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October 1, 2026

VIA ELECTRONIC CASE FILING

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: Case No. U-21400 – 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

Dear Executive Secretary:

Enclosed for filing please find the **Association of Businesses Advocating Tariff Equity's Comments** in the above referenced proceeding.

Sincerely,

CLARK HILL PLC

**Stephen A.
Campbell**

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SAC/nb

Enclosure

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

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

COMMENTS OF THE
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

I. INTRODUCTION

Following comments regarding potential additional focus areas for future application of financial incentives and disincentives, the Michigan Public Service Commission ("Commission") issued an Order in this docket on August 6, 2026 ("August 6 Order") which included, as Exhibit A, a Phase 2 Reliability-Plus Framework Straw Proposal ("Straw Proposal") "to refine the initial focus areas of the reliability-plus initiative; to solicit feedback on updated metrics, scorecards, and [performance incentive mechanisms ("PIMs")] for the reliability-plus initiative; and to outline next steps for this proceeding." (August 6 Order at 43.)

For the reasons set out in more detail below the Commission should confine Phase 2 of the Reliability-Plus framework to reporting metrics and scorecards. The Commission has not identified statutory authority for shareholder incentives outside the service quality and reliability standards; the Straw Proposal does not specify how any incentive would be capped, recovered, or allocated among customer classes; and the proposed incentives depart from each of the customer protections the Commission adopted for the Phase 1 reliability mechanism. If the Commission nonetheless adopts any Phase 2 incentive, it should do so only with the conditions set forth below.

II. COMMENTS

A. **The Commission has not identified a statutory basis for providing utility incentives beyond service quality and reliability standards.**

The Commission “is a creature of the Legislature, and all of its authority must be found in statutory enactments.” *Consumers Power Co v Pub Serv Comm’n*, 189 Mich App 151, 176 (1991). Generally, “a statute which grants power to an administrative agency is to be strictly construed” and “[a]dministrative authority must be affirmatively or plainly granted, for doubtful power does not exist.” *Id.*

Under MCL 460.10p(12) the Commission “may levy financial incentives and penalties upon any jurisdictional entity which exceeds or fails to meet the service quality and reliability standards.” At MCL 460.10p(5) the Commission is directed to “adopt generally applicable service quality and reliability standards for the transmission, generation, and distribution systems of electric utilities and other entities subject to its jurisdiction, including, but not limited to, standards for service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, operational reliability, and public and worker safety.” Further, in “setting service quality and reliability standards, the commission shall consider safety, costs, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience.” The Commission “shall also include provisions to upgrade the service quality of distribution circuits that historically have experienced significantly below-average performance in relationship to similar distribution circuits.”

Implementing MCL 460.10p(12), Mich Admin Code, R 460.741 provides that the Commission may authorize an electric utility to receive a financial incentive “if it exceeds all of the service quality and reliability standards” and DTE Electric Company contended that Mich

Admin Code, R 460.741(1) is “inarguably inapplicable to Reliability Plus.”¹ (August 6 Order at 36.) Where the Legislature has intended utilities to earn performance incentives outside the service quality context, it has said so expressly and imposed limits, such as in the context of energy waste reduction (“EWR”) and power purchase agreements (“PPAs”). See MCL 460.1075, MCL 460.1028. The Straw Proposal identifies no authority for awarding incentives in these additional “Reliability-Plus” areas, nor can the description of these topics as matters of “distribution performance” bring them within the statute. MCL 460.10p(12) attaches incentives and penalties to a utility exceeding or failing to meet “the service quality and reliability standards” adopted under MCL 460.10p(5), which the Commission has promulgated as generally applicable rules: the Service Quality and Reliability Standards for Electric Distribution Systems (“SQRS”), Mich Admin Code, R 460.701 et seq. A target set in a straw proposal is not a standard adopted under MCL 460.10p(5), and an agency’s interpretation of its authority cannot overcome the plain language of the statute. *In re Complaint of Rovas Against SBC Michigan*, 482 Mich 90, 105 (2008); *Ludington Service Corp v Acting Comm of Ins*, 444 Mich 481, 506 (1994).

Given this statutory and regulatory authority, it does not appear that distributed energy resource (“DER”) interconnection, customer data access and hosting capacity, DER aggregation and non-wires alternatives, and advanced metering infrastructure utilization/grid modernization fall within or are akin to “standards for service outages, distribution facility upgrades, repairs and

¹ It’s also important to note that a Mich Admin Code, R 460.742 bars a utility from applying for an approved incentive unless its performance exceeded all of those standards for the preceding 12 months, among other conditions. As such, any reliability-plus incentive must at a minimum be conditioned on the utility exceeding all service quality and reliability standards, as R 460.741 and R 460.742 require

maintenance, telephone service, billing service, operational reliability, and public and worker safety,” as set out in the statute. Indeed, as explained in ABATE’s prior comments, the Commission’s April 24, 2023 Order in this proceeding described these additional issues as “[b]eyond” the “primary focus on distribution reliability and safety.” (April 24, 2023 Order at 11-12.) The Commission’s February 27, 2025 Order in this docket similarly explained that these issues were “Reliability Plus,” and reiterated the distinction between these issues and those more specifically related to reliability, agreeing with Staff that “[i]mproving distribution system reliability still remains a high priority in the near-term,” and that “[a]fter concluding this initial focus on reliability, the workgroup’s scope can shift to the ‘plus’ portion of the Reliability-Plus framework envisioned in the opening order of this proceeding.” (February 27, 2025 Order at 26-27.) The Commission’s March 13, 2025 Order in this proceeding also explained the distinction between “developing metrics around reliability and safety” and these “challenges around the readiness of utility distribution grids to effectively accommodate and leverage the increasing and further anticipated growth of distributed generation, EVs [electric vehicles], and other DERs [distributed energy resources].” (March 13, 2025 Order at 1-2.) That Order also described this approach as one “that, among other things, sought comment on several issues generally categorized as ‘reliability-plus,’ implying affected issues beyond core distribution reliability performance: equity, grid modernization, DER integration, and resilience.” (*Id.*)

The Straw Proposal similarly frames the background of this issue as follows:

In the April 24, 2023 order initiating this docket (April 24 order), the Commission noted that beyond the initial focus on the reliability and safety of utility distribution systems, a further goal was to “consider challenges around the readiness of utility distribution grids to effectively accommodate and leverage the increasing and further anticipated growth of distributed generation, [electric vehicles], and other [distributed energy resources (DERs)].”

