

Additional Question 4: What time period is allowed for rate case decisions in Michigan and in other jurisdictions.

Additional Question 5: What has been Michigan's experience with the self-implementation of rates?

Additional Question 6: Do other jurisdictions have (or have had) a policy of self-implementation to reduce "regulatory lag"? How are they similar or different from Michigan's, in design and effect?

Executive Summary

1. In utility ratemaking, there is an inherent time lag between when the utility makes new investments or increases its costs and when it recovers those costs in rates. Numerous states have instituted and explored various approaches to limit regulatory lag in order to create a more efficient regulatory process and encourage electric reliability investments.
 2. Under PA 286 of 2008, final decisions in utility rate cases must be issued within one year from the date of a completed or amended application. While the MPSC has a full year to issue a decision, utilities may self-implement the proposed rates within 180 days after filing, subject to refunds based on MPSC's final decision. For good cause, the MPSC may issue a temporary order preventing or delaying the self-implementation of proposed rates.
 3. Since the passage of PA 286 in Michigan, 20 rates cases were completed with the issuance of a final order by the MPSC. Based on these cases, the length of time between the rate case filing and a commission decision has been an average of 9.2 months. This is compared to an average duration of 9.0 months nationwide. The average duration of a rate case in Michigan that was fully litigated (not settled by the parties) was 11.4 months.
 4. Twenty-one rate cases were filed in Michigan between 2008 and 2012 (one case is pending) and, of these, utilities self-implemented rates in 13. Self-implementation was utilized in every case that was not ultimately settled by the parties. Self-implementation has avoided the extensive litigation that existed under the "interim rate" structure that preceded PA 286. The self-implementation provision can help reduce regulatory lag but, in and of itself, does not eliminate it.
 5. Of the 50 states and District of Columbia, there are 45 that have some form of interim process for rate increases. Of the 45 states, 9 allow for interim increases on a fairly regular basis. This is one approach to address regulatory lag.
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- 1. In utility ratemaking, there is an inherent lag between the time the utility makes new investments or increases its costs and the time when it recovers costs in rates. Numerous states have instituted and explored various approaches to limit regulatory lag in order to create a more efficient regulatory process and encourage electric reliability investments.**

"Regulatory lag" is due in part to the formal contested case processes used to review and approve rate cases and the complexity of the issues and volume of information prepared and under regulatory scrutiny. Moreover, in some states, rates are set based on historical costs and usage, not forecasted amounts. Using historical information increases the regulatory lag because utilities need to wait to prepare the filing until the historical costs are known. The overall lag can be significant given the time needed to prepare the rate cases and go through administrative proceedings. Lag can have a greater impact on the utility's financials and impair its ability to earn its authorized return on investments when: (1) utility sales are steady or declining as experienced with the prolonged

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recession; (2) utilities are making major capital investments (e.g., for improved reliability, construction of a new power plant, or installation of major environmental controls); and (3) when regulatory processes are inefficient and result in protracted legal proceedings. Some lag is unavoidable in the process, and economic theory suggests that it can help constrain utility costs and spending.¹ But as noted by a researcher at the National Regulatory Research Institute:

Regulatory lag is a less-than-ideal method, however, for rewarding an efficient, and penalizing an inefficient, utility. Some of the additional costs could fall outside the control of a utility (e.g., increase in the price of materials). Any cost declines might not correlate with a more managerially efficient utility (e.g., deflationary conditions in the general economy).²

This conclusion is bolstered by the findings documented in Overall Question 2–Structural Drivers of Electric Rates, which shows that electric rates are driven primarily by geographic and structural factors including consumption, access to fuel sources, and generation fuel mix. These factors, particularly declining load, along with capital investments to provide clean, reliable energy, were the major drivers of Michigan's recent rate increases. Lower operating costs and cost of capital have helped mitigate rate increases as discussed further in Additional Question 14.

