



MPSC STAFF DRAFT PROPOSAL

October 30, 2025

Pursuant to the Order dated July 10, 2025 in Case No. U-21637

In its order dated May 23, 2024 in the instant case, the Commission (COM) discussed the extraordinary size of rate cases. Specifically, at pages 2-3, the Commission stated:

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.

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.

In its order dated July 10, 2025 in the instant case, the Commission discussed moving the issues of Cost of Service (COS) and Rate Design (RD) to a proceeding that is separate from the determination of the revenue requirement. Specifically, at page 37, the Commission stated:

The Commission also sees potential value in moving the issues of COS/RD to a proceeding that is separate from the determination of the revenue requirement (and possibly on a separate cadence from the revenue requirement proceeding). The Commission envisions a process by which issues relating to COS/RD would be revisited on a regular basis (18-month to five-year cadence) but would not need to be litigated as part of every individual rate case. In order to explore this issue further, the Commission directs the Staff to file a draft proposal exploring the concept of adopting a separate, standalone proceeding covering the issues of COS/RD. The draft proposal should provide options and articulate the Staff's thoughts on the options, in order to act as the starting point for a collaborative process.

In preparing this draft proposal, it is important to note the Staff starting point. This draft proposal does not attempt to address the question of whether the Commission should, or should not, implement a separation of the revenue requirement from the cost of service and rate design as outlined in the Commission order. This draft proposal is focused on exploring the best way to effectuate this type of separation for if/when the COM orders this separation.

Key Terms

As used in this proposal:

Traditional Rate Case (TRC): the current type of rate case in Michigan with revenue requirement and cost of service and rate design (COSRD) addressed at the same time in the same proceeding.

Revenue Requirement Rate Case (RRRC): a stand-alone case that would be filed by the utility seeking an increase to the revenue requirement. This case would not be revenue neutral and would result in a rate change to customers within the statutory deadline. This case would litigate a proposed increase to the revenue requirement as filed by the utility. The utility application and rate request (the RRRC) would be based on the currently approved cost of service and rate design at the time of filing.

Cost of Service and Rate Design Case (COSRDC): a stand-alone case that would be filed by the utility seeking a change to specific items of cost of service and rate design. This case would be revenue neutral to the utility and would be based on the most recent approved revenue requirement. Unlike the RRRC, this revenue neutral case would not have a statutory deadline.

Revenue Requirement Rate Case (RRRC) Details

The RRRC would be a stand-alone case filed by the utility seeking an increase to the revenue requirement. This case would not be revenue neutral and would result in a rate change to customers within the statutory deadline. This case would litigate a proposed increase to the revenue requirement as filed by the utility, and would be based on the currently approved COSRD at the time of filing to implement the new requirement.

Staff notes that any issues litigated in the RRRC would not be litigated in the COSRDC, and vice versa. It is imperative that an issue is only contested in one of the two proceedings, even when that item appears or is identified or flows into each case. An example of this concept is a depreciation rate that is contested in a separate depreciation case and the outcome of the depreciation case then flows into a TRC but is not contested or re-litigated in the TRC.

The RRRC would include the following contested revenue requirement items: rate base (including capital expenditures and working capital), cost of capital (including return on equity, debt/equity balances and rates), operating income (including sales forecast, revenues and expenses), jurisdictional vs non-jurisdictional revenue requirement allocation (to calculate jurisdictional revenue requirement), recovery mechanisms, projected test year, SRM, accounting requests, environmental justice, DEI, data privacy, safety, reliability, affordability, energy efficiency, distribution, delivery, and electrification plans.

Previously approved reg-assets would conform to prior approved functionalization, classification and allocation. For any newly proposed reg-assets that were not previously approved, the utility would utilize a reasonable method to functionalize, classify, and allocate the newly proposed reg-asset. This functionalization, classification, and allocation would not be contested during the RRRC, and would instead be contested in the subsequent COSRDC. The RRRC would litigate the approval or denial of the proposed reg-asset, as well as the total amount of the reg-asset.

