

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
of the investigation into methods to improve the)
reliability of electric service in Michigan.)
_____)

Case No. U-12270

At the July 11, 2001 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

The Commission issued an order on January 3, 2000 initiating this proceeding to consider methods to improve the reliability of service to all of Michigan’s electric utility customers. The Commission directed the Commission Staff (Staff) to consult with electric utilities operating in Michigan, customer groups, and other relevant stakeholders to develop recommendations for appropriate measures of service quality, current industry standards, and changes in existing methods that would improve service reliability. The Staff filed a status report on March 31, 2000 and a final report on May 1, 2000, which proposed the adoption of certain electric distribution system performance standards.

On June 5, 2000, Public Act 141 of 2000 (Act 141) took effect. Section 10p(5) of Act 141 provides:

The commission shall adopt generally applicable service quality and reliability standards for the transmission 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. 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.

MCL 460.10p(5); MSA 22.13(10p)(5).

Given the passage of Section 10p(5) of Act 141, the Commission concluded that interested persons should have an opportunity to comment on the Staff's May 1, 2000 proposed distribution standards. Toward that end, the Commission invited comments on whether and how those standards should be modified to comply with Act 141. Interested parties were given until July 21, 2000 to file comments on the Staff's May 1, 2000 proposal. Reply comments and responses were also provided for by August 4, 2000 and August 18, 2000, respectfully. Further, recognizing the new statutory requirements and the constraints of federal law, the Commission directed the Staff to investigate the development of performance standards for electric transmission systems. The Staff was directed to consult with electric utilities operating in Michigan, customer groups, and other relevant stakeholders about methods to improve the service reliability of transmission systems, and to file a status report concerning the results of those consultations by September 29, 2000 and a final report by November 1, 2000.

Timely comments were received from Alpena Power Company, Consumers Energy Company, The Detroit Edison Company, Unicom Energy, XCEL Energy (f/k/a/ Northern States Power Company-Wisconsin), The Michigan Electric and Gas Association, Wisconsin Public Service

Corporation and Upper Peninsula Power Company, the Association of Businesses Advocating Tariff Equity, Wisconsin Electric Power Company, and the Michigan Electric Cooperative Association. Additionally, the Staff submitted its interim and final reports as directed by the Commission.

Summary

In its May 1, 2000 report on electric distribution system performance standards, the Staff recommended that the Commission adopt nine specific performance standards that would measure a utility's response to outages, unsafe conditions, and customer service. After reviewing the Staff's proposal in light of the comments and reply comments, the Commission concludes that its initial regulatory response to passage of Section 10p(5) of Act 141 should be to adopt standards for outages, unsafe conditions, and customer service that delineate performance levels that are clearly unsatisfactory and that also provide for credits in the event that customers are subject to prolonged outages. Additionally, the Commission finds that all electric distribution companies in this state should be ordered to compile and report data over the course of the next two calendar years that measure their actual performance with respect to each of the service quality and reliability standards adopted by the Commission. A summary of the proposed standards is attached to this order as Exhibit A, and each of the proposed standards is discussed in the next section of this order.

The Commission finds that this approach is reasonable because the collection, reporting, and comparison of electric distribution system performance data are novel in this state. Until passage of Section 10p(5), electric utilities subject to the Commission's jurisdiction were not obligated to systematically record and report to the Commission regarding their service quality and distribution

system reliability. However, the Commission is also persuaded that customers should not be subject to service that is clearly unsatisfactory during this information-gathering phase. In particular, the Commission finds that customers subject to prolonged outages should be compensated for such inconvenience. Further, because Section 10p(7) directs the Commission to assess the effect of deregulation on reliability and Section 10p(8) empowers it “to levy financial incentives and penalties upon any jurisdictional entity which exceeds or fails to meet the service quality and reliability standards,” the Commission is persuaded that full implementation of these responsibilities should not be delayed. Utility customers pay for a reasonable level of service quality in their rates. The prolonged provision of substandard service by a utility is tantamount to requiring customers to overcompensate the utility. Accordingly, the Commission concludes that for the 2002 and 2003 calendar years, utilities should be required not only to compile and report data, but also to exceed service performance levels deemed clearly unsatisfactory by the Commission and to compensate customers subject to certain prolonged outages.

