

## **MIRS Capitol Capsule**

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### **DTE: Let's Get Rid Of P.A. 141**

DTE Energy Chairman and CEO Anthony **EARLEY** told a House panel this morning that the electrical regulatory structure created in 2000 to spur industry competition has become an "unworkable hybrid structure" that has stunted construction of any in-state power plant.

In the strongest rebuke to date of P.A. 141, the state law creating electric choice, Earley asked lawmakers to create a new regulatory structure that encourages DTE and other incumbent providers to build new job-creating energy generation facilities that would stabilize Michigan's energy supply and make the state's energy rates more predictable.

"We know customer choice doesn't work so let's get rid of it and move on to the future," Earley told the House Energy and Technology Committee.

Earley's testimony comes on the heels of an idea House Speaker Andy **DILLON** (D-Redford Twp.) is kicking around where the Legislature would dump P.A. 141, basically reaffirming DTE and Consumer Energy's monopoly status, in exchange for the power companies paying a new energy tax that would help pull the state's fiscal car out of the proverbial ditch.

Earley told reporters he felt re-regulation and an energy tax were separate issues, but agreed that eliminating P.A. 141 would make an utility tax "a lot easier for us to swallow." A new tax without eliminating customer choice would only increase costs and make Michigan's electric rates that much more uncompetitive.

Asked if he knew of any situation by which a utility tax would not get passed down to the consumer, Earley responded, "I don't. In every state and every utility, taxes are the cost of doing business. Ultimately, at some point, the net tax effect will get passed through to the consumer."

Earley's testimony differed significantly from that of David **JOOS**', CEO of the state's other major incumbent electric company, Consumers Energy, who was more tepid with his remarks to the House Energy and Technology last Thursday before ultimately saying, "repeal of the choice provisions of P.A. 141 is Michigan's best course of action."

Earley was clear and strong in his rebuke of P.A. 141. He said DTE supported P.A. 141 in 2000 under the idea that the continued state regulation of DTE and Consumers with the unregulated choice of alternative providers was a transitional structure. Either the state should go 100 percent into a regulated market or 100 percent into an unregulated market, he said.

In Virginia, the Legislature last week repealed its electric choice program for all but the largest electric customers. Montana legislators are on the verge of completing action on a re-regulation bill. All told, 34 states are either repealing, delaying or suspending their "deregulation experiments," he said.

"Fully two-thirds of the state have turned their backs on electric deregulation," Earley said.

In Michigan, the problem with electric choice has been the construction of new electric power plants. DTE would like to build a new nuclear power plant. At least four other power companies are interested in creating a new power generator. The rub comes with who, ultimately, will pay for the facility and when.

If, say, Competitive Power Ventures, builds a new plant in Michigan, who is to say Consumers Energy or DTE will buy power from it? And if DTE builds its new nuclear power plant, is it fair that their customers would be forced to foot the bill while competitive suppliers theoretically pull their power from other sources?

All the while, Earley told the committee that building new power plants is critical to the logistical stability of the state's electric system. First, there are the high-paying jobs that could be created through a new power plant. Then there's undesirability of paying other states for the importation of their electricity into Michigan. Why should we send "huge profits" to Ohio and Indiana, Earley asked.

Maybe more important, he said is the physics of electrical generation. If Michigan imports 80 to 90 percent of its electricity, it could create distribution problems for the state's more remote areas. He compared electricity to an air hockey table in which some of the holes on the table are blowing out air at a different pressure than others. Ideally, power plants are constructed in areas where there can be a smooth distribution of electricity.

As it is, DTE's newest plant is 20 year old. Its average age for a plant is 45 years.

Representing the Customer Choice Coalition (CCC), Bob **NELSON** said what is needed in Michigan is a "competitive bidding model" run by the Michigan Public Service Commission (MPSC) in which energy development companies could vie for the creation of a new power plant.

At least four companies — New Covet Generating, Competitive Power Ventures, Dynegy and L.S. Power Development — have written House Energy and Technology Committee Chair Frank **ACCIAVATTI** (D-Eastpointe) about their interest in building a Michigan-based plant.

Nelson, a former MPSC member, said DTE experienced significant cost overruns when it built the Fermi nuclear power plant roughly 20 years ago. Under the regulatory system, the customers ultimately ate the cost. If independent power companies build the system, the company eats the cost of any overruns, creating built-in accountability.

"The more independent power plants that come into the state, the more reliable the whole system is going to be," said Nelson, adding that the cost of the product also would go down under this model.

But Earley said the real issue is that these private industries want the MPSC to guarantee that DTE Energy and Consumers will purchase a certain amount of electricity from the new plants, which he said could open the door to higher rates.

Asked about the political realities of passing a repeal to P.A. 141, Early said, "I sense the forces and issues are right to do it. It's going to be hard. There are constituencies that are helped by P.A. 141. There are constituencies who feel they

might be helped in the future.

"But right now, with less than 5 percent of customers using customer choice and many customers feeling burned by seeing prices run, plus the very real need to start building power plants now, all these forces are coming together to say, 'We need to take this step and do what's right for the long term.'"