

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30755  
LANSING, MICHIGAN 48909

DANA NESSEL  
ATTORNEY GENERAL

December 16, 2024

Ms. Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 West Saginaw Highway  
Lansing, MI 48917

Dear Ms. Felice:

**Re: MPSC Case No. U-21305 – *In the matter, on the Commission’s own motion, to investigate, audit, and review the methods employed by CONSUMERS ENERGY COMPANY and DTE ELECTRIC COMPANY to secure good electric service and ensure the safety of the public pursuant to MCL 460.555 and MCL 460.556.***

In its October 5, 2022, order in Case No. U-21305, the Michigan Public Service Commission noted that on August 29, 2022, a storm moved through the southern half of Michigan’s Lower Peninsula resulting in almost 500,000 Michigan utility customers losing electric service in the Consumers Energy Company’s and DTE Electric Company’s service territories along with a fatality and other injuries from downed wires. The Commission explained that ratepayers have a right to expect the utilities to anticipate extreme weather events and be prepared to restore power quickly when the electric grid fails. The Commission continued by explaining that “despite investigations spanning over two decades, the average reliability scores for system average interruption frequency index (SAIFI) and system average interruption duration index (SAIDI) scores have not improved.”<sup>1</sup> Quoting the Citizens Utility Board of Michigan’s report analyzing electric utility reliability data, the Commission stated that “Michigan ranks as the sixth worst state for annual outage minutes per customer, the 17<sup>th</sup> worst state for number of annual outages per customer, and the third worst for the amount of time it takes for power to be restored.”<sup>2</sup> Further noting its frustration with these electric reliability scores, the

---

<sup>1</sup> MPSC Order U-21305, October 5, 2022, p 3.

<sup>2</sup> MPSC Order U-21305, October 5, 2022, p 4.

Commission commented that “[t]hese performance metrics fall behind Michigan’s peer states in the Midwest and are unacceptable.”<sup>3</sup>

Against this backdrop, the Commission directed its Staff to hire a third-party consultant to audit the electric distribution systems of Consumers Energy and DTEE focusing “on actions necessary to reduce the total number of outages and duration of outages, and on the identification of needed improvements to safety . . .”<sup>4</sup> The third-party consultant’s, Liberty Consulting Group (Liberty), audit reports were filed in this docket on September 23, 2024. In its September 26<sup>th</sup> order in in this case, the Commission requested comments from interested parties to the audit reports prepared by the Liberty Consulting Group (Liberty) and on the utilities’ responses to the audit reports. According to the order the initial comments should be filed in this docket no later than 5:00 p.m. (Eastern time) on December 16, 2024.

The Attorney General appreciates the opportunity to provide comments in this docket. She has reviewed the Liberty audit reports for Consumers Energy and DTEE, as well as the responses provided by each utility to the recommendations included in the audit reports. In her comments provided in this letter, the Attorney General will focus on the major issues of concern directed at improving the reliability and resiliency of the electric grid operated by each utility.

The comments will follow the order of the responses presented by each utility to the recommendations made by Liberty, although not every response or recommendation will be addressed. Instead, the Attorney General will focus its comments on those issues of major concern. The absence of a discussion of other matters should not be taken as an indication that the Attorney General agrees with those matters.

### **General Observations**

The Liberty audits appear to have undertaken a detailed review of the electric distribution operations of the two utilities and have provided considerable granular information on the distribution facilities, the management of those facilities, and the prospective plans defined by the utilities in their Distribution Grid Plans (DGP). The audit findings and recommendations address primarily some of the improvements that the utilities can implement to increase the execution of future distribution plans. In this regard, they fall more into the category of operating efficiency improvements.

However, the findings and recommendations do not directly address what went wrong in prior years to bring us to the current situation where the two utilities’ reliability performance is in the fourth quartile in comparison to other utilities in the industry, resulting in large number of power outages and inordinate service restoration time of several days following a major storm. This is concerning because the solution to the problem will involve additional costs on customers with no accountability for the two utilities that managed the electric grid during this time frame. It is critical to understand what went wrong historically in order not to repeat

---

<sup>3</sup> MPSC Order U-21305, October 5, 2022, p 5.

<sup>4</sup> MPSC Order U-21305, October 5, 2022, pp 14-15.

the same mistakes going forward. In that regard, the Attorney General finds the Liberty audit reports disappointing and lacking sufficient perspective. The Liberty recommendations also fail to address any mechanisms that should be put in place to safeguard customers from the possibility that the targeted performance improvements are not achieved after the utilities seek to spend billions of dollars on infrastructure improvements over the next five to ten years.