In other words, as framed by the Commission, the issues raised in the Straw Proposal go “beyond the initial focus on the reliability and safety of utility distribution systems” and involve alternative issues such as “the readiness of utility distribution grids to effectively accommodate and leverage the increasing and further anticipated growth” of DERs, virtual power plant (“VPP”) deployment targets, and advanced metering infrastructure (“AMI”) utilization. In other words, rather than incentivizing or penalizing “service quality and reliability” performance, the Straw Proposal notes that the reliability-plus issues pertain to “support[ing] cost-effective additions of DERs, including aggregated DERs and virtual power plants (VPPs)” and AMI investment.

For instance, the Straw Proposal states that the “performance incentive and disincentive mechanism recommended in this proposal recognizes the ability of VPPs to reduce the need for conventional peaking infrastructure and encourages utilities to successfully integrate these resources into grid operations and provides accountability if utility progress falls below Commission-established targets.” The integration of DERs and VPPs is not a service quality or reliability standard, nor is “cost-effective DER deployment and VPP development.” While the Straw Proposal notes the potential utility of these resources, the statutory authority to “levy financial incentives and penalties upon any jurisdictional entity which exceeds or fails to meet the service quality and reliability standards” does not encompass creating “an incentive/disincentive mechanism to accelerate deployment of DERs and develop VPP resources” or “maximizing the value of AMI investments.”

These issues are therefore outside the Commission’s authority to establish incentive and penalty frameworks. For instance, the Straw Proposal notes Michigan’s energy waste reduction (“EWR”) framework as a model for DER aggregation and non-wires alternatives (“NWA”), noting that “[u]nder the EWR framework, utilities earn a performance incentive by demonstrating that

energy efficiency programs deliver net benefits to customers, with shareholder earnings tied to the value created above program costs.” The Straw Proposal states this “same incentive structure — encouraging utilities for achieving verified net benefits — is well suited to DER deployment and VPP programs, which can similarly reduce the need for conventional infrastructure investment and deliver system-wide cost savings.” Of course, as noted above, a significant difference is that EWR incentives are expressly codified at MCL 460.1075. The Straw Proposal identifies no similar statutory authority for DER aggregation and NWA incentives.

The degree to which these issues fall beyond service quality and reliability standards is further apparent in the extent to which proposed issues for performance incentives such as DER deployment, demand response, and VPP enrollment are fundamentally based on customer actions and performance, rather than utility satisfaction of service quality or reliability standards. The Commission should not extend an incentive/penalty framework to metrics which are both unrelated to service quality or reliability and would provide a utility incentive payments for customer behavior. The Straw Proposal’s concern that “traditional cost-of-service regulation discourages utilities from pursuing this resource” presents a policy concern; it does not turn DER and VPP interconnection rates or distribution grid utilization metrics and reporting “improvement targets” into service quality or reliability standards.

As such, these additional areas of discussion fall outside the scope of MCL 460.10p and the Commission’s authority to provide financial incentives regarding the service quality and reliability standards contemplated in the statute.

B. The Straw Proposal contains a number of general deficiencies.

ABATE’s May 16, 2025 initial comments in this proceeding (“ABATE Initial Comments”) explained that, because the Commission has not yet accumulated experience applying financial

incentives and disincentives in the core context of distribution reliability, work in the five reliability-plus focus areas should be confined to reporting metrics and scorecards, and financial mechanisms should be deferred. The Straw Proposal adopts that position in part and rejects it in part.

The Straw Proposal can be summarized as follows:

- The 4.8 kV conversion focus area is recommended for removal from the Reliability-Plus framework entirely.
- Data access and hosting capacity carries no proposed financial mechanism; the Commission instead asks whether performance-based mechanisms are needed at all or whether traditional regulatory tools suffice.
- Outage response and notification is limited to a scorecard, with no PIM at this time
- Level 4 and Level 5 interconnection performance carries a performance target, but no incentive or disincentive.
- A two-tiered financial incentive is proposed for Level 1, 2, and 3 DER interconnection timelines
- A VPP / DER deployment PIM is proposed at a 15% shared savings level, scaling to 20%, with a penalty for performance below 80% of the proposed target.
- The Straw Proposal would restructure the demand response (“DR”) PIM from a spending basis to a performance basis.
- Grid utilization metrics are proposed, with an express path toward informing future cost recovery decisions for distribution capital investment and potentially additional PIMs.

The Straw Proposal’s rejection of PIMs and financial incentives for 4.8 kV conversion, data access and hosting capacity, outage response and notification, and Level 4 and 5 interconnection performance is reasonable. However, for several reasons in addition to those set out above, the Straw Proposal’s introduction of PIMs for Level 1, 2, and 3 DER interconnection timelines, and for VPP/DER deployment should not be adopted.

1. The Straw Proposal does not address the method of cost recovery for PIMs.

A major deficiency in the Straw Proposal is that it does not identify a cost recovery or refund mechanism for any incentive or penalty it proposes, yet it expressly solicits comment on incentive and penalty levels. This is very problematic because the Commission is asking parties to price incentive mechanisms whose funding architecture does not exist.

For each proposed incentive, the Straw Proposal is silent on the cost recovery vehicle (base rates, surcharge, reconciliation), whether recovery is capped, how the incentive is allocated among rate classes, and whether recovery is subject to a separate reasonableness and prudence review. For each proposed penalty, the Straw Proposal is also silent on whether penalty dollars are refunded to customers, and if so, to which customers and through what mechanism. The single forward-looking reference to cost recovery in the entire document is the statement that grid utilization metrics may inform future cost recovery decisions for distribution capital investments. The Commission should not adopt any Phase 2 financial mechanism until it has separately noticed and taken comment on the critical issues of cost recovery, class allocation, refund treatment, and caps associated with each proposed PIM. For any PIM that the Commission adopts, incentive levels should be capped, cost recovery of incentives from the customers classes should be consistent with cost causation principles, incentives should be subject to a prudence review, any PIMs should contain symmetrical penalties, and the penalties should be refunded to customers on the basis of cost causation.

