STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the Matter of the Application of Consumers Energy Company for authority to increase its rates, for the generation and distribution of electricity and for other relief.	))))))	Case No. U-21585

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on January 27, 2025.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw Highway, Lansing, Michigan 48917, and served on all other parties of record on or before February 14, 2025 or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before February 27, 2025.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Sally L. Wallace

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Sally L. Wallace
Administrative Law Judge

January 27, 2025
Lansing, Michigan

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In the Matter of the Application of Consumers Energy Company for authority to increase its rates, for the generation and distribution of electricity and for other relief.	))))))	Case No. U-21585

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On May 31, 2024, Consumers Energy Company (Consumers or the Company) filed a rate application requesting a $325 million revenue increase, and other relief. The rates requested in the application are based on a March 1, 2025 through February 28, 2026 projected test year. The Company's application was accompanied by the testimony and exhibits of 31 witnesses. The most recent rate case order for Consumers was issued by the Commission on March 1, 2024, in Case No. U-21389.[1]

Staff, Consumers, and potential intervenors attended the June 27, 2024 prehearing conference. Intervention was granted to a total of 25 parties, some of whom participated collectively as noted: the Attorney General; Michigan Cable Telecommunications Association; Citizens Utility Board, Michigan Environmental Council,

[1] An erratum to the March 1 order was issued on March 15, 2024.

the National Resources Defense Council, and Sierra Club, (collectively, MNSC or MNC); The Ecology Center, the Environmental Law and Policy Center, the Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations or CEO); Energy Michigan; the Foundry Association of Michigan; the Michigan Energy Innovation Business Council, the Institute for Energy Innovation, and Advanced Energy United (collectively, MEIU); Urban Core Collective (UCC); Michigan Electric Transmission Company (METC); Michigan Municipal Association for Utility Issues (MAUI); Association of Businesses Advocating Tariff Equity (ABATE); Michigan State Utility Workers Council (MSUWC); Great Lakes Renewable Energy Association (GLREA); Hemlock Semiconductor Corporation (HSC); the Kroger Company; and Walmart, Inc. (Walmart). The parties agreed to a schedule meeting the time limits of MCL 460.6a. On June 28, 2024, a protective order was entered.

By the September 27, 2024 filing deadline, Staff and the following intervenors filed direct testimony and exhibits: the Attorney General; MEIU; MNSC, MNC; MSUWC; ABATE; UCC; the CEO; METC; Walmart, and GLREA. On October 18, 2024, Consumers, Staff, Energy Michigan, ABATE, the CEO, and UCC, filed rebuttal testimony.

At the evidentiary hearing held on October 30 through November 4, 2024, five witnesses appeared for cross-examination, while the testimony of the remaining witnesses was bound into the record by agreement of the parties without the need for them to appear. Staff's Motion to Strike Portions of the Rebuttal Testimony of Heidi J. Myers, striking pages 13 and 14 of Ms. Myers' testimony,[2] was granted at the October 31,

[2] 4 Tr 436-437. This PFD notes that Consumers initial brief, p. 450, indicates the Company's disagreement with the ruling striking certain portions of Ms. Myers' rebuttal testimony and its intention to raise the issue with the Commission.

2024, hearing.[3] The parties filed briefs and reply briefs in accordance with the established schedule. As discussed in section II below, the record in this matter includes testimony from a total of 75 witnesses.

II.

OVERVIEW OF THE RECORD

The evidentiary record in this proceeding is contained in five public transcript volumes comprising 3,888 pages, plus a confidential transcript, and a total of 689 exhibits, several of which also have a confidential version. The following discussion is only intended to give a general overview of the principal areas addressed by each witness. Additional detail on disputed issues is included in the subsequent sections of this PFD.

A. Consumers

Consumers presented the direct and rebuttal testimony of 31 witnesses:

Heidi J. Myers, Executive Director of Revenue Requirements and Regulatory Affairs for Consumers, provided an overview of Consumers' case, including the alignment of spending between Consumers' Distribution Investment Recovery Mechanism (IRM) and the Company's Electric Distribution Infrastructure Investment Plan (EDIIP or Reliability Roadmap). Ms. Myers also introduced the Company's other witnesses.[4]

Josnelly C. Aponte, a Principal Rate Analyst for Consumers, presented the historic and test year revenue deficiency and analysis related to regulatory assets, and proposed amortization calculations for the New Covert Generation Plant. Ms. Aponte also presented requests related to distribution capital deferrals and the projected test year revenue requirement for demand response (DR) Programs.[5]

Corey E. Ballinger, Fleet Acquisition and Asset Disposition Manager for Consumers, provided testimony describing the management of the electric business portion of Fleet

[3] 3 Tr 320-325.
[4] Ms. Myers' qualifications, revised direct, and rebuttal testimony are transcribed starting at 4 Tr 345. Cross examination of Ms. Myers begins at 4 Tr 453 and concludes at 4 Tr 493.
[5] Ms. Aponte's qualifications and direct testimony are transcribed at 4 Tr 382-422. Ms. Aponte's prefiled direct testimony and exhibits were adopted by Ms. Myers.

Services, the Fleet Replacement and Planning Process, the Fleet Electrification Strategy, and Consumers' Fleet capital spending projections.[6]

Marc R. Bleckman, Executive Director of Financial Planning and Analysis for Consumers, testified regarding the Company's proposed capital structure and cost of capital to be used in computing the overall rate of return.[7]

Todd A. Wehner, Consumers' Assistant Treasurer, supported the Company's proposed Return on Equity (ROE) that Consumers used in computing the overall Rate of Return.[8]

Richard T. Blumenstock, the Executive Director of Electric Supply Engineering for Consumers, provided an overview of the Company's current generation assets and generation asset strategy, including unit retirement dates. He further testified regarding environmental regulations, periodic outage plans, generating unit availability, random outage rate (ROR) projections, generation capital expenditures, and Operation and Maintenance (O&M) expenses for generating units, D.E. Karn (Karn) Units 1 and 2, and Campbell Units 1, 2, and 3.[9]

Pamela L. Bolden, Executive Director of Electric Operations with responsibility for High Voltage Distribution (HVD) Forestry Management for Consumers, provided an overview of the Company's line clearing program and the proposal to increase spending to achieve an effective seven-year Low Voltage Distribution (LVD) line clearing cycle while maintaining a four-year cycle for HVD assets.[10]

Eugène M.J.A. Breuring, a Principal Sales Forecasting Analyst in Financial Planning and Analysis for Consumers, supported the Company's electric revenues, deliveries, generation requirements, and peak demand in the test year.[11]

Thomas P. Clark, the Executive Director of Consumers' Clean Energy Project Development (CEPD) Department, discussed Consumers' Clean Energy Plan and supported requests related to development, construction, and acquisition of new Company-owned solar generation pursuant to Integrated Resource Plan (IRP) competitive solicitations, and he provided an overview of the Company's IRP battery energy storage program as approved as part of the 2018 and 2021 IRP settlement

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[6] Mr. Ballinger's qualifications and direct testimony are transcribed at 5 Tr 1124-1175.
[7] Mr. Bleckman's qualifications, direct, and rebuttal testimony are transcribed starting at 5 Tr 1178. Mr. Bleckman adopted the direct testimony and exhibits of Mr. Wehner.
[8] Mr. Wehner's qualifications and direct testimony are transcribed at 5 Tr 1333-1384. His direct testimony and exhibits were adopted by Mr. Bleckman.
[9] Mr. Blumenstock's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1387-1557.
[10] Ms. Bolden's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 190-252. Cross examination of Ms. Bolden begins at 3 Tr 253 and redirect concludes at 3 Tr 320.
[11] Mr. Breuring's qualifications, revised direct testimony, and rebuttal testimony are transcribed at 5 Tr 1559-1592.

agreements, and as updated by subsequent rate cases. Mr. Clark also presented the Company's requested land lease payment tariff changes.[12]

Laura M. Connolly, Director of Regulated Pricing in Consumers' Rates and Regulation Department, testified regarding the Company's electric cost of service study (COSS), load research, and rate design. Ms. Connolly also supported Consumers' calculations of the state reliability mechanism (SRM) capacity charge, substation ownership credit, DR and distribution deferral mechanism, and she addressed rate design and certain tariff proposals.[13]

Amy M. Conrad, Director of Compensation Operations for Consumers, discussed the Company's compensation approach and provided support for the recovery of costs related to the Company's annual Employee Incentive Compensation Program (EICP).[14]

Matthew J. Foster, a Principal Rate Analyst for Consumers, supported the Company's Corporate Services O&M expense, which includes uncollectible expense, and injuries and damages. Mr. Foster also testified regarding Corporate Services Capital spending, Information Technology (IT) projects supporting Corporate Services and the Company's request for certain accounting approvals, including the use of regulatory assets or liabilities for the Service Restoration Cost Sharing Mechanism.[15]

Brittani A. Gray, a Senior Tariff Analyst in Consumers' Rates and Regulation Department, presented the Company's tariff language changes.[16]

Kendra K. Grob, Retirement Plans Manager for Consumers, supported the Company's costs related to retirement, health care, life insurance, long-term disability (LTD) plans, and other benefits provided to its employees and retirees. Ms. Grob also testified regarding the continuation of the Company's Defined Benefit Pension/Other Post-Employment Benefits (OPEB) Volatility Mechanism.[17]

Quentin A. Guinn, a Capital Asset Strategy Manager for Consumers, described Consumers' facilities operations, and he supported proposed capital expenditures and O&M expenses related to the electric business portion of Facility Operations and Shared Services.[18]

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[12] Mr. Clark's qualifications, direct testimony, and rebuttal testimony are transcribed at 5 Tr 1595-1663.
[13] Ms. Connolly's qualifications, and direct and rebuttal testimony are transcribed at 2 Tr 40-83. Cross examination of Ms. Connolly begins at 2 Tr 84 and concludes at 2 Tr 168.
[14] Ms. Conrad's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 1665-1716.
[15] Mr. Foster's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 1718-1741.
[16] Ms. Gray's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 1743-1752.
[17] Ms. Grob's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 1754-1795.
[18] Mr. Guinn's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 1797-1844.

Shivaji Kandan, the IT Director for Consumers' Operational Technology Department, testified in support of the IT Department's O&M and capital expenditures to maintain and expand IT systems.[19]

Michael P. Kelly, Executive Director of Electric Distribution Strategy for Consumers, provided an overview of the Company's EDIIP strategy, and he described the current state and performance of the Company's electric distribution system and future reliability projections based on the distribution investment included in the case. Mr. Kelly also supported certain distribution system O&M expenses, and he discussed the various IT projects that support electric distribution.[20]

Jon J. Koetje is the Director of Engineering, Procurement, and Construction (EPC) Project Management for Fossil Generation for Consumers. He presented the 2023 expenses for Karn Units 1 and 2, and Campbell Units 1, 2, and 3, decommissioning, and 2023 coal ash disposal costs for those units plus the Classic 7 units. He also presented the projected decommissioning expenses for Campbell Units 1, 2, and 3, and Karn Units 1 and 2, between 2024 and 2026.[21]

Keith M. Kurdziel, Director of HVD Reliability Engineering for Consumers, provided an overview of the HVD system and HVD capital programs and expenditures.[22]

Donald A. Lynd, Director of LVD System Planning for Consumers, explained Consumers' projected capital costs for LVD and Metro systems and the associated benefits of these programs. Mr. Lynd also discussed investments intended to increase resiliency through distribution system hardening.[23]

Steven Q. McLean, Director of Customer Regulatory and Compliance in Consumers' Customer Experience Department, discussed the Company's Customer Experience and Customer Operations (CX&O) capital and O&M expense, as well as DR programs and associated costs.[24]

Scott A. McPhail II, Director of Grid Modernization for Consumers, provided an overview of the Company's grid modernization plan and the proposed capital expenditures for plan implementation.[25]

Megan L. Metz, Director of Electric Supply Operations and Power Supply Cost Recovery (PSCR) within Consumers' Electric Supply Organization, supported PSCR costs

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[19] Mr. Kandan's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 1846-1973.
[20] Mr. Kelly's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 834-1057. Cross examination of Mr. Kelly begins at 5 Tr 1058 and ends at 5 Tr 1121.
[21] Mr. Koetje's qualifications and direct testimony are transcribed at 5 Tr 1976-1999.
[22] Mr. Kurdziel's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2001-2134.
[23] Mr. Lynd's qualifications, revised direct, and rebuttal testimony are transcribed at 4 Tr 494-722. Cross examination of Mr. Lynd begins at 4 Tr 723 and ends at 4 Tr 768.
[24] Mr. McLean's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2136-2198.
[25] Mr. McPhail's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2200-2298.

expected during the test year and provided the Company's SRM capacity charge inputs, cost offsets, and demand. Ms. Metz also provided an update on Midcontinent Independent System Operator's (MISO) Seasonal Adequacy Construct, the value of continued investment in Consumers' generation assets, and the value of the Company's DR programs.[26]

Adam J. Monroe, Executive Director of Hydro Generation for Consumers, supported generation capital expenditures and O&M expense related to the Company's river hydroelectric facilities. Mr. Monroe described Consumers' existing hydroelectric facilities and the associated generation asset strategy for these facilities as well as periodic outage plans and generation unit availability.[27]

Jeffrey A. Myrom, Director of Electric Vehicle Customer Products for Consumers, provided support for enhancements to the Company's Transportation Electrification Program (TEP).[28]

Eric S. Reed, Director of Security Governance, Risk, Compliance for Consumers, testified in support of the security department's O&M and capital expenditures, as well as provided an overview of cyber security and physical threats, and the accompanying regulatory landscape, including a move to cloud computing solutions and to protect technological and physical infrastructure.[29]

Daniel A. Schmoekel, Senior Strategy Manager for Electric Distribution for Consumers, provided an overview of Consumers' streetlighting assets and the strategic plan for management of those assets. Mr. Schmoekel also supported capital expenditures for streetlighting infrastructure and detailed the Company's streetlight outage restoration performance.[30]

Andrew R. Snider, Executive Director of Electric Operations for Consumers, testified in support of $133.5 million in service restoration O&M expenses, including technology and process enhancements, organized into service restoration O&M, the Service Restoration Cost Sharing Mechanism, technology enhancements, and control/dispatch center consolidation.[31]

R. Michael Stuart, Director of Quality Improvement for Consumers, supported the Company's requested recovery for EICP costs. Mr. Stuart also discussed operational

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[26] Ms. Metz's qualifications, revised direct testimony, and rebuttal testimony are transcribed at 5 Tr 2300-2330.
[27] Mr. Monroe's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2332-2395.
[28] Mr. Myrom's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2397-2414.
[29] Mr. Reed's qualifications and direct testimony are transcribed at 5 Tr 2416-2450.
[30] Mr. Schmoekel's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2453-2513.
[31] Mr. Snider's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2515-2557.

performance goals included in Consumers' EICP and how the EICP goals provide benefits to customers.[32]

Angela Thompkins is Chief Diversity Officer and Vice President of Community Affairs for Consumers. She provided testimony regarding community engagement.[33]

Brian J. VanBlarcum, a Tax Director in Consumers' Corporate Tax Department, supported the Company's real and personal property taxes as well as the excess deferred federal income taxes being returned to electric customers because of the Tax Cuts and Jobs Act (TCJA) of 2017, the Company's Calculation C, and he discussed the Inflation Reduction Act's impact on the case.[34]

B. Commission Staff

Staff presented the direct and rebuttal testimony and exhibits of 25 witnesses:

Paul R. Ausum, an Economic Analyst in the Resource Adequacy & Forecasting Section of the Commission's Energy Resources Division, presented Staff's analysis and recommendations related to the Company's sales forecast.[35]

Anne T. Armstrong, Director of the Commission's Customer Assistance Division, responded to testimony by MNC regarding data collection and affordability.[36]

Raushawn D. Bodiford, a Public Utilities Engineer Specialist in Energy Cost Recovery & Generation Operations Section of the Commission's Energy Operations Division, testified regarding adjustments to the Company's fossil and hydroelectric generation capital expenditures.[37]

Ryan Boutet, a Public Utilities Engineer in the Electric Operations Section of the Energy Operations Division, presented Staff's recommendations regarding HVD capital investments.[38]

Elaina M. Braunschweig, a Departmental Analyst for the Rates and Tariff Section of the Commission's Regulated Energy Division, presented Staff's position on energy assistance and proposed changes, in response to MNC and UCC.[39]

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[32] Mr. Stuart's qualifications and direct testimony are transcribed at 5 Tr 2559-2571.
[33] Ms. Thompkins' qualifications and direct testimony are transcribed at 5 Tr 2573-2586.
[34] Mr. VanBlarcum's qualifications and direct testimony are transcribed at 5 Tr 2588-2600.
[35] Mr. Ausum's qualifications and direct testimony are transcribed at 5 Tr 3734-3749. Portions of Mr. Ausum's testimony are confidential and are not available in the public record.
[36] Ms. Armstrong's qualifications and rebuttal testimony are transcribed at 5 Tr 3782-3790.
[37] Mr. Bodiford's qualifications and direct testimony are transcribed at 5 Tr 3762-3771.
[38] Mr. Boutet's testimony is transcribed at 5 Tr 3700-3713.
[39] Ms. Braunschweig's qualifications and rebuttal testimony are transcribed at 5 Tr 3813-3828.

Jonathan J. DeCooman, a Public Utilities Engineer in the Resource Optimization and Certification Section of the Commission's Energy Resources Division, presented Staff's review and recommendations concerning Consumers' request for recovery of capital investments at its Hardy hydroelectric facility. Mr. DeCooman also addressed Staff's recommended adjustments to Consumers' proposed Armstrong battery energy storage system (BESS) pilot.[40]

Jessica Duell, a Public Utilities Departmental Analyst in the Electric Operations Section of the Commission's Energy Operations Division, testified regarding Consumers' Line Clearing, Streetlighting, and Service Restoration programs.[41]

Ally Durfee, a Public Utilities Engineer in the Electric Operations Section of the Commission's Energy Operations Division, provided Staff's recommendations related to wildfire risk mitigation, electric distribution O&M expense, and Consumers' proposed undergrounding pilot.[42]

Nicholas M. Evans, Manager of the Electric Operations Section in the Commission's Energy Operations Division, presented Staff's recommendations regarding Consumers' Distribution Deferral Mechanism and the Company's proposed modifications to the IRM.[43]

Allan David Freeman, an Assistant to the Division Director in the Energy Resources Division of the Commission, presented Staff's review and analysis of Consumers' electric vehicle (EV) and TEP proposals.[44]

Hunter Hansen, a Public Utilities Engineer in the Data Access, Privacy & IT Section of the Commission's Customer Assistance Division, presented Staff's recommendations regarding capital expenditures and O&M expense for IT projects. Mr. Hansen also addressed an emergent repair expenditure and Staff's recommendations regarding Advanced Metering Infrastructure (AMI) opt-out charges.[45]

Jesse J. Harlow, Manager of the Renewable Energy Section of the Commission's Energy Resources Division, presented Staff's recommendation to remove four solar facilities from this rate case and instead include them in the Company's upcoming amended Renewable Energy Plan case.[46]

David W. Isakson, a Departmental Analyst in the Rates and Tariff Section of the Commission's Regulated Energy Division, supported Staff's position regarding present revenue, as well as Staff's positions on rate design, the impact of Staff's revenue

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[40] Mr. DeCooman's qualifications and direct testimony are transcribed at 5 Tr 3659-3677.
[41] Ms. Duell's qualifications and direct testimony are transcribed at 5 Tr 3830-3840.
[42] Ms. Durfee's qualifications and direct testimony are transcribed at 5 Tr 3842-3850.
[43] Mr. Evans' qualifications and direct testimony are transcribed at 5 Tr 3852-3862.
[44] Mr. Freeman's qualifications and direct testimony are transcribed at 5 Tr 3864-3870.
[45] Mr. Hansen's qualifications and direct testimony are transcribed at 5 Tr 3691-3698.
[46] Mr. Harlow's qualifications and direct testimony are transcribed at 5 Tr 3679-3689.

requirement on various rates, DR credit calculations, and incorporation of a facilities allowance into the large economic development (LED) rate.[47]

Brittney Klocke, a Senior Analyst in the Data Access, Privacy, and IT Section of the Commission's Customer Assistance Division, presented recommendations regarding Consumers' request for recovery of proposed capital investments and O&M expense for certain IT projects in this case.[48]

Kevin S. Krause, a Gas Cost of Service Specialist within Rates and Tariff Section of the Commission's Regulated Energy Division, responded to recommendations by the CEO, GLREA, MEIU, and UCC, regarding non-wires solutions (NWS), Community Solar and microgrids, and certain EV issues.[49]

Theresa L. McMillan-Sepkoski, an Audit Specialist in the Revenue Requirements Section of the Commission's Regulated Energy Division, provided Staff's review and adjustments to Consumers' projected EICP costs included in O&M for the test year.[50]

Kirk D. Megginson, a Financial Specialist in the Revenue Requirements Section of the Commission's Regulated Energy Division, provided Staff's recommendations on Consumers' capital structure, ROE, and overall rate of return (ORR).[51]

Robert F. Nichols II, Manager of the Revenue Requirements Section of the Commission's Regulated Energy Division, presented Staff's projected revenue deficiency and projected net operating income for Consumers. He also presented Staff's Campbell revenue requirement adjustment.[52]

Mark J. Pung, a Departmental Specialist in the Rates and Tariff Section of the Commission's Regulated Energy Division, presented Staff's COSS, which allocates Staff's recommended test-year revenue requirements to Consumers' customer classes. Mr. Pung also supported Staff's recommended customer charges; Staff's capacity cost revenue requirement and SRM surcharge; Staff's Substation Ownership Credits; and Staff's surcharge allocation recommendations.[53]

Nicholas M. Revere, Manager of the Rates and Tariff Section of the Commission's Regulated Energy Division, presented an alternative calculation for the SRM capacity revenue requirement. Mr. Revere also presented rebuttal in response to testimony

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[47] Mr. Isakson's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 3600-3623.
[48] Ms. Klocke's qualifications and direct testimony are transcribed at 5 Tr 3721-3732.
[49] Mr. Krause's qualifications and rebuttal testimony are transcribed at 5 Tr 3872-3886.
[50] Ms. McMillan-Sepkoski's qualifications and direct testimony are transcribed at 5 Tr 3751-3760.
[51] Mr. Megginson's qualifications and revised direct testimony are transcribed at 5 Tr 3555-3598.
[52] Mr. Nichols' qualifications and direct testimony are transcribed at 5 Tr 3529-3535.
[53] Mr. Pung's qualifications and direct testimony are transcribed at 5 Tr 3625-3640.

regarding EV programs, Community Solar, and Distributed Generation (DG) outflow credits.[54]

Shannon Rueckert, an auditor in the Commission's Revenue Requirements Section, presented Staff's Other O&M Expense projections for the test year, along with recommendations related to Other Employee Benefits Expense.[55]

Michelle L. Schreur, Manager of the Income Analysis Unit in the Revenue Requirements Section of the Commission's Regulated Energy Division, supported Staff's overall Other O&M expense projection for the test year.[56]

Jing Shi, a Public Utilities Engineer in the Electric Operations Section of the Commission's Energy Operations Division, presented Staff's review and recommendations for projected LVD capital expenditures.[57]

Joshua A.S. Towslee, a Departmental Analyst in the Interconnection and Distributed Energy Resources Section of the Commission's Energy Operations Division, provided Staff's recommended adjustments to DR related capital expenditures.[58]

Timothy G. Witt, an auditor in the Revenue Requirements Section of the Commission's Regulated Energy Division, presented Staff's projected rate base for the test period, along with adjustments to Consumers' projected depreciation and amortization expense, property tax expense, and allowance for funds used during construction (AFUDC).[59]

C. Attorney General

The Attorney General presented the testimony of two witnesses:

Sebastian Coppola is an independent business consultant who addressed the proposed rate base and capital expenditures; adjustments to depreciation expense; the Company's cost of capital and working capital; the level of O&M expenses; modifications to the IRM; and the proposed Service Restoration Cost Sharing Mechanism.[60]

Michael W. Deupree, a Research Consultant with the Acadian Consulting Group, testified regarding Consumers' proposed test year capital expenditures for generation plant and operations support.[61]

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[54] Mr. Revere's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 3792-3811.
[55] Mr. Rueckert's qualifications and direct testimony are transcribed at 5 Tr 3773-3780.
[56] Ms. Schreur's qualifications and direct testimony are transcribed at 5 Tr 3548-3553.
[57] Ms. Shi's qualifications and direct testimony are transcribed at 5 Tr 3642-3657.
[58] Mr. Towslee's qualifications and direct testimony are transcribed at 5 Tr 3715-3719.
[59] Mr. Witt's qualifications and direct testimony are transcribed at 5 Tr 3537-3546.
[60] Mr. Coppola's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2711-2901.
[61] Mr. Deupree's qualifications and direct testimony are transcribed at 5 Tr 2903-2934.

D. Association of Businesses Advocating Tariff Equity

ABATE sponsored the testimony of three witnesses:

James Dauphinais, a consultant and Managing Principal of Brubaker & Associates, Inc. (BAI), addressed Consumers' use of a projected test year; the Company's proposal to increase the projected test year capital expenditures included in its distribution IRM; the Company's proposal to add a facilities allowance for new service under its LED rate; and the Company's proposed modifications to charges and credits related to power factor performance under several rate classes. He also proposed a modification of the introductory paragraph of Section C11.1 of Consumers' Self Generation electric tariff.[62]

Christopher C. Walters, a consultant and a Principal of BAI, addressed balancing the interests of ratepayers and shareholders in determining a fair ROE.[63]

Jessica York, a consultant and a Principal with BAI, proposed adjustments to Consumers' proposed revenue requirements, including modifications and reductions in test year O&M expense and projected capital expenditures.[64]

E. Clean Energy Organizations

The CEO presented the testimony of two witnesses:

William D. Kenworthy is Regulatory Director, Midwest for Vote Solar. Subject to overarching equity and energy justice considerations, he testified regarding the importance of distribution planning to support utility investment and cost recovery proposals in rate cases, as well as the role of NWS and virtual power plants in grid modernization.[65]

Boratha Tan, Regulatory Manager, Midwest for Vote Solar, testified regarding the benefits of regression analysis, advocated that the Commission direct Consumers to run regression analysis in rate cases in addition to its distribution grid planning docket, and presented a regression analysis for the current case.[66]

F. Energy Michigan

Energy Michigan sponsored the rebuttal testimony of one witness:

Alexander J. Zakem is an independent consultant on issues related to regulation of utilities and competitive suppliers, as well as on the development of rules and procedures

[62] Mr. Dauphinais' qualifications, direct and rebuttal testimony are transcribed at 5 Tr 3277-3328.
[63] Mr. Walters' qualifications and direct testimony are transcribed at 5 Tr 3368-3441.
[64] Ms. York's qualifications and direct testimony are transcribed at 5 Tr 3330-3366.
[65] Mr. Kenworthy's qualifications and direct testimony are transcribed at 5 Tr 2639-2673.
[66] Mr. Tan's qualifications, direct and rebuttal testimony are transcribed at 5 Tr 2675-2707.

on MISO resource adequacy. He requested denial of Staff's SRM true-up mechanism recommendation, and he provided commentary on Staff's proposal to use the Cost of New Entry (CONE) as the new SRM capacity charge.[67]

G. Great Lakes Renewable Energy Association

GLREA presented the testimony of one witness:

Robert Rafson is a member of GLREA Regulatory Affairs Committee and is the owner of Chart House Energy, LLC. He testified regarding Consumers' continued service outage issues; in favor of microgrid development; to recommend that the Commission establish terms and tariffs for community solar projects in the Company's service territory; and to advocate that DG customers receive credit for all outflow without exclusions.[68]

H. Michigan Environmental Council, Natural Resources Defense Council, and Citizens Utility Board

MNC presented the testimony of three witnesses:

Matthew J. Bandyk, a consultant at 5 Lakes Energy LLC, addressed the Company's proposed inflation factor and cost of capital.[69]

Roger Colton is the owner of Fisher Sheehan & Colton, Public Finance and General Economics, providing technical assistance in relation to public utility rate cases and customer service issues. He testified regarding the affordability of electric rates to low-income customers, the structure and operation of Consumers' assistance programs, and the interplay of energy efficiency funding and service to low- and moderate-income households. Mr. Colton also proposed a recommended set of data reporting elements.[70]

Joshua W. Denzler, a consultant at 5 Lakes Energy, discussed the costs and beneficiaries of the Company's proposed spending regarding reliability and resiliency of the grid, suggesting disallowances, and suggesting considerations for future rate cases, primarily relating to distribution.[71]

I. Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board

MNSC sponsored the testimony of one witness:

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[67] Mr. Zakem's qualifications and rebuttal testimony are transcribed at 5 Tr 3236-3265.
[68] Mr. Rafson's qualifications and direct testimony are transcribed at 5 Tr 2605-2636.
[69] Mr. Bandyk's qualifications and direct testimony are transcribed at 5 Tr 2940-2972.
[70] Mr. Colton's qualifications and direct testimony are transcribed at 5 Tr 3035-3100.
[71] Mr. Denzler's qualifications and direct testimony are transcribed at 5 Tr 2974-3033.

Douglas B. Jester, Managing Partner of 5 Lakes Energy, proposed adjustments to the Company's ongoing TEPs, addressed the Company's benefit cost analysis for transportation electrification, and suggested different approaches and plans for EV charging and for integrating EV charging with the grid.[72]

J. Michigan Energy Innovation Business Council, Institute for Energy Innovation, Advanced Energy United

MEIU sponsored the testimony of two witnesses:

John D. Albers, Director overseeing regulatory policy for central states for Advanced Energy United, Inc., responded to the Company's proposed Distributed Energy Resources (DER) Optimization initiative, and recommended that the Commission direct the Company to propose maintaining an inventory of standard hardware with long acquisition lead times.[73]

Laura S. Sherman, President of the Michigan Energy Innovation Business Council and the Institute for Energy Innovation, expressed support for, and proposed modifications to, the Company's EV proposals; she proposed development of a tariff to allow land lease payments to be made as utility bill credits; and she addressed concerns relating to AMI.[74]

K. Michigan Electric Transmission Company

METC provided the testimony of one witness:

Kwafo Adarkwa is employed by ITC Holdings Corp. (ITC) as the Director of Public Affairs for the Michigan Business Unit, comprised of ITC Transmission Company d/b/a ITC*Transmission* (ITCT) and METC. He testified in favor of the Company's TEPs, and discussed METC's concerns with ensuring that Michigan's electric infrastructure can support new customer load growth.[75]

L. Michigan State Utility Workers Council

The MSUWC presented the testimony of one witness:

Craig Wright is President of the Michigan State Utility Workers Council, AFL-CIO, who also sits on the Board of Trustees for the UWUA Power for America Training Trust Fund (P4A). He testified that additional investment in, and support for, P4A is needed to hire and train utility workers to ensure safe and reliable service.[76]

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[72] Mr. Jester's qualifications are outlined in Exhibit CUB-21, and his direct testimony is transcribed at 5 Tr 3102-3121.
[73] Mr. Albers' qualifications and direct testimony are transcribed at 5 Tr 3201-3234.
[74] Dr. Sherman's qualifications and direct testimony are transcribed at 5 Tr 3124-3199.
[75] Mr. Adarkwa's qualifications and direct testimony are transcribed at 5 Tr 3267-3274.
[76] Mr. Wright's qualifications and direct testimony are transcribed at 5 Tr 3465-3469.

M. Urban Core Collective

The UCC presented the testimony of one witness:

Sergio Cira-Reyes, the Climate Justice Catalyst at UCC, advocated that the input and needs of low-income and Black, Indigenous, and People of Color communities be considered, with focus on improving environmental justice analysis and service outcomes, increasing transparency and public participation in decision making, providing for adequate measures to protect against rate increases and shutoffs, and expressing concern regarding the proposed IRM increase.[77]

N. Walmart

Walmart sponsored the testimony of one witness:

Lisa V. Perry is Director, Utility Partnerships – Regulatory at Walmart Inc. While not recommending a specific reduction, she testified regarding the size of the Company's requested increase in ROE, and she urged the Commission to consider the impact of the increase on customers, the relatively low risk of Michigan's regulatory framework, and other, recently approved, ROEs. Ms. Perry also proposed that rates be set based on a utility's cost of service for each rate class, but she indicated that Walmart did not oppose Consumers' proposed COSS in this case.[78]

III.

LEGAL STANDARDS

Before addressing the disputes among the parties regarding other matters, it is appropriate to review the legal standards applicable in a rate case. The Commission applies the preponderance of the evidence standard when making findings of fact or weighing conflicting evidence.[79] The Commission is required to set rates that are just and reasonable when exercising its ratemaking authority.[80]

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[77] Mr. Cira-Reyes' qualifications, direct and rebuttal testimony are transcribed at 5 Tr 3472-3526.
[78] Ms. Perry's qualifications and direct testimony are transcribed at 5 Tr 3444-3463.
[79] January 31, 2017 order in Case No. U-18014, p. 8 (Rejecting a utility's request to apply the "substantial evidence" test and agreeing that the Commission utilizes the preponderance of the evidence standard).
[80] MCL 460.557(4).

The rate-making process necessarily "involves a balancing of the investor and the consumer interests."[81] A public utility is constitutionally protected from being limited to rates that are so inadequate as to be confiscatory.[82] One of the factors relevant to the rate-setting process is the return a utility's investors may reasonably expect given the risk profile of public utilities as business enterprises.[83] The Commission has acknowledged that rates should be set so as to balance the interests of customers and shareholders such that the utility has "the opportunity to earn a reasonable return on its investments."[84]

In considering whether rates are just and reasonable, it is the result reached, and not the methods employed, that is controlling.[85] Further, the Commission has broad discretion in determining the appropriate amount of investment on which a return will be computed. For example, in discussing the Commission's predecessor agency, the Michigan Railroad Commission, the Michigan Supreme Court has held that "[w]hat return a public utility shall be entitled to earn upon its invested capital and what items shall be considered as properly going to make up the sum total of that invested capital are questions of fact for the determination of the commission[.]"[86] Additionally, ratemaking is a legislative function, and the Commission is not bound by any particular method or formula in the exercise this legislative function.[87]

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[81] *Fed Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944).
[82] *ABATE v Pub Serv Comm*, 208 Mich App 248, 269; 527 NW2d 533 (1994).
[83] *Hope Natural Gas Co*, 320 US at 603; see also *Bluefield Water Works & Improvement Co v Pub Serv Comm of West Virginia*, 262 US 679, 692-693; 43 S Ct 675, 679; 67 L Ed 1176 (1923).
[84] May 8, 2020 order in Case No. U-20561, p. 7.
[85] *Hope Natural Gas Co*, 320 US at 602; see also *Duquesne Light Co v Barasch*, 488 US 299, 310; 109 S Ct 609; 102 L Ed 2d 646 (1989); *Verizon Communications, Inc v FCC*, 535 US 467, 524–525; 122 S Ct 1646; 152 L Ed 2d 701 (2002).
[86] *City of Detroit v Michigan R Comm*, 209 Mich 395, 433; 177 NW 306 (1920).
[87] *ABATE*, 208 Mich App at 258; see also *Hope Natural Gas Co*, 320 US at 602.

Given the Commission's broad discretion in the rate-making process, and in the absence of any issues rising to the level of constitutional concern, this PFD will primarily look to past decisions of the Commission for guidance in determining how to resolve disputed issues involving rate case elements.

IV.

TEST YEAR

A test year is the starting point for establishing just and reasonable rates for both the regulated utility and its customers. The Commission has explained that the selection of an appropriate test year has two components:

> First, a decision must be made regarding a 12-month period to be used for setting the utility's rates. A second determination must then be made regarding how the Commission should establish values for the various revenue, expense, rate base, and capital structure components used in the rate-setting formula. The Commission may use different methods in establishing values for these components, provided that the end result is a determination of just and reasonable rates for the company and its Customers.[88]

In developing its rates for this proceeding, Consumers relied on a projected test year from March 1, 2025 through February 28, 2026, a 14-month bridge period from January 2024 through February 28, 2025, and a 2023 historical year.

Mr. Coppola raised four concerns with respect to the bridge and test periods proposed here: (1) the short two-month extension of the bridge period into 2025, and the two-month extension of the test period into 2026, "unnecessarily complicates the analysis, comparison, and calculation of capital expenditures, and . . . O&M expenses against

[88] See January 11, 2010 order in Case No. U-15678, p. 9.

historical periods[]"[89]; (2) in discovery, Consumers stated that it did not develop monthly forecasts for capital expenditures for distribution facilities for 2025 and 2026, which also complicates the proration of expenditures; (3) as it has in the past, Consumers again relies on duplicative and unnecessary testimony from several witnesses addressing the same topic, which also complicates the review and analysis by intervenors; and (4) related to (3), the Attorney General objects to the ever-increasing volume of testimony and size of exhibits presented by Consumers in rate cases, noting that the testimony often contains general statements that do not support a particular proposal "and some of the exhibits have become lengthier with unnecessary minutia or general descriptions and repetitive statements."[90]

Consistent with the above, Mr. Coppola recommended that the Commission direct the Company to avoid bridge and projected test periods that do not end in a calendar year, or at least the end of a calendar quarter. Mr. Coppola further recommended that the Commission direct the Company to avoid duplicative testimony and generally make its evidentiary presentation more direct and relevant to forecasted costs.[91]

Attorney General witness Deupree testified that the use of a projected test period has significant disadvantages and raises regulatory review challenges, including: (1) given that the future is unknown, "it is only by happenstance that a projected TY will reflect

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[89] 5 Tr 2722.
[90] 5 Tr 2723.
[91] This PFD notes that the Attorney General raised the same concerns in Consumers' previous rate case. While these issues were not squarely addressed in the final order in that proceeding, the Commission did note the ALJ's recommendation to defer consideration of the Company's presentation to the rate case filing requirements docket and adopted the PFD's overall recommendations concerning the test year. See, March 1, 2024 order in Case No. U-21389, pp. 5, 6.

actual after-the-fact outcomes"[92]; (2) because of the substantial asymmetry in information, the evaluation of projected costs is more difficult for intervenors; and (3) because there is no downside to spending up to the amount approved in rates, it can result in capital and O&M expense inefficiencies by the utility.[93] As such, Mr. Deupree testified that he focused his review of the Company's case on the support provided to determine whether an investment is based on reasonably known information and is expected to be used and useful in the test year.[94] He added that, to be included in rates, known costs may not be speculative; "there must be an ironclad commitment to the project associated with the capital expenditures," and the timing of the investment must be well established.[95] Mr. Deupree noted that any investment not approved in the instant case may be included in a future rate case if the investment is reasonable and prudent and is actually made. He added that research indicates that regulatory lag tends to make utilities more cost efficient and that maintaining a "firm line" on the Company's burden of proof will create an incentive to provide better documentation to support its proposed investments.[96]

Turning to his views on the used and useful principle, Mr. Deupree cited the December 22, 2022 order in Case No. U-20963, p. 103, wherein the Commission explained that while it had permitted environmental costs to be included in rates prior to those costs being used and useful, it nevertheless agreed with ABATE that because the project at issue would not take place until after the test year, including capital expenditures

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[92] 5 Tr 2909.
[93] 5 Tr 2909-2910.
[94] 5 Tr 2911.
[95] 5 Tr 2912.
[96] *Id*.

in that rate case was premature. Mr. Deupree further discussed the used and useful requirement, coupled with the known and measurable standard, opining that these two principles "are designed to encourage utilities to make disciplined economic operating and investment decisions."[97]

ABATE witness Dauphinais also criticized Consumers' use of a projected test year, pointing to the Company's record of over-projection of costs, the fact that customers experience rate increases sooner than they would have using a historical test year; the use of projected costs results in inefficiency, and the Company is able to include costs that it may never incur as part of rates. Accordingly, Mr. Dauphinais recommended that the Commission reject the Company's projection in this case and instead approve the historical revenue deficiency of $69.8 million, adjusted for ABATE's recommended capital structure and ROE.[98] Alternatively, based on ABATE's recommended adjustments, the Commission should limit the Company's revenue increase to no more than $234.1 million, or $212.4 million if the Commission grants Consumers' requests for an expanded IRM and DR surcharge.[99]

MNC witness Denzler echoed concerns about the difficulties arising from the use projected test periods, observing that:

> Projected test year ratemaking removes the need for restraint in capital spending and requests. Historical year ratemaking comes with a risk of disallowance, creating a natural impetus for intentional and well-reasoned spending. Without that risk, and given the previously mentioned incentive for utilities to spend as much capital as possible, projected test year ratemaking encourages utilities to pursue much riskier capital projects and programs.[100]

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[97] 5 Tr 2914.
[98] 5 Tr 3282.
[99] 5 Tr 3283-3284.
[100] 5 Tr 3028.

In rebuttal to Mr. Dauphinais, Ms. Myers observed that the Commission has consistently adopted projected test periods, including in Consumers' most recently completed rate case, Case No. U-21389.[101] She further testified that although Mr. Dauphinais provided examples of known and measurable changes that should be applied to a historical test year, he did not undertake such an analysis in his presentation in this case, which is sufficient reason to reject his recommendation. She also addressed Mr. Dauphinais' claims that Consumers has included projections for costs it may never incur, presenting Table 1 at 4 Tr 429, which demonstrates that in the test periods for the last three contested rate cases, Consumers has invested the Commission-approved amounts. In response to Mr. Dauphinais' claim that ratemaking using projected test periods is not working properly because there has not been an equal divide between revenue deficiencies and revenue excess historically, Ms. Myers pointed out that of the most recent eight rate cases, the last three cases showed a significant revenue deficiency, while only in the first five cases was there a revenue sufficiency.[102]

Ms. Myers also responded to claims that projected test periods disadvantage Staff and intervenors in their evaluations of the case. According to Ms. Myers, using projections allows parties an opportunity to understand how funds are intended to be spent and address the merits of the proposed spending. However, the use of a historical test period would only allow for review of spending after it has occurred, which could result in disallowances and write-offs.[103]

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[101] 4 Tr 426.
[102] 4 Tr 431, referencing Table JRD-3 at 5 Tr 3287.
[103] 4 Tr 430.

In response to Mr. Deupree's recommendations regarding the used and useful standard, Ms. Myers stated that his example of environmental expenditures disallowed in Case No. U-20963 was inapt because the Commission's primary rationale for the adjustment was the fact that the plant where the investments were to be made was set for retirement. Moreover, in the same order, the Commission did approve expenditures for other items that were not expected to be used and useful in the test year.[104] Accordingly, she urged the Commission to reject the application of the used and useful principle in this case.

In her initial brief, the Attorney General relies on the testimony of Mr. Coppola and Mr. Deupree, contending that Mr. Deupree's application of the used and useful principle is "nuanced" and addresses the Company's burden of proof, the extent to which costs are known and measurable, and the balance between ratepayer and shareholder interests, among other things.[105] In her reply brief, the Attorney General cites several additional cases where the Commission disallowed certain capital costs on the basis that the projects associated with those costs would not be used and useful in the test year.[106]

In its brief, ABATE restates the recommendation offered by Mr. Dauphinais, that the Commission should reject the use of projected costs and revenues and instead rely on the historical year revenue deficiency of $69.8 million, adjusted for the ROE and capital structure adopted in this case.[107] Alternatively, if the Commission accepts a projected test

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[104] 4 Tr 433-434.
[105] Attorney General brief, 19.
[106] Attorney General reply, 8-9, citing March 1, 2024 order in Case No. U-21389, p. 70.
[107] ABATE brief, 2-4, citing numerous comments opposing the use of projected test periods submitted in Case No. U-21637.

period, ABATE reiterates that the Commission must be more diligent in ensuring that the Company has met its burden of proof regarding its projections, adding:

> The Commission should also examine the following: (i) customer benefits and detriments that have resulted from the use of projected test years; (ii) conditions under which the Commission would reject the use of a projected test year; (iii) categories of expenses/revenues that are uniquely difficult to predict so as to render their inclusion in a projected test year inappropriate; (iv) minimum criteria to reasonably demonstrate a sufficient commitment by the utility to actually incur the expenses it projects; (v) length of time between the end of the historical test year and the beginning of the proposed projected test year; (vi) a method of tracking projections for various costs to determine consistency and extent of over-or under-projection and potential projection guardrails or limits; and (vii) whether the use of a projected test year by a utility should factor into its authorized ROE.[108]

In its initial brief, Consumers argues, as it has in the past, that the Commission should reject ABATE's and the Attorney General's claims regarding the use of a historical test period, "as they are inconsistent with the Company's right to use a projected test year for determining rates."[109]

This PFD finds that the recommendations to establish new rates based completely on the historical period, as suggested by ABATE, MNC, and the Attorney General, have been rejected by the Commission in both Consumers' and DTE's recent gas and electric rate cases.[110] However, although the Commission has accepted the Company's projected test period for ratemaking purposes, the Commission has also consistently found that the burden of proof to substantiate projections lies with the utility, and absent sufficient

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[108] ABATE brief, 9.
[109] Consumers brief, 7, citing the November 2, 2009 order in Case No. U-15645, p 8.
[110] See, e.g., December 1, 2023 order in Case No. U-21297, p. 8; March 1, 2024 order in Case No. U-21389, p. 6; November 7, 2024 order in Case No. U-21291, pp. 12-13.

support, historical data may be used to develop the revenue requirement.[111] Thus, Consumers' oft-repeated claim that it has a "right" to have its rates fully set based on projected costs and revenues should again be rejected.[112]

The Commission has also found that the used and useful standard should be applied on a case-by-case basis, as discussed in the Attorney General's reply brief.[113] Therefore, this PFD finds that Consumers' projected test year beginning March 1, 2025 and ending February 28, 2026 should be adopted and costs and revenues should be adjusted based on the preponderance of the evidence discussed above.

V.

RATE BASE

A utility's rate base is the value of the utility's property on which it is permitted to earn a specified rate of return. Rate base consists of the capital invested in used and useful plant, less accumulated depreciation, plus the utility's working capital requirements. In its application, Consumers projected a total electric rate base of $15.572 billion, adjusted to $15.162 billion in its brief.114 Staff projected a rate base of $14.814 billion in its reply brief.

A. Net Utility Plant

Net plant is the primary component of rate base, and its key elements are total utility plant (plant in service, plant held for future use, and construction work in progress

[111] See December 22, 2021 order in Case No. U-20963, pp. 9-10, citing March 29, 2018 order in Case No. U-18322.
[112] See, Consumers brief, 8.
[113] December 22, 2021 order in Case No. U-20963, p. 10.
[114] Consumers brief, Appendix A.

(CWIP)) less the depreciation reserve, which includes accumulated depreciation, amortization, and depletion.

Various categories of capital expenditures included in rate base are broken out and discussed below. However, before discussing disputed issues regarding rate base investments, it is appropriate to reiterate the Commission's standards for decision-making. As previously discussed, utility may use projected costs and revenues for a future test year when requesting an increase in rates, see MCL 460.6a(1), but the Commission has made clear that a utility must establish the credibility of its projections.[115] If a utility seeks approval for a projected cost, it should provide sufficient evidence to demonstrate that the specific project and its cost are reasonable and prudent, and it must also show by a preponderance of the evidence that the cost will actually be incurred before the end of the test period.[116] Further, if a utility fails to provide sufficient support for its method of forecasting a particular item or category of expense, then the Commission may choose an alternative method for determining the projection.[117] Additionally, the Commission has consistently rejected the use of contingency amounts in projections, as well as the use of

[115] See June 12, 2012 order in Case No. U-16794, p. 13 (Rejecting the argument that the Commission must necessarily accept a utility's projection and stating that a utility must supply the Commission with enough evidence to support a finding that the costs requested are just and reasonable).
[116] January 13, 2017 order in Case No. U-18014, pages 8-9 ("Moreover, in the case where the company seeks approval for a projected cost, the company must not only provide sufficient evidence to demonstrate to the Commission that both the specific project and its cost are reasonable and prudent, but it must also show by a preponderance of the evidence that the cost will in fact be incurred before the end of the test period.").
[117] January 11, 2010 order in Case No. U-15768, pages 9-10; see also September 8, 2016 Order, Case No. U-17895, page 4.

so-called “placeholders” through which the utility seeks to fill in missing details or costs after the initial filing.[118]

Finally, it should be emphasized that an adjustment to the utility’s projection for a particular item in this PFD is not necessarily the equivalent of a permanent disallowance of that expenditure. Rather, most adjustments made to capital expenditure items reflect a finding that the specific projected cost is currently not supported by sufficient evidence; thus, reasonable and prudent expenditures may be recovered in a future proceeding.

In this case, Consumers has subdivided net plant into the following programs: (1) Distribution; (2) Streetlighting; (3) Generation; (4) Facilities; (5) Fleet Services; (6) Information Technology; (7) Security; (8) Demand Response; (9) Customer Experience; (10) Corporate Services; and (11) Transportation Electrification.[119] Disputes concerning these programs, along with certain subprograms or spend categories, are addressed below. Given the strict time limits mandated for the completion of rate cases, programs, subprograms, or spending categories that were not disputed are generally not addressed in this PFD.

1. Distribution Capital Expenditures

a. Overview

Consumers plans to substantially increase capital spending on LVD and HVD systems in both the bridge and test periods. In this case, Consumers is proposing to invest $1,016,977,000 in capital projects in the 14-month bridge period, and

[118] December 17, 2020 order in Case No. U-20697, pages 9, 19-20 (Listing several previous Commission orders rejecting contingency costs while denying a request for such costs, and also rejecting cost placeholders or the presentation of costs only later in rebuttal or in response to discovery).
[119] There were no disputes over Consumers’ proposals or projected spend amounts for Fleet Services or Security. Accordingly, those rate base categories are not addressed further in this PFD.

$1,307,115,000 in the test year, and to spend $282,149,000 in distribution system O&M in the test year.[120]

Mr. Kelly provided a detailed review of the Company's distribution system investment strategy, historical and projected reliability based on investments proposed in this case, and the Company's strategic objectives that underlie the company's efforts to improve reliability.

Mr. Kelly testified that beginning in 2017, Consumers developed and submitted a series of five-year distribution plans, the EDIIPs, with the third and most recent plan (2023 EDIIP or Reliability Roadmap) filed on September 2023 in Case No. U-20147, and included here as Exhibit A-111.[121] Mr. Kelly explained that while the first EDIIP addressed the Company's existing distribution system planning process, over the past six years "the Company's approach to planning has evolved to include new tools and methods of analysis to better anticipate future challenges."[122] He noted that the 2023 EDIIP is "the underpinning document for the distribution plans laid out in this rate case,"[123] and that this iteration of the EDIIP is in part responsive to the Commission's concerns about reliability challenges set forth in the September 8, 2022 order in Case No. U-20147. Mr. Kelly further explained that worsening weather and more severe storm events resulted in a 2023 EDIIP that evaluates several weather scenarios and provides an investment plan that addresses deterioration, technological changes (i.e., DG, EV penetration, and heating electrification), and the need to harden assets under more severe weather conditions.[124]

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[120] 5 Tr 847; Exhibit A-12, Schedule B5.6.
[121] 5 Tr 844. Consumers also refers to the 2023 EDIIP as the Reliability Roadmap.
[122] 5 Tr 844
[123] 5 Tr 850.
[124] 5 Tr 855.

Turning to general reliability investment categories in the 2023 EDIIP, Mr. Kelly described four key areas: (1) forestry/line clearing; (2) system hardening; (3) inspections and preventative maintenance; and (4) digital automation.[125] Mr. Kelly presented the projected reliability result, as expressed by the System Average Interruption Duration Index (SAIDI) for spending levels approved in Case No. U-21389, compared to those results forecasted for the spending proposed in the instant case in Figure 6 at 5 Tr 860. According to Mr. Kelly, "[g]iven the worsening weather due to climate change, recent historical levels of investment will not be sufficient to deliver the desired reliability levels customers and the Commission expect."[126] He further testified that continuing the investment levels approved in Case No. U-21389 will lead to a decline in SAIDI minutes; however, "by the end of the decade the Company's SAIDI performance will still be in the middle of the third quartile of the Institute of Electrical and Electronics Engineers ("IEEE") SAIDI benchmark."[127] In contrast, investment levels proposed here (consistent with the 2023 EDIIP) "will improve SAIDI to 116 minutes by 2032, even in the face of worsening weather conditions, which is solidly in the second quartile of the IEEE SAIDI benchmark."[128] And, according to him, using the Interruption Cost Estimate (ICE) calculator tool, the spending levels proposed in the 2023 EDIIP will yield up to $4.3 billion worth of benefits in avoided outage costs, compared to the reliability that would be produced by continued investment at levels approved in Case No. U-21389."[129]

[125] 5 Tr 859.
[126] 5 Tr 860.
[127] 5 Tr 862.
[128] 5 Tr 862.
[129] 5 Tr 864.

Mr. Kelly also discussed objectives and benefits beyond improved SAIDI including: (1) improving reliability to the second quartile of U.S. utilities; (2) creating a distribution grid where no single outage event affects more than 100,000 customers; and (3) reducing outage duration so that no customers is without power for more than 24 hours.[130] Mr. Kelly also explained how implementation of the 2023 EDIIP will enhance public safety and security, support Consumers' Clean Energy Plan, increase resiliency, and provide for a clean and equitable grid.[131]

Mr. Kelly testified that in the past, parties have criticized the Company for not focusing more on line clearing, which is the major cause of outages, rather than capital investment in distribution assets. He noted that Consumers has significantly increased LVD line clearing since 2019, with further increases planned, including potentially shortened LVD line clearing cycles. He added that equipment failure is also an important contributor to outages, as shown in Figure 37 at 5 Tr 927, and that allowing distribution assets to fail, rather than replacing them proactively, would lead to worsening reliability and increased costs.[132]

Several parties raise concerns about the substantial increases in distribution capital expenditures proposed here and in the 2023 EDIIP, along with the Company's apparent reliance on that plan as support for its investment decisions in the instant case.

Mr. Coppola testified that Consumers is requesting approval of a total of $5.4 billion in capital expenditures for the historical, bridge, and test periods, which is in addition to

[130] 5 Tr 861.
[131] 5 Tr 870-883.
[132] 5 Tr 865-866. Mr. Kelly also discussed non-wires solutions (NWS), which are addressed below.

the approximately $4.0 billion invested from 2019-2022.[133] As a general matter, Mr. Coppola observed that increases related to rate base from the cost of capital, depreciation expense, taxes, and O&M expense comprise 86% of the requested rate increase in this case. According to Mr. Coppola, "[t]he compounding effect of large additions to rate base will continue to increase customer rates to a level that is unaffordable for many customers, particularly lower income customers. This trend is not sustainable for customers."[134]

For distribution program investments specifically, Mr. Coppola testified that the Company is requesting approval of $2.3 billion in the bridge and test periods, a 44% increase over the amount requested in its last rate case.[135] Citing Figure 6 in Mr. Kelly's testimony, Mr. Coppola opined that the proposed increase in capital spending is not supported by improved reliability:

> The chart displays the potential results based on two scenarios. The first scenario is to continue the capital spending on Distribution facilities at the level proposed by the Company in Case No. U-21389. Under this scenario, SAIDI ex-MEDs could improve from 178.2 minutes in 2023 to 139.9 minutes in 2032. This would represent a 21% improvement over a 9-year period. To accomplish this, the Company would spend a cumulative amount of $6.9 billion from 2024 to 2032 on replacing and upgrading distribution facilities.
>
> The second scenario embedded in the Reliability Roadman [sic] investment plan filed in September 2023 would double the spending to $14 billion over the 9-years from 2024 to 2032. According to Figure 6, the SAIDI ex-MEDs could potentially decline to 116 minutes in 2032. The improvement in SAIDI over the first scenario is 17%. In other words, for a relatively small improvement in SAIDI, customers would need to pay twice the cost, or an incremental $7 billion, over the 9-year period. The incremental costs and benefits are not commensurate and are not a good deal for customers.[136]

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[133] 5 Tr 2723-2724.
[134] 5 Tr 2724.
[135] 5 Tr 2724.
[136] 5 Tr 2725-2726.

Mr. Coppola further testified that when asked in discovery about two of the three goals Mr. Kelly discussed (no outages affecting more than 100,000 customers and no customers without power for more than 24 hours after an event) Consumers "could not provide a timeframe for achieving the other goals or a level of confidence that those goals would be achieved."[137]

Turning to past distribution system capital spending, Mr. Coppola reiterated that from 2015-2022, Consumers spent $4.5 billion on distribution system upgrades, replacements, and improvements with little discernable impact on reliability. Citing Figure 36 in Mr. Kelly's direct testimony, which shows SAIDI minutes excluding major event days (SAIDI x-MEDs) from 2014-2022, Mr. Coppola observed that there is no evidence of steady improvement in reliability over the eight years included in the analysis. For all-weather SAIDI, the results were worse. According to Mr. Coppola, "SAIDI minutes climb[ed] from below 441 minutes in the 2014 to 2016 periods to over 900 minutes in 2021 and 2023. In other words, the $4.5 billion spent on Electric distribution grid in the past 8 years does not give much confidence that even spending Scenario One at $6.9 billion will reach the forecasted 139 SAIDI minutes excluding MEDs by 2032."[138]

MNC witness Denzler similarly criticized Consumers' distribution spending as resulting in little apparent improvement in reliability. Mr. Denzler observed that Consumers more than doubled its capital investment in distribution between 2013 and 2022, but the Company's reliability metrics, expressed by SAIDI, Customer Average

[137] 5 Tr 2726; Exhibit AG-1.2.
[138] 5 Tr 2727.

Interruption Duration Index (CAIDI), and System Average Interruption Frequency Index (SAIFI) have not discernably changed.[139]

Pointing to Mr. Kelly's claim that reliability improvements have not materialized due to worsening weather conditions, Mr. Denzler observed that "the lack of improvement in both its non-MED and all-weather metrics indicates that weather is not the delineator between improvement and stagnation."[140] He further testified that despite its electric rates being higher than about half of U.S. investor owned utilities (IOUs), Consumers' SAIDI and CAIDI numbers are near the bottom for all IOUs for all weather and x-MED measurements.[141]

Mr. Denzler discussed Consumers' poor reliability, in light of the Company's relatively high rate of return, which "limit[s] the incentive to ensure optimal deployment of resources[,]" concluding that "the Company has not shown that it makes investments that effectively improve reliability, and the Commission should require the Company to prove it will do so before approving any more significant increases."[142] He highlighted the fact that high returns to shareholders create a bias toward more capital investments, in lieu of O&M expenditures for tree trimming and more aggressive inspection that might better address reliability concerns.[143]

Turning to Consumers' reliance on the 2023 EDIIP as support for its rate request here, Mr. Denzler cautioned that using the EDIIP, which is filed in a non-contested docket, "would set a dangerous precedent" by removing expenditures from a contested review to

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[139] 5 Tr 2980-2982; Figures 1-4.
[140] 5 Tr 2983.
[141] 5 Tr 2983-2984; Figures 5 and 6.
[142] 5 Tr 2987.
[143] 5 Tr 2988.

one that provides little oversight.[144] In addition, Mr. Denzler stated that the 2023 EDIIP itself is deficient because it does not adequately address distributed energy resources (DERs) or non-wires solutions (NWS) and it provides little insight into how the EDIIP investments will improve reliability, especially considering the limited impact previous capital investments have had on reliability metrics. He further objected that the 2023 EDIIP "prioritizes" capital spending over vegetation management, which appears to be a more efficient and cost-effective means to improve reliability; the plan does not consider the impact on customer rates, and there is no mechanism to ensure ratepayers receive the benefits for which they are paying.[145] Mr. Denzler then summarized Staff's comments regarding its concerns about the 2023 EDIIP filed in Case No. U-20147, at 5 Tr 2992-2994, adding that the plan is biased toward assessing reliability under metrics x-MEDs, whereas all-weather SAIDI, CAIDI, and SAIFI are more reflective of customer impacts during extended outages:

> MEDs represent the most acute moments of a customer's experience with their utility provider. An MED contains the strongest likelihood of extended outages. Those are the outages which are most likely to so be long that food spoils in unpowered refrigerators and pipes freeze in unheated homes. Those are the days where customers with economic privilege can run to the hardware store and grab a generator, or hunker down in a hotel, while our most vulnerable ratepayers are left suffering in extreme temperatures. And yet, those days get excluded from the Company's projections. The result is a mildly better picture of the Company's underwhelming performance and the projected impact of its massive spending.[146]

[144] 5 Tr 2990-2991.
[145] 5 Tr 2991-2992.
[146] 5 Tr 2996.

Next, Mr. Denzler discussed inconsistencies in the Company's projection of avoided customer minutes interrupted (CMI), based on past experience.[147] He presented Figure 8 at 5 Tr 2999, which shows that historically, LVD substations only accounted for 4% of outages. However, Consumers projects that 36% of projected CMI reductions can be attributed to this investment category. Further, Mr. Denzler questioned the overall validity of Consumers analyses of CMI reductions, observing:

> [T]he Company has experienced a historic annual average of 54.2M minutes of all-weather CMI for LVD Substations, yet projected an annual 62.3M minutes of CMI avoided in that same category. It is important to note that I only included projects for which the Company provided an expected CMI benefit. Given the abundance of projects that did not quantify a CMI benefit but will likely have some CMI implications, this likely means that the actual projected CMI is much, much higher than the annual average for LVD substations.[148]

He explained that in the unlikely event that Consumers could reduce all CMI from LVD substations in the test period "it appears that the Company did not employ a reliable analysis in predicting its CMI benefits, and thus these benefits cannot provide evidence of the reasonableness and prudency of the Company's future spend."[149]

In rebuttal, Mr. Kelly testified that "the entire premise of the Reliability Roadmap is that reliability is insufficient and must be improved[,]" pointing to the Commission's determination, in the September 8, 2022 order in Case No. U-20147, that previous EDIIPs were insufficient to improve reliability.[150] He further testified that it was incorrect to

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[147] Mr. Denzler defined CMI as the minutes of an outage multiplied by the number of customers affected. 5 Tr 2998-2999.
[148] 5 Tr 3000; Figure 9.
[149] 5 Tr 3000-3001. This PFD notes that Mr. Denzler's testimony includes extensive, detailed criticism of the 2023 EDIIP, not all of which is captured here due to time constraints. Moreover, much of this testimony is more appropriately filed and addressed in the EDIIP docket.
[150] 5 Tr 1026-1027.

conclude that past spending has not resulted in reliability benefits, explaining that distribution investment only began to increase in 2018, and there is evidence that past spending has provided significant local improvements that take time to be reflected in overall system metrics.[151] He added that even with the increased LVD and HVD system investment since 2018, the Company's distribution grid continues to deteriorate at a faster rate than the system can be repaired. He also disputed Mr. Denzler's dismissal of weather as a contributing factor, based on all-weather versus x-MED conditions, noting that x-MED SAIDI includes minor storms that have a significant impact on reliability.[152]

In response to Mr. Denzler's concerns about the Company's purported reliance on the 2023 EDIIP to support distribution spending in this case, Mr. Kelly countered that Consumers does not assume that the plan in itself proves the reasonableness of the Company's intended spend; however, "[t]he Reliability Roadmap puts proposed rate case spending in a broader strategic context, and provides further details and support for proposed rate case spending."[153] In response to Mr. Denzler's critique of the 2023 EDIIP, including his recap of Staff's comments on the plan, Mr. Kelly provided Exhibit A-245, which contains the Company's reply comments. In response to Mr. Denzler's specific complaint that the EDIIP largely focuses on reliability improvements x-MEDs, Mr. Kelly explained that SAIDI x-MEDs, is an IEEE standard that allows for comparisons across the industry, and it is not intended to be misleading.[154]

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[151] 5 Tr 1027.
[152] 5 Tr 1027-1028.
[153] 5 Tr 1028-1029.
[154] 5 Tr 1030.

Lastly, addressing Mr. Denzler's example regarding planned investments in HVD substations despite their limited impact on reliability, Mr. Kelly stated that Mr. Denzler failed to acknowledge that while HVD substation failures are uncommon, when they do occur, these outages affect a large number of customers. Thus, "investments to reduce the likelihood of future outages do have a large impact on the projected number of future customer interruptions that would happen absent the investments."[155]

In response to Mr. Coppola, Mr. Kelly testified that his criticisms of the 2023 EDIIP presented here largely mirror those that the Attorney General filed in Case No. U-20147. Reiterating his response to Mr. Denzler, he testified that system-wide SAIDI improvements take time to materialize, "especially in the face of deterioration and worsening weather[.]"[156] He added that although the Company has not established a timeframe for achieving two of its reliability goals (i.e., a grid where no single event affects more than 100,000 customers and where no customer is without power for more than 24 hours), it is necessary to understand that the 2023 EDIIP investments "'serve as a bridge from our current grid to a grid that will be capable of" achieving these goals[.]"[157] Finally, Mr. Kelly opined that there is a "general disconnect" in the positions taken by the Attorney General. On the one hand she condemns the Company's poor reliability and on the other hand she opposes the need for more investment in system improvements.[158]

The parties' briefs largely rely on the testimony of their respective witnesses. The Attorney General argues that she advocates on behalf of ratepayers and that her interest

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[155] 5 Tr 1031-1032.
[156] 5 Tr 1040.
[157] 5 Tr 1042, quoting Exhibit A-111, p. 10.
[158] 5 Tr 1043.

in better reliability is not at odds with concerns about excessive spending that does not improve reliability.[159]

MNC contends that while it is clear that Consumers has a distribution reliability problem, the Company's presentation fails to adequately analyze past spending or future all-weather reliability resulting from increasing capital investments.[160] MNC further points out that while the Company proposes accelerated capital spending, it nevertheless maintains O&M expenses for vegetation management at a relatively flat level, despite the fact that trees are by far the major cause of outages on Consumers' system. MNC also takes issue with Mr. Kelly's claim that system deterioration is the reason for a lack of historical improvement in reliability, arguing that this assertion was presented without support, further noting that Consumers' own data shows that equipment failure is a much less significant cause of outages compared to trees.[161]

In response, Consumers reiterates that the Company's past investments in reliability and resilience have resulted in significant local improvements, "but it is taking time for local benefits to accrue to a point where they are reflected in improved systemwide SAIDI."[162] Further, the Company reiterates that despite system deterioration and worsening weather, Consumers has demonstrated an improvement in SAIDI from 233 minutes in 2019 to 176 minutes in 2023.[163]

Consumers urges the Commission to reject MNC's claims that the Company should ramp up inspections before increasing capital investments and that the Company's

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[159] Attorney General brief, 24.
[160] MNSC brief, 9-10.
[161] MNSC brief, 12.
[162] Consumers reply, 8-9.
[163] Consumers reply, 9.

reduction in SAIDI minutes was largely the result of increased spending on tree trimming. According to Consumers, the increase in capital spending proposed here is the result of issues identified in past inspections, and MNC's conclusion that vegetation management largely caused the improvement in SAIDI was presented without support and should be disregarded.[164]

First, this PFD agrees with MNC and the Attorney General that the 2023 EDIIP, or Reliability Roadmap, should not be depended on to support distribution spending in this case. As MNC points out, not only are the EDIIPs filed in non-contested dockets, there were also numerous criticisms of the 2023 plan filed in Case No. U-20147, including the fact that it failed to adequately address affordability, a prominent issue in this case.[165] This PFD also agrees that Consumers' modeling and resulting proposals should include more complete and robust analysis of all-weather reliability metrics. While the Company's contention that SAIDI x-MEDs is an industry standard that allows for comparisons across utilities and geographic areas is well taken, the intervenors correctly point out that long-duration outages have proven to be much more problematic for customers. Addressing those concerns about outages after MEDs might result in a different mix of investments or expenses than those proposed in the 2023 EDIIP.

Second, this PFD agrees with the Attorney General and MNC that the significantly increased spending on HVD and LVD distribution (Scenario 2), over the levels approved in Case No. U-21389 (Scenario 1), "does not provide sufficient benefits to customers to

[164] Id. at 9-10.
[165] See, 5 Tr 2994.

justify the higher spending levels proposed in this rate case and likely in future rate cases."[166] As Mr. Coppola pointed out:

> For All-Weather conditions, customers experienced between 2,079,621 and 2,973,272 6 power outages annually during the eight-year period from 2016 to 2023 with 2,565,577 outages experienced in 2023. Under capital spending Scenario One, the Company forecasts that by 2032 the number of power outages could be reduced to 2,183,195 for a cumulative improvement of 15% over the 9-year period. This is an average annual improvement of 1.67% with cumulative capital expenditures of $6.9 billion over the 9-year period. Under spending Scenario Two, the Company forecasts that the number of power outages would decline to 1,931,351 by 2032 for a cumulative reduction of 25%, or a 2.78% average annual improvement, with cumulative spending of $14 billion over the 9-year period.
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> For Events excluding MEDS, the reduction in power outages is even less with 10% for Scenario One and 20% for Scenario Two over the 9-year period.[167]

Third, the Company's presentation is utterly lacking in any analysis of previous distribution spending. Consumers repeatedly claims that its past distribution system investment of $4.5 billion has demonstrated significant local improvements, but those improvements take time to be reflected in the reliability metrics. This PFD observes that SAIDI is measured and reported annually, and it is not a rolling average that includes several years of reliability results. Although the Company insists that limited reliability improvements are the result of worsening weather and ongoing system deterioration, this PFD agrees with MNC that this information was presented without sufficient support. It seems, therefore, that the reliability benefits of prior significant spending on distribution will somehow manifest at some future point, but we are nevertheless left with the

[166] 5 Tr 2729.
[167] 5 Tr 2728.

undisputed fact that the Company has invested over $4.5 billion in improving reliability and resilience over the past several years with *de minimis*, if any, improvement in basic reliability metrics.

Lastly, this PFD agrees with Staff's concerns regarding the recent completion of the independent audit of Consumers' distribution system which, coupled with the possibility that the Commission may impose certain financial incentives or disincentives as discussed in Case No. U-21400, could potentially change the Company's spending priorities in the near future. [168]

Keeping the concerns outlined above in mind, this PFD turns to specific distribution programs, subprograms and spend categories that are in dispute.

b. High Voltage Distribution

Mr. Kurdziel provided detailed testimony on the Company's HVD system, which is comprised of 145 HVD substations, 4,600 miles of HVD lines, and 164 strategic customer substations.[169] According to him, to avoid widespread customer outages, the HVD system is generally a "looped" system with built-in redundancies that minimize the impact when a single component of the system fails.[170]

Consumers' HVD capital investment area is divided into several programs including HVD Reliability; HVD Lines and Substations Capacity; Electric Other Programs; HVD New Business; HVD Lines and Substations Demand Failures; and HVD Asset Relocation. In turn, these programs are subdivided into several subprograms and cost

[168] Staff brief, 170-171, citing 5 Tr 3861.
[169] 5 Tr 2008.
[170] 5 Tr 2009.

categories. This PFD addresses only those HVD subprograms and cost categories that are disputed.

As an initial matter, Staff and MNC recommended overall limits on HVD capital investments. MNC witness Denzler referenced his testimony on the flaws in the 2023 EDIIP, pointing specifically to the HVD line rebuilds and pole top rehabilitation spend categories. Mr. Denzler testified that "the Company emphasizes replacing non-standard HVD conductor and mitigating 'the risk from poles beyond lifecycle'– regardless of the actual risk of these assets." According to him, "[t]his is continuing evidence that the Company's process for planning and prioritizing reliability investments is not actually targeting the areas with the highest reliability risk. Rather, it uses age or configuration as proxy for risk, leaving substantial gaps in cost/benefit optimization on the table."[171] Because, in his view, the Company has not met its burden to show that additional spending in the HVD area is reasonable and prudent, Mr. Denzler recommended that spending in the HVD program be limited to 2023 historical amounts, a $120 million disallowance.[172]

Staff raises a similar issue about the HVD capital expenditure amounts proposed by Consumers. Mr. Boutet testified that the Company's proposed spending represents a 74% increase during the 12-month bridge period, a 146% increase during the two month bridge period, and a 133% increase for the test year over the five-year average HVD capital expenditures.[173] Mr. Boutet explained that Staff is concerned about this large increase in spending compared to historical spend, noting that "Staff is apprehensive

[171] 5 Tr 3015.
[172] 5 Tr 3016.
[173] 5 Tr 3706.

about the cost effectiveness and prudency of the proposed HVD work when comparing proposed reliability benefits, such as estimated SAIDI minute reductions, to the proposed levels of capital spending."[174]

Mr. Boutet discussed recent increases in spending as they relate to reductions in SAIDI minutes, noting that SAIDI has been relatively flat from 2017 to 2022 and that LVD line outages accounted for 76.1% of all outage minutes in 2017, increasing to 86.6% of outage minutes in 2022. As such, Mr. Boutet stated that "Staff is concerned that there is no clear reduction in SAIDI minutes in the most recent years, and that LVD line outages appear to be proportionally contributing more and more to outages as years pass. This trend would suggest that the Company's current approach to improving reliability metrics is either inefficient or the improvements are being outpaced by further deterioration of the system and increasing weather difficulties."[175]

Mr. Boutet detailed Staff's specific concerns regarding the Company's plans, including the higher costs associated with increased pole replacements (from 543 in 2023 to 1160 in 2025, a more than 100% increase), and increased substation transformer replacements (from four per year in 2023 to 19 per year in 2025, with a cost increase from $30.5 million in 2023 to $95 million in in 2025). Mr. Boutet noted that as a result of HVD substation work, Consumers projects a reduction of two minutes per year in SAIDI at an average cost of $83.6 million per year. Mr. Boutet opined that Consumers should consider more cost-effective means to improve reliability, citing the LVD Overload Risk Reduction plan that reduces SAIDI by the same amount, but at a 45% lower cost.[176] Similarly, Mr.

[174] 5 Tr 3707.
[175] 5 Tr 3707-3708.
[176] 5 Tr 3709.

Boutet discussed the rapid acceleration in the HVD line rebuild work, from 10 rebuilds in 2023 to 85 per year in 2026, which he opined is not a cost-effective approach to improving reliability compared to LVD investments.[177]

Turning to Staff's adjustments to HVD program expenditures, Mr. Boutet testified that Staff recommends limiting spending increases for the bridge and test periods to the five-year average plus inflation of 2.83% for 2023 and 2.33% for 2024. This results in reductions of $94.772 million in the 2024 bridge year, $31.156 million in the two-month bridge period in 2025, and $161.573 million in the test year.[178] Staff's recommended adjustments to each HVD subprogram are shown in Figures 2 and 3 at 5 Tr 3711. Mr. Boutet noted that Staff did not adjust the System Protection subprogram in the bridge period to avoid a conflict with IRM spending, but it did remove $1.565 million from the test year projection in order to reflect approved year 2 IRM spending on this subprogram.[179]

In his rebuttal testimony, Mr. Kurdziel questioned Mr. Boutet's focus on "gross SAIDI reduction," contending that Staff fails to recognize the importance of the HVD system in providing reliable service, highlighting the fact that an outage on the HVD system can impact a large number of customers for an extended period.[180] For this reason, the HVD system contains redundancies to reduce the risk of an outage if one component fails. According to Mr. Kurdziel, the purpose of investing in the HVD system

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[177] 5 Tr 3708-3710.
[178] 5 Tr 3710; Exhibit S-11.2.
[179] 5 Tr 3712, 3861; Staff brief, 13. Consistent with the discussion below on the Company's IRM proposals for year 2, this recommendation should be adopted.
[180] 5 Tr 2117.

is to maintain these redundancies in the face of ongoing degradation, rather than to improve SAIDI.[181]

Mr. Kurdziel also objected to Mr. Boutet's failure to propose any specific disallowances, noting that even in the examples he provided (HVD poles, substation transformers, and HVD line rebuilds) there was no detail as to why Staff did not support the level of investment Consumers proposes for its HVD system. Instead, Staff simply applied its proposed adjustment to all HVD programs, even those that do not address reliability, such as HVD Strategic Customers New Business.[182]

In response to Mr. Denzler, Mr. Kurdziel explained that the HVD lines rebuild program is intended to replace system components that are in poor condition, not necessarily because they are old, as Mr. Denzler appears to believe.[183]

The parties' briefs generally rely on their respective witnesses' testimony. Staff emphasizes that it is not proposing that funds for HVD systems be shifted to LVD programs, only that HVD investments are less cost effective than investments in LVD in terms of reliability improvements. Staff adds that if the Commission disagrees with Staff's proposed adjustments for HVD programs, it should adopt Mr. Coppola's disallowance for HVD pole replacements. Staff also withdrew its recommended adjustments for Electric Tools, HVD System Controls, and HVD Lines and Substations Capacity, noting its agreement with Mr. Kurdziel that "a reliability assessment is not the appropriate method to evaluate the prudence of these programs at this time."[184] However, Staff stands by its

[181] 5 Tr 2117-2118.
[182] 5 Tr 2122.
[183] 5 Tr 2131.
[184] Staff brief, 28.

reduction in HVD New Business on grounds that the record does not demonstrate "that the Company can effectively scale up to complete approximately 800% more work per year than it has in the past, even if contracts are signed and customers are identified."[185]

Lastly, Staff states that it agrees with MNC that although certain HVD programs were not shown to have concrete reliability effects, "there still exists a need to fund these programs with a minimum of an inflation-based adjustment to maintain 2023 levels of workflow, as proposed by Staff."[186]

MNC noted Staff's similar concern about the magnitude of spending increases in the HVD program compared to that program's contribution to reliability goals. MNC further asserts that while the Company claims that HVD investments are intended to maintain redundancy and should not be evaluated based on SAIDI benefits, Mr. Kurdziel "never explains why the huge proposed *increase* in HVD spending is necessary to maintain system redundancy and avoid future outages."[187]

While this PFD agrees with Staff's and MNC's concerns about the proposed substantial increases in HVD capital expenditures, the Commission has consistently preferred to evaluate spending on a program-by-program or project-by-project basis. As such, proposals to limit overall spending based on a historical amount, including or excluding inflation, without a detailed examination at the subprogram, cost category, or project level, have been rejected.[188] That said, if the Commission determines that spend limits should be applied on a subprogram basis, Staff's adjustments that include inflation

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[185] Staff brief, 15.
[186] Staff brief, 29.
[187] MNSC brief, 34.
[188] See, e.g., December 17, 2020 order in Case No. U-20697, p. 24.

for the bridge and test periods, and that now exclude non-reliability focused subprograms, is more reasonable than the approach advocated by MNC, which does not include any inflationary adjustments.

This PFD addresses specific disallowances and adjustments in the sections below.

i. HVD Lines Reliability

As shown in Figure 11 at 5 Tr 2027, Consumers proposes capital expenditures totaling $51.162 million in the bridge period and $90.995 million in the test year for HVD Lines Reliability. These subprogram expenditures are divided into six categories: (1) line rebuilds; (2) pole top rehabilitation; (3) pole replacements; (4) switches; (5) line sensors; and (6) right-of-way (ROW) acquisition. Historically, HVD Lines Reliability program spending (total) has ranged from a high of $58,092,338 in 2021 to a low of $21,703,195 in 2023, with a five-year average spend amount of $38,493,259.[189] Mr. Kurdziel explained that the proposed spending increase in the HVD Lines Reliability subprogram is expected to reduce customer outage minutes by almost three million minutes in the bridge period and almost five million minutes in the test year.[190]

Mr. Coppola addressed the Pole Replacement and ROW acquisition spend categories in his direct testimony. Citing Exhibit A-112, line 24, Mr. Coppola testified that from 2019-2023, Consumers' spending on HVD pole replacements ranged from $6.0 million in 2023 to $15.2 million in in 2022, with a five-year average spend of $10,301,330

[189] 5 Tr 2030, Figure 13; Exhibit A-95, line 8.
[190] 5 Tr 2027. Mr. Kurdziel explained that "Customer outage minutes is a mathematical product of the number of customers that experience an extended outage of electrical service and the duration in minutes of that outage. A reliability project will reduce this number by either reducing the probability of failure leading to an outage, the duration of the outage, and/or the number of customers impacted by the failure and subsequent outage." *Id*.

to replace approximately 394 poles per year.[191] In this case, the Company projects capital expenditures of $20.208 million to replace 847 HVD poles in the bridge period, and $21.593 million in the test year to replace 905 poles. Noting Mr. Kurdziel's testimony that Consumers inspection and replacement criteria have not changed since their presentation in Case No. U-21224, Mr. Coppola testified that it is "perplexing" that the Company is suddenly almost doubling the number of HVD poles that need to be replaced.[192] However, acknowledging that there may be a need to replace more HVD poles than in the past, Mr. Coppola recommended that "the increase in pole replacements forecasted by the Company over the recent three-year historical average be spread over a three-year period."[193] Thus, for the bridge period, Mr. Coppola recommended that the Commission limit the number of pole replacements to 545, reducing the expenditure amount by $7.205 million. Using the same approach for the test year, Mr. Coppola recommended that the number of pole replacements be limited to 696, reducing the investment amount by $4.986 million.

In rebuttal, Mr. Kurdziel stated that while the Company is not increasing inspections now, the increase in the number of pole replacements in the bridge and test periods is to address the backlog of poles identified in previous inspections.[194] According to him, "the Reliability Roadmap helped highlight HVD pole asset health and the scale of needed replacements, and the instant case is the first one filed since the Reliability Roadmap was developed."[195] Mr. Kurdziel cautioned that if Mr. Coppola's

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[191] 5 Tr 2768.
[192] 5 Tr 2769.
[193] Id.
[194] 5 Tr 2124; Exhibit A-247.
[195] 5 Tr 2124.

recommendation is adopted, Consumers will have to "leave known deteriorated poles on the system for longer, putting customers at increased outage and safety risk."[196]

The Attorney General's brief relies on Mr. Coppola's testimony, and Consumers' brief similarly recaps Mr. Kurdziel's testimony.

This PFD finds that the Attorney General's proposed adjustment for pole replacements, supported by Staff, should be adopted. The Company argues that the increase in pole replacements is due to the need to address a backlog of deteriorated poles identified in past inspections. However, Consumers' inspection cadence has not changed since 2022; thus, it is indeed puzzling why the Company's five-year spend on HVD poles was the lowest in 2023, when it invested only $6.0 million to replace 234 poles, despite presumably identifying, in 2022 inspections, some number of poles needing replacement. The PFD agrees with the Attorney General that spreading the accelerated HVD pole replacements over three years is a reasonable and prudent means to address any backlog in replacements, and that if the Company must invest more, it can request recovery in a future rate case.

Turning to ROW acquisition costs, as shown in Figure 11 at 5 Tr 2027, Consumers projects ROW expenditures of $6.333 million in the 14-month bridge period, increasing to $11 million in the test year. Mr. Coppola questioned the large increase in spending between the bridge and test periods and asked the Company to provide more detail in discovery. According to Mr. Coppola, Consumers' response "describes in general terms when ROW easements are required and provides a list of names of locations with no

[196] 5 Tr 2124-2125.

pertinent information, such the miles of ROW and related costs for each project or location."[197] Observing that ROW acquisition is primarily associated with line rebuilds, and the number of miles of line rebuilds is projected to increase by 43% from the bridge to the test period, Mr. Coppola used the same percentage increase applied to the bridge year spend to determine an appropriate spend level for the test period. This resulted in an adjustment of $1.944 million in the test year.[198]

In rebuttal, Mr. Kurdziel explained that ROW costs are not necessarily aligned with line rebuilds, noting that ROW acquisition can take more than one year and that costs are dependent on landowner willingness to work with the Company. Pointing to Exhibit A-248, which is the Company's discovery response to the Attorney General's request for more detail on ROW spend, Mr. Kurdziel testified that ROW costs include such items as "bringing existing easements to current standards to allow access for modern construction and tree clearing equipment."[199]

The parties' briefs rely on the testimony of their respective witnesses.

This PFD finds that Consumers presentation here is lacking in sufficient detail to explain the significant increase in ROW costs between the bridge and test periods. As the Attorney General points out, Consumers provided a general review of why ROWs are needed, along with a list of projects and sites, without specifics about miles of ROW or individual project costs. Rebuttal Exhibit A-248, ¶ d. is also lacking in detail, again presenting generalities about additional circumstances that may require a new or expanded ROW. This PFD therefore recommends that $1.944 million be removed from

[197] 5 Tr 2770.
[198] 5 Tr 2770-2771.
[199] 5 Tr 2125.

the test year requirement for HVD ROW acquisition. Additional ROW spending, if any, may be recovered in a future rate case.

ii. HVD Lines and Substations Rehabilitation

According to Mr. Kurdziel, the HVD Lines and Substations Rehabilitation subprogram includes the repair or replacement of 46kV and 138kV lines and equipment where there is a risk of failure and the repair or replacement of HVD substation equipment, including replacement of the entire substation. In addition, this subprogram addresses replacement of poles pole top assemblies, switches, transformers and other HVD substation equipment.[200] Mr. Kurdziel provided a detailed review of the various spend categories in the HVD Lines and Substations Rehabilitation subprogram at 5 Tr 2041-2053, including a discussion of how this subprogram aligns with the 2023 EDIIP.

Mr. Kurdziel testified that Consumers is projecting capital expenditures of $39.881 million and $70.9 million in the bridge and test periods respectively. Figure 26 at 5 Tr 2054 shows a breakdown of proposed spending and benefits (in terms of customer outage minutes avoided) for each of the cost categories.

Mr. Coppola addressed pole top assembly replacements and HVD substation replacement projects in his direct testimony. Citing Exhibit A-112, line 24, Mr. Coppola testified that from 2019-2023, spending on pole top assembly replacements ranged from $3.0 million in 2020 to $5.6 million in 2021. He calculated that in the past three years, Consumers has invested an average of $5,079,250 per year to replace 529 pole top assemblies each year.[201] Noting the Company's projected spend ($2.144 million and

[200] 5 Tr 2041.
[201] 5 Tr 2772.

$10.399 million) and units (233 and 1130) in the bridge and test periods respectively, Mr. Coppola opined that "it is evident that, while reducing the number of work units in the bridge period, the Company is proposing to increase pole top assembly replacements by over 100% in the projected test year compared to recent historical levels and doubling related capital spending."[202]

Mr. Coppola explained that in response to his request for addition detail on the significant increase in spend between the bridge and test periods, "the Company points to Priority [3] [P3] anomalies shown in Figure 23 and two photos of pole top assemblies on pages 43 and 46 of Mr. Kurdziel direct testimony."[203] Mr. Coppola testified that the Company's response did not describe any significant changes, such as an increase in equipment failures, that would justify such a large increase in pole top assembly replacements. Nor did it shed any light on why the Company only intends to replace 233 pole top assemblies in the bridge period, compared to a three-year average of 529, "if this is a critical area for improvement."[204]

Mr. Coppola concluded that whereas a 100% increase in pole top assembly replacements was not justified, he did recommend that the incremental increase in replacements (i. e., 601 units) for the test year above the three-year historical average of 529, be spread over three years. Mr. Coppola calculated that this would result in 729 pole top assembly replacements in the projected test period and a reduction in capital expenditures of $3.690 million.

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[202] *Id*.
[203][203] *Id*.; Exhibit AG1.12.
[204] 5 Tr 2773.

Mr. Kurdziel countered that many of the pole top assemblies slated for replacement in the test year have been previously identified in inspections, and "a slower replacement rate," as suggest by Mr. Coppola, "will simply leave more deteriorated PTAs on the system, increasing outage risks for customers."[205] He added that the reason for the increase between the bridge and test periods is because the 2023 EDIIP highlighted the need for pole top assembly replacements "and the instant case is the first one filed since the Reliability Roadmap was developed, which is why there is a large test year increase to address the PTAs identified during inspection currently in the backlog."[206] In addition, he pointed to Figure 23 in his direct testimony at 5 Tr 2044, which he contended shows an increasing trend in P3 anomalies over the past 5 years.

The parties' briefs rely on the testimony of their respective witnesses. Consumers emphasizes that "Priority 3 anomalies in pole top assemblies represent imminent failure risk and are replaced in HVD Lines Rehabilitation, and Priority 3 anomalies have increased over the last five years."[207]

This PFD agrees with the Attorney General, that the backlog in pole top assembly replacements can be reasonably and more economically addressed by spreading the work and costs over three years. A review of Figure 23 at 5 Tr 2044 does show some increase in P3 anomalies per 100 miles, as identified in the Company's inspections, but the graph also shows some fluctuations year over year. Moreover, Consumers failed to adequately explain why the number of pole top assembly replacements in the bridge period (233) was less than half the three-year average number of replacements (529),

[205] 5 Tr 2126.
[206] 5 Tr 2126.
[207] Consumers brief, 29.

given the ongoing inspection program and the Company's stated concerns. Therefore, this PFD adopts the Attorney General's recommended test year disallowance of $3.690 million for pole top assembly replacements.

Turning to HVD Substation Replacement projects, Mr. Kurdziel testified that per the 2023 EDIIP, "Consumers will complete two substation rebuilds per year[,]" noting that substation rebuilds are very large projects that may take many years to complete.[208] For purposes of this case, Mr. Kurdziel explained:

> In the bridge period in this case, the Company is completing work on the Bliss substation rebuild and is completing construction of the new Celery substation to replace the Morrow substation, which is being demolished. In the bridge period, the Company will also begin work on the North Belding and Buskirk substation rebuilds, with completion scheduled for the test year. Furthermore, the Company is also starting work on the Cement City and Mecosta substation rebuild projects during the bridge period to take advantage of scheduling efficiencies and the needs of impacted customers, and will complete those projects beyond the test year.[209]

In addition, Mr. Kurdziel testified that the Company will begin work on the Alma and Blackstone substation rebuilds by procuring long-lead-time materials and acquiring ROWs.[210] As shown in Figure 26 at 5 Tr 2054, Consumers projects capital investments for substation replacement projects of $31.543 million in the bridge period and $50.136 million in the test year.

Citing Exhibit A-112, line 84, Mr. Coppola testified that capital spending on substation replacement projects from 2019-2023 ranged from $6.8 million to $25.4 million, and the average annual spend for this cost category over the last three years was

[208] 5 Tr 2051.
[209] 5 Tr 2051.
[210] 5 Tr 2052.

$21,551,810.[211] Mr. Coppola explained that the amounts proposed here represent a 46% increase in the bridge period and 133% increase in the test year over the amounts recently spent, adding that:

> In response to discovery, the Company provided some additional information on the number of stations rehabilitated in prior years and planned for the bridge and test year periods. The numbers do not track with the historical and forecasted capital spending with number of station projects ranging from zero to four. There is no clear indication of why replacing two substations in the bridge period would cost $31.5 million and the same number of projects would cost $50.1 million in the projected test year. The list of projects in Exhibits A-125 and A-126 does not help in explaining this divergence. Worse yet, four substations rehabilitated in 2023 only cost $19.6 million. The disparity is significant, and the discovery response does not provide any more clarity and simply repeats the general conditions of the fleet of HVD substations with no specific information that justifies the 46% to 133% increase in spending on two projects each year.[212]

Mr. Coppola opined that based on the "best information available," the bridge and test period amounts should be determined based on the three-year average spend, plus inflation. This results in a disallowance of $9,393,000 in the bridge period and $27,499,000 in the test year.[213]

In rebuttal, Mr. Kurdziel noted Mr. Coppola's preference for unit cost analysis, but he opined that a unit cost approach is not appropriate for substation replacement projects, which is why he did not include unit numbers in Figure 26 or in Exhibit A-112.[214] Mr. Kurdziel reiterated that HVD substation replacements take several years to complete, and the Company may be investing in many different substation projects in a given year but may only complete a few of them, adding that each substation is unique with regard to

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[211] 5 Tr 2774.
[212] 5 Tr 2774-2775.
[213] 5 Tr 2775.
[214] 5 Tr 2127-2128.

size and voltage rating; thus, overall costs can vary significantly from one project to another.[215]

The parties' briefs rely on the testimony of their respective witnesses. Consumers emphasizes that "[t]he projects to replace or rebuild substations are based on the unique needs of the particular substation, and the cost projections for these types of replacements cannot be accurately determined by just looking at historical unit costs."[216]

This PFD agrees with Consumers that HVD substation replacement projects are too few in number, and too unique, to lend themselves to a unit cost type of analysis. As the Company points out, transformer costs alone can vary from $1 million to $5 million, depending on the size and voltage required. Notably, the Attorney General does not contest the reasonableness and prudence of the proposed substation replacement work. Therefore, this PFD recommends rejecting the Attorney General's proposed disallowance for HVD Substation Replacements.

iii. HVD Strategic Customers New Business

Mr. Kurdziel provided an overview of the HVD Strategic Customers New Business subprogram, explaining that new business programs overall include the capital investments necessary to connect residential, commercial, and industrial customers to the Company's system. Mr. Kurdziel testified that the HVD New Business subprogram primarily serves large commercial and industrial (C&I) customers that are too energy-intensive to take service from the LVD system. He noted that "[t]ypical investments for this program include dedicated substations and interconnections of dedicated substations

[215] 5 Tr 2128.
[216] Consumers brief, 30.

to the HVD system with poles, conductors, and metering to connect new C&I customers."[217]

According to Mr. Kurdziel, in developing cost projections for HVD New Business, Consumers bases spending amounts on planned projects "plus an allowance in certain circumstances for additional projects" based on historical spending amounts, and all estimates are net of CIAC.[218] He detailed the process for identifying new customers at 5 Tr 2091, emphasizing that the time from a complete customer agreement to final interconnection can vary from six months to two years.[219]

In the instant case, Consumers is projecting $107.642 million in capital expenditures for eight projects in the 14-month bridge period and $59.673 million for six projects in the test year.[220] Historically, as shown in Figure 42 at 5 Tr 2093, capital expenditures for HVD New Business have ranged from $4.038 million in 2020 to $20.268 million in 2021. Mr. Kurdziel stated that the Company's projections in the instant case are based on planned projects where customers have signed agreements with Consumers, as listed in Exhibit A-125, p. 6 and Exhibit A-126, p. 6. Mr. Kurdziel added that Consumers is planning to invest $10.2 million in both the bridge and test periods to purchase long lead time transformers for large HVD projects, in order to accommodate customer timelines for interconnection.

[217] 5 Tr 2090.
[218] 5 Tr 2090.
[219] 5 Tr 2091.
[220] Figure 41 at 5 Tr 2092.

ABATE witness York raised concerns about certain project spending in the HVD New Business program, and Attorney General witness Coppola and MEIU witness Albers weighed in on the Company's proposal to acquire large transformers in advance.

