

State Budget Office
Office of Regulatory Reinvention
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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RISCBA)**

PART 1: INTRODUCTION

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate the rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) at orr@michigan.gov no less than 28 days before the public hearing.

1. Agency Information

Agency name:	Public Service Commission (PSC or Commission)
Division/Bureau/Office:	Licensing and Regulatory Affairs (LARA)
Name, title, phone number, and e-mail of person completing this form:	Karen Kostbade, Administrative Law Specialist, 517-284-8086, kostbadek@michigan.gov
Name of Departmental Regulatory Affairs Officer reviewing this form:	Liz Arasim Department of Licensing and Regulatory Affairs

2. Rule Set Information

ORR assigned rule set number:	2018-001 LR
Title of proposed rule set:	Consumer Standards and Billing Practices for Electric and Natural Gas Service

PART 2: KEY SECTIONS OF THE APA

24.207a “Small business” defined.

Sec. 7a. “Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated, and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.

24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40. (1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
- (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
- (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
- (d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** which shall contain specific information (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5].

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
 - (b) Instructions on any existing administrative remedies or appeals available to the public.
 - (c) Instructions regarding the method of complying with the rules, if available.
 - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: AGENCY RESPONSE

Please provide the required information using complete sentences. **Do not answer any question with “N/A” or “none.”**

Comparison of Rule(s) to Federal/State/Association Standards:

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

No comparable federal rules or standards set by a state or national licensing agency or accreditation association exist.

A. Are these rule(s) required by state law or federal mandate?

The rules are both required and authorized by state law. MCL 460.1211(1) provides, “Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commission shall promulgate rules to implement this part within 1 year after the effective date of this section.” MCL 460.55 provides, in relevant part, that the Commission “shall have power and authority to make, adopt and enforce rules and regulations for the conduct of its business and the proper discharge of its functions hereunder, and all persons dealing with the commission or interested in any matter or

proceedings pending before it shall be bound by such rules and regulations. The commission shall also have authority to make and prescribe regulations for the conducting of the business of public utilities, subject to the jurisdiction thereof, and it shall be the duty of every corporation, joint stock company, association or individual owning, managing or operating any such utility to obey such rules and regulations.” MCL 460.557(2) provides, in part, that the Commission “may establish by order rules and conditions of service that are just and reasonable.” The rules identified in this statement are essential to the Commission’s exercise of its authority to promulgate rules for the conduct of the business of regulated public utilities in this state because they set forth the standards regulated public utilities must follow in billing and providing service to customers for gas and electric utility service. The rules also constitute “rules and conditions of service that are just and reasonable” pursuant to MCL 460.557(2).

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

These rules do not exceed a federal standard.

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

There are no known public utility rules in other states that allow a utility to shut off service for non-payment of on-bill financing for a residential energy project. However, there are standards in other similarly-situated states that govern the billing of electric and gas utility service as well as the conditions of utility service, yet each state has a different way of overseeing the regulation of public utilities and more specifically the provision of electric and natural gas service to customers who reside in that state. Ohio, Illinois, Wisconsin, and Indiana are all states that bear a close proximity to Michigan and therefore similar geographic locations, topographies, natural resources, commonalities, or economic similarities. Yet, each of these states regulates the billing of and provision of electric and natural gas utility service in a way that is unique to that state’s regulatory agency. For example, the Public Utility Commission of Ohio segregates billing rules based on the type of service provided. It has one set of billing rules that apply only to the provision of natural gas service, and a different set of billing rules regarding the provision of electric service. (See Ohio Admin. Code, R 4901:1-13-11 and R 4901:1-10-16 through R 4901:1-10-19). In contrast, the Illinois Commerce Commission has administrative billing rules that apply uniformly to several different types of utility service including gas, electric, water and sanitary sewer. (See 83 Ill. Admin. Code 280.40, *et seq.*). Wisconsin’s Public Service Commission, like the Public Utility Commission of Ohio, separates billing rules and conditions of service by industry, with one set of service rules for electrical utilities and a different set of rules for the provision of natural gas service. (Compare Wisconsin Administrative Code PSC 113.01 *et seq.* with PSC 134.01 *et seq.*). The Indiana Utility Regulatory Commission also has segregated conditions of service by utility industry with certain rules for natural gas and different ones for electric service. (See 170 Ind. Admin. Code 4-4.1-1 *et seq.* governing standards of service for electric utilities and 170 Ind. Admin. Code 5-1-1 *et seq.* governing standards of service for gas utilities.) These differences, and the fact that there is no exact rule like the one proposed in this rulemaking that allows for utility service to be shut off for non-payment of on-bill financing, make it impractical if not impossible to provide a side by side comparison.

