



**REPORT TO THE MINNESOTA LEGISLATURE
ON THE MINIMUM SPENDING REQUIREMENT FOR THE
CONSERVATION IMPROVEMENT PROGRAM**

Pursuant to Minnesota Statute §216B.241, Subd. 1c (h)

January 15, 2010

I. INTRODUCTION

In 2007 the Minnesota State Legislature passed, and Governor Pawlenty signed into law, the Next Generation Energy Act of 2007 (NGEA). The NGEA brought about significant changes to the State's overall energy policies, one of the most significant was the establishment of the State Energy Conservation Policy Goal. The goal, codified under Minn. Stat. §216B.2401, states:

It is the energy policy of the state of Minnesota to achieve annual energy savings equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly through energy conservation improvement programs and rate design, and indirectly through energy codes and appliance standards, programs designed to transform the market or change consumer behavior, energy saving resulting from efficiency improvements to the utility infrastructure and system, and other efforts to promote energy efficiency and energy conservation.

This goal was also an individual utility goal in Minnesota's Energy Conservation Improvement Statute. Minn. Stat. §216B.241, Subd. 1c, (b) states:

Each individual utility and association shall have an annual energy-saving goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather normalized average.

Prior to the passage of the NGEA, evaluation of utility administered conservation improvement programs was based on a utility meeting both statutorily required spending requirements and savings goals set by the commissioner. While the NGEA effectively changed the goal of utility administered conservation improvement programs from a spending based program to a savings based program, the NGEA did not rescind the utility's Minimum Spending Requirements (MSR) that are spelled out in Minn. Stat. §216B.241, Subd. 1a. and 1b.

Specifically, all electric utilities are required to spend 1.5 percent of their gross operating revenues from service provided in the state and all natural gas utilities are required to spend 0.5 percent of their gross operating revenues from service provided in the state. There are two exceptions to these spending requirements: a utility that operates a nuclear-powered electric generating plant within the state is required to spend two percent of its gross operating revenues from service provided in the state, and a municipal gas utility with annual throughput of less than 1 billion cubic feet is not required to spend a prescribed amount of its gross operating revenues on conservation programs.

The Legislature did recognize that both a spending requirement as well as a savings goal may not be necessary. Minn. Stat. §216B.241, Subd. 1c (h) requires the commissioner to report to the Legislature by January 15, 2010 “whether the spending requirements under subdivisions 1a and 1b are necessary to achieve the energy-savings goals established in this subdivision.”

II. HOW DO EXISTING UTILITY PLANS COMPARE TO THE MSR?

Total plan spending as a percentage of Gross Operating Revenues

Minnesota Rules part 7690.1200 requires that a utility calculate its required MSR by using gross operating revenues in the year preceding the calendar year in which it submits its Conservation Improvement Program (CIP) plan. There is also a provision by which certain utility customers may be exempt from CIP charges. Revenue from exempt customers is not included when the utility calculates its gross operating revenues for CIP spending. Natural gas only and combined (electric and natural gas) utilities that filed their CIP plans for 2010 through 2012 in 2009 used 2008 revenues to determine their MSR. Electric only utilities that filed their CIP plans for 2009 through 2010 in 2008 used 2007 revenues to determine their MSR.

Spending in 2010 will be above the respective MSR for all Minnesota investor owned utilities. In many cases, utilities plan to spend more than twice their statutory spending requirement in order to achieve their energy savings goals.

Table 1: Electric Investor Owned Utilities

	Xcel	IPL	MP	OTP
MN Adj 2008 Revenue*	\$2,541,969,428	\$72,549,200	\$231,515,378	\$135,276,000
Approved Spending in 2010	\$75,935,992	\$2,257,040	\$4,624,108	\$4,172,300
Spending in 2010 as % of Adj 2008 Revenue*	3.0%	3.1%	2.0%	3.1%
Required Min Spending as % of 2008 Revenue	2.0%	1.5%	1.5%	1.5%
Budget if Spending at Statutory Minimum	\$50,839,388.6	\$1,088,238.0	\$3,472,730.7	\$2,029,140.0
Approved Spending in Excess of Minimum	\$25,096,603.4	\$1,168,802.0	\$1,151,377.3	\$2,143,160.0
*MP and OTP based on Adj 2007 Revenue due to timing of filing				