There is general consensus that excessive lag should be avoided as it can discourage needed investments and increase administrative costs. As noted by utility regulatory expert Dr. Karl McDermott, the regulatory process can affect utility risk and financing costs, which can translate to lower rates for customers. He explains:

To the extent that the capital markets look favorably on this regulatory process, the benefits would manifest themselves in a lower cost of capital over time, and therefore, lower rates for customers.³

Accordingly, state regulators have spent considerable effort over the decades to design and implement efficient and responsive regulatory processes with the goal of protecting the public interest while affording utilities the opportunity to recover costs and earn a fair and reasonable return on essential investments. To address regulatory lag, various ratemaking tools have been used by states including pre-approval of new major investments such as power plants, riders to pass through certain types of expenditures (without undergoing a full rate case) or full formula-based rates, use of forecasted costs and revenues to set rates (vs. historical), and interim or self-implemented rates. The Edison Electric Institute (EEI) points out that many of these mechanisms can “encourage utilities to make smart

¹ Ken Costello, The National Regulatory Research Institute, Talking Points on Cost Trackers, presented before The NARUC Staff Subcommittee on Gas, and NASUCA, Chicago, IL, November 15 and 17, 2009. Available at: www.narucmeetings.org/Presentations/Gas_Costello.pdf. Accessed 4-16-2013.

² Ibid.

³ Karl McDermott, Cost of Service Regulation in the Investor-Owned Electric Utility Industry: A History of Adaptation, Report Prepared for EEI, June 2012, p. 16. Available at: http://www.eei.org/whatwedo/PublicPolicyAdvocacy/StateRegulation/Documents/COSR_history_final.pdf. Accessed 4-19-13.

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investments, reduce long run costs, and improve service quality without rate shock or unnecessarily frequent rate cases.”⁴

Recognizing the need for investments in Michigan to secure long-term reliability and increase Michigan's use of clean and renewable energy, the 21st Century Energy Plan included research on ratemaking and other regulatory mechanisms to reduce lag. This plan ultimately helped shape the changes adopted in PA 286, including a 12-month deadline to process rate cases and self-implementation of rate changes, as discussed further below.

- 2. Under PA 286 of 2008, final decisions in utility rate cases must be issued within one year from the date of a completed or amended application. While the MPSC has a full year to issue a decision, utilities may self-implement the proposed rates within 180 days after filing, subject to refunds based on MPSC's final decision. For good cause, the MPSC may issue a temporary order preventing or delaying the self-implementation of proposed rates.**

In recent years, Michigan has instituted specific deadlines in statute for processing regulatory decisions, including numerous types of environmental permits, rate cases, and other decisions. These regulatory reforms were designed to increase governmental efficiency, improve the business climate through greater certainty and timeliness of regulatory decisions, and lower costs to Michigan families and businesses over the long term. Including such deadlines in the law could also help improve Michigan's environment by expediting decisions on major pollution control investments or new generation facilities that could replace older, higher polluting facilities.

In the context of utility rate cases, the one-year deadline included in PA 286 to issue a final decision and the self-implementation provisions were instituted in part to address regulatory lag and to encourage new long-term investments in clean, reliable energy. The surcharge mechanisms to fund renewable energy and energy efficiency investments in PA 295 were also designed to streamline the process and smooth out the rate impact of such long-term investments. As discussed below, Michigan has reduced its time to process rate cases since PA 286 and is now generally in line with the majority of states in terms of the time to process cases and the use of self-implemented or interim rates.⁵

In other states, the rules vary as to the time period allowed for rate case decisions. Some jurisdictions, like Michigan, require rate case orders to be issued within a set time period. In other jurisdictions, there are no specific rules for completion, but historically rate case orders are issued anywhere from 6 to 12 months after the filing date.

In order to better understand the rules and overall trends in rate case processing, the EEI assembled a list of general rules and common outcomes based on member response from a survey and independent

⁴ Pacific Economics Group Research LLC, *Innovative Regulation: A Survey of Remedies For Regulatory Lag*, p. 35. Report prepared for the Edison Electric Institute, April 2011. Available at: http://www.eei.org/whatwedo/PublicPolicyAdvocacy/StateRegulation/Documents/innovative_regulation_survey.pdf. Accessed 4-16-2013.

⁵ However, the rate case processing time is longer in Michigan if settled cases are not included.

