

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

9 EA

File No. 155- _____ Docket 05.0009.0183

DATE RECEIVED 12/20/88 ADOPTED W/O HEARING no

REVIEW DATE 12/29/88 EMERGENCY RULE _____

DUE DATE 12/3/88 REVISOR APPROVED _____

APPROVED 12/29/88 EA REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

_____ ~~Date published in State Register~~

_____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed Rule

YES Revisor's Certificate

✓ Notice of Intent to Adopt Rule

446A.05 AK Statutory Authority

no Small Business Statement

no Expenditure of public money statement

no Signature

✓ Statement of Need and Reasonableness (if applicable)

no Small Business Statement

n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

9/16/88 Date 30/25 days before adoption

bc Notice attached

_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

9/26/88 Date 30/25 days before adoption

_____ 180-day deadline from:

10/16/88 end of comment period (§ 14.26) (rules without hearing)

_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

12/13/88 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

K. Sonneman Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

ATTORNEY GENERAL

January 3, 1988

MARTIN B. ENGLISH
Public Finance Officer

JACQUELYN E. ALBRIGHT
Special Assistant
Attorney General

6-9715

In the Matter of the Adopted Rule Relating to
Public Facilities Authority

The above-referenced rule has been approved as to its legality by the Attorney General on December 29, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. §14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. §14.34.

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

JEA:rer
Enclosures

cc: Maryanne Bruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Minnesota Department of
Trade and Economic Development

Community Development Division

900 American Center
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

612/296-5005
Fax: 612/296-1290

December 8, 1988

Rec'd 12/20/88 OK

7-1981

Ms. Martha Casserly
Assistant Attorney General
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

**RE: In the Matter of Proposed Rules Governing the Administration of the Minnesota Public Facilities Authority
Minn. Rules Parts 7380.0100 to 7380.0130**

Dear Ms. Casserly:

On December 13, 1988, the Commissioner of Trade and Economic Development adopted the above-captioned rules governing the Administration of the Minnesota Public Facilities Authority. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

N/A 3. Certificate of Resolution Adopting Rules.

N/A 4. Notice of Intent to Solicit Outside Opinion S. R. _____.

N/A 5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

N/A 6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed 13 S. R. 13, September 26, 1988.

N/A 8. Comments received during the comment period.

9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

10. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

N/A 14. Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

N/A 15. Affidavit of Mailing of Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

N/A 16. [Petition for Rulemaking].

Sincerely,

Martin B. English
Public Finance Officer

MBE:cd

PFA II/26-3

Enclosures

Department of Trade and Economic Development

Adopted Permanent Rules Relating to the Public Facilities Authority

Rules as Adopted

7380.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0100 to 7380.0130.

Subp. 2. **Meetings.** Regular meetings and special meetings of the authority, and notice of such meetings, shall be as provided in the Minnesota Open Meeting Law, Minnesota Statutes, section 471.705.

Subp. 3. **Statute.** "Statute" means Minnesota Statutes, section 471.705, cited as the Minnesota Open Meeting Law.

7380.0110 REGULAR MEETINGS.

Regular meetings of the authority are held as provided in the notice of meeting schedule issued by the authority and on file at the office of the authority at 900 American Center Building, 150 Kellogg Boulevard, Saint Paul, Minnesota. If the authority decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall do so as provided by Minnesota Statutes, section 471.705, subdivision 1c.

7380.0120 SPECIAL MEETINGS.

Special meetings of the authority may be called by the chair or by a majority of the members of the authority, provided the notice is given as required by statute. The purpose of the meeting shall be only as provided in the notice, and shall be held at the office of the authority in Saint Paul, Minnesota, unless another place of meeting is designated by resolution.

7380.0130 AGENDA.

A proposed agenda of business to be conducted at any regular or special meeting of the authority must be included

with the notice of meeting to all members of the authority. Any citizen, group, or organization that has requested to be included on the Public Facilities Authority mailing list shall receive an agenda. The mailing list will be updated every two years. Any member of the authority who wishes to add an item on the agenda of a regular meeting may do so with the concurrence of the majority of the members.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 2 1
Secretary of State

1:55PM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 29 1988
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
Dec 29 19 88
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Jacquelyn E. Albright
SPECIAL ASSISTANT ATTORNEY GENERAL

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IN THE MATTER OF THE PROPOSED PERMANENT ADMINISTRATIVE RULES OF THE COMMISSIONER OF TRADE AND ECONOMIC DEVELOPMENT FOR THE MINNESOTA PUBLIC FACILITIES AUTHORITY

STATEMENT OF NEEDS AND REASONABLENESS

INTRODUCTION:

This Statement of Needs and Reasonableness describes the proposed permanent administrative rules for the Public Facilities Authority. The format used in this statement is as follows: each rule is first stated, followed by a discussion of the necessity of the proposed rule, and its reasonableness.

