

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Public Service Commission

**DIVISION** Legal

**PERSON COMPLETING THIS STATEMENT** Jennifer Link

**TELEPHONE NO.** (501) 682-5879 **FAX NO.** \_\_\_\_\_ **EMAIL:** jennifer.link@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Net Metering Rules

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes  No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No

If an agency is proposing a more costly rule, please state the following:

a) How the additional benefits of the more costly rule justify its additional cost;

N/A

b) The reason for adoption of the more costly rule;

N/A

c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

N/A

d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total N/A \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total N/A \_\_\_\_\_

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total N/A \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total N/A \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

N/A

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

N/A

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?  
Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



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UTILITIES DIVISION**  
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Donna Gray  
Executive Director  
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## **Proposed Rule Amendment to Net Metering Rules**

October 24, 2022

### **Purpose**

In Order No. 1 filed August 18, 2022, the Commission opened a rulemaking docket concerning proposed amendments to the Commission's NMRs, specifically and only to address uncertainties associated with the expiration of automatic grandfathering of the existing 1:1 net-metering rate credit rate structure that is currently in effect for all jurisdictional electric utilities in Arkansas and applicable to Net-Metering Customers.

### **Background**

In Order No. 10, issued on March 8, 2017, the Commission discussed the need for grandfathering, noting that it is premised on the assumption that the Commission will establish a new rate structure, resulting in a desire by existing customers to remain on the current (1:1) net-metering rate structure. Accordingly, the Commission found that Net-Metering Customers who have submitted a Standard Interconnection Agreement (SIA) to the utility before the date of an order, if any, which adopts a new rate structure should be grandfathered under the current rate structure for a period of twenty years, with the twenty years measured from the date of any such order adopting a new rate structure.

In Order No. 10, the Commission found:

- The use of grandfathering allows for phase-in of any new rate structure and appropriately transitions customers to any new net-metering rate structure that might be adopted, resulting in fair, stable, and predictable cost environment.
- The ruling balanced the interests of existing Net-Metering Customers, potential Net-Metering Customers, and other utility customers along with the interests of the utility
- A period of advance notice to Net-Metering Customers commensurate with the useful life of the assets in question (but also balancing questions of administrative efficiency and fairness to all ratepayers) is essential to implementing a statute which has the fundamental purpose of incentivizing customers' investment in net-metering assets.

### **Discussion**

Arkansas Code Annotated § 23-18-604(b)(10)(A), part of the Arkansas Renewable Energy Development Act (AREDA) as amended by Act 464 of 2019, states that the Commission:

Shall allow the net-metering facility of a net-metering customer who has submitted a standard interconnection agreement, as referred to in the rules of the Arkansas Public Service Commission, to the electric utility after the effective date of this act but before December 31,

2022, to remain under the rate structure in effect when the net-metering contract was signed, for a period not to exceed twenty (20) years, subject to approval by a commission.

These statutory provisions on grandfathering were incorporated into the Commission's Net-Metering Rules (NMR) in Rule 2.07. Because this stated deadline for automatic grandfathering is only a few months away, the Commission finds it necessary to address the Commission's policy on grandfathering after December 31, 2022, and to propose necessary revisions to the NMRs.

With the approaching deadline ending automatic grandfathering, the Commission proposes to revert to the practice adopted in Order No. 10, which established an automatic twenty-year grandfathering period for all Net-Metering Facilities for residential customers and for non-residential customers with facilities not exceeding 1 MW, who are not required to obtain Commission approval for their Net-Metering Facilities, dating from June 1, 2020, unless and until a new rate structure is adopted for the utility(ies). Likewise, the Commission proposes to retain the policy prior to the passage of Act 464 of 2019 that Net-Metering Facilities over 1 MW must request grandfathering at the time they request approval to exceed the 1 MW statutory limit, with such requests considered on a case-by-case basis.

### **Recommendation**

The Commission adopts the following schedule to consider the proposed amendments:

- Simultaneous Initial Comments Thurs., Sept. 22, 2022
- Simultaneous Reply Comments Thurs., Oct. 13, 2022
- Public Hearing Thurs., Oct. 27, 2022

All filings are to be made by noon on the date indicated.



# Arkansas Democrat Gazette

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COUNTY OF PULASKI, } ss.

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#### NOTICE OF RULEMAKING AND PUBLIC HEARING

In accordance with Ark. Code Ann. § 23-2-305 and Section 2 of the Arkansas Public Service Commission's Rules of Practice and Procedure, the Commission has set a public hearing in Docket No. 22-051-R to begin at 9:30 a.m. on October 27, 2022, in the Hearing Room of the Arkansas Public Service Commission Building, 1000 Center Street, Little Rock, Arkansas 72201. This docket was initiated for the sole purpose of limited revisions to the Commission's Net-Metering Rules. The purpose of this hearing is to consider the proposed draft rules and all comments submitted thereon. A copy of the proposed rules may be viewed on the Commission website, located at [www.arkansas.gov/psc](http://www.arkansas.gov/psc).

Any interested person or entity may offer public comments orally at the hearing or may submit written public comments before the hearing by addressing the comments to the address listed below or by submitting them electronically via the Commission's website.

If you plan to attend the public hearing and need special facilities or assistance relating to a disability, please contact the Secretary of the Commission at (501) 682-5782 no later than three (3) days prior to the hearing.

Further information may be obtained by viewing the Commission's web site at [www.arkansas.gov/psc](http://www.arkansas.gov/psc), or by contacting Jennifer Ivory, Secretary of the Commission, at 1000 Center Street, P.O. Box 400, Little Rock, Arkansas 72203-0400, by phone (501) 682-5782, or by e-mail at [Jennifer.Ivory@Arkansas.gov](mailto:Jennifer.Ivory@Arkansas.gov). 75592581f

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*Charles A McNeice Jr*

Subscribed and sworn to before me on this 6

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**DEANNA GRIFFIN**  
NOTARY PUBLIC-ARKANSAS  
PULASKI COUNTY  
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