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January 25, 2024

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, MI 48909

Re: **MPSC Case No. U-21374**

Dear Ms. Felice:

Attached for electronic filing in the above-referenced matter, please find the Direct Testimony of Dr. Laura S. Sherman on behalf of the Michigan Energy Innovation Business Council, the Institute for Energy Innovation, and Advanced Energy United, together with the Proof of Service. Thank you for your assistance in this matter.

Very truly yours,

Justin K. Ooms

JKO/srd

Enclosure

c. All parties of record.

STATE OF MICHIGAN

MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion
regarding the regulatory reviews, revisions,)
determinations, and/or approvals necessary for)
CONSUMERS ENERGY COMPANY to)
comply with Section 61 of 2016 PA 342.)
_____)

Case No. U-21374

DIRECT TESTIMONY OF DR. LAURA S. SHERMAN

ON BEHALF OF

THE MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL,

INSTITUTE FOR ENERGY INNOVATION,

AND

ADVANCED ENERGY UNITED

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1 **I. INTRODUCTION AND QUALIFICATIONS**

2

3 **Q. State your name, business name and address.**

4 A. My name is Dr. Laura S. Sherman, and I am the President of the Michigan Energy
5 Innovation Business Council (“Michigan EIBC”) and the Institute for Energy Innovation
6 (“IEI”), located at 115 West Allegan St., Suite 710, Lansing, Michigan 48933.

7

8 **Q. On whose behalf are you appearing in this case?**

9 A. I am appearing here as an expert witness on behalf of Michigan EIBC, IEI, and Advanced
10 Energy United (“United”), collectively referred to as “MEIU.”

11

12 **Q. Summarize your educational background.**

13 A. I have a Ph.D. from the University of Michigan Earth and Environmental Sciences
14 Department, conferred in May 2012. I also have a Bachelor of Science degree from
15 Stanford University in Geological and Environmental Sciences, conferred in June 2005.

16

17 **Q. Summarize your experience in the field of electric utility regulation.**

18 A. Since April 2019, I have served as the President of Michigan EIBC and IEI. Prior to that,
19 starting in February 2017, I was a Senior Consultant at 5 Lakes Energy focusing on energy
20 policy and utility regulation. I also served as the Vice President for Policy Development
21 for the Michigan EIBC and IEI. In these capacities, I have written testimony in many non-
22 adjudicated dockets before the Michigan Public Service Commission (“Commission” or
23 “MPSC”). From 2014-2016, I served as a Policy Advisor on energy, environment, and

1 agriculture issues to U.S. Senator Michael Bennet (D-CO). In that capacity, I provided
2 policy expertise, conducted research, developed legislation, and analyzed regulations. Prior
3 to that, my doctoral (2007-2012) and postdoctoral (2012-2014) research was focused on
4 the tracing of pollutants emitted during energy generation. My work experience is set forth
5 in detail in my résumé, attached as Exhibit MEIU-1.

6
7 **Q. Summarize your professional development coursework in the field of electric utility
8 regulation.**

9 A. In August 2017, I completed the Electric Utility Consultants Inc. (“EUCI”) course titled
10 “Optimizing the Interconnection Process for Renewables & Storage: A National Forum for
11 Addressing Process and Technical Issues.” In December 2017, I completed the EUCI
12 course titled “The Electric Vehicle-Utility Industry Nexus.” In January 2018, I completed
13 the EUCI course titled “Evolution of Electricity Markets: Disruptive Innovation &
14 Economic Impacts: Highly Interactive Course Designed to Provide A Practical Overview
15 of Evolving U.S. Power Markets.”

16
17 **Q. Have you testified before this Commission or as an expert in any other proceeding?**

18 A. Yes. I previously testified as an expert witness in the following cases:

- 19 • U-20134 (Consumers Energy Company [“Consumers Energy,” “Consumers” or the
20 “Company”] general electric rate case);
- 21 • U-20165 (Consumers Energy Integrated Resource Plan case);
- 22 • U-20162 (DTE Electric Company [“DTE Electric” or “DTE”] general electric rate
23 case);

- 1 • U-20471 (DTE Electric Integrated Resource Plan case);
- 2 • U-18232 (DTE Electric Renewable Energy Plan case);
- 3 • U-20649 (Consumers Energy Voluntary Green Pricing Program case);
- 4 • Consolidated U-20713 (DTE Electric Voluntary Green Pricing Program case)/U-20851
- 5 (DTE Electric Renewable Energy Plan case);
- 6 • U-20693 (Consumers Energy general electric rate case);
- 7 • U-21090 (Consumers Energy Integrated Resource Plan case);
- 8 • U-21131 (Consumers Energy Legally Enforceable Obligation case);
- 9 • U-21134 (Consumers Energy Voluntary Green Pricing Program case);
- 10 • U-20836 (DTE Electric general electric rate case);
- 11 • U-21224 (Consumers Energy general electric rate case);
- 12 • U-21172 (DTE Electric Voluntary Green Pricing Program case);
- 13 • U-21193 (DTE Electric Integrated Resource Plan Case);
- 14 • U-21297 (DTE Electric general electric rate case); and
- 15 • U-21389 (Consumers Energy general electric rate case).

16

17 **Q. Have you provided analysis in support of testimony or comments in any other utility**
18 **regulatory proceeding?**

19 A. Yes. In my roles at Michigan EIBC and IEI, and in collaboration with MEIU, I have
20 provided comments in a number of Commission dockets including:

- 21 • U-18351 and U-18352 (creation of the voluntary green pricing programs);
- 22 • U-20095 (Public Utility Regulatory Policies Act of 1978 [“PIRPA”] regulations and
- 23 capacity determinations);

- 1 • U-18383 (development of a Distributed Generation [“DG”] tariff);
- 2 • U-18361 (Code of Conduct rules);
- 3 • U-20147 (distribution system planning rules and utility plans);
- 4 • U-20905 (implementation of Federal Energy Regulatory Commission Order 872);
- 5 • U-20890 (Interconnection and Distributed Generation Standards);
- 6 • U-20898 (utility business models);
- 7 • U-21099 (demand response aggregation, resource adequacy and dual participation of
- 8 storage resources);
- 9 • U-21219 and U-18461 (Integrated Resource Plan Filing Requirements and Planning
- 10 Parameters);
- 11 • U-20959 (customer data access); and
- 12 • U-21251 (grid system data access).

13
14 In addition to this work, I have been involved on behalf of Michigan EIBC/IEI in multiple
15 workgroup proceedings at the Commission, including those focused on electric vehicle
16 (“EV”) deployment, DG tariffs, Integrated Resource Plan requirements, energy waste
17 reduction, and distribution system planning. Over the last several years, I have been
18 involved on behalf of Michigan EIBC/IEI in the MI Power Grid workshop proceedings at
19 the Commission, including those focused on new technologies and business models,
20 customer data access, updating the state’s interconnection rules, demand response,
21 distribution system planning, pilot programs, competitive procurement, advanced
22 planning, updating the IRP parameters and filing requirements, and financial incentives
23 and disincentives.

1
2 **Q. Please summarize your experiences working with advanced energy companies on**
3 **issues related to electric utility regulation.**

4 A I have served as the President of Michigan EIBC and IEI since April 2019. Prior to that,
5 from November 2017 through April 2019, I served as Vice President of Policy
6 Development for Michigan EIBC and IEI. In these roles, I have led the trade organization’s
7 work on regulatory and legislative issues. As described above, I have participated in many
8 workgroups at the Commission and written comments in a number of non-adjudicated
9 cases. I also communicate formally and informally with Michigan EIBC member
10 companies about each regulatory proceeding to understand how the advanced energy
11 industry is affected by each proposed rule or case.

12
13 **Q. What is the purpose of your testimony?**

14 A. The purpose of my direct testimony is to describe, based on my experiences as the President
15 of Michigan EIBC and IEI, concerns regarding competitive procurement and the ownership
16 of renewable energy resources, concerns related to the purchase of Renewable Energy
17 Credits (“RECs”) from customers, concerns regarding the Company’s proposed
18 community solar program, and concerns related to the Company’s proposed use of funds
19 from the Green Generation Program.