RRRC Cost of Service: When filing a RRRC, the utility would use the most recent COM approved COS study incorporating the utility’s proposed revenue requirement for the historic and/or projected test period. Just as DTE and Consumers do at present, the utility would distribute proposed spending increases into each FERC account in the COS based upon actual historical amounts and ratios. The COS would continue to generate revenue requirements by rate class for production and distribution for rate design purposes. The utility would not make (or propose) any functionalization, classification or allocation method changes. The utility would only update and populate existing allocators with the determinants for the proposed test period. The following simplified examples in Figure 1 would not be considered allocation method changes even though the allocators change with the test-year forecasts:

Figure 1. Examples of Updated Allocators in RRRC

Energy at System Output Example (Annual kWh)

<u>Rate Class</u>	Approved		RRRC	
	2024	kWh	2026 Forecast	kWh
	<u>Annual kWh</u>	<u>Allocator</u>	<u>Annual kWh</u>	<u>Allocator</u>
Residential	10,000,000	0.3311	11,000,000	0.3531
Commercial	8,000,000	0.2649	8,500,000	0.2729
Primary	12,000,000	0.3974	11,500,000	0.3692
<u>Street Lighting</u>	<u>200,000</u>	<u>0.0066</u>	<u>150,000</u>	<u>0.0048</u>
Total	30,200,000	1.0000	31,150,000	1.0000

4 Coincident Peak (CP) Demand Example

<u>Rate Class</u>	Approved		RRRC	
	2024	4 CP	2026 Forecast	4 CP
	<u>4 CP (MW)</u>	<u>Allocator</u>	<u>4 CP (MW)</u>	<u>Allocator</u>
Residential	4,000	0.5188	3,800	0.4745
Commercial	2,000	0.2594	2,200	0.2747
Primary	1,700	0.2205	2,000	0.2498
<u>Street Lighting</u>	<u>10</u>	<u>0.0013</u>	<u>8</u>	<u>0.0010</u>
Total	7,710	1.0000	8,008	1.0000

RRRC Rate Design: When filing a RRRC, the utility would take the results from the RRRC cost of service study and calculate rates using its projected test-year sales forecast to collect the revenue requirement by rate class. The utility would not propose or incorporate any rate design methodology changes. The utility would update the rates to collect the new revenue requirements for production and distribution while maintaining ratios and relationships between rate components within each rate schedule. Where ratios and relationships depend on data that changes from year to year, those values would be updated without being a rate design change. For example, time-of-use rates currently utilizing Locational Marginal Price (LMP) differentials would be updated based upon most recent LMP data without being considered a rate design methodology change. See Figure 2. All customer charges would remain at currently approved levels in a RRRC and would be contested in the COSRDC.

Figure 2. Example of RRRC Rate Design

Residential Time-of-Use Rate Power Supply - Non-Capacity Charges				
	Present		Proposed	
	<u>Rate</u>	<u>Revenue</u>	<u>Rate</u>	<u>Revenue</u>
	LMP Differential		LMP Differential	
	1.66		1.65	
June - September				
On Peak	\$0.08004	\$70,993	\$0.08993	\$75,918
Off Peak	\$0.04822	\$218,654	\$0.05437	\$257,451
	LMP Differential		LMP Differential	
	1.17		1.18	
October - May				
On Peak	\$0.05644	\$60,833	\$0.06441	\$70,199
Off Peak	\$0.04822	\$349,521	\$0.05437	\$396,432
Non-Capacity Revenue Requirement		\$700,000		\$800,000

RRRC Tariff Changes: When filing a RRRC, the utility would not change (or propose changes) to tariff language. Tariff language changes would be proposed and contested in the COSRDC. The only changes made to the tariffs in the RRRC would be to update the rates necessary to collect the new revenue requirement.

Cost of Service and Rate Design Case (COSRDC) Details

The COSRDC would be a stand-alone case filed by the utility seeking a change to specific items of cost of service and rate design. This case would utilize the most recent approved revenue requirement. This case would be revenue neutral to the utility and would not increase the revenue requirement. Although revenue neutral to the utility, this case may or may not (likely would) result in rate changes to various classes or customers depending on the Commission's decisions in this case. Unlike the RRRC, this revenue neutral case would not have a statutory deadline. The COSRDC filing (and order) would incorporate the approved sales levels and revenue requirement from the RRRC order, the COSRDC would not re-litigate the revenue requirement or approved sales levels.

COSRDC Cost of Service: When filing a COSRDC, the utility would propose changes to its current COS study methodologies. All parties would then be able to agree, disagree, contest, or make alternate proposals in response to the utility filing. Some examples of COS methodology changes would include the following:

- 1) changing how costs are functionalized between production or distribution related
- 2) changing how costs are classified between customer, demand, or energy related
- 3) changing the method with which costs are allocated among the customer classes. An example would be changing the allocation of production-related capacity costs from its current 4 CP 75/0/25 method to a 4 CP 50/25/25 method. In this example, the first component is the average of the 4 summer monthly coincident peaks weighted at either 75% or 50%, the second component is a percentage weighting on energy use coincident to the MISO on-peak period, and the third component is a percentage weighting on total energy use.

