

MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD IN ITS OFFICES AND AVAILABLE VIA MICROSOFT TEAMS VIDEO CONFERENCING ON OCTOBER 5, 2022.

Commission Chair Daniel C. Scripps called the meeting to order at 1:03 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: Jana Bachman  
Lisa Felice  
Al Freeman  
Anne Armstrong  
Ryan Wilson  
Kyle Daymon  
Andy Hannum  
Barb Kunkel  
Chris Forist  
Mike Byrne

Public: Heidi Myers, Consumers Energy

Additional Staff & Public Attending Telephonically/Video Conferencing: 84 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 September 8, 2022, Commissioner Peretick seconded.

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

The minutes were approved.

### III. CONSENTED ORDERS

#### A. COMMUNICATIONS

1. MINUTE ACTION AT&T  
(9-1-1 wireless, U-14000, invoice no. 517 R41-0001 067 9 dated September 1, 2022)
2. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES LLC  
(9-1-1 wireless, U-14000, invoice no. INV-1179 dated September 1, 2022)
3. MINUTE ACTION PENINSULA FIBER NETWORK LLC  
(9-1-1 wireless, U-14000, invoice no. INV-3128 dated September 1, 2022)

#### B. ELECTRIC

1. U-21201 IN THE MATTER OF THE APPLICATION OF UPPER PENINSULA POWER COMPANY TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2021  
(proposed settlement agreement)
2. U-21204 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, REGARDING THE REGULATORY REVIEWS, REVISIONS, DETERMINATIONS, AND/OR APPROVALS NECESSARY FOR ALPENA POWER COMPANY TO FULLY COMPLY WITH PUBLIC ACT 295 OF 2008, AS AMENDED BY PUBLIC ACT 342 OF 2016  
(energy waste reduction reconciliation/ proposed settlement agreement)
3. U-21207 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, REGARDING THE REGULATORY REVIEWS, REVISIONS, DETERMINATIONS, AND/OR APPROVALS NECESSARY FOR INDIANA MICHIGAN POWER COMPANY TO FULLY COMPLY WITH PUBLIC ACT 295 OF 2008, AS AMENDED BY PUBLIC ACT 342 OF 2016  
(energy waste reduction reconciliation/proposed settlement agreement)
4. U-21209 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, REGARDING THE REGULATORY REVIEWS, REVISIONS, DETERMINATIONS, AND/OR APPROVALS NECESSARY FOR

UPPER PENINSULA POWER COMPANY TO FULLY COMPLY  
WITH PUBLIC ACT 295 OF 2008, AS AMENDED BY PUBLIC ACT  
342 OF 2016  
(energy waste reduction reconciliation/proposed settlement agreement)

5. U-21246 IN THE MATTER OF THE COMPLAINT OF WAYNE A.  
KNOBLAUCH AGAINST CONSUMERS ENERGY COMPANY  
(request to withdraw/final order)

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 5 orders and 3 minute actions were adopted.

**IV. OTHER ORDERS**

**A. COMMUNICATIONS**

1. U-11830 IN THE MATTER OF AMERITECH MICHIGAN'S SUBMISSION ON  
PERFORMANCE MEASUREMENTS, REPORTING, AND  
BENCHMARKS IN COMPLIANCE WITH THE OCTOBER 2, 1998  
ORDER IN CASE NO. U-11654  
(request to extend effective date)

Case No. U-11830 involves a request filed by AT&T Michigan for  
an extension of the approved performance measures and remedy  
plan. The order before you approves the extension. Commissioner  
Phillips moved that the Commission approve the order at its October  
5, 2022 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

**B. ELECTRIC**

1. U-18425 IN THE MATTER OF THE APPLICATION OF CONSUMERS  
ENERGY COMPANY FOR APPROVAL OF POWER PURCHASE  
AGREEMENT WITH STS HYDROPOWER, LTD.

