

CHAPTER 7665
DEPARTMENT OF PUBLIC SERVICE
ENERGY DIVISION
DISTRICT HEATING SYSTEMS

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PRELIMINARY PLANNING GRANTS

7665.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 7665.0100 to 7665.0160, the words or terms defined in this part have the meanings given them.

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

Subp. 3. **Applicant.** "Applicant" means a municipality as defined in subpart 7, as well as any organization submitting a joint application with the municipality. No application shall be accepted unless submitted by a municipality as sponsor or cosponsor.

Subp. 4. **Community heatload survey and map.** "Community heatload survey and map" means a description of the district heating market, including: location of heat source; location, type, and age of heating systems of potential nonresidential customers; annual energy consumption and temperature requirements; and approximate load duration for process heat customers.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Public Service.

Subp. 6. **Major central system.** "Major central system" is one that does not rely on oil or natural gas.

Subp. 7. **Municipality.** For purposes of applying for grants under this program, "municipality" means a city however organized.

Subp. 8. **Project.** "Project" means the preliminary planning project.

Subp. 9. **Satellite or heat island.** A "satellite or heat island" system relies on oil, natural gas, or the combustion of waste material and is a heating system that in the future would become a part of a major central system.

Statutory Authority: *MS s 216C.10*

History: *L 1983 c 289 s 115 subd 1; L 1987 c 186 s 15, c 312 art 1 s 9*

7665.0110 AUTHORITY AND PURPOSE.

Subpart 1. **Authority.** Parts 7665.0100 to 7665.0160, implementing the district heating preliminary planning grants program, are promulgated by the agency pursuant to Laws of Minnesota 1981, chapter 356, section 30.

Subp. 2. **Purpose.** The objective of the district heating preliminary planning grant program is to encourage the development and expansion of economically

viable district heating systems that have the potential to save energy and displace scarce fuels such as oil and natural gas. The program shall encourage: construction of new hot water district heating systems; reconstruction or major expansion of existing steam district heating systems; and expansion of district heating systems by development of satellite systems or heat islands that could be connected to an existing or proposed major central heating system later.

Statutory Authority: *MS s 216C.10*

History: *L 1987 c 312 art 1 s 9*

7665.0120 PRELIMINARY PLANNING GRANT PROGRAM.

Subpart 1. Application schedule. The agency shall accept grant applications on two month intervals after December 21, 1981. Applications received shall be ranked, and the director shall recommend ranked applications that meet all the criteria to the legislative advisory committee for approval and funding. No municipality shall be awarded more than two grants out of the same appropriation.

Subp. 2. Review process. Applications shall be reviewed and ranked by the agency. The commissioner shall prepare and submit to the legislative advisory committee a list of all district heating grant requests. The list shall contain the necessary supporting information. The recommendations of the legislative advisory committee shall be transmitted to the governor. The governor shall approve, disapprove, or return for further consideration each project recommended for approval by the legislative advisory committee. Upon approval by the governor, a grant agreement shall be negotiated with the agency in accordance with part 7665.0150. Comments on applications not selected for grant awards shall be forwarded to the applicant. Applications not funded shall be included in the next funding round, unless withdrawn. Applicants may modify or supplement their proposals for the next funding interval if desired.

Statutory Authority: *MS s 216C.10*

History: *L 1987 c 186 s 15, c 312 art 1 s 9*

7665.0130 CONTENTS OF PRELIMINARY PLANNING GRANT APPLICATIONS.

Subpart 1. Statutory requirement. Applications shall contain the information required by Laws of Minnesota 1981, chapter 356, section 30, and at least the information in subparts 2 to 7.

Subp. 2. Community heatload survey and map. The survey shall contain a description of the heat source and an estimate of the district heating market.

If plans call for an existing heat source such as an electric generation plant or a coal fired boiler, the application shall include at least a discussion of: type, size, age, fuel, present use, and emission controls. If a new heat source is proposed to be used, the application shall include: fuel, estimated cost of fuel, and fuel availability.

The estimate of the district heating market shall contain nonresidential building information including location, type and age of heating system, type of fuel and annual energy consumption, and a description of process load including temperature requirements and load duration.