COSRDC Rate Design: When filing a COSRDC, the utility would also propose any of its rate design methodology changes. All parties would then be able to agree, disagree, contest, or make alternate proposals in response to the utility filing. Some examples of rate design methodology changes would include the following:

- 1) Proposing a new rate
- 2) Eliminating an existing rate
- 3) Customer charge changes
- 4) Opt-out charges (such as AMI opt-out charges)
- 5) changing the structure of an existing rate. An example of a rate design structure change is included below in Figure 3. In this example, new demand charges are being proposed for power supply capacity and non-capacity.

Figure 3. Example of COSRDC RD Change

Power Supply Charges	Present	Proposed
Capacity Demand Charge	None	\$10.00 kW
Capacity Charge	\$0.0100 kWh	\$0.0050 kWh
Non-Capacity Demand Charge	None	\$6.00 kW
Non-Capacity Charge	\$0.0500 kWh	\$0.0300 kWh

COSRDC Tariff Changes: When filing a COSRDC, the utility would also propose any of its tariff book changes. This includes changes to tariff language that would impact policy, rules, tariff administrative methods, adding new tariffs, or cancelling tariffs. All parties would then be able to agree, disagree, contest, or make alternate proposals in response to the utility filing. Examples of tariff language changes are illustrated below in Figure 4.

Figure 4. Examples of Proposed Tariff Changes in COSRDC

Example 1.

Rule C5.4 Shutoff Protection Plan for Residential Customers - Proposed

A. Eligibility

For purposes of this Company rule, an eligible low-income customer means a utility customer who has not had more than one default condition on the SPP in the last twelve months and whose household income does not exceed ~~200~~400% of the federal poverty guidelines as published by the United States Department of Health and Human Services ~~or who receives supplemental security income or low income assistance through the Department of Human Services or successor agency, food stamps, or Medicaid.~~

Example 2.

General Service Time-of-Use Rate – Proposed

Availability of Service:

This rate shall not be taken in conjunction with ~~any other Demand Response Program or~~ Net Metering.

Regulatory Models for Timing / Cadence

This draft proposal outlines four regulatory models. These models address the timing and cadence options that the COM identified in its order. The primary difference between Model 1 and Model 2 is what happens if the utility files frequent rate cases. Model 3 is a fixed cadence concept. Model 4 is a hybrid/fluid cadence concept that would not include a separate COSRD proceeding.

Model 1: After each RRRC, a COSRDC would follow immediately thereafter. In this model, each RRRC would result in a subsequent COSRDC.

Model 1 Example: A RRRC#1 is filed at month zero, with an order changing rates at month 10. At month 12, the utility would file a COSRDC. The COSRDC would close the record at month 18. At this point, the COSRDC would be ripe for an order on or after month 18. In this model, Staff recommends issuing the COSRDC order (and thus changing rates) at month 22 which would be a full year after the rate change from RRRC#1. This would avoid multiple rate changes in a single year, just as exists today under the TRC. The updated rates from the COSRDC order at month 22 would be applicable on a go-forward basis only, no reconciliation or other comparisons necessary. Then, whenever the utility files its next RRRC (after month 22) it would use the COM approved COSRDC order for its cost of service and rate design to develop its RRRC#2 revenue requirement. *Model 1 assumes that a utility has not filed a new RRRC#2 by month 22. Model 2 addresses the situation when a utility has filed a new RRRC#2 by month 22.*

Model 2: Model 2 differs from Model 1 in (a) the timing of when rates are changed as a result of the COSRDC order and (b) the flexibility to avoid a COSRDC if the most recent COSRDC order was within a certain recency. The COM could do either (a) or (b) or both. Either of these options within Model 2 would satisfy the COM order that discussed the concept of a COSRD cadence that is different (and perhaps longer) than the revenue requirement.

Model 2 Example: A RRRC#1 is filed at month zero, with an order changing rates at month 10. At month 12, the utility would file a COSRDC. The COSRDC would close the record at month 18. At this point, the COSRDC would be ripe for an order on or after month 18. *This model now assumes that a utility has filed a new RRRC#2 by month 22.* In this scenario, Staff recommends that the COM not issue an order in the COSRDC (thus not changing rates while there is an ongoing RRRC#2). Instead, the COM would simply issue the COSRDC order simultaneously with the RRRC#2 order, while incorporating the COM decisions for the COSRDC into the RRRC#2 order. When issuing the order for RRRC#2, the COM could then indicate that the next COSRDC#2 should be filed 2 months later (such as in Model 1) or it could indicate that a new COSRDC#2 is not needed to be filed if the utility intends to file its next RRRC#3 within “x” months (such as within 1-12 months) from the RRRC#2 order.

