

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion, to)
commence a collaborative to consider best practices)
to ensure cost-effective development of new energy)
resources and to limit procurement barriers for)
emerging technologies, including processes for)
competitive bidding.)
_____)

Case No. U-20852

COMMENTS OF THE
MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL
AND
ADVANCED ENERGY UNITED

Introduction

On September 9, 2021, the Michigan Public Service Commission (“Commission”) approved the Competitive Procurement Guidelines for Rate-Regulated Electric Utilities (Not for PURPA Compliance) (“2021 Competitive Procurement Guidelines”). The Michigan Energy Innovation Business Council (“Michigan EIBC”)¹ and Advanced Energy United (“United,” collectively “Michigan EIBC/United”)² offered comments throughout the process of developing the 2021

¹ The Michigan Energy Innovation Business Council is a trade organization tasked with growing Michigan’s advanced energy economy by fostering opportunities for innovation and business growth and offering a unified voice in creating a business-friendly environment for the advanced energy industry in Michigan.

² Advanced Energy United is a national business association representing leading companies in the advanced energy industry. United supports a broad portfolio of technologies, products, and services that enhance U.S. competitiveness and economic growth through an efficient, high-performing energy system that is clean, secure, and affordable.

Competitive Procurement Guidelines. As noted by the Commission, Michigan EIBC/United have raised in multiple contested cases concerns that more needs to be done to ensure fair consideration of third-party owned resources. In its Order in the last Consumers Renewable Energy Plan case (Case No. U-21816), “the Commission acknowledged MEIU’s concern that simply providing an opportunity for third parties to bid into RFPs is not sufficient to encourage competition and to ensure the procurement of cost-effective renewables.”³ The Commission subsequently opened a docket to explore these issues including an initial redline of the 2021 Competitive Procurement Guidelines (“2026 Redline”). Michigan EIBC/United appreciate the Commission’s attention to these issues and provide initial comments on these topics as well as comments/edits on the 2026 Redline.

Improvements to the 2021 Competitive Procurement Guidelines

Michigan EIBC/United appreciate many of the changes proposed by the Commission in the 2026 Redline. Several of the changes which Michigan EIBC/United support are outlined below.

- *Removal of optionality* (Objectives and Guidelines 1). Michigan EIBC/United support the removal of optionality for competitive procurement in the 2026 Redline. Instead, as stated in the Objectives and Guidelines (at 1), competitive procurement will be used to arrange all resources.
- *Addition of a post-RFP meeting* (Guidelines 2d.v). Michigan EIBC/United support the addition of a post-RFP meeting in which the selection process is detailed. This should

³ Commission Order in Case No. U-20852, April 30, 2026, p. 3.

include a discussion of any non-price factors that were included and details of the scoring of those factors.

- *Consideration of interconnection levels and additional benefits* (Guidelines 3a). Michigan EIBC/United support the addition of interconnection levels and additional benefits to the list of factors that a utility must fairly consider during the RFP process.
- *Specification of energy characteristics* (Guidelines 3b). Michigan EIBC/United support the specification of energy characteristics needed to meet utility load and any specific resources needed to meet requirements in RFPs. This information will help bidders to understand what the utility is seeking in the RFP and avoid submission of bids that do not meet the needed characteristics – saving both the utility and bidders time and costs. However, Michigan EIBC/United recommend that the Commission require this information to be provided (replacing “encouraged” with “required” in Guideline 3b).
- *Consideration of technology benefits* (Guidelines 4h). Michigan EIBC/United support the additional consideration of the benefits that different resources can provide including long duration resiliency and dispatchability as a clean or renewable resource. As described below, to the extent that these benefits are considered, it is crucial that the consideration/scoring is transparent and clear to all bidders.

- *Addition of code of conduct compliance* (Guidelines 5). Michigan EIBC/United support the addition of compliance with the code of conduct and the requirement that the utility use an Independent Administrator (“IA”) when there are affiliate transactions. However, as outlined below, Michigan EIBC/United recommend that the Commission require utilization of an IA in the following instances: 1) when an affiliate project is bid into an RFP, and 2) when a utility self-built project is bid into an RFP.

