

MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD IN ITS OFFICES AND AVAILABLE VIA MICROSOFT TEAMS VIDEO CONFERENCING ON JULY 2, 2024.

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

Staff: Leah Arendt
Matt Helms
Lisa Felice
Blair Renfro
Kuma Okoro
Corey Osier
Anne Armstrong
Andy Hannum
Kyle Daymon
Ben Johnson
Meagan Emmons
Al Freeman
Kayla Gibbs
Cathy Cole
Dolores Midkiff-Powell
Mike Byrne
Karsten Szajner

Public: Heidi Myers, Consumers Energy

Additional Staff & Public Attending Telephonically/Video Conferencing: 158 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 June 6, 2024, Commissioner Carreon seconded.

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

The minutes were approved.

III. CONSENTED ORDERS

A. COMMUNICATIONS

1. U-21076 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF A MULTI-STATE WIRELESS AGREEMENT BETWEEN DISH WIRELESS, LLC AND VARIOUS AT&T INC. OWNED COMPANIES, INCLUDING AT&T MICHIGAN (first amendment)
- U-21641 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF AT&T MICHIGAN AND FIRST COMMUNICATIONS, LLC INTERCONNECTION AGREEMENT (interconnection agreement)
- U-21660 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF A MULTI-STATE INTERCONNECTION AGREEMENT BETWEEN EARTHGRID PBC AND VARIOUS AT&T INC. OWNED COMPANIES, INCLUDING AT&T MICHIGAN (request to withdraw)
- U-21664 IN THE MATTER OF THE JOINT REQUEST FOR COMMISSION APPROVAL OF THE AGREEMENT FOR LOCAL WIRELINE NETWORK INTERCONNECTION AND TRAFFIC EXCHANGE BETWEEN CARR TELEPHONE COMPANY AND LEVEL 3 COMMUNICATIONS, LLC (interconnection agreement)

2. MINUTE ACTION METRO ACT (amending tax credit determination report)

3. MINUTE ACTION AT&T (9-1-1 wireless, U-14000, invoice no. 517 R41-0001 067 9 dated June 1, 2024)

4. MINUTE ACTION PENINSULA FIBER NETWORK LLC (9-1-1 wireless, U-14000, invoice no. INV-3459 dated June 1, 2024)

5. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES LLC
(9-1-1 wireless, U-14000, invoice no. INV-1252 dated June 1, 2024)
6. MINUTE ACTION PENINSULA FIBER NETWORK NEXT GENERATION SERVICES LLC
(9-1-1 wireless, U-14000, invoice no. INV-1253 dated June 17, 2024)

B. ELECTRIC

1. U-21352 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, 2022
(proposed settlement agreement)
2. 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
(proposed settlement agreement)

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 5 minute actions were adopted.

IV. OTHER ORDERS

A. COMMUNICATIONS

1. U-21625 IN THE MATTER OF THE APPLICATION OF AT&T ENTERPRISES, INC. FOR A PERMANENT AND TEMPORARY LICENSE TO PROVIDE BASIC LOCAL EXCHANGE SERVICES IN THE STATE OF MICHIGAN IN THE AREAS SERVED BY AT&T CORP.
(final order)

Case No. U-21625 involves an application filed by AT&T Enterprises, LLC f/k/a AT&T Enterprises, Inc., for a permanent license to provide basic local exchange service. The order before

you grants the license. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

B. ELECTRIC

1. U-17377 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO IMPLEMENT THE PROVISIONS OF 2013 PA 95 (proposed low-income energy assistance funding factor/opportunity to comment)

Case No. U-17377 involves setting the Low-Income Energy Assistance Fund factor. The order before you establishes a deadline for the filing of comments on the proposed factor by 5:00 p.m. (Eastern time) on July 15, 2024. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

Chair Scripps commented:

“Before we vote on the order before us, I’d like to note that after receiving information on participation from investor-owned electric utilities, cooperative electric utilities, and municipally-owned electric utilities, we are proposing a funding factor of 87 cents, which is down a penny from the current monthly charge. Last year, this modest amount of funding helped 56,948 Michigan households who were struggling with their energy bills – not just electricity, but also natural gas, and even propane and other delivered fuels. I’d also note that, under the law, those utilities that chose to not to participate are not allowed to shut off service to any residential customer from Nov. 1 to April 15 for nonpayment of a delinquent account. In addition, state law requires that funds need to be returned to the regions of the state from which they were collected, to the extent possible.

