

DECISION

**BEFORE THE DEPUTY COMMISSIONER OF THE
MINNESOTA DEPARTMENT OF COMMERCE**

WILLIAM GRANT, DEPUTY COMMISSIONER

In the Matter of Claiming Energy Savings
through Electric Utility Infrastructure Improvements
and the Energy Savings Carry Forward Provision

Issue Date: February 20, 2018

Docket No. E, G999/CIP-17-856

I. PROCEDURAL HISTORY

On December 11, 2017, Staff of the Minnesota Department of Commerce, Division of Energy Resources (Staff) filed a Proposal Filing (Proposal) detailing proposed guidance for claiming energy savings through electric utility infrastructure (EUI) projects, and for the use and parameters of the energy savings carry forward provision contained in Minnesota Statutes section 216B.241 subdivision 1c(b).

On January 5, 2018, Fresh Energy, Xcel Energy, Minnesota Power, and Otter Tail Power filed comments on the policy guidance described in the Proposal. Overall, the comments submitted by these organizations were supportive of the Proposal's recommended guidance for eligible carry forward savings as well as claiming savings for EUI projects. The comments did not highlight major concerns or suggested revisions to the Proposal.

No reply comments were submitted by interested parties.

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II. INTRODUCTION

Minnesota Statutes section 216B.241 subdivision 1c(d) allows Minnesota electric and natural gas utilities to claim energy savings toward their Conservation Improvement Program (CIP) energy savings goal from eligible electric utility infrastructure (EUI) projects. Additionally, Minnesota Statutes section 216B.241 subdivision 1c(b) allows electric and natural gas utilities to carry forward annual energy savings in excess of 1.5% to succeeding years. Historically, the Department has handled the application of these two sections of Minnesota Statutes on a case-by-case basis when guidance has been requested by individual utilities.

On December 11, 2017, Staff of the Minnesota Department of Commerce, Division of Energy Resources (Staff) filed a Proposal Filing (Proposal) in order to provide utilities with more formal guidance regarding how each of these provisions can be utilized so that there is consistency and clarity regarding their application in helping utilities continue to meet their energy savings goals. The Proposal contains Staff's recommended guidance concerning the utility requirements of Minnesota Statutes section 216B.241 subdivision 1c(d) pertaining to the claiming of energy savings for EUI projects. The Proposal also outlines Staff's recommended use and parameters of the carry forward provision contained in Minnesota Statutes section 216B.241 subdivision 1c(b).

For the purposes of comprehending the Proposal's recommendations, it is important to understand the statutory meaning of energy conservation improvements and EUI improvements.

Minnesota statutes 216B.241 subdivision 1(d) states that "energy conservation" means "demand-side management of energy supplies resulting in a net reduction in energy use. Load management that reduces overall energy use is energy conservation." Minnesota statutes 216B.241 subdivision 1(e) states that "energy conservation improvement" is a "project that results in energy efficiency or energy conservation. Energy conservation improvement may include waste heat that is recovered and converted into electricity, but does not include electric utility infrastructure projects approved by the commission under section [216B.1636](#). Energy conservation improvement also includes waste heat recovered and used as thermal energy." Throughout this document "energy conservation" and "energy conservation improvement" will be collectively referred to as "demand-side management" (DSM).

Minnesota statutes 216B.1636 subdivision 1(c)(1)-(2) states that:

"Electric utility infrastructure projects" means projects owned by an electric utility that: (1) replace or modify existing electric utility infrastructure, including utility-owned buildings, if the replacement or modification is shown to conserve energy or use energy more efficiently, consistent with section 216B.241, subdivision 1c; or (2) conserve energy or use energy more efficiently by using waste heat recovery converted into electricity as defined in section 216B.241, subdivision 1, paragraph (o).

Throughout this document "electric utility infrastructure projects" will be referred to as EUI projects.

III. ANALYSIS – CLAIMING ENERGY SAVINGS FROM EUI PROJECTS

A. BACKGROUND

In 2016, the Minnesota Commerce Department, Division of Energy Resources (Department) funded a study to estimate the statewide EUI energy efficiency savings potential. The Department also received funding from the U.S. Department of Energy to conduct an EUI stakeholder process in order to better understand existing state policies concerning EUI, examine incentives/disincentives to improving EUI efficiency, and recommend policy changes or clarifications to leverage EUI efficiency to help meet Minnesota’s efficiency goals. Both studies are expected to conclude in 2018.

