



201 North Washington Square • Suite 910
Lansing, Michigan 48933
Telephone 517 / 482-6237 • Fax 517 / 482-6937 • www.varnumlaw.com

Timothy J. Lundgren

tjlundgren@varnumlaw.com

June 5, 2017

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-18197

Dear Ms. Kale:

Attached for electronic filing in the above-referenced matter, please find the Reply Comments of Energy Michigan, Inc. Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc
Enclosures

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the investigation, on the)	
Commission’s own motion, into the electric)	
supply reliability plans of Michigan’s)	Case No. U-18197
electric utilities for the years 2017 through 2021.)	
_____)	

REPLY COMMENTS OF ENERGY MICHIGAN, INC.

In its order on May 11, 2017, in this docket, the Commission requested that interested persons file initial comments to the three threshold questions posed in the order by May 26, 2017, and reply comments by June 5, 2017. Energy Michigan submitted initial comments on May 26, and submits the reply comments herein.

Summary

1. ***Excess Cost - Artificial Shortage - \$640 M:*** Energy Michigan responds to the Staff’s and ABATE’s explanation of an artificial shortage of local capacity created by a local capacity obligation by quantifying the potential economic harm to Michigan customers of a local capacity obligation. Michigan customers would pay \$640 million for unneeded, excess investment with no effect on reliability.

2. ***Excess Cost – LCR Overstatement - \$180M:*** Energy Michigan quantifies MISO’s overstatement of Local Capacity Requirement (“LCR”) noted in Energy Michigan’s initial comments. Michigan customers would pay \$180 million for unneeded, excess investment with no effect on reliability.

3. ***Due Process for Contested Issues:*** The Commission should allow adequate due process to resolve the many complex issues that are arising in this docket via “comments” containing assertions and opinions without support. Implementation of the SRM process involves interpreting PA 341. All parties deserve an equal opportunity to present evidence and briefs to the Commission in the context of a contested case on all matters of interpreting the statute. “Comments” in a technical conference may be

sufficient for routine procedural items such as scheduling and communication protocols, but several important aspects of PA 341 require the benefits of sworn testimony, cross-examination, and legal briefing.

4. ***Additional Responses to Other Comments:*** Energy Michigan responds to other CE, DTE, Cloverland, and MEGA initial comments, referring to issues already covered in Energy Michigan’s initial comments.

1. Economic Harm of a Local Capacity Obligation

First, the facts of the current situation of ownership of capacity in Michigan Zone 7: Both Consumers Energy (“CE”) and DTE Electric (“DTE”) provide virtually all of their capacity from resources within the state. In CE’s April 21, 2017 filing in this docket, CE reports a Planning Reserve Margin Requirement (“PRMR”) of 7,926 MW on and total Planning Resources of 8,015 MW.¹ All of the resources are in the state. In DTE’s April 21, 2017 filing in this docket, DTE reports a PRMR of 10,818 MW and total Planning Resources of 10,875 MW.² None of the resources are specified as out of state. Thus, together, CE’s and DTE’s PRMR total 18,744 MW and they control 18,890 MW of local capacity in the state.

According to MISO, the LCR in Zone 7 is 94.7% of the PRMR in Zone 7.³ Consequently, under a local capacity obligation based on a load ratio share, CE and DTE combined would have an obligation of 17,750 MW (= 18744 x 94.7%). Thus, CE and DTE together control 1,140 MW (= 18890 – 17750) more than what they would need to satisfy a load-ratio-share local capacity obligation. Only 146 MW (= 18890-18744) of this is excess beyond what CE and DTE need to satisfy their PRMR.

¹ Case No. U-18197, CE filing April 21, 2017, Exhibit 3, lines 11 and 35.

² Case No. U-18197, DTE filing April 21, 2017, page 8, Table 4.

³ MISO, “2017/2018 Planning Resource Auction Results,” May 10, 2017, page 14, Zone 7 LCR divided by PRMR.

