

Michigan Public Service Commission

General Information

Contact information

6545 Mercantile Way
Suite 7
Lansing, MI 48911
(517) 241-6180
<http://www.michigan.gov/mpsc>

No. of Commissioners

3 of 3

Method of Selection

Commissioners: Gubernatorial appointment, Senate confirmation
Chairman: Gubernatorial appointment

Term of Office

Commissioners: 6 years
Chairman: 0 years

Chairperson

Orjiakor Isiogu

Governor

Richard D. "Rick" Snyder (R)

Services Regulated

Electric cooperatives, Electric utilities, Gas utilities, Pipeline companies, Steam utilities, Telecommunications utilities, Water carriers, Water utilities

RRA Ranking

Average/1 (4/9/2010)

Commission Budget

\$26 million

Commissioner Salaries

Commissioners: \$108,200
Chairman: \$113,600

Size of Staff

155

Rate Cases

Michigan Public Service Commission

Commissioners

Name	Party	Began Serving	Term Ends
Orjiakor Isiogu Chairman	D	08/2007	07/2013
Greg White	I	12/2009	07/2015
Monica Martinez	D	07/2005	07/2011

Miscellaneous Issues

Commissioner Selection Criteria--No more than two commissioners may be from the same political party. Services Regulated--The PSC has jurisdiction over investor-owned electric, gas, telecommunications, and steam utilities, gas and oil pipelines, water carriers, and, cooperatively-owned electric utilities. However, the Commission does not have authority over securities issuances by the utilities. Staff Contacts: Judy Palnau, Public Affairs, (517) 241-3323(Section updated 2/23/11)

RRA Evaluation

Despite the pressures presented by a particularly weak state economy, Michigan regulation has been constructive over the last couple of years. Legislation enacted in 2008 streamlined the rate case process and codified a framework for the utilization of forecasted test years and the implementation of interim rate increases to reduce regulatory lag. The legislation also established a PSC review process for significant new infrastructure projects, permits a cash return on construction work in progress, and reduces the uncertainty of cost recovery. An electric restructuring framework was implemented several years ago that provided the utilities a reasonable opportunity to recover stranded costs; this process has been completed. Electric utilities have retained their generation assets, and customers who do not select a competitive supplier are regulated on a traditional cost-of-service basis. In the rate cases that have been decided in the past few years, the PSC generally adopted returns on equity that were modestly above the prevailing industry averages. Adjustment mechanisms are in place for fuel costs for customers served under bundled service, and the PSC has authorized revenue decoupling mechanisms for certain electric and gas utilities. In the gas industry, the major local distribution companies have instituted programs that allow all retail customers to choose their gas supplier, and modest small-customer switching has occurred. In recognition of the implementation of the aforementioned constructive policies, in April 2010, we raised our rating of Michigan regulation to Average/1 from Average/2. We are maintaining the Average/1 rating at this time. (Section updated 2/23/11)

Commission Staff

The PSC Staff has approximately 155 members. The Commission is organized into the following divisions: regulated energy; electric reliability; operations and wholesale markets; service quality; motor carrier; regulatory affairs; telecommunications; and, management services. The directors of these divisions report to the PSC's Bureau Administrator (BA), with the exception of the director of the Regulatory Affairs Division who reports directly to the chairman. Administrative law judges are assigned to PSC cases by a different state agency, but are subject to Commission approval. (Section updated 2/23/11)

Consumer Interest

Largely represented by the PSC Staff and the Attorney General's (AG's) Special Litigation Division. An Assistant AG is assigned to utility matters by the AG's office. A utility-funded Consumer Participation Board sponsors intervenors in energy cost recovery proceedings. The Association of Businesses Advocating Tariff Equity (ABATE) represents large industrial and commercial customers. (Section updated 2/23/11)

Rate Case Timing/Interim Procedures

Legislation enacted in 2008 establishes a 12-month deadline for the PSC to complete a general rate case. If the PSC does not complete a case within 12 months, the requested rate increase is automatically approved. Utilities are permitted to implement a proposed rate change on an interim basis, 180 days after a filing, in any case in which the utility utilizes a historical test year. However, if a utility utilizes a forecasted test year, it would not be permitted to implement an interim rate increase prior to the beginning of the test year. If the permanent rates established by the PSC are lower than the interim rates, the utility would be required to refund the difference, with interest. A utility is required to wait at least 12 months from the filing of its previous rate case before initiating a new case. (Section updated 2/23/11)