During the stakeholder meetings conducted as part of these studies, a prominent concern raised by electric utilities focused on the lack of certainty in claiming EUI energy savings. The primary reasons for this uncertainty are two-fold. First, historical Department guidance requires utilities to achieve at least 1% of their annual energy-savings results through DSM savings before EUI savings can also be counted toward their total energy savings results. This means that a utility cannot be certain whether they will be able to claim EUI savings toward their results until the 1% threshold is exceeded. Consequently, some utilities may fail to meet the 1.5% energy savings requirement not due to an actual shortfall in energy savings, but simply because some savings were ineligible.

Second, Minnesota Statutes section 216B.241 subdivision 1c(b) requires that “[EUI] projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity.” To date, the Department and stakeholders have struggled to establish a broad definition of “normal maintenance activity”, leaving utilities uncertain as to which EUI projects can be counted toward their energy savings goals.

While clearly defining “normal maintenance activity” will require more discussion with stakeholders, Staff’s Proposal provides new guidance for the 1% DSM savings threshold requirement in an effort to provide utilities with greater certainty in their CIP planning efforts. Staff’s interpretation is described in the section below, and is followed by the Deputy Commissioner’s determinations.

B. PROPOSED UTILITY GUIDANCE FOR CLAIMING EUI ENERGY SAVINGS

Minnesota Statutes section 216B.241 subdivision 1c(d) states that:

[a] utility or association may include in its energy conservation plan energy savings from electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to a minimum energy-savings goal of at least one percent for energy conservation improvements. Energy savings from electric utility infrastructure projects, as defined in section 216B.1636, may be included in the energy conservation plan of a municipal utility or cooperative electric association.

Historical Guidance

The Department has previously issued guidance to utilities requiring that the 1% threshold for DSM savings first be exceeded as part of their reported CIP results before any EUI project savings can also be

claimed toward their total energy savings results. In letters sent to municipal and cooperative utilities in response to their 2015 results and 2017 plans, for example, the Department wrote that EUI “[e]nergy savings may be claimed when 1% of the energy savings goal has been met from [DSM] programs.” Similar guidance has also been included in other Department communications to utilities.

New Guidance

Staff’s new proposed guidance is based on a plain reading of section 216B.241 subdivision 1c(d) which suggests that the requirements concerning EUI project savings being counted toward energy savings goals are based on their inclusion in the utility’s CIP *plans*, not the actual *results* of those plans.¹

Based on this interpretation, if a utility submits a CIP plan to the Department that is subsequently approved, and the plan includes at least 1% DSM savings with the remainder of a utilities’ goal to be met through EUI projects, the actual resulting savings from those EUI projects could then later be counted toward the utility’s energy savings results for that particular program year regardless of whether the 1% threshold is actually achieved as part of its CIP results.

Simplified Example

Consider a utility that submits a 2019 CIP plan with an overall energy savings goal of 1.5%. This plan includes 1.0% of energy savings to be met through DSM and 0.5% to be met through savings from EUI projects. The Department reviews and approves the 2019 plan.

Then, when reporting its actual 2019 energy savings achievements, the utility achieved 0.9% of savings through DSM and 0.5% through EUI projects. Under existing guidance, the utility would not be able to count the EUI project savings because the utility did not achieve 1% of savings through DSM, and thus would only be able to claim a total savings of 0.9% from DSM. Under Staff’s new proposed EUI guidance in this circumstance, the utility would be able to claim the EUI savings and claim overall energy savings of 1.4% because the 1% savings threshold was already met as part of its approved plan.

C. DEPUTY COMMISSIONER’S DETERMINATIONS - CLAIMING EUI ENERGY SAVINGS

The Deputy Commissioner agrees with Staff’s analysis and approves the new guidance described above for claiming EUI energy savings. The Deputy Commissioner approves the new guidance for EUI savings to take effect on February 20, 2018, allowing utilities to apply the new guidance to their 2019 plans.

This new guidance will allow utilities plan EUI projects with more certainty, knowing that the savings achieved will count toward their energy savings goals even if there is a short fall in actual savings achieved though DSM efforts. The Deputy Commissioner believes that this certainty will encourage innovative EUI projects and help utilities meet their energy savings goals going forward.

Further, the intent of the statute appears to be to encourage utilities to pursue EUI projects while continuing to preserve DSM efforts for ratepayers through the 1% threshold. The Deputy Commissioner finds the new guidance to be consistent with this intent as utilities will still need Department approval of their CIP plans, and if upon review of a utility’s CIP plan the Department has concerns that its DSM

¹ 216B.241 subdivision 1c(d) makes reference to the inclusion of EUI projects in “energy conservation plans,” counting toward the utility’s “energy savings goals,” but makes no mention of actual energy savings results.

programs will not achieve at least 1% energy savings, the Department will work with the utility until the Department is satisfied that the savings threshold will likely be met. The Deputy Commissioner believes this approach will continue to protect ratepayer programs while removing a barrier to EUI projects.

