STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021.	)))))	Case No. U-18197

Position Statement of the Association of Businesses Advocating Tariff Equity

ABATE is a voluntary association of large industrial businesses which are located in and doing business in the State of Michigan.[1] Since 1981, the mission of ABATE has been to appear before state and federal legislative and regulatory bodies having jurisdiction over public utilities to advocate the adoption of energy rates and terms of service which are just and reasonable, non-discriminatory, non-preferential, equitable, and based on the cost of providing service to each class of utility customer. ABATE has long championed the well-founded concept that competition amongst utilities and other non-utility suppliers ensures reliable and competitive electricity service and rates. It has thus consistently supported open access on terms which are fair and where there is true competition. ABATE has consistently made known its position that the 10% cap on electricity choice imposed by Public Act 286 of 2008 inhibits economic development in Michigan and should be eliminated (or at least raised) to enable more customers to participate in electric choice.

[1] Members of ABATE consume substantial quantities of electricity and natural gas and, in Michigan alone, their combined gas and electric bills exceed well over $1 billion annually. The current members of ABATE are: A K Steel Corporation; Arconic Inc.; Cargill; Corrigan Oil; The Dow Chemical Company; Eaton Corporation; Edward C. Levy Co.; Enbridge Energy, Limited Partnership; FCA US LLC; General Motors, LLC; Gerdau Macsteel; Hemlock Semiconductor Operations LLC; J. Rettenmaier USA LP; Marathon Petroleum Corporation; Martin Marietta Magnesia Specialties; Metal Technologies, Inc.; MPI Research; Occidental Chemical Corporation; Praxair, Inc.; Pfizer – Kalamazoo; United States Gypsum; U.S. Steel Corp.; WestRock; and White Pigeon Paper.

The proposals of Consumers Energy Company ("Consumers") and DTE Electric Company ("DTE") (collectively, the "Utilities") in this and other proceedings aimed at implementing Public Act 341 of 2016 would do just the opposite.[2]

First, in U-18239 and U-18248, the Utilities have proposed a perpetual State Reliability Mechanism ("SRM") that imposes a 30-year "lock-in" capacity charge at its average embedded generation capacity cost (of over $600 and $500 per MW-day for Consumers and DTE, respectively) to be paid by retail open access ("ROA") customers whose alternative electric supplier ("AES") is unable to meet any portion of a 4-year forward looking capacity obligation established by either the Midcontinent Independent System Operator ("MISO") or the Michigan Public Service Commission (the "Commission").[3] Under this utility proposal, any ROA customer whose AES is unable to meet any portion of a 4-year capacity obligation set by MISO or the Commission would be forced to either return to bundled utility service,[4] or pay an astronomical capacity charge, for 30 years, significantly in excess of the 2017-2018 MISO

[2] In fact, ABATE submits that adoption of these proposals will, as designed by the Utilities, render electric choice economically infeasible. As the Commission is well aware, imposition of overly restrictive capacity obligations and unpalatably high and inflexible capacity charges can have the effect of completely suppressing the electric choice marketplace. In a September 2012 order in Case No. U-17032, the Commission established a State Compensation Mechanism ("SCM") and then set capacity rates north of $580 MW-day for I&M Open Access Distribution ("OAD") customers. The electric choice load in I&M's service territory, predictably, dropped to and has since remained at zero percent. Worse yet, pursuant to its reading of Section 10a(1)(c), the Commission recently froze the choice cap at zero until February 1, 2019.

[3] *See, e.g.*, U-18239, Doc. No. 48 at 6-7; U-18248, Doc. No. 44, Direct Testimony of Don M. Stanczak at 5-9, 15-16.

[4] Moreover, for ROA customers who become subject to the SRM Capacity Charge for 30 years and opt to return to bundled retail service, the Utilities propose that the 10% ROA cap be lowered by the amount of the load of that former ROA customer until the 30-year payment obligation ends. *See, e.g.*, U-18239, Doc. No. 48 at 7-8; U-18248, Doc. No. 44, Direct Testimony of Don M. Stanczak at 15-16; Direct Testimony of Timothy A. Bloch at 12.

Planning Resource Cost of New Entry of $260 per MW-day and greatly in excess of the current market MISO Auction Clearing Price of $1.50 per MW-day.[5]

Second, the Utilities in this proceeding have asked the Commission to establish a capacity obligation that not only requires each AES to: (i) demonstrate it has secured the rights to sufficient capacity to meet its load-ratio share of MISO's planning reserve margin requirement ("PRMR")[6] for Local Resource Zone 7 ("LRZ 7"); but also (ii) demonstrate it has secured the rights to sufficient capacity located within LRZ 7 to meet its load-ratio share of LRZ 7's local clearing requirement ("LCR")[7] as defined by the MISO tariff. *See, e.g.*, U-18197, Doc. No. 72 at 7-14; Doc. No. 64 at 2-3. Under the Utilities' proposal, the ability of AESs to import capacity from outside of LRZ 7 to meet the capacity obligation would be significantly curtailed. That is, under the Utilities' proposal, 95% of each AES's total capacity obligation would need to be met with capacity physically located within LRZ 7, while only 5% of each AES's total capacity obligation could be satisfied with capacity physically located outside of LRZ 7.[8]

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[5] ABATE and numerous others, of course, oppose the above-described proposals of the Utilities as they pose significant constitutional concerns, infringe upon the jurisdictional boundaries set by the Federal Power Act, contravene the plain meaning of and legislative intent behind Section 6w of Act 341, and are unduly discriminatory, self-serving, and grossly impractical.

[6] The PRMR is the total amount of Zonal Resource Credits, MISO's "currency" for capacity, needed for a given Load Serving Entity, Local Resource Zone, or MISO as a whole.

[7] The LCR is the portion of a Local Resource Zone's PRMR that must be supplied from Zonal Resource Credits that are considered by MISO to be local to that Local Resource Zone. In MISO's 2017-2018 Planning Resource Auction, the LCR for Local Resource Zone ("Zone") 7 was 21,109 MW and the PRMR for Zone 7 was 22,295 MW (MISO Presentation "20172018 Planning Resource Auction Results", Resource Adequacy Subcommittee, May 10, 2017). Thus, the LCR for Zone 7 was 94.7% of the PRMR for Zone 7.

[8] As identified by Commission Staff, the Utilities, of course, have no problem meeting such a load-ratio share of the LCR where they each acquire upwards of 98% of their resources from within LRZ 7 and thus do not use their pro rata share of the capacity import limit. See U-18197, Doc. No. 68 at 2-8. AESs on the other hand, will have a difficult time securing capacity located in LRZ 7 where, as identified by Constellation NewEnergy, Inc., the Utilities "own, purchase, or plan to buy almost all of the available Zone 7 capacity." *See* U-18197, Doc. No. at 10.

For the reasons stated in ABATE's initial and reply comments (Doc. Nos. 67 and 80) as well as the reasons stated in the initial and/or reply comments of Commission Staff (Doc. No. 68), Energy Michigan (Doc. Nos. 71 and 78), and Constellation NewEnergy, Inc. (Doc. Nos. 66 and 77), and without waiving any challenge to the facial and/or as applied validity of Section 6w and/or this proceeding's compliance with the Administrative Procedures Act and/or constitutional due process standards, ABATE urges the Commission to reject the locational requirement proposal of the Utilities.[9] Among these reasons, ABATE suggests that the Commission give careful consideration to the following:

First, the Commission does not have the statutory authority to set a locational requirement when establishing a capacity obligation under Section 6w where nothing in Section 6w authorizes or directs the Commission to impose a locational requirement when establishing a capacity obligation. The Commission "possesses no common-law powers but is a creature of the Legislature, and all of its authority must be conferred by clear and unmistakable language in specific statutory enactments, because doubtful power does not exist." *Midland Cogeneration Venture Ltd P'ship v Pub Serv Comm'n*, 199 Mich App 286, 295–96 (1993) (*citing Union Carbide Corp v Pub Serv Comm'n*, 431 Mich 135, 146–162 (1988)). Nothing in Section 6w expressly (*i.e.*, by clear and unmistakable language) authorizes the Commission to set a capacity obligation based on a "load-ratio share" of MISO's LCR and Section 6w's mere reference to the PRMR and LCR does not impart such a grant of authority. Because the federally approved MISO Tariff does not require market participants to meet a load-ratio share of the LCR (the Fixed Resource Adequacy Plan exception is irrelevant here), the mere reference to the LCR in Section

[9] While less immediate in its repercussions, the Commission Staff's "Phase-In" Approach ultimately suffers from many of the above-referenced infirmities and inequities. *See* U-18197, Doc. No. 68 at 8.

6w does not even imply that the Commission has that authority when setting a capacity obligation.

Second, because the federally approved MISO Tariff allows market participants to meet their load-ratio share of PRMR with capacity resources physically located outside of LRZ 7 (*i.e.*, does not impose a load-ratio share requirement of the LCR), Section 6w(6) actually prohibits the Commission from imposing a load-ratio share requirement of the LCR and thus precluding AESs from meeting their load-ratio share of PRMR with capacity resources physically located outside of LRZ 7. It states that:

> A capacity charge shall not be assessed for any portion of capacity obligations for each planning year for which an alternative electric supplier can demonstrate that it can meet its capacity obligations through owned or contractual rights to ***any resource that the appropriate independent system operator allows to meet the capacity obligation of the electric provider.*** The preceding sentence shall not be applied in any way that conflicts with a fed[e]ral resource adequacy tariff, when applicable. [MCL 460.6w(6).] (Emphasis Added)

Third, resort to the legislative history of Section 6w further demonstrates that the Legislature in no way intended to impose a load-ratio share requirement of the LCR. Such a requirement was dropped out of the final, as-passed version of SB 437 (see "final" SB 437, as distributed by Greg Moore on November 11, 2016):

> (B) AN ALTERNATIVE ELECTRIC SUPPLIER, A COOPERATIVE ELECTRIC UTILITY, OR A MUNICIPALLY OWNED ELECTRIC UTILITY SHALL BY OCTOBER 1, 2017 DEMONSTRATE TO THE COMMISSION, IN A FORMAT DETERMINED BY THE COMMISSION, THAT FOR THE PLANNING YEAR BEGINNING JUNE 1, 2018, THE ALTERNATIVE ELECTRIC SUPPLIER, COOPERATIVE ELECTRIC UTILITY, OR MUNICIPALLY OWNED ELECTRIC UTILITY **OWNS OR HAS CONTRACTUAL RIGHTS TO SUFFICIENT DEDICATED AND FIRM ELECTRIC CAPACITY TO MEET THE EQUIVALENT OF 50% OF ITS PROPORTIONAL SHARE OF THE LOCAL CLEARING REQUIREMENT AS DETERMINED BY THE COMMISSION UNDER SUBSECTION (3).** THE ALTERNATIVE ELECTRIC SUPPLIER MAY MEET

> THIS REQUIREMENT BY DEMONSTRATING THAT ITS CUSTOMERS WILL PAY A GENERATION CAPACITY CHARGE THAT IS DETERMINED, ASSESSED, AND APPLIED IN THE SAME MANNER AS UNDER SECTION 10A(1)(I). THE ALTERNATIVE ELECTRIC SUPPLIER, COOPERATIVE ELECTRIC UTILITY, OR MUNICIPALLY OWNED ELECTRIC UTILITY MAY MEET THIS REQUIREMENT THROUGH ANY RESOURCE<<, THAT MAY INCLUDE A RESOURCE ACQUIRED THROUGH A 3-YEAR CAPACITY AUCTION,>> THAT THE APPROPRIATE INDEPENDENT SYSTEM OPERATOR ALLOWS TO QUALIFY FOR MEETING THE LOCAL CLEARING REQUIREMENT. [(Emphasis Added).]

Michigan appellate courts have consistently held that "[w]here the Legislature has considered certain language and rejected it in favor of other language, the resulting statutory language should not be held to explicitly authorize what the Legislature explicitly rejected." *In re MCI Telecom Complaint*, 460 Mich 396, 415 (1999); *see also In re Certified Question from US Court of Appeals for Sixth Circuit*, 468 Mich 109, 115 (2003) (explaining that examples of "legitimate legislative history" include "actions of the Legislature in considering various alternatives in language in statutory provisions before settling on the language actually enacted" because they allow a court "to draw reasonable inferences about the Legislature's intent, even when the Legislature has failed to unambiguously express that intent").

Fourth, imposition of the Utilities' proposed locational requirement could raise serious constitutional questions such as whether delegation to MISO or the Commission of the authority to set the capacity obligation violates the non-delegation doctrine, whether contracts are abrogated in violation of the contracts clause, and whether discrimination against out-of-state capacity resources violates the dormant Interstate Commerce Clause.

Fifth, imposition of the Utilities' proposed locational requirement may be found to conflict with federal wholesale power regulations (adopted under the Federal Power Act) governing AESs' ability to operate in the wholesale capacity market. Reliability and capacity

constructs adopted by other states to facilitate construction of in-state generation facilities have been struck down by federal courts on multiple occasions. *See, e.g., PPL Energyplus, LLC v Solomon*, 766 F3d 241, 255 (3d Cir 2014) (holding that the New Jersey Long–Term Capacity Pilot Project ("LCAPP") was preempted by the FPA because the "LCAPP compels participants in a federally-regulated marketplace to transact capacity at prices other than the price fixed by the marketplace" and where "[b]y legislating capacity prices, New Jersey has intruded into an area reserved exclusively for the federal government").

Lastly, as a matter of policy, the Commission should decline to do indirectly through regulatory fiat, what the Legislature expressly refused to do directly. Had the Legislature intended to end electric choice it could have done so in direct and transparent terms and then been held politically accountable through Michigan's constitutional system of government. It did not do so where, despite the Utilities' expenditure of significant funds to change public opinion and influence the political process,[10] polls show that electric choice still enjoys strong support among Michigan residents.[11]

To the extent the Commission disagrees with the above-described and referenced reasons for rejecting the Utilities' locational requirement, but without in any way waiving its arguments and rights to judicial review, ABATE would urge the Commission to focus on an "incremental" approach whereby any local capacity obligation imposed by the Commission only be placed on ROA customers for their load-ratio share of any new incremental capacity needed for the LCR to be met for MISO LRZ 7. By way of example, under this approach, if the total LCR for LRZ 7 is

[10] *See, e.g.,* Michigan Campaign Finance Network article entitled "The $4-Million Push To Influence Michigan Energy Law" at http://mcfn.org/node/246.

[11] *See, e.g.,* New AFP Poll Finds Strong Support for Electric Choice https://americansforprosperity.org/new-afp-poll-finds-strong-support-electric-choice/

met or reasonably projected to be met (as determined by the Commission in a contested case based on the capacity demonstration filings of the LSEs), there would be no requirement for each AES to contribute a particular share of capacity toward the overall LCR. However, if the total LCR for LRZ 7 is not met or reasonably projected not to be met (as determined by the Commission in a contested case based on the capacity demonstration filings of the LSEs), then the AESs would be required to contribute their pro rata share of the new local capacity necessary to meet the overall LCR for LRZ 7.

If such an approach is adopted by the Commission, it would be crucial that AESs be allowed to aggregate any new local capacity obligations together in order to help alleviate their disadvantage with respect to economies of scale versus the utilities with regard to providing new local capacity. Otherwise, the barriers for entry for new local capacity in Michigan could provide a *de facto* monopoly to the utilities with respect to the provision of new local capacity. This would provide utilities a monopoly over electric service above their legislated 90% market share. Moreover, the adoption of this incremental approach would require a separate "Local SRM Capacity Charge" whereby any new local capacity necessary to meet the overall LCR for LRZ 7 that is provided by the Utilities to serve their bundled retail and ROA customers whose new local capacity obligation was not met by their AES would be charged for in a separate Local SRM Capacity Charge based on the revenue requirement for such new local capacity.

The benefit to this incremental approach is that it focuses on requiring only the resources actually needed to meet the reasonably anticipated reliability requirements of LRZ 7 as determined through a contested case. Any other proposal would likely result in both an underutilization of LRZ 7's capacity import limit as well as a corresponding and expensive overbuild of unnecessary capacity which will, of course, increase electricity prices for Michigan

residents and businesses. The new-local capacity incremental approach also addresses the Utilities' "free rider" allegations,[12] where AESs would be contributing a share of capacity in the event of a projected shortfall, while also ensuring that ROA customers not be forced to pay for excess local capacity that is not needed for reliability.[13]

ABATE appreciates the opportunity to provide comments for this U-18197 Capacity Demonstration Technical Conference and thanks the Commission and its Staff for consideration of ABATE's comments.

Respectfully submitted,

CLARK HILL PLC

By: _____

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[12] The Utilities "free rider" allegations fail upon closer scrutiny when considering (i) the 2,000 MWs of generation built by AESs' between 2000 and 2008; (ii) the Utilities' $2.2 Billion of stranded-cost recovery from 2008 through 2016; and (iii) the chilling effect a 10% cap has on the economics of constructing new generation.

[13] The Reply Comments of Energy Michigan provide a stellar explanation of just how wasteful the Utilities' locational requirement would be where, if local capacity becomes short, Michigan could end up with 994 MW more capacity than needed, with no increase in reliability.

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In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021	)))))	Case No. U-18197

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Michael J. Pattwell, being first duly sworn, deposes and says that on July 17, 2017, he did cause to be served the ***Position Statement of the Association of Businesses Advocating Tariff Equity*** as well as this ***Proof of Service***, in the above docket, via electronic mail, to the persons identified on the attached service list.

Michael J. Pattwell

Subscribed and sworn to before me
this 17th day of July 2017.

Lauren K. McPartlin, Notary Public
Ingham County, Michigan
My Commission Expires: January 20, 2022
Acting in Ingham County

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MPSC Case No. U-18197

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COMMENTS OF CONSTELLATION NEWENERGY, INC.
and CONSTELLATION ENERGY SERVICES, INC.

CAPACITY DEMONSTRATIONS UNDER PA 341

Constellation NewEnergy, Inc. and Constellation Energy Services, Inc. (collectively, "Constellation") appreciate the hard work of the Michigan Public Service Commission Staff ("Staff") in hosting a number of workshops to deal with issues related to the new capacity demonstration requirement, and to identify potential consensus items. Constellation has worked in good faith to propose a workable framework, consistent with both the spirit and the letter of the law, which will result in the meaningful continuation of retail electric choice to Michigan customers, including schools, businesses, and communities.

Constellation has identified certain key issues below. The absence of any particular issue in these comments should not be read as either agreement or disagreement with a position advanced by any other stakeholder.

1. Zone 7 Capacity - The plain language of the statute should be followed to allow all qualified Midcontinent ISO ("MISO") capacity resources to participate, and a state-mandated locational requirement should not be imposed. Further, imposing a local clearing requirement on individual Alternative Electric Suppliers ("AESs") violates PA 341's mandate that the charge "shall not be applied in any way that conflicts with a federal resource adequacy tariff". At a minimum, a locational requirement should not be required for AES) for at least five years, and then the requirement should only apply to AES for any incremental shortfall between the local resources owned by the Michigan regulated utilities, municipalities, and cooperatives and the local resources required by MISO for the applicable zone.

2. Acceptable Forms of Forward Capacity - In approving forward-year capacity, the Michigan Public Service Commission ("MPSC" or "Commission")) should recognize wholesale market contracting customs in MISO.

3. Capacity Demonstration Process and Billing

    - Billing should flow through AESs, and the MPSC should allow flexibility in the capacity demonstrations to reflect customer movement between suppliers.

    - AES Capacity Demonstrations Should Be Confidential.

ZONE 7 CAPACITY

There is sufficient capacity in MISO Zone 7 (Michigan) for the next four planning years to meet the MISO Local Capacity Requirement ("LCR"). Based on Consumers Energy's

demonstration in their current MPSC Electric Supply Reliability proceeding (Docket U-18197)), Zone 7 has enough capacity to meet its MISO LCR for the next four planning years (through May 2022), even if Palisades retires. Although the Zone 7 price could clear near the Cost of New Energy ("CONE") in the MISO Planning Resource Auction ("PRA") for the June 2018 – May 2019 delivery year, placing a locational requirement on AESs will have no impact on this temporary "tightness", as all available Zone 7 resources must participate in the PRA. There is simply insufficient time to develop new resources that could alter the amount of resources available for the 2018-2019 PRA.

Placing a Michigan-specific locational requirement on AESs during the next four planning years is unnecessary, and would drive up costs without increasing reliability. Consumers and DTE own, have purchased, or plan to purchase almost all of the available Zone 7 capacity for the next four planning years. Placing a locational requirement on AESs during these four years means that suppliers will be forced to purchase this capacity from Consumers and DTE. Additionally, the remaining owners of the potentially available capacity would understand this supply situation and would have an incentive to price their supply very high (e.g., at a slight discount to the utility capacity). These requirements would therefore increase the price of the already existing Zone 7 capacity, but they would not result in any new capacity in the short-term and thus would not increase reliability. It is not just and reasonable for customers to experience an increase in capacity costs with no attendant reliability benefit.

For at least the next four planning years, if AESs can self-supply from any owned or contracted MISO Planning Resource (i.e. MISO eligible capacity), they should be allowed to do so. Using all available MISO capacity resources will preserve competition, reduce customer costs, and maintain reliability. This also would be consistent with PA 341's provision, MCL 460.6w(6), that an AES can meet its capacity demonstration with **any resource** that the appropriate independent system operator (i.e. MISO) allows to meet its capacity obligation. Some additional capacity may also be available from third parties at a lower price, providing additional savings to customers. As Staff pointed out in their May 26th comments in this docket[1], with out-of-state capacity purchases, AES will have to pay the difference between the Zone 7 capacity price and the zonal price of the capacity purchased in the PRA. Therefore, AESs will still have the incentive to purchase any remaining Zone 7 capacity to reduce this capacity basis risk. The maximum that AESs (and, by extension, retail open access customers) would be exposed to for such capacity is the Zone 7 Cost of New Entry ("CONE"), which is still a fraction of what Consumers and DTE are proposing to charge.

Constellation disagrees that a locational requirement is either required or appropriate, but if a locational requirement is imposed, it should not be effective for at least the next four planning years. Further, any locational requirement after the initial four years should only apply to AESs for any incremental shortfall between the local resources owned by the Michigan regulated

[1] http://efile.mpsc.state.mi.us/efile/docs/18197/0068.pdf

utilities, municipalities, and cooperatives and the local resources required by MISO for the applicable zone. Utilities (and municipalities/cooperatives) would submit capacity and load plans in 2019 which reflect their decisions about how much Zone 7 capacity they own or plan to purchase. If the Zone 7 capacity contained in these plans is insufficient to meet the projected MISO LCR for the entire zone, then AESs could be responsible for procuring the remainder, on a load ratio share basis.

Tying a locational requirement for AESs based on an insufficiency of utility-owned Zone 7 capacity as compared to the MISO LCR is similar to one of the interpretations that Staff identified in the July 10 workshop, in which a locational requirement would apply if there was a projected LCR shortfall, based on information provided by MISO. In such an instance, AESs would have to demonstrate that they own or have purchased a proportional share of the corresponding amount of the shortfall from local resources. Constellation recognizes that this was not advanced as a Staff recommendation or position, but Constellation believes that it is a reasonable outcome, meeting both the goal of the MPSC's June 15 Order, and potential future capacity needs.

ACCEPTABLE FORMS OF FORWARD CAPACITY

In approving contracted capacity for the self-supply demonstration, the MPSC should defer to wholesale contracting customs in MISO for capacity. The ZRC construct under MISO's FERC-approved tariff was designed to create a flexible and fungible capacity product to facilitate wholesale transactions. And, in fact, the ZRC construct achieves that result. The vast majority of bilateral capacity transactions for forward-year ZRCs are entered into pursuant to an industry standard master agreement (e.g., the EEI Master Agreement or ISDA Master Agreement w/ Power Annex) using a confirmation developed by the EEI drafting committee. The confirmations specify the Zone that a ZRC will come from, but not a specific resource, given the fact that most generators sell capacity from a portfolio of assets.

At delivery, the ZRCs are ultimately tied to a specific resource. Prior to the capacity auction for each planning year, generators convert their installed capacity to ZRCs. Capacity sellers then initiate a ZRC transfer in MISO's capacity tracking system (the MECT) to deliver the capacity. Each ZRC is linked to a specific Planning Resource and that information can be tracked in the MECT system. These are bona-fide forward-looking transactions for physical delivery of MISO-qualifying capacity (or ZRCs) for which parties to the transactions are committing significant resources and posting significant collateral.

In order to encourage the development of demand side resources in Michigan, the Commission should show the same deference to the contracting customs for demand side capacity resources that can qualify for ZRCs under the MISO Tariff. Additionally, given the nature of demand response capabilities, the Commission should allow AESs flexibility to update a capacity

demonstration and add demand side capacity for self-supply purposes within the window for the upcoming planning years.