20
21 **Q. Are you sponsoring any exhibits?**

22 A. Yes, I am sponsoring the following exhibits:

- 23
- Exhibit MEIU-1: Résumé of Dr. Laura S. Sherman

- 1 • Exhibit MEIU-2: Discovery Response U-21374-MEIU-CE-0035
- 2 • Exhibit MEIU-3: Discovery Response U-21374-MEIU-CE-0030
- 3 • Exhibit MEIU-4: Discovery Response U-21374-MEIU-CE-0031
- 4 • Exhibit MEIU-5: Discovery Response U-21374-MEIU-CE-25_ATT_2
- 5 • Exhibit MEIU-6: Discovery Response U-21374-MEIU-CE-0026
- 6 • Exhibit MEIU-7: Discovery Response U-21374-ST-CE-0019
- 7 • Exhibit MEIU-8: Discovery Response U-21374-ST-CE-0063
- 8 • Exhibit MEIU-9: Discovery Response U-21374-ST-CE-0010
- 9 • Exhibit MEIU-10: Discovery Response U-21374-MEIU-CE-0033
- 10 • Exhibit MEIU-11: Discovery Response U-21374-MEIU-CE-0034
- 11 • Exhibit MEIU-12: Discovery Response U-21374-ST-CE-0066

12

13 **Q. Please summarize the changes that Consumers Energy has proposed to make to the**
14 **current Voluntary Green Pricing (“VGP”) programs in this case.**

15 A. The Company proposes a number of changes to the VGP programs, which are described in
16 detail by Company witness Eric Clinton. These include:

17 (i) establishing a single VGP resource asset pool, (ii) establishing the new
18 Renewable Energy Program which both revises the current Large
19 Customer Renewable Energy Program (“LC-REP”) and expands the LC-
20 REP structure to all customers, (iii) revisions to the Solar Gardens
21 Program, (iv) revisions to the Renewable Energy Credit (“REC”) Program,
22 and (v) a new Green Giving Program.¹
23

¹ Application of Consumers Energy Company, Case No. U-21374, p. 1.

1 The Company also proposes to use surplus funds from the Green Generation Program to
2 support development of renewables and, potentially, to provide subscriptions for income-
3 qualified customers to the Solar Gardens Program.

4
5 As described by Company witnesses Eric W. Clinton and Kenneth D. Johnston, proposed
6 revisions to the Solar Gardens Program include removal of the pilot designation, removal
7 of the 10 MW cap, removal of the pre-payment options, establishment of one renewable
8 energy VGP asset pool and alignment of the energy and capacity credit payments with the
9 current LC-REP methodology, and establishment of a standard SolarBlocks (“Blocks”)
10 size based on energy (400 kWh).²

11
12 **Q. Do you support these proposals?**

13 A. In part. I am supportive of the Company’s proposal to establish a single VGP asset pool
14 for cost purposes and its proposal to extend the LC-REP structure to all customers, creating
15 a new Renewable Energy Program. I have argued for years, including in the Company’s
16 last VGP case (Case No. U-21134), that the Company should merge its VGP assets into
17 one cost pool to better control costs. In that case, in Direct Testimony, I argued that:

18 The Company should also consider whether it could use a model similar to
19 that approved by the Commission in the settlement of Case Nos. U-
20 20713/U-20851. Specifically, in the settlement agreement in those cases,
21 the parties agreed that DTE Electric’s residential program (under Rider 17)
22 and large-customer program (under Rider 19) would “be supported by the
23 same pool of combined VGP projects.”⁷ Given the relative size of the
24 programs, this change is not likely to greatly impact the costs of the large-

² Direct Testimony of Eric W. Clinton on behalf of Consumers Energy Company, Case No. U-21374 (“Clinton Direct”); Direct Testimony of Kenneth D. Johnston on behalf of Consumers Energy Company, Case No. U-21374 (“Johnston Direct”).

1 customer program, but is expected to significantly decrease the costs of the
2 residential program. Consumers could similarly merge the assets in the
3 Solar Gardens Program with the Large-Customer Renewable Energy
4 Program (“LC-REP”).³

5 In the current case, witness Clinton reaches a similar conclusion, arguing that:

6 Current and planned Solar Gardens resources to be included in the asset
7 pool will generate approximately 17 GWh annually. This translates to Solar
8 Gardens representing approximately 0.7% of the total generation pool.
9 Therefore, adding Solar Gardens into the asset pool is de minimis and
10 immaterial to the overall asset pool price yet will deliver significant benefits
11 to accelerate the development of utility-based community solar.⁴
12

13 In addition, in Case No. U-21134, Caitlin Marquis argued on behalf of MEIU that the
14 Company’s VGP program should be extended to all customers, including small and
15 medium-sized businesses.⁵ The establishment of a new Renewable Energy Program open
16 to all customers appears to meet that demand and provide those options for businesses who
17 cannot contract for more than 1,000,000 kWh/year.

18
19 However, as described in detail below, I am concerned with some of the Company’s
20 proposals regarding the Solar Gardens Program, REC program, and transfer of funds from
21 the Green Generation Program. In addition, although I am broadly supportive of the
22 competitive procurement processes used by the Company, including the use of an
23 Independent Administrator, I am concerned that the Company does not generally appear to
24 utilize resources owned by third-parties to fulfill demand for the VGP programs.

³ Direct Testimony of Dr. Laura S. Sherman on behalf of MEIU, Case No. U-21134, pp. 9-10.

⁴ Clinton Direct, p. 26.

⁵ Direct Testimony of Caitlin Marquis on behalf of MEIU, Case No. U-21134, pp. 12-15.

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II. COMPETITIVE PROCUREMENT AND OWNERSHIP

Q. Do you have an understanding of best practices for competitive bidding processes?

A. Yes. Part of my work on behalf of Michigan EIBC is to understand industry standards and best practices with respect to competitive bidding. From September 2020 through March 2021, on behalf of Michigan EIBC members, I participated in the Commission’s Competitive Procurement Workgroup, submitting multiple sets of comments on behalf of Michigan EIBC and United and presenting to the stakeholder group during two workgroup sessions.

There are several well-regarded organizations that provide practical explanations of how an effective competitive bidding process should be designed. According to a whitepaper commissioned by the National Association of Regulatory Utility Commissioners (“NARUC”),⁶ the competitive bidding process should be “designed to encourage a competitive response from the market.” Section 1(2)(c) of Public Act 295 of 2008, as amended by Public Act 342 of 2016 and as further amended by Public Act 235 of 2023, MCL 460.1001(2)(c), similarly establishes the goal of “encourag[ing] private investment in renewable energy and energy waste reduction.”

⁶ Susan F. Tierney & Todd Schatzki, Analysis Group, *Competitive Procurement of Retail Electricity Supply: Recent Trends in State Policies and Utility Practices*, 2008, available at: http://www.analysisgroup.com/uploadedfiles/content/insights/publishing/competitive_procurement.pdf.

1 **Q. What is the value of using a competitive bidding process?**

2 A. MEIU, along with customer and environmental advocates, have long espoused the
3 inclusion of independent power producers and properly structured competitive solicitations
4 for project selection processes to ensure that customers have access to competitively-priced
5 renewable energy. To determine the lowest-cost, most reasonable and prudent resources
6 and ownership models, it is a best practice to utilize fair, transparent, open Requests for
7 Proposals (“RFPs”) and competitive bidding processes.

8

9 **Q. Does the Commission have uniform guidelines for competitive bidding?**

10 A. Yes. Following the Commission’s Competitive Procurement Workgroup, the Staff filed a
11 report with draft guidelines on June 22, 2021, in Case No. U-20852. The Commission
12 issued an Order on September 9, 2021, in Case No. U-20852 accepting the guidelines with
13 minor modifications, stating that:

14 . . . the Commission finds that the guidelines achieve the Commission’s
15 stated intention of setting out a competitive procurement process that
16 reveals available resource options, ensure[s] emerging technologies are
17 appropriately considered, and results in lower costs and higher value for
18 customers.⁷
19

20 **Q. Are utilities required to follow these guidelines for all procurements?**

21 A. Not as an absolute requirement. However, the Commission stated that the guidelines “set
22 out a standard for the Commission’s expectations of a fair, transparent, non-discriminatory

⁷ *In the matter, on the Commission’s own motion, to commence a collaborative to consider best practices to ensure cost-effective development of new energy resources and to limit procurement barriers for emerging technologies, including processes for competitive bidding*, order of the Public Service Commission, entered September 9, 2021 (Case No. U-20852), p. 24.

