

MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD IN ITS OFFICES AND AVAILABLE VIA MICROSOFT TEAMS VIDEO CONFERENCING ON NOVEMBER 18, 2022.

Commissioner Tremaine L. Phillips called the meeting to order at 1:00 p.m.
Executive Secretary Lisa Felice called the roll and declared there was a quorum.

PRESENT

Commission: Tremaine L. Phillips, Commissioner
Katherine Peretick, Commissioner

Staff: Kelly Barber-Dodge
Matt Helms
Lisa Felice
Jill Rusnak
Blair Renfro
Al Freeman
Lucy Clay
Wendy Cadwell
Mike Byrne
Paul Ausum
Nathan Burnand
Ben Johnson
Charlie Tidwell
Andy Hannum

Public: Karl Wuestenberg, JSI-Mid State Consultants
Warren Henderson, Turnkey Network Solutions
Marco Bruzzano, DTE
Steve Shults, Bloomingtondale Communications

Additional Staff & Public Attending Telephonically/Video Conferencing: 137 Participants

Chair Daniel C. Scripps was not present in person for the meeting and, therefore, he did not vote on matters before the Commission. However, he did remotely observe the proceedings.

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

Vote: Yeas – Phillips, Peretick
Nays – None

The agenda was approved.

- II.** Commissioner Peretick moved to approve the minutes of the Regular Commission Meeting of October 27, 2022, Commissioner Phillips seconded.

Vote: Yeas – Phillips, Peretick
Nays – None

The minutes were approved.

III. CONSENTED ORDERS

A. COMMUNICATIONS

1. U-11962 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN AT&T MICHIGAN AND GLOBAL CROSSING LOCAL SERVICES, INC.
(tenth amendment)
- U-12798 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN BROADWING COMMUNICATIONS, LLC AND AT&T MICHIGAN
(twentieth amendment)
- U-12952 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN AT&T MICHIGAN AND TDS METROCOM, LLC
(twenty-eighth amendment)
- U-14152 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN LEVEL 3 COMMUNICATIONS, LLC, AND AT&T MICHIGAN
(fifteenth amendment)
- U-15027 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN TELCOVE OPERATIONS, INC. AND VARIOUS AT&T INC. OWNED COMPANIES, INCLUDING AT&T MICHIGAN
(seventh amendment)
- U-15607 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN AT&T MICHIGAN AND GC PIVOTAL, LLC
(twentieth amendment)

- U-16526 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN AT&T MICHIGAN AND CENTURYLINK COMMUNICATIONS (tenth amendment)
- U-16549 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN 123.NET INC. d/b/a LOCAL EXCHANGE CARRIERS OF MICHIGAN, INC. AND MICHIGAN BELL TELEPHONE COMPANY d/b/a AT&T MICHIGAN (fifteenth amendment)
- U-17110 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN AT&T MICHIGAN AND KEPS TECHNOLOGIES, INC. (third amendment)
- U-17263 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN CENTURYTEL OF MICHIGAN, INC., d/b/a CENTURYLINK, CENTURYTEL OF MIDWEST-MICHIGAN, INC., d/b/a CENTURYLINK, CENTURYTEL OF NORTHERN MICHIGAN, INC., d/b/a CENTURYLINK, CENTURYTEL OF UPPER MICHIGAN, INC., d/b/a CENTURYLINK AND METROPOLITAN TELECOMMUNICATIONS OF MICHIGAN, INC., d/b/a METTEL (first amendment)
- U-20953 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN LDMI TELECOMMUNICATIONS, LLC, MCLEODUSA TELECOMMUNICATIONS SERVICES, LLC, PAETEC COMMUNICATIONS, LLC, TALK AMERICA, LLC, US XCHANGE OF MICHIGAN, L.L.C., WINDSTREAM KDL, LLC, WINDSTREAM NEW EDGE, LLC, WINDSTREAM NORLIGHT, LLC AND WINDSTREAM NTI, LLC AND VARIOUS AT&T INC. OWNED COMPANIES, INCLUDING AT&T MICHIGAN (first amendment)
2. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC (9-1-1 wireless, U-14000, invoice no. INV-1184 dated November 1, 2022)
3. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC (9-1-1 wireless, U-14000, invoice no. INV-1182 dated October 13, 2022)
4. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC (9-1-1 wireless, U-14000, invoice no. INV-1183 dated October 13, 2022)

