

Michigan's New Resource Adequacy Law

What does Michigan's new energy law require?

Section 6w of PA 341 of 2016 established a "**state reliability mechanism**" to make sure the state has enough electricity supplies over the long term. Specifically, the law requires all electric providers to annually demonstrate to the MPSC that they have enough generating capacity to serve customers four years into the future. This includes municipal utilities, electric cooperatives, alternative electric suppliers, and investor-owned utilities. Alternative electric suppliers, if they cannot or choose not to arrange generating capacity to meet the new requirements, can instead rely on the local utility to provide "capacity service" to their customers. In this case, there would be a charge paid to the utility based on a rate determined by the MPSC.

Why does this issue matter?

Having reliable electricity is essential in today's world. With power plants closing in Michigan and across the Midwest, the Michigan Legislature recognized the need to **ensure all electric providers are planning to adequately meet their customers' needs for electricity**. Federal rules only require electric providers to plan for customers one year ahead of time, so Michigan's new law gives more lead time for providers to build or buy resources to serve customers. By planning ahead, it can also keep costs of electricity lower by avoiding price spikes or more costly last-minute purchases when supplies are limited.

How is the MPSC implementing these new provisions?

There are two important aspects of the new energy law currently being addressed by the MPSC:

- 1) Setting the rules and guidelines for how energy providers demonstrate they have enough electricity supplies or capacity, referred to as the "**bring your own capacity**" option; and
- 2) Setting the **state reliability mechanism charge** for alternative electric suppliers whose customers receive default capacity service from the local utility.

Capacity Demonstration

The MPSC solicited feedback and held numerous workgroup meetings to address the details of the "bring your own capacity" option. Comments and information are available on the MPSC's e-dockets webpage, under Case No. [U-18197](#). In an order issued September 15, 2017, the MPSC addressed the process and requirements for this option as described further below.

State Reliability Mechanism Charge

The state reliability mechanism charge is being set through a contested case process for individual utilities that have customers served by alternative electric suppliers. This includes expert witnesses and other evidence presented to the MPSC through a formal hearing process. The MPSC must issue orders by December 1, 2017 in these cases and is on track to do so.

What is required of electric providers under the "bring your own capacity" option? What types of electricity supplies can be used to meet capacity requirements?

The law requires providers to annually demonstrate to the MPSC that they have **sufficient owned or contracted resources to meet capacity obligations four years into the future**. Electric providers must document that they own or have contracted resources to meet the capacity obligations set by the regional grid operator or the MPSC. Electric providers can meet their obligations in numerous ways: by entering into contracts with generators, owning existing or building new power plants, or by pursuing new programs to cut demand for electricity during peak times. Electric providers could also buy some of their capacity through a regional auction. These are all traditional ways providers use to serve their customers today.

What is the local clearing requirement, or locational requirement?

In order to ensure the reliability of the electric grid, **some electric generation resources used to serve Michigan customers need to be located within Michigan**. MISO, the regional grid operator in which most of Michigan is located, and which administers federally-approved rules and regulations, required that almost 95% of the generation capacity used to serve customers in the Lower Peninsula of Michigan be physically located within that region during 2017. This is due to the reliability of Michigan's existing generating resources, Michigan's geography as a peninsular state, and the amount of transmission capacity to import electricity into the state from elsewhere. Having local resources in place is known as either a "local clearing requirement" or a "locational requirement."

Does the new law reference "local clearing requirement"?

Yes. The new law defines *local clearing requirement* as "the amount of capacity resources required to be in the local resource zone in which the electric provider's demand is served to ensure reliability in that zone as determined by the appropriate independent system operator for the local resource zone in which the electric provider's demand is served and by the commission under subsection (8)." It also requires the MPSC, in order to determine capacity obligations, to request that MISO "provide technical assistance in determining the local clearing requirement."

Does the MPSC have the authority to implement a locational requirement?

Yes. The new law defines local clearing requirement, allows for a determination of the local clearing requirement to be made by the MPSC, and requires the MPSC to work with MISO in determining the local clearing requirement.

Does the MPSC have the authority to require individual electric providers to obtain some of their capacity from local generation sources?

Yes. The new law directs the MPSC to require each electric provider to 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" four years into the future. While the law allows providers to use "any resource that [MISO] allows to meet the capacity obligation of the electric provider," MISO only allows generation located in a specific geographic area to count towards meeting the local clearing requirement.

