

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 800

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3-29-82
DATE FOR REVIEW 4-7-82
DATE DUE 4-12-82

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

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted ~~5-3-82~~ 4-22-82 Due _____ 4-22-82
Approved 5-3-82 Disapproved _____ Returned to Agency ~~5-3-82~~

Date filed w/Secretary of State ~~5-3-82~~ 5-22-82 Revisor approved ✓
disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 3.24.82 Date

✓ Notice of Intent to Solicit Outside Opinion 6.15.81 (SR)
T comments

✓ 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
2.19.82 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 — no changes.

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A 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

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : KENT E. EKLUND
Commissioner of Energy, Planning & Develop.

DATE: 4/22/82

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

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

Enclosed herewith are the 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.

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;

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.

LDS:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : KENT E. EKLUND
Commissioner of Energy, Planning & Develop.

DATE: 4/12/82

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

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

The above-referenced rules have not been approved for the following reason:

1. 6 MCAR § 2.4014.B provides that the Commissioner "may" waive Application Requirement No. 8 without listing those conditions which, if met, would entitle those seeking the waiver to receive one. As presently worded, this provision provides the Commissioner with impermissibly broad discretion and is violative of Minn. Stat. § 15.0412, Subd. 1a.

Though not a ground for rejection, 6 MCAR § 2.4014.A.7 makes reference to "the system." In order to promote greater clarity, perhaps "the existing system" should be used.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for review. Upon resubmission, please include two copies of a new or supplemental Order Adopting, and the original and two copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

Please be advised that pursuant to Minn. Stat. § 15.0412, Subd. 4g effective July 1, 1981, "(n)o rule shall be filed with the Secretary of State or published in the State Register unless the Revisor of Statutes has endorsed on the rule that it is approved as to form." Therefore, at the time when you resubmit the new rule to this office, you must submit two copies of the same to the Revisor of Statutes.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

LDS:drw

cc: Ms. Kathy Burek
Ms. Ann Bateson

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : LARRY D. STARNS
Special Assistant Attorney General

DATE: April 22, 1982

FROM : DWIGHT S. WAGENIUS
Special Assistant Attorney General

PHONE: 6-3304

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 M.C.A.R. §§ 2.4011-2.4017.

The above-referenced rules are being resubmitted for your review after revision and readoption in accordance with your memorandum of April 12 and the suggestions you have made. Two copies of the Order Readopting and of the new Rules as Adopted are attached.

If you have any questions, please call me.

DSW/smh
Enclosures

STATE OF MINNESOTA

DEPARTMENT OF ENERGY,
PLANNING AND DEVELOPMENT

Received original on 4-22-82 - LOS

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development, Energy Division, Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

ORDER ADOPTING RULES

Notice of intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 22, 1982 and was sent by United States mail to all persons on the list maintained by the Minnesota Energy Agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on February 19, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30-day comment period, receiving no written comments, and determining the need for and reasonableness of the above-captioned rules, the rules were adopted on March 24, 1982, and submitted to the Attorney General for review. The Attorney General rejected the rules on April 12, 1982. Having corrected the defects noted by the Attorney General,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 6 MCAR §§ 2.4011 - 2.4017 are readopted this 21st day of April, 1982 pursuant to authority vested in me by Minnesota Statutes section 116H.31, subd. 11.

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

Kent E. Eklund

KENT E. EKLUND

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

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

Rules as Adopted

6 MCAR S 2.4011 Definitions.

A. Applicability. For the purposes of 6 MCAR SS 2.4011-2.4017 the terms defined in B.-G. have the meanings given them.

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

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

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

E. Design loan. "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related management tasks.

F. Preliminary engineering design. "Preliminary engineering design" means a design effort with the objective of estimating district heating design and construction costs within 15 percent of the actual costs.

G. Project. "Project" means a district heating design project.

6 MCAR S 2.4012 Authority, purpose, and applicability.

A. Authority. Rules 6 MCAR SS 2.4011-2.4017 are authorized by Minn. Stat. S 116H.31, subd. 11.

B. Purpose. Rules 6 MCAR SS 2.4011-2.4017 are promulgated for the purpose of allowing prompt and proper applications for

design loans after comprehensive preliminary engineering, economic, and design studies have been completed. Rules 6 MCAR SS 2.4011-2.4017 set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

C. Applicability. Rules 6 MCAR SS 2.4011-2.4017 apply to the department and to any municipality applying for design loans under the act.

6 MCAR S 2.4013 Application procedure. Applications for design loans under the act and 6 MCAR SS 2.4011-2.4017 shall be submitted to the commissioner. Ten complete copies shall be submitted. Applications will be accepted beginning on the date 6 MCAR SS 2.4011-2.4017 become effective.

