

Michigan Planning Consortium

Round 2 Questions for MPC Report

From 4/20/09 MPC Meeting

ITC Holdings Response

1.

Consumers Energy introduced the possibility of continuing the MPC on a much smaller scale focused on hot topics. Excerpts from their written comments are shown below. Please provide your feedback on the proposed hot topic concept.

Consumers Energy recommends that many of the Michigan issues likely to be addressed in the MTEP planning process should be vetted in a Consortium meeting prior to the MTEP process, since the bulk of the state is in the Midwest ISO footprint. Consumers Energy believes this can be handled by adding a couple of Consortium meetings to discuss current and emerging issues and load forecasts prior to the MTEP process.

In establishing the agenda for issues that participants want discussed, the parties involved in the process should be polled for “Hot Topic” issues.

As stated earlier, Consumers Energy recommends the Consortium be reconvened as a periodic meeting to prepare for and support the Midwest ISO Transmission Expansion Planning process. Consumers Energy also believes there are opportunities to bridge the work done as part of the Michigan Planning Consortium with the work to be done as part of the Michigan Technical Workgroup at the Midwest ISO.

Answer: The “hot topic” concept could be useful. Because the MTEP process is robust and allows for meaningful participation, care must be taken so that any meeting established under this “hot topic” concept does not interfere with, duplicate or circumvent the MTEP process. Staff should facilitate these potential meetings if there is substantial stakeholder support to discuss limited issues occurring at the Midwest ISO.

2.

The following recommendations were made by individual entities within their 1st round of comments. Please provide your feedback on each of the proposals. Are these issues that should be addressed by the MPC now or at some point in the future?

2.1

Consumers Energy suggests that the issue of a common cost allocation position for EHV transmission should be addressed.

Answer: This issue is better discussed during the Midwest ISO process that is happening as part of the current RECB task force at the Midwest ISO. Absent that ITC is in favor of an RTO-wide Postage Stamp rate for all EHV projects (345kV and above) within the Midwest ISO and beyond.

2.2

Within the Generation Integration Group – consortium should address how transmission network upgrade cost sharing will apply if upgrade is made in advance of developer's commitment to build.

Answer: This topic is under development at Midwest ISO. The Midwest ISO's Energy Markets Tariff is where stakeholders should look for further clarification on this issue. Additionally the Midwest ISO has convened a RECB task force to further examine these types of issues.

2.3

How are benefits of transmission to be defined? How should qualitative benefits be portrayed in a cost/benefit analysis. What weight do qualitative benefits receive?

Answer The 765kV workgroup discussed many of these issues, including distinct value drivers. Because these issues appeared to receive little interest from the other stakeholders, a more complete discussion is necessary. The discussion is likely most appropriate within the Midwest ISO framework, however.

2.4 What role will lower voltage distribution systems play in accommodating RPS mandate?

Answer: Distribution systems will move power from Transmission to the load. Networked lower voltage distribution systems will be included in the system models utilized to analyze the impacts of the future wind development in the wind zones as determined by the Wind Energy Resource Zone Board.

1.1 2.4.1 What function will lower voltage lines serve? Transmission?

Answer: The function of lower voltages must be analyzed on a case by case basis.

2.4.2 What requirement is there to build to serve?

Answer: The scope of this question is unclear. Generally, a transmission company's obligation to serve is found in the Midwest ISO tariff and in distribution-transmission interconnection agreements. NERC Standards dictate that the transmission planner must plan so that the system is able to reliably serve demand.

1.2 2.4.3 If lower voltage system viewed as "transmission" by FERC, does utility have obligation to connect developers to accommodate inter-state transactions?

Answer: The interconnection process generally is handled under FERC Order No. 2003, which determined that transmission providers must provide interconnection on a non-discriminatory basis and specified a standard form of interconnection agreement. If a facility is viewed as transmission by the FERC, then transmission interconnection policy as described in that order must be followed. FERC's seven factor test to determine and define the distinction between transmission and distribution based on the function of each system should be the benchmark.

2.4.4 What is state's expectation with respect to utility's charging FERC Wholesale Distribution Charge to developers connecting to the utility system.

Answer: In so far as this doesn't involve transmission, ITC takes no position on this question.

2.4.5 What part will the lower voltage system play in a broader transmission build to serve RPS generation?

Answer: The role of lower voltages must be analyzed on a case by case basis.

2.4.6 Who is to build "feeder" system to move RPS generation from site to grid?

Answer: In so far as this doesn't involve transmission, ITC takes no position on this question.

