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MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD IN ITS OFFICES AND AVAILABLE VIA MICROSOFT TEAMS VIDEO CONFERENCING ON DECEMBER 22, 2021.

Commission Chair Daniel C. Scripps called the meeting to order at 1:30 p.m.  
Executive Secretary Lisa Felice called the roll and declared there was a quorum.

**PRESENT**

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

Staff: Anna Stirling  
Lisa Felice  
Al Freeman  
Paul Ausum  
Jill Rusnak  
Kyle Daymon  
Ben Johnson

Public: Heidi Myers, Consumers Energy  
Mike Torrey, Consumers Energy

Additional Staff & Public Attending Telephonically/Video Conferencing: 102 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 December 9, 2021, Commissioner Peretick seconded.

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

The minutes were approved.

### **III. CONSENTED ORDERS**

#### **A. COMMUNICATIONS**

1. U-21153 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN TIME WARNER INFORMATION SERVICES (MICHIGAN), LLC AND FRONTIER MIDSTATES INC.  
(interconnection agreement)
2. MINUTE ACTION METRO ACT  
(amended tax credit determination report)
3. MINUTE ACTION AT&T MICHIGAN  
(9-1-1 wireless, U-14000, invoice no. 517 R41-0001 067 9, dated December 1, 2021)
4. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC  
(9-1-1 wireless, U-14000, invoice no. 50019939, dated December 1, 2021)

#### **B. ELECTRIC**

1. U-20880 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, REGARDING THE REGULATORY REVIEWS, REVISIONS, DETERMINATIONS, AND/OR APPROVALS NECESSARY FOR UPPER MICHIGAN ENERGY RESOURCES CORPORATION TO FULLY COMPLY WITH PUBLIC ACT 295 OF 2008, AS AMENDED BY PUBLIC ACT 342 OF 2016  
(energy waste reduction plan/proposed partial settlement agreement)

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 2 orders and 3 minute actions were adopted.

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

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

1. U-21149 IN THE MATTER OF THE APPLICATION OF FUSION CLOUD SERVICES, LLC FOR TEMPORARY AND PERMANENT LICENSES TO PROVIDE BASIC LOCAL EXCHANGE SERVICE (interim order)

Case No. U-21149 involves an application, as amended, filed by Fusion Cloud Services, LLC, for a temporary and permanent license to provide basic local exchange service throughout the state of Michigan in all zone and exchange areas served by AT&T Michigan, Frontier North Inc., Frontier Midstates Inc., and Frontier Communications of Michigan, Inc. The order before you grants the temporary license. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

##### **B. ELECTRIC**

1. U-18093 IN THE MATTER, ON THE COMMISSION’S OWN MOTION, ESTABLISHING THE METHOD AND AVOIDED COST CALCULATION FOR NORTHERN STATES POWER COMPANY TO FULLY COMPLY WITH THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978, 16 USC 2601 *ET SEQ.* (motion to extend deadline/interim order)

Case No. U-18093 involves a second motion filed by Northern States Power Company requesting authority to extend the deadline for filing its Public Utility Regulatory Policies Act of 1978 avoided cost review. The order before you grants the second motion. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

2. U-20963 IN THE MATTER OF THE APPLICATION OF CONSUMERS  
ENERGY COMPANY FOR AUTHORITY TO INCREASE ITS RATES  
FOR THE GENERATION AND DISTRIBUTION OF ELECTRICITY  
AND FOR OTHER RELIEF  
(final order)

Commission Staff Ryan Laruwe, Strategic Operations Division, presented a brief synopsis of the case listed above. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

**Commissioner Phillips commented:**

“I once again would like to thank the diligent work of our staff as well as the engagement of so many intervenors for providing the Commission with a thorough and robust record on which to base our decisions in this order today. I also, and I don’t do this enough, would like to thank my colleagues for their expertise, dedication, and boundless curiosity exhibited over the many hours of deliberations poured into this proceeding.

The order before is first and foremost another important link in a chain of Commission statements and actions that prioritize the need for historic investments in grid reliability, including the continued support of increased vegetation management, grid modernization, and grid hardening improvements. In a year in which no region of the country was spared from the impacts of climate change amplified severed weather, we will continue to do what we can within our jurisdictional and statutory authority to support investments that put our grid, and by extension, Michigan residents, on markedly better footing ahead of future rounds of extreme weather.