For example, the Liberty Report notes that for both Consumers Energy and DTEE, tree trimming/vegetation management was by far the number one cause of power outages.<sup>5</sup> Instead of focusing on the number one cause of power outages on their electric distribution systems, both utilities are instead seeking to significantly increase capital expenditures. Consumers Energy seeks to quadruple annual capital spending on reliability and resilience from 2024 levels by 2028.<sup>6</sup> Similarly, DTEE seeks to significantly increase capital spending from 2024 to 2028.<sup>7</sup> However, the Liberty Report shows that for the 8 years from 2016 (\$400 million) to 2024 (\$1.6 billion), DTE quadrupled its annual capital spending and yet over the same time period DTE's electric reliability performance was in the bottom quartile of investor-owned utilities in the nation.<sup>8</sup> Similarly, in the 7 years from 2015 to 2022, Consumers Energy capital spending doubled, and yet over the same time period Consumers Energy's electric reliability performance was flat or worsening.<sup>9</sup> As stated by the Commission in its October 2022 order in this case, "[t]aking the same action yet again and expecting a different result is not working in the best interests of Michigan's customers."<sup>10</sup>

This confusing decision of both utilities to significantly increase capital spending in the face of the historical evidence of its ineffectiveness to improve electric performance leaves utility customers to wonder whether electric performance took and is still taking a back seat to increased earnings for utility shareholders. Or, is there an implementation failure on the part of the utilities that accounts for this historical evidence.

The Attorney General is also concerned that the large number of recommendations contained in the audit reports (33 for Consumers Energy and 42 for DTE Electric) may take resources and management's attention away from the key goals of improving reliability and reduce service restoration time. It is critical for the utilities to prioritize those recommendations in order to achieve the key goals while minimizing the burden on customer rates.

---

<sup>5</sup> Liberty Consulting Final Report for Consumers Energy, Part One Chapter VII, pp 78-79; Liberty Consulting Final Report for DTEE, Part Two Chapter II, p 61.

<sup>6</sup> Liberty Consulting Final Report for Consumers Energy, Part Two Chapter II, p 52.

<sup>7</sup> Liberty Consulting Final Report for DTEE, Part Two Chapter II, pp 62-63.

<sup>8</sup> Liberty Consulting Final Report for DTEE, Part Two Chapter II, p 63.

<sup>9</sup> Liberty Consulting Final Report for Consumers Energy, Part One Chapter VI, p 63.

<sup>10</sup> MPSC Order U-21305, October 5, 2022, p 4.

## DTE Electric Company (DTEE)

### 1. Category 1 – Liberty Safety Recommendations

DTEE has acknowledged that certain improvements need to be made to operations and facilities to avoid safety issues. The company seems to be committed to implement those improvements, and the Attorney General will rely on those commitments.

### 2. Category 2 – Liberty Compliance-Related Recommendations.

#### **Recommendation 1-2**

**Create a position dedicated to addressing the variation in outage durations across the service area and numbers of customers experiencing frequent multiple outages and those suffering particularly long outage durations.**

In its response, DTEE states that its newly established Reliability Center of Excellence can perform this function without creating a new position. The Attorney General believes that the company should already have been performing this function of reducing the frequency and long duration of power outages without the need to add new employees. If the Reliability Center of Excellence aggregates and concentrates existing resources, expertise and focus to resolve the frequency and long duration of outages, the Attorney General supports the initiative.

#### **Recommendation 1-4**

**With completion of the current changes contemplated in asset management measures, continue to assess the merits of moving to a more empowered organization, led at the director-level, responsible for ensuring optimized execution and continuing development and execution of the program.**

The objective of the recommendation is for DTEE to be more effective in the utilizations of its assets and tools. DTEE agrees and responds by stating that it formed a new Asset Management Organization on July 29, 2024, with a Director of Asset Management and Work Management under the leadership of the vice president of Distribution Operations Reliability Operations. The team will be fully staffed by the second quarter of 2025. If this new function also aggregates and concentrates existing resources and expertise to improve efficiency and effectiveness in providing improved customer service, the Attorney General supports the initiative.

#### **Recommendation 1-5**

**Adopt a four-to-five-year visual overhead circuit inspection program, focusing on securing visual control of the system and adjusting repair/replacement scope in the first cycle to account for what can be expected to be very high first-cycle costs.**

The necessity for this recommendation is not clear within the audit report. The proposal would accelerate the current practice from a 10-year inspection cycle to four-to-five years and likely double the annual O&M expense. In its response, DTE stated that it would analyze the recommendation and provide a plan in the next rate case. The Attorney General believes any acceleration in the inspection cycle and the related increase in O&M expense needs to be justified by a significant improvement in reduced power outages and also economically through reduced capital spending in subsequent years.

### **Recommendation 3-8**

**Re-baseline restoration budgeting to produce estimates that fully and realistically consider expected needs.**

### **Recommendation 3-9**

**Explore means to balance company and customer interests in addressing highly volatile restoration costs following completion of the preceding recommendation addressing budgeting for storm restoration.**

In the two recommendations, Liberty seems to be making both an internal budgeting and a ratemaking proposal about service restoration expenses incurred by the company annually. With regard to the internal budgeting of service restoration costs, that is a matter for the company to address and resolve accordingly within its operation. As to the ratemaking aspect of recovery of service restoration expense, if Liberty is advocating a change to the five-year average methodology, the recommendation is inappropriate. The implication or conclusion that because during 2021 to 2023 the utility incurred higher restoration expenses and thus the five-year average ratemaking procedure does not balance company and customer interests is incorrect. The premise is not true. The five-year averaging methodology exist because service restoration expenses can vary significant from year to year and the five-year average amount provides a normalized amount for establishing fair and reasonable rates for customers for the projected test year. As the five-year average moves forward, the utility will likely recover a higher expense amount in rate than it will actually incur due to those higher amounts incurred in 2021 to 2023. For example, the year 2024 has been a milder year for service restoration with fewer power outages and lower restoration expenses than in 2023 or 2021.