The map shall show the location of the heat source and major load concentrations.

Subp. 3. Community benefit. Briefly discuss the impact of the district heating system on the community and how it would relate to community development plans.

Subp. 4. Community commitment. Include written expressions of interest and commitment from major potential loads, owner of heat source, and the municipal governing body.

Subp. 5. **Project plan.** The project plan shall include a list of tasks, time estimates for each task, and a list of deliverables. It should also include rough estimates of time required in successive stages such as design and construction.

Subp. 6. **Project budget.** Include an estimate of expenditures by categories such as personnel and travel, and estimates of costs by project plan task.

Subp. 7. **Project organization chart and use of consultants.** Assistance in preparing applications can be obtained from the agency.

Statutory Authority: *MS s 216C.10*

History: *L 1987 c 312 art 1 s 9*

7665.0140 RANKING CRITERIA.

Applications will be ranked according to the following criteria, which are listed in order of importance:

- A. estimated capital cost per million Btu of energy sold per year;
- B. benefit to the community;
- C. project plan;
- D. community commitment;
- E. thoroughness of community heatload survey;
- F. qualifications of project personnel; and
- G. clarity and conciseness.

Statutory Authority: *MS s 216C.10*

History: *L 1987 c 312 art 1 s 9*

7665.0150 AGREEMENT.

Subpart 1. **Governor's approval.** After approval by the governor, the applicant shall enter into an agreement with the agency.

Subp. 2. **Contents.** The agreement shall specify the grant amount and the duration of the grant. The agreement shall include assurance that the local share will be provided and that the agreed upon work program will be carried out. A grant agreement based upon a joint application must be executed by the lead applicant. Amendments and extensions may only be made in writing and must be signed by all parties.

Subp. 3. **Funding period.** Planning grants will be approved for a period of up to one year.

Subp. 4. **Grant limitations.** Planning grants shall not exceed 90 percent of eligible planning costs. No single grant shall exceed \$20,000.

Subp. 5. **Disbursement schedule.** Ninety percent of grant moneys shall be disbursed at the outset upon receipt of invoice to the agency of project costs. The remaining ten percent shall be disbursed upon completion and receipt of a satisfactory final report.

Subp. 6. **Required reports.** The grantee shall submit to the agency on the first of each month a report briefly stating the activities that have transpired during the month. The grantee shall provide the agency with three copies, one of which shall be a camera ready copy, of the final preliminary planning report.

Subp. 7. **Records.** The grantee shall maintain for a period of not less than three years from the date of the execution of the contract all records relating to the receipt and expenditures of grant moneys.

Subp. 8. **Contract deviations.** No grant funds shall be used to finance activities by consultants or local staff if the activities are not included in the grant contract, unless agreed upon in writing by the agency. Unless agreed upon by the agency, a municipality may not contract out all its energy related activities to consultants.

Statutory Authority: *MS s 216C.10*

History: *L 1987 c 312 art 1 s 9*

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7665.0160 EVALUATION.

Subpart 1. Conducting. The agency shall conduct an evaluation within 60 days of the submission by the grantee to the agency of the final report and all the required reports and financial documents. The evaluation shall assess:

A. whether the local share contributed was equal to or greater than ten percent of the total cost of the preliminary planning project;

B. whether the agreed upon work program was completed; and

C. whether the governing body has formally reviewed the completed preliminary district heating plan.

Subp. 2. Review. Upon completion of a satisfactory evaluation the remaining ten percent of the grant shall be disbursed to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a review by the commissioner.

Statutory Authority: *MS s 216C.10*

History: *L 1987 c 186 s 15, c 312 art 1 s 9*

DESIGN LOANS

7665.0200 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 7665.0200 to 7665.0250 the terms defined in this part have the meanings given them.

Subp. 2. Applicability of statute. The definitions in Minnesota Statutes, section 216C.36 and part 1587.0200 apply to parts 7665.0200 to 7665.0250.

Subp. 3. Department. "Department" means the Department of Public Service.

Subp. 4. Design loan. "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related management tasks.

Subp. 5. District heating project. "District heating project" means a district heating design project.