Table 2: Gas Investor Owned Utilities

	Xcel	IPL	CPE	PNG	NMU	GP	GMG
MN Adj 2008 Revenue	\$777,835,758	\$20,088,216	\$1,512,206,159	\$271,296,235	\$77,563,142	\$47,389,348	\$5,231,281
Approved Spending in 2010*	\$13,938,457	\$497,245	\$18,247,924	\$5,765,804	\$1,601,158	\$530,620	\$31,775
Spending in 2010 as % of 2008 Revenue	1.8%	2.5%	1.2%	2.1%	2.1%	1.1%	0.6%
Required Min Spending as % of 2008 Revenue	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Budget if Spending at Statutory Minimum	\$3,889,179	\$100,441	\$7,561,031	\$1,356,481	\$387,816	\$236,947	\$26,156
Approved Spending in Excess of Minimum	\$10,049,278	\$396,804	\$10,686,893	\$4,409,323	\$1,213,342	\$293,673	\$5,619
*GMG approved spending is based on OES' Proposed Decision. The company's plan has not been approved and does not currently achieve the savings goal.							

The most recent year for which cooperative and municipal utilities have reported actual spending on CIP programming is 2007. Over half of these utilities spent more than their respective MRS in 2007. For cooperative and municipal utilities that have submitted their planned budgets for 2010, half plan to spend at least 150 percent of their respective MRS.

III. WHAT ARE STATUTORY REFERENCES TO THE MSR?

Understanding that the MSR may not be necessary as a benchmark for spending to reach a utility's savings goal, the MSR is nevertheless interwoven throughout CIP statutes, used as a cap for other program areas.

Utilities are allowed to spend a portion of their minimum CIP spending requirement on program areas that do not fit the strict definition of conservation or energy efficiency. Various provisions support renewable energy (RE) goals, and allow utilities to engage in research and development (R&D) activities or to spend CIP funds on customer-owned distributed generation. Minnesota Statutes §§ 216B.241 and 216B.2411 include the following provisions that are tied to the CIP minimum spending requirement:

Research and Development

Minn. Stat. §216B.241, Subd. 2, (c) states:

Each public utility subject to subdivision 1a may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

Biomethane Purchase

Minn. Stat. §216B.241, Subd. 5b (a) states:

A natural gas utility may include in its conservation plan purchases of biomethane, and may use up to five percent of the total amount to be spent on energy conservation improvements under this section for that purpose.

Renewable and Distributed Energy Generation

Minn. Stat. §216B.2411, Subd. 1 states:

(a) Any municipality or rural electric association providing electric service and subject to section 216B.241 may, and each public utility may, use five percent of the total amount to be spent on energy conservation improvements under section 216B.241, on:

(1) projects in Minnesota to construct an electric generating facility that utilizes eligible renewable energy sources as defined in subdivision 2, such as methane or other combustible gases derived from the processing of plant or animal wastes, biomass fuels such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its primary fuel source;

(2) projects in Minnesota to install a distributed generation facility of ten megawatts or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another similarly clean fuel; or

(3) projects in Minnesota to install a qualifying solar energy project as defined in subdivision 2.

(b) A municipality, rural electric association, or public utility that offers a program to customers to promote installing qualifying solar energy projects may request authority from the commissioner to exceed the five percent limit in paragraph (a), but not to exceed ten percent, to meet customer demand for installation of qualifying solar energy projects.

Load Management by a Municipal or Cooperative Utility

Minn. Stat. §216B.241, Subd. 1b. (e) states:

(e) Load-management activities may be used to meet 50 percent of the conservation investment and spending requirements of this subdivision.

Municipal Refurbishment of a District Heating or Cooling System

Minn. Stat. §216B.241, Subd. 1b. (h) states:

(h) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system until July 1, 2007. From July 1, 2007 to June 30, 2011, expenditures made to refurbish a district heating or cooling system are considered to be load management activities under paragraph (e). This paragraph expires July 1, 2011.

IV. CURRENT USE OF SPENDING CAPS

Among investor owned utilities, use of the spending caps varies. For the 2010 through 2012 triennial period, some utilities have not budgeted for research and development spending or distributed and renewable energy spending while other utilities are budgeting the maximum amount of spending allowed. For the purpose of this analysis, biomethane purchase programs are reported as renewable energy spending. CenterPoint Energy is the only utility that has budgeted funds for biomethane purchases.

