September 22, 2023

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

Re: In the matter, on the Commission's own motion, to establish a workgroup to investigate appropriate financial incentives and penalties to address outages and distribution performance moving forward.
Case No. U-21400

Dear Ms. Felice:

Enclosed for filing in the above-referenced matter, please find the Comments of the Citizens Utility Board of Michigan. If you have any questions, please do not hesitate to contact me.

Sincerely,

Amy Bandyk
Executive Director
Citizens Utility Board of Michigan

Enclosure

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to establish
a workgroup to investigate appropriate financial incentives
and penalties to address outages
and distribution performance moving forward. Case No. U-21400

COMMENTS OF THE CITIZENS UTILITY BOARD OF MICHIGAN

Overview

Thank you for this opportunity to comment on the MPSC Staff's "Straw Proposal on Performance Targets and Incentive/Disincentive Mechanisms."

The creation of performance-based rules to make utilities accountable for better outcomes for customers has been a leading priority for the Citizens Utility Board (CUB) of Michigan since its inception. One of CUB's first publications was the white paper *Utility Regulatory Measures to Improve Electric Reliability in Michigan*,[1] which laid out the need for performance-based regulation in Michigan and recommended starting points to move toward such an approach. Then, through comments in several MPSC dockets (several of which we will refer to in these comments) and numerous newspaper op-eds and blog posts, we have put forth ideas for steps toward performance-based regulation.

We are pleased to see the MPSC Staff issuing a proposal with concrete suggestions for performance targets and incentive/disincentive mechanisms, and we are particularly pleased that the Commission itself is recognizing that the problem of poor reliability in Michigan cannot be confronted without performance-based rules. As Chair Dan Scripps said in the Commission's August 30 meeting before approving the order that prompted this comment opportunity:

1 https://www.cubofmichigan.org/report_utility_regulatory_measures_to_improve_electric_reliability_in_michigan

There is clear frustration in the public with the number and duration of power outages in Michigan. We in the Commission share that frustration, in particular among those who experience outages over and over again and wait days after major events. The focus of the straw proposal being presented today is to focus on the places where improvement is needed most and in so doing working to better connect the financial performance of the utilities with the experience of their customers. By tying financial metrics to the duration of outages and the number of customers experiencing multiple outages each year, I think the straw proposal in front of us today represents a significant step toward our shared goal of improved reliability and resilience.

Chair Scripps' words provide a useful frame for the purpose of this proposal: the MPSC urgently needs to implement rules that will address and alleviate the frustrations of utility customers in proportion to the degree that they are frustrated by the poor level of electric reliability they receive. If the rules that come out of this proceeding are seen by the average Michigan resident as not sufficiently responsive to their concerns about frequent and/or lengthy outages, then the frustrations will build and build, especially as severe weather patterns worsen.

Unfortunately, we identify several elements of this straw proposal that, if explained to an average Michigander, would likely be viewed negatively as pieces of a solution for reliability. Our comments will focus on the specifics of the straw proposal, but at the outset we want to spell out three themes we see throughout the straw proposal that are going to be problematic in the eyes of the public. We will refer to these themes when discussing the specifics of the proposal:

First, in several cases **the proposal does not ensure that the beneficiaries of any penalties paid by the utilities are those affected by power outages.** The disincentives should be paid to the customers that experience power outages in excess of targets.

The MPSC Staff could simply revise its proposed disincentive mechanisms so that affected customers would benefit. When a penalty is triggered by a utility, the number of customers who are experiencing outages above the targeted level of a reliability metric could receive credits reducing their bills, and the utility in question should not be able to recover the cost of those credits. The total number of credits given would be equal to the value of the penalty assessed, divided evenly among the affected customers. Such an approach would achieve two goals at once: First, it would incentivize the utility to improve its performance on the given metric so that the utility avoids being required to distribute as many unrecoverable credits. Second, customers affected by outages would receive a modicum of compensation while their utility's performance is still substandard.

