

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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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-21225  
required by MCL 460.6w. )  
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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 open a docket for load serving entities in )  
Michigan to file their capacity demonstrations for ) Case No. U-21393  
the 2027/2028 planning year as required by )  
MCL 460.6w. )  
\_\_\_\_\_ )

At the July 26, 2023 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair  
Hon. Katherine L. Peretick, Commissioner  
Hon. Alessandra R. Carreon, Commissioner

**ORDER**

## Background and Procedural History

Public Act 3 of 1939, as amended by Public Act 341 of 2016 (Act 341), MCL 460.6w(8), requires each electric utility, alternative electric supplier (AES), cooperative electric utility, and municipally owned electric utility to demonstrate to the Commission, in a format determined by the Commission, that each load serving entity (LSE) owns or has contractual rights to sufficient capacity to meet its capacity obligations as set by the appropriate independent system operator (ISO), or the Commission, as applicable.<sup>1</sup> This is known as a state reliability mechanism (SRM) capacity demonstration. Regulated electric utilities' capacity demonstration filings are due by December 1 each year;<sup>2</sup> filings by AESs, cooperatives, and municipally owned electric utilities are due by the seventh business day in February each year. MCL 460.6w(8)(a)-(b). In the September 15, 2017 order in Case No. U-18197 (September 15 order), the Commission adopted a format for the capacity demonstration filings required by MCL 460.6w(8), including templates for reporting and for affidavits.<sup>3</sup> Each year, the Commission opens a docket for the purpose of receiving those

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<sup>1</sup> MCL 460.6w(12)(a) defines the appropriate ISO as the Midcontinent Independent System Operator, Inc. (MISO). MCL 460.6w(11) also states that “nothing in this act shall prevent the commission from determining a generation capacity charge under the reliability assurance agreement, rate schedule FERC [Federal Energy Regulatory Commission] No. 44 of the independent system operator known as PJM Interconnection, LLC [PJM].”

<sup>2</sup> Citing forthcoming changes to MISO's capacity construct from an annual resource adequacy construct to a seasonal resource adequacy construct, the Commission extended the date of the annual capacity demonstration filings from December 1 to December 21, 2022, with an allowance for investor-owned utilities to supplement their December 21 filings if necessary. November 18, 2022 order in Case No. U-21225, p. 4.

<sup>3</sup> The filing requirements have been slightly modified in the intervening years. *See*, September 13, 2018 order in Case No. U-20154. In the March 17, 2019 order in Case No. U-20154, the Commission also approved a protective order for use with capacity demonstration filings. That protective order may also be used in Case No. U-21393 for the 2027/2028 capacity demonstration.

filings, and sets due dates for the filings and for the Commission Staff's (Staff's) report providing an analysis of the sufficiency of each LSE's capacity demonstration. In the June 23, 2022 order in Case Nos. U-21099 *et al.* (June 23 order), the Commission opened the docket in Case No. U-21225 for the purpose of receiving the LSEs' capacity demonstrations for the 2026/2027 planning year (PY)<sup>4</sup> and directed the Staff to file its analysis of the demonstrations no later than March 25, 2023.

The June 23 order also addressed MISO's pending (at the time) revision to its Open Access Transmission, Energy and Operating Reserve Markets Tariff to shift from an annual resource adequacy requirement to a seasonal resource adequacy requirement for each summer, fall, winter, and spring season. The Commission found that additional information was required to determine how FERC approval of such a revision to MISO's tariff would affect the Section 6w capacity demonstration process. As such, the Commission directed the Staff to conduct a technical conference to determine what changes, if any, needed to be made to the current capacity demonstration process and requirements and to file a report in this docket outlining any recommended revisions to the capacity demonstration process and requirements following the technical conference. June 23 order, pp. 16-18.

In accordance with the June 23 order, the Staff filed the Capacity Demonstration Results Report in Case No. U-21225 (Staff Report) on March 24, 2023, addressing the capacity

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<sup>4</sup> MCL 460.6w(8)(a) states that if an SRM is to be established, the Commission shall require each electric utility to demonstrate by December 1 of each year that "for the planning year beginning 4 years after the beginning of the current planning year" the utility owns or has contractual rights to sufficient capacity to meet its load obligations. Thus, the statute requires the capacity demonstrations for four years out from the year the capacity demonstrations are required to be filed. As such, the capacity filings in Case No. U-21225 cover the 2026/2027 PY.

demonstration for PY 2026/2027. *See*, Case No. U-21225, filing #U-21225-0059. On the same date, the Staff filed its report in Case No. U-21099 on MISO's seasonal construct and any impact on the capacity demonstration process (technical conference report). *See*, Case No. U-21099, filing #U-21099-0092. In the June 9, 2023 order in Case No. U-21099 (June 9 order), the Commission summarized the technical conference report and sought comments on the Staff's proposed capacity demonstration process and requirements document attached to the June 9 order as Exhibit A. Comments were due no later than 5:00 p.m. (Eastern time (ET)) on June 23, 2023. The Commission received six comments. The instant order summarizes and addresses the Staff Report regarding the capacity demonstration results, summarizes the comments received in Case No. U-21099, and addresses the Staff's proposed capacity demonstration process and requirements document.

#### The Commission Staff Report

To begin, the Staff explains that, as part of its pre-capacity demonstration process, it consulted with several LSEs to discuss the requirements of the capacity demonstration process.

Subsequently, on or before December 21, 2022, Alpena Power Company, Consumers Energy Company (Consumers), DTE Electric Company (DTE Electric), Indiana Michigan Power Company (I&M), Northern States Power Company, Upper Michigan Energy Resources Corporation (UMERC), and Upper Peninsula Power Company (UPPCo) filed their respective capacity demonstration filings. On or before February 9, 2023, Bayfield Electric Cooperative; Calpine Energy Solutions, LLC.; City of Escanaba; City of Stephenson; City of Wakefield; CMS ERM; Constellation Newenergy, Inc.; Croswell Light and Power; Daggett Electric Department; Direct Energy Business; Energy Harbor; Just Energy Solutions, Inc. (Just Energy Solutions); Michigan Public Power Agency; Michigan South Central Power Agency; Newberry Water and

Light Board; Thumb Electric Cooperative; UP Power Marketing; Village of Union City; Wolverine Power Supply Cooperative; and WPPI Energy filed their respective capacity demonstration filings. Cloverland Electric Cooperative filed its capacity demonstration on March 9, 2023.