A. If the rule(s) exceed standards in those states, explain why and specify the costs and benefits arising out of the deviation.

Although other states' standards regarding disconnection and billing for electric and natural gas utility service may, in some cases, differ from the rules under review in this statement, those differences do not necessarily lend themselves to an analysis regarding whether these rules "exceed" the standards in other states. And, although there are no known similar rules in other states that allow for a shut off of service for non-payment of on-bill financing for a residential energy project, the benefits of such a rule outweigh the costs. The rule provides commercial lenders, who are essentially providing residential customers an unsecured loan to pay for residential energy projects, some reassurance that the loan will be repaid. The financing itself allows residential customers to reduce their energy costs through energy projects that may otherwise be unaffordable. Therefore, both residential customers and commercial lenders stand to gain from the promulgation of this proposed rule change.

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

These rules do not duplicate, overlap, or conflict with any federal, state, or local laws, rules, or other legal requirements. This rulemaking is in response to the Michigan Legislature's enactment of MCL 460.1211, which directs the Commission to promulgate rules to implement that part of 2016 PA 342.

A. Explain how the rule has 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.

One proposed rule change involves when a utility is permitted to shut off utility service. This proposed rule has been drafted to coordinate with MCL 460.1207(2), which provides in part, "Electric or natural gas service may be shut off for nonpayment of the per-meter charge described under section 205 in the same manner and pursuant to the same procedures as used to enforce nonpayment of other charges for the provider's electric or natural gas service." The other proposed changes simply change the reference "informal hearing" to a "customer hearing" to conform with the rest of the language in the rule set.

Purpose and Objectives of the Rule(s):

4. Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter.

In 2016, the Michigan Legislature enacted 2016 PA 342 into law and, in doing so, created the state law that permits a residential customer to obtain on-bill financing to install or modify an energy waste reduction improvement or to acquire, install, or improve a renewable energy system. On-bill financing permits a residential customer to obtain an unsecured loan from a commercial lender and to pay back that loan in monthly increments as a per-meter charge added to the natural gas or electric utility bill. As noted in response to question 3.A. above,

MCL 460.1207(2) expressly permits the shutoff of electric or natural gas service for nonpayment of the per-meter charge associated with this type of financing in the same manner and pursuant to the same procedures used to enforce nonpayment of other charges for electric or natural gas service. One proposed rule change therefore allows utilities to shut off utility service where a residential customer has failed to pay the per-meter charge for three consecutive billing cycles. The rule will hopefully encourage residential customers to consistently pay the per-meter charge every month in order to repay the outstanding loan for their residential energy project by using the specter of the shutoff of utility service as a way of encouraging repayment of the loan.

The other proposed changes remedy the use of an incorrect word that was not corrected during the previous rulemaking that ended in 2017 and have no substantive effect. Those changes simply propose the correct words used in the rule to avoid inconsistency and confusion.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s).

Residential customers who chose to participate in and finance an energy project through the use of on-bill financing will now be expected to pay the per-meter charge for that financing each month as it will be a part of that customer's utility bill.

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

On-bill financing to pay for a residential energy project was not available before the enactment of 2016 PA 342, and there was no opportunity for a residential customer to lower their energy costs by obtaining such financing. The per-meter charge to pay for on-bill financing will be a new monthly charge on a residential customer's natural gas or electric utility bill that did not exist before, but residential customers are not required to finance such projects. This is voluntary. Natural gas and electric utilities are likewise not required to offer residential energy projects programs or on-bill financing to pay for such projects. Further, before the enactment of 2016 PA 342, a utility was not permitted to shut off natural gas or electric service for nonpayment of such charges. As set forth in MCL 460.1207(2), this rule makes it clear that a utility may shut off service for nonpayment of the per-meter charge described in MCL 460.1205(f).