Ms. York testified that Consumers includes capital costs for a new 13 KV substation in northwest Michigan, noting that this is one of the top 25 distribution spend projects. According to her, Consumers projects investing $5.093 million for a new dedicated substation for a manufacturing facility, which is scheduled to be completed by April 2025.[221] Ms. York stated that Consumers provided a concept approval document (CAD) signed February 23, 2023, which states that an incremental distribution facilities charge will cover 100% of the project cost, and the Company indicated that the customers was expected to sign an Extraordinary Facilities Agreement (EFA). Because the CAD was signed in early 2023, and because it was not clear whether the customer signed the EFA, Ms. York recommended a disallowance of $5.093 million.

In rebuttal, Mr. Kurdziel testified that in discovery, the Company provided updated information on the project, as set forth in Exhibit A-249, which states that the customer signed the EFA on September 13, 2023. Mr. Kurdziel reiterated that the customer "is subject to an Incremental Facilities charge as part of the Large Economic Development Rate ("LEDR"), which is designed as an alternative to requiring a customer to pay a large facilities cost upfront."[222] According to Mr. Kurdziel, as the monthly LEDR facilities charge is paid, it will be used to offset the revenue requirement for the initial investment over the life of the contract.[223]

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[221] 5 Tr 3359-3360.
[222] 5 Tr 2132.
[223] 5 Tr 2132-2133.

ABATE responds in its brief that although Consumers provided updated information indicating that the customer signed the EFA, it did not provide the contract nor any indication of the specific status of the project, which is somewhere in the engineering phase. ABATE noted that without knowing the engineering status of the project, it is difficult to determine whether the planned timeline, which calls for scheduling and procurement between July and November 2025, will slip.[224] For these reasons, coupled with the Company's admission that the facilities charge is expected to cover the entire cost of the substation, ABATE continues to recommend a disallowance of $5.093 million.

This PFD finds that ABATE's recommended $5.093 disallowance should be adopted. The PFD agrees with ABATE's position that there is insufficient evidence in this record to determine whether procurement activities will actually begin during the test year. In addition, as discussed in more detail below, this PFD recommends denial of the Company's proposed facilities allowance for Rate LED, which could in turn affect the contract or the overall cost of the substation.[225]

Turning to Consumers' proposal to invest $10.2 million in each the bridge and test periods for transformers, Mr. Clark testified that the Company is facing long lead times for components used in solar development projects, including solar modules, racking, and transformers.[226] In relation to EVs and associated DCFC sites, Mr. Myrom testified that

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[224] ABATE brief, 12.
[225] As noted above, Staff raised a concern about the substantial increase in HVD New Business compared to historical spending on this subprogram. This PFD notes that the distribution deferral mechanism includes trackers for underspending that should protect ratepayers in the event that some of the contracts for HVD New Business are canceled or if projects are delayed.
[226] 5 Tr 1623.

the type of transformers required to support such sites are backordered by 24 months or more such that waiting until there is a request for a new site to order a transformer would "severely bottleneck fast charging infrastructure development."[227] Mr. Kurdziel stated that for HVD substations, the Company will need to begin replacing 19 transformers yearly starting in 2025; he added that it can take more than two years to obtain a single transformer.[228] He explained that the Company proposal would allow the purchase of transformers that would be needed to support "high probability projects" in order to mitigate the long lead time associated with purchasing this equipment.[229]

For MEIU, Mr. Albers testified that the Company's discussion regarding long lead times for transforms is consistent with his own experience, and he characterized it as a "significant problem."[230] He testified that long lead times jeopardize timely construction of DERs and EV charging stations, and he added that it also jeopardizes Michigan's ability to meet its statutory clean energy goals.[231] Mr. Albers opined that the Commission should direct Consumers, in its next rate case, to identify hardware items that have a long expected lead time and to develop and propose a system for maintaining an inventory of such equipment. He clarified that he was not recommending a change in procurement practices at this time, but instead proposed an evaluation of the merits of developing a procurement strategy that could accommodate the ongoing energy transition.[232]

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[227] 5 Tr 2404.
[228] 5 Tr 2050-2051.
[229] 5 Tr 2092; See also Exhibits A-125 and A-126.
[230] 5 Tr 3232
[231] 5 Tr 3232
[232] 5 Tr 3233.

Mr. Coppola testified that purchasing transformers and other large equipment to provide service to unknown future customers is "risky and burdens customers with costs that are not readily covered by new revenues."[233] He asserted that in discovery, the Company could not provide a clear answer as to the probability that new projects would materialize.[234] Mr. Coppola also testified that long lead times would not place the Company at a disadvantage because other utilities would be subject to the same long lead times. Mr. Coppola opined that Consumers should be willing to bear the cost of holding on to unproductive assets until placed in service if it truly wants to support construction of new facilities; however, he explained that the Company expressed it was not willing to do so when asked in discovery. He recommended that the Commission reject Consumers' proposal to pre-purchase large transformers and remove associated capital expenditures of $10.2 million in the bridge period and test year.[235]

Mr. Kurdziel replied that Michigan is experiencing a rapidly increasing level of commercial and industrial development, and "the Company's proposed investment in high probability transformers is a prudent way for the Company to ensure that it can meet this increasing level of demand given the long lead times for transformers."[236] He opined that "[j]ust because other states may face similar issues, the Company should not simply neglect addressing lead time challenges and accept the potential of customers losing interest in locating in Michigan."[237]

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[233] 5 Tr 2776.
[234] 5 Tr 2776.
[235] 5 Tr 2777-2778.
[236] 5 Tr 2129.
[237] 5 Tr 2129.

In briefing, the Company rejected Mr. Coppola's complaint that it was too risky to pre-purchase transformers without a definite end use by arguing that, conversely, "it is too risky to avoid these transformer purchases."[238] The Company argues that large C&I development will continue to expand, customers consider when a project can be completed when considering where to locate, and the largest bottleneck for these sites is typically transformer procurement. Consumers claims that Michigan could lose out on economic development opportunities if transformers are not readily available, and that the transformers will be of a common size and voltage so that they are compatible with a large portion of the Company's system and could operate as strategic spares.[239]

Consumers agrees with Mr. Albers that the availability of transformers is a significant issue. However, the Company asserts that it is not necessary to perform a study or make a proposal in the next rate case because it "is seeking to take proactive measures to maintain adequate supplies" in the current case by requesting to pre-purchase large transformers.[240] Additionally, the Company contends that the study proposed by Mr. Albers, which would require Consumers to evaluate future hardware needs over the next 10 years, would be overly detailed and would not be reasonable to perform prior to the Company's next rate case.[241]

MEIU takes issue with Consumers' characterization of its proposal. MEIU contends that Consumers has taken Mr. Albers' proposed study and vastly expanded its scope by claiming that it would require the Company to evaluate all potential hardware needs over

[238] Consumers brief, 34.
[239] Consumers brief, 34, 35.
[240] Consumers brief, 35.
[241] Consumers brief, 35.

the next 10 years and that it would require a detailed study.[242] MEIU argues that it did not request a "detailed study" nor one that would evaluate all potential hardware needs; instead, MEIU contends that the proposed scope was more narrow and that Mr. Albers "recommended the Company simply look at the equipment that is expected to be commonly used for interconnections, and specifically the equipment with long lead times."[243] MEIU argues that making a proposal for how to maintain a sustainable level of such inventory is not the same thing as a detailed study, and there is no reason that the Company cannot undertake such a modest evaluation.[244] Further, MEIU rejects the Company's argument that it is taking proactive measures to maintain such an inventory on its own because, while Consumers may take proactive measures to make sure it can meet its own needs, it is "utterly irrelevant to the issue of whether the Company can be expected to proactively plan for needs driven by DER and EV integration."[245]

The Attorney General argues that "[t]he key problem with the Company's proposal is that the entire risk of pre-purchasing large transformers rests entirely on customers while allowing the Company to earn a return on the purchase costs by including them in rate base."[246] The Attorney General emphasizes that in discovery, Consumers confirmed that it was not willing to accept an alternative arrangement in which it would bear the cost of holding on to an unproductive asset until put into service.[247] The Attorney General contends that the Company will not be at a disadvantage because other utilities will be

[242] MEIU brief, 31.
[243] MEIU brief, 32.
[244] MEIU brief, 32, 33.
[245] MEI brief, 32.
[246] Attorney General brief, 35-36.
[247] Attorney General brief, 36.

subject to the same procurement times for transformers, and she recommends disallowing the $10.2 million capital expenditure to pre-purchase transformers.[248]

Consumers replies to MEIU by asserting that there is no evidence that the Company considers system needs driven by DER and EV integration to be separate from the Company's own needs.[249] Consumers asserts that it considers the needs of the system, no matter what is driving the need, and that there is no evidence supporting the request for a new proposal to maintain long lead-time equipment in the Company's next rate case.[250]

MEIU's reply briefing does not provide further argument on this issue and simply reiterates its request to direct the company to undertake the study suggested by Mr. Albers.

The Attorney General replies to Consumers that "it is too risky for ratepayers to approve capital expenditures for the transformer[s] because the Company gets a return and the benefit of depreciation expense for transformers that provides no utility or benefit to ratepayers."[251] The Attorney General argues that there is simply no standard for determining that there is a high probability that a project will need a transformer simply from responding to an inquiry, while other HVD project spending is based on known and planned projects rather than speculation.[252] The Attorney General rejects the Company's argument that the transformers could be relocated to other substation projects as needed, because "if [the transformers] are needed for such high probability projects, diverting them

[248] Attorney General brief, 35, 36.
[249] Consumers reply, 23.
[250] Consumers reply, 24.
[251] Attorney General reply, 19.
[252] Attorney General reply, 18.

to other uses defeats the purpose for acquiring the transformers."[253] Finally, the Attorney General requests that the Company be prevented from earning a return on the transformers so long as they remain unused if the Commission permits any amount associated with them to be recovered in rates.[254]

This PFD agrees with the Attorney General and recommends disallowing the proposed $10.2 million in capital expenditures in each the bridge and test years to pre-purchase transformers for "high probability projects." However, this PFD agrees that it may be prudent to develop an inventory of transformers or other components with a long lead time, but maintaining such an inventory should be done according to a well-thought-out plan to ensure that the cost of doing so is reasonable and proportionate with the benefit of maintaining the inventory such that ratepayers are not unduly burdened. This PFD does not believe that a request for the pre-purchase of transformers for undefined but possible future projects constitutes such a plan. In that vein, this PFD agrees with the recommendation of MEIU that the Commission should direct the Company, in its next rate case, to: (1) identify equipment generally needed for DER and EV interconnections, such as transformers, that currently have a long lead time for procurement, and (2) propose a plan for maintaining an adequate inventory of that equipment to support future development.

c. Low Voltage Distribution

Mr. Lynd testified that Consumers' LVD system consists of 2000 LVD circuits and over 94,000 miles of lines, including 51,500 miles of primary overhead, 9,500 miles of

[253] Attorney General reply, 19.
[254] Attorney General reply, 19-20.

primary underground, 30,000 miles of secondary overhead, and 3,000 miles of secondary underground. The LVD system also has 13 different primary voltages, ranging from 2.4 kV to 24.0 kV.[255] Mr. Lynd noted that "the LVD system is expansive and subject to the greatest threat from common outage causes like vegetation, lightning, unexpected load increases, and third-party damage[,]" adding that "[t]he LVD system is largely a radial system that is not capable of continuing service to customers during outages."[256]

Mr. Lynd explained that the Company's proposed capital investments in LVD are generally categorized as planned (i.e., New Business, Demand Failures and Asset Relocations) and unplanned (Reliability and Capacity programs and subprograms).[257] Mr. Lynd presented Figure 2 at 4 Tr 505, which summarized 2023 actual spend and projected spend for the bridge and test periods. As shown in Figure 2, actual spending on six programs totaled $622.292 million in 2023, escalating to a projected $758.346 million in the bridge period and $1.013 billion in the test year.

Referencing the 2023 EDIIP, Mr. Lynd explained that:

> The Reliability Roadmap has led the Company to project increased investment levels in key LVD subprograms in the Reliability and Capacity programs. . . . I will note here that the largest impacts regarding lines are to the LVD Lines Reliability, Resiliency, and LVD Lines Capacity subprograms.[258]

Staff and several intervening parties raised concerns about the significant escalation in LVD capital investments, especially those associated with Zonal Health Improvements, discussed below under the LVD Lines Reliability subprogram. Specific

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[255] 4 Tr 502-504.
[256] 4 Tr 504.
[257] *Id*.
[258] 5 Tr 504.

issues and recommendations for the various LVD subprograms are discussed in detail below.

i. LVD Lines New Business

According to Mr. Lynd, the LVD Lines New Business subprogram includes the overhead or underground distribution extensions and enhancements required to complete new service connections for residential and C&I customers. Mr. Lynd testified that projects are initiated by customers and the projected spending will allow the Company to provide a new service installation to every customer who requests it.[259] As shown in Figure 3 at 4 Tr 508, Consumers projected capital expenditures of $142.153 million in the bridge period and $128.160 million in the test year for the LVD Lines New Business subprogram.

Mr. Lynd explained that the projected capital expenditures "were based on the expected number of new service connections in the Company's service territory and the projected unit cost of new services."[260] Using historic growth and other projections, including those from the Home Builders Association of Michigan, Consumers projected 11,849 new service connections for the bridge period and 9,719 new service connections for the test year.[261] Consumers projected that unit cost for new service connections for the base period and test year will increase at the same rate that actual historic costs increased for this subprogram from 2022 to 2023 (i.e., 2.3%). This results in a unit cost of $13,960 for the bridge period and $14,281 for the test year.[262] Mr. Lynd stated that

[259] 4 Tr 506-507.
[260] 4 Tr 508.
[261] 4 Tr 508-509.
[262] 4 Tr 510-511.

increased costs are the result of general inflation and increases in the average length of new service connections (i.e., from 110 feet in 2017 to 137 feet in 2022), materials costs (e.g., in the last year, cost of cable increased by approximately 40% and cost of poles increased by 49%), and contractor costs (i.e., contractor costs per unit have increased each year since 2020).[263] However, Mr. Lynd noted that the Company mitigated increased contractor costs "by offering one-third fewer units to contractors in 2023 than it did in 2022."[264]

Mr. Coppola addressed the capital expenditures for the LVD Lines New Business subprogram in his direct testimony.[265] While Mr. Coppola found the forecasted number of new service connections for the bridge period and test year to be reasonable, he found the unit cost to be excessive. He testified that the unit cost for new service lines was $10,507 in 2021; the cost increased by 27% to $13,340 in 2022, and increased slightly to $13,646 in 2023. He testified that this trend in increased unit costs should not be considered permanent. Citing Figure 6 at 4 Tr 512, he noted the average length of a new service line decreased from 2022 to 2023.[266] In addition, he opined that the Company needs to find ways to offset inflationary cost increases with operating efficiencies and that "[c]ontinued escalation in costs should not be accepted as a given."[267] Finally, he suggested that Consumers can mitigate the increased contractor costs by negotiating lower costs with contractors or by having company crews perform installations instead. He acknowledged Consumers' efforts to reduce contractor costs by using more Company

[263] 4 Tr 511-512,
[264] 4 Tr 512.
[265] 5 Tr 2732-2734.
[266] 5 Tr 2732.
[267] 5 Tr 2733.

crews, but noted that in response to discovery, Consumers could not provide a comparison of line installation costs by contractors versus the Company's workforce. He testified that Consumers "has the capacity to handle more installations with Company crews and thus avoid or reduce higher contractor costs."[268]

To incentivize the Company to reduce costs, Mr. Coppola proposed that the unit cost for the bridge period and test year be determined using "the average cost during the most recent three years from 2021 to 2023," adjusted for inflation.[269] This results in a unit cost of $12,845 for the bridge period and $13,127 for the test year and revised capital expenditures of $130,801,000 for the bridge period and $117,802,000 for the test year. Accordingly, Mr. Coppola recommended that the Commission reduce the forecasted expenditures for LVD Lines New Business by $11,352,000 for the bridge period and $10,358,000 for the test year.[270]

In rebuttal, Mr. Lynd disagreed with Mr. Coppola's proposal and asserted that using a three-year average plus inflation is not an appropriate way to set expenditures for this program. He stated that that Consumers' "recent history indicates that unit costs are trending upward over time, and the Company's planned expenditures are based on capturing those upward trends and properly accounting for them."[271] In response to the proposition that contractor costs can be mitigated by having Company employees perform the work, he noted that "the Company will still need to rely on contractors to perform some

[268] 5 Tr 2733-2734.
[269] 5 Tr 2734.
[270] *Id.*
[271] 4 Tr 700.

of this work so that Company employees can continue to complete work in the Reliability program and other critical areas."[272] Consumers' brief recaps Mr. Lynd's testimony.[273]

On brief, the Attorney General responds that "it is evident that annual costs vary year-to-year. A three-year average normalizes those costs and should be considered recent history."[274] The Attorney General's reply largely relies on her initial brief.[275] She also notes that the "use of average unit costs is reasonable for projecting capital expenditures because they necessarily consider both high and low costs."[276]

Consumers' reply maintains that the Attorney General's use of historical averages should be rejected because the historical averages "do not reflect the current costs that the Company must pay to perform the planned work."[277]

This PFD agrees with the Attorney General's concerns about the continued escalation of unit cost for installation of new service lines. As shown in Figure 5 at 4 Tr 511, unit costs rose sharply between 2021 and 2022 (a 27% increase according to Mr. Coppola). Under Consumers' approach, this increase remains ensconced in unit cost, which in turn is expected to continually increase. This PFD agrees with the Attorney General that use of a three-year historical average normalizes these costs and finds that the proposed reductions of $11,352,000 for the bridge period and $10,358,000 for the test year should be adopted to incentivize the Company to reduce new service installation costs.

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[272] 4 Tr 701.
[273] Consumers brief, 42-43.
[274] Attorney General brief, 40-41.
[275] Attorney General reply, 21.
[276] Attorney General reply, 22.
[277] Consumers reply, 19.

ii. LVD Lines Demand Failures

According to Mr. Lynd, the LVD Lines Demand Failures subprogram "includes capital expenditures incurred during customer interruption restoration, or during the repair or replacement of LVD equipment due to unanticipated failure."[278] The Company categorizes a failure or other damage to the system as either a Priority 1 (P1) or Priority 2 (P2) based on severity. P1 failures require immediate action, such as a downed wire or exposed underground equipment that pose a threat to public safety and are addressed within 24 hours. P2 failures are less urgent and are generally addressed within 60 days.[279] Since 2022, Consumers performs visual line inspections to identify these failures as preemptive identification costs less than addressing failures on an emergent basis, with 50% of its overhead LVD system assessed each year.[280] The types of service restoration capital work performed by Consumers as part of this subprogram include failed underground cable, failed distribution transformer, car-pole accident, broken cross-arm, pin/insulator, or pole, and failed overhead conductor.[281] Mr. Lynd stated that these proposed expenditures "are necessary to restore interrupted service to customers or to restore the safe and reliable operation of LVD lines."[282]

Mr. Lynd testified that Consumers is projecting capital expenditures for LVD Lines Demand Failures of $153,646,000 for the bridge period and $147,408,000 for the test year.[283] Consumers calculated the proposed expenditures based on its projection that "it

[278] 4 Tr 518.
[279] 4 Tr 519-520.
[280] 4 Tr 520-521.
[281] 4 Tr 523-524.
[282] 4 Tr 524.
[283] 4 Tr 525.

will need to complete 29,000 orders in the bridge period, and 27,800 orders in the test year at an average unit cost of $5,300."[284] Mr. Lynd noted that spending increases for the subprogram are primarily attributable to increased unit cost, which in turn is attributable to increased materials costs for wire, cable, and poles.[285] As he noted for LVD Lines New Business, in the last year, cost of cable increased by approximately 40% and cost of poles increased by 49%.[286] In addition, Consumers' "proactive approach to address failures has increased the amount of materials used and thus time spent on each of those repairs."[287]

Mr. Coppola addressed the LVD Lines Demand Failures subprogram in his direct testimony.[288] While he found the work units planned for the bridge period and test year to be in line with historical levels, he objected to the unit cost of $5,300 as unsupported and excessive. He characterized Mr. Lynd's testimony as lacking specifics and pointed out that in response to the Attorney General's discovery request regarding how the $5,300 average unit cost was determined, the Company made vague statements.[289] Citing Figure 13 at 4 Tr 527, Mr. Coppola testified that the unit cost for demand failures "took a big jump in 2021 and continued to escalate in 2022 and 2023," increasing by 38% in 3 years from $3,381 in 2020 to $5,058 in 2023.[290] He explained that "[c]ontinued large escalation in unit costs are not sustainable" and suggested that Consumers "find work efficiencies and other means to reverse the current trend of cost increases in this subprogram."[291]

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[284] *Id.*
[285] 4 Tr 526-257.
[286] 4 Tr 512, 527.
[287] 4 Tr 527.
[288] 5 Tr 2735-2736.
[289] 5 Tr 2735. See Exhibit AG-1.5.
[290] 5 Tr 2735.
[291] 5 Tr 2735-2736.

Because Consumers failed to justify the $5,300 unit cost and to incentivize the Company to reduce costs, Mr. Coppola proposed that the unit cost for the bridge period and test year be determined using the average cost during the three years from 2021 to 2023, adjusted for inflation.[292] This results in a unit cost of $4,683 for the bridge period and $4,786 for the test year and reduced capital expenditures of $135,807,000 for the bridge period and $133,051,000 in the test year. Accordingly, Mr. Coppola recommended that the Commission reduce the forecasted expenditures by $17,839,000 for the bridge period and $14,357,000 for the test year.[293]

In rebuttal, Mr. Lynd disagreed with Mr. Coppola's proposal and asserted that using a three-year average plus inflation is not an appropriate way to forecast expenditures.[294] He explained that Consumers continues to experience increased unit costs because of increases in the cost and amount of materials used. He notes that a unit cost of $5,300 is in line with the recent historic increases and "indeed represents a lower rate of increase than the 38% historical rate of increase."[295] Consumers' brief recaps Mr. Lynd's testimony and contends that "[t]he Attorney General's demand that the Company magically reduce costs does not reflect the real world in which the Company operates, and should be rejected."[296]

On brief, the Attorney General reiterates Mr. Coppola's testimony and replies that in rebuttal, Mr. Lynd "still did not explain the basis for the specific unit cost."[297] The

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[292] 5 Tr 2736.
[293] *Id.*
[294] 4 Tr 700.
[295] 4 Tr 702.
[296] Consumers brief, 44-45.
[297] Attorney General brief, 41-43.

Attorney General's reply largely relies on her initial brief.[298] She also notes that the "use of average unit costs is reasonable for projecting capital expenditures because they necessarily consider both high and low costs."[299]

Consumers' reply maintains that the Attorney General's use of historical averages should be rejected because the historical "averages do not reflect the current costs that the Company must pay to perform the planned work."[300]

This PFD agrees with the Attorney General that continued large escalations in unit costs are not sustainable. The Company failed to provide specifics regarding how the $5,300 unit cost was determined and did not identify measures to produce cost savings in response to escalating costs, indicating that these costs will continue to increase. Because of this, the PFD agrees that the Attorney General's proposed reductions of $17,839,000 for the bridge period and $14,357,000 for the test year should be adopted. This conclusion does not suggest Consumers should "magically reduce costs," but encourages Consumers to pursue efficiencies as an unregulated business facing competitive pressures would, rather than indefinitely passing on increased costs to its customers.

iii. LVD Substations Demand Failures

According to Mr. Lynd, the LVD Substations Demand Failures subprogram "supports capital repair or replacement of failed LVD substation equipment to restore customer service and maintain reliability of electrical service."[301] Mr. Lynd testified that

[298] Attorney General reply, 21.
[299] Attorney General reply, 22.
[300] Consumers reply, 19.
[301] 4 Tr 528.

projects are “planned and executed when an event occurs” and the projected spending will allow the Company to address interruptions, maintain service quality and, meet its obligation to service customers when LVD substation equipment fails.[302] Projects in this subprogram are divided into the investment categories of regulators, reclosers, transformers, and other equipment.[303]

Mr. Lynd testified that Consumers is projecting capital expenditures for LVD Substations Demand Failures of $8,720,000 for the bridge period and $9.0 million for the test year.[304] Consumers calculated the proposed expenditures based on projected failure rates, which were determined using the average historical failure rates for the five-year period from 2019 to 2023, and the projected costs to address the failures, which were determined using actual spend during 2020 to 2023 and expected future costs.[305] Figure 15 at 4 Tr 531 shows the number of units and capital expenditures projected for the bridge period and test year by category.

Mr. Coppola addressed the LVD Substation Demand Failures subprogram in his direct testimony.[306] While he did not dispute the projected number of units and found “the unit cost reasonable for three of the four categories when comparing it to the historical level,” he found the unit cost for regulators excessive.[307] Figure 15 at 4 Tr 531 shows 50 regulator units and a capital cost of $3,300,000 for the bridge period and 58 regulator units and capital cost of $3,820,000 for the test year. Mr. Coppola used this information

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[302] 4 Tr 528-529.
[303] 4 Tr 528.
[304] 4 Tr 529.
[305] 4 Tr 528, 530.
[306] 5 Tr 2737-2738.
[307] 5 Tr 2737.

to calculate a per unit cost of $66,000 for the bridge period and $65,862 for the test year. Citing Exhibit A-112, line 145, he noted that the average unit cost for the three years from 2021 to 2023 "was $41,756 with a significant jump to $58,837 in 2023."[308] According to Mr. Coppola, "[t]he $66,000 forecasted unit cost represents a 41% increase over the recent average historical unit cost," and the Company did not provide a detailed explanation for this large increase.[309]

Because of this, Mr. Coppola proposed that the unit cost for regulators for the bridge period and test year be determined using the average cost during the three years from 2021 to 2023, adjusted for inflation. This results in a unit cost of $42,915 for the bridge period and $43,859 for the test year and reduced capital expenditures for the regulators category of $2,146,000 for the bridge period and $2,544,000 for the test year. Accordingly, Mr. Coppola recommended that the Commission reduce the forecasted expenditures by $1,154,000 for the bridge period and $1,276,000 for the test year.[310]

In rebuttal, Mr. Lynd disagreed with Mr. Coppola's proposal and again asserted that using a three-year average plus inflation is not an appropriate way to set expenditures.[311] He explained that, as shown by Exhibit A-112, line 145, there is a recent trend that shows "regulator costs have been increasing substantially since at least 2021" and the Company's proposed costs are in line with these actual costs.[312] He argues that it is unreasonable "to simply insist that regulator costs must go back to levels not seen in

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[308] *Id.*
[309] *Id.*
[310] 5 Tr 2737-2738.
[311] 4 Tr 700.
[312] 5 Tr 702.

multiple years."[313] Consumers' brief recaps Mr. Lynd's testimony and argues that "simply insisting that these costs should be lower does not in fact reduce these costs and fails to consider the recent cost increases that have in fact occurred, or the real world circumstances which are affecting the Company's costs."[314]

On brief, the Attorney General reiterates Mr. Coppola's testimony and replies that Exhibit A-112, line 145, shows unit costs have varied.[315] She also remarks that there is "no evidence that the latest year or the projected unit costs are supported by any other data."[316] The Attorney General's reply largely relies on her initial brief.[317] She again notes that the "use of average unit costs is reasonable for projecting capital expenditures because they necessarily consider both high and low costs."[318]

Consumers' reply maintains that the Attorney General's use of historical averages should be rejected because the historical "averages do not reflect the current costs that the Company must pay to perform the planned work."[319]

This PFD agrees with the Attorney General's concerns regarding the increase in unit costs for regulators and notes that, if the Company's projections are accepted, unit costs will have more than doubled since 2021.[320] Like the LVD Lines Demand Failures program, the Company did not provide specific data regarding unit cost or identify measures to produce cost savings in response to escalating costs, indicating that these

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[313] *Id.*
[314] Consumers brief, 45-46.
[315] Attorney General brief, 43-46.
[316] Attorney General brief, 45.
[317] Attorney General reply, 21.
[318] Attorney General reply, 22.
[319] Consumers reply, 19.
[320] See Exhibit A-112, line 145.

costs will continue to increase. Because of this, the PFD agrees that the Attorney General's proposed reductions of $1,154,000 for the bridge period and $1,276,000 for the test year should be adopted to incentivize the company to reduce costs.

iv. LVD Lines Reliability

Mr. Lynd provided a detailed review of the LVD Reliability Program, testifying that the purpose of program is "to ensure the long-term safe and reliable operation of the electric distribution system, and to support the Company's SAIDI glidepath[.]" again referencing modeling in the 2023 EDIIP as support.[321]

Mr. Lynd referenced Mr. Kelly's testimony that Consumers must increase its spending in the LVD Reliability subprograms based on worsening weather and the need to increase both reliability and resiliency, again presenting the graph showing the differences in SAIDI projections at different spending levels.[322] Mr. Lynd explained that the LVD Lines Reliability subprogram is comprised of five spend categories: (1) targeted circuit improvements; (2) pole replacements; (3) ATR loops; (4) circuit exit enhancements; and (5) ROW and easement acquisition.[323]

For the largest spending category in the LVD Lines Reliability subprogram, Targeted Circuit Improvements, Mr. Lynd explained that investments are made to reduce non-standard voltages in the system, provide for Zonal Health improvements, converting open wire to multiplex, and restoring older underground cable.[324] Mr. Lynd then discussed the approaches the Company uses to address these concerns as well as the benefits of

[321] 4 Tr 552.
[322] 4 Tr 553-554.
[323] 4 Tr 559.
[324] 4 Tr 559-560.

doing so. For Zonal Health specifically, Mr. Lynd explained: "The Company's analysis has shown that 91% of customer interruptions happen on just 25% of line miles. Because of this, the Company focuses on or "targets" individual zones when assessing LVD asset health and mitigating the risk, instead of whole circuits."[325] Regarding the benefits of Zonal Health Investments, Mr. Lynd testified:

> Zonal health investments improve the reliability of the Company's LVD system by reducing the likelihood of an additional interruption over the next five years or more. A zone targeted for improvement can include multiple protective device zones or a single protective device zone. When the Company is aware that a circuit has deficiencies, based on outage data, then the Company inspects the overhead lines on affected circuits.[326]

Mr. Lynd provided a list of possible solutions for problem zones, including system protection upgrades and replacements; replacing poles and other equipment at end-of life; installing upgrades to improve voltage quality; relocating lines; and restoring underground cable that is no longer looped to establish redundancy, among other interventions.[327]

Turning to the benefits of Zonal Health improvements, Mr. Lynd presented a comparison of pre-treatment outages on targeted circuits from 2018-2021, to one- to three-year post-treatment outages on those same circuits. The weighted average of the results demonstrated a 64% improvement in outages post-treatment. [328] Mr. Lynd further explained that the 2023 EDIIP, p. 68 provides "a plan to address all zones with a zonal health score of 10 or greater, meaning each of these zones will need investment. The

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[325] 4 Tr 560.
[326] 4 Tr 562-563.
[327] 4 Tr 563.
[328] 4 Tr 565; Figure 26.

Company plans to do this work over a period of 20 years, with a ramp-up in investment by 2026 that will allow the Company to address approximately 280 zones per year."

Staff witness Shi testified that Staff has concerns about LVD Reliability capital expenditures, specifically, the LVD Lines Reliability subprogram.[329] Ms. Shi testified that when asked about historical spend in three categories (Zonal Health Improvement, Secondary, and Voltage Conversions), the Company's response indicated that "In the historical years of 2019 through 2023, all three of the categories of expenditures requested were captured within the Targeted Circuit Improvements category and were not broken out or tracked separately, identifying them separately is being done for the first time in this case."[330] Thus, according to Ms. Shi, Staff "summed the expenditures of the Zonal Health Improvements, Secondary, and Voltage Conversions together in the projected periods and then included this spending with the other investment categories[.]"[331]

Ms. Shi explained that a review of Zonal Health Improvements in Table 1, line 2 at 5 Tr 3650 indicates that "the Company projected 7,337 units to be built with $50,908,000 in [the] Bridge Period and 6,372 units to be built with $258,670,000 in the test year; meanwhile the historical expenditures ranged from $19,150,612 to $42,034,097, plus 7,798 units were built with only $27,278,225 capital expenditures in 2023."[332] Ms. Shi explained that per a discovery response from Mr. Lynd, the difference between the bridge and test period expenditures relates to the large number of low-cost fuse replacements

[329] 5 Tr 3649.
[330] 5 Tr 3650; Exhibit S-7.1.
[331] Table 1 at 5 Tr 3650.
[332] 5 Tr 3651.

in the bridge period, whereas "the test year will include more complex and higher-cost individual projects to harden the LVD system in accordance with the Reliability Roadmap[.]"[333]

Ms. Shi stated that in evaluating Mr. Lynd's discovery response, "Staff was trying to trace any evidence that could back up the much higher expenditure amount that Mr. Lynd projected for the Bridge Period and test year within his testimony and the discovery response."[334] Quoting portions of Mr. Lynd's testimony and the 2023 EDIIP, Ms. Shi testified that Staff recognizes the importance of Zonal Health improvements, noting Mr. Lynd's calculation of a 64% reduction in outages since 2018 resulting from past Zonal Health efforts. Nevertheless, according to Ms. Shi:

> [T]he historical expenditures for Zonal health were effectively enough to improve the Company's LVD lines reliability. Staff also reviewed the Exhibit A-128, where the Company listed the projects forecasted to be done in the test year; however, cannot find the significance differences from the A-127, beside the expenditures increasing more than 400%.
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> Without further evidence from the Company to support the capital expenditures surging dramatically for the test year, besides stating there are "more complex and higher-cost individual projects", which itself does not answer the questions of what unique and outstanding projects the Company is going to do to consume that much money, Staff indeed has a very hard time justifying the bridge period and test year capital expenditure.[335]

Because Staff determined that Consumers had not sufficiently justified the proposed increase in expenditures, Staff calculated the five-year average of historical investments for the Zonal Health, Secondary, and Voltage Conversions spend categories, which equaled $26,522,327. Staff then applied a 40% adder resulting in a recommended

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[333] 5 Tr 3651.
[334] 5 Tr 3651.
[335] 5 Tr 3653-3654.

expenditure amount of $37,131,258 for the 12-month bridge period and $43,319,801 for the 14-month bridge period. Staff then applied an additional 40% to the bridge period to arrive at a recommended test year capital expenditure amount of $51,983,761. As a result, Staff advocated disallowances of $7.5 million in the 14-month bridge period and $206,686,239 for the test year.[336] Ms. Shi explained that the increase Staff supports "is Staff's consideration for the combination of over five-year inflation, unit price hiking, and new projects that the Company is going to have, beginning from 2025, such as open-wire secondary to multiplex secondary."[337]

Ms. Shi also testified that Staff has concerns about the Company's projected ROW capital expenditures in the bridge ($7.5 million) and test periods ($12 million). As shown in her Table 1 at 5 Tr 3650, ROW costs have increased from $2.905 million in 2019, to $5.106 million in 2023. Noting that Mr. Lynd did not provide detail on projected ROW cost increases, Ms. Shi again explained that "Staff had [a] hard time to justify the Bridge Period and test year expenditures without further evidence to support the spending."[338] Thus, Staff used the same method applied to Zonal Health improvement spend categories(e.g., the five-year average expense, plus 40% increases in each the bridge and test periods) to adjust ROW expenditures. This resulted in disallowances of $800,000 in the 14-month bridge period and $4.0 million in the test year.[339]

Mr. Coppola also examined Consumers past and projected spend in the LVD Lines Reliability subprogram, noting that three of the spend categories, Zonal Health

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[336] 5 Tr 3654-3655.
[337] 5 Tr 3654.
[338] 5 Tr 3655-3656.
[339] 5 Tr 3656-3657.

Improvements, Secondary, and ROW are new for this subprogram in the bridge and test periods and "[t]hese three categories make up more than half of the forecasted capital expenditures for the LVD lines Reliability subprogram for the bridge period and nearly 90% of the projected test year capital expenditures of $298.7 million."[340]

Mr. Coppola testified that he found it unclear why the Company is now focusing on the most problematic areas of its LVD system, when it should have been doing so all along. He added:

> It is perplexing why beginning with the bridge period in this rate case the Company now proposes to spend $45 million on Zonal Health Improvements and dramatically ramp up the spending to $224.2 million in the projected test year. Figure 39 [5 Tr 579] shows that for the bridge period the Company would complete 7,337 units at an average unit cost of $6,138 and for the projected test year would complete 6,372 units at a unit cost of $35,183. The unit cost is dramatically different between the bridge period and the projected test year likely reflecting different types of installations.
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> In reviewing the list of items that comprise Zonal Health Improvements for the bridge period in Exhibit A-126 and for the test year in Exhibit A-127, it is apparent that the projects entail replacing fuses, miles of conductor wire, and completion of other projects of an undefined nature. Mr. Lynd made no effort in his testimony to show how the capital spending in Zonal Health Improvements breaks down between fuse replacements, wire or line replacements, and projects, and to explain why $45 million and $224.2 million in capital spending in the bridge period and the projected test year is justified.[341]

Mr. Coppola further concluded that for a "new approach" to improve reliability it is first necessary for the Company to demonstrate its effectiveness, adding that it is also unclear "what other programs are being affected or will be reduced for similar work that the Company was previously performing under a different approach or spending

[340] 5 Tr 2738-2739.
[341] 5 Tr 2739-2740.

categories."[342] Consistent with his concerns stated above, Mr. Coppola recommended that test year spend be held to the same level as the proposed $45 million spend in the bridge period, plus inflation, resulting in test year expenditures of $46 million, a reduction of $178 million from the Company's forecast.[343]

Mr. Coppola also examined Consumers' plan to convert secondary wire to multiplex over the next decade. Noting Mr. Lynd's admission that secondary wires do not affect many customers; they may affect some communities more than others, and outages from secondary wires may be of longer duration, he opined that "[n]o specific evidence was presented to support these claims other than a map of Michigan with large, highlighted areas."[344] The secondary wires program also ramps up from $1.0 million in the bridge period to over $28 million in the test period. Stating that this program also appears to be a new endeavor, Mr. Coppola recommended the program be scaled back so that it is completed in 20 years rather than 10 as Consumers proposes. As such he advocated reducing test year spending by half, resulting in a disallowance of $14,090,000.

Lastly, within the LVD Lines Reliability subprogram, Mr. Coppola took issue with forecasted expenditures in the ROW category, observing that Mr. Lynd's testimony on this topic was general and that he does not link the projected costs with any specific lines or miles of lines. Mr. Coppola explained that when asked in discovery to identify the projects that require ROWs, the number of miles, and associated costs, Consumers did

[342] 5 Tr 2740-2741.
[343] 5 Tr 2741.
[344] 5 Tr 2742.

not provide the requested information, stating that it was not available.[345] Mr. Coppola opined that "[i]f this basic information is not available, it is difficult to understand how the Company was able to forecast the $7.5 million and $12.0 million ROW purchases."[346]

Given the lack of detail in the Company's presentation, Mr. Coppola recommended using the three-year average cost for ROW easements, $4.641 million, noting that easement costs are negotiated with landowners, and therefore inflation adjustments are not appropriate. On that basis, Mr. Coppola recommended that $2,859,000 be removed from the bridge period and $4,641,000 be removed from the test year.

Relying on his testimony regarding the deficiencies in the 2023 EDIIP, MNC witness Denzler explained that:

> Witness Lynd uses the EDIIP (Reliability Roadmap) as the primary basis for the requested spend in the Planned investments in Reliability and Capacity, with limited further justification. Witness Lynd states both "the Reliability Roadmap has led the Company to project increased investment levels in key LVD subprograms in the Reliability and Capacity programs" and "there are also Reliability Roadmap-driven increases to investment in LVD substations." As previously noted, if the Commission were to accept this as sufficient in this instant case, it would effectively shift these two areas of spend from contested to uncontested.[347]

He further noted Mr. Kelly's testimony that these increased investments do not actually achieve the Company's long-term reliability goals, they mere serve as a path for such achievement.[348]

Next, Mr. Denzler discussed Consumers' approach to prioritizing LVD investments, pointing to the Company's Reliability Analytics Engine (RAE) as the primary

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[345] 5 Tr 2742-2743.
[346] 5 TR 2743; Exhibit AG-1.6.
[347] 5 Tr 3007.
[348] *Id*.

model for deciding where to invest. According to him," the RAE contains only data on reliability metrics with no information on cost[,]" whereas "[a] true optimization analysis and prioritization evaluates both the cost and benefit to appropriately target resources where the biggest 'bang for buck' can be realized."[349]

Next, Mr. Denzler pointed to additional gaps in the Company's LVD presentation, including representative examples of previous Zonal Health work. Highlighting one particular project, Mr. Denzler testified:

> A concerning example is East Jordan lines relocation. This is the circuit that had not been cleared since 2015. The problem description stated "Necessity: Line located in heavily wooded area, deteriorated equipment." And yet, the only solutions considered were a line relocation (one of the most expensive programs a utility can undertake) or reconductoring. The decided-upon solution cost $466,560 to relocate 1.2 miles of conductor, for a per-mile cost of $388,802. In comparison, the 2021 costs per line mile of LVD clearing was $14,354.[350]

He also discussed Consumers' overview of outage history and projected benefits of Zonal Health investments in the first year of the IRM. After converting SAIDI to CMI and comparing projected CMI avoided to historical CMI, Mr. Denzler testified:

> Out of 46 circuits with stated CMI benefits provided, 21 projected avoided CMI that was higher than their five-year average. Out of those 21 circuits, ten had projected avoided CMI that was higher than even their maximum experienced annual CMI. That is to say, ten circuits projected to save more annual outage minutes than they had experienced in the past five years.
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> Additionally, there were six circuits included on the list that experienced no outages in the preceding five years yet represented a significant portion of the sample's total costs and expected benefits. Two of those circuits represented the first and third most expensive projects on the list. Those six circuits represent $3.47M of the $15.4M in total spend and 2.29M of 12.5M of projected avoided CMI – despite experiencing no outages in the last five

[349] 5 Tr 3009; Exhibit CUB-26.
[350] 5 Tr 3010; Exhibit CUB-27.

> years. The list showed seven of the 50 circuits had not been trimmed in over 20 years preceding treatment in 2024.
>
> These facts continue to indicate an unreliability in the Company's analyses and cast doubt over the optimality of its selected investments in the projected test year and whether they will reap commensurate benefits.[351]

Consistent with the foregoing analysis, Mr. Denzler recommended that spending on LVD Lines Reliability be maintained at 2023 levels "until the Company can demonstrate its ability to optimize and deliver sufficient value from its LVD spending."[352]

In response to Ms. Shi, Mr. Lynd pointed out that Staff recognizes the importance of Zonal Health in improving reliability, as Ms. Shi explained. Mr. Lynd further clarified that:

> The Company has several distribution investment programs, which are subdivided into multiple *subprograms*, and subprograms form the general basis for how my testimony is organized. Many subprograms are further subdivided into *investment categories*, and in the present context Targeted Circuit Improvements is one such investment category in the LVD Lines Reliability subprogram. Historically, the Company has simply presented Targeted Circuit Improvements as one piece of LVD Lines Reliability. In this case, the Company is proposing increases in Targeted Circuit Improvements to improve reliability, and the 21 Company has presented several *strategies* within the investment category to accomplish the circuit improvements and added additional context for those individual strategies.[353]

Given this background, Mr. Lynd presented Figure 1 at 4 Tr 691 which illustrates the divisions between program, subprogram, investment category, and strategy for the investments at issue.

Continuing, Mr. Lynd testified that Ms. Shi made several errors in her analysis, including her claim that past investments in Zonal Health have improved reliability, which

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[351] 5 Tr 3011; Exhibit CUB-28.
[352] 5 Tr 3013.
[353] 4 Tr 690.

he stated was incorrect. According to him, numerous reports, including some previously provided by Staff and intervenors, have found that Consumers' reliability has not improved sufficiently. This led in turn to the development of the 2023 EDIIP, which provides a detailed analysis of the need for more investment in the LVD system.[354]

Mr. Lynd further testified that Exhibits A-127 and A-128 contain hundreds of bridge and test period projects that demonstrate that the Company is moving from lower cost fusing to more complex projects, adding that Ms. Shi did not examine or address the projects on their merits, but rather, she simply recommended a "massive disallowance" based on her review of LVD spending generally.[355] Mr. Lynd also question how Staff arrived at its recommended 40% increase, testifying that "[b]asing the Company's authorized investment level on a historical average plus an unexplained and unsupported percentage inflator ignores the detailed evidentiary case presented by the Company."

In response to Mr. Denzler, Mr. Lynd referred to Mr. Kelly's rebuttal of the criticisms of the 2023 EDIIP, and to his direct testimony on the RAE, emphasizing that the RAE is only one tool used for establishing a zonal health score and for identifying those circuits and customers who are experiencing the worst reliability.[356] According to Mr. Lynd:

> The best use of Company resources, or the "biggest 'bang for buck,'" is for the Company to seek to address those areas that are experiencing the poorest reliability. The Company typically does this on a "least-cost-best fit" basis, which is commonly recognized in the industry as an appropriate means for evaluating reliability investments. Least-cost best-fit analyses consider the desired functionality or capability on the distribution system, or the safety, reliability, or regulatory goals, along with the lowest cost way to accomplish these goals.[357]

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[354] 4 Tr 692.
[355] 4 Tr 693.
[356] 4 Tr 696-697.
[357] 4 Tr 697.

Responding to Mr. Denzler's assessment of the East Jordan project, Mr. Lynd points out that not only was the line in a heavily wooded area, with problem trees outside the ROW, but the line itself was deteriorated. Characterizing vegetation management as a temporary fix, Mr. Lynd explained that the replacement and relocation of the line was the better long-term solution.[358] Addressing Mr. Denzler's concern that Consumers conflates age with deterioration in its pole replacement program, Mr. Lynd refers to the 2023 EDIIP, which discusses the Company's pole inspection program and plan to replace poles based on condition, not age.[359]

In response to Mr. Coppola, Mr. Lynd explained that Zonal Health improvement efforts are not new or untested, testifying that the Company has undertaken Zonal Health improvements since 2013, pointing to his testimony on the subject that was filed in the Company's 2018 rate case, Case No. U-20134. Mr. Lynd emphasized that although Zonal Health has been part of Targeted Circuit improvements since 2013, this case is the first to provide additional detail including the distinction between investment categories and strategies, of which Zonal Health Improvements is one such strategy. as discussed previously.[360]

Turning to Mr. Coppola's rationale for adjusting Secondary wire conversions investments, Mr. Lynd repeats that these are not new, "they are another *strategy* within the preexisting Targeted Circuit Improvements investment category."[361] He agreed that the Company is planning a significant increase in investment, but he pointed out that

[358] 4 Tr 698.
[359] 4 Tr 699.
[360] 4 Tr 704.
[361] 4 Tr 706.

although Secondary wire replacements will not significantly reduce SAIDI, "average outage durations on secondary are more than 10 hours long; the system experiences an average of 10 secondary outages per day; secondary outages are more expensive for the Company to restore; and open-wire secondary disproportionally affects disadvantaged communities."[362]

Concerning Staff's and the Attorney General's recommended adjustments for ROW acquisition, Mr. Lynd explained that given the Company's projected increase in Lines Reliability, a commensurate level of funding for ROW should be approved.[363]

The parties' briefs generally rely on their respective witnesses' testimony. Staff argues that although Mr. Lynd's rebuttal testimony indicated that Ms. Shi's claim that Zonal Health Improvements have increased reliability was incorrect, "that statement was directly copied from [Mr. Lynd's] direct testimony."[364] Staff adds that if Mr. Lynd intended to only speak to local benefits, then the Company should make that clarification in the future.

Staff further points to Ms. Myer's cross examination, wherein she was asked whether the Company has the ability to accomplish the LVD Lines Reliability work. Ms. Myers response, as quoted in Staff's brief, was that Consumers does not currently have the workforce to meet the requirements of the 2023 EDIIP, and that she understood that Consumers could not shift large numbers of employees from other activities to the LVD Lines Reliability subprogram. Staff also cites Mr. Lynd's cross examination, where he

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[362] *Id*.
[363] 4 Tr 695, 707.
[364] Staff brief,

similarly indicated uncertainty about the workforce level required to achieve the planned work.[365]

In response to Mr. Lynd's rebuttal questioning Staff's recommended 40% increase in LVD Lines Reliability spend between the five-year historical and bridge periods, and 40% increase between the bridge and test periods, Staff reiterates that from 2019-2023, inflation has totaled approximately 25%, and with the 40% adder, "Staff not only considered the inflation, but also included the complicated and complex projects, as the Company stated."[366] Finally, addressing ROW, Staff notes that it used the same approach to adjusting ROW as it did for Zonal Health improvements, thus recognizing that ROW costs are expected to increase commensurate with LVD Lines Reliability work.[367]

The Attorney General recaps Mr. Coppola's testimony, and she responds to Mr. Lynd's claims that the Zonal Health category is not new, asserting that Consumers failed to provide comparable historical data because prior spending was spread throughout other programs that were not identified.[368] For Secondary wire replacements, the Attorney General reiterates that except for a highlighted map of the State, Consumers provided no support for the increase in this spend category. Turning to ROW, the Attorney General repeats that her request for additional detail on ROW projected spend, which the Company stated was unavailable, was basic information. Thus, the Company's response calls into question how Consumers was itself able to project bridge and test period ROW expenditures.[369]

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[365] Staff brief, 22, quoting 4 Tr 470, 726-727.
[366] Staff brief, 25.
[367] Staff brief, 26-27.
[368] Attorney General brief, 49-50.
[369] Attorney General brief, 51.

MNC argues that the LVD Lines Reliability subprogram is largely driven by the 2023 EDIIP, the flaws in which were discussed at length by Mr. Denzler. MNC maintains, that "the drastic increase in LVD Reliability spending requires thorough justification by the Company, which comes up short. The EDIIP provides little specificity about particular investment categories and strategies; the testimony and EDIIP are largely duplicative[,]" reiterating Mr. Denzler's concerns about the RAE, which identifies poor performance and provides reliability forecasts, but it does not include costs.[370] MNC also called out what appears to be a lack of coordination between the RAE and Consumers' Foresty WISE program, which also identifies poor performance related to trees.[371]

In response, Consumers reiterates that zonal improvements are contributing to reliability improvements, but more time is needed for these investments to be reflected in system-wide SAIDI metrics.[372]

To sum up, Staff recommends disallowances of $7.5 million in the bridge period and $206,686,239 in the test year for Zonal Health improvements, Secondary wires conversions, and voltage conversions, based on a three-year average spend plus an additional 40% in the bridge and test periods.[373] In addition, using the same forecasting method, Staff recommends a disallowance of $834,692 in the bridge period and $4.0 million in the test period for ROW acquisition.

MNC recommends that LVD Lines Reliability spending be held at 2023 levels, resulting in a total disallowance of $344 million in the bridge and test periods.[374]

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[370] MNSC brief, 39.
[371] MNSC brief, 41-42.
[372] Consumers reply, 10.
[373] Staff brief, 24-25.
[374] 5 Tr 3013

The Attorney General recommends disallowances of $178.189 million in the test year for Zonal Health improvements, $14.090 million in the test year for Secondary wire conversions, and $2,859 million in the bridge period and $7.359 million in the test year for ROW.

This PFD agrees with Staff and intervenors that Consumers requested increase in the LVD Lines Reliability subprogram is excessive and unsupported. As Mr. Denzler aptly stated:

> [T]he Company has not produced credible evidence that historical investments based on forward-looking projections achieve commensurate results. We simply do not have compelling evidence that more resources designated towards reliability will actually improve reliability. The Company has not demonstrated the reasonableness and prudency of its spending increases.[375]

That said, this PFD finds that MNC's and Staff's recommendations for disallowances should be rejected. While MNC's concerns about Consumers' reliance on the 2023 EDIIP as support for the massive increase in investment in the LVD system are well taken, the Company will need to spend more in the bridge and test periods, compared to 2023, if only to account for inflation in 2024 and 2025. While Staff's reasoning for its adjustment is apparent, this PFD agrees with the Company that a blanket 40% increase in the bridge and test periods, above 2023 capital investments, is arbitrary to some extent and, as discussed above, the Commission has generally eschewed this approach to forecasting capital and O&M spending.

This PFD agrees with the Attorney General's proposed disallowances for Zonal Health improvements ($178.189 million) and ROW acquisitions ($2,859,000 in the bridge

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[375] 5 Tr 3006.

period and $7.359 million in the test year). While the Company insists that the Zonal Health program is not new or untested, this PFD agrees with the Attorney General that if the Zonal Health program is indeed an existing one, albeit with a new name and a combination of prior spending categories, then it was incumbent on the Company to provide historical cost and benefit information. To the extent that this information was provided, it demonstrates that over $4 billion in spending on all aspects of the Company's distribution system has resulted in negligible improvements in reliability as discussed above. Moreover, as also discussed above, there are questions as to whether Consumers has the workforce to undertake the proposed increase in LVD Lines Reliability projects, and the recently submitted audit of the Company's distribution system is still under review.

This PFD also recommends that the Attorney General's proposed disallowances for ROW be adopted for the same reasons cited for the disallowance of HVD ROW.

However, this PFD disagrees with the Attorney General's recommendation to disallow $14.090 million in costs for the Secondary to multiplex conversion program. Even if it were the case that relatively few customers are affected by a secondary outage, as Consumers points out, "[t]he average outage duration on secondary is more than 10 hours long, the system experiences an average of 10 secondary outages per day, secondary outages are more expensive for the Company to restore, and open-wire secondary disproportionately affects disadvantaged communities."[376]

[376] Consumers brief, 56 citing 4 Tr 706.

Consistent with the foregoing discussion, this PFD recommends a reduction of $2,859,000 in the bridge period for ROW, and $7.358 million and $178.189 million in the test year for ROW and Zonal Health improvements respectively.

v. LVD Substations Reliability

As shown in Exhibit A-95, line 9, the Company is projecting LVD Substations Reliability capital expenditures of $19,156,000 in the bridge period and $43,725,000 in the test year.[377] According to Mr. Lynd, investments in LVD Substations Reliability significantly reduce customer outage minutes and improve customer service quality.[378]

The Company's projected unit and capital expenditures in the bridge period and test year includes work transferred from other subgroups and encompass six investment categories: (1) New or rebuilt substations - $8,985,000 for 8 projects in the bridge period and $25,442,000 for 12 projects in the test year; (2) New mobile substations - $0 spending in the bridge period and $1,560,000 for 2 projects in the test year; (3) Animal mitigation - $2,373,000 for 20 projects in the bridge period and $2,956,000 for 27 projects in the test year; (4) Regulator replacements - $760,000 for 18 projects in the bridge period and $240,000 for 6 projects in the test year; (5) Transformer replacements - $4,191,000 for 4 projects in the bridge period and $5,525,000 for 7 projects in the test year; and (6) DSCADA - $2,847,000 for 5 projects in the bridge period and $8,002,000 for 24 projects in the test year.[379]

Mr. Coppola addressed the Company's spending in the New or Rebuilt Substations and the DSCADA categories. According to Mr. Coppola, the Company's proposal to build

[377] 4 Tr 590; Exhibit A-95.
[378] 4 Tr 592-593.
[379] 4 Tr 591, Figure 45.

or rebuild 8 substations at an average unit cost of $1,123,125 in the bridge period is in-line with historical spending and is reasonable.[380] However, he opined that the Company's projections for the test year are problematic in two respects. First, proposing 12 new or rebuilt substations in the test year compared to the average of only four in previous years, is excessive. Rather than tripling the number of projects, he testified that it seems prudent to just double them as was done for the bridge period, to lessen the burden on customers.[381] Second, the average cost per substation in the test year ($2,036,833) reflects a 55% increase from the three year (2021-2023) historical average of $1,313,000. According to him, the unit cost should be set at the level of the historical average plus an inflation adjustment. Thus, Mr. Coppola proposed that the cost per substation be set at $1,379,000 for the test year and be applied to eight substations. The result is forecasted capital expenditures of $11,032,000 for the test year. Accordingly, he recommended the removal of $14,410,000 from the Company's projected capital expenditures for the test year.[382]

Mr. Coppola testified that the Company's DSCADA spending should also be adjusted. He calculated the three year (2021-2023) average unit cost per project of $242,859, which he noted, is significantly lower than the $569,400 for the bridge period and the $333,417 for the test year in the Company's proposals.[383] Using the average cost adjusted for inflation results in a unit cost of $249,600 for the bridge period and $255,091 for the test year, which based on the Company's proposed number of projects results in

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[380] 5 Tr 2744.
[381] 5 Tr 2745.
[382] Id.
[383] 5 Tr 2746.

capital expenditures of $1,248,000 for the bridge period and $6,122,000, for the test year. Thus, he recommended that the Commission remove $1,599,000 and $1,880,000 from the Company forecasted capital expenditures for the bridge period and the test year, respectively.[384]

In rebuttal, Mr. Lynd testified that the primary reason that unit costs are higher in the test year for new or rebuilt substations is because of the mix of work planned for the test year, which includes seven substation rebuilds and three new substations, compared to the bridge period, which includes two substation rebuilds and a continuance of two new substations started in a previous period.[385]

Mr. Lynd responded to Mr. Coppola's assertion that DSCADA unit costs are higher than historical unit costs, stating that the Company's prior DSCADA spending was on less complicated substations. Now, however, the Company is installing DSCADA in more difficult areas causing higher unit costs.[386]

Mr. Lynd again emphasized that the unit cost approach is not a good measure to predict individual costs for substation rebuilds or DSCADA projects. He said the Company's projections are based on specific cost estimates for each project. For instance, he said, new or rebuilt substations in the test year vary from $230,000 to $2,409,000, while DSCADA projects vary from $44,000 to $652,000.[387]

The Attorney General's brief relies on Mr. Coppola's testimony, while the Company's brief reiterates Mr. Lynd's testimony, adding, "[r]ebuilding 12 substations in

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[384] 5 Tr 2746-2747.
[385] 4 Tr 708.
[386] 4 Tr 709.
[387] 4 Tr 709-710.

the test year is not 'excessive,' but is planned as part of the work needed to deliver the reliability benefits in the Reliability Roadmap.[388]

This PFD finds that applying an average unit cost approach for expenditures in the bridge period and test year for new or rebuilt substations and for DSCADA as recommended by the Attorney General is reasonable. While the Company rejects the average unit cost approach and urges the use of actual spending estimates per project, this PFD notes that its forecast for new or rebuilt substations for the bridge period is based on an average unit cost very close to the historical average.[389] The Company did not persuasively argue why unit costs for new or rebuilt substations for the test year needed to be significantly higher than the average, other than saying that the projects vary in scope.

Further, this PFD agrees with the Attorney General that the number of new or rebuilt substation projects in the test period should be reduced from 12 to eight. This PFD agrees with the Attorney General's rationale for reducing the number of projects; namely lessening the rate impact on (primarily) residential customers for projects, some of which could be delayed to a future time.

This PFD incorporates the foregoing reductions for LVD Substation Reliability, along with the Attorney General's proposed reductions for DSCADA, and recommends overall reductions of $1,599,000 for the bridge period and $16,290,000 for the test period for this subprogram.

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[388] Consumers brief, 58.
[389] 5 Tr 2744.

vi. LVD Repetitive Outages

As shown on line 12 of Exhibit A-95, the Company forecasts capital expenditures for LVD Repetitive Outages of $11,538,000 for the bridge period and $10,141,000 for the projected test year.[390] The LVD Repetitive Outages subprogram is geared toward reducing frequent customer outages as measured ty CEMI. According to Mr. Lynd, significant investment is needed in the subprogram for the Company to meet the Commission's Service Quality and Reliability Standards from Case No. U-20629, which maintain that utility performance is unacceptable if more than 6% of customers have four or more outages in a calendar year (CEMI-4+). He testified that in 2023, 10.7% of the Company's customers experienced four or more outages.[391] He said that the Company's capital spending projections are based on 197 planned projects in the bridge year and 116 projects in the test year that are in the worst performing areas of Consumers' distribution system. [392]

According to Mr. Lynd, Consumers has realized that its focus on addressing problems identified during inspections and completing lateral fusing within other subprograms has not significantly improved its CEMI. As a result, he said, the Company is moving investments in the LVD Repetitive Outages subprogram "to focus on more robust, and more expensive, hardening projects such as line relocation, undergrounding, and replacing bare wire with tree resistant wire." And he noted that unit costs are projected to be higher than for previous years.[393] He said that the historical variation in spending in

[390] 4 Tr 598.
[391] 4 Tr 594.
[392] 4 Tr 598; 4 Tr 596.
[393] 4 Tr 599.

the LVD Repetitive Outages subprogram, represented by a low in 2023 of $4.1 million, can be attributed to the Company being focused on addressing anomalies identified during inspections and adding lateral fusing to circuits.[394]

Mr. Coppola testified that the Company's historical spending pattern for the LVD Repetitive Outages subprogram is "erratic," which is "confusing," he said, because repetitive outages have historically been an area of concern.[395] He noted that the Company's response to the Attorney General's discovery request asking for an explanation of the variations pointed to Mr. Lynd's direct testimony, and seems to indicate that additional work was done to add fusing to certain circuits in 2023 and work and spending were shifted to LVD Lines Reliability.[396] Mr. Coppola noted that despite this, spending in 2023 was at its lowest level. He stated that if the 2023 work accomplishes the same outcome as current projections, it is not clear why forecasted capital expenditures for the bridge period and the projected test year need to increase over the 2023 spending level.[397]

Mr. Coppola calculated the average project spend in the subprogram from 2021 to 2023 ($30,272) and applied general inflation rates to derive an average project cost of $31,112 for the bridge period and $31,796 for the test year. He then multiplied these averages by 197 projects for the bridge period and 116 for the test year resulting in projected capital expenditures for the bridge period of $6,129,000 and $3,688,000 for the test year. He opined that these were reasonable forecasts and therefore, he

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[394] Id.
[395] 5 Tr 2747.
[396] 5 Tr 2747-2748.
[397] 5 Tr 2748.

recommended that the Commission disallow $5,409,000 and $6,453,000 from the Company's forecasted capital expenditures for the bridge period and test year, respectively.[398]

In rebuttal, Mr. Lynd testified that he provided support for the Company's projections of higher spending over 2023 levels in his direct testimony: unit costs for the subprogram are escalating as the Company shifts its investments to more robust and expensive hardening projects.[399] Consumers brief reiterates Mr. Lynd's testimony.[400]

In briefing, the Attorney General rejects the Company's claims. She maintains that using the three-year average from 2021-2023, as Mr. Coppola did, is reasonable and incorporates both high and low-cost projects and, therefore, high and low unit costs. She also asserts that Consumers fails to support the reasonableness and prudence of its projected spending in the subprogram because the Company fails to provide detailed cost information for its historical spending or its projected spending.[401]

This PFD finds that the Attorney General's proposed reductions for the bridge and test years for the LVD Repetitive Outages subprogram should be adopted. The Company argues that the Attorney General's proposed spending projections do not reflect escalating unit costs and more expensive projected projects and therefore should be rejected. However, the Attorney General's proposed reductions are based on the average cost per project determined over the previous three years. And over the last three years there were a variety of projects with both high and low costs. Further, the Company's

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[398] Id.
[399] 4 Tr 710.
[400] Consumers brief, 59-60.
[401] Attorney General brief, 57-58.

arguments cannot be supported or tested because it did not provide detailed information on its historical or projected costs. Therefore, this PFD recommends a disallowance of $5,409,000 for the bridge year and $6,453,000 for the test year from the Company's forecasted capital expenditures in the LVD Repetitive Outages subprogram.

vii. LVD Lines Rehabilitation

According to Mr. Lynd, the LVD Lines Rehabilitation subprogram includes repair or replacement of LVD lines equipment with a risk of near-term failure. This subprogram consists of three investment categories: (1) imminent rehabilitation; (2) subsurface transformer replacements; and (3) modem replacement program.[402]

The Company's projected spending levels in the LVD Lines Rehabilitation subprogram, as shown in Exhibit A-95, line 19, are $14,488,000 in the bridge period and $15,000,000 in the test year.[403] This includes: (1) $11,404,000 (461 projects) in the bridge period and $11,492,000 (374 projects) in the test year for the Imminent Rehabilitation category; (2) $86,000 (4 projects) in the bridge period and $510,000 (21 projects) in the test year for the Subsurface Transformers category; and (3) $2,998,000 (800 projects) in the bridge period and in the test year for the Modem Replacement Program.[404]

Mr. Lynd testified that the average unit cost in the Imminent Rehabilitation category over the previous five years ranged from a low of $9,527 in 2020 to a high of $18,198 in 2021.[405] He explained that this category has general variations in the size and complexity of projects, noting that there were changes in the scope of projects under the category in

[402] 4 Tr 619.
[403] 4 Tr 623.
[404] 4 Tr 625, Figure 62.
[405] 4 Tr 626-627, Figure 63.

2020, and that in 2021 and 2022, the work required on imminent rehabilitation was more extensive than in other years.[406]

Mr. Lynd went on to explain that using an average of unit costs to make projections of future unit costs would not be accurate. He noted what he called a "wide variance" of work required in this subprogram, ranging from $1,000 to as high as $730,000 per project. He acknowledged, however, that "because there is a reasonable volume of units an average unit cost could be used to analyze the projections for the overall subprogram, but not the cost of any individual project."[407]

Mr. Coppola determined the average unit costs for the Imminent Replacement investment category, which makes up the bulk of the spending in this subprogram. He testified that the Company's forecasts for this category are based on an average unit cost of $24,738 for the bridge period and $30,727 for the test year.[408] In contrast, he said, the average historical project cost from 2021 through 2023 was $15,496, which means the Company's forecasted unit cost for the bridge period and test year are 60% and 98% over the three-year historical average for this category. He called these increases, "excessive and unsupported."[409] He testified further, that if, as Mr. Lynd points out, the scope of work for the Imminent Rehabilitation investment category in 2021 and 2022 was more extensive than in other years, the 2021-2023 average should reflect this. And he said that any variation in costs would be reflected in the average and that any variations from project to project are smoothed out.[410]

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[406] 4 Tr 627.
[407] 4 Tr 627-628.
[408] 5 Tr 2749; Exhibit A-112, line 93.
[409] 5 Tr 2749.
[410] 5 Tr 2749-2750.

Mr. Coppola proposed using the three-year historical unit cost adjusted for inflation for projected spending in the Imminent Replacement category. This results in a unit cost of $15,926 and forecasted expenditures for the bridge period of $7,342,000, which is $4,062,000 less than the Company's forecast of $11,404,000. It also results in a unit cost of $16,276 and projected expenditures of $6,087,000 for the test year, which is $5,405,000 less than the Company's forecast of $11,492,000. Therefore, he recommended the removal of $4,062,000 and $5,405,000 from the Company's forecasted capital expenditures for the bridge period and the projected test year, respectively, for this subprogram.[411]

In rebuttal, Mr. Lynd testified that Mr. Coppola's reductions should be rejected. He stated that there are unit cost issues with the LVD Lines Rehabilitation subprogram, reiterating his direct testimony where he explained that there is a wide variance in project costs, ranging from $1,000 to $730,000 per project. He also pointed to the Company's Exhibits A-127 and A-128, both of which he said provide itemized and detailed projected costs for each individual project. He said, Mr. Coppola does not account for this detailed support and using an average unit cost for projections would unreasonably disallow costs for more expensive projects.[412] The Company's briefing reiterates Mr. Lynd's testimony.[413]

In her brief, the Attorney General relies on Mr. Coppola's testimony with the added point that given the developing nature of the work in the Imminent Rehabilitation investment category, it is unknown how many projects will actually occur and thus the

[411] 5 Tr 2750.
[412] 4 Tr 711.
[413] Consumers brief, 62-63.

Company's projections may be questionable.[414] The Attorney General also supports the use of average unit costs, saying, "use of average unit costs is reasonable for projecting capital expenditures because they necessarily consider both high and low costs."[415]

This PFD agrees with the Attorney General's recommendation to base spending projections for this subprogram using the three-year average unit cost for the Imminent Rehabilitation investment category. This PFD agrees with the Company that there is a wide variation in unit costs in the Imminent Investment category; however, these variations should be smoothed by the 2021-2023 average which incorporates the five-year high unit cost of $18,198 in 2021. This PFD also notes that using the three-year average rather than the five-year average incorporates the highest unit cost over five years, but not the lowest ($9,527 in 2020). While the Company opposes the use of average unit costs, the Company did acknowledge that, "an average unit cost could be used to analyze the projections for the overall subprogram."[416] This PFD also notes that there are no recommendations to reduce the Company's projections for the subsurface transformer and modem replacement program investment categories. Based on the foregoing, this PFD adopts the Attorney General's recommended disallowances of $4,062,000 for the bridge period and $5,405,000 for the test year in the LVD Lines Rehabilitation subprogram.

viii. LVD Resiliency

Mr. Lynd testified that improving the resiliency of the Company's distribution system has been a developing focus for Consumers over the last few years as the

[414] Attorney General brief, 58-61.
[415] Attorney General reply, 22.
[416] 4 Tr 627-628.

Company has experienced an increase in severe weather events.[417] He explained that resiliency investments are designed to harden the system and reduce the impact of major weather events on customer outages compared to reliability investments, which are primarily focused on improving SAIDI during normal conditions.[418] As shown by Exhibit A-95, the Company is requesting recovery of $13,768,000 in the bridge period and $22,623,000 in the test year for the Resiliency subprogram.[419]

Two investment categories are included in this subprogram: Fractionalization and LVD Overhead to Underground conversions. Fractionalization involves dividing LVD circuits into smaller sections with fewer customers to reduce the number of customers impacted by a single outage.[420] It will also increase system capacity that can be used to host new renewable resources.[421] The Company's projected investments in fractionalization consist of $8,189,000 for two projects in the bridge period and $12,623,000 for four projects in the test year.[422]

LVD Overhead to Underground conversion, also called undergrounding, involves the replacement of overhead LVD lines with underground lines and associated equipment to protect the lines from weather and trees.[423] The Company is requesting $5,579,000 to convert 14 miles in the bridge period and $10,000,000 to convert 25 miles in the test year.[424] The Company identified nine selection criteria for this investment category,

[417] 4 Tr 634.
[418] 4 Tr 633.
[419] 4 Tr 640-641.
[420] 4 Tr 635.
[421] 4 Tr 643.
[422] 4 Tr 641, Figure 71.
[423] 4 Tr 638-639.
[424] 4 Tr 641, Figure 71.

including single-phase, at least one outage in the last 24 months, and serving between 10 and 100 customers.[425] Mr. Kelly, testified that this undergrounding work is in addition to the pilot approved by the Commission in Case No. U-21389, which is currently underway in the bridge period for this case.[426]

Mr. Coppola testified that the Company's proposals in this subprogram are not well supported or cost effective. He observed that the Company's fractionalization information, as presented in Figure 72, shows that the proposed investments will reduce the number of customers on a given circuit only minimally, or not at all in several cases.[427] Further, he explained that the Company's discovery responses indicate that fractionalization is a new concept without a well-defined final goal, and the Company does not anticipate its investments will result in an overall reduction in outage incidents.[428] Mr. Coppola argued that the Company's projected benefits from fractionalization show that each customer would only see about 23 minutes of potentially avoided outage time.[429] Mr. Coppola recommended the Commission disallow the Company's entire proposed investments in fractionalization, i.e., $8,189,000 in the bridge period and $12,263,000 in the test year.[430]

Mr. Coppola also said there are several problems with the Company's proposed investments in the LVD Overhead to Underground investment category. He opined that the selection criteria result in a low threshold for investment and do not include a cost benefit analysis.[431] He also questioned the Company's cost estimates and projections for

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[425] 4 Tr 639-640.
[426] 5 Tr 879.
[427] 5 Tr 2752.
[428] 5 Tr 2752-2753.
[429] 5 Tr 2753.
[430] 5 Tr 2754.
[431] 5 Tr 2755-2756.

undergrounding, saying that the Company's proposed $400,000 cost per mile seems unrealistically low, and based on the number of miles the Company forecasted that could be a candidate for conversion, the total costs would be staggering.[432] He pointed out errors in the Company's calculation of the Present Value of the Revenue Requirement (PVRR) that when corrected indicate that undergrounding is the most expensive option among alternatives.[433] Finally, he testified, that since the results from the pilot approved in Case U-21389 are not yet available, it is premature to expand the program.[434] Mr. Coppola recommended disallowing $1,879,000 for undergrounding in the bridge period, which would leave the $3.7 million the Commission approved for the pilot in Case No. U-21389. For the test year, he recommended disallowing $10 million for undergrounding, which is the Company's entire proposed investment.[435]

In rebuttal, Mr. Lynd testified that, the fractionalization information in Figure 72, "shows every circuit on a given substation that will see any fractionalization work *in the bridge period and test year*, even if only *some* of the circuits on the respective substation are being fractionalized."[436] He said, the Company's statement that it has not set a fractionalizing end state, only indicates that the Company does not at this time know how many total circuits will ultimately be fractionalized over the years to come.[437] Additionally, he pointed out, the Commission determined fractionalization was reasonable and prudent in Case No. U-21389.[438] Further, he testified, Mr. Coppola misinterprets the Company's

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[432] 5 Tr 2756.
[433] 5 Tr 2756-2757.
[434] 5 Tr 2757-2758.
[435] 5 Tr 2758.
[436] 4 Tr 712.
[437] Id.
[438] 4 Tr 712-713.

statements and facts regarding the benefits of fractionalization. The purpose of fractionalization, he said, is that when outages do occur, they affect as few customers as possible.[439]

Mr. Lynd also addressed Mr. Coppola's concerns with the Overhead to Underground conversion investment category. He testified that the selection criteria are identical to those presented by the Company in Case No. U-21389 and the inclusion of a cost benefit analysis for each project is unnecessary.[440] Furthermore, he said, the unit cost of the Company's proposed projects ($400,000 per mile) is consistent with the Company's position in Case No. U-21389, is based on single phase installations, and is realistic.[441] He agreed that the costs to convert all lines that could be converted over time would be staggering but emphasized that the Company is only proposing to convert a specific number of lines in this case.[442]

Mr. Kelly provided further rebuttal to Mr. Coppola's concerns with undergrounding investments. He agreed that the Company's PVRR analysis had errors, and he acknowledged the corrections made by Mr. Coppola. However, Mr. Kelly testified that the corrected analysis still supports undergrounding. According to him, it shows that undergrounding costs 9% to 12% more than the alternatives but leads to reliability gains of more than 90% compared to 64% for the alternatives.[443] Mr. Kelly further testified that the Company's proposed investments in undergrounding are not premature: "Undergrounding in general is a long-established strategy in the industry for improving

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[439] 4 Tr 713.
[440] 4 Tr 714-715.
[441] 4 Tr 716-717.
[442] 4 Tr 715-716.
[443] 5 Tr 1044.

reliability and resiliency, and the Company is increasing its use of that strategy," he testified.[444]

In briefing, both the Company and the Attorney General rely on the testimony of their respective witnesses. The Company continues to support its proposed investments in the Resiliency subprogram, while the Attorney General insists that all but the $3.7 million already approved by the Commission should be disallowed.[445]

This PFD notes that the increased resiliency of the Company's distribution system is an important goal and has been recognized by the Commission in prior rate cases. However, this is the first time Consumers has included a resiliency subprogram in a rate case and therefore there are no historical experiences or investments to consider.

Based on the arguments presented by the Company and by the Attorney General, this PFD finds that the Company's proposed fractionalization investments are supported and will lead to improved resiliency. Specifically, this PFD finds that fractionalization is expected to result in an approximate 37% reduction in the number of customers per circuit in the identified substations and lead to a reduction in the number of customers experiencing a given outage**.**[446] The Attorney General's recommendation to remove the entire investment in fractionalization was not persuasive and she did not make an alternative recommendation. Therefore, this PFD recommends approval of the Company's proposed investments of $8,189,000 for the bridge period and $12,623,000 in the test year for fractionalization.

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[444] 5 Tr 1045.
[445] Consumers brief, 64-68; Attorney General brief, 61-70.
[446] 4 Tr 642, Figure 72.

Turning to the LVD Overhead to Underground investments, this PFD finds that the Company's undergrounding pilot, which has already been approved and is underway in the bridge period, will confirm the costs of undergrounding and shed light on SAIDI improvements. These are important factors that need to be known to assess the proposed spending in this case. Since these have not yet been determined, this PFD agrees with the Attorney General that it is premature to begin a multi-year undergrounding initiative when it may not be the best alternative available to increase resiliency. Therefore, this PFD recommends that the Company's proposed investments in the LVD Overhead to Underground investment category be reduced by $1,879,000 in the bridge period and by $10 million in the test year, leading to an overall disallowance in the Resiliency subprogram of $1,879,000 in the bridge period and $10,000,000 in the test year.

ix. LVD Lines Capacity

According to Mr. Lynd, the LVD Lines Capacity subprogram investments "address and reduce overload risk on components of the LVD lines system. . . . Investment in this subprogram responds to risks that already exist due to load growth or load shifting from one area of the system to another. These investments fund critical projects to address capacity loading issues in accordance with planning criteria and to address new distributed load additions, to ensure that the LVD system can accommodate projected distribution loads."[447] Mr. Lynd explained that LVD Lines Capacity is divided into two spend categories: equipment upgrades and new lines associated with substation projects.

[447] 4 Tr 647.

As shown in Exhibit A-95, line 24, Consumers projects capital investments of $19.082 million in the bridge period and $56,723,000 in the test year for the LVD Lines Capacity subprogram.[448] As shown in Figure 76, at 4 Tr 655, Consumers' historical investment in LVD Lines Capacity has ranged from a low $2.927 million in 2023 to a high of $9.836 million in 2020. Exhibit A-112 shows that from 2019 to 2023, Consumers completed between 29 and 59 overload upgrade projects per year. As shown in Figure 77 at 4 Tr 655, for the bridge period, Consumers plans 18 overload equipment upgrade projects at a cost of $6,437,000, and the Company plans to undertake 327 equipment upgrade projects in the test year at a projected cost of $45.652 million.

For LVD line capacity projects associated with substation work, Consumers plans 8 projects in the bridge period and 16 projects in the test year at a cost of $12.082 million. And $11.071 million respectively in the two periods.

Mr. Coppola recommended adjustments to both spending categories in his testimony. First, Mr. Coppola observed that the average number of units completed for overloaded equipment upgrades from 2020 through 2022 was 44, at a unit cost of $136,429. In the instant case, Mr. Coppola calculated a unit cost of $357,611 in the bridge period for 18 projects, and a unit cost of $139,609 for 327 projects in the test year.[449] Mr. Coppola objected to the "unprecedented . . . excessive and unjustified" bridge period unit cost, observing that the highest unit cost in the past five years was $153,776 in 2021.[450] Mr. Coppola recommended a more reasonable unit cost, developed by adjusting the

[448] 4 Tr 654.
[449] 5 Tr 2759. Mr. Coppola excluded the 2023 historical year due to the small number of projects completed in that period.
[450] 5 Tr 2759.

three-year average unit cost, updated for inflation, resulting in a unit cost of $140,216. Multiplying this amount by the 18 projects in the bridge period resulted in a total bridge period amount of $2,254,000, which is $3,913,000 less than the amount forecasted by Consumers.[451]

For the test period expenditures for overload equipment upgrades, Mr. Coppola did not take specific issue with the unit cost but again deemed the number of proposed projects "unprecedented," noting that "the highest number of projects completed in the past five years was 59 in 2022."[452]

Acknowledging Mr. Lynd's testimony that more equipment upgrades must be completed for reliability, as recommended by the 2023 EDIIP, he criticized Mr. Lynd's failure to provide details, observing that "other than classifying overloaded equipment in certain categories and showing forecasted capital expenditures for five years, there is no plan outlined of how many projects for what equipment at which locations are to be addressed each year and over what timeframe."[453] Mr. Coppola further pointed out that it was "perplexing" why the Company undertook only 29 projects in 2023, then reduced that number to 18 in the bridge year, then significantly increased the number of projects to 327 in the test year.[454]

Opining that the increase in the number of projects for the test year was excessive and unsupported, Mr. Coppola proposed a more gradual escalation by approximately doubling the three-year historical average of 44 projects to 90 projects. Assuming 90

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[451] *Id*.
[452] 5 Tr 2760.
[453] *Id*.
[454] *Id.*

overhead equipment upgrades and multiplying that number by $143,301 (i.e. the $140,216 bridge year unit cost updated with inflation) yields a test year capital expenditure amount of $12,897,000, which is $32.755 million less than the Company's projection.[455]

For new lines associated with substation work, Mr. Coppola testified that over the past five years, Consumers completed between four and 16 projects per year, with an average of 11 projects at a unit cost of $373,747 per project. Although Mr. Coppola found the number of projects proposed to be reasonable, he determined that the unit costs of $1,580,625 for eight projects in the bridge period and $691,938 for 16 projects in the test year were excessive compared to the highest unit cost of $581,976 in 2020 for these types of projects.[456]

To arrive at a more reasonable projection, Mr. Coppola used the three-year historical average unit cost of $373,747, adjusted for inflation to $384,121, multiplied by the eight projects, resulting in adjusted capital expenditures of $3,073,000, a reduction of $9.572 million from the bridge period amount proposed by the Company. For the test year, he added inflation to the bridge period amount he previously calculated and multiplied that amount by the 16 projects planned. This resulted in a test year disallowance of $4,959,000 for new lines associated with substation work.[457]

In rebuttal, Mr. Lynd reiterated his disagreement with Mr. Coppola's unit cost approach, noting that the methodology "is particularly unsuitable for this investment

[455] 5 Tr 2760-2761.
[456] 5 Tr 2761-2762.
[457] 5 Tr 2762.

category, where individual project costs vary widely based on scope and complexity."[458] Mr. Lynd testified that the projects contained in Exhibit A-127 "are not fungible units whose cost can be normalized[,]" pointing out the discrepancy in the Company's unit cost calculation for test year projects of $139,609 compared to the Attorney General's higher projection of $143,301. According to Mr. Lynd, this difference demonstrates the problem with the Attorney General's cost forecasting method.[459]

Concerning the increase in the number of projects in the test period, Mr. Lynd pointed to the review of the system and needs identified in the 2023 EDIIP, stating that this is the first case where Consumers has presented a plan to address equipment overloads and limiting the number of overload projects to 90 in the test year "will simply result in more overloaded assets remaining on the system for longer, increasing the risk of overload related outages."[460]

Addressing lines capacity associated with substation work, Mr. Lynd reiterated that using unit costs to project future expenditures is an unreasonable approach for this type of work.

The Attorney General's brief summarizes Mr. Coppola's testimony. Consumers' brief reiterates that a unit cost approach is inappropriate for estimating spending on planned projects.

This PFD finds that the Attorney General's adjustments to the LVD Lines Capacity subprogram should be adopted. As the Attorney General points out, Consumers provides little explanation for why the Company plans to reduce the number of upgrades in the

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[458] 4 Tr 717-718; Exhibit A-127.
[459] *Id*.
[460] 4 Tr 718.

bridge period to 18 (from an average of 44 per year) and then increase the number of equipment overload upgrades by a factor of seven in the test year. The PFD also agrees with the Attorney General that the increase in unit cost, at more than double the five-year average, is excessive and not sufficiently supported.

Turning to LVD Lines associated with substation work, this PFD again agrees with the Attorney General that Consumers' bridge and test year projections, based on average unit cost, is wildly out of line with the five-year average of costs for this type of project. Accordingly, the PFD recommends that the Attorney General's disallowances be approved.

Consistent with the foregoing discussion, this PFD adopts disallowances of $13,485,000 in the bridge period and $37,714,000 in the test year for LVD Lines Capacity.

x. Wildfire Risk Mitigation

Consumers requests that the Commission approve its proposed capital expenditures and O&M expenses for the Wildfire Risk Mitigation Program.[461] Mr. Kelly provided testimony to support Consumers' projected capital expenditures, as shown in Exhibit A-95, line 52, and its projected O&M expenses as shown in Exhibit A-107, line 45, for the program.[462] Mr. Kelly testified that the Wildfire Risk Mitigation Program is a new program proposed in response to recent wildfires in Northern Michigan, Hawaii, and Texas and based on Consumers' plan for Mitigating Wildfire Risk in Consumers Energy's Service Territory (2024-2028).[463] The plan uses the FEMA National Risk Index map to identify "elevated wildfire risk areas," which Consumers defines as "the areas FEMA

[461] Consumers brief, 72-75.
[462] 5 Tr 871-876, 911, 914, 942-943, 985.
[463] 5 Tr 872; Exhibit A-114.

classifies as relatively high and relatively moderate" in terms of wildfire risk.[464] According to him, approximately 21% of Consumers' service territory and approximately 98,315, or 5%, of its customers are located within an elevated wildfire risk area.[465] As shown in Exhibit A-95, line 52, Consumers projects capital expenditures of $12 million in the test year for the Wildfire Risk Mitigation Program, which includes $4 million for undergrounding, $6 million for covered conductor, and $2 million for protective line devices.[466]

Mr. Kelly testified that undergrounding is the relocation of "high-risk overhead conductor underground to eliminate foreign objects touching the overhead conductor, as this is the largest contributor to wildfire ignition from a powerline."[467] Of the 7,345 miles of overhead conductor in the elevated wildfire risk area, Consumers' wildlife risk mitigation plan identified 1,233 line miles (118 line miles in the relatively high wildfire risk area and 1,115 line miles area in the relatively moderate wildfire risk area) as candidates for undergrounding based on the criteria of having at least one outage in the last 24 months, serving between 10 and 100 customers, and operating at one of the three standard voltages.[468] The plan proposes capital expenditures of $4 million dollars in the test year to convert 10 miles of the overhead distribution system to underground in the relatively high wildfire risk area.[469]

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[464] Exhibit A-114, p. 11.
[465] 5 Tr 873; Exhibit A-114, p. 11.
[466] 5 Tr 875-876. Mr. Kelly testified that the $12 million includes $4 million for undergrounding, $4 million for covered conductor, and $4 million for protective line devices. *Id.* However, based on Exhibits A-114, pp. 23-26, and A-128, p. 51, it appears the $12 million includes $4 million for undergrounding, $6 million for covered conductor, and $2 million for protective line devices.
[467] 5 Tr 875.
[468] Exhibit A-114, p. 23.
[469] 5 Tr 876; Exhibits A—114, p. 24, and A-128, p. 51.

Mr. Kelly described covered conductor as the installation of "a conductor cable design that incorporates a polymer sheath on the external portion of the wire on high-risk circuits to protect against incidental contact with trees and other forms of vegetation."[470] After accounting for lines identified for undergrounding, 6,112 line miles remain in the elevated wildfire risk area (727 line miles in the relatively high wildfire risk area and 5,385 line miles in the relatively moderate wildfire risk area).[471] The plan proposes capital expenditures of $6 million dollars in the test year to install covered conductor on approximately 15 miles of line in the relatively high wildfire risk area.[472]

According to Consumers' wildfire risk mitigation plan, its distribution system primarily relies on sectionalizing devices, including fuses, sectionalizers, and reclosers, to protect the system when faults occur.[473] These devices "maintain electric service reliability by isolating faulted sections of the system."[474] Currently, the majority of fuses used in Consumers' distribution system are expulsion fuses, which operate by discharging molten material within the fuse through a venting system in the bottom of the fuse cylinder to isolate the fault.[475] Because this discharge could ignite nearby fuel sources, Consumers' wildfire risk mitigation plan proposes replacing the expulsion fuses in elevated wildfire risk areas with non-expulsion fuses.[476] The plan also proposes adding reclosers to the LVD distribution lines in the elevated wildfire risk area, which will allow Consumers "to only adjust settings for a portion of a circuit instead of the entire circuit

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[470] 5 Tr 875.
[471] Exhibit A-114, p. 25.
[472] 5 Tr 876; Exhibits A—114, p. 25, and A-128, p. 51.
[473] Exhibit A-114, p. 25.
[474] *Id.*
[475] *Id.*
[476] Exhibit A-114, pp. 25-26.

with a substation recloser."[477] In accordance with this, the $2 million of capital expenditures for protective line devices is to replace expulsion fuses and add reclosers in various locations in the wildfire area.[478]

As shown in Exhibit A-107, line 45, Consumers projects O&M expenses of $14,000 in the bridge period and $652,000 in the test year for the Wildfire Risk Mitigation Program.[479] According to Mr. Kelly, "[t]he bridge period expenses represent an annual cost to include wildfire forecasting in the Company's contract with its weather monitoring service"[480] and the test year expenses include $12,000 for the annual cost of wildfire-specific weather forecasting, as well as $321,000 for increased line clearing to reduce the clearing cycle to a 5-year average for 7.2/12.47 kV and 4.8/8.32 kV circuits and $319,000 to capture Light Detection and Ranging (LiDAR) imagery for approximately 1,000 LVD primary miles in relatively high wildfire risk areas.[481]

Staff does not recommend any adjustments to Consumers' projected capital expenditures and O&M expenses for the Wildfire Risk Mitigation Program.[482] Ms. Durfee reviewed Consumers' wildfire risk mitigation plan and projected costs, and based on her testimony, Staff does not take issue with them.[483] However, both Attorney General witness Coppola[484] and ABATE witness York[485] objected to the proposed capital

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[477] Exhibit A-114, p. 26. While setting reclosers to automatically lock out on a single trip event or enabling fast trip settings as Consumers proposes in its wildfire risk mitigation plan will reduce wildfire ignition risk, it will result in more interruptions for customers. Exhibit A-114, p. 20. More reclosers would limit this interruption.
[478] 5 Tr 876; Exhibits A-114, p. 26, and A-128, p. 51.
[479] 5 Tr 985.
[480] *Id.*
[481] 5 Tr 876; Exhibit A-114, pp. 14, 28-29.
[482] 5 Tr 3847-3848, 3850.
[483] 5 Tr 3846-3848, 3850.
[484] 5 Tr 2767.
[485] 5 Tr 3358.

expenditures for this program as premature. However, neither Mr. Coppola[486] nor Ms. York[487] objected to the proposed O&M expenses for the program.

With respect to the capital expenditures, Mr. Coppola asserted that "[t]he risk of electric line wildfires in the Company's service territory is minimal and the proposed program would add unnecessary costs to an already large capital spending program in other areas of the Company."[488] He pointed out that data from the Michigan Department of Natural Resources indicates that powerlines caused 9.5% of total fires in the Michigan Lower Peninsula during the 10 year period from 2012 to 2023 and accounted for 2.5%[489] of the acres of land burned.[490] He also asserted that wildfires in Hawaii, Texas, and California[491] are inapplicable to wildfire risk in Michigan because Michigan has a different climate than these states and wildfires in Michigan "are usually easily contained and do not pose a large risk to the state's population."[492] Mr. Coppola further noted that Consumers has not conducted a historical analysis of fires caused by its electrical lines or equipment in the past 20 years.[493] He also stressed that the capital expenditures proposed for this program are expected to grow to $73 million by 2029.[494] For these reasons, Mr. Coppola recommended that the Commission disallow the entire $12 million in capital expenditures proposed for the test year.[495]

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[486] 5 Tr 2767; Exhibit AG-1.32.
[487] 5 Tr 3333-3337.
[488] 5 Tr 2765.
[489] According to Exhibit AG-1.11, p. 4, the correct percentage is 2.9% and not 2.5%.
[490] 5 Tr 2766.
[491] According to Ms. York, "when asked what is causing wildfires started by power lines, the Company referred to information identified by Pacific Gas and Electric in California." 5 Tr 3358.
[492] 5 Tr 2765-2766.
[493] 5 Tr 2766.
[494] 5 Tr 2767.
[495] *Id.*

Ms. York raised similar concerns, noting that "power lines are not the main cause of wildfires in Michigan's Lower Peninsula, and have resulted in less acres burned than the majority of other ignition sources."[496] Ms. York also noted that Consumers has not compared the risk of wildfires in Michigan with the risk of wildfires in other states or analyzed the number of wildfires started by Consumers' electric lines and equipment in the past 20 years.[497] In addition, she contended that Consumers already takes precautions to mitigate wildfire risk and has not explained why these procedures are insufficient.[498] She recommended disallowing the entire $12 million in capital expenditures proposed by Consumers for the test year.[499]

In rebuttal, Mr. Kelly responded that Consumers' proposed wildfire risk program relies on FEMA's wildfire risk assessment.[500] Mr. Kelly acknowledged that "FEMA identifies Hawaii and Texas as having a small number of census tracts with a 'Very High' risk whereas census tracts in Michigan have a maximum rating of 'Relatively High'", but rejoined that the area surrounding Lahaina, Hawaii, where the "devastating utility-related wildfire" occurred in 2023 has a "Relatively High" FEMA rating.[501] He also pointed out that "even relatively small, easily contained fires can be disruptive, resulting in evacuations, property damage or loss, injuries to people, and requiring multi-agency responses," and that climate change will increase wildfire hazards.[502] In response to the claim "that the projected test year is only the beginning salvo of a program that will grow in size in future

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[496] 5 Tr 3358.
[497] *Id.*
[498] 5 Tr 3359.
[499] 5 Tr 3357.
[500] 5 Tr 1046.
[501] 5 Tr 1046; Exhibit A-246.
[502] 5 Tr 1047-1048.

years," Mr. Kelly stressed that the plan will evolve and improve over time and Consumers' is currently seeking approval of only the test year investment.[503] Regarding Ms. York's assertion that Consumers already takes precautions to mitigate wildfire risk, Mr. Kelly clarified that "the purpose of the Wildfire Risk Mitigation Plan is not to invent new types of work, it is to create a specific program to transparently focus work in targeted areas to best mitigate the identified wildfire risk."[504]

Relying on Mr. Coppola's testimony, the Attorney General's brief argues that Mr. Kelly "inflates the risk of wildfires in Michigan" and that the company is "proposing a [costly] solution without first analyzing and understanding if there is a problem and the nature of any problem."[505] ABATE's brief summarizes Ms. York's testimony and emphasizes that Consumers has not performed the analysis necessary to adequately support that the wildfire risk justifies the proposed expenditures and that Consumers "did not explain why its normal operating procedures, and other planned distribution investment (which includes the same types of projects identified in the Wildfire Risk Mitigation Plan), are not sufficient."[506]

Consumers' reply brief provides no additional argument on this issue.

No party objected to the Wildfire Risk Mitigation Program O&M expenses, which should be approved. These expenses, which this PFD finds reasonable, are largely focused on monitoring and enhanced line clearing. Nevertheless, the PFD agrees with the Attorney General and ABATE that the capital expenditures for the Wildfire Risk

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[503] 5 Tr 1047.
[504] 5 Tr 1054.
[505] Attorney General brief, 76-77.
[506] ABATE brief, 10-11.

