

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

CH

RULE REVIEW CHECKLIST

File No. ~~#~~1663

Docket No. 05 0009 0730

DATE RECEIVED 2-1-90

ADOPTED W/O HEARING X

REVIEW DATE ~~2-10-90~~ 2-12-90

EMERGENCY RULE _____

DUE DATE 2-15-90

TO REVISOR ON 2-6-90

REVISOR APPROVED _____

APPROVED 2-12-90

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE _____

WITHDRAWN _____

RETURNED TO AGENCY _____

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4 Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
- July 24 89 Date published in State Register
- ✓ Comments

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

_____ Board's Authorizing Resolution
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 216B.241 Statutory Authority
- ✓ Small Business Statement
- NA Expenditure of public money statement
- Dec 6, 1989 Signature

✓ Statement of Need and Reasonableness (if applicable)
- _____ Small Business Statement
- _____ Fees - § 16A.128

_____ Affidavit of Mailing Notice of Intent to Adopt Rule
- Dec 6, 1989 Date 30/25 days before adoption
- ✓ Notice attached indicates its attached
- _____ Copy of rule or summary attached

_____ Publication in State Register
- Dec 11, 1989 Date 30/25 days before adoption

✓ 180-day deadline from:
- NA Effective date of law requiring rule (14.12) (both rules) not mandatory not new material
- ✓ end of comment period (§ 14.26) (rules without hearing) Jan 11 - Feb 2
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
- _____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- Jan 30, 1990 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
- Jocelyn Olson Name of SAAG representing agency

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

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

FILE COPY

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : February 14, 1990

TO : JOCELYN F. OLSON
Assistant Attorney General
1100 Bremer Tower (55101)

FROM : CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 404 (55103)

PHONE : 296-9422

SUBJECT : In the Matter of the Adopted Permanent Rule Relating to Governing Conservation Improvement Programs and Utility Renewable Resource Pilot Programs

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on February 12, 1990.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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.

CH:bbl
Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "

Department of Public Service

Adopted Permanent Rules Relating to Conservation Improvement Program

Rules as Adopted

7690.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Department.** "Department" means the Department of Public Service.

Subp. 3. **Low income.** "Low income" has the meaning given it in Minnesota Statutes, section 216B.241, subdivision 2.

7690.0200 PURPOSE.

The purpose of this chapter is to specify procedures to be followed by public utilities in submitting, and by the department in analyzing and selecting, proposals for conservation improvement programs and renewable resource pilot programs and to provide for the participation of other interested persons in developing conservation improvement and renewable resource pilot programs.

7690.0300 SCOPE.

This chapter applies to proposals by public utilities and other interested persons for utility investments in conservation improvement and renewable resource pilot programs.

7690.0400 PROJECTS IN EFFECT.

Projects approved by the Public Utilities Commission that are in effect on the effective date of these amendments to chapter 7690, continue in effect until their expiration date unless the expiration date is changed by the department.

7690.0500 CONSERVATION IMPROVEMENT PROGRAM FILING.

Subpart 1. **Time limits.** No later than ~~April~~ May 1 of each even-numbered year beginning in 1990, a public natural gas

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utility required by Minnesota Statutes, section 216B.241 to invest in a conservation improvement program shall file with the department a conservation improvement program. No later than September 1, 1990, and every odd-numbered year afterward, a public electric utility required by Minnesota Statutes, section 216B.241 to invest in a conservation improvement program shall file with the department a conservation improvement program.

Subp. 2. **Contents.** The filing must include:

A. a comprehensive description of the proposed program, including a description of each project making up the program;

B. a statement quantifying each project's objectives including an estimate of the expected cost effectiveness of the project to the utility, to the project's participants, and to the utility's customers;

C. for each project targeted at residential consumers, a statement of the anticipated percentage of use of each project among low-income families and individuals, and renters;

D. a detailed budget for each project for the next two years, and:

(1) a projected four-year budget for the overall program; or

(2) if a shorter time period is more appropriate for the four-year budget, the reasons for that shorter time period and the projected budget for that shorter period;

E. a detailed description of the proposed ratemaking treatment and the proposed cost-recovery method;

F. a description of the marketing plans for each proposed project, including target participation rates;

G. a description of the expected effect of each project on peak and average consumption with supporting assumptions, including a computation of the costs that will be avoided or reduced by the implementation of the proposed project and an estimate of the expected revenue effects;

H. an explanation with supporting budget information

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of how the proposed plan ensures that at least half the money spent on residential projects is devoted to projects that directly address the needs of renters and low-income customers, or a statement with supporting documentation that an insufficient number of these projects are available;

I. an explanation of how the proposed projects provide for the involvement of community energy organizations when appropriate;

J. an outline of the proposed plan for evaluating the effectiveness of the proposed project;

K. a status report on each project from the currently approved program that must:

(1) state the total number of customers served;

(2) state the number of low-income customers and the number of renters served, if applicable;

(3) state the total amount spent on the project to date;

(4) state the average amount spent on each customer participating in the project, if applicable;

(5) provide other information required by the department in the document approving the program;

(6) for public natural gas utilities, be filed no later than ~~April~~ May 1 of each odd-numbered year; and

(7) for public electric utilities, be filed no later than September 1 of each even-numbered year; and

L. additional information that the department determines is necessary as a result of its review or evaluation of previous projects of the particular utility.

Subp. 3. **Completeness review.** Upon receipt of a utility's plan, the department shall conduct a completeness review based on the filing requirements listed in subpart 2. The department's findings after this review must set forth the information necessary to make the plan complete and the date by which the information must be filed. When the department determines that the necessary information has been filed to make the plan complete, it shall serve a written notice of completion

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on the utility and persons on the utility's service list established under part 7690.0800, subpart 1.

7690.0600 RENEWABLE RESOURCE PILOT PROGRAM FILING.

A public utility required by Minnesota Statutes, section 216B.241 to have a conservation improvement program shall file a proposal for a utility renewable resource pilot program upon the determination of the department that additional utility renewable resource pilot programs are needed to expand Minnesota's options for energy from renewable resources. For at least one year after authorizing a utility's renewable resource pilot program, the department shall not require a new proposal for a renewable resource pilot program from that utility. The filing must include:

[For text of items A to D, see M.R. 1989]

E. a description of the proposed ratemaking treatment and the proposed cost-recovery method; and

[For text of item F, see M.R. 1989]

7690.0700 EXISTING PROGRAMS; FILING.

The filing requirements for renewing existing conservation improvement program or utility renewable resource pilot program projects are the same as for newly proposed projects. However, if the department has material already on file, the utility or interested person submitting an alternative project may incorporate it by reference in its current filing.

7690.0800 SERVICE LISTS AND NOTICE.

Subpart 1. **Service lists.** The department shall establish service lists for specific utilities for use in providing public notice of conservation improvement programs and utility renewable resource pilot programs. The list must include the Public Utilities Commission, the Residential and Small Business Utilities Division of the Office of the Attorney General, persons involved in the public utility's previous conservation improvement program, persons who participated in the public utility's last general rate case with respect to conservation

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programs, and other persons the department believes are interested in the public utility's next conservation improvement program. The department shall update the service list at least 30 days before the date a public utility is required to file a program.

Subp. 2. **Notice of filing.** At the time it files its conservation improvement or utility renewable resource pilot program with the department, the public utility must provide written notice of its filing to persons on the utility's service list established under subpart 1. The notice must state that a copy of the utility's proposed program is available for public inspection at the enumerated business office locations of the utility and at the department's office. The notice must also state that the utility will make a copy of the proposed program available to interested persons upon request.

7690.0900 COMMENT; ALTERNATIVE PROPOSALS.

The department shall allow 45 days for written comments on the public utility's program and the submission of alternative projects by interested persons, including political subdivisions and nonprofit and community organizations. The time period allowed for written comments and alternative project filings begins on the date that the department's finding of completeness under part 7690.0500, subpart 2, is mailed. Proposals for alternative projects must follow the requirements of part 7690.0500 or 7690.0600, except for part 7690.0500, items E, G, H, and K. The department shall allow 30 days from the filing of the comments and alternative projects for written responses. These comments, alternative projects, and responses must be filed with the Public Utilities Commission, the department, and the utility to which they are addressed. The persons submitting the comments, alternative projects, or responses must provide them to any person, upon request.

7690.1000 PROPOSED DECISION.

Subpart 1. **Prepared by staff.** After reviewing the comments submitted under part 7690.0900, the department staff

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shall prepare a proposed decision approving, disapproving, or modifying a program, project, evaluation plan, or alternative project proposal.

Subp. 2. **Copies sent.** The department staff shall serve a copy of its proposed decision on the utility, on any person who submitted a comment under part 7690.0900, and on all ~~known interested~~ other persons the department believes are interested in the public utility's conservation improvement program.

Subp. 3. **Comment period.** The department shall allow ten days from the date of service of the proposed decision for written comments on the proposed decision.

7690.1100 RESPONSES; WRITTEN RECORD.

The department may ~~order~~ require written responses to comments, oral argument, negotiations, settlement conferences, formal hearing, or other procedures it considers necessary or helpful to enable it to review, analyze, and select appropriate programs under Minnesota Statutes, section 216B.241. Written papers or summaries of oral meetings for each proceeding filed with the department must also be served upon participants and become part of the record upon which the department will decide the case.

7690.1200 APPROVAL, DISAPPROVAL, OR MODIFICATION.

Subpart 1. **Determination of significant investment.** The department shall determine whether a proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements. In making this determination, the department shall consider the following information, which must be included in a public utility's filing:

[For text of items A to I, see M.R. 1989]

Subp. 2. **Approval.** On determining that the proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements, the department shall approve the proposed or modified program.

Subp. 3. **Disapproval and modification.** On determining

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by Revisor _____

commissioner finds that the person requesting the extension has shown good cause for the extension.

7690.1500 PETITION TO COMMISSION.

Petitions to the Public Utilities Commission to modify or revoke a department decision to require a program are governed by Minnesota Statutes, section 216B.241, subdivision 2.

REPEALER. Minnesota Rules, parts 7840.1000 and 7840.1400 are repealed.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 13 1990

Joan Anderson Growe
Secretary of State

1:15 pm

APPROVED AS TO LEGALITY
February 12, 1990
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Charlene H. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs Utility Renewable Resource Programs, Minn. Rules Chapter 7800, to be Recodified as Minn. Rules Parts 7690.0100 - 7690.1500	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENTS

The above-entitled matter came before Tony Perpich, Commissioner of the Department of Public Service, on January 30, 1990. In accordance with statutory requirements regarding the requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence in the rulemaking record, the Commissioner hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Department of Public Service's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on December 11, 1989 (14 S.R. 1377), and was sent by mail to all persons on the list maintained by the Department pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on December 6, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule amendments for 30 days after notice of proposed

rulemaking. The 30 day comment period, as set out in the notice, expired on January 10, 1990.

4. During the comment period the Department received two conditional requests for public hearing. Therefore, the Department did not receive requests for a public hearing from 25 or more persons.

5. No requests for notice of the submission to the Attorney General were received by the Department.

6. During the comment period the Department received nine written comments and oral comments by the Public Utilities Commission which were reduced to writing by Department staff. The Department finds that the following modifications to the proposed rule amendments are justified by the record in this proceeding:

a. Part 7690.0400 Projects in Effect

In order to address the status of conservation improvement programs (CIPs) and utility renewable resource pilot projects (URRPPs) after the transition period after the Department takes over the program from the Public Utilities Commission (Commission), the Department proposed that in this part to make the projects effective until their expiration date. The Commission staff suggested that the Department modify Part 7690.0400 to clarify that if the Department exercises its option under Part 7690.1400 to modify a project, then the modified

expiration date applies. Based on this comment, the Department has modified this part as follows:

> Projects approved by the Public Utilities Commission that are in effect on the effective date of these amendments to chapter 7690, continue in effect until their expiration date unless the expiration date is modified by the department.

The department finds that this modification is needed and reasonable because Part 7690.1400 allows the Department upon its own motion to modify projects. Therefore, if a previously approved project is modified by the Department and the modified project has a modified expiration date, it is logical for the modified expiration date to apply.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit and/or implement CIP and URRPP projects and those interested in the implementation of those projects. Because the matter of the effective date of projects was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

b. Part 7690.0500 Conservation Improvement Programs, subpart 1, Time limits.

In the proposed rules the Department requires the filing of CIP projects by natural gas utilities on April 1 during each even-numbered year. Several gas utilities (Great Plains Gas,

Northern Minnesota Utilities, Peoples Natural Gas, and Northern States Power Company) commented that the current filing deadline of May 1 should be restored. These comments are discussed below.

Great Plains Gas commented that it is not large enough to economically justify hiring a full time persons to design and implement CIP programs and will thus have to utilize the same personnel who prepare the various federal and state annual regulatory reports, all eight of which are due in April and May; therefore it needs the extra month's time to get its CIP program filed. Northern Minnesota Utilities commented that the elimination of the extra step of Commission staff review of projects should give the Department enough time to process filings and still achieve an October 1 start-up date for projects. Peoples Natural Gas commented that an April 1 filing date would require gas utilities to begin finalizing their filing projects in January or February, which would result in only fifteen to sixteen months' worth of data and results being available for analysis of ongoing or renewable projects; in addition, very little heating data would be available for project analysis. NSP commented that the current May 1 filing date barely allows including of analysis of program results for the recently completed heating season; if the filing date is moved to April 1, program cost effectiveness data must be based on some usage data that is at least one year old.

The Department has modified the rule to replace the proposed April 1 filing date with the original May 1 filing date. For the reasons stated in the comments discussed above, the change from April 1 to the original May 1 filing date is needed and reasonable.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit natural gas CIP programs and those interested in those projects. Because the matter of the filing date for natural gas CIP programs was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

c. Part 7690.0500, Conservation Improvement Program Filing, subpart 2, Contents, item K(6)

Item K of the proposed rule requires in a CIP filing status report on each project form the currently approved program. Subitem 6 of that item requires public natural gas utilities to file these reports no later than April 1 of each odd-numbered year. As previously discussed, the rulemaking record supports modifying the rules as proposed to require natural gas utilities to file their CIP programs on May 1 instead of April 1. In order to make the rest of the rule consistent with that change, the Department has modified subitem K(6) to require the filing of the

project status reports on May 1 instead of April 1. This is needed and reasonable because it retains the one-year period between CIP filings and status reports for gas utilities as originally proposed in the rules.

The modification is not a substantial change for the same reasons discussed above for the modification of Part 7690.0500, subpart 1.

d. Part 7690.0800, Service Lists and Notice, subpart 1, Service lists

The last sentence of the proposed rule states that the Department will update its service list for a specific utility 30 days before the date the public utility is required to file a program. The Commission commented that it has experienced problems in the past with having established such specific due dates for updating service lists and suggested that the Department may wish to give itself some leeway in this rule. Based on this comment, the Department has modified the last sentence of the rule as follows:

> The department shall update the service list at least 30 days before the date a public utility is required to file a program.

This modification is needed and reasonable because the modified rule ensures that the utility will get a reasonably up-to-date mailing list to use in its required mailings.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely

people who are required to serve notices and copies of filings concerning CIP projects. Because the matter of updating the service list was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

e. Part 7690.0900, Comment; Alternative Proposals

The proposed rules exempt filers of alternative proposals from submitting items E and K of Part 7690.0500. The Department received two suggestions for further exemptions. CENTS (Commitment to Energy Now to Survive) commented that the information required by item G, which is "the expected effect of each project on peak and average consumption with supporting assumptions, including a computation of the costs that will be avoided or reduced by the implementation of the proposed project and an estimate of the expected revenue effect," is beyond the expertise and outside the knowledge of most alternative project filers; requiring this item will lessen the ability of nonprofit organizations with limited resources to file alternative projects. The Commission staff commented that item H, which provides "an explanation with supporting budget information of how the proposed plan ensures that at least half the money spent on residential projects is devoted to projects that directly address the needs and renters and low-income customers, or a

statement with supporting documentation that an insufficient number of these projects are available," should also be included among the exemptions.

Based on these comments, the Department has modified Part 7690.0900 to exempt alternative project filers from items G and H. This modification is needed and reasonable because the type of information referenced in these items is either not within the scope of knowledge or is beyond the expertise of most alternative filers, and therefore these exemptions should improve the ability of alternative filers to file alternative projects.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit alternative projects. Because the proposed rule addressed the kind of information to be filed by alternative project proposers, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

f. Part 7690.1000, Proposed Decision, subpart 2, Copies Sent

The proposed rules require the Department to serve a copies of its proposed decision on the utility, any person who submitted a comment, and on "all known interested persons." The Commission staff commented that the phrase "all known interested persons" was overly broad.

The Department agrees with this comment and has modified this part to change "all known interested persons" to "all other persons the department believes are interested in the public utility's conservation improvement program." This modification is needed and reasonable because by the time it reaches a proposed decision, it should have a good idea of the persons who have shown an interest in the utility's CIP program, and those persons should receive a copy of the proposed decision in order to give them an opportunity to comment on it.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit and/or implement CIP and URRPP projects and those interested in the implementation of those projects. Because the matter of the mailing of the Department's proposed decision was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

g. Part 7690.1100, Response; Written Record; and Part 7690.1400, Proposed Program Changes

The proposed Part 7690.1100 starts out by saying: "The department may order . . . " and then addresses the procedural aspects of the department's finalization of its review. Similarly, Part 7690.1400, third sentence, states: "A change may

be ordered . . . " Northern States Power Company's comments suggest that the department lacks the statutory power to issue orders. In order to avoid any debate on that point, the Department has modified these two rules to state: "The department may require . . . " and "A change may be required . . . " These modifications are needed and reasonable because the clear language of Minn. Stat. § 216B.241, subd. 2 (Supp. 1989) gives the Department clear authority to, by rule, impose requirements.

The proposed modifications are not substantial changes because they do not change the meaning of the rules nor the requirements but merely substitute a word with the same general meaning as the word "order."

h. Part 76909.1450, Time Extensions

The proposed rules contain several deadlines. Several persons commented on the possibility that circumstances could arise that would make it difficult at times to meet certain deadlines. Northern States Power Company commented: "In cases where a deadline cannot be met by a utility, an intervenor, or the Department, provisions can be included authorizing the Department to waive the deadline for good cause."

The Department agrees that there are times when extensions may be needed and has modified the rules to add a new section that states:

> The commissioner of the department shall grant extensions of filing dates and other time periods in this chapter if the commissioner finds that the person

requesting the extension has shown good cause for the extension

This modification is needed and reasonable because experience with all types of regulatory programs has shown that circumstances can arise where granting an extension is necessary and reasonable. The new language puts the burden of proof on the person who requests the extension to show that good cause exists for the extension.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit and/or implement CIP and URRPP projects and those interested in the implementation of those projects. Because deadlines are included in the proposed rules, the modification to allow extensions to those deadlines does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

7. During the comment period, CENTS pointed out an error in the Statement of Need and Reasonableness at page 5. The erroneous sentence should be amended to read: "Using a guideline of 185 percent of poverty is also consistent with the Cold Weather Rule (Minn. Stat. § 216B.095) ~~and the federally funded Low Income Home Energy Assistance and Weatherization Assistance Programs~~." As CENTS pointed out, the Low Income Home Energy

Assistance and Weatherization Assistance Programs use 135 percent, not 185 percent, as a guideline for eligibility.

8. With the exception noted in Finding No. 7, the Department adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Department hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified by Finding Nos. 6 and 7 above.

9. The above-captioned rule amendments, as modified, are needed and reasonable.

CONCLUSIONS

1. The Minnesota Department of Public Service duly acquired and has jurisdiction over this proceeding.

2. The Department published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached amendments to rules governing conservation improvement programs and utility renewable resource pilot programs, Minn. Rules Chapter 7840, to

be recodified as Minn. Rules Parts 7690.0100 - 7690.1500, are adopted pursuant to the authority vested in the Department by Minn. Stat. 216B.241, subd. 2 (Supp. 1989).