C. What is the desired outcome?

In general, the goals of on-bill financing for residential energy projects include increasing the number of residential customers making energy improvements by maximizing the long-term reduction in energy use/demand per household, expanding access to financing for individuals who may not qualify for financial products currently in the marketplace, and making energy improvements more affordable for customers. More specifically, the desired outcome of the proposed rule change is to get residential customers who chose to make energy improvements using on-bill financing to pay their monthly per-meter charge for that financing.

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

Regulated natural gas and electric utilities are required to abide by the Commission’s rules pertaining to shutoff of utility service and they refer to those rules when determining whether a shutoff of service is permitted. The proposed rule change provides clear guidance to utilities as to under what circumstances a utility may shut off service for non-payment of the per-meter charge. In the absence of such guidance, regulated natural gas and electric utilities will not know whether it is appropriate to shut off service after one missed payment of the per-meter charge, or more than one missed payment. The proposed rule change also provides some reassurance to commercial lenders that the loan for the energy project will be repaid and will make it more likely that lenders would be willing to provide the financing. A lack of commercial lenders willing to provide such loans will result in fewer energy projects and therefore less energy waste reduction. Conversely, residential customers who chose to proceed with energy projects paid for with on-bill financing will be on notice that they may lose utility service if they fail to pay the per-meter charge for three consecutive billing cycles. Without this proposed rule change, the standard for a shutoff of service will be unclear to the residential customer as well.

A. What is the rationale for changing the rule(s) instead of leaving them as currently written?

The rationale for changing the rule is to inform regulated natural gas and electric utilities and residential customers what the standard is for a shutoff of service for non-payment of a per-meter charge described in MCL 460.1205(f). This rule change also complies with MCL 460.1211, which directs the Commission to promulgate rules related to on-bill financing for residential energy projects.

6. Describe how the proposed rule(s) 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.

When residential customers reduce energy waste, all of Michigan’s citizens benefit. Energy waste reduction reduces the load or demand for utility service and contributes to the reliability of the grid. Less energy waste also protects the environment because it requires less electric generation and/or less gas production. On-bill financing will also reduce energy costs for the residential customer over the useful life of the energy improvement, hopefully resulting in net savings. The proposed rule change helps facilitate energy waste reduction by putting in place a clear standard for what can happen when a customer consistently fails to pay the per-meter charge for on-bill financing. It thereby ensures repayment of the loan.

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

This rulemaking began just after a previous comprehensive rulemaking of this rule set was completed in 2017 that rescinded several redundant and unnecessary billing rules. There are no obsolete or unnecessary rules that can be rescinded at this time.

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 reimbursement rates, etc. over and above what is currently expended for that function. It does not include more intangible costs or benefits, such as

opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Describe the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings).

The fiscal impact on the Commission of the proposed rule changes is zero. The proposed changes will not require an increase in expenditures and will likewise not result in a decrease in expenditures. Eventually, at some point in the future, there could be more customer complaints regarding shutoff of utility service than existed previously, which may require the attention of current Commission staff, but it is unlikely that additional personnel will need to be hired to handle an influx of customer complaints in this area. At this time, this is purely speculation. As of the date of this statement, no utility has introduced a residential energy projects program pursuant to MCL 460.1205. So, this option for financing has not yet been utilized by any residential customer. The Commission does not envision a fiscal impact as a result of the rule changes.

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

As there are no planned expenditures associated with the proposed rules, no agency appropriation has been made and no funding source has been provided.

10. Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rule is necessary to clarify when a utility may shut off service for nonpayment of the per-meter charge described in MCL 460.1205(f). The rule places responsibility for payment of those charges on the residential customer who obtains on-bill financing and notifies the customer that, if they fail to pay the per-meter charge for three consecutive billing cycles, a utility is permitted to shut off their service. It is burdensome to the individual who is required to repay on-bill financing per-meter charges because it seeks to prevent missed payments. However, shutoff of service for non-payment of the per-meter charge is already permitted by state law in MCL 460.1207. So, this burden to repay these charges already exists. The rule just clarifies how many payments a residential customer can miss before they may lose utility service as a result.