1 bidding process.” As more fully explained by the Commission in the Order in Case No. U-
2 20852, issued on September 9, 2021:

3 . . . the Commission clarifies that the adoption of the guidelines does not
4 make conformity with the guidelines a requirement for all rate-regulated
5 utilities in every resource procurement. As stated in the guidelines, the
6 Commission encourages the use of the competitive procurement guidelines
7 for the solicitation of all long-term resources but is not imposing their use
8 as a requirement for cost recovery. Should a utility opt to conform its RFP
9 to the competitive procurement guidelines, it will receive the benefit of a
10 presumption that its resulting procurement in accordance with the
11 guidelines is reasonable and prudent. Additionally, to further address
12 concerns regarding the presumption of reasonableness and prudence, the
13 Commission clarifies that *the guidelines are intended to set out a standard*
14 *for the Commission’s expectations of a fair, transparent, non-*
15 *discriminatory bidding process*. However, the guidelines do not foreclose
16 the possibility that procurement by other means may also be reasonable and
17 prudent.⁸
18

19 The guidelines themselves state that:

20 When making determinations of the reasonableness and prudence of utility
21 energy and capacity resource procurements, the following guidelines shall
22 be used in the Commission’s review of the Competitive Procurement
23 processes and resulting bids. This includes resources procured through a
24 Competitive Procurement process for Voluntary Green Pricing (VGP)
25 Programs, Renewable Portfolio Standards, to inform Integrated Resource
26 Plans (IRP) or as a result of IRPs, and other competitive procurement
27 activities deemed appropriate and reasonable by the Commission.⁹

28 However, in the case of a utility that chooses to use competitive solicitations as a means
29 for establishing its PURPA avoided costs, the competitive procurement guidelines state:

30 This guidance will be utilized when the utility intends to use Competitive
31 Procurement as the means for establishing its Public Utility Regulatory
32 Policies Act of 1978 (PURPA) avoided costs and as a basis for determining

⁸ *Id.*, pp. 23–24 (emphasis added).

⁹ *Id.* Exhibit A.

1 an avoided capacity cost of zero outside the competitive solicitation
2 process.¹⁰

3 All in all, the Commission has given every indication that it considers the Competitive
4 Bidding Guidelines *normative* for its evaluation of the reasonableness and prudence of
5 competitive solicitations of utilities and that utilities therefore ignore them at their peril.

6

7 **Q. Please describe the Company’s current competitive procurement practices for the**
8 **VGP Program.**

9 A. According to witness Johnston:

10 The Company used a competitive VGP solicitation process consistent with
11 prior solicitations for RE Plan assets, the Commission’s 2008 Guidelines
12 for Competitive Request for Proposal for Renewable and Advanced Cleaner
13 Energy which were issued as Attachment D in the December 4, 2008 Order
14 in Case No. U-15800, and the Commission’s Competitive Procurement
15 Guidelines for Rate-Regulated Electric Utilities (Not for the Public Utility
16 Regulatory Policies Act of 1978 (“PURPA”) Compliance) approved on
17 September 9, 2021, in Case No. U-20852.¹¹

18

19 For the 2022 and 2023 VGP RFPs, the Company used Enel X as an Independent
20 Administrator. After running the solicitation, Enel X provided the Company with a blind
21 ranking of the proposals, from which the Company selected and provisionally awarded
22 proposals.¹² According to witness Clinton:

23 new resources will be competitively bid via an independent third-party
24 administrator and added to the program based on transparent solicitation
25 evaluation and customer demand.¹³

¹⁰ *Id.*

¹¹ Johnston Direct, pp. 9-10.

¹² *Id.*, p. 10.

¹³ Clinton Direct, p. 11.

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Q. Does the Company seek both Company-owned projects and third-party owned projects through these VGP solicitations?

A. Not to my knowledge. It is my understanding that the Company has sought only Company-owned resources (i.e., self-built projects and those acquired through build-transfer agreements, “BTAs”) to fulfill demand for the VGP program. Moving forward, according to a discovery response in this case (Exhibit MEIU-2), “The Company will only provide Company-owned renewable energy assets to supply the Renewable Energy Program (formerly LC-REP).”

Q. How does this practice differ from that followed for competitive solicitations related to the Company’s current IRP?

A. The Company seeks both Company-owned resources and third-party owned resources (through Power Purchase Agreements, “PPAs”) to fulfill the current IRP build plan. As approved by the Commission, the Settlement Agreement in the Company’s last IRP docket (Case No. U-21090) includes a provision stating that:

The parties agree that the new capacity that the Company intends to procure through the PCA, in each Annual Solicitation, shall be: (i) acquired through a competitive bidding process; and (ii) approximately 50% will be from PPAs and other third-party agreements that do not result in Company ownership and approximately 50% will be owned by the Company, as acquired through a competitive bidding process. The new capacity acquired from PPAs or other third-party agreements that do not result in Company ownership will not compete against the new capacity which will be owned by the Company. The Company will use commercially reasonable efforts to maintain the 50%/50% proportion for new IRP resources from 2022 through the Company’s next IRP proceeding, and in no event shall any given annual solicitation result in the Company owning more than 60% of the new capacity acquired in such solicitation. The Company, in its sole discretion,

1 may also choose to acquire more than 50% of its new capacity from third
2 parties.¹⁴
3

4 **Q. Why is it beneficial for Consumers Energy to procure both third-party owned and**
5 **company-owned assets?**

6 A. One essential role of the Commission is to determine whether utility proposals are
7 “reasonable and prudent.” Previous Commission reports have shown that since 2009:

8 for each year in which there were both company-owned projects and
9 purchased power agreements, the weighted average cost of the purchased
10 power agreements was lower than the company-owned projects in that
11 respective year.¹⁵
12

13 Then-Staff witness Meredith A. Hadala similarly noted in direct testimony in Case No. U-
14 20984 that:

15 PPAs could provide VGP subscribers with a lower cost option for solar
16 assets. For example, earlier this year, the Commission approved
17 applications requesting approval of solar contracts resulting from the 2019
18 [IRP] competitive solicitation. The average PPA and financial
19 compensation mechanism (FCM) cost for the 25-year 140 MW Calhoun
20 Solar Energy project is \$57.73/MWh. The company-owned BTA for the
21 150 MW Mustang Mile Solar project has a 25-year average cost of
22 \$66.51/MWh. In this instance, the PPA with FCM is 13% less costly than
23 the company-owned BTA. The Calhoun Solar Energy and Mustang Mile
24 projects have expected commercial operation dates of 2022 and 2023,
25 respectively. If the Company were to utilize PPAs, it could result in lower
26 costs to VGP customers when compared to the Company’s proposal to
27 utilize only company-owned BTAs.¹⁶

¹⁴ *In the matter of the application of Consumers Energy Company for Approval of an Integrated Resource Plan under MCL 460.6t, certain accounting approvals, and for other relief*, order of the Public Service Commission, entered June 23, 2022 (Case No. U-21090), Ex. A, p. 9, § 9.

¹⁵ Michigan Public Service Commission, *Report on the Implementation and Cost Effectiveness of the PA 295 Renewable Energy Standard*, February 15, 2017, p. 19.

¹⁶ Direct Testimony of Meredith A. Hadala, on behalf of the Michigan Public Service Commission, Case No. U-20984, p. 6 (citing MPSC Case No. U-20165, Application dated February 12, 2021, Exhibit A-2 (footnote 1) and Exhibit A-3 (footnote 2) (footnotes omitted)).

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Although it is statutorily required that any customer participating in a VGP program is responsible for any additional costs incurred by their participation in the program,¹⁷ as a general matter of principle, Consumers Energy should be seeking the lowest cost projects to fulfill customer demand in the VGP programs, including utility-scale projects included in the Renewable Energy Program. Because PPAs have been shown previously to be less expensive than utility self-built or BTA projects, it is important that the Company at the very least allow third-party owned projects to compete in RFPs. Preferably, the Company should seek to procure a certain percentage of third-party owned projects in a manner similar to the current IRP procurements.

Q. What role can a Financial Compensation Mechanism (“FCM”) play in addressing ownership bias by a utility?

A. There are strong existing financial incentives for a utility like Consumers Energy to own all of the facilities from which the utility obtains electricity instead of contracting for energy and capacity using PPAs. This can create a situation where an investor-owned utility is incentivized to avoid projects other than those that it builds itself or purchases from a developer after construction is complete. An FCM establishes an incentive payment to a utility when it procures resources through a PPA, helping to address this existing ownership bias.

¹⁷ Section 61 of Public Act 342 of 2016; MCL 460.1061.

1 **Q. How did the recent passage of Public Act 235 of 2023 change the existing FCM?**

2 A. Public Act 235 of 2023 made a number of changes to the existing FCM paradigm.¹⁸ First,
3 the law specifies that any PPA entered into after June 30, 2024 *shall* be subject to an FCM
4 without Commission discretion. Prior to this change, utilities could request an FCM for a
5 PPA or for PPAs procured to fulfill a specific need, but the Commission was not required
6 to grant an FCM or apply it against any particular PPA payments.

7
8 Second, the law states that the FCM will be calculated as the product of contract payments
9 multiplied by the utility’s pre-tax weighted average cost of permanent capital. Prior to this
10 change, a utility was able to seek an FCM that did not exceed the utility’s weighted average
11 cost of capital.¹⁹ For example, in the Settlement Agreement in the Company’s last IRP
12 docket (Case No. U-21090), the parties agreed to an FCM for PPAs equal to the product
13 of the annual PPA payment multiplied by the Company’s after-tax weighted average cost
14 of capital.