I want to express my appreciation to the many groups and individuals who use the available funding to help struggling Michiganders all across our state, including our network of non-profit service agencies who provide assistance under the Michigan Energy Assistance Program, or MEAP, and the MEAP section and broader Consumer Assistance Division here at the Commission for their work, including the quick turnaround from when this information was required to be filed – literally yesterday at 5:00 p.m. – to calculate the proposed funding factor and provide an opportunity for public comment under the statutory timelines set by the Legislature.”

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

The order was adopted.

2. U-21172 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, REGARDING THE REGULATORY REVIEWS, REVISIONS, DETERMINATION AND/OR APPROVALS NECESSARY FOR DTE ELECTRIC COMPANY TO COMPLY WITH SECTION 61 OF 2016 PA 342
(petitions for rehearing/partial settlement agreement)

Case No. U-21172 involves an application filed by DTE Electric Company requesting approval of its voluntary green pricing program. The order before you denies the respective petitions for rehearing filed by the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United and Soulardarity and We Want Green, Too and approves a partial settlement agreement that resolves all issues in this docket. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

3. U-21461 IN THE MATTER OF THE APPLICATION OF INDIANA MICHIGAN POWER COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR THE SALE OF ELECTRIC ENERGY AND OTHER RELATED MATTER
(final decision)

Commission Staff Kayla Gibbs, Commissioner Advisor, presented a brief synopsis of the case listed above. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

Commissioner Carreon commented:

“First, I want to thank the many individuals who contributed significant time, effort, and expertise to this case. Thanks to all the parties who intervened and bolstered the evidentiary record to supply a diversity of perspectives for the Commission’s consideration; to Administrative Law Judge Katherine Talbot who presided over this case and issued a very clear and comprehensive proposal for decision; and to all our MPSC Staff, Advisors, and Attorneys who provided their extremely knowledgeable and skillful support and analysis while also fulfilling numerous concurrent responsibilities and obligations at the Commission in service of the Michigan public.

My comments on this case revolve around two interacting themes: adherence to standards and management of expectations.

I'll address standards first. There are certain standards an applicant company must follow when filing a rate case to substantiate claims adequately. The Commission must determine whether the utility proved its case in justifying its requested expenditure recovery or proposals as being just and reasonable through the preponderance of the evidence standard. The utility has a distinct burden of proof unlike other parties in the case and must support each element of its application rigorously. This means, contrary to any company notion that compliance with rate case filing requirements alone may satisfy the burden of proof, doing so as a bare minimum is not, in fact, adequate in fulfilling this burden or demonstrating reasonableness and prudence of expenditures, nor meets the legal standard for our rate cases. As rate case filing requirements are, after all, just that – requirements – they are necessary, but not sufficient.

An example of misapplying this standard can be seen where the company attempted to substitute projects canceled from its original evidentiary filing with new ones without adequate justification, hindering the Commission's ability to evaluate their reasonableness and prudence. Proposed capital expenditures must be supported by detailed and current documentation to be made in the year for which the utility projects spending to occur; and where projects proposed in direct evidence will no longer occur, or will occur against different timelines or costs, the Commission cannot consider the direct evidence still competent and substantial. The same evaluation barriers may result from attempted use of blanket order funds, for example, that are set aside for needs that have not been identified or that lack descriptions, benefits to customers, or identified costs.

When thorough and adequately supported information is not provided upfront, intervenors like Staff may (and did) find themselves completing multiple rounds of audit to understand projected costs, at times receiving contradictory information and no clear details of how the projected costs would be spent.

Data accessibility and transparency underpin the ability to meet these standards. The Commission continues to emphasize that data be provided in non-proprietary formats to ensure all parties can effectively analyze submitted data.

The second theme, managing expectations, underscores the Commission's role in evaluating rate case applications impartially. Based on company comments made throughout this case, it merits reiterating the role of the Commission in evaluating a rate case application, which is governed by Statute.

