

**STATE OF MICHIGAN
MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter, on the Commission’s own)	
motion, to open a docket to establish a)	
workgroup to review and consider issues)	Case No. U-21400
related to the creation of financial incentives)	
and penalties involving outages and)	
distribution performance.)	

**JOINT COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL,
MICHIGAN ENVIRONMENTAL COUNCIL, SIERRA CLUB,
AND STRATEGEN**

I. INTRODUCTION

The Natural Resources Defense Council (NRDC), Michigan Environmental Council (MEC), Sierra Club, and Strategen appreciate the opportunity to submit these comments regarding the Michigan Public Service Commission’s (MPSC or Commission) December 19, 2023 request for feedback on the revised straw proposal (Attachment A to the comments).

We appreciate the Commission’s continued iteration on the straw proposal and herein provide feedback regarding the reasonableness of the proposed framework and its underlying components. We also appreciate the Commission’s acknowledgement that in its next steps in this proceeding, it will build on the initial framework by incorporating other performance dimensions, such as resilience and grid modernization. We recommend the Commission build on the initial framework by initiating a more comprehensive PBR proceeding that can allow the state’s ratemaking approach to better align with the policy objectives of the state, and the regulatory outcomes that Michigan customers desire.

We note that reliability is just one of several important considerations as utilities plan for the future grid, and the forthcoming utility Distribution System Plans (DSPs) must be designed to not just meet reliability targets, but also prepare for quickly-emerging grid needs—such as electric vehicles and increased proliferation of DER—while maintaining affordable rates for Michigan customers. A broader, more comprehensive review of the ratemaking approach in

Michigan will be needed to ensure the state’s policy goals and the needs of customers will be met.

We discuss herein our initial recommendations related to the revised straw proposal.

II. RECOMMENDATIONS REGARDING THE REVISED STRAW PROPOSAL

As is currently structured, we strongly oppose the revised straw proposal for four primary reasons.

First, the framework continues to include significant potential incentives for improved reliability performance – specifically, up to 80% of the total pool of dollars. Throughout this proceeding, the majority of stakeholders have continually advocated for penalty-only approaches, noting that Michigan utilities should not be rewarded for improving their already-poor reliability metrics to a barely acceptable level of reliability.

Second, while the straw proposal acknowledges that “many stakeholders advocated for “downside only” metrics that penalize utilities for failing to meet reliability benchmarks”,¹ this revision to the initial straw proposal does the exact opposite, creating a much more utility-friendly framework. Specifically, the initial straw proposal included six metrics within the framework – three of which were symmetrical (upside and downside potential), and three of which were penalty-only. The revised straw proposal now contains four total metrics, only one of which is penalty-only (at 20% of the total pool). Not only does the revised straw proposal fail to exclude incentives, it in fact provides a greater proportion of incentives for utilities than was contemplated under the original proposal.

Third, the revised straw proposal removed all CEMI metrics, which are key to understanding the customer-level impact of significant, sustained outages. The CEMI metrics were initially included as penalty-only, and therefore the removal of CEMI metrics from the straw proposal further weights the proposed framework towards providing Michigan utilities with new financial incentives to improve their performance in an area where they have vastly underperformed in the last decade, to the detriment of Michigan utility customers. The revised straw proposal also continues to exclude any metrics with an equity component, which should be remedied.

¹ Revised Straw Proposal, at 2.

Finally, the proposed approach to determining target performance, and therefore the incentive, for the Storm Restoration metric is unreasonable, as it allows the utilities to earn an incentive for work they are already doing, at the current level with which they are doing it.

A. The framework should not include financial incentives for basic utility service

The Michigan utilities already receive some of the highest Returns on Equity (ROE) among Midwest utilities in the U.S. In return, Michigan customers receive unreliable service. Despite the utilities' legal obligation to provide reliable electric service, they have failed to adequately do so for over a decade. Reliability is a core service offering for all utilities, and as such, providing additional financial incentives to utilities to improve their poor reliability, is misaligned with the interests of Michiganders.

Limiting reliability PIMs to penalty-only is consistent with other stakeholder feedback. In initial comments and during the stakeholder session, the majority of commenters recommended that the utilities not be provided additional incentives for achieving the minimum reliability standards they are legally required to provide—and have consistently failed to provide. Best practices from other jurisdictions demonstrate that reliability PIMs should include penalties only.

