

CHAPTER 7843
PUBLIC UTILITIES COMMISSION
UTILITY RESOURCE PLANNING PROCESS

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7843.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7843.0100 to 7843.0600 have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Construction.** "Construction" means significant physical alteration of a site to install or enlarge a major utility facility, but does not include activities incident to preliminary engineering or environmental studies.

Subp. 4. **Contested case proceeding.** "Contested case proceeding" means a resource plan proceeding that has been referred to the Office of Administrative Hearings for proceedings under Minnesota Statutes, sections 14.57 to 14.62.

Subp. 5. **Electric utility.** "Electric utility" means a person, corporation, or other legal entity engaged in generating, transmitting, and selling at retail electricity in Minnesota and whose retail rates are regulated by the commission.

Subp. 6. **Forecast period.** "Forecast period" means the first 15 calendar years following the year the proposed resource plan is filed.

Subp. 7. **Major utility facility.** "Major utility facility" has the meaning given the term in Minnesota Statutes, section 216B.24, subdivision 1.

Subp. 8. **Party.** "Party" means the utility that submitted a specific proposed resource plan or an entity permitted to intervene in the proceeding to evaluate that plan.

Subp. 9. **Resource plan.** "Resource plan" means a set of resource options that a utility could use to meet the service needs of its customers over the forecast period, including an explanation of the supply and demand circumstances under which, and the extent to which, each resource option would be used to meet those service needs. These resource options include using, modifying, and constructing utility plant and equipment; buying power generated by other entities; controlling customer loads; and implementing customer energy conservation.

Subp. 10. **Socioeconomic effects.** "Socioeconomic effects" means changes in the social and economic environments, including, for example, job creation, effects on local economies, geographical concentration of persons and structures, concentration of investment capital, and the ability of low-income and rental households to receive conservation services.

Subp. 11. **Utility.** "Utility" means electric utility.

Statutory Authority: *MS s 216B.03; 216B.08; 216B.09; 216B.13; 216B.16; 216B.24; 216B.33; 216C.05*

History: *15 SR 336*

7843.0200 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of parts 7843.0100 to 7843.0600 is to prescribe the contents of and procedures for regulatory review of resource plan filings.

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Subp. 2. **Scope.** Parts 7843.0100 to 7843.0600 apply to an electric utility with more than 1,000 retail customers in Minnesota. If the electric utility is part of an entity that also sells or transports gas, parts 7843.0100 to 7843.0600 apply only to the entity's electric operations.

Statutory Authority: *MS s 216B.03; 216B.08; 216B.09; 216B.13; 216B.16; 216B.24; 216B.33; 216C.05*

History: *15 SR 336*

7843.0300 FILING REQUIREMENTS AND PROCEDURES.

Subpart 1. **Procedural rules.** Except as otherwise shown in parts 7843.0100 to 7843.0600, the procedures prescribed by parts 7830.0100 to 7830.4400 apply to resource plan filings.

Subp. 2. **Filing date.** Beginning July 1, 1991, and July 1, 1992, and every two years afterward, an electric utility shall submit a proposed resource plan covering the forecast period. The commission shall designate by order those utilities who shall make their initial filings in 1991 and those who shall make their initial filings in 1992. In deciding between the years for a given utility, the commission shall consider the size of the utility and its likely need for additional resources, including large energy facilities, defined in Minnesota Statutes, section 216B.2421, subdivision 2, and major utility facilities.

Subp. 3. **Completeness of filing.** The resource plan filing must contain the information required by part 7843.0400, unless an exemption has been granted under subpart 4. If the commission determines before September 1 of the filing year that the filed information is incomplete or unclear, it may order the utility to augment or clarify the filing.

This subpart does not limit the right of process participants to submit information requests under subpart 8.

