

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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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

At the December 21, 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

In the April 24, 2023 order in this case (April 24 order), the Commission established the
Financial Incentives and Disincentives workgroup as part of the MI Power Grid Initiative.

April 24 order, p. 12. The April 24 order outlined the initial focus of the workgroup as:

developing metrics relating to reliability including, but not limited to, SAIDI
[system average interruption duration index] (including and excluding MEDs
[major event days]), SAIFI [system average interruption frequency index], CEMI
[customers experiencing multiple interruptions], CAIDI [customer average
interruption duration index], and resilience, including, but not limited to, downed
wire response and the frequency and duration of outages during extreme weather,
[using] the recently updated Service Quality [and Reliability Standards for Electric
Distribution Systems (SQRS)] rules as a baseline.

Id.

To facilitate discussion on these issues among interested persons, the Commission developed a straw proposal that identified candidate distribution performance metrics and applicable methods by which incentives and disincentives may be applied. Prior Commission decisions, annual filings, and recent distribution plan filings informed this development. The straw proposal was issued in this case on August 30, 2023 (August 30 order), at which time the Commission solicited comments from interested persons regarding the candidate metrics, the proposed target performance identified for each metric, and the potential incentive/disincentive mechanisms to be applied to each metric. In addition, the Commission requested comments on alternative metrics or approaches to those identified in the straw proposal. Further, the Commission directed the Commission Staff (Staff) to schedule an engagement session with interested persons to convene following the initial comment period to discuss the straw proposal and alternative approaches.

Between August 30, 2023 and December 4, 2023, nearly 300 comments were filed in this docket. On September 22, 2023, several utilities, the Michigan Department of Attorney General (Attorney General), and a number of advocacy groups filed initial comments on the straw proposal, including the Association of Businesses Advocating Tariff Equity (ABATE); Citizens Utility Board of Michigan (CUB); Consumers Energy Company (Consumers); DTE Electric Company (DTE Electric); the Ecology Center, the Environmental Law and Policy Center, Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations (CEOs)); Great Lakes Renewable Energy Association (GLREA); Indiana Michigan Power Company (I&M); J.D. Power; the Michigan Energy Innovation Business Council/Advanced Energy United (MEIBC/United); the Natural Resources Defense Council (NRDC) and Strategen (together, NRDC); Northstar Energy Analytics (NEA); and Soulardarity and We Want Green Too (together, Detroit Area Advocacy Organizations (DAAOs)). On October 20, 2023, ABATE, CUB,

Consumers, DTE Electric, the CEOs, I&M, the Attorney General, MEIBC/United, the NRDC, and the DAAOs filed reply comments.

Initial Comments

1. Association of Businesses Advocating Tariff Equity

ABATE notes that Mich Admin Code, R 460.722 (Rule 22) provides “six sustained interruption standards that define an acceptable level of service performance for customers.” ABATE’s initial comments, p. 1. ABATE asserts that no utility should receive an incentive if the utility has failed to meet any of the six standards. Additionally, ABATE argues that target achievements for incentive payments should reflect superior performance or genuine improvement in performance by a utility, not simply performance that is expected or required.

ABATE states that any net incentive paid to a utility “should be limited to an increase in the authorized ROE [return on equity] on the utility’s distribution plant, not its production or transmission plant. Furthermore, the amount of the ROE adder should be limited such that it does not cause the utility’s total authorized ROE applicable to its distribution plant to exceed the upper range of reasonableness for the utility’s ROE.” *Id.*, p. 3. If the utility has already earned a return in excess of its authorized ROE, ABATE contends that the utility should not be rewarded for the incentive ROE adder.

Finally, ABATE asserts that:

the cost for any rate relief provided to a utility for any incentive paid should, as a minimum, be allocated to customer classes, by voltage class, based on their allocation of distribution revenues in the utility’s latest Commission-approved class cost of service study. Furthermore, consideration should be given to potentially developing the allocation more precisely by examining improvement in CAIDI (excluding MEDs), CAIDI (only including MEDs) and SAIFI (excluding MEDs) by customer voltage class.

Id., p. 4.

2. Citizens Utility Board of Michigan

CUB asserts that the straw “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.” CUB’s initial comments, p. 2.¹ CUB also states that the straw proposal would enable utilities to be rewarded for performance that is below industry standards. Furthermore, according to CUB, “utilities’ performance should not be measured relative to their own past performance, but rather relative to peer performance.” *Id.*, p. 3 (emphasis omitted). CUB contends that the straw proposal does not appropriately consider affordability, and if improperly designed, incentives/disincentives may increase rates for customers. Finally, CUB provides comments and suggestions for several metrics in the straw proposal. *See, id.*, pp. 4-6.

3. Consumers Energy Company

In its initial comments, Consumers expresses concern about the process used to develop the straw proposal and the procedure for final adoption of the straw proposal. Consumers asserts that more time and meaningful input from interested persons is needed to develop a beneficial performance-based ratemaking mechanism. *See*, Consumers’ initial comments, pp. 3-8. In addition, Consumers states that “distribution system reliability challenges and associated ratemaking considerations must be addressed before implementing [performance-based ratemaking].” *Id.*, p. 8 (emphasis omitted). Consumers contends that it requires timely cost recovery to improve its distribution system performance and suggests that the Commission review

¹ CUB’s initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

and approve Consumers' distribution system plan in a contested case filed at least every three years. *See, id.*, pp. 10-11.

