

MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD IN ITS OFFICES AND AVAILABLE VIA MICROSOFT TEAMS VIDEO CONFERENCING ON MARCH 1, 2024.

Commission Chair Daniel C. Scripps called the meeting to order at 10:05 a.m.  
Executive Secretary Lisa Felice called the roll and declared there was a quorum.

**PRESENT**

Commission: Daniel C. Scripps, Chair  
Katherine Peretick, Commissioner  
Alessandra Carreon, Commissioner

Staff: Lisa Gold  
Matt Helms  
Lisa Felice  
Charlie Cavanaugh  
Jill Rusnak  
Ryan Wilson  
Dolores Midkiff-Powell  
Jennifer Brooks  
Brandy Quinn  
Steve Kimbrell  
Anne Armstrong  
Ryan Cook  
Kayla Gibbs  
Roger Doherty  
Sarah Mullkoff  
Laura Weir  
Paul Ausum  
Cathy Cole  
Lauren Fromm  
Ryan Boutet  
Andy Hannum  
Kyle Daymon  
Ben Johnson

Public: Heidi Myers, Consumers Energy  
Sarah Jorgensen, Consumers Energy  
Kelly Hall, Consumers Energy

Additional Staff & Public Attending Telephonically/Video Conferencing: 183 Participants

**I.** Commissioner Peretick moved to approve today’s agenda, Commissioner Carreon seconded.

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

The agenda was approved.

**II.** Commissioner Peretick moved to approve the minutes of the Regular Commission Meeting of February 8, 2024, Commissioner Carreon seconded.

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

The minutes were approved.

**III. CONSENTED ORDERS**

**A. COMMUNICATIONS**

1. U-21579 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF A MULTI-STATE INTERCONNECTION AGREEMENT BETWEEN SOUTHWEST MICHIGAN COMMUNICATIONS, INC., AND VARIOUS AT&T INC. OWNED COMPANIES, INCLUDING AT&T MICHIGAN (interconnection agreement)
2. MINUTE ACTION PENINSULA FIBER NETWORK LLC (9-1-1 wireless, U-14000, invoice no. INV-3373 dated February 1, 2024)
3. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES LLC (9-1-1 wireless, U-14000, invoice no. INV-1241 dated February 1, 2024)
4. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES LLC (9-1-1 wireless, U-14000, invoice no. INV-1242 dated February 8, 2024)

**B. ELECTRIC**

1. U-21354 IN THE MATTER OF THE APPLICATION OF INDIANA MICHIGAN POWER COMPANY TO COMMENCE A RENEWABLE ENERGY

COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2022  
(proposed settlement agreement)

2. U-21503 IN THE MATTER OF THE COMPLAINT OF AARON MOHLMAN AGAINST DTE ELECTRIC COMPANY  
(final order)

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

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

The 3 orders and 3 minute actions were adopted.

**IV. OTHER ORDERS**

**A. COMMUNICATIONS**

1. U-21368 IN THE MATTER, ON THE COMMISSION’S OWN MOTION, TO PROMULGATE RULES REQUIRED BY MCL 484.2202(1)(c)(iv)  
(rulemaking/final order)

Case No. U-21368 involves promulgation of rules governing the obligations of providers of basic local exchange service that cease to provide the service. The order before you formally adopts the rules for submission to the Michigan Office of Administrative Hearings and Rules for filing with the Secretary of State. Commissioner Peretick moved that the Commission approve the order at its March 1, 2024 meeting. Commissioner Carreon seconded that motion.

**Chair Scripps commented:**

“I wanted to thank our staff for their diligence in seeing this through. These local exchange rules would have expired at the end of this month. They typically have an expiration date included in the rules and every couple of years we need to repromulgate them to reflect changes that have taken place in the telecommunications industries. I appreciate staff moving forward to initiate the process and seeing it all the way through the Joint Committee on Administrative Rules process that wrapped up last month and allows us to take the action that we are taking today. Again, I appreciate our Telecommunications staff for their diligence and focus on these issues and I am happy to approve this.”

Vote: Yeas – Scripps, Peretick, Carreon

Nays – None

The order was adopted.

