

1 Department of Trade and Economic Development

2

3 Adopted Permanent Rules Relating to District Heating Loans and
4 Energy Conservation Investment Loans

5

6 Rules as Adopted

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DISTRICT HEATING LOANS

8 7380.0600 DEFINITIONS.

9 Subpart 1. Scope. The terms defined in this part and in
10 Minnesota Statutes, section 116J.36, subdivision 2, apply to
11 parts 7380.0600 to 7380.0650.

12 Subp. 2. Construction loan. "Construction loan" means a
13 loan to fund construction costs.

14 Subp. 3. Design loan. "Design loan" means a loan made to
15 fund those activities required to be completed during the final
16 design phase of a district heating system in order to finance
17 and construct the system. These activities include conducting
18 economic feasibility analyses, obtaining heat source commitments
19 and customer contracts, structuring financing, and related
20 district heating project tasks.

21 Subp. 4. District heating project or project. "District
22 heating project" or "project" means a district heating design or
23 construction project for a new or existing district heating
24 system.

25 Subp. 5. Existing system. "Existing system" means a
26 district heating system that has at least one customer and has
27 been operational for more than one year.

28 Subp. 6. Financial consultant. "Financial consultant"
29 means a reputable person or firm experienced in working with
30 complex revenue-supported financial plans and qualified to
31 assess the financial condition and operation of the district
32 heating project.

33 Subp. 7. Gross revenues. "Gross revenues" means all
34 revenues, fees, user charges, rents, franchise fees, special
35 assessments, and other income and receipts derived from the

1 ownership or operation of the district heating project, the
2 proceeds of any insurance that insures against the loss of gross
3 revenues, any investment income from money or securities derived
4 from the state loan under Minnesota Statutes, section 116J.36,
5 and any other income and receipts attributable to the ownership
6 or operation of the project from whatever source derived,
7 calculated on an annual basis.

8 Subp. 8. **New system.** "New system" means a district
9 heating system that has at least one customer and has been
10 operational for less than one year.

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

24 7380.0610 CONTENTS OF APPLICATION FOR NEW SYSTEM.

25 A completed application for a construction loan to a new
26 system must contain:

27 A. The name, address, and telephone number of the
28 responsible official of the municipality.

29 B. Complete engineering design of the district
30 heating project, including:

31 (1) an analysis of the proposed piping layout
32 that must address optimum service to the total designated area,
33 reliability of service, system temperatures and pressure
34 requirements, thermal and hydraulic operability for normal and
35 emergency conditions, and optimum piping configuration to

1 provide service and flexibility for future expansion;

2 (2) an analysis of the proposed piping design
3 that must address reliability of service, ease of construction,
4 ease of maintenance, installation methods, and specifications
5 and standards; and

6 (3) an analysis of the heat source design that
7 must define the proposed roles of the following heat sources in
8 the development and future operation of the system: base load
9 heating plant, peaking plants, large boiler plants in existing
10 buildings, mobile boilers, accumulators, and future heat sources
11 such as solid waste, solar, and industrial waste heat.

12 C. A market study of customers who represent 90
13 percent of the proposed thermal load of the district heating
14 system. This study must show detailed information on present
15 fuel consumption or heating demand and the present heating
16 system in each building.

17 D. A preliminary expansion plan showing how the
18 system could be expanded to serve other parts of the community.

19 E. A complete economic analysis, including:

20 (1) a preliminary financing and development plan
21 for the district heating system prepared by a financial
22 consultant;

23 (2) cash flow, income, and balance sheets for the
24 time period of the loan;

25 (3) a cost estimate and expenditure schedule for
26 all transmission and distribution piping, heat source
27 conversion, purchase or rental, operating and maintenance costs
28 excluding fuel costs, and building heating conversion costs; and

29 (4) a statement showing the source of all funds
30 to be used by the applicant for the design or construction of
31 the system, and the amount of funds from each of those sources.

32 F. A certification by the municipality that a bid
33 package for the construction of the project has been completed
34 and is available to the department of public service if
35 requested.

36 G. A copy of the standard contract entered into with

1 customers of the project and a list of customers already under
2 contract, listing the thermal load of each customer presently
3 under contract and comparing the total of the thermal load
4 already contracted with the total load of the district heating
5 project.

6 H. Where applicable, a copy of any contract for the
7 furnishing of heat and fuel for the district heating project.

8 I. A resolution in support of the project from the
9 governing body of the municipality that must include the pledges
10 the municipality proposed to make to guarantee prepayment of the
11 loan and evidence of the municipality's capability to sponsor
12 the district heating project.

