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September 1, 2022

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

RE: MPSC Case No. U-21099

Dear Ms. Felice:

Attached for electronic filing is a copy of the Comments of the Michigan Electric and Gas Association in the above-captioned matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dan Dundas", with a stylized flourish at the end.

Dan Dundas (P82184)
President
Michigan Electric & Gas Association
dan@megautilities.org

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
to open a docket for load serving entities in)
Michigan to file their capacity demonstrations as) Case No. U-21099
required by MCL 460.6w.)
_____)

In the matter, on the Commission’s own motion,)
to address the outstanding issues regarding demand) Case No. U-20348
response aggregation for alternative electric)
supplier load.)
_____)

In the matter, on the Commission’s own motion,)
to request comment on the **MIDCONTINENT**)
INDEPENDENT SYSTEM OPERATOR,) Case No. U-21032
INC.’S implementation of Federal Energy)
Regulatory Order No. 841 regarding energy)
storage resources.)
_____)

In the matter, on the Commission’s own motion,)
to open a docket for load serving entities in) Case No. U-21225
Michigan to file their capacity demonstrations)
as required by MCL 460.6w.)
_____)

COMMENTS OF THE MICHIGAN ELECTRIC AND GAS ASSOCIATION

INTRODUCTION

The Association appreciates the opportunity to provide responses to the Commission on the questions presented in the dockets regarding demand response, energy storage, and reliability. MEGA members welcome continued conversations on ensuring adequate capacity to serve their customers. As noted in previous comments, the Association thanks the Staff for their continued dialogue following the Staff Report.

In its previous comments and reply comments submitted to the Commission in this docket and docket No. U-20628, the Association supported the ban on third-party demand response (“DR”) aggregation. As has been previously stated by Staff in the Report, lifting the ban, “would introduce additional uncertainty and complexity into the integrated resource planning process, the distribution process, provide operational challenges... and could result in fluctuating costs to ratepayers if not implemented in a controlled, transparent manner.¹”

MEGA’s previous comments also noted the implementation actions of both Regional Transmission Organizations in their compliance with Federal Energy Regulatory Commission Order No. 2222². PJM has identified an implementation year of 2026 for compliance, and MISO has provided a 2030 implementation date. While these filings are moving forward, MEGA’s previous comments about that process still hold true:

“Those filings will then need to be approved by FERC, and potentially be subject to one or more rounds of revisions, before becoming effective. There is so much unknown at this time that will have significant impacts on how DR aggregation will be administered. Thus, it is prudent to hold discussions of any changes until after those items are complete.³”

As such, MEGA continues to support the ban the Commission has put in place. However, MEGA members welcome additional discussions on the process moving forward and look forward to working with the Commission.

¹ MEGA Comments Case No. U-20348 (June 21, 2019) Pages 1-2, quoting Demand Response Aggregation Staff Report and Recommendations (“Report”), dtd May 30, 2019, pg. 17

² MEGA Comments Case Nos. U-20628 and U-20348 (November 30, 2020) Page 2, MEGA Reply Comments Case No. U-20348 (December 14, 2020) Page 2

³ MEGA Reply Comments Case No. U-20348 (December 14, 2020) Page 2

MEGA submits responses to Questions 1-4 and 6-7 with the support of its electric members⁴. MEGA has no comments on Questions 5 and 8.

MEGA RESPONSES TO COMMISSION QUESTIONS

- 1. In the August 8, 2019 order in Case No. U-20348 (August 8 order), the Commission continued the ban on Michigan retail electric customers (either individually or through aggregators) of Commission-jurisdictional electric utilities from bidding DR resources into RTO wholesale markets. August 8 order, p. 23. In the October 29, 2020 order in Case Nos. U-20628 et al., the Commission sought comments on whether to lift this ban on Michigan retail electric customers (either individually or through aggregators) of Commission-jurisdictional electric utilities from bidding DR resources into RTO wholesale markets, but thus far, the Commission has declined to take additional action. In light of the tightening capacity market within the MISO footprint and LRZ 7 in particular, the Commission seeks comment on whether the ban on DR aggregation described in the August 8 order should now be lifted.**

While acknowledging the tightening capacity supply in the MISO footprint, MEGA members oppose creating further complications in the wholesale market created by lifting the ban on individual or aggregate demand response resources. Allowing customers or aggregators access to wholesale markets would be premature considering MISO's implementation timeline of FERC Order No. 2222 (PY 2030). Further, the challenges facing the Commission, utilities, and customers recognized by the Staff in their 2019 report have not been resolved.

For example, there is the potential to create a disconnect with this policy - load would be retail, but the resource would be treated as wholesale. This could require separate metering and billing to ensure the retail customer is not using wholesale energy to serve load. This would be expensive and would require the customer to use the distribution utility's system to get this resource to market. The distribution utility would need to develop, review, implement and

⁴ The electric utility members of MEGA are Alpena Power Company, Indiana Michigan Power Company, Northern States Power Company – Wisconsin (Xcel Energy), Upper Peninsula Power Company, and Upper Michigan Energy Resources. Indiana Michigan Power is also filing separate, stand-alone comments to address PJM considerations.

approve a process to study the impact of each such project to distribution system to identify not only the cost of any required upgrades, but also any implications to the safety and reliability of its distribution system.