The utility response is that it has proposed a mechanism to allow the company to recover overspending above the amount set in rates and refund underspending amounts to customers. The Commission has evaluated the various mechanisms and proposals made by the utility, as well as similar proposals made by other utilities, and has repeatedly rejected them. The Attorney General reiterates its objection to such mechanisms as discussed in multiple prior rate cases. Any proposals for deferred accounting treatment of expenses should also be rejected because such a direct passthrough of costs would remove any incentive for the company to control costs.

In its report, Liberty admits that the current five-year average ratemaking methodology has not affected the utility's ability to spend what is necessary to complete service restorations.<sup>11</sup> Therefore, the Liberty recommendation will not likely have an impact on service reliability or restoration time improvement and should be disregarded by the Commission.

### **3. Category 3 – Liberty Distribution Plan-Related Recommendations.**

#### **Recommendation 1-3**

**Coordinate the pace of capital program execution with continually updated electrification scenarios.**

Although the utility agrees with the recommendation, the Attorney General cautions that this item should be given its proper ranking among more pressing priorities that are directed at improving the existing grid and reduce the number and duration of power outages. Given the current pace of public adoption of electric vehicles and other electrification initiatives, this recommendation addresses a long-term planning issue not an immediate need. Management's attention and resources should not be taken away from the more immediate and pressing priorities. If alternatives exist that can achieve both the reliability and electrification goals, then the utility should identify those alternatives and provide the necessary cost/benefit analyses.

#### **Recommendation 1-15**

**Make the planned examination of further adjustments to trim cycles a priority.**

Liberty proposes that the company could improve service reliability and reduce power outages by moving to a shorter tree-trimming cycle of four to five years instead of the current five-to-seven-year cycle. The utility is currently moving from a seven-year cycle to a five-year cycle. The company generally agrees with performing an evaluation for a shorter clearing cycle but prefers a more targeted approach. The utility feels that a standard, system-wide, cycle length for all distribution circuits limits the company's ability to optimize resources and reliability improvements.

In line with recent trends in the industry and recommendations of the MPSC and intervenors, the company proposes a risk-based cycle determined at either the substation or circuit level is the optimal approach to determining cycle-length. A risk-based cycle, determined through more advanced modeling and field observations, enables the company to target shorter cycles in areas with faster growing species and increased reliability issues, without excessively trimming in areas with fewer tree related events. According to the company, remaining on a fixed five-year cycle across the entire system, or moving to a four-year cycle, would

---

<sup>11</sup> Liberty Consulting Final Report for DTEE, Part Two Chapter III, p 124.

have significant cost implications and require a cost/benefit analysis to sufficiently measure if the incremental reliability benefits would justify the cost.

The Attorney General generally agrees with the company's risk-based approach and cost/benefit evaluation of a shorter tree-trimming cycle. Based on the experience of other utilities and the evidence provided in the audit report, the Attorney General believes that a shorter and targeted tree-trimming program could provide more immediate improvement in service reliability and fewer power outages of shorter duration. Such a relief would allow for an extended timeline and a more gradual and measured capital spending program to upgrade and rebuild the distribution grid. The Attorney General recommends that the Commission encourage such an approach.

### **Recommendation 2-1**

**Restate DGP reliability and safety program, measure, and activity scopes to optimize scope and expenditures assuming an extended period to reach mid-second quartile SAIDI to performance and to reflect a range of approaches regarding full-scale 4.8kV conversion.**

Liberty believes that a ten-year period to reach mid-second quartile SAIDI reliability performance is more realistic in terms of the time it will take to close the reliability gap that now exists and in terms of avoiding both cost inefficiency and better directing efforts to achieve it at least cost. According to Liberty, doing so will allow for more informed decisions about the value of improved reliability by illustrating the costs of achieving it more or less rapidly. Moreover, it believes that planning decisions about full-scale 4.8kV conversion, particularly its timing, should move past aspiration and to concrete [plans] addressing [and] further inform consideration of electricity service affordability and value.

The company does not agree that it is in the best interest of customers to extend the period to reach communicated reliability goals. In its response, the company also states that it is important to reiterate that the current and near-term proposed projects to convert the 4.8kV system to 13.2kV are all driven by [system] overloads and capacity constraints. Although disagreeing with extending the capital spending and targeted improvement in reliability goals, the company agreed to review and develop a range of approaches regarding 4.8kV conversion. In other words, the company wants to continue with its capital spending plans and perhaps tweak somewhat the 4.8kV conversion timeline and spending.