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research (see Appendix 1). The survey results, although not always clear, are summarized in Exhibit 1 below. This exhibit shows that commissions in 42 of the 50 states typically issue rate case decisions within one year. Michigan falls in this majority with its one-year statutory deadline and a recent track record of issuing final orders slightly under this timeline. Public Service Commissions (PSCs) in 36 states produce a rate order within 6 to 10 months. Of the eight states that claim a rate case is decided within six months, four claim that rates are *not final* and are subject to refund, most likely pending further proceedings.

EXHIBIT 1. Rate Case Decision Timing, Number of States

Time period allowed for PSC decision	No. of states	No. of states with rates in effect, subject to refund ^a
Less than 6 Months ^b	2	
6 Months	6	4 (CT, GA, OK, TX)
7 Months	6	
8 Months	3	
9 Months	8	1 (MT)
10 Months	13	1 (AR)
11 Months	4	
12 Months	6	
Greater than 1 Year	2	

SOURCE: Edison Electric Institute, Member Survey (February 2013).

^a In the EEI survey, it was identified that in some states, absent a final PSC Order following a suspension of a period of time, the rates go into effect “subject to refund”. It is unclear how long after the rates go into effect that a PSC Order must be issued such that the rates are deemed final. A “subject to refund” approach would seem to indicate that these states have self-implement rules in place, thus requiring a subsequent final order.

^b Included in this total is Alabama, which has an annual automatic adjustment clause tied to ROE that adjusts rates up or down each January.

3. Since the passage of PA 286 in Michigan, 20 rates cases were completed with the issuance of a final order by the MPSC. Based on these cases, the length of time between the rate case filing and a commission decision has been an average of 9.2 months. This is compared to an average duration of 9.0 months nationwide. The average duration of a rate case in Michigan that was fully litigated (not settled by the parties) was 11.4 months.

Information from Regulatory Research Associates shows that Michigan’s recent track record with rate case processing is generally in line with other states. That is, Michigan processed natural gas and electric rate cases on average within 9.2 months compared to 9 months nationwide.⁶ The national statistics are based on 429 cases.

⁶ National statistics are from Regulatory Research Associates Inc., an SNL affiliate.

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Since 2008, there has been a reduction in the timeline in Michigan for processing fully litigated cases (i.e., not including cases that were settled by the parties). For the period 2001 through 2008 (prior to the promulgation of PA 286), the average time was 513 days. This would have placed Michigan below 46 other states when measuring timing of rate case decisions. Since implementation of PA 286, the timeline for fully litigated cases has been reduced to just under 12 months (347 days). While this represents an improvement, it is close to the statutory maximum.

4. **Twenty-one rate cases were filed in Michigan between 2008 and 2012 (one case is pending) and, of these, utilities self-implemented rates in 13. Self-implementation was utilized in every case that was not ultimately settled by the parties. Self-implementation has avoided the extensive litigation that existed under the “interim rate” structure that preceded PA 286. The self-implementation provision can help reduce regulatory lag but, in and of itself, does not eliminate it.**

Under PA 286, a utility may implement up to the amount of the proposed annual rate increase if the MPSC has not issued an order within 180 days of the filing of a complete application. The amount implemented at 180 days is subject to refund, as the case is not final until the MPSC has issued an order or 12 months has elapsed without an order being issued.

Between 2008 and 2012, 21 general rate cases for both electric and natural gas utilities were filed. The majority of those cases (14, or 67%) have requested self-implementation and nearly all (13) of those cases have resulted in the self-implementation of rates. One of the 14 cases had its request to self-implement rates blocked by the MPSC. In two of the 13 cases where rates were self-implemented, the rate was reduced by the MPSC prior to implementation. Self-implementation was utilized in every case that was not ultimately settled by the parties; in these settled cases, the average timeline for final decision was 204 days.⁷ Exhibit 2 summarizes the 21 cases with and without self-implementation.

EXHIBIT 2. Breakdown of Rate Cases with and without Self-Implementation (January 2008–April 2013)

	No. of cases
Self-implementation utilized	13
Final rates higher than self-implemented rates	4
Final rates lower than self-implemented rates (refund)	8
Final order pending	1
Self-implementation not utilized	8
TOTAL	21

SOURCE: Consumers Energy review of MPSC filings (2013).

