

CHAPTER 7690
DEPARTMENT OF COMMERCE
ENERGY CONSERVATION IMPROVEMENT

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7690.0100 DEFINITIONS.

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

Subp. 1a. **Commissioner.** “Commissioner” means the appointed commissioner of the Minnesota Department of Commerce.

Subp. 2. **Department.** “Department” means the Department of Commerce.

Subp. 3. **Low income.** “Low income” has the meaning given it in Minnesota Statutes, section 216B.241, subdivision 1b.

Statutory Authority: *MS s 216B.241*

History: *14 SR 2193; 22 SR 1402; L 2001 1Sp4 art 6 s 1*

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 to provide for the participation of other interested persons in developing conservation improvement programs.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.0300 SCOPE.

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

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.0400 [Repealed, 22 SR 1402]

7690.0500 BIENNIAL CONSERVATION IMPROVEMENT PROGRAM FILING.

Subpart 1. **Time limits.** No later than July 1 of each even-numbered year beginning in 1998, a public natural gas utility required by Minnesota Statutes, section 216B.241, to invest in a conservation improvement program shall file with the department a biennial conservation improvement program. No later than August 1, 1997, 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 biennial conservation improvement program filing must include:

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

B. for each individual project, a completed project information sheet that will be provided by the department. The project information sheet can be used to provide the information required in items E and F;

C. for each project making up the program, a description of the expected effect of each project on peak demand and energy consumption with supporting assumptions, including a list of each conservation technology or process to be promoted and the energy- and demand-savings assumptions associated with each identified technology;

D. for each electric utility that must submit an integrated resource plan to the Public Utilities Commission, an explanation of how its overall conservation improvement program enables the utility to meet the long-term demand-side management goals established in its most recent integrated resource plan;

E. an estimate of the expected cost effectiveness of each project to the utility, to the project's participants, to the utility's ratepayers, and to society;

F. for each project targeted at residential consumers, an estimate of the anticipated percentage of use of each project among:

(1) low-income participants; and

(2) renters;

G. a detailed budget for each project for the next two years;

H. a description of the utility's ratemaking treatment and cost-recovery method;

I. an estimate of participation in each project;

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

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

L. for each renewable energy project, an estimate of the net energy and capacity to be produced by each project and the projected reliability of the technology that would be used; and

M. 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. The department staff's findings must be issued no later than ten days after the plan is filed with the department. 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.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.0550 PROGRAM STATUS REPORT.

By April 1 of each year, an electric utility shall file with the department, and by May 1 of each year, a natural gas utility shall file with the department, a status report on each project operated during the previous year. The status report must include the following information for each project:

A. the approved participation goal, and the actual participants served during the previous calendar year;

B. the estimate of (1) low-income and (2) renter residential customer participation levels as anticipated in the approved biennial conservation improvement program filing, and the utility's estimates of low-income participation level and renter participation level actually achieved, if applicable;

C. the approved budget, and the actual expenditures;

D. the approved energy- and demand-savings goals, and the actual energy and demand savings achieved for the previous year; and

E. the cost effectiveness of the project based on the results of previous years and the actual expenditures, as calculated from the utility, participant, ratepayer, and societal perspectives.

An electric or gas utility may submit its financial incentive filing to meet the requirements of the status report if the financial incentive filing includes all of the information specified in items A to E.

Statutory Authority: *MS s 216B.241*

History: *22 SR 1402*

7690.0600 [Repealed, 22 SR 1402]

7690.0700 EXISTING PROGRAM PROJECTS; FILING.

The filing requirements for renewing existing conservation improvement program projects are the same as for newly proposed projects. However, if the department has information already on file, the utility or interested person renewing a project may submit a project update sheet that references information the department already has on file. The project update sheet must include the project information sheet described in part 7690.0500, subpart 2, and must contain the following information:

A. the date and docket number of when the project was most recently approved by the department with complete information pursuant to part 7690.0500, subpart 2;

B. an explanation of why the project should be continued, including support from the project's most recent status report;

C. a list and explanation of all project modifications since the commissioner's most recent approval; and

D. an estimate of the cost per kilowatt (\$/kW) and cost per kilowatt hour (\$/kWh) for electric utility projects, and the cost per 1,000 cubic feet (\$/Mcf) for gas utility projects.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.0800 SERVICE LISTS AND NOTICE.

Subpart 1. **Service lists.** The department shall establish service lists for specific utilities to use in providing public notice of conservation improvement 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 maintain an updated service list.

Subp. 2. **Notice of filing.** At the time it files its conservation improvement program, program change proposal, or alternative proposal with the department, the public utility or interested party 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 or interested party's filing 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 or interested party will make a copy of the proposed program available to interested persons upon request.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.0900 COMMENTS; BIENNIAL CONSERVATION IMPROVEMENT.

