

Statement of Sally A. Talberg  
Chairman, Michigan Public Service Commission  
Testimony Before the Michigan House Energy Policy Committee  
September 19, 2017

Good morning Chairman Glenn, Vice Chairs Hauck and Lasinski, and members of the Committee. My name is Sally Talberg and I serve as chairman of the Michigan Public Service Commission. The purpose of my testimony is to provide an overview of the Commission's decision last Friday to establish the capacity demonstration requirements for electric providers pursuant to Section 6w of Public Act 341 in MPSC case U-18197. I am also available to take questions.

Section 6w of PA 341 was passed by the Legislature and signed by the Governor to enhance the reliability of Michigan's electric grid, specifically by requiring all electric providers to secure sufficient supplies of electric capacity to serve their anticipated customer needs four years in advance. I have worked in utility regulation and energy policy for nearly 20 years -- including on the staff at two public service commissions -- and this is one of the most controversial and complex topics I have encountered during my tenure.

Our September 15 order clarified the requirements and process for each electric provider to make these so-called "capacity demonstrations" to the Commission. The Commission is providing **flexibility** for electricity providers to use a broad range of options to meet the requirements such as new or existing

generation, purchased power contracts, and new or existing energy waste reduction or demand response programs. Capacity supplies can be sourced from out of state but the electric provider must own or have contractual rights to the supply as mandated by the law. This will improve **reliability** because capacity at the state and regional level will actually be secured in advance, whether by taking advantage of excess supply that exists today or investing in new resources. This approach is also **cost effective** because the electric supplier is in the best position to pursue the lowest-cost options to meet its customers' needs in a reliable manner and to manage the risk of importing capacity supplies from out of state. Unlike approaches in some states that provide incentives or subsidies to specific types of generation in an attempt to protect reliability or meet other policy objectives, Michigan's approach is "**fuel neutral.**" That is, electric providers know their capacity requirement four years into the future and the provider – not the state – determines what fuel or combination of fuels to use, potentially taking into account factors such as reliability, fuel diversity, plant performance, cost, environmental impact, and risk.

Due to fluctuations in customer demand and availability of resources that may occur over the four-year period, the Commission is also allowing electric providers to plan on up to 5% of their capacity portfolio to be acquired through the annual capacity auction of the regional grid operator, MISO. This auction serves as a

clearinghouse to buy and sell capacity for the upcoming summer. Based on MISO's data, this 5% amount is consistent with the historical use of the auction in Michigan at the aggregate level. In the first year, due to the overlap with the MISO auction and the Commission's timeline to review capacity filings, electric providers can purchase 100% of their capacity through the auction. This helps achieve consistency with the federal requirements as well.

The Commission affirmed its legal authority under Section 6w to apply a local clearing requirement, or LCR, to individual electric providers but it does not impose such a requirement for planning years 2018-2021. This issue has generated a lot of attention and the Commission carefully considered the law in its entirety and the diverse viewpoints and legal arguments from stakeholders. The LCR was **NOT** "removed" from the law. What was removed from the Senate version of the legislation was the **specific methodology** for determining and allocating the LCR among electric providers. I have distributed a copy of Section 6w for your reference. The Commission considered each and every provision in the law and how these provisions work together as a cohesive framework.

- The law explicitly defines the local clearing requirement and the Commission's role in setting it (see subsection 12(d)). See page 4.

- Subsections 8, 8(b), and 8(c) discuss the Commission's role in determining the LCR as part of the capacity obligations for electric providers and obtaining related technical assistance from MISO. See pages 2-3.
- Stakeholders have referenced specific sections of the law to support their arguments. The Commission sought to give meaning to each and every provision. For example, in order to agree with the statement that the LCR was removed from the law, you would have to assume that the Legislature and the Governor intended to apply the LCR *only* to nonprofit utilities - municipally owned and electric cooperatives. A more reasonable interpretation of Section 6w(8)(b) is that the law was providing additional flexibility for these small nonprofit utilities to aggregate their supplies to meet their individual local clearing requirement.

Bottom line: The Commission believes its decision is expressly authorized by the law. We are well aware that we are a creature of statute and only have the powers granted by the Legislature.

Notwithstanding this legal authority, the collaborative process over the past few months did not produce the kind of information necessary for the Commission to reasonably determine how to design and allocate the locational requirement and ensure consistency with federal requirements. Allocating the LCR based on each electric provider's proportional share of their customers' demand is easy to

calculate but this was the methodology that was **removed** from the legislation, and the Commission has been very clear that such approach would not be equitable, reasonable, could lead to over-procurement of power supplies (thereby increasing costs), and would give incumbent utilities like DTE Energy and Consumers Energy a distinct advantage. See page 38 of the Commission’s September 15 order. The Commission remains interested in an “incremental approach” in which you forecast the incremental supplies that would be needed to meet MISO’s local clearing requirement over time and assign that among all providers. It would be a fraction of a “proportional share” approach but avoid potential over-procurement of supplies. Yet the details were not fleshed out and the Commission did not believe it should be calculated by Staff in a vacuum. Rather, the Commission seeks to obtain clarity through a formal hearing process to determine the proper methodology and allocation of a locational requirement. This location requirement would apply in 2022. During this transition, the Commission finds that homes and businesses should have adequate electricity supplies under the law’s pro-active approach to reliability.

The Commission recognizes that ensuring resource adequacy—having enough resources over the long term to meet electricity demand at peak times—involves both state and federal regulators, and is implementing the provisions of Section 6w with a commitment to maintaining consistency with federal resource adequacy

requirements. In setting capacity obligations and establishing a capacity demonstration process as mandated by the new law, the Commission does not seek to supplant or replace the well-established MISO auction process, but instead to complement MISO's approach by ensuring all electric providers, including investor-owned utilities, electric cooperatives, municipal utilities, and alternative energy suppliers, contribute to reliability. Further, the Commission's implementation of the law will allow the **electric choice programs to continue to be viable and ensure that all providers are contributing toward long-term reliability**. We intend to continue to work toward maintaining electric reliability in a consistent and cost-effective manner. When we have an open and transparent process that allows all voices to be heard and considered, and we follow the letter of the law, we are confident that we will be dutifully serving the people of this state.

The Commission greatly appreciates the technical assistance from MISO, which has been working closely with the Commission and our staff for years to find a reasonable solution to the resource adequacy challenges presented by Michigan's hybrid market structure. I also want to acknowledge our dedicated MPSC staff who worked with diverse stakeholders to find common ground and present options for the Commission on this complex topic.

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