7380.0100 DEFINITIONS.

SUBPART 1. SCOPE. THE TERMS DEFINED IN THIS PART APPLY TO PARTS 7380.0100 TO 7380.0130.

SUBPART 2. MEETINGS. REGULAR MEETINGS AND SPECIAL MEETINGS OF THE AUTHORITY, AND NOTICE OF SUCH MEETINGS, SHALL BE AS PROVIDED IN THE MINNESOTA OPEN MEETING LAW, MINNESOTA STATUTES SECTION 471.705.

SUBPART 3. STATUTE. "STATUTE" MEANS MINNESOTA STATUTES 471.705, CITED AS THE MINNESOTA OPEN MEETING LAW.

This part is necessary as it provides potential applicants with a specific meaning of terms used in the rules. It is reasonable to provide such definitions as they are defined by statute.

7380.0110 REGULAR MEETINGS

REGULAR MEETINGS OF THE AUTHORITY SHALL BE AS PROVIDED IN THE NOTICE OF MEETING SCHEDULE ISSUED BY THE AUTHORITY AND ON FILE AT THE OFFICE OF THE AUTHORITY AT 900 AMERICAN CENTER BUILDING, 150 KELLOGG BOULEVARD, ST. PAUL, MINNESOTA. IF THE AUTHORITY DECIDES TO HOLD A REGULAR MEETING AT A TIME OR PLACE DIFFERENT FROM THE TIME OR PLACE STATED IN ITS SCHEDULE OF REGULAR MEETINGS, IT SHALL DO SO AS PROVIDED BY SUBD. 1C. OF THE STATUTE.

This part is reasonable as the Authority is required to be in compliance with Minnn. Stat. 471.705 (1986), as amended by Chapter 313 of Minnesota Laws of 1987, referenced as the Minnesota Open Meeting Law. It is necessary so as to inform those who have business with the Authority at what times the Authority members meet.

7380.0120 SPECIAL MEETINGS

SPECIAL MEETINGS OF THE AUTHORITY MAY BE CALLED BY THE CHAIR OR BY A MAJORITY OF THE MEMBERS OF THE AUTHORITY, PROVIDED THE NOTICE IS GIVEN AS REQUIRED BY STATUTE. THE PURPOSE OF THE MEETING SHALL BE ONLY AS PROVIDED IN THE NOTICE, AND SHALL BE HELD AT THE OFFICE OF

THE AUTHORITY IN ST. PAUL, MINNESOTA, UNLESS ANOTHER PLACE OF MEETING IS DESIGNATED BY RESOLUTION.

This part is necessary so it informs those who may have business with the Authority, that the Authority may hold meetings at times other than the scheduled regular meetings and of the methodology required to call such meeting. It is reasonable as it is required by Minn. Stat. 471.705.

7380.0130 AGENDA

A PROPOSED AGENDA OF BUSINESS TO BE CONDUCTED AT ANY REGULAR OR SPECIAL MEETING OF THE AUTHORITY MUST BE INCLUDED WITH THE NOTICE OF MEETING TO ALL MEMBERS OF THE AUTHORITY. ANY CITIZEN, GROUP, OR ORGANIZATION THAT HAS REQUESTED TO BE INCLUDED ON THE PUBLIC FACILITIES AUTHORITY MAILING LIST SHALL RECEIVE AN AGENDA. THE MAILING LIST WILL BE UPDATED EVERY TWO YEARS. ANY MEMBER WHO WISHES TO ADD AN ITEM ON THE AGENDA OF A REGULAR MEETING MAY DO SO WITH THE CONCURRENCE OF THE MAJORITY OF THE MEMBERS.

This part is necessary to inform those who may may have business with the Authority that an agenda of business to be conducted at an Authority meeting is prepared and available to who wish to be informed of the business to be conducted by the Authority and the method by which they may attain an agenda. It is reasonable as it is as provided by statute.

PFA II/2-CP

#9

Com sioner of Trade and Economic lopment
Public Facilities Authority

Proposed Permanent Rules Relating to the Pubic Facilities Authority

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Commissioner of Trade and Economic Development proposes to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. Authority for the adoption of these rules is contained in Minnesota Statutes, section 446A.05, Subdivision 2.

