



# Obligation to Serve and Economic and Legal Incentives

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# Welcome to Michigan “The Great Lakes State”



# Utilities have rights and responsibilities

## Obligations

- **Obligation to serve**
  - Defined by statutory scheme, tariff or franchise
  - Obligation not unlimited - line extension policies
  - Right to reasonable return on the prudently incurred cost of used and useful assets
- Safe and reliable service
- Non-discriminatory rates
- Just and reasonable rates

## Rights

- Right to reasonable return
- Service subject to reasonable rates, rules and regulations
- Protection from competition
- Eminent domain

# Obligation to Serve

- A public utility must hold itself out to provide service on reasonable terms to all who desire service within the utility's franchised territory
- A public utility is not free to choose to serve only those customers which it is convenient or currently profitable to serve

# Obligation to Serve

- Developed under English Common Law
- Statutory underpinnings
  - Railroads as common carriers -- 1909 PA 300
  - Telephones providers as common carriers – 1913 PA 206
  - Pipelines as common carriers – 1929 PA 9

# MPSC Case Law

- “The fact that one particular customer or group of customers might not be profitable to serve does not relieve a utility of the duty to serve if service is possible and can be accomplished on a basis that is reasonable.” Case No. U-5483.
- Note: The customers were in the utility’s service territory in this case.

# Case No. U-8371 (East Lake)

- 54 customers located in an isolated area outside of any telephone providers service area
- The Commission “cannot require a utility to extend a service the East Lake area without allowing it to recover the costs...it is equally unfair to force the utility to recover its costs from its existing customers”.

# Natural Gas Shortages

- Temporary relief from the obligation to serve all due to low interstate gas prices and unregulated intrastate markets, shortages developed in the 1950s-1970s.
- Commission approved a controlled service program [Case No. U-3990] and a gas curtailment system [Case No. U-4453]

# Obligation to Serve in the “Choice” Era *(Thank you Gary Kitts)*

- The obligation to serve was premised on the assumption that the utility was a monopoly provider
- As competition was introduced that assumption became increasingly less valid
- MPSC’s initial regulatory response
  - Choice customers returning to bundled service had to pay a fee to compensate the utility for the costs of maintaining supply
- Current Choice Return to Service Provisions

# Incentives & Disincentives

- **Carrot and stick** is an idiom that refers to a policy of offering a combination of rewards and punishment to induce behavior. It may derive from methods used for training mules and other animals by drawing them forward with rewards (the "carrot") and driving them forward with punishment (the "stick")



# Incentives available to regulators

- Inquiries
- Reports
- Show Cause Proceedings
- Fines
- Cease and Desist Orders
- Loss of License
- Restitution
- Trackers
- Attorney Fees
- Rate of Return on Common Equity Adjustments

Questions?

# The End

