

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:

- Direct impact *(please complete remainder of form)*
- Indirect impact *(please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)*
- No impact *(please provide a brief explanation, sign, date, and submit form - Questions 2 through 8 do not need to be answered)*

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

Rule 20:10:22:05 concerns the contents of an application to the Commission for an energy facility siting permit. The changes correct the statutory citations to reflect changes that were previously made to those statutes. This rule would apply to small businesses that apply for a facility siting permit. These changes do not affect small businesses since the reason for the change is that the statutes have been changed since the time the rule was originally written and the citations were no longer accurate. Rule 20:10:36:02 lists the definitions for small generator interconnection rules. The only change being made to this rule is the correction of an error. The revision changes a statutory citation from SDCL 49-34B-1 to the correct citation which is SDCL 49-34A-1. This would not affect small businesses that are involved in small generator interconnection.

Rules 20:10:17:06 through 20:10:17:09.02 are being changed to revise how customers and investor-owned electric and gas utilities deal with overcharges or undercharges resulting from meter errors. The utilities affected by these rules are investor-owned electric and gas utilities and these utilities are not small businesses. A small business served by an investor-owned utility may be affected by the revisions to the timeframe for overcharges and undercharges if the small business is subject to some type of a meter error and date of the error cannot be determined with reasonable certainty. The timeframe in those cases is limited to one year. In addition, the timeframe for payment of overcharges and undercharges may allow the small business additional time to pay for an undercharge.

Rules 20:10:38:01 to 20:10:38:07 comprise a new chapter of rules involving renewable energy credits and renewably, recycled, and conserved energy. Pursuant to SDCL 49-34A-101, the Commission is given the authority to establish rules regarding the measurement of conserved energy for purposes of achieving the states' voluntary 10% renewable, recycled, and conserved energy objective. The objective applies to retail providers of electricity. If a retail provider of electricity that is a small business decides to use conserved energy resources as one of the ways to meet the voluntary objective, the retail provider would be required to measure the conserved energy in accordance with the proposed rules. Rule 20:10:38:01 sets forth the definitions for this new chapter of rules. This rule defines the terms used in chapter 20:10:38 such as conserved energy, demand response, and energy efficiency. Rule 20:10:38:02 states the applicability of the proposed rules. Rules 20:10:38:03 to 20:10:38:05 regard the measurement and verification of energy efficiency measures. These proposed rules set forth

how a retail provider of electricity shall determine the amount of conserved energy achieved through energy efficiency measures. The rules allow a retail provider to use a measured savings approach and a deemed savings approach for projects that involve simple energy efficiency measures with documented per measure values. Rule 20:10:38:06 regards the measurement and verification of demand response measures. This rule describes how demand response measures are to be measured and verified. Thus, these rules will affect small businesses that decide to use conserved energy as a way to meet the voluntary renewable objective by setting forth how the conserved energy is to be measured. Rule 20:10:38:07 regards the reporting of renewable energy credits. The rule sets forth how a provider of electricity shall report renewable energy credits to the Commission. The purpose of the rule is to provide the Commission with information as to how renewable energy credits are retired to meet the state's voluntary renewable energy objective and to meet renewable energy objectives or standards in other states. Thus, these rules will affect small businesses that retire renewable energy credits.

3. What is the basis for the enactment of the rule(s)?

Required to meet changes in federal law

Required to meet changes in state law

Required solely due to changes in date (i.e. must be changed annually)

Other:

Rules 20:10:38:01 to 20:10:38:06 and 20:10:22:05 are required to meet changes in state law. Rule 20:10:26:02 is being changed to correct a citation error. Rules 20:10:17:06 through 20:10:17:09.02 are being changed to revise how customers and investor-owned electric and gas utilities deal with overcharges or undercharges resulting from meter errors. Rule 20:10:38:07 is being added to provide the Commission with information regarding renewable energy credits.

4. Why is the rule(s) needed?

Rules 20:10:38:01 to 20:10:38:06 are needed in order to carry out the statutory requirement that conserved energy be measured by methods established by rules promulgated by the Commission. For the renewable energy credit rule (20:10:38:07), this rule is needed in order to provide to the Commission additional details regarding the use and retirement of renewable energy credits.

The change to 20:10:22:05 is needed to correct statutory citations. The changes to rule 20:10:26:02 are needed to correct a citation error.

Rules 20:10:17:06 through 20:10:17:09.02 are being changed to revise how customers and investor-owned electric and gas utilities deal with overcharges or undercharges resulting from meter errors. The changes are needed to limit the liability of residential customers for the payment of undercharges for meter errors and to set forth payment arrangement requirements.

5. What small businesses or types of small businesses would be subject to the rule?

For 20:10:22:05, the small businesses that would be subject to the rule would be a small business that applies for an energy facility siting permit. For rule 20:10:36:02, the small businesses that would be subject to the rule are any small businesses that are involved in small generator interconnection.

For rules 20:10:17:06 through 20:10:17:09.02, small businesses that are customers of investor-owned utilities can be affected by the rules in situations involving overcharges or undercharges for meter errors when the date of the error cannot be determined with reasonable certainty.

For rules 20:10:38:01 to 20:10:38:07 the small businesses that would be subject to the rule are electric providers that qualify as small businesses. These would include some electric cooperatives and municipal electric providers.

6. Estimate the number of small businesses that would be subject to the rule.
 1-99 100-499 500-999 1,000-4,999 More than 5,000
 Unknown - please explain _____

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

- a. If "yes," how many reports must a small business submit to the state on an annual basis?

Pursuant to rules 20:10:38:03 and 20:10:38:06, a retail provider that uses energy efficiency or demand response measures for conserved energy must provide a general explanation of its energy efficiency and demand response evaluations and costs of the measures for the calendar year. For 20:10:38:06, an electric provider must provide to the Commission a report regarding renewable energy credits.

- b. If "yes," how much ongoing recordkeeping within the business is necessary?

The business will need to measure the amount of conserved energy savings achieved through energy efficiency or demand response measures and conduct evaluations of those measures, the costs of the measures, and the rationale for using the measures. The business will also need to keep track of the amount of renewable energy credits that the provider retired to meet South Dakota's renewable energy objective and other states' objectives or standards, the tracking system the renewable energy credits were retired under, and the name and location of each facility that produced the retired renewable energy credits. To the extent a small business provider of electricity is retiring renewable energy credits, it is likely that the business is already keeping track of this type of information.

- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
- It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
- It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
- It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
- Other

A small business provider of electricity may have existing expertise in the areas of measuring conserved energy. If not, the provider will need to obtain the expertise if the provider chooses to use conserved energy to meet the voluntary renewable energy objective. For the tracking requirements, it is likely that the provider has the information required. In addition, it is possible the provider could rely on its wholesale provider for these requirements.

Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?
- No - please explain

In order to be able to count conserved energy sources as a part of the voluntary renewable energy objective, a provider of electricity must use some sort of measures to determine how much energy is conserved. The rules set forth different types of measurements and evaluation methods that the provider can use for this purpose. In addition, for renewable energy credits a provider of electricity must also keep track of its credits in order to retire those credits so the reporting requirement should not be burdensome. The revisions to the electric and gas billing rules are designed to assist residential customers of investor-owned utilities by limiting the liability of a residential customer for charges for meter errors when the date of the meter error can be determined in order to not cause undue financial hardship to the residential customer, and, when the date of the error cannot be determined, to allow refunds and charges for one year for all customers.

Yes - please explain _____

October 12, 2011
Dated


Authorized Signature

Public Utilities Commission
Name of Agency