MINNESOTA DEPARTMENT OF PUBLIC SERVICE

Dated: January 30, 1990

Tony Perpich
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs Utility Renewable Resource Programs, Minn. Rules Chapter 7800, to be Recodified as Minn. Rules Parts 7690.0100 - 7690.1500	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENTS

The above-entitled matter came before Tony Perpich, Commissioner of the Department of Public Service, on January 30, 1990. In accordance with statutory requirements regarding the requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence in the rulemaking record, the Commissioner hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Department of Public Service's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on December 11, 1989 (14 S.R. 1377), and was sent by mail to all persons on the list maintained by the Department pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on December 6, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule amendments for 30 days after notice of proposed

rulemaking. The 30 day comment period, as set out in the notice, expired on January 10, 1990.

4. During the comment period the Department received two conditional requests for public hearing. Therefore, the Department did not receive requests for a public hearing from 25 or more persons.

5. No requests for notice of the submission to the Attorney General were received by the Department.

6. During the comment period the Department received nine written comments and oral comments by the Public Utilities Commission which were reduced to writing by Department staff. The Department finds that the following modifications to the proposed rule amendments are justified by the record in this proceeding:

a. Part 7690.0400 Projects in Effect

In order to address the status of conservation improvement programs (CIPs) and utility renewable resource pilot projects (URRPPs) after the transition period after the Department takes over the program from the Public Utilities Commission (Commission), the Department proposed that in this part to make the projects effective until their expiration date. The Commission staff suggested that the Department modify Part 7690.0400 to clarify that if the Department exercises its option under Part 7690.1400 to modify a project, then the modified

expiration date applies. Based on this comment, the Department has modified this part as follows:

> Projects approved by the Public Utilities Commission that are in effect on the effective date of these amendments to chapter 7690, continue in effect until their expiration date unless the expiration date is modified by the department.

The department finds that this modification is needed and reasonable because Part 7690.1400 allows the Department upon its own motion to modify projects. Therefore, if a previously approved project is modified by the Department and the modified project has a modified expiration date, it is logical for the modified expiration date to apply.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit and/or implement CIP and URRPP projects and those interested in the implementation of those projects. Because the matter of the effective date of projects was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

b. Part 7690.0500 Conservation Improvement Programs, subpart 1, Time limits.

In the proposed rules the Department requires the filing of CIP projects by natural gas utilities on April 1 during each even-numbered year. Several gas utilities (Great Plains Gas,

Northern Minnesota Utilities, Peoples Natural Gas, and Northern States Power Company) commented that the current filing deadline of May 1 should be restored. These comments are discussed below.

Great Plains Gas commented that it is not large enough to economically justify hiring a full time persons to design and implement CIP programs and will thus have to utilize the same personnel who prepare the various federal and state annual regulatory reports, all eight of which are due in April and May; therefore it needs the extra month's time to get its CIP program filed. Northern Minnesota Utilities commented that the elimination of the extra step of Commission staff review of projects should give the Department enough time to process filings and still achieve an October 1 start-up date for projects. Peoples Natural Gas commented that an April 1 filing date would require gas utilities to begin finalizing their filing projects in January or February, which would result in only fifteen to sixteen months' worth of data and results being available for analysis of ongoing or renewable projects; in addition, very little heating data would be available for project analysis. NSP commented that the current May 1 filing date barely allows including of analysis of program results for the recently completed heating season; if the filing date is moved to April 1, program cost effectiveness data must be based on some usage data that is at least one year old.

The Department has modified the rule to replace the proposed April 1 filing date with the original May 1 filing date. For the reasons stated in the comments discussed above, the change from April 1 to the original May 1 filing date is needed and reasonable.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit natural gas CIP programs and those interested in those projects. Because the matter of the filing date for natural gas CIP programs was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

c. Part 7690.0500, Conservation Improvement Program Filing, subpart 2, Contents, item K(6)

Item K of the proposed rule requires in a CIP filing status report on each project form the currently approved program. Subitem 6 of that item requires public natural gas utilities to file these reports no later than April 1 of each odd-numbered year. As previously discussed, the rulemaking record supports modifying the rules as proposed to require natural gas utilities to file their CIP programs on May 1 instead of April 1. In order to make the rest of the rule consistent with that change, the Department has modified subitem K(6) to require the filing of the

project status reports on May 1 instead of April 1. This is needed and reasonable because it retains the one-year period between CIP filings and status reports for gas utilities as originally proposed in the rules.

The modification is not a substantial change for the same reasons discussed above for the modification of Part 7690.0500, subpart 1.

d. Part 7690.0800, Service Lists and Notice, subpart 1, Service lists

The last sentence of the proposed rule states that the Department will update its service list for a specific utility 30 days before the date the public utility is required to file a program. The Commission commented that it has experienced problems in the past with having established such specific due dates for updating service lists and suggested that the Department may wish to give itself some leeway in this rule. Based on this comment, the Department has modified the last sentence of the rule as follows:

> The department shall update the service list at least 30 days before the date a public utility is required to file a program.

This modification is needed and reasonable because the modified rule ensures that the utility will get a reasonably up-to-date mailing list to use in its required mailings.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely

people who are required to serve notices and copies of filings concerning CIP projects. Because the matter of updating the service list was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

e. Part 7690.0900, Comment; Alternative Proposals

The proposed rules exempt filers of alternative proposals from submitting items E and K of Part 7690.0500. The Department received two suggestions for further exemptions. CENTS (Commitment to Energy Now to Survive) commented that the information required by item G, which is "the expected effect of each project on peak and average consumption with supporting assumptions, including a computation of the costs that will be avoided or reduced by the implementation of the proposed project and an estimate of the expected revenue effect," is beyond the expertise and outside the knowledge of most alternative project filers; requiring this item will lessen the ability of nonprofit organizations with limited resources to file alternative projects. The Commission staff commented that item H, which provides "an explanation with supporting budget information of how the proposed plan ensures that at least half the money spent on residential projects is devoted to projects that directly address the needs and renters and low-income customers, or a

statement with supporting documentation that an insufficient number of these projects are available," should also be included among the exemptions.

Based on these comments, the Department has modified Part 7690.0900 to exempt alternative project filers from items G and H. This modification is needed and reasonable because the type of information referenced in these items is either not within the scope of knowledge or is beyond the expertise of most alternative filers, and therefore these exemptions should improve the ability of alternative filers to file alternative projects.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit alternative projects. Because the proposed rule addressed the kind of information to be filed by alternative project proposers, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

f. Part 7690.1000, Proposed Decision, subpart 2, Copies Sent

The proposed rules require the Department to serve a copies of its proposed decision on the utility, any person who submitted a comment, and on "all known interested persons." The Commission staff commented that the phrase "all known interested persons" was overly broad.

The Department agrees with this comment and has modified this part to change "all known interested persons" to "all other persons the department believes are interested in the public utility's conservation improvement program." This modification is needed and reasonable because by the time it reaches a proposed decision, it should have a good idea of the persons who have shown an interest in the utility's CIP program, and those persons should receive a copy of the proposed decision in order to give them an opportunity to comment on it.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit and/or implement CIP and URRPP projects and those interested in the implementation of those projects. Because the matter of the mailing of the Department's proposed decision was addressed in the proposed rules, the modification does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

g. Part 7690.1100, Response; Written Record; and Part 7690.1400, Proposed Program Changes

The proposed Part 7690.1100 starts out by saying: "The department may order . . . " and then addresses the procedural aspects of the department's finalization of its review. Similarly, Part 7690.1400, third sentence, states: "A change may

be ordered . . . " Northern States Power Company's comments suggest that the department lacks the statutory power to issue orders. In order to avoid any debate on that point, the Department has modified these two rules to state: "The department may require . . . " and "A change may be required . . . " These modifications are needed and reasonable because the clear language of Minn. Stat. § 216B.241, subd. 2 (Supp. 1989) gives the Department clear authority to, by rule, impose requirements.

The proposed modifications are not substantial changes because they do not change the meaning of the rules nor the requirements but merely substitute a word with the same general meaning as the word "order."

h. Part 76909.1450, Time Extensions

The proposed rules contain several deadlines. Several persons commented on the possibility that circumstances could arise that would make it difficult at times to meet certain deadlines. Northern States Power Company commented: "In cases where a deadline cannot be met by a utility, an intervenor, or the Department, provisions can be included authorizing the Department to waive the deadline for good cause."

The Department agrees that there are times when extensions may be needed and has modified the rules to add a new section that states:

> The commissioner of the department shall grant extensions of filing dates and other time periods in this chapter if the commissioner finds that the person

requesting the extension has shown good cause for the extension

This modification is needed and reasonable because experience with all types of regulatory programs has shown that circumstances can arise where granting an extension is necessary and reasonable. The new language puts the burden of proof on the person who requests the extension to show that good cause exists for the extension.

The modification does not constitute a substantial change because the rule as modified continues to affect the same classes of persons as those affected by the rule as proposed, namely people who submit and/or implement CIP and URRPP projects and those interested in the implementation of those projects. Because deadlines are included in the proposed rules, the modification to allow extensions to those deadlines does not introduce new subject matter into the rule nor does it make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

7. During the comment period, CENTS pointed out an error in the Statement of Need and Reasonableness at page 5. The erroneous sentence should be amended to read: "Using a guideline of 185 percent of poverty is also consistent with the Cold Weather Rule (Minn. Stat. § 216B.095) ~~and the federally funded Low Income Home Energy Assistance and Weatherization Assistance Programs~~." As CENTS pointed out, the Low Income Home Energy

Assistance and Weatherization Assistance Programs use 135 percent, not 185 percent, as a guideline for eligibility.

8. With the exception noted in Finding No. 7, the Department adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Department hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified by Finding Nos. 6 and 7 above.

9. The above-captioned rule amendments, as modified, are needed and reasonable.

CONCLUSIONS

1. The Minnesota Department of Public Service duly acquired and has jurisdiction over this proceeding.

2. The Department published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED that the attached amendments to rules governing conservation improvement programs and utility renewable resource pilot programs, Minn. Rules Chapter 7840, to

be recodified as Minn. Rules Parts 7690.0100 - 7690.1500, are adopted pursuant to the authority vested in the Department by Minn. Stat. 216B.241, subd. 2 (Supp. 1989).

MINNESOTA DEPARTMENT OF PUBLIC SERVICE

Dated: January 30, 1990

Tony Perpich
Commissioner

COUNTY	CIVIL	CONCIL-IATION	CRIMINAL CONVICTION	PETTY MISD.	NOTES:
Pennington	7.50	5	7.50	—	
Pine	5	3	5	2	$2 on Misdemeanors.
Pipestone	5	5	3	3	
Polk	7.50	7.50	7.50	5	
Pope	10	10	5	5	
Ramsey	8	3	—	—	
Red Lake	7.50	7.50	7.50	2.50	
Redwood	6	6	2	2	Not on ordinance violations.
Renville	—	—	—	—	No law library fees.
Rice	10	10	—	2	
Rock	5	5	3	3	
Roseau	5	5	5	5	
St. Louis	10	5	—	—	Right reserved to assess $2 on all criminal convictions.
Scott	5	5	—	—	
Sherburne	5	3	5	5	
Sibley	7	7	—	—	$2 on all traffic violations.
Stearns	10	5	10	5	
Steele	10	7	—	—	
Stevens	10	10	5	5	
Swift	10	10	5	5	
Todd	10	5	10	3	$5 on Misdemeanors.
Traverse	10	10	5	5	Nothing on parking tickets.
Wabasha	10	5	—	—	
Wadena	10	4	10	5	$5 on Misdemeanors.
Waseca	10	5	—	—	
Washington	7	3	1	1	
Watonwan	10	10	10	2	$2 on Misdemeanors.
Wilkin	10	10	5	5	
Winona	10	10	5	2	$2 on Misdemeanors. Nothing on parking tickets.
Wright	5	3	5	5	
Yellow Medicine	10	10	10	10	Nothing on misd. or petty misd. traffic violations.

Department of Public Service

Energy Division

Notice of Solicitation of Outside Opinion and Comments on Proposed Rules Governing Utility Conservation Improvement Programs

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Service is seeking opinion and comments in preparing to adopt permanent rules governing utility conservation improvement programs. The rules will be adopted to implement legislative changes (*Laws of Minnesota, 1989*, Chapter 338) which will move authority for conservation improvement programs from the Minnesota Public Utilities Commission to the Department of Public Service.

Natural gas and electric utilities covered by the rules are required to submit plans for making significant investments in programs to conserve energy. The new legislation also emphasizes the importance of energy programs targeted to the needs of low income residents. Current authority will remain with the Public Utilities Commission until the Department of Public Service adopts rules and approves two year plans in 1990. Current Commission authority is governed by *Minnesota Statutes*, 216B.241 (1988) and *Minnesota Rules*, parts 7840.0200-7840.1400 and part 7840.1150.

The Department of Public Service requests information and comments concerning the subject matter of these rules. Interested persons may submit statements of information orally or in writing. Written statements should be addressd to:

William Grant, Manager
Energy Information & Analysis Office
MN Department of Public Service
Energy Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

All statements of information and comment will be accepted until September 22, 1989. Any written material received by the Department of Public Service will become part of the public record in the event that rules are promulgated.

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under *Minnesota Statutes* § 169.825

Order No. 75024

WHEREAS, the Commissioner of Transportation has made his Order No. 72156, dated April 8, 1987, which order has been amended by Orders Nos. 73139, 74653 and 74846 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under *Minnesota Statutes* § 169.825, and

WHEREAS, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under *Minnesota Statutes* § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 72156 is further amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

COUNTY ROADS

Blue Earth —C.S.A.H. 5 (MANKATO) FROM INDUSTRIAL ROAD (C.S.A.H. 12) TO THE C.N.W. RAILROAD CROSSING (12 MONTH).

Watonwan —C.S.A.H. 54 (ST. JAMES) FROM T.H. 14 TO C.S.A.H. 27 (12 MONTH).

—C.S.A.H. 27 (11TH STREET IN ST. JAMES) FROM 1ST. AVENUE SOUTH TO 7TH AVENUE SOUTH (UPGRADE FROM SEASONAL TO 12 MONTH).

—C.S.A.H. 56 (1ST. AVENUE SOUTH IN ST. JAMES) FROM 7TH STREET SOUTH TO 11TH STREET SOUTH (UPGRADE FROM SEASONAL TO 12 MONTH).

—C.S.A.H. 12 (ST. JAMES) FROM JCT. T.H. 60 TO JCT. T.H. 4 (UPGRADE FROM SEASONAL TO 12 MONTH).

Dated: 17 July 1989

Leonard W. Levine
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs Utility Renewable Resource Programs, Minn. Rules Chapter 7800, to be Recodified as Minn. Rules Parts 7690.0100 - 7690.1500	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF 25 OR MORE PERSONS REQUEST A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Department of Public Service (Department) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1988). By adopting these amendments, the Department will take over the responsibility for approving, modifying, or disapproving conservation improvement programs (CIPs) and utility renewable resource pilot programs (URRPPs), a responsibility currently carried out by the Minnesota Public Utilities Commission but recently transferred to the Department by virtue of 1989 Minn. Laws, ch. 338, § 3. The proposed rule amendments are authorized by 1989 Minn. Laws, ch. 338, § 3, which has been codified as Minn. Stat. § 216B.241 (Supp. 1989).

(2) All persons have until 4:30 p.m. on Wednesday, January 10, 1990, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule amendments within the comment period. (4) If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the Department will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON WEDNESDAY, JANUARY 17, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE ENCLOSED NOTICE OF PUBLIC HEARING ON THESE SAME RULE AMENDMENTS.

To verify whether a hearing will be held, please call William B. Grant of the Department staff, between January 11, 1990, and January 16, 1990, at (612) 297-1773.

(5) Comments or written request for a public hearing must be submitted to:

William B. Grant
Department of Public Service
150 East Kellogg
St. Paul, Minnesota 55101
(612) 297-1773

(8) The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rule amendments.

(11) The proposed rule amendments will make it possible for the Department to assume its new responsibilities to administer the CIP and URRPP programs as directed by 1989 Minn. Laws ch. 338, § 3. The proposed rule amendments are published below. One free copy of the rule amendments is available from William B. Grant at the address and telephone number stated above.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the rule amendments has been prepared and is available from William B. Grant upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendments do not impose requirements on small businesses because the utilities that are required to implement CIP and URRPP programs are not small businesses. However, the rules provide an opportunity for interested persons, some of whom may be small businesses, to participate in the CIP/URRPP programs. The proposed amendments have some features which will facilitate interested persons' participation in the CIP/URRPP process, particularly non-profit organizations with very limited resources. Examples of these features are discussed in the Statement of Need and Reasonableness. Therefore the proposed rule amendments are expected to have a positive impact on small businesses.

(13) The proposed rule amendments will not require the expenditure of public money by local public bodies. Therefore Minn. Stat. § 14.11 (1988) does not apply to these rule amendments.

(9) 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 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 rule amendments as adopted, must submit a written request to William B. Grant.

TONY PERPICH
Commissioner

Dated: December 6, 1989

Department of Public Service

Proposed Permanent Rules Relating to Conservation Improvement Program

Notice of Intent to Adopt Rule Amendments Without a Public Hearing and of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Service (Department) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). By adopting these amendments, the Department will take over the responsibility for approving, modifying, or disapproving conservation improvement programs (CIPs) and utility renewable resource pilot programs (URRPPs), a responsibility currently carried out by the Minnesota Public Utilities Commission but recently transferred to the Department by virtue of 1989 *Minnesota Laws*, ch. 338, § 3. The proposed rule amendments are authorized by 1989 *Minnesota Laws*, ch. 338, § 3, which as been codified as *Minnesota Statutes* § 216B.241 (Supp. 1989).

All persons have until 4:30 p.m. on Wednesday, January 10, 1990, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON WEDNESDAY, JANUARY 17, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST. IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULE AMENDMENTS PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT. To verify whether a hearing will be held, please call William B. Grant of the Department staff, between January 11, 1990, and January 16, 1990, at (612) 297-1773.

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

William B. Grant
Department of Public Service
150 East Kellogg
St. Paul, Minnesota 55101
(612) 297-1773

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rule amendments.

The proposed rule amendments will make it possible for the Department to assume its new responsibilities to administer the CIP and URRPP programs as directed by 1989 *Minnesota Laws* ch. 338, § 3. The proposed rule amendments are published below. One free copy of the rule amendments is available from William B. Grant at the address and telephone number stated above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the rule amendments has been prepared and is available from William B. Grant upon request.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendments do not impose requirements on small businesses because the utilities that are required to implement CIP and URRPP programs are not small businesses. However, the rules provide an opportunity for interested persons, some of whom may be small businesses, to participate in the CIP/URRPP programs. The proposed amendments have some features which will facilitate interested persons' participation in the CIP/URRPP process, particularly non-profit organizations with very limited resources. Examples of these features are discussed in the Statement of Need and Reasonableness. Therefore the proposed rule amendments are expected to have a positive impact on small businesses.

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.

The proposed rule amendments will not require the expenditure of public money by local public bodies. Therefore *Minnesota Statutes* § 14.11 (1988) does not apply to these rule amendments.

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 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 rule amendments as adopted, must submit a written request to William B. Grant.

Tony Perpich
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Service (Department) will hold a public hearing in the above-entitled matter at the Large Hearing Room on the 7th Floor of the American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, commencing at 9:00 a.m. on Wednesday, January 17, 1990. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULE AMENDMENTS WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT. To verify whether a hearing will be held, please call William B. Grant of the Department staff, between January 11, 1990, and January 16, 1990, at (612) 297-1773.

