

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
CONSUMERS ENERGY COMPANY for)
authority to increase its rates for the generation)
and distribution of electricity and for other relief.)
_____)

Case No. U-20963

At the December 22, 2021 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

TABLE OF CONTENTS

I.	PROCEDURAL HISTORY.....	1
II.	LEGAL STANDARDS.....	3
III.	TEST YEAR	4
IV.	RATE BASE	10
A.	Net Plant	10
1.	Contingency	10
2.	Electric Distribution.....	11
3.	Generation.....	84
4.	Information Technology	126
5.	Residential Storage	157
6.	Operations Support	158
7.	Fleet Services.....	172
8.	Customer Experience and Operations.....	190
9.	Demand Response.....	196
B.	Working Capital	196
C.	Rate Base Summary	197
V.	COST OF CAPITAL	197
A.	Common Equity Balance.....	197
1.	Balanced Capital Structure	198
2.	Adjusted Equity Ratio.....	201
3.	Weighted Rate of Return	204
4.	Funds from Operations to Debt Ratio.....	206
5.	Credit Worthiness	214
6.	Peer Group Equity Ratios	216
7.	Conclusion	219
B.	Other Capital Structure Balances	221
C.	Cost of Equity.....	221
D.	Other Cost Amounts	240
E.	Overall Rate of Return.....	241
VI.	ADJUSTED NET OPERATING INCOME	241
A.	Revenues at Present Rates.....	242
B.	Fuel and Purchased Power Expense	244

C.	Other Operating and Maintenance Expense	244
1.	Inflation.....	244
2.	Electric Division – Electric and Common Category.....	251
3.	Forestry	267
4.	Generation.....	272
5.	Information Technology Operations.....	273
6.	Customer Interactions	274
7.	Billing and Payment.....	283
8.	Demand Response.....	288
9.	Pension Plans A/B	288
10.	Defined Company Contribution Plan	289
11.	401(k) Employees’ Savings Plan.....	290
12.	Other Benefits	290
13.	Corporate Services.....	291
14.	Uncollectible Expense	292
15.	Injuries and Damages.....	292
16.	Insurance Expense	292
17.	Incentive Compensation	294
D.	Depreciation and Amortization	299
E.	Taxes.....	300
F.	Adjusted Net Operating Income Summary	300
VII.	OTHER REVENUE-RELATED ITEMS	300
A.	Mechanisms.....	300
1.	Deferred Capital Spending Recovery Mechanism.....	300
2.	Storm restoration Operations and Maintenance Expense Tracker.....	301
B.	Pilot Programs	302
1.	PowerMIDrive	303
2.	PowerMIFleet	313
3.	Home Battery Pilot	317
4.	Smart Home Demand Response Pilot.....	326
5.	Back-up Generator Pilot	327
6.	Low-income Demand Response Pilot.....	328
7.	Small Business Smart Thermostat Demand Response Pilot.....	331
8.	Smart Thermostat Coalition Proposal.....	331

9.	Midcontinent Independent System Operator Ancillary Services Pilot	334
C.	Deferrals	335
D.	Demand Response Surcharge	335
E.	Residential Customer Group Revenue Requirement Reduction	339
VIII.	REVENUE REQUIREMENTS SUMMARY	341
IX.	COST OF SERVICE, RATE DESIGN, AND TARIFF ISSUES	341
A.	Cost of Service Study	341
1.	Production Cost Allocation.....	341
2.	Voltage Peak Allocator	345
3.	Classification of Distribution System Costs	351
4.	Uncollectible Cost Allocation.....	353
5.	Digital Customer Operations	354
6.	Transmission Cost Allocation.....	357
7.	Streetlighting.....	358
B.	Rate Design	362
1.	Residential Smart Hours and Residential Nighttime Savers Rate Design.....	362
2.	Residential Demand Credits	366
3.	Outflow Demand Credit.....	371
4.	Light-emitting Diode Conversion Credit.....	373
5.	Crossing Point Adjustment	375
6.	State Reliability Mechanism Capacity Charge	379
C.	Tariff Changes	385
1.	Retail Open Access	385
2.	Boat slips.....	386
3.	Streetlight Outage Credits.....	389
X.	OTHER ISSUES	393
A.	Equity Considerations	393
B.	Low-income Residential Rate Class Separation.....	398
C.	Residential Cost-saving Opportunities	403
D.	Commercial and Industrial Advanced Metering Infrastructure Data	404

I. PROCEDURAL HISTORY

On March 1, 2021, Consumers Energy Company (Consumers) filed an application requesting authority to increase its retail rates for the generation and distribution of electricity by \$225 million. Consumers also requested other forms of regulatory relief including miscellaneous accounting authority. The company is currently providing service pursuant to rates established by the December 17, 2020 order in Case No. U-20697 (December 17 order).

According to Consumers, the rate increase sought in this proceeding is based on the company's projections for relevant items of investment, expense, and revenue for a test year covering the 12-month period from January 1, 2022, through December 31, 2022, based on the 2019 historical year. In its application, the company stated that the rate increase is necessary to recover ongoing investments in generation and distribution assets, ongoing investments related to environmental and legal compliance, ongoing investments in enhanced technology, increased operations and maintenance (O&M) expenditures, and increased financing costs. Application, pp. 2-3. The company also seeks rate design and tariff changes. Consumers proposed a return on equity (ROE) of 10.50%, with an overall rate of return (ROR) of 5.95%. Consumers' projected rate base for the test year in its initial filing was approximately \$12.9 billion.

On March 29, 2021, Administrative Law Judge Sharon L. Feldman (ALJ) conducted a prehearing conference.¹ The ALJ granted petitions to intervene filed by the Michigan Department of Attorney General (Attorney General); the Association of Businesses Advocating Tariff Equity (ABATE); Energy Michigan, Inc. (Energy Michigan); The Kroger Co. (Kroger); Michigan Environmental Council (MEC), Natural Resources Defense Council, Sierra Club, and Citizens

¹ Due to the coronavirus (COVID-19) pandemic, all hearings were held via telephone and video conferencing using the Microsoft Teams platform.

Utility Board of Michigan (CUB) (collectively, MNSC); Residential Customer Group (RCG); Great Lakes Renewable Energy Association; Michigan Cable Telecommunications Association; Hemlock Semiconductor Operations LLC; Midland Cogeneration Venture Limited Partnership; Michigan Energy Innovations Business Council and Institute for Energy Innovation (together, MEIBC/IEI); Environmental Law and Policy Center, Ecology Center, and Vote Solar (collectively, Clean Energy Organizations); Michigan State Utility Workers Council, Utility Workers Union of America, AFL-CIO; ChargePoint, Inc. (ChargePoint); Michigan Municipal Association of Utility Issues (MAUI); and Walmart, Inc. (Walmart). Consumers and the Commission Staff (Staff) also participated. A schedule for the proceeding was established by the ALJ in accordance with the 10-month rate case deadline required by MCL 460.6a(5).

On March 30, 2021, the ALJ adopted a protective order.

On June 15, 2021, the Smart Thermostat Coalition (STC) filed a late petition to intervene. The ALJ granted the petition on June 17, 2021, after counsel for all parties indicated that they did not object.

Direct testimony was filed by the intervenors on June 22, 2021, and rebuttal testimony was filed on July 12, 2021. Pursuant to a filed stipulation between the Staff and Consumers, the Staff filed surrebuttal testimony of one witness on July 19, 2021, and Consumers filed surrebuttal testimony of two witnesses on July 23, 2021.

Evidentiary hearings were held on July 26-29, 2021, where nine witnesses appeared for cross-examination and the testimony of the remaining witnesses was bound into the record without appearing. Timely initial and reply briefs were filed.

The ALJ issued a Proposal for Decision (PFD) on October 13, 2021. On November 1, 2021, MAUI filed exceptions. On November 2, 2021, Consumers, the Staff, the Attorney General, the

Clean Energy Organizations, ABATE, MNSC, MEIBC/IEI, Energy Michigan, STC, Walmart, and RCG filed exceptions. Replies to exceptions were filed by Consumers, the Staff, the Attorney General, the Clean Energy Organizations, ABATE, MNSC, MEIBC/IEI, Energy Michigan, MAUI, RCG, and ChargePoint on November 12, 2021.

The record consists of 4,312 pages of transcript and 551 exhibits received into evidence.

II. LEGAL STANDARDS

In exceptions, Consumers states that:

The [ALJ]'s frequent finding that the Company did not provide sufficient support for its projections is belied by the significant testimony, exhibits, and other data that the Company submitted in support of its necessary programs and cost projections in this case. In recent rate case filings, the Company has worked to be responsive to previous arguments that the Company did not provide sufficient support for its projections. To that end, the Company submitted over 1,900 pages of direct and rebuttal testimony in this case, as well as over 180 exhibits composed of another approximate 1,900 pages. The Company also responded to extensive discovery requests, including more than 1,200 distinct discovery requests (which does not consider the many subparts to these requests). Despite the significant evidence presented by the Company showing the reasonableness and prudence of the Company's projected costs needed to provide safe and reliable electric service to its customers, as will be discussed in additional detail throughout these Exceptions, the [ALJ] repeatedly determined it was not enough and that the Company should have provided different or additional information.

Consumers' exceptions, p. 5 (footnote omitted).

In reply, the Attorney General contends that the company "complains about the burdens that the [ALJ] put on it to support its case and how its presentation was unfairly judged. Chief among its complaints is that the [ALJ] did not make its witnesses' testimony (and presumably their exhibits) the determinative factor and approve its projections down the line." Attorney General's replies to exceptions, p. 6. The Attorney General avers that the company has the burden of providing substantial evidence to support its proposals and demonstrating, by a preponderance of the evidence, that its requests are reasonable and prudent.

The Commission is mindful of Consumers' and the Attorney General's arguments, and notes that these issues were fully addressed in the January 31, 2017 order in Case No. U-18014 (January 31 order), pp. 8-9; the September 8, 2016 order in Case No. U-17895 (September 8 order), p. 4; and the January 11, 2010 order in Case Nos. U-15768 *et al.* (January 11 order), pp. 9-10.

III. TEST YEAR

In developing its rates for this proceeding, Consumers relied on a projected test year from January 1, 2022, through December 31, 2022. The company explained that, in determining test year amounts, it began with the 2019 historical year adjusted for known and measurable changes. 3 Tr 248; Consumers' initial brief, p. 8. RCG and ABATE objected to Consumers' reliance on a projected test year.

RCG contended that, in previous rate cases, the Commission has misinterpreted and misapplied MCL 460.6a and has approved the company's use of an overly extended test year. Consequently, RCG stated that, in this case, Consumers has provided:

an unwarranted exaggerated rate increase request based upon speculative and theoretical projections of future utility plant investment and costs too far beyond the rate filing, including hundreds of millions of dollars of asserted investment and costs not yet incurred by the utility and which may never be incurred within the extended projected time period utilized by the utility.

RCG's initial brief, p. 7. RCG also argued that Consumers' consistent annual requests for substantial rate increases that are "based upon projected test years far exceeding 12 consecutive months from the date of its rate filings, [has resulted] in overlapping test years and in unjust and unreasonable rates." *Id.*

RCG asserted that, pursuant to MCL 460.6a, the Commission's duty is "to establish just and reasonable rates and to balance the interests of the utility stockholders and customers." RCG's initial brief, p. 9. According to RCG, to set just and reasonable rates, the Commission must adopt

an historical test year or, in the alternative, approve a test year “comprising no more than 12 consecutive months after the date of the utility’s rate application.” *Id.*, p. 1. RCG asserted that, if the Commission approves the 2019 historical year as the test year in this case, Exhibit A-1, Schedule A1 shows that Consumers experienced an historical revenue sufficiency of \$25 million and the company’s rates should be reduced accordingly.

ABATE also contended that Consumers’ use of a projected test year results in excessive rate increases and unreasonable over-earning by the company. ABATE explained that:

Despite consistently applying for extraordinary revenue increases based on projected test year costs, the Company just as consistently experiences revenue surpluses resulting from Commission Orders approving lower increases than the Company projected it would require. (See Dauphinais 6 Tr 3419-21.) In other words, the Company routinely requests vast revenue increases, is granted lower increases by the Commission, and ultimately incurs costs even below that reduced amount. (*Id.*) Specifically, in its five most recent general rate case filings, Consumers reported revenue sufficiencies of approximately \$13 to \$26 million for its historic [sic] test years while claiming projected revenue deficiencies of tens to hundreds of millions of dollars. (*Id.*; Dauphinais 6 Tr 3423-24.)

ABATE’s initial brief, p. 3. ABATE noted that Consumers had an excessive surplus of revenue in Case No. U-20932 and donated \$28 million to charitable organizations and refunded an equal amount to ratepayers through additional spending on several utility programs. In addition, ABATE asserted that Consumers had an overcollection of \$500,000 in Case No. U-20668, and executed a similar refund to customers through spending on various utility programs.

ABATE argued that projected test years result in excessive costs for customers and “eliminate Consumers’ incentive to contain costs that would otherwise exist due to regulatory lag, meaning they effectively cushion the Company’s spending and reduce the Company’s risk at ratepayer expense.” *Id.*, pp. 4-5. Furthermore, ABATE asserted that projected test years permit Consumers to “include proposed expenditures in its projections which it has not committed to incurring,” allows the company to recover excessive costs for capital expenditures that the company may, or

may not, incur, and make it impossible for the Staff and other intervenors to identify and properly audit the expenditures. *Id.*, p. 5. Therefore, ABATE requested that the Commission reject Consumers' use of a projected test year. In the event the Commission adopts the company's projected test year, ABATE asserted that the Commission "should require that the spending approved in this proceeding is either carried out by Consumers or the excess and unnecessary revenue collected be proportionally and directly returned to the customers from which it was collected using bill credits." *Id.*, pp. 5-6.

In the PFD, the ALJ stated that "[t]he Commission has declined to limit the projection period, and as Consumers Energy argues, using a test year closer to the date of filing than the approximate date an order is expected would introduce regulatory lag where currently there is none." PFD, p. 50. She also noted that the Commission rejected a similar argument by RCG in the December 17 order. However, the ALJ found that:

as [the December 17] order and the testimony of Staff and other witnesses in this case shows, the Commission can reject unreliable or inadequately supported projections in favor of reliance on historical levels in setting rates, and as ABATE argues, the Commission can require the utility to reconcile their rate case projections and approved spending amounts with actual expenditures for any given test year or period. The ALJ also notes that in this case, the historical test year ended 14 months before the company filed its case, and 24 months before the start of the projected test year. The company did not have final 2020 numbers when it prepared its filing; the Commission can also require the timely provision of more recent historical data.

PFD, pp. 50-51.

Consumers excepts, in part. The company states that it "agrees [with the ALJ] that, for purposes of developing rates for a future, projected test year, as authorized by MCL 460.6a(1), the evidence for individual projections is examined and weighed in a rate case proceeding in determining the reasonableness and prudence of the projections." Consumers' exceptions, p. 8. However, Consumers objects to the ALJ's finding that the Commission can reject projections that

have not been appropriately supported and, instead, use historical data to set rates. The company states that the Commission has found that ““historical data may play a role, but ordinarily will not be the controlling factor except in circumstances that clearly demonstrate that it is a more fair and reasonable reflection of the utility’s cost of service, relative to projected data.”” *Id.* (emphasis in original) (citing the November 5, 2009 order in Case No. U-15645). Consumers asserts that historical levels should not be used if the company has sufficiently supported its projected costs.

In addition, Consumers excepts to the ALJ’s finding that ““the Commission can require the utility to reconcile their rate case projections and approved spending amounts with actual expenditures for any given test year or period.”” Consumers’ exceptions, p. 8 (quoting the PFD, pp. 50-51). In the company’s opinion, the ALJ is suggesting that the Commission engage in retroactive ratemaking, which is prohibited by established case law. *See*, Consumers’ exceptions, pp. 8-9.

Finally, Consumers disagrees with the ALJ that the Commission can require the company to provide more recent historical data during the course of a rate case. Consumers asserts that its application complies with the rate case filing requirements set forth in the October 11, 2017 order in Case No. U-18238 and that the company “provided the most recent data that was available when preparing its filing – to support its historic [sic], bridge, and projected test year – and the Company’s presentation in this proceeding was supported by significant testimony, exhibits, and other such data.” *Id.*, p. 9.

In exceptions, RCG states that although “the PFD contains some favorable language relative to RCG’s test year position, the PFD fails to go far enough to carry out the Commission’s overriding duties to establish just and reasonable rates, and to balance the interests of utility customers and stockholders.” RCG’s exceptions, p. 1. RCG reiterates the arguments set forth in

briefing and requests that the Commission adopt an historical test year or, in the alternative, approve a projected test year that commences on the date Consumers files its rate case.

In reply, Consumers reiterates the arguments set forth in its exceptions and asserts that the Commission should dismiss RCG's claims. The company states that "RCG provides no support or evidence to back its claim that such complexities or inefficiencies exist [when using a projected test year] and that a historical test year, or limited projected test year, would reduce such concerns." Consumers' replies to exceptions, p. 5. In addition, Consumers asserts that RCG's arguments should be rejected because the Commission has considered and denied these arguments in several previous cases and the Court of Appeals has affirmed the Commission's decisions.

Replying to Consumers, RCG states that the company inaccurately interprets MCL 460.6a(1) as a mandate that the company file a projected test year. RCG contends:

The statutory provision that a utility "may" use a projected test year is not equivalent to a statutory mandate that the utility "shall" file a projected test year, and certainly does not constitute a statutory mandate that the Commission (in setting just and reasonable rates that balance the interests of utility customers and utility stockholders) "shall" adopt either a projected test year, or the projected test year that the utility may propose. The Commission retains its full authority to set rates based upon an historical test year (as has been lawfully accomplished for many decades) or upon a shorter projected test year than advocated by the utility.

RCG's replies to exceptions, p. 1 (footnote omitted). RCG requests that the Commission, in its final order in this case, specifically state "that the Commission may establish rates based upon an historical test year presentation" or, in the alternative, "adopt a shorter test year compared to that advocated by the utility (such as a consecutive 12 month future projected test year that commences on the date of the utility's rate filing, and ends 12 months thereafter)." *Id.*, p. 2. RCG also requests that the Commission require Consumers and the Staff, in the company's next rate case, to provide an historical test year that is based on the current calendar year and a projected test year

that is comprised of a consecutive 12-month period that commences on the date of the company's rate case filing.

The Commission agrees with the ALJ and notes that, in Consumers' most recent rate case, Case No. U-20697, the Commission declined to approve a similar request from RCG. *See*, December 17 order, p. 7. Furthermore, in the May 2, 2019 order in Case No. U-20162 (May 2 order), the Commission rejected a similar argument made by RCG, which was supported by ABATE, that "the 'projected test year should not exceed the 12 months after DTE [Electric Company]'s July 6, 2018 filing, at most the 12 months comprising August 1, 2018-July 31, 2019.'" May 2 order, pp. 3-4 (quoting RCG's exceptions, pp. 6-7). And, in the May 8, 2020 order in Case No. U-20561 (May 8 order), the Commission found that "[MCL 460.6a(1)] contains no limitation on the future consecutive 12-month period, no requirement to use an historical test year, and no information or limitation regarding the relationship between the date of the application and the test year." May 8 order, p. 11.

The Commission again declines to adopt RCG's and ABATE's request to require Consumers to provide a consecutive 12-month projected test year, commencing on the date of the utility's rate case filing, and ending 12 months thereafter. MCL 460.6a(1) provides that "[a] utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges." The Commission finds that, pursuant to the clear language of the statute, the utility's proposed test year may be in the future, and the 12 months must be consecutive. *See, In re Application of DTE Electric Company*, unpublished per curiam opinion of the Court of Appeals, issued February 25, 2021 (Docket No. 349924), pp. 11-12. Nevertheless, as stated on page 6 of the March 29, 2018 order in Case No. U-18322 (March 29 order), "while the company may rely on forecasted revenues and costs in developing its test year projection, if certain items within this

projection are not adequately supported, other parties may use alternative means, including historical data, to arrive at a reasonable result.” Thus, although the Commission approves Consumers’ proposed test year of January 1, 2022 through December 31, 2022, the burden is on the company to prove the accuracy of each and every test year projection.²

IV. RATE BASE

Rate base consists of the capital invested in used and useful plant, less accumulated depreciation, plus the utility’s working capital requirements. By the briefing stage of this case, Consumers projected a jurisdictional rate base of \$12,859,322,000 for the test year, and the Staff calculated a jurisdictional rate base of \$12,780,768,000 for the test year.

A. Net Plant

Net plant consists of plant in service, plant held for future use, and construction work in progress, less the depreciation reserve, which includes accumulated depreciation, amortization, and depletion. Exhibit A-12, Schedule B-5. Capital expenditures are presented based on the 2019 historical year, the 24-month bridge period of 2020 through 2021, and calendar year 2022, which is the test year.

1. Contingency

Consumers originally included \$27.3 million in contingency budgeting associated with several capital expenditure projections for 2021 and 2022, which was later revised to \$25.7 million. The Staff, the Attorney General, and ABATE objected to the inclusion of any contingency amounts based on extensive Commission precedent disallowing these projected costs. For the same reason,

² Because the test year is also the 2022 calendar year, “test year” and “2022” are used interchangeably throughout this order. The years 2020 and 2021 are sometimes referred to as “bridge” years, because they are the bridge between the historical 2019 year and the test year.

the ALJ recommended that the Commission exclude the contingency budgeting from rate base. PFD, pp. 53-54.

In exceptions, Consumers argues that its contingency amounts should be approved because they are conservative, and because contingency budgeting is reasonable. 5 Tr 1999. Consumers contends that it is important to incorporate the costs of unforeseen events. *Id.*, p. 1885.

Consumers also explains that some amounts are associated with the 2020 Solar Bid Event and are eligible for treatment as allowance for funds used during construction (AFUDC), and disallowance will require an adjustment to the AFUDC offset. *Id.*, p. 1999; 3 Tr 277.

In replies to exceptions, the Attorney General and ABATE argue that contingency costs are unreasonable for inclusion in rate base. Attorney General's replies to exceptions, pp. 54-55; ABATE's replies to exceptions, p. 3.

The Commission agrees with the ALJ and finds that Consumers' total projected contingency costs of approximately \$25.7 million should be disallowed. As the Commission has repeatedly found, while allowing for contingency may be appropriate in project planning, the inclusion of these uncertain costs in customer rates is unjust and unreasonable. *See*, November 19, 2015 order in Case No. U-17735 (November 19 order), pp. 7-11; December 11, 2015 order in Case No. U-17767, pp. 19-20; December 9, 2016 order in Case No. U-17999, pp. 4-6; January 31 order, pp. 12-13; March 29 order, p. 11; April 12, 2018 order in Case No. U-18370, p. 5; September 13, 2018 order in Case No. U-18999, p. 5; May 2 order, p. 6; September 26, 2019 order in Case No. U-20322 (September 26 order), p. 41; and the December 17 order, p. 9.

2. Electric Distribution

Consumers' distribution system is comprised of high voltage distribution (HVD) (predominantly 46 kilovolt (kV)) lines and low voltage distribution (LVD) (13 different voltages

between 2.4-24.9 kV) lines. The HVD system includes HVD substations, HVD lines, and LVD substations. The LVD system contains a distinct component called the Metro system which provides underground distribution service in the downtown areas of six cities in the company's service territory, namely Battle Creek, Flint, Grand Rapids, Jackson, Kalamazoo, and Saginaw. 5 Tr 635-636. Voltage is stepped down from the HVD to the LVD, and from the LVD to a secondary voltage which can service businesses and residences. There are six electric distribution capital programs, each with numerous sub-programs, and most sub-programs contain numerous investment categories.

Consumers projected approximately \$1.3 billion in distribution system capital spending for the bridge period, and \$766 million in distribution capital spending for the test year. Exhibit A-12, Schedule B-5.1. Consumers stated that it seeks to increase spending on distribution reliability due to increasing system deterioration and vulnerability to wind and storms, as well as increased demand from customers for connection and relocation. 5 Tr 633. Consumers indicated that historical distribution performance levels are measured by several metrics including the System Average Interruption Duration Index (SAIDI), the System Average Interruption Frequency Index (SAIFI), and the Customer Average Interruption Duration Index (CAIDI). Consumers stated that its distribution expenditures are intended to allow the company to achieve a SAIDI excluding major event days (MEDS) of 170 minutes. *Id.*, pp. 647-648. For information on overall distribution planning, Consumers referred to its electric distribution infrastructure investment plan (EDIIP) (currently from 2018) and its integrated resource plan (IRP), as well as the Grid Modernization Roadmap that it is working on with the help of a third-party consultant.

Prior to addressing contested line-item projections and proposed disallowances from those projections, the ALJ addressed four general areas of contention within the distribution cost

category. The ALJ made general observations that she then applied to specific contested issues, which are discussed below. Consumers filed responses to her observations, and the Attorney General filed responses to Consumers' remarks. The Commission includes a description of this section of the PFD for background. The actual contested issues are addressed below.

First, the ALJ took note of the testimony provided by MNSC indicating that Consumers has the most expensive distribution system in the nation on an asset per customer basis, and the accompanying evidence showing that the company views capital expenditures as an "opportunity" for investors. 5 Tr 2491-2492. Against this background, the ALJ noted that the Attorney General objected to the overall lack of support for cost projections within capital expenditures. The Attorney General noted that Consumers provided evidence at the level of number of work units, projects, or activities, to support a capital expenditure projection, only for the test year and not for the historical or bridge periods. In discovery, the Attorney General sought this same level of detail for actual 2015-2020 expenditures and for forecasted 2020-2021 expenditures. Consumers' response indicated that the information could not be provided as requested for a number of reasons, including that it does not exist at the sub-program level, investment categories have moved and changed names, or it is not available as a single number or unit for each line on an exhibit. Exhibit AG-1.2; Exhibit A-35; 5 Tr 944; 6 Tr 2852-2853. For many cost categories, the Attorney General proposed a disallowance based on granting cost recovery for the amount represented by the higher of either the five-year historical average annual spending or the most recent level of actual expenditures from 2020.

The ALJ found that the Attorney General had not sought a single number but rather the component units or projects, and that, "[i]n a ten-month rate case, there is no room for word games when it comes to discovery." PFD, p. 59. The ALJ stated that:

the 2020 information sought by [the Attorney General] is, in particular, information that shows the development of the company's cost projections in this case and thus should have been provided as part of its direct case. This PFD finds that the company did not adequately respond to the Attorney General's discovery request, which did not seek a single work unit number for each line item, but sought the work units on which each line item of the company's projections were based.

PFD, p. 59 (citing Exhibit AG-1.2).

In response to the ALJ's observations, Consumers argues that the PFD contains numerous fundamental errors. Consumers asserts that its response to the Attorney General's discovery request was appropriate, because the request sought information at the program and sub-program level, but work units are denominated at the "investment" level, and there was no meaningful way to aggregate units such as miles and poles into a single unit number for a whole sub-program. Consumers' exceptions, p. 13. Consumers contends that the discovery request was not correctly worded.³ In response, the Attorney General supports the discovery request. *See*, Attorney General's replies to exceptions, pp. 14-18.

Second, Consumers objected to efforts to seek information on future year spending plans for projects for which test year funding is requested, and the ALJ disagreed, finding that it is difficult to "demonstrate the reasonableness and prudence of a multiyear project without justifying the total expected cost of that project." PFD, p. 60.

Consumers counters that a rate case is focused on the test year, and that the company provided concept approval documents and the EDIIP, and, in response, the Attorney General supports the PFD. *See*, Consumers' exceptions, pp. 15-16; Attorney General's replies to exceptions, pp. 18-20.

Third, the parties disagreed regarding the significance of capital expenditures approved in the December 17 order in Consumers' most-recently completed general electric rate case, in which

³ The Attorney General did not file a motion to compel, and this discovery dispute is not before the Commission.

calendar year 2021 was the test year. Consumers stated that its 2021 bridge year projections in the instant case are based on what was approved in the December 17 order and asserted that approved amounts are not subject to review. 5 Tr 945. The Attorney General noted that many of the 2021 projections in this case differ from the approved amounts, and argued that all amounts are subject to a reasonableness and prudence review.

The ALJ found that projected spending for 2021 in the instant case differs from amounts approved in the December 17 order, stating:

A comparison of the approved amount in Exhibit AG-1.72 to the 2021 projections for the same line items in Exhibit A-35 shows that the company's total projections in Exhibit A-35 for those line items are approximately \$45 million more than the approved amounts shown in Exhibit AG-1.72 for the same line items. Additionally, this PFD concludes that because the company's filing projects rate base additions for 2021 as well as 2022, it has an obligation to support the continuing reasonableness of its 2021 projections even where they match the projections adopted for the projected 2021 test year in Case No. U-20697.

PFD, pp. 62-63 (footnote omitted); Exhibit A-35; Exhibit AG-1.72; 5 Tr 946. The ALJ noted that the Commission addressed the same issue in the December 17 order, on pages 69-70, where it stated that, even where capital expenditures have been approved in prior rate cases, "each request for the addition to rate base of a new capital expenditure amount requires evidentiary support on the record in the case in which the request is made." The ALJ found that, with respect to the line-item disputes, Consumers made no effort to show that its 2021 spending plans are still consistent with the December 17 order, and she further noted that this impacts the Commission's ability to properly evaluate 2022 as well.

In response, Consumers argues that Case No. U-20697 was fully litigated, and that in the instant case further support for the request was provided for any cost category where the company sought more than was approved in the December 17 order. Consumers' exceptions, pp. 17-18. In

response to the company, the Attorney General supports the PFD. *See*, Attorney General’s replies to exceptions, p. 22.

Fourth, the parties disagreed regarding the importance of knowing the unit costs which underlie projections. The Staff objected to reliance on historical average unit costs for certain cost categories in place of information regarding the specific project, and the Attorney General sought more information on unit counts and unit costs to support certain projections. The company objected to focusing on units.

The ALJ observed that:

while the company disputes a unit-by-unit-cost analysis of its projections, the company’s projections have to be tethered to or grounded in something other than a generic reliance on “planned spending.” Attempts to analyze the reasonableness and credibility of the company’s projections by tying them to the work to be accomplished in the projected time period are not insignificant or irrelevant. If the company contends the costs are too variable to rely on averages, it has the opportunity to provide evidence in support of that claim and to provide other evidence in support of the accuracy and reliability of its own projections. As Staff notes, the company clearly chooses to rely on average costs in making certain projections, even when Staff disputes the reasonableness of that reliance.

PFD, pp. 64-65.

In response, Consumers counters that “individual projects, even within a single investment category, vary widely in size and complexity and cost, preventing the determination of a standard unit cost.” Consumers’ exceptions, p. 18. In response to Consumers, the Attorney General supports the PFD. *See*, Attorney General’s replies to exceptions, pp. 22-23.

Regarding these four general evidentiary disputes, the ALJ noted that her observations factor into her consideration of the following line-item disallowances. The Commission addresses each

contested disallowance, below.

a. New Business

This category addresses the cost of connecting new residential, commercial, and industrial customers to the grid, including the costs of poles, conductors, transformers, meters, and new substations. Consumers projected 2020 and 2021 capital expenditures totaling \$253.5 million, and 2022 capital expenditures totaling \$134.6 million. Exhibit A-12, Schedule B5.1; Exhibit A-35; Exhibit A-36. This cost category (along with asset relocations and demand failures) was approved for deferred accounting and regulatory asset treatment in the December 17 order, pages 20-21.

i. Low Voltage Distribution Lines New Business

Consumers stated that its projections for the LVD lines new business program are based primarily on new housing starts in its service territory, and the company relied upon the Michigan Home Builders Association housing start forecast. 5 Tr 681-685. Consumers indicated that new residential service installations will increase in 2021-2022, and the cost of each installation will increase, due to an increase in the average length of service line and an increase in underground installations. Consumers forecasted capital expenditures of \$93,113,000 for 2021 and \$98,546,000 for 2022 for this cost category. The company provided the number of installations each year for 2015-2019, but did not provide a count for 2020. *Id.*

The Attorney General recommended a reduction of \$6.267 million to the 2021 projection and a reduction of \$9.963 million to the 2022 projection for this line item, based on using the 2019 expenditures and adding a 2% inflation factor to arrive at alternative projections for 2021 and 2022. 6 Tr 2855-2856. The Attorney General noted that the company did not provide any forecasted housing starts for these two key years. Consumers countered that the 2021 amounts

were already approved in the December 17 order, and that it had provided LVD lines new business service unit costs for 2015-2019. 5 Tr 947.

The ALJ recommended that the Commission adopt the Attorney General's proposed disallowances because Consumers did not provide sufficient information to support its 2021-2022 projections. According to the ALJ, the fact that "the Commission approved the company's projected expenditure for 2021 is not dispositive because additional information is available now; the question is not whether new service extensions are reasonable and prudent, but how many there will be and what the actual cost will be." PFD, p. 69. The ALJ noted that the company failed to provide information on forecasted housing starts in its service territory for these two projected years, and observed that the company's 40-year-period housing permit chart does not show a clear growth pattern. *See*, 6 Tr 2855; 5 Tr 684, Figure 22.

In exceptions, Consumers argues that the Attorney General's discovery request was not worded properly, and asserts that the company demonstrated the upward trends in line extensions and undergrounding. 5 Tr 682. Consumers notes that the Commission approved a projected amount of \$94,788,000 for LVD lines new business for 2021 in the December 17 order, and in the instant case the company projects spending \$93,113,000 for the same period, thus showing that its plan remains on track as previously approved. Exhibit AG-1.72. Consumers argues that the ALJ ignored the information the company provided showing projected growth in housing starts.

In replies to exceptions, the Attorney General again argues that the company failed to provide convincing evidence regarding housing starts and predicted commercial activity. *See*, Attorney General's replies to exceptions, pp. 25-26.

The Commission adopts the findings and recommendations of the ALJ. Consumers failed to provide any information showing forecasted housing starts in its service territory in the two years

for which it seeks recovery, and failed to provide evidence showing clear growth for 2019-2021. The company provided actual expenditures for 2020 without providing the number of new services that this applied to, significantly limiting the usefulness of that information for supporting its analysis. The Attorney General showed that the actuals for 2020 significantly exceeded the five-year average. The Attorney General relied on the last year for which a complete set of data was provided in calculating her reductions. The Commission agrees with the ALJ that the Attorney General's calculation method is superior to the company's and adopts the recommended disallowances for 2021 and the test year.

Additionally, the Commission finds that the company did not support its claim that added length of service line and increasing trends in undergrounding would increase costs for the company. According to the company's own tariff, free footage for new line extensions is capped for each residential dwelling, and the new added customers must pay for the cost of any excess footage. Similarly, any incremental costs for undergrounding new service lines above what the costs would have been for overhead service lines is borne by the applicant for underground service. While there are scenarios where the company must bear the cost of these upgrades, it is not clear from the company's testimony that the third-party relocation requests are costs that fully fall within the company's obligation.

The Commission supports distribution spending that will improve reliability, but that spending cannot be based on guesswork. All distribution-related amounts disallowed in this order are not subject to permanent disallowance. Once Consumers has made actual expenditures, the company is free to seek those amounts for inclusion in rate base, incumbent upon a showing of reasonableness and prudence in a future rate case. Likewise, projected amounts supported by persuasive evidence of reasonableness and prudence will also be included.

ii. High Voltage Distribution Lines Strategic Customers

The HVD lines strategic customers new business program addresses the cost to meet the needs of new, large commercial and industrial (C&I) customers, who typically need new dedicated substations and the associated interconnection to the HVD system. 5 Tr 686-690. Consumers projected 2021 capital expenditures of \$17.3 million and 2022 capital expenditures of \$10 million for this cost category, an increase from the 2015-2019 five-year annual average of \$8.5 million. Consumers indicated that the projected 2021 bridge year amount is based on known and planned projects, while the 2022 test year amount is based on historical spending. 5 Tr 689.

The Attorney General proposed a reduction of \$8.5 million to the 2021 projection, and a reduction of \$1 million to the 2022 projection, based on applying the five-year average increased by inflation to these two projected years. 6 Tr 2857-2858. The Attorney General acknowledged that the company's 2021 projection was approved in the December 17 order, but argued that Consumers needs to continue to justify the approved cost because plans, assumptions, costs, and timing have likely changed. The Attorney General also noted that 2020 actuals in this cost category were \$2 million below what was recently projected (\$4 million in actuals but \$6 million projected). Exhibit AG-1.2; Exhibit A-35. Thus, she argued that the five-year average provided a better basis for forecasting. Consumers countered that the adjustment is arbitrary. 5 Tr 946-953.

The ALJ recommended that the Commission adopt the proposed disallowances. PFD, p. 71. The ALJ noted that 2019 actuals were \$6.5 million, and 2020 actuals were only \$4 million. Again, the ALJ found that the fact that an amount was approved in a prior rate case does not relieve the utility from the obligation to support its 2021 projection as reasonable and prudent, and noted that the company did not provide specific justification for the 2022 forecast.

In exceptions, Consumers argues that simply because it did not spend the projected amount in 2020 does not mean that its remaining projections are inaccurate. Consumers states that it projects spending the same amount in this category (\$17.281 million) in 2021 as was approved in the December 17 order. The company avers that simple speculation that this might not happen is not compelling evidence, and that sub-program spending is inherently variable from year to year because these types of projects are few and are specifically tailored to customer needs. 5 Tr 689.

The Commission adopts the findings and recommendations of the ALJ. The Commission agrees with the ALJ that the five-year average adjusted for inflation provides a superior basis for the 2021 and test year projections. With 2019 actuals at \$6.5 million, and 2020 actuals at only \$4 million, Consumers' evidentiary presentation does not provide sufficient explanation for why this annual amount should jump to over \$17 million in 2021. While approval in a prior rate case is certainly a factor to take into consideration in the Commission's decision in the instant case, it does not alone provide justification for recovery of the requested amount. The obligation to show that a projected amount is reasonable and prudent is borne by the applicant in each new rate case for each projection. The Commission adopts the Attorney General's proposed disallowances for 2021 and 2022.

b. Reliability

This spending category addresses the cost to install, upgrade, and rehabilitate LVD and HVD lines and substations, metro underground assets, and protective relay systems, and to modernize the electric grid, including battery storage installations. Consumers projected bridge period capital expenditures totaling \$517 million for this category, and projected 2022 capital expenditures totaling \$369 million. 5 Tr 742. This cost category includes planned projects and some emergent projects.

i. Low Voltage Distribution Lines Reliability

This cost category addresses projected spending on the company's LVD line system for targeted circuit improvements, pole replacements, circuit enhancements, and right-of-way (ROW) and easement acquisition projects. 5 Tr 752-754. Consumers projected test year capital expenditures of \$45,862,000, and 2021 expenditures of \$40,658,000. Exhibit AG-1.2; Exhibit A-37, line 1; Exhibit A-48.

The Attorney General objected to the fact that Consumers failed to provide work unit information for any year other than the test year. Exhibit AG-1.2. The Attorney General noted that the cost of a circuit upgrade went from \$80,400 in 2017 to \$257,272 in the 2022 forecast, and the average pole replacement cost went from \$7,300 in 2018 to \$9,058 in 2022. 6 Tr 2866. She also noted that 2020 actual expenditures were below the 2014-2019 annual average. The Attorney General proposed using the five-year average annual cost of \$36.8 million, adjusted for 2% inflation, to project costs for 2021 and 2022, which results in a disallowance of \$2.3 million for 2021 and \$6.8 million for 2022. Consumers countered that it provided some unit cost information, and that it showed that labor costs had increased partly as a result of adding a third crew member in 2018. 5 Tr 753, 948.

The ALJ recommended that the Commission adopt the Attorney General's proposed reduction for 2022, but not for 2021. PFD, p. 75. The ALJ found that the Attorney General had obtained most of the unit cost information that she sought, and that the projected 2021 expenditures are below the amount that was approved in the December 17 order. The ALJ further noted that the 2021 cost projections used the same pole replacement cost as was used in 2020. However, the ALJ found that Consumers did not support the 2022 cost projection and did not sufficiently explain the significant per unit cost increase for the test year for pole replacements or the average

circuit upgrade, particularly in light of the fact that 2020 average costs were below 2019 average costs. PFD, p. 76.

In exceptions, Consumers argues that it did provide unit cost information in direct testimony, and also provided evidence regarding higher contractor costs and the fact that costs may vary widely between projects due to specific conditions. 5 Tr 753. Consumers contends that its test year projection was supported by evidence identifying over 200 specific projects in this sub-program for 2022 and that the ALJ ignored this evidence. Exhibit A-48, pp. 1-5. Consumers also notes that the cost of individual circuit improvement projects may vary from \$25,000 to over \$1 million. The company urges the Commission to disregard the unit cost approach, as well as the ALJ's recommendation, which, according to Consumers, both run counter to the Commission's focus on electric service reliability and resilience, citing the August 25, 2021 order in Case Nos. U-21122 *et al.*

In exceptions, the Attorney General reiterates that the company failed to provide work unit information for any year other than the test year, which prevented the parties from performing a comparative analysis. Attorney General's exceptions, pp. 3-4; 5 Tr 2866. She recommends that 2021 and 2022 projections be based on the higher of either the five-year average or the most recent level of actual expenditures from 2020. Using the five-year average (which was the higher of the two) with inflation added, the Attorney General recommends adoption of her proposed reductions, including for 2021. She contends that the fact that the projected level for 2021 falls below what was approved in the December 17 order is irrelevant because the 2021 projection is not supported on this record, Consumers failed to provide a project list, and the company failed to support the increase in the cost per circuit.

In replies to exceptions, Consumers again notes that the increases were due to both adding a third crew member and higher contractor costs arising from the tight labor market in 2018.

Consumers' replies to exceptions, pp. 10-11.

In replies to exceptions, the Attorney General argues that the company's evidentiary presentation was insufficient. Attorney General's replies to exceptions, pp. 30-31.

The Commission adopts the findings and recommendations of the ALJ. As the Attorney General showed, the company failed to support its projections. Exhibit A-48 lists projects but provides no information on how the projected amount was calculated. Consumers also failed to explain why 2020 average costs were below 2019 averages, or the basis for the test year projection. Again, the Commission is supportive of, and encourages, reliability spending that is shown to have benefits for ratepayers and is cost-effective. As the Attorney General correctly noted, ratepayers deserve both reasonable rates and a reliable and resilient distribution system. Simply stating that an expenditure is intended to improve reliability is not the end of the analysis. The Commission finds the Attorney General's calculation method for the two projections to be superior to the company's and approves the disallowances.

ii. High Voltage Distribution Lines Reliability

This cost category addresses overhead line rebuilds, pole-top rehabilitations, pole replacements, and switch replacement projects. 5 Tr 756-768. These projects are prioritized by the highest average incident rate and total customer outage minutes, and by the results of the ongoing pole inspection program. Exhibits A-48, A-49, and A-52. Consumers projected 2021 expenditures of \$63.9 million and 2022 expenditures of \$78.4 million for this category. 5 Tr 761-762; Exhibit AG-1.2; Exhibit A-37.

The Staff proposed a reduction of \$652,000 to the test year proposal, arguing that this amount represents simply a placeholder for the cost of air brake switches. The Staff argued that basing cost estimates on average historical spending (reflecting an average number of projects per year at an average cost per project) is not sufficient for these types of planned programs and that actual projects need to be listed and defined. 6 Tr 3947.

The Attorney General proposed a reduction of \$30.6 million for 2021 and \$44.4 million for 2022, noting once again that Consumers failed to provide any work unit information for 2015 through 2021. 6 Tr 2869-2871. The Attorney General noted that the five-year annual average for 2015-2019 for this subprogram was \$32 million and 2020 actuals were only \$22.3 million. The Attorney General argued that the company failed to sufficiently support the three-fold increase over 2020 spending that it is seeking for 2021 and 2022. To reach her proposed disallowances, the Attorney General again applied the 2015-2019 five-year average adjusted for 2% inflation. 6 Tr 2871.

MNSC also objected to Consumers' projections for this cost category and proposed disallowance of four projects for a total of \$53 million, including a \$31 million reduction to test year spending. 5 Tr 2522-2531; Exhibits MEC-26, MEC-38. MNSC noted that much of Consumers' evidence in support of line segment rebuilds focuses on claimed problems presented by non-standard construction, and that the company used the same two-sentence explanation for 17 projects. 5 Tr 767, 2523. MNSC argued that the concept approval documents do not provide sufficient information to evaluate the reasonableness of the decision to do a rebuild, and that some of the documentation contradicted the proffered justification, providing testimony that:

[t]his information, which is captured in Exhibit MEC-38, shows that the cause of many outages is apparently unrelated to non-standard construction: trees, third-party damages (e.g., car accident), poles, cross arms, substation equipment, transmission. It should be noted that the outage data provided in discovery does not

correlate the location on the line that experienced the outage events with the section of line proposed for rebuild. For outages identified as caused by conductors and insulators, there is no basis to ascertain whether “non-standard construction” contributed to the outage, or whether there was some other underlying cause. Nor is there any indication that conductor and insulator outages were more frequent or longer than outages with other causes. In sum, there is no information to support the conclusion that rebuilding the line will reduce the number of outages.

5 Tr 2525. MNSC argued that tree-trimming could provide a solution, and that “[t]here is no indication of consideration of a forestry fix instead of a line rebuild.” 5 Tr 2527, 2524. MNSC argued that the projected costs represent “gold plating with respect to distribution investments.”

5 Tr 2529. Consumers countered that line clearance will not provide a viable solution to the need for rebuilds because the company is already on a standard four-year line clearing cycle. 5 Tr 982.

The ALJ recommended that the Commission adopt the Attorney General’s proposed disallowances for 2021 and 2022 on the grounds that Consumers failed to establish the reasonableness and prudence of its projections. PFD, p. 83. The ALJ found that Consumers failed to show that the proposed 2021 and 2022 line rebuilds meet the criteria for inclusion in the rehabilitation category of this program, which is aimed at equipment experiencing imminent failure. The ALJ noted that Consumers’ projected 2021 expenditures are almost three times the 2020 actuals and double the five-year average. She found that MNSC presented persuasive evidence that Consumers failed to demonstrate the cost effectiveness of these costs. The ALJ recommended adoption of the Attorney General’s five-year average adjusted for inflation for 2021 and 2022, and urged the Commission to “provide direction to Consumers Energy that it will need to provide a more comprehensive justification of any actual expenditures for line rebuilds in this subprogram in future cases, including an actual analysis of alternatives as recommended by Mr. Ozar [MNSC’s witness] at 5 Tr 2530-2531.” PFD, p. 84.

In exceptions, Consumers states that it individually customizes its response to poorly performing lines. *See*, Consumers' exceptions, pp. 29-30; 5 Tr 756. The company argues that MNSC does not say what is supposed to be done with the 17 projects that it criticizes and did not propose an alternative or a cost adjustment. Consumers' exceptions, p. 31; 5 Tr 952. Consumers also notes that reliability work is based on poor performance and rehabilitation work is based on inspection results. The company contends that line clearance is not a likely solution to these projects because Consumers is already on an industry-standard four-year clearing cycle, and projects are based on more than simply outages. Consumers' exceptions, p. 32, 5 Tr 983. Consumers posits that the ALJ gave too much weight to MNSC's evidence and ignored the project details and the concept approval documents that were provided by the company. Consumers' exceptions, p. 33; 5 Tr 949; Exhibits MEC-26 and MEC-32. The company notes that it provided 2022 work unit information. Consumers also points to its testimony regarding system deterioration and the need to target lines, poles, and pole tops. 5 Tr 762; Exhibit A-48, pp. 5-6. Consumers contends that the Attorney General's proposed reductions are large and unsupported, and the projections for 2021 and 2022 are critical to achieving the target 170 SAIDI minutes in 2025. Consumers' exceptions, pp. 6, 11, 36; 5 Tr 766-767.

In replies to exceptions, MNSC notes that Consumers supported each rebuild project with the identical justification, namely, that lines that are rebuilt tend to perform better, with regard to outages, after rebuilds. MNSC again argues that the company should provide sufficient, line-specific justifications for each line rebuild. MNSC's replies to exceptions, p. 10. MNSC argues that Consumers' own data shows that trees caused many of the outages on the particular lines chosen for rebuilds (over rehabilitation), and that the concept approval documents do not support the claim that rebuilding is cost-effective in comparison to line clearance. MNSC again makes

note of Consumers' references to line rebuilds as "opportunities" for the company, but also notes testimony demonstrating that trees present the greatest threat to service. *Id.*, pp. 4-6; Exhibit A-148, p. 3; 5 Tr 664, 1171, 2490, 2524. MNSC contends that the concept approvals contain none of the line-specific outage information that would be necessary to assess SAIFI, CAIDI, and SAIDI. MNSC asks that, if the Commission rejects the ALJ's decision to adopt the Attorney General's disallowance, it should adopt MNSC's suggested disallowance of \$31 million. MNSC's replies to exceptions, p. 7. Finally, MNSC states that Consumers did not except to the ALJ's recommendation that line-specific data should be provided in future rate cases.

In replies to exceptions, the Staff asserts that, for planned projects, placeholder amounts are not appropriate. The Staff contends that the company should not earn depreciation and a return on amounts that have not actually been identified with any certainty in the rate case filing. The Staff states that, at a minimum, it needs:

the information provided in Exhibit A-48 (RTB-15): the applicable sub-program; project description, line, substation or location; spending amount; number of units; unit type; and investment category. This should be required for all projects within the reliability, capacity and electric other programs, any internally-requested asset relocation projects, and any projects known in advance within the new business, demand failures and asset relocations programs. Historical spending in an investment category or sub-program is not sufficient support. To receive cost recovery for planned projects, the Company needs to provide the details of such projects.

Staff's replies to exceptions, pp. 3-4 (quoting 6 Tr 3943-3944). The Staff contends that, in instances where Consumers is unable to provide this information, it should seek recovery in a later rate case where the necessary information will be available. *Id.*, p. 4.

In replies to exceptions, the Attorney General again notes the lack of information regarding the cost, or number, of work units for 2015-2020, and the lack of specificity regarding projects in the test year. *See*, Attorney General's replies to exceptions, pp. 34-35.

The Commission adopts the findings and recommendations of the ALJ. In this cost category, Consumers showed that it had a five-year annual average of \$32.1 million, and in 2020 it had actual costs of \$22.3 million, yet it seeks \$63.9 million for 2021 and over \$78 million for the test year. 6 Tr 2871. The company also states that it does not identify specific poles in advance, and that it may reprioritize this money at any time. Consumers' exceptions, p. 36. As the Staff states, the Commission requires more specific details for projects that are known in advance, and the Commission adopts the Staff's recommendation regarding the minimum level of information that is needed: (1) the applicable sub-program; (2) project description; (3) line, substation or location; (4) spending amount; (5) number of units; (6) unit type; and (7) investment category. 6 Tr 3943-3944.

Along with these evidentiary weaknesses, Consumers fails to recognize that the Commission needs to understand how these reliability expenditures tie into the five-year EDIIP, and the IRP—in other words, how the expenditures proposed for rate base treatment figure into the company's long-term plans and larger strategy for maintaining the strength of the distribution system. The Commission requires a more comprehensive justification and an actual analysis of alternatives, on the record, with specific reference to where the investments fit into the distribution plan, in order to be able to adequately analyze this type of reliability spending proposal. As the Staff argues and as noted above, the distribution-related amounts disallowed in this order are not subject to permanent disallowance, and in instances where Consumers is unable to provide sufficiently detailed supporting information, it can seek recovery in a later general electric rate case once the necessary information is available. The company can also seek to include actual expenditures in rate base in future cases, incumbent upon a showing of reasonableness and prudence. In seeking rate base treatment for proposed expenditures, the Commission will expect to see both the

minimum level of required detail and contextualization of the requested spend within longer-term planning.

iii. High Voltage Distribution Substations Reliability

This cost category addresses the need to replace HVD substation equipment prior to failure, including circuit breakers and circuit switchers, transformer bushings, switches, and other equipment such as transformers and lightning arrestors. Consumers uses an algorithm to prioritize replacements, rather than simply looking at age. Exhibits A-35, A-48; 5 Tr 774-778. Consumers projected spending of \$5,390,000 in the test year for this category. Exhibit A-37.

The Staff proposed a reduction of \$283,000 to the test year projection based on the fact that the company relied on historical average unit costs in making its projection and the Staff advocates the use of the highest actual cost over the 2017-2020 period instead. Exhibits S-11.6, S-11.7; 6 Tr 3948-3950. Consumers countered that historical average cost information is relevant for these simple and routine calculations and provides a basis for projections, because the company knows when individual projects will likely have similar costs going forward. 5 Tr 936-937.

Noting the amount is minor, the ALJ recommended that the Commission adopt the Staff's proposed disallowance in light of the Staff's detailed analysis. PFD, p. 87.

In exceptions, Consumers argues that in some cases, where projects are similar or identical and straightforward to execute, the company bases its projection on the historical average costs of similar projects. Consumers contends that, for this cost category, it has enough historical data to know that each project is likely to have a similar cost and thus it uses the same projection. 5 Tr 936-937.

In replies to exceptions, the Staff repeats its objections to placeholder amounts based on historical averages for planned investments.

The Commission adopts the findings and recommendations of the ALJ. The Staff made a convincing case for using the difference between the projected test year amount and the highest actual spending that occurred in 2017-2020 as the proposed disallowance, stating:

When asked to explain how seven transformer bushing replacement projects can each cost the same amount, and how this amount was calculated, the Company stated that the \$135,000 estimate is based on the average costs of previous similar transformer bushing replacement projects. See Exhibit S-11.6. However, using an average cost of past projects is not a sufficiently precise methodology to warrant full recovery of the expenditures. The Company is certainly capable of estimating unique costs of individual projects within an investment category or sub-program, as shown in Exhibit A-48 (RTB-15), pages 9-13, which show test year LVD Repetitive Outages projects, or in Exhibit S-11.5, 4 which shows HVD Lines Reliability MOABS [motor-operated air break switches] SCADA [supervisory control and data acquisition] switches. On the other hand, a full disallowance of the investment category would also be unreasonable. After all, the Company did provide a list of individual projects for this investment category.

6 Tr 3948-3949. The Commission finds this testimony persuasive and adopts the Staff's proposed test year disallowance.

iv. Metro System Reliability

This cost category addresses Consumers' plans to install and operate its metro systems, which distribute electricity in the downtown areas in the cities of Battle Creek, Flint, Grand Rapids, Jackson, Kalamazoo, and Saginaw, and are reviewed annually. 5 Tr 808-812. The company is projecting metro reliability capital expenditures of \$5,647,000 for 2021, and \$5,575,000 for the test year. Exhibit AG-1.2; Exhibit A-37, line 10; 5 Tr 810.

The Attorney General proposed a reduction of \$2 million to the 2021 projection, and a reduction of \$1.9 million to the test year projection. 6 Tr 2879-2881. The Attorney General objected to the fact that Consumers failed to provide information regarding work units for 2015 through 2021, and noted that the company spent \$2.4 million on average annually over 2015-2019. *Id.*, pp. 2880-2881. The Attorney General noted that 2020 actuals were above the five-year

average, and she recommended basing 2021 and 2022 expenditures on the 2020 levels, escalated by a 2% annual inflation rate, thus producing the proposed disallowances.

The ALJ found that the Attorney General's proposal is grounded in historical data and should be adopted because the company failed to provide sufficient information on which to evaluate the reasonableness of its projections. PFD, p. 88. She recommended that the Commission adopt the Attorney General's proposed disallowances for 2021 and 2022.

In exceptions, Consumers again argues that the unit cost analysis is flawed and states that costs can vary significantly from year to year. Consumers' exceptions, p. 40; 5 Tr 811. The company contends that unit costs would not have been useful in calculating projections for 2021 and 2022.

In replies to exceptions, the Staff argues that if the company seeks cost recovery for an internally driven project, Consumers should know about it months in advance and should be able to provide the Commission with the necessary information to make a decision. Staff's replies to exceptions, p. 4.

In replies to exceptions, the Attorney General again notes that the company failed to provide work unit cost and number information for prior years, thus preventing comparison. Attorney General's replies to exceptions, pp. 35-37.

The Commission adopts the findings and recommendations of the ALJ. As the Attorney General showed, Consumers forecasted capital expenditures of \$5,647,000 for 2021, which is 61% above the actuals for 2020 and more than double the five-year average. The company's evidentiary support for 2021 and the test year includes no information on the specific work that will be done, or why it is considered necessary for that particular year. 6 Tr 2880. Based on the

lack of support for the projections, the Commission adopts the Attorney General's proposed disallowances.

v. Grid Modernization

This cost category addresses improvements in grid infrastructure that incorporate new technologies and applications to increase reliability, optimize the delivery system, and facilitate the integration of more diverse energy resources. 5 Tr 779-784. Consumers stated that it worked with a third-party consultant in 2019-2020 to develop its grid modernization strategy, and activities are divided into 13 categories. Consumers projected test year spending of \$83.4 million and about \$81 million for 2021, which reflect increases over historical spending. Exhibit AG-1.2; Exhibit A-48.

The Attorney General again objected to the fact that the company failed to provide the level of detail for 2015-2021 that it provided for 2022 with regard to work units. 6 Tr 2874. The Attorney General noted that projected expenditures increased three-fold in 2021 and 2022 over the five-year annual average from 2015-2019 and argued that Consumers failed to provide sufficient justification for the increase. Again, the Attorney General noted that 2020 actuals were \$43.6 million, which is significantly higher than the 2015-2019 annual average of \$21.7 million. Thus, she recommended that 2020 actuals should provide the basis for the 2021 and 2022 projections with a 2% inflation adjustment. This results in a \$12.4 million reduction to the 2021 projection, and a \$16.1 million reduction to the 2022 projection.

The Staff recommended disallowances to specific project costs. The Staff proposed a \$3.5 million reduction to the distribution SCADA (DSCADA) project cost, noting that the company showed all 100 DSCADA projects at the identical cost of \$218,000 each. 6 Tr 3953-3954; Exhibit A-35. The Staff proposed that 2020 actuals of \$18.3 million should be used for

2022, because it is an amount that Consumers has actually spent in the past. The Staff also proposed a \$3.2 million reduction to 2022 expenditures for regulators, again noting that the company estimated 430 regulators, all at the same cost of \$26,000 each. 6 Tr 3953-3954; Exhibits A-48 and S-11.9. The Staff again argued that past costs do not provide an adequate basis for future projections, and that it would be preferable to base projections on the highest historical expenditure level. Thus, the Staff recommended use of the 2019 actual expenditure level of \$8.2 million rather than the company's projection of \$11.4 million. Consumers countered that the historical data is sufficient. 5 Tr 936.

The ALJ recommended that the Commission adopt the Staff's adjustment for 2022. PFD, pp. 91-92. The ALJ noted that the company reduced its projected 2021 amount below the level that was approved in the December 17 order and, therefore, rejected the Attorney General's proposed disallowances in favor of the Staff's. Exhibit AG-1.72.

In exceptions, the Attorney General argues that the ALJ should have adopted the larger reductions she proposed, which are based on applying 2020 actuals (which are higher than the five-year average). The Attorney General notes that the company did not provide work unit information for 2015-2020, and argues that the fact that the 2021 projection falls below what was approved in the December 17 order does not make the projection reasonable. The Attorney General asserts that the 2021 and 2022 forecasts are not reasonable, and Consumers failed to explain whether there will be an increase in the number of units installed or an increase in the per unit cost, or both. Attorney General's exceptions, pp. 7-8. The Attorney General notes that costs increased three-fold over the five-year average in 2021 and 2022, and contends that the company failed to justify the increase.

In exceptions, Consumers argues that the Staff's calculations for 2021 were baseless, because historical costs actually provide the best basis for projections for this category where projects are very similar to past projects and straightforward in execution. The company argues that the Staff did not show any inaccuracies in the company's calculations. Consumers' exceptions, p. 42.

In replies to exceptions, the Staff reiterates its objections to uniform cost estimates, and notes that Consumers did not take exception to the ALJ's recommendation regarding the test year. Staff's replies to exceptions, pp. 5-6.

In replies to exceptions, Consumers notes that its projected 2021 expenditure level is below the amount approved in the December 17 order. Consumers contends that it included evidence fully describing the grid modernization technologies and the need for them. Consumers' replies to exceptions, pp. 12-13; 5 Tr 781-784.

The Commission adopts the findings and recommendations of the ALJ. Consumers did not except to the 2022 disallowance (which the Commission agrees with in any case), and the Commission agrees with the ALJ that the 2021 projection is reasonable. The Commission echoes the Staff's concern with the presentation of a uniform cost amount for 100 projects that will undoubtedly differ from one another. The Commission has previously described the shortcomings of placeholder amounts. *See*, January 31 order, pp. 30-31; *see also*, January 11 order, pp. 9-10, and September 8 order, p. 4. If costs are incurred in the test year, Consumers should be prepared to provide substantial and detailed information supporting those expenditures if recovery is sought in a future rate case.

vi. Grid Modernization – Advanced Distribution Management System Expansion

This cost category addresses implementation of the Advanced Distribution Management System (ADMS) to be completed in 2021, and expansion of the ADMS in 2022. Consumers states

that this platform requires upgrades every three years to ensure it has the latest software. 5 Tr 784-795. Consumers projected 2022 expenditures of \$7.4 million. 5 Tr 794-795.

The Attorney General proposed disallowance of the full \$7.4 million, arguing that the company did not demonstrate the necessity of the system upgrade less than two years after it was implemented, and demonstrated no quantifiable benefits to the upgrade. 6 Tr 2876. Consumers countered that its evidence was sufficient. 5 Tr 952.

The ALJ stated:

This PFD finds it concerning that the company did not disclose the full magnitude of what it now claims are needed ADMS costs as part of its initial approval request. Since the company has not designed the new enhancements, has offered no breakdown of the cost of each, and has not identified the cost of work to be done on the next system upgrade in 2022 or in future years, this PFD finds that the company has not established that the costs are reasonable and prudent or highly likely to be incurred in 2022. Thus, this PFD finds the Attorney General's recommendation should be adopted.

PFD, p. 94.

In exceptions, Consumers argues that it provided evidence showing that it needs to begin work for the next system upgrade in 2022 and that it supported the projected costs. Consumers' exceptions, p. 45; 5 Tr 795. Consumers notes that it cannot always anticipate every issue that a party will raise.

In replies to exceptions, the Attorney General argues that these system enhancements are not well supported and should be disallowed. Attorney General's replies to exceptions, pp. 38-39.

The Commission adopts the findings and recommendations of the ALJ. As the Attorney General showed, Consumers failed to demonstrate any quantifiable benefits to these upgrades, which are costly and arrive within one year after implementation of the new system, likely before any baseline had been set for the system. 6 Tr 2876. The Commission also finds that the company failed to adequately explain why these costs were not presented in the prior rate case as part of the

information supporting the initial implementation, for the Commission's consideration when deciding whether to approve the original project. A full description of the project should be provided when it is first proposed. Likewise, again, the Commission notes that Consumers needs to make clear where projects such as this one fall within the company's broader long-term strategy and its rollout of spending within its five-year distribution plan. Consumers needs to provide the connections between these rate case requests and the company's long-term plans for supporting reliability and building resilience in order to allow the Commission to fully analyze the rate base request. Absent this understanding, it becomes more difficult to approve cost recovery.

vii. Grid Modernization – Distributed Energy Resource Management Solutions

This cost category addresses Distributed Energy Resource Management Solutions (DERMS) spending. DERMS is an advanced software platform providing functions related to forecasting, monitoring, controlling, and coordinating distributed energy resources (DERs) on the grid. Consumers projected spending of \$1.19 million in 2021 and \$1.91 million in the test year. 5 Tr 786, 794. While acknowledging that the Commission disallowed these costs for 2021 in the December 17 order, page 33, the company argues that the investments are still necessary, because the company needs to learn more about monitoring and controlling DERs before DER penetration begins to increase. 5 Tr 785-788.

The Attorney General proposed disallowance of the 2021 and 2022 amounts because they are unsupported. 6 Tr 2876-2877. MNSC also testified that the DERMS program, while needed to fully integrate DERs into the system, is still premature in light of the amount of current DER penetration; and, the issue of DER control by the utility under DERMS may be problematic. 5 Tr 2727-2729. MNSC argued that the company has not justified the investment and has not provided sufficient information regarding the timing of the program or the need to manage a claimed surge

in DERs, in light of the 1% statutory cap on distributed generation (DG). 5 Tr 2512-2514; Exhibit MEC-22. The Clean Energy Organizations also objected to the proposed amounts as unsupported, because the company failed to provide a forecast of DER penetration by type. 6 Tr 3405; Exhibit CEO-16; 6 Tr 3403-3407. They noted that Consumers currently has 5 megawatts (MW) of DERs but predicts 550 MW by 2022. Exhibit CEO-17; Exhibit A-145. The Clean Energy Organizations argued that alternatives should be explored and a benefit/cost analysis should be provided. 6 Tr 3407. Consumers countered that without DERMS it will be unable to leverage DERs in the Midcontinent Independent System Operator, Inc. (MISO) market. 5 Tr 967-969.

The ALJ recommended that the Commission adopt the Attorney General's disallowances because Consumers has not yet addressed the concerns the Commission expressed in the December 17 order, p. 33. The ALJ found that:

It is troubling that the company's proposal in this case includes projected spending in 2021, which was the test year addressed in the last case, as well as 2022. It is troubling that the company does not have a clear or reliable understanding of the potential DER resources it is likely to have on its system for the projected test year or the pace at which such resources might be expected to be added, or the source. Although the concept approval document, Exhibits CEO-17 and A-145, refers to a projected 550 MW by 2022, the company did not substantiate the forecast on this record.

PF, p. 99. The ALJ found that the company made no effort to show that its predicted DER surge would occur and did not address the Commission's concerns regarding control.

In exceptions, Consumers argues that it is confident that DER penetration will accelerate "in the relatively near-term future," and that delay in making these expenditures may give rise to "unacceptable reliability risks as uncontrolled DERs may result in voltage, frequency, and power production that is detrimental to the electric grid." Consumers' exceptions, p. 46; 5 Tr 697. Consumers notes that its concept approval document for DERMS shows DER penetration increasing from 5 MW to 550 MW by 2022. Exhibit A-145. Consumers states that there are no

price signals for DERs because no distribution market mechanism exists. Consumers argues that it needs DERMS as an operational tool in order to leverage DERs to provide grid benefits.

Consumers' exceptions, p. 50; 5 Tr 787.

In replies to exceptions, MNSC contends that Consumers has not justified the expenditures and has not made the case for needing to control DERs. MNSC asserts that the company's exceptions fail to refute the disallowance. MNSC states that Consumers' own Grid Modernization Roadmap shows that utility control of DERs is not necessary for grid reliability. MNSC's replies to exceptions, pp. 12-13.

In replies to exceptions, the Attorney General notes that the company's testimony on this issue was very general in nature. Attorney General's replies to exceptions, pp. 39-40.

In the December 17 order, the Commission acknowledged that the expectations for distribution utilities are evolving and need to be considered in designing new systems like DERMS. Regarding this issue, the Commission stated:

The Commission agrees with the ALJ that Consumers' proposal lacked clarity, and the company failed to explain how reliability would benefit from the DERMS program or how the information that will be generated from the program will then be integrated into the reliability program. *See*, 8 Tr 3859-3863. Additional planning, including details on the sequencing of DERMS and other technologies to enhance system monitoring and controls and their integration with existing systems such as Consumers' outage management system, AMI [advanced metering infrastructure], and distribution supervisory control and data acquisition, is needed and prudent to pursue while DER penetration is still low. The Commission also notes that it may be valuable to further understand the evolving role and expectations of the distribution utility under the Federal Energy Regulatory Commission (FERC) Order 2222 when planning and designing new systems of this nature. The Commission encourages Consumers to include additional detail about how DERMS and other technologies will be sequenced and utilized to the benefit of its customers as part of its distribution investment and maintenance plan to be filed by September 30, 2021, including the opportunity for other stakeholders to comment on those plans as part of the draft plan shared by August 1, 2021. *See*, August 20, 2020 order in Case No. U-20147 (August 20 order).

December 17 order, p. 33 (footnote omitted). Consumers' evidence in the instant case makes no attempt to address the issues articulated by the Commission in the December 17 order. Consumers provided no substantiation for the prediction that DERs will increase more than 100 fold to 550 MW in 2022, made only very general statements in support of its request, and ignored the obvious barrier of the existing DG cap. The Commission can only reiterate its remarks from the December 17 order, and adopts the findings and recommendations of the ALJ. The Commission continues to seek the information addressed in the above quote from the December 17 order, page 33, and awaits a demonstration of how DERMS will provide an advantage to ratepayers by unlocking the benefits of DERs for customers. This is the type of evidentiary support that may result in approval of rate base treatment for this cost category in the future.

viii. Grid Modernization – Reliability Predictive Analytics

This cost category addresses Consumers' contract with a third party to develop an application that will improve the company's ability to use its geographic information system data. 5 Tr 788-789. Specifically, Consumers wants the reliability predictive analytics tool to seamlessly integrate images of system assets into the company's database, which will facilitate system assessments, engineering, and field work. In the December 17 order, this cost category was called grid technologies. Consumers forecasts expenditures of \$3.5 million in 2021 and \$1.2 million in 2022. 5 Tr 789-794.

The Attorney General objected to these amounts on the grounds that no benefit/cost analysis was supplied by the company to support the project, and it was not clear whether further costs were planned for after 2022. 6 Tr 2877. Consumers countered that it has no obligation to provide information beyond the test year, and that part of the projected 2021 amount was approved in the December 17 order. 5 Tr 952.

The ALJ recommended that the Commission adopt the proposed disallowances, finding that Consumers failed to establish the reasonableness and prudence of the planned expenditures. PFD, p. 100. The ALJ noted that only \$1.4 million was approved for use in 2021 in the December 17 order, pp. 30-31, rather than the \$3.5 million sought in this case. The ALJ further found that Consumers failed to explain its spending plans well enough to establish the reason for the difference and failed to provide adequate evidentiary support for both years. The ALJ stated that, in a future rate case, Consumers “should provide the total project cost and a benefit cost analysis indicating whether savings can be expected from reduced site visits or other potential efficiencies as well as identifying less tangible benefits such as improved accuracy in distribution system planning.” PFD, p. 101.

In exceptions, Consumers argues that \$1.35 million of the \$3.55 million sought for 2021 was already approved in the December 17 order, and that the company presented sufficient evidence to support the remainder of the request. Consumers’ exceptions, pp. 51-52; 6 Tr 2877. The company states that the 2022 request is an extension of the same work from 2021.

In replies to exceptions, the Attorney General supports the PFD. Attorney General’s replies to exceptions, p. 42.

The Commission adopts the findings and recommendations of the ALJ. Consumers provided no explanation for how its proposed 2021 spending plan relates to the approval in the December 17 order, and failed to provide any benefit/cost analysis showing that savings can be expected as a result of the project. 6 Tr 2877. For the reasons articulated by the ALJ, the Commission again finds the proposed disallowance to be reasonable. Simply stating that the project is a continuation of prior work is not sufficient to warrant rate base treatment for any cost category.

ix. Grid Modernization – Grid Modernization Incubator

This cost category addresses Consumers’ proposed grid modernization incubator (GMI), which is a testing and training facility that will be used to learn and perform “testing, troubleshooting, training, and the creation of standards and procedures for installation and operation prior to field construction.” 5 Tr 792. The GMI will be isolated from the grid and will act as a technology incubator for solar generation, battery storage, natural gas generation, and load banks. The company hopes that the GMI will support and encourage innovation. Consumers projected test year spending of \$8.4 million on the GMI. The 2021 projection appears to have resulted in confusion.

The Staff proposed disallowance of the full 2021 and 2022 projections, arguing that there is simply not enough information to support this project. The Staff contended that the company did not fully develop the requirements and design specifications for the facility, provided few project milestones, and inconsistently provided a cost estimate for 2022 of \$8.4 million in its filing but also later stated that the total project cost would be \$8.4 million and the 2022 cost would be \$4.5 million. Exhibit S-11.8. The Staff argued that the company failed to establish that the benefits of the project justify the costs. 6 Tr 3952-3953.

The Attorney General stated that the cost projections appeared to be \$2.5 million for 2021 and \$8.4 million for 2022. The Attorney General also proposed a disallowance of the full amounts, arguing that the project is similar to the Circuit 501 project that was rejected by the Commission in the December 17 order. The Attorney General contended that Consumers showed no quantifiable benefits to the GMI project. 6 Tr 2878.

MNSC argued that total funding for the GMI should be cut to \$1 million, and expressed concern that the project could inhibit the use of interoperability and open public standards. 5 Tr 2729-2731.

Consumers countered that it presented adequate project milestones and concept approval documentation, and that the total project cost is approximately \$11 million, \$8.4 million of which is for the test year. *Id.*, p. 941; Exhibits A-141 and A-142.

The ALJ recommended that the Commission adopt the proposed disallowances. She found that Consumers failed to demonstrate the reasonableness and prudence of the GMI, nor did it clearly establish the expected costs. PFD, p. 104. The ALJ noted the Commission's repeated cautions in the December 17 order against prematurely including in rate base projects that are not fully developed. The ALJ detailed the inconsistencies in Consumers' projections for 2021-2023 throughout the record in the instant case, and found that the inconsistencies in Consumers' evidence, as well as the changes to the project timing, illustrate the fact that this project is premature. PFD, pp. 104-105; 5 Tr 940-941; Exhibit S-11.8; Exhibits A-141 and A-142. The ALJ concluded that,

[b]ecause the company has not presented a coherent plan and has not established what will be spent when, let alone provided justification for the spending, this PFD finds that the projected expenditures should not be included in rates. . . . Truly, instead of belaboring the record, the company should have just acknowledged in rebuttal that the project had not been fully designed and the company would seek approval for the project in a future rate case when its plans have become more definitive.

PFD, pp. 105-106.

In exceptions, Consumers states that it does not take exception to the ALJ's recommendation that this amount be excluded from rate base for the test year. Consumers' exceptions, p. 53. The exceptions do not address 2021.

The Commission adopts the findings and recommendations of the ALJ. Consumers must be aware of the inconsistencies that were presented on this record with respect to projected dollars, timing, and action items, and the fact that such a presentation is unlikely to result in cost recovery. The Commission supports grid modernization and innovation. However, if Consumers intends to seek cost recovery of amounts spent on the GMI in the test year in a future rate case, the Commission advises the company to better develop the case for the GMI, explain the advantages of the GMI over the use of pilots (or in conjunction with pilots), better explain the scope of the project, differentiate the learnings to be obtained by the GMI from other previously implemented projects and pilots, demonstrate the advantages of the GMI for customers, and include a discussion of opportunities for third-party testing and how those opportunities will be maximized.

x. Grid Modernization – Distribution Asset Management Project

The Distribution Asset Management (DAM) project addresses the process and technology implementation of the DAM strategy. 5 Tr 793. The DAM strategy involves the company's ability to collect, manage, and optimize distribution asset data, reduce waste, and improve the quality of the data. The company projected \$992,000 in spending in 2021, and \$1.99 million in spending in 2022.

On grounds that Consumers failed to explain what the money would be spent on, the Attorney General proposed a full disallowance of the projected amounts. 6 Tr 2879. The Attorney General argued that the company was attempting to turn a managerial strategy into a capital expenditure. Consumers countered that it had provided concept approval documentation and that some of the cost was approved in the December 17 order. 5 Tr 952-953.

The ALJ recommended that the Commission approve the projected capital expenditure for the DAM project. The ALJ found that:

the concept approval document is dated December 11, 2020, and thus is not a document that could have been reviewed in the company's last rate case. The concept approval document also shows that the 2021 and 2022 spending at least are part of a pilot, before implementation of a solution. Nonetheless, given that the project was approved in Case No. U-20697, no cost overruns have been identified, the project cost is moderate, and Mr. Blumenstock [Consumers' witness] represented the company's spending plans had not changed, this PFD finds that the projected expenses should be accepted.

PFD, p. 107.

In exceptions, the Attorney General argues that these are not legitimate capital expenditures because this is simply a management strategy. She also notes that nothing in the December 17 order would apply to 2022. Third, she argues that whether the cost is moderate is irrelevant if it is not reasonable. Attorney General's exceptions, pp. 9-10.

In replies to exceptions, Consumers contends that the Attorney General's argument lacks evidentiary support. The company notes that this project was approved without any disallowance in the December 17 order, and argues that the projected test year spending is a continuation of the same project. Consumers' replies to exceptions, p. 14; 5 Tr 798, 952; Exhibit A-143.

This project was approved in the December 17 order, and the company presented convincing evidence in the instant case showing that those spending plans remain in place and are reasonable and prudent. Thus, the Commission adopts the findings and recommendations of the ALJ.

xi. High Voltage Distribution Lines and Substations Rehabilitation

This cost category addresses the repair or replacement of HVD lines and substation equipment where imminent failure is expected. 5 Tr 814-816. Consumers explains that this cost category was previously included in the demand failures program and contains both planned projects as well as emergent projects. Consumers stated that this cost category contains the same five categories previously identified under the category of demand failures, and that, though it is a new spending category with no history, historical spending includes about 80% of demand failures

spending for the 2017-2019 period for certain cost categories. Consumers projected test year spending of about \$41 million, about \$38.5 million for 2021, and 2020 actual spending of about \$15.5 million. 5 Tr 817; Exhibit AG-1.2; Exhibit A-37, line 11. Projects are identified and prioritized based on inspections. Exhibit A-48.

The Staff proposed a reduction of \$10.5 million to the 2022 projection, which includes five separate adjustments. 6 Tr 3954-3957. The proposed adjustments are based on the lack of any specific project information, lack of support for the division of costs, and the use of identical cost estimates. *Id.*, pp. 3956-3957.

The Attorney General proposed a reduction of \$23 million for 2021 and \$4.7 million for 2022. The Attorney General explained that the \$23 million adjustment for 2021 represents the level of increase the company is projecting over 2020 actual expenditures of \$15.5 million. Again, the Attorney General pointed out that Consumers provided information on work units for 2022 only and nothing for 2021. The Attorney General argued that the \$4.7 million reserved by the company for emergent projects should be disallowed because this is essentially a contingent amount or placeholder. Consumers countered that it has provided adequate information on historical spending to support its projections, and the projections are within the historical range. 5 Tr 949.

The ALJ recommended that the Commission adopt the Staff's proposed disallowance for 2022 and the Attorney General's proposed disallowance for 2021, stating:

Staff's careful review of the projections for 2022 is appropriate and should be adopted, resulting in a \$10.5 million reduction. But this PFD also cannot ignore the company's failure to support its 2021 projections. It provided no list of projects to support its expense projection. By its own admission in Exhibit AG-1.72, the company's 2021 projection exceeds the amount approved by the Commission in its December 17 order by approximately \$12.3 million. Consumers Energy did not explain this in its direct case. Indeed, as noted above, it stated that its 2021 expenditures were directly based on approved amounts. Thus, this PFD finds that Mr. Coppola's [the Attorney General's witness] projection is the only 2021 projection reasonably supported on this record, and concludes that it should be

adopted, resulting in a \$23 million reduction to the company's projected 2021 expense projections for this category.

PFD, p. 111.

In exceptions, Consumers argues that projects vary widely in how far ahead they can be planned, and many rehabilitation investments are reactive, in response to an inspection result. The company explains that emergent projects fall between planned and unplanned. Consumers argues that it is reasonable to project these investments based on historical spending. Consumers' exceptions, p. 55; 5 Tr 667-669, 817-819. Consumers notes that its test year request is lower than each of the historical years. Consumers' exceptions, pp. 55-56; 5 Tr 819. Consumers states that "anything that has already been identified is at risk of imminent failure, meaning it would be irresponsible and imprudent for the Company to wait to address the anomalies until 2022. 5 TR 820." Consumers' exceptions, p. 56.

In replies to exceptions, the Attorney General again notes the lack of work unit information. Attorney General's replies to exceptions, pp. 43-44.

The Commission adopts the findings and recommendations of the ALJ. Again, in this capital expenditure category, Consumers failed to explain the relationship between what was approved in the December 17 order and what was requested in the instant case, a difference of \$12.3 million. For the reasons articulated by the ALJ, the Commission adopts both the Staff's 2022 disallowance and the Attorney General's 2021 disallowance.

xii. Low Voltage Distribution Substations Rehabilitation

This cost category includes work that was previously included within the demand failures program and the LVD substations reliability subprogram. 5 Tr 824. Consumers projected \$13.5 million in spending in 2022 and about \$14.5 million in 2021, primarily to replace transformers at risk of imminent failure. *Id.*, pp. 812-828; Exhibit AG-1.2; Exhibit A-48.

The Staff proposed a reduction of \$3.9 million to the test year projection based on the fact that the company spent only \$6.5 million in 2020, which turned out to be 65% of the amount that was projected in Case No. U-20697. The Staff's proposed reduction is based on allowing 70% of the company's test year projection. 6 Tr 3957-3959; Exhibits S-11.10 and S-11.11.

The Attorney General proposed a reduction of \$4.5 million to 2021 proposed spending and \$3.3 million to 2022 proposed spending. 6 Tr 2883-2884; Exhibit AG-1.7. The Attorney General again noted that the company provided information on the level of work units for 2022 only. The Attorney General pointed out certain inconsistencies in Consumers' evidence regarding the past replacement of transformers, and the failure to indicate how many transformers would be replaced in 2021. 6 Tr 2884. The Attorney General's recommended adjustments are based on using actual numbers from 2020 plus 2% inflation.

Consumers again countered that it is reasonable to rely on cost averages in making projections. 5 Tr 946. Consumers acknowledged that actual 2020 spending was below the level projected in the last rate case, while also indicating that it is accelerating projects that were previously intended to be carried out in later years.

The ALJ recommended that the Commission adopt the Staff's proposed disallowance for 2022 and the Attorney General's proposed disallowance for 2021. PFD, p. 114. The ALJ found that the Staff's adjustment is reasonable, and that the company failed to "present specific projects in support of its projection, and it did not explain the misestimation in its 2020 projection. Thus, this PFD finds that the 2021 adjustment recommended by [the Attorney General] is the only projection for 2021 well-supported on this record." *Id.*

In exceptions, Consumers argues that the ALJ misunderstood the company's discovery response, stating that its witness:

did not acknowledge that the Company's actual 2020 spending of \$9,838,000 was below the level projected in its filing of \$13,967,000, for a \$4.1 million difference. The projected 2020 capital spending was \$8,900,000, not the \$13,967,000 cited in the PFD. See Exhibit A-35 (RTB-2), line 19, column (i). Thus, the Company overspent, not underspent, its 2020 projection.

Consumers' exceptions, p. 58. Consumers contends that it is reasonable to use uniform cost estimates because it has a significant amount of historical data to rely on and each project is likely to be similar.

In replies to exceptions, the Attorney General again notes the lack of work unit information and general lack of explanation as to why it is necessary to triple the number of transformers to be replaced in the test year and how that amount of replacements relates to the projected cost.

Attorney General's replies to exceptions, p. 46.

The Commission adopts the recommendations of the ALJ. Again, Consumers did not support these projections. The Commission finds that the Staff's test year disallowance and the Attorney General's 2021 disallowance are reasonable. Consumers may have had an overspend in 2020 rather than an underspend. But the Attorney General's proposal to rely on the 2020 actuals adjusted for inflation as a base amount for 2021 is reasonable and prudent, and the Commission finds that it is superior to the projection provided by the company.

xiii. Low Voltage Distribution Lines Rehabilitation

This cost category, which was also previously included in the demand failures program, addresses the repair or replacement of LVD lines equipment at risk of imminent or near-term failure. 5 Tr 831. Consumers projected test year spending of \$53.7 million and 2021 spending of \$36.1 million, and explained that the increase in spending is due to system deterioration. Exhibit AG-1.2.

The Attorney General recommended reductions of \$9.6 million to the projected 2021 expenditure and \$26.5 million to the projected 2022 expenditure. The Attorney General provided the following evidence:

The Company has forecasted that 2021 capital expenditures in this subprogram will increase by 33% over the average spending in 2018 and 2019, and also increase by 62% over the actual amount spent in 2020. The increased spending of \$53,666,000 proposed for 2022 represents a nearly doubling of the average expenditures in 2018 and 2019, and a 140% increase over the actual amount spent in 2020. Other than general statements about the need to address deteriorating infrastructure, Mr. Blumenstock[']s testimony is devoid of any specific explanation and justification why capital spending in 2021 and 2022 must double from recent actual spending levels.

6 Tr 2886. The Attorney General argued that Consumers failed to provide explanations for significant increased costs for specific items such as security assessment repairs or imminent rehabilitations. The Attorney General also noted that the company once again did not provide comparative work units or project counts from the historical and bridge periods. The Attorney General's proposed reductions are based on application of the 2018-2020 annual average cost plus 2% inflation. Consumers again countered by objecting to reliance on unit cost data. 5 Tr 946.

The ALJ recommended that the Commission adopt the Attorney General's proposed adjustments. PFD, p. 117. The ALJ noted that the Commission approved \$25.8 million for inclusion in rate base in 2021 in the December 17 order, but that Consumers failed to explain why, in the instant case, it is seeking \$36.2 million for 2021. The ALJ found that:

[the Attorney General]'s recommended 2021 projection provides a greater expense level than approved in Case No. U-20697. For 2022, [the Attorney General] reasonably recommended an adjustment to the company's expense projection because it did not provide work unit counts for 2020 or 2021 to allow for an evaluation of the significant cost increase reflected in the company's projection.

Id.

In exceptions, Consumers argues that the ALJ ignored the company's evidence, which fully supported the company's request for more in 2021 than was approved in the December 17 order. Consumers states that spending needs to increase because "system deterioration is leading to an increasing number of anomalies identified on the system. System deterioration is more significant than was known when the Company developed its 2018 EDIIP, leading the Company to increase its investment in key Reliability Program areas." Consumers' exceptions, p. 60; 5 Tr 833. Consumers contends that work units are irrelevant, and notes that it provided a list of 335 security assessment repair projects for 2022 and 795 imminent rehabilitation projects for 2022. Exhibit A-48, pp. 15-21; Exhibit A-51. Consumers maintains that no witness found any cost errors in the projections.

In replies to exceptions, the Attorney General notes that for certain investment categories in this subprogram Consumers provided no work unit cost or number information or other historical information. Attorney General's replies to exceptions, pp. 49-51.

The Commission adopts the findings and recommendations of the ALJ. Consumers forecasted 2021 capital expenditures that are 33% over the average spending in 2018 and 2019, and 62% over 2020 actuals; and the proposed test year amount is almost double the annual averages for 2018-2019, and a 140% increase over the 2020 actuals. Despite the projected increases, the company provided little in the way of explanation or justification other than the fact that there is deteriorating infrastructure in the service territory. For example, for the investment category of security assessment repairs, for 2015-2019, the average annual unit cost was \$13,667, and for the test year it is projected at \$125,227. 5 Tr 833; Attorney General's replies to exceptions, p. 48. Such an increase requires substantial justification. Exhibits A-48 and A-51 contain over 1,000 projects, but, as the Attorney General noted, without any comparative information regarding work

unit costs or numbers for prior years it is difficult to analyze either the projected costs for these projects or the likelihood that all of these projects will actually be carried out. *Id.* The Attorney General's disallowances rely on the actual amount spent in 2018-2020 with inflation added. The Commission finds that this is a more reliable basis for the projection, particularly in light of the fact that this is often emergent work.

xiv. Grid storage

Consumers projected 2022 capital expenditures of \$10 million related to its grid storage subprogram which, according to the company, will allow for the development of its battery strategy by installing new batteries on the company's electric distribution system. 5 Tr 839-845; Exhibits A-37, line 15; Exhibit A-48, p. 14, lines 85-87. Two battery projects were specifically opposed by MNSC, namely, the Standish portable battery project,⁴ and the Neely/Hooper project.⁵

As to the Standish project, the company explained that the Commission did not approve recovery for the project in its last general electric rate case, Case No. U-20697, but that the company is proposing a modified investment for the project. Consumers stated that, prior to the issuance of the December 17 order, the company entered into a contract to pay \$3.9 million, or 85% of the total project cost without including overheads. 5 Tr 843. In a discovery response, Consumers projected the new costs of the Standish battery project to be \$6.218 million for 2020 and 2021 (including overheads), but the company projected \$0 in expenditures for 2022. 5 Tr

⁴ Consumers also refers to the Standish battery project as the Airpark battery project or the portable battery project. 5 Tr 1053-1054.

⁵ Consumers does not identify this project as the Neely/Hooper and Gun Lake/Trails battery project but instead describes the project as its fourth battery project in its Grid Storage category of spending that is used to support load transfers between distribution circuits with low capacity. 5 Tr 842. MNSC refers to the project as the Neely/Hooper and Gun Lake/Trails projects as a reference to the names of the two adjacent circuits where the battery would be installed. For brevity and clarity, the Commission refers to this project as the Neely/Hooper battery project.

1056, 1058-1060; Exhibit MEC-101. The company implored the Commission to approve the project for recovery in this case stating that if the Commission disallowed funding, the company's reputation would suffer, it would lose \$5 million in cancellation penalties, and the Standish substation overload issue would be unresolved. 5 Tr 843-844.

MNSC recommended that the Commission cap recovery at \$3.9 million, reducing the company's request by \$2.3 million. MNSC's initial brief, p. 63. MNSC testified that the costs, including the scaled back expenditures, have not been clearly projected by the company and that MNSC calculated the net present value (NPV) of the project to be negative \$12.7 million. 5 Tr 2501. Such a significant loss, according to MNSC, would be difficult to justify with any potential learnings gained by the company for the pilot battery project considering that "the core benefit of the project is the monetary value of deferral of the three substations, which is a meager \$590,000." 5 Tr 2500. MNSC suggested that the company utilize a performance-based ratemaking approach where the company could retain 30% of any revenues received from dispatching the battery into the MISO market. MNSC's initial brief, p. 67.

Regarding the Neely/Hooper battery project, at issue is the revised concept of this project that utilizes a lithium-ion (Li-ion) battery and is referred to as Alternative 2 by the company. PFD, p. 122; *see*, 5 Tr 842-846; Exhibit MEC-25. Consumers explained that, after considering two other alternatives, the Neely/Hooper project consists of installing a small, long-duration battery between two adjacent low-capacity distribution circuits that will support load transfers between the two circuits, making the circuits eligible for distribution automation. The company stated that the project will begin in 2021 and will be completed in 2022, and that the cost is projected to be \$8.698 million. 5 Tr 842, 844. However, a revised concept of the company's plan indicates that Consumers opted to use a Li-ion battery as opposed to the originally proposed long duration

battery. 5 Tr 2505; *see*, Exhibit MEC-25. MNSC suggested a disallowance of \$8.698 million in total capital expenditures, describing the costs as excessive. 5 Tr 2504, 2510. MNSC explained that the company must complete upgrade work to the circuits in addition to the battery pilot project and that the company's suggested timeline (waiting until 2027 to complete the upgrades) increases costs by forfeiting five years of reliability benefits that have an NPV of \$5,365,000. 5 Tr 2506.

MNSC then proposed as follows:

Recognizing that the 5-year delay appears to justify the pilot if Alternative 1 were the only option, [Mr. Ozar] testified that if the timeline for Alternative 1 were advanced, from 2027 to 2022, this lower cost options [sic] would achieve the benefits of the battery, including facilitating use of automatic transfer scheme (ATS) technology. [Mr. Ozar] evaluated the net present value of this new alternative and concluded it has a net present value revenue requirement of \$6.1 million, or \$5.3 million less than net present value revenue requirement of the Li-Ion battery. Mr. Ozar recommended disapproval of the company's projection based on this analysis, and also on the basis that the company's late change to the project, after initially rejecting the Li-Ion battery option in its initial concept approval, indicates significant uncertainty regarding its plans.

PFD, p. 123 (citing 5 Tr 2510-2511). Consumers rebutted that MNSC overstated the monetary benefit of advancing upgrades to 2022 and found the proper net difference was \$4.1 million as opposed to MNSC's estimated \$5.3 million. 5 Tr 977.

The ALJ recommended that the company's recovery be capped at \$3.9 million for the Standish battery project, as suggested by MNSC, reasoning that the Commission must be concerned regarding the lack of a proper benefit/cost analysis and that the Commission previously rejected recovery. PFD, p. 121. However, the ALJ rejected MNSC's revenue sharing proposal and found that the company should be permitted to seek a greater share of any revenue stream resulting from the project in a future rate case where costs and potential revenue are more certain.

Id.

Turning to the Neely/Hooper battery project, the ALJ recommended adoption of MNSC's proposal, explaining that Consumers did not demonstrate that it considered cheaper alternatives to obtain the learnings it seeks with this battery project. The ALJ found that MNSC presented an efficient and cost-effective option for the company to achieve reliability benefits by advancing the substation upgrades to 2022. *Id.*, pp. 123-124. The ALJ further noted that the "Commission should consider expressing a preference for pilots that have been vetted with stakeholder groups to gain the benefit of their expertise and insight, and as [MNSC] recommends, should have at least the opportunity [for] achieving benefits equal to the cost or demonstrably valuable learnings." *Id.*, p. 124. Thus, the ALJ recommended a disallowance of \$8,698,000 from the company's projection for the Neely/Hooper project. *Id.*, pp. 123-124; *see*, Appendix E to the PFD, line 17.

Consumers takes exception to the ALJ's recommended disallowance and disputes MNSC's arguments in support of the disallowance. Consumers argues that MNSC improperly calculated the NPV of the Standish project and that the actual NPV is negative \$6,354,000, as opposed to MNSC's negative \$12,724,000 NPV. Consumers' exceptions, p. 64 (citing 5 Tr 974; Exhibit A-146). The company insists that, negative NPV notwithstanding, the Commission should approve the projected spending for the project because the company established through testimony that the project is "an instrumental part of the Company's non-wires solution ("NWS") capability development, which is an expressed priority of the MNSC coalition, so any lessons learned from this project should be of substantial value." Consumers' exceptions, p. 64. The company then repeats the benefits expected from the project and avers that MNSC fixated on costs and ignored the fact that the battery could be moved to defer multiple substation upgrades over its lifespan. *Id.*, pp. 64-66.

Consumers further contends that the Commission should reject the ALJ's adoption of MNSC's proposal to cap MISO market revenue for the project at 30%, contending that there is no legal basis as to why the company, as the owner of an asset eligible to participate in the MISO market, should have its project's revenue arbitrarily capped. *Id.*, p. 65. Consumers argues that the ALJ did not properly account for the uniqueness of the Standish portable battery project and the value of the technical and operational knowledge to be gained. *Id.*, p. 66 (citing 5 Tr 1070).

Turning to the Neely/Hooper project, Consumers disagrees with the ALJ's recommendation arguing that MNSC's assertions regarding the revisions to the project and its suggestion to utilize "Alternative 4" (the company's Alternative 1 advanced to 2022) as a more cost-effective option did not support a disallowance. *Id.*, p. 66. Consumers contends that MNSC overstated the NPV of the company's proposed project versus Alternative 4 and that the actual NPV of the company's proposal (Alternative 2) relative to MNSC's Alternative 4 is negative \$4,576,000, not negative \$5,316,000. *Id.*, pp. 67-68 (citing 5 Tr 977; Exhibit A-147). The company also points out that MNSC failed to account for the value of the MISO market revenue attributable to the Neely/Hooper project, which amounts to \$449,000. Per Consumers, accounting for this adjustment brings the NPV of the battery project to negative \$4,127,000, which is significantly less than the deficit calculated by MNSC. Consumers' exceptions, p. 68 (citing 5 Tr 977-978). Lastly, Consumers argues that negative NPV notwithstanding, the Commission should approve the projected spending for the project. The company repeats the benefits outlined in its testimony that are not achievable with MNSC's Alternative 4 and states that the project is instrumental in developing the company's NWS capabilities. Consumers' exceptions, pp. 68-70 (citing 5 Tr 842).

MNSC replies to Consumers' exceptions, restating its position and arguing that the ALJ properly limited recovery for the Standish project and properly disallowed recovery for the

Neely/Hooper project. MNSC's replies to exceptions, pp. 15-17. MNSC urges the Commission to adopt the ALJ's recommendations and provide additional guidance regarding cost recovery for expensive distribution system pilot investments. *Id.*, p. 17. Addressing Consumers' exceptions regarding the Standish project, MNSC argues that: (1) the revised NPV of negative \$6.3 million put forth by the company still represents an unacceptable cost, (2) the ALJ was correct that the company failed to provide an accurate and updated benefit/cost analysis prior to making its contractual commitment, and (3) the company's reliance on the value of lessons to be learned from the project remain unpersuasive given that the benefits have not changed from the benefits presented to the Commission in its 2020 general electric rate case. *Id.*, pp. 20-21.

Speaking further to Consumers' claimed benefits, MNSC points to the company's other battery projects (Cadillac, Fort Custer, Parkview, and Circuit West) as pilots with which the company can gain battery experience and knowledge and explains that the main benefit associated with the Standish project is merely a delay in substation upgrade. *Id.*, p. 22. MNSC summarizes that the Standish project did not fundamentally change nor did the benefits improve; it merely became slightly less costly. Recalling the evaluation criteria adopted by the Commission in the February 4, 2021 order in Case No. U-20654, MNSC contends the guidance therein supports capping cost recovery. MNSC also notes that the ALJ did not adopt MNSC's 30% revenue sharing mechanism and argues that MNSC properly accounted for the benefits associated with the portability of the battery. MNSC avers that the ALJ properly considered all of the company's arguments in reaching her decision. *Id.*, pp. 23-27.

Addressing the Neely/Hooper project, MNSC dismisses Consumers' dispute with MNSC's NPV calculation as inconsequential because reliability can be achieved at a much lower cost without the battery, as demonstrated by MNSC with Alternative 4, and the impact of any potential

MISO market participation revenue on the NPV is trivial. *Id.*, pp. 32-33. In terms of Consumers' claimed benefits, as it noted with the Standish project, MNSC contends that labeling a project as NWS does not guarantee cost recovery and the Commission must consider that any lessons learned from the pilot come at a "very high cost to ratepayers." *Id.*, p. 34.

Lastly, in response to Consumers' exception to the ALJ's recommendation that the Commission "should consider expressing a preference for pilots that have been vetted with stakeholder groups" and those that "have at least the opportunity [for] achieving benefits equal to the cost or demonstrably valuable learning," MNSC notes that Consumers did not except to the latter half of the ALJ's recommendation. *Id.* (quoting the PFD, p. 124). As such, MNSC asks that the Commission articulate guidance for distribution system pilot investments and "require the Company to articulate how the learnings have sufficient value to offset their costs, rather than simply asserting that they do." MNSC's replies to exceptions, pp. 36-37.

Beginning with the Standish portable battery project, the Commission finds the ALJ is correct in pointing out concern regarding Consumers' lack of a proper benefit/cost analysis of this project given its previous disallowance. As expressed in the December 17 order, the Commission finds the costs of this project in the instant case to be excessive in relation to the benefits claimed by the company. While Consumers has reduced the cost of the project, the Commission is still not persuaded that the lessons learned from the Standish project are of sufficient value to mitigate the significant cost to ratepayers. Consumers again relies on a somewhat generalized list of benefits that does not convince the Commission that the Standish battery project will provide experience and knowledge that cannot be gained from the company's existing and planned battery installations or that those benefits justify an expensive project with a negative NPV in the millions of dollars. While the ALJ found that allowing some recovery on the Standish project was

appropriate, the Commission disagrees that the company has sufficiently justified or developed its plan such that the Commission is persuaded that it should deviate from its previous disallowance. Therefore, the Commission finds the total cost recovery request of \$6.2 million for the Standish battery project shall be disallowed.

Similarly, the Commission is not convinced that the benefits Consumers claims will materialize from the Neely/Hooper battery outweigh the significant costs of the project, and therefore, the Commission agrees with the ALJ's recommended \$8.698 million disallowance. As MNSC pointed out, Consumers changed its plan to use a Li-ion battery, with which, by its own admission, the company has significant experience. Exhibit MEC-25. It follows that the value of the lessons learned from utilizing this type of battery are diminished. Additionally, the Commission is persuaded by MNSC's Alternative 4 that Consumers did not consider less expensive alternatives to achieve its reliability goals on the impacted circuits. While the company argues that the value of the lessons learned from this pilot justify recovery, the Commission is not convinced that ratepayers should shoulder the significant costs of re-piloting Li-ion battery systems that have already been installed and studied elsewhere on the company's system when reliability may be achieved by less expensive means and the value of the knowledge gained from this pilot has not been sufficiently proven by the company.

The Commission emphasizes, however, that its disallowance here should not be read as discouraging the integration of battery energy storage system technologies onto the distribution system or the use of properly justified pilot programs. The Commission remains committed to the growth and integration of clean, renewable technologies onto the grid and, as stated in the December 17 order, battery storage pilot projects remain crucial in helping utilities develop the capability to construct and operate the battery systems that will be critical components of energy

supply in the near future. *See*, December 17 order, p. 40. However, the Commission is not inclined to issue blank checks to utilities or approve unreasonably expensive pilots. Although cost is not the only factor to be considered when evaluating pilots, the Commission must be persuaded that the anticipated benefits justify recovery in rates. When evaluating pilots, the Commission will continue to rely on the criteria specified in the October 29, 2020 order in Case No. U-20645. And, as the New Technologies and Business Models stakeholder workgroup (established in Case No. U-20898) continues its work to identify barriers and solutions to deploying DERs, including storage, the Commission encourages Consumers to utilize stakeholders' feedback in developing its battery integration pilots.

c. Demand Failures

The ALJ explained that demand failures include costs related to remediating customer interruptions and equipment failures and that for the bridge period, Consumers projected a total capital expenditure of \$269.3 million, and \$125.7 million for the test year. PFD, p. 124. The two categories of disputed spending are LVD lines demand failures and streetlighting center suspension replacements.

i. Low Voltage Distribution Lines Demand Failures

The LVD lines demand failures expenditure includes capital costs for the repair or replacement of LVD equipment due to the restoration of customer interruptions or unexpected equipment failure and is divided into two categories, service restoration orders and streetlight failures. 5 Tr 705. For 2021, Consumers projected \$82.540 million in capital expenditures. Exhibit A-35, line 35. The company projected capital expenditures of \$84.031 million for 2022, which is broken down into \$64.185 million for service restoration orders and \$19.846 million, later revised to \$15.560 million, for streetlight failures. 5 Tr 709, 1802; Exhibit A-35, line 35.

The company explained that capital expenditures in this category have been increasing in recent years due to more frequent adverse weather and asset deterioration. Noting that 2020 levels exceeded historical spending levels partially because of increased inspections for critical COVID-19 pandemic response locations (i.e., hospitals), the company projected that 2021 and 2022 expenditures would revert to historical levels. The company also noted that costs for streetlight failures in this spending category are projected to increase due to the company's efforts to improve streetlight outage reporting and restoration performance. Explaining further, the company attributed its projected expenditure increase to the increase in streetlight failures, reflecting the conversion of failed high intensity discharge (HID) lamps with light-emitting diode (LED) fixtures. 5 Tr 707-711.

The Attorney General proposed a disallowance of \$10.8 million to Consumers' 2021 projection and a disallowance of \$11 million to the company's 2022 projection based on the most recent three-year average cost of streetlight replacements (escalated for inflation) and the 14,100-replacement average from 2019 and 2020, arguing that Consumers' streetlight failure forecasts for those years are unreasonable. 6 Tr 2860-2861. Citing a discovery response from Consumers, the Attorney General asserted that there was a 67% decrease in streetlight failures over the 2016 to 2020 period due to the conversion of HID streetlights to LED streetlights. *Id.*, p. 2859. According to the Attorney General, the LED conversion should lower O&M costs, but increase capital costs; however, in this case, both O&M costs increased and capital costs increased significantly. The Attorney General found the company's 75% increase in capital expenditures over 2019 levels to be overstated and unsupported and took issue with the increased unit costs of \$790 and \$804 for 2021 and 2022, respectively. *Id.*, p. 2860. Explaining that in 2018, the unit cost of an LED streetlight

was \$465, the Attorney General stated that the company did not properly explain the significant increase in unit cost. Attorney General's initial brief, pp. 31-34.

MAUI addressed Consumers' streetlight failures within the LVD lines demand failure category and argued that Consumers is projecting unnecessarily higher costs by replacing streetlight fixtures as they fail in a scattered approach as opposed to implementing a replacement plan to convert groups of streetlights at one time. MAUI recommended that the Commission limit the costs allocated to streetlighting customers to direct labor and materials costs. 6 Tr 3244-3246. The Staff responded to MAUI's argument regarding allocating direct costs contending that a better approach would be for the Commission to allow recovery at a reasonable and prudent level as part of the revenue requirement calculation, with which, MAUI agreed. *Id.*, pp. 4273-4274; MAUI's initial brief, p. 30.

The company responded that its projections are more accurate and more precise using calculations based on the rated life of streetlight equipment and the probability for failure rather than using a simple averaging method used by the Attorney General. Consumers' initial brief, p. 38. As to MAUI's arguments, Consumers stated as follows:

The Company has discussed this approach with [MAUI] on several occasions and its Operations team is reviewing this opportunity as part of the Company's efforts to continue its improvements to the Company's streetlighting service. The Company's rate request in this case did not include a request for recovery of cost projections for conversion of cobrahead streetlight fixtures which are in the vicinity of failed cobrahead fixtures. To the extent that the Company decided to move forward with conversion of cobrahead fixtures located in the vicinity of failed cobraheads, it would need to include the additional costs in its next electric rate case.

5 Tr 1793.

Finding Consumers' proposed reduction to be reasonable, the ALJ recommended that the Commission adopt the company's capital expenditures in the LVD demand failure category, inclusive of the revised amount of \$15.56 million for each year 2021 and 2022 (representing a

\$3.9 million reduction for 2021, and a \$4.2 million reduction for 2022). The ALJ also recommended that the Commission require Consumers to justify its streetlight replacement program in its next rate case and to include a comparison of the cost to streetlighting customers of alternatives from the chosen reactive replacement model currently used by the company. PFD, p. 130. Additionally, the ALJ recommended that the Commission require Consumers to report data on its streetlight replacement and repair work separately from LVD demand failures. *Id.*, pp. 130-131.