Mitigation Program are not justified based on this record and recommends that the Commission disallow the $12 million of proposed capital expenditures. Consumers may request funding for this program in the future if the company presents a more detailed risk analysis based on Consumers' history with wildfires and provides evidence, including a cost benefit analysis, to support the reasonableness and prudence of the proposed capital expenditures.

xi. LVD Metering and Transformers

Mr. Lynd testified that the LVD Transformers subprogram purchases distribution transformers, the costs of which ($71.336 million in the bridge period and $75.583 million in the test year) are largely driven by LVD Lines New Business spend.[507] No party objected to the Company's projected spend for LVD transformers.

The LVD Metering subprogram supplies meters and associated equipment. The subprogram operates through a single purchase plan combined into one Demand Failures category with meter sockets and electric capital meter test equipment costs "allocated across the total meter and metering transformer units."[508] Per Mr. Lynd, "the Company decided to defer replacement of 4G LTE Meters to a later date" following the Commission's March 1, 2024, Order in Case No. U-21389.[509] Metering consists of the New Business Program and the Demand Failures Program, as well as advanced metering to address DR and DG programs.[510] LVD Metering Capital expenditures are set forth in Exhibit A-95, projecting 44,254 new business units for the bridge period and 32,348 units

[507] 4 Tr 680-681.
[508] 4 Tr 673.
[509] 4 Tr 674.
[510] 4 Tr 674.

for the test year, for $23,931,000 and $20,927,240, respectively.[511] Metering Demand Failures costs are projected at $28,093,000 for the bridge period and $24,566,760 for the test year, for 51,951 and 37,973 units, respectively.[512]

According to Mr. Lynd, LVD Metering subprogram costs, and per unit costs, have varied over time, with an increase in replacements and costs during 2021 through 2023 due to completion of 3G meters being replaced by 4G meters, and due to contaminated batteries causing meter failures outside of the meters' 3-year warranty period.[513] Some legacy meters are still purchased, generally supporting the MV90 meters of approximately 5,000 large commercial and industrial customers with internet-over-IP or telephonic meter communication, and supporting customers who have opted out of the smart meter program.[514] New units are generally more expensive, with commercial/industrial metering resulting in higher costs.[515]

Mr. Lynd testified that unit costs in 2021 "were lower due to the impact of discounted 3G/4G replacement meters and lower numbers of polyphase meters purchased."[516] However, smart meter pricing is contractually fixed until 2032, with purchases of polyphase meters and a 5% pricing surcharge increasing unit purchase costs through 2023.[517] Per Mr. Lynd's testimony, the conversion of 400-amp services to transformer rated installations should increase safety by reducing the need to de-energize

[511] 4 Tr 674-675.
[512] 4 Tr 675.
[513] 4 Tr 676.
[514] 4 Tr 678-679.
[515] 4 Tr 676-678.
[516] 4 Tr 678.
[517] 4 Tr 678.

locations to permit work to be performed.[518] Because of the wide variation in the costs of metering transformers, meter sockets, and individual meter pricing, average unit cost, average unit cost is not a good measure of the reasonable spending for the LVD Metering subprogram.[519]

Mr. Kandan testified that the Company is seeking approval for $44,460 in capital expenditures (along with $52,400 in O&M) for the test year for the Itron Enterprise Edition (IEE) 2026 Upgrade to upgrade the application that reads AMI meters.[520] Upgrading to appropriate versions, migrating the database to the next version required by the application, and "replacing hardware required by the next version to maintain operating system currency" is being done to ensure functionality and prevent cyberattack.[521] Although not restricted to AMI, the Company also proposes $242,538 in capital expenditures (and $81,266 in O&M) for digital infrastructure automation.[522]

Dr. Sherman on behalf of MEIU did not oppose Consumers' proposed AMI expenditures in this case, instead she expressed concern with the Company's future AMI replacement strategy, and recommending a "separate, on the record proceeding on this topic."[523] Dr. Sherman opined that a standalone docket would allow for the "robust evaluation" of how the Company intends to evaluate next-generation AMI functionality and capabilities, vendor capabilities, and develop a comprehensive business case.[524] In her view, a separate docket would allow for greater collaboration at this time of "rapid

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[518] 4 Tr 676-678.
[519] 4 Tr 679-680.
[520] 5 Tr 1912.
[521] 5 Tr 1912.
[522] 5 Tr 1933-1934.
[523] 5 Tr 3174.
[524] 5 Tr 3197-3198.

technological transformation" of a foundational and interdependent technology important to meeting reliability and clean energy goals.[525] To Dr. Sherman, the proposed spending indicated that planning and evaluation of future AMI procurement needed greater scrutiny based on the "history and complexity of AMI-related issues."[526]

In support of MEIU's recommendation, Dr. Sherman outlined the history of Consumers' AMI investment requests dating back to its 2010 electric rate case, listing the operational benefits of the system initially touted by the Company, the concerns raised by many parties in relation to the AMI pilot report generated pursuant to the Commission's requirements, and the Commission's ultimate authorization of AMI expansion.[527] Within this narrative, she highlighted that the Company indicated in its AMI business case that it anticipated the net present value (NPV) benefit for full AMI deployment to be $38 million. However, Staff believed that this was based on "overly-optimistic assumptions related to projected useful meter life, the lack of budgeting for contingency funds," and estimated residential customer conservation levels.[528] Dr. Sherman also highlighted Staff testimony that the meter vendor's 20-year warranty did not cover technical obsolescence, and that the Company's lack of contingency ignored reasonable expectations regarding the replacement of component parts and necessary software updates to address equipment failures and support future applications.[529]

Dr. Sherman noted that, while the Commission authorized full AMI deployment, without implementing Staff's recommended conditions and over the ALJ's recognition of

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[525] 5 Tr 3174-3175.
[526] 5 Tr 3174-3175.
[527] 5 Tr 3175-3179.
[528] 5 Tr 3177-3178.
[529] 5 Tr 3177-3178.

parties' concerns with the business case methodology, the Commission, in its February 2017 Order in Case No. U-17990, directed Consumers to submit annual AMI reports. These were to be submitted in the Company's AMI business case and annual Smart Grid Report to demonstrate "how the Company and its customers are realizing the projected benefits from the initial AMI investments" and to assist the Commission in overseeing AMI implementation.[530] The Commission has rebuffed the Company's subsequent requests to end the annual reporting requirement on the basis that the implementation phase of AMI has been ongoing and that the benefits of AMI have not been well-documented.[531]

In contrast, Mr. Kelly testified that the Company met with Staff in March and April of 2024 "to coordinate appropriate value-focused AMI metrics and elements" to be included in future rate case filings.[532] The AMI metrics and elements resulting from coordination with Staff are included in Exhibit A-118.[533] According to Mr. Kelly, Consumers "expects to continue coordinating with MPSC Staff in evaluating whether and to what extent other value-focused AMI metrics and elements should be considered."[534]

According to Dr. Sherman, however, AMI has three major issues: (1) periodic cellular network changes precipitating the replacement of hundreds of thousands of meters; (2) Consumers' failure to justify the reasonableness of its AMI subprograms to justify an end to the required annual updates; and (3) meter malfunctions related to contaminated batteries whose failures were outlined in Case No. U-21458.[535] By August

[530] 5 Tr 3179.
[531] 5 Tr 3179.
[532] 5 Tr 998.
[533] 5 Tr 998.
[534] 5 Tr 999.
[535] 5 Tr 3180 & 3183-3184.

of 2023, Consumers had to replace or retrofit 680,000 meters to support 4G technology as cellular companies phased out 3G technology. Consumers must now replace or retrofit approximately 1 million 4G LTE meters with 4G CatM1 or 5G meters before 2032.[536] Although Company witnesses are now indicating that Consumers is deferring replacement of the 4G LTE meters to a later date, the EDIIP indicates that 50,000 meters were originally to be replaced in 2024, with replacements increasing to 175,000 per year in 2027 through 2032.[537]

Additionally, as testified to by Dr. Sherman, "the Company continues to fail to provide a sufficient business case to satisfy the Commission that its AMI investments are reasonable;" nevertheless, the Company continues to request that the annual reporting requirements end.[538] Dr. Sherman cited the PFD in Case No. U-21389 for the proposition that "the current NPV for advanced metering is a negative $60 million."[539] Dr. Sherman also quoted a passage from the Commission's March 1, 2024 Order in the same case, stating the Commission's position that it is when AMI benefits are obtained, and not when AMI meters are installed, that its oversight should end.[540] As stated by the Commission, the AMI business case reporting is not genuinely duplicative of other reports, and Consumers' representations that NPV has not changed since Case No. U-20963 are untrue, because they ignore approximately half a billion dollars invested to replace failed meters and upgrade to 5G compatible equipment.[541]

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[536] 5 Tr 3181.
[537] 5 Tr 3181-3182.
[538] 5 Tr 3182-3183.
[539] 5 Tr 3182.
[540] 5 Tr 3182.
[541] 5 Tr 3182.

The Commission also wished to see "efficiencies and cost savings;" how increased system awareness and capability can improve reliability; and how AMI infrastructure can facilitate DER deployment.[542] From this, Dr. Sherman asserted that the issues that surfaced during Staff's investigation in Case No. U-21458 in relation to the 3G meter failures before their obsolescence "exposes the overall need for more transparency and greater scrutiny," as well as the "vulnerability of being locked into a single vendor when a crisis occurs."[543] According to MEIU, use of a single AMI vendor resulted in the Company's inability to purchase replacement meters in sufficient numbers, and the meters will not communicate with other vendors' software, while other vendors' meters will not communicate with the existing AMI software in use.[544]

Dr. Sherman testified that it is not clear how Consumers is planning for future AMI investments, and it is not clear how AMI will be used to aid in DER deployment.[545] In a discovery response, the Company indicated that it is "evaluating different scenarios for the future of its AMI technology, including, but not limited to, maintaining the status quo, upgrading the existing vendor technology, switching to another vendor's products or utilizing multiple vendor products and systems."[546] Nevertheless, in a different discovery response, Consumers indicated that its AMI technology focus will be on the technology's obsolescence.[547]

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[542] 5 Tr 3182-3183.
[543] 5 3184-3185.
[544] 5 3184-3185, citing Exhibit MEIU-12.
[545] 5 Tr 3185.
[546] 5 Tr 3185-3186, quoting Exhibit MEIU-12.
[547] 5 Tr 3186, citing Exhibit MEIU-13.

Dr. Sherman expressed concern "given the rapid pace of change in advanced smart meter technologies, particularly in grid-edge computing."[548] The Company's 2023 EDIIP indicates that the average lifespan of an electric meter is 20 years.[549] However, Dr. Sherman noted that an obsolescence-focused approach does not account for "value-focused AMI metrics" identified during the course of Case No. U-21389.[550] To Dr. Sherman, this merited greater scrutiny by the Commission where the Company had not clearly stated how its technology is being used for future DR and renewable programs, and where the vendor's warranty does not cover obsolescence, potentially leaving the Company with a $406.4 million investment in technology that cannot adapt or support additional distributed devices, particularly DER deployment, across its electric grid.[551]

Additionally, Dr. Sherman testified that other states have initiated state-wide examinations of next generation AMI technology to address technological innovation and grid modernization, especially clean energy adoption, DER integration, and addressing reliability in the face of severe weather. She specifically outlined the actions of Connecticut, Colorado, and Rhode Island, all of which seemingly took a long-term view of AMI functionality, integration with evolving technologies, and the ease and effectiveness of updating the AMI infrastructure over time.[552]

MEIU took the position that, because customers have not benefited from the Company's initial AMI investments, and because AMI meter testing waivers during implementation led to customer complaints, a separate proceeding would assist

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[548] 5 Tr 3186-3187.
[549] 5 Tr 3187.
[550] 5 Tr 3185.
[551] 5 Tr 3186-3188.
[552] 5 Tr 3188-3193.

Consumers in securing AMI functionality supporting DER expansion, decarbonization, and grid resiliency while avoiding future AMI meters becoming stranded assets.[553] The focus of the separate proceeding would be on evaluating the next-generation AMI functionality and vendor capabilities, developing a fuller business case, and ensuring that the AMI procurement and implementation strategy would "better ensure that this investment fully maximizes potential benefits."[554] Dr. Sherman also believed that other utilities, specifically DTE Electric Company, would benefit from a broader Commission investigation into next-generation AMI planning.[555]

Ultimately, Dr. Sherman recommended that the Commission open a separate proceeding "to investigate the Company's (and other utility's) future next generation AMI functionality and vendor capabilities; develop a robust and comprehensive business case; and execute a procurement and implementation strategy to ensure that this investment fully maximizes potential benefits."[556]

MEIU's brief generally reflects Dr. Sherman's testimony, but also highlights Mr. Kelly's short rebuttal testimony that, because the Company's cellular provider will continue supporting 4G technology into the mid-2030's, Consumers does not anticipate addressing replacement of the 4G meters until 2028 or 2029.[557] MEIU disagrees with Mr. Kelly's contention from this that an AMI-specific proceeding is not needed at this time due to the delay in AMI meter replacement. Instead, MEIU asserts that the "revelation" that Consumers is delaying meter replacement "simply reinforces concerns regarding the lack

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[553] 5 Tr 3193-3194.
[554] 5 Tr 3194-3195.
[555] 5 Tr 3195-3197.
[556] 5 Tr 3197-3198.
[557] 5 Tr 1055. MEIU brief, 23

of transparency that underlies MEIU's call for an open and collaborative AMI-related investigation" while demonstrating "the Company's narrow focus on technology obsolescence."[558] MEIU maintains that it would be more appropriate for an AMI-focused proceeding to be opened in order to take an "holistic view" of AMI technology, particularly so that DER integration is treated on a planned, and not a customer-by-customer, basis.[559]

Consumers' brief and reply brief address MEIU's position by asserting that the Company has clearly informed the Commission and interested parties of the delay in replacing 4G meters, and further addresses it by reiterating that the delay in replacing 4G meters to 2028 or 2029 means that "there is no need for the Commission to require a new proceeding related to AMI replacement."[560] In its reply brief, Consumers asserts that Dr. Sherman's suggested standalone docket would impermissibly dictate the Company's business decisions.[561]

After considering the arguments of the parties, this PFD recommends that a balance be struck by the Commission opening a collaborative docket or technical conference to develop guidelines for next generation AMI meter purchasing. The guidelines' development process should consider competitive bidding, and necessary and desirable functionality for the advanced meters, particularly as it relates to the existing grid, and to functionality for DER and renewable energy expansion going forward.

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[558] MEIU brief, 23.
[559] MEIU brief, 23-24.
[560] Consumers brief ,76-77. Consumers reply, 22-23.
[561] Consumers reply, 22-23.

Turning to AMI opt-out charges, for customers electing a non-transmitting meter, with no radio frequency communication, Consumers charges $69.39 for installation before a transmitting meter is installed, $123.91 installed after a transmitting meter is installed, plus $3 per month per premises. The electric base rates for customers with non-transmitting meters are also structured differently than those for transmitting meters.[562] In Case No. U-17000, The Commission ordered that AMI opt-out be based on cost of service.

Mr. Hansen presented Staff's recommendation that the Commission direct the Company to re-evaluate AMI opt-out charges and rates to reflect the cost of service prior to the Company's next rate case.[563] Given Mr. Hansen's testimony that some of the charges have not yet updated since 2020 or earlier,[564] this PFD recommends that the Commission direct Consumers to update their AMI opt-out-related charges and rates to reflect current cost of service in the Company's next rate case.

xii. Other LVD Adjustments

Mr. Coppola testified that in response to an Attorney General discovery request, the Company provided information showing that 8 projects in the bridge period totaling $14,428,000 and 26 projects in the test year totaling $45,483,000 are currently in the planning phase or have been deferred and no design work has been completed. According to Mr. Coppola, "[t]hese projects are still in the early phase of development, and it is uncertain if and when they will be completed and at what specific cost."[565] He

[562] 5 Tr 3697.
[563] 5 Tr 3698.
[564] 5 Tr 3698.
[565] 5 Tr 2763-2764; Exhibit AG-1.10.

identified these projects as premature and opined that they should not be included in Consumers' rate base at this time. He recommended a disallowance of $14,428,000 from the bridge period and $14,144,000 from the test year, explaining that to avoid duplication of other adjustments, his recommended disallowance for the test year only includes 14 projects.[566]

In rebuttal, Mr. Lynd testified that Mr. Coppola's assumptions are incorrect and unsupported, particularly the assumption that it is not known when or if the projects will be completed. Mr. Lynd says the labeling of test year projects as being premature is particularly egregious since it is "eminently reasonable" that planning would still be occurring in August 2024 when the projects are not intended to be completed until late 2025**.**[567] He further indicated that he provided the reasons some projects were deferred and that other projects were incorporated into the work plan to account for the deferred spending. He testified that if Mr. Coppola's recommended disallowances are adopted, the Company will have to delay many reliability projects and deny customers the benefits these projects would provide.[568]

Consumers' brief reiterates Mr. Lynd's rebuttal testimony and notes that the Attorney General provides no evidence to support her conclusion that the Company is unlikely to perform these projects.[569]

In her brief, the Attorney General argues that Consumers has not demonstrated that the identified projects will be completed as projected, and the Commission has

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[566] Id.
[567] 4 Tr 720.
[568] 4 Tr 721.
[569] Consumers brief, 77-78.

previously rejected including the costs of premature projects in rates. Further, if the Commission disallows recovery of these projects in this rate case, the Company can still move forward with a project and recover any reasonable and prudently incurred costs in the next rate case.[570]

This PFD agrees with the Attorney General that premature projects should be removed from rate base. A review of Exhibit AG-1.10 demonstrates that the projects at issue are either deferred or in the planning stage, and those that are currently in the planning phase are not scheduled to commence until late in the test year. Further, the Company did not provide compelling rebuttal testimony or briefing to support the projects or provide any updated information that any of the projects had moved from the planning phase to a subsequent phase. Given their current status, coupled with Consumers' propensity for ongoing reprioritization of projects, this PFD finds a disallowance to be reasonable at this time. Based on the foregoing this PFD adopts the Attorney General's recommendation to remove $14,428,000 from the bridge period and $14,144,000 from the test year and notes that all reasonable and prudent costs can be recovered in a future rate case.

d. Grid Modernization

Mr. McPhail provided a detailed overview of Consumers' Grid Modernization efforts, explaining that "Grid Modernization refers to the planned process of investing in grid infrastructure improvements (i.e., poles, wires, transformers, etc.), and incorporating new technologies and applications into the electric distribution system."[571] According to

[570] Attorney General brief, 78-80.
[571] 5 Tr 2204.

him, modernizing the grid will result in numerous benefits to customers including reduced outages and restoration costs, improved system resiliency, improved power quality, and reduced asset degradation and capital and maintenance costs.[572]

Mr. McPhail explained that the Grid Modernization subprogram is divided into "five key pillars of work" including Distribution Circuit Modernization, Substation Modernization, Distribution Asset Management, Planning Systems Modernization, and Operational Systems Modernization.[573] Total projected investments in the Grid Modernization subprogram are $24.258 million in the bridge period and $37.689 million in the test year.[574]

Although no party took issue with the Substation Modernization category, the Attorney General and MEIU raised concerns about the remaining programs. These issues are addressed below.

i. Distribution Circuit Modernization

As shown in Figure 1 of Mr. McPhail's testimony, the Distribution Circuit Modernization spend category includes: (1) Line Sensors; (2) Voltage Regulator Controllers; (3) Capacitor Upgrades; (4) NOVA Triple Single; (5) Peer-to-Peer Automation; (6) Recloser Modernization; (7) Line Sensor Alternatives; (8) Metro Modernization; and (9) Pole Sensors. Mr. Coppola took issue with the proposed spending for the largest cost category, Line Sensors.

As shown in Figure 4 at 5 Tr 2216, Consumers proposes spending of $10.714 million in the bridge period and $6.808 million in the test year to install 2,860 and 1,000

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[572] 5 Tr 2205.
[573] *Id*.
[574] 5 Tr 2210-2211.

line sensors in the bridge and test periods respectively.[575] Mr. McPhail explained that "[l]ine sensors are inductively charged devices installed on the overhead primary conductor of the electric distribution system to remotely monitor electrical current and detect sustained, momentary, and potential faults, improving the capability to respond quickly and reduce customer outages."[576] He further testified that line sensors provide remote monitoring capability to reduce outage durations and provide data for time-of-day and seasonal loading. According to Mr. McPhail, "[t]he primary line sensor benefits stem from enhanced fault detection through an increased ability to accurately pinpoint the source of faults or grid disturbances."[577]

Mr. McPhail explained that the Company selects locations for line sensors by evaluating and prioritizing circuits based on CAIDI, length of overhead miles, number and type of customers, and historical outage events.[578] He stated that by the end of 2025, Consumers will end mass deployment of line sensors and "will transition deployment of any additional line sensors to the appropriate business program."[579] Mr. McPhail provided a list of projects for the bridge and test periods in Exhibits A-132 and A-133, and he testified that the projected spending is the sum of the cost of each project.

Mr. Coppola questioned the increase in the projected cost of line sensors compared to historical costs. He calculated the unit cost per line sensor to be $3,539 in the bridge period and $8,173 in the test period. Noting Mr. McPhail's dismissal of a unit cost approach for this spend category, Mr. Coppola observed that "[Mr. McPhail] admits

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[575] 5 Tr 2219.
[576] 5 Tr 2216.
[577] 5 Tr 2217.
[578] 5 Tr 2218.
[579] 5 Tr 2219.

that unit costs were calculated based on historical data and that over multiple years the costs level off. However, it remains unexplained why unit costs rise so dramatically in the bridge period and projected test year, particularly when 2025 is the last year for the program."[580]

Consistent with this concern, Mr. Coppola used a three-year historical average of unit costs of $2,905 adjusted for inflation. In the bridge period, this results in a unit cost of $2,986 which, multiplied by the number of units, results in projected expenditures of $9.039 million. For the test period, Mr. Coppola calculated a unit cost of $3,052 multiplied by 833 units resulting in expenditures of $2.542 million. Consistent with his analysis, Mr. Coppola recommended disallowances of $1.675 and $4.266 million, respectively, in the bridge and test periods.

In rebuttal, Mr. McPhail recalled his direct testimony that a unit cost approach for projecting the costs of line sensors is inappropriate because projects may span multiple years. He added:

> Based on 2024 installation costs, a reasonable estimate for a line sensor installation is $3,051 per unit. In the test year, the Company will need to renew software which provides data from the line sensors into the Company's Advanced Distribution Management System ("ADMS") used by Grid Operators such as Dispatchers. Without this software, the Company would lose visibility to this line sensor, jeopardizing customer benefits. Thus, the amount requested in the test year is appropriate to cover the installation costs of each line sensor and to renew the needed software.[581]

He noted, however, that Consumers mistakenly included $2.083 million for the Reliability Analytics Monitoring Program (RAMP) in the bridge period line sensor spend,

[580] 5 Tr 2779.
[581] 5 Tr 2292.

which was also included under Planning System Modernization. As such, the total bridge period spend should be $8.631 million for line sensors, rather than the $10.714 million originally projected.[582]

In her brief, the Attorney General accepted the Company's bridge period adjustment of $2.083 million and continued to recommend a reduction of $4.266 million in the test year based on Mr. Coppola's unit cost analysis.[583]

This PFD finds that the Company's adjustment/correction of $2.083 million in the bridge period should be accepted as well as the Attorney General's $4.266 million reduction in the test period. Consumers failed to include the costs associated with a purported update to the ADMS software in its initial filing, only providing this evidence in rebuttal when there was insufficient time for other parties to respond to new information. Reasonable and prudent costs for the ADMS software update may be requested in a future rate case.

ii. Distribution Asset Management and Planning Systems Modernization

Mr. Coppola raised general concerns about the Company's proposed capital expenditures of $7.285 million in the bridge period and $20.912 million in the test year for Distribution Asset Management (DistAM), Planning Systems Modernization, and Operational Systems Modernization programs. According to him, when asked in discovery why these various programs and technologies need to be implemented now, when the Company's focus should be on reducing outages, the Company's response was

[582] 5 Tr 2292-2293.
[583] Attorney General brief, 82-83.

inadequate. Mr. Coppola also requested that the Company provide benefit cost analyses for the projects, the current phase of each project, and the forecasted total cost.[584] Referencing Exhibit AG-1.14, Mr. Coppola testified that:

> The response shows that the total amount of capital and O&M spending to get the projects completed would be in excess of $66 million. This is a staggering amount that could be redirected to more immediate needs. The response also does not make a compelling case that the new systems are necessary at this time and current systems can no longer be used. In the response, the Company also stated that either a CBA had not been done or provided only scant information on potential cost savings and not a full economic justification to undertake the projects. Furthermore, the discovery response show that most segments of the projects are in the initial scoping and conceptual phase or early development of system requirements. It is both premature and unwise to include the proposed capital expenditures in rate base in this rate case.[585]

Consistent with his testimony, Mr. Coppola recommended a full disallowance associated with these three grid modernization programs.

In her brief, the Attorney General highlights the DistAM program, noting Mr. McPhail's testimony that the Commission approved the (total) $12 million cost for the program in Case No. U-21389. In the instant case, Consumers projects expenditures of $5.9 million for the bridge period and $6.863 million for the test period, with an updated total cost of $17.288 million. According to her, although the Commission approved the $12 million expenditure, it also "requested that the Company provide support and justification for costs above $12 million."[586] The Attorney General argues that Mr. McPhail did not provide support for the increase of $5.288 million from the original estimate; thus, this amount should be disallowed.[587]

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[584] 5 Tr 2780.
[585] 5 Tr 2780-2781.
[586] Attorney General brief, 84-85, citing March 1, 2024 order in Case No. U-21389, pp. 40-41.
[587] Attorney General brief, 85.

In its reply, Consumers argues that the disallowance should be rejected, citing the Commission's discussion of the benefits of DistAM in Case No. U-21389, and how it will support the objectives of the EDIIP. Consumers maintains that it provided detailed information in the instant case, "including an explanation of the different DistAM investment categories and the amounts that are projected in the bridge period and test year for each category."[588]

In its discussion of DistAM in the March 1, 2024 order in Case No. U-21389, pp. 40-41, the Commission determined:

> The Commission agrees with the ALJ's observations regarding the shortcomings of Exhibit A113 and the evidence supporting these numerous Advanced Technologies projects with the exception of the Distribution Asset Management (DistAM) project. Consumers seeks capital expenditures of $3.77 million for the bridge period and $3.67 million for the test year for this project. 4 Tr 1629. The DistAM project applies asset management principles to attempt to maximize the usefulness and value of electric distribution assets over their lifecycles, and was approved in Case No. U-20697 and re-approved for funding in the December 22 order, pp. 44-45. The Commission finds that Consumers provided sufficient evidence to support the continuation of this project and approves the requested DistAM funding for rate base treatment. See, 4 Tr 1619-1630. In particular, Consumers provided evidence showing the benefits of the DistAM project and how the project will support the objectives of Consumers' EDIIP. 4 Tr 1926-1928. However, the Commission notes that its original approval of the DistAM project in the December 22 order was based on the CAD from 2021 which projected total costs of $12 million through 2024, and that original projection has been reached. Thus, the Commission will require updated data, including total costs, for any future cost recovery requests associated with the DistAM project.

This PFD finds that while Mr. McPhail did provide an updated and detailed review of investment categories and total project costs for DistAM,[589] nowhere in his testimony

[588] Consumers reply, 20, citing 5 Tr 2260-2273.
[589] See, Figure 14 at 5 Tr 2262.

does he explain why the projected total costs have increased by over 30% in one year. While it does appear that the Commission recognized in the previous rate case there may be some additional costs for DistAM, the Company's failure to explain, let alone justify, the significant increase is concerning. Therefore, this PFD finds that $5.288 million for DistAM should be disallowed until the Company provides more information on the substantial increase in cost associated with the project.

Under the Planning Systems Modernization program, the Attorney General's brief also highlights the RAMP, noting that the Company is working with the developer; the software for the program is not yet commercially available, and the project appears to be in the conceptual phase. As such, she recommends removal of $2.083 from the test year. Consumers' reply brief does not specifically address the Attorney General's recommendation.

This PFD agrees with the Attorney General that the inclusion of costs for RAMP in base rate is premature at this time. As set forth in Exhibit AG-1.14, p. 4:

> The Company explored many internal and external resources. It was determined the Company has limited capabilities to predict and identify the types of adverse conditions on the electric distribution system that, if left uncorrected, could result in outages for customers. The RAMP software and methodology is [sic] new to the industry and not yet commercially available. This opportunity allows the Company to work with the vendor to build a sustainable, reliable, and cost effective solution that utilizes the existing line sensor assets already purchased and managed by the same vendor. Utilizing the existing line sensor assets with another vendor's analytic software that has the same capabilities as RAMP would be significantly more costly given that it would require a significant amount of IT infrastructure hours and investment to build the necessary integrations between the different software.

While the investment appears reasonable, the Company's discovery response does not provide sufficient assurance that the software will be fully developed

and deployed in the test year. As such, this PFD recommends disallowing $2.083 million in the test year for RAMP.

iii. Operational Systems Modernization

Mr. McPhail testified that Operational Systems Modernization is an "initiative tasked with researching, developing, and demonstrating desired future state technologies and solutions to incorporate into the Company's operational processes."[590] Its purpose is to "leverage technologies to generate new operational capabilities, enhance operational procedures to optimize the outage restoration process, enable new grid functionality to meet future state business needs, specifically toward the integration of DER, and consider interdependencies with other Grid Modernization initiatives to support cross-functional use cases."[591] The Operational Systems Modernization initiative is broadly divided into Fault Location Isolation and Service Restoration (FLISR) and DER optimization, with the capital expenditure plan set forth in Exhibit A-95 as part of the broader Grid Modernization capital expenditure plan.[592]

Mr. McPhail testified that FLISR is an ADMS application the Company intends to implement in the test year using communicating grid equipment, such as line sensors and reclosers, to quickly detect and locate faults in the system, and then reroute power around those faults to minimize the scope of outages.[593] The expectation is that this will "revolutionize the management of electric outages by minimizing their impact and duration."[594] Mr. McPhail indicated that FLISR circuits would be chosen based on poor

[590] 5 Tr 2281.
[591] 5 Tr 2281.
[592] 5 Tr 2281-2288.
[593] 5 Tr 2282-2283.
[594] 5 Tr 2284.

reliability scores, but would be chosen to represent a variety of voltages, length, geographical, customer numbers, and other characteristics to allow the Company to assess "learnings and best practices."[595] Consumers projects $698,000 for the bridge period and $2.5 million for the test year to enable previously purchased software, "hardware deployment, and process updates," to integrate electric distribution system data, and to test and integrate "application solution capability."[596]

Although no party recommended any specific adjustment to the FLISR project, the Attorney General, as noted above, recommended a total disallowance of all Grid Modernization programs and subprograms, in part on grounds that the Company's discovery responses "show that most segments of the projects are in the initial scoping and conceptual phase or early development of system requirements," and that it is "both premature and unwise to include the proposed capital expenditures in rate base."[597]

In its brief, Consumers asserts that Mr. McPhail provided "extensive support" for FLISR based on its anticipated benefits, contrary to Mr. Coppola's assertions.[598] The Company's brief further claims that "FLISR will revolutionize the management of electric outages by rerouting power to minimize their impact and duration and by quicker fault detection to shorten outages."[599]

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[595] 5 Tr 2284-2285.
[596] 5 Tr 2282-2284.
[597] 5 Tr 2780-2781; Exhibit AG-1.14. It should be noted that the Attorney General's brief, p. 86 includes the following sentence: "[the Attorney General] is withdrawing the $7.285 million disallowance for the bridge period and $13,541,000 for the projected test year." It is unclear what the Attorney General is proposing here, and precisely what disallowances she is referring to. This issue should be clarified in the Attorney General's exceptions to the PFD.
[598] Consumers brief, 85-86.
[599] Consumers brief, 86.

The Attorney General's brief reiterates that the Company was unable to provide a cost benefit analysis, and that the Operational Systems Modernization programs, on the whole, "were in the initial scoping and conceptual phase or early development of system requirements."[600] From this, the Attorney General concludes that it is premature to include the capital expenditures in rates in this case, and to require customers to pay for project costs. Including a Company return, and depreciation expense, on projects that might not come to fruition.[601]

Notably, Mr. McPhail testified that the equipment to be deployed for FLISR "may include modern reclosers . . . as well as new device types such as Trip-Savers and remote switches," that the Company would be launching a team "to plan and prepare for a 2025 go-live," and that specific circuits were still to be selected and enabled for FLISR.[602] This testimony does not indicate plans that are in place; it indicates plans that are still in development. Because the $698,000 for the bridge period is not unreasonable for FLISR planning and testing, this PFD recommends Commission approval. However, contrary to the Company's assertions, there is insufficient detail on how the FLISR funds for the test year will be spent. As a result, this PFD recommends rejecting the $2.5 million for FLISR for the test year.

Turning to DER Optimization, Consumers is seeking $6,633,000 for DER Optimization for the test year.[603] Referencing Mr. Kelly's testimony,[604] Mr. McPhail stated that "the Company's DER Optimization initiative lays the groundwork for standardized

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[600] Attorney General brief, 83-84.
[601] Attorney General brief, 84.
[602] 5 Tr 2283.
[603] 5 Tr 2282 & 2286.
[604] 5 Tr 881-882.

methodology to deliver important capabilities, including but not limited to modeling, monitoring, operating, and coordinating, needed for optimizing and safely integrating DER into the electric distribution system" by researching, planning, developing and implementing software and hardware projects "to evaluate DER management capabilities . . . through the implementation of a DER Management System [DERMS]".[605] This is to be accomplished through learning sessions, ultimately resulting in the Company "collaborat[ing] with an industry-leading consultant to formalize a business case and deployment strategy."[606]

According to Mr. McPhail, the use of DERMS will support "alignment" with FERC Order 2222, as well as with Michigan's 2023 clean energy law, by allowing real-time coordination with DERs and standardizing operational processes to "properly manage this increased generation on the electric distribution system."[607] If not properly handled, per Mr. McPhail, it "could result in power voltage degradation, missed optimization opportunities resulting in higher loads on the electric distribution system, and unrealized SAIDI benefits for customers."[608]

The testimony of the intervenors was not fully supportive of Consumers' proposals. Mr. Kenworthy, for the CEO, testified that, while he had recommended disallowance of DERMS expenditures in past rate cases, this changed after Consumers' previous IRP settlement. Instead, the CEO would like to collaborate with the Company to advance a utility program that treats DG as a resource, and that "leverages DER as a grid asset to

[605] 5 Tr 2285-2285.
[606] 5 Tr 2285.
[607] 5 Tr 2285-2286.
[608] 5 Tr 2286-2287.

rapidly scale DER" to meet customer needs.[609] As noted above, Mr. Coppola took the position that, based on the Company's discovery responses, the overall grid modernization spending to complete the projects that are primarily in concept and early development stages today could be better spent on more "immediate needs."[610]

MEIU witness Albers was more specific, first questioning Consumers' limited definition of what constituted a DERMS, noting that the definition could include any system that "handle[d] DERs," such a fleet DERMS managing a group of DERs independent of their location, or edge DERMS serving DERs at the edge of the grid; DERMS were not just systems handled by the Company.[611] Mr. Albers discussed about the Company's last four rate case requests for DERMS, enumerating the intervening parties that have opposed Consumer's prior requests.[612] He noted that the Commission disallowed prior DERMS proposals, and finding that Consumers had not proposed an adequately clear DERMS system, had not explained how reliability would benefit from the technology, that additional understanding of expanding FERC expectations could be beneficial before implementation, and that requests for DERMS funding were premature, unjustified and costly. Mr. Albers also noted the Commission's findings that the DG cap that existed at the time would stymy a rapid increase in DERs.[613]

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[609] 5 Tr 2664-2665. Mr. Kenworthy also suggested the Solar United Neighbors Distributed Power Plant Model Tariff, indicating that it "aligns well with the ongoing efforts in grid modernization and DER optimization." 5 Tr 2666. This would be best raised and considered in Consumers' next distribution planning filing.
[610] 5 Tr 2780-2781. Exhibit AG-1.14.
[611] 5 Tr 3207-3209.
[612] 5 Tr 3209-3215.
[613] 5 Tr 3209-3215.

According to Mr. Albers, after the Commission rejected DERMS in the 2020 and 2021 rate cases, the 2022 rate case settlement did not include DERMS funding.[614] And the 2023 rate case, Case No. U-21389, did not include a specific request for DERMS funding, but included a DER optimization initiative that encompassed deployment of decentralized DER gateways and integration of these gateways under a centralized DERMS. Mr. Albers characterized the Commission's decision in Case No. U-21389 as not approving any DERMS-related capital expenditures, but encouraging further engagement on the topic between the Company, Staff, and interested parties.[615] He advocated that Consumers conduct workshops with interested parties, particularly DER aggregators, which he interpreted as being encouraged by FERC Order 2222.[616]

Mr. Albers concluded that it was clear that the Commission wants information regarding the use, benefits, and integration of DERMS into existing systems, as well as how it would "be sequenced with other technologies," before approving any form of DERMS options.[617] He further contended that Consumers' participation in the Commission's DR/DER workshops, per the order Case No. U-21297, was insufficient engagement on the topic.[618]

Mr. Albers also criticized the Company's claim that third-party ownership or operation of DERMS would not be safe, reliable, or affordable, asserting that this was not justified by the record, and that "the Company would be wise to seek information from the competitive market regarding cost-effective technologies and solutions as part of its

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[614] 5 Tr 3213.
[615] 5 Tr 3213-3214.
[616] 5 Tr 3218-3220 & 3230.
[617] 5 Tr 3214.
[618] 5 Tr 3214-3215 & 3217-3218.

business case, including in, but not limited to, the workshops I recommend."[619] Mr. Albers added that utility control of DER assets could lessen customer participation if they "perceive[d] a loss of control over their asset," and that "utility exclusion of third-party participation deprives ratepayers of potential savings available through the competitive market."[620] He opined that there was much that Consumers could learn from DER aggregators, based on their experience.[621] Mr. Albers summarized the benefits of engaging with Staff and interested parties, and engaging third-party DERMS owners and operators, citing examples of successful collaboration and testimony in past cases.[622]

Next, Mr. Albers noted that a "troubling aspect of the Company's current proposal is that it apparently already has a plan to spend $6,633,000 on hardware and software during the test year, yet acknowledges that its benchmarking and learning sessions are ongoing and that it is still 'exploring strategies to support DER optimization.'" Mr. Albers found this problematic, because learning and planning should always precede deployment."[623] He recommended that Consumers develop a business case to study DER and DERMS adoption, and reiterated the MEIU recommendation from prior cases that "the Company should provide a comprehensive DER forecasting study reflecting a time horizon spanning at least 20 years (at 5-year increments) to demonstrate a clear understanding of anticipated uptake of electrification and penetration of DER."[624]

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[619] 5 Tr 3220.
[620] 5 Tr 3221-3222.
[621] 5 Tr 3222.
[622] 5 Tr 3218-3231.
[623] 5 Tr 3225.
[624] 5 Tr 3222-3223 & 3234.

Mr. Albers also criticized what he characterized as Consumers' pledge to "evaluate plan, develop, and implement management of DER across the full spectrum of technologies (hardware and software) through the implementation of DERMS" to manage increased DG in light of the increased DG cap, and to include DER gateways to connect to and control a variety of DERs.[625] According to Mr. Albers, the description of the proposal is too general, and it is indistinct from previously rejected DERMS proposals.[626] Indeed, he noted that Consumers' discovery response cited only the increase in the statutory DG cap from 1% to 10%, concomitantly increasing the need for DG management, without noting any substantive distinctions between the current and previously rejected proposals.[627] While agreeing that a well-designed DERMS could be "useful toward integrating and managing aggregated DERS," Mr. Albers asserted that a "poorly conceived DERMS" would not benefit anyone, and he recommended that the Commission again deny Consumers proposal.[628]

Mr. McPhail's rebuttal testimony asserted that the Company had provided support for all of its grid modernization proposals in the discovery responses found in Exhibit AG-1.14, and then responded to Mr. Albers' testimony.[629] Referencing Exhibit A-111, Mr. McPhail indicated that the Company "intentionally focuses on a centralized, enterprise scale platform," while putting "broader capabilities" into the DER Optimization Initiative.[630] While conceding that the Company was willing to engage in workshops and consider

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[625] 5 Tr 3215-3216.
[626] 5 Tr 3216-3217.
[627] 5 Tr 3216-3217. Exhibit MEIU -18.
[628] 5 Tr 3219-3220, 3222-3223, & 3234.
[629] 5 Tr 2294-2298. Exhibit AG-1.14, p. 9-11.
[630] 5 Tr 2295-2296.

whether third parties might be able to provide some DER services in specific instances, Mr. McPhail testified that because the utility is responsible for the security and reliability of the grid the utility "must have full control of the systems used to maintain those standards."[631] Mr. McPhail rejected the examples of third-party/utility partnerships listed by Mr. Albers, asserting that many of the utilities were exploring utility-owned DERMS.[632] While indicating a willingness to continue with the Commission-led workgroup, and for Consumers to initiate a workgroup of its own, Mr. McPhail maintained the reasonableness of Consumers' request for the DER Optimization costs "to onboard an industry consultant to aid in the organization of a Company led workgroup, assist in the development of the business case, and develop the strategy of implementation."[633]

Consumers' brief largely reflects Mr. McPhail's testimony, but clarifies that the Company is seeking $2.133 million for workgroup and strategy development, and $4.5 million for hardware and software projects, without which, "the Company will be behind the industry in the area of DER Optimization."[634] Consumers contends that the Attorney General's criticisms of DER Optimization are outweighed by its benefits, and that an independent audit performed in relation to case No. U-21305 found that EDIIP's DERMS proposals were prudent.[635] While accepting MEIU's requests for a workgroup, the Company asserts that it needs approval to hire a consultant to facilitate workgroup and business case development and implementation. As part of this, Consumers also notes

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[631] 5 Tr 2296.
[632] 5 Tr 2296-2297.
[633] 5 Tr 2297.
[634] Consumers brief, 87.
[635] Consumers brief, 86.

that a request by Mr. Kenworthy on behalf of CEO to consider DERs to reduce grid strain could be addressed as part of the workgroup.[636]

MEIU's brief echoes Mr. Albers' testimony, concluding that "the Company has provided next to no justification for its $2.1 million request intended to cover the cost of a consultant to facilitate 'workgroup and strategy development.'"[637] It requests that the Commission reject any DERMS related recovery. MEIU also requests that the Commission direct Consumers to conduct a workgroup with interested parties to develop a comprehensive DERMS proposal for a future rate case, and to address forecasted DER adoption, regional and/or technical limitations of controlling DERs, the impacts on DER owners, and any additional program pitfalls and benefits.[638]

MEIU's reply brief expresses appreciation for the Company's recognition that a workgroup would be desirable, and encourages the inclusion of VPPs in any workgroup discussions, but still opposes $2.1 million for a consultant, and $4.5 million for hardware and software, where a business case has not yet been developed.[639] In answer to Consumers' contention that any failure to approve DERMS spending in this case will put Consumers behind the industry in DER optimization, MEIU asserts that any denial of DERMS-related spending is due to the Company's failure to cure the deficiencies in its requests in the last four rate cases.[640]

As discussed above in relation to FLISR, the Attorney General's brief takes the position that DERMS-related spending is unjustified, premature, and unfair to

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[636] Consumers brief, 87.
[637] MEIU brief, 24-30.
[638] MEIU brief, 30.
[639] MEIU reply, 7-9.
[640] MEIU reply, 7-8.

customers.[641] In her reply brief, the Attorney General highlights that DER Optimization is still in the workgroup, strategizing, and consultancy phase.[642] The reply brief again asserts that the "proposal is both vague and premature," and it is not currently clear "how the DER Optimization will be used or what exactly it will look like and therefore any benefits or other outcomes are speculative."[643] The Attorney General repeats the recommendation that the capital expenditures be disallowed.[644]

Consumers' reply brief takes a slightly different tack than its initial brief, asserting that the Company is actively participating in the Staff-led workgroup regarding DERMS that was ordered in Case No. U-21397, and it will continue to do so.[645] Consumers also argues that part of the funding requested in this case is intended to hire a consultant to help organize a Company-led workgroup, develop a business case, and create a DERMS implementation strategy.[646] Moreover, Consumers repeats that DERMS will help put FERC Order 2222 into practice; it will help integrate DERs safely into the electric distribution system, and that the funding requested is "needed for the Company to study and implement a DERMS solution to support these benefits, as well as the additional use cases that will be developed" by interaction with interested parties.[647] Consumers also rejected the CEO's request for a virtual power plant pilot, contending that it could be discussed as part of a DERMS workgroup.[648]

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[641] Attorney General brief, 83-85.
[642] Attorney General reply, 20.
[643] Attorney General reply, 20-21.
[644] Attorney General reply, 21.
[645] Consumers reply, 21.
[646] Consumers reply, 21.
[647] Consumers reply 21.
[648] Consumers reply, 21-22.

This PFD observes that in his broader testimony regarding grid modernization, Mr. McPhail indicated that the Company already worked with a third-party consultant in 2019 and 2020 to develop its grid modernization strategy over 2, 5, and 10 year periods.[649] According to Mr. McPhail, in 2021, the Electric Power Research Institute (EPRI) produced Exhibit A-134 for Consumers, the "Consumers Energy Grid Modernization Roadmap Assessment," verifying that the Company's grid modernization strategy met or exceeded standard industry practices.[650] In light of the prior spending, it is unclear why Consumers now believes that it needs $2.1 million to hire a consultant, in part to initiate a workgroup and develop a business case.[651]

Consumers' DER Optimization proposal is underexplained and contains insufficient justification for how it is a reasonable and prudent expenditure. Exhibit A-111 provides very few, if any, specifics. With the exception of the increase in the DER cap, nothing has changed since prior cases, and prior rejections, of DERMS and DER Optimization proposals. This PFD recommends rejection of the requested $6,633,000 for DER Optimization for the test year. This PFD further recommends that, should Consumers wish to raise DERMS or DER optimization funding going forward, it file a business case detailing actual expenditures. At a minimum, it should prepare and file a comprehensive cost benefit analysis for the program in its direct case. Finally, this PFD encourages Consumers to initiate workshops and/or a workgroup to further explore DERMS implementation and DERMS-related topics so that a more comprehensive funding request may be presented in the future.

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[649] 5 Tr 2207.
[650] 5 Tr 2208.
[651] MEIU brief, 29-30, citing 5 Tr 2296-2298. Consumers brief, 87.

2. Streetlighting Capital Expenditures

Mr. Schmoekel testified the Company owns and maintains approximately 174,000 streetlights comprised of about 10,000 center suspension lights, 43,000 post-top fixtures, and about 121,000 cobrahead fixtures. He said the streetlights use either High Intensity Discharge (HID) technology or Light Emitting Diode (LED) technology and HID technologies include mercury vapor (MV), high pressure sodium (HPS), and metal halide (MH) luminaires.[652] He testified that LED is far more efficient than HID technology and manufacturers are generally discontinuing HID lamps.[653]

According to Mr. Schmoekel, the Company has developed a modified LED conversion plan for its HID cobrahead fixtures, identified a LED conversion plan for its HID post-top fixtures, and has implemented and enhanced its web-based Streetlight Outage and Restoration (SOAR), application, all to support improved outage restoration performance.[654]

Mr. Schmoekel stated that beginning in fall 2018, the Company made the decision that when responding to a streetlight outage (a demand failure) it would reactively convert all failed cobrahead streetlights from HID to LED.[655] He said this practice was extended to center suspension fixtures beginning in 2022 and to post-top fixtures in 2024.[656]

Mr. Schmoekel also testified that in 2022 the Company initiated a proactive plan converting HID cobrahead streetlights that have not yet failed but are in the vicinity of a

[652] 5 Tr 2458.
[653] 5 Tr 2459.
[654] 5 Tr 2459.
[655] 5 Tr 2490.
[656] 5 Tr 2494.

failed cobrahead streetlight to LED.[657] He explained that this approach leverages the fact the crews have already traveled to the location of a failed cobrahead streetlight and, as a result, truck rolls and costs are reduced.[658] He testified that approximately $253,000 in customer savings has been realized since 2022 through vicinity conversions.[659]

According to Mr. Schmoekel, the Company is proposing to convert all HID cobrahead streetlights to LED over the next three to four years. He said it is reasonable to expect these remaining HID cobrahead lights to fail within that timeframe because the conversions began in 2018, and HID lamps are rated for 24,000 hours of service, with approximately 4,200 hours of lighting service annually, so the average lamp life is approximately six years.[660] Mr. Schmoekel testified the Company is projecting that it will convert 3,450 HID cobrahead lights to LED in the bridge period and 10,320 in the test year.[661]

Witness Schmoekel testified the Company will begin to perform planned vicinity conversions of post-top streetlights in 2025.[662] He said the Company's long-term plans to improve streetlight reliability are documented in its 2023 EDIIP filed in Case No. U-20147.[663]

Mr. Schmoekel stated the Company uses LED cobrahead and post-top fixtures when a municipality requests new streetlight installations (New Business).[664] He said that

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[657] 5 Tr 2461.
[658] 5 Tr 2501.
[659] 5 Tr 2471.
[660] 5 Tr 2491.
[661] 5 Tr 2501.
[662] 5 Tr 2502.
[663] 5 Tr 2460-2461, 2469.
[664] 5 Tr 2486

the Company recovers part of the cost of new business streetlights by charging a CIAC fee of $100 per streetlight, as established in 1991 in Case No. U-9346.[665] Mr. Schmoekel testified that the Company believes some increase in the CIAC fee is reasonable to account for inflation since 1991. And the Company recommends increasing the CIAC fee relative to the inflation rate of the goods using either the CPI from 2024 compared to 1991 dollars (a CIAC fee of $230) or increasing the CIAC proportional to the cost increase for a 100-watt HPS streetlight since 1991 (a CIAC fee of $158).[666]

The Company's projected test year capital expenditure spending on streetlighting consists of: (1) $3.469 million for 258 new installations with a unit cost of $13,445 for New Business; (2) $10.681 million for 14,247 conversions with a unit cost of $750 for Planned Vicinity Conversions; and (3) $15.998 million for 19,099 outage restorations at $838 each for Demand Failures.[667]

Mr. Schmoekel testified that the Company based its Demand Failures and New Business projections on the five-year (2019 to 2023) historical average of spending escalated by an inflation rate of 2.4% for 2024, 2.2% for 2025, and 0.4% for 2026.[668]

According to Mr. Schmoekel, the Company is requesting $24.696 million total for Streetlighting capital expenditures during the bridge period and $30.147 million during the test year. Mr. Schmoekel testified that in the Company's last rate case, Case No U-21389, the Commission approved streetlighting capital expenditures of $18.561 million during the bridge period and $13.364 million for the test year.[669]

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[665] 5 Tr 2487.
[666] 5 Tr 2489-2490.
[667] Consumers brief, 88; Exhibit A-12, Schedule B-5.10.
[668] 5 Tr 2486, 2494.
[669] 5 Tr 2504.

Ms. Duell testified that Staff reviewed Consumers' projection of $30,147,000 in streetlighting capital expenditures for the projected test year and recommends a disallowance of $6,029,000 or 20%. She explained that in Case No. U-21389, Consumers requested $16,335,000 for the 12 months ending 12/31/2023, but the Company only spent $11,705,000, which is a difference of $4,630,000. According to Ms. Duell, Staff recommends a 20% disallowance because Consumers has spent under budget for streetlighting capital expenditures in the past.[670]

Additionally, Ms. Duell recommended the Company be more descriptive and detailed when replying to Staff's discovery questions. She noted that Staff had asked the Company where the remaining $4,630,000 in projected spending for streetlighting had been actually spent and the Company replied to Staff stating only that it went to "distribution expenditures." Ms. Duell expressed Staff's request that Consumers apply any excess streetlighting funding to line clearing and storm restoration.[671]

In rebuttal, Mr. Schmoekel testified that using five-year averages to project test year expenditures and adjusting for inflation is a reasonable forecasting method because of the unpredictability of new business and demand failures. He noted that spending on demand failures is currently trending at approximately 117% of the Company's original forecast for 2024, while spending on new business is trending to be approximately 167% of the Company's original forecast for 2024.[672] In its brief, Consumers asserted It would not be reasonable to reduce the capital spending for streetlighting when the actual data

[670] 5 Tr 3836.
[671] 5 Tr 3836-3867.
[672] 5 Tr 2509-2511.

for current spending shows that it is higher than forecasted. Applying a consistent and logical methodology is the only fair and reasonable way to project these kinds of costs.[673]

In response to Ms. Duell's assertions regarding excess streetlighting funding, Mr. Schmoekel contends that the Company generally returns excess funds to an Electric Distribution department level and that specific dollars are not traced from one program to another. Further, Mr. Schmoekel rejected Staff's request to use excess streetlighting funding for line clearing and storm restoration, as these are O&M programs and it would be inappropriate to use capital dollars for O&M spending.[674]

While MAUI did not submit testimony in the instant case, it did file a brief that generally expressed support for the Company's proposals. Specifically, MAUI states that it takes no position on the Company's proposal to increase the CIAC, because it believes the increase is so small that it is not a true step forward to a more equitable and sensible approach to streetlighting CIAC generally. MAUI also recommends that the Commission order Consumers to explain in its next rate case how it has, or will, protect early adopters of LED streetlighting from effectively paying twice for post-top conversions, stating that it is not clear from the Company's filings whether the currently active credits include consideration of prior post-top conversions funded by CIAC payments.[675]

In its brief, Consumers maintains that Michigan jurisprudence supports its prerogative to use the excess money as it sees fit, because it is within the ordinary day-

[673] Consumers brief, 90-91.
[674] 5 Tr 2512.
[675] MAUI brief, 6-7.

to-day management of the Company. Accordingly, Staff's recommendation to reallocate unspent streetlighting funds to tree-trimming and storm restoration should be rejected.[676]

In its brief, Staff recommends the Commission adopt Staff's disallowance of $6,029,400 in streetlighting capital expenditures for the projected test year consistent with Ms. Duell's testimony that the Company has historically spent under budget for streetlighting.[677] Staff also maintains its recommendation the Company be more detailed and descriptive regarding where excess funding is distributed since customers are the ones who are paying for these expenditures. Regarding the allocation of any excess funding in streetlighting, Staff now agrees with the Company that line clearing may not be appropriate since it is an O&M expense and Staff recommends that any excess streetlighting expenditures are applied toward the Demand Failures program.[678]

In its reply brief, Staff takes issue with MAUI's brief, stating that it is unsupported and introduces new evidence that cannot be evaluated at this late date. Staff asserts that MAUI's brief should be disregarded except for its general support of the Company's streetlighting proposals.[679]

The Company's reply brief generally reiterates Mr. Schmoekel's testimony and its initial briefing. The Company states that Staff's assertion that the Company has continually underspent on streetlighting is contrary to the evidence: it only underspent in one single year—2023—and the Company is currently overspending.[680] Consumers also responds to Staff's request for more detail regarding where excess funds are spent,

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[676] Consumers brief, 92.
[677] Staff brief, 31-32.
[678] Staff brief, 33.
[679] Staff reply, 37-39.
[680] Consumers reply, 24-25.

stating that Staff has the information to see where every historical dollar is spent, there is no reason to trace specific dollars and doing so would create an accounting nightmare. The Company again asserts that where to spend excess capital expenditure dollars is a management decision squarely under management prerogative of the Company.[681]

In reply to MAUI, Consumers notes that MAUI raises the issue of early adopters paying twice for post-top LED conversions for the first time and the Company has not had an adequate opportunity to investigate the issue. While Consumers understands, MAUI's concerns, the Company opposes any requirement to address the issue in a future rate case, instead it proposes that it work collaboratively with MAUI and municipalities to review the issue and if it has merit, resolve it directly. [682]

While the Company provides details on its streetlighting capital expenditures categorized as Demand Failures, Planned Vicinity Conversions, and New Business, neither Ms. Duell's testimony, nor Staff's brief, take issue with any specific projected category spending but only address total test year streetlighting projections in recommending a 20% disallowance.[683]

Analyzing the Company's capital expenditures for spending for each streetlighting category demonstrates that for demand failures, the Company underspent by 25% ($2.963 million) from its projection for 2023.[684] This indicates the Commission's 20% reduction in the previous rate case, U-21389, was an accurate reflection of actual spending. However, it is also noted that spending in 2023 was the lowest amount from

[681] Consumers reply, 25-27.
[682] Consumers reply, 27-29.
[683] 5 Tr 3836; Staff brief, 31-32.
[684] Exhibit A-12, Schedule B-5.10.

2019 to 2023, with the highest spending on demand failures occurring in 2021, and the highest number of demand failures occurring in 2022.[685] Also Mr. Schmoekel testified that 2024 demand failure spending is currently trending at approximately 117% of the Company's original forecast for 2024.[686] This suggests that a projection based on the five-year historical average may even out the volatility and uncertainty regarding demand failures. However, the five-year average (2019-2023) for demand failures is $10.847 million and adjusting for inflation would bring it to no more than $11 million. Therefore, reducing the Company's projection of $15.998 million by 20% would bring this capital expenditure projection more in line with the historical five-year average.

For vicinity conversions, the Company based its projections on the expected unit costs for cobrahead and post-top conversions as there are only two years of historical vicinity conversion data.[687] The company spent $805,000 on vicinity conversions in 2022 and $412,000 in 2023.[688] The amount in 2023 was 45% less than projected and 31% less than approved by the Commission. It is noted the Company projects to significantly increase the number of planned vicinity conversions in the test year compared to planned vicinity conversions in 2022 and 2023. It is also noted the Company will begin post-top vicinity conversions, which have significantly higher unit costs ($985 compared to $598).[689] But, it is also noted that vicinity conversions are completely under the control of the Company and the Company has no explanation as to why it only performed 783 vicinity conversions in 2023 when it projected it would perform 1,603. Even accounting

[685] Exhibit A-12, Schedule B-5.10.
[686] 5 Tr 2509.
[687] 5 Tr 2503.
[688] Exhibit A-12, Schedule B-5.10.
[689] 5 Tr 2503.

for the allowed amount of $600,000 for vicinity conversions in 2023, there should have at least been 1,200 conversions. Because planned vicinity conversions are under the control of the Company, and the Company did not live up to its previous projections, it is reasonable to reduce the capital expenditures for planned vicinity conversions by 20% from $10.681 million in the test year to $8.545 million. This would still allow 11,393 conversions (based on the Company's projected unit cost of $750), which would increase planned vicinity conversions by nearly 15-fold over the number of planned vicinity conversions conducted in 2023.

The Company's New Business capital expenditure projection for the test year is $3.469 million which is based on the five-year average adjusted for inflation. In 2023, the company spent $2.524 million for 195 new business units at $12,945 each. This was 34% less than it had projected. However, the previous five years does show some volatility with 2021 being around the same as 2023 in spending and units, 2020 spending being significantly higher at $4.957 million because of very high unit costs, and 2019 having more than double the number of units as 2023 (397 compared to 195).[690] The five year (2019-2023) average for new business is $3.312 million, as adjusted for inflation would be no more than $3.395 million. This is a difference of 74,000 (or 2.1% from the projected test year). A reduction of 20% would be $2.775 million. The Company's request for $3.469 million for new business seems reasonable.

As discussed above, this PFD recommends reducing the amount allowed for the test year for streetlighting Demand Failures by 20% (from $15.998 to $12.798 million) and

[690] Exhibit A-12, Schedule B-5.10.

reducing the amount allowed for Planned Vicinity Conversions by 20% (from $10.681 million to $8.545 million). However, this PFD recommends allowing the Company to spend its projected amount of $3.469 million for New Business. This would result in a total of $24.812 million allowed for streetlighting, which is a disallowance of $5.335 million or 17% from the $30.147 million requested. This PDF also recommends that the Commission increase the CIAC from $100 to $158 because of inflation since the time the charge was originally calculated.

As to Staff's request that Consumers provide more detail regarding how the excess streetlighting funds are spent, this PDF recommends that the Company provide as much detail as it can regarding the application of excess funds and that Consumers allocate any excess streetlighting funds to Demand Failures, if needed, before allocating them elsewhere. Lastly, this PFD concurs with Staff that raising new issues and presenting new evidence after the record has closed, as MAUI has done in its brief, is inappropriate and any new factual information should be disregarded. Further, the PFD agrees with Consumers that the issue regarding early adoption of LED streetlighting is currently best addressed by the Company, MAUI, and municipalities collaborating on the issue, outside of a rate case.

3. Generation Capital Expenditures

As discussed in more detail below, Mr. Blumenstock testified in support of the Company's overall projected capital expenditures for generation, Mr. Monroe provided support for Consumers' proposed investments in river hydro and Ludington Pumped Storage facilities, and Mr. Clark testified regarding investments in solar generation and battery energy storage systems (BESS).

As an initial matter, as discussed in the Company's brief, p. 95:

> Due to changing circumstances after the filing of this case, the Company agrees with some (but not all) of the proposed adjustments. In particular, the Company has agreed to adjustments recommended by Staff witness Raushawn D. Bodiford that relate to updated cost projections for certain projects at the Company's fossil fuel plants, Ludington Pumped Storage plant, and other hydro facilities ($5.760 million reduction in the bridge period and $8.894 million increase in the test year). 5 TR 1533. The Company has also agreed to adjustments recommended by Staff witness Jesse J. Harlow to move cost recovery for the capital investments associated with four solar projects (i.e. the Mustang Mile, Washtenaw Solar, Muskegon Solar and Spring Creek Solar projects) from the rate case to the Company's upcoming renewable energy plan case. 5 TR 1655. Finally, although the Company disagrees with proposals by Staff witness Jonathon J. DeCooman and Attorney General witness Deupree to disallow certain of the Company's battery storage project investments, the Company proposes adjustments to the timing of the projects that will have the effect of removing any impact those projects have on the revenue requirement in this case. 5 TR 1657-1663. The cumulative effect of these adjustments is reflected in the capital investments set forth in Exhibit A-257.

a. Fossil Generation and Ludington Pumped Storage

Mr. Blumenstock provided an overview of Consumers fossil generation assets, as well as the Company's hydroelectric and renewable generating plants, Consumers' generation strategy, generating asset performance, environmental regulations and compliance strategy, and river hydro strategy. He also presented historical and projected capital expenditures and O&M expense for the Company's generating units, as shown in Exhibit A-12, Schedule B-5.2 and Exhibit A-43. According to Exhibit A-12, Schedule B-5.2, p. 1, for fossil and hydro generation Consumers invested $859.095 million in the 2023 historical year, and it projects capital expenditures of $463.548 million in the bridge

period, and $600.484 million in the projected test period. Mr. Blumenstock noted that Consumers did not include any contingency amounts in its projections.[691]

Mr. Bodiford recommended two categories of adjustments to the Company's steam power and hydro generation capital expenditures: (1) adjustments based on updated projections for projects over $1 million in the bridge period and test year; and (2) an adjustment to test year projections based on class cost estimates for projects over $1 million in the test period.[692] Mr. Bodiford testified that in discovery, Consumers provided updated estimates of generation capital expenditures for projects over $1 million for the bridge and test periods, including actual capital expenditures through May 2024. Based on Consumers' response, Staff calculated a reduction of $5.760 in the bridge period and an increase of $8.894 in the test period.[693] As noted above, Consumers agrees with these adjustments.[694]

Staff's second adjustment relates to the Company's class cost estimates for projects over $1 million. According to Mr. Bodiford, as reproduced at 5 Tr 3769, Consumers internal cost estimates vary significantly as a project proceeds from the business case (Class 5), where class cost estimates have an estimated accuracy range from -50% to +100% of projected cost, to the execution stage (Class 1), where cost estimates are much more accurate, varying by +/- 5% from the actual cost. Mr. Bodiford explained that "[t]he Company's cost class estimates for its capital projects allow Staff to have a better understanding of the level of development and certainty associated with

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[691] 5 Tr 1434.
[692] 5 Tr 3767.
[693] 5 Tr 3768.
[694] Consumers brief, 95.

each specific project cost estimate that Consumers is requesting recovery of in this case."[695] Accordingly, after updating the class cost estimates in discovery, Staff used the lower bound for projects where the engineering costs were not 100% known, as shown in Exhibit S-16.2.[696] As a result, Staff calculated a reduction of $16.720 million from the Company's projection. Removing hydro adjustments from this amount results in a reduction for steam projects of $6.997 million.[697]

In rebuttal, Mr. Blumenstock stated that of the 31 projects for which Staff recommends an adjustment, most are Class 3 estimates, "with five projects having an AACE Class 2 estimate and four projects being supported by an AACE Class 4 estimate."[698]

Mr. Blumenstock testified that while Staff thoroughly reviewed the documentation provided by the Company in its filing and in discovery, he disputed Staff's reliance on the lower bound of the accuracy range in developing its adjustment for each project for which it proposes a disallowance. Mr. Blumenstock explained that Staff's approach "guarantees that, for the portion of costs the Company incurs above the artificially low estimate, the Company will not recover actual costs expended for the completion of those projects for at least the first year those projects are in service."[699] In addition, Consumers will not receive a return on the portion of costs that exceed the low end of Mr. Bodiford's estimate. As a result, according to Mr. Blumenstock, Consumers will likely "de-prioritize" several projects to limit the investment amount to that approved by the Commission. In turn, this

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[695] 5 Tr 3769.
[696] 5 Tr 3770.
[697] Staff brief, 35. Adjustments to hydro generation are discussed below.
[698] 5 Tr 1534.
[699] 5 Tr 1535-1536.

could result in reduced reliability or safety for projects that are de-prioritized.[700] Mr. Blumenstock added that "[b]ecause of what that range represents, it is statistically probable that some projects will result in actual costs at the higher end of the range and some at the lower end of the range such that, collectively, the actual costs will come out about at the estimated value proposed by the Company."[701]

Staff's brief relies on Mr. Bodiford's testimony, emphasizing that Staff's class cost adjustments were only applied to projects over $1 million, and "the lower end of the accuracy range of the estimate is a reasonable mechanism to quantify the uncertainty associated with each project cost estimate."[702] Staff also points out that it used the same approach in evaluating capital expenditures in Consumers' last rate case, which was approved by the Commission.[703]

In its brief, Consumers urges the Commission to revisit its conclusion from the previous case, noting that in Case No. U-21389 the adjustment based on class cost estimate only applied to 11 projects, versus 31 here, and that the Company's total actual spend for generation in 2023 was higher than projected. As such, Consumers argues that while some portion of the projects may have landed at the low end of the range, "some proportion of the projects also necessarily landed at the high end of the range such that the aggregate amount of needed capital investment actually exceeded the Company's original estimate."[704]

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[700] 5 Tr 1536.
[701] *Id*.
[702] Staff brief, 37.
[703] *Id*. See, March 21, 2024 order in Case No. U-21389, p. 54.
[704] Consumers brief, 101.

In reply, Staff describes the Company's arguments as disingenuous, noting that not all projects greater than $1 million were adjusted downward, only those with a class estimate of 2 or greater, and only for the test year, not the bridge period. In response to Consumers' concern that Staff applied its adjustment in the instant case to 31 projects (compared to 11 in the previous rate case) Staff avers that it "does not base its number of adjustments on an arbitrary set quantity or percentage of total projects to be adjusted, but rather implements the approved class cost methodology to determine, based on updated internal Company records, the number of projects that should be adjusted."[705]

This PFD agrees with Staff that, as the Commission found in Case No. U-21389, Staff's approach is a reasonable and prudent means to address and quantify the uncertainty associated with certain projects that are not fully developed at this point. Any reasonable and prudent spending above the amounts recommended for approval here can be requested in a future rate case. Consistent with this finding, this PFD recommends a downward adjustment in the test year of $6.997 million for steam generation and $1.7 million Pumped Storage.

b. ABATE Recommended Adjustments

ABATE witness York recommended several adjustments to Consumers' proposed generation capital investments. These adjustments, some of which were agreed to (in part) by the Company, are addressed below.

[705] Staff reply, 6-7.

i. Covert Units 2 and 3 SCR Catalyst Replacement

Ms. York noted that in response to discovery, as shown in Exhibit AB-4, p. 3, Consumers is no longer seeking recovery for two projects, the Covert Unit 2 SCR/CO Catalyst Replacement and the Covert Unit 3 SCR/CO Catalyst Replacement, each with a projected bridge period cost of $1.042 million. Because the Company is no longer requesting recovery for these projects, Ms. York recommended that $2.084 million be excluded from rates.

In rebuttal, Mr. Blumenstock testified that after testing, Consumers determined that these projects can be deferred until 2030; however, the cost updates shown in Exhibit S-16.1 show the correct disallowance amount of $1.8 million. According to Consumers, $284,000 was already spent in the bridge period, which should be recoverable.

ABATE's brief does not address the Company's rebuttal, however, in its reply brief, ABATE contends that Consumers does not provide any information about the $284,000 spend amount. ABATE adds that a review of Staff's Exhibit S-16.1, does not detail what the projects are, thus "it appears Staff simply accepted the Company's updated projections and claims about amounts spent without any attendant details or a review of their reasonableness or prudence."[706] Accordingly, ABATE stands by its original disallowance totaling $2.084 million.

This PFD agrees with ABATE that because Consumers provided no specifics on these projects, beyond the updated spend amount, the Company did not meet its burden to demonstrate that the $284,000 was reasonably and prudently incurred. Consumers

[706] ABATE reply, 5.

may request recovery in a future rate case if it provides sufficient detail to demonstrate that the costs were reasonable. The PFD therefore recommends that the Commission adopt ABATE's recommended disallowance. Given that Consumers already adjusted its rate base amount to exclude $1.8 million for the Covert Unit 2 and Unit 3 SCR/CO replacement project, the additional $284,000 is disallowed in this PFD.

ii. Covert Roll-Up Door and Loading Dock Projects

Ms. York testified that Consumers included $0.535 million for insulated roll-up doors at the Covert plant. According to Mr. Blumenstock, "[b]y installing insulated roll-up doors, the Covert Plant can eliminate the time-consuming and costly process of panel removal and reinstallation. This upgrade streamlines access for large equipment, reducing downtime and associated labor costs."[707] Ms. York recommended that the costs of this project be disallowed at this time because the Company's presentation does not provide any analysis of the reduction in costs associated with the installation of the doors.[708]

In addition, Ms. York took issue with Consumers' plan to include $1.187 million to build a loading dock at one of the Company's warehouses. Mr. Blumenstock testified that "[t]he existing warehouse does not meet the needs for the upcoming major outages, or plant maintenance in the future. The addition of a loading dock will provide for safer and efficient loading/unloading of trucks. In addition, the current onsite office space is inadequate, and it will be expanded."[709] Ms. York recommended that the costs of this project be disallowed at this time because Consumers failed to provide sufficient detail or

[707] 5 Tr 1452.
[708] 5 Tr 3343.
[709] 5 Tr 1454.

"an assessment of its needs for upcoming major plant outages or future plant maintenance that would be affected by the loading dock."[710]

In rebuttal, Mr. Blumenstock observed that both projects were well-supported in his direct testimony, and ABATE sought no additional information in discovery. Nevertheless, "due to re-prioritization of other more critical emerging work," these projects have been moved out of the bridge period.[711] Mr. Blumenstock added that the requested capital will be spent on other projects including, "Covert load commutated inverter replacements ($520,000), the Covert high voltage bushing and oil replacement on the generator step up transformers for Units 1-3 ($830,000), and the Jackson high pressure turbine nozzle replacement ($1,484,524)."[712] Because these other projects were deemed as higher priority after the Company's filing, Mr. Blumenstock opined that it would be "inappropriate" to disallow the $535,000 and $1.187 million requested amounts because the funds will still be used to the benefit of customers.[713]

In its brief, ABATE describes Mr. Blumenstock's rebuttal as "concerning," noting that Consumers effectively abandoned its request for cost recovery for the roll-up door and loading dock projects "but continued to request cost recovery by attaching them to alternative projects, neither of which have projected costs coordinated with or proportionate to this amount of revenue."[714] ABATE asserts that "[t]he Commission cannot countenance this type of shifting amorphous cost recovery request as the

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[710] 5 Tr 3344.
[711] 5 Tr 1542, 1544.
[712] *Id*.
[713] *Id.* It should be noted that it is not clear whether "de-prioritized" projects were in fact removed from the Company's rebuttal position. Because Consumers continues to advocate for inclusion of these funds in briefing, this PFD assumes that they were not removed.
[714] ABATE brief, 15.

Company, without adequate justification, haphazardly shifts cost and revenue figures amongst capital projects in the middle of its rate case proceeding."[715] In its reply brief, ABATE points to the Scheduling Order in the instant case, which explains that proper rebuttal "'should not be used for the purpose of rehabilitating or supplementing a party's direct case.'" Furthermore, quoting the July 2, 2024 order in Case No. U-21461, p. 22, wherein the Commission found that "[a]fter a rate case applicant indicates that projects proposed in the direct evidence will no longer be occurring (or will be occurring according to different timelines or costs), the Commission can no longer find that the direct evidence is competent, material, and substantial[,]" and the Commission's additional observation that parties are unable to complete a thorough review of the reasonableness and prudence of projects that are first introduced in rebuttal, ABATE contends that this is the precise situation in the instant case. As such, ABATE argues that Consumers' requests should be disallowed for the projects at issue.

This PFD agrees with ABATE that canceling certain projects and substituting others in rebuttal, as the Company attempts to do here, is contrary to Commission precedent and unfair to the other parties to the proceeding.[716] In the instant matter, Consumers listed several projects in the rebuttal phase of the proceeding, without sufficient time for Staff and intervenors to assess their reasonableness and prudence. Consistent with the preceding discussion, this PFD finds ABATE's proposed disallowances of $535,000 and $1.187 million for canceled projects should be adopted.

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[715] *Id*.
[716] See, e.g., December 17, 2020 order in Case No. 20697 pp. 15-20.

iii. Covert Steam Turbine Exciter Project

Mr. Blumenstock testified that the Company plans to replace the steam turbine exciters for the Covert plant during the test year of the case and estimated that the cost of that project to be $761,667. He explained that the excitation equipment is obsolete and that the gas turbine exciters have already been replaced. Mr. Blumenstock cautioned that a failure of the steam turbine exciter could lead to both generators on the unit being out of service until replacements can be found, requiring a lead time of 18 months to two years for replacements.[717]

Ms. York recommended that this cost be disallowed. According to her, Consumers did not provide an assessment of the status of the existing equipment (including the risk that the equipment will fail during the test year) or the status of the project itself (i.e., whether replacement exciters have been purchased and received). As such, she opined that the costs are premature, and she recommended that they be disallowed.[718]

In rebuttal, Mr. Blumenstock provided the CAD in Exhibit A-228, which shows that replacement of the steam turbine exciters will save customers $8.6 million or more compared to running the exciters to failure.[719] Mr. Blumenstock added that although the equipment is currently operational, failure to undertake the replacement could lead to a costly outage. Lastly, Mr. Blumenstock explained that the project will begin in 2025 and will close in 2027. As a multi-year projects, the associated costs are offset by AFUDC, and have no impact on revenue requirement.

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[717] 5 Tr 1457.
[718] 5 Tr 3345.
[719] 5 Tr 1545.

In briefing, ABATE relies on Ms. York's testimony, and it maintains that the Company's evidence is insufficient to show that the project is reasonable and prudent. ABATE recommends that Consumers provide more information, and request cost recovery, in a future rate case if the Company decides to undertake the project.

This PFD finds that ABATE's disallowance should be rejected. As set forth in Exhibit A-228, the current equipment is over 20 years old and is no longer supported by the manufacturer. And, if a failure occurs, it could affect both the gas and steam turbines. Moreover, the CAD indicates that given the state of the existing equipment, the risk of failure escalates by 20% per year, and if a failure occurs, the cost to rent replacement equipment while awaiting repair could exceed $2.8 million, compared to a total replacement cost of $3.0 million.

iv. Karn Units 3 and 4 Sync Wire Replacement Project

Mr. Blumenstock discussed the $1.260 million bridge period expense for the Sync Wire Replacement Project for Karn Units 3 and 4, describing the scope of the project as the replacement of copper communication cables between the Karn plant and the Hampton Substation. According to him, "[t]he replacement will consist of fiber optic communication cable from Hampton Substation to the plant and the replacement of Karn Units 3 and 4 generating unit line protection relays, pilot wire differential line protection relaying, telemetry, and control communication at Hampton Substation."[720] In addition to noting that "the Units 3 and 4 auto-synchronizing relay is obsolete," Mr. Blumenstock stated that the project "will provide a modern reliable communication medium between

[720] 5 Tr 1462.

Karn Units 3 and 4 and Hampton Substation . . . [which] will allow for a reliable means of communication between Karn Units 3 and 4 and the Hampton Substation, thereby reducing the risk of possible failure of the units to synchronize correctly or to trip the units offline for a fault event; potentially causing damage to the generator and turbine, resulting in decreased plant reliability and increased expense."[721]

Ms. York recommended a full disallowance of the proposed expense, essentially on grounds that the request is premature. Pointing to Exhibit AB-5, pp. 5-8, Ms. York explained that the project implementation would commence in 2023; however, in response to discovery, Consumers indicated that no bid has been issued; no contractor for the project has been selected, and the timing of these tasks is unclear.

In rebuttal, Mr. Blumenstock explained that this project was included in the Company's last three rate cases, but the funding request was withdrawn based on the Company's plan to retire Karn Units 3 and 4, as set forth in Consumers' 2021 IRP. However, the settlement agreement in the IRP case allowed for continued operation of these units. As such, Consumers reintroduced this project in its last rate case, Case No. U-21389; however, the Commission denied cost recovery based on timing and contractor concerns. [722] At this point, according to Mr. Blumenstock, "[c]ontracts have been issued, materials have been fabricated, and the Company has begun implementation of the project in the Karn Unit 3 outage which began on October 7, 2024 and is scheduled to end on November 7, 2024.[723] He added that for Karn Unit 4, project implementation is expected to begin on November 2, 2024 and end on November 26, 2024. Mr.

[721] *Id.*
[722] 5 Tr 1546.
[723] 5 Tr 1547; Exhibit A-229.

Blumenstock concluded that ABATE's disallowance should be rejected because there is no evidence that the sync wire replacement is unreasonable or imprudent and because the project is in progress.[724]

ABATE did not address the Company's rebuttal in briefing, and Consumers reiterated Mr. Blumenstock's testimony in its brief.

This PFD finds that ABATE's recommended disallowance for the Sync Wire Replacement Project should be rejected. A review of Exhibit A-229 shows that work is ongoing and the project is expected to be completed and closed out by mid-2025.

v. Karn Unit 4 Ductwork Expansion Joint Replacement Project

Mr. Blumenstock discussed the test year $1.9 million Karn Unit 4 Ductwork Expansion Joint Project, explaining that "[a]ll expansion joints between the ID Fans and the Stack are beyond their end of life and suspected to be severely degraded based upon the condition of expansion joints found during the Karn Unit 3 Breeching project."[725]

Ms. York testified that while Consumers may have discovered issues at another Karn unit, it provided no evidence that the same problem exists at Unit 4. She further noted that the CAD for the project was last revised in 2020 and indicated that 10 outage days had occurred that year, but the Company did not provide evidence of any problems since 2020, and per Exhibit AB-4, p. 6, no project bids have been issued. According to Ms. York, "these factors call into question the likelihood of this project actually occurring during the Bridge Period or projected Test Year in this case." [726]

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[724] 5 Tr 1547.
[725] 5 Tr 1465.
[726] 5 Tr 3347

In rebuttal, Mr. Blumenstock testified that he did not agree with Ms. York's analysis; however, due to re-prioritization, this project has been delayed beyond the test period. Nevertheless, Consumers intends to spend the $1.9 million on other, higher priority projects.[727]

Consistent with the rationale above, disallowing costs associated with the de-prioritized Covert Roll-Up Door and Loading Dock projects, this PFD finds that the $1.9 million in capital expenditures for the Karn Unit 4 Expansion Joint project should also be disallowed.

vi. Karn Ductwork Insulation and Lagging Replacement Project

Mr. Blumenstock discussed the $4.8 million in test year costs for the Karn Unit 4 Replacement of Ductwork Insulation and Lagging, noting that "[t]he existing lagging and insulation needs to be removed, the underlying steel fixed as necessary, and new insulation and lagging installed. The steel structure that the ductwork lagging is attached to is severely corroded. This has allowed multiple random failures of the lagging, resulting in a safety concern[.]"[728]

Ms. York recommended a total disallowance of the proposed investment on grounds that the project was not supported. Citing Exhibit AB-5, p. 2, she observed that a CAD for the project has not been prepared.[729]

In rebuttal, Mr. Blumenstock stated that Consumers partially agrees with this disallowance, testifying that "[t]he Company is moving forward with critical work on the Karn Unit 4 damper replacement, as discussed in more detail in the recently prepared

[727] 5 Tr 1548.
[728] 5 Tr 1465.
[729] 5 Tr 3348.

concept approval document."[730] Mr. Blumenstock observed that the project "resulted from the analysis of the ductwork and lagging project" that was included in the Company's initial filing, indicating that the cost was $1.8 million less than originally estimated. Thus, Mr. Blumenstock agreed that $1.8 million should be disallowed.

In its initial brief, Consumers states that, "as the Company was moving forward with its preparations for the ductwork and lagging project, the analysis related to that project revealed a wider-scope issue that the Company needs to address with the Karn Unit 4 damper."[731] Consumers states that, as set forth in the CAD (Exhibit A-230) it now intends to replace the induced draft fan dampers at Karn Unit 4 "in order to eliminate the cause of numerous forced outages at the plant in recent years and save customers in excess of $4.5 million due to capacity losses, among other benefits."[732]

In its initial brief ABATE responds that Consumers provided insufficient evidence to demonstrate that the project will occur in the bridge or test periods, except for providing a CAD dated October 7, 2024. In its reply brief, ABATE again argues that the Company "cannot use its rebuttal testimony to swap in and out various projects to which it asserts it will apply varying amounts of requested cost recovery."[733]

This PFD agrees with ABATE that, while styled somewhat differently than the substitutions discussed above, Consumers is again attempting to introduce new projects as part of rebuttal thereby hampering the ability of Staff and intervenors to undertake a careful review of the reasonableness and prudence of project and associated costs. Thus,

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[730] 5 Tr 1548; Exhibit A-230.
[731] Consumers brief, 113.
[732] *Id*. at 114.
[733] ABATE reply, 9.

this PFD finds that ABATE's recommended disallowance for the Karn Unit 4 ductwork insulation and lagging project. Reasonable and prudent costs for the induced fan inlet dampers may be included in a future rate case.

vii. Zeeland Advanced Gas Path Replacement and Axial Fuel Staging Project

Mr. Blumenstock described the justification for the advanced gas path (AGP) replacement and axial fuel staging (AFS) projects as follows:

> The scheduled Major Inspection outages in 2025 for the Phase 1 gas turbines at Zeeland Generating Station present an ideal time for substantial technological advancements. This project proposes the integration of Advanced Gas Path ("AGP") and Axial Fuel Staging ("AFS") technologies during these outages, aimed at boosting turbine performance and operational flexibility.[734]

According to him, Consumers proposes an investment of $20.356 million in the bridge period and $25,743,740 in the test period for these two projects.[735]

Ms. York testified that based on her review of the CAD (Exhibit A-46), the Company's justification for the upgrade "is largely tied to economics . . . aimed at trying to capture potential savings." She added that according to the CAD, AGP is already common in the industry, with AFS expected to soon follow.[736] However, according to her, "the Company has not provided information on the performance and savings associated with other generation resources in the industry that already use AGP. Further, Consumers notes that AFS is not already a trend in the industry, but does not explain why that is the

[734] 5 Tr 1470; Exhibit A-46.
[735] 5 Tr 1466, 1470.
[736] 5 Tr 3349.

case, or why it believes investing in AFS technology would be reasonable and prudent at this particular time."[737]

In rebuttal, Mr. Blumenstock testified that:

> While the positive net present value ("NPV") of the revenue requirement is significant at $132.8 million through 2040, implementing these upgrades is very important from an operational perspective. First, the upgrade increases the capacity of each unit by 25 MW, or a total capacity increase of 50 MW. This improvement is critical to the Company's ongoing ability to reliably serve its customers and meets its capacity obligations with both the MPSC and MISO. In addition, the upgrade improves the turndown ratio for each of the units, thereby allowing them to operate at lower loads resulting in improved operating profiles which will allow for fewer starts and more operating hours, thereby reducing costs associated with the LTSA. In addition to increased capacity and improved operating profiles, the upgrade will provide for a 2.8% improvement in heat rate efficiency, thereby supporting more economic operation and dispatch, all else being equal.[738]

In response to Ms. York's claim that Consumers never provided information on performance and savings from AGP implemented at other generating plants, Mr. Blumenstock stated that Ms. York never requested this information, and even had she done so, the information is not necessarily publicly available. He explained that the project is being administered by General Electric, "and the basis for the project is, in part, informed by the Company's partnership with them."[739] Regarding the proposed investment in AFS, Mr. Blumenstock explained:

> With respect to the reasonableness and prudence of the investment in AFS, despite its lack of penetration in the industry, my Exhibit A-46 (RTB-7) clearly supports the basis for its inclusion in the project. Total benefit with AGP only is a positive NPV of revenue requirements of $90.8 million based upon a $57 million investment and the total benefit of AGP with AFS is a positive NPV of revenue requirements of $132.8 million based upon a $63.1 million investment.[740]

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[737] 5 Tr 3349.
[738] 5 Tr 1549.
[739] 5 Tr 1550.
[740] *Id*.

In briefing, ABATE reiterates Ms. York's testimony. Consumers likewise relies on Mr. Blumenstock's testimony, emphasizing that implementing AGP alone results in a positive NPV of $90.8 million, based on a total $57 million investment, whereas the implementation of both AGP and AFS results in a NPV of $132.8 million with a $63.1 million investment—resulting in additional savings to customers of $42 million for $6 million in additional investment.

Based on a review of Exhibit A-46, this PFD agrees with Consumers that the investments in AGP and AFS are reasonable and prudent, based on the record in this case. Moreover, as noted in Exhibit A-46, p. 12, delaying the implementation of this work beyond 2025, "until the next outage of opportunity, potentially 5-6 years later during the next Hot Gas Path Inspection, would result in a considerable delay in realizing the benefits for Consumers Energy's customers." This PFD cautions, however, that this is a fairly significant investment in new technologies and there have been many occasions when the Company's assumptions about costs and benefits were significantly under or overstated. As such, the Commission should continue to monitor this project to ensure that projected costs do not significantly increase and that projected benefits are in fact achieved.

viii. Covert, Zeeland, and Jackson Base Outage Capital

The Company is requesting approval of capital expenditures for base outage capital. Mr. Blumenstock testified that base outage capital "covers the replacement parts and issues found during turbine/generator inspections and the major discovery issues

found during annual unit outages."[741] The Company is requesting the Commission approve expenditures for base outage capital at the Covert plant, the Zeeland plant, and the Jackson plant. ABATE recommends that the Commission disallow the proposed base outage capital expenditures at all three plants.

For the Covert plant, Consumers is requesting $443,000 in the bridge period and $383,000 in the test year. Ms. York testified that "The Company has not identified specific types of parts or issues that would be associated with this category of capital expenditures."[742] She further stated that the Company has not explained how it calculated the projected expenditure amounts and therefore asserted that these amounts are speculative and should be disallowed by the Commission.

In rebuttal, Mr. Blumenstock testified that Consumers "invested $0.789 million in base outage capital during the seven-month period beginning June 1, 2023 and ending December 31, 2023 at Covert."[743] Based on these historical costs and the inspections planned for the three units at Covert, Mr. Blumenstock asserted that the requested amounts are reasonable, prudent, and conservative.

ABATE argues that the Company did not explain how it developed the projected costs at issue and did not identify specific types of parts or issues that will be needed. Therefore, ABATE argues these costs are speculative and should be disallowed. The company asserts that "Although it is not possible to identify specifically which parts or issues will be discovered during those inspections, this is a category of capital costs that

[741] 5 Tr 1453.
[742] 5 Tr 3344.
[743] 5 Tr 1543.

the Company routinely experiences."[744] The Company also points to its historical investment in base outage capital as articulated by Mr. Blumenstock and notes that the projected amounts are less than what has historically been invested.

This PFD agrees with the arguments set forth by Consumers. The Company has provided a historical basis for the capital request and explained that although specific parts needed may not be known instantly, past experience informs the Company as to what will most likely be needed. Therefore, this PFD recommends the Commission reject ABATE's proposed disallowance.

For Zeeland, the Company is requesting $483,000 in the bridge period and $424,000 in the test year in base outage capital for the Zeeland plant. Ms. York testified that she recommends the Commission disallow these expenditures for the same reasons articulated regarding the Covert plant. In rebuttal, Mr. Blumenstock reiterates what the base outage capital is meant to cover and provides a table showing what the company has historically spent in this category.[745]

ABATE makes the same arguments pertaining to base outage capital for the Zeeland plant as it did for the Covert plant. ABATE argues: "this requested cost recovery is effectively a request for a contingency amount in the event future issues potentially arise."[746] The Company also makes the same arguments regarding base outage capital at the Zeeland plant as it did for the Covert plant. Consumers further points to Mr.

[744] Consumers Brief, 108.
[745] 5 Tr 1552-1553.
[746] ABATE Brief, 22.

Blumenstock's rebuttal testimony showing its investment in base outage capital at the Zeeland plant over the last 6 years.[747]

This PFD is persuaded by the arguments set forth by the Company. Consumers has provided a historical basis for the capital request and relies on past experience regarding what parts or issues will need to be addressed. Therefore, this PFD recommends the Commission reject ABATE's proposed disallowance.

For the Jackson plant, the Company is requesting $350,000 in the bridge period and $300,000 in the test year in base outage capital. Ms. York testified that she recommends the Commission disallow these expenditures for the same reasons stated regarding the Covert and Zeeland plants. In his rebuttal, Mr. Blumenstock reiterates what the base outage capital is meant to cover and provided a table showing what the Company has historically spent in this category.[748]

ABATE again argues that the Company "failed to meet its burden to demonstrate these speculative costs are reasonable and prudent, and it would be premature to include them in rates in this case."[749] The Company also makes the same arguments regarding base outage capital at the Jackson plant as it did for the Covert plant. The Company further points to Mr. Blumenstock's rebuttal testimony showing its investment in base outage capital at the Jackson plant over the last 6 years.[750]

This PFD is persuaded by the arguments set forth by Consumers. The Company has provided a historical basis for the capital request and relies on past experience

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[747] Consumers Brief, 119.
[748] 5 Tr 1555-1556.
[749] ABATE Brief, 24.
[750] Consumers Brief, 121.

regarding what parts or issues will need to be addressed. Therefore, this PFD recommends the Commission reject ABATE's proposed disallowance.

ix. Covert, Zeeland, and Jackson LTSA-Extras

Consumers is requesting approval of capital expenditures for costs exceeding the long-term service agreements (LTSA) at the Covert, Zeeland, and Jackson plants. In his direct testimony, Mr. Blumenstock stated that LTSA extra work is work that is "not covered under normal planned maintenance in the LTSA."[751] Ms. York recommended that the Commission disallow the requested expenditures for the LTSA extra work.

For Covert Unit 1, the Company is requesting $1,437,717 for LTSA extra work. For Covert Unit 2, the Company is requesting $12,609,633, and for Covert Unit 3, the Company is requesting $10,609,633.[752] Mr. Blumenstock stated that based on historical outage experience, some of the typical items not covered by the LTSA maintenance scope are "labor and material to replace the following: blading, ammonia delivery system, SCR catalyst, turbine rotors, cooling towers, and turbine cooling air cooler."[753] Regarding Covert Unit 1, Mr. Blumenstock testified that the major inspection for this unit will take place February 1, 2026 through March 31, 2026 and as such, a large portion of the LTSA extra work for this unit is not being requested in this proceeding.

The major inspection for Covert Unit 2 is scheduled to begin February 1, 2025. The major inspection for Covert Unit 3 is set to begin November 1, 2025. Mr. Blumenstock testified that major work scheduled for each of these units that is not covered by the Company's LTSA with Mitsubishi Electric Power Products, Inc. (MEPPI) includes

[751] 5 Tr 1457.
[752] 5 Tr 1456-1457; Exhibit A-12, Sched. B-5.2.
[753] 5 Tr 1456.

"generator inspection, replacement of the generator hydrogen seals, generator rewedge, diaphragm repairs, steam turbine and generator bearing repairs, and HP stop and control valve disassembly, inspection, cleaning, and repair."[754]

Ms. York stated that "Mr. Blumenstock's testimony does not explain how the projected capital expenditures were determined, nor does he provide historical cost data for the 'typical' items discovered that are not covered by the LTSA."[755] She testified that the amounts proposed by the Company for inclusion in rates are speculative and that those amounts may or may not be incurred. Ms. York stated that it would be premature to include these amounts in rates and that disallowance of such is consistent with the Commission's Order in Case No. U-21389.

In rebuttal, Mr. Blumenstock pointed to his direct testimony and noted that Consumers has explained what work is typically performed under the project and what work is planned for each of the inspections discussed above. He pointed to the company's LTSA with MEPPI and noted the work planned for the inspections that is not covered by the LTSA (see Exhibit A-227). Mr. Blumenstock testified that the Company has clearly defined the work to be performed during the inspections and has shown what work will not be covered by the LTSA. Therefore, he recommends the Commission approve the requested expenditures.[756]

In its brief, ABATE argues that the Company's request for the LTSA extra expenditures amounts to "a contingency request for costs that may or may not arise

[754] 5 Tr 1457.
[755] 5 Tr 3342.
[756] 5 Tr 1539-1541.

relating to work that may or may not happen and can only be supposed."[757] ABATE contends that despite Consumers' assertion that the costs are derived from historical outage experience, the Company has not provided historical cost data for the items mentioned nor did it explain how the projected expenditures were determined. Citing the Commission's decision in Case No. U-18370, ABATE argues that the Commission has previously determined that including contingency costs in customer rates is not reasonable, and that the same rationale applies to the LTSA extra costs requested in the instant matter.

ABATE reiterates that the amounts requested are speculative and not supported by the evidence. It argues that the evidence does not show that the amounts requested are accurate or that such costs will certainly be incurred. ABATE contends that the evidence is inadequate to support the request and that disallowing these costs is consistent with the Commission's holding in U-21389, wherein the same costs were disallowed with the Commission finding Consumers' evidence regarding these costs to be insufficient.

