

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to open a docket for load serving entities in)	
Michigan to file their capacity demonstrations for)	Case No. U-21775
the 2028/2029 planning year as required by)	
MCL 460.6w.)	
_____)	

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 and Procedural History

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, and filings by AESs, cooperatives, and municipally owned electric utilities are due by the seventh business day in February each year, although the Commission has the authority to adjust those deadlines to ensure proper alignment with the ISO's procedures and requirements.²

MCL 460.6w(8)(a)-(b), MCL 460.6w(10). On August 22, 2024, the Commission issued an order in Case No. U-21393 (August 22 order) finding that all LSEs required to file capacity demonstration complied with MCL 460.6w, summarizing the Commission Staff's (Staff's) capacity demonstration report, and opening the instant docket, Case No. U-21775, for the receipt of capacity demonstration filings for the 2028/2029 planning year (PY).

On November 27, 2024, Energy Michigan filed a motion for clarification pursuant to Mich Admin Code, R 792.10432 (Rule 432), or alternatively, a declaratory ruling pursuant to Mich Admin Code, R 792.10448, regarding the requirements applicable to the capacity demonstrations filed by AESs pursuant to MCL 460.6w(8)(b). No responses to the motion were filed.

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 "nothing 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."

² In the August 22, 2024 order in this case, the Commission set capacity demonstration deadlines as follows: February 24, 2025 for investor-owned utilities (IOUs) with one million customers or more, March 3, 2025 for IOUs with less than one million customers, and March 17, 2025 for all other LSEs.

In its motion, Energy Michigan recounts the requirement for a “Capacity Contract” included in the Capacity Demonstration Process and Requirements document attached to the August 22 order as Exhibit B, which states as follows:

Capacity Contract

The minimum acceptable support for capacity contracts with existing generation include:

- 1) An affidavit from an officer of the company including a copy of the contract that specifies the unit(s) or pool of generation that is the source of the contract, including the location of the unit(s) or pool. **The affidavit shall include a commitment to maintain the contracted amount four years forward regardless of any early out clauses in the contract, and[. . .]**

Energy Michigan’s motion, pp. 2-3 (quoting Exhibit B to August 22 order, p. 4) (emphasis in motion).

Energy Michigan also points to the following provisions included in the General Affidavit used for capacity demonstrations:

9. Existing Generation (Capacity Contract) [Include a copy of the contract that specifies the unit(s) or pool of generation that is the source of the contract, including the location of the unit(s) or pool (can be filed confidentially) and **state commitment to maintain the contracted amount four years forward regardless of any early out clauses in the contract.** In lieu of filing a copy of the contract(s), provide information set forth in the MPSC Order on Rehearing in Case No. U-18197, dated November 21, 2017, for Staff/Commission contract review. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]

10. Forward ZRC Contracts [Include a copy of the contract that specifies the zonal locations of the ZRCs. **The affidavit should include a commitment to maintain the contracted amount four years forward regardless of any early out clauses in the contract.** In lieu of filing a copy of the contract(s), provide information set forth in the MPSC Order on Rehearing in Case No. U-18197, dated November 21, 2017, for Staff/Commission contract review. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]

Energy Michigan’s motion, p. 3 (quoting General Affidavit) (emphasis in motion).

Energy Michigan contends that the emphasized provisions above require an LSE to demonstrate that it has committed to maintain all capacity contracted for four years regardless of whether the LSE's capacity obligation changes within that time period and that such a requirement is inconsistent with Section 6w(7) of Act 341, MCL 460.6w(7), and the Commission's capacity demonstration instructions. Energy Michigan's motion, pp. 3-4. Energy Michigan recounts that Section 6w(7) provides, in relevant part, that "[i]f an alternative electric supplier ceases to provide service for a portion or all of its load, it shall allow, at a cost no higher than the determined capacity charge, the assignment of any right to that capacity in the applicable planning year to whatever electric provider accepts that load[.]" *Id.*, p. 4 (quoting Section 6w(7)). Energy Michigan states that this provision explicitly recognizes that capacity reductions may occur and, citing the AES Load Switching Affidavit provided on the Commission's website, that the Commission has also allowed AESs to adjust their capacity holdings to account for customer switching. Energy Michigan summarizes that the question at hand is whether an LSE that experiences a reduced capacity obligation in the interim years following its capacity demonstration may correspondingly reduce its previously contracted-for amounts of capacity for those interim years. Energy Michigan's motion, p. 4.

Energy Michigan contends that the Staff and the Commission have characterized the capacity demonstration as a snapshot in time, as demonstrated by the Commission's discussion of the General Affidavit in the November 21, 2017 order in Case No. U-18197 (November 21 order), wherein the Commission stated:

[t]hat there is nothing prohibiting AESs (or any other electric provider) from buying or selling capacity after the initial four-year demonstration to account for actual load levels, which could be done bilaterally or through MISO's annual PRA [planning resource auction].

Energy Michigan’s motion, p. 5 (quoting November 21 order, p. 9). Per Energy Michigan, there is “tension between the expectations around and language of the Commission’s affidavit requirement and the language of Section 6w(7) and the Commission’s discussions of capacity retention requirements beyond covering the load in interim years.” Energy Michigan’s motion, p. 5.

Thus, Energy Michigan asks the Commission to clarify, or issue a declaratory ruling, finding that the requirements quoted above ostensibly require an LSE to maintain the contracted amount of purchased capacity four years forward regardless of load fluctuations and should not be interpreted to conflict with the provisions of Section 6w(7), which allow AESs to release capacity that is not serving load. Citing the March 17, 2025 deadline for AESs to file their capacity demonstrations, Energy Michigan asks the Commission for expedited approval of its motion. Energy Michigan’s motion, pp. 5-6.

Discussion

The Commission has reviewed Energy Michigan’s motion for clarification filed pursuant to Rule 432 governing motion practice before the Commission and finds that the motion should be granted. As explained further below, while the Commission has substantively addressed this issue raised in Energy Michigan’s motion previously, the Commission finds it appropriate to grant Energy Michigan’s motion and to clarify the wording in the Capacity Demonstration Process and Requirements document and General Affidavit regarding the required capacity commitments therein.