Regarding the straw proposal, Consumers contends that the proposed metrics are duplicative with the Commission's SQRS, Mich Admin Code, R 460.701, *et seq.* *See*, Consumers' initial comments, pp. 15-17. Consumers also argues that the metrics may negatively affect the safety of utility employees, customers, and community members, especially during storm restoration, and may decelerate overall system reliability improvements. Further, Consumers states that "[performance-based ratemaking] metrics should be crafted to reasonably incent the utility to improve performance over time, and should not punish the utility for weather events which it does not control." *Id.*, p. 24. In addition, Consumers asserts that target performance for metrics should be specifically tailored to each utility and should be designed using a baseline of current performance. *See, id.*, pp. 25-28.

Next, Consumers states that a proposed incentive/disincentive system is subject to the legal requirements set forth in MCL 460.10p, applicable case law, and constitutional limitations. *See, id.*, pp. 28-32. Consumers claims that the proposals in its comments will ensure that performance-based ratemaking mechanisms will not erode the company's ability to earn its authorized ROE or put needed investment at risk. Finally, Consumers asserts that a performance-based ratemaking mechanism must be tied to an investment and cost recovery plan to allow the utility to achieve performance targets. *See, id.*, pp. 36-40.

4. DTE Electric Company

DTE Electric requests that the Commission exercise flexibility in designing the metrics, setting targets, and establishing incentives. In DTE Electric's opinion, the initial performance-based ratemaking mechanism design should not be final; rather, DTE Electric "**recommends a**

formal review by Staff with input [from interested persons] every two years, which would assess the metrics, targets, and incentive structures to determine if they continue to be applicable and identify any recommended modifications to make [performance-based ratemaking] more effective.” DTE Electric’s initial comments, p. 3 (emphasis in original). DTE Electric also states that the Commission’s SQRS already include a significant incentive for multiple outage and restoration performance and, therefore, any proposed performance-based ratemaking mechanism should not be duplicative. DTE Electric provides additional metrics, targets, and incentive mechanisms in its comments. *See, id.*, pp. 6-18.

5. The Ecology Center, the Environmental Law and Policy Center, Union of Concerned Scientists, and Vote Solar

The CEOs comment that performance-based ratemaking “can incentivize utility behaviors that are hard to address through traditional ratemaking,” but they request that the Commission “limit performance incentives to goals not readily achievable through traditional ratemaking.” CEOs’ initial comments, p. 4.² According to the CEOs, financial incentives should be designed around emerging technologies and concepts, which encourages accelerated adoption. Additionally, the CEOs assert that the scope of performance incentive mechanisms (PIMs) should be narrow and that there should be “commensurate adjustments to ROE that reflect the upside that the utility can earn through performance.” *Id.* Furthermore, the CEOs request that the Commission ensure that incentives are cost beneficial for customers.

The CEOs assert that any metrics and PIMs should be included in the distribution system planning process and, similarly, “the distribution system plans should explain how they achieve

² The CEOs’ initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

the performance targets established in this performance metrics and incentive mechanisms docket.” *Id.*, p. 5. Finally, the CEOs request that the Commission establish a metric that ensures equity in reliability for vulnerable and disadvantaged communities.

6. Great Lakes Renewable Energy Association

GLREA notes that the “CAIDI metric averages the duration of all customer outages together.” GLREA’s initial comments, p. 1.³ However, GLREA asserts that not all outages are equal; several short outages are less harmful to customers than a single prolonged outage over the course of several days. Therefore, GLREA “recommend[s] an additional metric, indicating the number of customer outages that exceed a certain duration, perhaps 3 days.” *Id.* In addition, GLREA supports the use of the CAIDI (MEDs only) metric and proposes the use of two separate metrics for priority loads such as hospitals, police departments, and homes with medical devices. Further, GLREA contends that utilities could reduce the impact of outages by encouraging customer resiliency such as microgrids and battery storage facilities. Finally, GLREA states that it is “very concerned about the implementation of symmetric incentives/disincentives. The utility companies should not be rewarded with larger profits merely for moving their sub-par reliability performance closer to that of other regional utilities.” *Id.*

7. Indiana Michigan Power Company

I&M states that an incentive/penalty mechanism is unnecessary because I&M has a demonstrated record of reliability and good customer service. In I&M’s opinion, before an incentive/penalty mechanism is approved, the Commission should consider the following issues: (1) whether the outage credits approved in the Commission’s SQRS in the March 24, 2023 order

³ GLREA’s initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

in Case No. U-20629 already provide an incentive/disincentive mechanism for utilities to minimize outages and improve reliability; (2) whether the utility performed vegetation management that could have prevented service interruptions; and (3) whether the utility failed to provide safe, reliable, and cost-effective electric service. *See*, I&M's initial comments, p. 2. In addition, I&M asserts that the Commission should exclude several scenarios outside of the utility's control from the target performance:

- Certain transmission and generation major cause codes (E.g., transmission line, transmission station, sub transmission, and generation).
- Certain minor cause codes (E.g., blast explosion, customer equipment more than one customer out, fire non-[American Electric Power], facilitation of work, other utility, scheduled outside request, vandalism scheduled outside request, scheduled company, underground construction dig-ins, tree out of right of way, weather high winds, weather tornado, weather lightning, weather ice, weather hurricane and vehicle accident).
- Jurisdictional major event days (JMED).
- Traditional major event days (TMED).
- Operating unit major event days (similar to JMED but at the operating unit level).

