

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

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2021-76 LR

Title of proposed rule set:

Service Quality and Reliability Standards for Electric Distribution Systems

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 Commission is not aware of any comparable federal rules or standards at this time.

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

No, the 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 rules do not exceed any federal standard.

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

The rules are similar to Indiana (http://iac.iga.in.gov/iac/iac_title?iact=170&iaca=&submit=+Go), Ohio (<https://codes.ohio.gov/ohio-administrative-code/chapter-4901:1-10>), and Wisconsin (https://docs.legis.wisconsin.gov/code/admin_code/psc/114/iii/234/2/_3).

Indiana has service standards, including system average interruption duration index (SAIDI) reporting, installation, and safety rules. Ohio requires outage reports, minimum customer service levels, and performance standards. Wisconsin has rules regarding installation, location, safety, and maintenance. Michigan's rules are in line with these states for protecting customers and ensuring quality service.

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

The proposed rules do not exceed the standards in other states.

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

There are no laws, rules, or other legal requirements that duplicate, overlap, or conflict with the 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.

There are no federal, state, or local laws applicable to the same activity or subject matter. The Michigan Public Service Commission (MPSC) worked with regulated businesses and under the authority granted by state and federal authority delegation to ensure that the rules comply and do not duplicate other service quality rules for electric systems.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

The rules are not more stringent than federally mandated standards.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

The rules are not more stringent than federally mandated standards.

Purpose and Objectives of the Rule(s)

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

The updates are designed to improve wire down response times, mandate outage credits to qualifying customers, discourage long duration distribution system outages and allow the Commission greater transparency for reviewing the power quality and reliability performance of Michigan's utilities.

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

In conjunction with the utility's filed five year distribution plans, these rules should improve the reliability performance of Michigan's utilities in the next 1-2 years once implemented.

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

-Wire Downs: Currently, first responders are guarding utility wires until they are relieved by a utility lineman. The current rules require them to stand by the wire for up to four hours, leaving them unable to do their core job duties until they were relieved. The updated rules reduced the amount of time that first responders are required to guard a utility wire and improved communications between the utility and the first responders.

-Definitions Updates: The current ruleset definitions included some definitions that were unique to Michigan and did not match industry standards. The ruleset definitions were updated to align with Institute of Electrical and Electronics Engineers definitions which are widely utilized in the industry as a best practice.

-Annual Reporting: The updated ruleset incorporates new reporting requirements for cooperative utilities and most investor-owned utilities. Currently, these additional reporting requirements are only required for Michigan's two largest investor-owned electric utilities, DTE Electric and Consumers Energy, and are submitted in two Commission dockets.

-Outage Credits: The current ruleset reflects an era during which utilities relied on customers to inform them of outages on their system. The updated ruleset reflects the technological updates that allow utilities to remotely view customer meter data. In the updated ruleset, customers are no longer required to file for an outage utility credit when they experience a qualifying outage.

-Outage Credit Thresholds: The current ruleset reflects an outage restoration timeframe from 2002. The Commission has approved funding to improve service outage restoration by increasing the frequency of tree trimming and improving the outage response times through the pre-staging of resources. The updated ruleset reduces the acceptable timeframe for outages based on the previous approval of capital and operation(s) and maintenance improvements.

C. What is the desired outcome?

The desired outcome is to improve the wire down response time, improve the service quality and reliability performance of Michigan's utilities as well as improve the customer experience by updating the ruleset to reflect current practices.

7. 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.

Continued poor power quality and reliability performance because utilities are held to the 20 year old metrics that were established prior to the implementation of advanced meters in Michigan.

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

The overarching rationale for updating the rules is that the Commission has approved millions of ratepayer dollars to improve the service quality and reliability performance of Michigan's utilities. However, the current ruleset reflects a time when the certain technological advances were unavailable. Since it had been nearly 20 years since the ruleset was established, the Commission found it prudent to update the rules to match the established investments.

8. 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.

The proposed rules protect the health, safety and welfare of Michigan citizens by:

- Encouraging the utilities to relieve first responders guarding downed utility wires quicker so that they can return to their core job duties of protecting the health, safety, and welfare of Michigan citizens.
- Restore customer outages quickly to avoid long duration outages that are costly for citizens and businesses.
- Updating the definitions and reliability metrics used to ensure that Michigan's performance indicators match industry accepted Institute of Electrical and Electronics Engineers (IEEE) guidelines.
- Requiring automatic distribution of outage credits to ensure that customers are not burdened with applying for the credit.
- Establishing additional annual reporting requirements for cooperatives and all investor-owned utilities to ensure that all utilities, regardless of size, are reporting their power quality and reliability performance to the Commission.

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

R 460.702(b), (d), (e), (j), and (k), R 460.724 (a), (b), (c), and R 460.732 (a), (b), (c) that reflect the performance of a utility's customer service are being transferred to the billing ruleset which is enforced by the Commission's Customer Assistance Division. This change was approved in order to have all customer service metrics housed in the Billing Ruleset.

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.