**B. ELECTRIC**

1. U-12270 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, OF THE INVESTIGATION INTO THE METHODS TO IMPROVE THE RELIABILITY OF ELECTRIC SERVICE IN MICHIGAN (interim order)
- U-16065 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO REQUIRE THE DETROIT EDISON COMPANY TO PROVIDE ELECTRIC POWER RELIABILITY INFORMATION IN ITS ANNUAL POWER QUALITY REPORT (closing docket)
- U-16066 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO REQUIRE CONSUMERS ENERGY COMPANY TO PROVIDE ELECTRIC POWER RELIABILITY INFORMATION IN ITS ANNUAL POWER QUALITY REPORT (closing docket)

Case Nos. U-12770 et al. involves a matter, on the Commission's own motion, directing the Commission Staff to collaborate with electric utilities and cooperatives to develop a dedicated form to be used in annual report filings pursuant to the Commission's rules on Service Quality and Reliability Standards for Distribution Systems and MCL 460.731. The order before you closes the dockets in Case Nos. U-16065 and U-16066. Commissioner Peretick moved that the Commission approve the order at its March 1, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

2. U-20827 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC COMPANY FOR RECONCILIATION OF ITS POWER SUPPLY COST RECOVERY PLAN (CASE NO. U-20826) FOR THE 12 MONTHS ENDED DECEMBER 31, 2021 (final order)

Case No. U-20827 involves an application filed by DTE Electric Company for approval to reconcile its power supply costs and revenues for 2021 metered jurisdictional sales of

electricity. The order before you approves the reconciliation as amended by this order. Commissioner Peretick moved that the Commission approve the order at its March 1, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

3. U-21389 IN THE MATTER OF THE APPLICATION FOR CONSUMERS ENERGY COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR THE GENERATION AND DISTRIBUTION OF ELECTRICITY AND FOR OTHER RELIEF (final decision)

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 March 1, 2024 meeting. Commissioner Carreon seconded that motion.

**Commissioner Peretick commented:**

“Thank you to all parties who participated in the case, and a special thanks to Commission Staff for all their work and expertise during these time-compressed cases. I would also like to personally give thanks to our advisor team. Our advisors combed through the issues in this case expertly, developing materials for deliberations and presenting information for commissioner decisions, and answered hundreds of our questions, digging deep into the record and working extra-long hours.

The order before us is a comprehensive order that covers many different issues, but I want to highlight just a few of the decisions.

First, I want to emphasize the importance of the investments in this order for increasing reliability of the distribution system. Improving vegetation management, focusing on decreasing the amount of time customers are experiencing outages, and piloting techniques to improve reliability and resilience are of utmost importance. Ensuring these investments go toward measurable improvement is essential.

I would also like to emphasize the review standard we are establishing for the Investment Recovery Mechanism that Ms. Rusnak described. We are temporarily approving two years of the mechanism, and after these two years we will be reviewing the measurable outcomes of the program to ensure that concerns raised by interveners to this case are addressed and whether the benefits of the IRM truly outweigh the concerns.

We are requiring a new filing for the company: the Transportation electrification plan. The goal of this separate filing is to allow for much of the planning, review, and discussion around the plan to take place outside of the 10-month rate case process. With the 4,274 pages of transcript and 628 exhibits in this case in front of us, it is increasingly more difficult for staff and intervening parties to fully evaluate and weigh in on all the issues in the time allowed. I am hoping that bringing the transportation electrification plan into a separate docket will allow time for more thorough evaluation and analysis for all parties. The investment approvals will still take place in a rate case.

And finally, I'd like to note that while approval of the 9.9% ROE and capital structure is maintaining the status quo for this rate case order, with the reduction of utility risk in stable financial environments, high rates of return become harder to justify."

**Commissioner Carreon commented:**

"Thank you, Chair, and thanks Ms. Rusnak for the great summary of today's order. I'd also like to echo Commissioner Peretick's thanks to our MPSC staff and the numerous intervenors who dedicated time, care, and expert knowledge to build a record ready for our review of reasonableness and prudence in support of today's order.

I'd actually like to start with a reference to one of the tried-and-true principles of utility regulation known as the 'used and useful' doctrine, which actually came up and was named within the record for this case, and that principle requires that assets included in rate base for recovery demonstrate tangible benefits to ratepayers. The ability to determine what is used and useful, in turn, relies on presentation of reasonable known and measurable information. So, it's worth considering, as we issue an order approving an increase in Consumers' electricity customer rates today, that we had to navigate frequent disparities between requests for protection from risk and volatility from the company, and evidence supporting historical trends of spending – or underspending – for certain operations designed or purportedly designed for or with unclear links relating specific investments to customer benefits.