6 MCAR S 2.4014 Application contents.

~~A. Information required.~~ An application shall contain the following information:

~~1.~~ A. Name, address, and telephone number of the responsible official of the municipality;

~~2.~~ B. A comprehensive business plan for the project as specified in 6 MCAR S 2.4015;

~~3.~~ C. A resolution in support of the project from the governing body of the municipality, which must include the pledges the municipality proposes to make to guarantee repayment of the design loan;

~~4.~~ D. A resolution or letter of intent from the proposed owner or operator of the district heating system indicating that he would expect to proceed with construction if the results of the design and final feasibility project are consistent with the preliminary feasibility study;

~~5.~~ E. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the project would be expected to comply, and the present status of each;

~~6.~~ F. A list of key personnel and their qualifications as they relate to the project;

~~7.~~ G. An estimate of the type and amount of fuel to be 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 existing system;

~~8.~~ H. A copy of a completed environmental impact statement, or a negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet, or in those cases where no environmental rules or regulations apply, a statement as to the environmental effects of the project.

~~B. Waiver of negative declaration. The commissioner may waive the requirement of A.8. upon written request by the municipality. This request will be considered as part of the application and must contain the municipality's rationale in support of a waiver.~~

6 MCAR S 2.4015 Contents of comprehensive business plan.

A. Minimum contents. The comprehensive business plan submitted under 6 MCAR S 2.4014 A.2. must contain no less than the information specified in B.-H.

B. Preliminary engineering design. A preliminary engineering design of the project must include the following information.

1. An analysis of the proposed piping layout must address 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.

2. An analysis of the proposed piping design must address reliability of service; ease of construction; ease of maintenance; installation methods; and specifications and standards.

3. An analysis of the heat source design must define 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.

C. Market study. The comprehensive business plan must include a market study of customers who represent 90 percent of the proposed thermal load of the district heating system defined by the business plan. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. Preliminary expansion plan. A preliminary expansion plan must show how the system could be expanded to serve other parts of the community.

E. Preliminary economic analysis. A preliminary economic analysis must include a preliminary financing and development plan for the district heating system and cash flow, income, and balance sheets for a 20-year planning period. This analysis must also contain 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.

F. Letters of intent to purchase heat. The applicant shall submit copies of letters of intent to purchase heat supplied by the project, from major customers representing at least 50 percent of the thermal load.

G. Letter of intent to furnish heat. The applicant shall submit a copy of a letter of intent to furnish heat, from the owner of the heat source or the proposed system owner or operator.

H. Engineering opinion. The business plan requires an opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice.

6 MCAR S 2.4016 Application review criteria. The commissioner shall review each application as it is received according to the eligibility and priority criteria of Minn. Stat. S 116H.31; the sophistication and reasonableness of the technical approach as

detailed in the application; the experience and qualifications of the applicant as they relate to the project; the project organization and personnel assignment; and the estimated cost of the project.

6 MCAR S 2.4017 Expenditures not required. Rules 6 MCAR SS 2.4011-2.4017 do not require expenditure of money not available.

4/21/82
AR0166

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Energy Planning and Development

Rule Numbers: 6 MCAR SS 2.4011-2.4017

Rule Title: Adopted Rules for the Administration of the District Heating Bonding Act Regarding Design Loans

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference: None.

STATE OF MINNESOTA
DEPARTMENT OF STATE
2:17 PM FILED
APR 22 1982
Joan Anderson Growe
Secretary of State

The attached Rules are approved as to form.

APPROVED AS TO LEGALITY
April 22, 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY Jerry D. Harris
SPECIAL ASSISTANT ATTORNEY GENERAL

Steven C. Cross
Revisor of Statutes

Name: Roger J. Helder
Roger J. Helder, Jr.

Title: Assistant Revisor

Phone: 297-2948

STATE OF MINNESOTA

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

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

ORDER ADOPTING RULES

Notice of the Acting Director's intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 22, 1982 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on February 19, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30-day comment period, receiving no written comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 6 MCAR §§ 2.4011 - 2.4017 are adopted this 24th day of March, 1982 pursuant to authority vested in me by Minnesota Statutes section 116H.31 subd. 11.

STATE OF MINNESOTA

Kent E. Eklund

KENT E. EKLUND
COMMISSIONER OF ENERGY, PLANNING
AND DEVELOPMENT

Oral statements will be received during regular business hours over the telephone at 297-2854 and in person at the above address.

Any written material received by the Insurance Division shall become part of the record in the event that the rules are promulgated.

June 8, 1981

William R. Howard
Assistant Commissioner of Insurance

Energy Agency
Alternative Energy Development Division

Notice of Intent to Solicit Outside Opinion Concerning Rules Relating to the District Heating Bonding Act

Notice is hereby given that the Minnesota Energy Agency (hereinafter "agency") is soliciting information and opinions from sources outside the agency for the purpose of making rules authorized under the District Heating Bonding Act, Chapter 334, Laws of Minnesota 1981 (hereinafter "act").

The agency is considering promulgating rules covering three related but separate areas of district heating financing: 1) design loans; 2) planning grants; 3) design and construction loans. The first mentioned area will be subject to temporary rules until permanent rules can be prepared and adopted. The latter two areas will be subject only to permanent rules. Data and opinions in all areas are invited.