15
16 **Q. How could this FCM support additional procurement of third-party resources?**

17 A. In my opinion, because the value of the new FCM established by Public Act 235 of 2023
18 is far greater in value than the previous maximum Commission-approved FCM and
19 because the FCM is guaranteed for all PPAs, it is likely that these changes should make
20 utilities like Consumers Energy more agnostic as to ownership of VGP resources. As such,
21 it seems reasonable, in this case, that the Company should seek roughly equivalent capacity

¹⁸ Section 28(8) of Public Act 235 of 2023.

¹⁹ Sections 6s(6) and 6t(15) of Public Act 341 of 2016.

1 from Company-owned resources and third-party owned resources to fulfill VGP demand.
2 I anticipate that this would lower costs for the VGP program while not representing lost
3 financial opportunities for the Company.
4

5 **Q. What do you recommend regarding ownership of future VGP resources?**

6 A. I recommend that Consumers Energy be required to procure roughly equivalent MWs of
7 renewable energy resources to fulfill demand for the Renewable Energy Program from
8 third-party owned PPAs and Company-owned BTAs/self-builds.
9

10 **III. RENEWABLE ENERGY CREDITS**

11
12 **Q. What does the Company propose in this case with respect to the Renewable Energy
13 Credit (“REC”) Program?**

14 A. The Company proposes to combine the current four REC options under one REC Program
15 tariff with enrollment options based on a per kWh fee.²⁰ According to a discovery response
16 in this case (Exhibit MEIU-3), RECs will be sourced from a combination of Michigan and
17 National RECs based on “customer eligibility and enrollment preferences.”
18

19 **Q. Does the Company purchase RECs from customer-owned DG systems in Michigan?**

20 A. According to a discovery response in this case (Exhibit MEIU-4), the Company has not
21 purchased RECs from customer-owned DG systems in Michigan. According to the
22 Company’s Electric Rate Book, the Company:

²⁰ Clinton Direct, p. 35.

1 may, but is not obligated to, purchase Renewable Energy Credits from
2 participating Distributed Generation Program customers who are willing to
3 sell RECs generated if the customer has a generator meter in place to
4 accurately measure and verify generator output. REC certification costs are
5 the responsibility of the customer.²¹
6

7 **Q. What was proposed in Case No. U-20836, DTE Electric’s general electric rate case,**
8 **relative to RECs?**

9 A. In Case No. U-20836, the Great Lakes Renewable Energy Association (“GLREA”)
10 proposed that the Commission should:

11 require DTE Electric to purchase the renewable energy credits (RECs)
12 produced by a customer’s DG system under Rider 14, Rider 18, and any
13 successor program and transfer the RECs [to] the company’s voluntary
14 green pricing (VGP) program.²²

15 This general proposal was supported by Staff, as detailed in Rebuttal Testimony from
16 witness Cody S. Matthews:

17 By utilizing GLREA witness Richter’s proposal to purchase RECs from the
18 DG program, it adds value to an asset that some DG customers would
19 characterize as currently being wasted as it is highly unlikely that they are
20 currently retiring or selling RECs. Additionally, because the Voluntary
21 Green Pricing (VGP) programs have continued to grow so rapidly, this
22 source of RECs that are available may help ease some of the current industry
23 supply chain issues. Because of the many benefits of this proposal, Staff
24 supports this recommendation.²³

²¹ Consumers Energy Company Rate Book for Electric Service, Issued December 13, 2019, Section C11.2(N).

²² *In the matter of the application of DTE ELECTRIC COMPANY for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of electric energy, and for miscellaneous accounting authority*, order of the Public Service Commission, entered November 18, 2022 (Case No. U-20836) (“U-20836 Order”), p. 435.

²³ Rebuttal Testimony of Cody S. Matthews on behalf of the Michigan Public Service Commission, Case No. U-20836-0754 (“Matthews U-20836 Rebuttal”), 8 Tr 5389-90.

1 Ultimately, this general proposal was adopted by the Administrative Law Judge (“ALJ”)
2 in the Proposal for Decision (“PFD”) in Case No. U-20836, which stated:

3 This PFD disagrees that requiring the purchase of RECs from DG customers
4 is particularly ill-timed or otherwise inappropriate to address here, noting
5 that the changes to Rider 17 eligibility and structure have no impact on how
6 the company acquires green energy, which could be purchased at a discount
7 from DG customers under Rider 18.²⁴

8
9 **Q. What did the Commission order in Case No. U-20836 relative to RECs?**

10 **A.** In Case No. U-20836, the Commission ordered as follows:

11 As to DTE Electric’s purchase of RECs from DG customers, the
12 Commission agrees with the ALJ, the Staff, and intervenors that it is
13 beneficial to both DG customers and the VGP program. However, the
14 Commission agrees with DTE Electric that such a proposal involving
15 changes to Rider 17 is more appropriately addressed in the company’s
16 ongoing VGP proceeding in Case No. U-21172. Therefore, the Commission
17 directs DTE Electric, within 90 days from the date of this order, to
18 supplement its VGP application in Case No. U-21172 with a proposal for
19 amendments to Riders 17 and 18 to accommodate the company’s purchase
20 of RECs from DG customers to be applied to the company’s VGP program.
21 Finding the Staff’s exceptions on this issue well-taken, the Commission
22 adds that any purchase of RECs should be at the option of the DG customer,
23 which DTE Electric should reflect in its proposal.²⁵

24
25 **Q. Following the Order in Case No. U-20836, what did DTE Electric propose in its next**
26 **VGP case (Case No. U-21172) with respect to the purchase of RECs from Rider 18**
27 **customers?**

²⁴ Proposal for Decision, Case No. U-20836, p. 703.

²⁵ U-20836 Order, p. 445.

1 A. In Case No U-21172, in supplemental direct testimony, witness Knox W. Cameron
2 indicated that Rider 18 already specifies that RECs are owned by the customer and that
3 DTE Electric *may* purchase RECs from Rider 18 customers who are willing to sell those
4 RECs. DTE Electric did not propose to change this process, instead retaining the option to
5 purchase RECs “at its discretion.”²⁶ Witness Cameron went on to describe that DTE
6 Electric proposes:

7 changing the requirements for metering. Specifically, instead of requiring a
8 generation meter, the Company proposes that the outflow recording from a
9 bi-directional meter also be allowed in the event the Rider 18 customer
10 chooses not to install a generation meter. The Company also proposes that
11 certification of RECs and the associated costs would be the responsibility
12 of DTE Electric instead of the customer, with details specified in the
13 separate agreement. These costs would be recoverable in rates.²⁷

14

15 **Q. Did you support this proposal?**

16 A. Partly. I was supportive of DTE Electric’s proposal for the utility to bear the responsibility
17 and costs of REC certification because there are likely cost savings to be achieved by the
18 Company.

19

20 I was also supportive of DTE Electric’s proposal, as advanced by Staff witness Matthews
21 in Rebuttal Testimony in Case No. U-20836,²⁸ to allow a customer to install a bi-directional
22 meter instead of requiring an additional generation meter. A customer should have
23 discretion to choose whether they want a generation meter. In addition, Public Act 235 of

²⁶ MPSC Case No. U-21172-0088, 2 Tr 57.

²⁷ *Id.*

²⁸ MPSC Case No. U-20836, 8 Tr 5390.

1 2023 eliminated a previous requirement for the installation of generation meters for all
2 distributed generation systems greater than 20 kW in capacity.²⁹ This statutory change
3 suggests legislative recognition that generation meters are not necessary, especially given
4 that many inverters now have integrated meters that are sufficiently accurate for recording
5 RECs. For example, the Illinois 2022 Long-Term Renewable Resources Procurement Plan
6 sets forth standards for inverters (based on ANSI C.12 compliance) to ensure a full
7 accounting of RECs generated by systems equipped with a qualifying inverter.³⁰

8
9 I was not, however, supportive of DTE Electric’s proposal to purchase RECs from Rider
10 18 customers only “at its discretion.” Under the current status quo and under the status quo
11 as it existed when the Commission issued its order in Case No. U-20836, DTE Electric is
12 and was already enabled to purchase RECs from willing customers. It is my understanding
13 that DTE Electric, in a similar manner to Consumers Energy, currently does not actually
14 undertake such REC purchases from DG customers.