Additionally, the Deputy Commissioner notes that to begin addressing the uncertainty regarding how to define whether EUI projects go beyond “normal maintenance” activities, the Minnesota Technical Reference Manual (TRM) defines a set of approved EUI measures with standardized savings calculations. The most recent version of the TRM can be accessed on the [Department’s website](#) and on eDockets². The TRM does not include an exhaustive list of EUI measures, and for any EUI measures that are not listed in the TRM, utilities should contact Department Staff to determine the eligibility of EUI projects when submitting their CIP plans.

IV. ANALYSIS – CARRYING FORWARD ENERGY SAVINGS

A. BACKGROUND

The Department has also received numerous inquiries from utilities as to what is permitted under the energy savings carry forward provision (carry forward) of Minnesota Statutes section 216B.241 subdivision 1c(b), which states:

A utility or association may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, except that savings from electric utility infrastructure projects allowed under paragraph (d) may be carried forward for five years. A particular energy savings can be used only for one year's goal.

Historical Guidance

To date, Department guidance to utilities has been case-by-case. Generally, utilities have contacted the Department when achieving energy savings greater than 1.5% and requested approval to carry forward those savings to a subsequent year in the event of a future savings shortfall. The Department has approved most of these requests.

New Guidance

To provide more clarity and certainty to utilities wanting to carry forward savings, the Deputy Commissioner finds that more complete guidance needs to be issued. Specifically, utilities need to know:

- What energy savings are eligible to carry forward
- When utilities should elect to carry forward savings
- How utilities should elect to carry forward savings
- How carry forward savings are to be documented in utility filings on eDockets and the Department’s Energy Savings Platform (ESP)

On April 26, 2017, Staff convened a CIP stakeholder meeting to discuss carry forward and laid out proposed guidance for utilities. The new guidance that follows reflects what the Department presented

² TRM version 2.1 is filed under docket number [E,G999/CIP-15-896](#)

at the stakeholder meeting and attempts to answer questions raised by stakeholders during and after the meeting. Ultimately, the objective of this new guidance is to provide utilities with clear instructions as to how to use the carry forward provision to meet the 1.5% energy savings goal in a year where they would otherwise fall short.

B. DEPUTY COMMISSIONER'S DETERMINATIONS - CARRYING FORWARD ENERGY SAVINGS

The Deputy Commissioner approves the new guidance for carrying forward savings according to the specific determinations described in sections C – I below. The Deputy Commissioner approves the new guidance to take effect on February 20, 2018, allowing utilities to apply the new guidance to their 2017 results.

C. WHAT ENERGY SAVINGS ARE ELIGIBLE TO BE CARRIED FORWARD

Minnesota Statute section 216B.241 subdivision 1c(b) can be summarized as follows:

A utility or association may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, except that:

1. Savings from electric utility infrastructure (EUI) projects allowed under paragraph (d) may be carried forward for five years.
2. A particular energy savings can be used only for one year's goal.

D. ELIGIBLE CARRY FORWARD ENERGY SAVINGS

The Deputy Commissioner approves the following guidance for energy savings eligible to be carried forward:

1. All (or a portion of) energy savings achieved through energy conservation improvements (DSM) as defined in 216B.241 subd. 1(e) over 1.5% achieved in the previous 3 calendar years can be carried forward.
 - a. Example: A utility has a savings short fall in 2017. In 2016, 2015 and 2014 the utility achieved 1.6% savings respectively. The utility to can carry forward savings from any of those years to bring 2017 savings to 1.5%.
2. All (or a portion of) energy savings achieved through EUI projects as defined in 216B.1636 1(c)(1)(2) (EUI savings) over 1.5% achieved in the previous 5 calendar years can be carried forward.
 - a. Example: A utility has a savings shortfall in 2017. In 2016, 2015, 2014, 2013 and 2012 the utility achieved 1.6% savings respectively, 0.2% of which was achieved through EUI projects. The utility to can carry forward savings from any of those years to bring 2017 savings to 1.5%.
3. Any savings below 1.5% for a year, regardless of Commissioner approved goals below 1.5%, are not eligible to be carried forward.
4. The amount of savings carried forward shall only be enough to reach the 1.5% energy savings goal of a particular year.
5. All energy savings are carried forward at the portfolio level (i.e. savings from the portfolio of one year are carried forward to the portfolio of another year).