(*ex parte*/final order)

Case No. U-18425 involves an application Consumers Energy Company for approval of a power purchase agreement with STS Hydropower, LLC. The order before you approves this application. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

2. U-20165 IN THE MATTER OF THE APPLICATION OF CONSUMERS ENERGY COMPANY FOR APPROVAL OF ITS INTEGRATED RESOURCE PLAN PURSUANT TO MCL 460.6t AND FOR OTHER RELIEF  
(*ex parte*/proposed power purchase agreements)

Case No. U-20165 involves an application filed by Consumers Energy Company requesting *ex parte* approval of two power purchase agreements. The order before you approves the application. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

3. U-20604 IN THE MATTER OF THE APPLICATION OF CONSUMERS ENERGY COMPANY FOR APPROVAL OF POWER PURCHASE AGREEMENTS  
(*ex parte*/NextSun Energy MI and Blue Elk Solar I)

Case No. U-20604 involves an application filed by Consumers Energy Company seeking approval of amended power purchase agreements between Consumers Energy Company and NextSun Energy MI, LLC and Blue Elk Solar I, LLC. The order before you approves the amended power purchase agreements. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick

Nays – None

The order was adopted.

4. U-20604 IN THE MATTER OF THE APPLICATION OF CONSUMERS ENERGY COMPANY FOR APPROVAL OF POWER PURCHASE AGREEMENTS  
(*ex parte*/Blue Elk Solar II)

Case No. U-20604 involves an application filed by Consumers Energy Company seeking approval of a power purchase agreement between Consumers Energy Company and Blue Elk Solar II, LLC. The order before you approves the power purchase agreement. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

5. U-20826 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC COMPANY FOR APPROVAL TO IMPLEMENT A POWER SUPPLY COST RECOVERY PLAN FOR THE 12 MONTHS ENDED DECEMBER 31, 2021  
(final order)

Case No. U-20826 involves an application filed by DTE Electric Company for authority to implement a power supply cost recovery plan for the 12 months ended December 31, 2021. The order before you approves the 2021 PSCR plan and accepts the five-year forecast. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

**Chair Scripps commented:**

“I want to acknowledge that the issues relating to the contractual agreements involving the utilization of the Nexus Pipeline by both DTE Electric and DTE Gas have been heavily litigated over the past several years and the inherent overlap between power supply cost recovery and gas cost recovery plan and reconciliation cases has, at times, resulted in some degree of uncertainty as to which issues have been resolved and which remain contested.

As a starting point, the Commission wants to affirm its determination from previous orders that the Nexus precedent agreement and its subsequent amendments were reasonable and prudent at the time they were made and that the Commission’s previous determinations regarding those decisions

should be given preclusive effect. As such, the order before us agrees with DTE Electric that the company is not required to relitigate the original Nexus agreement in each PSCR case.

The Commission is also now approved recovery of the underlying Nexus-based transportation rate in multiple cases. In addition, the Commission has found that in past cases, and affirms here, that DTE Electric has justified the reasonableness and prudence of its projected costs associated with the TEAL Amendment to its underlying excess contract.

Finally, the Commission notes that in multiple prior PSCR plan and reconciliation cases, as well as those on the gas side, we have encouraged DTE to take steps to reduce fuel costs to its customers, including efforts to renegotiate the Nexus agreement in response to changing market conditions. At the same time, however, we have also acknowledged in previous cases that the mere fact that the company has failed to take meaningful steps to renegotiate the underlying Nexus contract did not (on its own) justify a disallowance. We also have recognized that DTE undertook the TEAL Amendment to lower PSCR costs and have found, again, that those benefits have accrued.

That said, the Commission will continue to review DTE's actions, including extensions to the TEAL Amendment and other efforts to renegotiate its Nexus supply arrangements, in light of the Company's continuing obligation to monitor and respond to market conditions and system needs.

While this continued due diligence is not necessary, the order before us also represents what I think is an important step in bringing clarity and, I hope, some degree of finality to a number of important issues that we have worked through over the past several years. I appreciate the efforts of our staff, the many administrative law judges who have been involved in different proceedings, and the Company and other intervenors for providing a robust record on which to base this decision."

**Commissioner Phillips commented:**

"Thank you, Chair for your leadership on this order, in particular, and helping to provide that clarity for what is thicket, a complex set of precedent, overlapping cases. Thank you again for your leadership."

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

The order was adopted.