2 2.5 What role do private developers have compared to utility development of RPS resources. What are expectations of Commission?

Answer: This question is not applicable to ITC. However, it should be noted that, as a transmission owner, ITC provides non-discriminatory access to the grid in accordance with the Midwest ISO EMT and applicable FERC rules and regulations.

2.6 What role should the Planning Consortium play in assuring that information requested of transmission developer during MTEP process is provided on a basis sufficient to enable review of projects and, if desired, the development of alternative solutions?

Answer: MTEP already allows for review of and alternatives for transmission projects. ITC believes that there is no need for the Planning Consortium to address this topic as it is already being addressed within the MTEP process.

3.

The following recommendation was made for the MPC to consider recommending an expansion of PA 30 to the legislature to include all facilities 100 kV and above. The proposal is included below. Please provide your feedback on this proposal.

Michigan stakeholders should be encouraged to participate in the Midwest ISO transmission planning process and attempt to address their issues in that venue. That being said, the Midwest ISO transmission planning process is not a contested regulatory process and there is no specific way to adjudicate differences of opinion. If there is a disagreement on the need for a transmission project, the Midwest ISO will defer to the transmission owner's request to include the project in the MTEP with a potential discussion of the opposing position.

As a result, the Act 30 certification proceedings for new transmission lines should be maintained and expanded to include all transmission lines greater than 100 kV. The certification proceedings would allow the impact of the proposed project on the customers in Michigan to be adjudicated by interested stakeholders.

Answer: Michigan's Public Act 30 should not be altered. There has been no data or information shared during the Planning Consortium in support of such action.

4.

Please provide a response to the written comments received from Constellation New Energy. How should these comments be handled within the report? Are there points within these comments that have not already been addressed in the previous questions that should be detailed in the MPC report to the Commission? The comments have been provided below for reference.

Answer: The comments from Constellation New Energy should just be noted as being made. As such, the comments really need not be inserted into any formal document that would come from the Planning Consortium.

Michigan Planning Consortium

Round 2 Questions for MPC Report

from 4/20/09 MPC Meeting

Responses due 5/8/09

Submit responses to: colec1@michigan.gov

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In establishing the agenda for issues that participants want discussed, the parties involved in the process should be polled for “Hot Topic” issues.

As stated earlier, Consumers Energy recommends the Consortium be reconvened as a periodic meeting to prepare for and support the Midwest ISO Transmission Expansion Planning process. Consumers Energy also believes there are opportunities to bridge the work done as part of the Michigan Planning Consortium with the work to be done as part of the Michigan Technical Workgroup at the Midwest ISO.

Wolverine: Wolverine believes that there can be value in continuing the Michigan Planning Consortium on a limited basis. While open conversation can be beneficial and should aid the ensuing Midwest ISO MTEP process, it should be clear that this will be a discussion forum as opposed to a decision-making body.

2. The following recommendations were made by individual entities within their 1st round of comments. Please provide your feedback on each of the proposals. Are these issues that should be addressed by the MPC now or at some point in the future?

- 2.1 Consumers Energy suggests that the issue of a common cost allocation position for EHV transmission should be addressed.
- 2.2 Within the Generation Integration Group – consortium should address how transmission network upgrade cost sharing will apply if upgrade is made in advance of developer's commitment to build.
- 2.3 How are benefits of transmission to be defined? How should qualitative benefits be portrayed in a cost/benefit analysis. What weight do qualitative benefits receive?
- 2.4 What role will lower voltage distribution systems play in accommodating RPS mandate?
 - 2.4.1 *What function will lower voltage lines serve? Transmission?*
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- 2.6 What role should the Planning Consortium play in assuring that information requested of transmission developer during MTEP process is provided on a basis sufficient to enable review of projects and, if desired, the development of alternative solutions?

Wolverine: With respect to Items 2.1, 2.2, and 2.3, Wolverine believes that these items all belong properly in the domain of the MISO Stakeholder Process. For example, it would be inappropriate to try to solve cost allocation issues for EHV among Michigan stakeholders while the benefits of these facilities were regional and outside of the Michigan footprint. Wolverine is, at this time, taking no position on the questions regarding distribution serving RPS-related generation. The MISO MTEP process should handle all transmission related information requests. Finally, considering the contemplated ramping down of Consortium activity into a more information-sharing, operational entity, these issues should not be addressed by the group.

3. The following recommendation was made for the MPC to consider recommending an expansion of PA 30 to the legislature to include all facilities 100 kV and above. The proposal is included below. Please provide your feedback on this proposal.