However, if the Commission decides to lift the ban, the Commission should establish clear rules and requirements for aggregators to follow so that the aggregated resources are available when called upon. Unfortunately, the statutory authority for the Commission to maintain this level of oversight and ensure transparency and reliability is, at best, unclear.

The Commission would also need to develop guidance to determine how aggregated demand resources are accounted for in integrated resource planning. There would also need to be coordination between aggregators and the incumbent utility distribution system operators to ensure that demand response resources responding to wholesale market signals do not cause local safety or reliability issues for the distribution system.

For these reasons, MEGA members believe the ban should remain in place.

- 2. In the April 8, 2021 order in Case No. U-21032, the Commission sought comment regarding the effect of FERC Order 841, which requires each RTO and ISO to revise its tariff to establish a participation model consisting of market rules that facilitate the participation of energy storage resources (ESRs) in RTO/ISO markets. In the August 11, 2021 order in the same docket, the Commission encouraged investor-owned utilities to propose pilot programs involving well-designed retail tariffs that facilitate the integration of ESRs into the electric grid and account for the full value stack of ESRs. In the context of the resource adequacy concerns expressed in this order and in the Staff Report, the Commission seeks comment on whether the Commission should now allow the simultaneous participation of ESRs in the wholesale and retail markets.**

Dual participation for ESRs operating in retail markets at the distribution system level should not be allowed until MISO has established clear rules and operating procedures for dual participation. MISO did launch the ESR as a resource type in June 2022 providing a clear

pathway for participation in wholesale energy, capacity, and ancillary services markets. This topic was one of the most contentious during MISO's stakeholder engagement process through the Distributed Energy Resource Task Force that informed MISO's compliance filing for FERC Order 2222. MISO's proposed timeline does not foresee Order 2222 implementation until 2029-2030 and there is no reason to allow dual participation before MISO's rules governing distribution-level ESRs have been finalized.

Dual participation raises serious questions about the potential for double counting and double compensation when an ESR charges at wholesale prices and discharges to offset retail rates, thereby causing cost shifts to non-ESR customers.

To the extent individual utilities wish to experiment with dual participation programs, the Commission should review and approve pilot programs with clearly defined operating parameters governing dual participation rather than opening the entire state to dual participation before sufficient experience is obtained.

Clearly defined pilot programs might include peak shaving or peak shifting programs similar to traditional demand response programs where the ESR is charged at wholesale rates during the day or hours ahead of a scheduled peak demand dispatch event. Similarly, a pilot program could provide wholesale compensation for ancillary services provided during pre-specified periods based on signals from the ISO/RTO.

- 3. The Commission seeks comment on whether it should consider setting a four-year forward capacity obligation under Section 6w of Act 341 that is higher than MISO's prompt year PRMR to encourage the development of additional capacity resources with the aim of protecting the future resource adequacy and reliability of service for Michigan retail electric customers. The Commission seeks specific comment on how such a capacity obligation should be determined and calculated, and how the Commission should proceed in this manner.**

MEGA members believe that the Commission could seek alternatives to adopting a higher capacity obligation than MISO to avoid potential over build resulting in higher rates for customers. For example, the Commission could choose to include certain capacity provisions in utility-specific IRP requirements.

MISO is awaiting FERC action on its seasonal accreditation construct that would establish quarterly reserve margins to replace the current annual reserve margin calculations based on summer peak demand. The Commission should consider actions that are informed by the successor to the annual resource adequacy construct to avoid conflicting policies.

However, should the Commission consider such a change, MEGA asks the Commission to keep in mind some of the unique circumstances that members of the Association have that should be evaluated by the Commission.

First, there are members who have existing resources available to them as multi-jurisdictional utilities whose customers are served through the larger utility footprint in MISO. The Commission has granted exemptions for these utilities in the past to avoid preparing Michigan-specific IRP filings in acknowledgement that Michigan is a small piece of the larger utility system. Similarly, those systems are designed to achieve economic efficiency across the multi-state footprint and including additional capacity reserve requirements for Michigan could result in unnecessary costs and higher rates for those utility's customers.

Second, while the Commission's question focuses on MISO, the Commission should not consider a four-year forward capacity obligation for those entities that participate in PJM, such as Indiana Michigan Power. PJM has been operating a FERC-approved three year forward capacity market since 2007.

