

**Before the
UNITED STATES OF AMERICA
Federal Trade Commission**

V010003 – Comments Regarding Retail Electricity Competition

**Comments of the
Michigan Public Service Commission**

April 13, 2001

History and Overview

- 1. Why did the state implement retail electricity competition? What problems of the previous regulatory regime was it trying to solve?**

Michigan recognized that the electric landscape was in need of change. Part of the impetus for the change was the fact that Michigan's commercial and residential electric rates were higher than those of surrounding states. Michigan's industrial customers were among the first to call for change. Additionally, new technology, customer demands for new and innovative services and provider aspirations for new opportunities and growth contributed to the need to evaluate and ultimately change Michigan's electric regulatory framework.

- 2. What were the expected benefits of retail competition? Were price reductions expected in absolute terms or in relation to what price levels would be absent retail competition? Were the benefits of retail competition expected to be available to consumers in urban, suburban, and rural areas? Were the benefits expected to be available for residential, commercial, and industrial customers? Were the benefits expected to be comparable for each group of customers?**

It is expected that retail competition will have all the benefits of a truly competitive market: lower rates, more customer choice and innovative services. Electric utilities with 1 million or more retail customers in the state are phasing in customer choice on a schedule set by the commission. This phase-in ends on January 1, 2002 at which time all customers will have the ability to choose an alternate supplier. Electric cooperative utilities are required to offer choice to their members by January 1, 2005, although

cooperative members with loads greater than 1 MW may choose an alternative supplier by January 1, 2002.

As a transition to a competitive market, Michigan's new law mandates immediate price reductions for residential customers of utilities having 1 million or more retail customers. Different customer classes are likely to benefit from different marketing strategies. For example, residential customers may see offers for aggregation, distributed generation and renewable energy programs. Many commercial and industrial customers of those utilities received price reductions pursuant to another provision of the new law. All customers in all areas of the state are expected receive comparable benefits from competition. However, Michigan expects that the business customers will be the first classes to benefit from competition.

The fundamental philosophy behind Michigan's electric restructuring law is: "Choice for those who want it; protection for those who need it." Customers who wish to choose an alternative electric supplier are free to do so, but they take the risks and benefits associated with a competitive market. However, customers are also free to remain with the existing system of regulated rates, in which case they retain all of the protections that exist under regulation.

3. What factors or measures should the Commission examine in viewing the success of a state's retail electricity competition program? How should these measures be evaluated?

Traditional measures of a competitive market will obviously be used to determine the long-term success of Michigan's program. Customer switching rates, lower prices, more choices and customer satisfaction will all be examined to evaluate the program.

However, short-term measures, such as the large number of out-of-state companies that are either building or planning to build new generation plants are indicative that Michigan has established an attractive market structure in which to operate.

4. What are the most successful and least successful elements in the state's retail competition program? Has the state taken steps to modify the least successful elements?

As Michigan's new Customer Choice and Electricity Reliability Act (2000 PA 141) was just signed into law in June 2000, it is too early to accurately judge the most/least successful elements of the program. However, early interest from out-of-state marketers and electric generators indicate that Michigan crafted a plan that will be successful. Further indications of a successful plan are found when comparing Michigan's electric legislation to California's. Unlike California, Michigan did not require divestiture of utility generating plants, did not require purchases to be made from a state-run power exchange and Independent System Operator, and did not prohibit long-term contracts for power.

Michigan is also encouraging the development of merchant generating plants from in-state and out-of-state companies by giving appropriate tax relief and other incentives. The legislation also required the incumbent utilities to upgrade transmission system import capability by at least 2,000 MW by June 2002.

Consumer Protection Issues

- 1. (a) What efforts were made to educate consumers about retail competition? (b) How was the success of these efforts measured? (c) Were the programs successful? (d) Who funded these efforts? (e) Who implemented the programs?**

1.a: A statewide customer education program proposal on "Michigan Energy Choice" was developed by the "Choice Advisory Council." The Council is a broad interest working group with a wide range of knowledge and experience that includes representatives of major utility companies, small and mid-sized utility companies, rural electric cooperatives, suppliers, industrial and commercial customers, consumer advocates, low-income advocates, and state agencies. Commission staff participates and chairs the Council.

The education proposal was developed in response to Commission orders stating a need to address the information requirements of customers. The education program is proposed to begin in the third quarter of 2001.