Table 3: Electric Investor Owned Utilities 2010 R&D Budgets

	Xcel	IPL	MP	OTP
Min Spend Requirement	\$50,839,389	\$1,088,238	\$3,472,731	\$2,029,140
10% R&D Cap	\$5,083,939	\$108,824	\$347,300	\$202,914
2010 RE Budget	\$903,400	\$0	\$347,300	\$0

Table 4: Natural Gas Investor Owned Utilities 2010 R&D Budgets

	Xcel	IPL	CPE	PNG	NMU	GP	GMG
Min Spend Requirement	\$3,889,179	\$100,441	\$7,561,031	\$1,356,481	\$387,816	\$236,947	\$26,156
10% R&D Cap	\$388,918	\$10,044	\$756,103	\$135,648	\$38,782	\$23,695	\$2,616
2010 RE Budget	\$199,200	\$0	\$100,000	\$0	\$0	\$0	\$0

Table 5: Electric Investor Owned Utilities 2010 Distributed and Renewable Energy Budgets

	Xcel	IPL	MP	OTP
Min Spend Requirement	\$50,839,389	\$1,088,238	\$3,472,731	\$2,029,140
5% RE Cap	\$2,541,969	\$54,412	\$173,637	\$101,457
10% RE Cap (for PV projects)	\$5,083,939	\$108,824	\$347,273	\$202,914
2010 RE Budget	\$5,003,198	\$0	\$173,650	\$0

Table 6: Natural Gas Investor Owned Utilities 2010 Distributed and Renewable Energy Budgets

	Xcel	IPL	CPE	PNG	NMU	GP	GMG
Min Spend Requirement	\$3,889,179	\$100,441	\$7,561,031	\$1,356,481	\$387,816	\$236,947	\$26,156
5% RE Cap	\$194,459	\$5,022	\$378,052	\$67,824	\$19,391	\$11,847	\$1,308
2010 RE Budget	\$0	\$0	\$350,000	\$0	\$0	\$0	\$0

V. IS THE MSR NECESSARY?

As utilities work in the coming years to meet the aggressive goals established under the NGEA, it is clear that all utilities will likely be spending more than the prescribed minimum spending requirement. In the unlikely scenario in which a utility meets its energy savings goal, but fails to meet the minimum spending requirement, it would be difficult to view this situation as less than ideal. If such a scenario were to occur, the OES would be faced with a situation where it may require a utility to spend additional dollars to meet a prescribed spending requirement. However, the revelation of this fact would likely occur after the year in which the spending requirement was missed, and would simply require that the utility spend additional dollars in the following program year. In either case, the utility's pursuit of the energy savings goal will mean that it will pursue as many cost effective energy conservation projects that are available in its service territory. Spending more than the prescribed minimum spending requirement is almost a certainty moving forward.

Currently, the MSR functions to cap spending on renewable energy projects and R&D activities within CIP. While NGEA addressed both conservation and renewable energy goals for Minnesota, provisions to allow spending on renewable energy projects with CIP funds may mean that utilities spend fewer funds on programs that strictly achieve conservation and energy efficiency. However, removing the MSR would call into question a number of issues regarding categories of spending in other areas. How much will a utility be allowed to spend on renewables and distributed generation? How much will a utility be allowed to spend on biomethane purchases? Absent a prescribed minimum spending goal, the spending allowances that have been in place for these programs would need to be quantified by an alternative method if the Legislature intends to continue to allow CIP spending in these areas.

Removing the MSR would also call into question how much a utility will be allowed to spend on its own research and development of energy conservation improvements. Absent a prescribed minimum spending goal, spending allowances on these projects would also need to be quantified by an alternative method.

The simplest course of action is to leave the current spending requirement in place as well as the spending allowances already established for each category. Moving forward, the Legislature could modify the percentage of the MSR that can be spent in each category. Leaving the MSR in place would also allow the Legislature to add additional categories and prescribe spending as a percentage of the MSR.

Alternatively, the Legislature could remove the MSR and instead prescribe a total of the utility CIP spending for each category or prescribe a percentage of utility gross operating revenue that can be spent in each category. One other option to adjust the spending caps would be for the Legislature to change the MSR for electric and/or natural gas utilities.

VI. CONCLUSIONS

Removing the MSR but still prescribing a percentage of spending that can be used from a CIP budget would open the discussion as to how much money slated for energy efficiency and conservation should be used for renewable energy. While that discussion does have merit, OES recommends that the MSR remain unchanged for this plan cycle so that the utilities' attention remains focused on attaining their prescribed energy savings goals.

APPENDIX

List of Utility Abbreviations

CPE - CenterPoint Energy

GMG - Greater Minnesota Gas, Inc.

GP - Great Plains Natural Gas Company

IPL - Alliant Energy / Interstate Power & Light

MP - Minnesota Power

NMU - Minnesota Energy Resources Corporation - Northern Minnesota Gas

OTP - Otter Tail Power

PNG - Minnesota Energy Resources Corporation - People's Natural Gas

Xcel - Xcel Energy