⁷ Utilities, PSC staff, and intervening parties occasionally come to an agreement or “settle” the rate case during the course of the proceeding. Settling a rate case reduces processing time as various steps are avoided (rebuttal testimony, proposal for decision, briefs, etc.)

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Prior to PA 286, Michigan law allowed the MPSC to grant "partial and immediate" rate relief, known as interim rates. Interim rates went through the hearing process and were approved by the MPSC. The MPSC had applied various standards for determining when to grant interim rates. These issues were heavily litigated, and the interim rate provisions were replaced by PA 286, which allows for self-implementation of rates. This self-implementation approach more closely resembles the "file and use" procedures used in other states and followed by the Federal Energy Regulatory Commission. To create a disincentive for utilities to self-implement rate increases significantly larger than that likely to be determined in a final order, Michigan's law imposed a well-defined and strict refund obligations on the utilities, including interest penalties paid at shareholder expense. The self-implementation provision can help reduce regulatory lag but, in and of itself, does not eliminate it.

5. Of the 50 states and District of Columbia, there are 45 that have some form of interim process for rate increases. Of the 45 states, 9 allow for interim increases on a fairly regular basis. This is one approach to address regulatory lag.

Appendix 2 summarizes policies in other states. Like Michigan, the overwhelming majority of states allow for some form of interim or self-implemented rates.

- Nine of the states allow interim increases automatically after specific periods of time have passed. Five allow interim increases after commission approval, and have done so regularly.
- One of the states allows for final rates to go into effect, subject to refund, after seven months.
- 21 of the states allow interim increases only in the case of an emergency or severe financial stress.

Allowing rates to go into effect earlier than the final decision is common among states and is one example of how states have tried to address issues associated with regulatory lag. There are many other approaches used by states, as discussed in a 2011 report prepared for the EEI by Pacific Economics Group Research LLC, entitled, *Innovative Regulation: A Survey of Remedies For Regulatory Lag*.⁸ The issue of regulatory lag has been a topic of considerable discussion among state policy makers and the industry in recent years due in part to overall economic conditions and the need to invest in and update electric generation, transmission, and distribution facilities in order to secure long-term reliability of the nation's electric system and address other issues, such as environmental requirements and integration of renewable energy.

⁸ Available at: http://www.eei.org/whatwedo/PublicPolicyAdvocacy/StateRegulation/Documents/innovative_regulation_survey.pdf. Accessed 4-16-2013.

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Appendix 1:

Summary of State Rules for Rate Case Decisions

Line No.	State	Policies
1	Alabama	Utilities operate under alternative regulatory schemes, so cases have not been filed. However, if a traditional rate case were filed, the commission can suspend rates for 6 months from the proposed effective date, which generally must be 30 days after the initial filing.
2	Alaska	The commission must issue a decision with 450 days after a complete filing. The commission may extend the timeline for up to 90 days if all parties consent to the extension, or the commission finds good cause exists to extend. If an order is not issued within the timeline or the extended timeline, the application is deemed approved.
3	Arizona	The commission must decide major rate cases within 12 months of the Staff’s certification of the sufficiency of the filing. A rate case decision for a major utility must be issued within 360 days from the date "a utility’s rate filing is determined to be sufficient."
4	Arkansas	The commission must decide a rate case within 10 months of the filing, after which the utility can place the rates into effect, subject to refund.
5	California	General rate cases are limited to 18 months. However, there are no penalties or enforcement mechanisms.
6	Connecticut	Utilities are required to issue a notice of intent to file 30-60 days before the filing of a rate application. The commission can extend the normal 150-day extension to 180 days upon notification to all the parties. If the commission fails to implement an order by the end of the suspension period, an increase may be implemented, subject to refund.
7	Colorado	A request for a rate change must be filed at least 30 days before the proposed effective date. The commission can suspend the tariffs for 210 days from the proposed effective date, after which the rates become effective.
8	Delaware	The commission attempts to complete rate cases within 7 months from the date of filing, after which, under certain conditions, the utility may place the rates into effect.
9	District of Columbia	No statutory time frame within which the commission must act on rate applications. However, the commission has adopted a standard of completing cases within 90 days of the close of the record.
10	Florida	The commission can suspend a rate increase for a maximum of 8 months from the filing date. Commission can issue expedited decisions under certain circumstances
11	Georgia	A utility is required to give 30-day’s notice when filing for a rate increase. The commission can suspend the proposed increase for a maximum of 5 months more, after which the utility can implement rates, subject to refund
12	Hawaii	There is no statutory time limit within which a rate case must be completed, but the commission must “make every effort” to issue a decision within 9 months.