Return on Equity

Over the past several years, PSC return on equity (ROE) determinations have generally been modestly above the prevailing industry averages when established. Regarding electric utilities, Upper Peninsula Power (UPP) is authorized a 10.3% ROE as specified in a settlement adopted by the PSC on Dec. 21, 2010. On Nov. 4, 2010, the PSC authorized the electric operations of Consumers Energy (CE) a 10.7% ROE. On Oct. 14, 2010, the PSC adopted a settlement, and in so doing authorized Indiana Michigan Power (IMP) a 10.35% ROE. Wisconsin Electric Power (WEPCO) is authorized a 10.25% ROE, established by a July 1, 2010 PSC decision. On Jan. 11, 2010, the PSC authorized Detroit Edison (DE) an 11% ROE. With regard to gas utilities, on Jan. 6, 2011, the PSC adopted a settlement, thus authorizing SEMCO Energy Gas (SEMCO-EG) a 10.35% equity return. Michigan Consolidated Gas (MCG) is authorized an 11% ROE, established by a June 3, 2010 PSC decision. CE is authorized a 10.55% ROE that was established by a May 17, 2010 PSC decision. On Dec. 16, 2009, the PSC adopted a settlement, thereby authorizing Michigan Gas Utilities (MGU), formerly Aquila Networks-MGU, a 10.75% ROE. DE and MCG are subsidiaries of DTE Energy; CE is a subsidiary of

CMS Energy; UPP and MGU are subsidiaries of Integrys Energy Group; SEMCO-EG is a division of SEMCO Energy, which is privately held; IMP is a subsidiary of American Electric Power; and, WEPCO is a subsidiary of Wisconsin Energy. (Section updated 4/8/11)

Rate Base and Test Period

The PSC has typically relied upon an average original-cost rate base for a test year that is partially forecast at the time a decision is rendered regarding permanent rates. However, as a result of the interim rate procedures that are in place, new rates typically are effective at or shortly after the beginning of the test year. Legislation enacted in 2008 established a certificate of necessity (CON) process for significant capital projects, including new and expanded generation facilities that cost more than \$500 million. Prior to the initiation of construction, a utility may file an application requesting that the PSC review proposed investments in new generation, acquisition of existing power plants, major upgrades of power plants, and long-term power purchase agreements. Once the PSC issues a CON, the utility would be permitted to earn a cash return on construction work in progress (CWIP) for the related facilities, and once declared used and useful, earn a return of and on the project costs up to those approved by the Commission. If actual costs exceed the approved costs, the utility would be permitted to recover the excess only if the PSC finds it to be reasonable and prudent. Prior to the enactment of the legislation, a cash return on CWIP generally was not permitted, except for pollution-control investment. (Section updated 2/23/11)

Accounting

Under a PSC-approved plan to finance the decommissioning of Michigan's nuclear power plants, surcharges are applied to customers' monthly bills. The collected funds are placed in external trusts. Amounts collected are subject to true-up upon the ultimate decommissioning of the facilities. (Section updated 2/23/11)

Alternative Regulation

Detroit Edison (DE) is subject to a Choice Incentive Mechanism that incorporates a base level of customer choice (i.e., customer switching to a competitive electric supplier) sales, a deadband around the base level, and customer/stockholder sharing of non-fuel revenues associated with sales levels outside of the deadband range (see the Electric Regulatory Reform/Industry Restructuring section for additional details). A similar mechanism had been implemented for Consumers Energy (CE), but was terminated in November 2009. Michigan Consolidated Gas (MCG) is subject to an uncollectibles expense true-up mechanism that was initially established in 2005 and subsequently modified on June 3, 2010. By March 31 of each year, MCG must tender a filing that compares the company's actual uncollectibles expense for the preceding calendar year with the base level of uncollectibles expense incorporated in the company's rates. Eighty percent of the difference is collected from, or refunded to, customers through a temporary surcharge or credit over the subsequent 12-month period. In November 2009, the PSC adopted a similar uncollectibles expense true-up mechanism for CE's electric operations, but the mechanism was terminated effective Nov. 30, 2010. Uncollectible expense true-up mechanisms are in place for DE, Upper Peninsula Power, and Michigan Gas Utilities. The company is authorized to recover from, or refund to customers, 80% of the difference between actual uncollectibles expense and those reflected in rates. A similar mechanism was terminated for Upper Peninsula Power effective Jan. 1, 2011. (Section updated 2/23/11)

