

6 MCAR 2

1 Department of Energy, Planning and Development

2 Energy Division

3

4 Adopted Rules for the Administration of the District Heating

5 Bonding Act Regarding Construction Loans

6

7 Rules as Adopted

8 6 MCAR S 2.4021 Definitions.

9 A. Scope. For the purposes of 6 MCAR SS 2.4021-2.4034, the
10 terms defined in B.-L. have the meanings given them.

11 B. Act. "Act" means Minnesota Statutes, section 116J.36.

12 C. Assistant commissioner of energy. "Assistant
13 commissioner of energy" means the Assistant Commissioner of the
14 Energy Division of the Department of Energy, Planning and
15 Development.

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

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

23 F. Debt service coverage. "Debt service coverage" means the
24 gross revenues of the project minus the operating expenses, plus
25 the debt service cost. The debt service coverage is expressed
26 as a percentage of the debt service cost.

27 G. Department. "Department" means the Department of Energy,
28 Planning and Development.

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

33 I. Gross revenues. "Gross revenues" means all revenues,
34 fees, user charges, rents, franchise fees, special assessments,
35 and other income and receipts derived from the ownership or
36 operation of the project, the proceeds of any insurance that

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1 insures against the loss of gross revenues, any investment
2 income from money or securities derived from the state loan
3 under the act, and any other income and receipts attributable to
4 the ownership or operation of the project from whatever source
5 derived, calculated on an annual basis.

6 J. Operating expenses. "Operating expenses" means all
7 expenses directly and properly attributable to the operation of
8 the project on an annual basis. Examples are: expenses for
9 operation, maintenance, repairs, ordinary replacement, ordinary
10 acquisition of equipment, fuel and heat, labor and fringe
11 benefits, lease rental payments, insurance premiums,
12 administration, legal services, engineering services, payments
13 of all indebtedness, and any other current expenses or
14 obligations required to be paid by the municipality or owner of
15 the project, all to the extent properly and directly
16 attributable to the operation of the project. Operating
17 expenses do not include any costs or expenses for new
18 construction or any allowance for depreciation.

19 K. Project. "Project" means a district heating construction
20 project as described by the business plan.

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

27 6 MCAR S 2.4022 Purpose.

28 The purpose of rules 6 MCAR SS 2.4021-2.4034 is to allow
29 district heating projects that have already completed
30 comprehensive engineering, economic, and design studies to make
31 prompt and proper application for construction loans. Rules 6
32 MCAR SS 2.4021-2.4034 set forth the procedures that
33 municipalities must follow to apply for loans and establish the
34 criteria by which the applications are reviewed.

35 6 MCAR S 2.4023 Scope of rules.

1 Rules 6 MCAR SS 2.4021-2.4034 apply to the department and
2 to any municipality applying for construction loans under the
3 act.

4 6 MCAR S 2.4024 Contents of application.

5 The application for construction loans shall contain the
6 following information:

7 A. name, address, and telephone number of the responsible
8 official of the municipality;

9 B. a comprehensive business plan for the project, as
10 described in 6 MCAR S 2.4025;

11 C. a resolution in support of the project from the governing
12 body of the municipality, as described in 6 MCAR S 2.4029;

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

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

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

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

26 6 MCAR S 2.4025 Comprehensive business plan.

27 The comprehensive business plan required by 6 MCAR S 2.4024
28 B. must include all of the following information:

29 A. a complete engineering design of the project, as
30 described in 6 MCAR S 2.4026;

31 B. a market study of customers of the district heating
32 system defined by the business plan who represent 90 percent or
33 more of the proposed thermal load, as described in 6 MCAR S
34 2.4027;

35 C. a preliminary plan that shows how the system could be

1 expanded to serve other parts of the community;

2 D. a complete economic analysis, as described in 6 MCAR S
3 2.4028, that includes cash flow, income, and balance sheets for
4 a 20-year planning period, and a financing and development plan
5 for the district heating system prepared by a financial
6 consultant;

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

10 F. a copy of the standard contract entered into with
11 customers of the project with a list of customers already under
12 contract, listing the thermal load of each customer presently
13 under contract and comparing the total of the thermal load
14 already contracted with the total load of the project; and

15 G. a copy of the contract for the furnishing of the heat
16 source or fuel for the project.

17 6 MCAR S 2.4026 Engineering design.