Temporary rules will be promulgated for the purpose of allowing those projects that have already completed comprehensive engineering, economic and design studies to quickly make proper application for, and in due course receive design loans. The temporary rules may differ substantially from the permanent rules. Information the agency is considering to require in the rule includes but is not limited to, the following:

A. The method and procedure by which a municipality makes application for financial aid under the act. Applicants may be required to provide, for example, a comprehensive business plan that contains no less than:

1. A preliminary engineering design of the heat source, distribution and transmission system, and customer conversions of selected major loads;

2. A market study that includes detailed information of fuel consumption and building heating system for 90% of the proposed thermal load;

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

4. An economic analysis that includes: cash flow, income and balance sheet for a 20-year planning period;

5. Letters of intent from major customers (representing 50% of thermal load), to the owner of the heat source or the proposed system owner/operator;

6. An opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice;

7. An opinion by a Certified Management Consultant that based on the assumptions in the preliminary economic analysis proceeding with the final planning phase of the projects is justified;

8. A resolution in support of the project from the governing body of the municipality;

9. A Negative Declaration from an Environmental Assessment Worksheet.

B. The criteria by which an application for financial aid under this act is reviewed. Priority may be given, for example, to those applications that:

1. Utilize coal or presently wasted heat.

2. Use hot water as a transfer medium.

All persons desiring to submit information or views on these or related subjects may do so either orally or in writing. Written or oral comment should be addressed to:

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

All statements of information and comments on the subjects of the temporary rules must be received by June 29, 1981. Opinions and views on the other areas will be received until further notice. Any written material received by this date will become part of the record of any rules bearing on these subjects.

Minnesota State Agricultural Society Minnesota State Fair

Meeting Notice

The board of managers of the Minnesota State Agricultural Society, governing body of the Minnesota State Fair, will conduct a business meeting at 10 a.m. Friday, July 10, at the Administration Building on the fairgrounds, Falcon Heights. Preceding the general meeting will be a meeting of the board's space rental committee at 9 a.m.

Minnesota State Retirement System

Regular Meeting, Board of Directors

The regular bi-monthly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, June 19, 1981, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Pollution Control Agency

Application by the City of Worthington for a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit for its Wastewater Treatment Facility

Notice of Continuance of Hearing

Notice is hereby given that, pursuant to an order of the hearing examiner, the hearing in the above-entitled matter, originally scheduled to commence June 8, 1981, has been continued. The hearing will now be held on Monday, September 21, 1981, at the Farmers Room, Nobles County Courthouse, 315 Tenth Street, Worthington, Minnesota at 1:00 p.m.

It is anticipated that the hearing will be continued at 9:00 a.m. on Tuesday, September 22, 1981, at the same location and thereafter until adjournment. In addition, evening sessions will be held on both Tuesday, September 22, 1981, and Wednesday, September 23, 1981, commencing at 7:00 p.m. at the same location in order to provide an opportunity to participate to those who cannot attend the day session.

A second prehearing conference is scheduled for September 9, 1981, at 10:30 a.m., at the 4th Floor Conference Room, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113.

May 26, 1981

Louis J. Breimhurst
Executive Director

Pollution Control Agency Solid and Hazardous Waste Division

Notice of Intent to Solicit Outside Opinions and Information Concerning Revisions to the Minnesota Hazardous Waste Rules

Notice is hereby given that the Minnesota Pollution Control Agency (agency), is seeking opinions and information from

Willmar Municipal Utilities
704 Litchfield Avenue S.W., P. O. Box 937, Willmar, MN 56201
Phone (612) 235-4422

July 23, 1981

Ronald E. Sundberg, P.E.
District Heating Projects Manager
Minnesota Energy Agency
American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101

Dear Mr. Sundberg:

The Municipal Utilities Commission of the City of Willmar is proceeding toward establishment of a hot water District Heating System. The hot water system will be developed as a major segment of the Center City Redevelopment Project for the City of Willmar. The hot water construction project will consist of modification of our cogeneration plant to heat the water, construction of a hot water distribution system and the conversion of approximately 80 steam heat customers to hot water heat.

The City of Willmar is committed to a 1982 construction period with the following lead time schedule for the Hot Water Project:

Phase	Date
Preliminary feasibility study	Completed
Engineering design	Sept.- Nov. 1981
Bid letting	January 1982
Financial plan finalized	Jan.- Mar. 1982
Award of bids	Feb.- Mar. 1982
Construction	May - Oct. 1982

At this point the Willmar Municipal Utilities Commission is considering various options for financing the project, one of which involves the District Heating Loan program administered by the MEA as authorized in H.F. No. 493. The project scope as defined appears to match very closely the eligibility and priority requirements as specified in the Act. However, the design loan and construction loan programs may not be in operation in order to proceed with our project following approval for the loans.

The basic questions I have are these: "Will the District Heating Loan program authorize loans for those projects already underway? That is, if design of a project is financed by local funds on an interim basis, would approval be given to a loan applicant after design has proceeded or loan completed? (likewise for construction)"

I would appreciate your comments as soon as practicable. If you have any questions, feel free to contact me.