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

17 K. A list of key personnel and their qualifications
18 as they relate to the district heating project.

19 L. An estimate of the type and amount of fuel to be
20 saved per year from the full operation of the district heating
21 system compared to the type and amount of fuel used by the
22 existing system.

23 M. A copy of a completed environmental impact
24 statement or a negative declaration of the need for an
25 environmental impact statement from a completed environmental
26 assessment worksheet, or in those cases where no environmental
27 assessment worksheet is required, a statement as to the
28 environmental effects of the project.

29 7380.0620 CONTENTS OF APPLICATION FOR EXISTING SYSTEM.

30 A completed application for a construction loan to an
31 existing system must contain:

32 A. The name, address, and telephone number of the
33 responsible official of the municipality.

34 B. Background information on the existing system,
35 including: ownership, type and size of heat source, heat source

1 capacity, backup heat boilers, and customer base, including
2 information on process loads.

3 C. A complete engineering design of the expansion
4 project, including:

5 (1) an analysis of the proposed piping layout,
6 system temperatures and pressure requirements, and flexibility
7 for future expansion; and

8 (2) an analysis of the heat source, including the
9 capacity available and information concerning the backup heat
10 source.

11 D. A discussion of proposed customer ~~loan~~ load
12 including information on present fuel consumption or heating
13 demand and the present heating system in each building for new
14 customers.

15 E. A complete discussion of how the loan is to be
16 secured, the current outstanding debt of the applicant, and the
17 cash flow for the term of the loan. This discussion must also
18 contain a cost estimate and expenditure schedule for all
19 transmission and distribution piping, heat source conversion,
20 purchase or rental, operating and maintenance costs excluding
21 fuel costs, and building heating conversion costs.

22 F. A certification by the municipality that a bid
23 package for the construction of the project has been completed
24 and is available to the department of public service if
25 requested.

26 G. A copy of the standard contract entered into with
27 the customers of the project and a list of customers already
28 under contract and the total ~~loan~~ load it represents.

29 H. A copy of any contract for the furnishing of heat.

30 I. A copy of any contract for the furnishing of fuel
31 for the district heating project if this is a waste-to-energy
32 project.

33 J. A resolution in support of the project from the
34 governing body of the municipality that must include the pledges
35 the municipality proposes to make to guarantee repayment of the
36 construction loan and evidence of the municipality's capability

1 to sponsor the district heating project.

2 K. Identification of all licenses, permits, zoning
3 regulations, and other requirements of federal, state, or local
4 governments with which the district heating project would be
5 expected to comply and the present status of compliance with
6 each.

7 7380.0630 APPLICATION PROCEDURE.

8 Subpart 1. Submitting. The applicant shall submit ten
9 copies of a complete application to the chair of the authority
10 on a form provided by the authority.

11 Subp. 2. Review by Department of Public Service. When an
12 application is received by the chair, copies of the application
13 shall be sent to the commissioner of the Department of Public
14 Service for review. The commissioner of public service shall
15 prepare and submit to the authority a technical evaluation and a
16 recommendation on the application.

17 7380.0640 AUTHORITY REVIEW AND EVALUATION.

18 The authority will review the application for compliance
19 with Minnesota Statutes, section 116J.36, and the rules of this
20 part in conjunction with the recommendation of the commissioner
21 of public service on the application. The authority shall also
22 review the commissioner of public service priority list for
23 funding district heating loans that must be based on the
24 requirements under Minnesota Statutes, section 116J.36,
25 subdivisions 3, 4, 5, 6, and 7. The authority shall give higher
26 priority to a project as provided in Minnesota Statutes, section
27 116J.36, subdivision 4.

28 The commissioner of finance shall sell bonds and the
29 authority shall make loans for district heating projects only
30 upon the recommendation of the commissioner of public service.

31 If the authority disapproves the application, the chair
32 shall notify the applicant in writing.

33 7380.0650 REPORTS AND MONITORING.

34 Subpart 1. Quarterly project status report. The

1 municipality shall submit to the authority, on forms provided by
2 the authority, a quarterly project status report. This report
3 is due within 30 days of the end of each calendar quarter until
4 the design or construction of the district heating project is
5 completed. Projects begun part way through a quarter must
6 submit a quarterly report for the portion of the quarter during
7 which the project was active. The project status report must
8 indicate the progress of the implementation of the district
9 heating project funded, problems encountered, the effect of the
10 problems on the project, and the corrective action taken. The
11 authority shall, in consultation with the commissioner of public
12 service, declare the entire loan amount due and payable if the
13 authority determines that a project does not substantially
14 conform to the construction schedule or if there has been
15 substantial noncompliance with reporting requirements. The
16 executive director of the authority shall inform the
17 municipality in writing of any noncompliance with the
18 construction schedule or reporting requirements and of the time
19 in which the municipality must correct the deficiencies to the
20 authority's satisfaction. If the deficiencies are not corrected
21 to the authority's satisfaction the authority shall declare the
22 entire amount of the loan due and payable.