In exceptions, the Attorney General argues that the ALJ erred in her recommendation to allow recovery of the company's revised costs associated with streetlight failures because the company's original projections were excessive and unsupported. The Attorney General repeats her arguments regarding the company's unsupported cost projections. The Attorney General argues that the revised amounts accepted by the ALJ do not lead to a more precise calculation that is more reasonable "because of the impact of increased spending related to COVID-19 during 2020 leads to an [sic] higher than usual calculation," and the company anticipates a return to normal in spending for 2021 and 2022. Attorney General's exceptions, p. 13. Thus, the Attorney General recommends that the Commission remove \$10,794,000 and \$10,977,000 from the original forecasts for 2021 and 2022, respectively. *Id.*

MAUI, although it filed exceptions to the PFD, did not except to the ALJ's recommendation regarding streetlight failures within the LVD demand failure category. Rather, MAUI used its exceptions to explain that, following the conclusion of briefing in this proceeding, MAUI met with Consumers and the Staff and came to an agreement regarding the indirect costs related to cobrahead LED conversions. MAUI states that it agrees with Consumers that, to reduce incremental costs for LED conversions, the company will commit to replacing additional lights in

the vicinity of a failed light, which may cause a near-term cost increase in the next rate case but is expected to result in cost savings over time. MAUI's exceptions, p. 4.

Consumers, in its exceptions, recounts the meetings with MAUI and the Staff and the specifics of the resulting compromise in which MAUI agreed to withdraw its opposition to the rate relief requested for the company's streetlight demand failure and Consumers committed to the following:

- In order to reduce the incremental costs related to streetlighting LED conversions, the Company will commence a process in 2022 to reduce truck rolls by converting additional cobrahead lights in the vicinity of cobrahead lights that are being replaced because they are experiencing an outage. While this may cause a near-term increase in costs in the 2023 test year in the Company's next rate case, MAUI has agreed that it will not object to recovery of reasonable costs for this work included in the Company's next rate case. MAUI and the Company expect to see unit cost savings, and specifically a reduction in indirect expenses, in the cost of the reactive LED conversion program due to this change; and
- Consumers Energy is also undertaking certain additional measures to improve streetlighting reliability and customer service. In addition to the advanced lighting control pilot proposed by the Company, the Company will pilot a patrol and fix program beginning in the fall of 2021, in which they will have personnel drive by streetlights in selected pilot areas, record any outages, and wherever feasible, address the outages. Although the pilot area has not yet been finalized, the Company is planning to identify at least one (a) metro area; (b) suburban area; and (c) rural area, for the pilot in order to evaluate the cost-effectiveness of the patrol-and-fix approach under diverse circumstances. No costs for this pilot are included in the rate recovery requested in this case, but the Company reserves the right to request cost recovery for a patrol-and-fix program in future cases.

Consumers' exceptions, pp. 71-72. In consideration of the parties' agreement, the company requests that the Commission reject the ALJ's recommendation to require Consumers to provide justification for its LED replacement program in its next rate case. *Id.*, p. 72. Consumers notes that an agreement was also reached regarding the treatment for the early adopter credit but that the

company and MAUI were not able to come to an agreement regarding the streetlight outage credit, both of which are discussed elsewhere in its exceptions. *Id.*

Consumers filed replies to the Attorney General's exceptions, arguing that the ALJ properly recommended recovery at the reduced amounts agreed to by the company. Consumers repeats its testimony on the record in response to the Attorney General's exceptions that the company's projections are inflated. Consumers' replies to exceptions, pp. 14-16.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. The Commission agrees that the company's revised cost projections for the LVD demand failure are reasonable and duly supported. Additionally, the Commission finds the ALJ's recommendation to require Consumers to justify its reactive replacement model in comparison to other models to be reasonable. Although Consumers explained in exceptions its agreement to shift from its reactive replacement model to incorporate MAUI's requested vicinity replacement model, and while the Commission appreciates the collaborative efforts by MAUI and Consumers on this issue, the Commission finds it reasonable for the company to nonetheless justify its model for the streetlight replacement program in its next general electric rate case. The Commission also finds that separating the data on Consumers' streetlight replacement and repair work would provide greater clarity and ease in evaluating this capital expenditure category in the future. Therefore, the Commission adopts the ALJ's recommendation and directs Consumers, in its next rate case, to report the data for its streetlight demand failure separately from LVD demand failure.

ii. Streetlighting Center Suspension Replacements

The streetlighting center suspension replacements expenditure includes capital costs related to the company's conversion of center suspension streetlights to LED lighting. The company projected increases in its conversion rates and requested \$1.315 million for the 2021 bridge year

and \$3.0 million for the 2022 test year for recovery in base rates. 5 Tr 1761; Exhibit A-35, line 41. Citing safety concerns for employees in replacing and maintaining center suspension lights, the company explained that it seeks to replace center suspension lights with roadside poles or, where appropriate, to replace the lights with LED lights that will require less maintenance. 5 Tr 1765-1768.

MAUI expressed concerns that the company's planned replacements will significantly increase the total net distribution rate base for unmetered streetlights by nearly 50% and will have a disproportionate impact on the 6.5% of unmetered streetlights represented by center suspensions. 6 Tr 3246. MAUI requested that the Commission reject all funding for center suspension light conversions until the company provides a persuasive, comparative study of center suspension lights versus roadside poles on worker and roadway safety. MAUI's initial brief, pp. 32-35.

The ALJ recommended that the Commission approve the company's projected capital expenditures for the center suspension streetlights, finding that Consumers provided persuasive testimony that the company is continuing to evaluate lights for replacement and that LED lights provide greater energy efficiency. PFD, p. 134. The ALJ also noted that the Commission should require the parties to continue to address the issues described on the record in a technical conference. *Id.*

In its exceptions, MAUI states that it met with Consumers and the Staff and came to an agreement on the company's plans for center suspension lighting. MAUI agrees with the company that direct replacement of center suspension lighting is the preferred option and explains that, in recognizing that replacement with LED alternatives is generally less expensive, the company agrees to use reasonable efforts to use direct replacement with LEDs rather than pole-mount replacements. MAUI's exceptions, p. 3. MAUI also concedes that some instances of pole-mount

replacement may be necessary. MAUI explains that its agreement with the company addresses many of its concerns regarding center suspension lights but that, depending on the overall cost, it reserves its right to contest costs in a future proceeding. *Id.*, pp. 3-4.

In its exceptions, Consumers also discussed the agreement reached with MAUI and the Staff and provided the following detail of its commitment:

- Consumers Energy will use direct replacement of center suspension lighting as the preferred option. Recognizing that direct replacement of center suspension lighting with LED alternatives is less expensive than conversion to pole-mounted lights in many cases (but not necessarily all cases), the Company will make reasonable efforts to use direct replacement rather than pole-mount. In some cases pole mounted conversions may occur – for instance when nearby poles need to be replaced, or there is unresolvable visual interference of center-suspension lights with traffic signals. However, in most cases LED lights should provide the longer maintenance schedule with the ability to provide similar lighting design as current fixtures[.]

Consumers’ exceptions, p. 71.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record and finds that Consumers has presented persuasive evidence demonstrating the reasonableness and prudence of its streetlighting center suspension costs. Additionally, while not determinative, MAUI’s exceptions detailing the agreement regarding the company’s center suspension streetlighting replacement plan lends further support to the Commission’s finding that adoption of the ALJ’s recommendation is reasonable and prudent. Noting that the streetlighting technical conferences scheduled for 2021 have concluded,⁶ the Commission encourages the parties to continue to collaborate to address streetlighting concerns.

⁶ Per the Commission’s directive on page 252 of the December 17 order, streetlighting technical conferences addressing Consumers’ municipal streetlighting program were held on March 18, April 22, and May 20, 2021.

d. Asset Relocation

Asset Relocation refers to capital costs used to move distribution system assets to accommodate road construction, building, and other projects. Consumers projected 2021 bridge year spending in this category at \$93.6 million, and \$57.4 million for the 2022 test year. 5 Tr 726-727; Exhibit A-35, line 47. Within Asset Relocation are three subcategories of capital expenditures: LVD lines relocation, HVD lines relocation, and metro relocations, which the ALJ noted are subject to the deferred capital spending recovery mechanism. 5 Tr 727; PFD, p. 135. LVD lines relocation and metro relocations are disputed by the parties.

i. Low Voltage Distribution Lines Relocation

Consumers explained that LVD line relocations come at the request of state and municipal agencies, property owners, and other departments within Consumers, which means that the company cannot generally plan for these capital expenditures in advance. 5 Tr 728. The company projected a 2020 expenditure of \$35.685 million, a 2021 expenditure of \$48.945 million, and a 2022 test year capital expenditure of \$52.506 million. 5 Tr 727-734; Exhibits A-35, line 44 and A 40, line 1. The Staff recommended a disallowance of \$1.9 million from the company's 2021 projection and a \$4.4 million disallowance from the company's 2022 projection. Included in the Staff's suggested disallowance are funds slated for "emergent" projects and projects that were not accompanied by specific details. 6 Tr 3941-3944.

The Attorney General recommended a disallowance of \$15.3 million for 2021, and \$18.2 million for 2022, which results in spending that reflects the highest historical level from 2020, adjusted for inflation. *Id.*, pp. 2863-2865. The Attorney General argued that most of the work in LVD lines relocation category is unplanned and that the 2022 projects are approximately double the five-year average shown in Consumers' Exhibit A-35. The Attorney General

contended that the company failed to justify the significant increases and therefore, the Commission should adopt the Attorney General's suggested disallowances. *Id.*

Consumers objected to the Staff's and the Attorney General's disallowances arguing that while LVD relocations may be internally driven, that does not mean the company can plan for them months in advance. The company further argued that it had properly supported its projections relying on its testimony at 5 Tr 732-733 as well as the quarterly reports related to LVD line relocation filed in Case No. U-20697. 5 Tr 938-939; 947-948.

The ALJ found the Staff's analysis persuasive "as it reasonably reflects the variable level of work in this subprogram," and therefore recommended a disallowance of \$1.9 million and \$4.4 million for 2021 and 2022, respectively. PFD, p. 138.

In exceptions, the company argues that the ALJ erred by failing to properly credit the company's expert testimony which contested the Staff's characterization of the company's projected spending for 2021 and 2022 as placeholders. The company repeats its argument that it is reasonable to expect that LVD asset relocations driven by other internal projects will continue to emerge in 2021 and 2022 as designs and details for other projects are finalized. As to the 10 LVD underbuilds on HVD pole replacements, which the Staff contended that the company did not identify any specific projects, Consumers explains that the company identified all 2021 and 2022 projects for the HVD line rebuild projects but that it will not be able to identify the corresponding LVD asset relocation projects until all specific HVD design work is completed. Consumers' exceptions, pp. 75-76.

Consumers also disputes the Attorney General's claim that its spending in this category was unsupported pointing to direct testimony at 5 Tr 732-733 where the company explained that the increases were tied to: (1) increases in make-ready projects that began in 2018, and continued into

2019 and 2020; (2) the increasing need in 2019 to relocate LVD lines to accommodate HVD projects; (3) installation of 5G cellular equipment on poles; and (4) the 14% annual increase in spending for overhead and underground lines and services caused by increased customer-driven projects. *Id.*, p. 74. In sum, Consumers requests that the Commission approve the company's full projected spending in the LVD asset relocation category.

The Attorney General takes exception and argues that a larger disallowance is warranted. The Attorney General argues that the company's forecasted amounts, especially the \$52.5 million forecasted for the test year that is double the company's five-year average spend, is unsupported and unreasonable. According to the Attorney General, the company spent under \$33 million for the LVD lines relocation category in 2020 and has not explained why it requires an increase of nearly \$14 million when this category of spending is generally unplanned. Thus, the Attorney General repeats her recommendation for a disallowance of \$15.3 million in 2021, and \$18.2 million for 2022. Attorney General's exceptions, pp. 13-15.

The Staff, in its replies to exceptions, maintains its position that ratepayers should not be responsible for costs that are not fully justified and explained by the company. Staff's replies to exceptions, p. 3. The Staff goes on to state that the company "should show some restraint and ask for recovery in a future rate case once the projects and their relevant details are known." *Id.*, p. 4.

In its replies to exceptions, Consumers asks that the Commission reject the Attorney General's exceptions. The company points to its testimony on the record explaining Consumers' planned investment for LVD lines relocations to refute the Attorney General's claims that the company's relocations work is unplanned and unknown. Consumers' replies to exceptions, pp. 17-19.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record in this case and therefore adopts the findings and conclusions of the ALJ. The Commission

agrees with the Staff that a disallowance of \$1.9 million and \$4.4 million for 2021 and 2022, respectively, is appropriate given the lack of detail associated with the emergent projects and is consistent with the Commission's previous disallowance of emergent expenditures that are not fully supported. *See*, December 17 order, p. 53.

ii. Metro Asset Relocations

Per Consumers, its metro asset relocations program “responds to both internal and external requests to relocate subterranean civil and subterranean or padmounted electric facilities or adjust manhole chimneys and castings due to road grade changes, either in public ROWs or on private property, that are part of the Company's Metro system in core urban areas.” 5 Tr 737. The company's projected spending for metro asset relocations is \$3.850 million and \$4.043 million for 2021 and 2022, respectively. Exhibit A-35, line 46.

The Staff recommended a disallowance of \$519,750 for 2021, and \$545,805 for 2022, for metro asset relocations projected for internal requests, because as of April 2021, the company had no metro asset relocation projects requested by internal departments for 2021 or 2022. Staff's initial brief, p. 15 (citing 6 Tr 3945; Exhibit S-11.2). The Staff explained that it relied on the percentage of other relocation subprograms reserved for internal requests and used the lowest percentage (13.5%) to exclude a portion of Consumers' 2021 and 2022 metro asset relocation capital expenditures. Explaining that projected internal requests are similar to planned investments, the Staff views the disallowed amounts as placeholders not appropriate for recovery. Staff's initial brief, pp. 15-16.

The ALJ found Staff's position to be reasonable and recommended that the Commission adopt a disallowance of approximately \$520,000 for 2021, and \$546,000 for 2022 for the metro asset relocations spending category. PFD, p. 139.

Consumers takes exception to the ALJ's recommendation stating that her adoption of the Staff's position had no basis because the Staff's Exhibit S-11.2 shows that the company did not have planned spending in 2021 and 2022 for internal requests. The company repeats that because the company's metro system is limited to six core downtown areas, "it is not a given that there will always be Metro Asset Relocation spending due to internal requests in any given year, and none were planned for 2021 and 2022." Consumers' exceptions, p. 77 (citing 5 Tr 938-939). Asserting that the Staff's speculation that internal requests are included in the company's metro asset relocation spending despite the company's direct discovery response to the contrary is unreasonable, Consumers contends that the Commission should allow full recovery in this category. Consumers' exceptions, p. 77.

In its replies to exceptions, the Staff repeats its observation of Consumers' testimony that the metro relocations category responds to internal demands and its argument that the Staff reasonably concluded that funds are set aside to respond to internal demands. Staff's replies to exceptions, p. 4.

The Commission finds Consumers' arguments persuasive. The ALJ agreed with the Staff's recommendation to disallow a portion of the company's proposed spending that is representative of what the Staff assumed would be driven by internal requests. However, Consumers explained that its 2021 and 2022 spending does not contain internal requests at this time, and the Staff and the ALJ did not otherwise take issue with the company's projected spending and associated support. Exhibit S-11.2. The Commission finds that adopting the Staff's disallowance would eliminate recovery of costs that the company has properly supported in an attempt to eliminate recovery for potential costs that the company has explained that it does not plan to spend. Such a

result would be unreasonable. Therefore, the Commission is disinclined to adopt the PFD on this issue and authorizes Consumers to recover \$3.850 million for 2021, and \$4.043 million for 2022.

e. Electric – Other

Consumers presents the Electric – Other category of capital expenditures in Exhibit A-35 and lists four subcategories therein, namely, computer and equipment, tools, system control projects, and grid technologies. The subcategories disputed by the parties are tools and system control projects, which are addressed below.

i. Tools

Consumers explained that the tools subcategory includes spending for the purchase of tools to outfit new company trucks and the replacement of worn, broken, or outdated tools priced at over \$1,000 to replace and that are necessary for maintenance, compliance, and the provision of safe, efficient, and reliable electric service. 5 Tr 875-876. For the 2022 test year, the company projects \$8,955,000 in tools expenditures and avers that spending has increased in this subcategory because the company began purchasing tool packages in 2016, tool prices have increased, and more tools in the company's inventory have reached their useful life. *Id.*, pp. 876-877. The company stated that its tool package spending for new vehicles corresponds with the additions to the company's fleet that is needed for Consumers' expanding workforce. *Id.*, p. 877.

The Attorney General recommended a disallowance of approximately \$5.2 million to each of the company's 2021 and 2022 expenditure projections, arguing that Consumers had not supported the company's increase in tools to support its increased distribution activities. The Attorney General pointed out that the company's actual spending for 2020 was \$1.9 million less than its projected spending of \$3.6 million. To arrive at her disallowance, the Attorney General used the

recent \$3.6 million spending level from 2020, adjusted for inflation, because it was above the five-year average capital expenditure level. 6 Tr 2888-2890.

The ALJ agreed with the Attorney General that Consumers failed to explain its projected 2021 spending and failed to explain why spending should be above the \$5.8 million presented in Exhibit AG-1.72. Further, the ALJ stated that the approximate \$2 million difference between the company's 2020 projected and actual spending undermines the company's claim that spending in this subcategory has increased from \$3.8 million in 2018, to \$5.5 million in 2020. Therefore, the ALJ recommended a disallowance of \$5.2 million from Consumers' 2021 projected spending and \$5.2 million from its 2022 projected spending. PFD, pp. 140-141.

Consumers excepts to the PFD, arguing that the ALJ failed to credit the company's full explanation for the rising investment costs in the tool spending category and therefore, the Commission should reject the PFD. Consumers' exceptions, p. 79. Consumers repeats its justifications made in testimony regarding the company's planned spending for 2021 and 2022 and contends as follows:

As shown in Exhibit A-35 (RTB-2), line 49, the Company's spending in this sub-program has increased from \$3,822,000 in 2018 and \$4,084,000 in 2019, to a projected \$8,872,000 in 2021, indicating that the level of spending projected for 2022 is aligned with a new higher level of spending that accounts for the truck tool packages. Blumenstock, 5 TR 877-878. Therefore, the Company clearly did explain the reason for the rising costs in this sub-program. While the Company did spend less than originally planned in 2020, its plans for 2021 and 2022 remain intact. [The Attorney General]'s testimony was not more credible than Mr. Blumenstock's, as only the latter had personal knowledge of the safety initiatives and other drivers of the cost increase. The PFD's speculation regarding the amount spent in 2020 and its impact on future years was not supported by the evidence.

Id., pp. 79-80.

The Attorney General replies to Consumers, repeating its previous arguments regarding Consumers' failure to support its tools capital expenditure and recommending that the

Commission adopt the ALJ's recommendation. Attorney General's replies to exceptions, pp. 51-52.

The Commission finds that the ALJ's recommendation is well-reasoned and supported by the record in this case. The Commission agrees that the company has not supported its projected increase and did not sufficiently address the ALJ's finding that the company's 2020 actual spending was \$2.0 million below its projected spending. Therefore, the Commission finds the ALJ's disallowances of \$5.2 million for 2021 spending and \$5.2 million for 2022 to be reasonable.

ii. System Control Projects

According to Consumers:

The System Control Projects sub-program consists of projects to improve management of the distribution system, by improving operations of control centers, streamlining operations, and improving remote control capabilities to improve safety and reliability. System Control Projects are divided into four [sic: three] investment categories in this filing: (i) HVD operations projects; (ii) operating technology enhancements; and (iii) operations center modifications.

5 Tr 879. The company projected \$2,157,000 in spending for 2020, \$6,699,000 in spending for the 2021 bridge year, and, for the 2022 test year, projected total spending of \$4.9 million broken down into \$2.5 million for HVD operations projects, \$569,000 for operating technology enhancements, and \$1.9 million for operations center modifications. *Id.*, p. 881; Exhibits A-35, line 50; A-41; and A-48, p. 43.

Describing the increases in spending as unsupported, the Attorney General proposed a downward adjustment of \$5.7 million for 2021, and \$3.9 million for 2022. Referencing page 43 of Exhibit A-48 and the company's discovery response regarding 2021 spending, the Attorney General claimed that the company listed costs such as \$1.7 million for operation center video walls, \$1.1 million for control room modifications, and \$0.9 million to enhance storm restoration

management tools but did not provide any further explanation as to why these expenditures are necessary. 6 Tr 2890-2892.

The ALJ agreed with the Attorney General that some disallowance from the systems control projects subcategory was appropriate. The ALJ first stated that, while the company provided a list of projects associated with the 2022 spending, it failed to support its 2021 capital expenditure projections or explain the increase over the amount approved previously in the December 17 order. Referring to the operations video center wall and control room modifications, the ALJ pointed out that, beyond providing the dates for planned spending, the company provided no further explanation. The ALJ found that given its other cost recovery requests for technology in this case, the company should have provided more detail. Therefore, the ALJ recommended a disallowance of \$2.5 million from Consumers' 2021 spending projection and a disallowance of \$1.7 million from the 2022 spending projection for the operation video center walls and control room modifications. PFD, p. 143.

Consumers excepts to the ALJ's recommended disallowance. Consumers' exceptions, pp. 81-82. The company argues that it fully supported its planned spending for the operations center video wall and the control room modifications, pointing to Exhibit AG 1.8 and Exhibit A-48. Consumers goes on to contend that, while the ALJ stated the company did not provide detail, she gave no indication as to how the company's support fell short. *Id.*, p. 81. The company insists that its provided units and projected costs were sufficient as described in its Exhibit A-48 and at 5 Tr 881. Consumers further repeats its arguments in response to the Attorney General's proposed disallowances and states that the Attorney General provided no evidence to support her speculation that the company's Exhibit A-48 was merely a list of hypothetical projects. *Id.*, p. 80.

The Attorney General takes exception arguing that the ALJ's recommended disallowance totaling \$4.2 million does not go far enough even though the ALJ acknowledged that the company did not support its projected expenditures. Citing the lack of support, the Attorney General contends that the ALJ should have disallowed \$5,703,000, and \$3,929,000 from projected spending in 2021 and 2022, respectively. Attorney General's exceptions, pp. 20-21. The Attorney General repeats her arguments that the company significantly increased its projected spending well-above the five-year average ending in 2019, which was \$807,000, and that the company projected \$2,157,000 in 2020 spending but only spent \$976,000. *Id.*, pp. 19-20 (citing Exhibit A-35, line 50 and Exhibit AG 1.2). The Attorney General contends that the company provided neither justification nor any detail regarding its planned spending and, therefore, the Commission should disallow the amounts recommended by the Attorney General. Attorney General's exceptions, pp. 20-21.

In its replies to exceptions, Consumers asserts that the Attorney General's exceptions should be rejected and refers to its own exceptions as evidence that the company fully supported its operations center video wall and control room modification spending. Consumers' replies to exceptions, p. 20. Consumers goes on to repeat its previous arguments in support of its position that the Commission should allow full recovery in this category but also states that the Commission should accept the ALJ's recommendation over the Attorney General's proposed disallowance. *Id.*, pp. 20-21.

The Attorney General, in her replies to exceptions, states that she addressed this spending category in her exceptions. Attorney General's replies to exceptions, p. 52.

The Commission agrees with the ALJ's finding that the company failed to support its 2021 and 2022 projected spending for the control room modifications and operations video walls listed

on page 43 of Exhibit A-48 (listing 2022 projected spending) and in Exhibit AG 1.8 (listing 2021 projected spending). However, the Commission finds a correction is necessary regarding this disallowance. In her decision, the ALJ writes that the Commission should “exclude the \$2.5 million included in the company’s 2021 spending projection and the \$1.7 million included in the 2022 projection for the video walls and control room modifications.” PFD, p. 143. The Commission notes that the \$1.7 million for operations video walls was for 2021 spending, not 2022 as stated by the ALJ. This correction does not change the total disallowance nor the Commission’s finding that the ALJ’s recommendation is well-reasoned and supported by the record. The Commission therefore disallows \$2.8 million in 2021 projected spending and \$1.4 million in 2022 projected spending in system control projects.

f. Distribution System Investment Planning

The ALJ explained that in addition to the specific spending amounts at issue for capital expenditures, the parties also requested that the Commission address Consumers’ distribution system vision and planning in this proceeding. PFD, p. 144.

The Clean Energy Organizations and MNSC request that the Commission initiate a contested proceeding to review Consumers’ five-year distribution plan and direct Consumers to develop NWS procurement standards. The Clean Energy Organizations argue that the 10-month timeline of a rate case does not allow for proper review of the company’s distribution plan to ensure that the company’s plan supports the requested cost recovery. The Clean Energy Organizations pointed to the December 17 order, which acknowledged that a lack of information regarding how distribution planning measures translate into rate base investments makes determining reasonableness and prudence difficult. Clean Energy Organizations’ initial brief, pp. 7-10. The parties also discussed the need for the company to consider NWS alternatives to address currently

overloaded substations, and substations that are nearing capacity between now and 2040. *Id.*, p. 12. Correspondingly, MNSC also asked that the Commission direct Consumers to develop criteria for NWS to be procured by 2026 for at least five low voltage substations and to submit a progress report in its next rate case. MNSC's initial brief, pp. 48-54.

Consumers opposed these requests stating that the company does not object to third-party approaches if the correct regulatory incentives are in place and the reliability of an NWS approach is established. The company also discussed the potential difficulties that can accompany NWS deployment. 5 Tr 961-962; Consumers' initial brief, p. 44.

The Staff opposed a separate contested proceeding arguing that rate cases are the venue to examine and determine the reasonableness and prudence of costs. The Staff went on to assert that if a party finds the company's EDIIP to be inaccurate, the rate case is where the perceived inaccuracy can be addressed. Staff's reply brief, pp. 59-61.

The ALJ acknowledged the merit of the concerns identified by the Clean Energy Organizations and MNSC regarding the company's willingness to consider third-party solutions in its distribution system planning but found that the IRP case provides the best opportunity to review Consumers' long-term planned investments. The ALJ further explained:

it is not clear to the ALJ that the company's next rate case provides an opportunity to review a draft RFP [request for proposal] for NWS, for example, to be issued in subsequent years, unless it is tethered to a determination made in the most recent IRP or a specific cost recovery proposal of the utility. The company could be expected to file that next case within approximately 10 weeks of a Commission order in this case, which will limit its ability to react to any such instructions; nor do MNSC or the Clean Energy Organizations cite precedent for the Commission to direct the utility to undertake an RFP in ruling on its rate case application. Additionally, whether the Commission conducts a contested case review of the company's 5-year distribution system plan is entirely a matter left to the Commission's discretion and not an appropriate determination to be made in this PFD. Nonetheless, consistent with Mr. Villarreal's testimony and the arguments of the Clean Energy Organizations and MNSC, [the ALJ] believes it is appropriate for the Commission to caution Consumers Energy that in future rate cases, the

company will need to demonstrate that it reasonably considered the potential for third-party NWS alternatives along with other alternatives in evaluating the significant distribution system investments. Whether the company chooses to pursue an RFP process to evaluate those alternatives or finds another framework for analysis, it must be able to establish that it properly evaluated the alternatives.

PFD, p. 149.

The ALJ also addressed MNSC's suggestion that the company be required to provide more detail in its next rate case regarding how all investments support implementation of the company's proposed Grid Orchestration and Grid System Platform distribution system plans. She concluded that a rate case is not the appropriate proceeding to review long-term distribution planning except as it relates to a particular investment for which the company seeks recovery in that rate case. *Id.*, pp. 149-150. MNSC also requested that the Commission require Consumers to investigate the availability of continuous distribution monitoring technologies, including distribution fault anticipation (DFA). The company agreed to file a report detailing an assessment of DFA's applicability to Consumers' distribution system. The ALJ found this issue to be resolved but noted that, "no agreement by the company with the rationales cited by MNSC is to be inferred from its agreement to provide the report." *Id.*, p. 151.

As to MNSC's request that the Commission require Consumers to propose performance-based ratemaking measures targeted towards its distribution system in its next rate case, to which Consumers objected, the ALJ declined to make such a recommendation:

After reviewing the arguments of the parties, this PFD concludes that it is more appropriate for the Commission to caution Consumers Energy that if a key reason for rejecting an alternative investment in an analysis of a significant distribution system investment is the lack of a sufficient incentive for the company, it should be prepared to indicate at the same time what a sufficient incentive would look like in that context, so the company's alternatives analysis can be evaluated by the parties and the Commission. Unless the company contends in its next rate case that the absence of PBR [performance-based ratemaking] of some form is the reason why it will not undertake investments otherwise in ratepayer interests, the company's view that the Commission is already working on this issue is a reasonable response.

Id., p. 152.

Consumers excepts to the ALJ's various conclusions regarding the company's distribution system investment planning. Beginning with the ALJ's conclusion that the Commission has discretion in deciding whether to conduct a contested case in the company's five-year distribution plan, Consumers avers that an additional contested proceeding is not necessary because the parties are free to litigate the merits of the spending proposed in the instant case that are in furtherance of the comprehensive EDIIP filed in Case No. U-20147, filed on June 30, 2021. Consumers' exceptions, p. 82. Next, addressing the ALJ's caution that the company should be required in its next general electric rate case to demonstrate that it reasonably considered third-party alternatives, the company asserts that it should be left to prepare its cases as it deems appropriate without predetermination as to how it presents non-wires alternatives (NWAs). *Id.*, pp. 82-83. The company provided the same response in addressing the ALJ's recommendation that the company explain what a proper incentive for choosing third-party NWAs would entail. *Id.*, p. 83.

In its exceptions, MNSC expresses support for the requests and arguments made by the Clean Energy Organizations. MNSC then repeats its arguments made on the record regarding its request for the company to explore NWS procurement criteria for at least five low voltage substations, to provide further detail regarding the link between costs requested in rate cases and its distribution plans, and to use performance-based ratemaking to examine the ties between distribution system spending and performance metrics. MNSC's exceptions, pp. 10-11. MNSC takes exception to the ALJ's conclusion that adopting MNSC's and the Clean Energy Organizations' requests is not appropriate given the 10-month timeline of a rate case and the Commission's discretion in how it reviews five-year distribution plans. MNSC argues that such recommendations are overdue and argues that the Commission can address these recommendations by recognizing that an RFP for a

third-party NWS approach is necessary to evaluate reasonableness and prudence of rate case spending proposals. *Id.*, pp. 12-13. In the alternative, MNSC asks that the Commission provide guidance in the instant case that will allow the parties a meaningful opportunity in another docket to test and review the company's distribution system planning ahead of rate case proceedings. MNSC explains that the current distribution planning docket does not allow for information exchange between the parties or the chance to present alternatives to the company's plan and lacks the outcome of a contested case, namely, the approval of capital investments with linked ratepayer protections. *Id.*, pp. 13-14. MNSC suggests the following:

Rather than or in addition to adding a contested case to the distribution planning docket (U-20147), the Commission may integrate distribution with resource planning to provide the holistic review supported by the PFD. The Commission may do so by, among other regulatory actions, requiring utilities to file a distribution plan with its next resource plan. There is overlap between aspects of distribution and resource planning, such that coordinating these filings may produce efficiencies and ensure consistency between plans. Integrating distribution planning into IRP planning requires further guidance and instruction from the Commission.

Id., p. 14.

In its replies to exceptions, Consumers argues that the positions taken by MNSC should be rejected. As to MNSC's general criticism of the company's proposed spending of over \$1 billion on distribution in this case, Consumers retorts that its spending is consistent with serving 1.8 million customers. Consumers' replies to exceptions, p. 21. With respect to MNSC's specific recommendations raised in exceptions, Consumers restates its previous arguments. *Id.*, pp. 23-24.

The Commission appreciates the concerns raised by MNSC and the Clean Energy Organizations regarding the company's planned investments in its distribution system and understands the difficulty in thoroughly evaluating distribution spending as it relates to distribution planning in the tight time frame of a 10-month rate case. However, the Commission declines to

adopt MNSC's and the Clean Energy Organizations' recommendations. First, the Commission agrees with the ALJ that a separate contested proceeding is not necessary as contested rate cases provide the proper venue to review and analyze the utility's planned capital expenditures. IRP proceedings also present an additional venue for parties to litigate the utility's planned investments to meet load requirements over 5-, 10-, and 15-year horizons including potential distribution infrastructure needed for any planned major investment. *See*, MCL 460.6t(3), (4)(j). The Commission finds that the existing contested proceedings; the requirement for Consumers to file its five-year distribution plan in Case No. U-20147; and the Commission's directive that, in a rate case, the utility is responsible for demonstrating with evidence on the record that its planned distribution capital expenditures align with its distribution investment plans are sufficient to address the concerns raised on this issue. *See*, April 12, 2018 order in Case No. U-20147 (April 12 order); August 20, 2020 order in Case No. U-20147; December 17 order, p. 60.

Additionally, for the reasons articulated by the ALJ, the Commission declines to adopt MNSC's and the Clean Energy Organizations' recommendations regarding NWS and performance-based ratemaking. While not undermining the importance of moving forward with the implementation of NWS and performance-based ratemaking, the Commission notes that these issues are being addressed in other stakeholder workgroups and dockets, including the Financials Incentives/Disincentives and the New Technologies and Business Model workgroups within the MI Power Grid initiative. *See*, January 9, 2019 order in Case No. U-20134, Exhibit A, pp. 5-6 (committing Consumers to holding workgroup sessions dedicated to discussions on performance-based ratemaking mechanisms); *see also*, April 12 order, p. 3 (opening a docket for the filing of distribution plans inclusive of proposals for performance-based ratemaking mechanisms and metrics). Therefore, the Commission adopts the ALJ's recommendation regarding these two

issues. However, the Commission reminds Consumers that the company “continues to bear the burden of showing that it’s [sic] proposed expenditures are reasonable and prudent, and consideration of alternatives – including NWAs – are an important element in demonstrating why its proposed expenditures are preferable to other options. Such evaluations are inherently part of the rate case process.” May 8 order, p. 112.

3. Generation

Initially, Consumers’ cost recovery request for generation capital expenditures included projected spending of \$427.5 million for the 24-month bridge period ended December 31, 2021, and \$443.7 million for the 2022 test year. Exhibit A-12, Schedule B-5.2. The ALJ explained that the Staff, the Attorney General, MNSC, and ABATE disputed portions of the company’s past and projected spending. PFD, p. 153. However, following the filing of the Staff’s and intervenor’s direct testimony in this case, Consumers filed its 2021 IRP in Case No. U-21090 that included a new proposed course of action (PCA) calling for the early retirement of multiple coal-fired power plant units. As a result, in rebuttal, the company withdrew 2022 projected capital expenditures for the projects that it considers avoidable under its new PCA and requested, as an alternative in this case, deferred accounting treatment allowing it to seek recovery in a future case. Consumers also withdrew its request for projected costs that were to be recovered after June 2021, which were tied to its planned Steam Electric Effluent Guidelines (SEEG) project, and instead requested deferred accounting treatment as a condition of withdrawal. 5 Tr 1439-1441. The parties generally agreed on the company’s withdrawals and associated deferred accounting request. However, MNSC requested that Consumers continue to prove the reasonableness and prudence of any deferred costs and that the Commission should clarify that any approval of 2021 costs of a multi-year project

would not create a presumption of reasonableness for the remaining years of that project. MNSC's initial brief, p. 96.

The ALJ found that the parties have reasonably resolved potential areas of dispute pertaining to some of the company's generation capital expenditures requests and therefore, recommends that the Commission grant the deferrals.⁷ PFD, p. 154. The parties continued to dispute specific line items included in the company's generation capital expenditures, which are discussed below.

a. J.H. Campbell Power Plant

i. J.H. Campbell Power Plant Unit 2 Secondary Air Heaters Baskets and Seals

Consumers projected costs in this category of \$2.735 million for the 2021 bridge year to replace the secondary air heater (SAH) baskets and seals in Campbell Unit 2. 5 Tr 1892. MNSC disputed the company's projections, arguing that the Commission found this capital expenditure to be avoidable and disallowed it in Case No. U-20697 and stated that the company's rationale in the instant case is similar to the rationale presented in Case No. U-20697. *Id.*, pp. 2612-2613.

Consumers rebutted, stating that the project had evolved from being an economic project to an equipment condition project, meaning that failure to complete the project "could lead to an extended 50% derate" of Campbell Unit 2. *Id.*, p. 2012. MNSC argued in response that the company failed to support recovery of the project in its discovery response and did not explain how circumstances have changed since its last rate case such that recovery is now appropriate. MNSC's initial brief, pp. 91-95.

The ALJ found that the company failed to meet basic discovery requirements in this instance, stating that in response to MNSC's discovery request for documents supporting Consumers'

⁷ The ALJ noted that, in addition to the post-June 2021 SEEG costs, Consumers provided a list in Exhibits A-179 and A-150 of the costs determined to be avoidable pursuant to the new PCA. PFD, p. 154, n. 349.

contention that the current condition of the Campbell Unit 2 equipment necessitates the projected spending, the company produced no documents and relied only on a narrative quoted in Consumers' reply brief. PFD, pp. 156-157 (citing Exhibit MEC-59). Per the ALJ, Consumers also failed to adequately answer MNSC's two follow-up questions. Therefore, the ALJ recommended that, in the absence of documentation demonstrating that the condition of the unit has deteriorated to the point the proposed project is necessary, the Commission should disallow the \$2.7 million for 2021.⁸ PFD, p. 157.

Consumers excepts to the ALJ's disallowance and avers that it provided a thorough explanation of the condition of the baskets and seals for Campbell Unit 2 and that failing to replace the baskets and seals would lead to a 50% derate of the unit. Consumers' exceptions, pp. 86-87 (citing 5 Tr 2012; Exhibit MEC-59, p. 1; Exhibit A-175). The company states that the ALJ was wrong in stating the company failed to supply supporting documentation and had missed Consumers' explanation in Exhibit MEC-59. Consumers' exceptions, p. 87. Consumers repeats its disagreement with MNSC's criticism of the costs of the project and argues that MNSC failed to establish that the condition of the baskets and seals make the project avoidable. *Id.*, p. 88.

MNSC replies to Consumers' exceptions stating that the company's arguments amount to "old wine in new bottles." MNSC's replies to exceptions, p. 38. MNSC contends that the ALJ was correct in her decision because the SAH baskets and seals capital expenditure was unsupported, as it was in the last rate case where the Commission disallowed the cost, agreeing with the ALJ in

⁸ On October 27, 2021, the ALJ filed an erratum to the October 13, 2021 PFD with the following correction: Consumers' projected expenditures for the Campbell unit 2 SAH baskets and seals should have read \$2.7 million in 2021 as opposed to \$1.9 million in 2021 and \$1.6 million in 2022 as originally stated in the October 13, 2021 PFD. Filing #U-20963-0420, p. 1.

that case that it was unsupported and avoidable. MNSC repeats its arguments made on the record in the instant case and states that Consumers is incorrect in its exceptions that the ALJ misread the record. MNSC avers that the ALJ correctly found that the company failed to produce documents associated with the 2020 inspection that had been requested by MNSC.

Next, MNSC argues that Consumers' repetition of its supporting narrative in exceptions fails to show that the ALJ erred in her decision. MNSC also points to the shifting costs presented by Consumers at different stages of its case presentation and the company's late assertion in rebuttal that failure to proceed with the equipment replacement would lead to a 50% derate of the unit as support for disallowing this cost. *Id.*, pp. 43-46.

For the reasons articulated by the ALJ, the Commission agrees that a \$2.735 million disallowance for the company's 2021 projected spending is appropriate.⁹ The Commission agrees that the company failed to adequately support the capital expenditure or explain why the project has now become unavoidable. Therefore, the Commission adopts the PFD on this issue.

ii. J.H. Campbell Power Plant Unit 2 Low Pressure Turbine Blade Replacement

Consumers projected a capital expenditure of \$7.3 million for 2021 for the replacement of the first stage blades on both low-pressure (LP) rotors, which were identified during inspection as needing replacement. 5 Tr 1893. ABATE disagreed with the company's projected costs pointing out that in the company's project charter, it projected \$3.7 million in costs for the LP turbine blade replacement. ABATE recommended that the Commission limit recovery in this category to \$3.7 million. 6 Tr 3531. Consumers rebutted that the project charter does not contain the most

⁹ The disallowed amount here is reduced for contingency that was included with this project since contingency amounts are disallowed separately in this order (as well as in the PFD). Thus, the disallowed amount here equates to \$2.635 million (\$2.735 million in 2021 capital expense minus \$100,000 in contingency that is represented elsewhere).

recent cost estimates and that as these projects near execution, refinements to cost estimates are likely to occur. Consumers' initial brief, p. 148.

The ALJ recommended that the Commission adopt ABATE's suggested disallowance of \$3.61 million, limiting recovery to \$3.7 million. The ALJ reasoned that the company must establish that its projections are more than conjecture and that the Commission has found it appropriate to look to the company's project approval documents to determine what the company is planning or likely to spend on a project. PFD, p. 158.

In its exceptions, Consumers urges the Commission to reject the PFD, asserting that, contrary to the ALJ's characterization, the turbine project for Campbell Unit 2 is not unsupported and that, "[t]his issue boils down to whether or not outdated project documents outweigh supported costs projections presented in a rate case." Consumers' exceptions, p. 89. The company refers to its project charter that was relied on to support the project in addition to the company's projections, testimony regarding the need for the project, and the expected benefits. The company repeats that the project charter did not include the most up-to-date projections but was also not the only support for the project. In addition, the company cites its explanation that discrepancies between project charters and rate case projections are due to the ongoing review and refinement of project costs. *Id.*, pp. 89-90 (citing 5 Tr 2019). Consumers contends that the ALJ inappropriately gave no weight to the company's expert testimony and the language in the project charter that explains that the cost information contained therein is a "conceptual estimate," it is not set in stone, and is subject to refinement. Consumers' exceptions, p. 91. Lastly, Consumers argues that ABATE is the only party that claimed that the costs identified in the project charter are inaccurate and failed to support this claim in the record, and therefore, Consumers argues the Commission should approve recovery of the full amount for the LP turbine component replacement. *Id.*, pp. 91-92.

ABATE replies to Consumers' exceptions stating that the company's citation to the record where it "extensively supported" its cost projection is only four lines of testimony briefly describing the project. ABATE's replies to exceptions, p. 4 (quoting Consumers' exceptions, p. 90; 5 Tr 1893). ABATE contends that Consumers' explanation regarding discrepancies in, and refinement of, cost estimations demonstrates that cost recovery is unreasonable and imprudent at this time. ABATE's replies to exceptions, p. 4.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. In a general electric rate case, the company is responsible for meeting its evidentiary burden to support its projected spending. The Commission agrees that Consumers failed to produce documentation beyond its project charter supporting a higher recovery than what was recommended by the ALJ. If, as the company states, the project charter cannot be relied upon for accurate cost estimates, the company has a duty to produce persuasive and reliable evidence supporting the updated cost. Here, the company did not do so. Therefore, the Commission agrees that cost recovery for the LP turbine blade replacement shall be capped at \$3.7 million and \$3.610 million shall be disallowed from rate base.

iii. J.H. Campbell Power Plant Unit 3 Reheater Sootblower

Consumers testified that, for the 2021 bridge year, it projects a \$1,350,000 capital expenditure to add sootblowers for the reheater unit of Campbell Unit 3. 5 Tr 1897; Exhibit A-12, Schedule B-5.2. Consumer further explained this project as follows:

Ash buildup on the top/front of the reheater directly behind the partition wall causes gas/ash laning which leads to localized overheat and erosion conditions. This condition has caused forced outages in the past. Due to the configuration of the tubing, the amount of collateral damage is typically high when a failure occurs in this area. Additionally, the size of the unit makes detection difficult at the early stages of a leak, leading to significant secondary damage prior to leak identification. The additional sootblowers would be mounted in an existing set of manways on the 12th floor of the boiler. These would blow the top/front of the reheater, keeping ash

from building to a level that would cause laning and erosion.

5 Tr 1897-1898.

Arguing that the Commission should disallow spending for the sootblower project, MNSC referenced the December 17 order where the Commission disallowed recovery of capital expenditures for the same project finding that the project could be deferred and that the company lacked supporting documentation. December 17 order, p. 78. The Commission also adopted the ALJ's finding that Consumers admitted that it needed to perform an economic analysis and that inclusion in rate base was premature. *Id.* (citing the PFD in Case No. U-20697, p. 123). MNSC averred that, in the instant case, the company has yet to perform an economic analysis that would justify inclusion in rate base.

In rebuttal, Consumers contended:

The current condition of the equipment was causing, on a conservative basis, a 10 MW derate. Conservatively applying a 10 MW derate to only 6 months of operation results in 43,200 MWh of lost generation (10 MW*24hr*180days = 43,200 MWh). Assuming an average locational marginal price ("LMP") of \$25 above the production cost, this results in a loss of \$1,080,000 in net energy value. Assuming a 2021 projected cost of \$1,603,950, this results in a simple project payback of 1.49 years.

5 Tr 2023.

The ALJ found Consumers' testimony sufficient to demonstrate that the company has performed an economic analysis of the project and has actually made the investment. The ALJ further found that the company's support in this case complied with the Commission's prior decision and, therefore, recommended that the Commission allow recovery of \$1.35 million in rate base. PFD, p. 160.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. Noting that no exceptions have been filed on this issue, the Commission adopts the PFD and approves recovery of \$1.35 million in rate base for sootblowers in Campbell Unit 3.

iv. J.H. Campbell Power Plant Unit 3 House Service Air Compressor Replacement

Consumers requested \$1.423 million to be included in rate base for the replacement of a failed house service air compressor (HSAC) in Campbell Unit 3. The company explained the project as follows:

This project will replace the current HSAC with a compressor with a newer design and which can operate at reduced loads without incurring long-term damage. The existing HSAC has an obsolete control system and operates inefficiently. The benefits associated with this project include reducing plant operation costs during outages resulting from the ability to shut down the large soot blowing air compressors and avoid wear on those units and provide and allow the existing Campbell Unit 3 soot blowing operation to have full capacity for de-slagging of the boiler. A portion of the project will be implemented in the spring 2021 outage so the work can be completed online. The overall project will be completed online by the end of 2021.

5 Tr 1898.

The Staff recommended disallowing capital costs forecasted after June 2021 for a total disallowance of \$1.052 million. Given the accelerated retirement of Campbell Unit 3 set out in the company's new PCA, the Staff argued that there is limited value in this project since the expected number of outages have significantly decreased. Per the Staff, the reduction in outages due to the accelerated retirement would also reduce the long-term wear on the large soot blowing air compressors thereby reducing the need to mitigate the risk of wear. 6 Tr 4049-4050.

In response, Consumers argued that the project is not avoidable because the condition of the HSAC requires the company to run the sootblowing system leading to frequent derates on Campbell Unit 3, the company has already moved forward on the project, and completing the project will allow Unit 3 to operate efficiently through retirement. 5 Tr 2034. The Staff revised its

disallowance recommendation to a \$785,000 disallowance in its initial brief. Staff's initial brief, p. 45.

To begin her analysis, the ALJ expressed concern that this issue is more complex than alluded to in the record due to the timing for Consumers filing its IRP announcing the change in the retirement schedule, which left the parties limited time to determine what is avoidable under the new PCA. The ALJ found that the lateness of this issue does not change Consumers' obligation to support its cost recovery request. "Because Consumers Energy has already replaced the sootblower, which this PFD found to be reasonably supported as discussed above, and because Consumers Energy did not present an economic analysis in support of its decision to replace the house service air compressor," the ALJ recommended that the Commission disallow \$785,000, as suggested by the Staff, and allow the company to defer the costs of the HSAC project. PFD, p. 162; Appendix E to the PFD, line 33. The company should then be permitted to demonstrate the reasonableness and prudence of the project in its next rate case. PFD, p. 162.

Consumers excepts to the ALJ's recommended disallowance of the costs and deferral to the company's next rate case. Consumers' exceptions, pp. 92-93. Regardless of whether the company's proposed PCA is approved, Consumers maintains that the HSAC project is necessary to operate the unit until 2025 because the current condition of the HSAC often leads to derates on Campbell Unit 3. *Id.*, p. 93. The company asserts that it has reasonably and prudently moved forward on the project by issuing a purchase order for the HSAC. *Id.* (citing 5 Tr 2034). Recalling the ALJ's statement that the HSAC project is not immediately needed because the company already replaced the sootblower, Consumers argues that the correlation between the sootblower and HSAC projects is not supported by the record and the replacement of the

sootblower does not negate the need to replace the HSAC. Consumers' exceptions, pp. 93-94 (citing 5 Tr 1887).

In its replies to exceptions, the Staff contends that Consumers' exceptions mirror its previous arguments and states that the company failed to address the Staff's concerns that the project is avoidable. Staff's replies to exceptions, pp. 6-7. The Staff repeats the support it provided on the record and requests that the Commission adopt the ALJ's recommended disallowance. *Id.*, p. 7.

For the reasons expressed by the ALJ, the Commission agrees that the recommended disallowance and deferral of \$785,000 in project costs are appropriate. With the filing of its new PCA in its IRP case, Consumers presented an accelerated retirement pathway that requires reevaluation of what projects are now avoidable. Consumers has not persuaded the Commission that the HSAC replacement project is reasonable and prudent at this time. Therefore, the Commission adopts the ALJ's recommended deferral.

v. J.H. Campbell Power Plant Unit 3 Mill Complete Overhaul

Consumers requested cost recovery of its projected capital expenditure of \$1,235,000 for 2021, and \$1,264,800 in 2022, and described the project¹⁰ as follows:

This project will begin the periodic rebuild of the Campbell Unit 3 Coal Mills which began in 2020 at a projected capital expenditure of \$0.503 million; this project will continue through 2024 at a total projected capital expenditure of \$4.538 million. Coal Mills experience wear and degradation over time, resulting in reduced performance and increased reliability risk. Suboptimal performance negatively impacts combustion and efficiency due to increased particle sizes.

5 Tr 1902; *see*, Exhibit A-12, Schedule B-5.2, p. 9.

¹⁰ The Campbell Unit 3 mill overhaul project is also referred to as project 5693. *See*, 5 Tr 2018.

MNSC argued for the disallowance of the 2021 and 2022 projected capital expenditures arguing that these costs were previously disallowed in the December 17 order due to a lack of supporting documentation and that Consumers has still not presented sufficient documentation. MNSC relied on the company's discovery response regarding the project which confirmed the lack of documentation but stated that the company was in the process of preparing a scoping document. MNSC's initial brief, p. 109. Consumers responded that a disallowance is inappropriate and that projects such as the mill overhaul are routine. Consumers' initial brief, pp. 122-124.

The ALJ agreed with MNSC that the lack of documentation provided by Consumers to support its spending request necessitates a disallowance. The ALJ cited the Commission's directive for documentation of all projected expenditures in the December 17 order, and found that the company's lack of support in the instant case "calls into question both the cost estimate and the timing of the projected expenditures" PFD, p. 165. The ALJ concluded that if the company finds it advantageous to create no paper trail for its planned spending, it can opt to not seek cost recovery in advance of incurring such spending. *Id.*

Consumers takes exception, arguing that the Commission should reject the ALJ's recommendation "because it unreasonably requires needless documentation for routine Generation projects." Consumers' exceptions, p. 94. The company insists that the routine nature of these projects on a plant that has existed for nearly 60 years do not require the company to "reinvent the wheel" in terms of supporting such projects because the costs associated with these projects are predictable. *Id.*, p. 95. The company argues that the ALJ failed to credit the evidence the company did provide that stated the reasonable expectation of cost. *Id.*, pp 95-96. Further, Consumers notes that MNSC's request for more documentation would be more costly to

ratepayers in that it would require the preparation of scoping documents on a routine and predictable project. *Id.*, p. 96.

In its replies to exceptions, MNSC defends the ALJ's recommended disallowance, repeating its previous arguments. MNSC's replies to exceptions, pp. 46-53. MNSC calls Consumers' arguments made in exceptions meritless and notes that, in response to Consumers' contention that the mill overhaul is a routine project, the company does not consistently follow its own definition of routine or conclusively identify the project as routine. *Id.*, pp. 53-56 (citing 5 Tr 2013 and Exhibit MEC-84). As to Consumer's assertion that routine projects do not require supporting documentation, MNSC asserts that "the designation of a project as 'routine' does not excuse Consumers from the need to support its expenditures." MNSC's replies to exceptions, p. 56. Lastly, MNSC dismisses Consumers' assertion that it provided extensive support, arguing that the few lines of the company's testimony and a bullet-point list provided in a discovery response do not identify a budget, project timeline, or other required details. *Id.*

Additionally, in its replies to exceptions MNSC points out a minor computational error in Appendix E to the PFD explaining that, while the disallowance amount expressed on page 174 of the PFD is correct, there appears to be a double counting of the Campbell mill overhaul disallowance in Appendix E in lines 38 and 39, which are designated as the smaller Campbell projects. MNSC recommends that the Commission revise the 2021 adjustment in Appendix E, line 38, column b to \$5,136,600, and revise the 2022 adjustment in Appendix E, line 39, column b to \$4,193,170. *Id.*, p. 69.

For the reasons articulated by the ALJ, the Commission finds a disallowance of \$1.335 million for 2021, and \$1.265 million for 2022 associated with the Campbell Unit 3 mill overhaul to be appropriate. The Commission previously disallowed this project cost for a lack of documentation

and finds the same result for the same reasoning is reasonable and prudent here. Contrary to Consumers' assertions, labeling a project as routine does not obviate the requirement to adequately support a project's spending and, as the Commission sees it, the routine nature of a project with predictable costs that reoccur more than once over the lifetime of an asset should make producing documentation more than feasible. Therefore, the Commission adopts the PFD.

As to MNSC's correction pointed out in its exceptions, the Commission agrees that there appears to be a computational error in lines 38 and 39 of Appendix E attached to the PFD. The ALJ addressed the Unit 3 mill overhaul project separately from the Campbell smaller projects category in the PFD. However, it seems that the ALJ inadvertently included the Unit 3 mill overhaul total disallowance of approximately \$2.6 million, which is listed on line 37 of Appendix E (titled "Campbell - Project 5693 - Mill Overhaul JHC2"), in lines 38 (titled "Campbell - 2021 Projects Unsupported and Disallowed by Comm") and 39 ("Campbell - Unsupported Projects (excluding #5749, #5750. . .)"). Subtracting the 2021 Unit 3 mill overhaul disallowance of \$1.335 million from line 38 and subtracting the 2022 Unit 3 mill overhaul disallowance of \$1.265 million from line 39 results in the correct amounts of \$5,136,600 in line 38 and \$4,193,170 in line 39. For clarity, the Commission confirms that these are the correct amounts that should have been reflected in Appendix E to the PFD.

vi. J.H. Campbell Power Plant Fuel Handling – Dozer Rebuilds

Consumers projected spending of \$1,116,000 for the 2021 bridge year and \$1,130,000 for the 2022 test year for the Campbell fuel handling – dozer rebuild project. Exhibit A-12, Schedule B-5.2, p. 8, line 9; Exhibit A-12, Schedule B-5.2, p. 9, line 7.

The Staff obtained additional information regarding the dozer rebuild project through discovery requests presented in Exhibits S-8.11 and S-8.14. Exhibit S-8.11 shows that the

company projected 2021 spending of \$1,750,000 to take place between July and December of 2021, with the company reporting no actual spending as of the date of its discovery response. Exhibit S-8.14 provided information regarding dozers at both the Campbell and Karn sites with the company explaining that three dozers are scheduled for rebuild in 2021: (1) the rebuild for dozer E74029 for the Karn site was completed; (2) the rebuild for dozer E74019 for the Campbell site is ongoing to be completed in 2021; and (3) the rebuild of dozer E74006 for the Karn site will be completed in 2021. Exhibit S-8.14 stated that the rebuild for dozer E74039 will be completed in 2022. Spending for each specific dozer rebuild project is not identified. Citing confusion between Exhibit S-8.11 that shows the company has not incurred any rebuild capital expenditures in 2021, and Exhibit S-8.14 that states that the company has completed one rebuild with another underway, the Staff recommended a full disallowance of the 2021 and 2022 capital expenditures. 6 Tr 4051. The Staff also noted the potential to use additional dozers at the Campbell site due to advanced retirement of the Karn units in 2023. *Id.*

The company objected to the Staff's assumption regarding the use of dozers at the Campbell site because of the Karn retirement and to the Staff's disallowance. 5 Tr 2034-2038.

The ALJ first noted that the company did not support its projected dozer rebuild costs, referencing the company's direct testimony stating that it would provide further discussion of the project after listing the name and cost of the project but then failed to do so. The ALJ went on to find that there was confusion regarding the Staff's disallowance and clarified that it appears that Staff's recommended disallowance was in reference to dozer E74039. The ALJ also clarified that dozers E74039 (rebuild to start "0.3 years (4 months approximately after the July date of the discovery response" and to be completed in 2022) and E74019 (rebuild in progress) are the dozers at issue; not the dozers at the Karn site (dozers E74006 and E74029). PFD, p. 168. However, the

ALJ noted that the record was confusing on this issue and it was unclear what the July 2021 payments are actually intended for. Therefore, the ALJ recommended that the Commission disallow \$2.026 million and allow Consumers to defer the projected costs of the dozer rebuilds at the Campbell site until they can be reviewed in the next rate case. At such a time, the ALJ stated that the company will have had the opportunity to establish whether the dozer rebuild costs were avoidable. Lastly, the ALJ noted that it appeared the Staff did not object to recovery of the costs associated with the rebuild of dozer E74019. Thus, the ALJ would have recommended approval of those costs, but the record does not reveal what those costs are. *Id.*, pp. 168-169.

Consumers excepts to the ALJ's adoption of the Staff's position recommending disallowance and deferral of the dozer rebuild costs for the Campbell site dozers, E74039 and E74019.

Consumers first argues that the Staff's position is inconsistent with the stipulation entered by the company and the Staff regarding the Staff's filing of surrebuttal on potentially avoidable capital expenditures because the Staff's disallowance is based on a supposed lack of clarity in the project cost as opposed to the project being avoidable. Consumers' exceptions, pp. 97-98. Consumers further states:

Staff's recommendation regarding the Coal Fleet Handling Dozer Rebuilds Project should also be rejected because Staff has not established that the Company will not incur the costs requested in this case. Assuming that Staff's position is focused on dozers E74019 and E74039, as suggested by the PFD, the record establishes that the Company will incur costs to rebuild those dozers as projected in this case. The Company provided the projected capital expenditures for performance of this project in 2021 in response to discovery and those expenditures are presented in Exhibit S-8.11, line 9.

Id., p. 98 (citing 5 Tr 2035). Lastly, the company contends that the Staff has not shown that the dozer rebuild costs are avoidable as the Staff's assertion regarding decreasing the number of dozers available at the Karn and Campbell sites considering the accelerated plant retirement is

without support in the record and contrary to the company's testimony regarding the use of the dozers at each site. Consumers' exceptions, p. 99 (citing 5 Tr 2037-2038).

In reply, the Staff contends that Consumers mischaracterized the Staff's position throughout the record in this case. Specifically, the Staff states that Consumers' assertion that the project disallowances were improperly filed in the Staff's surrebuttal is incorrect. The Staff explains as follows:

Staff had identified the totality of 2022 project costs, as well as the rebuild of one dozer in 2021 planned to start after the finalization of the PCA, as avoidable. (6 TR 4050-4051.) Two of the rebuilds, for dozers E70429 and E74019, were already completed or underway at the time of the finalization of the PCA. Staff did not identify these two dozers as being avoidable, given the work to rebuild them was already complete or in progress. However, the Company had not yet incurred actual expenses and did not provide individual costs for each dozer rebuild. Therefore, Staff was unable to isolate the costs for the rebuild of these two dozers from the other dozer rebuild scheduled in 2021, which was identified by Staff as avoidable in its review. (6 TR 4051.) As a result, Staff recommended a disallowance of all 2021 project expenses for the Coal fleet dozer rebuild project, with an understanding that the Company could request recovery of the two dozer rebuilds currently underway in a future rate case filing, where these costs could be established on an individual basis and subject to review. (6 TR 4051.)[.]

Staff's replies to exceptions, p. 9.

The Staff also clarifies that it did not suggest that the company decrease the number of dozers at the Karn and Campbell sites. Rather, the Staff:

Staff identified that given the current schedule of coal dozer rebuilds, sponsored as Exhibit S-8.14, the Company would have 4 dozers at both the Karn and Campbell site that would not be scheduled for rebuild until at or near the retirement dates included in the Company's PCA. (6 TR 4051.) The current rebuild schedule for fuel handling dozers is based on expected hours of operation, see Exhibit S-8.14. While it is reasonable to perform preventative maintenance on these dozers at a given time interval to maintain optimal performance and long-term reliability, it is also reasonable to expect that additional dozers would still be available for use beyond their scheduled rebuild timeframe, particularly given a short-term need due to the proposed retirement dates.

Id., p. 10. The Staff goes on to argue that, given the limited information on this record, deferment of these capital expenditures is reasonable and the Commission should adopt the ALJ's recommendation. *Id.*

The Commission finds the ALJ's recommendation to allow deferral of the Campbell dozer rebuild costs is well-reasoned and supported by the record. Given the lack of information and clarity surrounding the spending on the dozer projects pointed out by the Staff and the ALJ, as well as the new PCA filed in Case No. U-21090 that calls into question whether these costs are avoidable, the Commission finds the ALJ's disallowance and deferral recommendation is reasonable and prudent.

vii. J.H. Campbell Power Plant Site Commons Steam Electric Effluent Guidelines Compliance

Consumers initially requested \$1,928,000 for 2021, and \$15,421,000 for 2022 for its SEEG compliance project at Campbell. Exhibit A-12, B-5.2, p. 8, line 10; Exhibit A-12, B-5.2, p. 9, line 8. However, after filing its new PCA in its IRP case, Case No. U-21090, the company identified the 2022 projected spending for this project as avoidable and withdrew its request, subject to deferral if the PCA is not approved.

The Staff recommended a further disallowance of \$1,677,000, representing 2021 capital expenditures incurred after June 2021 and resulting in a total allowable recovery of \$251,000 for projected spending from January through June 2021. The Staff stated that Consumers may seek recovery of some unavoidable costs in a future rate case. 6 Tr 4054-4055. Consumers responded that the SEEG compliance work for 2021 is not avoidable, explaining that the company cannot halt its SEEG expenditures until it receives approval of a compliance deadline extension request from the Department of Environment, Great Lakes, and Energy (EGLE). However, the company also stated that, "[i]n lieu of a disallowance, the Company would propose deferred accounting while

reducing its recovery request for 2021 capital expenses for the closed loop system project that is forecasted to be incurred after June 2021 by the amount of \$1,677,000, including a contingency amount of \$71,512.” 5 Tr 1445-1446. ABATE recommended a full disallowance of spending for both 2021 and 2022, and MNSC agreed to the deferral approach proposed by the company. 6 Tr 3532; MNSC’s initial brief, pp. 78-79.

Recognizing the impact of the PCA and the company’s compliance deadline extension request pending before EGLE, the ALJ found the deferral of the July through December 2021 cost projections to be reasonable. PFD, p. 171.

The Commission agrees that deferral of the projected capital expenditures related to the Campbell site SEEG compliance is reasonable and prudent. Also noting that no party took exception to the PFD, the Commission adopts the ALJ’s recommendation to authorize deferral of \$1,606,000 for 2021, and \$15,421,000 for 2022.

viii. J.H. Campbell Power Plant Unit 3 Pulse Jet Fabric Filter Bag

In Exhibit A-12, Schedule B-5.2, p. 9, line 3, Consumers projected a 2022 capital expenditure of \$3,995,000. The company described the project as follows:

The scope of this project is the replacement of PJFF [pulse jet fabric filter] bags and cleaning air manifold. This project will span 2022 and 2023 with procurement in 2022. Based upon sampling of the bags during periodic unit outages, the PJFF bags should be replaced in 2023. Over time the mechanical integrity and the performance of the filter bags decreases, necessitating their replacement with new bags to ensure environmental compliance and unit availability. The existing PJFF bags were installed in 2016 when the PJFF was placed into service. The PJFF removes particulate material from the flue gas stream, prior to the flue gas entering the stack for discharge, and ensures the unit remains within the environmental limits that are in place for opacity. The PJFF also serves the function of increasing the efficiency of both mercury (activated carbon injection) and sulfur (spray dry absorber) removal technologies used on Campbell Unit 3. Campbell Unit 3’s PJFF has a total of 28,224 filter bags that collect particulate material on the outside of the bag. The PJFF clean air piping is required to clean the filter bags and manage pressure drop so that particulate matter can be removed from the flue gas stream. Failure of the cleaning air system would result in a failure to clean the filter bags

and loss of control of the differential pressure across the PJFF. The existing cleaning air manifolds can corrode over time and new stainless-steel manifolds have been provided by the manufacturer as part of the warranty[.]

5 Tr 1901.

ABATE argued that a disallowance of the 2022 projected capital expenditure is appropriate because the PJFF bags will not be used and useful until after the test year. 6 Tr 3529. The company rebutted, stating that the Commission has not required the used and useful doctrine to apply to environmental costs. Consumers' initial brief, pp. 144-145.

The ALJ agreed with Consumers stating that the Commission has previously allowed environmental costs to be recovered in rates prior to being used and useful, and therefore, recommended approval of the company's proposed capital expenditure. PFD, p. 171.

ABATE takes exception, arguing that the extended timeframe for this capital expenditure justifies a disallowance. ABATE's exceptions, pp. 6-7. ABATE avers that, in the past, the Commission has agreed to a comprehensive examination of the used and useful doctrine with limited exceptions demonstrating that the Commission has not abandoned the used and useful doctrine. To the contrary, ABATE notes that that the Commission has articulated its expectation for projected spending to be used and useful in the test year. ABATE requests that the Commission apply its used and useful standard in the instant case. *Id.*, p. 7. ABATE goes on to argue that because the project will span 2022-2023 with procurement not beginning until 2022, it is inappropriate and premature for the company to recover the full amount at this time. *Id.*, pp. 7-8.

In reply, Consumers states that ABATE's proposal on cost recovery is overly restrictive and argues that the ALJ's recommendation is reasonable given that the company will begin incurring costs in 2022 and is consistent with prior Commission decisions allowing cost recovery prior to

final project completion. Consumers' replies to exceptions, pp. 27-28 (citing the July 31, 2017 order in Case No. U-18124 (July 31 order), pp. 25-28). Relying on *ABATE v Pub Serv Comm*, 208 Mich App 248, 258; 527 NW2d 533 (1994); *Mich Bell Tel Co v Pub Serv Comm*, 332 Mich 7, 36-37; 50 NW2d 826 (1952); and *Bldg Owners & Managers Ass'n v Pub Serv Comm*, 424 Mich 494, 510; 383 NW2d 72 (1986), Consumers argues that the Commission is not bound to apply only the used and useful standard and is not bound to any particular method in setting just and reasonable rates. Therefore, according to Consumers, the Commission should approve the PJFF capital expenditure for the reasons Consumers articulated on the record. *Id.*, pp. 29-30.

The Commission respectfully disagrees with the ALJ's recommendation pertaining to the PJFF capital expenditures. While the ALJ is correct that the Commission has previously allowed environmental costs to be recovered in rates prior to being used and useful, the Commission finds persuasive ABATE's arguments that this project will not take place until 2023, and thus inclusion of capital expenditures related to the project is premature. Further, given the proposed accelerated retirement of Campbell Unit 3, the Commission will need to see additional supporting evidence regarding the need to invest the nearly \$4 million at issue in this case, and \$7.3 million by 2023, for a plant the company proposes to close in 2025. As such, the Commission finds cost recovery for these initial phases of the project is imprudent at this time and therefore, disallows the 2022 proposed capital expenditure of \$3,995,000.

ix. J.H. Campbell Power Plant Smaller Projects

MNSC presented a list of projects that it recommended for disallowance in its Exhibit MEC-56, arguing that the company had not provided supporting documentation for the expenditures. In its initial brief, MNSC withdrew its objection to project numbers 5749, 5750, 10257, and 11249. MNSC's initial brief, p. 102, n. 392. Also included in the list was the

Campbell Unit 3 mill overhaul that is discussed above. Consumers acknowledged that it does not have supporting documentation for the listed projects, except for project 5708 (the Campbell Unit 3 sootblowing air compressor controls) and agreed that recovery for the projects with 2021 expenditures on the list were previously disallowed in the December 17 order. Exhibit MEC-57, p. 10.

As explained by ALJ, two of the contested projects, project 5708 and project 9397, were not addressed in the December 17 order. PFD, p. 172. For project 9397, MNSC asserted that Consumers provided no supporting documentation for the 2022 projected capital expenditure of \$288,570. As to project 5708, MNSC pointed out that, without documentation, Consumers increased the cost estimate of the project from \$60,000, as it appeared in the company's 2019 project charter, to \$250,000 in a projected 2022 capital expenditure in the instant case. MNSC's initial brief, pp. 118-119. In response, Consumers argued that projects such as this are routine with predictable costs and therefore, preparing scoping documents would be an inefficient use of resources. Consumers' initial brief, pp. 122-123. The company further stated that project estimates evolve as they near execution and MNSC failed to establish that the company's projected 2022 spending is unreasonable. *Id.*, pp. 130-131.

The ALJ first noted that the lack of documentation undermines the company's argument that there is a factual basis for its revised projection. Next, explaining that because Consumers did not have documentation establishing firm plans and reliable cost estimates, the ALJ recommended a disallowance of the projected 2022 capital expenditures associated with the projects set out on page 2 of MNSC's Exhibit MEC-56, adjusting for the objections withdrawn by MNSC and the

Campbell Unit 3 mill overhaul. The ALJ's recommended disallowance totaled \$5,136,600 for 2021, and \$4,193,170 for 2022.¹¹ PFD, pp. 173-174.

In its exceptions, Consumers asks the Commission to reject the ALJ's recommendation adopting MNSC's position. Consumers makes similar arguments to those presented for the Campbell Unit 3 mill overhaul in that the company asserts that the projects associated with the ALJ's recommended disallowance are also routine projects that do not require the project charters, scoping documents, and internal rate of return analyses that MNSC claims are necessary. Consumers again contends that routine projects have a reasonable expectation for scope and costs and that it has provided extensive support for the routine nature of these projects. Consumers' exceptions, pp. 100-101. Specifically, Consumers points to its testimony at 5 Tr 1887-1888, 1893, 1896, 1900, 1902, 1903, 2020, and 2022 to explain the projects opposed by MNSC. *Id.*, pp. 102-109. Lastly, Consumers argues that, in finding the company to be without supporting documentation for the projects at issue, the ALJ "fails to explain why now, after decades of operation, routine projects are required to have additional documentation" and she "disregards the Company's record evidence establishing that this project is routine in nature which gives the Company a reasonable expectation of costs and also supports the reasonableness of the Company's cost projections." *Id.*, p. 109.

In its replies to exceptions, MNSC repeats its arguments in response to Consumers' assertion that routine projects that have been performed for decades do not require supporting documentation. MNSC's replies to exceptions, pp. 58-59. MNSC then asserts that the ALJ

¹¹ For clarity, the ALJ's disallowances relates to the following 18 projects listed on page 2 of Exhibit MEC-56: 5543, 9650, 9653, 9655, 3089, 5594, 5663, 9651, 9654, 9656, 5691, 5708, 9671, 9689, 9690, 9692, 5480, and 9397.

properly rejected Consumers' argument that its lack of documentation is an attempt to avoid wasting resources. MNSC also argues that the Commission should reject Consumers' arguments in exceptions as they are merely repetitions of its testimony and do not change the fact that the company failed to provide a project charter, scope document, economic assessment, or other supporting documentation for any of these projects. *Id.*, pp. 59-60. With respect to project 5708, MNSC states that Consumers ignored the ALJ's lengthy discussion of this project at pages 173-174 of the PFD and that the Commission should therefore reject Consumers' exceptions. *Id.*, pp. 66-68.

The Commission agrees with the ALJ that the lack of documentation provided by the company justifies a disallowance in this instance. As explained previously, the Commission rejects Consumers' argument that routine projects do not require support to show that they are reasonable and prudent. Finding the ALJ's recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD. Noting the correction made above regarding lines 38 and 39 in Appendix E attached to the PFD, the Commission clarifies that the correct disallowance amount is \$5,136,600 for 2021, and \$4,193,170 for 2022.

x. J.H. Campbell Power Plant Projects 9526 and 10730

In tandem with its discussion of the Campbell Unit 3 reheater sootblower project, addressed above, Consumers and MNSC discussed projects 9526 (JHC3 replace ABB Damper drives) and 10730 (JHC ash silo secondary electrical source). Citing a flawed economic assessment of these projects, MNSC recommended the following disallowances: (1) \$79,000 and \$590,000 in projected spending for project 9526 for 2021 and 2022, respectively; and (2) \$30,000 and \$601,000 in projected spending for project 10730 for 2021 and 2022, respectively. Exhibit MEC-56, p. 3.

Stating that evaluation of Consumers' economic analyses for these projects' proposed capital expenditures was difficult given the record in this case, the ALJ recommended that the Commission allow the company to recover capital expenditures of \$669,000 for 2021 and 2022 for project 9526, and \$669,000 for 2021 and 2022 for project 10730. PFD, p. 174; *see*, 5 Tr 2023-2024. Per the ALJ, "at least the company made an effort to present some analysis in support of these projects." PFD, p. 174.

The Commission finds that the ALJ's recommendation is well-reasoned and supported by the record. Also noting that no party filed exceptions on this issue, the Commission adopts the PFD.

b. D.E. Karn Generating Plant – Unit Separation

Consumers requested that \$6,420,000 in projected 2021 capital expenditures, and \$9,477,000 in projected 2022 capital expenditures for the Karn Plant unit separation be included in rate base. Exhibit A-12, Schedule B-5.2, p. 8, line 12; Exhibit A-12, Schedule B-5.2, p. 9, line 11.

Consumers explained that, "[t]he scope of this project for 2021 and 2022 includes engineering, procurement and construction activities supporting the separation of various utilities/systems in order to isolate Karn Units 3 and 4 from Karn Units 1 and 2 prior to their retirement in May 2023." 5 Tr 1911. The company stated that the project is necessary to comply with its approved 2018 IRP. *Id.* However, after filing its new IRP in Case No. U-21090, the company revised its position, finding that the 2022 projected capital expenditures were avoidable, and only seeking recovery of the 2021 projected capital expenditures. Consumers' initial brief, p. 104.

In light of the company filing its new IRP in Case No. U-21090, and the potential for the project to be avoided under the pending PCA, the Staff recommended an initial disallowance of \$5.875 million for the 2021 capital expenditure, later reduced in its initial brief to \$5.625 million. 6 Tr 4048; Staff's initial brief, p. 30. The Staff argued that the projected capital expenditure was

not determined with consideration of the company's new PCA and that it is not in the interest of ratepayers to approve the company's proposed 2021 spending. The Staff noted that, even if Consumers could not adjust the timing of the project, the company could still seek recovery in a future rate case of actual 2021 costs. 6 Tr 4046-4048. ABATE also objected to the company's projections for the project, and, citing the company's decommissioning study that estimated the project cost to be \$10.4 million, recommended a reduction of \$5.5 million from Consumers' total 2021-2022 projected cost of \$15.9 million. *Id.*, p. 3534.

Consumers rebutted that it cannot avoid the Karn separation costs if its pending PCA is not approved. In response to ABATE, the company argued that it presented a detailed cost breakdown in its projection, and, considering the new PCA, the company is only seeking recovery of the 2021 projected costs. Consumers' initial brief, pp. 104, 150.

The ALJ agreed that the Staff's proposed disallowance is appropriate but stated that Consumers should be permitted to include the costs for the 2021 project with the other costs deferred in this case due to the newly filed PCA. The ALJ found that this pathway will allow the company the chance to review its claim that the costs are unavoidable in a future rate case "when a reasonable record can be developed." PFD, p. 177.

Consumers takes exception, arguing that the company cannot avoid any of its 2021 Karn unit separation costs as shown by the record in this case. Consumers' exceptions, p. 110. The company expounds pointing to its testimony on the record that failure to complete the unit separation work in 2021 "would jeopardize the Company's ability to successfully complete this project on a timely basis if the IRP PCA is not approved as proposed." *Id.*, pp. 110-111 (citing 5 Tr 2939). The company argues that the Staff failed to show how the separation costs are avoidable. Per Consumers, the Staff is incorrect that the removal of the 2021 costs encourages the

company to reduce project costs because the company already considers customer impacts and does not need encouragement to make reasonable and prudent decisions. Consumers' exceptions, pp. 111-112.

In its replies to exceptions, ABATE repeats its argument that Consumers did not fully support its capital expenditures and states that, at most, the company is only entitled to recovery of \$10.404 million (the amount it provided in its decommissioning study). ABATE therefore recommends that the Commission adopt the ALJ's disallowance or limit recovery to \$10.404 million. ABATE's replies to exceptions, p. 4.

The Staff also filed replies to Consumers' exceptions, contending that the company largely repeated its arguments made on the record and in briefing. The Staff then states that it acknowledged that some 2021 capital expenditures may be necessary to keep the project on track while awaiting a decision in its IRP case but that, in order to understand what costs are avoidable, the 2021 project costs must be reassessed given the accelerated retirement proposed in the new PCA. Thus, the Staff recommends adoption of the ALJ's recommendation. Staff's replies to exceptions, pp. 12-13.

First, the Commission accepts Consumers' withdrawal of its request for cost recovery of the 2022 Karn unit separation costs in light of the company's pending PCA in Case No. U-21090. As to the 2021 projected spending, the Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. As mentioned previously, the filing of Consumers' IRP with its new PCA in June 2021 provided little time in an already highly time-sensitive case for the parties to determine what costs are avoidable or unavoidable pursuant to the newly proposed PCA. As the Staff pointed out, the Commission finds it reasonable to defer the Karn unit separation costs until the company can consider them in its next rate case in light of its proposed PCA. Therefore,

the Commission adopts the ALJ's disallowance of \$5.625 million and authorizes the company to defer this capital expenditure to its next general electric rate case.

c. Jackson Site Commons – New Water Source Installation

In the new water source installation category for the Jackson site commons, Consumers projected a capital expenditure of \$2,467,000 for 2020, and \$5,925,000 for 2021. Exhibit A-12, Schedule B-5.2, p. 8, line 15; Exhibit A-12, Schedule B-5.2, p. 7, line 17. Consumers explained the project as follows:

This project will install an alternate water source for the plant and also install a reverse osmosis pretreatment system. The Jackson Generating Station currently uses water from the city of Jackson for all needs on site including raw water for the cooling towers and demineralizing it for use in the Heat Recovery Steam Generators ("HRSGs"). Starting in 2020, the city of Jackson significantly increased the rate for water supply, and, as a result, the Company is moving forward with a project to install an alternate water source for the plan, thereby allowing for an annual O&M reduction of approximately \$3 million. This project began in 2020 and will be completed in 2021[.]

5 Tr 1918.

Pointing to the company's discovery response in which it presented a revised 2021 capital expenditure projection that is \$2.9 million below its initial request, the Staff argued that the Commission should disallow \$2.71 million in non-contingent costs from the 2021 projected capital expenditure. Staff's initial brief, pp. 33-34; Exhibit S-8.8, pp. 3-9. Consumers rebutted the Staff's recommended disallowance, stating that, as the new water source project progressed, the company identified two additional sub-projects to condition the water in the system, which ultimately would lead to forecasted 2021 capital expenditures totaling more than the previous requested amount.

5 Tr 1992; Exhibit A-174. The Staff contended that Consumers' updated cost estimates were submitted too late in the proceeding to give the Staff and intervenors time to review and determine

the merit of the new cost recovery request. Staff's initial brief, p. 34. The Staff added that the company can include the costs for the newly identified sub-projects in a future rate case. *Id.*

The ALJ agreed with the Staff's \$2.71 million downward adjustment and reiterated that the Commission has stated previously that rebuttal testimony is not the proper place for the company to adjust and finalize its capital expenditure projection or adding projects to fill spending gaps as the timing does not allow the Staff and intervenors an opportunity to scrutinize the company's request. PFD, p. 179. The ALJ stated further:

That said, Exhibit A-174 does not support the company's request: as Staff notes, the project charter beginning at page 1 of this exhibit is dated April 2020, and it also shows a cost figure of \$325,000 rather than the higher amount included in Mr. Hugo's chart; the concept approval document for the second project beginning at page 9 of that exhibit has no date, but at page 11, it indicates the greensand filtration technology was still being piloted as of May 2021, which would seem to make it premature for inclusion in rate base had it been properly identified in the company's filing.

Id. Addressing the company's 2020 spending, the ALJ noted that the company's 2020 costs were adjusted to the actual amount through an agreement with the Attorney General.¹²

Consumers excepts to the ALJ's recommendation. The company contends that it demonstrated on the record that it had made progress on this project and will spend what it had projected and that two additional projects emerged, namely the cooling tower water acid feed project and the reverse osmosis pre-treatment project, that require funding. Consumers'

¹² The ALJ is referring to the Attorney General's discovery request for the company to produce its actual spending for the power generation category in 2020. The company reported that its actual 2020 spending in this category was \$124,336,000, which is \$5,203,000 lower than its projected amount of \$129,539,000 for 2020. Exhibit AG-1.12. The Attorney General therefore recommended a disallowance of \$5,203,000 from rate base to account for the reduction between 2020 actual spending and forecasted spending, to which the company agreed. Attorney General's initial brief, p. 71; 3 Tr 293.

exceptions, pp. 113-114 (citing 5 Tr 1992). As to the ALJ's finding that rebuttal is an improper time to finalize capital expenditures or add projects, the company states:

[T]he Company is not requesting additional spending in connection with the New Water Source Installation Project at the Jackson Plant. The Company's evidence instead establishes that the Company will spend consistent with what it has projected for this project in the case. The Commission should accept the Company's rebuttal evidence as evidence which properly refutes Staff's position that the Company will not spend what it projected in this case.

Id., pp. 114-115.

In its replies to exceptions, the Staff asserts that Consumers largely repeats its previously made arguments, the ALJ correctly found that rebuttal is not the time to introduce new supporting evidence, and the Staff properly pointed out concerns about discrepancies in, and timing of, the documents Consumers provided to support its spending. The Staff maintains its previous arguments and supports adoption of the ALJ's recommendation. Staff's replies to exceptions, pp. 13-14.

For the reasons articulated by the ALJ, the Commission agrees that the \$2.71 million disallowance in this category is appropriate. The company's revisions and additions to its spending projections were introduced too late in the case for the parties to adequately evaluate. These late revisions also cast some doubt on the certainty of Consumers' projections. Therefore, the Commission adopts the PFD.

d. Zeeland Generating Plant – Storage Building

Consumers requested \$5.4 million for its 2021 projection of the cost associated with a storage building at the Zeeland site. Exhibit A-12, Schedule B-5.2, p. 8, line 18. The company explained the project as follows:

The scope of this project is the design and construction of a new storage building on the Zeeland site. During 2020, the planning, engineering, design, and preparation work will occur with construction scheduled for 2021. The current covered storage

is not adequate for storage of components during major overhauls. This new building will allow for deliveries and storage of materials for the site in a centralized, organized location. The site also lacks office space to house project and engineering resources, this building will provide adequate space to house the required employees to run the site and projects. An additional driver of the new building is safety, as the site does not have a rated storm shelter space to protect employees during an emergent situation. The new building will have an environmental safety shelter included[.]

5 Tr 1914.

ABATE argued for a disallowance of \$3.3 million to reflect the cost projection that the company provided in its project charter. 6 Tr 3535. Consumers rebutted that the project charter was completed two years before the instant case was filed, and therefore, does not contain the most up-to-date cost information. The company argued that it established in this record that there are often cost differences between original project charters and finalized costs because project costs are refined as they near execution. Consumers' initial brief, p. 151.

The ALJ recommend that ABATE's adjustment be adopted. The ALJ reasoned that the company's argument that its supporting documentation in its project charter should be disregarded in favor of unverified estimates in its rate case projection is inconsistent with the standards used by the Commission in evaluating test year rate base projections. PFD, p. 180.

The company takes exception, repeating its arguments regarding cost discrepancies in project charters and its explanation regarding costs evolving as projects near executions. Consumers' exceptions, pp. 115-116. The company maintains that it did not provide the project charter to represent the most current costs and that the company provided other evidence to support its cost projections that was not given weight by the ALJ. *Id.*, pp. 116-117. The company argues that the ALJ "employs a standard which allows outdated documents to be used as means to automatically invalidate extensive record evidence supporting rate case cost projections. Such a standard is unreasonable and should not be permitted by the Commission." *Id.*, p. 117.

ABATE replies to Consumers' exceptions arguing that the only firm evidence provided for the capital expenditure was a project charter that indicated that the cost of the storage building to be \$3.294 million, which is significantly lower than the \$5.40 million proposed by the company. As such, ABATE requests that the Commission adopt the ALJ's recommendation. ABATE's replies to exceptions, p. 5.

The Commission finds the ALJ's recommendation for a \$2.106 million disallowance to be well-reasoned and supported by the record. While the company insists that its project charters are subject to further revision as cost projections mature, the Commission agrees that the company must still meet its evidentiary obligations to support its planned expenditures. As the Commission discussed previously, should Consumers present costs beyond what is projected in its project charter, it must provide sufficient support for those revised costs such that the Commission can determine the reasonableness and prudence of the costs. The Commission agrees with the ALJ that Consumers failed to present verified costs and therefore, the Commission adopts the PFD.

e. Hardy Dam Site

i. New Building

Consumers requested \$4,885,000 in projected capital expenditures for a new headquarters building at the Hardy Dam site, describing the project as follows:

The scope of this project is to construct a new headquarters building. Hydro Operations requires office space to house operational staff and to provide hotel workstations for transient personnel, Crew Room space for field operational personnel to assemble, large and small meeting rooms. Spaces are also required to support employee attraction and retention including, Nursing Mother's Room, Trainer room, Wellness Room, Shower rooms and space for personal lockers. Space is also required for normal building support functions including, vestibule, toilet rooms, janitorial, electrical, and mechanical. Additionally, Hydro Operations requires warehouse space for the storage of commonly used operational materials, minor materials storage, facilities storage, mezzanine space for long term storage, shop space to perform electrical repair work, space for indoor storage of up to three vehicles and space for Crew lockers. Exterior covered storage is required for

operational vehicles and equipment. The building structure is anticipated to be pre-engineered steel frame, prefinished metal roofing and walls with enhanced high R [resistance] value continuous insulation systems at walls and roof[.]

5 Tr 1927.

The Staff proposed a \$1.177 million disallowance, broken down into a \$400,000 reduction to the company's 2021 projection and a \$777,000 reduction to the company's 2022 projection. The Staff explained that its proposed disallowance is based on its assessment of the company's supporting documentation for the project and the varying levels of accuracy associated with the types of documentation provided. 6 Tr 4031-4032 (citing Exhibits S-8.3, S-8.4, and S-8.5).

Consumers rebutted that the company finalized its project cost estimate in April 2021, bid the project in February, and entered into a contract for construction to begin in July 2021. The company asserted that the final cost will be \$7.8 million and contended that the Staff's approach to evaluating the company's cost projections did not produce completely accurate results.

Consumers' initial brief, pp. 104-106 (citing 5 Tr 1991, 1996-1997). The Staff argued that the company's additional details provided in rebuttal were received too late in the case to allow proper review and noted that the company did not provide a signed contract. Staff's initial brief, p. 44.

Consumers responded that rebuttal evidence should not be disregarded simply because it refutes the Staff's position and that it presented "[e]xtensive amounts of information pertaining to the Company's Generation project spending was provided to Staff and the other intervenors."

Consumers' reply brief, p. 61.

The ALJ recommended that the Commission disallow \$1.177 million as suggested by the Staff. PFD, p. 183; Appendix E to the PFD, line 42. The ALJ agreed with the Staff's position stating that the Commission has repeatedly established that rebuttal is not time for the company to establish the reasonableness of its cost projects and that if adequate documentation is not available

at the time it files its rate case, the company can wait to seek cost recovery in a future rate case. The ALJ calls the Staff's adjustment modest and notes that the company's failure to submit the project contract makes assessment of the project's timeline and costs difficult. Observing the volume of issues in the instant case, as well as the complexity added by the company filing its IRP on June 30, 2021, the ALJ rejected the company's "unwarranted assertion" that the Staff and intervenors had adequate time to review the company's project bidding process and contract. PFD, p. 183. Lastly, she asserted that the rate case procedures do not permit significant rebuttal testimony meaning that the Staff's review would not be in the evidentiary record. *Id.*

Consumers excepts to the PFD and argues that the ALJ did not consider the evidence presented by the company in rebuttal to support its cost projections. Consumers goes on to repeat its rebuttal testimony regarding the project details, timeline, and cost. Consumers' exceptions, p. 118 (citing 5 Tr 1996-1997). Consumers asserts that rebuttal evidence is still evidence that should be properly considered by the Commission and that there is no basis for the Staff to claim that it had insufficient time to review the company's rebuttal evidence pertaining to the Hardy Dam site new building project. Consumers' exceptions, p. 119.

For the reasons expressed by the ALJ, the Commission finds that a disallowance of \$1.177 million is appropriate in this category. The Commission agrees with the Staff and the ALJ that the variation throughout the case in the costs presented by Consumers for the new headquarters building degrades the level of certainty surrounding the company's projections. As such, the Commission adopts the findings and conclusions of the ALJ.

ii. Auxiliary Spillway

Consumers projected capital expenditures of \$3.2 million for 2020, \$8.0 million for 2021, and \$19.850 million for 2022 related to its project to replace and repair the auxiliary spillway at the

Hardy Dam to meet the FERC's compliance standards. 5 Tr 1927-1928; Exhibit A-12, Schedule B-5.2, p. 7, line 21; Exhibit A-12, Schedule B-5.2, p. 8, line 23; Exhibit A-12, Schedule B-5.2, p. 9, line 22.

ABATE recommended disallowance of the project costs, arguing that construction is not expected to begin until after the test year. 6 Tr 3529-3531. The Attorney General also recommended a disallowance of \$7.7 million for 2021 and \$19.250 million for 2022, on the basis that the project has not yet received approval from Consumers' board of directors and is thus premature for inclusion in rate base. *Id.*, pp. 2893-2894; Attorney General's initial brief, Appendix A. Consumers responded that the 2021 capital expenditure will complete the design work for the project and that the company's projected capital expenditures through 2021 were previously approved by the Commission in the December 17 order. The company asserted that the Commission has not required all investments to be used and useful as demonstrated by the approval in the December 17 order. Consumers' initial brief, pp. 136-138.

The ALJ acknowledged the Commission's approval to include the auxiliary spillway costs in rate base in the December 17 order, and on that basis, concluded that the Commission has determined that the project does not need to be used and useful before capital expenditures are included in rate base. The ALJ noted however, that the Commission has broad discretion to determine what capital expenditures are appropriate for recovery. PFD, p. 184.

ABATE excepts, arguing that the costs approved in the December 17 order were perfunctory and that because additional costs are being requested in this proceeding, approval in the December 17 order should not result in approval here. ABATE's exceptions, p. 8. ABATE contends that neither the PFD nor the final order in December 17 order substantively addressed the auxiliary spillway project and the Commission's previous approval for inclusion in rate base was "passive

and rote without substantive litigation, consideration, or deliberation.” *Id.* Pointing out that Consumers’ final review of the project by the board of directors cannot be done until the design work being done in 2021 is completed and that the company’s compliance deadline from FERC is not set until December 31, 2025, ABATE argues that cost recovery is not reasonable and prudent at this time. *Id.*, pp. 8-9.

In its replies to exceptions, Consumers asks that the Commission reject ABATE’s arguments made in exceptions because the project is necessary and its costs are duly supported by the record. Consumers’ replies to exceptions, pp. 30-31. Consumers argues that ABATE ignores the costs already incurred related to the auxiliary spillway and that ABATE is attempting to impose an overly restrictive cost recovery standard that is inconsistent with the Commission’s prior approval of costs in the December 17 order for multi-phase projects without requiring that all phases first be completed. *Id.*, p. 31.

The Commission agrees with the ALJ that the company’s projected capital expenditures for the Hardy Dam auxiliary spillway should be approved for inclusion in rate base. While not determinative of its decision here, the Commission notes that capital expenditures through 2021 were previously approved in the December 17 order.¹³ As to the instant case, the company has demonstrated by the evidence on the record that it will incur costs in the test year. The Commission does not find it reasonable to withhold cost recovery until the project is complete and

¹³ The Attorney General withdrew her objection to the Hardy auxiliary spillway project in Case No. U-20697, and therefore, the ALJ did not recommend a disallowance as the issue was uncontested. *See*, PFD in Case No. U-20697, pp. 100-103. Therefore, the Commission’s approval was based on the adoption of the ALJ’s recommendation as opposed to making a determination on a contested issue. December 17 order, pp. 63-66.

used and useful when the company has presented persuasive support that the projected spending is reasonable and prudent. Therefore, the Commission adopts the PFD.

f. Solar Generation

Consumers included capital costs it seeks to recover for solar generation that the company is adding to its portfolio. Exhibit A-12, Schedule B-5.2, p. 8, lines 34-36, and p. 9, lines 31-32.

ABATE and the Attorney General took issue with some of the company's capital cost projections, set forth below.

i. 2020 Solar Projects

Consumers projected capital costs of \$14.623 million in 2021 and \$119.624 million in 2022 for solar generation projects resulting from the company's 2020 IRP competitive solicitation, projects that (at the time of filing the instant case) were in the contract negotiation or due diligence stage, with anticipated commercial operation dates in 2023. 5 Tr 1684-1685; Exhibit A-12, Schedule B-5.2, p. 8, line 35, and p. 9, line 32. The Attorney General argued that the proposed capital expenditures are premature for inclusion in rate base at this time and recommended that they be removed. Attorney General's initial brief, pp. 68-69; Exhibit AG-1.9; 5 Tr 2000-2001. ABATE similarly asserted that the projects are too speculative at this point for costs to be recovered in this case. ABATE's initial brief, p. 39. Consumers disagreed. 5 Tr 1691-1692; Consumers' initial brief, pp. 154-155.

The ALJ agreed with the Attorney General and ABATE that "it is premature to include the projected solar contract expenses in rates in advance of signed contracts and in advance of Commission approval." PFD, p. 187. With this decision, the ALJ also noted the need for a reduction to the company's AFUDC offset. *Id.* (citing 3 Tr 277).

In exceptions, Consumers states that a build-transfer agreement (BTA) with Washtenaw Solar Energy, LLC (Washtenaw Solar) was executed on October 4, 2021, and filed in Case No. U-20165 on October 14, 2021. Thus, according to the company, “there is now a specific project for the 2020 Solar Bid Event project.” Consumers’ exceptions, p. 120. Consumers also argues that there is no requirement that the company receive Board of Director (BOD) approval for a project prior to submission or Commission approval in a rate case and that BOD approval is not necessary for all projects that the company undertakes. Notwithstanding, Consumers asserts that the 2020 Solar Bid Event project is certain, as the project was approved by management for inclusion in this case, is a project Consumers intends to go forward with, and is a project that received initial BOD approval. *Id.*, pp. 121-122; 5 Tr 2001. Consumers further argues that, not only is this project certain, but it is also necessary, with the company reiterating testimony about contract negotiations with a shortlist of BTA projects selected by the Independent Administrator from this event, along with company expectations for total projected spending to not vary significantly. Consumers continues that:

[i]t is reasonable for the Company to receive cost recovery now for the 2020 Solar Bid Event Project(s) for several reasons. As explained above, pursuant to the June 7 Order Approving Settlement Agreement in Case No. U-20165, the Company has an approved IRP and procurement methodology for annually acquiring the solar resources in the approved PCA. Since the Company’s IRP PCA has been approved, there was a certainty through this rate case that the Company would acquire new solar resources as a result of the 2020 Solar Bid Event and will incur costs to acquire those resources. 5 TR 1692. Timely approval of the dollars associated with the annual solicitations is key to successful implementation of the 2018 IRP PCA. Furthermore, the Company has a reasonable basis for the projected spending associated with the 2020 Solar Bid Event project due to the recent execution and approval of the solar BTA contract from the 2019 IRP competitive solicitation. 5 TR 1692. Therefore, there is a reasonable basis for and expectation of capital spending in 2021 and 2022 for the next set of solar resources acquired through the annual competitive solicitation process.

Consumers' exceptions, p. 122. Consumers also reiterates the certain, identified project for the 2020 Solar Bid Event (the BTA with Washtenaw Solar) mentioned above. If, however, the ALJ's recommendation is adopted and the 2020 Solar Bid Event project is not approved for cost recovery in this case, Consumers highlights that "an adjustment to the AFUDC offset is necessary for the entire cost of the 2020 Solar Bid Event Project and not just for contingency costs." Consumers' exceptions, p. 123 (emphasis in original); *see*, Consumers' exceptions, pp. 302-303. According to Consumers, Appendix C to the PFD reflected an adjustment to AFUDC for the disallowance of contingency costs but did not make an adjustment to AFUDC for the ALJ's recommendations here.

In replies to exceptions, ABATE asserts that Consumers' proposal to recover projected capital expenditures in this case should be dismissed because of the company's executed contract filed in Case No. U-20165. ABATE's replies to exceptions, p. 5. ABATE states:

The Company claimed that "the total projected capital expenditures for the 2020 Solar Bid Event [are] \$250,114,703." (*Id.*) Despite this figure, the Company's application regarding its BTA with Washtenaw Solar as filed in Case No. U-20165 states that "the Washtenaw Solar BTA is expected to have an installed cost of approximately \$231.4 million." (Case No. U-20165, Filing No. U-20165-0599.) In other words, the actual executed BTA is nearly \$19 million less than the projected figure for which Consumers has sought recovery in this case. Further, the application for approval of this BTA is still pending in Case No. U-20165. There is no reason to allow the Company to collect roughly \$19 million more than the expected cost of the project, nor is it reasonable to approve cost recovery here when an application for approval of the project is still pending in another docket.

ABATE's replies to exceptions, p. 6. Per ABATE, Consumers' proposal on this is unreasonable and granting recovery requested here would be imprudent; thus, the Commission should adopt the ALJ's recommendation.

The Attorney General argues that the contract filed, and requested for *ex parte* approval, in Case No. U-20165 has not been made a part of this record and is therefore "outside of

consideration in this case as a basis for rate relief.” Attorney General’s replies to exceptions, p. 56. The Attorney General asserts that, “[g]iven[] the Company’s practice of annual rate case filings, it can present details in support of its cost recovery in a few months,” but that any recovery should be disallowed here in this case. *Id.* The Attorney General further states:

The Company also argues that the record did reflect that the Board of Directors approved the 2020 solar bid project through its long-term financial plan process. However, as discussed above, the Company admitted that the project would require further approval from the board of directors due [to] the amount. The [ALJ] correctly noted the flaw in the Company’s argument and the Commission should give it no weight because it is meritless.

Id., pp. 56-57 (footnote omitted) (citing Consumers’ exceptions, p. 121).

The Commission agrees with the ALJ’s decision to disallow the 2021 and 2022 capital costs associated with this project in this case.¹⁴ Although the BTA with Washtenaw Solar in Case No. U-20165 has since been approved by the Commission,¹⁵ that BTA is not part of the record in the instant case, was reviewed and approved on an *ex parte* basis in Case No. U-20165, and is less than the capital amounts projected for the project in this case for 2021, 2022, and 2023.¹⁶ The Commission thus finds it more appropriate to vet these now actual capital costs on the record in Consumers’ next general electric rate case. Given this decision and Consumers’ exceptions addressing the same, the Commission also finds that the company’s AFUDC offset should be further reduced by \$5,686,000, bringing the total reduction for the company’s AFUDC offset in this case, inclusive of the project’s contingency costs, to \$5,896,000.

¹⁴ The disallowed amount here is reduced for contingency that was included with this project, since contingency overall is separately disallowed on its own in this order (as was done in the PFD). Thus, the disallowed amount here equates to \$127.938 million (total 2021 and 2022 capital costs minus contingency).

¹⁵ *See*, November 18, 2021 order in Case No. U-20165.

¹⁶ Although mentioned here as part of the Commission’s decision, Consumers’ 2023 cost projections are not part of the company’s request for rate relief in this case.

ii. Solar Commons – Development and Land Acquisition

For the acquisition and development of land for future company-owned solar projects, which will be self-developed beginning in 2023 and will be submitted by the company in future IRP solicitations, Consumers included total projected land acquisition and development capital expenditures of \$24,520,824 in this case, with \$520,824 spent in 2020 and projected spending of \$24 million in 2021 and \$0 in 2022. Consumers’ initial brief, pp. 96-97; Exhibit A-79, line 15. ABATE argued a lack of definitiveness and that the speculative costs in 2021 should be rejected in this case. ABATE’s initial brief, p. 38. Consumers disagreed. Consumers’ initial brief, p. 153.

The ALJ recommended that the projected land acquisition costs of \$24 million be excluded in this case. The ALJ agreed with ABATE that “the projected costs are speculative, and, because the company plans to use the ratepayer-funded property to facilitate its participation in a competitive solicitation, it is also speculative that the property will ever be used to provide utility service.” PFD, p. 188.

In exceptions, Consumers argues, contrary to ABATE’s position, that it does have definitive plans for the development of solar resources. Consumers reiterates that:

the Company is requesting recovery of the projected costs for the Company’s acquisition and development of land for future Company-owned solar projects, which will be self-developed, beginning in 2023, and submitted by the Company in future IRP solicitations. 5 TR 1686; Exhibit A-79 (CTF-1). The Company established that in order to begin construction of solar projects in 2023 and beyond, the Company must obtain land rights well in advance of submitting a proposal into the IRP solicitation. 5 TR 1686. Furthermore, Company witness Rose explained that land control is required approximately 18 months in advance of land development in order to apply for MISO GIA [generator interconnection agreement] approval. 5 TR 1687. Since the land acquisition activities are consistent with the requirements of the approved capacity acquisition construct and the Company’s 2018 IRP PCA, the Company is requesting cost recovery of the land acquisition costs that will be incurred by the Company in the applicable periods covered by this electric general rate case proceeding.

Consumers’ exceptions, pp. 124-125. The company further asserts that the record reflects that the costs are “necessary and reasonable and prudent to incur and recover,” referencing evidence that purchasing land ahead of fully identified projects is standard and a normal part of utility business, with land acquisition for solar development being necessary and prudent “to provide efficient and predictable results for executable projects.” *Id.*, p. 125 (citing 5 Tr 1693). Consumers thus argues that the ALJ’s recommendation should be rejected.

In replies to exceptions, ABATE asserts that Consumers failed to adequately support its cost projection for this proposal. Referencing its briefs, ABATE argues that the company’s “opaque assertions of intent [raised in exceptions about future projects beyond 2023] do not provide a reasonable basis upon which to grant cost recovery.” ABATE’s replies to exceptions, p. 7 (citing ABATE’s initial brief, p. 38; ABATE’s reply brief, p. 20). Per ABATE, cost recovery at this time would be unreasonable and imprudent; thus, the Commission should adopt the ALJ’s recommendation.

The Commission agrees with the ALJ and finds that Consumers’ projected capital expenditures here of \$24 million in 2021 should be disallowed. As stated by the ALJ, in agreement with ABATE, the projected capital costs are speculative and, even more importantly, “because the company plans to use the ratepayer-funded property to facilitate its participation in a competitive solicitation, it is also speculative that the property will ever be used to provide utility service.” PFD, p. 188.

g. 2021 Overhead

Due to a capital reduction associated with a single project (Mustang Mile) and because of the timing of the company’s long-term financial plan and this rate case, Consumers proposed for \$3 million for electric overheads previously associated with Mustang Mile to be reallocated to

other capital generation projects in 2021 in this case. 5 Tr 1941, 2006-2007. The Attorney General recommended that this excess cost be removed, arguing that this allocation issue is an internal company problem that will resolve itself once actual overhead costs are allocated to actual project costs in 2021. 6 Tr 2898-2899. Consumers disagreed. Consumers' initial brief, pp. 142-143.

The ALJ found the Attorney General's analysis persuasive and that this request from the company should be rejected. The ALJ stated that, "[i]f the Commission were to start down the road of trying to readjust overhead costs with each rate case adjustment, as if they should all be capitalized without regard to the underlying labor or other actual cost drivers, the rate cases would become even more unmanageable." PFD, p. 190.

In exceptions, Consumers asserts that the ALJ's recommendation is flawed and should be rejected because it does not refute that the company will still incur the \$3 million in overhead costs and because the ALJ is incorrect that this issue is similar to a rate case adjustment. Consumers states:

This issue arose before the Company's rate case filing and was addressed in the Company's direct case. There is substantial record evidence supporting the fact that the Company will incur these overhead costs. The Company is not asking for recovery of overhead due to rate case adjustments, the Company is seeking recovery for overhead costs that it has established that it will incur.

Consumers' exceptions, p. 127.

In reply, the Attorney General argues that the company's exception is "not well taken and misleading." Attorney General's replies to exceptions, p. 58. Per the Attorney General:

the genesis of this "overhead" cost is the Company's allocation of overhead due to lower project costs than it originally allocated to a project. . . . Mr. Coppola explained this issue will resolve itself during 2021 and that a separate line item is unneeded and unreasonable. The [ALJ] rightfully found this analysis to be persuasive and the Commission should adopt the [ALJ]'s recommendation.

Id.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. The Commission too finds persuasive that this issue will resolve itself, thus rendering a separate line item unneeded in this instance.