The order before us also continues the Commission’s support of the Company’s PowerMIDrive and PowerMIFleet electric vehicle pilots but limits the extension of the PowerMIDrive pilot to two-years as opposed to the three-year extension requested by the Company. As the demand and availability of electric vehicles continues to outpace even the most optimistic of projections, we believe that the Company must also move at the speed of the market and accelerate its efforts to transition its current electric vehicle pilots to a permanent EV infrastructure program and we emphasize that in putting forth a more robust and permanent electric vehicle infrastructure plan, the company should detail the necessary investments that get us on a pathway to meet the needs of the one million electric vehicle customers expected on the Company’s system by 2030, while also ensuring that all customers, regardless of their ownership or use of an electric vehicle or associated infrastructure, can and will benefit from the company’s ongoing support of large-scale vehicle electrification.”

**Commissioner Peretick commented:**

“I’d like to echo the thanks of both my colleagues here, Judge Feldman, the commission staff who have worked diligently on this rate case over the past 10 months, as well as the company and interveners who thoughtfully put forward arguments and evidence. Today Mr. Laruwe shared with you the headlines of the case, but the time, work, and detail that went into these decisions is immense.

I'd like to highlight just a few things from the order. First, I'd like to emphasize the importance in continued investment in our distribution system and important reliability improvements. As we highlighted back in August after a series of destructive storms, our electric reliability in Michigan must be improved. This is particularly urgent as we continue to experience outages from increasingly severe storms as our climate continues to change. In this order is more than \$200 million for targeted reliability improvements and modernization of the electric distribution system. The order also directs filing of more information on how increasing tree trimming spending results in improved system reliability, a projection of these reliability metrics, and development of a surge program to address a backlog in tree trimming in a way that focuses on customer equity and examines circuits that have had the longest time between tree clearing cycles.

I also look forward to seeing future revisions of innovative pilot projects proposed by the company, including grid-scale and residential energy storage projects, and fully understanding how innovative technologies and project structures can benefit electric customers in our state."

**Chair Scripps commented:**

"I largely echo what my colleagues said and particularly in their thanks to our staff, intervenors, and Judge Feldman. The order before us today 410 pages. I think that is a record for my time on the Commission and certainly no small task.

I am also aware that the amount approved today represents a relatively small fraction of what was initially requested, and I want to try and put that in some context. First, as Mr. Laruwe noted, the rate case before us today rolls in the \$27.2 million reduction in depreciation expenses that were approved by the Commission earlier this month in Case No. U-20849, which was based on an all-party agreement in that case.

Second, a number of the proposed costs simply are not ready to be included in customer rates at this point. For example, Consumer's proposed costs associated with 300 megawatts of solar contracts that were included in its IRP. During dependency of this case, we approved those contracts, but only last month. This is one example of costs that are likely to be included, but better to be included in the next rate case. Similarly, for costs for some of the fossil units currently being assessed in the company's integrated resource plan. It would be better to include those costs when we know for certain if they will be needed, while allowing for accounting treatment. In the meantime, for other costs, they are simply too speculative at this point. One of the advantages of Michigan's regulatory framework is the inclusion of a forward test year that provides greater certainty for utilities, but to balance that with customer interests. There is a requirement that we need greater specificity around the proposed investments if they are going to be included in rates on a prospective basis. A number of the costs that were disallowed for recovery in the present case were disallowed on that basis. They were at this point, simply too speculative, but the company can bring us better information once it is available and may be eligible for recovery upon a showing of the reasonableness and prudence of those investments.

With all of that said, I did want to highlight that the order does authorize a number of items that were well supported.

Most notably want to echo the remarks of my colleagues in terms of the focus on the investments in reliability. I will not belabor the point. It is something that is top of mind for all of us and for folks across the state given the storms over the summer and indeed, even in the last couple of weeks. That focus on reliability is strong and one that we remain committed to.

We also took a balanced approach to both the return on common equity and the capital structure and as Commissioner Phillips said, the support for electric vehicles, including moving to a full and permanent program in two years instead of three in support of company's goal of achieving 1 million electric vehicles in its service territory by 2030.

There is a lot in the 410 pages of the order. I encourage it for holiday reading. I think that you will enjoy it.

