STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, to establish a workgroup to investigate appropriate financial incentives and penalties to address outages and distribution performance moving forward.	Case No. U-21400
In the matter, on the Commission's own motion, to review the response of **ALPENA POWER COMPANY, CONSUMERS ENERGY COMPANY, DTE ELECTRIC COMPANY, INDIANA MICHIGAN POWER COMPANY, NORTHERN STATES POWER COMPANY, UPPER MICHIGAN ENERGY RESOURCES CORPORATION, AND UPPER PENINSULA POWER COMPANY** to recent storm damage in their service territories.	Case No. U-21122

At the February 27, 2025 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER

Background

In the April 24, 2023 order in this case (April 24 order), the Commission established the Financial Incentives and Disincentives workgroup as part of the MI Power Grid Initiative. April 24 order, p. 12. The April 24 order outlined the initial focus of the workgroup as:

> developing metrics relating to reliability including, but not limited to, SAIDI [system average interruption duration index] (including and excluding MEDs

> [major event days]), SAIFI [system average interruption frequency index], CEMI [customers experiencing multiple interruptions], CAIDI [customer average interruption duration index], and resilience, including, but not limited to, downed wire response and the frequency and duration of outages during extreme weather, [using] the recently updated Service Quality [and Reliability Standards for Electric Distribution Systems (SQRS)] rules as a baseline.

Id. In addition to developing metrics around reliability and safety, the Commission directed the workgroup to explore rate structures by which incentives and disincentives may be applied, otherwise known as a "Reliability Plus" approach. *Id*.

To facilitate discussion on these issues among interested persons, the Commission developed a straw proposal that identified candidate distribution investment and maintenance plan (distribution plan) performance metrics and applicable methods by which incentives and disincentives may be applied.[1] Prior Commission decisions, annual filings, and recent distribution plan filings informed this development. The straw proposal was issued in this case on August 30, 2023 (August 30 order), at which time the Commission solicited comments from interested persons regarding the candidate metrics, the proposed target performance identified for each metric, and the potential incentive/disincentive mechanisms to be applied to each metric. In addition, the Commission requested comments on alternative metrics or approaches to those identified in the straw proposal. Further, the Commission directed the Commission Staff (Staff) to schedule an engagement session with interested persons to convene following the initial comment period to discuss the straw proposal and alternative approaches.

Between August 30, 2023 and December 4, 2023, nearly 300 comments were filed in this docket. On September 22, 2023, initial comments on the straw proposal were filed by the

[1] The straw proposal initially focused on metrics and methods for DTE Electric Company (DTE Electric) and Consumers Energy Company (Consumers) and the workgroup expects to discuss the applicability of these metrics to other investor-owned utilities through future engagements and the review of comments.

Association of Businesses Advocating Tariff Equity (ABATE); Citizens Utility Board of Michigan (CUB); Consumers; DTE Electric; the Ecology Center, the Environmental Law and Policy Center, Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations (CEOs)); Great Lakes Renewable Energy Association; Indiana Michigan Power Company (I&M); J.D. Power; the Michigan Department of Attorney General (Attorney General); the Michigan Energy Innovation Business Council/Advanced Energy United (MEIBC/United); the Natural Resources Defense Council and Strategen; Northstar Energy Analytics; and Soulardarity and We Want Green, Too. On October 20, 2023, ABATE, CUB, Consumers, DTE Electric, the CEOs, I&M, the Attorney General, MEIBC/United, the Natural Resources Defense Council and Strategen, and Soulardarity and We Want Green, Too, filed reply comments. On December 19, 2023, the Staff filed a status report and revised straw proposal that "update[s] the original proposed candidate metrics in response to the comments filed and feedback received during the [engagement] sessions." Staff's December 19, 2023 comments, p. 2.

On December 21, 2023, the Commission issued an order in this case (December 21 order) directing the Staff to convene an additional engagement session with interested persons to discuss the revised straw proposal by February 12, 2024. The Commission invited comment regarding the revised straw proposal, with initial comments due by February 2, 2024, and reply comments due by March 1, 2024. Following the issuance of the December 21 order, several utilities and advocacy groups, a municipality, and a multitude of citizens filed initial and reply comments in this docket. On May 3, 2024, the Staff filed a Financial Incentives and Disincentives Workgroup Report and updated straw proposal, filing #U-21400-0040, in this case (updated straw proposal).

On June 6, 2024, the Commission issued an order in this case (June 6 order), summarizing the Staff's updated straw proposal and the comments and reply comments received in response to the updated straw proposal. The Commission found "merit in receiving comments on the updated straw proposal, including implementation steps for the financial incentives/disincentives mechanism as they may interact with existing rate case proceeding processes and filing requirements." June 6 order, p. 31. In addition, the Commission sought comment on the following specific issues:

- *Equity* – During the workgroup's earlier comment periods, several interested parties identified equity as a high priority in reviewing and improving distribution system performance. In this stage, workgroup participants are encouraged to propose potential metrics, scorecards, and performance incentive metrics that can improve equity in distribution system performance outcomes.

- *Grid Modernization* – This topic area includes metrics to evaluate overall distribution system performance and electric utilities' implementation of approved distribution system investments. The Commission has offered guidance on this topic in prior reviews and decisions approving distribution system investments. Interested parties should build on this guidance in their responses on this topic. Measures in this focus area could also include proposed performance metrics, scorecards, and performance incentive mechanisms to evaluate system operations and investment effectiveness.

- *DER [distributed energy resource] Integration* – As discussed in the [April 24] order, this focus area includes measures to accommodate and leverage the anticipated growth of DERs, such as distributed generation, community solar, energy storage, electric vehicles, and building electrification. Performance metrics and incentive mechanisms under this topic could include interconnection timelines, grid services provided by DERs, and implementation of cost-effective, non-wires alternatives (NWAs).

- *Resilience* – This update proposes several performance incentive mechanisms for storm response that immediately address outcomes where utilities currently perform below Michigan's [SQRS]. The focus area of resilience could include a broader set of measures and this update encourages interested parties to propose additional measures of resilience that could be tracked as metrics, scorecards, or performance incentive mechanisms, where appropriate.

Id., pp. 31-32 (quoting the updated straw proposal, pp. 10-11). Initial comments were due by July 12, 2024, and reply comments were due by August 23, 2024. Further, the Commission directed the Staff to convene another engagement session with interested persons to allow for reaction and feedback on these subjects.

From June 7-24, 2024, a multitude of comments were filed in this docket. On July 12, 2024, ABATE, the City of Ann Arbor (Ann Arbor), Consumers, CUB, DTE Electric, the CEOs, I&M, and Michigan Electric and Gas Association (MEGA) filed initial comments on the updated straw proposal. ABATE, the Attorney General, Consumers, and DTE Electric filed reply comments on August 23, 2024.

<u>Initial Comments</u>

1. Association of Businesses Advocating Tariff Equity

In its initial comments, ABATE notes that the Staff made several changes to the revised straw proposal that are consistent with ABATE's March 1, 2024 reply comments in this docket (ABATE's March 1 comments). In addition, ABATE agrees with the Staff's adoption of the Attorney General's proposed reliability metrics. *See*, ABATE's July 12, 2024 initial comments, filing #U-21400-0044, p. 2.

