

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2018-1

460.22 Transfer of powers and duties of public service commission relating to property and administrative services division and customer service division transferred by MCL 460.21 to Michigan agency for energy back to public service commission; transfer of energy markets section from Michigan agency for energy to public service commission.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, there is a continued need to increase collaboration, optimize service delivery, and ensure efficient administration; and

WHEREAS, Michigan's energy future requires making long-term decisions that are adaptable, affordable, reliable, and environmentally protective; and

WHEREAS, such decision-making will be best informed if experts in each area are working closely together and ensuring their efforts are efficient and effective; and

WHEREAS, Michigan requires representation in regional and national forums in situations where the Michigan Public Service Commission must remain neutral in order to retain the ability to carry out its responsibilities under state law, and that the Michigan Agency for Energy represents Michigan's position on national, regional and regulatory policy when these matters arise; and

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Administrative Services Division" means the division of the Agency that provides the Agency and the Public Service Commission with internal technical support, human resources, property, and other miscellaneous administrative services.

B. "Agency" means the Michigan Agency for Energy created under Executive Order 2015-10, MCL 460.21.

C. "Customer Assistance Division" means the division of the Agency that is comprised of the Compliance and Investigation and Michigan Energy Assistance Program sections.

D. "Department of Licensing and Regulatory Affairs" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011, renamed the Department of Energy, Labor, and Economic Growth under Executive Order 2008-20, MCL 445.2025, and renamed the Department of Licensing and Regulatory Affairs under Executive Order 2011-4, MCL 445.2030.

E. "Energy Markets Section" means the section of the Agency whose staff supports leadership of the Agency and the Public Service Commission by staffing and participating in stakeholder processes at national and regional bodies that impact interstate markets for electricity, and perform related duties.

F. "Public Service Commission" means the public body created under the Michigan Public Service Commission Act of 1939, PA 3, MCL 460.1 et seq., as amended, located within the Department of Licensing and Regulatory Affairs.

G. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. RELATIONSHIP OF AGENCY AND MICHIGAN PUBLIC SERVICE COMMISSION, AND TRANSFER OF CERTAIN FUNCTIONS

A. Unless expressly stated otherwise in this Order, the Public Service Commission and the Agency shall retain all of their respective statutory authorities, powers, duties, functions, and responsibilities, including records, personnel, budgeting, procurement, and unexpended balances of appropriations. Unless expressly stated otherwise in this

Order, the Public Service Commission and the Agency shall retain control of all monies and funds, including but not limited to grants, bonds, notes, and reserves, subject to any agreements related to such grants, bonds, notes or reserves. Nothing in this Order shall be interpreted to infringe on the plenary powers of the Public Service Commission to regulate all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities, common carriers, or similar entities. Unless expressly stated otherwise in this Order, nothing in this Order should be read to alter the terms of Executive Order 2015-10, MCL 460.21, which remains active and in place.

B. The powers, duties, and functions related to property for the Public Service Commission that were transferred to the Agency by Executive Order 2015-10, MCL 460.21, are transferred back to the Public Service Commission.

C. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Administrative Services Division and the Customer Assistance Division, shall be transferred from the Agency to the Public Service Commission.

D. The Energy Markets Section shall be transferred from the Agency to the Public Service Commission with the exception of a position that shall be retained by the Agency to represent the Agency at state, regional or federal forums, including but not limited to the Federal Energy Regulatory Commission and Regional Transmission Organizations.

E. Any authority, powers, duties, functions, records, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, for the transferred personnel shall be transferred from the Agency to the Public Service Commission. The Agency shall retain all authority, powers, duties, functions, records, property, unexpended balances of appropriations, allocations or other funds sufficient to support the representation of Michigan by the Agency.

F. The assigned functions shall be administered under the direction and supervision of the Public Service Commission.

III. IMPLEMENTATION OF TRANSFERS

The Chairman of the Public Service Commission shall provide executive direction and supervision for the implementation of all transfers of authority under this Order in consultation with the Director of the Department of Licensing and Regulatory Affairs and the Executive Director of the Agency.

IV. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

B. All rules, orders, contracts, plans, and agreements relating to the functions transferred to the Public Service Commission by this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or rescinded.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

History: 2018, E.R.O. No. 2018-1, Eff. Mar. 10, 2018

Compiler's Notes: Executive Reorganization Order No. 2018-1 was promulgated January 8, 2018, as Executive Order No. 2018-1, Eff. Mar. 10, 2018.