Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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REGULATORY IMPACT STATEMENT and COST-BENEFIT ANALYSIS (RIS)

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Public Service Commission

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Rule Set Information:

ARD assigned rule set number:

2024-7 LR

Title of proposed rule set:

Uniform System of Accounts for Major and Nonmajor Electric Utilities

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

The proposed rules adopt by reference, and therefore directly parallel, the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USofA) for Major and Nonmajor Electric Utilities, 18 CFR Part 101, and the U.S. Department of Agriculture's (USDA) Accounting Requirements for Rural Utilities Service (RUS) Electric Borrowers, 7 CFR Part 1767.

A. Are these rules required by state law or federal mandate?

No, the proposed rules are not required by state law or federal mandate.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The proposed rules update adoptions by reference of FERC's and USDA's federal rules and, therefore, do not exceed any federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

FERC regulates, among other things, wholesale electricity markets. Many Michigan electric providers are members of the Midcontinent Independent System Operator, Inc. (MISO), which is an independent, not-for-profit organization that operates the electric transmission system in portions of 15 states in the Midwest and South, including some Canadian provinces. Similarly situated states that are covered by MISO's geographic range include, but are not limited to, Wisconsin, Indiana, Illinois, and Iowa. Wisconsin, Indiana, Illinois, and Iowa have all adopted FERC's USofA for Major and Nonmajor Electric Utilities, 18 CFR Part 101. See Investigation on the Commission's Own Motion Into the Proper Uniform System of Accounts for Class A and B Privately Owned Electric and Gas Utilities, No. 05-US-103 (Dec. 20, 1989) (prescribing 18 CFR Part 101); 170 Ind. Admin. Code 4-2-1.1; 83 Ill. Adm. Code 415.10; and Iowa Admin. Code 199-16.2(476). The proposed rule updating the adoption by reference to 18 CFR Part 101 is, therefore, like regulations adopted by many similarly situated states with providers that participate in MISO.

At least one similarly situated state has also adopted the USDA's Accounting Requirements for RUS Electric Borrowers, 7 CFR Part 1767. See, Iowa Admin. Code 199-16.2(476). The proposed rule updating the adoption by reference to 7 CFR Part 1767 is, therefore, similar to this state's requirements.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

Like the similarly situated states, the proposed rules adopt by reference federal rules. As such, the rules do not exceed standards in those states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

Because the proposed rules update the adoption by reference of 18 CFR Part 101 and 7 CFR Part 1767, the proposed rules overlap these federal rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The federal USofA and Accounting Requirements for RUS Electric Borrowers create uniform accounting standards that provide for the creation and maintenance of financial information that is accurate, complete, and comparable with that of other electric utilities. The need for reliable and adequate financial information is especially pertinent in the rate regulated environment.

The proposed rules adopt by reference, and therefore coordinate with, the federal rules setting these uniform accounting standards. The uniform application of these accounting standards through the proposed rules avoids the need to create a separate, non-uniform accounting standard for electric providers regulated by the Michigan Public Service Commission (MPSC).

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The USofA was created by FERC to facilitate ratemaking responsibilities and uniformly capture financial and operational information for public utilities. The USofA has been modified over time to account for changing technological, legal, and market conditions. The current amendment to the federal USofA was initiated through a petition from the regulated community seeking confirmation for proper booking of costs for wind and solar generating equipment. See, Volume 88, Federal Register, Number 192, 69295. In the ensuing proceeding, some commenters argued that the petition proposed recording inappropriate costs. Id., at 69296. As a result of this dispute, FERC created new accounts for wind, solar, and other non-hydro renewables. Id.

The proposed rules adopt the recent changes to the USofA that, among other things, create new subfunctions and accounts for wind, solar, and other renewable generating and energy storage assets. The proposed rules also update the reference to the USDA's Accounting Requirements for RUS Electric Borrowers.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The proposed rules provide for, among other things, new subfunctions and accounts for wind, solar, and other renewable generating and energy storage assets. The proposed rules are estimated to permit electric providers to utilize the updated USofA standards whenever that electric provider has renewable generating and energy storage assets.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, the MPSC rules do not have production accounts designated specifically for solar, wind, or other renewable generating assets. The proposed rules will align the MPSC's rules with the federal USofA to, among other things, provide for these production accounts.

C. What is the desired outcome?

The proposed rules will align the MPSC's rules with the federal USofA and provide clarity to electric providers, which will avoid inconsistencies in accounting and reporting and further facilitate the MPSC's ratemaking function.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Currently, the MPSC rules do not provide for production accounts and other functions for solar, wind, and other renewable generating assets. If the MPSC rules are not amended to reflect recent changes to the USofA, the MPSC rules will not provide for the uniform accounting of these assets, resulting in inconsistencies for electric providers and hampering the MPSC's ratemaking process.