Id. Moreover, I&M contends that the performance targets should not be set at unattainable levels, which would result in frequent financial penalties, fewer resources for system upgrades and maintenance programs, and worse system performance. I&M provides specific comments and suggestions on the proposed metrics for CAIDI (excluding MEDs, in minutes), CAIDI (MEDs only), customers experiencing multiple interruptions (CEMI) of more than four per calendar year (CEMI₄), CEMI of seven or more outages per calendar year (CEMI₇), worst performing circuits, and the interim and long-term timelines. *See, id.*, pp. 3-4. Finally, I&M requests that the Commission not impose a statewide incentive/penalty mechanism for all utilities and, instead, consider the different geographic locations of the utilities.

8. J.D. Power

J.D. Power comments that it:

has been the independent and unbiased Voice of the Customer across numerous industries in the U.S. and abroad. [J.D. Power] commend[s] the Commission in its efforts to develop a set of incentives and disincentives to accelerate reliability improvements in Michigan and recognize[s] the challenges in balancing required infrastructure spending with the need to maintain or increase energy affordability.

J.D. Power's initial comments, p. 1.⁴ J.D. Power notes that the metrics in the straw proposal are operational. However, J.D. Power states that “[w]hile increased investment in grid reliability holds the promise of increasing grid reliability over the long term, [it] suggest[s] that the Commission also consider a set of performance metrics focused on assessing the utility’s shorter term reliability mitigation efforts.” *Id.*, p. 2 (emphasis in original). Although J.D. Power does not have specific metrics to propose at this time, J.D. Power suggests that the Commission use important customer-derived data that was gleaned from J.D. Power’s customer research in designing the metrics.

9. Michigan Department of Attorney General

The Attorney General asserts that a well-designed performance incentive/penalty mechanism will: (1) focus on the issues affecting the electric distribution system, (2) be limited to 12 performance metrics or less, (3) be “linked to and reflect the revenue collected by the utilities for the capital and O&M [operations and maintenance] spending on the distribution grid,” (4) compare the performance of other peer utilities, (5) “set realistic and achievable annual performance metrics” based on the individual performance of each utility, (6) limit the amount of incentive payments or penalties that can be incurred by a utility each year, and (7) not include dead

⁴ J.D. Power’s initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

bands. Attorney General's initial comments, pp. 3-4. The Attorney General also recommends several adjustments to the straw proposal regarding CAIDI and SAIFI, CEMI₄ and CEMI₇, and worst performing circuits. *See, id.*, pp. 4-5.

In response to the Commission's request for alternative proposals, the Attorney General offers the Service Improvement Incentive Mechanism (SIIM). The Attorney General provides a detailed description of the SIIM performance metrics, the calculation of achieved performance, the calculation of financial incentive and penalty, and SIIM procedures. *See, id.*, pp. 6-10. The Attorney General states that:

[t]he incentive mechanism and the performance metrics identified below are structured so that the utility must improve its level of service to keep 100% of the rate increase it received in the past five years pertaining to investments made in the electric distribution system. If the utility maintains the status quo and does not meet the improvement metrics, it will be penalized and will need to return a portion of the rate increase received in the past five years pertaining to those investments and related O&M costs. If the utility exceeds the performance metrics, it will be rewarded with additional revenue.

Id., p. 6. Finally, for any incentive/penalty mechanism adopted by the Commission, the Attorney General recommends that the Commission direct the utility to employ an outside expert to audit the data gathering process and calculations.

10. Michigan Energy Innovation Business Council and Advanced Energy United

MEIBC/United state that they "view PIMs as a complement to, not a substitute for, cost-of-service regulation. In other words, PIMs should not be used to provide financial rewards to a utility for meeting its basic service obligations, for which they are suitably rewarded via the traditional cost-of-service business model." MEIBC/United's initial comments, p. 2.

MEIBC/United believe that tying the utility's financial performance to reliability improvements will ensure that motivation and accountability are shared among utility employees and officers.

MEIBC/United assert that the utility should first achieve an acceptable level of reliability. Then, according to MEIBC/United, PIMs may be utilized to encourage additional improvements. However, MEIBC/United contend that it is “important to ensure that the PIMs do not unnecessarily drive capital investment, which already provides the utility with a financial reward that is independent of how those investments ultimately impact reliability.” *Id.*, p. 3. MEIBC/United suggest that the Commission also explore other types of financial incentives that consider new and innovative methods of improving reliability such as customer or third-party-owned distributed energy resources (DERs).