18 The complete engineering design of the project required by
19 6 MCAR S 2.4025 A. must include at least the following
20 information:

21 A. an analysis of the proposed piping layout that addresses
22 the areas of optimum service to the total designated area,
23 reliability of service, system temperatures and pressure
24 requirements, thermal and hydraulic operability for normal and
25 emergency conditions, optimum piping configuration to provide
26 service, and flexibility for future expansion;

27 B. an analysis of the proposed piping design that addresses
28 the areas of reliability of service, ease of construction, ease
29 of maintenance, installation methods, and specifications and
30 standards; and

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

1 6 MCAR S 2.4027 Market study.

2 The market study required by 6 MCAR S 2.4025 B. must show
3 detailed information on present fuel consumption or heating
4 demand and the present heating system in each building.

5 6 MCAR S 2.4028 Economic analysis.

6 The economic analysis required by 6 MCAR S 2.4025 D. must
7 include a cost estimate and expenditure schedule for all
8 transmission and distribution piping; heat source conversion,
9 purchase, or rental; operating and maintenance costs, excluding
10 fuel costs; and building heating conversion costs.

11 6 MCAR S 2.4029 Resolution in support of project.

12 The resolution required by 6 MCAR S 2.4024 C. must include
13 the pledges the municipality proposes to make to guarantee
14 repayment of the construction loan and evidence of the
15 municipality's financial capability to sponsor the project.

16 6 MCAR S 2.4030 Application procedures.

17 A. Submitting. Applications for construction loans under
18 the act and 6 MCAR SS 2.4021-2.4034 must be submitted to the
19 commissioner.

20 B. Effective date. The period for accepting applications
21 begins on the date 6 MCAR SS 2.4021-2.4034 become effective.

22 C. Copies. Ten complete copies of the application must be
23 submitted to the commissioner.

24 6 MCAR S 2.4031 District heating advisory task force.

25 A. Membership. Under Minnesota Statutes, section 15.014,
26 the assistant commissioner of energy shall appoint a district
27 heating advisory task force consisting of at least four members
28 in addition to the assistant commissioner of energy who shall
29 act as chairperson.

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

34 The assistant commissioner of energy may from time to time

1 add or delete task force members, subject only to the
2 limitations in A.

3 B. Task force duties. The task force shall review each
4 application for a loan under the act, and shall advise and
5 assist the commissioner in carrying out the requirements of the
6 act and 6 MCAR SS 2.4021-2.4034. The commissioner shall retain
7 final responsibility for all statutory and rule requirements.

8 6 MCAR S 2.4032 Feasibility assessment.

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

11 A. the eligibility and priorities criteria of Minnesota
12 Statutes, section 116J.36, subdivisions 3 and 4;

13 B. the debt service coverage represented by the business
14 plan;

15 C. the debt service coverage from revenues currently under
16 contract;

17 D. the total cost of the project;

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

20 F. the terms of the contracts with customers; and

21 G. the total number of customers for the project.

22 6 MCAR S 2.4033 Evaluation of application.

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

25 A. four points to applicants that have a debt service
26 coverage of at least 130 based upon the revenues currently under
27 contract;

28 B. four points to applicants that have take-or-pay contracts
29 for at least the term of the state loan under the act; two
30 points, if the contracts are for a term less than the term of
31 the state loan under the act;

32 C. two points to applicants whose total project cost is less
33 than \$5,000,000 or whose state loan under the act would be less
34 than 50 percent of the project's total cost;

35 D. two points to applicants that have 50 or more customers

1 identified in the marketing study of their business plans, if
2 these customers comprise at least 50 percent of the project's
3 thermal load.

4 6 MCAR S 2.4034 Recommendation.

5 A. Tallying points. The commissioner shall tally the points
6 awarded to each applicant under 6 MCAR S 2.4033 and shall make
7 recommendations based upon the standards set forth in B. and C.

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

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