A. What is the rationale for changing the rules instead of leaving them as currently written?

If the MPSC rules are not amended, electric providers would be required to comply with two distinct sets of accounting standards, with the state accounting standards not providing for needed updates for accounting and reporting for renewable generating assets.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

By aligning MPSC rules to the USofA, electric providers will avoid inconsistencies in accounting and reporting. The proposed rules will also provide uniformity and transparency in the MPSC's ratemaking functions.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are no rules in the affected rule set that are obsolete or unnecessary. As such, none of the current rules in the rule set should be rescinded.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There is no anticipated fiscal impact on the agency for the imposition or promulgation of the proposed rules.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

There are no anticipated expenditures associated with the proposed rule amendments. As such, no specific agency appropriation or funding source has been identified for the rule changes.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules are uniform accounting standards that will apply to electric providers regulated by the MPSC. These entities are already required to comply with MPSC rules that adopt a previous version of the federal USofA and Accounting Requirements for RUS Electric Borrowers rules. Amending the current rules to reflect recent federal changes will not place a burden on individuals because they are already required to comply with uniform standards.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed rules' requirements will not place a burden on individuals because they are already required to comply with uniform standards.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

No increases or decreases in revenues of other state or local governmental units are anticipated because of the proposed rules. No cost increases or reductions for other state or local governmental units are anticipated because of the proposed rules. There are no estimated costs for equipment, supplies, labor, or increased administrative costs for either the initial imposition of the rule or any ongoing monitoring.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

No program, service, duty, or responsibility imposed upon a city, county, town, village, or school district are anticipated because of the proposed rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

No actions by governmental units are anticipated because of the proposed rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

As there are no anticipated additional expenditures, no appropriation to state or local governmental units has been made.

Rural Impact

14. In general, what impact will the rules have on rural areas?

The proposed rules update the adoption by reference to the USDA's Accounting Requirements for RUS Electric Borrowers. Rural utilities service electric borrowers will need to adhere to uniform accounting standards.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

Rural utilities service electric borrowers will need to adhere to uniform accounting standards.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules are not expected to have any direct environmental impacts.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The MPSC has regulatory responsibility over 8 privately-owned electric utilities, 9 rural electric distribution cooperatives (coops), and 1 privately-owned steam utility.

The MPSC did not consider exempting small businesses because the proposed ruleset will not have a "disproportionate impact on small businesses because of the size of those businesses." MCL 24.240(1). All electric utilities regulated by the MPSC, including those meeting the statutory criteria of a "small business", are already required to comply with the USofA, 18 CFR Part 101, and the Accounting Requirements for RUS Electric Borrowers, 7 CFR Part 1767. See, Mich Admin Code, R. 460.9002(1) and R 460.9003(1). The proposed amendments to the ruleset do not significantly alter the compliance requirements that are already in place for small businesses; the proposed ruleset merely expands current accounting standards to account for renewable generating and storage assets. As such, small businesses will not be disproportionately impacted by the proposed rules.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

As previously mentioned, the proposed ruleset will not disproportionately impact small businesses as all regulated electric utilities must already comply with federal accounting standards. But even assuming small businesses were disproportionately impacted, exempting small businesses from the ruleset would defeat the primary purpose of the accounting standards adopted by reference, namely uniformity. Establishing differing compliance or reporting requirements; consolidating, simplifying, or eliminating compliance and reporting requirements; or establishing different performance standards for these small businesses would defeat the uniformity provided by the current rules.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Of the electric utilities regulated by the MPSC, 12 utilities have fewer than 250 full-time employees and, therefore, meet the statutory definition of a "small business." As these utilities are already required to comply with the USofA, there are little to no probable effects caused by the proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The proposed ruleset will not disproportionately impact small businesses as all regulated electric utilities must already comply with federal accounting standards. As such, the MPSC did not establish differing compliance or reporting requirements or timetables for small businesses under the proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The proposed ruleset will not disproportionately impact small businesses as all regulated electric utilities must already comply with federal accounting standards. As such, the MPSC did not consolidate or simplify the compliance reporting requirements for small businesses or identify the skills necessary to comply with the reporting requirements under the proposed rules. All small businesses regulated by the MPSC are already required to comply with adopted federal accounting standards and, therefore, have the skills necessary to comply.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed ruleset will not disproportionately impact small businesses as all regulated electric utilities must already comply with federal accounting standards. As such, the MPSC did not establish performance standards to replace design or operation standards for small businesses under the proposed rules.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

All electric utilities regulated by the MPSC, including those meeting the statutory criteria of a "small business", are already required to comply with the USofA, 18 CFR Part 101, and the Accounting Requirements for RUS Electric Borrowers, 7 CFR Part 1767. See, Mich Admin Code, R. 460.9002(1) and R 460.9003(1). The proposed amendments to the ruleset do not significantly alter the compliance requirements that are already in place for small businesses; the proposed ruleset merely expands current accounting standards to account for renewable generating and storage assets. As such, small businesses will not be disproportionately impacted by the proposed rules.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated reports or costs associated with compliance with the proposed rules.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The anticipated compliance costs of the proposed rules are $0. No equipment, supplies, labor, or increased administrative costs are anticipated as a result of the proposed rules.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