<https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/RASC/2017/20170510/20170510%20RASC%20Item%2002a%202017-18%20PRA%20Summary.pdf>

However, under a load-ratio-share local capacity obligation, other LSEs have to find their own local capacity without consideration of the excess 994 MW (=1140-146) held by CE and DTE. As a result, if local capacity becomes short, Michigan could end up with 994 MW more capacity than needed, with no increase in reliability. MISO will merely use any excess capacity in Zone 7 to meet the capacity requirements of other zones.

Staff and ABATE explained the above in more detail, with examples and charts. A question for the Commission is how much is such excess local capacity worth? The 994 MW excess capacity is Unforced Capacity (“UCAP”), so an additional amount of Installed Capacity (“ICAP”) would have to be built to account for outages. At a MISO average outage rate of about 7%, about 1,069 MW ($= 994 / .93$) would have to be built. At a cost of about \$600 per kW for combustion peakers, excess investment would be about \$640 million.

This number, \$640 million, is the potential investment cost to customers in Michigan of excess investment due to the fact that CE and DTE control more local capacity than what they would be obligated to provide if the Commission were to impose a local capacity obligation. Michigan would get no additional reliability from this investment, since MISO would use the excess to cover capacity requirements in other zones. In essence, a local requirement as proposed by CE and DTE would result in Michigan customers paying to build unnecessary generation that MISO would then use to serve other states.

2. Economic Harm of MISO Overstatement of LCR

Energy Michigan noted in its initial comments (page 15) that MISO overstates the LCR and that it intends to explain this in the full filings later in the SRM cases. The illustration of how the overstatement happens and the total quantification are straightforward. MISO's calculation of the LCR can be expressed as:

$$(Eq. 1) \quad LCR = LRR - CIL - \text{non-pseudo tied exports}$$

where LRR is the Local Reliability Requirement and CIL is the Capacity Import Limit, and non-pseudo tied exports are zero for Zone 7.

LRR is the amount of resources that a zone would need if the zone had no import transmission capability at all. LRR is generally higher than the actual total of the PRMR of the LSEs in the zone, since the resources in the single zone are not as diversified as the resources in the MISO region. The subtraction of the CIL accounts for the fact that a zone is not isolated but rather can import a specified amount of power.

The values for the variables in Eq. 1 for Zone 7 are shown in MISO's report of the 2017-2018 Planning Resource Auction.⁴ LRR is 24,429 MW, CIL is 3,320 MW, non-pseudo tied exports is 0 MW, and the resulting LCR is 21,109 MW:

$$(Eq. 2) \quad LCR = 24,429 - 3,320 - 0 = 21,109 \text{ MW}$$

Consider the situation where the CIL is as large as the PRMR – that is, Zone 7 could import all the capacity required for all the LSEs in the zone. Zone 7 PRMR is 22,295 MW.⁵ Suppose the CIL is also 22,295 MW. Then the LCR is:

⁴ MISO, "2017/2018 Planning Resource Auction Results," *op. cit.*, page 14.

$$(Eq.3) \quad LCR = 24,429 - 22,295 - 0 = 2,134 \text{ MW}$$

Eq. 3 means that if Zone 7 could import all the capacity to meet all the PRMR in the zone, MISO's formula would still require an additional 2,134 MW within the zone. This makes absolutely no engineering sense. MISO's determination of LCR for zones is substantially overstated.⁶

Considering that Zone 7 has a Capacity Import Limit of 3,320 MW, not 22,295 MW, the practical overstatement of LCR for Zone 7 is about 300 MW, not the full 2,134 MW. An imposition of a local capacity obligation would result in 300 MW of excess capacity in the state, costing Michigan customers about \$180 million (= \$600/kW x 300 MW) of excess investment in new generation, with no benefit of increased reliability.

3. Adequate Due Process for Contested Issues

The Commission should allow adequate due process to resolve the many complex issues that are arising in this docket via "comments" containing assertions and opinions without support.