11. Natural Resources Defense Council and Strategen

NRDC comments that the straw proposal “lacks key details regarding how the targets will work in operation, and more information is needed for interested persons to comprehensively evaluate a reliability PIM framework,” such as definitions of terms for the performance targets. NRDC’s initial comments, p. 2. Although NRDC supports incentives for demand response or improved DER integration, NRDC asserts that core services such as reliability and customer service should be subject to penalties only.

NRDC requests that the Commission “consider locationally-specific measurement of reliability metrics,” and contends that the straw proposal should include “metrics, targets, and incentives explicitly focused on improving reliability outcomes for customers in Environmental Justice (EJ) communities.” *Id.*, p. 3. In addition, NRDC states that “the Commission’s framework for reliability PIMs will ultimately need to consider additional parameters, such as off-ramps or sunset provisions, penalty maximums, incentive dead bands, and other implementation specifics.” *Id.*, p. 4. NRDC asserts that the Commission should begin with an interim, reliability-focused performance-based-ratemaking framework and then, over the long-term, implement a holistic

performance-based-ratemaking process over the course of two phases, as described in its comments. *See, id.*, pp. 5-9.

12. Northstar Energy Analytics

NEA expresses concern that the straw proposal “favor[s] fossil fuel generation over renewables” and will slow the transition to carbon-free resources. NEA’s initial comments, p. 1.⁵ In addition, NEA asserts that a profit incentive will discourage utilities from adopting new business practices such as customer-owned DERs. NEA encourages the Commission to consider “alternative approaches to improving reliability.” *Id.*, p. 3.

13. Soulardarity and We Want Green Too

The DAAOs assert that the “straw proposal does not go far enough in aligning the amount of utility disincentives with the harm experienced by those impacted by poor reliability,” and they suggest that “the most appropriate mechanism for doing so is an hourly, automatic outage credit that a wide array of [interested persons] have supported in front of the Commission.” DAAOs’ initial comments, p. 1.⁶ The DAAOs provide a description of the proposed automatic outage credit and its benefits, and they assert that they are supportive of CUB’s comments on the straw proposal. *See, id.*, pp. 3, 5.

Reply Comments

1. Association of Businesses Advocating Tariff Equity

ABATE recommends that the Commission modify its straw proposal consistent with the Attorney General’s SIIM proposal but with the following changes:

⁵ NEA’s initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

⁶ The DAAOs’ initial comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

- Consistent with Mich. Admin Code R 460.741 and R 460.742 (“Rules 41 and 42”), if an electric utility has failed to exceed any of the Commission’s service quality and reliability standards for a given year, it should not be entitled to receive a net incentive payment for that year regardless of whether its achieved performance under the SIIM proposal for that year exceeds 100%; and
- Each electric utility, in addition to reporting its performance for each metric under the SIIM for its customers as whole, should for informational purposes also report its performance for each metric by customer delivery voltage level class (i.e., transmission, subtransmission, primary and secondary) where it is possible to do so.

ABATE’s reply comments, p. 2.

2. Citizens Utility Board of Michigan

CUB objects to Consumers’ request to exclude the CAIDI (MED only) metric. In addition, CUB disputes Consumers’ claim that it is unfair to punish the utility for weather events outside of the utility’s control without providing the utility with the opportunity and funds to improve the distribution system. In CUB’s opinion, “Consumers Energy, and other utilities, have been warned again and again over the past few years by testimony from a number of groups, including CUB, that they have chronically underinvested in low-capital cost reliability measures that are proven to improve reliability, and in particular, decrease outages caused by severe weather like storms that occur on MEDs.” CUB’s reply comments, p. 1 (footnotes omitted).⁷

CUB notes that Consumers argued that a CAIDI (MED only) metric will cause utilities to focus on reducing average restoration time instead of critical safety issues. CUB states that “[r]ather than throwing out the potentially useful tool of MED-only CAIDI as a metric, [CUB] suggest[s] that the workgroup instead hold special sessions examining potential unintended consequences of this metric, as well as all other proposed metrics, and determine if additional

⁷ CUB’s reply comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

performance mechanisms are needed to address these unintended consequences.” *Id.*, p. 2. CUB also recommends that the workgroup consider an affordability metric and penalties that can be paid as bill credits to customers affected by outages.

In response to DTE Electric’s request that “a one-year industry median should be used as the target for metrics rather than a trailing, five-year average,” CUB states that DTE Electric “gives no reason to oppose the five-year average other than that it is more stringent than the utility’s preferred alternative.” *Id.*, p. 3. CUB contends that a more stringent target is beneficial because it will improve reliability in Michigan.