4. Information Technology

Consumers included projected capital spending on information technology (IT) projects totaling approximately \$110 million in the bridge period of 2020 and 2021 and approximately \$77 million in 2022, as shown in Exhibit A-12, Schedules B-5 and B-5.3, and with details on individual projects set forth in Exhibit A-108. Disputed items by the Staff and the Attorney General are discussed below.

a. Rough Order of Magnitude Estimates

Consistent with the December 17 order, the Staff recommended that the Commission disallow 20% of capital expenditures for all rough order of magnitude (ROM) estimate projects, which totals \$1,757,739 in 2020, \$4,939,584 in 2021, and \$7,774,686 in 2022. 6 Tr 4081-4082; Exhibit S-7.2; Exhibit S-7.3, pp. 1-7; December 17 order, p. 138. The Attorney General also took issue with these preliminary forecasted capital expenditures from the company and recommended that they be rejected from inclusion in rate base in this case. 6 Tr 2919-2920. Consumers disagreed. 5 Tr 2197, 2210.

The ALJ recalled the Commission's decision on this issue in the December 17 order, wherein the Commission approved the Staff's approach and found that the ROM estimates "are too imprecise for ratemaking purposes and may be burdensome for ratepayers." PFD, pp. 191-192 (citing December 17 order, p. 138). The ALJ found Consumers' arguments in the instant case similar to Case No. U-20697 and thus unpersuasive. The ALJ added that, "[a]s Staff argues and as

the Commission held in that case, if reasonably and prudently incurred costs exceed the projection, the company may include the costs in a future rate case.” PFD, p. 192. Further, as stated by the

ALJ:

Following Consumers Energy’s agreement to adopt 2020 actual expense levels, Staff withdrew its proposed ROM adjustments for 2020. While there is no project-by-project reconciliation and thus no record showing exactly what was funded in 2020, the parties appear to have resolved this matter satisfactorily. Thus, this PFD finds that Staff’s 2021 and 2022 ROM adjustments should be adopted with a limited number of exceptions for consisten[cy] with certain other adjustments as noted below.

Id.

In exceptions, Consumers argues that the ALJ’s recommendation should not be adopted. In response to the Commission’s decision in the December 17 order that ROM estimates are too imprecise for ratemaking purposes, Consumers highlights testimony from the instant case to demonstrate otherwise and reiterates that a shortfall here may require the company to shift capital funding between projects, impacting other planned and approved projects. Consumers’ exceptions, pp. 128-129 (citing 5 Tr 2145-2146, 2197, 2210). Per Consumers, “[t]he evidence indicates that ROM estimates are not ‘too imprecise,’ but rather are developed considering the individual project plans and the actual costs of similar projects,” and are thus reasonable and should be approved by the Commission. Consumers’ exceptions, p. 129.

The Staff maintains its position on this issue, asserting that actual costs for projects may end up being as much as 25% less than the projected amount that Consumers seeks to recover from ratepayers. Per the Staff, “[i]f the Company takes issue with this, it is welcome to file a historic [sic] test year.” Staff’s replies to exceptions, p. 14. The Staff continues:

The Company also argues [via reiterated testimony] that ROM estimates allow the Company to determine whether the estimated costs justify the value of the project without spending increased investment planning O&M amounts developing the estimate. Staff would like to make it clear that it is not recommending that the

Company increase spend in investment planning O&M to develop a better estimate. It is simply stating that, should the Company choose to file a projected test year, adjustments due to the possibility of overcollection is a natural response from Staff in order to protect ratepayers.

Id., p. 15. The Staff thus argues that the ALJ was correct in agreeing with the Staff's disallowance.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. The Commission finds that the disputed amount on this issue is akin to contingency and that the inclusion of the same in rates is unjust and unreasonable. As reiterated by the ALJ, "if reasonably and prudently incurred costs exceed the projection, the company may include the costs in a future rate case." PFD, p. 192.

b. Genesys Upgrade

The Staff recommended a reduction of \$36,100 in 2019 capital expenditures here due to upgrades that Consumers pursued based on false information withheld by its vendor, which the Staff asserted are unnecessary expenditures that are inappropriate for ratepayer recovery. Staff's initial brief, pp. 53-54; Exhibit S-7.3, pp. 40, 48. Consumers objected. 5 Tr 2198-2199; Consumers' initial brief, pp. 214-215.

The ALJ agreed with the Staff and found that the Staff's reduction should be adopted, as "the company who hired the third-party vendor, rather than the ratepayers, was in a position to prevent the unnecessary expenditure." PFD, p. 193.

In exceptions, Consumers argues that it should not be denied recovery because the vendor subsequently announced end of support for the module that the company had already upgraded. Consumers reiterates testimony that the decision to pursue the upgrade was reasonable based on information known to the company at the time and that there is no evidence that the company's

use of this vendor was unreasonable. Rather, per Consumers, the vendor had an excellent track record with the company. Consumers' exceptions, p. 129 (citing 5 Tr 2198).

In reply, the Staff clarifies that it is not suggesting that it was unreasonable for Consumers to use the chosen vendor. However, what is unreasonable, according to the Staff, is passing this cost on to ratepayers. The Staff reiterates that the subsequent announcement referenced by Consumers came 11 months after the primary vendor announced end of support. Staff's replies to exceptions, p. 15 (citing Staff's initial brief, p. 53). The Staff thus asserts that "[t]he Company should have worked this out with their chosen vendor instead of attempting to pass the cost on to ratepayers. As the ALJ stated in the PFD, the Company was in the position to prevent the unnecessary expenditure from occurring. Staff's adjustment is reasonable." Staff's replies to exceptions, pp. 15-16.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. Given the circumstances reiterated by the Staff in replies to exceptions, the Commission does not find it reasonable for ratepayers to have to shoulder the capital expenditures identified here.

c. Bill Design and Redelivery

Due to a lack of adequate support, and the company's inability to refute concerns raised by the Staff and the Attorney General, the Staff asserted that this project should be disallowed in its entirety—\$6,910,240 in 2022 capital expenditures, along with associated O&M. Staff's initial brief, pp. 58-61. The Attorney General also recommended that these capital expenditures be removed due to timing and benefit/cost concerns. Attorney General's initial brief, pp. 97-99. Consumers disagreed. Consumers' initial brief, pp. 216-218.

The ALJ agreed with the Staff and the Attorney General and recommended that the project's capital expenditures be removed. The ALJ found that:

the company failed to provide adequate support for this project in its direct case, failing to acknowledge in its direct case that funding previously provided for the project had not been spent as planned, failing to provide a benefit-cost analysis of the project, failing even to provide testimony as to the expected total project cost, and then providing what it now claims are misleading or inaccurate responses in discovery. Further, the company has not established a commitment to this project, since by its own admission, no contract had yet been signed, and the company's contention that this year it is committed to this project is suspect. If the company seeks funding for this project in a future case, it should present all of the evidence in support of that project in its direct case.

PFD, pp. 195-196.

In exceptions, Consumers argues that the ALJ erred in her finding that the company did not adequately support this project. Consumers recalls evidence detailing the project, including the project's scope and benefits. Consumers' exceptions, pp. 130-131 (citing 4 Tr 345-346; Exhibit A-108, line 439; Exhibit S-7.4, p. 1). Consumers asserts that the ALJ's statement of inadequate support:

does not reflect the precision that is possible in the ratemaking process. The purpose of a general rate case proceeding is *not* to reconcile previously projected spending with the spending that in fact occurred, and the Company does *not* have an obligation in its initial rate case filing to detail where spending did not occur as projected for each and every project. Any suggestion that such a reconciliation should occur is contrary to the principles of retroactive ratemaking. Ratemaking is not, nor has it ever been, a precise mathematical exercise that results in perfect recovery of a utility's actual costs in hindsight – no more, no less.

Consumers' exceptions, p. 131 (emphasis in original). Following case law in support of the above, Consumers then argues, contrary to the ALJ's statement otherwise, that a benefit/cost analysis is neither a prerequisite for approval nor dispositive, as not all projects are strictly quantitative. Nevertheless, Consumers states that it did provide an expected benefit/cost ratio and financial impacts of the project in the case, along with an explanation that billing service costs will decrease

from \$14 million to \$11 million annually following the project. *Id.*, p. 132 (citing 4 Tr 430; Exhibit A-108, line 439, column (g); Exhibit S-7.4, p. 1).

Consumers further takes issue with the ALJ's finding that it failed to provide testimony regarding the expected total project cost, since the same is not, nor should be, a rate case filing requirement. Nevertheless, Consumers states that it did provide total expected costs of \$16.6 million (electric portion of \$11.67 million) in discovery. Consumers' exceptions, pp. 132-133 (citing Exhibit AG-1.24, p. 3; Exhibit S-7.4, p. 1). Consumers further contends:

The [ALJ] further criticized the Company for "providing what it now claims are misleading or inaccurate responses in discovery." PFD, page 196. The Company has not claimed that its discovery responses were "misleading or inaccurate," and it is unclear how the [ALJ] reached this conclusion. While the Company was able to provide updated cost savings that were solidified during the formal RFP process, that does not mean that the Company's discovery response was in any way "misleading or inaccurate" when provided. Compare 4 TR 429 with Exhibit S-7.3, page 33.

The [ALJ] also stated that the Company "has not established a commitment to this project" because "no contract had yet been signed." PFD, page 196. The [ALJ]'s conclusion that the Company has not shown a commitment to the project is contrary to the evidence. At the time of the Company's rebuttal filing in July 2021, already completed or nearly completed activities to support the project's benefits included vendor selection (completed November 2020), vendor contracting (anticipated completion July 2021), 2021-2022 resource planning (anticipated completion September 2021), and design work (anticipated to begin September 2021). 4 TR 442.

Consumers' exceptions, p. 133. Consumers states that the Commission approved this project in its last rate case, that the project is important for reasons set forth in testimony, and that, although delayed with regard to design, the project is on schedule with vendor selection and general contracting through the second quarter of 2021. Consumers thus argues that the Commission "should not now reject this previously approved and prudent project." *Id.*, p. 134.

In its replies to exceptions, the Staff argues that, despite Consumers' summary of evidence in exceptions and the company highlighting Exhibit A-108 as a 58-page, 466-line document, this

project is but one line of that exhibit. The Staff emphasizes that “[w]hat is lacking from the Company’s exceptions, briefs, and rebuttal testimony is a response to both Staff’s and the [Attorney General]’s concerns addressed in direct testimony regarding the monetary benefits this project will bring to justify the \$16.6 million expense.” Staff’s replies to exceptions, p. 16. The Staff states that the company attempted to address expected benefits in rebuttal but without any detail, or explanation provided on cross. *Id.*, pp. 16-17 (citing 4 Tr 430, 481). As to spending arguments raised by Consumers, the Staff repeats from its reply brief that past Commission approval of this program in the December 17 order should not serve as any basis for approval in this case, noting that the company used those approved amounts from that case to fund a project that had been disallowed. Staff’s replies to exceptions, p. 17 (citing Staff’s reply brief, p. 18). The Staff continues that:

[t]he Company also took exception to the ALJ’s criticism of the Company’s failure to provide a total expected cost. It stated that it is not required to discuss each of these total project costs in testimony and it should not be determined that the Company failed to provide sufficient support because it has not done so. (Consumers Exceptions, p 132.) While the Company did provide the total cost via discovery, Staff would like to address that, when evaluating the value of a program, it is not enough to simply look at test year costs. The costs in the test year equate to roughly half of the total \$16.6 million figure for this project. To present overall cost savings without the overall cost, as the Company did in its rebuttal testimony, is dishonest. Contrary to the Company’s belief, Staff does believe that total project cost is an important part of the picture. As such, Staff’s comments in U-18238 (filed 10/22/2021) recommend the Commission require utilities to file total expected project costs for IT projects for this very reason.

Staff’s replies to exceptions, pp. 17-18. The Staff contends that, although Consumers describes the limitations of its current system, the cost, as asserted by the Attorney General, is disproportionate to the benefits. The Staff argues that, given the above, the ALJ was correct in her findings and that this project should be disallowed.

The Attorney General asserts that the company's exceptions did not address the fundamental flaws that she identified in the case and thus argues that the Commission should reject the expenditures for this project at this time. Attorney General's replies to exceptions, pp. 59-60; 6 Tr 2926-2927. The Attorney General additionally highlights that the Commission did not approve any expenditures for this project in 2022 in the December 17 order, since 2022 was not at issue in that case. The Attorney General further argues that Consumers cannot rely on the record in another case. Rather, per the Attorney General, the company must support its request on the record in this case, which it failed to do. Attorney General's replies to exceptions, p. 60.

The Commission agrees with the ALJ's recommendation to disallow the requested capital expenditures for this project. The Commission agrees with the importance of providing total costs on direct, in tandem with associated benefits, and with that finds that Consumers failed to provide sufficient justification for this project in this case. However, as stated by the ALJ, "[i]f the company seeks funding for this project in a future case, it should present all of the evidence in support of that project in its direct case." PFD, p. 196.

d. Career and Reward Framework Project

The Staff recommended that \$302,376 of projected 2021 capital spending be rejected as the need for the project has not been sufficiently justified. Staff's initial brief, pp. 63-65. Consumers disagreed. Consumers' initial brief, pp. 226-228.

The ALJ agreed with the Staff. The ALJ found that Consumers did not support the need for this project, specifically finding that the statistics provided by the company on rebuttal about employee turnover did not make logical sense. PFD, p. 197; 5 Tr 1733.

Consumers asserts that the ALJ's recommendation should be rejected. Consumers contends that the Staff's position on employee turnover relative to need is not correct, as set forth in

company testimony. Consumers' exceptions, p. 135 (citing 5 Tr 1732-1733). Consumers also disagrees with the Staff on duplication of other compensation programs. Consumers' exceptions, pp. 135-136 (citing 5 Tr 1726). Moreover, Consumers asserts that the ALJ's analysis "misses the mark," as:

The point of the Company's statistics is that voluntary departures are high in the less tenured group of employees (under six years of employment) and very low in more tenured employees. The turnover in the less tenured employees is high enough to represent 76% of the Company's total turnover. 5 TR 1732. This does not suggest that the Company has a problem with non-voluntary turnovers and instead shows that Career and Reward Framework Project is needed to attract and retain talent.

Consumers' exceptions, p. 136.

The Commission agrees with the ALJ's recommendation to disallow the projected spending requested here for 2021. As stated by the Staff, "[t]he Company has a number of programs in place to address issues with attraction and retention of talent and is among the highest in terms of retention when compared to industry standard." Staff's initial brief, p. 65; *see*, 6 Tr 4186-4187. Given this, the Commission is not persuaded that ratepayers should take on these additional costs at this time.

e. Centralized Demand Response Management

Consumers included capital expenditures of \$1,293,000 in 2021 and \$135,000 in 2022 for a centralized demand response (DR) management project, to consolidate all DR event activities into one technical solution. 5 Tr 1607; Exhibit A-103, p. 134; Exhibit A-108, pp. 39, 54; Consumers' initial brief, pp. 220-221. The Staff raised timing and cost concerns, which Consumers rebutted. Staff's initial brief, pp. 65-67; 5 Tr 1576-1577; Consumers' initial brief, pp. 220-221.

The ALJ agreed with the Staff that it is premature to approve spending for this project in this case considering the company's existing centralized DR management system (DRMS) and the

assessment of the same discussed in the December 17 order, the results of which have not yet been shared with the Staff. The ALJ further noted that “when the company seeks funding rejected in its most recent rate case, it should explain the basis for its decision up front rather than waiting to see if the parties notice.” PFD, p. 199.

Consumers disagrees with the ALJ and argues that it did support its request for this project “up front” in direct testimony. Consumers’ exceptions, p. 137; 5 Tr 1607-1608. Consumers further reiterates its rebuttal in response to the Staff’s concerns and contends:

Although the [December 17] Order, page 122, required the Company to include the Centralized DR Management Project in the Company’s next IRP, the Company requests that the Commission not wait for the conclusion of the IRP to approve the proposed Centralized DR Management Project to support the Company’s continued pursuit and efficient use of DR. 5 TR 1577. The Commission should approve the project to allow the Company to gain efficiencies in implementing the appropriate blend of DR and avoid the need to hire additional employees to manage the various parts of the DR system and software. 5 TR 1576-1577.

Consumers’ exceptions, p. 138.

In reply, the Staff states that a quantitative comparison between hiring additional employees versus the cost of the project was never provided. The Staff further clarifies that it is only recommending the disallowance of cost recovery in this case but that the decision to upgrade or replace the DRMS is still within Consumers’ control. Continuing, the Staff states that it:

remains concerned that the Company’s existing DRMS was implemented in 2016 and cost nearly \$15 million. (Staff brief, p 65.) Given this previous, significant investment, the outcome of the Centralized Demand Response Management Assessment project should be of great interest to the Commission when making a decision to potentially allow recovery of an entirely new system versus an upgrade to the current system. Staff has addressed this concern several times, both in this case and in the previous electric case, [and] the Company has never addressed it. The ALJ was correct in her reasoning. This project’s expenditures should be disallowed from rate recovery until the results of the assessment are available.

Staff’s replies to exceptions, p. 19.

The Commission finds that the ALJ's recommendation is well-reasoned and should be adopted. The Commission further notes that it does have great interest in the outcome of the assessment and thus finds recovery of costs here premature absent those results being known.

f. Contact Center Communication Platform

The Staff recommended that capital costs of \$1,746,678 for this customer interaction tracking project be disallowed, along with associated O&M, given concerns over claimed benefits. 6 Tr 4097-4098; Exhibit A-108, p. 55, line 445; Exhibit S-7.3, pp. 17, 36; Exhibit S-7.4, p. 2. Consumers provided cost adjustments in rebuttal, which the Staff found to be insufficient. 4 Tr 431; Staff's initial brief, pp. 68-69.

The ALJ found that the Staff "has reasonably expressed skepticism regarding the cost savings associated with this project" and that the Staff's disallowance recommendation should be adopted. PFD, p. 201. The ALJ stated that "[t]he company did not provide quantification of the benefits of this project as part of its direct case, and did not adequately explain the link between the accumulation of additional customer information and reducing call resolution time." *Id.*

Disagreeing with the ALJ, Consumers argues that it fully explained the benefits of this project in its direct case. Consumers' exceptions, p. 139 (citing 4 Tr 335; Exhibit A-108, p. 55, line 445). Consumers further reiterates rebuttal testimony provided in response to the Staff's concerns over expected benefits, along with the company's concession in rebuttal. Consumers' exceptions, p. 139 (citing 4 Tr 431). Consumers requests that the Commission approve the remaining projected capital expenditures of \$1,331,370, along with associated O&M, "to deliver the primary value of the project of allowing CSRs [customer service representatives] to view details related to all of a customer's interactions with the Company, resulting in faster and higher quality customer assistance." Consumers' exceptions, p. 140 (citing 4 Tr 431).

The Staff replies that, while Consumers provided qualitative information on the benefits of this project, it did not provide quantifiable benefits, as addressed by the Staff on direct and as noted by the ALJ, for example with the company's arguments about the benefits of call quality and speed, which the Staff itself attempted to quantify. Staff's replies to exceptions, pp. 19-20 (citing PFD, p. 201; Consumers' exceptions, p. 139; Exhibit S-7.3, p. 17). The Staff further reiterates, as set forth in briefing, that Consumers has "not explained how a CSR knowing previous interactions a customer has had with the Company would improve *self-service* transactions," nor has the company quantified this benefit in any way. Staff's replies to exceptions, p. 20 (emphasis in original). The Staff argues that the additional information provided by the company in rebuttal does not address the Staff's concern about savings versus costs and, as such, costs for this project should be disallowed.

The Commission finds that the ALJ's recommendation is well-reasoned and should be adopted. At this point, without quantification of benefits, the Commission cannot confirm that this project is reasonable and prudent so as to justify cost recovery.

g. Core Human Capital Management Transformation

To update its current Core Human Capital Management (HCM) module, Consumers included capital expenditures of \$1,592,748, along with associated O&M, in the test year for this transformation project in this case. 5 Tr 1710; Exhibit A-108, p. 55. The Staff sought a partial disallowance associated with the project's ROM cost estimate. Staff's initial brief, pp. 70-71. The Attorney General, however, sought complete disallowance of the capital expenditures for lack of adequate justification, which Consumers rebutted. 6 Tr 2939-2940; Consumers' initial brief, pp. 224-226.

The ALJ recommended that the company's capital expenditure projections be included in this case, subject to the Staff's ROM adjustment, as "[n]o party has suggested that the total costs for this project are significantly in excess of the test year spending projection, which is not large and involves a critical company function, or that the company is not committed to this project." PFD, p. 202.

In exceptions, the Attorney General argues that the ALJ's excess cost rationale "is not only confusing but it is irrelevant in this situation since the Company has failed to justify the program." Attorney General's exceptions, p. 16. The Attorney General asserts that listing a few features does not equate to an expenditure being necessary or reasonable and prudent. Further, per the Attorney General, the ALJ's statement that the expenditure here is not large is a subjective claim that is not alone determinative of reasonableness and prudence. The Attorney General contends that "[e]ven assuming arguendo that a 'function is critical,' does not automatically imbue every proposed expenditure related to that function reasonable and prudent." *Id.*, p. 17. The Attorney General maintains that the Commission should reject the proposed capital expenditures for this project.

Consumers asserts that the Attorney General's exception and proposed reduction should be rejected. Reiterating its evidence in support of the project, including the project's value and scope, Consumers argues that the Attorney General is incorrect in claiming that the company did not adequately justify this project. Consumers' replies to exceptions, pp. 50-51 (citing 5 Tr 1710-1711, 1730; Exhibit A-168). Consumers further contends:

The Attorney General's criticisms for this project are unsubstantiated and based on a subjective belief that the Company's explanations contained "cliches, buzz words, and a hodge-podge of general statements." 6 TR 2939. It is of no evidentiary value if Attorney General witness Coppola finds a project description to be confusing or unclear. Attorney General witness Coppola was the only witness in this matter to oppose recovery of the cost associated with the Core HCM Transformation Project and is therefore apparently the only witness that had difficulty with the Company's project descriptions. The Attorney General did not provide any reasonable basis to

reject the Company's proposed spending. The Company's Core HCM Transformation Project was extensively supported in the record. It is completely reasonable for the Company to update the HCM Module, which went live approximately 13 years ago, with this proposed project.

Consumers' replies to exceptions, p. 51.

The Commission agrees with the ALJ's recommendation to allow cost recovery for this project, subject to the Staff's 20% ROM adjustment adopted above. The Commission finds that the company has adequately justified the need for this transformation project, which will be beneficial to both employees and customers. 5 Tr 1710-1711; Exhibit A-168.

h. Customer Self Service Mobile Application

To provide customers with self-service capabilities, Consumers included capital expenditures of \$1.59 million in the test year for this mobile application project. 4 Tr 330-333. The Staff recommended that capital expenditures of \$1,817,735 in 2020, \$4,449,850 in 2021, and \$1,590,132 in 2022 associated with this project be rejected. Staff's initial brief, pp. 71-76; Exhibit A-108, pp. 25, 39, 55, lines 251, 355, and 448. Due to need and benefit/cost concerns, the Attorney General also recommended that all capital expenditures related to the project be removed. Attorney General's initial brief, pp. 99-102. Consumers disagreed. Consumers' initial brief, pp. 228-231.

The ALJ found that Consumers had not supported the reasonableness and prudence of this project—that the company did not justify, nor even present an estimate of, the total costs of the project in its direct case. The ALJ stated:

As the Commission has recognized, there is no time in these 10-month rate cases for the parties to review cost data presented in rebuttal, and the company should understand that if its projected spending is part of a multi-year project, it needs to justify the whole project in its direct case. The matter is compounded when the company has provided information in discovery and subsequently disclaims that information. As shown in Exhibit AG-1.25, page 1, the company was clearly asked [to] provide total company cost for the project by year from inception to completion

and Ms. Griffin's response provided annual costs from 2020 through 2026 totaling approximately \$29.4 million. Her Exhibit A-170, moreover, appears to be documentation provided in Case No. U-20697, and includes the dashboard and website redesign projects the company withdrew in that case.

PFD, p. 206. Given the above, the ALJ recommended that the project costs be disallowed in this case, "while providing the company an opportunity to demonstrate the reasonableness and prudence of those costs in its next rate case, supported properly by the identification of all costs and a spending timeline, as well as a benefit cost analysis." *Id.*

Consumers disagrees and argues that the ALJ's recommendation, for this application that the company will launch in 2021, is not based on the reasonableness of the expenditures presented in this case (\$1.59 million in 2022) but rather on the assertion that the company did not justify the total costs of the project in its direct case, which Consumers disputes since total cost was provided on direct in the company's workpapers. Consumers' exceptions, pp. 140-141 (citing Exhibit S-7.4, p. 3). Consumers further clarifies that the correct total cost for the project is \$10,160,000, as set forth in Exhibit AG-1.68, and concludes:

The Company fully supported its requested expenditures providing both the need for the project as well as the reasonableness of the Company's projected costs. Additionally, the Company provided the total capital costs of the project, as well as potential ongoing costs for the project, for the parties' information. As this project provides benefits to customers, the Company requests that the Commission approve the Customer Self-Service Mobile Application's projected costs.

Consumers' exceptions, p. 141.

In reply, the Staff points out that this project was first introduced late in Case No. U-20697 and subsequently disallowed in the December 17 order. The Staff further argues that Consumers' plan to launch this application this year "should have no bearing on whether or not to allow recovery of these costs from ratepayers." Staff's replies to exceptions, p. 21. The Staff additionally highlights that Consumers:

further states in its exceptions that it projects \$1.59 million in capital expenditures in the test year to support the implementation of new features. (Consumers Exceptions, p 140.) While the test year capital expenditure may only be \$1.59 million, it is important to note that the Company is also requesting \$1.818 million in 2020 and \$4.450 million in 2021 in this case. (Exhibit A-108 (JDT-7).) Additionally, the total project cost the Company most recently supports in this case is \$10.106 million. Earlier in the case, it previously provided a total cost of \$29.4 million. (Consumers Exceptions, p 141.) Regardless of which projection is more accurate, it is misleading to rely on the test year request alone when presenting an argument in favor of the project.

Staff's replies to exceptions, p. 21. The Staff further contends that, although Consumers asserts that it provided the total cost of the project on direct, that amount then changed, and:

As the ALJ stated in the PFD, there is no time in a 10-month rate case for parties to review cost data presented in rebuttal testimony, and the Company should understand that if its projected spending is part of a multi-year project, it needs to justify the whole project in its direct case. (PFD p 206.) Staff wholeheartedly agrees.

Staff's replies to exceptions, pp. 21-22. Moreover, according to the Staff, the company's argument about presenting cost data ignores that the ALJ specifically noted Consumers' lack of justification in the company's reasoning for her disallowing this project. The Staff concludes that the ALJ was correct in her findings, that both the Staff and the Attorney General addressed several concerns with this project, and that this project should be disallowed in its entirety.

The Attorney General asserts that none of the points raised by Consumers in exceptions negate the ALJ's recommendation that the proposed expenditures be rejected in this case, with the opportunity for the company to provide a complete presentation in its next rate case. The Attorney General further asserts that the company's argument about \$1.59 million in the test year being the only cost at issue in this case is not well-taken. The Attorney General states:

While the Commission can only approve the test year amount in this case, that decision cannot and should not be made in a vacuum. Understanding and considering the full scope of the project – costs and benefits of the project is part of determining the reasonableness and prudence of the test year amount. If the project

is unreasonable or imprudent, it makes no sense to approve a portion of the amount in this case.

Attorney General's replies to exceptions, p. 63. The Attorney General additionally argues that the company's workpapers, which made their way into exhibits, are meaningless considering the shifting amounts provided by the company. The Attorney General also notes that, although she does not believe Consumers met its burden for this project or any expenditures to be approved, the ALJ threw Consumers "the proverbial bone" for this project in the company's next rate case. *Id.* The Attorney General further highlights that the company disclaimed cost information previously provided, as noted by the ALJ, and that the company failed to address in exceptions that its benefit/cost analysis for this project revealed a net economic loss for customers. Given this, the Attorney General contends that the Commission should adopt the ALJ's recommendation.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. With multi-year projects, total costs need to be explicitly identified on direct, pinpointing to documentation in support, and those total costs also need to be justified. As stated by the Attorney General, these types of decisions cannot be made in a vacuum (i.e., not with regard to test year expenditures alone).

i. Integrated Business Planning Forecast

Consumers included \$3,646,795 in capital expenditures for the test year, along with associated O&M, for this project (to improve the company's short-term and long-term financial planning processes, forecasting, resource planning, and operational and managerial reporting). 5 Tr 1712-1713; Exhibit A-108, p. 57, line 458. Given that the project is still in the conceptual phase, and due to a lack of proper justification, the Staff and the Attorney General recommended that the capital expenditures be disallowed. Staff's initial brief, pp. 76-78; Attorney General's initial brief, pp. 113-115. Consumers disagreed. Consumers' initial brief, pp. 233-235.

The ALJ agreed with the Staff and the Attorney General and found the project to be unjustified and premature for inclusion in this case. The ALJ stated that “Ms. Gaston’s rebuttal exhibit containing Mr. Tolonen’s workpapers does not add clarity to the company’s proposal; page 63 of Exhibit A-169 still presents a total cost of \$16.9 million, has unidentified savings, reports a benefit cost ratio of 0.109, and also indicates that the project will be executed in 2024.” PFD, p. 208.

Consumers disagrees with the ALJ, arguing that it provided extensive detail about the scope and benefits of the project and that testimony from the Staff and the Attorney General does not refute any of that evidence. Consumers further states that it provided a benefit/cost analysis and that the Staff’s testimony did not appropriately capture the project’s upfront cost. Per Consumers, “Ms. Gaston established that ‘[t]he total estimated cost of the project of \$16.931 million includes \$6.489 million of ongoing labor and licenses, permits and fees from 2024 through 2029’ and therefore, the total project costs are projected to be \$10.443 million.” Consumers’ exceptions, p. 144 (alteration in original) (citing 5 Tr 1729). Consumers additionally argues that costs here are based on a request for information (RFI), which is a form of competitive solicitation that allowed the company to fully consider different products and costs, demonstrating the reasonableness of the cost of the project. Based on the above, Consumers asserts that the project is not preliminary or uncertain, concluding that the evidence supports the need and benefit of the project and that the resulting costs are reasonable and should be approved.

In reply, the Staff argues that Consumers’ benefit/cost analysis information referenced in exceptions “is just two sets of numbers with no explanations.” Staff’s replies to exceptions, p. 22. Additionally, as to total cost of the project, the Staff asserts that, as already explained in its brief and as clearly addressed in the PFD, “whether the project is nearly \$17 million or \$10.5 million, the benefits the Company claims still pale in comparison. What the Company does not address is

Staff's concern that it can only quantify \$1 million in hard savings and \$0.6 million in soft savings. (Exhibit S-7.3, p 46.).” Staff's replies to exceptions, pp. 22-23. Per Staff, an RFP has not yet been issued for this project and the benefits versus costs are concerning; thus, the ALJ is correct, and the project should be disallowed.

The Attorney General argues that the ALJ properly weighed the evidence and that the Commission should adopt the ALJ's correct recommendation. In support, the Attorney General reiterates that:

many of the features of the proposed new system duplicate functions performed by the current planning and reporting system. The Company did not provide any supporting details to allow a review and determination of the validity of the anticipated cost savings. Identifying \$1.6 million of anticipated cost savings is not equivalent to performing a complete cost/benefit analysis. The Company stated that it has issued a request for information on available systems that could meet its requirements but does not expect to issue a request for proposal until 2022. It is evident that the project is still in the preliminary conceptual phase, and thus too premature to include in rate base in this rate case. Contrary to the Company's assertions in its exceptions, the RFI does not provide a basis for the cost estimate since the Company has not identified a specific system for implementation and therefore, it cannot know the actual cost of that system.

Attorney General's replies to exceptions, pp. 64-65 (footnote omitted) (citing Exhibit AG-1.30).

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. Even considering total project costs of \$10.443 million as opposed to \$16.931 million, the Commission is not convinced that cost recovery for this project is reasonable and prudent at this time.

j. Move In/Move Out Energy Efficiency

For lack of value compared to cost, the Staff recommended that the Commission disallow all capital expenditures associated with this project (\$671,746 in 2020 and \$142,750 in 2021). 6 Tr 4107-4108; Exhibit S-7.2, p. 2, line 83. In rebuttal, Consumers stated that the project is already

live, complete, beneficial, and successful, with customer enrollment of 12% for energy efficient programs as a result. 4 Tr 434-436; Consumers' initial brief, pp. 236-237.

The ALJ, considering "the magnitude of the expense and the fact that project is complete," found it reasonable for the capital expenditures to be included in rate base in this case. PFD, p. 209.

In exceptions, the Staff asserts that the ALJ erred by failing to address its opposition to Consumers' argument and evidence and that she failed to address the Staff's primary issue with the project relating to expected effectiveness. The Staff states:

In its direct testimony, Staff recommended this project be disallowed due to concerns regarding the value. Through audit, the Company stated that it estimated that 1.8% of customers performing MIMO [Move In Move Out] transactions via the web portal would enroll in Demand Response and that it expected "similar levels" for EWR [energy waste reduction]. (Exhibit S-7.3 p 28.) In the Company's rebuttal testimony, it argued that the project was completed in May and in the first 18 days of availability, 12% of users completing a transaction enrolled in at least one energy efficiency program. (4 TR 435.) Staff argued that 18 days' worth of data is not statistically significant, and therefore should not be relied upon to deem the program successful. (Staff's Initial Brief p. 82.)

Staff's exceptions, p. 3. The Staff also argues that the ALJ's reasoning is "problematic," as "[n]either [magnitude nor money spent] speak to the reasonableness nor prudence of the investment." *Id.* The Staff declares that:

reasonableness and prudence should not simply be presumed because the expenditures have been made. If anything, such a scenario would undermine the very purpose of undertaking a reasonableness and prudence review in the first place. This is the first case in which this project is being reviewed for prudence, despite the spend occurring in the bridge year. Any argument relying, in whole or in part, that the project has already been implemented should be given no weight when examining the reasonableness and prudence of that project. The record evidence shows that the Company expected 1.8% of customers to enroll in DR and EWR programs, when completing a MIMO transaction via the web portal. (6 TR 4108.) The Company then updated this projection to 66,000 enrollments in at least one project in the first year in its rebuttal testimony. (4 TR 435.) This projection is based off the first 18 days of project implementation. *Id.* Further, this new projection is not comparable to the original projection, which projected 1.8% in

each Demand Response and Energy Efficiency. Not knowing how many MIMO transactions the Company expects to be completed via the web portal in the first year, the updated projection of 66,000 in *either* DR or EWR is not sufficient for evaluation.

Staff's exceptions, pp. 3-4 (emphasis in original). Although the money has been spent, and although the ALJ may consider the amount here to be insignificant, the Staff asserts that its reasoning should prevail and that the company's expenditures for this project should be disallowed in this case.

Consumers asserts that the Commission should reject the Staff's recommendation and instead adopt the recommendation made by the ALJ. Consumers reiterates evidence in support of the project and argues that the Staff's contentions in exceptions are incorrect. Consumers' replies to exceptions, pp. 52-53 (citing 4 Tr 434-435; Exhibit A-108, p. 26; Staff's exceptions, pp. 3-4). Per Consumers:

The available data over the first 18 days of the program illustrates the early success of the project and provides additional evidence, along with the Company's description of the project and expected benefits, to support the reasonableness and prudence of the project. Staff also contends that the updated projection of 66,000 enrollments is not meaningful without knowing how many MIMO transactions are expected. Staff's Exceptions, page 4. Staff's contention is incorrect. As discussed, the evidence shows that 12% of all MIMO users enrolled in at least one energy efficiency program in the first 18 days of the program and that the 1.8% estimate has been exceeded. 4 TR 435-436. And the projected 66,000 enrollments are about 9% of the 713,000 MIMO transactions completed in 2020. See 2 TR 333.

Consumers' replies to exceptions, p. 53. Consumers asserts that the Commission should approve the reasonable and prudent costs for this project—a project which is currently completed and providing benefits to the company and its customers.

The Commission agrees that neither the magnitude of the cost of a project nor whether the money has been spent or project implemented provides a reason for approval. However, the Commission finds persuasive the benefits and success of the project reiterated by Consumers in its

replies to exceptions. The Commission thus adopts the ALJ's recommendation to allow the requested cost recovery for this project in this case.

k. Commercial and Industrial Account Management System

Consumers included \$6.61 million of capital expenditures in the test year, along with O&M costs, for this project (to enable additional features for C&I customers to manage their accounts online). 4 Tr 329; Exhibit A-108, p. 54, line 444. The Attorney General objected to the capital expenditures, arguing that the costs outweigh the benefits, that the project is targeted to less than 1% of total customer base, that the project is duplicative of another system already in place, and that the project is conceptual and premature for inclusion in this case. 6 Tr 2924-2925.

Consumers disagreed. 4 Tr 437-439; Consumers' initial brief, p. 223.

The ALJ found that, although the project "may be worthwhile," it is premature to include its costs in this case. PFD, p. 210. Per the ALJ, "[o]nce the company has a more definite project scope and cost, it should present justification to the Commission in its next rate case." *Id.*

Consumers disagrees with the ALJ's conclusion. Consumers states:

The C&I Online Account Management Project provides benefits to customers. In fact, the project is in direct response to customer feedback and resolves issues related to paying their utility bill. The Company has investigated stakeholders, benefits, alternatives, and additional support to ensure the direction chosen for the project is beneficial to customers. A. Griffin, 4 TR 438. Additionally, the Company is in the process of receiving information from industry experts as it prepares for a detailed design for implementation. Additionally, the root cause of the customer complaints and internal process deficiencies have been identified resulting from the existing collective billing solution and the Company has a base plan for remediation. *Id.* Moreover, the Company's workpapers, specifically WP-JDT-4, page 32, provides a business summary report that lays out the costs associated with the project as well as the project's development timeline.

Consumers' exceptions, pp. 145-146. Based on benefits and defined scope and cost, Consumers asserts that the Commission should approve these costs.

The Attorney General agrees with the ALJ that this request is premature but “excepts to note that the Company has not demonstrated a need for such a system given its existing alternative and therefore it does not appear to be worthwhile.” Attorney General’s exceptions, p. 18. The Attorney General further reiterates that the cost of the project is disproportionate to the benefit (to less than 1% of Consumers’ total customer base).

In replies to exceptions, the Attorney General emphasizes her concerns about timing and need set forth in exceptions and incorporates the same by reference. Attorney General’s replies to exceptions, p. 65.

Consumers disagrees with the Attorney General’s assertion about demonstrated need and worthwhileness in exceptions. Consumers reiterates testimony about the various sizes of business customers that the company serves, some with multiple locations that require several bills and multiple logins to the self-service portal, and the unworkableness of the current third-party portal to address issues that customers and employees are experiencing relative to collective billing. Consumers’ replies to exceptions, pp. 48-49 (citing 4 Tr 437). The company asserts that “[t]he new system streamlines this process.” Consumers’ replies to exceptions, p. 49. Consumers further asserts the project benefit to only C&I customers “does not undercut the reasonableness of undertaking this activity.” *Id.* Per Consumers:

The Company regularly implements programs and undertakes projects that provide value and benefits to different customer segments. To limit the Company to only undertake projects for certain customer groups is inherently unreasonable. Additionally, once fully implemented, more than C&I customers will be able to utilize the solution. A. Griffin, 4 TR 438. This would include small and medium business customers such as landlords and apartment owners. These customers often have to maintain multiple accounts during changes in occupancy or managing multiple business locations. *Id.* This program will directly address feedback that this specific issue is burdening the customers’ ability to pay their utility bills.

Consumers' replies to exceptions, p. 49. Given the above, Consumers asserts that the Commission should approve the company's projected costs for this project.

The Commission agrees with the ALJ that this project is premature for inclusion in this case. Although Consumers points to workpapers as additional support in exceptions, those workpapers are not a part of the record in this case for the Commission to review.

1. Asset Refresh Program – Workstation Asset Refresh

Consumers included capital expenditures of \$5,839,512 in 2021 and \$7,380,051 in 2022 for this project (to replace and install new desktops, laptops, and tablets on a four-year refresh cycle). 5 Tr 2157; Exhibit A-110, p. 9. The Attorney General took issue with the capital expenditures based on company spending for this program in 2019 and 2020, along with inconsistent implementation of the program over the years, and thus recommended a reduction of \$2,030,071 and \$3,494,421 for 2021 and 2022, respectively, to reflect average spending for 2019 and 2020, plus inflation. Attorney General's initial brief, pp. 106-109. Consumers disagreed. Consumers' initial brief, pp. 238-239.

The ALJ agreed with the Attorney General and recommended that the Attorney General's reduction be adopted. The ALJ stated:

While Mr. Tolonen provided information on the proper replacement life for pcs [personal computers] and field devices, [the ALJ] notes that among the variation in expenses shown on page 9 of Exhibit A-110 is a variation attributable to monitors, as Mr. Coppola testified. The company plans to purchase approximately 11,000 24" monitors in 2021 and 2022, while it purchased less than 1,000 total in 2019 and 2020. The chart at 5 Tr 2213 in Mr. Tolonen's testimony does not establish that a 4-year refresh cycle is appropriate for monitors. The Commission should expect the company to include all types of assets included in its workstation refresh spending in justifying the 4-year refresh cycle for them in future cases.

PFD, p. 211 (footnote omitted) (citing 6 Tr 2935-2936).

Consumers asserts that the ALJ's focus on monitor costs to justify a \$5.5 million reduction is "perplexing," as monitor costs for 2021 and 2022 are only approximately \$2 million (electric allocation) and because the company did not indicate that the four-year refresh applies to monitors. Consumers' exceptions, p. 146 (citing Exhibit A-110, p. 9, columns (g) and (h)). Consumers argues that it:

fully supported the use of a four-year cycle for replacement of desktops, laptops, and tablets in this proceeding. Company witness Tolonen testified that the Company closely tracks incidents related to its assets, and the data shows that as workstations age, there are increased numbers of problems with the assets. 5 TR 2212. For example, at the time the graph at 5 TR 2213 was generated, the Company had a total of 11,585 devices in this asset class, with 2,113 of these at or beyond the four-year mark. More than half of the assets at or beyond the four-year mark had incidents that needed to be resolved. 5 TR 2212. The Company has also referred to the Michigan Department of Technology, Management & Budget's IT Lifecycle report which recommends a four-year refresh cycle for this asset class. 5 TR 2213. If extended beyond the four-year cycle, the incident counts would be expected to continue or increase, which results in lost productivity. 5 TR 2212-2213.

Consumers' exceptions, p. 147. Consumers further asserts that its planned replacement of monitors is consistent with its plans to replace assets before they cause widespread work disruptions and that the ALJ's recommendation to base projected spending here on historical average does not account for the company's planned replacements in 2021 and 2022. Per Consumers, these costs may not, and are not required to, be consistent from year-to-year and can instead vary, depending on historical data, business conditions, and industry recommendations. Consumers concludes:

The [ALJ]'s recommended cost projection based on 2019 and 2020 average spending is less accurate than the Company's projections that are based on actual plans to replace assets under an asset refresh cycle that was carefully developed by the Company's experts using historical data and industry recommendations. The [ALJ]'s concerns about monitor replacements are not warranted – monitors are also being replaced pursuant to the Company's detailed and analytical replacement approach. But even if the [ALJ]'s monitor concerns were warranted, they do not support a \$5.5 million reduction in projected costs when the total projected spend

on monitors for 2021 and 2022 is only \$2 million. The Company requests that the Commission approve its projected expenditures that are reasonably based on expected replacement amounts.

Id., p. 148.

In reply, the Attorney General argues that it is incorrect to assert that the ALJ's entire decision here was based on the refresh cycle for monitors. The Attorney General states that the ALJ discussed the Attorney General's general concerns, cited to testimony provided on the Attorney General's behalf, and then based her recommendation, which the Commission should adopt, on the totality of this analysis and testimony. Attorney General's replies to exceptions, pp. 66-68 (citing PFD, p. 210 and n. 503; 6 Tr 2933). The Attorney General argues:

Contrary to the Company's assertion, it did not fully support the use of a four-year cycle for replacement of equipment in this proceeding. As the Attorney General pointed out in her Initial Brief, the Company used an industry chart of unknown origin to support its claim that the number of hardware incidents increase with time. The numbers shown are open to interpretation because they are not correlated to any population of devices. The incremental percentage of problems or failures could be insignificant between a 4-year replacement cycle and a longer 6-year replacement cycle. The Company has not provided any useful information to support its practice that a 4-year replacement cycle is necessary. Further, the Company has not consistently followed its own replacement/refresh cycle. It was due to the Company's inconsistent implementation of this program over the years, that the Attorney General recommended that a reasonable forecast for the ARP-Workstation program for 2021 and 2022 should be based on the average spending for 2019 and 2020 of \$3,734,746. To determine the forecasted capital expenditures for 2021 and 2022, [Mr. Coppola] then applied a 2% inflation factor to the base amount. Therefore, for 2021, [Mr. Coppola] calculated forecasted capital expenditures of \$3,809,441 and for 2022 capital expenditures of \$3,885,630.

Attorney General's replies to exceptions, pp. 67-68 (footnotes omitted) (citing Consumers' exceptions, p. 147; Attorney General's initial brief, pp. 106-109; Exhibit AG-1.27; 6 Tr 2934-2936; Exhibit A-110, p. 9, line 72).

The Commission agrees with the ALJ's recommendation to adopt the Attorney General's reduction for 2021 and 2022. Based on the evidence provided and lack of analysis to support the

refresh cycle, the Commission is not convinced that the company's proposed expenditures are reasonable and prudent.

m. Digital Hybrid Cloud and Data Center Migration

To transition applications and data to the cloud, Consumers included \$3,213,366 in capital expenditures for the projected test year, along with O&M cost, for this project. 5 Tr 2187; Exhibit A-108, p. 50, line 420. Due to a lack of information provided by the company to validate its benefit/cost calculation, the Attorney General recommended that the capital expenditures be disallowed. 6 Tr 2937-2938. Consumers disagreed. Consumers' initial brief, pp. 240-241.

The ALJ found that Consumers' documentary evidence, set forth in Exhibit A-183, did not support the project. The ALJ stated:

While there appears to be some calculations of costs and savings, the document reports a "benefit/cost" ratio of 0.226, and there is no information whatsoever regarding the basis for any of the savings calculations, in terms of what costs will be saved or how the savings are quantified. Exhibit A-183 does show a total cost for the project of \$75 million and a "go live" date of 2024. The discovery question in Exhibit AG-1.28 also asked for "supporting data showing the project is economically justified," and as Mr. Coppola testified, none was provided. Since the project has not been economically justified, [the ALJ] finds that the costs should not be included in rate base.

PFD, pp. 212-213.

Consumers disagrees and states that the ALJ did not question the benefits of the project but rather the cost savings, which the company provided in workpapers showing a positive benefit/cost ratio. Consumers' exceptions, p. 150 (citing 5 Tr 2215; Exhibit A-183, p. 1). Consumers reiterates that it provided cost projections in 2023, 2024, and ongoing, which the company expects will be entirely offset by a reduction in costs. Consumers' exceptions, p. 150 (citing Exhibit A-183, p. 2). The company also clarifies that the \$75 million identified by the ALJ in Exhibit A-183 is total company costs through 2029 and that the same exhibit also shows total company

savings over the same period of approximately \$84 million. Consumers further repeats testimony about cloud services enabling the company to replace substantially fewer on-premise assets through the Asset Refresh Program (ARP) – Server and Storage Project, resulting in cost reductions in that area which will need to be adjusted if this Digital – Hybrid Cloud and Data Center Migration Project is rejected. Consumers’ exceptions, p. 151 (citing 5 Tr 2152). With that, Consumers concludes that it:

fully supported the need for the Digital Hybrid Cloud and Data Center Migration Project and the reasonableness of the Company’s projected costs. The Company provided competent and material evidence identifying the several benefits of the project, projected capital expenditures and O&M expenses, expected O&M reductions, and projected ongoing costs. See 5 TR 2187, 2215; Exhibit A-183 (JDT-12). The [ALJ] did not identify any evidence to the contrary suggesting that the Company’s projected benefits will not be realized. The Company requests that the Commission approve the projected costs to realize the benefits of the project.

Consumers’ exceptions, pp. 151-152.

In reply, the Attorney General contends that, while Consumers listed purported savings and described the scope of the project, the company “did not demonstrate that proposed scope was necessary to achieve all of the purported benefits.” Attorney General’s replies to exceptions, p. 68. The Attorney General further contends that a focus on cost in relation to benefits is appropriate, as this project is purportedly a cost-saving project, and, without savings compared to current operations, there is no reason to migrate to cloud computing. Moreover, as set forth by the Attorney General:

when asked to provide a copy of the net present value cost/benefit analysis in Excel with formulas intact and supporting data showing the project is economically justified, the Company provided a cost/benefit ratio of .18 (it has subsequently provided a ratio of .226) and that the ratio was calculated by it[s] Business Planning System using a formula, but none of the inputs for the formula was provided and the Company claims that it was not available in Excel with formulas.

Now the Company claims in its exceptions that there is information imbedded in its workpapers which was the basis for a positive cost/benefit ratio. However, it does

not appear that the Company included that information in its presentation of the case.

Id., p. 69 (footnote omitted) (citing Exhibit AG-1.28). The Attorney General states that the ALJ reviewed the record, including Exhibit A-183, and found that the company's evidence did not support the project; thus, the Commission should adopt the ALJ's findings.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. Absent details supporting the company's benefit/cost ratio for this project, the Commission is not convinced that cost recovery for this purported cost-savings project is reasonable and prudent at this time. Further, although Consumers indicated that a disallowance here would require costs for the company's ARP – Server and Storage Project to be adjusted, the Commission finds that the figures provided are just blanket numbers without any substantiation. Consumers' exceptions, p. 151; 5 Tr 2152.

n. Business Planning Optimization

Consumers included \$351,600 in capital expenditures for this project in the test year, along with associated O&M. 5 Tr 1709. The Attorney General recommended that the capital expenditures be rejected, since the problem that the project seeks to fix was the result of Consumers' own doing when it built and configured the SAP system. 6 Tr 2938-2939. Consumers disagreed. 5 Tr 1731-1732; Consumers' initial brief, pp. 241-243.

The ALJ found nothing in the record showing that Consumers is responsible for the problem it is seeking to fix with this project. The ALJ accepted the company's testimony and found that the projected capital expenditures should be included in rate base. PFD, pp. 213-214.

The Attorney General disagrees with the ALJ and argues that:

The Company chose the SAP system and was aware of its configuration. It clearly failed to vet the program to understand how it would function. Customers have

already paid for the cost to implement the SAP system and should not pay again to fix problems caused by the Company's lack of due diligence.

Attorney General's exceptions, p. 23. The Attorney General thus recommends that the Commission adopt her adjustments related to this program.

Consumers asserts that the Attorney General's exception should be rejected. The company reiterates testimony in support of the project, including the project's value and scope, and argues that, contrary to the Attorney General's contentions in exceptions, the record in this case shows that this project is not the result of any problems caused by the company. Consumers' replies to exceptions, pp. 54-55 (citing 5 Tr 1709-1710; Attorney General's exceptions, p. 23). Per

Consumers:

Company witness Gaston explained that, "[i]n any business, there are general improvements to processes which occur over time and those improvements are not necessarily the result of any errors" and the Business Planning Optimization Project is part of the general process of business improvement. 5 TR 1732. Furthermore, the Attorney General fails to establish any errors created by the Company's implementation of SAP or that solutions, like the Business Planning Optimization Project, were available at the time the Company implemented SAP. Company witness Gaston established that the current SAP cost structure was developed based on the requirements at the time and those requirements have evolved over time. 5 TR 1731. This project will provide additional value beyond the current system.

In inappropriately focusing on alleged problems caused by the Company, the Attorney General also failed to establish that the Business Planning Optimization Project is not necessary or a reasonable project to pursue. The record reflects that the Business Planning Optimization Project is necessary to enhance management and reporting of SAP financial data leading to improved business planning and forecasting. 5 TR 1731. It was not disputed in the record that the Company's current SAP cost structuring is very complex when compared to peers that have upgraded and made improvements since their SAP implementation in line with SAP upgrades that brought improvements to their system capabilities. 5 TR 1731. Company witness Gaston further made clear that this project will standardize the Company's use of SAP as it pertains to allocations, reduce complexities, and enable improved management of data capabilities and reporting through standardized and interconnected business planning, forecasting and actuals.

Consumers' replies to exceptions, pp. 55-56. Consumers asserts that this project is reasonable to pursue, that the Attorney General has failed to provide a valid basis for rejection of related costs, and that the Attorney General's exception and position should thus be rejected.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. The Commission is persuaded that this project "is not the result of any 'problems caused by the Company'" but rather "part of the general process of business improvement." 5 Tr 1732.

o. Streetlight Outage Tracking Application

Consumers included capital expenditures for this project in this case, to simplify and make more efficient the reporting and restoration of streetlight outages from both a customer and company perspective. 5 Tr 1746-1751. The Attorney General took issue with the need for the project and recommended that associated 2021 costs be removed. 6 Tr 2861-2862; Exhibit AG-1.4, p. 1; Attorney General's initial brief, pp. 34-35. Consumers disagreed, clarifying capital expenditures associated with the project (of \$803,362 for 2020 and \$955,800 projected for 2021) on rebuttal and reiterating actual benefits of the project, which was completed and launched during the case and is available directly on the company's primary website. 5 Tr 1781, 2218; Corrected Exhibit A-108, p. 27, line 271, and p. 43, line 370; Consumers' initial brief, pp. 243-244.

Considering significant concerns in evidence about the length of streetlight outages and the fact that the application is already operational, the ALJ found that costs included in this case should remain. PFD, p. 216; 5 Tr 1750, 1781. The ALJ, however, further found that "the

company has not attempted to justify the total \$4.9 million [sic: \$3.9 million¹⁷] cost of this project, including significant cost overruns compared to the projection included in rates, and should not presume those cost overruns may be added to rate base without a demonstrated showing that the total cost is reasonable.” PFD, p. 216.

No exceptions were filed on this issue.

The Commission agrees with the ALJ’s inclusion of capital costs for this project (of \$580,000 in actuals for 2020 and \$955,800 projected for 2021) in this case. PFD, pp. 215-216; Exhibited AG-1.4, p. 1; Corrected Exhibit A-108, p. 43, line 370. The Commission, however, emphasizes that any amount above \$1,535,800 for this project, if any, is not authorized for cost recovery in this case, nor absent a demonstrated showing of reasonableness and prudence by the company in a subsequent rate case.

5. Residential Storage

As set forth in Exhibit A-12, Schedule B-5, line 4, Consumers included \$3.2 million in capital expenditures for residential storage, detailed further in Exhibit A-12, Schedule B-5.4 (indicating that the projected costs in this cost category are for a home battery pilot in this case).

The ALJ noted that Consumers is seeking deferred accounting authority for this request and, although not recommending that the home battery pilot be approved at this time, did find deferred accounting appropriate for any program costs that are approved in this case. PFD, p. 216. The ALJ also stated that pilot projects are discussed later in her PFD. *See*, PFD, pp. 431-464.

¹⁷ Based on discussion in the PFD immediately prior to this statement and the ALJ’s reference to Exhibit AG-1.4 for total projected costs, the Commission believes the ALJ intended for total cost here to also reflect \$3.9 million as opposed to \$4.9 million. *See*, PFD, p. 215; Exhibit AG-1.4, p. 1 (indicating electric capital expenditures of \$0.58 million in 2020 and \$3.33 million in 2021).

Considering the above, the decision on the company's home battery pilot in Section B.4. of Part VIII below, and that no exceptions were filed on this, the Commission finds that no further discussion is needed here.

6. Operations Support

Consumers included \$58.177 million in capital expenditures for operations support in the two-year bridge year (2020 and 2021) and \$83.705 million for the test year in this case. Exhibit A-12, Schedule B-5, line 5; Exhibit A-12, Schedule B-5.5. Disputed items in this cost category are discussed below.

a. Unified Control Center

Consumers included projected capital expenditures of \$840,000 in 2021 and approximately \$24 million in 2022 for its proposed unified control center (UCC) project (to bring major electric system and electric supply groups together and incorporate emergency operations into a coordinated center). 5 Tr 1822-1831; Exhibit A-19, line 13; Exhibit A-20. The Staff, the Attorney General, and ABATE objected to the inclusion of costs for this premature project in this case. 6 Tr 2906-2909, 3539, 3982-3984. Consumers disagreed. 5 Tr 1835-1837; Consumers' initial brief, pp. 167-168, 181-185.

The ALJ agreed with the Staff, the Attorney General, and ABATE and found that Consumers has "not demonstrated a sufficiently concrete plan for the funding [of] its requests." PFD, p. 219. The ALJ thus recommended that the project's costs not be included in rate base in this case.¹⁸

In exceptions, Consumers requests that the Commission approve this funding to allow the company "to move forward with the project to support a modernized electric grid and reduced

¹⁸ The ALJ also noted the rejection of expenses for this same project in the December 17 order. PFD, p. 217.

risks for service disruptions.” Consumers’ exceptions, p. 154. Consumers points to Exhibit A-20 wherein the projected timeline and associated costs of the entire project are set forth, with completion of the project in 2024, and states that costs in 2021 are “to fund the purchase of land and finalize the scope of the UCC Project.” *Id.* (citing 5 Tr 1835). Consumers also recalls testimony describing the expected benefits of the project and states that the costs in 2022 “will support the proposed project milestone timeline and finalize all aspects of the scope, plan, and associated benefits.” Consumers’ exceptions, p. 155 (citing 5 Tr 1837). Consumers continues:

The [ALJ] pointed to the Attorney General’s contention that the current several locations result in less risk. PFD, page 219. The Company’s current control rooms are not hardened facilities. The Company’s proposed centralized control room operation, designed and constructed as a hardened facility, will better allow for continued operation without interruption during events such as catastrophic weather and external physical or technological threats. 5 TR 1837. The hardened facility includes a site selected to minimize potential impacts from nearby events, secured access, reinforced structural system, a design to withstand increased wind loads due to severe weather events, dual independent electric utility feeds, emergency backup power generating equipment, uninterruptible power supply systems, redundant HVAC [heating, ventilation, and air conditioning] systems, and dual independent fiber optic service lines. Exhibit AG-1.15, page 1.

The [ALJ] also cited Staff’s concern that the Company had not finalized the allocation between gas and election [sic]. PFD, page 219. The Company’s consideration of including gas functions as part of the UCC does not support the exclusion of the electric-only expenditures provided in this proceeding. The Company’s plans for the UCC are “sufficiently concrete” to approve the cost projections in this case. The Company provided a timeline for completion of the UCC Project, the proposed updated facilities and equipment and combination of functions included as part of the project, and the significant benefits expected to be achieved as a result of the project.

Consumers’ exceptions, pp. 155-156.

In reply, ABATE argues that, because Consumers did not provide any additional information to demonstrate that this project will occur during the relevant period for this case, the Commission should adopt the ALJ’s recommendation. ABATE states:

As explained by Consumers, major construction is not planned to occur until beyond the test year in this case and the Company has not identified a location for the project. (ABATE Initial Br at 39-40 (citation omitted).) Furthermore, the Company must still purchase the land and finalize the scope of the project. (*Id.*; ABATE Reply Br at 20 (citation omitted).) A cost benefit analysis and quantification of savings were also not provided. (*Id.*)

ABATE's replies to exceptions, p. 7. ABATE thus asserts that cost recovery here would be unreasonable and imprudent at this time.

The Attorney General maintains that this project is still too premature, highlighting that, while Consumers requests funding to move forward with this project, the company admits that it has not finalized the project's scope. Attorney General's replies to exceptions, p. 70 (citing Consumers' exceptions, p. 154). The Attorney General further asserts that the company's hardened facilities argument in support of this project "ignores that fact that it is unlikely that all of the current locations would be impacted at the same time." Attorney General's replies to exceptions, p. 71. Given this, and the reasons set forth in her initial brief, the Attorney General recommends that the Commission approve the ALJ's conclusions.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. As argued by the Staff, the Attorney General, and ABATE, the Commission finds that more definitiveness is necessary to approve cost recovery for this project.

b. New Service Centers

For new service centers in Lansing, Hastings, and Kalamazoo, Consumers included projected capital expenditures of \$3.83 million in 2021 and approximately \$35 million in 2022. Exhibit A-19, lines 14, 15, 17; Exhibits A-22 through A-28. The Attorney General objected to the costs raising timing and need concerns. Attorney General's initial brief, pp. 72-75. Consumers disagreed. 5 Tr 1253-1254; Consumers' initial brief, pp. 157-167.

While noting that, per Exhibit A-27, all three service centers will cost approximately \$127 million in total, 54% of which will be allocated to electric operations, and although “the timeline for this project has slipped since the last rate case,”¹⁹ the ALJ found it reasonable to include the projected costs in rate in base in this case. PFD, p. 221. The ALJ stated that, “[w]hile the construction will not be completed until 2023, Consumers Energy has a detailed justification for the project and detailed plans that together are among the most thorough of any presented in this case.” *Id.*

The Attorney General disagrees with the ALJ’s conclusion. The Attorney General argues that Consumers has not demonstrated that these new service centers are necessary, as opposed to the continued use of the old service centers, and as noted in the December 17 order, “the projects are in the early design phase and less than a year later with completion not expected now until 2023, that is still the case.” Attorney General’s exceptions, p. 24; December 17 order, p. 101. Further, per the Attorney General, “the [ALJ]’s observation that the justification provided by the Company for these projects ‘are among the most thorough of any presented in the case,’ is more an indictment of the Company’s failure to support its requests on the record, than a ringing endorsement for this category of expenditures.” Attorney General’s exceptions, p. 24 (quoting PFD, p. 221). The Attorney General thus recommends that the Commission not approve these expenditures in this case.

Consumers asserts, for reasons set forth here and in briefing, that the Commission should reject the Attorney General’s recommendation and adopt the ALJ’s recommendation to approve these expenditures. Consumers’ replies to exceptions, p. 32 (citing Consumers’ initial brief,

¹⁹ The ALJ earlier noted that the proposed funding for these service centers was rejected in Case No. U-20697. PFD, p. 220 (citing December 17 order, p. 101).

pp. 160-167, 173-176; Consumers' reply brief, pp. 76-78). With that, Consumers recalls testimony about delays as a result of the COVID-19 pandemic that the company is committed to now addressing and repeats that the proposed costs are appropriate and necessary to progress these projects, especially for reasons concerning aging infrastructure and safety and environmental concerns. Consumers' replies to exceptions, pp. 32-33 (citing 5 Tr 1252, 1254). Per Consumers, "[s]imply claiming that the centers are in an early design phase, and premature, in an attempt to disallow such expenditures, is unreasonable and should not be adopted by the Commission." Consumers' replies to exceptions, p. 33. Specifically addressing need, Consumers further reiterates:

Based on a formal assessment that determines the need for capital investments in the Company's facilities, the Lansing, Hastings, and Kalamazoo service centers scored in the "poor" category, meaning that multiple systems are failing at the facilities and are deemed below a minimum acceptable level and targeted for replacement. See 5 TR 1218-1237; Exhibits A-22 (SJB-6), A-23 (SJB-7), A-24 (SJB-8), A-25 (SJB-9), A-26 (SJB-10), A-28 (SJB-11), A-27 (SJB-11). Further, the Company's investment in the new service centers will benefit customers by lowering operational costs and, in some instances, provide better response times to customers, and will be [in] a more compatible location which is properly zoned for industrial use, thereby minimizing safety concerns for local neighborhoods. The Company's investments will also benefit Company employees' health due to the safety and environmental concerns present, in particular with regard to asbestos.

Consumers' replies to exceptions, p. 33. According to Consumers, these expenditures are reasonable, are to the benefit of customers and employees, and are supported by detailed plans that will occur during the bridge and test years in this case.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. Based on the evidence provided by the company, the Commission finds that these costs are reasonable and prudent.

c. Return to Work Facilities Upgrades

Consumers included projected capital expenditures of \$4.025 million in 2021 and \$5.677 million in 2022 for the company's return to facilities project. 5 Tr 1243-1246; Exhibit A-19, line 20. The Attorney General objected, asserting that there is a lack of sufficient information to adequately justify the need for such capital expenditures in this case. 6 Tr 2909-2911; Attorney General's initial brief, pp. 81-83.

Although the ALJ recommended that the capital expenditures be approved, she acknowledged that:

the company's plans are not as well-defined as desirable, as shown in Exhibit AG-1.16, but the pandemic has required significant changes to work processes and the future course of the pandemic is still unknown. Clearly there are new safety regulations governing employee workplace safety, which the Attorney General does not dispute, although questioning what the details are and whether those requirements will remain in place for much longer. Given the relatively small projected expense and the urgency to ensuring workplace safety in the midst of a pandemic, this PFD concludes the projected expenditures are not unreasonable, but recommends the Commission require the company to report on the specific improvements addressed by its expenditures.

PFD, p. 223.

Although agreeing with the ALJ that the Commission should approve these expenditures, Consumers disagrees with the ALJ's recommendation for additional reporting, given testimony provided about the specific improvements that would result from approval to provide company employees with a safe and productive work environment. Consumers' exceptions, pp. 156-157 (citing 5 Tr 1244-1245, 1256-1258). In the alternative to a formal report specific just to this project, Consumers recommends that the Commission "approve the proposed Return to Facilities Project expenditures with the expectation that if Staff requests an update to the project that Consumers Energy will provide an overview of the project's progress, spend, and improvements through an informal meeting or discussion." Consumers' exceptions, p. 157.

The Attorney General disagrees with the ALJ and argues that a pandemic is not justification to simply give the company money. The Attorney General asserts that, even if needed, Consumers has not fully explained or quantified the workplace adjustments that the company needs to make.

Per the Attorney General:

The pandemic had been in existence about a year before the Company filed this case, so it has been inevitable for a while that there would be a return to work, yet the Company could only report hiring architectural and engineering consultants in that time. It is not clear how the Company determined \$9.7 million would be needed, since it does not know what will be done.

Attorney General's exceptions, p. 26. Contrary to the ALJ's statements, the Attorney General argues that Consumers' plans are not defined at all (other than general statements) and further argues that \$9.7 million is not a relatively small projected expenditure nor a basis for determining that a capital expenditure is reasonable. The Attorney General contends:

Given the uncertainty of what will be done and the cost to do it, the Company should be required to develop and provide more supportable cost projections for this project before the Commission authorizes any recovery. It can always seek recovery of any expenditures in [sic] expends in future rate cases. But, recommending that the Commission approve the Company's speculative projections and essentially allowing the Company to justify the expenditures after the fact is not reasonable or fair to ratepayers, who have also had to struggle through the pandemic.

Id., pp. 26-27. The Attorney General thus maintains that the Commission should not approve the company's cost projections here.

For reasons already provided and reiterated, Consumers contends that the Commission should reject the Attorney General's claims and adopt the ALJ's recommendation to approve these expenditures. Consumers' replies to exceptions, p. 34 (citing Consumers' initial brief, pp. 171-173, 178-180). In support, Consumers recaps testimony explaining how the proposed capital expenditures would be used, specifically mentioning, *inter alia*, investments to improve

indoor air quality and to address social distancing. Consumers' replies to exceptions, pp. 34-35 (citing 5 Tr 1244-1245, 1257). Per Consumers:

The modifications planned as part of the Return to Facilities Project are necessary to address the persisting pandemic; the possibility that the pandemic and any variances could cause future restrictions; the need to modernize the workforce for future, related impacts that allow for continued operations in a safe environment with proper social distancing; and the new normal of accommodating both essential and remote work.

Consumers' replies to exceptions, p. 35. Furthermore, according to Consumers:

it is inappropriate for the Attorney General to support its proposed rejection based solely on the claim that the Company "can always seek recovery of any expenditures it expends in future rate cases." Attorney General's Exceptions, pages 26-27. In making this claim, the Attorney General is essentially calling for the Commission to rely on historical spending, as opposed to projected expenditures, to approve the Company's Return to Facilities Project costs. The Attorney General's recommendation should be rejected as it is contrary to the policy decision of Michigan's Legislature, reflected in MCL 460.6a(1), that established the appropriateness and value of future test years. As the Commission discussed in its November 2, 2009 Order in Case No. U-15645, the Commission considers the support provided and underlying assumptions for test year projections, along with support for competing projections, and ordinarily does not rely on historical data in determining the reasonableness of the projections.

Consumers' replies to exceptions, pp. 35-36. Consumers asserts its expenditures here are fully supported by the record and thus reasonable and should be approved.

The Commission finds that Consumers' evidence lacks the specificity needed to justify the requested projected expenditures for this project at this time and does not approve the costs as presented by the company. The Commission recognizes the continued disruption and risk of the COVID-19 pandemic to the company's workforce, and in this regard, notes the deferral of COVID-19 pandemic-related costs authorized by the July 23, 2020 order in Case No. U-20757 and also emphasizes the expectation for Consumers to provide more granular justification when requesting cost recovery for these costs in its next general electric rate case.

d. Marshall Training Center

Consumers included \$3.125 million in capital expenditures in the test year for its proposed training center in Marshall. 5 Tr 1238-1243; Exhibit A-19, line 21. The Attorney General objected to the cost, based on concerns regarding lack of explanation or justification and also timing. 6 Tr 2903-2905; Attorney General’s initial brief, pp. 75-77. Consumers disagreed. 5 Tr 1254-1256; Consumers’ initial brief, pp. 168-171, 177-178.

The ALJ did not find the training center to be unreasonable but did find that, “based on a review of Exhibit AG-1.14, it appears that the project has not yet been designed, and assuming the design work is completed on time, bidding will not take place until 2022, and occupancy will not occur until the beginning of. [sic] 2023.” PFD, p. 224. The ALJ thus found the project to be premature for inclusion in rate base and recommended that the associated capital expenditures be disallowed in this case. *Id.*, Appendix E.

Consumers argues that the ALJ is incorrect in her description of the project being preliminary and premature. Consumers states that, as set forth in Exhibit AG-1.14, “the project’s programming and design phases are scheduled to occur in the bridge year; whereas the project’s bidding, construction, equipment, and IT/Security investments are scheduled to occur in the test year, thereby allowing for occupancy in the year 2023.” Consumers’ exceptions, p. 158. Given this, and extensive testimony describing the reasonableness and benefits of this project, Consumers asserts that “the proposed project, as sufficiently supported in the record, should be deemed reasonable for recovery in this case and should not be considered ‘premature’ or ‘preliminary.’” *Id.*, pp. 158-159 (citing 5 Tr 1238-1243, 1254-1256). Consumers further asserts:

As previously discussed in these Exceptions, the Commission recognized that MCL 460.6a(1) provided a shift in the regulatory ratemaking paradigm – changing from the use of historical, known, and measurable costs, with known and measurable adjustments, to forward-looking, projected costs. [Commission] Case

No. U-15645, November 2, 2009 Order. In Case No. U-15645, the Commission stated that its “expectation is that the parties will fully document the basis for their test year projections by offering into evidence detailed supporting explanations and underlying assumptions rooted in expected business, financial, and economic circumstances.” [Commission] Case No. U-15645, November 2, 2009 Order, page 9. Further, the Commission provided that “[w]hen necessary, parties should provide competing projections, with a similar basis of support.” *Id.* As such, the Commission considers the support provided and underlying assumptions for test year projections, along with support for competing projections.

The Company’s proposed expenditures for the Marshall Training Center Project involve expenses projected during the bridge and test years of this proceeding. The proposed expenditures are supported by extensive, detailed testimony of Company witness Bartholomew to show the “underlying assumptions rooted in expected business, financial, and economic circumstances.” See 5 TR 1238-1243; 5 TR 1254-1256. Further, no party in this proceeding provided “competing projections, with a similar basis of support.” Only the Attorney General disputed the Company’s proposal; yet the Attorney General’s only support for why the proposal should be rejected by the Commission was because it was generally “premature” and lacked explanation as to why the facility was needed. Company witness Bartholomew fully addressed the Attorney General’s concerns in rebuttal. See Consumers Energy’s Initial Brief, pages 177 and 178. Therefore, the Attorney General’s position should be dismissed by the Commission.

Consumers’ exceptions, pp. 159-160. Consumers additionally highlights that the ALJ did not find the training center to be unreasonable and concludes that, consistent with MCL 460.6a(1) and Case No. U-15645, the Commission should approve the project, finding that the phases of the project, and associated expenditures, that are scheduled to occur in the bridge and test years of this case are reasonable and supported.

The Attorney General agrees that this project is still in the preliminary stage, and thus premature for cost inclusion in this case, but excepts to note her belief that “the training center as described is unneeded and therefore it would be unreasonable to include any costs for the project in rate base.” Attorney General’s exceptions, p. 27. The Attorney General states that “the Company has not explained why such training could not occur at an existing location” nor “claimed that its current workforce is untrained without the facility.” *Id.* (citing 6 Tr 2904).

The Attorney General, in replies to exceptions, disagrees that the project is sufficiently supported on the record. The Attorney General states:

First, the information provided by the Company shows that the [sic] it has not yet performed any programming and design of the facility and does not expect to do so until the later part of 2021. Construction would not occur until the second half of 2022 *if* the major milestones provided by the Company occur as planned.

Second, as discussed in the Attorney General's exceptions, the center is unneeded.

Attorney General's replies to exceptions, pp. 71-72 (emphasis in original; footnote omitted) (citing Exhibit AG-1.14).

In reply, Consumers asserts that the Commission should reject the Attorney General's position and approve the company's proposed expenditures for this project. Consumers argues that it is incorrect to claim that this project is premature, considering that Exhibit AG-1.14 shows portions of the project to be completed in 2021 and 2022, to allow occupancy in 2023. Based on extensive testimony set forth in this case, Consumers further asserts that the Commission should reject the Attorney General's claim that the Marshall Training Center is unneeded. Consumers' replies to exceptions, pp. 37-38 (citing 5 Tr 1238-1243). Consumers additionally reiterates the importance of the training center in light of current safety rules and the need for assistance with knowledge transfer considering high retirements expected over the next several years. Consumers' replies to exceptions, p. 38 (citing 5 Tr 1241-1242). According to Consumers:

The training center will allow the Company to bring the new workforce up to the highly trained level needed to support customers' energy needs in a safe, controlled environment where personnel can train and learn the skills necessary to support customers without interfering with live customer service, equipment, or the public. For these reasons, the capital investment in the Marshall Training Center Project is needed, reasonable, and prudent.

Consumers' replies to exceptions, p. 38. Lastly, Consumers argues that the Commission should reject the Attorney General's claim that training can occur at any existing facility and that there is no need to change the current training structure. Per Consumers:

Mr. Bartholomew explained that emerging technology and current training best practices present the need for the Company to construct a facility that provides an environment to learn these practices and application of such technology, including the needs to train the next generation of employees that replace upcoming retirements. 5 TR 1240, 1241, 1242, and 1254. The Company does not currently have a sub-metro facility like it currently has to train other electric work, and no existing facility can be used for this sub-metro training need. 5 TR 1255. This new training center is necessary to train this special sub-metro work.

The most successful way to support future training is to provide employees with real-life experience training versus simulation. 5 TR 1239 and 1255. The real-life experience will increase speed to competency when employees learn in an environment that mirrors what they will encounter in their day-to-day work. *Id.* Further, this project will benefit the customer as it improves the Company's response to customer needs and provides improved safety to the public and Company employees. Based on the Company's focus on customer service and public safety, and the expected emerging technology for the electric grid, the Marshall Training Center is important for future training and providing a real-life experience versus simulated learning.

Consumers' replies to exceptions, pp. 38-39.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. While the Commission does not find construction of a training center unreasonable, the record reflects that programming and design have not yet occurred. Exhibit AG-1.14. The Commission thus finds costs for this project premature for inclusion in this case.

e. 2020 Actual Facilities Capital Expenditure

Consumers projected \$33.572 million in capital expenditures for operations support in 2020. Exhibit A-12, Schedule B-5.5, line 3, column (c). The Attorney General objected based on 2020 actuals set forth in Exhibit AG-1.17, thus recommending a \$5.05 million reduction to this capital

expenditure. 6 Tr 2911-2912. Consumers disagreed. 5 Tr 1258; Consumers' initial brief, pp. 180-181.

The ALJ recommended that Consumers' request to maintain this spending level for 2020 be rejected. The ALJ stated:

The "spending plan" it refers to cannot be adhered to because it is inaccurate as far as 2020 goes. The record is devoid of evidence explaining the underspending beyond Mr. Bartholomew's general assertion that it is all due to delay and will be spent. If Consumers Energy reasonably and prudently spends the additional amounts not included in rates in subsequent years and makes such a showing in its next rate case, it will of course be able to include those additional expenditures in rate base.

PFD, p. 225.

Consumers argues that the ALJ's recommendation should be rejected since the company clearly explained the difference between projected and actual 2020 expenditures here, specifically that the difference was because of construction delays resulting from COVID-19 pandemic impacts in 2020, which have since subsided, and spending which the company expects to satisfy in the test year. Consumers' exceptions, p. 161 (citing 5 Tr 1258). Consumers further asserts that the ALJ is quick to reject the impacts of the COVID-19 pandemic here despite the ALJ's acknowledgment of the impact of the COVID-19 pandemic on the company in other sections of the PFD. Additionally, per Consumers, neither the ALJ nor the Attorney General contend that these expenditures are not reasonable. Referencing testimony in rebuttal, Consumers states that the expenditures "relate to paving and roofing expenses for the Company's facilities, which are critical to maintaining the lifecycle of those assets." Consumers' exceptions, p. 162 (citing 5 Tr 1258). Per the company, these expenditures "are reasonable, are still expected, and should not be rejected." Consumers' exceptions, p. 162. Lastly, as set forth by Consumers:

the [ALJ] states that the Company can recover reasonable and prudent spend in future rate case proceedings by showing that such investments actually occurred.

As previously explained in these Exceptions, the [ALJ]'s recommendation with regard to the 2020 projected facilities capital expenditures aligns with a common theme in the PFD, which is that the Commission should generally rely on historical data, as opposed to test year projections sufficiently supported by the record, in approving the Company's recovery in this proceeding. The Company clearly provided in testimony that the entirety of the 2020 projected facilities capital expenditures were expected to be invested during the test year of this proceeding now that COVID-19 impacts to construction timelines have subsided. 5 TR 1258. It is therefore inappropriate to reject the difference between the actual and projected 2020 capital expenditures in this proceeding and require that the Company should only be allowed recovery of such expenditures after the actual investments occur. The Commission should find that the Company has provided sufficient evidence on the record in this proceeding demonstrating that such expenditures, in their entirety, are expected to be invested over the course of the test year now that COVID-19 impacts to construction timelines have subsided. As such, the Commission should find that the Company's projected 2020 facilities capital expenditures are reasonable and prudent and should be recoverable in this proceeding.

Consumers' exceptions, pp. 162-163.

The Attorney General asserts that the company's claims in exceptions should be rejected and that the Commission should adopt the ALJ's recommendation. The Attorney General states:

First, there is nothing in the PFD to support the Company's claim that the [ALJ] is quick to reject any explanation or support that shows COVID-19 impacts lead to less money being spent in 2020. It notes that as far as 2020 goes the spending plan the Company refers to is inaccurate. For whatever reason, the Company did not spend the full amount in 2020. Second, as to the claim that it was not claimed that the expenses were unreasonable - The Attorney General argued that the \$5,050,000 of costs not spent in 2020 in the Facilities area should not be included in rate base because it would be unreasonable and unfair for customers to pay for the depreciation expense and the return on capital investments that the Company did not actually incur in 2020. Finally, the Company's claim that by somehow suggesting that the funds that the Company did not spend in 2020 could be recovered in the future if actually spent, is some preference for using historical data over test year projections defies logic.

Attorney General's replies to exceptions, p. 73 (footnote omitted) (citing Attorney General's initial brief, p. 84).

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. If the company reasonably and prudently spends the additional amounts not

included in the future, it would be able to include the additional investment in rate base. However, the Commission finds that, as stated by the Attorney General, “costs not spent in 2020 in the Facilities area should not be included in rate base because it would be unreasonable and unfair for customers to pay for the depreciation expense and the return on capital investments that the Company did not actually incur in 2020.” Attorney General’s initial brief, p. 84; Attorney General’s replies to exceptions, p. 73.

7. Fleet Services

Consumers included capital expenditures of \$35.630 million in 2019, \$102.710 million in the two-year bridge period covering 2020 and 2021, and \$40.438 million in 2022 to replace, expand, and equip the company’s fleet of vehicles. Exhibit A-12, Schedules B-5 and B-5.6. The Staff and the Attorney General objected. Staff’s initial brief, pp. 97-104; Attorney General’s initial brief, pp. 84-92.

a. Fleet Replacement

The ALJ indicated that fleet replacement has been an issue in several recent rate cases for the company, most recently in Case No. U-20697 wherein the Commission, approximately 10 weeks prior to the filing of the instant case, rejected Consumers’ spending plan for 2019, 2020, and 2021 as being inadequately supported. PFD, pp. 226-228; December 17 order, pp. 109-110. The ALJ then noted Consumers’ acknowledgment in the instant case that it spent approximately what it proposed in Case No. U-20697 without regard to the Commission’s rejection of that plan in the December 17 order. The ALJ found that “[t]he company made no serious effort to show that its spending was reasonable and prudent in its direct case, and included \$0 in O&M savings associated with that spending in its revenue requirement calculation in this case.” PFD, p. 229; *see*, PFD, pp. 229-231. Contrary to Consumers’ assertions otherwise, the ALJ further found the

Staff’s concern here to be “a straight-forward concern that the company has failed to justify the significant increases in spending associated with its decision-making.” *Id.*, p. 231 (citing Consumers’ reply brief, p. 82). Based on evidence presented by the Staff, the ALJ held that Consumers had “not made the minimum showing that its vehicle fleet is correctly sized.” PFD, p. 233. The ALJ further took issue with the Utilimarc study relied upon by the company in Exhibit A-102—which, as noted by the ALJ, the Commission expressed concerns with in the past—along with examples provided in company testimony that were then not reconciled with information in the Utilimarc report. The ALJ stated:

Instead of being “vague” or “high-level,” Staff witness Becker seems to have carefully considered the company’s testimony regarding maintenance costs and the potential impact of vehicle unavailability on service reliability. As he recognized, Consumers Energy provided anecdotal evidence and vague concerns about increased maintenance costs without justifying the cost of the assets it seeks to add to rate base. The company could not provide information regarding the demand for vehicles, or provide a link between its fleet availability statistics and its efforts to improve its distribution system performance metrics. [The ALJ] is mindful of the context in which this dispute arises, that Consumers Energy has unusually high distribution system costs, and contends that it needs to make large investments in that distribution system; it is not the case that any investment that may have an impact on reliability, even if it comes with a \$50 million price tag, is appropriate for rate recovery.

PFD, p. 234. The ALJ then discussed the Attorney General’s concerns over the company’s 2021 capital expenditure projections, along with Consumers’ proposed alternative revenue requirement reduction of \$5,904,000 in response to the Staff’s recommendation so that the company could avoid a write-off of historical costs, which the Staff rejected in its brief. *Id.*, pp. 234-235; 3 Tr 280-281; 6 Tr 2912-2914; Staff’s initial brief, p. 164. The ALJ concluded:

After considering the limited record evidence on this topic, including a lack of any meaningful analysis from the company to justify its decision-making, and considering the limited time available in a rate case to properly analyze this significant source of ongoing spending, [the ALJ] recommends that the Commission either disallow the unjustified expenditures identified by Staff from 2019 through 2022, or alternatively, adopt the company’s \$14.6 million savings

estimate from Case No. U-20697 as an offset; in either case, [the ALJ] recommends that the Commission require the company to present a thorough description of its 2019 through 2021 fleet acquisitions, fleet retirements, and a benefit cost analysis incorporating the costs and benefits to ratepayers from the company's investment decisions. As to the \$14.6 million savings estimate, [the ALJ] finds that the company's spending to date has resulted in an average vehicle life of 5.68 years, and even at the \$17.5 million level shown as the historic replacement option in the Utilimarc report, will have an average vehicle age of 5.4 years (it would be 5.3 years under the even replacement option). This level of fleet age is below what the company claimed its target was for 2027, which carried with it O&M savings of \$14.6 million in annual maintenance expenses. Since the company pursued its plan, achieving greater reductions in fleet age than it predicted it would, it should credit ratepayers with the savings it told the Commission it would achieve at that level. [The ALJ] notes that Exhibit A-151 presented in rebuttal shows 2019-2021 savings of \$8.5 million, based on percentages attributed to the 2017 Utilimarc report. Since the company did not predict savings associated with its 2022 spending, which as shown in Exhibit A-102 will reduce the average fleet age below the 5.5 year target, and since it credits the savings to "2019" in part, with no analysis showing such attribution is appropriate given the timing of its purchases and retirements, this PFD concludes that the \$14.6 million figure from Case No. U-20697 is more appropriate.

PFD, pp. 236-237 (footnote omitted). The ALJ further found that adopting Consumers' own savings estimate from overspending avoids complexity unresolved in this case regarding depreciation. Moreover, the ALJ:

recommends that in addition to requiring Consumers Energy to present a benefit cost analysis of its fleet capital expenditures from 2019 forward in its next rate case from the ratepayer standpoint, the Commission also require Consumers Energy to explain how it accounts for depreciation of the fleet assets in light of Mr. Coker's testimony regarding the subsequent capitalization of depreciation expense, and to show how its decision to decrease the average vehicle age of the fleet affected the total cost to ratepayers given the additional subsequent capitalizations.

For 2022 fleet purchases, [the ALJ] recommends the Commission adopt the 2018 historical amount of \$17.5 million, adjusted for inflation to 2022, or \$18.9 million as Staff recommends. This is close to the even replacement funding of \$19,697,590 shown in Exhibit A-102, page 4, which Consumers Energy requested, and because of the inflation adjustment, significantly above the historical level shown in Exhibit A-102. While the even replacement approach sketched out in Exhibit A-102 appears reasonable, there are still many unanswered questions regarding the size of the company's fleet and the expected costs to ratepayers of maintaining it. The company has shown that the Commission's concern regarding the justification for the expenditures has not been a bar to the company actually making the

investments. [The ALJ] thus recommends that the company follow through on its commitment to consult with Staff to attempt to find a realistic path forward regarding fleet spending; perhaps these parties, along with the Attorney General, can find common ground on appropriate metrics for determining fleet size, vehicle demands by type, vehicle availability, etc.

Id., pp. 238-239 (footnotes omitted).

Consumers disagrees with the ALJ that its case was not sufficiently supported, reasonable, or justified. The company first argues that conclusions made by the ALJ on pages 229-231 of the PFD are “inaccurate, unreasonable, and inappropriate” in light of “extensive evidence on the record” supporting the company’s electric fleet lifecycle replacement expenditures for 2019, 2020, 2021, and 2022. Consumers’ exceptions, p. 166 (citing 5 Tr 2084-2093; Exhibit A-102). Contrary to the ALJ’s assertions, Consumers specifically highlights that the company’s additional investments in 2019, 2020, and 2021 have positively impacted electric fleet lifecycle replacement expenditures needed for 2022 and have also avoided maintenance hours and cost need from a historical level of replacement. Consumers’ exceptions, p. 166 (citing 5 Tr 2090-2091).

Consumers states:

Even the ALJ acknowledges this when stating that “the even replacement approach sketched out in Exhibit A-102 appears reasonable.” PFD, page 239. Yet, what the [ALJ] fails to recognize or acknowledge is that without the additional lifecycle replacement investments made by the Company in 2019, 2020, and 2021, the even replacement scenario presented in Exhibit A-102 (CS-1) is not feasible.

Consumers’ exceptions, pp. 166-167. Consumers argues that the even replacement scenario in Exhibit A-102 clearly justifies and supports the company’s past investment decisions.

With this, Consumers also highlights evidence as to why the company’s recent investments were reasonable and prudent. *Id.*, p. 167 (citing 5 Tr 1475-1491, 1501-1505). According to

Consumers:

Contrary to the [ALJ]’s assertions, Mr. Shaffer’s and Mr. Carveth’s testimony and exhibits clearly support the reasonableness and prudence of the Company’s

additional 2019, 2020, and 2021 electric fleet lifecycle replacement spend, the benefits of that additional spend, the avoided consequences from that additional spend, and the positive impact that the additional spend had on the test year projections of this proceeding.

Consumers' exceptions, p. 168.

Consumers then avers that it is inaccurate to claim that it did not reflect cost savings in this case and that it did not present a benefit/cost analysis, considering the \$5.9 million O&M reduction that the company proposed in rebuttal and Exhibit A-102 serving as a benefit/cost analysis. Consumers' exceptions, p. 168 (citing 3 Tr 280-281; 5 Tr 1485-1486, 1500-1505).

Consumers next argues that the ALJ mischaracterized the company's testimony regarding overabundance of fleet and that the Commission should dismiss the same. Consumers states that it is not disputing that an overabundance of vehicles would be a concern for the Commission and ratepayers, referencing rebuttal testimony that the ALJ failed to address. Consumers' exceptions, pp. 168-169 (citing 5 Tr 1508-1509).

Consumers argues that the ALJ's fleet size conclusion should be dismissed for reasons already provided and that the Staff's claim that the company's evidence is lacking and unreasonable should also be dismissed, as set forth in briefing. Consumers' exceptions, p. 169 (citing Consumers' initial brief, pp. 196-204; Consumers' reply brief, pp. 81-94).

Lastly on this point about the company supporting its fleet investments, Consumers states:

as previously addressed in these Exceptions, it should be noted that the [ALJ]'s blanket conclusion that the Company's entire case for fleet lifecycle replacement was unreasonable, insufficient, and lacking, is inappropriate. The [ALJ] failed to sufficiently consider and adequately weigh the Company's evidence in this proceeding, especially in light of the fact that the Company's witnesses are specifically involved in the day-to-day management of the utility's fleet and in analyzing fleets across the country. In particular, the weight and credibility of the 2020 Utilimarc Report, and its recommendations, are often quickly disregarded in the PFD. And Staff failed to consider in its testimony or brief any aspect of Exhibit A-102 (CS-1) or the testimony presented by Mr. Shaffer. This is inappropriate and should call into question the broad assertions that the Company's case was

insufficient. Utilimarc has extensive experience in this arena, validated by its 20 years of experience in assisting over 150 fleets, with approximately 20 of those fleets being utilities in the Midwest region, which includes American Electric Power, Xcel Energy, Commonwealth Edison, Nisource, Nicor, Centerpoint Energy, DTE Energy, Ameren, and Kansas City Power and Light. 5 TR 2083. To quickly disregard such extensive background and experience, almost as a default rejection of the Company's Utilimarc Reports, is unreasonable. The Commission should find such rejections as further reason to dismiss the [ALJ]'s recommendation as the [ALJ] failed to afford sufficient weight to the testimony and exhibits of the Company's witnesses and their reasonable projections of the investment needed to run the utility.

Consumers' exceptions, pp. 169-170.

Consumers next details its reasons why the Commission should reject the Staff's recommendation, along with the ALJ's alternative recommendation, and instead approve the company's expenditures while also adopting the company's proposed revenue deficiency adjustment. As to the Staff's recommendation, Consumers primarily relies on its briefs as to why the Commission should reject the same but also highlights why the Commission should reject the Staff's proposal to disallow the company's historical investment. *Id.*, p. 171 (citing Consumers' initial brief, pp. 196-204; Consumers' reply brief, pp. 81-94). Specifically, as stated by Consumers:

Contrary to Staff's assertions, the Company cannot adequately serve customers without the level of vehicles currently included in operation, which consist of units purchased from the Company's additional lifecycle replacement investment above what was approved in [Commission] Case No. U-20697. 5 TR 1501; Exhibit A-155 (ASC-6). The full electric fleet is currently being used in daily operations and is necessary for the Company's operations in serving customer needs. *Id.* As demonstrated by Mr. Shaffer and Mr. Carveth throughout extensive direct and rebuttal testimony, the Company's additional lifecycle replacement investment resulted in positive impacts to the Company's overall fleet lifecycle and direct benefits to customers. Specifically, as presented by Mr. Carveth in rebuttal testimony, the additional investment has reduced the average lifecycle age to 5.68 for its electric fleet, resulted in an estimated increase of salvage values of \$1,865,032 for 2021 and \$861,395 for 2022, and a total estimated maintenance cost avoidance of \$8,397,170 for the years 2019 through 2021. 5 TR 1501-1504. Therefore, and as further explained below, if the Commission determines that an adjustment to the Company's fleet spending included in rates is warranted, the

Commission should reject Staff's proposed historic [sic] disallowances and, instead, reduce O&M in the amount of \$5,904,000. 5 TR 1504-1505; 3 TR 280-281.

Consumers' exceptions, pp. 171-172. Consumers also reiterates the consequences that would result to the company and its customers if the Commission were to determine that the Staff's proposed disallowance is more appropriate, consequences that Consumers asserts that the Commission "should find concern with . . . , especially where the Company has clearly shown the benefits in this proceeding that have resulted from the additional investment in lifecycle replacement and that such units are being used today to address customers service needs." *Id.*, p. 172 (citing 3 Tr 281). Per Consumers, the Staff's proposed disallowances would not bring about just and reasonable rates.

Consumers also asserts that the ALJ's alternative recommendation of using savings as an offset of O&M is inappropriate because:

the \$14.6 million amount from the Company's 2017 Utilimarc Report in its previous electric rate case, Case No. U-20697, is reflective of both gas and electric lifecycle replacement expenditures. Further, the \$14.6 million amount referenced by the ALJ is reflective of responsibility dollars; as such, the \$14.6 million reflects both capital and O&M expenses. In using this amount, the [ALJ] overinflates the O&M reduction that resulted from the Company's additional electric fleet lifecycle replacement investment, and no evidence in the record in this case supports a \$14.6 million reduction.

Consumers' exceptions, p. 173. Per Consumers:

The Commission should instead adopt the Company's proposal to reduce its revenue deficiency in this proceeding by reflecting a reduction of O&M by \$5,904,000. See Exhibit A-165 (JRC-64). The manner with which the Company arrived at its proposed alternative fleet adjustment, which supports an O&M reduction of \$5,904,000, is clearly explained in the rebuttal testimonies of Mr. Coker and Mr. Carveth. See Exhibit A-165 (JRC-64); 3 TR 280-281; 3 TR 280-281. Further, the proposed O&M reduction of \$5,904,000 is a better representation of the Company's recent, additional investments in its electric fleet lifecycle replacement expenditures and, as such, more accurately reflects the additional investments as compared to the \$14.6 million recommended by the [ALJ]. While the [ALJ] attempts to discredit the Company's proposed O&M

reduction (PFD, pages 235 and 236) by challenging the Company's presented salvage values, the [ALJ]'s contentions should not be a reason for rejecting the proposed O&M reduction. The fact that the specific number, age, and type of units involved in the Company's additional investments were not directly tied to the Company's proposed salvage values should not be a reason for dismissing the Company's proposal. The Company's proposed salvage values are based on estimates, as supported in Mr. Carveth's rebuttal testimony and Exhibit A-152 (ASC- 174 3), and despite not being actual values, are still reasonable to show the benefits that resulted from the Company's recent, additional lifecycle replacement expenditures. See 5 TR 1501-1505; 3 TR 280-281.

Lastly, the Company's proposed O&M reduction of \$5,904,000 is equivalent to the adjusted amount of Staff's proposed Fleet Services disallowance, while avoiding the negative consequences that result from Staff's proposal, as previously explained. 3 TR 280.

Consumers' exceptions, pp. 173-174.

Finally on this fleet replacement issue, Consumers details why the Commission should adopt the ALJ's recommendation for the company to meet with the Staff regarding fleet spending moving forward but reject the ALJ's additional remaining recommendations for the company's next general electric rate case. Consumers states that it supported its 2019 through 2021 fleet acquisitions in this case, along with the direct, positive impacts that resulted from the same, and that Exhibit A-102 submitted in this case already incorporates costs and benefits of these investment decisions. Consumers further asserts that the Commission should find that the company fully explained its depreciation calculation relative to this issue on the record.

Specifically:

Company witnesses Coker and Shaffer provided clear explanation in this proceeding regarding the difference between Utilimarc's devaluation calculation and the Company's depreciation calculation for purposes of determining the value of a fleet asset. See 3 TR 282- 283; 5 TR 2096-2099. The Company already thoroughly discussed the difference between Utilimarc's devaluation calculation and the Company's depreciation calculation in its Initial Brief and why such calculations are intentional, reasonable, and required. See Consumers Energy's Initial Brief, pages 200-202. The Company will not repeat those arguments here, although the Commission should recognize that the [ALJ] fails to properly acknowledge the Company's detailed explanation presented on the record in this

proceeding when raising issues with the Company's depreciation calculation. Instead, the [ALJ] raises a series of additional issues with the Company's evidence that was not previously presented as concerns by any of the parties on the record in this proceeding. See PFD, pages 233 and 237-238. The Commission should find that the Company already sufficiently addressed the [ALJ]'s concerns within the record of this proceeding, that the [ALJ] failed to recognize the Company's evidence, and that the [ALJ]'s recommendations should be rejected.

Consumers' exceptions, pp. 175-176.

The Staff asserts that the ALJ erred in suggesting that an alternative proposal based on prior cost savings estimates would be acceptable. With the ALJ's suggestion being like Consumers' concession presented in rebuttal, which the ALJ acknowledged that the Staff opposed, the Staff argues that the ALJ, nevertheless, failed to address the details and reasoning for Staff's opposition, which the Staff asserts must be considered here. Staff's exceptions, p. 1 (citing PFD, p. 235). The Staff states:

In its initial brief, Staff explained the unique impacts on ratepayers from an O&M versus capital disallowance and why a capital disallowance should be made in this instance. (Staff's Initial Brief, p 100-101.) Similar to the Company's concession presented in its rebuttal testimony to apply an O&M adjustment, the ALJ appears to be recommending the \$14.6 offset as an O&M adjustment. (3 TR 280-281.) Even if the \$14.6 million adjustment proposed by the ALJ is a capital offset, Staff does not view it as valid or supportable. As articulated in Figure 1 of Staff's testimony, the Company has overspent beyond the capital spending levels in the previous rate case. (6 TR 3978-3979.) The spend levels from the previous case and those spent in the present case are not comparable and, if applied with actual overspend amounts, would result in a larger O&M savings than provided in the previous case. Staff agrees with the ALJ's statement on page 234 of the PFD, which acknowledges large investments in the distribution system, yet it is not the case that any investment that may have an impact on reliability is appropriate for rate recovery. Simply put, the Company did not carry its burden in regards to this expense. Spending by the Company which has been described by the ALJ as "without regard to the Commission's rejection of that plan" (PFD p 229), with a "lack of any affirmative showing by the company" (PFD p 233), and with a "lack of any meaningful analysis from the company to justify its decision-making" (PFD p 236) should not be passed on to ratepayers.

Staff's exceptions, pp. 1-2. The Staff thus recommends that the Commission adopt its recommended disallowances from 2019 to 2022, not the ALJ's alternative disallowance recommendation of a \$14.6 million offset to O&M.

The Attorney General asserts that the company's capital expenditure amount for 2021 is not supported by the record or justified. The Attorney General thus recommends that the Commission remove the amount above what was previously approved in the December 17 order. Attorney General's exceptions, p. 29.

In replies to exceptions, the Staff contends that the company appears to disregard the Commission's previous orders dealing with this issue, along with the Commission's and the company's fundamental responsibilities in rate case proceedings. The Staff states that it "is aware that . . . units [referenced in Consumers' exceptions] are in use or will be in use as a result of the Company's decision and risk to overspend" but that "[j]ust because the spending has already occurred, and units are in use is not reason alone to approve the capital expenditure amounts." Staff's replies to exceptions, p. 27 (citing Consumers' exceptions, p. 172). Further:

The Commission is responsible for prudence review of spending and determines whether the expenditures are appropriate for rate recovery while the Company holds the burden of proof and must justify why their spending is appropriate to pass on to customers. Staff opines that the Company has not met this bar, given the support provided on the record and that the Company has failed to satisfy specific requests from the Commission in the past on the fleet topic. In the Company's past rate case, the Commission pointed out the Company has failed to show that projected increased maintenance costs have materialized. *In re Consumers Electric Rate Case*, [Case No.] U-20697, 12/17/20 Order, p 109. In [Case No.] U-20322, the Commission Order points out Utilimarc does not calculate depreciation the same way as the Company. *In re Consumer Gas Rate Case*, [Case No.] U-20322, 9/26/19 Order, p 46. Specific guidance in orders such as these provides transparent expectations from the Commission and makes it clear what the Company shall provide, at a minimum, in future rate recovery proceedings which was not appropriately delivered in this proceeding.

Staff's replies to exceptions, pp. 27-28. With depreciation, the Staff additionally clarifies that it does not argue the fact that Consumers provided depreciation details on the record; it just takes issue with the fact that the company did so on rebuttal, which is inappropriate as it does not allow the parties to test that evidence. Moreover, the Staff states that the Commission expressed the same concerns in Case No. U-20697 that the Staff is raising in this case—"namely that the overspend is not justified and is unreasonable." *Id.*, p. 28 (citing Staff's initial brief, p. 102; December 17 order, pp. 109-110). The Staff thus contends that the Commission should adopt the Staff's disallowance set forth as one option in the PFD.

The Attorney General contends that the ALJ did not err in her disallowance recommendations.

The Attorney Generals reiterates that:

the Company has not made a convincing case that undertaking a capital spending program which greatly increases the amount of annual expenditures is economically justified. It has not proven that transportation equipment is deteriorating at a faster pace and that O&M costs are escalating significantly to support its proposed expenditures. To the contrary, the evidence shows a high unit availability rate of nearly 100%.

Attorney General's replies to exceptions, p. 74. Per the Attorney General, the ALJ provided a detailed review and analysis of the company's presentation in the PFD.

For reasons set forth in its initial brief, reply brief, and exceptions, Consumers argues that the Commission should reject the Staff's and the ALJ's recommendations. Consumers replies to exceptions, p. 40 (citing Consumers' initial brief, pp. 196-204; Consumers' reply brief, pp. 81-94; and Consumers' exceptions, pp. 163-176). Consumers maintains that the Commission should find that the Staff's proposed disallowances would not bring about just and reasonable rates, adopt the company's alternative if an adjustment to this capital expenditure is needed, and adopt the company's proposal to meet with the Staff to continue discussing concerns over fleet spending and expected savings. With this, Consumers reiterates its supporting evidence, including

consequences that will result to the company and its customers if the Staff's proposed disallowance is adopted. Consumers' replies to exceptions, pp. 40-41 (citing 3 Tr 280-281; 5 Tr 1501-1505; Exhibit A-155). For these reasons, Consumers also argues that the Commission should reject the Attorney General's recommendation to remove the amount above what was previously approved the December 17 order. Consumers' replies to exceptions, pp. 42-43.

The Commission agrees with the ALJ's first recommendation to disallow the unjustified expenditures identified by the Staff from 2019 through 2022. The Commission recognizes this results in historical disallowances of \$17.547 million for 2019 and \$14.698 million for 2020, as well as projected disallowances of \$16.173 million for 2021 and \$0.847 million for 2022. While these are significant, the Commission finds that the evidence demonstrates a trend of overspending by the company in this cost category, which the Commission underscores as a real concern, and further represents spending in excess of approved plans, including the disallowances included in the company's most recent rate case. The Commission finds that Consumers needs to do better with its benefit/cost analysis in this area. The Commission also agrees with the ALJ's recommendation for the company to present, in its next general electric rate case, "a thorough description of its . . . fleet acquisitions, fleet retirements, and a benefit cost analysis incorporating the costs and benefits to ratepayers from the company's investment decisions." PFD, p. 236. However, due to the historical disallowance of the 2019 and 2020 amounts, the Commission is limiting this additional detail only to the projected disallowances for 2021 and 2022, as well as for projected fleet expenditures on a going forward basis.

The Commission further agrees with the ALJ's other two recommendations: (1) for the company to explain, in its next general electric rate case, "how it accounts for depreciation of the fleet assets in light of Mr. Coker's testimony regarding the subsequent capitalization of

depreciation expense, and to show how its decision to decrease the average vehicle age of the fleet affected the total cost to ratepayers given the additional subsequent capitalizations;” and (2) for the company, prior to its next general electric rate case, to “follow through on its commitment to consult with Staff to attempt to find a realistic path forward regarding fleet spending” and to also include the Attorney General in this discussion. *Id.*, pp. 238, 239.

b. Fleet Expansion for Low Voltage Distribution and High Voltage Distribution Workforce Increase

Consumers included \$27.32 million in capital spending on new vehicles in 2021 to provide for new LVD workers and \$20.5 million in capital spending for new vehicles in 2022 to provide for new HVD workers. Consumers’ initial brief, p. 187. The Attorney General objected to the capital expenditures for lack of justification. Attorney General’s initial brief, pp. 87-90.

The ALJ noted the Commission’s decision on these expenditures for 2021 in the December 17 order, which Consumers failed to address in its direct case. PFD, p. 239 (citing December 17 order, pp. 110-113). The ALJ concluded that, based on the record, Consumers failed to establish the reasonableness of its projected capital expenditures for 2021 and 2022 in this case. The ALJ stated:

First, [the company] presented no details supporting its projections in its direct case, presenting only spending totals. Second, it provided inadequate responses to discovery. Third, even in rebuttal, it failed to establish that the projected expenses are the necessary expenses to provide vehicles for the new workers. Instead, the company’s limited information indicates that its spending plans for the LVD employees were not finalized as of April, and anticipating the fleet purchases to be delivered in 2021 is not reasonable given a 6 to 12 month lead time; similarly, for the HVD employee purchases, the company does not need those until 2023, so it is unclear why the costs are projected for the 2022 rate base.

PFD, pp. 241-242. The ALJ thus found the Attorney General’s recommendation to exclude these costs to be the most reasonable recommendation on the record. However, recognizing the Commission’s decision in the December 17 order approving \$12.25 million in 2021, the ALJ

recommended that only projected costs above that amount be excluded (i.e., a reduction of \$15 million for 2021 and a \$20.5 million reduction for 2022). Per the ALJ, “[w]hen the company finalizes its plans and can provide evidence to support that its fleet is properly sized for its workforce, it can seek recovery of these costs.” *Id.*, p. 242.