The department shall allow 30 days for written comments on the public utility's biennial conservation improvement program. The time period allowed for written comments begins on the date that the department's finding of completion under part 7690.0500, subpart 3, is issued. The department shall allow 15 days from the filing of the comments for written reply comments. These comments and reply comments must be filed with the Public Utilities Commission, the department, and the utility to which they are addressed. The persons submitting the comments or responses must provide them to any person, upon request.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; L 1987 c 312 art 1; 14 SR 2193; 22 SR 1402*

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, or evaluation plan. The proposed decision must be issued no later than 30 days after the reply comments described in part 7690.0900 are due.

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 other persons the department believes are interested in the public utility's conservation improvement program.

Subp. 3. **Comment period.** The department shall allow 15 days from the date the proposed decision is issued for written comments on the proposed decision.

Statutory Authority: *MS s 216B.241*

History: *14 SR 2193; 22 SR 1402*

7690.1100 RESPONSES; WRITTEN RECORD.

The department may 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 the parties on the service list and become part of the record upon which the department will decide the case.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.1200 BIENNIAL PROGRAM APPROVAL, DISAPPROVAL, MODIFICATION.

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

A. the program's compliance with statutory spending requirements, as specified in Minnesota Statutes, section 216B.241, subdivision 1a, with each utility calculating the required spending level by using the gross operating revenues in the year preceding the calendar year in which the filing is submitted and by defining gross operating revenues as:

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(1) for electric utilities: the total Minnesota jurisdictional assessable operating revenue as reported in each electric utility's Minnesota jurisdictional report on page E-30, Sales and Degree Days Data, Total Sales to Ultimate Consumer, line (B) Total Revenue Corresponding to Sales; or

(2) for gas utilities: the total Minnesota jurisdictional assessable operating revenue as reported in each gas utility's Minnesota jurisdictional report on pages P-38 and P-39, Sales and Revenues (actual data), line (B) Total Revenues Corresponding to Sales Volume;

B. the impact of the program or modified program on:

(1) peak demand; and

(2) energy consumption;

C. the cost effectiveness of the program or modified program, as calculated from the utility, ratepayer, participant, and societal perspectives;

D. the total number of low-income and rental customers expected to be affected by the program or modified program;

E. the total number of customers within a customer class expected to participate in the program or modified program, expressed as a percentage of the total number of customers within that customer class in a utility's service area;

F. the customer classes expected to participate in the program or modified program; and

G. other facts and circumstances concerning a particular utility that are relevant to determining the overall importance of the investment in energy conservation improvements.

Subp. 2. **Approval.** On determining that the proposed program or modified program will result in reasonable investments in and expenditures for energy conservation improvements, the commissioner 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 reasonable investments in and expenditures for energy conservation improvements, the commissioner shall disapprove the proposed program or modified program and require a program that will result in reasonable investments in and expenditures for energy conservation improvements.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *13 SR 2282; 14 SR 2193; 22 SR 1402*

7690.1300 DECISION.

When the commissioner approves, disapproves, or modifies a program, project, or evaluation plan, the commissioner shall set forth the reasons in a written decision within 30 days from the date comments are due on the department staff's proposed decision specified under part 7690.1000. The commissioner's decision must include explicit participation, and energy-savings and demand-savings goals for each utility as applicable. If the commissioner'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.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.1400 PROPOSED PROJECT CHANGES; SUPPLEMENTAL PROCEDURES.

Upon the commissioner's own motion or upon the motion of a utility or other person, the commissioner may add a new project or modify, expand, or terminate an existing conservation improvement program before the program's expiration date. The moving party must give notice of the motion to the parties on the service list for the affected utility's conservation improvement program. A change may be required 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. For a new project modification or an existing project termination, whether by a utility or an interested party, the filing requirements and the review and decision process are specified in part 7690.1430. For other program changes, the department shall allow 15 days for written comments on the proposal. The time period allowed for written comments begins on the date that the proposed change is filed with the department. The department shall allow ten days from the filing of the comments for written reply comments. These proposed program changes, comments, and responses must be filed with the Public Utilities Commission, the department, and interested parties on the utility's conservation improvement service list. The commissioner shall issue a written decision, including the commissioner's reasons for the decision, within 35 days from the date reply comments are due.