Several AESs filed letters in Case No. U-21225 indicating that they are not currently serving customers within Michigan. All LSEs, other than Just Energy Solutions, were able to procure sufficient capacity to demonstrate compliance for the 2026/2027 PY; however, some AESs reported losing customers for which they were not able to procure capacity. Staff Report, p. 5. On May 15, 2023, the Staff filed a memorandum in Case No. U-21225, indicating that Just Energy Solutions filed a confidential, supplemental capacity demonstration with supporting documentation indicating that it had procured the required capacity for the 2026/2027 PY. The Staff reviewed the supplemental filing and found that Just Energy Solutions had met its capacity demonstration requirements. Case No. U-21225, filing #U-21225-0061.

Following discussions with LSEs, the Staff notes the difficulty LSEs described in procuring capacity four years forward in a tightening capacity market and the reluctance from some entities to sell capacity because of the unknowns associated with MISO's transition to a seasonal capacity construct. Staff Report, p. 5.

The Staff explains that Michigan spans two regional transmission operators (RTOs),<sup>5</sup> MISO and PJM, with the majority of the state falling within the MISO territory that is split between multiple local resource zones (LRZs or zones) and that each RTO has different resource adequacy constructs and capacity obligations. The Staff Report then provides an overview of MISO

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<sup>5</sup> For the purposes of this order, an RTO and an ISO, as described *supra* in footnote 1, are synonymous.

resource adequacy in Michigan LRZs 1, 2, and 7.<sup>6</sup> The Staff makes special note of two key MISO resource requirements: (1) the planning reserve margin requirement (PRMR) and (2) the local clearing requirement (LCR), which is the minimum amount of capacity required to be located within an RTO's LRZs to meet a specified loss of load standard. Staff Report, pp. 6-8. The Staff explains that:

[t]he LCR is the minimum capacity for a zone required to be located within the zone to meet the LOLE [loss of load expectation] standard, while accounting for the LRZ's ability to import. The LCR is for the zone as a whole, as opposed to a requirement for individual LSEs. There is no LCR requirement applicable to

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<sup>6</sup> The majority of the Lower Peninsula falls into Zone 7, with the exception of the southwest corner that is located within PJM's territory. The majority of the Upper Peninsula (U.P.) falls within Zone 1, with the exception of a small area in the most western area that falls into Zone 2.

individual LSEs in Michigan pursuant to MCL 460.6w at this time.<sup>7</sup> The LCR is determined by performing a LOLE analysis on each zone individually to determine the Local Reliability Requirement (LRR), or the resources a zone would need to meet the loss-of-load standard if it were separated from MISO. Separately, an import study is performed to determine the Zonal Import Ability (ZIA) for each zone. For LRZ 7, the ZIA is currently (and historically) equal to the capacity

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<sup>7</sup> MCL 460.6w(8) requires an LCR as part of the SRM capacity demonstrations. In the September 15 order, the Commission indicated that it would open a contested case to establish the LCR for future capacity demonstrations beginning in 2022 and beyond. September 15 order, pp. 40-42. This order was appealed on two grounds: (1) that the Commission lacked the authority to impose an LCR on individual providers, and (2) that if the Commission has the authority, it must implement the LCR pursuant to a rulemaking under the Administrative Procedures Act of 1969 (APA), MCL 24.201 *et seq.* While the September 15 order was on appeal, the Commission issued an order in Case No. U-18444 establishing a methodology to apply the LCR to individual energy providers. June 28, 2018 order in Case No. U-18444, pp. 122-131. On September 13, 2018, the Commission issued an order granting a motion for stay in Case No. U-18444, putting a hold on the implementation of the LCR pending the outcome of the appeal of the September 15 order. September 13, 2018 order in Case No. U-18444, pp. 9-13. The Michigan Court of Appeals subsequently ruled that the Commission did not have the authority under Act 341 to impose an LCR on individual providers. *In re Reliability Plans of Electric Utilities for 2017-2021*, 325 Mich App 207, 221; 926 NW2d 584 (2018). The Court of Appeals did not address the second point of the appeal, which was that if the Commission did have such authority, the LCR requirement should be implemented through a rulemaking pursuant to the APA. The Michigan Supreme Court reversed the Court of Appeals, finding that the Commission does have the authority pursuant to MCL 460.6w to impose an LCR on individual providers and remanded the case to the Court of Appeals for further review to determine the Commission's compliance with the APA in imposing the LCR. *In re Reliability Plans of Electric Utilities for 2017-2021*, 505 Mich 97, 102; 949 NW2d 73 (2020). On December 3, 2020, the Court of Appeals issued an unpublished per curiam opinion 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.

Energy Michigan, Inc. (Energy Michigan) and the Association of Businesses Advocating Tariff Equity (ABATE) filed a complaint in federal district court challenging the constitutionality of the individual LCR. On February 24, 2023, the United States District Court for the Eastern District of Michigan issued a judgment in favor of the Commission dismissing with prejudice the complaint filed by Energy Michigan and ABATE and finding that the plaintiffs did not meet their burden to show that the individual LCR requirement discriminates against interstate commerce, while the defendants established the necessity and legitimate purpose of the LCR in ensuring grid reliability that cannot be accomplished via reasonable nondiscriminatory alternatives. On March 24, 2023, the plaintiffs filed a joint notice of appeal of the February 24, 2023 final judgment to the United States Court of Appeals for the Sixth Circuit. Given the appeal, litigation regarding the LCR requirements is currently pending at the federal level.

import limit (CIL) and the terms are often treated synonymously. The ZIA is then subtracted from the LRR to determine the LCR.

If an LRZ doesn't have enough resources to meet its LCR or PRMR [planning reserve margin requirement], the PRA [planning reserve auction] clearing price would be set at the Cost of New Entry (CONE) for that season. CONE varies from zone to zone and changes from year to year but for reference, for 2023/24 CONE is \$105,910 MW[megawatt]-year (\$290.16 MW-day) in Zone 7. The PRA clearing price being set at CONE would have economic ramifications and would provide a signal to stakeholders with responsibilities regarding resource adequacy within the zone. However, it is important to note that MISO's resource adequacy construct is based on probabilistic determinations and failure to meet the requirements of the resource adequacy construct would not mean that the LRZ in question will experience a loss of load event. It simply means the probability of such a loss of load event would exceed the generally accepted criteria that govern the resource adequacy planning process.

Staff Report, pp. 8-9.

The Staff states that in November 2021, MISO submitted a proposal to FERC to shift to a seasonal resource adequacy requirement for each season and a seasonal accredited capacity to better align capacity needs with real time availability and planned outages and to ensure reliability. Staff Report, p. 9. Because of the short time frame to accommodate MISO's change to a seasonal construct, LSEs were given the option to demonstrate capacity for the 2026/2027 PY using the different seasonal obligations or to assume summer obligations and resource values applied to the entire year. Therefore, the Staff explains that it only has comprehensive information for the summer season.