In fact, in some exceptions, there was mention from the company on a zealous pursuit for the full amount requested, because "Every dollar spent quickly restoring customers' power translates into shorter outages for its customers, and they deserve no less." The trouble here is that the company cannot always or does not always demonstrate how each dollar spent or aimed to spend towards such restoration actually translates into shorter outages. These are cases where without clear and quantifiable, or "known and measurable," benefits to customers, there can be doubt cast on the justification for cost recovery, so it's incumbent upon the company to provide a complete and thorough presentation of evidence to track key metrics in the first place. This leads me to an especially critical point where the record shows the very indicators used to evaluate employee performance within the company context.

I will note here that the Commission did find it unreasonable to improve the company's proposed employee incentive compensation performance targets without a greater emphasis to improve reliability, especially when, per case record, in 2021, the company had the third highest SAIDI in the census division and the highest electricity rates compared to peer IOUs. We do direct the company to provide more "detailed information connecting performance in operational metrics to proposed incentive compensation in the next rate case" and show sufficient incentive for employees to improve operational performance or system reliability to the benefit of customers.

I would like to end reflecting on some of the potentially ensuing results of skewed incentives, including disparities in performance among different circuits across infrastructure. The Company's apparent let's say reluctance to understand cause and effect of variations actually underscores the need for comprehensive root cause analyses to uncover the underlying factors contributing to discrepancies, and to leverage what works well. Consumers noted that while for their service area "it's true that densely populated circuits tend to have better reliability, it's not clear why that is a problem that requires additional analysis." And in fact, this need not be a problem, and could even represent an opportunity for replicable practices that merit closer study. Our directives today regarding grid equity and

regression analyses aim to shed light on those interacting factors, to foster a more transparent and equitable approach to service delivery.

As Commissioner Peretick noted, there were also some concerns regarding equity assessments in relation to the Investment Recovery Mechanism we approved today, and these Intervenors expressed the need for examination of how investments might exacerbate or perpetuate racial or socioeconomic disparities in service delivery. The intervenors' inquiries informed the approach we took to evaluate future investment recovery mechanism programs by considering whether the investments were deployed equitably.

And as Ms. Rusnak summarized, our order today directs Consumers to implement several grid equity recommendations, including:

- A regression analysis with supporting data for future filings to the Commission, and
- A summary of environmental justice and equity considerations in the next rate case, with a clear explanation of how environmental justice changes impact customer rates.

We aim today to hold the company accountable in engaging interested and affected customers and communities in future distribution plans and aim to ensure procedural equity in turn leads to appropriate distributional and structural equity in the maintenance and modernization of our grid.”

**Chair Scripps commented:**

“I will echo the thanks expressed by both my colleagues, our staff, both the advisers, the RAD attorneys, the staff in the case, as well as the other intervening parties for presenting us with a robust record on which to base this decision.

First, as you would expect there is (as has been mentioned) a significant focus on reliability and the investments approved in the order before us. Specifically, I want to highlight the order’s inclusion of nearly \$119 million in funding for line clearing and vegetation management, as well as directing the company to conduct a formal optimization analysis of line clearing cycles to build on this work.

In addition, the order approves prefunding the first year of costs related to a pilot program to relocate overhead distribution lines underground to better understand how this undergrounding compares to other approaches to improving reliability. There is also increased funding for information technology investments related to managing storm restoration work, and significant funding for capital investments, including, as Commissioner Peretick noted, partial approval for the first two years of a distribution capital investment recovery mechanism related to baseline investments needed to improving reliability. This is a good thing.

The Commission continues to be focused across a range of proceedings, investigations, audits, and other efforts to improve the reliability of the utility’s distribution systems, and the investments included in this order should provide need funding to continue to reduce the frequency and duration of outages. I also want to express my appreciation for the work done by Consumers on this issue, including everyone in the organization – from the line workers to those involved in distribution planning. We certainly still have a long way to go. I think the investments here, as

well as the work in some of the other proceedings, give us a road map to how to get to where we need to be.

As part of that effort, however, the Commission strongly encourages Consumers to revisit its approach to incentive compensation to ensure that it too reflects this priority on reliability and operational performance. Currently, while not all incentive compensation has included in rates paid for by customers, as Commissioner Carreon noted, just 5% of officer incentive compensation is tied to meeting identified reliability metrics, and even these don't necessarily reflect the level of ambition that we would like to see, while 70% is tied to financial performance. I certainly don't dispute the importance of a financially healthy utility, but when meeting financial metrics count for 16 times as much as meeting reliability metrics, something is clearly out of whack. I encourage the company to take a serious look at its incentive compensation package to ensure that it fully and accurately reflects the priorities of its customers around improved reliability.