The Commission's primary responsibility is to ensure rates are just and reasonable; it has no duty guaranteeing the financial health of an IOU – as the company asserts – nor supporting what the utility has self-ascribed as a core function through economic development. This reminder reinforces that the IOU must provide sufficient evidence to support its financial claims, ensuring that the Commission can evaluate the reasonableness and prudence of all expenditures and projections presented. The Commission remains focused on fair and reasonable rate determinations while holding the IOU accountable for providing transparent and credible evidence. A utility may not expect that the Commission de-risk its financial health, and present evidence that is mystifyingly difficult to decipher, is not transparent, or does not meet standards. The company must proffer complete data on the record for all parties' and the Commission's evaluation, else there is no way to assess reasonableness and prudence of submitted proposals or cost recovery requests and their benefits to Michigan customers.

Finally, I would like to point out a couple of directives from this order that demonstrate collaborative progress in state-wide initiatives across electric provider programs: First, as Mrs. Gibbs noted, we ordered that I&M file a comprehensive transportation electrification plan, including a benefit/cost analysis. This directive strives for greater engagement, planning, and forecasting around EV adoption and needed charging infrastructure for EV drivers and passengers. Second, I strongly support I&M's parent company's pursuit of federal grant funds for Advanced Distribution Management System software integration with distributed energy resource management systems, or DERMS. Accordingly, we look forward to having questions related to DERMS cost allocation topics addressed in the MPSC's ongoing demand response aggregation work group. These initiatives all aim to meet evolving customer needs and deliver benefits to customers in Michigan more effectively."

Commissioner Peretick commented:

"I'd just like to note one correction to Ms. Gibbs' excellent presentation: the rate increase presented in the order before us is for \$17.3 million.

First, like to thank the MPSC staff for their excellent work on this case and for their expert testimony on the record, and to our advisors for their countless hours preparing and providing advice and guidance. I'd also like to give a special thanks to Administrative Law Judge Katherine Talbot for her very well-written and thorough proposal for decision.

The order before us, as described by Ms. Gibbs, lays out our reasoning and decisions for the approvals in this rate case. Unfortunately, many of these decisions were difficult to make due to the quality of information on the record submitted by the company. Accessibility and transparency of information is crucial. It is necessary for staff, intervenors, and ultimately us as the Commission to have a full and robust record to be able to make informed decisions that are in the best interests of I&M's customers.

There were many times as we were deliberating this case that we found ourselves lacking the information necessary. We have included directives throughout this order to improve the quality of data, transparency of calculations and models, and qualitative robust support.

I would also like to express my disappointment in the way I&M recategorized their employee incentive pay tied to financial performance, which has been consistently disallowed in case after case, from O&M to capital in an effort to circumvent their last order. The order before us disallows all these costs within our legal ability.

Planning for the future of our electrical system is more important now than ever before, and as a result the order before us requires the I&M to submit its first transportation electrification plan. I'm looking forward to receiving this and ensuring we have enough capacity in the right locations to be able to serve our changing grid.

The \$17.3 million rate increase in the order before us will provide funds for needed reliability investments, pay for new generation projects as approved in the company's integrated resource plan, and provide initial funding for relicensing of the Cook Nuclear Plant, all things necessary to providing safe, accessible, and reliable electricity service."

Chair Scripps commented:

“I’d also like to make a few comments before we vote on the order before us.

First, I’d echo my colleagues’ appreciation for the work done on this case by the range of intervening parties, our attorneys, and advisors, and, as noted, particularly to Judge Katherine Talbot, the presiding Administrative Law Judge in this proceeding, for her efforts both in running a smooth process and for producing a well-written, well-documented, well-supported Proposal for Decision.

In addition, as both of my colleagues noted, there was a lot of debate in the testimony about the level of detail needed to justify the company’s proposed investments and other spending. Under Michigan law, the Commission may – but is not required to – allow utilities to make use of a projected test year. We have approved the use of projected test years in previous cases and did so again in this case.