The Attorney General believes that the Liberty recommendation has merit in extending the capital spending over a longer time period when combined with more targeted risk-based tree-trimming program, as discussed above. Capital spending should be minimized whenever possible if more effective short-term programs can be implemented that will achieve the key goals of system reliability and reduction in the number and duration of power outages. Moreover, Liberty explains that “[v]ery large uncertainties surround DTE’s measurements of expected reliability improvements by program, measure, and activity” and that

“[t]hese combinations make reaching that elevated level of reliability performance for the amounts planned questionable.”<sup>12</sup> Liberty also noted that “closing DTEs’ great SAIDI gap, as the DGP plans to do, relies on assumptions about reliability improvements from particular programs and measures not yet underlain by enough experience to validate them.”<sup>13</sup> Thus, DTEE’s promises of reliability with billions of capital expenditures in its distribution plan are questionable. Moreover, DTEE’s assumptions, upon which billions of dollars of capital expenditures are based, have little validation. The Commission should require a more stringent cost/benefit analysis on DTEE’s capital spending with some accountability to protect customers from both poor electric reliability and unaffordable electric rates. Based on the historical evidence of DTEE’s significant capital investments and lack of reliability achievements, the reliability performance goal may not have to be moved, but rather how the company intends to meet that performance goal such as through more vegetation management and better implementation.

### **Recommendation 2-5**

#### **Replan and prioritize System Equipment Replacement investments to extend their completion by five years.**

Liberty believes that in order to permit an analysis of the path that electricity prices [rates] will take under the DGP, it is useful to examine the effects of extending the plan’s System Equipment Replacement investments, given the lack of assignment of material reliability benefits to them. Although not finding the expenditures inappropriate or unnecessary, Liberty does not find the schedule set by the DGP convincing and necessary for completion within five years. According to Liberty, the analysis of the capital expenditures should consider whether an extension is likely to produce reliability degradation or threaten failures with high consequence to reject deferral of the investments.

DTEE disagrees with delaying the equipment replacement programs and related capital spending. The company notes that System Equipment Replacement is not scheduled to be complete over five years. It consists of standard asset replacements required to renew the electrical infrastructure over the course of time and there is no “completion” to the programs in this category. According to the company, the replacements proposed in the 5-year horizon of the current DGP for system cable, breakers, and URD are just a small fraction of the overall need on the system. DTEE also points to the age of the equipment and periodic risk assessments to support its argument that it should continue with its spending plans.

The Attorney General finds merit in the Liberty recommendation that to the degree that replacement of the equipment can be extended without degrading near term reliability, the spending extension over a longer timeframe will reduce the

---

<sup>12</sup> Liberty Consulting Final Report for DTEE, Part Two Chapter II, p 67.

<sup>13</sup> Liberty Consulting Final Report for DTEE, Part Two Chapter II, p 57.



burden on customer rates. The age of the equipment by itself should not drive the decision for replacement if it is still functioning well. The Attorney General recommends that the Commission adopt the Liberty recommendation and direct the utility to perform the required analysis.

### **Recommendation 2-11**

#### **Re-examine the justification of the Pontiac conversion.**

According to Liberty, with vault conditions slated to have been addressed in 2023, the Pontiac 8.3kV conversion does not appear to present an immediate need for execution, given other, very large, investment needs. The roughly \$100 million Pontiac conversion presents an opportunity for reducing investments over the DGP period. Liberty states that the DGP does not provide quantitative dimensions [evidence] addressing the risk of equipment failures that would require load transfers, the outage times likely to result, the costs of making parts available, or the degree to which load changes have created or are creating capacity constraints. In the absence of more analysis, deferral of the conversion should be considered as a means to save about \$100 million in DGP investment amounts.

DTEE disagrees with the Liberty recommendation to re-examine the justification or delay the ongoing project work to complete the Pontiac conversion. According to the company, contingency options are limited for the Pontiac 8.3kV system because it is an island surrounded by the 13.2kV system, making it impossible to transfer load to neighboring facilities. With the load in the Pontiac 8.3kV system having gradually increased over the past seven years, it posits that this results in a higher risk for greater stranded load in the event of an 8.3kV substation outage event. The company response also points to other concerns.

Given the large cost of this conversion and the analysis performed by Liberty, the Attorney General believes that this project requires a re-evaluation at least as to the timeline over which it needs to be completed to minimize the burden on customer rates while still achieving the targeted replacement for long-term reliability.

### **Recommendation 2-12**

#### **Hinge commitments to significant undergrounding on the results of carefully planned piloting.**

Liberty proposes that the utility carefully consider future pilot projects in order to determine the cost of various terrain and circumstances it may encounter with any large-scale undergrounding of overhead electrical lines along with the tangible benefits.

DTEE agrees with the recommendation and plans to continue to pursue a variety of different locations for conversion from existing overhead facilities to underground, gaining learnings and identifying and improving efficiencies and

costs for this work. These results will help shape future projects and area selections for overhead to underground conversion work.

Given the complexities and difficulties discovered to date with existing undergrounding pilot projects, as well as the high cost per mile for undergrounding, the Attorney General recommends that the Commission direct the utility to limit undergrounding pilot programs to only those that are essential to determine the economic viability of undergrounding lines of certain types and of more promising locations. The utility should define clear criteria of what may be viable undergrounding projects and perform a cost/benefit analysis of those projects versus continuing to maintain the overhead lines before undertaking any projects.