All persons have 30 days to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to Minnesota Statues, sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Terry Kuhlman
Acting Executive Director
Public Facilities Authority
800 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Terry Kuhlman.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Terry Kuhlman.

David Speer
Commissioner of Trade and Economic Development

SCDP.GEN/II25-CP

Did copy of rule go out by notice? yes
Was it signed? yes

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to the Public Facilities Authority

AGENCY: Department of Trade and Economic Development

MINNESOTA RULES: Chapter 7380

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

Department of Trade and Economic Development

Proposed Permanent Rules Relating to the Public Facilities Authority

Rules as Proposed (all new material)

7380.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0100 to 7380.0130.

Subp. 2. **Meetings.** Regular meetings and special meetings of the authority, and notice of such meetings, shall be as provided in the Minnesota Open Meeting Law, Minnesota Statutes, section 471.705.

Subp. 3. **Statute.** "Statute" means Minnesota Statutes, section 471.705, cited as the Minnesota Open Meeting Law.

7380.0110 REGULAR MEETINGS.

Regular meetings of the authority are held as provided in the notice of meeting schedule issued by the authority and on file at the office of the authority at 900 American Center Building, 150 Kellogg Boulevard, Saint Paul, Minnesota. If the authority decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall do so as provided by Minnesota Statutes, section 471.705, subdivision 1c.

7380.0120 SPECIAL MEETINGS.

Special meetings of the authority may be called by the chair or by a majority of the members of the authority, provided the notice is given as required by statute. The purpose of the meeting shall be only as provided in the notice, and shall be held at the office of the authority in Saint Paul, Minnesota, unless another place of meeting is designated by resolution.

7380.0130 AGENDA.

A proposed agenda of business to be conducted at any regular or special meeting of the authority must be included

Approved by Revisor

with the notice of meeting to all members of the authority. Any citizen, group, or organization that has requested to be included on the Public Facilities Authority mailing list shall receive an agenda. The mailing list will be updated every two years. Any member of the authority who wishes to add an item on the agenda of a regular meeting may do so with the concurrence of the majority of the members.

Approved by Revisor _____

STATE OF MINNESOTA

#10

In the Matter of the Proposed
Adoption of the Rule of the
Commissioner of the Department of
Trade and Economic Development
for the Public Facilities Authority
Governing:
Administrative Rules
Independent Wastewater Treatment Grants Program
Water Pollution Control Revolving Fund Program
District Heating Loan Program
Energy Conservation Investment Loan Program

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT A RULE WITHOUT
A PUBLIC HEARING AND
CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) §
COUNTY OF RAMSEY)

Mary Andersen, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §14.14, Subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Department of Trade and Economic Development rulemaking mailing list is accurate, complete, and current as of this 13th day of September, 1988.

Mary Andersen
Name

Data Processing Coordinator
Title

Subscribed and sworn to before me

this 1st day of November, 1988.

Richard B. Nadeau
Notary Public

RICHARD B. NADEAU
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Apr. 12, 1993

Terry Kuhlman, being duly sworn says:

That on the 16th day of September, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Terry Kuhlman
Name

Director, Public Facilities Authority
Title

Subscribed and sworn to before me

this 1st day of November, 1988.

Richard B. Nadeau
Notary Public

RICHARD B. NADEAU
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Apr. 12, 1993

C. failure to demonstrate that the municipality's financial plan to pay for its portion of the project is feasible, as provided in Minnesota Statutes, section 446A.051.

7380.0580 AWARD OF GRANTS AND LOANS.

Subpart 1. **In general.** Upon certification of an application by the agency and the review and approval of the application by the authority, the authority shall make the award and notify the municipality that it is to receive a grant or loan and prepare and advise the municipality of the grant or loan forms or other documents that must be executed to complete the grant or loan.

Subp. 2. **Amendments to grant award.** A municipality that seeks an amendment to a previously awarded grant or loan shall follow the procedure in part 7380.0570 for applying to the authority.

7380.0581 RELEASE OF FUNDS.

Subject to the availability of funds, payments to a municipality, which have been certified by the commissioner, will be made in accordance with applicable federal and state laws governing those payments. However, payments will not be made until the authority has determined the total estimated cost of the project and ascertained that financing of the project is assured by:

A. a grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state;

B. a grant of funds appropriated by state law;

C. a loan authorized by state law;

D. the appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or

E. any or all of the means referred to in items A to D; and

F. an irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and

G. conformity of the project and of the grant or loan application with the state water pollution control plan as certified to the federal government and with all other conditions under applicable state and federal law for a grant of state or federal funds of the nature and in the amount involved.