General Recommendations

Require third-party ownership and a 50/50 split in ownership

Michigan EIBC/United strongly urge the Commission to establish a requirement within the Competitive Procurement Guidelines that ensures that each competitive procurement establishes a roughly 50/50 split in ownership between utility-owned projects (self-built projects and build transfer agreements, “BTAs”) and third-party owned projects. One essential role of the Commission is to determine whether utility proposals are “reasonable and prudent.”⁴ A core element of determining whether a proposal is reasonable or prudent is ensuring that the lowest cost, highest quality projects are selected. Michigan EIBC/United, however, contend that simply allowing third-party owned projects to bid into RFPs is not sufficient to ensure that these projects are fairly evaluated and that a strong third-party market exists. Instead, there are a number of reasons to establish a 50/50 split in ownership:

⁴ Case No. U-22058, DTE Application for Approval of Special Contracts and for other relief, p. 6; *see also* MCL 460.6t.

- *Capital bias:* If given the choice, a regulated utility, which earns a significant return on equity (“ROE”) for all capital expenditures, can be expected to prefer to invest its own capital to develop and own renewable energy projects to meet customer demand for renewable energy. This bias needs to be recognized and addressed, both through an established split in ownership and through use of an IA (as described below).
- *Cost considerations:* In many cases, third-party owned renewable energy resources have been shown to be just as economic and, in many cases, more economic than utility-owned resources.^{5, 6, 7} Using Commission-maintained data,⁸ for projects approved by the Commission between 2019 and 2025, for Consumers Energy, utility-scale solar PPAs greater than 20 MW had an average cost of \$51.80/MWh (n = 8) and company-owned utility-scale solar projects (including BTAs) greater than 20 MW had an average cost of \$56.75/MWh (n = 4). In any given year, prices of all projects (regardless of ownership) may be higher or lower depending on factors including tax credits, permitting and interconnection timelines, supply chain issues, and materials and labor costs. In addition,

⁵ Dominion Energy Virginia, Appendix 3K-1 – Comparison of per MWh Costs of Selected Resources, 2024 Integrated Resource Plan, Case No. PUR-2024-00184, October 15, 2024, available at https://cdn-dominionenergy-prd-001.azureedge.net/-/media/pdfs/global/company/irp/2024-irp-w_o-appendices.pdf?rev=c03a36c512024003ae9606a6b6a239f3, pp. 257-258.

⁶ Avista Utilities, 2025 Electric Integrated Resource Plan, December 31, 2024, available at <https://www.myavista.com/-/media/myavista/content-documents/about-us/our-company/irp-documents/2025/2025-avista-electric-irp.pdf>, pp. 185 and 191.

⁷ Public Service Commission of Colorado, an operating company subsidiary of Xcel Energy, Inc., PSCo 2025 Near-Term Procurement Request for Proposals, August 29, 2025, available at <https://xcelnew.my.salesforce.com/sfc/p/1U0000011ttV/a/R300000BqVCg/WvTerHpBFyd8qGYJphrfuLUmKI1EXD6R9N.8DeCgJ74>, p. 2.

⁸ “Renewable Contracts,” Michigan Public Service Commission, available at <https://www.michigan.gov/mpsc/consumer/electricity/renewable-energy>, accessed December 24, 2025.

although the FCM is a direct payment to the utility (and not to the third-party owner, and thus not a cost attributable to the third-party project), the FCM may (unfairly) increase the total evaluated cost of PPA projects.

By virtue of the nature of competition, Michigan EIBC/United would expect that third-party owned resources will generally be less costly than Company-owned resources. In addition to the elevated project costs inherent to an investor-owned utility like DTE Electric with a current guaranteed return on equity of 9.90%,⁹ competition among third-party developers to win contracts tends to drive down costs. In the presence of this competition, as an empirical matter, it is simply less likely that PPAs with third parties collectively would end up materially higher in price than Company-owned projects. In the alternative, the lack of a robust competitive market for renewable projects in Michigan would likely result in elevated costs. Simply put, if the utility is the only entity practically able to build and own projects, there would be no reason to expect that costs would remain low and every reason to expect that costs would be elevated in the future.

- *Fostering a competitive market:* Beyond historic price differences, fostering a competitive market will help ensure that future prices remain competitive for customers. A strong third-party market will provide competitive prices for the simple reason that cost is a very important, if not the most important, factor in determining the winning bid(s) in an RFP. As such, competitors are only awarded contracts if their projects are the least-cost, best-fit bids – thereby helping to ensure that customers and ratepayers are paying the lowest prices.

⁹ Commission Order in Case No. U-21860, February 19, 2026.

