

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to seek comments from rate-regulated electric, steam, and natural gas utilities regarding potential utility infrastructure improvements in the state of Michigan from the federal funding available under the Infrastructure Investment and Jobs Act of 2021: ALPENA POWER COMPANY, CONSUMERS ENERGY COMPANY, DETROIT THERMAL, LLC, Case No. U-21227 DTE ELECTRIC COMPANY, DTE GAS COMPANY, INDIANA MICHIGAN POWER COMPANY, NORTHERN STATES POWER COMPANY, UPPER PENINSULA POWER COMPANY, UPPER MICHIGAN ENERGY RESOURCES CORPORATION, MICHIGAN GAS UTILITIES CORPORATION, and SEMCO ENERGY GAS CORPORATION.

Case No. U-21227

Comments of the Attorney General and Citizens Utility Board of Michigan

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Attorney General Dana Nessel and the Citizens Utility Board of Michigan both appreciate the Commission's May 12, 2022 order directing rate-regulated utilities to file comments that demonstrate how rate-regulated utilities are, or should be, considering and taking advantage of the various funding opportunities under the IIJA. We also look forward to continued Commission interaction with all stakeholders on this issue. Below are our responses to some of the questions posed by the Commission in its May 12th order.

1) Identification of all federal programs, private-public partnerships, grants, loans, contract opportunities, and funding available to public utilities pursuant to the IIJA, as well as an explanation of the actions or processes public utilities must complete to access those opportunities. Comments may also identify additional funding and assistance opportunities available under other new or existing federal programs.

Our answers to this question will catalog the federal funding opportunities to which utilities can apply and the programs we believe utilities could at least partially fund if they are awarded those opportunities. When utilities later attempt to recover the costs of these programs in rates, if the utility had not applied for the corresponding opportunity, there should be a presumption that the recovery of costs equal to the amount of eligible funding is not prudent because the utility failed to take an action that may have defrayed those costs.

Section 40101: Preventing Outages and Enhancing the Resilience of the Electric Grid

IIJA Section 40101 makes \$5 billion available for grants to increase grid resilience and reduce power outages and other “disruptive events.” Parties that can apply for 100% matching grants include electricity generators and distribution providers, which clearly includes Michigan’s investor-owned utilities. State and tribal governments will receive formula funding that requires non-federal match that could be provided by utilities.

DTE and Consumers Energy have both touted plans for large amounts of investments into their distribution grids they are planning to make to improve resilience and reliability and reduce outages. Specific steps include:

- \$97 million for service restoration (Consumers Energy electric rate case U-21224)

- \$100 million for line clearing (Consumers Energy U-21224)
- An increase of \$598 million for distribution Strategic Capital Programs (DTE electric rate case U-20836)

Also, the utilities are planning to spend ratepayer dollars on projects for which resilience is one of several objectives those projects can deliver. The connecting thread between these projects is that they are critical for managing the increasingly bidirectional nature of the grid and controlling electricity users' demand (and distributed energy supply) in the manner of virtual power plants. The benefit to resilience from these approaches is clear, and thus these projects should also be considered eligible for Section 40101 grants.

Examples include:

- DTE's EV demand pilot and C&I energy storage pilot, described by Company Witness Farrell's testimony in U-20836
- Consumers Energy's C&I DR Automation Pilot, as described by Company Witness McLean's testimony in U-21224

The grid modernization investments described in the next section regarding IIJA Section 40107 also may be eligible for some Section 40101 funding.

Section 40107: Deployment of Technologies to Enhance Grid Flexibility

Section 40107 allocates \$3 billion to apply for grants for Smart Grid Investments, for which electric utilities are eligible and which require a match of at least 50% of program costs. "Smart grid" covers an array of technologies to enhance grid flexibility, such as "the ability to use data analytics and software-as-a-service to provide flexibility by improving the visibility of the electrical system to grid operators that can help quickly rebalance the electrical system with autonomous controls," to quote from the text of the IIJA.

DTE and Consumers Energy have launched and will be launching in the future many projects incorporating new technological approaches to modernize the utilities' handling of the grid toward significantly improved resilience. Examples of these grid modernization measures include distributed energy resource management (DERMS) and advanced distribution management system (ADMS) software platforms, grid automation and the use of technologies such as reclosers to make the grid "smarter."

- Over \$550 million for grid technology modernization programs, including ADMS and grid automation telecommunications, from 2021 to 2025, identified in DTE’s rate case U-20836. See Exhibit 12.1 Exhibit A-23, Schedule M1
- Over \$50 million in capital investments for 2023 into grid modernization projects such as DERMS and ADMS expansions (Consumers Energy, U-21224)

Section 40106: Transmission Facilitation Program

Gov. Whitmer’s MI Healthy Climate Plan recognizes the need for holistic transmission planning and significant investment into new transmission lines as essential components of the strategy to decarbonize the state’s economy by 2050. The IIJA looks to remove the logjams that have historically blocked transmission line development with the Transmission Facilitation Program, a \$2.5 billion revolving loan fund.

The MPSC should encourage ITC Holdings and the American Transmission Company to apply for this revolving loan fund as part of efforts to improve transmission infrastructure in the Lower and Upper Peninsulas, respectively. MPSC should also consider a particular focus on the seams between MISO in Michigan and IESO and PJM and on opportunities for longer-distance high-voltage direct current transmission to places with complementary net load profiles to increase future resource adequacy in Michigan.

2) Identification of any entity or federal or state agency with which coordination may be necessary to access the funding and assistance opportunities available in the IIJA.