Statutory Authority: *MS s 216B.08; 216B.241*

History: *10 SR 1266; 14 SR 2193; 22 SR 1402*

7690.1430 NEW PROJECT PROPOSALS; ENDING EXISTING PROJECTS.

Interested persons, including political subdivisions and nonprofit and community organizations, may submit alternative projects for inclusion in a utility's conservation improvement program at any time. In addition, a utility may submit a proposal for a new project at times other than when the utility is required to submit its biennial conservation improvement program. Utilities or interested persons also may submit proposals to terminate an existing project. Proposals for alternative projects must follow the requirements of part 7690.0500, except for part 7690.0500, subpart 2, item D. Utility proposals for new projects must follow all the requirements of part 7690.0500. The party submitting the alternative or new proposal shall provide a copy of the alternative or new utility project proposal to any person, upon request. Department staff shall conduct a completeness review of alternative or new utility project proposals, or existing project termination proposals, in the time frame and manner specified in part 7690.0500, subpart 3. The department shall allow 15 days for written comments on the alternative or new utility project or existing project termination proposal. The time period allowed for written comments begins on the date that the department's finding of completion under part 7690.0500, subpart 3, is issued. The department shall allow 15 days from the filing of the comments for written reply comments. These alternative or new utility project or existing project termination proposals, comments, and reply comments must be provided to the Public Utilities Commission, the department, the utility to which they are addressed, and other parties on the affected utility's conservation improvement program service list.

The department staff's proposed decision must be issued no later than ten days after the reply comments described in this part are due. Written comments on the proposed decision are due 15 days from the date the proposed decision is issued. The commissioner shall issue a written decision, including the commissioner's reasons for the decision, within 30 days from the date comments are due on the department staff's proposed decision.

Statutory Authority: *MS s 216B.241*

History: *22 SR 1402*

7690.1440 TIMELINES FOR DIFFERENT PROGRAM FILINGS.

Subpart 1. **Generally.** Parts 7690.0500 to 7690.1430 specify the process for the submission, review and approval, modification, or disapproval of various conservation improvement program filings. To both facilitate understanding and to serve as a reference guide, the timelines for completing the review and approval process of the various filings is summarized in subparts 2 to 4. See parts 7690.0500 to 7690.1430 for specific review and approval process requirements.

Subp. 2. **Biennial program filings.** The timelines for biennial conservation improvement program (CIP) filings are summarized in this subpart. See parts 7690.0500 to 7690.1430 for specific review and approval process requirements.

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ACTION	DUE DATE
Filing of biennial plan	August 1, odd-numbered years for electric utilities July 1, even-numbered years for gas utilities
Notice of completion	10 calendar days after biennial CIP filing is filed with department
Comments on filing	30 calendar days after notice of completion is issued
Reply comments	15 calendar days after comments are filed with department
Proposed decision	30 calendar days after reply comments are due
Written comments	15 calendar days after proposed decision is issued
Commissioner decision	30 calendar days after written comments on proposed decision are due

Subp. 3. **New project proposals; terminating existing projects.** The timelines for a new project proposal and for terminating an existing project are summarized in this subpart. See parts 7690.0500 to 7690.1430 for specific review and approval process requirements.

ACTION	DUE DATE
Filing of proposal	Anytime
Notice of completion	10 calendar days after proposal is filed with department
Written comments	15 calendar days after notice of completion is issued
Reply comments	15 calendar days after written comments are filed with department
Proposed decision	10 calendar days after reply comments are due
Written comments	15 calendar days after proposed decision is issued
Commissioner decision	30 calendar days after comments on proposed decision are due

Subp. 4. **Modifying or expanding existing project.** The timelines for modifying or expanding an existing project are summarized in this subpart. See parts 7690.0500 to 7690.1430 for specific review and approval process requirements.

ACTION	DUE DATE
Filing of proposal	Anytime
Written comments	15 calendar days after proposal is filed with department
Reply comments	10 calendar days after written comments are filed with department
Commissioner decision	35 days after reply comments are due

Statutory Authority: *MS s 216B.241*

History: 22 SR 1402

7690.1450 TIMELINE MODIFICATIONS.

The commissioner shall modify the filing dates and other due dates in this chapter if the commissioner finds that the person requesting the change has shown good cause for the modification.

Statutory Authority: *MS s 216B.241*

History: 14 SR 2193; 22 SR 1402

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, and any rules adopted under that statute by the Public Utilities Commission.

Statutory Authority: *MS s 216B.241*

History: 14 SR 2193; 22 SR 1402

7690.1600 RULE VARIANCES.

Subpart 1. **When granted.** The commissioner shall grant a variance to parts 7690.0100 to 7690.1500 when the commissioner determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subp. 2. **Conditions.** A variance may be granted contingent upon compliance with conditions imposed by the commissioner.

Subp. 3. **Duration.** Unless the commissioner orders otherwise, a variance automatically expires in one year. It may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving the variance. A notice of intent to revoke a variance will be sent to the party holding the variance and others on the service list. A party will have ten days to respond.

Subp. 4. **Notice and timelines.** A party requesting a rules variance must give notice of the motion to the parties on the service list for the affected utility's conservation improvement program. The request must state the variance requested and how the request meets the three requirements outlined in subpart 1. The timelines for variance requests are the same as the timelines for proposed changes to an existing project, as outlined in part 7690.1400 and summarized in part 7690.1440, subpart 4.

Statutory Authority: *MS s 216B.241*

History: 22 SR 1402