Michigan stakeholders should be encouraged to participate in the Midwest ISO transmission planning process and attempt to address their issues in that venue. That being said, the Midwest ISO transmission planning process is not a contested regulatory process and there is no specific way to adjudicate differences of opinion. If there is a disagreement on the need for a transmission project, the Midwest ISO will defer to the transmission owner's request to include the project in the MTEP with a potential discussion of the opposing position.

As a result, the Act 30 certification proceedings for new transmission lines should be maintained and expanded to include all transmission lines greater than 100 kV. The certification proceedings would allow the impact of the proposed project on the customers in Michigan to be adjudicated by interested stakeholders.

Wolverine: The current PA30 process works and this proposal is beyond the scope of this group.

4. Please provide a response to the written comments received from Constellation New Energy. How should these comments be handled within the report? Are there points within these comments that have not already been addressed in the previous questions that should be detailed in the MPC report to the Commission? The comments have been provided below for reference.

Wolverine: Respectfully, it is difficult to understand the position of Constellation on topics that were specifically asked about in the Round One questions. They should either reorganize their response into the correct format or participate in the discussion to emphasize their critical issues. Short of that, the response should be excluded from the report writing.

To: Tom Stanton
From: Jack Dempsey
Date: March 20, 2009

On behalf of Staff, you have requested that participants in the Michigan Planning Consortium's Generation Integration Workgroup provide comments on a future approach to electricity infrastructure planning and review in Michigan. As we understand it, your stated goal is to recommend an approach that would optimize infrastructure/reliability planning as a whole and devise appropriate policy in a final report to the Michigan Public Service Commission (the "Commission") in U-15590.

Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, "Constellation") appreciate the opportunity to provide such a recommendation regarding the Commission's role in infrastructure planning and review. Constellation understands that the Commission is evaluating the benefits of an Integrated Resource Plan ("IRP) approach. As part of that evaluation, Constellation encourages the Commission Staff to consider making the following determinations:

- (1) Require electric utilities to consider and evaluate the use of competitive procurement processes under any certificate of necessity ("CON") process;
- (2) Foreclose utilities from taking action that hinders the development of retail competition;
- (3) Subject any utility projects – for base load generation or otherwise - to competitive bid; and
- (4) Encourage Smart Grid strategies that provide the maximum amount of value to all consumers.

BENEFITS OF COMPETITION

Competition - at the wholesale level for procuring the generation needed by electric utilities, and at the retail level for customers that choose to shop – will keep costs as low as possible and produce a number of benefits that are aligned with the Commission's goals for the future of the Michigan electric market. Additionally, encouraging participation of competitive market principles will maximize the value of any Smart Grid development in Michigan.

Benefits of Wholesale Competition

- Competitive procurements provide appropriate market signals. In cases where consumers do not pay actual market prices, they have little or no incentive to reduce consumption during times when production costs are significantly higher (or defer consumption to periods in which there is lower system demand). Since costs may be substantially higher at these times, the potential for savings should not be overlooked. Moreover, demand response programs, which provide the tools and incentives for electricity customers to

reduce their consumption at critical times or in response to market prices, provide relatively low-cost means of guarding system reliability.

- Utilities should be required to enter into full requirements contracts, for all or a portion of their IRP, which achieves several benefits. First, a full requirements procurement structure relieves the Commission or utility from active portfolio management responsibility, and instead places the planning responsibility into the hands of the winning full requirements suppliers, who have extensive experience in managing portfolios. In doing so, full requirements procurement demands far less regulatory involvement in evaluating the specifics of a procurement plan to assess whether the utility is buying the “right” products, in the “right” amounts, and at the “right” times. Second, this approach yields the lowest fixed price at which these customers can be served, so it provides a fully competitive price while at the same time minimizing short term price volatility and insulating customers from other risks that would be borne by the full requirements suppliers. Third, it will offer an efficient way to bring the benefits of wholesale competition to residential and small commercial customers that do not select alternative retail electric suppliers.

Benefits of Retail Competition

- The ability and information to make decisions and have choices regarding their electric power needs -- just as they do with the telecommunications, natural gas, and airlines industries, which were previously under a monopoly system of regulation.
- A superior platform to promote demand response and energy efficiency than traditional cost-of-service regulation. Competitive suppliers currently offer demand response, energy efficiency, and green products and services.
- A competitive market model will allow the marketplace to respond to any future (federal or state) climate regulation in the most cost competitive manner. Without such competitive forces, Michigan’s customers will be forced to bear the entire burden of costly climate change regulation.