1.b: The proposal includes a comprehensive multi-faceted measurement plan with up-front baseline research from which to measure the success of this effort. Qualitative research using focus groups will be conducted in addition to a qualitative study. Consumer awareness and knowledge of choice will be monitored to be sure the program is effective.

1.c: Its too early to judge, but the proposal's communications objectives are to reach 80% unaided awareness and 55% education levels of Michigan Energy Choice.

1.d: The proposal recommends funding the education program through a small charge applied to bills of all customers. The rationale being that all customers will benefit from awareness and education on choice.

1.e: The program is proposed to be implemented by several communications contractors of utility companies with oversight by a small subcommittee appointed by the Commission.

- 2. (a) Do consumers have enough information to readily make informed choices among competing suppliers? (b) Did the state coordinate its labeling requirements about the attributes of a supplier's product, if any, with neighboring states? (c) Is there a need for federal assistance to provide standardized supplier labeling? (d) If so, what would be the most useful federal role?**

- 2.a: The MPSC has been working toward ensuring that consumers have adequate information. As indicated previously, the education effort is ongoing.
- 2.b: No. See the August 22, 2000, "Michigan Public Service Commission Staff Comments in Response to the Commission Order in Case U-12487." Staff has reviewed labeling and disclosure requirements from other states.
- 2.c: Federal assistance is probably not necessary, in that we believe that MCL 460.10(r) is sufficient.
- 2.d: If federal assistance were deemed necessary, we would support model standards or best practices programs, but would not support federal mandates.

3. (a) Have consumers complained about unauthorized switching of their accounts to alternative suppliers or the placement of unauthorized charges on their electric bills? (b) Were rules adopted to prevent these practices? (c) Has the state taken enforcement action under its new authority against slamming and cramming? (d) Have these actions been effective to curb the alleged abuses? (e) Is there a need for federal assistance with slamming and cramming issues? (f) If so, what would be the most useful federal role?

- 3a: There have been no complaints so far.
- 3b: MCL 460.10a(3) directs the Michigan PSC to issue orders, which prevent slamming and cramming. MCL 460.10c provides for fines and penalties, up to and including revoking the license of any offending Alternative Electric Supplier (AES) company.
- 3c: See 3a. No enforcement actions have been taken to date.
- 3d: See 3b. These provisions have effectively prevented abuses to date.
- 3e: Not necessarily.
- 3f: A potentially appropriate federal role would be to facilitate model standards – not mandates. In other words, we would accept help re-creating the wheel, but not cookie cutter mandates.

4. (a) How did the state facilitate the ability of customers to switch to a new supplier? (b) Have these efforts been successful? (c) Does the state allow consumers to aggregate their electricity demand? (d) If so, has aggregation enabled consumers to benefit from retail electricity competition? (e) If not, why not?

- 4a: During the Phase-In period (1997 through 2001), Michigan PSC Orders established a system of competitive bidding for the rights to available retail open access capacity in the service territories of Michigan's two largest electric utilities (representing roughly 90% of the Michigan market). Participants submitted bids, in cents per kWh, indicating how much they were willing to pay towards competitive transition charges (CTC) prior to 2002. This unique bidding process allowed customers, suppliers, aggregators, etc., to actively participate in a market based mechanism for setting the CTC. Beginning January 1, 2002, a uniform CTC for each utility company will be established by Commission order. See <http://cis.state.mi.us/mpsc/electric/restruct/bidding.htm>.

4b: There has been limited success so far. Only about 1080 customers, equal to about 250 MW have started to participate in customer choice. That represents roughly 0.05% (five hundredths of a percent) of customers and a little less than 1.5% of peak load.

4c: Yes. Aggregation is allowed under MCL 460.10bb Also, MCL 460.10g(2) includes special provisions for school district aggregation.

4d: Yes. Many of the first customers in the Detroit Edison service territory are small facilities that are aggregated.

4e: In the Consumers Energy service territory, transmission service has not yet been available to provide economical option for groups of aggregated customers. See answers to question 4 under Market Structure Issues, regarding transmission expansion.

5. (a) Has the state established licensing or certification requirements for new suppliers to provide electricity to customers? (b) Why? (c) Which licensing provisions are designed to protect consumers? (d) How do they operate? (e) Has the state taken enforcement action against unlicensed firms? (f) Have these actions been effective to curb unlicensed activity? (g) Have these requirements acted as an entry barrier for new suppliers?

5a: Yes.