However, ABATE continues to contend that, as stated in its March 1 comments, the straw proposal should "require that any net penalty collected from a utility be returned to the utility's affected customers rather than be retained by the utility for reinvestment in additional facilities . . . ." *Id*. Furthermore, as asserted in its February 2, 2024 initial comments in this docket, ABATE argues that the straw proposal should require:

> electric utilities and cooperatives to collect, and be prepared to report, their annual SAIDI excluding Major Event Days, SAIDI including Major Event Days, and System Restoration metric values by delivery customer voltage class (transmission, subtransmission, primary, and secondary) to ensure sufficient information is available to the Commission, the Staff, and intervenors for the reasonable allocation to delivery customer classes of any incentive costs or penalties from the utility or cooperative in future general rate case proceedings.

Id., pp. 2-3.

ABATE also responds to the Commission's request for comments on equity, grid modernization, DER integration, and resilience. According to ABATE, "until [the Commission] gains sufficient experience with applying financial incentives and disincentives in the context of reliability performance[,] the Commission should be very cautious in pursuing additional issues to which it may apply financial incentives and disincentives. There are lessons to be learned from first applying these measures to reliability performance alone." *Id*., pp. 5-6.

Regarding resilience, ABATE contends that it "is somewhat duplicative of reliability performance." *Id*., p. 6. For equity and DER integration, ABATE states that any penalties collected or incentives paid should be allocated to those specific customers or interests affected by those issues. Finally, regarding grid modernization, ABATE asserts that "distribution investments necessary for reliability should be pursued in a manner consistent with providing reliable electric service at lowest reasonable cost." *Id*., p. 7.

2. City of Ann Arbor

Ann Arbor states that it "appreciates that the [updated] Straw Proposal requires utilities to meet [the Commission's SQRS] in order to earn a net incentive, maintains the structure from its previous proposal for SAIDI metrics despite utilities' complaints regarding asymmetry in incentives and disincentives, and limits total incentives and disincentives to $10 million." Ann Arbor's July 12, 2024 initial comments, filing #U-21400-0043, pp. 1-2; *see also*, Mich Admin Code, R 460.701 *et al*.

However, Ann Arbor recommends several changes to the updated straw proposal. First, as discussed in its February 1, 2024 initial comments in this case, Ann Arbor reiterates that a utility should be required "to meet all [SQRS] before even receiving an offset for achieving a particular metric. That is, a utility should not be able to offset a disincentive for failing to reach a target on one metric with an incentive for reaching a target on another metric unless the utility has met all [SQRS]." Ann Arbor's July 12, 2024 initial comments, filing #U-21400-0043, p. 2.

Second, Ann Arbor argues that the Commission should consider the utility's scores on reliability metrics when setting the utility's return on equity. Ann Arbor contends that "the Commission has the authority to do so and should be doing so as part of its duty to set reasonable rates." *Id*., p. 3.

Finally, Ann Arbor notes that after the Commission opened this docket, the United States Supreme Court issued a decision in *SEC v Jarkesy*, 603 US 109, Docket No. 22-859 (June 27, 2024). Ann Arbor states:

> Though this decision specifically addressed the question of whether the Seventh Amendment of the U.S. Constitution entitles a defendant to a jury trial when the Securities and Exchange Commission seeks civil penalties for securities fraud, it is possible the Court's holding that such a defendant is entitled to a jury trial may extend to the ability of other regulatory bodies (such as the [Commission]) to enforce punitive measures (such as financial penalties for failing to meet certain requirements).

Ann Arbor's July 12, 2024 initial comments, filing #U-21400-0043, p. 3 (footnote omitted). Accordingly, Ann Arbor requests that the Commission consider any possible legal outcomes prior to adopting a financial incentive/disincentive mechanism.

3. Consumers Energy Company

In its July 12, 2024 initial comments in this case, Consumers states that the Staff's proposed implementation steps for an incentive/disincentive mechanism are acceptable, with modification. The company asserts that, rather than the Commission reviewing incentive/disincentive metrics periodically and tracking incentives/disincentives in a regulatory asset, the Commission should review the metrics every three years in a base rate case. Consumers explains that the three-year cadence "will give both utilities and the Commission time to consider the outcomes and implementation of other regulatory proceedings, while also easing the administrative burden for all parties." Consumers' July 12, 2024 initial comments, filing #U-21400-0047, p. 6. The company notes that it supports the Staff's "offramp" mechanism that allows a review of performance metrics during exigent circumstances. *Id*. However, Consumers asserts that "the Commission should allow utilities the ability to request and obtain waivers from application of the [incentive/disincentive] metrics to account for unanticipated circumstances." *Id*.

Next, Consumers states that "metrics must be set as part of a rate case so investments and expenses necessary to meet the metrics can be reviewed and provided for in rate recovery at the same time the metrics are set. The success of the incentive/disincentive mechanism is directly tied to timely rate recovery of needed investments and expenses." *Id*. In addition, the company reiterates the arguments from its March 1, 2024 reply comments in this case (Consumers' March 1 comments): distribution plans should be filed every three years in a contested case to ensure that Consumers is preapproved for future recovery of critical reliability work and can meet the performance goals set by the incentive/disincentive mechanism. *See*, Consumers' March 1 comments, filing #U-21400-0035, pp. 13-14.

Also, as noted in its March 1 comments, Consumers states that any penalties imposed as a result of the incentive/disincentive mechanism should be returned to the utility to fund needed investments. The company contends that:

> [t]his use of penalty funds would help achieve the desired goal of improved reliability and resiliency. Consumers Energy submits that spending penalty amounts directly on projects designed to improve reliability would also provide more meaningful positive impact for customers. Customers want improved reliability in the form of fewer outages and faster restoration times.

Consumers' July 12, 2024 initial comments, filing #U-21400-0047, p. 8.

The company continues to argue that the incentive/disincentive mechanism should operate independently from the SQRS. According to Consumers:

> the [SQRS] include standards for performance in areas other than electric distribution reliability, such as meter reading, new service installation factors, call blockage factor, and average customer call answer time, and also include gas as well as electric performance standards. Conditioning the ability to earn an electric reliability incentive for [an incentive/disincentive] metric on achievement of all of the [SQRS], including gas service standards, would not serve to achieve the intended goal of [the incentive/disincentive mechanism]—improved electric distribution reliability.

Consumers' July 12, 2024 initial comments, filing #U-21400-0047, pp. 9-10. The company also asserts that it would be unfair to impose penalties for both the SQRS and the incentive/disincentive mechanism. Consumers recommends a symmetrical mechanism that provides a penalty for missing individual metrics but allows the utility to receive an incentive for achieving individual metrics.

The company objects to the Staff's proposal to include a baseline that considers SAIDI (excluding MEDs) from the two best years of the most recent three-year period. Consumers asserts that "[i]t would be more appropriate to use the five most recent years of historical data, which would be more in line with other regulatory proceedings." Consumers' July 12, 2024 initial comments, filing #U-21400-0047, p. 11. In addition, the company contends that the Staff's proposal would place Consumers in a penalty position for each of the last six years. Consumers explains that:

> the Company could not meet the incentive range unless it achieved SAIDI (excluding MEDS) performance starting at 155 minutes in 2024 and decreasing to 135 minutes in 2028. These levels have not been achieved in any year going back to at least 2012. The SAIDI (excluding MEDS) metric must be modified to use a baseline performance more reflective of historical experience, weather volatility, the existing condition of the distribution system, and to create incentives that are actually symmetrical with penalties, and which are reasonably achievable.

Id., p. 12.