7380.0582 REPORTS.

During the term of the grant or loan agreement, the municipality shall make written reports to the executive director of the authority on forms provided by the authority on a schedule determined by the executive director.

Department of Trade and Economic Development

Proposed Permanent Rules Relating to the Public Facilities Authority

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Commissioner of Trade and Economic Development proposes to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, section 446A.06, subd. 2.

All persons have 30 days to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged 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.

identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes,* sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Terry Kuhlman
Acting Executive Director
Public Facilities Authority
800 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Terry Kuhlman upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Terry Kuhlman.

David Speer
Commissioner of Trade and Economic Development

Rules as Proposed (all new material)

7380.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0100 to 7380.0130.

Subp. 2. **Meetings.** Regular meetings and special meetings of the authority, and notice of such meetings, shall be as provided in the Minnesota Open Meeting Law, Minnesota Statutes, section 471.705.

Subp. 3. **Statute.** "Statute" means Minnesota Statutes, section 471.705, cited as the Minnesota Open Meeting Law.

7380.0110 REGULAR MEETINGS.

Regular meetings of the authority are held as provided in the notice of meeting schedule issued by the authority and on file at the office of the authority at 900 American Center Building, 150 Kellogg Boulevard, Saint Paul, Minnesota. If the authority decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall do so as provided by Minnesota Statutes, section 471.705, subdivision 1c.

7380.0120 SPECIAL MEETINGS.

Special meetings of the authority may be called by the chair or by a majority of the members of the authority, provided the notice is given as required by statute. The purpose of the meeting shall be only as provided in the notice, and shall be held at the office of the authority in Saint Paul, Minnesota, unless another place of meeting is designated by resolution.

7380.0130 AGENDA.

A proposed agenda of business to be conducted at any regular or special meeting of the authority must be included with the notice of meeting to all members of the authority. Any citizen, group, or organization that has requested to be included on the Public Facilities Authority mailing list shall receive an agenda. The mailing list will be updated every two years. Any member of the authority who wishes to add an item on the agenda of a regular meeting may do so with the concurrence of the majority of the members.

Department of Trade and Economic Development

Proposed Permanent Rules Relating to District Heating Loans and Energy Conservation Investment Loans

Notice of Intent to Adopt Rules Without a Public Hearing

STATE OF MINNESOTA

COMMISSIONER OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of the Rules Governing the Administration of Public Facilities Authority	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on September 26, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on September 16, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rules were received by the agency.

No submissions or comments on the rules were received by the commissioner. No requests for notice of submission to the attorney general were received by the Commissioner.

The state register notice, 13 SR 745, cites Minn. Stat. § 446A.06, subd. 2 as authority for the adoption of these rules; the mailed notice, cites Minn. Stat. § 446A.05, subd. 2. These sections respectively address the rulemaking authority over independent waste water treatment grants and project loans. Neither appears to directly afford authority to adopt administrative rules.

Minn. Stat. § 446.04, subd. 1, provides that: "The commissioner may adopt rules covering the authority's operations, properties, and facilities." This is authority to adopt these rules. Thus, the rules can be adopted if notice is otherwise adequate. The purpose of notice is to appraise the public of rules that an agency intends to adopt. Significantly, no comments have been filed regarding these rules, including the authority to adopt the rules. Further, upon inquiry, one would find the proper authority in a consecutive statute. In view of this, the improper statutory citation appears to have caused no prejudice and should not be found to be a material defect.

Based on the evidence in the record before the Commissioner, I find the following:

The above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Administrative Rules of the Public Facilities Authority are adopted this 13 day of December, 1988, pursuant to authority vested in me by Minnesota Statutes, section 446A.04.

David J. Speer

David J. Speer
Commissioner of Trade and Economic Development

PFA II/17-3

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT
PUBLIC FACILITIES AUTHORITY

In the Matter of the Adoption of the
Rules Governing the Administration
of Public Facilities Authority
Minn. Rules Parts 7380.0100-.0130

DECLARATION OF COUNSEL

I, KARL W. SONNEMAN, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is **0183.**

KARL W. SONNEMAN
Special Assistant
Attorney general

Dated: December 20, 1988.