However, customers will likely pay the lowest prices *only* if there is competition among projects bid in to solicitations from many competitors in a well-developed market and not simply a veneer of competition within a system that is otherwise skewed toward utility ownership and utility-owned projects winning bids. Without a path to ownership, third-party developers, many of whom operate an Independent Power Producer (“IPP”) model of ownership and operation of assets, may limit development in Michigan over time, instead preferring neighboring states that offer better market opportunities.

Opportunities for third-party ownership and third-party competition reduce the risk that customers and ratepayers will pay elevated monopolistic prices that benefit utilities and their shareholders rather than customers and ratepayers. In other words, without a strong third-party competitive market, the utility will not face competition, which would likely result in price increases over time. Although the Commission has the authority to disallow costs to ratepayers should it deem them unreasonably high, without a competitive market to provide a touchpoint for what market prices *should* be at any given time, the Commission would be starved of the information necessary to indicate when and in which cases such disallowances should be made. Given the demonstrated capital bias of monopoly utilities,¹⁰ it behooves the Commission to heed, consider, and when appropriate, take action to mitigate these risks.

¹⁰ See Rosenbach, *et al.*, Rocky Mountain Institute, “The Nuts and Bolts of Performance-Based Regulation: Tools to Build a More Affordable, Reliable, and Equitable Grid,” July 2024, available at https://rmi.org/wp-content/uploads/dlm_uploads/2024/07/PBR_Deck_final.pdf, p. 11.

- *Speed to operation:* Third-party owned resources may be capable of reaching commercial operation more quickly than Company-owned resources. First, enabling third-party projects to compete for a portion of each procurement will ensure that a larger number of projects are available for bid. Second, compared to PPAs with third-party owned projects, BTAs can be more difficult to negotiate because these agreements combine the components of both a PPA and an Engineering, Procurement, and Construction (“EPC”) contract. The additional complexity associated with a BTA structure is illustrated by Consumers Energy’s 2022 VGP RFP BTA Term Sheet, which requires due diligence, negotiation of the BTA and related agreements, and review of project permits, real property interests, interconnection rights, environmental reports, design documents, tax-credit documentation, and other project records.¹¹ These additional ownership-transfer requirements can extend procurement and contracting timelines relative to arrangements that do not involve a transfer of project ownership.
- *Risk allocation:* There are also important risk-allocation considerations associated with third-party owned projects. In Virginia, State Corporation Commission (“SCC”) Staff has found that third-party solar PPAs can be the “least cost, lowest risk option,” explaining that, where “all operational risk is borne by the solar developer,” the utility’s ratepayers and shareholders are shielded from that risk.¹² In contrast, SCC Staff found that Company-

¹¹ Consumers Energy Company, 2022 VGP RFP, Appendix D-3: Build Transfer Agreement (BTA) Term Sheet, available at <https://www.consumersenergy.com/-/media/CE/Documents/residential/renewable-energy/electric-power-notices/ceco-2022-vgp-rfp-appendix-d3-build-transfer-agreement-bta-term-sheet.ashx?>, pp. 4–8.

¹² Virginia State Corporation Commission Staff, Pre-Filed Testimony of Gregory L. Abbott, Virginia Electric and Power Company, Case No. PUR-2019-00105, November 19, 2019, available at <https://www.scc.virginia.gov/docketsearch/DOCS/4jxv01%21.PDF>, pp. 1, 6–7.

built, rate-based solar was the “highest cost, highest risk option” and that such projects expose jurisdictional customers to operational and performance risk, even where a performance guarantee shields customers from some, but not all, of that risk.¹³ Maintaining a balanced mix of Company-owned and third-party owned resources therefore provides important risk diversification benefits. It allows the utility to distribute risk across multiple counterparties while also benefiting from the experience, existing development pipelines, and execution capabilities of third-party developers.

Require use of an Independent Administrator

Michigan EIBC/United support the addition in the 2026 Redline of the requirement that the utility use an Independent Administrator (“IA”) when there are affiliate transactions (Guideline 5c). However, it is critical that the Commission *require* utilization of an IA both when an affiliate project is *bid* into an RFP *and/or* when a utility self-built project is *bid* into an RFP. Requiring an IA when a utility affiliate project is selected (and thereby there are “affiliate transactions”) is too late in the process and use of an IA should not simply be “preferred” when a self-built project is under consideration (Guideline 2b.i). In fact, Michigan EIBC/United argue that it is even more important to require an IA when a utility self-built project is bid into an RFP.