CAPACITY DEMONSTRATION METHODOLOGY AND PROCESS

Constellation proposes that in the initial determination in 2018, on a confidential basis, each AES independently shows how much capacity it owns or has under contract for the next four planning years (after 2018 the demonstration is for one year, four years out). After these showings, the MPSC will determine the "Self-Supply Threshold" for each AES for the applicable year, based on the AES' initial capacity demonstration. The amount of self-supply load provided in the initial capacity demonstration would be **divided** by 0.9, with the resulting number (approximately 10% of the capacity demonstration value) representing the incremental amount of load over and above the capacity demonstration that the AES can procure in the PRA. The self-supply threshold is the capacity demonstration **plus** the incremental amount of load that can be procured in the PRA. In summary, AESs would be required to meet 100% of their load obligations, but would be able serve up to approximately 110% of their capacity demonstration before being charged the SRM capacity charge. If the PRMR of an AES load turns out to be above this cap (110% of the capacity demonstration), then the AES would be subject to the utility SRM capacity charge for the excess load.

This flexibility is necessary to accommodate load changes between AESs' load projections and actual ROA load. This incremental PRA allowance will account for a number of factors, including needed short-term purchases, weatherization, load balancing and peak load changes. This proposal should have no negative effect on utilities, for two reasons: (1) as long as a Retail Open Access shopping queue exists, it has no impact on the utilities' obligations to serve the 90% of load not on Retail Open Access, and (2) the utilities have indicated that they would be procuring any needed capacity in the PRA; there is no reason to deprive the AESs from doing so and, in fact, to prevent AESs from doing so would be discriminatory.

Billing SRM Capacity Charge

The SRM capacity charge should be billed to the AES. This is consistent with the statute, as well as the most practical means for the AES to manage the capacity needs for their portfolio of customers. If the SRM capacity charge is billed to the AES, then the AES can continue to manage capacity for customers on a portfolio basis, allowing all of the AES's customers to benefit from an AES's total portfolio of resources, instead of only requiring some customers to bear the brunt of the SRM capacity charge. If there are legal concerns with direct-billing AESs, one way to handle this would be for the utility's SRM tariff to give AES customers the option to consent to allow their AES to opt-in to be billed directly by the utility for the SRM capacity charge. This

option will facilitate the ability of an AES to be billed directly by the utility for the SRM capacity charge and will allow the AES the flexibility to manage and price capacity at a portfolio level for all its customers, comparable to how utilities manage and price capacity for their customers. Any customer who does not consent to utility-to-AES billing will be billed the SRM capacity charge directly by the utility, and the utility, not the AES, will be responsible for the customer's capacity. The customer consent for their AES to be billed could be indicated to the utility via an Electronic Data Interface ("EDI") flag. Any customer account without this flag would be billed the SRM capacity charge by the utility.

The SRM capacity charge should be billed to AESs on a monthly basis, but an AES's exposure to the SRM capacity charge should not change from the original threshold determination regardless of load variation and switching throughout the year. For the amount of load that has consented to its capacity being managed by its AES, the AES will be responsible purchasing ZRCs in the PRA for that load. For the percentage of an AES's load that exceeds the AES's self-supply threshold for the upcoming planning year at the time of the February filing, the utility will bill the AES for that SRM-exposed portion of load at a price equal to the SRM capacity charge minus the PRA clearing price to ensure that customers are not paying twice for the same capacity. The utility would still receive full payment as the utility is still offering its capacity into the PRA and receiving payment at the PRA clearing price. Switching between AESs would be governed by contracts between the AESs and their customers.

Confidentiality

The Commission's existing filing procedures for voluntary energy supply reliability plans works well. Currently, a single docket exists in which all electric providers submit their plans to the Commission. Providers may submit their filing on a confidential basis under seal, and those filings are not subject to review or contest by any competitor. Staff review and analyze each of the confidential filings, and issue a report. This procedure has worked for nearly 20 years, and there is no reason to change the current process.

The Commission's existing filing procedures will likewise work for mandatory capacity demonstrations under Act 341. Section 6w(8) of Act 341 requires annual capacity demonstration filings, with Section 6w(8)(b) of Act 341 specifying that AESs "demonstrate to the commission" that the AES "owns or has contractual rights to sufficient capacity to meet its capacity obligations . . . " The key language relevant to this discussion is that the demonstration is to the Commission, not to other parties. Nothing in Act 341 requires annual capacity demonstrations to be in contested cases. The legislature specified where it wanted contested case processes under Section 6w of Act 341, and failed to do so here. (*Expressio Unius Exclusio Alterius*). Further, filed information contains confidential, commercially-sensitive information that should not be subject to discovery or disclosure to competitors, either with or without a protective order. In addition to the fact that

there is the clear possibility of competitive harm from disclosure, there is no reliability or other benefit to be gained from disclosure.

The utilities will have the necessary information to inform their procurement and planning, without AES-specific information. The Staff are more than capable of reviewing the individual capacity demonstrations for compliance with the Commission's requirements and reporting their findings to the Commission. The Commission can then issue an order based on the Staff's report and filed demonstrations requiring payment of a capacity charge for AES load for which there has not been a showing of sufficient capacity, recommending to the Attorney General that a suit be brought (municipal and cooperative utilities), or requiring audits and reporting, etc. (other electric utilities). Section 6w(8)(b)(i) - (iii) of Act 341.

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July 17, 2017

Ms. Kavita Kale
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7109 West Saginaw Highway
Post Office Box 30221
Lansing, MI 48909

RE: Case No. U-18197 – In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2016 through 2021.

Ms. Kale:

Enclosed for electronic filing in the above-captioned case, please find **Consumers Energy Company's Position Summary – State Reliability Mechanism**. This is a paperless filing and is therefore being filed only in PDF.

Sincerely,

Kelly M. Hall

cc: Persons per Attachment 1 to the Proof of Service

S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021.	)))))	Case No. U-18197

CONSUMERS ENERGY COMPANY'S
POSITION SUMMARY – STATE RELIABILITY MECHANISM

July 17, 2017

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CONSUMERS ENERGY COMPANY'S
POSITION SUMMARY – STATE RELIABILITY MECHANISM
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I. INTRODUCTION

This proceeding was initiated by the Michigan Public Service Commission ("MPSC" or the "Commission")[1] in an Order issued January 12, 2017 in Case No. U-18197 directing regulated utilities and requesting Alternative Energy Suppliers ("AESs") to submit five-year electric capacity assessments demonstrating their forecasted electric demand and capacity resources. Pursuant to the Commission's direction, Consumers Energy Company ("Consumers Energy" or the "Company") submitted its 2017-2020 capacity assessment on April 21, 2017.

In an Order issued on March 10, 2017 in Case Nos. U-18239 *et al.*, the Commission determined that it would consider and establish in this technical collaborative proceeding the requirements for Michigan electric providers' annual resource adequacy demonstrations pursuant to the new standards of Section 6w of Public Act 341 of 2016 ("Act 341"), MCL 460.6w. Consumers Energy has participated in the proceedings led by the MPSC Staff ("Staff") in this docket. Pursuant to the schedule established in this proceeding, Consumers Energy submits this written Position Summary to address issues concerning the implementation of the resource adequacy demonstrations required by Section 6w of Act 341. Consumers Energy appreciates Staff's efforts in leading this proceeding and remains committed to assisting the Commission in implementing the legal requirements of Section 6w of Act 341 in order to ensure the long-term reliability of the electric grid for the State of Michigan.

II. Timeline Issues – Winter 2017/2018

By November 1, 2017, the Midcontinent Independent System Operator ("MISO") will require all Load Serving Entities ("LSEs"),[2] other than AESs to provide a coincident peak demand forecast to MISO.

By December 1, 2017, utilities will file their capacity demonstrations with the MPSC for the four planning years covering June 1, 2018, through May 31, 2022, in accordance with Act 341. These initial utility capacity demonstrations will not include capacity service for any Retail Open Access ("ROA") load currently served by an AES, as the AESs will not have yet made their capacity demonstrations to the MPSC under the provisions of Act 341. At the time it makes its resource adequacy demonstration by December 1, 2017, Consumers Energy will likely not be informed of any ROA load for which it will be obligated to provide capacity beginning June 1, 2018. It is unlikely the Company will become informed of an obligation to provide capacity service to ROA load until after AESs make resource adequacy filings by the seventh business day of February, 2018 (which is February 9, 2018).

[1] See Appendix A to this Position Summary for the Glossary of Terms.
[2] AESs and all Electric Distribution Companies ("EDCs") are LSEs.

By December 15, 2017, each EDC will provide to MISO the Peak Load Contribution ("PLC") for each AES in its service territory, reflecting each AES's share of responsibility for serving load on MISO's peak day.

By January 15, 2018, each AES must have reviewed their EDC-provided PLC, and each AES must notify MISO by this date if revisions are necessary. Each AES must confirm to MISO that it is responsible for its assigned load. After this January 15, 2018 deadline, each AES's capacity responsibility under MISO's construct will be locked in for the planning year that begins on June 1, 2018. Since this responsibility will be locked in, each AES should at this point also be able to provide their plan for meeting that demand to the MPSC. The MPSC provided in its June 15, 2017 Order in Case No. U-18197 ("June 15 Order") that AESs would be required to make their first demonstrations by February 9, 2018. In making their demonstration, each AES should show that it has enough capacity to meet its peak demand and associated load-ratio contribution to the Planning Reserve Margin Requirement ("PRMR") and Local Clearing Requirement ("LCR") for each of the four forward-planning years, beginning with the 2018-2019 planning year, based on its respective PLC assignment. Since MISO's resource adequacy construct is based on an annual timeframe, that peak demand must be able to be met throughout the planning year. Act 341 requires this initial demonstration to cover four planning years, running through May 31, 2022. For the subsequent three years after the initial 2018-2019 planning year, each AES should show it can continue to meet at least that same peak demand and associated contribution to the PRMR and LCR, for each year in the four-year demonstration.

The deadline for LSEs to submit Fixed Resource Adequacy Plans ("FRAPs") to MISO is March 9, 2018. If a utility is going to use owned or contracted generation to provide capacity for any ROA load, that must be included in the submitted FRAP. Therefore, the MPSC should make its determination on the sufficiency of each AES's capacity demonstration by March 1, 2018, so each utility has time to incorporate any relevant incremental demand into its FRAP and so MISO can capture any changes in its processes. The June 15 Order provided that the MPSC "will attempt to issue orders on any deficiencies in LSEs' capacity demonstrations as soon as possible and, ideally, before the [MISO Planning Resource Auction]." If orders are not issued in time for the FRAP, Consumers Energy stresses that they *must* be issued in time for the Planning Resource Auction ("PRA"), which takes place over the last three business days of March. At a fundamental level, each utility needs to know what load it will be required to provide capacity for, and ensure both those obligations and the capacity used to meet them are aligned with MISO. Absent the timeline proposed in this Position Summary, this necessary alignment with MISO processes will not work, undermining the entire State Reliability Mechanism ("SRM") process set forth in Section 6w of Act 341. If an order identifying a deficiency in a capacity demonstration is issued on, for example, May 1, 2018, the utility could be left without options to procure needed capacity before the planning year begins on June 1, 2018, thereby risking the reliability of service to customers.

Consumers Energy believes the electric provider capacity demonstrations should be conducted as contested cases and the utility should be allowed to intervene and participate in the case, as the utility's rights and obligations will be directly affected by the outcome of the AESs' resource adequacy demonstrations. The MPSC should require each electric provider to make a filing showing its capacity, subject to discovery and contest, pursuant to the Commission's Rules of

Practice and Procedure and the Administrative Procedures Act. At a minimum, utilities should be permitted to examine AESs' resource adequacy filings and to file meaningful comments on those filings. Any concerns regarding confidentiality can be adequately addressed pursuant to a Commission-issued protective order and nondisclosure agreements, similar to how the Commission has handled confidential utility filings in capacity assessment cases in the past. Consumers Energy agrees with Staff's suggestion to initiate a single capacity demonstration case in the fall of 2017. Issues involving the adequacy of individual electric provider capacity filings may be addressed in the context of that consolidated docket.

III. Term And Application Of SRM Capacity Charge

Each AES should make clear which customers they can serve with capacity in the demonstration. Pursuant to Section 6w(8) of Act 341, customer load for which an AES fails to demonstrate adequate capacity on a forward four-year basis will begin receiving capacity service from the utility and pay a commensurate SRM capacity charge beginning on June 1 of each year. Consumers Energy's billing system is unable to allocate a capacity charge on a pro rata basis to an AES's entire customer base. For example, if an AES has five ROA customers, but can only demonstrate capacity sufficient to serve four, it would not be feasible to assign one-fifth of a capacity charge to each customer. In this example, four of the customers would receive AES capacity and would not pay any capacity charge, while the fifth customer would receive utility capacity and pay the capacity charge in full. Determination of which customer becomes subject to the capacity charge would depend on the order in which the customers began taking AES service on a first-in/last-out basis.

During the June 29, 2017 technical conference, Constellation NewEnergy, Inc. ("Constellation") proposed an alternative approach[3] to billing, in which ROA customers would have the option of designating their AES as a billing agent. Under such an arrangement, the AES would pay the capacity charge to the utility on behalf of the ROA customer. Consumers Energy maintains that the capacity charge must be a retail charge paid by ROA customers directly to the utility providing the capacity service. Constellation's proposal appears to involve AESs purchasing capacity from the utility and then reselling that capacity to their customers. This could be construed to constitute a wholesale transaction, which could be construed to fall outside of the MPSC's jurisdiction. It is therefore important that the capacity charge be paid directly by the ROA customer to the utility to maintain consistency with state and federal law.

Section 6w(8)(b)(i) of Act 341 provides that if, during the initial capacity demonstration to occur no later than February 9, 2018, an AES fails to make its required demonstration of resource adequacy, the capacity charge must be assessed to that AES's uncovered retail electric load for a minimum of each of the four planning years in the period from June 1, 2018, through May 31, 2022. For subsequent demonstrations, beginning with the one scheduled to occur no later than the seventh business day of February 2019, it is critical the MPSC establish a term for the capacity charge of sufficient length to promote stability in capacity planning and fairness among all electricity customers. AESs should not be enabled to arbitrage the utility's capacity resources by relying on the utility to provide capacity for periods of up to four years, then switching back

[3] See Slide 12 of Constellation's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.

and forth to provide capacity services, all while having the assurance of being able to return to the utility's capacity service in the event that the AES is unable or unwilling to provide capacity to its retail customers. The term of the SRM capacity charge must be sufficient to allow the utility to procure capacity necessary to fulfill its capacity resource obligation for the load subject to the SRM capacity charge, and to prevent the utility's full-service customers from subsidizing the capacity needs of ROA load.

In order to prevent arbitrage and customer subsidization, a 30-year term length for providing utility capacity services to ROA customers is appropriate. This is consistent with the long-term view the Legislature contemplated for ensuring the reliability of the electric grid in Michigan when developing the statute. The 30-year term would begin when the ROA customer first becomes subject to the SRM capacity charge. If the utility is required to provide capacity for ROA customers, then the utility needs assurance such capacity will be paid for over a term length that will allow the utility to recover the costs of any needed investment, and that the costs of capacity are not unfairly shifted to bundled customers. If the utility is compelled to build new generation such as a gas-fired generating unit as the most optimal way of providing additional required capacity, then recovery of all of the associated costs would be best depreciated over a 30-year period. This approach is just and reasonable if applied to the capacity costs included in bundled rates; treating ROA load on an equitable basis would dictate that ROA load that needs to rely on utility capacity pay for that capacity over an equivalent period of time. This proposed term would treat ROA customers who pay the SRM capacity charge similarly to bundled customers, and is consistent with Section 6w of Act 341.

Once a given ROA load has begun to be served with utility capacity and becomes obligated to pay the SRM capacity charge, it will remain subject to paying the capacity charge for the 30-year term of the capacity charge. This would apply both to a situation in which the AES is never able to demonstrate sufficient capacity beginning on February 9, 2018, and to a situation in which the AES does demonstrate capacity for some period beginning on that date, but subsequently can no longer make a demonstration for all or part of its load. When the 30-year period ends, if an AES cannot provide capacity for all or part of its load, then that load would be subject to the capacity charge for a new 30-year period. Since Section 6w(8)(b) of Act 341 requires demonstrations to be made four years in advance, each AES would need to make its capacity demonstration by the seventh business day of February, four years prior to the end of the 30-year period, to avoid having its load subject to the capacity charge for this new term.

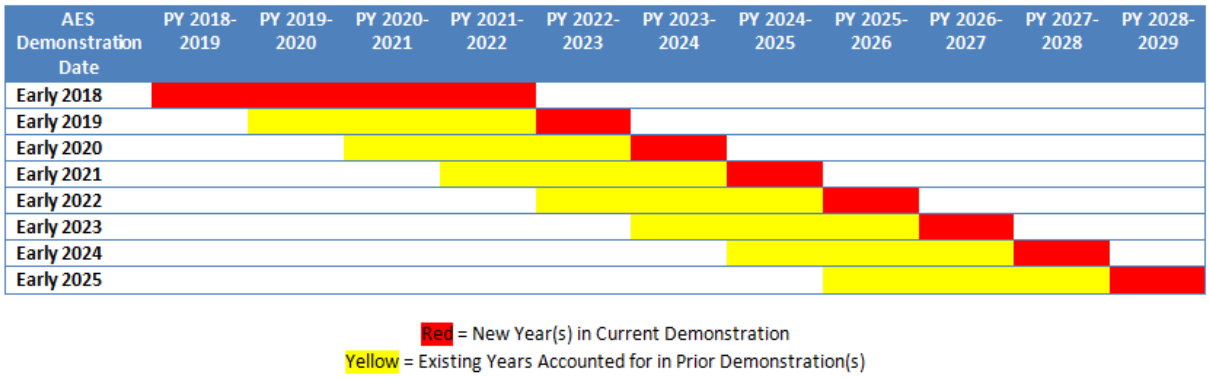
During the June 29, 2017 technical conference, Constellation proposed a different capacity demonstration process[4] in which each AES would make a capacity demonstration four years in advance for *purely informational* purposes, similar to the five-year capacity plans that utilities already file with the MPSC. Constellation proposed that a "self-supply threshold" would be set by the MPSC for each AES for each planning year on a *one-year* prompt basis, immediately before the year itself, and this self-supply threshold would determine what load the AES could serve with capacity and what load would become subject to the SRM capacity charge. This proposal is severely flawed and inconsistent with Act 341. Accepting Constellation's suggestion that capacity requirements should be established on only a one-year forward basis would

[4] See Slide 11 of Constellation's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.

perpetuate the problem of utilities not knowing what ROA load they will need to provide with capacity until shortly before the delivery year, when it will likely be too late for any new capacity to be planned and developed. This approach is inconsistent with the requirements of Act 341. Section 6w(8)(b) requires AES capacity demonstrations to be made four years in advance and, in the event that an AES "has failed to demonstrate it can meet a portion or all of its capacity obligation" in that four-year demonstration, then the MPSC is directed to "require the payment of a capacity charge… for that portion of the load not covered." Act 341 clearly requires both the demonstration itself and the commitment of certain load to pay the capacity charge at the same time, four years in advance of the planning year. In short, Act 341 requires the four-year demonstration to be binding, and does not allow for what is effectively a separate demonstration to be made immediately before the planning year. The Commission should reject Constellation's suggestion to continue the short-term capacity planning process for AESs, and adopt the four-year planning horizon required by Act 341.

IV. Timeline Issues – Future Years

The capacity demonstrations made in early 2018 will cover the four planning years from June 1, 2018 through May 31, 2022. The following chart illustrates which planning year is covered by subsequent demonstrations, on a rolling basis:



If a given ROA load served by AES capacity in future years is subsequently going to return to utility capacity service, Section 6w(6) of Act 341 dictates that the AES must provide notice to the MPSC four years in advance, according to the following chart:

Notification Date	Earliest Date at Which AES Load Can Return to Utility Capacity
September 1, 2018	June 1, 2023
September 1, 2019	June 1, 2024
September 1, 2020	June 1, 2025
September 1, 2021	June 1, 2026
September 1, 2022	June 1, 2027
September 1, 2023	June 1, 2028
September 1, 2024	June 1, 2029
September 1, 2025	June 1, 2030
September 1, 2026	June 1, 2031

This timeline does not apply to situations in which an ROA customer elects to return to bundled service with the utility; ROA customers retain the right to do so after giving proper notice to the

utility. This timeline applies only to situations in which the AES has been providing capacity to its customers, but determines that it cannot or will not do so in the future, and some or all of those ROA customers will become subject to the capacity charge and receive utility capacity while remaining energy customers of the AES.

Because total ROA load is capped at 10% of the total utility sales by Michigan law, significant changes to the load obligations of an AES would likely occur due to either significant overall load growth and/or shifting of ROA customers among different AESs. In the latter case, an AES's projected load could change between a given annual demonstration and the applicable planning year four years later. The following chart illustrates a hypothetical case:

	Early 2020	Mid-2023	June 1, 2024
AES A	• 2024-2025 Load Projection: 100 MW • 2024-2025 Capacity Demonstration: 100 MW	25 MW of load switches to AES B ↓	• 2024-2025 Actual Load: 75 MW • 2024-2025 Capacity Demonstration: 100 MW
AES B	• 2024-2025 Load Projection: 100 MW • 2024-2025 Capacity Demonstration: 100 MW	↓ 25 MW of load switches from AES A	• 2024-2025 Actual Load: 125 MW • 2024-2025 Capacity Demonstration: 100 MW

In the illustration, AES A and AES B both make their capacity demonstrations in February 2020 based on the projection they will each have to serve 100 MW of load during the planning year beginning on June 1, 2024. Both AESs are able to demonstrate they have 100 MW of capacity. Subsequently, in mid-2023, 25 MW of load moves from AES A to AES B. Therefore, on June 1, 2024, the capacity demonstrations made in February 2020 are out of date. AES A demonstrated 100 MW of capacity, but now only has 75 MW of load. AES B demonstrated 100 MW of capacity as well, but now has 125 MW of load. In the case of AES B, it would be necessary for the AES to either show an additional 25 MW of capacity available or have that incremental 25 MW of ROA load assigned the capacity charge. In order to ensure that the appropriate customers are being charged for capacity, the MPSC should allow a means for an assessed capacity charge to switch along with the load, so the same load initially subject to the capacity charge continues to be subject to it.

In the above illustration, AES A would demonstrate 100 MW of capacity for the 2024-2025 planning year, but would end up only needing to use 75 MW of that capacity. AES A would therefore be free to sell its 25 MW surplus for that planning year, either through the MISO PRA or through a bilateral deal with another party. Meanwhile, AES B would demonstrate it has 100 MW of capacity for the 2024-2025 planning year as well, but would end up needing an additional 25 MW. In order to meet its resource adequacy obligations under the MISO Tariff, AES B would need to secure that incremental 25 MW from some source, whether through a bilateral deal, through the PRA, or some combination.

While the above example illustrates a change in load responsibilities for AESs, there are other hypothetical scenarios in which the amount of capacity available from a resource changes, as shown in the following chart:

	Early 2020	Mid-2023	June 1, 2024
AES X	• 2024-2025 Load Projection: 100 MW • 2024-2025 Capacity Demonstration: 60 MW • 40 MW subject to capacity charge	60 MW resource upgraded to 70 MW	• 2024-2025 Actual Load: 100 MW • 2024-2025 Actual Capacity: 70 MW • 40 MW subject to capacity charge • 10 MW can be sold
AES Y	• 2024-2025 Load Projection: 100 MW • 2024-2025 Capacity Demonstration: 60 MW • 40 MW subject to capacity charge	60 MW resource derated to 55 MW	• 2024-2025 Actual Load: 100 MW • 2024-2025 Actual Capacity: 55 MW • 40 MW subject to capacity charge • 5 MW must be purchased

In this hypothetical scenario, the 40 MW of ROA load subject to the capacity charge is finalized for those customers of both AES X and AES Y after the 2020 capacity demonstration because, after that point, the utility must begin planning to serve those customers, and Act 341 does not provide for the movement of load in or out of the capacity charge in between the capacity demonstration and the delivery year. Therefore, the amount of load subject to the capacity charge for the 2024-2025 planning year does not change. As was the case in the example where load size changes, AES X would be able to sell its 10 MW of excess capacity in the PRA or bilaterally, and AES Y would need to purchase 5 MW of incremental capacity through one of those venues in order to meet its obligations under the MISO Tariff.

These illustrations reflect a key principle that the SRM should reflect: the capacity demonstrations made four years in advance are for *capacity planning* purposes, and are intended to ensure enough resources are planned and developed to be available in Michigan to serve expected load. During the intervening four years, various *operational* issues may arise, affecting the exact balance of generation and load, and the MISO PRA and bilateral markets continue to exist to allow for rebalancing to deal with different eventualities that cause deviations from what was reasonably planned.