Consumers proposes including a small deadband around the target for each of the three storm restoration metrics to maintain consistency with the logic for the two SAIDI metrics. Consumers asserts that it will take longer to restore service after a very large catastrophic storm compared to a more standard catastrophic storm, which may affect the utility's ability to meet the targets. Therefore, Consumers states that:

> [t]o account for weather variability, the Company suggests a 5% total deadband around each target. In the instance of the 48-hour catastrophic storm response metric, the Company supports the 90% target but would propose a deadband from 87.5% to 92.5%. For the 72-hour metric, the Company proposes a 5% total deadband from 92.5% to 97.5%, and for the 24[-]hour metric, the Company proposes a 5% total deadband from 87.5% to 92.5%.

Id., p. 13.

In addition, Consumers objects to including a metric for customers experiencing more than four outages in a 12-month period (CEMI-4) in the incentive/disincentive mechanism. The company reiterates that this metric is already included in the SQRS. *See*, *id*., pp. 13-14.

Consumers asserts that the Staff's proposal to set potential penalties and incentives to no more than $10 million per year is arbitrary and inappropriate. The company states that the limit should be an annual $5 million band on total risk/reward, which is based on its distribution rate base. Consumers contends that "[t]his methodology would appropriately protect the Company's Generation investment plan from negative exposure to this mechanism which is appropriate because generation is not the intended subject of the [incentive/disincentive mechanism]." *Id*., p. 14.

Consumers argues that any metrics related to equity "should be focused solely on equitable distribution reliability performance." *Id*., p. 15. The company contends that reliability in environmental justice (EJ) communities has, in the aggregate, outperformed reliability in other parts of Consumers' service territory. Accordingly, the company recommends that the

Commission should approve "a metric or metrics that evaluate how EJ communities perform, in aggregate, relative to a utility's overall system." *Id*., p. 16.

Finally, Consumers asserts that "this proceeding should be focused on establishing a metric or metrics related to baseline distribution reliability performance. Consideration of other distribution issues such as grid modernization and DER integration would be more appropriately considered in other proceedings better designed for such subjects, including ongoing workgroups and rate cases." *Id*., p. 17.

4. Citizens Utility Board of Michigan

CUB continues to argue that the threshold for utilities to avoid a penalty is too low. CUB states that pursuant to the updated straw proposal, the "5% improvement threshold for avoiding a penalty implies that Consumers and DTE [Electric] could improve to 615 and 635 minutes respectively, and incur no penalty, while still ranking among the worst utilities in the country for SAIDI." CUB's July 17, 2024 initial comments, filing #U-21400-0050, p. 2. CUB maintains that the incentive/disincentive mechanism should impose a penalty if a utility does not improve reliability to at least 125% of average national SAIDI.

In addition, CUB continues to object to having separate metrics for SAIDI (excluding MEDs) and all-weather SAIDI. CUB reiterates its recommendation to "remov[e] non-MED SAIDI as a metric and simply using all-weather SAIDI." *Id*., p. 3. Furthermore, CUB restates that the worst-performing circuit metric should not be included because it is ineffective and inequitable. Instead, CUB requests that the Commission "analyze a subset of the worst-performing customer accounts under all weather conditions." *Id*. (quoting CUB's February 2, 2024 initial comments, filing #U-21400-0031, p. 5). Finally, CUB reiterates that penalties should be paid directly to customers affected by outages.

5. DTE Electric Company

In its July 12, 2024 initial comments in this case, DTE Electric notes that the 48-hour catastrophic storm restoration, 24-hour gray sky restoration, and CEMI-4 metrics "have standalone incentives/penalties in the proposal. If a utility were to not meet targeted performance for any of these metrics, the utility would be assessed a penalty for the metric that was missed," even if the utility were to achieve performance standards for all other targets in the plan. DTE Electric's July 12, 2024 initial comments, filing #U-21400-0045. p. 2. The company states that "[e]ffectively, as proposed this creates an unfair double penalty for missing the targeted performance for these three metrics – (1) the utility would be assessed a standalone penalty for missing the targeted performance for the metric, and (2) the utility would become ineligible for a net incentive regardless of performance across the other metrics." *Id*. Thus, DTE Electric contends that the incentive/disincentive mechanism is penalty-only.

DTE Electric also asserts that it is virtually impossible to earn the maximum incentive for the SAIDI, restoration, and CEMI-4 metrics. According to the company, for the incentive/disincentive mechanism "[t]o truly be a system of incentives and penalties, the proposal should be adjusted to introduce balanced incentive designs and at least an actual opportunity for both penalties and incentives, such that the maximum incentive could be earned at a level less than perfect performance." *Id*., p. 4.

For the CEMI-4 metric, DTE Electric contends that the current incentive target should be maintained; however, the Commission should "utilize a deadband between that target and 2nd quartile (i.e., a 6-8.5% deadband). Penalties could continue to be assessed on a sliding scale for worse than 2nd quartile (i.e., average) performance. This design change would both maintain incentives for exceptional performance and eliminate the penalty for better than average performance." *Id*., p. 4.

Regarding the SAIDI all-weather metric, the company asserts that if a five-year trailing average of performance is used to determine the financial outcomes:

> the metric design should extend the deadband to both sides of the target. As proposed, the assessed metric (a five-year trailing average) could lag in either the penalty or incentive direction based on performance from prior years. That dynamic is somewhat accounted for in the incentive direction with the deadband, however the proposal puts the lagging risk (which is essentially the variability in weather) for penalties on the Company.

Id., p. 5. Alternatively, DTE Electric recommends that the Commission create a symmetrical deadband around the target for all-weather SAIDI.

Next, DTE Electric states that penalties:

> should be used to assist customers for whom the additional support would be the most meaningful, compared to the impact of spreading penalties over more than two million customers. Even at the maximum of $10 [million], each customer would realize only ~$0.36/month on average, whereas $10 [million] [in penalties] that are well targeted toward the most vulnerable members of the community could make a real difference.

Id., p. 6.

In response to the Commission's request for comments on the Reliability Plus approach that includes equity, grid modernization, DER integration, and resilience, DTE Electric states that "[t]he Reliability Plus focus areas are emergent in the utility industry, and unlike the generally well-established reliability metrics in the revised straw proposal, there are few broadly understood and utilized metrics for the new focus areas." *Id*. The company asserts that well-defined objectives for these focus areas should be developed before they are included in the incentive/disincentive mechanism. DTE Electric also contends that the Reliability Plus approach should avoid duplication with the SQRS and should ensure that utilities are able to earn an incentive and not simply incur additional penalties.

6. The Ecology Center, Environmental Law & Policy Center, Union of Concerned Scientists, and Vote Solar

Regarding the Commission's request for additional comments on the issue of equity, the CEOs contend that affordability is essential in designing the incentive/disincentive mechanism. Accordingly, the CEOs propose the following changes to the updated straw proposal:

1. Track SAIDI and CEMI-4 metrics for census tracts with MiEJ [Michigan Environmental Justice] Screen Scores of 80% or more;
2. Remove the SAIDI excluding MEDs metric;
3. Remove incentives from the target performance.

CEOs' July 12, 2024 initial comments, filing #U-21400-0049, p. 2.