Model 3: This model is a fixed cadence of 18 months to 5 years from the date of the COM order in the COSRDC. The longer side of this range would result in less work overall compared to a TRC and Models 1 and 2. The longer side of this range would also result in a wider disconnect from the holistic, simultaneous review of the issues currently handled together in a TRC. A cadence of 2.5 to 3 years would be reasonable under a fixed cadence approach, at least as a starting point. For example, assuming a 3-year cadence, a utility that files a COSRDC on January 1, 2026 would then file its next COSRDC on January 1, 2029. Anything longer than 3 years would be a major change in the spacing of review of COSRD issues. When viewed through the lens of total work, anything shorter than 2.5 to 3 years invites the question as to the value of this process change in the rate setting process. Regardless of the exact cadence, the utility would retain the ability to make a filing to address unique or unexpected tariff issues at any point (just as it can now) if said filing is necessary prior to the next cadence. The COM could also utilize one or more of the considerations and characteristics outlined in this draft proposal to this model.

Model 4: This model is a hybrid, fluid cadence model that would be pinned to the order timing in the next TRC. At the conclusion of the next TRC, the COM would order that if the utility files for another rate increase within the next “x” number of months or years then the utility should do so by utilizing the cost of service and rate design approved in the instant TRC. For example, a TRC order issued on January 1, 2026 would state that if the utility files for its next rate increase on or before January 1, 2027 then it should do so by using the currently authorized cost of service and rate design from the January 1, 2026 order OR if the utility files for its next rate increase on or after January 2, 2027 then it should do so using a TRC framework. The length of “x” time would be as long or as short as the COM prefers and could vary from utility to utility. This model would not result in a separate COSRDC. The COSRD issues, when addressed next, would only be addressed in a TRC format. In practice, this would result in a reduction of the record during a period of frequent rate cases but maintain the TRC structure in a period of non-frequent rate cases. This model would likely result in a neutral impact on (or possibly less) total work. The COM could also utilize one or more of the considerations and characteristics outlined in this draft proposal to this model.

Frequency of Rate Increases

In the current TRC structure, customers are subject to one actual rate increase per year but are potentially subject to several emotional reactions to rate-related news. For example, in the current TRC structure, a utility is required to submit a Filing Announcement at least 60 days prior to its rate case filing. Often times, this draws attention of the news/media and customers have a negative emotional reaction to ‘another rate increase’ even when there is not an actual rate increase. The same is true again when the utility actually files its rate case application, once again drawing attention of the news/media for a rate increase even though the rates have yet to change. Then, at the end of a TRC when the rates actually change, a customer has this experience once again. This draft proposal (all 4 Models) would limit additional customer impacts in a separation scenario to the fullest extent possible.

Commission Implementation

The COSRD separation could apply broadly to all utilities or to a limited group of utilities or even a single utility. The separation could be rolled out as slow or as fast as the COM prefers. For broader implementation, the COM could either update its Rate Case Filing Requirements with new instructions, or it could issue an order that applies to all utilities – or both. The COM could consider an immediate transition to the separation, or it could allow for one or more TRCs beforehand. The COM could also consider a more limited implementation such as gas only, electric only, or a utility size threshold. If the COM wanted a slower rollout or testing phase, then the COM could begin with one utility or a case-by-case rollout. The COM could also consider duration as a key trigger, such that if a utility hasn't filed a new TRC or RRRC for at least "x years/months" (such as 3 years, or 42 months, etc.) then the utility simply file a TRC instead of a RRRC separation process.

In considering implementation, the COSRD separation is likely to have more value to the COM with respect to the utilities that typically have fully contested orders (as these involve significant COM review of the record) and file more frequent rate cases. Similarly, with respect to utilities that typically settle rate cases (no significant COM review of the record) and/or don't file rate cases as frequently, the separation could lead to a process with little value added compared to the TRC construct. Another consideration of separation would be the disconnection of the simultaneous, holistic review of these issues – holistic reviews become trickier as the cadence widens.