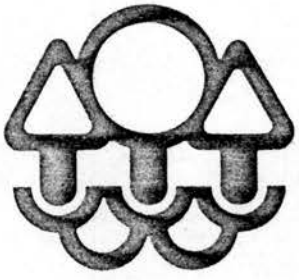
Sincerely,

MUNICIPAL UTILITIES COMMISSION

Michael F Nitchals

Michael F. Nitchals
Controller/Systems Manager

MFN:wt



Minnesota Pollution Control Agency

July 8, 1981

Mr. Ronald Sundberg
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Dear Mr. Sundberg:

This letter is in response to your request for solicitation of information as the Energy Agency drafts rules authorized by the District Heating Bonding Act. This request was published in the State Register, Monday, June 15, 1981.

A major goal of the Minnesota Pollution Control Agency is to minimize the volume of solid waste entering Minnesota's landfills. Land disposal of solid waste is, in many cases, an unnecessary waste of a valuable resource. A major option to reduce the weight and volume of municipal solid waste is through incineration where energy can be recovered.

The District Heating Bonding Act gives projects which "use renewable or nonpetroleum sources of energy" a higher priority in receiving funding. Solid waste is a nonpetroleum source of fuel. Examples of solid waste include: municipal solid waste, tires, sunflower seed hulls, flax shives, agricultural and forest product residues, and solvents and other liquid wastes. Incineration of solid waste generates a minimum of 4500 BTU's/lb. This quantity of energy would be very suitable to a hot water or low pressure steam district heating project. Innovative sources of energy have been used in district heating projects throughout the country.

The Agency requests that in drafting the rules for the District Heating Bonding Act, two items be considered. The first is to give priority to potential fuels which are currently disposed of in landfills. the second is that the rules have the flexibility to cover the latitude of solid waste as an alternative fuel.

Phone: 612/296-7301
1935 West County Road B2, Roseville, Minnesota 55113
Regional Offices · Duluth/Brainerd/Detroit Lakes/Marshall/Rochester
Equal Opportunity Employer

Because of the combustion systems needed to procure energy for district heating proposals, air emissions will result. It is, also, possible for the need to discharge water from boiler blow-down, cooling and ash removal systems. Therefore, it will be necessary for any district heating proposals to comply with Agency pollution control rules and appropriate permits would have to be acquired.

Sources of energy and disposal of waste are serious problems. In the past, the Minnesota Energy Agency and the Minnesota Pollution Control Agency have worked very closely on important issues for the people of Minnesota. This is one more area where we can work together as we solve problems of energy and waste disposal.

Should you have any questions relating to energy recovery from the incineration of solid waste, please contact Curtis Sparks of my staff at (612) 297-2724.

Yours truly,

for Louis M. Hoffern

Louis J. Breimhurst
Executive Director

LJB/jan

cc: International District Heating Association, Upper Midwest Sect.

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED this 8th day of February 1982, that Notice of Intent to Adopt Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Energy Agency for that purpose and be published in the State Register.

MINNESOTA ENERGY AGENCY

MICHAEL J. MURPHY
Acting Director

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act
6 MCAR §§ 2.4011 - 2.4017

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 Agency has determined that the adoption of the rules will not be controversial and has elected to follow the procedures set out in Minnesota Statutes § 15.0412, subd. 4h.

In the 1981 session, the Minnesota Legislature enacted the District Heating Bonding Act, Laws of 1981, Chapter 334, hereinafter "Act", for the purpose of fostering the establishment and improvement of district heating systems. The Minnesota Energy Agency has developed these rules under the authority of Section 1, Subdivision 11 of the Act, for the purpose of administering a program of loans to municipalities for district heating design.

The objective of the District Heating Design Loan program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy and/or displace scarce fuels such as petroleum and natural gas.

Temporary rules for design loans were duly promulgated and became effective on September 21, 1981. They are published in the State Register of August 3, 1981 (6 S.R. 136) with additions in October 12, 1981 (6 S.R. 641).

Copies of the proposed rules may be obtained by writing or calling Mr. Ronald Sundberg at the address or telephone number given below.

Please be advised that you have an opportunity for the 30-day period following publication of this notice and the proposed rules to submit comments in writing on the proposed rules and to object to the lack of public hearing on the proposed rules. Your written comments or request for hearings should be submitted to the Minnesota Energy Agency, c/o Ronald Sundberg, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101. Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, no public hearing will be held. If seven or more persons request hearings on the proposed rules, the Department will order public hearings in accordance with Minn. Stat. § 15.0412, subds. 4-4f. The Department may modify the proposed rules if modification is supported by the data and views submitted in written comments and if no substantial change results from the modification.

If no hearing is required, and the Department decides to adopt the rules as proposed, or as modified if written comments justify modification, the Department will submit to the Attorney General for review of form, legality and substanital change the following documents: this notice with the rules as proposed, the rules as adopted, the order adopting the rules, any written comments received by the Department, the Department's Statement of Need and Reasonableness supporting adoption of the rules, and any written comments received by the Department in response to the earlier notices seeking outside opinions. Any person may request notification of the date the Department makes the submission to the Attorney General. If you desire to be so notified, you must inform the Department in writing during the 30-day comment period.

The Department has prepared a Statement of Need and Reasonableness in support of the proposed rules which is also available from the Department by writing to the address indicated above or calling 612/296-9096.

The Department's authority to promulgate the proposed rules can be found in Minn. Stat. § 116H.08(a) and Laws of 1981, ch. 334, section 1, subd. 11.