There are important differences between an IA and an Independent Monitor (“IM”). Specifically, an IA conducts the evaluation and scoring of proposals in an RFP and then communicates the results to the utility in an anonymized manner until the utility enters into negotiations with the winning bidders. In contrast, an IM simply helps to oversee the RFP process but largely is simply

¹³ *Ibid.*

an extension of the utility – in other words, the IM is not fully “independent” but is instead in “lockstep” with the utility. In other words, an IM simply supports the utility and ensures that the utility follows the established requirements, but does not have an active role in the selection process. Instead, when a utility uses an IM, all of the scoring, assessment of bids, and final bid selection is done by the utility, and the utility has full access to all of the bidder information.

If bids to an RFP include utility self-built or affiliate projects, allowing the utility to evaluate, score, and select winning bids (as is the case when an IM is used) – including those that will be built and owned by the utility itself – creates at least the appearance of bias, and provides more than adequate opportunity for actual bias. Any continued use of an IM when self-built or affiliate projects are under consideration casts a shadow on procurement decisions that have a direct impact on benefits to shareholders and costs to ratepayers.

Improve transparency

Michigan EIBC/United believe that there are additional requirements that could improve transparency throughout the bid evaluation process.

- *Improve evaluation of non-price factors:* Michigan EIBC/United support the addition of long duration resiliency and dispatchability as a clean or renewable resource to the list of potential non-price factors (Guidelines 4b). However, to the extent that these non-price benefits are considered, their consideration/scoring must be transparent and clear to all bidders. Specifically, scorecards for these qualitative factors must be detailed and very clear as to how each point can be achieved. These scorecards and their evaluation are often very opaque, especially if the utility is involved in the establishment and scoring of the

scorecards (as is the case when the utility uses an IM). For example, in the 2022 DTE RFP, the Company received 34 proposals, five of which were self-built projects proposed by DTE.¹⁴ In the ranking process, the non-price criteria considered were safety, project feasibility, and project management (ranked on a weighted 0-5 scale). Of the 34 proposals, the five DTE self-built projects scored highest based on this evaluation process and, in fact, these projects were the only projects to receive a 5.1, which likely indicates they received full credit in each category plus bonus credit. The next highest scoring project, which was also significantly lower in price than the DTE self-built projects, received a 4.1. None of the other evaluated projects received a score higher than 3.6.¹⁵ Although these evaluation procedures may be explained to Staff, they are not explained to stakeholders or, to our knowledge, to RFP bidders and appear to be highly subjective. Even if this evaluation was fully consistent and objective, the lack of transparency regarding the non-price factors and use of an IM introduces at least the appearance of bias in favor of the utility self-built projects through the evaluation process.

- *Increase transparency around project bidding*: Transparency around the evaluation of projects, especially those built by a utility and its affiliates, is important. Specifically, it is critical that the price and non-price factors are all accounted for in the same manner for self-built/affiliate projects and third-party developed projects (BTAs and PPAs). Michigan

¹⁴ Direct Testimony of Dr. Laura S. Sherman on behalf of the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United. Case No. U-21172. pp. 14-20.

¹⁵ Exhibits of DTE Electric Company, Case No. U-21193, Exhibit A-9.3.

EIBC/United recommend, as described above, that the utilities be required to use an IA for any RFP involving a self-built or affiliate bid.

As part of the standard process, the IA (or IM if no self-built or affiliate projects are proposed) should be required to detail all of the cost categories for each bid (in an anonymized manner), ensuring that the same cost categories are accounted for and factored into the price aspects of the bid. The IA should also ensure that all the assumptions around the costs for each category are reasonable and as up-to-date as possible to avoid (to the extent possible) future cost overruns.

More specifically, for any self-built or affiliate project bid into an RFP, the utility/affiliate should be required to provide the IA, Staff, and stakeholders, under appropriate confidentiality protections, with the key assumptions supporting the project's proposed LCOE, including estimated EPC costs, land costs, interconnection costs, and other material inputs. The IA should review those assumptions for reasonableness and consistency with accepted industry benchmarks, and the relevant assumptions should be preserved and compared by Staff against actual project costs in future renewable energy cost reconciliation filings. Where actual costs materially exceed bid-stage assumptions, the utility should bear the burden of demonstrating that the variance was unavoidable and not the result of overly optimistic assumptions during the bid stage.