15
16 **Q. How have these issues been resolved in the case of DTE Electric?**

17 A. Issues related to the purchasing of RECs from DG customers are still awaiting resolution
18 by the Commission in the ongoing DTE VGP case (Case No. U-21172). In the PFD,
19 released November 8, 2023, the ALJ stated that “DTE Electric has not yet complied with
20 the Commission’s order to propose a mechanism to purchase RECs from its DG customers
21 that would be applied to the VGP program. This PFD recommends DTE Electric buy RECs

²⁹ Public Act 235 of 2023, Section 177; MCL 460.1117.

³⁰ Illinois Power Agency, *2022 Long-Term Renewable Resources Procurement Plan* 194–195, 2022, available at: <https://illinoisabp.com/wp-content/uploads/2022/08/2022-long-term-plan-23-august.pdf>.

1 from DG customers *at the DG customer's discretion . . .*³¹ However, the PFD then
2 continued on to state the opposite: “While this PFD recommends that DTE Electric *have*
3 *discretion* as to when it buys RECs, it should facilitate a waitlist for DG customers who
4 are willing to sell RECs . . .”³² As such, these issues are still ripe for discussion in that
5 ongoing case.

6
7 **Q. What is your recommendation with regard to Consumers Energy’s purchase of RECs**
8 **from DG customers?**

9 A. Assuming that the Commission’s position in Case No. U-20836 has not changed and seeing
10 no reason to treat Consumers Energy differently from DTE Electric, I recommend that the
11 Commission direct Consumers Energy to purchase RECs from DG customers at each
12 customer’s discretion. The Company should also bear the responsibility and costs of REC
13 certification and allow a customer to install a bi-directional meter instead of requiring an
14 additional generation meter. Additionally, I recommend that the Commission specify that
15 the Company must recognize all RECs produced by a DG system if an inverter complying
16 with ASNI C.12 (or its successor) is used, rather than just accounting for RECs associated
17 with output to the grid.

18

³¹ MPSC Case No. U-21172, PFD, p. 49 (emphasis added).

³² MPSC Case No. U-21172, PFD, pp. 49–50 (emphasis added).

1 **Q. If Consumers Energy does purchase RECs from DG customers, what price should**
2 **the Company pay for those RECs?**

3 A. In general, I would propose that the Company should pay DG customers an equivalent
4 price for RECs to that which other customers pay the Company for RECs, less a reasonable
5 administrative fee. In other words, it seems logical to me to set the price for RECs at the
6 cost of the net premium paid by customers to participate in the Renewable Energy Program.
7 It would be acceptable to calculate the net premium as a five-year rolling average. The
8 Company notes strong demand for the Renewable Energy Program, which could be
9 partially fulfilled through the purchase of RECs from DG customers.

10

11 **Q. If the Company were to purchase RECs from DG customers, how should it involve**
12 **stakeholders in the development of a REC purchase agreement for customers?**

13 A. Because the bargaining power between the Company and most, if not all, DG customers is
14 unequal, it is unlikely that most customers could engage in a meaningful negotiation with
15 the Company regarding the purchase of RECs. This makes it especially important that any
16 standard REC purchase agreement is developed with stakeholder input and approved by
17 the Commission. To ensure that customers are protected, following this proceeding, if the
18 Commission requires Consumers Energy to purchase RECs from customers, the
19 Commission should also require the Company to share a standard contract form for REC
20 purchases with stakeholders within a reasonable timeframe (e.g., within 90 days after the
21 final Order in this case), provide a reasonable period for input, incorporate appropriate
22 input, and file the contract form with the Commission for approval. Once filed, the
23 Commission should provide a reasonable opportunity for comments and reply comments

1 and thereafter enter an order approving a standard REC purchase contract. For ease of
2 simplicity for customers, if possible, this process should be aligned with any similar
3 process undertaken by DTE Electric.

4
5 **Q. Please summarize what you propose that the Commission should do relative to RECs**
6 **from customer-owned DG systems in this case?**

7 A. In a similar manner to that reasoned in Case No. U-20836, the Commission should require
8 the Company to purchase RECs from DG customers *at each customer's discretion*. The
9 price for these RECs should be set at 100% of the five-year rolling average of net premium
10 for the Renewable Energy Program program. The certification of RECs and the associated
11 costs should be the responsibility of the Company.

12
13 In addition, in alignment with Public Act 235 of 2023, the Company should not require any
14 customer wishing to sell RECs to install a generation meter. Instead, the Company should
15 utilize data from a bi-directional meter or appropriate inverter.

16
17 Finally, the Commission should also require the Company to share a standard contract form
18 for REC purchases with stakeholders within a reasonable timeframe (e.g., within 90 days),
19 provide a reasonable period for input, incorporate appropriate input, and file the contract
20 form with the Commission for approval.

21

1 **IV. COMMUNITY SOLAR**

2

3 **Q. What did the settlement agreement in Case No. U-21224 indicate related to**
4 **community solar?**

5 A. MEIU and other parties were involved in the last Consumers Energy general electric rate
6 case (Case No. U-21224). In that case, the settlement agreement agreed to by the parties
7 included a provision which stated that:

8 Consumers Energy will evaluate and provide a strawman recommendation
9 on community solar in its Voluntary Green Pricing Program filing no later
10 than October 2023.³³
11

12 **Q. How do you think that provision relates to the Company’s Solar Gardens Program?**

13 A. The Company’s Solar Gardens Pilot Program was first approved by the Commission in its
14 May 14, 2015 Order in Case No. U-17752 as part of the Company’s Renewable Energy
15 Plan (“REP”).³⁴ Later, Solar Gardens was approved as a VGP Program in the
16 Commission’s October 5, 2018 Order in Case No. U-18351.³⁵ As such, Solar Gardens is a
17 well-known and long-standing program, and I would presume that all of the parties
18 involved in Case No. U-21224 were well-familiar with the Solar Gardens Program.
19

³³ *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*, order of the Public Service Commission, entered January 19, 2023 (Case No. U-21224), Ex. A, p. 12, § 27.

³⁴ *In the matter of the application of Consumers Energy Company for authority to amend its renewable energy plan approved in Case Nos. U-15805, U-16543, U-16581, and U-17301*, order of the Public Service Commission, entered May 14, 2015 (Case No. U-17752).

³⁵ *In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determination, and/or approvals necessary for Consumers Energy Company to comply with Section 61 of 2016 PA 342*, order of the Public Service Commission, entered October 5, 2018 (Case No. U-18351).

1 **Q. What does the Company propose in this case to comply with Section 27 of the**
2 **settlement agreement in Case No. U-21224?**

3 A. The Company essentially proposes to make certain changes to the Solar Gardens Program
4 and, with these relatively limited changes, insists that the Solar Gardens Program is its
5 “strawman recommendation on community solar.” Specifically, the Company proposes to
6 (1) remove the pilot designation from the Solar Gardens Program, making the program
7 permanent; (2) pool resources from the program into a combined renewable energy
8 generation asset pool; (3) make changes to the subscription blocks; and (4) remove several
9 of the payment options.

10

11 **Q. Do you agree that this proposal meets the requirements laid out in the settlement**
12 **agreement from Case No. U-21224?**

13 A. The requirement for the Company to propose a “strawman recommendation on community
14 solar,” implies that the Company should have proposed a *new* community solar program
15 with fundamentally different attributes than the existing Solar Gardens Program. The
16 Company did not do this. Because the Solar Gardens Program has existed for a number of
17 years and many of the same intervenors who participated in Case No. U-21224 have also
18 participated for years in the Company’s REP and VGP cases, where the parameters of the
19 Solar Gardens Program have been established, it makes no logical sense to me that the
20 parties in Case No. U-21224 would have sought for the Company to simply propose an
21 existing program. In addition, as outlined below, I do not agree that the Solar Gardens
22 Program as it currently operates is a true community solar program.

23

1 **Q. How does the Company define “community solar”?**

2 A. According to witness Clinton, the Company relies on the definition of community solar
3 provided by the U.S. Department of Energy (“DOE”). As such, he states that:

4 Community Solar projects involve shared solar infrastructure, accessibility
5 and inclusivity, community engagement and benefits, and financial and
6 environmental benefits. The Solar Gardens program aligns with these
7 components.³⁶
8

9 **Q. Does this accord with your understanding of the DOE’s definition of community
10 solar?**

11 Not fully. According to the U.S. Department of Energy’s website:

12 The U.S. Department of Energy defines community solar as any solar
13 project or purchasing program, within a geographic area, in which the
14 benefits of a solar project flow to multiple customers such as individuals,
15 businesses, nonprofits, and other groups. In most cases, customers are
16 benefitting from energy generated by solar panels at an off-site array.