Finally, the Commission is aware that its initial regulatory response to Section 10p differs in some regards from the proposals submitted by the Staff in this proceeding. Accordingly, the Commission finds that interested persons should be afforded another opportunity to submit comments and reply comments regarding the proposed service quality and electric distribution system performance standards described in this order. Toward that end, interested persons shall have until August 21, 2001 to file their initial comments. Reply comments shall be filed no later than September 21, 2001.

Distribution System Performance Standards

a. Glossary

Any system for the collection of performance standard data for electric utilities must be based on standardized terminology in order to produce meaningful information. Unless individual utilities measure interruptions and storms, responses to customer complaints, and the commencement of service in the same manner, the data produced will be of little value. To avoid the problems associated with the use of inconsistent definitions, the Staff proposed adoption of a glossary. The Commission agrees with this recommendation. Accordingly, Exhibit B contains a glossary that the Commission proposes to use in evaluating the service quality and distribution system reliability data collected by the utilities subject to Section 10p.

b. Reporting

Utilities shall measure, record, and report information necessary to demonstrate their performance in relation to the performance standards. Data are to be recorded on a monthly basis, including the 12-month rolling average, and submitted to the Staff quarterly. A quarter-ending 12-month rolling average of data shall be used to determine compliance with the standards. Each filing is to be made within 30 days of the close of a reporting quarter. The first report shall be filed by April 30, 2002 for the January 1 to March 31, 2002 reporting period. Reports shall include a summary table similar to Exhibit A that indicates compliance or noncompliance for each standard.

Filings that disclose unacceptable performance shall include a discussion of the root cause of the unacceptable performance, an explanation of all corrective actions that have been undertaken to remedy the situation or increase performance, and a summary of any credits issued by the utility to

its customers. Statements concerning action plans or future analyses to be undertaken are not acceptable corrective actions for unacceptable levels of performance.

Data submissions shall be made in hard copy and in electronic format. The specific electronic format shall be determined after consultation with the Staff.

c. Outage Measurements and Credits

The Commission proposes to adopt four performance standards related to the measurement of outages. The first three of these performance standards relate to a utility's ability to restore service under various conditions. Weather plays a considerable role in the occurrence of outages. The randomness of storms can cause significant variability in data from one year to the next. Therefore, the Commission finds that it is important to measure a utility's success in restoring service to its interrupted customers in all conditions, after the occurrence of catastrophic events, and under normal conditions. By requiring the measurement and reporting of data under all of these situations, the Commission will be better able to gauge the degree to which a utility's ability to restore service is affected by a variety of circumstances.

Initially, considering all conditions, the Commission finds that it should establish that a utility's inability to restore service to 90% or more of its interrupted customers within 36 hours or less should be deemed unacceptable. For catastrophic events, the Commission finds that a utility's inability to restore service to 90% or more of its interrupted customers within 60 hours or less should be deemed unacceptable. Finally, under normal conditions, a utility's inability to restore service to 90% or more of its interrupted customers within 8 hours or less should be deemed unacceptable.

Further, for a catastrophic event, the Commission proposes to require a utility to issue a customer credit if the customer's service is not restored within 120 hours. Under normal conditions, the Commission is persuaded that a utility's inability to restore service to a customer within 16 hours should trigger the issuance of a customer credit.

The first three outage-related performance measurements pertain to a utility's system-wide performance. However, system-wide data may obscure localized problem areas that experience repeated interruptions. Accordingly, the fourth outage-related performance measurement proposed by the Commission is designed to gather data regarding same-circuit repetitive interruptions. In the glossary, the Commission has defined a same-circuit repetitive interruption as meaning a grouping of more than 10 customers on a circuit who experience multiple interruptions under all conditions. Further, the Commission finds that a utility's performance should be deemed unacceptable for this category if more than 5% of its circuits experience 5 or more outages interrupting more than 10 customers each outage during a 12-month period. For this performance standard, the Commission proposes that the issuance of a customer credit should be triggered by the occurrence of more than 7 interruptions within a 12-month period.