The MPSC can help IIJA funds support ratepayers by participating in the following:

Transportation Electrification

IIJA provides funding under several transportation electrification titles. These opportunities include Electric School Buses, Electric Transit Buses, the National Electric Vehicle Formula Program, Alternative Fueling Infrastructure, and the Carbon Reduction Program. For example, the Michigan Department of Transportation and the Office of Future Mobility and Electrification will be submitting deployment plans to the DOE for access to funds for EV charging

infrastructure and related projects under the National Electric Vehicle Formula Program

Generally, these funds are intended or expected to go to non-utility parties. However, some require matching funds, are competitive with the advantage of matching funds, or would be implemented more effectively with utility cooperation. The MPSC should work with the Department of Transportation, Department of Environment, Great Lakes, and Energy, and both regulated and unregulated utilities to develop a coherent program of activities and funding that includes an appropriate role for utilities. We point to the Michigan Energy Innovation Business Council's recently released [Advanced Energy Infrastructure: A Roadmap for Implementation in Michigan](#) toolkit, which highlights the role that the MPSC can play helping to coordinate the various parties.¹

In addition, as the regulator that represents the public interest, the MPSC has a role ensuring that federal infrastructure funds flow to the benefit of all customers, and in particular, lower-income customers, who face disproportionately high barriers for EV adoption. Last year CUB released a paper, [The ABCs of Michigan EVs: A Policy Guide to Electrify Michigan](#), that provides guidelines for EV policies that do not shift undue burdens on ratepayers.

These include:

- Make EV charging available at multi-unit buildings and for drivers without access to a garage or permanent parking space.
- Consider alternative rate designs to encourage development of public charging stations.
- Automatically enroll all EVs in EV-only time-of-use (TOU) rates, with features like no extra monthly fees beyond the cost of service.
- The Michigan legislature should correct its misguided policy of increasing the registration fee for EVs.

¹ "The state must facilitate coordination between EVSPs, OFME, the MPSC, utilities, and other entities involved to ensure that the deployment plan is aligned with expectations about grid and load management." page 13. https://mieibc.org/wp-content/uploads/2022/05/Michigan-EIBC-IIJA-Report_Final.pdf

The MPSC can participate in the stakeholder process for MDOT’s deployment plan and help ensure that these policies are considered in the planning for the use of EV funds. The MPSC should also open a docket to share the utilities’ use of these funds so stakeholders like CUB can better scrutinize the utility’s use of this important opportunity to facilitate the EV transition.

Finally, the IIJA amended section 111(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) to require that each state consider measures to promote greater transportation electrification. Although the MPSC has been forward-looking and responsible in addressing these topics, it would nonetheless be timely and appropriate for the MPSC to open a docket specifically to address the new provisions of PURPA and to review whether the MPSC should take any additional steps.

Section 40511: Cost-Effective Codes Implementation For Efficiency and Resilience

The IIJA makes \$225 million available for “Cost-Effective Codes Implementation For Efficiency and Resilience.” Eligible applicants include states in partnership with utility energy efficiency programs and contractors. Michigan Department of Licensing and Regulatory Affairs (LARA)’s Bureau of Construction Codes is considering updates to Michigan’s building codes for the first time in six years. These codes will likely increase the efficiency standards for a wide variety of buildings and may include requirements that will be very new for Michigan energy efficiency contractors, such as the requirement that new buildings include hookups for EV charging capabilities.

The MPSC should consider partnering with contractor associations such as the Michigan Energy Efficiency Contractors Association and the investor-owned utilities to ensure that utility energy efficiency programs and the contractors they hire can get up to speed with the new requirements set by the updated building codes.

Section 40103: Electric grid reliability and resilience research, development, and demonstration.

The IIJA provides funding for Grid Resilience “to demonstrate innovative approaches to transmission, storage, and distribution infrastructure that enhance resilience.” The MPSC is eligible to receive these funds, which are available competitively and require a match of 50% of total program cost.

The law also provides funds to enhance grid resilience by improving Rural Energy infrastructure. These funds are available to cities, towns, or unincorporated areas with fewer than 10,000 people. While utilities are not eligible for these funds, any qualifying proposal is likely to require utility cooperation and may require MPSC actions. The MPSC should establish an expectation of cooperation in such proposals.

State Energy Program

The IIJA provides incremental funding for the State Energy Program and adds certain scope requirements for the state energy conservation plan that involve the MPSC and regulated utilities, including transportation electrification and transmission and distribution planning. The MPSC should establish a mechanism for coordination of utility planning with the work to be done by the State Energy Office.

Additionally, incremental funds are made available through the State Energy Office on a competitive basis for additional work on energy efficiency, weatherization assistance, energy efficient non-profits, energy efficient schools, building codes, and energy efficiency workforce development. While the MPSC is not directly involved in these programs, coordination between utility and state programs could be very beneficial.

4) An explanation of any actions or considerations the Commission should take to facilitate the state's public utilities in taking advantage of the funding and assistance opportunities available under the IIJA.

Utility accountability is always important, but is particularly important in this case. The MPSC should issue an order in this docket that creates a matrix of the utility programs that may be eligible for IIJA funding. The utility programs we list in our response to Question 1 can be a starting point for this matrix. The matrix can then be a reference point for the Commission and stakeholders in rate cases. If a utility has not applied for the IIJA funding relevant to a program, the utility must document why it did not apply and its reasons should be the subject of Commission review to determine if this decision not to pursue funds that could have reduced the cost of the given program was reasonable and prudent.

5) Identification of any actions or considerations required of the Commission by the IIJA, as well as any impact on the Commission's regulatory authority.

Section 40104: Utility Demand Response

This section of the IIJA requires state regulatory commissions to begin considering new requirements to promote the use of demand response by the utilities they regulate. We ask that any such proceeding that requires utilities to submit new demand response plans that accord with Section 40104 be contested cases so stakeholder groups can closely scrutinize proposed enhancements to demand response, a practice that has significant potential benefits for ratepayers.

Respectfully Submitted,

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