In addition, the forward test year construct provides certainty for the company in following through on planned investments. In past cases, and in this one, we have wanted to see evidence that the funds would indeed be spent in the way that they were intended, including requiring appropriate sign off from the responsible corporate official, a full presentation of costs, and to ensure that the evidence suggests that there is, in fact, a clear line of sight between the cost sought for pre-approval and where the investments would be made. Where this evidence has been inadequate, we have denied pre-recovery for some of those costs which, of course, does not preclude the ability of the utility to seek recovery for reasonable and prudent capital investments in future cases. However, I want to speak to a larger concern and that is even where we have seen full evidence and appropriate sign off, we have not always seen the cost followed through. In service centers, for example, the company spent just a fraction of what had already been collected from customers. While the Commission is barred from making management decisions on behalf of company and indeed believes that some level of flexibility is important, where we see repeated instances where dollars collected in a forward test year environment from customers are not spent on the elements for which they were approved, we believe that this ultimately reflects an abuse of the forward test construct and would like to see a greater tie between those investments specifically approved for specific projects and the ultimate investments made. I would like to note that this is not just a Consumers Energy issue, but one that we have also seen from DTE as well.

Finally, I would echo the comments made by Commissioner Peretick around the long-term outlook on the return on equity. It needs to be risk-adjusted. In this order we maintain the 9.90% ROE given the interest rate environment and some continued turbulence around inflation, but as the investments, including through the investment recovery mechanism and other elements along with longer term certainty around that was provided by the recently enacted legislation continuing to consider a risk-adjusted ROE will be a priority of the Commission going forward.”

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

The order was adopted.



4. U-21548 IN THE MATTER OF THE APPLICATION OF ALPENA POWER COMPANY TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2023  
(order assigning dockets)
- U-21549 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, 2023
- U-21550 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC COMPANY TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2023
- U-21551 IN THE MATTER OF THE APPLICATION OF INDIANA MICHIGAN POWER COMPANY TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2023
- U-21552 IN THE MATTER OF THE APPLICATION OF NORTHERN STATES POWER COMPANY TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2023
- U-21553 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, 2023
- U-21554 IN THE MATTER OF THE APPLICATION OF UPPER MICHIGAN ENERGY RESOURCES CORPORATION TO COMMENCE A RENEWABLE ENERGY COST RECONCILIATION PROCEEDING FOR THE 12-MONTH PERIOD ENDED DECEMBER 31, 2023

Case Nos. U-21548 *et al.* involve renewable energy cost reconciliation proceedings for the year ended 2023. The order before you establishes docket numbers and sets filing deadlines for each rate-regulated electric provider in Michigan subject to MCL 460.1049(1). Commissioner Peretick moved that the Commission approve the order at its March 1, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

## V. PUBLIC COMMENTS

Adam Chaczyk, Stirling Heights, followed up regarding his previous concerns regarding contacting DTE during power outages and the distribution of restoration information provided by DTE.

### **Chair Scripps announced:**

“On March 4<sup>th</sup>, we will be having a public hearing related to our efforts to implement the recently enacted legislation in Detroit. That public hearing will take place from 6:00-8:00 p.m. at Cass Tech High School. There are additional details on the web at: [www.Michigan.gov/mpsc](http://www.Michigan.gov/mpsc) in terms of how to participate. It is one of a number of public hearings that we will be holding around the state this year, and particularly one of a number of public hearings related to two elements of our legislative implementation activities. This one is broad-based, focusing on the range of orders that we issued at the February 8<sup>th</sup> meeting around implementation activities. Others will be more narrowly focused on one or another of the specific elements included in the legislation. We would love to hear from any who would like to provide comment and participate in the public hearing. Again, this coming Monday from 6:00-8:00 p.m. at Cass Tech in Detroit.

A recording of the proceedings of the March 1, 2024 meeting is archived at: [https://www.youtube.com/watch?v=7N1N\\_312K6A](https://www.youtube.com/watch?v=7N1N_312K6A) .

Chair Scripps announced that the next regularly scheduled Commission Meeting will be held on Friday, March 15, 2024 at 10:00 a.m.

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

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

The motion was approved.

The meeting adjourned at 10:40 a.m.

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Lisa Felice  
Executive Secretary