5b: MCL 460.10a(2) required the Commission to establish a licensing procedure. This legislative action was precipitated by concerns about the prior process that was used by the MPSC, in lieu of a licensing procedure. See the Commission's March 8, 1999 and June 19, 2000 Orders in Case No. U-11915 (<http://cis.state.mi.us/mpsc/orders/electric/>).

5c: Please see attachment to June 19, 2000 Order in Case No. U-11915, Exhibit A. The following provisions are the ones most directly related to consumer protection:

- 2). Twenty-four hour customer contact.
- 5). Financial Capability.
- 6). Product/Service disclosure.
- 7). Product/Service labeling and marketing practices.
- 8). Customer enrollment.
- 9). Customer confidentiality.
- 10). Customer data requests.
- 11). Customer involuntary service termination.
- 12). Broker relationship.

In addition, AESs must demonstrate that their firms have the managerial, technical, and financial expertise and capabilities needed to provide retail open access services in Michigan.

5d: Please see "Alternative Electric Supplier Licensing Program" information at <http://cis.state.mi.us/mpsc/lic-enf/>.

5e: No.

5f: Not applicable.

5g: Not that we are aware of.

6. **(a) Did the state place any restrictions on the ability of a utility's unregulated affiliate(s) to use a similar name and/or logo as its parent utility, in order to avoid consumer confusion when the affiliate offered unregulated generation services? (b) Why or why not? (c) What has been the experience to date with the use of these restrictions? (d) Are consumers knowledgeable about who their suppliers are?**

6.a: Yes, the affiliate must indicate that it is not regulated by the MPSC to avoid confusion about the regulatory status of affiliates. (See December 4, 2000 Order in Case No. U-12134, pp. 13-15.)

6.b: Such a restriction is consistent with U.S. Supreme Court precedent.

6.c: Too early to judge.

6.d: Too early to judge.

7. **(a) Did the state place any restrictions on third-party or affiliate use of a utility's customer information (e.g., customer usage statistics, financial information, etc.)? (b) What were the reasons for enacting the restrictions? (c) What has been the effect of these restrictions on new marketing activity?**

7.a: Yes, the utility is only required to provide such data as authorized by the customer per MPSC Order in Case U-12134.

7.b: Privacy protection.

7.c: Too early to judge.

8. **(a) Has the state adopted any other measures intended to protect consumers (e.g., length of consumer contracts, automatic renewal provisions, etc.) as it implemented retail competition? (b) What has been the effect of these measures?**

8.a: No. However the Commission must adopt anti-slamming procedures under the new law.

8.b: Too early to judge.

9. **(a) To what extent have suppliers engaged in advertising to sell their product(s)? (b) Do some suppliers claim that their product is differentiated (e.g., that it has environmental benefits)? (c) Has there been any enforcement or attempts to verify these advertising claims? (d) Do any certification organizations, such as Green-e, operate in the state? (e) Are they used by (or at least available to) a substantial portion of consumers?**

9a: None, yet.

9b: Not to our knowledge.

9c: Not applicable.

9d: There is a fledgling "Michigan Green Power Cooperative" that plans to use third party certification. Contact Mr. Don Johns, Michigan Independent Power Producers Association, (517) 676-4800, or djohns@enstarenergy.com.

9e: Not yet.

Retail Supply Issues

1. (a) What difficulties have suppliers encountered in entering the market? (b) What conditions/incentives attract suppliers to retail markets? (c) Have suppliers exited the market after beginning to provide retail service? (d) If so, why?

1a: Market conditions for transmission and generation have been difficult. Market power, physical assets not designed for competition and operational and support system issues have all presented supplier difficulties.

1b: No special state of Michigan incentives.

1c: No suppliers have dropped out of the market completely. One supplier dropped a significant portion of its load because of transmission and generation constraints.

1d: Not applicable.

2. (a) What are the customer acquisition costs and operational costs to service retail customers? (b) How do acquisition and operational costs compare to profit margins for electric power generation services? (c) Do retail margins affect entry? (d) If so, how? (e) Did the state harmonize the procedures suppliers use to attract and switch customers with other states' procedures, in order to reduce suppliers' costs?

2a: No information available.

2b: No information available.

2c: Yes.

2d: Price to compare data is not readily available. Market appears constrained because margins between current wholesale prices and retail rates are thin enough to slow or prevent entry. The difference in margins between customer classes makes certain classes more attractive/profitable for alternate suppliers.