As background, the Commission notes that it initially adopted a format for the Section 6w(8) of Act 341, MCL 460.6w(8), capacity demonstrations in the September 15, 2017 order in Case No. U-18197, to which Energy Michigan subsequently filed a petition for rehearing on October 13, 2017 in Case No. U-18197 (October 13 petition), or alternatively, a motion for

clarification on several issues, including issues regarding load reductions and customer switching, which they raise again in the instant motion. In the November 21 order, the Commission denied Energy Michigan's October 13 petition, reasoning as follows regarding demonstrating a capacity commitment for the four-year period:

Although the Commission sympathizes with Energy Michigan's concerns about the mandatory four-year forward capacity demonstration requirement set forth within Section 6w(8) of Act 341, the Commission, as a creature of statute, is bound by the requirements set forth by the Legislature. *See, Union Carbide Corp v Pub Serv Comm*, 431 Mich 135, 146; 428 NW2d 322 (1988). In that regard, while Energy Michigan's petition on this issue is denied, the Commission nevertheless encourages all electric providers, including AESs, to work with the Staff regarding changes in supply and demand that affect future planning years after their capacity demonstrations have been made. *The Commission also reiterates that there is nothing prohibiting AESs (or any other electric provider) from buying or selling capacity after the initial four-year demonstration to account for actual load levels, which could be done bilaterally or through MISO's annual PRA.*

November 21 order, pp. 8-9 (emphasis added).

With respect to Energy Michigan's arguments in the October 13 petition regarding customers transferring from one AES to another, the Commission reiterated its finding from its previous September 15, 2017 order in Case No. U-18197 (September 15 order) that:

"an electric provider's initial capacity demonstration will *not* be re-examined...." September 15 order, p. 33 (emphasis added). Therefore, future load fluctuations will not impact an electric provider's previous capacity demonstration that has been satisfactorily made. Additionally, aside from Legislative direction on assignment rights and cost for capacity transfers within Section 6w(7) of Act 341, the Commission, at this time, finds that all other procedural matters on this issue can be deferred to electric providers involved in a Section 6w(7) capacity transfer to decide.

November 21 order, p. 12.

Subsequently, in Case No. U-21099, the docket opened for the capacity demonstrations for the 2026/2027 planning year, the Staff filed its report regarding the sufficiency of the capacity demonstration on March 24, 2023, which included the Staff's proposed Capacity Demonstration

Process and Requirements document. *See*, Case No. U-21099, filing #U-21099-0099. Following an invitation from the Commission for interested persons to file comments on the proposed Capacity Demonstration Process and Requirements document, the Michigan Electric and Gas Association (MEGA) commented regarding capacity contracts as follows:

Association members do not believe that the affidavit for capacity contracts should include a commitment to maintain the contracted amount four years forward “regardless of any early out clauses in the contract.” Members are concerned that the “regardless of any early out clause” portion of the requirement does not allow a utility the flexibility to adjust its capacity need for changes in load or performance failure on the part of the counter party. MEGA suggests this be revised to consider that a four-year commitment by affidavit is not possible for short-term contracts which typically have a term of 1 year, or if there are situations where the term or remaining term was 1-3 years.

MEGA’s comments, Case No. U-21099, filing #U-21099-0095, pp. 2-3.³

In the July 26, 2023 order in Case No. U-21099 (July 26 order), the Commission adopted the Staff’s proposed Capacity Demonstration Process and Requirements document with some revisions. However, the Commission declined to adopt MEGA’s suggested revision, explaining as follows:

The Commission declines to adopt MEGA’s recommendation to remove the requirement in the capacity contract to include a four-year forward requirement regardless of any early out clauses in the contract. The four-year forward requirement is mandated by MCL 460.6w(2) and the Commission finds that adopting MEGA’s suggestion would undermine the requirements of Section 6w by reading into the statute an exception that does not exist.

July 26 order, p. 21.

Turning to the instant docket and Energy Michigan’s motion, the Commission finds that the need for clarity lies in the wording of the Capacity Demonstration Process and Requirements document and the General Affidavit provided to LSEs for use in their capacity demonstration, as

³ MEGA’s comments were not paginated and therefore, the Commission applies pagination in natural order beginning with the first page following the cover page of MEGA’s comments.

opposed to a substantive change in the Commission's interpretations of the capacity demonstration requirements under Section 6w.

The Capacity Demonstration Process and Requirements document and General Affidavit contain language directing LSEs to include a commitment "to maintain the contracted amount four years forward regardless of any early out clauses in the contract." In plain language, these documents imply the electric provider must "maintain the contracted amount of capacity[,]" rather than maintain the contract itself. The Commission has made its instruction clear that the four-year forward requirement is mandated by statute, but after demonstrating their obligation in the SRM capacity demonstration, LSEs are free to enter into other agreements or contracts outside of the original contract. *See*, November 21 order, pp. 8-9. This has been the Commission's interpretation for previous capacity demonstrations as the Commission has permitted LSEs to enter into subsequent contracts for the sale of surplus capacity, as permitted under Section 6w.

However, to lend clarity to these documents, the Commission revises the language in the Capacity Demonstration Process and Requirements document and the General Affidavit to read "commitment to maintain the **contract** four years forward regardless of any early out provisions" rather than "commitment to maintain the **contracted amount** four years forward regardless of any early out provisions." (emphasis added to show revision). The Commission also finds it appropriate to add language to the Capacity Demonstration Process and Requirement document, stating that "maintaining the contract four years forward" does not prohibit an LSE from selling surplus capacity to a buyer at some point in the future via a new contract. The Commission finds that these revisions further clarify the capacity demonstration requirements and align with the Commission's previous interpretations of Section 6w as well as the statutory requirements of Section 6w.

These revisions are reflected in the redline and clean versions of the Capacity Demonstration Process and Requirement document, attached to this order as Exhibits A and B, respectively. These changes are also reflected in the redline and clean versions of the General Affidavit, attached to this order as Exhibits C and D, respectively.

Additionally, due to the staggered filing deadlines for varying types of electric providers and because Section 6w allows an electric provider to sell surplus capacity following the capacity demonstration, the capacity demonstration is an ongoing proceeding. Under this ongoing capacity demonstration process that uses staggered deadlines for different categories of LSEs, it is possible, for instance, for an investor-owned utility, whose capacity demonstration deadline comes first, to sell surplus capacity that was included in its capacity demonstration to an AES, who could then include that capacity in its own capacity demonstration, by its subsequent deadline.

The Commission seeks to avoid a situation where the same capacity is counted twice by two LSEs in the same capacity demonstration planning year. Therefore, the Commission also clarifies that capacity that is included in the capacity demonstration of one LSE for the designated planning year of that particular capacity demonstration proceeding may not be used by another LSE in the capacity demonstration for the same designated planning year. Language to this effect has been added to the Capacity Demonstration Process and Requirements document, as shown in the redline and clean versions of the document attached to this order as Exhibits A and B, respectively, and reads as follows: “Statements to achieve/maintain resources do not prohibit an LSE from entering into a future transaction to sell surplus capacity provided that the same capacity is not used by another Michigan LSE as part of its capacity demonstration filing for the same planning year.”

THEREFORE, IT IS ORDERED that:

A. Energy Michigan’s November 27, 2024 motion for clarification is granted.

B. The revisions to the Capacity Demonstration Process and Requirements document and the General Affidavit, used in the capacity demonstration process pursuant to MCL 460.6w, are approved and incorporated for use in the capacity demonstration process, as described in this order. A redline and clean version of the Capacity Demonstration Process and Requirements document are attached to this order as Exhibits A and B, respectively. A redline and clean version of the General Affidavit are attached to this order as Exhibits C and D, respectively.

