



A Regulator's Obligations

Energy Regulatory Partnership Program

Abuja, Nigeria

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Orjiakor N. Isiogu, Chairman, MPSC

MPSC Mission Statement

- **Mission Statement**
- The mission of the Michigan Public Service Commission is to grow Michigan's economy and enhance the quality of life of its communities by assuring safe and reliable energy, telecommunications, and transportation services at reasonable prices.

Members of the Commission

- The Michigan Public Service Commission is composed of three members appointed by the Governor with the advice and consent of the Senate. Commissioners are appointed to serve staggered six-year terms. No more than two Commissioners may represent the same political party. One commissioner is designated as chairman by the Governor.

Current Commissioners

- Orjiakor N. Isiogu, Chairman
- Monica Martinez, Commissioner
- Steven A. Transeth, Commissioner

MPSC Goals

- Establish fair and reasonable rates for regulated services and adopt and administer fair terms and conditions of service for all customers.
- Assure adequate and reliable supplies of regulated services to all Michigan customers, and the safe and efficient production, distribution, and use of the State's energy, telecommunications, and transportation services.
- Assure the security of the State's critical infrastructure by promoting homeland security.
- Promote the State's economic growth and enhance the quality of life of its communities through adoption of new technologies like broadband telecommunications and efficient renewable energy resources.
- Provide customers with the opportunity to choose alternative electric, natural gas, telecommunications, and transportation providers.
- Provide regulatory oversight in a prudent and efficient manner while implementing legislative and constitutional requirements.

Current Structure of the MPSC

- The MPSC is an independent state agency located in Michigan's Department of Labor and Economic Growth.
- Most authority comes from statutes passed by the Michigan Legislature.
- Some authority in the area of telecommunications regulation comes from federal law.

Obligations of the Regulator

- Just and Reasonable Rates
- Universal Service
- Abundant Supply
- Reliable Service
- Forum for Complaint Resolution
- Transparency
- Ethical Conduct
- No Conflicts of interest
- Professional Behavior
- Open Meetings
- FOIA
- Confidentiality
- Public Access to Information
- Attraction of Capital
- Recovery of Reasonable and Prudently Incurred Costs
- Safety of the Public
- Other Statutorily Imposed Obligations
- Preserving the Morale of the Staff

Just and Reasonable Rates

- Balance interest of ratepayers in having affordable energy versus the interest of the utility in being able to attract capital.
- Usually, rates are adjusted in general rate cases. Sometimes in show cause actions.
- MPSC must litigate the entire rate case in 365 days. [Act 286 of 2008]

Universal Service

- The practice of providing a baseline level of services to every resident of a country. An example of this concept is found in the Telecommunications Act of 1996, whose goals are:
 - to promote the availability of quality services at just, reasonable, and affordable rates;
 - to increase access to advanced telecommunications services throughout the Nation;
 - to advance the availability of such services to all consumers, including those in low income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas

Universal Service

- The MPSC promotes assistance to low-income natural gas and electric customers through its Low-income Energy Efficiency Fund [LIEEF].
- At first, the LIEEF was funded through excess securitization savings.
- Now, contributions by utilities to the LIEEF are part of the utility's cost of service.
- About \$80,000,000 per year goes into the LIEEF.

Universal Service

- The number of potential customers increases as the number of people who can now afford it increases. However service providers need to be able to actually provide that service through their network. This build-out of network is also subsidized by funds like the High Cost Fund that is provided for in the Telecommunications Act of 1996.

Abundant Supply

- Major tenet of the “Social Contract.”
- A Public Utility must plan to serve all of the load within its service territory.
- Economic forecasts of future electric demand used to predict load growth.
- Rule of thumb in USA – Plan to serve all demands of the public with only one major service outage in a 10-year period.

Reliable Service

- Michigan has statutory and regulatory requirements for electric utilities to provide reliable service.
- Act 286 of 2008 requires the MPSC to:
 - analyze the data to determine whether the jurisdictional entities are properly operating and maintaining their systems and take corrective action if needed, report to the Legislature by September 1, 2009, and promulgate administrative rules by December 31, 2009.

Reliable Service

- The MPSC has administrative rules that establish minimum standards for returning customers to service after an outage.
- Failure to meet the minimum standard means that the utility will be obligated to pay the customer \$25.

Complaint Resolution

- The MPSC has employees that receive telephone calls during business hours to help customers that have utility service problems.
- The MPSC Staff informally investigates certain complaints and tries to resolve them before the filing of a formal complaint.
- If all else fails, the customer may file a formal complaint with the MPSC that will result in an evidentiary hearing and a Commission order.