10. 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).

The Michigan Public Service Commission (MPSC) spends approximately \$4000 on publication of notices for rulemaking and holding a public hearing. Otherwise, there is no fiscal impact on the MPSC. The MPSC already provides and enforces these rules as one of its many duties, and the proposed changes and rules do not alter the MPSC's duties.

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

No additional funds are required for implementation of the proposed rules.

12. 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 current service quality rules have not been revised in more than a decade and it is important to update the rules to reflect technological advancements in the area of service quality. The MPSC may work with the utility to address and reduce the fiscal impact to the utility and customers.

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

Currently, the utilities are provided budget allocations to trim trees and prevent outages, the current rules do not go far enough to protect the public and provide reliable service to the customers. The proposed rules directly address requirements for reporting to the MPSC and providing compensation to the customer when there are outages and require a five year plan to correct and decrease the number and frequency of outages.

Impact on Other State or Local Governmental Units

13. 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.

There will be no increase or decrease in revenues or costs to other state or local governmental units as a result of the updated rules.

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

The wire down subgroup established that utilities would host a wire down training for first responders to review wire down metrics and response protocols. First responders may have to pay to attend this training, but it is not required. Therefore, there will not be any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the 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.

The proposed changes to the rules will not materially affect the actions that the governmental units or the MPSC must take to be in compliance with the rules. The MPSC is obligated to review the annual report detailing the utility's service quality, and the actions taken to address these incidents. Following the review of the annual report, the MPSC will determine whether it needs to work with the utilities to ensure that the public health, safety, and welfare is sufficiently protected.

15. 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.

No appropriation has been made and no funding source has been provided, and neither is necessary.

Rural Impact

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

Both public and private interests are affected by these rules. This will reduce, if not eliminate, the expense associated with service outage, especially in rural areas. The reporting requirement of this rule will be applied statewide and will not have a disproportionate impact on rural areas.

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

Police and Fire Departments in rural areas may see an improvement in their wire down response times from their local utility. The proposed training will strengthen communication between the agencies and ensure that downed wires are guarded in a manner that is safe for the first responders and the public involved. Smaller utility cooperatives in rural areas may see an increase in administrative costs to adhere to annual reporting requirements. However, the reporting requirement of this rule will be applied statewide and will not have a disproportionate impact on rural areas.

Environmental Impact

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

Increased service quality and vegetation reduction may impact the environment around utility poles and lines, this will not be an adverse impact as the utilities are already conducting the tree-trimming and vegetation management programs on a regular basis.

Small Business Impact Statement

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

These rules only apply to electric utilities. Because these rules concern health, safety, and welfare of the public, the MPSC cannot exempt electric utilities that are considered small businesses.

19. 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.

Because these rules concern health, safety, and welfare of the public, the rules are applied uniformly across all businesses engaged in the provision of electric service, regardless of whether they are considered a small business.

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

Nine Michigan electric utilities, or approximately 53%, qualify as small businesses. The proposed changes will have little to no effect on these utilities because they are already complying with the current Service Quality Standards for Electric Service 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.

In order to protect the health, safety, and welfare of Michigan citizens and businesses, the service quality rules are applied uniformly across all businesses engaged in the provision of electric service. Utilities considered to be small businesses will not experience an additional burden due to the proposed update to the rules. Therefore, it is not necessary to establish differing compliance or reporting requirements or timetables.

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.

In order to protect the health, safety, and welfare of Michigan citizens and businesses, the service quality rules are applied uniformly across all businesses engaged in the provision of electric service. The Commission believes that providing an annual report will not be burdensome on utilities who qualify as small businesses.

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

The Commission has adopted industry standards in the proposed rules as proposed by the industry in workgroups for these rules.

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

The update to the rules regarding service quality does not have any disproportionate impact on small businesses because of their size or geographic location. In order to protect the health, safety, and welfare of Michigan citizens and businesses, the rules are applied uniformly across all businesses engaged in the provision of electric service. The Commission believes that providing a single, annual report will not be burdensome on utilities who qualify as small businesses.

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

The proposed rules require that electric utilities provide an annual report detailing service quality, outages, times and duration, and prevention methods. However, because most of the utilities already track this information, it should not be costly or burdensome to create a report for the MPSC.

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

It is impossible to estimate the cost associated with the preparation of the report required by the service quality rules because the type and quantity of information included in the report may vary significantly from year to year due to the number and size of outages and incidents. However, because most of the utilities already track this information, it should not be costly or burdensome to provide this information to the MPSC.

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

It is impossible to estimate the cost of any legal, consulting, or accounting services that are associated with the preparation of the report required by the service quality rules because the type and quantity of information included in the report may vary significantly from year to year due to the number and size of outages and incidents. However, because most of the utilities already track this information, it should not be costly or burdensome to provide this information to the MPSC.

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

Most electric utilities already track information related to service quality, outages, restoration times, and tree trimming, and therefore, it should not be costly or burdensome to provide the information required by the service quality rules.