Requirements For New Generation Facilities

- **Mandate the use of a Competitive Bidding Process.** Consider safeguards to minimize risks to customers and suppliers. Among other things, the Commission should require that incumbent utilities demonstrate: (1) a need for additional energy and/or capacity considering all available resources, including resources available in the region and regional planning initiatives; (2) that the type of plant construction being proposed is the proper plant to build, and; (3) that the proposed cost of the new facilities is just, reasonable,

and prudent, as demonstrated through a competitive bidding process. The solicitation of competitive bids will ensure that Michigan consumers who will ultimately pay for the costs of a new plant will get the benefit of a quality, lowest cost product, rather than foot the bill for utility-built plants that have historically been the subject of gross cost overruns. Electric customers – both bundled and retail choice – are still paying the costs (through securitization assessments) of the last time the incumbent electric utilities built or tried to build new generating facilities. The utilities should be held to the lessons of the past and should not be permitted to again require Michigan consumers to pay the costs for their mistakes. This reasoning applies equally to other utility projects, as well.

- Allowance for Funds Used During Construction ("AFUDC") offset be utilized for Construction Work in Progress ("CWIP") during the construction of new generation facilities, and limit rate recovery to that time only after a plant is put into service. The electric utility seeking to recover the costs of plant construction should bear the burden of financing the construction until such point as the plant actually begins producing electric power for the benefit of the utility's ratepayers. Such a safeguard helps protect ratepayers from unnecessary or unsuccessful plant investment. Michigan history is replete with examples of utility plant construction plans gone awry. Detroit Edison's Fermi II power plant is but one example. The plant was originally scheduled to be completed in 1980, with total projected costs under \$1 billion. However, the plant was not completed until 1985, did not go on-line until 1988, and exceeded \$5 billion in total cost. Had Edison been permitted to include CWIP without an AFUDC offset, the cost of the new plant would have gone into Edison's rate base for an extended period of time without any corresponding benefit to the affected ratepayers. Such a result must be avoided if at all possible.

Effective Smart Grid strategies

- An effective Smart Grid strategy should direct significant attention to demand-side resources currently in play, and their increasing role in the future as part of a Smart Grid, including allowing customers to bid in to markets. Demand response programs for commercial and industrial customers, in particular, bring a number of significant benefits to consumers, including but not limited to:

- a) Strong rates of return and typically relatively low investments on a dollar/MW basis.
- b) If properly structured, provide the ability to leverage private funds from competitive demand response providers.
- c) Capable of faster implementation that exists with larger infrastructure projects.

d) Reduce the need to run older peaking generating units, which typically have high emissions rates.

One of Michigan's very first Smart Grid objectives should be to maximize participation of commercial and industrial customers in demand response programs.

- Encourage the treatment of demand resources on a comparable basis to supply resources. This parity will enable greater demand elasticity for all rate classes, resulting in a better functioning market and a more reliable grid. Additionally, utility supply-side investments should always be made with consideration of demand-side resources and their capabilities in mind. In other words, if properly enabled, demand-side resources can often be substituted for many types of supply-side resource investments including new peaking plants, new transmission lines, new substations, new capacitor banks, etc. Properly enabling demand resources to serve these functions will require work in several areas including building automation systems, communications protocols, and extensive public education – all appropriate issues for the Initiative to explore.

- Opportunity to involve non-utility parties - including demand response providers, energy services companies, building automation companies, and end-user groups - into Smart Grid discussions and solutions. It is these groups that have lead much of the Smart Grid innovation in the U.S. to date, and it is these groups that will be making the required investments on the customer's side that are needed in order to achieve a Smart Grid.

Conclusion

Constellation commends the Commission and Staff in taking this pro-active look at infrastructure planning and review as a means of meeting Michigan consumers' electricity needs in the future. As articulated above, Staff's final report to the Commission in the Michigan Planning Consortium regarding the optimal approach to infrastructure planning and review should include the following elements:

- (1) Require electric utilities to consider and evaluate the use of competitive procurement processes under any certificate of necessity ("CON") process;
- (2) Foreclose utilities from taking action that hinders the development of retail competition;
- (3) Subject any utility projects – for base load generation or otherwise - to competitive bid; and
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In establishing the agenda for issues that participants want discussed, the parties involved in the process should be polled for “Hot Topic” issues.