In the capacity demonstration two years prior to a given planning year, the demonstration should include an update on any planned generation previously claimed for that year. For example, if an AES cited planned, but not yet constructed, generation in its demonstration in early 2020 for the 2024-2025 planning year, then the update for that year would be due in the demonstration in early 2022. Planned generation could be shown to be on schedule through appropriate reference to the MISO generation interconnection process; through construction agreements, invoices, or other documents; or some other firm means that the MPSC may deem appropriate. If the AES is not able to provide suitable proof of a project's progress, then the credit for that resource should be forfeited, and would need to be replaced.

V. Major Issues Outstanding

A. Determination Of Obligations

Section 6w(8)(c) of Act 341 provides that the state's retail electric service (bundled and ROA) capacity obligations should be determined by a combination of MISO and the MPSC, or by the

MPSC alone. Since the Federal Energy Regulatory Commission ("FERC") did not approve MISO's Competitive Retail Solution ("CRS") tariff, the MPSC should plan to make its own determination, pursuant to the SRM. MISO's LCR and PRMR provide good baseline standards for meeting reliability requirements. MISO calculates these figures for Local Resource Zone ("LRZ") 7, the MISO portion of Michigan's Lower Peninsula. In order to ensure appropriate and sufficient state reliability and electric capacity resource adequacy for retail electric customers in Michigan, Consumers Energy believes that, ideally, the MPSC should require for the planning year beginning on June 1, 2018 that each AES and utility demonstrate:

- Sufficient capacity to meet its PRMR – In the delivery year, MISO *requires* every LSE to meet its PRMR, so the MPSC cannot allow any LSE to serve more load than that for which it can meet the PRMR; and
- Sufficient capacity to meet its load-ratio share of LRZ 7's LCR is located within LRZ 7 as defined by the MISO Tariff.

Consumers Energy does acknowledge the concerns regarding immediately implementing this requirement on all parties in 2018, as discussed further below.

1. Appropriateness Of PRMR And LCR

PRMR and LCR are key components of ensuring local reliability. The locational requirements represented by LCR have been established by FERC and MISO as a fundamental component of promoting resource adequacy by ensuring that sufficient generation is located locally, taking into account limitations on the transmission system. In its 2010 "Market Mechanisms Order,"[5] FERC ordered MISO to incorporate locational rules into its resource adequacy construct, finding that an "aggregate deliverability" copper sheet approach was insufficient and that "locational resource adequacy and reliability are fundamental to an effective resource adequacy program." In response, MISO incorporated LRZs into Module E-1 of its Tariff in 2011, which FERC approved. MISO stated then that LRZs were established "to ensure that sufficient qualified Planning Resources can be relied upon to meet Load within each portion of the MISO Region." MISO further stated: "Appropriately sized LRZs will facilitate development of local capacity market mechanisms to send economic signals to the marketplace that capacity may have additional value if it is located in one location rather than another," and that "LRZ capacity requirements… encourage parties to develop or retain the proper amount of Planning Resources in the right locations within the MISO Region to ensure reliability" through a 0.1 day/year loss of load expectation.[6] FERC approved MISO's PRMR and LCR methodology as an appropriate means for ensuring a one-day-in-ten-years loss of load expectation is maintained. The PRMR ensures a sufficient reserve margin exists to meet peak demand plus unexpected demand due to extreme weather, unexpected outages, or other factors. The LCR ensures a sufficient amount of generation is located close to load, to account for the constraints of the transmission system. Determining resource adequacy in a manner described above is consistent with the MPSC's authority to ensure reliability of the electric grid in Michigan pursuant to the SRM.

[5] FERC Docket No. ER08-394, June 8, 2010.
[6] FERC Docket No. ER11-4081, July 20, 2011.

In addition to the reliability implications of LCR, requiring all LSEs to meet their load-ratio share of LCR would promote equity among all LSEs and their customers. Under the status quo, some LSEs in Michigan, specifically Consumers Energy and DTE Electric Company ("DTE"), currently exceed their load-ratio share of LCR. This results in utility-bundled customers subsidizing the local capacity that is necessary to serve ROA load. Consumers Energy's generation fleet was built to serve both fully-bundled and ROA customer load. In order to make sure sufficient generation would be located in Michigan to ensure reliability, both Consumers Energy and the MPSC have taken actions to secure local capacity, with these investments in generation located in Michigan ensuring that LRZ 7 as a whole does not fail to meet its LCR, even as AESs have chosen to not invest in generation located in Michigan but, instead, have relied upon auction purchases or out-of-state generation resources and have correspondingly used transmission import capacity in excess of their load-ratio shares of transmission imports. If AESs do not have to secure a load-ratio share of their LCR, then ROA load will continue to be able to free-ride on the bundled customers of Consumers Energy to ensure local reliability. Consumers Energy estimates that its bundled customers are paying up to $174 million annually to subsidize local capacity for ROA load. A load-ratio share LCR for all LSEs would eliminate this subsidization.

All LSE customers should also enjoy equivalent future flexibility regarding which resources can be used to meet capacity obligations, having the option to import some of their capacity from diverse sources outside of Michigan, without creating the risk that LRZ 7's LCR is not met. This issue may become more relevant in future years as LSEs look to a broad range of options for procuring capacity in order to lower costs for their customers.

The context and text of Act 341 clearly provide that the Legislature intended for each provider to provide a pro rata share of the LCR. The overarching policy embodied in Act 341 is clearly to provide that each electric provider appropriately plan for its share of the state's total resource adequacy commitments, or have the utility provide capacity services at a regulated rate. In addition, the design of the SRM in Act 341 was clearly designed to mirror MISO's then-pending proposal for a CRS to address the resource adequacy challenges facing states like Michigan. The CRS included the option for a provider to issue a Forward FRAP or pay a utility capacity charge. An LSE that used a Forward FRAP, which mirrors the capacity demonstration requirement of the SRM, would have had to meet its load-ratio share of LCR in that Forward FRAP submittal under MISO's proposal.[7] The currently effective tariff rules governing the MISO PRA only require the LCR to be met on a zone-wide basis. However, if an LSE in MISO submits a FRAP, rather than purchasing capacity through the PRA, it must meet the load-ratio share of its LCR in that FRAP.[8] The SRM is more similar to the FRAP than to the PRA, in that it is an administrative process designed to have providers demonstrate their rights to owned or contracted capacity resources, rather than an auction. This further illustrates that the legislature also intended the SRM to include a pro rata share of the LCR.

The pro rata share of the LCR is also sound policy. In order to ensure enough capacity is located locally without relying on an auction mechanism to clear enough aggregate capacity across all LSEs to meet the entire zone's LCR, the SRM must include a requirement that each AES and

[7] Proposed MISO Tariff Module E-3 Section 69A.12.1.2.a.iv; FERC Docket No. ER17-284, November 1, 2016.
[8] MISO Tariff Module E-1 Section 69A.9.a.

utility meet its load-ratio share of LCR and PRMR. When these load-ratio shares are totaled up (i.e., for all AESs and utilities in Michigan), it will ensure the overall LCR is met. The pro rata share is simple to administer and mitigates the potential for gaming, cost-shifting, and discriminatory electric prices. It allows each electric provider in the state to fairly and equally import power from out of state, now and in the future.

MISO provides the LCR and peak demand for LRZ 7 on an annual basis. The percentage created by dividing the LRZ 7 LCR by the LRZ 7 peak demand can then be multiplied by each AES's peak demand, which will represent the load ratio share of the LCR that each AES must meet. Section 6w(8)(c) of Act 341 provides that if MISO "declines, or has not made a determination by October 1 of that year, the commission shall set any local clearing requirement and planning reserve margin requirement, consistent with federal reliability requirements." In this circumstance, the MPSC should develop its own LCR based on the most recent publicly-available MISO data as well as forecasts from utilities of all demand, both bundled load and AES load, within their distribution territory.

During the June 29, 2017 technical conference, Energy Michigan, Inc. ("Energy Michigan") asserted that "whether a utility or AES buys a contract for [Zonal Resource Credits] or pays the auction price does not affect supply, demand or reliability."[9] This is an inaccurate statement, because reliability is indeed impacted in the event that LRZ 7's LCR is not met. That situation would indicate a shortage of local generation to meet local needs while maintaining a one-day-in-ten-years loss of load expectation. In that event, all load purchasing from the PRA in LRZ 7 would have to pay the Cost of New Entry ("CONE") for capacity, currently about $260/MW-day, regardless of which party "caused" the LRZ to be short. But even the payment of CONE would not create any new capacity, since it would only be known six weeks prior to the planning year; instead, the entire LRZ would face reduced reliability and increased risk of load shed, again regardless of which party caused the shortage. MISO's rules regarding load shed would affect all customers, regardless of which electric provider had contributed to the failure of the LRZ to meet the LCR. Requiring each electric provider serving Michigan customers to demonstrate they can meet their load ratio share of LCR will ensure that all customers bear their proportionate share of the responsibility for ensuring the reliability of the grid in Michigan.

Sole reliance on the MISO market is not sufficient to ensure reliability of the electric grid in Michigan, particularly because, even if the auction does clear at CONE, this only applies for a single year. Since the period is not long-term, even CONE would not be enough to incent capacity developers to invest in new generation.[10] Indeed, the inadequacy of MISO's resource adequacy provisions for states like Michigan (which have ROA) was one of the primary rationales behind the passage of Act 341. Act 341 recognizes the risk that LRZ 7 might not meet its LCR in the near future. Shortages in LRZ 7 are not an acceptable reliability risk even if the MISO Tariff provides for economic incentives and penalties to avoid shortages.

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[9] See Slide 7 of Energy Michigan's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.

[10] See testimony of Lawrence Makovich to the Michigan Senate Energy and Technology Committee, page 7, from September 17, 2015, available at: http://www.senate.michigan.gov/committees/files/2015-SCT-ENERGY-09-17-1-14.PDF.

Consumers Energy does agree that, in very limited circumstances, exceptions to LCR obligations may be appropriate. Some municipalities in Michigan have a relatively small amount (30.5 MW) of contracted capacity via long-term Power Purchase Agreements ("PPAs") with resources located outside of LRZ 7. These agreements are long-term in nature, lasting 20 years or longer, and were entered into at a time when MISO did not have LRZs and all resources within MISO were considered deliverable to all load. Consumers Energy is not opposed to such existing agreements being grandfathered in and allowing those municipalities to treat those long-term contracts effectively as though they were local resources. Furthermore, Section 6w(8)(b) of Act 341 allows multiple municipalities to aggregate their resources together, and the amount of out-of-state resources that would be grandfathered comprise a *de minimis* percentage of the total municipal load in Michigan. Any exceptions, however, must meet the following standards:

- They must be for a period of at least 20 years; and
- They must have been agreed to prior to MISO's implementation of LRZs on June 1, 2013.

2. Phase-In Of LCR Obligations

In the June 15 Order, the MPSC discussed the underlying logic of locational requirements at length, and found that "a locational requirement is required under Section 6w [of Act 341] and that a locational requirement applicable to individual LSEs is allowed as part of the capacity obligations set forth by the Commission pursuant to Section 6w in order to ensure all providers contribute to long-term resource adequacy in the state."

While the MPSC found "there is almost inevitably a need for new capacity supplies in the state to meet the LCR in the near and the long term, and to maintain local resource adequacy," and further asserted "customers of all LSEs should contribute to the state's capacity needs," the MPSC expressed hesitation over requiring all LSEs to meet their load-ratio share of LCR immediately beginning on June 1, 2018. The MPSC suggested two alternatives for allocating responsibility for meeting LCR in a fair and equitable manner:

- A phase-in of requirements;
- Allocation of a proportional share of needed incremental local capacity combined with a base-level allocation tied to a reasonable fraction of the proportional share of the overall LCR.

Using the framework set forth by the Commission in the June 15 Order, Consumers Energy believes phasing in LCR obligations could address the Commission's stated concerns, as long as the phase-in ensures equitable contribution to LCR in a timely fashion. Under this approach, a load-ratio share of LCR for each utility and AES would still be determined in the manner discussed above. Utilities would be responsible for meeting their load-ratio share of LCR in the planning year beginning June 1, 2018. AESs would be responsible for meeting a portion of their load-ratio share of LCR on a phased-in schedule as outlined below:

Planning Year Beginning:	AES LCR Obligation:
June 1, 2018	25% of load-ratio share of LCR
June 1, 2019	50% of load-ratio share of LCR
June 1, 2020 and beyond	100% of load-ratio share of LCR

During the first planning year, an AES would need to have 25% of its load-ratio share of LCR within LRZ 7. As long as an AES met that threshold, it would be permitted to serve capacity for its full load. If an AES could only meet, for example, 20% of its load-ratio share in the first planning year, then it would be capped at serving 80% of capacity for its load (20% / 25% = 80%). For example, if an AES's load-ratio share of LCR is 100 MW, and that AES could only demonstrate 20 MW of capacity in LRZ 7, it would only be able to serve 80 MW of load with capacity. The remainder of its load would receive utility capacity and become subject to the SRM capacity charge.

In the first planning year, an AES that demonstrates 25% of its load-ratio share of LCR will be considered to have met its LCR obligation for that year. However, the MPSC should acknowledge that MISO still requires LRZ 7 to meet its entire LCR, which, under this phase-in approach, is only possible due to in-state capacity owned by the utility and paid for by bundled customers. Therefore, if an AES is only able to demonstrate 25% of its load-ratio share of LCR, the ROA load covered by the remaining 75% should pay the utility a charge for that planning year. This charge would reimburse the bundled utility customers for providing local capacity to ensure that LCR continues to be met while AESs plan to develop their own local capacity by 2020. This charge would be the difference between the MPSC's approved SRM capacity charge for the utility for the relevant year and MISO's auction clearing price for the relevant year. This would *not* be the same as the ROA load paying the SRM capacity charge itself; the ROA load would not be subject to this transitional LCR charge, nor would the utility be responsible for providing capacity to the ROA load, for any period beyond the relevant planning year. As a retail charge for the provision of electric service, the MPSC would have authority to implement the transitional LCR charge.

This phased-in approach helps AESs and their customers transition to the requirements of Act 341. It also minimizes the time the state is at risk of not meeting its overall LCR because, beginning in 2020, all LSEs would meet their load-ratio share of LCR and contribute to long-term resource adequacy in Michigan, as the MPSC recognized as important in its June 15 Order.

Both of the phase-in targets – 25% of load-ratio share of LCR in 2018, and 50% in 2019 – are reasonably attainable for AESs in Michigan. During the June 29, 2017 technical conference, Constellation estimated that there would be 733 Zonal Resource Credits ("ZRCs") of available capacity in LRZ 7 during the 2019-2020 planning year, and that the AESs as a group would need to meet a PRMR of 1,542 MW.[11] Given Constellation's numbers, the AESs could meet 47% of their PRMR with local resources in 2019-2020, and they could meet the required 50% of their load-ratio share of LCR with local resources, assuming LRZ 7's LCR is 95% of its PRMR.

[11] See Slide 7 of Constellation's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.

Meeting 25% of their load-ratio share of LCR in the 2018-2019 planning year should be much less of a burden.

A three-year phase-in recognizes that, in the event that new capacity must be built in Michigan to meet an AES's load-ratio share of LCR, three years is an adequate length of time for a natural gas-fired combustion turbine to be built, as was demonstrated recently in the construction of Wolverine Power Supply Cooperative Inc.'s ("Wolverine") Alpine Power Plant ("Alpine"). In fact, during the July 10, 2017 technical conference, Wolverine's representative stated that Alpine was completed in less than 20 months. Although Constellation suggested during the June 29, 2017 technical conference that they would not plan to build new capacity in Michigan, both they and any other AESs would have ample opportunity to be able to meet 100% of their load-ratio share of LCR by the 2020-2021 planning year, by either building new resources on their own or by contracting with a third party to do so. Combustion turbines are an appropriate resource to consider in this case, because they are frequently built to address capacity needs given their relatively low costs and quick construction time.

Adopting a phase-in period of longer than three years, and/or not requiring all LSEs to meet their load-ratio share of LCR at the end of the phase-in period, would create unnecessary reliability risks. During the phase-in period, it will be possible for LRZ 7 to fail to meet its MISO-determined LCR, exposing all LSEs to the risk of paying CONE and to the risk of load shed. These increased risks were acknowledged by Staff at the June 29, 2017 technical conference, and the presence of these risks means the phase-in should be as short as technically feasible to limit the time of exposure.

Consumers Energy projects that, under the different approaches to LCR obligations contemplated above, bundled customers would subsidize capacity for ROA load at the following levels:

	2018	2019	2020
Status Quo – No LCR Obligations on LSEs	$113M-$174M	$113M-$174M	$113M-$174M
Three-Year Phase-In	$84M-$131M	$57M-$87M	$0
Full Implementation in 2018	$0	$0	$0

The MPSC's other suggested option, the allocation of incremental new capacity needed to meet LCR across LSEs, would be difficult to effectively implement and would continue the unfair subsidization of ROA customers by bundled utility customers. This approach would rely more heavily on assumptions about load growth and retirements of resources, as opposed to being based on a straightforward and mandatory capacity obligation provided by MISO. These assumptions change often, resulting in the possibility for gamesmanship and constant relitigation of requirements. A simple approach is fairer and much easier to implement. An incremental approach would also result in less flexibility for utilities to procure diverse sources of capacity

for their customers, because it would not consider the substantial investments in in-state generation that utilities have already made, and which have allowed other electric providers to rely on out-of-state imported capacity and to avoid meeting their proportionate share of the LCR. At the June 29, 2017 technical conference, Staff acknowledged that an incremental approach would result in some LSEs being obligated to continue holding greater than their load-ratio share of LCR, an outcome that is tantamount to requiring some LSEs to make investments for their competitors' benefit, and that Staff recognized at the technical conference as "not equitable." Since an incremental approach would only consider incremental capacity, and allocate only that capacity to all LSEs, utilities would be required to procure more new in-state capacity than they otherwise would, and AESs would be required to procure less. These same issues would apply to any "hybrid" approaches, such as the one suggested by Staff,[12] or an approach based on an invented "LCR charge" as proposed by Energy Michigan,[13] that include a component based on an allocation of incremental new capacity.

At the technical conference, Energy Michigan asserted that an incremental approach (a "forward looking" approach, as defined by Energy Michigan) is appropriate because ROA customers have already paid for utility capacity through stranded cost and securitization proceedings.[14] This is an inaccurate assertion. Although the MPSC approved a securitization process for Consumers Energy in 2001 as part of the 2000 energy law, securitization was only used in that case to facilitate a 5% reduction in residential customer rates as mandated by that law. The MPSC also approved a total of $63 million in stranded cost recovery in 2002 and 2003, reflecting generation costs during those two years, when rates were frozen.[15] After interest was accounted for, the total amount collected by Consumers Energy was about $94.3 million. While these stranded costs were initially collected only from ROA customers, later, in Case No. U-15744, the MPSC ordered Consumers Energy to begin collection for non-residential bundled customers as well. Ultimately, ROA customers paid about $38.9 million in stranded costs, while bundled customers paid about $55.4 million.

By comparison, since 2003, Consumers Energy has invested $2.5 billion in generation capacity, paid for exclusively by the Company's bundled customers. These investments have addressed compliance with clear air environmental regulations, plus the purchases of two large combined cycle gas-fired power plants to address system reliability, benefiting bundled and ROA customers alike. As a result of these investments, Consumers Energy's production rate base increased from $1.3 billion in 2003 to $3.8 billion in 2016, illustrating that the large majority of current investment in capacity has been borne by bundled customers.

Moreover, applying an LCR requirement to only new generation resources (as suggested by an incremental approach) is inconsistent with Section 6w's provisions which dictate how the SRM capacity charge must be established and applied. Section 6w(3)(a) requires that the capacity charge "include the capacity-related generation costs included in the utility's base rates,

[12] See Slide 16 of Staff's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.
[13] See Slides 9-13 of Energy Michigan's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.
[14] See Slide 8 of Energy Michigan's June 29, 2017 presentation, available at: http://www.michigan.gov/documents/mpsc/6-29-2017_PRESENTATIONS_577112_7.pdf.
[15] MPSC approvals in Case Nos. U-13720 (2002 costs) and U-14098 (2003 costs).

surcharges, and power supply cost recovery factors, regardless of whether those costs result from utility ownership of the capacity resources or the purchase or lease of the capacity resource from a third party." Section 6w(3) also requires that the SRM capacity charge must be set so it "does not differ for full service load and alternative electric supplier load." These express requirements mandate including existing capacity costs in the SRM capacity charge. These requirements are also inconsistent with the premise that an LCR requirement should only apply to new needed capacity resources. To illustrate, if the incremental approach was adopted for the LCR requirement, that would mean that ROA customers could avoid being subject to the capacity charge until new generation was needed. But, when new incremental generation is needed, if the respective AES did not meet its resource adequacy requirements (including contribution to LCR), the associated ROA load would become subject to the SRM capacity charge and be required to pay for all of the utility's fixed capacity costs which, by statutory definition, would include both existing and new generation resources. The Legislature's expression of the necessary components for the SRM capacity charge supports the establishment of an LCR requirement for all electric providers which recognizes existing, as well as incremental, generation resources.

B. Sufficiency Of Resources

In order for an AES's capacity demonstration to be deemed sufficient by the MPSC, the AES should be required to show that it either:

- Owns existing generation unit(s); or
- Has firm executed PPAs for capacity.

Any PPAs should be filed with the MPSC for review and audit, prior to the capacity demonstration being deemed sufficient by the MPSC. Any PPAs must be able to be tied to a specific resource, or a slice-of-system of a specific portfolio of resources. It is not sufficient to simply have a futures contract or some similar instrument that promises delivery of capacity in a future year without specifying where the capacity will come from.

To allow some flexibility, both AESs and utilities should be allowed to plan to meet up to 5% of capacity obligations through MISO's PRA, and can indicate this plan in their demonstrations. Note this 5% restriction applies to *planning* purposes; as part of a capacity demonstration four years in advance, AESs and utilities should only be able to claim that they will use the PRA to procure 5% of their capacity. As illustrated in the hypothetical scenarios above, it is possible for *operational* circumstances to mandate that an entity actually purchase more than 5% in the delivery year to balance generation and load. Notwithstanding those potential operational circumstances, Consumers Energy believes that allowing LSEs to plan four years in advance to purchase more than 5% of their capacity in the PRA would not be in line with the PRA's design. The PRA is intended to allow MISO market participants to make fairly minor adjustments in their capacity positions two months prior to the delivery year, not to plan to buy large amounts of an LSE's capacity obligation. The Commission should reject Constellation's suggestion to allow for more than 5% of capacity requirements to be met by the annual PRA.

AESs and utilities should both be allowed to plan to meet obligations four years in advance with generation that is planned for construction but not yet completed. However, those plans must be

subject to review and verification. Two years in advance, proof should be provided that the planned generation is appropriately on schedule. This proof could include citations to the MISO generation interconnection process, construction agreements, invoices, permit applications and approvals, and/or other similar documentation.

All capacity relied on in capacity demonstrations should be ultimately demonstrable through MISO's Module E Capacity Tracking ("MECT") tool, as appropriate under MISO rules. The MECT tool is only used for a given planning year on a prompt basis. For example, for the planning year that begins on June 1, 2018, MISO first opened the MECT tool for data inputs on September 1, 2017. Between September 1 and June 1, MISO imposes various deadlines for different types of data to be submitted, and sequentially locks that data in. The MECT tool does not provide the ability to verify capacity or load data years in advance, but the data provided therein can be used by the MPSC closer to the delivery year for verification purposes. The MISO Tariff allows state regulators to examine data in the MECT tool if the regulator so requests. The MECT tool would be a verification method.

VI. Responses To Questions In The May 11, 2017 MPSC Opinion And Order, Attachment A, Case No. U-18197 *et al.*

1. *How should capacity obligations change if customers change suppliers?*

Changes on a year-to-year level, between the capacity demonstration and the delivery year, are addressed above. If customers change suppliers mid-year, then any capacity charge should follow the customer from supplier to supplier, which is why a capacity charge should only be applied on a whole-customer, rather than pro rata, basis.

2. *What type of proof should be required to verify any changes in load over the four-year period for AESs? Is that necessary to track?*

It is necessary to track load, as discussed above. EDCs do monitor changes in load among AESs through the PLC process at MISO, using meter data and reports of switching. EDCs should therefore have the ability to verify changes in load through this process.

3. *What level of proof should be required that capacity is owned or under contract and will not be sold in the interim as part of a capacity demonstration? Is a signed affidavit sufficient? If not, what level of proof should be required?*

A signed affidavit alone is not sufficient; it should be supplemented. As discussed above, PPAs should be filed with the MPSC prior to the AES capacity demonstration being deemed sufficient. The commitment of generation can be captured in the MISO MECT tool in the prompt year, and the MPSC should be able to verify that this has been done. For out years, AESs should cite to specific generation in their demonstrations. When the delivery year approaches, the MECT tool can likewise be used to prove to the MPSC that the claimed generation is actually being used.