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

CAPACITY DEMONSTRATION PROCESS AND REQUIREMENTS

The Michigan Public Service Commission (MPSC or Commission) will open a new docket annually for capacity demonstrations filings. The Commission order opening the capacity demonstration docket will provide updated requirements for load serving entities (LSE) to follow in making demonstrations. The capacity demonstration filings shall include four years of load obligations and capacity resources. The capacity demonstration for year four will be used to determine if the LSE has met its capacity obligations, while the data filed for years one through three will be used for informational purposes only. For the demonstration year, each LSE's capacity obligation will be equal to its most recent capacity obligation as specified by the applicable Independent System Operator (ISO).

For LSEs in the Midwest Independent System Operator (MISO), the capacity obligation will be based on the MISO seasonal resource adequacy construct. LSEs will be obligated to demonstrate enough capacity (owned or contracted) to meet the LSE's capacity obligation for each season. The specific capacity obligation for each season will be the LSE's prompt year (upcoming year) Initial Planning Reserve Margin Requirement (PRMR) for each respective season. According to the MISO Tariff, the Peak Load Contribution (PLC) for each retail customer in the Electrical Distribution Company's (EDC) area – including the EDC's own LSE – includes the retail customer's demand at the time of MISO's peak demand for each prior season, transmission losses, planning reserve margin %, and an adjustment factor for the prompt year seasonal EDC forecasts. The Initial PRMR for each LSE for a season consists of the sum of the PLCs for the retail customers assigned to that LSE¹. MISO LSEs will be obligated to demonstrate enough capacity for the demonstration year to meet its prompt year Initial PRMR MISO requirements².

For LSEs in PJM, the capacity obligation will be based on the PJM Reliability Pricing Model (RPM). LSEs in the PJM service territory can meet their Independent System Operator capacity obligations either through participation in PJM's (RPM) Base Residual Auction (BRA) or through PJM's Fixed Resource Requirement (FRR) capacity plan. The timing of PJM LSEs capacity demonstrations to the Commission will remain the same as those expected of MISO LSEs; however, PJM LSEs will be allowed to file an amended capacity demonstration two weeks after the completion of the BRA. The capacity demonstration should include the FRR capacity plan or BRA results. Meeting PJM's capacity obligations, including any applicable Percentage Internal Resources Required for the delivery year will constitute a satisfactory demonstration, and the demonstrating LSE should provide evidence that it has met PJM's capacity obligations.

LSEs shall provide documentation to Staff verifying the applicable capacity obligation from the LSEs ISO.³

¹ The Initial PRMR determination for all LSEs, including the EDC's own LSE, shall be made according to the MISO tariff. See MISO tariff Module E-1, Section 69A.1.1.e and Section 69A.1.2.1.b.

² LSEs that develop their load forecasts based on forward year values may use these values instead of prompt year values for capacity demonstration requirements if they are higher than the prompt year requirements. LSEs obligations should not be reduced to an amount less than the prompt year requirements due to declining forecasts for forward years.

³ Documentation could be included in the filing or shared in a meeting (virtual or in person) with Staff, similar to how resource contracts are shared.

Individual Locational Requirement

The individual locational requirement adopted by the MPSC in the June 28, 2018 Order in Case No. U-18444 remains stayed⁴. There is currently no individual locational requirement applicable to capacity demonstration filings.

Resource Demonstrations

As a default, resources shall be accredited as they are in their respective ISO.

For MISO LSEs, resources should be counted at the same seasonal accredited capacity value that they will receive in the prompt year for each season. If prompt year capacity value is not finalized, resources shall be counted at the seasonal accredited capacity level from the most recent information available.

For PJM LSEs, resources shall be based on the credited UCAP capacity value that they are credited within the PJM RPM for the demonstration year.

New resources (in either ISO) shall receive capacity credit they would reasonably receive within the various resource adequacy constructs. LSEs should provide documentation supporting the capacity accreditation of new resources.

Resource accreditation may vary from ISO accreditation if the LSE is able to provide reasonable support that the resource will be valued at a different capacity amount when the demonstration year becomes the delivery year. These variations will be evaluated by Staff on a case-by-case basis.

The minimum acceptable support for all resources submitted as part of a capacity demonstration is based upon the type of resource and is outlined below. **Statements to achieve/maintain resources do not prohibit an LSE from entering into a future transaction to sell surplus capacity provided that the same capacity is not used by another Michigan LSE as part of its capacity demonstration filing for the same planning year.**

Existing Generation (Owned)

The minimum acceptable support for existing generation that is included in a capacity demonstration include:

- 1) An affidavit from an officer of the company claiming ownership of the unit(s), including a commitment of the unit(s) to LSE load in the applicable demonstration year.,
- 2) A copy of the existing resource qualification of the unit(s) from the applicable ISO, such as a MISO Module E Capacity Tracking Tool (MECT) screenshot in the MISO region, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

⁴ Stayed by the September 13, 2018 Order in Case No. U-18444.

**Existing Demand Response or Energy Efficiency Resources
(that have not been netted against load)**

The minimum acceptable support for existing demand response resources or energy efficiency resources that have not already been netted against load include:

- 1) An affidavit from an officer of the company outlining the resource(s), including a commitment to maintain at least that same level of resources four years forward,
- 2) A copy of the existing resource qualification of the resource(s) from the applicable ISO, such as a MISO MECT screenshot, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

New or Upgraded Generation (Owned)

The minimum acceptable support for proposed new generation include:

- 1) An affidavit from an officer of the company outlining the plans for the new generation including resources outlined in the utilities' most recent IRP,⁵ milestones such as planned in-service date, expected regulatory approval date(s), planned date to enter the generator interconnection queue, expected date for generator interconnection agreement, construction timeline, etc.,
- 2) Documentation supporting the expected resource qualification from the ISO for the new unit(s), and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

For new generation submitted as part of a capacity demonstration, the LSE shall update and submit the above information on an annual basis with each subsequent capacity demonstration until the unit(s) are in service.

**New Demand Response or Energy Efficiency Resources
(that have not been netted against load)**

The minimum acceptable support for new demand response resources or energy efficiency resources that have not already been netted against load included in a capacity demonstration include:

- 1) An affidavit from an officer of the company outlining the plans for the resource(s), including a commitment to achieve and/or maintain at least that same level of resources four years forward,
- 2) Evidence that the customer's distribution utility has been notified of specific customers participating in the resource,
- 3) Specific plans to have the resource(s) qualified by the independent system operator, and;

⁵ If including resources included in the utility's most recent approved IRP, the utility shall also file a status update in the next capacity demonstration docket.