6. U-20890 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO PROMULGATE RULES GOVERNING ELECTRIC INTERCONNECTION AND DISTRIBUTED GENERATION AND TO RESCIND LEGACY INTERCONNECTION AND NET METERING RULES  
(rulemaking/post-public hearing)

Case No. U-20890 involves a matter, on the Commission's own motion, to promulgate rules governing electric interconnection and distributed generation, and to rescind legacy net metering rules. The

order before you formally adopts the Interconnection and Distributed Generation Standards and transmits them to the Legislative Service Bureau and the Michigan Office of Administrative Hearings and Rules for formal approvals. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

**Commissioner Peretick commented:**

“While this is just an interim order issuing the submission of this ruleset to the Office of Administrative Hearings and Rules, I would like to take a moment to acknowledge all the work that has gone into this revised ruleset by staff, the utilities, and all the parties to this case to thoughtfully think through the proper way to integrate distributed and advanced energy resources into the electric grid into the future. It is important that we have an effective plan for incorporating new advanced technologies and that our state’s regulations are not holding back cost-effective ways to improve reliability and affordability of electric service, while placing safety of our line workers and residents at the forefront.”

**Chair Scripps commented:**

“I want to echo those comments and also thank you for your leadership on this. We had originally issued this interim order back in March and received some feedback from the utilities that led us to reopen that record. I think the additional arguments that we received, the deliberations that were involved after the fact, have made this an improved set of rules and taken a number of the issues raised into account as we move forward. I appreciate your leadership and the work of all involved.”

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

The order was adopted.

7. U-21009 IN THE MATTER OF THE APPLICATION OF CONSUMERS ENERGY COMPANY TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2020  
(final order)

Case No. U-21009 involves an application filed by Consumers Energy Company requesting approval of the reconciliation of its renewable energy plan costs and revenues for the 12-month period ended December 31, 2020. The order before you approves the application, along with a 2021 transfer price schedule. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

Vote: Yeas – Scripps, Phillips, Peretick

Nays – None

The order was adopted.

8. U-21290 IN THE MATTER OF THE APPLICATION OF UPPER MICHIGAN ENERGY RESOURCES CORPORATION FOR AUTHORITY TO AMEND ITS WEPCO RATE ZONE LED1 RATE SCHEDULE TO PROVIDE FOR ALTERNATIVE CUSTOMER PAYMENT  
(*ex parte*/final order)

Case No. U-21290 involves the application of Upper Michigan Energy Resources Corporation requesting *ex parte* approval to amend WEPCo Rate Zone LED1 rate schedule to provide for alternative customer payment. The order before you approves the application. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

9. U-21305 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO INVESTIGATE, AUDIT AND REVIEW THE METHODS EMPLOYED BY DTE ELECTRIC COMPANY AND CONSUMERS ENERGY COMPANY TO SECURE GOOD ELECTRIC SERVICE AND THE SAFETY OF THE PUBLIC PURSUANT TO MCL 460.555 AND MCL 460.556  
(order opening docket)

Commission Staff Ally Durfee, Energy Operations Division, presented a brief synopsis of the case listed above. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

**Commissioner Peretick commented:**

“I’d like to first express my appreciation for the recent progress that has been made in understanding our state’s reliability, safety, and affordability challenges and for all the effective methods that have been developed to tackle this important issue for the state. Unfortunately, over the last decade, our reliability metrics have not improved, even after many commission orders, investigations, and initiatives to attempt to solve this difficult problem, and plan for a future with increased number and intensity of storms.

Rather than trying the same things over and over again that have not shown measurable results in the past, today we are hoping an independent 3<sup>rd</sup> party review of the adequacy of the electric distribution



system is necessary to determine measures that may mitigate or avert future crises including the loss of life and the loss of essential public services. We are hoping that this will be collaborative with our utilities operating the distribution system, and will result in real, meaningful next steps that will result in a distribution system with the affordability and reliability that Michigan customers deserve.”