Beginning with LRZ 7 (the largest of Michigan's MISO zones), the Staff explains three tables provided in the Staff Report—one showing the annual MISO LOLE report data for LRZ 7 followed by a table representing MISO's seasonal LOLE report data for LRZ 7 for each season of the 2023/2024 PY. Staff Report, pp. 9-10. The third table shows comparisons of LRZ 7 aggregated resources and MISO summer resource adequacy requirement projections for the next four years. *Id.*, pp. 10-11. For the prompt year (2023/2024) and the compliance year (2026/2027):



Staff expects LRZ 7's PRMR to be 21,233 ZRCs and the LCR to be 19,341 ZRCs. The total LRZ 7 resources included in demonstration filings for the prompt year is 21,006 ZRCs, which exceeds the anticipated LCR by 1,665 ZRCs. Staff is also aware of additional capacity resources in Zone 7 that were not included in capacity demonstration filings. These undemonstrated resources include supply and demand side resources that are not owned or under contract by an LSE and include approximately 130 MW of demand response aggregation in LRZ 7. Based on the demonstrated resources and projected undemonstrated resources, Staff anticipates LRZ 7 will exceed its LCR for planning year 2023/24.

Staff Report, p. 11. In summary, the Staff estimates that Zone 7 will have a surplus of resources compared to the projected LCR, albeit these projections are potentially subject to change from load forecasts, resource availability and performance, and MISO policies and practices. *Id.*, p. 12. For the interim years (2024/2025 and 2025/2026), the Staff also projected a capacity surplus relative to the projected LCRs, again with the caveat that these projections are subject to changes including new forecasts, unknown resource additions or subtractions, changes in generator performance, increased or decreased zonal import ability, seasonal variability, and/or changes to MISO requirements. *Id.*

As to Zone 2, which encompasses most of Michigan's U.P. and parts of Wisconsin, the Staff notes that MISO does not define MW capacity import or export limits between states within the same MISO zone and therefore, the data available to Staff is not comprehensive enough to project a zonal capacity position similar to Zone 7. However, all LSEs in Zone 2 demonstrated sufficient resources to meet their capacity requirements and the 2023 MISO Preliminary PRA results indicated an installed capacity surplus in the 2023/2023 PY for Zone 2. The Staff states that, notwithstanding the localized reliability issues in the U.P., Zone 2 is projected to have sufficient capacity to meet its PRMR requirement with UMERCC's and UPPCo's planned additional solar capacity projects having positive impacts on the U.P.'s capacity projections. *Id.*, pp. 12-13.

Turning to Zone 1, which encompasses a small portion of the U.P., the Staff states that the 2023 MISO Preliminary PRA results revealed that the zone will have a large installed capacity

surplus for the 2023 PY and is projected to have adequate capacity to meet its PRMR requirements for the 2023/2024 PY. *Id.*, p. 13.

The Staff then explains PJM's resource adequacy, noting that only a few LSEs in Michigan serve load within the PJM territory but that these LSEs are still subject to capacity requirements of Section 6w. LSEs in PJM can meet capacity obligations through participation in PJM's reliability pricing model base residual auction (BRA) or through PJM's fixed resource requirement (FRR) plan. The largest LSE in PJM's territory, I&M, elects to use the FRR plan and, with the present capacity demonstration, has indicated that it will continue to do so. *Id.*, p. 14. The Staff includes a table summarizing PJM's capacity demonstration and explains that the Michigan LSEs in PJM are expected to continue to meet PJM's capacity obligations and, if these LSEs were to encounter an unanticipated shortfall, the Staff expects that such a shortfall would be mitigated through the procurement of reserve resources by market purchases. *Id.* Specifically addressing I&M, the Staff notes that I&M is not expected to have any difficulty meeting its capacity obligations. The Staff recounts that I&M's customer choice cap that was reset to 10% on February 1, 2019, is now fully subscribed and that, currently, the company is responsible for the capacity of its choice load in its FRR plan under the PJM reliability assurance agreement. *Id.*, pp. 14-15. Per the Staff, "[i]f suppliers were to choose to self-supply capacity, then that capacity would also need to be included in I&M's FRR plan." *Id.*, p. 15.

In compliance with the Commission's request in the September 15, 2017 order in Case No. U-18197, the Staff provides a table in the report identifying the capacity by type for each individual electric provider (without revealing the provider's identity) with a breakdown for each provider included as Appendix A to the Staff Report. The table describes the supplier type and the

percentage of their demonstrated capacity that is owned; derived from demand response (DR), a power purchase agreement, or ZRC contract; or acquired at auction. *Id.*, p. 16.

As noted above, Just Energy Solutions was the only LSE that reported that it was unable to procure sufficient capacity to meet its entire capacity obligation at the time of its capacity demonstration filing. The Staff explained Just Energy Solutions' situation on page 16 of the Staff Report, but as noted above, Just Energy Solutions filed an updated capacity demonstration indicating that it had procured the required capacity. The Staff reviewed Just Energy Solutions' updated confidential filing and found that the LSE had complied with its capacity demonstration requirements. Case No. U-21225, filing #U-21225-0060.

The Staff Report also examines DR programs as capacity sources, explains that DR has played a prominent role in rate-regulated utilities' integrated resource plans (IRPs) as a required consideration pursuant to MCL 460.6t, and notes that Consumers and DTE Electric project increasing levels of DR. Staff Report, p. 17. The Staff also states that, pursuant to the September 15, 2017 order in Case No. U-18369, the Commission affirmed that AESs may offer DR programs to their customers through a curtailment service provider or third-party aggregator. The Staff Report notes that the Commission is aware of approximately 130 ZRCs of DR to be offered into the 2023 MISO capacity market. Staff Report, p. 17. The Staff also explains the nature of ZRC contracts and that they could be used for capacity demonstrations but noted that currently, "the overall amount of ZRC contracts included in capacity demonstration filings do not impact Staff's ability to continue to make forward resource adequacy projections on a zonal basis." *Id.* The Staff also states that all AES load switching occurred prior to the filing date of this year's capacity demonstrations. *Id.*

The Staff concludes that all Michigan LSEs, except for Just Energy Solutions (addressed above), satisfied their capacity demonstration requirements and procured sufficient capacity for the 2026/2027 PY. After expressing appreciation towards all LSEs for their participation in the stakeholder process discussing the new MISO seasonal capacity construct and its effects on the Michigan demonstration process, the Staff states that its recommendations regarding the seasonal construct incorporation into Michigan's demonstration process are being filed separately in Case No. U-21099.