As stated earlier, Consumers Energy recommends the Consortium be reconvened as a periodic meeting to prepare for and support the Midwest ISO Transmission Expansion Planning process. Consumers Energy also believes there are opportunities to bridge the work done as part of the Michigan Planning Consortium with the work to be done as part of the Michigan Technical Workgroup at the Midwest ISO.

Consumers Energy continues to support this proposal.

5. The following recommendations were made by individual entities within their 1st round of comments. Please provide your feedback on each of the proposals. Are these issues that should be addressed by the MPC now or at some point in the future?

- 2.7 Consumers Energy suggests that the issue of a common cost allocation position for EHV transmission should be addressed.

Consumers Energy recommends that 2.1 be a focus of future MPC meetings.

- 2.8 Within the Generation Integration Group – consortium should address how transmission network upgrade cost sharing will apply if upgrade is made in advance of developer’s commitment to build.

Consumers Energy recommends that this issue not be addressed until the MISO RECB 3 cost sharing filing is made in July of 2009. Any additional solutions required for Michigan can be addressed at that time.

- 2.9 How are benefits of transmission to be defined? How should qualitative benefits be portrayed in a cost/benefit analysis. What weight do qualitative benefits receive?

Consumers Energy believes that all benefits need to be monetized in order to be portrayed in a cost/benefit analysis. Qualitative (non-monetized) benefits should be given consideration as a tie breaker between competing proposals that have similar cost/benefit metrics.

- 2.10 What role will lower voltage distribution systems play in accommodating RPS mandate?

2.10.1 What function will lower voltage lines serve? Transmission?

Consumers Energy believes that lower voltage lines (i.e. distribution lines) can serve as points of interconnection between small generators and the transmission system. The generator should have the opportunity to utilize these lines under the appropriate wholesale tariff. Consumers Energy has a wholesale distribution service agreement (“WDS”) with METC to accommodate the use of these lines.

2.10.2 What requirement is there to build to serve?

Consumers Energy believes the MPSC generator interconnection rules cover the obligation to build and serve.

2.10.3 If lower voltage system viewed as “transmission” by FERC, does utility have obligation to connect developers to accommodate inter-state transactions?

Consumers Energy does not view the lower voltage system as “transmission”. It has been classified as “distribution” by the MPSC after the completion of a seven factor test. This classification has been accepted by FERC.

The obligation to connect developers comes under the MPSC rules and regulations and not FERC.

The use of the distribution system for wholesale transactions is covered by Consumers Energy’s Wholesale Distribution Services agreement with METC which has been incorporated in the Midwest ISO tariff.

2.10.4 What is state's expectation with respect to utility's charging FERC Wholesale Distribution Charge to developers connecting to the utility system.

Consumers Energy believes that the use of the distribution system for wholesale transactions is properly charged under the "Wholesale Distribution Services" agreement.

2.10.5 What part will the lower voltage system play in a broader transmission build to serve RPS generation?

Consumers Energy believes the lower voltage system will continue to be used to connect small generators (remotely located from the transmission system) to the transmission system.

2.10.6 Who is to build "feeder" system to move RPS generation from site to grid?

Consumers Energy believes that the responsibility for building a "feeder" system from the individual units to a collector station lies with the project developer. The collector station may then connect to either the local distribution system or a transmission system dependent on the amount of generation being connected and capability of the facilities in the area.

2.11 What role do private developers have compared to utility development of RPS resources. What are expectations of Commission?

Consumers Energy believes that the RPS legislation in Michigan directs that at least 50% of the new RPS resources be developed by non-utility developers.

2.12 What role should the Planning Consortium play in assuring that information requested of transmission developer during MTEP process is provided on a basis sufficient to enable review of projects and, if desired, the development of alternative solutions?

Consumers Energy believes the Planning Consortium should work to assure all parties have a clear understanding of the information requested of transmission developers during the MTEP process.

6. The following recommendation was made for the MPC to consider recommending an expansion of PA 30 to the legislature to include all facilities 100 kV and above. The proposal is included below. Please provide your feedback on this proposal.

Michigan stakeholders should be encouraged to participate in the Midwest ISO transmission planning process and attempt to address their issues in that venue. That being said, the Midwest ISO transmission planning process is not a contested regulatory process and there is no specific way to adjudicate differences of opinion. If there is a disagreement on the need for a transmission project, the Midwest ISO will defer to the transmission owner's request to include the project in the MTEP with a potential discussion of the opposing position.

As a result, the Act 30 certification proceedings for new transmission lines should be maintained and expanded to include all transmission lines greater than 100 kV. The certification proceedings would allow the impact of the proposed project on the customers in Michigan to be adjudicated by interested stakeholders.