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

Despite the burden that it imposes, the proposed rule change is necessary to clarify for residential customers and inform regulated natural gas and electric utilities as to when shutoff of service is permitted in the event that a residential customer fails to pay the per-meter charge described in MCL 460.1205(f).

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 such other

state or local governmental units 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 is no impact to other state or local governmental units resulting from the initial imposition or ongoing monitoring of the proposed rules.

A. 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.

The estimated cost increases or reductions for other state or local governmental units would be zero.

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

No program, service, duty, or responsibility will be imposed upon any city, county, town, village, or school district by these proposed rules.

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

There are no actions that governmental units must take to comply with the 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 rule(s).

No appropriation has been made to state or local governmental units. A funding source has not been provided for any additional expenditures associated with the proposed rules, other than the Public Service Commission's general budget which comes from utility payments passed on to Michigan ratepayers. Regulating the conditions of utility service and utility bill payment is not a new responsibility for the Public Service Commission, and the Commission will continue to utilize its resources to ensure compliance with these rules.

Rural Impact:

14. In general, what impact will the rule(s) have on rural areas?

The impact to rural areas will be the same as the impact to more heavily-populated urban areas. Any utility residential customers living in rural areas will receive the same benefits and have the same responsibilities as utility customers living in more populated areas. The protections and requirements in the proposed rules do not differentiate between urban and rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rule(s).

Just like urban residential customers, rural residential customers who elect to obtain on-bill financing for residential energy projects will have to consistently pay the per-meter charge for financing on their utility bill each billing cycle so that their utility service is not shut off for missed payments. Just like utilities located in urban areas, regulated utilities located in rural areas will be permitted to shut off service after a residential customer fails to pay the per-meter charge for three consecutive billing cycles.

Environmental Impact:

15. Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rule puts in place clear standards regarding shutoff of service for missed payments related to on-bill financing. To the extent that the proposed rule paves the way for residential energy projects by giving commercial lenders the assurance they need to provide financing, the rule indirectly encourages energy waste reduction and the installation of renewable energy systems, both of which have a positive impact on the environment. Obviously, the less dependent Michigan residential customers are on fossil fuels for utility service, the cleaner the environment will be. There is no negative impact on the environment that will result from the proposed rule changes.

Small Business Impact Statement:

16. Describe whether and how the agency considered exempting small businesses from the proposed rule(s).

The proposed rule regarding shutoff of service does not impact small nonresidential utility customers. On-bill financing is for residential energy projects and therefore the rule permitting shutoff is limited to residential customers only. In this way, some small businesses were exempted from the proposed rule.

17. If small businesses are not exempt, describe (a) how the agency reduced the economic impact of the proposed rule(s) 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 rule(s) upon small businesses as described below, per MCL 24.240(1)(a)-(d), or (b) the reasons such a reduction was not lawful or feasible.

There are a few rate-regulated utilities in Michigan that have fewer than 250 full-time employees and therefore would be considered a small business according to the APA. Although rate-regulated utilities would be the entities in charge of billing residential customers for the per-meter charge described in MCL 460.1205(f) and shutting off service for nonpayment of that charge, the utilities themselves are not providing the financing for the residential energy projects for which customers may obtain on-bill financing. Rather, that financing would come from commercial lenders. Therefore, the costs to these small businesses in complying with the rule change would be limited to time and money involved in shutting off residential utility service for nonpayment of the per-meter charge, which would not be a large impact, and which would be recoverable in utility rates. Therefore, the economic impact to these smaller utilities would be minimal. Additionally, no state law or Commission rule requires the rate-regulated small business utility to offer its customers on-bill financing for residential energy projects. So, a small business utility can avoid any economic impact by not offering such financing on its utility bills.

A. Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

The number of small businesses affected by the proposed rules would be approximately four rate-regulated utilities.