The CEOs explain that it is important for the Commission to analyze system performance for circuits in census tracks with MiEJScreen scores greater than or equal to 80% (MiEJ80), along with system averages, because this will provide more equity for vulnerable communities. The CEOs also recommend using all-weather SAIDI, rather than SAIDI (excluding MEDs), because "it best captures the on-the-ground reliability experience of customers." *Id*. (quoting CEOs' March 1, 2024 reply comments, filing #U-21400-0033, p. 3). Furthermore, the CEOs assert that the incentives should be removed from target performance because it will "avoid over-reliance on unproven mechanisms." CEOs' July 12, 2024 comments, filing #U-21400-0049, pp. 2-3 (quoting CEOs' September 22, 2023 initial comments, filing #U-21400-0008, p. 4).

Regarding DER integration, the CEOs request that the Commission "investigat[e] . . . the value of DER . . . to determine what the base value of DERs is. Next, the CEO[s] recommend that a metric be approved to increase DER and other grid services, tied to a percentage annual increase." CEOs' July 12, 2024 initial comments, filing #U-21400-0049, p. 5.

7. Indiana Michigan Power Company

In general, I&M supports the implementation and application of the incentive/disincentive mechanism in a base rate case but in a measured manner and on a trial-run basis. I&M explains that:

> [a]llowing the utilities to collect and report the data to the Commission prior to full implementation would allow the utilities, [interested persons], Staff and the Commission to work through any definition or data presentation issues instead of each utility working through issues, when trying to manage all of the other issues that are already present in a full base rate case proceeding. Also, the Commission should consider that the current 5-year distribution plan requirements already address the program's underlying objectives in a much less cumbersome way.

I&M's July 12, 2024 initial comments, filing #U-21400-0046, p. 2.[2, 3] I&M states that if the Commission decides to apply the incentive/disincentive mechanism to all utilities in Michigan, the Commission should "implement metrics for the additional utilities consistent with the expectations laid out in [Case No.] U-21122." *Id*.

For the storm response metrics in the updated straw proposal, I&M recommends that the Commission implement the same waivers and exceptions provided in Mich Admin Code, R 460.751, as applicable pursuant to Case No. U-20629. In addition, the company asserts "that customers who are unable to take service for reasons outside of the control of the utility (for example the house has significant structural damage as a result of the storm) are excluded from the calculations used to determine incentives or penalties." I&M's July 12, 2024 initial comments, filing #U-21400-0046, p. 2. Furthermore, I&M contends that the Commission should take into

[2] I&M's July 12, 2024 initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

[3] In an effort to maintain alignment with industry best practices in language and terminology, the Commission no longer uses the word "stakeholders" in its orders, to the best extent possible. Thus, all references to "stakeholder(s)" in this order have been modified to reflect "interested person(s)" instead.

consideration affordability when designing the incentive/disincentive mechanism. The company explains that implementation of the targets in the incentive/disincentive mechanism will require additional investments and, accordingly, it will increase costs to customers.

Next, I&M addresses the topics of equity, grid modernization, DER integration, and resilience. Regarding equity, the company states that "it manages the distribution system based on the overall performance of the system and in a manner that maximizes the value of its investments in the system to benefit all customers. Any modifications from this approach would result in sub-optimal performance of the overall system. Each customer should be afforded safe, reliable, and resilient power." *Id*., p. 3.

For grid modernization, I&M contends that these investments are specified in the company's five-year distribution plan. The company does not object "to meeting new reporting requirements for grid modernization investments, but it is unclear how the Commission plans to decouple the performance metrics just for these investments from the broader investment portfolio aimed at improving system level reliability." *Id*., pp. 3-4. In response to the Commission's request for comments about DER integration, I&M asserts that it is unclear what the Commission intends to measure and what performance the Commission is attempting to incentivize or disincentivize.

Finally, regarding resilience, I&M states that "any additional metrics should be considered in the context of all existing reporting and performance requirements. The metrics must also be fully within the control of the utility or the utility's ability to influence. I&M is concerned about the potential for duplicative penalties/customer credits for any additional metrics incorporated." *Id*., p. 4.

8. Michigan Electric and Gas Association

MEGA notes that thus far, the focus of implementing the incentive/disincentive mechanism has been on larger Michigan utilities. However, MEGA states that "there are distinct differences between the MEGA members and the larger utilities, some of which are very pertinent when considering a performance-based metric for reliability." MEGA's July 12, 2024 initial comments, filing #U-21400-0048, p. 2. Therefore, MEGA offers several issues for consideration.

First, MEGA asserts that the Commission should consider whether any of the proposed metrics are already required in existing dockets or reporting mechanisms. Second, MEGA contends that its member utilities:

> have very little urban area compared to other utilities, so when your metric is <u>percentage</u> of customers experiencing repetitive outages (i.e., CEMI-4), this can be a more difficult metric for smaller, rural utilities to make as one customer outage is a higher percentage of the customer base than other utilities. MEGA suggests that an alternative metric such as CEMI-6 [customers experiencing more than six outages in a 12-month period] may be more appropriate. MEGA also believes small utility performance has more variability, and one failure or weather event can significantly change annual performance. Localized storms can have a significant impact on "system" performance.

Id., p. 3 (emphasis in original). Third, because MEGA member utilities have large geographic footprints, MEGA notes that there can be large variations in the weather in each utility's service area. Specifically, MEGA states that "small utilities['] system data can be significantly affected by single storm events. As such, it may make sense for certain, not all, metrics to be averaged over a period of years to account for these localized events and the smaller customer base." *Id*. Fourth, MEGA objects to a metric that measures outages as related to circuits. According to MEGA, "the top ten worst circuits can be a large percentage of all the circuits" for smaller utilities. *Id*. Thus, MEGA recommends that the Commission analyze the top 1% of feeders for an electric utility or cooperative with less than 1,000,000 customers.

Regarding penalties, MEGA asserts that "[t]he maximum limit on penalties of $10 million would be incongruent with the size of the MEGA companies compared to their larger counterparts. MEGA suggests a percentage of revenue or other easily determinable number that appreciates the size of the company." *Id.*, p. 4. In addition, MEGA recommends that the Commission set performance standards based on the utility's past performance, not reliability standards. MEGA contends that "<u>[o]nce the utility is achieving top quartile performance marks</u>, we propose there be a 'leveling-off' requirement rather than the utility being 'penalized' for not continuing to improve." *Id*. (emphasis in original).

In response to the Commission's request for comments on the reliability plus approach, MEGA states that it:

> does not have specific comments to offer at this time but suggests that the Commission continue to study these metrics and provide additional time for Staff and [interested persons] to make a review and offer additional recommendations. There are proceedings in other states of a similar nature, and there may be some applicability to Michigan that would take additional time to review and submit.

Id.

<u>Reply Comments</u>

1. Association of Businesses Advocating Tariff Equity

In response to Consumers' request to use penalties to fund reliability improvements and DTE Electric's proposal to use penalties to assist low-income customers, ABATE reiterates that penalties should be returned to customers. ABATE opines that:

> if a utility were allowed to retain the penalty amount in order to make additional system investments, it would be like placing "salt on the wounds" of those customers who were adversely affected by the utility's inability to meet the relevant performance metric. Given this initial failure to prudently use rate revenue to provide service meeting minimum standards, it is questionable whether any additional supplemental utility investments would actually provide help to the affected customers.

ABATE's August 23, 2024 reply comments, filing #U-21400-0052, p. 3. In addition, ABATE contends that any incentive payments collected from customers and any penalty that is collected from the utility and returned to customers should be implemented according to cost causation principles.