Alternatively, Consumers Energy would support the development of a Michigan-only capacity tracking tool modeled after the MECT tool. A Michigan-only capacity tracking tool could be

used by the MPSC to track and verify capacity resources four years in advance, rather than only doing so in the prompt year as the MECT tool allows. The MPSC would need to allow for sufficient time for this Michigan-only tool to be developed.

4. *What level of proof should be required in order to count existing or proposed energy efficiency or demand response or demand-side management programs toward meeting capacity obligations?*

If energy efficiency and/or demand response are being used to meet capacity requirements, then they must be able to qualify for capacity of the relevant type under the MISO Tariff. For the prompt year, this should be reflected in the MECT tool. For future years, a similar process could be used as with planned generation, with future verification required, and with the requirement to enter the resources into the MECT tool at the appropriate time. If the resources are not being used as MISO-approved capacity resources, but are instead simply being used to offset peak demand, then this needs to be reported to the EDC by October 1st of the preceding year for it to be reflected in the annual forecast to MISO.

Unlike planned new generation, new demand response and energy efficiency programs might not have a substantial paper trail available two years in advance of the delivery year. In fact, an LSE could conceivably initiate a program merely months before the capacity is needed. Since the purpose of the SRM is to ensure that firm capacity is being secured well in advance of the delivery year, LSEs who plan to use demand response and energy efficiency to meet their capacity obligations should show their contracts or tariffs with their customers two years in advance. If contracts or tariffs are not shown, the amount of demand response and energy efficiency in the plan will count towards the 5% cap that the LSE can plan to buy in the PRA.

5. *What level of proof should be required in order to count new proposed generation resources towards meeting capacity obligations? Signed generator-interconnection agreement before it could be counted? Signed affidavit including schedule to receive permits, approvals, and complete construction ahead of the four-year forward obligation?*

This is addressed in the above section on "Sufficiency of Resources."

6. *If a small portion of the capacity obligation is allowed to be obtained in the MISO PRA to account for fluctuations in capacity obligations, is it possible to determine if those ZRCs purchased in the auction can be traced to generation that is physically located in Zone 7? If not, should ZRCs obtained in the PRA count towards meeting any portion of any potential LCR obligation or strictly PRMR obligation?*

The PRA does not tie to specific resources on a MW-load-to-MW-generation basis, but MISO optimizes the PRA to ensure that LCR is met as long as resources exist. If an LSE specifically declares that it will rely on purchasing 5% of its obligations in the PRA as part of its four-year plan, then only (LCR/PRMR x MWs purchased in the PRA) should count towards meeting LCR.

7/8. *How transparent should the capacity demonstration process be? Should the capacity demonstrations be contestable by other parties?*

Yes. The process should be transparent and contestable, subject to appropriate confidentiality protections. Utilities need to determine what amount of load for which they may become responsible for providing capacity. All parties should have an opportunity to review and verify the supporting data. Overall, transparency and the ability to review will help ensure a fair playing field.

9. *Would the most recently released LCR and PRMR by MISO for the prompt year be reasonably used for setting capacity obligations that are four years forward? If not, what is an appropriate methodology for determining the capacity obligations pursuant to MCL 460.6w?*

MISO will provide LCR and PRMR data annually for the prompt year, plus years four and ten. Using these numbers, the MPSC can interpolate the intervening years with a simple trend line.

10. *In the case where an entity does not meet its capacity obligations, should the entity be required to include any information which customer loads do not have capacity to meet the obligations?*

Yes. As previously discussed, if an entity does not meet its capacity obligations in its capacity demonstration, then it should indicate which of their customers they are and are not able to provide capacity for.

11. *If an AES meets its PRMR but not an LCR obligation, as applicable, is all of that entity's load to be covered by the SRM with capacity provided by a utility or is another remedy appropriate?*

If an AES is only able to meet, for example, 60% of its LCR, then it should be treated as having enough capacity to serve 60% of its load, notwithstanding the ability to meet PRMR. The 40% balance would be covered by the utility.

12. *What avenues exist for AES customers in Michigan to meet capacity obligations through demand reductions or demand response?*

AESs could rely on demand response to meet obligations in the same manner as utilities. They can qualify them as capacity resources under the MISO Tariff. Alternatively, they can include a demand response program in their agreements with their customers, and provide documentation of that to the MPSC. Under this second approach, the modified peak demand would need to be provided to the EDC so it can make an appropriate forecast to MISO. In either case, the administration of a demand response program by the AES may require the installation of communications systems and other hardware that allows for load reductions and/or interruptions.

Due to the fact that AESs may serve relatively small amounts of load and small numbers of customers, it is theoretically possible that an AES could meet a large percentage of its

obligations with demand response. Consider an AES that serves two customers, one of which has 9.5 MW of peak demand and one of which has 0.5 MW of peak demand. The AES could sign the larger customer up with fully-interruptible service, counting that as 9.5 MW of capacity. The remaining 0.5 MW could be bought through the PRA, since it is only 5% of the AES's load.

In any event, any load signed up for demand response and that it counted as a capacity resource must be able to perform when called on by MISO. If it does not, the LSE and/or the customer may be subject to penalties.

13. *If an entity does not meet its capacity obligations four years forward to the MPSC, at what point in time do the requirements for that AES to participate in the PRA to cover that load end?*

It is important to note that all load always "participates" in MISO's overall resource adequacy construct, whether or not it involves purchases in the PRA itself. If some ROA load is covered by utility capacity instead of AES capacity, that is still represented in the MISO resource adequacy construct, whether through a PRA purchase, through self-scheduling, or through a FRAP.

In the initial 2018 capacity demonstration, if an AES is short in any of the four planning years between June 1, 2018, and May 31, 2022, then the amount of that shortage is covered by the utility, and that ROA load pays the capacity charge to the utility. If, for example, the AES is going to be short by 5 MW against its projected demand in any of those four years, then the 5 MW of that ROA load will be subject to the capacity charge, beginning on June 1, 2018, and continuing for the 30-year term of the capacity charge. The AES's responsibility to secure capacity for those 5 MW would cease beginning on June 1, 2018.

VII. Additional Questions From The June 8, 2017 Technical Conference

1. *How should it be dealt with if ZRC ratings for a unit change over time? What is appropriate documentation?*

This question was discussed earlier in the "Timeline Issues – Future Years" section.

2. *Rather than have capacity demonstrations (other than the initial demonstration in 2018) only cover the fourth year out, is there a benefit to requiring every demonstration to cover each of the next four years?*

The advantage of requiring annual capacity demonstrations to cover each of the next four years is that both load forecasts and demonstrations of resources could be refined and, if necessary, trued-up as the delivery year approaches. This approach would also be necessary to implement the option contemplated by the MPSC in its table on page 13 of its June 15 Order, which foresees an annual process in which capacity demonstrations cover each of the next four years, with an increasing percentage of PRMR that must be covered in each approaching year.

The downside is, as the delivery year approaches, there is less that can be done to correct a sudden shortfall. In the MPSC's suggestion set forth at page 13 of the June 15 Order, an LSE would need to show it could cover 85% of its PRMR four years out, 90% three years out, 95% two years out, and 100% in the prompt year. However, if two years out the LSE was still only able to cover 90% of its PRMR, and was therefore found to be deficient, it might be too late for the utility to plan to meet this incremental demand. When the delivery year arrives, MISO *requires* every LSE to have met its PRMR, so there is no option to allow any LSE to serve more load than that for which it can meet the PRMR. The purpose of the four-year planning horizon is to ensure adequate planning for any shortfalls. Therefore, the best approach is to require all LSEs to show that they can meet 95% of their PRMR four years ahead, allowing for up to 5% being purchased in the PRA, an approach that was also suggested by the MPSC at page 13 of the June 15 Order. This way, there is a single point in time at which capacity sufficiency for a given future year is evaluated, and that point in time takes place far enough in advance to plan for any shortages.

Appendix A

GLOSSARY OF TERMS

AESs – Alternative Energy Suppliers

Act 341 – Section 6w of Public Act 341 of 2016

Alpine – Alpine Power Plant

CONE – Cost of New Entry

Constellation – Constellation NewEnergy, Inc.

Consumers Energy or the Company – Consumers Energy Company

CRS – Competitive Retail Solution

DTE – DTE Electric Company

EDC – Electric Distribution Company

Energy Michigan – Energy Michigan, Inc.

FERC – Federal Energy Regulatory Commission

FRAPs – Fixed Resource Adequacy Plans

June 15 Order – June 15, 2017 Order in MPSC Case No. U-18197

LCR – Local Clearing Requirement

LRZ – Local Resource Zone

LSEs – Load Serving Entities

MECT – Module E Capacity Tracking

MISO – Midcontinent Independent System Operator

MPSC or the Commission – Michigan Public Service Commission

PLC – Peak Load Contribution

PPAs – Power Purchase Agreements

PRA – Planning Resource Auction

PRMR – Planning Reserve Margin Requirement

ROA – Retail Open Access

SRM – State Reliability Mechanism

Staff – Michigan Public Service Commission Staff

Wolverine – Wolverine Power Supply Cooperative, Inc.

ZRCs – Zonal Resource Credits

S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021.	)))))	Case No. U-18197

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Tara L. Hilliard, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on July 17, 2017, she served an electronic copy of **Consumers Energy Company's Position Summary – State Reliability Mechanism** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein.

_____
Tara L. Hilliard

Subscribed and sworn to before me this 17th day of July, 2017.

_____
Melissa K. Harris, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 06/11/20
Acting in the County of Jackson

ATTACHMENT 1 TO CASE NO. U-18197

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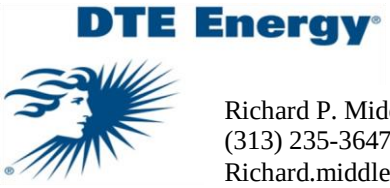

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July 17, 2017

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

Re: In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021
MPSC Case No. U-18197

Dear Ms. Kale:

Pursuant to the May 11, 2017 Order in Case No. U-18197, attached for electronic filing in the above-captioned matter is DTE Electric Company's Capacity Demonstration position summary.

Very truly yours,

Richard P. Middleton

RPM/kbk
Attachment

DTE Energy
PA 341 Capacity Demonstration

Capacity Obligations

Locational Resource Adequacy and Reliability

Historically, Load Serving Entities ("LSEs") serving retail choice load have not been required to provide capacity in the same region as their customer load, as excess utility generation has traditionally been adequate to maintain local system reliability. However, significant recent generation unit retirements have led to decreasing capacity reserves, with further decreases projected in the near term.

Due to the configuration of the transmission system, the Federal Energy Regulatory Commission ("FERC") recognized that it is critical to have capacity resources situated near load to maintain system reliability[1]. In response to FERC's order, the Midcontinent Independent System Operator ("MISO") created Local Resource Zones ("LRZ"). MISO calculates the Planning Reserve Margin Requirement ("PRMR") for each LRZ to meet the needs of its customers. Additionally, MISO annually models the minimum amount of capacity resources that need to be located in each zone to meet reliability standards while fully utilizing the capacity import capability, which is referred to as the Local Clearing Requirement ("LCR").

MISO's LRZ 7 (consisting of most of the Lower Peninsula of Michigan) currently does not have sufficient capacity to meet its PRMR without relying on imported capacity from the rest of the MISO region. The zone has had to rely on imports from out of the state in each of the last two MISO Planning Years (see Figure 1).

[1] Locational Requirements Order, 126 FERC 61,144 at P 47

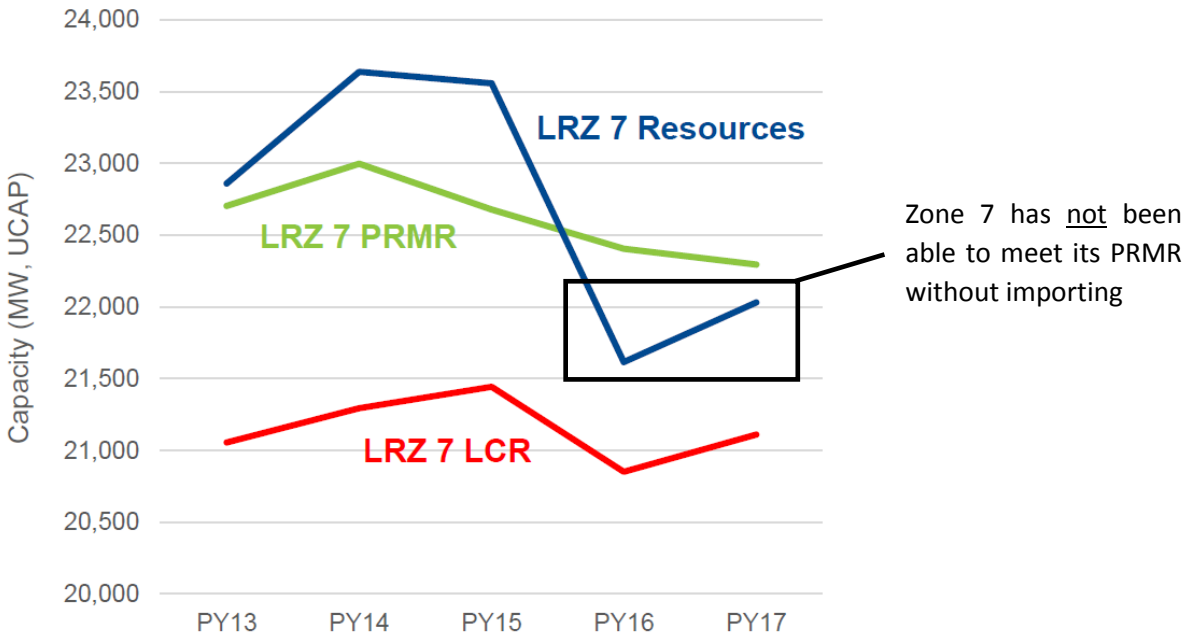
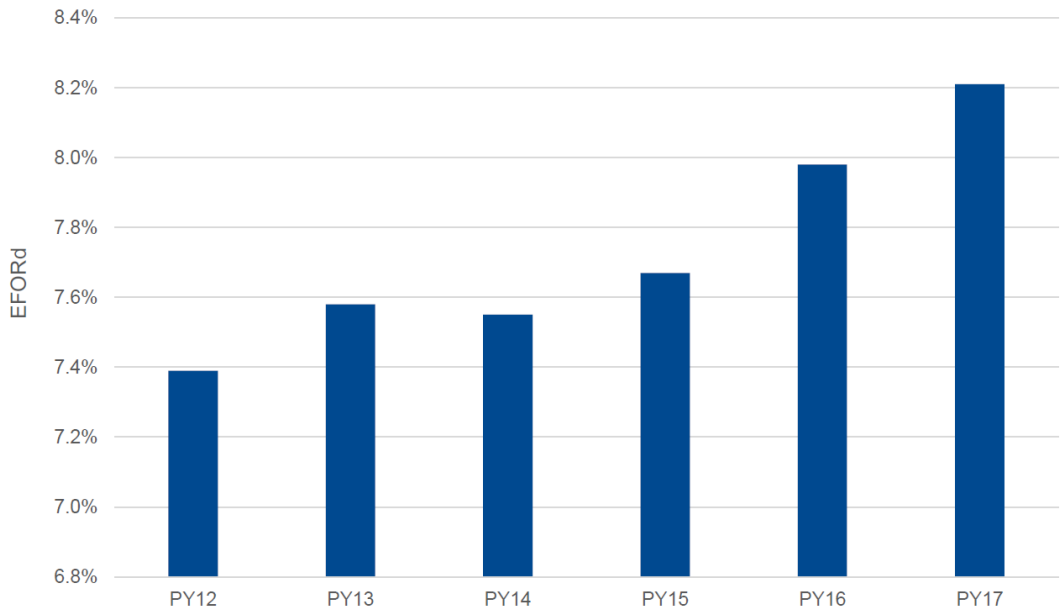


Figure 1. LRZ 7 Historical Capacity Position (Unforced Capacity, UCAP)

While the recently released 2017 OMS-MISO Survey indicates that there may be excess capacity in other zones (a limited portion of which could be imported to help mitigate Zone 7 shortages), there is still much uncertainty regarding whether capacity resources owned by Independent Power Producers ("IPP") will continue due to insufficient revenue streams from MISO's capacity market. MISO has recognized that changes to its capacity market were required for markets with retail electric choice and recently attempted to implement a Competitive Retail Solution ("CRS") that was ultimately rejected (due to design issues, not necessity) by FERC. Some of the flaws in MISO's capacity market as it relates to areas with retail electric competition include that it is for one year only; its commitment horizon is only months before the commitment year begins; and the price is capped at the cost of a simple cycle combustion turbine (less than the cost of needed base load capacity). All of these factors have contributed to the resultant capacity prices that have been inadequate to produce sufficient revenues for IPP plants. Additionally, the recently passed Illinois nuclear legislation that required two of Exelon's plants totaling approximately 1,500 MW (unforced capacity) to keep operating (a significant contributor to the shift in forecasted capacity position from the 2016 OMS-MISO Survey to the 2017 report) has been challenged by some of Exelon's competitors that claim to require similar subsidies for their coal plants. The prices produced by MISO's capacity market and the legal challenges to the Illinois legislation that kept the Exelon nuclear plants operating create an environment in which thousands of megawatts of baseload nuclear and IPP coal plants in MISO could be shut down in the near future.

In addition to the risk of closure of certain generation units, there is risk with the ongoing performance of the existing generation fleet within MISO. MISO's Planning Year 2017-2018 Loss of Load Expectation Study Report shows that the MISO system-wide weighted forced outage

rates (which are used to determine the amount of capacity a given resource can be relied upon during peak demand periods) have been worsening over the past several years. The 2017 OMS-MISO Survey does not account for this worsening generator unit performance.



MISO data indicates a worsening trend in unit performance

Figure 2. MISO Class Average Weighted EFORd[2]

Even if there is some available capacity to import into Zone 7, there still needs to be sufficient resources within the zone to meet the LCR to ensure grid reliability. Locational resource adequacy requirements were established to "ensure that sufficient qualified Planning Resources can be relied upon to meet Load within each portion of the MISO region"[3] and to "encourage parties to develop and retain the proper amount of Planning Resources in the right locations within the MISO Region to ensure reliability"[4]. It is imperative that local requirements are met, because falling short of the LCR results in a higher probability of firm load shed (above the 1 day in 10 year LOLE standard) for all customers, not just those for whom proper planning did not occur.

It is critical that processes and requirements associated with the State Reliability Mechanism ("SRM") are properly defined to incent proper long-term planning to support local and system reliability. It is also a tenet of both PA 341 Section 6w and the related June 15th, 2017 MPSC order

[2] MISO 2017 LOLE Study Report
[3] FERC Docket No. ER11-4081 Transmittal Letter (p. 7) July 20, 2011
[4] FERC Docket No. ER11-4081 Transmittal Letter (p. 8) July 20, 2011

that all suppliers are treated equitably[5,6]. Requiring all suppliers to demonstrate that they support Michigan reliability with local resources equal to their LRS of the LCR accomplishes both of these aims. Proposals to the contrary – including a delayed locational requirement, or paying utilities a fraction of the cost to build new plants – are not equitable to all customers and could endanger reliability in Michigan. Further, both proposals would conflict with the legislation by allowing the continued subsidization of capacity costs for retail open access customers by bundled customers.

The very purpose of the SRM is to ensure that flaws in the MISO Resource Adequacy process do not result in reliability issues in Michigan. Said another way, had MISO's Resource Adequacy construct resulted in sufficient generation within Michigan to ensure reliably electric service within the state, then section 6w of PA 341 would not have been necessary. Therefore, a continued reliance on MISO's Resource Adequacy construct does not satisfy the very purpose for which the law was created. Section 6w of PA 341 specifically lays out a four-year capacity demonstration process; any proposal that reduces that demonstration to a prompt requirement by suggesting that the MISO Planning Resource Auction ("PRA") be utilized to fully meet capacity obligations for the prompt year should not be adopted, as any such proposal ignores basic requirements set forth in the law. Further, the PRA does not ensure capacity is available – it merely optimizes the use of existing capacity and reliance on it has resulted in imminent capacity shortages. Proposals that suggest a portion of the MISO-determined Cost of New Entry ("CONE") is paid to the relevant utility by Alternative Energy Suppliers ("AES") for new resources in the zone should also not be adopted, as the administratively determined CONE value is based on a simple cycle combustion turbine, not the base load generation needed to replace significant amounts of recent and upcoming generation plant retirements. Under such a proposal, both previously mentioned issues with the current construct would be maintained – adequate generation resources would not be incentivized in the correct locations (specifically to meet locational reliability requirements in Michigan) and bundled customers would continue to subsidize their retail choice counterparts.

The need to invest in new and existing resources in Michigan to ensure short and long-term reliability is not in question. Local generation capacity is essentially a public good, as it provides the same reliability benefits to all distribution customers regardless of from whom they are purchasing their energy. To fairly distribute the costs of the generation assets that are providing reliability to all customers, each supplier should be required to meet their full LRS of the LCR. Failure to do so would result in continued subsidization of capacity costs, while endangering the reliability of all customers.

Demonstration Process

To support electric reliability in Michigan, suppliers should be required to demonstrate 100% of their capacity obligation – including 100% of their LRS of the LCR – in all capacity demonstration

[5] "Equitable treatment is called for, and the Commission intends to adopt a process employing a uniform (capacity demonstration) methodology" - MPSC Order: June 15, 2017 (p. 8)

[6] Locational requirements should be set forth "in order to ensure all providers contribute to long-term resource adequacy in the state" - MPSC Order: June 15, 2017 (p. 11)

years. The initial demonstration should account for 100% of capacity obligations for each of the four years (through the 2021-22 MISO Planning Year), and annually thereafter for each of the planning years beginning four years forward. No re-demonstration of load should be required for a Planning Year after the initial demonstration and any shortage or excess to prompt year capacity obligations should be managed at the supplier's discretion. For example, if a supplier's capacity obligations increase after the demonstration process is complete (because of increasing load, MISO-modeled Planning Reserve Margins, etc.), the supplier must procure resources above the initial obligation either bilaterally or through the MISO PRA. This simplifies the administrative tracking of both registered resources and planning requirements that would otherwise be required if any type of annual re-demonstration was instituted. Further – and perhaps more importantly – allowing re-demonstration after the initial four year forward capacity demonstration would stand in direct contrast to the requirements prescribed in PA 341.

The process of calculating capacity requirements should mirror the current process:

1) Electric Distribution Company ("EDC") creates Service Territory demand forecast
2) Peak Load Contributions ("PLCs") are allocated and communicated to individual suppliers
3) Suppliers and the Michigan Public Service Commission ("MPSC") approve PLC Values

To adhere to the established MISO timeline, this process should be complete by January 15th prior to the AES demonstration for the relevant Planning Year.

Local Obligations and Exemptions

While all suppliers should be held to provide 100% of their LRS of the LCR, certain exemptions could be allowed to facilitate transition to the new requirements. Suppliers that prudently planned for their long-term capacity needs prior to the MISO zonal construct (pre-2013) by entering into long term (20+ years) resource agreements from capacity resources outside of LRZ7 should have the external capacity exempted from their requirement to provide their LRS of the LCR until the termination of such agreements. Exempted local obligation should be netted from the "Effective Capacity Import Limit" ("ECIL")[7]. After subtracting exempted capacity obligations, the remaining ECIL (or "Adjusted ECIL") should then be distributed to non-exempted suppliers based on LRS (see example below).

[7] Effective Capacity Import Limit (ECIL) – zonal quantity, maximum import capability to meet the PRMR while still meeting the LCR, ECIL = PRMR - LCR

Example

$PRMR_{Z7}$ = 20,000 MW
Zone 7 LCR = 18,000 MW

ECIL = 20,000 – 18,000 = 2,000 MW
Exempted Resources = 500 MW

Adjusted ECIL = 2,000 – 500 = 1,500 MW

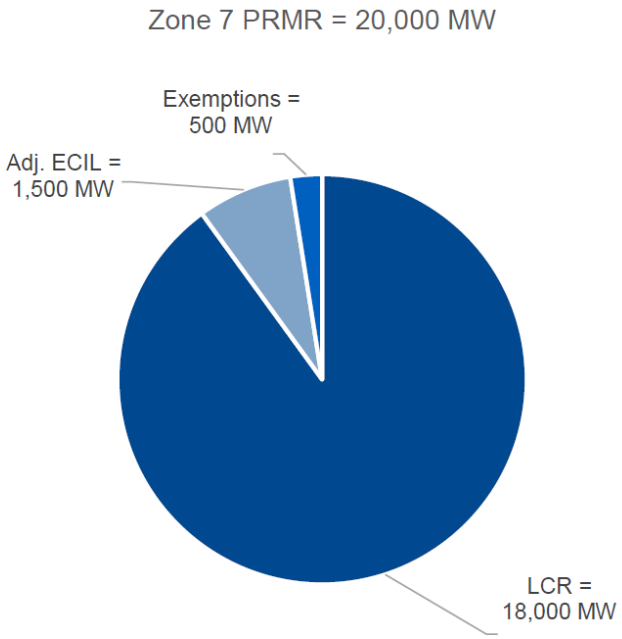


Figure 3. Local Obligation Exemptions Example

Forecast Methodology

Published MISO values and Electric Distribution Company ("EDC") forecast data are available and should be used to calculate capacity obligations for the relevant demonstration period.