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

On-bill financing for residential energy projects has never been provided before, and this makes projections as to costs speculative at best. The costs that a rate-regulated utility incurs in the day-to-day operation of its business, including personnel and other resources to monitor bill payment and to shut off utility service when permitted to do so are costs that are routinely litigated in a rate case, which is a contested case proceeding before the Commission. Outside of such a contested rate case leading to a final Commission order, the Commission does not establish or project such costs. Because no utility has ever billed a customer for this kind of financing or even piloted such a program at this time, and without knowing how many utility customers will, in the future, avail themselves of on-bill financing to complete a residential energy project, accurate cost estimates or projections are difficult. Regardless, provided the Commission determines the costs to be both reasonable and prudent in the context of a rate case, the small business utility will recoup 100% of its costs to administer the option of on-bill financing.

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.

At this time, the small business utility has no specific compliance or reporting requirements with regard to on-bill financing.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rule(s).

As no design or operation standards are required by the proposed rules, the Commission did not establish any performance standards to replace design or operation standards.

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

Permitting residential utility customers to complete residential energy projects that are paid for with on-bill financing is discretionary and not required by any law. A small business utility may choose to forego such programs. At this time, the Commission is only aware of large business utility companies that are considering pursuing pilot programs permitting such residential energy projects. To the extent that the small business utility chooses not to

establish a residential energy projects program, the proposed rule will have no disproportionate impact on the small business utility. Should the small business utility choose to establish such a program, it will recoup its reasonable and prudent costs in the same manner as a larger utility because the small business utility may file an application to increase its rates annually. There is no disproportionate impact on a small business because of its size or geographic location.

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

There are no required reports that small businesses will be required to prepare in order to comply with the proposed rules.

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

These costs are speculative, do not yet exist, may never be incurred, and, if incurred, will almost certainly be recovered through increased rates in the context of a rate case proceeding, provided the Commission determines the costs to be reasonable and prudent.

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

No known costs for legal, consulting, or accounting services will be incurred by small business utilities as the result of complying with the proposed rule changes.

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

The utility rate case is the mechanism that a small business utility can utilize to recoup 100% of its reasonable and prudent costs with respect to on-bill financing. Accordingly, small business utilities will not suffer economic harm as a result of the proposed rule changes. There is no competition in the marketplace as public utilities have monopolies over their respective service territories. The proposed rule changes will not adversely affect competition.

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.

As noted earlier, the projects and programs covered by on-bill financing are residential in nature and therefore small business utility customers cannot avail themselves of on-bill financing for an energy project pursuant to the Clean and Renewable Energy and Energy Waste Reduction Act, MCL 460.1201, *et seq.* The only small businesses affected in any way by the proposed rule changes are approximately four small business utility companies, and the Commission will not be enforcing a rule that exempts or sets lesser standards for compliance by those small businesses. Small business utilities are not required by law to

establish programs for residential energy projects and may choose not to. The cost to the Commission is zero.

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

As the proposed rule changes do not exempt or set lesser standards of compliance for small businesses, there is no impact on the public interest.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rule(s).

Pursuant to the rule-making process set forth in the Administrative Procedures Act of 1969, MCL 24.201 et seq., the Commission will be providing notice of a hearing as well as a public hearing and will allow all members of the public, including small businesses, the opportunity to comment in person and in writing on the proposed rules. The rules will not be finalized until all timely submitted public comments have been considered. In this way, the Commission will consider feedback from all sectors of the public in the development of these rules.

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

The initial proposed rules that have been submitted prior to the public hearing and public comment period that will take place resulted from a collaboration of Commission Staff and Staff from the Michigan Agency for Energy. Public engagement and involvement will follow during the notice, public hearing, and public comment periods.