For example, in its initial comments, CE states:

Under well-established rules of statutory construction, Section 6w of Act 341, and in particular the provisions of Subsection 6w(8) providing for the SRM, support the position that the SRM's resource adequacy requirements must include the satisfaction of load ratio shares of the LCR 7's PRMR and LCR.
[CE, Initial Comments, page 9.]

⁵ MISO, "2017/2018 Planning Resource Auction Results," *op. cit.*, page 14.

⁶ The LCR calculation issue was addressed in the FERC docket ER13-2298. MISO stated it would take up the issue with stakeholders subsequently, but did not do so.

Since PA 341 does not contain any wording requiring satisfaction of load ratio shares of PRMR or LCR, and since it is a fact that language in earlier drafts of PA 341 regarding load ratio shares of LCR was removed, and the words “load ratio share” do not appear in MCL 460.6w, how this statement could ever hold up under simple cross-examination is a mystery, let alone be claimed to be “legislative intent” in a legal brief.

As another example, in their initial comments CE and DTE propose, in support of a local capacity obligation, to limit the amount of resources that can be acquired via the MISO auction to the amount above an LSE’s “pro-rata share” of LCR. Energy Michigan disagrees with their proposal. PA 341 does not impose any limitation of the use of the MISO auction, except for particular qualifications for an electric cooperative or municipal utility. The Commission cannot impose a limitation on the use of the MISO auction that is not contained in PA 341 because, as Energy Michigan explained in its initial comments, PA 341 allows an AES to meet its capacity obligations with “any resource that . . . [MISO] . . . allows to meet the capacity obligation of the electric provider,” and instructs the Commission that such demonstration “shall not be applied in any way that conflicts with a federal resource adequacy tariff.” *[MCL 460.6w(6)]*

The point of the above example is that there is going to be a dispute not only about how PA 341 should be interpreted, but also about limitations of the Commission under Michigan law to impose an obligation for which the Commission may not have been given authority. And Energy Michigan expects that there will be several such disputes over the interpretation of various clauses in PA 341.

Consequently, all parties need an equal opportunity to be heard, to present sworn testimony and other evidence, to cross examine, to present legal arguments in briefs, and

to establish a solid record from which the Commission can make evidenced-based decisions. “Comments” in a technical conference may be sufficient for routine procedural items such as scheduling and communication protocols, but lack the elements of sworn testimony, cross-examination, and legal briefing that are necessary to resolve how the Commission should or should not, or can or cannot, implement PA 341.

4. Additional Responses to Other Comments

Under part II of its initial comments, CE proposes various deadlines for demonstration of capacity. Energy Michigan disagrees with these deadlines. In its initial comments, Energy Michigan recommended and explained a workable schedule for submission of demonstrations of capacity, including a draft form and requirements for demonstration.

Under part III of CE’s initial comments and part 2 of DTE’s initial comments, CE & DTE propose criteria for demonstration of capacity. Energy Michigan disagrees with the proposed criteria. In its initial comments, Energy Michigan recommended and explained requirements for demonstration of capacity. We expect that that the requirements for demonstration will be worked through later in the technical conferences.

Under part IV of CE’s initial comments and part 3 of DTE’s initial comments, CE and DTE propose a locational requirement for demonstration of capacity. Cloverland and MEGA also favored a locational requirement in their initial comments. Energy Michigan disagrees with all proposals for a locational requirement, for reasons explained extensively in its initial comments and in Section 1 and Section 2 herein, above.

Conclusions

The imposition of a local capacity obligation has the potential to cost the citizens of Michigan an additional \$820 million of excess, unneeded investment with zero reliability benefit because of (1) excess local capacity held by CE and DTE (\$640 M) and (2) overstatement of MISO's Local Capacity Requirement (\$180 M). If the Commission were to impose a local capacity obligation, then such obligation should be the result of evidence presented in a contested case.

Respectfully submitted,
Varnum, LLP
Attorneys for Energy Michigan, Inc.

June 5, 2017

By: _____
Tim Lundgren (P62807)
Laura Chappelle (P42052)
The Victor Center
201 N. Washington Square, Ste. 910
Lansing, MI 48933
517/482-6237

11877703_2.docx