Dan Scripps
Michigan House Energy, Communications, and Technology Committee
Testimony on HB 5120-5123
Oct. 11, 2023

Chairwoman Scott, Vice Chairs Andrews and Wendzel, Members of the Committee,

My name is Dan Scripps and I happily serve as the Chair of the Michigan Public Service Commission. I appreciate the opportunity to be back with you today to talk about House Bills 5120, 21, 22, and 23. These bills represent a necessary shift in how we site energy infrastructure in Michigan, and the Commission supports the legislation.

Over the past several years, the Commission has approved significant levels of wind, solar and energy storage resources through the integrated resource plans filed by Michigan utilities pursuant to Public Act 341 of 2016. DTE's most recent IRP, which we approved in July, includes more than 15,000 MW of solar and wind generation, while Consumers' most recent plan, approved in 2022, includes 8000 MW of solar by 2040.

However, the current challenges around siting represent the single largest threat to achieving these targets, which have been found to be a central element of the most reasonable and prudent means of meeting each utility's energy and capacity needs, as required by law.

For example, in developing its plan, however, DTE actually had to limit the amount of renewable energy that the model could select, even if higher amounts of wind and solar would have been more cost-effective for customers.

The reason?

Well, DTE's expert witness in the case testified – and I'm quoting here, "Siting has been a critical challenge for the development of new renewable energy projects. … In Michigan, 45% of townships with wind ordinances have restrictions. This was evident when the Company initiated a new wave of wind project prospecting in 2017. The Company started with ten possible areas, and this was quickly reduced to four projects due primarily to evidence of opposition. Despite tremendous focus on community engagement, the Company ceased development of three of those projects (mainly because the projects faced intense opposition). The remaining project has been built and will go on-line. But nearly four years after the project development started, there are still permitting details to be resolved."

In other words, even where increasing the amount of renewables would have been the better option, even when those resources can help replace older generating units that are retiring because they're no longer economic and/or are simply at the end of their useful life, even where those resources would have saved customers money, challenges with local siting and permitting limited the consideration of these newer, lower-cost renewable resources.

Think about that: local opposition blocking projects that are a key part of maintaining reliability, and forcing all of us to pay more for our electricity. That's the status quo.

It doesn't make sense, and we don't follow this approach in any other aspect of Michigan's energy infrastructure.

Nearly a century ago, in Public Acts 9 and 16 of 1929, the Legislature entrusted the Public Service Commission with the authority to site intrastate natural gas pipelines and both intrastate and interstate petroleum and crude oil pipelines. In 1995, Governor Engler signed Public Act 30 into law, which similarly

grants the Commission authority over the siting of high-voltage electric transmission lines. And in 2014 Governor Snyder signed Public Acts 83 and 85, which extend the siting authority of the Commission under PA 16 to carbon dioxide pipelines.

In each case, the Legislature recognized that these pieces of our state's energy infrastructure involved more than just local interests. As such, rather than defer to each township or village in siting this critical infrastructure, the Legislature determined that these decisions were best made at the state level.

Indeed, the legislative history of Public Act 30 notes that it was designed to replace a patchwork of local regulations and decisions with a uniform, state-level authority, vested in the Commission, for determining the location and construction of major transmission lines. The same is true here today. The Senate Fiscal Agency's Bill Analysis of Public Act 30 states: "As the body constituted to determine the adequacy of energy available, the PSC is the agency best equipped to evaluate the need for a proposed line."

The legislation in front of you today is based on the same idea – that there should be a process at the state level to site the energy infrastructure necessary to meet our state's energy needs.

Moreover, this is the approach used in a number of neighboring states in the Midwest, including Illinois, Minnesota, and Wisconsin, all of which provide their Public Service Commissions with siting authority for larger renewable energy projects. It's based on a recognition that these renewable energy projects are no less material to the state's energy needs than the pipelines over which we've had siting authority for nearly 100 years.

Notably, while not allowing for individual townships or other local units to veto needed energy infrastructure, the legislation in front of you seeks to balance the interests of the state in reliable, affordable electricity with the interests of local communities by ensuring that communities and local units of government absolutely have a seat at the table and a voice in the process.

Specifically, the legislation grants affected local units of government and participating and nonparticipating property owners the ability to intervene by right in siting cases before the Commission; requires project developers to enter into agreements that prioritize benefits to the community in which the project is to be located; and sets out public engagement requirements, including meeting with the chief elected official of each affected local unit of government to discuss the site plan, holding a public meeting in each affected local jurisdiction, and including in the application a summary of the community outreach and education efforts undertaken by the developer, including a description of the public meetings and meetings with local elected officials.

Finally, in evaluating the application, the Commission is specifically required to consider the impact of the proposed facility on local land use, including the total amount of land within the local jurisdiction used for energy generation. Not just the individual project in front of us, but also the projects already online, and those in development. The Commission is also authorized to condition its approval on the applicant taking additional reasonable actions related to the impacts of the proposed project, including benefits to the local community.

I fully expect that these protections will help ensure that the interests, perspectives, and concerns of local communities will be fully evaluated and considered by the Commission, just as they are in every other energy infrastructure project for which we have siting authority.

In addition, the process by which the Commission would have authority for siting of these projects is an option, not a requirement. A developer can choose to go to the Commission for siting approval, or opt to seek approval from the local planning authority, and nothing in this legislation precludes an interested community from working with project developers to site projects in their community.

Indeed, such an approach may allow for greater flexibility, fewer requirements, and a faster timeline than the process used by the Commission, while allowing the community to better tailor the community benefits to its specific local priorities.

Finally, the Commission would not have siting authority over smaller projects; authority for those projects would remain entirely at the local level. Rather, this legislation only provides a process for the Commission to site larger projects – those that materially contribute to the state's energy requirements. Specifically, this path would only be available to solar projects of at least 50 MW, energy storage projects of at least 50 MW and 200 MWh, and wind projects of at least 100 MW.

So this is a balance. Smaller, more local projects remain at the local level, while larger projects of statewide significance have the option to use the state siting process, one that ensures local voices are heard, includes requirements around community benefits and labor standards, and requires the Commission to consider the project's impact on the local community.

Finally, there's one more, perhaps less obvious benefit here. There's no doubt the battles over the siting of wind and solar projects are among the most contentious issues local governments have had to face in recent years. These fights often pit neighbor against neighbor, dividing communities and even families.

I have a lot of respect for local government. My dad is a former township supervisor, and to a person the individuals I've met in local government are civic-minded public servants who are in office as a way to contribute to the communities they call home.

But the current approach puts these individuals in an impossible position, trying to balance the private property rights of landowners interested in hosting energy projects with the concerns about the impact a proposed development could have on their community, all while the energy resources needed to keep the lights on hang in the balance.

Providing for a path for the state to site these energy infrastructure projects that are needed to meet state energy requirements – all while ensuring local communities have a central role in the process – better balances local and state interests and relieves local officials from what's become a no-win situation.

It's a framework we've successfully used to site other needed energy infrastructure for nearly a century, and similar to the approach used by a number of neighboring states in the Midwest. It's time we adopt it here as well.