MISO calculates zonal capacity obligations (PRMR and LCR) through the Loss of Load Expectation ("LOLE") study process, released annually for the prompt Planning Year on November 1st. Three out of the five inputs necessary to calculate zonal capacity obligations – Local Reliability Requirement ("LRR"), Capacity Import Limit ("CIL"), and Planning Reserve Margin ("PRM") – can be either directly extracted from the most recent iteration of the publicly available LOLE Study Report or extrapolated to provide annual forecasted values for the capacity demonstration process. The remaining inputs are also available for use in capacity obligation calculations – a ten year forecast of Zonal Peak Demand is submitted annually to MISO by the relevant EDC and a ten-year historic average Zonal Coincidence Factor is posted annually by MISO.

Table 1. Capacity Obligation Data Availability

Input	Data Availability	Considerations
Zonal Peak Demand	EDC Forecast	10-yr submitted every November by EDC
LRR	LOLE Study: Years 1, 3	Based on demand forecast submissions
CIL	LOLE Study: Years 1, 5	Modeled using physical assets
PRM	LOLE Study: Years 1, 3	Based on demand forecast submissions
Zonal Coincidence Factor	10-year historic	MISO annually posts 10-yr historic factors

For the purposes of capacity demonstrations related to PA 341, the most recently submitted EDC Zonal Peak Demand forecast should be utilized. The calculation of individual supplier's requirements should mirror the current construct – EDCs allocate PLCs to each supplier, which are then reviewed and approved by suppliers, as well as the MPSC. As the LRR and PRM are both calculated by MISO using demand forecasts provided by the EDC, published values should be extrapolated to calculate capacity obligations. CILs, which are modeled using physical assets within the MISO model (both generator and transmission), should be held constant with the value published in the most recent LOLE Study Report until the next Planning Year for which a value is published.

As previously stated above, all changes in requirement after the demonstration for a planning year should be the sole responsibility of the individual supplier (through bi-laterals, PRA, etc.).

Administrative Considerations

Any capacity obligation should go to the new supplier as customers move (after ceasing to provide service, suppliers "shall allow, at a cost no higher than the determined capacity charge, the assignment of any right to that capacity in the applicable planning year to whatever electric provider accepts that load" per Section 6w.7). The current MISO Settlement Process will account for customer switching within a Planning Year through the PLC process.

All capacity demonstrations should be transparent with the exception of pricing information.

Retail Access Customers should notify utilities by April 1, 2018 that they will not be returning to Full Service or initiating Utility Capacity Service for the initial 4 year SRM period and annually thereafter for each year 4 year forward[8]. If a Retail Access Customer does not notify the utility of their sufficient capacity from their supplier, the utility will apply the capacity charge to the customer starting on June 1st of the relevant Planning Year.

The MPSC should notify utilities of capacity obligations from AESs as soon as possible, so the utility can start planning for the capacity.

[8] "By April 1, 2018, each Retail Access Customers must notify DTE Electric in writing that it will not be returning to Full Service or initiating Utility Capacity Service beginning June 1, 2018 and provide documentation from their AES that demonstrates that the AES has secured sufficient capacity to serve the customer's load from June 1, 2018 through May 31, 2022. Failure to provide this notice will result in DTE Electric providing Utility Capacity Service to the Customer beginning with their June 2018 billing cycle" – Proposed tariff sheets, U-18248 Company Application (p. 236 of 276)

Resource Accreditation

Generation Resources

A signed affidavit alone is not sufficient to qualify existing or proposed generation resources. Rather, in order to qualify any existing resource obtained through a Purchased Power Agreement ("PPA"), the signed contract (firm and unit specific throughout the demonstration period, with no financial out clauses) must be provided. If contracts tied to a specific resource are not required, potential to double-count a capacity resource may occur and reliability jeopardized. Any owned generation can be qualified by providing the signed GIA for a particular resource. Any existing generation used in the capacity demonstration must also provide current year UCAP information (according to MISO rules). Current year credit will be carried forward unless an upgrade is planned, in which case the upgrade must meet the requirements associated with proposed generation.

Any proposed generation to be used in the capacity demonstration process must have a minimum of an affidavit PLUS design/engineering documents, cost estimates, and corporate approval documents at the time of capacity demonstration. The following proof of progress must be provided 2 year after demonstration

1. Presence in MISO Generator Interconnection Process[9]: provide Impact Study and Facilities Study Agreements
2. Provide valid Air Permit Application
3. Executed contract/purchase agreement for equipment or services (i.e. turbine, generator, engineering/construction, etc.)

Additionally, if the proposed resource is to be owned and operated by a third party, a signed contract with unit specific capacity throughout the duration of the relevant demonstration period (with no financial out clauses) must also be provided.

All proposed generation resources should be required to meet annual progress milestones with predefined deadlines. If annual milestones are not met, the equivalent MW capacity requirement/customers shall be charged for capacity by the utility starting in the next Planning Year.

Demand Resources

Existing Demand Resources ("DR") must meet current MISO requirements (including state documentation and previous performance/test data) to be utilized in the demonstration process. Suppliers must provide the information used to register the resource in the current MISO construct, including demand reduction capability forecasts, load control method, duration of reduction, emergency operating procedures and communication plans, and an approved Measurement and Verification methodology.

[9] Recent MISO changes to their Generator Interconnection Process seeking to streamline the timeline (current queue durations average nearly 3 years) are untested and unknown. Changes will supposedly cut queue time to approximately 18 months, not including construction of identified network upgrades.

As previously proposed in MISO's CRS, new DR capacity resources must show that the claimed reduction can be reasonably delivered using a DR Capability Plan, which includes a signed affidavit by a company officer, new and existing customers under contract, measurement and verification (M&V) methodologies, program descriptions, and key assumptions. The supplier should also provide any new emergency operating procedures or communication plans to verify the process to provide load reduction when called upon. The capability plan must be filed with the MPSC and should be transparent to other entities.
The total amount of DR utilized in the capacity demonstrations should not exceed the achievable potential amount of DR determined by the State by customer class (industrial, commercial, and residential). Similar to proposed generation resources, proposed DR should be required to meet annual progress milestones with predefined deadlines. If annual milestones are not met, the equivalent MW capacity requirement/customers shall be charged for capacity by the utility starting in the next Planning Year.

Energy Efficiency Resources

Existing Energy Efficiency ("EE") resources must meet current MISO requirements (installed measures that achieve permanent energy reduction not reflected in forecasts) to be included in the capacity demonstration process. Suppliers must provide adequate Measurement and Verification methodology plans consistent with MISO Tariff Attachment UU, including site surveys, demand and energy requirements, equipment specifications and purchases, proof of metering of key variables, data analyses, calculations, and quality assurance procedures. Additionally, existing resources must meet MISO rules in that they only qualify for the Planning Year after installation and the three directly subsequent.

As previously proposed in MISO's CRS, new EE capacity resources must show that the claimed reduction can be reasonably delivered using a EE Capability Plan, which includes a signed affidavit by a company officer, program descriptions, and key assumptions. Suppliers must provide adequate Measurement and Verification methodology plans consistent with MISO Tariff Attachment UU. This includes site surveys, demand and energy requirements, equipment specifications and purchases, proof of metering of key variables, data analyses, calculations, and quality assurance procedures. The capability plan must be filed with the MPSC and should be transparent to other entities.

MPSC approved PA 342 EE Plans should qualify as capacity, but are treated as an offset to load rather than a resource. Proposed EE should be required to meet annual progress milestones with predefined deadlines. If annual milestones are not met, the equivalent MW capacity requirement/customers shall be charged for capacity by the utility starting in the next Planning Year.

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July 19, 2017

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-18197

Dear Ms. Kale:

Attached for electronic filing, please find the Position Statement of Energy Michigan, Inc. which was e-mailed to Staff on July 17, 2017. Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc
Enclosures

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

*** * * * ***

In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021.	)))))	Case No. U-18197

Capacity Obligation Position Statement of Energy Michigan, Inc.

On June 29, 2017, Energy Michigan[1] presented the attached proposal in response to the Commission's June 15, 2017 Order in Case No. U-18197, *et al*., and the Staff's request for additional proposals regarding capacity obligations and a potential locational element to a Commission-created Local Clearing Requirement ("LCR") pursuant to 2016 PA 341 ("PA 341").

Energy Michigan does not waive its legal concerns regarding the Commission's authority to impose obligations or restrictions on an Alternative Electric Supplier's ("AES") ability to utilize the Midcontinent Independent System Operator's ("MISO") wholesale market for meeting capacity obligations by implementing a state-created LCR. In this regard, Energy Michigan agrees with Constellation's position that "the plain language of [PA 341] should be followed to allow all qualified MISO capacity resources to participate [in Zone 7 capacity needs] and a state-mandated LCR obligation should not be imposed." Michigan Capacity Demonstration Process – an AES view, June 29, 2017, p. 2.

[1] Energy Michigan, Inc. is Michigan's trade association for alternative and independent power supply, cogeneration, advanced energy industries and customers in Michigan. Energy Michigan aids these industries through legislative and regulatory activities, intervening in Michigan Public Service Commission ("MPSC") cases, participating in legislation, participating in certain selected national cases and rule makings, and other activities approved by the Board of Trustees. It is the only group devoted to the protection and promotion of these industries in Michigan. The comments expressed in this filing represent the position of Energy Michigan as an organization, but may not represent the views of any particular member of Energy Michigan.

In spite of these concerns, Energy Michigan believes that its June 29 proposal offers a fair and balanced approach to an AES's obligation to directly contribute to any shortfall of reliability within the State. Overall, Energy Michigan's proposal responds to the key concern regarding reliability expressed by Commission Staff in their June 27, 2017 comments and observations on filings under U-18197 ("Staff's June 27 comments"), stating:

> The primary concern regarding resource adequacy in Michigan is driven by the recent, and potential for future retirement of many of Michigan's older coal-fired generation units, due in part to environmental regulations imposed by the United States Environmental Protection Agency, as well as age and economic considerations. The retirement of these resources significantly impacts the amount of in-state generation resources that can be utilized to meet the projected peak demand requirements in the coming years and could result in a possible capacity shortfall, depending on any import constraints. [Staff's June 27 comments at p. 2.]

While the "local" in "local capacity requirement" for MISO's purposes is zone wide, Energy Michigan is proposing to resolve a potential state-mandated LCR obligation on a regulated utility service-area basis. On a zone-wide basis, we assume that utilities and cooperatives would not share in the responsibility for contributing to reliability in another provider's service territory, including the costs of new generation.

A few of the key assumptions in Energy Michigan's proposal include the following:

- Present local resources are ample for current needs.
- Michigan continues to be a no load growth state, and MISO encompasses a low growth region.
- Therefore, as long as the utilities replace retiring units, local resources will continue to be ample.

Energy Michigan's proposal is that all LSEs in the utility service area pay a pro-rata share (the "LCR charge") of the costs for any new, Commission-approved generation in Zone 7 built to

address capacity needs. The new resource would have to obtain Commission approval through the certificate of necessity ("CON") process and the cost of the capacity would follow MISO's Cost of New Entry ("CONE") (specifically, the difference between the MISO zonal Auction Clearing Price and the CONE). As a result, the utility would be guaranteed the CONE price. This LCR charge would then be applied to the LCR percentage of the Planning Reserve Margin Requirement ("PRMR") of each load serving entity ("LSE") within the distribution area of the local utility building the new resource. Therefore, all LSEs within the distribution area of the utility building the new resource will share in the cost of the new resource, pro-rata, according to their respective PRMR. This LCR charge would be on top of any applicable State Reliability Mechanism ("SRM") capacity charge that abides by the requirements of PA 341.

It is important to note that Energy Michigan has presented this proposal in the context of the 15-year history of Choice customers paying significant stranded costs, and in an effort to alleviate any concerns over a "free rider" problem for contributions to new generation resources needed for reliability purposes. To the extent that there is a "need" determined by MISO in the zone, Energy Michigan supports all LSEs paying a fair share of costs related to this incremental, new capacity. AESs, in all other regards, would be allowed to use the MISO market – either through bilateral contracts or the Planning Reserve Auction ("PRA" or "auction") to meet its capacity obligations, in the same manner in which the utilities have used, and continue to use, the MISO market to meet their PRMR today.

As explained in more detail in its proposal, Energy Michigan's proposal solves customer switching issues, eliminates the utilities' need to attempt to obtain a "30-year duration" for a capacity charge (since CONE is an annualized charge), simplifies return-to-service issues, and

eliminates “interruptible charge” discrimination. A one-page overview of Energy Michigan’s proposal is also attached.

Energy Michigan opposes all the major aspects of DTE’s and Consumers Energy’s June 29 and June 30 proposals, respectively. The utilities’ proposals effectively seek to ignore PA 341’s provisions and impose significant detrimental burdens on the continuation of electric choice that will likely ensure that Michigan’s Choice market is eliminated. For these reasons, Energy Michigan opposes the utilities’ attempts to obtain a potential SRM that imposes a 30-year mandated capacity charge, based on the embedded cost of capacity. Energy Michigan strongly believes that this proposed capacity charge, aside from its draconian term, is in violation of PA 341 Section 6w(3)(i)-(iv), which establishes that any capacity charge must subtract all non-capacity-related electric generation costs, including, but not limited to, costs previously set for recovery through net stranded cost recovery and securitization and the projected revenues, net of projected fuel costs, from all of the following: (*i*) all energy market sales, (*ii*) off-system energy sales, (*iii*) ancillary services sales, and (*iv*) energy sales under unit-specific bilateral contracts. In particular, Energy Michigan maintains that paying an embedded cost of existing capacity for resources for which customers have already paid over the past 15 years violates the letter and spirit of Section 6w(3)(b), which was specifically drafted to prohibit the embedded cost of capacity approach the utilities have proposed.

The Commission has not yet determined what, exactly, the proposed LCR will be and how it will be implemented. However, Energy Michigan submits that PA 341 Section 6w(8)(b) cannot – or should not – be interpreted to require an AES to meet any new obligation of a newly-

imposed LCR with "resources located physically in LRZ 7,"[2] as is being proposed by the utilities. Furthermore, Energy Michigan is concerned with Staff's general agreement that an LSE should be allowed to only "plan" to purchase "up to 5%" of its PRMR in the MISO auction. With the exception of LSEs under a Fixed Resource Adequacy Plan ("FRAP"), all capacity is purchased in the MISO auction. All ZRCs are similarly sold into and purchased from the auction. While most of the utilities operating in MISO are regulated utilities and thus FRAP their resources, MISO's auction has been used by Michigan's utilities to satisfy their planning reserve margins for years. Consumers Energy, in particular, has been purchasing a significant amount of ZRCs the last few years, in particular, to satisfy its PRMR, including 1,150 ZRCs in 2015 and a pending request to purchase 525 ZRCs for Planning Year 2018 (see Case Nos. U-17725 and U-18382, respectively). As Michigan's utilities have long used the MISO auction to satisfy its reliability needs – without restriction – AESs should be able to demonstrate sufficiency by using the same resource (MISO's auction) in the same manner – without restriction – to satisfy any new Local Clearing Requirement for the State.

Energy Michigan's proposal supports the purposes of a LCR and therefore provides a holistic, integrated and implementable solution that does not harm any party, contributes to the reliability needs of the State, does not conflict with federal laws, and preserves electric choice. Allowing an AES continued access to reasonable market-priced wholesale electric products, and the continued freedom to contract with customers, will ensure fairness to all parties, will prevent pricing of AESs out of the market, and will comply with the language and purposes of PA 341.

[2] Consumers Energy SRM Capacity Demonstration Technical Workgroup Meeting, June 30, 2017, p. 8.

Respectfully submitted,
Varnum, LLP
Attorneys for Energy Michigan, Inc.

July 19, 2017

By: _____

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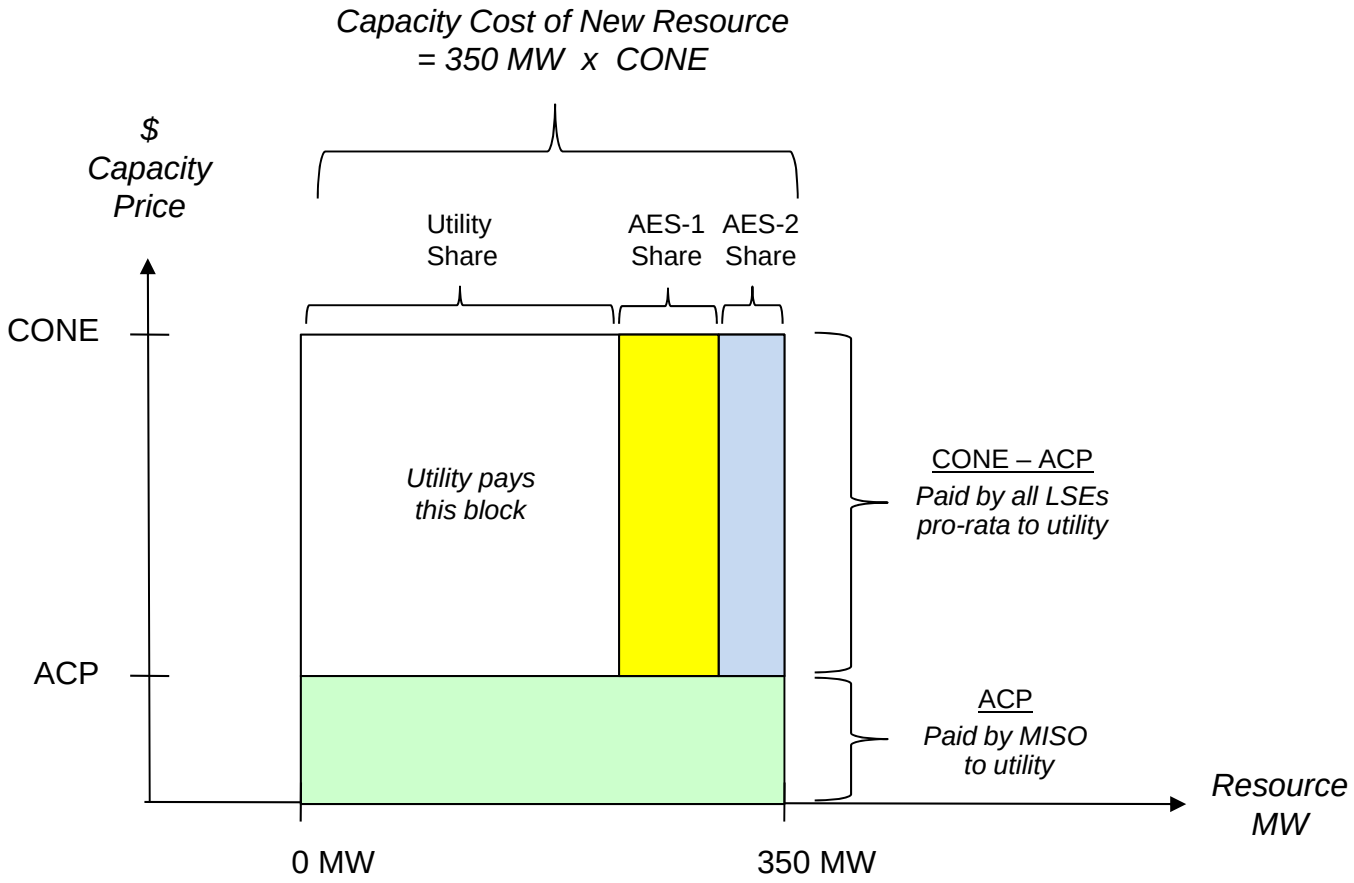
Example Cost Sharing of 350 MW New Resource



- Utility constructs 350 MW qualified new resource.
- AES-1 PRMR is 10% of distribution area PRMR.
- AES-2 PRMR is 5% of distribution area PRMR.
- Utility PRMR is 85% of distribution area PRMR.

Proposed Solution to Meeting

a Local Capacity Obligation

Under MPSC Ruling

MPSC Staff
Technical Conference
29 June 2017

Energy Michigan

Today

I. Principles of Proposed Solution

II. Situation Factors & Boundary Conditions

III. Proposal for Meeting Local Capacity Obligation

IV. Advantages & Disadvantages

V. Realistic Example

Not Today

- ***Neither conceding nor addressing legal issues.***
- ***Not addressing other implementation issues, although recognizing the ties.***

I. Principles of Proposed Solution

	Not
• **Holistic and integrated.**	- *opponents pick & choose*
• **Implementable.**	- *require complex new systems*
• **Recognize purpose of LCR.**	- *surpass MISO requirements*
• **No harm to any party.**	- *zero sum game*
• **Preserve Electric Choice:**	- *kill Electric Choice*
a. continued access to reasonably market-priced electric products,	- *priced out of market*
b. continued freedom to contract with customers,	- *interference with customer contracts*
c. continued ability to assess future risk.	- *create unquantifiable future events*

II. Situation Factors & Boundary Conditions

A. **PA 341 is not perfect.**

B. [redacted]

C. **“Capacity” is the speed of energy conversion.**

D. [redacted]

E. **Two laws – not one – govern setting the price of the SRM charge.**

F. **Satisfying the local obligation should be forward looking.**

II. Situation Factors & Boundary Conditions
(continued)

A. PA 341 is not perfect.

B.

2. ***Customer switching does not affect reliability.***

3. ***"Our resources serve our load" – obsolete since 2005.***

4. ***All customers in MISO and in a zone receive the same reliability (provided no binding transmission constraints).***

5. ***Excess capacity in one zone supplies other zones, but does not increase the reliability of its locational zone.***

II. Situation Factors & Boundary Conditions

(continued)

C. "Capacity" is the speed of energy conversion.

1. ***Capacity is an electric attribute of a physical resource, not the resource itself. A mega-Watt is a speed rating.***

2. ***"Capacity related" is not always equivalent to "fixed costs."***

3. ***A Zonal Resource Credit is the capacity product that MISO purchases. ZRC = 1 MW.***

4. ***1 ZRC from a nuclear unit = 1 ZRC from Honda generator.***

II. Situation Factors & Boundary Conditions
(continued)

D. MISO buys all capacity and sells all capacity (one exception).

1. ***Satisfaction of MISO's capacity requirements is done with money, not with ZRCs. (one exception)***

2. ***An LSE pays the Auction Clearing Price for its forecast peak.***

3. ***Owner of ZRC has the right to:***
   a. ***Specify the price of the ZRC offered into the Auction.***
   b. ***Receive the Auction Clearing Price if the ZRC clears.***

4. ***Thus, an LSE who owns ZRCs can financially offset the cost of satisfying its capacity obligations to MISO.***
   - ***pays ACP***
   - ***receives ACP***

   } *net 0*

5. ***Whether a utility or AES buys a contract for ZRCs or pays the auction price does not affect supply, demand or reliability.***

II. Situation Factors & Boundary Conditions
(continued)

E. Two laws – not one – govern setting the price of the SRM charge.

1. ***PA 341 – MCL 460.6w(3)(A) & (B).***
2. ***Cost of Service – MCL 460.11(1).***

F. Satisfying the local obligation should be forward looking.

1. ***Utilities say they will use auction or build new.***
2. ***Allocation of historical embedded costs to EC customers would result in zero allocation under COS law.***
3. ***EC customers have already paid about $550 M for current resources – which provided no services to EC customers – via stranded cost and securitization.***
   - ***CE $122 M***
   - ***DTE $429 M***

   } *~ $550 M*

III. Proposal for Meeting Local Capacity Obligation

- ***What Qualifies?***
- ***What's the Charge?***
- ***Who Pays?***
- ***Use of Auction***

III. Proposal for Meeting Local Capacity Obligation
(continued)

What Qualifies?