3. Consumers Energy Company

Consumers supports the Attorney General’s proposed changes to the straw proposal but provides several additions:

1. Time must be provided to incorporate information from newly filed distribution reliability plans and the ongoing third-party distribution audit. The Commission should rely on the Company’s Reliability Roadmap and learnings from the distribution audit to create an informed and reasonable performance based ratemaking . . . mechanism.
2. Selected metrics should be scrutinized to ensure they properly incentivize reliability performance improvement without compromising coworker and public safety.
3. The mechanism should be symmetrical allowing for both incentives and penalties. The [Attorney General] notes in its comments that symmetry is essential to properly focus the attention of the utilities. The Company agrees and submits that this important principle should be included in a framework for establishing a [performance-based ratemaking] mechanism.
4. Timely rate recovery of reliability spending, inclusive of capital and O&M expense, needed to achieve performance metrics must also be assured when developing a mechanism of this nature.

Consumers’ reply comments, pp. 2-3. In addition, Consumers proposes several changes to the framework put forward by the Attorney General, including:

1. The Company supports eight metrics for use in the mechanism as compared to the 10 included in the [Attorney General]’s proposed mechanism. The Company’s mechanism included all of the [Attorney General]’s proposed metrics with the exception of the “customers with outages of 5 hours plus” metric and the “service restoration costs” metric.
2. The Company does not agree with the metric targets proposed by the [Attorney General] for the CAT 24, CAT 48, CAT 72, and Non-CAT 24 hour restoration time metrics.
3. The Company proposes a different calculation of the base to be used in setting the incentive or disincentive.
4. The Company proposes to cap any incentive or disincentive, inclusive of other applicable penalties associated with distribution performance, at \$5 million per year, in total (i.e., not per measure).

Id., p. 4.

Consumers disagrees with MEIBC/United, the CEOs, GLREA, the NRDC, and ABATE that the Commission should approve a penalty-only structure; rather, Consumers asserts that the incentives and disincentives should be symmetrical to properly encourage target distribution performance. Consumers also objects to ABATE’s comments on cost allocation because, in Consumers’ opinion, it is beyond the scope of this proceeding. Similarly, Consumers contends that MEIBC/United’s suggestion to explore alternative financial incentives for improving reliability and the CEOs’ request to approve metrics that focus on low-income renewable adoption and grid access are outside the scope of this case. *See, id.*, p. 10. And rather than examining EJ issues in the context of performance-based ratemaking, Consumers asserts that the Commission should address those issues in the Energy Affordability and Accessibility Collaborative.

Finally, Consumers disagrees with MEIBC/United that financial incentives drive utilities to make unnecessary capital investments. Consumers states that it provided the Commission with a “Reliability Roadmap” that describes reliability investments, including investments in EJ communities, and “O&M expense needed to meet reliability improvement expectations.”

Consumers’ reply comments, p. 13. Consumers asserts that the “Reliability Roadmap should be reviewed, critiqued, and approved [by the Commission] to create a base for investments,” and contends that “[t]his step is critical for completion prior to the setting of [performance-based ratemaking] metrics and should stand as the basis for setting reasonable glidepaths for metric targets.” *Id.* Consumers reiterates that it cannot improve its distribution system without timely cost recovery.

4. DTE Electric Company

DTE Electric argues that symmetry for incentive design is important because it “helps ensure a balanced plan when considering all metrics in all forums.” DTE Electric’s reply comments, p. 1.⁸ DTE Electric disagrees with commenters that Rule 41 precludes the Commission from approving symmetrical incentives “unless all of the standard[s] contained in the SQRS are met.” *Id.* DTE Electric contends that the Commission may waive Rule 41 in whole, or in part, to ensure that the approved performance-based ratemaking mechanism is robust and fair. In addition, DTE Electric asserts that benchmarking can inform performance-based ratemaking in Michigan.

DTE Electric notes that it supports the comments made by Consumers—specifically that the Commission should consider input from interested persons, that incentives should be symmetrical and reasonable, and that targets should reflect company performance, offer reasonable interim goals, and be consistent with reliability investments set forth in distribution investment plans and approved general rate cases. Regarding the Attorney General’s comments, DTE Electric supports her request that the initial application of performance-based ratemaking be simple. However, DTE

⁸ DTE Electric’s reply comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

Electric objects to the Attorney General’s proposed Award and Penalty Revenue Requirement Base because DTE Electric does not calculate or report this financial measure.

In response to ABATE’s proposal that utilities must achieve all six standards in Rule 22 to receive an incentive, DTE Electric disagrees, asserting that utilities should not “be judged on the performance of the [performance-based ratemaking] metrics” and “then again be judged on the SQRS, which were contemplated outside of the [performance-based ratemaking] framework.” DTE Electric’s reply comments, p. 4. DTE Electric also objects to ABATE’s suggestion that incentives be linked to the utility’s ROE because an annual determination of performance related to performance-based ratemaking metrics is not the appropriate forum to consider ROE matters.