Public Participation in the Regulatory Process

- Open Meetings Act
- Freedom of Information Act
- Interventions as parties in Commission proceedings
- Section 207 statements
- Appearances at Commission meetings
- Consumer Forums

Open Meetings Act

- **Act 267 of 1976; MCL 24.261 et seq.**
 - All meetings of a public body shall properly noticed and must be open to the public and shall be held in a place available to the general public.
 - All persons shall be permitted to attend any meeting except as otherwise provided in this act.
 - A person may tape-record, videotape, broadcast live on radio or telecast live on television the proceedings of a public body at a public meeting.
 - All decisions of a public body shall be made at a meeting open to the public.
 - **The MPSC has been granted an exemption that allows the Commissioners to meet in private to deliberate the merits of contested cases.**
 - The Agency must publish minutes of its meeting within 8 days.
 - Violations of the Act are punishable by fines and imprisonment.

Freedom of Information Act

- Act 442 of 1976; MCL 15.231 a/k/a FOIA.
 - FOIA applies to all public bodies, including the MPSC.
 - Upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body.
 - A public body is not required to create a document that does not otherwise already exist.
 - A public body has 5 business days to respond by either granting the request or denying the request, or by taking an additional 10 days to respond.
 - There are many items that are exempt from disclosure, including -
 - Trade secrets or confidential information voluntarily provided to the agency.
 - Communications that are advisory, non-factual, and preliminary to final determinations.
 - Information of a personal nature (i.e. a customer's account number).
 - Information specifically excluded by another law.

Ethical Issues -- Gifts

- The State of Michigan, the Department of Labor and Economic Growth (DLEG) and the MPSC all have prohibitions on Commissioners and employees of the Commission and immediate family members accepting any form of gift or benefit from an entity that is regulated by the state or from a vendor.
- The lone exception is an incidental meal associated with a plant tour that is necessary to avoid a disruption of the event.

Ethical issues – Profiting from Insider Information

- A Commissioner or an employee of the Commission cannot disclose or otherwise use information garnered in the course of his or her employment that is not known to the public to obtain a benefit.
 - Example: I cannot advise my sister to buy or sell the stock of a company regulated by the Commission.

Ethical Issues – Conflicts of Interest

- A Commission employee and immediate family members cannot own any interest (i.e. stock) in any company regulated by the Commission.
- DLEG requires an annual disclosure by each employee of his or her interests in investments over which the employee has control.
- But, an employee may invest in a mutual fund because the employee has no control over the mutual fund's investment decisions.
- An employee cannot be involved in any case if an immediate family member has an interest in the outcome.

Confidentiality issues

- Michigan Law protects certain confidential information.
- Michigan Law also requires complete disclosure of certain information.
 - Open Meetings Act
 - Freedom of Information Act
 - Specific Regulatory Acts

FOIA -- Trade Secrets

- Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy are exempt from disclosure under the FOIA if all three of the following conditions apply:
 - The information is submitted upon a promise of confidentiality by the public body.
 - The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.
 - A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

FOIA – Advisory Communications

- Communications and notes within a public body or between public bodies of an advisory nature need not be disclosed to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

FOIA – Exclusion by Statute

- Examples
 - Video Franchising
 - Telecommunications
 - MI Child

Information & data flows between utilities and the Commission

Formally, Utilities are required to submit reports to the MPSC such as:

- Annual Reports (Report detailing the yearly financial activities of each utility).
- 45-Day Reports (detail fuel and purchased power data from 45 days following the end of the preceding month).
- Power Supply Cost Recovery plans and reconciliations.
- Summer Reliability assessments.

Informally, Utilities provide the MPSC:

- Audit requests spawning from contested cases.
- Customer and system interruption data.
- Monthly fuel inventory levels
- Other data and pertinent information as deemed necessary by the MPSC staff.

The MPSC staff tries to keep open lines of communication between themselves and the utilities in order to better serve the customers of Michigan by allowing the free flow of information between the staff and utilities. Good communication is the key to good regulation.

Availability of Information to third parties

- Unless the information sought is confidential or otherwise protected by statute, it is generally available to the public.
- In a contested case, confidential information is routinely distributed to all parties after the administrative Law Judge has issued a protective order.

Public Education Efforts

- Choice Education was mandated by law
- Consumer Alerts
- Press Releases
- Consumer Forums
- Energy Fairs and other forms of outreach
- Commission's Website

Services to Consumers

- MPSC's toll-free number
- Each utility has a toll-free number
- Information is available on bills
- Information is available on-line
- Consumer Alerts
- Customer information pamphlets
- New customer information

Emergency and Telephone Assistance Programs

- Legislatively-mandated standards adopted by the Commission regarding electric quality of service provide for:
- Utilities to respond to outages within specified periods
- Utilities to answer customer calls within specified lengths of time
- Both the MPSC and the utilities have toll-free lines and utilities must be able to respond to emergencies 24/7

Preserving the Staff's Morale

- Holiday Party
- Golf Outings
- Halloween Pumpkin Carving
- Annual Employee Awards
- Summer Picnic
- Other Fun Days
 - Hat Day
 - Ice Cream Social

Holiday Party



Golf Outings



Halloween Pumpkin Carving

- One of the contest entries
- A winner is awarded a prize



Annual Employee Awards

- Award Winners



Summer Picnic



Other Fun Days

- Hat Day



- Tailgate Party



QUESTIONS?



The End