

MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD VIA MICROSOFT TEAMS VIDEO CONFERENCING ON APRIL 21, 2021

Commission Chair Daniel C. Scripps called the meeting to order at 10:30 a.m.  
Executive Secretary Lisa Felice called the roll and declared there was a quorum.

**PRESENT**

Commission: Daniel C. Scripps, Chair (participating from Leelanau County)  
Tremaine L. Phillips, Commissioner (participating from Ingham County)  
Katherine Peretick, Commissioner (participating from Wayne County)

Staff: Jana Bachman  
Lisa Felice

Additional Staff & Public Attending Telephonically/Video Conferencing: 116 Participants

**I.** Commissioner Phillips moved to approve today's agenda, Commissioner Peretick seconded.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The agenda was approved.

**II.** Commissioner Phillips moved to approve the minutes of the Regular Commission Meeting of April 8, 2021, Commissioner Peretick seconded.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The minutes were approved.

**III. CONSENTED ORDERS**

**A. COMMUNICATIONS**

1. U-14964 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN YMAX COMMUNICATIONS CORP. AND AT&T MICHIGAN

(fifth amendment)

2. U-17707 IN THE MATTER OF THE APPLICATION OF TALK AMERICA SERVICES, LLC, FOR A TEMPORARY AND PERMANENT LICENSE TO PROVIDE BASIC LOCAL EXCHANGE SERVICES IN THE STATE OF MICHIGAN  
(request to voluntarily surrender license)
3. U-20956 IN THE MATTER OF THE APPLICATION OF ASPIRE NETWORKS 1, LLC FOR A TEMPORARY AND PERMANENT LICENSE TO PROVIDE BASIC LOCAL EXCHANGE SERVICE IN THE STATE OF MICHIGAN  
(interim order)
4. U-20999 IN THE MATTER OF THE APPLICATION OF XIBER, LLC FOR TEMPORARY AND PERMANENT LICENSES TO PROVIDE BASIC LOCAL EXCHANGE SERVICE IN THE PONTIAC EXCHANGE SERVED BY AT&T MICHIGAN  
(interim order)
5. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC  
(9-1-1 wireless, U-14000, invoice no. INV-Clare1 dated March 29, 2021)
6. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC  
(9-1-1 wireless, U-14000, invoice no. INV-Hillsd1 dated March 29, 2021)
7. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC  
(9-1-1 wireless, U-14000, invoice no. INV-Montca1 dated March 29, 2021)

**B. ELECTRIC**

1. MINUTE ACTION CYBERSECURITY INCENTIVES  
(FERC Docket No. RM21-3-000)

Commissioner Phillips moved that the Commission approve all the orders and minute actions on the consent agenda.  
Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The 4 orders and 4 minute actions were adopted.

#### **IV. OTHER ORDERS**

##### **A. COMMUNICATIONS**

1. U-20326 IN THE MATTER OF THE APPLICATION OF GREAT LAKES ENERGY CONNECTIONS, INC., FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF MICHIGAN  
(request to expand/final order)

Case No. U-20326 involves the application and amended application filed by Great Lakes Energy Connections, Inc., for expansion of the geographic area of its designation as an eligible telecommunications carrier. The order before you approves the application. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

2. U-20952 IN THE MATTER OF THE APPLICATION OF MEI TELECOM, INC. FOR GRANT OF DESIGNATION AS A HIGH COST ELIGIBLE TELECOMMUNICATIONS CARRIER WITHIN CERTAIN AREAS OF MICHIGAN  
(final order)

Case No. U-20952 involves the application, as amended, filed by MEI Telecom, Inc., for designation as a High Cost eligible telecommunications carrier within certain areas in Michigan. The order before you approves the application, as amended, conditioned upon MEI Telecom, Inc., meeting all requirements set forth in the order. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

**B. ELECTRIC**

1. U-20628 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO COMMENCE A COLLABORATIVE TO CONSIDER ISSUES RELATED TO IMPLEMENTATION OF EFFECTIVE DEMAND RESPONSE TARIFFS AND EFFICIENT DEPLOYMENT OF LOAD-MODIFYING RESOURCES  
(motion to extend deadline by Northern States Power Company/interim order)

Case No. U-20628 involves a motion filed by Northern States Power Company requesting *ex parte* authority to extend the April 1, 2021 deadline for filing updates to its demand response tariff, as directed by the October 29, 2020 order in Case Nos. U-20628 *et al.*, and to integrate this update into the company's future general electric rate case to be filed by the end of 2021. The order before you grants the request. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