Consumers disagrees with the ALJ and asserts that it presented sufficient evidence on the record to support these expenditures, evidence which the company reiterates in exceptions. Consumers’ exceptions, pp. 176-177 (citing 5 Tr 892, 1496-1497, 1511; Exhibit A-153).

Consumers asserts:

The [ALJ] inaccurately assumes that Mr. Blumenstock should be discussing and describing the vehicles the Company intends to purchase to support the expanding workforce and claims that no such description is in Mr. Blumenstock’s testimony; contrary to the [ALJ]’s inaccurate assertions, the Company did support the need for additional fleet units and equipment in Mr. Carveth’s testimony.

Consumers’ exceptions, p. 177. Consumers further states that the reason certain fleet units and equipment were under review was because the company was finalizing details about them with regard to model type and size, not overall number or type of units. According to Consumers, “[i]t is inappropriate to reject the Company’s proposed fleet expansion expenditures on the grounds that the model type and size was not fully determined.” *Id.*, p. 178. On this, Consumers also asserts that the Attorney General’s one-to-one ratio for fleet versus personnel is arbitrary. Specifically:

The Attorney General provides no support for its assertion that fleet units and equipment be purchased at a one-to-one ratio compared to the personnel involved in the workforce expansion. Further, such an approach is inappropriate because it fails to recognize that assignments require more than just the transportation vehicle and item of equipment to complete the work. 5 TR 1512. Therefore, the Commission should find that the Attorney General’s suggestion for a specific ratio is unreasonable, inappropriate, arbitrary, and not feasible.

Consumers’ exceptions, p. 178. Consumers further addresses timing concerns here by reiterating that the fleet units require up to 12 to 18 months to be assembled after being ordered and,

therefore, units and equipment need to be purchased now to support electric operations in 2023.

Id., p. 179 (citing 5 Tr 1514; Exhibit A-153). The ALJ's assertion about need in this case, according to Consumers, is thus "inaccurate and unreasonable." Consumers' exceptions, p. 179.

And lastly, on the ALJ's assertion about fleet and proper size, Consumers asserts and concludes:

For the reasons provided above, the Commission should also dismiss this statement as support for a rejection of the Company's proposed expansion fleet expenditures. The units and equipment required for the LVD and HVD workforce expansion projects have already been determined and, in that sense, are final. The only issue still to be determined at the time of the filing was the model and size of the units. As previously provided, this should not serve as a reason for rejecting the Company's proposed units. Further, and as previously addressed in these Exceptions, the Company should not be limited in recovering projected expenditures in this proceeding if supported by sufficient evidence on the record. If sufficiently supported, the Company has the right to recover expenditures based on projections that will occur throughout the test year in this proceeding. As provided above, the Company has sufficiently supported the need for a workforce expansion and has also sufficiently supported the necessary fleet units and equipment that will be required to support electric operations in completing the additional work. The [ALJ]'s assertions are unreasonable. The Commission should reject the [ALJ]'s recommendation and approve the Company's proposal for additional fleet expenditures to support the Company's expanding LVD and HVD workforces.

Id., pp. 179-180.

The Attorney General maintains that Consumers has not adequately documented or supported its capital expenditures here for 2021 and 2022 and thus recommends that the Commission disallow them in their entirety. Attorney General's exceptions, pp. 29-31.

For reasons also set forth in its initial brief and exceptions, and those presented here, Consumers asserts that the Commission should reject the Attorney General's and the ALJ's positions and approve the company's proposed fleet workforce expansion expenditures. Consumers replies to exceptions, p. 43 (citing Consumers' initial brief, pp. 204-207; Consumers' exceptions, pp. 176-180). With this, Consumers maintains that the Attorney General's recommendation is inappropriate, considering the amount previously approved in the December 17

order, which the ALJ acknowledged, and that the Attorney General's and the ALJ's recommendations are both unreasonable, considering the evidence provided by the company in support of its expenditures in this case. Consumers' replies to exceptions, pp. 43-44 (citing 5 Tr 892, 1496-1497, 1510-1514; Exhibit A-153; December 17 order, pp. 112-113; PFD, p. 242). Consumers concludes that "[t]he workforce expansion fleet expenditures will ultimately benefit customers because such expenditures will allow for operations to be properly equipped with the necessary fleet units and equipment as the expanding workforce addresses additional customer service needs." Consumers' replies to exceptions, p. 44.

In replies to exceptions, the Attorney General asserts that the Commission should disregard the company's model and unit size argument. The Attorney General argues that "the timing of the purchases is important for determining whether an expenditure should be included in rate base" and that "[i]t is unreasonable to have ratepayers incur depreciation expense and ROE on assets that the Company does not have." Attorney General's replies to exceptions, p. 75. The Attorney General further contends that, without knowing what Consumers is acquiring (which includes model and size), "the Company's cost projections are suspect." *Id.*, p. 76.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. As stated by the ALJ, "[w]hen the company finalizes its plans and can provide evidence to support that its fleet is properly sized for its workforce, it can seek recovery of these costs." PFD, p. 242.

c. Telematics

In Case No. U-20697, the Commission approved spending on telematics, including \$6 million in 2021. December 17 order, pp. 113-115. In the instant case, Consumers included \$7.506 million in capital expenditures for 2021 to complete the installation of telematics technology. 5 Tr 1494.

The Attorney General objected to the capital expenditures based on expected cost savings discussed in prior cases, which the company failed to include in its revenue requirement in this case. 6 Tr 2918. Consumers disagreed. 5 Tr 1514-1515; Consumers' initial brief, pp. 207-208.

The ALJ found the company's refusal to include any savings to ratepayers in the projected test year to be unreasonable. The ALJ stated:

While Mr. Coppola's recommendation to exclude the Telematics costs from rate base is not a conventional ratemaking approach, nor is excluding estimated savings. As Mr. Coppola testified, the company projected O&M savings associated with this project beginning in 2021. Exhibit AG-1.20 includes discovery responses from the company's gas rate case, Case No. U-20650, including a description of savings for electric operations of \$891,192, as shown on page 5. At a minimum, this PFD concludes these savings should be reflected in O&M, since the historical test year 2019 would not reflect these savings.

PFD, pp. 243-244.

In exceptions, Consumers asserts that the Commission should reject the ALJ's recommendation to reflect O&M savings in this case, that the same should instead begin in the company's next general electric rate case. More specifically, Consumers contends that the reflection of O&M savings in this case is premature and inappropriate, since the savings in Exhibit AG-1.20 are anticipated to occur for electric operations following installation of telematics technology. Consumers further recalls this same issue in the December 17 order, wherein the Commission rejected the Attorney General's arguments for immediate application of such savings in that case. Consumers' exceptions, pp. 181-182 (citing December 17 order, p. 115). Given that the telematics system was not fully installed at the time the application in this case was filed and that the savings relied upon by the ALJ and the Attorney General are annual savings that will be realized over time, Consumers contends that the Commission should reject the ALJ's recommendation and find, similar to the December 17 order, that it is still premature to recognize these savings in this case. In the alternative, however:

the Company recommends that the Commission require Consumers Energy to present in its next electric rate case proceeding an updated estimate to the electric operations savings that will occur immediately upon the installation of Telematics in 2021, in addition to those estimated, annual savings that will occur over time. This alternative will allow the Company to present in that proceeding a refined estimate of the electric operations savings that are anticipated to occur immediately following the installation of the Telematics system, as well as anticipated savings in subsequent years following the installation. As the Commission provided in the Company's last electric rate case, Case No. U-20697, "the company will not immediately recoup the cost benefits; rather, they will accrue over time." U-20697 Order, page 115.

Consumers' exceptions, p. 183.

The Attorney General recommends that the entire savings of \$891,192 noted by the ALJ "be recognized in 2021 since the implementation of the system leads to the savings." Attorney General's exceptions, p. 32.

For reasons already provided, Consumers asserts that the Commission should reject the Attorney General's and the ALJ's recommendations and instead approve the \$7.5 million in telematics costs previously approved in the December 17 order, along with the company's savings proposal for its next general electric rate case. Consumers' replies to exceptions, pp. 45-46 (citing Consumers' initial brief, pp. 207-208; Consumers' exceptions, pp. 180-183; Attorney General's exceptions, p. 32; December 17 order, p. 115). With this, Consumers maintains that the Attorney General's disallowance recommendation, which is based on cost savings, is inappropriate, conflicts with general ratemaking principles, and was rejected in the December 17 order. Consumers' replies to exceptions, p. 46 (citing 6 Tr 2918; December 17 order, pp. 113-115). Consumers further maintains that the Commission should find, as it did in the December 17 order, that it is premature to include estimated savings for telematics in this case and that the Commission should instead adopt the company's alternative on savings relative to its next general

electric rate case, if so desired. Consumers' replies to exceptions, pp. 46-48 (citing December 17 order, p. 115).

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. Per Exhibit AG-1.20, the company indicated that O&M savings are planned to occur in 2021, with \$891,192 of O&M savings for electric operations. Given this, the Commission finds it appropriate to include the O&M savings in this case.

8. Customer Experience and Operations

For customer experience and operations, Consumers included capital expenditures of \$3.374 million in the bridge year (2020 and 2021) and \$6.636 million for 2022. Exhibit A-12, Schedule B-5, line 8. Disputed items by the Staff and the Attorney General are discussed below.

a. Business Customer Care – Customer Relationship Management Platform

For a customer relationship management (CRM) platform to manage customer relationships and interactions, Consumers included capital expenditures of \$1.458 million in 2020, \$1.734 million in 2021, and \$1.758 million in 2022, along with associated O&M, in this case. 4 Tr 337-338; Exhibit A-12, Schedule B-5.8, p. 2. The Staff and the Attorney General objected to the capital expenditures based on several concerns. Staff's initial brief, pp. 83-89; Attorney General's initial brief, pp. 92-95. Consumers disagreed. Consumers' initial brief, pp. 384-388.

The ALJ agreed with the Staff and the Attorney General and found that the costs for this project should be disallowed. The ALJ recalled the Commission's decision on this program in the December 17 order and the obligation for Consumers to present a benefit/cost analysis and to address other Commission concerns in its direct case, which the company did not do. PFD, pp. 246-247 (quoting December 17 order, pp. 145-147).

In exceptions, Consumers states that, while the Commission indicated concerns in Case No. U-20697, the December 17 order did not state that the company was required to include information addressing those concerns in this case. In fact, according to Consumers:

the Commission noted that “the costs of the AAH [advanced analytics hub] project and a portion of the costs of the CRM program support the company’s efforts to expand DR and EWR program participation. Therefore, the Commission adopts the ALJ’s recommendation that these costs should be assigned to these programs in Consumers’ next IRP, if the company intends to pursue these projects.” U-20697 Order, pages 146-147. Based on the language in the order, the Company believed that it was required to put this information in that proceeding if it was seeking to recover the related costs associated with the CRM.

Consumers’ exceptions, p. 185. Consumers reiterates evidence that it provided in this case, including benefits that would be, and have been, achieved by the company’s business customer care area from utilization of the CRM. *Id.*, pp. 185-187 (citing 4 Tr 338, 413-414; Exhibit A-103). Given this, Consumers asserts that its projected costs for this project are reasonable and requests that the Commission approve the same.

In reply, the Staff asserts that the fact that the CRM modules were fully integrated in 2020 should have no bearing on whether costs should be included in rates. Per the Staff, recovery of the CRM platform was disallowed in the December 17 order and just because money has been spent does not now make recovery prudent. The Staff also finds it unclear as to how Consumers could interpret the December 17 order to mean what the company states in exceptions “when the order clearly directed the Company to include the requested information in its IT plan, which the Company subsequently filed as an exhibit in this case” and “when [the company] chose to file its rate case before its IRP, and *requested recovery* of this project again in the current case, without the requested information.” Staff’s replies to exceptions, pp. 23-24 (emphasis in original). The Staff highlights the ALJ’s statement that the company’s narrowing of the focus of the program in this case does not change the company’s obligation and states:

Regardless of whether or not this interpretation was genuine, or this interpretation is now the Company's argument after narrowing the scope of the project for the sake of recovery in this case, the requested information from the Commission's previous order was not presented for review. The Company argues that the cost-benefit analysis from the original CRM business case indicates the expected avoided costs and operational efficiency, but the issue from the previous case still exists. There is no information to support the inputs.

Id., p. 24 (citing PFD, p. 247). The bottom line, as set forth by the Staff, is that the company failed to supply the requested information and instead refocused the project for purposes of this rate case but with plans to implement the project to all customers. Staff's replies to exceptions, p. 24 (citing Exhibit S-7.3, p. 18). Per the Staff:

The \$15 million project is based on aspirational benefits, which is concerning to Staff based on the Company's history of projects that require an upfront investment with "promised" future benefits. (Staff brief, p 83.) As the [Attorney General] noted, the Company has not explained how it will use the system and what specific incremental revenue it will generate from improved business interactions. (6 TR 2921.) The ALJ's findings were correct. This project's costs should be disallowed.

Staff's replies to exceptions, pp. 24-25.

The Attorney General contends that, while the ALJ relied on the December 17 order, the ALJ also evaluated Consumers' presentation in this case and found it to be lacking. The Attorney General supports the ALJ's recommendations, for the reasons provided in her initial brief, and asserts that they should be adopted. Attorney General's replies to exceptions, p. 76 (citing Attorney General's initial brief, pp. 92-95).

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted. As stated by the Staff, the company "chose to file its rate case before its IRP[] and *requested recovery* of this project again in the current case, without the requested information [from the December 17 order]." Staff's replies to exceptions, p. 24 (emphasis in original). As such, because Consumers did not outline the costs with benefits for this project in this case, the Commission finds that cost recovery for the project should be disallowed.

b. Digital Customer Operations – ChatBot

Consumers included \$325,000 in capital expenditures, along with O&M, for ChatBot, an artificial intelligence solution available 24/7 to answer most common customer inquiries. 4 Tr 328-329. The Staff argued that this was not a “worthwhile investment” and thus recommended that all capital expenditures associated with it be disallowed. 6 Tr 4076. Consumers disagreed. 4 Tr 421-422; Consumers’ initial brief, pp. 392-393.

The ALJ agreed with Staff and recommended that the capital expenditures associated with this project not be included in rates in this case. The ALJ found that Consumers had not directly addressed concerns raised by the Staff in testimony and that “the project is clearly planned to require continual updating.” PFD, p. 249.

In exceptions, Consumers states that it addressed the Staff’s primary concern in rebuttal, which the company restates in exceptions. Consumers’ exceptions, p. 188 (citing 4 Tr 421). As stated by Consumers, “[u]tilization of the ChatBot can provide customers with a reasonable means to better serve customers through the website; accordingly, Consumers Energy requests approval of the costs associated with the project.” Consumers’ exceptions, pp. 188-189.

In reply, the Staff repeats its uncertainty about why Consumers would want to invest in a chatbot to provide accessible missing information from its website when the company could simply provide that missing information itself by updating the website. Staff’s replies to exceptions, p. 25 (citing Staff’s initial brief, p. 91). The Staff further reiterates that “there is already a relatively simple password recovery system that ratepayers already pay for to help them log in when they’ve forgotten their credentials.” Staff’s replies to exceptions, p. 25 (citing Exhibit S-7.3, p. 15). As such, according to the Staff, the ALJ was correct in her disallowance recommendation; “[t]hough the Company may have addressed the concerns Staff put forth in

direct testimony, the responses provided do not support the need for the investment.” Staff’s replies to exceptions, p. 25.

The Commission agrees with the ALJ and finds that her recommendation is well-reasoned and should be adopted.

c. Digital Customer Operations – Other

Consumers included capital expenditures of \$153,000 related to digital customer operations for 2021 and 2022. 4 Tr 326-329; Exhibit A-12, Schedule B-5.8, p. 2, line 4. The Staff originally recommended that the expenditures be disallowed based on no company testimony in support. 6 Tr 4077. Consumers disagreed. 4 Tr 422; Consumers’ initial brief, pp. 393-394. The Staff rebutted. Staff’s initial brief, pp. 91-95.

The ALJ noted the Staff’s argument in its initial brief that the description provided by Consumers places the expenditures within the alert upgrade project, which the Staff recommended be rejected. PFD, p. 250; Staff’s initial brief, pp. 91-93. The ALJ found that, because the “Staff’s recommendation should be taken regarding the O&M expense associated with the Alert project, . . . the capital expense projections should also be rejected.” PFD, p. 250.

In exceptions, Consumers states that the costs here “are not related to the Alert Upgrades Project.” Consumers’ exceptions, p. 189. More specifically:

The expenditures at issue enable customers to receive status updates regarding items such as payments and dunning status without needing to engage the Interactive Voice Response or live agent channels. A. Griffin, 4 TR 422. This is reasonable as the Company sent over 1.8 million disconnect notices and received 290,000 calls related to those disconnection notices in 2019. This is the technology that the Alert Upgrades Project utilizes and builds from. As this underlying technology provides a benefit to customers at a reasonable cost, these expenditures should be approved.

Id., pp. 189-190.

In reply, the Staff argues that, despite the company's exceptions, there still remains insufficient evidence to support the costs of this project. The Staff states:

While Staff can understand that it inadvertently associated the “customized payment alerts program” with the “Alerts Upgrade” project, there was no mention of the “customized payment alerts program” in direct testimony, and therefore no support provided for these expenditures. The Company’s rebuttal testimony attempts to justify the “customized payment alerts program” by stating that in 2019 the Company received over 290,000 calls related to disconnect notices. (4 TR 422.) However, the Company has made no attempts to show how the status updates and dunning notices sent via this program prevent the need for a customer to make a phone call, how many calls could be reduced, and what the associated cost savings could be. The fact that these expenditures are not part of the Alert Upgrades project but instead part of an entirely different, unexplained project does not change the fact that they should be disallowed.

Staff’s replies to exceptions, pp. 26-27.

The Commission agrees with the ALJ’s recommendation to disallow costs for this project. As set forth by the Staff in replies to exceptions, these requested costs are unsupported expenditures for an unexplained project.

d. Analytics and Outreach

Consumers included capital expenditures of \$83,000 in 2019 and \$5,000 in 2021 for analytics and outreach. Exhibit A-12, Schedule B-5.8, p. 2, line 5. Based on company testimony in rebuttal, the Staff argued that the expenditures associated with this project were presented in Case No. U-20697 as part of the company’s DR efforts, and, thus, absent explanation for this change, the Staff recommended that the capital expenditures be disallowed. Staff’s initial brief, pp. 93-95. Consumers disagreed. Consumers’ reply brief, pp. 184-186.

The ALJ concluded that it was unnecessary to disallow these costs in this case, “[s]ince Staff and the company appear to agree that the costs for this project were approved in Case No. U-20697, there is no evidence of cost overruns, and the money has been spent” PFD, p. 251. Nonetheless, according to the ALJ:

since the costs at issue are capital costs, and were apparently booked in 2019 and 2020—rather than reflecting an after-the-fact charge to Analytics and Outreach for incidental use—the Commission should caution Consumers Energy that it needs to be explicit as to how the capital costs of a project will be allocated among its different operational segments. Only with the correct information can Staff and the intervenors evaluate the use to which the capital will be put.

Id.

No exceptions were filed on this issue.

The Commission finds that the ALJ’s recommendation is well-reasoned and should be adopted, including the caution for the company “to be explicit as to how the capital costs of a project will be allocated among its different operational segments.” *Id.*

9. Demand Response

Consumers included \$17.976 million in capital expenditures for the bridge year (2020 and 2021) and \$9.317 million in 2022 for DR programs. Exhibit A-12, Schedules B-5, line 9, and B-5.8, p. 4.

The ALJ reiterated the three-phase approach for DR costs established by the September 15, 2017 order in Case No. U-18369 but found that disputed issues regarding DR do not affect rate base and thus separately addressed those issues later in the PFD. PFD, p. 252.

Given the above, and that no exceptions were filed on this issue, the Commission finds that no further discussion is needed here.

B. Working Capital

Based on the Staff’s proposed adjustments in the case, Consumers adjusted its working capital projection, using the balance sheet method mandated by the June 11, 1985 order in Case No. U-7350, to reflect a jurisdictional working capital requirement amount of \$1,401,628,000 for the test year. 6 Tr 3928; Exhibit A-157, line 8, column (e); Consumers’ initial brief, pp. 272-273, Appendix B, p. 1, line 8, column (e). The ALJ noted no further disputes. PFD, p. 253.

No exceptions were filed on this issue.

The Commission approves Consumers' jurisdictional working capital calculation and resulting amount.

C. Rate Base Summary

Based on the above determinations, the Commission adopts a rate base amount of \$12,475,307,000 on a total company basis and \$12,428,130,000 on a jurisdictional basis.

V. COST OF CAPITAL

A. Common Equity Balance

Consumers proposed a common equity balance of \$9,869,544,769, resulting in a 52% common equity ratio for the test year. 5 Tr 1269; Exhibit A-137. The company argued that its request of 52% of total permanent capital was “equal to 50.7% on an adjusted basis after taking into account securitization debt, short-term debt, and capital leases as the credit rating agencies do.” Consumers' initial brief, p. 285; *see*, Exhibit A-14. The Staff recommended a 51.02% equity layer to continue the “gradual transition to more equivalent debt-to equity levels in this case” Staff's initial brief, p. 107; 6 Tr 4142. The Attorney General proposed that the Commission approve a 50% equity to 50% debt ratio. 6 Tr 2944.

In the PFD, the ALJ reviewed the parties' testimony and briefs at pages 255-280, which will not be repeated here. The ALJ concluded that Consumers:

has not justified its request for a capital structure with an equity ratio of 52% of permanent capital, has not established that an “adjusted equity ratio” near 50% achieves the balance the Commission has determined is appropriate for Consumers Energy as a standalone company, and has not established that the equity ratio and return on equity must produce a simplified FFO [funds from operations]/debt ratio of 20%.

PFD, p. 280. Rather, the ALJ found that the Staff's 51.02% equity ratio was reasonable and consistent with the Commission's February 28, 2017 order in Case No. U-17990 (February 28 order). The ALJ further stated that Consumers raised many arguments that have previously been rejected by the Commission and that "an examination of the company's credit risks shows no evidence of material change in the underlying riskiness of the company since the Commission's order in Case No. U-20697, notwithstanding Moody's [Moody's Investors Service] credit downgrade." PFD, p. 281. The Commission, like the ALJ, further discusses the disputed issues pertaining to the common equity balance in the subsections below.

1. Balanced Capital Structure

The company argued that the Commission has never actually defined a "balanced" capital structure and disputed the Staff's and intervenors' interpretation of balanced "to mean 50% equity and 50% debt on a regulatory basis and have recommended reductions to the Company's equity ratio accordingly." 5 Tr 1332. Continuing, the company averred that "balanced" means "achieving an optimal proportion of debt and equity in order to achieve certain measurable and empirically verifiable goals." *Id.* Consumers argued that a balanced structure would allow the company to maintain a "financially healthy business at the lowest reasonable financing cost" and that it is, therefore, necessary for the Commission "to view the ratemaking capital structure in terms of how it will be perceived by rating analysts who will be considering factors that are not ordinarily included in ratemaking." *Id.*

The ALJ found that "[a] review of the Commission's orders shows that the Commission has consistently considered a balanced capital structure to include equal amounts of equity and long-term debt" and that "the Commission has considered that treating Consumers Energy as a standalone company, without regard to its parent company capital structure, requires a capital

structure that is roughly balanced between debt and equity for years.” PFD, p. 282. Quoting the February 28 order, the ALJ concluded that “[i]t is not fair to read this order as revising the established meaning of a balanced capital structure” and “rather it indicates the Commission’s willingness to accept a temporary deviation from a balanced capital structure over the short term, with a gradual move to a balanced capital structure.” PFD, p. 284. The ALJ reviewed additional Commission orders to emphasize her determination that the Commission has made clear that a balanced capital structure is at the 50% equity to 50% debt ratio. *See*, PFD, pp. 284-286 (quoting July 31 order and December 17 order).

The company takes exception and argues that the ALJ erred in “claiming that the Commission expressed a ‘desire to move Consumers Energy to a 50/50 capital structure over a five-year time frame following its February 28, 2017 order in Case No. U-17990.’” Consumers’ exceptions, p. 195 (citing PFD, p. 280). Consumers avers that, in Case No. U-17990, the Commission expressed concern in allowing the equity ratio to drift too high, but that it noted the importance of access to capital and described seeking an appropriate balance rather than a strict 50/50 capital structure without room for deviation. The company emphasizes that prior Commission orders have not expressly stated the goal of maintaining a 50% equity ratio. Quoting the June 7, 2012 order in Case No. U-16794, Consumers states that the Commission, in that case, believed a roughly balanced capital structure meant 51.38% equity, dispelling any claim that the Commission “has deemed a 50% equity ratio to be the only correct equity ratio at all times and under all circumstances.” Consumers’ exceptions, p. 198. The company further states that the Commission has utilized “flexible, thoughtful, and reasonably conditional language” which allows for the consideration of changes in the economic landscape such as the TCJA and the COVID-19 pandemic. *Id.*, p. 200. Consumers reiterates its testimony that it has experienced a credit rating

downgrade and that a further reduction of its equity ratio “would not have the effect of striking an ‘appropriate balance’ between the cost to customers and the financial and credit risk to the Company. It would instead disregard any pretense of ‘balance’ in favor of cost reduction irrespective of any other consequences.” *Id.*, pp. 200-201.

The Attorney General replies, arguing that the ALJ properly relied on prior Commission decisions and expressly quoted the orders. Moreover, she states that “the Company put forth a goal to reach a 50/50 debt/equity ratio, which was addressed in the Commission order in Case No. U-17990 and quoted in the PFD” and that “there is no merit to the Company’s claim.” Attorney General’s replies to exceptions, p. 79.

The Commission agrees with the Attorney General that the ALJ did not err in expressing the Commission’s desire for the company to move towards a 50/50 balanced capital structure. However, the Commission has also sought to maintain some degree of flexibility to accommodate the specific circumstances connected with a utility’s investment plans and elements of its balance sheet. On this basis, as noted by the ALJ, the Commission has shown a “willingness to accept a temporary deviation from a balanced capital structure over the short term” when circumstances warrant such an approach. PFD, p. 284. In addition, the Commission has also provided a utility with the opportunity to put forth “a more complete analysis . . . to explain why such a result [of deviating from a 50/50 capital structure] is reasonable and prudent.” February 28 order, p. 64. As such, the Commission maintains its goal of a capital structure evenly balanced between debt and equity, while continuing to allow a utility to present arguments why a deviation from this ratio is appropriate. As it has done in previous rate cases, the Commission will continue to consider all evidence and circumstances in each rate case to determine the appropriate capital structure.

2. Adjusted Equity Ratio

The company argued that its 52% equity ratio excludes securitization debt, short-term borrowings, and leases, which the Commission should consider because they are “debt liabilities that are reflected in the Company’s financial statements and are also considered as debt by rating agencies and many analysts and investors.” 5 Tr 1280. Consumers continued that the inclusion of these items, which are on the company’s balance sheet, should be considered “when determining the Company’s authorized equity ratio so as to avoid negative credit consequences such as a credit rating downgrade.” *Id.* When including securitization debt, short-term borrowings, and leases, Consumers argues that its adjusted equity ratio for the test year is 50.7%. *Id.*, pp. 1280-1281; Exhibit A-14, Schedule D-1.

The ALJ found that Consumers had not “established that the capital structure equity ratio it recommends is ‘optimal’ under any of the definitions it has offered or minimizes the cost of capital to ratepayers.” PFD, pp. 286-287. She noted that the company’s opinion of an acceptable capital structure was fluid because Consumers’ primary concern was to maintain a consistent level of income based upon the combination of equity percentage and the return on equity level. The ALJ further concluded that the company’s methodology of adding a dollar of equity to its capital structure for every dollar of short-term debt and leases, “implicitly increases the cost of each of these items well above the stated costs otherwise recovered from ratepayers” without justification. *Id.*, p. 287. The ALJ agreed with the Staff and the Attorney General that the proposed adjustments “are at odds with the established ratemaking method that develops a weighted cost of capital based on the sources of financing rate base.” *Id.*, p. 288. The ALJ reviewed the company’s adjustments and found that similar arguments have previously been advanced by the company and ultimately rejected by the Commission. *Id.*, p. 292 (quoting October 22, 2020 PFD in Case No. U-20697

(October 22 PFD), p. 201). Therefore, the ALJ concluded that “the company has failed to establish merit to the analysis in this case.” PFD, p. 292.

Consumers takes exception and argues that the ALJ’s recommendation improperly implies that a capital structure that is balanced from a credit rating agency’s perspective is not also balanced from the perspective of ratepayers. The company further states that its “adjusted equity ratio analysis promotes ‘balance’ between customers’ interests and shareholders’ interests by scientifically understanding what the indicators of Consumers Energy’s financial health is telling the Company as the result of the expert work of professional business health evaluators.” Consumers’ exceptions, pp. 202-203. The company also contends that failing to consider the capital structure as fluid is contrary to law and reiterates its position that equity ratio and ROE should be considered together. *Id.*, p. 203 (citing 5 Tr 1272).

Consumers avers that its “projected permanent capital structure with an equity ratio of 52.0% for the test year in this case does not ‘add’ to the cost of short-term debt, securitization debt, or leases” as stated by the ALJ, but that the company’s “analysis is showing the negative impact of these debt and debt-like liabilities on the Company’s capital structure as viewed by credit rating agencies.” Consumers’ exceptions, pp. 205-206. In addition, the company states that credit reporting agencies will take into account whether the company’s equity financing levels are inadequate and “if the Company’s credit rating is downgraded, it will increase future debt costs to customers above the costs that would have been achievable with a higher credit rating.” *Id.*, p. 207. Consumers argues that the ALJ improperly stated that the Commission has previously “rejected consideration of the impact of short-term debt, securitization debt, and leases to justify a higher equity level in rates” because it has not previously included “an analysis like the adjusted equity ratio analysis that directly quantifies the impact of those debt and debt-like liabilities. It

only stated qualitatively that they do have an impact.” *Id.*, p. 208 (citing PFD, p. 292).

Consumers disputes the ALJ’s reliance upon the Commission’s decision in Case No. U-20697 because neither the PFD nor the Commission’s order includes any analysis rejecting “the validity of the Company’s concern about the impact of these other debt and debt-like liabilities.”

Consumers’ exceptions, p. 208. However, the company quotes the November 19 order which, it claims, “expressly credits the validity of the Company’s concerns that support the use of the analysis.” *Id.*, p. 209. Consumers notes that, in the February 28 order, the Commission held that “if the Company needed to depart from then-current plans for a downward glidepath in its equity balance within the five-year time horizon of that order, the Company would need to support the reasons for that change with an analysis explaining why that result is reasonable and prudent” to argue that its adjusted equity ratio analysis is the type of tool suggested by the Commission. *Id.*

In reply, the Staff avers that Consumers’ reliance upon the November 19 order is misplaced. Specifically, the Staff contends that “in that case, the Commission agreed with the ALJ’s recommendation on the capital structure and did not elaborate on any competing views from Staff or the other intervenors.” Staff’s replies to exceptions, p. 29.

The Commission agrees with the ALJ that Consumers’ adjusted equity ratio is not sufficient to demonstrate that the company’s proposed 52% equity is reasonable and prudent in this case. The ALJ properly found that the Commission has previously rejected the company’s assertion of a more balanced capital structure when considering the equity ratio from a credit rating agency perspective. *See*, PFD, p. 292. While the November 19 order found that Consumers had provided “sound reasons for seeking an equity ratio nominally higher than 50%,” including that “certain credit rating agencies include securitization debt, power purchase agreements, and benefit obligations as debt when calculating debt to equity ratios,” the Commission noted that the

evidence supporting those arguments was unrebutted. November 19 order, p. 31. In the present case, however, the company's evidence is not unrebutted and the record reflects that Consumers still retains a strong credit rating, which is comparable, if not superior, to its peers. *See*, 6 Tr 2948-2953, 3568, 4158. While the Commission appreciates Consumers' detailed analysis, the adjusted equity ratio is, nevertheless, insufficient to demonstrate that a 52% equity ratio is appropriate. As stated above, the Commission desires to reach a balanced capital structure that is both supportive of the company's plans and is not unnecessarily burdensome on ratepayers. The Commission finds that the company's adjusted capital structure does not reflect the appropriate balance and represents a departure from the "established ratemaking method that develops a weighted cost of capital based on the sources of financing rate base." PFD, p. 288. Therefore, the Commission adopts the findings and recommendations of the ALJ regarding the company's adjusted equity ratio.

3. Weighted Rate of Return

Consumers states that "[m]ultiplying the equity ratio by the ROE produces a weighted cost or 'rate of return.'" 5 Tr 1272. The company avers that this is an important consideration and "that the order in the most recent electric rate case result[ed] in a sharp decline in rate of return following a long period of stability." *Id.*, p. 1273. Consumers presented a chart indicating that its weighted ROR declined from 5.3% to 5.06% after the October 22 PFD and December 17 order, and that it would have declined further to 4.95% if the equity ratio was set at 50/50. *Id.* The company continued, noting that DTE Energy Company had a weighted ROR of 5.12% and was downgraded by Moody's. *Id.*, p. 1274. Consumers compared this, along with the FFO/debt discussed below, to a financial institution's credit evaluation for an individual seeking a personal loan to argue that "[a]fter reviewing personal income and outstanding debt, banks generally offer

lower financing rates to individuals who have more income (cash flow) to repay debt, indicating a relatively higher credit quality.” *Id.*, p. 1271.

The ALJ stated that “[w]hile Consumers Energy asserts that it is presenting the rating agency perspective, it must be remembered that the additional income it is arguing for is income that is projected to go to the utility and its shareholders.” PFD, p. 293. She further found that the analogy presented regarding an individual seeking a personal loan from a financial institution ignores the fact that a “bank would consider all funds available to pay the prospective debt costs, while Consumers Energy’s weighted cost of equity omits the funding ratepayers provide to cover the cost of debt, including debt expected to be issued during the projected test year that has not been issued yet.” *Id.*, pp. 293-294.

Consumers takes exception, arguing that the ALJ’s criticisms of its analogy misses the point as the company is “aware that not every member of their audience in an electric rate case is a finance expert with the same knowledge and experience that they have” and the witness “explained that it was a metric for business debt coverage similar to the way income-to-debt ratio is a metric for individual debt coverage” for the lay audience. Consumers’ exceptions, p. 211. The company again points out that “[t]he Commission does not regulate credit reporting agencies, and it is simply not relevant why credit rating agencies use that metric. It only matters that they do.” *Id.* Consumers states:

Regardless of the ALJ’s opinion about FFO-to-Debt as a measure of debt coverage and financial health, if the Company does not maintain a healthy FFO-to-Debt metric, credit rating agencies and equity analysts will rate the Company poorly to the financial community, thereby increasing debt costs and potentially interfering with the Company’s access to capital. Again, none of those outcomes are good for customers. Since the FFO-to-Debt metric has been shown to be a mathematical function of the weighted return on the Company’s equity (5 TR 1271), anyone concerned about maintaining the Company’s financial health and credit quality must also be concerned about the Company’s weighted return on equity.

Consumers' exceptions, pp. 211-212.

The Commission finds that it must set a capital structure that fairly balances the interests of the company and its customers. Consumers has focused much of its analysis on maintaining the company's interests and has only asserted that ratepayers will benefit from a "financially healthy" utility. While the Commission does not disagree that the ROE and capital structure should be considered holistically, it also finds no error in the ALJ's discussion of Consumers' weighted ROR. Therefore, the Commission adopts the findings and recommendations of the ALJ.

4. Funds from Operations to Debt Ratio

Consumers argued that the FFO/debt ratio is a key financial metric that needs to have a balance between the equity ratio and ROE to ensure that this metric "does not drop and cause significant credit deterioration." 5 Tr 1271. Thus, the company stated that equity ratio and ROE must be evaluated together as interconnected components and, in this case, that its proposed equity of 52% and ROE of 10.5% are necessary in order to protect the company's credit ratings. *Id.*, pp. 1273-1274.

The ALJ found that the company's assertion of the necessity to maintain an FFO/debt ratio equaling 20% failed for the following reasons:

- 1) the formula is overly simplistic for ratemaking;
- 2) the depreciation rate [the company] uses is significantly understated;
- 3) the recalculations starting with credit agency 2019 ratios in Exhibits A-33 and A-140 also do not reflect significant changes since 2019;
- 4) the 20% metric is not a substitute for independent evaluation of either the cost of equity in or the capital structure;
- 5) FFO/debt ratios below the 20% standard do not obviously jeopardize the company's credit ratings, which reflect a range of this and other credit metrics and balance financial metrics with other considerations.

PFD, p. 295.²⁰

In exceptions, Consumers reiterates its claims that the TCJA and the COVID-19 pandemic have had detrimental impacts on its cash flows and disrupted the country's capital markets. The company avers that in light of these conditions, combined with the falling equity ratio and ROE and credit downgrade, it emphasized the importance of the FFO/debt metric and that "no party in this case disputed that FFO-to-Debt is an important ratio to credit rating agencies." Consumers' exceptions, p. 213. Consumers argues that the ALJ "erroneously conflated and confused an interest coverage ratio and an FFO-to-Debt ratio in an invalid attempt to refute the Company's concern about its declining FFO-to-Debt ratio, which is directly tied to its declining ROE and equity ratio results in rate cases" and that "[i]t is unclear why the ALJ repeatedly expresses arguments that were not presented by any parties in this case, which purport to second-guess or attack the validity of the way in which the credit rating agencies evaluate Consumers Energy's financial health." *Id.*, pp. 213-214. The company reiterates its testimony to claim that the published methodologies from Moody's and Standard & Poor's (S&P) show that the interest coverage ratio may be considered "but both place greater emphasis on an FFO-to-Debt ratio." *Id.*, p. 214.

With respect to the ALJ's five criticisms, Consumers takes exception to the ALJ's finding that its FFO/debt formula (Exhibit A-119) was overly simplistic. The company explains that Exhibit A-119 "provides a mathematical development of how ROE and equity ratio determine a company's FFO-to-Debt ratio over the long term, assuming steady state conditions" and "is intended as a simplified and demonstrative approximation of the FFO-to-Debt results that the

²⁰ The ALJ addresses each of these five issues more fully at pages 296 to 305 of the PFD, which will not be extensively described here. Rather, the Commission will address the issues more fully below, through the discussion of the parties' exceptions and replies to exceptions.

Company might experience over time as the result of various ROE and equity ratio inputs.” Consumers’ exceptions, pp. 215-216 (citing 5 Tr 2266-2267, 2335-2336). Consumers reiterates its position that its calculation “closely aligns” with Moody’s methodology and that it likely overstates the FFO/debt ratio given the additional adjustments that would be made by credit agencies to generally lower the FFO/debt metric. Consumers’ exceptions, p. 216 (citing 5 Tr 2268, 2335-2336).

Consumers posits that the ALJ deferred to the Attorney General’s arguments that the company failed to account for deferred taxes, which provide the company with financial flexibility and that “it understates ‘the true depreciation that should be used[.]’” Consumers’ exceptions, p. 216 (quoting PFD, p. 296). The company argues that the ALJ erroneously held that it had no response to the concerns about deferred taxes. Quoting its rebuttal testimony, Consumers indicates that bonus depreciation is not available and that “the analysis is meant to represent the impact of ROE and equity ratio over the long-term. Over the long-term, the tax differences between the Company’s straight-line depreciation for ratemaking and accelerated depreciation for tax purposes (which is where deferred income taxes are derived from) will reverse.” Consumers’ exceptions, p. 217.

The company also claims that the ALJ failed to properly consider its testimony that the Attorney General and ABATE agreed with the use of the same formula in Case No. U-20134. *Id.*, pp. 217-218 (citing 5 Tr 2337). Consumers further argues that its testimony was modest and that its methodology “really closely aligns” with Moody’s and, in fact “produces the same results . . . when using the same inputs.” Consumers’ exceptions, p. 218 (emphasis in original). Moreover, the company points to the Attorney General’s testimony in Case No. U-20697 to argue that she was incorrect regarding the potential for a Moody’s downgrade and, therefore, the Attorney

General's analysis should not be considered persuasive as it was wrong and "has been wrong for some time." *Id.*, p. 219.

Consumers also takes exception to the ALJ's finding that the depreciation rate is understated. The company argues that in utilizing the Attorney General's higher depreciation rate, "the ALJ also needed to remove the cost of removal from the depreciation rate and add the accumulated cost of removal back to net plant" and that the ALJ failed to do either. *Id.*, p. 222. Consumers states that, given this failure, the company's FFO/debt credit metric should be utilized as "[i]t was at least close enough to provide relevant information for decision making. Neither the ALJ nor any of the other parties in this case have offered a better approximation." *Id.*, p. 223.

The company refutes the ALJ's statement that its Exhibits A-33 and A-140 "lack precision." Consumers' exceptions, p. 223. Consumers states that, contrary to the ALJ's findings, it was unable to use year-end 2020 actual results given its application was filed on March 1, 2021, and "[n]either S&P nor Moody's had reported their actual year-end results for 2020 in time for inclusion in the Company's filing; therefore, that information was not available to use in the preparation of this case." *Id.*, p. 224. The company notes that Exhibits A-33 and A-140 were not intended to project the credit metrics for the test year but "were meant to show the negative credit metric impacts to actual results based on a lower ROE and equity ratio assumption." *Id.* Consumers argues that the most persuasive evidence is that the company's Exhibit A-33 demonstrated that the December 17 order "would result in the Company dropping below the downgrade threshold for Moody's" and that "Moody's in fact downgraded the Company's credit rating" shortly after the filing of the exhibit. *Id.*, pp. 224-225. The company claims that it is obvious that an additional lowering of the equity ratio and ROE would result in "further degradation" of the company's FFO/debt ratio and that the ALJ "fails to acknowledge the credit

rating impact of the most recent reductions in ROE and equity ratio even when the credit rating agency explicitly states it.” *Id.*, p. 225. Consumers argues that the ALJ’s criticism of Exhibits A-33 and A-140 was unwarranted because they “provide reasonably precise and analytically sound information about how to evaluate the state of and risks to the Company’s credit quality and ability to access capital markets.” *Id.*, p. 227.

Consumers argues that its formula contained in Exhibit A-119 “is a product of expert independent evaluation—not a substitute for it” because it “reflects the applied expertise and knowledge of the Company’s finance team . . .” and “[t]o claim that the Company has somehow proposed that the whole exercise should be reduced solely to a formula that fits on a single sheet of paper is absurd.” Consumers’ exceptions, pp. 227-228 (emphasis in original). The company further posits that “[n]either Staff nor the Attorney General performed any analysis to show that their recommended equity ratios represent the right ‘balance’ between debt and equity for financing the business.” *Id.*, p. 229. Consumers reiterates its claim that the equity ratio should be considered with the ROE to establish an FFO/debt ratio that will support the company’s current credit ratings. *Id.*, p. 230.

Finally, the company argues that the ALJ “ignores the most important and unequivocally clear piece of contradictory evidence in the record” regarding the 20% threshold which is that “Moody’s actually downgraded the Company’s credit rating in May at an FFO-to-Debt ratio that was above 18%” and “S&P has already been warning the Company that ‘if lower ROEs and a lower equity ratio persist, credit quality could weaken.’” *Id.*, p. 231 (citing Exhibit A-138; quoting 5 Tr 1352). Consumers reiterates its claim that “operating near the threshold makes the utility—and the customers who rely on the utility for a critical service—vulnerable to any unanticipated problem that might arise with the business or in the marketplace.” Consumers’ exceptions, p. 231.

In reply, the Staff states that “despite the numerous criticisms of the ALJ’s FFO-to-Debt analysis by the Company, the Company’s primary FFO-to-Debt model is not how either major credit rating agency, S&P or Moody’s, calculates its FFO-to-Debt metric” and, therefore, Consumers “arguments against the ALJ are erroneous.” Staff’s replies to exceptions, p. 30. Thus, the Staff reiterates its position that the Commission should adopt its capital structure recommendation of 51.02% equity.

The Attorney General replies that “[c]ritically analyzing the Company’s claims regarding its FFO/debt ratio and the impact of any changes to it is not minimizing the ratio, especially when the other metrics such as the Company’s credit ratings remain strong” and “[a]s noted in the Attorney General’s brief, the Company’s financials also remain strong.” Attorney General’s replies to exceptions, p. 79. She further indicates that the ALJ properly rejected the company’s attempt to link the equity ratio and the ROE because each has “different standards and individual determinations that must be made based on the record” *Id.*

The Commission first notes that the company admits that its formula represents a “simplified mechanism” and acknowledges that credit agencies rely “on earned returns which can be impacted by weather or other temporary items such as bonus depreciation, etc.” which were not included in the company’s analysis. 5 Tr 2335, 2336. As noted by the Attorney General, deferred taxes are not accounted for in the calculation, which the ALJ found “contrasts with the company’s insistence that the TCJA has had a significant effect on its credit ratings.” 6 Tr 2955; PFD, p. 296, n. 707. Therefore, the Commission does not find an error in the ALJ’s conclusion that the company’s formula was overly simplistic.

With respect to the depreciation rate, the Commission again agrees with the ALJ that the use of the 3.9% rate is not supported. Consumers admits that an inflated rate was utilized even though

credit rating agencies would use a lower, company-wide rate and, as the ALJ aptly quoted, that “subsequent versions of this analysis may need to be revised to reflect more accurately the lower depreciation rates and the implied lower FFO-to-Debt ratio.” 5 Tr 2267, n. 3; *see*, PFD, p. 298. It is not the ALJ’s duty to create a better approximation, as suggested by the company. *See*, Consumers’ exceptions, p. 223. Rather, she weighed the evidence presented and found that Consumers did not meet its burden to support the 3.9% depreciation rate utilized and, therefore, properly concluded that the depreciation rate utilized was not reasonable.

The Commission is also not persuaded by the company’s claims that it could not utilize the 2020 actual data because it filed this case prior to the credit agencies releasing this data. Consumers chose the filing date of its application and merely because its chosen filing date was prior to the release of the 2020 actual data does not show an error in the ALJ’s conclusion that the company’s analysis was not “persuasive as to the projected FFO/debt ratio for 2022.” PFD, p. 302. The Commission also agrees with the ALJ’s finding that:

Because the calculations in these exhibits are imprecise and because the imprecisely revised FFO/debt ratios are generally in a reasonable range above the downgrade thresholds the company relies on, Consumers Energy has not established that its FFO/debt ratio would fall below 20% if Staff’s recommendation were adopted, let alone established that Staff’s or the Attorney General’s recommendations would lead to Consumers Energy operating “continuously” at the lower end of the rating agency’s risk guidelines.

Id., pp. 302-303. Given that Consumers has not established that its FFO/debt ratio would fall below 20% if the Staff or the Attorney General’s proposals were adopted, the Commission finds that the company overstates the gravity of a lower equity ratio in claiming it would be “operating continuously on the low end of credit rating agencies’ thresholds for a credit risk or credit rating downgrade.” Consumers’ exceptions, p. 227. As noted by the Staff, the company’s analysis is not

how either Moody's or S&P calculate the FFO/debt ratio and, therefore, Consumers' claims are not persuasive.

The ALJ also properly concluded that the company's proposal to find that the FFO/debt ratio should equal at least 20% when considering the combination of the equity ratio and ROE would result in "a mathematical formula constraining the Commission's choice of one of the two elements, which is in itself antithetical to the separate analyses and factors governing the selection of each element." PFD, p. 304. As noted by the Attorney General, the conclusion that Consumers' analysis is not persuasive does not minimize the importance of the FFO/debt ratio as one factor for the Commission to consider. The Commission generally agrees that numerous factors, including the FFO/debt ratio, should be considered in tandem when determining reasonable and prudent rates. Nevertheless, the Commission declines to adopt a metric that narrows the scope of factors to be considered.

Finally, the Commission disagrees with the company's assertion that its Moody's credit downgrade definitively supports its analysis. As discussed above, Consumers' analysis contains flaws and, as such, does not establish that a 20% threshold for the FFO/debt ratio is required to avoid a credit downgrade in the future. The record reflects that a threshold of 18% for Moody's and 15% for S&P would be more appropriate. *See*, 6 Tr 2949, 2952. As properly noted by the ALJ, these lower thresholds were not disputed by the company, other than its claim that it is dangerous to operate on the lower end of the thresholds. PFD, p. 305; *see*, 5 Tr 1353.

Given the above, the Commission finds no error in the ALJ's extensive discussion of Consumers' FFO/debt ratio estimates. *See*, PFD, pp. 296-305. Therefore, the Commission adopts the findings and recommendations of the ALJ.

5. Credit Worthiness

The parties presented varying opinions about the company's credit and the record reflects that many factors are considered by credit rating agencies in determining the credit worthiness of a company. The company argued that Public Act 341 of 2016 (Act 341) caused an increase between the time rates can be implemented and the filing of a rate case which "does not reduce the risk faced by equity investors in the utility." 5 Tr 2264. Regarding the Moody's credit downgrade, the Attorney General stated that "the prior Moody's rating was out of line with the credit ratings assigned to the Company's debt by S&P and Fitch" and that the downgraded rating still places Consumers above its S&P rating and on par with the Fitch rating. 6 Tr 2949-2950.

The parties also disputed whether Consumers' capital expenditure plans increase its riskiness. The Staff indicated that the Moody's downgrade was "due in part to the Company's robust long-term utility investment program." *Id.*, p. 4143. Similarly, the Attorney General noted "rating agencies have frequently expressed concerns with the Company's high level of capital expenditures, which require more debt capital to finance" and that "[a] better option to increasing the equity ratio would be for the Company to decrease capital expenditures, fund a larger portion of the expenditures with internally generated cash, and issue less debt, if it is truly concerned with its cash flow to debt coverage ratios." *Id.*, p. 2947. Consumers indicated that its "large Capital Expenditure Program is generally indicative of higher risk due to the fact that the Company will need to access capital markets with greater size and/or frequency" but refutes the Attorney General's characterization because it "focuses exclusively on the Company's debt issuances. Over half of the capital expenditures, however, are also funded by equity." 5 Tr 1284, 1350.

The ALJ discussed Moody's May 2021 credit opinion of Consumers (Exhibit A-138) at pages 306 to 307 of the PFD, concluding that "it is generally reassuring regarding the company's credit

quality and the risks it faces.” PFD, p. 306. The ALJ quotes the Moody’s report that explains that it views the regulatory framework in Michigan “to be more credit supportive than most other states.” *Id.*, p. 307 (citing Exhibit A-138). She found the Attorney General’s analysis of the Moody’s downgrade to be persuasive, which noted that prior to the downgrade, Moody’s rating was higher than the utility’s credit metrics justified, and that the downgrade brings its rating more in line with the other agencies. *Id.*, p. 308 (citing 6 Tr 2949-2950). The ALJ also concluded that Consumers’ characterization of Act 341 was inaccurate and “fails to mention that self-implementation required refunds of any excess revenue collected over that six-month interval, resulting in uncertainty until the final order was issued and the administrative burden of calculating, filing for, and implementing the refunds.” PFD, p. 310. The ALJ further notes that the company admits the higher risk associated with its large capital expenditure program but later “objected adamantly to [the Attorney General] making the same point.” PFD, p. 312 (quoting 5 Tr 1284, 1350).

In exceptions, Consumers first notes its agreement with the ALJ “that credit rating agencies evaluate a number of factors in making their credit rating decisions.” Consumers’ exceptions, p. 232. However, the company avers that the ALJ “appears to prematurely and incorrectly dismiss the fact that credit rating agencies also evaluate the stability and predictability of regulatory decisions as an important part of their evaluation too.” *Id.*, pp. 232-233 (footnote omitted; emphasis in original). Consumers reiterates its contention that “[t]he statutory construct in Michigan for rate recovery is better than in some states, but worse than in others, and it became less favorable in terms of regulatory lag beginning with the enactment of Public Act 341” and that the IRP provisions of Act 341 have not provided benefit to the company with regard to timely rate recovery. Consumers’ exceptions, pp. 233, 234. The company argues that the ALJ’s implication

that the company's large capital investment program contributes to the weakened credit ratings "is not an accurate understanding of how the Company's large capital investment program will be considered by credit rating agencies" and that "[a]s long as new capital expenditures are funded by an appropriate mix of debt and equity, the capital expenditures themselves would not be expected to negatively impact the Company's credit quality." *Id.*, pp. 235, 236.

The Commission agrees with the ALJ and Consumers that numerous factors are considered by the credit rating agencies. While the company claims that the ALJ failed to consider that credit rating agencies include "the stability and predictability" of the Commission's orders in their ratings, the Commission concludes that this consideration includes the February 28 order, which the ALJ noted on page 312 of the PFD. As discussed more fully above, in 2017, the Commission noted its expectation "that Consumers will have arrived at, or will present a strategy to return to, a balanced structure within the five-year infrastructure plan time period." February 28 order, p. 64. Thus, the Commission finds that it is likely that the credit rating agencies have already considered the Commission's desire for the company to achieve the 50/50 balanced structure.

With regard to the statutory framework, the Commission agrees with the ALJ's analysis and finds that the company overstates regulatory lag due to the implementation of Act 341. Overall, the Commission finds that the ALJ accurately reviewed the record and supported her findings and conclusions. Finding no error, the Commission adopts the findings and recommendations of the ALJ.

6. Peer Group Equity Ratios

Consumers argued that "[t]he average equity ratio for the Company's peer group was 52.8%, 80 basis points higher than the 52.00% proposed for Consumers Energy in this case." 5 Tr 1282-1283; Exhibits A-32 and A-139. The Attorney General, however, set forth her own

proxy group analysis which reflected an equity ratio of only 45.2%. 6 Tr 2956; Exhibit AG-1.36. The Staff also presented a proxy group for its ROE analysis using many of the same companies in Consumers' proxy group. *See*, 6 Tr 4156-4159. The company refuted the Attorney General's analysis, arguing that the equity ratio for the Attorney General's peer group is actually 52.6%. 5 Tr 1360. Consumers also "calculated an average equity ratio of nearly 54%" for the Staff's proxy group. 5 Tr 1338. In its brief, the Staff responded that Consumers' "assertions are erroneous" because the company overlooked the fact that the ROE for the Staff's proxy group had an average authorized ROE much lower than the Staff's or the company's ROE recommendation in this case. Staff's initial brief, p. 112.

The ALJ found that "no reliable information can be gleaned from Exhibits A-32 and A-139." PFD, p. 315. She held that Consumers cannot attest to the source of its figures and that "[a] review of the information [the company] presented . . . shows that at least some of the data is not taken from the capital structures used in ratemaking." *Id.* The ALJ reviewed figures for Michigan Gas Utilities Corporation (MGUC) specifically finding that the 68% equity ratio used for MGUC by the company "do not reflect 'the regulated subsidiary level' in any manner that is comparable to evaluating Consumers Energy's proposed 52% equity ratio." *Id.*, pp. 315-316. Continuing, the ALJ found that the company's analysis contained additional "troubling entries" which "indicate it was not prepared with care." *Id.*, p. 316.

Consumers again excepts, arguing that the ALJ did not indicate if she relied upon the Attorney General's claim and states that the company "showed that the Attorney General's analysis was faulty because it used debt and equity balance information from the parent holding company level, and made no effort to ascertain what the comparable figures were at the regulated utility subsidiaries." Consumers' exceptions, p. 237 (citing 5 Tr 1359). Consumers contends that the

ALJ erroneously relied upon a discovery response to conclude that the company did not substantiate the S&P Global data and that “[i]t does not ‘strain credulity’ to use a widely trusted industry source of pre-collected industry data.” Consumers’ exceptions, p. 239. The company states that it is perplexing that the ALJ took the time to review MGUC’s most recent cases when it is not the only Michigan utility included in the company’s evidence. *Id.*, p. 239-240. Consumers further indicates that “there is good information available to demonstrate” that its evidence provides “at least a reasonable approximation of the equity ratios, on a ratemaking basis, of the regulated utility subsidiaries associated with the various proxy groups proposed in this case.” *Id.*, p. 241.

The Commission finds that the ALJ properly concluded that the company’s Exhibits A-32 and A-139 are not persuasive enough to support Consumers’ proposed 52% equity ratio. As discussed in the PFD, regulatory and financial data should not be combined, and the company could not verify that its data contained equity ratios set by a regulatory commission in a rate case.

5 Tr 1361. The Commission again reminds Consumers that it has the burden of proof and rejects any assertion made that the ALJ should have reviewed additional cases to verify the company’s data, given “the actual equity ratios of the regulated subsidiaries are publicly available”

5 Tr 1361; *see*, Consumers’ exceptions, pp. 239-240. The Commission further disagrees with the company that its data was a reasonable approximation because, as noted by the ALJ, it did not include only regulatory data which, for MGUC at least, was substantially inflated over the equity ratio set by the Commission. *See*, PFD, pp. 315-316. Nevertheless, when considering all the evidence on the record, the Commission agrees with the Attorney General that the company’s proposed equity balance of 52% “creates a disconnect and is also more costly to customers.”

Attorney General’s initial brief, p. 127; *see*, 6 Tr 2956; 5 Tr 1360-1361; Exhibits AG-1.36, A-32,

and A-139. Consumers has not demonstrated that the ALJ erred; therefore, the Commission adopts the findings and recommendations of the ALJ.

7. Conclusion

In her recommendation, the ALJ noted that the Attorney General's proposal to "move right away to a 50/50 capital structure is not unreasonable" but ultimately concludes that the "Staff's recommended equity percentage of 51.02% is reasonable, consistent with prior Commission orders, and should be adopted." PFD, p. 317.

The company argues in exceptions that "the Commission should reject the PFD's recommendation to reduce the Company's equity ratio from 51.11% to 51.02% and should instead increase the equity ratio to 52.00% or some other level that will reasonably support the Company's credit and ability to access capital" Consumers' exceptions, p. 242.

The Attorney General also filed exceptions. She states that the ALJ's recommendation "is an improvement over the Company's proposal, using Staff's 51.02% equity ratio compared to the Attorney General's ratio, which by the ALJ's reasoning is also reasonable given the evidence, requires ratepayers to pay a substantially higher cost of a larger than necessary equity layer." Attorney General's exceptions, p. 34. The Attorney General, therefore, again recommends moving directly to a 50/50 balanced structure.

Consumers replies that the Attorney General failed to offer specific reasons to explain why the Commission should adopt her proposal "other than to say that '[e]very percentage point or part of a percentage point used in determining the appropriate equity ratio has real financial impact for ratepayers.'" Consumers' replies to exceptions, p. 70 (quoting Attorney General's exceptions, p. 34). The company avers that a mere observation that equity costs more than debt does not demonstrate that reducing equity will strike an appropriate balance. *Id.*, p. 71. Consumers further

reiterates its testimony, briefing, and exceptions. *See*, Consumers’ replies to exceptions, pp. 71-73.

The Commission finds that the ALJ’s recommendation of the Staff’s equity percentage of 51.02% is reasonable and best balances the interests of the company, its shareholders, and its customers. The company claims that if its equity ratio is reduced below 52%, it will negatively impact the company’s credit metrics and increase the risk of an additional credit downgrade. The Commission finds that Consumers’ claims are overstated. As discussed above, the credit rating agencies rely on numerous factors. Thus, the Commission finds that approval of an equity ratio of 51.02% should not substantially affect the company’s credit metrics. The Commission is cognizant of Moody’s recent downgrade, but agrees with the Attorney General’s analysis that, prior to the downgrade, the company’s Moody’s rating was overstated and that the company still has a healthy credit rating. *See*, 6 Tr 2949-2950.

As noted above, the Commission believes a capital structure that is roughly balanced between debt and equity strikes the appropriate balance between ensuring access to capital at attractive rates, on the one hand, and maintaining customer affordability on the other. However, as the ALJ noted, the Commission has also regularly shown a “willingness to accept a temporary deviation from a balanced capital structure over the short term” when circumstances warrant such an approach. PFD, p. 284. In addition, the Commission has also provided a utility with the opportunity to explain why a utility’s specific circumstances justify such a deviation as being reasonable and prudent. February 28 order, p. 64. In the past, the Commission has considered factors including significant anticipated near-term infrastructure capital investments and the way that certain credit rating agencies treat securitization debt, among other factors. *See*, e.g.,

November 19 order, p. 31. The Commission also agrees with the need to consider the authorized ROE and the utility's capital structure in a holistic manner.

Applied to the circumstances of the immediate case, these principles support the ALJ's adoption of the Staff's recommended equity ratio of 51.02%. This represents a modest decline of less than 10 basis points from the current approved equity ratio of 51.11%, which the Commission finds appropriate based on a holistic review of the company's current financial metrics, planned investments, added securitization debt, and other factors, and best balances the interests of the company's investors with the interests of its customers.

The Commission, therefore, relies on its above discussion to adopt the ALJ's finding that the Staff's recommended 51.02% equity ratio "is reasonable, consistent with prior Commission orders, and should be adopted." PFD, p. 317.

B. Other Capital Structure Balances

The ALJ indicated that there was no dispute on record "that the other capital structure balances should be those shown in Exhibit S-4, Schedule D1, which also reflects this PFD's recommended equity percentage of 51.02% of permanent capital." PFD, p. 318.

No party filed exceptions on this issue, and the Commission adopts the ALJ's findings and recommendations.

C. Cost of Equity

The criteria for establishing a fair ROR for public utilities is rooted in the language of the landmark United States (U.S.) Supreme Court cases *Bluefield Waterworks & Improvement Co v Pub Serv Comm of West Virginia*, 262 US 679; 43 S Ct 675; 67 L Ed 1176 (1923), and *Fed Power Comm v Hope Natural Gas Co*, 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944). The Supreme Court has made clear that, in establishing a fair ROR, consideration should be given to both

investors and customers. As stated on page 12 of the December 23, 2008 order in Case No. U-15244, “the rate of return should not be so high as to place an unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise.” Nevertheless, the Commission observes that the determination of what is fair or reasonable, “is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use.” *Meridian Twp v City of East Lansing*, 342 Mich 734, 749; 71 NW2d 234, 237 (1955). With these principles in mind, the Commission considers the factors that form the basis for determining the appropriate ROE for Consumers.

Six parties sponsored witnesses and submitted exhibits regarding ROE. Consumers’ cost of capital witness was Todd A. Wehner, Director of Corporate Finance for Consumers. Kirk D. Megginson, a Financial Specialist in the Commission’s Revenue Requirements Division, presented the Staff’s case. Sebastian Coppola, an independent business consultant, testified on behalf of the Attorney General. Christopher C. Walters, a consultant and Associate with Brubaker & Associates, Inc., testified on behalf of ABATE. Walmart’s cost of capital witness was Lisa V. Perry, Senior Manager of Energy Services. And, Douglas B. Jester, a consultant and Partner of 5 Lakes Energy LLC, testified on behalf of MNSC.

Mr. Wehner emphasized the importance of Consumers’ authorized ROE. He asserted that customers will not be well-served if the company’s access to capital is subject to uncertainty or contingent on temporary market conditions, such as the volatility caused by the global COVID-19 pandemic. Mr. Wehner explained that to maintain a financially healthy utility, there is a “virtuous cycle,” which is “a cycle of good regulation, together with a supportive ROE, [that] enables a

utility to attract capital and make investments that drive better service and maintain affordable rates.” 5 Tr 2253-2254. However, Mr. Wehner contended that:

Capital is finite. As such, not all projects or investments can be funded, and a utility management team must decide which investments are most beneficial to customers and investors and should, therefore, be funded. While an attractive ROE enables the utility to maintain access to capital at a reasonable cost, access to capital is not the sole criteria used by a company to make an investment decision. Instead, both external and internal considerations must be weighed. Externally, private capital investment in the utility needs to be weighed against all other potential investments competing for capital. Internally, the management team, as fiduciaries, must weigh whether the Company’s investment in the utility provides sufficient risk-adjusted returns relative to other options including electric utility investments, investments in other jurisdictions, non-regulated investments, or simply returning capital to shareowners in the form of dividends and/or share repurchases.

Id., pp. 2254-2255. Mr. Wehner claimed that concerns over declining ROEs in Michigan may cause investors to reassess their investment in the utility.

Next, he argued that attractive ROEs help the utility provide consistent financial performance.

Mr. Wehner stated that:

Consistent financial performance contributes to better credit ratings and increased investment interest, thereby lowering borrowing costs. The investment provided by utility shareowners, and the return allowed on that equity, provide the financial resources and capital to: (i) support the debt financing raised by the utility; (ii) procure contracts with suppliers; and (iii) fund unplanned or unexpected expenses.

Id., pp. 2253-2254. Mr. Wehner contended that attractive ROEs result in lower costs of borrowing and enable affordable customer rates.

Mr. Wehner explained that he used various methods and analyses to calculate an ROE for Consumers. He asserted that multiple models were necessary to compare similar investments and to examine the impact of the proposed ROE on the company’s credit. Mr. Wehner noted that each of his quantitative models provided an estimate of the required ROR for an investor. He stated that, “[i]f the expected return on investment is below the required rate of return, the management

of a company will often cease making new investments and potentially seek to return capital unless returns are higher. If a company were to earn exactly the required rate of return, investors would be indifferent between new investment and the return of capital.” *Id.*, p. 2258. Therefore, Mr. Wehner averred that, to encourage investment, the ROE must be set at a rate greater than the required ROR.

Mr. Wehner contended that another important metric is the FFO/debt ratio. He explained that “[a] higher FFO-to-Debt ratio, which reflects a cash flow from operating activities that is at a level viewed as favorable to offset or otherwise reduce the risk associated with the Company’s ability to pay its debts, is indicative of a lower financial risk and a resulting higher credit rating. A higher credit rating, in turn, results in lower financing rates.” *Id.*, p. 2266. Mr. Wehner stated an FFO/debt ratio of 20% is the minimum level required to support Consumers’ current credit rating over time. He asserted that, “if the Commission believes an ROE of 9.9% is more appropriate, then a higher equity ratio would be warranted. In such a case, a minimum equity ratio of 53.1% would be required to maintain credit neutrality” *Id.*, p. 2268.

Mr. Wehner contended that interest rates are another important factor in developing the company’s ROE. He stated that, “[b]ecause most of the Company’s outstanding long-term debt is of a fixed interest rate structure, long-term interest rates affect the planned financings of the Company.” *Id.*, p. 2270. Mr. Wehner averred that lower long-term interest rates lead to a lower cost of debt. He asserted that, correspondingly, “[t]he Company’s favorable credit ratings over the past several years has [sic] resulted in lower long-term debt rates. The favorable credit ratings are due, at least in part, to the historically supportive regulatory environment and a reasonable authorized ROE.” *Id.*, p. 2274. Mr. Wehner noted that movements in short-term interest rates do

not parallel the movements in long-term interest rates, and short-term interest rates are not considered in the permanent capital structure of the company.

In conducting his analysis, Mr. Wehner reviewed the current ROE trends in the U.S., considered national and global factors impacting the economy, and assessed market risk and uncertainty. *See*, 5 Tr 2278-2282. He noted that the company plans to continue its capital investment program of approximately \$13.2 billion over five years and that “[t]his significant level of capital investment increases the risk profile of the Company for investors and the rating agencies.” *Id.*, p. 2283. Therefore, Mr. Wehner asserted that the Commission must set Consumers’ ROE at a level that will attract capital and maintain the financial integrity of the utility.

To calculate the ROE for Consumers, Mr. Wehner used a proxy group comprised of 10 “publicly traded companies, companies headquartered in and with operations in the United States, companies with a comparable amount of designated generation capacity, and companies with a comparable amount of Property Plant and Equipment (“PP&E”).” *Id.*, p. 2286. Mr. Wehner performed quantitative analyses of the cost of equity using three versions of the capital asset pricing model (CAPM): (1) the empirical CAPM (ECAPM), (2) a version he labeled “total beta,” and (3) the traditional CAPM (however he did not rely on the traditional CAPM in his analysis). *See*, 5 Tr 2288-2303. He also performed analyses using market risk premium, the discounted cash flow (DCF) approach, projected risk premium, and comparative earnings analysis. *See*, 5 Tr 2293-2311.

Mr. Wehner determined an ROE range of 10.00%-11.00% for the proxy group. 5 Tr 2249. Mr. Wehner stated that, although his analyses support an ROE on the high end of the range, he recommended an ROE of 10.50% based on numerous factors, including the Commission’s

“preference for adjustments to be limited to reasonable movements, and given the recommended equity ratio of 52.0%.” *Id.* He asserted that the 10.50% ROE and the 52% equity balance will support the company’s financial metrics and will ensure that Consumers can make necessary infrastructure improvements and can continue to provide reliable electric service to its customers. *See*, 5 Tr 2250, 2261. In addition, he contended that the company’s ROE recommendation would not place an undue burden on ratepayers because it represents approximately 20% of total costs. According to Mr. Wehner, the proposed ROE of 10.50% would only increase the average residential customer bill by \$0.88 per month. *Id.*, p. 2255.

On behalf of the Staff, Mr. Megginson recommended an ROE of 9.70%, which is at the high end of his calculated ROE range of 8.70%-9.70%. To determine the recommended ROE, Mr. Megginson used Consumers’ proxy group, but with some modification. Mr. Megginson stated that he:

primarily looked at six criteria in selecting a proxy group of comparable utility companies used in its ROE analysis: 1) each utility had to have net plant greater than \$4.0 billion but less than \$30.0 billion to better compare in size and footprint to Consumers Energy’s electric division; 2) each company had to derive no less than 50% or more of its revenues from regulated electric distribution service; 3) each utility had to have an investment grade rating within three notches from that of Consumers Energy from the two primary rating agencies, S&P and Moody’s; 4) each company had to currently be paying dividends to shareholders; 5) each utility had to be followed by 2 or more International Business Estimating System (I/B/E/S) analysts; and 6) each company was not currently involved in a merger or major corporate buyout.

6 Tr 4157. Mr. Megginson stated that, based on the above criteria, he developed a proxy group of 10 companies, three of which were different from those in Consumers’ proxy group. According to Mr. Megginson, “[t]he average authorized ROE is 9.55% for the electric proxy group. This is considerably less than Consumers Energy’s current 9.90% authorized ROE and more in line with Staff’s 9.70% ROE recommendation.” *Id.*, p. 4158.

Mr. Megginson applied the DCF model and historical and projected CAPM to the proxy group data. He also considered a bond yield + risk premium method and a comparison of recent electric ROE determinations from states other than Michigan. *See*, 6 Tr 4142, 4159-4172; Exhibit S-4, Schedule D-5, pp. 12-13. Mr. Megginson stated that “[c]onsidering the Company’s current authorized ROE of 9.90% and taking into account the Commission’s guidance that ROE recommendations reflect prudence, it is Staff’s judgement that its ROE recommendation for Consumers is 9.70%.” 6 Tr 4172-4173.

Mr. Megginson argued that Consumers’ quantitative methods were flawed and requested that they be rejected. He also contended that Consumers’ proposed ROE of 10.50% is unreasonable and imprudent because it is 60 basis points higher than the company’s currently approved ROE of 9.90% and it “does not coincide with Consumers Energy’s solid credit rating and the current low interest rate environment we are in and will continue to experience in the future.” *Id.*, p. 4173.

Testifying on behalf of the Attorney General, Mr. Coppola noted that his proxy group consists of nine electric utility companies that have comparable revenue to Consumers, have growing earnings and dividends, and are not involved with mergers or selling assets. Using this proxy group, he employed the DCF, CAPM, and Utility Risk Premium analyses, arriving at ROE estimates of 9.32% from the DCF method, 8.79% from the CAPM approach, and 8.82% from the Utility Risk Premium analysis. 6 Tr 2970-2976; Exhibits AG-1.35, AG-1.36, AG-1.37. Mr. Coppola also reviewed the authorized ROEs granted by other state commissions in 2019 and 2020. *See*, 6 Tr 2983-2984. Accordingly, Mr. Coppola recommended an ROE of 9.50% to account for: (1) the COVID-19 pandemic and the current state of the economy, which has increased business risk; (2) the uncertainty of “the extent to which investors anticipate changes in

interest rates and the impact on stock prices;” and (3) the Commission’s possible preference for a more gradual reduction. *Id.*, p. 2988.

On behalf of ABATE, Mr. Walters applied: (1) a constant growth DCF model, using the consensus of analyst’s growth rate projections; (2) a constant growth DCF model, using sustainable growth rate estimates; (3) a multi-stage DCF model; (4) a Risk Premium model; and (5) CAPM methods. *See*, 6 Tr 3565-3595. Mr. Walters recommended an ROE of 9.40%, within the range of 9.10%-9.70%. *Id.*, p. 3596. He contended that, when combined with Consumers’ proposed common equity ratio of 52.0%, it results in an overall ROR of 5.47%, which reduces the company’s revenue deficiency by \$81.95 million.

Mr. Walters objected to the company’s recommended ROE range of 10.00%-11.00% because “the results produced by [the total beta CAPM and projected risk premium] are so far out of sync with the current market cost of equity and the ROEs being awarded around the country and in Michigan” 6 Tr 3599. In addition, he asserted that FERC has rejected the comparable earnings analysis used by Consumers, finding that:

Because an investor cannot purchase a utility’s common stock at book value and must instead pay the prevailing market price for common equity, the utility’s expected earned return on book value is indicative of neither what an investor can expect to earn on an investment in the utility’s common stock nor what return an investor requires to invest in the utility’s common stock.

Id., p. 3610 (quoting *Ass’n of Businesses Advocating Tariff Equity v Midcontinent Indep Sys Operator, Inc*, Docket Nos. EL 14-12-003 and EL 15-45-000, 169 FERC ¶ 61,129).

Furthermore, Mr. Walters contended that Consumers’ authorized ROEs continue to exceed the national average ROE and have cost ratepayers more than \$128.5 million since the November 19 order.

Mr. Walters also provided an alternative “ROE analysis that is guided by the methods and analyses prescribed by FERC in Opinion Nos. 569, 569-A and 569-B, with one exception. The exception [he] made to the typical FERC analysis was with the development of the risk premium study.” 6 Tr 3613-3614. He stated that the alternative analysis results in an ROE range of 9.34%-10.43%. Mr. Walters noted that, although he does not support certain aspects of FERC’s method, he contended that it is yet another method demonstrating that Consumers’ requested ROE of 10.50% is excessive. *See*, 6 Tr 3614.

Ms. Perry, testifying on behalf of Walmart, objected to Consumers’ recommended ROE of 10.50% and the company’s alternative proposal to continue its ROE of 9.90%. She argued that the company’s proposals are excessive as demonstrated by:

- (1) the customer impact of the resulting revenue requirement increase as discussed [in testimony];
- (2) the reduced risk associated with Michigan’s regulatory framework, including the use of a projected test year (which reduces the risk due to regulatory lag based on the inclusion of the most current information in its rates when they will be in effect);
- (3) the use of risk reducing ratemaking structures such as recovering DR related costs through a surcharge as requested by the Company in its Application, instead of through base rates; and
- (4) recent ROEs approved in Michigan and other jurisdictions nationwide.

6 Tr 3854-3855. Ms. Perry recommended that the Commission authorize an ROE of 9.64%, which would reduce the company’s revenue requirement by \$63.8 million. In addition, she asserted that, in authorizing an ROE, “[t]he Commission should thoroughly and carefully consider the impact on customers . . . to ensure that any increase in the Company’s rates reflects the minimum amount necessary to compensate the Company for adequate and reliable service, while

also providing Consumers an opportunity to earn a reasonable return for its shareholders.” *Id.*, p. 3862.

On behalf of MNSC, Mr. Jester asserted that Consumers’ authorized ROE should be based on its overall performance compared to other utilities in the U.S. in the areas of reliability, affordability, and environmental protection. He noted that, according to 2018 data in a report published by CUB in 2020, Consumers’ performance in these areas has not materially changed and “is somewhat worse than the national median in all respects.” 5 Tr 2422; *see*, 5 Tr 2411-2422. Consequently, Mr. Jester recommended that the Commission authorize an ROE of 9.50% to incentivize Consumers to improve reliability, provide more affordable service, and to further protect the environment.

Mr. Wehner responded that the Staff’s, the Attorney General’s, and ABATE’s recommended ROEs are not in the best interest of customers, will not support the credit of the company, and will not allow Consumers to attract capital. He disputed the parties’ analyses and asserted that the parties fail to acknowledge that the COVID-19 pandemic has created a radical change in the economy and “the impacts of the Tax Cut and Jobs Act of 2017 (‘TCJA’), or federal Tax Reform (‘Tax Reform’), has led to a credit quality deterioration across the utility sector.” 5 Tr 2320-2321; *see*, 5 Tr 2323-2391; *see also*, Consumers’ reply brief, pp. 135-136, 138-140, 142-152, 154-158. Mr. Wehner reiterated that a 10.50% ROE will ensure the financial soundness of the utility, will support the company’s credit, will allow the company to attract necessary capital, and will not place an undue burden on ratepayers.

In the PFD, the ALJ conducted a detailed review of Consumers’ and the parties’ positions and their quantitative analyses regarding a recommended ROE, which shall not be repeated here. *See*, PFD, pp. 318-372. She noted that Consumers’ testimony and exhibits focus on qualitative factors

that ostensibly demonstrate the riskiness of the company compared to other utilities and the market. The ALJ stated that:

While the TCJA and the pandemic are legitimate concerns of the credit rating agencies, a close review shows that Consumers Energy's credit metrics under any of the combined return and capital structure recommendations of Staff and intervenors would not result in FFO/debt ratios close to the downgrade margins as Consumers Energy claims, based on the formula in Exhibit A-119 and on the revisions to 2019 credit metrics presented by Mr. Bleckman. In addition, this PFD concluded that the company benefits from a favorable regulatory environment, which was confirmed by credit rating agencies and undervalued by company witnesses.

PFD, pp. 372-373.

The ALJ found persuasive the other parties' criticisms of Consumers' total beta CAPM, ECAPM, risk premium, and DCF models. *See*, PFD, pp. 373-380. Specifically, she noted that Consumers' projected equity cost estimates were significantly higher than those of the other parties because of the non-standard models and inputs used by Mr. Wehner. Regarding Consumers' review of the other parties' analyses, the ALJ stated that, "[w]hile Consumers Energy objects to Staff and intervenor quantitative analyses on several grounds, [the ALJ] finds that the company has failed to identify a source of significant error or bias in Staff's analysis." *Id.*, p. 381. She found Consumers' criticisms to be unreasonable and that the company failed to provide evidence discrediting the Staff's sources.

The ALJ also found that Consumers provided many atypical, unsupported, contradictory, and confusing arguments. She stated that "[o]ne example of the confusion in the company's presentation is the company's assertion that if it does not approve of the return on equity set by the Commission in this case, it will find alternative investments." *Id.*, p. 385 (citing 5 Tr 2254-2255). The ALJ noted that Mr. Wehner made a similar statement in another portion of his testimony.

PFD, p. 385 (citing 5 Tr 2261). The ALJ found the statements to be concerning but noted that, in the company's initial brief, Consumers contended that it would continue to operate its system.

Next, the ALJ noted a contradiction in the company's presentation. According to the ALJ, Consumers relied on S&P's Global Regulatory Research Associates (RRA) database "to show that 'top tier' regulatory jurisdictions have higher customer satisfaction and higher returns on equity;" however she noted that the company claimed that the RRA database was incomplete and "should not be relied upon." PFD, p. 386 (citing 5 Tr 2278). The ALJ stated that, rather than presenting objective arguments, some of the company's unsupported and confusing claims appear to be an effort to contradict every component of the Staff's and intervenor's evidentiary presentations.

In conclusion, the ALJ found that Consumers failed to demonstrate that its ROE should be increased. Rather, she stated that the "Staff's recommended return on equity of 9.7% reasonably aligns with the Commission's preference to avoid significant changes in regularly-occurring rate cases, while reflecting an objective financial analysis and understanding of the risks facing the utility." PFD, p. 388. However, the ALJ noted that the analyses of Mr. Coppola, Mr. Walters, and Ms. Perry, which recommend lower ROEs, are also within the range of reasonableness.

In its exceptions, Consumers objects to the ALJ's recommended ROE of 9.70%. According to the company, "the ALJ's analysis of the ROE evidence in this case does not sufficiently tie [her] ROE recommendation to the three criteria identified in [*Bluefield* and *Hope*] nor does it offer any analysis to imply – much less substantiate – that the ROE recommended in the PFD meets any of the three requirements." Consumers' exceptions, p. 242. In addition, Consumers disputes the ALJ's finding that, if the Staff's or intervenor's ROE and equity ratios are adopted, Consumers' will not experience a credit downgrade. The company asserts that, to the contrary, it "actually did experience a credit rating downgrade during the course of this case." *Id.*, p. 243. In support,

Consumers cites a report by Moody's and a credit opinion warning from S&P. *See*, Exhibit A-138; 5 Tr 1278-1279.

Consumers contends that the ALJ's criticism of the company's quantitative models includes multiple errors. According to the company, the ALJ disregarded Consumers' evidence that the total beta CAPM method is not new or novel. Additionally, the company asserts that she mischaracterized the risk represented by the total beta CAPM method. Furthermore, Consumers states that "the [ALJ] develops new criticism of the 'total beta' method that no party to this case raised or advanced," and that the ALJ erroneously concludes that the company failed to provide support for its total beta CAPM calculation. Consumers' exceptions, p. 250. In the company's opinion, the ALJ unreasonably accepted the Staff's and intervenor's testimony and evidence on the CAPM, ECAPM, risk premium, DCF, and comparable earnings model analyses and rejected Consumers' unchallenged information without sufficient justification.

Next, Consumers disputes the ALJ's claim that Mr. Wehner threatened that, if the company does not receive its requested ROE, Consumers will discontinue capital investments and necessary investments in plant. According to Consumers, "[t]hat is not what Mr. Wehner stated in his testimony. Mr. Wehner testified about the decision-making process for determining whether an investor would invest equity in the utility, not about whether the utility would invest its capital (either from debt or equity) in the needed utility plant." *Id.*, p. 256. The company avers that Mr. Wehner's testimony is a request that its ROE be sufficient to encourage investment in Consumers' operations.

Finally, in response to the ALJ's determination that Mr. Wehner provided inconsistent testimony regarding the RRA database, Consumers contends that "Mr. Wehner's testimony is, and has previously been, that the RRA report showing reported data for certain rate case outcomes is

not complete because it intentionally excludes certain types of data.” *Id.*, p. 276. The company explains that the RRA report does not include all annual rate case outcomes throughout the nation; however, Consumers asserts that the RRA database does provide a review and ranking of the regulatory commissions in all 50 states. In Consumers’ opinion, there is nothing inconsistent in Mr. Wehner’s testimony about the RRA report.

In her exceptions, the Attorney General asserts that the totality of evidence in this case supports a much lower ROE than 9.70%. She notes that, “[t]he [ALJ] acknowledges that analysis by the parties, including that provided by Mr. Coppola ‘establish that lower returns on equity are also within [sic] the range of reasonableness.’” Attorney General’s exceptions, p. 36 (quoting the PFD, p. 389). The Attorney General contends that her recommended ROE of 9.50% was based on a reasonable analysis of the company’s case, and therefore, it should be approved by the Commission.

In its exceptions, MNSC reiterates that, “using standard metrics of reliability, affordability, and environmental emission,” Consumers’ “performance relative to other utilities is mediocre.” MNSC’s exceptions, p. 7. Accordingly, MNSC requests that the Commission approve an ROE of 9.50% to encourage the company to improve its performance on these metrics.

MAUI excepts, asserting that Consumers’ “investments are not all equal in risk and therefore customers who benefit from different investments should not all pay the same rate of return on those investments.” MAUI’s exceptions, p. 8. MAUI argues that streetlighting customers contribute less risk than any other class of customers and, therefore, the return on rate base for streetlighting customers should be set at 10% less than that of other customers; in the alternative, “the contribution toward the enterprise-wide ROR be reduced by 10% for streetlighting customers.” MAUI’s initial brief, p. 41; *see*, MAUI’s exceptions, p. 8.

Consumers states that “[t]he Attorney General’s Exceptions do not discuss any particular flaw in the analysis offered in the PFD. Instead, the Attorney General simply takes the position in her Exceptions that the [ALJ] ‘could have made [a] recommendation based [on] the ROE of 9.5% proposed by the Attorney General which was based on an analysis of the Company’s case.’” Consumers’ replies to exceptions, p. 74 (quoting the Attorney General’s exceptions, p. 37). The company asserts that, in the Attorney General’s ROE analysis, she failed to account for economic and market conditions and, therefore, her recommended ROE is inaccurate and unreliable.

Next, Consumers contends that:

Unlike several other parties in this case, MNSC did not perform any rigorous analysis of the appropriate ROE that the Commission should use for ratemaking in this case. MNSC provided no review or assessment of the state of the economy or its relationship to key financial indicators for businesses. MNSC did not perform any quantitative analyses to calculate representative ROE recommendations. MNSC did not develop any proxy group of similar companies for comparing financially relevant attributes. MNSC did not discuss, consider, or evaluate any of the three constitutionally required criteria for a minimally sufficient ratemaking ROE set forth in *Bluefield Water Works and Improvement Co v Pub Serv Comm of W Va*, 262 US 679, 693; 43 S Ct 675; 67 L Ed 1176 (1923) or *Fed Power Comm v Hope Natural Gas Co*, 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944).

Consumers’ replies to exceptions, p. 76. Rather, Consumers asserts that MNSC claims that the company’s ROE should be 9.50% because Consumers has not demonstrated satisfactory performance in the metrics identified by Mr. Jester. The company argues that MNSC failed to provide adequate or persuasive support for an ROE of 9.50%.

In response to MAUI’s claim that streetlighting customers should contribute less to the ROE, Consumers reiterates the arguments set forth in testimony and briefing. The company states that:

Contrary to MAUI’s proposal (i) ROE is based on the utility’s risk – not a customer’s risk; (ii) even if customer risk were relevant (which it is not), MAUI witness Bunch provided no evidence to support the claim that municipal customers are less risky than other customers; (iii) even if a discount for a low risk customer were appropriate (which it is not), MAUI witness Bunch provided no analysis to support that a 10% discount was the right amount of discount; and (iv) even if a

10% discount were appropriate and supported as to the amount (which it is not), MAUI witness Bunch provided no analysis to show that the resulting ROE to the Company would meet the U.S. Supreme Court's criteria for a minimally constitutionally sufficient return to the Company.

Id., pp. 80-81. Consumers requests that the Commission reject MAUI's proposal.

The Staff disputes Consumers' claim that "the PFD was biased and unfair." Staff's replies to exceptions, p. 31. According to the Staff, the PFD demonstrates that the ALJ thoroughly reviewed witness testimony and exhibits and that her recommended ROE is appropriately supported by the record. The Staff states that, "[s]ince the Company's recommendation is significantly higher than all the other intervenors['] ROE recommendations, the ALJ appropriately took a thorough review of the inputs and methodology the Company used in its ROE analysis to see if they were practical and reasonable. The ALJ rightfully concluded they were not." *Id.*, p. 32. The Staff requests that the Commission adopt the ALJ's recommended ROE of 9.70%.

In her replies to exceptions, the Attorney General reiterates that the ALJ should have recommended an ROE of 9.50%. She states that an ROE of 9.50% is supported by the record, it will provide Consumers' investors with a sufficient return on their investment, and it will not prevent the company from obtaining debt at competitive rates. She asserts that, "[w]hile the Attorney General believes the ROE should be lower than the 9.7% rate recommended by the ALJ, she believes that under no circumstances should it be any higher." Attorney General's replies to exceptions, p. 80.

In reply, ABATE notes that, in exceptions, Consumers merely restates its arguments set forth in briefing and that the company failed to demonstrate that the ROE should be set "higher than that recommended by the [ALJ]." ABATE's replies to exceptions, p. 2. ABATE asserts that the ALJ's recommended ROE is "based on substantial record evidence" and requests that the Commission adopt the ALJ's proposed ROE of 9.70%. *Id.*, p. 3.

MNSC replies that, if the Commission declines to adopt the ALJ's recommended ROE of 9.70%, the Commission should approve an ROE that:

reflect[s] the Company's comparative performance across the reliability, affordability, and emissions metrics discussed by Mr. Jester. Alternatively, if the Commission agrees with the ALJ that these may not be the appropriate metrics to evaluate the Company's overall performance, then the Commission may consider identifying different metrics to provide an objective framework to assess utility performance.

MNSC's replies to exceptions, p. 71. In addition, MNSC claims that Consumers' rates have been rapidly increasing, and asserts that the Commission should note that rate affordability is becoming a pressing concern. Although MNSC contends that setting the ROE at 9.50% "would be reasonable, fair, within the range of reasonable outcomes supported by the record in this case, and an appropriate way to mitigate the increasing unaffordability of Consumers' services," MNSC states "that setting ROE at 9.7% would modestly address the increasing unaffordability of Consumers' rates and bills for its residential customers." *Id.*, p. 73.

The Commission notes that, according to Consumers, in the next five years, the company will require "large amounts of cost-effective capital" to "continue making significant needed capital investments in Michigan to provide safe and reliable service to customers, in compliance with federal and state requirements." 5 Tr 2283. The Commission finds that an ROE of 9.90% adequately compensates investors for their risk, maintains the company's healthy credit rating, and allows Consumers to acquire sufficient capital to fund the company's upcoming investments. These investments include significant electric supply and distribution projects designed to address increased demand from customers, system deterioration and vulnerability, and system reliability. *See*, Exhibit A-12, Schedules B-5 and B-5.1; Exhibit A-37; Exhibit A-48.

Consumers argued that, if the Commission adopts an equity ratio of less than 52% and declines to approve an ROE of 10.50%, the company will likely experience a credit downgrade.

Consumers explained that, in Moody's May 10, 2021 credit opinion (May 10 credit opinion), Moody's downgraded Consumers' credit rating because of "recent ROE and equity ratio authorizations, tax reform, and the negative impacts on the Company's credit metrics." 5 Tr 1321. However, the Commission notes that, in the May 10 credit opinion, Moody's provided Consumers with a stable credit rating of Baa1, stating that:

Considering both the continued robust utility investment program totaling over \$13 billion over the next five years and the lower ROE and equity capitalization, we expect Consumers Energy to produce a CFO [cash flow from operations pre-WC [working capital] to debt ratio of around 20% over the next 2-3 years.

* * *

We expect Consumers Energy to be relatively resilient to recessionary pressures because of its rate regulated utility business. We continue to monitor changes in customers' usage, utility bill payment delinquency, and the regulatory response to counter these effects on earnings and cash flow. We see these issues as temporary and not reflective of the core operations or long-term financial or credit profile of Consumers Energy.

Exhibit A-138, pp. 1-2. Additionally, on page 5 of the May 10 credit opinion, Moody's cites the 2008 and 2016 energy legislation in Michigan, noting that the legislation improved the rate case process and the timeline for cost recovery. Moody's averred that Michigan "has a regulatory framework that we view to be more credit supportive than most other states." *Id.*, p. 5.

Moreover, pursuant to testimony provided by both Consumers and the Staff, the Commission finds that the company is likely to maintain an FFO/debt ratio above 18% with an equity balance of 51.02% and an ROE of 9.90%. *See*, 5 Tr 2267; 6 Tr 4146. Therefore, the Commission finds that Consumers' requested ROE of 10.50%, which is a 60-basis-point increase above the company's authorized ROE of 9.90%, is not commensurate with the company's currently healthy credit rating. On page 44 of the March 29 order, the Commission directed the parties "to consider the degree of financial adjustment they are requesting the Commission to undertake in one

proceeding, because it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions.” In this case, the Commission finds that Consumers and some of the parties are requesting a change of 40-60 basis points or more without demonstrating that there has been a sustained “radical change” in economic conditions since the December 17 order was issued 12 months ago.

Additionally, the Commission finds that the company’s request does not correspond with the current low-interest-rate environment. As stated by the Staff, “[t]his exceptionally low interest rate environment entails lower debt costs for Consumers Energy that should entail a more equitable return on equity for the benefit of the Company and its ratepayers.” 6 Tr 4173. The Commission notes that even as the average approved ROE across the utility sector has modestly declined in recent years, the spread between utility ROEs and other benchmarks such as the 20-year U.S. Treasury yield has increased. This could suggest that utilities, as a whole, may be benefiting from a premium in comparison to other investment opportunities, and that this premium may be in excess of the sector’s risk profile. However, the data also suggests that the spread between the approved ROE for Consumers over the 20-year Treasury rate during this time is not materially different from the broader utility sector. This reinforces the Commission’s decision to maintain the current ROE of 9.90%, but the Commission notes that it will continue to compare the ROE for Consumers to other benchmarks, including both the 20-year Treasury rate and the approved ROEs for comparable utility peers, to maintain an appropriate balance between risk and authorized return. In addition, the company’s financial compensation mechanism, the Industrial and Residential Demand Response program, and the Conservation Voltage Reduction program reduce Consumers’ overall business and financial risk. Furthermore, the Commission finds that an

ROE of 9.90% provides Consumers an opportunity to earn a fair return during this period of atypical market conditions resulting from the COVID-19 pandemic.

In conclusion, the Commission finds that an ROE of 9.90%, combined with an equity balance of 51.02%, is reasonable based on the record, Commission precedent, and legal standards. An ROE of 9.90% best balances the interests of investors and ratepayers, providing appropriate compensation for risk, ensuring the financial soundness of the business, and allowing the company to maintain a strong ability to attract capital.

D. Other Cost Amounts

The ALJ noted that there is no dispute among the parties that the cost rates applicable to other elements in the capital structure, as set forth in Exhibit S-4, Schedule D-1, are reasonable and should be approved. PFD, p. 389. The Commission adopts the ALJ's findings and recommendation.

E. Overall Rate of Return

The Commission adopts a 48.98%/51.02% debt to equity capital structure, a long-term debt cost rate of 3.55%, an ROE of 9.90%, and an overall weighted cost of capital of 5.62%, as shown on the following table:

Description	Amount (000)	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	\$9,072,264	40.00%	3.55%	1.42%
Preferred Stock	\$ 37,315	0.16%	4.50%	0.01%
Common Equity	\$9,487,421	41.84%	9.90%	4.14%
Short-Term Debt	\$ 199,946	0.88%	1.10%	0.01%
Deferred FIT	\$3,751,125	16.54%	0.00%	0.00%
JDITC Debt	\$ 63,417	0.28%	3.55%	0.01%
JDITC Preferred Stock	\$ 261	0.00%	4.50%	0.00%
JDITC Equity	\$ 66,322	0.29%	9.90%	0.03%
Total	\$22,678,071	100.00%		5.62%

VI. ADJUSTED NET OPERATING INCOME

Adjusted net operating income (NOI) is calculated by subtracting the company's operating expenses including depreciation, taxes, and AFUDC from the company's operating revenue. Adjusted NOI includes the ratemaking adjustments to the recorded NOI test year for projections and disallowances. On pages 389 through 428 of her PFD, the ALJ provided a thorough analysis of the issues and arguments regarding NOI. The issues raised therein are addressed below, *ad seriatim*.

In its application and testimony, Consumers projected a total NOI of \$596,707,000 for the 2022 test year and a jurisdictional NOI of \$599,515,000. Exhibit A-13, Schedule C-1. The company projected total O&M expenses of \$696,264,000 and jurisdictional total operating expenses of \$693,776,000. Exhibit A-13, Schedule C-5. In its initial brief, Consumers adjusted its projected NOI to reach its final total projection of \$607,353,000 with a jurisdictional NOI of \$610,080,000. Consumers' initial brief, Appendix C, p. 2. In testimony, the Staff projected a total company NOI of \$639,816,000 for the test year and a jurisdictional NOI of \$642,566,000. 6 Tr 3920; Exhibit S-3, Schedule C1.1. In its initial brief, the Staff proposed an NOI of \$647,795,000. Staff's initial brief, p. 124, Appendix C. In testimony, the Attorney General recommended O&M spending of \$595,202,000. Exhibit AG-1.46. In her briefed position, the Attorney General recommended reducing the company's projected O&M expenses by \$101.8 million for a projected O&M expense of \$594.5 million. Attorney General's initial brief, p. 153, Appendix A. The ALJ recommended an adjusted NOI of \$662,552,000. PFD, p. 428, Appendix C.

A. Revenues at Present Rates

Consumers presented testimony on the company's forecast sales levels by rate class and schedule. Exhibit A-15. No party took issue with these projections. In its application, the company projected its total electric jurisdictional operating revenue to be \$4,276,750,000 for the projected test year. Exhibit A-15, Schedule E-2. Following an adjustment to the average test year customer counts for residential senior citizen and residential income assistance (RIA) provisions, Consumers and the Staff agreed that total sales revenue at present rates should be \$4,186,438,000, wholesale revenues should be \$23,945,000, and total other electric revenues should be \$104,004,000. Staff's initial brief, Appendix C; Consumers' initial brief, Appendix C. The Commission adopts the Staff and the company's projection.

Though the issue was uncontested, the Commission further notes its concern regarding the company's current approach to sales revenue forecasting. In Case No. U-20932, Consumers requested a voluntary refund for \$28 million following an over-recovery of \$56 million as a result of higher residential sales. *See*, May 13, 2021 order in Case No. U-20932 (May 13 order); Exhibit A-11, p. 8. The company proposed to use \$28 million of the over recovery amount to fund a number of ratepayer programs. In Case No. U-20932, RCG intervened to argue that the full \$56 million over recovery amount should be refunded to ratepayers or invested in ratepayer programs. When the Commission approved the \$28 million refund as requested by Consumers, RCG appealed the Commission's decision, but the appeal was dismissed. *See, In re Application of Consumers Energy for One-Time Revenue Refund*, unpublished order of the Court of Appeals, entered June 8, 2021 (Docket No. 356076). The Commission notes for future rate cases that the over recovery of revenues refunded in Case No. U-20932 was disproportionately funded by the residential class paying rates above the cost of service due to shifting class usage associated with the effects of the ongoing COVID-19 pandemic. The forecast presented in this case reflects not only a return to normal, but an increase in industrial sales, which could result in the subsidization of other C&I class costs by the residential class, if inaccurate. Overstated sales in the industrial class will lead to a potential undercollection of the industrial class's revenue requirement. In turn, understated residential sales will lead to an overcollection of the residential class's allocated revenue requirement. The trend of over- and undercollection by revenue class is likely to lead to the need for additional voluntary refunds in the future. The Commission encourages the parties to review the forecast sales levels by rate class with a higher level of scrutiny in future rate cases if this trend persists.

B. Fuel and Purchased Power Expense

Consumers projected test year power supply cost recovery expenses. 5 Tr 1569, 1583-1588; Exhibit A-61, line 3, column (a). No party disputed the projection or took exception to the inclusion of this projected expense in the PFD. The Commission adopts the company's projection.

C. Other Operating and Maintenance Expense

Consumers projected a test year other O&M expense of \$696,264,000, an increase of \$108,101,000 over 2019 levels. Exhibit A-13, Schedule C-5, line 23. Consumers testified that the O&M expense increases accounts for \$76 million of the company's \$225 million revenue request as filed. 5 Tr 1169. The O&M expenses are addressed in turn below.

1. Inflation

Consumers projected non-labor inflation rates of 1.20% for 2020, 2.5% for 2021, and 2.3% for 2022. 3 Tr 257; 5 Tr 1703. The company used an annual rate of 3.2% to project labor costs. 5 Tr 1703; 5 Tr 1647-1651. Consumers used the Consumer Price Index (CPI) inflation rates from the September 2020 IHS Markit U.S. Economic Outlook to forecast non-labor inflation. 5 Tr 1703. The company used an assumed rate of labor consistent with the company's planned merit budget and independent third-party survey sources for the projected O&M labor expense. 5 Tr 1649.

The Staff recommended the Commission use inflation rates of 1.24% for 2020, 2.53% for 2021, and 1.93% for 2022, resulting in a reduction of \$5.4 million to the company's filed O&M expense. 6 Tr 4155, 4197; Staff's initial brief, p. 158. The Staff argued that the company's actual O&M costs have remained well below the inflation rates over the period of 2006-2019, while the company is projecting an 18% increase in O&M expense from 2019 to the 2022 test year. Staff's initial brief, pp. 158-159. The Staff argued that the company's merit increase rate is higher than the overall rate of inflation, and without offsetting O&M reductions due to productivity and

efficiency gains, this rate provides no benefit to ratepayers for higher labor expenses. The Staff testified that the company is in significant control of the escalation of labor costs as it controls employee wage increases and plans its merit budget. 6 Tr 4194-4195.

The Attorney General recommended the Commission remove the company's inflationary forecast totaling \$30.6 million on the basis that the company has not experienced across the board inflationary pressures. 5 Tr 2990; Attorney General's initial brief, p. 160. The Attorney General cited Consumers' testimony acknowledging that the company's actual O&M costs have remained well below the inflation trendline from 2006-2019 and argued that there is no evidence the company's operations are facing inflationary pressures it cannot manage in the course of operating its business. 6 Tr 2991 (citing 4 Tr 511).²¹ If the Commission does not accept the Attorney General's recommendation to exclude inflation from the O&M projection, the Attorney General alternatively recommended that the Commission reject the company's blended rate and use the CPI-Urban inflation factors. 6 Tr 2992-2994.

ABATE recommended a reduction in the inflationary component of the company's O&M expense projections of \$7.339 million. 6 Tr 3520; ABATE's initial brief, pp. 28-30. ABATE argued that "Consumers has not justified the 3.2% wage escalation factor component of its composite inflation factors used to arrive at its projected test year non-power supply O&M expense." 6 Tr 3516. ABATE noted that the Commission has previously rejected the use of composite inflation factors and argued that the Commission should do so again in this case. *Id.* ABATE testified to the importance of using independently determined measures in evaluating labor cost increases. ABATE stated that it finds "that the CPI increases identified in Consumers'

²¹ Witness Sebastian Coppola's pre-filed testimony cites to Michael Stuarts' direct testimony at page 6, the cited transcript page has been provided here for consistency.

workpapers are reasonably consistent with more recent projections of future inflation as published by *Blue Chip Economic Indicators* (*Blue Chip Economic Indicators* represents a consensus of independent economists' projections of future inflation)." *Id.*, p. 3520.

MNSC recommended that the Commission use an alternate approach to project inflation, including the use of the GDP price deflator and an alternate labor index as well as a productivity offset. MNSC recommended that the Commission use the projected value of 1.6% for the 2020-2022 time period rather than the 6.12% rate included in Consumers' filing. 5 Tr 2427-2428; MNSC's initial brief, pp. 166-174. MNSC testified that Consumers' reliance on its labor increase of 3.2% as a basis for cost projection is incorrect in that it does not account for promotions or departures and replacements of employees. 5 Tr 2428-2429. MNSC recommended that the Commission use a separate labor index to project labor cost increases. MNSC testified that using the IHS Markit employment cost index would result in a projected labor inflation rate of 8.1% over a three-year period rather than 9.9% as the company projected. *Id.*, p. 2430.

Lastly, MNSC testified that the company did not include any productivity gains in its cost projections despite U.S. Bureau of Labor Statistics data that productivity gains contributed 0.33% annually to output growth in private businesses. *Id.*, p. 2432-2433. Citing this rate of productivity, MNSC recommended that the Commission reduce Consumers' test year projections by 1%. *Id.*, p. 2433. As an alternative, MNSC recommended a flat \$10 million reduction in Consumers' O&M expense and that the Commission require Consumers to include and support the value of an explicit productivity improvement factor in test year projections in future rate cases. *Id.*, p. 2432.

Consumers objected to all recommendations regarding inflation. Consumers' initial brief, pp. 443-449. In rebuttal testimony, the company proposed an updated inflation adjustment of

\$1,004,000 based on the June 2021 IHS Markit U.S. Economic Outlook inflation rates of 1.2% for 2020, 3.1% for 2021, and 2.3% for 2022. 3 Tr 276; Exhibit A-160. Consumers objected to the Staff's inflation rate on the basis that the Staff used an average of three sources to develop its inflation rates. 3 Tr 274. The company argued that, as the latest forecast available, the June 2021 IHS Markit outlooks account for "the latest developments in the economy and are the best data available for forecasting what rates of inflation are most likely to occur in the future." *Id.*

In response to MNSC, Consumers argued that "[t]he use of CPI has precedence as an acceptable gauge of inflation in general rate cases" and "[i]t would not be wise to make a change to such a long-standing and accepted method of calculating future costs without further examination of the merits of the GDP Deflator compared to CPI." *Id.*, p. 276. The company argued that MNSC's recommended \$10 million reduction in O&M expenses and proposed productivity offset are not supported with evidence demonstrating that they would be realistic for the company. Consumers' initial brief, p. 361.

The Staff also objected to the company's \$1.0 million increase to its O&M expense request based on an increased inflation rate from what the company filed in its direct testimony. Staff's initial brief, p. 160. The Staff argued that there was not sufficient time between rebuttal and the brief filing deadline to thoroughly audit new inflation rates. *Id.*

The ALJ recommended that the Commission adopt the Staff's method of calculating inflation rates using the average of multiple sources for projections that are collectively applicable to labor and non-labor expenses. The ALJ recommended that the Commission reject Consumers' bifurcated labor projections and other base cost inflators. PFD, p. 400. The ALJ reasoned that Consumers has not provided any information to show that its O&M costs are subject to inflationary pressures greater than the CPI, even with a merit labor rate included. *Id.* The ALJ

found that Consumers has not experienced significant inflationary pressures over many years, notwithstanding wage increases for its employees. *Id.*

Consumers takes exception to the ALJ's recommendation to adopt the Staff's proposed inflation rates. The company argues that combining a series of different rates from different sources and dates (IHS Markit, Value Line, and International Monetary Fund with dates ranging from October 2020 to April 2021) will not provide the most accurate inflation projection. Consumers' exceptions, p. 278 (citing 3 Tr 274). Consumers reasons that the June 2021 IHS Global Report was "the most recent and updated report at the time rebuttal testimony was due in this proceeding" and thus provides "the most reasonable and appropriate inflation factors." Consumers' exceptions, p. 279. Consumers cites its testimony that "the 'projected costs in this case should be adjusted to account for the latest forecasts available as they reflect the latest developments in the economy and are the best data available for forecasting what rates are most likely to occur in the future.'" *Id.* (quoting 3 Tr 274). Consumers recommends the Commission reject the ALJ's recommendation and "find that adopting inflation factors from only IHS Global Insights' reports and using the most recent data available at the time the record was established in this proceeding (June 2021 IHS Global Insight Report), is reasonable and appropriate." Consumers' exceptions, p. 279.