The matter will be heard before Administrative Law Judge Allan Klein, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, (612) 341-7609. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1988) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* parts 1400.0200 to 1400.1200 (1989). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed amendments to rules governing conservation improvement programs (CIPs) and utility renewable resource pilot programs (URRPPs), *Minnesota Rules* ch. 7840, to be recodified as *Minnesota Rules* parts 7690.0100 to 7680. By adopting these amendments, the Department will take over the responsibility for approving, modifying, or disapproving CIPs and URRPPs, a responsibility currently carried out by the Minnesota Public Utilities Commission but recently transferred to the Department by virtue of *1989 Minnesota Laws*, ch. 338, § 3. The proposed rule amendments are authorized by *1989 Minnesota Rules*, ch. 338, § 3, which has been codified as *Minnesota Statutes* § 216B.241 (Supp. 1989). The proposed rule amendments are published below. One free copy of the rule amendments is available on request by contacting:

William B. Grant
Department of Public Service
150 East Kellogg
St. Paul, Minnesota 55101
(612) 297-1773

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and arguments which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be reviewed at the Department offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rules in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will not be less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the Department and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

The Department requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to William B. Grant at the address stated above.

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rule amendments.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rule amendments for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rule amendments were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rule amendments with the Secretary of State.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendments do not impose requirements on small businesses because the utilities that are required to implement CIP and URRPP programs are not small businesses. However, the rules provide an opportunity for interested persons, some of whom may be small businesses, to participate in the CIP/URRPP programs. The proposed amendments have some features which will facilitate interested persons' participation in the CIP/URRPP process, particularly non-profit organizations with very limited resources. Examples of these features are discussed in the Statement of Need and Reasonableness. Therefore the proposed rule amendments are expected to have a positive impact on small businesses.

The proposed rule amendments will not require the expenditure of public money by local public bodies. Therefore, *Minnesota Statutes* § 14.11 (1988) does not apply to these rule amendments.

Please be advised that *Minnesota Statutes* ch. 10A (1988) requires each lobbist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1988) as any individual:

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

(b) Who spends more than $250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Tony Perpich
Commissioner

Rules as Proposed

7690.0100 ~~DEFINITION~~ DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Department.** "Department" means the Department of Public Service.

Subp. 3. **Low income.** "Low income" has the meaning given it in *Minnesota Statutes*, section 216B.241, subdivision 2.

~~7840.0200~~ 7690.0200 PURPOSE.

The purpose of this chapter is to specify procedures to be followed by public utilities in submitting, and by the ~~Public Utilities Commission~~ department in analyzing and selecting, proposals for conservation improvement programs and renewable resource pilot programs and to provide for the participation of other interested persons in developing conservation improvement and renewable resource pilot programs.

~~7840.0300~~ 7690.0300 SCOPE.

This chapter applies to proposals by public utilities and other interested persons for utility investments in conservation improvement and renewable resource pilot programs.

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.

~~7840.0400~~ 7690.0400 PROJECTS IN EFFECT.

~~Approved~~ Projects approved by the Public Utilities Commission that are in effect on ~~December 9, 1985~~ the effective date of these amendments to chapter 7690, ~~shall~~ continue in effect ~~for 60 days or~~ until their expiration date~~, whichever occurs later~~.

~~7840.0500~~ 7690.0500 CONSERVATION IMPROVEMENT PROGRAM FILING.

Subpart 1. **Time limits.** No later than ~~May~~ April 1 of each even-numbered year beginning in ~~1986~~ 1990, a public natural gas utility required by *Minnesota Statutes*, section 216B.241 to invest in a conservation improvement program shall file with the ~~Public Utilities Commission~~ department a conservation improvement program. No later than September 1, 1990, and every odd-numbered year afterward, a public electric utility required by *Minnesota Statutes*, section 216B.241 to invest in a conservation improvement program shall file with the department a conservation improvement program.

Subp. 2. **Contents.** The filing must include:

A. a comprehensive description of the proposed program, including a description of each project making up the program~~.~~;

B. a statement quantifying each project's objectives including an estimate of the expected cost effectiveness of the project to the utility, to the project's participants, and to the utility's customers~~.~~;

C. for each project targeted at residential consumers, a statement of the anticipated percentage of use of each project among ~~low income~~ low-income families and individuals, and renters~~.~~;

D. a detailed budget for each project for the next ~~year~~ two years, and;

(1) a projected ~~five-year~~ four-year budget for the overall program~~.~~; or

(2) if a shorter time period is more appropriate for the ~~five-year~~ four-year budget, the ~~utility must provide~~ reasons for that shorter time period and the projected budget for that shorter period~~.~~;

E. a detailed description of the proposed ratemaking treatment and the proposed ~~cost recovery~~ cost-recovery method~~.~~;

F. a description of the marketing plans for each proposed project~~.~~, including target participation rates;

G. a description of the expected effect of each project on peak and average consumption with supporting assumptions, including a computation of the costs that will be avoided or reduced by the implementation of the proposed project and an estimate of the expected revenue effects~~.~~;

H. an explanation with supporting budget information of how the proposed plan ensures that at least half the money spent on residential projects ~~provide special consideration for~~ is devoted to projects that directly address the needs of renters and ~~low income~~ low-income customers~~.~~, or a statement with supporting documentation that an insufficient number of these projects are available;

I. an explanation of how the proposed projects provide for the involvement of community energy organizations when appropriate~~.~~;

J. an outline of the proposed plan for evaluating the effectiveness of the proposed project~~.~~;

K. a status report on each project from the ~~previous year's~~ currently approved program ~~stating~~ that must:

(1) state the total number of customers served;

(2) state the number of ~~low income~~ low-income customers and the number of renters served, if applicable;

(3) state the total amount spent on the project to date;

(4) state the average amount spent on each customer participating in the project, if applicable; ~~and~~

(5) provide other information ~~as~~ required by the ~~Public Utilities Commission~~ department in ~~its order~~ the document approving the ~~previous year's~~ program~~.~~;

(6) for public natural gas utilities, be filed no later than April 1 of each odd-numbered year; and

(7) for public electric utilities, be filed no later than September 1 of each even-numbered year; and

L. additional information that the ~~Public Utilities Commission~~ department determines is necessary as a result of its review or evaluation of ~~prior~~ previous projects of the particular utility.

Subp. 3. **Completeness review.** Upon receipt of a utility's plan, the department shall conduct a completeness review based on the filing requirements listed in subpart 2. The department's findings after this review must set forth the information necessary to make the plan complete and the date by which the information must be filed. When the department determines that the necessary information has been filed to make the plan complete, it shall serve a written notice of completion on the utility and persons on the utility's service list established under part 7690.0800, subpart 1.

~~7840.0600~~ 7690.0600 RENEWABLE RESOURCE PILOT PROGRAM FILING.

A public utility required by *Minnesota Statutes*, section 216B.241 to have a conservation improvement program shall file a proposal for a utility renewable resource pilot program upon the determination of the ~~Public Utilities Commission~~ department that additional utility renewable resource pilot programs are needed to expand Minnesota's options for energy from renewable resources. For at least one year after authorizing a utility's renewable resource pilot program, the ~~commission~~ department shall not require a new proposal for a renewable resource pilot program from that utility. The filing must include:

[For text of items A to D, see M.R. 1989]

E. a description of the proposed ratemaking treatment and the proposed ~~cost recovery~~ cost-recovery method; and

[For text of item F, see M.R. 1989]

~~7840.0700~~ 7690.0700 EXISTING PROGRAMS; FILING.

The filing requirements for renewing existing conservation improvement program or utility renewable resource pilot program projects are the same as for newly proposed projects~~.~~, However, if the ~~Public Utilities Commission~~ department has material already on file, the utility or interested person submitting an alternative project may incorporate it by reference in its current filing.

~~7840.0800~~ 7690.0800 SERVICE LISTS AND NOTICE.

Subpart 1. **Service lists.** The department shall establish service lists for specific utilities for use in providing public notice of conservation improvement programs and utility renewable resource pilot programs. The list must include the Public Utilities Commission, the Residential and Small Business Utilities Division of the Office of the Attorney General, persons involved in the public utility's previous conservation improvement program, persons who participated in the public utility's last general rate case with respect to conservation programs, and other persons the department believes are interested in the public utility's next conservation improvement program. The department shall update the service list 30 days before the date a public utility is required to file a program.

Subp. 2. **Notice of filing.** At the time it files its conservation improvement or utility renewable resource pilot program with the ~~Public Utilities Commission~~ department, the public utility must provide written notice of its filing to persons ~~who participated in the utility's last general rate case or who participated in its conservation improvement program case or utility renewable resource pilot program case during the preceding two years. The commission will maintain, and provide upon request, a current mailing list including these persons~~ on the utility's service list established under subpart 1. The notice must state that a copy of the utility's proposed program is available for public inspection at the enumerated business office locations of the utility and at the ~~Public Utilities Commission's~~ department's office. The notice must also state that the utility will make a copy of the proposed program available to interested persons upon request.

~~7840.0900~~ 7690.0900 COMMENT; ALTERNATIVE PROPOSALS.

The ~~Public Utilities Commission~~ department shall allow ~~30~~ 45 days ~~from the date of the filing of the public utility's program~~ for written comments on the public utility's program and the submission of alternative projects by interested persons~~.~~, including political subdivisions and nonprofit and community organizations. The time period allowed for written comments and alternative project filings begins on the date that the department's finding of completeness under part 7690.0500, subpart 2, is mailed. Proposals for alternative projects must follow the requirements of part ~~7840.0500~~ 7690.0500 or ~~7840.0600~~ 7690.0600, except for part ~~7840.0500~~ 7690.0500, ~~item~~ items E and K. The ~~commission~~ department shall allow ~~15~~ 30 days from the filing of the comments and alternative projects for written responses. These comments, alternative projects, and responses must be filed with the Public Utilities Commission, the department ~~of Public Service, the Department of Trade and Economic Development,~~ and the utility to which they are addressed. The persons submitting the comments, alternative projects, or responses must provide them to any person, upon request.

7690.1000 PROPOSED DECISION.

Subpart 1. **Prepared by staff.** After reviewing the comments submitted under part 7690.0900, the department staff shall prepare a proposed decision approving, disapproving, or modifying a program, project, evaluation plan, or alternative project proposal.

Subp. 2. **Copies sent.** The department staff shall serve a copy of its proposed decision on the utility, on any person who submitted a comment under part 7690.0900, and on all known interested persons.

Subp. 3. **Comment period.** The department shall allow ten days from the date of service of the proposed decision for written comments on the proposed decision.

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.

~~7840.1100~~ 7690.1100 RESPONSES: WRITTEN RECORD.

~~When a contested case hearing is not required.~~ The ~~Public Utilities Commission~~ department may order written responses to comments, oral argument, negotiations, settlement conferences, formal hearing, or other procedures ~~as~~ it ~~deems~~ considers necessary or helpful to enable it to review, analyze, and select appropriate programs under *Minnesota Statutes*, section 216B.241. Written papers or summaries of oral meetings for each proceeding filed with the ~~Public Utilities Commission~~ department must also be served upon participants and ~~will~~ become part of the record upon which the ~~Public Utilities Commission~~ department will decide the case.

~~7840.1150~~ 7690.1200 APPROVAL, DISAPPROVAL, OR MODIFICATION.

Subpart 1. **Determination of significant investment.** The ~~commission~~ department shall determine whether a proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements. In making this determination, the ~~commission~~ department shall consider the following information, which must be included in a public utility's filing:

[For text of items A to I, see M.R. 1989]

Subp. 2. **Approval.** On determining that the proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements, the ~~commission~~ department shall approve the proposed or modified program.

Subp. 3. **Disapproval and modification.** On determining that the proposed program or modified program will not result in significant investments in and expenditures for energy conservation improvements, the ~~commission~~ department shall disapprove the proposed program or modified program and ~~order~~ require a program that will result in significant investments in and expenditures for energy conservation improvements.

~~7840.1200~~ 7690.1300 ~~DISAPPROVAL; ORDER~~ DECISION.

When the ~~Public Utilities Commission~~ department approves, disapproves, or modifies a program, project, or evaluation plan, it shall set forth its reasons in a written ~~order~~ decision within 30 days from the date comments are due on the department's proposed decision specified under part 7690.1000. If the department's decision will not be issued within this 30-day period, the department shall notify the parties on the service list specified in part 7690.0800 of the date by which a decision will be issued.

~~7840.1300~~ 7690.1400 PROPOSED PROGRAM CHANGES.

Upon its own motion or upon the motion of a utility or other person, the ~~Public Utilities Commission~~ department may add a new project or modify, expand, or terminate an existing conservation improvement program or utility renewable resource pilot program before the program's expiration date. The moving party must ~~notify all~~ give notice of the motion to the participants in the affected utility's conservation improvement program case or utility renewable resource pilot program case of the motion. Interested persons must be allowed 15 days to submit comments on the proposed program changes. A change may be ordered to make a project more effective, to reach more participants, to reduce unnecessary or ineffective expenditures, to expand, change, or reduce the geographic area or target group that the project covers, or to change the time period during which the project would be in effect.

7690.1500 PETITION TO COMMISSION.

Petitions to the Public Utilities Commission to modify or revoke a department decision to require a program are governed by *Minnesota Statutes*, section 216B.241, subdivision 2.

REPEALER. *Minnesota Rules*, parts 7840.1000 and 7840.1400 are repealed.

State Board of Vocational Technical Education

Proposed Permanent Rules Relating to Business and Office Occupations

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Vocational Technical Education intends to adopt the above-entitled rule as published in the *State Register* on August 21, 1989, Volume 14, Number 8, Pages 364-375, without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Section 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes* 136C.04, Subdivision 9.

All persons have 30 days until 4:30 p.m., Wednesday, January 10, 1990, in which to submit comment in support of or in opposition to the proposed rule 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 comment, and any change proposed.

Any person may make a written request for a public hearing on the rule 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 public hearing should state his or her name and address, and is

Otter Tail
POWER COMPANY

215 South Cascade Street
Fergus Falls, Minnesota 56537
Phone 218-739-8200

January 10, 1990

William B. Grant
Department of Public Service
150 East Kellogg
St. Paul, Minnesota 55101

Dear Mr. Grant:

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs and Utility Renewable Resource Programs, Minn. Rules Chapter 7800, to be Recodified as Minn. Rules Parts 7690.0100 - 7690.1500, Otter Tail Power Company submits the following comments:

The Company supports the proposed amendments with one exception.

Otter Tail does not support the exemption of alternative project filings from the requirements in Part 7690.0500, item E. The Company feels that the filer of the alternative project should be required to propose ratemaking treatment and cost recovery methodology. The alternative project filer should submit information with the proposal as to which class of customer would benefit most from the project and by what means the utility should recover the costs.

Otter Tail requests that the alternative project filings are not exempted from Part 7690.0500, item E.

Sincerely,

Ceedy Mewszel

Ceedy Mewszel, Manager
Energy Management Programs

cc: Jay Myster
Kati Sasseville
Ron Graham

An Equal Opportunity Employer

minnesota power / 30 west superior street / duluth, minnesota 55802 / telephone 218-722-2641

January 10, 1990

William B. Grant
Department of Public Service
150 East Kellogg
St. Paul, MN 55101

RE: Proposed Permanent Rules Relating to Conservation Improvement Program

Dear Mr. Grant:

Minnesota Power has the following comments on the proposed Conservation Improvement Program rules.

1. Petition to the Commission (7690.1500)

Minnesota Power believes the proposed CIP procedural rules should not be implemented until finalization of the process by which petition of a Department decision may be made. The Company has reviewed the Department's Statement of Need and Reasonableness regarding this section and is not satisfied with the "Department's understanding that the Commission will adopt specific appeal procedural rules pursuant to this authority."

Although Minnesota Statute 216B.241, Subd. 2, clearly establishes the right to appeal a Department CIP/URRPP decision, rules are required to give specific steps and identify time limitations and notice requirements. Department staff has indicated that such rules must be established through rule-making procedures of the Commission. The Company believes such rules should be completed and subject to a rule-making procedure prior to the earliest time the Department would make a final CIP decision under the proposed rules which would be appealable to the Commission.

2. Completeness Review (7690.0500. Subpart 3.)

The Company is generally concerned with the increased length of time as defined in the proposed rules between the initial filing and the Department's decision. In a separate discussion with Department staff, they indicated the rules clearly allow filings to be submitted prior to the dates specified in these proposed rules. Earlier filings will allow the Company to receive approval so implementation of programs can continue on a calendar year basis.

Minnesota Power encourages the Department to modify the proposed rules to allow the Completeness Review to occur concurrently with the initial Comment Period. If the CIP filing is found to be significantly deficient and not complete, the Department would be able to set a separate 45 day period for comments which would commence following additional filings by the utility. The Company feels this minor change will speed up the review and approval process without limiting public involvement.

3. Creation of Task Force (P. 3, Statement of Need and Reasonableness)

The Company supports the Department's stated intention to establish a rules task force in 1990 to review and clarify the CIP interpretive rules. Minnesota Power would like to serve on the rules task force. The Company would like the task force to review cost effectiveness measurement, URRPP rules and objectives, and other CIP procedural issues to clarify legislative intent, steamline the filing process and improve the delivery of cost effective conservation services.

The Company appreciates the opportunity to comment on these rules.

Sincerely,

Steven A. Betzler, Manager
Commercial & Residential Marketing

SAB:mjs

GREAT PLAINS NATURAL GAS CO.

TELEPHONE: 218-736-6935

ADDRESS REPLY TO:
General Office
P. O. Box 176
Fergus Falls, MN 56537
January 9, 1990

Mr. William B. Grant
Department of Public Service
150 East Kellogg
St. Paul, Minnesota 55101

Re: Proposed Permanent Rules Relating to
Conservation Improvement Program

Dear Mr. Grant:

The intent of this letter is to summarize in writing my concerns expressed to you at our meeting yesterday afternoon regarding the above proposed rules.

During that meeting, I indicated that Great Plains would not request a hearing for the proposed rules, if:

1. The time limit for submitting the mandated conservation improvement program as indicated in Paragraph 7690.0500, subpart 1, was changed from April 1 to May 1.

2. Companies, such as Great Plains, now being mandated for the first time to establish a conservation improvement program be given an extension to August 1 to submit its first program.

3. Language in subpart 1 of paragraph 7690.500 of the proposed rule be revised to allow the Department flexibility in granting extensions to the time limits in filing the conservation improvement programs which would be mutually acceptable to all concerned parties.

As I indicated at the meeting, Great Plains is not large enough to economically justify hiring a full time person to design and implement the mandated conservation improvement program. Instead, it will have to utilize the same people who prepare the various federal and state annual regulatory reports. All these reports (eight in total) also are due during April and May. It is because of these time constraints that Great Plains requests the above changes to the proposed rules.

If the above changes are not given due consideration for incorporation into the above rules, then Great Plains Natural Gas Co. requests that a hearing be given in front of an Administrative Law Judge for the proposed Amendments to Rules Governing Conservation Improvement Programs, Minnesota Rules Chapter 7800, to be re-codified as Minnesota Rules Parts 7690.0100-7690.1500.

Yours truly,

GREAT PLAINS NATURAL GAS CO.

Lee J. Franklin, Vice President-Administration

LJF/dw

City of Richfield • 6700 Portland Avenue • Minnesota 55423

City Manager *James D. Prosser*
Mayor *Steve Quam*
Council *Edwina Garcia* *Ivan Ludeman* *Martin Kirsch* *Michael Sandahl*

January 5, 1990

Mr. William Grant
Department of Public Service
American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Subject: Need for Public Hearing Prior to Department of Public Service (DPS) Rule making

A public hearing is sought, if necessary, to implement the following

1. A filing date of no later than April 1st for both gas and electric utilities.
2. A September 1st effective date for DPS decisions on Conservation Improvement Programs.
3. Gas and electric utility residential energy services to be filed at the same time every other year.
4. Two year projects that will provide an opportunity to coincide with Community Energy Council funding grants from the Department of Public Service.