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Line No.	State	Policies
13	Idaho	Utilities must file a notice of intent to file a rate case 60 days before the filing. The commission must render a decision within 7 months of the filing. The commission can then suspend the rate request an additional 60 days.
14	Illinois	Utility rate case decisions must be issued within 11 months of a filing.
15	Indiana	No statutory time limit for commission action on rate requests, but the commission has established a 10-month target timeframe.
16	Iowa	The commission is required to render a final rate case decision within 10 months of the filing date, but may extend that time, under certain circumstances.
17	Kansas	The commission must act to suspend a rate case within 30 days of its filing for a maximum of 240 days, after which the rates become effective. If hearings are still in session at the end of the 240 days, the commission can extend the suspension period an additional 20 days. If the company substantially amends its filing, the commission can deem the filing a new application and restart the 240-day period. The utility can also consent to an extension of the 240-day period.
18	Kentucky	Application must be filed no less than 30 days before the proposed effective date of the new rates. The commission is authorized to suspend rates up to 5 months, if the utility proposes to use a historic test year, and 6 months, if the utility proposes to use a forecasted test year. At this point, the utility can implement rates, subject to refund. After 10 months from the original filing date, the rates become permanent.
19	Louisiana	Commission is constitutionally required to act on a rate application within 1 year of the filing date, after which, the utility may implement rates under bond and subject to refund.
20	Maine	A utility must file for a rate increase at least 30 days before the requested effective date. The commission can suspend rates for a maximum of 8 months from the requested effective date.
21	Massachusetts	The commission is required to issue a final decision in a rate case within 6 months of a filing, after which rates become effective.
22	Maryland	Utility is required to give 30 days’ notice when filing for a rate change. The commission can suspend rates for 150 days beyond the 30-day period, and then suspend for an additional 30 days. If no rate action is taken after 210 days, the utility may place rates into effect.
23	Michigan	The commission has a 12-month deadline within which to complete a case or the rates become approved.
24	Minnesota	A written commission order must follow within 8 months of a 60-day suspension period after the filing of a rate case. After this, the rates may be implemented as permanent. The commission can suspend a rate case beyond this 10 month total under certain circumstances.
25	Mississippi	The commission must decide a rate case within 120 days of the filing of a notice of intent. After that, the rates may be implemented on a temporary basis.
26	Missouri	Utilities seeking to increase rates must file tariffs 30 days before the proposed effective date. The commission can then suspend the rates for 10 months. If the commission has not issued an order within 11 months of the original filing, the rates go into effect, not subject to refund.