23 Subp. 2. **Quarterly financial report.** The municipality
24 shall submit to the authority, on forms provided by the
25 authority, a quarterly financial status report that indicates
26 expenditures of loan funds through the last date of each
27 quarter. This report is due within 30 days of the end of each
28 calendar quarter until the design or construction of the
29 district heating project is completed and all expenses
30 applicable to the loan are paid. Projects begun part way
31 through a quarter must submit a quarterly report for the portion
32 of the quarter during which the project was active.

33 Subp. 3. **Final report.** Within 60 days of the completion
34 of the project, the municipality shall submit to the authority,
35 on forms provided by the authority, a final financial status
36 report that gives expenditures of the district heating project.

1 The final financial report shall give actual expenditures for
2 the costs incurred.

3 Subp. 4. Failure to comply with provisions of part. If
4 the municipality fails to comply with any of this part, the
5 municipality may, with the advice and consent of the authority,
6 be declared ineligible for further contracts with the state
7 under the district heating loan program.

8 ENERGY CONSERVATION INVESTMENT LOANS

9 7380.0700 DEFINITIONS.

10 Subpart 1. Scope. The terms defined in this part and in
11 Minnesota Statutes, section 116J.37, subdivision 1, apply to
12 parts 7380.0710 to 7380.0780.

13 Subp. 2. Applicant. "Applicant" means an eligible
14 municipality.

15 Subp. 3. Municipality. "Municipality" means any county,
16 statutory or home rule charter city, town, school district, or
17 any combination of those units under an agreement to jointly
18 undertake projects authorized in this section.

19 Subp. 4. Authority. "Authority" means the Minnesota
20 Public Facilities Authority.

21 Subp. 5. Project. "Project" means all proposed work set
22 forth in an application for a loan to a municipality.

23 Subp. 6. Maxi-audit. "Maxi-audit" means a detailed
24 analysis of energy-saving improvements to existing buildings or
25 stationary energy-using systems, including:

26 A. modifications to building structures;

27 B. heating, ventilating, and air conditioning
28 systems;

29 C. operation practice;

30 D. lighting; and

31 E. other factors that relate to energy use.

32 The primary purpose of the engineering analysis is to
33 quantify the economic and engineering feasibility of
34 energy-saving improvements that require capital expenditures of
35 major operational modifications.

1 A maxi-audit must be performed by or under the direction of
2 and signed by a professional mechanical or electrical engineer
3 or by an architect registered in Minnesota.

4 Subp. 7. Conservation measure. "Conservation measure"
5 means an energy conservation measure that is an installation to
6 a building on stationary energy-using system, and that is
7 primarily intended to reduce energy consumption or allow the use
8 of an alternate energy source including solar, wind, peat, wood,
9 and agricultural residue.

10 Subp. 8. Building. "Building" means an existing building
11 owned and operated by a municipality.

12 Subp. 9. Stationary energy-using system. A "stationary
13 energy-using system" means any permanent structure or system
14 owned and operated by a municipality that requires energy
15 consumption for its function.

16 Subp. 10. Payback. "Payback" means the simple payback
17 that is equal to the design, acquisition, and installation costs
18 of a conservation measure divided by the estimated first year
19 energy cost savings attributable to that measure.

20 7380.0710 MUNICIPAL ENERGY LOAN ELIGIBILITY CRITERIA.

21 Subpart 1. In general. The authority shall approve energy
22 loans to municipalities to cover the costs of capital
23 expenditures that are conservation measures that have paybacks
24 of ten years or less as specified in a maxi-audit in compliance
25 with Minnesota Statutes, section 116J.37, and parts 7380.0710 to
26 7380.0740.

27 Loans are available to municipalities that have not
28 previously received or been offered loan funds under this
29 program, for new projects in municipalities that previously
30 received or were offered loan funds under this program, and as
31 amendments to loans for conservation measures in progress that
32 are experiencing cost overruns or for previously unidentified
33 but related work necessary to successful implementation of a
34 previously approved conservation measure if the payback remains
35 at ten years or less. With the exception of amendments as

1 described above, the authority shall not approve more than one
2 loan for the same conservation measure in the same building or
3 stationary energy-using systems.