It would also be satisfactory if these suggestions can be implemented outside of the public hearing process.

A filing date of no later than April 1st will most closely coincide with municipal budget information schedules. Municipalities can then allocate funds to complement the proposed CIP funding, an intent of the Department of Public Service. Given a filing date of no later than April 1st, completion seems possible by the end of August. Implementation could then occur September 1st when effective community efforts typically begin. The proposed filing date of September 1st for electric utility companies will not allow this to occur.

Odd/even year filing for gas and electric utilities will provide a more even work load and easier participation by Community Energy Councils. This will not easily facilitate the coordination of funding from both gas and electric utility companies for Home Energy Checkups that the Department of Public Service has encouraged.

Two year projects will provide an opportunity for continuity of programming and services.

Respectfully submitted,

Lorene Lehmann

Lorene Lehmann
Richfield Energy Coordinator

E89-1-0055

NORTHERN MINNESOTA UTILITIES

910 Cloquet Avenue
Cloquet, MN 55720-1681

218-879-1571

January 9, 1990

Mr. William B. Grant
Department of Public Service
150 East Kellogg Blvd.
St. Paul, MN 55101

RE: PROPOSED AMENDMENTS TO RULES GOVERNING CONSERVATION IMPROVEMENT PROGRAMS, MINNESOTA RULES 7690, 7840

Dear Mr. Grant:

Northern Minnesota Utilities (NMU) has reviewed the Proposed Amendments to Rules Governing Conservation Improvement Programs and the Statement of Need and Reasonableness for these rules and offers the following comments:

Part 7690.0500 Conservation Improvement Plan Filing. Subpart 1. Time Limits.

NMU does not agree with the proposed change in the filing deadline from May 1 to April 1 for gas utilities.

In its Statement of Need and Reasonableness the Department states, "Further, recent experience suggests that gas utilities desire an approval process timed to allow for early autumn (October 1) project start-up dates to mesh with the seasonal nature of most of their projects. ... gas utility filings will be made on or before April 1 of the year in which they are due to allow for an October 1 project start date." NMU does not believe this reasoning supports the change.

It has been NMU's experience during our past two years of involvement in the CIP process that the Department has been very thorough and prompt in its review of our filing. In both years, the Department submitted its recommendations to the MPUC by or before mid-July. The element in the process of the past which in some cases prevented or hindered an October 1 start date was the review by the MPUC work group and subsequent MPUC decision. The elimination of the requirement of MPUC approval from the process through the transfer of statutory authority for approving CIP's to the Department should provide adequate time for project approval prior to October 1. In addition, it will most certainly give the Department an added two months to complete their review and render a decision. NMU recommends the filing date for gas utilities remain the same as the current rules - May 1.

In addition, NMU supports the change to a two-year program with gas utilities filing during the even numbered years. NMU agrees with the reasons stated by the Department for making this change and believes they support the need for the change.

NMU makes the above comments and recommendations in accordance with the Department of Public Service Notice dated December 6, 1989. NMU does not desire to request a public hearing in this matter, but does request that in the permanent adoption of new rules the filing deadline remain at May 1 for gas utilities.

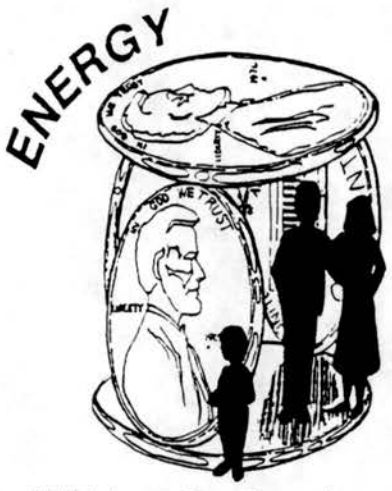
Sincerely,

Mary B. Wirtz

Mary B. Wirtz
Regulatory Affairs Manager

MBW/ps

cc: Mike Hongisto



COMMITMENT TO
ENERGY
NOW
TO
SURVIVE

January 9, 1990

Willian B. Grant
Department of Public Service
150 East Kellogg
St. Paul, Minnesota 55101

Dear Mr. Grant:

The Energy CENTS Coalition is a group of 28 low income advocacy groups, energy assistance providers, weatherization providers, low income housing advocacy groups and energy advocates. The purpose of the organization is to coordinate advocacy efforts on low income energy issues. Because energy is a survival issue in Minnesota, we believe it is important that advocates unite to start dealing with issues about energy assistance, weatherization, the Conservataion Improvement Program, energy issues regarding the State Housing Code, the Cold Weather Rule and the use of oil overcharge funds in Minnesota. We believe the joining together of those knowledgeable on energy issues with a core of advocates for low income persons will be effective in providing a strong voice in bringing about public policies that assist low income people with their energy needs. A list of Energy CENTS Coalition members is attached.

The Energy CENTS Coalition has been active on a number of energy related issues in the past. These have included the formation of the Low Income Energy Task Force of the Minnesota Legislature, publication of "Energy: A Survival Issue of the Poor" and presentation of the report to the Legislative Low Income Energy Task Force, lobbied for successful passage of the Low Income Energy bill and the appointment of several representatives to the Department of Public Service Energy Programs Advisory Task Force.

The following comments regarding the proposed permanent rules relating to Conservation Improvement Program are being submitted on behalf of the Energy CENTS Coalition.

First, the Coalition would like to commend the Department of Public Service for its approach to the rule making process. We believe effort was made to keep the process very open. The approach also is reflective of the legislative intent that those portions of the Low Income Energy bill requiring greater low income involvement in CIP and the shift of CIP administrative authority should be implemented as quickly as possible. By limiting the proposed changes in the rules to those needed to accomplish the requirements of the legislation or clarify the process we feel that the objective the Low Income Energy Bill can be met in an expeditious manner. While we also agree with comments in the Department's "Statement

of Need" that there are portions of the CIP rules which need to be reexamined, we feel that this is not the time to do so. balance these two competing and diametrically opposed objectives.

A close review of the specific rule changes has identified a few specifics which Energy CENTS will comment on. The first comment is regarding a comment made in the "Statement of Reasonableness" submitted by the Department of Public Service. In Part 7690.000 DEFINITION it states "Using a guideline of 185 percent of poverty is also consistent with the Cold Weather Rule (Minn. Stat. 216B.095) and the federally funded Low Income Home Energy Assistance and Weatherization Assistance Programs." It should be pointed out that the income guidelines for the latter programs are basically 135 percent of poverty rather than 185% of poverty.

There are several subparts in Part 7690.0500 CONSERVATION IMPROVEMENT FILING which need comment. The first, in Subpart 1, concerns scheduling. While Energy CENTs appreciates the rationale for the scheduling as developed by the Department of Public Service it does present some drawbacks in terms of program development and coordination. The year difference in submission of plans by electric and gas utilities makes it very difficult to coordinate the development and operation of programs that use resources from both types of utilities. This may be especially true for programs targeting residential energy users. These programs are more likely to be community based and be administered by local communities or nonprofits. One possible alternative to address this issue could be to allow for plan modifications by the utilities within the process . Another alternative could be to review filings on a geographical basis. This way both gas and electric utilities in the same area could be reviewed at the same time. Coordination of planning and implementation is important given the need to expand the scope of third party involvement in CIP/URRPP as required by statute.

The second item under Part 7690.0500 relates to project status reports. It is important that the filing of status reports continue on a six month basis. According to the Low Income Energy Bill the "commissioner shall collect information on conservation and other energy-related programs carried on by other agencies, by public utilities,...". The lengthening of the time requirement on filing status reports to one year does not allow sufficient time to monitor program activity and provide timely information upon which "the commission ... shall recommend to the legislature changes in the laws governing conservation and other energy-related program..." as required by the Low Income Energy Bill. The sixth month requirement is not onerous. This is especially so as the submission of CIP plans will now be limited to once every two years.

The changes incorporated by Subpart 3 of Part 7690.0500 and Part 7690.0800 are procedural in nature. They should clarify the process and make the system more efficient. The changes made in Part 7690.0900; ALTERNATIVE PROPOSALS are also very appropriate and should help increase the involvement of political subdivisions, and nonprofit and community groups. We would suggest that 7849.0500, item G be excluded in addition to item E and item K. This requires that a CIP proposal describe "the expected effect of each project on peak and average consumption with supporting assumptions, including a computation of the costs that will be avoided or

reduced by the implementation of the proposed project and an estimate of the expected reveue effects". Most alternative project filers will not have the expertise or base figures necessary to develop all the cost figures required by this item. As with items E and K this requirement will lessen the ability of nonprofit organizations with limited resources to file alternative projects. The Department should be able to ask for and receive this information from the utility to whom the alternative proposal is addressed during the review of the alternative proposal.

The above concludes the comments of the Energy CENTS Coalition. We would like to thank the Department of Public Service for the openness of the process and the interest of the Department's staff in seeking out the opinions of those communities and nonprofit organizations interested in this issue. Thank you.

Sincerely,

Marcy Shapiro
Chair
Energy CENTS Coalition

PEOPLES NATURAL GAS

3460 Washington Drive
P.O. Box 21-386
Eagan, Minnesota 55121

612-452-0890

January 9, 1990

William B. Grant
Minnesota Department of Public Service
160 East Kellogg Blvd.
St. Paul, MN 55101

RE: Proposed Amendments to Rules Governing Conservation Improvement Programs/Utility Renewable Resource Programs, Minnesota Rules - Chapter 7800, to be Recodified as Minnesota Rules - Parts 7690.0100-7690.1500.

Dear Mr. Grant:

Peoples Natural Gas Company, Division of Utilicorp United Inc. (Peoples), with operations in the State of Minnesota, offers the following comments on the Proposed Amendments to Rules Governing Conservation Improvement Programs, to be recodified as Minnesota Rules - Parts 7690.0100-7690.1500.

In reviewing the Permanent Rules Relating to Conservation Improvement Programs, as proposed by the Minnesota Department of Public Service (Department), Peoples finds itself in general agreement, based on its understanding, with the majority of the Amendments to the Rules as proposed, and feels that the proposed Rules provide an ongoing, useable framework for developing and implementing Conservation Improvement Programs in Minnesota.

However, Peoples does have one concern regarding the filing time limit requirement for natural gas utility Conservation Improvement Programs, and offers the following comments and recommendations.

<u>Proposed Rule 7690.0500 CONSERVATION IMPROVEMENT PROGRAM FILING Subpart 1. Time Limits.</u>

In this subpart, the Department has proposed that natural gas utilities be required to file Conservation Improvement Programs by April 1 of each even-numbered year. Note that this compares with a filing date of May 1 under current Rules, and that Peoples, like the majority of gas utilities participating in Conservation Improvement Programs in Minnesota, begins its Conservation Improvement Program projects on October 1.

By requiring the filing of Conservation Improvement Programs on or before April 1, the Department would be establishing a six-month period from Program filing to implementation. Peoples believes this to be somewhat excessive, and notes that the time frame from filing to implementation for electric utility Conservation Improvement Programs is only four months.

In addition, in subsequent filing years, an April 1 filing date would require gas utilities to begin finalizing their filing process, especially with regard to included projects, in late January or early February. As a result, only fifteen to sixteen months of data and results would be available for analyzing possible ongoing or renewable projects. In addition, very little overall heating season data would be available for project analysis, either as part of the Program filing or the "odd-year" Program status report.

Therefore, Peoples believes that a required filing date of no earlier than May 1 for natural gas utilities would be more reasonable and workable for all parties involved.

Peoples makes the above comments and recommendations in accordance with the Minnesota Department of Public Service request dated December 6, 1989 regarding the Proposed Amendments to Rules Governing Conservation Improvement Programs.

Respectfully submitted,

Arlen G. Restad

Arlen G. Restad
Vice President
Minnesota Area

AGR/nll

BEFORE THE
STATE OF MINNESOTA
MINNESOTA DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs Utility Renewable Resource Programs, Minn. Rules Chapter 7800, to be Recodified at Minn. Rules Parts 7690.0100 - 7690.1500	Comments of Midwest Gas, a division of Iowa Public Service Company

COMES NOW Midwest Gas, a division of Iowa Public Service Company ("MWG"), and submits the following comments on the Conservation Improvement Program ("CIP") Rules proposed by the Minnesota Department of Public Service ("Department").

1. MWG is a public utility engaged in the sale and transportation of natural gas in the States of Minnesota, Iowa, South Dakota, and Nebraska. MWG's annual operating revenues from the sales of utility services made in the State of Minnesota are less than $50,000,000.00. Therefore, MWG will, for the first time, be developing a mandated energy conservation program.

The following constitutes the comments of MWG on the proposed rules.

2. Part 7690.0500. Conservation Improvement Program Filing. MWG is a utility that has been brought within the ambit of the conservation improvement program requirements by virtue of the 1989 amendment to Minnesota Statutes 216B.241(2). Until it received the proposed rules in December, 1989 it was unaware of the time limits that would require filing a complete program by April, 1990. MWG's primary concern is with the relatively brief period that it will have to develop a program for filing. Much as the Department states in the Statement of Need and Reasonableness ("Statement") at page 3, that it does not believe there is adequate time to develop, through a task force, modified interpretative rules, MWG does not believe the April, 1990 deadline allows it

adequate time to develop a detailed program of projects of high quality. The law that initiated this program was adopted in 1983, giving the first group of utilities three years to implement projects. While MWG understands that there are many projects that may be used "off the shelf" in fulfilling this requirement, MWG wants to develop the package of programs that is best suited for its small service territory in a systematic manner. The time period allotted by the proposed rules does not permit thoughtful project development.

MWG suggests that the Department consider allowing gas utilities that are coming under the statute for the first time to make their initial filings on September 1, 1990. This would allow these two utilities an additional amount of time to prepare programs commensurate with the time allotted to newly included electric utilities. During the 1990-91 heating season beginning in October, the gas utilities could implement all or a portion of the proposed projects pending Department review, or else could implement programs later, after review was completed. After this first round, new gas utilities could comply with the deadlines set in the rules.

3. 7690.0500. Subpart 2, Item H. This provision requires half of CIP dollars for residential programs be spent on projects affecting low income persons and occupants of rental units. This requirement may be waived if a utility provides supporting documentation showing that an insufficient number of these projects are available. MWG would request clarification in the form of illustrative examples of the type of supporting documentation that would be adequate.

4. 7690.0500. Subpart 3. This proposal requires the Department to conduct a completeness review after the utility's submission is made. The Statement indicates that this is not to be a substantive review. Some time limit, such as 5 days, should be placed on this review to ensure that utilities

receive timely notification of filing deficiencies and the entire process is not inordinately delayed.

5. 7690.100. Subpart 1. Proposed Decision. Again, a time period, preferably 30 days should be inserted for issuance of the proposed decision.

6. 7690.100. Subpart 3. Proposed Decision. Comment Period. Considering mail delays, the 10-day comment period is too brief. Twenty days would be an appropriate, although brief, responsive period. Twenty days is the period set by Minnesota Rules 7830.3900 for the filing of exceptions from proposed decisions of the Minnesota Public Utilities Commission, which represents a parallel situation.

7. 7690.1200. Approval, Disapproval or Modification. In the Statement, the Department indicates its intention to convene a task force to analyze these interpretive rules. In view of the inclusion of the smaller utilities and the broadly worded nature of these rules, MWG would recommend that this task force be established as soon as possible.

WHEREFORE, Midwest Gas, a division of Iowa Public Service Company, respectfully requests the Minnesota Department of Public Service to give these comments due consideration in the development of final rules concerning conservation improvement programs.

DATED this 9th day of January, 1990.

Respectfully submitted,

MIDWEST GAS, a division of Iowa Public Service Company

BY _____

Suzan M. Stewart, Senior Attorney
and Manager, Regulatory Affairs
John A. Rasmussen, Jr., Vice President
and General Counsel
P.O. Box 778
Sioux City, IA 51102

Pt. 7690.0500, sp l

Rules state that the PUC shall receive copies of comments, alternate proposals, but do not state that PUC will receive copies of the original (annual) CIP filings.

The following are friendly suggestions--things PUC sees as causing possible problem for DPS.

7690.0400

Add at end the statement, "or until modified by DPS"; otherwise not much flexibility.

Line 5, Page 2 7690.0500

Make electric filings due on August l; why do we like Sept l; if programs are to be in place by Jan. l, a September 1 filing date may be cutting things pretty thin.

7690.0800

service lists - PUC has had a real problem with service list rule; if had to redo it would make less specific about who has to be on list; make more general for more flexibility; losts on that don't need or even want to be on list. serious if not served when required; now too many on list--wasting resources. Com Rule

lines 9, l0 page 5

wording problem - update 30 days before file program? the way the rules are written, we've identified a particular day and say thats the day we have to update. say 30 days before, etc.

Ask Susan

7690.0900, page 6

exceptions for alternative projects - in addition to E and K consider adding H to exceptions and add language that proposers have to discuss how programs relate to needs of low income and renters.

8790.1000

subpart 2. DPS shall serve copy of decision on utility, bla bla, If includes everyone on service list as we've defined service list, might be overkill. all known interested persons is pretty broad administratively.

7690.1300

DPS gives itself 30 days to make decision. not necessary to give self deadline. Can notify when decision will be issued. may miss that too, then another notice--creating more work for self than necessary.

7690.1500

appropriate to add at end, "and any rules promulgated thereunder by the Public Utilities Commission" PUC does intend to write rules.

Northern States Power Company
Law Department

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January 10, 1990

Mr. William B. Grant
Minnesota Department of Public Service
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

RE: Proposed Permanent Rules Relating to Utility Conservation Improvement Programs - Comments of Northern States Power Company

Dear Mr. Grant:

On December 11, 1989, the Minnesota Department of Public Service ("Department") issued a "Notice of Intent to Adopt Rule Amendments Without a Public Hearing and of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing" ("Notice"). 14 S.R. 1377, December 11, 1989. The Department proposes to amend existing Minnesota Rules 7840.0200 to 7840.1400 relating to utility conservation Improvement Programs ("CIP"). The Department states that the proposed Rules would implement the statutory changes enacted by the 1989 Minnesota Legislature. Minnesota Laws, ch. 338, Section 3, codified as Minnesota Statutes, Section 216B.241 (Supp. 1989) ("MSA 216B.241"). The proposed rules would revise and renumber the existing CIP rules.

Northern States Power Company ("NSP") is the largest public utility in the state of Minnesota. NSP also expends the largest amounts of utility ratepayer funds on CIP programs pursuant to MSA 216B.241. For 1990, NSP proposed to spend approximately $12.1 million dollars on electric CIP programs, and almost $800,000 for natural gas CIP programs. NSP was one of the first utilities in the United States to establish customer conservation programs, and NSP supported adoption (and indeed helped draft) the original PUCIP legislation adopted in 1980. NSP thus has an obvious interest in the outcome of this proceeding.

NSP previously filed extensive written comments ("initial comments") in response to the Department's "Notice of Solicitation of Outside Opinion and Comments on Proposed Rules Governing Utility Conservation Improvement Programs" ("Solicitation"). 14 S.R. 173, July 24, 1989. NSP offers the following comments in response to the proposed Rules. These comments modify to some extent NSP's initial comments. However, NSP continues to support those comments, and incorporates them by reference unless specifically amended.

I. General Comments

A. Statutory Authority to Issue Decisional Orders

NSP's comments in response to the Solicitation noted NSP's concern that MSA 216B.241, as amended, creates a legal ambiguity regarding the statutory authority of the Department to issue an order in an adjudicatory proceeding (the proposed rules use both the terms "order" and "require"). NSP remains concerned, but will not repeat the arguments here. NSP remains willing to work with the Department and Legislature to resolve the ambiguity.