Consumers also takes exception to the ALJ's rejection of the company's bifurcated labor and non-labor inflation rate. Consumers argues that labor rates include factors such as "whether pay is competitive, whether pay is for performance, and whether pay is for attracting and retaining critical skills and financial health." *Id.*, (citing 5 Tr 1647). Consumers asserts that the ALJ's contention that the company has not provided evidence to show that its O&M costs are subject to inflationary pressures fails to recognize that the company's "compensation is designed to be

competitive with the labor market.” Consumers’ exceptions, p. 280 (citing 5 Tr 1647). Consumers posits that the U.S. Department of Labor provides data on wage increases in the U.S. and in Michigan, and for the fourth quarter of 2019, the labor inflation rate in the United States was 3.5% and Michigan’s labor inflation rate was 3.4%. Consumers’ exceptions, p. 280 (citing 5 Tr 1656-1657). Consumers asserts that “[c]ustomers benefit from keeping skilled employees and attracting new employees which requires appropriate market-based compensation practices.” Consumers’ exceptions, p. 280. The company requests the Commission adopt its labor inflation rate of 3.2%. *Id.*

Finally, Consumers recommends that the Commission reject the ALJ’s suggestion that the Commission “may want to encourage the parties to further explore a productivity offset or other inflation measures” as recommended by MNSC. PFD, p. 400; Consumers’ exceptions, p. 281. Consumers argues that CPI has precedence as an acceptable gauge of inflation in general electric rate cases. Consumers’ exceptions, p. 281.

The Attorney General takes exception to the ALJ’s recommendation on the basis that she did not attempt to incorporate savings from productivity efforts into her analysis and recommendation. The Attorney General argues that the impact of increased productivity lessens and may even eliminate any inflation experienced by the company. The Attorney General reiterates her position that the Commission should remove the entire \$30.6 million in projected inflation increases. Attorney General’s exceptions, pp. 38-39.

MNSC replies to Consumers’ exceptions to argue that the goods on which the CPI inflation rate is based are not representative of the goods and services purchased by Consumers. MNSC’s replies to exceptions, p. 77. MNSC argues that precedence alone is an unpersuasive argument for using the CPI inflation factors. *Id.*, p. 78. MNSC therefore supports the ALJ’s recommendation

that the Commission encourage exploration of other inflationary measures, as outlined in its testimony. MNSC continues to support the positions that the Commission should reject Consumers' use of a bifurcated inflation rate as it has done historically and that the company has been able to control its costs relative to CPI. *Id.*, pp. 80-82. Finally, MNSC restates its arguments contrary to Consumers' exceptions that a productivity offset should be explored going forward in agreement with the ALJ's recommendation. *Id.*, p. 82.

Consumers replies to the Attorney General by arguing that her assertion that inflationary costs are not likely to occur in the future is unreasonable and unsupported on the record. Consumers' replies to exceptions, p. 105. The company provides that the "IHS Global Insight report provides sufficient evidence to support the claim of inflation and why inflationary adjustments should be applied to the Company's other O&M expenses presented in this proceeding." *Id.* (citing Consumers' initial brief, pp. 443-447). Consumers further restates its position that the Commission should reject the ALJ's recommendation to adopt the Staff's proposed inflation factors and instead use the company's proposed adjustment factors. Consumers' replies to exceptions, pp. 105-106.

The Commission finds the ALJ's analysis of the issues and recommendation against bifurcation of inflation rates to be well-reasoned and supported on the record. The Commission has repeatedly rejected the use of blended labor and CPI inflation rates in favor of a CPI inflation

factor.²² The Commission is not persuaded by Consumers' arguments in support of a bifurcated inflation rate for labor and non-labor costs. Consistent with precedent, the Commission adopts the ALJ's recommendation in this matter that the Staff's methodology of calculating inflation rates be adopted. The Commission finds merit in the argument that there may be an alternative index that more appropriately measures the inflationary impact on a utility market participant. *See*, MNSC's initial brief, p. 6. The Commission encourages the parties to continue to consider alternative indices, such as that developed by the U.S. Bureau of Economic Analysis, that may better reflect the goods and services actually purchased by utilities, as opposed to a more general inflationary measure. Regarding the proposed productivity offsets, the Commission respectfully disagrees with the company's arguments. Productivity increases are indicative of a more efficient organization and the Commission encourages parties to further explore the applicability of a productivity offset in calculating inflation for future rate cases.

2. Electric Division – Electric and Common Category

Consumers projected test year O&M spending of \$185,039,000 in the electric division-electric and common category, an increase of 6.34% over 2019 levels, or an annual increase of approximately 2.1%. Exhibit A-44. Consumers addressed the company's forestry O&M separately. The company projected test year spending in the following categories: non-forestry

²² *See*, December 17 order, pp. 171-172, stating, “[t]he Commission is not persuaded by Consumers’ arguments for a bifurcated inflation rate for labor and nonlabor, and further finds that Consumers’ 3.2% projected inflation rate for labor should be rejected because it is based on unacceptable projection metrics that were not satisfactorily proven in the record to be reliable;” April 18, 2018 order in Case No. U-18255, p. 38, stating, “[t]he Commission agrees with the ALJ that DTE Electric has not presented sufficient evidence in this case to induce the Commission to depart from its 2017 order and previous rate cases rejecting a blended inflation rate;” May 8 order, p. 186, stating “DTE Electric has not provided sufficient evidence in this case to induce the Commission to depart from its decisions in previous cases rejecting the blended inflation rate. The Commission agrees with the Staff that, while DTE Electric will see some inflation, the company will also offset the inflation with productivity gains.”

reliability; operations, maintenance, and metering; service restoration; field operations; compliance and controls; planning and scheduling; operations performance; operations management; and operations IT projects. Exhibit A-45.

a. Non-forestry Reliability

Consumers had a \$3,375,000 actual non-forestry reliability expense for 2019 and a \$4,198,000 expense for 2020. Exhibits A-45, AG-1.48. The company projected a non-forestry reliability expense of \$7,985,000 for 2022, a \$3.8 million increase over the 2020 actual expense and a \$4.7 million increase over the five-year average of \$3,296,000. Attorney General's initial brief, p. 156; Exhibit A-45.

The Attorney General took issue with the company's projected non-forestry reliability expenses, arguing that the company failed to justify a significant increase over historical levels of spending. Attorney General's initial brief, p. 156. The Attorney General proposed that the Commission should use the highest amount between the five-year average that ended in 2019 and the actual expense amount incurred in 2020. The Attorney General noted that, in this proceeding, "the 2020 actual expense of \$4,198,000 exceeds the 5-year average amount of \$3,296,000." *Id.*, p. 157. The Attorney General therefore recommended that the Commission remove \$3,787,000 from the company's forecasted expense of \$7,985,000 and approve the 2022 expense amount for non-forestry reliability of \$4,198,000 plus inflation. *Id.*

Consumers objected to this adjustment, arguing that the spending increase in the LVD lines reliability category is due to a transfer of padmount inspection labor costs from the meter reading O&M sub-program and the addition of the automation device/equipment performance category in 2021 to address a backlog of capacitor bank device findings as outlined in Exhibit A-47. 5 Tr 896. The company added that its increases to HVD and LVD substation reliability program spending

are driven by its plan to increase inspections and repair of these substations as presented in Case No. U-20697. *Id.*; Consumers' initial brief, p. 359.

The ALJ recommended adoption of the Attorney General's proposed disallowances on the basis that the company did not justify the extent of its O&M expense increases. The ALJ noted that, as stated in the December 17 order, "the Commission has previously found that unknown 'emergent' expenditures should be disallowed" and as a result, "the Staff found these amounts to be placeholders. The Staff further noted that relocation requests usually involve planned investments, and thus argued that details should have been accessible." December 17 order, p. 53. The ALJ found that the generic statements that projected HVD and LVD substation costs will increase because the company plans to increase its work in those programs are insufficient to establish reasonableness of the projection. PFD, p. 402. The ALJ recommended that the appropriate adjustment is to exclude the unexplained non-inflationary component of the projections for HVD and LVD substation reliability, which together total \$3.3 million. *Id.*

Consumers takes exception to the ALJ's \$3.3 million disallowance. The company argues that it fully supported the proposed test year amounts including the sub-programs on the record. Consumers' exceptions, p. 282 (citing 5 Tr 893-895). Consumers reiterates its arguments in support of the increased spending for the HVD Lines Reliability sub-program and HVD substations Reliability sub-program outlined above. The company argues that the Commission should approve the full test year non-forestry O&M projected by the company for 2022. Consumers' exceptions, pp. 282-283.

The Attorney General takes exception to the ALJ's recommendation to exclude the unexplained non-inflationary component of the projection for HVD and LVD substation reliability because the calculation amounted to a slightly different reduction amount. The Attorney General

reasons that Consumers showed a 2019 actual expense of \$3,375,000 for this program, a \$3,296,000 five-year average, a 2020 actual expense of \$4,198,000, and a projected 2022 expense of \$7,985,000. The Attorney General points out that the 2022 forecasted expense is an increase of \$3.8 million over the 2020 actual expense. As outlined above, the Attorney General recommends using the most recent actual expense—the 2020 actual expense—as a basis for estimating the non-forestry reliability expense for 2022. The Attorney General recommends the Commission remove \$3,787,000 from the company’s forecasted expense of \$7,985,000 and approve a 2022 expense amount for non-forestry reliability of \$4,198,000, plus any inflationary cost adjustment. Attorney General’s exceptions, p. 40.

Consumers replies to the Attorney General’s exceptions arguing that the company’s proposed test year non-forestry reliability O&M expenses were fully supported in company testimony. Consumers’ replies to exceptions, p. 89 (citing 5 Tr 894-895). The company therefore recommends that the Commission reject the Attorney General’s proposed disallowance.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission agrees with the ALJ’s reasoning, consistent with its previous decisions, that emergent expenditures should be disallowed. The Commission supports the company’s decision to supplement O&M lines reliability sub-programs “to ensure long-term safe and reliable operation of the LVD system;” strive to improve public and employee safety; address imminent events; and reduce customer outage frequency, the number of emerging repetitive outage customers, and outage durations. 5 Tr 896-987. As details on the work in those programs materialize and become accessible, the Commission encourages the company to seek recovery of these costs in a future general electric rate case when the reasonableness of the projection can be

properly evaluated. The Commission adopts the ALJ's recommendation to adopt the Attorney General's \$3,787,000 disallowance.

b. Service Restoration

Consumers projected service restoration expenses of \$74,359,000 in the test year. This projection is a \$17.8 million decrease from the 2019 actual expenditures of \$92,129,000 and a \$3.1 million increase from the 2020 actual expenditures of \$71,262,000. 5 Tr 914; Exhibits A-45, AG-1.48. The company testified that its projection is based on a three-year average and recognizes that the number of severe weather incidents per year is increasing. 5 Tr 1810-1813. The five-year (2015-2019) average of the company's service restoration costs is \$53,979,000. Exhibit AG-1.48.

The Staff, the Attorney General, and MNSC recommended a reduction of \$11 million. The decreased amount reflects the company's five-year average of actual incurred service restoration expenses plus inflation. The Staff posited that this methodology for estimating future expenses is consistent with that adopted by the Commission in Case No. U-20697. Staff's initial brief, pp. 138-139.

The Attorney General agreed that the variability of service restoration expenses makes a five-year average appropriate. Attorney General's initial brief, pp. 158-161.

MNSC also recommended the Commission use a five-year average to better recognize "the significant variability in year-to-year data than a three-year average, particularly considering the 2019 outlier." 5 Tr 2532. MNSC noted that the Commission used a variant of this approach in Consumers' last general electric rate case. MNSC agreed with the company that an inflation adjustment for 2021 and 2022 is appropriate but recommended that the adjustment be offset by service restoration cost reductions associated with line clearing and capital expenditure reliability

improvements. *Id.* MNSC used separate labor and inflation rates and used estimated savings in service restoration costs the company associated with its line clearing expenditures of \$380,000 for 2021 and \$1,000,000 for 2022, plus an additional amount equal to half of those savings estimates to reflect increased capital spending. *Id.*, pp. 2533-2534.

Consumers acknowledged that the Commission adopted a five-year average for projecting storm restoration expenses in the company's last general electric rate case but continues to support a three-year average as "it more readily reflects the recent increase in storm events, the need to pre-stage, and the need to obtain off-system crewing." Consumers' initial brief, p. 373. In response to MNSC, the company argued that offsetting projected costs with estimated savings is not necessary because such savings will be reflected in future averages. *Id.*, pp. 373-374.

The ALJ found that a five-year average should be used based on the record because it is consistent with the Commission's December 17 order, which states:

Consumers' argument that a three-year average captures unusually high restoration costs in recent years is precisely the reason that the Commission prefers a five-year average: a five-year average, in this case tends to provide a more accurate projection because it flattens, but does not eliminate, the effects of unusually high cost years due to a cycle of damaging weather (and would also have the reverse effect for usually low-cost years).

December 17 order, p. 176. The ALJ accepted the company's contention that savings will be reflected in future five-year averages for purposes of this case. The ALJ reasoned that it will be difficult to tell if the savings will be ongoing or limited in time but recommended that the Commission require the company to provide a more detailed analysis of savings excepted from its distribution capital and O&M spending in future rate cases. PFD, p. 404. The ALJ declined to recommend that the Commission adopt the deferral mechanism requested by the company. *Id.*

Consumers takes exception to the ALJ's recommendation and reiterates that the company has experienced recent increased outage incidents because of weather events and an increased number

of MED declarations. Consumers' exceptions, p. 284. Consumers argues that its projected spending will provide adequate staffing and field resources, such as pre-staging for severe weather events and assistance from off-system crews, to shorten outage duration, safely work with police and fire departments, and manage downed wires during storm events. *Id.*, p. 285 (citing 5 Tr 1820). Consumers also takes exception to the ALJ's assertion that it should "provide more detailed analysis of savings expected from its distribution capital and O&M spending in future cases." The company argues that "additional analysis of service restoration savings is not necessary in projecting the service restoration expense based on a historical average" and that "[a]ny savings experienced in service restoration costs as a result of distribution spending will be reflected in future expense projections." Consumers' exceptions, pp. 285-286 (citing PFD, p. 404).

MNSC replies to Consumers' exceptions to oppose the company's position that a three-year average better reflects the recent increase in severe weather events. MNSC's replies to exceptions, pp. 85-86. MNSC again proposes that service restoration spending for 2022 be based on "the 5-year average historic [sic] spend, with an offset for avoided service restoration costs due to line clearing and reliability investments." *Id.*, p. 85 (citing 5 Tr 2531-2535). MNSC refutes Consumers' assertion that a three-year average better reflects a recent increase in weather and storm events. MNSC reasons that, according to company testimony, trees cause the highest number of incidents, and weather is a distant second driver. MNSC's replies to exceptions, pp. 85-86 (citing Exhibit MEC-83). MNSC adds that, while direct testimony shows an increase in MEDs from 2016 to 2020, in the broader context (2010 to 2020) the trendline falls "relatively flat." MNSC's replies to exceptions, p. 87 (citing 5 Tr 1813, Figure 4).

MNSC then responds to Consumers' claim that it is not clear what the ALJ envisioned when she recommended "that the Commission require the company to provide a more detailed analysis of savings expected from its distribution capital and O&M spending in future cases." PFD, p. 404. MNSC asserts that a "more detailed analysis" would consist of a recognition and supporting analysis that "[the company's] line clearing in particular is likely to result in avoided service restoration costs in the future." MNSC's replies to exceptions, p. 88. MNSC points to Consumers' testimony that:

[c]ontinuing with a seven-year LVD trim cycle will reduce the number of tree-related outage incidents by over 2,700 per year in 2025 and will reduce the SAIDI by 26 minutes or over 90% of the total SAIDI reduction projected in this case. As a result, by 2025 service restoration expense is projected to decrease by \$2.9 million.

Id. (quoting 5 Tr 1172). MNSC also points to Consumers' testimony that:

a seven-year cycle on LVD would reduce an estimated 2,723 tree-related outage incidents per year by year 2025 and result in a potential reduction in service restoration costs of \$2.859 million in 2025. This potential avoided costs in service restoration expected in the bridge year is \$.38 million and a \$1.0 million avoided cost is expected in the test year at the requested funding level.

PFD, p. 404 (quoting 5 Tr 1395-1396; Exhibit A-54). MNSC argues that increased spending in distribution reliability capital expenditures will result in a reduced number of power outages for customers and the approved spending should reflect the avoided service costs associated with that increased spending. *See*, MNSC's replies to exceptions, pp. 88-89. MNSC proposes that an estimate of "service restoration savings related to [the company's] expenditures in distribution reliability assets or grid modernization" is the detailed analysis the ALJ recommended the Commission adopt in future rate cases. *Id.*, p. 89 (footnote omitted).

Lastly, MNSC disagrees with the company's assertion that "the service restoration avoided costs resulting from line clearing and reliability spending 'will be reflected in future expense

projections based on the average expense.” *Id.*, p. 90 (quoting Consumers’ exceptions, p. 286). MNSC argues that this approach would delay incorporating the avoided costs of service restoration and the subsequent benefits to ratepayers until 2029. MNSC’s replies to exceptions, p. 90.

The Staff replies to Consumers’ exception, asserting that \$74 million is a reasonable service restoration expense. The Staff reiterates its briefed position that using a five-year average to calculate service restoration expenditures is consistent with the methodology used in Consumers’ last general electric rate case. The Staff continues to recommend a \$11,029,000 disallowance for service restoration spending. Staff’s replies to exceptions, p. 36.

The Attorney General restates her position that a five-year average addresses the volatility of service restoration costs. Attorney General’s replies to exceptions, pp. 81-82.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission is not persuaded by the record in this case that a three-year average of O&M storm restoration costs is the appropriate methodology for projecting future expenses. The record in this case is consistent with the evidence presented in Consumers’ last general electric rate case, Case No. U-20697. Applying Consumers’ proposed three-year average to project storm restoration costs for the test year would capture an unusually high restoration cost in recent years, and not account for savings realized due to improved tree trimming and other reliability investments. Consistent with its previous decisions, the Commission finds that a five-year average tends to provide a more accurate projection because it flattens, but does not eliminate, the effects of unusually high-cost years due to a cycle of damaging weather. The Commission adopts the ALJ’s recommendation and requests the company provide a more detailed analysis of savings

expected from its distribution capital and O&M spending in future rate cases as outlined by MNSC and detailed further in the forestry section below.

c. Operations, Maintenance and Metering

Consumers' actual operations, maintenance, and metering costs without service restoration were \$33,089,000 in 2019 and \$28,786,000 in 2020. Consumers had a five-year average cost of \$35,548,000 and projected a total 2022 test year spending of \$43,059,000. Exhibits A-45, AG-1.48. The 12 sub-programs contained within the Electric Operations, Maintenance, and Metering O&M expense program include: (1) HVD Lines Demand, (2) LVD Substations Demand, (3) HVD Substations Demand, (4) Corrective Maintenance, (5) Staking, (6) Meter Services and Meter Credits, (7) Streetlighting, (8) Service Calls, (9) Alma Equipment Repair, (10) Meter Reading, (11) Meter Tech & Management System Support, and (12) Smart Energy Meter Technology Center—Electric. 5 Tr 901.

The Attorney General recommended an adjustment to the projected expenses for operations, maintenance, and metering, noting a projected test year increase of \$12.3 million relative to 2020 levels and a \$7.5 million increase relative to the company's five-year average. Attorney General's initial brief, p. 157; Exhibit AG-1.48. The Attorney General argued that Consumers failed to provide information justifying the significant increase proposed by the company. *Id.* The Attorney General recommended that, in the absence of support for these projected expenses, the higher expense amount between the five-year average that ended in 2019 and the actual expense amount incurred in 2020 be used as a basis for estimating the 2022 expense. Attorney General's initial brief, p. 158. The five-year average expense is \$35,548,000 and the 2020 actual expense amount was \$28,786,000. *Id.* The Attorney General thus recommended the Commission remove

\$7,511,000 from the company's forecasted expense of \$43,059,000 and approve the 2022 expense amount for operations, maintenance, and metering of \$35,548,000 plus inflation. *Id.*

Consumers objected to the Attorney General's approach and argued that the Attorney General's adjustment should be rejected. The company argued that it provided sufficient detail to justify its costs, citing testimony on the spending increase for the Staking O&M sub-program as one example. Consumers' initial brief, p. 360.

After a review of the company's testimony, the ALJ found that the company did not provide meaningful support for at least two of the line items, LVD Substations Demand and HVD Substations Demand. The ALJ found that some adjustment was warranted to reflect the unsupported increases noted by the Attorney General. The ALJ found "that an adjustment of \$2.8 million reflects only the amount by which the projections for LVD and HVD substations exceed the inflationary projection." PFD, p. 406.

The Attorney General takes exception to the ALJ's recommendation and requests the Commission adopt the full \$7,511,000 adjustment recommended by the Attorney General. Attorney General's exceptions, p. 41.

Consumers takes exception to the ALJ's recommendation and argues that the \$1.269 million increase in O&M spending on LVD substations demand and the \$1.527 increase in O&M spending for HVD substations was fully supported on the record. Consumers' exceptions, p. 286. The company thus argues that the Commission should approve the full requested amount for both O&M items. *Id.*, pp. 286-287.

The Commission finds the ALJ's recommendation for an adjustment of \$2.8 million to the company's Electric Operations, Maintenance, and Metering O&M expense program to be well-reasoned and supported by the record. The Commission adopts the ALJ's recommendation.

d. Field Operations

Consumers projected test year O&M expenses of \$28,797,000 for field operations. In 2019, the company's actual field operations expenses were \$22,224,000 and its actual 2020 field operations O&M expense was \$18,207,000. Exhibits A-45, AG-1.48. The 2022 forecasted expense is an increase of \$10.6 million over the 2020 actual expense and a \$7.2 million increase over the five-year average. Exhibit AG-1.48. According to the company, its field operations program "consists of the cost of training, supervision, facilities, and facilities maintenance for the Company's in-field operations teams." 5 Tr 914. The Staff and the Attorney General made different adjustments to the projected field operations expense.

i. Training Operations and Maintenance

Consumers projected a field operations training sub-program cost of \$12,609,000 for the test year. 5 Tr 915. The Staff recommended a downward adjustment of \$464,000 for the 2022 test year. 6 Tr 3959-3960. Referencing the company's testimony, the Staff testified that the training sub-program is \$6,314,000 higher than would be accounted for by inflation due to adding more workers, adding new workforces, increasing spending on continuing education, and training on new technology. The company provided expense amounts for these items in discovery and the Staff noted that the amount fell \$464,000 short of the \$6,314,000. *Id.*, p. 3960.

The company argued that the \$464,000 is for "additional corporate learning and development training to support the additional workforce" and the expense was not included in the discovery response because the response was limited to other expense categories. 5 Tr 942; Consumers' initial brief, pp. 357-358.

The Staff argued that the additional information the company presented in rebuttal was not capable of being reviewed thus the Staff stood by its adjustment. Staff's initial brief, p. 141.

The ALJ reviewed Exhibit S-11.12 and found that a reasonable person reviewing the company's discovery response would conclude that the response was a comprehensive list of training expenses not included in the 2019 actual spending adjusted for inflation. PFD, p. 407. The ALJ reasoned that company testimony addressed the training sub-program of distribution O&M. She noted that Consumers testified that the additional \$6.3 million included in the subprogram in addition to inflation is attributed to the increased workloads associated with increased investments to address system deterioration. The ALJ stated that the company also provided a further description of training-related items. *Id.*, pp. 407-408. The ALJ found that the Staff's discovery request asked the company to identify how much of the \$6.3 million was attributable to each training-related item. The ALJ reasoned that, at the outset of the discovery response, the company provided a disclaimer that the description provided was not intended to be all-inclusive. The ALJ found that a supplemental response to discovery indicated that the company included the addition of \$464,000 as a placeholder. The ALJ adopted the Staff's recommended \$464,000 disallowance. *Id.*, p. 408.

Consumers takes exception to the ALJ's determination and argues that the company supplied the requested information on its field operations in discovery. Consumers' exceptions, p. 289. The company adds that the \$464,000 projected expenditure that the ALJ described as a "placeholder" was for "additional corporate learning and development training to support the additional workforce." Consumers' exceptions, p. 290 (citing 5 Tr 942).

The Staff replies to Consumers' exception to restate its position and to argue that the company left \$464,000 unaccounted for in its discovery response outlining the training O&M costs despite providing expense amounts that were not explicitly requested by the Staff. Staff's replies to exceptions, p. 35. The Staff further argues that, in accordance with the Commission's September

26 order, “it is not adequate to present the primary evidence in support of the direct case on rebuttal when the parties can no longer test the evidence (other than through cross-examination).” Staff’s replies to exceptions, pp. 35-36 (quoting September 26 order, p. 39). The Staff thus maintains its initial position that the Commission should disallow the \$464,000 in training O&M expenditures, as further elaborated below.

ii. Michigan Department of Attorney General’s Adjustment

Consumers and the Attorney General disagreed as to whether the company properly justified its projected increased expenditures for field operations. The Attorney General concluded that the company’s \$10.6 million projected increase in field operations expenditures over the actual 2020 expense and \$7.2 million over the five-year average was not supported. As a result of the limited information provided by the company, the Attorney General recommended an alternate projection based on the higher of the five-year average operations or the 2020 actual expense incurred. 6 Tr 3003-3004. The Attorney General noted that “[i]n this case, the 5-year average expense of \$21,579,000 exceeds the 2020 actual expense amount of \$18,207,000.” *Id.*, p. 3004. The Attorney General added \$1.1 million to account for the identified grid management line item that she concluded is adequately supported, resulting in a projection of \$22,679,000 for 2022 subject to inflation. *Id.*

Consumers objected to the Attorney General’s approach and asserted that the company provided sufficient support for its expense increase. Consumers argued that the Attorney General drew broad conclusions and did not truly assess the company’s O&M spending. Consumers reiterated its testimony in support of the company’s expense projection for the field operations subprogram. Consumers’ initial brief, pp. 360-361.

iii. Recommendation

The ALJ found that the Staff's recommended adjustment was more tailored to the company's evidentiary deficiencies than the adjustment made by the Attorney General. The ALJ noted that while the detail regarding the lines of this subprogram that the Staff did not address is not extensive, it does provide some quantification of the basic differences between the projection and the portion of the projection explained by inflation. PFD, p. 409.

The Attorney General takes exception to the ALJ's recommendation. The Attorney General contends that her disallowances address the larger unexplained portion of the field operations expenditure category. The Attorney General's witness, Mr. Coppola, states that "[h]e reviewed the Company's testimony and determined that, except for the Grid Management sub-program for which the Company identified three specific items justifying the expense, the remainder of the expenses, including training, were not supported." Attorney General's exceptions, p. 42 (footnotes omitted). The Attorney General recommends the Commission adopt her proposed expense level. *Id.*

Consumers replies to the Attorney General's exception regarding field operations O&M expenses. The company argues that the test year O&M expense for training and the projected field operations O&M costs were fully supported on the record. Consumers' replies to exceptions, p. 90 (citing 5 Tr 914-923).

The Commission finds the ALJ's proposed disallowance to be reasonable and supported by the record. The Commission supports the ALJ's recommendation to approve the Staff's proposed \$464,000 adjustment.

e. Electric Planning

Consumers projected a test year electric planning O&M expense of \$13,748,000. The company's actual electric planning O&M expenses were \$9,593,000 for 2019 and \$9,579,000 for 2020. The company's non-inflationary "other" adjustments to this line item total \$3.3 million. Exhibits A-45, A-47.

The Attorney General argued that the company failed to support its projected expenditures in the electric planning category. Attorney General's initial brief, pp. 162-164. The Attorney General accepted the company's increase for the HVD system planning subprogram but found that the explanation for other line items was unsupported. *Id.*, p. 163. The Attorney General based her alternative projection on the higher of the most recent actual expense and the five-year average that ended in 2019. *Id.* In this case, the 2020 actual expense is \$9,579,000, which is \$779,000 above the five-year average of \$8,800,000. Including the additional projection of \$873,000 for HVD system planning, the Attorney General calculated a \$10.5 million expense projection, subject to inflation. *Id.*, pp. 163-164; 6 Tr 3005-3006.

Consumers objected to the Attorney General's approach in rebuttal, citing testimony to support its \$3.3 million adjustment without inflation. 5 Tr 953.

After reviewing the company's testimony, the ALJ found that Consumers did provide detail in regard to the additional spending. The ALJ noted that Consumers' explanation for the increased \$2.3 million in spending above the inflationary increase for the LVD System Planning was for "plans to increase headcount to accommodate planned investment in the LVD system which will require additional planning resources" and the absorption of "a formerly standalone Grid Modernization IT O&M spending program." PFD, p. 410; 5 Tr 923-924. The company attributed the \$163,000 above inflationary projection for system protection planning to expenses that were

previously allocated to FERC-jurisdictional transmission functions that have been allocated back to distribution functions after the company divested certain transmission assets to Michigan Electric Transmission Company. PFD, pp. 410-411; 5 Tr 925. The ALJ found that no adjustment to the projected electric planning O&M expenses was necessary. PFD, p. 411.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. As no exceptions were filed on the issue, the Commission adopts the ALJ's recommendation.

3. Forestry

Consumers projected a test year forestry expense of \$94,355,000, a \$41.1 million increase from 2019 actual expenditures and a \$39.1 million increase from 2020 actual expenditures. 5 Tr 1375; Exhibit AG-1.51. Consumers explained that the company "is proposing an increase in spending for its LVD line clearing sub-program starting in the 2022 test year." 5 Tr 1375. The company elaborates that 2022 will be:

the second year of the multi-year increases described in [Case No.] U-20697 to ramp up the miles of LVD circuits cleared each year in an efficient manner until one-seventh of the total LVD mileage is cleared in 2025, and then to maintain that level of clearing each year thereafter to bring the LVD system to an effective seven-year clearing cycle. The HVD line clearing sub-program is currently on a near four-year clearing cycle and the Company proposes to maintain that level of clearing.

Id.

The Staff recommended the Commission adopt the company's forestry projection. The Staff testified that:

[w]ith the funding approved in [Case No.] U-20697, the 2021 LVD line clearing cycle is anticipated to be 10.2 years, an improvement from the 14.2 years reported in [the company's] previous rate case. Staff agrees with [the] Company's goal of shortening this cycle to seven years. Trees are cited as the Company's major cause of outages and the more frequently that lines are cleared, the lower the likelihood that trees will make contact with overhead power lines.

6 Tr 3996. The Staff also explained that one of the stipulations underlying the deferred accounting for the demand failures, new business, and asset relocation capital expenditures is that the company spend the full authorized amount on line clearing. *Id.*

The Attorney General opposed the increase in forestry expenditures, recommending a reduction of \$19.5 million. The Attorney General expressed two concerns with the line clearing expenditures; the cost for clearing LVD lines per mile has increased and the company's projected expense exceeds historical levels. 6 Tr 3007-3008. The Attorney General reasoned that the company's projection shows a significant increase in clearing costs per mile from \$11,677 per mile in 2019 and \$10,989 per mile in 2020 to a projected \$13,676 per mile in 2022. *Id.*, p. 3007. The Attorney General compared this 12% increase with an increase in the CPI of 2% and an increase in internal wages of 3.2%. *Id.* The Attorney General noted that in late 2020 and 2021, Consumers added new smaller Michigan-based contractors at billing rates 17% higher than other contractors. *Id.*

Secondly, the Attorney General argued that the projection shows an increase in line clearing expenditures of 126% over a seven-year period while the company expects to reduce tree-related outage events by 25.4% (10,682 outages from 2019-2020 to 7,959 outages in 2025). *Id.*, p. 3008. The Attorney General testified that "[w]hen dividing the \$67.0 million increase in spending between 2019 and 2025 by the number of avoided outages of 2,723, the result is a cost per avoided outage of \$24,605. This seems to be a high cost per avoided outage." *Id.* Citing the company's discovery response that for each outage event on average 101.5 customers are affected, the Attorney General reasons that "[t]his means that by the end of 2025, approximately 276,275 customer outages could be prevented from the additional spending of \$67 million." *Id.* (citing Exhibit AG-1.51, page 3). Citing the company's work papers, the Attorney General pointed out

“that 1,161,651 customers were interrupted by tree caused outages in 2019. Therefore, the 276,275 prevented customer outages would be a 24% reduction. In contrast with the 126% increase in spending, the increased spending does not appear to be a sound economic trade-off of cost versus benefit.” *Id.*

Consumers disputed the Attorney General’s assertion that line-clearing costs per mile should increase with inflation. Consumers testified that “projected line clearing costs per mile are based on supply and demand of skilled trade workers. . . . The additional crews needed to reduce the low voltage distribution (‘LVD’) clearing cycle from a 14-year average cycle to a 7-year average cycle represents hundreds of additional line clearance tree trimmers.” 5 Tr 1408. Consumers also argued that the company’s projected line clearing contractor inflation rates are in-line with the Staff’s inflation projections. *Id.*, p. 1409. The company further argued that once a workforce is developed to achieve a seven-year tree trimming cycle, training and skilling costs will decrease and corresponding costs per mile will decrease. Consumers’ initial brief, p. 366.

The ALJ found the Staff’s testimony persuasive that the stipulated distribution capital mechanism will protect ratepayers from underspending in this category, and there is no doubt from data presented by multiple witnesses that tree-trimming is a critical element of reducing outages. PFD, p. 413. The ALJ declined to recommend an adjustment to the company’s projected forestry spending. *Id.* No party filed exceptions on this issue.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission has emphasized the importance of line clearing programs such as the full circuit clearing, repetitive outage zonal clearing, Customers Experiencing Multiple Interruptions (CEMI) clearing, brush control, and demand clearing outlined in Consumers’ testimony. *See*, 5 Tr 1372-1373. The Commission thus approves the company’s proposed increase in forestry

spending. However, the Commission finds the Attorney General’s arguments surrounding the cost and effectiveness of the company’s forestry practices to be significant.

Consumers testified that “[t]rees are the greatest cause of interruptions to electric service to [its] customers on the LVD system and a significant cause of outages or interruptions of electric service on the HVD system.” 5 Tr 1373. The figures presented in testimony show a trend of increasing tree-caused outage incidents in the last seven years. *Id.*, p. 1374, Figure 2. As the Attorney General pointed out, under the current line clearing cycle, the estimated 126% increase in forestry spending is only projected to result in a 24% reduction to customer outages. 6 Tr 3008. The company’s testimony demonstrates that, as the number of years since the last line clearance increases, the contractor cost per LVD mile increases. 5 Tr 1387, Figure 8. Under the company’s current effective cycle:

[t]he LVD sub-program for full circuit clearing is not a “fixed” schedule. The list of circuits to be cleared is determined annually based on the most current circuit performance data. During 2021, the Company will identify circuits to prioritize for full circuit clearing for the 2022 test year. Circuits are selected using the Company’s forestry reliability model, which provides a ranking of LVD circuits based on projected improvements in reliability, with a goal of maximizing reliability benefit at the lowest cost within each of the Company’s service headquarters.

Id., p. 1396.

While the Commission appreciates an approach that seeks to maximize the total reliability benefit, such an approach also risks deferring low customer density circuits beyond the seven-year effective cycle period. As the company’s annual forestry model output demonstrated, the current 10.2-year effective cycle program has resulted in circuits that have not been cleared for 32 years. *Id.*, p. 1397, Figure 14. Company testimony shows that as years since last line clearing increase the SAIFI and SAIDI per line of mile increase. *Id.*, p. 1395, Figures 12, 13. Exhibit A-57 also

demonstrates that, as the years since the last line clearing increase, the number of incidents per mile per year and contractor clearing cost per mile increase significantly.

As the company's data demonstrates, the most effective cost per mile is achieved by revisiting a circuit between four and seven years. The same data demonstrates that waiting up to 18 years between line clearings nearly doubles the cost per mile from \$6,403 per mile four years after the last clearing to \$11,983 eighteen years after the last clearing. Exhibit A-57. While the Commission agrees that these statistics justify a seven-year cycle of line clearing, the company's forestry program, as presented, does not result in all lines being cleared on the seven-year cycle that the company argues would be the most cost-beneficial approach to reducing tree-related outages on the LVD system at current system conditions. *See*, 5 Tr 1381. The data presented leads to the conclusion that prolonged cycles of line clearing caused by basing circuit clearing on improving reliability statistics may lead to higher costs and be less effective than a scheduled seven-year circuit clearing.

In future rate cases, the company will need to demonstrate that the increased spending leads to a consistent expectation of reliable service for customers in both low-density and high-density populations. The Commission therefore directs the company to provide evidence in its future general electric rate cases to connect its forestry spending to decreased outages and improved system reliability. Specifically, the Commission directs the company to provide the 2018 independent review of the effectiveness of the Forestry Operations Department cited in testimony in whole in its next general electric rate case and to provide projected SAIFI, SAIDI, CAIDI, and CEMI data through the current 10.2- year effective cycle. *See*, 5 TR 1397. The Commission also directs the company to provide projected dollar-per-mile costs, as shown in Exhibit A-57, for all

years since last cleared levels up to the longest duration since a last clearing in its next general electric rate case.

The Commission further directs the company to develop a proposal for a surge program that addresses customer equity and rehabilitates existing circuits that are well beyond the 10.2-year effective cycle, the costs of which will be included in its next general electric rate case. As the Commission stated in its May 2 order, “falling behind in this area will cost more in the future and perpetuate reliability challenges.” May 2 order, p. 79. As recognized in that case and supported by the evidence provided by Consumers in Exhibit A-57, getting all circuits within a seven-year cycle provides benefits in terms of lower contractor clearing cost per mile and improved reliability in the form of a reduced number of incidents per mile. Following an increased expenditure in tree trimming costs, the Commission expects that tree trimming maintenance will return to a predictable and lower cost per mile.

4. Generation

Consumers projected test year O&M spending on generation of \$156,662,000. 5 Tr 1953; Exhibit A-95. Consumers’ actual generation O&M expenses were \$133,015,000 in 2019 and \$106,821,000 in 2020. 5 Tr 1953; 6 Tr 3011; Exhibits A-95, AG-1.52.

The Attorney General recommended an \$11,012,000 reduction to the company’s generation O&M expense. 6 Tr 3012. The Attorney General argued that other than the additional solar expense and inflationary cost increases, the company does not explain the remaining increase in generation O&M expense from 2020 to 2022. Thus, the Attorney General used the 2020 actual expense plus a \$1,488,000 expense attributed to new solar resources to develop a projection of \$108,309,000, subject to an inflationary adjustment. *Id.*, pp. 3011-3012.

Consumers argued that the one-time adjustment to the generation O&M expense at issue resulted from “the CSX settlement, an increase in generation staffing, an increase in environmental staffing and an increase in O&M for Company-owned solar assets (Mustang Mile).” 5 Tr 2007; Exhibit A-178.

Additionally, the Staff recommended that in future cases involving projected solar O&M costs, the company should avoid reliance on market data and instead rely on historical O&M costs. 6 Tr 4133-4134. Consumers agreed to the Staff’s request. 5 Tr 2000; Consumers’ initial brief, p. 378.

The ALJ found that Exhibit A-178 provides several pages of detail showing how the company constructed its forecast, including adjustments for 2019 actual expenses. The Attorney General did not address this exhibit. The ALJ found that the company’s generation O&M projection should be adopted. PFD, p. 414. No exceptions were filed on the issue.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission adopts the ALJ’s recommendation.

5. Information Technology Operations

Consumers projected test year IT expenses of \$47,242,000 in operations and \$20,496,000 in investments for the 2022 test year. 5 Tr 2120; Exhibits A-104, A-107. The Staff proposed various disallowances in proposed O&M IT expenditures. *See*, 6 Tr 4080-4112.

The ALJ found, based on the recommendations regarding IT projects with capital expense projections, that the O&M expenses for the following projects should be excluded from rates:

bill design and delivery transformation (\$1.7 million as shown in Exhibit S-7.2, line 71); contact center communication platform (\$318,120 as shown in Exhibit S-7.2, line 76); integrated business planning, forecasting, resource planning, and managerial reporting ([\$]335,280 as shown in Exhibit S-7.2, line 80); and commercial and industrial account management systems (\$2 million).

PFD, pp. 414-415.

Consumers takes exception to the ALJ's determination regarding the O&M IT expense for the reasons discussed in the IT Capital Expenditures section above. Consumers' exceptions, p. 290. The company additionally notes that page 415 of the PFD states the company's projected test year O&M amount for C&I Online Account Management as \$2 million. The company clarifies that the projected test year O&M expense for the C&I Online Account Management Project is \$1,119,000. Consumers' exceptions, p. 290 (citing 4 Tr 329).

The Attorney General references her replies to exceptions for capital expenditures in the Bill Design and Delivery Transformation, Integrated Business Planning, C&I Account Management System, and CRM system as outlined above. Attorney General's replies to exceptions, p. 82.

The Commissions' decisions regarding O&M IT expenditures are outlined in the capital expenditures section above.

6. Customer Interactions

Consumers projected \$31,371,000 in total customer interaction O&M expenses in the test year. Exhibit A-87, p. 2. The expense categories included in customer experience and operations were customer interactions and billing and payment. Further sub-categories of customer experience included digital customer operations, the customer contact center, business customer care, credit assistance, and analytics and outreach. 4 Tr 322, 324-352.

The Staff initially recommended that the Commission disallow O&M expenses of \$592,000 from business customer care, \$289,465 from customer contact center, and \$2,549,772 from digital customer operations. 6 Tr 4062. Noting the company's rebuttal testimony, the Staff conceded its recommended adjustment and supported full recovery of the company's O&M expenses related to

the business customer care department associated with its small and medium business offerings.

Staff's initial brief, p. 145.

However, the Staff stated that:

As the traditional utility business model changes allowing for more customer interaction, Staff expects to see new and different investments, such as those that support Demand Response programs, Interval Web Portals, or Shadow Billing. Staff also realizes that, given advancements in technology, there are more ways in which to interact with a customer. However, Staff believes the pursuit of customer experience should not look the same for a regulated monopoly as it does for a traditional, competitive company whose success depends on a customer's choice to do business with them and, thus, an exceptional customer experience. Staff does not believe it is appropriate for a regulated monopoly, with a captive customer base, to make proactive investments in customer experience. Therefore, it recommends the Commission direct the Company to only propose recovery of investments in this space that are reactive—responding to the documented needs of its customers—with a strong effort to balance such investments with the issue (and duty) of affordability, that in the midst and aftermath of a pandemic should be paramount to a customer's satisfaction with their utility.

6 Tr 4111-4112.

In the PFD, the ALJ noted that the Staff supported “full recovery of O&M expenses relative to the business customer care—small and medium business offerings.” PFD, p. 415.

The Staff contends that the ALJ did not address the “Staff's recommendation that the Commission provide guidance on what types of investments in Customer Experience are appropriate for rate recovery.” Staff's exceptions, p. 7. The Staff argues that Consumers' proposed investments have no meaningful impact on reliability and safety and have a negative impact on affordability. The Staff recommends that the company only include investments that are responsive to customers and that the investments be supported by a documented need. *Id.* (citing 6 Tr 4109-4112). The Staff also recommends that the cost information be communicated to customers when soliciting feedback on proposed investments to ensure customers are informed and are providing genuine feedback. Staff's exceptions, p. 8.

Consumers replies to the Staff’s proposal that the company only include investments responding to a customer need is unreasonable. The company argues that it cannot “reasonably be expected to survey each of its customers before moving forward with an investment.” Consumers’ replies to exceptions, p. 92. Rather, Consumers asserts that, in evaluating the reasonableness of a project, the Commission should “rely on the testimony of a qualified expert” because that testimony “constitutes competent evidence.” *Id.*, p. 93. The Commission’s individual decisions regarding the Customer Interactions expense category are outlined below.

a. Customer Relations Management Platform

As noted in the cost of capital discussions, the ALJ found that capital expenses for the CRM platform should be excluded from rates. The ALJ found that the \$292,000 O&M expense for the CRM platform should be excluded from rates as well. PFD, p. 415.

Consumers takes exception to the ALJ’s recommendation for the reasons addressed in the Customer Experience Capital Expenditures section above. Consumers’ exceptions, p. 291.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission adopts the ALJ’s recommendation.

b. Customer Contact Center “Other Adjustments”

The Staff recommended that the Commission disallow \$289,000 in O&M expenses for the Customer Contact Center because it is unsupported by the company. 6 Tr 4072. The Staff explained that “the test year O&M is calculated from the 2019 historic [sic] year by adding inflation and what the Company refers to as ‘Other Adjustments.’” *Id.* The Staff noted that the company also added “Other Adjustments” for the Customer Contact Center of \$719,465. *Id.* The Staff posits that Consumers testified that a portion of the \$2 million increase from 2019 is due to a CSR wage increase that resulted from union negotiations. This increase accounts for \$430,000 of

the \$2 million increase. A significant portion of the increase can also be attributed to inflation. *Id.* The Staff argued that the remaining \$289,465 increase is unsupported and recommended that the Commission disallow the unsupported expense. *Id.*, p. 4073.

Consumers argued in rebuttal testimony that the unexplained non-inflationary portion of this adjustment is “a function of the budgeting process,” that items included in the Other Adjustments category should not be categorically disallowed on the grounds that expenditures are grouped in this manner, and that the category includes critical activities and expenses. 4 Tr 420.

The ALJ noted that the company is responsible for the accuracy of its exhibits. The ALJ commented that at the outset of testimony, Consumers stated that its non-inflationary expense projections would be explained. The ALJ found, as the Staff noted, that the company failed to do so for the Customer Contact Center. The ALJ concluded that the Staff’s adjustment was appropriate. PFD, p. 416.

Consumers takes exception to the ALJ’s recommendation and argues that the O&M costs associated with the Customer Contact Center were appropriately included in the Other Adjustments category on related exhibits because they are unrelated to inflation. Consumers’ exceptions, p. 292. The company further argues that the Customer Contact Center expenses are necessary to operate business and requests the Commission approve recovery of the full amount of this expense. *Id.*

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission adopts the ALJ’s recommendation that \$289,465 be removed from the Customer Contact Center “other adjustments” expense category.

c. Alert Upgrade

Consumers requested \$765,000 in O&M expenses for alert upgrades. 4 Tr 328. The company stated that the new platform would include features such as the ability to update alert messages in real-time, which provides the company with the ability to quickly and easily A|B message test with customers and to use natural language processing and machine learning to allow the system more flexibility in processing more than a few key words. *Id.*

The Staff objected to this request and argued that the additional capabilities the company is pursuing are not justified or supported. 6 Tr 4073; Staff's initial brief, p. 416. Citing to the new features associated with this project, the Staff argued that the upgrades are an imprudent investment. 6 Tr 4074. The Staff reasoned that the company's testimony "does not indicate a significant improvement to the Customer Experience to warrant the expense for A|B message testing [alert] notifications." *Id.* The Staff added that "the Company has not indicated any alerts it would be sending that would actually require the need to interpret a sophisticated response back from the customer." *Id.*

In rebuttal testimony, Consumers argued that its alert upgrades are already handling "tens of millions of communications per year" and the proposals will make "communications more effective and efficient." 4 Tr 420.

The ALJ found that the Staff's recommendation should be adopted because the company did not establish a need for the platform upgrades. PFD, p. 417.

Consumers takes exception to the ALJ's recommendation, arguing that the company's proposal will make customer communications more effective and efficient. Consumers' exceptions, p. 292. Consumers states that the new platform for managing alerts "will allow customers to receive status updates regarding interactions with the Company such as payments and

dunning without needing to engage the [interactive voice response] or live agent channels.” *Id.* The company posits that this provides benefits to customers.

The Commission finds ALJ’s recommendation to be well-reasoned and supported by the record. The Commission adopts the Staff’s \$765,000 proposed disallowance in O&M expenses for alert upgrades in accordance with the ALJ’s recommendation.

d. ChatBot

Consumers requested \$97,500 in O&M expenses for ChatBot, an artificial intelligence software. 4 Tr 328; Consumers’ initial brief, pp. 392-393. The Staff recommended the Commission disallow these expenses on the basis that the ChatBot would not address the primary issues customers face in navigating web-based transactions. 6 Tr 4076.

As discussed in the spending for capital costs, the ALJ recommended that the Commission accept the Staff’s recommendation to exclude the capital costs of this program; similarly, the ALJ recommended excluding the associated O&M expenses. PFD, p. 417.

Consumers takes exception for the same reasons set forth in the company’s exceptions in the Customer Experience Capital Expenditures section above. Consumers’ exceptions, p. 293.

The Commission finds the ALJ’s reasoning persuasive and adopts the ALJ’s recommendation to disallow \$97,500 in O&M expenses for ChatBot.

e. Digital Customer Operations

Consumers projected \$4,363,000 in Digital Customer Operations O&M expenses. Exhibit A-87, p. 2. The Staff argued that the Commission should reject \$1,687,272 in O&M expenses for the Digital Customer Operations because the expenditure is unsupported. Staff’s initial brief, p. 152. The Staff testified that there are \$2,549,772 of non-inflationary cost projections in the Digital Customer Operations O&M expense category. 6 Tr 4073. The Staff acknowledged that

\$862,000 was explained by testimony on the alert upgrades and ChatBot expenses, but the remaining increase to digital customer operations O&M expenses was not supported by testimony. *Id.*, p. 4077.

Consumers argued that the Digital Customer Operations O&M expense projections above the inflationary increase should be included in test year O&M because the expenses cover important projects and activities. Consumers' initial brief, p. 393-394 (citing 4 Tr 326-334). The company relied on the explanation that the portion of the projection that is not accounted for by inflation is a function of the zero-based budgeting used in preparing the financials and the conversion of that budget into a format relative to 2019 numbers. 4 Tr 419-420.

The ALJ stated that at the outset of testimony, Consumers "explained that the company's expense projections in this category were based in part on inflation and that [it] would explain the portions of O&M expense projections not attributable to inflation." PFD, p. 418. The ALJ found that, as the Staff noted, the company failed to do so for the Digital Customer Operations expenses. The ALJ noted that since testimony seemed to indicate that the O&M dollars for the alert upgrades and Chatbot were accounted for in the projected O&M IT expenses, the Staff's adjustment may understate the full extent of unexplained costs in this category. *Id.*

Consumers takes exception to the ALJ's assertions that the Staff's adjustment may be understated and that the Digital Customer Operations O&M dollars related to ChatBot and alert functions were accounted for in the projected O&M IT expenses presented in Exhibit A-104. Consumers' exceptions, p. 294. The company argues that these costs will enable it to "refine its digital presence and serve a variety of customer options across multiple platforms while keeping costs affordable." *Id.*

The Staff takes exception to the ALJ’s recommendation, claiming that she did not address the Staff’s arguments. The Staff notes that Consumers’ use of zero-base budgeting that does not consider 2019 spending is problematic. The Staff states that “[z]ero-base budgeting does not consider past spending, yet the Company assumes arbitrary increases to its operating expenses *based* on the historic [sic] year spend.” Staff’s exceptions, pp. 5-6 (emphasis in original). The Staff argues that the zero-base budgeting combined with the company’s requested inflation adjustment should be rejected as the concepts are mutually exclusive. *Id.* Additionally, the Staff takes exception to the ALJ’s notion that the Staff’s adjustment may understate the full amount of unexplained costs. *Id.*, p. 6. The Staff explains how it reached its calculation and reiterates that it believes the unaccounted for “other adjustments” amount to \$1,687,272. *Id.*

Consumers replies to the Staff, stating that “the dollars contained in the Other Adjustments is simply the proposed spending over and above the 2019 level plus inflation.” Consumers’ replies to exceptions, p. 93. The company argues that these expenses are necessary to operate the business and requests full recovery of the expense. *Id.*, pp. 93-94.

The Commission agrees with the Staff’s and the ALJ’s reasoning that the necessity for Digital Customer Operations O&M expenses beyond inflation is unsupported. The Commission also finds that the company’s use of zero-based budgeting to project costs subject to inflation is contradictory. In future general electric rate cases, the Commission directs Consumers to use historical costs in calculating projections subject to inflation, as recommended by the Staff in this case. The Commission adopts the Staff’s recommended disallowance of \$1,687,272.

f. Analytics and Outreach

Consumers projected an analytics and outreach test year O&M expense of \$709,000. Exhibit A-87, p. 5. The Attorney General recommended a \$1,404,00 reduction in analytics and outreach

based on the 2019 actual costs and testimony that, in 2022, Consumers will be charging other operations within the company for the use of resources available within the analytics and outreach function. 6 Tr 3012-3015.

The ALJ stated that the Attorney General “seems to have recommended an adjustment of \$1.4 million, which is not logical unless [s]he is reflecting savings from some unidentified source.” PFD, p. 418. The ALJ found that the Staff had carefully reviewed the components of the customer experience and analytics and outreach subprogram O&M expense projections and that an additional adjustment was not supported. *Id.*, pp. 418-419.

The Attorney General takes exception to the ALJ’s recommendation, explaining that Consumers disclosed that, in the 2022 test year, it will be charging other operations within the company for use of the resources available within analytics and outreach. Attorney General’s exceptions, p. 43 (citing Exhibit AG-1.53). The Attorney General argues that the amounts charged to other operations will be included in rates—although it is not clear how. Attorney General’s exceptions, p. 43. The Attorney General notes that in 2019, 18 employees and 5.5 contractors worked in analytics and outreach, and by 2022, the number will increase to 46 employees and 7 contractors. *Id.*, pp. 43-44. She further articulates that the \$1.4 million adjustment is “an estimate that attempted to incorporate the true dollars attributable to analytics and outreach.” *Id.*, p. 44. The Attorney General raises concerns about the expanse of analytics and outreach and the value it has to customers. She recommends that the Commission order Consumers to identify the total expense for analytics and outreach before splitting, billing, or allocating to other areas of the company to facilitate the analysis and assessment of this expense. *Id.*

Consumers replies to the Attorney General’s exceptions and argues that “[l]earning about the Company’s customers allows the Company to use its resources more efficiently, target

communications to precise customer segments, and select programs that are most likely to provide customer value, Clean Energy Plan support, and grid value.” Consumers’ replies to exceptions, pp. 95-96 (citing 4 Tr 441). In response to the Attorney General’s assertion that the number of employees and contractors working in the analytics and outreach area has increased, Consumers explains that the increase reflects work that was previously outsourced and has been insourced for efficiencies. Consumers’ replies to exceptions, p. 96 (citing 4 Tr 441).

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission adopts the ALJ’s recommendation and finds that an additional disallowance is not necessary at this time.

7. Billing and Payment

Consumers projected \$24,441,000 in billing and payment O&M spending in 2022. This is an increase of \$4.97 million over the \$19.5 million expended in 2019. 4 Tr 343; Exhibit A-87, p. 3.

a. Customer Payment Programs

The Staff and the Attorney General took issue with certain elements of the company’s projections related to the customer payment programs portion of the billing and payment expense. Consumers originally projected \$13.5 million in test year O&M expenses associated with the Customer Payment Program. Exhibit A-87, p. 3. The company has since agreed to remove \$2 million in O&M expenses associated with the Customer Loyalty Program. 4 Tr 424, 425.

i. Payment Processing Fees

Consumers presented testimony showing an increase in fees associated with credit card payments as payment behavior shifts away from mail towards electronic payments. 4 Tr 347. The company projected payment processing fees at \$8.3 million for the 2022 test year, representing “the actual costs the Company expects to incur from its third-party processing vendor.” *Id.* The

\$8.3 million projection is a \$1.6 million increase from 2019 actual expenditures of \$6.7 million.

Id., p. 349.

The Staff calculated a four-year average of actual costs from the company's third party-vendor that handles the credit/debit card payments, using the annual total of invoices from the vendor to Consumers. The Staff recommended using this process to provide a more accurate account of credit/debit card fees that are socialized to the utility customer. 6 Tr 4183-4184. The Staff adjusted the company's projected 2022 customer payment program amount of \$13.54 million by decreasing the projected amount by \$5.726 million.²³ The Staff argued that the resulting \$7,813,577 is an appropriate amount to include in rates for the projected test year. *Id.*, p. 4184.

The ALJ found that the Staff's projection reflects an expected increase, although more modest than the company's projection and is a reasonable basis of projection. She acknowledged the company's concern with the escalation in credit card use without unduly relying only on the company's projection. PFD, p. 419.

Consumers takes exception, asserting that the ALJ failed to explain why the use of a four-year average, as opposed to a three-year average of actual costs, to determine payment processing costs is preferable. Consumers' exceptions, p. 296. Consumers argues that the total O&M expense

²³ Consumers claimed that the Staff double-counted its adjustment to the customer loyalty program in its calculation. ALJ noted:

[w]hile Staff asserts it is not double-counting the customer loyalty expense, it does appear that the \$5.7 million adjustment should actually be \$4.8 million. The difference between Staff's credit card fee projection of \$7.8 million and the company's projection of \$8.3 million is \$0.5 million; to that add \$0.1 million for the third-party consolidator payments, \$2 million for the customer loyalty program expense, and \$2.2 million for the alternate payment plan expense. The listed adjustments total \$4.8 million, which would then reduce the customer payment program expense projection to \$8.7 million.

PFD, p. 422.

related to credit card payments has steadily increased as the number of payments has increased.

Id. Consumers cites its testimony that, “[i]n 2019, the expense was \$6.7 million, and the Company expects it to grow to \$8.3 million in 2022.” Consumers’ exceptions, p. 296; 4 Tr 349. Consumers restates its position that the Commission should approve the company’s payment processing fees in the amount of \$8.3 million.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported on the record.

ii. Invalid Payment Amounts

The Staff recommended the Commission exclude \$112,741 in invalid third-party activity consolidator fees for customer utility payments made by credit card that are processed by a third-party vendor. The Staff argued that these costs should be accounted for by the company and the third-party that accepts these invalid payments and that utility customers should not be held responsible for covering this cost in rates. 6 Tr 4184. The Staff further noted that, “[p]er the Commission’s December 17, 2020 Order in MPSC Case No. U-20697, page 188, the Commission found that the ALJ’s recommendation to omit the invalid third-party activity costs was valid.” *Id.*, p. 4185.

In the PFD, the ALJ stated that the Staff “expressly excluded \$112,700 in third-party consolidation fees the Commission has previously determined should not be borne by ratepayers.” PFD, p. 420.

Consumers takes exception, asserting that the ALJ did not explain her recommendation. Consumers argues that the Staff’s proposal to remove invalid payment amounts is unwarranted and reasons:

The third-party activity costs are incurred through companies who are hired by banks to process ACH [automated clearing house] payments made via bank

websites. The invalid activity is incurred when some of these companies attempt to process customer payments through single-use, high-rebate virtual credit cards, for which the third-party companies typically receive a portion of the “cash back.”

Consumers’ exceptions, p. 297 (citing 5 Tr 426). The company argues that it has invested significant resources to disrupt this activity as it is a violation of the company’s terms and conditions. The company states that it is not forecasting invalid credit card fees in the coming year and seeks to recover the full amount of this historical expense. Consumers’ exceptions, p. 297.

The Commission finds the ALJ’s recommendation is well-reasoned and supported by both the Commission precedent in Case No. U-20697 and the record in this case. The Commission adopts the Staff’s disallowance of \$112,741 in accordance with the ALJ’s recommendation.

b. Alternative Payment Pilot

According to Consumers, the alternate payment program is a pilot project to allow customers to use digital payment options such as Apple Pay, Google Pay, PayPal, Venmo, Amazon Pay, and Alexa Pay, among other potential mobile or voice-assisted products, to pay their utility bills. 4 Tr 351. The Staff and the Attorney General argued that the Commission should reject capital and O&M funding for the alternative payment program.

The Attorney General objected to the alternative payment program, noting that the company initially expects 50,000 customers to use these payment options. The Attorney General testified that “[t]he 50,000 customers, if accurate, represents approximately 1.5% of the company’s total customer bases of 3.6 million for both gas and electric business. Such a limited use of these features needs to be weighed and economically justified against spending millions of dollars in capital investments and operating expenses.” 6 Tr 2932-2933. The Attorney General noted that the company did not perform a benefit/cost analysis for the program and recommended that the Commission reject the expense projections. *Id.*, p. 2933.

Consumers testified on rebuttal that:

[t]he Millennial generation is now the largest population segment in the economy, and the digital payment options they favor have become mainstream. Consumers considers it an obligation to its customers to make it easy to pay their utility bill, especially for customers who have access to smart phones but not computers or banking institutions.

4 Tr 440.

The ALJ found the Attorney General's testimony persuasive and found that the costs associated with the alternative payment pilot project should be disallowed. PFD, p. 421. The ALJ reasoned that Consumers did not explain any cost savings associated with these payment methods relative to credit cards, and the company already allows customers to pay using credit cards with no fee. *Id.* The ALJ also noted that it is not clear that this program is a pilot, as the company appears to be planning to offer this to all customers beginning December 2021. In addition, she stated that it is unclear what ongoing costs will be for administering this program. *Id.* The ALJ found the Attorney General's testimony persuasive that a benefit/cost analysis should be performed before the pilot is undertaken. *Id.*

Consumers takes exception to the ALJ's recommendation and argues that the program is focused on making the payment process as accessible and inclusive as possible. Consumers' exceptions, p. 298. Consumers restates its arguments regarding the benefits of the program to multiple customer segments, including younger generations and those with access to a smartphone but not a computer or banking institution. *Id.*

The Attorney General replies to Consumers' exceptions to state that the alternative payment pilot costs should be disallowed as the program does not represent cost savings to ratepayers and the company has not demonstrated a need for the program, and the company has not provided a benefit/cost analysis. Attorney General's replies to exceptions, pp. 82-83.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. The Commission adopts the Attorney General's proposed disallowance of \$200,000 in O&M costs for the alternative payment program portion of the Billing and Payment expenditures in accordance with the ALJ's recommendation.

8. Demand Response

Consumers projected \$39,356,000 in DR O&M expenditures in 2022, which is \$26.6 million above the 2019 actual expense of \$12,776,000. Exhibit A-87, p. 4. Although the scope of the company's DR activities is disputed, the costs are deferred, reviewed in a reconciliation proceeding, and recovered through amortization of the regulatory asset created. The disputed DR costs are discussed below.

9. Pension Plans A/B

Consumers projected a negative pension expense of \$8,902,000 for the electric utility's portion of the projected O&M expense for the 2022 test year. 5 Tr 1527. No party took issue with the projection. However, the Attorney General expressed concerns about the expected ROR used in the company's recent filings, testifying that the company has projected declining rates of return, while actual returns have been significantly higher. 6 Tr 3040-3042; Exhibit AG-1.61. The Attorney General recommended that "the Commission direct the company to present in the next rate case a thorough analysis and justification of the decline in the Expected Return rates for both the pension and (OPEB) [Other Post-Employment Benefits] plans from 2015 to 2028 with appropriate supporting data and with consideration of recent actual returns achieved by the plans." 6 Tr 3042.

Consumers objected to the Attorney General's recommendation, citing testimony that the company relied on its outside actuary in setting the expected rates of return, and noted that its

pension expense is negative. Consumers' initial brief, pp. 420-421. The company noted that no party recommended any adjustment to its projection in this case.

The ALJ found that no special instruction was required. The ALJ noted that Consumers has the responsibility to substantiate the elements of its cost projections in every rate case. PFD, p. 423. No exceptions were filed on the issue.

The Commission finds the ALJ's reasoning to be well-supported by the record. The Commission adopts the company's projection as no party recommended an adjustment.

10. Defined Company Contribution Plan

Consumers projected a \$12,128,000 expense for its Defined Company Contribution Plan (DCCP) for 2022, a 42% increase from the \$8,567,000 DCCP expense for 2019. Exhibit A-62; Attorney General's initial brief, p. 184.

The Attorney General argued that Consumers did not support its projected DCCP increase. The Attorney General recommended a reduction of \$2,454,000 to return the expense projection to its most recent actual amount of \$9,674,000. *Id.*, p. 185.

Consumers responded that the Attorney General's discovery request regarding the retirement benefits did not ask for an explanation of the calculation of the 2020 expense projection. Consumers' initial brief, pp. 417-420. Consumers also pointed to testimony explaining the multiple factors that go into the benefit projection. The company asserted that, because its witness testimony demonstrates that the DCCP has increased each year from 2015-2020, the company has met its burden of supporting its requested relief. *Id.*, p. 419.

The ALJ accepted the company's explanation and found that the Attorney General's recommended adjustment should not be made. PFD, p. 424.

No exceptions were filed on the issue. The Commission agrees with the ALJ's determination and thus adopts the company's projection.

11.401(k) Employees' Savings Plan

Consumers projected a 401k plan test year expense of \$11,573,000 in 2022, an increase from its \$8,273,000 actual expense in 2019 and the 2020 actual expense of \$8,632,000. Exhibit A-62; Attorney General's initial brief, p. 184.

The Attorney General similarly argued that the company has not supported its projected 401k plan spending increase. Attorney General's initial brief, p. 185. The Attorney General recommended a reduction to the 2020 actual expense level.

Consumers presented the same reply as the DCCP benefit discussed above, asserting that the Attorney General did not ask for an explanation of the calculation of the 2020 expense projection. Consumers' initial brief, pp. 417-420.

The ALJ accepted the company's explanation and found that the Attorney General's recommended adjustment should not be made.

No exceptions were filed on the issue.

Consistent with the DCCP findings, the Commission agrees with the ALJ's determination and thus adopts the company's projection.

12. Other Benefits

Consumers projected an expense for other benefits of \$2,984,000 in 2022, a \$1.3 million increase from the 2019 actual expense of \$1,695,000. Exhibit A-62; Attorney General's initial brief, p. 185. The Attorney General testified that, in 2020, Consumers began including the company's benefits department labor costs in the line item for other benefits. 6 Tr 3039; Attorney General's initial brief, pp. 185-186. The Attorney General objected to the inclusion of this line

item and expressed concern that there was double-counting of this expense in the projected corporate services O&M expense-human resources and learning development expenditures. 6 Tr 2039; Attorney General's initial brief, p. 186 (citing Exhibit A-83). Consumers agreed with the Attorney General and the company adjusted its expense projection accordingly. 3 Tr 294. The ALJ made no further recommendation on the issue of other benefits, and no exceptions were filed on the issue. The Commission thus adopts the company's projection, as amended.

13. Corporate Services

The Staff and the Attorney General disputed the Career and Reward Framework of Consumers' Corporate Services expenditures. In addition, the Attorney General also objected to the coworker development program, relying on testimony that the expenses should be disallowed because it is unclear what the projected expenses are for. 6 Tr 3017-3018; Attorney General's initial brief, pp. 174-176. In rebuttal, Consumers presented Exhibit A-167, which discusses the structured courses involved in the program. 5 Tr 1732.

Consistent with the capital expense projection discussed above, the ALJ found that the O&M costs associated with the Career and Reward Framework should be excluded from rates. PFD, p. 425. For the worker development program, the ALJ accepted the company's explanation and did not recommend adoption of the Attorney General's adjustment. *Id.*

No exceptions were filed on the issue.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record. The Commission adopts the ALJ's recommendations.

14. Uncollectible Expense

The parties agreed that uncollectible expenses should be projected based on the most recent three-year average including 2020 actuals. PFD, p. 425. The Commission adopts the company's projection based on this consensus.

15. Injuries and Damages

The parties agreed that the injuries and damages expense should be projected based on the most recent three-year average including 2020 actuals. PFD, p. 426. The Commission adopts the company's projection based on this consensus.

16. Insurance Expense

Consumers provided the company's insurance expense, specifically the projected premiums and the projected distributions. 5 Tr 1734-1735; Exhibits A-83, A-113. The Attorney General recommended using the updated five-year average to project the insurance distribution component of the projection, and Consumers agreed to the updated projection. 6 Tr 3019-3023; 5 Tr 1734-1735. Consumers argued that its insurance premium expense should be adopted, while the Attorney General argued that a better projection is the 2020 premium levels adjusted for inflation. This adjustment amounts to a \$2.6 million disallowance from the company's forecasted insurance premium expense of \$19,732,000 to the Attorney General's recommended calculation of \$17,114,000. 6 Tr 3022. Consumers argued that, in determining a reasonable insurance premium expense, "the Company reviewed publicized forecasted insurance rate increases. Consumers' initial brief, p. 442 (citing Exhibit A-114).

The ALJ reasoned that the difficulty in projecting this category is that the company's insurance costs depend to some extent on its claims history, which is not provided in detail in the record. She also noted that insurance costs vary if the company modifies its deductibles or

discontinues coverage. PFD, p. 426. Moreover, the ALJ stated that, “While [Consumers] disputes that inflation is relevant, [its] use of phrases such as “jury verdicts” and “legal services” does not establish that insurance costs do not also reflect inflationary pressure, and does not establish that liability premium increases of 25% as shown in Exhibit A-113 are appropriate.” *Id.*

The ALJ noted that the Attorney General’s calculation, as set forth in Exhibit A-1.56, included the projected insurance premiums for the Gratiot wind project. PFD, pp. 426-427; 6 Tr 3022. Therefore, the ALJ recommended that the Commission adopt the Attorney General’s proposed \$2.6 million reduction to the insurance expense category. She also recommended that the Commission indicate that future projections should be based, if possible, on quotations for actual insurance products. PFD, p. 427.

Consumers takes exception to the ALJ’s recommendation. The company argues that the ALJ did not establish a correlation between the use of a proposed inflation rate and future insurance costs. Consumers’ exceptions, p. 299. Consumers emphasizes that “items generally used in predicting the rate of inflation (housing, transportation, food, recreation, apparel, etc.) are not the major items (materials, labor, legal services, jury verdicts, etc.) that insurance companies are called upon to pay when presenting an insurance claim.” *Id.* (citing 5 Tr 2232). The company argues that it used forecasted rate increases projected by insurance executives and brokers actively selling and purchasing insurance policies in the marketplace in developing its projection. *Id.* Consumers reiterates that the Commission should adopt its projected insurance O&M premium expense amount of \$11.8 million, which is comprised of an insurance O&M premium expense of \$19.7 million and insurance distributions of \$7.9 million. Consumers’ exceptions, p. 299.

The Attorney General replies that the company “does not establish that insurance costs are not subject to inflationary pressure.” Attorney General’s replies to exceptions (citing PFD, p. 426).

The Attorney General notes that “if the company is able to provide quotations from actual insurance products as suggested by the PFD, the inflation rate may not be needed.” Attorney General’s replies to exceptions, pp. 83-84.

The Commission finds the ALJ’s recommendation to be well-reasoned and supported by the record. The Commission adopts the Attorney General’s proposed disallowance in accordance with the ALJ’s findings and recommendation, and directs the company to base future projections, where possible, on quotations for actual insurance products.

17. Incentive Compensation

Consumers sought full funding for its Employee Incentive Compensation Program (EICP) expense in the amount of \$5,851,700, including the projected cost of benefits paid under financial as well as operational measures. Consumers’ initial brief, p. 421. This expense consists of the EICP for non-proxy officer incentive compensation, totaling \$1,918,500 and non-officer incentive compensation totaling \$3,933,200. *Id.*, pp. 421-422.

The Attorney General opposed recovery of any of the EICP expenses but noted that as an alternative, the Commission may want to reject only the financial measures. Attorney General’s initial brief, pp. 190-199.

The Staff recommended that the Commission reduce the incentive compensation O&M expense by \$3,885,000. Staff’s initial brief, p. 128, Appendix C. The Staff recommended the Commission disallow the portion of the company’s EICP expense that is tied to achieving financial metrics. The Staff recommended the Commission allow the company to recover the remaining projected costs associated with the operational measures. Staff’s initial brief, pp. 128-131.

As the ALJ indicated, the issue of incentive compensation has been “a reoccurring subject of debate in recent rate cases.” PFD, p. 427. The ALJ found the Staff’s argument persuasive that only the portion of the projected expenses associated with operational measures should be included in O&M. The ALJ did not find significant evidence on the record to support reconsideration of the Commission’s repeated conclusions that financial measures do not provide sufficient benefits to ratepayers. Removing incentive compensation for financial measures results in a \$3.6 million reduction to test year O&M. *Id.*, p. 427.

The Attorney General takes exception to the ALJ’s recommendation on the basis that it does not address the Commission’s standards for recovery of incentive pay nor the Attorney General’s arguments that the company’s proposed operational measures do not provide the benefits required by the Commission to be recovered. Attorney General’s exceptions, p. 45. The Attorney General argues that, at the time the application in this case was filed, 50% of the target reward was based on achieving nine performance measures “under the categories of eliminating vintage services, employee safety, electricity service reliability, customer experience/satisfaction, trash reduction, generation customer value[,] and demand response.” *Id.* (citing Exhibit A-69; 6 Tr 3028). The Attorney General points out that the company only needs to achieve six of the nine performance measures for employees to qualify for a 100% payout based on these measures and four out of the nine to qualify for a 50% payout. Attorney General’s exceptions, p. 45. She also concludes that the identified performance measures “show that the Company is moving away from arguably customer related goals to more internal administrative goals.” *Id.* (citing 6 Tr 3030).

The Attorney General avers that the Commission has historically been reluctant to grant recovery of incentive pay because of utility companies’ inability to demonstrate how such pay benefits customers. Attorney General’s exceptions, p. 46. The Attorney General and the Staff

both noted that the Commission established standards for recovery of incentive pay in its December 22, 2005 order in Case No. U-14347 (December 22 order). In the December 22 order, the Commission reiterated its determination in Case Nos. U-10149 and U-10150 that “executive bonus and employee incentive plans require a showing that the plan will not result in excessive rates and that the benefits to rate payers from the bonus and incentive plans, at a minimum, will be commensurate with the programs’ costs.” December 22 order, p. 34; Attorney General’s exceptions, pp. 45-46. The Attorney General also quotes the December 22 order as stating, “[t]he benefits of improved employee performance because of Consumers’ incentive programs accrue to investors in the form of higher share prices and dividends but benefit rate-payers only tangentially.” December 22 order, p. 34; Attorney General’s exceptions, p. 46. The Attorney General argues that the incentive program presented in this case does not meet the Commission’s standards set forth in Case Nos. U-14347, U-10149, and U-10150 and that the company cannot “draw a direct correlation between the performance metrics, incentive compensation, and benefits to Consumers [sic] electric customers that are at least commensurate with the cost” as required. Attorney General’s exceptions, pp. 47-48; *see*, Attorney General’s exceptions, pp. 49-50. The Attorney General requests that the Commission reject the company’s \$5.9 million allowance for incentive compensation in full. *Id.*, p. 50.

Consumers takes exception to the ALJ’s recommendation that the Commission disallow all costs associated with the achievement of the financial metrics of the EICP. Consumers argues that “[i]ncluding financial goals as part of the EICP performance metrics helps to focus employees on achieving superior results in a cost-effective manner.” Consumers’ exceptions, pp. 300-301. Consumers cites Exhibit A-14, Schedule D-5, page 7 as showing that the company has “saved ratepayers \$100 million as a result of improved credit ratings and lowered interest costs; thus,

illustrating the importance of including financial metrics as part of the EICP.” Consumers’ exceptions, p. 301. Consumers argues that “having a financially healthy utility provides appreciable benefits to customers,” and cites testimony on the value of the EICP to credit rating agencies and customers. *Id.*, pp. 301-302 (citing 5 Tr 1636, 2393-2394). The company further states that the benefits to customers of the EICP “far exceed the programs’ costs” and the Commission should thus approve recovery of the entire EICP expense in rates. Consumers’ exceptions, p. 302.

In reply to Consumers’ exceptions, the Attorney General states that for the reasons outlined above, the Commission should not award incentive compensation based on financial metrics. Attorney General’s replies to exceptions, pp. 84-85.

In reply to the Attorney General’s exception, Consumers restates its argument that “in this proceeding, Consumers Energy presented evidence demonstrating that the benefits resulting from the incentive compensation plans which are directly tied to improvements in operational performance are quantitatively greater than the total costs of the incentive compensation plan.” Consumers’ replies to exceptions, p. 99 (emphasis omitted). Consumers argues that the company has met the standards of recovery for incentive pay outlined in the December 22 order. Consumers’ replies to exceptions, pp. 99-100. The company concludes that “[t]he compensation approach used by the Company is reasonable, consistent with industry practice and standards, and represents best practices for creating customer focus through compensation design and does so without additional cost to the customer (because the incentive plans are part of the overall reasonable, market-based pay structure).” *Id.*, p. 100.

The Commission finds the ALJ properly recommended the disallowance of \$3,885,000 for incentive compensation tied to financial metrics. As the parties outlined above, in Case

No. U-14347, the Commission held that the utilities have the burden to demonstrate how incentive compensation programs benefit ratepayers. The company has not presented sufficient evidence on the record to demonstrate that benefits would accrue to ratepayers from the recovery of incentive compensation tied to financial metrics. The contention that ratepayers receive benefits from a financially healthy utility is insufficient to demonstrate that incentive compensation tied to financial performance does not primarily benefit shareholders or that benefits to ratepayers are commensurate with the proposed expense for the incentive compensation program. Consistent with the Commission's orders in Case Nos. U-18124 and U-20697, the Commission adopts the ALJ's recommendation allowing for recovery of only the portion of the incentive compensation projection associated with operational metrics.

The Commission further notes its concern regarding the current approach to recovery of incentive compensation for operational metrics. The company requested recovery of the full incentive compensation amount of both financial and operational metrics, assuming 100% target level performance in each of the operational measures. As the Attorney General contended, and as demonstrated by Exhibit AG-1.59, "the performance measures proposed by the company are easily achievable and the incentive compensation is not at risk." 6 Tr 3029. The company has repeatedly exceeded its 100% short-term incentive payout under the requirement that it only meet six out of nine metrics for a 100% payout. The Commission finds that it is necessary for the company's individual operational metrics to be scrutinized more critically and with a higher level of granularity moving forward. The Commission directs the company to present detailed information connecting its performance in operational metrics to its proposed incentive compensation in its next general electric rate case.

D. Depreciation and Amortization

The differences among the parties regarding depreciation reflect differences in the underlying plant balances, with no methodological disputes to resolve. The Staff testified that it would be premature to include not-yet-approved DR incentive and interest amounts from the company's reconciliation until an order was issued in Case No. U-20766, Consumers' 2019 DR reconciliation proceeding. The Staff noted that if a Commission order was issued during the pendency of this case, the \$3,596,329 DR incentive payment and reconciliation balance for 2019 should be approved. 6 Tr 4246-4249.

On September 24, 2021, the Commission issued an order in Case No. U-20766. The ALJ concluded that the additional incentive and interest costs should be included in the test year O&M or in an approved DR surcharge, as the Commission determines. PFD, p. 428. The disputed DR surcharge is discussed below in conjunction with other DR program costs and credits, in line with the organization of the PFD.

On December 9, 2021, the Commission issued an order in Consumers' electric depreciation case, Case No. U-20849 (December 9 order). Paragraph B of the December 9 order states that "[t]he revised depreciation rates, attached as Attachment 1 to the settlement agreement, shall become effective concurrent with the implementation of new electric rates in Consumer Energy Company's pending general rate case, Case No. U-20963." December 9 order, p. 3. The depreciation rates and impacts from Case No. U-20849 have been included in the instant case, resulting in an approximate \$27.2 million reduction to the revenue deficiency.

E. Taxes

There were no disputes among the parties regarding how federal, state, and local income taxes and property taxes are to be calculated. The differences among the parties reflect their different rate base and O&M expense projections.

F. Adjusted Net Operating Income Summary

In summary, the Commission finds that Consumers' jurisdictional projected NOI for the 2022 test year is \$677,875,000.

VII. OTHER REVENUE-RELATED ITEMS

A. Mechanisms

There are two distribution-related mechanisms at issue in this case. The distribution capital spending recovery mechanism and the storm restoration O&M expense tracker both are discussed below.

1. Deferred Capital Spending Recovery Mechanism

As noted above in the discussion of distribution system capital costs, in its December 17 order, the Commission adopted a mechanism that allows Consumers to defer capital spending for demand failures, new business, and asset relocations subject to four conditions. In this case, no party objected to continuing the mechanism, but the Staff requested a modification to one of the conditions. The Staff noted that the third condition currently states that:

The Company shall spend the full amounts approved by the Commission in the Reliability and Line Clearing programs in order to receive deferred accounting treatment for an overspend, and the deferred accounting treatment must be symmetrical. If the Company spends the approved amounts in the Reliability and Line Clearing programs, deferred accounting treatment shall be authorized for both the overspend and the underspend (two-way tracker). If the Company fails to spend the approved amounts in either the Reliability or Line Clearing

programs, or both, deferred accounting treatment shall only be authorized for the underspend (one-way tracker).

6 Tr 3985-3986. The Staff argued that there may be unintended consequences with requiring the company to spend the full approved amount on its reliability program. 6 Tr 3986-3987. The Staff, therefore, recommended revisions to the third condition that removes reliability spending as a requirement:

The Company shall spend the full amounts approved by the Commission in the ~~Reliability and~~ Line Clearing programs in order to receive deferred accounting treatment for an overspend, and the deferred accounting treatment must be symmetrical. If the Company spends the approved amounts in the ~~Reliability and~~ Line Clearing programs, deferred accounting treatment shall be authorized for both the overspend and the underspend (two-way tracker). If the Company fails to spend the approved amounts in ~~either the Reliability or~~ Line Clearing programs, or both, deferred accounting treatment shall only be authorized for the underspend (one-way tracker).

6 Tr 3986.

Consumers agreed to the revisions and the ALJ found that they should be adopted, with the other conditions remaining in place. PFD, p. 430.

The Commission finds the proposal to be reasonable and adopts the recommendation of the ALJ.

2. Storm restoration Operations and Maintenance Expense Tracker

The company requested a tracking mechanism for O&M service restoration costs. 5 Tr 1820-1822. The Staff and the Attorney General opposed the company's request as unnecessary. 6 Tr 3044-3045. MNSC recommended a shorter amortization period for costs deferred under the tracker. 5 Tr 2535.

The company acknowledged that the Commission rejected a similar mechanism in its December 17 order. However, Consumers continued to argue that the tracker is necessary to address the volatile nature of this cost category. Consumers also objected to MNSC's proposal

that the company develop a performance-based ratemaking mechanism. Consumers' initial brief, p. 374.

The ALJ found no basis on the record to alter the Commission's conclusion in its December 17 order that a service restoration tracker is not necessary. PFD, p. 431.

In exceptions, Consumers argues that the Commission should approve the service restoration deferral mechanism to allow efficient cost recovery of this volatile expense and customer refunds, if necessary. Consumers' exceptions, p. 304.

The Commission agrees with the Staff and the ALJ and adopts the ALJ's conclusion that the tracker is unnecessary.

B. Pilot Programs

There were disputes in this case regarding several pilot programs proposed by Consumers. The ALJ noted that in the context of a 10-month rate case, it is difficult to fully evaluate these pilots and the multiple points of view regarding pilot design, funding, expected learnings, and subsequent evaluation. The ALJ recommended that the Commission consider asking the utility to conduct a stakeholder review prior to seeking funding for a new pilot in future rate cases. In addition, she recommended that the Commission require that Consumers present a report summarizing the stakeholder comments and concerns, even if it has not modified its proposed pilot in any way as a result of the input. The ALJ noted that in addition to the potential to improve the company's proposal, this could aid in the identification and evaluation of the myriad points of dispute regarding some of these pilot proposals. PFD, p. 431.

In exceptions, Consumers requests that the Commission not expand on the pilot filing criteria that were developed as part of the MI Power Grid Energy Programs and Technology Pilots

workgroup, which was recently approved in the July 2, 2021 order in Case No. U-20645. Consumers' exceptions, p. 306.

The Commission declines to adopt the ALJ's recommendation requiring stakeholder engagement for each pilot. However, the Commission encourages the utility to engage stakeholders when time allows to increase the Commission's confidence in the scope, scalability, and effectiveness of pilot programs being presented. The Commission understands that this type of engagement is a best practice and can increase the Commission's confidence in a program but will not make it a requirement at this time. The Commission understands and accepts that new technologies emerge and evolve quickly and is therefore reluctant in this case to add additional pilot program requirements beyond what has been developed through the Energy Programs and Technology Pilots workgroup and effectuated in Case No. U-20645. The Commission, however, does encourage utilities to garner consensus with stakeholders on the scope and objectives of pilot programs prior to seeking cost recovery for such programs in a rate case, where possible. The Commission will provide more details on the benefits and best practices of stakeholder engagement in the future through the MI Power Grid report on New Technology and Business Models and the Energy Waste Reduction workgroup.

1. PowerMIDrive

The three-year PowerMIDrive pilot, first authorized in Case No. U-20134, expires in June 2022. Consumers requested a three-year extension and an expansion of the program. Consumers explained the company's plans to increase the number of direct current fast charger (DCFC) charger rebates to 50 per year, plus an additional 20 DCFC chargers to be installed at company service centers that meet additional locational criteria. The company stated that it plans to include 100 rebates for Level 2 (L2) chargers targeted for hospital centers and multi-dwelling units

(MDUs) that confirm the presence of electric vehicle (EV) driving residents. In addition, Consumers asserted that it plans to increase the residential incentives to add an additional 2,000 customers to the program. 4 Tr 373-402. The company explained that the three-year cost for the extended and expanded program would be \$29.5 million, with the budget presented in a chart at 4 Tr 394.

The Staff initially opposed any extension of the pilot but revised its position in its brief as discussed in more detail below. Several other parties raised concerns and offered recommendations regarding the pilot. The company accepted some recommendations and rejected others. Among the changes, the company withdrew the plan to add 20 DCFC chargers at company service centers. 5 Tr 2060. The company proposed repurposing the \$4 million budget toward additional L2 chargers at MDUs and other overnight locations and public DCFCs, and agreed MDUs would not need to show proof of EV drivers to qualify for a charger. *Id.*, pp. 2059-2060. Consumers agreed to separately meter chargers where possible to avoid network data collection fees and additional IT security issues. *Id.*, p. 2061. Additionally, the company agreed to certain reporting requirements. *Id.*, pp. 2064-2066.

MEIBC/IEI argued that the Commission should approve the extended pilot consistent with its recommendations. MEIBC/IEI explained the benefits of the program, and endorsed the company's plan to rely on a study conducted by Michigan State University and the Michigan Department of Environment, Great Lakes, and Energy (MSU/EGLE) to identify locations for chargers, but MEIBC/IEI want to make sure that these potential locations are informative and not prescriptive. 6 Tr 3680-3681.

MEIBC/IEI also argued that the Commission should direct Consumers to work towards a permanent EV program before 2025, in recognition of the number of new EV models coming onto

the market. MEIBC/IEI clarified that they are seeking a commitment that the company will transition to a permanent program in its next rate case. MEIBC/IEI argued that with the extension, the company's six-year program will have used the reasonably allotted time for a pilot and will need to transition to a permanent program. MEIBC/IEI's initial brief, pp. 4-7.

In anticipation of a permanent program, MEIBC/IEI argued that the Commission should require the company to provide an analysis similar to that required by the Minnesota Public Utilities Commission to ensure that the investments are beneficial for all customers, including customers who do not drive EVs. MEIBC/IEI's initial brief, pp. 14-16. MEIBC/IEI noted Consumers' objection to those specific reporting requirements. While MEIBC/IEI preferred the more detailed reporting requirements, if the Commission is unwilling to require that level of reporting, MEIBC/IEI requested that the Commission at least require the reporting to which Consumers has agreed. *Id.*

MEIBC/IEI also requested that the Commission require the company to include an explicit EV adoption rate in its sales forecast, that the Commission encourage the company to propose a system of rebates for EV charging that is not limited in number, and that the Commission require the company to open EV program participation to any qualified public charging station vendor. *Id.*, pp. 17-22. Additionally, MEIBC/IEI asked that the Commission consider whether Contributions In Aid of Construction (CIAC) policies should be extended to make-ready EV charging infrastructure investments. *Id.*, p. 18.

ChargePoint also supported the proposed pilot extension, and raised some concerns and recommendations. ChargePoint's initial brief, pp. 2-4. ChargePoint argued that locations for the DCFC chargers should not be limited to locations identified in the MSU/EGLE study for similar reasons raised by MEIBC/IEI. ChargePoint also argued that the 50 DCFC chargers the company

plans to install each year should not be considered a cap, and the utility should have flexibility regarding the timing of deployments in the event demand exceeds expected levels. In addition, ChargePoint raised a concern with the company-owned chargers originally included in the company's plan. Moreover, ChargePoint sought clarification that site hosts will have the same flexibility as under the current pilot, including the ability to select from at least two chargers and the ability to establish pricing policies. ChargePoint further supported MNSC's request that the "concierge service" proposed for the PowerMIFleet program be extended to L2 site hosts at MDUs, but disagreed that site hosts should be required to adopt time-of-use (TOU) pricing or to install card readers. ChargePoint's initial brief, p. 5.

Energy Michigan argued that because retail open access (ROA) customers pay for the program costs through their distribution rates, they should be eligible for the pilot program. Energy Michigan's initial brief, pp. 12-15.

ELPC, on its own and not as part of the Clean Energy Organizations, argued that the Commission should approve an expanded EV program but should limit regulatory asset treatment to \$10 million and should require the company to propose an incentive mechanism for off-peak charging. ELPC acknowledged that it does not agree with all elements of the program, but believes Consumers still has a critical role to play steering customers towards night time, off peak charging. ELPC took issue with the company's assertion that regulatory asset treatment is reasonable. Clean Energy Organizations' initial brief, ELPC section, pp. 28-32.

MNSC recommended that the Commission approve the pilot extension with certain modifications. MNSC's initial brief, pp. 142-153. MNSC claimed that Consumers agreed that: (1) at least 10% of the charger rebates will be reserved for MDUs with a goal of 20%; (2) the company will repurpose certain program funds from funds originally proposed for chargers at

company service centers to increase the MDU rebate levels from \$5,000 to \$7,000 per site; (3) the company will also repurpose funds from its PowerMIFleet pilot to provide a “concierge” service for MDUs; and (4) the company will require site hosts to provide credit and debit card readers at DCFC charging stations supported by the pilot. *Id.*, pp. 144-145. MNSC also asked the Commission to require that all publicly accessible charging stations funded by the pilot have credit card readers, and that as a default arrangement only, such charging stations pass through time-varying rates to users. *Id.*, pp. 143-144. Finally, MNSC argued that the Commission should direct the company to initiate a transition to permanent EV customer programs by providing a report on the net effects of EV adoption and charging in its next general electric rate case and the Commission should encourage the company to propose a system of rebates tailored to ensuring that a net benefit is provided to non-EV customers. *Id.*, pp. 143-145.

The Staff recommended that the Commission approve the pilot extension, but not in the expanded form requested by Consumers. Although the Staff raised some concerns about the company’s proposals, the Staff was persuaded that a continuation of the pilot is necessary to ensure EV charging maximizes net benefits to other ratepayers and that the risk associated with abandoning the pilots at this stage is greater than the risk of continuing them. Staff’s initial brief, pp. 228-229. The Staff argued it is critical for the company to determine whether EV customers require an incentive, in particular, TOU rates, in order to encourage off-peak charging, or whether any additional benefit relative to the standard TOU rates justifies the incentive. The Staff also rejected benefit analyses that consider general societal benefits such as reduced fuel consumption and reduced pollution. *Id.*

The Staff argued that the significant expansion in the number of DCFC chargers should be rejected. The Staff acknowledged that the network of chargers is currently insufficient to

constitute the skeleton needed to reduce range anxiety, and endorsed reliance on the sites identified in the MSU/EGLE study where chargers are not currently installed. Staff's initial brief, p. 235.

The Staff also argued that a limit on the rebates is reasonable. In addition, the Staff contended that the number of home charger credits should not be increased by an additional 2,000 customers, noting that the current pilot authorizes an increase in the number of customers to 2,000 already, from the current level of 434. *Id.*, p. 237. The Staff found no merit in the "bring your own charger" (BYOC) portion of the pilot. The Staff also addressed the projected \$6.15 million administrative and IT budget for the project. *Id.*, pp. 242-244. The Staff objected to the \$225 annual fee per charger port, which the Staff viewed as primarily associated with the BYOC chargers and duplicative of the \$150,000 in AMI analytical fees that the Staff supported. The Staff also objected to increased charger rebates for MDUs, pending a future analysis showing the added rebates are "supported by the net benefits expected to be gained, or at least an estimation of the impact on net benefits." *Id.*, p. 245. The Staff supported the installation of chargers at MDUs without the need to establish that a driver with an EV lives at each MDU, noting Consumers' agreement with this change to the company's original proposal. The Staff also supported allowing site hosts to determine whether to install card readers and whether to charge TOU rates. *Id.*, pp. 241, 245-246.

After reviewing the extensive record in this case, the ALJ concluded that the pilot should be extended, but not expanded to the full extent sought by Consumers. Instead, the ALJ recommended that the Commission approve the pilot extension for two years, beginning with the expiration of the current pilot in June 2022. Until further program expansion can be reviewed in a future rate case, the ALJ recommended that the number of DCFC chargers installed under the pilot

be limited to 33 each year, roughly the same number as have been currently installed. She stated that this follows the Staff's recommendation that, for locations other than those identified in the MSU/EGLE study as locations where chargers are not currently located, the company should document the analysis underlying its choice. PFD, p. 440.

Regarding the L2 chargers to be installed in locations with overnight charging, the ALJ recommended that the number of L2 chargers be limited to the number the company originally proposed in its filing. She also recommended that additional rebates for MDUs be authorized only up to 10% of the total number of chargers, until a demonstration is made in the company's next general electric rate case as to how the expected benefits from those additional rebates should be estimated. The ALJ noted that an updated benefit/cost analysis was provided in rebuttal but without a full evaluation of the parties, it is not possible to conclude whether this may provide a framework for analysis. *Id.*, p. 440.

Turning to the residential customer enrollment, the ALJ noted that current enrollment does not appear at all close to 2,000; thus, the ALJ finds that any expansion of that number should be limited to an additional 700 in the first year of the new pilot, subject to reconsideration in a future general electric rate case when the likely program subscription can better be evaluated. While the Staff raised legitimate concerns regarding the value of enrolling BYOC customers, the ALJ highlighted the testimony that, increasingly, EV customers are obtaining chargers at the time they purchase a vehicle, and the behavior of these customers is an appropriate subject of study. *Id.*, pp. 440-441.

Regarding program costs, the ALJ recognized that the company's "team" expenses have been approximately \$1 million per year, so that does not seem excessive. *Id.*, p. 441. The ALJ noted that the Staff agreed to the \$150,000 subscription fee, so there is no opposition to that. Turning to

the port fees, the ALJ recognized that Consumers offered a means to reduce the need for those fees on the non-residential chargers. Thus, the ALJ recommended that the company show that it has followed this course of action. The ALJ noted that beyond that modification, it appears that Consumers does not have the ability to rely on its AMI data without the port fee charges, and obtaining adequate data is critical to obtaining value from this pilot. Because the pilot program recommended by the ALJ is for a shorter time period (two years) and smaller in annual program size (approximately two-thirds), the resulting costs will be lower, at least until such time as the Commission can review a revised request for program expansion. *Id.*, pp. 441-442.

The ALJ reviewed Consumers' chart at 4 Tr 394, and calculated that program costs for the first two years, absent additional increases approved by the Commission. She noted that program costs would include education and outreach for only two years (\$.73 million); IT data & administration (\$1,000,000 administration + \$150,000 + 2700 ports @ \$225 per port = \$3.5 million over two years); residential incentives (700 x \$500 = \$350,000); L2 hospitality and MDU rebates (\$500,000 + \$2,500 x 10 = \$525,000); public DCFC rebates (\$70,000 x 66 = \$4.6 million); and make ready funds (\$40,000 x 66 = \$2.64 million). At this level, the ALJ recommended that the program costs be reduced to approximately \$10.7 million, and the Commission and the parties will have the opportunity to revisit further expansion in the company's next general electric rate case. PFD, p. 442.

While the parties dispute the extent to which these costs should be deferred and amortized and disagree on the amortization period, the ALJ recommended that the deferral and amortization continue as the easiest way to review total program costs, but that the amortization be reconsidered and potentially reduced from the requested 10 years at the time the actual pilot costs are reviewed and approved to be recovered through rates. Finally, while Energy Michigan requested that the

pilot be open to all distribution customers, both full service and ROA, Energy Michigan did not explain how it envisioned this participation as a matter of pilot program design. Therefore, the ALJ recommended that Consumers consider the potential participation of non-residential customers in any request for program expansion. *Id.*, pp. 440-443.

In exceptions, Consumers argues that the ALJ's recommendation of only funding the pilot for two years is not rationalized. Consumers states that with three years of the pilot expansion, the company anticipates enough learnings to propose moving from pilot to program. Consumers' exceptions, pp. 304-310.

In replies to exceptions, MNSC argues that for the reasons stated in testimony and briefing, MNSC submits that the benefit/cost analyses provided in this case are reasonable, consistent with Case No. U-18368, and should be relied upon to approve the PowerMIDrive program in full. Furthermore, MNSC states that the terms of the PowerMIDrive extension should be modified to ensure easy access to and use of its charging stations and to maximize its electricity grid and ratepayer benefits. MNSC's replies to exceptions, pp. 15-19.

In replies to exceptions, MEIBC/IEI agrees with Consumers' exceptions to the PFD regarding the proposed EV programs' extensions and expansions. MEIBC/IEI's replies to exceptions, pp. 1-4.

In replies to exceptions, the Staff states ALJ's recommendation should be approved and the company's objection rejected. Staff's replies to exceptions, pp. 51-52.

The Commission adopts the ALJ's recommendation to limit the pilot to two years, however, some of the recommended amounts have been recalculated below. The Commission further expects the company to present a plan for a permanent program in the next general electric rate case with appropriate regulatory accounting. The company has made a public announcement to

have one million EVs on their system,²⁴ and the Commission requires a more robust permanent plan in their next general electric rate case to demonstrate the investments necessary to support this goal. Given the growth in EV deployment nationally—together with the company’s goals around EV deployment in its service territory—the Commission finds it prudent to accelerate the transition from pilot to permanent program from three years to two. Furthermore, the Commission adopts MNSC’s proposal but caps the L2 hospitality and MDU rebates at 10% and encourages the company to work with stakeholders to reach or come close to reaching the 10% cap. Finally, the Commission requires the company to explore the recommendation provided by MEIBC/IEI and propose how it can utilize CIAC policies to support EV infrastructure investments in the permanent plan presented in the next general electric rate case.

The Commission adopts the following amounts: the prorated education and outreach of \$733,333; the IT data and administration costs of \$4,100,000; residential incentives of 700 prorated over two years for a total of 1,400 equaling \$700,000; 90 L2 hospitality rebates totaling \$450,000 over two years and 10 L2 MDU rebates with expenses capped at \$75,000 over two years; the public DCFC rebates at 100 sites for \$7,000,000 over two years with the removal of the 20 service center chargers, and make ready funds allowing for 100 DCFC sites over two years, instead of the 150 over three years, for \$4,000,000 total; making a total pilot extension cost of \$17,028,333. With regard to the approved MDU rebates, the increased rebate offering for L2 MDU chargers are intended to foster greater participation from MDU owners in the company’s pilot program and help in the development of a more holistic and equitable approach to transportation electrification. Information gleaned from these early program participants will help

²⁴ CMS Energy Corporation, *Consumers: We Can Power 1 Million Electric Vehicles on Michigan Roads by 2030*.

the Commission better understand the system impacts and benefits of this type of L2 charger installation and better tailor future rebate levels and allocation goals.

2. PowerMIFleet

In its December 17 order, the Commission approved a three-year PowerMIFleet pilot with projected costs of \$12.2 million, which was given deferred asset treatment. The Commission also required the company to present a small pilot addressing the company's fleet in its next rate case. In the instant case, the company described two amendments to the approved pilot. The first would allow the company to increase the rebates for public agencies and non-profits serving income qualified and disadvantaged communities to two-thirds of the grid benefit calculated using the methodology from Case No. U-20134. 4 Tr 405-406. The company estimated the cost would be a 13% increase over the funding approved in the December 17 order.

The company's second amendment addressed the Commission's direction to address Consumers' own fleet. The company proposed to initiate a concierge analysis of a portion of the company's fleet that will mirror the same analyses proposed for customers via PowerMIFleet. 4 Tr 402-403. Consumers projected \$1.9 million in capital spending and \$0.3 million in O&M spending for this internal fleet element. The company explained that the "concierge analysis" would be the first step and is projected to cost \$200,000. *Id.*, p. 403. The concierge analysis for the company's fleet will entail a thorough analysis of daily operating requirements, range, cargo, and towing capability in addition to mounted equipment requirements. The company will utilize a third party to conduct the electrification analysis, identify the operational requirements of vehicle types, confirm current and projected future model availability, and provide capital and life cycle cost analysis. *Id.* Following the concierge analysis, the company proposed the installation of at least seven DCFC chargers at a minimum of three company facilities, with a projected cost of

\$1.4 million. *Id.*, p. 404. In addition to employee training costs of \$100,000, the company explained that in 2022, it would also “seek to purchase at least 20 [light-duty] EVs from Michigan-based manufacturers at an estimated incremental capital cost of \$500,000.” *Id.*

MNSC, ChargePoint and MEIBC/IEI generally supported this pilot. MNSC’s initial brief, pp. 152-153; ChargePoint’s initial brief, p. 5; and MEIBC/IEI’s initial brief, pp. 2-3, and MEIBC/IEI’s reply brief, pp. 1-6, respectively. The Staff, however, does not support the increase in rebates for public agencies and non-profits as the proposal relies on the flawed calculation of benefits and, absent an actual analysis of the expected times of charging and associated benefits, the Staff requested that this proposal be rejected. 6 Tr 4289.

In rebuttal, the company refused to address the Staff’s concern because the Staff did not use the correct program name. 5 Tr 2060. Consumers emphasized the goal of the fleet program to learn about multiple types of fleets and their utilization of public infrastructure. 6 Tr 3686-3687. Consumers further argued that the Staff’s concern should be disregarded as one of the goals of the PowerMIFleet pilot program is to provide the company and other stakeholders with grid management learnings as they relate to fleets and public infrastructure as a mechanism for serving the most people. The company argued that this included learning the differences between residential and fleet charging. Consumers’ reply brief, p. 482.

The ALJ found that the Staff’s concern with the expanded credits for the nongovernmental and public agencies was legitimately raised in this case without regard to the label the Staff attached to the program. The ALJ recommended that this proposed expansion of the PowerMIFleet program not be approved until the company’s revised benefit/cost analysis can be reviewed in its next rate case, so the guidance used to evaluate the additional funding for these sites is established in advance. The ALJ’s rationale is not to dispute the record evidence regarding

the potential benefit of this funding, but to recognize that there is no agreed-upon analysis for the company to use in determining the grid benefits that will be used in the funding decision. The ALJ commented that the company should reasonably be expected to make its next rate case filing within 10 weeks of a Commission final order in this case, and no party has established that the risks associated with any delay are more significant than the potential risks associated with relying on an outdated analysis.

The ALJ then discussed the company's internal fleet request. In view of the controversy over the company's replacement and expansion of its vehicle fleet discussed above, the ALJ could not recommend that the company be authorized to acquire 20 new vehicles without the demonstration called for above to establish the correct size for its vehicle fleet. Instead, the ALJ recommended that the company be authorized to conduct the concierge analysis described and present the results in the company's next rate case along with the additional fleet analysis recommended above.

PFD, pp. 446-447.

In exceptions, Consumers argued that the ALJ's recommendation should be rejected because she: (1) failed to recognize that the Commission required the company to provide an internal fleet pilot, (2) failed to recognize that no party objected to the proposed pilot, and (3) failed to address all aspects of the company's proposed pilot. The company requests that the Commission approve the proposed expansion to the PowerMIFleet pilot. Consumers' exceptions, pp. 310-313.

In replies to exceptions, MNSC argues that for the reasons stated in testimony and briefing, MNSC submits that the benefit/cost analysis provided in this case are reasonable, consistent with Case No. U-18368, and should be relied upon to approve the PowerMIFleet program in full. Furthermore, MNSC states that the Commission should clarify whether it is applying Case

No. U-18368 to these cases, and state explicitly how benefit/cost analyses must be prepared and presented going forward. MNSC's replies to exceptions, pp. 15-17.

In replies to exceptions, MEIBC/IEI agrees with Consumers' exceptions regarding the ALJ's disagreement with the company's proposed expanded credits for the PowerMIFleet L2 chargers for certain nonprofit and governmental customers. MEIBC/IEI agrees that the ALJ erred in rejecting this proposal based on the alleged need for a further benefit/cost analysis. MEIBC/IEI states that, as noted by the company, its revised benefit/cost analysis supported the proposed expansion of the PowerMIFleet pilot program, especially by demonstrating benefits across each charging category (residential, public L2, and DCFC). For these reasons, including those cited by MEIBC/IEI in its testimony and briefing, MEIBC/IEI contends that the Commission should reject the ALJ's proposed reductions to the extensions and expansions of the company's PowerMIFleet pilot program. MEIBC/IEI's replies to exceptions, pp. 3-4.