Again, thanks to staff and intervenors for the work that got us to this point."

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

The order was adopted.

3. U-21045 IN THE MATTER OF THE APPLICATION OF ALPENA POWER COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR THE SALE OF ELECTRICITY  
(proposed settlement agreement)

Case No. U-21045 involves an application filed by Alpena Power Company for authority to increase its rates for the sale of electricity. The order before you approves a settlement agreement resolving all issues in the case. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

**Chair Scripps commented:**

"I want to thank the parties involved for reaching what I consider to be a well-structured settlement. In particular, I want to highlight the four new tariffs that will be added to Alpena's rate book, including the distributed generation tariff, new tariffs for both residential and general service plug-in electric vehicles that will help ensure northeast Michigan keeps pace with the growth of electric vehicles and an innovative efficient electric heat tariff for customers with geothermal or heat pump systems. I am excited to see how this last program in particular works in practice and what we can learn from Alpena and possibly apply in other places.

Again, thank you to the company, Attorney General, the Citizen's Utility Board of Michigan, and our Commission staff for their work in reaching an agreement on the settlement before us."

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

The order was adopted.

4. U-21160 IN THE MATTER OF THE APPLICATION OF CONSUMERS  
ENERGY COMPANY FOR *EX PARTE* APPROVAL OF ECONOMIC  
DEVELOPMENT TARIFF RATE LED  
(*ex parte*/final order)
5. U-21163 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC  
COMPANY FOR APPROVAL OF RATE SCHEDULE D13 XL HIGH  
LOAD FACTOR RATE  
(*ex parte*/final order)

Commission Staff Mike Byrne, Chief Operating Officer, presented a brief synopsis of the cases listed above.

**Commissioner Phillips commented:**

“It seems like every several weeks we are reading about a new hundred million- or billion-dollar investment being made in the electric vehicle, battery and semiconductor manufacturing spaces. We are currently amidst a once in a generation transition, and the competition for electric vehicle manufacturing continues to extend regionally, nationally, and globally. We can no longer assume that Michigan’s auto and advanced manufacturing legacies will assure that these new investments flow to communities throughout the Great Lakes State.

To that end, the economic development rates proposed by both Consumers Energy and DTE Electric and before the Commission this afternoon provide the State of Michigan with another important tool that can assist in the attraction and retainment of large, unique, and energy-intensive businesses here in Michigan, and by extension, improve our state’s ability to not only sustain, but build upon its legacy of automotive and advance manufacturing.

The proposals also balance the need to quickly respond to this once in a generation transformation and subsequent investment opportunities, while also tailoring our response to specifically attract those large, unique and energy intensive users whose incremental electricity loads can lead to better utilization and provide system-wide benefits for all ratepayers.

The auto industry has played an important role for my family, allowing my mother and father to move from the deep south and support a family in Michigan, and I am optimistic that these tools will help to facilitate the attraction of businesses that can afford families in Michigan similar opportunities for generations to come.”

**Commissioner Peretick commented:**

“I’d like to express my excitement for the future of economic development for our state, and for any future industry who may utilize these new tariffs. New, unique, large loads that operate with a high and

steady load profile will provide our state with an opportunity to better utilize our electric system, with benefits for all electric customers. No customers will be allowed to utilize this new rate unless the amount they pay for their service fully compensates for the cost of the electricity they use, including transmission and distribution costs, and any other surcharges.

These rates require very large loads and 15-year minimum contracts, and I'm excited to see these economic development electric rates follow the bipartisan legislation signed by Governor Whitmer earlier this week providing incentives for high-tech manufacturing. As Mr. Byrne pointed out in his presentation, this timing is important given the fast pace of investment decisions being made and the billions of dollars in investment potential for our state in the coming weeks and months."

**Chair Scripps commented:**

"I share the enthusiasm and the excitement about the role that we can play in helping to build Michigan's future. Consumers Energy, in particular in its application, noted that the company is aware of 10 projects that are actively considering locating in Michigan, representing nearly \$65 billion in potential investment and about 21,000 new jobs. In combination with the bipartisan legislation that Commissioner Peretick referenced, and Mr. Byrne noted, today's orders in both Consumers Energy and DTE Electric Company show that Michigan is firmly in the game in attracting that investment and those jobs. We are excited for the future here."