New **The "LCR charge" will be based only on the new resources built within Zone 7. Excludes purchase of existing resources in zone.**

C of N **For a new resource to be included in determining the "LCR charge," it must go through the Certificate of Necessity process and be approved by the MPSC in that process.**

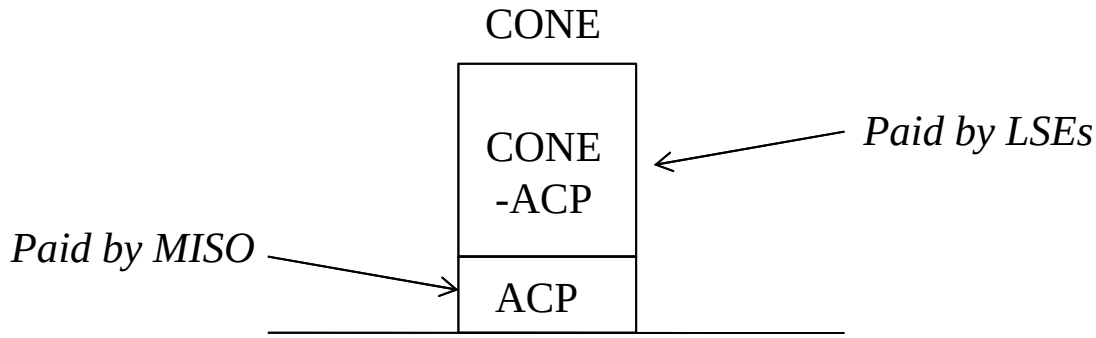
CONE **The "cost of capacity" will be the MISO Cost of New Entry. This is a visible number, vetted by MISO and stakeholders, and approved by the FERC, that represents the cost of the capacity product that satisfies MISO's requirements.**

III. Proposal for Meeting Local Capacity Obligation
(continued)

What's the Charge?

Difference **The "LCR charge" will be the difference between the MISO zonal Auction Clearing Price and the Cost of New Entry.**

Guarantee **Therefore, the utility will be guaranteed the CONE price.**



Charge **"LCR Charge" per MW of LCR % of PRMR =**

$$\frac{\text{MW ZRC rating of new resource} \times (\$ \text{ zonal annual CONE per MW} - \text{zonal ACP})}{\text{MW Total PRMR of the local distribution area} \times \text{LCR\%}}$$

III. Proposal for Meeting Local Capacity Obligation
(continued)

Who Pays?

LCR % **The "LCR charge" will be applied to the LCR percentage of PRMR of each LSE within the distribution area of the local utility building the new resource.**

Share **Thus, all LSEs within the distribution area of the utility building the new resource will share in the cost of the new resource, pro-rata according to their respective PRMR.** ***(example follows)***

Own **LSEs (other than builder) who own or have contractual rights to capacity within the zone will subtract that portion from their allocated share.**

Without the CRS that was denied by the FERC, an AES still has to pay MISO to satisfy all of its PRMR capacity requirements to MISO.

Sharing the cost of new resources in the zone is an additional expense.

III. Proposal for Meeting Local Capacity Obligation
(continued)

Use of Auction

All can use auction

Having satisfied the local capacity obligation, all AESs can use "*any resource that . . . [MISO] . . . allows to meet the capacity obligation of the electric provider*" to demonstrate capacity. [6w.(6)]

This includes the MISO auction, which utilities have asserted is allowed under PA 341 and which they intend to use.

Same wording

" . . . each electric utility demonstrate . . . the electric utility owns or has contractual rights to sufficient capacity to meet its capacity obligations as set by [MISO], or commission, as applicable." [6w.(8)(A)]

" . . . each alternative electric supplier . . . demonstrate . . . the alternative electric supplier . . . owns or has contractual rights to sufficient capacity to meet its capacity obligations as set by [MISO], or commission, as applicable. [6w.(8)(B)]

same wording – same demonstration – same eligible resources

IV. Advantages & Disadvantages

Advantages

Maintains LCR: The cost sharing *maintains the current quantity of local resources* – which is ample. Zone 7 is a no-growth area. Thus, as present resources are *retired and replaced*, sufficient LCR resources are maintained. All LSEs pay a share of the capacity value of the new resources, according to benefits received.

Follows COS: The proposal harmonizes the cost-of-service statute with PA 341 because AESs pay only for services they receive. Utilities assert they do not have capacity to provide for ROA customers and that any services will either be from new resources or the MISO auction, which AESs can access on their own.

Visible Price: CONE is a visible cost of the capacity product that MISO has determined meets its capacity requirements. Eliminates arguing over allocations, embedded nuclear costs, etc.

Utility Freedom: Utility is free to build any type of generation. Only the cost of the pure capacity attribute gets into the SRM. Utility retains the value of low energy costs, ancillary services revenue, etc.

IV. Advantages & Disadvantages
(continued)

Solves Customer Switching: Present MISO customer switching involves the transfer of a customer's PLC priced at ACP from the old supplier to the new. SRM switching can follow the same method, using the "LCR charge" instead of the ACP.

Simplifies Duration: CONE is an annualized charge, continuing for the life of the asset. Eliminates "30-year duration" issue.

Simplifies "Return to Service": Eliminates need for changes in return-to-service rules. There is no longer a "before" or "after" demonstration-of-capacity issue because the AES is always (a) paying its share of cost of LCR provided by the utility and (b) paying its capacity obligation to MISO through either ZRCs submitted or the annual auction.

Eliminates "Interruptible" Discrimination: Utility and AESs pay pro-rata proportion, so customers of both should receive the same zonal reliability.

IV. Advantages & Disadvantages
(continued)

Eliminates Discrimination: All LSEs in the utility service area pay for the benefits of new resources that meet the zonal LCR. All LSEs receive the same reliability.

Follows Used-and-Useful Principle: Utility is paid for new plant in service. Does not collect money in advance without any commensurate costs. Customers do not pay for zero benefits.

Allows Regulatory Review: In Michigan, a utility is free to build or not build resources – regulation governs only the recovery of costs. The Certificate of Necessity process provides a review of the prudent investment in new resources, preventing the utility from overbuilding and collecting excessive SRM charges.

Incremental Pricing is Transferrable: SRM charge for failure to demonstrate capacity can use the same incremental cost-of-service elements and evidence. Would run for only 3 years.

IV. Advantages & Disadvantages
(continued)

Disadvantages & Responses

Q. What if there is no capacity?

A. A common question.

1. **MISO uses all to serve all.** Thus, when a customer moves from one supplier to another, the capacity used for the customer still exists in the market place. No additional capacity is needed, only a change in financial responsibility.

2. ***Something*** **is working, even if we don't understand why.** MISO has been underreporting future capacity for 10 years. There is a large amount of capacity under development in MISO. In the past, it was excluded from survey results, but starting this year, some of it is included. There is no longer a projected shortage. MISO/OMS shows 20% + reserve margins through 2022.

3. **Low growth means no surprises.** Michigan is a no-growth area and MISO is a very low growth region. Consequently, there is not going to be a need for a large amount of additional capacity that is unanticipated.

V. Realistic Example

Scenario

IF:

- 94.7% Zone 7 LCR percent.
- 8,300 MW ~ CE service area PRMR.

- $94,900 Zone 7 CONE, $ per MW-year.
- $548 Zone 7 ACP, $ per MW-year, = $1.50 x 365 days.

- 400 MW AES #1 PRMR.
- 300 MW AES #2 PRMR. Owns 100 MW within Zone 7.

THEN:

- 7,860 MW Service area share of LCR, = 8300 x 94.7%.
- 379 MW AES #1 share of LCR, = 400 x 94.7%
- 184 MW AES #2 share of LCR, = (300 x 94.7%) – 100.

- Suppose CE builds a new ~ 350 MW (ZRC rating) plant to replace a retiring unit.

V. Realistic Example
(continued)

Results

- Suppose CE builds a new 350 MW plant to replace a retiring unit.

- Then
  "LCR charge" = 350 x (94,900 – 548) / 7,860 = **$4,201 per MW**.

  AES #1 owes utility $1,592,179 annually for its 379 MW share.
  = $4201 x 379 MW

  AES #2 owes utility $772,984 annually for its 184 MW share.
  = $4201 x 184 MW

  ZRC Credit
  MW credit = MW new resource x (LCR AES / LCR area)

  For AES #1 = 350 MW x (379 / 7860) = 350 x 4.82% = 16.9 MW
  For AES #2 = 350 MW x (184 / 7860) = 350 x 2.34% = 8.2 MW

- With the LCR covered, and MISO buying all capacity, whether the utility or an AES pays MISO the ACP for capacity does not affect reliability. So the utility and the AES can use any resource to demonstrate capacity, including the MISO auction. Same ability for both.

GRAND RAPIDS AREA CHAMBER OF COMMERCE

July 14, 2017

Michigan Public Service Commission
PO Box 30221
Lansing, MI 48909

RE: Position statement regarding capacity demonstration specified in PA 341

To Whom It May Concern:

On behalf of the Grand Rapids Area Chamber of Commerce and our more than 2,400 members, I write to express concerns regarding the local clearing requirement (LCR) and the capacity demonstrations specified in PA 341.

The Chamber and many of our members were directly engaged for years in the discussions regarding last year's major energy reforms. We worked with the Governor's office, state legislators and the incumbent utilities to find common ground on a number of outstanding and contentious issues in the proposed energy legislation during the final days of the legislative session.

The Chamber and members of our coalition were able to reach a comprehensive compromise that addressed our top priorities of ensuring reliability, enhancing protections for Michigan ratepayers and preserving the Retail Open Access program. We believe the new energy policy set a firm foundation for our incumbent utilities and ratepayers to be competitive and successful with regards to energy reliability and costs.

One of the primary issues we worked to resolve in the Senate-passed version of SB 437 was language pertaining to the imposition of a supplier-specific Local Clearing Requirement (LCR) obligation on the capacity demonstrations of AESs. The Chamber was and is opposed to this requirement, and we wish to highlight the fact that **this requirement was explicitly and purposely removed in the final compromise** legislation and replaced with language allowing alternative electric suppliers (AESs) to use **any resource MISO allows to meet the capacity obligations of an electric provider without any reference to local resources.**

Requiring AESs to meet a supplier-specific LCR with resources located in one Local Resource Zone, violates the language and legislative intent of PA 341. We feel strongly that such requirements would add a significant burden to Michigan ratepayers, increase costs and threaten the viability of the Retail Open Access program without improving reliability. We urge you to reject the implementation of a supplier-specific LCR obligation on AESs.

Thank you for your consideration. Please do not hesitate to contact me at 616.771.0336 with any questions.

Joshua Lunger
Director of Government Affairs

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Indiana Michigan Power Company
Comments on Capacity Demonstration in Case No. U-18197

BACKGROUND

In Case No. U-18197, the Michigan Public Service Commission (the "Commission") has issued a number of orders and set technical conferences pertaining to the State Reliability Mechanism ("SRM")[1]. The Commission has asked a number of questions in particular[2].

> 1. Should the schedule laid out in Section 6w(8), MCL 460.6w(8) for capacity demonstrations be adhered to, or should any of these deadlines be adjusted as allowed under Section 6w(10), MCL 460.6w(10) to ensure proper alignment with MISO's procedures and requirements? If a stakeholder recommends that the dates should be adjusted, please describe what revisions should be made.
>
> 2. Should there be a uniform methodology for capacity demonstration, both among types of providers (investor-owned utilities, rural electric cooperatives, municipally-owned utilities, and AESs) and among service territories?
>
> 3. Should there be a "locational requirement" for resources used to satisfy capacity obligations, and if so, should individual load serving entities (LSEs) be required to demonstrate a share of the overall locational requirement?

On June 15, 2017, the Commission issued an Order (the "Guidance Order") to provide guidance in developing the capacity demonstration process. The Commission determined that the capacity demonstration process (i) adhere to the schedule established under the energy reform bills, (ii) use a uniform methodology, (iii) and include a locational requirement. The Guidance Order also established a series of Technical Conferences, to be held on June 29 and 30, as well as July 10. The Guidance Order directed the Staff and stakeholders to explore and attempt to define an allocation methodology for the locational element in the remaining Technical Conferences. The Commission also requested that stakeholders and the Staff explore issues related to potential changes in load forecasts, customer switching, and supply arrangements.

[1] Michigan's December 2016 Energy Reform Legislation (including changes to MCL 460.6w) required the creation of an SRM charge under Section 6w. A capacity demonstration process is required to determine what entity or entities, if any, would be required to pay the SRM charge to the incumbent utility.

[2] The Commission's May Order included Attachment A containing several additional issues to be addressed in the technical conferences.

TECHNICAL CONFERENCE SUMMARIES

On June 29 and 30, MPSC Staff ("Staff"), Constellation, Energy Michigan, DTE, and Consumers Energy presented, with a wide range of views, on the capacity demonstration process.

Presenter	Discussion
Staff	**1)** Proposed a process schedule **2)** Provided three Locational Requirement approaches (phase-in, proportional share, and hybrid), and **3)** Offered an option to have a Michigan-only Zonal Resource Credit ("ZRC") filing much like the Michigan Renewable Energy Credit filing to demonstrate proof of Michigan capacity.
Constellation	1) Addressed the surplus of in-state resource versus the Zone 7 Local Clearing Requirement ("LCR") to show that no Locational Requirement is required, requested capacity demonstration be confidential, 2) Proposed a consenting/non-consenting requirement for billing SRM charges to customers versus the Alternative Electric Supplier ("AES") with the utility being responsible for the capacity of the non-consenting customers, and 3) Proposed the existing capacity assessment filing procedures be used as proof of demonstration which includes all 4 years for the initial demonstration and then for a single year, 4 years out thereafter.
Energy Michigan	Addressed how the LCR should be calculated and assigned to those LSEs that are short.
DTE	1) Addressed the looming shortage of in-state resources versus the Planning Reserve Margin Requirements ("PRMR) to show that reliability is at risk, 2) Proposed a 4 year demonstration for the initial determination and then a single year, 4 years forward thereafter with no re-demonstrations required, 3) Proposed that the LCR and PRMR values be used from MISO's Loss of Load Expectation analysis and interpolated/extrapolated as necessary, 4) Proposed excluding long term capacity agreements (20+ years) that predate 2013, 5) Proposed a process to calculate the load ratio share for each entities LCR, 6) Requested a deadline for notification of customers returning to Tariff service, 7) Requested demonstration be transparent except for pricing and requested that Power Purchase Agreement ("PPA") proof identify specific unit for capacity.
Consumers Energy	1) Addressed the demonstration process schedule,

	2) Proposed that any AES load give 4 years advance notice before returning to utility for capacity, 3) Proposed that any load changes that occur in the interim years be handled in the PRA or bilaterally, 4) Proposed that entities that are short be assessed a State Reliability Mechanism ("SRM") charge (that would follow the customers from supplier to supplier) for the shortage and continue to be assessed the charge independent of interim resource changes for which the entity would buy or sell their shortage/surplus in the PRA or bilaterally, 5) Proposed that all LSEs meet the Load-Ratio Share of the Zone 7 LCR with Zone 7 resources, 6) Proposed that all LSEs pay Cost of New Entry ("CONE") if the LRZ is short, proposes that AESs include PPAs (and cite to specific resources as verified in the prompt year using the MECT tool) with capacity demonstration filing, 7) Proposed that evidence of progress in the MISO Generator Interconnection Process or evidence of constructions agreements be provided as verification for planned generation and if not verified must be procured in the PRA or bilaterally, 8) Proposed that a limited amount of PRA procured capacity (LCR/PRMR*MWs from the PRA) to count towards LCR, 9) Proposed that the demonstration process be contestable subject to confidentiality provisions, 10) Proposed that the LCR and PRMR values be used from MISO's Loss of Load Expectation analysis and interpolated/extrapolated as necessary, and 11) Proposed that an AES that demonstrates a capacity deficiency in any one year of the four year process will have their customers assessed the SRM charge (with the AES relinquishing responsibility for the capacity) for the term of the SRM charge.

I&M's COMMENTS

I&M appreciates the opportunity to submit written comments. In particular, I&M stresses the importance of recognizing that I&M and its service area is located in PJM which has different requirements from those MISO, while much of the presentations have focused on MISO Zone 7 issues specifically. I&M is part of the PJM Regional Transmission Organization (RTO) and participates in the PJM energy market. Based on offers placed into this market, the PJM Zone's generation resources, subject to operational and transmission constraints, are economically dispatched for energy to serve the entire PJM load, including I&M's internal load. Separately, the PJM rules for capacity require I&M to assess and plan generation resources to meet the required reserve margin for I&M based on capacity resources that are either located within I&M territory or can be delivered reliably to serve I&M capacity requirements.

On June 9, 2015 FERC issued an order largely accepting PJM's proposal to establish a new "Capacity Performance" product. After a transition period from 2016/17 through 2019/20, all capacity resources beginning in 2020/21 must conform to the Tariff requirements of a Capacity Performance product. These rules apply whether the capacity is used for a Fixed Resource Requirement ("FRR" or "self-supply" that is utilized by I&M) or serving load through the Reliability Pricing Model ("RPM") auction process.

As part of the transition, I&M resources under the FRR alternative are not subject to the capacity performance rules until the 2019/20 planning year. Also as part of the transition, only 80% of I&M's capacity requirements need to qualify as Capacity Performance, with the other 20% (called Base Capacity) using essentially the same rules as before.

Capacity Performance resources will be held to stricter requirements than current Base resources and will be assessed substantial charges if power is not provided during emergency performance assessment" hours. The assessment is equivalent to approximately $3500/MWH, with an alternative for FRR companies that allow for subsequent MW additions to the FRR plan in lieu of a monetary payment. In general, performance assessment hours occur whenever PJM declares an emergency. Since implementation of the Capacity Performance program in June 2016, there have not been any performance assessment hours affecting I&M.

An assessment of a provider's electric supply in PJM requires one to assess and plan generation resources to meet PJM's required reserve margin. PJM determines the target reserve margin in accordance with the PJM Reliability Assurance Agreement. PJM creates its own forecast of peak demands (taking input from I&M and the load serving entities) and applies certain risk factors to determine member target capacity requirements. These factors include load diversity among its members, an Installed Reserve Margin (IRM) needed to maintain an expected one day in ten year loss of load probability (including the effect of support available from outside PJM), and historical Equivalent Forced Outage Rates to model the reliability of the region's and the member's generation resources. I&M believes the Commission can and should assess a provider's capacity position taking into consideration these PJM requirements.

Section 6w and the current PJM process are slightly out of synchronization. PJM requires all FRR entities to show they are meeting their capacity reserve requirements via supplying PJM with an FRR plan three years in advance of the delivery year. The same three year forward concept holds for entities using the RPM auction process. For example, in May 2017, PJM ran an auction for the delivery year beginning June 2020 through May 2021. PJM's tariff requires an FRR entity (one that self-supplies its capacity obligation and what I&M has done since the inception of the RPM construct in 2007) to prove capacity for the 2021/2022 delivery year in April 2018. For entities relying on the capacity auction (RPM), the final outcome for 2021/2022 capacity is not determined until May 2018. The entity relying on the RPM auction would also not be able to show contractual rights for sufficient capacity in prior to the auction (which could also be the case if the FRR entity needs to purchase capacity outside of the auction to meet its obligation). Therefore, any capacity demonstration process for Michigan should account for these timing differences. This timing difference can be addressed by a phase-in approach for proof of capacity in year 4 (or by using an estimate for year 4 that would be 'trued-up' the following year for the FRR entity). This is consistent with Section 6w references to "the

appropriate independent system operator" when determining capacity obligations. See e.g. Section 6w(8)(c) and (d).

1. A Useful Uniform Methodology Has Been Established by the Commission that can be used now.

The Commission's current spreadsheet form used for the Commission's annual capacity assessment filings (see 2017 filings in Docket No. U-18197) provides a uniform methodology that is sufficient to demonstrate capacity for Michigan's electric utilities, including traditional utilities, AESs, cooperatives, and municipals. This spreadsheet form also provides the flexibility to demonstrate proof for the varying boundaries and constructs between MISO LRZ 2, LRZ 7, and PJM market areas. Information required by this form includes:

- Coincident and Non-Coincident Peak Demand forecast information (including identification of both bundled and AES load),
- Internal Demand Response programs that are used to adjust peak forecast, and
- Utility owned and contracted generation capacity (including identification of non-intermittent or intermittent, as well as identification of in-state or out-of-state).

Use of the established and workable spreadsheet, on an annual basis, (including the signature of a company officer), addresses several of the Commission's additional issues. The spreadsheet contains sufficient proof to identify any changes (load and resources) throughout the four (4) year period while also identifying demand response, energy efficiency, demand-side management programs, and newly proposed/planned generation resources consistent with the requirements of PJM. The Commission can and should rely on PJM for information to determine any zonal congestion issues, planning reserve margins, and load forecasts

The initial capacity demonstration for all providers should demonstrate capacity for the "prompt year" (year 1) and the next 3 years. After the initial demonstration annual provider filings can show the ability to meet the capacity obligation for the 4th year similar to what is being done today.

The proof required for new generation can be an officer's affidavit plus a demonstration needed to satisfy the requirements of PJM to assure the new generation is highly likely to be built (e.g. Interconnection Service Agreements and/or Facilities Studies). This will allow for flexibility depending on the load serving entity's unique circumstances.

The Commission has all the information necessary to make a determination of adequate capacity provided a utility or AES meets the Tariff obligations established for operations in the PJM market.

2. The Commission Should Require Demand Transparency in the Capacity Determination and Implementation Process

Information supplied within the capacity demonstration process should only contain enough information to determine the capacity requirement in order to prove that required capacity is procured and deliverable. The required information should not contain any commercially sensitive information, such as pricing, that could give others an unfair competitive advantage.

CONCLUSION

In conclusion, I&M recommends that the Commission:

1. Utilize the annual capacity assessment spreadsheet, as a uniform methodology, containing the requisite information required for proof of capacity demonstration, taking into account specific aspects of those operating in the PJM market place.

2. Require information be transparent enough to demonstrate capacity and avoid requesting any commercially sensitive information irrelevant to capacity sufficiency (e.g., contracts and pricing).

3. Take into account when determining capacity requirements for the 4 year period a lesser degree of rigor for Year 4 in light of the timing differences between PJM schedules and Section 6w.

S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017 through 2021.	Case No. U-18197
In the matter, on the Commission's own motion, to open a docket to implement the provisions of Section 6w of 2016 PA 341 for **CONSUMERS ENERGY COMPANY'S** service territory.	Case No. U-18239
In the matter, on the Commission's own motion, to open a docket to implement the provisions of Section 6w of 2016 PA 341 for **DTE ELECTRIC COMPANY'S** service territory.	Case No. U-18248
In the matter, on the Commission's own motion, to open a docket to implement the provisions of Section 6w of 2016 PA 341 for **UPPER MICHIGAN ENERGY RESOURCES CORPORATION'S** service territory.	Case No. U-18253
In the matter, on the Commission's own motion, to open a docket to implement the provisions of Section 6w of 2016 PA 341 for **UPPER PENINSULA POWER COMPANY'S** service territory.	Case No. U-18254
In the matter, on the Commission's own motion, to open a docket to implement the provisions of Section 6w of 2016 PA 341 for **CLOVERLAND ELECTRIC COOPERATIVE'S** service territory.	Case No. U-18258

Comments of International Transmission Company d/b/a ITC*Transmission* and Michigan Electric Transmission Company, LLC

I. Introduction

The Michigan Public Service Commission ("Commission") issued an Order on June 15, 2017 in these dockets ("June 15, 2017 Order"), which requested input from stakeholders on issues related to the capacity obligations of electric utilities, alternative energy suppliers, cooperative electric utilities, and municipally-owned electric utilities required by MCL 460.6w(8). International Transmission Company d/b/a ITC*Transmission* and Michigan Electric Transmission Company, LLC (collectively, "ITC") hereby submits these comments in response to the Commission's request.

II. Increased Connections Between Producers and Consumers of Electricity through the Transmission Grid Can Lower Costs and Increase Efficiency and Reliability.

ITC's customers range from traditional utilities and independent power producers to industrial customers and energy providers looking to connect to the power grid, and ITC considers the ultimate needs of energy consumers when assessing and planning for the needs of the transmission system. Through ITC's investments, ITC facilitates lower energy costs, increased efficiency and greater reliability.

ITC continues to believe that diverse connections with the rest of the Midcontinent Independent System Operator, Inc. ("MISO") footprint, including Indiana in particular, will provide long term benefits to customers. Specifically, increased connections in MISO will lower energy and capacity costs and bring the price of delivered energy down for customers. In addition, increased connections will lower the risk of reliability impacts in Michigan by allowing for more outlets from which electricity can flow and allow the import of firm capacity to the zone. ITC has participated in various groups at MISO to advance potential projects that could positively impact the import limits in Michigan and relieve congestion.

III. Michigan Should Allow Entities to Use Available Transmission and External Transactions to Meet the Entities' Proportional Share of the Local Clearing Requirement.

Michigan should allow electric utilities, alternative energy suppliers, cooperative electric utilities, and municipally-owned electric utilities to use available transmission and external transactions to meet their share of the local clearing requirement ("LCR") because such transactions can help drive down the cost of capacity in Michigan and help address future clearing price volatility due to the dramatic changes in the generation portfolio that are predicted for the State. Transmission is integral to ensuring that capacity from external resources is accessible for these purposes, and ITC is committed to developing appropriate transmission solutions to support these goals.