Please be advised that Minnesota Statutes Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

Dated: February 8, 1982

MICHAEL J. MURPHY
Acting Director

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

AFFIDAVIT OF MAILING

Marlene H. Odeen, being first duly sworn, deposes and says:

That on the 19th day of February, 1982, at the City of Saint Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mailing system, or in the United States Mail at said City of Saint Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Energy Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency.

Marlene H. Odeen

MARLENE H. ODEEN

Subscribed and sworn to before me this 19th day of February, 1982

Karla V. Sand

NOTARY PUBLIC

KARLA V. SAND
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Jan. 26, 1986

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans Under the District Heating Bonding Act 6 MCAR §§ 2.4011 - 2.4017

MAILING LIST CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, Subd. 4, that their names be placed on file with and maintained by the Minnesota Energy Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency, is accurate and complete as of 11:00 A.M, this 17th day of February, 1982.

Mary M. Elverum

MARY ELVERUM

Subscribed and sworn to before me this 17th day of February, 1982.

Karla V. Sand

Notary Public

KARLA V. SAND
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Jan. 26, 1986.

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

Agency has determined that the adoption of the rules will not be controversial and has elected to follow the procedures set out in Minnesota Statutes § 15.0412, subd. 4h.

In the 1981 session, the Minnesota Legislature enacted the District Heating Bonding Act, Laws of 1981, Chapter 334, hereinafter "act", for the purpose of fostering the establishment and improvement of district heating systems. The Minnesota Energy Agency has developed these rules under the authority of § 1, subdivision 11 of the act, for the purpose of administering a program of loans to municipalities for district heating design.

The objective of the District Heating Design Loan program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy and/or displace scarce fuels such as petroleum and natural gas.

Temporary rules for design loans were duly promulgated and became effective on September 21, 1981. They are published in the *State Register* of August 3, 1981 (6 S.R. 136) with additions in October 12, 1981 (6 S.R. 641).

Copies of the proposed rules may be obtained by writing or calling Mr. Ronald Sundberg at the address or telephone number given below.

Please be advised that you have an opportunity for the 30-day period following publication of this notice and the proposed rules to submit comments in writing on the proposed rules and to object to the lack of public hearings on the proposed rules. Your written comments or request for hearings should be submitted to the Minnesota Energy Agency, c/o Ronald Sundberg, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101. Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, no public hearing will be held. If seven or more persons request hearings on the proposed rules, the department will order public hearings in accordance with Minn. Stat. § 15.0412, subds. 4-4f. The department may modify the proposed rules if modification is supported by the data and views submitted in written comments and if no substantial change results from the modification.

If no hearing is required, and the department decides to adopt the rules as proposed, or as modified if written comments justify modification, the department will submit to the Attorney General for review of form, legality and substantial change the following documents: this notice with the rules as proposed, the rules as adopted, the order adopting the rules, any written comments received by the department, the department's statement of need and reasonableness supporting adoption of the rules, and any written comments received by the department in response to the earlier notices seeking outside opinions. Any person may request notification of the date the department makes the submission to the Attorney General. If you desire to be so notified, you must inform the department in writing during the 30-day comment period.

The department has prepared a statement of need and reasonableness in support of the proposed rules which is also available from the department by writing to the address indicated above or calling 612/296-9096.

The department's authority to promulgate the proposed rules can be found in Minn. Stat. § 116H.08(a) and Laws of 1981, ch. 334, § 1, subd. 11.

Please be advised that Minnesota Statutes chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

February 8, 1982

Michael J. Murphy
Acting Director

Rules as Proposed (all new material)

6 MCAR § 2.4011 Definitions.

A. Applicability. For the purposes of 6 MCAR §§ 2.4011-2.4017 the terms defined in B.-G. have the meanings given them.

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

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

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.

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

E. Design loan. "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related management tasks.

F. Preliminary engineering design. "Preliminary engineering design" means a design effort with the objective of estimating district heating design and construction costs within 15 percent of the actual costs.

G. Project. "Project" means a district heating design project.

6 MCAR § 2.4012 Authority, purpose, and applicability.

A. Authority. Rules 6 MCAR §§ 2.4011-2.4017 are authorized by Minn. Stat. § 116H.31, subd. 11.

B. Purpose. Rules 6 MCAR §§ 2.4011-2.4017 are promulgated for the purpose of allowing prompt and proper applications for design loans after comprehensive preliminary engineering, economic, and design studies have been completed. Rules 6 MCAR §§ 2.4011-2.4017 set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

C. Applicability. Rules 6 MCAR §§ 2.4011-2.4017 apply to the department and to any municipality applying for design loans under the act.

6 MCAR § 2.4013 Application procedure. Applications for design loans under the act and 6 MCAR §§ 2.4011-2.4017 shall be submitted to the commissioner. Ten complete copies shall be submitted. Applications will be accepted beginning on the date 6 MCAR §§ 2.4011-2.4017 become effective.