2. U-20713 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, REGARDING THE REGULATORY REVIEWS, REVISIONS, DETERMINATIONS AND/OR APPROVALS NECESSARY FOR DTE ELECTRIC COMPANY TO COMPLY WITH SECTION 61 OF 2016 PA 342  
(partial contested settlement proceedings and remaining case schedule)
- U-20851 IN THE MATTER OF DTE ELECTRIC COMPANY'S APPLICATION FOR THE REGULATORY REVIEWS, REVISIONS, DETERMINATIONS, AND/OR APPROVALS TO FULLY COMPLY WITH PUBLIC ACT 295 OF 2008

Case Nos. U-20173 *et al.* involve a consolidated matter concerning the applications of DTE Electric Company for approval of its voluntary green pricing program pursuant to Section 61 of Public Act 342 of 2016 and approval of its amended renewable energy plan pursuant to Public Act 295 of 2008, as amended by Public Act 342 of 2016. The order before you adopts a schedule for a contested partial settlement agreement proceeding, adopts a schedule for the company's request for a financial compensation mechanism, and indicates that the Commission will read the record in this consolidated matter. Commissioner Phillips moved that the

Commission approve the order at its April 21, 2021 meeting.  
Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

3. U-20829 IN THE MATTER OF THE NOTICE OF UPPER MICHIGAN ENERGY RESOURCES CORPORATION FOR AN INTENDED THREE-PHASE SERVICE EXTENSION PURSUANT TO MICH ADMIN CODE, R 460.3411(10)  
(petition for rehearing)

Case No. U-20829 involves a Notice of Intent to Serve filed by Upper Michigan Energy Resources Corporation pursuant to Mich Admin Code, R 460.3411(10) to serve the three-phase electric needs of Aquila Resources USA, Inc.’s Back Forty Mine, in Lake Township, Menominee County, in Michigan’s Upper Peninsula. The order before you grants the petition for rehearing filed by Alger Delta Cooperative Electric Association, but denies the requested relief. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

4. U-20929 IN THE MATTER OF THE APPLICATION OF DTE GAS COMPANY AND DTE ELECTRIC COMPANY FOR APPROVAL OF A LOW-INCOME PAYMENT STABILITY PLAN PILOT PROGRAM  
(*ex parte*/final order)

Case No. U-20929 involves the joint application of DTE Gas Company and DTE Electric Company for approval of a low-income payment stability plan pilot program. The order before you approves the joint application. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Commissioner Phillips commented:

“Thank you, Chair, and I would like to make a comment. The order before the Commission this morning approves both DTE Gas and DTE Electric’s joint request for support of the companies’ payment stability plan or PSP pilot program.

The pilot program is a response to the Commission’s request in DTE Electric’s approved rate case in U-20561, and is designed to assist financially stressed households that:

1. Possess incomes at or below 200% of the federal poverty level,
2. Have total arrearages with one or both of the companies that are at or below \$1,500 and
3. Have annual gas and/ or electric consumption that is less than or equal to \$3,750.

The pilot program will limit participating customer bills to 6% of the customer’s gross income in the past year for those who are single commodity customers and limit bills to 10% of the customer’s annual gross income for dual commodity customers. Participants who successfully make on-time and in-full monthly credits will see a reduction in their past due balances. Lastly, participating customers will also be offered energy waste reduction resources and services through the companies approved EWR programs.

The Commission has learned a great deal over the past year about the acute and chronic challenges faced by customers that are in need of energy assistance services. From these learnings the Commission and staff have redoubled our efforts to focus on the affordability and accessibility barriers experience by these households and communities. We have focused on expanding the eligibility and providing more pathways for customers to access the assistance they need, we have sought to better align energy assistance programs with utility energy waste reduction programs, and ultimately, we have continued to better understand how to curb the cyclical nature of unpaid balances and subsequent shut offs faced by financially distressed customers.

If there is one thing that we have all learned over the past year it is that this cycle does not benefit anyone in the energy ecosystem; it does not benefit the utility companies, it does not benefit communities or other ratepayers, and it certainly does not benefit families and households caught in that churn.

I applaud the work of our staff and intervenors in U-20561 who pushed for and worked with the companies to develop this pilot program, and I thank those at DTE Gas and DTE Electric for their continued communication, collaboration and improvement of this and other energy assistance programs and pilots.