ABATE disagrees with DTE Electric's claim that if a utility is required to meet all of the standards in the SQRS before earning an incentive, it creates a double penalty for the utility. Additionally, ABATE objects to Consumers' request that utilities be permitted to earn an incentive for meeting individual metrics. ABATE contends that DTE Electric and Consumers are attempting to avoid compliance with the SQRS. In addition, ABATE argues, DTE Electric and Consumers "fail to recognize the May 3, 2024 Revised Straw Proposal allows incentives for superior performance in certain reliability metrics to offset penalties for poor performance for other reliability metrics." ABATE's August 23, 2024 reply comments, filing #U-21400-0052, p. 5.

Finally, as noted in its July 12, 2024 initial comments, ABATE reiterates that "until the Commission gains sufficient experience with applying financial incentives and disincentives in the context of reliability performance[,] the Commission should be very cautious in pursuing additional issues to which it may apply financial incentives and disincentives." ABATE's August 23, 2024 reply comments, filing #U-21400-0052, p. 6.

2. Michigan Department of Attorney General

In response to Consumers' proposal that the incentive/disincentive mechanism should be tied to timely rate recovery of capital spending and distribution operations and maintenance (O&M) expense, the Attorney General states that:

> [t]he [incentive/disincentive] mechanism proposed by the Attorney General at the outset of this proceeding significantly addresses the issue raised by Consumers

> Energy by tying the amount of penalties and potential incentives to the capital additions included in rate base for Distribution assets over a rolling five year period along with O&M expenses, depreciation and property taxes. Such a methodology is critically important to hold utilities accountable for performance achieved, or not achieved, based on the resources that they have been given.

Attorney General's August 23, 2024 reply comments, filing #U-21400-0054, p. 2.

Regarding Consumers' and DTE Electric's objections to CEMI-4, the Attorney General reiterates "that CEMI-4 is an important metric that needs to be included in any [incentive/disincentive] mechanism. However, the performance target needs to be set annually at a reasonable level that allows the utilities to show improvement toward the ultimate desired target level set in SQRS." *Id*. In addition, the Attorney General disagrees with Consumers and DTE Electric that there should be a deadband for the CEMI-4 and service restoration metrics. The Attorney General states that deadbands "obscure actual improvement or shortfalls in performance." *Id*.

Furthermore, the Attorney General disagrees with Consumers' request to retain penalties for reliability improvements and DTE Electric's proposal to use penalties to assist low-income customers. The Attorney General contends that:

> [a]lthough giving the penalty amounts to customers who experienced power outages may seem equitable, penalties and potentially incentive payments will be netted out over multiple years before the Commission makes a determination in a rate case. It is unlikely that those customers who experienced outages in prior years will be the same customers who experienced outages in recent years. The Attorney General continues to believe that penalties and incentive payments should be included in the revenue requirement in the current rate case upon Commission determination and apportioned to all customers based [sic] the approved cost of service allocation methodology.

Id., p. 3. However, the Attorney General argues that customers who incurred expenses from outages should be reimbursed. She recommends that "[g]reater outage credits and/or another mechanism to focus on these extra expenses incurred by customers as a result of poor utility performance should be examined by the Commission." *Id*.

Finally, in response to the Commission's request for comments on equity, grid modernization, DER integration, and resilience, the Attorney General "believes that the focus at this time should be on the key reliability and outage restoration metrics included in Staff's May 2024 straw proposal and perhaps some additional metrics. The concern with adding additional metrics is that it could further delay implementation of this needed reliability metric." *Id*.

3. Consumers Energy Company

In response to the CEOs' request to remove incentives from target performance, Consumers reiterates that an incentive/disincentive mechanism "will equally motivate utilities to improve their performance[,] making symmetry even more important in times of needed improvement." Consumers' August 23, 2024 reply comments, filing #U-21400-0053, p. 4. The company recommends that the Commission approve a fair and balanced incentive/disincentive mechanism.

Consumers also objects to Ann Arbor's request that utilities be required to meet all SQRS before receiving an offset for achieving an individual metric. The company states that it "maintains its recommendation that the [incentive/disincentive] mechanism should operate independently from the [SQRS] with symmetrical incentives and disincentives." *Id*., p. 6.

Regarding CUB's proposal to impose a penalty if a utility does not improve to at least 125% of national average SAIDI, Consumers contends that:

> establishing [an incentive/disincentive] mechanism based on national averages is inappropriate and divorced from the conditions being experienced in Michigan, which include increasingly volatile weather events and electric distribution infrastructure that requires significant investment. Target performance for any [incentive/disincentive] metrics established in Michigan should be company specific and must be based on a baseline of current performance. The Company needs time to make the necessary investments in its system, as well as the resources to do so. Consideration should also be given to the service territory of each utility.

> Consumers Energy, for example, has a service territory that spans a large rural area with low customer density when compared to other large midwestern utilities. Any metric targets set by the Commission should be based on what utilities have a realistic probability of achieving from the time the metrics are in place, given the state of the system today and the reliability and resiliency investments that can be completed over the applicable period of time.

Id., pp. 6-7.

Consumers disagrees with the CEOs' request to remove metrics that exclude MEDs and CUB's recommendation to include all-weather SAIDI but not SAIDI (excluding MEDs). The company asserts that it is an industry standard to exclude MEDs from the SAIDI metric. Regarding all-weather SAIDI and SAIDI (excluding MEDs), the company states that:

> [i]t is important that these metrics are separated so that utilities are not penalized for weather volatility that is outside of its control. Consumers Energy has improved its SAIDI performance over the past two years, as well as improved its SAIDI excluding MEDs performance in 2022 and 2023. It would be unfair to Consumers Energy, and other utilities, to only measure SAIDI with MEDs included and use that as a basis for incentives and disincentives. The unpredictable weather patterns caused by climate change will most certainly affect the SAIDI metric, therefore, SAIDI excluding MEDs should be a separate metric from SAIDI all-weather.

Id., pp. 7-8 (footnote omitted).

In response to CUB's request to analyze a subset of the worst performing customer circuits under all weather conditions, Consumers states that it:

> supports a system-level focus area for the worst performing circuit metric. By focusing on the circuits that make the greatest contribution to system SAIDI, this metric will better support the other proposed SAIDI metrics in the straw proposal, because fixing circuits that make the greatest contribution to system SAIDI will necessarily bring system SAIDI down. System-level focus ensures that the bulk of customers have reliable service, maximizing benefits to the broadest group of customers.

Id., pp. 8-9.

Consumers asserts that the Commission should not add additional topics—specifically equity, grid modernization, DER integration, and resilience—to the incentive/disincentive mechanism until the Commission has evaluated whether the mechanism, as currently designed, is improving distribution reliability. In response to the CEOs' recommendation to include a metric on reliability and equity, the company contends that the "proposal would incentivize the utility to invest more in parts of the system that already perform relatively well, in order to drive continued annual improvements for those parts of the system, potentially taking away from the utility's ability to invest in worse-performing parts of the system outside of MiEJ80 communities." *Id*., p. 10.

Additionally, Consumers argues that CEMI-4 is duplicative of the automatic bill credits assessed under the SQRS and, therefore, it should not be included as a metric in the incentive/disincentive mechanism. Rather, the company recommends that the Commission include a metric that "incentivize[s] utilities to maintain reliability in MiEJ80 communities at higher levels than the balance of their systems. This would ensure that MiEJ80 communities are appropriately served[ ]as utilities work to improve overall system reliability. The [incentive/disincentive] mechanism should be focused on equitable distribution reliability performance." *Id*.

