

Michigan Office of Administrative Hearings and Rules

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REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file an RFR with the Michigan Office of Administrative Hearings and Rules (MOAHR) before initiating any changes or additions to the rules. Please submit the RFR to MOAHR-Rules@michigan.gov.

1. Agency Information

Agency name:	Michigan Public Service Commission (MPSC or Commission)
Division/Bureau/Office:	Regulatory Affairs Division
Name, title, phone number, and e-mail of <u>person completing this form</u> :	Lisa Gold, Administrative Law Specialist, 517-284-8084, gold@michigan.gov Caitlin Mucci, Administrative Law Specialist, 517-284-8066, muccic@michigan.gov

2. Rule Set Information

Title of proposed rule set:	Interconnection, Distributed Generation, and Legally Enforceable Obligation Standards
Rule number(s) or range of numbers:	The Commission will be rescinding R 460.601a-460.656 and adding R 460.901-460.1101.
Included in agency's annual regulatory plan as rule to be processed in current year?	Yes

3. Estimated timetable for completion, or statutory deadline, if applicable:

One year. There is no applicable statutory deadline.

4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

Section 173 of Public Act 295 of 2008, MCL 460.1173(1) (Act 295), authorized the Commission to promulgate administrative rules governing net metering standards. In 2009, the Commission formally adopted administrative rules governing electric interconnection and net metering. *See*, Mich Admin Code, R 460.601a-460.656. Those rules focused primarily on small electric generators by dividing them into five categories; the first four categories apply to projects up to 2 megawatts (MWs) and the fifth category applies to projects greater than 2 MWs. In the December 20, 2012 order in Case No. U-15919, the Commission adopted procedures for interconnection of smaller projects (Categories 1 and 2), but has not yet adopted procedures governing the interconnection of larger projects (Categories 3 through 5).

Since 2009, there have been significant changes in Michigan's energy landscape driven by rapidly advancing renewable energy technology. There have also been changes in Michigan's energy laws with the passage of Public Acts 341 and 342 of 2016, which, among other things, amended Act 295. MCL 460.1173(1) now authorizes the Commission to promulgate rules governing distributed generation (DG). *See also*, MCL 460.1173(6)(b). Likewise, the Institute of Electrical and Electronics Engineers (IEEE) recently updated its technical standards for interconnection, the IEEE Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces (IEEE 1547-2018), which has prompted other states to revise their own interconnection rules and standards. Moreover, the Federal Energy Regulatory

Commission (FERC) has recently addressed the integration of energy storage facilities in its Order 841 issued on February 15, 2018, which directs regional transmission organizations and independent system operators to establish market rules for energy storage facilities to participate in wholesale energy, capacity, and ancillary services markets. Order 841, 162 FERC ¶ 61, 127; 18 CFR 35.28 (2018).

Finally, in the October 27, 2015 order in Case No. U-17973, the Commission determined that it needed to update the standards applicable to utilities and qualifying facilities (QF) operating pursuant to the Public Utility Regulatory Policies Act of 1978, 16 USC 2601 et seq., 16 USC 824a-3 (PURPA). PURPA was enacted by Congress in 1978 to increase energy conservation and energy efficiency by allowing for renewable resources to interconnect with and sell their generation to utilities. PURPA is largely carried out by the states. 16 USC 2621(b)(2); 16 USC 824a-3(f). For example, the rates paid to QFs are set by the Commission. 16 USC 824a-3; MCL 460.6j(13)(b). A QF is entitled to receive a particular rate for its generation from the utility if the QF has a legally enforceable obligation (LEO). The Commission has determined that the definition of an LEO should be the subject of rulemaking. Additionally, the Commission expects that the new rules will decrease the time required to interconnect a distributed energy project into the electric distribution system.

Thus, both PURPA and the new DG law (as well as the legacy net metering law) concern the topic of interconnection with the energy grid. Industry standards for interconnection have been updated since the 2009 rulemaking (thus requiring an update to the Commission's rules), and the current rules for larger generators are not sufficiently detailed. Larger generators tend to be interconnecting with the utility under PURPA requirements. With respect to PURPA, the Commission currently lacks a definition for the LEO. In this rulemaking, the Commission is rescinding the 2009 interconnection rules (which are now outdated) and promulgating new rules addressing interconnection requirements for generators of all sizes, DG standards, and the definition of an LEO, to address the concerns described herein.

5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

By authority conferred on the Commission by section 7 of 1909 PA 106, MCL 460.557(6), section 5 of 1919 PA 419, MCL 460.55, sections 4, 6, and 10e of 1939 PA 3, MCL 460.4, 460.6(1), and 460.10e(3), and section 173 of 2008 PA 295, as amended by 2016 PA 342, MCL 460.1173(1).

6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

The rules do not conflict with, duplicate, or exceed any similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?

The subject matter of some of the rules is currently addressed in R 460.601a-460.656. Those rules will be rescinded at the same time that these rules are promulgated.

8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:

The rules will be promulgated under the full rulemaking process.

9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.

Not applicable.

10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.

No.

11. Reviewed by the following Departmental Regulatory Affairs Officer:

Liz Arasim
Department of Licensing and Regulatory Affairs

↓ To be completed by the MOAHR ↓

Date RFR received:8-29-2019

Based on the information in this RFR, the MOAHR concludes that there are sufficient policy and legal bases for approving the RFR.

ARD assigned rule set number:	2019-087 LR
Date of approval:	9/4/19

Based on the information in this RFR, the MOAHR is not approving the RFR at this time.

Date of disapproval:	
Explanation:	