



Energy and Telecommunications Interim Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

68th Montana Legislature

SENATE MEMBERS

DUANE ANKNEY
JANET ELLIS
TERRY GAUTHIER
MARY McNALLY

HOUSE MEMBERS

MICHELE BINKLEY
STEVEN GALLOWAY
DENISE HAYMAN
ANDREA OLSEN
KATIE SULLIVAN
KATIE ZOLNIKOV

COMMITTEE STAFF

TREVOR GRAFF, Lead Staff
JAMESON WALKER, Staff Attorney
NADINE SPENCER, Secretary

May 6, 2022

TO: Energy and Telecommunications Interim Committee
FROM: Jameson Walker, Staff Attorney
RE: Administrative Rulemaking and Rule Review, May 2022

The Energy and Telecommunications Interim Committee is required to review administrative rules promulgated by the Public Service Commission for compliance with the Montana Administrative Procedure Act (MAPA). The rulemaking and rule review processes and the Committee's and an individual legislator's roles in these processes are outlined below.

PROPOSAL NOTICES

Department of Public Service Regulation and Public Service Commission

MAR Notice Number: 38-5-250

Subject: Adoption of a new rule pertaining to Montana Energy Impact Assistance Financing.

Summary: The department proposed to adopt New Rule I:

NEW RULE I MONTANA ENERGY IMPACT ASSISTANCE FINANCING

(1) If an electric utility applies to the commission to approve a financing order pursuant to the Montana Energy Impact Assistance Act, the electric utility's application to the commission must describe how such financing satisfies or follows from a plan developed pursuant to [69-3-1201](#) et seq., MCA, and any responsive commission comments.

(2) An application for a Montana Energy Impact Assistance Act financing order must be consistent with the relevant statutory requirements in [69-3-1601](#) through [69-3-1623](#), MCA, and include the following minimum filing requirements:

(a) testimony and workpapers providing an estimated schedule for the retirement or replacement of the electric infrastructure or facilities subject to the application;

(b) testimony and workpapers specifying the electric infrastructure or facilities to be retired or replaced, and the effects of the proposed financing on the retirement or replacement, including a description and calculation of the applicable electric infrastructure or facilities' contribution to the electric utility's rate-base revenue requirement including operating expenses, taxes, depreciation, rate base, and the return on rate base, plus the effect on the electric utility's cost-tracking adjustment for electricity

supply and the applicable reduction to rates base upon the inception of the collection of Montana energy impact assistance charges;

(c) testimony and workpapers describing the amount and terms of the proposed securitization, including the Montana energy impact assistance costs and financing costs associated with the retirement or replacement;

(d) testimony and workpapers describing the proposed methodology for allocating the revenue requirement for the Montana energy impact assistance charge among customer classes;

(e) testimony and workpapers describing the nonbypassable Montana energy impact assistance charge required to be paid by customers within the electric utility's service area for the recovery of the Montana energy impact assistance costs;

(f) testimony and workpapers estimating the net present value of electric utility customer savings expected to result if the financing order is issued using a net present value comparison between the costs to customers that are expected to result from the financing of the undepreciated balances of electric infrastructure or facilities with Montana energy impact assistance bonds and the costs that would result from the application of traditional electric utility financing mechanisms to the same undepreciated balances;

(g) testimony and workpapers demonstrating one or more alternative financing scenarios in addition to the preferred scenario contained in the application. The alternative scenarios shall include various bond lengths with sensitivity analyses of associated interest rates, and compare electric utility customer savings under each scenario;

(h) testimony and workpapers describing the proposed billing mechanism to collect the Montana energy impact assistance charges from the electric utility customers, including proposed tariff sheets;

(i) a copy of the proposed Montana energy impact assistance bonds;

(j) testimony and workpapers describing the proposed true up mechanism to adjust for any over/undercollections of Montana energy impact assistance charges;

(k) testimony and workpapers describing the proposed method to remove the applicable electric infrastructure or facilities from the electric utility's ~~rate-base~~ revenue requirement, including rate base, upon the inception of the collection of Montana energy impact assistance charges; and

(l) if approval for the use of any remaining Montana energy impact assistance bond proceeds is not requested in the application, testimony providing a general description and timeframe of the electric utility's anticipated use of such proceeds in compliance with [69-3-1623](#), MCA.

(3) The commission may assess a penalty for violations of [69-3-1616](#), MCA. A penalty must be reasonable based on the facts and circumstances presented for each violation, including the amount in controversy, and be sufficient to deter future noncompliance. Penalty amounts must be determined after providing parties an opportunity to appear and be heard. Penalties must be in amounts authorized by [69-3-206\(1\)](#), MCA, and recovered from electric utilities under the procedure required by [69-3-206\(2\)](#), MCA.

The department states that the rule notice is reasonably necessary to implement the Montana Energy Impact Assistance Act, House Bill 467 (2019), which provides an alternative financing mechanism to address the retirement and replacement of electric infrastructure of facilities.

Notes/Hearing: The department amended its prior notice to provide the stricken and underlined language proposed rule above.