Further, the law specifically allows for municipal and cooperative electric utilities to aggregate their resources to meet the local clearing requirement. Without this aggregation option provided for in the law, these utilities would have to individually demonstrate that they could meet a local clearing requirement four years into the future. The MPSC carefully considered the statute and can find nothing in the law, and no rational basis, to indicate an intent to place a local clearing requirement *only* on non-profit utilities. Instead, the law is more logically understood to require that all individual utilities be treated similarly in terms of requirements, and that the aggregation option was intended to assist non-profit utilities (many of which are small) to comply more easily.

Is the MPSC requiring individual electric providers to meet some or all of their capacity from local generation sources?

In its September 15 order, **the MPSC does not require individual providers to meet a locational requirement during the first cycle for capacity demonstration under the new law** (which looks ahead through 2021); however, the MPSC did indicate that it would open a new contested case to establish locational requirements for future capacity demonstration cycles (for years 2022 and beyond). In its most recent reliability outlook, the MPSC found that Michigan as a whole is anticipated to meet reliability requirements over the next five years if available supplies at the regional level can be secured. This will allow individual providers adequate time to comply with a locational requirement and **give the MPSC more information to make a decision on the best way to structure the locational requirement to ensure that it is fair and helps to meet future reliability needs.**

How do the requirements in the new energy law relate to the annual auction process of the regional grid operator, MISO? Can energy providers still participate fully in the auction?

MISO annually holds an auction to allow electric providers to obtain capacity to serve customer needs in the upcoming year. Even with Michigan's new law, electric providers continue to be required to meet MISO's capacity obligations (which include a local clearing requirement) one year forward, and can use MISO's annual auction to obtain capacity to meet those obligations. The requirements set by the MPSC are for four years into the future, and are meant to complement the MISO requirements. Providers will be required to show the MPSC they have adequate supplies four years ahead of time, but **may use the MISO auction** to meet the year-ahead MISO requirements, as well as to account for any changes from their initial four-year ahead projections.

Will the new capacity requirements raise electricity costs?

The new requirements will ensure that all providers have owned or contracted resources sufficient to serve customers' needs four years ahead of time. The vast majority of Michigan customers, who take service from incumbent electric providers, are unlikely to see price increases since their providers already meet these requirements. For providers that do not meet these requirements today, these requirements have the potential to raise electricity costs. If alternative electric suppliers cannot or choose not to obtain generating capacity to meet the new requirements, the local utility would provide capacity service to those customers, and there would be a charge paid to the utility based on a rate determined by the MPSC. At the same time, **planning ahead can ultimately keep costs of electricity lower by avoiding price spikes or more costly last-minute purchases when supplies are limited.**

Will the new capacity requirements improve reliability of Michigan's electric grid?

Yes. The new capacity requirements are an improvement in reliability over the status quo: if it is necessary to procure new resources, there are concerns about whether the MISO auction provides adequate incentives or lead time to be able to build or acquire those resources. **Looking four years into the future, instead of only one year ahead, is the fundamental improvement to reliability resulting from the new law.**

How will the new capacity requirements affect electric choice?

All providers, including alternative electric suppliers that provide service to electric choice customers, will need to demonstrate to the MPSC four years in advance that they have owned or contracted resources to meet anticipated customer needs. This is a new requirement, and may mean that some providers have to alter their business models in order to comply. However, ensuring that there is adequate visibility into Michigan's resource adequacy position four years in the future is critical to maintaining the reliability of the electric grid, and is a benefit to all customers. **The MPSC recognizes that the Legislature prioritized keeping the electric customer choice program in place, and has worked to balance the needs of electric choice customers with the reliability of the grid.**

When do electric providers need to file their capacity plans with the MPSC?

Investor-owned electric utilities like Consumers Energy and DTE Electric Company are required to file their plans by **December 1, 2017**. All other providers – alternative electric suppliers, municipal utilities, and electric cooperatives – are required to file their plans by **February 9, 2018**.

What are the next steps?

Beginning December 1, 2017, electric providers will have to make their initial capacity demonstrations to the MPSC, showing they have adequate capacity through 2021. The MPSC will open a new contested case to determine how to establish capacity obligations, including a locational requirement, for future capacity demonstration cycles (for the years 2022 and after). The MPSC is required to establish state reliability mechanism charges by December 1, 2017; once this "price to beat" is set, alternative electric suppliers have until February 9, 2018 to choose whether to procure capacity or pay the charge.

For more information, visit:

www.michigan.gov/energylegislation

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