Consumers argues that when U-21389 was decided, the Covert plant was recently acquired and LSTA extra cost estimates relied on pre-ownership estimates of those costs. Conversely, "Consumers Energy has now owned the plant for more than a year and has been able to identify specific LTSA Extras work that it will need to perform based on its actual experience operating the Covert plant."[758] The Company relies on Mr. Blumenstock's testimony stating the known LTSA extras to refute ABATE's claim that

[757] ABATE Brief, 13.
[758] Consumers Brief, 105.

these costs are speculative. Neither party provided additional arguments on this issue in reply briefs.

This PFD is persuaded by the arguments made by ABATE. Despite the Company's contention that it is in a better position to project what LTSA extra costs will be needed after having operated the plant for over a year, no historical data was provided as a basis for cost estimation. ABATE also persuasively argues that the costs in question are not certain to be incurred and that a disallowance of those costs would be consistent with the Commission's ruling in U-21389. Therefore, this PFD recommends the Commission disallow the LTSA extra capital expenditures requested for the Covert plant.

For the Zeeland plant, the Company requested LTSA extra amounts of $3,925,000 for the bridge period and $4,275,000 for the test year in its application.[759] Mr. Blumenstock testified that the Company has since revised its cost estimates for the Zeeland LTSA extras by reducing the amount requested in the bridge period to $1.23 million and increasing the amount requested for the test year to $4.355 million.[760] Consumers has an LTSA with GE covering many reliability investments at the Zeeland plant. Mr. Blumenstock testified that based on historical outage experience, some of the typical items for these types of turbines not covered by the LSTA maintenance scope are "labor and material to replace the following: blading, combustion cans, ignitors, vanes/bushings, and any components on the compressor end."[761]

Ms. York asserted that the amounts requested for the Zeeland plant are speculative and again stated that Mr. Blumenstock's testimony does not explain how

[759] 5 Tr 1467-1469; Exhibit A-12, Sched. B-5.2.
[760] 5 Tr 1551.
[761] 5 Tr 1469.

these projected expenditures were determined or provide historical cost data for the items mentioned. As such, she recommends the Commission disallow these expenditures.[762]

The Company argues that Mr. York's claim that these costs are speculative is not supported by the evidence in this matter. Consumers again relies on the testimony of Mr. Blumenstock wherein he describes the work included in the LTSA extras. Consumers points to Exhibit A-231 as identifying specific LTSA extra costs that will be incurred for the bridge and test year periods for this case. Consumers notes that Mr. Blumenstock described the Company's historical spend for LTSA extras at the Zeeland plan in his rebuttal testimony at 5 Tr 1552. Additionally, the Company argues that "It would be unreasonable to disallow any rate recovery, as ABATE has proposed, where there is a known historical outage experience that allows the Company to reliably estimate the need for this type of work and the expected cost."[763]

In its brief, ABATE makes the same arguments for disallowing these costs as it did for the Covert LTSA extras. ABATE contends the amounts requested are speculative and that the Company did not "explain how the projected capital expenditures were determined, nor did it provide historical cost data for the typical items discovered that are not covered by the LTSA."[764]

This PFD finds that this request is adequately supported by the evidence of record. As noted by the Company, the Commission previously approved LSTA extra funds for the Zeeland plant in Case No. U-21389 finding that the costs presented in that case were not speculative. The evidentiary presentation in this matter is similar to what was presented

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[762] 5 Tr 3350.
[763] Consumers brief, 118.
[764] ABATE Brief, 21.

in U-21389 regarding the LTSA extras for the Zeeland plant, accordingly this PFD finds that the costs presented are supported by the evidence and that the Commission should reject ABATE's proposed disallowance.

Lastly, the Company is also requesting LTSA extra amounts for the Jackson plant in the amount of $2,908,333 for the bridge period and $350,000 for the test year.[765] The Company has an LTSA with GE covering many reliability investments at the Jackson plant. Mr. Blumenstock testified that based on historical outage experience, some of the typical items for these types of turbines not covered by the LSTA maintenance scope are, "labor and material to replace the following: blading, combustion cans, ignitors, vanes/bushings, and any components on the compressor end."[766]

Ms. York asserted that the amounts requested for the Jackson plant are speculative and stated that Mr. Blumenstock's testimony does not explain how these projected expenditures were determined or provide historical cost data for the items mentioned. As such, she recommends the Commission disallow these expenditures.[767]

In its brief, the Company again relies on the testimony of Mr. Blumenstock and asserts that he "identified numerous specific projects that the Company has planned to perform in the bridge period and test year under the Jackson LTSA Extras category of investments."[768] Consumers also notes Mr. Blumenstock's testimony that the Jackson plant LTSA extras over the previous 6 years have been approximately $2.5 million per year and that the requested expenditures in the instant matter are in line with that

[765] 5 Tr 1472-1475; Exhibit A-12, Sched. B-5.2.
[766] 5 Tr 1475.
[767] 5 Tr 3352.
[768] Consumers Brief, 120; 5 Tr 1554.

average.[769] Consumers asserts the request is supported by specific work details and historical cost data.

ABATE again contends the Company did not explain how it determined these projected capital expenditures and did not provide historical cost data for the typical items not covered by the LTSA. It asserts "the Company merely noted work scheduled which is not covered by the LTSA and provided a table of historic investments."[770] ABATE argues that Consumers did not provide evidentiary support for this request in its initial filing and therefore has not met its burden to show that these costs should be approved.

This PFD finds that Consumers has presented sufficient evidence to approve the requested expenditures. The Company has provided historical cost data pertaining to the Jackson plant and has additionally provided details on specific projects it expects to complete. Therefore, ABATE's proposed disallowance should be rejected.

c. Hydroelectric Generation

Mr. Monroe also testified regarding Consumers' historical and proposed capital expenditures for the Company's river hydro facilities, noting that Consumers currently owns and operates 13 FERC-licensed dams with a combined maximum generating capacity of 133 MW.[771] According to Mr. Monroe, Consumers is considering four options for each of its dams: (1) relicensing the dam after license expiration in 2034 or 2040; (2) selling the dam to a third party; (3) decommissioning the dam; or (4) replacing the dam with another structure that maintains the reservoir.[772] In this case, as shown in Exhibit A-

[769] 5 Tr 1554; Consumers Brief, 120.
[770] ABATE brief, 23.
[771] 5 Tr 2336-2337; Exhibit A-143.
[772] 5 Tr 2344.

12, Schedule B-5.2, p. 1, line 7, Consumers initially requested a total of $42.376 million in the bridge period and $92.258 million in the test period, largely associated with investments in three major projects at the Hardy dam facility. Subsequently, based on updated estimates provided in discovery, Consumers agreed to the adjustments set forth in Exhibit S-16.1, p. 1, lines 20-29 and p. 2, lines 20-33.[773]

Next, Mr. Monroe discussed the settlement agreement in Consumers' most recent electric depreciation case (U-20849), which required the Company to present a retirement and decommissioning analysis by the end of 2024, along with economic studies and community outreach Consumers that has undertaken.[774]

Mr. Monroe explained that during the time period covered by this rate case until 2027, Consumers plans to make over $350 million in investments in the Hardy facility, testifying that these investments are required to meet FERC dam safety requirements.[775] Mr. Monroe provided detailed testimony regarding the most costly of the projects, the Hardy emergency spillway, at 5 Tr 2350-2357, and he sponsored the concept approval document for the spillway in Confidential Exhibit A-147. Mr. Monroe stated that the only alternative to constructing the spillway would be to decommission Hardy dam, which would result not only in the loss of hydro capacity but would also significantly impact the community surrounding the impoundment.[776] Mr. Monroe also addressed the rationale for proposed investments in the Hardy splash wall and crest compaction/roadway replacement.[777]

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[773] Consumers brief, 127.
[774] 5 Tr 2343-2345; Confidential Exhibit A-149.
[775] 5 Tr 2348-2349.
[776] 5 Tr 2360-2361.
[777] 5 Tr 2362-2365.

Turning to specific requirements for river hydro facilities, as set forth in the March 1, 2024 order in Case No. U-21389, ordering paragraph D, the Commission directed Consumers to provide "a full evaluation of all alternative options and pricing for the work that must be done in order to remain in compliance with Federal Energy Regulatory Commission standards, with projected costs." Mr. Monroe testified that Confidential Exhibit A-147 includes concept approvals for the projects at Hardy as well as $8.3 million in additional FERC-required hydro projects in 2025-2034. Mr. Monroe then described the total costs and work to be done on various hydro facilities in the bridge and test years, as set forth in Exhibit A-12, Schedule B5.2, p. 8 lines 20-29.[778]

Staff witness DeCooman, Attorney General witness Deupree, and ABATE witness York recommended various disallowances of costs associated with Consumers' river hydro facilities. Mr. DeCooman outlined the requirements set forth in the settlement agreement in Case No. U-21389, including collaboration with Staff and the Attorney General, community outreach, and development of a business case for continued operation of Hardy dam, testifying that Staff believes that Consumers has complied with the terms of the settlement.[779] While there have been no significant changes in the status of the Company's hydro facilities, Mr. DeCooman testified that as part of its evaluation process, Consumers issued a request for proposals (RFP) seeking buyers for all or a portion of its river hydro units. According to Mr. DeCooman, Consumers is expected to make a decision by the end of 2024 on whether to sell the dams.[780] However, if the Company decides not to sell all or some portion of its hydro facilities, Consumers will

[778] 5 Tr 2368-2379.
[779] 5 Tr 3666-3668.
[780] 5 Tr 3669; Exhibit S-8.1.

reevaluate whether to relicense or decommission the dams. Mr. DeCooman noted that in response to discovery, the Company indicated that if it decides to go forward with decommissioning, it would focus efforts on facilities with the highest near-term capital investment requirements which would mean, according to Mr. DeCooman, that the Hardy spillway project could be avoided.[781] As such, in addition to the adjustments supported by Mr. Bodiford, Mr. DeCooman recommended that all capital investments for the three Hardy dam projects, totaling $57,295,194, be disallowed in the test year, and he recommended adjustments totaling $1,561,433 in the bridge period reflecting expenditures beyond that required for engineering studies.[782]

Because Consumers is currently evaluating the future of the river hydro facilities, Mr. Deupree recommended that all bridge and test period investments, totaling $134.6 million, be removed from the revenue requirement.[783] On a similar basis, Ms. York recommended that all investments in river hydro facilities be disallowed or, in the alternative, that the significant investments at Hardy dam be removed until the fate of the dam is known.[784]

Ms. York highlighted Consumers' explanation that for certain facilities, including Hardy dam, the Company has implemented interim risk reduction measures (IRRMs) that FERC has agreed to while certain upgrades are completed. However, "[t]he Company has not indicated whether IRRMs have been or could be implemented for the other River

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[781] 5 Tr 3668-3669; Exhibit S-8.2.
[782] 5 Tr 3670. As noted in Consumers' brief, p. 102, Mr. Bodiford made adjustments for class cost estimates to certain Hardy dam projects, that appear to overlap to some extend with Mr. DeCooman's disallowances.
[783] 5 Tr 2921-2922.
[784] 5 Tr 3355.

Hydros, to maintain compliance with safety and legal requirements while minimizing near-term investment in these facilities until such time as a decision is made regarding the future of these resources." [785] Ms. York added that, as shown in Exhibit AB-4, pp. 5-6, although several projects require outside engineering assistance, no bids have been issued, further noting that according to a news article from September 11, 2024, Consumers received a $23 million grant (an amount that is not reflected in the Company's testimony) from the Department of Energy for improvements to 10 of the 13 hydro dams.[786]

In rebuttal, Mr. Monroe presented Exhibit A-253, a collection of recent news stories on dam incidents and related deaths in various locations in the U.S., and he reiterated Consumers' responsibility to operate the river hydro facilities in a safe and reliable manner.[787] He added that as a responsible dam owner, the Company does not wait until the FERC orders upgrades or threatens license revocation before undertaking necessary improvements. Mr. Monroe emphasized that while the ownership of the dams may not be determined at this point, the need for safety upgrades or repairs is not in doubt.[788] Mr. Monroe testified that removal of the $134.6 million for investments in river hydro facilities, as recommended by Mr. Deupree and Ms. York, "would effectively force the Company to move toward decommissioning by eliminating the viability of all other options." He further explained that even if the dams are sold (noting that any sale is subject to FERC approval) the sale would not close until 2026, thus the bridge and test year investments are not

[785] 5 Tr 3354.
[786] 5 Tr 3354-3355; Exhibit AB-6.
[787] 5 Tr 2384.
[788] 5 Tr 2385-2386.

avoidable. In response to Ms. York's query about the implementation of IRRMs at other river hydro facilities, Mr. Monroe stated that IRRMs are intended to be temporary and that the Company expects the FERC to approve the Hardy spillway project by the end of 2024, with construction expected to begin in September 2025.[789]

In response to Mr. DeCooman's recommendation to disallow costs associated with improvements at Hardy dam, Mr. Monroe reiterated that the spillway project needs to be completed if the dam is to be relicensed or sold, and that any further delay could jeopardize dam safety.[790]

Lastly, Mr. Monroe suggested that if capital expenditures for the bridge and test period are not included in rates, the Commission could authorize Consumers to record actual spending on hydro facilities to a regulatory asset until a decision is made as to the future of these facilities.[791]

The parties' briefs generally rely on the testimony of their respective witnesses. Staff emphasizes that the FERC has not approved the final design of the Hardy auxiliary spillway; the RFP process is anticipated to be completed by the end of 2024, and a decision will be made on the future of the dams in 2025. Under that timeline, where a decision is expected months before construction of the spillway might begin, "there is no reason to assume the Company would need to commit these dollars before a final decision is made. This is further confirmed by the Company itself . . . that the timing of

[789] 5 Tr 2391.
[790] 5 Tr 2393-2394.
[791] 5 Tr 2390.

the start of construction would allow for the significant projects at Hardy to be avoided if the Company is not pursuing a relicensing of this dam."[792]

ABATE and the Attorney General make similar arguments regarding the uncertainty surrounding the disposition of the hydro facilities. ABATE points out that Consumers never explained why additional IRRMs could not be implemented or continued to minimize the need for near-term investments in the dams.[793]

In its reply brief, Consumers insists that a failure to approve funding in this case would "would eliminate the option to sell or relicense and force the Company toward decommissioning[,]" contrary to Staff's claim that there is sufficient time to make a decision before spillway construction is set to begin in 2025.[794] Consumers adds that if the decision is made to continue operation of the river hydro facilities, then the investments proposed here are unavoidable. Likewise, if the Company negotiates a purchase agreement, Consumers will still need to make investments to assure a potential buyer that the units have been appropriately maintained and can be relicensed by the new owner.[795]

This PFD agrees with the Attorney General and ABATE, that in light of the current uncertainty about the disposition of the river hydro facilities, coupled with the fact that some investments may be completely or partially avoidable depending on the Company's decision(s), the requested capital expenditure amounts should be disallowed for now, but may be included in a future rate case if found to be reasonable and prudent. It should be

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[792] Staff brief, 42; citing 5 Tr 2390.
[793] ABATE brief, 26-27.
[794] Consumers reply, 32.
[795] Id. at 33.

emphasized that at this point, with the decommissioning study under review, the Commission has not made a decision on the most prudent course of action with respect to the river hydro facilities. Thus, any investments that support continued operation of the dams should be viewed with caution. That said, as an alternative to the complete disallowance of capital investment, the Commission could authorize deferred accounting until a final decision is made with respect to the river hydro facilities.

d. Solar Generation

Consumers included capital expenditure amounts for four solar projects: Mustang Mile, Washtenaw, Muskegon, and Spring Creek, in its revenue requirement.[796] Staff witness Harlow recommended that these amounts be removed from base rates and instead be recovered as part of Consumers' amended Renewable Energy Plan (REP) case filed in November.[797] In rebuttal, Mr. Clark agreed that the costs associated with these solar projects should be removed, with the caveat that if the costs for any of the projects is denied in the REP case, Consumers could still seek recovery in a future rate case. Further, Consumers requests that the Commission make clear that the removal of these investments from this case "is not a determination that those investments are being disallowed for further rate recovery."[798]

Given the apparent agreement of the parties on this issue, this PFD finds that Consumers should seek recovery of the investments associated with these solar facilities

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[796] 5 Tr 1624-1636.
[797] 5 Tr 3684-3687. Attorney General witness Deupree also recommended disallowance of capital expenditures associated with three of the four solar projects, on grounds that the projects were not expected to be completed in the test year. 5 Tr 2914-2919. Given the Company's agreement to remove and recover these expenses through the cost recovery mechanism in Act 235, Mr. Deupree's recommendation is moot.
[798] 5 Tr 1655.

under the cost recovery mechanism set forth in 2023 PA 235 (Act 235), with the recognition that removal of these costs from the instant case does not preclude their recovery in a future case.

e. Battery and Grid Storage

Mr. Clark testified in support of Consumers' capital expenditures for the Weadock and Iosco BESS Projects, which are part of the company's 75 MW BESS Deployment Program that was approved in the 2021 IRP settlement agreement in Case No. U-21090.[799] He also presented an overview of the Company's Grid Storage Program and supported the proposed capital expenditures for the Armstrong BESS Project.[800] Contested issues regarding these projects are addressed below.

i. Weadock and Iosco BESS Projects

Mr. Clark testified the Company made progress implementing its Battery Deployment Program, which included conducting customer outreach; issuing two battery deployment solicitations; executing Substation Transformer Unit agreements with respect to the Weadock and Iosco locations; and conducting late-stage, ongoing negotiations on the Engineering, Procurement, and Construction (EPC) and Battery Supply agreements.[801]

Mr. Clark described the Weadock project as:

> . . . a 45 MW/180 MWh lithium-ion battery energy storage system interconnected at the Weadock Substation on the Consumers Energy 46 kV high voltage distribution system located in Essexville, Bay County. The purpose of this project is to provide localized grid support and provide data regarding how battery storage could benefit the reliability, resiliency, and performance of the high voltage distribution system as well as provide

[799] 5 Tr 1636-1643.
[800] 5 Tr 1643-1650.
[801] 5 Tr 1638-1643.

> energy arbitrage and firm dispatchable capacity in the MISO market. This project will be constructed on Company-owned property within the Karn/Weadock Generating complex. The project will be executed utilizing Major Procurement Agreements for EPC; Substation Transformer Unit; and Battery Supply.[802]

He testified that the Weadock project was scheduled to begin commercial operation on December 1, 2025.[803] Consumers projected spending $19.75 million in the bridge period and $44.18 million in the test year.[804]

Mr. Clark next described the Iosco project:

> The Iosco BESS Project is a 30 MW/120 MWh lithium-ion battery energy storage system interconnected at the Iosco Substation on the Consumers Energy 46 kV high voltage distribution system located near the City of Oscoda, Iosco County. The purpose of this project is to provide localized grid support and provide data regarding how battery storage could benefit the reliability, resiliency, and performance of the high voltage distribution system as well as provide energy arbitrage and firm dispatchable capacity in the MISO market. This project will be constructed on existing Company-owned property near the existing Iosco Substation. The project will be executed utilizing Major Procurement Agreements for EPC; Substation Transformer Unit; and Battery Supply.[805]

The project is scheduled to begin commercial operation on November 10, 2025, and Consumers projected to spend $15.59 million in the bridge period and $29.87 million in the test year.[806]

Attorney General witness Deupree recommended disallowance of all capital expenditures in the bridge period and test year for both the Weadock and Iosco projects.[807] He supported his position by citing information that Consumers provided

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[802] 5 Tr 1640.
[803] 5 Tr 1641.
[804] *Id*.
[805] 5 Tr 1642.
[806] 5 Tr 1642-1643.
[807] 5 Tr 2923-2924.

during discovery indicating that the projects have an expected commercial operation date (COD) of June 2026, which is four months after conclusion of the test year.[808]

In rebuttal, Mr. Clark provided revised project cost estimates that would result in reduced capital spending for both projects. For Weadock, the Company now projects to spend $19.575 million in the bridge period and $36.682 million in the test year; for Iosco, it projects $14.612 million in the bridge period and $24.873 million in the test year.[809]

Mr. Clark also testified that the COD for both projects had been changed to December 2026 due to delays in finalizing the battery and EPC contracts.[810] He testified, "At this time, all contracts have been executed and no further delays are anticipated."[811] While acknowledging that neither project would achieve commercial operation before the end of the test year, Mr. Clark testified that the Company was now applying an AFUDC offset to the revenue requirement associated with the projects' capital expenditures.[812] Citing the Company's adjusted revenue deficiency presented in Ms. Myers' rebuttal testimony, Mr. Clark asserted there would be no impact on the revenue requirement requested in this case.[813] He noted that no party had challenged the reasonableness or prudence of the projects and argued that since there would be no impact on the revenue requirement there was no reason to disallow any of the investments for the projects.[814] He further testified that advancement of the projects is dependent upon "favorable

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[808] *Id*.
[809] 5 Tr 1661, 1663.
[810] 5 Tr 1661-1662, citing Exhibits A-235 and A-238.
[811] 5 Tr 1661-1662.
[812] 5 Tr 1660, 1662.
[813] *Id*.
[814] 5 Tr 1660-1663.

regulatory approval," and a disallowance would likely delay the projects and increase the costs to deliver the 75 MW of BESS approved in the IRP settlement agreement.[815]

In its initial brief, Consumers states that the Weadock and Iosco projects are the product of "a careful and thoughtful competitive solicitation process" that resulted in the acquisition of "economically beneficial projects."[816] It argues that battery technology will be an important part of its portfolio in the future, and "it is important for the Commission to continue its support for the development of this technology."[817] The Company encourages the Commission to reject the Attorney General's proposed disallowance, again noting there is no challenge on the grounds of reasonableness and prudence and observing that "the Company's pursuit of these projects was explicitly agreed upon as part of the settlement of the Company's last IRP case."[818] Addressing the delayed COD for the projects, Consumers argues, "the correct ratemaking treatment for any capital investments that are AFUDC eligible and will not be put into service before the end of the test year is to include those projects in Construction Work in Progress (CWIP) in the rate case and apply an AFUDC offset."[819]

In her initial brief, the Attorney General argues that the Company's AFUDC calculations, while including specific amounts for solar and hydro projects, do not appear to include any accounting for the BESS projects.[820] According to the Attorney General, Mr. Clark's claim that Ms. Meyers accounts for all relevant AFUDC in her rebuttal

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[815] 5 Tr 1661, 1663.
[816] Consumers brief, 147.
[817] *Id*.
[818] Consumers brief, 148.
[819] *Id*.
[820] Attorney General brief, 101.

calculations is unsupported by the record.[821] The Attorney General further argues that AFUDC would not serve as a total offset to any portion of the rate base within the revenue requirement:

> The work paper referenced as the source of Company's AFUDC calculations includes a rate of 5.86%. However, in rebuttal testimony the company proposes 6.17% as an overall required rate of return on its rate base. This 31-basis-point difference would necessarily result in some portion of the proposed expenditures for the BESS projects not being "offset" as the Company claims. And since the company has not otherwise broken down its AFUDC calculations for the BESS projects, other inconsistencies may exist in its methodology.[822]

In addition, the Attorney General asserts that the AFUDC offset does not include the removal of any depreciation or property tax expense that the Company may have calculated on those capital expenditures.[823] The Attorney General thus concludes "it is best to remove the disallowed capital expenditures from rate base and all the related costs that go along with those disallowances."[824] And, "irrespective of any AFUDC offset," the Attorney General continues to advocate for a disallowance "given the fact that these projects are still in the developmental stage, compounded by the uncertainty of the proposed expenditures during the bridge period and test years."[825]

In its reply brief, Consumers disputes the Attorney General's "misinformed arguments" relating to the AFUDC offset.[826] The Company notes that the accounting adjustment was accurately reflected in rebuttal Exhibit A-260, line 17, column (n).[827] It

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[821] *Id*.
[822] Attorney General brief, 101-102, footnotes omitted, emphasis in original.
[823] Attorney General brief, 102.
[824] *Id*.
[825] *Id*.
[826] Consumers reply, 39-40.
[827] *Id*.

also takes issue with the Attorney General's comparison of the AFUDC offset rate to the Company's proposed overall rate of return: "The Attorney General fails to understand that the Commission routinely uses the most recently approved capital structure from the prior case to calculate the final amount of the AFUDC offset. It is not based on the Company's proposed rate of return in this case."[828] Consumers clarifies that it does not remove depreciation expense as part of its AFUDC offset because, "pursuant to the Commission's longstanding practice," the Company does not include depreciation expense for those capital expenditures in the first place.[829] And Consumers includes tax expense because it actually incurs tax expense for those investments, which is "consistent with the Commission's ordinary method of applying AFUDC offsets."[830]

In her reply brief, the Attorney General discusses the used and useful standard and summarizes multiple cases where the Commission relied upon the standard to disallow capital expenditures.[831] She argues that the BESS project expenditures should be disallowed entirely because there is no reasonable expectation the projects will be used and useful in the test year, and thus the investments are not reasonable and prudent.[832]

This PFD agrees with the Company that the costs associated with the Weadock and Iosco projects should be recorded in CWIP with an AFUDC offset. As Consumers correctly argues, no party challenges the overall merits of the projects or their costs. The Company has established that the projects are consistent with its approved IRP and has

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[828] Consumers reply, 40.
[829] *Id*.
[830] *Id*.
[831] Attorney General reply, 5-11.
[832] Attorney General reply, 6.

provided support for its proposed capital expenditures. While the Attorney General argues for a disallowance solely because the projects will not be used and useful during the test year, this argument does not align with the well-established accounting practice of CWIP with an AFUDC offset for projects greater than $50,000 and lasting longer than six months.[833] In other words, the Weadock and Iosco projects need not be completed within the test year to be included in rate base.[834] And, contrary to the Attorney General's concerns, application of the AFUDC offset renders the expenditures associated with these projects revenue neutral.[835] Given these circumstances, it would not be productive to disallow funding for this important program and risk potential delays and increased costs.[836]

ii. Armstrong BESS Project

Mr. Clark stressed the importance of the Company's Grid Storage Program while highlighting the unique challenges associated with deploying new energy storage technology.[837] He explained that the Grid Storage Program allows Consumers to develop a knowledge base through the deployment of small-scale projects.[838] Mr. Clark further testified, "The knowledge and experience gained in these small-scale deployments are increasingly relevant as more opportunities develop for storage through market and

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[833] See 4 Tr 408 (discussing the criteria for applying AFUDC to a construction project). See also December 1, 2023 order in Case No. U-21297, pp. 26, 53, 83-84 (allowing expenditures for projects that will not be completed within the test year to be recorded in CWIP with an AFUDC offset), citing March 14, 1980 order in Case No. U-5281, pp. 7-8, 63-73 (discussing the Commission's application of CWIP and AFUDC accounting practices).
[834] See December 1, 2023 order in Case No. U-21297, pp. 82-84 ("The Commission does not find that the question of whether a project will be completed within the test year is dispositive as to whether that project belongs in rate base.")
[835] See Consumers reply, 40. December 1, 2023 order in Case No. U-21297, pp. 26, 84.
[836] See 5 Tr 1661, 1663.
[837] 5 Tr 1643-1646.
[838] 5 Tr 1644.

regulatory forces."[839] Acquiring this experience is also a "key necessity" for the company to achieve its clean energy goals.[840]

Mr. Clark testified that the Armstrong BESS Project entails the installation of a 2.5 MW/11.5 MWh battery on the distribution system in Calhoun County.[841] The purpose of the project is "to explore how to use an islanded battery to quickly restore power to unfaulted sections of the distribution system while faulted zones upstream are being restored."[842] Mr. Clark testified that property acquisition has been completed and, following delays, the protection study was completed in March 2024.[843] The Company experienced further delays during the "real-time simulation of the proposed protection solution," and it now anticipates an in-service date of February 2026.[844]

Consumers is requesting approval of this project because it will "significantly advance the Company's system protection expertise related to designing storage applications that can island sections of distribution circuits."[845] Mr. Clark further explained:

> Currently, the islanding storage use case remains largely constrained to small commercial microgrids. Through the Armstrong BESS Project, the Company will be able to study, develop, and test in a more controlled distribution environment, a primary protection system capable of operating safely and independently under both utility as well as islanded inverter-based generation conditions. The learnings from this project will set the technical basis for designing and deploying future storage to reduce outages on sections of the distribution system.[846]

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[839] *Id*.
[840] *Id*.
[841] 5 Tr 1646.
[842] *Id*.
[843] 5 Tr 1646-1647.
[844] 5 Tr 1647. The milestone schedule for the project is contained in Exhibit A-205.
[845] 5 Tr 1647.
[846] *Id*.

He testified the project involves one large commercial customer that will likely see an annual reduction of 286 outage minutes (a 90% improvement).[847] In addition, the project "will lead the Company to develop the skillset needed to extend this islanding use case to sections of the distribution system," which will eventually result in multiple customers benefitting from an islanded battery during outages.[848] According to Mr. Clark, Consumers considered other options for deploying battery storage but none of them would provide the Company with the same level of experience.[849]

Mr. Clark testified that in Case No. U-21389 the Commission approved $1.53 million in capital expenditures for the bridge period ending February 2024.[850] However, due to delays associated with completing the protection study and the testing phase, the actual spend was $258,304, which represents the funding needed to complete the protection study.[851]

Mr. Clark stated that in the instant case, Consumers projects capital expenses in the bridge period of $3.931 million and test year expenditures of $4.879 million.[852] During the bridge period, the Company anticipates expenses related to battery procurement and engineering, including completion of the Battery Integrator contract, BESS engineering, controls engineering, and internal project-management work.[853] The test-year capital spend was intended to cover completion of the project, which includes civil construction,

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[847] 5 Tr 1648.
[848] *Id*.
[849] 5 Tr 1648-1649.
[850] 5 Tr 1649.
[851] *Id*.
[852] 5 Tr 1650.
[853] *Id*.

battery delivery, BESS commissioning, microgrid controls installation and testing, DTT installation, interconnection costs, and project management.[854]

Mr. DeCooman recommended a full disallowance of all bridge-period and test-year capital expenditures for the Armstrong project, identifying as Staff's primary concern the limited benefits the project would provide to ratepayers compared to its significant cost.[855] Mr. DeCooman opined that the Company should use any equipment, designs, and the results of the protection study to "better inform future battery installations that provide direct reliability benefits to a larger number of customers."[856] Staff did not recommend disallowance of the 2023 capital expenditures used to develop the protection study, noting the study "could serve as a useful reference tool for future designs."[857]

Mr. DeCooman testified that in the Company's last rate case, the Commission approved all capital expenditures for the project.[858] At that time, Consumers was seeking grant funding under the Infrastructure Investments and Jobs Act (IIJA) that would have covered up to 50% of the capital costs for development.[859] Mr. DeCooman explained that through discovery, Staff learned Consumers was not awarded the IIJA funding.[860] And while Armstrong was initially planned with a COD in the second quarter of 2025, it was now delayed to February 2026.[861]

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[854] *Id*.
[855] 5 Tr 3673-3674.
[856] 5 Tr 3673.
[857] 5 Tr 3675.
[858] 5 Tr 3672.
[859] *Id*.
[860] 5 Tr 3673.
[861] 5 Tr 3672.

Mr. DeCooman testified that the Company provided no new information to address Staff's ongoing concern that the project primarily benefits a single commercial customer.[862] He explained Staff's position:

> The installation of Armstrong is expected to have a significant reliability benefit to the single large commercial customer whose site it is located on, with a projected 90% reduction to annual outage minutes. Under the current pilot structure, the large commercial customer which is receiving the direct reliability benefits would not be required to make any payments for the services provided. This pilot is not being developed as a non-wires solution; it will not defer distribution upgrades, nor is it designed to improve system reliability. While referencing the value streams that Armstrong would provide to ratepayers, such as energy arbitrage and capacity accreditation, these values were not quantified, nor was a more general economic analysis presented in this filing.[863]

Mr. DeCooman further stated that Staff supports the Company's efforts to deploy battery storage, but in a way that maximizes benefits and minimizes costs to the largest number of ratepayers.[864] He opined that if the Company pursues a similarly structured pilot in the future, the customers receiving the benefit should be required to provide some form of payment or the pilot should be designed "to allow for the reliability benefit to be provided to a larger number of customers."[865] Staff also encourages the Company to "consider targeting the reliability benefits provided by a similar pilot to include low-to-moderate income customers and poor performing areas of its distribution system."[866]

On behalf of the Attorney General, Mr. Deupree likewise recommended a full disallowance of the proposed capital expenditures for the Armstrong project.[867] He

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[862] 5 Tr 3674.
[863] 5 Tr 3674-3675, internal citations omitted.
[864] 5 Tr 3675.
[865] 5 Tr 3676.
[866] *Id*.
[867] 5 Tr 2923.

emphasized the delays associated with the project, and, citing information provided in discovery, he testified that the project was still in the development phase with a COD of June 2026.[868] In turn, he testified that Armstrong was not appropriate for cost recovery because it would not be used and useful by the end of the test year.[869]

In rebuttal, Mr. Clark testified that Staff's recommended disallowance overlooks the value provided to customers through the Company's development of expertise in battery-supported microgrids and the elimination of safety risks that would enable broader deployment of the technology.[870] He testified that the company has advanced the project "as a direct result of the Commission's Order in Case No. U-21389":

> Following the Commission's order, the Company continued to work with Schweitzer Engineering Laboratories ("SEL") to complete the necessary protection scheme for the project. Upon completion of the protection scheme work, internal departments, including IT and Security, were engaged to develop necessary scopes of work. These scopes of work were leveraged to obtain quotes for a BESS Integrator, an Engineering/ Procurement/Construction ("EPC") Contractor, Protections Relay Engineering Support, an Owner's Engineer, and Investment Tax Credit ("ITC") Compliance Support. The Generator Interconnection and Operating Agreement ("GIOA") process was concluded, with full execution of the GIOA occurring in September. Discussions were held with the local authority having jurisdiction to review the site plan. The project budget was updated based on the quotes collected and cost data from various supporting groups. Finally, the project schedule was updated, informed by data from other BESS projects and supporting groups.[871]

Mr. Clark further testified that as a result of progress made on the project, the costs and schedule had changed.[872] The Company now estimates it will spend $2.73 million in the bridge period and $11.304 million in the test year for a total of $14.034 million, which

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[868] 5 Tr 2922-2923.
[869] 5 Tr 2923.
[870] 5 Tr 1657-1658.
[871] 5 Tr 1658-1659.
[872] 5 Tr 1659.

is $5.225 million more than the previous estimate.[873] The COD was revised to December 2026, as shown in Exhibit A-234. Mr. Clark testified that "the current cost and schedule [are] much more certain than earlier cost and schedule estimates."[874] Given the change in schedule, the Company offset the revenue requirement associated with the project's capital expenditures by AFUDC, resulting in no impact on the revenue requirement requested in this case.[875]

Mr. Clark next addressed the Attorney General's recommended disallowance, arguing it was based on the COD and not on grounds of reasonableness and prudence.[876] According to Mr. Clark, the Company accounted for the fact that the Armstrong project will not be put into service during the test year "through the Commission's longstanding policy of applying an AFUDC offset to [CWIP] for ratemaking purposes."[877]

In initial briefing, Consumers relies on Mr. Clark's testimony to expound upon the critical role energy storage will have in supporting the grid and the importance of the Armstrong project in developing the expertise required to deploy that technology.[878] The Company notes that progress on Armstrong has continued since the Commission expressed support for the project in Case No. U-21389.[879] It argues that Staff's concerns were previously considered and rejected by the Commission, and the Commission has already found there was sufficient evidence of the potential benefits of the project; "If the evidence was sufficient in Case No. U-21389, just eight months ago, it stands to reason

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[873] *Id*.
[874] *Id*.
[875] *Id*.
[876] 5 Tr 1660.
[877] *Id*.
[878] Consumers brief, 149-151.
[879] Consumers brief, 151-152.

that the same evidence remains sufficient to support the benefits of the project today."[880] It further propounds, "The Commission correctly understood that without trying new things, the Company will never gain new skills and will perpetually miss opportunities to adopt new technologies that may benefit customers after some trial and experimentation."[881] Consumers again argues that the Attorney General's proposed disallowance should be rejected because the Company has applied an AFUDC offset, which is the "correct ratemaking treatment when a project is not expected to be in service before the end of the test year."[882]

In its initial brief, Staff argues that Consumers made no attempt to quantify the value that the Company claims the Armstrong project will provide to ratepayers.[883] Nor did the Company attempt to justify the "ballooning costs for this project" that increased from $8.8 million in Mr. Clark's direct testimony to $14 million in rebuttal.[884] Staff again proposes that the project should not be completed and Consumers should instead "leverage the results of the protection study and other information gained in the development of Armstrong to design a future microgrid that provides more tangible reliability benefits to a larger portion of the customer base."[885] In addition, Staff argues that Consumers' application of an AFUDC offset does not justify continuation of the project "under the new schedule and inflated budget" because it would not be reasonable and prudent to do so.[886]

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[880] Consumers brief, 153-154.
[881] Consumers brief, 153.
[882] Consumers brief, 154-155.
[883] Staff brief, 46.
[884] *Id*.
[885] *Id*.
[886] Staff brief, 47.

The Attorney General in her initial brief continues to advocate for a full disallowance of the costs associated with Armstrong because "significant delays" mean the project will not be used and useful by the end of the test year.[887] She further argues that the "historical underspend on this project . . . raises uncertainty whether the proposed expenditures for the bridge period and test year will actually be spent as projected."[888] In addition, the Attorney General raises the same challenges to the AFUDC offset that were discussed with respect to the Iosco and Weadock projects.[889]

In reply, Consumers again emphasizes that the Armstrong capital spending should be approved consistent with the Commission's recent approval of the project in Case No. U-21389.[890] The Company argues that the project will yield the same benefits and learnings that the Commission previously found compelling, despite the changes in schedule and cost.[891] And the Company disputes the Attorney General's arguments relating to the AFUDC offset, as it did with the Iosco and Weadock projects.[892]

In its reply brief, Staff argues that the Commission should reconsider approval of Armstrong because the project has "materially changed" due to delays and "a doubling of costs requested in this case since its initial filing."[893] "There is no reason for the Commission to be bound to approval of a pilot when project costs have more than doubled, particularly where the primary benefits to ratepayers are learnings which are

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[887] Attorney General brief, 98.
[888] *Id*.
[889] Attorney General brief, 100-102.
[890] Consumers reply, 36-37.
[891] Consumers reply, 38-39.
[892] Consumers reply, 39-40.
[893] Staff reply, 4.

hard to quantify."[894] Staff also notes that the project is in early stages of development, "allowing for the Commission to reassess this pilot before significant funds have been committed and contracts signed."[895] In the alternative, Staff proposes that the Commission direct Consumers to work with the commercial customer who would host the Armstrong battery "to provide some form of compensation to account for the reliability benefit it provides."[896]

The Attorney General's reply brief focuses on the used and useful standard and argues that the company's BESS project expenses should be disallowed because there is no reasonable expectation the projects will be used and useful in the test year.[897]

This PFD agrees with Staff that it is appropriate for the Commission to revisit the reasonableness and prudence of the Armstrong project. The Commission approved the project in Case No. U-21389 under very different financial circumstances. In that case, the Company initially projected a total project cost of $9.108 million ($1.533 million in the bridge period, $6.015 million in the test year, and an additional $1.56 million beyond the test year), which was revised during rebuttal to $9.122 million ($1.625 million in the bridge period, $4.95 million in the test year, and an additional $2.547 million beyond the test year).[898] Here, the Company initially proposed spending a total of $8.81 million over the bridge period and test year. During rebuttal, the Company increased its projected spending by more than $5 million, to a total of $14.034 million. As a result, the Company's

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[894] *Id*.
[895] Staff reply, 5.
[896] *Id*.
[897] Attorney General reply, 5-11.
[898] 5 Tr 3672; December 21, 2023 PFD in Case No. U-21389, pp. 134-136, 140; March 1, 2024 order in Case No. U-21389, pp. 71-73.

estimated costs to complete this project have increased by more than 50% since its initial filing in Case No. U-21389. In addition, Staff observes that when the Commission approved the project there was a possibility that up to half of the costs would be covered by a Department of Energy grant. However, the Company was not awarded that funding, meaning the entire financial burden will fall on ratepayers.

As the Commission previously found, the Armstrong project offers potential benefits to customers by providing an opportunity for the Company to gain expertise in the use of an islanded battery.[899] Consumers argues that those benefits still justify the project, but it fails to explain the sharp increase in costs. This PFD is not convinced that the indirect value provided to ratepayers outweighs the significant costs to complete the project. This conclusion is supported by the fact that the project is still in the relatively early stages of development, as the Company has spent just $258,304 after multiple delays. Therefore, this PFD recommends the Commission disallow the $2.73 million in the bridge period and $11.304 million in the test year requested by the Company for the Armstrong BESS project.

In the alternative, given the Commission's previous support for this project, the Commission could limit the Company's recovery of costs to a total of $9.122 million, which was the Company's revised estimate to complete the project in Case No. U-21389.

4. Facilities Capital Expenditures

The Company is again proposing capital expenditures for new or renovated facilities. Consumers' buildings are managed, maintained, and operated by the

[899] March 1, 2024 order in Case No. U-21389, pp. 74-75.

Company's Facilities Support Organization. Consumers states that of its 60 buildings, over half were constructed during the 1950s and 1960s and no significant investment in the facilities or renovation thereof has been made between 1970 and 2000. As such, Consumers contends that multiple major mechanical systems in those facilities have exceeded their useful lives and that some buildings contain hazardous materials like asbestos and lead paint. Additionally, the Company pointed out that Michigan's population has grown significantly since the 1960s and that "[t]he locations of some of the Company's facilities no longer allow the Company to optimize service to customers."[900]

Consumers articulated that it has a formal assessment process it uses to determine if investment in a facility is needed based on the facility's overall health. Company witness Guinn testified that this assessment process was established in 2016 and that the process is re-evaluated every two years, with the last occurring in 2022. Mr. Guinn described the assessment process in his direct testimony at 5 Tr 1803-1804.

Mr. Guinn also testified that facilities capital spending is divided into two categories: asset preservation and other equipment, with most facilities capital spending for asset preservation as reflected in Exhibit A-12.[901] The Attorney General took issue with several of the Company's spend proposals for facilities, which are addressed below.

a. Lansing Service Center Project

The Company is again requesting the Commission approve capital expenditures for the Lansing Service Center of $3,405,000 in the bridge period and $13,967,000 in the test year. The anticipated total cost of this project is $47.3 million.[902] Mr. Guinn stated that

[900] 5 Tr 1802.
[901] 5 Tr 1807.
[902] Exhibit A-82; 5 Tr 1820.

the capital expenditures for this project are listed in the New Construction portfolio, contained in Exhibit A-82, and as a new construction project, the building would be constructed to meet the United States Green Building Council and Leadership in Energy and Environmental Design (LEED) environmental standards. Mr. Guinn provided a detailed description of the project and justification for the investment at 5 Tr 1813-1819.

Mr. Guinn testified that the Company has engaged a construction management firm to prepare a design program and construction schedule upon which the cost estimates at hand have been based. He further testified that the Company invested $1,779,000 in this project during the historical year for programming work and construction of a municipal water main extension.[903] At the time of the filing of the instant matter, Mr. Guinn testified that the Company has completed acquisition and rezoning of the land for the service center and that a contract has been awarded and materials ordered for construction of the water main extension. He also testified that "[a] design-build contract for construction management services has been competitively bid and awarded. Architectural design of the building is nearing completion."[904]

The Attorney General recommends that the Commission disallow the capital expenditures associated with this project and remove $17.4 million in capital associated with the Lansing Service Center project from the Company's revenue requirement. Mr. Deupree stated that this project was approved in the December 22, 2021 order in Case No. U-20963, but that the project was delayed due to supply chain and labor issues resulting from the COVID-19 pandemic. He noted that the Company has reconfigured the

[903] 5 Tr 1820; Exhibit A-82.
[904] 5 Tr 1820.

project which resulted in a change in the total cost anticipated from when the order was issued in Case No. U-20963. The Company now anticipates a total project cost of $47.3 million, compared to the initial amount of $54.8 million.[905]

Mr. Deupree testified that the completion date for the project was originally 2023, but completion is now set for the fourth quarter of 2026, and the Company "anticipates that it will have spent approximately $17.4 million of the total anticipated $47.3 million, or approximately 37 percent, by the end of the projected TY."[906] Additionally, Mr. Deupree stated that in Case No. U-20963, the Company proposed spending $2.2 million in the 2021 bridge year and $13.6 million in the 2022 projected test year, but after the delays to the project it only incurred $311,000 in capital expenditures in 2022. Further, in Case No. U-21389, the Company projected spending $3.7 million in the bridge period ending in February 2024 and $6.4 million in the test year ending in February 2025, while it only spent $1.7 million in the 2023 historical year.[907]

Accordingly, Mr. Deupree recommended disallowance of all bridge and test period capital expenditures, "[d]ue to the uncertainty surrounding the timing and amount of the capital expenditures forecasted for a project that has already experienced significant delays and is still in its design phase, the projected costs are not known and measurable."[908] He opined that because the project costs are not known and measurable and because the project will not be used and useful in the projected test year, the Commission should remove this capital expenditure.

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[905] 5 Tr 2924-2925.
[906] 5 Tr 2925.
[907] 5 Tr 2926.
[908] 5 Tr 2925-2926.

In rebuttal, Mr. Guinn noted the rebuttal testimony of Ms. Myers and asserted that "the used and useful standard is not appropriate for determining whether the projected test year costs associated with these projects should be disallowed."[909] Mr. Guinn acknowledged the progress of this project has not proceeded at the pace indicated in Case No. U-20963, but points to disruptions related to the COVID-19 pandemic as reasons for the delays. He further notes that due to the pace of the project, the Company has modified its capital request, continued to proceed with the project, and has placed orders for modular building parts and materials to be used in construction.[910]

In its brief, the Company relies on Mr. Guinn's testimony regarding the details and status of the Lansing Service Center project, emphasizing that despite past delays the Company continues to execute plans for the project. Further, Consumers asserts that the "pace of the Lansing Service Center Project has increased, and will continue to increase, as the project moves into the construction phase."[911]

The Attorney General acknowledges the Commission's approval of the project and notes the delays the project has experienced. Additionally, the Attorney General notes that the project has been reconfigured since it was approved in Case No, U-20963, that the projected expenditure amounts have changed, and that "there continues to be uncertainty surrounding the timing and amount of the capital expenditures forecasted for a project that has already experienced significant delays and is still in its design phase."[912]

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[909] 5 Tr 1841.
[910] 5 Tr 1842; Exhibit A-82.
[911] Consumers Brief, 162.
[912] Attorney General brief, 104.

The Attorney General reiterates that the project will not be completed by the end of the projected test year and asserts that the projected costs are not known and measurable. Discussing the Commission's approval of this project in U-20963, the Attorney General argues:

> Although the Commission approved capital expenditures for the Lansing Service Center in Case No. U-20963, the Company has only spent a fraction of that amount. In that case, the Company proposed to spend $2.2 million in the 2021 bridge period and $13.6 million in the 2022 projected test year. However, it only incurred $311,000 in capital investments associated with the LSC project in 2022. Additionally, in Case No. U-21389 the Company projected spending $3.7 million in the fourteen month bridge period ending February 2024 and $6.4 million in the test-year ending February 2025. The Company only spent $1.7 million in the 2023 historic year, which was within the fourteen month bridge period.[913]

As such, the Attorney General maintains that the delays and changes in the scope of the project justify the removal of $17.4 million for the bridge period and projected test year for this project.

This PFD agrees with the Attorney General. As discussed above, there have been several delays with this project since its initial approval in 2021, and while it is understandable that some delays have resulted from pandemic related issues, the Attorney General correctly points out that the project is not expected to be completed by the end of the test year, and the project has changed significantly in cost and scope since its initial approval. Furthermore, as noted by the Attorney General, the Company has only spent a fraction of the funds that were previously approved for this project. Therefore, this PFD finds it to be premature to approve additional funds when only a small portion of the funds previously approved have been spent and the progress on this project has been

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[913] Attorney General brief, 104-105 (citations omitted).

minimal. This PFD agrees with the Attorney General's recommendation that the Commission remove $17.4 million for the bridge period and projected test year for the Lansing Service Center project.

b. Hastings Service Center Project

The Company is also requesting the Commission approve capital expenditures for the Hastings Service Center project in the amount of $136,000 for the bridge period. The Company is not requesting funds for the test year for this project.[914] The Hastings Service Center project is new construction, the details of which are contained in Exhibit A-82. The Company invested $5,000 in this project during the 2023 historical year for survey and real estate work done for the site. Mr. Guinn stated that the projected investment in the bridge period is for acquisition of the land in question and that the Company will "request allowance for the remainder of the project when it is ready for rate base treatment."[915]

Mr. Guinn provided details on the Hastings Service Center at 5 Tr 1820-1824. Mr. Guinn testified that the Company is negotiating the purchase of land adjacent to the existing service center to facilitate the new construction after initially being unable to reach a property transfer agreement with another adjacent landowner. As such, Consumers entered negotiations with the Barry County Road Commission for the acquisition of an adjacent parcel to the south. He stated that the conceptual plan for development has been approved by the Road Commission and that "[t]he Company now anticipates completing acquisition of the parcel in June 2024 which will allow for expansion of the existing Hastings site and construction of the new facility."[916] Mr. Guinn added that a Phase 1

[914] 5 Tr 1823.
[915] 5 Tr 1824.
[916] 5 Tr 1822.

Environmental Study has been completed, and a Phase 2 Environmental Study is currently in progress.[917]

The Attorney General recommends the removal of $136,000 in capital expenditures associated with this project from the Company's revenue requirement. Mr. Deupree noted that due to delays in negotiating land transfers, the date the Company expects to begin commercial operations at the Hastings Service Center has been pushed to the fourth quarter of 2026. He testified that the costs of this project are not known and measurable considering the delays and uncertainty surrounding the timing and expenditures anticipated for the project.[918]

In his rebuttal testimony, Mr. Guinn disagreed with Mr. Deupree's claims regarding the timing of the project. He noted that the capital expenditure forecasted for the Hastings Service Center is only for the acquisition of property prior to construction, and that Consumers and the Barry County Road Commission are in the process of signing an agreement for the sale and transfer of the adjacent property.[919]

The Company argues in its brief that the Commission should approve the proposed expenditures for the Hastings Service Center, citing Mr. Guinn's testimony regarding the specifics of the project and its current status. Consumers argues that the Commission should reject Mr. Deupree's recommendation that these capital expenditures be removed and contends that Mr. Deupree fails to recognize that the capital expenditures for this

[917] 5 Tr 1824.
[918] 5 Tr 2927.
[919] 5 Tr 1843.

project are limited to the acquisition of property prior to the commencement of construction, emphasizing that the acquisition of land is well underway.[920]

In her brief, the Attorney General notes that this project has been delayed due to the Company's difficulty obtaining the adjacent property initially identified for this project, acknowledging that an agreement with the Barry County Road Commission was eventually reached for the acquisition of another adjacent property. The Attorney General also notes that in Case No. U-20963, the Commission approved expenditures for this project, but that only minor costs have since been incurred due to delays. The Attorney General reiterates that there is considerable uncertainty surrounding the timing and amount of the capital expenditures forecasted for this project, which has already experienced significant delays.[921] This project was not addressed further in either the Company's or the Attorney General's reply brief.

This PFD agrees with the Attorney General. This project has experienced significant delays since it was approved in Case No. U-20963, and given the pace at which this project has moved since its approval, this PFD agrees with the Attorney General's argument that the costs for this project are not known and measurable. Therefore, this PFD recommends the Commission remove $136,000 in capital expenditures associated with this project from the Company's revenue requirement.

c. Kalamazoo Service Center

In the renovations portfolio category, the Company is requesting the Commission approve capital expenditures for the Kalamazoo Service Center project of $4,815,000 in

[920] Consumers brief, 164.
[921] Attorney General brief, 106.

the bridge period and $9,424,000 in the test year. Mr. Guinn testified that during the 2023 historical year, the Company invested $482,000 in this renovation project.[922] The goals of this project are to remediate environmental concerns, workspace concerns, and problems with the aging building systems. Mr. Guinn described what the renovations will entail in his direct testimony at 5 Tr 1825.

In Case No. U-20963, the Company stated it planned to construct a new facility at the existing Kalamazoo site; however, after reevaluating its plans, Consumers determined that renovation of the existing service center would be an optimal use of capital. The Company is now projecting the total cost of this project to be $35 million, as opposed to the $52 million projected in Case No. U-20963. Mr. Guinn testified that the current location of the service center is optimal and that "renovation of the existing Kalamazoo Service Center will maximize utilization of the building's existing space, while controlling capital costs and minimizing disruptions to the Company's operations."[923] Mr. Guinn provided further details and justification for the project at 5 Tr 1825-1828.

Mr. Guinn testified that the Company "has bid and awarded a contract for construction management services and a contract for architectural and engineering design services. Architectural and engineering design work on the project is in progress."[924] He further stated that the projected costs of the project result from a construction management firm's evaluation of the design program and construction schedule.

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[922] 5 Tr 1827-1828; Exhibit A-82.
[923] 5 Tr 1826.
[924] 5 Tr 1828.

The Attorney General recommends that the Commission remove $14.2 million in capital expenditures associated with this renovation project from the Company's revenue requirement. Mr. Deupree testified that although the Commission approved this project in Case No. U-20963, the costs of this project have since changed with the Company now estimating a total project cost of $35 million as opposed to the initial estimate of $52 million. He noted that due to delays, this project is still in the design phase, stating that "there remains significant uncertainty regarding the timing and amount of capital expenditures associated with the KSC project."[925]

In response, Mr. Guinn testified that "[t]he Company has relocated employees to perform asbestos remediation work and has begun renovation and construction activities associated with the Kalamazoo Service Center Project."[926] Mr. Guinn additionally noted that Staff is not opposing the plans for the Lansing, Hastings, or Kalamazoo service centers in this case.

In its brief, Consumers points to Mr. Guinn's testimony describing the status of the service center, noting that the project is ongoing. The Company argues that "[t]he pace of the Kalamazoo Service Center Project has increased and will continue to increase. Thus, Mr. Deupree recommended expenditure adjustment should be rejected, and the Commission should approve the Company's reasonable expenditure amount."[927]

The Attorney General reiterates that cost projections for the Kalamazoo Service Center have changed since the project was approved and that the project is still in the design phase. As such, the Attorney General avers the costs for this project are not

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[925] 5 Tr 2928.
[926] 5 Tr 1843.
[927] Consumers brief, 163.

known and measurable and that the Commission should therefore remove $14.2 million in projected capital expenditures for this project. Neither the Company nor the Attorney General elaborated on this issue in their respective reply briefs.

This PFD finds the Attorney General's arguments persuasive. The timing and scope of this project has changed significantly since it was approved in 2021; the project is still in the design phase, and the record does not indicate that the project will be completed within the projected test year. As such, this PFD agrees with the Attorney General that the costs for this project are not known and measurable (especially considering unreliable projections in the past) and that the project will not be used and useful within the projected test year. Accordingly, this PFD recommends the Commission remove $14.2 million in projected capital expenditures for this project.

d. Control/Dispatch Center Consolidation Project

Consumers is requesting capital expenditures for the building renovation portion of its control/dispatch center consolidation project in the amount of $4,903,000 in the bridge period and $5,570,000 in the test year. Mr. Guinn testified that the cost estimates for this project arose from the conceptual plans for the project and the Company's historical cost data from similar projects. He stated that as of the time his testimony was filed, that "Conceptual plans and cost estimates have been developed. The Company is currently preparing to perform design and engineering."[928]

Company witness Snider also addressed the project, testifying that: "The benefits, scope, total cost, and schedule of the consolidation project outlined in this testimony are

[928] 5 Tr 1833.

the same as what was approved in Case No. U-21389."[929] He stated that the Company has adjusted the calendar year cost breakdowns to allow flexibility such that critical staffing levels can be maintained during the project. Mr. Snider testified that the currently projected costs support "final commissioning and occupancy by 2026."[930]

The Attorney General recommends the Commission remove $10.5 million in capital expenditures associated with this project from the Company's revenue requirement. Mr. Deupree noted that the Commission approved a new Control/Dispatch Center in Case No. U-21389 and that Consumers is projecting a total cost for the project of $14.8 million. However, Mr. Deupree further testified that the project "has only recently completed conceptual designs, with the Company still preparing to bid design/engineering services for the project."[931] Moreover, because the Company does not anticipate the renovations being completed until the third quarter of 2026, Mr. Deupree testified that the project will not be used and useful in the projected test year. Mr. Deupree concluded that "[d]ue to the uncertainty surrounding the timing and amount of the capital expenditures forecasted for a project that is still in the design phase, the projected costs are not known and measurable."[932]

In rebuttal, Mr. Snider testified that the benefits from this project are expected to start being realized by the end of 2024, with benefits being completely realized within 12 months after the project is completed. He further stated, "The Commission already considered the costs and benefits of this project in Case No. U-21389. I reaffirmed these

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[929] 5 Tr 2538.
[930] *Id*.
[931] 5 Tr 2929-2930.
[932] 5 Tr 2930.

costs and business benefits on pages 24 and 25 of my direct testimony in the present case."[933] Mr. Guinn stated in his rebuttal testimony that this project is ongoing and has a target completion date of mid-2026. He further stated, "This project milestone shows that the project is on track and the project's pace is entirely consistent with the project timelines represented in Case No. U-21389 and Company witness Andrew R. Snider's direct testimony in this case."[934]

In its brief, the Company asserts the Commission should dismiss the Attorney General's recommendation to remove the capital expenditures for this project, reiterating the benefits of the project. Consumers contends that the Attorney General's arguments that this project's costs are not known and measurable and that the project will not be used and useful within the test year "ignores the fact that the requested funding is for the continuation of an ongoing project that is targeted for completion in mid-2026. This project is on track and the project's pace is entirely consistent with the project timelines represented in the previous electric proceeding."[935] The Company did not address this project further in its reply brief.

In her brief, the Attorney General reiterates that conceptual designs for this project have only recently been completed, and that Consumers is still preparing to bid design and engineering services for the project. She argues that the costs for the project are not known and measurable due to uncertainty regarding the amount of capital that will be needed to complete the project and uncertainty regarding the timing for the completion of the project. Therefore, the Attorney General asserts the project will not be used and useful

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[933] 5 Tr 2557.
[934] 5 Tr 1844.
[935] *Id*.

within the test year. The Attorney General further notes that although she "has previously supported the revised consolidation proposal based on the forecasted cost savings, she recommends not including any proposed expenditures in the revenue requirement in this case because doing so would be premature."[936] The Attorney General did not address this issue further is her reply brief.

This PFD finds the Attorney General's argument regarding this project to be persuasive. Although the Commission approved this project in Case No. U-21389, the evidence shows that the project is not anticipated to be completed until mid-2026. Bids for design and engineering services for this project have not been received yet and conceptual plans have only recently been completed. Therefore, this PFD agrees with the Attorney General that the amount of capital for this project is not known and measurable and that approval of capital expenditures for this project would be premature as this project will not be used and useful in the projected test year. This PFD therefore recommends the Commission remove $10.5 million in capital expenditures associated with this project from the Company's revenue requirement.

e. Asset Preservation/Unplanned Repairs

In his direct testimony, Staff witness Hansen testified that Staff recommends a partial disallowance of $106,000 of the Company's proposed capital expenditures for emergent repairs, listed in Exhibit A-82, p. 1, line 9. In his rebuttal testimony Mr. Guinn testified that the Company agrees that a mathematical error occurred when the asset preservation/unplanned repairs projection was prepared. The Company agrees with

[936] Attorney General Brief, 108.

Staff's recommendation to remove $106,000 from this projection and amends its forecasted asset preservation/unplanned repairs capital expenditures from $1,653,000 to $1,547,000 for the 12 months ending February 2026.[937] Given the agreement of Staff and Consumers, this issue appears to be resolved.

5. Information Technology Capital Expenditures

As summarized in Exhibit A-12, Schedule B-5.5, Consumers allocated $39,047,000 for IT-related capital expenditures in the 2023 historical year, while the Company projects it will invest $51,592,000 during the bridge period and $38,908,000 in the test year.[938] Mr. Kandan described the Company's proposed capital expenditures and explained that technology is an integral part of Consumers' electric strategy "from generation all the way to the customer."[939] He further testified about the importance of these capital investments:

> A big challenge the IT Department currently faces is the integration and implementation of emerging technologies, data, and analytics needed to achieve the Company's goals described in the IRP and EDIIP. Storm restoration relies heavily on accurate data and high-performing systems that can handle higher transaction and data volumes. Our customers depend on these same systems to report outages, receive timely information on the estimated time of restoration, and view the outage map indicating impacted areas. It is important that the Company achieve full recovery of requested expenses and expenditures to keep these systems updated with the latest security and maintenance patches while delivering new capabilities to help restore customers faster.[940]

Mr. Kandan provided an overview of the Company's IT projects, which are more fully described in Exhibits A-88 and A-89.[941] He also testified that Consumers' total IT

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[937] 5 Tr 1844; Exhibit A-82.
[938] 5 Tr 1871-1872.
[939] 5 Tr 1854.
[940] 5 Tr 1848.
[941] 5 Tr 1872-1878,1883-1943.

capital projections reflect a 20% reduction for those projects that have projected costs based on a Rough Order of Magnitude (ROM) estimate.[942]

Staff proposed disallowances to various IT programs. In rebuttal, Consumers agreed to withdraw its request for $362,829 in capital expenses related to the Commercial and Industrial Online Account Management project, resolving that issue.[943] The remaining contested adjustments are discussed below.

a. Click to Chat

The Click to Chat platform allows customers to engage with a customer-service representative through a chat feature on the Company's website.[944] Ms. Klocke presented Staff's recommendation for a full disallowance of $99,626 in capital costs requested for the project, consisting of $96,721 in spending during the 2023 historical year and $2,905 for the bridge period.[945] She testified that the project does not offer any new or innovative technology or features, save costs, or reduce calls.[946]

Ms. Klocke referenced the Company's audit responses, which acknowledged there were no projected cost savings and indicated that the same customer-service agents who answer live calls will be responsible for interacting with customers through the Click to Chat feature.[947] She noted that since the Company was not projecting a reduction in the number of calls to the call center, there was no anticipated reduction in customer-service

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[942] 5 Tr 1881-1882.
[943] 5 Tr 1971-1973, 2185; Consumers brief, 180-181; Staff brief, 50; Staff reply, 1, Appendix E, lines 26-27. The company's concession also removed $94,000 in related O&M expenses. Exhibit A-260, line 5; Staff brief, 111.
[944] 5 Tr 3725; see Exhibit A-88, lines 22 and 126.
[945] 5 Tr 3725.
[946] 5 Tr 3725-3726.
[947] 5 Tr 3725; Exhibits S-13.1 and S-13.2.

agents and no anticipated cost savings in terms of the call center.[948] Ms. Klocke further testified:

> In fact, per an audit response from the Company, the Click to Chat tool will be available during times of increased customer contact, such as storms and/or outages, and the call center will activate additional [customer-service representatives] to handle the increased call and contact volume during those times. This will actually result in more money being spent in the call center, which makes the Click to Chat potentially an even more expensive option than just the costs presented in this case.[949]

While she opined that offering customers another contact option "could be a positive," she took issue with the costs associated with the project and the lack of long-term monetary savings.[950]

Ms. Klocke expressed further concern that Click to Chat is redundant because everything that can be done using the platform is already available on the Company's website.[951] In addition, she testified that customers experiencing major issues will require assistance from a customer-service agent during normal business hours.[952] "Staff believes it is inevitable that many requests which start as Click to Chat will be escalated to a phone call or email inquiry, and wonders how useful the Click to Chat option will be beyond the most basic of inquiries/requests."[953] Ms. Klocke noted that in nearly two and one-half years after the Click to Chat project was implemented in March 2022, only 100 interactions were resolved using the platform.[954] According to her, "that is an extremely low amount of completed transactions over that span of time, and it speaks to the fact

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[948] 5 Tr 3726.
[949] 5 Tr 3726, internal footnote omitted.
[950] 5 Tr 3725-3726.
[951] 5 Tr 3727-3728.
[952] 5 Tr 3727.
[953] *Id*.
[954] *Id*.

that most transactions customers need assistance with will not be able to be fully completed using Click to Chat."[955]

Consumers opposes Staff's proposed disallowance. Mr. McLean testified that "Staff continues to support only the implementation of IT applications that are considered valuable because of associated cost savings" while "fail[ing] to consider that both customer preference and accessibility have value of their own."[956] He stated that according to J.D. Power, live chat has become the leading digital contact method for online customers, with 42% of customers preferring live chat compared to 23% preferring email. Mr. McLean explained that the goal of Click to Chat was not to reduce call-center costs but instead offer customers another option to communicate with the company, "providing value in choice."[957]

Mr. McLean testified that nearly all issues addressed by the call center can be handled through Click to Chat, including outage reporting and status updates, Move In/Move Out requests, and reviewing or updating account information, while customers are directed to call the customer-service line in case of an emergency such as a downed wire or gas leak.[958] He further explained that customer-service representatives who respond through Click to Chat are only staffed during regular call-center hours, even during high customer contact times.[959] And customers using the platform may be offered, through a chatbot, self-service options that are available 24/7.[960] Therefore, Mr. McLean

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[955] *Id*.
[956] 5 Tr 2183.
[957] *Id*.
[958] 5 Tr 2184.
[959] *Id*.
[960] *Id*.

disagreed with Staff's contention that Click to Chat could result in additional call-center costs during periods of increased customer contacts.[961]

Addressing Staff's concern with the limited number of transactions that have been resolved using the platform, Mr. McLean explained that Click to Chat was only available as a "non-market soft launch" to business customers.[962] He also stressed that those transactions were completed using the customer's preferred method of communication and that some transactions may have been diverted from the customer-service queue and completed outside of normal business hours.[963]

Finally, Mr. McLean emphasized that the Commission previously approved the historical capital investment that Staff now challenges:

> It is imperative to note that the historical investment in Click to Chat was included in the revenue requirement approved by the Commission in a prior electric rate case (Case No. U-21389). Staff's recommendation would result in a $96,721 disallowance of historical investment that was already included by the Commission.[964]

Company witness Kandan likewise testified that the Click to Chat project was included in two of the Company's previous rate cases, Case No. U-21308 (gas) and Case No. U-21389 (electric), without opposition by any party.[965] "Thus, the projections approved in those cases include approval of Click to Chat project costs."[966] He further opined that "similar to the Customer Self-Service Mobile Application project, there is value

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[961] *Id*.
[962] 5 Tr 2183.
[963] 5 Tr 2183-2184.
[964] 5 Tr 2184.
[965] 5 Tr 1971.
[966] *Id*.

in offering multiple communication channels to customers as technologies and customer preferences evolve."[967]

In briefing, Staff continues to advocate for its proposed disallowance on the grounds that the Click to Chat project offers nothing new, is redundant, and provides no cost savings.[968] Staff also acknowledges the Company's argument that the project was unopposed in Case Nos. U-21308 and U-21389 but notes that Staff did recommend a disallowance in Consumers' settled gas rate case, Case No. U-21490.[969]

Consumers' brief reiterates that Click to Chat fulfills the project's purpose of giving customers another option for contacting the Company for assistance.[970] Consumers continues to argue that "[g]iven the Click to Chat's inherent value, it has been unopposed in the past," and it would be inappropriate to remove historical expenditures that were included in the revenue requirement approved by the Commission in Case No. U-21389.[971]

Neither party addresses this issue in reply briefing.

This PFD agrees with the Company that the Click to Chat platform offers adequate value to customers even without cost savings. Indeed, the Commission recently expressed support for the Company's Customer Self-Service Mobile Application, finding "there is value in offering varying communication channels to meet customer needs" and "[a]s technologies and customer preferences evolve, . . . duly supported, reasonable, and

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[967] *Id*.
[968] Staff brief, 48-49.
[969] Staff brief, 49.
[970] Consumers brief, 179-180.
[971] Consumers brief, 180.

prudent expenditures to meet those preferences are appropriate for recovery."[972] Those findings lend support for recovery of the capital expenditures in this case. It should be noted, however, that while $99,626 is in dispute here, Consumers has estimated total costs for the project of $801,818.[973]

b. Other Information Technology Adjustments

Mr. Hansen presented Exhibit S-10.1, which identifies the 11 IT projects for which Staff proposes a 20% disallowance. Seven of those projects[974] include disputed capital expenditures that total $424,571 in the bridge period and $235,585 in the test year, as well as $61,659 of O&M expenses:[975]

> • **SAP HANA Database Migration.** Staff proposes a disallowance of $295,384 (20% of $1,476,919) for capital expenditures in the bridge period.
>
> • **IT Operations Management – Service Operations.** Staff proposes a disallowance of $38,988 (20% of $194,939) for capital expenditures in the bridge period.
>
> • **Operational Technology – Service Management Upgrade.** Staff proposes a disallowance of $32,990 (20% of $164,952) for capital expenditures in the bridge period.
>
> • **Software Asset – Service Management Upgrade.** Staff proposes a disallowance of $16,655 (20% of $83,277) for capital expenditures in the bridge period.
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> • **SolarWinds Performance Monitoring Expansion Upgrade.** Staff proposes a disallowance of $206 (20% of $1,029) for capital expenditures in the bridge period.

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[972] Case No. U-21389, p 83.
[973] See Exhibit A-88, line 22, column h; Exhibit A-89, p 40.
[974] The four remaining projects involve O&M expenses only and are discussed below.
[975] Staff initially erred in calculating its adjustments by using the projects' total company capital expenditures instead of expenditures allocated to the company's electric business. The company identified the correct disputed amounts in rebuttal, and Staff acknowledges the error in briefing. See 5 Tr 1949-1970; Exhibit A-243; Staff brief, 51.

• **Product Family Enhancements – Application Platforms Services – Capital.** Staff proposes disallowances of $25,532 (20% of $127,658) for capital expenditures in the bridge period and $146,692 (20% of $733,462) in the test year, as well as an O&M disallowance of $38,537 (20% of $192,686).

• **Product Family Enhancements – Infrastructure Platforms Services – Capital.** Staff proposes disallowances of $14,816 (20% of $74,078) for capital expenditures in the bridge period and $88,893 (20% of $444,466) in the test year, as well as an O&M disallowance of $23,122 (20% of $115,611).

Mr. Hansen explained Staff's rationale for recommending adjustments to these projects. Through an audit response, the Company indicated that costs were estimated based on the costs of past projects of similar size and scope, without providing details about those similar projects.[976] Consumers also responded that a portion of the costs are based on estimates of capital software, labor, and contractor costs, but provided no supporting information about those estimates.[977] Mr. Hansen testified, "While Staff does not have issues with the nature of each project, Staff is concerned about the basis of the cost estimates for some of the projects."[978] He further explained that given the Company's response, the estimated costs for the projects listed in Exhibit S-10.1 were in line with Class III cost estimates according to the Association for the Advancement of Cost Engineering (AACE) classification system and could be overestimated by as much as 20%.[979] Staff therefore recommended a 20% disallowance to "avoid the possibility of the Company over-recovering for these IT projects."[980]

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[976] 5 Tr 3695.
[977] 5 Tr 3695-3696.
[978] 5 Tr 3696.
[979] *Id*.
[980] *Id*.

Consumers disagrees with Staff's rationale. Mr. Kandan testified that Staff's audit request asked for the basis of the cost estimates and detail about how the estimates were derived, but it did not request critical information about the project phase or the completion percentage.[981] He testified that without that necessary information, Mr. Hansen made assumptions to classify each project as a Class III cost estimate under the AACE system.[982] Mr. Kandan also stated that the Company already reduced by 20% any projected costs that are based on an ROM estimate, and "[a]lmost all the projects Staff witness Hansen identified in Exhibit S-10.1 were not identified as projects with an ROM estimate because they were at a more advanced stage of planning and implementation."[983]

Mr. Kandan went on to address each project individually. He testified that the Company's Systems, Applications, and Products (SAP) applications currently utilize Oracle as their underlying database storage technology but will stop supporting versions of SAP that are not running on the new S/4HANA storage technology by 2027.[984] The SAP HANA Database Migration project "positions the Company to move to S/4HANA by migrating its existing SAP databases from Oracle to SAP HANA before the required move to S/4HANA."[985] Mr. Kandan stated that the project was in the execute phase when the Company estimated its costs, and Consumers explained in an audit response that the projected costs "were based on the ***actual work*** completed in 2023 [to move] ***the same***

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[981] 5 Tr 1947-1948.
[982] 5 Tr 1948. Mr. Kandan testified that the company does not use the AACE cost-estimate classification system for classifying IT projects. 5 Tr 1950.
[983] 5 Tr 1948-1949. In fact, a review of Exhibit A-88 shows that none of the projects in Exhibit S-10.1 were identified by the company as being based on an ROM estimate.
[984] 5 Tr 1937, 1949.
[985] 5 Tr 1949.

project's non-production environments to the cloud and perform a HANA convers[ion]."[986] As a result, Mr. Kandan opined that Staff's proposed disallowance "is unjustified and does not accurately reflect the project's detailed and definitive cost estimate."[987]

Mr. Kandan testified that the IT Operations Management – Service Operations project "will give the Company access to a service mapping tool that leverages infrastructure data to identify all assets that support a service, with information about the service-specific relationship."[988] According to Mr. Kandan, the project will reduce the time for identifying and troubleshooting critical incidents by 30%, which will avoid labor costs.[989] He explained that the project was in the execute phase when the company estimated its costs and has since been completed.[990] He opined, "Staff indicated it does not have issue with the nature of the project; therefore, the proposed 20% disallowance is unjustified and does not accurately reflect the project's detailed and definitive cost estimate."[991]

The Operational Technology – Service Management Upgrade project will "give the Company service management capabilities for Operational Technology, to automate asset tracking, maintenance, and incident management for the operational technology assets."[992] Mr. Kandan explained that the project was in the execute phase at the time

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[986] 5 Tr 1950, emphasis in original, citing Exhibit S-10.2.
[987] 5 Tr 1950.
[988] 5 Tr 1951.
[989] 5 Tr 1942.
[990] 5 Tr 1952.
[991] *Id*.
[992] 5 Tr 1952, citing Exhibit A-89, p 91.

costs were projected and has since been completed.[993] Mr. Kandan noted that Staff does not object to the nature of the project and opined that Staff's proposed adjustment "does not accurately reflect the project's detailed and definitive cost estimate."[994]

Mr. Kandan testified that the Software Asset – Service Management Upgrade will "give the Company automated monitoring, assessment, and oversight of software licenses and compliance to optimize software license management."[995] He testified that the project was in the execute phase when costs were projected and has since been completed.[996] Again, because Staff does not take issue with the nature of the project, Mr. Kandan recommended the proposed disallowance be rejected as failing to reflect the project's "detailed and definitive cost estimate."[997]

The SolarWinds Performance Monitoring Expansion Upgrade will "allow the Company to better monitor application and infrastructure performance, providing an aggregate view of system availability and performance, to minimize unplanned service interruptions, extended service interruptions, and system performance degradation."[998] Mr. Kandan testified the project was in the execute phase at the time costs were projected and has since been completed.[999] He again opined that because Staff does not take issue with the nature of the project and because the cost estimate was "detailed and definitive," Staff's proposed disallowance should be rejected.[1000]

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[993] 5 Tr 1953.
[994] *Id*.
[995] 5 Tr 1954, citing Exhibit A-89, p 117.
[996] 5 Tr 1955.
[997] *Id*.
[998] 5 Tr 1956, citing Exhibit A-89, p 119.
[999] 5 Tr 1957.
[1000] *Id*.

Mr. Kandan testified that the Product Family Enhancements – Application Platforms Services – Capital project and the Product Family Enhancements – Infrastructure Platforms Services – Capital project "will allow the Company to implement smaller, short-cycle technology efforts for new or improved functionality needed to respond to changing business and customer conditions."[1001] He testified that the Company had explained in an audit response that the projected costs for the projects were based on actual three-year historical average spending of the predecessor Enhancements-IT-Capital and Product Family Enhancements-IT/Digital Foundation-Capital projects.[1002] He further testified that Consumers "does significant analysis and management of enhancements to ensure that enhancement cost estimates are reasonable and prudent."[1003] In addition, Mr. Kandan cited the enhancement analysis in Exhibit A-92, which compares historical projections for the years 2019 through 2026 with actual spending for the same years up to 2023, and, according to Mr. Kandan, "demonstrates that the Company does not over estimate [sic] enhancement costs."[1004]

In its brief, Staff notes that although Consumers stated that several of the contested projects were subsequently completed, the Company failed to provide information supporting the accuracy of the initial cost projections.[1005] Staff argues:

> The fact that the cost of a project was projected during the execution phase and that the project is now complete, does not mean that the cost projection was accurate or reasonable. The Company has not provided actual costs on any of these projects to support its argument. Therefore, Staff maintains

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[1001] 5 Tr 1961, 1966, citing Exhibit A-89, pp 93, 103.
[1002] 5 Tr 1962, 1967, citing Exhibit S-10.2; Consumers brief, 177.
[1003] 5 Tr 1967.
[1004] 5 Tr 1962-1963, 1967; Consumers brief, 177-178.
[1005] Staff brief, 52.

the position that since the costs are based on estimates, the Company has the opportunity to over-recover for each project.[1006]

Consumers again argues in briefing that the projects identified by Staff should not receive an ROM adjustment because they were at a more advanced stage of planning.[1007] "Indeed, many of the projects were in the middle of being executed, so the Company's projected capital expenditures were based on the best information possible—actual project experience."[1008] Consumers reiterates its position that Staff arbitrarily classified the projects as Class III AACE estimates based on incomplete information and argues: "With the information now on the record—between the Company's direct and rebuttal testimony and exhibits—there is no reason for Staff to dispute, or the Commission to reject, the Company's projections."[1009]

The parties provide no further argument on this issue in their reply briefs.

This PFD agrees with Staff that 20% of the capital expenditures associated with the following four projects should be disallowed: (1) IT Operations Management – Service Operations, (2) Operational Technology – Service Management Upgrade, (3) Software Asset – Service Management Upgrade, and (4) SolarWinds Performance Monitoring Expansion Upgrade. Staff established that the estimates for these projects were not fully developed and lacked important details and supporting information that would justify a full recovery. In addition, while the Company argues that these projects were in the execute phase when costs were projected and have since been completed, it provides no information about the actual costs to complete the projects. The Company had the

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[1006] *Id*.
[1007] Consumers brief, 170.
[1008] Consumers brief, 171.
[1009] Consumers brief, 170, 172, 178.

opportunity to resolve this dispute by supplying those final costs but decided otherwise. It would not be prudent to allow recovery of estimated costs under these circumstances. If Consumers can show that it has not received full recovery of its actual costs, it can request the shortfall in its next rate case. As a result of this recommendation, the Commission should disallow $88,839 of capital expenditures in the bridge period.

Regarding the three remaining projects, this PFD finds that Consumers has adequately justified its projections. The Company estimated costs for the SAP HANA Database Migration based on actual work that had already been completed on the project, while it used three-year average historical spending of predecessor projects to establish its estimates for the two Product Family Enhancements projects and further supported those estimates with data showing historical projected and actual costs for the company's Enhancement projects. Therefore, this PFD recommends against a 20% disallowance for those projects.

6. Demand Response Capital Expenditures

The Company requests that the Commission approve its DR capital expenditures and O&M expenses.[1010] Mr. McLean provided testimony to support Consumers' historical and projected DR capital costs as shown in Exhibit A-12, Schedule B-5.7, and its historical and projected DR O&M costs as shown in Exhibit A-131.[1011] He presented the Company's DR Portfolio, which includes both residential and business offerings.

The residential DR programs include Device Cycling, Dynamic Peak Pricing, and Residential Smart Thermostat. The business DR programs include C&I Contractual DR

[1010] Consumers brief, 182, 413.
[1011] 5 Tr 2162-2180.

and C&I Rate Options, which include the General Interruptible (GI) and General Interruptible 2 (GI2) rate provisions, Rate Energy Intensive Primary (EIP), and Long-Term Industrial Load Retention Rate.[1012] Mr. McLean also detailed the operations of each DR program and the company's proposals to change the programs. [1013]

As shown in Exhibit A-131, the Company's projected O&M costs for the test year for the DR programs are $34.536 million, which includes $21.274 million for the business DR programs and $13.262 million for the residential DR programs.[1014] As shown in Exhibit A-12, Schedule B-5.7, the Company calculated $8.014 million in capital costs for the DR programs for the 2023 historical year and projects the capital costs for the DR programs to be $0.9 million for the test year.[1015] Mr. McLean testified projected costs for the test year are in line with the costs included in the Company's IRP.[1016]

Staff does not recommend any adjustment to Consumers' projected O&M expenditures,[1017] but does recommend an adjustment of $2,012,420 to the historical period for DR capital expenditures that were disallowed in the June 6, 2024 order in Case No. U-21410.[1018] Consumers agreed with Staff's recommended adjustment and removed the disallowed expenditures from the historic period and reflected the resulting changes in revenue deficiency on rebuttal.[1019]

[1012] 5 Tr 2162-2163.
[1013] 5 Tr 2162-2180.
[1014] 5 Tr 2163-2164; Consumers brief, 413.
[1015] 5 Tr 2163-2164; Consumers brief, 182.
[1016] 5 Tr 2165-2166.
[1017] Staff brief,103.
[1018] 5 Tr 3718-3719; Staff brief, 53-54.
[1019] 5 Tr 2191; Consumers brief, 182; Exhibit A-257.

No other party addressed the Company's capital expenditures and O&M expenses for the company's DR programs or took issue with the proposed operation of the DR programs or the company's proposed modifications. Accordingly, this PFD recommends the Commission approve the projected DR O&M expenses and capital expenditures, as well as the modifications of the DR programs, and accept the removal of the disallowed expenditures from the historic period and the resulting changes reflected in the Company's rebuttal revenue deficiency.

7. Transportation Electrification Program Expenditures and Benefit Cost

In her direct testimony, Ms. Myers outlined Consumers' current TEP, which consists of three areas:

> The PowerMIDrive Residential Program includes outreach, rebates for off-peak charging, and enhanced rebates for income-qualified customers, and focuses on providing equitable charging opportunities at apartments, condos, and townhomes. The PowerMIDrive Public Charging Program includes a community charging rebate which improves equitable access to charging and fills a critical need for multi-dwelling housing residents without access to overnight charging. The PowerMIFleet Program includes off-peak charging rebates for businesses, local governments, non-profits, and educational institutions.[1020]

As discussed by Mr. Myrom, Consumers is proposing five modifications to its existing TEP, and except for a change to the Company's direct current fast charger (DCFC) program, the parties generally supported, or did not oppose, Consumers' proposals.[1021] The parties also made recommendations for future revisions to the benefit cost analysis approach presented in Exhibit A-153. These issues are addressed *ad seriatim.*

[1020] 4 Tr 363.
[1021] 5 Tr 2406-2407.

a. Transportation Electrification Program Modifications

Mr. Myrom testified that the Company is proposing to maintain its current TEP budget with no alterations to the overall spending amounts approved in Case Nos. U-21224 and No. U-21389.[1022] According to Mr. Myrom, Consumers is focusing on the PowerMiDrive Residential, PowerMIDrive Public, and PowerMIFleet programs, with expansion of DCFCs within the PowerMiDrive Public program.[1023] Consumers anticipates meeting the demands of 500,000 to 1 million EVs by 2030.[1024] The Company is basing its projections on a ratio of one DCFC per every 85 EVs; 500,000 to 630,000 EVs by 2030; 849 to 1,026 new DCFC service requests of 1 MW or greater by 2028; and 1,521 to 1,854 DCFC service requests of 1 MW or greater by 2030.[1025] Mr. Kelly's testimony supported Mr. Myrom's, indicating that the Company anticipates some circuits to "approach their capacity thresholds by 2030," but that, with the anticipated pace of EV adoption, the "system is not likely to experience broader issues until" approximately 2050.[1026]

Although Consumers is maintaining its current TEP budget, with additional revenue from EV load growth committed to EV programs,[1027] it is proposing modifications within the existing budget. Mr. Myrom identified six changes to the TEPs the Company proposes in the instant case: (1) a shift from the J-1772 standard to the North American Charging Standard for charging connectors to meet auto industry standards; (2) allowing

[1022] 4 Tr 363. 5 Tr 2400-2401.
[1023] 5 Tr 2402. 4 Tr 363.
[1024] 4 Tr 363.
[1025] 5 Tr 2404-2405.
[1026] 5 Tr 882.
[1027] 4 Tr 2401.

splitter and dual cord options for residential charging; (3) including referral credits in the education and outreach program; (4) allowing customers to receive rebates as either a check, which is how rebates are currently issued, or as a bill credit; (5) adding a rebate for DCFC installations including battery storage; and (6) using remaining make-ready program funds to extend the income qualified enhanced rebate program for fleets.[1028]

Mr. Myrom elaborated that rebates for splitters and dual cord solutions are intended to maintain off-peak charging options for homes with multiple EVs.[1029] Because new EV owners tend to know other EV owners, Consumers hopes to use the residential referral credit to incentivize existing EV owners to enlist new EV owners into the PowerMiDrive Residential program and off-peak charging.[1030] Mr. Myrom further expressed that Consumers hopes to incentivize use of DCFC battery arbitrage, namely charging the DCFC battery to achieve at least 80% off-peak charging, subject to the existing 97% uptime requirement for five years, by offering up to a $40,000 per DCFC rebate for a DCFC of 150 kW or greater charging output. The overnight battery charging is intended to avoid significant necessary service upgrades, as necessary equipment is on a 24-month backorder.[1031] Finally, Mr. Myrom testified that using any remaining make ready funds from the PowerMIFleet pilot to extend the income qualified enhanced rebate program for fleets should "maximize the public benefits for . . . disadvantaged communities while not increasing the TEPs budget."[1032]

[1028] 5 Tr 2406-2407 & 3110-3111.
[1029] 5 Tr 2406.
[1030] 5 Tr 2406.
[1031] 5 Tr 2404-2407.
[1032] 5 Tr 2407.

Mr. Freeman testified that Staff supports Consumers' proposals because they "are all logical extensions of the Company's current EV policies and programs."[1033] Likewise, MNSC supports Consumers' TEP proposals for this case but made recommendations for future rate cases. Specifically, Mr. Jester testified that, to address driver range anxiety, he recommended that Consumers include "a more careful analysis of the unmet needs for public DCFC infrastructure and offer plans to respond to those needs," particularly in relation to less-traveled areas, in the Company's next TEP and rate case filings.[1034]

While not taking issue with Consumers' other proposals, MIEU expressed concern with the Company's proposal to offer a rebate for public and fleet DCFCs using batteries without requesting additional DCFC funding.[1035] Noting the growing ratio of EVs to public charging ports, and the estimated need, Dr. Sherman questioned the Company's projected 85 EVs per public DCFC port as the ideal ratio, citing recent studies suggesting that the appropriate ratio is 8 to 12 EVs per public charging port, and predicting that the Company is likely to receive many more service requests for public charging infrastructure than reflected in the Company's own estimates.[1036] Underlying Dr. Sherman's concerns is the increase in EVs on the road from 22,000 in 2011 to 2.2 million EVs on the road in 2021.[1037]

Dr. Sherman testified, based on Mr. Myrom's discovery response in Exhibit MEIU-3, that Consumers had received approval for $15.25 million in rebates for 137 DCFC sites, with $10.63 million of the total to be disbursed towards the remaining 72, in-progress,

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[1033] 5 Tr 3869-3870.
[1034] 5 Tr 3111-3112.
[1035] 5 Tr 3156.
[1036] 5 Tr 3157-3158.
[1037] 5 Tr 3136-3137.

host sites; these sites were eligible for $70,000 rebates to cover some of the EV charging infrastructure and make-ready costs.[1038] As noted by Dr. Sherman, going forward, Consumers intends to offer rebates of up to $40,000 as part of a previously approved budget for DCFC projects with integrated battery energy storage systems, with Consumers estimating that it could offer 160 rebates (40 rebates per year from 2026 to 2029).[1039] The rebates are to support the costs of the batteries, and not the DCFC ports themselves. [1040]

Based on Consumers' additional discovery responses, Dr. Sherman testified that the $40,000 rebate was intended to cover the entire $50,000 make-ready cost of a 400kWh battery, reducing the total forecasted project costs of $250,000 to approximately $200,000.[1041] Dr. Sherman expressed concern, because MEIBC members have indicated to her that the $40,000 rebate may not cover the entire battery cost, likely resulting in installation of smaller batteries.[1042] With National Electric Vehicle Infrastructure (NEVI) funding not covering all funding gaps, due to the cost of the DCFC ports themselves, Dr. Sherman testified that, without additional rebates, site hosts may not be able to install battery integrated DCFCs.[1043]

Dr. Sherman recommended that the rebates be increased, indicating that NEVI funding would be insufficient to address public fast charging growth.[1044] She suggested either a rebate of $70,000, as this amount had been supporting deployment of DCFC

[1038] 5 Tr 3157-3158. Exhibit MEIU-3.
[1039] 5 Tr 3159. Exhibit MEIU-5.
[1040] 5 3159-3160.
[1041] 5 Tr 3159. Exhibits MEIU-6 & MEIU-7.
[1042] 5 Tr 3159-3160.
[1043] 5 Tr 3160-3166. Exhibits MEIU-5, MEIU-8, & MEIU-9.
[1044] 5 Tr 3161-3166 & 3168-3169. Exhibit MEIU-9.

infrastructure, and represented 59% of current total project costs, in addition to the $40,000 rebate for the battery, or a $40,000 to $50,000 rebate per DCFC port to cover 40% to 50% of the cost, again in addition to the $40,000 battery rebate.[1045] This would require an allocation of an additional $7.6 million.[1046] Dr. Sherman indicated that, generally, a site host's willingness to purchase and install a DCFC depends on: (1) the projected payback period of the project; (2) the host's available capital; and (3) the host's ability to access public funding programs, with additional rebates needed to reduce the payback period to 3 to 5 years.[1047] While MEIU did not oppose the use of battery-integrated DCFCs, Dr. Sherman testified that without "providing rebates for battery-integrated DCFCs" of 150 kW output or greater, it would slow EV adoption and driver access to infrastructure.[1048]

METC witness Mr. Adarkwa recommended that the Commission direct Consumers to consider the impact that EV charging infrastructure will have on the transmission system, requesting that the Commission specifically direct Consumers to substantively discuss EV charging impacts on the grid because "METC anticipates that deployment of DCFC stations throughout the Consumers' service territory will, in many cases, require upgrades to the local transmission system" to ensure reasonable cost and reliable electricity.[1049] As a standalone transmission company serving Consumers,[1050] METC in some ways echoed Dr. Sherman's concerns regarding the need for greater DCFC

[1045] 5 Tr 3161-3162. Exhibits MEIU-6.
[1046] 5 Tr 3169-3170.
[1047] 5 Tr 3160-3162.
[1048] 5 Tr 3166.
[1049] 5 Tr 3274.
[1050] 5 Tr 3269.

resources to ease range anxiety and meet demand as EV ownership increases, with between 500,000 and 1 million EVs in Consumers' service territory by 2030 coinciding with the State's 60% goal, and Consumers' 50% goal, for renewable energy generation.[1051]

However, METC noted that "DCFC charging is about twice as likely to be on-peak," requiring a more robust transmission system.[1052] METC added the need for diverse geographic generation sources and regional transmission to address MISO's Long-Range Transmission Planning (LRTP) initiative to maintain reliability 10 to 20 years into the future while increased renewables create greater intermittency in generation for transmission in general, but also to address the impact of DCFCs on the transmission system.[1053]

Similarly, Mr. Jester suggested re-thinking the Company's policy of incentivizing off-peak charging to integrate EV charging into the grid because his modeling indicates that encouragement of off-peak EV charging will be insufficient as EV ownership increases, and because increasing use of renewable power generation may change the timing of peak power generation.[1054] As a result, MNSC recommended that the Commission schedule a technical conference or other process to provide guidance or direct Consumers to review its off-peak only programs and related issues in its next TEP.[1055]

[1051] 5 Tr 3270-3274.
[1052] 5 Tr 3274.
[1053] 5 Tr 3271-3274.
[1054] 5 Tr 3115-3118.
[1055] 5 Tr 3118.

Because he concluded that the Company should rethink its assumptions in relation to EV charging, Mr. Jester also testified that EV charging integration with the grid should be reconsidered and more comprehensively forecast, focusing on a distribution system and capacity for nighttime charging at home. Mr. Jester testified that this was necessary, in part, because Consumers did not appear to have fully analyzed medium- and heavy-duty vehicle workplace charging.[1056] Therefore, MNSC recommended that the "Commission should require that the Company undertake thorough consideration of electric vehicle charging, including medium-duty and heavy-duty vehicles, in its next distribution system plan, and propose a systematic approach to distribution system investment to most cost-effectively meet the needs of electric vehicle charging."[1057]

Mr. Krause added detail to Staff's position regarding the funding of DCFCs, testifying that fast charging is a public-private partnership, with some funds coming from sources like the NEVI program, and with additional funding coming from private sources like the site hosts. According to Mr. Krause, ratepayer funding was intended to create a skeleton charging network to reduce range anxiety, with the long-term focus on at-home off-peak charging.[1058] Other funding sources, such as federal tax credits like the Alternative Fuel Vehicle Refueling Property Credit (30C tax credit), currently exist that may render additional ratepayer funding unnecessary.[1059]

Mr. Krause addressed Dr. Sherman's point that the $40,000 rebate for battery installation at DCFC charging stations will be insufficient; Mr. Krause agreed that the

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[1056] 5 Tr 3119-3120.
[1057] 5 Tr 3120.
[1058] 5 Tr 3883.
[1059] 5 Tr 3884.

rebate would likely not cover the entire cost of the battery, but he noted that expecting contribution from the site host was not unreasonable, particularly because 30% of the battery capital expense, up to $100,000, should be eligible charging property to qualify for the 30C tax credit.[1060] In response to Mr. Jester's recommendation regarding "a more careful analysis of the unmet needs for public DCFC infrastructure" and the need for plans to respond to those needs, Mr. Krause indicated that the language "if deemed necessary" should be added to the recommendation, because customer subsidization of the bulk of public charging infrastructure is inappropriate.[1061]

In rebuttal, Mr. Myrom supported MNSC's position that additional EV load analyses would help with future planning, and supported Mr. Lynd's testimony regarding the need for additional funding for engineering tools to perform such analyses.[1062] The Company also agreed with MNSC and MEIU "that additional assistance is prudent" regarding continuing changes in the fast-charging market.[1063] Mr. Myrom clarified that "the Company's proposed rebate for battery-integrated DCFC would include both bolt-on and fully integrated eligibility," with the point being the increased use of battery storage without preference for any particular manufacturer of DCFC or battery storage.[1064] Mr. Myrom also credited Dr. Sherman's and Mr. Jester's testimony that, due to the state of the EV fast-charging market; Consumers' support of clean transportation adoption; the Company's interest in stimulating innovation and technology solutions to demand charges and off-peak battery use; and the projection of more than $570 million in net margin by

[1060] 5 Tr 3884-3885.
[1061] 5 Tr 3885.
[1062] 5 Tr 2410-2414.
[1063] 5 Tr 2411-2412.
[1064] 5 Tr 2412-2413.