We refer the Staff to CUB's comments submitted in U-20147, where we further detail how a customer compensation approach to performance-based regulation can make the process of improving reliability more cost-effective,[2] and CUB's comments submitted in U-20629, where we

[2] U-20147-0075. Comments of Citizens Utility Board of Michigan. https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t000000UcRpRAAV. See page 6, paragraph beginning with "Another important consideration is that a utility…"

further detail how this cost recovery approach could work.[3] The comments provided in this docket from Detroit Area Advocacy Organizations (DAAO) also provide a useful outline of a compensation structure that would both provide financial compensation to customers while also imposing financial penalties on poor utility performance.

Second**, the proposal potentially opens the door for utilities receiving rewards while their performance is still well below industry averages.** Utilities should only be eligible for penalties, and not incentives, until they have improved their performance to be consistently above average compared to national benchmarks.

Third, **utilities' performance should not be measured relative to their own past performance, but rather relative to peer performance**. Utilities should not be rewarded for marginal improvements on poor performance, and the way to avoid that result is to compare their performance to peers based on national benchmarks. While many of the metrics in the straw proposal are comparing utility performance to peers, there are some cases where it appears they may not.

Fourth, and finally, **the straw proposal does not account for affordability and how, if not properly checked, a set of financial incentives/disincentives could make rates less affordable**. Ratepayers are not just frustrated with poor reliability — they are frustrated with poor reliability despite the relatively high rates they pay for this service. The proposed incentives/disincentives may successfully push utilities to improve reliability, but they do not guarantee that the utilities would do so cost-effectively. Steps taken by the utility to improve reliability may increase customer rates significantly. Expert witness testimony sponsored by CUB in recent DTE and Consumers Energy rate cases has indicated that the utility spending on the distribution grid is not as cost-effective as it should be.[4]

Therefore, there need to be safeguards in place to ensure that improvements to reliability do not come at unnecessary cost to the consumer. We recommend the MPSC form a separate workgroup to determine a process for conducting cost-benefit analyses of reliability measures that would compare the potential gains in reliability from a given measure to the associated impact on customer rates. Customers should be made whole for any costs associated with the need to fix the grid due to utility negligence.

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[3] U-20629-0024. Comments of the Citizens Utility Board of Michigan. https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t0000009Xmw1AAC. See page 2, paragraph beginning with "We propose that rates be set…"

[4] For example, see U-21297-0330. Direct Testimony and Exhibits of Robert G. Ozar P.E. on behalf of Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (Exhibit MEC-42 through MEC-49). https://mi-psc.force.com/sfc/servlet.shepherd/version/download/0688y0000086QX1AAM and U-21389-0205. Direct Testimony and Exhibits of Douglas B. Jester on behalf of Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (MEC-1 through MEC-5). https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000009fbUdAAI

CAIDI (excluding MEDs)

Target performance

The straw proposal states that "the interim targets should be informed by the 2021 and 2023 distribution system plans." First, the Staff should clarify if there will be an incentive mechanism attached to an interim target. If so, that would be a mistake because an interim period (which appears to be less than five years) is too short to establish a clear trend in reliability performance. Giving a utility an incentive for performance over a short-term, interim period could allow a utility to profit from performance improvements while still ranking among the worst in the country on CAIDI.

Second, by using the 2021 and 2023 distribution system plans as the basis for the interim targets, there is the possibility the targets will be based on historic performance rather than peer performance. For example, Consumers Energy's 2021 distribution system plan included "glidepaths" for SAIDI, SAIFI and CAIDI that target improvements to those metrics relative to a baseline of Consumers Energy's performance on those metrics in 2020, rather than an industry average baseline.[5]

Finally, the target needs to include some consideration of affordability. The MPSC Staff should add a requirement to the straw proposal that whenever a utility's performance is compared to a target CAIDI score, the change in the utility's rates over the same period should also be reported. The purpose would be to compare the cost/benefits of progress on reliability performance to the impact on affordability. If, for example, a utility improves its CAIDI score and hits the target, but also sees its rates climb by x% over the same period, then stakeholders will need to compare that x% increase in rates to the improvement in CAIDI in order to make a reasonable cost/benefit analysis.