Symmetric incentives warrant consideration in the next phase of this proceeding, and for more emergent areas of utility performance, such as demand response, or improvements to DER integration. We continue to strongly oppose any framework that provides incentives to utilities for enhanced reliability, and firmly believe that the avoidance of penalties provides reason enough for utility to undertake significant reliability improvements.

B. If the Commission opts to include incentives, they should be more limited

As noted above, most stakeholders recommended penalty-only PIMs in the initial phase of this proceeding. Though discussion in the revised straw proposal acknowledges this majority opinion, this new framework does the opposite, by including a greater proportion of symmetric incentives than the prior version included. In the initial straw, half of the proposed metrics would be penalty-only, and the other half symmetric. In the revised straw proposal, 80% of the pool of funds are proposed for symmetrical incentives, and only 20% are proposed for penalty-only. Not only does the revised straw proposal ignore most parties' recommendation to remove symmetrical incentives, it now includes a higher proportion of symmetrical incentives than the original.

The Commission's rationale behind making its PIMs proposal even more utility-friendly than the original is unclear. If the Commission ultimately adopts a PIM framework with symmetrical incentives, those incentives should not make up 80% of the pool of funds. At most, symmetrical incentives should be included for one metric category, and should be capped at 25% of the total pool of funds.

C. The framework should include one CEMI metric

The revised straw proposal excludes all CEMI metrics, two of which were included in the original straw proposal – CEMI₄ and CEMI₇ – as penalty-only metrics. The utilities raised concerns regarding including CEMI metrics in this framework given potential overlap with the Service Quality Rules, which include a standard for CEMI₄. The Commission identified CEMI as a candidate metric because it could better address the subset of customers who experience more frequent interruptions than the system averages metrics indicate. The revised straw proposal also switched from a CAIDI-focused metrics approach to a SAIDI-focused metrics approach, further shifting away from a customer-focused lens and towards a system-focused lens. The entire purpose of this proceeding is to develop a framework that will improve reliability outcomes at the customer level, and not necessarily the system level. Removing CEMI and CAIDI, and including exclusively system level metrics in the revised straw proposal results in an approach that fails to consider customer-level impacts, especially for those customers who are impacted the most (i.e., CEMI₄ customers). The fact that the Service Quality Rules contain a CEMI standard that can result in a bill credit does not prohibit the Commission from adopting a distinct penalty associated with poor performance.

Furthermore, the revised straw proposal also continues to exclude any metric that focused on reliability equity, as we and several other stakeholders have recommended throughout the proceeding. The revised straw proposal clarifies that such considerations will come in subsequent phases of the proceeding, however we continue to recommend including a metric that focuses explicitly on improving reliability outcomes for customers in disadvantaged or underserved communities in this iteration of the framework. Even Consumers Energy's initial comments demonstrate the need for an equity-focused metric and PIM, as Consumers raises concerns that customers in environmental justice communities may be left behind in terms of reliability improvements under the Commission's proposed framework.²

D. If the Commission opts to include Storm Restoration incentives, the approach to determining target performance must be modified

48-hour Storm Restoration is one of the four metrics included within the revised straw proposal. Referring to recent data, the revised straw proposal notes that “DTE’s performance [with regard to storm restoration] has improved 5%/yr. from 2021-2023”,² which was used to develop the incentive threshold. The revised straw proposal adds that “to earn an incentive, utilities would need to surpass this annual improvement rate.”³ In other words, under the revised straw proposal, if the utilities continue to make improvements to storm restoration just barely exceeding their most recent annual 5% improvement rate (i.e., 5.1%), they will now receive a financial incentive for doing so, where they would not have in the past. Clearly, the utilities are already undergoing efforts to improve storm restoration, and therefore, providing a new financial incentive for the utilities to do the same level of work they were prior is unreasonable and unnecessarily burdensome for Michigan ratepayers.

B. CONCLUSION

Without significant modifications, as discussed above, we do not support the adoption of the revised straw proposal in framework. We recommend that the Commission further revise the straw proposal to better align with the feedback provided by the majority of stakeholders, removing incentives and more directly incorporating real-world customer impacts into another iteration of the straw proposal. We appreciate the opportunity to submit these initial comments and look forward to the stakeholder engagement session and reply comments.

² Revised Straw Proposal, at 5.

³ *Id.*