Consumers Energy continues to support this recommendation.

7. Please provide a response to the written comments received from Constellation New Energy. How should these comments be handled within the report? Are there points within these comments that have not already been addressed in the previous questions that should be detailed in the MPC report to the Commission? The comments have been provided below for reference.

Consumers Energy does not believe it is appropriate to include the issues brought up by Constellation New Energy in the MPC report to the Commission as the issues were never raised or discussed in any prior consortium meeting. Consumers Energy believes the issue of Smart Grid technology development and strategies is an appropriate "Hot Topic" for the consortium to discuss.

Detroit Edison's Comments to those submitted by Constellation
in Response to Staff's March 23rd Questionnaire

In its opening statement, Constellation claims that it is responding to a request from Staff seeking policy recommendations to be provided to the Commission regarding the Commission's future approach to electricity infrastructure planning and review. Detroit Edison disagrees with this characterization and objects to inclusion of Constellation's comments in Consortium's report.

Staff's request was made in the form of a questionnaire in which sixteen specific questions were posed seeking participant's opinions regarding the accomplishments of the Consortium, regarding any identified improvements to the transmission planning process and seeking members' opinion as to whether or not the Consortium itself should continue. Unlike other participants in the Michigan Planning Consortium process who "colored within the lines" and provided specific responses to the March 23rd questionnaire posted by Staff, Constellation chose not to answer a single question posed but instead, suggested the Commission adopt a set of policies that, if adopted, would be contrary to policies that have recently been addressed by the States' Legislature and have been codified in Michigan law.

Detroit Edison cannot accept the recommendations proffered by Constellation and urges that they not be offered as recommendations to the Commission because, i) they were not presented for discussion to and do not represent a consensus of the Consortium, and ii) they are far afield from the type of recommendations sought by the Commission regarding improved coordination amongst Michigan stakeholders to the MISO transmission planning process.

Constellation has been largely absent from every Consortium meeting held. While it may have been present via phone, it has been largely if not totally silent in discussions held. It is not clear why Constellation has held back from expressing its views and why it has chosen now to express them. Constellation was not precluded from raising issues or recommendations during the meetings for discussion amongst the full Consortium. Instead it now raises these issues for only the *Staff's* consideration and expects that those thoughts will be included in the report to the Commission. The Michigan Planning Consortium process was designed to result in a Consortium report to the Commission, not a Staff report. Because Constellation has precluded any meaningful discussion of its recommendations in the Consortium process, Constellation's last minute comments should not be included in the July, 2009 report. To include Constellation's last minute, unproductive comments would marginalize the hard work and difficult discussions of the Consortium stakeholders that chose to genuinely participate in the process.

Constellation's comments point to its disengagement from the entire Consortium process. Staff's survey questions related to the activities and events convened over the last ten months. Anyone involved in the Consortium would know that the discussions held in any of the three established workgroups revolved around improving communication and processes related to the development of transmission infrastructure within the state. Indeed, the Commission's order establishing the Consortium was driven by the Commission's desire to improve the coordination amongst different Michigan entities participating in the MISO transmission planning process.

Constellation's attempt to circumvent the Consortium process is antithetical to the goals of the Consortium. In its order creating the Consortium, the Commission directed the Staff to take the lead in establishing the Consortium with input from members and ordered that the Consortium would report its recommendations to the Commission by July 31, 2009. Detroit Edison appreciates the Staff's efforts in hosting and applauds the Staff as being the driving force behind the Consortium's efforts. A number of very contentious issues were posed and discussed during the course of the Consortium's existence. Staff has consistently sought common ground while maintaining a professional decorum where differences could not be resolved. MISO's staff is to be recognized as well for professionally addressing issues as they arose. These efforts at consensus building should not be marginalized by the acceptance of Constellation's comments.

Comments of the Electric Power Supply Association

To: The Michigan Planning Consortium (MPC)

Re: Round 2 Questions for the MPC Report from 4/20/09 MPC Meeting

Date: May 8, 2009

I.

Introduction

The Electric Power Supply Association (EPSA) appreciates the opportunity to provide comments to the MPC in anticipation of its report to the Michigan Public Service Commission (PSC) on approaches that would optimize infrastructure/reliability planning. EPSA is the national trade association of competitive power suppliers, including generators and power marketers. These suppliers account for nearly forty percent of the total generating capacity in the United States. In Michigan, about twenty-five percent of capacity is supplied by independent power producers. Because EPSA seeks open, competitive and transparent markets for the provision of electricity, our organization has a significant understanding of how effective competitive bidding processes are developed.