In response to the CEOs' request to include a metric to increase DER and other grid services, Consumers argues that DERs are not connected to distribution reliability performance. The company asserts that DER integration should be considered in a separate proceeding that will better address those subjects. *See*, *id*., pp. 10-11.

Regarding ABATE's recommendation that utilities be required to report to requesting customers about substation preventative maintenance, equipment age, and other relevant system conditions, Consumers states that it "is committed to working with its customers to improve reliability and the electric system as a whole. The Company also maintains transparency in the actions involved in this process. However, ABATE's recommendation is beyond the scope of this proceeding." *Id*., p. 12.

Consumers also objects to ABATE's and CUB's proposals to return penalties to customers. The company reiterates that penalties should be used to fund reliability improvements that will reduce outage frequency and duration, which will positively impact customers. *See*, *id*., p. 13.

Next, Consumers contends that Ann Arbor's request that the Commission consider a utility's reliability performance when determining an appropriate return on equity (ROE) is unlawful and outside the scope of this case. Similarly, the company objects to the CEOs' recommendation that the Commission adjust a utility's ROE commensurate with incentives earned. Consumers explains that:

> [f]irst, it is logistically unworkable. The Company's rates, including its ratemaking ROE, are established prospectively. However, the Commission will not know at the time that rates are set whether a utility has been able to earn an incentive under this initiative because each year's performance outcomes can only be measured in hindsight. Furthermore, even if the Commission could anticipate the likely amount of a future incentive, adjusting the ratemaking ROE to exactly offset that amount would be highly imprecise because there are so many variables that impact the actual earned ROE once rates are set. There is a very high likelihood that the Commission's effort to merely offset the incentives would overshoot the targeted reduction and result in penalties where the Commission meant to adopt incentives.
>
> Second, it would be conceptually pointless to adopt incentives for improving performance metrics, but then offset those incentives by reducing rates in an equivalent amount. The net effect of those things would be the same as if there were no incentives at all. As discussed above, incentives will be an important part of achieving the Commission's real goal of improved distribution reliability performance. It does not make sense to hamper that goal by adopting an illusory incentive mechanism.

Id., p. 16. Furthermore, Consumers contends that the CEOs' recommendation is unlawful pursuant to the U.S. Supreme Court's holding in *Bluefield Waterworks & Imp Co v Pub Serv Comm of W Va*, 262 US 679, 690; 43 S Ct 675 (1923) and in *Fed Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281 (1944).

Finally, Consumers reiterates that for an incentive/disincentive mechanism to be successful, timely rate recovery is necessary and the metrics should be set in a rate case and reviewed every three years. *See*, Consumers' August 23, 2024 reply comments, filing #U-21400-0053, pp. 17-19.

4. DTE Electric Company

DTE Electric disagrees with CUB's and the CEOs' recommendations to remove the metrics that exclude MEDs. The company asserts that:

> [r]eliability performance metrics should include both the total customer experience, which the Staff['s] straw proposal includes through all-weather metrics, CEMI, and storm restoration, as well as those metrics which are more focused on the Company's day-to-day operations when not experiencing a weather event. SAIDI excluding-MEDs isolates the effects of extreme weather and better reflects how the Company is improving in circumstances that are more under their control. Both are useful measures of reliability and therefore are both appropriate for [the incentive/disincentive mechanism].

DTE Electric's August 23, 2024 reply comments, filing #U-21400-0051, p. 3.

Next, DTE Electric states that "it would be unreasonable to adopt national averages as a starting point [for SAIDI], as CUB recommends, because utilities across the country are not homogeneous in their historical investment, population trends and the age of the infrastructure built to support them, or weather." *Id*. Rather, the company contends that the updated straw proposal more appropriately uses the performance of Michigan utilities as the beginning point for the targets, with a long-term plan to move the target to industry median.

DTE Electric also objects to Ann Arbor's proposal that utilities be required to meet the SQRS to offset penalties. According to DTE Electric, Ann Arbor's recommendation "would, for example, not allow the Company to use 'successful' metric performance that, on a standalone basis, would generate an incentive even to offset less than target performance elsewhere. This is a punitive and unproductive recommendation which would effectively guarantee penalties every year." *Id*., p. 4. In any event, the company contends that requiring utilities to meet the SQRS to earn an incentive is a penalty-only mechanism and the requirement should not be included in the updated straw proposal.

In response to ABATE's recommendation that utilities report to customers regarding substation preventative maintenance, equipment age, and other issues related to system conditions, DTE Electric argues that it already provides extensive information in its distribution planning docket, rate cases, and reliability reporting in Case No. U-21222. The company asserts that this is not the appropriate docket for ABATE's request and states that, "to the extent additional reporting such as what has been proposed by ABATE is debated, it should not take place in the [incentive/disincentive] docket but instead be discussed in one of the various other venues in which distribution planning is assessed." *Id*.

Finally, DTE Electric reiterates that an examination of the Reliability Plus approach, as set forth in the June 6 order, should be postponed until the metrics in the updated straw proposal have well-defined objectives and targets. *See*, *id*., p. 5.

<u>Discussion</u>

As an initial matter, the Commission notes that in Case Nos. U-20561 and U-20697, the Commission directed DTE Electric and Consumers, respectively, to provide information related to performance-based regulation (PBR) in their distribution plans, which were reviewed by the Commission in the September 8, 2022 order in Case No. U-20147 (September 8 order). On page 71 of the September 8 order, the Commission found that the information submitted by DTE Electric and Consumers was "insufficient to address the issue of financial incentives and penalties at this time" and stated that the Financial Incentives and Disincentives workgroup would be commenced to address these issues. The Commission notes that, at this time, it has not yet directed I&M or other utilities to provide information regarding PBR or performance metrics.

In addition, as stated on page 12 of the April 24 order, the initial focus of the Financial Incentives and Disincentives workgroup and the straw proposal was to be a "reliability-plus" approach to distribution grid performance, and "[w]ithin this focus on distribution performance, of foremost and most immediate concern are issues involving distribution reliability and safety." The Commission has reviewed the updated straw proposal and agrees with the Staff that "[i]mproving distribution system reliability still remains a high priority in the near-term," and that "[a]fter concluding this initial focus on reliability, the workgroup's scope can shift to the 'plus' portion of the Reliability-Plus framework envisioned in the opening order of this proceeding." Updated straw proposal, p. 1 (footnote omitted).

Accordingly, the Commission has reviewed the comments and reply comments filed by citizens, utilities, the Attorney General, and other organizations, including the range of suggestions for modifying the updated straw proposal. The Commission would like to offer its thanks to the Staff, the utilities, and other interested persons for providing thoughtful suggestions and analyses in the development of a balanced and effective financial incentives/disincentives mechanism, as discussed below.

Regarding a penalty collected from a utility, ABATE and DTE Electric argue that it should be returned to customers—specifically, DTE Electric asserts that it should be used to assist vulnerable customers—whereas Consumers disagrees, contending that it should be returned to the utility to be used to improve reliability. The Commission finds that this issue is best addressed in the individual utility rate cases after a review of the evidence provided on the record.

Ann Arbor and ABATE request that the Commission require the utilities to meet all of the standards in the SQRS before earning an incentive. Consumers and DTE Electric disagree. The Commission finds that the utilities have an obligation to comply with the SQRS and that the financial incentives/disincentives mechanism does not create a double penalty. The Commission further notes that Mich Admin Code, R 460.751 permits a utility to request a waiver when compliance with the SQRS "would be unduly economically burdensome or technologically infeasible." In any event, the updated straw proposal retains opportunities for the utilities to offset penalties with service quality performance that exceeds the current SQRS.

