



Dykema Gossett PLLC
Capitol View
201 Townsend Street, Suite 900
Lansing, MI 48933

WWW.DYKEMA.COM

Tel: (517) 374-9100

Fax: (517) 374-9191

Richard J. Aaron

Direct Dial: (517) 374-9198

Direct Fax: (855) 230-2517

Email: RAaron@dykema.com

February 15, 2019

Via Email

Merideth Hadala
Renewable Energy Section
Energy Resources Division
Michigan Public Service Commission
7109 West Saginaw, 3 Lansing, MI 48917.

Re: Comments on PURPA Legally Enforceable Obligation

Dear Merideth:

Enclosed please find the Michigan Electric Cooperative Association's suggested mark up to the draft Montana Ruleset. The suggested redline change is intended to be consistent with the Commission not establishing PURPA avoided costs and related obligations for member-regulated cooperatives. See, e.g., In Re Thumb Electric Cooperative, Order Approving Stipulation to Dismiss, Case No. U-18097 (November 22, 2016). This suggested change contemplates that the ruleset would be part of the interconnection rules. The member-regulated cooperatives agree that the Commission retains jurisdiction over member-regulated cooperatives as to matters involving interconnection under MCL 460.36.

Sincerely,

DYKEMA GOSSETT, PLLC

Richard J. Aaron

Enclosure

900500.005830 4812-0650-2280.1

Mont.Admin.R. 38.5.1909

ARM 38.5.1909

38.5.1909. CREATION OF A LEGALLY ENFORCEABLE OBLIGATION

Currentness

Scope – The rules in this subsection apply to an electric utility whose rates are regulated by the Commission.

(1) A legally enforceable obligation is created when:

(a) a qualifying facility has unilaterally signed and tendered a power purchase agreement to the purchasing utility with a price term equal to either:

(i) the existing standard offer rate in accordance with the applicable standard tariff provisions as approved by the commission for qualifying facilities eligible for standard offer rates; or

(ii) a price term consistent with the purchasing utility's avoided costs, calculated within 14 days of the date the power purchase agreement is tendered, with specified beginning and ending dates for delivery of energy, capacity, or both to be purchased by the utility and provisions committing the qualifying facility to reimburse the purchasing utility for interconnection costs, pursuant to [ARM 38.5.1901\(2\)\(d\)](#) and [38.5.1904\(2\) and \(3\)](#) for qualifying facilities not eligible for standard offer rates;

(b) a qualifying facility has obtained and provided to the purchasing utility written documents confirming control of the site for the length of the asserted legally enforceable obligation and permission to construct the qualifying facility that establish, at a minimum:

(i) proof of control of the site for the duration of the term of the power purchase agreement such as a lease or ownership interest in the real property;

(ii) proof of all required land use approvals and environmental permits necessary to construct and operate the facility; and

(iii) permission to construct the qualifying facility as defined in [ARM 38.5.1901\(2\)\(f\)](#);

(c) a qualifying facility has submitted a completed generator interconnection request that either requested study for network resource interconnection service (NRIS) for facilities larger than 20 megawatts or

requested an optional study equivalent to NRIS for facilities 20 megawatts and smaller; and

(d) a qualifying facility has undertaken one of the following additional steps towards interconnection:

(i) the qualifying facility has executed and returned a signed System Impact Study Agreement, with any required deposit, to the interconnecting utility and all technical data necessary to complete the System Impact Study Agreement;

(ii) for qualifying facilities requesting to interconnect under the Small Generator Interconnection Procedures (SGIP), 53 days have elapsed since the qualifying facility submitted the interconnection request and all of the following conditions exist: the interconnecting utility did not provide the qualifying facility a System Impact Study Agreement within 38 days of the qualifying facility's interconnection request; the qualifying facility has not waived the tariffed SGIP timeline; and the qualifying facility has satisfied applicable interconnection customer deadlines in the tariffed SGIP;

(iii) for qualifying facilities requesting to interconnect under the Large Generator Interconnection Procedures (LGIP), 90 days have elapsed since the qualifying facility submitted a completed interconnection request with the interconnecting utility, and all of the following conditions exist: the qualifying facility has not been provided a System Impact Study Agreement within 60 days of the initial interconnection request; the qualifying facility has not waived the timeline associated with the work of the interconnecting utility associated with the LGIP process; and the qualifying facility has timely met its deadlines established in the LGIP; or

(iv) for qualifying facilities that have waived the deadlines pertaining to the work of the interconnecting utility associated either with the SGIP or LGIP process, the mutually agreed upon time period after which the qualifying facility was scheduled to execute and return a signed System Impact Study Agreement, with any required deposit, to the interconnecting utility and all technical data necessary to complete the System Impact Study, has elapsed.

Credits

AUTH: [69-3-103](#), [69-3-604\(5\)](#), [MCA](#)

IMP: [69-3-102](#), [69-3-604\(5\)](#), MCA

NEW, 2018 MAR p. 1298, Eff. 7/7/18.

Current through Issue 18 of the 2018 Montana Administrative Register
dated September 21, 2018.

Mont.Admin.R. 38.5.1909, MT ADC 38.5.1909