### **Recommendation 2-13**

**Hinge the DGP's expansion of recloser installations over the plan's later years on the development of better [informed] information about their likely reliability contribution.**

Liberty did not find persuasive the conclusion that the installation of Viper reclosers will generate sufficient reliability improvements to warrant the DGP levels of planned investment. The audit report states that extending the proposed 2024 DGP unit installation rates through 2025 may well prove sufficient to develop sounder information about current and projected reliability benefits as penetration of the devices increases. Thereafter, however, they ramp up significantly. With industry experience showing a clear pattern of diminishing returns as penetration increases and with the massive other investment demands facing DTEE, Liberty believes that it is reasonable to expect a \$600 million or so reduction from the DGP's proposed investment levels.

DTEE disagrees with the recommendation to slow down the automation program. However, the company agreed to continue to identify and review the expected reliability benefits of this program and prioritize the circuit deployment accordingly. The company states that benchmarking with other utilities has shown that automation as part of sectionalizing and restoration strategy is a key component and a proven method to improve reliability.

The Attorney General agrees with the Liberty recommendation that the capital spending in this area is likely a lower priority and should be evaluated for elimination or long-term deferral until after higher priority upgrades are implemented.

## Consumers Energy Company

Consumers Energy provided comments to observations made by Liberty in Part I of its audit report, as well as to the recommendations included in Part II of the audit report.

With regard to the Part I observation and comments, the Attorney General finds the company's discussion of the SAIDI observations self-serving and misleading.<sup>14</sup> The company attempts to dismiss the audit findings and observations on the SAIDI results from 2014 to 2022 as not indicative of the company actual performance. There are several problems with the company's comments. First, the company neglects to mention the fact that the audit report (beginning on page 62 of Part I) presents both SAIDI results with Major Event Days (MEDs) and SAIDI excluding MEDs for the 9 years spanning from 2014 to 2022. This nine-year period provides an accurate portrayal of any recent, as well as long term trends of performance. The results clearly show that over the nine-year period, the SAIDI results including MEDs have been on a steep up trend, meaning deteriorating system reliability performance. The SAIDI results excluding MEDS have been essentially flat over the nine-year period.

Second, the company's comments focus only on SAIDI results excluding MEDs, claiming that recent SAIDI results improved in 2020, 2022, and 2023. This is again misleading. As the chart on page 62 of the Part I report shows, we have seen temporary dips in the SAIDI excluding MEDs before, which are then followed by a higher SAIDI number the following year. The SAIDI number excluding MEDs in 2022 is nearly the same as it was in 2014, 2015, and 2017 despite significant increases in capital expenditures between 2014 and 2022. The company claims a lower SAIDI result in 2023, but no data was provided to support that claim other than a reference to a rate case filing.

Third, the SAIDI result excluding MEDs represents system performance during mainly milder blue-sky and grey-sky days and is not indicative of how the distribution grid will perform under the stress of major storms. The hardening of the grid that the Company has undertaken at least over the past five years should show better SAIDI results when including MEDs to demonstrate that capital expenditures on the system are making a difference during major storms. To date, the SAIDI results including MEDS have not provided any encouraging and compelling evidence that the billions of dollars of capital spending during the past five years have made a difference. The company fails to acknowledge that basic fact. A more accurate and balanced presentation of reliability performance must include both SAIDI results including and excluding MEDs.

Fourth, the company states that using a rolling five-year SAIDI result provides a more accurate picture of how performance is trending. However, the company did not provide any data on the SAIDI results including and excluding MEDS for

---

<sup>14</sup> Consumers Energy's November 15, 2024 Response, pp 8-11 (comments to Liberty Audit Report Part I).

multiple five-year periods to support its comments. Given the data presented in the chart on page 62, it is difficult to understand how a five-year rolling average of the SAIDI including MEDs would support the effectiveness of the capital spending during the past five years.

In summary, the Attorney General recommends that the Commission reject the comments provided by Consumers Energy pertaining to its claimed improvement in SAIDI performance.

### **Consumers Energy Part II Comments to Liberty's Recommendations**

Consumers Energy did not follow the Commission's prescribed method of categorizing comments in the three categories of Safety Related, Compliance Related, and Distribution Plan Related. The Company also did not capture the actual language of the Liberty recommendations to which it is responding and instead rewords the recommendations to provide self-serving and conclusionary statements. The company's responses also often do not have a clearly stated implementation timeline. The result is a confusing presentation that makes it difficult to assess what the Liberty recommendation is that the company is responding to and what the Company clearly plans to do to address it. Despite these unfortunate drawbacks, the Attorney General will attempt to comment on the major issues of concern, identifying first the Liberty recommendation.