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

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

As stated earlier, on-bill financing has never been permitted before the State Legislature enacted 2016 PA 342, amending the Clean and Renewable Energy and Energy Waste Reduction Act, 2008 PA 2008, which became effective on April 20, 2017. No commercial lender has, to date, offered such financing, and no Commission-regulated utility company has billed a per-meter charge for a residential energy project. This is all brand new. Also, it is important to note that utilities are not required by law to establish residential energy programs. The enacted legislation merely made it possible to do so but did not mandate such programs. These programs remain at the discretion of the utility. Likewise, residential utility customers are not required to take advantage of on-bill financing to finance a residential energy project. Also, the proposed rule change permits but does not require a utility to shut off service for nonpayment of the per-meter charge related to such financing. Given the nascent stage of these programs and the related financing, and the fact that they are discretionary on many levels, it is impossible to come up with an estimate of statewide compliance costs of the rule amendments on businesses or groups that would be at all accurate or even informed. But, it is noteworthy that the costs of billing and shutting off service that utilities may incur as a result of on-bill financing will be paid by utility customers through utility rates.

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

Rate-regulated utility companies in Michigan that choose to offer such programs and bill residential customers for the per-meter charge for on-bill financing as part of the utility bill will be directly affected by the proposed rule change. Residential utility customers who choose to use on-bill financing to finance residential energy projects will be responsible for paying the per-meter charge for that financing. Residential utility customers are the beneficiaries of this rulemaking as they will now have another way to finance residential energy projects.

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)? Identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The proposed rule changes are minimal and are limited to allowing rate-regulated utilities to shut off utility service for nonpayment of the per-meter charge on the utility bill. As a result, there are no additional costs that will be imposed on businesses and other groups as a result of the proposed rules.

27. Estimate the actual statewide compliance costs of the proposed rule(s) 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.

As noted in earlier responses, this rule change is the result of legislation allowing for on-bill financing. The specific rule proposed allows utilities to shut off utility service for nonpayment of a per-meter charge related to on-bill financing for residential energy projects. Individuals who are residential utility customers that benefit from such programs will likely be the ones to bear the expense in the form of increased rates. However, an estimate of the statewide compliance costs of granting a utility the discretion to shut off service for nonpayment of a per-meter charge would depend on the number of customers utilizing this financing option, the number of customers who have missed payments, and the rate relief granted in a rate case. This information is not available at this time.

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

The categories of individuals affected by the proposed rule will be those specific residential utility customers who both choose to use on-bill financing to finance a residential energy project and who fail to pay the per-meter charge associated with that project for three consecutive billing cycles.

B. What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

These individuals will have an avenue of financing not previously available to them which may allow them to finance residential energy projects that may have been cost-prohibitive in the past. However, they also have the responsibility to pay for that

financing by paying their utility bill reflecting the per-meter charge for that financing or risk losing utility service after three consecutive missed payments.

- 28.** Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There are no cost reductions that result from the proposed rule.

- 29.** Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Provide both quantitative and qualitative information, as well as your assumptions.

The primary benefit of the proposed rule is to inform residential utility customers and rate-regulated utilities about when a utility may shut off utility service for nonpayment of the per-meter charge associated with a residential energy project financed through on-bill financing. Utilities can rely on this proposed rule when deciding whether to shut off utility service and residential customers can rely on it as well when they have missed zero payments, 1 payment, or 2 payments, to make sure the utility does not shut off service prematurely. An indirect benefit might be that commercial lenders receive a little more assurance that the loans they provide for these energy projects will be repaid, because the specter of a shut off of service for nonpayment of the per-meter charge after three consecutive missed payments is stated clearly in the Commission's billing rules.

- 30.** Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The proposed rule change itself is a minor one and does little to impact business growth and job creation, except that it may encourage commercial lenders to get into the business of on-bill financing, which might result in some job creation for these lending institutions. It is unclear whether the rule will cause utilities that offer such programs to hire additional personnel to handle billing and shut off of service, but this could happen. Looking at the bigger picture of energy waste reduction and residential energy projects, on-bill financing and residential energy projects programs will certainly grow businesses that sell energy efficient residential products such as insulation, storm windows, windows, doors, heating, ventilating, or air-conditioning and distribution system modifications or replacements, air sealing, caulking, weather-stripping, lighting fixtures, energy recovery systems, day lighting systems, electrical wiring or outlets to charge a motor vehicle that is powered by electricity, automated energy control systems, measures to reduce the usage of water or increase the efficiency of water usage, or renewable energy systems. This, in turn, will lead to job creation for those businesses. It is unclear how many of these jobs will be created in Michigan. This will depend on where the businesses are located.