- 5. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES, LLC
(9-1-1 wireless, U-14000, invoice no. INV-1186 dated November 1, 2022)
- 6. MINUTE ACTION PENINSULA FIBER NETWORK, LLC
(9-1-1 wireless, U-14000, invoice no. INV-3159 dated November 1, 2022)

B. ELECTRIC

- 1. U-21241 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.*
(proposed settlement agreement)

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

Vote: Yeas – Phillips, Peretick
Nays – None

The 2 orders and 5 minute actions were adopted.

IV. OTHER ORDERS

A. COMMUNICATIONS

- 1. U-16183 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO IMPLEMENT 2009 PA 182, MCL 484.2310
(access restructuring mechanism/final order)

Commission Staff Paul Negin, Telecommunications Division, presented a brief synopsis of the case listed above. Commissioner Peretick moved that the Commission approve the order at its November 18, 2022 meeting. Commissioner Phillips seconded that motion.

Commissioner Phillips commented:

“I would like to take time this afternoon to thank current Staff in the telecommunications division who worked on the collection and distribution of Access Restructuring Mechanism funds throughout the past 12 years, specifically Paul Negin, Ashley Warner, and Amber McGrath, who, as a CPA, played a

particularly central role in coordinating with the State Department of Treasury to ensure timely and accurate collection and dissemination of these funds. I also would like to thank Tim Witt and Shannon Hartman, who now work in other divisions at the MPSC, but were also instrumental in the management of this funding mechanism.

Your individual and collective work, as well as the efforts of your former telecommunications division colleagues, ensured the collection and distribution of over \$150 million dollars in ARM funds since 2009, and though this work sometimes went unheralded, we recognize that your due diligence and commitment to the steadfast management of these funds throughout the last 12 years ultimately provided support for rural incumbent local exchange carriers, thereby ensuring access to affordable telephone service for thousands of rural customers throughout the state.

Thank you once again, Mr. Negin, for your presentation and your teams ongoing work on telecommunications matters at the Commission.”

Vote: Yeas – Phillips, Peretick
Nays – None

The order was adopted.

B. ELECTRIC

1. U-20757 IN THE MATTER, ON THE COMMISSION’S OWN MOTION, TO REVIEW ITS RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC, INCLUDING THE STATEWIDE STATE OF EMERGENCY, AND TO PROVIDE GUIDANCE AND DIRECTION TO ENERGY AND TELECOMMUNICATIONS PROVIDERS AND OTHER STAKEHOLDERS
(interim order)

Case No. U-20757 involves a matter, on the Commission’s own motion, to review its response to COVID-19 and to provide guidance and direction moving forward. The order before you extends the deadline for the Commission Staff to file a second interim report detailing the progress and recommendations of the Energy Affordability and Accessibility Collaborative to March 17, 2023. Commissioner Peretick moved that the Commission approve the order at its November 18, 2022 meeting. Commissioner Phillips seconded that motion.

Vote: Yeas – Phillips, Peretick
Nays – None

The order was adopted.

2. U-20836 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC COMPANY FOR AUTHORITY TO INCREASE ITS RATES, AMEND ITS RATE SCHEDULES AND RULES GOVERNING THE DISTRIBUTION AND SUPPLY OF ELECTRIC ENERGY, AND FOR MISCELLANEOUS ACCOUNTING AUTHORITY

Commission Staff Jill Rusnak, Strategic Operations Division, presented a brief synopsis of the case listed above. Commissioner Peretick moved that the Commission approve the order at its November 18, 2022 meeting. Commissioner Phillips seconded that motion.