Our hope is that this pilot program not only provides a pathway for participating customers to significantly reduce or eliminate their past due balances, but also provides a scalable programmatic design that can begin to chip away at the cyclical nature of unpaid balances and subsequent shutoffs. Our hope is that this pilot can be a best practice to other utilities in the state and be a means of restoring dignity and pride to those households in need who are doing their best to make ends meet.”

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

5. U-21031 IN THE MATTER OF THE APPLICATION OF UPPER PENINSULA POWER COMPANY FOR AUTHORITY TO AMEND ITS TARIFF TO EXPAND CUSTOMER ELIGIBILITY OF THE NON-STANDARD METER PROVISION  
(*ex parte*/final order)

Case No. U-21031 involves an *ex parte* application from Upper Peninsula Power Company requesting approval to amend its Rate Book for Electric Service to expand customer eligibility of its non-standard meter provision to include commercial customers. The order before you approves the application. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

### C. GAS

1. U-20763 IN THE MATTER OF THE APPLICATION OF ENBRIDGE ENERGY, LIMITED PARTNERSHIP, FOR AUTHORITY TO REPLACE AND RELOCATE THE SEGMENT OF LINE 5 CROSSING THE STRAITS OF MACKINAC INTO A TUNNEL BENEATH THE STRAITS OF MACKINAC, IF APPROVAL IS REQUIRED PURSUANT TO 1929 PA 16, MCL 483.1 *ET SEQ.* AND RULE 447 OF THE COMMISSION’S RULES OF PRACTICE AND PROCEDURE, R 792.10447, OR THE GRANT OF OTHER APPROPRIATE RELIEF  
(applications for leave to appeal/rulings on motion in limine)

Commission Staff Lisa Gold, Regulatory Affairs Division, presented a brief synopsis of the case listed above. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Chair Scripps commented:

“Before we move to the vote, I want to offer a few thoughts on the order before us.

First, the Commission thanks Judge Mack for his able efforts in adjudicating this proceeding, and for producing not one but two well-reasoned and timely rulings on the motion in limine. We also thank the parties for their work in developing the arguments considered in today’s order.

The authorization to construct Line 5 in 1953 did not contain an end date, and nothing in Act 16 provides us with the ability to impose one after the fact. As such, the order before us limits our review in this case to the project proposed – the replacement of the existing dual 20” pipelines that lie on the

bottomlands of the Straits with a new 4-mile, 30” pipeline segment that Enbridge proposes to house within a tunnel under the easement granted through Act 359 of 2018.

We will, consistent with our past application of the statutory requirements of Act 16, determine whether the applicant has established a public need for the replacement project, whether the proposed replacement project is designed and routed in a reasonable manner, and whether the construction of the replacement project will meet or exceed current safety and engineering standards. But we are not reconsidering the need for or authority for the existing pipeline, or Enbridge’s ongoing ability to utilize the other 641 miles not contained in the company’s application in this case.

This same adherence to statute informs our application of the requirements of the Michigan Environmental Protection Act, or MEPA, to the proposed Replacement Project. The language of the statute requires a determination by state agencies of whether the proposed conduct will pollute, impair, or destroy Michigan’s natural resources. Courts have made it clear that this responsibility also applies to agencies, like the Commission, that are not primarily environmental regulators, and specifically that pipeline siting cases before the Commission trigger the need for this MEPA review.

The order before us applies this framework and does a few things.

First, we find that, based on the overwhelming consensus of the scientific community as referenced by parties in this case, that greenhouse gas emissions are a pollutant under MEPA, and need to be considered as part of the Commission’s MEPA analysis when raised by parties in a case.

Second, both common sense and the language of Act 16 require us to consider both the construction of the proposed pipeline segment and the products that will flow through it. Oil and gas companies do not build pipelines simply for the sake of doing so, but, as Act 16 makes clear, in order to transport products. As such, the Commission cannot divorce a pipeline from its purpose, and must consider as part of its MEPA analysis the products flowing through the proposed pipeline or pipeline segment.

Notably, neither of these first two conclusions – that a MEPA review must include consideration of greenhouse gas emissions when raised by parties to a case and that such a review includes both the proposed pipeline and the products that flow through it – are dependent upon the Notice of Revocation and Termination filed by the Governor and the Department of Natural Resources regarding Enbridge’s current easement to cross the bottomlands of the Straits.