These comments focus on question No. 4 of the Round 2 Questions for MPC Report, and respond to the competitive procurement proposal included in the written comments of Constellation NewEnergy. While the bulk of the MPC's directive in this report is to examine Michigan's role within the greater Midwest ISO planning process, the PSC's ultimate intent with this process is "to assure the public that any rate increases required to fund energy infrastructure investments and to improve reliability are necessary, the best solution, and just and reasonable."¹ Mandating an open, competitive procurement process within Michigan is the best way to fully vet all options for Michigan consumers. The MPC should recommend Constellation's competitive procurement proposal in its report to the PSC, as it is the most transparent, efficient and cost effective way to optimize infrastructure/reliability planning.

II.

Comments

A.

Competitive Procurement Should be Mandated

EPSA has long held that independently administered and monitored, competitive solicitations, when conducted in a fair, accurate and transparent manner, are an important tool at the state level for determining the prudence of utility purchases and investment decisions allaying concerns about bias with respect to supplier or fuel.² A competitive procurement process is key if the MPC report seeks to make recommendations that would truly optimize reliable infrastructure planning.

¹ The PSC's own motion to establish a planning consortium to address Michigan's energy infrastructure opportunities and challenges, Case No. U-15590 (July 1, 2008), p. 4.

² EPSA has testified to this effect on behalf most recently on behalf of the Michigan Wholesale Power Alliance in Case No. U-15806 and U-15805 (direct testimony of Daniel Sanchez de Munian Dolan).

³ This report was also submitted to the Michigan Commission under Case Nos. U-15806 and U-15805. In those dockets, EPSA also submitted a competitive procurement guidebook EPSA developed, titled "Getting the best deal for consumers." For even further information, see: *State Competitive Procurement: A Partial Survey of Best Practices*, a white paper on the best procurement practices now being used by various states. The paper was prepared by the law firm of Dickstein Shapiro at the request of EPSA to assist the NARUC and FERC Competitive Procurement dialogue and surveys different state practices, highlighting practices that EPSA has found to work best. All of these reports are attached for informational purposes.

A well-structured, robust competitive procurement is the most effective way to ensure that customers get the best possible deal on electricity in terms of risk, reliability and environmental performance. A fair, accurate and transparent competitive solicitation process is an important tool for determining the prudence of utility power purchase and investment decisions because it provides a market test to assess any utility proposal to build its own generation on a cost-plus basis. A competitive process will also provide confidence to the wholesale electricity marketplace that supplies and investment opportunities for the best resources will be fairly considered. Such a perception is critical to ensuring the most choices, and thus the highest level of competition, exists for Michigan consumers' electricity supply needs.

Competitive procurement is also the best way to meet Michigan's electricity challenges. Discussed more in Section C, Michigan faces steep supply challenges in the next few years. Public Act 295 mandated a 10% Renewable Portfolio Standard (RPS) by 2015. This along with an uncertain demand forecast and likely federal carbon emissions legislation will mean even bigger challenges for planning Michigan's supply needs. Michigan, and other states like it, will have to develop innovative solutions to meet the RPS and carbon emissions standards. It is only logical that supply solutions to many of these challenges are best deployed successfully by those with a greater financial stake in whether they succeed or fail - by those who take risks for doing so - not by the cost-based utilities who are largely paid and profit regardless of success, whose mistakes are absorbed by ratepayers, who earn more as more money is spent and who do not have their construction proposals tested against other available options.

B.

Best Practices for Competitive Procurement

Several reports have been developed in recent years on the benefits of competitive procurement in state-level resource planning. Those reports have also clearly laid out best practices the MPC should recommend for PSC consideration.

As part of its unique joint state/federal collaborative on competitive procurement, the National Association of Regulatory Utility Commissioners (NARUC) and the Federal Energy Regulatory Commission (FERC) commissioned a report on best practices titled, "Competitive Procurement of Retail Electric Supply: Recent Trends in State Utility Practices." ³ In its most recent meeting NARUC also

⁴ The resolution urges State public utility commissions to consider implementing the Study's recommendations, where appropriate for the type of industry structure, market design, and regulatory paradigm in which their utility companies operate. *NARUC Resolution EL-2: Resolution on the NARUC/FERC Collaborative Study of Model State and Utility Practices for Competitive Procurement of Retail Electric Supply* (February 18, 2009). Link: <http://www.naruc.org/Resolutions/EL%20Resolution%20on%20the%20NARUC-FERC%20Study%20of%20Model%20State%20and%20Utility%20Practices%20for%20Competitive%20Procurement%20of%20Retail%20Electric%20Supply.pdf>.