25. 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 rules do not exempt or set lesser standards for compliance by small businesses. There will not be any additional cost to the agency to administer or enforce the rules.

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

The health, safety, and welfare of Michigan citizens and businesses would be negatively affected if small electric utilities were not required to provide safe and adequate service to the public. The proposed rules provide standards for uniform and reasonable practices so that all electric utilities in Michigan may provide safe and adequate electric service to the public. Additionally, in order to protect the health, safety, and welfare of Michigan citizens and businesses, it is important that the MPSC be informed of outage and service quality events and preventative measures taken by both large and small electric utilities.

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

The Michigan Electric and Gas Association (MEGA) was a member of the workgroup that developed an update to the proposed rules.

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

MEGA represents investor-owned electric and natural gas utilities in Michigan, including utilities that may be classified as small businesses.

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

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

Electric utilities are already complying with the existing Service Quality Standards for Electric Service rules. However, investor-owned utilities and cooperatives may see an increase in administrative expenses to adhere to annual reporting requirements and an increase in capital and operation and maintenance (O&M) expenses to meet updated outage restoration requirements. However, it is impossible to estimate the statewide compliance costs associated with the rules because the type and quantity of information included in the report may vary significantly from year to year due to the number and size of incidents. However, because most of the electric utilities already track this information, it should not be costly or burdensome to provide this information to the MPSC.

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

Alger-Delta Electric Co-operative Electric Association, Alpena Power Company, Cherryland Electric Cooperative, Cloverland Electric Cooperative, Consumers Energy Company, DTE Electric Company, Great Lakes Energy Cooperative, Indiana Michigan Power Company, Midwest Energy Cooperative, Ontonagon County Rural Electrification Association, Presque Isle Electric & Gas Co-op, Thumb Electric Cooperative, Tri-County Electric Cooperative, Upper Peninsula Power Company, Upper Michigan Energy Resources Corporation, and Xcel Energy.

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 utilities are already complying with the existing Service Quality Standards for Electric Service rules, and the proposed changes to incorporate additional resources to improve restoration times—more storm restoration crews, more wire down guards, more funding to pre-stage resources, etc. These expenses are allocated in their rate making, and therefore, there are no additional costs associated with the update to the rules.

29. 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.

There are no compliance costs for individuals.

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

The rules affect seven investor-owned utilities and ten cooperative utilities, there are no individuals regulated by these rules.

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

No individuals will be affected by the rules.

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

Individuals should experience reduced power outages, including frequency and duration. Businesses should experience reduced loss of product due to power outages. And residential customers should experience reduced power outages that cause spoiled food or hotel stays, and loss of life saving medical equipment.

31. 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.

Reducing the number and duration of power outages will create revenue for the utilities and reduce customer costs resulting from lost power, spoiled food, and spoiled medications. The proposed rules will also have the indirect benefit of reducing the need for hotel stays during power outages and the required access to life-saving medical equipment which requires power to operate.

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

Improving the power quality and reliability of Michigan's distribution system can make Michigan more attractive for businesses to invest here which would help the economy and potentially create more jobs. Additional tree-trimming and line service jobs may become available as the utilities ramp up their efforts to reduce power outages.

33. 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.

Smaller utilities and cooperatives who have not opted to install smart meters and other technology may be disproportionally impacted by the new rules. However, they may apply for a rule waiver if they believe that the proposed rules would be too burdensome to comply with. Therefore, no individuals or businesses will be disproportionately affected by the rules. The rules are applied uniformly across all businesses engaged in the provision of electric service in order to protect the health, safety, and welfare of Michigan citizens and businesses.

34. 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 MPSC relied upon the service quality standards for electric service rules from Indiana, Ohio, and Wisconsin to determine whether the rules exceed standards in those states. The proposed changes will have little to no effect on the utilities because they are already complying with the current rules. Therefore, a benefit-cost analysis would show no effect on the utilities. It is impossible to perform a benefit-cost analysis regarding the preparation of the annual report because the type and quantity of information included in the report may vary significantly from year to year due to the number and size of incidents. However, because most of the utilities already track this information, it should not be costly or burdensome to create a report for the MPSC.

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.

The MPSC relied upon the service quality standards for electric service rules from Indiana, Ohio, and Wisconsin to determine whether the rules exceed standards in those states.

Alternative to Regulation

35. 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 if Michigan wishes to continue to provide standards for uniform and reasonable practices for all electric utilities in Michigan. Each electric utility could establish its own set of service quality standards for electric service and outage incident reporting rules, however they would be inconsistent and unequal, and would insufficiently protect electric utility customers in Michigan.

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

There are no statutory amendments that would be necessary to achieve the alternatives.

36. 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.

If each utility established its own set of service quality standards for electric service and outage incident reporting rules, the standards would be inconsistent and unequal, and would insufficiently protect utility customers in Michigan. The Commission is not aware of a private market-based system in another state.

37. 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.

No alternatives to regulation are available; thus, no alternatives were discussed.

Additional Information

38. 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 instructions regarding the method of complying with the rules.