4 Subp. 2. Prior approval required. Except for a loan
5 amendment under subpart 1, projects that have been contracted
6 for or begun before the authority notifies the municipality that
7 the loan application is approved are not eligible. This prior
8 approval requirement applies to the acquisition and installation
9 costs as identified in the maxi-audit.

10 Subp. 3. New construction. Only projects for existing
11 buildings and energy-using systems are eligible. New
12 construction is not eligible except if it is a necessary part of
13 successful implementation of a conservation measure for an
14 existing building or energy-using system.

15 7380.0720 MAXIMUM LOAN AMOUNT.

16 To assure equitable statewide distribution of loan funds,
17 given that loans will be issued on a first-come, first-served
18 basis, the authority shall establish maximum loan amounts for
19 each type of municipality.

20 A. School districts with fewer than 900 students and
21 four classroom buildings or less are eligible for up to \$250,000
22 per district. School districts with greater than 5,000 students
23 or more than ten classroom buildings are eligible for up to
24 \$1,000,000 per district. All other districts are eligible for
25 up to \$500,000 per district. Cooperative vocational centers and
26 any other eligible educational facilities that are not included
27 in school districts are limited to \$250,000.

28 B. Cities of the first class, as defined in Minnesota
29 Statutes, section 410.01, are eligible for up to \$1,000,000 per
30 city. Cities of the second class, as defined in Minnesota
31 Statutes, section 410.01, are eligible for up to \$500,000 per
32 city. All other cities are eligible for up to \$250,000 per city.

33 C. Counties containing a city of the first class, as
34 defined in Minnesota Statutes, section 410.01, are eligible for
35 up to \$1,000,000 per county. All other counties are eligible

1 for up to \$500,000 per county.

2 D. Towns are eligible for up to \$100,000 per town.

3 7380.0730 MUNICIPAL ENERGY LOAN APPLICATION CONTENTS AND
4 PROCEDURES.

5 Subpart 1. In general. A municipality shall submit an
6 application to the authority on a form provided by the
7 authority. An application must be completed, dated, and signed
8 in ink by a duly authorized official of the applicant and must
9 include the authorized official's title.

10 Subp. 2. Contents. The application must contain:

11 A. the municipality name or school district or
12 vocational center number;

13 B. the complete mailing address of the applicant,
14 including the county;

15 C. the contact person's name, title, and telephone
16 number;

17 D. the federal employer identification number;

18 E. a list of buildings and stationary energy-using
19 systems included in the request and the dollar amount requested
20 per building or system;

21 F. the name and address of each building or system,
22 including the county;

23 G. the total floor area in square feet for each
24 building;

25 H. the original construction date for each system,
26 building, and building additions;

27 I. the state legislative district;

28 J. a summary description of each conservation
29 measure, its maxi-audit item number, its estimated cost, the
30 loan amount requested, its estimated annual energy-cost savings,
31 its estimated annual fuel and electric savings, its estimated
32 payback, and the estimated dates the conservation measure will
33 be started and completed; and

34 K. a certification to assure proper and efficient
35 operation of the building or system once the project is

1 completed.

2 An application must also contain an irrevocable resolution
3 of the governing body of the municipality to annually levy or
4 otherwise collect sufficient funds to guarantee loan repayment
5 and a maxi-audit for each building and energy-using system
6 involved in the project. One copy of the application is
7 required.

8 7380.0740 MUNICIPAL ENERGY LOAN APPLICATION REVIEW.

9 Subpart 1. **Administrative review.** The authority shall
10 examine the loan application to verify that the applicant is
11 eligible, that the required forms and reports are included and
12 are correctly completed, that an irrevocable resolution of the
13 governing body of the municipality is included, and that the
14 estimated start and end dates of the conservation measures
15 included in the project are reasonable.

16 Subp. 2. **Technical review.** The authority shall forward a
17 copy of the application to the commissioner of public service.
18 The commissioner of public service shall prepare and submit to
19 the authority a technical evaluation of the application. The
20 technical evaluation must be on the forms provided by the
21 authority.

22 Conservation measures with paybacks of ten years or less
23 that are identified and described in maxi-audits are eligible.
24 The minimum requirements for maxi-audits are as provided in Code
25 of Federal Regulations, title 10, section 455.42 (May 21,
26 1981). Loans may not be awarded to buildings or systems with a
27 remaining useful life less than or equal to the payback of the
28 conservation measures proposed. Loans may not be awarded for a
29 conservation measure if the payback of the conservation measure
30 proposed is greater than or equal to the useful life of the
31 measure.

32 The commissioner of public service shall examine a
33 maxi-audit that accompanies a loan application to verify that
34 conservation measures requested are analyzed with adequate
35 details of the existing conditions and proposed changes using

1 appropriate calculation procedures, and that the proposed
2 measures are eligible.