- 4) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

For new demand response or energy efficiency resources submitted as part of a capacity demonstration, the LSE shall update and submit the above information on an annual basis with each subsequent capacity demonstration until the resource(s) are in service. Final qualification / approval from the independent system operator should be submitted in a subsequent demonstration.

Capacity Contract

The minimum acceptable support for capacity contracts with existing generation include:

- 1) An affidavit from an officer of the company including a copy of the contract that specifies the unit(s) or pool of generation that is the source of the contract, including the location of the unit(s) or pool. The affidavit shall include a commitment to maintain the ~~contracted amount~~ **contract** four years forward regardless of any early out clauses in the contract, and;
- 2) A copy of the existing resource qualification of the unit(s) or pool from the applicable ISO, such as a MISO MECT screenshot.

Forward ZRC contracts

For MISO LSEs that use ZRC contracts to meet capacity obligations. The minimum acceptable support for forward ZRC contracts includes an affidavit from an officer of the company including a copy of the contract that specifies the zonal location of the ZRCs. The affidavit shall include a commitment to maintain the ~~contracted amount~~ **contract** four years forward regardless of any early-out clauses in the contract. A forward ZRC contract that does not specify the zonal location of the ZRCs will be deemed insufficient towards meeting any portion of a locational requirement, unless the LSE provides other alternative support for the location of the ZRCs.

Any LSE that utilized a ZRC contract as part of their previous capacity demonstrations must provide prompt-year ZRC transfer documentation (such as a MECT Module E screenshot) or provide Staff with the ability to confidentially review ZRC transfers in person at the Commission office.

If the Commission were to implement an individual locational requirement, ZRC contracts submitted in an LSE capacity demonstration to meet this forward locational requirement must clearly designate that the resources are coming from the applicable zone. LSEs must provide evidence to support this. For resources currently located outside of the LSE's zone that will (by the demonstration year) count towards meeting the Local Clearing Requirement of the LSE's zone should be supported by evidence provided by the demonstration LSE. Existing contracts specifically with resources outside of an LSE's MISO zone will count towards meeting forward locational requirements if they are for a period of at least twenty years and the contracts were entered into prior to MISO's implementation of local resource zones on June 1, 2013.

Aggregated EERs, Aggregated Storage, Aggregated DERs

The minimum acceptable support for aggregated energy efficiency resources (EERs), aggregated storage, and aggregated distributed energy resources (DERs) include:

- 1) An affidavit from an officer of the company outlining the resource(s), including a commitment to achieve and/or maintain at least that same level of resource(s) four years forward,
- 2) Documentation from the ISO showing resource accreditation in the prompt-year for the resource(s), such as a MISO MECT screenshot, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resource(s), copies shall be provided.

MISO PRA Purchases

The amount of ZRCs planned to be purchased through the MISO Planning Resource Auction (PRA) process⁶ that will be deemed prudent in an approved capacity demonstration will be limited to 5% of the LSE's total requirement. A capacity demonstration filed by an LSE that includes a plan to purchase ZRCs in the PRA four years in the future in excess of 5% will not constitute a demonstration that the LSE owns or has contracted resources to meet its future capacity obligations, unless those ZRCs are tied to specific identified resources that are committed to be offered in the PRA, by contract, on behalf of the LSE for the applicable planning year.

Interim Years⁷

Once the Commission has determined that the capacity demonstration made by an LSE is sufficient, it shall not be re-litigated or "trued-up" in the interim years. If, subsequent to its initial satisfactory capacity demonstration, an LSE experiences an unforeseen outage at one of its generation assets, or has variation in its total load obligations, these matters will be settled in the capacity auctions of the respective ISO. The LSE's initial capacity demonstration will not be re-examined to reconcile projected interim year load obligations or generating resource capacity ratings with actual values that are experienced in that interim year.

Additional Considerations for Capacity Demonstrations

Other types of documentation submitted as part of a capacity demonstration will be evaluated on a case-by-case basis. Because some of the documentation that is required to be filed in these proceedings is commercially sensitive, competitive information, it shall continue to be treated in a confidential manner, as has been done in the past. The Staff shall file a memo in the docket as directed by the Commission, outlining its findings from the demonstration filings, including a listing of any entities whose demonstration, in Staff's opinion, was insufficient.

In the case where a demonstration filing is deemed insufficient by Staff, Staff would recommend that the Commission open a contested case docket, whereby the LSE in question could attempt to prove that

⁶ Since 2012, LSEs do not literally purchase ZRCs in the PRA. The current terminology in the MISO tariff of "purchase through the PRA process" means that MISO is charging an LSE more for capacity to satisfy the LSE's PRMR than it is paying the LSE for ZRCs submitted into the PRA.

⁷ Year 1 (prompt year), Year 2, and Year 3 of the demonstration.

its capacity demonstration should be deemed acceptable. The outcome of that case would be a Commission order potentially authorizing Statewide Reliability Mechanism capacity charges to Retail Open Access customer load as well as a respective increase in capacity obligations assigned to the incumbent utility as the Provider of Last Resort for capacity service. Any contested demonstration cases will be opened as soon as practicable following the issuance of the Staff memo and be completed within six months.

If an LSE has met the capacity demonstration requirements, no contested case will be opened, and no further action will be taken regarding any capacity demonstration that has been deemed sufficient by Staff and accepted by the Commission.

Filing Timeline

Section 6w of Public Act 341 of 2016 gives specific filing dates for LSEs to make capacity demonstrations but gives the Commission the authority to adjust the dates if needed to properly align with the ISO procedures and requirements. The timeline below better aligns with the MISO PRA, allowing capacity obligations and resource accreditation to better match the values used by MISO in the prompt year.

For Demonstration Year 2028/2029	
Docket Opened by Commission	Summer/Fall 2024
Larger Investor-Owned Electric Utilities ⁸ Filing Due	February 24 th , 2025
Smaller Investor-Owned Electric Utilities ⁹ Filing Due	March 3, 2025
All Other LSEs Filing Due	March 17 th , 2025
Staff Report on Capacity Demonstration Findings	May 12 th , 2025
Commission Order	Summer/Fall 2025

The specific filing dates will be established by the Commission in each subsequent capacity demonstration docket and will generally align with the filing timeline above. LSEs will be allowed to supplement filings after the filing date and prior to Staff's report, if changes at the ISO level, for capacity obligation or resource accreditation, necessitate updated filings¹⁰.

Demonstration Format

In addition to all of the items outlined above, Staff shall provide updated capacity demonstration documents (Reporting Templates and Sample Affidavits)¹¹ to be utilized by each LSE when filing its demonstration.

⁸ A large investor-owned utility is considered to be an electric utility with one million or more customers.

⁹ A smaller investor-owned utility is considered to be an electric utility with less than one million customers.

¹⁰ In this event, LSEs should notify Staff as soon as practicable that a supplemental filing is imminent and make the filing with sufficient time to allow Staff to review and incorporate those changes into the report.