Corporate Governance

The PSC does not have authority over utility securities issuances. However, the PSC's code of conduct prohibits an electric utility from financing or co-signing a loan for an affiliate. Historically, the PSC did not have authority over utility mergers and acquisitions, but legislation enacted in 2008 gave the Commission this authority (see the Mergers Activity section). (Section updated 2/23/11)

Merger Activity

Legislation enacted in 2008 authorizes the PSC to review and approve mergers and acquisitions involving Michigan utilities, and attach conditions to any approvals. No mergers have yet to come under the PSC's review under this new authority. In 2009, the Michigan Supreme Court upheld the portion of a 2004 PSC order that denied Detroit Edison's (DE's) request to recover the acquisition premium that parent DTE Energy had paid in 2001 to acquire MCN Energy Group, the parent of Michigan Consolidated Gas. DE had requested that \$61.6 million be included in the annual revenue requirement to reflect recovery of the premium. In 2007, the Michigan Court of Appeals had reversed the PSC on this issue. (Section updated 2/23/11)

Court Actions

PSC rate decisions may be appealed directly to the Court of Appeals (COA), and subsequently to the Michigan Supreme Court. All judges are elected on non-partisan ballots. Historically, there has been substantial action in the Michigan courts concerning regulatory issues. However, in recent years court involvement has been limited. In May 2009, the Supreme Court upheld a 2004 PSC order that denied Detroit Edison recovery of the acquisition premium that parent DTE Energy had paid to acquire MCN Energy Group in 2001 (see the Merger Activity section). (Section updated 2/23/11)

Legislation

The Michigan Legislature, which meets throughout the year, is a bicameral body, consisting of a Senate and a House of Representatives. The Senate is comprised of 26 Republicans and 12 Democrats, while the House has 63 Republicans and 47 Democrats. In 2010, legislation was introduced in both the House of Representatives (House Bill 6127) and Senate (Senate Bill 1317) designed to modify the state's electric retail choice program to increase to 25% (from the existing 10%) the maximum level of retail sales in a utility's distribution service territory provided by alternative suppliers at any time as a percentage of weather-adjusted retail sales for the preceding calendar year (FN 5/14/10). The bills were not passed in the 2010 session and could not be carried over into the 2011 session. (Section updated 3/4/11)

Electric Regulatory Reform/Industry Restructuring

Legislation--Pursuant to a state law enacted in 2000, all customers became eligible for direct access by Jan. 1, 2002 (this aspect of the restructuring framework has since been modified, see below). In 2000, residential and small commercial rates were reduced by 5%, \$48 million and \$65 million for Consumer Energy (CE) and Detroit Edison (DE), respectively, and were to be frozen until Dec. 31, 2003. Residential customer rates were to be capped through at least Jan. 1, 2006, with no increases permitted until the earlier of Dec. 31, 2013, or until the PSC determined that the utility meets a market power test and has completed certain transmission expansion requirements. CE and DE satisfied both of these conditions in 2002. Commercial customer rates were capped through year-end 2004. Utility capital expenditures in excess of depreciation levels incurred during and before the period when rates were capped, were deferred for recovery for a period not to exceed five years commencing after the conclusion of the rate-cap period. Legislation enacted in 2008 modified the electric choice framework to limit the amount of load in a utility's distribution service territory provided by alternative suppliers at any given time to 10% of the utility's weather-adjusted retail sales for the preceding calendar year. In general, current customers served by an alternative supplier are to be given priority in fulfilling the 10% limit. Also, the legislation authorizes the PSC to approve surcharges that would allow utilities (i.e., CE and DE) that offered retail choice from 2002 through the effective date of the legislation to fully recover restructuring costs and accrued regulatory assets, including implementation and stranded costs, within five years. Transmission Issues--In accordance with the 2000 law, the utilities implemented plans that expanded the state's available transmission capacity by more than 2,000 MWs. Each of the state's electric utilities was required to join a FERC-approved multi-state regional transmission organization (RTO) or sell its interest in transmission facilities to an independent transmission owner. CE sold its transmission system in 2001, and DTE Energy sold its transmission