#### Comments and Reply Comments in Response to the June 9, 2023 Order

In the June 9 order, the Commission summarized the Staff's technical conference report and recommendations therein and sought comments on the Staff's proposed capacity demonstration process and requirements document (attached to the June 9 order as Exhibit A). On June 23, 2023, Energy Michigan, ABATE, Consumers, Advanced Energy United (United), Michigan Electric and Gas Association (MEGA), and Michigan Public Power Agency (MPPA) filed comments in Case No. U-21099. Consumers filed reply comments on July 7, 2023 in the same docket.<sup>8</sup>

Energy Michigan provided with its comments a redline version of the Staff's proposed capacity demonstration process and requirements documents and explains its recommended revisions in its comments. *See*, Case No. U-21099, filing #U-21099-0099, p. 1 and Attachment A. Energy Michigan focuses its comments on the following five issues: (1) capacity obligation; (2) function of the capacity auction; (3) financial effect of the location of resources; (4) market

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<sup>8</sup> On June 30, 2023, 5 Lakes Energy filed a report analyzing Michigan's transmission system and needs in response to the June 23, 2022 order in Case Nos. U-21099 et al., in which the Commission sought comment on a number of enumerated topics related to improving the capacity position of Michigan's LRZs. The Commission appreciates this filing and will respond to the findings and recommendations contained in the report at a future time.

power, the individual LCR, and over-building; and (5) the provider of last resort (POLR) obligation and capacity responsibility. *Id.*, p. 2.

Beginning with the capacity obligation, Energy Michigan contends that since the start of MISO's PRA in 2013, MISO's capacity obligation has been a financial obligation rather than a requirement for physical assets as Section 6w understood it to be. Energy Michigan recommends that MISO's capacity obligation in the Staff's proposed document be revised to mean "the amount of MW for which the applicable ISO will charge an LSE[.]" *Id.*, p. 3. Speaking next to the function of the capacity auction and referring to page 9 of the Staff's proposed document explaining "Interim Years," Energy Michigan asks that the term be expanded upon with a footnote defining "settled in the capacity auctions" to mean:

that if an LSE's customer load changes, it will be charged more or less for the MW of increased or decreased capacity obligation at the ISO's Auction Clearing Price, and if an LSE's generation assets change it will be paid more or less for the MW of increased or decreased generation assets at the ISO's Auction Clearing Price.

*Id.*, p. 3. Energy Michigan clarifies that this change means the LSE's capacity obligation is settled with money rather than physical assets. *Id.*

Energy Michigan then asks that the Commission provide context with respect to the LCR. Energy Michigan recommends adding a footnote to the "Individual Locational Requirement" on page 6 of the Staff's proposed document that explains that MISO does not require location-specific resources from an LSE; rather, an LCR is a standard by which the need for physical assets is assessed and the zonal price for capacity is adjusted accordingly to provide a financial incentive for additional generation in a specified zone. Energy Michigan's comments, p. 4. Turning to market power, the individual LCR, and over-building, Energy Michigan contends that if an LCR is imposed on LSEs, it should be acknowledged that some LSEs have more local assets than needed to satisfy a locational requirement and because MISO has no requirement for LSEs to offer ZRCs

to other parties (they are only required to offer the ZRC into the MISO auction), the zone could potentially be overbuilt. Energy Michigan summarizes its concern and recommendation as follows:

if the Commission decides to lift its stay and move forward with an individual locational requirement, the Commission should do so only after it has conducted both a market power analysis and an examination into the liquidity of the bilateral contracting market in Zone 7. Both of these concerns were raised by MISO's Independent Market Monitor ("IMM") in its protest over MISO's Minimum Capacity Obligation ("MCO") filing in Docket No. ER22-496-000 at the FERC. In short, LSEs such as utilities with local resources greater than their requirement can withhold the extra resources from the bilateral market simply by offering the associated ZRCs into the Auction, which is allowed under the MISO tariff and therefore not considered "withholding." Consequently, without first addressing the market power issues raised by an individual locational requirement, such a requirement risks overbuilding of local resources and a distortion of the market caused by parties with market power.

*Id.*, p. 6 (emphasis in original) (footnote omitted).

Lastly, addressing the POLR and capacity responsibility, Energy Michigan states that the Staff's proposed document reads that if an LSE's demonstration is deficient, there will be "a respective increase in capacity obligations assigned to the incumbent utility as the [POLR] for capacity service." *Id.*, p. 6 (quoting the Staff's proposed capacity demonstration process and requirements document, p. 6). Energy Michigan argues that under the MISO tariff, the POLR's role is limited to becoming the LSE for the customer that has not been assigned to another LSE and that the tariff does not oblige the POLR to take on the capacity obligation of the customer.

Energy Michigan recommends the following clarifying footnote:

In MISO, the Provider of Last Resort ("POLR") service applies to customers who have not been assigned to any other LSE in the POLR's service area. MISO Module E-1, section 69A.1.1.1. Since by definition an LSE must demonstrate capacity only for customers assigned to it in the forecast process, how the capacity obligation of a customer not assigned to the POLR will be fulfilled by the POLR under the MISO tariff must be determined by the Commission in the recommended contested case.

*Id.*, p. 7. Energy Michigan further explains that:

Since an LSE is assigned [to] every customer for which it will have a capacity obligation, there would be no such thing as an unassigned customer under the LSE's capacity obligation, and therefore the POLR would not be able to take on the capacity deficiency. Section 6w does not contemplate this, so the Commission will need to address it should it arise.

In addition, under the MISO tariff the POLR cannot take on part of the customer's obligation -- it has to be the complete supplier for the customer, not just the capacity supplier. So the deficient LSE would still have a financial obligation to the ISO for capacity, yet have to pay an SRM Charge to the local utility to again cover that capacity. Section 6w does not address this redundant obligation, so, again, the Commission will need to[, ] should the occasion arise.

*Id.* Lastly, using a hypothetical example, Energy Michigan points out that because capacity obligations are satisfied financially, the POLR may have to pay MISO \$5 per MW-day on behalf of a deficient LSE, but the LSE may have to then pay the POLR \$200 per MW-day as the SRM charge, which Energy Michigan describes as nonsensical. *Id.*

United expresses support in its comments for the Staff's proposal to maintain the 5% PRA allowance and recommends that the Commission adopt the Staff's proposal on this issue. United reasons that the 5% allowance is one of the few ways in which aggregators of retail customers (ARCs) can sell ZRCs to LSEs and is an opportunity for ARCs to develop DR resources that can be registered in the MISO market. United's comments, p. 1. In light of the Commission's recent decision to expand opportunities for third-party DR providers, United asserts that repealing the 5% PRA allowance would be shortsighted when energy efficiency resources are needed to meet the climate and energy goals set out in the MI Healthy Climate Plan. *Id.* (referring to December 21, 2022 and February 23, 2023 orders in Case Nos. U-21099 *et al.*).