COSRDC Timeframe

Because the COSRDC would not have a statutory deadline, the COM would have some flexibility in determining a reasonable duration and schedule for the COSRDC including whether or not the COM would prefer a PFD. The longer the case, the more thoroughly the utility and intervenors would have to fully explore the proposals at issue. This additional time could also result in even more COSRD proposals and recommendations, which may or may not be desirable to the utility, intervenors or the COM. This opportunity of additional time would be one of the benefits of removing the COSRD issues from the TRC. Almost all non-utility parties have opined in this docket or other dockets that the TRC timeline is too short. The TRC forces the COSRD review into the window of the statutory deadline, along with all of the revenue requirement and associated case issues simultaneously. Staff believes that 1-3 months after a RRRC order would be reasonable amount of time for a utility to prepare and file a COSRDC. Once a COSRDC is filed, Staff believes that a timeframe of 4-8 months from the filing of the application to the close of the record would be reasonable for the COSRDC. Once the record is closed, the COM could issue a COSRDC order whenever it deems appropriate.

In addition to the flexible timeframe, a separate COSRDC would isolate the COSRD issues and provide a clearer identification of the actual dollar impacts and actual rate impacts of the specific COSRD proposals. By comparison, at present in a TRC, the actual dollar impact and rate impacts are blended in with other factors such as changes to the revenue requirement – thus making it a difficult to assess the true impact of COSRD items in isolation. However, as discussed earlier, while this increased clarity may appear to be a positive result of separation it could have the opposite effect on possible settlement

efforts. Similarly, this concept applies to potential significant issues (such as interconnecting data centers) that might be better handled outside of a TRC and/or without a statutory deadline.

Size of the Rate Case Record / Amount of Work / Shifting of Work

The COM has discussed the extraordinary expansion in size of the rate case record, and all 4 Models would certainly result in a decrease in the size of the rate case record compared to a TRC. In terms of total amount of work, the decrease in the size of the record may not equate to less work overall (at least not for Models 1+2), just a shift in work. The utility, Staff, intervenors and the COM would still address the same basket of issues that arise in a single TRC in any of these models. In terms of overall work, Model 1 could even result in a little more work via the separation approach but not enough to be a deterring factor if the COM pursues this course. However, Models 2+3+4 could also reduce the total amount of work overall as Model 2+3+4 have a timing component that could result in a situation where there is not a 1:1 relationship between a RRRRC and a COSRDC. Said another way, in a rate case environment where utilities are filing frequent rate cases (like exists today), Models 2+3+4 would result in less work overall because it would result in the occasional situation where a RRRRC would not necessitate a subsequent COSRDC. This is an important distinction because the combination of a smaller record and less total work would be the most useful and beneficial to the COM precisely when it's needed the most - during a phase of frequent cases.

Settlement Impact

It is difficult to predict what the impact of separation may have on settlement discussions and/or the likelihood of the parties reaching settlement. On the one hand, both the RRRRC and COSRDC would be smaller than a TRC and thus have few issues to address. Fewer issues could mean an easier path to settlement. But on the other hand, fewer issues also reduce the number of variables for which a party could utilize to achieve an acceptable outcome for addressing its particular issues.

Other Jurisdictions

The concept of separating the revenue requirement from the cost of service and rate design is unique. Based on cursory review, no other states utilize the type of structure that the COM identified and/or that the Staff outlined in this draft proposal. As such, Staff was not able to evaluate or analyze any lessons learned from other jurisdictions while developing this draft proposal.

Next Steps – Collaborative

Pursuant to the order dated July 10, 2025 in the instant case, the Staff shall convene one or two collaborative meetings to discuss the draft proposal with interested persons in November-December 2025. The collaborative dates are scheduled for November 18, 2025 and if a second collaborative is needed, December 11, 2025.

As outlined above, this draft proposal does not attempt to address the question of whether the Commission should, or should not, implement a separation of the revenue requirement from the cost of service and rate design as outlined by the Commission order. This draft proposal is focused on exploring the best way to effectuate this separation for if/when the COM orders this separation. As such, Staff is interested in addressing the following (either before the collaborative or at the collaborative):

- a. What areas of the draft proposal are unclear?
- b. What issues or considerations does the draft proposal fail to address?
- c. What nuisances or intricacies were not addressed?
- d. What ideas do you have regarding the most efficient/effective structure or implementation of separation?
- e. Of the components/items/issues that are currently handled in a TRC, are there any that you are uncertain as to what case (either the RRRC or the COSRDC) those components/items/issues would be handled in under this draft proposal?

Staff welcomes any input and feedback at any point, including prior to the collaborative. Staff also welcomes written feedback, including those via track-changes, and will provide a native version of this draft proposal upon request.

If anyone has questions regarding these comments, please feel free to contact Bill Stosik at 517-284-8252 or stosikb@michigan.gov