B. Due Process

Another concern with the proposed rules is the omission of any explanation of how the Department will separate the analytical and decisional processes for CIP programs. Under the current rules, the utility files a CIP program (usually made up of several separate projects), the Department and other intervenors (if any) file comments and/or alternative proposals, the Public Utilities Commission ("Commission") staff summarizes the positions of the parties and makes recommendations to the Commission, the Commission deliberates on the issues at a public hearing, and the Commission issues an order approving, rejecting or modifying the utility's CIP program. This separation of functions provides procedural protections for all parties and avoids conflict of interest between decision making and advocacy.

The transfer of CIP authority makes separation less clear. Without a differentiation of functions within the Department, there is the potential that Department personnel could be forced to become both advocate and judge. The Statement of Need and Reasonableness ("SONAR") does not state how the Department intends to organize itself to avoid potential conflicts in carrying out its new statutory obligations.

NSP appreciates the difficult administrative issues raised by the transfer of CIP authority from the Commission to the Department. NSP also does not mean to imply that the Department will exercise its new statutory authority arbitrarily. However, the current statutory and rule scheme provide procedural guidance and protections that are not clearly provided in the draft rules.

NSP requests that the Department evaluate these concerns and state in writing (perhaps in the notice adopting final rules) how it will provide a "separation of powers" between the analysis/advocate functions and the decision making function.

C. Interpretive Rules

The SONAR notes that several parties who commented in response to the Solicitation recommended that the Department also amend the "interpretive" portions of the rules, such as the definition of "Significant Investment" (proposed Rule 7690.1200, Subp. 1). NSP was among those parties. The Department indicates that it does not intend to act on those concerns now, but will instead convene a task force to deal with such issues.

NSP again recommends that the interpretive rules be reviewed and amended (as necessary). However, the Department has informally stated that it plans to convene a task force on a timely basis to review the interpretive rules. NSP is willing to accept this approach so that the 1989 legislation can be implemented quickly. However, NSP recommends that the Department state in writing (in the document adopting final rules) that the task force will be convened within sixty days of adoption of final rules. This will allow the momentum of the current rulemaking to move the process forward on a timely basis. NSP also requests that both NSP's Electric and and Gas Utilities be represented on the task force.

D. Low Income Issues

One of the key facets of the 1989 legislation was a statutory mandate that one-half of residential CIP project funds be expended on programs that directly address the needs of low-income and rental customers unless the utility can demonstrate that insufficient projects are available. NSP worked extensively with the 1989 Legislature to insure that this "exception" clause was included because NSP is concerned that there simply are not sufficient cost-effective electricity conservation opportunities present in the low-income and rental market to meet the 50 percent test.

Unfortunately, the Department rules provide minimal guidance as to how a utility may meet the exception clause explicitly provided by the Legislature. NSP assumes this absence of guidance in the rules indicates that the Department will presume that a utility's "statement with supporting documentation that an insufficient number of these projects are available" is true until a preponderance of the evidence indicates otherwise.

E. URRP Rules

The Department proposes only administrative changes to the existing Utility Renewable Resource Pilot Program ("URRP") rules, to reflect the change in statutory authority from the Commission to the Department. The Department has indicated that it may amend the URRP rules at a later date.

Since the URRP rules are not really at issue in this rulemaking, NSP will not provide any comments at this time. NSP reserves the right to file comments if the Department proposes changes at a later date.

II. Specific Comments

A. Filing Date For Gas CIP Programs

Under current rules, gas utilities file their CIP programs on May 1. The draft rules would require the gas utilities file by April 1, one month earlier than currently required.

NSP opposes the change to an April 1 filing date. The current May 1 filing date is the earliest date NSP can support. The May 1 filing date barely allows inclusion of analysis of program results for the recently completed heating season. If the filing date is moved to April 1, program cost effectiveness data must be based on some usage data that is at least one year old. NSP's initial comments proposed that the gas utility filing date be moved to June 1 to insure that current full heating season data are available. NSP continues to believe that such a change would enhance analysis of gas CIP programs. However, NSP is willing to continue filing on May 1 since gas CIPs have historically been filed on that date.

B. CIP Procedural Schedule

One of the stated purposes of the draft Rules is to streamline and provide more certainty in the CIP process. However, the draft rules appear to lengthen the analytical and decision time, and there are no provisions ensuring that the Department will issue a decision in either an electric or gas utility CIP filing prior to the implementation date. Timely approval is critical for utilities and their CIP vendors.

NSP suggests that the rules contain a fairly clear schedule of when utility and intervenor filings are due, and when the Department must act. The draft rules implicitly contain such a schedule, but the rules should be clarified by specifying dates. In cases where a deadline cannot be met by a utility, an intervenor, or the Department, provisions can be included authorizing the Department to waive the deadline for good cause.

NSP recommends two specific changes to the schedule provided by the draft Rules. First, NSP recommends that alternative proposals of comments be due 45 days after filing, not 45 days after the Department's completeness review order is issued. There is no reason that the completeness review and preparation of comments and/or alternative proposals cannot proceed

simultaneously. Even with this change, a commenting party is allowed 15 more days than under the existing rules, and the overall administrative schedule can be maintained. If the Department's completeness review raises an issue a party wants to comment on and there is insufficient time, the Department can grant an extension to allow such comments.

Second, NSP recommends that parties be granted twenty days to submit comments on the Proposed Decision prepared by the Department, rather than the ten days proposed in draft Rule 7690.1000, Subp. 3. NSP supports the new Proposed Decision and comment concept. However, ten days is insufficient to provide meaningful comments on a lengthy Proposed Decision.

Neither of these changes are "substantial changes" to the proposed rule which would require a new notice and comment period prior to adoption. See Minn. Rules, part 1400.1100, Subp. 2. The changes to not affect the substantive rights of parties, but simply the schedule parties must follow to excercise their substantive rights.

Given these two changes, NSP recommends that the following schedule for utility and intervenor filings and Department actions be incorporated in the final rules:

Filing Date	Gas utilities - May 1 Electric utilities - August 1
Completeness Review	30 days after filing
Intervenor Comments/ Alternative Proposals	45 days after filing
Reply Comments	25 days after Comments /Alternative Proposals
Proposed Decision	30 days after Reply Comments
Reply Comments	20 days after Proposed Decision
Decision Issued (approx)	Gas Utilities - September 15 Electric utilities - December 15

NSP recognizes that this filing schedule will place fairly strict procedural timelines on all parties. To reduce the administrative burden on the Department, NSP suggests that the draft rules (which require gas CIP filings in even-numbered years and electric filings in odd-numbered years) be amended so that half of the gas and electric utilities file CIP programs each even numbered year, and half file in the odd-numbered year. This

schedule, which is different than the one recommended by NSP in its initial comments, would levelize the Department's CIP workload over an eight month period each year.

C. Service Lists

Draft Rule 7690.0700 proposes that the Department maintain a service list for utility CIP programs. The draft Rule would require notice to the Commission, the Office of Attorney General, persons who participated in the public utility's previous conservation improvement program, and:

> ....persons who participated in the public utility's last general rate case with respect to conservation programs, and other persons the department believes are interested in the public utility's next conservation improvement program.

NSP believes that the first provision is too vague. Who determines if the intervenor participated "with respect to conservation programs?" The second provision is too broad because virtually every customer of that utility could be considered "interested" in the CIP program.

NSP suggests that the final clause of the proposed Rule be amended to read as follows:

> ....parties to the public utility's most recent general rate case and other persons who request in writing to be included on the service list.

As a general rule, the participants in utility CIP programs do not change significantly from year to year. This amended rule would insure that parties who have previously shown interest in a utility's CIP programs or general rate filings receive notice.

If additional notice is required, NSP suggests that official notice of a utility's CIP filing be placed in the State Register, similar to FERC notices of wholesale electric or natural gas proceedings in the Federal Register. NSP is willing to work with the Department to develop a standard notice which could be published in the first State Register issued after the May 1 and August 1 filing dates. This system would provide adequate notice to communities or others who might be interested in participating in the process.

The rules should also be clarified so that the "service list" is for initial notice only, and that subsequent documents (e.g., reply comments) must be served only on the enumerated State agencies and persons who file comments or alternative

proposals. There is no need to serve copies of all subsequent filings on a person not a party to the CIP proceeding.

D. Contested Case Hearing

The Department proposes to repeal existing rule 7840.1000, which allows a utility or interested person to request a contested case hearing. The Department cites the new appeal provisions (7690.1500) as the rationale for the repeal.

NSP strongly opposes eliminating the opportunity to request a contested case hearing. The contested case hearing provides a focused administrative proceeding on a timely basis, which provides procedural due process for both utilities and other interested parties. An appeal to the Commission, which has no rules in place to process such appeals, does not obviate the need for the contested case process. Parties need a forum before, not after, a final decision is made by the Department.

The Department argues that the Commission could refer a matter to the Office of Adminstrative Hearings for a contested case hearing during the appeal process. However, this proposal would create the strange situation where the state agency referring the matter for contested case hearing is not the statutory decisional agency. NSP assumes the Department would prefer to retain this authority if possible.

NSP expects that CIP programs would be referred to a contested case process very infrequently. In addition, such cases would likely focus on particular projects rather than the utility's entire CIP program. However, if an innovative and/or controversial new utility or intervenor project is proposed, the contested case may provide an excellent forum to deal with specific factual or legal issues. The contested case should be viewed as a supplement to the Department's decision process and the Commission's appeal process, not as a means to bypass those processes.

E. Other

NSP recommends that the task force convened by the Department specifically be asked to review all CIP procedural and filing requirement rules and make recommendations on changes that will streamline the CIP process without compromising the needs of the Department, utilities, and intervenors. After several years of experience with the CIP process, especially with the filing requirement rules, review would be timely and useful.

Conclusion

NSP sincerely appreciates the opportunity to submit these written comments. NSP would welcome the opportunity to meet with the Department and other commenting parties to discuss the proposed rules and the comments filed by all parties.

Please contact me (330-7945) or Jim Johnson (330-5889) with any questions regarding the NSP comments or to set up a meeting to discuss the comments.

Respectfully submitted,

Michael J. Hanson

Michael J. Hanson
Attorney

cc: Tony Perpich

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed
Amendments to Rules Governing
Conservation Improvement Programs
Utility Renewable Resource
Programs, Minn. Rules Chapter 7800,
to be Recodified as Minn. Rules
Parts 7690.0100 - 7690.1500

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Joan Cossette, being duly sworn, deposes and says:

That on the 6th day of December, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota s/he served the attached "Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing" and "Notice of Intent to Adopt Rule Amendments Without a Public Hearing and of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing" by depositing in the State of Minnesota Central Mail system or in the United States mail for first class mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested their names be placed on file with the Minnesota Department of Public Service for the purpose of receiving notice of the proposed adoption of rules by the Minnesota Department of Public Service.

Joan Cossette

Subscribed and sworn to before me
this 6th day of December, 1989.

ELIZABETH A. ROSHOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES FEBRUARY 28, 1993

Notary Public

<<<< R U L E S >>>>

People receiving information on rule changes

Company / Person	Street / City, State, Zip	Code
RUDY BOSCHWITZ	HART STATE OFFICE BLDG-RM SH506 WASHINGTON, DC 20510	MCD
DAVID DURENBERGER	RUSSELL BLDG-RM 154 WASHINGTON, DC 20510	MCD
WILLIAM FRENZEL	LONGWORTH OFFICE BLDG-RM 1026 WASHINGTON, DC 20515	MCD
MICHAEL JOHNSON	117 FIFTH ST W - BOX 95 BLUE EARTH, MN 56013	RULE
RALPH T KEYES	1631 BROOKS AVE W ST PAUL, MN 55113	RULE
JAMES L OBERSTAR	RAYBURN OFFICE BLDG-RM 2351 WASHINGTON, DC 20515	MCD
RONALD E OLSON	5416 70TH ST W EDINA, MN 55435	RULE
TIMOTHY PENNY	CANNON OFFICE BLDG-RM 436 WASHINGTON, DC 20515	MCD
ALFRED J ROSS	6356 WARE RD LINO LAKES, MN 55014	RULE
MARTIN O SABO	RAYBURN OFFICE BLDG. - RM 2201 WASHINGTON, DC 20515	MCD
ARLAN STANGELAND	RAYBURN OFFICE BLDG. - RM 2245 WASHINGTON, DC 20515	MCD
BRUCE F VENTO	RAYBURN OFFICE BLDG. - RM 2304 WASHINGTON, DC 20515	MCD
VIN WEBER	CANNON OFFICE BLDG. - RM 106 WASHINGTON, DC 20515	MCD
ADMIN HEARING OFFICE SAM RUHLE	310 FOURTH AVE - RM 400 MINNEAPOLIS, MN 55415	RULE
ALABAMA DEPT OF ENERGY	3465 NORMAN BRIDGE RD MONTGOMERY, AL 36105	SEO
ALASKA ENERGY OFFICE	949 E. 36TH AVE - RM 400 ANCHORAGE, AK 99508	SEO

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People receiving information on rule changes

Company / Person	Street / City, State, Zip	Code
ARIZONA ENERGY OFFICE MARK GINSBERG	1700 WASHINGTON ST W PHOENIX, AZ 85007	SEO
ARKANSAS ENERGY OFFICE-ECON PLAN	1 CAPITOL MALL-RM 2C 105 LITTLE ROCK, AR 72201	SEO
BEMIDJI CHAMBER OF COMMERCE	BOX 850 BEMIDJI, MN 56601	RULE
BRAINERD WATER & LIGHT DEPT WALTER C SJOLUND	501 LAUREL ST-BOX 373 BRAINERD, MN 56401	RULE
BROEKER GEER LMTD. JOHN M BROEKER	8500 NORMANDALE LK BLVD #1510 MINNEAPOLIS, MN 55437	RULE
CALIFORNIA ENERGY COMMISSION	1516 NINTH ST SACRAMENTO, CA 95814	SEO
CARLTON COUNTY HUMAN SERVICES WILLIAM K. PINSONNAULT	BOX 316, 1215 AVENUE C CLOQUET, MN 55720	RULE
CITY OF BELLE PLAINE DAVID J UNMACHT	420 MAIN ST E BELLE PLAINE, MN 56011	RULE
CITY OF CIRCLE PINES JAMES KEINATH	200 CIVIC HEIGHTS CIRCLE CIRCLE PINES, MN 55014	RULE
CLOQUET CITY OF WILLIAM SCHLENVOGT	508 CLOQUET AVE CLOQUET, MN 55720	RULE
COLORADA OFFICE OF ENERGY CONSERV ROLAND RIVERA	112 14TH AVE E DENVER, CO 80203	SEO
COLUMBIA DIST OF ENERGY UNIT	613 G ST. N.W. WASHINGTON, DC 20001	SEO
CONNECTICUT ENERGY DIVISION BRADFORD S. CHASE	80 WASHINGTON ST HARTFORD, CT 06106	SEO
COOPERATIVE POWER ASSN ROBERT P AMBROSE	14615 LONE OAK RD EDEN PRAIRIE, MN 55344	RULE
COOPERATIVE POWER ASSN ADE MUSSELL	14615 LONE OAK ROAD EDEN PRAIRE, MN 55344	RULE
COTTONWOOD CO OFFICES FARLEY GRUNIG	COURTHOUSE WINDOM, MN 56101	RULE

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People receiving information on rule changes

Company / Person	Street / City, State, Zip	Code
DAIRYLAND POWER COOPERATIVE ALBERT D DIAL	BOX 817 LACROSSE, WI 54602	RULE
DAYTON HERMAN GRAHAM & GETTS JOHN H HERMAN	10 FIFTH ST S-STE 930 MINNEAPOLIS, MN 55402	RULE
DELAWARE ENERGY OFFICE	FEDERAL ST-BOX 1401 DOVER, DE 19903	SEO
DORSEY AND WHITNEY BECKY A COMSTOCK	220 SIXTH ST S-RM 2300 MINNEAPOLIS, MN 55402	RULE
DORSEY AND WHITNEY WILLIAM J. KEPPEL	2200 FIRST BANK PL E MINNEAPOLIS, MN 55402	RULE
E W A INC	133 FIRST AVE NORTH MINNEAPOLIS, MN 55401	RULE
FARIBAULT AREA CHAMBER OF COMMERCE ELAINE KENOW	228 CENTRAL AVE -- P. O. BOX 434 FARIBAULT, MN 55021	RULE
FLORIDA ENERGY OFFICE	BRYANT BLDG-RM 301 TALLAHASEE, FL 32301	SEO
FRIDLEY CITY OF JIM ROBINSON	6431 UNIVERSITY AVE NE FRIDLEY, MN 55432	RULE
GEO. A. HORMEL & CO DOUGLAS D. HAHN, P.E.	BOX 800 AUSTIN, MN 55912	RULE
GEORGIA OFFICE OF ENERGY RESOURCES	270 WASHINGTON ST SW-STE 615 ATLANTA, GA 30334	SEO
GUAM ENERGY OFFICE	BOX 2950 AGANA, GM 96910	SEO
HASTINGS CITY OF THOMAS HARMENING	100 SIBLEY ST HASTINGS, MN 55033	RULE
HAWAII ENERGY OFFICE	335 MERCHANT ST. RM 110 HONOLULU, HI 96813	SEO
HENN CNTY ENVIRONMENT & ENERGY OFF BEN KERMMOADE	822 SOUTH 3RD ST. SUITE 300 MINNEAPOLIS, MN 55415	RULE
HENN CNTY ENVIRONMENT & ENERGY OFF LUTHER D. NELSON	822 SOUTH 3RD ST. SUITE 300 MINNEAPOLIS, MN 55415	RULE

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People receiving information on rule changes

Company / Person	Street / City, State, Zip	Code
HENNEPIN CO PROPERTY MANAGEMENT JOHN G MCMILLAN	HENN CNTY GOVT CNTR, BLDG OFC-A LEVL MINNEAPOLIS, MN 55487	RULE
Hessian, McKaby and Soderberg Jerome M. Soderberg	4700 IDS Center Minneapolis, MN 55402	RULE
HONEYWELL INC W C VIITALA	HONEYWELL PLAZA-BOX 524 MINNEAPOLIS, MN 55440	RULE
HOYT HEATING CO. ERIC M. LANNES	PO BOX 60129 RENO/STEAD, NV 89506	RULE
IDAHO OFFICE OF ENERGY	450 STATE ST. W BOISE, ID 83720	SEO
ILLINOIS INST OF NAT RESOURCES	325 ADAMS ST W-RM 300 SPRINGFIELD, IL 62704	SEO
INDIANA ENERGY OFFICE	1 CAPITOL ST N-STE 700 INDIANAPOLIS, IN 46204	SEO
IOWA DEPT OF NATURAL RESOURCES ENERGY BUREAU	WALLACE STATE OFFICE BLDG DES MOINES, IA 50319	SEO
KANSAS CORP COMM-RESEARCH & ENERGY	STATE OFFICE BLDG-FOURTH FLR TOPEKA, KS 66612	SEO
KENTUCKY ENERGY CABINET LANA ROGERS	P.O. BOX 3249 FRANKFORT, KY 40603	SEO
LAKE SUPERIOR INDUSTRIAL BUREAU ALFRED E FRANCE	306 SUPERIOR ST W-#1408 ALWORTH DULUTH, MN 55802	RULE
LEFEVERE AND LEFLER JOHN E DRAWZ	2000 FIRST BANK PLACE WEST MINNEAPOLIS, MN 55402	RULE
LEHMANN & ASSOC INC ERNEST K LEHMANN	430 FIRST AVE N. - RM 790 MINNEAPOLIS, MN 55401	RULE
LEVANDER GILLEN MILLER & MAGNUSON ROGER C MILLER	633 CONCORD ST-RM 402-BOX 298 S ST PAUL, MN 55075	RULE
LINDBERG ASSOCIATES CLARENCE P LINDBERG	750 PLAZA DR S MENDOTA HTS, MN 55120	RULE
LOUISIANA DEPT OF NAT RESOURCES	BOX 94396 BATON ROUGE, LA 70804	SEO