The Commission's Phase 1 approach does not answer these questions. In Phase 1, the Commission left the disposition of penalties to individual rate cases and directed the utilities to propose regulatory accounting treatment in company-specific proceedings. (February 27, 2025 Order at 26, 31.) That approach was tolerable because the \$10 million annual cap adopted in Phase

1 bounded customers' exposure before any allocation question arose. (*Id.* at 27–28.) The Phase 2 proposals contain no cap. As such, deferring recovery, allocation, and caps to later proceedings would leave customers' exposure unbounded in the interim.

These conditions are consistent with the principles ABATE has advanced throughout this proceeding. ABATE's September 22, 2023 comments explained that no incentive should be paid to a utility that fails to meet the sustained interruption standards of Mich Admin Code, R 460.722; that incentives should be paid only for superior performance; that any net incentive should be limited to a return on equity adjustment on distribution plant that does not exceed the upper range of reasonableness for the utility's return on equity; that no incentive should be paid to a utility already earning in excess of its authorized return; and that the cost of any incentive should be allocated to the customer classes that benefit from it. (ABATE Comments, September 22, 2023 at 2–4.) Each of these principles applies with at least equal force to Phase 2.

While the interconnection PIM section of the Straw Proposal expressly encourages comments on recommended levels for potential incentives and penalties, specific incentive levels cannot be determined in the abstract without knowing the recovery mechanism for the proposed incentives, the allocation among the customer classes, and the proposed incentive cap, if any.

2. The Straw Proposal PIM proposals are not symmetrical.

The Straw Proposal also asks parties to address the extent to which the Straw Proposal represents a symmetrical approach to performance-based incentive mechanisms, both within Phase 2 and in concert with the Phase 1 PIMs. On the interconnection mechanism the answer is that they do not. Specifically, the proposed incentive requires for solar-only projects, roughly an 84–85% reduction in Level 1 timelines (from reported averages of 64 days for DTE Electric and 67 days for Consumers) and a 91–93% reduction in Level 2 timelines (from 111 and 151 days) to a top-

tier target of 10 days and roughly an 88–89% reduction for Level 3 (from 165 and 178 days to a top-tier target of 20 days) (Straw Proposal, Focus Area 1, Table 1 and Rec. 1). However, the proposed penalty attaches to missed deadlines under the Michigan Interconnection and Distributed Generation Standards (“MIXDG rules”), which both utilities already avoid at rates of 99.74% (Consumers: 51 misses of approximately 19,700 opportunities) and 99.82% (DTE Electric: 42 misses of 23,246 opportunities). (Straw Proposal, Focus Area 1, “Compliance with MIXDG Deadlines”.) The result is a penalty that is nearly unreachable paired with an incentive keyed to a different and far more demanding metric. This proposal is clearly not symmetrical. The asymmetry is compounded by the limited reach of the penalty authority: as discussed below, the operative interconnection penalty rule applies only to DERs larger than 100 kW, while the proposed incentive would reach every Level 1, 2, and 3 project.

The same asymmetry concern also applies to the proposed VPP PIM, where the incentive scales upward to 20% but the penalty threshold sits at 80% of the proposed target, leaving a 20-point band in which the utility is neither rewarded nor penalized. The problem is not the existence of a dead band, which the Commission used in Phase 1, but where it sits and what lies on either side of it. The incentive begins at exactly 100% of the target, while the entire dead band lies below the target, so the utility would earn an incentive for merely meeting the target and would face no consequence until it falls 20% short of it. Moreover, the incentive is quantified at 15–20% of net benefits, while the amount of the penalty is not stated at all. As the Clean Energy Organizations observed, “utilities should not be provided extra incentive simply to meet existing standards.” (August 6 Order at 14.) The Commission should explain how the VPP PIM would create symmetrical opportunities for shareholder rewards and penalties.

In its May 16, 2025 comments, ABATE argued that the Commission should proceed cautiously with regard to the expansion of PIMs. ABATE noted that the Commission should first focus on the lessons to be learned from applying financial incentives and disincentives to reliability performance alone, and that the Commission should be very cautious in pursuing PIMs in additional areas until it has gained that experience. (ABATE Initial Comments at 2-3.) ABATE's position has more force now, given that the Phase 1 reliability PIMs remain new and the MIXDG rules have produced only one annual reporting cycle (calendar year 2025, filed March 31, 2026). Thus, it remains premature to expand PIMs to other areas outside of reliability performance at this time. Indeed, DTE Electric agreed that development of financial incentives in these areas is premature. (August 6 Order at 37.) As such, the Commission should reject the proposal to implement PIMs for DER interconnection and VPP/DER deployment.

C. Specific elements of the Straw Proposal are unreasonable.

1. Focus Area 1: DER Interconnection.

a. Proposed DER Interconnection Penalty.

As ABATE noted in its May 16, 2025 comments, ABATE does not oppose penalties for failure to meet existing mandatory Commission interconnection standards. To the extent that a utility does not meet the Commission's existing service quality and reliability standards, it should be subject to a penalty. (ABATE Initial Comments at 8.) Therefore, ABATE does not oppose the proposed DER interconnection penalty. A penalty for violating a mandatory rule deadline is conceptually distinct from a performance incentive. Compliance with existing interconnection standards is a baseline obligation, not an issue of incremental performance. However, the Straw Proposal lacks details regarding the cost treatment of any penalties. The Commission should specify that penalty proceeds should be credited to customers, and the Commission should specify

the credit mechanism and class allocation. Specifically, the class allocation of penalties should be consistent with cost causation. The Commission should also confirm that a penalty determination should follow notice and an opportunity to be heard rather than an administrative annual review. Finally, the Commission should define the specific criteria that it will apply to a penalty determination.

b. Proposed Two-Tiered DER Interconnection Incentive.