6 MCAR § 2.4014 Application contents.

A. Information required. An application shall contain the following information:

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

2. A comprehensive business plan for the project as specified in 6 MCAR § 2.4015;

3. A resolution in support of the project from the governing body of the municipality, which must include the pledges the municipality proposes to make to guarantee repayment of the design loan;

4. A resolution or letter of intent from the proposed owner or operator of the district heating system indicating that he would expect to proceed with construction if the results of the design and final feasibility project are consistent with the preliminary feasibility study;

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

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

7. An estimate of the type and amount of fuel to be 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;

8. A negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet.

B. Waiver of negative declaration. The commissioner may waive the requirement of A.8. upon written request by the municipality. This request will be considered as part of the application and must contain the municipality's rationale in support of a waiver.

6 MCAR § 2.4015 Contents of comprehensive business plan.

A. Minimum contents. The comprehensive business plan submitted under 6 MCAR § 2.4014 A.2. must contain no less than the information specified in B.-H.

B. Preliminary engineering design. A preliminary engineering design of the project must include the following information.

1. An analysis of the proposed piping layout must address 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.

2. An analysis of the proposed piping design must address reliability of service; ease of construction; ease of maintenance; installation methods; and specifications and standards.

3. An analysis of the heat source design must define 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.

C. Market study. The comprehensive business plan must include a market study of customers who represent 90 percent of the proposed thermal load of the district heating system defined by the business plan. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. Preliminary expansion plan. A preliminary expansion plan must show how the system could be expanded to serve other parts of the community.

E. Preliminary economic analysis. A preliminary economic analysis must include a preliminary financing and development plan for the district heating system and cash flow, income, and balance sheets for a 20-year planning period. This analysis must also contain 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.

F. Letters of intent to purchase heat. The applicant shall submit copies of letters of intent to purchase heat supplied by the project, from major customers representing at least 50 percent of the thermal load.

G. Letter of intent to furnish heat. The applicant shall submit a copy of a letter of intent to furnish heat, from the owner of the heat source or the proposed system owner or operator.

H. Engineering opinion. The business plan requires an opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice.

6 MCAR § 2.4016 Application review criteria. The commissioner shall review each application as it is received according to the eligibility and priority criteria of Minn. Stat. §. 116H.31; the sophistication and reasonableness of the technical approach as detailed in the application; the experience and qualifications of the applicant as they relate to the project; the project organization and personnel assignment; and the estimated cost of the project.

6 MCAR § 2.4017 Expenditures not required. Rules 6 MCAR §§ 2.4011-2.4017 do not require expenditure of money not available.

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division

Proposed Rules Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Notice of Withdrawal of Previous Proposed Amendments and Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") withdraws its previously proposed amendments to the rule published at page 630 of the October 12, 1981, *State Register* (6 S.R. 630) and identified as "6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program" at page 631 of that *State Register*.

Notice is hereby given that the Minnesota Pollution Control Agency intends to adopt revised amendments to the above-entitled rule without a public hearing. The agency has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed amendments will enable the agency to administer the Minnesota Solid Waste Management Planning Assistance Program in the current and future bienniums. Authority for the adoption of this rule is contained in Minn. Stat. § 115A.42.

The agency has prepared a statement of need and reasonableness that describes the agency's reasons for each provision of the proposed amendments and identifies the data and information relied upon by the agency to support the proposed rule. Copies of the statement of need and reasonableness and the proposed amendments are available and may be obtained by contacting:

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.

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

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans Under the District Heating Bonding Act 6 MCAR §§ 2.4011-2.4017

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

In the 1981 session, the Minnesota Legislature enacted the District Heating Bonding Act, Laws of 1981 Chapter 334, hereinafter "Act", for the purpose of fostering the establishment and improvement of district heating systems. The Department of Energy, Planning and Development (Minnesota Energy Agency), hereinafter "Department", has developed these rules under the authority of Section 1, Subdivision 11 of the Act for the purpose of administering a program of loans to municipalities for district heating design.

The objective of the District Heating Design Loan Program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy and/or displace scarce fuels such as petroleum and natural gas.

This Statement of Need and Reasonableness will illustrate the manner in which the Department will administer the design loan program under the Act.

Temporary rules for design loans were duly promulgated and became effective on September 21, 1981. They are published in the State Register of August 3, 1981 (6 S.R. 136) with additions in October 12, 1981 (6 S.R. 641).

RULES

The format used in preparing this Statement of Need and Reasonableness is as follows: each rule is stated and underlined; it is then followed by an

explanation of the intent of the proposed rule and the need for the proposed rule.

6 MCAR S 2.4011 Definitions.

A. Applicability. For the purposes of 6 MCAR SS 2.4011-2.4017 the terms defined in B.-G. have the meanings given them.

This rule contains definitions of those terms that are used often in the rules which might not be understood by the reader and also terms which are used in a shorthand manner in the rules.

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

This section provides a shorthand method of referring to the legislation under which these rules are promulgated.

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

This section provides a shorthand method of referring to the official who is responsible for reviewing applications.

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

This section provides a shorthand method of referring to the branch of state government responsible for administering the Act.

E. Design loan. "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related management tasks.

This section is needed to inform prospective applicants of the type of activities that a design loan would be used for and give several non-exclusive examples.