passed a resolution urging "State public utility commissions to consider implementing the Study's Recommendations..."⁴

The NARUC/FERC Study laid out five important factors to consider in implementing successful competitive bidding processes. A competitive procurement process should: 1) be fair and objective; 2) be designed to encourage competitive proposals; 3) evaluate offers on both price and non-price factors that are known to all bidders, and objectively measure against those criteria; 4) be conducted efficiently and promptly; and 5) be reflected in the state's own procedures and actions.

Being "fair and objective" in a competitive solicitation setting can prove to be challenging. It is important not to favor a utility build over bids from other competitive sources. The NARUC/FERC report focuses specifically on this point when it states "...because the large capital investments necessary for development of these types of resources into rate base, commissions should be aware that utilities may attempt to shield such projects from competition even in situations where market processes are applicable. Despite these challenges, the potential economic gains from imposing the market discipline of competitive procurements on development of capital-intensive and advanced technologies may be great." (p. 19). In addition, when using a competitive procurement process, the report notes that "[b]ecause the utility's (and/or its parent's) financial interests may not be aligned with those of its customers when the utility selects from among the options, extra care is needed to prevent improper self-dealing by the utility. *Best practices under these circumstances require a higher degree of regulatory supervision and scrutiny, such as the use of an independent monitor tasked to be the eyes and ears of the regulator and to help bolster the procurement's fundamental fairness and objectivity.*" (p. 12 – emphasis added) Many states utilize Independent Monitors (IMs). Such states include, among others, Arizona, Colorado, Delaware, Georgia, Maryland, New Jersey, Oklahoma, and Utah. Most recently, it was determined that an independent monitor will be used in the upcoming FirstEnergy process in Ohio. IMs can have widely-varying roles, tailored by the state's commission to meet the individual state's needs. IMs can, for example, review and comment on the completeness

⁵ Appendix A to the NARUC/FERC Study is a list of possible IM roles and responsibilities.

⁶ *Michigan Public Service Commission's Initial Brief*, Case No. U- 15589 (April 28, 2009), p. 23. Further, in a reply brief in the same case on May 5, 2009, MPSC staff recommends that the Commission include improved bidding design to the renewable energy procurement process in the development of final rules for implementing Act 295.

of proposed RFP materials and navigate through any difficulties that may be encountered in developing stakeholder consensus. IMs can review and validate models and assumptions to be used to evaluate offers, supervise a utility's evaluation process or be independently charged with such evaluations, oversee negotiations with bidders, quantify qualitative criteria and perform many other functions. IMs can also provide the valuable service of being the clearinghouse of for all communications between bidders and the utility. While noting that there are a few exceptions, the NARUC/FERC Study explains that "[i]ndependent monitors are currently required in nearly all states that impose some procurement processes."⁵ EPSA strongly agrees that the use of an independent evaluator to monitor the bidding and all communications among the parties is a best practice, and we firmly believe it should be implemented in Michigan.

C.

The Michigan Public Service Commission Staff Has Supported Independently Evaluated Competitive Procurement for Imminent Policy Challenges Facing Michigan.

In an on-going proceeding at the PSC on implementing the renewable mandates enacted through Public Act 295, a recent initial staff brief indicated that staff agreed that collaborative bidding processes are the best way to meet the RPS and "staff recommends the Commission include these modifications to the renewable energy procurement process in the development of final rules." ⁶ Any MPC report should, in the very least, recommend that the PSC consider this proceeding in the same spirit of the final rules to be developed for renewable energy procurement, as both speak to Michigan's planning needs.

III.

Conclusion

As capacity and reserve margins continue to shrink, and as states in every region face the prospect of how to meet future supply needs, it is imperative that proper structures and mechanisms are in place to ensure that all supply options are considered in a non-discriminatory manner that comprehensively and efficiently assesses risks, costs and environmental concerns while maintaining long-term system reliability to the benefit of all customers. Competitive procurement in Michigan would not only ensure future supply adequacy, but it would ensure that consumers are getting the best deal possible and attract innovation to the state. The MPC report should include Constellation's recommendation to require competitive procurement processes for any future utility resource proposal. Such a requirement represents the best way to truly optimize infrastructure/reliability planning.