Commissioner Phillips moved that the Commission approve the order in Case No. U-21160 at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order in Case No. U-21160 was adopted.

Commissioner Phillips moved that the Commission approve the order in Case No. U-21163 at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order in Case No. U-21163 was adopted.

6. U-21171 IN THE MATTER OF THE APPLICATION OF CONSUMERS ENERGY COMPANY FOR APPROVAL OF A ONE-TIME VOLUNTARY REFUND OF REVENUE (interim order)

Case No. U-21171 involves an application filed by Consumers Energy Company for *ex parte* approval of a one-time voluntary refund. The order before you approves the application with



conditions as set forth in the order. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

## **C. GAS**

1. U-20903 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO PROMULGATE RULES GOVERNING GAS SAFETY (rulemaking/final order)

Case No. U-20903 involves proposed amendments to the rules governing gas safety. The order before you formally adopts the rules. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

### **Chair Scripps commented:**

“I just want to take a moment to thank our gas safety staff for their continued diligence in working to ensure the safety of Michigan’s gas infrastructure. The rules being formally adopted today include amendments that adopt by reference, the current and more stringent federal regulations governing gas safety, along with updating certain other technical standards. In addition, the rules add new record retention periods, which has been a priority of the Commission for a number of years and has also been an issue in recent gas rate cases. These changes (while unlikely to grab many headlines) are important pieces of a comprehensive approach to gas safety. I appreciate the continued leadership of our gas safety staff and making Michigan a leader in this regard.”

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

The order was adopted.

2. U-21077 IN THE MATTER, ON THE COMMISSION’S OWN MOTION, TO REQUIRE REALGY, LLC, d/b/a REALGY ENERGY SERVICES TO SHOW CAUSE WHY IT SHOULD NOT BE FOUND IN VIOLATION OF PUBLIC ACT 634 OF 2002, THE COMMISSION’S GAS CUSTOMER CHOICE PROGRAM, MCL 460.9 *ET SEQ.* (proposed settlement agreement)

- U-20978 IN THE MATTER, ON THE COMMISSION’S OWN MOTION, OF  
THE INVESTIGATION INTO THE MARKETING AND BUSINESS  
PRACTICES OF REALGY, LLC, d/b/a REALGY ENERGY SERVICES  
U-15419 IN THE MATTER OF THE APPLICATION OF REALGY, LLC, d/b/a  
REALGY ENERGY SERVICES, FOR A LICENSE AS AN  
ALTERNATIVE GAS SUPPLIER

Case Nos. U-21077 *et al.* involve a matter on the Commission’s own motion to require Realgy, LLC, d/b/a Realgy Energy, to show cause why it should not be found in violation of Public Act 634 of 2002, the Commission’s Gas Customer Choice program, MCL 460.9 *et seq.* The order before you approves a settlement agreement resolving all issues in Case No. U-21077. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

3. U-21093 IN THE MATTER OF THE REQUEST OF WALLICK-HENDY  
DEVELOPMENT COMPANY FOR A DECLARATORY RULING  
(request to withdraw/final order)

Case No. U- 21093 involves a request for a declaratory ruling filed by Wallick-Hendy Development Company, LLC, and the company’s subsequent request to withdraw its request for a declaratory ruling. The order before you grants the request to withdraw at the request of the company. Commissioner Phillips moved that the Commission approve the order at its December 22, 2021 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

## V. PUBLIC COMMENTS

Paula Gardner commented regarding the economic development rate benefits for ratepayers.

**Chair Scripps announced:**

“This is our last meeting of the year, and it is customary that as we look to turn the page into the year ahead, to also look back at what we have done over the last 12 months. We will be putting out a press release as we usually do in the next week. I did want to highlight just a few things that rise to the front of mind in terms of the focus on reliability that obviously the severe storms that knocked out power to millions of Michiganders really underscored the need for the state’s electric utilities to do more and do it faster in terms of strengthening the grid to withstand challenges brought about by climate change and the increased frequency and the increased severity of severe weather.

As part of our work in that case, we launched an inquiry into reliability challenges in Michigan, directing utilities to provide critical information that we will use in determining steps necessary to reduce the frequency and duration of outages in Michigan. We also held a two-day technical conference to gather updated data to help inform our next steps. We held public hearings in December on proposed changes to our service quality rules and technical standards, including potentially making the credits for outages automatic and increasing them.