affiliate in 2003. Stranded Cost Recovery--The 2000 law provided for full recovery of PSC-approved stranded costs. CE and DE have essentially completed recovery of their stranded costs. DE is operating under a Choice Incentive Mechanism (CIM) that incorporates a base level of customer choice sales of 1,586 GWHs, and a deadband of plus or minus 200 GWHs (representing \$7 million of revenue) around the base level. If customer choice sales are greater than 1,786 GWHs (which would decrease DE's revenue), the utility would recover 90% of the reduction in non-fuel revenues associated with sales in excess of 1,786 GWHs from full-service customers. If customer choice sales are below 1,386 GWHs, the CIM requires DE to credit 90% of the increase in non-fuel revenues associated with choice sales below 1,386 GWHs against unrecovered regulatory asset balances. Fuel costs will continue to be recovered from customers through the existing Power Supply Cost Recovery mechanism (see the Adjustment Clauses section). In a Nov. 2, 2009 decision for CE, the PSC terminated the company's electric choice incentive mechanism, effective Nov. 30, 2009. Under the terminated mechanism, if customer choice sales increased or decreased by more than 5% from the amount reflected in rates, a charge or credit would have been implemented. The company was at risk for changes in customer choice sales that were within a deadband of plus or minus 5% around the level reflected in rates. Other Restructuring-Related Activity--The PSC has approved a licensing program for suppliers of unbundled generation services that permits these suppliers to operate throughout Michigan, without a certificate of public convenience and necessity. (Section updated 2/23/11)

Gas Regulatory Reform/Industry Restructuring

Large-Volume Customer Choice--Large volume customers may purchase gas from suppliers other than their local distribution company (LDC). While there are no minimum usage requirements to qualify for transportation-only service, substantial monthly charges apply. Small-Volume Customer Choice--Small-volume customers became eligible to choose a competitive gas supplier in 2000-2001. Customers who do not choose an alternate supplier are provided with gas from the incumbent LDC at rates that include a regulated gas cost recovery (GCR) clause. With some exceptions, customers who choose a gas supplier other than their LDC must remain transportation-only customers for a 12 month period, but may switch gas suppliers as often as monthly. Customers returning to the LDC would return at the GCR sales rate. (Section updated 2/23/11)

Securitization

State statutes allowed the utilities to securitize restructuring-related regulatory assets and stranded costs. The savings from securitization were required to be used to reduce retail electric rates. The law also required the utilization of a portion of the securitization savings to fund low-income energy assistance, weatherization, and energy efficiency programs. Securitization bonds were to have a term of no more than 15 years. Collection of securitization charges is non bypassable, and includes a true-up mechanism. In 2000, the PSC authorized Consumers Energy (CE) to issue up to \$468.6 million of securitization bonds, which in part, was to provide savings to finance the statutorily-mandated, restructuring-related rate reductions for residential and small commercial customers (see the Electric Regulatory Reform/Industry Restructuring section). CE issued the bonds in 2001. Also in 2000, the PSC authorized Detroit Edison (DE) to issue up to \$1.774 billion of securitization bonds, which in part, was to provide savings to finance the statutorily-mandated small-volume customer rate reduction. DE issued \$1.75 billion of bonds in 2001, and implemented a 5% rate reduction (estimated at \$125 million-to-\$130 million) for industrial and large commercial customers to reflect additional savings generated from the bond issuance. (Section updated 2/23/11)