- 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.

Rate-regulated utility companies and residential utility customers will be affected by the rules because of the industry in which they provide or receive utility service and the type of rule proposed.

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 a proposed rule(s) and a cost-benefit analysis of the proposed rule(s).

In compiling the regulatory impact statement, the Commission relied on the current draft of the proposed rules, a Final Grant Report issued by the Michigan Agency for Energy, Michigan statutory law, data compiled by the Commission, and the knowledge and expertise of various staff members at the Commission and the Michigan Agency for Energy.

- A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

Because cost estimates provided in this statement would have been complete guesswork at this time, as this kind of financing has only just become available, efforts were made to explain why it was premature to project such costs and the variables that would eventually determine their amounts.

Alternatives to Regulation:

33. Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. Include any statutory amendments that may be necessary to achieve such alternatives.

A decision was made to keep proposed rule changes to a minimum given the fact that on-bill financing and residential energy projects programs are new and have not been fully developed yet. This decision was also made because the State Legislature, through its enactment of 2016 PA 342, already provided a complete statutory framework for residential energy projects programs, plans, and associated charges. However, alternatives would have been to provide a more comprehensive set of rules or to simply refrain from promulgating any rules at this time. Given the clear directive in MCL 460.1211 to promulgate rules, the Commission determined it was best to move forward with a request for rulemaking regarding on-bill financing that would allow residential energy projects programs to be developed in Michigan. After the Commission has had time to evaluate the demand, cost, financing, and development of such projects and programs, it may be in a better position to promulgate more rules in this area in the future.

- A. In enumerating your alternatives, include any statutory amendments that may be necessary to achieve such alternatives.

Once these programs are in place and on-bill financing has become a reality, the Commission can reassess the need for more comprehensive rulemaking in this area. At this time, it is premature to identify areas of the recently enacted statutes that may need to be amended. Further, the Commission recognizes that statutory amendments are for the State Legislature to determine and not the Commission.

34. Discuss the feasibility of establishing a regulatory program similar to that in the proposed rule(s) that would operate through private market-based mechanisms. Include a discussion of private market-based systems utilized by other states.

Home improvement loans and other forms of credit and financing already exist through private market-based mechanisms here in Michigan and throughout the country. However, the State Legislature, in enacting 2016 PA 342, has chosen to allow utility companies the option of providing its residential customers with residential energy projects programs and to administer on-bill financing by adding a per-meter charge to a residential customer's utility bill. The State Legislature has also mandated that the Commission has the responsibility to approve a plan for a residential energy projects program upon a determination as to its reasonableness and prudence and to promulgate related rules. In doing so, the State Legislature has opted to forego relying solely on private market-based mechanisms for the financing of residential energy projects.

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

The Commission discussed various options with respect to rulemaking on this topic and chose not to promulgate an exhaustive set of rules that may discourage utilities, residential customers, or commercial lenders from offering programs, products and services or participating in a residential energy projects program. The Commission likewise determined it is too soon to evaluate the need for additional rules in this area. Therefore, the Commission sought to propose a single rule change that would set forth a clear standard for when a utility may shut off service for nonpayment of the per-meter charge associated with on-bill financing. The need for future rulemaking will be determined when such projects, programs, and financing options are underway, and the Commission has had an opportunity to evaluate them.

Additional Information:

36. As required by MCL 24.245b(1)(c), describe any instructions on complying with the rule(s), if applicable.

There are no specific instructions regarding the method of complying with the rules. The Commission believes that the rules make plain what is required of utilities and customers. In the event that a utility or a customer has a question about how the Commission is interpreting the rule, they are welcome to contact the Public Service Commission to discuss their inquiry.

↓ **To be completed by the ORR** ↓

PART 4: REVIEW BY THE ORR

Date RISCBA received:	
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Date RISCBA approved:	
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Date of disapproval:	
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Explanation:	
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