Finally, the Commission proposes that the appropriate customer credit for a violation of any of these performance standards should be the greater of \$25 or the applicable customer charge (or equivalent charge) for residential customers or, for other distribution customers, the amount of the customer's minimum bill prorated on a daily basis.

d. Safety Measurement

Next, the Commission proposes adoption of a measurement of safety that is linked to a utility's promptness in responding to wire-down situations that are being guarded by non-utility

individuals. While the Commission is aware that every downed energized wire is a potential hazard to the public, such situations are more likely to occur in highly populated urban areas than in sparsely populated rural areas. Therefore, the Commission proposes to require reporting of this performance standard only in the Metropolitan Statistical Areas (MSAs) identified for the State of Michigan by the Federal Office of Management and Budget on June 30, 1999.¹ Further, the Commission finds that a utility's performance should be deemed unacceptable for this category if less than 90% of non-utility guarded downed wires in MSAs are guarded by utility personnel within 240 minutes.

e. Customer Relations

Finally, the Commission proposes to adopt five performance standards related to the measurement of customer relations. First, the Commission finds that utilities should measure and report on average customer call answer time. An answer is defined as meaning that a utility representative, voice response unit, or automated operator system is ready to render assistance or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line is not an answer. The Commission finds that a utility's performance should be deemed unacceptable if its average customer call answer time exceeds 90 seconds.

Second, the Commission finds that utilities should measure and report on the percentage of customer calls that do not get answered. A call is defined as an effort by a customer to obtain a telephone connection whether the connection is completed or not. A utility's call blockage factor shall be calculated by multiplying the remainder obtained after subtracting the number of answers

¹ A map of the Michigan MSAs is attached to this order as Exhibit C. It appears on the website of the United States Department of Commerce, Economics and Statistics Administration, Bureau of the Census at <http://www.census.gov/geo/www/mapGallery/stma99.pdf>.

from the number of calls times 100 and then by dividing that value by the total number of calls.²

The Commission finds that a utility's performance should be deemed unacceptable if its call blockage factor exceeds 5%.

Third, the Commission finds that utilities should measure and report on the annual percentage of the complaints forwarded to a utility by the Staff that are responded to within a specified time period, namely 3 business days. In this regard, the Commission emphasizes that this performance standard is meant to determine only whether a timely communication has occurred between the utility and the customer that identifies the problem and also identifies a solution to the complaint. The Commission does not intend the complaint response factor to measure whether the problem that is the subject of the complaint actually gets resolved within 3 business days, but only whether the customer is apprised within 3 business days of (1) the nature of the problem and (2) what the utility intends to do to alleviate the problem. The Commission finds that a utility's performance should be deemed unacceptable if less than 90% of such customer complaints are responded to within 3 business days.

Fourth, in its report the Staff stated that it had received some complaints of customers' meters not being read in a timely manner. Accordingly, the Commission finds that utilities should measure and report on the percentage of meters read within an approved billing period. An approved billing period could be a "billing month" within the meaning of R 460.2102(b), which means a utility service consumption period of not less than 26, nor more than 35, days or it could describe some other time period approved by the Commission pursuant to R 460.2112(1). In any event, the Commission finds that a utility's performance should be deemed unacceptable if less

²
$$\frac{\text{(Number of calls minus number of answers)} \times 100}{\text{Number of calls}}$$

than 90% of a utility's customers' meters are read or estimated in accordance with R 460.2112 within the billing period, including customer reads.

Fifth, the Staff also reported receiving a number of complaints pertaining to delays in the completion of new service hookups. For that reason, the Staff recommended that the Commission consider adoption of a performance standard aimed at measuring the completion of new service installations. The Commission agrees that utilities should be required to complete new service installations within a specified time period, namely 15 business days. Further, to standardize the data, the Commission finds that all utilities should use the first business day after all of the following events have been accomplished as the start date for determining their compliance with this performance standard:

1. All rights of way and easements have been obtained and are and remain physically unencumbered.
2. All permits have been received.
3. All joint use requirements have been met.
4. All required inspections (local, state, etc.) have been completed.
5. All Commission approved tariff payments have been received.
6. All MISS DIG activities have been completed.