The anticipated compliance costs of the proposed rules are $0. No legal, consulting, or accounting services costs are anticipated as a result of the proposed rules.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Regulated small businesses are already required to comply with federal accounting standards adopted by the MPSC. As such, it is estimated that small businesses will continue to operate as normal and will have little to no additional costs associated with the proposed rules.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules apply to electric utilities regulated by the MPSC. Therefore, there will be no cost to the agency for administering or enforcing the proposed rules for small businesses.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The proposed rules apply to electric utilities regulated by the MPSC. Therefore, there are no exemptions or lesser standards of compliance for small businesses.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

There will be no disproportionate impacts to small businesses as a result of the proposed rules. Small businesses were not involved in the development of the proposed rules but will be able to provide feedback through the rulemaking process.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not involved in the development of the proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The actual statewide compliance costs are estimated to be $0.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The proposed rules apply to electric providers regulated by the MPSC. Currently, the MPSC has regulatory responsibility over 8 privately-owned electric utilities, 9 rural electric distribution cooperatives (coops), and 1 privately-owned steam utility.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Electric providers regulated by the MPSC are already required to comply with the USofA. Therefore, no increased costs are anticipated as a result of the proposed rules.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The actual statewide compliance costs of the proposed rules on regulated individuals and the public is $0.

A. How many and what category of individuals will be affected by the rules?

The proposed rules apply to electric providers regulated by the MPSC. Currently, the MPSC has regulatory responsibility over 8 privately-owned electric utilities, 9 rural electric distribution cooperatives (coops), and 1 privately-owned steam utility. The rules are therefore expected to affect 18 utilities.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The proposed rules provide for adoption by reference to the most recent versions of FERC's USofA and UDSA's Accounting Requirements for RUS Electric Borrowers. The qualitative impacts include permitting utilities to utilize new subfunctions for renewable generating and storage assets. As such, utilities will likely alter their behavior to utilize these new accounting standards when applicable. There are no quantitative impacts as the proposed rules are not anticipated to have a monetary effect on the utilities' operations.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no anticipated cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules will provide clarity and consistency to electric providers by aligning state accounting standards to FERC's USofA and USDA's Accounting Requirements for RUS Electric Borrowers.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules are not anticipated to impact business growth or job creation in Michigan. The proposed rules will not result in job elimination.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The proposed rules will affect electric providers regulated by the MPSC. Currently, the MPSC has regulatory responsibility over 8 privately-owned electric utilities, 9 rural electric distribution cooperatives (coops), and 1 privately-owned steam utility. As these utilities already are required to comply with uniform accounting standards, no disproportionate impacts are expected.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The regulatory impact statement was completed using publicly available information, including federal/state rules and regulations and public websites, as well as with expert input from MPSC staff from the Regulated Energy Division and the Regulatory Affairs Division. The publicly available sources consulted include:

MPSC Website:
https://www.michigan.gov/mpsc/consumer/electricity
Michigan Administrative Code:
https://ars.apps.lara.state.mi.us/AdminCode/DeptBureauAdminCode?Department=Licensing%20and%20Regulatory%20Affairs&Bureau=Public%20Service%20Commission.
The Federal Register: https://www.federalregister.gov/documents/2023/10/05/2023-14994/accounting-and-reporting-treatment-of-certain-renewable-energy-assets
The Code of Federal Regulations:
https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101
State Legislature Websites, including:
https://www.legis.iowa.gov/docs/iac/rule/199.16.2.pdf
https://psc.wi.gov/Documents/privateElect.pdf
https://www.icc.illinois.gov/programs/uniform-system-of-accounts
MISO's website:
https://www.misoenergy.org/meet-miso/about-miso/

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

Estimates and assumptions were made with the use of publicly available information regarding currently regulated electric utilities and applicable accounting standards for those electric utilities:
MPSC Website:
https://www.michigan.gov/mpsc/consumer/electricity
Michigan Admin Code:
https://ars.apps.lara.state.mi.us/AdminCode/DeptBureauAdminCode?Department=Licensing%20and%20Regulatory%20Affairs&Bureau=Public%20Service%20Commission

Estimates were also made with the assistance of MPSC Staff.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no reasonable alternatives to the proposed rules that would achieve the same or similar goals. The purpose of the proposed rules is to uniformly capture financial and operational information for traditional public utilities. Alternative systems of accounting would negate the uniformity of accounting standards utilized by electric providers.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments would be necessary to achieve alternatives.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Accounting standards are established by FERC and the USDA and are used, in part, to facilitate the MPSC's ratemaking function, which is established by law. There are no reasonable private market-based mechanisms that could serve as an alternative to these accounting standards. As previously explained, other states adopt the USofA and Accounting Requirements for RUS Electric Borrowers and therefore do not utilize private market-based systems.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There are no significant alternatives to the proposed rules. Changes to the FERC's USofA were a direct result of comments from the regulated community, which sought clarification on accounting and reporting requirements for renewable generating and storage assets.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no specific instructions regarding the method of complying with the proposed ruleset.