Statutory Authority: *MS s 216C.36 subd 11*

History: *L 1983 c 289 s 115 subd 1; 10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0210 AUTHORITY AND PURPOSE.

Subpart 1. Authority. Parts 7665.0200 to 7665.0250 are authorized by Minnesota Statutes, section 216C.36, subdivision 11.

Subp. 2. Purpose. Parts 7665.0200 to 7665.0250 are promulgated for the purpose of allowing prompt and proper applications for design loans after comprehensive preliminary engineering, economic, and design studies have been completed. Parts 7665.0200 to 7665.0250 set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

Statutory Authority: *MS s 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0220 APPLICATION PROCEDURE.

Applications for design loans under Minnesota Statutes, section 216C.36 and parts 7665.0200 to 7665.0250 shall be submitted to the commissioner in the form required under parts 8300.4700 and 8300.4800. Ten complete copies shall be submitted. Applications will be accepted beginning January 13, 1986.

Statutory Authority: *MS s 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0230 DISTRICT HEATING ADVISORY TASK FORCE.

Subpart 1. Membership. Under Minnesota Statutes, section 15.014, the commissioner shall appoint a district heating advisory task force consisting of at least four members in addition to the commissioner who shall act as chairperson.

Task force members must be knowledgeable in the area of district heating, but cannot be directly or indirectly involved in any district heating project under consideration by the commissioner.

The commissioner may from time to time add or delete task force members, subject only to the limitations in this subpart.

Subp. 2. Task force duties. The task force shall review each application for a loan under Minnesota Statutes, section 216C.36 and parts 8300.4500 to 8300.5000, and shall advise and assist the commissioner in carrying out his or her responsibilities. The commissioner shall retain final responsibility for all statutory and rule requirements.

Statutory Authority: *MS s 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0240 APPLICATION REVIEW CRITERIA.

The commissioner shall review each application as it is received according to the eligibility and priority criteria of Minnesota Statutes, section 216C.36; the sophistication and reasonableness of the technical approach as detailed in the application; the experience and qualifications of the applicant as they relate to the project; the project organization and personnel assignment; and the estimated cost of the project.

Statutory Authority: *MS s 216C.36 subd 11*

History: *L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0250 PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. Deadline for submission. The applicant shall submit a complete application to the commissioner by the first business day of any month in order for the commissioner to submit the application to the authority to consider it in that month. If an application is received after the first business day of the month and can be reviewed by the commissioner for eligibility and financial feasibility prior to the authority agenda deadline, the commissioner shall submit the application to the authority for consideration of the application at the meeting in that month.

Subp. 2. Completed applications. An application is complete when the commissioner receives all documentation and exhibits required under parts 8300.4500 to 8300.5000.

Subp. 3. Incomplete applications. If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 60 days, the application is considered to be rejected and the applicant must reapply to be further considered.

Subp. 4. Review of eligibility of project and applicant. The commissioner shall review all completed applications to determine if the project and the applicant are eligible and meet the requirements of Minnesota Statutes, section 216C.36, and parts 7665.0200 to 7665.0250.

Subp. 5. Ineligible project or applicant. If the applicant or project is ineligible, the commissioner shall notify the applicant of that fact in writing. The applicant

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has 30 days from the date of the commissioner's notification to amend the application.

Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project or applicant is ineligible. If the project and applicant are eligible, the commissioner shall review the amended application for economic feasibility under subpart 6.

If the application is not amended within 30 days, the application must be rejected and will not receive any further consideration.

Subp. 6. Economic and technical feasibility review. The commissioner shall review the application in accordance with part 7665.0240 and this part. Submission of the application by the commissioner to the authority at a board meeting is conclusive evidence that the commissioner has made the determinations required pursuant to this part.

Subp. 7. Rejection of application based on economic and technical unfeasibility. If the application is rejected due to economic or technical unfeasibility, the commissioner shall notify the applicant in writing that the application is not economically or technically feasible and that the application has been rejected.

If the application is rejected due to economic or technical feasibility, the applicant may, within 30 days after receipt of the written notification of rejection, request that the commissioner submit the rejected application to the authority for review. The commissioner shall place the application on the agenda for evaluation by the authority under subpart 8 at the next regularly scheduled meeting of the authority for which the agenda has not been established. If the authority rejects the application, the commissioner shall so notify the applicant in writing.

