



21st Century Energy Plan
Capacity Need Forum Update Policy Sub-Group

Tanya Paslawski, Chair

Michigan Public Service Commission

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CNF Update Policy Sub-Group (Tanya Paslawski – Chair)¹

Policy Recommendations

- The State of Michigan should create an open, transparent, fair, just, reasonable, and non-discriminatory competitive procurement process that best serves the public interest of Michigan's electricity consumers to meet future generation resource needs.
- Risk should be assigned to those parties best positioned to manage it (e.g., risks associated with construction should be the responsibility of EPC contractors; interest rate risk should be borne by swap counterparties; fuel risk should be assumed by commodity suppliers; and weather risk should fall to insurers).
- The policies of the State of Michigan should support the further development of wholesale and retail competitive electricity markets, and benchmarks should be established to assist in the quantification of the success of current policies.
- Regional matters must be considered in the continued evaluation of capacity needs (i.e., Midwest Independent System Operator and activities in other states).
- Regulatory certainty is necessary to allow companies to make long-term decisions about investment in the State of Michigan.

¹ Participants include Gener Gotiangco (Covert Generating), Terry Harvill (Constellation), Rodger Kershner (Howard and Howard/LS Power), Bob Nelson (Fraser Law Firm), Tanya Paslawski (Direct Energy), and Eric Schneidewind (Energy Michigan).

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Policy Recommendations

- The State of Michigan should adopt a policy that a competitive procurement process is among the most effective means to achieve these objectives.
- A competitive procurement process should complement and improve the state's economic growth by, among other things, securing the most efficient and least-cost power generation and transmission assets for Michigan's electricity consumers.
- All investor-owned electric utilities serving more than one million customers should employ a competitive bidding process when purchasing long-term electric generation resources.
- The competitive bidding process should be open to Commission scrutiny, as are other regulated utility practices.
- There should be reasonable standards of conduct for transactions between utilities and their affiliates and standards for transactions between utilities and competitive bidders conducting business under any competitive procurement process.

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Policy Recommendations

- To the extent that parties agree that the current Michigan “hybrid” electricity structure is dysfunctional and unsustainable, the State of Michigan should not adopt any policies that perpetuate the current structure.
- Accordingly, the State of Michigan should strongly consider limiting an incumbent investor-owned electric utility serving more than one million customers from directly participating in the competitive procurement process and adding additional generation resources to the utility’s rate base.
- Any activity in the competitive procurement process by an incumbent investor-owned electric utility serving more than one million customers should be limited to the determination of future generation resource requirements in cooperation with the Michigan Public Service Commission and interested parties.
- However, any competitive affiliate of an incumbent investor-owned electric utility should be permitted to participate in the competitive procurement process equally with other qualified bidders.
- Any guarantees for cost recovery or other incentives must be available to all bidding parties.
- To the extent retail choice customers are responsible for cost recovery they should participate in the benefit of the supplies secured including all current generation-related charges.

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RFP Competitive Bidding Procurement Process

- Every five years, each investor-owned electric distribution utility serving more than one million customers should file a “Capacity Need Assessment” and an associated “Competitive Procurement Plan” addressing the subsequent ten years of resource needs.
- The Capacity Need Assessment and Competitive Procurement Plan should be treated as a contested case proceeding before the Michigan Public Service Commission.
- The Capacity Need Assessment should include all related regional entities and activities that establish Michigan as the most appropriate geographic location for new capacity additions.
- The Michigan Public Service Commission shall determine the amount of capacity needed and other relevant details (i.e., location constraints due to reliability concerns, specified percentage of renewable energy, etc.) that will form the basis of a competitive procurement Request for Proposal.

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RFP Competitive Bidding Procurement Process

- The Commission shall retain and compensate at the soliciting utility's expense an Independent Evaluator to administer the competitive procurement process.
- The Independent Evaluator shall evaluate the RFP and the subsequent bids, and select the winning bidder based on the Commission's previously determined evaluation criteria via the contested case proceeding or Commission rule.¹
- The contract shall contain appropriate guarantees, as established by the Commission, regarding the development of the generation resource and the reliability of services.
- Any disputes challenging the decision as not meeting the criteria for decision specified by the Commission's rules shall be addressed by the Commission in an expedited manner.
- Costs resulting from the winning bidder(s) shall be *per se* just and reasonable and capped at the winning bid amount.
- Simultaneously with the first plan cases, the Michigan Public Service Commission shall establish rules to govern a competitive procurement process by a rulemaking proceeding.¹

¹ Time constraints may warrant the first RFP be established by Commission Order with a permanent process in administrative rules to follow.