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Line No.	State	Policies
27	Montana	A commission must render a final decision in a rate case within 9 months of the filing, after which the utility may place the rates into effect subject to refund.
28	Nebraska	After a rate case is filed, a negotiation period of up to 90 days is initiated, after which the commission has 210 to issue a decision on the rate request. The suspension period can be extended an additional 60 days.
29	Nevada	State law requires the commission to render a decision within 7 months of the filing date, after which the rates become effective.
30	New Hampshire	If the commission has not acted on a general rate case increase request within 6 months following the proposed effective date (generally 30 days after the filing), the utility can place the requested increase into effect. If the commission has not acted by a year from the proposed effective date, the rates become permanent.
31	New Jersey	A utility must give 30 days’ notice of the effective date of a rate filing. The commission may suspend a decision 8 months, but may further extend the procedural schedule.
32	New Mexico	The commission must act to suspend the proposed rates within 30 days of a rate filing or the rates become effective. If the commission does not render a decision within ten months of the filing, an increase may be placed into effect on a permanent basis.
33	New York	The commission must issue a decision within 11 months of a filing.
34	North Carolina	The utility must submit a rate petition 30 days before the requested effective date. The commission is then required to act on the rate petition within 270 days of the requested effective date, bringing the total elapsed time from filing to decision to approximately
35	North Dakota	The commission can suspend rates within 30 days of a utility’s filing for a maximum of 6 months, making the maximum rate case duration 7 months.
36	Ohio	A utility is required to give 30 days’ notice prior to requesting a rate increase. A utility may not tender a Notice of Intent to file a new rate case until the Commission has completed action on a previous case or until 275 days have elapsed since the filing of a prior application, whichever occurs sooner. The PUC generally completes cases within nine to 10 months after the filing.
37	Oklahoma	By law, the commission must issue a decision within 180 days of a utility-initiated general rate filing, after which the utility may place rates into effect, on an interim basis, subject to refund.
38	Oregon	Within 30 days following a rate filing, the commission can suspend a requested increase for a maximum of 6 months. The commission can then suspend the rates again for an additional 3 months, bringing the maximum proceeding time to 10 months
39	Pennsylvania	Utility is required to give 30 days’ notice when filing for a base rate increase. The case is initially suspended for 60 days while the commission evaluates the application for completeness, then the case can be suspended for up to 7 months.
40	Rhode Island	Commission must suspend rate increase applications within 30 days of the filing for a maximum of 8 months. The commission must issue a final order within 90 days of the end of the hearings. Decisions are generally issued 9 months from the initial filing.

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Line No.	State	Policies
41	South Carolina	The commission is required to issue a ruling within 6 months after a filing, but may extend the 6 months an additional 5 days. After this the utility may implement rates, subject to certain conditions. Commissions may allow utilities to implement rates without hearings under certain circumstances. Rate increase applications may be filed no more frequently than every 12 months.
42	South Dakota	Commission must issue a rate case decision within 6 months of the filing date, after which the utility may implement the rates, subject to refund. If an order is not issued within one year of the filing date, the rates become permanent.
43	Tennessee	The commission must act on a rate application within 9 months of the filing date. After 6 months with no action, the utility may place the rates into effect, subject to refund. At the end of 9 months, the utility may implement permanent rates.
44	Texas	Utilities must submit a filing 35 days before the effective date of the new rates. The commission can suspend a rate increase for up to 150 days beyond the proposed effective date, bringing the total number of days to 185, after which the utility can place the rates into effect subject to refund. The 185 days can be extended further under some circumstances, subject to the utility's approval. Also, the PUC monitors the utilities' earnings on an annual basis. Each May, the utilities file financial data for the previous calendar year. The PUC Staff then conducts a review of these filings and makes recommendations to the commission concerning whether there is a potential for over-earnings. If so, the PUC may require the utility to tender a "complete rate filing package" in order to determine whether a rate change is necessary. Once such a filing is submitted, the 185-day clock applies.
45	Utah	The commission must act on rate petitions within 240 days of the initial filing, after which the proposed tariffs become effective. Within 30 days of the filing, the commission can detail deficiencies in the application and suspend the 240-day statutory period, to be resumed when the application is complete.
46	Vermont	A utility must allow 45 days from the date of the filing to the proposed effective date of the rates. Utilities can place rates into effect if the commission has not reached a final decision within 7 months of the proposed effective date of the rates.
47	Virginia	Commission must render a decision on a rate increase request within 9 months of a filing. Utilities may also file for expedited rate relief, subject to certain parameters.
48	Washington	The utility must file 30 days before the proposed effective date. The commission can suspend rates beyond the proposed effective date for a maximum of 10 months, after which the rates become effective.
49	West Virginia	An application must be filed 30 days before the proposed effective date, and the commission can suspend a filing for up to 270 days after the proposed effective date. If an order is not issued by the end of the suspension period, rates may be implemented without refund obligation.
50	Wisconsin	No statutory time limit on rate cases, but the commission has decided most cases within 9-12 months.
51	Wyoming	The commission must issue a rate order within 10 months of a filing.

SOURCE: Information provided by Casimir Bielski (EEI) based on member surveys and augmented by additional research.