¹¹ Documents will be posted to the MPSC Capacity Demonstration webpage (<https://www.michigan.gov/mpsc/commission/workgroups/2016-energy-legislation/capacity-demonstration>).

CAPACITY DEMONSTRATION PROCESS AND REQUIREMENTS

The Michigan Public Service Commission (MPSC or Commission) will open a new docket annually for capacity demonstrations filings. The Commission order opening the capacity demonstration docket will provide updated requirements for load serving entities (LSE) to follow in making demonstrations. The capacity demonstration filings shall include four years of load obligations and capacity resources. The capacity demonstration for year four will be used to determine if the LSE has met its capacity obligations, while the data filed for years one through three will be used for informational purposes only. For the demonstration year, each LSE's capacity obligation will be equal to its most recent capacity obligation as specified by the applicable Independent System Operator (ISO).

For LSEs in the Midwest Independent System Operator (MISO), the capacity obligation will be based on the MISO seasonal resource adequacy construct. LSEs will be obligated to demonstrate enough capacity (owned or contracted) to meet the LSE's capacity obligation for each season. The specific capacity obligation for each season will be the LSE's prompt year (upcoming year) Initial Planning Reserve Margin Requirement (PRMR) for each respective season. According to the MISO Tariff, the Peak Load Contribution (PLC) for each retail customer in the Electrical Distribution Company's (EDC) area – including the EDC's own LSE – includes the retail customer's demand at the time of MISO's peak demand for each prior season, transmission losses, planning reserve margin %, and an adjustment factor for the prompt year seasonal EDC forecasts. The Initial PRMR for each LSE for a season consists of the sum of the PLCs for the retail customers assigned to that LSE¹. MISO LSEs will be obligated to demonstrate enough capacity for the demonstration year to meet its prompt year Initial PRMR MISO requirements².

For LSEs in PJM, the capacity obligation will be based on the PJM Reliability Pricing Model (RPM). LSEs in the PJM service territory can meet their Independent System Operator capacity obligations either through participation in PJM's (RPM) Base Residual Auction (BRA) or through PJM's Fixed Resource Requirement (FRR) capacity plan. The timing of PJM LSEs capacity demonstrations to the Commission will remain the same as those expected of MISO LSEs; however, PJM LSEs will be allowed to file an amended capacity demonstration two weeks after the completion of the BRA. The capacity demonstration should include the FRR capacity plan or BRA results. Meeting PJM's capacity obligations, including any applicable Percentage Internal Resources Required for the delivery year will constitute a satisfactory demonstration, and the demonstrating LSE should provide evidence that it has met PJM's capacity obligations.

LSEs shall provide documentation to Staff verifying the applicable capacity obligation from the LSEs ISO.³

¹ The Initial PRMR determination for all LSEs, including the EDC's own LSE, shall be made according to the MISO tariff. See MISO tariff Module E-1, Section 69A.1.1.e and Section 69A.1.2.1.b.

² LSEs that develop their load forecasts based on forward year values may use these values instead of prompt year values for capacity demonstration requirements if they are higher than the prompt year requirements. LSEs obligations should not be reduced to an amount less than the prompt year requirements due to declining forecasts for forward years.

³ Documentation could be included in the filing or shared in a meeting (virtual or in person) with Staff, similar to how resource contracts are shared.

Individual Locational Requirement

The individual locational requirement adopted by the MPSC in the June 28, 2018 Order in Case No. U-18444 remains stayed⁴. There is currently no individual locational requirement applicable to capacity demonstration filings.

Resource Demonstrations

As a default, resources shall be accredited as they are in their respective ISO.

For MISO LSEs, resources should be counted at the same seasonal accredited capacity value that they will receive in the prompt year for each season. If prompt year capacity value is not finalized, resources shall be counted at the seasonal accredited capacity level from the most recent information available.

For PJM LSEs, resources shall be based on the credited UCAP capacity value that they are credited within the PJM RPM for the demonstration year.

New resources (in either ISO) shall receive capacity credit they would reasonably receive within the various resource adequacy constructs. LSEs should provide documentation supporting the capacity accreditation of new resources.

Resource accreditation may vary from ISO accreditation if the LSE is able to provide reasonable support that the resource will be valued at a different capacity amount when the demonstration year becomes the delivery year. These variations will be evaluated by Staff on a case-by-case basis.

The minimum acceptable support for all resources submitted as part of a capacity demonstration is based upon the type of resource and is outlined below. Statements to achieve/maintain resources do not prohibit an LSE from entering into a future transaction to sell surplus capacity provided that the same capacity is not used by another Michigan LSE as part of its capacity demonstration filing for the same planning year.

Existing Generation (Owned)

The minimum acceptable support for existing generation that is included in a capacity demonstration include:

- 1) An affidavit from an officer of the company claiming ownership of the unit(s), including a commitment of the unit(s) to LSE load in the applicable demonstration year.,
- 2) A copy of the existing resource qualification of the unit(s) from the applicable ISO, such as a MISO Module E Capacity Tracking Tool (MECT) screenshot in the MISO region, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

⁴ Stayed by the September 13, 2018 Order in Case No. U-18444.

**Existing Demand Response or Energy Efficiency Resources
(that have not been netted against load)**

The minimum acceptable support for existing demand response resources or energy efficiency resources that have not already been netted against load include:

- 1) An affidavit from an officer of the company outlining the resource(s), including a commitment to maintain at least that same level of resources four years forward,
- 2) A copy of the existing resource qualification of the resource(s) from the applicable ISO, such as a MISO MECT screenshot, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

New or Upgraded Generation (Owned)

The minimum acceptable support for proposed new generation include:

- 1) An affidavit from an officer of the company outlining the plans for the new generation including resources outlined in the utilities' most recent IRP,⁵ milestones such as planned in-service date, expected regulatory approval date(s), planned date to enter the generator interconnection queue, expected date for generator interconnection agreement, construction timeline, etc.,
- 2) Documentation supporting the expected resource qualification from the ISO for the new unit(s), and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

For new generation submitted as part of a capacity demonstration, the LSE shall update and submit the above information on an annual basis with each subsequent capacity demonstration until the unit(s) are in service.

**New Demand Response or Energy Efficiency Resources
(that have not been netted against load)**

The minimum acceptable support for new demand response resources or energy efficiency resources that have not already been netted against load included in a capacity demonstration include:

- 1) An affidavit from an officer of the company outlining the plans for the resource(s), including a commitment to achieve and/or maintain at least that same level of resources four years forward,
- 2) Evidence that the customer's distribution utility has been notified of specific customers participating in the resource,
- 3) Specific plans to have the resource(s) qualified by the independent system operator, and;

⁵ If including resources included in the utility's most recent approved IRP, the utility shall also file a status update in the next capacity demonstration docket.