Commissioner Peretick commented:

“I, first of all want to thank our staff at the MPSC for all their diligent work on this case. This rate case set a record in Michigan for scope – there was testimony from 104 witnesses contained within 5,696 pages of transcript and 776 exhibits. The proposal for decision was itself 749 pages. It is truly a feat to accomplish this in the 10-month statutory deadline. I also want to thank the company and all the intervenors for their thoughtful contributions as well.

I want to start by addressing the amount of the revenue increase that is in the order - \$30,557,000. It is important that there is enough evidence contained in the record that there can be confidence in every project and investment to be able to approve funding. We, the Commission, are held to a standard of only approving reasonable and prudent investments. There needs to be enough evidence on the record to be able to be confident that customer money is being spent in a reasonable and prudent manner. If this confidence level isn't high enough, due to lack of support on the record in this case, I want to highlight the fact that this evidence can be presented in future rate cases and reevaluated for approval. I encourage this for projects and investments that are in the public's best interest.

I'm excited to see a new residential time of use rate, and to see pilots for some innovative and beneficial projects such as a non-wires alternative project to effectively integrate distributed energy resources into the grid, a lithium-ion battery to replace a diesel-fueled peaker plant, a pay-as-you-save financing model for electric transit buses, make-ready rebates for EV chargers, and continued residential rebates for installation of home EV chargers. I'm also excited to, in the future, see better support on the record for many other innovative pilot projects that will help Michigan with the clean energy transition and help maintain affordable rates.

I want to acknowledge the work needed on reliability for our state, and the need for investment – but reasonable and prudent investment – in the aging infrastructure. I hope that the company, MPSC Staff, and stakeholders will be able to collaboratively develop solutions in technical conferences.

I also want to acknowledge the challenges of forecasting test year sales coming out of the pandemic years of 2020 and 2021. Our residential electric usage habits have changed, and in this rate case usage must be modeled for the test year to be able to set rates. It is important to use the data that we have and find the most reasonable prediction using the evidence on the record. And the record shows that usage has remained higher than in 2019 and is unlikely to drop precipitously.

Finally, I want to acknowledge just how much work, thought, and true care my fellow commissioners have put into the decisions in this order, even if they're on the screen and can't officially vote on it

today. Both of their passion for public service and making the best decisions for the people of Michigan is abundantly evident.”

Commissioner Phillips commented:

“The three of us can not extend enough thanks and gratitude for the hard work of the MPSC team on this proceeding. This case is unprecedented in its volume and scope, and for our Staff, attorneys, and advisors, it has been all hands-on deck for many weeks now to tee up this final order for a vote this afternoon. So once again, a sincere thank you to all involved.

Now, we could spend the remainder of this afternoon speaking to important aspects of this proposed order, but I want to specifically call to the attention the elements concerning the company’s distribution system. As I have stated during previous meetings, our state is faced with the concurrent challenges of how we improve the reliability and safety of the distribution system and prepare for the further integration of electric vehicles and distributed generation, all while keeping a focus on the issue of customer affordability, equity, and access. We do not have the luxury to address these challenges in succession. Instead, we must continue to address them all simultaneously, even as external factors, whether it be inflation, supply chain constraints, federal policy, or climate change continue to dynamically change the shape and speed of all of these challenges and how they interconnect with one another.

For those distribution system proposals for which the company made timely justifications for the reasonableness and prudence of their investments, we continued to support efforts that enhance the reliability and safety of the system for customers, including continued funding for the company’s tree trimming and surge program, storm restoration efforts, and non-wires alternative pilots. The order also provides for a much-needed path forward for evaluating, funding, and increasing the transparency of the company’s plans to harden and convert its 4.8 kv distribution system.

Furthermore, the order for our vote this afternoon continues the Commission’s previous support for pilots that allow for the ongoing integration of electric vehicles, including continued rebates for residential, commercial, and DCFC chargers as well as the support for an innovative financing pilot that will allow for the further adoption of electrified transit buses. We also encourage the company in the future to expand this pilot to include electrified school buses as well.