6. If savings are carried forward from a particular year, and that year still has savings remaining over 1.5%, savings from that year may be applied to other years until those savings are reduced to 1.5%.
 - a. Example: A utility has a savings short fall in 2017. In 2016 the utility achieved 1.7% savings. The utility carries forward savings from 2016 to bring 2017 up to 1.5%. 2016 now has 1.6% energy savings. In 2018 the utility falls short again. The utility can go back to 2016 and use the remaining savings above 1.5% to bring 2018 into compliance.

E. CIP AGGREGATORS CARRYING FORWARD ENERGY SAVINGS

The Deputy Commissioner approves the following guidance for CIP aggregated utilities carrying forward savings:

1. Minnesota Statutes subdivision 1b(f) allows cooperative and municipal utilities to join together to “fulfill the conservation, spending, reporting and energy-savings goals on an aggregate basis.” To determine if aggregated utilities have met the 1.5% energy savings goal, the Department analyzes the performance of the utilities as an aggregated group. Therefore, even though some utilities in an aggregated group may fall short of the 1.5% energy savings goal, they could still meet the goal as part of the group. Because energy savings goal compliance is determined by aggregated performance, an aggregated group needing to carry forward savings will do so from a previous year in which the group exceeded 1.5%, rather than from any one individual utility within the group.

Example #1: An aggregated group of utilities has a savings shortfall in 2017 (1.3%). In 2016, the aggregated group achieved 1.8% in savings. The aggregated group can carry forward savings from 2016 to 2017 to bring the aggregated group into compliance.

Example #2: An aggregated group of utilities has a savings shortfall in 2017 (1.3%). In 2016, the aggregated group achieved 1.4% in savings but two of the individual utilities achieved savings of 1.7% and 1.8% respectively. The aggregated group cannot carry forward savings from those individual utilities to bring the group into compliance.

F. CARRY FORWARD EUI ENERGY SAVINGS

The Deputy Commissioner approves the following guidance for eligible EUI savings to be carried forward:

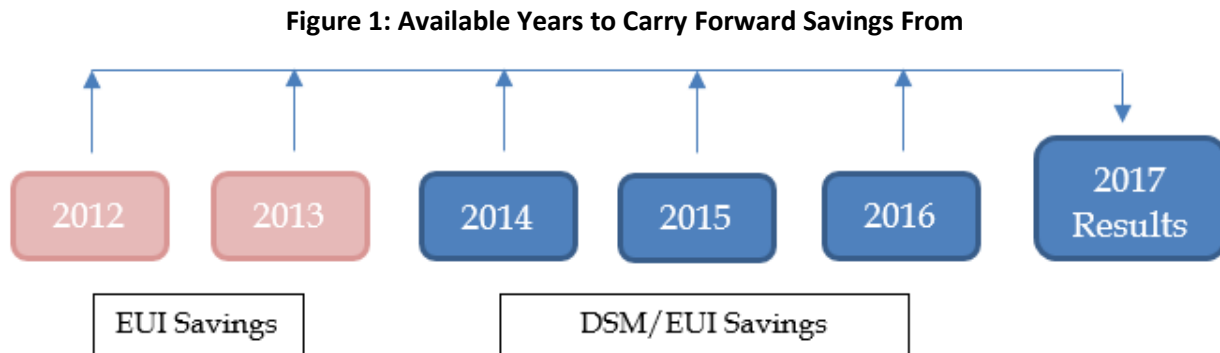
1. EUI savings over 1.5% of total energy savings can be carried forward from the previous 5 calendar years.
2. If a utility or aggregated group of utilities is carrying forward savings from a year in which there was a mix of DSM savings and EUI savings, they can determine the type of savings to be carried forward, unless the utility or aggregated group is carrying forward savings from 4 or 5 calendar years previous, in which case, the savings would have to be from EUI projects.

Example #1: A utility has a savings short fall in 2017. In 2016 the utility achieved 1.7% savings (1.2% DSM savings and 0.5% EUI savings). It is up to the utility to declare if the savings to be carried forward to 2017 are DSM savings or EUI savings.

Example #2: A utility has a savings short fall in 2017. In 2013 the utility achieved 1.7% savings (1.2% DSM savings and 0.5% EUI savings). The utility can only carry forward EUI savings because DSM energy savings are not applicable more than 3 calendar years previous.