In its May 16, 2025 comments, ABATE asserted that a DER interconnection PIM would only benefit a narrow group of utility customers — small customers and developers seeking to interconnect new DERs smaller than 150 kWac in size — rather than ratepayers as a whole. (ABATE Initial Comments at 5.) Data in the Straw Proposal underlines the narrow nature of the beneficiaries of this proposed incentive and reinforces ABATE’s concerns with the proposed DER interconnection PIM. Specifically, the 2025 Annual Interconnection Reports cited in the Straw Proposal show that the volume of DER interconnections is overwhelmingly small solar and solar-plus-storage. Specifically, Consumers received 2,798 applications and DTE Electric 3,699, with over 6,400 combined, and the vast majority of the projects were solar and solar-plus-storage facilities. (Straw Proposal, Focus Area 1, “Key Updates on DER Interconnection Focus Area”.) Absent a class-specific recovery mechanism, which the Straw Proposal does not provide, the incentive would presumably be recovered from all customers, including large industrial customers, to accelerate a service delivered to a discrete population of DER applicants who are not the funding source. This result is not consistent with cost causation principles. The Commission should therefore not adopt the proposed incentive. While continued utility reporting regarding DER interconnections and, if the Commission wishes to go further, a scorecard is reasonable, the proposed DER interconnection incentive should be rejected for several reasons.

First, the proposed incentive is inconsistent with cost causation principles. The beneficiaries of faster interconnection are identifiable and are not the general body of ratepayers. The utilities themselves acknowledge that some of the reliability-plus focus areas “mainly provide benefits to individual stakeholders rather than to utility customers generally.” (August 6 Order at 9.) If the Commission concludes that this PIM is merited, the cost should be recovered only from the customer group that causes and receives it, consistent with MCL 460.11 and the Commission's cost-of-service principles.

Second, timely processing of interconnection applications is a fundamental component of basic, good utility service, and it is already governed by the MIXDG timelines. Utilities report compliance with more than 99.7% of the MIXDG deadlines. (Straw Proposal, Focus Area 1, “Compliance with MIXDG Deadlines”.) Thus, the proposed incentive would provide payments for exceeding a standard that the utilities are already meeting.

Finally, the derivation of the performance targets in the proposed PIM is unsupported and unexplained. Nothing in the Straw Proposal explains how 10, 20, and 30 days were derived, beyond the reference to the Commonwealth Edison (“ComEd”) incentive. The Straw Proposal does not show that the ComEd metric is defined in the same way as the metric reported in Michigan’s Annual Interconnection Reports, and the ComEd mechanism rests on an express Illinois statutory performance-based ratemaking framework that has no Michigan counterpart. There is no benefit-cost analysis, no showing that the customer benefit of the marginal day of acceleration exceeds the incentive cost, and no showing of what utility resources would be required to meet the performance targets. Without this data, the specific targets in the proposed PIM cannot be evaluated for reasonableness.

c. Recommended Continuous Improvement Overlay.

In the Straw Proposal, the Commission asks how to structure continuous improvement above the proposed PIM interconnection targets. However, as noted above, the proposed incentive targets have not themselves been justified. Thus, it is not necessary to address the question of improvement in the target levels if the proposed underlying incentive is rejected.

d. Recommended Scorecard for Levels 4 and 5 DER Interconnections (>550 kW), 75-Day Target.

The Straw Proposal would implement a scorecard to measure utility performance in connecting Level 4 and 5 DERs. ABATE does not oppose the implementation of the proposed scorecard for this metric. The Straw Proposal's recommendation is consistent with ABATE's position that any additional measures introduced to address utility performance in areas outside of service reliability should be limited to the development of reporting metrics and scorecards. For clarity, the Commission should make an affirmative finding that no incentive or disincentive is attached to performance under this recommended scorecard.

It should also be noted that the data foundation for this scorecard is thin. Consumers reported an average of 417 days for Level 4 projects, DTE Electric reported no Level 4 projects, and neither utility reported any Level 5 projects (Straw Proposal, Focus Area 1, Table 1 and Rec. 2.) ABATE supports the 75-day target, but because it is derived from a single utility's experience with a small number of projects, it should be revisited to ensure it remains meaningful as data develops. The Commission should also direct the utilities to report utility-caused study delays for projects larger than 550 kW, which are of particular importance to large customers pursuing on-site generation.

e. Flexible Interconnection Referred to the ITWG.

As ABATE explained in its initial comments in this proceeding, flexible interconnections should only be permitted where they do not introduce reliability risks of their own and are cost effective compared with pursuing the distribution upgrades that would otherwise be necessary to allow interconnection. Moreover, this performance measure does not need a PIM. (ABATE Initial Comments at 8.)

Consequently, this issue should be referred to the Interconnection Technical Workgroup (“ITWG”) and should not entail a PIM. In addressing this issue, the ITWG should be directed to develop specific criteria to determine whether flexible interconnections introduce reliability risks, and to determine whether such interconnections are cost-effective compared to distribution upgrades. The ITWG should also be directed to assign the costs of any controls, monitoring, or communications equipment required for a flexible interconnection (for example, distributed energy resource management or SCADA systems) to the interconnecting customer, consistent with cost causation.

ABATE notes that recommendations 3 and 4 under Focus Area 1 of the Straw Proposal appear to be largely duplicative. Therefore, the Commission should clarify in its next order in this proceeding whether one or two distinct directives are intended.

2. Focus Area 2: Data Access and Hosting Capacity.

As noted above, data access and hosting capacity falls outside the scope of the Commission’s authority in MCL 460.10p to implement PIMs. Therefore, work in this focus area should be limited to reporting metrics and scorecards.

The Straw Proposal does not propose an incentive mechanism for this focus area. Instead, it requests that parties provide comments on whether performance-based regulatory mechanisms

are needed to further objectives around data access and hosting capacity information, or whether traditional regulatory tools are sufficient. The Straw Proposal notes that the Commission’s July 2025 order in U-20147 already directed quarterly hosting capacity map updates, with monthly updates for feeders adding more than 500 kW of generation, and deferred further data access issues, including Green Button Connect, to distribution system plan (“DSP”) proceedings and other proceedings.