#### **Liberty Recommendation 2- System Organization Management, and Practices (page 12)**

##### **Coordinate the pace of capital program execution with continually updated electrification scenarios.**

On page 14 of its responses, Consumers Energy seems to concur with this recommendation as something that it is already doing and plans to reflect any updates in its next DGP.<sup>15</sup> As discussed above under a similar recommendation for DTEE, the Attorney General cautions that this item should be given its proper ranking among more pressing priorities that are directed at improving the existing grid and reduce the number and duration of power outages. Given the current pace of public adoption of electric vehicles and other electrification initiatives, this recommendation addresses a long-term planning issue and not an immediate need. Management's attention and resources should not be taken away from the more immediate and pressing priorities. If alternatives exist that can achieve both the reliability and electrification goals, then the utility should identify those alternatives and provide the necessary cost/benefit analyses.

#### **Liberty Recommendation 10 - System Organization Management, and Practices (page 48)**

##### **Substantially reduce the use of general "Weather" and of "Unknown" as outage causes.**

---

<sup>15</sup> Consumers Energy's November 15, 2024 Response, p 14.

The company agrees to work at improving the identification of power outage causes.<sup>16</sup> However, it has not set a clear plan or deadline as to how and when it plans to achieve better identification and reporting. This is a major problem that distorts the reporting of the reasons for power outages. In 2023, nearly 30% of the outage reasons were classified as “unknown” or “weather.” It is difficult to improve the company’s electric performance and determine the most cost-effective options when the company lacks the ability to know the cause of 30% of its power outages. How can the company even propose an effective solution when 30% of the problem isn’t completely known? Spending billions of dollars of customer money on a solution without accurate knowledge of the problem is reckless and likely why the billions spent over the past 10 years have had little to no impact on the problem of electric reliability and power outages but have had clear impact on customer bills. The Attorney General recommends that the Commission direct the company begin improved identifications of causes as early as 2025.

**Liberty Recommendation 1 – EDIIP<sup>17</sup> Reliability Programs** (page 48)

**Restate EDIIP reliability and safety program, measure, and activity scopes to optimize scope and expenditures assuming an extended period to reach second quarter SAIDI performance.**

Liberty believes that there is considerable execution risk that the company’s spending plans will not achieve the targeted second quartile SAIDI reliability performance at the end of the five-year DGP. In its response the company states that it believes it has presented an achievable plan and can manage the execution risk.<sup>18</sup> The company again bases its spending plan on achieving the SAIDI target excluding MEDs. Although this may be the company’s goal, it is not the expectation of the Attorney General and most likely also not the expectation of the Commission and other parties that routinely participate in the company’s general rate cases and distribution grid proceedings. The company must also improve the SAIDI including MEDs performance measure within the industry’s second quartile.

In its response, the company agreed that it is prudent to evaluate an extended timeframe from seven to ten years. This would include assessing how slowing the planned pace of investments would impact expected reliability performance and expenditures. The company plans to conduct this additional analysis now and through 2025.

The Attorney General finds the company’s willingness to evaluate an extended timeframe with a slower pace of capital spending encouraging and looks forward to seeing such a plan that stretches the five-year capital spending over a 10-year period. Based on the historical evidence of Consumers Energy’s significant capital investments and lack of reliability achievements, the reliability performance goal

---

<sup>16</sup> Consumers Energy’s November 15, 2024 Response, p 25.

<sup>17</sup> Electric Distribution Infrastructure Investment Plan.

<sup>18</sup> Consumers Energy’s November 15, 2024 Response, p 16.

may not have to be moved, but rather how the company intends to meet that performance goal such as through more vegetation management and better implementation.

**Liberty Recommendation 2 - EDIIP Reliability Programs (page 71)**

**Move to a four-to-five-year forestry cycle for LVD circuits overall, completing the first roughly contemporaneously with the 2028 end of the EDIIP period.**

Liberty believes that the seven-year overall tree-trimming cycle that Consumers Energy has targeted for its LVD<sup>19</sup> circuits is too long to be effective in avoiding interruptions. According to Liberty, Consumers Energy's seven-year cycle extends well beyond typical industry experience, even for regions less well-forested. Moreover, it appears that some of the company's circuits have not been trimmed in 20 years and it will take until 2030 according to company plans to perform tree-trimming work on some circuits under the seven-year cycle. The company employs a much shorter three-year clearing cycle for HVD<sup>20</sup> lines, whose reliability performance has improved significantly, and which does not present significant opportunity for further improvement. However, LVD lines remain the dominant contributor to SAIDI minutes. Tree-trimming/vegetation management comprises the most significant contributor to outage reduction. Liberty believes that reducing the LVD vegetation cycle will materially reduce SAIDI minutes in a manner that will prove cost effective in the long run.

Liberty estimates that completing the first four to five-year cycle by the end of the EDIIP period may add costs of about \$100 million per year to 2025 through 2028 O&M expense. The company currently plans to spend about \$125 million for 2025 under the seven-year cycle. Moving to a four-to-five-year cycle would total to \$225 million in annual O&M spending. However, according to Liberty, the annual costs to sustain such a cycle could drop to a total level of \$100 to \$150 million after completion of the first four-year cycle. Overgrown vegetation encountered during a circuit's first treatment substantially increases the per foot or mile costs but will not be present thereafter on regularly maintained circuits.