The Commission agrees with the ALJ's recommendation to approve the \$200,000 for concierge analysis and that the company should bring a new plan with a benefit/cost analysis for other fleet expense requests in its next general electric rate case. The Commission also agrees with the ALJ that, due to ongoing discussions related to the company's replacement and expansion of the vehicle fleet, adding these 20 vehicles without an analysis of how such vehicle acquisitions are connected to overall fleet spend is not prudent. The Commission, however, encourages the company to seek approval for costs associated with the acquisition of company-owned EVs in its next general electric rate case but such a request will be considered in the context of the company's response to the Commission's concerns regarding the replacement and expansion of its vehicle fleet as discussed in this order. Therefore, in connection with overall fleet spending, the Commission does not approve spending for the 20 new electric vehicles prior to the

aforementioned analysis. The Commission, however, disagrees with the ALJ with regards to the low-income, public agency, and non-profit incentives, and approves the \$1.6 million in capital for increased rebate incentives for public agency and non-profits from the previously approved PowerMIFleet pilot cost of \$12.2 million.

3. Home Battery Pilot

Consumers proposed a Home Battery pilot, in which it plans to install 2,000 home battery units in 1,000 homes. The pilot will be comprised of a 50/50 split between company-owned and customer-owned (bring your own device, or BYOD) battery systems. Both types of systems will be operated by Consumers in order to assess customer willingness to participate in a home battery program and to test distribution and generation use cases. 3 Tr 82. In addition, Consumers stated that all participants will be able to use the battery for backup power during an outage. The actual battery specifications will be determined after an RFP; however, the company anticipated the battery storage capacity to be in the range of 25 to 30 kilowatt-hour (kWh), offering 8 to 15 hours of back-up power. *Id.*, pp. 88-89.

The company confirmed that customers who have DG systems are eligible to apply for the pilot and may opt to exclusively charge their battery with a solar or other renewable energy system. *Id.*, p. 95.

For company-owned batteries, Consumers stated that customers will pay a monthly fee for the back-up (i.e., resiliency) service provided by the batteries. Consumers proposed using three different prices to evaluate the offering: \$29 per month for the first quarter of participants in the pilot, \$39 per month for the next quarter, and \$49 per month for the remaining portion of the pilot. *Id.*, pp. 88-89.

Consumers further stated that customers who desire to participate in the BYOD option must provide batteries with acceptable specifications and capabilities and must agree to limit their use of the battery to only back-up power. Additionally, customers participating in the BYOD portion of the pilot will be compensated for the company's operation of the batteries using the same three tier approach, with payments estimated to be \$1,050 per kilowatt (kW), \$925 per kW, and \$800 per kW in each respective tier. *Id.*, p. 93.

Consumers projected the Home Battery pilot would require a total of \$14.3 million over three years, with \$3.2 million in capital expenditures in the 2022 test year. *Id.*, pp. 102-103. Consumers stated it plans to deploy approximately 350 of each the BYOD and company-owned batteries in 2022, approximately 500 of each in 2023, and the remainder in 2024. *Id.*, p. 102. The company contended that capital costs are projected to be about one-third of the total pilot cost for the test year and include amounts paid to third-party vendors for the battery hardware and installation, software, and a grid study to determine battery optimization methodology. *Id.*; *see*, Exhibit A-98. Consumers asserted that the resiliency payments from participants will be reflected as revenue and that they are expected to be \$105,000 in the test year. 3 Tr 103.

Consumers proposed treating customer rebates and other O&M costs for the pilot as a regulatory asset and would recover these costs after they are incurred. *Id.* Additionally, the company requested that the Commission authorize the amortization of deferred costs over five years beginning the year after the costs are incurred, including amortization expenses. 5 Tr 1721-1722. Consumers asserted that this treatment spreads the recovery over multiple years mitigating the impact on customers and is "well-suited for a pilot where participation may vary significantly from initial expectation." 3 Tr 103-104.

Consumers proposed expanding on information gathered from a prior pilot involving installation of 50 utility-owned batteries on a single substation. *Id.*, p. 90. The company also stated that it intended to evaluate and compare the approaches associated with both ownership models. *Id.*, p. 91.

The company offered three primary goals for the Home Battery pilot: (1) to test the participating customer's interest in and willingness to participate in a resiliency battery offering, (2) to expand the company's understanding of residential battery storage use cases beyond the 50-battery pilot, and (3) to evaluate the similarities and differences between utility-owned and customer-owned battery fleets as tools for managing supply and demand on the grid. *Id.*, pp. 87-88. The company also added that there are other utility applications that have not yet been quantified in the 50-battery test and that the company needs to test in the Home Battery pilot, including, but not limited to, voltage support, frequency support, and distribution feeder investment deferrals. The company's stated goals for the Home Battery pilot are to obtain a holistic understanding of generation and distribution applications—both those previously evaluated and those remaining to be evaluated—and to determine the estimated average value of these utility services across its service territory, in order to develop a business case for a scaled program, that the company contended will be cost-effective in 2025. *Id.*, pp. 90, 104-105.

The Clean Energy Organizations, MEIBC/IEI, MNSC, and the Staff expressed a variety of concerns with the proposed pilot. MNSC argued the Commission should reject the pilot as proposed, but it should approve an appropriately sized pilot that is not biased toward utility-owned batteries, employs fair compensation practices, and encourages equity. Specifically, the MNSC recommended that the pilot be limited to five years and 500 households and that 30% of pilot participation be set aside for low-income customers. MNSC further raised a concern that “rate-

basing utility-owned batteries connected behind the meter rewards the company for bad service” and fails to address the reliability issues that would drive customers to enroll in the company’s resiliency program in the first place. 5 Tr 2542.

Next, MNSC noted that DG customers would be credited at the specified outflow rate of power supply less transmission, but customers on the standard residential tariff will not. 5 Tr 2541. MNSC argued that non-DG customers would be billed to charge the battery system but will not be credited when the company discharges the batteries; instead, they would be compensated by the upfront credit payment pursuant to the customer contract. *Id.*, p. 2541. MNSC argued that the Commission should not authorize the company’s proposed credit when Consumers has not presented adequate specifics to allow the Commission to determine if the credits are reasonable. Finally, MNSC argued that the pilot does not test some of the most beneficial aspects of storage and recommended the pilot be deployed in areas where NWS could be implemented. *Id.*, p. 2734.

MEIBC/IEI requested that the Commission reject the utility-ownership component of the proposed pilot and approve, in concept, the customer-owned component, with directives for Consumers to continue to work with the Staff and stakeholders to address the deficiencies in the company’s proposal. MEIBC/IEI also urged the Commission to require the company to file a revised Home Battery pilot proposal based only on the BYOD model in the company’s next rate case. MEIBC/IEI argued that utility ownership of battery storage inappropriately inserts the regulated monopoly utility into the competitive market for residential energy storage and unnecessarily puts ratepayer dollars at risk due to the potential ability of the utility to exercise its monopoly power to gain unfair advantages over other competitive market participants to the detriment of ratepayers. MEIBC/IEI asserted that because the pilot program costs far exceed the estimated benefits, based on the company’s own analysis, and the resiliency benefits only accrue

to participating customers, nonparticipating ratepayers would be subsidizing the high-cost utility program. 6 Tr 3737.

MEIBC/IEI pointed out that the Commission rejected a similar pilot in Case No. U-20649. Further, MEIBC/IEI noted that, in the September 24, 2020 order in Case No. U-20649, the Commission instructed the MI Power Grid workgroups to address the issues raised in Case No. U-20649. MEIBC/IEI claimed that the company's ownership component of the proposed pilot in this case would circumvent the deliberative and consultative process undertaken by the MI Power Grid New Technologies and Business Models work group. Finally, MEIBC/IEI argued that allowing customer use of the battery for more than backup power in an outage would improve the pilot, and the company should allow customers to combine the grid service values to be studied with customer-oriented values such as energy arbitrage and bill management, along with improved home resilience to better support the overall value proposition for customer adoption of battery storage. 6 Tr 3752-3755.

The Staff argued that the Commission should limit the BYOD portion of the pilot to 10% of the total participants until a more accurate compensation method can be determined. In addition, the Staff stated that the pilot should include a low-income carve-out, and there should be an educational component for all participants. With respect to participant compensation specifically, the Staff asserted that Consumers should base the credit on benefits, not costs, warning that the proposed credit could exceed the benefits received. The Staff further observed that the proposed payment may be logical for customers who have not acquired a battery system, but customers who have already purchased a device obviously do not need this incentive. *Id.*, pp. 4130-4132. The Staff pointed out that the payment will not identify how much these customers value resiliency, it will only test whether or not the subsidy will entice the customer to give the company control of

their energy storage devices. Therefore, the Staff recommended that the Commission limit the number of participants in the BYOD program to 10% and order Consumers to develop a more accurate compensation methodology based on the value the storage devices provide. *Id.*, p. 4132. The Staff echoed the concerns of the intervenors that the pilot be more focused on underperforming circuits.

The ALJ agreed with MEIBC/IEI and found that the proposed battery storage pilot should be rejected for now, noting that the recommendations made by the parties have substantial merit, and they touch on nearly every aspect of the program from overall size, to battery system ownership, to appropriate compensation for services provided to the utility. The ALJ recommended that the issues and recommendations raised by the Staff and intervenors be thoroughly evaluated through stakeholder engagement so that the company can present a more refined Home Battery pilot in a future rate case. PFD, p. 454.

In exceptions, the company argues that while the parties in the case presented their preferences for how a battery pilot should be developed, their preferences do not mean that the pilot needs to be more refined. The company states that it fully supported the reasonableness and prudence of the proposed pilot design and expenditures, and agreed to change the pilot in response to issues raised by the parties. Consumers requests that the Commission approve the company's proposal. Consumers' exceptions, pp. 314-324.

In exceptions, the Staff withdrew its initial support for the pilot and agreed with the recommendations of the ALJ. Staff's exceptions, p. 15.

In replies to exceptions, Clean Energy Organizations and MNSC affirm their original arguments and asserts that the Commission's request to focus on behind-the-meter technologies does not justify unfairly incentivizing utility ownership of batteries, statewide dispersion without

regard to the need for a NWS over geographic concentration, or unfair billing practices. MNSC argues that none of Consumers' exceptions justify departing from the ALJ's recommendation. MNSC states the even with the minor changes Consumers proposed in response to the Staff's and intervenors' critiques, this pilot remains too costly, unfair to participants and ratepayers, and will fail to produce the data Consumers needs to adequately assess the success of the pilot as an effective NWS. Clean Energy Organizations' replies to exceptions, pp. 98-106.

In replies to exceptions, MEIBC/IEI agrees with both the ALJ's and the Staff's recommendation to not approve the company's Home Battery pilot until further stakeholder input and refinement of the pilot can occur. MEIBC/IEI's replies to exceptions, pp. 4-8.

As the Commission noted in its August 11, 2021 order in Case No. U-21032 (August 11 order), "the Commission finds value in having investor-owned utilities propose tariffs that provide an appropriate pathway for the deployment of ESRs [energy storage resources] within their respective service territories." August 11 order, p. 24. Key to this approach was the Commission's finding that "a well-designed retail tariff that accounts for the full value stack of ESRs and is attractive to customers may be the best way to begin integrating ESRs into the electric grid at increasing levels." *Id.* However, while a pilot to utilize battery storage as back-up for resiliency service is a novel proposal, the Commission declines to adopt the company's proposal at this time. The Commission notes several concerns with the pilot as proposed, including the fact that rather than seeking to value the full range of benefits batteries can provide, the pilot as proposed limits a participating customer's utilization of the battery system only to providing back-up power in the event of a power outage, while also failing to provide for the range of other benefits the systems can offer to both participating customers and the company's broader customer base. The Commission agrees with the ALJ that it would like to see the company work with

stakeholders and come back with a more refined proposal. For any future proposals involving a home battery pilot program, the Commission would like to see Consumers take the opportunity to derive more value from the resources. Specifically, the Commission would like to see:

- For BYOD, participating customers be provided with the opportunity to have the utility discharge the batteries more often than proposed by the company for testing. Particularly, the Commission would like to see company utilization of these batteries during peak to test potential system-wide benefits. Rates could be adjusted based on the amount of flexibility of use allowed to the utility.
- For BYOD, the company investigate a framework for allowing the customers to utilize some minimum portion of the battery storage for their own purposes.
- For BYOD, the company significantly expand the proposed cap. For company-owned batteries, the proposed cap is an appropriate starting place.
- For company-owned batteries, Consumers more fully utilize the value of the company's investment to provide as much benefit to the system from the batteries as is possible. Consumers should discuss options with stakeholders regarding a minimum acceptable amount of charge on the batteries to provide some resiliency service to the customer, while at the same time more fully utilizing the remaining portion of the battery every time it is economic for the company to do so.
- Prior to approval, the company provide an analysis on how the benefits of this program are realized by those not participating in the program.
- The program proposal include filing of annual reports on each type of storage pilot offered, outlining the utilization of the assets by the company and by the customer for different purposes, comparing the costs of the pilots to the value provided to both the participating customers and non-participating customers (value to the system). The results provided in these reports would be utilized to determine whether or not future expansion of the pilots or full-scale adoption would be appropriate and whether or not any cross-subsidization is occurring. These reports should also include the specific data reporting provisions detailed in the August 11 order. *See*, August 11 order, p. 26.
- The company consider obtaining more stakeholder input prior to filing a request for approval, particularly for any company-owned storage pilots.
- Consumers inform how standardized inverter settings (Institute of Electrical and Electronics Engineers' standard IEEE 1547) in Michigan could increase the value stack for customer and company-owned DERs sited on the utility's service territory.

- Consumers explain how the pilot objective coincides with FERC Order 2222.²⁵ Specifically, the company should detail how these batteries will be aggregated for wholesale market participation, including consideration of multiple structures for aggregation, as detailed in the August 11 order. *See*, August 11 order, p. 25.
- Consumers consider allowing for home battery systems to participate in Residential DR programs, including a version of the Back-up Generator Pilot discussed below.

Finally, the Commission notes the concerns raised by a number of the parties involving utility ownership of behind-the-meter technologies, including concerns raised by MNSC that Consumers “is a monopoly subject to economic regulation, and its move into the competitive market may have adverse impacts disrupting such competition.” 5 Tr 2542. Further, MEIBC/IEI argue that allowing a utility to own behind-the-meter battery systems would have “a meaningful, destructive impact on the competitive market’s ability to provide energy storage products and grid services.” 6 Tr 3700. The Commission also highlights the discussion of battery storage included in the final report of the MI Power Grid New Technologies and Business Models workgroup, which included the following:

There are tradeoffs associated with the different ownership models. First, utilities have greater visibility into grid needs and can more readily site and dispatch storage to meet them, but they also pass all costs onto customers. Third party ownership may reduce costs and provide some grid visibility; however, third parties may struggle to achieve the same level of visibility. Customer ownership can reduce the costs that are assigned to all customers and enable customers to control energy usage but requires additional mechanisms to enable/incent grid benefits. Lastly, hybrid models may combine strengths of different models while minimizing weakness.

Staff’s December 1, 2021 “New Technologies, Business Models, and Staff Recommendations,” Case No. U-20898, filing #U-20898-0003, p. 90. The Commission has addressed similar concerns over utility ownership of behind-the-meter resources in the past, and while not categorically

²⁵ *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 172 FERC ¶ 61,247 (September 17, 2020).

prohibiting a utility from owning these resources, the Commission will want to see clear evidence that utility ownership is necessary to achieve the goals of the pilot project, as well as the steps the utility is taking to mitigate adverse impacts to the competitive market that may arise from the utility's participation in this market. *See, e.g.,* September 24, 2020 order in Case No. U-20649, pp. 55-56.

4. Smart Home Demand Response Pilot

Consumers explained that the company's proposed pilot utilizes 110-volt smart wall outlets paired through the cloud to an Amazon Alexa to dispatch load control signals to the customers' items plugged into the outlet. The company stated the pilot would aim to provide customers a way to customize their home and unlock more value from their smart home devices, while earning rebates and supporting clean energy. 4 Tr 368. Consumers further explained that to meet its IRP and clean energy targets, it "needs the ability to control additional end uses and optimize how those end-uses interact with the grid." *Id.* The company identified three primary and two secondary goals for the pilot at 4 Tr 368-369, to which no party objected. Additionally, the company stated it would contract with a third-party for analysis of the demand and energy savings using the company's AMI data. The company projected a pilot expense of \$1.05 million in O&M through the test year. *Id.*, pp. 369-370.

The Staff recommended that the pilot be adopted, but using the Staff's proposed DR crediting method. The Staff did not find the company's load reduction projections realistic. The Staff explained that its DR credit method analyzes actual load reductions by residential customers to determine the credit. 6 Tr 4239-4240.

Consumers did not support the Staff's proposed credit method and argued that it is not feasible to evaluate individual customer load for residential customers as the company does for its business

customers, and that the additional IT support and investment necessary to undertake this for residential customers would add significantly to the program cost. 4 Tr 566-568. The company further stated that the Staff's method may deter customer participation. *Id.*, pp. 444-446, 448.

The ALJ recommended that this pilot be used as a trial of the Staff's proposed method, which does offer the benefit of greater precision for the future. However, she conceded that the Staff's proposed method may be difficult to implement. PFD, p. 455.

In exceptions, Consumers agrees to meet with the Staff to informally, at the onset and conclusion of each pilot's phase, present the evaluation plan and subsequent results. The company argues that this will also allow the Staff the opportunity to review the pilot's compensation levels. Therefore, the company requests that the Commission approve the DR Smart Home pilot as proposed by the company. Consumers' exceptions, pp. 324-325.

The Commission adopts Consumers' pilot as proposed at this time as it is reasonable. The Commission expects meetings between the company and the Staff to provide additional reporting around scalability and better precision on compensation in the future. The Commission agrees that while the Staff's methodology is pertinent, it does increase the administrative costs in the exploratory phase. The Commission expects that the meetings between the company and the Staff to review the pilot's compensation levels will aid in the development of future approaches to this program.

5. Back-up Generator Pilot

The company is requesting additional funding to continue the back-up generator pilot in the test year, amounting to \$500,000 in O&M and \$460,000 in capital to double the enrollment in the program from 500 to 1,000 customers. 4 Tr 367-368.

No party objected to the extension of this pilot, and the ALJ found it should be approved. PFD, p. 456. No exceptions were filed on this issue.

The Commission agrees with and adopts the recommendations of the ALJ.

6. Low-income Demand Response Pilot

The company proposed a low-income DR pilot to ensure that this customer segment is addressed and supported through the residential DR portfolio, and to better understand the barriers to participation from the customer perspective. Consumers stated that the program would focus on customers up to 200% of Federal Income Poverty Level who have either electric or combination service with a Smart Meter, but eligibility could be refined with project learnings. The company identified the pilot objectives: (1) determine barriers to participation and the best way to engage low-income customers for DR, including multi-family; (2) develop and test deeper DR/EWR collaboration for low-income customers—seamless experience across DR/EWR programs; (3) determine what new, repackaged, or enhanced offerings are desired to overcome participation barriers such as Wi-Fi support and others; (4) measure customer benefit—customer satisfaction and bill savings and determine how beneficial DR is for low-income customers; and (5) measure demand savings for low-income customers across the board to determine what low-income customers contribute to demand savings as a whole. 4 Tr 370.

Consumers described Phase 1 of the program as the learning phase that will be research and insight focused. The company explained that it will include the expected average financial impact of the TOU event rates on low-income customers, which will be quantified by determining how consumption behavior is affected by the TOU event rates. The company asserted that this would help it to better understand the value provided from the customer's perspective. Consumers stated that customers who are not currently enrolled in a program (both customers who are aware of the

programs and those who are not) will be surveyed on why they chose not to participate to determine participation barriers such as value, trust, technology, etc. Consumers contended that collaboration with the EWR Income Qualified program will be initiated and some offers will be tested. *Id.*, p. 371.

Consumers described Phase 2 as taking the Phase 1 learnings and designing specific offers for low-income customers. The company stated that the specific value offerings would depend on the results of Phase 1 but may include things such as providing Wi-Fi to homes or multi-family buildings that would provide an avenue to DR program participation, in addition to other benefits of broadband access. During the design portion of Phase 2, Consumers explained that the third-party will be engaged to help define strategy to determine value/benefit to low-income customers as well as sample size(s) needed for single and package offerings. The company projected the cost of the program at \$690,000. *Id.*, p. 372.

The Staff supported the pilot. Staff's initial brief, pp. 171-172.

MNSC expressed support for the company's equity initiative but raised concerns with the program goals and objectives. 5 Tr 2567-2568. MNSC also offered opportunities to modify and improve the pilot. *Id.*, pp. 2568-2569.

In rebuttal, the company stated it is interested in working with interested stakeholders as part of the low-income pilot to develop new low-income DR programs and is working to develop specific metrics and goals like those described by MNSC. However, the company disagreed with MNSC's assertion that the company's low-income pilot proposal is vague and does not meet the requirements in Case No. U-20645. 4 Tr 459. Consumers requested that the Commission approve the pilot as described. Consumers' initial brief, pp. 438-439.

MNSC argued that the company's rebuttal did not alleviate all its concerns. MNSC's initial brief, pp. 140-141.

In its reply brief, Consumers emphasized that, at this point, it is only seeking to proceed with Phase 1 of its pilot. Consumers' reply brief, p. 196.

The ALJ concluded that Consumers should be authorized to proceed with Phase 1 of its pilot, with the obligations to report on the Phase 1 pilot learnings to the Commission's Energy Affordability and Accessibility Collaborative (EAAC), and to consult with that group and conduct additional stakeholder outreach before proceeding to Phase 2. The ALJ recognized that Phase 1 of the pilot is focused on gathering the information that can develop the more detailed programmatic objectives and methods MNSC is calling for. And, as outlined in Consumers' reply brief, the ALJ noted that there will be opportunity for stakeholder engagement before Consumers seeks approval from the Commission to proceed to Phase 2. The ALJ also noted that the costs associated with Phase 1 of this pilot are modest at approximately \$700,000. PFD, p. 461.

In exceptions, the company clarifies that it is requesting to move forward with Phase 1 and Phase 2 of the low-income pilot, and the costs incorporated into this case are for both phases of the pilot. The company explains that the learnings from Phase 1 of the low-income DR pilot will allow the company to develop specific objectives for Phase 2 of the pilot. Accordingly, the company requests that the Commission approve the low-income DR pilot as originally proposed. Consumers' exceptions, pp. 325-327.

In replies to exceptions, MNSC argues that Consumers does not articulate any reason the Commission needs to approve Phase 2 of the pilot in this proceeding. Additionally, MNSC states that, given the opportunity that this program has the potential to begin to incorporate equity considerations into pilot design in Phase 2, it is reasonable and appropriate to delay approval of

Phase 2 to a subsequent proceeding when there is more development and detail. MNSC requests that the Commission adopt the ALJ's recommendation. MNSC's replies to exceptions, pp. 106-109.

The Commission finds the ALJ's reasoning to be sound and adopts her recommendation. The Commission approves the Phase 1 pilot and directs the company to work with the EAAC, stakeholders, and parties to develop more specific equity related metrics for any Phase 2 request for future ratemaking. The Commission suggests that the company provide more investigation, insight, and detail in its next general electric rate case.

7. Small Business Smart Thermostat Demand Response Pilot

Consumers proposed this pilot to determine whether a program for small businesses modeled on the company's residential smart thermostat program could be successful. While the STC has an alternative program directed to residential customers, no party directly objected to this program targeted at small businesses. The ALJ found that the Small Business Smart Thermostat Demand Response pilot should be approved. PFD, p. 461. The Commission finds that the ALJ's recommendation is reasonable and prudent and should be adopted.

8. Smart Thermostat Coalition Proposal

STC proposed a significantly expanded pilot targeted at all customers. STC tied the program to an opportunity to benefit from AMI meters, enabling customers to respond more effectively to TOU rates. STC proposed two key elements for a smart thermostat program that could realize significant consumer and grid benefits in conjunction with Consumers' transition to summer on-peak rates: (1) collaborate with smart thermostat vendors to provide the company's residential customers enrolled in a summer on-peak rate the choice to redeem a one-time offer for a free smart thermostat available on the Consumers marketplace; and (2) create load management agreements

between Consumers and vendors of distributed demand side technologies pursuant to which vendors can automate residential customer response to summer on-peak rates (or other time-varying rates), provide data regarding the magnitude and location of that response to the company, and receive compensation for the grid value of the response. 6 Tr 3310-3311.

Consumers opposed STC's proposed pilot and argued the proposal is unnecessary. 4 Tr 454-455. Consumers argued that it currently works collaboratively with vendors to provide smart thermostats cost-effectively to customers through the DR and EWR programs. *Id.*, p. 454. By utilizing the company's established DR and EWR programs, the company can ensure that the appropriate benefits of smart thermostats are captured and provided to customers by tracking installation rates, encouraging customers to enroll in the STP, and requiring homes to have central cooling. Consumers also made it clear that the company objects to being required to create load management agreements with vendors. Consumers' initial brief, p. 253.

The Staff also did not support the program, in part because the program does not view TOU rates under the standard residential tariff as DR rates. Staff's initial brief, pp. 176-177. The Staff argued that approval of STC's DR program would be inappropriate without a thorough understanding of the expected costs and benefits of the program. The Staff is not confident STC's proposal would have a net benefit to ratepayers and is unsure how much customer demand would exist for such a program. *Id.*, p. 175.

In reply, STC addressed Consumers' argument contending that the company's program currently has enrolled only a small fraction of its 1.6 million customers. STC argued that, when the Commission required TOU rates, it anticipated customers would take advantage of utility programs to respond effectively to the time-varying rates. STC's initial brief, pp. 10-11. STC further argued that, beyond this case, a program such as this will help the company progress

toward its long-term grid modernization goals. *Id.*, pp. 11-12. STC also responded to the Staff's concerns that the benefits of such a program have been demonstrated in a prior Consumers' AMI business case, which demonstrated net benefits to customers from achieving savings associated with TOU rates. STC's initial brief, pp. 7-8.

STC further stated that, while MNSC's proposal to ensure low-income customers are placed on equitable TOU rate designs is an important step toward addressing such issues, those customers will obtain the full benefits of that shift only if they have tools like smart thermostats to respond to TOU price signals. *Id.*, p. 8. STC also argued that its proposed program will leverage the smart thermostats that are already installed in homes through load management agreements. *Id.*, p. 9.

The ALJ found no feasible avenue to require Consumers to adopt such a sweeping program that it does not support, and declined to make further recommendations in that regard. PFD, p. 464.

In exceptions, STC reiterates its arguments that the Commission should approve its proposal because the Commission has the oversight authority to do so. In addition, STC argues that the ALJ erred by not providing the necessary factual or legal determinations to support her recommendation to reject the program. STC's exceptions, pp. 2-15.

In exceptions, the Clean Energy Organizations argue that, while the Commission may not have the authority to make management decisions for utilities, it does have broad authority to regulate rates. The Clean Energy Organizations assert that the Commission can and should exercise that authority to direct Consumers to enact this program. Clean Energy Organizations' exceptions, pp. 1-5.

In replies to exceptions, Consumers argues that requiring the company to create load management agreements is unnecessary, is beyond the scope of the Commission's authority, and will likely create competitive disadvantages that will negatively harm customers. On this basis, the

company requests that the Commission reject STC's proposal. Consumers' replies to exceptions, pp. 100-103.

The Commission agrees with the ALJ and declines to require Consumers to implement the pilot proposed by STC. While the Commission appreciates STC's and Clean Energy Organizations' positions, the IRP may be a better venue for identifying the appropriate level of DR that is achievable. Setting the targets may involve working with third-party vendors, or having other participants in the DR industry identify pathways to cost-effectively increase DR utilization, and the IRP is better suited for this approach. The Commission encourages Consumers to explore options, including third-party involvement, to more fully utilize the range of resources available to reach higher DR targets.

The Commission stresses that a future DR proposal should include well-designed utility tariffs that will help the company reach the levels of DR specified in IRPs, and that will perform when called upon by the regional transmission organization or utility. The Commission has significant concerns with the current underperformance of the company's DR programs, but believes that setting targets in the IRP with greater accountability to meet those targets is a better forum than a forced pilot. The Commission continues to consider other approaches to address the underperformance of DR, including whether to lift the ban on aggregated DR for bundled retail load in Case No. U-20348. Continued underperformance from the utilities on DR will impact this and other decisions on how to maximize the utilization of cost-effective DR as part of Michigan's energy mix.

9. Midcontinent Independent System Operator Ancillary Services Pilot

Consumers explained that this pilot intends to gather information from large C&I customer participation in the MISO market for DR resources, with a projected cost of \$350,000 in the test year. 4 Tr 361-362. The Staff affirmatively supported this pilot. Staff's initial brief, pp. 173-174.

No party objected to the pilot and the ALJ recommended that it be approved. PFD, p. 464. No exceptions were filed on this issue.

The Commission finds the ALJ's recommendation is reasonable and prudent and should be adopted, and the pilot is approved.

C. Deferrals

Consumers requested explicit authority to defer the avoidable costs it identified associated with the PCA pending in its IRP case. Consumers' initial brief, p. 494.

The ALJ found the company's request to defer these costs to be reasonable. The ALJ also recommended additional deferrals to allow the company the opportunity to seek recovery of costs in a future case that the ALJ concluded may be avoidable, but could not be fully evaluated on this record given the timing of the filing of the company's PCA. PFD, pp. 464-465. No exceptions were filed on this issue.

The Commission finds the ALJ's recommendation is reasonable and prudent and should be adopted.

D. Demand Response Surcharge

In its December 17 order, the Commission rejected Consumers' request for a surcharge to recover its DR costs. Consumers renewed its request in this case. Consumers' initial brief, pp. 487-490. Consumers explained that the surcharge is an effort to streamline the reconciliation process and to provide for an exact reconciliation not subject to the uncertainties associated with sales forecasting. 4 Tr 353-354. Consumers stated that the surcharge would be calculated based on the DR costs to be recovered in this case, as shown in Exhibit A-16, with surcharge calculations presented in Exhibit A-100. The company explained that the surcharge would be designed as an energy-based surcharge to collect the test year DR program revenue requirement from customers

with energy-based production rates, and as a demand-based surcharge for collecting the corresponding DR program revenue requirement from customers with demand-based production rates. 4 Tr 553.

In Case No. U-20697, the Staff opposed the company's request for a DR surcharge, but now recommends approval of the surcharge, as long as the costs recovered through the surcharge have been reviewed and approved as reasonable. The Staff also recommended that the DR credits be included in the surcharge, including the Rate GPD interruptible credits. Staff's initial brief, pp. 213-216.

Consumers agreed to the Staff's recommendations, except for the Rate GPD credits. 4 Tr 446-447.

ABATE and Kroger objected to the surcharge. ABATE argued that a DR surcharge is unnecessary because the company files annual rate case filings with projected test years, and the DR costs are relatively minimal. ABATE's initial brief, p. 53. ABATE disputed the company's concern for the difficulty of reconciling costs and cited the company's testimony at 6 Tr 3438-3439 as evidence that the DR costs are not volatile and do not require real time recovery. Further, ABATE expressed a concern that the surcharge would increase between rate cases, even though offsetting reductions in other utility costs might otherwise negate the need for a rate case. ABATE's initial brief, pp. 54-55. Kroger argued that the surcharge should not be established merely to transfer the risk of underrecovery of a rate item from the utility to its customers. Kroger's initial brief, p. 12.²⁶

²⁶ Kroger's initial brief is not paginated and, therefore, the Commission numbered the pages beginning with the first page of the brief and continuing in natural order.

The Staff analogized the DR costs to be recovered through the proposed surcharge to power supply costs, contending that both involve significant costs that are largely out of the company's control. 6 Tr 4255. Regarding the Staff's recommendation to include the interruptible rate discounts, the Staff acknowledged that it needs to calculate proxy revenue for what customers would have paid but for agreeing to the interruptible rate, in order to determine the total compensation to include in the surcharge. Staff's initial brief, p. 214.

In reply, Consumers did not dispute the Staff's proxy calculations, but argued that the Staff is the party that needs to demonstrate the reasonableness of its proposed modification. The company continued to argue that the inclusion of the interruptible provisions for Rate GPD should not be included in the DR surcharge and the Commission should reject the Staff's proposed modification. Consumers' reply brief, p. 229.

The ALJ recommended that the surcharge be rejected at this time as the Commission recently addressed this in its December 17 order. The ALJ noted that ABATE and Kroger object, in part because the surcharge moves the decision-making point that controls their rates to a separate reconciliation proceeding, and those parties envision the surcharge increasing even under circumstances in which the utility is not seeking a revenue increase. The ALJ further commented that, although the company claims a concern that it will not properly recover these costs due to a potential error in the sales forecast, at present, the potential underrecovery has not been shown to be significant. The ALJ also found it troubling that Consumers and the Staff could not agree on the appropriate costs and credits to include in the surcharge. The ALJ concluded that the Staff is correct that, without including the interruptible discounts, the surcharge does not comprehensively corral all DR costs. Therefore, she found that the surcharge would not be a clear improvement

over the present approach and DR costs will still be reviewed in rate cases, so the surcharge does not effectively reduce the scope of a rate case. PFD, pp. 468-469.

In exceptions, Consumers reiterates that it is proposing to modify the previously approved regulatory framework to separate DR-related costs from the overall revenue requirement and to recover the costs through an all-encompassing DR surcharge. The company argues that the proposed DR surcharge results in accurate DR rates for customers, and the surcharge will allow for timely refunds of any potential over-recoveries and timely rate recovery for the company for any potential under-recoveries and the performance incentive. Consumers requests that the Commission approve a DR surcharge as proposed. Consumers' exceptions, pp. 327-329.

In replies to exceptions, ABATE argues that given the unnecessary and unreasonable nature of the proposed surcharge, as well as its inherent flaws and deficiencies, the Commission should adopt the ALJ's recommendation and reject the proposed DR surcharge. ABATE's replies to exceptions, pp. 10-11.

In replies to exceptions, the Staff reiterates that the DR surcharge should not be approved without all of the Staff's modifications. Staff's replies to exceptions, p. 40.

While the Commission appreciates the transparency of a surcharge accounting method, the lack of agreement on the costs and credits to be included in a surcharge between the Staff and the company ultimately lead to the conclusion that shifting the approach to DR accounting is premature. In addition, the Commission would like to see greater clarity from the company on how a proposed surcharge would be reflected in customer bills (e.g., as an additional bill line item, or incorporated into other surcharges). Although the separated aspect for accounting is beneficial, a surcharge that includes only costs and not the broader monetary benefits of cost-effective DR programs in a separate line item would fail to provide a complete picture to customers of the costs

compared to the benefits of DR programs. The Commission appreciates the attempt to improve comparisons between costs and benefits, however the Commission does not find it appropriate to do so in this manner at present. The Commission thus adopts the recommendation of the ALJ, denies this DR surcharge, and encourages Consumers to continue to work with the Staff and other interested parties on better approaches to DR accounting.

E. Residential Customer Group Revenue Requirement Reduction

RCG requested that the Commission reduce the revenue requirement established in this case by the amounts the Commission authorized Consumers to spend in Case No. U-20932, including a donation to the company's private foundation, and additional expense recognitions. RCG argued that the costs were not approved in the company's last rate case, and further indicated that the company's applications in Case No. U-20932 could be viewed as an impermissible overlapping rate case, citing MCL 460.6a. RCG's initial brief, pp. 18-23.

Consumers reviewed the orders in Case No. U-20932 and drew a distinction between the Commission's approval of the expenditures at issue in that case and the approval of the method of voluntary refund. In addition, the company argued that the prohibition against retroactive ratemaking precludes the Commission from adopting RCG's recommendation. Consumers' initial brief, pp. 499-502.

In reply, RCG argued that the Commission's May 13 order was unlawful, but did not directly address the company's arguments regarding retroactive ratemaking. RCG's reply brief, pp. 5-11.

The ALJ agreed with Consumers that offsetting the revenue requirement in this rate case with an estimate of prior overearnings is retroactive ratemaking and not permissible. PFD, p. 470.

In exceptions, RCG continues to make the previously stated arguments regarding overlapping test years. RCG's exceptions, pp. 12-19. RCG argues that its proposed rate adjustment in this

case is prospective to offset any rate deficiency or sufficiency finding by the amount of the unlawful, unreasonable, and imprudent expenditures. RCG's exceptions, pp. 29-30.

In replies to exceptions, the Staff notes that RCG has presented no evidence of an overlap and the Staff is unaware of any overlap. The Staff recommends RCG's claims not be considered as support for its positions. Staff's replies to exceptions, pp. 52-53.

In replies to exceptions, Consumers argues that simply labelling RCG's proposal as prospective does not avoid the retroactive ratemaking issue. Consumers argues that when established case law is examined, there is no merit to RCG's claim that its proposal does not constitute retroactive ratemaking and therefore should be rejected. Consumers' replies to exceptions, pp. 114-118.

The Commission agrees with the reasoning and arguments presented in the case and the recommendations of the ALJ that offsetting the revenue requirement in this case with an estimate of prior overearnings is retroactive ratemaking and is not permissible. The Commission adopts the findings of the ALJ and rejects RCG's proposal.

VIII. REVENUE REQUIREMENTS SUMMARY

In accordance with the foregoing findings, Consumers' jurisdictional revenue deficiency for the test year is computed as follows:

Rate Base	\$12,428,130,000
Required Rate of Return	5.62%
Income Required	\$698,127,000
Adjusted Net Operating Income	\$677,875,000
Income Deficiency (Excess)	\$20,252,000
Revenue Multiplier	1.3391
Revenue Deficiency	\$27,118,000

IX. COST OF SERVICE, RATE DESIGN, AND TARIFF ISSUES

A. Cost of Service Study

Consumers stated that it developed two cost-of-service studies. The company explained that cost-of-service study (COSS) 1 is consistent with the COSS approved in the December 17 order. 3 Tr 160. Consumers noted that COSS 2 was prepared in reliance on, and in comparison to, the first version, COSS 1. 3 Tr 164. The company contended COSS 2 includes the changes that the company is proposing. Consumers asserted that COSS 2 is the version that the company proposes that the Commission approve for Consumers' rate design in the instant case. *Id.* Issues related to COSS 2 (hereafter referred to simply as the COSS) are discussed below.

1. Production Cost Allocation

MCL 460.11 provides:

The commission shall ensure that the cost of providing service to each customer class is based on the allocation of production-related costs based on using the

75-0-25 method of cost allocation and transmission costs based on using the 100% demand method of cost allocation. The commission may modify this method if it determines that this method of cost allocation does not ensure that rates are equal to the cost of service.

“Consistent with the statute, [Consumers’] production costs are currently allocated based on 4CP 75-0-25.”²⁷ PFD, p. 472.

The Attorney General proposed that the allocator be changed to “50% demand and 50% energy, consistent with the company’s 2020 system load factor, [Dr. Dismukes’]²⁸ analyses of generating plant in service, generating unit capacity factors, and a calculation of electric generating unit levelized cost by comparing FERC Form 1 data to cost of new entry (CONE).” PFD, p. 472 (citing 6 Tr 3099; Exhibit AG-2.5).

Consumers rebutted the Attorney General’s proposal and stated that the Attorney General had presented nearly identical analyses and arguments in Case No. U-20697 which were rejected by the Commission as “unsupported and based on incomplete assumptions.” PFD, p. 472 (citing 3 Tr 184; December 17 order, pp. 279-280).

The Staff opposed the Attorney General’s proposed 50-50 production cost allocator on several counts. First, the Staff noted that “the NARUC Manual²⁹ does not support the use of system load factor for determining production cost weightings.” PFD, p. 472; *see*, 6 Tr 4214-4215. Second, the Staff argued that the Attorney General mischaracterized the Staff’s analysis in Case

²⁷ Refers to four coincident peaks, 75% weighted to demand, 0% weighted to on-peak energy, and 25% weighted to total energy.

²⁸ Dr. David E. Dismukes, PhD., Consulting Economist with the Acadian Consulting Group, testified on behalf of the Attorney General. His testimony is found, in its entirety, at 6 Tr 3067-3197.

²⁹ National Association of Regulatory Utility Commissioners, *Electric Utility Cost Allocation Manual*, (1992).

No. U-17688 as being the basis for its support of the 4CP 75-0-25 allocation method when, in fact, the “calculation was simply a reasonableness check to assess the reasonableness of allocating 25% of production costs on energy and provided supplementary support to Staff’s main arguments for supporting the 4CP 75-0-25 production cost allocator.”³⁰ 6 Tr 4215. Finally, the Staff testified that it supports the 75-0-25 method of allocation because it is required by statute, unless there is an evidentiary showing that the method “does not ensure that rates are equal to the cost of service.” PFD, p. 472 (citing 6 Tr 4216); MCL 460.11. The Staff explained that:

[i]ncluding an energy portion in the production cost allocator is important, as it reflects that the system is designed to not only serve peak demand a handful of times a year, but also to serve reliably throughout all hours of the year. A customer who uses more energy during the year is using and benefitting from the system more and should therefore pay for that service.

6 Tr 4216. The ALJ noted that neither Kroger nor Walmart supported the Attorney General’s proposal. PFD, p. 473 (citing Kroger’s initial brief, pp. 9-12; Walmart’s initial brief, pp. 6-8).

ABATE disagreed with the Attorney General, Consumers, and the Staff, stating that it is most appropriate to allocate production costs on the basis of 4CP 100-0-0. However, ABATE did not contest the use of the 75-0-25 method. PFD, p. 473; *see*, 6 Tr 3430-3431.

The ALJ agreed with the Staff that the 75-0-25 method is required by statute unless the evidence indicates that it does not result in a fair allocation of costs of service and found that the record did not contain such a showing. Therefore, she rejected both the Attorney General’s and

³⁰ Specifically, Dr. Dismukes testified that:

[i]n the Company’s last rate case (U-20697), the Company proposed to use a mixed or hybrid approach consistent with the Commission’s past practices, yet one that is based on an 89-0-11 weighting. The Company’s proposed weighting (89-0-11) was based on an updated analysis of generating plant statistics prepared by Staff in 2013 in Case No. U-17688, which the Commission used in its justification of the current 4CP 2 75-0-25 cost allocation regime. *See*, 6 Tr 3097-3098 (footnotes omitted).

ABATE's proposals. The ALJ reiterated that "the inclusion of energy in the production cost allocator reflects the fact that the company's system is designed to serve both peak demand and to reliably provide energy throughout the year." PFD, p. 473.

The Attorney General takes exception to the ALJ's support of the 75-0-25 method, arguing that the Attorney General's "energy weighting based on the consideration of simple averages ranges from 49.9 to 51.6 percent; a range consistent with a 4 CP 50-0-50 weighting" would result in cost allocation that is "a fair and reasonable approximation of the relative cost of service" and reflective of "recent system load factors for the Company over the last five years (2016 through 2020), which have consistently ranged between 52.2 and 56.5 percent." Attorney General's exceptions, pp. 51-53 (footnotes omitted).

Consumers replies that there are several flaws in the Attorney General's case presentation. First, Consumers contends that the NARUC Manual section that the Attorney General relied on to support a 4CP 50-0-50 weighting "does not suggest that energy and demand weightings should be closer to 50/50." Consumers' replies to exceptions, p. 119 (citing 3 Tr 185). Second, Consumers states that it is not clear how changing the Staff's analysis in Case No. U-17688 is improved by averaging, rather than multiplying, baseload coal plant in service relative to total plant and the ratio of minimum to maximum hourly system load. Consumers' replies to exceptions, p. 120 (citing 3 Tr 185-186). Third, Consumers replies that an "analysis comparing the levelized cost of the Company EGUs [energy generating units] to CONE[.]" as did the Attorney General, "is flawed because CONE is not an appropriate reflection of the Company's embedded cost of capacity in that CONE did not drive the decisions that led to those costs." Consumers' replies to exceptions, p. 120. Fourth, the Attorney General's presentation did not "consider the programs and opportunities customers can use to reduce their electric bills, improve the energy efficiency of

their homes, and receive assistance in paying bills during times of hardship” as she should have. *Id.*, p. 120 (citing 4 Tr 576-577). Finally, Consumers argues that the Attorney General’s arguments were previously rejected by the Commission and, in this case, she provided no basis for the Commission to conclude that the 75-0-25 method does not ensure that rates are equal to the cost of service as required by statute. *Id.*, p. 121.

ABATE replies that “because the Attorney General’s restated arguments were rebutted and refuted throughout the record (in addition to the record in Case No. U-20697) the Commission should adopt the [ALJ’s] recommendation and reject the Attorney General’s proposal.” ABATE’s replies to exceptions, p. 12 (citing ABATE’s initial brief, pp. 7-18; ABATE’s reply brief, pp. 72-74; PFD, pp. 471-473).

The Commission is not persuaded that the statutory 75-0-25 allocation fails to ensure that rates are equal to the cost of service in the instant case. Further, the Commission finds the ALJ’s analysis and recommendation is well-reasoned and supported in the record and agrees with her finding that the Attorney General presented basically the same evidence in Case No. U-20697 which the Commission rejected. The Commission agrees with the Staff that the inclusion of energy in the production cost allocator reflects the fact that the company’s system is designed to serve both peak demand and to reliably provide energy throughout the year. *See*, 6 Tr 4216. Accordingly, the Commission adopts the ALJ’s recommendation that production costs in the instant case should be allocated on a 75-0-25 basis.

2. Voltage Peak Allocator

Consumers’ COSS was based on the voltage peak distribution allocation method rather than the class peak allocator that is currently in use and has been used in the past. Consumers testified that the voltage peak allocator method remedies the primary flaw of the class peak method which

is that the class peak method measures the independent peak demand of each rate class which likely occurs at different times and dates. Consumers testified that it would be better to measure the peak demand hour at each level of the distribution system as would occur in the voltage peak method because it would drive “capacity needs, which is one of the key drivers of investment in facilities.” PFD, pp. 474-475 (citing 5 Tr 848). Consumers noted that, under the voltage peak COSS, rates would change as follows: 1.7% increase for residential, 2.2% reduction for secondary commercial, 1% reduction for primary, and 11% reduction for lighting. PFD, p. 475 (citing 3 Tr 174-175, Exhibit A-166).

MNSC and the Attorney General opposed the voltage peak method. The Attorney General testified that the voltage peak method is too simplistic and does not reflect the varying peak demands placed on the system because, for example, one circuit’s main customers may be office buildings with employees working a traditional 9 a.m. to 5 p.m. schedule, resulting in a peak during those daytime hours, and another circuit may serve residential customers whose peak may be early evening. PFD, p. 475 (citing 6 Tr 3087). The Attorney General asserted that the class peak system currently used by the company recognizes “some of the differences in individual circuit load requirements to service customers.” PFD, p. 476 (quoting 6 Tr 3088). Further, the Attorney General testified that the company does not evaluate the diversity loads placed on its distribution plant assets or track customer numbers by individual rate classes that are served by each feeder which, the Attorney General asserted, limits the company’s knowledge of how each customer class affects each distribution circuit and how individual circuits within each voltage level differ. PFD, p. 476. Finally, the Attorney General testified that the company did not cite any reputable authority in support of the voltage peak method. *Id.* (citing 6 Tr 3088-3089).

MNSC testified that, while it does not support the class peak method, neither is the voltage peak method the appropriate approach because it does not reflect engineering practice in that peak demand on a distribution component may not be coincident with the single hour of voltage peak and the size of a distribution system is not normally based on the demand of a single hour. The MNSC contended that, even if it were, not all costs should be attributed to that hour. MNSC asserted that “[i]t is a virtual certainty that all . . . substations do not experience their annual peak load in the same hour of the year, yet that is the claim on which the voltage peak method is based.” PFD, p. 477 (quoting 5 Tr 2437). Moreover, MNSC asserted, the company did not provide a sufficient or timely discovery response for MNSC to prepare calculations to demonstrate a more appropriate cost allocation in this case. 5 Tr 2436-2443.

Whereas the Staff accepted Consumers’ COSS based on the voltage peak method, it felt more information was needed and that other, better, alternatives may be available. The Staff requested that the company provide a COSS based on a multi-hour voltage peak distribution demand allocator in its next general electric rate case. The Staff averred that the coincident peak (CP) at voltage level is important because distribution equipment must be able to handle the peak load for an hour but it is not the only important factor as equipment must also handle “sustained load over multiple hours to ensure reliability.” PFD, p. 478 (quoting 6 Tr 4205-4206). The Staff quoted the NARUC Electric Utility Allocation Manual, page 39, that “[u]se of multiple-hour methods also greatly reduces the possibility of atypical conditions influencing the load data used in the cost allocation.” PFD, p. 478.

Consumers rebutted the Attorney General’s position and testified that, while the voltage peak method may be simplistic, it is not as simplistic as the class peak method and that the Attorney General inaccurately assumed that a circuit may serve only one rate class rather than a variety of

rate classes. Consumers explained that, because the voltage peak method measured a peak hour demand placed on its facilities, the company could size its facilities to serve that demand. PFD, p. 480 (citing 3 Tr 177-178).

Consumers also rebutted MNSC's position and testified that it would be extremely burdensome to examine the costs at each circuit and further stated that a COSS is supposed to be a simplified version of how the company sizes its facilities and how customers use its systems.

Repudiating MNSC's speculation that substations do not experience their annual peak in the same hour of the year,³¹ Consumers testified that "the preponderance of substations, or other components, experience their annual peaks at the same time." 3 Tr 179. Consumers went on to state that MNSC had confused a piece of equipment's rating with its sizing and that the rating is an indication of the ability to handle a peak load over multiple hours, whereas sizing (which is how the company selects its equipment and what drives its cost) is based on peak load plus an additional cushion. PFD, p. 481 (citing 5 Tr 986-987). However, MNSC later argued that it did not err because it accurately stated that the standard it relied on in its presentation employs sizing. PFD, p. 482 (citing MNSC's initial brief, p. 183).

The Staff rebutted Consumers' testimony and stated that reliance on a single peak was prone to randomness in the resulting data. The Staff also rebutted MNSC's testimony related to single-peak allocations, stating that it is flawed and does not reflect engineering practices. PFD, p. 483 (citing Staff's initial brief, pp. 198-199).

The ALJ found that the record was not sufficient to establish that the voltage peak method, with its one-hour annual peak (even when averaged over three years) offers a preferable foundation for a COSS than does the class peak method. In her recommendation, the ALJ relied

³¹ See, 5 Tr 2437.

on MNSC's Exhibit MEC-6 which indicates that "more than a single day's load drives the loss of life of a transformer" and she opined that "[w]hat drives the cost of equipment to wear out is an important consideration in addition to the initial size, since ratepayers pay for the depreciation of the equipment and again to replace it." PFD, p. 484 (citing 5 Tr 1088-1090).

Consumers takes exception to the ALJ's recommendation and argues that the company selected the voltage peak method "after careful consideration of criticism that parties had of the Class Peak allocator in Case No U-20697³² and to more accurately reflect causation."

Consumers' exceptions, p. 334. In particular, Consumers argues that the ALJ erred when she relied on MNSC's Exhibit MEC-6 and when she said that more than a single day's load drives the loss of a transformer. In fact, Consumers argues, "distribution equipment cost is primarily driven by demand, or instantaneous usage, and not energy, or usage over time." Consumers' exceptions, p. 337 (citing 5 Tr 986). The company reiterates its arguments on other points relating to the voltage peak method and states that the voltage peak method "reasonably represents what drives the Company to invest in demand-related distribution plant and does not suffer from the same Class Peak concerns that parties raised in previous cases." Consumers' exceptions, p. 340 (citing 3 Tr 174); *see*, Consumers' exceptions, pp. 333-340.

ABATE also takes exception, and states that the ALJ did not fully consider its testimony and her "recommendation was based on unreasonable findings regarding the factor which drives

³² The December 17 order indicates that ABATE argued that the class peak allocator should not be applied to each separate rate class and subclass, with which Consumers "generally" agreed but stated that peaks should be calculated at the voltage level to better represent how its system is designed. December 17 order, p. 290 (citing 5 Tr 848). The December 17 order also indicates that the MEC Coalition alleged that Consumers had not complied with the settlement agreement in Case No. U-20134 because, in Case No. U-20697, the company failed to allocate distribution costs via a method other than class peaks. *Id.* (citing MEC Coalition's initial brief, p. 213). The Commission found that Consumers had complied with the settlement. *Id.*, p. 290, 293.

Consumers' distribution system costs, the manner in which Consumers determines the cause of distribution system costs, and the degree to which the Company's proposal better results in cost-based rates compared with the current class peak method." ABATE's exceptions, p. 2. ABATE reiterates its case presentation in support of the voltage peak method and its objections to the class peak method raised in past cases.³³ ABATE also recounts testimony from other witnesses related to the voltage peak and class peak methods. ABATE appears to be especially concerned that "the current class peak method suffers from significant flaws regarding cost causation and allocation which inequitably and unreasonably punish classes that have a large number of subclasses." ABATE's exceptions, p. 6 (citing 6 Tr 3504); *see*, ABATE's exceptions, pp. 1-6.

Staff replies that "demand is not the only factor in the distribution planning process. Distribution equipment must be able to handle sustained loads over multiple hours to ensure reliability, not just the peak load occurring in one hour." Staff's replies to exceptions, p. 37 (citing Staff's initial brief, pp. 198-199). Further, the Staff argues that Consumers use of a single peak hour or the average of three single peak hours, one from each of three years, is simply insufficient to "accurately capture the cause of distribution system costs." Staff's replies to exceptions, p. 37 (citing the PFD, pp. 483-484). For all these reasons, the Staff urges the Commission to direct Consumers to present a multi-hour voltage peak allocator in its next rate case. Staff's replies to exceptions, pp. 37-38.

³³ In Case No. U-20697, ABATE argued that "the Commission should affirmatively approve the allocation of distribution costs by applying the Class Peak method to demand aggregated by rate class" because, when applied to rate subclasses, GPD customers are allocated more than they should be due to the much higher number of subclasses in GPD compared to other rate classes. ABATE asserted that "[a]ggregating class peaks by rate class recognizes diversity and is, thus, consistent with how distribution facilities are planned." Case No. U-20697, filing #U-20697-0513, p. 8.

The Attorney General replies that the Commission should adopt the PFD on this matter and reiterates its reasoning as stated in its case presentation. Attorney General's replies to exceptions, pp. 86-88.

The Commission is not persuaded that Consumers' voltage peak allocator, employing only one peak hour per year over a three-year period, is sufficient to provide the data needed to properly assign demand-related distribution costs or that it is superior to the class peak allocator method. Accordingly, the Commission rejects the company's proposed use of the voltage peak allocator in the instant case and directs Consumers, as suggested by the Staff, to evaluate and present in its next general electric rate case a multi-hour voltage peak allocator for consideration.

3. Classification of Distribution System Costs

Kroger testified that Consumers should be required to provide a minimum size study (MSS) or minimum intercept study for classification of distribution costs in its next rate case because 15% of its distribution costs are now considered to be customer-related which Kroger believes to be under-stated. PFD, p. 484 (citing 3 Tr 164). Kroger asserted that Consumers does not consider a portion of distribution plant to be customer-related as should be done according to the NARUC Manual. PFD, pp. 484-485 (citing 6 Tr 3280); *see*, NARUC Electric Utility Cost Allocation Manual, Cost Accounting for Distribution Plant and Expenses. The ALJ noted that Consumers did not oppose providing the study. PFD, p. 485 (citing 3 Tr 182).

The Staff, the Attorney General, and MNSC opposed the use of both the MSS and minimum intercept study. MNSC testified that the voltage peak method would resolve some of the issues related to allocation of demand costs and argued that if either of the studies suggested by Kroger correctly classifies costs as either demand or non-demand, that does not mean that all non-demand

costs are customer costs. PFD, p. 485 (citing 5 Tr 2444). The Attorney General testified to the shortcomings of the MSS and zero intercept study:

Both MSS and zero-intercept studies are deeply theoretically flawed. MSS-based analyses deal in hypotheticals that often do not exist in the real world, including the assumption that somehow there is an electric distribution system out there in the world that could be plausibly built to serve customers but not load. No such system exists, making the underlying assumptions and modeling of a “minimum system” difficult, if not impossible, to verify. A zero-intercept-based approach is simply a statically-based MSS approach and suffers, conceptually, from the same shortcomings. Namely, it attempts to model an empirical relationship between changes in utility customer counts and distribution system costs that have been shown to not exist.

6 Tr 3085-3086.

The Staff agreed with the Attorney General and testified that “[t]he Zero Intercept Method implies a direct correlation between the number of customers and distribution system costs that does not exist. It ignores the density factor of customers in a distribution system (i.e. rural vs. urban). For these reasons, the proposal should be rejected.” *Id.*, p. 4219.

The ALJ agreed with the Staff, the Attorney General, and MNSC, that both the MSS and minimum intercept study methods have “serious conceptual flaws, and are inconsistent with the Commission’s longstanding method for calculating customer charges as including only costs related to the existence of the customer–meters, service drops, and customer service.” PFD, p. 486. The ALJ also pointed out the Attorney General’s testimony that academic literature has questioned these faulty allocation methodologies for decades. *Id.* (citing 6 Tr 3085-3086, James C. Bonbright, *Principles of Public Utility Rates*).

No exceptions were filed on this issue and the Commission finds that the ALJ’s recommendation is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the PFD and rejects Kroger’s proposal to require Consumers to submit an MSS or minimum intercept study with its next general electric rate case.

4. Uncollectible Cost Allocation

The ALJ discussed uncollectible cost allocation:

[The Staff's witness,] Mr. Gottschalk recommended allocating uncollectible costs based [on] total revenue. He testified that the current method of allocating uncollectible expense does not reflect how these costs are incurred or are borne by customers. Mr. Gottschalk pointed out that like any other utility, Consumers has customers that do not pay their bills, and that the ability or willingness of one customer to pay a bill has no effect on another customer's propensity to pay, no matter the class to which these customers are assigned. Staff therefore recommends that uncollectible costs be allocated consistent with the method approved in Case No. U-17735, which reflects uncollectible expense as a general cost of doing business.

As an alternative, Mr. Gottschalk recommended that uncollectible expense be allocated based on a 3-year average of net write offs by class in future rate cases. Mr. Gottschalk noted that Staff typically uses a 3-year average to project uncollectible expense. Thus, it would also be appropriate to match the time periods used for the uncollectible expense forecast with the time period and averaging method used to calculate the allocator.

In its initial brief, Consumers stated that it supports Staff's alternative method, using a three-year average of net write-offs to calculate the allocator. No other party responded to Staff's recommendation.

[The ALJ] agrees with Staff's rationale for allocating uncollectible expense, finding that the allocation of these costs should be based on total revenue, as Staff recommends. Staff points out that for many years, uncollectibles were recognized as a general cost of doing business for utilities, and this has only recently changed. Moreover, as Staff argues, although there are customers who do not pay their electric bills, "the number of similarly served customers has no effect on any particular customer's willingness or ability to pay their bill. Other customers have no bearing on the unique circumstance that leads to a customer's account becoming uncollectible."

PFD, pp. 487-488 (citing 6 Tr 4212; Consumers' initial brief, p. 517; Staff's initial brief, p. 188).

Consumers excepts and "requests that the Commission approve Staff's alternative recommendation to use a three-year average of net write-offs to allocate uncollectible costs in future electric rate cases[,]" arguing that the Commission approved the method in Consumers' natural gas rate case, Case No. U-20322. Consumers' exceptions, p. 341 (citing 3 Tr 194).

The Staff replies that the Commission should reject Consumers’ argument and accept the ALJ’s recommendation because the ALJ considered all the parties’ positions and concluded that the Staff’s position was correct. Staff’s replies to exceptions, p. 52 (citing PFD, pp. 487-488).

The Commission agrees with the ALJ’s recommendation to return to allocating uncollectibles based on total revenue, as proposed by the Staff. While the Commission recognizes that this is a departure from the currently approved methodology for Consumers, the Commission finds that the allocation of uncollectibles as a general cost of doing business more accurately reflects both cost-of-service principles and, as the ALJ noted, the approach historically used by utilities. PFD, p. 488. Furthermore, the Commission recently reached a similar conclusion and ordered the return to allocating uncollectibles as a general cost of doing business as part of its decision in DTE Gas Company’s rate case. *See*, December 9, 2021 order in Case No. U-20940, pp. 189-190. As noted in that case, “[t]he question of whether to pay—or not to pay—the utility bill rests with the individual customer, not the class in which that customer is situated.” *Id.*, p. 189. *See*, dissenting opinion of Commissioner Greg White in the June 15, 2015 order in Case No. U-17689, p. 42 (“Customers who pay their bills play no role in whether other customers’ bills become uncollectible, and they should not be punished for paying their bills simply because they share characteristics as a group.”) Because these costs tie much more closely to the company’s basic cost of doing business than to the current allocation approach that conflates cost causation with mere class membership, the Commission adopts the ALJ’s allocation of uncollectibles based on total revenue. *See*, 6 Tr 4212.

5. Digital Customer Operations

The ALJ summarized the Staff’s position related to four digital customer operations projects:

in future rate cases, Consumers Energy [should] separate certain customer-related costs, specifically those associated with four IT projects in digital customer

operations, and allocate those costs to the specific customer group to which these costs pertain. [The Staff’s witness] pointed specifically to the Commercial and Industrial Online Account Management project, the costs of which should be allocated to C&I customers.

PFD, pp. 488-489 (citing 6 Tr 4209-4210).

Consumers disagreed with the Staff and asserted that the costs to which the Staff referred are “recorded in intangible plant and are not included in the customer cost calculation.” PFD, p. 489 (citing Consumers’ initial brief, p. 516).

The Staff responded to Consumers, arguing that the Commission has not supported Consumers’ view on this matter³⁴ and stating that:

because Consumers Energy included DCO [digital customer operations] costs in intangible plant, which is allocated based on total labor, residential customers are allocated a portion of costs for IT programs for C&I customers. Staff maintains that “[t]he Commission should’ continue to require the company in future rate cases to account for and allocate clearly attributable customer-related costs to the classes responsible.”

Staff’s initial brief, p. 187 (quoting the PFD, p. 489). In addition, the Staff contended that whether or not the costs are included in the customer charge is irrelevant. Staff’s reply brief, pp. 31-32.

Consumers differentiated the four digital customer operations projects from the Customer Care Center (CCC) and Business Care Center (BCC) costs referred to by the Staff and discussed in the December 17 order, stating that the digital customer operations projects are not customer-related costs and include \$10 million in capital and \$1 million in O&M in the test year, whereas

³⁴ In the December 17 order, pp. 286-287, the Commission stated that:

[t]he Commission agrees with the ALJ’s recommendation that separating the costs is reasonable and consistent with the goal of specifically assigning costs to the class that caused the costs. . . . The Commission is not persuaded by the company’s claim that it is unable to separate the costs by class as proposed by the Staff. . . . Therefore, the Commission adopts the findings and recommendations of the ALJ, and Consumers should assign the Customer Care Center costs and Business Customer Care group costs to the appropriate classes in its next general rate case.

CCC and BCC test year costs included \$21 million in O&M. Consumers asserted that the company should not have to separately allocate costs for each of the 250 projects presented in the instant case because it would be “unreasonable and extremely burdensome.” Consumers’ reply brief, p. 248.

The ALJ reasoned that the Staff had asked Consumers to break out and separate cost allocations for only four projects, not 250 as Consumers implied. She agreed with the Staff that for “certain programs or projects that only pertain to certain customers or customer classes, costs should be allocated to those specific customers or classes.” PFD, p. 490.

Consumers takes exception to the ALJ’s recommendation and reiterates that the CCC and BCC costs are distinguishable from the digital customer operations projects because “the CCC and BCC costs were more material and only involved O&M expense.” Consumers’ exceptions, p. 341. Consumers reiterates its case presentation on this matter. *Id.*, pp. 340-341.

The Staff replies that the ALJ was correct to recommend that the company directly assign costs for certain digital customer operations projects in future rate cases because the “Staff is concerned with ensuring the direct assignment of costs that are clearly and solely attributable to a certain rate class or group of rate classes rather than requiring all projects to be separately allocated.” Staff’s replies to exceptions, p. 39.

The Commission is persuaded that the costs for the four digital customer operations projects at issue here should be assigned to the specific responsible customer classes in Consumers’ next general electric rate case because the record supports that the four projects are specific to certain classes. Accordingly, the Commission adopts the ALJ’s recommendation on the matter.

6. Transmission Cost Allocation

Kroger testified that transmission costs should not be allocated on a 12CP demand allocator but, rather, on 4CP, because summer peaks are becoming more pronounced and 4CP better reflects the demands that customers place on the system as revealed by the results of the three-part FERC test for CP: “(1) a comparison of peak during on-peak and off-peak months to the average annual peak; (2) a comparison of the low monthly peak to the annual peak; and (3) a comparison of the average of monthly peaks to the annual peak.” PFD, pp. 491. Kroger testified that Consumers meets two of the three tests to be a summer peaking utility. *Id.*; *see*, 6 Tr 3276-3279; *see also*, Exhibit KRO-4.

Consumers responded that the Commission supported the 12CP method in Case No. U-17688 and that, because the company is billed for transmission services based on the peak consumption for the previous month, it is appropriate that transmission costs be allocated in the same mode as charged under the FERC tariff. PFD, p. 491 (citing Consumers’ initial brief, p. 515).

The Staff and the Attorney General disagreed with Kroger’s recommendation. The Staff asserted that allocation transmission costs on a 4CP 100% demand basis “does not more accurately reflect demand, nor do the results of the FERC CP tests support Kroger’s proposal.” PFD, p. 491 (citing Staff’s initial brief, p. 252). The Attorney General noted that:

the current 12 CP method is consistent with the approach used by FERC for developing transmission rates; the issue was previously addressed by a Commission work group that determined that a 12CP demand allocator for transmission best reflects cost-causation, and 70% of regional electric utilities use 12CP for transmission cost allocation, with the remainder allocating transmission costs via a method other than 4CP.

PFD, pp. 491-492 (citing the Attorney General’s initial brief, pp. 223-224).

The ALJ disagreed with Kroger and stated that the 12CP method is most appropriate because that is how the company is billed for transmission costs and because Kroger did not support the

ways in which the 4CP allocator that it advocated is a superior reflection of customer demands on the transmission system. PFD, p. 492.

No party filed exceptions or replies to exceptions and the Commission finds the ALJ's recommendation is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the ALJ's recommendation on this matter.

7. Streetlighting

Being dissatisfied with Consumers' service to streetlights, MAUI testified that Consumers should allocate 50% less in labor costs to streetlights than is allocated to other customer classes whose outages are restored more quickly. Additionally, MAUI proposed that Consumers should allocate a 10% lower overall ROR on rate base for streetlighting customers because municipal customers are more reliable than other customers. PFD, pp. 492-496 (citing MAUI's initial brief, pp. 26, 28, 38-41; 6 Tr 3255).

Consumers pointed out that a reduction in the labor allocation would be arbitrary and duplicative because streetlighting customers already receive sufficient compensation through outage credits and that the company is investing in reliability. PFD, p. 493 (citing 3 Tr 193, referencing testimony by Consumers' witnesses Mr. Griffin and Ms. Barnes). Further, Consumers explained that:

“[i]n the current case, allocated distribution system expenses . . . make up 1% (\$0.3 million) of the total lighting class cost of service where service restoration costs make up about 60% of the balance in those accounts or 0.6% (\$0.2 million) of the lighting class cost of service.” Ms. Davis³⁵ noted that if labor costs are reduced for streetlighting, these costs will have to be shifted to other customer classes.

PFD, p. 493 (citing 3 Tr 193).

³⁵ Refers to Consumers' witness Ms. Emily A. Davis, a Senior Rate Analyst III in the Rates and Regulation Department of Consumers. Her testimony is found, in its entirety, at 3 Tr 149-240.

Consumers also testified that, to help reduce outages, the company is in the process of converting lights to LED luminaires, replacing center-suspension streetlights with pole-mounted LED luminaires, and is developing an application that the company believes will significantly improve the streetlight outage reporting process. *See*, 5 Tr 1745-1751, 1754. However, MAUI commented that the road-side pole-mounted lights are too expensive and have “uncertain safety-benefits.” 6 Tr 3207. MAUI requested that bill credits for early-adopters in the LED conversion project be extended through July 2031 (the average expected life service of LEDs installed in 2018).³⁶ *Id.*

The Staff disputed that the streetlighting class did not have a reduction in its rates as a consequence of less reliable service³⁷ but conceded that there is no specific adjustment in the COSS to recognize the lower priority for power restoration. The Staff also testified that, unless the distribution line that serves a streetlight is restored, the streetlight cannot light, thereby rendering the lower priority for streetlight restoration to be reasonable in outages that do not originate in the streetlights. Additionally, the Staff pointed out that “a few streetlight outages in an entire municipality is not the equivalent of a residential customer who has no service at all.” PFD, p. 494. The Staff opined that with more frequent patrols by Consumers’ employees, streetlight outages may be identified and outage times reduced. PFD, pp. 492-493 (citing 6 Tr 4269-4270).

With regards to restoration costs and service, the Staff argued that:

[MAUI] also neglected to consider whether the restoration services carried out by the Company for other customers, and included in Labor O&M, benefit lighting customers. For example, it is self-evident that if an outage affects both residential customers and the lights on their residential streets, then a repair to restore services

³⁶ LED conversion credits are discussed in Section B, below.

³⁷ The Staff testified that “because they are unmetered, streetlighting customers already pay lower rates for less reliable service.” 6 Tr 4270.

for both customer types could be one in the same. In other words, Labor O&M for restoration can affect all customer types, and [MAUI] did not show that Labor O&M does not include costs that could be incurred because of a lighting outage.

Staff's reply brief, p. 49.

MAUI disputed the Staff's testimony related to streetlight outages and asserted that the Staff "relie[d] on unsupported assumptions about reliability, what constitutes a service interruption, and costs to restore streetlights compared to other outages." PFD, p. 493 (citing MAUI's initial brief, p. 26). MAUI also asserted that streetlighting customers do not object to paying for investigation of technologies that would improve reliability, but object to paying the same labor and maintenance as other customers when receiving service that does not meet the minimum service standards set by the Commission. PFD, p. 494 (citing MAUI's initial brief, p. 26). MAUI reasserted that Consumers currently has no incentive to repair streetlights before the 30-day deadline when an outage credit must be provided.³⁸ MAUI's initial brief, p. 28.

The ALJ agreed with Consumers that a labor reduction in the COSS allocation would not be appropriate, in part, because MAUI did not support how it arrived at the 50% reduction figure, but also because she found the Staff's and Consumers' arguments persuasive. PFD, p. 495.

The ALJ also addressed MAUI's suggestion that streetlighting customers should be allowed a 10% reduction in the overall ROR on rate base to lighting customers because there is less risk in serving the streetlighting class. PFD, p. 496 (citing 6 Tr 3255; MAUI's initial brief, pp. 38-41). She noted that Consumers and the Staff opposed the 10% request for the same reasons that were stated against the 50% labor reduction, and thus, the ALJ also rejected the 10% reduction as unsupported and inappropriate. PFD, p. 496 (citing Consumers' initial brief, pp. 348-349). The

³⁸ Streetlight outage credits are discussed in Section C, below.

ALJ further stated that “there are many factors that go into evaluating the appropriate return to the company.” PFD, p. 496.

In exceptions, MAUI states that center-suspension lights are preferable to pole-mounted lights and supports the patrol and fix pilot for streetlights, and volunteers to be a part of the pilot. However, MAUI continues to oppose the lack of a reduction in production or fuel cost allocations for the purpose of preventing charges to customers for unused power during outages and argues that a 5% reduction in the lighting class’s sales forecast is supported by data and would remedy the situation. MAUI’s exceptions, pp. 3, 5-7. MAUI also reasserts that streetlighting customers should not pay the same as customers who receive faster restoration service. *Id.*, p. 7. Further, MAUI argues that streetlighting customers involve less risk to serve and thus the company should be provided a lower ROR on the streetlighting class. Finally, MAUI argues that Consumers creates an inequity by socializing the cost of new streetlights while not socializing the cost of streetlight removal and that streetlighting customers should receive damages in the form of refunds or bill credits. *Id.*, pp. 8-9.

Consumers replies that the ALJ’s recommendations were correct and that MAUI’s arguments should be rejected. Consumers reiterates its earlier arguments and evidentiary points. Consumers’ replies to exceptions, pp. 45-46. The Staff also replies that MAUI’s arguments should be rejected and reiterates its earlier arguments and evidentiary points. Staff’s replies to exceptions, pp. 45-47.

For the reasons stated by Consumers and the Staff, the Commission is persuaded that MAUI’s suggestions should be rejected. Further, the Commission finds the ALJ’s analyses and recommendations are supported in the record and are reasonable and prudent. Accordingly, the Commission adopts the ALJ’s findings and recommendations on the streetlighting issues set forth in this section.

Regarding MAUI's claim of inequity created by Consumers' (alleged) socializing of the cost of new streetlights while not socializing the cost of streetlight removal,³⁹ the Commission finds that this issue is not within the scope of a general electric rate case and that contract disputes should be addressed in an appropriate proceeding. As noted by MAUI, Consumers' witness testified that:

because streetlighting customers agree to pay removal costs in their contract, they cannot be considered to have pre-paid those removal costs when they pay depreciation costs as part of their rates. [The company's witness] state[d] that depreciation costs include only interim retirement costs (replacement of cables, poles and fixtures), not terminal removal costs (which involve removal).

MAUI's initial brief, p. 36 (citing 5 Tr 1796-1797).

B. Rate Design

Conflicts related to rate design are addressed below and include discussion of the TOU differential for two residential rate offerings, credits for specific residential DR programs, the outflow demand credit for the DG program, LED conversion, and the crossing point adjustment for Rates GPD and GPTU. Recommendations for future cases are included for other disputes. PFD, pp. 496-497.

1. Residential Smart Hours and Residential Nighttime Savers Rate Design

The Staff's recommendation related to Residential Smart Hours (RSH) and Residential Nighttime Savers (RPM) rates is set forth as follows:

Customers on Rate RSH were transitioned from Rate RT⁴⁰ in 2020. Rate RT was the Company's legacy time-of-use rate with a similar on/off-peak pricing differential to the Company's proposal (i.e. identical to Rate RSP). It is unnecessary and inappropriate to maintain a consistent summer on-peak capacity

³⁹ MAUI's exceptions, pp. 8-9; *see*, MAUI's initial brief, pp. 35-38 (citing 6 Tr 3252-3254; 5 Tr 1796-1801).

⁴⁰ Rate RT is a time-of-day secondary residential rate.

charge across the residential rate schedules as proposed by the Company. The default Rate RSP and Rate RSM (the alternative rate for customers with non-transmitting meters) must conform to cost-causation principals. Rates RSH and RPM—intended as time-of use and electric vehicle charging rates, respectively—are intended to elicit a customer’s response to change their demand in order to reduce overall production costs. For this reason the summer on-peak charge for these voluntary rates need not and should not be burdened by strict cost causation principles. For this reason Staff recommends that the summer on-peak capacity charges for Rates RSH and RPM be set 75% higher than off-peak capacity charges, with Rate RPM’s super off-peak (i.e. nighttime) rate set to recover the remaining summer capacity revenue necessary for the rate.

Staff’s proposed summer on-peak capacity pricing for Rates RSH and RPM will further differentiate them from the standard rates, but not provide quite the dramatic pricing differences as the Company’s DR provisions for critical peak pricing and peak time rebate. For example, the only unique component of Rate RSH was that it offered a winter off-peak rate with a price less than \$0.01 per kWh lower than its winter on-peak price.

6 Tr 4235-4236.

Consumers opposed the Staff’s proposal and stated that the Staff did not explain the criteria used to justify the proposed increase. Consumers further testified that the Staff did not consider the impact of its proposal on rate payers, stating that “[R]ate design serves an important role in the rate case process, and care should be taken to understand how changes in a design – like that being proposed by [the Staff]—would affect consumer behavior and the utility.” PFD, p. 498 (quoting 4 Tr 566).

The ALJ set forth the Staff’s response:

[The] Staff argues that there is little difference between the on-peak time-of-use rates for both the standard residential rate (Rate RSP) and the Smart Hours rate, making it redundant, and contends that “customers currently on rate RSH are free to continue paying time-differentiated rates based on CONE (i.e. the proxy measurement of real on- and off-peak capacity costs) by moving to Rate RSP.” In Staff’s view, its proposed differential of 75% “represents a moderate shift in capacity prices that can be studied for its effectiveness in causing customers to shift load to lesser cost periods.”

PFD, pp. 498-499 (citing 4 Tr 566; Staff’s initial brief, pp. 203-205). The Staff also argued that Rate RSH affects only 3,400 customers and that the effects of the proposed increase can be studied in DR reconciliation cases and future rate cases. PFD, p. 499 (citing Staff’s initial brief, p. 205).

The ALJ was persuaded that the differential should not be increased at this time, citing the lack of warning of a rate increase, as well as the lack of flexibility switching back to the RSP rate.

The ALJ recommended that:

the duplicative Rate RSH be eliminated, the customers switched to Rate RSP, and the company [be] asked to evaluate whether to add a new alternative rate with a greater time-price differential in the next rate case, to provide the opportunity Staff seeks to study the effectiveness of price signals in shifting load.

PFD, p. 499. The ALJ also advised that the Rate RPM pricing differential could be revisited in the next rate case, paying particular attention to whether or not a significant increase will interfere with the EV pilot. *Id.*

Consumers takes exception, stating that the ALJ’s recommendations are new positions presented for the first time by the ALJ and are unsupported by the record. Consumers’ exceptions, p. 342. Consumers argues that the ALJ offers no reason why Rate RSH should be eliminated and contends that her recommendation contradicts the company’s plan to maintain its existing residential rate structure. Consumers states that the identical arguments made against the Staff’s recommended increase in the differential could also be made against the ALJ’s suggestions. Further, Consumers asserts that it is inappropriate that the ALJ took a position “not based on a position taken by any of the parties in this proceeding” *Id.*, p. 343. Additionally, Consumers argues that the ALJ’s suggestion that a proposal related to the effects of differential increases on its EV pilot be included in the Company’s next rate case proceeding does not provide the company with a reasonable period of time to understand potential impacts. Consumers argues that “[f]urther, and more importantly, the Company’s residential rate structure should remain as is

going forward until the Company can better understand how residential customers are using the existing, and relatively new, residential rate structure.” *Id.*, p. 344.

The Staff also excepts to the ALJ’s suggested elimination of Rate RSH and argues that this position was not proposed by any party and would not be appropriate. The Staff does not object to the company being required to submit a rate with a greater differential in its next rate case but maintains that the Staff’s own proposed differential increase should be adopted. Staff’s exceptions, pp. 11-12.

In its replies to exceptions, Consumers reiterates the arguments set forth in its briefing and exceptions. Consumers’ replies to exceptions, pp. 124-126.

The Commission agrees with the Staff and Consumers that it is not appropriate at this time to eliminate Rate RSH: (1) because no party to the proceeding proposed the action, and (2) the residential rates should remain intact at this time as they are relatively new and varied and time is needed to evaluate the resulting costs and credits. Further, the Commission is persuaded by Consumers’ argument against the Staff’s proposed price differential increase. Paraphrasing Consumers’ testimony, the Commission is not opposed to making changes to price differentials in the future as warranted but, at this time, is opposed to sending what appear to be inappropriate price signals by approving an increase. *See*, PFD, p. 498; 4 Tr 566. However, the Commission agrees with the ALJ’s recommendation and directs the company, in its next general electric rate case, to evaluate whether to add a new alternative residential rate with a greater time-price differential. 4 Tr 563-566; 6 Tr 4235, 4240, 4265-4266. Accordingly, the Commission rejects the ALJ’s proposed elimination of Rate RSH but adopts her recommendation that the Staff’s proposed price differential increase be rejected for the instant case.

2. Residential Demand Credits

Consumers proposed to reduce the DR credits and modify the program terms for its three residential DR programs: the Air Conditioning (AC) Cycling program, the Dynamic Peak Pricing program, and a Smart Thermostat program. PFD, pp. 499-500. Specifically, Consumers would like to change its AC Cycling program from the current “50% cycling to ‘a maximum of 75% on ‘select/limited days during event season to test grid benefits and to determine if the Company can nominate more load reduction.’” *Id.*, p. 500 (quoting 4 Tr 363). Consumers testified that the company has been experiencing lower demand savings since the DR credits were set in 2019 and, consequently, wishes to reduce the monthly credit from \$8.00 to \$6.00. The company based the proposed change “on a five-year average forecast value of capacity, projected demand savings of 0.63 kW, a 50% adjustment factor, and the number of months the resource is available.” *Id.*, p. 500 (citing 4 Tr 555). The company would also like to use the same method for its proposed “Back-Up Generator and Water Heater pilots to set credits of \$11.20 and \$1.60 per month, respectively. The 50% reduction factor is included to reflect administrative costs, pending further analysis.” *Id.*

The Staff did not support the requested modifications and characterized Consumers’ testimony as “tantamount to an admission that the company’s 50% adjustment factor is not based on actual data or cost estimates.” PFD, p. 500 (citing 6 Tr 4237). The Staff argued that it would be preferable to not “charge the customer until costs are known or are reasonably estimated.” PFD, pp. 500-501 (citing 6 Tr 4238). The Staff also argued “that it is [inappropriate] to reduce the credit to the DR program participants when the costs should be paid by all customers as the beneficiaries of the load reduction.” PFD, p. 501 (citing 6 Tr 4239-4240).

The Staff proposed an alternate method for determining DR credits, and recommended:

applying the existing interruptible credits available to C&I customers on Rates GSD and GPD of \$7 per kW for summer and \$6 per kW for winter interruptible load to residential AC cycling and the proposed water heater cycling and back-up home generator pilots. Residential customers would receive a monthly credit based on their individual load reduction per month. While residential customers are not otherwise billed for demand, the Company can still measure individual demand reductions and apply a monthly credit.⁴¹

6 Tr 4240.

Consumers opposed the Staff's proposal and argued that it is "not feasible to evaluate individual customer load for residential customers as the company does for its business customers, and that the additional IT support and investment necessary to undertake this for residential customers would add significantly to the program cost." Consumers expressed concern that the Staff's method would deter customer participation. PFD, p. 502 (citing 4 Tr 4 Tr 444-446, 448, 566-568).

The ALJ recommended that no changes be made to the AC Cycling credit and other ongoing pilots at this time. She reasoned that the Staff persuasively testified to Consumers' lack of evidentiary support for its proposed 50% adjustment for potential administrative costs and that the company is seeking load control. She also rejected the Staff's proposal because she believed the change was premature; and because Consumers' persuasively expressed concerns about the costs of implementation. PFD, pp. 502-503. However, the ALJ recommended that the Commission require the company in its next rate case to provide an analysis of the cost for the Staff's proposed method and that "the company should attempt to incorporate this method into its limited Smart Home pilot." *Id.*

⁴¹ The Staff calculated credits using Consumers' figures and posits that credits under the Staff's proposed method would average \$4.41 for the AC Cycling program, \$24.50 for the electric water heater program, and \$2.45 for the home generator program. PFD, pp. 501-502 (citing 6 Tr 4241-4243).

Consumers excepts to the ALJ's recommendation and states that it is important for residential customers to receive DR credits that accurately reflect the expected value of capacity, something that the current AC Cycling credit no longer does. Consumers' exceptions, p. 345 (citing 4 Tr 554). The company argues that its proposed credit calculation method was "sufficiently explained" and is "a reasonable approach" for determining credits for the proposed Back-Up Generator and Water Heater pilots. Once the changes are implemented, Consumers avers, the pilots can be studied to determine a more accurate determination of operational cost of providing the program. *Id.*, pp. 345-346.

Additionally, Consumers opposes the ALJ's recommendation to incorporate the Staff's proposed method of determining credits into its Smart Home pilot and states that:

[t]he idea of basing the credit on the level of each residential customer's reduction in demand is a concern for the Company because it will essentially require each residential customer to nominate the level of load that customer would be willing to reduce during an event, require the Company to actively monitor each customer during the event, and evaluate and assess penalties if applicable. 4 TR 567. This level of evaluation is only feasible for large load DR programs composed of a few customers, as opposed to approximately 80,000 residential customers anticipated to participate in the programs. 4 TR 567-568. Applying Staff's proposal on a one-to-one basis for each residential customer would be a major effort to implement, especially from a billing standpoint, and has the potential to generate significant billing costs, customer confusion, unnecessary expenses, and negative customer impact which could interfere with customer enrollments. Further, Staff's proposal would require extensive IT support and investment in order to calculate the individual customer baselines. 4 TR 568. Staff's proposal would also fail to achieve an acceptable benefit-cost test score. *Id.* Lastly, attempting to implement such a proposal would take significant planning and time to ensure it is implemented correctly. Staff's proposal is simply unnecessary and unreasonable.

Consumers' exceptions, pp. 346-347. Consumers argues that "[a]ttempting to implement Staff's proposal for even a pilot program is still very challenging and does not ease any concerns or burdens simply because the program is a pilot." *Id.*, p. 347. For these reasons, Consumers states, the Commission should reject the Staff's proposals and the ALJ's recommendations, adopt

Consumers' proposals, and the Staff and the company should meet to discuss the determination of DR credits relative to a future proceeding. *Id.*

The Staff replies, "that because the Company's calculation included a 50% 'adjustment factor' for unknown future program costs, the new credit was arbitrary." Staff's replies to exceptions, p. 42. The Staff further argues "that DR program costs should not be paid by DR customers alone, because the actual beneficiaries of DR are all power supply customers." *Id.* The Staff also refutes Consumers' argument that the Staff's proposal includes the necessity of levying C&I-type penalties for non-performing residential DR customers and dismisses the concern that the C&I method of crediting is only feasible for a small customer class, explaining that a customer's interruptible load would be either the class average load reduction or the customer's average load reductions and that the company already monitors customers during events. *Id.*, pp. 42-43. Finally, the Staff asserts that, if its proposal is implemented, the company could provide a cost analysis in its next rate case. *Id.*, p. 43.

The Commission finds that the ALJ's recommendations in this matter are well-reasoned and supported in the record. The Commission declines to adopt the company's proposed change to the AC Cycling credit and the credits for ongoing pilots discussed in this section, consistent with the Commission's findings elsewhere in this order.

The Commission notes that Consumers' proposed DR pilots that are approved in this order have no existing credits. Consumers explained that, to calculate its proposed credits for the DR pilots, the company used the same approach that was used to calculate the AC Cycling credit. Consumers stated that, "[t]he AC Cycling credit is calculated by dividing the product of the value of capacity, expected program demand savings identified and updated in the program evaluation studies, and adjustment factor by the number of months the resource is available under the

program.” 4 Tr 555. The company asserted that for the back-up generator pilot, the credit of \$11.20/month was calculated using \$76.701/kW, multiplied by 3.5 kW/customer, and multiplied by the 50% adjustment factor; the product was divided by 12 months. Then, Consumers explained that for the water heater pilot, the credit of \$1.60/month was calculated using \$76.701/kW, multiplied by 0.5 kW/customer, and multiplied by the 50% adjustment factor; and product was divided by 12 months. *See*, 4 Tr 556, footnotes 7 and 8.

The Commission finds that, as noted by the Staff, the 50% adjustment factor is unsupported on the record and “is meant to be a placeholder until actual cost data is available.” 6 Tr 4237 (citing 4 Tr 555). Thus, the Commission finds that the company’s proposed method for calculating the monthly DR credits, minus the 50% adjustment factor, should be approved for the new pilots without an existing credit.

The Commission declines to adopt the Staff’s proposed alternative credit calculation method and adopts the ALJ’s recommendation that “it is premature to revise the methodology for determining credits for the AC Cycling program and the other ongoing pilots without an analysis of the cost to implement the proposal.” PFD, pp. 502-503. While the Commission acknowledges Consumers’ argument that it may be administratively difficult to base the credit on each individual customer’s reduction in demand, the universal deployment of AMI in the company’s service territory—combined with the increasing sophistication of smart thermostats and other technologies—suggest that such an approach may be possible and may be worth evaluating through a pilot proposal.

Further, the Commission finds merit in the Staff’s argument that “DR program costs should not be paid by DR customers alone, because the actual beneficiaries of DR are all power supply customers.” Staff’s replies to exceptions, p. 42. Should Consumers seek to propose adjustments

to the DR credits in future cases, the Commission will expect to see a more balanced sharing of costs between DR participants and non-participants based on benefits received, as well as efforts to take a more granular approach to individual customer responsiveness to load reduction events.

3. Outflow Demand Credit

Consumers proposed a modification to the definition section of Rule C11.3.B of the DG tariff, Sheet No. C-64.10⁴² to clarify for primary rate customers that outflow demand is based on the average kW recorded over the on-peak hours in the billing period and, for secondary rate customers, that outflow demand is based on the average kW recorded over the billing period. PFD, p. 503; *see*, 4 Tr 556.

While the Staff supported the clarification for primary customers, it opposed the clarification for secondary rate customers and stated that the outflow demand should be based on the average kW recorded over the on-peak hours in the billing period, the same as for primary rate customers. The Staff explained that the relevant costs are incurred during on-peak hours for both primary and secondary demand-billed customers and thus the definition of outflow should be the same for both. PFD, pp. 503-504 (citing 6 Tr 4291).

The Clean Energy Organizations proposed that:

the Commission require the Company to measure peak outflow demand in the same way that it measures Peak Demand, based on the maximum power during the applicable interval during the billing period for customers not on a time of use rate or during the peak hours during a billing period for customers on a time of use demand billed rate.

6 Tr 3388.

⁴² *See*, Exhibit A-16, Schedule F-5, p. 9.

Both the Staff and Consumers opposed the Clean Energy Organizations' proposal. The Staff testified that "[t]he capacity value of a generation resource is not based on its highest achieved power output, but on how much of that power output can be reliably counted on being available when it is needed" and currently, the on-peak hours are the best representation of when power is needed. PFD, p. 505 (quoting 6 Tr 4307-4308). The Staff further contended that solar generation is considered by MISO to have a default Effective Load Carrying Capability (ELCC) of 50% and, if the Clean Energy Organizations' proposal were to be implemented, solar generation would have to achieve an ELCC of 100%, the improbability of which makes inflow and outflow demand measurement symmetry not possible. PFD, p. 505. Consumers rejected the Clean Energy Organizations' proposal in favor of the company's modifications to the definitions in the rule at issue and pointed out that the Clean Energy Organizations presume "a single intermittent resource is entitled to an equivalent capacity payment as the embedded cost of having a fleet of firm generation providing power throughout the year." *Id.*, p. 506 (quoting 4 Tr 580).

Consumers was receptive to the Staff's recommendation on the definition of outflow demand but took issue with the Staff's (allegedly) erroneous statement that current credits recognize the value of outflow. *Id.*

The Clean energy Organizations argued that the Staff "conflates cost causation and rate design" and that the Commission established that outflow credit rate is the "power supply rate less transmission" which has nothing to do with the value of solar power outflow. PFD, p. 507 (quoting the Clean Energy Organizations' initial brief, p. 6). However, the Staff argued in reply that, "it is not contending the rate applied to outflow demand should change, but explains its view that the measurement of outflow demand has to be linked to the value it provides." PFD, p. 507 (citing Staff's reply brief, p. 55).

The ALJ found the Staff’s testimony to be persuasive, recommending that the definition of “average kW recorded over the on-peak hours in the billing period” is reasonable for both primary and secondary customers, “notwithstanding that it does not ‘match’ the inflow measurement.” PFD, p. 507; *see*, PFD, p. 505.

In its exceptions, Consumers states its agreement with the Staff’s position on the matter of outflow DR credits. Consumers’ exceptions, p. 348. The Clean Energy Organizations did not file exceptions or replies to exceptions on this point.

The Commission finds that the ALJ’s recommendation on this matter is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the recommendations set forth in the PFD.

4. Light-emitting Diode Conversion Credit

The ALJ explained that MAUI:

raised a concern regarding the credit for early adopters of LED lighting, who expected to pay lower costs associated with the more efficient lighting choice, but in light of the company’s conversion program, are now also paying the capital costs of conversions for other customers. The Commission referred this and other issues to a technical conference. The parties do not seem to have resolved this issue. MAUI asks that the bill credits for early adopters be extended or in the alternative, that the early-adopting municipal customers be credited with the capital contribution they made, which would then be added to rate base and the early adopters would be on the same footing and pay the same rates as the other lighting customers.

PFD, pp. 507-508 (citing MAUI’s initial brief, pp. 4-11); *see*, 6 Tr 3211-3221.

MAUI testified that “[e]nding the bill credits after 2024 is not nearly long enough to allow the early adopters to recover their original investment, much less realize any gain on it”

6 Tr 3212. MAUI explained that:

[r]ight now the credit is designed to ensure the Company should not recover rate-based LED-conversion capital costs from customers who already paid for LED conversions up front. The flaw in this scheme is that customers expected and

deserved to realize returns on their own investments, not to avoid paying returns on the Company's investments in other people's lights.

Id.

Consumers opposed extending the credit or crediting the early adopters their upfront investments as such an action would provide an excessive benefit to early adopters. 4 Tr 581-583. However, the Staff argued "that the credit of upfront contributions is a reasonable approach[,]" but "customers should not be granted any recovery of money they *would have saved* by converting to LED [because] it is inappropriate to return to customers hypothetical bill savings." PFD, pp. 508-509 (emphasis in original) (citing Staff's initial brief, p. 225; 6 Tr 4267-4268).

The ALJ found that:

[MAUI's] alternative and Staff's recommended approach should be adopted. [The ALJ] does not find this to be retroactive ratemaking, since the municipal early-adopters will be given a bill credit, Consumers Energy will be made whole by including the additional investment in rate base, and the customers will continue to pay at the same rate as all customers going forward. There is no net refund from Consumers Energy, only a change in the amount of the credits and the costs to be allocated. [The ALJ] recommends that Consumers Energy be directed to present the projected costs of this revision, including the rate base additions net of credits already provided to the early adopters, in its next rate case.

PFD, p. 509.

Consumers excepts to the ALJ's recommendation, and states that the parties have discussed several streetlighting issues and have come to an agreement. Consumers' exceptions, pp. 349-352. MAUI and the Staff did not reply to Consumers' exceptions. However, in its exceptions, MAUI indicates that it has met with Consumers and some members of the Staff. MAUI stated that it and Consumers have agreed that the credits applied to LED early adopters would be extended through 2028, which is consistent with the warranted life of the purchased LED lights. MAUI's exceptions, p. 4.

The Commission finds that it cannot approve or reject the agreement that apparently has been reached between Consumers, the Staff, and MAUI. The discussions were conducted off the record and, thus, there is no evidentiary record to examine and evaluate, only Consumers' and MAUI's exceptions, with no reply from any of the three parties to the discussions. However, the Commission finds some of the proposed terms set forth in Consumers' exceptions are supported in the record and are reasonable and prudent. Accordingly, the Commission finds that "current conversion credits applied to early-adopters of LED streetlights should be extended through 2028"⁴³ and that "Consumers Energy shall propose adjustments to the per-fixture credit amount with each electric rate case filed through 2028 to reflect incremental changes in LED rate base." Consumers' exceptions, p. 351.

5. Crossing Point Adjustment

Consumers proposed to shift \$10 million in production energy costs to the General Primary Demand (GPD) rate from General Service Primary TOU rate for the purpose of aligning the sales forecast with crossing points and avoiding rate migration. PFD, pp. 509-510 (citing 4 Tr 546).

ABATE, Kroger, and the Staff opposed the crossing point adjustment. ABATE testified that the adjustment was not based on cost-of-service principles. While acknowledging that it may, under certain circumstances, be appropriate to assign costs to a customer class outside the COSS, ABATE testified that, in this case, it is not appropriate and Consumers' proposal should be rejected:

Consumers should not be attempting . . . to address a rate migration by reassigning revenue responsibilities. The result is tariff rates that are not based on the COSS. This issue could've been addressed via rate design changes, which is a more appropriate manner to fix any rate migration issues. The Crossing Point Adjustment creates subsidies between rate classes and should be disallowed.

⁴³ This figure represents the warrantied life of the lights, rather than the expected service life. See, Consumers' exceptions, p. 351; 6 Tr 3211-3218.

6 Tr 3491.

As proposed by Consumers, under its total proposed revenue requirement increase of \$62.7 million, Rate GPD would receive an increase of 8.4% to its power supply revenue requirement, whereas Rate GPTU would receive a 0.8% decrease. Under [ABATE's] proposal to eliminate the Crossing Point Adjustment, under Consumers' total proposed power supply revenue requirement increase of \$62.7 million, Rate GPD would receive a 4.8% increase to the power supply revenue requirement and GPTU would receive a 1.7% increase. Under both of these cases, the overall primary class increase as proposed by Consumers is 3.3%.

Id., pp. 3491-3492; *see*, Exhibit AB-4, page 2.

The ALJ summarized Kroger's position on the importance of aligning rates with costs to send accurate price signals when determining the crossing point adjustment:

Kroger's witness testified that the company's crossing point adjustment would actually cause the crossing point to move further away from the current crossing point "than if there was no crossing point adjustment at all," explaining that customers with a load factor of 60% are better off under Rate GPD at current rates, but only customers with a load factor of 70% would be better off on Rate GPD with the company's crossing point. Based on this analysis, he testified that the company's crossing point adjustment would cause more lower load factor Rate GPD customers to migrate to Rate GPTU. Focusing on the mechanics of the adjustment, Mr. Bieber objected to the use of the average \$/kW rate to measure the rates that migrating customers would pay; he testified that the analysis fails to reflect that a number of customers would already be better off migrating under current rates, and characterized the analysis as unreasonably assuming that all customers who would be better off on a different rate actually would migrate to that rate.

PFD, p. 511 (footnotes omitted) (citing 6 Tr 3263-3264, 3266-3267, 3271-3275).

The Staff initially proposed an adjustment of \$5 million from GPD to GPTU but advised that future crossing point adjustments should be used sparingly because the crossing point adjustment will be less necessary as customers become accustomed to Rate GPTU. The Staff further opined that making allocation adjustments outside the COSS is undesirable unless absolutely necessary.

PFD, pp. 511-512 (citing 6 Tr 4233-4234).

Consumers opposed the Staff's proposal and stated that the company does not have unlimited ways to manage crossing points but could, instead, add a 70% minimum load factor to the Rate GDP tariff requirement. Consumers asserted that the Staff's proposal would encourage customer migration of those with load factors between 60% and 70%. PFD, p. 512 (citing 4 Tr 585).

ABATE also opposed the Staff's adjustment, citing the same reasons that it opposed the company's adjustment and, additionally, argued that limiting rate switching in 12 months would address rate migration concerns. PFD, p. 512 (citing 6 Tr 3502-3503; ABATE's initial brief, pp. 18-20).

In its initial brief, the Staff indicated that it was persuaded by ABATE's and Kroger's arguments and withdrew its support for any crossing point adjustment, whether it be the Staff's own proposal or Consumers' proposal. Staff's initial brief, pp. 201-203. However, Consumers continued to argue in favor of its proposed \$10 million adjustment.

The ALJ recommended that the Commission reject all proposals for a crossing point adjustment, noting that "[w]hile no party objected to [Consumers'] alternate recommendation to limit Rate GDP to customers with a load factor of 70%, no party explained whether such a limitation would have unintended consequences." PFD, p. 513.

Consumers takes exception and argues that the ALJ did not state a reason why the company's crossing point adjustment was rejected. Additionally, Consumers argues that the ALJ inappropriately dismissed the company's alternative proposal even though no party voiced an objection. Consumers also argues that the Staff offered no reason why it withdrew its proposed adjustment or why Consumers' adjustment should be rejected. Consumers cites its witness,

Mr. Miller's⁴⁴ testimony in support of approval of its crossing point adjustment or its alternative crossing point adjustment. Consumers' exceptions, pp. 352-354.

In exceptions, the Staff points out that it changed its position on this matter because Kroger's and ABATE's arguments were persuasive. Staff's exceptions, p. 12 (citing Staff's reply brief, p. 32). The Staff indicates its concurrence with the ALJ's recommendation to eliminate the crossing point adjustment. *Id.* ABATE also indicates that it supports the ALJ's recommendation but requests that it be clarified that Consumers' alternative crossing point proposal is rejected. ABATE's exceptions, pp. 9-10.

In its replies to exceptions, ABATE again argues that Consumers' crossing point adjustment is unreasonable and should be rejected. ABATE reiterated the arguments in its case presentation and exceptions. ABATE also disputes Consumers' exceptions wherein the company states that no party objected the company's alternative proposal. ABATE points to its objections in its reply brief and exceptions that the alternative proposal is "unnecessary and unreasonable." ABATE's replies to exceptions, pp. 8-9.

In replies to exceptions, Consumers argues that ABATE should have raised its opposition to the company's alternative crossing point proposal in cross examination and, because it did not, Consumers' witness was not permitted to rebut ABATE's objections. Consumers points out that ABATE's suggestion to "fix migration issues through rate designs and other means" is inappropriate because "[i]t is not always possible for the Company to simply adjust the forecast to account for migration, as suggested by ABATE." Consumers' replies to exceptions, p. 131; *see*,

⁴⁴ Mr. Hubert W. Miller III, principal Analyst in Consumers' Rates and Regulation Department, testified on behalf of Consumers. His testimony is found, in its entirety, at 4 Tr 529-592.

Consumers' replies to exceptions, p. 130. Consumers further argues that the Staff did not provide sufficient evidentiary support for its positions. Consumers' replies to exceptions, pp. 131-132.

The Commission finds that the arguments for rejection of a crossing point adjustment are persuasive. Observing ABATE's and Kroger's arguments on the matter, the Commission agrees that a crossing point adjustment (and the consequent reassignment of revenue responsibility) is not an appropriate manner in which to discourage customer rate migration and may, actually, increase migration. *See*, 6 Tr 3271-3275, 3491-3492. Thus, the Commission finds that the ALJ's recommendation to reject the crossing point adjustment is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the ALJ's recommendation to reject the proposed crossing point adjustments in this case.

6. State Reliability Mechanism Capacity Charge

Consumers stated that the company:

is proposing changes to how two inputs are derived for the SRM [state reliability mechanism] Capacity Charge calculation. The first is an input for the Capacity Cost Offsets calculation. The second is the source of the Capacity Charge Demand. Although the Commission issued an order in Case No. U-18239 concerning the calculation of the SRM charge, after further analysis and practice, the Company has found that there are several factors that could enhance, clarify, or evolve the methodology.

5 Tr 1589. Consumers stated that it "changed the source of the denominator in the SRM calculation and added 'variable PPA [power purchase agreement] expense' to the capacity cost offsets in the calculation." PFD, p. 514; *see*, 5 Tr 1592-1593. The company argued that these proposed improvements in methodology should be adopted by the Commission. Consumers' initial brief, pp. 455-461.

Consumers testified to the manner in which it proposes to calculate the SRM Capacity Charge as follows:

Exhibit A-76 (EAD-3) shows the calculation of the capacity-related costs and SRM Charge. To arrive at the total capacity-related costs (line 9), non-capacity related costs (line 8) are subtracted from total production costs (line 1) from the Test Year COSS. The total capacity-related costs (line 9) are then offset by the projected revenue and associated fuel cost (lines 10 through 15) . . . to arrive at the net capacity cost (line 17). To arrive at the Capacity Charge, the net capacity cost (line 17) is divided by the demand . . . (line 18). The resulting SRM Capacity Charge is \$509.22/MW-Day.

The total non-capacity related cost (line 8), total revenue less fuel cost (line 16), and net capacity cost (line 17) from Exhibit A-76 (EAD-3), are carried over into column (c), lines 24 through 26, of Exhibit A-16 (EAD-1) and Exhibit A-16 (EAD-2). Company witness Miller uses these numbers to breakout capacity-related and non-capacity related power supply charges for full-service customers in accordance with the Commission's November 21, 2017 Order in Case No. U-18239.

3 Tr 168-169.

Consumers asserted that its Capacity Charge Demand value is the equivalent of 7,539 Zonal Resource Credits (ZRCs) as stated in Case No. U-20886. 5 Tr 1593; *see* Case No. U-20886, filing # U-20886-0007). Consumers explained why the company believes this value is appropriate:

[t]he Capacity Charge Demand is used as the denominator of the SRM Capacity Charge calculation. It represents the amount of capacity that is the basis for the fixed costs in the numerator of the SRM Capacity Charge. In this proceeding, for the test year 2022, the Company should be using the capacity forecasted for MISO [Midcontinent Independent System Operator, Inc.] Planning Year 2022, which is 7,539 ZRCs. This value represents the amount of capacity the Company owns or has procured in order to meet its Planning Reserve Margin Requirement . . . under MISO's Resource Adequacy construct. ZRC values are used because that is the amount MISO assigns to, and accepts from, the Company's resources for purposes of satisfying its capacity obligation. Under MISO's Resource Adequacy construct, one ZRC is sufficient to serve one MW of demand.

5 Tr 1594. Consumers asserted that other SRM calculations had been suggested “[i]n Case Nos. U-18239 and U-20697, [and] that this data be sourced from the Company's most recent Securities and Exchange Commission [SEC] Form 10-K filing.” *Id.*, p. 1594.

ABATE, Energy Michigan, and the Staff opposed Consumers' proposal, arguing that the method for calculating the SRM was approved in Case No. U-18239 and affirmed in the December

17 order. PFD, p. 515 (citing 5 Tr 1573-1574, 6 Tr 3087, 3433, and 4211). The Staff stated that, consistent with the December 17 order, in its capacity charge calculation, it used for peak demand the figure that Consumers included in its 2020 SEC 10-K form, i.e., 8215 MW. PFD, p. 515 (citing 6 Tr 4211). ABATE testified that the December 17 order “outright rejected changing the denominator of the SRM Capacity Charge from the SEC 10-K MW value to the ZRC amount reported in the Capacity Demonstration that Consumers submits to the Commission.” PFD, p. 515 (citing 6 Tr 3433). Energy Michigan testified that the Commission had examined and evaluated a number of proposals before selecting the method that is currently in use by Consumers and DTE Electric Company to calculate the SRM Capacity Charge. Energy Michigan concurred with the Staff that the MW value taken from Consumers’ most recent SEC 10-K filing is the approved figure to use for the denominator calculation. PFD, pp. 515-516 (citing 6 Tr 3815-3816).

