

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
to open a docket for load serving entities in)
Michigan to file their capacity demonstrations as) Case No. U-21099
required by MCL 460.6w.)
_____)

In the matter, on the Commission's own motion,)
to address outstanding issues regarding demand)
response aggregation for alternative electric) Case No. U-20348
supplier load.)
_____)

In the matter, on the Commission's own motion,)
to request comment on the **MIDCONTINENT**)
INDEPENDENT SYSTEM OPERATOR, INC.'s) Case No. U-21032
implementation of Federal Energy Regulatory)
Commission Order No. 841 regarding energy)
storage resources.)
_____)

In the matter, on the Commission's own motion,)
to open a docket for load serving entities in)
Michigan to file their capacity demonstrations as) Case No. U-21225
required by MCL 460.6w.)
_____)

At the July 7, 2022 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

Public Act 3 of 1939, as amended by Public Act 341 of 2016 (Act 341), MCL 460.6w(8), requires each electric utility, alternative electric supplier (AES), cooperative electric utility, and municipally owned electric utility to demonstrate to the Commission, in a format determined by the Commission, that each load serving entity (LSE) owns or has contractual rights to sufficient capacity to meet its capacity obligations as set by the appropriate independent system operator (ISO), or the Commission, as applicable.¹ This is known as a state reliability mechanism (SRM) capacity demonstration. Regulated electric utilities' capacity demonstration filings are due by December 1 each year; filings by AESs, cooperatives, and municipally owned electric utilities are due by the seventh business day of February each year. MCL 460.6w(8)(a)-(b). In the July 2, 2021 order in Case Nos. U-21099 *et al.*, the Commission opened the docket in Case No. U-21099 for the purpose of receiving the LSEs' capacity demonstrations for the 2025/2026 planning year (PY)² and directed the Commission Staff (Staff) to file its analysis no later than March 25, 2022. Accordingly, the Staff filed the Capacity Demonstration Results Report in Case No. U-21099 (Staff Report) on March 25, 2022, addressing the capacity demonstration for PY 2025/2026. *See*, Case No. U-21099, filing# U-21099-0060.

¹ MCL 460.6w(12)(a) defines the appropriate ISO as the Midcontinent Independent System Operator, Inc. (MISO). MCL 460.6w(11) also states that “[n]othing in this act shall prevent the commission from determining a generation capacity charge under the reliability assurance agreement, rate schedule FERC [Federal Energy Regulatory Commission] No. 44 of the independent system operator known as PJM Interconnection, LLC [PJM].”

² MCL 460.6w(8)(a) states that, if an SRM is to be established, the Commission shall require each electric utility to demonstrate by December 1 of each year that, “for the planning year beginning 4 years after the beginning of the current planning year” the utility owns or has contractual rights to sufficient capacity to meet its load obligations. Thus, the statute requires the capacity demonstrations for four years out from the year the capacity demonstrations are required to be filed. As such, the capacity filings in Case No. U-21099 cover the 2025/2026 PY.

On June 23, 2022, the Commission issued an order (June 23 order) in the instant docket adopting the findings of the Staff Report and adopting the recommendations therein, in part. In the June 23 order, the Commission also requested comments from interested persons on the following topics:

1. In the August 8, 2019 order in Case No. U-20348 (August 8 order), the Commission continued the ban on Michigan retail electric customers (either individually or through aggregators) of Commission-jurisdictional electric utilities from bidding DR [demand response] resources into RTO [regional transmission organizations] wholesale markets. August 8 order, p. 23. In the October 29, 2020 order in Case Nos. U-20628 *et al.*, the Commission sought comments on whether to lift this ban on Michigan retail electric customers (either individually or through aggregators) of Commission-jurisdictional electric utilities from bidding DR resources into RTO wholesale markets, but thus far, the Commission has declined to take additional action. In light of the tightening capacity market within the MISO footprint and LRZ [local resource zone] 7 in particular, the Commission seeks comment on whether the ban on DR aggregation described in the August 8 order should now be lifted.
2. In the April 8, 2021 order in Case No. U-21032, the Commission sought comment regarding the effect of FERC Order 841,³ which requires each RTO and ISO to revise its tariff to establish a participation model consisting of market rules that facilitate the participation of energy storage resources (ESRs) in RTO/ISO markets. In the August 11, 2021 order in the same docket, the Commission encouraged investor-owned utilities to propose pilot programs involving well-designed retail tariffs that facilitate the integration of ESRs into the electric grid and account for the full value stack of ESRs. In the context of the resource adequacy concerns expressed in this order and in the Staff Report, the Commission seeks comment on whether the Commission should now allow the simultaneous participation of ESRs in the wholesale and retail markets.
3. The Commission seeks comment on whether it should consider setting a four-year forward capacity obligation under Section 6w of Act 341 that is higher than MISO's prompt year PRMR [planning reserve margin requirement] to encourage the development of additional capacity resources with the aim of protecting the future resource adequacy and reliability of service for Michigan retail electric customers. The Commission seeks specific comment on how such a capacity obligation should be determined and calculated, and how the Commission should proceed in this manner.