Subp. 8. Authority evaluation procedure. Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval under Minnesota Statutes, section 216C.36 and parts 8300.4500 to 8300.5000. If the authority approves the application the commissioner shall forward the application to the commissioner of finance who may make loans to the municipality. If the authority disapproves an application, the commissioner shall so notify the applicant in writing.

Statutory Authority: *MS s 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

CONSTRUCTION LOANS

7665.0300 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 7665.0300 to 7665.0380, the terms defined in subparts 2 to 9 have the meanings given them.

Subp. 2. Applicability of statute. The definitions in Minnesota Statutes, section 216C.36 apply to parts 7665.0300 to 7665.0380 and 1587.0200.

Subp. 3. Construction loan. "Construction loan" means a loan to fund all construction costs as defined in Minnesota Statutes, section 216C.36, subdivision 2.

Subp. 4. Debt service cost. "Debt service cost" means the sum of all costs amortizing lease indebtedness, bond indebtedness, urban development action grant indebtedness, and any state indebtedness that is attributed to the project on an annual basis.

Subp. 5. Debt service coverage. "Debt service coverage" means the gross revenues of the project minus the operating expenses, plus the debt service cost. The debt service coverage is expressed as a percentage of the debt service cost.

Subp. 6. Department. "Department" means the Department of Public Service.

Subp. 7. **Financial consultant.** "Financial consultant" means a reputable person or firm experienced in working with complex revenue supported financial plans and qualified to assess the financial condition and operation of the project.

Subp. 8. **District heating project.** "District heating project" means a district heating construction project.

Subp. 9. **Take or pay contract.** "Take or pay contract" means a contract between a district heating system and a thermal load customer whereby the customer agrees to take a predesignated amount of thermal energy over a certain time period or to pay a sum equivalent to the value of the predesignated amount of thermal energy, even if less is taken.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *L 1983 c 289 s 115 subd 1; 10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0310 PURPOSE.

The purpose of parts 7665.0300 to 7665.0380 is to allow district heating projects that have already completed comprehensive engineering, economic, and design studies to make prompt and proper application for construction loans. These parts set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0320 SCOPE.

Parts 7665.0300 to 7665.0380 apply to the department and to any municipality applying for construction loans under Minnesota Statutes, section 216C.36.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0330 APPLICATION PROCEDURES.

Subpart 1. **Submitting.** Applications for construction loans under Minnesota Statutes, section 216C.36 and parts 7665.0300 to 7665.0380 must be submitted to the commissioner in the form prescribed under parts 8300.4500 to 8300.5000.

Subp. 2. **Effective date.** The period for accepting applications begins January 13, 1986.

Subp. 3. **Copies.** Ten complete copies of the application must be submitted to the commissioner.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0340 DISTRICT HEATING ADVISORY TASK FORCE.

Subpart 1. **Membership.** Under Minnesota Statutes, section 15.014, the commissioner shall appoint a district heating advisory task force consisting of at least four members in addition to the commissioner who shall act as chairperson.

Task force members must be knowledgeable in the area of district heating, but cannot be directly or indirectly involved in any district heating project under consideration by the commissioner.

The commissioner may from time to time add or delete task force members, subject only to the limitations in this subpart.

Subp. 2. **Task force duties.** The task force shall review each application for a loan under Minnesota Statutes, section 216C.36 and parts 8300.4500 to 8300.5000, and shall advise and assist the commissioner in carrying out his or her responsibilities. The commissioner shall retain final responsibility for all statutory and rule requirements.

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Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0350 FEASIBILITY ASSESSMENT.

The commissioner shall review each application as received according to the following feasibility assessment parameters:

- A. the eligibility and priorities criteria of Minnesota Statutes, section 216C.36, subdivisions 3 and 4;
- B. the debt service coverage represented by parts 8300.4500 to 8300.5000;
- C. the debt service coverage from revenues currently under contract;
- D. the total cost of the project;
- E. the ratio of the state loan under the act to the total cost of the project;
- F. the terms of the contracts with customers; and
- G. the total number of customers for the project.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0360 EVALUATION OF APPLICATION.