F. Preliminary engineering design. "Preliminary engineering design" means a design effort with the objective of estimating district heating design and construction costs within 15 percent of the actual costs.

This section informs prospective applicants of the type of preliminary work that must be done before an application can be made and the degree of accuracy that is expected.

G. Project. "Project" means a district heating design project.

This section provides a shorthand method of referring to the undertaking to develop district heating which the design loan will be a part of.

6 MCAR S 2.4012 Authority, purpose, and applicability.

A. Authority. Rules 6 MCAR SS 2.4011-2.4017 are authorized by Minn. Stat. S 116H.31, subd. 11.

This section is necessary to indicate the statutory authority and requirement for promulgating these rules.

B. Purpose. Rules 6 MCAR SS 2.4011-2.4017 are promulgated for the purpose of allowing prompt and proper applications for design loans after comprehensive preliminary engineering, economic, and design studies have been completed. Rules 6 MCAR SS 2.4011-2.4017 set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

This section is necessary to inform prospective applicants that the rules contain application procedures and evaluation criteria. It also informs them that preliminary studies must be done before an application can be made.

C. Applicability. Rules 6 MCAR SS 2.4011-2.4017 apply to the department and to any municipality applying for design loans under the Act.

This section is necessary to inform prospective applicants of the parties who will be governed by these rules.

6 MCAR S 2.4013 Application procedure. Applications for design loans under the Act and 6 MCAR SS 2.4011-2.4017 shall be submitted to the commissioner. Ten complete copies shall be submitted. Applications will be accepted beginning on the date 6 MCAR SS 2.4011-2.4017 become effective.

This rule is needed to inform prospective applicants that applications should be sent to the Commissioner and that ten copies are needed. It also informs them that no applications will be received under these rules until they become effective.

6 MCAR S 2.4014 Application contents.

A. Information required. An application shall contain the following information:

This rule informs prospective applicants what items must be included in the application.

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

This section is needed so that the Department will have a contact person for each application.

2. A comprehensive business plan for the project as specified in 6 MCAR S 2.4015;

This section is necessary to inform applicants that a certain amount of planning must be done before an application can be made and to delineate what steps are needed.

3. A resolution in support of the project from the governing body of the municipality, which must include the pledges the municipality proposes to make to guarantee repayment of the design loan;

Since loans are to be made to municipalities it is necessary that such municipalities pledge their moral and financial support to the project.

4. A resolution or letter of intent from the proposed owner or operator of the district heating system indicating that he would expect to proceed with construction if the results of the design and final feasibility project are consistent with the preliminary feasibility study;

This section is necessary to determine the intent of the primary party of each district heating system. The purpose of the act is to foster the development of district heating systems. In situations where the preliminary studies indicate that a system is feasible and all design work has been completed, and if the proposed system owner decides that he does not want a system after all; then the purpose of the act is defeated. This section asks for a commitment at this early stage to avoid such problems.

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

The requirement of compliance with governmental regulation can have a significant effect on the timing and even the viability of a district heating project. It is reasonable to expect the Commissioner to be appraised of the status of such compliance.

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

The participation of qualified people is of vital importance to the success of a district heating development. It is reasonable for the Commissioner to require information on who will be working on a project and what their qualifications are.

7. An estimate of the type and amount of fuel to be 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;

Two of the stated purposes of the Act are to increase energy efficiency and to reduce the need for imported energy supplies. It is reasonable to

require energy information to determine if a project fulfills these purposes.

8. A negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet.

B. Waiver of negative declaration. The commissioner may waive the requirement of A.8. upon written request by the municipality. This request will be considered as part of the application and must contain the municipality's rationale in support of a waiver.

The act gives priority to environmentally benign projects, so it is necessary to require environmental information. In most cases district heating projects will have minimal environmental effects. It is expected that few, if any, will require an Environmental Impact Statement (EIS). It is reasonable to require a negative declaration with a waiver provision. In those cases where an EIS is needed or if no environmental regulations apply, then the municipality must present environmental information to the commissioner. This becomes part of the application and is therefore considered in the evaluation.

6 MCAR S 2.4015 Contents of comprehensive business plan.

A. Minimum contents. The comprehensive business plan submitted under 6 MCAR S 2.4014 A.2. must contain no less than the information specified in B.-H.

This rule is needed to specify exactly what information must be included in the comprehensive business plan.

B. Preliminary engineering design. A preliminary engineering design of the project must include the following information.

1. An analysis of the proposed piping layout must address 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.

In order to properly evaluate applications, it is reasonable and necessary for the commissioner to require the completion of a preliminary engineering design of the district heating project. A municipality must do significant preliminary work to arrive at the point where an intelligent decision to design and build a district heating system can be made.

The piping layout of a project will have a significant effect on the capital cost, reliability, operating costs and the overall feasibility of a project. It is reasonable that the commissioner require applicants to furnish detailed information on the piping layout.

2. An analysis of the proposed piping design must address reliability of service; ease of construction; ease of maintenance; installation methods; and specifications and standards.

Likewise, piping design is important in regard to the capital costs, reliability and operating costs of a project. It is reasonable for the commissioner to require detailed information on piping design also.