Consumers requests that the Commission review the metrics every three years as part of the utility's rate case "to eas[e] the administrative burden for all parties." Consumers' July 12, 2024 initial comments, p. 6. The Staff states that "[g]iven the early stage of experience with performance metrics in Michigan, the metrics should be reviewed on a frequent basis and this revision proposes a two-year review cycle." Staff's May 3, 2024 comments, p. 9. The Commission generally finds the Staff's proposed two-year review-period cadence reasonable because it allows a more frequent review of outcomes during early implementation and provides the Commission an opportunity to make relevant changes more rapidly. The Commission may extend the review period once it gains more experience and learnings through implementation. Further, to avoid the administrative burden of reviewing these metrics in an already complex and difficult rate case, the Commission finds that the metrics and their associated parameters, including baseline, target performance, and incentive/disincentive mechanism, should be reviewed in a standalone proceeding, separate from the utility's rate case. The first standalone proceeding for reviewing the metrics will be commenced by the Commission on or before October 15, 2027, in a new docket. The Commission will issue, in this case, guidance regarding the review process prior to October 15, 2027.

Consumers and MEGA object to the Staff's proposed $10 million limit for penalties and incentives, and Consumers requests that the Commission set the limit at an annual $5 million band on total risk/reward. The Commission finds that the $10 million limit for penalties and incentives appropriately balances the Commission's goal to incentivize utilities to improve reliability through meaningful financial exposure but is not so substantial that it creates an onerous financial burden.

The Attorney General recommends including CEMI-4 in the financial incentives/disincentives mechanism, whereas Consumers, DTE Electric, and MEGA express concern about the CEMI-4 metric. The Commission notes that some customers continue to experience an excessive and unacceptable number of outages in DTE Electric's and Consumers' service territories despite the utilities' obligation to comply with the SQRS. The Commission finds that CEMI-4 appropriately encourages the utilities to more rapidly improve service to customers experiencing an excessive number of outages. The Commission also finds that the metric should maintain the threshold set forth in the SQRS as the basis for the financial incentive/disincentive metric.

Consumers, CUB, DTE Electric, the Attorney General, and the CEOs provide suggestions for modifying the SAIDI metrics set forth in the updated straw proposal. The Commission finds that the SAIDI (excluding MEDs) metric, as updated in Exhibit A, should be used by Consumers and DTE Electric to calculate a proposed SAIDI (excluding MEDs) baseline. For this baseline, Consumers and DTE Electric shall calculate an average using the two years with the lowest SAIDI (excluding MEDs) minutes from 2022-2024. This number, and the penalty and incentive thresholds for 2026-2030 calculated from it, should be included in the April 15, 2025 filing. As noted by the Staff, "[t]he incentive threshold [for this metric] is predicated on achieving faster progress towards the industry median benchmark for this outcome across both utilities." Updated straw proposal, p. 6. In addition, the Commission agrees with the Staff that 15% of the total incentive/disincentive pool should be allocated to this metric and that the metric should retain a symmetric opportunity to earn an incentive or incur penalties for reliability below the threshold.

Furthermore, the Commission agrees with the Staff that the metric should scale the incentive or penalty linearly over one standard deviation range.

Regarding the all-weather SAIDI metric, the Commission agrees with DTE Electric and the Attorney General that the metric should be measured using actual results on an annual basis. As explained by DTE Electric, if the company were to achieve its projected performance in 2025, "which on its own would be below the target and yield the maximum incentive, it would still be assessed a penalty [if the five-year trailing average is used] given the trailing impacts of 2021 and 2023." DTE Electric's July 12, 2024 initial comments, filing #U-21400-0045, p. 5. The Commission agrees that performance on this metric should be measured for the previous year only. However, the Commission directs Consumers and DTE Electric to calculate a baseline for the all-weather SAIDI metric that is the five-year average of 2020-2024 data, as set forth in Exhibit A. This number, and the penalty and incentive thresholds for 2026-2030 calculated from it, should be included in the April 15, 2025 filing. This all-weather SAIDI metric should use a deadband of 0.75 standard deviation (based on historical data back to 2012), which sets the maximum incentive tier near 1st quartile performance.

Consumers, DTE Electric, I&M, and MEGA express concern regarding the storm restoration metrics. The Commission finds that the 48-hour catastrophic storm restoration and 24-hour gray sky restoration metrics and the associated weighting set forth in the Staff's updated straw proposal appropriately include the target performance set forth in the SQRS and encourage storm response improvement. For the 72-hour catastrophic storm restoration metric, the Staff recommends including the metric in its updated straw proposal, but DTE Electric disagrees, asserting that it is already captured by all-weather SAIDI. The Commission finds that this separate metric will encourage utilities to reduce long power restoration times, to reduce repetitive outages, and to implement strategies to restore power in weather conditions where a significant number of customers are affected by an outage. Therefore, the Commission finds persuasive the Staff's position on the storm restoration metrics and directs Consumers and DTE Electric to include the proposed storm restoration metrics as set forth in Exhibit A.

The Commission finds persuasive Consumers' argument that repairing poorly performing circuits will significantly reduce SAIDI. Therefore, for the worst performing circuits metric, Consumers and DTE Electric shall each compare the list of the utility's top-10 worst performing circuits in the review year with its top-10 worst performing circuits each year in the previous four-year period. However, the Commission notes that in the December 21, 2023 order in Case No. U-12270, the Commission approved a form that standardized the method by which Consumers and DTE Electric listed worst-performing circuits. The first year that worst-performing circuits were reported by Consumers and DTE Electric in this format was 2023. Accordingly, for the first assessment of this metric, Consumers and DTE Electric will need to use a period that is less than five years. To illustrate, for the first calculation, the utility shall use its list of top-10 worst performing circuits in 2026 and compare it with the list of top-10 worst performing circuits from 2023 to 2025. For the second assessment in 2028, the utility shall use its list of top-10 worst performing circuits in 2027 and compare it to the lists of top-10 worst performing circuits from 2023 to 2026. For the next assessment in 2029, the utility shall compare its list of top-10 worst performing circuits in 2028 with the lists of top-10 worst performing circuits from 2024 to 2027.

In the June 6 order, the Commission requested comment on equity, grid modernization, DER integration, and resilience. ABATE, DTE Electric, the Attorney General, and Consumers recommend that the Commission consider these additional issues at a later date, or in a separate proceeding. The Commission generally agrees but finds that for this iteration of the financial incentives/disincentives mechanism, the utilities shall track reliability in MiEJ80 census tracts. This will assist the utilities in comparing their reliability in the MiEJ80 census tracts to the rest of the census. Accordingly, when Consumers and DTE Electric submit their first quarter U-21122 reporting data to the Staff in May 2025, each utility shall highlight the rows of census tracts that meet MiEJ80 and shall do the same in each subsequent U-21122 report. In a future iteration of the financial incentives/disincentives mechanism, the Commission may consider the CEOs' recommendation to track SAIDI and CEMI-4 metrics for census tracts with MiEJScreen scores of 80% or more.

In sum, the Commission directs Consumers and DTE Electric to each file an application in new dockets, with supporting testimony and exhibits, by April 15, 2025, to implement a financial incentive/disincentive mechanism that is consistent with the guidance in this order and set forth in Exhibit A. These proceedings shall be conducted as contested cases. As part of the application, the companies shall include in the framework that is described in Exhibit A the most recent annual performance data, where applicable, to establish baselines against which performance is to be measured beginning in calendar year 2026.

