

Issue Brief

Code of Conduct

1. What is the Code of Conduct and what does it cover?

The Code of Conduct is a **set of rules** that apply to utilities and alternative electric suppliers (AES) under the jurisdiction of the Michigan Public Service Commission (MPSC). The code covers programs and services known as “value-added” that are utility or energy related, such as home comfort and protection, appliance service, building energy performance, alternative energy options, or engineering and construction services. Utilities may only offer value-added programs and services through **an affiliate, other entity within the corporate structure, or third-party contract**.

2. Is the Code of Conduct a legislative mandate?

Public Act 341 of 2016 (PA 341) MCL [460.10ee](#) directed the MPSC to adopt a new, comprehensive Code of Conduct governing value-added programs. In addition to its focus on value-added programs and services, the Code of Conduct incorporates existing guidelines that **govern the interactions between regulated utility companies and their unregulated affiliates**.

3. Why is there a Code of Conduct?

The main purpose of the Code of Conduct is to **prevent cross-subsidization, preferential treatment and information sharing** between a utility’s regulated electric, steam, or natural gas services and unregulated programs and services, whether those services are provided by the utility or the utility’s affiliated entities. It protects the public by **preventing preferential treatment** that could result in restraint of trade or competition in the unregulated market.

4. Who must comply with the Code of Conduct?

- All utilities and alternative electric suppliers subject to the jurisdiction of the MPSC and the requirements of MCL 460.10ee
- Cooperative utilities
- It does not apply to a utility with fewer than 150 customers

5. What is an alternative electric supplier?

An alternative electric supplier (commonly known as an AES or supplier) is a **licensed third-party company** who sells electricity at unregulated rates to customers located in Michigan. An AES is required to be licensed by the MPSC and **is a separate entity from an electric utility company**.

Michigan law allows for customers of a local electric utility to choose to switch to an AES for the supply of electricity. Electric choice customers purchase their supply of electricity from an AES but pay the local electric utility for the delivery of electricity over the utility’s system. Except as otherwise provided within Public Act 341 of 2016, **no more than 10% of a local electric utility’s average weather-adjusted retail sales for the preceding calendar year may take service from an AES**. Customers are placed in a queue (similar to a waiting list) when each utility’s 10% cap is reached. A customer can move out of the queue to an AES when the percentage of customers falls below 10%.

6. What is the MPSC's role in Code of Conduct proceedings?

In any Code of Conduct proceeding, the role of the MPSC is **to protect the interests of customers** by ensuring that utilities do not use their unique access to utility customers' information and ratepayer funding in a way that disadvantages companies offering value-added programs and services in competition with the utility. In short, the MPSC's role is to enable competition.

A utility seeking to offer its customers a value-added program or service must notify the MPSC at least 30 days in advance and demonstrate that the proposed program or service meets the criteria required by law.

7. Does the MPSC have oversight of utility value-added programs and services?

No. The MPSC **does not regulate or have oversight of utility value-added programs and services**. However, the MPSC **may initiate an investigation** into transactions between the utility and its affiliates, or into its offering of value-added programs and services at any time in order to ensure compliance with the Code of Conduct.

8. What does the MPSC's decision mean?

The MPSC's order in Case No. U-18361 approves Code of Conduct rules that govern affiliate transactions and value-added programs. It **provides the framework for the reporting of new programs and services that utilities may offer, establishes annual reporting requirements, and defines the penalties for violations of these rules**. Extensive public comments were received and incorporated into the new rules. Customers should note that value-added programs and services do not include energy waste reduction programs as the utilities recover the costs of these programs through rates.

9. What are the next steps?

The MPSC approved final rules on December 20, 2018, and the rules are effective immediately upon filing with the Secretary of State. The **MPSC Staff will convene a collaborative with the utilities and alternative electric suppliers** who will be subject to the Code of Conduct rules, and all other interested parties, for the purpose of identifying a process for competitors who wish to receive information that is shared by a utility. Utilities will continue to file their **Code of Conduct annual report with the MPSC by April 30 of each year**.

For more information, visit:

www.michigan.gov/mpsc

December 20, 2018

DISCLAIMER: This document was prepared to aid the public's understanding of certain matters before the Commission and is not intended to modify, supplement, or be a substitute for the Commission's orders. The Commission's orders are the official action of the Commission.