DTE Electric notes that MEIBC/United commented that additional metrics beyond reliability should be included. DTE Electric asserts that “the Commission’s current reliability focus is appropriate at this time given the Commission’s previous guidance, the overall simplicity of one primary topic within an initial [performance-based ratemaking] implementation, and the acknowledgement that there is opportunity for improvement.” *Id.*, p. 5. Replying to the CEOs, DTE Electric agrees that a measured implementation of performance-based ratemaking is appropriate, but disagrees with the CEOs that incentives should be tied to ROE. *Id.*

5. The Ecology Center, the Environmental Law and Policy Center, Union of Concerned Scientists, and Vote Solar

The CEOs reiterate that the Commission should adopt metrics that specifically focus on equity and EJ. To accomplish this, the CEOs recommend that equity metrics could be structured to “directly compar[e] reliability performance between EJ communities and non-EJ areas with similar grid topology.” CEOs’ reply comments, p. 3. In the alternative, the CEOs suggest establishing reliability improvement targets for EJ communities that are separate from systemwide metrics. The CEOs also recommend using regression analysis to “directly measure the

relationship between reliability outcomes and demographic factors like income and race.” *Id.*, p. 4.

Next, the CEOs note that they agree with CUB and the DAAOs that customers should be provided with direct outage credits for poor reliability. The CEOs assert that “additional work is needed to quantify the financial impact of outages, especially lengthy disruptions, on environmental justice communities.” *Id.*, p. 6. In addition, the CEOs state that symmetrical incentives and disincentives are appropriate when the utilities have achieved reasonable reliability. The CEOs argue that contested distribution plans should be tied to any PIMs that are approved in this case because it “would provide accountability through both planning and incentives without over-emphasizing unproven [performance-based ratemaking] frameworks.” *Id.*, p. 7.

6. Indiana Michigan Power Company

I&M replies that the Commission should:

evaluate what is being done in other states to establish regulatory mechanisms that focus on prioritizing distribution investments, allowing for detailed review and approval of long-term distribution investment plans, and providing for timely regulatory mechanisms that encourage investments in grid modernization, replacing aging infrastructure, and back office systems to integrate distributed energy resources. The narrow and pre-determined focus on penalizing utilities is short-sighted and is missing a significant opportunity to improve the long-term reliability of the electric grid in Michigan.

I&M’s reply comments, p. 1. In addition, I&M states that each utility should have individual reliability targets, and notes that each utility will require different levels of investment to achieve the targets, which could involve long-term, sustained investment. Accordingly, I&M recommends that for the five-year distribution planning process, the Commission should “provide the utilities with an opportunity to make long-term commitments to vendors and contractors to supply the resources necessary to implement reliability plans approved by the [Commission].” *Id.*, p. 2.

I&M states that “[t]he Commission should reject suggestions that there should be higher reliability standards for low-income or at-risk populations. I&M views all customers as equal and as such each customer should be afforded safe, reliable and resilient power.” *Id.*

Next, if system performance metrics are used for reliability metrics, I&M asserts that SAIDI and SAIFI “are commonly used for evaluating overall year to year performance of a utility and for providing comparative analysis with peer/industry averages. Evaluating the trends of these metrics is particularly informative.” *Id.*, p. 3. I&M notes that metrics such as CEMI and customers experiencing long interruption duration could be used with SAIDI and SAIFI to assist the utility in identifying isolated repeated reliability issues. However, I&M objects to using CAIDI because it is “very nuanced and can be misinterpreted if not understood correctly.” *Id.* If the Commission decides not to use SAIDI and SAIFI, I&M provides suggestions for the Commission’s use of CAIDI (excluding MEDs, in minutes), CAIDI (only MEDs), CEMI₄, CEMI₇, worst performing circuits, and interim and long-term timelines. *See, id.*, pp. 3-4.

Finally, I&M requests that in the event a utility fails to meet a metric, the utility should be required to file a report with the Commission and to discuss the issue with the Staff prior to the assessment of a penalty, if any.

7. Michigan Department of Attorney General

In response to ABATE’s comment that the utilities must achieve all six standards in Rule 22 to receive an incentive, the Attorney General states that “[a]lthough the rule and ABATE’s comments are well-meaning, they do not reflect the realities of an effective mechanism of financial incentives and penalties focused on achieving improvement in utility performance with the current state of the electric distribution systems in Michigan.” Attorney General’s reply comments, p. 2. The Attorney General asserts that if the performance metrics are properly

designed, the utility should be encouraged to exceed the minimum standards and be rewarded for doing so, or in the alternative, penalized for not meeting the target performance metrics. In addition, the Attorney General disagrees with ABATE that “the cost for any additional rate relief provided to a utility for an incentive should be allocated to the customer classes that benefit from the incentive being provided.” *Id.*, p. 3. The Attorney General asserts that this proposal would pit customer groups against one another, which is unproductive and unnecessary. However, the Attorney General agrees with ABATE that utilities should only receive incentives for superior performance and that incentives “should be limited to no more than an authorized ROE adjustment for the return on distribution plant that does not exceed the upper range of reasonableness for ROE.” *Id.* Furthermore, the Attorney General agrees with ABATE that no additional incentives should be paid to the utility if it is already earning in excess of its authorized ROE, including the incentive. *Id.*

In response to Consumers’ claims that there may be legal and procedural obstacles to implementing performance-based ratemaking, the Attorney General states that she “believes that the Commission has legal authority to overlay certain forms of performance-based financial incentives and penalties over the traditional cost of service ratemaking methodology traditionally used in setting customer rates.” *Id.*, pp. 3-4. Additionally, the Attorney General contends that the Commission has taken a deliberate approach to structuring an appropriate mechanism with input from interested persons through comments and in workgroup meetings.