ABATE supports the Staff's changes made to the capacity demonstration process and requirements that were included in Exhibit A to the June 9 order, namely: (1) a revised filing timeline, (2) compliance for PJM LSEs, (3) the shift to a seasonal demonstration to match MISO's seasonal resource adequacy construct, (4) capacity demonstrations based on prompt year

requirements within MISO, (5) Michigan resource accreditation aligning with that of MISO with a case-by-case review when appropriate, (6) continuing the 5% PRA allowance, and (7) continuing the stay in Case No. U-18444 for the LCR. ABATE's comments, pp. 1-2. Speaking further as to the LCR, ABATE asserts that the stay should remain in place until federal litigation is fully resolved citing the significant harm to AESs and their customers if the stay is lifted. ABATE argues that the LCR runs afoul of the Commerce Clause of the U.S. Constitution and that there is no threat to electric reliability currently that would justify lifting the stay. *Id.*, pp. 2-4.

With its comments, Consumers attached a redline version of the Staff's proposed capacity demonstration process and requirements document with its suggested revisions. Explaining its suggestions in its comments, Consumers recommends that the document be updated to allow an LSE to provide lower load forecasts as long as the LSE has sufficient justification for the data provided. Consumers reflects this suggestion by adding the language "unless proper justification and data are provided" at the end of the second footnote in the Staff's proposed document. *See*, Consumers' comments, p. 2; *see also, id.*, Attachment A, n. 2. Consumers also recommends that the word "should" in the Staff's proposed document be changed to "shall" in the first footnote and in the second paragraph under the "Resource Demonstrations" section. Consumers' comments, p. 2.

MEGA suggests edits to three sections in the Staff's proposed capacity demonstration process and requirements document. First, MEGA requests that the affidavit requirement under item (1) of the document be expanded to recognize resources outlined in the utility's most recent integrated resource plan and efforts to procure new generation. With this recommendation, MEGA also asks that the Commission consider how to maintain confidentiality for competitively sensitive



information. MEGA's comments, p. 2.<sup>9</sup> Second, MEGA states that it does not believe the affidavit for capacity contracts should include a commitment to maintain the contracted-for amount for four years forward "regardless of any early out clauses in the contract" because it robs the utility of flexibility to adjust its capacity need. Instead, MEGA recommends that the Staff's proposed document be revised to consider that four-year terms may not be possible for shorter term contracts and also asks the Commission to not apply the capacity contract affidavit requirement to multi-jurisdictional utilities. In the alternative, MEGA asks that if the Commission declines to exclude multi-jurisdictional utilities, then the costs of compliance be assigned to Michigan only. *Id.*, pp. 2-3. Third, MEGA supports the Staff's proposal to shift to a seasonal demonstration but states that the shift in the filing burdens utilities because:

the timeline now coincides with ongoing work, including working with MISO to obtain capacity accreditation for intermittent resources, behind the meter generation, and demand resources utilizing load control. Further, members are also working with other parties to determine their needs so bilateral transactions can be negotiated and consummated. All this work is done in advance and in preparation for filing the fixed resource adequacy plans with MISO and participating in the [PRA].

*Id.*, p. 4. MEGA requests that, for smaller investor-owned utilities (with under one million customers), the filing date be delayed until March 15<sup>th</sup> of each year. Alternatively, MEGA asks for flexibility in filing in the form of a waiver or other request. *Id.*

In its comments,<sup>10</sup> MPPA expresses its support for the Staff's proposed capacity demonstration process and requirements document. MPPA specifically emphasizes its agreement

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<sup>9</sup> While MEGA's comments are not paginated, the Commission references page numbers in natural order beginning with the first page of the comments following the title page.

<sup>10</sup> MPPA's comments appear under the "Comment" section in the "Case Comments" feature of the Commission's E-dockets page for Case No. U-21099 and, therefore, are not a paginated document.

with allowing PJM electric providers to satisfy capacity demonstration requirements by meeting PJM's capacity obligations and with maintaining the 5% PRA allowance given the timing mismatch between the SRM capacity demonstration third forward PY and MISO's PRA for the prompt year.

In its reply comments, Consumers responds to Energy Michigan's comments regarding the capacity demonstration process under MCL 460.6w and Energy Michigan's and ABATE's comments on the individual LCR. First noting that Energy Michigan's claim that MCL 460.6w "contains buried assumptions that are at odds with the present resource adequacy process under current MISO tariffs" and that more context is needed, Consumers argues that such "context" is unnecessary. Consumers' reply comments, pp. 1-2 (quoting Energy Michigan's comments, p. 8). Consumers explains that the Commission's capacity demonstration requirements are clear and any additional context would only lead to confusion in that Energy Michigan's proposed clarification does not recognize that the capacity demonstration process under MCL 460.6w and MISO's capacity obligations are complementary, yet distinct. Consumers reply comments, p. 2.

Next, Consumers addresses ABATE's support for the stay in Case No. U-18444. Citing the Commission's previous statement that it would revisit the LCR issue once litigation at the federal level concludes and the pending appeal before the Sixth Circuit Court of Appeals is resolved, Consumers asks the Commission to disregard ABATE's comments. Consumers similarly asks that the Commission disregard Energy Michigan's recommendations for the individual LCR arguing that a separate contested case, not this comment docket, is the appropriate venue for a discussion on the LCR methodology. Consumers' reply comments, pp. 3-4.

## Discussion

To begin, the Commission appreciates the efforts of the Staff in obtaining and analyzing the capacity information needed for this year's capacity demonstrations and for drafting the Staff Report. The Commission also appreciates the cooperation of all Michigan LSEs for their timely capacity demonstration filings and for making the adaptations necessary in light of the changes at MISO to the seasonal resource adequacy construct. The Commission accepts the Staff Report's findings regarding resource adequacy in LRZs 1, 2, and 7 and the capacity demonstrations made by the LSEs. The Commission finds the supplemental filing made by Just Energy Solutions to be sufficient and, therefore, finds that all Michigan LSEs have complied with the capacity demonstration requirements for the 2026/2027 planning year.

As noted in last year's capacity demonstration report, the Staff stated in this year's report that most LSEs included in their demonstrations updates for the 2023/2024 PY through the 2025/2026 PY. For the upcoming capacity demonstration in Case No. U-21393, the Commission directs LSEs to provide capacity resource data for the prompt (2024/2025) and interim (2026/2027) years in addition to the compliance year 2027/2028 data. The additional data is to be included in the upcoming February 15, March 1, and March 15, 2024 capacity demonstration filings opened by this order in Case No. U-21393.

Turning to the technical conference report in Case No. U-21099, the Commission has reviewed the report, the Staff's proposed capacity demonstration process and requirements document, the comments, and reply comments, and finds that the Staff's proposed capacity demonstration process and requirements document should be adopted with the revisions outlined below.