Subp. 4. **Exemptions from data requirements.** Before submitting a proposed resource plan, the utility may be exempted from a data requirement of parts 7843.0100 to 7843.0600 if the utility (1) submits a written request for an exemption from specified rules and (2) shows that the data requirement is unnecessary or may be satisfied by submitting another document. A request for exemption must be filed at least 90 days before the resource plan is due. Interested persons or parties may submit comments on the request within 30 days of the date the request is filed. As soon as practicable, the commission shall provide a written response to the request and include the reasons for its decision.

Subp. 5. **Copies of filings.** A covered utility shall submit 15 copies of its resource plan filing to the commission. The commission may request up to ten additional copies of combined and common filings. A utility shall also provide copies to the Minnesota Department of Commerce, the Residential and Small Business Utilities Division of the Office of the Attorney General, the Minnesota Environmental Quality Board and member agencies, and other interested persons or parties who request copies. A utility shall maintain a distribution list. The list must include the names and addresses of the persons or organizations receiving copies and the number of copies provided. A utility is not required to distribute more than 100 copies. However, a utility shall honor reasonable requests for copies of the nontechnical summary identified in part 7843.0400, subpart 4.

Subp. 6. **Changes to filings.** After the resource plan filing is submitted, each page of a change or correction to a previously filed page must be marked with the word "REVISED" and with the date the revision was made. The utility shall send to persons receiving copies of the resource plan filing a like number of copies of changed or corrected pages.

Subp. 7. **Intervention.** Interested persons may become, or may petition to become, parties under parts 7830.0100 to 7830.4400. The Minnesota Department of Commerce, the Residential and Small Business Utilities Division of the Office of the Attorney General, and the Minnesota Environmental Quality Board may petition as of right in a resource plan proceeding.

"Petition as of right" means a petition for intervention that confers party status upon the petitioner without formal approval from either the commission or an administrative law judge.

The deadline for intervention is November 1 of the year the utility's proposed resource plan is filed. The commission may allow late intervention, upon good cause.

Subp. 8. Information requests. The parties shall comply with reasonable requests for information by the commission, other parties, and other interested persons. A copy of an information request must be provided to the commission and to known parties. Parties shall reply to information requests within ten days of receipt, unless this would place an extreme hardship upon the replying party. At least one copy of information provided to a party or other interested person must be filed with the commission. The replying party must also provide a copy of the information to any other party or interested person upon request. Disputes regarding information requests may be taken to the commission or, if a contested case proceeding has been ordered, to the assigned administrative law judge.

Subp. 9. Uncontested proceeding. The commission shall conduct the resource planning process as an uncontested proceeding, unless a contested case proceeding is required by statute or constitutional right.

"Uncontested proceeding" means a proceeding before the commission that has not been referred to the Office of Administrative Hearings for proceedings under Minnesota Statutes, sections 14.57 to 14.62.

Subp. 10. Written comments. Parties and other interested persons have until November 1 of the filing year to review and comment upon the resource plan filings. The comments may include proposed alternative resource plans described in subpart 11.

Subp. 11. Proposed alternative resource plans. Parties and other interested persons may express support for the proposed resource plan filed by a utility. Alternatively, parties and other interested persons may file proposed resource plans different from the plan proposed by the utility. When a plan differs from that submitted by the utility, the plan must be accompanied by a narrative and quantitative discussion of why the proposed changes would be in the public interest, considering the factors listed in part 7843.0500, subpart 3.

Subp. 12. Response comment period. Parties and other interested persons may file responses to the comments and to the proposed alternative resource plans of other parties or interested persons from November 1 to December 31 of the filing year.

Subp. 13. Official service list. The commission shall maintain an official service list for a resource plan proceeding. The preparer of a filing shall serve copies on persons on the official service list at the time of service, except as provided in subpart 8.

Statutory Authority: *MS s 216B.03; 216B.08; 216B.09; 216B.13; 216B.16; 216B.24; 216B.33; 216C.05*

History: *15 SR 336; L 2001 1Sp4 art 6 s 1*

7843.0400 CONTENTS OF RESOURCE PLAN FILINGS.

Subpart 1. Advance forecasts. A utility shall include in the filing identified in subpart 2 its most recent annual submission to the Minnesota Department of Commerce and the Minnesota Environmental Quality Board under Minnesota Statutes, sections 216B.2422, subdivision 2a, and 216C.17, and parts 7610.0100 to 7610.0600.