Consumers Energy agreed to reevaluate its line clearing (tree-trimming) cycle but does not agree that a drastic change is warranted. In its response, the company states that a four-to-five-year cycle is an aggressive proposal that would negatively impact customer rates, particularly residential rates.<sup>21</sup> The company also states that Liberty's proposal merits serious consideration but must be approached with deliberate care. When evaluating line clearing cycle lengths, the company says that it has acknowledged the benefits of shorter cycles, but it has sought to balance the benefits of a shorter cycle against the costs.

---

<sup>19</sup> LVD – Low Voltage Distribution.

<sup>20</sup> HVD – High Voltage Distribution.

<sup>21</sup> Consumers Energy's November 15, 2024 Response, p 31.

Consumers Energy posits that unlike capital investments that are recovered over many years as capital assets are depreciated, line clearing O&M expenses must be recovered the year they are incurred and can quickly increase the company's revenue requirement. What's more, it emphasizes that increasing line clearing O&M expenses would have a disproportionate impact on residential customers. The company is not foreclosing the possibility of a shorter line clearing cycle, as it also strives for the improved reliability that a shorter cycle promises, but the company is weighing the benefits against the costs to find the optimal cycle.

The Attorney General finds the company's willingness to consider a shorter tree-trimming cycle encouraging and welcomes the acknowledgement that a shorter cycle can quickly improve system reliability, meaning reductions in the number of power outages and duration, as available resources would be dispatched to resolve fewer outages. With regard to the impact on customers from higher O&M expense versus capital expenditures, the short-term impact on customer rates will likely be higher under a shorter tree-trimming/line clearing cycle. However, some of the impact can be mitigated by a reduction in capital spending by extending most of the capital spending on distribution system upgrades over a 10-year period instead of a 5-year period.

If Liberty's view is correct, that after the first four-year cycle the cost of trimming will decline significantly, the long-term total cost of tree-trimming and lower capital related costs should be advantageous to customers. The prospect of fewer power outages with shorter duration as a result of a shorter tree-trimming cycle is also very appealing. Similar to DTEE, Consumers Energy needs to undertake a risk-based approach to tree-trimming or line clearing in order to focus on those areas that have the highest vegetation concentration and are likely to cause frequent and wider power outages. The Attorney General looks forward to seeing a thorough evaluation of this course of action and recommends that the Commission direct the company to perform this analysis as early as possible in 2025 for a potential implementation starting in 2026 and perhaps as early as the second half of 2025.

### **Liberty Recommendation 3 - EDIIP Reliability Programs (page 72)**

**Eliminate plans to replace all poles found to be more than 45 years of age on inspection and evaluate the conditions required to support replacement on inspection of 100 percent of rejected poles.**

Liberty stated that use of a 45-year age factor to schedule inspected poles for near term replacement does not comport with industry experience, with their field observations about pole condition, or the reasonably high quality of Consumers Energy's pole inspection and maintenance practices and cycles. Consumers Energy should limit replacements to strictly condition-based factors identified through inspection and maintenance activities.

Consumers Energy agrees with the recommendation and the Company plans to update future distribution plans filed in Case No. U-20147 to eliminate the references to LVD pole replacement plans conducted solely on the basis of age. The Attorney General has made similar recommendations in prior comments filed in Case No. U-20147 and in various rate cases that age of an asset alone should not be the determining factor for replacement. The Attorney General is pleased to see that the company now agrees with this approach.

**Liberty Recommendation 3 - EDIIP Reliability Programs (page 72)**

**Determine whether considerations other than reliability enhancement warrant the EDIIP expenditures associated with open wire secondary removal.**

According to Liberty, removal of open wire secondary does not appear to have a sufficiently large impact on SAIDI minutes to warrant the costs involved. Removing all remaining open wire over the EDIIP period will produce only a nominal change in SAIDI minutes, compared to its over \$100 million in costs. Experience at other utilities does not generally command removal of open wire secondary on a programmatic basis for safety improvement reasons.

Consumers Energy disagrees with the recommendation and relies on the safety aspects of downed secondary wire for continuing the program. The Attorney General agrees with the Liberty recommendation. In testimony filed by its expert Sebastian Coppola in Case No. U-21585, the expert noted the limited impact on SAIDI improvement, and the Attorney General recommended that the program be scaled back to a 20-year conversion instead of the 10-year program proposed by the company.<sup>22</sup> A slower pace of replacement would provide some relief on customer rates. The Attorney General reiterates its recommendation that the secondary wire replacement program be scaled back to a 20-year replacement timeframe.