G. WHEN TO ELECT TO CARRY FORWARD SAVINGS

Under the new guidance, utilities will elect to carry forward savings to the current reporting year when submitting annual CIP energy savings results. For example, a utility reporting program year 2017 CIP results could elect to carry forward DSM savings or EUI savings from program year 2016 results (and/or 2015 and/or 2014) and/or EUI savings from program year 2013 and/or 2012 in order to avoid a savings short fall and achieve the 1.5% savings goal. See Figure 1.



By electing to carry forward savings at the time an energy savings short fall has been identified, the proposed approach allows utilities to carry forward savings when needed for compliance purposes rather than provisionally carrying forward savings to a future year in the event of a short fall. This approach also allows utilities to more easily leverage EUI savings from up to 5 years previous and distinguish them from DSM savings.

H. HOW TO ELECT TO CARRY FORWARD SAVINGS

Under the new guidance, the Investor Owned Utilities (IOUs) and municipal and cooperative utilities (COUs) will use their respective CIP reporting mechanisms to elect to carry forward savings.

The IOUs will include any proposed carry forward savings in their annual CIP status reports, documenting the amount of savings to be carried forward, the type of savings (DSM or EUI), and from which year(s) savings are being carried forward from. The Department will then determine the eligibility of the proposed carrying forward of savings during the status report review process.

The COUs will notify the Department via email by June 1 in order to carry forward savings to the previous year's results. The email should include the amount of savings to be carried forward, the type of savings (DSM or EUI) and from what year(s) savings are being carried forward from. The Department will review the eligibility of the proposed carry forward savings as part of the regular COU reporting/planning review process.

Example Email COU would send to Staff:

For the 2017 filing year – our utility is electing to carry forward 100,000 kWh of general energy savings from 2014 in order to meet the 2017 energy savings goal.

Utility Name	Achieved Savings	Savings Percent	Elected Carry-Forward Energy	New Savings Percent
2017 Reporting	100,000 kWh	1%	+50,000 kWh	1.5%
2014 Reporting	200,000 kWh	2%	-50,000 kWh	1.5%

It is possible that at some future time ESP will include a carry forward function allowing a utility to enter the amount of savings and type of savings to be carried forward and from what year. However, the Department will not be developing this functionality until the longevity of the funding that supports ESP is more certain.

I. HOW TO DOCUMENT CARRY FORWARD SAVINGS

CIP is the implementation of the State’s annual 1.5% electric and natural gas energy efficiency resource standard. As such, the Department has a responsibility to accurately record and track the annual statewide performance of electric and natural gas utilities. Therefore, the official record of utility performance for a particular year, either in the Energy Savings Platform or in IOU status reports and COU compliance letters, will reflect actual performance.

For the reporting year that the carry forward savings are being applied to, the status report decision for IOUs or the compliance letter for COUs will include a “Carry Forward Savings” line item in the energy savings tables. The status report decision or compliance letter will confirm the achievement of the savings goal for that year, but only the actual savings achieved during that year will be included in the overall statewide utility performance.

V. STAKEHOLDER COMMENTS

On January 5, 2018, Fresh Energy, Xcel Energy (Xcel), Minnesota Power (MP), and Otter Tail Power (OTP) filed comments on the policy guidance described in the Proposal. Overall, the comments submitted by these organizations were supportive of the Proposal’s recommended guidance for eligible carry forward savings as well as claiming savings for EUI projects. The comments did not highlight major concerns or suggested revisions to the Proposal.

The Deputy Commissioner appreciates the time and effort that Fresh Energy, MP, Xcel, and OTP contributed to reviewing and providing feedback on the Proposal, and looks forward to continuing to collaborate on CIP policy guidance issues going forward.

VI. DECISION

The Deputy Commissioner approves the new guidance for claiming EUI energy savings. The Deputy Commissioner approves the new guidance for EUI savings to take effect on February 20, 2018, allowing utilities to apply the new guidance to their 2019 plans.

The Deputy Commissioner approves the new guidance for carrying forward savings. The Deputy Commissioner approves the new guidance to take effect on February 20, 2018, allowing utilities to apply the new guidance to their 2017 results.

BY ORDER OF THE DEPUTY COMMISSIONER

A handwritten signature in black ink, appearing to read 'W. Grant', written in a cursive style.

William Grant
Deputy Commissioner,
Minnesota Department of Commerce,
Division of Energy Resources

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Decision**

Docket No. E,G999/CIP-17-856

Dated this 21st day of February 2018

/s/Sharon Ferguson

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