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People receiving information on rule changes

Company / Person	Street / City, State, Zip	Code
LUVERNE CITY OF STEVEN L. PERKINS	203 MAIN ST E - BOX 348 LUVERNE, MN 56156	RULE
LYMAN LUMBER CO JUDITH A. JANICKE	300 MORSE AVE - BOX 40 EXCELSIOR, MN 55331	RULE
MAINE OFFICE OF ENERGY RESOURCES	STATE HOUSE-STN 53 AUGUSTA, ME 04333	SEO
MANKATO AREA CHAMBER OF COMMERCE	BOX 999 MANKATO, MN 56002	RULE
MARYLAND ENERGY OFFICE JAN SHOREY	45 CALVERT ST. ANNAPOLIS, MD 21401	SEO
MASSACHUSETTS ENERGY POLICY OFFICE	100 CAMBRIDGE ST-RM 1500 BOSTON, MA 02202	SEO
MICHIGAN ENERGY ADMINISTRATION	BOX 30228 LANSING, MI 48909	SEO
MINN ASSN OF TOWNSHIPS DAVID FRICKE	BOX 267 - 705 CENTRAL AVE. E. ST MICHAEL, MN 55376	RULE
MINN ATTORNEY GEN OFC-ANTITRUST DIV THOMAS F PURSELL	117 UNIV AVE - SECOND FLR ST PAUL, MN 55155	RULE
MINN AUTO DEALERS ASSN LOUIS W CLAESON JR	277 UNIVERSITY AVE ST PAUL, MN 55103	RULE
MINN COOPERATIVES ASSN OF ALLEN GERBER	480 CEDAR ST - RM 380 ST PAUL, MN 55101	RULE
MINN GOVERMENT REPORT JEAN DAWSON	STATE CAPITAL BLDG - PRESS RM B2 ST PAUL, MN 55155	RULE
MINN HOUSING FINANCE AGENCY HEIDE E. WHITNEY	400 SIBLEY ST - STE 300 ST PAUL, MN 55101	RULE
MINN LEGIS COMM TO REVIEW ADMIN RUL MARYANNE V HRUBY	STATE OFFICE BLDG - RM 55 ST PAUL, MN 55155	RULE
MINN MULTI HOUSING ASSN JOHN HORNER	4740 PARK GLEN RD MINNEAPOLIS, MN 55416	RULE
MINN PETROLEUM COUNCIL DARREL BUNGE	350 ST. PETER ST. - RM 1025 ST PAUL, MN 55102	RULE

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Company / Person	Street / City, State, Zip	Code
MINN POLLUTION CONTROL AGENCY Gerald Willet	520 LAFAYETTE RD. N. ST. PAUL, MN 55155	RULE
MINN POWER CO ELAINE DEBEIR	30 SUPERIOR ST W DULUTH, MN 55802	RULE
MINN POWER CO JAMES A ROBERTS	30 SUPERIOR ST W DULUTH, MN 55802	RULE
MINN RETAIL MERCHANTS ASSN RANDY MORRIS	121 SEVENTH ST E-STE 180 ST PAUL, MN 55101	RULE
MINN STATE UNIV SYSTEM MARY E STANTON	555 PARK ST-STE 230 ST PAUL, MN 55105	RULE
MINNEGASCO TRACY BRIDGE	201 SEVENTH ST S MINNEAPOLIS, MN 55402	RULE
MINNEGASCO INC. GEORGE H. LOFGREN	P.O. BOX 1165 MINNEAPOLIS, MN 55440	RULE
MINNESOTA SENATE DONALD J FRANK	STATE CAPITOL BLDG-RM G10 ST PAUL, MN 55155	RULE
MISSISSIPPI DEPT OF ENERGY	510 GEORGE ST-STE 300 JACKSON, MS 39202	SEC
MISSOURI DIV OF ENERGY	BOX 176 JEFFERSON CITY, MO 65102	SEC
MONTANA ENERGY DIV	1520 E. 6TH AVE HELENA, MT 59620	SEC
MONTEVIDEO CITY OF A.J. JOHNSON	BOX 676 MONTEVIDEO, MN 56265	RULE
MONTICELLO CITY OF	250 BROADWAY ST E MONTICELLO, MN 55362	RULE
MOSS AND BARNETT MICHAEL J AHERN	200 SIXTH ST S-1200 PILLSBURY CNTR MINNEAPOLIS, MN 55402	RULE
MPLS BLDG OWNERS & MGRS ASSN INC. ARTHUR W OLOFSON	927 SOO LINE BLDG-105 5TH ST S. MINNEAPOLIS, MN 55402	RULE
NEBRASKA ENERGY OFFICE ANN BROCKHOFF	BOX 95085 LINCOLN, NB 68509	SEC

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Company / Person	Street / City, State, Zip	Code
NEVADA COMM SERVICES-ENERGY OFFICE	1100 WILLIAM ST E RM 117 CARSON CITY, NV 89710	SEO
NEW HAMPSHIRE GOV COUNCIL ON ENERGY	2 1/2 BEACON ST CONCORD, NH 03301	SEO
NEW JERSEY DEPT OF COMM & ECON DEV ROBERT J. GOLDEN JR.	101 COMMERCE ST RM 204 NEWARK, NJ 07102	SEO
NEW MEXICO DEPT OF ENERGY &MINERALS	525 CAMINO DE LOS MARQUEZ SANTA FE, NM 87501	SEO
NEW YORK STATE ENERGY OFFICE CHARLES STUBER	2 ROCKEFELLER PLAZA-10TH FLR ALBANY, NY 12223	SEO
NORTH CAROLINA ENERGY DIV	BOX 25249 RALEIGH, NC 27611	SEO
NORTH CENTRAL PUBLIC SERVICE CO. JAMES A SMITH	1080 MONTREAL AVE ST PAUL, MN 55116	RULE
NORTH DAKOTA OFFICE OF ENERGY	STATE CAPITOL BLDG-14TH FL BISMARCK, ND 58505	SEO
NORTH MARIANA ISLANDS ENERGY PLANNR	P.O. BOX 340 SAIPAN, MR 96950	SEO
NORTHERN PRODUCTS LOG HOMES, INC. Allison T. Beaulieu	P.O. BOX 616 BANGOR, ME 04401	RULE
NORTHERN STATES POWER C. GARY ANDERSON	414 NICOLLET MALL MINNEAPOLIS, MN 55401	RULE
NORTHERN STATES POWER - LAW DEPT. JOSEPH D. BIZZANO JR.	414 NICOLLET MALL MINNEAPOLIS, MN 55401	RULE
NORTHERN STATES POWER CO KEITH H WIETECKI	414 NICOLLET MALL MINNEAPOLIS, MN 55401	RULE
NORTHERN SUN ALLIANCE JOAN VANHALA	1519 FRANKLIN AVE E MINNEAPOLIS, MN 55404	RULE
OHIO DEPT OF ENERGY	30 BROAD ST E-24TH FLOOR COLUMBUS, OH 43266	SEO
OKLAHOMA DEPT OF ENERGY	2101 N. LINCOLN BLVD. OKLAHOMA CITY, OK 73105	SEO

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OREGON DEPT OF ENERGY	625 MARION ST NE SALEM, OR 97310	SEO
OWATONNA PUBLIC UTILITIES DAVID M. MARTIN	P.O. BOX 800 OWATONNA, MN 55060	RULE
PENNSYLVANIA GOVERNORS ENERGY CNCL	BOX 8010 HARRISBURG, PA 17105	SEO
PHILLIPS LEGISLATIVE SERVICE INC WILLIAM L PHILLIPS	459 RICE ST - 3RD FLOOR ST PAUL, MN 55103	RULE
POPHAM HAIK LAW FIRM ROBERT B BURK	3300 PIPER JAFFERY TOWER MINNEAPOLIS, MN 55402	RULE
PUERTO RICO ENERGY OFFICE	MANILLAS STATION-BOX 41089 SANTRUCE, PR 00940	SEO
Q S S INC CHARLES KROEGER	BOX 838 FARIBAULT, MN 55021	RULE
REGION FIVE REG DEVEL COMM DAVE WEIRENS	611 IOWA AVE STAPLES, MN 56479	RULE
RHODE ISLAND ENERGY OFFICE	275 WESTMINISTER MALL PROVIDENCE, RI 02903	SEO
RICHFIELD CITY OF BRUCE NORDQUIST	6700 PORTLAND AVE S RICHFIELD, MN 55423	RUL
SAAG CHRISTOPHER K. SANDBERG	BREMER TOWER-RM 1100 ST PAUL, MN 55101	RUL
SAMOA ENERGY OFFICE MATT Le'i	TERRITORIAL ENERGY OFFICE PAGO PAGO, SM 96799	SEO
SIERRA CLUB	1313 - 5TH ST. S.E. RM 303 MINNEAPOLIS, MN 55414	RULE
SOUTH CAROLINA ENERGY OFFICE	P.O. BOX 11405 COLUMBIA, SC 29211	SEO
SOUTH DAKOTA OFFICE-ENERGY POLICY STEVE WEGMAN	217 1/2 W. MISSOURI PIERRE, SD 57501	SEO
ST CLOUD AREA CHAMBER OF COMMERCE THOMAS MOORE	26 N. SIXTH AVE ST CLOUD, MN 56302	RULE

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Company / Person	Street / City, State, Zip	Code
ST LOUIS CO PLANNING & ZONING OFF MARK JOHNSON	COURTHOUSE DULUTH, MN 55802	RULE
ST PAUL CITY OF JAN GAFTERLAND	445 CITY HALL ST PAUL, MN 55102	RULE
STATE GOVERNMENT AFFAIRS 3M CO WILLIAM J. LANGLOIS	BLDG 225-5N-04 3M CENTER ST PAUL, MN 55144	RULE
TENNESSEE ENERGY OFFICE	320 - 6TH AVE. N. NASHVILLE, TN 37219	SEO
TEXAS ENERGY OFFICE	7800 SHOAL CREEK BLVD AUSTIN, TX 78757	SEO
TRI COUNTY COMM ACTION PROG MARK G SEXTON	404 SECOND AVE NE LITTLE FALLS, MN 56345	RULE
U OF M ROBERT W SNYDER	1994 BUFORD AVE-RM 248COB ST PAUL, MN 55108	RULE
U S DEPT OF INTERIOR-FISH &WILDLIFE ROBERT F. WELFORD	400 SIBLEY ST-STE 50 ST PAUL, MN 55101	RULE
U.S. HOUSE OF REPRESENTATIVES GERRY SIKORSKI	CANNON OFFICE BLDG-RM 414 WASHINGTON, DC 20515	MCD
UNITED POWER ASSN BRUCE HAUSCHULZ	HIGHWAY 10 ELK RIVER, MN 55330	RULE
UNITED POWER ASSN REYNOLD S RAHKO	HWY 10 E ELK RIVER, MN 55330	RULE
UNOCAL CORP DAVE HENDERSON	1650 GOLF RD E SCHAUMBURG, IL 60196	RULE
UPPER MINN VALLEY REG DEVEL COMM OTTO SCHMID	323 SCHLIEMAN AVE W APPLETON, MN 56208	RULE
UTAH ENERGY OFFICE - 3 TRAID CENTER MICHAEL JOHNSON	355 WEST NORTH TEMPLE - Room 450 SALT LAKE CITY, UT 84180	SEO
VERMONT STATE ENERGY OFFICE	STATE OFFICE BLDG MONTPELIER, VT 05602	SEO
VIRGIN ISLANDS ENERGY OFFICE	BOX 2996 ST THOMAS, VI 00801	SEO

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Company / Person	Street / City, State, Zip	Code
VIRGINIA ENERGY OFFICE JENNIFER SNEAD	2201 W. BROAD ST. RICHMOND, VA 23220	SEO
WALDORF CORP GARY KAZUIKEWICA	2250 WABASHA ST ST PAUL, MN 55114	RULE
WASHINGTON CO HRA SAM GRIFFITH	455 BROADWAY AVE ST PAUL PK, MN 55071	RULE
WASHINGTON STATE ENERGY OFFICE	400 UNION ST E-FIRST FL OLYMPIA, WA 98504	SEO
WINTHROP AND WEINSTINE JOHN A KNAPP	444 CEDAR ST-STE 1800 ST PAUL, MN 55101	RULE
WISCONSIN STATE PLANNING&ENERGY DIV	BOX 7868 MADISON, WI 53707	SEO
WYOMING ENERGY CONSERVATION OFFICE	2301 CENTRAL AVE CHEYENNE, WY 82002	SEO
YAGGY, COLBY ASSOCIATES	717 THIRD AVE SE BOX 7038 ROCHESTER, MN 55903	RULE
ZENK, READ, TYPSTAD & ASSOC. LARRY A READ	BOX 689-OLD HIGHWAY 65 N. ALBERT LEA, MN 56007	RULE

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs and Utility Renewable Resource Pilot Programs, Minn. Rules Chapter 7840, to be recodified as Minn. Rules Parts 7690.0100 - 7690.1500.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Department of Public Service (Department) proposes to amend and recodify the Public Utilities Commission's rules governing Conservation Improvement Programs (CIP) and Utility Renewable Resource Pilot Programs (URRPP), now codified at Minn. Rule, parts 7840.0200 - 7840.1400. By adopting these amendments the Department will take over the responsibility for approving, modifying, or disapproving CIP/URRPP programs, a responsibility currently carried out by the Minnesota Public Utilities Commission (Commission) but now reassigned to the Department by virtue of 1989 Minn Laws, ch. 338, sect. 3. Minn. Laws ch. 338, sect. 3 has been codified as Minn. Stat. 216B.241, subd. 2 (Supp. 1989).

On July 24, 1989, the Department of Public Service published a Notice of Solicitation of Outside Opinion and Comments on Proposed Rules Governing Utility Conservation Improvement Programs in the State Register. The Notice asked that written comments be submitted to the Department by September 22, 1989. In response to the Notice, the Department received comments from the Commission, the City of Hastings, Minnesota, Minnegasco, and Northern States Power Company. The Department has reviewed and incorporated these comments where feasible as indicated throughout the Statement of Reasonableness below.

II. STATEMENT OF STATUTORY AUTHORITY

The Department's statutory authority to adopt these rules is set forth in Minn. Stat. 216B.241, subd. 2 (Supp. 1989), which provides, in part:

> The department may by rule require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers.

Under this statute the Department has the necessary authority to adopt the proposed rule amendments.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1988) requires the Department to make an affirmative presentation of facts establishing the need for and reasonableness of the rules proposed. In general terms, this means that the Department must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Department is appropriate. The need for the proposed rules is discussed below.

The need for these rule amendments came about as a result of passage of the Low Income Energy Bill (1989 Minn. Laws, Chapter 338). Among other things, the bill transfers the authority for the approval of CIP/URRPP programs from the Public Utilities Commission to the Department of Public Service; requires that at least half the money spent on residential CIP programs be devoted to programs that directly address the needs of renters and low income families and individuals; authorizes the Department to approve programs covering two-year periods beginning in 1990; and, provides that parties to the CIP/URRPP process may petition the Commission to modify or revoke a decision made by the Department. The bill provides that until the Department has adopted rules and approves programs to cover a two-year period beginning in 1990, the Commission may continue to approve programs. 1989 Minn. Laws, ch. 338, sect. 9.

Accordingly, most of the amendments to the existing rule are needed to accomplish the requirements of the new legislation. There are, however, some amendments that are proposed as a result of comments received by interested parties or as a result of the Department's experience with the CIP/URRPP review and approval process before the Commission. These amendments are needed to clarify and streamline the process to be followed by utilities in proposing, and by the Department in analyzing and selecting CIP/URRPP programs.

The transfer of approval authority from the Commission to the Department creates the need for an approval process different from the current process. The original CIP statute grants the Commission specific authority to order implementation of CIP programs by the utilities covered by the statute. The amendments to Minn. Stat. 216B.241 give the Department rulemaking authority to establish procedures under which utility CIP programs will be approved, modified, or rejected by the Department. The amended statute further contemplates an appeal of a contested Department decision to the Commission for review.

The proposed rule, therefore, contains language, at part 7690.1000, to establish a procedure whereby the Department will, after reviewing a utility's program and comments to it, prepare a proposed decision. The proposed decision will be served on the

affected parties for review and comment within ten days. Thirty days after receiving the parties' comments, the Department will render a final decision. Part 7690.1500 of the proposed rule directs appeal petitions to the Commission as required by the amended statute. The contested case language in the existing rule is proposed to be repealed; however, the Department believes that during the appeal process the parties may still ask the Commission to hold a contested case hearing to resolve issues of material fact. These amendments are needed to implement the approval authority granted to the Department in the amendments to Minn. Stat. 216B.241. Parties affected by the amended statute will have the same obligations and due process rights under the proposed rule as they have now under the existing rule. Parties will have the advantage of being able to review and comment on a proposed decision before it becomes binding on them.

Part 7690.1300 identifies the process the Department will use for issuing a final decision after a review of the proposed program and parties' comments on the proposed decision is complete. As suggested by several commentors during the solicitation process, the Department is proposing a specific time frame - thirty days from the date that comments are due on the proposed decision - in which a final decision will be issued. Establishing a time frame is desirable to give parties some certainty about the length of time necessary to complete the CIP process. This information is especially important when CIP projects involve third party contractors who may need to hire and train staff to meet their contractual obligations; timing considerations are similarly important for projects that are geared to address seasonal energy conservation needs (e.g. weatherization programs to conserve heating energy).

It should also be noted that the Department is proposing only housekeeping amendments to part 7690.1200, the interpretive portion of the rules. While the Department agrees with several commentors that this portion of the existing rules needs to be reexamined, there appears to be no ready consensus on the policy direction or substance of changes to these rules. The Department notes that the amendments to Minn. Stat. 216B.241 do not require nor imply the need for changes to this part. The strong message sent by the legislature with the passage of the Low Income Energy bill is that the amendments to require greater low income involvement in CIP and a shift of CIP administrative authority should be implemented as quickly as possible. This is clear from the language in the bill requiring the Department to adopt rules and approve new programs beginning in 1990. It is the Department's clear sense that the interpretive rules should be carefully reviewed by a task force comprised of representatives from the various affected parties before amended rules are proposed. Clearly, however, there is not sufficient time to allow a task force to meet and recommend appropriate changes to the interpretive rules, adopt such rules, and review and approve new programs by the end of next year.

Realizing the need for changes to the interpretive rules, the Department is committed to the establishment of a rules task force shortly after new two year programs are approved in the latter half of 1990.

III. STATEMENT OF REASONABLENESS

The Department is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Department's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

As discussed in the Statement of Need above, the need for these rule amendments results from the passage of legislation which amends, but does not fundamentally alter, the existing CIP legislation. It is reasonable, therefore, to propose recodifying and amending the existing rule to implement the statutory amendments, rather than proposing all new rule language. Accordingly, the following discussion of reasonableness will focus on the proposed amendments to the existing rule rather than on the whole rule.

While the focus of this section will be on the Department's proposed amendments, the Department believes the newly amended rule is reasonable in its entirety. Again, the thrust of the proposed rule amendments is to incorporate the amendments to Minn. Stat. 216B.241, adopted by the legislature during the last session. Most of the changes to the existing rule, including the proposed approval process described above, fall into this category of changes required by the amended statute. Such changes to the existing rule are reasonable given the Department's obligation to follow legislative intent as closely as possible.