Yes, we still have a long way to go. But the directives and language that make up today’s order are another step to building and maintaining a resilient and reliable distribution system that we know is possible and that ratepayers throughout the company’s service territory expect and deserve.”

Vote: Yeas – Phillips, Peretick
Nays – None

The order was adopted.

3. U-21225 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 REQUIRED BY MCL 460.6w

(2026/2027 planning year/interim order)

Case No. U-21225 is a matter on the Commission's own motion opening a docket for load serving entities in Michigan to file their capacity demonstrations as required by MCL 460.6w. The order before you addresses the recommendations set forth in the Commission Staff's October 20, 2022 Memorandum filed in this docket and related comments to those recommendations. Commissioner Peretick moved that the Commission approve the order at its November 18, 2022 meeting. Commissioner Phillips seconded that motion.

Vote: Yeas – Phillips, Peretick
Nays – None

The order was adopted.

4. U-21189 IN THE MATTER OF THE APPLICATION OF INDIANA MICHIGAN POWER COMPANY FOR APPROVAL OF ITS INTEGRATED RESOURCE PLAN PURSUANT TO MCL 460.6t, AVOIDED COSTS AND FOR OTHER RELIEF (interim order)

Case No. U-21189 involves an application filed by Indiana Michigan Power Company requesting approval of its integrated resource plan pursuant to MCL 460.6t and other relief. The order before you grants Indiana Michigan Power Company and the Commission Staff's joint motion requesting an extension of certain statutory deadlines set forth in MCL 460.6t(7) to allow for the consideration of a proposed settlement agreement, and provides a tentative schedule in the event that the settlement agreement is contested. Commissioner Peretick moved that the Commission approve the order at its November 18, 2022 meeting. Commissioner Phillips seconded that motion.

Vote: Yeas – Phillips, Peretick
Nays – None

The order was adopted.

V. PUBLIC COMMENTS

Steve Shults provided comments regarding the delayed construction of fiber to the home by uncleared MISS DIG locates by Consumers, Frontier, and AT&T outsourced to USIC.

Warren Henderson, President, Turnkey Network Solutions provided comments regarding the MISS Dig locates and statutes by DTE, Consumers, AT&T, and Comcast.

Chair Scripps commented:

“I did want to offer a few comments relating to the DTE Electric rate case in U-20836.

First, while I was not able to formally vote on this matter, I did want to say on the record as part of my comments that I support the order that was approved and would have voted for it. I appreciate the thoughtfulness and thoroughness of both of you during our deliberations on this case and am sorry I’m not able to be there with you today.

In terms of the substance of the order, I wanted to highlight a couple things.

First, the biggest issue in this case in terms of dollars ultimately involved sales forecasts – the amount of electricity that DTE Electric expected to sell over the time period involved in this case. After seeing electric sales surge during the pandemic, particularly among residential customers, and as noted by Commissioner Peretick, the record shows that sales actually increased again in 2021, and so ultimately, we were unable to find the company’s projection that we would see a steep decline in sales for 2022 to be reasonable.

While there are a large number of other issues in this case, the other major driver on the ultimate revenue deficiency involved the level of certainty necessary for projected costs to be included in customer rates, something that Commissioner Peretick also covered. In many cases, even including worthwhile and meritorious programs, we were unable to find it reasonable and prudent to include in rates on a forward-going basis where the evidence suggested that key details of the proposals – including the amounts to be spent, how the funds would be spent, and the level of internal approvals obtained – were still somewhat preliminary. That does not mean that we don’t find value in the company’s proposals, only that they are not sufficiently well developed to be included in rates at this time. However, as we note throughout the order, should DTE go forward in expending funds on these programs, there is nothing stopping them from seeking recovery of and on these amounts upon a showing that the amounts and purposes involved were in fact reasonable and prudent.