However, Consumers argued that:

[a]lthough the Commission states on page 233 of its December 17, 2020 Order in Case No. U-20697, that it was not convinced the previously approved method should be changed, the Order goes on to state that the proposed alternative to the 10k denominator is based on a “forecast load coincident with MISO,” which was a mistaken assumption. The proposed denominator is sourced from PSCR [power supply cost recovery] data and represents the total amount of capacity resources available to meet peak demand expressed in ZRCs. The Company therefore stands by its proposal to consider that source as the most accurate source of the SRM charge denominator.

5 Tr 1574. Consumers explained its use of variable PPA costs, stating that, currently, the Related Fuel Costs Offset does not include variable PPA costs for the purpose of the SRM calculation, even though the market revenue associated with generation purchased from a PPA facility is included in the Energy Market Sales calculation. Consumers argued that failure to include the variable PPA expense causes a “significant misalignment between the market sales revenues and the costs incurred to generate those sales.” PFD, pp. 516-517 (citing 5 Tr 1591-1592). Consumers

further argued that variable PPA costs represent fuel costs in the majority of cases and it is unreasonable that the company should be required to disregard these costs and use only company-owned generation fuel costs. PFD, p. 517 (citing 5 Tr 1592-1593).

Again, ABATE, Energy Michigan, and the Staff opposed Consumers' proposal, with ABATE stating that:

with respect to including its variable expense incurred by PPAs, Section 6w(3)(b) [MCL 460.6w] states that capacity cost offsets of the SRM Capacity Charge must be "net of projected fuel costs." Section 6w(3)(b) does not say net of projected PPA costs nor does it define PPA costs as being a type of fuel cost. Furthermore, Consumers had variable PPA costs at the time the U-18239 Final Order method was established. They are nothing new. If they were not included as part of Related Fuel Cost before, they should not be included now. Finally, as I have noted, the SRM Capacity Charge that results when Consumers' proposed deviations from the U-18239 Final Order method are applied is nearly twice the current MISO CONE price for MISO Local Resource Zone 7—MISO's estimate of the amortized incremental cost for new capacity in the Lower Michigan portion of MISO. Hence, allowing Consumers to make its proposed deviations would allow it to charge its retail open access customers who purchase capacity from Consumers an amount much, much higher than the amortized incremental cost to construct new capacity to serve those customers.

6 Tr 3434. Energy Michigan testified that Consumers erroneously substituted the term "related fuel costs" as having equivalent meaning to "net of projected fuel costs." PFD, p. 519 (citing 6 Tr 3814).

The Staff recalculated Consumers' figures set forth in Exhibit S-17.3 to remove all but fuel costs associated with the company's own generation (\$484,264,000) which is consistent with the methodology approved in December 17 order. PFD, p. 519 (citing 6 Tr 4210-4211). The Staff explained that:

[a]s seen in Exhibit S-17.3, Staff's net capacity cost based on Staff's case is \$1,011,320, compared to the Company's proposed capacity cost of \$1,401,231,000 found on Exhibit A-76. Staff's net capacity cost results in a capacity charge of \$337.28/MW-Day, compared to the Company's proposed capacity charge of \$509.22/MW-Day.

6 Tr 4210.

Additionally, the Staff testified that:

not all variable PPA expenses should be included in the Related Fuel Cost line item, as some of these expenses are associated with something other than the equivalent of fuel expense. Additionally, not all variable PPA expenses are fuel costs, especially for renewable generation PPAs. The importance of this examination is also highlighted by regulated utilities that own little or no generation, which makes calculation of the capacity cost more reliant on the split between energy and capacity related costs.

Id., p. 4211. The Staff noted that it modified the capacity charge calculation denominator to reflect Consumers' proper peak demand figure (8215 MW) and recommended that the Commission convene a work group to study the matter but suggested that, in the interim, the Commission continue to approve the methodology set forth in the December 17 order. *Id.*

Energy Michigan objected to the Staff's work group recommendation and argued that the statutory language is sufficient to define the term "fuel costs," making a work group a waste of resources. PFD, p. 520 (citing 6 Tr 3830). Consumers also expressed its doubts about the efficacy of a work group, indicating that the parties involved may not be able to come to an agreement and remained firm in its proposal to change the manner in which the SRM Capacity Charge is calculated. PFD, p. 520 (citing 5 Tr 1575).

The ALJ found that, in Case U-18239, the Commission established a method for determining the SRM charge and that method should be followed in the instant case. She further stated that there was no evidence that suggested the Commission contemplated that a utility could/or would unilaterally seek to revise the method and pointed out that the specific purpose of the Case No. U-18239 proceeding was to determine the appropriate calculation method. The ALJ pointed out that Consumers did not include the proposed revision in the proposed notice of hearing that accompanied its filing in the instant case and did not flag it in its application. She stated that Consumers could have petitioned to reopen the docket in Case No. U-18239 to re-examine the SRM calculation method. PFD, pp. 521-522.

Additionally, the ALJ opined that Consumers did not establish a “legitimate basis” for either of the proposed changes. *Id.*, p. 522. She pointed out that a change to the capacity denominator was rejected in the December 17 order and that Consumers failed to establish that variable PPA costs “bear any reasonable relationship to ‘fuel costs’ under those PPAs, even if projected fuel costs associated with the PPAs should have been included in the approved method, which [Consumers] has also not established.” *Id.*

The ALJ also declined to recommend that the Commission convene a workgroup to discuss SRM calculation changes, stating that any party has the opportunity to petition to reopen the docket in Case No. U-18239. *Id.*, pp. 522-523.

Consumers excepts, denying that the company failed to provide notice that it proposed a change to the SRM capacity charge methodology. The company states that “[t]he Commission made clear in Case No. U-18239 that the capacity charge could be reviewed in rate case proceedings, and thus the review of the capacity charge in this rate case should come as no surprise” and that the notice of hearing indicated that the company “‘proposed modifications to the rates, rules, and regulations’ in this case.” Consumers’ exceptions, p. 357. Consumers argued that the ALJ’s conclusions that capacity charge methodology cannot be addressed in a rate case and that the company did not establish a legitimate basis for the proposed changes should be rejected. *Id.*, pp. 357-358. Consumers reiterates its case presentation in support of the proposed changes. *Id.*, pp. 354-362.

ABATE replies that the Commission should reject Consumers’ proposed changes to the SRM calculation method, arguing that the company’s exceptions restated arguments that were “comprehensively and variously addressed, rebutted, and refuted,” on the record. ABATE’s replies to exceptions, p. 10. Energy Michigan replies that Consumers’ exceptions raised “no new

arguments that have not been sufficiently addressed.” Energy Michigan’s replies to exceptions, p. 1. The Staff also replied to Consumers’ exceptions, stating that “the ALJ properly relied on the record.” Staff’s replies to exceptions, p. 40.

The Commission is not persuaded by Consumers’ arguments to change the source of the denominator in the SRM calculation and to add a variable PPA expense to the capacity cost offsets. As the ALJ pointed out, the Commission conducted a proceeding in Case No. U-18239 to establish a method for determining the SRM charge and that is the method that should be followed in the instant case. PFD, p. 521. The Commission finds that the ALJ’s analysis and recommendation in this matter are supported in the record and are reasonable and prudent. Accordingly, the Commission adopts the ALJ’s conclusion that the SRM charge calculation method should remain as currently established, and that reopening Case No. U-18239 is the appropriate venue to reconsider the calculation rather than a new workgroup.

C. Tariff Changes

This section addresses the agreement between Consumers and Energy Michigan relative to ROA service, the categorization of boat slips used as residences, and streetlight outage credits.

1. Retail Open Access

After coming to an agreement with Energy Michigan and there being no other parties that voiced objections, both Consumers and Energy Michigan requested that the Commission approve the language proposed for Tariff Sheet No. E-16.00, Rule E3.4, Rates and Charges, and Rule E3.5, Billing Payments, Shutoff, and Disenrollment of a Delinquent ROA Customer, as proposed by Energy Michigan. PFD, p. 523; *see*, 6 Tr 3822-3824.

The ALJ did not provide a recommendation on this issue in the PFD and no exceptions or replies to exception were filed. The Commission finds that the agreement is supported in the

record and is reasonable and prudent. Therefore, the Commission adopts the agreement as set forth above.

2. Boat slips

The September 24, 2020 order in Case No. U-20755 involved a formal complaint in which the Commission denied the requested relief that the Complainants' condominium boat slip be classified as residential for purposes of receiving electric service. The September 24, 2020 order in Case No. U-20755 directed the company to explore the question of whether exceptions might be made for properties that could possibly be considered residential as is sometimes the case with seasonal condominium campgrounds. The relevant tariff from Consumers' current Rate Book for Electric Service is:

C4.3 Application of Residential Usage and Non-Residential Usage

D. Rate Application for Seasonal Condominium Campgrounds

When the electricity supplied to a customer is used for Seasonal Condominium Campgrounds, the usage shall be considered Non-Residential and shall be billed on the Company's appropriate General Service Rate. To be considered a Seasonal Condominium Campground, the following conditions must exist:

- (1) The property must, in total or in part, be owned by a single legal entity, such as an Association, who must have primary operational responsibility for the property.
- (2) The legal entity with ownership and operating responsibility must be subject to licensing provisions under Act 368 of 1978 of the State of Michigan, specifically that required for operation of a campground or its equivalent.
- (3) All components of the property must be subject to limitations of occupancy of six months or less.
- (4) No individual owning such property in part or in total may claim such property as their Principal Residence.
- (5) Units allowed within the park are restricted to those classified by law as a Camping Trailer, Travel Trailer, Camping Cabin, or Park Model Recreational Unit by Act 206 of 1893 and 368 of 1978.

In the absence of any of these conditions, the Company shall classify the customer as residential or NonResidential, based on the criteria in other portions of this Rule.

PFD, pp. 524-525; Consumers' Rate Book for Electric Service, Rule C4.3 D.

The Staff argued that Consumers "should revise the tariffs to permit boat slips that are actually used as seasonal residences to receive residential service." PFD, p. 524; *see* 6 Tr 4292-4293; *see also*, September 27 order, p. 9, ordering paragraph B. The Staff supported that a change in the tariff might be warranted:

[i]f a boat is outfitted and used in a manner consistent with these rules, it is appropriate to consider the usage residential. In Staff's opinion, that is the purpose of the Seasonal Condominium Campground exception; to determine when usage which would otherwise be considered nonresidential due to specific exclusions, rather than the nature of the use, should be considered residential based on that use.

6 Tr 4292-4293. The Staff asserted that the tariff should recognize the nature of the usage, rather than applying a blanket prohibition to all boats. The Staff recommended that the Commission direct Consumers to file, within six months of the final order in the instant case, an *ex parte* application to revise the tariff. PFD, p. 526 (citing Staff's initial brief, pp. 249-251).

Consumers countered that certain campgrounds may be eligible for residential service, not campers and recreational vehicles (RVs), and that a boat may be analogous to those types of vehicles. Consumers also testified that the ownership and organization of marinas and harbors varies widely and are not a good comparison to condominium campgrounds. The company also asserted that DTE Electric considers boats to be non-residential and that its current blanket prohibition of boats' eligibility for residential rates is appropriate because the company cannot monitor all the boat slips and marinas in its service territory to determine if the boat is legitimately being used as a residence. Consumers noted that the Staff did not request the company to consider marinas similarly to campgrounds. PFD, p. 527; 5 Tr 1203-1205.

The ALJ disagreed with Consumers that “whether to treat a marina or harbor as a campground is not an issue in this case” and opined that the September 24, 2020 order in Case No. U-20755 made clear the Commission wanted a discussion of the types of properties that the rate book excludes from being classified as residential and potential alternative classifications or parameters for those properties such as the company has implemented for seasonal condominium campgrounds. PFD, pp. 527, 527-528. She recommended “that the Commission require Consumers Energy to provide additional information in its next rate case regarding the rationale for treating all boats, RVs, etc. as non-residential, at least when the property hosting RVs and campers may be treated as residential under certain circumstances.” *Id.*, p. 528.

In its exceptions, Consumers concedes that it did not comply with the September 24, 2020 order in Case No. U-20755 and states its willingness to discuss the matter fully in its next rate case. Consumers’ exceptions, pp. 363-364.

The Commission finds that Consumers did not fulfill the Commission’s directive as discussed in the September 24, 2020 order in Case No. U-20755, with which Consumers agrees. Consumers erroneously narrowed its case presentation to the classification of boats as nonresidential when the September 24, 2020 order in Case No. U-20755 intended the discussion to include condominium marinas such as the one in which the Complainant in that case had partial ownership and other similar properties that are typically viewed as recreational but may be used in a manner consistent with Consumers’ residential tariffs, including boats docked in boat slips. Boats are not analogous to campgrounds but a condominium marina may (or may not) be analogous to a condominium campground and it may be possible that a condominium marina, or other such property, might be narrowly defined and an exception carved out for such a marina, as was done for seasonal condominium campgrounds. And, while the Commission is not persuaded, in the instant case, that

a vehicle should be considered as eligible for residential service solely because it is equipped with a kitchen, bath, and sleeping areas for an individual or family and may, intermittently, be used by the individual or family as a residence, the Commission is open to full discussion and consideration of the matter. Therefore, the Commission orders Consumers to provide a robust presentation and discussion of the matter in its next general electric rate case, particularly, regarding the rationale for treating all boats, RVs, etc. as non-residential, and including a discussion of circumstances under which properties hosting RVs and campers may be treated as residential.

3. Streetlight Outage Credits

The ALJ indicated that the matter of streetlight outage credits is an unresolved issued from Consumers' previous rate case (Case No. U-20697). She noted that MAUI presented statistics related to the duration of outages in the instant case and argued that Consumers is not in compliance with reliability requirements.

MAUI recommended:

- The Commission should order the Company to revise its lighting tariffs provisions regarding outage credits to suspend all charges for a streetlight that is reported out, and continuing until restoration is completed.
- The Commission should order imposition of compensation credits for customers who at any time report self-audit data showing more than 1% of their lights are not in working order. The credits should reduce the customer's total monthly bill by the same percentage that outages exceed 1% of its lights. The credits should remain in effect until the Company restores enough lights to achieve 99% or greater uptime.
- The Commission should order the Company to propose with its next rate case a comprehensive monitoring program for its street lighting equipment that will detect outages much closer to real time than public reporting currently achieves. The Commission should make clear that it expects the Company to implement systems that will achieve the same level of reliability that other distribution classes receive, or to justify why it should not.

PFD, p. 529 (quoting 6 Tr 3208-3209).

Consumers testified that the provision of an outage credit for outages not resolved within a full billing month, as provided in its current tariff, is sufficient without the addition of a more stringent rule or additional street lighting credits. PFD, p. 529 (citing Consumers' initial brief, pp. 544-545).

The Staff also opposed MAUI's recommendations, and testified that:

[t]his proposal creates a perverse incentive for customers to report outages. For example, a customer may report an outage that does not exist in order to receive compensation credits. Staff is not weighing in on whether or not customers would act on such an incentive, but that it exists is concerning. Staff consistently argues against perverse incentives, regardless of to whom they are presented. Second, the proposed 99% update measure proposed by MI-MAUI witness Bunch is arbitrary and appears to be an opening salvo in an attempt at negotiation. Much like Staff's argument against the Company's proposed 50% adjustment to DR credits, it is inappropriate to recommend an arbitrary threshold or measure when an actual one can instead be measured in the future.

PFD, p. 530 (quoting 6 Tr 4272). The Staff further testified that a streetlight outage is not considered to be a service interruption because the municipality is still receiving service through the other streetlights that remain lit. PFD, p. 530 (citing 6 Tr 4273).

The ALJ recommended that customers who report and document an outage should receive credit from the date of the report but:

[b]ecause Consumers Energy does not have a billing system set up to do this automatically, until it can develop a method to do this, customers seeking the additional credit not automatically awarded through the tariff provision will need to make a special request, or follow any additional instructions provided by the company. It may be that the company requires any customer planning to seek outage credits for streetlight outages is required to use the company's outage reporting app. Of course, if the company cannot confirm the outage and does not need to replace the light, no credit will be due.

PFD, pp. 530-531.

Consumers takes exception to the ALJ's recommendation of credits being granted from the date of outage report, arguing that the recommendation is unwarranted. Consumers explains that "[t]he Company's tariff allows the Company the opportunity to replace or repair the unmetered lighting equipment that is out of service within the first full billing month following notification of the outage" and so prevents a "perverse incentive" to report outages that do not exist. Consumers' exceptions, p. 364 (quoting 6 Tr 7272). Additionally, Consumers argues that the ALJ failed to recognize that the company's billing system cannot process credits at the time that a customer reports them. Consumers added that currently "[s]treetlighting outage credits are manually tracked, added, and removed from customers' bills." Consumers' exceptions, p. 365.

MAUI "takes exception to the omission of a requirement to adjust the electric sales forecast that is reflected in the streetlighting tariff to account for outages," but acknowledges that the ALJ's recommendation would most likely make customers whole. MAUI's exceptions, pp. 5-6. MAUI goes on to reiterate its case presentation, stating the reasons that the unmetered streetlighting tariff is unreasonable and not in accordance with cost-of-service principles because customers pay for power they have not used and thereby subsidize other customers. MAUI would prefer that the company be required to adjust its sales forecast to account for known outages. *Id.*, pp. 5-7.

Consumers replies that "MAUI's concerns regarding Company restoration performance and outage credits should not be addressed with adjustments to the COSS" and reiterated points made in its case presentation. Consumers' replies to exceptions, p. 122.

The Staff replies that:

[j]ust because it may be difficult for the Company to adjust its outage credits for streetlighting customers does not mean the ALJ's recommendation should be rejected. In the alternative, the Commission may wish to approve the change to outage credits but allow the Company some time to implement a billing system solution. For these reasons, the ALJ's recommendation that customers who report

and can document an outage should get a bill credit for that outage from the date it was reported.

Staff's replies to exceptions, p. 47.

In its replies to exceptions, MAUI urges the Commission to adopt the PFD on this matter. MAUI states that, with the current 30-day outage credit, the company has a disincentive to repair streetlights promptly and if, as the company supposes, under the receipt of credit from the day the outage is reported, customers have an incentive to falsely report outages, MAUI states that the cost of an employee's false report exceeds the amount of credit a customer would receive. Further, MAUI argues that, under *Mich Electric Co-op. Ass'n v Mich. Pub. Serv. Comm*, 267 Mich. App. 608, 620-621, 705 NW2d 709 (2005), the Commission has the ability to use outage credits to penalize poor reliability, even when penalties exceed customer damages. Additionally, MAUI argues that Consumers should be penalized because the company has a "multi-year trend of increasing streetlight outages." MAUI's replies to exceptions, p. 3. Finally, MAUI argues that lack of support in its billing system to apply credits through automated processes should be addressed by the company and not paid for by the customer through failure to receive credit when streetlights are out. MAUI's replies to exceptions, pp. 3-6.

The Commission finds the Staff's arguments on this matter to be persuasive and that the ALJ's analysis and recommendation are well-reasoned and supported in the record. Accordingly, the Commission adopts the ALJ's recommendation that, for customers who report and can document an outage, they shall be provided a bill credit for that outage, calculated from the date it is reported and, if the company finds there is no outage, then no credit is due. *See*, PFD, pp. 530-531.

X. OTHER ISSUES

A. Equity Considerations

Consumers stated that it has committed to a renewed emphasis on diversity, equity, and inclusion (DE&I). The company stressed that it will be considering DE&I in every aspect of the business: hiring, training, employee retention, promotions, investment planning, and customer programs, as well as investment in communities, charitable giving, and addressing the cost burden placed on low-income and disadvantaged communities. Consumers further asserted that by placing DE&I at the forefront of its decision making, it is a corporate leader in eliminating bias, correcting, and preventing injustices, and ensuring all feel welcome and valued both inside the company and across the state of Michigan. Consumers expressed that this commitment to DE&I will enable the company to create a more diverse, equitable, and inclusive future. 5 Tr 1178.

Consumers also explained that it considers equity in its distribution system planning and that this approach consists of four steps: (1) strategic direction: company leadership establishes multi-year goals and broad budget guidance; (2) prioritization: planners identify circuits for investment in the following two years; (3) solution options: planners assess range of solutions to address circuit issues; and (4) investment plan: an integrated investment plan is produced; utilizing this approach the company stated its investment decisions may be revised from what simple reliability metrics would normally dictate in several subprograms. *Id.*, pp. 671-672.

MNSC and the Clean Energy Organizations argued that equity, diversity, and justice should be considered in future cases. 5 Tr 2553-2567; 6 Tr 3399-3403. MNSC argued that the Commission should require additional data and analyses to effectively identify and address equity issues. MNSC's initial brief, pp. 195-203. The Clean Energy Organizations ask that the Commission direct the company to track data on distribution system performance and spending disaggregated

by customer demographics, and to develop equity and justice metrics. Clean Energy Organizations' initial brief, pp. 12-14. MNSC referenced testimony from Case No. U-20697 in which the company indicated it did not have the standard measures of reliability, SAIFI, SAIDI, and CAIDI, by customer class, by distribution subparts, by zip code, or census tract. MNSC recommended that, as part of the development of performance-based ratemaking standards, Consumers "first develop justice and equity metrics to tie relevant existing system performance metrics (such as reliability, hosting capacity, system age) to demographic measures of energy justice (income, race, energy burden, and pollution burden), and second, develop proposed incentives and disincentives associated with the justice and equity metrics." 6 Tr 3403.

Consumers argued that, as a general matter, it does not currently have the ability to collect all the requested data, and is unsure of the amount of time or cost involved. Consumers' initial brief, pp. 491-492; Consumers' reply brief, pp. 229-231. In rebuttal, Consumers noted the ongoing collaborative in Case No. U-20757, its belief that the objectives of the EAAC are the same objectives that MNSC is seeking with its recommendations, and that the collaborative will form the foundation for prioritizing equity in decision-making. 4 Tr 459-460.

MNSC argued that Consumers' rebuttal illustrates the shortcomings of the company's approach. MNSC argued that Consumers did not address the company's ability to make data available on a census tract level, but contended instead that MNSC is not asking the company to perform a one-one-one match of customers to programs, outage information, census data, arrearages, or other sources. MNSC noted that the company has the addresses of customers who participate in low-income programs, who are in arrears for long periods, and who face shutoffs. MNSC asserted that Consumers could, at a minimum, examine the information it already has to determine what additional data it needs to collect. MNSC disputed that the EAAC is an effective

substitute for evaluating equity in Consumers' own provision of service. MNSC's initial brief, pp. 199-202.

Further, MNSC recommended that the Commission work with Consumers' (and other utilities) to develop plans and programs which would inform future rate case filings, EWR, voluntary green pricing, renewable energy plan cases, DR cases, and pilot program proposals, *ex parte* applications, and other relevant dockets to ensure equity is a consistent thread throughout Consumers' (and other utilities') services and offerings to its customers. In implementing this request for relief, MNSC recommended that the Commission work with "communities, community leaders, academia, and other stakeholders to elevate outreach, education, and testing and deployment of services, and require utilities to report on the effectiveness of outreach campaigns for different communities." *Id.*, p. 202. MNSC noted that this would be consistent with the Commission's commitment to identify opportunities to promote DE&I in a fundamental, meaningful manner and to include DE&I context in regulatory strategies. *Id.*, p. 203.

In its February 18, 2021 order in Case No. U-20757 (February 18 order), the Commission addressed a myriad of recommendations in the Staff report filed in that docket on December 15, 2020. The February 18 order stated in part:

In the Staff Report, the Staff explains the importance of data collection and analysis to responding to issues arising from the pandemic but also to long-term program design and refinement. The Staff goes on to explain that as utilities submitted their shutoff and arrearage data in compliance with the April 15 order [in this case], the Staff found that exploring a long-term data collection strategy that captured specific demographic information and energy burdens of customers would prove beneficial. The Commission agrees that an examination of a long-term data collection strategy is worthwhile, and therefore, adopts the Staff's recommendation, including the recommendation to engage with NARUC, and directs the EAA Collaborative to take on this initiative in coordination with ongoing data collection that the Commission has directed utilities to continue with this order. As mentioned previously with respect to the EAA Collaborative's work, the development of an improved data collection strategy is expected to continue through 2022. Therefore, the Staff

shall include an update on its progress regarding data collection in the interim report to be filed no later than December 17, 2021.

The Commission further directs the Staff, in its efforts to add demographic information into the shutoff and arrearage data, to consider recommendations from the Commission's Diversity, Equity, and Inclusion (DEI) initiative. The DEI initiative is an internal Commission committee made up of Commissioners and the Staff that have been tasked with comprehensively examining Commission practices and identifying opportunities to promote DEI in a fundamental, meaningful manner. Areas of focus include development of an official DEI policy statement, review of existing hiring and advancement practices, consideration of DEI context in regulatory strategies, and promoting education and awareness about DEI through internal learning opportunities and public outreach. This comprehensive effort by the DEI initiative is intended to impact every area of the Commission's work and would be particularly helpful in the Staff's long-term data collection strategy that will involve looking at race, gender, income, and zip code information in gathering demographic information.

February 18 order, pp. 17-18.

More recently, the Commission issued an order on September 24, 2021, in Case No. U-18238 (September 24, 2021 order), in contemplation of reopening the rate case filing requirements. The Commission asked for additional comments as follows:

The Commission continues to consider whether it is necessary to re-open the filing requirements for a complete revision and thanks commenters for the detailed responses provided thus far in the docket. At this time, the Commission invites additional comment on the topics listed herein. The Commission believes that these topics reflect the issues which have arisen or undergone the most significant changes since the last set of revisions were made. The Commission is interested in the following topics:

1. Are rate case filing requirements the best way to collect data that will enable the Commission to more effectively understand and address issues related to customer affordability and access as well as environmental justice, including demographic, household energy burden, and customer income level data? Do utilities currently possess or collect this data, or would this data have to be accessed or acquired through third parties? Should utilities be required to make such data accessible to the public? How will making such data available to the Commission or the public work in conjunction with existing privacy requirements?

2. How can the filing requirements address the need for additional and more detailed information on the issues of information technology costs, critical infrastructure, and cybersecurity?
3. How can the transparency and public engagement in utility rate cases be enhanced? What are the steps that could be taken by the Commission, the applicant utility, and the other parties to improve the public's understanding and access to the procedural process and decisions made in utility rate cases?
4. Should small and multi-jurisdictional utilities be subject to special exemptions or waivers from aspects of the filing requirements? What are the pros and cons of providing these exemptions or waivers?
5. What, if any, additional performance data addressing utility distribution system reliability should be required in the rate case filing? Should the applicant utility be required to provide standardized streetlight outage data, for example, for a specified time period? Should the applicant utility be required to provide distribution performance data that is tied to community demographic data?

September 24, 2021 order, pp. 14-15.

In light of the significant ongoing work at the Commission, the ALJ did not find it appropriate to attempt to answer these critical questions for this utility only. She reasoned that the Commission has made clear it wants to hear from all interested persons, not merely the participants to this case, in evaluating the data that should be required, as well as more broadly including stakeholders in the discussions through a collaborative approach. While the ALJ did not formulate a recommended directive to Consumers regarding the data it should collect or compile, she stated that MNSC's request is clearly within the discretion of the Commission to grant. The ALJ noted, however, that the Commission's actions in these two dockets (Case Nos. U-18238 and U-20757) align with MNSC's concluding recommendations that the Commission should also encourage Consumers to undertake data collection and community engagement before or as part of the company's next general electric rate case. PFD, pp. 537-538.

In exceptions, MNSC concurs with the ALJ that the Commission possesses the discretion to adopt MNSC's recommendations, but disagrees with the ALJ's conclusion that it would not be

appropriate to answer these questions for this utility only. MNSC requests that the Commission exercise its discretionary authority in this case to require Consumers to take a meaningful step forward and compile and provide to the interested public—in this docket or another forum—the data useful to conducting an equity analysis of at least some component of the company’s investment plans, programs, performance, and outreach and education campaigns. MNSC’s exceptions, pp. 19-21.

In replies to exceptions, Consumers supports the recommendation of the ALJ. Consumers’ replies to exceptions, p. 113.

The Commission agrees with the ALJ that these questions should be addressed by all interested persons and, as the ALJ recommended, the workgroups and other dockets should develop DE&I analyses, metrics, and data requirements that inform numerous cases. The Commission continues to examine how best to apply DE&I best practices and principles in this and other proceedings. Specific guidance will be provided through other venues including the EAAC order in Case No. U-20757, orders in Case No. U-18238, and Emergency Preparedness, Distribution Reliability, and Storm Response orders in Case No. U-21122.

B. Low-income Residential Rate Class Separation

MNSC recommended that, for COSS purposes, the Commission should require Consumers to treat low-income customers as separate sub-classes in the COSS the company submits in its next general electric rate case. 5 Tr 2459. MNSC, based on data provided by the company, divided residential customers into five categories: generic, senior, RIA, low-income assistance credit (LIAC), and DG customers. *Id.*, pp. 2446-2447. In analyzing energy usage by these different groups, MNSC determined that the categories of customers differed in total and average usage amounts, although generic and senior customers tended to have the same usage patterns.

However, low-income customers (i.e., RIA and LIAC customers) showed similar usage patterns that differed from those of generic customers, particularly during summer peaks. *Id.*, p. 2454.

MNSC determined that the difference between annual bills and cost of service for RIA and LIAC customers is material. *Id.*, pp. 2455-2456.

MNSC further argued that Consumers was unable to provide a sample of customers residing in apartment buildings with five or more units, because the company does not collect this data. MNSC stated that based on building physics and evidence from numerous sources, these customers are less “weather-sensitive” than residential customers who live in single-family dwellings or small apartment buildings and will therefore have a materially different load profile. *Id.*, pp. 2448-2449.

In rebuttal, Consumers argued that there were significant miscalculations in MNSC’s COSS analysis. 3 Tr 188-189. Consumers added that the company’s load studies rely on multiple years of data to avoid results that are skewed by weather and other variability that can occur in a single year. *Id.*, p. 189. Furthermore, Consumers argued that MNSC’s analysis also contained incorrect critical peak hours and failed to add customer-related production costs to the total production cost of service. *Id.* Given these alleged errors in the analysis, Consumers argued that the Commission should not rely on this analysis to require the company to separate low-income customers in the COSS. Consumers’ initial brief, p. 514.

Next, Consumers argued that MNSC’s recommendation to use the COSS to calculate the cost to serve individual or smaller groups of customers is based on a flawed concept. The company stated that it is unclear whether the difference in MNSC’s proposed calculation of the cost to serve reflects actual differences in providing service to these groups of customers or is a result of applying class allocators to a less diversified group of customers. *Id.*, p. 513. Consumers

reiterated that the COSS is intended to be a simplified model for how customers use the system and is not designed to assess costs for each individual customer. According to Consumers, there would be no end in sight to subdividing the residential COSS. *Id.*, p. 514.

The Staff took issue with MNSC's recommendation, characterizing MNSC's analysis as incomplete, noting in particular that MNSC's modeling did not include the effect of bill credits on amounts billed to RIA and LIAC customers. The Staff stated that it recreated the analysis including the various credits for senior citizens, RIA, and LIAC customers and found that MNSC's analysis showed the opposite of MNSC's conclusion. That is, MNSC's analysis, as corrected by the Staff, showed low-income customers were billed less than their cost of service. 6 Tr 4261-4263.

The Staff also argued that it is inappropriate to compare low-income customer bills to the calculated cost of service because those customers' rates need not rely on the cost of service in the first place. *Id.*, p. 4263. The Staff stated that low-income and senior citizen customers receive special treatment through bill credits meant to enhance affordability. *Id.*, p. 4260. The Staff pointed out that the company and the Staff are addressing bill affordability in workgroups and pilots that the Commission initiated in earlier cases, which account for existing credits as well. Staff's initial brief, pp. 216-217. The Staff echoed the company's specific concerns about aspects of MNSC's analysis and the simplicity of its modeling. *Id.*, p. 217.

In reply, MNSC pointed out that, although the Staff and the company took issue with MNSC's COSS, no party challenged its analysis of usage patterns of the different subgroups of customers identified. MNSC's initial brief, pp. 188-189. MNSC highlighted the finding that low-income customers in either the RIA or the LIA program have very similar patterns of use to each other and to generic customers in off-peak times, but use relatively less energy than generic customers

during all of the summer peaks. *Id.*, p. 189. MNSC responded to the company's concerns about dividing the residential class into a multitude of subgroups for COSS purposes by pointing out that 216,000 secondary commercial customers are already divided into eight subclasses, 4,088 primary customers are divided into 25 subclasses, and 835 streetlighting customers are divided into four subclasses, yet 1.6 million residential customers are in a single class. *Id.*, p. 190.

Next, MNSC noted that Consumers admitted it would be possible to perform a COSS with a subclass of residential low-income customers in the same manner that the company breaks out subclasses for primary or commercial customers. *Id.* Finally, MNSC responded to the Staff, contending that while bill credits for low-income programs are a factor, the great majority of low-income customers do not receive either the RIA or LIAC. *Id.*

The ALJ agreed, to some degree, with all the parties weighing in on this issue. The ALJ found persuasive the Staff's and the company's claim that MNSC's analysis was flawed to the extent that the resulting cost of service versus the actual bill comparisons cannot be relied upon. At the same time, she noted that MNSC's demonstration that energy usage by low-income customers at peak times is significantly lower than that of generic customers was not challenged. Moreover, the ALJ stated, MNSC's argument that programs, and bill credits apply only to a fraction of Consumers' low-income customers is persuasive to the extent that a low-income subclass within the residential class might serve to include more of these customers who need assistance. Consistent with the foregoing discussion, the ALJ found that MNSC's request that the company present a refined COSS including a low-income subclass in its next general electric rate case should be rejected. Instead, the ALJ recommended that Consumers be directed to present a COSS, with low-income customers in a separate subclass, as part of the ongoing EAAC. PFD, p. 543.

In exceptions, Consumers agrees with the ALJ about rejecting MNSC's request for a low-income subclass in the next general electric rate case. However, the company disagrees with the ALJ's recommendation that it provide a COSS with low-income customers as a separate subclass as part of the ongoing EAAC based on the ALJ's contention that this might help more customers who need assistance. Consumers argues that by design, the COSS is a simplified representation of how customers use the system and is not intended to calculate the cost to serve individual customers, and therefore the recommendation should not be adopted. Consumers' exceptions, pp. 329-332.

In exceptions, the Staff argues that the ALJ erred in finding that the Staff did not dispute MNSC's demonstration that energy usage by low-income customers at peak times is significantly lower than that of generic customers; the Staff asserts that it challenged the demonstration on page 35 of its reply brief. However, the Staff agrees with the ALJ's recommendation to reject MNSC's proposal. Staff's replies to exceptions, pp. 12-13.

In replies to exceptions, MNSC contends that the Staff did not object to the COSS with a low-income customer subclass being required for the EAAC. MNSC also notes that Consumers acknowledges that it would be feasible to break out a subclass of low-income customers in the COSS. MNSC argues that the record shows that it is certainly feasible for Consumers to do this, but it is also apparent that the company will need the Commission's direction to make it happen. MNSC requests that the Commission adopt the ALJ's recommendation to direct Consumers to present a cost of service with low-income customers in a separate subclass, as part of the ongoing EAAC. MNSC's replies to exceptions, pp. 109-119.

The Commission agrees with the ALJ that all parties made valid points and ultimately the Commission agrees that a COSS with a low-income customer subclass may be beneficial and

recommends the company include a low-income customer subclass in the COSS for the EAAC in Case No. U-20757, but does not require it for the company's next general electric rate case.

C. Residential Cost-saving Opportunities

MNSC argued that the Commission should require the company to notify ratepayers of cost-saving rates available to them on each monthly bill. MNSC recommended that Consumers should include with monthly bills a notice to each customer that it is in the least-cost rate based on the preceding 12-months' usage, or alternatively that it is eligible for an alternative rate that would produce specified savings had they been on the rate. 5 Tr 2454-2461.

Consumers opposed MNSC's request. Consumers' initial brief, pp. 545-548. The company recognized that it has an obligation to advise customers of the lowest cost of service based on the information available but noted that the tariff requires each customer to select the rate best for that customer. The company argued that it does not have the ability to run a monthly comparison to ensure customers are on the lowest rate option and that significant IT work would be required to reconfigure its system to do this but that it does have tools on its website that enable customers to find the best rate for their individual circumstances with information regarding their past usage. 4 Tr 463-464; 5 Tr 2459-2461.

MNSC argued in rebuttal that the web tool is not a substitute for shadow billing and acknowledged some dispute between the company and the Staff regarding funding for the company's proposed bill redesign. MNSC argued that the Commission should adopt MNSC's recommendation and require Consumers to provide shadow billing on residential monthly bills. MNSC's initial brief, p. 194.

The ALJ concluded that the record in this case is insufficient to determine how and whether the company should redesign its billing system. The ALJ recommended that the Commission

adopt the Staff's adjustment to the company's proposed bill redesign. She also recommended that the company present a revised proposal to the Commission in its next general electric rate case, and may consult with stakeholders individually or through ongoing workgroups regarding its efforts in that regard. She stated that, "[n]onetheless, the company is exploring multiple methods of communicating with its customers." PFD, p. 545. The ALJ noted that a review of Consumers' IT and customer experience projects show that the company is looking for ways to communicate with its customers through whatever form of communication the customer prefers, and these myriad forms of communication are not inexpensive. The ALJ therefore recommended further analysis and consultation with stakeholders in order to determine the best way to communicate to customers their rate options, their historical usage, and other criteria they may want to evaluate in making their choices. *Id.*

No exceptions were filed on this issue. The Commission adopts the ALJ's recommendation.

D. Commercial and Industrial Advanced Metering Infrastructure Data

Walmart argued that the Commission should require the company to address commercial customer data as part of its AMI business case. 6 Tr 3838-3845. Walmart claimed that it is important that data access is automated, easily accessible by a third party, and provided in a standardized format to allow a customer to measure energy usage and make data-driven adjustments to energy consumption. Additionally, Walmart stated that interval data allows customers to better target facilities for energy reduction projects and measure and verify energy savings. Walmart's initial brief, pp. 9-10. Walmart argued that a portal that is Green Button compatible can best meet customer needs. 6 Tr 3842.

In reply, Consumers stated that it is working on Green Button compatibility, however it objects to expanding the AMI business case. The company argued that functionality to download

interval data for an individual building is scheduled to be available next year on the company's website. Consumers' reply brief, pp. 187, 227.

The ALJ recommended that the company be required to report its progress implementing this capability in its next general electric rate case, without the need to expand the AMI business case. Additionally, the ALJ previously concluded that it is premature to include in rate base the company's plan to improve its C&I account management system by allowing single logins for multiple accounts. The ALJ further recommended that, if Consumers works to further develop this project to allow a single login access for the Green Button data, the company should include those improvements in the recommended report for the next general electric rate case. PFD, p. 547.

In exceptions, Walmart reiterates that the Commission should require the company to provide the functionality requested by Walmart in order to maximize the benefits of AMI technology. Walmart requests that the Commission require the company to fully optimize interval data by allowing C&I customers to access it in a manageable and meaningful way, as suggested by Walmart. Walmart's exceptions, pp. 2-3.

In replies to exceptions, Consumers states that it is not necessarily opposed to the concept of including some value associated with business customer accessibility of interval data in its next AMI business case because it might prove helpful in identifying new opportunities to realize benefits from the AMI system. The only hesitation that Consumers has with Walmart's proposal is that the company is not presently certain that there is available data regarding the impact of accessible interval data on business customer behavior and cost savings. Therefore, Consumers does not believe that the Commission should include Walmart's proposal as a requirement for the next AMI business case. However, the company is willing to commit that it will voluntarily include savings associated with business customer access to interval data as part of the next AMI

business case if the data needed to include such an analysis is readily available to the company. Consumers' replies to exceptions, pp. 97-98.

The Commission agrees with Walmart's concerns about utilization of the data, and appreciates the company's offer to voluntarily include available information in the next AMI business case. However, the Commission finds that Consumers shall provide, as part of its updated AMI business case, information on the impact of accessible interval data on business customer behavior and cost savings, which provides additional certainty in moving toward greater accessibility of data than a voluntary commitment. The Commission also agrees with the ALJ's recommendation that Consumers report its progress on implementing the Green Button compatibility in its next general electric rate case. Furthermore, additional recommendations concerning customer data access and privacy will be provided via a report from the Staff in Case No. U-20959 as a part of the MI Power Grid Customer Education and Participation workgroup. Finally, should Consumers bring forward a revised proposal for a C&I account management system in a future rate case, it should include, among other enhancements, meaningful opportunities for customers and third-party vendors to access and download energy interval usage data for multiple accounts in one file through Green Button Connect My Data functionality, as recommended by Walmart.

THEREFORE, IT IS ORDERED that:

A. Based on the findings in this order adopting a January 1, 2022, through December 31, 2022 test year, a jurisdictional rate base of \$12,428,130,000, an authorized rate of return on common equity of 9.90%, and an authorized overall rate of return of 5.62%, Consumers Energy Company is authorized to implement rates that increase its annual electric revenues by \$27,118,000, on a jurisdictional basis, over the rates approved in the December 17, 2020 order in Case No. U-20697.

B. Consumers Energy Company is authorized to implement rates consistent with the revenue deficiency approved by this order on a service-rendered basis for electric service provided on and after January 1, 2022, as reflected in Attachment A (a summary of revenue by rate class), Attachment B (tariff sheets), and Attachment C (updated capacity charge calculation) to this order. Within 30 days of the date of this order, Consumers Energy Company shall file tariff sheets substantially similar to Attachment B. Consumers Energy Company shall implement a state reliability mechanism capacity charge of \$119,311.57 per megawatt-year, or \$326.88 per megawatt-day, for customers taking capacity service, as shown on Attachment C to this order. Attachment B contains the associated capacity rates. When filing the tariffs consistent with those ordered, Consumers Energy Company shall also update the Contributions In Aid of Construction Allowance Schedule amounts on Tariff Sheet C-4.00, Section C1.4, to be consistent with the rates approved in this order.

C. In its next general electric rate case, for its streetlighting program, Consumers Energy Company shall compare the cost of the chosen replacement streetlight model currently used by the company to alternative models.

D. In its next general electric rate case, Consumers Energy Company shall provide separate reports for its streetlight demand failure data and its low voltage distribution demand failure data.

E. In its next general electric rate case, Consumers Energy Company shall, as set forth in this order: (1) present a thorough description of its fleet acquisitions for 2021, as well as proposed fleet additions on a going forward basis, fleet retirements, and a benefit/cost analysis incorporating the benefits and cost to ratepayers from the company's investment decisions; (2) explain how the company accounts for depreciation of its fleet assets; and (3) demonstrate how the company's decision to decrease the average vehicle age of the fleet affects the total cost to ratepayers. Prior

to its next general electric rate case, Consumers Energy Company shall consult with the Commission Staff regarding the company's fleet spending and include the Michigan Department of Attorney General in the discussion.

F. In its next general electric rate case, Consumers Energy Company shall present detailed information pertaining to its line clearing effective cycle as set forth in this order.

G. In its next general electric rate case, Consumers Energy Company shall present detailed information that connects performance in operational metrics to proposed incentive compensation, as individual operational metrics will be scrutinized more critically going forward.

H. Consumers Energy Company shall base future insurance expense projections, if possible, on quotations for existing insurance products.

I. In its next general electric rate case, Consumers Energy Company shall provide a cost-of-service study employing a multi-hour voltage peak allocator as set forth in this order.

J. In its next general electric rate case, Consumers Energy Company shall evaluate whether to add a new alternative residential rate with a greater time-price differential.

K. Consumers Energy Company shall assign the four information-technology digital customer operations projects at issue in the instant case to the specific responsible customer classes in its next general electric rate case.

L. Consumers Energy Company shall extend current conversion credits applied to early-adopters of light-emitting diode streetlights through 2028.

M. Consumers Energy Company shall propose adjustments to the per-fixture credit amount with each general electric rate case filed through 2028 to reflect incremental changes in rate base for light-emitting diode streetlights.

N. In its next general electric rate case, Consumers Energy Company shall provide a robust presentation of condominium marinas and similar properties, as described in this order, that shall include the company's rationale for treating all boats, recreational vehicles, and similar vehicles as non-residential, and a detailed discussion of the circumstances under which properties hosting recreational vehicles and campers may be treated as residential, consistent with discussion in this order.

O. Consumers Energy Company shall provide outage credits calculated from the date of the outage report for streetlighting customers who report and document the outage.

P. Consumers Energy Company shall provide, as part of its updated advanced metering infrastructure business case, information on the impact of accessible interval data on business customer behavior and cost savings.

Q. In its next general electric rate case, Consumers Energy Company shall report its progress on implementing the Green Button compatibility.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of December 22, 2021.

Lisa Felice, Executive Secretary

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

Summary of Present and Proposed Pro Forma Revenues by Rate Schedule
Total Revenues

MPSC Case No.: U-20963

ATTACHMENT A

Page: 1 of 3

Line No.	(a) Description	(b) Customers Mthly	(c) Sales MWh	(d) Revenue		(e) Net Increase / (Decrease)	
				Present \$000	Proposed \$000	Revenue \$000	Percent %
BUNDLED SERVICE							
<u>Residential Class</u>							
1	Summer On-peak RSP	1,602,108	12,395,968	\$ 2,117,254	\$ 2,137,207	\$ 19,954	0.9
2	Smart Hours RSH	3,426	61,751	10,157	10,281	124	1.2
3	Night Time Savers RPM	661	7,781	1,244	1,259	15	1.2
4	Non-Transmitting Meters RSM	21,468	155,848	27,809	28,298	489	1.8
5	Total Residential Class	1,627,664	12,621,349	\$ 2,156,464	\$ 2,177,045	\$ 20,581	1.0
<u>Secondary Class</u>							
6	Energy-only GS	196,245	3,830,222	\$ 583,108	\$ 572,487	\$ (10,622)	(1.8)
7	Time-of-Use GSTU	130	9,437	1,409	1,327	(81)	(5.8)
8	Demand GSD	19,658	3,125,108	390,478	388,418	(2,060)	(0.5)
9	Total Secondary	216,033	6,964,767	\$ 974,995	\$ 962,232	\$ (12,763)	(1.3)
<u>Primary Class</u>							
10	Energy-only GP	1,545	831,038	\$ 85,185	\$ 87,867	\$ 2,682	3.1
11	Demand GPD	882	4,265,719	333,190	343,767	10,576	3.2
12	Time-of-Use GPTU	1,238	4,967,400	454,153	456,337	2,184	0.5
13	Energy Intensive EIP	18	457,385	27,942	29,707	1,765	6.3
14	Total Primary	3,683	10,521,542	\$ 900,470	\$ 917,677	\$ 17,207	1.9
<u>Lighting & Unmetered Class</u>							
15	Metered Lighting GML	359	13,118	\$ 1,442	\$ 1,424	\$ (18)	(1.2)
16	Universal Unmetered Lighting UUL	4,532	81,654	27,334	26,374	(961)	(3.5)
17	Unmetered GU	476	100,655	9,651	9,673	22	0.2
18	Total Lighting & Unmetered	5,367	195,427	\$ 38,427	\$ 37,471	\$ (956)	(2.5)
<u>Self-generation Class</u>							
19	Small Self-generation GSG-1	-	-	\$ -	\$ -	\$ -	NA
20	Large Self-generation GSG-2	15	72,150	5,065	5,745	681	13.4
21	Total Self-generation	15	72,150	\$ 5,065	\$ 5,745	\$ 681	13.4
22	Total Bundled Service	1,852,762	30,375,234	\$ 4,075,421	\$ 4,100,170	\$ 24,749	0.6
ROA SERVICE							
<u>Secondary Class</u>							
23	Energy-only GS	105	23,110	\$ 1,118	\$ 1,081	\$ (37)	(3.3)
24	Demand GSD	469	181,202	6,584	6,503	(80)	(1.2)
25	Total Secondary	574	204,312	\$ 7,702	\$ 7,585	\$ (117)	(1.5)
<u>Primary Class</u>							
26	Energy-only GP	60	74,933	\$ 1,179	\$ 1,319	\$ 140	11.9
27	Demand GPD	345	3,318,766	19,089	21,723	2,635	13.8
28	Total Primary	405	3,393,699	\$ 20,267	\$ 23,042	\$ 2,775	13.7
29	Total ROA Service	979	3,598,011	\$ 27,969	\$ 30,627	\$ 2,658	9.5
30	Total Jurisdictional Service	1,853,741	33,973,245	\$ 4,103,390	\$ 4,130,797	\$ 27,407	0.7
31	Less: PSCR Factor Revenues			17,229	17,229	0	
32	Less: GSG-2 and GI-2 PSCR Revenues			5,582	5,871	288	
33	Total Jurisdictional Base Revenues			\$ 4,080,579	\$ 4,107,697	\$ 27,119	
34	Rounding				(0)	(0)	
35	Total Jurisdictional Base Revenues				\$ 4,107,697	\$ 27,118	

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

Summary of Present and Proposed Pro Forma Revenues by Rate Schedule
Production & Transmission Revenues

MPSC Case No.: U-20963

ATTACHMENT A

Page: 2 of 3

Line No.	(a) Description	(b) Sales MWh	(c) Revenue		(d) Revenue		(e) Net Increase / (Decrease)		(f) Percent %
			Present \$000	Proposed \$000	Present \$000	Proposed \$000	Revenue \$000	Percent	
BUNDLED SERVICE									
<u>Residential Class</u>									
1	Summer On-peak RSP	12,395,968	\$ 1,292,142	\$ 1,273,106	\$ (19,036)	(1.5)			
2	Smart Hours RSH	61,751	6,419	6,348	(71)	(1.1)			
3	Night Time Savers RPM	7,781	747	737	(10)	(1.3)			
4	Non-Transmitting Meters RSM	155,848	16,512	16,511	(1)	(0.0)			
5	Total Residential Class	12,621,349	\$ 1,315,820	\$ 1,296,702	\$ (19,118)	(1.5)			
<u>Secondary Class</u>									
6	Energy-only GS	3,830,222	\$ 353,048	\$ 348,619	\$ (4,429)	(1.3)			
7	Time-of-Use GSTU	9,437	926	860	(66)	(7.1)			
8	Demand GSD	3,125,108	272,177	271,504	(673)	(0.2)			
9	Total Secondary	6,964,767	\$ 626,152	\$ 620,983	\$ (5,168)	(0.8)			
<u>Primary Class</u>									
10	Energy-only GP	831,038	\$ 70,907	\$ 72,012	\$ 1,105	1.6			
11	Demand GPD	4,265,719	301,629	308,095	6,466	2.1			
12	Time-of-Use GPTU	4,967,400	401,930	397,570	(4,360)	(1.1)			
13	Energy Intensive EIP	457,385	26,131	27,173	1,042	4.0			
14	Total Primary	10,521,542	\$ 800,598	\$ 804,851	\$ 4,253	0.5			
<u>Lighting & Unmetered Class</u>									
15	Metered Lighting GML	13,118	\$ 653	\$ 671	\$ 18	2.8			
16	Universal Unmetered Lighting UUL	81,654	4,032	4,129	97	2.4			
17	Unmetered GU	100,655	7,525	7,465	(60)	(0.8)			
18	Total Lighting & Unmetered	195,427	\$ 12,210	\$ 12,265	\$ 55	0.4			
<u>Self-generation Class</u>									
19	Small Self-generation GSG-1	-	\$ -	\$ -	\$ -	NA			
20	Large Self-generation GSG-2	72,150	3,655	3,655	-	-			
21	Total Self-generation	72,150	\$ 3,655	\$ 3,655	\$ -	-			
22	Total Bundled Service	30,375,234	\$ 2,758,434	\$ 2,738,455	\$ (19,979)	(0.7)			
ROA SERVICE									
<u>Secondary Class</u>									
23	Energy-only GS	-	\$ -	\$ -	\$ -	NA			
24	Demand GSD	-	-	-	-	NA			
25	Total Secondary	-	\$ -	\$ -	\$ -	NA			
<u>Primary Class</u>									
26	Energy-only GP	-	\$ -	\$ -	\$ -	NA			
27	Demand GPD	-	-	-	-	NA			
28	Total Primary	-	\$ -	\$ -	\$ -	NA			
29	Total ROA Service	-	\$ -	\$ -	\$ -	NA			
30	Total Jurisdictional Service	30,375,234	\$ 2,758,434	\$ 2,738,455	\$ (19,979)	(0.7)			
31	Less: PSCR Factor Revenues		17,229	17,229	0				
32	Less: GSG-2 and GI-2 PSCR Revenues		5,582	5,871	288				
33	Total Jurisdictional Base Revenues		\$ 2,735,622	\$ 2,715,355	\$ (20,267)				
34	Rounding			(0)	(0)				
35	Total Jurisdictional Base Revenues			\$ 2,715,355	\$ (20,267)				

Delivery Revenues

Line No.	(a) Description	(b) Sales MWh	(c) Revenue		(e) Net Increase / (Decrease)		(f) Percent %
			Present \$000	Proposed \$000	Revenue \$000	Percent	
BUNDLED SERVICE							
<u>Residential Class</u>							
1	Summer On-peak RSP	12,395,968	\$ 825,112	\$ 864,102	\$ 38,990		4.7
2	Smart Hours RSH	61,751	3,738	3,932	194		5.2
3	Night Time Savers RPM	7,781	498	522	24		4.9
4	Non-Transmitting Meters RSM	155,848	11,297	11,787	490		4.3
5	Total Residential Class	12,621,349	\$ 840,644	\$ 880,343	\$ 39,699		4.7
<u>Secondary Class</u>							
6	Energy-only GS	3,830,222	\$ 230,060	\$ 223,868	\$ (6,192)		(2.7)
7	Time-of-Use GSTU	9,437	482	467	(15)		(3.2)
8	Demand GSD	3,125,108	118,301	116,914	(1,387)		(1.2)
9	Total Secondary	6,964,767	\$ 348,843	\$ 341,249	\$ (7,595)		(2.2)
<u>Primary Class</u>							
10	Energy-only GP	831,038	\$ 14,277	\$ 15,855	\$ 1,578		11.1
11	Demand GPD	4,265,719	31,561	35,671	4,110		13.0
12	Time-of-Use GPTU	4,967,400	52,223	58,767	6,543		12.5
13	Energy Intensive EIP	457,385	1,811	2,533	723		39.9
14	Total Primary	10,521,542	\$ 99,873	\$ 112,827	\$ 12,954		13.0
<u>Lighting & Unmetered Class</u>							
15	Metered Lighting GML	13,118	\$ 789	\$ 753	\$ (36)		(4.5)
16	Universal Unmetered Lighting UUL	81,654	23,302	22,245	(1,058)		(4.5)
17	Unmetered GU	100,655	2,125	2,208	83		3.9
18	Total Lighting & Unmetered	195,427	\$ 26,217	\$ 25,206	\$ (1,011)		(3.9)
<u>Self-generation Class</u>							
19	Small Self-generation GSG-1	-	\$ -	\$ -	\$ -		NA
20	Large Self-generation GSG-2	72,150	1,410	2,090	681		48.3
21	Total Self-generation	72,150	\$ 1,410	\$ 2,090	\$ 681		48.3
22	Total Bundled Service	30,375,234	\$ 1,316,987	\$ 1,361,715	\$ 44,728		3.4
ROA SERVICE							
<u>Secondary Class</u>							
23	Energy-only GS	23,110	\$ 1,118	\$ 1,081	\$ (37)		(3.3)
24	Demand GSD	181,202	6,584	6,503	(80)		(1.2)
25	Total Secondary	204,312	\$ 7,702	\$ 7,585	\$ (117)		(1.5)
<u>Primary Class</u>							
26	Energy-only GP	74,933	\$ 1,179	\$ 1,319	\$ 140		11.9
27	Demand GPD	3,318,766	19,089	21,723	2,635		13.8
28	Total Primary	3,393,699	\$ 20,267	\$ 23,042	\$ 2,775		13.7
29	Total ROA Service	3,598,011	\$ 27,969	\$ 30,627	\$ 2,658		9.5
30	Total Jurisdictional Service	33,973,245	\$ 1,344,956	\$ 1,392,342	\$ 47,386		3.5
31	Rounding			(0)	(0)		
32	Total Jurisdictional Base Revenues			\$ 1,392,342	\$ 47,386		

C4. APPLICATION OF RATES

C4.1 Classes of Service

The rates specified in this Electric Rate Book are predicated upon the delivery of each class of service to a single metering point for the total requirements of each separate premises of the customer, unless otherwise provided for in the Company's Electric Rate Book.

Service to different delivery points and/or different classes of service on the same premises shall be separately metered and separately billed. In no case shall service be shared with another premises or transmitted off the premises to which it is delivered. *The restriction on transmitting service off the premises to which it is delivered does not apply to electricity that may be delivered to a renewable energy generation facility spanning multiple parcels of property through the facilities' collector system.*

C4.2 Choice of Rates

A customer may be eligible to have service billed on one of several rates or provisions of a rate. Upon request, the Company shall advise the customer in the selection of the rate or rate provision which is most likely to give the customer the lowest cost of service based on the information provided to the Company. The selection of the rate or provision of a rate is the responsibility of the customer. Because of varying customer usage patterns and other reasons beyond its reasonable knowledge or control, the Company does not guarantee that the most economic applicable rate will be applied.

After the customer has selected the rate and rate provision under which service shall be provided, the customer shall not be permitted to change from that rate and rate provision to another until at least twelve months have elapsed. The customer shall not be permitted to evade this rule by temporarily terminating service. However, the Company may, at its option, waive the provisions of this paragraph where it appears a change is for permanent rather than for temporary or seasonal advantage. The provisions of this paragraph may also be waived where the customer can demonstrate that a Bona Fide Change in Customer Load has occurred. The effective date of a rate change under this rule shall be the beginning read date of the next bill issued. The intent of this rule is to prohibit frequent shifts from rate to rate.

The Company shall not make refunds in instances where the customer would have paid less for service had the customer been billed on another applicable rate or provision rate.

Where the customer has provided the Company with incorrect information to gain an economic benefit, backbilling may be rendered to the date the incorrect rate selection initially occurred.

In order to reduce load in times of high system demands, the Company may make contractual arrangements with customers who can self-generate power, shift load from on-peak to off-peak periods and/or provide other forms of voluntary load reduction.

(Continued From Sheet No. C-14.00)

C4. APPLICATION OF RATES (Contd)

C4.3 Application of Residential Usage and Non-Residential Usage (Contd)

D. Rate Application for Seasonal Condominium Campgrounds (Contd)

- (6) The customer must notify individuals and co-owners utilizing the customer's property that requests and concerns regarding electric service will be addressed between the single legal entity and ownership and primary operating authority, not with individuals.
- (7) The customer shall be responsible for ensuring that the electrical facilities are adequate to meet the needs of the units placed within the Seasonal Condominium Campground in their entirety and shall pay the Company for any charges incurred for modifications necessary to accommodate load according to other portions of this Electric Rate Book.

C4.4 Resale

This provision is closed to resale for general unmetered service, unmetered or metered lighting service and new or expanded service for resale for residential use.

No customer shall resell electric service to others except when the customer is served under a Company rate expressly made available for resale purposes, and then only as permitted under such rate and under this rule.

Where, in the Company's opinion, the temporary or transient nature of the proposed ultimate use, physical limitation upon extensions, or other circumstances, make it impractical for the Company to extend or render service directly to the ultimate user, the Company may allow a customer to resell electric service to others.

For the purposes of this tariff, the provision of electric vehicle charging service for which there is no direct per kWh charge shall not be considered resale of service.

A resale customer is required to take service under the resale provision of one of the following rates for which they qualify: General Service Secondary Rate GS, General Service Secondary Time-of-Use Rate GSTU, General Service Secondary Demand Rate GSD, General Service Primary Rate GP, Large General Service Primary Demand Rate GPD, or General Service Primary Time-of-Use Rate GPTU. Resale Service is provided pursuant to a service contract providing for such resale privilege. Service to each ultimate user shall be separately metered.

- A. If the resale customer elects to take service under a Company Full Service resale rate, the ultimate user shall be served and charged for such service under standard Rate RSM for residential use or under the appropriate standard General Service Rate applicable in the Company's Electric Rate Book available for similar service under like conditions. Reselling customers are not required to offer or administer any additional service provisions or nonstandard rates contained in the Electric Rate Book, such as the Income Assistance Service Provision or the Educational Institution Service Provision.
- B. If the resale customer elects to take service under a Company Retail Open Access Service rate, the ultimate user shall be served and charged for such service under Rate ROA-R for residential use or under Rate ROA-S or ROA-P applicable in the Company's Electric Rate Book available for similar service under like conditions.
- C. If the ultimate user is a campground lot or boat harbor slip, the resale customer has the option to charge a maximum of the following all inclusive rate per kWh in place of billing the ultimate customer on the appropriate standard Company tariff rate:

\$0.150640 per kWh for all kWh during the months of June-September

\$0.153061 per kWh for all kWh during the months of October-May

The Company shall be under no obligation to furnish or maintain meters or other facilities for the resale of service by the reselling customer to the ultimate user.

The service contract shall provide that the reselling customer's billings to the ultimate user shall be audited each year by February's month end, for the previous calendar year. The audit shall be conducted either by the Company, if the Company elects to conduct such audit, or by an independent auditing firm approved by the Company. The reselling customer shall be assessed a reasonable fee for an audit conducted by the Company. If the audit is conducted by an independent auditing firm, the customer shall submit a copy of the results of such audit to the Company in a form approved by the Company.

(Continued on Sheet No. C-16.00)

(Continued From Sheet No. C-35.00)

C8. POWER SUPPLY COST RECOVERY (PSCR) CLAUSE (Contd)

A. Applicability of Clause (Contd)

"Power Supply Costs" means those elements of the costs of fuel and purchased and net interchanged power as determined by the Commission to be included in the calculation of the Power Supply Cost Recovery Factor. The Commission determined in its Order in Case No. U-10335 dated May 10, 1994 that the fossil plant emissions permit fees over or under the amount included in base rates charged the Company are an element of fuel costs for the purpose of the clause.

B. Billing

- (1) The Power Supply Cost Recovery Factor shall consist of an adjustment factor of 1.07735 applied to projected average booked cost of fuel burned for electric generation and purchased and net interchange power incurred above or below a cost base of \$0.05570 per kWh (excluding line losses). Average booked costs of fuel burned and purchased and net interchange power shall be equal to the booked costs in that period divided by that period's net system kWh requirements. The average booked costs so determined shall be truncated to the full \$0.00001 cost per Kilowatt-hour. Net system kWh requirements shall be the sum of the net kWh generation and net kWh purchased and interchange power.
- (2) Each month the Company shall include in its rates a Power Supply Cost Recovery Factor up to the maximum authorized by the Commission as shown on Sheet No. D-6.00.

Should the Company apply lesser factors than those shown on Sheet No. D-6.00, or if the factors are later revised pursuant to Commission Orders or Michigan Compiled Laws, Annotated, 460.6 et seq., the Company shall notify the Commission if necessary and file a revised Sheet No. D-6.00.

C. General Conditions

- (1) The power supply and cost review shall be conducted not less than once a year for the purpose of evaluating the Power Supply Cost Recovery Plan filed by the Company and to authorize appropriate Power Supply Cost Recovery Factors. Contemporaneously with its Power Supply Cost Recovery Plan, the Company shall file a 5-year forecast of the power supply requirements of its customers, its anticipated sources of supply and projections of Power Supply Costs.
- (2) Not more than 45 days following the last day of each billing month in which a Power Supply Cost Recovery Factor has been applied to customers' bills, the Company shall file with the Commission a detailed statement for that month of the revenues recorded pursuant to the Power Supply Cost Recovery Factor and the allowance for cost of power included in the base rates established in the latest Commission order for the Company, and the cost of power supply.
- (3) All revenues collected pursuant to the Power Supply Cost Recovery Factors and the allowance for power included in the base rates are subject to annual reconciliation proceedings.

(Continued on Sheet No. C-37.00)

(Continued from Sheet No. C-53.00)

C10. RENEWABLE ENERGY PLAN (REP) (Contd)

C10.5 Pilot Solar Program (Contd)

E. Solar Energy Credits

Solar Energy Credits applied to the customer's monthly bill are based on the customer's subscription level, the energy credit and the capacity credit.

The Solar Energy Credits in years one through five will be based on the Short Term Program Energy and Capacity Value and in years six through twenty-five on the sum of the Long Term Program Energy Value and the Long Term Program Capacity Value.

The Long Term Program Energy Value includes a factor to account for avoided line losses attributable to the distributed resource location on the distribution system. The avoided line loss factor is 2.13%. This value will be revised when line losses are updated in general electric rate cases, as approved by the Commission.

Customers that chose to have the REC sold when this option was initially available will be credited quarterly. The REC credit is based on a Michigan Renewable Portfolio Standard REC value published quarterly in the Midwest Market Notes by Clear Energy Brokerage and Consulting, LLC, or successor publication, multiplied by the RECs generated. Alternatively, the REC value may be based on the actual sale of the RECs.

If the monthly Solar Energy Credit is greater than the customer's bill, the excess credit will be rolled over and applied to the next month's bill. If a Solar Energy Credit accumulates to an amount greater than \$100, the Company shall pay the balance to the customer.

F. Reporting

Solar Program production data will be available on the Company's website. Each participating customer's monthly energy bill will include the Subscription Payment and Solar Energy Credit.

G. Cost Recovery

Costs will be recovered as set forth in the Commission Order in Case No. U-17752.

H. MI Sunrise Solar

MI Sunrise Solar is a pilot option that allows Non-profit Organizations the option to procure block subscriptions and assign the credits from the blocks to low-income residential customers as defined in Rule C5.4 Shutoff Protection Plan for Residential Customers. Non-profit Organizations may procure block subscriptions in excess of their own annual usage if the excess block subscriptions are used for the purpose of assigning credits to low-income customers. Participating Non-profit Organizations serving low-income residential customers will determine the low-income residential customers' program eligibility based on established income-eligibility criteria used as defined in Rule C5.4, Shutoff Protection Plan for Residential Customers. Non-profit Organizations may also procure block subscriptions for assigning credits to educational facilities.

Subscription costs for Non-profit Organizations may be funded through grants or tax-deductible donations and shall be payable per the single upfront payment terms as specified in Section D of this rule. Subscribed blocks are distributed to low-income residential customer recipients at up to 10 blocks per household for a maximum of a three-year term. After the three-year term has concluded, the participating Non-profit Organizations may choose to renew the subscription with the low-income residential customer recipient or rotate to a new recipient to distribute the benefits to multiple households. However, non-profit educational facilities shall not have the total subscriptions exceed the benefiting facilities' Annual Net Usage.

Participating Non-profit Organizations shall provide annual reporting to the Company by April 30 of each year regarding number of eligible customers, number of customer applications, and total customer participation.

(Continued on Sheet No. C-55.00)

(Continued from Sheet No. C-64.00)

C11. SELF-GENERATION, NET METERING AND DISTRIBUTED GENERATION (Contd)

C11.3 DISTRIBUTED GENERATION PROGRAM

- A. The Distributed Generation Program is offered as authorized by 2008 PA 295 as amended, 1939 PA 3, as amended by 2016 PA 341, Section (6)(a)(14), and the Commission in Case No. U-20697.
- B. Distributed Generation Definitions
1. A Category 1 distributed generation customer has one or more Eligible Electric Generators with an aggregate nameplate capacity of 20 kW or less that use equipment certified by a nationally recognized testing laboratory to IEEE 1547.1 testing standards and is in compliance with UL 1741 scope 1.1A located on the customer's premises and metered at a single point of contact.
 2. A Category 2 distributed generation customer has one or more Eligible Electric Generators with an aggregate capacity greater than 20 kW but not more than 150 kW located on the customer's premises and metered at a single point of contact.
 3. A Category 3 distributed generation customer has one or more methane digesters with an aggregate nameplate capacity greater than 150 kW but not more than 550 kW located on the customer's premises and metered at a single point of contact.
 4. Eligible Electric Generator – a renewable energy system or a methane digester with a generation capacity limited to no more than 100% of the customer's electricity consumption for the previous 12 months and does not exceed the following:
 - a. For a renewable energy system, 150 kW of aggregate generation at a single site
 - b. For a methane digester, 550 kW of aggregate generation at a single site
 5. Inflow – the metered inflow delivered by the Company to the customer during the billing month or time-based pricing period.
 6. Outflow – the metered quantity of the customer's generation not used on site and exported to the utility during the billing month or time-based pricing period.
 7. *Outflow Demand for Primary and Secondary Rate Customers – the total metered outflow quantity of Kilowatts (kW) during the On-Peak period divided by the number of On-Peak hours in the billing period.*
 8. Program Capacity – maximum program limit of 2% of the Company's average Peak Demand for Full-Service Customers during the previous five calendar years. Within the Program Capacity, 1.0% is reserved for Category 1 legacy Net Metering Customers and Distributed Generation Customers, 0.50% is reserved for Category 2 legacy Net Metering Customers and Distributed Generation Customers and 0.50% is reserved for Category 3 legacy Net Metering Customers and Distributed Generation Customers.
 9. Renewable Energy Resource – a resource that naturally replenishes over a human, not geological, timeframe and that is ultimately derived from solar power, water power, or wind power. Renewable energy resource does not include petroleum, nuclear, natural gas, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes, but is not limited to, all of the following:
 - a. Biomass
 - b. Solar and solar thermal energy
 - c. Wind energy
 - d. Kinetic energy of moving water, including the following:
 - i. Waves, tides or currents
 - ii. Water released through a dam
 - e. Geothermal energy
 - f. Thermal energy produced from a geothermal heat pump
 - g. Any of the following cleaner energy resources:
 - i. Municipal solid waste, including the biogenic and anthropogenic fractions
 - ii. Landfill gas produced by municipal solid waste
 - iii. Fuel that has been manufactured in whole or significant part from waste, including, but not limited to, municipal solid waste. Fuel that meets the requirements of this subparagraph includes, but is not limited to, material that is listed under 40 CFR 241.3(b) or 241.4(a) for which a nonwasted determination is made by the United States Environmental Protection Agency pursuant to 40 CFR 241.3(c). Pet coke, hazardous waste, or scrap tires are not fuel meeting the requirements of this subparagraph.

(Continued on Sheet No. C-64.20)

(Continued from Sheet No. C-64.20)

C11. SELF-GENERATION, NET METERING AND DISTRIBUTED GENERATION (Contd)

C11.3 DISTRIBUTED GENERATION PROGRAM (Contd)

E. Customer Billing – Category 1, 2 and 3 Customers (Cont)

a. Full Service Customers Outflow Credit

Customers will be credited per kWh or per kW of Outflow based on the power supply rates (which exclude transmission costs) of their Full Service Rate Schedule as shown below, plus the PSCR factor as shown on Tariff Sheet No. D-6.00.

Residential Rates		
Summer	(\$0.117495)	per kWh of On-Peak Outflow between June 1 and September 30
On-Peak Basic	(\$0.078732)	per kWh of Off-Peak Outflow between June 1 and September 30
Rate RSP	(\$0.082062)	per kWh of all Outflow kWh between October 1 and May 31
	(\$0.117495)	per kWh of On-Peak Outflow between June 1 and September 30
Smart Hours	(\$0.078732)	per kWh of Off-Peak Outflow between June 1 and September 30
Rate RSH	(\$0.088300)	per kWh of On-Peak Outflow between October 1 and May 31
	(\$0.080357)	per kWh of Off-Peak Outflow between October 1 and May 31
	(\$0.117495)	per kWh of On-Peak Outflow between June 1 and September 30
Nighttime Savers	(\$0.088416)	per kWh of Off-Peak Outflow between June 1 and September 30
Rate RPM	(\$0.056697)	per kWh of Super Off-Peak Outflow between June 1 and September 30
	(\$0.088300)	per kWh of On-Peak Outflow between October 1 and May 31
	(\$0.089142)	per kWh of Off-Peak Outflow between October 1 and May 31
	(\$0.066571)	per kWh of Super Off-Peak Outflow between October 1 and May 31
Secondary Rates		
Rate GS	(\$0.073258)	per kWh of Outflow during the billing months of June through September
	(\$0.075051)	per kWh of Outflow during the billing months of October through May
Rate GSTU ⁽¹⁾	(\$0.093433)	per kWh of On-Peak Outflow during the billing months of June through September
	(\$0.073315)	per kWh of Mid-Peak Outflow during the billing months of June through September
	(\$0.048601)	per kWh of Off-Peak Outflow during the billing months of June through September
	(\$0.081964)	per kWh of On-Peak Outflow during the billing months of October through May
	(\$0.063862)	per kWh of Off-Peak Outflow during the billing months of October through May
Rate GSD ⁽¹⁾	(\$0.037848)	per kWh of Outflow during the billing months of June through September
	(\$0.038336)	per kWh of Outflow during the billing months of October through May
	(\$14.05)	per kW of Outflow Demand during the billing months of June through September
	(\$11.51)	per kW of Outflow Demand during the billing months of October through May
⁽¹⁾ Outflow credit will be reduced by the applicable Interruptible Credit for GSTU and GSD customers participating on GSI Provision.		

(Continued on Sheet No. C-64.40)

(Continued from Sheet No. C-64.30)

Primary Rates		
Rate GP		
Customer Voltage Level 1	(0.067336)	per kWh of outflow during the billing months of June through September
	(0.068922)	per kWh of outflow during the billing months of October through May
Customer Voltage Level 2	(0.068263)	per kWh of outflow during the billing months of June through September
	(0.069872)	per kWh of outflow during the billing months of October through May
Customer Voltage Level 3	(0.068937)	per kWh of outflow during the billing months of June through September
	(0.070564)	per kWh of outflow during the billing months of October through May
Rate GPD ⁽²⁾		
Customer Voltage Level 1	(\$0.037369)	per kWh of On-Peak Outflow during the billing months of June through September
	(\$0.023809)	per kWh of Off-Peak Outflow during the billing months of June through September
	(\$17.71)	per kW of Outflow Demand during the billing months of June through September
	(\$0.030127)	per kWh of On-Peak Outflow during the billing months of October through May
	(\$0.027868)	per kWh of Off-Peak Outflow during the billing months of October through May
	(\$16.05)	per kW of Outflow Demand during the billing months of October through May
Customer Voltage Level 2	(0.037840)	per kWh of On-Peak Outflow during the billing months of June through September
	(0.024109)	per kWh of Off-Peak Outflow during the billing months of June through September
	(17.97)	per kW of Outflow Demand during the billing months of June through September
	(0.030507)	per kWh of On-Peak Outflow during the billing months of October through May
	(0.028220)	per kWh of Off-Peak Outflow during the billing months of October through May
	(16.29)	per kW of Outflow Demand during the billing months of October through May
Customer Voltage Level 3	(0.038150)	per kWh of On-Peak Outflow during the billing months of June through September
	(0.024306)	per kWh of Off-Peak Outflow during the billing months of June through September
	(18.16)	per kW of Outflow Demand during the billing months of June through September
	(0.030757)	per kWh of On-Peak Outflow during the billing months of October through May
	(0.028451)	per kWh of Off-Peak Outflow during the billing months of October through May
	(16.47)	per kW of Outflow Demand during the billing months of October through May
⁽²⁾ For customers on Rate GPD GI Provision, On-Peak kW Outflow Credit shall be reduced by \$7.00 per kW during the billing months of June through September and \$6.00 per kW during the billing months of October through May.		

(Continued on Sheet No. C-64.50)

(Continued from Sheet No. C-64.40)

Rate GPTU		
Customer Voltage Level 1	(0.101831)	per kWh of High-Peak Outflow between June 1 and September 30
	(0.092346)	per kWh of Mid-Peak Outflow between June 1 and September 30
	(0.072563)	per kWh of Low-Peak Outflow between June 1 and September 30
	(0.050842)	per kWh of Off-Peak Outflow between June 1 and September 30
	(0.068797)	per kWh of High-Peak Outflow between October 1 and May 31
Customer Voltage Level 2	(0.066045)	per kWh of Mid-Peak Outflow between October 1 and May 31
	(0.059847)	per kWh of Off-Peak Outflow between October 1 and May 31
	(0.103239)	per kWh of High-Peak Outflow between June 1 and September 30
	(0.093628)	per kWh of Mid-Peak Outflow between June 1 and September 30
	(0.073573)	per kWh of Low-Peak Outflow between June 1 and September 30
Customer Voltage Level 3	(0.051547)	per kWh of Off-Peak Outflow between June 1 and September 30
	(0.069732)	per kWh of High-Peak Outflow between October 1 and May 31
	(0.066944)	per kWh of Mid-Peak Outflow between October 1 and May 31
	(0.060659)	per kWh of Off-Peak Outflow between October 1 and May 31
	(0.104269)	per kWh of High-Peak Outflow between June 1 and September 30
Rate EIP	(0.094571)	per kWh of Mid-Peak Outflow between June 1 and September 30
	(0.074317)	per kWh of Low-Peak Outflow between June 1 and September 30
	(0.052065)	per kWh of Off-Peak Outflow between June 1 and September 30
	(0.070403)	per kWh of High-Peak Outflow between October 1 and May 31
	(0.067592)	per kWh of Mid-Peak Outflow between October 1 and May 31
Customer Voltage Level 1	(0.061242)	per kWh of Off-Peak Outflow between October 1 and May 31
	(0.106702)	per kWh of Critical Peak Outflow between June 1 and September 30
	(0.071135)	per kWh of High-Peak Outflow between June 1 and September 30
	(0.064119)	per kWh of Mid-Peak Outflow between June 1 and September 30
	(0.050953)	per kWh of Low-Peak Outflow between June 1 and September 30
	(0.034117)	per kWh of Off-Peak Outflow between June 1 and September 30
	(0.079581)	per kWh of Critical Peak Outflow between October 1 and May 31
	(0.053054)	per kWh of High-Peak Outflow between October 1 and May 31
	(0.050323)	per kWh of Mid-Peak Outflow between October 1 and May 31
	(0.044634)	per kWh of Off-Peak Outflow between October 1 and May 31
Customer Voltage Level 2	(0.108094)	per kWh of Critical Peak Outflow between June 1 and September 30
	(0.072063)	per kWh of High-Peak Outflow between June 1 and September 30
	(0.064958)	per kWh of Mid-Peak Outflow between June 1 and September 30
	(0.051621)	per kWh of Low-Peak Outflow between June 1 and September 30
	(0.034563)	per kWh of Off-Peak Outflow between June 1 and September 30
	(0.080607)	per kWh of Critical Peak Outflow between October 1 and May 31
	(0.053738)	per kWh of High-Peak Outflow between October 1 and May 31
Customer Voltage Level 3	(0.050973)	per kWh of Mid-Peak Outflow between October 1 and May 31
	(0.045210)	per kWh of Off-Peak Outflow between October 1 and May 31
	(0.109050)	per kWh of Critical Peak Outflow between June 1 and September 30
	(0.072700)	per kWh of High-Peak Outflow between June 1 and September 30
	(0.065536)	per kWh of Mid-Peak Outflow between June 1 and September 30
	(0.052082)	per kWh of Low-Peak Outflow between June 1 and September 30
	(0.034870)	per kWh of Off-Peak Outflow between June 1 and September 30
Customer Voltage Level 1	(0.081303)	per kWh of Critical Peak Outflow between October 1 and May 31
	(0.054202)	per kWh of High-Peak Outflow between October 1 and May 31
	(0.051414)	per kWh of Mid-Peak Outflow between October 1 and May 31
	(0.045601)	per kWh of Off-Peak Outflow between October 1 and May 31
	(0.045601)	per kWh of Off-Peak Outflow between October 1 and May 31

- b. Retail Open Access Customers
The Outflow Credit will be determined by the Retail Service Supplier

(Continued on Sheet No. C-64.60)

(Continued From Sheet No. C-75.00)

C18. STANDARD OFFER - PURCHASED POWER (Contd)

B. Published Avoided Cost Rates

The capacity and energy rates applicable to the Standard Offer will be based on a competitive bidding solicitation procedure approved by the Commission in its Order in Case No. U-20165 dated June 7, 2019. New full avoided costs rates stemming from each competitive solicitation will be filed with the Commission for review and approval within 30 days of the conclusion of each competitive solicitation.

C. Monthly Rate

System Access Charge - Equal to the System Access Charge of the customer's delivery account but not in excess of \$50, assessed per generator meter, to be paid to the Company by the customer or to be deducted from the payment to the customer by the Company.

Energy – For all energy supplied by the seller, the seller shall receive an energy payment equal to one of the rate options below, as selected by the seller and applicable for the term of the contract. The line loss adjustment factor will be revised for future new PPAs when line losses are updated, as approved by the Commission.

Rate Option	Energy Rate \$/kWh	
1. As Available Rate	Actual MISO Day Ahead Locational Marginal Price (LMP) at the Company’s CONS.CETR load node under a 15-year term then multiplied by 1 plus the line loss adjustment factor of 2.13% and less the Administrative Fee of \$0.001/kWh.	
2. LMP Energy Rate Forecast	A 10-year term based on a forecast of LMPs for the first five years and year six through year 10 of the term will be equal to the price of energy in the fifth year of the LMP forecast. Rates include the line loss adjustment and Administrative Fee as provided in Rate Option 1.	
	On-Peak Energy Rate	Off-Peak Energy Rate
Year	\$/kWh	\$/kWh
2019	\$0.03103	\$0.02670
2020	\$0.03173	\$0.02705
2021	\$0.03264	\$0.02777
2022	\$0.03373	\$0.02852
2023	\$0.03474	\$0.02935
2024	\$0.03600	\$0.03058
2025	\$0.03723	\$0.03176
2026	\$0.03844	\$0.03279
2027	\$0.03970	\$0.03391

(Continued on Sheet No. C-77.00)

SURCHARGES

<u>Rate Schedule</u>	Energy Efficiency Program Surcharge (Case No. U-20702) Effective beginning the January 2021 Billing Month⁽¹⁾	+	Distribution Charge for all Residential Rate Schedules	=	Total Distribution Charge⁽⁵⁾
Residential Rates	\$ 0.003484/kWh		\$0.058971/kWh		\$0.062455/kWh
			System Access Charge for each Non-Residential Rate Schedule	=	Total System Access Charge⁽⁵⁾
Rate GS and GSTU					
Tier 1: 0-1,250 kWh/mo.	\$ 8.22/billing meter	+	\$ 20.00/month	=	\$ 28.22/month
Tier 2: 1,251 – 5,000 kWh/mo.	43.32/billing meter	+	20.00/month	=	63.32/month
Tier 3: 5,001 – 30,000 kWh/mo.	180.84/billing meter	+	20.00/month	=	200.84/month
Tier 4: 30,001 – 50,000 kWh/mo.	331.89/billing meter	+	20.00/month	=	351.89/month
Tier 5: >50,000 kWh/mo.	523.44/billing meter	+	20.00/month	=	543.44/month
Rate GSD					
Tier 1: 0-1,250 kWh/mo.	\$ 8.22/billing meter	+	\$ 30.00/month	=	\$ 38.22/month
Tier 2: 1,251 – 5,000 kWh/mo.	43.32/billing meter	+	30.00/month	=	73.32/month
Tier 3: 5,001 – 30,000 kWh/mo.	180.84/billing meter	+	30.00/month	=	210.84/month
Tier 4: 30,001 – 50,000 kWh/mo.	331.89/billing meter	+	30.00/month	=	361.89/month
Tier 5: >50,000 kWh/mo.	523.44/billing meter	+	30.00/month	=	553.44/month
Rate GP					
Tier 1: 0-5,000 kWh/mo.	\$ 22.16/billing meter	+	\$ 100.00/month	=	\$ 122.16/month
Tier 2: 5,001 – 10,000 kWh/mo.	72.49/billing meter	+	100.00/month	=	172.49/month
Tier 3: 10,001 – 30,000 kWh/mo.	314.23/billing meter	+	100.00/month	=	414.23/month
Tier 4: 30,001 – 50,000 kWh/mo.	653.87/billing meter	+	100.00/month	=	753.87/month
Tier 5: >50,000 kWh/mo.	1318.61/billing meter	+	100.00/month	=	1418.61/month
Rate GPD, GPTU, and EIP					
Tier 1: 0-5,000 kWh/mo.	\$ 22.16/billing meter	+	\$ 200.00/month	=	\$ 222.16/month
Tier 2: 5,001 – 10,000 kWh/mo.	72.49/billing meter	+	200.00/month	=	272.49/month
Tier 3: 10,001 – 30,000 kWh/mo.	314.23/billing meter	+	200.00/month	=	514.23/month
Tier 4: 30,001 – 50,000 kWh/mo.	653.87/billing meter	+	200.00/month	=	853.87/month
Tier 5: >50,000 kWh/mo.	1318.61/billing meter	+	200.00/month	=	1518.61/month
Rate GSG-2 ⁽³⁾	NA		NA		NA
Rate GML ⁽³⁾⁽⁴⁾	NA		NA		NA
Rate GUL ⁽³⁾⁽⁴⁾	\$ 0.27/fixture per month ⁽²⁾		NA		NA
Rate GU-LED	NA		NA		NA
Rate GU	NA		NA		NA
Rate PA	NA		NA		NA
Rate ROA-R, ROA-S, ROA-P	Same as Full Service Delivery Rate Schedule		Same as Full Service Delivery Rate Schedule		Same as Full Service Delivery Rate Schedule

⁽¹⁾ This is subject to all general terms and conditions as shown in Rule C12, Energy Efficiency. The Energy Efficiency Program Surcharge amount may vary during specific months as authorized by the Michigan Public Service Commission. The Company will file a new tariff sheet to reflect any change in surcharges once the financial incentive recovery period has been completed.

⁽²⁾ Company-Owned lighting fixture customers served on General Service Unmetered Lighting Rate GUL shall pay this surcharge. Rate codes 1455 and 1460 will not be charged this surcharge.

⁽³⁾ Additional Rate Schedules can opt-in to the Energy Efficiency Program as described in Rule C12., Energy Efficiency.

⁽⁴⁾ Lighting rates that choose to opt-in to the Energy Efficiency Program shall be assessed \$0.27 per fixture per month.

⁽⁵⁾ This charge will be shown on the monthly utility bill using the methodology as described in Rule C12, Energy Efficiency.

RATE CATEGORIES AND PROVISIONS

<u>Description</u>	<u>Full Service</u>	<u>Retail Open Access</u>
RESIDENTIAL SUMMER ON-PEAK BASIC RATE RSP		
Residential	1001	Not Applicable
<u>Provisions</u>		
Residential Summer On-Peak Basic With Income Assistance (RIA) *	Applicable	Not Applicable
Residential Summer On-Peak Basic With Low Income Assistance Credit (LIAC) *	Applicable	Not Applicable
Residential Summer On-Peak Basic With Senior Citizen (RSC) *	Applicable	Not Applicable
Peak Power Savers – Device Cycling Program	Applicable	Not Applicable
Peak Power Savers – Peak Reward ***	Applicable	Not Applicable
Peak Power Savers – Critical Peak Pricing ***	Applicable	Not Applicable
Residential Summer On-Peak Basic With Self-Generation (SG) **	1700	Not Applicable
Net Metering Program	Applicable	Not Applicable
Distributed Generation Program	Applicable	Not Applicable
Green Generation Program ****	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
RESIDENTIAL SMART HOURS RATE RSH		
Residential	1040	Not Applicable
<u>Provisions</u>		
Residential Smart Hours With Income Assistance (RIA) *	Applicable	Not Applicable
Residential Smart Hours With Low Income Assistance Credit (LIAC) *	Applicable	Not Applicable
Residential Smart Hours With Senior Citizen (RSC) *	Applicable	Not Applicable
Peak Power Savers – Device Cycling Program	Applicable	Not Applicable
Peak Power Savers – Peak Reward ***	Applicable	Not Applicable
Peak Power Savers – Critical Peak Pricing ***	Applicable	Not Applicable
Residential Smart Hours With Self-Generation (SG) **	1702	Not Applicable
Net Metering Program	Applicable	Not Applicable
Distributed Generation Program	Applicable	Not Applicable
Green Generation Program ****	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
RESIDENTIAL NIGHTTIME SAVERS RATE RPM		
Residential	1050	Not Applicable
<u>Provisions</u>		
Residential Nighttime Savers With Income Assistance (RIA) *	Applicable	Not Applicable
Residential Nighttime Savers With Low Income Assistance Credit (LIAC) *	Applicable	Not Applicable
Residential Nighttime Savers With Senior Citizen (RSC) *	Applicable	Not Applicable
Residential Nighttime Savers – Plug-In Electric Vehicle Only Credit	Applicable	Not Applicable
Peak Power Savers – Device Cycling Program	Applicable	Not Applicable
Peak Power Savers – Peak Reward ***	Applicable	Not Applicable
Peak Power Savers – Critical Peak Pricing ***	Applicable	Not Applicable
Residential Nighttime Savers With Self-Generation (SG) **	1703	Not Applicable
Net Metering Program	Applicable	Not Applicable
Distributed Generation Program	Applicable	Not Applicable
Green Generation Program ****	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
RESIDENTIAL SERVICE SECONDARY NON-TRANSMITTING METER RATE RSM		
Residential	1000	Not Applicable
<u>Provisions</u>		
Residential Non-Transmitting Meter With Income Assistance (RIA) *	Applicable	Not Applicable
Residential Non-Transmitting Meter With Low Income Assistance Credit (LIAC) *	Applicable	Not Applicable
Residential Non-Transmitting Meter With Senior Citizen (RSC) *	Applicable	Not Applicable
Green Generation Program ****	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable

* Provisions shall not be taken in conjunction with each other.

** Provisions shall not be taken in conjunction with the Net Metering Program or the Distributed Generation Program.

*** Peak Reward and Critical Peak Pricing shall not be taken in conjunction with each other.

**** Closed to new customers, effective April 5, 2019.

(Continued on Sheet No. D-10.00)

RESIDENTIAL SUMMER ON-PEAK BASIC RATE RSP

Availability:

Subject to any restrictions, this rate is available to any Full Service Customer desiring electric service for any usual residential use in: (i) private family dwellings; (ii) tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for up to six persons; or (iii) existing multifamily dwellings containing up to four households served through a single meter. Service for single-phase or three-phase equipment may be included under this rate, provided the individual capacity of such equipment does not exceed 3 hp or 3 kW, nor does the total connected load of the home exceed 10 kW, without the specific consent of the Company.

This rate is not available for: (i) resale purposes; (ii) multifamily dwellings containing more than four living units served through a single meter; (iii) tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons; (iv) any other Non-Residential usage; or (v) Rule C5.5 – Non-Transmitting Meter Provision participants.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this rate only under the Rules and Regulations contained in the Company's Electric Rate Book.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Monthly Rate:

Power Supply Charges: These charges are applicable to Full Service Customers.

Energy Charge:

Non-Capacity	Capacity	Total	
\$ 0.087914	\$ 0.061040	\$0.148954	per kWh for Off-Peak kWh between June 1 and September 30
\$0.058850	\$0.041027	\$0.099877	per kWh for On-Peak kWh between June 1 and September 30
\$0.058620	\$0.039917	\$0.098537	per kWh for all kWh between October 1 and May 31

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges: These charges are applicable to Full Service Customers.

System Access Charge:	\$8.00	per customer per month
Distribution Charge:	\$0.058971	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-15.00)

RESIDENTIAL SUMMER ON-PEAK BASIC RATE RSP
(Continued From Sheet No. D-15.00)

Monthly Rate: (Contd)

Peak Power Savers:

Customers can elect to participate in the *Device Cycling Program* and the *Peak Reward Program* as described in this tariff. When a customer participates in both programs, the customer's incremental energy savings earned under the *Peak Reward* is compared to the *total credit earned under the Device Cycling Program*. The greater of the two credits will be applied to the customer's invoice for that billing month. Both credits will not apply in a single billing month. Customers participating in the *Peak Reward Program* cannot participate in the *Critical Peak Price Program*. The Company reserves the right to call test events between October 1 and May 31 for customers participating in *Peak Power Savers Programs*.

Device Cycling Program

A customer in a single family residence who is taking service from the Company may be eligible to participate in the Company's voluntary *Peak Power Savers – Device Cycling Program* for load management of eligible electric equipment, *including central air conditioning, water heaters, generators and other qualifying equipment*. Customer eligibility to participate is determined solely by the Company. *Device Cycling Program Credits may be taken in conjunction with one another*. The Company will accept a customer's qualifying electric equipment under this program only if it has the capability to be controlled by the Company. The Company will install the required equipment at the customer's premises which will allow Load Management upon signal from the Company. When Load Management equipment is installed at a premises, future customers will be auto-enrolled into the *Peak Power Savers- Device Cycling Program*. Upon move-in, the customer will be notified confirming participation in the *Peak Power Savers- Device Cycling Program* and will have 30 days to opt out. Such equipment shall be furnished, installed, maintained and owned by the Company at the Company's expense. Equipment installations must conform to the Company's specifications.

The Company reserves the right to specify the term or duration of the program. The customer's enrollment shall be terminated if the voluntary program ceases, if the customer tampers with the control switch or the Company's equipment or any reasons as provided for in Rule C1.3, Use of Service.

Load Management may occur any day of the week including weekends between the hours of 7:00 AM and 8:00 PM for no more than an eight hour period in any one day. Load management may be implemented for, but not limited to, maintaining system integrity, making an emergency purchase, economic reasons, or when there is insufficient system generation available to meet anticipated system load. Load Management may only occur outside of the hours of 7:00 AM and 8:00 PM during a declared emergency event as directed by MISO.

The customer may contact the Company to request to override a Load Management event for one Load Management event during the June through September months in any one calendar year for the balance of the hours left in that Load Management event with no penalty. The request shall be granted at the discretion of the Company. If the override request was granted by the Company and the customer requests and is granted any additional overrides in the same calendar year, the *Peak Power Savers – Device Cycling Credit* may be forfeited for that billing month.

Rule C1.1 Character of Service, Rule C3 Emergency Electrical Procedures and other rules and regulations contained in the Company's Electric Rate Book apply to customers taking service under this *Peak Power Savers – Device Cycling Program*.

The monthly credit(s) for the *Peak Power Savers Program* shall be applied as follows:

Power Supply Charges: These charges are applicable to Full Service Customers.

Air Conditioner Peak Cycling Credit:	\$(8.00)	per customer per month during the billing months of June – September
Water Heater Cycling Credit:	\$(3.20)	per customer per month for all billing months
Back-Up Generator Cycling Credit:	\$(22.40)	per customer per month for all billing months

(Continued on Sheet No. D-17.00)

RESIDENTIAL SUMMER ON-PEAK BASIC RATE RSP
(Continued From Sheet No. D-16.00)

Monthly Rate: (Contd)

Peak Power Savers: (Contd)

Peak Reward

Participating customers are able to manage electric costs by reducing load during critical peak events. The Company may call up to fourteen critical peak events between June 1 and September 30 and up to five critical peak events between October 1 and May 31. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. Customers must have a transmitting meter to participate in Peak Power Savers.

During a critical peak event, customers will be credited the Peak Reward per kWh of incremental energy reductions.

Power Supply Charges: These charges are applicable to Full Service Customers.

Peak Reward: \$(1.00) per kWh of incremental energy reduction during a critical peak event

Critical Peak Price

Participating customers are able to manage electric costs by shifting load during critical peak events to a lower cost pricing period. The Company may call up to fourteen critical peak events between June 1 and September 30. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. Customers must have a transmitting meter to participate in Peak Power Savers.

During a critical peak event, customers will be charged the Critical Peak Price per kWh consumed during the critical peak event.

Power Supply Charges: These charges are applicable to Full Service Customers.

Critical Peak Price: \$1.00 per kWh of energy consumed during a critical peak event between June 1 and September 30

Off-Peak Discount: \$(0.015226) per kWh of Off-Peak kWh between June 1 and September 30

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

Net Metering Program:

The Net Metering Program is available to any eligible customer as described in Rule C 11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.2.B, Net Metering Definitions.

A customer who participates in the Net Metering Program is subject to the provisions contained in Rule C 11.2., Net Metering Program.

Distributed Generation Program:

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

Green Generation Program:

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C 10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C 10.2, Green Generation Program.

(Continued on Sheet No. D-18.00)

RESIDENTIAL SMART HOURS RATE RSH

Availability:

Subject to any restrictions, this rate is available to any Full Service residential customers who have the required metering equipment and infrastructure installed. The Company will furnish, maintain and own the required equipment at the customers' premises at the Company's request. By selecting this rate schedule, the customer agrees to provide an email address. Electric consumption is billed using on-peak and off-peak periods year-round on the Residential Smart Hours Rate.

This rate is not available for resale purposes or for any Non-Residential usage.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Monthly Rate:

Power Supply Charges: These charges are applicable to Full Service Customers.

	Non-Capacity	Capacity	Total	
Off-Peak – Summer	\$0.058850	\$0.041027	\$0.099877	per kWh for all Off-Peak kWh between June 1 and September 30
On-Peak – Summer	\$0.087914	\$0.061040	\$0.148954	per kWh for all On-Peak kWh between June 1 and September 30
Off-Peak – Winter	\$0.058040	\$0.038761	\$0.096801	per kWh for all Off-Peak kWh between October 1 and May 31
On-Peak – Winter	\$0.062913	\$0.044093	\$0.107006	per kWh for all On-Peak kWh between October 1 and May 31

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges: These charges are applicable to Full Service Customers.

System Access Charge:	\$8.00	per customer per month
Distribution Charge:	\$0.058971	per kWh for all kWh for a Full Service customer

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Income Assistance Service Provision (RIA):

When service is supplied to a Principal Residence Customer, where the household receives a Home Heating Credit (HHC) in the State of Michigan, a credit shall be applied during all billing months. For an income assistance customer to qualify for this credit the Company shall require annual evidence of the HHC energy draft or warrant. The customer may also qualify for this credit by meeting the requirements under Rule B2, Consumer Standards and Billing Practices for Electric and Natural Gas Service, R 460.102, Definitions; A to F. Confirmation shall be required by an authorized State or Federal agency to verify that the customer's total household income does not exceed 150% of the Federal poverty level.

The monthly credit for the residential Income Assistance Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service Customers.

Income Assistance Credit:	\$(8.00)	per customer per month
---------------------------	----------	------------------------

This credit shall not be taken in conjunction with a credit for the Senior Citizen Service Provision (RSC).

RESIDENTIAL SMART HOURS RATE RSH
(Continued From Sheet No. D-36.00)

Monthly Rate: (Contd)

Low Income Assistance Credit (LIAC):

Company selected Residential customers may receive LIAC for up to 12 consecutive months. The number of customers enrolled may be adjusted, at the Company's discretion, in order to dispense Commission-approved LIAC funding on an annual basis. Any shortfall in the dispensing of annual LIAC funds to qualified customers shall be carried over into the subsequent LIAC program year. LIAC customer selection will be based on highest need chosen from one or more of the following eligibility criteria:

1. Customers with an approved critical care certification where the total household income does not exceed 150% of the Federal Poverty level within the last 12 months, as verified by an authorized State, Federal or community agency.
2. Customers who are enrolled in the Company's Consumers Affordable Resources for Energy (CARE) program.
3. Customers who have received a Home Heating Credit in the previous 12 months.
4. Customers whose total household income does not exceed 150% of the Federal Poverty level as verified by an authorized State, Federal or community agency.

The monthly credit for LIAC shall be applied as follows:

Low Income Assistance Credit: \$(30.00) per meter per month

If a credit balance occurs, the credit shall apply to the customer's future electric utility charges. Re-enrollment, if applicable, and confirmation of qualification is required for each annual period of participation.

Customers selected for LIAC will not be eligible for the RIA Provision while enrolled in LIAC.

Senior Citizen Service Provision (RSC):

When service is supplied to the Principle Residence Customer who is 65 years of age or older and head of household, a credit shall be applied during all billing months.

The monthly credit for the residential Senior Citizen Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service Customers.

Senior Citizen Credit: \$(4.00) per customer per month

This credit shall not be taken in conjunction with a credit for the Income Assistance Service Provision (RIA).

Peak Power Savers:

Customers can elect to participate in the *Device Cycling Program* and the *Peak Reward Program* as described in this tariff. When a customer participates in both programs, the customer's incremental energy savings earned under the *Peak Reward* is compared to the *total credit earned under the Device Cycling Program*. The greater of the two credits will be applied to the customer's invoice for that billing month. Both credits will not apply in a single billing month. Customers participating in the *Peak Reward Program* cannot participate in the *Critical Peak Price Program*. The Company reserves the right to call test events between October 1 and May 31 for customers participating in *Peak Power Savers Programs*.

Device Cycling Program

A customer in a single family residence who is taking service from the Company may be eligible to participate in the Company's voluntary *Peak Power Savers – Device Cycling Program* for load management of eligible electric equipment, *including central air conditioning, water heaters, generators and other qualifying equipment*. Customer eligibility to participate is determined solely by the Company. *Device Cycling Program Credits may be taken in conjunction with one another*. The Company will accept a customer's qualifying electric equipment under this program only if it has the capability to be controlled by the Company. The Company will install the required equipment at the customer's premises which will allow Load Management upon signal from the Company. When Load Management equipment is installed at a premises, future customers will be auto-enrolled into the *Peak Power Savers- Device Cycling Program*. Upon move-in, the customer will be notified confirming participation in the *Peak Power Savers- Device Cycling Program* and will have 30 days to opt out. Such equipment shall be furnished, installed, maintained and owned by the Company at the Company's expense. Equipment installations must conform to the Company's specifications.

(Continued on Sheet No. D-38.00)

RESIDENTIAL SMART HOURS RATE RSH
 (Continued From Sheet No. D-37.00)

Monthly Rate: (Contd)

Peak Power Savers: (Contd)

Device Cycling Program: Contd

The Company reserves the right to specify the term or duration of the program. The customer's enrollment shall be terminated if the voluntary program ceases, if the customer tampers with the control switch or the Company's equipment or any reasons as provided for in Rule C1.3, Use of Service.

Load Management may occur any day of the week including weekends between the hours of 7:00 AM and 8:00 PM for no more than an eight hour period in any one day. Load management may be implemented for, but not limited to, maintaining system integrity, making an emergency purchase, economic reasons, or when there is insufficient system generation available to meet anticipated system load. Load Management may only occur outside of the hours of 7:00 AM and 8:00 PM during a declared emergency event as directed by MISO.

The customer may contact the Company to request to override a Load Management event for one Load Management event during the June through September months in any one calendar year for the balance of the hours left in that Load Management event with no penalty. The request shall be granted at the discretion of the Company. If the override request was granted by the Company and the customer requests and is granted any additional overrides in the same calendar year, the Peak Power Savers – Device Cycling Credit may be forfeited for that billing month.

Rule C1.1 Character of Service, Rule C3 Emergency Electrical Procedures and other rules and regulations contained in the Company's Electric Rate Book apply to customers taking service under this Peak Power Savers – Device Cycling Program.

The monthly credit(s) for the Peak Power Savers Program shall be applied as follows:

Power Supply Charges: These charges are applicable to Full Service Customers.

Air Conditioner Peak Cycling Credit:	\$(8.00)	per customer per month during the billing months of June – September
Water Heater Cycling Credit:	\$(3.20)	per customer per month for all billing months
Back-Up Generator Cycling Credit:	\$(22.40)	per customer per month for all billing months

Peak Reward:

Participating customers are able to manage electric costs by reducing load during critical peak events. The Company may call up to fourteen critical peak events between June 1 and September 30 and up to five critical peak events between October 1 and May 31. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. Customers must have a transmitting meter to participate in Peak Power Savers.

During a critical peak event, customers on will be credited the Peak Reward per kWh of incremental energy reductions.

Power Supply Charges: These charges are applicable to Full Service Customers.

Peak Reward	\$(1.00)	per kWh of incremental energy reduction during a critical peak event
-------------	----------	--

Critical Peak Price

Participating customers are able to manage electric costs by shifting load during critical peak events to a lower cost pricing period. The Company may call up to fourteen critical peak events between June 1 and September 30. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. Customers must have a transmitting meter to participate in Peak Power Savers.

During a critical peak event, customers on will be charged the Critical Peak Price per kWh consumed during the critical peak event.

Power Supply Charges: These charges are applicable to Full Service Customers.

Critical Peak Price	\$1.00	per kWh of energy consumed during a critical peak event between June 1 and September 30
Off-Peak Discount	\$(0.015226)	per kWh for Off-Peak kWh between June 1 and September 30

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-39.00)

RESIDENTIAL NIGHTTIME SAVERS RATE RPM

Availability:

The Residential Nighttime Savers Rate will be available on a date to be announced by the Company.

The Residential Nighttime Savers Rate is voluntary and available to Full Service residential customers who have the required metering equipment and infrastructure installed. The Company will furnish, install, maintain and own the required equipment at the customers' premises at the Company's expense.

This rate is not available for: (i) resale purposes; (ii) multifamily dwellings containing more than four living units served through a single meter; (iii) tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons; (iv) any other Non-Residential usage or (v) customers being served under Rule C5.5 Non-Transmitting Meter Provision.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this program only under the Rules and Regulations contained in the Company's Electric Rate Book.

Nature of Service:

Service under this program shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Monthly Rate:

Power Supply Charges: These charges are applicable to Full Service Customers.

Energy Charge:

	Non-Capacity	Capacity	Total	
Super Off-Peak - Summer	\$0.044671	\$0.025605	\$0.070276	per kWh for all Off-Peak kWh between June 1 and September 30
Off-Peak - Summer	\$0.068661	\$0.042059	\$0.110721	per kWh for all Mid-Peak kWh between June 1 and September 30
On-Peak - Summer	\$0.087914	\$0.061040	\$0.148954	per kWh for all On-Peak kWh between June 1 and September 30
Super Off-Peak - Winter	\$0.049597	\$0.028737	\$0.078334	per kWh for all Off-Peak kWh between June 1 and September 30
Off-Peak - Winter	\$0.065475	\$0.040068	\$0.105544	per kWh for all Off-Peak kWh between October 1 and May 31
On-Peak - Winter	\$0.062913	\$0.044093	\$0.107006	per kWh for all On-Peak kWh between October 1 and May 31

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges: These charges are applicable to Full Service Customers.