Traditional regulatory tools are sufficient to ensure adequate utility performance in the area of data access and hosting capacity. The Commission has already obtained the desired utility conduct through an ordinary directive in U-20147 without providing utility incentives to achieve such performance. Thus PIMs are not needed to ensure adequate utility performance in areas outside of service reliability.

3. Focus Area 3: DER Aggregation, NWAs, and the Proposed VPP Performance Incentive Mechanism

The Straw Proposal sets forth the following structure for the proposed PIM in this area:

- VPP and DER deployment targets are to be established in the utility’s integrated resource plan (“IRP”).
- Implementation of a PIM providing 15% shared savings for meeting the Commission-approved VPP or DER deployment target, with consideration of scaling the incentive linearly to 20% of shared savings at up to 110% of the performance target if the resources remain cost-effective.
- A penalty for failure to implement a minimum deployment threshold, with 80% of the Commission-approved target suggested as the initial penalty threshold.
- Net benefits would be determined using the benefit-cost analysis tool developed in Case No. U-20898, including avoided generation, transmission, and distribution capacity costs.
- The proposed performance incentive is expressly modeled on the EWR shared savings mechanism, in which the incentive is calculated as a percentage of the net present value of verified net benefits.

In its initial comments in this proceeding, ABATE explained that case-by-case pursuit of NWA projects such as VPPs that involve the deployment of aggregated DERs as an alternative to new distribution infrastructure is appropriate when such NWA projects provide a lower cost solution with the same level of reliability. However, a utility's pursuit of such projects should be part of that utility's normal course of business and its legal obligation to plan its system to provide reliable electric service at the lowest reasonable cost. A utility's failure to meet this legal obligation is a matter of imprudence that can be dealt with by disallowing recovery of the utility costs that could have been avoided by implementing the NWA in lieu of constructing new distribution infrastructure. (ABATE Initial Comments at 6.)

The remedy for a utility declining to pursue the lower-cost alternative to meet customer needs is a cost disallowance in a regulatory proceeding, not a financial incentive to the utility's shareholders for failing to meet its obligation to perform least-cost planning. The Straw Proposal does not explain why a traditional prudence review in a regulatory proceeding would not protect customers and ensure appropriate utility behavior in this area. Indeed, the Straw Proposal itself notes that the Commission has already "prioritized actions for Michigan's utilities to implement VPPs" through directives in other proceedings, including the Commission's order in Consumers' recent rate case, Case No. U-21870. (Straw Proposal, Focus Area 3.) Those directives demonstrate that the Commission can obtain the desired utility conduct without a shareholder incentive.

In its initial comments, ABATE explained that aggregated DER programs are not equivalent to DR and EWR programs. Furthermore, ABATE contested the assertion that aggregated DER programs are somewhat similar to DR and EWR programs with respect to providing capacity. Aggregated DER programs are distinguishable because they inject an amount of net power into the distribution system, and possibly the transmission system, and present

delivery challenges not found with DR and EWR. Additional study of this topic is therefore necessary rather than introducing a PIM. (ABATE Initial Comments at 7.)

The Straw Proposal does not respond to these objections to creating an inappropriate equivalence with EWR programs. Instead, the Straw Proposal imports the EWR incentive architecture wholesale and applies it to the proposed VPP PIM. This is inappropriate due to the significant differences in the EWR mechanism relative to the VPP program. Specifically, the EWR mechanism measures verified energy savings against a counterfactual, while a VPP mechanism would measure dispatchable capacity performance under system and local peak demand conditions. This is a completely different verification criterion.

The Straw Proposal's use of the EWR incentive architecture is also inappropriate because the Straw Proposal would allow VPP utility incentive payments based on the EWR model, without applying the important guardrails built into the EWR mechanism. If the Commission introduces a VPP PIM based on the EWR model, that model should be adopted comprehensively rather than selectively. Accordingly, any VPP PIM should include the following elements and guardrails that are found in the EWR mechanism:

- A statutory cap on incentive payments. The EWR financial incentive authorized by MCL 460.1075 is available only when a provider exceeds the statutory savings standard, is tiered by savings level, and is capped at the lesser of a specified percentage of customer life-cycle cost reductions or a specified percentage of program expenditures. The Straw Proposal proposes a 15–20% shared savings rate that is paid for merely meeting the target, with no cap of any kind on the resulting dollar amount of the utility incentive. If the VPP PIM is to be based on the EWR mechanism, the incentive cap must come with it.
- Large-customer self-direction. Michigan's EWR framework permits commercial and industrial customers with an aggregate annual peak demand of at least 1 megawatt to self-direct their energy waste reduction and to be exempt from EWR charges. MCL 460.1093. There is no analogous opt-out, exemption, or credit in the proposed VPP PIM. ABATE recommends that any VPP or DER deployment PIM should exclude from its cost recovery mechanism those customers who do not participate in and cannot benefit from residential and small commercial DER aggregation. At a minimum, the Commission should take

separate comment on the concept of introducing an analogous self-direction mechanism in the VPP PIM.

- Independent evaluation, measurement, and verification. ABATE notes that EWR incentives are conditioned on independent verification of savings levels. Therefore, any VPP incentive should be conditioned on independent verification of delivered capacity performance under actual peak conditions, not on enrolled amounts or nameplate capacity.

Any VPP PIM should also include three further protections. First, the Commission should prohibit duplicate rewards for the same capacity or activity. As proposed, the same megawatts could earn an incentive under the interconnection PIM (through faster DER connection), under the restructured DR PIM (as enrolled and dispatched capacity), and under the VPP PIM (as deployment against the IRP target). As MEIBC/United cautioned, the Commission should “be careful not to provide a second incentive or penalty for the same activity.” (August 6 Order at 27.) Second, no shareholder incentive should be paid on VPP program costs that are capitalized or deferred as a regulatory asset earning a return, because that would provide a second earnings stream on the same resource. Third, because the incentive would be computed on estimated avoided costs, including deferred distribution investment, the incentive should be trued up if a deferred distribution project is nonetheless constructed within a defined period.

