

Meeting Minnesota's Energy Demands Through Mandated Conservation Improvements

by Michael J. Mergens

For nearly three decades, energy conservation has been a centerpiece of Minnesota's energy policy in the form of the Conservation Improvement Program ("CIP"). In fact, in 2007 CIP statutes were amended to expressly provide that "[i]t 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 other programs. But how does CIP accomplish that goal and what can be done to make the overall program better?

In its simple terms, CIP is a statutory mandate that electric and natural gas utilities reduce their residential and business customers' energy demands through energy efficiency and conservation. If you have ever wondered why an electric or natural gas utility would devote time and financial resource to reducing energy use (and its own profits), the answer is, at least in part, CIP.

While CIP is far more complicated than can be discussed in a single article (the CIP statutes are filled with exemptions, caveats and nuances), this article will seek to provide readers with the basics of the program and some thoughts on how it can be improved (and may have been depending on what happens during the final weeks of session).

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Resources
Renewables
and Recovery

CIP Basics

The roots of CIP trace back to 1980 when the Legislature created a Commission on Energy and declared that continued growth in demand for energy "will cause severe social and economic dislocations, and that the state has a vital interest in providing for: increased efficiency in energy consumption; the development and use of renewable energy resources whenever possible; and the creation of an effective energy forecasting, planning and education program." CIP was enacted two years later.

The quad-goals of CIP are to:

- Promote awareness and adoption of energy efficient technologies;
- Help households and businesses reduce their energy costs;
- Defer costly utility infrastructure investments; and
- Reduce emissions and conserve resources.

These goals are met through the use of CIP plans. A covered utility develops its own CIP plan and files it with the Minnesota Office of Energy Security ("OES"). OES reviews each utility's CIP plan to ensure that energy savings are calculated accurately, statutory



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requirements are met, and programs are cost-effective. Traditionally, CIP plans have focused on incentivizing customers to increase energy efficiency and conservation through financial incentives from CIP funds. For example, utility companies provide rebates for consumers who buy high efficiency furnaces or refrigerators and offer home energy audits. Recent statutory changes and pilot programs have broadened what can be part of a CIP plan and changed the focus from the utility's expenditures to energy savings.

CIP statutes now make it clear that energy-savings goals are the threshold and those goals "are not satisfied by attaining the revenue expenditure

requirements. OES establishes the energy-saving goals for CIP expenditures and evaluates how well a plan meets that goal. There is a goal of 1.5 percent savings of gross annual retail sales for each utility, but utilities may file a petition to adjust their savings goals to a minimum of 1 percent based on certain criteria. And legislation passed in 2009 established an interim savings goal of 0.75 percent over 2010-2012 for qualifying natural gas utilities.

A central driving force behind CIP is that reducing energy demand has a significant net societal benefit that, without a financial incentive, would be insufficient to lead the average consumer to invest in energy efficiency. According to a 2005 report of the Office of the Legislative Auditor, there are three primary societal benefits to CIP. First, conservation helps the utilities and their customers avoid the operating costs of providing more electricity and natural gas. These costs include buying fuel and operating and maintaining power plants. Second, conservation helps the utilities and their customers avoid or delay the capital costs of adding new system capacity. Third, conservation reduces the environmental damage caused by burning fossil fuels.

Creating a More Commercially-Just Program

In many ways CIP has been a success, especially for residential and small business customers. But there is always room for improvement. One such area is how CIP deals with large energy consuming facilities (both large electric consumers and large natural gas consumers). As it sits today, many, but not

all, large energy consuming facilities may petition OES to be exempt from CIP. For facilities that qualify, they must demonstrate “competitive or economic pressures” and “reasonable efforts to identify, evaluate, and implement cost-effective conservation improvements at the facility.”

The problem, as I see it, is the times have changed and the stated rationale behind CIP does not justify the exemption-through-petition process for a select group of large energy consuming facilities. First, in the modern age of ever-rising energy prices, every large energy consuming facility is under significant “competitive and economic pressure” to pursue energy efficiency and conservation. It is not uncommon for as much as 25% of a large energy consuming facility’s cost structure to come from energy costs or for monthly energy bills to be well into the millions. With energy costs accounting for such a large portion of the budget and energy prices continuing to escalate, the market mandates that such facilities use not just reasonable efforts but all practicable efforts to “identify, evaluate, and implement cost-effective energy improvement.” If a facility does not undertake these efforts, they will not be able to compete in a post-recession business world and are doomed to fail. In other words, in today’s energy reality, every large energy consuming facility has a case for CIP exemption.

The second problem is really one of competitive fairness. Not all large energy consuming facilities are eligible for the exemption (and some of the biggest energy users not currently eligible fall in the alternative energy category). For large energy consuming facilities that are not exempted from CIP, the charges can amount to hundreds of thousands of

dollars per year. If all large energy consuming facilities have similar competitive and economic pressures and are all equally motivated to reduce energy use however possible, does not sound legal policy dictate that they should all receive the same treatment under the law?

The Legislature may well answer this question even before this article is published as bills are pending that could lead to CIP changes. Stay tuned.

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