First, in its comments, Consumers recommended that the Commission revise the word “should” in footnote 1 and in the second paragraph under the “Resource Demonstrations” section. The Commission agrees and this change is incorporated into the capacity demonstration process and requirements document. The Commission also finds that in other instances where it is appropriate to indicate that compliance is required, a “should” is revised to read “shall.” These changes are reflected in the revised capacity demonstration process and requirements document attached to this order as Exhibit A. The Commission declines, however, to adopt Consumers’ recommended revision to footnote 2 to allow LSEs to provide lower load forecasts with sufficient justification. The Commission finds that the Staff’s proposed capacity demonstration process and requirements document is sufficient to ensure that LSEs using forecasts to arrive at their capacity obligations do so in a way that does not improperly lower their capacity obligation.

MEGA asks that the Commission expand the affidavit requirement to recognize resources approved in a utility’s most recent IRP and resources subject to on-going procurement negotiations. MEGA’s comments, p. 2. The Commission finds it is reasonable to allow utilities to include in the affidavit resources that have been included and approved in the utility’s most recent IRP with the caveat that the utility must also file in the next capacity demonstration docket a status update for the resource. Speaking to MEGA’s confidentiality concerns, the Commission finds that the current allowance for confidential filings and protective orders approved for the capacity demonstration process are sufficient to protect the commercially sensitive information contained in such filings. MEGA also suggests that the capacity demonstration filing deadline for smaller investor-owned utilities (with under one million customers) be moved from February 15, 2024 to March 15, 2024. The Commission finds that a March 1, 2024 deadline for the 2027/2028 PY for smaller investor-owned utilities strikes the appropriate balance between allowing smaller utilities

additional time to prepare their capacity demonstration filing and providing adequate time for the Staff to review the filings and complete their report in a timely manner. As noted in the Staff's proposed document, the Commission will set the specific filing dates in an order for subsequent capacity demonstration PYs but will make best efforts to generally align its specified dates with the filing timelines set out in the Staff's proposed document.

The Commission declines to adopt MEGA's recommendation to remove the requirement in the capacity contract to include a four-year forward requirement regardless of any early out clauses in the contract. The four-year forward requirement is mandated by MCL 460.6w(2) and the Commission finds that adopting MEGA's suggestion would undermine the requirements of Section 6w by reading into the statute an exception that does not exist.

Turning to the LCR, the Commission declines to adopt the revisions recommended by ABATE and Energy Michigan. As the Commission has stated in previous capacity demonstration orders and in the instant order, the stay remains in place in Case No. U-18444 pending litigation at the federal level. The Commission finds that the Staff's proposed document adequately reflects the current status of the individual LCR and that should the Commission revisit the imposition of the LCR, it will do so in a separate contested proceeding.

The Commission also rejects Energy Michigan's recommendations to revise the Staff's proposed document to include additional context that Energy Michigan claims is necessary to clarify MISO and MCL 460.6w requirements. The Commission agrees with Consumers' reply comments that Section 6w capacity demonstration requirements are distinct from MISO requirements and required by statute. The Commission recognizes MISO's and other RTO's capacity requirements and finds that the proposed document's efforts to harmonize these requirements with those of Section 6w are satisfactory.

Thus, the Commission finds the Staff's proposed capacity demonstration process and requirements document, as revised by this order, should be adopted for use in the upcoming 2027/2028 PY capacity demonstration in Case No. U-21393 and subsequent capacity demonstrations.

THEREFORE, IT IS ORDERED that:

A. The Commission Staff's March 24, 2023 Capacity Demonstration Results Report filed in Case No. U-21225 is accepted.

B. Electric utilities required to file capacity demonstrations pursuant to MCL 460.6w(8)(a) for the 2027/2028 planning year shall make that filing no later than 5:00 p.m. (Eastern time) on February 15 and March 1, 2024 in Case No. U-21393, as described in this order and in the Capacity Demonstration Process and Requirements attached to this order as Exhibit A. Load serving entities required to file capacity demonstrations pursuant to MCL 460.6w(8)(b) for the 2027/2028 planning year shall make that filing no later than March 15, 2024, in Case No. U-21393. Electric utilities and load serving entities shall include in their respective filings capacity resource data for the prompt and interim years as well as the compliance year, 2027/2028, as described in this order.

C. The Commission adopts the Commission Staff's proposed Capacity Demonstration Process and Requirements, as revised by this order and attached to this order as Exhibit A, for use in the 2027/2028 planning year capacity demonstrations in Case No. U-21393, and subsequent capacity demonstrations.

D. The Commission Staff shall file a report analyzing the sufficiency of the capacity demonstrations for the 2027/2028 planning year no later than May 10, 2024 in Case No. U-21393.

E. The docket in Case No. U-21225 is closed, and the docket in Case No. U-21393 is opened for the purpose of receiving the capacity demonstration filings for the 2027/2028 planning year.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov) and to the Michigan Department of Attorney General - Public Service Division at [pungpl@michigan.gov](mailto:pungpl@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Daniel C. Scripps, Chair

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Katherine L. Peretick, Commissioner

I abstain.

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Alessandra R. Carreon, Commissioner

By its action of July 26, 2023.

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Lisa Felice, Executive Secretary



## CAPACITY DEMONSTRATION PROCESS AND REQUIREMENTS

The Michigan Public Service Commission (MPSC or Commission) will open a new docket annually for capacity demonstration filings. The Commission order opening the capacity demonstration docket will provide updated requirements for load serving entities (LSE) to follow in making demonstrations. The capacity demonstration filings shall include four years of load obligations and capacity resources. The capacity demonstration for year four will be used to determine if the LSE has met its capacity obligations, while the data filed for years one through three will be used for informational purposes only. For the demonstration year, each LSE's capacity obligation will be equal to its most recent capacity obligation as specified by the applicable Independent System Operator (ISO).

For LSEs in the Midwest Independent System Operator (MISO), the capacity obligation will be based on the MISO seasonal resource adequacy construct. LSEs will be obligated to demonstrate enough capacity (owned or contracted) to meet the LSE's capacity obligation for each season. The specific capacity obligation for each season will be the LSE's prompt year (upcoming year) Planning Reserve Margin Requirement (PRMR) for each respective season. According to the MISO Tariff, the Peak Load Contribution (PLC) for each retail customer in the Electric Distribution Company's (EDC) area – including the EDC's own LSE – includes the retail customer's demand at the time of MISO's peak demand for each prior season, transmission losses, planning reserve margin %, and an adjustment factor for the prompt year seasonal EDC forecasts. The PRMR for each LSE for a season consists of the sum of the PLCs for the retail customers assigned to that LSE.<sup>1</sup> MISO LSEs will be obligated to demonstrate enough capacity for the demonstration year to meet their prompt year PRMR MISO requirements<sup>2</sup>.