The other category of changes mentioned above are those that have been suggested by interested parties during the solicitation process, or that the Department finds are necessary given its extensive experience with the CIP/URRPP process. This category of amendments, though, has been strictly limited to minor procedural adjustments. These changes are reasonable since they should help to clarify and streamline the CIP/URRPP process while not fundamentally altering the existing rules.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

Change of "Public Utilities Commission" to "Department"

In many rule parts, the Department proposes to change the words "Public Utilities Commission" to "department." This change is reasonable because the amendments to Minn. Stat. 216B.241 enacted as a part of 1989 Minn. Laws, ch. 338, section 3, transfer the CIP/URRPP program from the Commission to the Department. This change, which will not be discussed further in this Statement of Reasonableness, affects the following parts of the rule amendments: 7690.0200; 7690.0500, subp. 1 and subp. 2(K)(5) and (L); 7690.0600; 7690.0700; 7690.0800, subp. 2; 7690.0900; 7690.1100; 7690.1200; 7690.1300; and 7690.1500.

Part 7690.0100 DEFINITION

This definition section is new language to clarify the terms "department" and "low income" mentioned throughout the rule. It is reasonable to define "department" as the Department of Public Service because the shorter term can then be used throughout the rules.

The proposed definition of "low income" incorporates by reference the definition of "low income" in Minn. Stat. 216B.241, subd. 2. Minn. Stat. 216B.241, as amended, specifically defines low income to mean " an income less than 185 percent of the federal poverty level." This language was added to the statute to clarify the requirement that "at least half the money spent on residential programs is devoted to programs that directly address the needs of renters and low income families and individuals ..." Using a guideline of 185 percent of poverty is also consistent with the Cold Weather Rule (Minn. Stat. 216B.095) and the federally funded Low Income Home Energy Assistance and Weatherization Assistance Programs. Adding this definition section to the rule is reasonable given the new statutory directive to target and account for specific funding proportions to low income persons served by CIP-covered utilities.

Part 7690.0400 PROJECTS IN EFFECT

This part of the rule was originally adopted by the Commission during the transition to the adoption of formal procedural rules for CIP/URRPP programs. The Commission had approved a number of programs prior to having rules in place and this part of the rule explained the terms under which these programs would remain in effect. The existing rule states that those programs continued in effect for 60 days or until their expiration date, whichever occurs later. The Department faces a similar situation now with the transition of program authority from the Commission. As 1989 Minn. Laws ch. 338, section 9 makes clear, the Commission will continue to approve programs under its existing authority until the Department formally adopts its new rule. It

is the Department's intent that it would begin approving new programs on a regular schedule as identified under part 7690.0500 of its proposed rule. Accordingly, the Department proposes to amend the rule to state that projects approved by the Commission on the effective date of the rule amendments shall continue in effect until their expiration date. It is appropriate and reasonable that existing projects remain in effect until their expiration date to coincide with the date for approval of new projects, as discussed below. In the event that adoption of these rules is delayed, it is clear from the statute that the Commission will be required to approve new projects or issue orders extending existing projects in 1990. The Department plans to work closely with the Commission in this event to assure that project expiration dates coincide with expected rule adoption and subsequent Department action.

Part 7690.0500 CONSERVATION IMPROVEMENT PROGRAM FILING

Subpart 1. This subpart establishes the deadlines for filing CIP programs. The Department is proposing several changes to this subpart. First, the Department proposes to change the date for first filings from May 1, 1986, to the following new dates: for public natural gas utilities, April 1, 1990; for public electric utilities, September 1, 1990. The change from 1986 to 1990 is reasonable because of the passage of time and because 1989 Minn. Laws ch. 338 contemplates that the Department approve two-year programs beginning in 1990. Also, the Department proposes that natural gas utilities file two-year programs during even-numbered years and that electric utilities file two-year programs in odd-numbered years.

These changes allow for staggering the CIP filings from utilities. There are several reasons why this is reasonable. First, it has been the Department's experience with the CIP/URRPP process to date that the review of multiple utility filings simultaneously within a relatively short review period (currently 30 days) compromises the thoroughness of the review. Second, there are significant differences between gas and electric utility conservation efforts and issues related to these efforts which make simultaneous review of both types of filings complex and disjointed. Finally, changes to the definition of utilities covered by the statute (see Minn. Stat. 216B.02, subd. 4 (Supp. 1989)) will have the effect of adding at least five new utilities to the CIP process. To attempt to review these five concurrently with the seven annual filings already receiving review would only compound the difficulties mentioned above. Further, recent experience suggests that gas utilities desire an approval process timed to allow for early autumn (October 1) project start-up dates to mesh with the seasonal nature of most of their projects. Electric utilities prefer a calendar-year cycle to accommodate their internal budgeting processes.

Given all of these considerations, it is reasonable to stagger gas and electric utility filings in two different ways. First, gas utility filings will be made on or before April 1 of the year in which they are due to allow for an October 1 project start date. Electric utility filings will be due on or before September 1 of the year they are due to accommodate a January 1 to December 31 funding cycle. Second, gas utility filings will be due in even-numbered years beginning in 1990, while electric utilities will also file in 1990, but then in every odd-numbered year thereafter. This creates a somewhat greater burden on electric utilities that must file in both 1990 and 1991 in order to get on the odd-even staggered cycle, but no greater than the current annual filing requirement. Further, the Department expects an expedited approval process in 1991 given that two year projects will have been approved in 1990.

Subpart 2, Item D.

Paragraph D. under part 7690.0500 outlines one of twelve filing requirements for all CIP annual plans and deals with budgets. The first budget documentation required is for the utility's upcoming program. This will require a two-year budget to match the two-year approval cycle outlined in the statute. Therefore, it is reasonable to amend this part to require submission of a budget for each project for the next two years. It is anticipated, however, that within a utility's complete program, some projects will be planned for less than a two year duration. If this is the case, utility's will simply indicate this in the narrative accompanying each project's budget. The second requirement under this paragraph is for a projected budget past the current funding cycle. It is reasonable to amend the rule to set a four year (as opposed to the five-year budget in the existing rule) time parameter to capture a complete funding cycle after the one under immediate review.

Subpart 2, Item F.

This paragraph requires utilities to provide a description of the marketing plans for each of their proposed projects. The amendment proposed here is to add a requirement that utilities include in their plans an estimate of target participation rates, which refers to the total number of participants for each project. The Department's experience with the process suggests that such participation estimates are critical to accurate cost-benefit analyses. Requiring participation estimates with proposed marketing plans is reasonable given language in the statute relative to approval based on cost-effectiveness considerations.

Subpart 2, Item H.

Originally, Minn. Stat. section 216B.241 required that utilities "give special consideration" to the needs of their low

income and renter customers when designing residential CIP projects. The amended statute strengthens this requirement considerably by requiring that half the money spent by a utility on residential projects be devoted to low income and renters. The Department proposes to amend item H. to reflect this change in emphasis by eliminating the "special consideration" language and adding the requirement that the plan ensures that at least half the money spent on residential projects is devoted to projects that directly address the needs of low income and renter customers. This amendment is reasonable because it conforms the rule to the requirements of the statute. In order to meet this more precise requirement, it is both necessary and reasonable to require budget data supporting the explanation of how the utility's CIP will meet the 50 percent rule. The amendments to this section of Minn. Stat. 216B.241 also allow for the possibility that "an insufficient number" of projects for low income and renters will be available to meet the 50 percent requirement. Accordingly, the rules provide for the option of a statement to this effect in lieu of the explanation described above. Such a statement will need to be substantiated with "supporting documentation" so that the Department will have a clear basis for waiving the 50 percent requirement. This is reasonable given the legislative directive in this regard.

Subpart 2, Item K.

Paragraph K. relates to the filing of status reports while projects are under approval. The existing rule required that status reports on approved projects be filed with the next annual plan. However, in practice, the Commission customarily ordered that status reports be filed at the 6 month interval after projects were approved. This allowed the Commission to determine in a timely manner whether changes to existing projects were necessary before they would otherwise be completed. The Department is similarly convinced of the need for interim status reports and proposes to amend item K to require interim status reports. Given the two-year approval cycle contemplated under the rule, it its reasonable to require that status reports be filed in the year between approval cycles. For gas utilities this means a status report should be filed on or before April 1 in odd-numbered years; for electric utilities, status reports will be due on or before September 1 in even-numbered years. These timing requirements are reasonable because they are consistent with part 7690.0500.

Subpart 3.

The Department proposes to add a new subpart 3 which provides for a review of the completeness of the CIP filing. This section was added on the recommendation of the Commission and the Department's own recent experience with the CIP process. Given the considerable scope of the filing requirements and the increasing complexity of some of the projects, it is often the case

that utility filings are found to be incomplete. When this happens, it is difficult for the Department and other interested parties to comment adequately on the proposed plan. This problem is compounded by the fact that the utility may be required, as a result of a lack of completeness, to file additional supporting information. In such cases, other parties may not know whether to wait for the additional information to be filed before commenting and risk missing the deadline established for their comments.

Accordingly, it is reasonable to conduct a completeness review upon receiving a utility's filing. This completeness review will determine whether all necessary information to meet the filing requirements (i.e., Part 7690.0500. paragraphs A. through L.) has been submitted, but will not go to the merits of the proposed plan. Upon completing this review, the Department will inform the utility of what additional information is necessary to make the utility's plan complete, and a date by which this additional information must be filed. After receiving the additional information, the Department will serve a written "notice of completion" on the utility and interested persons. New language at part 7690.0900 addresses the fact that the comment time period will commence when the Department issues its notice of completion. This is a reasonable way to address the concerns noted above without unduly delaying the review process.

7690.0800 NOTICE

This part of the rules sets forth the formal notice procedures for parties involved in CIP/URRPP processes. The Department has found, and several commentors agreed, that the existing rule is not clear about what parties must be noticed nor about how a list of interested parties should be maintained and updated. The Department proposes to add a new subpart 1 of part 7690.0800 to establish that the Department will establish service lists for each of the covered utilities; to specify which parties shall automatically be on each service list (i.e., the Commission and the Residential and Small Business Utilities Division of the Attorney General's Office); to identify types of parties that will be on individual utility service lists by virtue of their participation in that utility's previous CIP and/or rate case with respect to conservation programs, and any parties the Department believes are interested in the utility's CIP. Finally, subpart 1 specifies that the Department will update service lists 30 days prior to a utility's program filing date.

This section of the proposed rule is reasonable in that it makes it clear to all parties how service lists will be created and maintained. A periodic updating of the service lists should preclude the possibility that interested parties will fail to be notified of a particular filing, or that uninterested parties will remain indefinitely on CIP service lists.

Subpart 2 addresses the issue of when a utility must notify the parties on its service list (established under subpart 1) of a particular filing. This part has simply been reorganized to fit with the service list language added in subpart 1, and does not alter the basic notice requirements of the existing rule. This is reasonable to maintain the clarity and readability of the rule.

7690.0900 COMMENT; ALTERNATIVE PROPOSALS

This part of the rule outlines two processes: commenting on utility programs, and filing alternative project proposals. The Department is proposing several changes to this section that will give parties to the CIP/URRPP process a reasonable amount of time in which to prepare comments and alternative project proposals; that will expand the scope of third party involvement in CIP/URRPP as required by the statute; that clarifies when comment periods begin relative to the Department's proposed completeness reviews; and, exempts alternative project proposers from filing information about ratemaking treatment for their project proposals.

It has been the Department's experience that the deadlines for comments and alternative project submissions in the existing rule are too short to allow full participation from interested parties.
The existing rule allows 30 days from the date a utility's program is filed for parties to file comments and/or submit an alternative project proposal; it allows just 15 days for parties to file comments on alternative project proposals.

The 30 day comment period on utility programs is quite brief considering the level of complexity these programs are now including, and the several days lost at the beginning and ending of the comment period for mailing. The 30 days allowed for filing alternative project proposals is even tighter if the proposing party has initiated the alternative project only in response to the utility's plan. In this case, one month is not an adequate amount of time for a third party to plan a new project, discuss/negotiate the idea with the utility, and prepare a complete filing. Similarly, the 15 day comment period for comments on alternative proposals is too short given the need to compare the proposal to the utility's total program. It is common now for parties, including the Department, to have to ask for extensions to the deadlines in order to complete comments and/or proposals. This creates a great deal of additional paperwork for all the parties and tends to discourage third party involvement in the process.

For all of these reasons, it is reasonable to extend the comment and alternative project proposal deadline to 45 days, and the alternative project deadline to 30 days. Adding 15 days to each of these timeframes will allow adequate response periods in most instances, cut down on the number of requests for time

extensions, while not unreasonably delaying the overall CIP/URRPP process.

The amendments to Minn. Stat. 216B.241 contain the following new language: "The department shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization." The existing rule addresses the opportunity for involvement of "interested persons" other than utilities. Groups that have participated in the CIP process to date have typically been nonprofit community organizations with some experience providing energy conservation services, especially to low income persons. The proposed amendment to the existing rule simply reiterates the emphasis that the legislature has placed on the involvement of such groups. The amended rule language in this regard is therefore reasonable since it captures legislative intent without fundamentally altering the degree of participation allowed in the rule.

Part 7690.0500, subpart 3 of the proposed rule establishes the completeness review procedure the Department will use when evaluating utility program filings (see discussion of reasonableness of this part above). Parties that wish to comment on a utility's program or submit an alternative project proposal need to know when the 45 day time period allowed for such filings begins. The proposed language in this regard at part 7690.0900 specifies that the comment period begins "on the date of mailing of the Department's finding of completeness..." This is a reasonable way to notify parties that the comment period has begun since all parties on the service list will receive the dated notice. Even though mail may not reach every party on the same date, the comment period as proposed is long enough to mitigate any minor differences in when parties receive notification. Comments and alternative proposals will be filed by the same date by all parties so that the Department's review of these submittals can begin in a timely fashion.

The proposed language in this section adds a filing requirement exemption for parties filing alternative project proposals. The Commission's existing rule exempts alternative project filers from completing status reports as outlined under 7840.0500, item K. The reason for this is that the status report requirement applies to all projects within a utility's CIP program. It makes sense for the utility's status report to update the status of any alternative project it may be funding within its CIP program. It also makes sense, where possible, to reduce the amount of paperwork necessary for approval of an alternative project since these are most often proposed by nonprofit organizations with very limited resources. In this spirit, the Department proposes to also exempt alternative project filings from the requirements of 7690.0500, item E. This item asks the utility filer to describe its proposed ratemaking treatment and cost recovery methodology.

Since most alternative project filers will have no way of knowing what the utility's preferences might be in these regards, it is reasonable to exempt them from this requirement. The Department expects that it would be able to ask for and receive this information from the utility to whom the alternative proposal is addressed during the review of the alternative proposal.

Finally, the Department proposes to eliminate the existing rule's requirement that comments, alternative projects, and responses be filed with the Department of Energy and Economic Development (DEED). This is reasonable because DEED no longer exists.

7690.1000 PROPOSED DECISION

The need for, and a description of, the Department's proposed approval process was discussed at some length in the Statement of Need above. To summarize, the Department will review the utility's program and comments on it, and will prepare a proposed decision. The proposed decision will be served on interested parties who shall have 10 days to file written comments. Within 30 days from the receipt of these comments, the Department will issue a decision. This approval process is reasonable for several reasons. First, the amendments to Minn. Stat. 216B.241 require the Department to review and approve utility CIP/URRPP programs. The proposed approval process accomplishes this function in a strait-forward manner while protecting the due process rights of the participants. Second, the process includes clear time parameters for interested parties and the Department thereby eliminating the open-ended nature of the existing approval process. Finally, the process allows for a review of the Department's proposed decision before it is binding on the utility, thus giving parties considerable opportunity for input during the decision-making process. The specific subparts of the proposed rule are discussed below.

Subpart 1 states that, after reviewing the comments submitted under part 7690.0900, the Department staff shall prepare a proposed decision approving, disapproving, or modifying a program, project, evaluation plan, or alternative project proposal. Under subpart 2, the proposed decision is then mailed to the utility and to all commentors and interested persons. These provisions are reasonable because they will give the utilities and other interested persons an opportunity to see the Department staff's preliminary reaction to the proposal before it goes to the Commissioner for a final decision. Subpart 3 allows 10 days for any person to submit written comments on the proposed decision. This is reasonable because it allows the utilities and other interested persons the opportunity to point out any errors in the proposed decision or to raise arguments against all or part of the proposed decision before it goes to the Commissioner for decision.

7690.1100 RESPONSES; WRITTEN RECORD

Consistent with the repeal of the contested case hearing language (discussed below), the reference to contested case hearings in this part has been deleted. This is reasonable because if contested case hearings are appropriate, they will be ordered by the Commission during the appeal procedure and not by the Department. Therefore, references to contested case hearings are irrelevant to this part of the CIP/URRPP procedural rules.

7690.1200 APPROVAL, DISAPPROVAL, MODIFICATION

Subpart 3 of this part contains a minor wording change from the existing rule. The word "require" is substituted for "order" in reference to the Department's action on "a program that will result in significant investments in and expenditures for energy conservation improvements." It is reasonable to make this wording change to be consistent with the language of Minn. Stat. section 216B.241 authorizing the Department to "require" CIP programs.

7690.1300 DECISION

The Department proposes two types of changes to this part. First, a wording change similar to that discussed above has been made to clarify that the Department will issue a "decision" as opposed to an "order." This again is reasonable to avoid confusion with the Commission's order-writing authority. Second, the rule now states that the Department will issue its decision within 30 days from the date that comments are due under part 7690.1000. In the event the decision will not be issued within this period, the Department must notify parties on the service list of the date on which the decision will be issued. This provision is reasonable because it gives parties an idea of how long they should generally expect to wait for a decision to be made and, if the deadline cannot be met, gives them prompt notice of how much additional time they will have to wait. Also, as discussed in the Statement of Need, it is desirable to give parties some certainty about the length of time necessary to complete the CIP process, especially when projects involve third party contractors who may need to hire and train staff to meet their contractual obligations.

7690.1500 PETITION TO THE COMMISSION

This part has been added to make a clear reference to the appeal process to be administered by the Public Utilities Commission as outlined in the amendments to Minn Stat. 216B.241, subdivision 2. It is the Department's understanding that the Commission will adopt specific appeal procedural rules pursuant to this authority. It is reasonable to make this reference in these rules to notify the parties that appeal procedures are available.

REPEALER

7840.1000, REQUEST FOR CONTESTED CASE HEARING

This part of the existing rule sets forth the procedures to request a contested case hearing prior to the Commission's final decision on a program. The Department proposes to repeal this part because the Department does not intend to conduct contested case hearings prior to making its decision. Instead, to be consistent with the appeal language in the amendments to Minn. Stat. 216B.241, it is reasonable that the Commission be the state agency to order a contested case hearing if necessary. The Commission will be in the best position to determine the need for a hearing after reviewing a particular Department decision on appeal. The Department would expect to be a party to both the Commission's appeal process and to any contested case hearing pursuant to an appeal. Therefore, it is reasonable to repeal this part in order to keep contested case hearings in the Commission's jurisdiction.

7840.1400, RULES OF PRACTICE

This section of the existing rule is a reference to the Commission's general rules of practice. The Department does not have such rules and it is therefore reasonable to repeal this part.

V. SMALL BUSINESS CONSIDERATION IN RULEMAKING

Minn. Stat. 14.115, subd. 2 (1988) requires the Department, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

In general, the CIP/URRPP rules do not impose requirements on small businesses because the utilities who are required to implement CIP and URRPP programs are not small businesses. However, the rules provide an opportunity for interested persons, some of whom may be small businesses, to participate in the CIP/URRPP programs. Therefore, the Department has considered the

above-listed methods for reducing the impact of the rule on small businesses. The proposed amendments have some features which will facilitate interested persons' participation in the CIP/URRPP process. One example of this is the lengthening of time (from 30 to 45 days) for interested persons to submit comments on proposed utility programs and to submit alternative project proposals. Another example is the elimination of a filing requirement (describing a proposed ratemaking treatment for the project) for persons submitting an alternative project proposal. Both of these changes facilitate the involvement of interested persons who may be small businesses, particularly nonprofit organizations with very limited resources. Further, the proposed procedural amendments to the rule are generally intended to help clarify and streamline the CIP/URRPP process. Therefore, the proposed rule amendments should have a positive impact on small businesses.