2030 from EV load growth, it was reasonable to increase DCFC rebates.[1065] Mr. Myrom indicated that Consumers agreed to two rebate enhancements. First, batteries being integrated into DCFC's would be eligible for a $50,000 rebate, and second that existing DCFC rebates of $50,000 would also remain in place, so that "a host site could earn a total rebate of up to $100,000 per 150 kW DCFC port (i.e. up to $50,000 from each fast-charging rebate category) if approved by the Commission."[1066]

Consumers' brief reflects the testimony of Mr. Myrom, as well as Mr. McPhail and Mr. Lynd,[1067] and agrees with Mr. Jester that the Company should "thoroughly evaluate EV charging distribution system planning."[1068] Consumers highlights that it is not proposing an increase in the budget for TEPs in this case, and notes Mr. Freeman's recommendation on behalf of Staff that the Commission accept the originally proposed TEP enhancements.[1069] However, based on the testimony of Mr. Jester and Dr. Sherman, the Company goes a step further, and "proposes to increase the battery-integrated DCFC rebate to $50,000 and to continue DCFC rebates at $50,000," as adopted by Mr. Myrom's rebuttal testimony.[1070]

MEIU's brief clarified that, while it supports rebates encouraging battery-integrated DCFC, what Dr. Sherman was advocating for in her testimony was maintaining the current DCFC rebate at $70,000 per port, for increasing the battery-integrated DCFC rebate by $40,000 to $60,000 per port, and that the overall rebate program be expanded by $7.6

[1065] 5 Tr 2412-2414.
[1066] 5 Tr 2413-2414.
[1067] Mr. McPhail and Mr. Lynd testified in support of the Load Flow Tool Upgrade, with Mr. Lynd asserting that the upgrade would facilitate EV charging. 4 Tr 722. 5 Tr 2277-2278.
[1068] Consumers brief, 189-192.
[1069] Consumers brief, 191.
[1070] Consumers brief, 191-192.

million.[1071] Although believing coverage of 40% to 50% of DCFC projects costs to be necessary, Dr. Sherman's goal is that the rebates cover approximately 30% of anticipated non-battery-integrated DCFC service requests in the next year, doubling the rebates for available battery-integrated DCFC.[1072] The MEIU proposals, however, "could be harmonized" with those of the Company to provide $70,000 per port rebates plus $30,000 per port battery integrated DCFC rebates, for total rebates of $100,000 per port, and with $70,000 rebates remaining available for non-battery integrated DCFC.[1073] Apart from this clarification, MEIU's brief reflects Dr. Sherman's testimony regarding the insufficiency of NEVI funds, and the need for rebates to incentivize the buildout of public DCFC infrastructure to support EV adoption.[1074]

MEIU argues that Staff's testimony regarding EV rebates should be rejected.[1075] While both Mr. Krause and Mr. Revere assert that the purpose of utility rebates is to create a skeleton network of DCFC chargers to reduce range anxiety, neither defines the threshold of the "skeleton network," nor does either "make a factual case that the Company's service territory has reached this threshold or is on the cusp of reaching it."[1076] MEIU cites Dr. Sherman's testimony that the EV charging market is not yet self-sustaining, but argues that, even if it were, and additional rebates will only accelerate growth of the charging network, the Commission should still expand the rebates as proposed by the Company and MEIU.[1077] MEIU argues that Mr. Krause's testimony does

[1071] MEIU brief, 7-8.
[1072] MEIU brief, 8.
[1073] MEIU brief, 9.
[1074] MEIU brief, 2-9.
[1075] MEIU brief, 9-12.
[1076] MEIU brief, 9-10.
[1077] MEIU brief, 10.

not establish that the 30C tax credits are an appropriate alternative to utility rebates.[1078] And MEIU further takes issue with Staff's characterization that it is not the "responsibility" of ratepayers to fill gaps in NEVI funding, asserting that additional investment will lead to greater EV charging revenue and ultimately provide additional benefits.[1079]

MEIU's reply brief advances similar arguments, taking issue with how Staff characterizes MEIU's arguments in Staff's brief.[1080] MEIU's reply clarifies that EV charging infrastructure is not yet self-sustaining without utility rebates and public funding incentives, but that there is still an expectation that private investment will be needed to fund public DCFC infrastructure to be balanced with a reasonable level of EV charging profit reinvestment.[1081] For MEIU, supplemental funding for DCFC is still necessary, and does not "merely represent[ ] a loss to ratepayers."[1082]

Staff's brief stresses that utilities and, especially, their customers are not "solely responsible for funding all 'gaps' in EV charging funding."[1083] Contrary to the positions taken by Mr. Jester and Dr. Sherman, Staff maintains that utility-funded investments will be less necessary over time as the commercial market for EVs grows and a skeleton charging network exists to ease range anxiety.[1084] Although reinvestment of EV charging revenues back into TEPs might accelerate public charging infrastructure creation, the future benefits of EV charging will occur without the reinvestment, and the reinvestment

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[1078] MEIU brief, 11-12.
[1079] MEIU brief, 10-11.
[1080] MEIU reply 2-5.
[1081] MEIU reply, 2-5.
[1082] MEIU reply, 4-5.
[1083] Staff brief, 126-127.
[1084] Staff brief, 128-129.

will prevent ratepayers as a whole from ever realizing the benefit of the revenues.[1085] The same is true of increasing rebates for chargers; they will increase rates, disproportionately burdening lower income customers who generally do not share the benefits of EV programs.[1086]

Nevertheless, Staff does not oppose the Company's originally proposed TEP enhancements. Staff recommends their adoption, and Staff requests that the Company provide updates regarding the enhancements' adoption in the PowerMiDrive and PowerMIFleet annual report and in the next rate case.[1087] Staff supports only the originally proposed $40,000 for DCFC charging plus battery rebates.[1088] In its reply brief, Staff again asserts that the IRS Alternative Fuel Vehicle Refueling Property Credit in addition to NEVI funding, should constitute sufficient external funding for fast charging.[1089] Staff recommends that Consumers include 30C tax credits in its next EV case and TEP.[1090]

Otherwise, Staff's reply brief reinforces the positions in its testimony and initial brief, and tries to answer points briefed by MEIU.[1091] To MEIU's point that "skeleton network" is not defined in testimony, Staff indicates that it means "the minimum network necessary to eliminate range anxiety if it would not have occurred otherwise."[1092] Staff maintains that EV charging rebates are "externally applied responsibility" on ratepayers

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[1085] Staff brief, 129-130.
[1086] Staff brief, 129-131.
[1087] Staff brief, 172-173.
[1088] Staff reply, 26.
[1089] Staff reply, 26-28.
[1090] Staff reply, 27-28.
[1091] Staff reply, 23-28.
[1092] Staff reply, 24-25.

that temper the benefits of EV charging revenues for a network that no longer needs rebates from the Company to achieve either minimum sufficiency or ratepayer benefits.[1093]

METC's brief again voices its support for the Company's TEP proposals, including for increased DCFC battery rebates.[1094] METC also repeats its request that both the Company and the Commission consider regional expansion and lower-voltage and local transmission expansion projects and upgrades to ensure EV readiness.[1095] METC emphasizes that coordination between transmission and distribution will be "essential" in light of DCFC installation exceeding prior projections, and with the bulk of charging occurring during peak usage.[1096] It is METC's view that "the only way to manage changing generation and weather risks while ensuring reliability throughout the" transition to distributed renewable energy generation and EV charging is to support Consumers' efforts to maximize off-peak charging while encouraging the Company's participation in transmission planning, particularly MISO's Tranche 2 LRTP planning process.[1097]

MNSC's brief similarly recommends approval for the TEP enhancements, and it expands upon its request that Consumers examine unmet public DCFC station needs and proposals to address these needs, as well as distribution grid readiness, particularly relating to medium- and heavy-duty vehicle charging needs.[1098] MNSC agrees with the Company that maximizing off-peak charging is a "useful starting place."[1099] But, due to

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[1093] Staff reply, 25-26.
[1094] METC brief, 3-9.
[1095] METC brief, 3.
[1096] METC brief, 10-11.
[1097] METC brief, 10-13.
[1098] MNSC brief, 52-56.
[1099] MNSC brief, 53.

the anticipated growth of EVs and the demand for DCFC's by 2030, MNSC contends that the focus on light-duty EV charging needs through 2028 do not address the increased need for medium- and heavy-duty charging through 2030.[1100] Additionally, MNSC notes Mr. Jester's testimony that increased use of solar and other renewable energy sources might change the best time for electric vehicle charging to peak sun instead of overnight, and notes Mr. Adarkwa's testimony that EVs will necessitate expansion of the transmission network.[1101]

As a result of this and other testimony, MNSC recommends that the Commission approve the TEP enhancements with the direction that Consumers examine unmet public DCFC station needs, as well as distribution grid readiness, DCFC infrastructure needs, and integration of EV charging and renewable energy into the grid.[1102] MNSC's brief also recommends that the Commission direct the Company to "convene a [collaborative] process, prior to its next Transportation Electrification Plan, to examination distribution grid readiness," and the impact of renewable energy on the grid, and DCFC infrastructure needs.[1103]

This PFD recommends the adoption of the Company's proposed TEP changes, with the battery-integrated DCFC rebate maintained at $40,000 as initially proposed by Consumers, and accepted by Staff, without changing the current TEP budgets. While a genuine need for additional EV charger funding may exist, the extent to which this may be necessary cannot be reasonably established until the extent of NEVI funding is

[1100] MNSC brief, 53-54.
[1101] MNSC brief, 54.
[1102] MNSC brief, 54-56.
[1103] MNSC brief, 49-50.

realized. Nevertheless, testimony regarding the insufficiency of off-peak charging, and the need for additional charging resources, including DCFCs, have merit. This PFD further recommends that a case be opened to commence a collaborative process to review grid readiness, DCFC infrastructure needs, integration of EV charging and renewable energy into the grid, and the continued sufficiency of off-peak charging. Finally, this PFD further recommends that these be considered in Consumers' TEP case and integrated resource plans going forward.

b. Benefit Cost Analysis

MNSC criticized the Company's cost-benefit analysis, presented in Exhibit A-153, because it set forth only that incremental revenue from increased EV adoption exceeds incremental cost of demand, but it did not estimate other benefits to guide optimal investment.[1104] Instead, Mr. Jester recommended that the Commission adopt a comprehensive benefit-cost analysis framework in relation to future TEPs, including the Company's margin calculations, but also including "societal benefits and costs to ensure that transportation electrification is optimally supported,"[1105] such as the more comprehensive analysis found in the National Standard Practice Manual produced by the National Energy Screening Project.[1106] The framework would include the cost of an EV compared to a non-electric vehicle; the Company's incremental cost of producing and distributing electricity for EV charging; the avoided cost of fossil fuels; the relative maintenance costs of EVs versus traditional vehicles; climate and health impacts; and

[1104] 5 Tr 3112-3113.
[1105] 5 Tr 3114-3115.
[1106] 5 Tr 3112-3113.

reduced national security risks from EV adoption due to lessened dependence on international oil.[1107]

Dr. Sherman also indicated her hope that, in the future, Consumers would include more EV benefits in its benefit-cost analysis.[1108] She noted that there is an economic value of EV charging, and that reinvestment of a portion of the net revenue realized from EV charging can accelerate public charging infrastructure development, ultimately creating downward rate pressures for all customers.[1109] Dr. Sherman outlined the Federal Social Cost of Carbon (SCC), calculating the benefits of carbon dioxide (CO_2) reductions from transportation electrification, how the calculation of SCC can be related to a TEP, and how analysis of SCC has been adopted by a variety of other states.[1110]

Specifically, an SCC is "an estimate of the monetized net economic damages associated with an increase in one metric ton of CO_2 emissions,"[1111] and a TEP can reflect the quantified benefit of EV charging by comparing the difference between EV charging emissions and internal combustion engine emissions, then use an SCC to calculate the benefit of the reduced emissions.[1112] After listing several common tests that can be used in benefit-cost analysis for specific programs, Dr. Sherman recommended for future cases that Consumers include additional societal benefits of vehicle electrification, and that the Commission should conduct a study to determine an estimated societal benefit factor per EV or per kWh, or to standardize a process for utilities to use to quantify TEP benefits.[1113]

[1107] 5 Tr 3113-3114.
[1108] 5 Tr 3144-3145.
[1109] 5 Tr 3142-3143.
[1110] 5 Tr 3133-3155.
[1111] 5 Tr 3146.
[1112] 5 Tr 3147-3148.
[1113] 5 Tr 3155.

In his rebuttal, Mr. Dauphinais expressed ABATE's opposition to MNSC's and MEIU's recommendations that the societal cost test (SCT) be used in Consumers' TEP benefit cost analyses. Mr. Dauphinais testified that the Company should not pursue or expand its TEP on the basis of societal benefits from avoided emissions, because that would equate to requiring electric ratepayers to subsidize the cost of the "claimed societal benefits."[1114] He was not opposed to including societal benefits for informational purposes, particularly in a sensitivity case.[1115]

Staff's rebuttal testimony largely agreed with ABATE's, with Mr. Revere testifying that the only costs and benefits that should be considered "for a ratepayer-funded program are those to ratepayers. Ascribing benefits to usage that would have occurred absent the program is inappropriate."[1116] Staff took the position that, contrary to Mr. Jester's testimony that all EV charging revenues should be considered, if the Commission approved any change to the Company's cost benefit analysis for EV programs, the Company should also be required to remove the reasonable estimate of the revenue from EV charging that would have occurred without the program.[1117] Mr. Revere testified that, contrary to Mr. Jester's implication, all cost benefit analyses are useful, and that the SCT is not the only useful test.[1118] Mr. Revere pointed out that the utility cost test (UCT) shows the impact to ratepayers and the utility, which is important to determining whether utility

[1114] 5 Tr 3328.
[1115] 5 Tr 3328.
[1116] 5 Tr 3805.
[1117] 5 Tr 3804-3805.
[1118] 5 Tr 3804-3805.

rates are an appropriate way to fund a program, and the participant cost test (PCT) is useful to determine whether the program is likely to attract participants.[1119]

According to Mr. Revere, both Mr. Jester and Dr. Sherman are operating under similar misconceptions regarding the use of the SCT, because societal benefits, and the appropriate level of government funding, will change over time; as a result, SCT is not appropriate as the primary test for cost benefit analysis.[1120] In relation to Dr. Sherman's testimony regarding the need for the utility to "fund all chargers" to prevent stagnation in the purchase of EVs and "charger deployment," Staff took the position that development of a skeleton charging network should ease range anxiety and lead to "more demand for chargers that can then be installed" without ratepayer funding.[1121] This led Staff to conclude that reinvestment of EV revenues to accelerate public charging infrastructure development will be unnecessary, and reinvestment would unnecessarily take benefits away from ratepayers as a whole, thereby increasing rate pressure rather than decreasing it.[1122]

To Dr. Sherman's point that estimated revenue from charging, expected government incentives, and customer contributions should be included in benefit cost analysis, Mr. Krause indicated that state and federal incentives were benefits to the Company under the utility cost test, but, under the SCT, government incentives are paid for by taxpayers, and should be counted as a societal cost.[1123] Mr. Revere added that, while Staff agrees that the SCT can provide "important information," it was "not

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[1119] 5 Tr 3805-3806.
[1120] 5 Tr 3806-3807.
[1121] 5 Tr 3806-3807.
[1122] 5 Tr 3806-3807.
[1123] 5 Tr 3885-3886.

appropriate to use to determine the amount to which such programs should be funded by utility customers."[1124] Mr. Revere concluded that, were ratepayers to bear the burden of EV program expansion based on concerns regarding the public good, the burden would disproportionately fall on low-income customers who are the "least likely to directly benefit from" the EV programs; this would, effectively, result in regressive taxation.[1125] Unlike income taxes, which are levied through progressive taxation rates, Staff took the position that the disproportionate, regressive nature of rate impacts to fund EV programs should be considered when the Commission determines how much funding for EV programs should come from ratepayers.[1126]

In his rebuttal, Mr. Myrom expressed the Company's general willingness to adopt a benefit cost framework "that will assist with consistency and streamlining of TEP report reviews by Staff, intervenors, and the public" by including societal benefits, additional references, and additional input sources suggested by the National Renewable Energy Laboratory (NREL), the Electric Power Research Institute (EPRI), and others.[1127] Consumers' brief appears to strike a middle ground. It indicates the Company's willingness to adopt Mr. Freeman's recommendation for Staff that the tool being developed in Case No. U-20898 in relation to tracking pilot program success be used to improve and streamline cost benefit analysis.[1128] Consumers also indicates that it will

[1124] 5 Tr 3808.
[1125] 5 Tr 3808-3809.
[1126] 5 Tr 3808-3809.
[1127] 5 Tr 2410-2411.
[1128] Consumers brief, 191.

include societal benefits in its cost benefits analyses, as suggested by Mr. Jester and Dr. Sherman.[1129]

MNSC recommends in its brief that "the Commission adopt a comprehensive framework that can be used for benefit-cost analyses in future utility transportation electrification plans" including program costs and EV charging revenues, but also including societal benefits and costs of utility EV programs "to ensure that transportation electrification is optimally supported."[1130] MNSC notes the testimony of MEIU witness Sherman on the point that many societal benefits, including pollutants and avoided greenhouse gas emissions, can be quantified and have already been included in cost benefit analyses in Illinois, Minnesota and Colorado.[1131] In Case No. U-20898 the Commission has already opened discussion to "establish a new platform as a model for the required benefit cost analysis that accompanies requests for pilots" that are likely to be used in future proceedings.[1132] The Company also supports a cost benefit framework that is consistent and streamlined for all TEP reports.[1133] In sum, MNSC supports a broad cost benefit framework including climate and public health benefits from EV adoption that is clear, uniform, and efficient.[1134]

MEIU takes the position that "[t]he policy question for the Commission is simply this: assuming EV charging load will always be required to pay for the costs it causes, how much of the net revenue margin it generates should be applied toward rebates and

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[1129] Consumers brief, 191-192.
[1130] MNSC brief, 56-57.
[1131] MNSC brief, 57-58.
[1132] MNSC brief, 58, quoting Mr. Freeman at 5 Tr 3864.
[1133] MNSC brief, 58.
[1134] MNSC brief, 58.

other programs that support its coming to maturity (and continued net benefits to ratepayers as a whole)?"[1135] Citing the Company's 2024 TEP, MEIU's brief notes that 70% of EV charging occurs at home, and 30% occurs at public charging stations.[1136] From this, MEIU follows that "none of that charging, or its associated revenue . . . would take place or be generated if no EV were purchased by a customer in the first place."[1137]

MEIU's brief lists the common cost tests of the participant cost test (PCT), the ratepayer impact measure (RIM), the UCT, the total resource cost test (TRC), the SCT, and the jurisdiction-specific test (JST), and, citing Dr. Sherman's testimony, reasserts that the SCT should be given greater weight.[1138] MEIU contends that greenhouse gas emission reduction, as well as financial benefits, will accrue from the switch to EVs, and that, contrary to the testimony of Mr. Revere, increasing EV charging will provide net financial benefits to ratepayers, and will not harm low-income customers.[1139] As a result, MEIU again recommends that "the Commission . . . require Consumers' future TEPs to include consideration of additional benefits, including societal benefits . . . through the utilization of multiple cost tests."[1140]

Staff's brief reiterates that, while the SCT may provide useful insights, it is one of many useful tests, and it should not be used in rate determination.[1141] The use of utility rates to fund societal benefits results in regressive taxation of lower income

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[1135] MEIU brief, 16-17.
[1136] MEIU brief, 3.
[1137] MEIU brief, 3.
[1138] MEIU brief, 12-15.
[1139] MEIU brief, 15-17.
[1140] MEIU brief, 16-17.
[1141] Staff brief, 127-128, 130.

individuals.[1142] Even if the Commission adopts MNSC's or MEIU's recommendations regarding cost benefit analysis for EVs, a reasonable estimate of the revenue of EV charging that would have occurred absent ratepayer funding should be subtracted from the calculated benefits.[1143]

ABATE briefed its continued opposition to including societal benefits in cost benefit analysis, noting that societal benefits were difficult to quantify and that it was inappropriate to include benefits that would have been realized absent the implementation of the TEPs.[1144]ABATE further notes that a similar proposal was rejected in DTE Electric Company's most recent rate case for these reasons. Instead, the Commission adopted the recommendation that the parties collaborate to prepare a comprehensive benefit cost analysis to be included in TEP discussions.[1145] Also relying on Staff's testimony, ABATE recommends that societal benefits should be excluded from any benefit cost analysis for Consumers' TEP to avoid electric customers subsidizing these ostensible benefits, and that such information only be voluntarily included in sensitivity cases.[1146]

In its reply brief, ABATE quotes portions of MEIU's initial brief indicating MEIU's agreement that societal benefits are not a justification for worsening the condition of ratepayers.[1147] ABATE further notes the difficulty of quantifying societal benefits, and this difficulty thus necessarily indicates that such societal benefits do not provide an appropriate basis for allocating transportation electrification costs.[1148] Additionally,

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[1142] Staff brief, 130-131.
[1143] Staff brief, 127-128.
[1144] ABATE brief, 56-57.
[1145] ABATE brief, 56-57.
[1146] ABATE brief, 58.
[1147] ABATE reply, 25-26.
[1148] ABATE reply, 25-26.

ABATE asserts that MEIU's and MNSC's proposal to mandate inclusion of the SCT in Consumers' TEP analysis must be rejected because this is the improper forum for its consideration.[1149]

In its reply brief, MEIU responds to ABATE's and Staff's criticisms of using the SCT.[1150] MEIU first argues that ABATE's reliance on procedural recommendations in past proceedings actually supports the inclusion of more cost benefit analysis information.[1151] Next, MEIU stresses that it does "not propose to use the quantification of societal benefits as a justification for making ratepayers as a whole worse off financially than they would be without the EV charging spurred on by utility investment in infrastructure."[1152] Instead, MEIU recommends that the Commission require the Company to include societal cost benefits and multiple cost tests in its future TEPs to "fully capture" their value.[1153]

This PFD recommends that, going forward, Consumers include an additional cost benefit analysis with societal cost test information in order to provide additional information for the Commission's review. As touched on by Mr. Freeman,[1154] this additional information should be in line with what is ultimately determined in Case No. U-20898 to be relevant or required reporting.[1155] However, Staff's and others' concerns regarding the changing nature of the societal cost, and the likelihood of double-counting benefits or disregarding costs based on different underlying test assumptions, as well as

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[1149] MEIU reply, 26.
[1150] MEIU reply, 5-7.
[1151] MEIU reply, 5-6.
[1152] MEIU reply, 6.
[1153] MEIU reply, 6-7.
[1154] 5 Tr 3868.
[1155]Without providing a specific date, the November 21, 2024 Order in Case No. U-20898 extended the deadline on the benefit cost analysis tool for innovative pilot projects with the goal that the tool will be ready for use in 2026. The order makes clear that the goal is to include SCT and UCT and be usable for pilot proposals, distribution planning, and rate cases.

disproportionate impacts of ratepayer funding for EV programs falling on low-income households, are well-founded. This PFD further recommends that the current cost benefit format, of known and measurable values reflected on the current Exhibit A-153, remain intact as its own document, and that these numeric values continue to provide the basis for the monetary cost benefit analyses of the TEPs for the foreseeable future.

8. Accumulated Provision for Depreciation

The differences between Consumers', the Attorney General's and Staff's balance for the accumulated provision for depreciation results from differences in net plant projections, as discussed above. As shown in Attachment B to this PFD, the above recommendations result in an accumulated provision for depreciation of $6,331,373,000. This balance should be adjusted consistent with the Commission's final order in this case.

B. Working Capital

Ms. Myers testified that rate case working capital is developed using the balance sheet approach, which was required by the Commission in Case Nos. U-7350 and U-15895.[1156] Using this method, the Company calculated a jurisdictional working capital requirement of $3.180 billion, as shown in Exhibit A-258.

The Attorney General disagrees with Consumers proposed working capital requirement.[1157] Specifically, Mr. Coppola recommended four adjustments to working capital for the projected test year: (1) a reduction of Consumers' forecasted test-year cash level by $27.0 million; (2) an increase of $7.7 million to Consumers' Accrued Interest amount; (3) a $6.2 million decrease related to the Pension/OPEB Volatility Mechanism;

[1156] 4 Tr 401-402.
[1157] See Exhibit A-12, Schedule B4.

and (4) the exclusion of $3.4 million of Deferred Regulatory Asset related to Consumers' ownership of the Ludington Pumped Storage facility.[1158] These adjustments total $44.3 million and would reduce the forecasted working capital amount to $3.144 billion.[1159] The Attorney General's recommended reductions are addressed below.

1. Test Year Cash Balances

Mr. Coppola stated that the requested $45.6 million in average cash balances to be included in working capital is excessive and should be denied.[1160] He asserts that this is the second consecutive rate case where Consumers has advocated for an increase in the average cash balance to be included the projected test year working capital amount.[1161] He notes that in Case No. U-21224, Consumers requested, and the Commission approved, a cash balance for the 2023 projected test year of $43.8 million, but that the actual result for 2023 shows that Consumers' actual average cash balance was $18.6 million.[1162] He asserts that Consumers' explanation as to why its cash balance was $25.2 million less than the proposed amount is not convincing, and he stated that as a result of the $25.2 million lower cash balance, Consumers earned an excess return of $1.8 million during 2023 on the $25.2 million of cash it did not use, and it continued to earn an excess return in future months until rates were reset in Case No. U-21389.[1163]

Mr. Coppola explained that in Case No. U-21389, with a projected test year ending February 28, 2025, Consumers proposed an average cash balance of $53.7 million

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[1158] 5 Tr 2832-2833.
[1159] 5 Tr 2832.
[1160] 5 Tr 2833.
[1161] *Id*.
[1162] Id.
[1163] 5 Tr 2833-2834.

claiming that the historical 2022 average cash balance of $20.2 million was too low. The Commission approved the requested $53.7 million despite the Attorney General's recommendation that the Commission should have approved at most $30.4 million.[1164] He adds that, similarly, in Case No. U-20963, Consumers proposed a cash balance of $47.9 million for the 2022 projected test year while the actual average cash balance for that year was only $20.2 million.[1165]

Mr. Coppola noted that in approving the $53.7 million in cash balances in working capital in Case No. U-21389, the Commission stated that "the Commission will continue to evaluate the facts and circumstances of each rate case to determine whether deviation from the historical period is appropriate."[1166]

Mr. Coppola testified that in the instant case, Consumers proposes that the average cash balance of $18.6 million in 2023 historical test year should be increased by $27 million to $45.6 million for the projected test year ending February 28, 2026, with Consumers again relying on its "rule of thumb" that the average cash balance for the projected test year should be set at 1.0% of revenues.[1167] He added that, as has been seen from Case Nos. U-21224 and U-20963, this theoretical balance of 1% of revenues does not reflect the Consumers' actual cash needs.[1168]

Mr. Coppola testified that Consumers' request for a high cash balance in Case Nos. U-20963, U-21224, U-21389, and again in this rate case simply increases working

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[1164] 5 Tr 2834.
[1165] *Id*.
[1166] *Id*. Citation omitted.
[1167] 5 Tr 2835.
[1168] *Id*.

capital to earn a higher return on an inflated rate base level.[1169] He added that Consumers has ample access to cash to meet its payment obligations by using its $1.7 billion in short-term borrowing facilities, for which customers are paying $10.7 million in annual fees.[1170] He stated that it is unnecessary, and exceedingly costly, for Consumers to have those borrowing facilities in place and at the same time request to include higher cash balances in working capital for the projected test year.[1171]

Mr. Coppola stated that Consumers invested excess cash in short-term investment securities during 2023 earning an additional return over the excess return on higher rate base, noting that in response to discovery, Consumers disclosed that it had an average of over $155 million of short-term cash investments per month during February to June 2023 on which it earned $4.0 million in interest income that it fully retained for the benefit of its pre-tax bottom line.[1172]

Mr. Coppola recommended that the Commission set the average cash balance for the projected test year at the actual amount of $18.6 million, which he asserts is the amount that Consumers demonstrated it needed during the 2023 historical test year and in 2022.[1173] Thus, he asserted that the Commission should remove $27.0 million from Consumers' projected working capital in this rate case.[1174]

Mr. Bleckman testified that the projected cash balance for the test year should not be based on the 13 months ended December 31, 2023 historical period.[1175] In that regard,

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[1169] 5 Tr 2835.
[1170] *Id*., referencing Ex. A-14, Sch. D-3, p. 2.
[1171] 5 Tr 2835.
[1172] 5 Tr 2835-2836, citing Ex. AG-1.29.
[1173] 5 Tr 2836.
[1174] *Id*.
[1175] 5 Tr 1215.

Mr. Bleckman stated that using the 13 months ended December 2023 results in a cash balance of $18.6 million, which is lower than what is normally expected and required for Consumers in the test year of this case. He explained that the projected cash balance for the test year in this case should equate to approximately 1% of test year electric revenues, which results in a cash balance of $45.6 million and which is reflective of normal levels of cash balance. He added that in Case No. U-21389, the ALJ "agreed" with Consumers that "the use of 1% of revenues as a benchmark for working capital cash is not arbitrary or inapplicable to determining the reasonableness of the amount of cash on hand," and that in its order in that case, the Commission found the ALJ's recommendation to be "well-reasoned and supported by the record."[1176]

Mr. Bleckman stated that Consumers strives to match long-term investments with long-term financing and to finance short-term liquidity needs with its cash and short-term borrowing facilities, with the timing and amount of short-term borrowings is directly related to the level of cash on hand.[1177] He added that, due to the seasonal nature of utility cash inflows and outflows, Consumers generally holds more cash in the spring and summer months and relies on short-term borrowing in the fall and winter months.[1178] He stated that throughout the year, however, a minimum level of cash on hand is maintained.[1179]

In rebuttal, Mr. Bleckman testified that Mr. Coppola failed to recognize the importance of having adequate liquidity on hand for utility operations, including appropriate protection against volatility or potential inaccessibility of capital markets.[1180]

[1176] *Id*.
[1177] 5 Tr 1203.
[1178] *Id*.
[1179] Id., referencing a chart which depicts the typical cash and short-term borrowing levels.
[1180] 5 Tr 1267

Mr. Bleckman noted that in prior rate cases, Case Nos. U-21148 and U-20963, Consumers used an alternative historical period in order to reduce its projected cash balance for the test year.[1181] He states that in those cases, the historical period included several months in 2020, in which the country experienced extreme volatility, disruption, and illiquidity in the financial markets related to the COVID-19 pandemic. He added that, as such, Consumers took a proactive approach by issuing long-term debt and temporarily holding elevated cash balances. He explained that using the historical period that included 2020 in those cases would have resulted in a cash balance that was higher than what is normally expected and required for Consumers.[1182] He stated that Consumers consistently projects normal cash levels which equate to approximately 1% of test year revenues, which he asserted the Commission considered a reasonable approach in Case No. U-21389.[1183]

Noting that Mr. Coppola claimed that Consumers should "meet its payment obligations by using its short-term borrowing facilities," Mr. Bleckman countered that Consumers does not pursue a strategy that maintains a permanent layer of short-term debt, but stated that the Company does fund seasonal fluctuations in its working capital with short-term debt.[1184] He added that Consumers' projected cash balance for the test year in this case is reflective of normal levels of cash that are necessary for Consumers to manage working capital requirements and manage financial risk.[1185]

[1181] 5 Tr 1267.
[1182] *Id*.
[1183] 5 Tr 1268.
[1184] 5 Tr 1269-1270.
[1185] 5 Tr 1270.

Regarding Mr. Coppola's observation that Consumers earned interest on short-term investments in 2023, Mr. Bleckman stated that standard ratemaking treatment excludes short-term cash investments from working capital and excludes the associated interest income from the revenue requirement. Thus, he testified that Consumers' short-term cash investments have no bearing on the projected cash balance for the Company in this case.[1186]

This PFD agrees with the Attorney General that the requested $45.6 million in average cash balances to be included in working capital is excessive, and that Consumers has not shown that the requested amount is reasonable or reflective of Consumers' actual cash needs. As indicated, Mr. Coppola testified – which testimony Consumers has not rebutted – that in its recent rate cases Consumers has projected working capital cash balances at amounts well in excess of two times the cash balances held during the applicable periods: in Case No. U-20963, Consumers proposed a Cash Balance of $47.9 million for the 2022 projected test year while the 2022 actual average cash balance for 2022 was $20.2 million and in Case No. U-21224, Consumers requested a cash balance for the 2023 projected test year of $43.8 million, while the actual average cash balance for 2023 was $18.6 million.[1187] Similarly, in this case, Consumers' projected cash balance of $45.6 million is well over two times the cash balance of $18.6 million for the historical 13-month period ending December 2023.[1188]

This PFD finds that the December 2023 historical period cash balance of $18.6 million is the amount that is "normally expected" for Consumers when compared to the

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[1186] *Id*.
[1187] 5 Tr 2834, 2833.
[1188] 5 Tr 2835, 1215.

historical balances referenced by the Attorney General for Consumers' recent cases. In addition, and conversely, this PFD finds that Consumers has not shown that the historical cash balance of $18.6 million is lower than what is reasonably required for Consumers.

In addition, this PFD agrees with the Attorney General that as shown by Case Nos. U-21224 and U-20963, Consumers has not demonstrated that a projected cash balance of 1% of test year electric revenues is reflective of normal and requisite cash balance levels for Consumers.

As discussed, Consumers states that it strives "to finance short-term liquidity needs with its cash and short-term borrowing facilities," that "the timing and amount of short-term borrowings is directly related to the level of cash on hand," and that throughout the year, a "minimum level of cash on hand is maintained."[1189] However, Consumers does not quantify the minimum level of cash it maintains; it does not explain how the minimum level of cash is calculated or determined; does not explain whether the Company may use some of the minimum cash to finance short-term liquidity needs and, if so, under what circumstances; and does not indicate whether the maintained minimum level of cash includes its projected cash balance and its short-term cash investments.[1190]

As discussed, Consumers asserts that the projected cash balance for the test year in this case "should equate to approximately 1% of test year revenues," which Consumers asserts "the Commission considered [to be] a reasonable approach".[1191] In this regard, Consumers points to a statement included in the PFD in Case No. U-21389 that the PFD "agrees with the company that the use of 1% of revenues as a benchmark for working

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[1189] 5 Tr 1203.
[1190] See discussion of short-term cash investments at 5 Tr 1270.
[1191] See 5 Tr 1215, 1268; Consumers initial brief, p. 194.

capital cash is not arbitrary or inapplicable to determining the reasonableness of the amount of cash on hand."[1192] Consumers' assertions in this regard are unsupported.

Although the PFD in Case No. U-21389 stated that "Mr. Bleckman explained that one way to assess the reasonableness of the level of cash on hand is to assess the cash balance as a percentage of revenues,"[1193] this is not wholly accurate, as Mr. Bleckman's testimony shows that his reference to the cash balance as a percentage of revenues was a way to compare the projected cash balance in that case to the projected cash balance in Consumers' prior electric rate case. In addition, in response to a discovery request from the Attorney General, Mr. Bleckman confirmed that his testimony about the cash balance as a percentage of revenues was not intended to calculate Consumers' cash needs but rather was describing a way to compare cash balances from different cases.[1194]

Second, and more importantly, Consumers assertion that the Commission in Case No. U-21389 considered Consumers' projecting normal cash levels to approximately 1% of test year revenues to be a "reasonable approach" is incorrect. Rather, in adopting the PFD – which recommended that the Attorney General's adjustment be rejected, in part, because using a 13-month period other than the historical period had been uncontested in cases where there were "significant disruptions during the historical period"[1195] – the Commission stated that Consumers' projected cash balance in that case was reasonable given the "abnormal disruption" in Consumers' typical cash balance, and also stated that,

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[1192] Id.
[1193] Case No. U-21389, PFD, December 21, 2023, p. 214.
[1194] Case No. U-21389, Exhibit AG-1.68, dkt no. 0339. This PFD notes that Consumers' brief similarly does not argue that cash balance to revenue percentage is a means to gauge the "reasonableness" of the amount of cash on hand but rather mirrors its testimony that the percentage is a way to compare the projected cash balances. Case No. U-21389, Consumers reply brief, p. 40., dkt no. 0379.
[1195] Case No.1389, PFD, December 21, 2023, p. 216.

going forward, the Commission would separately evaluate the facts and circumstances of each rate case "to determine whether deviation from the historical period is appropriate."[1196]

Thus, this PFD recommends that the Commission accept Attorney General's recommendation that the Commission set the average Case balance for the projected test year at the actual amount of $18.6 million, which she asserts is the amount that Consumers demonstrated it needed during the 2023 historical test year and in 2022, and thus that the Commission remove $27.0 million from Consumers' projected working capital in this rate case.

2. Accrued interest

Mr. Coppola stated that as Consumers' rate base increases from year to year, the amount of debt capital to finance the higher capital additions to rate base increases and the accrued interest to be paid on the higher debt balance also increases.[1197] He noted that in this rate case, the rate base amount proposed by Consumers is increasing from $13.9 billion in the 2023 historical test year to $15.6 billion in the projected test year, which is a 12.3% increase.[1198] He stated that Consumers did not adjust the historical accrued interest balance for the projected test year to take into consideration the higher interest it will need to pay on the higher debt outstanding during the projected test year.[1199] He added that the accrued interest balance in the historical 2023 period was $62.5 million and a 12.3% increase equals $7.7 million in additional interest during the projected test

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[1196] Case No. U-21389, Order, March 1, 2024, p. 120. Citation omitted.
[1197] 5 Tr 2836.
[1198] Id.
[1199] 5 Tr 2837.

year.[1200] Thus, he recommended that the Commission increase the accrued interest liability balance and decrease working capital by $7.7 million.[1201]

In rebuttal, Consumers disagreed with Mr. Coppola's adjustment for accrued interest. Ms. Meyers testified that he only considered the increase in rate base and failed to project any change in interest rates that may also impact accrued interest.[1202] She also explained that Mr. Coppola does not address the potential impact of the remainder of his own proposals by calculating the adjustment using Consumers' proposed rate base and disregarding his proposed rate base reductions of over $950,000,000. Finally, she testified that Mr. Coppola's adjustment does not adhere to the "long-standing methodology of calculating working capital" for rate cases that provides for very few adjustments to an actual 13-month average working capital balance.[1203] In this regard, in discovery, Consumers stated that "it has been a long-standing practice approved by the Commission" that Consumers "makes minimal adjustments to its projected working capital" and that the adjustments "are limited to known, measurable and material changes" such as adjustments to pension accounts that are supported by actuarial reports or other third-party resources.[1204]

Mr. Coppola countered this last argument from Consumers, asserting that there is "no Commission approved practice or limitations as to the adjustments that should be made to historical working capital accounts in forecasting working capital for the projected

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[1200] Id.
[1201] 5 Tr 2838.
[1202] 4 Tr 442.
[1203] Id.
[1204] Ex. AG-1.29, p. 1.

test year."[1205] In addition, Mr. Coppola testified that the proposed changes to the accrued interest account falls within Consumers' asserted criteria of "known, measurable, and material changes" as the increase in debt is known and measurable based on the increase in rate base and the $7.7 million he calculated is a material amount.[1206] Moreover, the Attorney General points out that Consumers admits that it has not proposed any changes in interest rates for the projected test year other than what was presented in Ex. A 14, Schedule D., and it has not calculated and presented what the impact would be for any changes in interest rates, or the capital expenditures disallowances proposed by Mr. Coppola.[1207]

This PFD agrees with the Attorney General that the historical accrued interest balance for the projected test year should be adjusted to take into consideration the higher interest Consumers will need to pay on the higher debt outstanding during the projected test year. In that regard, this PFD notes that Consumers does not cite or reference any Commission order which evidences a long-standing practice approved by the Commission that Consumers is to make minimal adjustments to its projected working capital. As such, this PFD recommends that the Commission adopt the Attorney General's recommendation to increase the Accrued Interest liability balance and correspondingly decrease Working Capital by $7.7 million (or such other amount calculated using an adjusted percentage reflecting the increased rate base amount between the $13.9 billion in the 2023 historical test year to the rate base amount in the projected test year is authorized by the Commission in this case.)

[1205] 5 Tr 2837; Attorney General initial brief, p. 116.
[1206] 5 Tr 2837-2838; Attorney General initial brief, p. 116.
[1207] Attorney General initial brief, p. 117, referencing Ex. AG-1.69, p. 4.

3. Pension/OPEB Volatility Mechanism

Mr. Coppola stated that Consumers projects an increase in assets of $6.2 million and increase in liabilities of $8.4 million for the Pension and OPEB Volatility Mechanism, which produces a net decrease in Working Capital of $2.2 million.[1208] He added that in response to discovery, Consumers confirmed that its calculations were incorrect in this area and that the correct balances in the projected test year should reflect a liability of $19.5 million for the pension plan and an asset of $17.1 million for the OPEB plan.[1209] He testified that these corrected balances, less the 2023 average balances of $5.7 million for pension and $11.7 million for OPEB, result in a net liability increase for the pension portion of $13.8 million, and a net asset increase for OPEB of $5.4 million.[1210] Mr. Coppola explained that netting these two changes together results in a working capital decrease of $8.4 million and, as Consumers had calculated a working capital decrease of $2.2 million, an additional decrease should be reflected in working capital of $6.2 million ($8.4 million less $2.2 million).[1211]

In rebuttal, Ms. Myers agreed with the adjustment for the Pension/OPEB volatility mechanism recommended by Mr. Coppola, and she stated that the resulting adjustment is included in Consumers' calculation of its rebuttal revenue deficiency, as shown in Exhibit A-258.[1212] Ex. A-258 shows this reduction as totaling $7.1 million. Staff accepts this $7.1 million adjustment.[1213]

[1208] 5 Tr 2838, referencing Ex. A-12, Sch. B-4.
[1209] 5 Tr 2838-2839. Citation omitted.
[1210] 5 Tr 2839.
[1211] Id.
[1212] 4 Tr 443.
[1213] Staff initial brief, p. 5.

This PFD notes that the amounts of the reduction proposed by the Attorney General ($6.2 million) and the reduction agreed to by Consumers and Staff ($7.1 million) differ. This PFD also notes that while the Attorney General asserts in testimony that in response to discovery that Consumers stated the "correct balances" for a liability for the pension plan and an asset for the OPEB plan, the Attorney General has not cited any admitted exhibit which includes that specific discovery response. This PFD further notes that, for its part, Consumers' witness's testimony states that Consumers agrees with the adjustment for the Pension/OPEB volatility mechanism "as provided by Consumers in discovery to the Attorney General". This PFD also notes that in its initial brief, Consumers states that it agreed with the Attorney General's proposed $6.2 million reduction[1214], which amount is inconsistent with the amount referenced in Consumers' testimony and exhibit. Finally, this PFD notes that Consumers, the Attorney General and Staff did not address this issue in their reply briefs.

As Consumers and Staff both agree to the same amount of the reduction referenced in Consumers' testimony and exhibits, this PFD recommends that the Commission accept a reduction to Working Capital of $7.1 million for the Pension and OPEB Volatility Mechanism.

4. Ludington Pumped Storage Plant Regulatory Asset

Mr. Coppola testified that based on the May 18, 2023 order in Case U-21310, Consumers has been deferring certain costs and the estimated liquidated damages pertaining to defective work by Toshiba at the Ludington Pumped Storage facility, with

[1214] Consumers initial brief, p. 196.

the net amount of the costs and liquidated damages deferred and included in a regulatory asset in 2023 of $4,153,000.[1215] He added that in response to discovery, Consumers provided the forecasted costs net of any liquidated damages of $3,402,000 as of the end of the projected test year.[1216] Noting that the costs pertaining to the power outages, liquidated damages and other costs pertaining to Toshiba work problems at the Ludington facility have been a matter of litigation in several PSCR cases, he testified that the unsettled dispute regarding how much Consumers will eventually be allowed to recover, if any, of the deferred amount will eventually be determined when the Commission rules on the appropriate amount to recover in rates.[1217] Thus, he recommended that the Commission remove the $3.4 million deferred amount from working capital in this case, adding that once the Commission decides the appropriate amount of deferred costs that Consumers should be allowed to recover, if any, the appropriate return can be calculated and included with the deferred amount for the period of time that the recoverable portions of the net costs were outstanding.[1218]

In rebuttal, Consumers opposed this adjustment. Ms. Myers stated that the Commission approved this regulatory asset in Case No. U-21310, wherein the Commission's order authorized Consumers to include in the regulatory asset all costs associated with correcting defective, non-conforming, and incomplete work performed by Toshiba in overhauling the Ludington Pumped Storage Plant, pending the final outcome of a lawsuit Consumers Energy and DTE Electric Company have brought against Toshiba

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[1215] 5 Tr 2839.
[1216] 5 Tr 2839-2840.
[1217] 5 Tr 2840.
[1218] Id.

to recover damages associated with Toshiba's failure to perform its contractual obligations. She added that the Commission also authorized DTE Electric Company, as co-owner of the Ludington Plant and joint applicant in Case No. U-21310, to employ a regulatory asset for its share of the same costs.[1219]

Ms. Myers testified that Mr. Coppola's proposal would unreasonably remove the recovery of financing costs incurred by Consumers in order to perform the necessary corrective work, even though these costs are being recorded to a Commission-approved regulatory asset pursuant to accepted accounting rules, and that this proposal would frustrate the purpose of the regulatory asset, which is to allow Consumers to move forward with needed corrective work while litigation against Toshiba is pending.[1220]

Ms. Myers noted that Mr. Coppola did not claim that the corrective work is unnecessary or that the work should be deferred.[1221] She stated that Consumers has already committed that any amounts recovered from Toshiba in the lawsuit (including any award of prejudgment interest) will directly reduce the costs in the regulatory asset.[1222] She adds that the corrective work at the Ludington Plant has already begun, and must continue while the lawsuit is pending and must be financed.[1223] She explained that not allowing for the financing costs would unreasonably hinder Consumers' ability to perform the needed corrective work on a timely basis to ensure the ongoing operation of a critical generation asset.[1224]

[1219] 4 Tr 443.
[1220] 4 Tr 444.
[1221] *Id*.
[1222] 4 Tr 445.
[1223] *Id*.
[1224] *Id*.

Noting that Mr. Coppola appeared to be focused particularly on whether Consumers "should be responsible to absorb the cost of replacement power from multiple and extended power outages at the plant," Ms. Myers countered that Consumers has excluded replacement power costs recorded to the regulatory asset from the projected working capital amount.[1225]

Regarding Mr. Coppola's apparent focus on "how liquidated damages should be apportioned to offset replacement power costs and other costs incurred by [Consumers]," Ms. Myers countered that the inclusion of liquidated damages in the regulatory asset does not contribute to higher financing costs, testifying that Consumers' estimate of liquidated damages reduces the overall amount of costs in the regulatory asset, and therefore also reduces the requested working capital balance.[1226]

Ms. Myers concluded that Mr. Coppola's proposal to require Consumers to support the financing of all costs incurred for corrective work until final resolution in the Toshiba litigation is unreasonable, stating that removing Consumers' ability to recover financing costs for significant ongoing corrective work would be an unnecessary and unfair burden to the Company while it pursues that necessary work on behalf of customers.[1227]

Ms. Myers states that earning a return on a regulatory asset by including it in working capital is an accepted regulatory practice and is consistent with the treatment of other working capital financed by Consumers.[1228] She adds that regulatory assets are generally included in working capital unless they have a separate recovery mechanism,

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[1225] 4 Tr 446, referencing Ex. AG-1.30.
[1226] 4 Tr 446.
[1227] 4 Tr 446-447.
[1228] 4 Tr 447.

and that none of the costs recorded to the Ludington regulatory asset are being recovered in the PSCR or in any other mechanism. She explained that while any amount not ultimately recovered from Toshiba in litigation will be reviewed by the Commission before inclusion in rates, such a future determination does not make it inappropriate for Consumers to include financing costs in working capital in the meantime.[1229] She added that including costs associated with the Ludington corrective work in the regulatory asset and as working capital does not harm customers.[1230]

In her initial brief, the Attorney General argues, in part:

> The established financial concept is that interest costs follow the principal amount. If the principal amount, which in this case are the deferred costs, are not legitimate, i.e. not recoverable, then the related interest is also not legitimate or recoverable . . . If the Company is allowed to recover a return on the deferred costs now and it is later determined that a portion or all of the deferred costs should not be recovered, it will not be possible to claw back the return in future years without the Company probably claiming that it is prohibited retroactive ratemaking. Therefore, the most reasonable approach is to allow the company to recover the return on the approved recoverable cost later, once that determination has been made by the Commission.[1231]

This PFD agrees with Consumers that the Attorney General's proposal would unreasonably remove the recovery of financing costs incurred by Consumers to perform necessary corrective work, which costs are being recorded to a Commission-approved regulatory asset pursuant to accepted accounting rules.[1232] This PFD also agrees that the Attorney General's proposal would frustrate the purpose of the regulatory asset approved by the Commission. Moreover, this PFD notes that the Commission's order

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[1229] Id.
[1230] Id.
[1231] Attorney General brief, p. 121.
[1232] Case No. U-21310, Order, May 18, 2023.

approving the cost deferral accounting and a regulatory asset for the costs incurred with restoring allegedly defective work performed by Toshiba at the Ludington Pumped Storage Plant makes clear that its approval is granted "for accounting purposes only", and that the "[r]ecovery of reasonable and prudent costs, as well as appropriate carrying costs, will be considered in future rate case proceedings."[1233] Thus, this PFD recommends that the Commission reject the Attorney General's proposed adjustment.

C. Rate Base Summary

This PFD estimates that the recommendations discussed above result in a projected rate base of $14,715,290,000 as shown in Appendix A to this PFD.

VI.

COST OF CAPITAL

The rate of return component of the revenue requirements determination is designed to meet the constitutional and statutory standards entitling the utility to a fair rate of return on its investments that serve the public. To determine the rate of return to use in setting rates, it is customary to start with the development of an appropriate capital structure, and then to evaluate the appropriate costs to assign to each element of the capital structure. The appropriate capital structure is discussed in subsection A below, the cost of debt and equity are discussed in subsection B, and the resulting overall rate of return is discussed in subsection C.

The rate of return used to set rates is based on the weighted average costs of the sources of capital comprising the capital structure. The weighted cost for each component

[1233] Id., p. 4.

of the capital structure is determined by multiplying the percentage ratio for that component by the cost rate for the component. The weighted cost rates for each component are then added to determine the overall rate of return.

A. Capital Structure

The capital structure used for ratemaking is composed of long-term debt, preferred stock, and common equity capital, along with short-term debt and other items such as deferred taxes that reflect sources of financing available to the Company. Only long-term debt, preferred stock, and common equity capital are considered part of a utility's "permanent" capital, and it is common for capital structures to be shown in exhibits on both a "permanent" basis and on a ratemaking basis. The Commission has previously explained that its goal in selecting a utility's capital structure is to strike an appropriate balance between debt, which carries higher financial risk but lower cost and tax burdens, and equity capital, which brings lower financial risk but higher expense and tax burdens.[1234]

This PFD notes that Consumers' debt-to-equity ratio and return on equity (ROE) are disputed issues, as are certain aspects of the cost rates for the Company's long-term and short-term debt.

1. Testimony

Mr. Bleckman testified that the Company proposes an overall after-tax rate of return of 6.21%, with an average permanent capital common equity ratio of 50.75%.[1235] First, Mr. Bleckman argued that this equity ratio was appropriate because the Company's

[1234] See February 28, 2017 order in Case No. U-17990, p. 63.
[1235] 5 Tr 1183.

peer utilities generally have higher equity ratios. He testified that Consumers' peers (i.e. the company's ROE proxy group from Case No. U-21389 excluding DTE Energy) had an average equity ratio of 53.32%, 257 basis points higher than the Company's requested 50.75%.[1236] He explained that the data used to calculate this average was proper because it was based upon regulatory-commission-authorized values (rather than reported financial data) and reflected data at the regulated subsidiary level rather than the parent company level.[1237]

Second, Mr. Bleckman argued that a 50.75% equity ratio is needed to support one of the company's critical credit metrics, i.e. its funds from operation (FFO)-to-debt ratio.[1238]

Third, he opined that an increased equity ratio would improve the assessment of ratings agencies concerning the State's regulatory environment. He testified that, according to data from S&P, the Company is at risk of no longer being considered in an above-average-tier jurisdiction regarding regulatory environment.[1239] He also asserted that in 2023 UBS downgraded Michigan from a Tier 1 to a Tier 2 regulatory environment because of unfavorable regulatory outcomes.[1240]

Fourth, Mr. Bleckman opined that a higher equity ratio would be needed to assist the Company with credit metrics given the overall challenges for utilities in the credit market. He testified that S&P updated its outlook for regulated utilities to "negative," citing

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[1236] 5 Tr 1188; See also Exhibit A-36.
[1237] 5 Tr 1188.
[1238] See 5 Tr 1190-1194. Arguments regarding the company's FFO-to-debt ratio are more fully addressed in the section of this PFD regarding Return on Equity.
[1239] 5 Tr 1195. Exhibit A-37.
[1240] 5 Tr 1195.

headwinds such as upcoming debt maturities amid higher interest rates, a narrowing spread between U.S. Treasuries and authorized ROEs, and elevated inflation.[1241] He added that ratings agency Fitch likewise described a deteriorating outlook for regulated utilities due to credit challenges.[1242] Mr. Bleckman stated that "there has been a sharp decline in the Company's authorized weighted rate of return following several years of consistent results."[1243] He opined that it was important for Consumers to have a supportive equity ratio to help maintain a financial cushion to protect against credit downgrades or unforeseen volatility from world events like the global pandemic in 2020 or the banking crisis in 2023.[1244]

Mr. Megginson testified that Staff generally agrees with the Company's proposed capital structure component balances except for common equity.[1245] Mr. Megginson recommended a balanced capital structure with a permanent equity layer of 49.92%; he noted that the Company's requested 50.75% layer was an increase from the 50.02% equity layer authorized in last rate case.[1246] He emphasized that numerous past Commission orders state the Commission's conclusion that a balanced capital structure is the most appropriate capital structure for the Company.[1247] Mr. Megginson's proxy group calculations indicated an average authorized equity layer of 52.68% for the Company's peers.[1248] Mr. Megginson added that his modeling recognized equity infusions

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[1241] 5 Tr 1196.
[1242] 5 Tr 1197
[1243] 5 Tr 1197.
[1244] 5 Tr 1197.
[1245] 5 Tr 3570.
[1246] 5 Tr 3560, 3561.
[1247] 5 Tr 3571-3572 (citing Case Nos. U-20963, U-20322, U-17990, and U-18124).
[1248] Exhibit S-4, Schedule D-5, p 2.

into Consumers Energy by its parent company CMS Energy, but not at the level requested by Consumers. He explained that he revised the proposed equity infusion schedules to be a $385 million infusion in September 2024 and a February 2025 infusion of $555 million.[1249] Mr. Megginson also added that he had no issue with Mr. Coppola's method of arriving at a balanced capital structure (described below) even though it differed from Staff's method.[1250]

Mr. Coppola recommended a balanced capital structure with 50% common equity and 50% debt.[1251] He argued that several factors supported this balance including: (1) The Commission's consistent directive that a balanced capital structure is desirable; (2) the Company's strong credit rating and cash flow to debt coverage ratio; (3) common equity capital contributions to the utility made by its parent company;[1252] (4) Michigan's favorable regulatory environment; and (5) the fact that common equity ratio of the Company's peer group is approximately 44%.[1253] He contended that Consumers provided no new arguments as to why the Commission should alter its stated goal of a balanced capital structure as set in the Company's last rate case.[1254] Further, Mr. Coppola contended that reports about Consumers from both Moody's and S&P were positive and did not suggest that the Company's credit rating was at risk.[1255] Further, he claimed that Mr. Bleckman's contention that peer companies had an average equity ratio of 53% as

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[1249] 5 Tr 3571.
[1250] 5 Tr 3573 n 16.
[1251] 5 Tr 2785.
[1252] Mr. Coppola emphasized that the Company's parent, CMS Energy, can make Consumers' equity ratio whatever it wants by injecting capital into the Company at will. He asserted that CMS has done this on several occasions, and that it constitutes a form of double leverage by using CMS's lower cost debt capital to make equity infusions into the Company. See 5 Tr 2792-2796.
[1253] 5 Tr 2786.
[1254] 5 Tr 2787 (citing March 1, 2024 order in Case No. U-21389, p. 129).
[1255] 5 Tr 2788.

demonstrated in Exhibit A-36 was achieved by selecting a non-representative group of companies that artificially inflated the average equity ratio.[1256]

For ABATE, Mr. Walters also noted that the Company's request was an increase from the most recently approved equity ratio of 50% and it diverged from the Commission's stated preference for a balanced capital structure. Mr. Walters testified that "in general, the utility industry's common equity ratio has not really deviated too much from the range of 50.0% to 52.0%."[1257] Further, Mr. Walters testified that the Company's proxy group used for estimating the cost of equity had an equity ratio of only 39.5% (including short-term debt) and 43.2% (excluding short-term debt).[1258] He recommended that the Commission reject the proposed increase and maintain the current 50% equity layer as in the most recent prior rate case.[1259]

2. Rebuttal

Mr. Bleckman objected that Mr. Megginson's idea of lowering equity infusions to achieve a lower equity ratio was not a valid approach because the Commission will be approving only an equity ratio in this case, not the timing or amount of specific equity infusions.[1260] He emphasized that no other witness that addressed capital structure took this approach. He explained that unlike Mr. Coppola, who reduced common equity and increased long-term debt, Mr. Megginson eliminated equity infusions without a corresponding increase to long-term debt thereby leaving the company with a lower total

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[1256] 5 Tr 2797-2799.
[1257] 5 Tr 3376; See also Table CCW-2 at 5 Tr 3376.
[1258] 5 Tr 3394; see also Exhibit AB-8.
[1259] 5 Tr 3395.
[1260] 5 Tr 1221.

capitalization.[1261] Mr. Bleckman opined that Staff's "one-sided adjustment lacks sound ratemaking and financial planning principles" and that it would leave the company with a projected capital balance of only $24.0 billion, which is $400 million lower than the Company's projection.[1262] He also argued that the infusions shown by Staff are reflected in common equity in the month after they are made, which he asserted was inaccurate and serves to understate common stock balance by $43 million.[1263] He asserted that Mr. Megginson's adjustment to equity infusions does not fully compensate the Company, is inconsistent with Staff's recommendations in other rate cases, and should disqualify the proposal from consideration.[1264]

Mr. Bleckman also critiqued Mr. Megginson's recommended equity ratio of 49.92% because it is not balanced and therefore fails to meet Staff's ostensible goal of a balanced capital structure.[1265] He noted that in Case No. U-21291, Staff recommended an equity ratio of 51.00% for peer utility DTE Gas, and that Staff has no reason for a more than 100 basis point divergence between the recommendation for that peer utility and Consumers.[1266] Mr. Bleckman asserted that macroeconomic conditions, like the high interest rate environment, make it important for the Company to have a higher equity ratio.[1267] Mr. Bleckman argued that Mr. Megginson's recommendation was an outcome-based conclusion that lacked an evidentiary basis; further, he opined that the mere fact

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[1261] 5 Tr 1222.
[1262] 5 Tr 1222.
[1263] 5 Tr 1224-1225.
[1264] 5 Tr 1223, 1224.
[1265] 5 Tr 1225, 1226.
[1266] 5 Tr 1226.
[1267] 5 Tr 1236.

that equity is more expensive than debt does not necessitate a lower equity ratio.[1268] He contended that a lower equity ratio could lead to a credit downgrade which would increase borrowing costs; conversely, he asserted that ratepayers would benefit if the Company had a strong credit rating and could borrow at favorable rates.[1269]

Mr. Bleckman reiterated his testimony that the average equity ratio for the company's peers is 53.32%, noting this is 340 basis points higher than Mr. Megginson's recommendation of 49.92%.[1270] He stated that Mr. Megginson's recommendation was also far below the 52.68% average that Mr. Megginson calculated for the Company's peers.[1271] He added that Mr. Megginson's peer equity analysis was faulty because it tracked the authorized equity ratio as a percentage of total equity rather than permanent capital.[1272]

Mr. Bleckman offered detailed rebuttal on issues related to the Company's credit metrics, FFO-to-debt ratio, and the State's regulatory environment; however, to avoid some repetition, this PFD notes that these issues are also discussed and analyzed in the section of this PFD relating to ROE because at times, Consumers presented overlapping arguments relating to these issues.[1273]

Mr. Bleckman responded to Mr. Coppola's claim that the Company has not provided new evidence justifying a higher equity ratio by referring to his direct testimony and Consumers need to maintain and strengthen its credit quality.[1274] He also rejected

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[1268] 5 Tr 1236, 1237.
[1269] 5 Tr 1237, 1238.
[1270] 5 Tr 1239; see also Exhibit A-36.
[1271] 5 Tr 1240.
[1272] 5 Tr 1240.
[1273] See generally 5 Tr 1227-1236.
[1274] 5 Tr 1255-1256.

Mr. Coppola's claims regarding CMS Energy's injection of equity into the Company. He asserted that the timing and amounts of long-term debt and equity issued by CMS Energy have no bearing on the timing and amounts of equity infusions made into the Company and that the Commission rejected a similar argument in Case No. U-18124.[1275] Mr. Bleckman disputed the average equity ratio calculation for Mr. Coppola's proxy group (i.e. 44%) because Mr. Coppola used the equity ratio at the parent holding company level, which can distort the equity ratio by including non-regulated balance sheet items, and by using financial statements from SEC filings which are prepared using GAAP rather than ratemaking/regulatory accounting.[1276] He contended that the use of such financial data was contrary to the Commission's direction in Case No. U-20963 that regulatory and financial data should not be mixed when performing such an analysis.[1277]

Mr. Bleckman rejected Mr. Coppola's numerous criticisms of his calculation of the peer group average authorized equity ratios found on Exhibit A-36. He argued that the Company adhered to established criteria and that Mr. Coppola's problems with Exhibit A-36 were inaccurate and diverted attention away from the Attorney General's faulty peer comparisons.[1278] Mr. Bleckman addressed and provided counterarguments to Mr. Coppola's claims that his peer comparison was faulty for: (1) including several Wisconsin-based utilities; (2) including one utility's ratio which was allegedly overstated; (3) that the inclusion of smaller utilities inflated the average ratio; and (4) that DTE Energy and First Energy were improperly excluded from the peer group.[1279]

[1275] 5 Tr 1259.
[1276] 5 Tr 1260.
[1277] 5 Tr 1261.
[1278] 5 Tr 1262.
[1279] 5 Tr 1263-1265.

Mr. Bleckman noted that Mr. Walters' Table CCW-2 showed a trend of increasing authorized equity ratios for electric utilities from 2016 through 2024, with the Company's proposed ratio being below the average of the last six years and below the average of all years listed.[1280] He also argued that the equity ratios on Table CCW-2 were understated because they were based on S&P Global Market Intelligence data that tracks authorized equity ratios as a percentage of total capital, which understates the equity ratio.[1281] Mr. Bleckman reiterated that his presentation of equity ratios in Exhibit A-36 properly lists peer equity ratios based upon actual equity ratios authorized by regulators.[1282] He rejected Mr. Walters' suggestion that his proxy group in Exhibit AB-8 had an average equity ratio of 39.5% explaining that Mr. Walters used the equity ratio at the parent holding company level, rather than at the level of the regulated subsidiary.[1283] Further, Mr. Bleckman noted that in Table CCW-2, Mr. Walters included an average authorized equity ratio of 51.59%, which is dramatically higher than the 39.5% he touted as the peer group average.[1284] For these reasons, he recommended that the Commission disregard the comparisons offered by Mr. Walters.[1285]

3. Briefing

Consumers offers extensive briefing on the issue of capital structure such that any effort to concisely summarize it would necessarily be incomplete.[1286] However, the briefing generally tracks and reiterates the direct and rebuttal testimony of Mr. Bleckman

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[1280] 5 Tr 1270; see also 5 Tr 3376 (containing Table CCW-2).
[1281] 5 Tr 1271.
[1282] 5 Tr 1272.
[1283] 5 Tr 1274.
[1284] 5 Tr 1275.
[1285] 5 Tr 1275.
[1286] See generally Consumers brief, 199-247.

and offers the counterarguments he presented opposing the capital structure recommendations offered by Staff, the Attorney General, and ABATE. The Company recites the history of past Commission orders seeking a balanced capital structure and contends that several intervening events have occurred since those orders were entered, including the Russian invasion of Ukraine (February 2022), the Federal Reserve increasing interest rates (March of 2022), a crisis involving U.S. bank failures (March 2023), and escalating conflict in Israel and the Middle East (October 2023).[1287] The Company criticizes Staff and other parties for seeking a balanced capital structure without reviewing the reasonableness and prudence of the proposed capital structure based upon evidence in the case at hand. Consumers also repeatedly stresses the importance of maintaining a high FFO-to-debt ratio to avoid a credit downgrade, and the Company criticizes intervenors for failing to take seriously the risk of a credit downgrade, absent a favorable equity ratio.[1288]

Staff's briefing closely tracks the direct and rebuttal testimony of Mr. Megginson.[1289] Staff pushes back on the Company's contention that Staff did not consider its own peer group's average equity ratio when making a recommendation. Staff argues that Consumers' equity ratio peer group was not the same as the Company's proxy group, the Attorney General exposed several flaws in the Company's peer group selection in Exhibit A-36, and that Staff did not include its own proxy group's ROE in its ROE analysis and therefore did not need to include its equity ratio in the analysis either.[1290] Staff rejects

[1287] Consumers brief, 214, 215.
[1288] See generally Consumers brief, 229-234.
[1289] See generally Staff brief, 57, 69-75.
[1290] Staff brief, 73-74.

the contention that the equity ratios in its Exhibit S-4 Schedule D-5 are understated because they are based upon percentage of total capitalization rather than permanent capital; Staff asserts that this argument is "unfounded" and that the Company provided no analysis as to the capital structure components within Staff's proxy group.[1291]

In its reply, Staff disagrees that it or other intervenors are trying to unfairly reduce the Company's equity ratio, but rather, Staff has "continuously recommended that the Company abide by the Commission's previous directives for the Company to submit a 50/50 ratemaking capital structure."[1292] Staff rejects Consumers' criticism that its analysis is outcome driven by pointing out that "the Company itself stated that its planned equity infusions were driven by its 50.75% equity layer request, thus the Company's own approach is outcome driven."[1293] Staff characterizes, as a "red herring," Consumers' argument that reducing equity infusions would not provide the Company with its full allocation of capital because the infusions occur only at the behest of the Company or the parent company and are not mandated.[1294] Staff contends that Consumers "gloss[es] over" the Commission's past directives to achieve a 50/50 capital structure by citing only older orders when Staff and the Attorney General have provided language from Commission orders regarding a balanced capital structure from more recent orders (Case No. U-20963 in 2021 and Case No. U-21389 in 2024).[1295] Staff asserts that the Company's concerns regarding credit metrics are inaccurate given that Consumers has

[1291] Staff brief, 74.
[1292] Staff reply, 8.
[1293] Staff reply, 9.
[1294] Staff reply, 9.
[1295] Staff reply 10.

maintained an investment grade credit rating for years and the major ratings agencies project a stable financial outlook for the Company.[1296]

In her brief, the Attorney General largely tracks the testimony of Mr. Coppola and emphasizes that credit reports and cash flow ratios support a balanced capital structure.[1297] The Attorney General reasserts that the Company's calculation of its FFO-to-debt ratio is misleading because it neglects to account for the effects of deferred taxes and uses an improper depreciation rate.[1298] The Attorney General contends that Consumers has not proven any deterioration in the fundamentals of its financial condition, its earnings have not suffered, and that the greatest threats to its economic condition and creditworthiness are still factors that are within its own control.[1299]

In her reply, the Attorney General lays out the history of Commission orders directing the Company to move toward a balanced capital structure and discusses the Commission's reasoning for doing so.[1300] The Attorney General also emphasizes that CMS Energy, Consumers' parent company, can make equity infusions into the Company at any time and in any amount, but that such infusions should not affect the Commission's determination of an appropriate capital structure.[1301] The Attorney General disputes Consumers' claim that its analysis of peers is flawed for using the equity ratio at the parent company level rather than that of the subsidiary. The Attorney General asserts that because Consumers Energy is not publicly traded, it is a long-standing ratemaking

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[1296] Staff reply, 12-14.
[1297] See generally Attorney General brief, 127-133.
[1298] Attorney General brief, 129-230.
[1299] Attorney General brief, 132.
[1300] Attorney General reply, 28-31.
[1301] Attorney General reply, 32.

practice to use a proxy group of publicly traded companies to estimate an appropriate equity ratio. The Attorney General further states that "to the extent that the Commission has rejected the use of equity ratios or any other data of publicly traded companies that may be holding companies of regulated entities because they may not result from a commission order, the Attorney General asks it to reconsider that position."[1302]

ABATE continues to argue that the proxy group has an average common equity ratio of 39.5% (including short-term debt) and 43.2% (excluding short term debt) such that the Company's requested capital structure exceeds that of the proxy group.[1303] ABATE also rejects the argument that its equity ratio analysis is flawed because it tracks equity ratio as a percentage of total capitalization (instead of permanent capital) or tracks equity ratios at the holding company level rather than at the level of the utility subsidiary. ABATE asserts that this argument overlooks the fact that Mr. Walters "controlled for the impact of total capitalization by excluding states that include non-investor supplied capital such as Arkansas, Florida, Indiana, and Michigan."[1304] Further, ABATE contends that an analyst must consider the comparable equity ratios based upon book value as Mr. Walters did in Exhibit AB-8 because Consumers is not publicly traded and does not have a market-value capital structure.[1305] In its reply, ABATE primarily repeats points from the direct and rebuttal testimony of Mr. Walters as well as points raised in ABATE's initial brief.[1306]

[1302] Attorney General reply, 40.
[1303] ABATE brief, 33-34.
[1304] ABATE brief, 34.
[1305] ABATE brief, 35.
[1306] See generally ABATE reply, 13-16.

In its reply briefing, Consumers argues that the intervenors take an overoptimistic view of the Company's regulatory environment and propose actions that would unduly risk the Company's credit rating and ability to attract capital, including efforts to reduce Consumers' equity ratio and ROE.[1307] The Company continues to question the lawfulness and reasonableness of Staff's proposed approach to balancing the equity ratio by adjusting the company's equity infusion schedule.[1308] The Company argues that the appropriate equity ratio must be determined based upon the evidence presented in each case, and Consumers argues that Staff and other parties take part in a "one-sided methodology" to reach a desired result based upon past Commission orders.[1309] The Company asserts that the available evidence demonstrates a trend of increasing equity ratios and that the Company's proposed ratio is actually below the industry average.[1310] Consumers also repeats arguments presented in testimony relating to the FFO-to-debt ratio, the possibility of a credit downgrade, and the regulatory environment.[1311]

4. Conclusions and Recommendation

After reviewing the record and the arguments advanced by the parties, this PFD concludes that Consumers has not established that its request for a capital structure with an equity layer of 50.75% is reasonable, nor is it consistent with previous Commission orders that repeatedly stress the importance of a balanced capital structure.

For several years, the Commission was dissatisfied with Consumers' unbalanced capital structure and emphasized the importance of taking incremental steps toward a

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[1307] Consumers reply, 44.
[1308] Consumers reply, 45.
[1309] Consumers reply, 47-48.
[1310] Consumers reply, 50-51.
[1311] See Consumers reply, 51-57.

balanced ratio of equity to debt. Indeed, in 2017, the Commission directed Consumers to achieve a balanced capital structure within five years.[1312] In several subsequent rate cases, the Commission repeatedly restated the objective of seeking to achieve a balanced capital structure for Consumers.[1313] In the Company's most recent rate case, a nearly balanced capital structure was finally achieved with the Commission adopting Staff's recommendation for an equity layer of 50.02%.[1314]

This PFD acknowledges that the aspirational goals expressed in previous Commission orders are not permanently binding and that any target for the Company's capital structure should change if evolving circumstances indicate that the target is no longer a sound policy. However, there appear to be no significant changes in the company's economic circumstances since the Commission's last order in Case No. U-21389 that would warrant abandoning the longstanding target for a balanced capital structure, especially now that this target has finally been realized.

The Company lists several unforeseen events that have caused shocks to the world economy in the last several years including the COVID-19 pandemic, the ongoing Russian invasion of Ukraine, the Federal Reserve raising interest rates to tame inflation, U.S. bank failures, and continuing conflict in Israel and the Middle East. However, these

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[1312] February 28, 2017 order in Case No. U-17990, pp. 63-64; July 31, 2017 order in Case No. U-18124, pp. 45-46.

[1313] See, March 29, 2018 order in Case No. U-18322, p. 35 ("[T]he Commission finds that Consumers is on track to rebalance its capital structure over the five-year timeframe the Commission set out in the February 28 order [Case No. U-17990]."); September 26, 2019 order in Case No. U-20322, p. 62 ("'The Commission continues to find that Consumers' treatment as a stand-alone company for ratemaking purposes requires it to maintain a capital structure that is evenly balanced between debt and equity.'"); December 17, 2020 order in Case No. U-20697, p. 156 ("[T]he Commission finds that the Staff's recommendation keeps Consumers on track to rebalance its capital structure as the Commission previously ordered."); December 22, 2021 order in Case No. U-20963, p. 200 ("[T]he Commission maintains its goal of a capital structure evenly balanced between debt and equity.")

[1314] March 1, 2024 order in Case No. U-21389, p. 129.

events were known to the Commission at the time of its last order in Case No. U-21389 and did not dissuade the Commission from selecting a balanced capital structure. Further, Consumers has not shown that any of these events adversely affect the Company in a way that would warrant departing from the current balanced capital structure.

Consumers also suggests that its plans for large-scale capital investment in electrical infrastructure and other items justify a higher equity ratio because the Company will rely heavily on capital markets to fund these investments. But this PFD notes that the Commission previously stated that "a cycle of heavier-than-usual investment will present an ideal opportunity to rebalance Consumers' capital structure to reach its 50/50 goal."[1315] Thus, the Commission has previously suggested that a cycle of increased investments does not necessarily justify an increase in the Company's equity ratio. Further, this PFD notes that, while not identical in every respect, the substance of many of Consumers' arguments opposing a balanced capital structure in the current case are materially similar to the arguments that the Company previously presented in Case No. U-21389, which were rejected by the Commission.[1316]

This PFD finds that the Company overstates concerns regarding the ratings agencies' perception of credit risk and overstates concerns regarding the Company's regulatory environment. As an initial matter, issues related to credit metrics like the FFO-to-debt ratio, ratings agencies, and the regulatory environment are discussed both in the current section of this PFD relating to capital structure and in the section of this PFD *infra*

[1315] February 28, 2017 order in Case No. U-17990, p. 64.
[1316] See generally Case No. U-21389, PFD, December 21, 2023, pp 217-223 (summarizing the Company's position regarding capital structure); see also March 1, 2024 order in Case No. U-21389, pp 120-129 (summarizing the parties' arguments and stating the Commission's holdings regarding capital structure).

addressing ROE because Consumers presents overlapping arguments regarding these issues. These two sections of the PFD should be read together in order to thoroughly address the Company's various arguments relating to these topics.

Consumers emphasizes selected statements from ratings agency reports that highlight risk; however, the overall tone of such reports is generally positive. For example, a 2024 ratings snapshot from S&P Global states that the Company's credit rating is stable and that "Michigan's regulatory construct is above average compared with peers because of the benefit of a streamlined 10-month rate case process."[1317] The S&P report also emphasized and praised several other positive aspects of Michigan's regulatory environment. While the report acknowledged that the Company's credit metrics were "weak in 2023[,]" it blamed mild weather conditions for dampening sales rather than any systemic or regulatory issues.[1318] S&P maintained a stable outlook on Consumers and reaffirmed its rating on senior secured debt firmly within investment grade at an "A" rating.[1319]

A 2024 credit opinion from Moody's was similarly positive overall. Moody's projected a stable outlook for Consumers and maintained an "A1" rating for the Company's senior secured debt.[1320] The Moody's report stated that it expected the Company's financial metrics to remain stable and that Consumers "will continue to benefit

[1317] Exhibit A-207, p 1.
[1318] Exhibit A-207, p 3.
[1319] Exhibit A-207, pp 3, 13, 14. This PFD acknowledges that ratings agencies maintain different ratings for different types of debt issued by the Company, as well as a different overall credit rating.
[1320] Exhibit A-208, p 10. Again, this PFD acknowledges that the major ratings agencies maintain different ratings for different types of debt issued by Consumers, as well as a different overall credit rating for the Company.

from a consistent and generally credit supportive regulatory environment."[1321] Indeed, Moody's gave high marks to Consumers (and to some extent the State of Michigan) in categories relating to regulatory framework, consistency and predictability of regulatory decisions, timeliness of cost recovery, and sufficiency of rates and returns.[1322]

Given the above summary, S&P Global and Moody's view Michigan as a jurisdiction with a credit-supportive regulatory environment, and those agencies also view the Company's financial outlook as stable with relatively less business risk as a monopolistic utility, particularly when compared to other businesses that are more susceptible to downturns in the economy. This PFD concludes that there is no apparent need to move away from a balanced capital structure based upon the Company's stable credit outlook or the opinions of ratings agencies regarding its regulatory environment.

Consumers' repeated references to the possibility of a credit downgrade, and its attendant ill effects, also appear overstated. The Company references a 2021 decision by Moody's to downgrade its credit rating, and the Company criticizes Staff and other intervenors for ostensibly ignoring the possibility of another credit rating downgrade if Consumers does not receive some combination of an increased equity layer, an increased ROE, or both.[1323] This PFD acknowledges that any credit rating downgrade is a negative event. However, this PFD also notes that the Company offers no concrete or specific evidence that the 2021 Moody's downgrade had any significant adverse effect on the company's ability to attract capital or access credit. Further, the Company's current credit ratings with S&P and Moody's are within the middle tier of investment grade credit

[1321] Exhibit A-208, p 2.
[1322] See Exhibit A-208, p 8.
[1323] See e.g. Consumers brief, 233-234.

ratings.[1324] Investment grade ratings indicate a low default risk, and companies with investment grade ratings will generally be able to issue debt at lower interest rates than other companies with non-investment grade credit.[1325] The Commission has previously recognized that a credit rating in the middle tier of investment grade is, in fact, a strong and healthy credit rating.[1326] Thus, even if Consumers' credit rating were to be downgraded by one notch—and there is no evidence in the record suggesting that a downgrade is likely to occur—then the Company would still enjoy an investment grade credit rating that ensures access to credit and the continuing ability to attract capital.

Consumers emphasizes comparisons to the equity ratios of its peers, but these comparisons are not necessarily as favorable to the Company's position as it suggests. For example, citing a Wells Fargo report, Consumers argued that from 2019 to 2023, there was an increase of 130 basis points in the median approved electric utility equity ratio.[1327] While the Company's observation is accurate per the data in the Wells Fargo report, the same report can also be interpreted to support the Company's current capital structure because it shows that for the majority of the last 10 years covered by the report, i.e. from 2013-2023, the median equity ratio hovered at or very close to 50.0%, i.e. the equity ratio targeted by the Commission.[1328] In the last 10 years, it was only in 2022 and 2023 that median equity ratios met or exceeded 51.0%. In other words, even when

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[1324] See Exhibits A-207 and A-208.
[1325] See *Bankinter Financial Dictionary*, Investment Grade.
[1326] See, December 9, 2021 order in Case No. U-20940, p 78 ("The Commission finds that the new Moody's rating [for DTE] places the company six notches above the lowest investment grade rating, which is still a healthy credit rating.").
[1327] 5 Tr 1190, see also Exhibit A-38.
[1328] See Exhibit A-38.

considering a relatively recent trend of increasing equity ratios, the 50.0% equity ratio targeted by the Commission is hardly unreasonable or an outlier.[1329]

Consumers also presents its own analysis of peer group equity ratios in Exhibit A-36 in contending that the Company's peers have an average equity ratio of 53.32%. However, this PFD agrees with the Attorney General that the Company's analysis is problematic in several respects. Consumers opted to define its capital structure peer group as its ROE peer group from Case No. U-21389 rather than using its selected ROE peer group in the current case. The reasoning for this decision was not clearly or satisfactorily explained, and it resulted in a meaningfully smaller group of peers because Consumers' peer group in Case No. U-21389 contained eight companies while its current peer group contains the same eight companies plus four additional companies for a total of 12 companies.[1330] Mr. Coppola raised concerns that this was indicative of selection bias in the peer group because four companies and their subsidiaries were thereby excluded from the Company's analysis. For example, Mr. Coppola testified that if Mr. Bleckman had included subsidiaries of FirstEnergy[1331] in his analysis, there would have been eleven additional operating company peers with equity ratios ranging from 46% to 53% and averaging around 50%.[1332]

[1329] See Exhibit A-38.
[1330] In Case No. U-21389, the company selected a peer group of eight companies: Alliant Energy, Ameren Corporation, DTE Energy, Entergy, Evergy, Portland General Electric Company, WEC Energy Group, and Xcel Energy. See Case No. U-21389, Exhibit A-14, Schedule D-5. In the instant case, the company's peer group contains all the previously lists companies and includes four additional companies: FirstEnergy, OGE Energy, Pinnacle West Capital Corporation, and PPL Corporation. See Exhibit A-14, Schedule D-5.
[1331] FirstEnergy is one of the companies included in the company's current ROE peer group that was excluded from the company's peer group in Case No. U-21389.
[1332] 5 Tr 2799.

As the Attorney General points out, this concern regarding selection bias is compounded by the fact that, despite being part of the Company's ROE peer group in both cases, Mr. Bleckman nevertheless excluded DTE Energy (with a balanced capital structure) from Exhibit A-36. Further, Mr. Bleckman's efforts to rebut these points was unimpressive. For example, Mr. Bleckman contends that FirstEnergy was not improperly excluded because his own selection criteria only included companies in the ROE peer group from Case No. U-21389.[1333] While his response was factually accurate, Mr. Bleckmann nevertheless neglected to justify why he opted to select a peer group from a past case rather than utilizing the same peer group that the company proposed in the current case. Similarly, Mr. Bleckman contends that DTE Energy was properly excluded because Exhibit A-36 contains a notation indicating that DTE Energy was excluded.[1334] This ostensible explanation employs circular reasoning, does not offer a reasoned justification for excluding DTE Energy, and DTE Energy otherwise plainly fits the company's own peer selection criteria listed on Exhibit A-36.[1335] Mr. Bleckman's decision to exclude DTE Electric as a point of comparison for the purpose of the equity ratio is also at odds with another portion of Mr. Bleckman's testimony in which he compared the Company's equity ratio to Staff's recommended equity ratio for DTE Gas in another case.[1336]

[1333] 5 Tr 1265.
[1334] 5 Tr 1265; see also Exhibit A-36.
[1335] See Exhibit A-36. The company's four selection criteria listed in that exhibit were: (1) Regulated subsidiary of the company's ROE proxy group in Case No. U-21389; (2) Rate order issued from January 1, 2020 through March 31, 2024; (3) Rate order available through online docket search that includes an authorized equity ratio; and (4) for each regulated subsidiary, latest authorized equity ratio for each state/jurisdiction.
[1336] See 5 Tr 1226.

The Attorney General also raises concerns that several of the utilities listed as peers in Exhibit A-36 are poor comparators because they are small utilities with only a tiny fraction of the rate base or revenues compared to those of Consumers.[1337] Mr. Coppola opined that small utilities are often awarded higher equity ratios to sustain them during potential volatility in their business, which large-scale utilities like Consumers can better manage.[1338] Mr. Bleckman accurately pointed out that Mr. Coppola provided no studies or data to support his argument and merely relied on his personal knowledge and years of experience in the utility industry.[1339] While this lack of statistical data decreases the efficacy of Mr. Coppola's argument, it does not entirely defuse the concern that several of the Company's peers listed in Exhibit A-36 may not actually be particularly apt comparators to a large utility like Consumers.

This PFD also agrees with the Attorney General that the Company's peer comparison presented in Exhibit A-36 has a high concentration of utilities based in one state because approximately a quarter of the listed peer utilities are located in Wisconsin. Mr. Coppola contended that the Wisconsin Public Service Commission appeared to be targeting an equity ratio of 53%, and that the ostensible 59.01% equity ratio awarded to one of the Wisconsin-based utilities (Wisconsin Electric Power Company) listed on Exhibit A-36 was inaccurate and that the correct ratio was 53%.[1340] Mr. Bleckman contended that

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[1337] See 5 Tr 2798. For example, Mr. Coppola contended that ostensible peer Nort Shore Gas had a rate base of $450 million compared to $13.8 billion for Consumers Electric.
[1338] 5 Tr 2798.
[1339] See 5 Tr 1264. Notably, as Mr. Bleckman acknowledges, Mr. Coppola and the Attorney General also provided an excerpt from Dr. Robert Morin's book, *New Regulatory Finance*, which discussed the relationship between a company's size and its risk profile. This PFD agrees with the company that this excerpt, while supporting the logic of Mr. Coppola's argument, does not specifically provide statistical support for the proposition that smaller utilities are awarded higher equity ratios by regulators.
[1340] See 5 Tr 2797-2798.

59.01% was the proper authorized ratemaking equity ratio for that utility and that Mr. Coppola improperly referenced data based upon financial information instead of using a regulatory or ratemaking basis.[1341] This PFD sees little need to resolve the dispute because, even if accurate, an equity ratio as high as 59% could generally be considered an outlier.

Taken individually, any one of the Attorney General's objections to the Company's peer comparison in Exhibit A-36 would not necessarily undermine the exhibit's persuasive force. But taken together, the various concerns and critiques of Exhibit A-36 and the Company's peer selection methodology greatly diminish confidence that Exhibit A-36 is a fair and reasonable survey of the equity ratios of the company's peers. Accordingly, this PFD accords only reduced weight to Exhibit A-36. In any event, a roughly balanced equity ratio would not be unreasonable or an outlier even considering Exhibit A-36 because at least two of the utilities listed therein have a balanced or nearly balance capital structure.[1342]

Having reviewed the evidence and arguments presented by Staff, the Attorney General, and ABATE, this PFD agrees that the best and most reasonable course of action supported by the evidence presented is to maintain a balanced capital structure. This PFD recommends adopting the Attorney General's methodology for maintaining a balanced 50/50 equity ratio, i.e. increasing debt and decreasing equity, which differs from Staff's proposed method which purports to reduce or control equity infusions into the

[1341] 5 Tr 1263.
[1342] See Exhibit A-36, lines 3 and 6.

company made by its parent company, CMS Energy. Notably, Staff does not oppose the Attorney General's methodology for achieving a balanced capital structure.[1343]

B. Cost Rates

1. Long-Term Debt Cost Rate

Mr. Bleckman projected a long-term debt cost rate of 4.35% as shown in Exhibit A-14, Schedule D-2.[1344] He derived this rate based upon debt issuances outstanding in December of 2023, new debt issuances in 2024, and planned debt issuances in 2024 and 2025; he used projected 30-year treasury rates and added a 138-basis point credit spread.[1345]

Mr. Megginson recommended a cost rate for long-term debt of 4.25%.[1346] He explained that the difference in cost rate estimates stemmed primarily from differing cost rate estimates for forecasted new debt issuances in 2024 and 2025. While the Company estimated debt issuances at 5.82% and 5.80% in those years, Mr. Megginson estimated lower rates of 5.20% and 4.69% respectively using 30-year forecasts from IHS Markit and Econforecasting.com along with a credit spread of 1.05%. [1347]

Mr. Coppola recommended using a long-term debt cost rate of 4.26%, i.e. nine basis points lower than recommended by Consumers, based upon the Company's ability to issue debt at lower rates than previously expected in August 2024 and based upon a lower U.S. Treasury rate than projected by Consumers.[1348]

[1343] See 5 Tr 3573 n 16; Staff brief, 71.
[1344] 5 Tr 1208.
[1345] 5 Tr 1208.
[1346] 5 Tr 3574; see also Exhibit S-4, Schedule D-2.
[1347] 5 Tr 3575.
[1348] 5 Tr 2801.

In rebuttal, Mr. Bleckman acknowledged that in August of 2024 the Company issued more debt and at a lower rate than projected by Mr. Megginson, but he added that projections for 30-year treasury rates are significantly higher than Mr. Megginson expected, and Mr. Megginson's assumed credit spread was unreasonably low.[1349] He critiqued Mr. Megginson's reliance on data from econforecasting.com as a departure from previous cases, and he stated that the 30-year treasury rate projections from that source were significantly lower than from S&P Global Market Intelligence, Mr. Megginson's other data source.[1350] Mr. Bleckman opined that Mr. Megginson's 105 basis point credit spread was on the very low end of the historical spread for 30-year debt issuances, and objected that he had considered 2023 and 2024 debt issuances of shorter terms in making this projection. In contrast, Mr. Bleckman contended that the Company's use of the 138 basis point average spread for investment grade utilities over the last 15 years is "a very sound approach."[1351] In response to Mr. Coppola, Mr. Bleckman stated that his revised cost rate for long-term debt was 4.27% after considering the Company's August 2024 debt issuance and the updated treasury projections.[1352]

Consumers' briefing responds to Staff's recommendations by tracking and recapping the rebuttal testimony of Mr. Bleckman.[1353] The Company responds to Mr. Coppola's suggested cost rate by reasserting that the appropriate updated cost rate is

[1349] 5 Tr 1242-1243.
[1350] 5 Tr 1243.
[1351] 5 Tr 1245.
[1352] 5 Tr 1266.
[1353] Consumers brief, 321-324.

4.27% after adjusting for the Company's actual August 2024 debt issuance and after updating projected treasury rates.[1354]

Staff disagrees with Consumers' contention that the revised cost rate would be 4.27% and instead contends that it would be 4.22% if updated.[1355] Staff also rejected the Company's critique of Staff's decision to use econforecasting.com as a data source; Staff argues that the Company identified no valid criticism of that data source and simply decried that its estimates were lower than those of the other data source utilized by Staff.[1356] Staff recommends adopting its originally suggested 4.25% cost rate.[1357]

The Attorney General's briefing reiterates the position on long-term cost rates taken by Mr. Coppola.[1358] This PFD notes that the Company, Staff, and the Attorney General did not provide additional briefing on this topic in their reply briefs.

This PFD agrees with Staff and the Attorney General that the cost for long-term debt should be lower than the Company's initial proposed rate based upon the company's ability to issue debt at a lower rate than expected and based upon lower forecasted rates in the future. This PFD recommends adopting Staff's long-term debt cost rate of 4.25%, which is only one basis point lower than the Attorney General's recommendation.

2. Short-Term Debt Cost Rate

Mr. Bleckman described the Company's short-term debt facilities and projected a short-term debt cost rate of 4.97% as shown in Exhibit A-14, Schedule D-3.[1359] He

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[1354] Consumers brief, 325; see also Exhibit A-210.
[1355] Staff brief, 76.
[1356] Staff brief, 76.
[1357] Staff brief, 76.
[1358] Attorney General brief, 163-164.
[1359] 5 Tr 1200-1206, 1210.

explained that he calculated an annual cost for short-term credit facilities of $10.7 million, with an annual cost of the renewable liability of $3.3 million.[1360]

Mr. Megginson testified that Staff instead suggested a cost rate for short-term debt of 4.09%.[1361] He explained that the difference in estimates stemmed primarily from the cost rate applied to the renewables liability component of the short-term debt balance. He asserted that the Company applied a 4.17% cost rate to that liability balance, but he instead applied a 1.00% cost rate.[1362] Mr. Megginson explained:

> My cost rate is based on Mr. Bleckman's cost rate assumption of the renewable's liability in Case No. U-21197, in which the Company noted that the short-term borrowing rate for the liability was assumed at 1.00% for years (2022–2029). My projected cost rate for the Company's Commercial Paper facility is the same as the Company's Commercial Paper cost rate at 4.17%. Thus, with the renewables liability cost rate change, Staff's overall ST-Debt cost rate is 4.09% compared to the Company's unreasonably high-cost rate of 4.97%[1363]

Further, Mr. Megginson expressed concern regarding the Company's treatment of its renewables liability balance. He testified that excess funds appear to be charged back to ratepayers as a form of short-term debt, which is really money already over-collected from ratepayers.[1364] He contended that this "appears to be a win-win for the Company and unfair to ratepayers" such that the Commission should eliminate the renewables liability balance from being charged back to ratepayers as a portion of short-term debt.[1365] Alternatively, he opined that if the Commission preferred a more measured approach, it

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[1360] 5 Tr 1210.
[1361] 5 Tr 3574; see also Exhibit S-4, Schedule D-3.
[1362] 5 Tr 3575.
[1363] 5 Tr 3575-3576; See also Exhibit S-4, Schedule D-3.
[1364] 5 Tr 3578.
[1365] 5 Tr 3579; see also Exhibit S-4, Schedule D-6.

should instruct Consumers to provide a more thorough explanation of its renewables liability short-term debt process.[1366]

Mr. Megginson also suggested that the Company's short-term debt facilities "are excessive and overly burdensome to ratepayers."[1367] He stated that contrary to parts of Mr. Bleckman's testimony, the Company has $1.85 billion in short-term debt capacity, not $1.35 million, including $500 million used to backstop the equivalent amount of the Company's $500 million commercial paper facility.[1368] He added that, to the best of his knowledge, Consumers has never maxed out its $500 million commercial paper facility, and ratepayers must pay for the commitment, continuation, and unused fees on the full capacity of all the revolver accounts.[1369] Mr. Megginson testified that the Company has not used its JP Morgan or Scotia Bank revolver accounts in the last five years, and rather than using its revolvers in 2022 to respond to higher gas costs, Consumers instead secured a separate $1 billion term loan.[1370] He recommended that the Commission request that the Company explain the viability of its $1.85 billion in short-term debt capacity if only a very small portion or if no portion of it is being used.[1371]

Mr. Coppola testified that projected interest rates for the test year have fallen and that he adjusted the short-term rate from 4.97% to 4.28% based upon information received from the Company.[1372]

[1366] 5 Tr 3579.
[1367] 5 Tr 3576.
[1368] 5 Tr 3576-3577.
[1369] 5 Tr 3577.
[1370] 5 Tr 3577-3578; see also Exhibit S-4, Schedule D-6.
[1371] 5 Tr 3578.
[1372] 5 Tr 2801-2802.