For LSEs in PJM, the capacity obligation will be based on the PJM Reliability Pricing Model (RPM). LSEs in the PJM service territory can meet their Independent System Operator capacity obligations either through participation in PJM's RPM Base Residual Auction (BRA) or through PJM's Fixed Resource Requirement (FRR) capacity plan. The timing of PJM LSEs capacity demonstrations to the Commission will remain the same as those expected of MISO LSEs; however, PJM LSEs will be allowed to file an amended capacity demonstration two weeks after the completion of the BRA. The capacity demonstration should include the FRR capacity plan or the BRA results. Meeting PJM's capacity obligations, including any applicable Percentage Internal Resources Required for the delivery year will constitute a satisfactory demonstration, and the demonstrating LSE should provide evidence that it has met PJM's capacity obligations.

LSEs shall provide documentation to Staff verifying the applicable capacity obligation from the LSEs ISO.<sup>3</sup>

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<sup>1</sup> The PRMR determination for all LSEs, including the EDC's own LSE, shall be made according to the MISO tariff. See MISO tariff Module E-1, Section 69A.1.1.e and Section 69A.1.2.1.b.

<sup>2</sup> LSEs that develop their load forecasts based on forward year values may use these values instead of prompt year values for capacity demonstration requirements if they are higher than the prompt year requirements. LSEs obligations should not be reduced to an amount less than the prompt year requirements due to declining forecasts for forward years.

<sup>3</sup> Documentation could be included in the filing or shared in a meeting (virtual or in person) with Staff, similar to how resource contracts are shared.

## **Individual Locational Requirement**

The individual locational requirement adopted by the MPSC in the June 28, 2018 Order in Case No. U-18444 remains stayed.<sup>4</sup> There is currently no individual locational requirement applicable to capacity demonstration filings.

## **Resource Demonstrations**

As a default, resources shall be accredited as they are in their respective ISO.

For MISO LSEs, resources shall be counted at the same seasonal accredited capacity value that they will receive in the prompt year for each season. If prompt year capacity value is not finalized, resources shall be counted at the seasonal accredited capacity level from the most recent information available.

For PJM LSEs, resources shall be based on the credited UCAP capacity value that they are credited within the PJM RPM for the demonstration year.

New resources (in either ISO) shall receive capacity credit they would reasonably receive within the various resource adequacy constructs. LSEs should provide documentation supporting the capacity accreditation of new resources.

Resource accreditation may vary from ISO accreditation if the LSE is able to provide reasonable support that the resource will be valued at a different capacity amount when the demonstration year becomes the delivery year. These variations will be evaluated by Staff on a case-by-case basis.

The minimum acceptable support for all resources submitted as part of a capacity demonstration is based upon the type of resource and is outlined below:

### **Existing Generation (Owned)**

The minimum acceptable support for existing generation that is included in a capacity demonstration include:

- 1) An affidavit from an officer of the company claiming ownership of the unit(s), including a commitment of the unit(s) to LSE load in the applicable demonstration year.,
- 2) A copy of the existing resource qualification of the unit(s) from the applicable RTO, such as a MISO Module E Capacity Tracking tool (MECT) screenshot in the MISO region, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

### **Existing Demand Response or Energy Efficiency Resources (that have not been netted against load)**

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<sup>4</sup> Stayed by the September 13, 2018 Order in Case No. U-18444.

The minimum acceptable support for existing demand response resources or energy efficiency resources that have not already been netted against load include:

- 1) An affidavit from an officer of the company outlining the resource(s), including a commitment to maintain at least that same level of resources four years forward,
- 2) A copy of the existing resource qualification from the applicable RTO, such as a MISO MECT screenshot, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

### **New or Upgraded Generation (Owned)**

The minimum acceptable support for proposed new generation include:

- 1) An affidavit from an officer of the company outlining the plans for the new generation including resources outlined in the utilities' most recent approved IRP,<sup>5</sup> milestones such as planned in-service date, expected regulatory approval date(s), planned date to enter the generator interconnection queue, expected date for generator interconnection agreement, construction timeline, etc.,
- 2) Documentation supporting the expected resource qualification from the ISO for the new unit(s), and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

For new generation submitted as part of a capacity demonstration, the LSE shall update and submit the above information on an annual basis with each subsequent capacity demonstration until the unit(s) are in service.

### **New Demand Response or Energy Efficiency Resources (that have not been netted against load)**

The minimum acceptable support for new demand response resources or energy efficiency resources that have not already been netted against load included in a capacity demonstration include:

- 1) An affidavit from an officer of the company outlining the plans for the resource(s), including a commitment to achieve and/or maintain at least that same level of resources four years forward,
- 2) Evidence that the customer's distribution utility has been notified of specific customers participating in the resource,
- 3) Specific plans to have the resource(s) qualified by the independent system operator, and;
- 4) If there are Michigan retail tariffs or customer contracts associated with the resources, copies shall be provided.

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<sup>5</sup> If including resources included in the utility's most recent approved IRP, the utility shall also file a status update in the next capacity demonstration docket.

For new demand response or energy efficiency resources submitted as part of a capacity demonstration, the LSE shall update and submit the above information on an annual basis with each subsequent capacity demonstration until the resource(s) are in service. Final qualification / approval from the independent system operator shall be submitted in a subsequent demonstration.

### **Capacity Contract**

The minimum acceptable support for capacity contracts with existing generation include:

- 1) An affidavit from an officer of the company including a copy of the contract that specifies the unit(s) or pool of generation that is the source of the contract, including the location of the unit(s) or pool. The affidavit shall include a commitment to maintain the contracted amount four years forward regardless of any early out clauses in the contract, and;
- 2) A copy of the existing resource qualification of the unit(s) or pool from the applicable RTO, such as a MISO MECT screenshot.

### **Forward ZRC contracts**

For MISO LSEs that use ZRC contracts to meet capacity obligations. The minimum acceptable support for forward ZRC contracts includes an affidavit from an officer of the company including a copy of the contract that specifies the zonal location of the ZRCs. The affidavit shall include a commitment to maintain the contracted amount four years forward regardless of any early-out clauses in the contract. A forward ZRC contract that does not specify the zonal location of the ZRCs will be deemed insufficient towards meeting any portion of a locational requirement, unless the LSE provides other alternative support for the location of the ZRCs.

Any LSE that utilized a ZRC contract as part of their previous capacity demonstrations must provide prompt-year ZRC transfer documentation (such as a MECT Module E screenshot) or provide Staff with the ability to confidentially review ZRC transfers in person at the Commission office.