3 Subp. 3. **Review results.** The commissioner of public
4 service shall forward the technical evaluation of an application
5 to the authority. The authority shall accept, reject, or modify
6 a loan application request as necessary based on the
7 administrative and the technical review. The authority shall
8 give to an applicant whose application is rejected a notice of
9 problems encountered in the review process and options available
10 to correct them for resubmission of the application.

11 7380.0750 LOAN APPROVAL; DISBURSEMENT OF FUNDS.

12 Subpart 1. **Authority approval; priority.** The authority
13 shall approve loans that comply with Minnesota Statutes, section
14 116J.37, and with parts 7380.0710 to 7380.0740, on a first-come,
15 first-served basis based on the order in which eligible and
16 complete loan applications are received by the authority. If
17 eligible and complete loan applications received at the same
18 time cannot all be funded due to a lack of available funds, the
19 authority shall first approve loans to school districts. If
20 funds are not available for all eligible applications from
21 school districts, the authority shall approve loans so that each
22 affected district receives an equal percentage of the eligible
23 loan amount request. If the available funds are adequate to
24 fully fund all eligible applications from school districts, but
25 not all other eligible applications, the authority shall approve
26 loans to school districts for the full eligible loan amount
27 request and approve loans to other eligible municipalities so
28 that each affected applicant receives an equal percentage of the
29 eligible loan amount request.

30 Subp. 2. **Execution of loan contract and disbursement of**
31 **funds.** Upon approval of a municipal energy loan, the authority
32 shall send a loan contract to the applicant. The authority
33 shall attach to a loan contract a loan repayment schedule based
34 on the approved loan application according to Minnesota
35 Statutes, section 116J.37, subdivision 4, paragraph (b). The

1 applicant shall have a duly authorized official execute and
2 return the loan contract to the authority for execution of the
3 loan contract by state officials and for disbursement of the
4 loan funds. Loan funds must be disbursed upon execution of and
5 according to the terms of the loan contract.

6 7380.0760 REPORTS AND MONITORING FOR MUNICIPAL ENERGY LOAN
7 PROGRAM.

8 Subpart 1. In general. A municipality that receives a
9 loan from the authority shall submit the reports listed in
10 subparts 2 to 5.

11 Subp. 2. Annual project status report. The municipality
12 shall submit to the authority, on forms provided by the
13 authority, an annual project status report covering the period
14 from July 1 to June 30. This report is due each July 31 until
15 the project is completed. The project status report must
16 indicate the progress of the implementation of the measures
17 funded, problems encountered, the effect of the problems on the
18 project, and the corrective action taken. If at any time the
19 municipality fails to substantially comply with the start and
20 end dates given in the loan application as approved, and if the
21 municipality cannot reasonably justify to the authority its lack
22 of progress, the entire loan amount may become due and payable
23 at the discretion of the authority.

24 Subp. 3. Quarterly financial report. A municipality shall
25 submit to the authority, on forms provided by the authority, a
26 quarterly financial status report that indicates expenditures of
27 loan funds through the last date of each quarter. This report
28 is due within 30 days of the end of each calendar quarter until
29 the project is completed.

30 Subp. 4. Final report. Within 60 days of the completion
31 of the project, the municipality shall submit to the authority,
32 on forms provided by the authority, a final project status
33 report and a financial status report that gives actual
34 expenditures of the measures implemented.

35 Subp. 5. Annual energy report. The municipality shall

1 submit to the commissioner of public service, on forms provided
2 by the authority, an annual energy use and energy expenditure
3 report by fuel type. The report is due each October 31 for the
4 duration of the loan contract period, or for a minimum of three
5 years after project completion if the loan is paid in less than
6 three years, unless the authority cancels this requirement
7 before the end of the loan contract period.

8 7380.0770 MUNICIPAL ENERGY LOAN PROGRAM EVALUATION.

9 The authority shall evaluate the program's effectiveness in
10 reducing the energy costs of participating municipalities. The
11 municipalities shall provide the authority with information that
12 is reasonably needed to conduct an evaluation of the loan
13 program, including the reports required in part 8300.2507.

14 7380.0780 CLOSURE OF MUNICIPAL ENERGY LOAN ACCOUNT.

15 If the authority determines that the project that was
16 approved for loan funds has been implemented, it shall authorize
17 closure of the loan account upon full repayment.

18

19 REPEALER. Minnesota Rules, parts 8300.2500 to 8300.2509
20 and 8300.4500 to 8300.5100, are repealed.