

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own)	
motion, to investigate opportunities for improving)	
the process by which it reviews applications)	Case No. U-21637
filed under MCL 460.6a.)	
_____)	

At the May 23, 2024 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 AND OPPORTUNITY TO COMMENT

On November 28, 2023, Governor Gretchen Whitmer signed Public Act 231 of 2023 (Act 231), which became effective on February 13, 2024. Section 6aa(3) of Act 231, MCL 460.6aa(3), provides that “[n]ot later than June 1, 2024, the commission shall open a proceeding to investigate opportunities for improving the process by which it reviews applications filed under section 6a.” “Section 6a” refers to MCL 460.6a, which governs the rate case process. The Commission opens the instant docket for the purpose of conducting this investigation into improving the rate case process.

The Commission’s process for reviewing rate case applications was significantly altered when Public Act 341 of 2016 (Act 341) was signed into law. Section 6a(5) of Act 341, MCL 460.6a(5), reduced the amount of time available to the Commission and the Commission

Staff (Staff) to process electric, natural gas, and steam general rate cases from 12 months to 10 months. Notably, MCL 460.6a(5) states that, subject to limited exceptions, “if the commission fails to reach a final decision with respect to a completed petition or application to increase or decrease utility rates within the 10-month period following the filing of the completed petition or application, the petition or application is considered approved.” This timeline can be extended, but only at the request of the filing utility.

Over the last seven years (while processing these cases within this compressed timeframe) the cases themselves have undergone an extraordinary expansion in size, particularly with respect to Michigan’s two largest investor owned utilities (IOUs), Consumers Energy Company and DTE Electric Company (DTE Electric). To provide a single example, DTE Electric’s 2016 electric rate case, Case No. U-18014, involved 31 parties, 45 witnesses, and 2,031 pages of testimony, and resulted in a 332-page Proposal for Decision (PFD) and a 205-page final order. By comparison, DTE Electric’s 2023 electric rate case, Case No. U-21297, involved 69 parties, 85 witnesses, and 4,227 pages of testimony, and resulted in an 876-page PFD and a 481-page final order. This trend of expanding case record volume is reflected in virtually every rate case filed since 2016 and has clearly put a strain on the resources of all of the parties involved in these cases, including the Commission and its Staff.

As such, the Commission welcomes the opportunity to investigate how the experience of litigating and deciding these cases can be improved, streamlined, or simplified. At the same time, the Commission continues to seek ways to enhance the opportunity for any interested person to participate in these matters and to improve the ability of the ratepaying public to understand the implications of these cases. Additionally, any rate case process improvement

should augment the Commission's ability to hear and decide each rate case issue in a just and reasonable manner, based on a sufficient evidentiary record.

In an effort to rein in the uncontrolled expansion just described, the Commission has been able (in some cases) to move particular issues to other proceedings, such as expedited pilots, distribution investment and maintenance plans, and transportation electrification plans. The Commission has also attempted to use the Rate Case Filing Requirements (RCFR) to bring as much predictability, structure, and organization as possible to these cases while ensuring the creation of an adequate record. However, not all aspects of the rate case process are within the Commission's control, most notably the statutory 10-month decision window and the date that a utility chooses for filing its application.¹ Nevertheless, the Commission does not want to limit the issues explored in this docket to only those within the Commission's ability to change, as it may be helpful to identify beneficial or necessary process changes that lie within the jurisdiction of other entities. Thus, the Commission seeks comment on a variety of process issues.

The Commission begins this investigation by inviting comment on the following issues:

1. Does the current 10-month statutory timeframe serve the best interests of utility customers? If not, what is the appropriate timeframe?
2. Should there be a minimum amount of time between rate case filings (longer than the current 12-month requirement) in order to allow evaluation of the actions directed in the utility's previous rate case order? If so, what should the minimum time be and how would it be implemented? Should there be additional measures requiring rate cases to be spaced further apart?
3. Should utilities file multi-year rate plans instead of making annual rate case filings? If so, how would this be implemented?
4. Are there issues that would benefit from being heard and decided in separate proceedings? If so, what are the issues? Would legislation be required in order to

¹ MCL 460.6a(6) provides that a utility may file an application for an increase in rates every 12 months, and MCL 460.6a(1) allows the Commission to require the two largest electric IOUs to space their rate case filings at least 21 days apart.

move these issues out of rate cases or to address and resolve the issues identified for separate proceedings? How would this affect the holistic review of rates?

5. Does the fully projected test year serve the best interests of utility customers? If not, how should it be modified or replaced, and how would any changes be implemented?

6. How can equity and environmental justice issues be better integrated into rate cases?

7. Does the current rate case process provide sufficient opportunities for participation by interested persons? If not, how could the process be improved to lower barriers and promote greater participation and transparency? Are there potential guidelines that could be shared with intervenors that would help to manage the case record?

8. Are there administrative changes to the contested case process that could result in additional improvements such as shorter notice requirements or page limits? Other additions to the RCFR?

9. What other improvements to the rate case process should be considered by the Commission or other entities?

Any person may submit written initial and reply comments on the enumerated issues or other issues. All comments should be paginated and must reference Case No. U-21637. Initial comments must be received no later than 5:00 p.m. (Eastern time) on July 23, 2024, and reply comments must be received no later than 5:00 p.m. (Eastern time) on August 23, 2024. Written comments should be mailed to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909. Comments submitted in electronic format may be filed via the Commission's E-Dockets website or, for those persons without an E-Dockets account, via e-mail to LARA-MPSC-Edockets@michigan.gov, or via the Submit Comments option located within the E-docket file for the case. Any person requiring assistance prior to filing comments may contact the Staff at (517) 284-8090. All filed comments will become public information available on the Commission's E-dockets website (either under the Filings or Case Comments section) and will be subject to disclosure.

THEREFORE, IT IS ORDERED that any person may file written comments on rate case process improvements. To be considered, initial comments must be filed no later than 5:00 p.m. (Eastern time) on July 23, 2024, and reply comments must be filed no later than 5:00 p.m. (Eastern time) on August 23, 2024, and all comments should be paginated and should reference Case No. U-21637.

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 May 23, 2024.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

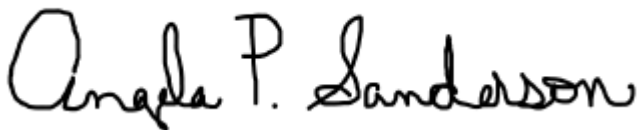
Case No. U-21637

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on May 23, 2024 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 23rd day of May 2024.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

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Realgy Energy Services

Santana Energy

Santana Energy

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Stephenson Utilities Department

Superior Energy Company

Texas Retail Energy, LLC

Thumb Electric Cooperative

Upper Michigan Energy Resources Corporation

Upper Michigan Energy Resources Corporation

Upper Peninsula Power Company

Upper Peninsula Power Company

Village of Baraga

Village of Clinton

Volunteer Energy Services

Wabash Valley Power

Wolverine Power

Wood, Amanda

Xcel Energy

Xcel Energy