Another problem with the proposed VPP PIM is that it ties the shareholder incentive to VPP and DER deployment targets established in the utility’s IRP. This converts an IRP planning output into an automatic shareholder earnings opportunity in a separate proceeding, without an independent finding in either docket that the resulting payment is just and reasonable. This problem raises the following specific concerns:

- The Commission has not confirmed that a target adopted in a utility IRP for planning purposes does not automatically become the benchmark for a financial incentive. A separate showing should be required to demonstrate the reasonableness of the benchmark for the VPP PIM. The IRP is the appropriate forum in which to evaluate the cost-effectiveness of aggregated DERs relative to other resources. (See ABATE Initial

Comments at 7.) But a planning output is not a performance benchmark, and meeting an approved plan is an obligation, not an achievement that warrants a shareholder reward.

- The Straw Proposal notes that the December 2025 IRP planning parameters require utilities to treat demand-side resources as a selectable resource. Those parameters make demand-side resources selectable in IRP modeling; once the Commission approves a plan that selects them as part of the least-cost resource mix, the utility is obligated to implement that plan. This reinforces the reality that VPP deployment, where it is cost-effective, is already part of the utility's least-cost planning obligation and does not require a financial incentive.
- If the Commission intends to rely on the IRP planning outputs to establish the VPP PIM targets, parties intervening in the IRP proceeding would need to litigate the IRP target with the knowledge that it simultaneously sets an earnings opportunity under the VPP PIM. The Commission should state expressly that this is the intended effect, so that IRP parties can position themselves accordingly.

The proposed VPP PIM creates a fundamental and inappropriate cost causation mismatch between VPP beneficiaries and the customers who would be required to pay the proposed incentive. The DOE definition quoted in the Straw Proposal describes VPPs as aggregations of rooftop solar with behind-the-meter batteries, electric vehicles and chargers, electric water heaters, smart buildings and their controls, and flexible commercial and industrial loads. The great majority of the enumerated resource types are residential and small commercial loads. A shared savings incentive payment for VPPs that is recovered from all customer classes would unjustly require large commercial and industrial customers to subsidize the cost of an incentive for a program whose participants are largely smaller customers.

To the extent that flexible industrial loads are enrolled in a VPP program, the proposed VPP PIM would allow the utility to earn a percentage-of-net-benefits incentive on curtailment performance that industrial customers themselves deliver through interruptible tariffs and Midcontinent Independent System Operator ("MISO") Load Modifying Resource ("LMR") participation. Consequently, the Commission should explicitly exclude loads that are already enrolled in existing interruptible, DR, or LMR programs from the VPP PIM, and it should clarify

that such loads would not count toward the VPP target. Paying a utility a shareholder incentive for capacity that its industrial customers were already providing is a clear violation of cost causation principles under MCL 460.11.

The Straw Proposal also expressly links the VPP PIM to large load growth, stating that rapid growth in data center load requests in Michigan could potentially trigger costly additions in traditional generation and transmission capacity, and that VPPs can meet at least a portion of these demands for new capacity and mitigate cost pressures while allowing faster interconnection timelines. To the extent that new large loads do indeed trigger such additional costs, the Commission must ensure that these new large loads bear the costs that they cause to protect existing customers from inequitable cost shifting. A VPP PIM whose costs are broadly recovered from all customers would unjustly allocate costs associated with investments intended to accommodate new large loads across all customer classes rather than assigning these costs directly to the new loads that are causing them. Therefore, to the extent that VPP or DER resources are deployed to serve or accommodate new data center and similar large-load customers served under large-load tariff provisions, the cost of those resources and any associated shareholder financial incentive should be assigned to that load, not to the general body of ratepayers.

For the reasons set forth above, the Commission should reject adoption of the VPP PIM as recommended in the Straw Proposal. If the Commission nevertheless proceeds to adopt the VPP PIM, the Commission should adopt the following conditions: an express cap on the total incentive dollars associated with the VPP PIM; an exclusion of load already enrolled in existing DR, interruptible, or LMR programs from the PIM target; a large-customer self-direction or exclusion mechanism paralleling the self-direct mechanism currently available under the EWR; independent verification of delivered peak capacity performance under the PIM; payment only for exceeding,

rather than merely meeting, the target; a prohibition on duplicate rewards for the same capacity across the interconnection, DR, and VPP mechanisms; no incentive on costs that already earn a return, with a true-up if deferred investments are built; and a separate cost recovery proceeding for VPP PIM incentives, with class cost allocation of such incentives determined based on cost-causation principles. Finally, any VPP PIM should include a symmetrical and quantified penalty structure.

In the Straw Proposal, the Commission specifically asks whether different PIMs are needed for VPPs and aggregated DERs serving as NWAs, versus those focused on resource adequacy or peak reduction. In response, VPPs and aggregated DER programs are distinct from DR and EWR programs because they are different products with different delivery characteristics and different verification requirements. Therefore, a single incentive mechanism cannot properly price both types of programs. These important differences support deferral of a VPP PIM to further investigate and explore these distinctions rather than simply importing the EWR incentive model and applying it to VPPs.

4. Focus Area 4 — 4.8 kV Conversion.

The Straw Proposal recommends removing this focus area from the Reliability-Plus effort entirely and addressing concerns associated with this topic in other proceedings. ABATE supports the removal of this topic from this proceeding. ABATE notes that the Commission's proposed treatment of this topic confirms and supports ABATE's general position that PIMs are not needed where the traditional ratemaking process already provides sufficient customer protections. Specifically, with regard to 4.8 kV conversions, the Commission concluded that an ordinary rate case order, an audit order, and DSP review are adequate regulatory tools for this subject matter

without any financial incentive mechanism. ABATE asserts that the same or similar reasoning applies equally to all of the non-reliability topic areas addressed in the Straw Proposal.

5. Focus Area 5 — AMI Utilization and Grid Modernization.

a. Recommendation 1 — Distribution Grid Utilization Metrics.

The Straw Proposal proposed tracking peak distribution grid utilization (peak demand MW / capacity limit MW) and capacity factor (energy MWh / capacity limit MW × hours) at the system aggregate, substation, and feeder levels. The Straw Proposal would also track distribution system losses, constrained circuits, and system conditions during peak demand periods. These proposals are modeled on the March 2026 Brattle Group study entitled “The Untapped Grid” and on Virginia HB 434 (Chapter 611, April 2026). The Straw Proposal contemplates that, after a baseline is established for these metrics, the Commission should consider setting utility-specific improvement targets and evaluate opportunities to use these metrics to inform future cost recovery decisions for distribution capital investments, and potentially other PIMs.