- 4. As stated in the Staff Report, the Commission has not yet imposed an LCR on individual LSEs pursuant to MCL 460.6w. Subsequent to the August 20 order, the Court of Appeals issued a decision in the remanded proceeding finding that the September 15 order (imposing an LCR on AESs individually in Case No. U-18197) did not equate to administrative rules in violation of the APA and did not exceed the Commission's authority granted by the Legislature. In re Reliability Plans of Electric Utilities for 2017- 2021, unpublished per curium opinion of the Court of Appeals, issued December 3, 2020 (Docket Nos. 340600 and 340607). While the Court of Appeals has upheld the Commission's authority to impose an LCR individually, litigation regarding the individual LCR continues at the federal level, and the stay in Case No. U-18444 remains in effect. However, in light of the resource adequacy concerns expressed in this order and the Staff Report, the Commission seeks comment on whether it should lift the stay in Case No. U-18444 and take further action to set an LCR for Michigan LSEs pursuant to Section 6w for future PYs.**

The Commission should not act on imposing an LCR until the federal litigation has produced a final ruling. Acting prior to resolution of the outstanding legal issues could result in unnecessary costs and administrative burdens, especially for utilities with a small number of customers.

Association members are open to the Commission focusing on a LSE's capacity planning and requirements but caution against a one-size-fits all approach. As previously noted, there are unique circumstances for both multi-jurisdictional utilities and PJM-territory utilities that should be considered.

Establishing LCRs could also lead to duplicative and unnecessary investment in generation assets that could end up as stranded assets due to low utilization. Local reliability and resiliency concerns would be better addressed through programs that encourage development of distributed energy resources (DER) owned or operated by customers, or the electric distribution utility. Further, any locational requirement for capacity resources should consider resources deliverable to the load being served. Many MEGA members have resources in other states that could be utilized.

Alternatively, rather than imposing a statewide policy implementing an LCR for each utility, the Commission could allow utilities to propose their own programs tailored to address specific needs. The Commission may also choose to undertake an assessment of local reliability “areas of interest” where particularly vulnerable systems are identified and incentives for DER development in those areas of interest are developed. Lastly, properly selected transmission expansion projects would increase the LRZ’s import/export limits which would decrease the LCR.

6. The Commission seeks comment on what improvements should be pursued in RTO markets to better account for and to send better market signals to merchant and/or nonutility owned generators to inform both generation additions and retirements.

As mentioned in response to Question 3, MISO is awaiting FERC action on the proposed seasonal accreditation construct meant to replace the current annual (summer peak) resource adequacy construct. MISO needs to explore market signals for dispatchable resources and for grid reliability. Markets are designed for short-term transfer of energy and capacity and are not designed to support long-term long revenue requirements. MEGA members are open to MISO’s proposal to evaluate resource adequacy on a seasonal basis, as moving toward a seasonal RA construct would likely send more signals to utilities to build and operate additional capacity resources.

Capacity obligation (long term reliability) is the function of the states. MEGA notes caution needs to be taken when exploring this as an unintended consequence could be that costs and risk could be transferred to the customer.

That said, the resource adequacy construct, inclusive of the Planning Resource Auction (PRA), may require reform to send the longer-term price signals required to ensure sufficient

resources and resource attributes remain or are added to the system, especially in a transmission capacity constrained environment. PRA reform and resource attributes needed to maintain reliability have been identified as a near-term focus of the MISO stakeholder process.

Participation in MISO transmission planning processes will also help link state-level processes (such as distribution planning and local reliability needs) with regional planning activities and expanded transmission resources in the region will facilitate additional capacity to serve load as well.

7. Considering that some incumbent utilities have tariff provisions that stipulate a waiting period before a choice customer can return to the electric service of the incumbent utility, the Commission seeks comment as to under what conditions or circumstances should a choice customer be automatically transferred back to the incumbent utility (as the provider of last resort) in the event the customer is without an electric service provider, and whether such a transfer provision should be included in utility tariffs.

If customers come back to the incumbent utility (as a provider of last resort), policies should be in place to ensure that costs to serve those returning customers are not incurred by the rest of the utility customers. If an incumbent utility included in its generation plans covering the capacity needs of choice customers, the incumbent utility customers would subsidize the choice customers. If an incumbent utility plans for its customers' load exclusive of choice customers, the incumbent utility customers would subsidize the choice customers "shortness" via the future PRA prices that are significantly higher than they would be (demand would outstrip supply) and this would not improve reliability for any customers.

AESs should not be allowed to "off load" customers to incumbent utilities simply because market prices became higher than the provider anticipated. Allowing such an activity would create a moral hazard where the choice providers would be able to serve customers when it was profitable and "dump" them on the incumbent utility, increasing non-choice customer costs in

the process, when those choice customers are not profitable to the choice provider. Utility tariffs would need to be updated to create these return procedures and reflect the cost of these returning customers to existing bundled service customers. Some members already have established in tariffs return to bundled service provisions for choice customers that might provide a pathway forward. For example, NSP-W includes language in its System Supply Service (SSS-1) tariff that requires returning customers with total load greater than 4MW to take service under the System Default Service (SDS-1) tariff for up to 12 months to allow the utility time to secure adequate generating capacity. They were created as part of a settlement agreement in Case No. U-12651. The SDS-1 rate for larger returning customers is a best attempt to approximate prices based on the actual cost of producing energy and capacity in the wholesale market.

CONCLUSION

MEGA appreciates the opportunity to provide these comments and welcomes future discussions on ensuring resource adequacy in the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Dundas", with a stylized flourish at the end.

Daniel Dundas
President
Michigan Electric and Gas Association

Dated: September 1, 2022