- 4) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

For new demand response or energy efficiency resources submitted as part of a capacity demonstration, the LSE shall update and submit the above information on an annual basis with each subsequent capacity demonstration until the resource(s) are in service. Final qualification / approval from the independent system operator should be submitted in a subsequent demonstration.

Capacity Contract

The minimum acceptable support for capacity contracts with existing generation include:

- 1) An affidavit from an officer of the company including a copy of the contract that specifies the unit(s) or pool of generation that is the source of the contract, including the location of the unit(s) or pool. The affidavit shall include a commitment to maintain the contract four years forward regardless of any early out clauses in the contract, and;
- 2) A copy of the existing resource qualification of the unit(s) or pool from the applicable ISO, such as a MISO MECT screenshot.

Forward ZRC contracts

For MISO LSEs that use ZRC contracts to meet capacity obligations. The minimum acceptable support for forward ZRC contracts includes an affidavit from an officer of the company including a copy of the contract that specifies the zonal location of the ZRCs. The affidavit shall include a commitment to maintain the contract four years forward regardless of any early-out clauses in the contract. A forward ZRC contract that does not specify the zonal location of the ZRCs will be deemed insufficient towards meeting any portion of a locational requirement, unless the LSE provides other alternative support for the location of the ZRCs.

Any LSE that utilized a ZRC contract as part of their previous capacity demonstrations must provide prompt-year ZRC transfer documentation (such as a MECT Module E screenshot) or provide Staff with the ability to confidentially review ZRC transfers in person at the Commission office.

If the Commission were to implement an individual locational requirement, ZRC contracts submitted in an LSE capacity demonstration to meet this forward locational requirement must clearly designate that the resources are coming from the applicable zone. LSEs must provide evidence to support this. For resources currently located outside of the LSE's zone that will (by the demonstration year) count towards meeting the Local Clearing Requirement of the LSE's zone should be supported by evidence provided by the demonstration LSE. Existing contracts specifically with resources outside of an LSE's MISO zone will count towards meeting forward locational requirements if they are for a period of at least twenty years and the contracts were entered into prior to MISO's implementation of local resource zones on June 1, 2013.

Aggregated EERs, Aggregated Storage, Aggregated DERs

The minimum acceptable support for aggregated energy efficiency resources (EERs), aggregated storage, and aggregated distributed energy resources (DERs) include:

- 1) An affidavit from an officer of the company outlining the resource(s), including a commitment to achieve and/or maintain at least that same level of resource(s) four years forward,
- 2) Documentation from the ISO showing resource accreditation in the prompt-year for the resource(s), such as a MISO MECT screenshot, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resource(s), copies shall be provided.

MISO PRA Purchases

The amount of ZRCs planned to be purchased through the MISO Planning Resource Auction (PRA) process⁶ that will be deemed prudent in an approved capacity demonstration will be limited to 5% of the LSE's total requirement. A capacity demonstration filed by an LSE that includes a plan to purchase ZRCs in the PRA four years in the future in excess of 5% will not constitute a demonstration that the LSE owns or has contracted resources to meet its future capacity obligations, unless those ZRCs are tied to specific identified resources that are committed to be offered in the PRA, by contract, on behalf of the LSE for the applicable planning year.

Interim Years⁷

Once the Commission has determined that the capacity demonstration made by an LSE is sufficient, it shall not be re-litigated or "trued-up" in the interim years. If, subsequent to its initial satisfactory capacity demonstration, an LSE experiences an unforeseen outage at one of its generation assets, or has variation in its total load obligations, these matters will be settled in the capacity auctions of the respective ISO. The LSE's initial capacity demonstration will not be re-examined to reconcile projected interim year load obligations or generating resource capacity ratings with actual values that are experienced in that interim year.

Additional Considerations for Capacity Demonstrations

Other types of documentation submitted as part of a capacity demonstration will be evaluated on a case-by-case basis. Because some of the documentation that is required to be filed in these proceedings is commercially sensitive, competitive information, it shall continue to be treated in a confidential manner, as has been done in the past. The Staff shall file a memo in the docket as directed by the Commission, outlining its findings from the demonstration filings, including a listing of any entities whose demonstration, in Staff's opinion, was insufficient.

In the case where a demonstration filing is deemed insufficient by Staff, Staff would recommend that the Commission open a contested case docket, whereby the LSE in question could attempt to prove that

⁶ Since 2012, LSEs do not literally purchase ZRCs in the PRA. The current terminology in the MISO tariff of "purchase through the PRA process" means that MISO is charging an LSE more for capacity to satisfy the LSE's PRMR than it is paying the LSE for ZRCs submitted into the PRA.

⁷ Year 1 (prompt year), Year 2, and Year 3 of the demonstration.

its capacity demonstration should be deemed acceptable. The outcome of that case would be a Commission order potentially authorizing Statewide Reliability Mechanism capacity charges to Retail Open Access customer load as well as a respective increase in capacity obligations assigned to the incumbent utility as the Provider of Last Resort for capacity service. Any contested demonstration cases will be opened as soon as practicable following the issuance of the Staff memo and be completed within six months.

If an LSE has met the capacity demonstration requirements, no contested case will be opened, and no further action will be taken regarding any capacity demonstration that has been deemed sufficient by Staff and accepted by the Commission.

Filing Timeline

Section 6w of Public Act 341 of 2016 gives specific filing dates for LSEs to make capacity demonstrations but gives the Commission the authority to adjust the dates if needed to properly align with the ISO procedures and requirements. The timeline below better aligns with the MISO PRA, allowing capacity obligations and resource accreditation to better match the values used by MISO in the prompt year.

For Demonstration Year 2028/2029	
Docket Opened by Commission	Summer/Fall 2024
Larger Investor-Owned Electric Utilities ⁸ Filing Due	February 24 th , 2025
Smaller Investor-Owned Electric Utilities ⁹ Filing Due	March 3, 2025
All Other LSEs Filing Due	March 17 th , 2025
Staff Report on Capacity Demonstration Findings	May 12 th , 2025
Commission Order	Summer/Fall 2025

The specific filing dates will be established by the Commission in each subsequent capacity demonstration docket and will generally align with the filing timeline above. LSEs will be allowed to supplement filings after the filing date and prior to Staff's report, if changes at the ISO level, for capacity obligation or resource accreditation, necessitate updated filings¹⁰.

Demonstration Format

In addition to all of the items outlined above, Staff shall provide updated capacity demonstration documents (Reporting Templates and Sample Affidavits)¹¹ to be utilized by each LSE when filing its demonstration.

⁸ A large investor-owned utility is considered to be an electric utility with one million or more customers.

⁹ A smaller investor-owned utility is considered to be an electric utility with less than one million customers.

¹⁰ In this event, LSEs should notify Staff as soon as practicable that a supplemental filing is imminent and make the filing with sufficient time to allow Staff to review and incorporate those changes into the report.