System Access Charge: \$8.00 per customer per month

Distribution Charge: \$0.058971 per kWh for all kWh for a Full Service Customer

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Income Assistance Service Provision (RIA):

When service is supplied to a Principal Residence Customer, where the household receives a Home Heating Credit (HHC) in the State of Michigan, a credit shall be applied during all billing months. For an income assistance customer to qualify for this credit the Company shall require annual evidence of the HHC energy draft or warrant. The customer may also qualify for this credit by meeting the requirements under Rule B2., Consumer Standards and Billing Practices for Electric and Natural Gas Service, R 460.102, Definitions; A to F. Confirmation shall be required by an authorized State or Federal agency to verify that the customer's total household income does not exceed 150% of the Federal poverty level.

The monthly credit for the residential Income Assistance Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service Customers.

Income Assistance Credit: \$(8.00) per customer per month

This credit shall not be taken in conjunction with a credit for the Senior Citizen Service Provision (RSC).

(Continued on Sheet No. D-41.00)

RESIDENTIAL NIGHTTIME SAVERS RATE RPM
(Continued From Sheet No. D-40.00)

Monthly Rate: (Contd)

Low Income Assistance Credit (LIAC):

Company selected Residential customers may receive LIAC for up to 12 consecutive months. The number of customers enrolled may be adjusted, at the Company's discretion, in order to dispense Commission-approved LIAC funding on an annual basis. Any shortfall in the dispensing of annual LIAC funds to qualified customers shall be carried over into the subsequent LIAC program year. LIAC customer selection will be based on highest need chosen from one or more of the following eligibility criteria:

1. Customers with an approved critical care certification where the total household income does not exceed 150% of the Federal Poverty level within the last 12 months, as verified by an authorized State, Federal or community agency.
2. Customers who are enrolled in the Company's Consumers Affordable Resources for Energy (CARE) program.
3. Customers who have received a Home Heating Credit in the previous 12 months.
4. Customers whose total household income does not exceed 150% of the Federal Poverty level as verified by an authorized State, Federal or community agency.

The monthly credit for LIAC shall be applied as follows:

Low Income Assistance Credit: \$(30.00) per meter per month

If a credit balance occurs, the credit shall apply to the customer's future electric utility charges. Re-enrollment, if applicable, and confirmation of qualification is required for each annual period of participation.

Customers selected for LIAC will not be eligible for the RIA Provision while enrolled in LIAC.

Senior Citizen Service Provision (RSC):

When service is supplied to the Principal Residence Customer who is 65 years of age or older and head of household, a credit shall be applied during all billing months.

The monthly credit for the residential Senior Citizen Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service Customers.

Senior Citizen Credit: \$(4.00) per customer per month

This credit shall not be taken in conjunction with a credit for the Income Assistance Service Provision (RIA).

Residential Plug-In Electric Vehicle Only Credit (REV):

When service is supplied for Level 2 Charging of a separately metered electric vehicle, a credit shall be applied during all billing months. Electric usage for the household will be billed under the Residential Summer On-Peak Basic Rate or the Residential Smart Hours Rate.

"Level 2 Charging" is defined as voltage connection of either 240 volts or 208 volts and a maximum load of 32 amperes or 7.7 kVA at 240 volts or 6.7 kVA at 208 volts.

Vehicles shall be registered and operable on public highways in the State of Michigan to qualify for this credit. Low-speed electric vehicles including golf carts are not eligible for this credit even if licensed to operate on public streets. The customer may be required to provide proof of registration of the electric vehicle to qualify for this credit.

Delivery Charges: These charges are applicable to Full Service Customers.

Residential Plug-In Electric Vehicle Only Credit: \$(8.00) per customer per month

Peak Power Savers:

Customers can elect to participate in the *Device Cycling Program* and the *Peak Reward Program* as described in this tariff. When a customer participates in both programs, the customer's incremental energy savings earned under the *Peak Reward* is compared to the *total credit earned under the Device Cycling Program*. The greater of the two credits will be applied to the customer's invoice for that billing month. Both credits will not apply in a single billing month. Customers participating in the *Peak Reward Program* cannot participate in the *Critical Peak Price Program*. The Company reserves the right to call test events between October 1 and May 31 for customers participating in *Peak Power Savers Programs*.

(Continued on Sheet No. D-42.00)

RESIDENTIAL NIGHTTIME SAVERS RATE RPM
(Continued From Sheet No. D-41.00)

Monthly Rate: (Contd)

Peak Power Savers: (Contd)

Device Cycling Program

A customer in a single family residence who is taking service from the Company may be eligible to participate in the Company's voluntary Peak Power Savers – *Device Cycling Program* for load management of eligible electric equipment, including central air conditioning, water heaters, generators and other qualifying equipment. Customer eligibility to participate is determined solely by the Company. *Device Cycling Program Credits may be taken in conjunction with one another.* The Company will accept a customer's qualifying electric equipment under this program only if it has the capability to be controlled by the Company. The Company will install the required equipment at the customer's premises which will allow Load Management upon signal from the Company. When Load Management equipment is installed at a premises, future customers will be auto-enrolled into the Peak Power Savers- *Device Cycling Program*. Upon move-in, the customer will be notified confirming participation in the Peak Power Savers- *Device Cycling Program* and will have 30 days to opt out. Such equipment shall be furnished, installed, maintained and owned by the Company at the Company's expense. Equipment installations must conform to the Company's specifications.

The Company reserves the right to specify the term or duration of the program. The customer's enrollment shall be terminated if the voluntary program ceases, if the customer tampers with the control switch or the Company's equipment or any reasons as provided for in Rule C1.3, Use of Service.

Load Management may occur any day of the week including weekends between the hours of 7:00 AM and 8:00 PM for no more than an eight hour period in any one day. Load management may be implemented for, but not limited to, maintaining system integrity, making an emergency purchase, economic reasons, or when there is insufficient system generation available to meet anticipated system load. Load Management may only occur outside of the hours of 7:00 AM and 8:00 PM during a declared emergency event as directed by MISO.

The customer may contact the Company to request to override a Load Management event for one Load Management event during the June through September months in any one calendar year for the balance of the hours left in that Load Management event with no penalty. The request shall be granted at the discretion of the Company. If the override request was granted by the Company and the customer requests and is granted any additional overrides in the same calendar year, the Peak Power Savers – *Device Cycling Credit* may be forfeited for that billing month.

Rule C1.1 Character of Service, Rule C3 Emergency Electrical Procedures and other rules and regulations contained in the Company's Electric Rate Book apply to customers taking service under this Peak Power Savers – *Device Cycling Program*.

The monthly credit(s) for the Peak Power Savers Program shall be applied as follows:

Power Supply Charges: These charges are applicable to Full Service Customers.

Air Conditioner Peak Cycling Credit:	\$(8.00)	per customer per month during the billing months of June – September
Water Heater Cycling Credit:	\$(3.20)	per customer per month for all billing months
Back-Up Generator Cycling Credit:	\$(22.40)	per customer per month for all billing months

Peak Reward:

Participating customers are able to manage electric costs by reducing load during critical peak events. The Company may call up to fourteen critical peak events between June 1 and September 30 and up to five critical peak events between October 1 and May 31. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. Customers must have a transmitting meter to participate in Peak Power Savers.

During a critical peak event, customers on will be credited the Peak Reward per kWh of incremental energy reductions.

Power Supply Charges: These charges are applicable to Full Service Customers.

Peak Reward	\$(1.00)	per kWh of incremental energy reduction during a critical peak event
-------------	----------	--

(Continued on Sheet No. D-43.00)

RESIDENTIAL NIGHTTIME SAVERS RATE RPM
(Continued From Sheet No. D-42.00)

Monthly Rate: (Contd)

Peak Power Savers: (Contd)

Critical Peak Price:

Participating customers are able to manage electric costs by shifting load during critical peak events to a lower cost pricing period. The Company may call up to fourteen critical peak events between June 1 and September 30. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. Customers must have a transmitting meter to participate in Peak Power Savers.

During a critical peak event, customers on will be charged the Critical Peak Price per kWh consumed during the critical peak event.

Power Supply Charges: These charges are applicable to Full Service Customers.

Critical Peak Price \$1.00 per kWh of energy consumed during a critical peak event between June 1 and September 30

Off-Peak Discount \$(0.015226) per kWh for Off-Peak kWh between June 1 and September 30

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

Net Metering Program:

The Net Metering Program is available to any eligible customer as described in Rule C 11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.2.B., Net Metering Definitions.

A customer who participates in the Net Metering Program is subject to the provision contained in Rule C 11.2., Net Metering Program.

Distributed Generation Program:

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

Green Generation Program:

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

(Continued on Sheet No. D-44.00)

RESIDENTIAL SERVICE SECONDARY NON-TRANSMITTING METER RATE RSM

Availability:

Subject to any restrictions, this rate is available to any customer desiring electric service for any usual residential use in: (i) private family dwellings; (ii) tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for up to six persons; or (iii) existing multifamily dwellings containing up to four households served through a single meter. Service for single-phase or three-phase equipment may be included under this rate, provided the individual capacity of such equipment does not exceed 3 hp or 3 kW, nor does the total connected load of the home exceed 10 kW, without the specific consent of the Company.

This rate is only available to customers electing a Non-Transmitting Meter in accordance with Rule C5.5, Non-Transmitting Meter Provision, customers with a Non-Communicating Advanced Metering Infrastructure (AMI) Meter, or customers determined to be eligible at the Company's sole discretion.

A Non-Communicating AMI meter is unable to consistently transmit interval data to the Company's billing system. Non-Communicating Meters are determined at the Company's sole discretion and are subject to a minimum of one communication review per calendar year. When the meter has been determined to successfully communicate interval data, the customer will be notified and transferred to Residential Service Secondary On-Peak Summer Basic Rate RSP. The transfer to Rate RSP shall not occur between June 1 and September 30.

This rate is not available for: (i) resale purposes; (ii) multifamily dwellings containing more than four living units served through a single meter; (iii) tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons; or (iv) any other Non-Residential usage.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this rate only under the Rules and Regulations contained in the Company's Electric Rate Book.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

The Company will schedule meter readings on a monthly basis and attempt to obtain an actual meter reading for all tourist and/or occasional residence customers at intervals of not more than six months.

Monthly Rate:

Power Supply Charges: **These charges are applicable to Full Service customers.**

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.063014	\$ 0.039917	\$0.102930	per kWh for the first 600 kWh per month during the billing months of June - September
\$ 0.086140	\$ 0.056781	\$0.142921	per kWh for all kWh over 600 kWh per month during the billing months of June - September
\$ 0.058620	\$ 0.039917	\$0.098537	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges: **These charges are applicable to Full Service and Retail Open Access customers.**

System Access Charge:	\$8.00	per customer per month
Distribution Charge:	\$0.058971	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-44.20)

GENERAL SERVICE SECONDARY RATE GS

Availability:

Subject to any restrictions, this rate is available to any general use customer, political subdivision or agency of the State of Michigan, either acting separately or in combinations permitted under the laws of this state, desiring Secondary Voltage service for any of the following: (i) standard secondary service, (ii) public potable water pumping and/or waste water system(s), or (iii) resale purposes. This rate is also available for service to any Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is not available for: (i) private family dwellings, (ii) lighting service except for private streets, mobile home parks or service to temporary lighting installations, (iii) heating water for industrial processing, (iv) resale for lighting service, or (v) new or expanded service for resale to residential customers. Unmetered Billboard Service is not available to Retail Open Access service.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Three-phase, 3-wire service requires that the customer furnishes all transformation facilities required for single-phase load and so arranges the load as to avoid excessive unbalance of the three-phase load. When the service is single-phase, or 4-wire, three-phase, the single-phase individual motor capacity shall not exceed 3 hp, nor the total single-phase motor capacity of 10 hp, without the specific consent of the Company.

Where the Company elects to measure the service on the Primary side of the transformers, 3% shall be deducted for billing purposes from the energy measurements thus made. Where the Company elected to provide a Primary Rate Customer one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer, 3% shall not be deducted for billing purposes from the energy measurements thus made.

Monthly Rate:

Power Supply Charges: **These charges are applicable to Full Service customers.**

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.057755	\$0.031156	\$0.088911	per kWh for all kWh during the billing months of June-September
\$0.058925	\$0.032407	\$0.091332	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges: **These charges are applicable to Full Service and Retail Open Access customers.**

System Access Charge: \$20.00 per customer per month

Distribution Charge: \$0.046168 per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Billboard Service Provision:

Monthly kWh shall be determined by multiplying the total connected load in kW (including the lamps, ballasts, transformers, amplifiers, and control devices) times 730 hours. The kWh for cyclical devices shall be adjusted for the average number of hours used.

(Continued on Sheet No. D-46.00)

GENERAL SERVICE SECONDARY RATE GS
(Continued From Sheet No. D-45.00)

Monthly Rate: (Contd)

Resale Service Provision:

Subject to any restrictions, this provision is available to customers desiring Secondary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

Educational Institution Service Provision (GEI):

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service and Retail Open Access Customers.

Education Institution Credit: \$(0.000746) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-47.00)

GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU

Availability

Subject to any restrictions, General Service Secondary Time-of-Use Rate GSTU is available to any Full Service Customer taking service at the Company’s Secondary Voltage level with advanced metering infrastructure and supporting critical systems. Standby service shall be provided on this rate for secondary customers with solar installations equal to or greater than 150 kW.

This rate is not available for: (i) private family dwellings, (ii) lighting service except for private streets, mobile home parks or service to temporary lighting installations, (iii) heating water for industrial processing, (iv) resale for lighting service, or (v) new or expanded service for resale to residential customers.

This rate shall not be taken in conjunction with any other Demand Response Program or Net Metering.

Nature of Service

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Three-phase, 3-wire service requires that the customer furnishes all transformation facilities required for single-phase load and so arranges the load as to avoid excessive unbalance of the three-phase load. When the service is single-phase, or 4-wire, three-phase, the single-phase individual motor capacity shall not exceed 3 hp, nor the total single-phase motor capacity of 10 hp, without the specific consent of the Company.

Where the Company elects to measure the service on the Primary side of the transformers, 3% shall be deducted for billing purposes from the energy measurements thus made. Where the Company elected to provide a Primary Rate Customer one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer, 3% shall not be deducted for billing purposes from the energy measurements thus made.

Monthly Rate

Power Supply Charges: These charges are applicable to Full Service Customers.

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.039059	\$0.019175	\$0.058234	per kWh for all Off-Peak kWh during the billing months of June-September
Mid-Peak-Summer	\$0.058531	\$0.029712	\$0.088243	per kWh for all Mid-Peak kWh during the billing months of June-September
On-Peak-Summer	\$0.075639	\$0.035760	\$0.111399	per kWh for all On-Peak kWh during the billing months of June-September
Off-Peak-Winter	\$0.049944	\$0.027971	\$0.077915	per kWh for all Off-Peak kWh during the billing months of October-May
On-Peak -Winter	\$0.063335	\$0.037438	\$0.100773	per kWh for all On-Peak kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges: These charges are applicable to Full Service Customers.

System Access Charge:	\$20.00	per customer per month
Distribution Charge:	\$0.046168	per kWh for all kWh for a Full Service Customer

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-49.00)

GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU
(Continued From Sheet No. D-48.00)

Monthly Rate (Contd)

Schedule of Hours

The following schedule shall apply Monday through Friday (except holidays designated by the Company). Weekends and holidays are off-peak. Holidays designated by the Company include: New Year's Day – January 1, Memorial Day – Last Monday in May, Independence Day – July 4, Labor Day – First Monday in September, Thanksgiving Day – Fourth Thursday in November and Christmas Day – December 25. Whenever January 1, July 4, or December 25 falls on Sunday, extended holiday periods such as Monday, January 2, Monday, July 5 and Monday, December 26 shall not be considered as holidays for application of off-peak hours.

Summer Billing Months of June through September:

- | | |
|--------------------|--|
| (1) Off-Peak Hours | 12:00 AM to 7:00 AM and 11:00 PM to 12:00 AM |
| (2) Mid-Peak Hours | 7:00 AM to 2:00 PM and 6:00 PM to 11:00 PM |
| (3) On-Peak Hours | 2:00 PM to 6:00 PM |

Winter Billing Months of January through May and October through December:

- | | |
|--------------------|---------------------|
| (1) Off-Peak Hours | 11:00 PM to 7:00 AM |
| (2) On-Peak Hours | 7:00 AM to 11:00 PM |

Resale Service Provision

Subject to any restrictions, the provision is available to customers desiring Secondary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

Educational Institution Service Provision (GEI)

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

Delivery Charges - These charges are applicable to Full Service Customers.

Education Institution Credit: \$(0.000746) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

General Service Secondary Interruptible (GSI) Provision:

This provision is available to no more than 200 Full Service Customers desiring interruptible service in conjunction with service taken under General Service Secondary Demand Rate GSD or General Service Secondary Time-of-Use Rate GSTU. Service to interruptible load shall be taken through separately metered circuits and permanently wired. The design and method of installation for application of this rate shall be subject to the approval of the Company.

Any load designated as interruptible by the customer is subject to Midcontinent Independent System Operator's, Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO issues a Maximum Generation Emergency Event Step 2b order or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status.

(Continued on Sheet No. D-50.00)

GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU
(Continued From Sheet No. D-49.00)

Monthly Rate: (Contd)

General Service Secondary Interruptible (GSI) Provision: (Contd)

Under this provision, the customer shall be interrupted at any time the Company deems it necessary to maintain system integrity. Service to interruptible load shall not be transferred to firm service circuits to avoid interruption. The Company shall provide the Customer at least 30 minutes notice in advance of a required interruption. Failure to acknowledge receipt of such notice shall not relieve the Customer of the obligation for interruption under the GSI provision. Failure by a customer to comply with a system integrity interruption order of the Company shall be considered unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of demand created during the interruption period in addition to the prescribed monthly rate.

This rate is not available for loads that are primarily off-peak, for example parking lot lighting. Participation requires a minimum term of one year.

The monthly credit for the Interruptible Service Provision shall be applied as follows:

Power Supply Charges – These charges are applicable to Full Service Customers.

Capacity Credit: These charges are applicable to Full Service Customers.

Interruptible Credit: \$(0.017094) per kWh for all kWh

Self-Generation (SG)

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

Distributed Generation Program:

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

Green Generation Program:

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provision contained in Rule C 10.2, Green Generation Program.

Renewable Energy Credit (REC) Programs:

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

(Continued on Sheet No. D-50.10)

GENERAL SERVICE SECONDARY DEMAND RATE GSD

Availability:

Subject to any restrictions, this rate is available to any customer desiring Secondary Voltage service, either for general use or resale purposes, where the Peak Demand is 5 kW or more. This rate is also available for service to any Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is not available for: (i) private family dwellings, (ii) lighting service, (iii) resale for lighting service, or (iv) new or expanded service for resale to residential customers.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Three-phase, 3-wire service requires that the customer furnishes all transformation facilities required for single-phase load and so arranges the load as to avoid excessive unbalance of the three-phase load. When the service is single-phase, or 4-wire, three-phase, the single-phase individual motor capacity shall not exceed 3 hp, nor the total single-phase motor capacity of 10 hp, without the specific consent of the Company.

Where the Company elects to measure the service on the Primary side of the transformers, 3% shall be deducted for billing purposes from the demand and energy measurements thus made. Where the Company elected to provide a Primary Rate Customer one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer, 3% shall not be deducted for billing purposes from the energy measurements thus made.

Monthly Rate:

Power Supply Charges: These Charges are applicable to Full Service customers.

Peak Demand Charge:

Non-Capacity	Capacity	Total	
\$8.38	\$11.63	\$20.02	per kW for all kW of Peak Demand during the billing months of June-September
\$6.47	\$10.36	\$16.83	per kW for all kW of Peak Demand during the billing months of October-May

Energy Charge:

Non-Capacity		
\$0.037848		per kWh for all kWh during the billing months of June-September
\$0.038336		per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factors shown on Sheet No. D-6.00.

Delivery Charges: These Charges are applicable to Full Service and Retail Open Access (ROA) customers.

System Access Charge:	\$30.00	per customer per month
Capacity Charge:	\$0.72	per kW for all kW of Peak Demand
Distribution Charge:	\$0.033256	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

GENERAL SERVICE SECONDARY DEMAND RATE GSD
(Continued From Sheet No. D-52.00)

Monthly Rate: (Contd)

Educational Institution Service Provision (GEI):

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, “school” shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. “College” or “University” shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service and Retail Open Access Customers.

Education Institution Credit: \$ (0.000598) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

General Service Secondary Interruptible (GSI) Provision:

This provision is available to no more than 200 Full Service Customers desiring interruptible service in conjunction with service taken under General Service Secondary Demand Rate GSD or General Service Secondary Time-of-Use Rate GSTU. Service to interruptible load shall be taken through separately metered circuits and permanently wired. The design and method of installation for application of this rate shall be subject to the approval of the Company.

Any load designated as interruptible by the customer is subject to Midcontinent Independent System Operator’s, Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO issues a Maximum Generation Emergency Event Step 2b order or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status.

Under this provision, the customer shall be interrupted at any time the Company deems it necessary to maintain system integrity. Service to interruptible load shall not be transferred to firm service circuits to avoid interruption. The Company shall provide the Customer at least 30 minutes notice in advance of a required interruption. Failure to acknowledge receipt of such notice shall not relieve the Customer of the obligation for interruption under the GSI provision. Failure by a customer to comply with a system integrity interruption order of the Company shall be considered unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of demand created during the interruption period in addition to the prescribed monthly rate.

This rate is not available for loads that are primarily off-peak, for example parking lot lighting. Participation requires a minimum term of one year.

The monthly credit for the Interruptible Service Provision shall be applied as follows:

Power Supply Charges – These charges are applicable to Full Service Customers.

Capacity Credit: These charges are applicable to Full Service Customers.

Interruptible Credit: \$(7.00) per kW for all kW of Peak Demand during the billing months of June - September

\$(6.00) per kW for all kW of Peak Demand during the billing months of October - May

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company’s system, must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-54.00)

GENERAL SERVICE PRIMARY RATE GP

Availability:

As of January 1, 2021, this rate is closed to new business other than for service to DCFC fast charging stations. Subject to any restrictions, this rate is available to any customer, political subdivision or agency of the State of Michigan, either acting separately or in combinations permitted under the laws of this state, desiring Primary Voltage service for general use or for public potable water pumping and/or waste water system(s).

This rate is available to existing Full Service Customers with an electric generating facility interconnected at a primary voltage level utilizing General Service Primary Rate GP for standby service on or before June 7, 2012. The amount of retail usage shall be determined on an hourly basis. Customers with a generating installation are required to have an Interval Data Meter.

This rate is not available to a Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is not available for lighting service, except for temporary service for lighting installations.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

Where service is supplied at a nominal voltage of 25,000 Volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 Volts, 1% shall be deducted for billing purposes, from the energy measurements thus made.

Where the Company elects to measure the service at a nominal voltage of less than 2,400 Volts, 3% shall be added for billing purposes, to the energy measurements thus made.

Monthly Rate:

Power Supply Charges: These charges are applicable to Full Service customers.

Charges for Customer Voltage Level 3 (CVL3)

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.056114	\$0.027661	\$0.083775	per kWh for all kWh during the billing months of June-September
\$0.057234	\$0.028756	\$0.085990	per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 2 (CVL2)

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.055597	\$0.027322	\$0.082919	per kWh for all kWh during the billing months of June-September
\$0.056706	\$0.028404	\$0.085109	per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 1 (CVL1)

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.054864	\$0.026905	\$0.081768	per kWh for all kWh during the billing months of June-September
\$0.055957	\$0.027970	\$0.083927	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

(Continued on Sheet No. D-56.00)

GENERAL SERVICE PRIMARY RATE GP
(Continued From Sheet No. D-55.00)

Monthly Rate (Contd)

Delivery Charges: These charges are applicable to Full Service and Retail Open Access (ROA) customers.

System Access Charge: \$100.00 per customer per month

Charges for Customer Voltage Level 3 (CVL3)

Distribution Charge: \$0.017239 per kWh for all kWh

Charges for Customer Voltage Level 2 (CVL2)

Distribution Charge: \$0.010480 per kWh for all kWh

Charges for Customer Voltage Level 1 (CVL1)

Distribution Charge: \$0.007141 per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Adjustment for Power Factor

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above .899 or below .850, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is .900 or higher, a 0.50% credit will be applied to all metered-based charges, excluding surcharges. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .850, a penalty will be applied to all metered-based charges, excluding surcharges, in accordance with the following table:

Power Factor	Penalty
0.800 to 0.849	0.50%
0.750 to 0.799	1.00%
0.700 to 0.749	2.00%
Below 0.700	3% first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A 15% penalty will be applied to any metered-based charges, excluding surcharges, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the 15% penalty applies again.

Resale Service Provision

Subject to any restrictions, this provision is available to customers desiring Primary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

(Continued on Sheet No. D-57.00)

GENERAL SERVICE PRIMARY RATE GP
(Continued From Sheet No. D-56.00)

Monthly Rate (Contd)

Substation Ownership Credit

Where service is supplied at a nominal voltage of more than 25,000 volts, and the customer provides all of the necessary transforming, controlling and protective equipment for all of the service there shall be deducted from the bill a monthly credit.

The monthly credit for the substation ownership shall be applied as follows:

Delivery Charges - These charges are applicable to Full Service and Retail Open Access customers.

Charges for Customer Voltage Level 2 (CVL 2)
Substation Ownership Credit: \$ (0.001470) per kWh for all kWh

Charges for Customer Voltage Level 1 (CVL 1)
Substation Ownership Credit: \$ (0.001198) per kWh for all kWh

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kWh.

Educational Institution Service Provision (GEI)

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

Delivery Charges - These charges are applicable to Full Service and Retail Open Access Customers.

Educational Institution Credit: \$(0.000492) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-58.00)

GENERAL SERVICE PRIMARY RATE GP
(Continued From Sheet No. D-57.00)

Monthly Rate (Contd)

Net Metering Program:

The Net Metering Program is available to any eligible customer as described in Rule C11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C11.2.B., Net Metering Definitions.

A customer who participates in the Net Metering Program is subject to the provisions contained in Rule C11.2., Net Metering Program.

Distributed Generation Program:

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

Green Generation Program:

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

Renewable Energy Credit (REC) Programs:

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

General Terms:

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Minimum Charge:

The System Access charge included in the rate and any applicable non-consumption based surcharges.

Due Date and Late Payment Charge

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

Term and Form of Contract

For customers with monthly demands of 300 kW or more, all service under this rate *may* require a written contract with a minimum term of one year.

For customers with monthly demands of less than 300 kW, service under this rate shall not require a written contract except for: (i) service under the Green Generation Program, (ii) service under the Educational Institution provision, (iii) service under the Resale Service Provision, (iv) service under the Net Metering Program, or (v) at the option of the Company. If a contract is deemed necessary by the Company, the appropriate contract form shall be used and the contract shall require a minimum term of one year.

A new contract will not be required for existing customers who increase their demand requirements after initiating service, unless new or additional facilities are required or service provisions deem it necessary.

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD
 (Continued From Sheet No. D-59.00)

Monthly Rate: (Contd)

Power Supply Charges: These charges are applicable to Full Service customers. (Contd)

Charges for Customer Voltage Level 2 (CVL2)

Demand Charge:

Capacity	Non-Capacity	Total	
\$11.73	\$6.23	\$17.97	per kW of On-Peak Billing Demand during the billing months of June-September
\$10.89	\$5.40	\$16.29	per kW of On-Peak Billing Demand during the billing months of October-May

Transmission Charge:

Capacity	
\$7.52	per kW of On-Peak Billing Demand during the billing months of June-September
\$7.01	per kW of On-Peak Billing Demand during the billing months of October-May

Energy Charge:

Non-Capacity	
\$0.037840	per kWh for all On-Peak kWh during the billing months of June-September
\$0.024109	per kWh for all Off-Peak kWh during the billing months of June-September
\$0.030507	per kWh for all On-Peak kWh during the billing months of October-May
\$0.028220	per kWh for all Off-Peak kWh during the billing months of October-May

Charges for Customer Voltage Level 1 (CVL1)

Demand Charge:

Capacity	Non-Capacity	Total	
\$11.55	\$6.16	\$17.71	per kW of On-Peak Billing Demand during the billing months of June-September
\$10.72	\$5.33	\$16.05	per kW of On-Peak Billing Demand during the billing months of October-May

Transmission Charge:

Capacity	
\$7.41	per kW of On-Peak Billing Demand during the billing months of June-September
\$6.90	per kW of On-Peak Billing Demand during the billing months of October-May

Energy Charge:

Non-Capacity	
\$0.037369	per kWh for all On-Peak kWh during the billing months of June-September
\$0.023809	per kWh for all Off-Peak kWh during the billing months of June-September
\$0.030127	per kWh for all On-Peak kWh during the billing months of October-May
\$0.027868	per kWh for all Off-Peak kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

(Continued on Sheet No. D-61.00)

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD
 (Continued From Sheet No. D-60.00)

Monthly Rate: (Contd)

Delivery Charges: These charges are applicable to Full Service and Retail Open Access (ROA) customers.

System Access Charge:	\$200.00	per customer per month
<u>Charges for Customer Voltage Level 3 (CVL3)</u>		
Capacity Charge:	\$4.61	per kW of Maximum Demand
<u>Charges for Customer Voltage Level 2 (CVL2)</u>		
Capacity Charge:	\$2.48	per kW of Maximum Demand
<u>Charges for Customer Voltage Level 1 (CVL1)</u>		
Capacity Charge:	\$1.07	per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Adjustment for Power Factor:

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above .899 or below .850, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is .900 or higher, a 0.50% credit will be applied to all metered-based charges, excluding surcharges. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .850, a penalty will be applied to all metered-based charges, excluding surcharges, in accordance with the following table:

Power Factor	Penalty
0.800 to 0.849	0.50%
0.750 to 0.799	1.00%
0.700 to 0.749	2.00%
Below 0.700	3% first 2 months

Adjustment for Power Factor shall not be applied when the On-Peak Billing Demand is based on 60% of the highest On-Peak Billing Demand created during the preceding bill months of June through September or on a Minimum On-Peak Billing Demand.

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A 15% penalty will be applied to any metered-based charges, excluding surcharges, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the 15% penalty applies again.

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD
(Continued From Sheet No. D-61.00)

Monthly Rate: (Contd)

Maximum Demand:

The Maximum Demand shall be the highest 15-minute demand created during the current month or previous 11 months.

On-Peak Billing Demand:

The On-Peak Billing Demand shall be based on the highest on-peak demand created during the current billing month, but never less than 60% of the highest on-peak billing demand of the four preceding summer billing months (June through September), nor less than 25 kW.

The On-Peak Billing Demand shall be the Kilowatts (kW) supplied during the 15-minute period of maximum use during on-peak hours, as described in Rule C14., Provisions Governing the Application of On-Peak and Off-Peak Rates.

The Company reserves the right to make special determination of the On-Peak Billing Demand, and/or the Minimum Charge, should the equipment which creates momentary high demands be included in the customer's installation.

Transmission On-Peak Billing Demand:

The Transmission On-Peak Billing Demand for each billing month shall be the Kilowatts (kW) supplied during the 15-minute period of maximum use during on-peak hours, as described in Rule C14., Provisions Governing the Application of On-Peak and Off-Peak Rates.

Resale Service Provision:

Subject to any restrictions, this provision is available to customers desiring Primary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

Substation Ownership Credit:

Where service is supplied at a nominal voltage of more than 25,000 Volts, energy is measured through an Interval Data Meter, and the customer provides all of the necessary transforming, controlling and protective equipment for all of the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly credit for the substation ownership shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service and Retail Open Access Customers.

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.61) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.48) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

(Continued on Sheet No. D-63.00)

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD
(Continued From Sheet No. D-62.00)

Monthly Rate: (Contd)

Aggregate Peak Demand Service Provision (GAP):

This provision is available to any customer with 7 accounts or more who desire to aggregate their On-Peak Billing Demands for power supply billing purposes. To be eligible, each account must have a minimum average On-Peak Billing Demand of 250 kW and be located within the same billing district. The customer's aggregated accounts shall be billed under the same rate schedule and service provisions. The aggregate maximum capacity of all customers served under this provision shall be limited to 200,000 kW.

This provision commences with service rendered on and after June 20, 2008 and remains in effect until terminated by a Commission Order.

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

Interval Data Meters are required for service under this provision.

The aggregated accounts shall be summarized for each interval time period registered and a comparison shall be performed to determine the on-peak time at which the summarized value of the aggregated accounts reached a maximum for the billing month. The individual aggregated accounts shall be billed for their corresponding On-Peak Billing Demand occurring at that point in time.

Educational Institution Service Provision (GEI):

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

Delivery Charges: These charges are applicable to Full Service and Retail Open Access Customers.

Educational Institution Credit: \$(0.000240) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

Interruptible Service Provision (GI):

This provision is available to any customer account willing to contract for at least 500 kW of On-Peak Billing Demand as interruptible. The Company reserves the right to limit the amount of load contracted as interruptible, but in no case shall it exceed 300,000 kW per customer. Customers served under Rate GPD shall have no more than 50% of their annual On-Peak Billing Demand contracted as interruptible when contracting for more than 50,000 kW of interruptible load. The aggregate amount of monthly On-Peak Billing Demand subscribed under this provision shall be limited to 400,000 kW.

Consumers Energy may require the Customer to monitor and provide real-time, Internet-enabled power monitoring. If such monitoring is required, Consumers Energy will provide the metering or monitoring devices necessary, which shall be owned by Consumers Energy and provided to the Customer at the Company's expense. The Customer may be required to provide suitable space for such monitoring equipment and either a static or non-static, as applicable, Internet Protocol (IP) address and Local Area Network (LAN) access that allows for Internet-based communication of the Customer's site electricity consumption and interruption event performance.

(Continued on Sheet No. D-64.00)

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD
(Continued From Sheet No. D-63.00)

Monthly Rate: (Contd)

Interruptible Service Provision (GI): (Contd)

For billing purposes, the monthly interruptible On-Peak Billing Demand shall be billed first and discounted under this interruptible service provision. The actual On-Peak Billing Demand for the interruptible load supplied shall be credited by the amount specified under the Power Supply Charges - Interruptible Credit listed below. Subsequently all firm service used during the billing period in excess of the contracted interruptible shall be billed at the appropriate firm rate. All contracts under this provision shall be negotiated on an annual basis for the following capacity planning year (June 1 through May 31) and the Customer must notify the Company by December 10th of each year of their desire to renew the GI Provision, unless the Customer chooses to lengthen the term of their commitment (up to five years). Annual changes to the amount of interruptible kW for long term contracts are open to adjustment through December 10th of each year. Within 30 minutes of receiving an interruption notice, the customer shall reduce their total load level by the amount of contracted interruptible capacity.

At the Company's discretion, the customer may *adjust* the contracted amount one time within the annual contract period.

Any load designated as interruptible by the customer is also subject to Midcontinent Independent System Operator's Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO issues a Maximum Generation Emergency Event Step 2b order or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status. Participation in the GI provision does not limit the Company's ability to implement emergency electrical procedures as described in the Company's Electric Rate Book including interruption of service as required to maintain system integrity.

Conditions of Interruption

Under this provision, the customer shall be interrupted at any time, on-peak or off-peak, the Company deems it necessary to maintain system integrity. The Company shall provide the Customer at least thirty minutes advance notice of a required interruption, and if possible, a second notice. The notice will be communicated by telephone to the contact numbers provided by the Customer. The Customer shall confirm the receipt of such notice through the automated response process. Failure to acknowledge receipt of such notice shall not relieve the customer of the obligation for interruption under the GI Provision. The customer shall be informed, when possible, of the estimated duration of the interruption at the time of interruption.

The Company shall not be liable for any loss or damage caused by or resulting from any interruption of service under this provision.

Interruptions beyond the Company's control, described in Rules C1.1, Character of Service, and C3., Emergency Electrical Procedures, of the Company's Electric Rate Book, shall not be considered as interruptions for purposes of this provision.

Should the Company be ordered by Governmental authority during a national emergency to supply firm instead of interruptible service, billing shall be made on an applicable firm power schedule.

(Continued on Sheet No. D-65.00)

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD
 (Continued From Sheet No. D-65.00)

Monthly Rate: (Contd)

Interruptible Service Provision – Market-Price Option (GI2) (Contd)

Monthly Billing

For billing purposes, the Contracted Firm Capacity will be billed first on Rate GPD, with the load in excess of contracted firm being billed on the GI2 charges specified in this rate schedule.

Power Supply Charges - These charges are applicable to contracted interruptible capacity.

The customer shall be responsible for the MISO Real-Time Locational Market Price (LMP) for the Company’s load node (designated as “CONS.CETR” as the date of this Rate Schedule), multiplied by the customer’s consumption (kWh), plus the Market Settlement Fee of \$0.002/kWh.

Charges for Customer Voltage Level 3 (CVL 3)

LMP Energy Charge: MISO Real-Time LMP per kWh for all kWh
 Capacity & Transmission Charge: \$0.023984 per kWh for all kWh during the billing months of June-September
 \$0.024195 per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 2 (CVL 2)

LMP Energy Charge: MISO Real-Time LMP per kWh for all kWh
 Capacity & Transmission Charge: \$0.022808 per kWh for all kWh during the billing months of June-September
 \$0.022172 per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 1 (CVL 1)

LMP Energy Charge: MISO Real-Time LMP per kWh for all kWh
 Capacity & Transmission Charge: \$0.020396 per kWh for all kWh during the billing months of June-September
 \$0.019561 per kWh for all kWh during the billing months of October-May

The MISO Real-Time LMP per kWh shall be adjusted for losses based on the customer’s point of metering as shown below:

	Meter Point	
	High Side	Low Side
Customer Voltage Level 1	0.000%	0.999%
Customer Voltage Level 2	1.324%	2.338%
Customer Voltage Level 3	3.175%	7.605%

Delivery Charges – These charges are applicable to contract capacity

Rate GPD Delivery Charges will apply to all Delivery service, including contracted capacity designated as GI2 interruptible service.

System Access Charge:

If contracted capacity is separately metered: \$100.00 per additional meter installation per month

This provision is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00 as well as the System Access Charge, Delivery Charges, General Terms, Adjustment for Power Factor, Substation Ownership Credit, Minimum Charge and the Due Date and Late Payment Charge applicable to Rate GPD.

(Continued on Sheet No. D-67.00)

LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD

(Continued From Sheet No. D-68.00)

Monthly Rate: (Contd)

General Terms:

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Minimum Charge:

The System Access Charge included in the rate, and applicable any non-consumption based surcharges.

Due Date and Late Payment Charge:

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

Term and Form of Contract:

For customers with monthly demands of 300 kW or more, all service under this rate *may* require a written contract with a minimum term of one year.

For customers with monthly demands of less than 300 kW, service under this rate shall not require a written contract except for: (i) service under the Resale Service Provision, (ii) service under the Green Generation Program, (iii) service under the Educational Institution Service Provision, (iv) service under the Aggregate Peak Demand Service Provision, (v) service under the Interruptible Service Provision, or (vi) at the option of the Company. If a contract is deemed necessary by the Company, the appropriate contract form shall be used and the contract shall require a minimum term of one year.

A new contract will not be required for existing customers who increase their demand requirements after initiating service, unless new or additional facilities are required or service provisions deem it necessary.

GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU
 (Continued from Sheet No. D-70.00)

Monthly Rate:

Power Supply Charges:

Charges for Customer Voltage Level 3 (CVL3)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.042191	\$0.022917	\$0.065109	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.059699	\$0.033928	\$0.093627	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.076370	\$0.042245	\$0.118615	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.085203	\$0.044253	\$0.129456	per kWh during the calendar months of June-September
Off-Peak - Winter	\$0.052374	\$0.020580	\$0.072954	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.057289	\$0.023912	\$0.081201	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.060095	\$0.023922	\$0.084018	per kWh during the calendar months of October-May

Charges for Customer Voltage Level 2 (CVL2)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.041794	\$0.022637	\$0.064431	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.059134	\$0.033512	\$0.092647	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.075650	\$0.041727	\$0.117377	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.084407	\$0.043711	\$0.128177	per kWh during the calendar months of June-September
Off-Peak - Winter	\$0.051900	\$0.020328	\$0.072228	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.056767	\$0.023619	\$0.080386	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.059551	\$0.023629	\$0.083180	per kWh during the calendar months of October-May

Charges for Customer Voltage Level 1 (CVL1)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.041238	\$0.022291	\$0.063529	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.058345	\$0.033001	\$0.091345	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.074642	\$0.041090	\$0.115732	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.083286	\$0.043044	\$0.126330	per kWh during the calendar months of June-September
Off-Peak - Winter	\$0.051222	\$0.020017	\$0.071239	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.056023	\$0.023258	\$0.079281	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.058772	\$0.023268	\$0.082040	per kWh during the calendar months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges:

System Access Charge:	\$200.00	per customer per month
<u>Charges for Customer Voltage Level 3 (CVL3)</u>		
Capacity Charge:	\$4.61	per kW of Maximum Demand
<u>Charges for Customer Voltage Level 2 (CVL2)</u>		
Capacity Charge:	\$2.48	per kW of Maximum Demand
<u>Charges for Customer Voltage Level 1 (CVL1)</u>		
Capacity Charge:	\$1.07	per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Adjustment for Power Factor

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above .899 or below .850, the customer bill shall be adjusted as follows:

(Continued on Sheet No. D-72.00)

GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU

(Continued from Sheet No. D-71.00)

Monthly Rate (Contd)

Adjustment for Power Factor (Contd)

- (a) If the average Power Factor during the billing period is .900 or higher, a 0.50% credit will be applied to all metered-based charges, excluding surcharges. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .850, a penalty will be applied to all metered-based charges, excluding surcharges, in accordance with the following table:

Power Factor	Penalty
0.800 to 0.849	0.50%
0.750 to 0.799	1.00%
0.700 to 0.749	2.00%
Below 0.700	3% first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A 15% penalty will be applied to any metered-based charges, excluding surcharges, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the 15% penalty applies again.

Maximum Demand

The Maximum Demand shall be the highest 15-minute demand created during the current month or previous 11 months.

Resale Service Provision

Subject to any restrictions, this provision is available to customers desiring Primary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

Substation Ownership Credit

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all the necessary transforming, controlling and protective equipment for all the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly substation ownership credit shall be applied as follows:

Delivery Charges - These charges are applicable to Full Service Customers.

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.61) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.48) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

Educational Institution Service Provision (GEI)

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

Delivery Charges - These charges are applicable to Full Service Customers.

Educational Institution Credit: \$ (0.000240) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

(Continued on Sheet No. D-73.00)

GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU
(Continued from Sheet No. D-72.00)

Self-Generation (SG)

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

Distributed Generation Program

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

Green Generation Program

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

Renewable Energy Credit (REC) Programs:

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

General Terms

The rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Minimum Charge

The System Access Charge included in the rate, and any applicable non-consumption based surcharges.

Due Date and Late Payment Charge

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

Term and Form of Contract

Service under this rate *may* require a written contract with a minimum term of one year.

ENERGY INTENSIVE PRIMARY RATE EIP

Availability

Subject to any restrictions, the Energy Intensive Primary Rate EIP is available to any Full Service electric metal melting customer taking service at the Company's Primary Voltage levels, where the electric load on this rate is utilized for industrial metal melting processes such as electric arc or induction furnaces or to any Full Service electric industrial customer who qualified as energy intensive as defined herein. For metal melting customers, only electric load that directly supports the process of melting metal using electricity as the main melting source qualifies as load to be served under this rate. Ancillary equipment required for the metal melting process is not intended to be served on this rate.

Existing or former metal melting customers taking service under the Company's Metal Melting Primary Pilot as of November 30, 2015 are eligible for service on Rate EIP. An additional 200 MW of Maximum Demand capacity will be available on a first-come, first-served basis to Full Service customers with new electric metal melting or energy intensive industrial load not previously served by the Company. To qualify as energy intensive load, the customer must demonstrate viable options to site the production outside of the state and the customer's incremental load must exceed 2 MW at a single site with an annual load factor that exceeds 70% or the customer's incremental load must exceed 15 MW with a minimum of 75% of their total consumption occurring during Off-Peak Hours. New electric metal melting load must be separately metered. The customer must provide a special circuit or circuits in order for the Company to install separate metering.

Nature of Service

Service under the rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

Where service is supplied at a nominal voltage of 25,000 Volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 Volts, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made.

Where the Company elects to measure the service at a nominal voltage of less than 2,400 Volts, 3% shall be added for billing purposes, to the demand and energy measurements thus made.

Interval Data Meters are required for service under this rate. Meter reading will be accomplished electronically through telecommunication links or other electronic measuring equipment available to provide the Company with the metering data necessary for billing purposes.

The Company may elect to install devices that can enable direct load management, power metering, data collection, near real-time data communication and internet based monitoring. There shall be no cost to the customer associated with the system equipment or installation of the system equipment. The Company reserves the right to remove the system equipment if the customer moves from Rate EIP to another primary rate.

For purposes of this rate, the appropriate measure of market price is the Real-Time LMP for the Company's retail aggregating node CONS.CETR established by the Midcontinent Independent System Operator Inc. (MISO).

Critical Peak Event Determination

The Company shall call a Critical Peak Event to signal either the market price has exceeded an Economic Trigger Price or a system integrity event is enacted.

A System Integrity Event is enacted when MISO declares that a Maximum Generation Emergency Event has occurred and MISO has instructed the Company to implement Load Management Measures using Load Modifying Resources and Load Management Measures - Stage 1. A System Integrity Event shall occur at any time for any duration. A Critical Peak Event caused by a System Integrity Event shall be billed at the greater of 150% of the High Peak Energy Charge or the average market price during the duration of the event.

The Summer Economic Trigger Price is the greater of 150% of the High Peak Energy Charge, Customer Voltage Level 1 or the average market price during the hours of 3:00 PM to 5:00 PM for the period of June 1 through September 30 of the previous year. The Summer Economic Trigger Price will be set on January 30 of each year by the Company.

The Winter Economic Trigger Price is the greater of 150% of the High Peak Energy Charge, Customer Voltage Level 1 or the average market price during the hours of 5:00 PM to 7:00 PM for the period of October 1 through May 31 of the previous year. The Winter Economic Trigger Price will be set on July 31 of each year by the Company.

Energy Intensive Primary Rate customers will be notified after the Summer and Winter Economic Trigger Prices are set. The Company shall endeavor to provide notice in advance of a probable System Integrity Event.

(Continued on Sheet No. D-75.00)

ENERGY INTENSIVE PRIMARY RATE EIP
 (Continued from Sheet No. D-74.00)

Schedule of Hours:

The following schedule shall apply Monday through Friday (except holidays designated by the Company):

Summer:

Off-Peak Hours: 12:00 AM to 6:00 AM and 11:00 PM to 12:00 AM
 Low-Peak Hours: 6:00 AM to 2:00 PM and 6:00 PM to 11:00 PM
 Mid-Peak Hours: 2:00 PM to 3:00 PM and 5:00 PM to 6:00 PM
 High-Peak Hours: 3:00 PM to 5:00 PM
 Critical Peak Hours: All hours during a Critical Peak Event

Winter:

Off-Peak Hours: 12:00 AM to 4:00 PM and 8:00 PM to 12:00 AM
 Mid-Peak Hours: 4:00 PM to 5:00 PM and 7:00 PM to 8:00 PM
 High-Peak Hours: 5:00 PM to 7:00 PM
 Critical Peak Hours: All hours during a Critical Peak Event

Weekends and holidays are off-peak. Designated Company holidays are: New Year's Day - January 1; Memorial Day - Last Monday in May; Independence Day - July 4; Labor Day - First Monday in September; Thanksgiving Day - Fourth Thursday in November; and Christmas Day - December 25. Whenever January 1, July 4, or December 25 fall on Sunday, extended holiday periods such as Monday, January 2, Monday, July 5 and Monday, December 26 shall not be considered as holidays for application of off-peak hours.

Monthly Rate:

Power Supply Charges:

Charges for Customer Voltage Level 3 (CVL3)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.042272	\$0.005783	\$0.048055	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.063648	\$0.009037	\$0.072684	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.079599	\$0.010987	\$0.090586	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.087087	\$0.011241	\$0.098328	per kWh during the calendar months of June-September
Critical Peak-Summer				the greater of either 150% of the High-Peak - Summer Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of June - September
Off-Peak - Winter	\$0.051838	\$0.004873	\$0.056711	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.058531	\$0.005561	\$0.064092	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.061417	\$0.005637	\$0.067053	per kWh during the calendar months of October-May
Critical Peak-Winter				the greater of either 150% of the High-Peak Winter Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of October - May

(Continued on Sheet No. D-76.00)

ENERGY INTENSIVE PRIMARY RATE EIP
 (Continued from Sheet No. D-75.00)

Monthly Rate (Contd):

Power Supply Charges: (Contd)

Charges for Customer Voltage Level 2 (CVL2)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak - Summer	\$0.041874	\$0.005712	\$0.047586	per kWh during the calendar months of June-September
Low-Peak - Summer	\$0.063045	\$0.008926	\$0.071971	per kWh during the calendar months of June-September
Mid-Peak - Summer	\$0.078849	\$0.010853	\$0.089701	per kWh during the calendar months of June-September
High-Peak - Summer	\$0.086273	\$0.011103	\$0.097376	per kWh during the calendar months of June-September
Critical Peak - Summer				the greater of either 150% of the High-Peak-Summer Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of June-September
Off-Peak - Winter	\$0.051371	\$0.004813	\$0.056184	per kWh during the calendar months of October - May
Mid-Peak - Winter	\$0.058003	\$0.005493	\$0.063496	per kWh during the calendar months of October - May
High-Peak - Winter	\$0.060864	\$0.005568	\$0.066432	per kWh during the calendar months of October - May
Critical Peak-Winter				the greater of either 150% of the High-Peak Winter Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of October - May

Charges for Customer Voltage Level 1(CVL1)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.041316	\$0.005625	\$0.046941	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.062203	\$0.008790	\$0.070993	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.077798	\$0.010687	\$0.088485	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.085128	\$0.010933	\$0.096062	per kWh during the calendar months of June-September
Critical Peak-Summer				the greater of either 150% of the High-Peak-Summer Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of June-September
Off-Peak - Winter	\$0.050701	\$0.004740	\$0.055441	per kWh during the calendar months of October - May
Mid-Peak - Winter	\$0.057246	\$0.005409	\$0.062655	per kWh during the calendar months of October - May
High-Peak - Winter	\$0.060071	\$0.005483	\$0.065554	per kWh during the calendar months of October - May
Critical Peak-Winter				the greater of either 150% of the High-Peak Winter Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of October - May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges:

System Access Charge: \$200.00 per customer per month

Charges for Customer Voltage Level 3 (CVL3)

Capacity Charge: \$4.61 per kW of Maximum Demand

Charges for Customer Voltage Level 2 (CVL2)

Capacity Charge: \$2.48 per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL1)

Capacity Charge: \$1.07 per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-77.00)

ENERGY INTENSIVE PRIMARY RATE EIP
(Continued from Sheet No. D-76.00)

Adjustment for Power Factor:

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above .899 or below .850, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is .900 or higher, a 0.50% credit will be applied to all metered-based charges, excluding surcharges. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .850, a penalty will be applied to all metered-based charges, excluding surcharges, in accordance with the following table:

Power Factor	Penalty
0.800 to 0.849	0.50%
0.750 to 0.799	1.00%
0.700 to 0.749	2.00%
Below 0.700	3% first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A 15% penalty will be applied to any metered-based charges, excluding surcharges, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the 15% penalty applies again.

Maximum Demand:

The Maximum Demand shall be the highest 15-minute demand created during the current month or previous 11 months.

Substation Ownership Credit:

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all the necessary transforming, controlling and protective equipment for all the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly substation ownership credit shall be applied as follows:

Delivery Charges - These charges are applicable to Full Service and Retail Open Access Customers.

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.61) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.48) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

Self-Generation (SG):

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-78.00)

ENERGY INTENSIVE PRIMARY RATE EIP
(Continued from Sheet No. D-77.00)

Distributed Generation Program:

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

Green Generation Programs:

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

Renewable Energy Credit (REC) Programs:

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

General Terms:

The rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Minimum Charge:

The System Access Charge included in the rate and any applicable non-consumption based surcharges.

Due Date and Late Payment Charge:

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

Term and Form of Contract:

Service under this rate *may* require a written contract with a minimum term of one year.

GENERAL SERVICE SELF GENERATION RATE GSG-2
 (Continued From Sheet No. D-81.00)

Nature of Service (Contd)

Where service is supplied at a nominal voltage equal to or greater than 2,400 volts and the Company elects to measure the service at a nominal voltage above 25,000 volts, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made.

Where service is supplied at a nominal voltage equal to or greater than 2,400 volts and the Company elects to measure the service at a nominal voltage of less than 2,400 volts, 3% shall be added for billing purposes, to the demand and energy measurements thus made.

Where service is supplied at a nominal voltage less than 2,400 volts and the Company elects to measure the service at a nominal voltage equal to or greater than 2,400 volts, 3% shall be deducted for billing purposes from the energy measurements thus made.

There shall be no double billing of demand under the base rate and Rate GSG-2.

Monthly Rate

Standby Charges

Power Supply Standby Charges

For all standby energy supplied by the Company, the customer shall be responsible for the MISO Real-Time Locational Market Price (LMP) for the Company's load node (designated as "CONS.CETR" as of the date of this Rate Schedule), multiplied by the customer's consumption (kWh), plus the Market Settlement Fee of \$0.002/kWh. In addition capacity charges will be assessed monthly, calculated using the highest 15 minute kW demand associated with Standby Service occurring during the Company's On-Peak billing hours will be multiplied by the highest contracted capacity purchased by the Company in that month, plus allocated transmission and ancillaries. The capacity charges will be prorated based on the number of On-Peak days that Standby Service was used during the billing month.

A customer with a generator(s) nameplate rating more than 550 kW must provide written notice to the Company by December 1 if they desire standby service in the succeeding calendar months of June through September. Written notice shall be submitted on Company Form 500. If the customer fails to meet this written notice requirement, the LMP shall be increased by applying a 10% adder.

Real Power Losses

Real Power Losses shall be measured based on the transmission loss factor of 1.92% plus the associated meter point as listed below:

	Meter Point	
	<u>High Side</u>	<u>Low Side</u>
Customer Voltage Level 1	0.000%	0.999%
Customer Voltage Level 2	1.324%	2.338%
Customer Voltage Level 3	3.175%	7.605%

Delivery Standby Charges

System Access Charge:

Generator that does not meet or exceed load:	\$100.00	per generator installation per month
Generator that meets or exceeds load:	\$200.00	per generator installation per month

Charges for Customer Voltage Level 3 (CVL 3)

Capacity Charge: \$4.61 per kW of Maximum Demand

Charges for Customer Voltage Level 2 (CVL 2)

Capacity Charge: \$2.48 per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Capacity Charge: \$1.07 per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-83.00)

GENERAL SERVICE SELF GENERATION RATE GSG-2
(Continued From Sheet No. D-82.00)

Monthly Rate (Contd)

Standby Charges (Contd)

Adjustment for Power Factor

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar -hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above .899 or below .850, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is .900 or higher, a 0.50% credit will be applied to all metered-based charges, excluding surcharges. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .850, a penalty will be applied to all metered-based charges, excluding surcharges, in accordance with the following table:

Power Factor Penalty

0.800 to 0.849	0.50%
0.750 to 0.799	1.00%
0.700 to 0.749	2.00%
Below 0.700	3% first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A 15% penalty will be applied to any metered-based charges, excluding surcharges, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the 15% penalty applies again.

Substation Ownership Credit

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all of the necessary transforming, controlling and protective equipment for all of the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the billed Standby Demand.

The monthly credit for the substation ownership shall be applied as follows:

Delivery Charges

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.61) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.48) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

(Continued on Sheet No. D-84.00)

GENERAL SERVICE SELF GENERATION RATE GSG-2
(Continued From Sheet No. D-83.00)

Monthly Rate (Contd)

Standby Charges (Contd)

Transmission Interconnect Credit

Where standby service is provided to a non-utility electric generator located within the Company's service territory and taking power through its transmission interconnect, where the Company has no owned infrastructure other than metering, including billing grade current transformers and potential transformers, telemetry facilities and associated wiring, the following monthly credit shall be applied to the bill:

Delivery Charges

Transmission Interconnect Credit: \$ (1.07) per kW of Maximum Demand

This credit shall be based on the kW after the 1% deduction has been applied to the metered kW. The credit supersedes any applicable substation ownership credit.

Sales of Energy to the Company

Administrative Cost Charge

Generation installation with a capacity of over 550 kW but less than or equal to 2,000 kW
As negotiated or \$0.0010 per kWh purchased, at the option of the customer

Generation installation with a capacity of over 2,000 kW
As negotiated

Energy Purchase:

An energy purchase by the Company shall be bought at the Midcontinent Independent System Operator's Inc. (MISO) real-time Locational Marginal Price (LMP) for the Company's load node (designated as "CONS.CETR" as of the date of this Rate Schedule).

General Terms

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Green Generation Program

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

Renewable Energy Credit (REC) Programs:

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

Minimum Charge

The System Access Charge included in this Rate Schedule in addition to the customer's contracted Standby Capacity multiplied by the net of any Substation Ownership Credit and Delivery Capacity Charges of this Rate Schedule.

Due Date and Late Payment Charge

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

Term and Form of Contract

Standby service and/or sales of energy to the Company under this rate shall require a written contract with a minimum term of one year.

GENERAL SERVICE METERED LIGHTING RATE GML

Availability

Subject to any restrictions, this rate is available to any political subdivision or agency of the State of Michigan having jurisdiction over public streets or roadways, for Primary or Secondary Voltage energy-only metered lighting service where the Company has existing distribution lines available for supplying energy for such service. Luminaires which are served under the Company's unmetered lighting rates shall not be intermixed with luminaires served under this metered lighting rate. Luminaire types in addition to those served on Rate Schedule GUL, such as light-emitting diode (LED) streetlights, may receive service under this Rate Schedule.

This rate is not available for resale purposes or for Retail Open Access Service.

Nature of Service

Secondary Voltage

Service under this rate shall be alternating current, 60-hertz, single-phase or three-phase (at the Company's option), 120/240 nominal Volt service for a minimum of ten luminaires located within a clearly defined area. Control equipment shall be furnished, owned and maintained by the Company. The customer shall furnish, install, own and maintain the rest of the equipment comprising the metered lighting system including, but not limited to, the overhead wires or underground cables between the luminaires, protective equipment, and the supply circuits extending to the point of attachment with the Company's distribution system. The Company shall connect the customer's equipment to the Company's lines and supply the energy for its operation. All of the customer's equipment shall be subject to the Company's approval. The customer shall not change the capacity requirements of the equipment owned by it without first notifying the Company in writing of such changes and the date that they shall be made.

Dusk to Midnight Service

Dusk to midnight service shall be the same as Secondary service except:

The customer shall pay the difference between the cost of the control equipment necessary for dusk to midnight service and control equipment normally installed for Secondary service. Circuits shall be arranged approximating minimum loads of 3 kW.

Primary Voltage

Service under this rate shall be alternating current, 60-hertz, single-phase or three-phase (at the Company's option), Primary Voltage service for actual kW demands of not less than 100 kW for each point of delivery and where the customer guarantees a minimum of 4,000 annual hours' use of the actual demand. The Company will determine the particular nature of the voltage in each case. The customer shall furnish, install, own and maintain all equipment comprising the metered lighting system including, but not limited to, controls, protective equipment, transformers and overhead or underground metered lighting circuits extending to the point of attachment with the Company's distribution system. The Company shall furnish, install, own and maintain the metering equipment and connect the customer's metered lighting circuit to its distribution system and supply the energy for operation of the customer's metered lighting system.

Monthly Rate

Secondary Power Supply Charge

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.051839	\$0.000000	\$0.051839	per kWh for all kWh

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

(Continued on Sheet No. D-86.00)

GENERAL SERVICE METERED LIGHTING RATE GML
(Continued From Sheet No. D-85.00)

Monthly Rate (Contd)

Secondary Delivery Charge

System Access Charge:	\$10.00	per customer per month
Distribution Charge:	\$0.054713	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Primary Power Supply Charge

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.025440	\$0.000000	\$0.025440	per kWh for all kWh

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Primary Delivery Charge

System Access Charge:	\$20.00	per customer per month
Distribution Charge:	\$0.041695	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

Net Metering Program

The Net Metering Program is available to any eligible customer as described in Rule C11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C11.2.B., Net Metering Program.

A customer who participates in the Net Metering Program is subject to the provisions contained in Rule C11.2., Net Metering Program.

Green Generation Program

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

Renewable Energy Credit (REC) Programs:

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

(Continued on Sheet No. D-87.00)

GENERAL SERVICE UNMETERED LIGHTING RATE GUL
 (Continued From Sheet No. D-89.00)

Monthly Rate

Transitional Rates, effective January 1, 2022 through June 30, 2022:

The charge per luminaire per month shall be

<u>Type of Luminaire</u>	<u>Nominal Rating of Lamps (One Lamp per Luminaire) (1)</u>			<u>Service Charge per Luminaire (4)</u>			<u>Fixture Charge per Luminaire (4)</u>
	<u>Watts</u>	<u>Watts Including Ballast (2)</u>	<u>Lumens</u>	Non-Capacity	Capacity	Total	
Mercury Vapor (3)	100	128	3,500	\$9.72	\$0.00	\$9.72	\$3.00
Mercury Vapor (3)	175	209	7,500	13.28	0.00	13.28	\$3.00
Mercury Vapor (3)	250	281	10,000	16.45	0.00	16.45	\$3.00
Mercury Vapor (3)	400	458	20,000	24.24	0.00	24.24	\$3.00
Mercury Vapor (3)	700	770	35,000	37.96	0.00	37.96	\$3.00
Mercury Vapor (3)	1,000	1,080	50,000	51.60	0.00	51.60	\$3.00
High-Pressure Sodium (3)	70	83	5,000	7.74	0.00	7.74	\$3.00
High-Pressure Sodium	100	117	8,500	9.23	0.00	9.23	\$3.00
High-Pressure Sodium	150	171	14,000	11.61	0.00	11.61	\$3.00
High-Pressure Sodium (3)	200	247	20,000	14.95	0.00	14.95	\$3.00
High-Pressure Sodium	250	318	24,000	18.08	0.00	18.08	\$3.00
High-Pressure Sodium	400	480	45,000	25.21	0.00	25.21	\$3.00
Fluorescent (3)	380	470	20,000	24.77	0.00	24.77	\$3.00
Incandescent (3)	202	202	2,500	12.97	0.00	12.97	\$3.00
Incandescent (3)	305	305	4,000	17.51	0.00	17.51	\$3.00
Incandescent (3)	405	405	6,000	21.91	0.00	21.91	\$3.00
Incandescent (3)	690	690	10,000	34.45	0.00	34.45	\$3.00
Metal Halide (3)	150	170	9,750	11.57	0.00	11.57	\$3.00
Metal Halide (3)	175	210	10,500	13.33	0.00	13.33	\$3.00
Metal Halide (3)	250	290	15,500	16.85	0.00	16.85	\$3.00
Metal Halide (3)	400	460	24,000	24.33	0.00	24.33	\$3.00

- (1) Ratings for fluorescent lighting apply to all lamps in one luminaire.
- (2) Watts including ballast used for monthly billing of the Power Supply Cost Recovery (PSCR) Factor, the Power Plant Securitization Charges and surcharges.
- (3) Rates apply to existing luminaires only and are not open to new business.
- (4) For Customer-Owned lighting fixtures that are assessed a Service Charge (but not a Fixture Charge), the charge per luminaire represents a 22.7% Power Supply Charge and a 77.3% Distribution Charge.

For Company-Owned lighting fixtures that are assessed both a Service Charge and a Fixture Charge, the charge per luminaire represents a 15.6% Power Supply Charge and a 84.4% Distribution Charge.

For energy conservation purposes, customers may, at their option, elect to have any or all luminaires served under this rate disconnected for a period of six months or more. The charge per luminaire per month, for each disconnected luminaire, shall be 40% of the monthly rate set forth above. However, should any such disconnected luminaire be reconnected at the customer's request after having been disconnected for less than six months, the monthly rate set forth above shall apply to the period of disconnection. An \$8.00 per luminaire disconnect/reconnect charge shall be made at the time of disconnection except that when the estimated disconnect/reconnect cost is significantly higher than \$8.00, the estimated cost per luminaire shall be charged.

For 24-hour mercury-vapor service, the charge per luminaire shall be 125% of the foregoing rates.

(Continued on Sheet No. D-90.10)

GENERAL SERVICE UNMETERED LIGHTING RATE GUL
(Continued From Sheet No. D-90.00)

Monthly Rate (Contd)

Universal Unmetered Streetlighting Rates, effective for service rendered on and after July 1, 2022:

Company-Owned Equipment		Energy Charges			Delivery	Monthly Cost
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.34	\$0.00	\$0.34	\$7.74	\$8.07
25-34 W	Per Light	\$0.51	\$0.00	\$0.51	\$8.09	\$8.60
35-44 W	Per Light	\$0.69	\$0.00	\$0.69	\$8.45	\$9.13
45-54 W	Per Light	\$0.86	\$0.00	\$0.86	\$8.80	\$9.66
55-64 W	Per Light	\$1.03	\$0.00	\$1.03	\$9.16	\$10.19
65-74 W	Per Light	\$1.21	\$0.00	\$1.21	\$9.51	\$10.72
75-84 W	Per Light	\$1.38	\$0.00	\$1.38	\$9.87	\$11.25
85-94 W	Per Light	\$1.55	\$0.00	\$1.55	\$10.22	\$11.78
95-104 W	Per Light	\$1.73	\$0.00	\$1.73	\$10.58	\$12.31
105-114 W	Per Light	\$1.90	\$0.00	\$1.90	\$10.94	\$12.84
115-124 W	Per Light	\$2.08	\$0.00	\$2.08	\$11.29	\$13.37
125-134 W	Per Light	\$2.25	\$0.00	\$2.25	\$11.65	\$13.90
135-144 W	Per Light	\$2.42	\$0.00	\$2.42	\$12.00	\$14.43
145-154 W	Per Light	\$2.60	\$0.00	\$2.60	\$12.36	\$14.95
155-164 W	Per Light	\$2.77	\$0.00	\$2.77	\$12.71	\$15.48
165-174 W	Per Light	\$2.94	\$0.00	\$2.94	\$13.07	\$16.01
175-184 W	Per Light	\$3.12	\$0.00	\$3.12	\$13.42	\$16.54
185-194 W	Per Light	\$3.29	\$0.00	\$3.29	\$13.78	\$17.07
195-204 W	Per Light	\$3.46	\$0.00	\$3.46	\$14.14	\$17.60
205-214 W	Per Light	\$3.64	\$0.00	\$3.64	\$14.49	\$18.13
215-224 W	Per Light	\$3.81	\$0.00	\$3.81	\$14.85	\$18.66
225-234 W	Per Light	\$3.99	\$0.00	\$3.99	\$15.20	\$19.19
235-244 W	Per Light	\$4.16	\$0.00	\$4.16	\$15.56	\$19.72
245-254 W	Per Light	\$4.33	\$0.00	\$4.33	\$15.91	\$20.25
255-264 W	Per Light	\$4.51	\$0.00	\$4.51	\$16.27	\$20.78
265-274 W	Per Light	\$4.68	\$0.00	\$4.68	\$16.62	\$21.31
275-284 W	Per Light	\$4.85	\$0.00	\$4.85	\$16.98	\$21.83
285-294 W	Per Light	\$5.03	\$0.00	\$5.03	\$17.34	\$22.36
295-304 W	Per Light	\$5.20	\$0.00	\$5.20	\$17.69	\$22.89
305-314 W	Per Light	\$5.38	\$0.00	\$5.38	\$18.05	\$23.42
315-324 W	Per Light	\$5.55	\$0.00	\$5.55	\$18.40	\$23.95
325-334 W	Per Light	\$5.72	\$0.00	\$5.72	\$18.76	\$24.48
335-344 W	Per Light	\$5.90	\$0.00	\$5.90	\$19.11	\$25.01
345-354 W	Per Light	\$6.07	\$0.00	\$6.07	\$19.47	\$25.54
355-364 W	Per Light	\$6.24	\$0.00	\$6.24	\$19.82	\$26.07
365-374 W	Per Light	\$6.42	\$0.00	\$6.42	\$20.18	\$26.60
375-384 W	Per Light	\$6.59	\$0.00	\$6.59	\$20.54	\$27.13
385-394 W	Per Light	\$6.76	\$0.00	\$6.76	\$20.89	\$27.66
395-404 W	Per Light	\$6.94	\$0.00	\$6.94	\$21.25	\$28.18
405-414 W	Per Light	\$7.11	\$0.00	\$7.11	\$21.60	\$28.71
415-424 W	Per Light	\$7.29	\$0.00	\$7.29	\$21.96	\$29.24
425-434 W	Per Light	\$7.46	\$0.00	\$7.46	\$22.31	\$29.77
435-444 W	Per Light	\$7.63	\$0.00	\$7.63	\$22.67	\$30.30
445-454 W	Per Light	\$7.81	\$0.00	\$7.81	\$23.02	\$30.83
455-464 W	Per Light	\$7.98	\$0.00	\$7.98	\$23.38	\$31.36
465-474 W	Per Light	\$8.15	\$0.00	\$8.15	\$23.74	\$31.89
475-484 W	Per Light	\$8.33	\$0.00	\$8.33	\$24.09	\$32.42

(Continued on Sheet No. D-94.20)

GENERAL SERVICE UNMETERED LIGHTING RATE GUL

(Continued From Sheet No. D-90.10)

Monthly Rate (Contd)

Universal Unmetered Streetlighting Rates, effective for service rendered on and after July 1, 2022:

Customer-Owned Equipment		Energy Charges			Delivery	Monthly Cost Per Light
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.34	\$0.00	\$0.34	\$4.74	\$5.07
25-34 W	Per Light	\$0.51	\$0.00	\$0.51	\$5.09	\$5.60
35-44 W	Per Light	\$0.69	\$0.00	\$0.69	\$5.45	\$6.13
45-54 W	Per Light	\$0.86	\$0.00	\$0.86	\$5.80	\$6.66
55-64 W	Per Light	\$1.03	\$0.00	\$1.03	\$6.16	\$7.19
65-74 W	Per Light	\$1.21	\$0.00	\$1.21	\$6.51	\$7.72
75-84 W	Per Light	\$1.38	\$0.00	\$1.38	\$6.87	\$8.25
85-94 W	Per Light	\$1.55	\$0.00	\$1.55	\$7.22	\$8.78
95-104 W	Per Light	\$1.73	\$0.00	\$1.73	\$7.58	\$9.31
105-114 W	Per Light	\$1.90	\$0.00	\$1.90	\$7.94	\$9.84
115-124 W	Per Light	\$2.08	\$0.00	\$2.08	\$8.29	\$10.37
125-134 W	Per Light	\$2.25	\$0.00	\$2.25	\$8.65	\$10.90
135-144 W	Per Light	\$2.42	\$0.00	\$2.42	\$9.00	\$11.43
145-154 W	Per Light	\$2.60	\$0.00	\$2.60	\$9.36	\$11.95
155-164 W	Per Light	\$2.77	\$0.00	\$2.77	\$9.71	\$12.48
165-174 W	Per Light	\$2.94	\$0.00	\$2.94	\$10.07	\$13.01
175-184 W	Per Light	\$3.12	\$0.00	\$3.12	\$10.42	\$13.54
185-194 W	Per Light	\$3.29	\$0.00	\$3.29	\$10.78	\$14.07
195-204 W	Per Light	\$3.46	\$0.00	\$3.46	\$11.14	\$14.60
205-214 W	Per Light	\$3.64	\$0.00	\$3.64	\$11.49	\$15.13
215-224 W	Per Light	\$3.81	\$0.00	\$3.81	\$11.85	\$15.66
225-234 W	Per Light	\$3.99	\$0.00	\$3.99	\$12.20	\$16.19
235-244 W	Per Light	\$4.16	\$0.00	\$4.16	\$12.56	\$16.72
245-254 W	Per Light	\$4.33	\$0.00	\$4.33	\$12.91	\$17.25
255-264 W	Per Light	\$4.51	\$0.00	\$4.51	\$13.27	\$17.78
265-274 W	Per Light	\$4.68	\$0.00	\$4.68	\$13.62	\$18.31
275-284 W	Per Light	\$4.85	\$0.00	\$4.85	\$13.98	\$18.83
285-294 W	Per Light	\$5.03	\$0.00	\$5.03	\$14.34	\$19.36
295-304 W	Per Light	\$5.20	\$0.00	\$5.20	\$14.69	\$19.89
305-314 W	Per Light	\$5.38	\$0.00	\$5.38	\$15.05	\$20.42
315-324 W	Per Light	\$5.55	\$0.00	\$5.55	\$15.40	\$20.95
325-334 W	Per Light	\$5.72	\$0.00	\$5.72	\$15.76	\$21.48
335-344 W	Per Light	\$5.90	\$0.00	\$5.90	\$16.11	\$22.01
345-354 W	Per Light	\$6.07	\$0.00	\$6.07	\$16.47	\$22.54
355-364 W	Per Light	\$6.24	\$0.00	\$6.24	\$16.82	\$23.07
365-374 W	Per Light	\$6.42	\$0.00	\$6.42	\$17.18	\$23.60
375-384 W	Per Light	\$6.59	\$0.00	\$6.59	\$17.54	\$24.13
385-394 W	Per Light	\$6.76	\$0.00	\$6.76	\$17.89	\$24.66
395-404 W	Per Light	\$6.94	\$0.00	\$6.94	\$18.25	\$25.18
405-414 W	Per Light	\$7.11	\$0.00	\$7.11	\$18.60	\$25.71
415-424 W	Per Light	\$7.29	\$0.00	\$7.29	\$18.96	\$26.24
425-434 W	Per Light	\$7.46	\$0.00	\$7.46	\$19.31	\$26.77
435-444 W	Per Light	\$7.63	\$0.00	\$7.63	\$19.67	\$27.30
445-454 W	Per Light	\$7.81	\$0.00	\$7.81	\$20.02	\$27.83
455-464 W	Per Light	\$7.98	\$0.00	\$7.98	\$20.38	\$28.36
465-474 W	Per Light	\$8.15	\$0.00	\$8.15	\$20.74	\$28.89
475-484 W	Per Light	\$8.33	\$0.00	\$8.33	\$21.09	\$29.42

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-91.00)

GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED
(Continued From Sheet No. D-93.00)

Facilities Policy (Contd)

Company-Owned Option (Contd)

- D. The Company will determine LED lighting fixtures to be offered under this rate. The list of approved fixtures is subject to modification at the sole discretion of the Company to accommodate new product development and advances in technology. Upon customer request, the Company shall provide a list of LED lighting available under this rate.
- E. For customer requested material requiring special order, an additional per luminaire per month charge may apply for procurement and material handling. The Company and the Customer shall mutually agree to the monthly charge prior to procurement and installation of the special order material.
- F. The Company shall determine all associated equipment necessary to provide service under the Company-Owned Unmetered LED Lighting option.
- G. Any charges, deposits or contributions may be required in advance of commencement of construction.
- H. At the Company's discretion, any fixture may be converted to LED at no cost to the customer. The replaced fixture will be moved to General Unmetered Light Emitting Diode Lighting Rate GU-LED upon completion of the installation and reconciliation of the community's streetlighting inventory for billing accuracy.

Customer-Owned Option

If it is necessary for the Company to install distribution facilities to serve a customer-owned system, contributions and/or deposits for such additional facilities shall be calculated in accordance with the Company's general service line extension policy. Any charges, deposits or contributions may be required in advance of commencement of construction.

Monthly Rate

Company-Owned Conversion Credit:

A conversion credit may be available to Customers who converted to LED municipal streetlighting.

Customers who converted to LED streetlighting before April 1, 2018 are eligible for the following Conversion Credit per billing month beginning with the January 2021 billing month through the December 2028 billing month:

Fixture Credit per Luminaire: \$(4.96) per month

(Continued on Sheet No. D-94.10)

GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED
 (Continued From Sheet No. D-94.00)

Monthly Rate (Contd)

Transitional Unmetered Lighting Rate GU-LED Charges, effective January 1, 2022 through June 30, 2022:

Company-Owned Equipment		Energy Charges			Delivery	Monthly Cost
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.34	\$0.00	\$0.34	\$8.31	\$8.66
25-34 W	Per Light	\$0.52	\$0.00	\$0.52	\$8.98	\$9.49
35-44 W	Per Light	\$0.69	\$0.00	\$0.69	\$9.64	\$10.33
45-54 W	Per Light	\$0.86	\$0.00	\$0.86	\$10.30	\$11.16
55-64 W	Per Light	\$1.03	\$0.00	\$1.03	\$10.96	\$12.00
65-74 W	Per Light	\$1.21	\$0.00	\$1.21	\$11.63	\$12.83
75-84 W	Per Light	\$1.38	\$0.00	\$1.38	\$12.29	\$13.67
85-94 W	Per Light	\$1.55	\$0.00	\$1.55	\$12.95	\$14.50
95-104 W	Per Light	\$1.72	\$0.00	\$1.72	\$13.61	\$15.34
105-114 W	Per Light	\$1.89	\$0.00	\$1.89	\$14.28	\$16.17
115-124 W	Per Light	\$2.07	\$0.00	\$2.07	\$14.94	\$17.01
125-134 W	Per Light	\$2.24	\$0.00	\$2.24	\$15.60	\$17.84
135-144 W	Per Light	\$2.41	\$0.00	\$2.41	\$16.27	\$18.68
145-154 W	Per Light	\$2.58	\$0.00	\$2.58	\$16.93	\$19.51
155-164 W	Per Light	\$2.76	\$0.00	\$2.76	\$17.59	\$20.35
165-174 W	Per Light	\$2.93	\$0.00	\$2.93	\$18.25	\$21.18
175-184 W	Per Light	\$3.10	\$0.00	\$3.10	\$18.92	\$22.02
185-194 W	Per Light	\$3.27	\$0.00	\$3.27	\$19.58	\$22.85
195-204 W	Per Light	\$3.44	\$0.00	\$3.44	\$20.24	\$23.69
205-214 W	Per Light	\$3.62	\$0.00	\$3.62	\$20.90	\$24.52

Customer-Owned Equipment		Energy Charges			Delivery	Monthly Cost Per Light
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.34	\$0.00	\$0.34	\$5.31	\$5.66
25-34 W	Per Light	\$0.52	\$0.00	\$0.52	\$5.98	\$6.49
35-44 W	Per Light	\$0.69	\$0.00	\$0.69	\$6.64	\$7.33
45-54 W	Per Light	\$0.86	\$0.00	\$0.86	\$7.30	\$8.16
55-64 W	Per Light	\$1.03	\$0.00	\$1.03	\$7.96	\$9.00
65-74 W	Per Light	\$1.21	\$0.00	\$1.21	\$8.63	\$9.83
75-84 W	Per Light	\$1.38	\$0.00	\$1.38	\$9.29	\$10.67
85-94 W	Per Light	\$1.55	\$0.00	\$1.55	\$9.95	\$11.50
95-104 W	Per Light	\$1.72	\$0.00	\$1.72	\$10.61	\$12.34
105-114 W	Per Light	\$1.89	\$0.00	\$1.89	\$11.28	\$13.17
115-124 W	Per Light	\$2.07	\$0.00	\$2.07	\$11.94	\$14.01
125-134 W	Per Light	\$2.24	\$0.00	\$2.24	\$12.60	\$14.84
135-144 W	Per Light	\$2.41	\$0.00	\$2.41	\$13.27	\$15.68
145-154 W	Per Light	\$2.58	\$0.00	\$2.58	\$13.93	\$16.51
155-164 W	Per Light	\$2.76	\$0.00	\$2.76	\$14.59	\$17.35
165-174 W	Per Light	\$2.93	\$0.00	\$2.93	\$15.25	\$18.18
175-184 W	Per Light	\$3.10	\$0.00	\$3.10	\$15.92	\$19.02
185-194 W	Per Light	\$3.27	\$0.00	\$3.27	\$16.58	\$19.85
195-204 W	Per Light	\$3.44	\$0.00	\$3.44	\$17.24	\$20.69
205-214 W	Per Light	\$3.62	\$0.00	\$3.62	\$17.90	\$21.52

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00

(Continued on Sheet No. D-94.20)

GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED
(Continued From Sheet No. D-94.10)

Monthly Rate (Contd)

Universal Unmetered Streetlighting Rates, effective for service rendered on and after July 1, 2022:

Company-Owned Equipment		Energy Charges			Delivery	Monthly Cost
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.34	\$0.00	\$0.34	\$7.74	\$8.07
25-34 W	Per Light	\$0.51	\$0.00	\$0.51	\$8.09	\$8.60
35-44 W	Per Light	\$0.69	\$0.00	\$0.69	\$8.45	\$9.13
45-54 W	Per Light	\$0.86	\$0.00	\$0.86	\$8.80	\$9.66
55-64 W	Per Light	\$1.03	\$0.00	\$1.03	\$9.16	\$10.19
65-74 W	Per Light	\$1.21	\$0.00	\$1.21	\$9.51	\$10.72
75-84 W	Per Light	\$1.38	\$0.00	\$1.38	\$9.87	\$11.25
85-94 W	Per Light	\$1.55	\$0.00	\$1.55	\$10.22	\$11.78
95-104 W	Per Light	\$1.73	\$0.00	\$1.73	\$10.58	\$12.31
105-114 W	Per Light	\$1.90	\$0.00	\$1.90	\$10.94	\$12.84
115-124 W	Per Light	\$2.08	\$0.00	\$2.08	\$11.29	\$13.37
125-134 W	Per Light	\$2.25	\$0.00	\$2.25	\$11.65	\$13.90
135-144 W	Per Light	\$2.42	\$0.00	\$2.42	\$12.00	\$14.43
145-154 W	Per Light	\$2.60	\$0.00	\$2.60	\$12.36	\$14.95
155-164 W	Per Light	\$2.77	\$0.00	\$2.77	\$12.71	\$15.48
165-174 W	Per Light	\$2.94	\$0.00	\$2.94	\$13.07	\$16.01
175-184 W	Per Light	\$3.12	\$0.00	\$3.12	\$13.42	\$16.54
185-194 W	Per Light	\$3.29	\$0.00	\$3.29	\$13.78	\$17.07
195-204 W	Per Light	\$3.46	\$0.00	\$3.46	\$14.14	\$17.60
205-214 W	Per Light	\$3.64	\$0.00	\$3.64	\$14.49	\$18.13
215-224 W	Per Light	\$3.81	\$0.00	\$3.81	\$14.85	\$18.66
225-234 W	Per Light	\$3.99	\$0.00	\$3.99	\$15.20	\$19.19
235-244 W	Per Light	\$4.16	\$0.00	\$4.16	\$15.56	\$19.72
245-254 W	Per Light	\$4.33	\$0.00	\$4.33	\$15.91	\$20.25
255-264 W	Per Light	\$4.51	\$0.00	\$4.51	\$16.27	\$20.78
265-274 W	Per Light	\$4.68	\$0.00	\$4.68	\$16.62	\$21.31
275-284 W	Per Light	\$4.85	\$0.00	\$4.85	\$16.98	\$21.83
285-294 W	Per Light	\$5.03	\$0.00	\$5.03	\$17.34	\$22.36
295-304 W	Per Light	\$5.20	\$0.00	\$5.20	\$17.69	\$22.89
305-314 W	Per Light	\$5.38	\$0.00	\$5.38	\$18.05	\$23.42
315-324 W	Per Light	\$5.55	\$0.00	\$5.55	\$18.40	\$23.95
325-334 W	Per Light	\$5.72	\$0.00	\$5.72	\$18.76	\$24.48
335-344 W	Per Light	\$5.90	\$0.00	\$5.90	\$19.11	\$25.01
345-354 W	Per Light	\$6.07	\$0.00	\$6.07	\$19.47	\$25.54
355-364 W	Per Light	\$6.24	\$0.00	\$6.24	\$19.82	\$26.07
365-374 W	Per Light	\$6.42	\$0.00	\$6.42	\$20.18	\$26.60
375-384 W	Per Light	\$6.59	\$0.00	\$6.59	\$20.54	\$27.13
385-394 W	Per Light	\$6.76	\$0.00	\$6.76	\$20.89	\$27.66
395-404 W	Per Light	\$6.94	\$0.00	\$6.94	\$21.25	\$28.18
405-414 W	Per Light	\$7.11	\$0.00	\$7.11	\$21.60	\$28.71
415-424 W	Per Light	\$7.29	\$0.00	\$7.29	\$21.96	\$29.24
425-434 W	Per Light	\$7.46	\$0.00	\$7.46	\$22.31	\$29.77
435-444 W	Per Light	\$7.63	\$0.00	\$7.63	\$22.67	\$30.30
445-454 W	Per Light	\$7.81	\$0.00	\$7.81	\$23.02	\$30.83
455-464 W	Per Light	\$7.98	\$0.00	\$7.98	\$23.38	\$31.36
465-474 W	Per Light	\$8.15	\$0.00	\$8.15	\$23.74	\$31.89
475-484 W	Per Light	\$8.33	\$0.00	\$8.33	\$24.09	\$32.42

(Continued on Sheet No. D-94.30)

GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED

(Continued From Sheet No. D-94.20)

Monthly Rate (Contd)

Universal Unmetered Streetlighting Rates, effective for service rendered on and after July 1, 2022:

Customer-Owned Equipment		Energy Charges			Delivery	Monthly Cost Per Light
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.34	\$0.00	\$0.34	\$4.74	\$5.07
25-34 W	Per Light	\$0.51	\$0.00	\$0.51	\$5.09	\$5.60
35-44 W	Per Light	\$0.69	\$0.00	\$0.69	\$5.45	\$6.13
45-54 W	Per Light	\$0.86	\$0.00	\$0.86	\$5.80	\$6.66
55-64 W	Per Light	\$1.03	\$0.00	\$1.03	\$6.16	\$7.19
65-74 W	Per Light	\$1.21	\$0.00	\$1.21	\$6.51	\$7.72
75-84 W	Per Light	\$1.38	\$0.00	\$1.38	\$6.87	\$8.25
85-94 W	Per Light	\$1.55	\$0.00	\$1.55	\$7.22	\$8.78
95-104 W	Per Light	\$1.73	\$0.00	\$1.73	\$7.58	\$9.31
105-114 W	Per Light	\$1.90	\$0.00	\$1.90	\$7.94	\$9.84
115-124 W	Per Light	\$2.08	\$0.00	\$2.08	\$8.29	\$10.37
125-134 W	Per Light	\$2.25	\$0.00	\$2.25	\$8.65	\$10.90
135-144 W	Per Light	\$2.42	\$0.00	\$2.42	\$9.00	\$11.43
145-154 W	Per Light	\$2.60	\$0.00	\$2.60	\$9.36	\$11.95
155-164 W	Per Light	\$2.77	\$0.00	\$2.77	\$9.71	\$12.48
165-174 W	Per Light	\$2.94	\$0.00	\$2.94	\$10.07	\$13.01
175-184 W	Per Light	\$3.12	\$0.00	\$3.12	\$10.42	\$13.54
185-194 W	Per Light	\$3.29	\$0.00	\$3.29	\$10.78	\$14.07
195-204 W	Per Light	\$3.46	\$0.00	\$3.46	\$11.14	\$14.60
205-214 W	Per Light	\$3.64	\$0.00	\$3.64	\$11.49	\$15.13
215-224 W	Per Light	\$3.81	\$0.00	\$3.81	\$11.85	\$15.66
225-234 W	Per Light	\$3.99	\$0.00	\$3.99	\$12.20	\$16.19
235-244 W	Per Light	\$4.16	\$0.00	\$4.16	\$12.56	\$16.72
245-254 W	Per Light	\$4.33	\$0.00	\$4.33	\$12.91	\$17.25
255-264 W	Per Light	\$4.51	\$0.00	\$4.51	\$13.27	\$17.78
265-274 W	Per Light	\$4.68	\$0.00	\$4.68	\$13.62	\$18.31
275-284 W	Per Light	\$4.85	\$0.00	\$4.85	\$13.98	\$18.83
285-294 W	Per Light	\$5.03	\$0.00	\$5.03	\$14.34	\$19.36
295-304 W	Per Light	\$5.20	\$0.00	\$5.20	\$14.69	\$19.89
305-314 W	Per Light	\$5.38	\$0.00	\$5.38	\$15.05	\$20.42
315-324 W	Per Light	\$5.55	\$0.00	\$5.55	\$15.40	\$20.95
325-334 W	Per Light	\$5.72	\$0.00	\$5.72	\$15.76	\$21.48
335-344 W	Per Light	\$5.90	\$0.00	\$5.90	\$16.11	\$22.01
345-354 W	Per Light	\$6.07	\$0.00	\$6.07	\$16.47	\$22.54
355-364 W	Per Light	\$6.24	\$0.00	\$6.24	\$16.82	\$23.07
365-374 W	Per Light	\$6.42	\$0.00	\$6.42	\$17.18	\$23.60
375-384 W	Per Light	\$6.59	\$0.00	\$6.59	\$17.54	\$24.13
385-394 W	Per Light	\$6.76	\$0.00	\$6.76	\$17.89	\$24.66
395-404 W	Per Light	\$6.94	\$0.00	\$6.94	\$18.25	\$25.18
405-414 W	Per Light	\$7.11	\$0.00	\$7.11	\$18.60	\$25.71
415-424 W	Per Light	\$7.29	\$0.00	\$7.29	\$18.96	\$26.24
425-434 W	Per Light	\$7.46	\$0.00	\$7.46	\$19.31	\$26.77
435-444 W	Per Light	\$7.63	\$0.00	\$7.63	\$19.67	\$27.30
445-454 W	Per Light	\$7.81	\$0.00	\$7.81	\$20.02	\$27.83
455-464 W	Per Light	\$7.98	\$0.00	\$7.98	\$20.38	\$28.36
465-474 W	Per Light	\$8.15	\$0.00	\$8.15	\$20.74	\$28.89
475-484 W	Per Light	\$8.33	\$0.00	\$8.33	\$21.09	\$29.42

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00

(Continued on Sheet No. D-95.00)

GENERAL SERVICE UNMETERED RATE GU

Availability:

Subject to any restrictions, this rate is available to the US Government, any political subdivision or agency of the State of Michigan, and any public or private school district for filament and/or gaseous discharge lamp installations maintained for traffic regulation or guidance, as distinguished from street illumination and police signal systems. Lighting for traffic regulation may use experimental lighting technology including light-emitting diode (LED). This rate is also available to Community Antenna Television Service Companies (CATV), Wireless Access Companies or Security Camera Companies for unmetered Power Supply Units. Where the Company's total investment to serve an individual location exceeds three times the annual revenue to be derived from such location, a contribution to the Company shall be required for the excess.

This rate is not available for resale purposes, new roadway lighting or for Retail Open Access Service.

Nature of Service:

Customer furnishes and installs all fixtures, lamps, ballasts, controls, amplifiers and other equipment, including wiring to point of connection with Company's overhead or underground system, as directed by the Company. Company furnishes and installs, where required for center suspended overhead traffic light signals, messenger cable and supporting wood poles and also makes final connections to its lines. If, in the Company's opinion, the installation of wood poles for traffic lights is not practical, the customer shall furnish, install and maintain suitable supports other than wood poles. The customer shall maintain the equipment, including lamp renewals, and the Company shall supply the energy for the operation of the equipment. Conversion and/or relocation costs of existing facilities shall be paid for by the customer except when initiated by the Company.

The capacity requirements of the lamp(s), associated ballast(s) and control equipment for each luminaire shall be determined by the Company from the specifications furnished by the manufacturers of such equipment, provided that the Company shall have the right to test such capacity requirements from time to time. In the event that said tests shall show capacity requirements different from those indicated by the manufacturers' specifications, the capacity requirements shown by said tests shall control. The customer shall not change the capacity requirements of the equipment owned by it without first notifying the Company in writing of such changes and the date that they shall be made.

Monthly Rate:

Power Supply Charges:

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.054099	\$0.019494	\$0.073593	per kWh for all kWh

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

Delivery Charges:

System Access Charge:	\$2.00	per customer per month
Distribution Charge:	\$0.021825	per kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00.

(Continued on Sheet No. D-97.00)

(Continued From Sheet No. E-15.00)

E3. RETAILER SECTION (Contd)

E3.3 Electronic Business Transactions

Unless otherwise specified by the Company in a Commission-approved tariff, Retailers shall transact all business with the Company electronically.

Unless otherwise specified by the Company in a Commission-approved tariff, all payments made to the Company by the Retailer will be made by electronic funds transfer to the Company's account.

E3.4 Rates and Charges

Rates and charges will be in accordance with the applicable ROA Rate Schedule and the Applicable FERC Open Access Tariff.

For Retailer requested services that require modification to the Company's existing systems, the reasonable costs of fulfilling any special request shall be borne by the Retailer. Such requests are granted at the Company's discretion, provided that the granting of such requests shall not be unreasonably withheld.

E3.5 Billing, Payment, Shutoff, and Disenrollment of a Delinquent ROA Customer

A. Retailer Billing

The Company shall bill the Retailer monthly for ROA Service.

B. ROA Customer Billing and Payment to Retailer/Company

The Company shall bill the ROA Customer monthly for ROA Service. The Retailer's charges to the ROA Customer may be billed as part of the Company's bill or may be billed separately by the Retailer at the option of the Retailer.

A Retailer utilizing a MV90 system prior to January 1, 2022 may request meter data and/or access for billing purposes. Such requests are fulfilled at the discretion of the Company within the parameters of Rule C17., Customer Data Privacy, provided that the granting of such requests shall not be unreasonably withheld.

When the Retailer purchases billing services from the Company, the following conditions apply:

- (1) The Retailer shall provide its pricing structure detail and a rate table, in a mutually agreeable format, at least one calendar week prior to the first day of the applicable billing month. If this information is not received by this time frame, the Company has no obligation to bill on behalf of the Retailer.
- (2) ROA Customer payments for the Retailer charges billed by the Company will be transferred electronically to the Retailer within six business days after the ROA Customer payments are received and reconciled. Any discrepancies in charges collected and remitted will be corrected and reflected in the next billing cycle.

(Continued on Sheet No. E-17.00)

RETAIL OPEN ACCESS RESIDENTIAL SECONDARY RATE ROA-R
(Continued From Sheet No. E-21.00)

RETAILER

Monthly Rate - Retailer:

Transmission Service:

Subject to Rule E1.5, Transmission Service must be obtained from the appropriate transmission service providers and the charges for such service shall be as specified in the Applicable FERC Open Access Tariff.

Real Power Losses:

The Retailer is responsible for replacing Real Power Losses of 7.605% on the Company's Distribution System associated with the movement of Power and for compensation for losses.

General Terms and Conditions:

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Term and Form of Contract - Retailer:

All service under this rate shall require a written ROA Service Contract between the Company and a Retailer.

ROA CUSTOMER

Monthly Rate – ROA Customer:

ROA System Access Charge, Distribution Charge, General Terms, Minimum Charge and Due Date and Late Payment Charge:

The System Access Charge, Distribution Charge, General Terms, Minimum Charge and the Due Date and Late Payment Charge shall be as provided for under the ROA Customer's otherwise applicable Company Full Service rate.

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Power Plant Securitization Charges shown on Sheet No. D-7.00. Customers taking ROA service on December 6, 2013 are excluded from the Power Plant Securitization Charges. This exclusion does not apply to customers first taking ROA service after December 6, 2013 or to customers taking service on December 6, 2013 who discontinue taking ROA service any time after December 6, 2013. Customers who discontinue taking ROA service any time after December 6, 2013 and who return to ROA service shall pay the Power Plant Securitization Charges applicable to the customer's otherwise applicable Company Full Service Rate Schedule.

State Reliability Mechanism for ROA:

Beginning June 1, 2018 all ROA customers may be subject to a State Reliability Mechanism Capacity Charge. This charge shall not apply to ROA customers for any planning year in which their Alternative Electric Supplier can demonstrate to the Commission that it can meet its capacity obligations by the seventh business day of February each year starting in 2018.

If a capacity charge is required to be paid in the planning year beginning June 1, 2018, or any of the three subsequent planning years, due to the Alternative Electric Supplier not meeting its capacity obligations, then the capacity charge is applicable for each of those planning years. Any capacity charged required to be paid any time after the first initial four-year period shall be applicable for a single year. The planning year is defined as being June 1 through the following May 31 of each year. The capacity charge paid by ROA customers will be the same amount as a Full Service Customer on the otherwise applicable Rate Schedule. Non-capacity charges shall not apply.

ROA Customer Switching Service Charge:

A \$5.00 switching fee shall be charged the ROA Customer each time a ROA Customer switches (i) from one Retailer to another or (ii) from ROA to a Company Full Service rate. The ROA Customer may switch Retailers at the end of any billing month by having their new Retailer give the Company at least 30 days' written notice. The Company will notify the ROA Customer's previous Retailer and new Retailer electronically of the effective date of the switch. The ROA Customer may choose to return to Company Full Service at the end of any billing month in compliance with Rule E2.5 D., Return to Company Full Service - Residential ROA Customers. The ROA Customer Switching Service Charge shall not be applied (i) for the initial switch to ROA Service or (ii) at the time the ROA Customer returns to Company Full Service or another Retailer because the ROA Customer was Slammed by the Retailer.

Term and Form of Contract - ROA Customer:

Service under this rate shall not require a ROA Service Contract between the Company and a ROA Customer.

RETAIL OPEN ACCESS SECONDARY RATE ROA-S
(Continued From Sheet No. E-23.00)

Metering Requirements:

The ROA Customer with a Maximum Demand of less than 20 kW shall be separately metered by a Wireless Under Glass Meter or an Energy Registering Meter, with or without maximum demand registers, of billing quality. Such metering equipment shall be furnished, installed, maintained and owned by the Company.

The ROA Customer with a Maximum Demand of less than 20 kW may elect to install an Interval Data Meter. Such metering equipment shall be furnished, installed, maintained and owned by the Company. The requesting ROA Customer shall be required to pay the System Access Charge, as provided for under the ROA Customer's otherwise applicable Company Full Service rate, for all such metering equipment.

The ROA Customer with a Maximum Demand of 20 kW or more shall be separately metered by a Wireless Under Glass Meter or an Interval Data Meter of billing quality. Such metering equipment shall be furnished, installed, maintained and owned by the Company. The ROA Customer shall be required to pay the System Access Charge, as provided for under the ROA Customer's otherwise applicable Company Full Service rate, for all such metering equipment.

The ROA Customer with an Interval Data Meter shall be responsible for (i) the communication links that allow access to the meter data by the Company and are compatible with the Company's metering and billing systems, and (ii) all associated costs relating to the communication links including other accompanying equipment and monthly fees.

RETAILER:

Monthly Rate - Retailer:

Transmission Service:

Subject to Rule E1.5, Transmission Service must be obtained from the appropriate transmission service providers and the charges for such service shall be as specified in the Applicable FERC Open Access Tariff.

Real Power Losses:

The Retailer is responsible for replacing Real Power Losses of 7.605% on the Company's Distribution System associated with the movement of Power and for compensation for losses.

General Terms and Conditions:

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

Term and Form of Contract - Retailer:

All service under this rate shall require a written ROA Service Contract between the Company and a Retailer.

(Continued on Sheet No. E-25.00)

RETAIL OPEN ACCESS PRIMARY RATE ROA-P

Availability:

Subject to any restrictions, this rate is available to any customer receiving service at a Primary Voltage for the delivery of Power from the Point of Receipt to the Point of Delivery and for resale service in accordance with Rule C4.4, Resale.

This rate is not available to a ROA-P Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer. This ROA Customer must take service under Retail Open Access Secondary Rate ROA-S.

This rate is not available for unmetered general service or for any unmetered or metered lighting service.

Service under this rate shall be separately metered. The Retailer shall deliver a flat, fixed amount of power every hour of every day.

Any ROA Customer whose monthly minimum Maximum Demand is less than 1,000 kW must utilize an Aggregator.

Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

The Company shall not be required to, but may expand its existing facilities to make deliveries under this tariff. The ROA Customer and/or Retailer shall be liable for any and all costs incurred as a result of an expansion of facilities made to make deliveries under this tariff.

Metering Requirements:

The load under this tariff shall be separately metered by a Wireless Under Glass Meter or an Interval Data Meter of billing quality. Such metering equipment shall be furnished, installed, maintained and owned by the Company. The ROA customer shall be required to pay the System Access Charge, as provided for under the ROA customer's otherwise applicable Company Full Service rate, for all such metering equipment.

The ROA Customer with an Interval Data Meter shall be responsible for (i) the communication links that allow access to the meter data by the Company and are compatible with the Company's metering and billing systems, and (ii) all associated costs relating to the communication links including other accompanying equipment and monthly fees.

RETAILER

Monthly Rate - Retailer:

Transmission Service:

Subject to Rule E1.5, Transmission Service must be obtained from the appropriate transmission service providers and the charges for such service shall be as specified in the Applicable FERC Open Access Tariff.

Real Power Losses:

The Retailer is responsible for replacing Real Power Losses as shown below on the Company's Distribution System associated with the movement of Power and for compensation for losses.

	Meter Point	
	High Side	Low Side
Customer Voltage Level 1	0.000%	0.999%
Customer Voltage Level 2	1.324%	2.338%
Customer Voltage Level 3	3.175%	7.605%

MICHIGAN PUBLIC SERVICE COMMISSION
Consumers Energy Company
Electric Cost-of-Service Study
Capacity Related Cost and Charge Calculation

Line No.	(a) <u>Description</u>	(b) <u>Total Electric</u> (\$000)	(c) <u>Capacity Charge</u>	(d) <u>Formula</u>
1	Total Production Related Cost	\$ 2,746,417		
	<u>Non-Capacity Related Cost:</u>			
2	Fuel Expense	\$ 508,684		
3	Purchased & Interchanged	438,496		
4	Energy Related Other O&M Expense	46,265		
5	PSCR Revenue Credits	(105,887)		
6	Non-PSCR Revenue Credits	(62,372)		
7	Transmission Expense	498,412		
8	Total Non-Capacity Related Cost	\$ 1,323,598		Σ Lines 2:7
9	Total Capacity Related Cost	\$ 1,422,819		Line 1 - Line 8
	<u>Offsets:</u>			
10	Energy Market Sales	\$ 905,943		
11	Off-System Energy Sales	10,309		
12	Ancillary Service Sales	10,686		
13	Bilateral Energy Sales	-		
14	Total Revenue	\$ 926,938		Σ Lines 10:13
15	Related Fuel Cost	484,264		
16	Total Revenue Less Fuel Cost	\$ 442,674		Line 14 - Line 15
17	Net Capacity Cost	\$ 980,145		Line 9 - Line 16
18	Capacity Charge Demand (MW)		8,215	
19	Capacity Charge (\$/MW-Day)		\$326.88	$[(\text{Line 17} \times 1,000) \div \text{Line 18}] \div 365$

PROOF OF SERVICE

STATE OF MICHIGAN)

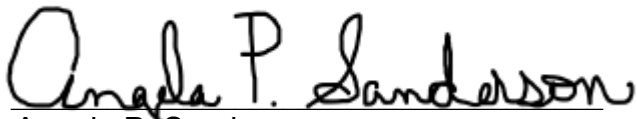
Case No. U-20963

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 22, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 22nd day of December 2021.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20963

Name	Email Address
Amit T. Singh	singha9@michigan.gov
Anne M. Uitvlugt	anne.uitvlugt@cmsenergy.com
Benjamin J. Holwerda	holwerdab@michigan.gov
Benjamin L. King	bking@michworkerlaw.com
Brandon C. Hubbard	bhubbard@dickinsonwright.com
Bret A. Totoraitis	bret.totoraitis@cmsenergy.com
Brian W. Coyer	bwcoyer@publiclawresourcecenter.com
Celeste R. Gill	gillc1@michigan.gov
Charlene Vondett	cavondett@varnumlaw.com
Christopher M. Bzdok	chris@envlaw.com
Consumers Energy Company 1 of 2	mpsc.filings@cmsenergy.com
Consumers Energy Company 2 of 2	michael.torrey@cmsenergy.com
Don L. Keskey	donkeskey@publiclawresourcecenter.com
Don L. Keskey	donkeskey@publiclawresourcecenter.com
Gary A. Gensch Jr.	gary.genschjr@cmsenergy.com
Ian F. Burgess	ian.burgess@cmsenergy.com
Jason T. Hanselman	jhanselman@dykema.com
Jennifer U. Heston	jheston@fraserlawfirm.com
Jody Kyler Cohn	jkylercohn@bkllawfirm.com
John A. Janiszewski	jjaniszewski@dykema.com
John R. Canzano	jcanzano@michworkerlaw.com
Kurt J. Boehm	kboehm@bkllawfirm.com
Laura A. Chappelle	lchappelle@potomaclaw.com
Lydia Barbash-Riley	lydia@envlaw.com
Madeline Fleisher	mfleisher@dickinsonwright.com
Margrethe Kearney	mkearney@elpc.org
Melissa M. Horne	mhorne@hcc-law.com
Michael C. Rampe	michael.rampe@cmsenergy.com
Michael C. Soules	msoules@earthjustice.org
Michael J. Pattwell	mpattwell@clarkhill.com
Michael S. Ashton	mashton@fraserlawfirm.com
Nicholas Q. Taylor	taylorn10@michigan.gov
Nolan J. Moody	nmoody@dickinsonwright.com
Richard J. Aaron	raaron@dykema.com
Robert Kelter	rkelter@elpc.org
Robert W. Beach	robert.beach@cmsenergy.com
Shaina R. Reed	sreed@fraserlawfirm.com
Sharon Feldman	feldmans@michigan.gov
Spencer A. Sattler	sattlers@michigan.gov
Stephen A. Campbell	scampbell@clarkhill.com
Timothy J. Lundgren	tlundgren@potomaclaw.com

Tracy Jane Andrews
Valerie J.M. Brader

tjandrews@envlaw.com
valerie@rivenoaklaw.com