**Chair Scripps commented:**

“Today’s order represents a new approach to the challenges associated with safety and reliability of the utilities’ distribution networks. We have, again, after each storm that has taken place or major storm over the last decade, had gone through the familiar pattern of doing a review and offering some directives. But ultimately, we have not seen the improvements that we had hoped, to date. The truth is that there is some good work already taking place, from accelerated tree trimming, to fusing, and other approaches. In the places where this work has been undertaken, the results look promising. But as you note, it is also true that despite a series of orders in response to storms and widespread outages, we are still not where we want to be or need to be in terms of the number and duration of outages and the safety of the overall system. My hope is that this new approach, following up on the actions taken in response to the directives included in priority orders, combined with updates to our Technical Standards for Electric Service and Utility Service Quality Rules and the distribution planning efforts, as well as the independent third party review of the utilities infrastructure processes and programs, will allow us to identify and take appropriate steps to make meaningful progress in delivering the distribution system that Michigan residents and businesses deserve.”

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

The order was adopted.

**C. GAS**

1. U-20236 IN THE MATTER OF THE APPLICATION OF DTE GAS COMPANY FOR RECONCILIATION OF ITS GAS COST RECOVERY PLAN FOR THE 12 MONTHS ENDED MARCH 31, 2020 (petition for rehearing)

Case No. U-20236 involves an application filed by DTE Gas Company seeking authority to reconcile the costs and revenues associated with its gas cost recovery plan for the 12 months ended March 31, 2020. The order before you denies the petition for rehearing filed by the Michigan Department of Attorney General. Commissioner Phillips moved that the Commission approve the order at its October 5, 2022 meeting. Commissioner Peretick seconded that motion.

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

The order was adopted.

## V. PUBLIC COMMENTS

Anthony Celley addressed his concerns regarding the smart meter installed at his private dwelling by American Electric Power.

### **Chair Scripps announced:**

“The Commission submitted its Renewable Natural Gas Report to the Legislature on September 28<sup>th</sup>. It outlined the potential of using renewable natural gas (RNG) in Michigan and the barriers to developing and using RNG in Michigan. It was a report that was conducted at the direction of the Legislature as part of Public Act 87 of 2021. We have posted the study on our website, as required under the Statute that directed us to perform the report. The report identifies:

- 1) Existing and potential RNG sources in Michigan
- 2) Estimates the energy content and greenhouse gas abatement potential of those sources
- 3) Estimates the cost per unit of heat and the potential greenhouse gas emission reduction per unit of heat
- 4) Should potential RNG sources be used to the greatest practical extent
- 5) Compares the estimated per unit cost savings of greenhouse gas emission, reductions estimated for RNG sources to the estimated likely per unit cost savings from the use of other carbon abatement technologies, including hydrogen blending, building electrification, and similar technologies
- 6) Estimates the RNG production potential by applicable feedstock sources in Michigan,
- 7) Identifies barriers to developing and utilizing RNG in Michigan.

I appreciate the many stakeholders who participated in this process, as well as our consultants from ICF, and certainly our staff, who led a fairly intensive and time-sensitive process to come up with a report that I think will be meaningful in informing energy policy, now and in years to come.

We also issued a timely Request for Proposals for the Low-Carbon Energy Infrastructure Enhancement and Development grants that were authorized under Public Acts 53 and 166 of 2022. This provides for a combined \$50 million in grants for businesses, non-profit organizations, and local governments to develop, acquire or build low-carbon energy facilities. These facilities can include natural gas, combined heat and power, or renewable natural gas facilities, as well as electrification programs. We have created a low-carbon energy infrastructure enhancement and development grants on our website at the Commission. That dedicated website also includes a detailed timeline for submitting applications and opportunities to seek clarification on the RFP. Potential applicants may submit clarifying questions on the RFP in two rounds. The first is by October 21<sup>st</sup> with responses due by November 4<sup>th</sup>. The second by November 11<sup>th</sup> with responses due by November 23<sup>rd</sup>. Ultimately, proposals for funding under the program must be submitted by January 6, 2023.

Finally, I know that the Commission joins all those celebrating Yom Kippur today. We extend the Commission’s best wishes for an easy fast for all those observing.”

A recording of the proceedings of the October 5, 2022 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 Thursday, October 27, 2022 at 1:30 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 1:41 p.m.

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Lisa Felice  
Executive Secretary