¹¹ Documents will be posted to the MPSC Capacity Demonstration webpage (<https://www.michigan.gov/mpsc/commission/workgroups/2016-energy-legislation/capacity-demonstration>).

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-21775
required by MCL 460.6w.)	
_____)	

AFFIDAVIT OF [Name of Company Officer]

STATE OF MICHIGAN

COUNTY OF (County name)

[NAME of Company Officer], being duly sworn, states that the following information and attached exhibits are true and accurate to the best of his/her reasonable knowledge and belief, regarding [the company's] satisfaction of its Michigan capacity demonstration requirements:

1. [Description of role and responsibilities within company]
2. [Overview of company]
3. [Overview of filing – if applicable for LSE, describe the load in each RTO, each local resource zone, and each service territory]
4. **Existing Generation - Owned** [Claim ownership of the unit(s), including a commitment of the unit(s) to LSE load in the applicable Michigan zone four years forward. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]
5. **Existing Demand Response or Energy Efficiency Resources (Not Netted Against Load)** [Outline the resource(s), including a commitment to maintain at least that same level of resources four years forward. If an AES has a LMR, describe how the transmission losses are applied in each service territory. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]
6. **Existing Demand Response or Energy Efficiency Resources (Netted Against Load)** [Outline what is netted against load, current programs, and how big these programs are.]
7. **New or Upgraded Generation – Owned** [Outline the detailed plans for the new generation including milestones such as planned in-service date, expected regulatory approval date(s), planned date to enter the MISO generator interconnection queue, expected date for MISO

generator interconnection agreement, construction timeline, etc. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]

8. **New Demand Response or Energy Efficiency Resources (Not Netted Against Load)** [Outline the plans for the resource(s), including a commitment to achieve and/or maintain at least that same level of resources four years forward. If an AES has a LMR, describe how the transmission losses are applied in each service territory. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]
9. **Existing Generation (Capacity Contract)** [Include a copy of the contract that specifies the unit(s) or pool of generation that is the source of the contract, including the location of the unit(s) or pool (can be filed confidentially) and state commitment to maintain the ~~contracted amount~~ **contract** four years forward regardless of any early out clauses in the contract. In lieu of filing a copy of the contract(s), provide information set forth in the MPSC Order on Rehearing in Case No. U-18197, dated November 21, 2017, for Staff/Commission contract review. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]
10. **Forward ZRC Contracts** [Include a copy of the contract that specifies the zonal locations of the ZRCs. The affidavit should include a commitment to maintain the ~~contracted amount~~ **contract** four years forward regardless of any early out clauses in the contract. In lieu of filing a copy of the contract(s), provide information set forth in the MPSC Order on Rehearing in Case No. U-18197, dated November 21, 2017, for Staff/Commission contract review. (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)]
11. **Planning Reserve Auction Purchases** (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)

NAME

SUBSCRIBED AND SWORN TO BEFORE ME on the ____ day of [month], [year].

Notary Public

My Commission Expires: _____

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-21775
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AFFIDAVIT OF [Name of Company Officer]

STATE OF MICHIGAN

COUNTY OF (County name)

[NAME of Company Officer], being duly sworn, states that the following information and attached exhibits are true and accurate to the best of his/her reasonable knowledge and belief, regarding [the company's] satisfaction of its Michigan capacity demonstration requirements:

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11. **Planning Reserve Auction Purchases** (If this does not apply to your LSE, state that it is not applicable in planning year 20**-20**.)

NAME

SUBSCRIBED AND SWORN TO BEFORE ME on the ____ day of [month], [year].

Notary Public

My Commission Expires: _____


PROOF OF SERVICE

STATE OF MICHIGAN)

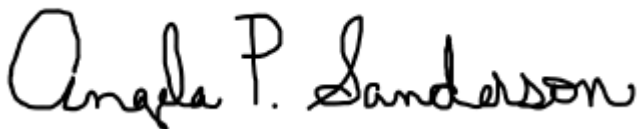
Case No. U-21775

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 Brown

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



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

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kabraham@mpower.org
mkuchera@AEPENERGY.COM
mfurmanski@algerdelta.com
akellen@wppienergy.org
kd@alpenapower.com
dgreen@alpenapower.com
VSTRetailReg@VistraCorp.com
kerdmann@atcllc.com
acotter@atcllc.com
john.calhoun@ardentnaturalgas.com
awebster@baycitymi.gov
sara.anderson@bayfieldelectric.com
rbishop@BISHOPENERGY.COM
braukerL@MICHIGAN.GOV
cherie.fuller@bp.com
christine.hughey@bp.com
greg.bass@calpinesolutions.com
lchappelle@potomaclaw.com
manderson@wpsci.com
mengels@wpsci.com
cdrys@wpsci.com
ljohnson@wpsci.com
rjohnson@cherrylandelectric.coop
frucheyb@DTEENERGY.COM
crystalfallsmgr@HOTMAIL.COM
gpirkola@escanaba.org
jolson@gladstonemi.gov
kmaynard@cityofmarshall.com
tdavlin@portland-michigan.org
cwilson@cloverland.com
mheise@cloverland.com
todd.mortimer@CMSENERGY.COM
Kenneth.Johnston@cmsenergy.com
Yong.Keyes@cmsenergy.com
chibuzo.obikwelu@cmsenergy.com
sarah.jorgensen@cmsenergy.com
Michael.torrey@cmsenergy.com
CANDACE.GONZALES@cmsenergy.com
mpsc.filings@CMSENERGY.COM
mpsc.filings@CMSENERGY.COM
david.fein@CONSTELLATION.COM
kate.stanley@CONSTELLATION.COM
kate.fleche@CONSTELLATION.COM

Abraham,Katie - MMEA
AEP Energy
Alger Delta Cooperative
Alger Delta Cooperative
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Alpena Power
Ambit Midwest, LLC
American Transmission Company
American Transmission Company
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choicecompliance@constellation.com
lpage@dickinsonwright.com
shaundillon@dillonenergy.com
info@dillonpower.com
Neal.fitch@nrg.com
Kara.briggs@nrg.com
Ryan.harwell@nrg.com
bryce.mckenney@nrg.com
stephen.lindeman@dteenergy.com
karl.lievense@dteenergy.com
konstantin.korolyov@dteenergy.com
mpscfilings@DTEENERGY.COM
joyce.leslie@dteenergy.com
karen.vucinaj@dteenergy.com
customerservice@eligoenergy.com
regulatory@eligoenergy.com
frank.travaglione@vistracorp.com
rfawaz@energyintl.com
sejackinchuk@varnumlaw.com
michael.reiss@engie.com
customercare@plymouthenergy.com
VSTRetailReg@VistraCorp.com
felice@MICHIGAN.GOV
bgorman@FIRSTENERGYCORP.COM
phil@allendaleheating.com
dburks@glenergy.com
manderson@wpsci.com
mengels@wpsci.com
cdrys@wpsci.com
ljohnson@wpsci.com
slamp@glenergy.com
sculver@glenergy.com
johnm@gogreenlightenergy.com
lrgustafson@CMSENERGY.COM
jhammel@hillsdalebpu.com
coneill@homeworks.org
psimmer@HOMEWORKS.ORG
bmcbride@aep.com
mgobrien@aep.com
dan@megautilities.org
daustin@IGSENERGY.COM
michael.nugent@igs.com
general@itctransco.com
kadarkwa@itctransco.com
apascaris@itctransco.com