As the Commission indicated in the June 15, 2017 Order:

It is reasonable to allow for imports from outside the Zone to expand the pool of capacity resources and potentially lower costs *so long as* transmission is available and the overall LCR and PRMR can be met over time to protect reliability in the state.[1]

Capacity imports can also help mitigate some of the price volatility for capacity in Michigan. The Lower Peninsula of Michigan (with the exception of the southwest portion) is located in MISO Local Resource Zone 7 ("Zone 7"). The following list states the resource auction capacity clearing prices for Zone 7[2] during the indicated time frames:

- 2014/15: $16.75/MW-day
- 2015/16: $3.48/MW-day
- 2016/17: $72.00/MW-day
- 2017/18: $1.50/MW-day

The lowest prices in MISO Planning Resource Auctions for the same periods are as follows[3]:

- 2014/15: $3.29/MW-day (Zone 1[4])
- 2015/16: $3.29/MW-day(Zones 8 and 9[5])
- 2016/17: $2.99/MW-day (Zone 8, 9, and 10[6])
- 2017/18: $1.50/MW-day (whole MISO system)

The historical price fluctuations in Zone 7, as compared to the relative price stability in other MISO zones, illustrate the need to improve Zone 7 access to internal and external capacity resources. The variances in the zonal price are in part due to capacity import limits and different LCRs over the time in review. Increased transmission capability would support imports of capacity from external resources, thus stabilizing the LCR and mitigating the swings in the Zone 7 prices for capacity. Transmission projects both in Michigan and outside of the state can be developed that will increase the import capability into Zone 7 and provide longer-term aid to the LCR.

IV. Conclusion

Building the appropriate transmission, along with building in-state capacity resources, will enable Michigan to reach the best outcome in the long term. Michigan has the ability to

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[1] June 15, 2017 Order, page 12.

[2] *See* MISO 2017/2018 Planning Resource Auction Results, dated April 14, 2017, page 8, which is available at the following website link: https://www.misoenergy.org/Library/Repository/Report/Resource%20Adequacy/AuctionResults/2017-2018%20PRA%20Summary.pdf.

[3] *Id.*

[4] MISO Local Resource Zone 1 is located in parts of Wisconsin, Illinois, Iowa, Minnesota, South Dakota, and North Dakota.

[5] MISO Local Resource Zone 8 is located in parts of Arkansas, and MISO Local Resource Zone 9 is located in parts of Texas and Louisiana.

[6] MISO Local Resource Zone 10 is located in parts of Mississippi.

determine its energy future by developing the State Reliability Mechanism in an equitable and robust manner that utilizes imports into Zone 7 along with in-zone resources. Improved access to both internal and external resources should provide the necessary capacity and the appropriate pricing signals for Michigan to make the best choices today to achieve a "no regrets" energy future.

Respectfully submitted,

/s/ Amy Monopoli
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Attorney for the ITC*Transmission* and METC

Dated: July 17, 2017

July 17, 2017

Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

Comments on Capacity Demonstration Requirement U-18197

The Michigan Chamber of Commerce views electric reliability as critical to the success of Michigan's job providers. That is why we worked so hard to pass the 2016 energy law, which received broad and bipartisan support. The Michigan Chamber's guiding principles to achieve sound energy policy are: to ensure reliability, provide for cost competitive rates, and to sustain customer choice. We believe the 2016 energy law accomplishes all of these policy goals and we ask that you seriously consider our comments to ensure that the law is implemented consistent with legislative intent.

The Chamber recommends that any zonal capacity requirement established by the Commission should be focused on requiring the necessary resources to meet our reliability needs. Whether the commission chooses an incremental capacity approach or setting a Local Clearing Requirement, it should be based on what is actually needed to meet the reliability requirements of the zone under reasonably anticipated conditions. A requirement that does anything else will likely force an over build of unnecessary capacity resources in the zone, which will increase electric prices for all customers unnecessarily. Recognizing conditions change quickly in the energy sector, we recommend that any zonal capacity requirement the commission choses should provide for flexibility to allow for adjustment with those changing conditions. This will ensure that increases in costs to electric customers are minimized from year to year. Any zonal capacity requirement should treat all Load Serving Entities equal, no LSE should be forced to build capacity for another providers' customers, and no LSE should be required to build capacity unless there is an actual need. All LSEs should be held responsible for their share of whatever resources are actually needed to ensure reliability. Load Serving Entities should have equal opportunity to utilize imports to meet part of their resource needs assuming reliability requirements have been met. We urge the Commission to be thoughtful in how they implement this new zonal capacity requirement because each LSE is situated differently and we need to provide them with a reasonable amount of time to adjust to the new conditions.

It is critical that Michigan adequately balances reliability needs with the cost to the customer. If we are the most reliable state for electricity, but also the most expensive, the dollars needed to maintain that reliability will leave with customers that choose to find lower cost energy. The Michigan Chamber has confidence the Commission will make the right decision and we hope you find our comments helpful.

Please do not hesitate to contact us if you have any questions.

Sincerely,

Jason Geer
Director of Energy & Environmental Policy

July 17, 2017

Michigan Public Service Commission
Case No. U-18197 - *In the investigation, on the Commission's Own Motion, into Electric supply reliability plans of Michigan's electric utilities for the years 2017-2021*

The Michigan Chemistry Council (MCC) appreciates the opportunity to provide comments for this U-18197 Capacity Demonstration Technical Conference. The MCC is the voice for our state's business of chemistry, which supports more than 80,000 Michigan jobs and directly touches more than 96% percent of all manufactured goods.

First of all, the MCC has a substantial interest in the implementation of PA 341 – a law which the MCC was deeply involved in deliberating. Michigan's electric rates have a significant impact on manufacturing competitiveness and jobs, particularly for the chemical industry. Many manufacturers use our state's well-established electric choice market to procure competitive energy supplies that fit their particular plans and needs, including long-term fixed renewable energy contracts. MCC companies, like all Michigan ratepayers, have compensated our incumbent utilities – through securitization and compensation of stranded costs over a 15 year period - for the ability to access retail electric choice, even while the electric choice markets were capped at 10% since 2008. Unfortunately, because of the current 10% cap, a number of the MCC's companies have been restricted from accessing retail electric choice since that time. As a principle, the MCC works to ensure that there remain viable, cost-effective opportunities to access retail electric choice.

The MCC believes that the circumstances regarding the legislature's last-minute passage of PA 341, as well as the contemporaneous MISO tariff proposal (later rejected by FERC), have led to an imperfect and challenging statute that yet must now be implemented. However, the MCC believes that the Commission must tread carefully in any decisions to impose new and potentially impracticable capacity requirements with regard to the State Reliability Mechanism (SRM).

In particular, the MCC is concerned that the potential imposition of a rigid, proportional local clearing requirement may force electric choice customers to ultimately overcompensate utilities for their existing physical capacity assets, with no real increase in reliability. This would have significant consequences for Michigan's electric choice market by making participation too expensive; such a result was seen after the 2012 approval of a state compensation mechanism in I&M's Michigan service territory, as recently noted by the Commission itself.[i]

Importantly, the Commission's determinations in implementing PA 341 could have irreversible consequences for electric choice customers. This is due to the fact that new language in PA 341 Section 10a (also added in last-minute negotiations) would make long-term downward adjustments in the current 10% cap if choice enrollment drops in any given year. Even if Commission determinations are later reversed, for whatever reason, there potentially would have already been created further punitive and long-lasting "lock-out" effects for electric choice customers.

Having been part of the legislative debate, the MCC does not believe that PA 341 requires all load serving entities to bear the proportional costs of local physical capacity, nor that all (or a vast majority of capacity – such as 95%) has to be sourced from inside Zone 7. On the contrary, such a local requirement was specifically removed from previous versions of the legislation.[ii] The imposition of such a requirement would also violate cost-of-service principles by forcing choice customers to pay (again) for the utility's historical physical capacity investments that are not being used to serve these unregulated customers.

Instead, the MCC believes that the law must be properly read to allow for capacity demonstrations using "*any resource that the appropriate independent system operator allows to meet the capacity obligation of the electric provider*" (Section 6(w)6). This should appropriately allow load serving entities to continue to utilize the planning resource auction, a construct which is used by incumbent utilities, municipal and cooperative utilities, and AESs alike, and through which MISO seeks to ensure that reliability requirements are met on an aggregate zonal basis. It should be noted that under the current MISO market construct, Michigan has never experienced any shortfalls or capacity-related reliability problems. Despite frequent predictions of such shortfalls in the future, recent MISO and MPSC staff reports indicate that Michigan will continue to have adequate supplies to meet its local clearing requirement (LCR) and to have significant import capability to make up for any capacity deficits within Zone 7. This has allowed our State's ratepayers to benefit from the most efficient and cost-effective use of all regional resources without negatively impacting reliability.

Importantly, the MCC also believes that a prospective approach should be applied if any state-mandated local clearing requirement is implemented. It must be noted that Michigan's Zone 7 currently meets its local clearing requirement, and that our state's incumbent utilities have attested that they have not planned for – and do not have current capacity to serve – returning load from retail electric choice customers. As such, the MCC believes that it is more than fair for choice customers to contribute to the proportional and incremental cost of any future capacity that may be developed in Zone 7 to replace retiring capacity. Such a prospective approach would address the real concern – future capacity shortfalls – while not burdening unregulated customers with inflated share of historical, embedded costs.

A prospective, incremental approach would also best respect the differing economic realities of various electric providers: regulated utilities have been able to build physical investments on a cost-recovery basis, while choice providers operate in a competitive environment with no guaranteed market share and an artificial 10% cap on load served.

The MCC would also like to address several additional considerations for this Technical Conference:

- Calculation of the SRM charge – The MCC supports the Energy Michigan proposal to base the SRM charge on MISO's Cost of New Entry (CONE) – a transparent, verified number aimed at prospective capacity costs.

- Assignment of the capacity responsibilities – The MCC is not aware that the current MISO tariff allows the re-assignment of load between load serving entities, for any period of time. The MCC also does not believe that an AESs customers should be "bifurcated" based on the amount of capacity that is demonstrated by the AESs, as has been proposed by Consumers.

- Use of demand reductions or demand response – As stated previously, the MCC believes that PA 341 clearly allows all load serving entities to demonstrate capacity using any resource allowed by MISO, which includes all demand reductions and demand response resources.

There are a number of other issues that may be addressed by other parties in the workgroup, and the MCC appreciates the opportunity to provide further comments as necessary in this case. The MCC also reserves the right to raise other legal or technical considerations, many of which may be implicated by this case.

The MCC appreciates your work on this issue and your consideration of these comments.

Sincerely,

John Dulmes
Executive Director

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[i] Status of Electric Competition In Michigan, Report For Calendar Year 2016, February 1st, 2017, http://www.dleg.state.mi.us/mpsc/electric/restruct/reports/compreport2016.pdf

[ii] SB 437, As Passed Senate, November 10, 2016, Sec 6(w)(B) https://www.legislature.mi.gov/documents/2015-2016/billengrossed/Senate/pdf/2015-SEBS-0437.pdf

BEFORE THE
MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the investigation, on the Commission's own motion, into the electric supply reliability plans of Michigan's electric utilities for the years 2017-2021.	))))	Case No. U-18197

RECOMMENDATIONS AND COMMENTS OFMICHIGAN MUNICIPAL ELECTRIC ASSOCIATION, MICHIGAN PUBLIC POWER AGENCY, MICHIGAN SOUTH CENTRAL POWER AGENCY AND WPPI ENERGY

Michigan Municipal Electric Association, Michigan Public Power Agency, Michigan South Central Power Agency and WPPI Energy (collectively, the "Michigan Municipal Group," or "MMG") appreciate the opportunity to submit recommendations and comments on structuring of the capacity demonstration process that is part of the state reliability mechanism (SRM) set forth in MCL 460.6w ("Section 6w") of 2016 PA 341 ("PA 341").

I. General Recommendations

In its June 15, 2017 Order in this docket("June 15 Order"), the Michigan Public Service Commission ("Commission") indicated that it intends to adopt a process employing a uniform methodology for capacity demonstration ("Capacity Demonstration"). The MMG believes the Capacity Demonstration methodology should be harmonized with MISO's capacity construct to avoid inconsistent or conflicting obligations between the two regulatory constructs. The methodology previously ordered by the Commission for five-year self-assessments of each electric utility regulated by the Commission, and voluntarily submitted by or on behalf of municipal utilities ("Self-Assessments"), is a solid foundation for developing the Capacity Demonstration methodology required under the SRM. These Self-Assessments required that each of these utilities demonstrate their ability to meet their customers' expected electric requirements and associated reserves during each of the next five calendar years. The Commission requested extensive details be provided under these Self-Assessments that should substantially satisfy the compliance requirements for implementing Section 6w of PA 341.

MMG and the other municipal utilities voluntarily provided Self-Assessments through this process and believe the Commission should accept from these municipal electric utilities a similar filing

submission obligation in complying with Section 6w including the ability to request certain information remain confidential.

In the June 15Order, the Commission concluded that Section 6w requires the SRM to include a locational requirement, while recognizing that allocating a proportional share of the LCR to each load serving entity in a given Zone might not currently be the most equitable or reasonable allocation. The MMG support the Commission's intention to work with MISO and other parties to explore an equitable manner for allocating a Zone's LCR among LSEs based on load within that Zone. The ultimate allocation should respect the current analysis & metrics utilized in MISO's capacity construct. To the extent the LCR of Zone 7 is being satisfied, and all load-serving entities within the Zone are satisfying their Capacity Demonstration (meeting their PRMR obligation), the requirement for additional generation to be built or procured within the Zone could be duplicative and costly. Any allocation methodology for a Zone's LCR should not be applied until it is evident that there is a projected shortfall in meeting the Zone's LCR which will be unmet by planned resources.

The MMG supports the Commission's interest in providing flexibility in demonstrating resource adequacy sufficiency in future years by applying a graduated but modest decline in the quantity of capacity that must be demonstrated as a percentage of the PRMR. This is necessary as load forecast uncertainty grows with time as do other factors such as electric generation performance, transmission capability increases and decreases and weather. The example provided in the June 15Order, providing for 100%, 95%, 90% and 85% of PRMR for years 1-4 respectively would mitigate risk of over-procurement, helping providers align their capacity needs with fluctuations in loads and optimize the value of shorter-term capacity procurement options. However, the MMG believe modest additional flexibility in the first compliance year is warranted and necessary. First, shortly preceding the filing dates for Capacity Demonstrations (February 9, 2018 for municipal utilities), MISO determines for the next planning year (June 1st to May 31st) the PRMR, finalizes the load forecast for each utility, and determines the unforced capacity values for each capacity resource. For individual utilities, these final values often differ from the utility's expectations, making its capacity position going into the MISO planning resource auction somewhat shorter or longer than predicted. Given the short timeframe between MISO establishing final values and the auction, utilities typically balance these small differences, and meet their MISO resource adequacy obligations, by selling excess or purchasing additional capacity in the auction commencing in March (there is insufficient time to

effectively balance these small differences through bilateral capacity sales or purchases). If utilities are required to go into the first compliance year of the Capacity Demonstration with 100%, the only practical way to ensure this obligation will be satisfied, and avoid the risk of non-compliance, is to over-procure capacity resources bilaterally in advance of the planning year to avoid a shortfall situation. The MMG believe this outcome, and the additional cost to utilities and customers should be avoided by establishing a PRMR procurement obligation for year 1 that takes account of these potential mismatches.

High Risks for Small Utilities with Large Customers

MMG believes that the Commission needs to consider the risks that small utilities would be forced to take should these utilities be required to procure 100% of their capacity obligations 4 years forward. Should a large customer for any reason leave the utility it would result in significant stranded costs. This in-turn would force the utility to sell the excess capacity and spread unrecovered costs over the remaining customer load. This is not a hypothetical. For example, the Sebewaing Light & Water Department would potentially be unable to stagger purchases over multiple years, a common risk-management policy. With Michigan Sugar Company comprising 70%of the utility's total load this could be very problematic. This would be the same for the Croswell Light & Power Department, and many other of the smaller municipals who serve less than 15,000 customers.

Long-Term Resources Located Outside of Zone 7

MMG believes that consideration should be given to allow a small amount of generation resources (approximately 30 MW which are located in MISO but outside of Zone 7) to be able to be used by members of the Michigan South Central Power Agency to help meet their capacity obligation. These members include: Village of Clinton, City of Coldwater, City of Hillsdale, City of Marshall, and Village of Union City. Commitments to these resources were made to assist MSCPA members in fulfilling their power supply responsibilities, which includes having a legal obligation-to-serve all customers within their service territory that request electric service. As a result, on behalf of their members MSCPA secured long-term generation either through taking a direct equity position, or entering into long-term Power Purchase Agreements (PPAs). This was done at a time when MISO had not yet established Local Resource Zones, and these generation assets were considered deliverable

throughout the MISO footprint. MMG further believes that at the time MSCPA entered into these agreements, it was both reasonable and prudent considering the rules in place.

PJM Members

MMG believes that members located in the PJM Regional Transmission Organization can demonstrate compliance with 6w of PA 341 through the mandatory commitments they have made through a series of governing documents that among other things establish resource adequacy requirements for load serving entities in PJM. The PJM Operating Agreement and Reliability Assurance Agreement set down the specific rules and guidelines for determining the amount of electric generating capacity required to meet forecasted peak load & reserve margin requirements. The Reliability Assurance Agreement (RAA) entered into among Load Serving Entities in the PJM Region is intended to ensure that adequate Capacity Resources, including planned and Existing Generation Capacity Resources, planned and existing Demand Resources, and Energy Efficiency Resources will be planned and made available to provide reliable service to loads within the PJM Region, to assist other Parties during Emergencies and to coordinate planning of such resources consistent with the Reliability Principles and Standards. Every entity which is or will become a Load Serving Entity within the PJM Region is to become and remain a Party to this Agreement.

The Resource Adequacy Planning process includes establishing planning parameters such as the reserve margin requirement, forecasting the peak load, establishing the reliability requirement (reserve margin times forecast peak load) and conducting a Base Residual Auction and subsequent incremental auctions to procure resources required 3 years ahead of the Delivery Year. The Reliability Pricing Model (RPM) is PJM's resource adequacy construct that ensures compliance with these standards. RPM is part of an integrated approach to ensuring long-term resource adequacy.

II. Comments on Additional Issues

Attachment A to the Commission's Order in this Docket dated May 11, 2017included a number of additional issues for stakeholders to consider ("Issues"). Since Michigan municipal utilities have opted not to permit alternative electric suppliers in their service territories most of the Issues are not directly germane to municipal utilities. The Issues MMG will address, and comments thereto, are as follows, numbered in the order of the Issues appearing in Attachment A:

Issue 3: What level of proof should be required that capacity is owned or under contract and will not be sold in the interim as part of a capacity demonstration? Is a signed affidavit sufficient? If not, what level of proof should be required?

The MMG believe that the act of submitting a Capacity Demonstration to the Commission should be sufficient proof, and an affidavit or other level of proof is unnecessary. This is consistent with the filing process used for Self-Assessments. Moreover, Section 6w(8)(b)(iii) provides for Commission auditing and reporting of electric utility filings as it deems necessary to determine if sufficient capacity is procured.[1] This mechanism provides the Commission the ability to seek additional information from electric utilities to ensure sufficiency of filed Capacity Demonstrations.

Issue 4: What level of proof should be required in order to count existing or proposed energy efficiency or demand response or demand-side management programs towards meeting capacity obligations?

Supply-side resources, including demand response or demand-side management programs that satisfy MISO Tariff requirements for zonal resource credits, should be countable for Capacity Demonstration purposes. Existing and projected energy efficiency should be reflected in the load forecasts submitted by a utility as part of its Capacity Demonstration if such energy efficiency is reflected in the utility's load forecasts reported to MISO.As discussed in response to Issue 3, the Commission can seek additional information from an electric utility if, for example, its actual loads substantially deviate from its submitted load forecasts.

Issue 5: What level of proof should be required in order to count newly proposed generation resources towards meeting capacity obligations? Signed generator-interconnection agreement before it could be counted? Signed affidavit including schedule to receive permits, approvals and complete construction ahead of the 4-year forward obligation?

[1] For municipally-owned electric utilities and cooperative electric utilities, which are not "electric utilities" as that term is used in Section 6w, the attorney general or any customer of such a utility may seek relief if the utility fails to meet its obligations under 6w(8)(b). See Section 6w(9).

A signed generator-interconnection agreement should not be required before a new generation resource should be counted. Nor should the Commission necessarily decline to count a resource that is not included in the OMS-MISO survey results. Satisfactory proof will likely vary depending on the location and type of resource proposed. The Commission's evaluation should be resource-type specific where appropriate, and consider whether a planned resource (i) has been included by a utility, the extent applicable, in its Integrated Resource Plan; (ii) has been publicly announced or disclosed to a utility's shareholders (iii) is active in the MISO interconnection queue, (iv) has filed for or received regulatory approvals to site and construct the resource, (v) has filed for or received necessary air, water and other permits necessary to construct and operate the resource.

Issue 6: If a small portion of the capacity obligation is allowed to be obtained in the MISO PRA to account for fluctuations in capacity obligations, is it possible to determine if those ZRCs purchased in the auction can be traced to generation that is physically located in Zone 7? If not, should ZRCs obtained in the PRA count towards meeting any portion of any potential LCR obligation or strictly PRMR obligation?

It is not possible to determine if ZRCs purchased in the MISO PRA can be traced to a particular generation resource or Zone. This is because ZRCs are procured annually with a life of one MISO planning year. At the time Capacity Demonstrations must be filed (before the MISO planning resource auction and prior to the start of the first planning year), auction-purchased ZRCs for the planning years subject to the 4 year demonstration requirement will not be available. That said, the MMG reiterate their strong support, discussed above, for providing flexibility in meeting capacity obligations by applying a graduated percentage of the PRMR for future years.[2]

Issue 7: How transparent should the capacity demonstration process be?

As noted above, utilities should have the ability to submit their information confidentially.

Issue 8: Should the capacity demonstrations be contestable by other parties?

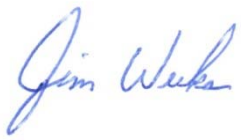
[2] See the MMG's general recommendations above.

With respect to municipally owned electric utilities, Section 6w(9) limits challenges to capacity demonstrations to those brought by the attorney general or utility customer.

Issue 9: Would the most recently released LCR and PRMR by MISO for the prompt year be reasonably used for setting capacity obligations that are four years forward? If not, what is an appropriate methodology for determining the capacity obligations pursuant to MCL 460.6w?

MISO's most recently released LCR and PRMR for the prompt year should form the basis for setting capacity obligations for the four forward years. If there are deviations from MISO's LCR and PRMR calculations, such deviations should reflect the methodology, input and technical assistance of MISO pursuant to Section 6w(8)(d), as well as utility stakeholders.

Respectfully submitted this 17th day of July, 2017.



Jim Weeks
Executive Director
Michigan Municipal Electric Association

MISEC – Michigan Schools Energy Cooperative

July 13, 2017

Eric Stocking, Economic Analyst
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: Michigan Schools Energy Cooperatives comments regarding MPSC Case No. U-18197 - ***In the investigation, on the Commission's Own Motion, into Electric supply reliability plans of Michigan's electric utilities for the years 2017-2021***

Dear Mr. Stocking:

The Michigan Schools Energy Cooperative (MISEC) was formed in 1998 to provide aggregated energy procurement services to Michigan's K-14 community. Representing over 165 individual school districts, MISEC has saved Michigan schools over $140M (or ~$35/student/year) through the Retail Open Access program - dollars that are returned directly back into the classroom.

Given the importance of the cost of energy for Michigan's K-14 community, MISEC was very involved in the legislative process last year and would like to respectfully provide the Commission with a few comments and observations as it moves forward towards a decision regarding the definition and applicability of the "Local Clearing Requirement" (LCR).

First and foremost, we are certain that the Commission understands that many of the original legislative drafts of PA341 included a "Local Clearing Requirement (LCR)" that would require (Alternative Electric Suppliers) AESs to buy all or mostly all of their capacity locally in Michigan. As you know, that language would have effectively eliminated the Electric Choice program as DTE and Consumers own or have purchased virtually all local capacity and could (and would) either refuse to sell to AESs or sell to AESs at an above market price. Needless to say, AESs, MISEC, and customer groups vigorously opposed this requirement.

However, compromise legislative language regarding this situation was reached and the language containing a restrictive LCR was removed and replaced with language that allowed AES to use "any resource that… (MISO)…allows to meet the capacity obligation of the electric provider" to satisfy the AES's capacity demonstration required under the law. This substantial change in the final version of the legislation means that AES's can use non-local capacity to meet this requirement. MISEC wholeheartedly supported this compromise as we felt that it **retained the competitiveness of the electric choice program by creating outside competition for capacity in lieu of only having DTE and Consumers as primary capacity suppliers.**

We are however concerned that in the above noted June 15th Commission order, despite the fact that the LCR requirement was removed in the final legislative compromise, the Commission determined that the legislature intended for the LCR definition to also apply to AES even though the LCR was completely removed from the actual section of the bill that sets the capacity demonstration requirements for AES.