2e: Nothing specific along these lines has been done, yet.

3. (a) Have customers switched to new suppliers? (b) Why or why not? (c) Are there greater incentives for certain customer classes (i.e., industrial, commercial, residential) than for others to switch suppliers? (d) Why or why not? (e) Are penalties or different rates applied to customers that switch back to the supplier of last resort? (f) Are there other measures to determine whether customers are actively considering switching suppliers? (g) If so, do these indicators show different patterns than the switching rate data?

3a: Very few have switched, approximately 1080 customers.

3b: No specific data is available. Based on results to date, the commercial class has had the most activity. This may be based on supplier margins or customer perception of prices.

3c: No special incentives. See 3b.

3d: No answer.

3e: Customers who switch back to full service from their regulated utility will pay rates determined by open access tariffs. Those rates are the subject under review in current cases U-12488 (Consumers Energy) & U-12489 (Detroit Edison).

4. (a) Have suppliers offered new types of products and services (e.g., time of day pricing, interruptible contracts, green power, etc.) in states where retail competition has been implemented? (b) If so, describe the products and what customer response has been.

4a: None we know of at this time.

4b: Not applicable.

5. (a) What are the benefits or drawbacks of the different approaches to handling the supplier of last resort obligation for customers who do not choose a new supplier (e.g., allow incumbent utility to retain the obligation to provide generation services to non-choosing customers, auction the obligation, or assign the obligation to non-utility parties). (b) What has been consumer reaction to these approaches? (c) Is provider of last resort service necessary?

5a: Michigan allows customers to remain full-service customers of regulated monopoly utility. An important benefit of this approach is simplicity. Customers not interested in choosing do nothing, and remain being served just the way they were before. Potential drawbacks: continuation of market power, legislated rate reductions restricts prices and margins for competitive suppliers.

5b: No specific data available.

5c: Yes. During the transition to competitive markets, provider of last resort service is necessary.

Retail Pricing Issues

1. (a) How is entry affected by the price for the provider of last resort service (for customers who do not choose) or for default service (for customer whose supplier exits the market)? (b) How does the price for the provider of last resort or default service compare to prices offered by alternative suppliers? (c) Is the price for provider of last resort service or default service capped? (d) If so, for how long?

1a: Effectively, existing regulated rates are default service in Michigan. They form the price to compare for service.

1b: No data available yet. Data will start to become available via reports from suppliers in response to MCL 460.10r.

1c: Yes.

1d: Under MCL 460.10d, rates are capped. The caps may be released prior to 12/31/2013, only if certain market conditions are met.

2. (a) Has the state required retail rate reductions prior to the start of retail competition? (b) What is the rationale for these reductions? (c) How have state-mandated rate reductions prior to the start of retail competition affected retail competition?

2a: Yes.

2b: Michigan's restructuring law was the result of negotiations between numerous parties designed to provide benefits to all customer classes.

2c: State mandated reductions have been for the residential class of customers which, to date, has not experienced competitive entry.

3. (a) Do any seasonal fluctuations in the price of wholesale generation cause some suppliers to enter the market only at certain times of the year? (b) How have these suppliers fared?

3a: The first year of competition had most entry following the summer period due to transmission availability and prices of generation.

3b: One supplier has cut back its participation noticeably. The largest supplier has held its participation constant due to lack of appropriately priced generation and available firm transmission capacity.

4. (a) How has the state addressed public benefit programs (e.g., universal service requirements, low income assistance, conservation education, etc.) as it has implemented retail competition? (b) Which of these programs are necessary as competition is introduced and why? (c) Are public benefits available to all customers or are they restricted to customers of the supplier of last resort? (d) How does this affect retail competition?

4a: MCL 460.10d(6) is expected to result in allocation of approximately \$50 million annually for 6 years to a low-income and energy efficiency fund administered by the commission. A Home Heating Tax Credit, Winter Shut-off Protection Program, and consumer education programs have been administered for years.

4b: Education programs are necessary to provide meaningful information

4c: Not applicable for Michigan at this time. Expectation will be for public benefits programs funded under MCL 460.10d(6) to be available to all customers.

4d: No information available by which to make a determination.

Market Structure Issues

1. (a) How has the development of Regional Transmission Organizations (RTOs) affected retail competition in the state?

1.a: The development of RTO's in the Midwest is still evolving, but the recent proposed settlement before the FERC is expected to enhance retail competition. At this point, the RTO's development isn't mature enough to identify a clear long-term effect on retail competition. In the short-term, uncertainty surrounding the development of RTO's has likely inhibited the movement toward a competitive market.