Constellation New Energy Inc
Dickinson Wright
Dillon Energy Services
Dillon Power, LLC
Direct Energy
Direct Energy
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Direct Energy
DTE Energy
DTE Energy
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DTE Energy
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First Energy
Forner, Phil
Great Lakes Energy
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vanesetti@justenergy.com	Just Energy of Michigan Corporation
igoodman@commerceenergy.com	Just Energy Solutions
krichel@DLIB.INFO	Krichel, Thomas
dbodine@LIBERTYPOWERCORP.COM	Liberty Power
ham557@GMAIL.COM	Lowell S.
tlundgren@potomacclaw.com	Lundgren, Timothy
tcarpenter@mblp.org	Marquette Board of Light & Power
regulatory@medianenergy.com	Median Energy Corporation
suzy@megautilities.org	MEGA
dan@megautilities.org	MEGA
mmann@USGANDE.COM	Michigan Gas & Electric
VSTRetailReg@VistraCorp.com	Michigan Gas & Electric (US Gas & Electric)
shannon.burzycki@wecenergygroup.com	Michigan Gas Utilities Corporation
mrzwiwers@INTEGRYSGROUP.COM	Michigan Gas Utilities/Upper Penn Power/Wisconsin
kabraham@mpower.org	Michigan Public Power Agency
info@michigannaturalgasllc.com	Michigan Natural Gas, LLC
JHDillavou@midamericanenergyservices.com	MidAmerican Energy Services, LLC
JCAltmayer@midamericanenergyservices.com	MidAmerican Energy Services, LLC
LMLann@midamericanenergyservices.com	MidAmerican Energy Services, LLC
manderson@wpsci.com	Midwest Energy
mengels@wpsci.com	Midwest Energy
cdrys@wpsci.com	Midwest Energy
ljohnson@wpsci.com	Midwest Energy
dave.allen@TEAMMIDWEST.COM	Midwest Energy Cooperative
terry.rubenthaler@teammidwest.com	Midwest Energy Cooperative
kerri.wade@teammidwest.com	Midwest Energy Cooperative
Marie-Rose.Gatete@teammidwest.com	Midwest Energy Cooperative
meghan.tarver@teammidwest.com	Midwest Energy Cooperative
d.motley@COMCAST.NET	Motley, Doug
rarchiba@FOSTEROIL.COM	My Choice Energy
customerservice@nordicenergy-us.com	Nordic Energy Services, LLC
regulatory@nordicenergy-us.com	Nordic Energy Services, LLC
karl.j.hoesly@xcelenergy.com	Northern States Power
sarah.m.frazee@xcelenergy.com	Northern States Xcel
kbeattie@ntherm.com	nTherm, LLC
daho@ontorea.com	Ontonagon County Rural
esoumis@ontorea.com	Ontonagon County Rural Electric
regulatory@indraenergy.com	PALMco Energy MI, LLC d/b/a Indra Energy
mpauley@GRANGER.NET	Pauley, Marc
mmpeck@fischerfranklin.com	Peck, Matthew
bschlansker@PREMIERENERGYLLC.COM	Premier Energy Marketing LLC
manderson@wpsci.com	Presque Isle

GEMOTION DISTRIBUTION SERVICE LIST

mengels@wpsci.com
cdrys@wpsci.com
ljohnson@wpsci.com
MVanschoten@pieg.com
aberg@pieg.com
yesterdae@getprovision.com
johnbistranin@realgy.com
BusinessOffice@REALGY.COM
akeilson@genieretail.com
btrombino@rpaenergy.com
mvorabout@ses4energy.com
rabaey@SES4ENERGY.COM
ttynes@ses4energy.com
trish.mcfadin@southstarenergy.com
kejoseph@sparkenergy.com
cborr@WPSCI.COM

jbelec@stephenson-mi.org
kay8643990@YAHOO.COM
legal@symmetryenergy.com
regulatory@texasretailenergy.com
agilbert@cleanskyenergy.com
bessenmacher@tecmi.coop
president@tomorrowenergy.com
manderson@wpsci.com
mengels@wpsci.com
cdrys@wpsci.com
ljohnson@wpsci.com
mlindsay@uetllc.com
colleen.sipiorski@wecenergygroup.com
djmier@integrysgruop.com
James.Beyer@wecenergygroup.com
Richard.Stasik@wecenergygroup.com
nbell@upppo.com
jformol@upppo.com
ghaehnel@upppo.com
estocking@upppo.com
manager@villageofbaraga.org
Villagemanager@villageofclinton.org
VSTRetailReg@VistraCorp.com
jeinstein@volunteerenergy.com
leew@WVPA.COM
melissa.schauer@wecenergygroup.com
andrew.miller1@wecenergygroup.com
melissa.schauer@wecenergygroup.com

Presque Isle
Presque Isle
Presque Isle
Presque Isle Electric & Gas Cooperative, INC
Presque Isle Electric & Gas Cooperative, INC
Provision Power & Gas, LLC
Realgy Corp.
Realgy Energy Services
Residents Energy LLC
RPA Energy d/b/a Green Choice Energy
Santana Energy
Santana Energy
Santanna Natural Gas Corporation
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Tri-County Electric
Tri-County Electric
Tri-County Electric
Tri-County Electric
United Energy Trading d/b/a Kratos Gas & Power
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Upper Michigan Energy Resources Corporation
Upper Michigan Energy Resources Corporation
Upper Michigan Energy Resources Corporation
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Upper Peninsula Power Company
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Village of Clinton
Viridian Energy PA, LLC
Volunteer Energy Services
Wabash Valley Power
We Energies
We Energies
Wisconsin Public Service

GEMOTION DISTRIBUTION SERVICE LIST

andrew.miller1@wecenergygroup.com

tking@WPSCI.COM

jbaumann@wpsci.com

cborr@wpsci.com

ddecouer@wpsci.com

bvalice@wpsci.com

Amanda@misostates.org

Deborah.e.erwin@xcelenergy.com

Michelle.Schlosser@xcelenergy.com

bryce.mckenney@nrg.com

Wisconsin Public Service

Wolverine Power

Wolverine Power

Wolverine Power

Wolverine Power

Wolverine Power

Wood, Amanda

Xcel Energy

Xcel Energy

Xoom Energy Michigan, LLC d/b/a Xoom Energy