In rebuttal, Mr. Bleckman asserted that Staff's 4.05% projection was understated and noted that the pertinent statute requires that the renewable liability accrues interest at the average short-term borrowing rate available to the electric provider during the appropriate period.[1373] He contended that Mr. Megginson's reliance on the 1.0% rate in Case No. U-21197 filed in August of 2022 was improper because short-term rates have increased significantly to an average above 5.0% in 2024.[1374] However, Mr. Bleckman testified that the Company had no objection to the updated short-term debt cost projection of 4.28% offered by Mr. Coppola, which was based upon updated projections from Bloomberg.[1375]

Mr. Bleckman disputed Mr. Megginson's assessment that the Company had $1.85 billion in short-term credit facilities, and he explained that Mr. Megginson "incorrectly double counts the $500 million commercial paper facility as part of the JPMorgan revolver and also a separate $500 million short-term credit facility available to the Company."[1376] He testified that the Company's actual short-term borrowing capacity was $1.35 billion, and that it was not excessive or burdensome because it was necessary to conduct daily operations and also keep credit risk at an acceptable level.[1377] He acknowledged that Consumers has never used all of its short-term credit facilities, but he opined that the credit facilities were not excessive notwithstanding that fact, because financing markets can be volatile and maxing out the facilities would create credit risk.[1378] Mr. Bleckman

[1373] 5 Tr 1246; see also 5 Tr 1212.
[1374] 5 Tr 1246-1247.
[1375] 5 Tr 1247.
[1376] 5 Tr 1249.
[1377] 5 Tr 1249.
[1378] 5 Tr 1250.

also rejected the notion that the viability of the short-term credit facilities was in question because the Company used a loan rather than the short-term facilities to counter a spike in gas prices in 2022. He explained that access to a loan at reasonable rates is never guaranteed such that it is important to maintain a short-term credit facility.[1379] He added that in 2022 the Company used 95% ($476 million) of its commercial paper capacity.[1380]

Consumers' brief reiterates the points made in Mr. Bleckman's direct and rebuttal testimony, including emphasis on the requirement of PA 295 of 2008 that the renewables liability accrues interest at the average short-term borrowing rate available to the utility during the appropriate period.[1381] The company also repeats that it does not object to the Attorney General's cost projection of 4.28%.[1382] The Company's reply brief reiterates the points made in its initial brief and emphasizes that Staff's recommendation is contrary to the language of 2008 PA 295.[1383]

Staff repeats that it used the 1.00% cost rate for the renewables liability that Consumers itself projected in Case No. U-21197 and that the Company's request to use a higher rate is therefore invalid.[1384] Staff asserts the cost rate for the renewables liability balance should either be no higher than 1.00% or should not be included at all.[1385] Staff argues that "the Company has never refunded to ratepayers any amount of the renewable liability balance it collected over the years, nor has it been requested to. . . . Thus, the Company's notion of financial harm if the supposed short-term interest paid on the

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[1379] 5 Tr 1251.
[1380] 5 Tr 1251.
[1381] Consumers brief, 325-326; Consumers reply, 46.
[1382] Consumers brief, 326.
[1383] Consumers reply, 46.
[1384] Staff brief, 77.
[1385] Staff brief, 77.

balance is not recovered from ratepayers is highly debatable, if not downright fictitious."[1386] Staff agrees with Mr. Bleckman's statement in rebuttal that if the short-term debt cost rate is not the appropriate place to include interest on the renewable liability, then the renewable liability balance should be removed from the Company's capital structure; indeed, Staff advocates removing of the renewable liability balance from capital structure as a short-term debt component.[1387]

The Attorney General's brief echoes Mr. Coppola's testimony and requests that the Commission adopt a short-term debt rate of 4.28%, based upon new information from the Company.[1388]

This PFD agrees with Staff and the Attorney General that the cost of short-term debt should be lower than the Company's current estimate. Specifically, this PFD recommends adopting the Attorney General's short-term rate of 4.28%, which is based upon updated projections. Indeed, Consumers expressed that it has no objections to the Attorney General's proposed 4.28% rate.[1389] This PFD is not persuaded by Staff's argument that the Company should be held to an estimated 1.00% cost rate for its renewables liability balance that was assumed in a case several years in the past.

This PFD does not necessarily regard the Company's maintenance of short-term borrowing facilities as excessive because they may be useful in adverse market conditions. However, this PFD agrees with Staff that the Commission should request that, in its next rate case, the Company should explain and justify the size and expense

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[1386] Staff brief, 77-78.
[1387] Staff brief, 78; see also 5 Tr 1254.
[1388] Attorney General brief, 164.
[1389] See 5 Tr 1247; see also Consumers brief, 326.

associated with its short-term borrowing facilities if only a very small portion is being or has been utilized. The purpose of such an analysis should be to determine if the size of such borrowing facilities is reasonable and to ensure that the potential benefits of maintaining these facilities is commensurate with their expense.

Regarding the renewables liability balance, this PFD agrees with Staff's recommendation that the Commission should instruct the Company, in its next rate case, to provide a more thorough explanation of its renewables liability short-term debt process for the reasons stated by Staff. The Company's explanation should provide a thorough justification for the inclusion of the renewables liability balance in its capital structure.

3. Return on Common Equity

A utility's cost of common equity, generally referred to as the return on equity (ROE), is the return that investors expect to provide the utility with capital for use in its various operations. The cost of this capital essentially represents an opportunity cost; to induce investors to purchase a utility's common stock or bonds, there must be the prospect of receiving earnings sufficient to make the investment attractive when compared to other investment opportunities.

The criteria for establishing a fair rate of return for public utilities is rooted in the language of the United States Supreme Court cases *Bluefield Water Works Co v Pub Serv Comm of West Virginia*, 262 US 679; 42 S Ct 675; 67 L Ed 1176 (1923) and *Fed Power Comm v Hope Natural Gas Co*, 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944). In *Bluefield*, the Supreme Court explained:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings

> which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.[1390]

In turn, the Supreme Court provided further guidance in *Hope*, stating:

> The rate-making process under the Act, i.e., the fixing of just and reasonable rates, involves a balancing of the investor and the consumer interests. . . . [T]he investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[1391]

The Commission has recognized and adopted the principles announced in *Bluefield* and *Hope* by explaining that the rate of return "should not be so high as to place an unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise."[1392] The Commission also stated that any determination of what is fair and reasonable "is not subject to mathematical computation with scientific exactitude but [rather] depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use."[1393]

[1390] *Bluefield*, 262 US at 692-693.
[1391] *Hope Natural Gas Co*, 320 US at 603 (quotation marks and citations omitted).
[1392] April 12, 2018 order in Case No. U-18370, p. 30.
[1393] April 12, 2018 order in Case No. U-18370, p. 30 (citing *Meridian Twp v City of East Lansing*, 342 Mich 734, 749; 71 NW2d 234 (1955)).

The parties made several differing proposals regarding the appropriate ROE for Consumers. For the Company, Mr. Bleckman[1394] testified that he utilized a capital asset pricing model (CAPM), an empirical capital asset pricing model (ECAPM), a projected risk premium (RP) analysis, a discounted cash flow model (DCF) and a comparable earnings analysis to develop his recommendation.[1395] Mr. Bleckman provided a summary of results from these models in Exhibit A-14, Schedule D-5. He opined that these models supported a ROE range between 10.0% and 11.0%, and he recommended a ROE of 10.25% which he explained was below the median point of his recommended range but was reasonable given the Commission's preference for gradualism.[1396] Alternatively, he specified that if the Commission retained the current 9.90% ROE, then the Company would recommend an equity ratio of 52.5% to "maintain credit supportive financial metrics."[1397]

Mr. Megginson recommended a ROE of 9.85%, which is five basis points lower than Consumers' currently authorized ROE of 9.90%.[1398] He reached this recommendation using a group of eight proxy companies and applying the DCF, historical and projected CAPM models, the RP model, and a comparison of recent ROE determinations from other jurisdictions.[1399]

[1394] Direct testimony and exhibits regarding ROE were originally offered by company witness Todd A. Wehner; however, Mr. Wehner's testimony and exhibits were later adopted by company witness Bleckman.
[1395] 5 Tr 1347, 1365.
[1396] 5 Tr 1337, 1347-1348.
[1397] 5 Tr 1339.
[1398] 5 Tr 3560.
[1399] 5 Tr 3560.

Mr. Coppola used three methods to determine an appropriate ROE: the DCF, CAPM and the RP approaches.[1400] He explained that Exhibit AG-1.17 calculates a weighted average ROE of 9.71% from these methodologies,[1401] which he rounded up to a recommended ROE of 9.80%.[1402]

Mr. Walters explained that he used several different methodologies to estimate an appropriate ROE; these methods included various DCF models, the RP model, and the CAPM model.[1403] Mr. Walters contended that the Company's ROE could reasonably range from 9.00% to 10.00%, and he recommended the midpoint, 9.50%.[1404] However, he recommended a lower 9.25% ROE if the Commission approved the company's proposals to implement a DR surcharge and expand projects for its IRM.[1405]

Mr. Bandyk calculated a CAPM ROE of 8.01% and a DCF ROE of 8.95% resulting in an average of 8.48%.[1406] However, for the sake of gradualism, he recommended setting the Company's ROE at 9.19%, i.e. the halfway point between 8.48% and Consumers current ROE of 9.90%.[1407]

Walmart witness Ms. Perry made no numerical recommendation but testified that the Commission "should closely examine" the Company's proposed ROE in light of the data she presented regarding ROEs awarded to other utilities.[1408] Similarly, UCC witness Mr. Cira-Reyes made no numerical recommendation but opposed any increase to the

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[1400] 5 Tr 2803.
[1401] Mr. Coppola specified that he weighted the DCF method at 50% while weighting the CAPM and RP approach at 25% each. 5 Tr 2831.
[1402] 5 Tr 2804, 2831.
[1403] 5 Tr 3391, 3396.
[1404] 5 Tr 3423-3424.
[1405] 5 Tr 3424.
[1406] 5 Tr 2956; See also Exhibits CUB-7 and CUB-11.
[1407] 5 Tr 2956-2957.
[1408] 5 Tr 3461.

company's ROE and instead suggested "reducing the Company's ROE to the extent possible, until performance improves in terms of affordability, reliability, and clean energy access for ratepayers."[1409]

The parties used several different analytical models and approaches to develop the above recommendations. These models, the associated proxy groups used by the parties, and other related issues and disputes are discussed below.

a. Proxy Groups

Mr. Bleckman described the criteria used to select a proxy group of companies for use in his quantitative analyses. He selected utilities for the proxy group that: (1) were headquartered in the U.S. with the majority of operations here; (2) had generation capacity greater than 3,000 MW; (3) had Property, Plant and Equipment (PP&E) between $7 billion and $60 billion; (4) had a dividend payout ratio of at least 55%; (5) had significant electric utility operations; (6) were not recent merger targets or engaged in restructuring; and (7) had corporate bonds at or above a minimum investment grade as rated by Moody's and S&P.[1410] He explained that the application of these screening criteria yielded a proxy group of 12 companies listed in Exhibit A-14, Schedule D-5.

Mr. Megginson selected a proxy group of eight utilities using six criteria: (1) net plant between $4 billion and $35 billion; (2) at least 50% of revenue from regulated electric distribution; (3) debt rating within three notches from that of Consumers Energy; (4) must pay dividends; (5) followed by at least two or more International Business Estimating System analysts; and (6) not currently involved in a merger, restructuring, buyouts, or

[1409] 5 Tr 3498.
[1410] 5 Tr 1364.

exceptional events that would affect stock price.[1411] He explained that the difference between Staff's proxy group of eight and the Company's proxy group of 12 was that Staff excluded four companies for failing to meet the above criteria, but he added that the groups otherwise "align in general" and that the difference is not the primary reason for differing ROE recommendations between the Company and Staff.[1412] He stated that the average authorized ROE for the proxy group is 9.45%, which is considerably less than the current 9.90% ROE authorized for Consumers.[1413]

Mr. Coppola started with the companies on Exhibit AG-1.22 as a potential proxy group; he explained that he began with 38 utilities from the Value Line Investment Survey and excluded seven companies that were too large or too small to adequately compare to Consumers.[1414] He also excluded companies that had non-growing dividends, foreign operations, wildfire and off-shore construction risks, and merger or corporate reorganization activities.[1415] He testified that the ten companies that remained, which are listed on Exhibits AG-1.18 and AG-1.19, have growing earnings and dividends, and are comparable to Consumers.[1416] He explained that his group of ten companies was smaller than the Company's proposed proxy group of 12 companies, and only three companies were present in both groups. Mr. Coppola criticized the remaining nine utilities in Consumers' proposed proxy group as inappropriate for various reasons including that

[1411] 5 Tr 3581.
[1412] 5 Tr 3581, 3582; see also Schedule D-5, p 2 for further information regarding Staff's proxy group.
[1413] 5 Tr 3582.
[1414] 5 Tr 2804.
[1415] 5 Tr 2804.
[1416] 5 Tr 2805.

they were involved in purchasing out-of-state assets, engaged in corporate restructuring, exposed to significant litigation risk, or had declining earnings trends.[1417]

Mr. Walters testified that he simply used the same proxy group as Mr. Bleckman when developing his analytical models.[1418]

Mr. Bandyk also appears to have used the same proxy group as Mr. Bleckman, although he declined to use a proxy group when determining the beta value for the CAPM model and instead used the beta value for CMS Energy.[1419]

In rebuttal, Mr. Bleckman noted that Mr. Coppola added wildfire risk as a screening criterion for his proxy group, and Mr. Coppola also excluded one utility, WEC Energy, for acquiring a solar project. Mr. Bleckman asserted that Mr. Coppola did not include wildfire risk as a criterion in the Company's most recent rate case, and he also asserted that Mr. Coppola could not justify the exclusion of WEC Energy Group simply based upon its recent acquisition of a solar project.[1420]

In briefing, Consumers argues that it is necessary to use a group of proxy companies since the common stock of Consumers Energy is not publicly traded, and the Company reasserts the propriety of its selection criteria and resulting proxy group.[1421]

Staff similarly emphasizes the need for a proxy group, justifies its selection criteria, and contends that its proxy group is a "better fit to arrive at a sensible ROE for [the Company] in this case."[1422]

[1417] 5 Tr 2805-2806.
[1418] 5 Tr 3391, 3396.
[1419] Compare Exhibit CUB-11 (listing a proxy group for a DCF analysis) with Exhibit A-14, Schedule D-5 (listing the company's proxy group); see also Bandyk p 24.
[1420] 5 Tr 1292.
[1421] Consumers brief, 270.
[1422] Staff brief, 65.

The Attorney General justifies her selection criteria and criticizes Consumers for including several companies in its proxy group that are ostensibly inapt because of the purchase of out-of-state assets, corporate restructuring or asset sales, litigation risk, or declining earnings trends.[1423]

ABATE and MNSC utilized the same proxy group developed by the Company and provided no meaningful argument regarding the selection of the proxy group.

This PFD does not purport to select an optimal proxy group and instead simply notes the above differences between the proxy groups selected by Consumers, Staff, and the Attorney General.

b. Capital Asset Pricing Model

Mr. Bleckman explained the relevant formula and theory behind the CAPM model and its relation to a risk-free rate of return (usually represented by U.S. Treasuries), the measure of the riskiness of an individual security as compared to the systemic risk of the securities market (i.e. the beta coefficient), and a risk premium.[1424] He utilized an expected 30-year U.S. Treasury yield of 4.53% as the risk-free rate and an expected S&P 500 market return of 13.01% to calculate a risk premium of 8.48%.[1425] Further, he testified that he used beta values calculated by Value Line for the analysis, with the average current beta for the Company's proxy group equaling 0.93.[1426] The results of his CAPM analysis are found in Exhibit A-14, Schedule D-5, p 2, with the average ROE for the proxy

[1423] Attorney General brief, 144-146.
[1424] 5 Tr 1366-1367.
[1425] 5 Tr 1370-1371.
[1426] 5 Tr 1371.

group being 12.51% and the range for the proxy group extending from a low of 11.74% to a high of 13.85%.[1427]

Mr. Megginson described the CAPM model used by Staff and the inputs used to calculate it, including a historical market risk premium of 6.80%, a risk-free rate of 3.65% based upon estimates of U.S. Treasuries, and the Value Line betas for his proxy group with an average of 0.94, to arrive at a historical period CAPM of 10.03%.[1428] Mr. Megginson also used projected risk premiums from Company-derived sources, i.e. a previous rate case, of 6.53% and the Company's current 8.48% risk premium to calculate projected CAPM ROE estimates of 9.77% and 11.60% respectively.[1429] However, he specified that the 8.48% projected risk premium appeared inflated and the resulting ROE estimate of 11.60% was "overblown and should be rejected."[1430] Mr. Megginson also testified that he disagreed with the Company's CAPM analysis. He contended that Consumers used an overblown S&P 500 market risk premium estimate that in turn overinflated the resulting ROE.[1431]

Mr. Coppola described the CAPM approach and his supporting calculations.[1432] He testified that he utilized a risk-free rate of 3.95%, a beta value of 0.93, and 7.17% risk premium, and he provided his reasoning for using these figures.[1433] The result of his CAPM approach was an average ROE of 10.58% for his proxy group.[1434] Mr. Coppola

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[1427] 5 Tr 1369.
[1428] 5 Tr 3588, 3589; Exhibit S-4, Schedule D-5, pp 2, 7.
[1429] 5 Tr 3591.
[1430] 5 Tr 3591.
[1431] 5 Tr 3592.
[1432] 5 Tr 2809, 2810; See also Exhibit AG-1.19.
[1433] 5 Tr 2810-2811.
[1434] 5 Tr 2811.

emphasized that his 3.95% risk-free rate was significantly lower than the Company's (i.e. 4.53%), and he asserted that this was consistent with messaging from the Federal Reserve signaling that it would soon begin a cycle of interest rate cuts which would, in turn, likely reduce the rates offered on U.S. Treasuries.[1435] Mr. Coppola also opined that the CAPM approach should be given less weight than the DCF approach because it assumes that the risk of a stock can be measure by the beta component (representing general market fluctuations) whereas investors actually consider company-specific risks.[1436] Mr. Coppola's CAPM result of 10.58% is significantly lower than the Company's CAPM result of 12.51%.[1437] He criticized Mr. Bleckman's use of 8.48% risk premium in CAPM and ECAPM modeling because it is "approximately 131 basis points above the historical 1926 to 2022 long-term average of 7.17%."[1438] Mr. Coppola asserted that the Company's market risk premium was developed using an expected market return of 13.01%, based upon estimated growth rates over a three-to-five year period; he asserted that this period is extremely short compared to the 1926-2022 historical performance of the stock market.[1439] Mr. Coppola asserted that Consumers' use of estimated growth over a short period was unconventional, not aligned with academic literature on the topic, and inflated the Company's proposed ROE.[1440]

Mr. Walters explained the CAPM model and his inputs, including a treasury bond yield of 4.30% as the risk-free rate and three different market risk premiums, one based

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[1435] 5 Tr 2811-2812.
[1436] 5 Tr 2813.
[1437] 5 Tr 2814.
[1438] 5 Tr 2815.
[1439] 5 Tr 2815.
[1440] 5 Tr 2816.

upon the RP method (7.23%) and two based upon differing DCF methods: one based upon an ostensibly FERC-approved method (7.70%) and one based upon all stocks in the S&P 500 index (7.60%).[1441] Mr. Walters used four different beta values including current and historical betas listed by Value Line, the current S&P listed beta, and a three-year beta.[1442] He testified that these differing values produced 12 CAPM-based ROE estimates that ranged from 8.30% to 11.60%.[1443] Mr. Walters also criticized Mr. Bleckman's CAPM calculations for using a market risk premium and risk-free rate that were excessive, as well as for relying on a five-year beta that overstated the risk of regulated utilities.[1444] Mr. Walters opined that correcting these conditions and using data similar to his would result in an average CAPM ROE of 9.26%.[1445]

Mr. Bandyk discussed his CAPM calculations, and he contended that historical estimates for equity risk premium are deeply flawed because they are extremely sensitive to the historical period selected and to survivorship bias because some stocks drop out of the market.[1446] To correct this deficiency, he relied on a forward-looking "implied equity risk premium" approach advocated by academic literature; he explained that this approach does not rely on historical data and instead values stocks at the present value of dividends growing at a constant rate.[1447] Mr. Bandyk asserted that by comparison, Mr. Bleckman's approach to the CAPM model inflates growth rates and results in an artificially

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[1441] 5 Tr 3418, 3419.
[1442] 5 Tr 3422.
[1443] 5 Tr 3422, Table CCW-12.
[1444] 5 Tr 3427.
[1445] 5 Tr 3431.
[1446] 5 Tr 2958.
[1447] 5 Tr 2958-2960; see also Exhibit CUB-8 for information related to the equity risk premium value estimates.

higher ROE.[1448] Mr. Bandyk criticized the method of deriving beta from a proxy group because a proxy group can never match the risk of an individual utility. Instead, he contended that it is more accurate to use the beta for Consumers' parent, CMS Energy (i.e. 0.85).[1449] He explained that mathematically, the risk of a multidivisional company is the weighted average risk of its divisions, and the regulated utilities subsidiary of CMS Energy (i.e. Consumers Energy) makes up most of CMS's business such that the beta of CMS should be approximately the same as that of Consumers Energy.[1450] Mr. Bandyk calculated a CAPM ROE of 8.01% based upon a risk premium of 4.70%, a risk-free rate of 4.02% and the aforementioned beta of 0.85.[1451]

In rebuttal Mr. Bleckman asserted that Mr. Megginson weighted his projected risk-free rate inconsistently with previous rate cases in such a way that "results in the lowest estimated risk-free rate of the range relied upon by the witnesses in this proceeding."[1452] He also critiqued the historical market risk premiums used by Mr. Megginson, Mr. Coppola, and Mr. Bandyk. He asserted that the market risk premium should fundamentally be forward-looking, and there was no evidence that the historical averages used by Mr. Megginson or Mr. Coppola will reflect the premium in place when the company's proposed rates will be in effect.[1453] He asserted that academic literature and market evidence suggest that the risk premium is inversely related to interest rates and that this is not reflected in the analyses of Mr. Megginson, Mr. Coppola, or Mr. Bandyk.[1454]

[1448] 5 Tr 2962.
[1449] See Exhibit CUB-7.
[1450] 5 Tr 2964, 2965.
[1451] Exhibit CUB-7.
[1452] 5 Tr 1305.
[1453] 5 Tr 1306.
[1454] 5 Tr 1307, 1312.

Mr. Bleckman also opined that Mr. Megginson spliced together two datasets to estimate the market risk premium without analyzing whether the use of new datasets were similar to the historical data he relied upon for other years.[1455] Mr. Bleckman criticized Mr. Megginson's two projected CAPM analyses because: (1) the first used an outdated market risk premium from the Company's previous rate case, and (2) Mr. Megginson arbitrarily dismissed the result of the second analysis because it was not subjectively reasonable to him.[1456] Regarding the market risk premium, Mr. Bleckman contends that he relied on the same methodology as in Case No. U-21490 (Consumers Energy Gas Rate Case), Mr. Megginson apparently accepted that methodology, and it is unreasonable to reject it now.[1457]

Mr. Bleckman rejected outright Mr. Bandyk's CAPM analysis because it used as the sole proxy utility CMS Energy, the parent company of Consumers Energy. He asserted that it was unreasonable to use a proxy group of one company and that it was further inappropriate to use CMS Energy as a proxy because of "the circularity involved in estimating the cost of equity by relying on the parent company that would be affected by the outcome of the proceeding."[1458]

Mr. Bleckman also rejected the CAPM analysis offered by Mr. Walters because, like the other intervenor analyses, it did not recognize the inverse relationship between interest rates and the market risk premium, which rendered at least three of his 12 CAPM models "unreliable."[1459] He also contended that the risk premium used by Mr. Walters was

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[1455] 5 Tr 1307.
[1456] 5 Tr 1311.
[1457] 5 Tr 1326.
[1458] 5 Tr 1312-1313.
[1459] 5 Tr 1313, 1314.

not forward looking because it was simply a long-term average with a projected inflation rate applied; he further opined that the use of a historical average may not reflect the returns realized by investors in current or expected market conditions.[1460] Mr. Bleckman asserted that the risk-free rate that he used was based on the Bloomberg forward curve estimate and was therefore based upon forward-looking market data; however, he added that using a more recent risk-free rate would result in an ROE of 11.99%, which is lower than the result originally produced but still well above the company's request.[1461] Mr. Bleckman rejected Mr. Walters' concern with Value Line betas; he asserted that experts routinely rely on Value Line betas, and that Mr. Walters was the only witness to use a range of beta values in addition to the Value Line betas.[1462]

Notwithstanding his disagreement with the methods used by Mr. Coppola and Mr. Walters, Mr. Bleckman opined that their CAPM results supported the Company's requested ROE of 10.25% because their CAPM results exceeded Consumers' request.[1463] Mr. Bleckman also asserted that if Mr. Megginson's analysis were revised to reflect weightings similar to those he employed in the Company's previous rate case, then his median CAPM result would rise to 10.22%.[1464] Further, he contended that if he used the forward-looking market risk premium and risk-free rate advocated by Mr. Walters along with the Company's Value-Line betas, the resulting CAPM ROE estimates would range from 11.18% to 11.30%.[1465]

[1460] 5 Tr 1314.
[1461] 5 Tr 1328.
[1462] 5 Tr 1329.
[1463] 5 Tr 1315.
[1464] 5 Tr 1314-1315.
[1465] 5 Tr 1329; Exhibit A-223.

In briefing, the Company closely tracks Mr. Bleckman's testimony detailing his CAPM analysis.[1466] Consumers also addresses concerns raised by other parties about the Company's selected market risk premium, risk-free rate, and other inputs. Specifically, Consumers largely tracks and expounds upon Mr. Bleckman's rebuttal testimony to respond to and counter the arguments raised by Staff and ABATE.[1467] The Company also relies heavily on Mr. Bleckman's testimony to criticize Staff's risk-free rate as the lowest proposed in this proceeding and as inconsistent with approaches taken by Staff in the past.[1468] Consumers further uses Mr. Bleckman's testimony to highlight various concerns regarding the use of a historical market risk premium (rather than a forward-looking market risk premium) by both Staff and the Attorney General.[1469] Consumers also argues that the Attorney General's CAPM analysis actually supports the Company's ROE request because the result is higher than the Company's requested 10.25% ROE.[1470] Further, the Company recaps Mr. Bleckman's numerous objections to several of the 12 CAPM calculations proposed by ABATE, particularly related to the use of a Kroll normalized market risk premium.[1471] Finally, the Company argues that MNC's CAPM calculation is irredeemable because it improperly uses a proxy group of one company, and it results in a return that is well below an return that has been authorized for an electric utility.[1472]

[1466] Consumers brief, 273.
[1467] Consumers brief, 280-283.
[1468] Consumers brief, 290-291.
[1469] Consumers brief, 291-295.
[1470] Consumers brief, 302.
[1471] Consumers brief, 306-307.
[1472] Consumers brief, 315.

Staff's briefing recaps the results of Mr. Megginson's CAPM analysis.[1473] Staff also argues that the Commission should reject the Company's CAPM analysis because it "uses an over-inflated projected market risk premium that renders the ROE estimate wholly unreliable."[1474]

The Attorney General repeats the results of her CAPM analysis but emphasizes that it should receive less weight than the DCF approach because it assumes that the entire risk an investor faces can be encapsulated by the beta.[1475] The Attorney General argues that the Company's CPAM result should be given no weight because the market risk premium used was inappropriately based upon a three-to-five year period which is extremely short compared to historical performance of the stock market.[1476] In her reply, the Attorney General reiterates that the Company's market risk premium is nonconventional, not reflective of long-term risk premiums, and results in an upwardly biased result.[1477]

ABATE's briefing closely follows Mr. Walters' testimony regarding his choices in the development of his CAPM model results.[1478] ABATE addresses Consumers' critique of the use of the Kroll normalized market risk premium stating, "the Kroll recommended MRP is a conditional MRP that is based on economic data and other factors that Kroll deems appropriate to consider and, as described by Mr. Walters, has a prescribed risk-free rate. ABATE's analysis simply followed the guidance and recommendations of Kroll,

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[1473] Staff brief, 66-67.
[1474] Staff brief, 79.
[1475] Attorney General brief, 150-151.
[1476] Attorney General brief 153,154.
[1477] Attorney General Reply, 54.
[1478] ABATE brief, 41-43.

which is one of the most often cited and widely recognized names in finance and valuation."[1479] ABATE argues that the Company's CAPM is unreliable because it: (1) used an inflated market risk premium (8.48%) that is outside the 5.00-8.00% range suggested by empirical evidence and assumed perpetual growth of 11.45%, which is three times faster than the growth of the U.S. economy; (2) employed a risk-free rate (4.53%) greatly exceeding the consensus estimate of 4.10% published by Blue-Chip Financial Forecasts; and (3) used an inflated beta value that is far from historical averages because it is still affected by marketed volatility stemming from the COVID-19 pandemic.[1480] ABATE's reply briefing closely tracks the arguments presented by Mr. Walters and those in the group's initial brief.[1481]

MNC recaps Mr. Bandyk's unique CAPM calculation which used an implied equity risk premium and eschewed the use of a proxy group's beta by instead using the beta value for CMS Energy.[1482] MNC defended the use of CMS Energy's beta value explaining that the use of a proxy group was unnecessary when a more accurate beta, i.e. that of the publicly traded parent company, is available.[1483] MNC provided no reply briefing.

This PFD agrees with arguments presented by Staff, the Attorney General, and ABATE in contending that the Company's unusually high market risk premium is not appropriate and serves to substantially inflate the Company's CAPM result. Indeed, the range of Consumers' CAPM results (11.74% to 13.85%) and its average result (12.51%) are all well outside the range of the CAPM results provided by the other parties. In briefing,

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[1479] ABATE brief, 42 n 33.
[1480] ABATE brief, 45-46.
[1481] ABATE reply, 16-19.
[1482] MNSC brief, 65-66.
[1483] MNSC brief, 80.

the Company argued that a ROE estimate should not be relied upon if a resulting return is well *below* any return that has been authorized for an electric utility.[1484] This PFD agrees with the Company's reasoning and suggests that an estimate should likewise be disregarded if a calculated return is well *above* any return that has been authorized for an electric utility. As discussed *infra* in this PFD in the subsection addressing other authorized rates of return for utilities nationwide, this PFD adopts the dataset in Exhibit WAL-4 as a representative sample of reported ROEs recently approved by regulatory bodies nationwide. Further, as discussed in more detail *infra*, this PFD adopts an adjusted range of ROEs that extends from 8.57% to 10.50% for that dataset.[1485] This PFD will therefore decline to give any weight to the Company's CAPM result because: (1) Consumers' 12.51% result is well above any ROE within that adjusted range of recently authorized ROEs; (2) the Company's CAPM result uses an inappropriately large risk premium; and (3) the Company's CAPM result is significantly higher than all other CAPM results offered by other parties in this proceeding.

Consumers challenges the use of historical market risk premiums utilized by Staff and the Attorney General. Indeed, the Company contends that forward-looking projected market risk premiums are more appropriate. However, this PFD finds that the use of historical market risk premiums is reasonable, and the FERC appears to recognize the

[1484] Consumers brief, 315.
[1485] See generally Exhibit WAL-4, p 3 (listing data for the authorized ROEs nationwide from 2022 to August of 2024). Note that this PFD adopts an adjusted range for this dataset. The adjusted range of 8.57% to 10.50% was achieved by excluding the highest and lowest approved ROE values as outliers.

use of either a forward-looking or a backward-looking approach when performing a CAPM analysis.[1486]

Consumers challenges the CAPM estimate from MNC because it is ostensibly well below any return that has been authorized for an electric utility and because it utilizes the beta value of CMS Energy, rather than a beta value derived from a proxy group.[1487] This PFD notes that MNC's CAPM result of 8.01% is outside the adjusted range of ROEs recently authorized nationwide and could easily be considered an outlier.[1488] Further, this PFD is not entirely convinced that it is appropriate to use the beta value of a utility's parent company because, while intuitively appealing, MNC provided no example of this methodology being used or accepted generally in the ratemaking process or specifically by this Commission. Accordingly, this PFD declines to accord any weight to MNSC's CAPM result because: (1) this PFD is not yet persuaded that the underlying methodology used to select the beta value is appropriate, and (2) because the result is far outside the adjusted range of ROEs recently approved.[1489]

This PFD accepts for consideration the CAPM results provided by the other parties after making adjustments to exclude results falling outside the adjusted range of ROEs authorized nationwide in Exhibit WAL-4 (i.e. 8.57% to 10.50%).[1490] This PFD accords

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[1486] FERC Opinion 569, 169 FERC 61129 (2019), par. 239 ("[I]n the CAPM model . . [t]he expected market return can be estimated either using a backward-looking approach based upon realized market returns during a historical period, a forward-looking approach applying the DCF model to a representative market index, such as the S&P 500, or a survey of academics and investment professionals.")
[1487] Consumers brief, 315.
[1488] See generally Exhibit WAL-4. Note that this PFD adopted an adjusted range of 8.57% to 10.50% for the dataset contained within Exhibit WAL-4. The adjusted range was achieved by excluding the highest and lowest values as outliers.
[1489] Again, this PFD adopted an adjusted range of 8.57% to 10.50% for the dataset contained within Exhibit WAL-4. The adjusted range was achieved by excluding the highest and lowest values as outliers.
[1490] See generally Exhibit WAL-4 and the subsection of this PFD addressing other authorized returns.

reduced weight to the Attorney General's result (10.58%) because it falls just outside of that adjusted range, and this PFD accepts for full consideration the following results: 9.90% (the average of Staff's conforming CAPM results),[1491] and 9.80% (the average of ABATE's conforming CAPM results).[1492]

c. Empirical Capital Asset Pricing Model (ECAPM)

Mr. Bleckman also described the ECAPM model, which adds an "alpha" adjustment to the CAPM model to "more closely align the expected returns with market observed results."[1493] The alpha adjustment he applied was 1.5%, which he described as the midpoint of the 1% to 2% range described in academic literature.[1494] The results of his ECAPM analysis are found in Exhibit A-14, Schedule D-5, p 3, with the average ROE for the proxy group being 12.60% and the range for the proxy group extending from a low of 11.96% to a high of 13.70%.[1495]

Mr. Megginson testified that Staff disagrees with the ECAPM approach in general because it uses adjusted betas and long-term debt estimates that "render[] the need for the ECAPM adjustment moot."[1496] He stated that using adjusted betas in the ECAPM

[1491] This is the average of Staff's 10.03% (historical) CAPM calculation and Staff's 9.77% CAPM calculation using the risk premium from Consumers' previous rate case. This PFD agrees with Staff and declines to consider Staff's 11.60% result based upon the Company's risk premium used in the present case because, as already explained in this PFD, the Company's current risk premium is inappropriately high and the resulting calculation yields a result significantly above those awarded to other utilities nationwide.
[1492] See Table CCW-12 at 5 Tr 3422. This calculation averages ABATE's CAPM results that fall within the adjusted range of 8.57% to 10.50% for the dataset derived from Exhibit WAL-4. ABATE's conforming CAPM results are 9.30%, 9.97%, 10.33%, 10.45%, 9.72%, 8.80%, and 10.06%.
[1493] 5 Tr 1369.
[1494] 5 Tr 1369.
[1495] 5 Tr 1370.
[1496] 5 Tr 3593.

analysis effectively double counts the beta and therefore inflates the resulting estimate such that the company's ECAPM figures should be disregarded.[1497]

Mr. Coppola urged the Commission to "continue to disregard" the ECAPM model proposed by Mr. Bleckman because it "produces a faulty cost of equity rate with bias toward overstating and inflating the true cost of equity capital."[1498] In general, he contended that ECAPM is a controversial model that is not widely accepted by other state regulatory commissions and should be disregarded.[1499]

Similarly, Mr. Walters objected to the adjusted beta used in Mr. Bleckman's ECAPM calculation and opined that the ECAPM result should be rejected.[1500]

Mr. Bandyk declined to use the ECAPM method because the Commission has never recognized it as a valid methodology for estimating ROE.[1501]

In rebuttal, Mr. Bleckman asserted that Mr. Megginson did not acknowledge or address any of the flaws of the CAPM method and incorrectly suggested that the application of a Value Line beta and long-term treasury rates addresses the shortcomings of CAPM and makes ECAPM unnecessary.[1502] He rejected criticisms of his use of adjusted betas in the ECAPM and explained that they are consistent with the proper application of that model.[1503] Finally, he contended that if he used weightings preferred

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[1497] 5 Tr 3594.
[1498] 5 Tr 2817.
[1499] 5 Tr 2818-2820.
[1500] 5 Tr 3431-3434.
[1501] 5 Tr 2967.
[1502] 5 Tr 1327.
[1503] 5 Tr 1328.

by Mr. Walters (0.25 for the market beta and 0.75 for utilities) then the resulting ECAPM ROE estimate would have a mean of 11.32% and median of 11.42%.[1504]

The Company's briefing tracks Mr. Bleckman's testimony regarding the ECAPM approach and concludes that, "[t]he Commission may give an ECAPM analysis whatever weight it chooses. In any event, and at a minimum, the results provide support for the Company's requested ROE of 10.25%."[1505]

Staff reasserts that the inputs for the traditional CAPM analysis already account for most of the shortcomings that ECAPM is purported to correct. Staff argues that there is no need for an ECAPM analysis and that the Commission should reject ECAPM estimates.[1506]

The Attorney General's brief tracks the arguments presented by Mr. Coppola and goes into detail contesting the examples given by the Company regarding ECAPM ostensibly being recognized in other jurisdictions.[1507] The Attorney General argues that the ECPAM model is not widely accepted and should be disregarded in this case.[1508]

ABATE argues that Consumers' approach to its ECAPM analysis is inconsistent with academic literature supporting the development of that model and involves duplicative adjustments that the analysis should be rejected.[1509]

[1504] 5 Tr 1329; see also Exhibit A-223.
[1505] Consumers brief, 274.
[1506] Staff brief, 79-80.
[1507] Attorney General brief, 154-156.
[1508] Attorney General brief, 156.
[1509] ABATE brief, 47.

MNC's brief tracks the testimony of Mr. Bandyk and contends that the Commission has never recognized ECAPM as a valid methodology while Staff has historically declined to use it. MNC also argues that the PFD in the company's last rate case, Case No. U-21389, held that ECAPM should be disregarded, and the Commission did not disagree.[1510]

For all the reasons articulated by Staff, the Attorney General, ABATE, and MNC, this PFD is persuaded that the ECAPM approach should be rejected. The Company failed to identify any order in which the Commission recognized this approach, and for the reasons identified by Staff and the other intervenors, this PFD is not persuaded that the ECAPM approach is reliable or reasonable. Further, as stated in the section regarding other authorized rates of return *infra*, this PFD adopts the dataset in Exhibit WAL-4 as a representative sample of reported ROEs recently approved by regulators nationwide. Each of the 12 individual ECAPM results calculated by the Company using its peer group was significantly larger than even the highest authorized ROE value listed in Exhibit WAL-4.[1511] Given these clearly inflated results, the ECAPM methodology appears unreliable, and this PFD declines to give any weight to the Company's ECAPM results.

d. Discounted Cash Flow (DCF)

Mr. Bleckman addressed the DCF model and its formula by explaining that it is premised upon the idea that an investor in stock is purchasing the rights to a growing future income stream in the form of dividends and also expects capital appreciation of the

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[1510] MNSC brief, 67 (citing Case No. U-21389, PFD, December 21, 2023, p 337; March 1, 2024 order in Case No. U-21389, pp 129-142 (reviewing the PFD's analysis without mentioning ECAPM in its findings)).
[1511] Compare Exhibit WAL-4 (Listing nationwide ROEs awarded since 2022) with Exhibit A-14, Schedule D-5, p 3 (Listing the company's ECPAM results for its ROE peer group).

stock; the market price the investor is willing to pay is discounted based upon perceived risk.[1512] The results of his DCF analysis are found in Exhibit A-14, Schedule D-5, p 5, with the average ROE for the proxy group being 9.85% with the range extending from a low of 8.35% to a high of 11.02%.[1513]

Mr. Megginson described the DCF model and explained that he arrived at an average ROE of 10.76% with his model.[1514] He added that he agreed with the Company's DCF ROE estimate but disagreed with Mr. Bleckman's use of dividend growth rates in the DCF formula. He explained that growth in earnings per share (EPS) should be used, not dividend growth metrics, which are not readily tracked by analysts.[1515]

Mr. Coppola described the DCF approach and the results of his DCF analysis showing an average ROE for the proxy group of 9.27%.[1516] He explained that this was lower than the company's 9.85% DCF result, and he attributed the 58-basis point difference largely to the dividend growth rate used by the Company in its DCF calculation. Mr. Coppola explained that Mr. Bleckman used a dividend growth rate of 5.7% whereas Mr. Coppola used an earnings growth factor of 5.18%. He opined that Mr. Bleckman's higher dividend growth rate may not be sustainable, and that Mr. Bleckman's "unconventional approach in this area results in a higher ROE rate which the Commission should reject."[1517]

[1512] 5 Tr 1379, 1380.
[1513] 5 Tr 1382.
[1514] 5 Tr 3583-3585
[1515] 5 Tr 3586.
[1516] 5 Tr 2807; see also Exhibit AG-1.18.
[1517] 5 Tr 2808, 2809.

Mr. Walters utilized average and median growth rates from multiple analysts to arrive at a mean ROE of 11.34% and a median of 10.99% for his constant growth DCF model.[1518] For his sustainable growth DCF model, Mr. Walters used average and median sustainable growth rates for the proxy group to develop ROE estimates of 9.20% and 8.90% respectively.[1519] For his multi-stage growth DCF model, Mr. Walters developed short, intermediate, and long-term growth rates using U.S. GDP nominal growth as a proxy for the highest sustainable long-term growth rate of a utility; this approached yielded average and median ROEs of 9.29% and 9.31% respectively.[1520] He opined that more weight should be given to sustainable growth and multi-stage growth DCF models because they do not assume perpetual, non-sustainable growth.[1521] Mr. Walters also asserted that Mr. Bleckman arbitrarily removed three results for being too low, which skewed the average meaningfully higher; Mr. Walters contended that correcting this action by calculating the median result would have yielded a ROE of 9.36%.[1522]

For his DCF calculations, Mr. Bandyk explained that his average ROE for the proxy group, 8.95%, was lower than the Company's because he used a lower estimate for the growth rate.[1523] He criticized Mr. Bleckman for using only a short-term growth rate to inflate the result; Mr. Bandyk explained that he instead used a two-stage DCF model with both short and long-term projections.[1524]

[1518] 5 Tr 3399, 3408; see also Exhibits AB-9 and AB-10.
[1519] 5 Tr 3401-3402; see also Exhibits AB-11, AB-12, and AB-13.
[1520] 5 Tr 3404, 3407; see also Exhibit AB 14.
[1521] 5 Tr 3407.
[1522] 5 Tr 3435-3436.
[1523] 5 Tr 2967; see also Exhibit CUB-11 (DCF analysis and data).
[1524] 5 Tr 2968.

In rebuttal, Mr. Bleckman contended that Mr. Coppola's DCF model was flawed because it: (1) was inconsistent with his DCF modeling in the Company's previous rate case because it excluded growth rates above 7%; (2) excluded a portion of the growth rate for one proxy utility, and (3) contained a calculation error in the growth rate for another proxy utility.[1525] He also criticized Mr. Coppola for failing to adequately support his decision to give more weight to DCF results,[1526] particularly when DCF models are sensitive to short-term earnings volatility.[1527] Mr. Bleckman rejected Mr. Coppola's contention that it was unconventional to use dividend growth instead of earnings growth; instead, he stated that the use of dividend growth is consistent with the original academic paper that proposed the DCF model.[1528]

Mr. Bleckman asserted that Mr. Bandyk's ostensibly FERC-compliant DCF model was inconsistent with that methodology because it used DPS growth rates. He also argued that the results of the analysis are inaccurate because Mr. Bandyk incorrectly calculated the dividend yield.[1529]

Mr. Bleckman opined that the results of Mr. Walters' sustainable growth and multi-stage DCF models were not reasonable because they were outside the mainstream as demonstrated by recently authorized ROEs, and they diverged significantly from Staff's DCF results.[1530] He also disagreed with the premise of the sustainable growth rate DCF model, stating that it assumes future earnings growth is inversely related to the dividend

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[1525] 5 Tr 1294-1296.
[1526] Recall that Mr. Coppola specified that he weighted the DCF method at 50% while weighting the CAPM and RP approach at 25% each. 5 Tr 2831.
[1527] 5 Tr 1295.
[1528] 5 Tr 1296.
[1529] 5 Tr 1297.
[1530] 5 Tr 1297-1298.

payout ratio, while academic research has found the opposite is true.[1531] Mr. Bleckman opined that the utility industry is mature due to stable demand and its regulatory status such that a multi-stage DCF model is not justified. He asserted that Mr. Walters used to rely on the constant growth DCF model, and that his new position of including sustainable growth and multi-stage DCF models is unwarranted because it relies on the premise that earnings per share growth cannot exceed his projected growth in gross domestic product (GDP).[1532] He asserted that the GDP growth rate selected by Mr. Walters was unreasonable and that Mr. Walters did not accurately apply the approach he advocated because he neglected to add inflation to the GDP growth rate.[1533]

Mr. Bleckman testified that he corrected the mistakes noted above and when recalculated, Mr. Coppola's DCF analysis would yield 10.51%, the mean result of Mr. Bandyk's DCF analysis would be 10.80%, and Mr. Walter's multi-stage DCF would yield 10.22%.[1534]

Mr. Bleckman offered responses to intervenor criticism about using dividend growth rates rather than earnings-per-share growth. He testified that redoing his analysis using EPS growth from three sources resulted in a mean ROE of 10.66% and a median ROE of 10.60%, both of which are greater than the Company's proposed ROE.[1535] He also testified that when he corrected Mr. Bandyk's multi-stage DCF model using EPS growth, the updated result of that model was a ROE of 10.80%.[1536]

[1531] 5 Tr 1298.
[1532] 5 Tr 1300.
[1533] 5 Tr 1301-1302.
[1534] 5 Tr 1302-1303; See also Exhibits A-213, A-215, and A-216.
[1535] 5 Tr 1325; See also Exhibit A-222.
[1536] 5 Tr 1325; see also Exhibit A-215.

In briefing, the Company closely tracks Mr. Bleckman's testimony regarding his DCF analysis.[1537] Consumers argues that Staff's DCF result of 10.76% supports the Company's request for a ROE of 10.25%.[1538] Consumers reasserts criticisms of the Attorney General's DCF calculation, which principally include: (1) inconsistency with the previous rate case by excluding growth rates above 7.00%; (2) improper omissions or errors in the reported growth rates for certain proxy companies; and (3) failing to justify weighing DCF results more heavily compared to other methodologies.[1539] The Company contends that if the ostensible errors in Mr. Coppola's calculation were corrected, then the Attorney General's updated DCF analysis would yield a result of 10.51%.[1540] Consumers faults ABATE witness Walters for weighting DCF methodologies differently in this proceeding compared to his prior testimony in other cases (i.e. weighing sustainable and multi-stage growth models more heavily than the constant growth model), and the company also objects to the long-term growth rate used in his multi-stage DCF analysis and his reliance on the Kroll market risk premium CAPM result.[1541] Consumers contends that adjusting the calculations made by Mr. Walters in the manner suggested by the Company would all yield ROE results above 10.00%.[1542] The Company's briefing on ABATE's and MNSC's DCF model closely tracks Mr. Bleckman's rebuttal testimony on that subject.[1543]

[1537] Consumers brief, 276-278.
[1538] Consumers brief, 296.
[1539] Consumers brief, 303-305.
[1540] Consumers brief, 305.
[1541] Consumers brief, 305.
[1542] Consumers brief, 305-306.
[1543] Consumers brief, 309-314; 316-317.

In briefing, Staff repeats its 10.76% DCF result and repeats its objection to the Company's use of dividend growth rates rather than earnings per share growth in the DCF formula because dividend growth rates are not always readily tracked or reported.[1544]

The Attorney General similarly reiterates her 9.27% DCF result and criticizes Consumers for using dividend growth rates in lieu of earnings growth rates because dividend growth rates may not be sustainable in the long term if not supported by long-term earnings growth.[1545]

In her reply, the Attorney General asserts that the Company's criticism of her DCF model misunderstands Mr. Coppola's analysis. The Attorney General asserts that Mr. Coppola did not change his DCF methodology, but rather merely excluded EPS growth rates above 7% as temporary outliers that are not sustainable for electric utilities and that were caused by a rebound from previously depressed EPS in a prior period.[1546] Further, the Attorney General notes that Mr. Coppola also excluded EPS growth rates below 2% to avoid depressing the average growth calculation.[1547] The Attorney General argues that the Company's criticisms are meritless and that the primary difference between her methodology and Consumers' is the Company's improper use of dividend growth rates instead of EPS growth rates.[1548] The Attorney General also rejects the Company's ostensible correction to her DCF results using different growth rates.[1549]

[1544] Staff brief, 66, 78.
[1545] Attorney General brief, 148-149.
[1546] Attorney General reply, 51.
[1547] Attorney General reply, 52.
[1548] Attorney General reply, 52.
[1549] Attorney General reply, 52-53.

ABATE's briefing closely tracks the testimony of Mr. Walters in explaining ABATE's constant growth, sustainable growth, and multi-stage growth DCF models.[1550] ABATE's reply likewise makes arguments defending its DCF methodology and assumptions that are based closely upon the testimony of Mr. Walters and ABATE's own initial brief.[1551] Similarly, MNC's briefing reiterates its 8.95% DCF estimate and closely tracks Mr. Bandyk's testimony regarding his two-stage DCF model which is ostensibly inspired by a FERC-approved methodology.[1552]

This PFD recognizes that the parties present a variety of disputes regarding the proper application of the DCF model and its most appropriate inputs. However, this PFD believes that few of the disputed inputs or modeling assumptions result in a DCF estimate that is wholly unsupportable, and except for ABATE's constant growth DCF result and Staff's result, the parties' DCF estimates generally fall within a reasonable range when compared to ROEs recently authorized nationwide. Further, a determination of a fair and reasonable rate "is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved."[1553] Thus, this PFD concludes that the myriad of individual differences regarding the most apt modeling assumptions and input values need not be comprehensively resolved in this case.

[1550] ABATE brief, 36-39.
[1551] ABATE reply, 20-21.
[1552] MNSC brief, 66-67.
[1553] April 12, 2018 order in Case No. U-18370, p. 30 (citing *Meridian Twp v City of East Lansing*, 342 Mich 734, 749; 71 NW2d 234 (1955)).

Accordingly, this PFD accepts for consideration the following DCF results proposed by the parties: 9.85% (the Company), 9.27% (the Attorney General), 9.24% (ABATE results adjusted and averaged),[1554] and 8.95% (MNC). This PFD accords lesser weight to Staff's result (10.76%) because this value falls outside of the range of recently authorized ROEs as adopted in this PFD.[1555]

e. Bond Yield Risk Premium (RP)

Mr. Bleckman explained that equity investors bear additional risk—and therefore demand an additional premium—compared to bondholders.[1556] He added that the RP model estimates the required ROE by estimating the future yield of utility bonds and then adding the estimated risk premium.[1557] Mr. Bleckman explained that he estimated future bond yields by using the risk free rate (i.e. 30-year U.S. Treasuries at 4.53%) plus the bond rating credit spread for corporate bonds observed in the market, and thereafter adding the historical risk premium of 4.37% for utility bonds.[1558] The results of his RP analysis are found in Exhibit A-14, Schedule D-5, p 4, with the average ROE for the proxy group of 10.62% reflecting a range of results extending from a low of 10.24% to a high of 11.20%.[1559]

[1554] This is the average of ABATE's sustainable growth (9.20%), and multi-stage growth (9.29%) ROE average estimates. This PFD declines to give weight to ABATE's 11.34% constant growth result because it is far outside of the adjusted range of ROEs recently approved as listed in Exhibit WAL-4. The adjusted range (8.57% to 10.50%) was derived by excluding the highest and lowest values from the dataset listed in Exhibit WAL-4. See the section of this PFD addressing other authorized returns for further detail.
[1555] As discussed *infra* in this PFD in the subsection addressing other authorized rates of return, this PFD adopts the dataset in Exhibit WAL-4 as a representative sample of reported ROEs recently approved by regulators nationwide. Further, this PFD adopts an adjusted range of ROEs listed that extends from 8.57% to 10.50%. The adjusted range was determined by excluding the highest and lowest values as outliers.
[1556] 5 Tr 1377.
[1557] 5 Tr 1377-1378.
[1558] 5 Tr 1378.
[1559] 5 Tr 1378.

Mr. Megginson discussed the RP approach and its inputs, including a spread between the utility market return and utility bonds of 4.51%.[1560] To that figure, he added bond yields of 5.43% (for A-rated bonds) and 5.76% (for BBB-rated bonds) to produce ROE estimates of 9.94% and 10.27% respectively. He also added a historical treasury bond spread of 5.04% to the projected long-term treasury bond yield of 3.65% to produce another ROE estimate of 8.69% based upon the treasury bond spread.[1561] Mr. Megginson did not object to the Company's RP methodology, but he opined that the Company's A-rated and BBB-rated bond yields appeared to be inflated by 45-100 basis points compared to Staff's datapoints such that the Commission should "give limited weight to the Company's risk premium analysis."[1562]

Mr. Coppola detailed his RP analysis, which used the same 3.95% U.S. Treasury rate discussed in his CAPM analysis, a 1.70% average spread between 30-year U.S. Treasury bonds and 30-year utility bonds, and a risk premium of 4.07%, which he derived from the rate calculated by Consumers with two adjustments.[1563] He testified that the result of his RP analysis was a ROE of 9.72%.[1564]

Mr. Walters calculated an average risk premium over treasury yields of 5.70%, which he added to a projected treasury yield of 4.30% to produce a ROE of 10.00%.[1565] He also calculated the equity risk premiums for utility bonds with A or Baa ratings, and he

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[1560] 5 Tr 3595.
[1561] 5 Tr 3595.
[1562] 5 Tr 3596.
[1563] 5 Tr 2813-2814; see also Exhibit AG-1.20.
[1564] 5 Tr 2814; see Exhibit AG-1.20. This PFD notes that in some pages of testimony, Mr. Coppola's RP result is stated as being 9.78%, but the result shown on the calculation in Exhibit AG-1.20 is 9.72%. This PFD uses the 9.72% figure because that appears to be the accurate result of the calculation in that Exhibit.
[1565] 5 Tr 3411; see also Exhibits AB-16 through AB-18.

arrived at ROE estimates that ranged from 9.96% to 10.20%.[1566] He also criticized Mr. Bleckman's RP analysis for using excessive bond yields and spreads that overstate the cost of capital; he testified that correcting this data would yield ROE estimates from 9.65% to 9.87%.[1567]

For his part, Mr. Bandyk declined to use the RP method to offer an estimate because he opined that it suffers from the same shortfalls as using a historical equity risk premium.[1568]

In rebuttal, Mr. Bleckman testified that Mr. Megginson's analysis was flawed because he relied on averages from two different time periods for the respective return on utility stocks and return on treasury bonds.[1569] He responded to Mr. Megginson's claim that the Company's RP analysis appeared inflated by pointing out that Mr. Megginson provided no data, analysis, or supporting reasoning to validate that opinion.[1570]

Mr. Bleckman disagreed with Mr. Coppola's RP methodology and stated that it was "unclear how Mr. Coppola developed his utility bond risk premium of 4.07%[.]"[1571]

Mr. Bleckman criticized Mr. Walters' analysis, arguing that Mr. Walters developed, but did not rely on the 5-year and 10-year rolling average bond yield risk premiums; he contended that the results would have been higher had Mr. Walters used this data.[1572]

[1566] 5 Tr 2412; see also Exhibits AB-16 through AB-18.
[1567] 5 Tr 3434, 3435.
[1568] 5 Tr 2969.
[1569] 5 Tr 1317.
[1570] 5 Tr 1318.
[1571] 5 Tr 1318.
[1572] 5 Tr 1318.

Mr. Bleckman testified that correcting Mr. Megginson's RP analysis for the treasury bond approach would yield a ROE of 9.59%.[1573] He added that correcting Mr. Coppola's analysis to utilize the same historical risk premium as Mr. Megginson would result in an ROE of 10.16%.[1574] Finally, he contended that if Mr. Walters used the five-year rolling average treasury bond risk premium, then he would have calculated a ROE estimate of 10.03%.[1575]

In briefing, Consumers closely tracks Mr. Bleckman's testimony regarding his risk premium analysis.[1576] The Company argues that Staff's treasury bond spread calculations are invalid and cannot be relied upon because Mr. Megginson calculated a risk premium using average utility stock returns over the period from 1932 to 2023 but subtracted from the average return on government bonds over a different period, from 1955 through 2023.[1577] Consumers contends that if Staff's calculations were corrected to utilize the same time period, then Staff's treasury bond approach would yield 9.59% instead of 8.69%.[1578] Consumers also rejects Mr. Megginson's contention that the Company's risk premium analysis appears inflated and asserts that Staff presented no data or analysis to support that argument.[1579] Consumers argues that it was unclear how Mr. Coppola developed his utility bond risk premium of 4.07%, and that if he used the same spread as utilized by Staff, then it would result in an ROE estimate of 10.16%.[1580]

[1573] 5 Tr 1319; See also Exhibit A-219.
[1574] 5 Tr 1319; See also Exhibit A-220.
[1575] 5 Tr 1320; See also Exhibit A-221.
[1576] Consumers brief, 274-275.
[1577] Consumers brief, 296.
[1578] Consumers brief, 298.
[1579] Consumers brief, 300.
[1580] Consumers brief, 303.

Staff's brief reiterates the opinion that the Company's risk premium approach is reasonable but that Consumers used inflated datapoints that render the results "excessive and unreasonable" such that the Commission "should give very limited weight to the Company's risk premium approach."[1581]

The Attorney General reiterates her RP analysis result of 9.72%.[1582] The Attorney General contends that the difference between the Company's RP results and hers is caused by Mr. Coppola's use of a lower risk-free rate of 3.95% (compared to the 4.53% rate utilized by the company) and a 30-basis-point difference in the bond risk premium.[1583] In her reply, the Attorney General rejects the Company's argument that it was unclear how Mr. Coppola derived a utility bond risk premium of 4.07%, arguing that Mr. Coppola's testimony and exhibits explained that it was derived from the historical spread between utility common stock and "A" rated utility bonds.[1584] The Attorney General rejects the company's proposed correction to her results that utilized a different risk premium value, and she asserts that the Commission should reject this proposed "Frankenstein ROE" which is inappropriate since different parties utilized different time periods and inputs.[1585]

For its part, ABATE's briefing tracks the testimony of Mr. Walters in its explanation of its risk premium results.[1586] ABATE argues that the Company's projected risk-free rate of 4.53% significantly exceeds the current consensus estimate of 4.10%, and that the

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[1581] Staff brief, 80.
[1582] Attorney General brief, 151. This PFD again notes that in some pages of testimony and apparently in the Attorney General's brief, Mr. Coppola's RP result is sometimes stated as 9.78% and in other places is stated as 9.72%. The result of Mr. Coppola's calculation in Exhibit AG-1.20 is 9.72%, which is the figure this PFD uses.
[1583] Attorney General brief, 152.
[1584] Attorney General reply, 52.
[1585] Attorney General reply, 52-53.
[1586] ABATE brief, 40-41.

Company's yield spread of 1.34% (for A-rated bonds) to 2.30% (for BBB rated bonds) stands in stark contrast to current yield spreads of 1.18% and 1.40% respectively. ABATE argues that using these corrected values would yield more reasonable ROE estimates of 9.65% and 9.87% respectively.[1587] In its initial and reply briefing, ABATE rejects the contention that Mr. Walters' results would have meaningfully increased if he had relied on the 5-year and 10-year rolling average bond yield risk premiums because the differences between those values and the values used by Mr. Walters was only five basis points, i.e. de minimis.[1588]

This PFD agrees with Staff and ABATE that the Company's bond yields used in the risk premium analysis appear to be significantly higher compared to datapoints used by Staff or ABATE. This appears to be one of the reasons that Consumers' RP results are meaningfully larger than the estimates provided by other parties. This PFD further notes that the Company's 10.62% result falls outside the adjusted range of recently authorized ROEs awarded nationwide.[1589] While this PFD does not reject the Company's 10.62% RP result outright, this PFD finds that it should be given reduced weight.

This PFD agrees with Consumers that Staff's treasury bond spread analysis appears flawed in that it compares differing timeframes, and Staff has not seriously addressed or refuted the Company's criticisms in this vein. Accordingly, this PFD adopts the corrected value proposed by the Company (i.e. 9.59% instead of 8.69%) that purports to align the compared timeframes to correct an apparent oversight in Staff's methodology.

[1587] ABATE brief, 48.
[1588] ABATE brief, 41 n 32; ABATE reply, 20.
[1589] Again, this PFD adopted an adjusted range of 8.57% to 10.50% for the dataset contained within Exhibit WAL-4, which details recently authorized ROEs for utilities nationwide. The adjusted range was achieved by excluding the highest and lowest values as outliers.

This PFD accepts for full consideration the following results provided by the parties: 9.93% (average of Staff's utility bond approaches and the treasury bond approach as adjusted by the company),[1590] 9.72% (The Attorney General), and 10.06% (average of ABATE's utility bond approach and treasury bond approach).[1591]

f. Comparable Earnings

Mr. Bleckman also used a comparable earnings analysis for his proxy group of utilities to calculate an implied ROE by dividing projected earnings per share by projected book value. The results of this analysis are found in Exhibit A-14, Schedule D-5, p 6, with the average projected ROE for the proxy group being 11.22%, with the range being 9.19% to 15.00%.[1592]

Mr. Coppola objected that Mr. Bleckman's comparable earnings analysis was "not academically sound" because it merely divided projected earnings per share by projected book value, a methodology that he described as "useless as a tool to set the authorized ROE of a utility company."[1593]

Mr. Walters criticized Mr. Bleckman's comparable earnings analysis for including significant outliers, noting that Mr. Bleckman excluded outliers from his DCF analysis; he also contended that the comparable earnings analysis is not actually an estimate of the market's required return, rendering it of little value for setting a ROE.[1594]

[1590] These three RP values averaged for Staff are 9.94%, 10.27%, and 9.59%.
[1591] The five RP values averaged for ABATE are 10.00%, 9.96%, 10.18%, 9.98%, and 10.20%. See 5 Tr 3412, Table CCW-9.
[1592] 5 Tr 1383.
[1593] 5 Tr 2821.
[1594] 5 Tr 3437.

Mr. Bandyk opined that it was unnecessary to use a comparable earnings analysis because it does not add a new dimension to estimates beyond what is already contributed by the CAPM and DCF models.[1595]

Mr. Bleckman rejected calls to disregard his comparable earnings analysis, and he argued that it was not duplicative of CAPM or DCF models. He contended that a comparable earnings analysis was the standard for estimating ROE for several years after *Hope* and *Bluefield* were decided and before the DCF and CAPM models were developed.[1596] He also contended that the Commission gave weight to a comparable earnings analysis (referred to as a "Value Line Book Value methodology") in Case No. U-16794, and that the FERC once gave equal weighting to a comparable earnings analysis.[1597]

Consumers' brief repeats Mr. Bleckman's testimony and asserts that the Commission once considered and gave weight to a comparable earnings analysis in Case No. U-16794.[1598] Staff implicitly rejected a comparable earnings analysis by neglecting to include one in its recommended ROE models.

The Attorney General repeats Mr. Coppola's testimony and argues that the comparable earnings model has no utility for setting an authorized ROE, does not consider the expectations of investors, and appears to be an "attempt to find a cost of capital calculation method to fit a desired level of return on equity."[1599]

[1595] 5 Tr 2970.
[1596] 5 Tr 1330.
[1597] 5 Tr 1330-1331 (citing FERC Docket No. EL11-66-001).
[1598] Consumers brief, 278.
[1599] Attorney General brief, 157.

ABATE's briefing closely tracks the testimony of Mr. Walters and emphasizes that FERC has previously rejected the use of a comparable earnings analysis.[1600]

MNC's brief reiterates the points made by Mr. Bandyk and adds that in Case No. U-21389, the PFD found that the results of the company's comparable earnings analysis deserved minimal weight, and the Commission did not disagree.[1601]

This PFD notes that MNC is correct that the Company's use of the comparable earnings model was thoroughly addressed in its last rate case, Case No. U-21389, and that the arguments presented for and against its use in that case are substantially similar those presented in the current case. This PFD incorporates by reference, as if restated fully herein, the analysis of the comparable earnings approach contained in the PFD issued in Case No. U-21389.[1602] To concisely summarize, the PFD in that case noted that almost two decades ago the Commission had once recognized the use of the comparable earnings approach only after examining more conventional approaches, and the Commission subsequently has not affirmed the use of the comparable earnings approach.[1603] That PFD also held that the Commission did not fully evaluate the merits of using the comparable earnings method in Case No. U-16794, and that PFD also quoted with approval a FERC opinion that rejected the comparable earnings approach as inconsistent with *Hope* because investors cannot invest in an enterprise at its book value and must instead pay a market price.[1604] Accordingly, that PFD found persuasive the

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[1600] ABATE brief, 49-50.
[1601] MNSC brief, 69.
[1602] See Case No. U-21389, PFD, December 21, 2023, p 339-341.
[1603] Case No. U-21389, PFD, December 21, 2023, p 339-341 (discussing the comparable earnings approach).
[1604] See Case No. U-21389, PFD, December 21, 2023, p 340-341 (quoting FERC Opinion 569, 169 FERC P 61129 (2019), par. 201, 202.).

parties' and FERC's reasoning for rejecting the comparable earnings approach and gave only minimal weight to the comparable earnings estimates provided in that case.[1605] The Commission did not directly address the comparable earnings analysis in its order in Case No. U-21389, but it did not disagree with the approach taken by the PFD.[1606]

This PFD adopts the same approach as taken previously by the PFD in Case No. U-21389, and it likewise finds persuasive the arguments of the parties and the reasoning of the FERC in rejecting the comparable earnings model. Accordingly, this PFD accords only the most minimal weight to the company's comparable earnings analysis.

g. Other Authorized Returns

In relation to concerns about Michigan's regulatory environment, Mr. Bleckman cited Exhibit A-37, containing information from an S&P Global Market Intelligence report, for the proposition that the Company was at risk of no longer being ranked as a utility in an "above average tier jurisdiction" given recent regulatory outcomes.[1607] The exhibit listed the ROEs of other utilities, most of which exceed the Company's ROE. Mr. Bleckman criticized the practice of relying on national averages of ROEs as a point of comparison. He opined that such information includes data for utilities that may have risk profiles dissimilar to that of Consumers, and that it includes only ratemaking results achieved in a particular year.[1608] He opined that the Commission should not rely heavily

[1605] Case No. U-21389, PFD, December 21, 2023, p 341.
[1606] March 1, 2024 order in Case No. U-21389, pp 131-142 (reviewing the parties' and the PFD's discussion of ROE models, including the comparable earnings model, without directly addressing the comparable earnings model itself).
[1607] 5 Tr 1194-1195.
[1608] 5 Tr 1358.

on data trends that are not fully reflective of the current market or that do not represent businesses with comparable risk.[1609]

Mr. Megginson reviewed authorized rate of return decisions for electric utilities in other jurisdictions, and he testified that the average country-wide authorized ROE was 9.45% in 2021, 9.38% in 2022, 9.60% in 2023, and 9.68% for the first six months of 2024, or a 3.5-year average of 9.55%, which he emphasized is well below Staff's recommended ROE of 9.85%.[1610]

Mr. Coppola testified that the Company's current 9.90% ROE is meaningfully higher than most ROEs awarded by other regulators in 2023 and 2024, with only a few exceptions that generally involve utilities with uniquely challenging circumstances.[1611] He contended that most utilities comparable to Consumers received ROE rates averaging between 9.37% and 9.50% in the last two years. Mr. Coppola added that his proposed ROE of 9.80% is therefore reasonable if not favorable to the Company, and that the Company's current 9.90% ROE is "out of line" with that of comparable utilities and that its requested 10.25% ROE is "removed from reality and clearly unsupportable."[1612] Mr. Coppola challenged Mr. Bleckman's comparison of the Company's ROE to that of other utilities in Exhibit A-37. Mr. Coppola opined that "[m]uch of the information in Exhibit A-37 is incorrect, misleading, and does not provide a proper context for the metrics noted in the exhibit."[1613] He elaborated on his statement that many of the utilities featured in Exhibit

[1609] 5 Tr 1358.
[1610] 5 Tr 3596.
[1611] 5 Tr 2821-2822; see also Exhibit AG-1.21.
[1612] 5 Tr 2822-2823.
[1613] 5 Tr 2823.

A-37 with ROEs set higher than that of the Company were subject to unique circumstances or were otherwise not apt comparators for Consumers.[1614]

Ms. Perry testified that the Company's request for 10.25% ROE was not aligned with recent decisions from this Commission on ROE which have averaged 9.89% since 2022.[1615] Ms. Perry also cited S&P Global Market Intelligence for the proposition that since 2022, the national average ROE authorized for regulated utilities is 9.57%, and the median is 9.60%.[1616] She added that for vertically integrated utilities the average is 9.70%, and the Company's proposed ROE would be the fourth highest approved ROE for a vertically integrated utility if approved.[1617] Ms. Perry did not provide a specific ROE recommendation, but she recommended that the Commission "closely examine" the Company's proposed ROE in light of the data she presented.[1618]

In rebuttal, Mr. Bleckman contended that the data presented by Ms. Perry demonstrated that the average authorized ROE increased from 2022 to 2024 in lockstep with rising treasury interest rates.[1619]

In briefing, Consumers closely tracks Mr. Bleckman's testimony, rejects Ms. Perry's observations, and argues that it is reasonable to expect that the Company's ROE would reflect the trend of increasing ROEs.[1620]

[1614] 5 Tr 2823-2826.
[1615] 5 Tr 3455-3456.
[1616] 5 Tr 3457 See also Exhibit WAL-3.
[1617] 5 Tr 3458.
[1618] 5 Tr 3461.
[1619] 5 Tr 1287.
[1620] Consumers brief, 318-319.

Similarly, Staff reiterates Mr. Megginson's testimony regarding the average authorized ROE decisions in recent years.[1621] The Attorney General's briefing also closely tracks the testimony of Mr. Coppola, and emphasizes the comparison of authorized ROEs in Exhibit AG-1.21.[1622]

Walmart's briefing recaps the points argued by Ms. Perry, including contentions that the Company's proposed ROE is excessive and is not aligned with other authorized ROE decisions throughout the country.[1623]

This PFD finds that it is both appropriate and necessary to examine and consider ROEs authorized for other utilities because doing so is consistent with Supreme Court precedent in *Hope* which expressly provides that the equity returns for a utility "should be commensurate with returns on investments in other enterprises having corresponding risks."[1624] This PFD notes that other regulated utilities are the business enterprises that generally have corresponding risks that most closely resemble those of the company.

In this vein, this PFD finds the information provided in Exhibit WAL-4, which details recently approved ROEs for utilities nationwide, to be particularly helpful. Thus, this PFD adopts the dataset in Exhibit WAL-4 as a representative sample of reported ROEs recently authorized by regulators nationwide. This PFD finds that the recently authorized ROEs (from 2022 through August of 2024) ranged from 7.85% to 11.45%, with an average of 9.57% and a median of 9.60%.[1625] This PFD further notes that the vast majority of the ROEs awarded within this timeframe fell comfortably between 9.00% to 10.00%, with only

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[1621] Staff brief, 68.
[1622] Attorney General brief, 157-159.
[1623] Walmart brief, 3-6.
[1624] *Hope*, 320 US at 603.
[1625] Exhibit WAL-4, p 3.

a small number of ROEs exceeding 10.00% and an even smaller number falling below 9.00%.[1626] However, this PFD notes that the range of the dataset itself (7.85% to 11.45%), is dramatically skewed by the presence of extreme outliers.[1627] If the dataset is adjusted such that the highest and lowest values were excluded as outliers, then the range would become 8.57% to 10.50%.[1628] This PFD adopts that adjusted range as a general heuristic tool that can be used to evaluate whether the results of the various models proposed by the parties are reasonable and whether they are "commensurate with returns on investments in other enterprises having corresponding risks."[1629]

Based upon this data, this PFD concludes that the 10.25% ROE requested by Consumers is not well aligned with returns received in other enterprises having corresponding risks. For the reasons argued by the Attorney General, this PFD agrees that the small number of utilities receiving ROEs above 10.00% are generally subject to unusual or unique circumstances that could potentially justify setting higher returns, but no such circumstances appear to exist for Consumers.[1630] Even the Company's current 9.90% ROE is objectively situated on the high end of recently awarded ROEs and is meaningfully higher than the average and median ROE awarded to other utilities in recent years. This PFD also notes that the ROE recommendations presented by Staff (9.85%) and the Attorney General (9.80%) are also on the higher end of the range, the

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[1626] See generally Exhibit WAL-4.
[1627] In briefing, the Company helpfully defined an outlier as "a data point on a graph or in a set of results that is very much bigger or smaller than the next nearest data point." Consumers Reply, 60 n 17. This PFD suggests that the lowest and highest authorized ROEs in Exhibit WAL-4, 7.85% and 11.45% respectively, are outliers under that definition and should be excluded for the purpose developing a range that can be used for comparative purposes.
[1628] See generally Exhibit WAL-4.
[1629] *Hope*, 320 US at 603.
[1630] See e.g. Exhibit AG 1.21 (Listing special circumstances associated with utilities awarded ROEs greater than 10.00%)

recommendation of ABATE (9.50%) fits comfortably near the midpoint of the adjusted range, and the recommendation of MNC (9.19%) is closer to the lower end of the adjusted range.

h. Other Factors and Concerns

Mr. Bleckman discussed more subjective or qualitative considerations that may affect his recommended 10.25% ROE, even though these considerations may not be reflected in quantitative modeling. These considerations include the expectations of investors and ratings agencies, interest rates and monetary policy implemented by the Federal Reserve, ROE trends for regulated utilities, the uncertain national and global economic outlook, the Company's plans to make large capital investments, and the company's ostensible continued inability to achieve its authorized ROE in past years.[1631] He emphasized that Consumers' funds from operation FFO-to-debt ratio was a critical credit metric, and the Company's ratio of 17.5% was below expectations set by Moody's and S&P that this ratio would be above 18%.[1632] He opined that even Consumers' requested ROE and equity ratio would not fully support the Company's credit rating, but he opined that the Commission would likely be hesitant to increase the Company's ROE by more than 35 basis points.[1633]

Mr. Megginson emphasized that the Federal Reserve is expected to begin cutting interest rates, and that Staff's recommended ROE is reasonable even in the current climate of elevated interest rates.[1634] Indeed, he emphasized that Staff's recommendation

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[1631] See generally 5 Tr 1348-1363.
[1632] 5 Tr 1342.
[1633] 5 Tr 1343.
[1634] 5 Tr 3562-3564.

is still well above the 2024 nationwide average ROE of 9.68%.[1635] Mr. Megginson rejected the Company's request for a ROE of 10.25% because it does not align with the Commission's approval of the distribution IRM, which "lowers the Company's overall business and financial risk."[1636] Mr. Megginson disputed Mr. Bleckman's suggestion that the Company's FFO-to-debt ratio was a concern. He testified that Consumers' FFO-to-debt ratio is 18.87%, which he added was above the 15%-16% threshold that ratings agency S&P suggested would be a cause for concern.[1637] He also emphasized that Michigan's regulatory framework is favorable to because it allows utilities to timely recover costs and earn stable returns.[1638] Mr. Megginson further emphasized statements from credit ratings agencies acknowledging that Michigan's regulatory framework is supportive of maintaining the financial health of utilities.[1639]

Mr. Coppola rejected Mr. Bleckman's concern that the Company under-earned its authorized ROE in past years. He opined that Consumers is not guaranteed a specific return, but rather must earn it and resolve internal issues that hinder the Company from earnings it authorized ROE.[1640] Mr. Coppola also opined that Consumers was able to offset performance deficiency in its electric business with better earnings in its gas business.[1641] He also dismissed the Company's concern that a lower ROE would impair access to capital markets because several utilities have accessed the capital markets at

[1635] 5 Tr 3564.
[1636] 5 Tr 3598.
[1637] 5 Tr 3566.
[1638] 5 Tr 3567, 3568.
[1639] 5 Tr 3568, 3569.
[1640] 5 Tr 2826.
[1641] 5 Tr 2827.

competitive rates with ROEs near or below the average ROE of 9.60%.[1642] Mr. Coppola also downplayed concerns that volatility in capital markets was a concern because volatility is not the same as credit risk and the market has been receptive to long-term debt offerings from utilities.[1643] Mr. Coppola contended that Mr. Bleckman's calculation of the Company's FFO-to-debt ratio of 17.5% was flawed because it does not take into account deferred taxes and it utilized an incorrect depreciation rate. After correcting these errors, Mr. Coppola asserted that the company's actual FFO-to-debt ratio would be materially higher at 20.4%.[1644]

Mr. Walters emphasized that ratings agencies S&P and Moody's maintain favorable credit ratings and stable outlooks for the Company.[1645]

Ms. Perry testified that Consumers' proposed 10.25% ROE (and its alternative proposal to keep its current 9.90% ROE with a higher equity layer) were excessive considering its resulting financial effect on customers, the reduced risk associated with Michigan's regulatory framework, and recent ROEs awarded in Michigan and other jurisdictions.[1646] She explained that the Company's proposed increase in ROE would result in $30.8 million increase in the revenue requirement.[1647] Ms. Perry also emphasized that Michigan's regulatory framework significantly decreased risk for utilities in various ways, including but not limited to allowing projected test years and setting time limits for final orders to be issued in rate cases.[1648]

[1642] 5 Tr 2827-2828; see also Exhibits AG-1.21 and AG 1-1.24.
[1643] 5 Tr 2829, 2830; see also Exhibit AG-1.28.
[1644] 5 Tr 2789-2790.
[1645] 5 Tr 3391-3392.
[1646] 5 Tr 3452-3453.
[1647] 5 Tr 3454.
[1648] 5 Tr 3454-3455.

Mr. Denzler recommended that if the Commission approves the Company's proposed service restoration cost sharing mechanism (SRCSM), then the Commission should reduce the awarded ROE to recognize that Consumers' financial risk has decreased.[1649]

Mr. Cira-Reyes opposed any increase in the Company's ROE given what he characterized as its unreliable and unaffordable service compared to its peers; instead, he recommended "reducing the Company's ROE to the extent possible, until performance improves in terms of affordability, reliability, and clean energy access for ratepayers."[1650]

In rebuttal, Mr. Bleckman criticized the intervenors for collectively minimizing the importance of a strong ROE to the Company's credit rating; he suggested that such cavalier attitudes led to the credit downgrade of the company by Moody's in 2021.[1651] Mr. Bleckman disputed Mr. Megginson's claim that the Company's ability to issue debt at favorable rates after the downgrade showed that there was little negative impact from the downgrade.[1652] He also criticized the intervenors, particularly Staff and the Attorney General, for downplaying risks posed by potentially unforeseen world events that could affect financial markets and the Company.[1653] Mr. Bleckman disputed the notion that the Federal Reserve's anticipated lowering of interest rates would ensure that Consumers had access to credit on favorable terms because: (1) access to credit is primarily driven by the Company's credit rating; and (2) inflation and uncertainty around interest rates will

[1649] 5 Tr 2036.
[1650] 5 Tr 3498.
[1651] 5 Tr 1227, 1281-1282.
[1652] 5 Tr 1228.
[1653] 5 Tr 1282-1285.

persist during the test year.[1654] He also rejected Mr. Megginson's suggestion that Consumers could reduce capital expenditures to improve its credit metrics because such expenditures are necessary, partially funded by equity, and can generate operating cashflow that will increase the FFO-to-debt ratio.[1655]

Mr. Bleckman disputed Mr. Megginson's calculation of the Company's FFO-to-debt ratio. He contended that Mr. Megginson significantly overstated the ratio and used only data taken from the company's SEC filings while ratings agencies start with that data and make adjustments to calculate the FFO-to-debt ratio. He asserted that S&P imputed $942 million in PPA debt and asset retirement related debt to the Company, which significantly lowered the FFO-to-debt ratio such that Mr. Megginson's estimate was overstated and should be disregarded.[1656] Indeed, he asserted that S&P's calculated 2023 FFO-to-debt ratio for Consumers was 17.6% compared with the 18.87% calculated by Mr. Megginson.[1657] Mr. Bleckman also rejected the notion that ratings agencies did not foresee any major deterioration in the Company's FFO-to-debt ratio. He testified that credit opinions from both S&P and Moody's showed the Company's FFO-to-debt ratio trending downward over the last several years.[1658]

Mr. Bleckman asserted that Mr. Megginson's characterization of the positive regulatory environment was "incomplete" and focused on framework established several years ago rather than on the results of the company's recent rate cases.[1659] He contended

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[1654] 5 Tr 1228.
[1655] 5 Tr 1229.
[1656] 5 Tr 1230.
[1657] 5 Tr 1230; see also Exhibit A-207 (S&P's August 2024 Credit Report, p 5).
[1658] 5 Tr 1230; see also Exhibits A-207 and A-208.
[1659] 5 Tr 1232-1233.

that the positive regulatory environment in past years was "fueled in large part by authorized ROE and equity ratios that were significantly higher than currently proposed by Staff[.]"[1660] Mr. Bleckman contends that ratings agencies have taken note of the trend in the Company's regulatory outcomes and that UBS downgraded Michigan from a Tier 1 to a Tier 2 state for favorable regulation based upon authorized ROEs among other criteria.[1661] He testified that S&P recently updated their credit outlook for the utility industry to "negative" based upon headwinds to credit quality and minimal financial cushions; he added in response to Mr. Walters' claims about credit ratings that the ratings agency Fitch also had a negative outlook on the utility industry.[1662]

Mr. Bleckman argued that Mr. Coppola's references to credit opinions from Moody's and S&P did not establish that the Company was safe from a credit downgrade. He testified that: (1) the Moody's report showed the FFO-to-debt ratio trending downward; (2) the Moody's report covered a timeframe when the Company's equity ratio was meaningfully higher than Mr. Coppola now recommends; and (3) the S&P report likewise showed the FFO-to-debt ratio trending downward.[1663] Mr. Bleckman responded to Mr. Coppola's contention that his calculation of the FFO-to-debt ratio was flawed due to the absence of deferred income tax and understated depreciation. He explained that his FFO-to-debt analysis represented "a simplified mechanism" that, if anything, overstated the FFO-to-debt ratio because ratings agencies make several adjustments that would generally lower the ratio.[1664] Mr. Bleckman rejected Mr. Coppola's calculation of the FFO-

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[1660] 5 Tr 1233.
[1661] 5 Tr 1233, 1234. See also Exhibit A-40.
[1662] 5 Tr 1234-1235; 1273.
[1663] 5 Tr 1256-1257.
[1664] 5 Tr 1257.

to-debt ratio for 2023, explaining that Mr. Coppola improperly mixed the Company's authorized ROE with the earned ROE and assumed that the company actually earned its authorized ROE.[1665]

Mr. Bleckman also argued that Ms. Perry simply identified certain aspects of Michigan's regulatory system and suggested that the mere existence of this regulatory framework mitigates risk. However, he contended that her observations are incomplete and do not result in any meaningful information that can be used to set the ROE.[1666] Similarly, he asserted that Mr. Denzler simply opined that the SRCSM would mitigate risk but failed to provide meaningful information that could be used to set a ROE.[1667]

In his rebuttal, Mr. Cira-Reyes agreed with Mr. Megginson that the Company's requested ROE of 10.25% should be rejected because Consumers has high rates and poor reliability.[1668] However, he also rejected Mr. Megginson's proposed ROE of 9.85%, arguing that it would not be reasonable for the Company to receive an ROE above the national average of 9.68%.[1669]

In briefing, Consumers generally tracks the direct and rebuttal testimony of Mr. Bleckman and emphasizes points regarding credit quality, the FFO-to-debt ratio, and the expectations of credit ratings agencies.[1670] The Company emphasizes that it must maintain a financial cushion above downgrade levels to protect against unforeseen market disruptions such as those caused by the COVID-19 pandemic, the Russian

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[1665] 5 Tr 1258.
[1666] 5 Tr 1287.
[1667] 5 Tr 1288.
[1668] 5 Tr 3517.
[1669] 5 Tr 3518.
[1670] See generally Consumers brief, 248-320.

invasion of Ukraine, the U.S. banking crisis, and conflict in the middle east.[1671] The Company generally criticizes intervenors for proposing returns on equity that "suggest that the Company should manage to the margins."[1672] Consumers contends that ratings agencies have shown concern about the Company's credit metrics, in part due to reductions in ROE authorized in rate cases.[1673]

Consumers asserts that its plans for large-scale investments in infrastructure will require large capital investments and increase the risk profile of the Company such that a decline in ROE would send a troubling signal to investors about the regulatory environment in Michigan.[1674] Indeed, Consumers contends that several firms like Wolfe Research, Wells Fargo, and UBS have expressed concern about the State's regulatory environment given the outcome of recent rate cases.[1675]

The Company criticizes Staff for proposing a lower ROE while ignoring the current high-interest rate environment and increased geopolitical risks; further, Consumers contends that Staff's own data largely supports an increase in ROE rather than a decrease.[1676] The Company makes similar arguments against the Attorney General and witness Coppola stating that they recommend managing the Company with credit metrics like the FFO-to-debt ratio barely above downgrade thresholds, which Consumers contends would be shortsighted.[1677] The Company maintains that ABATE's arguments misunderstand the prevailing trend regarding the expectations of credit ratings agencies,

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[1671] Consumers brief, 249.
[1672] Consumers brief, 256.
[1673] Consumers brief, 256, citing Exhibits A-36, A-37, and A-38.
[1674] Consumers brief, 261.
[1675] Consumers brief, 262, citing Exhibits A-164, A-165, and A-166.
[1676] Consumers brief 264-265.
[1677] Consumers brief, 265, 266.

and the Company points to its exhibits in which financial firms have updated outlooks on the utility industry from stable to negative.[1678] Consumers urges the Commission to disregard the testimony of Walmart witness Perry as "not complete or meaningful in the context of establishing a ROE for Consumers Energy" because she did not conduct a cost of capital study and merely opined on the positive aspects of certain Michigan regulatory features.[1679] The Company similarly dismissed Mr. Denzler's testimony regarding a conditional reduction of ROE if the SRCSM is approved because his suggestion "does not result in any meaningful information that can be used to set the ROE."

The Company's reply also restates many of the points raised in Mr. Bleckman's testimony regarding the importance of access to capital, the effect of having an appropriate ROE, and the ostensibly outcome-driven analysis offered by intervenors.[1680] Additionally, Consumers criticizes Staff for taking a position on ROE that is contrary to Staff's quantitative analysis,[1681] offers rebuttal to ABATE's arguments regarding the Company's credit quality and the credit and financial trends in the utility industry,[1682] and provides a refutation of MNC's position regarding the current regulatory and financial environment.[1683] The Company also urges the Commission to disregard Walmart's arguments as unhelpful in setting a ROE and further argues that the Commission should

[1678] Consumers brief, 267.
[1679] Consumer brief, 318.
[1680] Consumers reply, 58-61.
[1681] Consumers reply, 61.
[1682] Consumers reply, 61-63.
[1683] Consumers reply, 63-65.

disregard, as contrary to *Hope* and *Bluefield*, UCC's argument that the ROE should be lowered to incentivize the Company to improve reliability.[1684]

In its briefing, Staff specifically directs attention to Mr. Megginson's direct testimony to rebut Consumers' criticisms regarding credit ratings and the propriety of Staff's ROE analysis.[1685] In its reply, Staff rejects the Company's argument that its proposed 9.85% ROE would send the wrong message regarding the State's regulatory environment because that ROE is significantly higher than the average ROE authorized nationwide in the first six months of 2024 (which was 9.68%).[1686] Staff also argues that its cost of equity models are sound, widely used by cost of capital analysts, and should be accepted.[1687]

The Attorney General reiterates her criticism of the Company's claim that it underearns its awarded ROE and therefore may need a higher authorized ROE to compensate for that failure. The Attorney General disputes the claim that Consumers underearns its ROE, contends that the Company itself must internally address any issues that may cause it to underearn its authorized ROE, and argues that it would be contrary to *Bluefield* and *Hope* to arbitrarily inflate the ROE based upon the Company's alleged inability to earn its authorized ROE.[1688] The Attorney General rejects the notion that a lower ROE would impair Consumers' access to credit, noting that several utilities have accessed the credit market at reasonable rates with ROEs near or below 9.60%.[1689] Further, the Attorney General forcefully rejects the Company's claims that its credit

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[1684] Consumers reply, 65.
[1685] Staff brief, 81.
[1686] Staff reply, 14-15.
[1687] Staff reply, 165-16.
[1688] Attorney General brief, 159-160.
[1689] Attorney General brief, 160.

metrics, like the FFO-to-debt ratio, require a higher ROE in order to maintain favor with ratings agencies.[1690] In her reply, the Attorney General reiterates that the Company's FFO-to-debt ratios are above levels that the ratings agencies indicate would lead to a negative credit action.[1691] The Attorney General contends that the Company's proposed 10.25% ROE is excessive and rejects the argument that the ROE should be set higher in part to compensate for the possibility that future unforeseen world events might negatively affect the Company's financial position.[1692] By contrast, the Attorney General argues that her proposed ROE is aligned with *Bluefield* and *Hope*, and she contends that the recommendation to adjust the company's ROE downward by 10 basis points is not a radical change.[1693] The Attorney General also reiterates that the regulatory environment is conducive to investment.[1694]

ABATE's briefing largely tracks the testimony of Mr. Walters and details positive economic developments regarding the Federal Reserve, interest rate trends and other developments that it indicated would justify a reduction in the company's ROE.[1695] ABATE emphasizes the Company's strong credit rating, with outlooks of "stable" from S&P and Moody's, with both agencies praising Michigan's regulatory environment.[1696]

MNC asks the Commission to give real weight to the affordability and reliability concerns of customers, particularly those with low incomes, when considering the

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[1690] See generally Attorney General brief, 127-133.
[1691] Attorney General reply, 34.
[1692] Attorney General reply, 41-42.
[1693] Attorney General reply, 44.
[1694] Attorney General reply, 49-50.
[1695] See generally, ABATE brief, 28-32.
[1696] ABATE brief, 32.

Company's ROE.[1697] MNSC further urges the Commission not to maintain an unreasonably high ROE because of the interest of gradualism in ratemaking.[1698] MNC argues that Michigan has proven to be among the most generous states in setting ROEs and that the Company current ROE "is likely inflated above its true cost of equity."[1699] MNC also addressed the reports mentioned by the company (i.e. those from S&P, Moody's, Wolfe Research, Wells Fargo, and UBS), arguing that the Company selectively quotes from these reports to create a negative outlook when the reports generally strike a more neutral or positive tone.[1700] MNC recounts the Company's repeated mentions of global events and the need to manage the utility's finances conservatively; MNC asserts that in this vein, the Company is "fighting a strawman" because the intervenors do not suggest that Consumers should operate at the margins, only that its ROE should accurately reflect its actual market-based cost of equity.[1701]

Walmart's brief tracks and repeats the testimony of its witness, Ms. Perry, which stresses Michigan's positive regulatory framework.[1702]

UCC also argues that the Commission should consider affordability for customers in setting the Company's ROE, particularly when measured against its lackluster reliability.[1703] UCC asserts that the Company's 9.90% ROE is too high and that the Commission should reduce the Company's ROE.[1704]

[1697] MNSC brief, 60-61.
[1698] MNSC brief, 61.
[1699] MNSC brief, 62.
[1700] See MNSC brief, 70-74.
[1701] MNSC brief, 78.
[1702] See Walmart brief, 3-6.
[1703] UCC brief, 6.
[1704] UCC brief, 16.

This PFD first addresses Consumers' suggestion, repeated frequently in testimony and briefing, that economic and market volatility that could be caused by unforeseen world events (i.e. COVID-19, the Russian invasion of Ukraine, U.S. bank failures, and conflict in the middle east) support the Company's request for an increased ROE to provide a financial cushion and to ensure access to credit. The Company's contention that unforeseen events may make access to credit problematic is largely unsupported. As the Attorney General has shown, several utilities have been able to access capital markets recently at competitive interest rates even with ROEs significantly below those of the Company's current 9.90% rate.[1705] This is true regardless of the U.S. banking crisis in 2023 and the ongoing conflicts in the Middle East and Ukraine. Additionally, as Mr. Coppola testified, Consumers has itself been able to complete large debt issuances at favorable rates.[1706] The Company's underlying point that it is wise to manage finances prudently in case of the unforeseen is well taken, but no party is purposely recommending that the Company should be "managed at the margin," nor is there any convincing evidence suggesting that Consumers would have difficulties accessing credit in the event of unforeseen circumstances such that the Company's ROE would need to be increased, let alone increased to the 10.25% level suggested by the company.

This PFD also notes the recent credit reports from S&P in August 2024 and Moody's in May of 2024 did not mention COVID-19 or its aftereffects, U.S. bank failures, or armed conflicts in Ukraine or the Middle East as potentially affecting the Company's credit rating, financial performance, or access to credit.[1707] If global events such as these

[1705] See Exhibit AG-1.21.
[1706] See 5 Tr 2830, See also Exhibit A-35.
[1707] See Exhibits A-207 and A-208.

were top risks to the Company's credit rating or access to credit, surely these reports would make reference to them.