If the Commission were to implement an individual locational requirement, ZRC contracts submitted in an LSE capacity demonstration to meet this forward locational requirements must clearly designate that the resources are coming from the applicable zone. LSEs must provide evidence to support this. For resources currently located outside of the LSE's zone that will (by the demonstration year) count towards meeting the Local Clearing Requirement of the LSE's zone should be supported by evidence provided by the demonstrating LSE. Existing contracts specifically with resources outside of an LSE's MISO zone will count towards meeting forward locational requirements if they are for a period of at least twenty years and the contracts were entered into prior to MISO's implementation of local resource zones on June 1, 2013.

### **Aggregated EERs, Aggregated Storage, Aggregated DERs**

The minimum acceptable support for aggregated energy efficiency resources (EERs), aggregated storage, and aggregated distributed energy resources (DERs) include:

- 1) An affidavit from an officer of the company outlining the resource(s), including a commitment to achieve and/or maintain at least that same level of resource(s) four years forward,
- 2) Documentation from the ISO showing resource accreditation in the prompt-year for the resource(s), such as a MISO MECT screenshot, and;
- 3) If there are Michigan retail tariffs or customer contracts associated with the resource(s), copies shall be provided.

### **MISO PRA Purchases**

The amount of ZRCs planned to be purchased through the MISO Planning Resource Auction (PRA) process<sup>6</sup> that will be deemed prudent in an approved capacity demonstration will be limited to 5% of the LSE's total requirement. A capacity demonstration filed by an LSE that includes a plan to purchase ZRCs in the PRA four years in the future in excess of 5% will not constitute a demonstration that the LSE owns or has contracted resources to meet its future capacity obligations, unless those ZRCs are tied to specific identified resources that are committed to be offered in the PRA, by contract, on behalf of the LSE for the applicable planning year.

### **Interim Years<sup>7</sup>**

Once the Commission has determined that the capacity demonstration made by an LSE is sufficient, it shall not be re-litigated or "trued-up" in the interim years. If, subsequent to its initial satisfactory capacity demonstration, an LSE experiences an unforeseen outage at one of its generation assets, or has variation in its total load obligations, these matters will be settled in the capacity auctions of the respective ISO. The LSE's initial capacity demonstration will not be re-examined to reconcile projected interim year load obligations or generating resource capacity ratings with actual values that are experienced in that interim year.

### **Additional Considerations for Capacity Demonstrations**

Other types of documentation submitted as part of a capacity demonstration will be evaluated on a case-by-case basis. Because some of the documentation that is required to be filed in these proceedings is commercially sensitive, competitive information, it shall continue to be treated in a confidential manner, as has been done in the past. The Staff shall file a memo in the docket as directed by the Commission, outlining its findings from the demonstration filings, including a listing of any entities whose demonstration, in Staff's opinion, was insufficient.

In the case where a demonstration filing is deemed insufficient by Staff, Staff would recommend that the Commission open a contested case docket, whereby the LSE in question could attempt to prove that its capacity demonstration should be deemed acceptable. The outcome of that case would be a

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<sup>6</sup> Since 2012, LSEs do not literally purchase ZRCs in the PRA. The current terminology in the MISO tariff of "purchase through the PRA process" means that MISO is charging an LSE more for capacity to satisfy the LSE's PRMR than it is paying the LSE for ZRCs submitted into the PRA.

<sup>7</sup> Year 1 (prompt year), Year 2, and Year 3 of the demonstration.

Commission order potentially authorizing Statewide Reliability Mechanism capacity charges to Retail Open Access customer load as well as a respective increase in capacity obligations assigned to the incumbent utility as the Provider of Last Resort for capacity service. Any contested demonstration cases will be opened as soon as practicable following the issuance of the Staff memo and be completed within six months.

If an LSE has met the capacity demonstration requirements, no contested case will be opened, and no further action will be taken regarding any capacity demonstration that has been deemed sufficient by Staff and accepted by the Commission.

**Filing Timeline**

Section 6w of Public Act 341 of 2016 gives specific filing dates for LSEs to make capacity demonstrations but gives the Commission the authority to adjust the dates if needed to properly align with the ISO procedures and requirements. The timeline below better aligns with the MISO PRA, allowing capacity obligations and resource accreditation to better match the values used by MISO in the prompt year.

For Demonstration Year 2027/2028	
Docket Opened by Commission	Summer/Fall 2023
Larger Investor-Owned Electric Utilities <sup>8</sup> Filing Due	February 15 <sup>th</sup> , 2024
Smaller Investor-Owned Electric Utilities <sup>9</sup> Filing Due	March 1, 2024
All Other LSEs Filing Due	March 15 <sup>th</sup> , 2024
Staff Report on Capacity Demonstration Findings	May 10 <sup>th</sup> , 2024
Commission Order	Summer/Fall 2024

The specific filing dates will be established by the Commission in each subsequent capacity demonstration docket and will generally align with the filing timeline above. LSEs will be allowed to supplement filings after the filing date and prior to Staff’s report, if changes at the ISO level, for capacity obligation or resource accreditation, necessitate updated filings.<sup>10</sup>

**Demonstration Format**

In addition to all of the items outlined above, Staff shall provide updated capacity demonstration documents (Reporting Templates and Sample Affidavits)<sup>11</sup> to be utilized by each LSE when filing its demonstration.

<sup>8</sup> A large investor-owned utility is considered to be an electric utility with one million or more customers.

<sup>9</sup> A smaller investor-owned utility is considered to be an electric utility with less than one million customers.

<sup>10</sup> In this event, LSEs should notify Staff as soon as practicable that a supplemental filing is imminent and make the filing with sufficient time to allow Staff to review and incorporate those changes into the report.

<sup>11</sup> Documents will be posted to the MPSC Capacity Demonstration webpage (<https://www.michigan.gov/mpsc/commission/workgroups/2016-energy-legislation/capacity-demonstration>).

# PROOF OF SERVICE

STATE OF MICHIGAN )

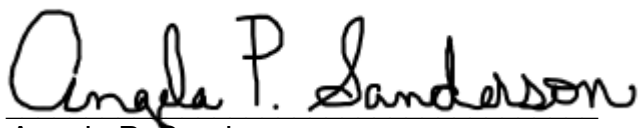
Case No. U-21225 *et al.*

County of Ingham )

Brianna Brown being duly sworn, deposes and says that on July 26, 2023 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

  
Brianna Brown

Subscribed and sworn to before me  
this 26<sup>th</sup> day of July 2023.



Angela P. Sanderson  
Notary Public, Shiawassee County, Michigan  
As acting in Eaton County  
My Commission Expires: May 21, 2024

**Service List for Case: U-21099**

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