ABATE supports the reporting metrics described in the Straw Proposal. However, for the reasons set forth elsewhere in these comments, ABATE opposes any future PIM for distribution grid utilization that is built on these metrics. Effectively utilizing existing distribution assets is part and parcel of the utility’s basic obligation to provide reliable service to its customers at the lowest reasonable cost. Moreover, the traditional regulatory model contains adequate safeguards to ensure prudent utility behavior with respect to distribution grid utilization, without the need for a PIM to incentivize utility performance in this area.

ABATE supports the proposed tracking metrics because peak period utilization and capacity factor at the feeder and substation level are precisely the data that is required to test whether distribution capital spending is reasonable and justified in a utility rate proceeding. This

data will be useful in informing future cost recovery decisions for distribution capital investments in future utility rate cases. These tracking metrics should be filed in a format that is usable in utility rate cases and DSPs, not only in the instant proceeding. ABATE also supports the Straw Proposal's recommendation that these metrics be used to inform future cost recovery decisions for distribution capital investments. That is the appropriate regulatory use of this information: evidence that existing distribution capacity is underutilized bears directly on whether proposed distribution capital investments are reasonable and prudent.

b. Recommendation 2 — Restructuring the Demand Response PIM.

The Straw Proposal proposes to shift the DR incentive from the existing approach that is tied to a utility's level of spending on DR programs to one that would be tied to DR performance, with reporting on enrolled DR capacity (MW), verified peak demand reductions achieved through DR events (MW), percentage of constrained feeders or substations supported by DR resources, frequency and effectiveness of DR event dispatch during system and local peak conditions, and customer participation and event performance rates.

ABATE agrees that an incentive tied to program spending is the wrong design, since it rewards expenditure regardless of delivered capacity. The better course is to eliminate the spending-based incentive and address DR performance through the utility's least-cost planning obligation. If the Commission nonetheless retains a DR incentive, it should be restructured to a performance basis subject to the following conditions:

- DR capacity supplied by industrial customers should not generate a utility incentive. ABATE members supply interruptible and curtailable capacity under existing utility tariffs and participate in MISO LMR programs. Verified peak demand reductions delivered by industrial customers under existing tariff obligations are not utility performance. Therefore, industrial customer performance under these programs should not generate an incentive payment to utility shareholders. If the Commission transitions to a performance-based DR

incentive, it should expressly exclude DR capacity supplied by industrial customers from the incentive.

- Verified peak demand reductions by DR resources must be measured against a defensible baseline. The Straw Proposal does not specify a baseline methodology to determine verified demand reductions. Without one, factors such as DR enrollment growth and weather variations are indistinguishable from actual DR performance.
- Dispatch frequency should not itself be incentivized. A metric rewarding frequency and effectiveness of DR event dispatch creates an incentive to call events. For industrial customers participating in DR programs, called events cause them to incur significant costs in terms of lost output and disruption to industrial processes. The Commission should confirm that no incentive attaches to calling more events than system conditions require.
- Transparency regarding LMR and DR event calls. To enhance transparency regarding called DR events, the Commission should require that the DR reporting metrics include the basis for each event call and the system or local condition that triggered it.
- The Commission should specify the cost recovery mechanism for the new DR performance based incentive and ensure that the cost recovery is consistent with cost causation principles. Restructuring an existing incentive mechanism changes the recoverable amount. The Straw Proposal does not identify the new DR incentive cost recovery mechanism or specify whether the restructured incentive would be recovered the same way or in the same magnitude as the existing mechanism. These important matters should be addressed in adopting any new DR incentive mechanism to ensure adherence to cost causation principles.

c. Recommendation 3 — Scorecard for Outage Restoration Metrics.

In its initial comments on this topic, ABATE stated that outage restoration is a fundamental component of basic, good utility service that should already be encompassed by the Commission's existing service quality and reliability standards, and that to the extent a utility does not meet those standards it should be subject to a penalty. (ABATE Initial Comments at 8.)

The Straw Proposal recommends continuing to track outage response metrics and setting targets based on the utilities' own prior submissions of proposed goals. The Straw Proposal does not recommend a PIM for outage restoration at this time. Instead, the Commission would assess whether a performance incentive or penalty mechanism is warranted at a future date.

For the reasons set forth elsewhere in these comments, ABATE supports the scorecard-only recommendation of the Straw Proposal for outage restoration. ABATE agrees that no PIM is needed for this focus area.

ABATE notes that the proposed outage restoration metrics are self-selected by the utilities because they are established using the utilities' own previously proposed goals. The Commission should confirm that the outage restoration targets are at least as stringent as the existing, mandatory SQRS obligations.

D. Responses to the Commission's holistic questions

1. How do the individual proposals in the Straw Proposal fit together?

The individual proposals do not fit together well, particularly with respect to incentive funding. Each proposal is designed in isolation with no common recovery framework, no aggregate cap on incentive costs, and no assessment of the cumulative rate impact of the proposals on customers. The individual proposals in the Straw Proposal create significant aggregate exposure for customers due to an uncapped shared savings mechanism, an interconnection incentive of unstated magnitude, a restructured DR incentive, and a signaled future grid utilization PIM, all layered on top of the Phase 1 reliability mechanism. Moreover, absent class-specific recovery mechanisms, the costs associated with all of these proposed incentives would presumably be recovered from the same customers, regardless of the beneficiaries or cost causers for each of the performance areas set forth in the Straw Proposal.

2. Do the proposals represent a symmetrical approach to performance incentives, both within Phase 2 and in concert with Phase 1?

The Straw Proposal would not result in symmetrical treatment of incentives and penalties. Where the Straw Proposal recommended financial incentives for shareholders in certain focus areas, the Commission has not proposed symmetrical shareholder penalties. As discussed earlier

in these comments, Focus Areas 1 and 3 of the Straw Proposal contain financial incentives for shareholders, but penalty mechanisms in these areas are either weak, absent or not commensurate to the potential incentives.