3. An analysis of the heat source design must define 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.

Additionaly, the design of the heat source to be used in a district heating project is an important part of the preliminary engineering study. The development of a district heating system will usually proceed in stages and different heat sources will play different roles in each stage. It is reasonable for the commissioner to require an analysis of how each heat source will fit into the overall development.

C. Market study. The comprehensive business plan must include a market study of customers who represent 90 percent of the proposed thermal load of the district heating system defined by the business plan. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

A thorough market study is essential to a good business plan. The design and the development of a district heating system will revolve around the market study. It is reasonable to require a market study representing a full 90% of the thermal load. Since district heating systems usually involve densely populated downtown areas with a relatively small number of large customers, such a study should not be overly difficult to perform.

D. Preliminary expansion plan. A preliminary expansion plan must show how the system could be expanded to serve other parts of the community.

Once a successful district heating system is established it is usually economically attractive to expand the system to other parts of the community. It is reasonable to expect a project to take account of such possible future expansion in the early planning stages.

E. Preliminary economic analysis. A preliminary economic analysis must include a preliminary financing and development plan for the district heating system and cash flow, income, and balance sheets for a 20-year planning period. This analysis must also contain 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.

A comprehensive economic analysis with detailed cost figures is vitally important to any business plan. It is reasonable to require a 20 year planning period, because the terms of the loans will be at least that long. Since design loans will be for less than the total cost of a project, it is important that the commissioner know how the entire project is to be financed in order to review it.

F. Letters of intent to purchase heat. The applicant shall submit copies of letters of intent to purchase heat supplied by the project, from major customers representing at least 50 percent of the thermal load.

In order for a district heating system to be economically viable, there must be a strong interest by potential customers in using the system. It is reasonable to expect this minimum level of commitment in order to proceed with planning and development.

G. Letter of intent to furnish heat. The applicant shall submit a copy of a letter of intent to furnish heat, from the owner of the heat source or the proposed system owner or operator.

In some cases the source of heat for the district heating system will be controlled by someone other than the applicant, such as when hot water is to be purchased from an existing power plant or when a corporation will own the system. In those cases it is reasonable to expect a commitment from such parties, because without it no district heating development can take place.

H. Engineering opinion. The business plan requires an opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice.

This section is needed to insure that each applicant retains competent engineering personnel and that these people thoroughly examine the proposal.

6 MCAR S 2.4016 Application review criteria. The commissioner shall review each application as it is received according to...

This rule identifies the official who is responsible for examining and rating applications and lists the standards by which they will be evaluated.

Requiring each application to be reviewed as received eliminates the confusion of late additions or deletions. It also puts all applicants on an equal footing,

because extraneous considerations which are not part of the application will not be considered.

...the eligibility and priority criteria of Minnesota Statutes S 116H.31;...

This section informs the prospective applicant that the act specifies certain standards by which applications will be judged.

...the sophistication and reasonableness of the technical approach as detailed in the application;...

This section is necessary to inform applicants that projects will be evaluated on the overall feasibility of the project and the thoroughness of their preliminary engineering work.

...the experience and qualifications of the applicant as they relate to the project;...

This section is needed to advise the applicant that projects will be evaluated on the quality of the team of firms and individuals brought together to carry out the district heating development, including city officials and employees, engineering marketing and design firms, and financial consultants.

...the project organization and personnel assignment;...

This section informs applicants that projects will be evaluated on how they plan to bring about the district heating development and whether firms and individuals are assigned to the tasks that each are best qualified for.

...and the estimated cost of the project.

This section informs applicants that projects will be evaluated on the adequacy or excessiveness of their project cost compared to the scope of the work to be done.

6 MCAR S 2.4017 Expenditures not required. Rules 6 MCAR SS 2.4011-2.4017 do not require expenditure of money not available.

This section advises applicants that these rules should never be interpreted to require the spending of funds that are not available.

Date: February 18, 1982

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

by Dennis M. Devereaux
Dennis M. Devereaux

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

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under District Heating Bonding Act 6 MCAR §§ 2.4011-2.4017

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURE

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: 29 March 1982

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

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011-2.4017

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

DENNIS M. DEVEREAUX, being first duly sworn, deposes and says:

That on the 29th day of MARCH, 1982, in the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Submission to the Attorney General by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Dennis M. Devereaux
DENNIS M. DEVEREAUX

Subscribed and sworn to before me this 29th day of March, 1982.

Karla V. Sand

KARLA V. SAND
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Jan. 26, 1986.

STATE OF MINNESOTA

DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT

ENERGY DIVISION (MINNESOTA ENERGY AGENCY)

In the Matter of the Proposed Adoption of Rules of the Department of Energy, Planning and Development (Minnesota Energy Agency) Governing Design Loans under the District Heating Bonding Act 6 MCAR §§ 2.4011-2.4017

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, MARCH 29, 1982, for review as to form and legality. Pursuant to 1 MCAR § 1.206 C, the Attorney General will not approve the rules for at least eight calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Ronald Sundberg, Energy Division, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101, telephone (612) 296-9096.

Dennis M. Devereaux

DENNIS M. DEVEREAUX