The Attorney General also replies to several other issues identified by Consumers. Regarding the concern that the proposed performance metrics are duplicative of the SQRS, the Attorney General disagrees, asserting that the SQRS do not have incentives/disincentives—only customer bill credits for extreme situations. Next, the Attorney General states that SAIDI (with MEDs) is

commonly used as a performance metric and that Consumers will not be “held accountable for uncontrollable weather.” Attorney General’s reply comments, p. 5. In response to Consumers’ proposal to limit penalties and incentives to \$5 million, the Attorney General objects, contending that “[t]he \$5 million maximum amount is not sufficiently meaningful to provide the necessary incentive to drive improved performance.” *Id.*, p. 6. Further, the Attorney General requests that the Commission reject Consumers’ proposal that the Commission review and approve the company’s Electric Distribution Infrastructure Investment Plan and Service Restoration Cost Recovery Mechanism in a contested case filed every three years because the Attorney General argues that those issues should be examined in a rate case. Finally, although the Attorney General appreciates Consumers’ support of the SIIM, she objects to Consumers’ proposed changes to the SIIM.

In response to DTE Electric, the Attorney General disagrees with the use of a SAIFI metric because “SAIFI is part of SAIDI and SAIDI is a more comprehensive metric that also includes CAIDI.” *Id.*, p. 7. Similarly, the Attorney General objects to DTE Electric’s proposal to use CEMI₆ because CEMI₅ or CEMI₄ are more appropriate for reducing repetitive outages. The Attorney General also disagrees with DTE Electric’s use of an Average System Availability Index (ASAI) because it is not widely used in the industry and is not easily used to improve system reliability.

Regarding DTE Electric’s suggestion that the incentive/penalty mechanism be reviewed every two years, the Attorney General contends that it should “be done after sufficient time and cycles of actual performance have occurred.” *Id.* The Attorney General also objects to DTE Electric’s proposal that the incentive/penalty mechanism be designed so that each metric has a simple pass/fail result. The Attorney General argues that this approach “fails to provide an overall

performance score for the year, and significant shortfalls or improvements in specific metrics would be obscured and not considered in the overall performance for the year.” *Id.*, p. 8.

8. Michigan Energy Innovation Business Council and Advanced Energy United

In reply to Consumers, MEIBC/United state that they “disagree with [the] proposal for a ‘Tree Trimming/Line Clearing Miles’ PIM. Not only is proper vegetation management a basic utility function for which it receives recovery of costs, but it is clearly an input-related activity for which the utility should not be eligible to receive a performance-based financial incentive.”

MEIBC/United’s reply comments, p. 2 (quoting Consumers’ initial comments, p. 38).

9. Natural Resources Defense Council and Strategen

NRDC reiterates the recommendations set forth in its initial comments. *See*, NRDC’s reply comments, pp. 2-4.⁹ NRDC also states that the Attorney General’s SIIM “provides a framework utilizing annual performance improvement targets, and a starting point for discussion.” *Id.*, p. 4. To begin, NRDC asserts that it supports the straw proposal’s use of CAIDI and SAIFI metrics and disagrees with the utilities’ and the Attorney General’s suggestion to use SAIDI. However, NRDC agrees with the utilities and the Attorney General that only one CEMI metric should be used in the PIM framework. NRDC recommends that all CEMI metrics, including CEMI₄ through CEMI₇, should be publicly reported. In addition, NRDC supports the Attorney General’s recommendation to include “Customers with Outages of 5 Hours Plus as a metric within the framework,” “Catastrophic and Non-Catastrophic Conditions Restoration Time,” and “Tree Trimming/Line Clearing Miles” metrics. *Id.*, pp. 5-6 (emphasis omitted). Further, NRDC objects to DTE

⁹ NRDC’s reply comments are not paginated. The Commission clarifies that page 1 starts in natural order with the first page of the comments.

Electric's proposed use of ASAI and the Attorney General's suggestion to include service restoration costs as additional metrics.

NRDC asserts that "additional discussion of the 'Worst Performing Circuits' PIM is required before determining whether it is appropriate to include in the reliability PIM framework." *Id.*, p. 6. Finally, NRDC recommends that the Commission include a reliability metric that focuses specifically on improving reliability for EJ and other disadvantaged communities. NRDC agrees with the CEOs' suggestion to design metrics that overlay annual improvement goals with locationally specific areas.

10. Soulardarity and We Want Green Too

The DAAOs reiterate the concerns and recommendations set forth in their initial comments. *See*, DAAOs' reply comments, p. 2. The DAAOs state that if the Attorney General's proposed SIIM were approved, "each metric considered should have an equity modifier. It should weigh the average system performance on that modifier to the extent that performance holds equal across dimensions of race, wealth, and geography. The nuance of the differences across these demographic factors may otherwise be lost in system average data." *Id.*, p. 3. The DAAOs also support the affordability suggestions provided by CUB, the proposed new technology in vulnerable communities recommendations provided by GLREA, and the survey data provided by J.D. Power.