The reinsertion of a more restrictive LCR in the June 15th Order would disadvantage an AES to the benefit of incumbent utilities. The **compromise that saved electric choice had 0% LCR on AESs.**

To this end, on behalf of Michigan's Educational Community, we would like to respectfully request that the Commission re-review the legislation that was passed and apply the LCR requirements as defined and not attempt to apply a LCR requirement upon the AES's/Electric Choice customers that was not intended to be conveyed upon them.

Respectfully,

Raymond S. Telman, Secretary/Treasurer
Michigan Schools Energy Cooperative

cc: Lynn Beck

SpartanNash.

July 14, 2017

Eric Stocking, Economic Analyst
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: SpartanNash's comments regarding MPSC Case No. U-18197 - ***In the investigation, on the Commission's Own Motion, into Electric supply reliability plans of Michigan's electric utilities for the years 2017-2021***

Dear Mr. Stocking:

We are contacting you today to share our concern regarding the Commissions recent opinion in MPSC Case No. U-18197 as it pertains to the applicability of the Local Clearing Requirement (LCR) on the Alternative Energy providers.

As a little background, since 1998, SpartanNash (formerly Spartan Stores) has participated in the electric choice program. Currently, our Byron Center, Michigan-based corporate headquarters and 1,179,000 sq. ft. distribution center, 69 of our 90 Michigan retail stores and one of our 25 fuel centers participate in the electric choice program and spend over $15 million annually on electricity through the program. In Michigan, our corporate stores operate under the Family Fare, D&W Fresh Market, Forest Hills Foods, VG's, and ValuLand banners. Furthermore, many of our more than 350 independent retail customers in Michigan also participate in the program.

As an electric choice participant, we have access to the competitive wholesale market to purchase electricity at a reduced rate for longer, fixed periods of time (in 2014, 7.8 cents per KWH as compared to 10.3 cents for non-choice stores), thereby enabling us to better budget and plan our overall operations. In doing so, we are able to:

- Employ more than 8,000 associates in Michigan;
- Provide competitive pricing in our Michigan retail stores;
- Invest over $93 million in store remodels and energy efficient equipment (since 2010);
- Annually collaborate with more than 5,000 community partners to advance education and vital services;
- Sponsor over 1,900 community events a year; and
- Donate nearly 3 million pounds of food annually to fight hunger.

Given the importance of the cost of energy our overall operation, SpartanNash was very involved in the legislative process last year and would like to respectfully provide the Commission with a few comments and observations as it moves forward towards a decision regarding the definition and applicability of the "Local Clearing Requirement" (LCR).

First and foremost, we are certain that the Commission understands that many of the original legislative drafts of PA341 included a "Local Clearing Requirement (LCR)" that would require (Alternative Electric Suppliers) AESs to buy all or mostly all of their capacity locally in Michigan. SpartanNash, along with

many other interested parties, were opposed to this requirement, and would like to highlight the fact that **this requirement was explicitly and purposely removed in the final compromise** legislation, and replaced with language allowing alternative electric suppliers (AESs) to use **any resource MISO allows to meet the capacity obligations of an electric provider, without any reference to local resources.**

This substantial change in the final version of the legislation means that AES's can use non-local capacity to meet this requirement. SpartanNash wholeheartedly supported this compromise as we felt that it **retained the competitiveness of the electric choice program by creating outside competition for capacity.**

We are however concerned that in the above noted June 15th Commission order, despite the fact that the LCR requirement **was removed** in the final legislative compromise, the Commission determined that the legislature intended for the LCR definition to also apply to AES even though the LCR was completely removed from the actual section of the bill that sets the capacity demonstration requirements for AES.

Respectfully, SpartanNash would like to request that the Commission re-review the legislation that was passed and the applicability of the LCR requirements as defined and not attempt to apply a LCR requirement upon the AES's/Electric Choice customers that was not intended to be conveyed upon them.

Respectfully,

Steve Staeglich
Director of Strategic Sourcing

cc: Lynn Beck

Wolverine Power Supply Cooperative, Inc.
Capacity Demonstration Position in Case No. U-18197

BACKGROUND

In Case No. U-18197, the Michigan Public Service Commission (the "Commission") established a series of technical conferences pertaining to the State Reliability Mechanism ("SRM")[1], in particular the capacity demonstration process, to address three threshold questions[2]:

> 1. Should the schedule laid out in Section 6w(8), MCL 460.6w(8) for capacity demonstrations be adhered to, or should any of these deadlines be adjusted as allowed under Section 6w(10), MCL 460.6w(10) to ensure proper alignment with MISO's procedures and requirements? If a stakeholder recommends that the dates should be adjusted, please describe what revisions should be made.
>
> 2. Should there be a uniform methodology for capacity demonstration, both among types of providers (investor-owned utilities, rural electric cooperatives, municipally-owned utilities, and AESs) and among service territories?
>
> 3. Should there be a "locational requirement" for resources used to satisfy capacity obligations, and if so, should individual load serving entities (LSEs) be required to demonstrate a share of the overall locational requirement?

On May 25, 2017, Wolverine Power Supply Cooperative, Inc. ("Wolverine") submitted its initial comments to the Commission's threshold questions ("May 25, 2017 Wolverine Submittal"). Wolverine's comments on the capacity demonstration process: 1) Supported a schedule that aligns with the MISO's Planning Resource Auction ("PRA") timeline, 2) Supported a methodology that uses the spreadsheet form used in the Commission's annual capacity assessment case(s), and 3) Given the artificial split of Michigan into two Local Resource Zones ("LRZ"), supported a process that recognizes MISO's import/export construct, but, because it offers no additional economic benefit or scientific logic, does not utilize a locational capacity requirement.

On June 15, 2017, the Commission issued an Order (the "Guidance Order") to provide guidance in developing the capacity demonstration process. The Commission determined that the capacity demonstration process adhere to the schedule established under the energy reform bills,

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[1] Michigan's December 2016 Energy Reform Legislation required the creation of an SRM charge under MCL 460.6w. A capacity demonstration process is required to determine what entity or entities, if any, would be required to pay the SRM charge to the incumbent utility. See MCL 460.6w(8)(b).

[2] The Commission's May Order included Attachment A, which contained several additional issues to be addressed in the technical conferences.

utilize a uniform methodology, and include a locational requirement. The Guidance Order also established a series of Technical Conferences, to be held on June 29 and 30, as well as July 10. The Guidance Order directed the Staff and stakeholders to explore and attempt to define an allocation methodology for the locational element in the remaining Technical Conferences. The Commission also requested that stakeholders and the Staff explore, through the lens of the Section 6w framework, issues related to potential changes in load forecasts, customer switching, and supply arrangements.

TECHNICAL CONFERENCE POSITION SUMMARIES

On June 29 and 30, MPSC Staff ("Staff"), Constellation, Energy Michigan, DTE, and Consumers Energy presented, with a wide range of views, on the capacity demonstration process.

Presenter	Discussion
Staff	1) Proposed a process schedule 2) Provided three Locational Requirement approaches (phase-in, proportional share, and hybrid), and 3) Offered an option to have a Michigan-only Zonal Resource Credit ("ZRC") filing much like the Michigan Renewable Energy Credit filing to demonstrate proof of Michigan capacity.
Constellation	1) Addressed the surplus of in-state resources versus the Zone 7 Local Clearing Requirement ("LCR") to show that no Locational Requirement is required, 2) Requested capacity demonstration be confidential, 3) Proposed a consenting/non-consenting requirement for billing SRM charges to customers versus the Alternative Electric Supplier ("AES") with the utility being responsible for the capacity of the non-consenting customers, and 4) Proposed the existing capacity assessment filing procedures be used as proof of demonstration which includes all 4 years for the initial demonstration and then for a single year, 4 years out thereafter.
Energy Michigan	Addressed how the LCR should be calculated and assigned to those LSEs that are short.
DTE	1) Addressed the looming shortage of in-state resources versus the Planning Reserve Margin Requirements ("PRMR) to show that reliability is at risk, 2) Proposed a 4 year demonstration for the initial determination and then a single year, 4 years forward thereafter with no re-demonstrations required, 3) Proposed that the LCR and PRMR values be used from MISO's Loss of Load Expectation analysis and interpolated/extrapolated as necessary, 4) Proposed excluding long term capacity agreements (20+ years) that predate 2013,

	5) Proposed a process to calculate the load ratio share for each entity's LCR, 6) Requested a deadline for notification of customers returning to Tariff service, and 7) Requested transparent capacity demonstration (except for pricing) and requested that any Power Purchase Agreement ("PPA") proof identify the specific capacity unit(s).
Consumers Energy	1) Addressed the demonstration process schedule, 2) Proposed that any AES load give 4 years advance notice before returning to utility for capacity, 3) Proposed that any load changes that occur in the interim years be handled in the PRA or bilaterally, 4) Proposed that entities that are short be assessed a State Reliability Mechanism ("SRM") charge (that would follow the customers[3] from supplier to supplier) for the shortage and continue to be assessed the charge independent of interim resource changes for which the entity would buy or sell their shortage/surplus in the PRA or bilaterally, 5) Proposed that all LSEs meet the Load-Ratio Share of the Zone 7 LCR with Zone 7 resources, 6) Proposed that all LSEs pay Cost of New Entry ("CONE") if the LRZ is short, 7) Proposed that AESs include PPAs (and cite to specific resources as verified in the prompt year using the MECT tool) with capacity demonstration filing, 8) Proposed that evidence of progress in the MISO Generator Interconnection Process or evidence of construction agreements be provided as verification for planned generation and if not verified must be procured in the PRA or bilaterally, 9) Proposed that a limited amount of PRA procured capacity (LCR/PRMR*MWs from the PRA) count towards LCR, 10) Proposed that the demonstration process be contestable subject to confidentiality provisions, 11) Proposed that the LCR and PRMR values be used from MISO's Loss of Load Expectation analysis and interpolated/extrapolated as necessary, and 12) Proposed that an AES that demonstrates a capacity deficiency in any one year of the four year process will have their customers assessed the SRM charge (with the AES

[3] The AES would indicate what customers would be assessed the charge in an amount equal to the AES capacity deficiency. In a situation involving less than 100% capacity shortage, Consumers provided no guidance on how an AES would decide which customer to charge related to capacity shortage. This failure is probably because the charge is expressly and statutorily based on short *proportion of load* and **not customers**. See, e.g., MCL 460.6w(3) and argument *infra*.

	relinquishing responsibility for the capacity) for the term of the SRM charge.

INTRODUCTION TO WOLVERINE'S COMMENTS

In response to the Commission's May 11 Order, including Attachment A's additional issues, the Commission's subsequent Guidance Order, the presenters' proposals from the June 29 & June 30 technical conference, and discussion at the July 10 technical conference, Wolverine addresses the following issues:

1. The importance (and current availability) of a uniform methodology in establishing capacity obligations that also ensures a proper burden and establishment of proof of load changes, capacity changes, energy efficiency/demand response/demand-side management programs, and planned generator interconnections.
2. Why a peninsula-based locational requirement does not serve Michigan customers economically or legally in a manner that recognizes the value and importance of ZRCs purchased in the MISO PRA.
3. The Commission must ensure that MCL 460.6w's SRM charge establishment and operation affect the proper and legally responsible party for capacity obligations – to ensure that responsible capacity decisions are made and not, somehow, saddle a customer with an Alternative Electric Supplier's (AES) bad decisions. Customers must be allowed to switch AESs without obligation to continue carrying the AES's failure to procure sufficient capacity.
4. The Commission should demand the proper and sufficient level of capacity obligation information transparency.
5. MISO's LCR and PRMR are the only mechanisms to determine capacity requirements and should be utilized for the statutorily prescribed 4 year period within the capacity demonstration process.

WOLVERINE'S COMMENTS

1. A Uniform Capacity Sufficiency Methodology Serves Michigan's Customers Best by Evidencing Capacity Obligations in a Trusted, Reliable, and Established Fashion.

As noted in the May 25, 2017 Wolverine Submittal, the current spreadsheet form used for the Commission's annual capacity assessment filing (see 2017 filings in Docket No. U-18197) provides a uniform methodology that is sufficient to demonstrate capacity for Michigan's electric utilities, including traditional utilities, AESs, cooperatives, and municipals. This spreadsheet form also provides the flexibility to demonstrate proof for the varying boundaries and constructs between MISO LRZ 2, LRZ 7, and PJM areas (hereinafter known as the "Three Seams"). Information required by this form includes:

- Coincident and Non-Coincident Peak Demand forecast information (including identification of both bundled and AES load),

- Internal Demand Response programs that are used to adjust peak forecast, and
- Utility owned and contracted generation capacity (including identification of non-intermittent or intermittent, as well as identification of in-state or out-of-state).

Use of the established and workable spreadsheet, on an annual basis, (including the signature of a company officer), addresses several of the Commission's additional issues: (1) the spreadsheet contains sufficient proof to identify any changes (load and resources) throughout the four (4) year period and (2) also identifies demand response, energy efficiency, demand-side management programs, and newly proposed/planned generation resources (proof of which is required via a MISO Generator Interconnection Agreement or construction agreement(s)).

By coupling the spreadsheet information (and it's identification of in-state/out-of-state resources), the calculation of the LCR and PRMR proposed below, and the use of the import/export limits from MISO's Loss of Load Expectation (LOLE) study, the Commission has all the information it needs to make its statutorily required capacity availability determination.

2. A Michigan-Based Locational Requirement, Separating Michigan's Peninsulas, Serves Only to Separate Michigan Customers, Forces Unnecessary Capacity Charges, and Fails to Meet Any Statutory Requirement. Such a Construct Fails to Recognize the Value, Importance, and Availability of ZRCs Purchased in the MISO PRA, as well as Existing Transmission Capacity Between the Peninsulas.

Wolverine recognizes that the Commission found in its Guidance Order that a locational requirement is required under Section 6w and that a locational requirement applicable to individual LSEs is allowed as part of the capacity obligations pursuant to Section 6w in order to ensure that all providers contribute to long-term resource adequacy in the state. Nevertheless, the Commission did not specify the nature and extent of the locational requirement and, in particular, any locational requirement dividing Michigan. Instead, the Commission sought input regarding a fair and equitable allocation method for the locational element. Given this background, Wolverine contends that a physical locational requirement based on MISO LRZ boundaries for capacity demonstration is at odds with a unified energy plan for Michigan. Not only that, but such a requirement is not supported by the plain language of the Energy Reform Legislation,[4] applies unnecessary capacity/SRM charges where capacity is long (because of existing transmission import/export capacity between the peninsulas), and fails to recognize the value, importance, and availability of MISO-approved and -established ZRCs.[5] Thus far, the stakeholders in the Technical Conferences for this capacity demonstration process have focused on MISO LRZ 7 and thereby ignored the fact that Michigan is served by the Three Seams. Such

[4] MCL 460.6w specifically excludes any reference to a locational requirement for alternative electric suppliers. See MCL 460.6w(8)(b) (noting that cooperatives and municipal utilities may aggregate power in LRZs, but noting only that an AES must demonstrate that it "owns or has contractual rights to sufficient capacity to meet its capacity obligations as set by the appropriate independent system operator, or commission, as applicable.").

[5] Such credits were also contemplated in the Energy Reform Legislation. See MCL 460.6w(8)(b).

artificial boundaries, which fail to recognize deliverability among and between the Three Seams, only perpetuate an inefficient division.

However, if the capacity demonstration process is read to require a locational requirement for even AESs, then the state boundaries should be utilized rather than the MISO LRZ boundaries. MISO's LRZ boundaries create an artificial and unnecessary split[6] within the state. Use of the MISO LRZ boundaries inhibits the ability of Michigan resources to serve Michigan load throughout the entire state. Specifically, the LRZ boundaries will prohibit the use of Lower Peninsula resources to supply Upper Peninsula load and vice versa. Such an outcome is unsupported by science and the most efficient use of available resources. The Commission even recognized this dichotomy when it recognized that "[i]t is reasonable to allow for imports from outside the Zone to expand the pool of capacity resources and potentially lower costs *so long as* transmission is available and the overall LCR and PRMR can be met over time to protect reliability in the state." Guidance Order, p 12. While MISO can determine and test deliverability between the peninsulas, there is no monitoring/calculation of the import/export limits between Wisconsin and the Michigan's Upper Peninsula (in LRZ2). Treating untestable LRZ resources more favorably than Michigan resources makes little sense. The Commission's methodology should *put Michigan first*.

Using the uniform methodology Wolverine proposes above, the identification of resources can be easily determined whereas in the MISO PRA, due to the pooling of resources, the location of the purchased ZRCs are not and cannot be identified without further filing requirements.[7]

3. An AES Unable to Fully Serve its Load With Properly Sourced Capacity is Responsible for any SRM Charge Established Under MCL 460.6w(3), (6), (7), and (8)(b) – NOT Customers.

The Energy Reform Legislation is clear – an AES is responsible for procuring sufficient capacity to meet the needs of its load. See MCL 460.6w(3), (6), (7), and (8)(b). Specifically, the Legislature said:

- "The capacity charge must be *applied to alternative electric load* that is not exempt as set forth under subsections (6) and (7)." MCL 460.6w(3) (emphasis added).
- "A capacity charge shall not be assessed for any portion of capacity obligations for each planning year *for which an alternative electric supplier can demonstrate that it*

[6] Utilization of the MISO LRZ boundaries allows the Upper Peninsula of Michigan load to be served by capacity outside the state boundaries (i.e. Wisconsin capacity resources in LRZ 2) whereas the Lower Peninsula of Michigan load is limited to LRZ 7 only. This treatment unjustifiably discriminates between the obligations of the Upper and Lower Peninsula with no scientific basis or justification (e.g., ignoring available transmission capacity between the peninsulas), let alone the dearth of legislative authority and guidance related to AES load. See MCL 460.6w(8)(b).

[7] But their location is irrelevant - generation resources that participate in the MISO PRA are considered deliverable to the entire MISO footprint. ZRCs are assigned to these generation resources independent of the resources' physical location.

can meet its capacity obligations through owned or contractual rights to any resource that the appropriate independent system operator allows to meet the capacity obligation of the electric provider." MCL 460.6w(6) (emphasis added).

- "An electric provider *shall provide capacity to meet the capacity obligation for the portion of that load taking service from an alternative electric supplier* in the electric provider's service territory that is covered by the capacity charge during the period that any such capacity charge is effective. The *alternative electric supplier has the obligation to provide capacity* for the portion of the load for which the alternative electric supplier has demonstrated an ability to meet its capacity obligations." MCL 460.6w(7) (emphasis added).
- "[A]n alternative electric supplier shall demonstrate to the commission, in a format determined by the commission, that for the planning year beginning June 1, 2018, and the subsequent 3 planning years, *the alternative electric supplier owns or has contractual rights to sufficient capacity to meet its capacity obligations* as set by the appropriate independent system operator, or commission, as applicable." MCL 460.6w(8)(b) (emphasis added).
- "*For alternative electric load*, require the payment of a capacity charge that is determined, assessed, and applied in the same manner as under subsection (3) for that portion of the load not covered as set forth in subsections (6) and (7)." MCL 460.6w(8(b)(i) (emphasis added).

The Legislature recognized that AESs, not customers, are obligated to procure (and therefore responsible for procuring) capacity and energy to serve their customer load and required that it be AESs that pay any resulting charge associated with uncovered AES load. It conflicts with the statute's plain language to argue that such a charge should be applied to (and follow) a customer. ROA Customers are not regulated, have no obligation to serve their own load, and are therefore free to choose their power supplier while held harmless from a direct SRM charge.

The importance of this point cannot be overstated. The Legislature was particularly prescient on this issue – it intended to encourage capacity build and sufficient planning for the future. Because the SRM must be related to *load* for which capacity has not been procured by the AES (and not specific *customers*), if an ROA customer moves to a capacity-long AES, there would be no SRM applicable to that ROA customer *or* its load. Once the ROA customer moved, the capacity-short AES's uncovered load would decrease and, appropriately, so would its SRM obligations. The Legislature's plain language and justified public policy will then have been fulfilled and the incentives would properly align. But if the SRM were arbitrarily charged to one ROA customer forever, regardless of the available capacity of the AES, the incentives would misalign and capacity would not build in the right places (if at all).

A retail capacity charge will be determined in the appropriate utility's SRM case and set forth in the Retailer Section of the utility's Retail Open Access Tariffs. The tariff would then establish an agreement whereby the capacity-short AES would pay a retail capacity charge as one of the terms and conditions. This agreement would be included in one of the many already stated ROA tariff terms and conditions the AES must satisfy in order to provide service to the utility's ROA customers.

The Commission's annual capacity assessment filing, which should be mirrored for the capacity demonstration process, requires that LSEs (utilities, cooperatives, municipals, and AESs) submit their respective information for meeting customer load. It does not (and rightfully, should not) require customers to submit any information. Therefore, an AES's failure to participate in the process or meet its own capacity requirements, will result in an SRM charge on the AES - not the customer.

4. The Commission Must Demand Transparency in the Capacity Determination and Implementation Process, but Reject Efforts to Permit Such Transparency to Be Used to Gain Competitive Advantage.

Information supplied within the capacity demonstration process should only contain enough information to determine the capacity requirement in order to prove that required capacity is procured and available. The information should not contain any commercially sensitive information, such as pricing, that would give another entity an unfair competitive advantage. Attempts by certain parties to require submission of such information is likely only a thinly veiled attempt to procure that information for irrelevant and commercially uncompetitive reasons. Such information is not necessary for the Commission's required quantum of proof and should not be requested for compliance.

5. MISO's LCR and Planning Reserve Margin Requirement (PRMR) Calculations are the Only Mechanisms to Determine Capacity Requirements and They Should be Utilized for the 4 year Period of the Capacity Demonstration Process.

For those operating in the MISO market, MISO's calculation of the LCR and PRMR using the Loss of Load Expectation study is currently the only mechanism to determine capacity requirements and should be utilized for the 4 year capacity demonstration process. Although Wolverine recommends utilizing MISO's LCR and PRMR values (interpolated for Year 2 and extrapolated for Year 4) for the entire 4 year period, we recommend that capacity obtained in the PRA must only be used as capacity demonstration for the prompt year and not for the entire 4 year period. Capacity demonstration for Years 2 through 4 should be limited to owned or contracted rights to capacity as the PRA is not a forward capacity market.[8] The Capacity demonstration for Years 2 through 4 can be at a lower threshold (as a percentage of required capacity) than the prompt year allowing for future flexibility for the LSE to meet its obligations. However, if a forward capacity auction becomes available to Michigan entities, the capacity demonstration process should be reevaluated.

[8] See MCL 460.6w(8)(b) (emphasis added) ("an alternative electric supplier shall demonstrate to the commission, in a format determined by the commission, that for the planning year beginning June 1, 2018, and the subsequent 3 planning years, the alternative electric *supplier owns or has contractual rights to sufficient capacity to meet its capacity obligations as set by the appropriate independent system operator, or commission, as applicable.*").

CONCLUSION

In conclusion, Wolverine recommends that the Commission:

1. Utilize the annual capacity assessment spreadsheet, as a uniform methodology, containing the requisite information required for proof of capacity demonstration, as well as serving Michigan's customers best by evidencing capacity obligations in a trusted, reliable, and established fashion.

2. Forgo any locational requirement for capacity demonstration by recognizing the value, importance, and availability of ZRC's in the MISO PRA as well as the existing transmission availability between the Peninsulas. A locational requirement separating Michigan fails to meet any statutory requirement and serves only to divide Michigan, Michigan customers, and force unnecessary capacity charges.

   However, if there must be a requirement, then it is imperative that a unified energy plan for Michigan is maintained and the requirement utilize the state boundaries, including the ability to use inter-peninsula transmission and any owned or contracted resource that MISO and/or PJM considers deliverable into the State of Michigan. If the state boundaries are insufficient then the Commission should allow resources in LRZ 2, LRZ 7, and PJM to serve load among each other – assuming deliverability can be shown.

3. Enforce, consistent with the statute, any and all capacity obligations upon the capacity-short AESs. An AES found to be deficient is the only entity that should be assessed the SRM charge, and *only to the extent and for the period of deficiency*.

4. Require transparent capacity demonstration process, but avoid requesting commercially sensitive information irrelevant to capacity sufficiency (e.g., contracts and pricing).

5. Require MISO's LCR and PRMR calculation be used in determining capacity requirements for the 4 year period, and disallow the use of capacity resources procured in the MISO PRA as demonstration for Years 2 through 4.

Respectfully Submitted,

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