- *Bonus for Michigan projects and Michigan-made components/materials:* Michigan EIBC/United encourage the Commission to add to the 2026 Redline (for adoption by utility RFPs) a bonus point or bonus points in the non-price factor scoring for projects based in

Michigan. Similarly, Michigan EIBC/United encourage the Commission to add to the 2026 Redline (for adoption by utility RFPs) a bonus point or bonus points in the non-price factor scoring for the use of Michigan-made components and materials. There should be a preference given to projects located within the state and projects that use materials produced in the state as these projects drive in-state economic growth.

Include all quantified benefits

Michigan EIBC/United appreciate the addition of the requirement that utilities consider projects with different interconnection levels (Guidelines 3a). To the extent that the benefits of a class of resources (e.g., distribution-connected solar projects) have been quantified, those benefits should be included in the project evaluation (i.e., as a price factor/adjustor). For example, Michigan EIBC/United witness Justin Barnes quantified avoided transmission and distribution costs for distribution-connected solar projects in his testimony¹⁶ in the most recent Consumers Voluntary Green Pricing case (Case No. U-21972). The Commission should require these benefits to be included in the price factor analysis, likely as a standard post-bid adjustment to the bid-price for any distribution-connected solar project (i.e., a decrease in the bid-price). Similar benefits, as they are quantified, should be added to the required list of price adjustors by the Commission (e.g., after an Order approving the quantified benefit for a certain class of resource).

- *Brownfield sites*: Similarly, Michigan EIBC/United recommend that the Commission standardize and strengthen how brownfield and previously-disturbed-land siting is valued in competitive procurement. Brownfield redevelopment is already a listed and scored non-

¹⁶ Direct testimony of Justin B. Barnes on behalf of the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United. Case No. U-21972.

price factor (Guideline 4b), but as a single discretionary point readily outweighed by price, it rarely affects outcomes. The Guidelines elsewhere require each non-price factor to be standardized, defined, justified, disclosed at the pre-RFP meeting. Brownfield siting meets that test and should be treated as a standardized, materially weighted factor rather than a nominal point.

These sites deliver concrete, ratepayer-facing benefits the Guidelines already direct utilities to weigh (Guideline 4f; see also 3a): materially lower siting, land-use, and permitting risk; avoidance of the farmland-conversion conflicts that drive delay; and frequent proximity to existing transmission and distribution infrastructure, reducing interconnection cost and time to operation. As above, where these benefits can be quantified for a class of resources, they should be applied as a standardized adjustment to evaluated price — not left solely to a subjective non-price score.

Peer states already operationalize brownfield preferences inside procurement. For example, Connecticut's statewide Shared Clean Energy Facility program lowers the evaluated price of brownfield and landfill projects for ranking purposes (20% in its current Year 7 procurement¹⁷) while still paying full bid price; Illinois ran a dedicated brownfield photovoltaic procurement category;¹⁸ and New Jersey conditions community-solar

¹⁷ Connecticut Department of Energy & Environmental Protection, “Statewide Shared Clean Energy Facility (SCEF) Program,” available at <https://portal.ct.gov/DEEP/Energy/Shared-Clean-Energy-Facilities/Shared-Clean-Energy-Facilities>.

¹⁸ Illinois Power Agency, “Brownfield Site Photovoltaic Procurement,” available at <https://www.ipa-energyrfp.com/brownfield/>.

participation on a preferred-siting framework with capacity reserved for landfill and brownfield projects.¹⁹

Risk adjustments

The 2026 Redline (and the underlying 2021 Competitive Procurement Guidelines) require that the utility identify the “parameters for inclusion of a financial compensation mechanism, terminal value analysis, or any other adjustment factor for all projects.” The 2026 Redline then goes on to outline the requirements for a terminal value analysis. However, other post-bid cost adjusters, including commonly used “risk adjustors” are not defined in the 2026 Redline. It is unclear how these risk adjustors are calculated and how a bidder would avoid the institution of a risk adjustor. These must be transparent, clear, and calculatable for all bidders.

Redline Comments of 2026 Redline

Michigan EIBC/United provide the attached redline of the 2026 Redline, which effectuates the above comments in addition to other minor suggested revisions.

¹⁹ State of New Jersey, “Landfill to Solar Incentive Programs,” available at <https://www.nj.gov/landfillsolar/>.