Subp. 2. Resource plan. A utility shall file a proposed plan for meeting the service needs of its customers over the forecast period. The plan must show the resource options the utility believes it might use to meet those needs. The plan must also specify how the implementation and use of those resource options would vary with changes in supply and demand circumstances. The utility is only required to identify a resource option generically, unless a commitment to a specific resource exists at the time of the filing. The utility shall also discuss plans to reduce existing resources through sales, leases, deratings, or retirements.

"Derating" means a temporary or permanent reduction in the expected power output of a generating facility.

Subp. 3. **Supporting information.** A utility shall include in its resource plan filing information supporting selection of the proposed resource plan.

A. When a utility's existing resources are inadequate to meet the projected level of service needs, the supporting information must contain a complete list of resource options considered for addition to the existing resources. At a minimum, the list must include new generating facilities of various types and sizes and with various fuel types, cogeneration, new transmission facilities of various types and sizes, upgrading of existing generation and transmission equipment, life extensions of existing generation and transmission equipment, load-control equipment, utility-sponsored conservation programs, purchases from nonutilities, and purchases from other utilities. The utility may seek additional input from the commission regarding the resource options to be included in the list. For a resource option that could meet a significant part of the need identified by the forecast, the supporting information must include a general evaluation of the option, including its availability, reliability, cost, socioeconomic effects, and environmental effects.

B. The supporting information must include descriptions of the overall process and of the analytical techniques used by the utility to create its proposed resource plan from the available options.

C. The supporting information must include an action plan, a description of the activities the utility intends to undertake to develop or obtain noncurrent resources identified in its proposed plan. The action plan must cover a five-year period beginning with the filing date. The action plan must include a schedule of key activities, including construction and regulatory filings.

D. For the proposed resource plan as a whole, the supporting information must include a narrative and quantitative discussion of why the plan would be in the public interest, considering the factors listed in part 7843.0500, subpart 3.

Subp. 4. **Nontechnical summary.** A utility shall include in its resource plan filing a nontechnical summary, not exceeding 25 pages in length and describing the utility's resource needs, the resource plan created by the utility to meet those needs, the process and analytical techniques used to create the plan, activities required over the next five years to implement the plan, and the likely effect of plan implementation on electric rates and bills.

Subp. 5. **Combined and common filings.** Utilities may combine their individual filings into a single larger filing, as long as the action does not lead to a loss of information. Information common to two or more of the utilities need only be submitted once, as long as the filing clearly shows the utilities to which the information applies.

Statutory Authority: *MS s 216B.03; 216B.08; 216B.09; 216B.13; 216B.16; 216B.24; 216B.33; 216C.05*

History: *15 SR 336; L 2001 1Sp4 art 6 s 1*

7843.0500 COMMISSION REVIEW OF RESOURCE PLANS.

Subpart 1. **Decision.** Based upon the record, which is the information filed with the commission in the resource plan proceeding of a utility, including responses to information requests, the commission shall issue a decision consisting of findings of fact and conclusions on the utility's proposed resource plan and the alternative resource plans. If the commission determines there is insufficient information upon which to issue findings and conclusions, it may delay issuing its decision to permit production of the desired type and level of information.

Subp. 2. **Preferred plan.** If the commission concludes that a set of resource options would be optimal, considering the desirable attributes listed in subpart 3, it may identify that set of resource options as a preferred resource plan. A preferred resource plan need not have been specifically proposed or advocated by the utility, an intervening party, or other interested person.