2. (a) Did the state require the divestiture of generation assets (or impose other regulatory conditions on the use of these assets) when retail competition was introduced? (b) To what extent was divestiture of generation assets a component of the state's handling of a utility's stranded costs? (c) Was divestiture used to remedy a high concentration of generation assets serving the state? (d) Was there appreciable voluntary divestiture of generation assets? (e) Has the state examined whether there has been appreciable consolidation of ownership of generation serving the state since the start of retail competition?

2a: No. However, MCL 460.10f will permit divestiture as one mechanism that a utility may use to mitigate market power, should the Commission determine that a market power mitigation plan is required, based on the conditions established in this section of the law.

2b: This issue may be decided in Case No. U-12639. See <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12639>.

2c: Not as of this time.

2d: No.

2e: This issue will be investigated under MCL 460.10f.

3. (a) If a utility no longer owns generation assets to meet its obligations as the supplier of last resort or default service provider, what market mechanism (e.g., spot market purchases, buy back or output contracts, etc.) does it use to obtain generation services to fulfill these obligations? (b) What share of a utility's load is obtained via the different mechanisms? (c) How are these shares trending? (d) Is the market mechanism transparent? (e) Is it necessary to monitor these market mechanisms? (f) Why or why not? (g) If so, what should the monitor examine?

3a: That is a decision generally made by utility management. They may use market mechanisms of their choice.

3b: Data recently provided to the PSC from Michigan's two largest electric utility companies indicates:

- Consumers Energy states in its "Assessment of the Generation and Transmission Capacity..." filed December 2000 that they plan to use 928 MW out of total capacity of 9017 MW from "Call options, short-term supplemental capacity enhancements, self-generation, load shift, incremental generation and other purchases."
- Detroit Edison: for 2000 they planned to purchase 819 GWh using summer contracts and 407 GWh using summer calls. With a net system requirement of 55,028 GWh planned for 2000, the contracts and calls represent about 2% of energy requirements. Detroit Edison states in its "Report on 2001 Capacity Plan" that it will purchase 2098 MW out of 11,402 MW of expected peak demand. Note that this latter figure excludes any reserve.

3c: The trend in recent years has been toward increased purchases. Steady load growth and a lack of in-state generation construction from the late 1980's through the late 1990's led Michigan's two major electric utilities to rely, increasingly, on power purchases from out of state suppliers.

3d: No.

3e: No.

3f: (1) The incumbent monopoly utilities are operating under a rate freeze, with frozen Power Supply Cost Recovery (PSCR, or "fuel clause") factors. Therefore, they have an incentive to minimize fuel costs, and can be expected to serve customers using the least expensive available supplies. For those reasons, monitoring would not be necessary. (2) On the other hand, there is a potential for market power abuses if a monopoly utility is able to charge captive or full service customers for more expensive supplies while using less expensive supplies in competitive market transactions (either wholesale, through the retail sales of affiliates, or both).

3g: See answer to 3f(2), above.

4. (a) Explain the state's role in overseeing operation of the transmission grid in the state and the extent to which public power or municipal power transmission systems are integrated into this effort. (b) What is the relationship between the state's role and the Federal Energy Regulatory Commission's role in transmission system operation in the state?

4a: In the past, the State of Michigan has included the cost of jurisdictional transmission plant and operation and maintenance expenses in Michigan rates. A small portion of the Michigan transmission system was allocated strictly for wholesale transactions and was under rates set by FERC. The Commission has recently adopted orders for regulated electric utilities which determine which amounts are transmission under FERC jurisdiction. The FERC has asserted jurisdiction over retail transmission where retail sales are unbundled. In Order 888, the FERC states that it will give deference to state determinations of which facilities are transmission and which are for local distribution. Michigan has made such a determination for its two largest electric utilities: Detroit Edison and Consumers Energy. The FERC has deferred to those determinations. With respect to retail open access tariffs, the MPSC requires the use of FERC OATT's for the transmission component of retail rates. Bundled retail tariffs still

contain a transmission component as determined under state jurisdiction. The State of Michigan does not have jurisdiction over the transmission systems of public power or municipal entities. Michigan has been supportive of jurisdictional utilities providing open access to their transmission systems for municipal and other customers.

4b: See 4a.