The Commission finds that a utility's performance with this standard should be deemed unacceptable if less than 90% of new service installations are completed within 15 business days of the start date.

Transmission System Performance Standards

Section 10p(5) directs the Commission to adopt not only distribution system performance standards, but also transmission system performance standards. However, this order is confined to distribution system issues for several reasons. First and foremost, as recognized in the Commission's June 19, 2000 order, the Commission's authority with regard to transmission system

performance standards is subject to “the constraints of federal law.” June 19, 2000 order, Case No. U-12270, p. 2. Prior to the advent of electric restructuring, it was well settled that the provision of transmission services performed in the context of traditional wholesale transactions was subject to regulation by the Federal Energy Regulatory Commission (FERC), not state regulators. Jersey Central Power & Light Co v Federal Power Commission, 319 US 61; 63 S Ct 953; 87 L Ed 1258 (1943). Further, existing case law also leaves no doubt that transmission services provided by an intervening utility, *i.e.*, transmission provided by a third-party utility between an independent generation supplier and a public utility that previously would have supplied the customer with bundled service, are subject to the FERC’s jurisdiction. Federal Power Commission v Florida Power & Light Co., 404 US 453; 92 S Ct 637; 30 L Ed 2d 600 (1972). However, in its Order No. 888,³ the FERC indicated that a “bright line” differentiation between federal and state jurisdiction could not be divined for unbundled retail transmission by a public utility that previously provided bundled retail service to an end-user.

Additionally, the Commission finds that, given the FERC’s pervasive role in regulating transmission services, the Commission agrees with the Staff’s recommendation that it should pursue concerns regarding transmission reliability by providing input and suggestions to the North American Electric Reliability Council, the North American Electric Reliability Organization, and regional transmission organization advisory boards.

³ Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed Reg 21,540; FERC Stats & Regs, Regulations Preambles Jan 1991 to June 1996 ¶ 31,036 (1996). The FERC issued Order No. 888-A, which addressed requests for rehearing of Order No. 888 and reaffirmed the FERC’s findings regarding the jurisdictional delineation between transmission and local distribution facilities. 62 Fed Reg 12,274; III FERC Stats and Regs ¶ 31,048, at pp. 30,181-82, 30,335-46 (1997).

Finally, the Commission notes that the Staff's November 1, 2000 report indicates that (1) the reliability of transmission facilities ordinarily exceeds the reliability of distribution facilities and (2) transmission facility failures frequently have very little effect on end-users.

For all of these reasons, the Commission finds that it should not propose adoption of transmission system performance standards in this proceeding.

Submission of Comments

All comments filed in this case may be submitted as traditional filings or through the electronic case filings program. All comments should reference Case No. U-12270. Persons submitting comments as traditional filings must file an original and 15 copies with the Commission's Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. Persons submitting comments through the electronic case filing program must file an original and four paper copies and an electronic copy in the portable document format (PDF). Requirements for filing electronic documents can be found in the Commission's Electronic Case Filings Users Manual at <http://efile.mpsc.cis.state.mi.us/efile/usersmanual.pdf>. Contact the Staff at 800.292.9555, 517.241.6170, or by e-mail at cases.efile.mpsc@cis.state.mi.us prior to filing to obtain access privileges and with any questions.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. Interested persons should be afforded an opportunity to submit comments and reply comments regarding the proposed service quality and electric distribution system performance standards described in this order and its exhibits.

THEREFORE, IT IS ORDERED that:

A. Interested persons shall have until August 21, 2001 to file initial comments regarding the proposed electric distribution system performance standards described in this order and its exhibits.

B. Reply comments shall be filed no later than September 21, 2000.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of July 11, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

b. Interested persons should be afforded an opportunity to submit comments and reply comments regarding the proposed service quality and electric distribution system performance standards described in this order and its exhibits.

THEREFORE, IT IS ORDERED that:

A. Interested persons shall have until August 21, 2001 to file initial comments regarding the proposed electric distribution system performance standards described in this order and its exhibits.

B. Reply comments shall be filed no later than September 21, 2000.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of July 11, 2001.

Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated July 11, 2001 proposing electric distribution system performance standards and establishing a schedule for the submission of comments and reply comments by interested persons, as set forth in the order.”