17 Community solar customers can either buy or lease a portion of the solar
18 panels in the array, and they typically receive an electric bill credit for
19 electricity generated by their share of the community solar system—similar
20 to someone who has rooftop panels installed on their home. Community
21 solar can be a great option for people who are unable to install solar panels
22 on their roofs because they don’t own their homes, have insufficient solar
23 resources or roof conditions to support a rooftop PV system due to shading,
24 roof size, or other factors, or for financial/other reasons.³⁷

25 In addition, the U.S. Department of Energy indicates on the website for the National
26 Community Solar Partnership that:

27 Community solar is a form of solar energy generation that allows
28 community members of all types to access meaningful benefits of

³⁶ Clinton Direct, p. 20.

³⁷ U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, *Community Solar Basics*, available at: <https://www.energy.gov/eere/solar/community-solar-basics>.

1 renewable energy, including reduced energy costs, low- to moderate-
2 income household access, increased resilience, community ownership, and
3 equitable workforce development and entrepreneurship.

4 Community solar programs make solar more accessible to all Americans,
5 particularly to those with low-to-moderate incomes, renters, and other
6 community members for whom traditional rooftop solar is unavailable.
7 Rather than putting solar on their own home or building, community solar
8 allows energy users to subscribe to a shared system of solar panels, often
9 located within their community.³⁸

10
11 Finally, according to the Interstate Renewable Energy Council’s “Model Rules for Shared
12 Renewable Energy Programs,” the four key characteristics of community solar programs
13 are that these programs should (1) expand access to renewable energy, (2) provide
14 participants with “tangible economic benefits on their utility bills,” (3) be flexible to meet
15 customer energy preferences, and (4) be additive and supportive of existing renewable
16 energy programs.³⁹

17
18 It is clear from these various resources that community solar programs involve the purchase
19 or lease directly of locally-situated solar panels, an electric bill credit for electricity
20 generated, often community or third-party ownership, and multiple benefits, including
21 economic and environmental benefits, for customers. Although the Solar Gardens Program
22 exhibits some of these attributes, it does not allow customers and communities direct access
23 to solar located in their community, it is not community-driven, and it does not provide the
24 same magnitude of economic benefits that could be provided by an expanded program with

³⁸ U.S. Department of Energy, *National Community Solar Partnership*, available at: <https://www.energy.gov/communitysolar/community-solar>.

³⁹ Interstate Renewable Energy Council, *Model Rules for Shared Renewable Energy Systems*, 2013, available at: <https://irecusa.org/resources/model-rules-for-shared-renewable-energy-programs/>.

1 third-party ownership of the solar assets. In community solar programs with third-party
2 ownership, because of the lower-costs provided by third-parties, customers typically save
3 10 to 20 percent on their electric bills.⁴⁰ In contrast, as Consumers indicates in its publicly
4 available “Solar Gardens Frequently Asked Questions” (Exhibit MEIU-5):

5 Please note this program is not designed to reduce your electric bill. Rather,
6 it offers an opportunity to voluntarily participate in a program that generates
7 clean, renewable energy, therefore reducing greenhouse gas emissions by
8 displacing fossil-fueled generation. Although the value of the solar energy
9 credit may increase over the life of the program, there is no guarantee the
10 value will be greater than the subscription payment and *customers should*
11 *not participate in this program with any expectation of profit or financial*
12 *gain.*

13 As this document makes clear, the Company does not expect customers to receive a
14 financial benefit from participation in the Solar Gardens Program. Instead, it is a premium
15 program, not a cost-saving program for customers. In addition to the other missing
16 attributes described above, given that the provision of economic benefits is critical to the
17 definition of a community solar program, I do not believe that the Solar Gardens Program
18 as it currently exists is truly a community solar program.

19
20 **Q. Are there other alternative community solar proposals that the Company should**
21 **consider?**

22 A. Yes, several parties have put forward community solar proposals, including Staff, the
23 Detroit Area Action Organizations (“DAAOs”), and the Clean Energy Organizations
24 (“CEOs”). In a recent Consumers’ general electric rate case (Case No. U-21124), Staff
25 witness Julie Baldwin described Staff’s community solar proposal, which is intended to

⁴⁰ Citizens Utility Board of Illinois, *Comparing Community Solar Offers*, December 2023, available at: <https://www.citizensutilityboard.org/wp-content/uploads/2021/06/SITC-Chart.pdf>.

1 mimic the benefits of the DG program for customers without access to that program.⁴¹ In
2 a program like this, a third-party would develop the community-solar project and sell
3 subscriptions to customers.⁴² The participating customers would subscribe to a portion of
4 a solar project, pay their full retail rate for electricity they use, and receive a credit for
5 electricity produced by their share of the solar project at the same outflow credit as the DG
6 program with an additional distribution credit provided for projects located on-site.⁴³

7
8 This community solar proposal presented by Ms. Baldwin fits within the existing
9 regulatory framework. It does not involve direct retail sales of power from a non-utility or
10 from an alternative electric supplier in excess of the choice cap, and it does not involve
11 non-utility ownership of distribution infrastructure or metering equipment. Further, the
12 subscriber payment structure (including if it were structured as a kWh-based subscription
13 fee) would not represent payment for retail end-use energy. Rather, it would be based on
14 payment for certain rights associated with ownership of a share of a community solar
15 project—chiefly, the right to receive financial benefits from the sale of energy and capacity
16 from the project to the utility. At most, a kWh-based charge would serve merely as a proxy
17 for the degree to which those rights are subscribed to by the participating customer.
18 Furthermore, the utility would purchase unsubscribed power at its avoided cost consistent
19 with PURPA. Finally, the Commission would approve a tariff, consistent with its cost-of-
20 service ratemaking authority, providing for outflow credits to all subscribing customers

⁴¹ Direct Testimony of Julie K. Baldwin on behalf of MPSC Staff, Case No. U-21224, p. 6, 4 Tr 4277.

⁴² *Id.*, pp. 8–10, 4 Tr 4276–78.

⁴³ *Id.*

1 and distribution credits to subscribing customers to the degree that the community solar
2 project demonstrably enables those customers to avoid driving distribution system costs.
3 Such a community solar program would fit the characteristics described above in that it
4 would allow for third-parties to develop, build, and own solar projects located in or near
5 communities, it would allow customers to receive an electric bill credit for electricity
6 generated by their share of the community solar system and it would provide economic
7 benefits to customers.

8
9 **Q. What benefits does third-party owned community solar provide?**

10 A. In addition to economic and environmental benefits, third-party owned community solar
11 projects connected to a utility distribution system can provide cost-savings and benefits for
12 the grid and the utility. These projects can save a utility money on transmission-related
13 costs, serve to defer distribution system upgrades, avoid generation costs, avoid line losses
14 and enable significant upgrades to the distribution system paid for by third-parties.⁴⁴ These
15 projects can also now take advantage of the expanded federal Investment Tax Credit
16 (“ITC”) for interconnection costs for smaller-output facilities (< 5MW), further lowering
17 costs.⁴⁵ In addition, a larger number of small, distribution-connected projects can enhance
18 grid resiliency and reduce the costs related to power outages, which in 2020 and 2021,
19 according to a study by Local Solar for All, resulted in \$4.9 billion across Michigan in total

⁴⁴ Dunskey Energy + Climate, prepared for CCSA, *Value of Shared Solar in Virginia*, November 2023, available at: https://www.dunskey.com/wp-content/uploads/2023/11/Value-of-Shared-Solar-Report_Dunskey_CCSA.pdf.

⁴⁵ 26 C.F.R. § 1.48-9.

1 economic costs.⁴⁶ Many states recognize these benefits and properly credit small
2 distribution-connected projects for the benefits distributed projects provide to the grid,
3 utility, and customers. For example, the New York Value of Distributed Energy Resources
4 includes a locational system relief value for projects located in areas where the distribution
5 system is constrained.⁴⁷

6
7 In addition, as described above, third-party owned community solar programs enable fair
8 and transparent competition to reduce costs for projects, locally site projects in interested
9 host communities, and provide meaningful economic benefits for subscribers.⁴⁸ When all
10 of these attributes are properly accounted for, as studies have shown in other states such as
11 Virginia, community solar programs can save utilities millions of dollars every year.⁴⁹

12
13 **Q. What benefits would third-party owned community solar provide to Michigan?**

14 There is significant demand in Michigan for community solar as evidenced by the number
15 of municipalities, academic institutions, and corporations with carbon reduction and

⁴⁶ Rabago, K. A., and Dutta, R., *The Economic Impact of Michigan's Unreliable Power Grid*, Local Solar for All, 2023, available at: https://static1.squarespace.com/static/5f4637895cfc8d77860d0dbc/t/63ebacbd04ee11204375113c/1676389627086/L_S4A+MI+Grid+Economic+Impact.pdf.