Adjustment Clauses

The Power Supply Cost Recovery (PSCR) and Gas Cost Recovery (GCR) clauses require utilities to annually file projected costs, and a forward-looking PSCR or GCR supply factor is established at the beginning of the 12 month collection period. Annual reconciliation proceedings are required. Carrying charges are accrued on over-collections at the higher of the short-term borrowing rate or the authorized ROE for the utility, with under-recoveries permitted to accrue interest at the short-term borrowing rate. Full recovery of prudently expended amounts is required. For electric utilities, the capacity and energy components of purchased power costs are recoverable through the PSCR clause. In addition, for Detroit Edison (DE), Consumers Energy (CE), and Upper Peninsula Power (UPP) transmission costs flow through the PSCR. DE is authorized a Choice Incentive Mechanism that incorporates a base level of customer choice sales, a deadband around the base level, and customer/stockholder sharing of non-fuel revenues associated with choice sales levels outside of the deadband range. In 2008, the PSC authorized a similar mechanism for CE, but in a Nov. 2, 2009 rate order, terminated the mechanism effective Nov. 30, 2009 (see the Electric Regulatory Reform/Industry Restructuring section for additional details). In 2009, the PSC adopted a revenue decoupling mechanism for CE's electric operations and for UPP. The Commission authorized DE a revenue decoupling

mechanism in January 2010. The PSC has also adopted revenue decoupling mechanism for CE's gas operations (FN 5/21/10), Michigan Consolidated Gas (MCG) (FN 6/4/10), and Michigan Gas Utilities (MGU) (FN 7/2/10). Legislation enacted in 2008 permits a gas utility that spends at least 0.5% of its revenue on energy efficiency programs to institute a revenue decoupling mechanism. Uncollectible expense true-up mechanisms are in place for DE, MCG, and MGU (see the Alternative Regulation section). CE's mechanism was terminated effective Nov. 30, 2010, and UPP's was terminated effective Jan. 1, 2011. (Section updated 2/23/11)

Integrated Resource Planning

Legislation enacted in 2008 requires electric and natural gas utilities to implement "energy optimization" (efficiency) plans for each customer class. For electric sales, the program targeted 0.3% of annual savings in 2009, increasing to 1% annual savings in 2012. For gas sales, the target annual savings was 0.1% in 2009, increasing to 0.75% in 2012. The law provides for surcharges to fund the plans, and creates the potential for incentives for exceeding the program's targets. The law also establishes a renewable portfolio standard (see the Renewable Energy section). In February 2009, then Gov. Jennifer Granholm (D) issued Executive Directive 2009-2, requiring Michigan to reduce reliance on fossil fuels for generating electricity 45% by 2020. She noted that achieving this goal will also reduce the need for proposed new coal power plants in Michigan. Gov. Granholm directed the Department of Environmental Quality, in consultation with the PSC, to evaluate both the need for additional electricity generation and all feasible and prudent alternatives before approving new coal-fired power plants in Michigan. However, the Directive expired on Jan. 1, 2011. (Section updated 2/23/11)

Renewable Energy

Legislation enacted in 2008 establishes a renewable energy portfolio standard (RPS) in Michigan and provides for a separate funding surcharge. The law requires electric providers to procure 2% of the power to meet their load requirements from renewable resources by 2012, 5% by 2014, and 10% by 2015. The PSC is required to establish a per-meter surcharge to fund the RPS requirements (limited to \$3 per month for residential customers, \$16.58 per month for commercial customers, and \$187.50 per month for industrial customers). A utility would not be required to comply with the RPS standards if the PSC determines that the costs associated with compliance would exceed the maximum monthly surcharges. (Section updated 2/23/11)

Rate Structure

Pursuant to administrative guidelines, the PSC has approved a number of special contracts and economic development tariffs for large-volume customers of Consumers Energy (CE) and Detroit Edison (DE). The contracts provide discounts from regular tariff rates. Legislation enacted in 2008 requires the PSC to phase in, over a five-year period beginning Jan. 1, 2009, rates for the state's electric utilities that equal the cost-of-service for each customer class. The PSC is to ensure that residential and metal-melting rates do not increase by more than 2.5% per year due to the implementation of this provision of the legislation. In addition, the legislation directed the utilities to file, within 90 days of its enactment, tariffs that "ensure that public and private schools, universities, and community colleges are charged retail electric rates that reflect the actual cost of providing service." The necessary rate restructuring is being effectuated through rate cases. (Section updated 2/23/11)