In November, we approved DTE Electric Company’s request to spend a one-time voluntary refund of not less than \$70 million to accelerate its tree trimming efforts.

In addition, beyond the reliability work, keeping affordability and access issues front of mind, launching in June, a new public database that serves as a resource for information and data on utility customer protections, COVID-19 utility customer data site features databases of regularly updated information on the number of customers whose service have been shut off, customers who have had their service restored, the number of customers enrolled in assistance programs, and a host of other information, as well as supporting low-income pilot programs proposed by utilities in a number of cases.

We continue to focus both the MI Power Grid and the Statewide Energy Assessment implementation. There is a host of things, including this month, a new Affordability and Accessibility Collaborative report from the staff that was posted last week. At the beginning of the month, a report from the MI Power Grid work group on new technologies and business models.

We continue to examine natural gas issues including those identified through the Statewide Energy Assessment. In July, we approved a certificate of public convenience and necessity related to DTE’s former wet header system, looking at adding layers of resilience in the supply of natural gas for northern lower Michigan.

There has been a lot of work, including work championed by Commissioner Phillips, on expanding broadband availability in the state under the Federal Communications Commission’s rural digital opportunity fund to make sure that we are taking the steps in terms of licensure and other pieces to make sure that we are getting those dollars out the door to eligible telecommunications carriers in Michigan.

We saw the sale of Upper Peninsula Power Company. That was approved in May.

There was a Michigan propane security plan that was announced in March.

There were a number of things related to work around the energy transition, including completing a rate design study in November 2020. This year, pursuant to Senate Resolution 142, which asked the Commission to do that.

Under the Budget Act that was approved this fall, we have launched a new work group in Case No. U-21170 around a renewable natural gas study that will begin its work in the first days of 2022.

We welcomed Commissioner Peretick. It seems a lot longer that a year ago that you joined. She was appointed to fill the last six months of former Commissioner Sally Talberg's term and then Legislature wisely signed off on a full six-year term in the middle of the year. She is going to be around for a long time to come, which is to the benefit of all of us.

There has been a lot of work and a full case docket. I will say as we look forward to 2022, we get to do it all over again. In some ways we will be even busier with the Enbridge case, a number of rate cases, the second round of IRP's being filed, and a host of other things that will come before us. We have got a great staff. We have got a great group of intervening parties that help to shed light. We appreciate the continued diligence of the regulated community and certainly the work of my colleagues."

**Commissioner Peretick announced:**

"I'd like to note that on Dec 17 the commission issued an Energy Assistance Toolkit to more than 200 community advocates and elected officials. This toolkit provides information to support advocates and leaders in their outreach and education efforts, and includes an overview of available energy assistance programs, links to several MPSC issued materials, consumer tips, sample social media posts and graphics to help provide information on energy assistance, and video PSAs. Big thanks to our Customer Assistance Division and our Communications team here at the MPSC for putting this helpful toolkit together.

Energy Affordability and Accessibility Collaborative just posted their interim report to the U-20757 docket on December 17th. This report provides an update on the work undertaken by the EAAC in response to the Commission's directives to date, including Staff collaborations and communications in response to COVID-19, the process for creating the Energy Affordability and Accessibility Collaborative in consultation with the Energy Waste Reduction Low-Income Workgroup, and the establishment of the collaborative structure with four subcommittees. There is a lot of good work detailed in this report and I thank all the participants in the Collaborative for their time and effort."

**Commissioner Phillips announced:**

"I would like to wish our staff, intervenors, and stakeholders a restorative, safe, and healthy holiday break. As my gift to Chair Scripps and some members of our staff (this will be the only time that I say it), Go BLUE."

**Chair Scripps announced:**

"I have 3 scheduling notes. First, the renewable natural gas study-first work group on January 10<sup>th</sup>. There is information in the docket on that. On January 11<sup>th</sup>, we will be heading north for a UMER C public hearing on their integrated resource plan that will take place in Iron Mountain. More

information on that is available on our website. Finally, our next regular Commission Meeting is tentatively scheduled for Thursday, January 20, 2022 at 1:30 p.m.”

A recording of the proceedings of the December 22, 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) .

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 2:14 p.m.

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Lisa Felice  
Executive Secretary