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Appendix 2:

Summary of State Rules for Rate Case Self-Implementation and Interim Rates

Line No.	State	Self-Implement / Interim Rates
1	Alabama	Emergency interim rate increases are permitted.
2	Alaska	Interim increases are permitted following a commission finding of "irreparable harm" to the company absent such an increase. The ARC has approved interim increases in certain instances.
3	Arizona	A rate case must be decided within 12 months following Staff’s certification of the sufficiency of the filing. Interim rates can be issued if the decision is not rendered within this time.
4	Arkansas	The commission must issue a decision within 60 days of a request for an interim increase, but an immediate and impelling necessity is required for the increase to be authorized. Interim increases have rarely been sought.
5	California	The commission can authorize interim increases and can specify whether those increases will be subject to refund or firm, but no increases have been requested in recent years.
6	Connecticut	Interim increases have rarely been sought. The utility must demonstrate that a financial emergency exists.
7	Colorado	Refundable interim rate increases are occasionally granted by the Commission.
8	Delaware	Modest interim rate increase, under bond, can be put into effect 60 days after the filing date.
9	District of Columbia	Not able to verify.
10	Florida	Interim rate increases are permitted by law and have frequently been authorized, usually becoming effective three months after a filing. Emergency conditions are not necessary for an interim increase to be authorized. An interim increase is subject to refund with interest and is generally based on the utility’s achieved rate of return and cost of capital for the most recent 12-month period and the low end of the authorized return range in the previous rate case.
11	Georgia	The commission can authorize interim increases under certain circumstances, but none have been sought in recent years.
12	Hawaii	State law calls for interim rates to be implemented, subject to refund with interest, ten months after the filing date to reflect any increase that the commission thinks the utility is probably entitled to. The commission has authorized substantial interim increases in recent cases.
13	Idaho	The commission can allow the utility interim rate increases, but the utility must demonstrate a financial emergency or immediate need. Interim rate increases have rarely been requested.

Joint response from Consumers Energy, DTE Energy, and MEGA

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Line No.	State	Self-Implement / Interim Rates
14	Illinois	Interim rate increases can be implemented after 120 day review, subject to refund, after a showing of financial need by the utility. Interim increases have rarely been sought.
15	Indiana	The commission can authorize an interim rate increase, subject to refund, in circumstances of financial emergency, but interim increases have rarely been sought.
16	Iowa	Utilities can implement interim rate increases, subject to refund, and such interim rate increases have been implemented in most cases. These interim rates can be implemented 90 days after the filing date based on revenue requirement as established by the commission or ten days after the filing date based on previously established regulatory principles.
17	Kansas	The commission has authority to grant interim increases, but utilities have seldom requested interim increases.
18	Kentucky	The commission can grant interim increases if it finds that the credit or operation of the utility would be materially impaired. Interim increases have seldom been requested.
19	Louisiana	Interim rates are permitted but seldom requested.
20	Maine	The commission can permit interim increases, subject to refund, for amounts not subject to reasonable dispute, if it determines that the utility will experience financial harm that cannot be remedied within the normal rate process. There have been no requests for interim increases over the past several years.
21	Massachusetts	A company must demonstrate irreparable harm to the company or customers in order to be able to implement interim rates. Such rates have rarely been sought.
22	Maryland	The commission can allow interim rate changes, but they have rarely been sought.
23	Michigan	Utilities can implement a proposed rate change on an interim basis 180 days after a filing, if the utility uses a historical test year. If a utility uses a forecasted test year, the utility cannot implement an interim rate increase before the beginning of the test year. For good cause, the commission may issue a temporary order preventing or delaying a utility from implementing its proposed rates.
24	Minnesota	Utilities can implement interim rates 60 days after filing. Such rates are subject to refund, must be based on the ROE authorized in the company’s previous case, and must be of “like nature and kind” to rates in the company’s previous case. An interim increase cannot be permitted until four months after the final order in the previous case. Interim increases have typically been requested and approved.
25	Mississippi	Interim increases have rarely been requested.
26	Missouri	Interim increases may be authorized if a company can demonstrate an emergency or near emergency situation. Interim rates are rarely sought or authorized.
27	Montana	In most rate cases the commission has authorized interim rates, subject to refund, usually within two to four months after the filing.