Subp. 3. **Factors to consider.** In issuing its findings of fact and conclusions, the commission shall consider the characteristics of the available resource options and of the proposed plan as a whole. Resource options and resource plans must be evaluated on their ability to:

- A. maintain or improve the adequacy and reliability of utility service;
- B. keep the customers' bills and the utility's rates as low as practicable, given regulatory and other constraints;
- C. minimize adverse socioeconomic effects and adverse effects upon the environment;
- D. enhance the utility's ability to respond to changes in the financial, social, and technological factors affecting its operations; and
- E. limit the risk of adverse effects on the utility and its customers from financial, social, and technological factors that the utility cannot control.

Subp. 4. **Issues requiring further consideration.** In its decision, the commission may direct the utility to provide in its next resource plan filing a discussion of specified issues. The issues may include those not totally resolved in the current proceeding and those for which the state of knowledge is changing substantially between resource plan filings.

Subp. 5. **Changed circumstances affecting resource plans.** The utility shall inform the commission and other parties to the last resource plan proceeding of changed circumstances that may significantly influence the selection of resource plans. Upon receiving notice of changed circumstances, the commission shall consider whether additional administrative proceedings are necessary before the utility's next regularly scheduled resource plan proceeding.

Subp. 6. **Authority of other agencies.** Issuance of a resource plan decision by the commission does not limit the statutory authority of other agencies in their regulatory responsibilities.

Statutory Authority: *MS s 216B.03; 216B.08; 216B.09; 216B.13; 216B.16; 216B.24; 216B.33; 216C.05*

History: *15 SR 336*

7843.0600 RELATIONSHIP TO OTHER COMMISSION PROCESSES.

Subpart 1. **Other proceedings begun before plan proceeding completed.** The commission shall not use the resource planning process as a reason to delay unduly the completion of a proceeding begun under other law.

Subp. 2. **Resource plan findings of fact and conclusions.** The findings of fact and conclusions from the commission's decision in a resource plan proceeding may be officially noticed or introduced into evidence in related commission proceedings, including, for example, rate reviews, conservation improvement program appeals, depreciation certifications, security issuances, property transfer requests, cogeneration and small power production filings, and certificate of need cases. In those proceedings, the commission's resource plan decision constitutes prima facie evidence of the facts stated in the decision. This subpart does not prevent an interested person from submitting substantial evidence to rebut the findings and conclusions in another proceeding.

Subp. 3. **Construction of major utility facilities.** A utility submitting a proposed resource plan is exempt from the requirements of other rules covering construction of major utility facilities and adopted under Minnesota Statutes, section 216B.24. The exemption does not constitute a waiver of the commission's right to review the prudence of the construction or planning in later resource plan and general rate case proceedings.

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Subp. 4. **Exemption from filing when certificate of need proceeding initiated.** The commission shall grant an exemption from the filing requirements of parts 7843.0100 to 7843.0600 if the conditions in items A to E are met:

A. The utility plans to submit a certificate of need application under Minnesota Statutes, section 216B.243.

B. The utility submits a written request for an exemption that indicates the utility's intent to apply for a certificate of need, the size and type of facility for which certification will be sought, the projected application date, and the utility's willingness to submit all the information required by part 7843.0400, subparts 1 to 4, with the certificate of need application. The request must be filed by April 1 of the filing year and at least 90 days before the projected filing date for the certificate of need application.

C. The utility agrees that, if the exemption is granted and it fails to submit the certificate of need application by the projected application date, it will submit either the certificate of need application or a resource plan filing within 60 days of the projected application date or by July 1, whichever is later.

D. The commission determines that the utility's filings in the anticipated certificate of need proceeding will provide the information needed to issue a decision and select a preferred resource plan under part 7843.0500. In deciding whether the certificate of need filings will provide the necessary information, the commission shall consider factors such as the size and type of facility for which the certificate of need is sought.

E. The commission determines that the exemption will foster administrative efficiency, considering:

(1) the extent and consequences of any delay in the receipt of information that will result from the exemption; and

(2) the likelihood and extent of administrative cost savings that may result from the exemption.

Statutory Authority: *MS s 216B.03; 216B.08; 216B.09; 216B.13; 216B.16; 216B.24; 216B.33; 216C.05*

History: *15 SR 336*