**Liberty Recommendation 5 - EDIIP Reliability Programs (page 72)**

**Delay expansion beyond current pilots for LVD undergrounding, in order to recognize the dependence of that expansion on information and analysis that will take time to evaluate robustly.**

Liberty believes that there are not grounds at present for concluding that undergrounding will prove beneficial at the levels the EDIIP identifies, but consider it sound to undertake limited work at the scope the EDIIP sets forth. The pilots address one segment estimated at 10.3 miles and another at 11 miles. Consumers Energy proposes to use these pilots to develop information necessary for evaluating both costs and reliability index changes resulting. According to Liberty, the information learned should be carefully analyzed and the resulting analyses thoroughly vetted before committing to additional LVD undergrounding for resiliency/reliability improvement. Liberty expects the major expansion in

---

<sup>22</sup> MPSC Case No. U-21585, Sebastian Coppola direct testimony dated September 27, 2024, page 31.



annual expenditures at the least to be delayed by a year or more and potentially reduced materially based on lessons learned.

In its response, Consumers Energy essentially dismisses Liberty's concerns about the higher cost of undergrounding and reinterprets the conclusion and recommendation as supporting its plan.<sup>23</sup> This interpretation is incorrect and should be dismissed by the Commission. In effect, the company proposes to continue with its plan to convert several sections of its overhead lines to underground because other utilities in California, Florida, and a handful of other states are doing it, irrespective of the cost and before the results of the pilot program are known and evaluated.

In testimony filed by Mr. Coppola in Case No. U-21585, the Attorney General pointed out the shortcoming in the company's undergrounding program, including an erroneous present value cost analysis, the severally-understated cost per mile for undergrounding, and the lack of a cost/benefit analysis as a key criterion before undertaking each undergrounding project.<sup>24</sup> The Attorney General agrees with Liberty's skepticism about the company's plans for undergrounding past the pilot program and recommends that the Commission instruct the company re-evaluate the undergrounding program and take into consideration more realistic costs per mile and incorporate a cost/benefit analysis for each project, as part of the key screening criteria.

**Liberty Recommendation 9 - EDIIP Reliability Programs (page 117)**  
**Re-baseline restoration budgeting to produce estimates that fully and realistically consider expected needs.**

**Liberty Recommendation 10 - EDIIP Reliability Programs (page 118)**  
**Explore means to balance company and customer interests in addressing highly volatile restoration costs following completion of the preceding recommendation addressing budgeting for storm restoration.**

As discussed above in the DTE report, the Attorney General provides the same comments here. Liberty seems to be making both an internal budgeting and a ratemaking recommendation about service restoration expenses incurred by the company annually. With regard to the internal budgeting of service restoration costs, that is a matter for the company to address and resolve accordingly within its operation. As to the ratemaking aspect of recovery of service restoration expense, if Liberty is advocating a change to the five-year average methodology, the recommendation is inappropriate. The implication or conclusion that because during 2021 to 2023 the utility incurred higher restoration expenses and thus the five-year average ratemaking procedure does not balance company and customer interests is incorrect. The premise is not true. The five-year averaging methodology exist because service restoration expenses can vary significant from

---

<sup>23</sup> Consumers Energy's November 15, 2024 Response, p 43.

<sup>24</sup> MPSC Case No. U-21585, Sebastian Coppola direct testimony dated September 27, 2024, page 44.

year to year and the five-year average amount provides a normalized amount for establishing fair and reasonable rates for customers for the projected test year. As the five-year average moves forward, the utility will likely recover a higher expense amount in rate than it will actually incur due to those higher amounts incurred in 2021 to 2023. For example, the year 2024 has been a milder year for service restoration with fewer power outages and lower restoration expenses than in 2023 or 2021.

The utility response is that it has proposed a mechanism to allow the company to recover overspending above the amount set in rates and refund underspending amounts to customers. The Commission has evaluated the various mechanisms and proposals made by the utility, as well as similar proposals made by other utilities, and has repeatedly rejected them. The Attorney General reiterates its objection to such mechanism, as discussed in multiple prior rate cases. Any proposals for deferred accounting treatment of expenses should also be rejected because such a direct passthrough of costs would remove any incentive for the company to control costs.

In its report, Liberty admits that the current five-year average ratemaking methodology has not affected the utility's ability to spend what is necessary to complete service restorations.<sup>25</sup> Therefore, the Liberty recommendation will not likely have an impact on service reliability or restoration time improvement and should be disregarded by the Commission.

---

<sup>25</sup> Liberty Consulting Final Report for Consumers Energy, Part Two Chapter III, p 115.

## Conclusion

As explained above, the Commission needs to closely examine the electric distribution plans for both Consumers Energy and DTEE. The Commission should require both utilities to provide cost/benefit analyses of their respective plans and explain how the lack of focus on the number one cause of power outages makes sense. The Commission should also require accountability for both utilities for these reliability goals. Otherwise, customers bear all the costs and all the risk for this spending. In addition, the Commission should determine on a going forward basis how to fairly and affordably apportion the cost of meeting the reliability goals between utility customers and shareholders. The Attorney General appreciates the opportunity to provide comments to the Commission in this proceeding and remains ready to assist further through its experts in developing more effective plans for improvements to the Michigan electric distribution grid while minimizing the burden on customer rates.

Sincerely,

Michael E. Moody (P-51985)  
Assistant Attorney General  
Michigan Department of Attorney  
General, Special Litigation Division  
Ph: 517-335-7627  
Email: [moodym2@michigan.gov](mailto:moodym2@michigan.gov)