5. (a) Do firms that have provider of last resort or default service obligations (formerly native load obligations in the regulated environment) receive preferential transmission treatment? (b) If so, how does this affect wholesale electric power competition? (c) How and by whom should retail sales of bundled transmission services (i.e., retail sales of both energy and transmission services) and retail sales of unbundled transmission be regulated? (d) If by more than one entity, how should regulation be coordinated? (e) What should the state's role be in overseeing wholesale transmission reliability?

5a: Yes. To the extent that utilities have long-term firm contracts, utility native loads receive preferential access to transmission resources. Michigan's program effectively treats utility native load as default service.

5b: Transmission constraints have had a limiting effect on competition to date. See MPSC 2001 Report on the Status of Electric Competition in Michigan (<http://cis.state.mi.us/mpsc/electric/restruct/reports.htm>). MCL 460.10v required Michigan "electric utilities serving more than 100,000 retail customers to file a joint plan...detailing measures to permanently expand...available transmission capacity." The joint plan(s) are presently the subject of a contested case. See <http://efile.mp.sc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12780>.

5c: States should retain jurisdiction over bundled retail transmission services.

5d: Mechanisms for coordinating multi-state regulation include inter-state compacts and regional reliability boards.

5e: States should have a continuing role for ensuring reliability of all aspects of electrical service. Michigan supports the comments of NARUC on this issue and has been active in working to influence the development of regional reliability mechanisms.

6. (a) To what extent did the state identify transmission constraints affecting access to out-of-state or in-state generation prior to the start of retail competition? (b) Is the state capable of remedying these transmission constraints, or is federal jurisdiction necessary? (c) How do the rationales for federal jurisdiction over electric power transmission siting compare to the reasons underlying federal jurisdiction over the siting of natural gas pipelines?

6a: It was known that a potential problem existed. The general nature and magnitude of the transmission constraints were understood. See MCL 460.10v.

6b: State law assumes the state is capable, but there has not been a court case to test this assumption. See MCL 460.10v and contested case(s), electronically filed, at <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12780>.

6c: A case could be made that there is less rationale for federal jurisdiction over electric transmission siting, since electric generation, transmission, distribution, and distributed resources are all at least partial substitutes for one another. However, practical experience suggests that the states may not be able to resolve all of the issues associated with transmission siting, particularly when non-jurisdictional utilities are involved, or when bottlenecks occur in neighboring states. In these instances, we would support authorizing regional regulatory structures as the first-line attempt to resolve transmission siting issues. Absent an authorized regional regulatory mechanism, it is incumbent upon the FERC to provide the leadership necessary to remedy transmission constraints.

7. **(a) How have state siting regulations for new generation and transmission facilities been affected by the onset of retail competition? (b) Has new generation siting kept pace with demand growth in the state? (c) If not, why not? (d) Is federal jurisdiction necessary for siting of electric power generation facilities? (e) Has the state actively monitored and reported the relationship between in-state capacity and peak demand in the state? (f) What incentives do suppliers have to maintain adequate reserve capacity? (g) What are the ways to value capacity in competitive markets? (h) Is reserve sharing still important in competitive markets? (i) Do other institutions/market processes provide a reasonable substitute for reserve sharing?**

7a: Michigan does not have state PSC siting authority for generation. MPSC does have jurisdiction for approving major transmission facilities. The cases in response to utility filings in MCL 460.10v represent the first time these issues will be brought to the Commission for decision, since retail competition began in Michigan.

7b: No new generation was built from 1990 through 1998. Utilities added some peaking capacity in 1999 and 2000. Since Michigan's new legislation passed in June 2000, many new merchant plants have been announced and construction has started on some. See MPSC 2001 Report on the Status of Electric Competition in Michigan (<http://cis.state.mi.us/mpsc/electric/restruct/reports.htm>).

7c: It is too early to tell whether new construction will keep pace with demand growth.

7d: No.

7e: Yes. See utility capacity plan reports at <http://cis.state.mi.us/mpsc/electric/capacity/>.

7f: Suppliers will pay substantial penalties if their deliveries do not match their customers' demands.

7g: Requests for Proposals (RFP).

7h: Yes. Markets should be designed and operated so that competitive forces help to determine appropriate reserve margins and levels of reliability.

7i: It is too early to tell, but there is reason to believe that markets could be capable of fulfilling these functions.