Accordingly, the Commission directs that case schedules be established for the April 15, 2025 filings to allow for orders to be issued in those dockets by the end of 2025. Consumers and DTE Electric shall also provide in the applications filed on April 15, 2025, proposals regarding a timeline and process for filing and evaluating data related to: (1) actual performance in each of the metrics during each calendar year a mechanism is in effect, (2) performance relative to established baselines, (3) calculation of the financial incentive or disincentive based on performance relative to the baseline, and (4) utilization of regulatory accounting treatment for the financial incentive or disincentive that is determined.

The Commission would also like to emphasize that although the financial incentives/disincentives mechanism approved in this order is intended to incentivize utilities to more quickly improve the electric distribution system and overall service for customers, the mechanism should not jeopardize utility worker safety as utilities strive to implement measures that are eligible for incentive payments expeditiously. Thus, the Commission directs the utilities to review their safety standards for utility workers, confirm that the standards are sufficient to ensure safety, and implement the financial incentives/disincentives mechanism in a manner that protects worker safety.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company and DTE Electric Company shall use the financial incentives/disincentives mechanism, as described in this order and set forth in Exhibit A, to file a proposed performance mechanism in a company-specific standalone proceeding by April 15, 2025, as set forth in this order.

B. For purposes of the 2026 calendar year, the Commission approves a $10 million cap on the total amount of incentive or penalty for that calendar year.

C. The first standalone proceeding for reviewing the metrics will be commenced by the Commission on or before October 15, 2027, in a new docket.

D. The Commission will issue, in this case, guidance regarding the review process prior to October 15, 2027.

E. When Consumers Energy Company and DTE Electric Company submit their first quarter U-21122 reporting data to the Commission Staff in May 2025, each utility shall highlight the rows of census tracts that meet the Michigan Environmental Justice Screen scores greater than or equal to 80% and shall do the same in each subsequent Case No. U-21122 report.

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, pursuant to 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 LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at sheac1@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

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of February 27, 2025.

Lisa Felice, Executive Secretary

Financial Incentives and Disincentives Workgroup

February 2025 Modifications to Reliability Metrics Revised Straw Proposal

On February 27, 2025, the Michigan Public Service Commission accepted the revised straw proposal from the May 2024 Report with modifications. Table 1 summarizes the key modifications to the May 2024 Report:

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Table 1: Summary of Modifications in February 2025 Decision

Key Modifications	Updates to May 2024 Straw Proposal	Discussion
Change SAIDI (all weather) metric	Use current year performance instead of 5-year average	Current year performance better reflects recent trends and customer experience
Modify deadband for SAIDI (all weather) metric	Use 0.75 standard deviation (st. dev.) for deadband and scaling incentives/penalties across thresholds	Adjusts deadband based on higher variability in current year performance
Require tracking reliability metrics in MiEJ80 census tracks	Adds more granular reporting on MiEJ80 census tracks	Assists comparison between MiEJ80 census tracks to rest of distribution system

Table 2 displays the details for each performance metric. The table shows the seven proposed performance metrics, baselines for the SAIDI metrics, potential target levels for each metric, and incentive/disincentive mechanism.

Table 2: February 2025 Decision on Reliability Performance Metrics

Metric	Baseline		Target Performance		Potential Incentive/Disincentive Mechanism
	DTE	Consumers	Penalty	Incentive	
SAIDI (Excluding MEDs)	Average using the two years with the lowest SAIDI (excluding MEDs) minutes from 2022-2024 (to be calculated)	Average using the two years with the lowest SAIDI (excluding MEDs) minutes from 2022-2024 (to be calculated)	5% reduction from baseline over 5 years (linear glidepath)	1 st. dev. deadband + 10% reduction from baseline over 5 years (linear glidepath)	Symmetric incentive/disincentive 15% of total pool Incentive/penalty scales linearly over 1 st. dev. range
SAIDI (All Weather) (Current year)	Average of 2020-2024 data (to be calculated)	Average of 2020-2024 data (to be calculated)	5% reduction from baseline over 5 years (linear glidepath) Use current year performance instead of 5-year average	0.75 st. dev. deadband + 10% reduction from baseline over 5 years (linear glidepath) Use current year performance instead of 5-year average	Symmetric incentive/disincentive 15% of total pool Incentive/penalty scales linearly over 0.75 st. dev. range
Storm Restoration (48-hour catastrophic storm response)	N/A	N/A	Below Service Quality Rule (<=90%)	Exceed Service Quality Rule (>90%)	Scale penalty from 80%-90% and incentive from 90%-100% 25% of total incentive/disincentive pool

Storm Restoration (72-hour catastrophic storm response)	N/A	N/A	Below <=95%	Exceed >95%	Scale penalty from 85%-95% and incentive from 95%-100% 20% of total pool
Storm Restoration (24-hour gray sky response)	N/A	N/A	Below Service Quality Rule (<=90%)	Exceed Service Quality Rule (>90%)	Scale penalty from 80% - 90% and incentive from 90%-100% 10% of total pool
CEMI-4	N/A	N/A	Below Service Quality Rule (CEMI-4 => 6% of customers)	Exceeds Service Quality Rule (CEMI-4 < 6% of customers)	Scale incentive from 0%-6% and penalty from 6%-12% Account for 10% of incentive/disincentive pool
Worst performing circuits Circuits ranked by system-level SAIDI (exc MEDs)	N/A	N/A	Circuits ranked by SAIDI (exc MEDs) on a system basis. A circuit is listed in top 10 during the review year and listed in the top ten in any of the four years prior. -Review year 2026 shall be compared with 2023-2025. -Review year 2027 shall be compared with 2023-2026. -Review year 2028 shall be compared to 2024-2027. And so on.	No circuit listed in top 10 during the review year and listed in the top ten in any of the four years prior. -Review year 2026 shall be compared with 2023-2025. -Review year 2027 shall be compared with 2023-2026. -Review year 2028 shall be compared to 2024-2027. And so on.	Symmetric 5% of total pool.

The February 2025 decision accepts the following proposed metrics in the May 2024 Report:

- SAIDI (excluding MEDs)
- 48-Hour Catastrophic Storm Restoration
- 72-Hour Catastrophic Storm Restoration
- 24-Hour Storm Restoration – Gray Sky
- CEMI-4
- Worst-Performing Circuits

System Average Interruption Duration Index (SAIDI excluding MEDs)

DTE SAIDI (excl MEDs) Incentive/Penalty Mechanism

Year	Penalty	No Penalty/Incentive	Incentive
2026			
2027			
2028			
2029			
2030			

CE SAIDI (excl MEDs) Incentive/Penalty Mechanism

Year	Penalty	No Penalty/Incentive	Incentive
2026			
2027			
2028			
2029			
2030			

System Average Interruption Duration Index (SAIDI all weather)

DTE SAIDI (all weather) Incentive/Penalty Mechanism

Year	Penalty	No Penalty/Incentive	Incentive
2026			
2027			
2028			
2029			
2030			

CE SAIDI (all weather) Incentive/Penalty Mechanism

Year	Penalty	No Penalty/Incentive	Incentive
2026			
2027			
2028			
2029			
2030			

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-21400 *et al.*

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on February 27, 2025 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 J. Brown

Brianna Brown

Subscribed and sworn to before me
this 27th day of February 2025.

Angela P. Sanderson

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

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