There is also significant discussion throughout the order relating to DTE’s efforts to address some of the reliability challenges on its distribution system. To be clear, the Commission supports efforts to improve reliability, and I would highlight elements in the order on one or more technical conferences to be held in early 2023 to gain additional insight into the company’s plans relating to grid hardening efforts, the ultimate conversion of its 4.8kV system, and other issues.

In addition, we also repeated our expectations on what would be included in future distribution plans, including that DTE should include in its next distribution plan a detailed description of its plans relating to grid hardening and conversion, reflecting both learnings from these technical conference(s) and consistent with the Commission’s expectations from the distribution plan orders.

There is also support for increased spending on strategic capital focused on improving safety reliability, but again, we want additional evidentiary support to demonstrate both that DTE can actually spend the amounts it proposed, and these funds won’t be shifted to other priorities. To that end, the Commission

is willing to consider an investment tracking mechanism proposal to ensure that the spending included in rates for strategic capital improvements – including the ultimate conversion of DTE Electric’s 4.8kV distribution grid – is spent for these purposes, and to provide greater long-term certainty on recovery of reasonable and prudent costs related to these strategic distribution grid investments.

The last thing that I want to highlight is in regard to residential batteries. This is an issue that has come up both in this case and in the last electric rate case from Consumers Energy, and in both cases, we weren’t ultimately able to approve the proposed pilot on residential batteries. I will say, though, that this is something that we want to be able to approve, and so the order includes a technical conference on this issue to hopefully identify a path forward. In my mind this is similar to the process used by the Commission several years ago in regards to electric vehicle charging infrastructure where after pilot proposals had been heavily litigated and ultimately withdrawn in some cases, there were two technical conferences held that ultimately developed some level of consensus among the intervening parties and agreement on how best to do this going forward, and Commissioner Phillips, as you’ve noted, this has led to significant investment and, I think, real innovation in how the Commission approaches approval of electric vehicle charging programs.

Finally, I agree with the thanks offered by Commissioner Phillips and Commissioner Peretick to the Staff, attorneys, advisors, and intervenors in this case. The only thing I’d add is our thanks to Judge Sharon Feldman, the Administrative Law Judge on this case. As Commissioner Peretick noted, this was a record proposal for decision at 700+ pages, and as always with Judge Feldman’s proposals, it was well researched, well supported, well argued, and well written. The 10-month statutory deadline for rate case orders imposes a significant and indeed, increasing burden on participants in rate cases, not least of which on the ALJs presiding over these cases, and I want to express the Commission’s appreciation for Judge Feldman’s continued good work.

Again, I wish I could be there with you today, I hope to be back soon, and thanks for your leadership in my absence.”

Commissioner Phillips announced:

“On November 14, the MPSC released to the public the annual Distributed Generation Report, which among other trends, highlighted the continued growth in Michigan’s distributed energy program.

Of note, the report:

- Found that the state’s distributed generation program rose by 37% in 2021, adding over 3,700 new distributed generation customers. There are now over 14,000 participating distributed generation customers throughout the state, with DG installation in every Michigan County.
- Of DG program installations, 97% are solar projects, far outpacing wind, hydroelectric, or methane digester installations.
- Additionally, at the end of 2021, the report notes that there are over 2,300 DG customers with battery storage installations for a total battery storage capacity of almost 13 megawatts.

We encourage those who are interested in reading and reviewing the full report to access the document on the MPSC website, and we once again thank Staff for all the hard work and attention to detail that is required in producing this annual report.”

A recording of the proceedings of the November 18, 2022 meeting is archived at:
https://www.michigan.gov/mpsc/0,9535,7-395-93307_93316_93317_93875---Y,00.html .

Commissioner Phillips announced that the next regularly scheduled Commission Meeting will be held on December 9, 2022 at 1:30 p.m.

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

Vote: Yeas – Phillips, Peretick
Nays – None

The motion was approved.

The meeting adjourned at 1:45 p.m.

Lisa Felice
Executive Secretary