⁴⁷ New York State Energy Research and Development Authority (NYSERDA), *The Value Stack*, available at: <https://www.nyserda.ny.gov/All-Programs/NY-Sun/Contractors/Value-of-Distributed-Energy-Resources>.

⁴⁸ Citizens Utility Board of Illinois, *Comparing Community Solar Offers*, December 2023, available at: <https://www.citizensutilityboard.org/wp-content/uploads/2021/06/SITC-Chart.pdf>.

⁴⁹ Dunskey Energy + Climate, prepared for CCSA, *Value of Shared Solar in Virginia*, November 2023, available at: https://www.dunskey.com/wp-content/uploads/2023/11/Value-of-Shared-Solar-Report_Dunskey_CCSA.pdf.

1 renewable energy goals.⁵⁰ According to a study conducted by GTM Research, although
2 Michigan lags currently in the deployment of community solar, with the right policies and
3 programs in place, community solar could represent 1.5 to 2.4 percent of retail electricity
4 sales and serve up to 288,000 subscribers by 2030.⁵¹ According to a study conducted by
5 researchers at Michigan State University, a community solar program which allowed for
6 the installment of 150 MW per year for six years would result in \$1.43 billion in economic
7 impact and collectively result in the creation of 18,500 job-years over the 31-year time
8 period.⁵² However, although the Company proposes in this case to expand the Solar
9 Gardens Program, in my opinion, there is no logical manner in which a 5 MW program
10 could grow to 150 MW per year cost-effectively without third-party involvement and
11 ownership.

12
13 **Q. How can consumer protections be ensured if third-parties are allowed to own**
14 **community solar assets?**

15 A. Overall, it is important to recognize that functioning competitive markets, by their nature,
16 are not natural monopolies to which Commission regulation is suited. As such, if third-
17 parties are allowed to own community solar assets under the Solar Gardens Program, the

⁵⁰ Michigan Public Service Commission Staff Report, December 2021, *MI Power Grid: New Technologies, Business Models, and Staff Recommendations*, MI Power Grid: New Technologies and Business Models Workgroup (Case No. U-20898), available at: <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/0688y000001jEwjAAE>, p.10.

⁵¹ GTM Research, July 2018, *The Vision for U.S. Community Solar: A Roadmap to 2030*, available at: https://votesolar.org/wp-content/uploads/2021/05/EXEC_SUMM_The_Vision_for_US_Community_Solar_072518.pdf.

⁵² Miller, S.R., and W. Knudson, *Michigan Community Solar: An Economic Assessment*, Michigan State University, Product Center, October 14, 2021, available at: https://static1.squarespace.com/static/603804d68a94027d64852e25/t/616ed9ed4b5052410ff788c9/1634654701678/MSU+Community+Solar+Report_FINAL.pdf.

1 Commission is not statutorily authorized to regulate these non-utility parties operating in
2 an unregulated market. However, were this to occur through the Solar Gardens Program,
3 the Commission could assert certain requirements to ensure consistent operations across
4 the program similar to those required by other states such as required disclosure statements
5 signed by the customer at the time of enrollment,⁵³ maximum subscription charge rates
6 (e.g., charges of no more than the monetary bill credit from the community solar project)⁵⁴
7 and required registration of third-party subscriber organizations.

8
9 In addition, there are inherent customer protections provided by the competitive market,
10 including increased customer choice, market discipline through competitive pricing and
11 service offerings, innovation in technology and services, and investment of private capital
12 to provide public benefits without putting ratepayer dollars at risk. In addition, customer
13 protections are provided in these circumstances by the Attorney General. See, e.g., the
14 Michigan Consumer Protection Act, 1976 P.A. 331, as amended by 2022 P.A. 153, MCL
15 445.901, et seq.⁵⁵

⁵³ See for example: Illinois Power Agency Program Guidebook, available at: <https://illinoisabp.com/wp-content/uploads/2022/08/ABP-Program-Guidebook-29-Aug-2022-FINAL.pdf>, pp. 65-66; Code of Maryland Regulations, Section 20.62.05.07; Oregon Administrative Rules, Section 860-088-0100.

⁵⁴ Maryland General Assembly, House Bill 908, General Session.

⁵⁵ *In the matter, on the Commission's Own Motion, To Commence A Collaborative To Consider Issues Related To Implementation Of Effective New Technologies And Business Models*, Case No. U-20898, Comments of the Michigan Energy Innovation Business Council and Advanced Energy United, February 17, 2023, p. 10.

1 **Q. Setting aside these alternate proposals, what role does the Company propose for**
2 **third-party developers in the Solar Gardens Program?**

3 A. According to witness Clinton:

4 Consumers Energy intends to acquire solar projects for the program through
5 a strategic and community-oriented approach. The Company will carefully
6 evaluate factors such as costs, solar potential, and community benefits when
7 selecting locations for new solar energy arrays. While Consumers Energy
8 will own and maintain these facilities, we are open to collaboration with
9 third-party project developers and plan to leverage existing competitive
10 solicitation processes to evaluate and acquire new Solar Gardens
11 resources.⁵⁶
12

13 In a discovery response in this case (Exhibit MEIU-6), the Company further clarified that:

14 The Company will either employ competitive solicitation processes specific
15 to new Solar Gardens resources or employ competitive solicitation
16 processes combined to include both Solar Gardens and larger Renewable
17 Energy Program projects. In either case, no other types of Company
18 resources are planned to be included.

19 The Company also indicated that proposals from across the territory would be compared
20 based on a number of criteria including, but not limited to:

- 21 i. Location
- 22 ii. Parcel size
- 23 iii. Estimated energy production
- 24 iv. Proximity to interconnection and interconnection costs
- 25 v. Levelized cost of energy estimates (“LCOE”)
- 26 vi. Community sentiment
- 27 vii. Township zoning and ordinances
- 28 viii. Land acquisition arrangements
- 29 ix. Potential to leverage grant funding
- 30 x. Developer standing and reputation within the community
- 31 xi. Estimated impact to future Renewable Energy resource pool pricing
- 32 xii. Site Host involvement
- 33 xiii. Proximity to or located in Environmental Justice Communities
- 34 xiv. Project visibility in the community

⁵⁶ Clinton Direct, p. 23.

- 1 xv. Proximity to existing Solar Gardens projects
2 xvi. Community Impact and Benefits⁵⁷

3

4 **Q. What concerns do you have with this proposal?**

5 A. First, it is critical that the Company continue to employ fair and open competitive bidding
6 practices in conducting any such future solicitations related to the Solar Gardens Program.
7 These processes should be conducted using an Independent Administrator and should
8 follow the Commission’s Competitive Bidding Guidelines. This is especially critical
9 because the 5.5 MW project identified as under consideration by the Company⁵⁸ was not
10 identified as part of an open competitive solicitation and instead arose “through internal
11 solar siting and prospecting efforts”⁵⁹ and apparently would be a self-built project.⁶⁰
12 Without fair, open, transparent competitive solicitations and processes for the Solar
13 Gardens Program, it appears that the Company may simply use this program to develop
14 and procure self-built projects, including those that are potentially higher-cost.

15

16 Second, I am concerned that the Company indicates that it may allow both community
17 solar projects (i.e., projects with capacity of 5 MWac or less) and larger utility-scale
18 projects to compete in solicitations for the Solar Gardens Program. It is well-known and
19 well-established that larger utility-scale projects, because project costs are spread over a
20 greater number of MW, are generally lower cost per MW than smaller (i.e., 5 MWac)

⁵⁷ Exhibit MEIU-6.

⁵⁸ Clinton Direct, p. 33.

⁵⁹ Exhibit MEIU-7.

⁶⁰ Exhibit MEIU-8.

1 projects. However, a community solar program, by definition, provides customers access
2 to local, small-scale, *community* solar projects. Customers in Consumers' territory who
3 wish to support the lowest-cost renewable energy can sign up for the revised Renewable
4 Energy Program and gain access to primarily utility-scale resources. As described above,
5 I do support the merging of the Solar Gardens Program assets and LC-REP assets into one
6 cost pool for purposes of determining subscriber costs. However, I do not support also
7 allowing utility-scale projects to compete to support the customer demand for the Solar
8 Gardens Program. As described above, the Solar Gardens Program is not a true community
9 solar program, but to remove the remaining program distinction (i.e., that it utilizes small
10 community-based projects) would be to render it indistinguishable from the Renewable
11 Energy Program. Competitive solicitations for the Solar Gardens Program, therefore,
12 should be limited to projects 5 MWac and lower in capacity to ensure fair apples-to-apples
13 comparisons and to ensure that customers participating in the Solar Gardens Program are
14 actually supporting smaller community solar projects. It is clear, as described above, that
15 these small, community solar projects provide a myriad of benefits to the utility, the grid,
16 and customers.