Measured against Phase 1, the Phase 2 proposals depart from each protection the Commission adopted for the reliability PIMs. The Phase 1 mechanism caps total incentive or penalty at \$10 million per year, a level the Commission found “appropriately balances” meaningful financial exposure against undue burden. (February 27 Order at 28–29.) It requires a utility to meet the SQRS to earn a net incentive, pairs incentives and penalties symmetrically on the same metrics, with linear scaling and defined deadbands, and is implemented through company-specific contested cases with a defined review cycle. (*Id.* at 27-31.) By contrast, the proposed VPP PIM has no cap of any kind, no SQRS gate, an unquantified penalty, no contested-case implementation, and the interconnection incentive’s magnitude is not stated at all. Moreover, Phase 1 performance is measured beginning with calendar year 2026, and the first standalone review of the Phase 1 metrics will not commence until October 15, 2027. (*Id.*) The Commission therefore has no completed year of Phase 1 results by which to judge whether financial incentives are producing value for customers. At a minimum, any Phase 2 incentive should be subject to the same SQRS gate and should fall within a single combined annual cap covering both phases.

3. Are the recommendations in the Straw Proposal likely to lead to both energy cost savings for customers and improved grid performance?

There is no objective evidence in the record to support such a conclusion. None of the incentive proposals that are described in the Straw Proposal is supported by a benefit-cost analysis demonstrating that the resulting customer savings exceed the associated cost of the shareholder incentives. While the U-20898 benefit cost analysis tool would be used under the Straw Proposal to compute some shareholder incentives after the fact, no objective analysis is used to justify the

cost of adopting shareholder incentives relative to their associated benefits. As a precondition to adopting any financial incentive mechanism for any of the topic areas discussed in the Straw Proposal, the Commission should require a showing on the record that the projected net customer benefits of the proposed PIM exceed the projected incentive cost. As the Clean Energy Organizations noted, “the structure of the incentives must be based on a thorough benefit-cost analysis.” (August 6 Order at 15.) This omission is particularly significant because the Straw Proposal presents the Reliability-Plus framework as advancing the Commission’s priority on electricity affordability. Uncapped shareholder incentives layered on top of cost-of-service rates are difficult to reconcile with that priority.

III. CONCLUSION AND RELIEF REQUESTED

ABATE appreciates the opportunity to submit these comments regarding the Straw Proposal. For the reasons set forth herein, ABATE respectfully requests that the Commission make findings and determinations with respect to the Straw Proposal in accordance with the comments above, including the following:

1. Decline to adopt any Phase 2 financial incentive at this time, and limit Phase 2 to reporting metrics and scorecards until the Commission has completed at least one review cycle of the Phase 1 reliability mechanism.
2. Identify on the record the specific statutory authority for each proposed incentive, separately from each proposed penalty, and address the application of Mich Admin Code, R 460.741 and R 460.742.
3. Before adopting any Phase 2 financial mechanism, separately notice and take comment on the cost recovery vehicle, class allocation, cap, prudence review, and penalty refund treatment for each mechanism.
4. Require, as a precondition to any Phase 2 incentive, a record showing that projected net customer benefits exceed the projected incentive cost.
5. For any Phase 2 incentive the Commission adopts: (a) condition payment on the utility meeting all SQRS standards and on the utility not earning above its authorized return; (b) include it within a single combined annual cap with the Phase 1 mechanism; (c) allocate its cost to the customer classes that benefit, consistent with MCL 460.11; (d) prohibit

duplicate rewards for the same capacity or activity across the interconnection, DR, and VPP mechanisms; and (e) implement it through contested cases.

6. Decline to adopt the DER interconnection timeline incentive for Level 1, 2, and 3 projects; retain reporting and, if desired, a scorecard limited to utility-controlled process steps.
7. Enforce interconnection deadlines under Mich Admin Code, R 460.990 and MCL 460.10e (rather than rescinded R 460.656), with penalty proceeds credited to customers consistent with cost causation, after notice and an opportunity to be heard, and under articulated criteria.
8. Adopt the Level 4 and 5 interconnection scorecard with no incentive or penalty, and revisit the target as data develops.
9. Refer flexible interconnection to the ITWG with direction to develop reliability and cost-effectiveness criteria and to assign associated costs to the interconnecting customer, with no PIM.
10. Rely on existing regulatory tools (Case No. U-20147 and the DSP process) for data access and hosting capacity, with no PIM.
11. Decline to adopt the VPP/DER deployment PIM, and address any failure to pursue cost-effective non-wires alternatives through prudence review, disallowance, and enforcement of approved IRPs.
12. If any VPP or DER deployment incentive is adopted: (a) impose an express dollar cap modeled on MCL 460.1075; (b) pay only for exceeding, not meeting, the target; (c) adopt a symmetric, quantified penalty; (d) exclude capacity already provided under interruptible, DR, and LMR programs; (e) provide a large-customer self-direction or exclusion mechanism; (f) require independent verification of delivered peak capacity; (g) bar any incentive on costs that already earn a return, and true up incentives if deferred investments are built; (h) require a separate showing that any IRP-derived target is a reasonable incentive benchmark; and (i) assign costs incurred to serve new large-load customers to those customers.
13. Eliminate the spending-based demand response incentive. If a DR incentive is retained, restructure it on a performance basis that excludes load reductions supplied by customers under interruptible, DR, or LMR obligations, uses a defined baseline, does not reward dispatch frequency, and requires event-by-event reporting of the triggering condition.
14. Adopt the distribution grid utilization reporting metrics at the system, substation, and feeder levels, reported monthly and filed in a form usable in rate case and DSP proceedings; use them to inform cost recovery decisions for distribution capital investment; and decline to establish a PIM based on them.

15. Confirm that outage response and notification will remain a scorecard, with targets no less stringent than the SQRS, and that no future PIM will duplicate the Phase 1 restoration metrics or SQRS credits.

16. Confirm removal of the 4.8 kV conversion focus area from the Reliability-Plus framework.

The Commission should give careful consideration to the comments above and ultimately provide guidance in accordance therewith.

Respectfully submitted,

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