Legislative Analysis

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ELECTRIC DISTRIBUTION RELIABILITY PERFORMANCE, MULTIYEAR RATE PLANS, AND SERVICE QUALITY RULES

House Bill 5216 as introduced
Sponsor: Rep. Helena Scott
Committee: Energy, Communications, and Technology
Complete to 11-6-23

SUMMARY:

House Bill 5216 would amend 1939 PA 3, the Michigan Public Service Commission (MPSC) enabling act, to require the MPSC to establish and report on targeted electric distribution reliability performance; to study multiyear rate plan methodologies; and to review its rules concerning service quality and reliability standards for entities subject to its jurisdiction.

Electric distribution reliability performance
Not later than January 1, 2025, the MPSC would have to commence a proceeding for each electric utility subject to MPSC rate regulation[1] to establish incentives and penalties for electric distribution reliability performance. The proceedings would have to be conducted as contested cases in accordance with the Administrative Procedures Act. The incentives and penalties would have to be developed based on all of the following:[2]

- Methods for estimating the revenue needed by a utility during a multiyear pricing period, and a fair return, that uses forecasts of efficient total expenditures by the utility instead of distinguishing between operating and capital costs.
- Methods to increase the length of time between rate cases, to provide utilities with more opportunity to retain cost savings without the threat of imminent rate adjustments, and to encourage utilities to make investments that have extended payback periods.
- Options for establishing incentives and penalties related to issues such as customer satisfaction, safety, reliability, environmental impact, and social obligations.
- Profit-sharing provisions that can spread efficiency gains among consumers and utility shareholders and can reduce the degree of downside risk associated with attempts at innovation.

The MPSC would retain the authority to regulate the rates of electric utilities and modify incentives and penalties for electric reliability performance.

Beginning two years after the bill takes effect and annually thereafter, the MPSC would have to provide a written report to the legislature on each electric utility's electric distribution reliability performance and its progress toward targeted performance.

[1] Municipally owned electric utilities are generally not subject to MPSC regulation, and the MPSC also does not regulate the retail rates of electric cooperatives whose rates are member-regulated.
[2] These are the same as factors the MPSC was required to evaluate for a 2017-18 study regarding performance-based regulation, under which a utility's authorized rate of return would depend on its achieving targeted policy outcomes. See https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/regulatory/reports/Legislature-Other/2018_MI_PBR_Report_Final.pdf
and https://www.michigan.gov/mpsc/commission/workgroups/2016-energy-legislation/performance-based-regulation-report

Multiyear rate plans

In addition, not later than 90 days after January 1, 2024,[3] the MPSC would have to commence a study in collaboration with utilities subject to its rate regulation[4] and other interested parties regarding multiyear rate plans, under which a utility's cost recovery would be determined through less frequent regulatory filings, periodic cost reconciliation proceedings, and applicable revenue recovery mechanisms, and would potentially be paired with performance incentives and disincentives. The MPSC would have to review multiyear rate plans that have been implemented in another state or country. In reviewing various multiyear rate plan methodologies, the MPSC would have to evaluate at least all of the following factors:[5]

- Methods for estimating the revenue needed by a utility during a multiyear pricing period and a fair return.
- Methods to increase the length of time between rate cases, to provide utilities with more opportunity to retain cost savings without the threat of imminent rate adjustments, and to encourage utilities to make investments that have extended payback periods.
- Options for establishing incentives and penalties that pertain to issues such as customer satisfaction, safety, reliability, environmental impact, and social obligations.
- Profit-sharing provisions that can spread efficiency gains among consumers and utility shareholders and can reduce the degree of downside risk associated with attempts at innovation.
- Revenue adjustment mechanisms and other formula rate factors that allow the utility to recover costs associated with external factors such as large storms or other unpredictable events.
- Incentives for utility innovation or experimental initiatives to increase efficiency or provide additional or improved services to customers.
- Incentives for software or other noncapital investments that increase utility performance and promote more efficient or safer operations.

The above provisions concerning electric distribution reliability and multiyear rate plans would not limit the MPSC's authority to authorize performance-based regulation or multiyear rate plans or revenue recovery mechanisms.

Service quality rules

By January 1, 2025, the MPSC would have to review its existing rules under section 10p of the act[6] and amend them as needed to implement performance standards for generation facilities and for distribution facilities to protect end-use customers from power quality disturbances.[7]

Section 10p requires the MPSC to adopt generally applicable service quality and reliability standards[8] for the transmission, generation, and distribution systems of electric utilities and other entities subject to its jurisdiction, including standards for service outages, distribution

[3] This appears to be April 1, 2024.
[4] This would apparently not be limited to electric utilities. It would not include municipally owned electric utilities.
[5] Of note, the first four factors here are essentially the same as the factors regarding incentives and penalties for electric distribution reliability performance and the factors the MPSC was required to evaluate for a 2017-18 study regarding performance-based regulation, described above.
[6] http://legislature.mi.gov/doc.aspx?mcl-460-10p
[7] These parameters are the same as for a review the act required the MPSC to conduct by December 31, 2009.
[8] https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20460.701%20to%20R%20460.752.pdf&ReturnHTML=True These rules were last amended in April 2023.

facility upgrades, repairs and maintenance, telephone service, billing service, operational reliability, and public and worker safety. In setting the standards, the MPSC must consider safety, costs, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The MPSC also must include provisions to upgrade the service quality of distribution circuits that historically have experienced significantly below-average performance in relationship to similar distribution circuits. Section 10p also requires the MPSC to create benchmarks for individual jurisdictional entities within their rate-making process, in order to accomplish the goals of alleviating end-use customer power quality disturbances and promoting power plant generating cost efficiency, and establish a method for gathering data from the industrial customer class to assist in monitoring power quality and reliability standards related to service characteristics of the industrial customer class.

MCL 460.6u and 460.10p

The bill cannot take effect unless House Bills 5217, 5219, 5220, 5221, and 5222, and an unidentified bill currently designated only by its request number, are also enacted.

FISCAL IMPACT:

House Bill 5216 would have an indeterminate fiscal impact on the Michigan Public Service Commission. The bill would require the MPSC to conduct contested case proceedings, publish an annual legislative report, and conduct a study on multiyear rate plans. It is unclear whether the MPSC's responsibilities under the bill could be sufficiently absorbed with existing appropriations and resources, or whether additional appropriations would be required to offset the costs. In the event that additional resources were required, the MPSC is financed primarily by public utility assessments levied on the utilities, so any additional incurred costs would likely be factored into the assessment and sufficiently mitigated.

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