However, to ensure that the use of a projected test year truly serves the interests of customers, the Commission needs to ensure several elements are met. First, is the underlying question of whether the proposed investments or spending are reasonable and prudent. This is the same test we use in evaluating historical spending, looking to see whether there is a solid rationale for the spending, as well as whether the proposed cost is appropriate.

But for future investments and spending that a utility proposes to include in a projected test year, the Commission also needs some degree of confidence that the funds approved for inclusion in customer rates on a going-forward basis will ultimately be spent, and spent in the manner proposed by the company, and which the Commission has determined are in fact reasonable and prudent. In making this determination we look at whether the projected costs are well supported, as opposed to being mere estimates or placeholders; whether the proposed projects have the necessary internal approvals that make them more likely to go forward; and whether the projected spending will, in fact, take place during the projected test year, among other elements.

As noted, in a number of cases, this level of evidentiary support was missing in the current case. That doesn’t necessarily mean that the projects are unreasonable, or that I&M wouldn’t be able to recover capital investments after the fact upon a showing of reasonableness and prudence. But it does mean that these projected costs are not eligible to be included in customer rates at this time, largely because of uncertainty of whether the proposed projects will happen, or when they will happen, based on the deficiencies in the record. I would hope to see a fuller evidentiary record to support projects in future cases if the company hopes to include them in rates as part of a projected test year.

And as Commissioner Peretick noted, more concerning to me was the company’s approach to incentive compensation tied to the utility’s financial performance, as opposed to core operational metrics around reliability and safety. In the company’s last case, the Commission disallowed all incentive compensation tied to financial metrics, consistent with our approach in any number of other rate case proceedings going back many years. You would think that this message would have been received. You would be wrong.

Instead, as Commissioner Peretick noted, I&M “recategorized” – or used what I would call an accounting gimmick – to change how this incentive compensation was treated, switching it from an

expense under operations and maintenance to a capitalized investment and simply hoped we wouldn't notice.

That stinks.

Under the regulatory compact that has existed for more than a century, we entrust investor-owned utilities to provide a critical service to their customers and allow them to earn a reasonable profit in doing so. When the utility mindset shifts instead to asking, "What can we get away with?" Dark days are ahead.

At one point in the testimony, a witness for the Attorney General, trying to determine an appropriate amount of revenue to be charged to customers, acknowledged that they couldn't be exact, but offered that the company deserved the benefit of the doubt. Instances like this one very much call into question whether the benefit of the doubt is, in fact, deserved.

We've seen over the last several years a not insignificant number of scandals involving utility companies – including I&M's parent company – where utilities played games with their regulators and played fast and loose with the rules.

I strongly encourage the company to do better in maintaining the confidence of their customers and the public trust that is perhaps the most valuable commodity of all underlying the role these companies perform in providing the most essential of essential services."

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

The order was adopted.

4. U-21627 IN THE MATTER, ON THE COMMISSION'S OWN MOTION, TO UPDATE THE ENERGY WASTE REDUCTION PLAN INSTRUCTIONS AND FORMS FOR SELF-DIRECTED CUSTOMERS PURSUANT TO MCL 460.1093 (final order)

Case No. U-21627 involves a matter, on the Commission's own motion, to update the energy waste reduction plan instructions and forms pursuant to MCL 460.1093. The order before you approves the revised forms and instructions. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

5. U-21637 IN THE MATTER, ON THE COMMISSION’S OWN MOTION, TO INVESTIGATE OPPORTUNITIES FOR IMPROVING THE PROCESS BY WHICH IT REVIEWS APPLICATIONS FILED UNDER MCL 460.6a
(request to extend comment deadline/interim order)

Case No. U-21637 involves a matter, on the Commission’s own motion, to investigate opportunities for improving the process by which the Commission reviews rate case applications. The order before you extends the period for filing initial and reply comments. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

C. GAS

1. U-21331 IN THE MATTER OF THE APPLICATION OF DTE GAS COMPANY FOR APPROVAL OF A ONE-TIME VOLUNTARY REFUND OF REVENUE
(final order)

Case No. U-21331 involves an application filed by DTE Gas Company for approval of a one-time voluntary refund of revenue. The order before you acknowledges DTE Gas Company’s compliance with the refund method approved in the Commission’s April 13, 2023 order in this case and closes the docket in this proceeding. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