17
18 **Q. Are you concerned with any other aspects of the Company's Solar Gardens Program**
19 **proposal?**

20 A. Yes. I am concerned that the Anchor Tenant pilot portion of the Solar Gardens Program is
21 relatively new and, according to a discovery response in this case (Exhibit MEIU-9), does
22 not yet have any participants. As such, this program has not yet been tested as a pilot and
23 should not be approved as part of any permanent program.

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Q. Do you support any of the changes to the Solar Gardens Program proposed by the Company?

A. Yes. I support the Company’s proposal to pool current and future Solar Gardens sites into the combined cost pool to reduce costs. This proposal is aligned with my suggestion in previous cases, including in the Company’s last VGP case (Case No. U-21134), that the Company could decrease the costs of the program by pooling resources from the Solar Gardens Program and the Large-Customer Renewable Energy Program. The Company could, and should, decrease costs further by allowing for third-party ownership of community solar projects.

Q. What do you recommend the Commission determine with respect to community solar?

A. Overall, I recommend that the Commission determine that the Company’s proposal to simply make the Solar Gardens Program permanent does not represent a “strawman recommendation on community solar.” Instead, the Company should be required to propose a new community solar program in accordance with the proposals made by witness Baldwin in Case Nos. U-20836 and U-21224. Despite the Company’s continued recalcitrance to implement a true community solar program, impeding such a program despite the earlier agreement in Case No. 21224 is harmful to customers, who stand to benefit in multiple ways.

1 However, if the Commission does not make such a determination, I recommend that the
2 Commission nevertheless not approve the Solar Gardens Program as a permanent program.

3
4 In addition, the Company should be required to make certain improvements to the Solar
5 Gardens Program including following the Commission’s Competitive Bidding Guidelines
6 for all Solar Gardens solicitations including use of an Independent Administrator and
7 conducting competitive solicitations specific to the Solar Gardens Program with projects
8 limited to 5 MWac or smaller.

9
10 Finally, no matter the Commission’s determinations on these issues, I recommend that the
11 Anchor Tenant portion of the Solar Gardens Program should not be made permanent.

12
13 **V. GREEN GENERATION PROGRAM**

14 **Q. What is the Green Generation Program?**

15 A. According to witness Clinton:

16 the Green Generation Program was established in 2005 to allow Consumers
17 Energy’s retail customers to voluntarily match all or a portion of their
18 consumption with renewable energy. The Green Generation program was
19 closed to new enrollments in 2019 but will continue to operate until
20 December 17, 2028.⁶¹
21

⁶¹ Clinton Direct, pp. 41-42.

1 Because of contributions in excess of costs to run the program, the Company expects the
2 Green Generation Program Account to reach a surplus of approximately \$40 million when
3 the program ends in 2028.⁶²

4
5 **Q. What does the Company propose to do with this surplus in funding?**

6 A. According to witness Clinton:

7 The Company is proposing and requesting approval: (1) to leave
8 approximately \$3 million in the Green Generation Program Account for any
9 unforeseen contingencies that may arise from continuing to operate the
10 program through 2028; (2) shift a portion of the surplus, up to \$40 million,
11 from the Green Generation Program account into the RE Plan regulatory
12 liability account to support the development of future renewable resources,
13 which aligns with the original intent of these dollars as envisioned in Case
14 No. U-15320; and (3) to establish a new regulatory liability account and
15 shift a portion of the surplus, up to \$20 million, designated for income-
16 qualified subscriptions via the proposed Green Giving program and income-
17 qualified Solar Gardens subscriptions in environmental justice communities
18 beginning in 2025.⁶³

19
20 According to witness Johnston, the portion of the funds shifted to the REP regulatory
21 liability account will be used to “broadly support the development of renewable energy
22 resources.”⁶⁴ According to a discovery response in this case (Exhibit MEIU-10), these
23 funds will not be used to decrease costs for ratepayers or VGP participants except if the
24 Company does use a portion of the funds to provide income-qualified subscriptions to the
25 Green Giving and/or Solar Gardens Program.

26

⁶² *Id.*, p. 42.

⁶³ *Id.*, pp. 42-43.

⁶⁴ Johnston Direct, p. 17.

1 **Q. How will the Company determine how much of this funding will be used to provide**
2 **income-qualified subscriptions to the VGP Programs?**

3 A. According to a discovery response in this case (Exhibit MEIU-11), it is possible that none
4 of the Green Generation Program surplus will be used to provide income-qualified
5 subscriptions to the VGP Programs. This is because the Company plans to first use the
6 funding to ensure that the REP regulatory liability account maintains a liability position.

7
8 **Q. If the Company does utilize some of the funding to provide income-qualified**
9 **subscriptions to the VGP program, will those continue for more than one year?**

10 A. No. According to a discovery response in this case (Exhibit MEIU-11),
11 after the one-year sponsorship has elapsed, the Customer will be unenrolled
12 from the program and no longer receive the bill credits associated with the
13 subscription and a new income-qualified customer will be selected in
14 alignment with the Solar Gardens prioritization criteria noted in the
15 testimony of witness Eric W. Clinton.
16

17 **Q. Are you concerned with this proposal?**

18 A. Yes. According to a discovery response in this case (Exhibit MEIU-12), income-qualified
19 customers often remain on bill assistance programs for greater than one year. For the seven
20 bill assistance programs considered by the Company, between January 1, 2021 and
21 December 31, 2023, customers are provided with bill assistance across all of the programs
22 for an average of 482 days.⁶⁵ The top 20 percent of those who have been enrolled the
23 longest were provided with bill assistance for an average of 755 days. Although these
24 averages cannot tell the story of an individual household, it is clear that many of these
25 households require assistance for longer than one year. As such, it seems inappropriate to

⁶⁵ Exhibit MEIU-12.

1 provide income-qualified customers with access to bill credits through the VGP Program
2 for only one year without consideration of additional need extending beyond that one year
3 subscription.

4
5 **Q. What do you propose that the Company do with the Green Generation Program**
6 **funding?**

7 A. If it is feasible, it seems that this over collection of funds should be returned to customers
8 who overpaid through the Green Generation Program. However, I understand that it might
9 be administratively impractical to do so. As such, I propose that the Company use the
10 entirety of the excess funding in the Green Generation Program (i.e., \$40 million less the
11 costs necessary to administer the program) to provide for income-qualified subscriptions
12 to the Green Giving and/or Solar Gardens Program, with those subscriptions extended
13 according to need beyond the initial one year period.

14
15 **VI. CONCLUSIONS AND RECOMMENDATIONS**

16
17 **Q. Please summarize your conclusions and recommendations to the Commission.**

18 A. I recommend that the Commission:

- 19 1. Require the Company to procure equivalent MWs of renewable resources from
20 PPAs and BTAs/self-builds to fulfill demand for the Renewable Energy Program;
21 2. Require the Company to purchase RECs from willing customers at the customers'
22 discretion;

- 1 3. Require that the Company purchase RECs from DG customers at a price equal to
2 100 percent of the five-year rolling average of net premium for the Renewable
3 Energy Program program (less a reasonable administrative fee);
- 4 4. Require that the Company share a standard contract form for REC purchases with
5 stakeholders within 90 days, provide a reasonable period for input, incorporate
6 appropriate input, and file the contract form with the Commission for approval;
- 7 5. Require the Company to establish a community solar program within 90 days in
8 accordance with the proposals made by witness Baldwin in Case Nos. U-20836 and
9 U-21224;
 - 10 a. If such a community solar program is not required to be established,
11 do not approve the Solar Gardens Program as a permanent program;
 - 12 b. If such a community solar program is not required to be established
13 and even if the Solar Gardens Program is approved as a permanent
14 program, do not approve the Anchor Tenant program as a permanent
15 part of the Solar Gardens Program;
 - 16 c. If such community solar program is not required to be established,
17 be required to make certain improvements to the Solar Gardens
18 Program including: (1) following the Commission’s Competitive
19 Bidding Guidelines for all Solar Gardens Program solicitations
20 including use of an Independent Administrator; and (2) conducting
21 competitive solicitations specific to the Solar Gardens Program with
22 projects limited to 5 MWac or smaller.

1 6. Require that the Company use the entirety of the excess funding in the Green
2 Generation Program (i.e., \$40 million less the costs necessary to administer the
3 program) to provide for income-qualified subscriptions to the Green Giving and/or
4 Solar Gardens Program with those subscriptions extended according to need
5 beyond the initial one year period.

6

7 **Q. Does that complete your testimony?**

8 A. Yes.

9

10 4863-9958-0057, v. 8

Administrative Law Judge

Honorable James Varchetti

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