Joint response from Consumers Energy, DTE Energy, and MEGA

Additional Question 4: *What time period is allowed for rate case decisions in Michigan and in other jurisdictions.*

Additional Question 5: *What has been Michigan’s experience with the self-implementation of rates?*

Additional Question 6: *Do other jurisdictions have (or have had) a policy of self-implementation to reduce “regulatory lag”? How are they similar or different from Michigan’s, in design and effect?*

Line No.	State	Self-Implement / Interim Rates
28	Nebraska	Natural gas utilities may implement an interim rate increase 60 days after a filing if the utility is negotiating with the municipalities, and 90 days after filing if rates are not being negotiated.
29	Nevada	Interim rate increases have not traditionally been requested.
30	New Hampshire	If the commission has not acted on a filed case within six months following the proposed effective date, the utility may put the increase into effect, under bond. Temporary increases may be granted if the utility demonstrates it is not earning a reasonable return. Temporary increases have generally been granted when requested.
31	New Jersey	The commission can authorize utilities to implement interim increases, but a finding of irreparable harm is generally required.
32	New Mexico	Interim rate increases have rarely been authorized. The utility must demonstrate that it will experience immediate and irreparable injury.
33	New York	Interim or emergency rate hikes are permitted only if the utility can demonstrate that its ability to raise capital or maintain services would be impaired. Interim increases have rarely been sought.
34	North Carolina	Interim increases can be requested, if the utility can demonstrate severe financial deterioration and that emergency conditions exist. No interim increases have been requested in years.
35	North Dakota	State law allows interim increases to be implemented within 60 days of a filing, subject to refund with interest. Utilities generally file for interim increases.
36	Ohio	The commission can allow a utility an interim increase if the utility demonstrates a financial emergency.
37	Oklahoma	If the commission fails to issue a decision in 180 days, the utility may implement up to the full amount of the request, subject to refund. Interim rate increases are also permitted at the commission’s discretion, but are seldom requested.
38	Oregon	Commission is allowed by law to authorize interim increases, if the utility is under severe financial stress.
39	Pennsylvania	The commission may authorize an interim increase if the commission determines that the increase is necessary for the utility to maintain financial stability and service reliability. Commission decisions on interim petitions must be issued within 30 days. Interim increases have not been requested.
40	Rhode Island	Commission has statutory authority to approve interim increases subject to refund, but interim rates have seldom been requested.
41	South Carolina	Not able to verify.
42	South Dakota	Utilities can issue interim increases, subject to refund, if the commission does not issue a rate case decision within six months of the filing. The commission cannot order a refund of interim rates beyond 12 months of the filing.
43	Tennessee	If no rate action has occurred within six months of a filing, a utility can put a requested increase into effect, subject to refund. The commission has authority to grant an interim increase, if a financial emergency exists. Utilities have rarely requested interim increases.

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Line No.	State	Self-Implement / Interim Rates
44	Texas	Not able to verify.
45	Utah	The commission can grant an interim increase, subject to refund. Requests for interim increases must be submitted within 90 days of the commission’s determining the rate filing is complete. To get the increase, a utility must present a compelling case without substantive opposition that serious financial harm will occur without the interim increase. The commission has occasionally authorized such increases.
46	Vermont	The commission has authority to allow interim increases. If a requested interim increase is not denied, the utility can place the interim rates into effect, subject to refund. Interim increases have seldom been requested.
47	Virginia	An expedited rate proceeding allows the utility to implement an interim rate change, subject to refund, after 30 days.
48	Washington	The commission can grant interim increases if the utility’s financial security has deteriorated to the point that it would cause harm to customers and stockholders. Few such increases have been sought.
49	West Virginia	Interim increases may be authorized, subject to refund, but are rarely requested.
50	Wisconsin	Interim rate increases are permitted, subject to refund, but none have been requested in recent years.
51	Wyoming	Commission has the authority to grant temporary increases under bond and subject to refund following a showing of immediate financial need.
52	Ontario	Utilities have to apply to implement interim rates (or make current rates interim). Applications for interim rates are typically addressed as a preliminary hearing issue, involving written submissions.

SOURCE: Information provided by Casimir Bielski (EEI) based on member surveys and augmented by additional research