2. U-21589 IN THE MATTER OF THE APPLICATION OF CONSUMERS ENERGY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE THE PIPELINES FOR THE LYON 29/34 PROJECT
(*ex parte*/final order)

Case No. U-21589 involves an application filed by Consumers Energy Company for *ex parte* approval to construct and operate the proposed Lyon 29 Well Line and 5050 Line, consisting of 12-inch and 16-inch natural gas pipelines, and a proposed extension of the 29/34 Line, which is an existing 12-inch natural gas pipeline, in the Lyon 29 and Lyon 34 storage fields. The order before you approves the application and makes the required agency findings regarding the project's environmental impact. Commissioner Peretick moved that the Commission approve the order at its July 2, 2024 meeting. Commissioner Carreon seconded that motion.

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

The order was adopted.

V. PUBLIC COMMENTS

Arthur Seagull, Beverly Hills, commented on climate change and severe storms. He requests that the Commission hold utilities accountable for their restoration efforts.

Chair Scripps announced:

“On June 24, we released our annual Summer Energy Outlook, which showed that Michiganders can expect slightly lower costs for gasoline, natural gas, diesel fuel, and home heating oil this summer, but some customers will likely see an increase in electricity costs, driven both by higher rates and increased sales.

Residential electricity demand is expected to rise this summer, while home demand for natural gas is expected to decline, though gas for use in electricity generation is likely to increase, were some of the findings of that annual summer energy forecast which, again, was released June 24.

I'd note that energy assistance information is available through the MPSC's energy assistance consumer tip sheet. Utility customers can also help reduce their costs by using energy efficiently and the MPSC's consumer tips on beating the heat also has suggestions on how to do exactly that. We also have a link on our website to the U.S. Department of Energy's spring and summer tips for saving energy, and all of that information – the summer outlook, our tip sheets, and the DOE's tips – are available on the Commission's website, which is www.Michigan.gov/mpsc .”

Commissioner Carreon announced:

“To follow up on the Chair's announcements, I wanted to raise some helpful pointers that we shared recently through various State news releases and information outlets, including last week's MPSC Spotlight, which is our monthly newsletter. Given the recent heat wave here in Michigan at the end of June (which feels like a distant memory with today's weather), I wanted to make sure the public is

aware of some of the tips we have communicated to help people keep comfortable and safe while considering energy costs.

First, we want to prioritize public safety. Anyone in need of immediate assistance when temperatures increase significantly can seek out local government cooling centers or another publicly available place that's air-conditioned. As was noted earlier, considering our changing climate and the more frequent incidence of these extreme heat waves, it's crucial to have a plan for any emergent cooling needs that people may not be able to address or perhaps afford while at their own home.

As for additional steps to consider, there are a few I'd like to remind people about that help save energy at high temps — these include turning up the temperature on your own home air conditioning (AC) just a few degrees while still ensuring your comfort, using zoned AC when possible to cool only the spaces you are occupying, making sure your windows are closed when your AC is on, doing laundry or running the dishwasher during morning or late evening hours, or limiting use of the hot oven. These steps can all help make sure there's a balance between ensuring everyone has enough electricity during periods of high energy demand and, above all, keeping everyone safe. Furthermore, the state's two largest electric utilities, DTE Electric and Consumers Energy, institute higher rates during summertime peak weekday hours, so customers who use energy-intensive appliances during morning or late evening hours may end up paying less to use them.

The MPSC also maintains a "Beat the Heat and Save" tip sheet that has information on how to help keep your home cooler and take steps to minimize the impact on your energy bills. These tips and other resources are available on the MPSC website, so make sure to look for these resources online as you are able.

Finally, please remember to check in on your vulnerable relatives and neighbors during periods of intense heat, so we can all help take care of each other."

A recording of the proceedings of the July 2, 2024 meeting is archived at:
<https://www.youtube.com/watch?v=CWhgMU4Q1t0> .

Chair Scripps announced that the next regularly scheduled Commission Meeting will be held on July 23, 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 1:41 p.m.

Lisa Felice
Executive Secretary