative Energy Development Section

Proposed Rules for the Administration of the District Heating Bonding Act Regarding Design Loans

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Energy, Planning and Development (Minnesota Energy Agency), hereinafter "department," intends to adopt the above-entitled rules without a public hearing. The Director of the Minnesota Energy

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT
ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Temporary Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Construction Loans under the District Heating Bonding Act, 6 MCAR §§ 2.4012-2.4034 (Temporary)

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Dwight Wagenius, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

DWight Wagenius

DWIGHT WAGENIUS
Special Assistant
Attorney General

Dated: 19 March 1982