³ *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 162 FERC ¶ 61,127 (February 15, 2018) (Order 841).

4. As stated in the Staff Report, the Commission has not yet imposed an LCR [local clearing requirement] on individual LSEs pursuant to MCL 460.6w. Subsequent to the August 20 order, the Court of Appeals issued a decision in the remanded proceeding finding that the September 15 order (imposing an LCR on AESs individually in Case No. U-18197) did not equate to administrative rules in violation of the APA and did not exceed the Commission's authority granted by the Legislature. *In re Reliability Plans of Electric Utilities for 2017-2021*, unpublished per curiam opinion of the Court of Appeals, issued December 3, 2020 (Docket Nos. 340600 and 340607). While the Court of Appeals has upheld the Commission's authority to impose an LCR individually, litigation regarding the individual LCR continues at the federal level, and the stay in Case No. U-18444 remains in effect. However, in light of the resource adequacy concerns expressed in this order and the Staff Report, the Commission seeks comment on whether it should lift the stay in Case No. U-18444 and take further action to set an LCR for Michigan LSEs pursuant to Section 6w for future PYs.

5. The Commission seeks additional comment on what actions or policies may be taken to maximize the benefits to reliability of the state's transmission connections to not only the rest of MISO, but also to PJM and the Ontario Independent Electricity System Operator, including ways to boost those transmission connections.

6. The Commission seeks comment on what improvements should be pursued in RTO markets to better account for and to send better market signals to merchant and/or non-utility owned generators to inform both generation additions and retirements.

7. Considering that some incumbent utilities have tariff provisions that stipulate a waiting period before a choice customer can return to the electric service of the incumbent utility, the Commission seeks comment as to under what conditions or circumstances should a choice customer be automatically transferred back to the incumbent utility (as the provider of last resort) in the event the customer is without an electric service provider, and whether such a transfer provision should be included in utility tariffs.

8. The Commission seeks and encourages comment on any additional measures the Commission should consider to enhance the state's reliability and resource adequacy position.

June 23 order, pp. 14-15. The Commission directed comments to be filed no later than 5:00 p.m. (Eastern time (ET)) on August 1, 2022.

On June 28, 2022, DTE Electric Company (DTE Electric) and Consumers Energy Company (Consumers) filed a joint petition to extend the deadline to file comments in response to the June 23 order from August 1, 2022 to September 1, 2022. Consumers and DTE Electric

contend that, “[t]his extension will ensure that Michigan’s utilities are able to provide more meaningful and comprehensive comments to assist the Commission for future capacity planning purposes.” DTE Electric and Consumers’ joint petition, p. 3. On June 30, 2022, the Association of Businesses Advocating Tariff Equity (ABATE) and Energy Michigan filed a joint motion in Case No. U-21225, to extend the comment period deadline set in the June 23 order to at least August 19, 2022. ABATE and Energy Michigan assert that they would be unduly burdened and prejudiced if they were to comment on the “magnitude of the four-year forward capacity obligation and on lifting the stay” in Case No. U-18444 while preparing for trial in the federal litigation regarding the LCR at issue in Case No. U-18444, which is scheduled to begin on August 8, 2022. Joint motion, p. 4.

Having reviewed the joint petition filed by DTE Electric and Consumers and the joint motion filed by ABATE and Energy Michigan, the Commission finds the joint petition should be granted and the new deadline for the comments solicited in the June 23 order should be September 1, 2022. The Commission finds the request to allow additional time to provide comments to be reasonable given the complexity of the issues at hand and that granting an extension will not adversely impact the Commission’s intended timeline for any further orders to be issued in these dockets. The Commission’s decision to grant the joint petition by DTE Electric and Consumers renders the joint motion filed by ABATE and Energy Michigan moot.

Therefore, the Commission will accept comments on the topics enumerated in the June 23 order and listed in this order until 5:00 p.m. (ET) on September 1, 2022. Written comments should be mailed to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. Comments submitted in electronic format may be filed via the Commission’s E-Dockets website, or for those persons without an E-Dockets account, via e-

mail to mpscedockets@michigan.gov. Any person requiring assistance prior to filing comments, may contact the Staff at (517) 241-6180. All comments should reference the above-captioned cases, Case Nos. U-21099 *et al.* All filed comments will become public information available on the Commission's website and subject to disclosure.

THEREFORE, IT IS ORDERED that:

A. The joint petition filed by DTE Electric Company and Consumers Electric Company is granted.

B. The joint motion filed by the Association of Businesses Advocating Tariff Equity and Energy Michigan is dismissed as moot.

C. The deadline for interested persons to submit comments in response to the June 23, 2022 order in the instant dockets, as described in this order, shall be extended until 5:00 p.m. (Eastern time) on September 1, 2022.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of July 7, 2022.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

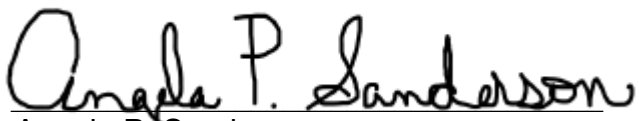
Case No. U-21099 *et al.*

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 7, 2022 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 7th day of July 2022.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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