Further, this PFD finds that Consumers' concerns regarding the ratings agencies' perception of credit risk and the Company's regulatory environment are overstated. This issue was addressed in the section of this PFD related to capital structure, *supra*, but it will be expounded upon further here. Consumers emphasizes selected statements from ratings agency reports that highlight risk; however, this PFD finds that the overall tone of such reports is positive. Both S&P and Moody's maintain a stable outlook for the Company and maintain investment grade credit ratings for Consumers overall and for its various subcategories of debt issuances.[1708] Both agencies find the Company's regulatory environment to be supportive. For example, the S&P report states:

> We expect Consumers Energy Co. (CE) to continue to effectively manage its regulatory risk. We believe Michigan's regulatory construct is above average compared with peers because of the benefit of a streamlined 10-month rate case process. Other constructive rate mechanisms include the use of forward test-years, power supply cost rider adjustments, and natural gas cost rider adjustments. These mechanisms help the company earn its allowed return on equity (ROE) and minimize regulatory lag.[1709]

The report from Moody's also states that it expects the Company to maintain a stable financial outlook while benefiting from a credit supportive regulatory environment.[1710] In various exhibits, Consumers highlights the commentary of other firms or individual analysts regarding the supportiveness of the state's regulatory environment (often in relation to in-state peer DTE Energy rather than to the Company), but this PFD does not view these sources as particularly helpful or informative, especially to the extent that they

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[1708] Exhibits A-207 and A-208.
[1709] Exhibit A-207, p 1-2.
[1710] Exhibit A-208, p 2.

often express analysts' disappointment in the outcome of a specific rate case rather than providing commentary on the overall regulatory environment.[1711] Similarly, reports that note general trends for the utility industry, such as headwinds to credit quality, are of limited help to the extent that they are not company-specific.[1712]

The Company highlights its FFO-to-debt ratio and argues that a higher ROE (or increased equity ratio, or both) is needed to support this credit metric and avoid the threat of a credit downgrade. Staff and the Attorney General dispute that the Company's offered FFO-to-debt ratio is properly calculated and contend that the ratio is higher than Consumers' calculation. As is apparent from the dueling calculations presented by the Company, Staff, and the Attorney General, the calculation of this credit metric appears to be highly dependent on what inputs are included and can therefore yield varying results.

While the Company contends that it requires a higher ROE to support its FFO-to-debt metric, it is worthwhile to note that the S&P credit opinion states that it expects Consumers will maintain a FFO-to-debt ratio of 17%-19% and would consider lowering a rating if the ratio "weakens to consistently below 15%."[1713] S&P itself apparently does not forecast that this ratio will deteriorate close to that level in the years 2025-2027.[1714]

The report from Moody's states that it could consider a credit downgrade if the Company's cash flow from operations before changes in working capital (CFO pre-WC) to debt ratio declines below 18% on a sustained basis.[1715] However, that report also stated that it expected the Company to maintain a stable financial profile with that ratio

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[1711] See e.g. Exhibit A-166, Exhibit A-167, Exhibit A-168, Exhibit A-169.
[1712] See Exhibit A-39.
[1713] Exhibit A-207, p 3.
[1714] See Exhibit A-207, p 5.
[1715] Exhibit A-208, p 3.

projected to be "averaging around 20-21%, including an adjustment to exclude securitization debt, over the next 2-3 years."[1716] In short, there was no indication from either credit opinion suggesting that a credit downgrade was imminent or likely.

Regarding the FFO-to-debt ratio more generally, this PFD also finds troubling the Company's argument that seems to link the ROE and equity ratio because both are included in the calculation of the FFO-to-debt ratio. This argument suggests that a decrease in either ROE or equity ratio should be met with a corresponding increase in the other to maintain the FFO-to-debt ratio. However, the factors that the Commission considers in assessing a reasonable equity ratio and a reasonable ROE are not necessarily the same, and this PFD is aware of no order wherein the Commission has agreed to consider such a linkage between these two separate considerations. Further, other factors affect the FFO-to-debt ratio, such as the Company's debt balance and depreciation. In sum, this PFD is concerned that Consumers' persistent focus on the FFO-to-debt ratio improperly elevates this one credit metric above all others. Indeed, the Company itself acknowledges in briefing that the FFO-to-debt ratio is "one factor, but not the only factor that could lead to a further downgrade."[1717] Thus, this PFD concludes that while it is important, the FFO-to-debt ratio should not be viewed as the sole credit metric of importance despite the Company's persistent focus on that single metric.

i. Conclusions & Recommendations

This PFD notes that the parties took issue with various aspects of the models used by other parties, disputed the most apt inputs to be used, and proposed various

[1716] Exhibit A-208, p 1.
[1717] Consumers brief, 219.

adjustments. However, many of these disputes do not appear to affect the results as significantly as the differences discussed in the subsections *supra*, or they may be moot because of the model or results being otherwise rejected or given diminished weight. In any event, this PFD notes that it has been held that a determination of a fair and reasonable rate "is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved."[1718] In other words, there is value in a diversity of different modeling assumptions and inputs, and this PFD concludes that the host of individual differences regarding the most apt modeling assumptions and input values need not be exhaustively resolved in this case.

In sum, the ROE estimates accepted and given full weight in the subsections discussed *supra* are as follows:

9.85%	Consumers DCF
9.90%	Staff CAPM (averaged)
9.93%	Staff RP (averaged)
9.27%	Attorney General DCF
9.72%	Attorney General RP
9.80%	ABATE CAPM (adjusted and averaged)
9.24%	ABATE DCF (adjusted and averaged)
10.06%	ABATE RP (averaged)
8.95%	MNC DCF

[1718] April 12, 2018 order in Case No. U-18370, p. 30 (citing *Meridian Twp v City of East Lansing,* 342 Mich 734, 749; 71 NW2d 234 (1955)).

The average of the above ROE estimates generated by the parties is 9.63%, with a range of values extending from 8.95% to 10.06%.

As discussed *supra* in the subsection addressing other authorized returns, this PFD finds that the average ROE awarded to utilities nationwide from 2022 through August of 2024 was 9.57%.[1719] Thus, the average of the accepted ROE estimates modeled by the parties (9.63%) and the nationwide average of authorized ROEs (9.57%) are relatively close in value.

This PFD finds that the Company's recommended ROE (10.25%), and its current ROE (9.90%), are significantly above both the average of the accepted models and the average of recent state-authorized ROEs. This PFD further finds that MNC's recommendation (9.19%) is far below both average values, while the recommendations offered by Staff (9.85%) and the Attorney General (9.80%) are meaningfully above the averages. The recommendation offered by ABATE (9.50%) is the closest to and best matches the average of the accepted modeling values and the average of recent authorized state ROEs.

In conclusion, after considering the accepted evidence and the parties' arguments, this PFD finds that the ROEs recommended by Staff, the Attorney General, and ABATE are reasonable, supported by the accepted evidence discussed above, and are commensurate with returns on investments having corresponding risks. This PFD also finds, based upon the arguments and evidence discussed above, that all the ROEs recommended by Staff, the Attorney General, and ABATE are more than sufficient for the

[1719] Exhibit WAL-4, p 3.

Company to maintain a strong credit rating and to attract capital. Accordingly, this PFD recommends that the Commission authorize an ROE of 9.50% for Consumers, which aligns with the recommendation made by ABATE, because that value is the closest to the average of the accepted models and the average of recent state-authorized ROEs.

However, this PFD recognizes that such a ROE would represent a significant departure from the Company's current 9.90% ROE. Thus, in the alternative, this PFD recommends that the Commission authorize a ROE of 9.80%, which is the Attorney General's recommendation, and which is also very close to Staff's recommendation of 9.85%. This PFD suggests that such a 10-basis point reduction in ROE would honor the principal of gradualism in ratemaking and would serve as an incremental step to more closely align the Company's ROE with the average of the accepted models in this case and the average of recent state-authorized ROEs. This PFD notes that even with a ROE of 9.80%, the company's ROE would still be meaningfully higher than the average ROE awarded to utilities nationwide.

C. Overall Rate of Return

Based upon the foregoing discussion, this PFD recommends that the Commission adopt a balanced capital structure of 50% debt and 50% equity, along with a long-term debt cost rate of 4.25%, a short-term debt cost rate of 4.28%, and a return on equity of 9.50%.

VII.

ADJUSTED NET OPERATING INCOME

Net operating income (NOI) constitutes the difference between a company's operating revenue at current rates and its operating expenses including depreciation,

taxes, and allowance for funds used during construction (AFUDC). Adjusted net operating income (ANOI) includes the ratemaking adjustments to the recorded test year, NOI for projections, and disallowances. The Company's initial brief projected an ANOI of $739,230,000, while Staff projected an ANOI of $750,882,000.

Disputes regarding ANOI-related items are broken out by category and discussed below.

A. Jurisdictional Revenues and Sales Forecast

1. Sales Forecast

The Company projected jurisdictional electric deliveries of 33,704 GWh for the test year, as shown in Exhibit A-15, Schedule E-2. Mr. Breuring explained that Consumers developed its forecast using regression analysis that factors in key variables, including weather, economic conditions, demographics, expected savings from energy efficiency programs, electric vehicles, and the impact of the COVID-19 pandemic.[1720] He described the six-step process that was utilized:

> The first step in the process is gathering the class-level historical monthly electric delivery, monthly customer counts, monthly number of billing days, monthly binaries to account for seasonal variation, and daily temperature information. Most observations are entered directly into the modeling framework as dependent and explanatory variables. The daily temperature information, however, is transformed to monthly heating degree days ("HDD") and cooling degree days ("CDD") variables prior to entering the modeling framework. The second step is importing the economic and demographic variables from S&P Global (formerly, IHS Markit) into the sales modeling framework. These variables cover historical data going back to 2001, the start of the time horizon within the regression modeling process, as well as projections to the test year. The third step is importing electric use forecasts for wholesale, electric vehicles, polycrystalline production, Distributed Generation ("DG"), and energy savings from the Company's EWR programs. These forecasts are exogenous to the

[1720] 5 Tr 1563, 1567.

> modeling framework and were either adopted by the Commission in prior electric rate cases, reflect current industry expectations, or are based on end-use analyses. The fourth step is reviewing the imported observations to identify data issues before running the econometric models. In situations when erroneous data is observed, it is either corrected where possible or removed from the models. The fifth step is executing the regression functions and reviewing the corresponding statistical metrics. The final step in the sales forecasting process is to combine the regression forecasts with the external forecasts imported in step three.[1721]

Mr. Breuring testified that the regression models used to forecast electric deliveries and customer count are evaluated by using the adjusted coefficient of multiple determination (R_a^2) and Mean Absolute Percent Error (MAPE), which are methods of assessing "how well the models fit the historical data and provide a good indication of how well the models will perform in the forecast period."[1722] In addition, t-statics and p-values are used to determine if each independent variable is statistically significant and should be included in the regression model.[1723]

Mr. Breuring then discussed the historical levels of electric deliveries and how they compare to the projected deliveries for each customer class.[1724] He testified that from 2019 to the test year, deliveries are projected to "remain flat at a -0.01% CAGR" for the residential customer class, decrease by a 0.5% CAGR for the commercial customer class, and decrease by a 1.1% CAGR for the industrial customer class.[1725] Referencing Exhibit A-15, Schedule E-3, which shows electric deliveries and customer counts by rate category from the historical year (2023) to the test year, Mr. Breuring noted a significant

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[1721] 5 Tr 1563-1564.
[1722] 5 Tr 1565.
[1723] 5 Tr 1566.
[1724] 5 Tr 1570-1576.
[1725] 5 Tr 1573-1576.

decrease in deliveries.[1726] He explained the decrease is largely due to removal of deliveries from the test year relating to the Long-Term Industrial Load Retention Rate (LTILRR)[1727] and Grand Rapids street lighting.[1728] Revenues attributable to those sources are now included as Miscellaneous Revenues in Schedule E-2 of Exhibit A-15.[1729] Mr. Breuring testified that Grand Rapids street lighting is considered non-jurisdictional.[1730]

Mr. Ausum sponsored Exhibit S-14.0, which presents Staff's proposal to increase Consumers' test-year sales forecast by 393,268 MWh (approximately 1.2%).[1731] After adjusting for unbilled sales to produce an estimate for calendar deliveries, Staff's recommended forecast is 338,681 MWh (approximately 1%) higher than the Company's forecast.[1732] Mr. Ausum testified that Staff's higher sales forecast originated from two adjustments: (1) a change to the Company's projected residential energy usage-per-customer and (2) a change to the Company's projected number of commercial customers.[1733] Staff's adjustment to the number of commercial customers results in a forecasted average monthly customer count for the test year of 1,902,856, which is 4,218 (0.22%) higher than the Company's projection.[1734]

[1726] 5 Tr 1573.
[1727] Mr. Breuring explained that the LTILRR was approved by the Commission in Case No. U-20697 and allows customized electric rates for certain large industrial customers. The company excluded from the test year revenues and deliveries of customers receiving service under the LTILRR. 5 Tr 1569-1570. The company also excluded revenues and deliveries of customers receiving service under the Large Economic Development Rate (LEDR), which was approved by the Commission in Case No. U-21160. *Id*.
[1728] 5 Tr 1573. Including deliveries to LTILRR and LEDR customers and Grand Rapids street lighting, the company's projected test-year deliveries are 36,395 GWh. 5 Tr 1572-1573.
[1729] 5 Tr 1569-1570, 1573.
[1730] 5 Tr 1573.
[1731] 5 Tr 3739.
[1732] *Id*.
[1733] *Id*.
[1734] 5 Tr 3740.

Mr. Ausum explained the general methodology Staff used to reach its proposed adjustments:

> Staff's analysis of the Company's sales forecast consisted of a review of the historical actual and weather normalized (WN) sales, customer counts, and average energy usage-per-customer (UPC), by customer class, dating back to January 2019. Trends in the historical data are noted and then compared with the projections used by the Company as billing determinants. When there exists a large difference in historic trend and Company projection that is not adequately supported by the Company, an adjustment to the Company's projection is likely to more accurately portray what that variable of interest (e.g., average usage-per-customer, customer count) will be in the test year.[1735]

Mr. Ausum opined that Staff's adjusted residential usage-per-customer and commercial customer count are likely to be more accurate because they "better align with historic trends in weather normal sales and customer counts."[1736]

Regarding the residential average usage-per-customer forecast, Mr. Ausum presented a chart and graph at 5 Tr 3902-3903 showing the historic weather-normalized average yearly kWh usage for the average residential customer over the previous five years, along with the Company's forecast of future usage. Mr. Ausum testified that the Company's projected decline in usage-per-customer is greater than the decline that occurred immediately after the COVID-19 stay-at-home policies ended.[1737] While Mr. Ausum acknowledged that average usage has generally declined since the end of the stay-at-home policies, he opined that the Company's forecast likely overstates the rate of decline into the future.[1738] Mr. Ausum explained that to compute Staff's adjustment, Staff used the weather-normalized usage-per-customer from the most recent 12-month

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[1735] *Id*., footnotes omitted.
[1736] 5 Tr 3740-3741.
[1737] 5 Tr 3902.
[1738] 5 Tr 3902-3903.

historical period (the twelve months that ended in February 2024) and applied energy waste reduction (EWR) savings of 0.9% to arrive at the test-year results.[1739] Staff multiplied this estimated usage-per-customer by the Company's projected residential customer count and then allocated the additional sales among the rate categories using percentages derived from the Company's 2023 P-521 Annual Report.[1740]

Mr. Ausum next addressed Staff's adjustment to the commercial customer-count forecast, presenting a chart and graph at 5 Tr 3904-3905 that depicts the average number of commercial customers over the last five years, along with the Company's projected numbers. He testified that Consumers forecasts a decrease in the number of commercial customers, which contradicts the five-year historical trend.[1741] To compute Staff's adjustment, Mr. Ausum used various forecasting methods, which included "compound annual growth rates (CAGR) of various lengths of time, simple linear trend regression, and simple exponential smoothing models," and he presented the results of each method in a graph at 5 Tr 3906.[1742] From those results, Mr. Ausum adopted the most conservative estimate of the average number of customers in the test year, which was produced by using the CAGR for the twelve months ended February 2022 through the twelve months ended February 2024.[1743] He then allocated the additional customers resulting from Staff's projection among the rate categories in Exhibit A-15, Schedule E-3 based on the 2023 P-521.[1744] According to Mr. Ausum, the additional commercial customers will add

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[1739] 5 Tr 3903-3904.
[1740] 5 Tr 3743.
[1741] 5 Tr 3904-3905.
[1742] 5 Tr 3744-3745.
[1743] 5 Tr 3906.
[1744] *Id*.

approximately 230 GWh of load, which Staff allocated to the rate schedules in Exhibit A-15 according to the 2023 P-521.[1745]

In rebuttal, Mr. Breuring disagreed with Staff's proposed increase to projected sales. He noted that while Staff's adjustment relates to all customer classes, as can be seen in Exhibit S-14.0, Mr. Ausum only described the adjustments related to the residential and commercial classes: "There is no support provided regarding the adjustments of the industrial, self-generation, and Grand Rapids Streetlighting classes."[1746]

Regarding Staff's adjustment to residential deliveries, Mr. Breuring described Mr. Ausum's methodology as "novel and simplistic."[1747] Mr. Breuring testified that Mr. Ausum used "a single point in time, the most recent 12-month historical period, to calculate residential customer usage," applied EWR savings, and then multiplied the projected usage by the Company's projected customer count.[1748] He opined that Staff's approach was not reasonable:

> This methodology assumes that the future will be identical to a single historical year, except for the impact of EWR. Mr. Ausum applied a simple formula to the 2023 historical results without consideration for any new econometric data. Mr. Ausum did not provide any information about forecasted conditions that would explain the need for these adjustments to the proposed forecast that used the long-standing regression modeling methodology.[1749]

[1745] 5 Tr 3746.
[1746] 5 Tr 1584.
[1747] *Id*.
[1748] *Id*.
[1749] *Id*.

In contrast, Mr. Breuring testified that Consumers' approach of using standard regression modeling that incorporates economic data results in a "robust forecast" and "has a proven history of accuracy."[1750]

Addressing Staff's forecast of the commercial customer count, Mr. Breuring testified that Mr. Ausum used a slightly different approach, "[t]hough, again, a single data point (the last twelve-month historical period) was used to apply a two-year compound annual growth rate . . . ."[1751] Mr. Breuring disagreed with this approach for the same reasons as he disagreed with Staff's methodology in projecting residential deliveries.[1752] He testified that the Company's methodology has been "approved in several prior cases" and "uses regression models that incorporate several years of historical data and coefficients that account for different customer behavior in different circumstances."[1753]

Referencing his direct testimony, Mr. Breuring testified that the Company's regression models are tested and evaluated by using the R_a^2 and MAPE, where an R_a^2 value of 90% and a MAPE value of less than 3% "constitute accurate regression modeling results."[1754] He testified that the Company's residential usage regression model has a "very high" R_a^2 of 97.4% and a "very low" MAPE of 1.74%; likewise, the commercial customer-count model has a "very high" R_a^2 of 96.2% and a "very low" MAPE of 0.3%.[1755] He further opined that Consumers' regression modeling process is preferable because it includes "a larger number of observations over an extended period" and "avoids placing

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[1750] 5 Tr 1584-1585.
[1751] 5 Tr 1585.
[1752] *Id*.
[1753] *Id*.
[1754] 5 Tr 1585-1586.
[1755] 5 Tr 1586.

too much weight on any single factor or snapshot in time."[1756] According to Mr. Breuring, Staff's approach of focusing exclusively on the most recent 12 months would result in inaccurate forecasts if applied going forward because forecasted deliveries would be entirely dependent on the most recent calendar year, without considering whether the most recent calendar year is an outlier with unusual customer behavior.[1757] In other words, the Company's method is designed to better capture behavioral trends that would not be captured by Staff's "short-term approach."[1758]

Finally, Mr. Breuring testified that Staff erred by including 16,384 MWh related to Grand Rapids street lighting in its total-deliveries adjustment of 338,681 MWh because those sales are included in miscellaneous revenues and should not be included in this analysis.[1759]

In briefing, Consumers reiterates that Staff's forecasting methods are not "valid" for the reasons outlined in Mr. Breuring's rebuttal testimony and repeats that the Company's use of regression modeling is the superior approach.[1760] It again claims that Staff failed to support adjustments made to industrial, self-generation, and Grand Rapids street lighting deliveries, and that Staff erred by including Grand Rapids street lighting in its analysis.[1761]

Staff's initial brief relies on Mr. Ausum's testimony to support Staff's adjustments to the Company's sales forecast. Addressing the residential usage-per-customer

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[1756] 5 Tr 1587.
[1757] *Id*.
[1758] 5 Tr 1587-1588.
[1759] 5 Tr 1588-1589, citing Exhibit S-14.0, line 30, column f.
[1760] Consumers brief, 328-330.
[1761] Consumers brief, 330.

adjustment, Staff corrected Mr. Ausum's statement that the additional sales in Staff's projection were allocated according to the Company's 2023 P-521 Annual Report; instead, Staff's residential sales forecast was "allocated in its entirety (not just the difference between it and the Company's figure) amongst the rate schedules using the same percentage allocations found in Exhibit A-15 (EMB-4), Schedule E-3."[1762] Similarly, regarding the commercial customer-count forecast, Staff corrected Mr. Ausum's testimony that the *additional* customers were allocated among the rate categories in Exhibit A-15, Schedule E-3: "In actuality, Staff allocated all of the 228,884 commercial customers [Staff's estimate for the total number of commercial customers in the test year] amongst the rate schedules according to the Company's 2023 P-521. Staff allocated all non-residential customer and sales projections according to the Company's 2023 P-521 Annual Report."[1763]

Staff next addresses Mr. Breuring's claim that Mr. Ausum failed to describe Staff's adjustments to the industrial, self-generation, and street lighting classes by first noting that Staff made no adjustments to the Company's forecasted self-generation customers or deliveries.[1764] Regarding industrial and non-Grand Rapids streetlighting, Staff explained:

> [T]he adjustment that Company witness Breuring referred to is due to Staff's translation of the forecasted electric deliveries provided in Part III rate case filing attachment 16 of the rate case filing attachments amongst the historical customer class deliveries provided in attachments 14 and 15 of Part III. Staff's ability to analyze the Company's projections requires that the historical and projected data be broken down in the same level of granularity so that the variations and trends in sales and customer counts can accurately be appraised from one period to the next. In this case, the

[1762] Staff brief, 92.
[1763] Staff brief, 95-96.
[1764] Staff brief, 97.

> Company provided historical actual and weather normal monthly sales and customers on a *class* basis, and projected monthly sales on a *rate schedule* (or *rate category)* basis. Rate schedules are much more granular than customer classes. To compare historical to projected, Staff allocated the monthly rate schedule sales provided in filing attachment 16 amongst the customer classes in filing attachments 14 and 15 using percentages of sales and customers derived from the Company's 2023 P-521 annual report. The "adjustment" referred to by Company witness Breuring is due [to] the allocation of Attachment 16 data amongst the classes in a format that ostensibly differs from the class-to-schedule allocations utilized by the Company. The same 2023 P-521 class-to schedule allocation was performed for commercial customers and sales as well. . . . So, while Staff took no issue with the industrial customer and deliveries projections as sponsored by Company witness Breuring, the fact that Staff allocated the projections differently than the Company lead to the "adjustment".[1765]

Staff agrees with Mr. Breuring that it erroneously included Grand Rapids streetlighting in Exhibit S-14.0 but argues that the error did not affect Staff's proposed revenue because Mr. Isakson did not include that data in his calculations.[1766]

Consumers provides no further argument on these issues in its reply brief.

In its reply brief, Staff defends its method of using the most recent 12-month historical period to estimate future customer usage because "it offers the most insight into what can be viewed as the 'new normal' level of post-COVID residential electric usage[.]"[1767] Staff argues that to employ its methodology using an average of multiple years' worth of usage would "lead to inaccurate projections due to a single year skewing the average."[1768] Further, Staff argues that "to select any year prior to the advent of the pandemic would similarly skew any estimate of normal yearly usage, as a certain

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[1765] Staff brief, 97-98, footnote omitted. Due to the difficulty involved in "translating" the company's data, Staff recommends that the company provide its data in a uniform manner, which is addressed below.
[1766] Staff brief, 98-99.
[1767] Staff reply, 18, 20.
[1768] Staff reply, 20.

percentage of the economy continues to operate from residences and will continue to operate in this manner for the foreseeable future."[1769]

Addressing Consumers' claim that Staff's methodology is novel and simplistic, Staff notes "there is an inherent level of informational and temporal asymmetry between the Company and Staff."[1770] Staff explains that it has less time than the Company to produce an estimate of future deliveries and customers.[1771] It argues that Staff's methods are "useful heuristics" that "provide a reasonable forecast of the number of customers served by the Company and their consumption behavior in the test year that would otherwise be understated by the Company."[1772]

Finally, Staff challenges Consumers' use of R_a^2 and MAPE to evaluate its regression models:

> The Company models meet the R_a^2 and MAPE criteria established by the Company, but what the Company fails to mention is that R_a^2 is a measure of how well a model describes the data that was used to train the model, which in this case is historic data. If future conditions deviate from the historic conditions used as inputs, the model may perform just as well as Staff's "simplistic" approach. The same can be said for the Mean Absolute Percentage Error. . . . A model with high R_a^2 values, and low MAPE values is well fitted to the historic data, but if future conditions deviate from the historical information used to build the model, then it very well may be the case that Staff's approach has a lower margin of error (which is measured by the MAPE) than the Company's. It must also be noted that there are certain elements of the Company's forecast (e.g. EWR, DG, EV related energy) that are developed outside of the regression modeling framework and are added to the model at the end of the forecast development process. The record indicates that R_a^2 and MAPE criteria do not apply to these external forecasts, adding uncertainty to the Company's projections.[1773]

[1769] *Id*.
[1770] Staff reply, 21.
[1771] *Id*.
[1772] *Id*.
[1773] *Id*., internal citations omitted.

This PFD finds that Consumers has adequately justified the use of its regression models to forecast electric deliveries. Mr. Breuring provided a detailed description of Consumers' six-step process and explained that the Company's regression analysis factors in multiple key variables such as the economy, demographics, and the impact of the COVID-19 pandemic. In contrast to Staff's approach that focuses on historical trends, Consumers' method is designed to also capture behavioral trends. And the Company has demonstrated that its models closely fit the historical data as shown through the R_a^2 and MAPE evaluation measures. Consumers' methodology is also consistent with forecasting methods that have been previously approved by the Commission.[1774] Thus, Staff's adjustments to residential deliveries and commercial customer count should be rejected.

2. Total Electric Operating Revenues

Consumers projected total sales revenue of $4.762 billion in the test year.[1775] Mr. Breuring testified that Consumers' base tariff revenues are offset by the Residential Senior Citizen (RSC) credit, Residential Income-Assistance (RIA) credit, and Low-Income Assistance (LIA) credit.[1776] Consumers projected there will be 350,683 RSC credit customers, 66,555 RIA credit customers, and 4,200 LIA credit customers in the test year.[1777] Mr. Breuring explained that the customer counts for the RSC program are based on regression analysis incorporating historical trends, while the counts for the RIA

[1774] See March 29, 2018 order in Case No. U-18322, pp. 49-50 (finding Consumers' sales forecast to be "reasonable, supported by record evidence, [and] consistent with previously-approved forecasting methods").
[1775] Exhibit A-13, Schedule C-1.
[1776] 5 Tr 1570.
[1777] *Id*.

program are based on a two-year monthly average from January 2022 to December 2023.[1778]

Staff projected test-year sales revenue of $4.808 billion, which it later reduced to $4.793 billion.[1779] Mr. Isakson presented Staff's recommended present revenue as detailed in Exhibit S-6, Schedule F-2.0.[1780] He testified that Staff's recommendation was based on three adjustments to the Company's filed present revenue that resulted in an increase of approximately $46 million over the Company's calculation, which Staff subsequently reduced to $31 million during briefing.[1781]

First, Mr. Isakson identified an error in Consumers' Residential Non-Transmitting Meter (RSM) rate design, where the Company transposed the customer-count projections for the RSC and RIA credits.[1782] Correcting that error resulted in an increase of $132,947 in present revenue.[1783]

Second, Mr. Isakson recommended reducing the RSC customer count to 332,344 and the RIA customer count to 61,816, based on the 3-year average from 2021 to 2023.[1784] This would result in an increase to present revenue of $1,335,198.[1785] He testified that the Commission has approved the use of the historic 3-year average in Consumers' recent rate case and for other utilities.[1786] He also opined that Staff's method

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[1778] *Id*.
[1779] Exhibit S-3, Schedule C-1; Staff brief, 83, Appendix C.
[1780] 5 Tr 3604.
[1781] 5 Tr 3605; Staff brief, 83, 100-101.
[1782] 5 Tr 3605.
[1783] *Id*.
[1784] 5 Tr 3606. Mr. Isakson explained that the LIA credit is limited to 4,200 monthly customers and that both Staff and Consumers assume that all available LIA credits will be claimed. 5 Tr 3607.
[1785] 5 Tr 3606.
[1786] *Id*., citing March 1, 2024 order in Case No. U-21389, pp. 147-148 and December 1, 2023 order in Case No. U-21297, p. 188.

was preferable because it would result in trends being reflected in rates and prevent the Company from over-projecting customer counts:

> Staff's continued reliance on 3-year averages means that any trends in customers receiving credits will necessarily be incorporated into future rates. Those trends may lag being included in base rates by a year or more, but will eventually be reflected accurately in rates. This is important because without a tracking mechanism any over or under-projection of RIA or RSC customer counts would be absorbed by the Company. This means that the Company, or any utility, has a distinct incentive to over-project. If fewer customers receive bill credits than projected, then the Company keeps the difference.[1787]

Mr. Isakson added that Staff's method has the "effect of smoothing out variation in residential credit customer count," so a dramatic change in any one historic year "will not impact the projection as greatly."[1788]

Third, Mr. Isakson testified that incorporating Staff's forecast of higher residential energy sales and a higher commercial customer count results in an increase in present revenue of $44,656,092.[1789] After factoring in the resulting increase in PSCR expense, which has the effect of offsetting the revenue deficiency, the total impact of Staff's sales and customer-count forecast on present revenue is an increase of $28,280,885.[1790]

In rebuttal, Company witness Connolly acknowledged the error that Mr. Isakson identified in the RSM rate design and agreed it should be corrected.[1791]

[1787] 5 Tr 3606-3607.
[1788] 5 Tr 3607.
[1789] 5 Tr 3607-3608. In briefing, Staff acknowledged an error in Mr. Isakson's calculation and revised his adjustment to present revenue downward by $15 million. Staff brief, 100.
[1790] 5 Tr 3608.
[1791] 2 Tr 74. The $132,000 adjustment to the company's projected sales revenue is shown in Appendix C to Consumers' brief.

Mr. Breuring disagreed with Staff's proposed reductions to the RSC and RIA customer counts.[1792] He testified that the two Commission cases Mr. Isakson relied on as support for Staff's use of a three-year average related only to RIA credits and did not include RSC credits.[1793] He explained that unlike the income-assistance RIA credit, which depends on customers qualifying for other specific programs and results in a fluctuating customer count, the RSC credit is designed for senior citizens, who have a "consistently growing" population.[1794] Mr. Breuring testified that "barring extreme circumstances, such as another pandemic, there is no reason to expect a significant reduction in senior citizens."[1795] In fact, as of June 2024, the senior citizen count had grown to 374,429; therefore, the Company's projection of 350,683 (6% below current actuals) "is already a conservative number," while Staff's three-year average of 332,344 (11% below current actuals) "will understate the senior citizen count even further without cause."[1796]

Regarding the RIA credit, Mr. Breuring presented a chart and graph showing that the three-year average is higher than Staff's proposed customer count when incorporating the latest number of RIA customers through June 2024.[1797] He further testified there is inadequate evidence supporting Staff's proposed decrease to the customer count:

> [T]he RIA count is primarily driven by residential income levels and need, and the Company is not projecting a significant reduction in customers' need, which would require a forecasted increase in disposable income. Staff has not introduced evidence that disposable income for RIA-qualifying customers will increase. As such, reducing the number of RIA customers by

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[1792] 5 Tr 1589.
[1793] *Id*.
[1794] 5 Tr 1589-1590.
[1795] 5 Tr 1589.
[1796] 5 Tr 1590.
[1797] 5 Tr 1591-1592.

> more than 5% (comparing the Company's latest estimate of 65,213 to Staff's 61,816 = 5%), is not supported.[1798]

Mr. Breuring also testified that the delivery forecasts recommended by Mr. Ausum were not aligned with the delivery forecasts used by Mr. Isakson to calculate revenue deficiency: "Of the 338,681 MWh of recommended delivery adjustments, Staff's pricing witness [Mr. Isakson] only uses the adjusted deliveries of the residential and commercial customer classes."[1799] Furthermore, Mr. Breuring explained that the delivery adjustments related to the residential and commercial classes were not aligned between Mr. Ausum and Mr. Isakson:

> Mr. Isakson, Staff's pricing witness, uses Mr. Ausum's adjusted cycle-billed residential deliveries (12,725,305 MWh) and adjusted cycle-billed commercial deliveries (7,051,791 MWh), without regard for the unbilled factor that Mr. Ausum proposed in his projections. This means that Mr. Isakson, in his pricing exhibit, overstated the adjustments by 32,027 MWh (total unbilled deliveries of 54,587 MWh multiplied by the residential andcommercial customers' share of the total). This misalignment overstates Staff's present revenue and understates Staff's deficiency.[1800]

Consumers' initial brief relies on Mr. Breuring's testimony to argue for adoption of its forecasted RSC and RIA customer counts.[1801] It also reiterates what it identifies as inconsistencies between Mr. Ausum's and Mr. Isakson's testimony.[1802]

Staff's initial brief emphasizes that Staff is not forecasting a reduction in the number of senior citizens who will claim the RSC credit but is instead recommending a reduction from the Company's projection.[1803] Staff reaffirms that a three-year historic

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[1798] 5 Tr 1591.
[1799] 5 Tr 1588.
[1800] *Id*.
[1801] Consumers brief, 331-333.
[1802] Consumers brief, 330.
[1803] Staff brief, 85-86.

average will appropriately incorporate the trend of increasing RSC credit disbursements.[1804] Regarding the RIA credit, Staff notes that both proposed forecasting methods rely on historic averages and argues that Staff's three-year-average method will "better smooth out any year-to-year variation in RIA enrollments" as compared to the Company's proposed two-year-average method.[1805]

Addressing Consumers' claim that Mr. Isakson failed to account for the unbilled factor identified by Mr. Ausum, Staff characterized it as a "moot point" because cycle-billed sales—rather than calendar-billed sales—are the inputs to the Company's forecasting models.[1806] Staff explained that the unbilled figures included in Exhibit S-14.0 were "included for illustrative purposes only" and that Mr. Isakson "did not use the unbilled figures at any point in his calculation of present revenues."[1807]

And in response to Consumers' claim that Mr. Ausum's delivery forecast was not aligned with the delivery forecast used by Mr. Isakson, Staff agreed that it erroneously omitted its forecasted sales and billing adjustments for primary customers.[1808] Correcting this oversight results in an increase in present revenue of $29,714,122.[1809] Of that amount, $25,742,102 is due to increased PSCR revenue that is offset by an equal amount of PSCR expense, leaving $3,972,020 as the total impact of Staff's sales and customer count forecast.[1810] "Therefore, Staff's recommended revenue deficiency is $3.972M lower

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[1804] Staff brief, 85.
[1805] Staff brief, 86-87.
[1806] Staff brief, 99.
[1807] *Id*.
[1808] Staff brief, 100.
[1809] *Id*.
[1810] Staff brief, 101.

than the Company's due to the recommendations of Staff's forecasting witness Paul Ausum when properly incorporated into Staff's case."[1811]

Consumers' reply brief focuses on Staff's forecast of the RSC customer count, arguing that Staff's projection "is beyond conservative" and "is so low that it would require another global health crisis to materialize."[1812]

In reply, Staff repeats the arguments raised in its initial brief.[1813]

As a preliminary matter, this PFD notes that Staff and Consumers have agreed to a $132,000 reduction to sales revenue due to the correction of an error. In addition, consistent with this PFD's recommendation that the Commission adopt Consumers' sales forecast, Staff's related adjustment to sales revenue should be rejected.

Regarding residential credits, this PFD agrees with Staff that the RIA customer-count forecast should be based on a three-year average, as was approved by the Commission in the last rate case.[1814] While Consumers advocates for use of a two-year average, Staff is correct that a three-year average would better smooth out any year-to-year variation in RIA enrollments. However, this PFD is persuaded by Consumers' argument that a historical average is not prudent for forecasting the RSC count given the lack of fluctuation and consistent growth in the senior-citizen population. Using the most recent senior-citizen count of 374,429, Consumers has shown that its projection of 350,683 is already conservative while Staff's projection of 332,344 is likely to unreasonably understate the senior-citizen count. Staff argues that the Company is

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[1811] *Id*.
[1812] Consumers reply, 67-68.
[1813] See Staff reply, 16-18.
[1814] March 1, 2024 order in Case No. U-21389, pp. 146-148.

incentivized to over-project credits, but there is little risk here that the Company's method will result in an over-projection. Therefore, this PFD recommends that the Commission adopt Staff's adjustment to the RIA customer count and reject Staff's adjustment to the RSC count.

Lastly, Mr. Ausum presented three recommendations that would require the Company to make additional information available in future rate cases. First, he testified that Consumers should provide historic and forecasted sales on both a cycle-billed and calendar basis, rather than providing that information only on a calendar billing basis as seen in Exhibits A-5 and A-15.[1815] He recommended that this requirement should apply to the exhibits sponsored by a Company witness, all rate-case filing attachments that are sales- and load-specific, and any new information the Company provides in rate-case filing attachments due to the Commission's order in case U-18238.[1816]

Second, Mr. Ausum proposed that the Company be required to "provide the 60-months of most recent actual historical, weather normalized historical, and projected sales in the same level of granularity."[1817] He explained that Consumers currently provides some filing attachments on a customer-class basis and others on a rate-schedule basis, "resulting in many audit questions to the Company in order to reconcile the different levels of granularity."[1818] Further, "If the Company wishes to provide its sales in different levels of granularity in the filing attachments, it should at the very least provide

[1815] 5 Tr 3746; Staff brief, 99-100.
[1816] 5 Tr 3746-3747.
[1817] 5 Tr 3747; Staff brief, 100.
[1818] 5 Tr 3747.

percentage allocation factors, so a crosswalk between different levels of granularity is easily accessible."[1819]

Third, Mr. Ausum highlighted instances where the Company indicated in its Part III filing that certain attachments were "not applicable" without explanation.[1820] He proposed that Consumers should provide its rationale when deciding that a data request is unreasonable.[1821] He explained, "Staff relies heavily on the data included with the filing attachments, as they allow for a more efficient assessment of the Company's sales forecast."[1822]

The Company did not address Staff's recommendations in rebuttal testimony or briefing.

This PFD recommends adoption of Staff's unopposed proposals, as they are reasonable and would serve to avoid confusion and better streamline the time-consuming process of assessing the profusion of data involved in a rate case.

B. Fuel, Purchased, and Interchange Power Expense

Ms. Metz testified concerning Consumers' projected fuel, purchased, and interchanged power expense. According to her, the Company projected power expenses using the Aurora Production Costing Program, the same platform the Company used in its IRP, Case No. U-21090, to simulate the electric generation and transmission market system.[1823]

[1819] *Id*.
[1820] 5 Tr 3747-3748; Exhibit S-14.2.
[1821] 5 Tr 3748; Staff brief, 100.
[1822] 5 Tr 3748.
[1823] 5 Tr 2305.

As shown in Exhibit A-140, p. 1 Consumers is forecasting $1.164 billion of total fuel, variable purchased, and net interchange expense, and $385.537 million of total capacity and non-utility generator fixed costs. These amounts, together with the test year transmission expense of $567.841 million, the MISO Schedule 2 (Reactive) credit of $0, and the reagent expenses for pollution control equipment and nitrogen oxide allowances that are expected to be recovered as part of the Company's PSCR proceedings, are the total power supply costs for the test year of $2.125 billion.

Ms. Metz testified that the Company anticipates $77.089 million of this amount to be recovered through the LTILRR contract, $20.188 million to be recovered from the LEDR, and $2.028 billion to be recovered from other full-service customers during the test year.[1824] After adding in intersystem sales revenue, the total projected power supply cost for the test year is $2.374 billion as shown in Exhibit A-58, line 4.

No party contested the Company's calculation of the power supply expense, which is adopted in this PFD.

C. Other O&M Expense

1. Distribution O&M Expense

As set forth in Mr. Kelly's testimony and the Company's brief, Consumers' projected Distribution System O&M Expense in Electric Operations includes the following programs and specific expenses:

> (i) O&M Associated with Construction - $0; (ii) Non-Forestry Reliability - $41.305 million; (iii) Operations, Maintenance, and Metering - $51.32 million; (iv) Service Restoration - $133.5 million; (v) Field Operations - $29.835 million; vi) Compliance and Controls - $0; (vii) Planning and Scheduling - $0; (viii) Operations Performance - $4.773 million; (ix)

[1824] 5 Tr 2312-2313. Exhibit A-140 p.1, lines 43, 44, and 45.

Operations Management - $2.015 million; (x) Operations IT projects - $0; and (xi) Wildfire Risk Mitigation Plan - $652,000.[1825]

Mr. Coppola recommended several adjustments to Distribution System O&M expense, which are discussed below.

a. Staking and Locating

In compliance with Public Act 174 of 2013 (Act 174 or MISS DIG), the Company engages in staking and locating its electric distribution facilities.[1826] Mr. Kelly testified that the actual sub-program O&M expenses for 2023 were $3,975,053, and that the Company is requesting approval of $6,931,257 for the test year.[1827] The Company has switched to a greater volume of dedicated staking, versus contract staking, to improve proficiency and efficiency while reducing risks to Company assets.[1828] According to Mr. Kelly, the increase in cost stems from increased contract prices with staking contractors, anticipated contractor volume increases, increased labor rates, increased MISS DIG 811 membership fees, increases and expansion of the dedicated asset locating program, and increases in ticket management system costs.[1829] The increase was also based on an anticipated 5% increase in the volume of contractor services over those incurred in 2023 "in alignment with the historical data and staking forecasts for the state of Michigan" and MISS DIG annual growth.[1830]

Mr. Coppola testified that Consumer's average annual growth rate over the period from 2018 to 2023 was only 2.5%, and not the 5% statewide MISS DIG growth rate

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[1825] Consumers brief, 334-335; citing 5 Tr 942-943 and Exhibit A-107.
[1826] 5 Tr 962.
[1827] 5 Tr 962-963.
[1828] 5 Tr 966-967.
[1829] 5 Tr 963-964 & 968.
[1830] 5 Tr 964-965.

claimed by the Company. Prior cases that were based on a 5% growth rate resulted in substantial over projections of staking orders; for example, the Company projected 455,000 staking orders for 2023, but only 415,000 staking orders were actually received.[1831] Mr. Coppola therefore recommended a $200,000 disallowance based on a 2.75% growth rate providing a projection of 440,468 staking orders versus the 455,017 projected by the Company.[1832]

In rebuttal, Mr. Kelly indicated that "the growth of Staking & Locating activity is tied in many ways to the overall economic situation in Michigan, which does not necessarily follow utility service territory boundaries," therefore, he concluded, it was appropriate for Consumers to use statewide MISS DIG projections as the basis for its O&M request.[1833] Consumers' brief reflects this same assertion.[1834] The Attorney General's brief, in turn, repeats the arguments made in Mr. Coppola's testimony.[1835]

The Attorney General's point, that the Company's growth rate is consistently lower than the statewide average for staking and locating, is well taken.[1836] Using the statewide average increase has led to over-projection of this cost in the past. This PFD therefore recommends the adoption of the Attorney General's requested $200,000 disallowance.

b. LVD Lines Reliability O&M

For LVD Lines Reliability O&M, Mr. Coppola recommended reducing total expense by $12.563 million.[1837] Mr. Coppola objected that the Company's near 30-fold increase in

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[1831] 5 Tr 2848-2850.
[1832] 5 Tr 2849. Exhibit AG-1.34.
[1833] 5 Tr 1049-1050.
[1834] Consumers brief, 335.
[1835] Attorney General brief, 167-169.
[1836] Attorney General brief, 167-169. 5 Tr 2849-2850.
[1837] 5 Tr 2852.

expenditures was excessive because Consumers was attempting to reverse past poor practices by adopting IEEE-recommended best practices in less than two years.[1838] For pole inspections, switch inspections, and metro inspections, he recommended reducing proposed expenditures by half and increasing them in subsequent years to gradually reach the Company's proposed inspection cycle and expenditure levels. Thus, he recommended disallowances of $4.85 million, $4.0 million, and $1.0 million for those expenses, respectively. For grid modernization expenses, he recommended a $2.713 million disallowance based on a two-year average spend plus inflation.[1839]

In rebuttal, Mr. Kelly rejected Mr. Coppola's rationale for these disallowances because "the amounts stated for IEEE adherence is the amount needed each year to complete needed inspections and maintenance."[1840] He contended that this was not a situation where a gradual ramp-up in spending was fitting, and he asserted that disallowing 50% of O&M in this category would result in delaying, by at least another year, the Company's ability to perform all recommended maintenance on LVD lines.[1841]

The parties' briefs rely on the testimony of their respective witnesses.

This PFD agrees with the Attorney General in part. The PFD finds that increasing inspections to the extent Consumers proposes is not justified based on this record; however, the significant increase the Attorney General nevertheless supports will provide sufficient funding for a substantial ramp up in inspections, even if reaching the IEEE standard may take an additional year.

[1838] 5 Tr 2850.
[1839] 5 Tr 2851.
[1840] 5 Tr 1050.
[1841] 5 Tr 1050.

This PFD disagrees with the Attorney General's recommended disallowance for grid modernization O&M. As the Company points out, this expense provides essential support "for programs like line sensors and substation and circuit modernization."[1842] Moreover, this PFD finds that the Attorney General's approach, using an average of only two years of data, updated for inflation, is less reasonable than the Company's projection. This PFD therefore adopts a disallowance of $9.85 million for LVD Lines Reliability O&M expense.

c. HVD Lines Demand O&M

For HVD Lines Reliability O&M, Mr. Coppola explained that the Company admitted in discovery that its proposed $2.2 million increase was a mistake because of a worksheet error and that the $2.2 million in expense should be attributed instead to HVD Lines Demand, not HVD Lines Reliability.[1843] However, Mr. Coppola asserted that Mr. Kelly's testimony did not support a $2.2 million increase in O&M for HVD Lines Demand and that the increase should be disallowed under that subprogram as well.[1844]

In rebuttal, Mr. Kelly explained that the Company is increasing HVD Lines Demand O&M because recently improved HVD line inspection technology allows Consumers to identify more anomalies on HVD lines, and increased spending will allow the Company to clear a backlog of newly identified line anomalies.[1845]

The Attorney General's brief relies on Mr. Coppola's testimony and her reply brief provides no further arguments on these issues. In its reply brief, the Company reiterates

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[1842] Consumers brief, 336.
[1843] 5 Tr 2852.
[1844] 5 Tr 2852.
[1845] 5 Tr 1051.

that “$2.2 million was mistakenly assigned to HVD Lines Reliability O&M instead of HVD Lines Demand O&M. . . . So while the Company agrees that the LVD Lines Reliability expense should be reduced by $2.2 million to correct the error, LVD Lines Demand should also be increased by $2.2 million to address the error.”[1846] The Company further explained that improved HVD line inspection technology resulted in the identification of more anomalies, and this proposed spending was to be used to clear the backlog of identified anomalies.[1847]

This PFD agrees that $2.2 million in O&M expense should be removed from HVD Lines Reliability because the Company admits that this amount was erroneously included and that the $2.2 million increase, which was instead intended to be included in HVD Lines Demand O&M.[1848] This PFD declines to adopt the Attorney General’s recommended $2.2 million disallowance for HVD Lines Demand O&M because Consumers explained that improved line inspection technology in the form of infrared cameras have allowed the Company to identify more line anomalies, and this increase is intended to clear a backlog of HVD line anomalies that need to be addressed.[1849]

[1846] Consumers Reply, 69. Note that while the Company’s reply brief stated this mistake affected LVD Lines Reliability and LVD Lines Demand, the testimony and relevant discovery response from the Company (see Exhibit AG-1.38) stated that the mistake affected two HVD, not LVD, subprograms. This PFD posits that this is a typographical error or that the company inadvertently confused the two categories in its reply.
[1847] Consumers Reply, 69.
[1848] See 5 Tr 1051; Exhibit AG-1.38.
[1849] See Exhibit AG-1.38 (containing the Company’s discovery response to AG-CE 0431 explaining the proposed increase in HVD line demand O&M).

d. HVD Substations Reliability O&M

For HVD Substation Reliability O&M, Mr. Coppola recommended a reduction of $1.4 million because the Company is not changing the frequency of inspections and did not support any increase in spending beyond the rate of inflation.[1850]

Mr. Kelly rejected Mr. Coppola's argument in his rebuttal testimony explaining that O&M spending is increasing to align with the broader increase in substation maintenance activities.[1851]

This PFD recommends rejecting the Attorney General's proposed $1.4 million reduction for HVD Substations Reliability because the Company has adequately supported an increase in spending based on increased HVD substation work discussed above.

e. HVD and LVD Substations Demand O&M

For LVD and HVD Substations Demand O&M, Mr. Coppola recommended disallowances of $5.308 million and $4.467 million, respectively, based upon a three-year average historical expense adjusted for inflation.[1852] Mr. Coppola rejected the Company's contention that the meaningful increase in the forecasted expense was caused by switching from bi-monthly to monthly inspections. He asserted that monthly inspections would not discover more issues, but rather would discover issues earlier, before they could become severe, and should actually result in lower maintenance and repair costs.[1853]

[1850] 5 Tr 2853.
[1851] 5 Tr 1051.
[1852] 5 Tr 2855.
[1853] 5 Tr 2854.

In rebuttal, Mr. Kelly rejected Mr. Coppola's argument because in addition to increasing inspection cadence, the Company also intended to increase maintenance activity because current O&M expenses "have not been sufficient to adequately perform all of these activities."[1854]

This PFD recommends adopting the Attorney General's proposed disallowances of $5.308 million and $4.467 million for LVD and HVD Substations Demand based upon a three-year average historical expense adjusted for inflation. This PFD agrees that switching from bi-monthly to monthly inspections does not justify a spending increase and further agrees that the Company has not adequately supported this expense based upon a general increase in maintenance activity.

f. Undergrounding Workforce O&M

For the Company's "underground workforce program" i.e., employees trained to underground overhead lines, Mr. Coppola recommended a disallowance of $2.517 million.[1855] Mr. Coppola asserted that the Commission only approved a limited pilot for undergrounding overhead wires, and he did not recommend expanding that program, so additional O&M expense should be rejected.[1856] He also contended that the Company and its contractors are already familiar with undergrounding because nearly all new housing developments require underground wires such that Consumers should already have employees that can perform this work, both in general and for any potential expansion of the undergrounding pilot.[1857]

[1854] 5 Tr 1052.
[1855] 5 Tr 2856.
[1856] 5 Tr 2856.
[1857] 5 Tr 2856.

In rebuttal, Mr. Kelly stated that the underground workforce is already with the Company, some undergrounding has already been approved by the Commission, a 100% disallowance would therefore be unreasonable, and the underground workforce has a lower cost per hour compared to a traditional LVD crew.[1858]

This PFD recommends rejecting the Attorney General's proposed disallowance related to the Company's underground workforce while Consumers' undergrounding pilot is still ongoing. The Commission should nevertheless reevaluate the need for additional training funds in Consumers' next rate case.

2. Forestry O&M Expense

Consumers is proposing O&M expense of $125.086 million for line clearing in calendar year 2025 (a total of $125,087,334 for the test year).[1859] The 2025 amounts include $105,346,260 for LVD line clearing, $11,282,370 for HVD line clearing, and $8,457,371 for administrative expense.[1860]

Company witnesses Kelly and Bolden testified that line clearing is the single most impactful activity to help the Company achieve its reliability and resiliency objectives for its electric distribution system.[1861] Ms. Bolden explained that the line-clearing program maintains clearance between vegetation and energized equipment and eliminates vegetation that is hindering access to the Company's electric lines.[1862] She explained that the program promotes reliability by reducing tree-caused outages and decreases the

[1858] 5 Tr 1053.
[1859] 3 Tr 223-224; Exhibit A-47.
[1860] See Figure 10 at 3 Tr 224.
[1861] 3 Tr 199, 204, 221-222; 5 Tr 844-845, 847, 877.
[1862] 3 Tr 194, 196.

impact of storms as illustrated in Exhibit A-50.[1863] According to Ms. Bolden, "[t]rees are the greatest cause of interruptions to electric service to customers on the LVD system and a significant cause of outages or interruptions of electric service on the HVD system."[1864] She also noted that clearing downed trees and branches during major weather events requires a large amount of utility resources before service restoration can begin.[1865]

Ms. Bolden testified that the line-clearing work is performed by contractors that the Company evaluates in the field and after the work is completed for quality assurance.[1866] She stated that the costs for managing forestry during restoration events is not a part of the line-clearing funding, but the base tree crews for line clearing are used for service restoration work when necessary.[1867]

The Company is proposing to maintain a 4-year clearing cycle for its HVD line-clearing subprogram.[1868] Ms. Bolden explained that outages on the HVD system can have broad impacts, affect large numbers of customers, and can take longer to repair.[1869] She testified that the HVD system has been cleared once under a 4-year cycle and is in the second 4-year clearing cycle stage.[1870] She opined that the 4-year cycle is effectively managing the number of HVD line outage incidents.[1871] She added that the Company has the resources in place to maintain the HVD system on the 4-year cycle.[1872] Ms. Bolden

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[1863] 3 Tr 199, 204, 221-222.
[1864] 3 Tr 202-204.
[1865] 3 Tr 231.
[1866] 3 Tr 196; See, Confidential Exhibit A-56.
[1867] 3 Tr 195.
[1868] 3 Tr 204.
[1869] 3 Tr 223.
[1870] 3 Tr 230.
[1871] 3 Tr 223.
[1872] 3 Tr 238.

testified that since 2020, the Company has spent less than planned for HVD line clearing.[1873]

Ms. Bolden testified that the Company is moving toward a 7-year effective clearing cycle for the LVD subprogram, which is intended to increase the miles of LVD circuits cleared each year until one-seventh of the total LVD mileage is cleared annually.[1874] To improve and optimize the reliability and safety of the program, the Company plans line-clearing work using its web-based Machine Learning model tool that analyzes hundreds of data inputs and satellite imagery to predict tree-related reliability impacts across the LVD system.[1875] Since 2023, when the Company began using the tool, an incremental benefit of 60 x-MED tree-related incidents and a reduction of over four minutes in SAIDI x-MEDs was observed.[1876] Ms. Bolden said that using the model and the 7-year effective cycle, the Company expects that, when the 7-year cycle is fully implemented, "14.4/24.9 kV circuits will be cleared between 4-6 years, 7.2/12.47 kV circuits will be cleared between 6-8 years, and 4.8/8.32 kV circuits will be cleared between 8-10 years, depending on the most recent historical performance reliability predictions from the forestry model, and safety considerations."[1877] She stated the Company's effective LVD clearing cycle rate for 2023 was approximately 9.2 years and the anticipated effective clearing cycle rates for 2024 and the test year are 8.6 and 8.0 years, respectively.[1878]

[1873] 3 Tr 236-237, see Figure 18.
[1874] 3 Tr 204, 212, 224-225.
[1875] 3 Tr 205-206.
[1876] 3 Tr 207.
[1877] 3 Tr 206-207.
[1878] 3 Tr 212-213.

Ms. Bolden explained that consistent with its requests in the four recent past electric rate cases, the Company is proposing an increase in spending for the LVD line-clearing program in the 2025 calendar year, which will be the fifth year in the 7-year cycle.[1879] Ms. Bolden presented past and projected LVD line-clearing expense and clearing cycle years in Exhibits A-47, A-48, and in Figures 4 and 13 of her direct testimony.[1880] The Company is requesting LVD line-clearing expenses of $112.792 million in the 2025 calendar year.[1881] She testified that the potential service restoration cost avoidance as a result of the LVD line clearing is $287,000 in 2024 and $504,000 in 2025.[1882]

Ms. Bolden explained that before the 7-year effective cycle, the Company was using a 14-year clearing cycle and many circuits had not been cleared in over 20 years. She testified that the clearing cost per mile will decrease during the transition but the cycle cost per primary outage incident will increase because the LVD miles that must be cleared to attain this shorter cycle double from approximately 4,300 miles to approximately 8,700 miles.[1883] Referencing Exhibit A-51 and Figure 15 in her direct testimony, she said that moving to the 7-year cycle will reduce the cost to clear a mile by approximately $2,252 once the system is fully implemented.[1884]

[1879] 3 Tr 204, 212, 224-225, 229-230.
[1880] 3 Tr 213-214, 227.
[1881] 3 Tr 227.
[1882] 3 Tr 222-223.
[1883] 3 Tr 211 (Figure 3), 226-227, 232.
[1884] 3 Tr 232-233.

Ms. Bolden noted that in the most recent electric rate cases, the Commission approved the following spending for the Company's LVD line-clearing subprogram:[1885]

2021	Case No. U-20697	$71.43 million
2022	Case No. U-20963	$81.089 million
2023	Case No. U-21224	$87.966 million
2024	Case No. U-21389	$106.608 million

She testified that the Company spent the approved amount (or more) for line clearing in each of those years.[1886] Ms. Bolden explained that the Company seeks to spend more in the 2025 LVD program than in past years because even though the number of tree-caused outage incidents has levelled off, the number of repeat outage zones continues to increase, which reflects the backlog of circuits that are outside of the 7-year effective cycle range and have not been cleared in many years.[1887] She testified that this increase in spending is moderately less of an increase after inflation adjustments compared to the 2022, 2023, and 2024 rate case increases.[1888]

Staff witnesses Duell and Evans testified in support of the Company's proposed line-clearing spending.[1889] Ms. Duell opined that "[i]t is crucial to allow Consumers to spend the full amount for line clearing to increase the resiliency of Consumers Energy's electric distribution system."[1890]

MNC witness Denzler criticized the Company's use of an "effective" cycle for line clearing, opining that because it is based solely on voltage level, the Company is "very likely" to trim higher-voltage circuits with slower vegetation regrowth and a lower risk for

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[1885] 3 Tr 228.
[1886] 3 Tr 228-229.
[1887] 3 Tr 230, 233-234.
[1888] 3 Tr 234.
[1889] 5 Tr 3835, 3859-3860.
[1890] 5 Tr 3835.

outages more frequently, while neglecting lower-voltage circuits with faster vegetation growth and increased risk.[1891] He recommended the Company use its remote sensing and machine learning analytic capabilities to target a variable-cycle based on more accurate real-world vegetation risk conditions.[1892] He added that if the Company spends the approved amounts, deferred accounting treatment should be authorized for both overspend and underspend (two-way tracker), but if the Company does not spend the entire approved amount, deferred accounting treatment should only be authorized for the underspend (one-way tracker).[1893]

In rebuttal, Mr. Kelly testified that the Company agreed with the implementation of trackers in the event of over- or underspending on line clearing.[1894]

Mr. Denzler also testified about the Company's Line Clearing Program Optimization Analysis that the Commission required after Case No. U-20697. According to Mr. Denzler, this analysis showed that the 4-year clearing cycle was "technically optimal," although the Company concluded that shortening the line-clearing cycle would inequitably burden residential customers since residential customers bear most of the line-clearing costs.[1895] Mr. Denzler opined that the Company should be required to move aggressively towards the 4-year cycle and include a plan for doing so that includes using a true variable line-clearing cycle instead of the effective cycle in its next rate case.[1896] He noted that the Company has already stated that it has the remote sensing and

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[1891] 5 Tr 3017-3018.
[1892] 5 Tr 3018.
[1893] 5 Tr 3860.
[1894] 5 Tr 1005; 5 Tr 3859-3860.
[1895] 5 Tr 3019.
[1896] 5 Tr 3019, 3021.

analytical tools necessary to conduct such activities.[1897] He opined that with increased accessibility of the lines given less prevalent vegetation, line crews and damage assessors should be able to conduct patrols and visually identify issues more easily and quickly using fewer resources.[1898]

Mr. Denzler also recommended that the Company update its annual line-clearing report filed under Case No. U-20697 to include an analysis of the reliability benefits year over year and program costs.[1899] And he recommended that the Commission decline to increase the capital spending, in order to mitigate the Company's concerns for rate impacts to residential customers.[1900]

Ms. Bolden rebutted Mr. Denzler's testimony, maintaining that the 7-year cycle is the most cost-effective approach to reducing tree-related outages on the LVD system when considering Line Clearing Program costs and voltage-specific reliability. She added that the optimization analysis of line-clearing cycles that the Company undertook in Case No. U-20697 found the optimal clearing cycle length was between 6 and 7 years for residential customers.[1901] She explained that an audit done in Case No. U-21305 showed that moving to a 4-year cycle would create unwanted upward rate pressure for residential customers.[1902] She further noted that the Company does not have the remote sensing data that Mr. Denzler cited, but that such additional remote sensing and analytical tool enhancement could help it optimize line-clearing cycles.[1903]

[1897] 5 Tr 3021.
[1898] 5 Tr 3022.
[1899] 5 Tr 3021.
[1900] 5 Tr 3021.
[1901] 3 Tr 247.
[1902] 3 Tr 248.
[1903] 3 Tr 249-250.

Referencing the Commission's directive in Case No. U-21389 for the Company to "provide an analysis of the feasibility of more aggressive line clearing in everything outside of the first zone" in its next rate case, the Company's brief relied on Ms. Bolden's testimony that "the Company's LVD primary clearing specification inside and outside of the first zone are the same" and argued that enhancing the line-clearing practices in the inner zones with incremental increased funding should be done before shifting its focus to outside zones.[1904] The Company maintains that its analyses and conclusions are reasonable and opposed the recommendations moving toward a 4-year line-clearing cycle, and moving to a true variable cycle.[1905]

This PFD finds that Consumers' proposed test year O&M expense for line clearing should be approved. Given that the 2025 calendar year will be the fifth year in the 7-year LVD line-clearing cycle and the Company determined that clearing in the first zone should be done before other zones, the Company should again be required to provide an analysis of the feasibility of more aggressive line clearing in everything outside of the first zone in its next electric rate case. This PFD also recommends that the Company be required to document its work with the DNR and other agencies to ensure that active forest management is occurring.

An additional dispute regarding the allocation of line-clearing costs is discussed below in connection with cost of service. And while MNC suggested that a tracker be implemented for line clearing, and Consumers agreed in rebuttal, this PFD finds there is

[1904] Consumers brief, 347-349.
[1905] Consumers brief, 351-354.

insufficient support for this proposal in this record. Should the parties wish to pursue this proposal in the future, more details should be provided.

3. Service Restoration O&M Expense

Consumers is proposing O&M expense for Service Restoration of $133.5 million in the test year based on the five-year average of actual service restoration costs from 2019 through 2023 adjusted for inflation, less projected savings from increased investment in the forestry program.[1906] In addition, the Company is requesting approval to implement a "Service Restoration Cost Sharing Mechanism." Several parties took issue with the Company's service restoration expense and proposed tracker. These disputes are addressed below.

a. Service Restoration Expense

Company witness Snider testified that service restoration costs have been increasing since 2019 due to the frequency and severity of catastrophic storms and that the Company anticipates those costs will continue to increase.[1907] He noted that catastrophic storms in 2023 accounted for just over $109 million in O&M spending.[1908]

Mr. Snider explained that the Company has improved its storm restoration performance and used the response to the May 7, 2024 tornado that impacted the Plainwell, Colon, and Sherwood communities as an example, where it replaced approximately 200 poles and restored service to nearly all customers in 48 hours using only internal and in-state contract crew resources.[1909] He further testified that because of

[1906] 5 Tr 976, 2517, 2518, 2521; Exhibit A-107, line 22, column f.
[1907] 5 Tr 2521-2524.
[1908] 5 Tr 2522.
[1909] 5 Tr 2528-2529.

its approach to preplanning for storm threats, the Company has reduced its use of mutual assistance and broker crews by 25% and expects to achieve another 25% reduction over the next two years.[1910] He said by maximizing its use of its internal workforce for restoration events, the Company has realized a 33% cost advantage compared to contract crews.[1911] And Consumers engages the lowest cost storm contractor resources first as a standard practice.[1912] Mr. Snider further testified that the Company's overall gray sky restoration performance in 2023 was 95%, meaning that 95% of customers service was restored in 24 hours or less for all events affecting less than 187,000 customers.[1913] He calculated that the 2023 gray sky results were better by 5% than 2022 and he expected continued improvement in 2024.[1914]

Mr. Snider testified that Consumers is motivated to perform efficiently and control service restoration costs in part because restoration costs have consistently exceeded the amounts included in rates.[1915] He testified that despite the Company's efforts to improve efficiency and control costs, future storm restoration costs are expected to be significant due to catastrophic storms caused by climate change.[1916]

Mr. Snider testified that the Company has been using a five-year average for service restoration costs projections in electric rate cases since Case No. U-20963 and it is appropriate to use that method.[1917] He said the amount sought in this case was

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[1910] 5 Tr 2524.
[1911] 5 Tr 2525.
[1912] 5 Tr 2525.
[1913] 5 Tr 2528.
[1914] 5 Tr 2528.
[1915] 5 Tr 2529.
[1916] 5 Tr 2530, 2532-2533.
[1917] 5 Tr 2518-2519, 2521-2522, 2530.

calculated by taking the five-year average of past spend, adjusted for inflation, and excludes previously received voluntary refund mechanism funds and storm insurance proceeds.[1918] He explained that the Company received approximately $12.84 million in 2020 and 2021 for storm insurance reimbursements and a Commission-approved voluntary refund for storm restoration activities.[1919]

Mr. Snider explained that the adjustments for storm insurance are no longer applicable since the policy was terminated in 2019; there are no plans to purchase storm insurance in the future, and all insurance claims were finalized in 2020.[1920] Similarly, Mr. Snider testified that voluntary refund adjustments are no longer applicable because the Commission approved the refund in Case No. U-20932 but denied the proposal to use the funds in Case No. U-21332, and the Company does not anticipate using future funds for storm restoration.[1921]

Mr. Spence testified that the Company is also seeking $54,000 in O&M expense for an upgrade to its integrated Tools for Operations Application (iTOA), the software application it uses to schedule and log work management activities.[1922] Staff supported Consumers' requested amount for Service Restoration expense.[1923]

Mr. Coppola opposed the Company's proposed Service Restoration expense amount. He noted that the Company excluded the insurance proceeds received in 2020 and 2021 even though the Commission found in Case No. U-21389 that those amounts

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[1918] 5 Tr 2530.
[1919] 5 Tr 2519-2520, see Figure 2.
[1920] 5 Tr 2519-2520.
[1921] 5 Tr 2519-2520.
[1922] 5 Tr 2535-2537.
[1923] 5 Tr 3838-3839.

should be included in the five-year average calculation.[1924] Mr. Coppola also challenged the 2% reduction for forestry efforts that the Company projects based on his review of the Company-provided tree-related power outage data which he said shows outages have declined by an average rate of 2.38% from 2019 to 2023.[1925] Based on his calculations, he recommended the Commission reduce the Company's service restoration O&M expense for the test year by $3.618 million.[1926]

In rebuttal, Mr. Snider maintained the accuracy of his five-year average service restoration expense calculation.[1927] He further testified that Mr. Coppola incorrectly calculated the potential savings due to tree-caused outages because he based it on the cumulative savings instead of the annual savings from one year to the next and he did not take into account that there will be fewer tree-caused outage incidents in the future when the LVD system is cleared on shorter cycles.[1928] And Mr. Snider reiterated that service restoration expenses are trending up and that the Company has outspent the approved rates by $341 million since 2019, and will exceed the amount approved in the last rate case by more than $40 million.[1929]

The parties' briefs rely on the testimony of their respective witnesses.

This PFD recommends the Commission approve O&M expense for service restoration based on the five-year average of actual service restoration costs from 2019 through 2023, excluding insurance proceeds and voluntary refund mechanism credits

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[1924] 5 Tr 2846.
[1925] 5 Tr 2847.
[1926] 5 Tr 2847-2848; Exhibits AG-1.33, AG-1.35.
[1927] 5 Tr 2543.
[1928] 5 Tr 2544.
[1929] 5 Tr 2545-2546.

received during that period. This PFD notes that although the storm restoration expenses were offset by insurance proceeds and refunds in Case No. U-21389;[1930] in the instant case, Consumers provided persuasive evidence that storm restoration costs are trending upward, and the Company is no longer purchasing insurance. This PFD also recommends that the Commission use Consumers' proposed factors for inflation of 0.367% and forestry program investment savings of 2%. Taking into consideration the above discussion, this PFD finds that storm restoration O&M should be set at $133.5 million.

b. Service Restoration Cost Sharing Mechanism

As noted above, Consumers also requests approval of a Service Restoration Cost Sharing Mechanism. Mr. Snider testified that the proposed mechanism is necessary because service restoration costs outpace the amount that may be recovered through base rates because of the variations in weather.[1931] He testified that the mechanism would ensure that customers and the Company equally share the risk and benefit from cost variances, because the mechanism would be triggered if the annual service restoration spending is below or above the amount included in rates, and customers will receive a 50% refund of the difference when it is below and the Company will be eligible for 50% deferred recovery if it is above.[1932] He stated that the proposed mechanism addresses the concerns the Commission had with the cost-sharing proposal outlined in Case No. U-21389.[1933]

[1930] March 1, 2024 order in Case No. U-21389, pp 169-170.
[1931] 5 Tr 2533-2535.
[1932] 5 Tr 2530-2533.
[1933] 5 Tr 2534-2535.

Among other reasons for opposing cost sharing mechanism, Staff witness Duell testified that the Commission rejected similar mechanisms in Case Nos. U-20963, U-20697 and U-21389. She also testified that under the current process (without the mechanism) the Company keeps 100% of service restoration savings which is a stronger incentive to control costs than the proposed mechanism.[1934]

Mr. Coppola also recommended the Commission reject the Company's cost sharing mechanism.[1935] He noted that this is the Company's fifth proposal for such a mechanism and that the only change from prior requests is the percentage of cost recovery.[1936] He argued calculating the expense based on the five-year average past actual costs should be sufficient to cover any variation in future actual expense.[1937] He also explained that a large portion of the increase in expense is based on the escalation in pre-stage hiring and the mechanism would diminish the Company's incentive to control those costs.[1938] Mr. Coppola further opined that the mechanism would diminish the Company's incentive to reduce outages since it could recover its costs instead of face a penalty.[1939]

MNC witness Denzler also opposed the mechanism, testifying that the proposal unduly skews the cost of service restoration against customers by significantly reducing the Company's risk for increased costs due to weather severity and misaligning incentives to improve reliability given the Company's historically poor performance in that area.[1940]

[1934] 5 Tr 3838-3839.
[1935] 5 Tr 2873.
[1936] 5 Tr 2873.
[1937] 5 Tr 2873-2874.
[1938] 5 Tr 2874.
[1939] 5 Tr 2874-2875.
[1940] 5 Tr 3023-3024.

He opined that despite increases in investments, key reliability metrics remain flat and the Company's analyses and projections for future performance are unrealistic.[1941] And further, because the Commission offers the Company an opportunity to earn a return on investment, Mr. Denzler opined the Company is already being compensated for service restoration recovery cost risk.[1942] He concluded that the Commission should reject the Company's proposed mechanism for the same reasons it rejected the mechanism proposed in Case No. U-21389.[1943]

Mr. Denzler recommended the Commission order Consumers to develop service restoration performance criteria that include outage restoration, estimate accuracy, resource productivity, and financial responsibility specific to service restoration and storm scenarios and tie-bar financial recovery of excess service restoration costs to the Company's performance in these areas.[1944] And, as discussed above, he suggested that if the Commission approves the mechanism, the rate of return it authorizes through the ROE should correspondingly be reduced since compensation was included for weather volatility.[1945]

In rebuttal Mr. Snider again opined that the service restoration mechanism was appropriate. He explained that the proposed mechanism is different and improved from prior proposals and that the circumstances have changed since the last case given that the Company has improved its service restoration performance as evidenced by the

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[1941] 5 Tr 3024.
[1942] 5 Tr 3025.
[1943] 5 Tr 3025-3026.
[1944] 5 Tr 3026, 3033.
[1945] 5 Tr 3026.

auditor's findings in Case No. U-21305.[1946] He also opined that continued improvement in service restoration would result if the mechanism were in place.[1947]

This PFD finds that the Service Restoration Cost Sharing Mechanism should not be approved. Although the Company proposes to "share" the risk and reward of variations in expense equally with customers, the evidence presented shows that customers are unlikely to realize a refund given that storm restoration expense has been more than predicted for many years, with no prospect for a different outcome during the test year. Moreover, as articulated by Staff, the Attorney General and MNC, this PFD finds that the Company's proposal is no different than those the Commission denied four times in the past.

Whether the Commission accepts the recommendation regarding the mechanism or not, this PFD recommends the Commission require the Company to implement the service restoration performance criteria described by Witness Denzler going forward.

4. Generation O&M Expense

Mr. Blumenstock supported Consumers' Generation O&M expense, as shown in Exhibit A-43. He testified that the major drivers of this expense are the funding needed for the daily operation and maintenance of the Company's generation fleet and the funding needed for certain internal organizations that support generation operations, and he described in detail how the expense was developed.[1948] For the test year, Consumers projected a total Generation O&M expense of $111.851 million, which is a decrease from

[1946] 5 Tr 2546-2547, 2550.
[1947] 5 Tr 2547-2548.
[1948] 5 Tr 1490-1521.

the $118.849 million spent in 2023.[1949] This decrease is a result of "a change in the mix of the Company's owned generating assets as well as focused cost reductions."[1950]

Consumers categorizes Generation O&M expenses as Base O&M and Adjusted O&M, with Base O&M expenses comprised of labor and non-labor and Adjusted O&M expenses further divided into Environmental Operations, Major Maintenance, and Retention and Separation categories.[1951] Labor costs are the primary component of Base O&M expenses and increase at a predictable stable rate. Non-labor costs include items required to operate the plants, including fuel for equipment and vehicles, material, tools, cleaning supplies, facilities, security, and road and grounds maintenance. These costs also increase at a predictable rate. Consumers determined Base O&M expenses for the bridge period and test year by "considering staffing levels and historical spending."[1952] Base expenses decreased from $93.864 million in 2023 to $78.063 million in the test year.[1953]

The Adjusted O&M expenses for Environmental Operations and Major Maintenance represent expenses that "are new or projected to change from past years' expense levels."[1954] Environmental Operations O&M expenses relate to the environmental equipment at the Karn and Campbell sites. Because of the retirement of Karn Units 1 and 2 on May 31, 2023, and Campbell Units 1, 2, and 3 on May 31, 2025, these costs have decreased between the historical year and test year from $9.225 million

[1949] 5 Tr 1491; Exhibit A-43.
[1950] 5 Tr 1493.
[1951] 5 Tr 1492; Exhibit A-43, page 1.
[1952] 5 Tr 1492.
[1953] Exhibit A-43, page 1.
[1954] 5 Tr 1493.

to $2.584 million.[1955] Major Maintenance O&M expense relate to maintenance projects "based on asset condition or historic maintenance intervals."[1956] Exhibit A-43, page 3, shows the Major Maintenance expenses projected for the test year by generating unit, and Mr. Blumenstock provided detailed descriptions of these projected expenses, which total $31.203 million for the test year.[1957]

The Adjusted O&M expenses for Retention and Separation relate to the safe and reliable operation of Karn Units 1 and 2 through their May 2023 retirement and Campbell Units 1, 2, and 3 through their May 2025 retirement.[1958] The retention and separation plans for these units include retention benefits, severance benefits, and relocation and moving costs, which Mr. Blumenstock described in detail.[1959] The company projected $4.621 million for Retention and Separation O&M expenses in the test year related entirely to the Campbell units. However, the Company is not seeking recovery of this amount as part of Generation O&M expenses because it is being treated as a regulatory asset.[1960]

Mr. Coppola objected to the calculation of the Base O&M expense for the test year. While he recognized that the proposed amount reflects a decline of $15.8 million from 2023, he noted that "the retirement of coal plants has a significant impact on this decline, and it is necessary to ascertain that the decrease in costs is fully reflected in the projected test year along with adjustments to other power plants."[1961] In discovery, he requested a

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[1955] 5 Tr 1498-1499.
[1956] 5 Tr 1499-1503.
[1957] 5 Tr 1500, 1503-1512.
[1958] 5 Tr 1493.
[1959] 5 Tr 1512-1521.
[1960] 5 Tr 1513.
[1961] 5 Tr 2857.

breakdown of the Base O&M expense by power plant, which data was provided by the Company as shown in Exhibit AG-1.40. As a result of his review of this information, he proposed two adjustments for the projected test year.[1962]

The first adjustment relates to the Croton hydro plant, which has a projected Base O&M expense for the test year of $3.055 million. The Base O&M expense for the Croton hydro plant for 2023 was $1.431 million, and the average annual Base O&M expense for the most recent historical three years was $1.664 million.[1963] Mr. Coppola asserted that the Company did not provide any basis or support "for nearly a tripling of the expense."[1964] He forecasted an expense amount of $1.747 million by using the three-year historical average adjusted for inflation. Thus, he recommended a reduction of $1.308 million.[1965]

His second proposed adjustment relates to the Karn plant, which has a projected Base O&M expense for the test year of $10.411 million. Mr. Coppola noted that during 2023, the plant had five months of operations for Karn Units 1 and 2 (coal plants) because of their shutdown at the end of May 2023 and 12 months of operation for Karn Units 3 and 4 (natural gas-fueled plants).[1966] He testified that the average annual Base O&M expense for the entire Karn Plant during 2021 and 2022 was $26.761 million.[1967] He explained that the company reported a Base O&M expense for the Karn plant of $16.554 million for 2023, a decrease of $10,207,000 from the historical average which is

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[1962] *Id.*
[1963] *Id.*; Exhibit AG-1.40.
[1964] 5 Tr 2857.
[1965] 5 Tr 2857-2858.
[1966] 5 Tr 2858.
[1967] *Id.* As noted by Mr. Blumenstock at 5 Tr 1531, this number is miscalculated. Exhibit AG-1.40 shows a Base O&M expense of $28,482,000 for the 2021 year and $27,039,000 for the 2022 year, which results in an average expense of $27,761,000 (($28,482,000 + $27,039,000) / 2 = 27,761,000). This discrepancy appears to the result of a typo with $2**6**,482,000 used in the calculation instead of $2**8**,482,000 (($26,482,000 + $27,039,000) / 2 = 26,761,000).

attributable to the partial operation of Karn Units 1 and 2 during that year. By annualizing that amount ($10,207,000 x 2), he expected a decrease of $20.414 million in the annual Base O&M expense for the Karn Plant. By subtracting the annualized expense reduction of $20.414 million from the historical 2-year average of $26.761 million, he calculated a remaining expense for Karn Units 3 and 4 of $6.347 million, which, adjusted for inflation, results in an expense of $6.666 million for the projected test year. Therefore, he recommended a decrease of $3.745 million.[1968] Based on his proposed adjustments for the Croton Hydro Plant and the Karn Plant, Mr. Coppola recommended that the Commission remove a total of $5.053 million from the projected test year Generation O&M expense.[1969]

In rebuttal, Mr. Blumenstock disagreed with the adjustments proposed by Mr. Coppola. He rejoined that the projected test year expense for the Croton hydro dam includes $165,460 for Hydro Croton Headquarters License/Fees (Regulatory), $1,252,637 for Hydro Croton Headquarters Maintenance, and $1,583,137 for Hydro Croton Headquarters OPS, for a total of $3,001,234. He did admit that $53,333 was erroneously included in the projected amount for a project that was incorrectly attributed to the Croton Hydro Unit.[1970] He clarified that the Base "O&M expense projected for the Croton Hydro Unit is based upon the Croton Headquarters which provides maintenance and operations for all three Muskegon River Hydro Units – Croton, Hardy, and Rogers."[1971] Mr. Blumenstock asserted that Mr. Coppola did not include the historical

[1968] 5 Tr 2858-2859.
[1969] 5 Tr 2859.
[1970] 5 Tr 1528-1529.
[1971] 5 Tr 1529.

expenses for the Hardy and Rogers Hydro Units in his analysis. When these expenses are included, there is a three-year historical average of $2.715 million, which, when adjusted for inflation, results in a total projected expense of $2.910 million using Mr. Coppola's method. This is only $91,000 less than Consumers' revised projected amount of $3.001 million.[1972] Mr. Blumenstock explained that this difference is attributable to additional headcount and contracted engineering services because of the increased scope of the company's FERC Part 12 inspections, which now require comprehensive assessments in addition to periodic inspections.[1973]

Regarding the Karn Plant, Mr. Blumenstock pointed out that Mr. Coppola miscalculated the historical two-year average, which should be $27.761 million, resulting in a decrease in Base O&M expenses for the 2023 historical year for the Karn Plant of $11.207 million. He also pointed out that Mr. Coppola doubled the cost reduction attributable to Karn Units 1 and 2 rather than prorating this amount, even though the decrease represents a seven-month reduction. He argued that using the correct numbers and applying proration "would yield an annual base O&M expense reduction of $19.212 million."[1974] Applying this reduction would result in a projected Base O&M expense for the Karn Plant of $8.549 before inflation and $8.979 after inflation, which is $1.437 million less than the Company's projected amount.[1975] He further contended that this difference is necessary because not all costs attributable to Karn Units 1 and 2 can simply be

[1972] *Id.*
[1973] 5 Tr 1528, 1530.
[1974] 5 Tr 1531.
[1975] 5 Tr 1531-1532.

eliminated. Karn Units 3 and 4 now entirely bear certain costs that were previously shared with Karn Units 1 and 2, the amount of which he calculated to be $2.355 million.[1976]

Consumers' brief repeats the arguments made by Mr. Blumenstock in rebuttal.[1977]

On brief, the Attorney General responds to Mr. Blumenstock's rebuttal by stating the Company did not provide a link between the expenses for the Croton Hydro Plant and the Hardy and Rogers Hydro Plants. She notes that the $3.001 million in projected expenses described in rebuttal are "summary level forecasts by major work functions" and "no project level detail" was provided.[1978] She argues that the increased expense is not supported and Mr. Coppola's proposed disallowance of $1.308 million should prevail.[1979] Regarding the Karn Plant, the Attorney General repeats Mr. Coppola's testimony and does not address Mr. Blumenstock's rebuttal.[1980]

Consumers and the Attorney General did not address this issue further in reply briefing.

This PFD agrees with Consumers that the Attorney General's proposed disallowance of $1.308 million of Base O&M expenses for the Croton Hydro Plant should be rejected. While the PFD does not fault Mr. Coppola for not realizing that these expenses also related to the Hardy and Rogers Hydro Plants as the breakdown provided in response to his discovery request did not include that information, when the historical Base O&M expenses for these plants are also considered, the projected Croton Base O&M expense is reasonable. The PFD notes that no Base O&M expenses were projected

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[1976] 5 Tr 1532.
[1977] Consumers brief, 373-377.
[1978] Attorney General brief, 185-186.
[1979] *Id.*
[1980] Attorney General brief, 186-187.

for the Hardy and Rogers Hydro Plants for the test year[1981] and, using Mr. Coppola's proposed method of adjusting the historical three-year average for inflation to forecast costs, the difference between the historical three-year average for these three hydro plants adjusted for inflation and the projected Base O&M expenses for the test year is only $91,000, which is attributable to increased FERC requirements. However, if the Commission agrees with Mr. Coppola's method, the PFD recommends that the adjustment be limited to $91,000 rather than the $1.308 million proposed by the Attorney General to reflect the expenses required for all three hydro plants.

This PFD also agrees with Consumers that the Attorney General's proposed disallowance of $3.745 million of Base O&M expenses for the Karn Plant should be rejected. As Consumers pointed out, Mr. Coppola incorrectly calculated the historic two-year average and doubled the cost reduction he attributed to the decommissioning of Karn Units 1 and 2, rather than prorating this amount, even though the decrease represents a seven-month reduction. The Attorney General failed to address these issues on brief and instead reasserted her position based on incorrect calculations. Using the correct calculations results in a projected Base O&M expense for the Karn Plant, after adjustment for inflation, of $8.979 million, which is $1.437 million less than the Company's projected amount. Mr. Blumenstock explained this difference as being attributable to shared costs that are now born entirely by Karn Units 3 and 4. The PFD notes that this conclusion is supported by the fact the Company's actual Base O&M expenses for the Karn plant for the first 9 months of 2024 are $9.464 million, which means 2024 expenses

[1981] Exhibit AG-1

are likely to exceed the projected test year expense of $10.411 million.[1982] However, if the Commission agrees with Mr. Coppola's method, the PFD recommends that the adjustment be limited to $1.437 million rather than the $3.745 million proposed by the Attorney General to reflect the required corrections to Mr. Coppola's calculation.

The Attorney General did not raise any other objections, and no other party objected to these expenses, which should be approved except for the $53,333 that Consumers admits was erroneously included. However, if despite the PFD's recommended disallowance of hydroelectric generation capital expenditures as previously discussed, the Commission adopts Mr. Monroe's alternative proposal[1983] and allows spending on hydro facilities to be treated as a regulatory asset, then the expenditures for hydro facilities included in Generation O&M expenses should be removed, as was done for the Adjusted O&M expenses for Retention and Separation.

5. Customer Experience and Operations O&M Expense

Mr. McLean projected a total of $25.4 million in O&M expense for its Customer Interactions program for the test year. The program provides for all channels of customer to company interactions, and includes five areas of focus: (1) Digital Customer Operations; (2) Customer Contact Center; (3) Business Customer Care; (4) Credit and Assistance; and (5) Analytics & Outreach.[1984]

[1982] Exhibit AG-1.47.
[1983] Mr. Monroe suggested that if hydroelectric generation capital expenditures for the bridge and test period are not included in rates, the Commission could authorize Consumers to record actual spending on hydro facilities as a regulatory asset until a decision is made as to the future of these facilities. 5 Tr 2390-2391.
[1984] 5 Tr 2145; Exhibit A-130.

Mr. McLean testified regarding the Credit and Assistance area of Customer Interactions.[1985] According to him, Credit and Assistance consists of Theft Investigations, Revenue Operations, and Energy Assistance, which "collectively manage the Company's collections cycle and support its most vulnerable customers by connecting them with Company-sponsored payment plans and public assistance funding to help customers pay their bills."[1986] The Company spent $2.605 million on Credit and Assistance in 2023 and projects Credit and Assistance expenses of $3.355 million for the test year, an increase of approximately $750,000.[1987] In response to Staff's discovery request, Mr. McLean indicated that Theft-Field costs, within Theft Investigations, are projected to increase by $159,118 and Collection Agency Services by $571,961 over 2023 expenses.[1988]

Staff witness Klocke recommended that the increase in expenses for Theft-Field and Collection Agency Services associated with the CARE program be disallowed, as discussed below.[1989] Mr. McLean clarified that these expenses "fall within the Credit and Assistance department and are *not* under the CARE Program."[1990] Staff continues to maintain that these expenses are CARE program expenses on brief.[1991] While either way, these adjustments reduce Other O&M expenses, the PFD agrees with Consumers that Staff's proposed adjustments do not involve CARE program expenses as they are unrelated to this low-income program.

[1985] 5 Tr 2145, 2156-2157.
[1986] 5 Tr 2156.
[1987] 5 Tr 2157; Exhibit A-130, page 3.
[1988] Exhibit S-13.7.
[1989] 5 Tr 3729.
[1990] 5 Tr 2185.
[1991] Staff brief, 105.

a. Collection Agency Services

Mr. McLean indicated that the $571,961 projected increase in Collection Agency Services expenses is "for new vendor contracts in the test year following RFPs in December 2023."[1992] Ms. Klocke asserted that Consumers "did not provide any additional detail or justification for how the RFPs for this project were evaluated, nor were any costs within the vendor contracts provided."[1993] Because the Company did not support the large increase, Staff recommended that the entire $571,961 increase be disallowed.[1994]

In rebuttal, Mr. McLean agreed with this adjustment.[1995] On brief, Consumers agreed to remove the $571,961.[1996] On brief, Staff recommended that the Commission adopt Consumers' concession.[1997] Because Consumers has conceded this issue, Staff's disallowance should be adopted.

b. Theft – Field

Mr. McLean stated that Revenue Recovery-Field expenses are for the field component of the Revenue Recovery team, which executes disconnection orders and conducts physical investigations of utility theft.[1998] He stated that Theft-Field expenses relate to the Theft Field team physically inspecting the meters to determine whether physical tampering occurred. He explained the increase in the Theft-Field expenses is

[1992] Exhibit S-13.10.
[1993] 5 Tr 3730.
[1994] *Id.*
[1995] 5 Tr 2187.
[1996] Consumers brief, 380.
[1997] Staff brief, 110.
[1998] Exhibit S-13.8.

attributable to “fleet charges transferred from revenue recovery field team and annual increases for labor.”[1999]

Ms. Klocke pointed out that the Revenue Recovery Field team and Theft Field team appear to “complete virtually the same tasks.”[2000] Ms. Klocke testified that Staff believes it is inappropriate for these two areas to have significant overlap and recommends disallowing the entire $159,118 increase for Theft-Field, thus limiting the expense amount to the 2023 actual costs.[2001]

In rebuttal, Mr. McLean explained that, at the time of case development, the Revenue Recovery Field team and Theft Field team were “two different departments with similar but disparate responsibilities,” and, after testimony was filed in this case, these teams were merged into one team.[2002] This resulted in a $111,909 decrease in Revenue Recovery-Field and a $159,118 increase for Theft-Field. Therefore, the increase in Theft-Field is offset by the decrease to Revenue Recovery-Field. After accounting for this offset, Theft-Field has a remaining increase of $47,000, which is attributable to an increase in labor expenses.[2003] According to Mr. McLean, “[t]he costs reflect funds required to support the team that completes physical theft investigations and disconnections—a vital service to prevent theft of services and increased costs to all customers, as well as promoting safety.”[2004] Consumers repeats Mr. McLean’s testimony on brief.[2005]

[1999] Exhibit S-13.9.
[2000] 5 Tr 3730-3731.
[2001] *Id.*
[2002] 5 Tr 2186.
[2003] *Id.*
[2004] *Id.*
[2005] Consumers brief, 379-380.

Staff's brief argues that the Company never indicated in response to Staff's audit questions that the two areas had merged and that Consumers was unable to provide information regarding what these costs contained. Therefore, Staff maintains that its "recommended disallowance still stands as the costs for the two areas requested in the case overlap and are redundant."[2006]

Consumers and Staff did not address this issue further in their reply briefs.

The PFD agrees with Staff that Consumers did not provide information regarding what these costs include or how the merger of the Revenue Recovery Field team and Theft Field team affected costs. However, based on Staff's methodology of limiting the expenses to 2023 costs, the PFD finds that, because of the corresponding $111,909 decrease in Revenue Recovery-Field, the true increase in actual costs is $47,000 and recommends that the Theft-Field expenses be reduced by this amount.

On behalf of the Attorney General, Mr. Coppola recommended a general disallowance of $2.6 million from the Company's projected expense for the overall Customer Interactions program to bring it in line with actual expenses. He explained that he reviewed quarterly expense information from 2023 and 2024 provided by the Company in discovery and determined that the Company's actual expense for Customer Interactions for the 12 months ending June 2024 was only $22.7 million. Thus, he argued, Consumers' expense should be set to this amount and its forecasted expense reduced by $2.6 million.[2007]

[2006] Staff brief, 106.
[2007] 5 Tr 2859-2860.

In rebuttal, Mr. McLean testified that the Company's stated quarterly expenses, as relied upon by Mr. Coppola, were artificially low relative to the actual cost of operating the Customer Interactions program. He explained that the program expense for the first two quarters of 2024 did not include the actual costs of running the program because of a reorganization shifting people and costs from customer interactions to other customer organization programs and to IT programs.[2008] Mr. McLean said specifically that $971,600 in costs were shifted to IT programs and $368,000 were shifted to customer billing.[2009] These shifted costs represent actual operating expenses for the Customer Interactions program even though they are not reflected in the quarterly information reviewed by Mr. Coppola.[2010]

Mr. McLean agreed, however, that a $571,961 reduction was warranted due to collection agency services expenses, as discussed above. He said this reduces the Company's projected expense from $25.4 million to $24.8 million.[2011] He noted that $24.8 million is higher than the historical test year, but less than the amount that would be projected by applying inflation to the historical test year.[2012]

In her brief, the Attorney General notes that the specific cost shifting detailed by Mr. McLean amounts to $1.34 million. Additionally, she asserts that she was unable to evaluate the costs because the Company failed to provide the cost-shifting information in

[2008] 5 Tr 2187-2188.
[2009] 5 Tr 2188.
[2010] 5 Tr 2187-2188.
[2011] 5 Tr 2187.
[2012] 5 Tr 2188.

a timely manner. She continues to recommend a $2.1 million disallowance from the program in addition to the conceded $571,961 disallowance.[2013]

In its brief, the Company argues that its request for $24.8 million (its initial request reduced by the conceded $571,961), is reasonable.[2014]

This PFD finds that the Attorney General's approach to base the Customer Interactions O&M expense on actual expense information is reasonable. This PFD further finds that the amount necessary to operate the program was at least $1.34 million higher than what was reflected in the Company's quarterly expense information due to cost shifting. Thus, only $760,000 should be removed from the Company's projection. This, along with the recommended $47,000 reduction in Theft-Field and the Company's concession to remove $571,961, would result in a Customer Interactions O&M expense of $24 million, which is a reduction of $1.4 million from the originally requested $25.4 million.