- 8. (a) Since the start of retail competition, what has been the rate of generation plant outages (scheduled and unscheduled)? (b) To what extent has the state monitored these outages and examined their causes?**

8a: Electric supply reliability issues are being decided in Case No. U-12270 (see <http://cis.state.mi.us/mpsc/electric/dereport.htm>). With retail competition just beginning in Michigan, Staff has no reason to believe that there has been any measurable difference in the generation plant outage rates. However, the Commission is monitoring the results of audits and inquiries into these types of issues to learn from their experiences.

8b: These issues may be examined in Case No. U-12270.

Other Issues

- 1. (a) What measures has the state taken to make customer demand responsive to changes in available supply? (b) Has the state provided utilities incentives to make customers more price responsive? (c) Has the state moved away from average cost pricing? (d) What effect have these measures had on demand and on demand elasticity?**

1a: The Commission has approved various tariffs for interruptible loads, marginal cost pricing, distributed generation, green pricing, time of use rates, etc.

1b: No specific incentives have been provided to date.

1c: Yes, through the various tariffs.

1d: Large percentages of load are now capable of responding to supply constraints, at times of peak demands. Roughly 5 percent of Lower Peninsula loads are subject to marginal cost pricing or interruption under existing tariffs, and newly approved tariffs are expected to provide even greater levels of responsiveness.

- 2. (a) Has the state provided mechanisms and incentives for owners of co-generation capacity to offer power during peak demand periods? (b) Has the state identified, reported, and facilitated development of pumped storage facilities or other approaches to arbitraging between peak and off-peak wholesale electricity prices?**

2a: Yes, by approving various utilities' applications for related tariffs.

2b: Yes. Ludington pumped storage facility is one of the largest in the world, and has been operating successfully since 1973.

- 3. (a) What issues have arisen under retail competition that have required cooperation or coordination with other states? (b) What approach was taken**

to securing this cooperation or coordination? (c) Are there other issues requiring cooperation that have not yet been addressed? (d) Which of these issues are the most significant?

- 3a: Establishing regional transmission organizations.
- 3b: Continual communication through regional and national associations.
- 3c: Implementation of RTO's
- 3d: See 3c.

4. (a) How prevalent is the use of distributed resources (e.g., distributed generation) within the state? (b) What barriers do customers face to implementing distributed resources?

- 4a: Not prevalent.
- 4b: Each utility has its own requirements and procedures for interconnection and tariffs. Under MCL 460.10e, the Commission shall establish interconnection standards. These issues are being addressed in Case No. U-12485. See <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12485>.

5. Which specific jurisdictional issues prevent state retail competition programs from being as successful as they might be?

- 5: Local jurisdiction over franchising of new entrants can be a barrier.

6. (a) Which specific technological developments are likely to substantially affect retail or wholesale competition in the electric power industry that may alter the manner in which states structure retail competition plans? (b) Why? (c) What time frame is associated with these developments?

- 6a: Distributed resource technologies and related information and automation technologies. Environmental control technologies.
- 6b: Distributed resources and related technologies may offer substantial new competition to traditional utility central station power plants and transmission, if not also to centralized distribution systems. Emerging environmental control technologies may shift costs and benefits amongst various fuel types and generating technologies.
- 6c: Distributed resources perhaps 2 to 20 years. Environmental technologies 5 to 25 years. The answer to this question may depend on regulatory and marketplace responsiveness.

7. (a) What are the lessons to be learned from the retail electricity competition efforts of other countries? (b) Are there other formerly regulated industries in the U.S. (e.g., natural gas) that allow customer choice and provide useful comparisons to retail electricity competition? (c) If so, what are the relevant insights or lessons to be learned?

7a: Interestingly, there is little available research about the long-term effects of other countries' efforts. There are a few anecdotal concepts for aspects of various countries' approaches that seem to work well, and others that do not. For example: Do not create markets that prevent demand-side responses from participating. Make sure markets provide consumers with accurate price signals, that allow them to modify their demands in response. Do not allow bottleneck facilities to become brittle (as in Auckland, New Zealand, where a transmission outage left this major industrial center without electricity for several weeks). Make sure that intermittent renewable energy resources receive a fair opportunity to sell into transmission markets.

7b: Yes.

7c: From airline and telecommunications restructuring, it is obvious that special, concerted efforts must be made to protect small customers and small markets. Otherwise, restructuring will undoubtedly raise costs for large numbers of electric customers. There is a dearth of evaluation research, which systematically identifies costs and benefits, and quantifies the effects.