Upon reviewing each application, the commissioner shall award points to applicants based upon the following criteria:

- A. four points to applicants that have a debt service coverage of at least 130 based upon the revenues currently under contract;
- B. four points to applicants that have take or pay contracts for at least the term of the state loan under the act; two points, if the contracts are for a term less than the term of the state loan under the act;
- C. two points to applicants whose total project cost is less than \$5,000,000 or whose state loan under the act would be less than 50 percent of the project's total cost;
- D. two points to applicants that have 50 or more customers identified in the marketing study of their business plans, if these customers comprise at least 50 percent of the project's thermal load.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0370 RECOMMENDATION.

Subpart 1. Tallying points. The commissioner shall tally the points awarded to each applicant under part 7665.0360 and shall make recommendations based upon the standards set forth in subparts 2 and 3.

Subp. 2. Eight or more points. For applicants who have been awarded a total of eight or more points, the commissioner shall recommend that the revenues of the project be pledged for repayment of the state loan under the act. In addition, the state loan may take a position subordinate to other financing.

Subp. 3. Seven or fewer points. For applicants who have been awarded a total of seven or fewer points, the commissioner shall recommend that the applicant pledge additional funds adequate to ensure the repayment of the state loan under the act. If additional funds are not available or the applicant chooses not to pledge them, then the applicant may pledge to levy an ad valorem tax of a similar amount.

Statutory Authority: *MS s 216C.10; 216C.36 subd 11*

History: *L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*

7665.0380 PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. Deadline for submission. The applicant shall submit a complete

application to the commissioner by the first business day of any month in order for the commissioner to submit the application to the authority for consideration in that month. If an application is received after the first business day of the month and can be reviewed by the commissioner for eligibility and financial feasibility prior to the authority agenda deadline, the commissioner shall submit the application to the authority for consideration of the application at the meeting in that month.

Subp. 2. Completed applications. An application is complete when the commissioner receives all documentation and exhibits required under Minnesota Statutes, section 216C.36, and parts 8300.4500 to 8300.5000.

Subp. 3. Incomplete applications. If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 60 days, the application is considered to be rejected and the applicant must reapply to be further considered.

Subp. 4. Review of eligibility of project and applicant. The commissioner shall review all completed applications to determine if the project and the applicant are eligible and meet the requirements of Minnesota Statutes, section 216C.36.

Subp. 5. Ineligible project or applicant. If the applicant or project is ineligible, the commissioner shall notify the applicant of that fact in writing. The applicant has 30 days from the date of the commissioner's notification to amend the application.

Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project or applicant is ineligible. If the project and applicant are eligible, the commissioner shall review the amended application for economic feasibility under subpart 6.

If the application is not amended within 30 days, the application must be rejected and will not receive any further consideration.

Subp. 6. Economic and technical feasibility review. The commissioner shall review the application in accordance with parts 7665.0350 and 7665.0360. Submission of the application by the commissioner to the authority at a board meeting is conclusive evidence that the commissioner has made the determinations required pursuant to parts 7665.0300 to 7665.0380.

Subp. 7. Rejection of application based on economic and technical unfeasibility. The commissioner shall notify the applicant in writing if the application is not economically or technically feasible and the application is rejected.

If the application is rejected due to economic or technical unfeasibility, the applicant may, within 30 days after receipt of the written notification of rejection, request that the commissioner submit the rejected application to the authority for review. The commissioner shall place the application on the agenda for evaluation by the authority under subpart 8 at the next regularly scheduled meeting of the authority for which the agenda has not been established. If the authority rejects the application, the commissioner shall so notify the applicant in writing.

Subp. 8. Authority evaluation procedure. Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval under Minnesota Statutes, section 216C.36 and parts 8300.4500 to 8300.5000. If the authority approves the application the commissioner shall forward the application to the commissioner of finance who may make loans to the municipality. If the authority disapproves an application, the commissioner shall so notify the applicant in writing.

Statutory Authority: *MS s 216C.36 subd 11*

History: *10 SR 1501; L 1987 c 312 art 1 s 9; c 386 art 3 s 15,28 subd 2*