Incentive/Disincentive Mechanism

The straw proposal discusses bill credits in the context of the incentive/disincentive mechanism for other targets such as $CEMI_4$ and $CEMI_7$, but not this one. There is no good reason, however, that penalties paid related to this target should not go toward the customers affected. For example, the straw proposal conceives of a long-term target of 118 minutes for CAIDI excluding MEDs. If a utility misses this target by a margin at or beyond the proposed deadband, the resulting penalty could be paid out to customers for each outage that exceeds 118 minutes. Each customer who experiences an outage of such a duration or longer would receive a bill credit for each of those outages. These credits would not be recoverable by the utility through rates.

[5] U-20147-0056. Consumers Energy Company's Initial Draft of the Electric Distribution Infrastructure Investment Plan 2021-25. https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t000000NiZGDAA3. Figure 4, page 12.

This approach would not only reduce customer frustrations by giving them greater compensation for outages in excess of reliability targets, but it would also motivate the utility to improve its performance so it does not have to distribute so many unrecoverable credits.

The workgroup should continue to investigate details of this mechanism, such as how to calculate the exact size of any penalty. That work is also needed for any penalties related to SAIFI, as we will discuss below.

CAIDI (Only MEDs)

Our comments above regarding CAIDI (Excluding MEDs) also apply to this target.

SAIFI (Excluding MEDs)

Target performance

The straw proposal states that "interim target values would be established by the Commission and informed by analysis of SAIFI improvements in the next distribution system plans." We reiterate our same concern we expressed about interim targets regarding CAIDI: An interim period is too short to establish a clear trend in reliability performance, and using such a short period could allow a utility to profit from performance improvements while still being among the worst in the country on SAIFI. We also reiterate that reliance on improvements as tracked by utility distribution system plans could lead to interim targets that are not tied to peer utility performance (see the Consumers Energy "glidepath" targets from its 2021 distribution system plan, which included SAIFI).

There should also be a requirement that utility performance relative to a SAIFI target be compared to rate impacts, as we described above regarding CAIDI score and affordability.

Incentive/Disincentive Mechanism

This mechanism should ensure that penalties are paid to customers affected by interruptions in excess of the targeted SAIFI score. For example, the straw proposal conceives of a long-term target for SAIFI excluding MEDs of 0.86 interruptions per customer per year. That score rounds up to 1 interruption per customer per year. If a utility misses this target by a margin at or beyond the proposed deadband, the resulting penalty could be paid out to each customer household that experiences 1 or more interruptions per year.

$CEMI_4$ and $CEMI_7$

Target Performance

We support the straw proposal's call for the workgroup to develop targets for the number of customers experiencing frequent sustained interruptions.

Incentive/Disincentive Mechanism

The straw proposal states that it "presents this mechanism as a penalty only for customers experiencing this level of interruption, which could be set as a bill credit for customers." We applaud the MPSC Staff for putting forth a mechanism that would directly benefit customers, and encourage the Staff to consider such a mechanism for other targets.

Worst-Performing Circuits

We disagree that individual circuits should be the basis for a target. To quote from our comments filed in U-20147:

> *Worst circuits are too coarse to be meaningful. A long circuit with multiple branches may serve hundreds or thousands of customers but may have one segment that is prone to outages, such that the customers on that segment experience many outages but the metrics for the whole circuit are not particularly bad. A far more useful approach is to start with customers who experience unusually frequent outages, look (statistically) for geographical clusters of customers with common outage experiences, and target solutions to those clusters. Alternatively, and useful for equity analyses, outage statistics can be reported on a census tract or zip-code basis, which would approximate the necessary finer geography and also permit comparison to demographic and economic data.*

Thank you again for the opportunity to comment.

Respectfully submitted,

CITIZENS UTILITY BOARD OF MICHIGAN