Given the uncertainty surrounding this issue, however, the Commission finds it would be imprudent at this early stage in the proceeding to prohibit parties from introducing evidence on this issue, including the appropriate bases of comparison for any pollution, impairment, or destruction attributable to the proposed Replacement Project. These issues are inherently questions of fact and will benefit from the development of record evidence through the course of this proceeding.

Finally, the Commission notes that testimony from the intervening parties is due in less than a month and acknowledges that the order before us likely changes the nature and scope of some of the testimony to be submitted. As such, we authorize Judge Mack to modify the case schedule as needed to accommodate any additional time needed by the parties in this regard. Thank you.”



Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

2. U-21027 IN THE MATTER OF THE APPLICATION OF SEMCO ENERGY GAS COMPANY FOR A WAIVER OF RULE 460.2351 AND ADOPTION OF RULE 460.2351A FOR TESTING DIAPHRAGM METERS AND RELATED RELIEF  
(*ex parte*/final order)

Case No. U-21027 involves an *ex parte* application by SEMCO Energy Gas Company requesting a waiver of Mich Admin Code, R 460.2351 and adoption of Mich Admin Code, R 460.2351a for testing diaphragm meters and related relief. The order before you approves the application. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

**D. STEAM**

1. U-20943 IN THE MATTER OF THE APPLICATION OF DETROIT THERMAL, LLC FOR APPROVAL OF A STEAM SALES AGREEMENT  
(*ex parte*/final order)

Case No. U-20943 involves the application of Detroit Thermal, LLC, for *ex parte* approval a Steam Service Agreement with Fisher 2015 Acquisition LLC and 7300 Woodward LLC. The order before you approves the Steam Service Agreement, which is attached to the order as Exhibit A. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

2. U-21026 IN THE MATTER OF THE APPLICATION OF DETROIT THERMAL, LLC FOR APPROVAL OF A STEAM SALES AGREEMENT  
(*ex parte*/final order)

Case No. U-21026 involves an application filed by Detroit Thermal, LLC for approval of a special contract for the supply of steam between Detroit Thermal, LLC, and Nederlander Detroit, LLC. The order before you approves the special contract. Commissioner Phillips moved that the Commission approve the order at its April 21, 2021 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The order was adopted.

## V. PUBLIC COMMENTS

There were no public comments.

Chair Scripps announced:

“We still have an open position for a Public Utilities Engineer in the Commission’s Electric Operations Section. This individual will perform engineering duties related to the Commission's regulation of electric outages, electric reliability, power quality, utility pole attachments, electric territory disputes, and stray voltage, as well as serving as an expert witness in utility rate cases on the topics of distribution capital expenditures and operations and maintenance spending. Finally, this employee will serve as a project leader for the creation of reliability metrics for the Governor's and MPSC dashboards and for analysis of new technologies that can improve electric distribution performance. This posting closes tomorrow, April 22, 2021 at 5:00 p.m., and more information and a link to apply can be found on our website: [www.Michigan.gov/mpsc](http://www.Michigan.gov/mpsc) .”

Commissioner Phillips announced:

“I would like to make customers and stakeholders aware that funds allocated through the COVID-19 Emergency Rental Assistance Program are now available for eligible renters. A portal has been established through the Michigan State Housing Authority (MSHA) for individuals to be able to apply to receive those funds. Those funds can be utilized to help renters not only help pay for their monthly rental costs, but it can also be applied to energy and utility bills, as well as broadband monthly bills. Please encourage renters to go to MSHDA’s website at: [www.michigan.gov/mshda](http://www.michigan.gov/mshda) . This portal will allow them access to those funds if they are eligible. We have received notice that these funds will likely not last through the middle of the summer. I encourage individuals to seek these funds sooner than later.”

A recording of the proceedings of the April 21, 2021 meeting is archived at:  
[https://www.michigan.gov/mpsc/0,9535,7-395-93307\\_93316\\_93317\\_93875---Y,00.html](https://www.michigan.gov/mpsc/0,9535,7-395-93307_93316_93317_93875---Y,00.html) .

Chair Scripps announced that the next regularly scheduled Commission Meeting will be held on May 13, 2021 at 1:00 p.m.

Commissioner Phillips moved that the Commission adjourn, Commissioner Peretick seconded.

Vote: Yeas – Scripps, Phillips, Peretick  
Nays – None

The motion was approved.

The meeting adjourned at 11:05 a.m.

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Lisa Felice  
Executive Secretary