The DAAOs disagree with Consumers' and DTE Electric's proposed symmetrical incentives/disincentives approach because the utilities have yet to exceed minimum reliability standards. The DAAOs state that "[b]oth utilities have invested hundreds of millions of dollars in infrastructure in recent years and should be expected to show what value customers have gotten

for it. Until reliability reaches at least the average of fellow utilities in the region, only disincentives should be applied.” *Id.*, p. 4.

Finally, the DAAOs encourage the Commission “to include automatic, hourly outage credits as part of this reliability improvement effort to mitigate harm from outages and equalize the disparate customer experience.” *Id.*, p. 5. The DAAOs “support the recoverability of those credits being determined by evaluation of an array of performance criteria.” *Id.*

The Commission Staff’s Status Report

On December 19, 2023, the Staff filed comments in this docket (December 19 comments) noting that in the April 24 order, the Commission directed the Staff to file a report in this docket by December 31, 2023, on the status of the investigations of the Financial Incentives and Disincentives workgroup. The Staff states that attached to the comments is a status report that includes proposed revisions to the initial straw proposal in response to initial and reply comments, as well as meetings with interested persons held on October 10, 2023, and November 30, 2023. The Staff notes that interested persons requested an opportunity to provide comments on the revised straw proposal and recommended that the Commission seek additional rounds of comment to that end. In addition, the Staff states that it intends to hold another session on this topic with interested persons on February 12, 2024. The Staff contends that specific feedback from interested persons would be useful related to the following subjects:

- Feedback on revised metrics
- Incentive/disincentive potential
 - Allocation by metric
 - Symmetric incentives for SAIDI and storm response metrics
- Focus area for worst performing circuit metric (system- vs. circuit-level)

December 19 comments, p. 3.

In addition, the Staff notes that the Commission may also wish to invite comment on other issues related to the revised straw proposal interested persons would like to provide.

Discussion

After a review of the comments, the Commission notes that many comments were filed by citizens who expressed significant concern and dismay regarding electric reliability issues and rate affordability in their Michigan communities and who generally support the straw proposal for distribution performance metrics and an incentive/disincentive mechanism. In addition, the Commission reviewed the comments filed by utilities, the Attorney General, and other organizations, including the range of suggestions for modifying the straw proposal. The Commission also reviewed the status report and revised straw proposal filed by the Staff and finds merit in receiving comments on the revised straw proposal and convening another engagement session with interested persons to allow for reaction and feedback.

Therefore, the Commission directs the Staff to schedule an engagement session to receive additional feedback from interested persons, and that this session be convened by February 12, 2024.

The Commission invites interested persons to comment on the revised straw proposal. The Commission solicits comments from interested persons on the following subjects recommended by the Staff in the revised straw proposal, as well as equity considerations and any other issues related to the revised straw proposal interested persons would like to provide:

- Feedback on revised metrics
- Incentive/disincentive potential

- Allocation by metric
- Symmetric incentives for SAIDI and storm response metrics
- Focus area for worst performing circuit metric (system- vs. circuit-level)

Written and electronic comments are due no later than 5:00 p.m. (Eastern time (ET)) on February 2, 2024. Written and electronic reply comments must be received no later than 5:00 p.m. (ET) on March 1, 2024. The written and electronic comments should be paginated and reference Case No. U-21400. Written comments and reply comments should be mailed to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. Comments submitted in electronic format may be filed via the Commission's E-Docket website, or for those persons without an E-dockets account, via e-mail to mpscdockets@michigan.gov. Any person requiring assistance prior to filing may contact the Staff at (517) 284-8090 or by e-mail at mpscdockets@michigan.gov. All comments submitted to the Commission in this matter will be filed in Case No. U-21400 and will become public information available on the Commission's website and subject to disclosure.

To keep the Commission apprised of developments regarding the workgroup's investigations and findings, the Staff shall file a report in this docket no later than 5:00 p.m. (ET) on May 3, 2024.

THEREFORE, IT IS ORDERED that:

A. The Commission Staff shall convene an additional engagement session with interested persons to discuss the revised straw proposal by February 12, 2024.

B. Any interested person may file comments in Case No. U-21400 regarding the revised straw proposal. Comments must be received no later than 5:00 p.m. (Eastern time) on February 2, 2024.

Reply comments must be received no later than 5:00 p.m. (Eastern time) on March 1, 2024.

C. The Commission Staff shall file a report on the Financial Incentives and Disincentives workgroup's investigations and findings in this docket no later than 5:00 p.m. (Eastern time) on May 3, 2024.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of December 21, 2023.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

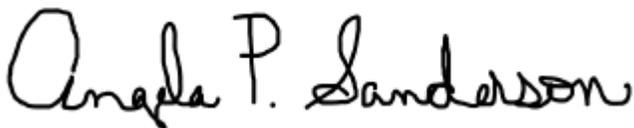
Case No. U-21400

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 21, 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 21st day of December 2023.



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

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Realgy Energy Services

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Santana Energy

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Wood, Amanda

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