VI. CONCLUSION

Based on the foregoing, the proposed amendments to Minn. Rules Chapter 7840, to be recodified as Minn. Rules parts 7690.0100 to 7690.1500, are both needed and reasonable.

Dated: Nov 22 1988

Tony Perpich
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed
Amendments to Rules Governing
Conservation Improvement Programs
Utility Renewable Resource
Programs, Minn. Rules Chapter 7800,
to be Recodified as Minn. Rules
Parts 7690.0100 - 7690.1500

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14 (1988) that their names be placed on file with the Minnesota Department of Public Service for the purpose of receiving notice of the proposed adoption of rules by the Department is accurate and complete as of this 9:00 a.m., this 10th day of December, 1989.

Judith Schmidt

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs Utility Renewable Resource Programs, Minn. Rules Chapter 7800, to be Recodified as Minn. Rules Parts 7690.0100 - 7690.1500

AFFIDAVIT OF DISCRETIONARY NOTICE

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

William B. Grant, being duly sworn, deposes and says:

1. That in addition to giving the statutorily required rulemaking notice in the above-captioned matter, the Department of Public Service provided additional discretionary notice to the persons on the attached mailing list. The persons on the mailing list are persons whom the Department believes have an interest in the subject matter of the proposed rule amendments.

2. This additional discretionary notice was given on the 6th day of December, 1989, when the Department of Public Service served its "Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing" and "Notice of Intent to Adopt Rule Amendments Without a Public Hearing and of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing" on the persons on the mailing list referred to in paragraph 1 above by depositing in the State of Minnesota Central Mail system or in the United States mail for first class mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, and addressed to said persons.

William B. Grant

Subscribed and sworn to before me this 6th day of December, 1989.

ELIZABETH L. WOODHOUSE
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES FEBRUARY 28, 1993

Notary Public

CIP ADDITIONAL DISCRETIONARY NOTICE LIST

Ann Hunt
St. Paul Neighborhood Energy Consortium
2429 University Avenue
St. Paul, MN 55114

Tom Griffin
St. Paul Energy Resource Center
427 St. Clair Avenue
St. Paul, MN 55102

Mike Thorsteinson
281 Main Street
P.O. Box 157
Zumbrota, MN 55992

Dale Sullivan
City Hall
100 Sibley Street
Hastings, MN 55415

Sheldon Strom
330 City Hall
350 South Fifth Street
Minneapolis, MN 55415

Lorene Lehman
City Hall
6700 Portland Avenue
Richfield, MN 55423

Mike Noble
Natural Resources Corporation
245 Aldrich Avenue North
Minneapolis, MN 55405

Denise De Vaan
Minnesota CAP Directors Association
1821 University Avenue West
St. Paul, MN 55104

Marcy Shapiro
West Hennepin Human Services
4100 Vernon Avenue South
St. Louis Park, MN 55416

Bruce Larson
West Hennepin Human Services
4100 Vernon Avenue South
St. Louis Park,1 MN 55416

Sue Gunderson
Self Reliance Center
1916 Second Avenue South
Minneapolis, MN 55403

Dick Cazin
Arrowhead Economic Opportunity Agency
Third Avenue & Sixth Street South
Virginia, MN 55792

Steve Chadwick
Duluth Community Action Program
1305 London Road
Duluth, MN 55805

Mike Webb
Duluth Energy Resource Service
394 Lake Avenue South
Duluth MN 55802

Mary Wirtz
Northern Minnesota Utilities
910 Cloquet Avenue
Cloquet, MN 55720

Marvin Sorensen, Manager Rates
Midwest Gas
401 Douglas St., Box 778
Sioux City, IA 51101

Great Plains Natural Gas Co.
A. Stricker, Vice President
105 W. Lincoln, Box 176
Fergus Falls, MN 56537

Interstate Power Co.
S.V. Reisdorf, Dir of Rates
1000 Main Street
Dubuque, IA 52001

Ceedy Mewzell
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496

Arlen Restad,Peoples Natural Gas'
3460 Washington Dr.
P.O. Box 21386
Eagan, MN 55121

Sue Nathan
Minnegasco, Inc.
201 South Seventh St.
Minneapolis, MN 55402

Mr. Lee Larson, Exec. Secretary
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101

Mr. Richard Lancaster
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101

Casey Whelan
Northern States Power Company
825 Rice Street
St. Paul, MN 55117

Ms. Libby Dupay
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Mr. Jim Johnson
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Mr. John Hynes
State Planning Agency
3rd Floor, Centennial Bldg.
St. Paul, MN 55155

Elmer Scott
Metropolitan Senior Federation
1885 W. University Ave.,Ste 190
St. Paul, MN 55104

George Crocker
North American Water Office
P.O. Box 174
Lake Elmo, MN 55402

Scott Sande
State Capitol
Room 235
St. Paul, MN 55155

Dick Kirkham
Minnesota Municipal
Box 459, 401 East Hwy 55
Buffalo, MN 55313

Minnesota COACT
2395 University Avenue
Room 304
St. Paul, MN 55114

Niel Ritchie
MPIRG
2512 Delaware Street
Minneapolis, MN 55414

Lee Sundberg
Minnesota Rural Electric Assoc.
11640 73rd Avenue North
Maple Grove, MN 55369

James Van Epps, General Mgr.
Dakota Electric
4300 220th Street West
Farmington, MNf 55024

Diane Fitzgerald, Dir. Area Relations
Mid-Continent Area Power Pool
1111 Third Avenue South
Minneapolis, MN 55414

Jesse Evans
Sierra Club
1727 Rozanna Lane
New Brighton, MN 55112

George McCormick
Senate Council
Room 17, State Capitol
St. Paul, MN 55155

Frank Whitney
Southern MN Municipal Power Agency
21 1st Street SW, Ste 400
Rochester, MN 55901

Buzz Anderson
United Power Association
Elk River, MN 55330-0800

Judy Bellairs
Sierra Club #323
1313 5th Street SE
Minneapolis, MN 55414

Eve Semmelroth
Bloomington HRA
2215 W. Old Shakopee Rd.
Bloomington, MN 55431

Department of Public Service

Proposed Permanent Rules Relating to Conservation Improvement Program

Rules as Proposed

7690.0100 ~~DEFINITION~~ DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Department.** "Department" means the Department of Public Service.

Subp. 3. **Low income.** "Low income" has the meaning given it in Minnesota Statutes, section 216B.241, subdivision 2.

~~7840.0200~~ 7690.0200 PURPOSE.

The purpose of this chapter is to specify procedures to be followed by public utilities in submitting, and by the ~~Public Utilities Commission~~ department in analyzing and selecting, proposals for conservation improvement programs and renewable resource pilot programs and to provide for the participation of other interested persons in developing conservation improvement and renewable resource pilot programs.

~~7840.0300~~ 7690.0300 SCOPE.

This chapter applies to proposals by public utilities and other interested persons for utility investments in conservation improvement and renewable resource pilot programs.

~~7840.0400~~ 7690.0400 PROJECTS IN EFFECT.

~~Approved~~ Projects approved by the Public Utilities Commission that are in effect on ~~December 9, 1985~~ the effective date of these amendments to chapter 7690, ~~shall~~ continue in effect ~~for 60 days or~~ until their expiration date~~, whichever occurs later~~.

~~7840.0500~~ 7690.0500 CONSERVATION IMPROVEMENT PROGRAM FILING.

Subpart 1. **Time limits.** No later than ~~May~~ April 1 of each

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even-numbered year beginning in ~~1986~~ 1990, a public natural gas utility required by Minnesota Statutes, section 216B.241 to invest in a conservation improvement program shall file with the ~~Public Utilities Commission~~ department a conservation improvement program. No later than September 1, 1990, and every odd-numbered year afterward, a public electric utility required by Minnesota Statutes, section 216B.241 to invest in a conservation improvement program shall file with the department a conservation improvement program.

Subp. 2. **Contents.** The filing must include:

A. a comprehensive description of the proposed program, including a description of each project making up the program~~.~~;

B. a statement quantifying each project's objectives including an estimate of the expected cost effectiveness of the project to the utility, to the project's participants, and to the utility's customers~~.~~;

C. for each project targeted at residential consumers, a statement of the anticipated percentage of use of each project among ~~low-income~~ low-income families and individuals, and renters~~.~~;

D. a detailed budget for each project for the next ~~year~~ two years, and:

(1) a projected ~~five-year~~ four-year budget for the overall program~~.~~; or

(2) if a shorter time period is more appropriate for the ~~five-year~~ four-year budget, the ~~utility must provide~~ reasons for that shorter time period and the projected budget for that shorter period~~.~~;

E. a detailed description of the proposed ratemaking treatment and the proposed ~~cost recovery~~ cost-recovery method~~.~~;

F. a description of the marketing plans for each proposed project~~.~~, including target participation rates;

G. a description of the expected effect of each project on peak and average consumption with supporting assumptions, including a computation of the costs that will be

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avoided or reduced by the implementation of the proposed project and an estimate of the expected revenue effects~~.~~;

H. an explanation with supporting budget information of how the proposed plan ensures that at least half the money spent on residential projects ~~provide special consideration for~~ is devoted to projects that directly address the needs of renters and ~~low-income~~ low-income customers~~.~~, or a statement with supporting documentation that an insufficient number of these projects are available;

I. an explanation of how the proposed projects provide for the involvement of community energy organizations when appropriate~~.~~;

J. an outline of the proposed plan for evaluating the effectiveness of the proposed project~~.~~;

K. a status report on each project from the ~~previous year's~~ currently approved program ~~stating~~ that must:

(1) state the total number of customers served;

(2) state the number of ~~low-income~~ low-income customers and the number of renters served, if applicable;

(3) state the total amount spent on the project to date;

(4) state the average amount spent on each customer participating in the project, if applicable; ~~and~~

(5) provide other information ~~as~~ required by the ~~Public Utilities Commission~~ department in ~~its order~~ the document approving the ~~previous year's~~ program~~.~~;

(6) for public natural gas utilities, be filed no later than April 1 of each odd-numbered year; and

(7) for public electric utilities, be filed no later than September 1 of each even-numbered year; and

L. additional information that the ~~Public Utilities Commission~~ department determines is necessary as a result of its review or evaluation of ~~prior~~ previous projects of the particular utility.

Subp. 3. **Completeness review.** Upon receipt of a utility's plan, the department shall conduct a completeness review based

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on the filing requirements listed in subpart 2. The department's findings after this review must set forth the information necessary to make the plan complete and the date by which the information must be filed. When the department determines that the necessary information has been filed to make the plan complete, it shall serve a written notice of completion on the utility and persons on the utility's service list established under part 7690.0800, subpart 1.

~~7840.0600~~ 7690.0600 RENEWABLE RESOURCE PILOT PROGRAM FILING.

A public utility required by Minnesota Statutes, section 216B.241 to have a conservation improvement program shall file a proposal for a utility renewable resource pilot program upon the determination of the ~~Public Utilities Commission~~ department that additional utility renewable resource pilot programs are needed to expand Minnesota's options for energy from renewable resources. For at least one year after authorizing a utility's renewable resource pilot program, the ~~commission~~ department shall not require a new proposal for a renewable resource pilot program from that utility. The filing must include:

[For text of items A to D, see M.R. 1989]

E. a description of the proposed ratemaking treatment and the proposed ~~cost-recovery~~ cost-recovery method; and

[For text of item F, see M.R. 1989]

~~7840.0700~~ 7690.0700 EXISTING PROGRAMS; FILING.

The filing requirements for renewing existing conservation improvement program or utility renewable resource pilot program projects are the same as for newly proposed projects~~.~~. However, if the ~~Public Utilities Commission~~ department has material already on file, the utility or interested person submitting an alternative project may incorporate it by reference in its current filing.

~~7840.0800~~ 7690.0800 SERVICE LISTS AND NOTICE.

Subpart 1. Service lists. The department shall establish service lists for specific utilities for use in providing public

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notice of conservation improvement programs and utility renewable resource pilot programs. The list must include the Public Utilities Commission, the Residential and Small Business Utilities Division of the Office of the Attorney General, persons involved in the public utility's previous conservation improvement program, persons who participated in the public utility's last general rate case with respect to conservation programs, and other persons the department believes are interested in the public utility's next conservation improvement program. The department shall update the service list 30 days before the date a public utility is required to file a program.

Subp. 2. **Notice of filing.** At the time it files its conservation improvement or utility renewable resource pilot program with the ~~Public Utilities Commission~~ department, the public utility must provide written notice of its filing to persons ~~who participated in the utility's last general rate case or who participated in its conservation improvement program case or utility renewable resource pilot program case during the preceding two years. The commission will maintain, and provide upon request, a current mailing list including these persons~~ on the utility's service list established under subpart 1. The notice must state that a copy of the utility's proposed program is available for public inspection at the enumerated business office locations of the utility and at the ~~Public Utilities Commission's~~ department's office. The notice must also state that the utility will make a copy of the proposed program available to interested persons upon request.

~~7840.0900~~ 7690.0900 COMMENT; ALTERNATIVE PROPOSALS.

The ~~Public Utilities Commission~~ department shall allow ~~30~~ 45 days ~~from the date of the filing of the public utility's program~~ for written comments on the public utility's program and the submission of alternative projects by interested persons~~.~~, including political subdivisions and nonprofit and community organizations. The time period allowed for written comments and alternative project filings begins on the date that the

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department's finding of completeness under part 7690.0500, subpart 2, is mailed. Proposals for alternative projects must follow the requirements of part ~~7840.0500~~ 7690.0500 or ~~7840.0600~~ 7690.0600, except for part ~~7840.0500~~ 7690.0500, ~~item~~ items E and K. The ~~commission~~ department shall allow ~~15~~ 30 days from the filing of the comments and alternative projects for written responses. These comments, alternative projects, and responses must be filed with the Public Utilities Commission, the department ~~of Public Service, the Department of Trade and Economic Development,~~ and the utility to which they are addressed. The persons submitting the comments, alternative projects, or responses must provide them to any person, upon request.

7690.1000 PROPOSED DECISION.

Subpart 1. **Prepared by staff.** After reviewing the comments submitted under part 7690.0900, the department staff shall prepare a proposed decision approving, disapproving, or modifying a program, project, evaluation plan, or alternative project proposal.

Subp. 2. **Copies sent.** The department staff shall serve a copy of its proposed decision on the utility, on any person who submitted a comment under part 7690.0900, and on all known interested persons.

Subp. 3. **Comment period.** The department shall allow ten days from the date of service of the proposed decision for written comments on the proposed decision.

~~7840.1100~~ 7690.1100 RESPONSES; WRITTEN RECORD.

~~When a contested case hearing is not required,~~ The ~~Public Utilities Commission~~ department may order written responses to comments, oral argument, negotiations, settlement conferences, formal hearing, or other procedures ~~as~~ it ~~deems~~ considers necessary or helpful to enable it to review, analyze, and select appropriate programs under Minnesota Statutes, section 216B.241. Written papers or summaries of oral meetings for each proceeding filed with the ~~Public Utilities Commission~~ department

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must also be served upon participants and ~~will~~ become part of the record upon which the ~~Public Utilities Commission~~ department will decide the case.

~~7840.1150~~ 7690.1200 APPROVAL, DISAPPROVAL, OR MODIFICATION.

Subpart 1. **Determination of significant investment.** The ~~commission~~ department shall determine whether a proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements. In making this determination, the ~~commission~~ department shall consider the following information, which must be included in a public utility's filing:

[For text of items A to I, see M.R. 1989]

Subp. 2. **Approval.** On determining that the proposed program or modified program will result in significant investments in and expenditures for energy conservation improvements, the ~~commission~~ department shall approve the proposed or modified program.

Subp. 3. **Disapproval and modification.** On determining that the proposed program or modified program will not result in significant investments in and expenditures for energy conservation improvements, the ~~commission~~ department shall disapprove the proposed program or modified program and ~~order~~ require a program that will result in significant investments in and expenditures for energy conservation improvements.

~~7840.1200~~ 7690.1300 ~~DISAPPROVAL; ORDER~~ DECISION.

When the ~~Public Utilities Commission~~ department approves, disapproves, or modifies a program, project, or evaluation plan, it shall set forth its reasons in a written ~~order~~ decision within 30 days from the date comments are due on the department's proposed decision specified under part 7690.1000. If the department's decision will not be issued within this 30-day period, the department shall notify the parties on the service list specified in part 7690.0800 of the date by which a decision will be issued.

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by Revisor _____

~~7840.1300~~ 7690.1400 PROPOSED PROGRAM CHANGES.

Upon its own motion or upon the motion of a utility or other person, the ~~Public Utilities Commission~~ department may add a new project or modify, expand, or terminate an existing conservation improvement program or utility renewable resource pilot program before the program's expiration date. The moving party must ~~notify all~~ give notice of the motion to the participants in the affected utility's conservation improvement program case or utility renewable resource pilot program case of the motion. Interested persons must be allowed 15 days to submit comments on the proposed program changes. A change may be ordered to make a project more effective, to reach more participants, to reduce unnecessary or ineffective expenditures, to expand, change, or reduce the geographic area or target group that the project covers, or to change the time period during which the project would be in effect.

7690.1500 PETITION TO COMMISSION.

Petitions to the Public Utilities Commission to modify or revoke a department decision to require a program are governed by Minnesota Statutes, section 216B.241, subdivision 2.

REPEALER. Minnesota Rules, parts 7840.1000 and 7840.1400 are repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Conservation Improvement Program

AGENCY: Department of Public Service

MINNESOTA RULES: Chapters 7690, 7840

The attached rules are approved for publication in the State Register

Ron Ray
Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed
Amendments to Rules Governing
Conservation Improvement Programs
Utility Renewable Resource
Programs, Minn. Rules Chapter 7800,
to be Recodified as Minn. Rules
Parts 7690.0100 - 7690.1500

DECLARATION OF COUNSEL

I, Jocelyn F. Olson, 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 0730.

Jocelyn F. Olson

JOCELYN F. OLSON
Assistant Attorney General

Dated: January 30, 1990

.AI

Stat Authority

Laws 338 § 3

The department may by rule require public utilities to make investments and expenditures in energy conservation improvements . . .

216B.241

The department may by rule require public utilities to make investment and expenditures in energy improvements

Notice of Intent

have until Jan 10 to comment

many changes stated in findings of fact

Note Change 6 e f.

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
1100 BREMER TOWER
SEVENTH PL. AND MINNESOTA ST.
ST. PAUL, MN 55101
TELEPHONE: (612) 296-9412

January 30, 1990

Patricia Nolte
Legal Assistant
Public Finance Division
404 Capitol Office Building
525 Park Street
St. Paul, MN 55103

Re: In the Matter of the Proposed Amendments to Rules Governing Conservation Improvement Programs and Utility Renewable Resource Pilot Programs, Minn. Rules Chapter 7840, to be recodified as Minn. Rules Parts 7690.0100 - 7690.1500

Dear Ms. Nolte:

On January 30, 1990, the Minnesota Department of Public Service adopted the above-captioned rules governing conservation improvement programs and utility renewable resource pilot programs. 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).

3. Notice of Intent to Solicit Outside Opinion (14 S.R. 173, July 24, 1989.

4. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

5. Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Public Hearing, and Rules as Proposed (14 S.R. 1377, December 11, 1989).

6. Comments received during the comment period.

7. Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Public Hearing, as mailed.

8. Affidavit of Mailing and mailing list.

9. Certificate of mailing list.

10. Affidavit of Discretionary Notice

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

As the Findings of Fact indicate, no person requested notice of submission of the rule amendments to the Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Assistant Attorney General

Telephone: (612) 296-3701

cc: William B. Grant