6. Corporate Services O&M Expense/Insurance

Mr. Foster testified for Consumers that the insurance expense included within the risk management category of Corporate O&M Expense "include[s] the premiums for property and casualty insurance paid to cover the business including property damage, director and officer's liability insurance, public liability insurance, workers' compensation insurance, fiduciary liability insurance, and fidelity insurance."[2015] The expenses were based on actual 2023 O&M expenses, adjusted for one-time increases and decreases,

[2013] Attorney General brief, 189-190.
[2014] Consumers brief, 380-381.
[2015] 5 Tr 1721-1722.

and then adjusted for inflation.[2016] Referring to Exhibit A-72, particularly Column (m), Mr. Foster explained that this included a $5,595,864 reduction for insurance distributions. As set forth in a table at 5 Tr 1726 showing 2019 through 2023 insurance distributions and/or refunds, Consumers removed $3,519,597 in actual insurance distributions received in 2023 and replaced this with the $9,115,461 five-year average for insurance distributions that was used in the Company's calculation.[2017]

Mr. Coppola agreed with the inflation rates the Company used in its calculations; however, he took issue with what he understood to be the Company's $16,593,000 insurance expense for the projected test year. [2018] He testified that Consumers did not provide the basis for the calculation underlying the 2025 expense amounts beyond stating that the property insurance premiums were based on estimated values and rate increases, and other insurance premiums within the total forecast were based on year-over-year increases.[2019]

Instead, Mr. Coppola "calculated the compound rate of change for the five-year historical insurance premiums and applied that rate of increase to the 2023 actual amount," set forth in Exhibit AG-1.43, using the average refund distributions from 2019 to 2023 to generate a forecasted insurance expense of $10,475,000.[2020] As a result, Mr. Coppola recommended a $6,118,000 reduction from the forecasted O&M expense for the

[2016] 5 Tr 1724-1725.
[2017] 5 Tr 1725-1726.
[2018] 5 Tr 2842.
[2019] 5 Tr 2862.
[2020] 5 Tr 2862-2863.

projected test year.[2021] This recommendation is reflected in the Attorney General's brief.[2022]

Relying on Exhibit A-242, Mr. Foster testified in rebuttal that the Attorney General's requested reduction should be denied. He stated that the Company is only projecting an insurance O&M expense of $9,846,634, which is less than Mr. Coppola's calculated expense of $10,475,000.[2023] Consumers' brief picks up this thread, arguing that the discovery response found in Exhibit AG-1.42, upon which Mr. Coppola relied when calculating that the forecasted insurance expense was $16.6 million, includes other expenses and is solely for the Company's planning purposes; $16.6 million is not the requested O&M amount.[2024] As reinforced by Consumers' brief, the actual insurance expense projection for the test year, reflected in Exhibit A-242, is only the $9,846,634.[2025]

This PFD recommends approval of an O&M insurance expense of $9,846,634 without further reduction. The $9,846,634 is less than the expense independently forecasted by Mr. Coppola. And, considering Mr. Foster's testimony regarding Consumers' methodology for calculating the amount,[2026] it does not appear to be an under-projection.

7. Information Technology O&M Expense

Mr. Kandan sponsored Exhibit A-87, which shows total projected IT investments O&M expense of $8,672,000 in the test year compared to $7,471,000 spent in the 2023

[2021] 5 Tr 2863 & 2872.
[2022] Attorney General brief, 190-192.
[2023] 5 Tr 1739-1741.
[2024] Consumers brief, 383-384.
[2025] Consumers brief, 384.
[2026] 5 Tr 1724-1726 & 1738-1741.

historical year.[2027] He explained, “Investments O&M is used by the Company to fund the O&M portion of upgrade projects, asset refresh projects, and technology investments that are needed to provide the new capabilities for internal business units and customers.”[2028] He further testified about the importance of upgrading IT systems for cyber security and operational stability:

> Upgrading applications, operating systems, and database management systems is essential to delivering safe, reliable, and affordable electricity to the Company’s customers. Implementing current versions of technology enables the Company to operate secure and stable systems, remediate security vulnerabilities, keep customer and company data secure, maintain vendor support, address defects that impair stability and functionality, and address version interdependencies between systems.[2029]

Staff proposes adjustments of O&M expenditures related to various IT projects. As noted in the IT capital expenditures section, the Company agreed to remove $94,000 in O&M expenses related to the Commercial and Industrial Online Account Management project.[2030] In addition, this PFD previously addressed, and rejected, Staff’s proposed adjustments to the Product Family Enhancements – Application Platforms Services – Capital project and the Product Family Enhancements – Infrastructure Platforms Services – Capital project, both of which include O&M expenses. The remaining contested issues are addressed below.

[2027] 5 Tr 1867.
[2028] 5 Tr 1865.
[2029] *Id*.
[2030] See 5 Tr 1971-1973, 2185; Exhibit A-260, line 5; Staff brief, 111.

Staff recommends a 20% disallowance of O&M expenses, totaling $76,302,[2031] associated with the following four projects:[2032]

- **Business Continuity – Program Management Tool.** A disallowance of $12,506 (20% of $62,529).

- **Enterprise Risk Management.** A disallowance of $7,286 (20% of $36,429).

- **Product Family Enhancements – Application Platforms Services – O&M.** A disallowance of $14,823 (20% of $74,114).

- **Product Family Enhancements – Infrastructure Platforms Services – O&M.** A disallowance of $41,687 (20% of $208,435).

Mr. Hansen testified in support of Staff's recommendation. He explained that through an audit response, the Company indicated that costs were estimated based on the costs of past projects of similar size and scope, without providing details about those similar projects.[2033] Consumers also responded that a portion of the costs are based on estimates of capital software, labor, and contractor costs, but provided no supporting information about those estimates.[2034] Mr. Hansen testified, "[w]hile Staff does not have issues with the nature of each project, Staff is concerned about the basis of the cost estimates for some of the projects."[2035] He further explained that the estimated costs for the projects listed in Exhibit S-10.1 were in line with Class III cost estimates according to the AACE classification system and could be overestimated by as much as 20%.[2036] Staff

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[2031] Staff initially erred in calculating its adjustments by using the projects' total company O&M expenditures instead of expenditures allocated to the company's electric business. The Company identified the correct disputed amounts in rebuttal, and Staff acknowledges the error in briefing. See 5 Tr 1949-1970; Exhibit A-243; Staff brief, 51.
[2032] Exhibit S-10.1. The seven additional projects listed in Exhibit S-10.1 were addressed in the capital expenditures section of this PFD.
[2033] 5 Tr 3695.
[2034] 5 Tr 3695-3696.
[2035] 5 Tr 3696.
[2036] *Id*.

therefore recommended a 20% disallowance to "avoid the possibility of the Company over-recovering for these IT projects."[2037]

Mr. Kandan defended Consumers' proposed expenditures. He testified that Staff's audit request asked for the basis of the cost estimates and detail about how the estimates were derived, but it did not request critical information about the project phase or the completion percentage.[2038] Without that necessary information, Mr. Hansen made assumptions to classify each project as a Class III cost estimate under the AACE system.[2039] Mr. Kandan also stated that the Company already reduced by 20% any projected costs that are based on an ROM estimate, and the projects in Exhibit S-10.1 "were not identified as projects with an ROM estimate because they were at a more advanced stage of planning and implementation."[2040] Mr. Kandan further noted, "Unlike capital, the Company does not have the opportunity to recover the O&M expenses in a future case."[2041]

Mr. Kandan explained that the Business Continuity – Program Management Tool project "will allow the Company to automate and establish linkages between departments and essential functions they support and perform necessary analysis before, during, and after disruption to allow for more efficient response to minimize downtime."[2042] He testified that the project is in the investment planning stage, and the Company had explained in an audit response that the projected costs were "based on subject matter expertise and

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[2037] *Id*.
[2038] 5 Tr 1947-1948.
[2039] 5 Tr 1948. Mr. Kandan testified that the company does not use the AACE cost-estimate classification system for classifying IT projects. 5 Tr 1950.
[2040] 5 Tr 1948-1949.
[2041] 5 Tr 1958, 1960.
[2042] 5 Tr 1957.

knowledge of similar past projects for internal labor costs, as well as vendor bids for contractor costs."[2043] He further opined, "Staff indicated it does not have issue with the nature of the project; therefore, the project should be included and approved in this case."[2044]

The Enterprise Risk Management project "will allow the Company to be more proactive and efficient in managing enterprise risk by centralizing risk identification, management, and mitigation plans."[2045] Mr. Kandan testified that the project is in the investment planning stage, and Consumers stated in an audit response that the projected costs were "based on subject matter expertise and knowledge of similar past projects for labor, contractor, and software costs."[2046] And because Staff does not take issue with the nature of the project, Mr. Kandan recommended "the project should be included and approved in this case."[2047]

Mr. Kandan testified that the Product Family Enhancements – Application Platforms Services – O&M project and the Product Family Enhancements – Infrastructure Platforms Services – O&M project "will allow the Company to implement smaller, short-cycle technology efforts for new or improved functionality needed to respond to changing business and customer conditions."[2048] He testified that the Company had explained in an audit response that the projected costs for the projects were based on actual three-year historical average spending of the predecessor Enhancements-IT-Capital and

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[2043] 5 Tr 1958.
[2044] 5 Tr 1958-1959.
[2045] 5 Tr 1959.
[2046] 5 Tr 1960.
[2047] *Id*.
[2048] 5 Tr 1963-1964, 1968.

Product Family Enhancements-IT/Digital Foundation-Capital projects.[2049] He further testified that Consumers "does significant analysis and management of enhancements to ensure that enhancement cost estimates are reasonable and prudent."[2050] In addition, Mr. Kandan cited the enhancement analysis in Exhibit A-92, which compares historical projections for the years 2019 through 2026 with actual spending for the same years up to 2023, and, according to Mr. Kandan, "demonstrates that the Company does not over estimate [sic] enhancement costs."[2051] And again he opined that because Staff does not take issue with the nature of the projects, Staff's proposed disallowance should be rejected.[2052]

In its brief, Staff responds to Mr. Kandan's testimony about the Business Continuity – Program Management Tool and Enterprise Risk Management projects by arguing that a 20% disallowance is necessary to prevent Consumers from over-recovering because the projected costs for those projects are estimated.[2053] Staff also addresses the Company's statement that costs associated with the Product Family Enhancements projects were based on past costs for different projects, arguing that the Company fails to provide any detail about how the costs for those past projects were allocated between the new projects.[2054]

Consumers argues in briefing that it has adequately supported its projected O&M expenses.[2055] It asserts that the projects identified by Staff are at a more advanced stage

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[2049] 5 Tr 1964-1965, 1969.
[2050] 5 Tr 1965, 1969.
[2051] *Id*.; Consumers brief, 388-389.
[2052] 5 Tr 1965, 1969.
[2053] Staff brief, 104.
[2054] *Id*.
[2055] Consumers brief, 385.

of planning and therefore are not appropriate for an ROM adjustment.[2056] Consumers also reiterates its position that Staff arbitrarily classified the projects as Class III AACE estimates based on incomplete information and argues, "With the information now on the record—between the Company's direct and rebuttal testimony and exhibits—there is no reason for Staff to dispute, or the Commission to reject, the Company's projections."[2057]

This PFD agrees with Staff that a $19,792 O&M disallowance for the Business Continuity – Program Management Tool and Enterprise Risk Management projects is appropriate. Staff has shown that the estimates for these two projects were not fully developed and lacked important details that Consumers has since failed to provide through this proceeding. However, consistent with the related findings concerning IT capital expenditures, this PFD finds that an adjustment to the Product Family Enhancement projects is not warranted. The company adequately supports its initial estimates for these projects with three-year average historical spending of predecessor projects and additional data showing historical projected and actual costs for the company's Enhancements projects.

8. Employee Benefits Expense

Ms. Grob presented the company's O&M expenses for employee benefits. Using Exhibit A-77, which summarizes expenses through the end of February 2026, she testified this expense equals negative $44,656.[2058] In its brief, the company explains that the employee benefits O&M expenses include:

[2056] Consumers brief, 385-388.
[2057] Consumers brief, 386.
[2058] 5 Tr 1758-1759. See Exhibit A-77.

> (1) a Pension Plans expense of ($53,469,000); (2) a Defined Company Contribution Plan ("DCCP") expense of $14,967,000; (3) a 401k Employee Savings Plan ("ESP") expense of $12,121,000; (4) an active employee health care, life insurance, and Long-Term Disability ("LTD") insurance expense of $28,218,000; (5) a retiree health care and life insurance expense, or OPEB, of ($50,333,000); and (6) an Other Benefits expense of $4,081,000. Exhibit A-77.[2059]

Ms. Grob explained how the expenses for Consumers' retirement plans, including Pension Plans, DCCP, and ESP, are calculated and allocated to the electric operations. She testified that the Company utilized Accounting Standard Codification (ASC) 715 and Generally Accepted Accounting Principles (GAAP) to conduct its analysis, which is then reviewed by the Company's auditors.[2060] Ms. Grob testified Consumers requests to continue implementation of the OPEB Volatility Mechanism (VM) approved in Case No. U-21389.[2061] And, she addressed the Company's O&M costs for Health Care, Life Insurance, LTD Plans, and Other Benefits. Ms. Grob described the calculations of these expenses and detailed changes implemented by the Company. Ms. Grob testified that Consumers projects these costs to increase through the test year.[2062] She also presented the Company's O&M expenses for current and retiree health care and life insurance.[2063]

Finally, Ms. Grob testified that the Other Benefits category includes expenses for the absence management program, the educational assistance program, the employee assistance program and the Leaving It Better Award (LIBA) program.[2064] She explained the LIBA award "is used to recognize and reward regular salaried, exempt, and non-

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[2059] Consumers brief, 391, citing Exhibit A-77.
[2060] 5 Tr 1759-1760. See Exhibit A-77.
[2061] 5 Tr 1765, referencing March 1, 2024 order, Case No. U-21389, p 197.
[2062] 5 Tr 1775-1788.
[2063] 5 Tr 1789-1791.
[2064] 5 Tr 1789.

exempt employees who impact the Company's success by exhibiting the Company's vision and culture in a way that furthers the Company's goals, operational excellence, customer satisfaction, and corporate reputation."[2065] An employee is nominated by leadership and may receive up to $4,000.[2066] Ms. Grob testified that this award provides recognition for "going above and beyond the everyday expectations to serve the Company and its customers."[2067] She opined these programs are necessary to attract and retain qualified employees.[2068]

This PFD notes that there were no disputes over the Company's O&M expenses related to Healthcare, Life Insurance, and LTD, nor were there any issues or concerns regarding retirement plans, ESP, and OPEB expenses, including the VM. Therefore, this PFD recommends the Commission approve these O&M expenses.

However, both Staff and ABATE dispute, and recommend reductions to, the expense amounts included in Other Benefits expenses. Consumers proposes test year expenses for the Other Benefits category in the amount of $4,081,000; an increase from the 2023 actual expense amount of $3,213,000.[2069] Ms. Grob addressed the increase and testified it "represents a reduction in headcount expense, and the addition of the Leaving It Better Award program."[2070]

On behalf of ABATE, Ms. York testified that the proposed increase is $868,000 over historic year levels, equal to a 27% increase.[2071] She stated that the main driver of

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[2065] 5 Tr 1791
[2066] Id.
[2067] 5 Tr 1792.
[2068] 5 Tr 1790-1791.
[2069] Exhibit A-77.
[2070] 5 Tr 1789. See Exhibit A-77 showing a large increase in Other Benefits, labor subcategory.
[2071] 5 Tr 3336.

the increase is the inclusion of the LIBA program expense.[2072] Ms. York testified that the Company did not "explain in its discovery response or in testimony whether this is in part tied to furthering financial performance goals."[2073] She recommended the Commission disallow the $868,000 increase and maintain the actual 2023 spending amount of $3,213,000 for the Other Benefits category.[2074]

Staff witness Rueckert also testified that the expense amount proposed for the Other Benefits category should be reduced.[2075] He explained that Consumers is requesting an O&M expense for the LIBA program in the amount of $795,000.[2076] Using Exhibit S-17.1 and Exhibit S-17.2 Mr. Rueckert explained Staff's breakdown of the Company projections and how they were developed. He testified that Staff recommends the Commission disallow all costs associated with the LIBA program.[2077]

Mr. Rueckert testified, "It is Staff's position that the program does not benefit the rate payer beyond its cost."[2078] Noting that Ms. Conrad specified that Consumers believes it should pay a reasonable salary, comparable to the market, to support the Company's operational excellence and superior customer service, Mr. Rueckert disputed the need for LIBA and pointed out that Consumers' EICP "already provides short-term incentive compensation for operational goals."[2079] And he observed the Company's stated purpose for the LIBA program is to reward employees "who impact the Company's success by

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[2072] Id.
[2073] 5 Tr 3337.
[2074] Id.
[2075] 5 Tr 3777-3779.
[2076] 5 Tr 3778. Mr. Rueckert testified this amount was provided by Consumers. Id.
[2077] 5 Tr 3778.
[2078] Id.
[2079] 5 Tr 3778, referencing 5 Tr 1675.

exhibiting the Company's vision and culture in a way that furthers the Company's goals, operational excellence, customer satisfaction, and corporate reputation."[2080] Mr. Rueckert testified it is Staff's position that "[f]urthering the Company's corporate reputation does not benefit the rate payer and should be funded by shareholders instead."[2081]

In addition to disallowance of O&M expenses in the amount of $795,000, Mr. Rueckert testified that Staff recommends a corresponding disallowance of capital costs associated with the LIBA program totaling $2,666,000.[2082] This was based on information provided by Staff witness Witt,[2083] and was adjusted in Staff's brief, as addressed below.

Ms. Grob testified in rebuttal that the LIBA program is not new and was recently centralized under the benefits area.[2084] She provided, as an example, that an employee could be rewarded for performing extra work due to another employee's leave of absence because this would reduce the labor costs. Ms. Grob explained:

> [T]he LIBA program benefits customers because it can help reduce costs of hiring new employees and contractors. It also shows current employees that they are valued for their extra work and effort, which increases productivity, reduces turnover, and supports better service for customers.[2085]

And Ms. Grob explained that Staff's proposed disallowance of LIBA program capital costs incorporated an error. Specifically, noting that Staff included a capital amount of $894,000 for the bridge year ending February 28, 2025, Ms. Grob explained that this amount represents costs for the entire 2025 year and testified that the costs associated

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[2080] 5 Tr 3778, referencing 5 Tr 1791.
[2081] 5 Tr 3778.
[2082] 5 Tr 3779.
[2083] See 5 Tr 3543, Figure 1.
[2084] 5 Tr 1795.
[2085] Id.

with the 2 months ending February 28, 2025 are $149,000.[2086] She reiterated that the Commission should not reject the costs associated with the LIBA program, because the program provides benefits to customers.

In its brief, Consumers argues that the Commission should reject the disallowances proposed by Staff and ABATE. The Company maintains that "[t]he Commission should approve this reasonable expense that can reduce costs and encourage excellent service to customers."[2087] Based on the testimony of Ms. Grob, Consumers argues the LIBA program benefits its customers and reiterates that it is designed to recognize an employee who goes "above and beyond everyday expectations" enabling the Company to avoid extra costs.[2088] Consumers repeats Ms. Grob's assertion that the LIBA program increases productivity and provides better service.[2089] Consumers disputes Staff's proposed reduction to capital costs associate with LIBA for the same reason. The Company also maintains that Staff's capital reduction includes an erroneous amount in the bridge year ending February 2025 confirming Ms. Grob's testimony that the amount should be $149,000.[2090]

In its brief, Staff recommends the Commission reject the LIBA program and the associated O&M expense of $795,000.[2091] Staff argues LIBA does not provide a net benefit to because achieving operational excellence and customer satisfaction are encompassed by the employee's compensation package and improving the corporate

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[2086] Id.
[2087] Consumers brief, 393.
[2088] Consumers brief, 392-393.
[2089] Consumers brief, 393, referencing 5 Tr 1795.
[2090] 5 Tr 393.
[2091] Staff brief, 56.

reputation does not benefit customers.[2092] But, Staff acknowledges its use of incorrect data in its calculation of the capital costs for the bridge year and now recommends "disallowance of the capital portion of the LIBA totaling $1,921,000 . . . [which includes] $875,000 for the bridge year ending December 31, 2024, $149,000 for the 2 months ending February 28, 2025, and $897,000 for the test year ending February 28, 2026."[2093]

In its brief ABATE argues the Commission should reduce the expense amount for the Other Benefits category, which includes LIBA, to the historic year level of $3,213,000.[2094] Based on Ms. York's testimony, ABATE asserts that Consumers is proposing an increase of this expense of nearly 27%, without providing sufficient support.[2095] Noting the benefits alleged by Ms. Grob, ABATE contends that "Consumers provided limited information supporting the LIBA, including whether or not the goals associated with this incentive include financial performance goals."[2096] And ABATE argues that the Company did not establish that the LIBA expense will benefit ratepayers. ABATE maintains that Consumers did not sustain its burden to show the increased expenses associated with LIBA in the Other Benefits category are reasonable and prudent, and therefore the Commission should reduce the expense to the 2023 historic level.[2097] ABATE was the only party to address this issue in its Reply Brief and essential repeated the arguments already contained in its Brief.[2098]

[2092] Staff brief, 55.
[2093] Staff brief, 56.
[2094] ABATE brief, 50.
[2095] ABATE brief, 50-51.
[2096] ABATE brief, 51.
[2097] Id.
[2098] ABATE reply, 22.

This PFD recommends that the Commission disallow all costs for the LIBA program because the Company did not sustain its burden to show the program is reasonable and prudent. First, O&M expenses totaling $795,000 for the LIBA program should be rejected by the Commission. Staff correctly asserts that the EICP provides incentive compensation to achieve operational goals, and this PFD finds the argument that Consumers did not establish the LIBA program provides additional benefits to ratepayers to be convincing. The PFD further agrees with Staff's argument that improvement of the corporate reputation does not benefit customers and that Consumers did not demonstrate the O&M expenses associated with LIBA provide any additional benefits to customers beyond those associated with salary compensation and EICP.

Second, because the program is unnecessary, Staff correctly argues that capital costs should also be rejected. However, Staff acknowledges the error discovered by Consumers and reduced its proposed disallowance to $1,921,000; reflecting $875,000 for the bridge year ending December 31, 2024, $149,000 for the 2 months ending February 28, 2025, and $897,000 for the test year ending February 28, 2026.[2099] This PFD also finds Staff's proposed disallowance of capital costs related to LIBA is appropriate and recommends the Commission disallow the costs above.

This PFD recommends the Commission reject ABATE's proposed disallowance of $868,000 to the Other Benefits category. Because expenses for the LIBA program make up the majority of the proposed increase, ABATE's proposed reduction is duplicative and unnecessary. The expenses associated with the Other Benefits category include four

[2099] Staff brief, 56.

categories inclusive of LIBA.[2100] After removal of the amount attributable to LIBA, the increase in this category is $73,000, or approximately 3% increase over the 2023 expense amount. There is no evidence in the record that an increase of this amount is unreasonable for the other three programs in the Other Benefits category.

9. Incentive Compensation Expense

Consumers requests recovery of expenses in the amount of $2,611,000 for its Employee Incentive Compensation Plan (EICP), representing approximately $831,000 for officer incentives and $1,780,000 for non-officer incentives.[2101] The Company asserts the amount requested for EICP is related to operational goals and avers that short-term incentive compensation linked to financial metrics is excluded from its request in this case.[2102]

Ms. Conrad provided support for Company's EICP and the inclusion of the requested O&M expense amount in rates. She discussed Consumers' compensation philosophy, the reasonableness of the compensation levels, and use of EICP as an accepted corporate practice to attract and retain employees. Ms. Conrad testified that the Company targets total compensation for both officers and non-officers at approximately the market median.[2103] Consumers uses a rigorous market-based process, relying on data from multiple sources, to determine compensation levels for non-officer employees, which are actively monitored and benchmarked to ensure its compensation levels reflect prevailing market levels.[2104] Ms. Conrad testified that the

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[2100] See 5 Tr 1789. See also Exhibit A-70.
[2101] Consumers brief, 393-394. Exhibit A-70.
[2102] Consumers brief, 394. 5 Tr 1672.
[2103] 5 Tr 1672.
[2104] Consumers brief, 395. 5 Tr 1678-1681.

components of the total compensation package for non-officers includes a base salary and incentive compensation.[2105] She also testified that officer compensation is determined by the Company's Compensation Committee of the Board of Directors of Consumers Energy and CMS Energy, with advice from a third-party consultant.[2106] The components of the compensation package for officers includes base salary, annual incentive compensation, and long-term incentive compensation.[2107] The Company is not seeking to recover long-term incentive pay in this case.[2108]

Referencing Exhibit A-68, Ms. Conrad identified six specific operational performance measures, and one financial measure utilized by Consumers in implementation of the EICP. The six operational performance metrics are: Employee Safety, Culture Index, Customer Experience, Electric Reliability, Affordability, and Methane Emission Reduction.[2109] Ms. Conrad explained that the EICP performance metrics are the same for both officers and non-officers, however they are weighted differently; 50% of the non-officer incentive compensation and 30% of officer incentive compensation is based on operational performance.[2110] And, she testified Consumers removed expenses associated with the Affordability metric from this O&M expense because it was determined to be financial in nature.[2111] Ms. Conrad also testified that the Company "implemented an updated job architecture" in the third quarter of 2023. She testified EICP was reviewed and "[t]his review resulted in the EICP target for non-officers

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[2105] 5 Tr 1671-1672.
[2106] 5 Tr 1672.
[2107] Id.
[2108] 5 Tr 1673.
[2109] Exhibit A-68.
[2110] 5 Tr 1690.
[2111] Id.

to shift from one based on pay or salary grade to one based on career stream (management, professional, technical or support) and level (i.e. entry, career, senior, supervisor, manager, director, etc.)."[2112] The same performance metrics will be utilized. Ms. Conrad testified that incentive compensation is part of an employee's overall compensation and not in addition to it, such as a bonus or profit-sharing plan.[2113]

Ms. Conrad explained the development of the projected EICP expense using Exhibit A-70 and provided EICP payout levels using Exhibit A-68. She testified:

> When setting payout levels, threshold is set at a level of achievement that can typically be reached 80 to 90% of the time in a ten-year period. Maximum payout is for exceptional performance (10% to 20% of the time in a ten-year period).[2114]

The Company requests inclusion of O&M expenses for the EICP at a payout target level of 100%.[2115] Ms. Conrad further stated that the Company will not be compensated for payouts that are greater than the target level; shareholders will bear this cost.[2116]

Mr. Stuart discussed the Company's operational goals for EICP, and the resulting customer benefits, and he asserted these goals provide both qualitative and quantitative benefits.[2117] Mr. Stuart provided an explanation of how success is measured or calculated for the 2024 operational goals referencing Exhibit A-157 to A-160.[2118] He explained the methods used to set the operational goals, noting that the Board of Directors approves the goals annually.[2119] Mr. Stuart detailed some of the qualitative customer benefits

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[2112] 5 Tr 1691.
[2113] 5 Tr 1700.
[2114] 5 Tr 1693.
[2115] Consumers brief, 399. 5 Tr 1695.
[2116] 5 Tr 1698.
[2117] 5 Tr 2562-2571.
[2118] 5 Tr 2561.
[2119] 5 Tr 2567.

Consumers claims are attributable to meeting the targeted levels of performance. And he provided a quantitative review of customer benefits associated with EICP, as set forth in Exhibits A-158 to A-160.[2120] He testified:

> Although specific quantification of the benefits is not easy to perform for every metric included in the program, the Company has evaluated direct quantitative benefits of three key metrics of the program: Employee Safety, Electric Reliability, and Culture. And the Company has assessed indirect and/or qualitative benefits associated with the other metrics.[2121]

After explaining his calculations related to the three key metrics, Mr. Stuart testified that the quantifiable economic benefits total approximately $25 million for electric customers.[2122] While both electric and gas are combined for purposes of EICP, Mr. Stuart used an allocation of 60%, based on the percentage of electric employees to the total number of Consumers Energy employees, for the calculation.[2123]

Noting that Governor Whitmer signed an executive order to eliminate methane emissions by 2050, Mr. Stuart explained the benefits of eliminating this greenhouse gas. He testified direct economic benefits to customers associated with methane emission reductions are difficult to calculate, but the qualitative benefits are significant.[2124]

Based on Ms. McMillan-Sepkoski's testimony, Staff recommends the O&M expense for incentive compensation be reduced by $414,700.[2125] This disallowance reflects the EICP expense for the top five officers.[2126] Noting that Consumers targets employee salaries to the market median, Ms. McMillan-Sepkoski testified that Staff

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[2120] 5 Tr 2562-2566.
[2121] 5 Tr 2567.
[2122] 5 Tr 2570.
[2123] 5 Tr 2572. Mr. Stuart claimed the operational goal benefit both electric and gas operations. *Id*.
[2124] 5 Tr 2569.
[2125] Staff brief, 107; 5 Tr 3760.
[2126] *Id*.

requested that the Company provide a comparison of compensation for the top five officers to the median.[2127] According to her, the Company refuses to provide the information claiming it is confidential and proprietary, and asserting that the Company is contractually prohibited from sharing this data.[2128] Instead, Consumers offered Staff the opportunity to review "report extracts of the Pay Governance report, with conditions attached."[2129] Ms. McMillan-Sepkoski explained that Staff signed a binding Non-Disclosure Agreement in this case and based on the Commission's order in the last rate case, she maintained that "the confidentiality of the third-party intellectual property would not be compromised by providing the information under protective order."[2130] And Ms. McMillan-Sepkoski questioned the assertion that compensation for the top five officers actually includes 30% of operational goals to benefit electric customers after reviewing of biographies and listed corporate roles for these officers on CMS Energy Corporation website.[2131] Consistent with her testimony, Ms. McMillan-Sepkoski testified that Staff recommends approval of $2,196,300 for EICP expenses, with a disallowance of $414,700 for the of amount related to the top five officers.[2132]

Based on Mr. Coppola's testimony, the Attorney General recommends that the Commission disallow the entire amount associated with EICP, approximately $2.6 million or in the alternative recovery should be limited to $1.3 million, half of the amount requested for this expense.[2133]

[2127] 5 Tr 3758.
[2128] Consumers brief, 107; 5 Tr 1711.
[2129] 5 Tr 3758.
[2130] 5 Tr 3759. See March 1, 2024 order, Case No. U-21389, p 194.
[2131] 5 Tr 3759.
[2132] 5 Tr 3760.
[2133] Attorney General brief, 201. 5 Tr 2871.

Mr. Coppola reviewed changes to the EICP program since 2022 when operating performance measures and the performance levels required to trigger incentive payments were revised.[2134] He concluded, "[t]he previous customer-related performance metrics were somewhat redundant, so going with one over satisfaction metric is a positive change."[2135] However, Mr. Coppola questioned inclusion of the methane reduction metric as an employee performance goal and its relation to the electric business, indicating that most electric employees will not have any impact on this metric. He also opined that the Company's EICP is "too heavily weighted toward financial measures," observing that 50% of non-officer compensation and 70% of officer compensation is related to financial goals.[2136] Mr. Coppola stated that because Consumers removed the requirements associated with achieving a minimum number of metrics, "even mediocre performance will be rewarded if only a single metric is achieved."[2137]

Mr. Coppola reviewed and challenged the quantitative analysis of customer benefits provided by Mr. Stuart and used to justify the inclusion of EICP in rates.[2138] He testified that Exhibit A-158 shows the number of safety incidents increased from 102 incidents in 2020 to 125 in 2023, and although Workers Compensation costs have decreased slightly, it does not indicate an improving trend.[2139] Mr. Coppola also testified that while SAIDI results improved from 2021 to 2023, "the results in past years have been erratic with no consistent trend of improvement."[2140] And he disputed Mr. Stuart's

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[2134] 5 Tr 2865.
[2135] 5 Tr 2867.
[2136] Id.
[2137] 5 Tr 2868.
[2138] 5 Tr 6869.
[2139] Id.
[2140] 5 Tr 2869. See Exhibit A-100.

asserted savings related to lower turnover. Citing Exhibit A-160, Mr. Coppola stated employee turnover increased to 2.7% in 2023, from 2.0% in 2021, which does not demonstrate improvement.[2141]

Mr. Coppola testified that the EICP expenses of $2.6 million assumes the Company will achieve target performance for all goals at 100%, but he also claimed it is probable Consumers may not attain this level. If the Company achieves the 50% threshold level of performance the EICP would be $1.3 million in the projected test year.[2142] Mr. Coppola maintained no EICP should be included in rates. But he also noted the Commission has approved incentive compensation is prior cases and asserted the Commission should approve only $1.3 million in O&M expenses for EICP.[2143]

Ms. York testified that the EICP expense in the projected test year is not reasonable.[2144] She recommended the incentive compensation be reduced to half the amount request by Consumers based on the Commission's Order in Case No. U-21389, resulting in an EICP expense of $1.306 million.[2145] Ms. York also stated that the ompany included an operational metric for methane emission reduction which the Commission found to be improper in the above case.[2146] And, she asserted the thresholds established by Consumers for operation goals are too low because incentive payout can be met by achieving only one goal.[2147]

[2141] Id.
[2142] 5 Tr 2871. See Exhibit AG 1.44.
[2143] 5 Tr 2871.
[2144] 5 Tr 3334.
[2145] 5 Tr 3335; March 1, 2024 order in Case No. U-21389, pp 186-198.
[2146] 5 Tr 3335; March 1, 2024 order in Case No. U-21389, p 197.
[2147] 5 Tr 3335.

In rebuttal Ms. Conrad began by addressing Mr. Coppola's criticisms and recommendations. She justified inclusion of the Methane Emission Reduction metric in the performance measures for electric employees stating that it is necessary for a large company to establish broad goals that link all employees to common objectives.[2148] She asserted that EICP includes both electric and gas measures for "purposes of efficiency and improved service."[2149] She also addressed Mr., Coppola's contention that the overall program is too heavily weighted toward financial measures, emphasizing that the Company is not including expenses for financial measures in its rate request.[2150] Ms. Conrad also disputed the assertion that EICP provides rewards for mediocre performance and claimed that "[s]tructuring the payout to consider performance of each goal individually also ensures that employees have an independent motivation to achieve each goal regardless of whether another goal may be [unattainable.]"[2151] And Ms. Conrad testified that Mr. Coppola's conclusion that the EICP does not benefit customers is erroneous.[2152] She maintained that the EICP is reasonable and argued that Mr. Coppola did not justify his proposed disallowance and stated it should be rejected.[2153]

Responding to Ms. McMillan-Sepkoski's testimony, Ms. Conrad urged the Commission to reject Staff's proposed disallowance of $414,7000 related to the EICP for the Company's top five officers.[2154] She reiterated that officer compensation is determined by the Compensation Committee of the Boards of Directors in consultation with an

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[2148] 5 Tr 1706.
[2149] 5 Tr 1707.
[2150] *Id*.
[2151] 5 Tr 1708.
[2152] 5 Tr 1710.
[2153] *Id*.
[2154] 5 Tr 1715.

independent third-party, Pay Governance, and targets the market median or 50th percentile of a Compensation Peer Group.[2155] Ms. Conrad testified that the market median information requested by Staff is "confidential, proprietary, and commercially sensitive data belonging to third parties" and she stated that Consumers is contractually prohibited from sharing the information.[2156] She testified that the Compensation Committee needs information from a third-party to provide compensation practices of a Compensation Peer Group.[2157] Pay Governance provides the company with access to the proprietary compensation data collected in Willis Tower Watson's annual survey, which are produced for use only by database participants.[2158] Pay Governance has consent to use the information but not to disseminate it.[2159] Ms. Conrad explained, in attempt to assist Staff without providing the confidential information, the Company compiled non-confidential market information.[2160] However, she acknowledged this market data "does not perfectly represent the information that the Company used to benchmark and assist the Compensation Committee to determine compensation for Consumers Energy's top five officers."[2161] She also stated Consumers was still willing to allow Staff to view extracts of the Pay Governance report at its offices, subject to the original conditions.[2162]

[2155] 5 Tr 1711.
[2156] 5 Tr 1711, 1718. See Exhibit S-15.2.
[2157] Id.
[2158] 5 Tr 1711-1712.
[2159] Id.
[2160] 5 Tr 1713.
[2161] Id.
[2162] 5 Tr 1714.

Ms. Conrad testified that since the changes to officer operational goals in 2022, when the same operational measures were applied to both officer and non-officer employees, the Company is no longer focused on Consumers Energy-specific operational measures. Instead, Consumers claims the new operational metrics are a measurable component of officer compensation linked directly to operational outcomes that benefit customers.[2163]

Turning to Ms. York's testimony, Ms. Conrad contested the claim that the Company's operational metrics are insufficient, noting that the Company's EICP is consistent with market practices, Ms. Conrad testified employees can earn EICP payout for each metric, and she repeated that this provides motivation to attain each individual goal.[2164] She also disputed Ms. York's assertion that the operational metrics associated with methane emission reduction is not within the control of the Company's electric employees and in not an appropriate metric for these employees, by repeating that Consumers has "combined operations as one organization" and therefore the EICP contains both gas and electric measures.[2165]

In its brief, Consumers contends it has supported recovery of the requested EICP expense in the amount of $2,611,000, and it provides a protracted review of Ms. Conrad's and Mr. Stuart's direct testimony to explain the EICP and its benefits. The Company concludes that the EICP is reasonable and that compensation without the incentive compensation would constitute below market pay, resulting in the a less qualified

[2163] 5 Tr 1715.
[2164] Id.
[2165] 5 Tr 1716.

workforce.[2166] After reviewing Mr. Stuart's testimony, Consumers argues that quantification of EICP benefits establishes the operational metrics provide value to customers in excess of costs.[2167]

Next, the Company reviews Ms. Conrad's rebuttal testimony, addressing the proposed disallowances of Staff, the Attorney General, and ABATE.[2168] Referring to the inclusion of incentive compensation for the top five officers, Consumers acknowledges the Commission disallowed this expense in its last rate case but argues additional information was supplied in this case in an attempt to make it clear to the Commission that Consumers does not possess, and is unable to supply, the requested information.[2169] And the Company argues it supplied sufficient information to establish that the EICP compensation for the top five officers is reasonable.[2170]

Observing that the Attorney General and ABATE make similar arguments and recommendations, the Company argues they are without merit.[2171] Consumers responds to the claim that the metric related to reduction of methane emissions is inappropriate for electric employees by repeating Ms. Conrad's testimony. The Company refutes the assertion that a change to individual banding for the EICP metrics, rather than a system with many different goals, results in rewarding mediocre performance, by reiterating Ms. Conrad's assertion that the system promotes independent motivation to achieve the goals.[2172] And, Consumers also responds to the assertion that the payout level proposed

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[2166] Consumers brief, 396. 5 Tr 1671-1675.
[2167] Consumers brief, 400.
[2168] 5 Tr 339-412.
[2169] Consumers brief, 404-405. See March 1, 2024 order, Case No. U-21389, p 196.
[2170] Consumers brief, 406.
[2171] Consumers brief, 411-412.
[2172] Consumers brief, 408.

for the EICP is too high, because it is based on an assumed payout level of 100%, by pointing out that non-officer employees have received over 100% of target amount in five of the last six years.[2173] The Company maintains that the new system is more appropriate for ensuring that employees are not rewarded for failure.[2174]

In its brief, Staff argues that the testimony of Ms. McMillan-Sepkoski supports its proposed disallowance of $414,700 in unsubstantiated EICP expenses for the top five officers of the company.[2175] Staff notes that the Commission has previously held "[it] expects a more thorough presentation of compensation levels and metrics for the company's employee compensation plans."[2176] Staff asserts the Commission provided clear compensation and benefits criteria in Case No. U-18238, when it approved rate case standard filing requirements.[2177] Because Consumers disregarded the Commission's directives, Staff argues that the Company provided insufficient information to justify EICP for the top five officers.[2178] Staff points to the order in Consumers last rate case, in which the Commission approved a nearly identical disallowance of the EICP expense for the top five officers finding the Company prevented Staff from evaluating the reasonableness and prudence of the expense because information relied upon to calculate this expense was withheld, despite the existence of a Protective Order.[2179]

The Attorney General argues that all EICP expenses should be disallowed, or in the alternative, if the Commission approves this expense, the payout should be set to the

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[2173] Consumers brief, 411.
[2174] Consumers brief, 409.
[2175] Staff brief, 107.
[2176] July 31, 2017 order in Case No. U-18124, pp 87-88.
[2177] May 16, 2023 order in Case No. U-18238, p 26.
[2178] Staff brief, 108.
[2179] Staff brief, 109. March 1, 2024 order in Case No. U-21389, pp 195-196.

lower threshold level of 50%, rather than the 100% level proposed by the Company, with a resulting disallowance of approximately $1.3 million.[2180] The Attorney General contends that the standards for recovery for EICP expenses, articulated in the Commission's December 22, 2005 order in Case No. U-14347 have not been met, and she maintains that the Company failed to show benefits commensurate with program costs. The Attorney General reviews Mr. Coppola's critique of Consumers' quantification of the alleged benefit accruing from the EICP and his assertion that performance measures did not improve. And based on Mr. Coppola's testimony, the Attorney General argues that the Company's analysis does not account for other factors that could influence performance, such as training, discipline, promotion, or other Company investments.[2181] The Attorney General also argues that some metrics Consumers used to demonstrate benefits do not show improvement and she contends that there is an extremely low threshold for payout of EICP based on operational goals.[2182]

In its brief, ABATE repeats the assertions of Ms. York, arguing that Consumers' O&M expenses for EICP be reduced by $1.306 million.[2183] ABATE reiterates that the Company included reduction of methane emissions as a performance goal despite the fact that the Commission held this was inappropriate in Case No. U-21389.[2184] Further, ABATE argues the Company's threshold for achieving EICP payouts are exceeding low observing that an employee will receive a payout even if only one metric is achieved. ABATE points out that the Commission also rejected this methodology in Case No. U-

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[2180] Attorney General brief, 201. 5 Tr 2871. See also Exhibit AG-1.44.
[2181] Attorney General brief, 198.
[2182] Attorney General brief, 200.
[2183] ABATE brief, 53-54.
[2184] ABATE brief, 52. March 1, 2024 order, Case No. U-21389, p 196.

21389 finding there was insufficient incentive for employees to appreciably improve performance.[2185]

In its reply brief, Consumers argues the Attorney General's assertion that the Company is too focused on financial metrics is irrelevant because recovery of costs associated with financial measures is not requested in this case; shareholders cover expenses related to financial metrics.[2186] Consumers also argues it complied with the standards in Case No. U-14347 as it has demonstrated quantifiable benefits associated with EICP that far exceed the costs.[2187] Consumers contends the existence of other factors, which could affect employee attainment of performance goals, does not invalidate its evidence showing how EICP translates to quantifiable customer benefits.[2188] And the company repeats its contention that performance measures, such as SADIE or Workers Compensation costs, show improvement contrary to the Attorney General's assertions.[2189]

In its reply brief ABATE repeats its arguments that the Company did not comply with the Commission's rulings related to EICP expenses in Case No. U-21389.[2190] Neither Staff nor the Attorney General addressed the EICP expenses in reply briefing.

First, this PFD finds that Staff's proposed disallowance should be adopted, and recommends the Commission reject $414,700 in EICP expenses for the Company's top five officers. The same issue was addressed in the Company's last rate case, Case No.

[2185] ABATE brief, 52. March 1, 2024 order, Case No. U-21389, pp 196-197.
[2186] Attorney General reply, 71; referencing Attorney General brief, 197.
[2187] Attorney General reply, 72. 5 Tr 2570.
[2188] Attorney General reply, 72.
[2189] Attorney General reply, 73.
[2190] ABATE reply, 23-24, referencing March 1, 2024 order in Case No. U-21389, pp 195-198.

U-21389 and the expense was disallowed. Moreover, the Commission agreed with the PFD, finding: "[I]t was the company's choice to rely on information in a database owned and controlled by a third party."[2191] The Commission also found:

> [I]t is possible to share with the Staff confidential information related to EICP expense through a protective order without disclosing confidential or proprietary information or methods used by the third party.[2192]

Indicating that the Company had not sustained its burden of proof, the Commission ruled that "Staff was unable to determine that the company's proposed expense is reasonable."[2193] The Commission's directive to the Company is incontrovertible - in order to sustain the burden of proof the Company must be able to supply the underlying data to establish expense amounts are reasonable and prudent. While Consumers alleges it attempted to present additional explanation for the refusal to provide the information in this case, the evidence presented in the two cases is not materially different. As in the prior case, there is a binding Protective Order in place and the additional public information, offered in lieu of the actual data, was similar. In Case No. U-18322 the Commission addressed a comparable situation where Consumers refused to provide confidential information. The Commission acknowledged the proprietary nature of the evidence but held:

> [S]afeguards are available to allow such evidence to be admitted in contested case proceedings, when confidential or proprietary information is used by a party to support its position. The Commission also suggests that there may be other ways to work with the actuary to provide appropriate support without disclosing confidential or proprietary information or methods used by the third-party.[2194]

[2191] March 1, 2024 order in Case No. U-21389, p 195.
[2192] Id.
[2193] March 1, 2024 order in Case No. U-21389, p 196.
[2194] March 29, 2018 order in Case No. U-18322, p 63.

In this case, Consumers did not supply the information it relied on to calculate this EICP expense even though a protective order was in place. The Commission has repeatedly found that refusal to provide information to support a proposed expense prevents appropriate review. Therefore, this PFD recommends the Commission again find Consumers proofs to be lacking and disallow the EICP expense for the top five officers.

The PFD also finds that the Attorney General and ABATE correctly argue that inclusion of the operational performance metric for the reduction of methane emissions is not a proper EICP goal for electric employees. Again, the Commission addressed this same issue in Consumers' last rate case. Finding that "it is not appropriate for the electric division of Consumers to recover costs for a metric whose target may only be achieved by employees in the gas division of the company," the Commission stated this metric should not be included in the EICP.[2195] Consumers did not address the Commission's prior instructions in this case and simply asserts that it was appropriate to establish broad operational metrics for both gas and electric operations. Therefore, this PFD finds it is not appropriate to include the Reduction of Methane Emissions metric for the company's operational goals for EICP.

Finally, this PFD finds persuasive the argument made by ABATE and the Attorney General that the Company's threshold for EICP payout is exceedingly low and recommends the Commission disallow $1,306,000 in EICP expenses. In Case No. U-21389, the Commission ruled that Consumers set an exceedingly low threshold for EICP payout based on operational goals, and found employees can fail to meet all but one

[2195] March 1, 2024 order, Case No. U-21389, p 196.

metric and still qualify for EICP if the threshold level of 50% is achieved for that single goal.[2196]

The Company's EICP operational metrics and payout thresholds have not changed materially since the last rate case; an employee can receive a payout even if only one operational metric is met at the threshold level of 50%.[2197] And, the Company insists the assumption that EICP payouts will be at the 50% of the threshold level is improbable as most payouts over the last six years have exceeded the 100% level. However, the Commission clearly did not find this claim to be persuasive as Consumers made the same argument in the last rate case.[2198] This PFD also notes the Company implemented an updated job architecture in 2023 and revise the EICP metrics and thresholds in 2022. Given these changes, past performance may not be an accurate indicator for future EICP payout levels.

Because Consumers has not sustained its burden to prove that the EICP operational goals result in sufficient customer benefits to justify the inclusion of the expenses at the payout level of 100%, this PFD finds it is appropriate to approve the EICP expense based on the 50% threshold level as proposed by ABATE and the Attorney General (in the alternative). Based on the Commission's methodology from Case No. U-21389, this PFD recommends Consumers' proposed EICP expense of $2,611,000 be reduced to $1,306,000. This disallowance should be combined with the $414,700 disallowance proposed by Staff, for a total disallowance of $1,719,700.

[2196] March 1, 2024 order, Case No. U-21389, p 196-197.
[2197] Attorney General brief, 200.
[2198] See December 21,2023 PFD, U-21389, p 428.

This PFD does not find the Attorney General's recommendation to disallow recovery of all EICP expenses to be persuasive given the above analysis. Therefore, the PFD recommends the Commission reject the Attorney General's proposal to disallow the entire EICP expense amount.

10. Demand Response O&M Expense

Mr. McLean presented Consumers' test year O&M expense for its DR programs, as shown in Exhibit A-131. As discussed above, no party objected to the Company's projected DR O&M expense, which this PFD adopts.

As shown in Exhibit A-13, Schedule C-5a, line 24, Consumers requested approval of a DR Reconciliation expense of $6.099 million, which consists of a DR performance incentive[2199] of $6,225,453 and the refund of a regulatory liability plus interest of $126,558,[2200] both of which were included in Consumers' 2022 DR reconciliation, Case No. U-21410.[2201] In that case, the Commission disallowed approximately $0.6 million of the amount requested by the Company.[2202] Because Consumers filed the instant case before the Commission issued the June 6, 2024 order in Case No. U-21410, Consumers could not incorporate this disallowance at the time of filing. Mr. Coppola recommended that the Company's forecasted O&M expense for the projected test year be reduced by approximately $0.6 million to account for the disallowance.[2203] Staff also proposed that

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[2199] In Case No. U-20164, the Commission approved the application of a DR financial incentive if certain performance goals are met. July 18, 2019 order in Case No. U-20164, pp. 7-14.
[2200] This amount consists of a regulatory liability of $113,136 plus interest. 5 Tr 2165; Consumers brief, 438.
[2201] 5 Tr 2165.
[2202] Consumers brief, 438. The order determined a DR financial incentive of $6,210,967 instead of $6,225,453 and a DR regulatory liability of $553,244 instead of $113,136. June 6, 2024 order in Case No. U-21410, p. 19.
[2203] 5 Tr 2861.

the revised DR performance incentive and regulatory liability amounts determined in Case No. U-21410 be reflected, but did not calculate the net adjustment.[2204] Consumers agrees to the Attorney General's proposed adjustment and, on rebuttal, reduced the DR Reconciliation expense by $0.531 million, which results in a revised expense of $5.568 million.[2205] The Attorney General and Consumers continue to support this adjustment on brief.[2206] In addition, Staff's brief recommends "the Commission adopt Consumers[']concession of a $531,000 reduction."[2207] No other party addressed the company's DR Reconciliation expense. Accordingly, this PFD recommends the Commission approve the $0.531 million reduction to the DR Reconciliation expense.

11. Inflation Rates

As shown in Exhibit A-13, Schedule C-5a, Consumers' non-power supply O&M expenses for 2023 were $694.126 million, and the Company initially projected expenses of $675.029 million for the test year, which it adjusted to $670.580 million after rebuttal.[2208] Consumers contends that it provided detailed evidence in support of Other O&M expenses and that its revised projections should be approved.

Ms. Aponte[2209] testified that Consumers used inflation rates of 2.4% for 2024, 2.2% for 2025, and 0.4% for the first two months of 2026.[2210] These are the inflation rates "forecasted by S&P Global Market Intelligence and reported in the October 2023 edition

[2204] 5 Tr 3637; S-6, Schedule F1.8.
[2205] 5 Tr 2191; Exhibit A-261, line 24.
[2206] Attorney General brief 202-203; Consumers brief, 438.
[2207] Staff brief, 111.
[2208] Exhibit A-261.
[2209] As noted above, Ms. Aponte's testimony was adopted by Ms. Myers.
[2210] 4 Tr 397.

of its publication *U.S. Economic Outlook*," as shown in Exhibit AG-1.3.[2211] Exhibit A-13, Schedule C-5a, summarizes the inflation included in Other O&M expenses.[2212] Amounts "projected using methods other than inflation are included in column (g)," labeled "Other Adjustments."[2213] While both positive and negative adjustments were made, the total sum of the other adjustments is column (g) is negative 47.419 million.[2214] In effect, Consumers took 2023 actual costs, adjusted these costs for inflation, and then adjusted the resulting amount based on the difference between the Company's projected costs for the test year and the 2023 actual costs as adjusted for inflation.

MNC contended that these inflation rates should be reduced by a productivity factor of 0.61% for non-labor costs and a productivity factor of 0.70% for labor costs.[2215] Mr. Bandyk testified that a regulated utility "does not face the competitive pressures to improve productivity that can be found in non-regulated industries."[2216] He maintained that application of a productivity factor "would simulate the effect of productivity improvements on Consumers Energy's costs" and allow its customers to benefit from the cost savings that should result from increased productivity.[2217] According to Mr. Bandyk, the 0.61% productivity factor for non-labor costs is equal to the average rate of growth in U.S. private nonfarm business economy productivity over the past 10 years,[2218] and the

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[2211] *Id.*
[2212] 4 Tr 398.
[2213] 4 Tr 403; Exhibit A-13, Schedule C-5a.
[2214] Exhibit A-13, Schedule C-5a.
[2215] 5 Tr 2945, 2971.
[2216] 5 Tr 2945.
[2217] *Id.*
[2218] 5 Tr. 2945; Exhibit CUB-2.

0.70% productivity factor for labor costs is equal to the average rate of growth in Michigan nonfarm business labor productivity over the last 10 years.[2219]

In rebuttal, Ms. Myers asserted that reduction of the inflation rates by a productivity factor is not reasonable or appropriate because "(i) not all O&M expenses are projected by the Company using inflation; and (ii) productivity gains were already reflected in the Company's projection of test year O&M expenses where applicable."[2220] Ms. Myers noted that column (g) of Exhibit A-13, Schedule C-5a, shows other adjustments to O&M expenses, many of which are reductions, and that projected O&M costs for the test year are 2.75% lower than the actual costs in incurred in 2023.[2221]

MNC's brief does not concede this issue but suggests it should be considered in a future proceeding.[2222]

This PFD agrees with MNC that productivity improvements may offset or partially offset inflationary pressures and questions whether the other adjustments made to O&M expenses simulate the effect of productivity improvements on Consumers' costs and provide its customers with the cost savings that should result from increased productivity. Consumers did not provide sufficient evidence to support that the claimed reduction in O&M costs is attributable to productivity gains and not attributable to other factors, such as the use of a five-year average to calculate certain projected costs. This PFD recommends that the Commission accept the Company's projection in this case but direct

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[2219] 5 Tr. 2945; Exhibit CUB-3.
[2220] 4 Tr 448.
[2221] *Id.*
[2222] MNSC brief, 108.

Consumers to present more detailed evidence to demonstrate that it is in fact offsetting inflation by productivity in the Company's next rate case.

D. Depreciation and Amortization Expense

The differences among the parties regarding depreciation reflect differences in the underlying plant balances, with no methodological disputes to resolve.

E. Taxes

1. Property Tax

Mr. VanBlarcum presented the Company's projected property tax expense for the test year.[2223] He testified that over the 10-year period from 2014 through 2023, net actual electric property tax expenses were 96.7% of the amount included in rates, or $57.5 million less than estimated. Of this, he stated, $19.3 million was received from the Company's successful litigation at the Michigan Tax Tribunal for Campbell Units 1-3, the Zeeland Generating Station, and the Thetford Peaker. He said that through 2023, customers have saved an estimated $67.7 million because of the Company's litigation related to these plants and customers will continue to benefit from lower annual property taxes until these plants are retired.[2224]

He presented an accounting of estimated compared to actual tax assessments for the previous 10 years (2014-2023), and records of any proceeds received, as was ordered in Case No. U-21389. According to Mr. VanBlarcum, the Commission also ordered that Consumers provide a list of pending property tax litigation, but he testified, the Company is not currently involved in any.[2225]

[2223] 5 Tr 2591-2596; Exhibit A-161 (BJV-1).
[2224] 5 Tr 2596.
[2225] 5 Tr 2595; Exhibit A-161 (BJV-1), page 5.

In briefing, MNC asserts that the Commission should reduce the Company's property tax expense in the test year by $8 million to reflect the continuing benefits of property tax refunds. MNC points to the record in Case No. U-21389, stating that, "Consumers had . . . a practice of quietly retaining property tax refunds as a windfall to the Company without crediting them back to customers."[2226] MNC argues that the $8 million reduction ordered by the Commission in Case No. U-21389 is missing from the Company's projected property tax expense for the test year.[2227] Based on discovery responses, MNC believes that the Company intends to count reductions in taxable value that had already been achieved before Case No. U-21389 towards the annual $8 million reduction. MNC argues that this "is untenable[,]" averring that the order "specifically called for applying '$8 million savings in property taxes annually . . . to tax projections in future rate cases."[2228] According to MNC, the Company has ignored the Commission's order, and the Commission should reduce the property tax expense in the test year by $8 million.[2229]

In its reply brief, Consumers argues that MNC has misinterpreted the U-21389 order, pointing out that while the Commission requested an examination of the Company's tax assessment litigations going back 10 years, it did not require a prospective $8 million credit to "claw back" previous tax refunds.[2230] The Company emphasizes Mr. VanBlarcum's testimony that Consumers is not currently a party in any pending property

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[2226] MNSC brief, 109.
[2227] MNSC brief, 110.
[2228] MNSC brief, 110-111.
[2229] MNSC brief,111.
[2230] Consumers reply, 73-74.

tax litigation cases; thus, there is no potential tax refund in the test year.[2231] The Company also points to Mr. VanBlarcum's testimony comparing net actual electric property tax expense and estimated property tax expense in electric rates over the 10 years from 2014 through 2023, which demonstrates that the tax assessment litigation undertaken did not result in a "windfall" to the Company. Consumers further asserts:

> Tax refunds from litigation are not a source of regular revenue for the Company, are not predictable, and occur sporadically. Tax refunds are, thus, difficult to approximate or forecast in the ratemaking process. This is especially true when some or all of a state and local or property tax refund may be recorded as a credit to the property tax expense, may be recorded as reduction to rate base, recorded to a regulatory liability, or represent a refund of costs that were never charged to customers or included in rates.[2232]

The Company goes on to argue that ratemaking is not a perfect process, but that over the last ten years, the Commission has set the Company's property tax expense with approximately 97% accuracy.[2233] Consumers further contends that customers benefit from the tax assessment litigation by way of lower annual property taxes, and that the Commission should adopt the property tax amount requested by the Company.[2234]

This PFD agrees with Consumers that the Order in Case No. U-21389 did not direct the Company to reduce its property tax projections by $8 million in rate cases going forward. The Commission ordered the Company to provide 10 years of data for review, including property tax refunds received from litigation, which the Company has done. This PFD interprets the order in Case No. U-21389 as saying that, based on past results, it is likely the Company will receive $8 million per year from property tax refunds and any

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[2231] Consumers reply, 74.
[2232] Consumers reply, 75.
[2233] Consumers reply, 75-76.
[2234] Consumers reply, 76.

refunds thus received may be applied to tax projections in future rate cases.[2235] Since the Company is not involved in any property tax litigation and therefore is not expecting any refunds in the test year, this PFD recommends that the Commission reject MNSC's request to reduce the Company's property tax expense for the test year by $8 million. However, this PFD also recommends that Consumers continue to provide a list of pending tax assessment litigation cases and negotiations in rate case filings going forward.

2. Federal, Michigan, Local, and General Taxes

The differences among the parties' calculations of federal, state, local, and general tax result from differences in projected revenues and expenses.

F. Allowance for Funds Used During Construction

The differences among the parties for AFUDC relates to the differences in rate base. AFUDC amounts should be recalculated consistent with the Commission's determinations in the final order.

G. Net Operating Income Summary

Based on the findings and recommendations above, this PFD estimates an adjusted net operating income of $771,150,000 as shown in Appendix C to this PFD.

[2235] See March 1, 2024 order in Case No. U-21389, pp 209-210.

VIII.

REVENUE DEFICIENCY

Based on the findings and recommendations in sections IV through VII above, this PFD recommends finding a revenue deficiency of $108,872,000 million as shown in Appendix A.

IX.

OTHER REVENUE AND NON- REVENUE RELATED ITEMS

A. Distribution Investment Recovery Mechanism

The Commission approved an IRM for certain distribution investments in Consumers' most recent prior general rate case, including approximately $49.3 million for the 12 months ending February 28, 2024, and $49.3 million for the 12 months ending February 28, 2026, with $36,880,000 attributed each year to LVD lines reliability, $8,973,000 for resiliency, and $3,473,000 for system protection.[2236] The Commission directed that there be an IRM planning meeting in relation to the first year of funding, and required a planning meeting for year two to occur at least four months prior to the beginning of the second year. The IRM also requires a reconciliation to occur at the end of each annual period, with a comparison of the capital spending included in the IRM surcharge and the actual capital spending for the year, with any underspending returned to customers, and with revenues generated from the IRM surcharge to be reconciled by customer class.[2237] The Commission specifically denied the Company's request for

[2236] 4 Tr 375-376. 5 Tr 3296.
[2237] 4 Tr 374-375.

$101.8 million for a third year, the 12 months ending February 27, 2027, to permit evaluation of whether the program should continue.[2238]

Ms. Myers testified that because the first year of the IRM had recently commenced at the time the instant rate case was filed, Consumers did not request an extension of the IRM despite believing that a longer duration would be beneficial.[2239] However, Consumers believes that "[a]ligning the capital spending included in the IRM for the three programs approved by the Commission with the amounts requested in this case will maximize customer and stakeholder benefits of the IRM."[2240]

As set forth by Ms. Myers, based on the structure of the IRM approved in Case No. U-21389, IRM capital spending prior to March 1, 2025 is included in base rates in this case, and the calculated revenue requirement for year 2 includes capital spending for the 12 months ending February 28, 2026.[2241] Without specific approval for an increase in this case, the spending levels set for the IRM in the prior rate case will remain in place. Ms. Myers proposed an increase in year 2 IRM spending to $278,802,000, with this divided into $260,802,000 for LVD lines reliability, $12,623,000 for resiliency, and $5,201,000 for system protection.[2242] She testified that the Company believes that the increased spending will improve "customer reliability in the face of increasingly severe weather," and will bring the spending in line with the Company's Reliability Roadmap.[2243] Upon cross-

[2238] 2 Tr 3296, citing the March 1, 2024 order in Case No. U-21389, pp. 272-273.
[2239] 4 Tr 374.
[2240] 4 Tr 374-375.
[2241] 4 Tr 376.
[2242] 4 Tr 377. Mr. Kelly also provided testimony for the Company on this point at 4 Tr 919-920.
[2243] 4 Tr 377-379.

examination, Ms. Myers agreed that the requested spending was a "material increase."[2244]

Mr. Kelly testified that the Company would continue tracking miles of targeted circuit improvements, fuse locations, and LVD pole replacements in relation to LVD lines reliability, fractionalization projects completed in relation to resiliency, and relays installed in relation to system protection, and that the Company would continue to report these annually to the Commission, as included in Case No. U-21389.[2245] In her direct testimony, Ms. Myers added that, without increases in IRM program spending calculated and set forth in Exhibit A-150, there would be "a mismatch" in the spending tracked as part of the IRM and the Company's planned spending. Ms. Myers contended that the line-item reconciliation process for the IRM "provides a strong incentive for the Company to complete the IRM spending as included in the IRM surcharge."[2246]

In cross-examination, Ms. Myers testified that the Company planned to propose including the entire EDIIP spending in the IRM, in part because the IRM includes a reconciliation that would protect customers if increases to the workforce could not keep up with the proposed spending.[2247] She indicated that any adjustments by the Commission to the capital spending included in the IRM would require an adjustment to the base rates "to recover the revenue requirement" of any excluded capital spending.[2248] In response to questioning regarding her statement in Exhibit CUB-55 that increases in IRM distribution spending might be the Company's "best shot at getting the increased

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[2244] 4 Tr 463.
[2245] 4 Tr 919-920.
[2246] 4 Tr 378-379.
[2247] 4 Tr 466-471.
[2248] 4 Tr 380.

spend," Ms. Meyers testified that her statement reflected that the IRM expansion was proposed to cover any risk of spending not being completed in full.[2249]

Staff opposed any increase to year 2 IRM spend, with Mr. Evans noting that the Commission's December 1, 2023 Order in DTE's Electric rate case, Case No. U-21297, limited IRM spending due to an ongoing audit in Case No. U-21305 in anticipation that the completed audit would provide information to be used in any continued IRM.[2250] Liberty Consulting Group recently completed the audit.[2251] According to Mr. Evans, "Staff's position is that it is better to have Consumers review the audit report later this year and then make adjustments, where appropriate, to projected March 1, 2025 – February 28, 2026 spending rather than risk being locked into inefficient spending during that same time period by the IRM."[2252]

ABATE likewise recommended disallowance of the requested 465% expansion of the Year 2 IRM, noting that the Commission already reduced the requested amount to the currently approved $49.3 million in the Company's prior rate case.[2253] According to Mr. Dauphinais, "Consumers' distribution IRM is still in its infancy and the net benefit of the distribution IRM to Consumers' customers is not" proven, where the first year only commenced in February 2024, and the IRM reconciliation and review will not occur until 2025.[2254]

[2249] 4 Tr 482-484. Exhibit CUB-55, p. 9.
[2250] 5 3861-3862.
[2251] 5 Tr 3861.
[2252] 5 Tr 3861.
[2253] 2 Tr 3296-3297.
[2254] 5 Tr 3297-3298.

Mr. Coppola also recommended rejection of the proposed increase in capital spending for the year 2 IRM, testifying that the previously approved $49.3 million should be maintained. As discussed in greater detail above in relation to rate base, the Attorney General takes the position that the increased capital expenditures Consumers included in the IRM are "not adequately justified, are controversial, and will need to be litigated in this case."[2255] According to Mr. Coppola, to approve additional spending before progressing past the initial year of the IRM would not be "wise or reasonable," and would result in "uncontrolled spending" until the "the subprograms have been fully vetted."[2256]

Similarly, Mr. Kenworthy testified for the CEO that, despite Consumers' initial, broader requests, the Commission only allowed the IRM for two years to address immediate safety and reliability concerns, limiting the IRM in both scope and duration.[2257] He recommended that the Commission deny expansion of the "magnitude of the IRM" without thorough review of the benefits of prior years' investments.[2258] According to Mr. Kenworthy, "the IRM should not become an investment path for programs that the Company wishes to accelerate outside of the normal rate case process," and the Commission should "assess whether the same reliability improvements could have been accomplished through the normal regulatory process."[2259]

MNC witness Mr. Denzler outlined the short history of the IRM, opining that "[b]y frontloading so much additional spend into the second year of this IRM, the Company secures additional IRM resources before any such review can take place and

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[2255] 5 Tr 2721 & 2783-2784.
[2256] 5 Tr 2783-2784.
[2257] 5 Tr 2669-2671.
[2258] 5 Tr 2669-2672.
[2259] 5 Tr 2670-2671.

stakeholders can weigh in."[2260] According to Mr. Denzler, the additional spending will necessarily create an extension of the IRM before a review of its effectiveness is completed.[2261] Mr. Denzler also testified regarding concerns that the "surcharge mechanism limits regulatory oversight and stakeholder intervention, promoting poorer capital governance" by limiting the ability to disallow cost recovery, creating a regulatory risk where the first IRM reconciliation process has not yet taken place, and where the request "gets ahead of the Commission's pending distribution audit docket."[2262] MNC took the position that more, not less, oversight is necessary, and that the additional spending is imprudent in light of unsubstantiated claims of increased reliability benefits.[2263] Particularly where spending is being approved for work that might not be performed, and in light of what Mr. Denzler characterized as worsening reliability in the face of increased spending, he recommended maintaining the originally approved $49.3 million in IRM year 2 spending.[2264]

UCC witness Cira-Reyes testified that the order in Case U-21389 set forth the criteria for evaluating whether the IRM should be extended: whether investments were be being deployed equitably; whether investments aggravate or perpetuate racial and/or socioeconomic disparities in service; the impacts of the investments on reliability and resiliency; the opportunity for scrutiny of the investments; and whether customers have benefitted from the IRM.[2265] Although the Company is not seeking to extend the term of

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[2260] 5 Tr 3002.
[2261] 5 Tr 3002-3003.
[2262] 5 Tr 3003 & 3005.
[2263] 5 Tr 3003-3005.
[2264] 5 Tr 3004-3005 & 3033.
[2265] 5 Tr 3510.

the IRM in this case, Mr. Cira-Reyes opined that "quintupling the amount of investment" in the IRM before the Commission has reviewed its success would be inappropriate.[2266]

Mr. Cira-Reyes further contested Ms. Meyers' assertions that the IRM will force Consumers to spend funds and prevent the shifting of funds between programs.[2267] He noted that Consumers should be capable of executing its own investment plan, and, if it is not, it should welcome review in a future rate case. He added that the rate case process already incentivizes Consumers to make the investments that are approved; and one of the main purposes of the Commission's proposed reevaluation at the end of two years is to determine whether customers have benefitted from the IRM. Per Mr. Cira-Reyes, the IRM should not be increased until it is shown to be beneficial to customers.[2268] He testified that, while there may be benefits to the nature and type of spending proposed, this should be determined through the transparency of a rate case, and not in an IRM or reconciliation proceeding.[2269] In rebuttal, Mr. Cira-Reyes agreed with Staff's recommendation that the IRM modification should be denied, but he stated his belief that the operative review metrics for the upcoming IRM were incomplete, and that no additional spending should be approved until equity impacts had been reviewed in the IRM reconciliation proceeding.[2270]

Ms. Myers responded to Messrs. Coppola, Dauphinais, Kenworthy, Denzler, Evans, and Cira-Reyes, explaining that the year 2 IRM program spending should match spending for the IRM program categories to allow for appropriate reconciliation of spend

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[2266] 5 Tr 3511.
[2267] 5 Tr 3512-3513.
[2268] 5 Tr 3512-3513.
[2269] 5 Tr 3513.
[2270] 5 Tr 3518-3521.

amounts. Ms. Myers reiterated the Company's position that the requested spending is necessary to improve reliability.[2271] In response to Mr. Coppola, Ms. Myers asserted that the Company is matching year 2 IRM spending to approved test year amounts, negating Mr. Coppola's concerns.[2272] And, in response to "Mr. Coppola's argument that including amounts in the IRM would provide for uncontrolled spending," Ms. Myers indicated that this would be addressed in the reconciliation process.[2273]

Ms. Myers also discounted Mr. Dauphinais' and Mr. Kenworthy's concerns with increasing IRM spending while the mechanism is still new and where year 1 IRM results have not been scrutinized, testifying that this should have "no bearing on the amount that should be included."[2274] Ms. Myers again asserted that the IRM should include the test year spending approved in this case, and that the spending will ultimately go through the reconciliation process, nullifying any perceived risks.[2275] And the review of the amounts calculated in this case should provide a sufficient review process to address Mr. Cira-Reyes' concerns.[2276]

In response to Mr. Denzler's concerns that the increased spending is in misalignment with the Commission's prior order, that it limits regulatory oversight and intervention by interested parties, and that the increased spending is premature without a reconciliation proceeding, Ms. Myers testified that the increase is just an update to make year 2 of the IRM consistent with other proposals in the case.[2277] Finally, Ms. Myers

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[2271] 4 Tr 438.
[2272] 4 Tr 439.
[2273] 4 Tr 439.
[2274] 4 Tr 439-440.
[2275] 4 Tr 440.
[2276] 4 Tr 440-441.
[2277] 4 Tr 440-441.

addressed Mr. Evans' testimony that the IRM program spending should not be approved when the distribution audit report has only recently been completed, arguing that any changes to spending amounts from the audit report's recommendations that are included in the IRM "will only act to reduce customer risk," because, through the reconciliation process, customers will only pay for what is actually completed.[2278]

Consumers' brief echoes the history of the IRM's approval, and the requested increase, outlined in Ms. Myers' testimony.[2279] The Company argues that the Commission should reject the arguments of Staff, the Attorney General, MNSC, ABATE, the UCC, and the CEO, contending that "[f]ailing to match the Year 2 of the IRM with the amounts approved in this case for those programs in the IRM would result in a portion of the test year capital spending collected through base rates and the remainder collected through the IRM mechanism," thereby confusing the IRM process.[2280] Consumers further repeats the positions taken in testimony that the programs are being reviewed in this rate case, and thus will not result in "uncontrolled spending," and that the recency of the IRM approval should not result in rejection of the requested expenditures.[2281]

Finally, Consumers contends that it "is not proposing an expansion of the already approved IRM, but only that year 2 of the IRM matches the approved amounts for those programs in this case."[2282] Answering Staff's concerns, Consumers takes the position that, even if the recent audit results in spending adjustments, the IRM reconciliation

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[2278] 4 Tr 441.
[2279] Consumers brief, 420-424.
[2280] Consumers brief, 422.
[2281] Consumers brief, 422-423.
[2282] Consumers brief, 423.

process is the proper forum in which to make the adjustments.[2283] In its reply brief, Consumers again characterizes the IRM as "only updating amounts included in year 2 of the IRM to include the spending ultimately approved for the IRM programs in this case," with the text otherwise focusing on points raised in its initial brief.[2284]

Staff's brief summarized the underlying testimony, noting the near-universal opposition to increasing the IRM year 2 funding, and maintaining Staff's initial recommendation that the spending increase be denied.[2285] The other parties' briefs were similarly unwavering in requesting denial of the IRM funding increase. The Attorney General opposes the IRM changes "because they have not been justified and are premature,"[2286] advocating that the IRM spending be kept at the currently approved rate for proper analysis as originally contemplated at the time of approval, and questioning whether the requested increases are reasonable and prudent.[2287] In both its initial and reply briefs, ABATE highlights the unreasonableness of the proposed 465% increase in year 2 spending where no analysis of the IRM's success had yet taken place, and where the Commission already reduced the $101.8 million requested for year 2 to $49.3 million in Case No. U-21389.[2288]

In continued opposition to the IRM, the UCC argues that substantially increasing spending before analysis of the first year could take place defies the logic of requiring the review, further contending that, while Consumers presented its requested spending, the

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[2283] Consumers brief, 423-424.
[2284] Consumers reply, 4-5 & 76-78.
[2285] Staff brief, 169-172.
[2286] Attorney General brief, 206.
[2287] Attorney General brief, 206-209
[2288] ABATE brief, 54-56. ABATE reply, 24-25.

requested increase did not include evaluation of year one capital spending according to the criteria set forth in U-21389.[2289] The CEO also indicate that the additional spending should be denied, expressing three concerns: (1) the proposed IRM spending is happening before the Company has "demonstrated that it can achieve the Commission's objectives;" (2) the expanded investments "are not necessarily in line with" the IRM's original intent; and (3) "the sheer magnitude" of the proposed spending.[2290] The UCC's and the CEO's reply briefs reiterate that the IRM modification should be rejected as premature.[2291]

Relying on the Attorney General's, ABATE's, and Staff's testimony as well as the testimony it presented, MNC contends that the IRM year 2 spending increase should be denied because the Company is unsure that it can complete the proposed work: "Consumers has not demonstrated that the increased spending is reasonable, prudent, necessary, and provides benefits to customers that outweigh the risk and disadvantages."[2292] It argues that Consumers has not addressed the Commission's evaluation criteria when the limited IRM was originally approved.[2293] In addition, MNC takes issue with Consumers' assertion that the increases in the IRM spending are intended to match the spending with the EDIIP, contending that the LVD lines reliability subprogram spending deviates from the Reliability Roadmap.[2294] MNC notes, too, that Consumers is not providing a mechanism for the Commission to revise the IRM capital

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[2289] UCC brief, 20-22.
[2290] CEO brief, 22-23.
[2291] UCC reply, 7. CEO reply, 6.
[2292] MNSC brief, 6.
[2293] MNSC brief, 122-134.
[2294] MNSC brief, 129-130 & 133.

spending priorities based on a review of the audit, if it were to approve the Company's request in this case.[2295]

This PFD finds persuasive the near-universal recommendations to disallow the requested IRM increase, recognizing the Commission's caution when it limited its initial approval of the IRM to two years and $49.3 million.[2296] The current spending of $49.3 million should be maintained to allow the IRM to operate and address immediate threats, as the Commission has already permitted. But the spending should not be expanded until the effectiveness of the IRM has been analyzed through review of the audit and a comprehensive review of the IRM's effectiveness. As a result, this PFD recommends that the current spending for IRM year 2 be maintained at the currently approved $49.3 million. Moreover, as discussed in detail above in LVD and HVD distribution capital expenditures, this PFD recommends disallowing significant amounts due to a lack of support for the various programs, subprograms, and/or cost categories, further supporting disallowance of the requested increase in the year 2 IRM.

B. Environmental Justice

Consumers provided testimony about electric reliability in EJ communities and how it considers these communities in the planning process for distribution investments. Staff did not specifically address EJ in its testimony; however, the CEO and the UCC reviewed the Company's EJ reliability analyses and investment planning and offered several recommendations for improvement, which are discussed below.

1. Electric Reliability in EJ Communities Data and Analysis

[2295] MNSC brief, 133-134.
[2296] March 1, 2024 order in Case No. U-21389, pp. 272-273.

According to Mr. Kelly, Consumers defines an EJ community as a census tract that is above the 80th percentile on the MiEJScreen. He explained that MiEJScreen is based on a tool developed by the U.S. Environmental Protection Agency that uses an 80th percentile cut-off point to identify geographic areas that require more detailed analysis, giving focus to communities with the highest potential risk of environmental issues. He testified that the Company identified EJ census tracts in Muskegon, Grand Rapids, Flint, Kalamazoo, Battle Creek, Jackson, and Adrian.[2297]

Mr. Kelly presented the results of a reliability analysis using the past five years of AMI data that compared EJ census tracts with other census tracts and the Company's overall system. He explained that the analysis shows that SAIDI in EJ census tracts mirrors the patterns of the overall system and of non-EJ census tracts, but SAIDI in EJ census tracts is consistently and significantly better than in non-EJ census tracts and systemwide. According to Mr. Kelly, Consumers analyzed SAIDI with and without MEDS, finding that SAIDI with MEDS reflects the actual lived experience of customers, while SAIDI x-MEDS is the industry-standard way of reporting SAIDI and is what distribution planning is typically based upon.[2298]

Mr. Kelly testified that the Company also analyzed several other metrics to assess the reliability experience of EJ communities, including CAIDI and SAIFI with and without MEDs; customers experiencing at least four or seven service interruptions in a year (CEMI-4 and CEMI-7); percentage of customers with at least one 5-hour outage during the year (CELID-5); all-weather 36-hour restoration percentage; Catastrophic 48-hour

[2297] 5 Tr 883.
[2298] 5 Tr 883-884.

restoration percentage; normal conditions 8-hour restoration percentage; and gray-sky 24-hour restoration percentage.[2299]

He presented data from the analyses of these other reliability metrics and testified that except for a few isolated exceptions, the data consistently shows that EJ communities experience better reliability than non-EJ communities and the overall system. He said, the plain reading of this data is that EJ communities within the Consumers' service territory do not face systemic reliability issues.[2300]

Mr. Kelly acknowledged that the better reliability performance in EJ communities may be a function of geography. He explained that all the EJ census tracts in the Company's service territory are in urban areas, which typically experience better reliability than rural areas. He explained that this was generally because traditional investment prioritization leads to more investment in more densely populated areas.[2301] While Mr. Kelly posited that the Company's data indicates there are no systemic reliability issues that affect EJ communities, he conceded there are individual EJ census tracts that have faced reliability challenges in recent years.[2302]

Mr. Kelly explained that Consumers has performed additional EJ reliability analyses as required by the settlement agreement in Case No. U-21224 and in response to the order in the Company's last rate case, Case No. U-21389. He stated that the Company has completed a limited hosting capacity analysis related to EJ communities,

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[2299] 5 Tr 885-886.
[2300] 5 Tr 886-893.
[2301] 5 Tr 893-894.
[2302] 5 Tr 894.

and it has compiled reliability metric data broken out by 5-percentage-point increments on the MiEJScreen.[2303]

He also noted that the order in Case No. U-21389 directed the Company to develop a regression analysis related to reliability in EJ communities in collaboration with Staff and interested parties, and to work with Staff to develop a means for interested parties to access GIS data from the Company. He testified that Consumers is committed to developing the regression analysis before its next Reliability Roadmap update, which is due within the next year, and will start on GIS accessibility in 2024.[2304]

CEO witness Kenworthy noted that while Consumers has made significant strides in addressing the Commission's directives on grid equity, there are still gaps to be addressed, such as using more specific, targeted metrics to demonstrate progress on reducing inequities in grid performance across different communities.[2305]

Mr. Kenworthy testified that Consumers' conclusion that reliability in EJ communities is generally better than in non-EJ areas can be partly attributed to EJ communities' urban locations. He said urban areas typically receive more frequent infrastructure upgrades, have more grid monitoring and circuit automation in place, and contain many circuits that are networked or sectionalized and include higher-rated conductors, all of which contribute to greater improvement in reliability metrics per dollar spent compared to circuits in rural areas.[2306] According to Mr. Kenworthy, the differences between the grids in urban vs. rural communities is one of the reasons that the CEO have

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[2303] 5 Tr 896-897.
[2304] 5 Tr 893; 898.
[2305] 5 Tr 2651-2652.
[2306] 5 Tr 2653.

advocated for the use of regression analysis, which can provide more information on the reliability outcomes for customers in comparable circuits in EJ and non-EJ communities.[2307]

Mr. Kenworthy explained that while the CEO believe regression analysis is the preferred approach, the CEO are open to alternative approaches. According to Mr. Kenworthy, the CEO believe that Consumers have made preliminary findings during the summer using a grid archetype approach that may have revealed disparities. Both of the CEO witnesses, Mr. Kenworthy and Mr. Tan, requested that Consumers provide these preliminary findings in the Company's rebuttal testimony.[2308]

Mr. Tan testified about the many benefits and importance of regression analysis, defining regression analysis as a statistical method used to understand how one or more independent variables can predict (or influence) the outcome of a dependent variable. For instance, he said, regression analysis can help in understanding the relationship between reliability and grid characteristics or demographic information.[2309] He recommended that the Commission order Consumers to provide regression analyses in all its rate cases and grid distribution plans.[2310]

Mr. Tan testified that he ran a regression analysis in Case U-21389, and ran an updated analysis for this case using 2023 data and incorporating grid archetypes.[2311] He requested that the Company comment on his analysis in rebuttal.[2312] According to Mr.

[2307] 5 Tr 2654.
[2308] 5 Tr 2654-2655; 2696.
[2309] 5 Tr 2679-2680.
[2310] 5 Tr 2696.
[2311] 5 Tr 2684.
[2312] 5 Tr 2696.

Tan, the same trends remained from last year, including SAIDI decreases for increasingly dense communities and black, indigenous, and people of color (BIPOC) communities. Communities with higher home values, on the other hand, experience worse SAIDI.[2313]

When looking at SAIDI, Mr. Tan found that the Grid Archetypes 5, 6, and 7 have worse reliability than the other archetypes. These archetypes are all circuits located in rural areas and so this makes sense, he said. But he requested that the Company explain in rebuttal why it described Archetype 7 as having the worst reliability, when his regression analysis found that Archetypes 5 and 6 have the worst reliability.[2314]

According to Mr. Tan, he found that the number of circuits in each grid archetype had changed, some archetypes had increased circuits, while others had a decreased number, which he explained signals that reliability on a circuit level is changing. He requested that Consumers explain why some circuits were moved to archetypes labeled as better reliability, while other circuits were moved to archetypes labeled as worse reliability. He also requested that Consumers provide a breakdown of spending for each grid archetype and discuss if the Company prioritized certain archetypes for immediate repair/upgrades.[2315]

Mr. Tan also analyzed the number of residential disconnections in 2023. According to Mr. Tan, disconnections can be an additional indicator of how customers experience the grid, especially low-income customers, as "their ability to pay the bills and prevent disconnections is connected with how often outages occur (such as paying for more food

[2313] 5 Tr 2688.
[2314] 5 Tr 2689-2690.
[2315] 5 Tr 2692.

and medicine after a long outage)."[2316] He found that for census tracts with increasing MiEJScreen scores, the number of disconnections increase. The same trend is shown for BIPOC communities, while in contrast, communities with increasing home values saw decreasing disconnections. He testified that based on how limited EJ areas are in the system (2.5%), it is especially significant to note the number of residential disconnections in EJ census tracts.[2317] He recommended that the Commission require Consumers to include residential disconnections as part of its reliability analysis.[2318]

UCC witness Cira-Reyes testified that while Consumers has made progress on its EJ analysis, there are at least two areas where the Company is deficient. First, he opined that Consumers has not provided reliability data with sufficient granularity for intervenors to review. He specifically noted that Consumers has not provided GIS data, and he contends that as a result, intervenors do not have sufficient information to verify the Company's claims.[2319] Second, he opined that Consumers' comparison of EJ communities to the system at large, and its claims that EJ communities do not face systemic reliability issues, are problematic. He noted that the Company acknowledged that the better reliability scores of EJ communities are at least in part due to the urban location of EJ census tracts. He stated that the Company has not provided information to allow Intervenors or the Commission to make a comparison between EJ circuits and non-EJ circuits in urban locations.[2320]

[2316] 5 Tr 2692.
[2317] 5 Tr 2692-2694.
[2318] 5 Tr 2696.
[2319] 5 Tr 3504.
[2320] 5 Tr 3504-3506.

Based on his concerns, Mr. Cira-Reyes recommended that non-essential infrastructure rate increases be delayed until Consumers provides: (1) a way for intervenors to access relevant GIS data, (2) a reliability analysis comparing reliability in EJ communities to likely situated non-EJ communities, and (3) a regression analysis as ordered by the Commission in Case U-21389.[2321]

In rebuttal, Mr. Kelly discussed two data analyses conducted in mid-2024. First, he explained that the Company reviewed the SAIDI with and without MEDs of all its EJ circuits from 2019 through 2023 and compared them to the IEEE quartiles to determine the reliability of each EJ circuit compared to a national benchmark.[2322] The results, he said, showed that 118 of the 190 EJ circuits (serving 97,000 customers) had SAIDI x-MEDs in the first or second IEEE quartile, "indicating better than average SAIDI." On the other hand, he stated that 72 EJ circuits (serving 78,000 customers) had average SAIDI x-MEDs in the third or fourth IEEE quartile. He stated that the Company found somewhat similar results for all-weather SAIDI, but with proportionally fewer circuits and customers in the first quartile and more circuits and customers in the fourth quartile."[2323] According to Mr. Kelly, the analysis shows that the Company does not have a systemic reliability issue, but it does clearly indicate that some EJ communities face challenging reliability issues, which are only magnified by the vulnerabilities that these communities face when dealing with interruptions.[2324]

[2321] 5 Tr 3509.
[2322] 5 Tr 1009.
[2323] 5 Tr 1009-1010.
[2324] 5 Tr 1011.

Mr. Kelly described the second analysis that the Company conducted over the summer, which more closely analyzed how EJ census tracts perform relative to similar non-EJ urban census tracts. For each of the 56 EJ census tracts identified in Consumers' service territory, the Company found five non-EJ urban census tracts that were most like the respective EJ census tract in terms of population size and housing density. The Company then performed comparisons for each year from 2019 through 2023 for 12 different reliability metrics including SAIDI, SAIFI, CAIDI, CEMI, and CELID.[2325] He testified that the data showed that EJ census tracts performed worse on average in nine of the 12 reliability metrics.[2326] Mr. Kelly stated that he does not believe the data shows that Consumers has a systemic issue related to EJ reliability, but he acknowledged there are EJ communities facing poor reliability, warranting a Company response.[2327]

Mr. Kelly disagreed with Mr. Tan's claim that there were discrepancies between his and the Company's analysis regarding which grid archetypes have the worst reliability. Mr. Kelly said there was no discrepancy because the Company's description of Grid Archetype 7 as having the worst reliability was based on historical data while Mr. Tan's finding that grid archetypes 5 and 6 were worst was based on a single year, i.e., 2023.[2328]

Mr. Kelly further testified that Consumers expects to complete a regression analysis within the first several months of 2025 and it should be able to provide the results in the Company's next rate case.[2329] Mr. Kelly said that he believed, in general, the

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[2325] 5 Tr 1011-1015.
[2326] 5 Tr 1016; Figure 4.
[2327] 5 Tr 1016.
[2328] 5 Tr 1024-1025.
[2329] 5 Tr 1023

Company's regression analysis will be comprehensive and will include more collaboration and data sharing than Mr. Tan's regression analyses.[2330]

Responding to Mr. Tan's recommendation that the Company should include residential disconnections as a parameter in its regression analysis, Mr. Kelly disagreed, stating that this decision should not be made until Consumers has had an opportunity to collaborate with Staff and with the CEO. He pointed out that residential connections are outside the purview of distribution planning and strategy, and bringing in such outside metrics may make the analysis more complex or make it harder to reach conclusions.[2331]

In rebuttal to Mr. Cira-Reyes' claims that the Company's data analysis and information sharing are deficient, Mr. Kelly testified that the order in Case No. U-21389 did not set a time limit on its directive regarding GIS data and Consumers is working in good faith to make the relevant GIS data available soon.[2332] Regarding comparing EJ census tracts to similarly situated non-EJ census tracts, Mr. Kelly said the two data analyses the Company conducted over the summer should address these concerns.[2333]

In his rebuttal, Mr. Tan explained that he ran additional regression analyses on residential disconnections and made several additional findings. He found for example that a $10,000 increase in area median income for a census tract is correlated with an average decrease of 10.8 residential disconnections and a census tract with a 100% BIPOC population experienced an average of 120 more residential disconnections than a census tract with 0% BIPOC population.[2334] He offered the additional recommendations

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[2330] 5 Tr 1024.
[2331] 5 Tr 1025.
[2332] 5 Tr 1036.
[2333] 5 Tr 1037.
[2334] 5 Tr 2704-2705.

that the Commission order Consumers: (1) to implement a disconnection moratorium in the summer months; (2) to analyze their disconnection data to discover additional disparities; and (3) to revisit their disconnection policies and evaluate if the policies disproportionately disconnect customers in certain communities over other communities.[2335]

In briefing, the Company relies on Mr. Kelly's direct and rebuttal testimony.[2336]

In its brief, the CEO note that Consumers has "meaningfully progressed in terms of incorporating equity and energy justice into its rate case offering," but states that the Company must continually revisit, expand, and adapt its processes to better consider equity.[2337] The CEO emphasize the value and need for regression analysis as stated by Mr. Tan and Mr. Kenworthy, and recommend that that Company conduct its regression analysis as already directed by the Commission and "dive deeper" as it did in the summer of 2024 to understand the reliability differences between urban EJ communities and urban non-EJ communities.[2338]

In its brief, the UCC states that the analyses the Company conducted in the summer of 2024 revealed reliability disparities with stark real-world impacts for EJ customers, such as losing refrigerators full of food or having to spend days in a motel.[2339] The UCC agrees with Mr. Tan that the Commission should require the Company to determine if EJ-related disparities exist regarding disconnections, to address the apparent

[2335] 5 Tr 2707.
[2336] Consumers brief, 424-430.
[2337] CEO brief, 7-9.
[2338] CEO brief, 10-14.
[2339] UCC brief, 18.

race-based difference in disconnection when holding income constant, and to evaluate the Company's disconnection policies more generally.[2340]

In its reply brief, the UCC's recommendations to the Commission include requiring the Company complete regression analysis comparing similarly situated EJ and non-EJ communities before approving any rate increases.[2341]

2. EJ Considerations in Investment Planning

Mr. Kelly testified that according to the Company's data, its distribution investments in EJ communities are disproportionately large and these investments contribute to the better reliability experience of EJ communities. He stated that circuits serving EJ census tracts comprise approximately 1,500 line miles, which represent 2.5% of the primary LVD system, while from 2018 through 2023, the Company directed 3.1% of its reliability investment to these circuits. He also mentioned that Consumers has a significantly larger percentage of its EJ-serving circuits on-cycle for line clearing compared to the system as a whole. According to Mr. Kelly, there should be little concern about systemic underinvestment in the distribution reliability of EJ communities.[2342]

Mr. Kelly described how the implementation of the EJ flag in its grid archetype process has affected the Company's planned distribution investments, resulting in higher investment in EJ circuits. He explained that the grid archetype process prioritizes LVD investments using reliability flags that are triggered based on various concerns. Typically, a circuit must get two reliability flags to be prioritized. In 2023, Consumers starting flagging circuits that intersect with an EJ census tract. He said the bridge period and the test year

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[2340] UCC brief, 20.
[2341] UCC reply, 7.
[2342] 5 Tr 893.

in this case include investments specifically planned to benefit EJ-serving circuits via the incorporation of the EJ Flag.[2343] He presented data showing that the Company's planned LVD investments (LVD Lines Reliability, LVD Repetitive Outages, Resiliency, and LVD Lines Capacity sub-programs) for EJ-serving circuits comprise 7.5% of the Company's LVD investment, while EJ circuits only account for 2.5% of the Company's LVD lines.[2344]

Mr. Kelly testified regarding the analyses the Commission required in Case U-21224. He said the Company has completed a hosting capacity analysis for its system, but this was limited to whether a circuit has 2 MW of hosting capacity.[2345] The results of this analysis were overlaid with EJ census tracts and presented in maps.[2346]

Mr. Lynd testified about Consumers' secondary assets—located between the distribution transformer and customer meter. He said these are more challenging to repair than primary assets and while not typically affecting large numbers of customers, they are high-frequency and long in duration. According to Mr. Lynd, open-wire secondary has a disproportionately high impact on EJ communities.[2347]

Mr. Lynd testified that over a 10-year period beginning in 2025, the Company plans to convert its open-wire secondary to multiplex secondary with a focus on the highest-risk circuits first.[2348] He provided data showing that 6 out of 17 highest-risk secondary circuits are in EJ communities.[2349] In addition to providing improved safety by reducing wire

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[2343] 5 Tr 894-895; Exhibit A-127; Exhibit A-128.
[2344] 5 Tr 896.
[2345] 5 Tr 896.
[2346] Exhibit 18 A-115 (MPK-23); Exhibit A-116 (MPK-24).
[2347] 4 Tr 567-568.
[2348] 4 Tr 568.
[2349] 4 Tr 569, Fig. 30.

downs, multiplex secondary will also provide EJ communities with opportunities to adopt new technologies, such as heating electrification, EV charging, and DERs.[2350]

Mr. Kenworthy testified that the Company's use of the EJ flag is a step in the right direction, but it is unclear whether the prioritization fully addresses all areas needing attention or whether the investments are sufficient to close the gaps in service disparity between EJ and non-EJ communities. He requested that Consumers provide examples of how the EJ flag has impacted the proposed investment in this case.[2351] Mr. Kenworthy also posited that while the higher proportional investment in line-miles in EJ circuits is significant, it may not fully reflect the customer experience and further analysis is needed.[2352]

Mr. Kenworthy testified that Consumers can better account for EJ communities in its planning and spending by enhancing the Interruption Cost Estimate (ICE) calculator. While the Company currently uses the ICE Calculator to project customer cost savings from improved reliability, Mr. Kenworthy testified he has concerns that it may not adequately reflect the disproportionate impact of outages on low-income customers and EJ communities.[2353] He recommended that the Company and the Commission engage in a collaborative effort to enhance the ICE Calculator to more accurately account for and weight the benefits of reliability improvements in EJ communities, and to ensure that the unique challenges faced by low-income customers during outages are properly considered in the planning and investment process.[2354]

[2350] 4 Tr 568-569.
[2351] 5 Tr 2651.
[2352] 5 Tr 2654.
[2353] 5 Tr 2657-2658.
[2354] 5 Tr 2658-2659.

Mr. Kenworthy also noted that Consumers received two significant grants under the Infrastructure investment and Jobs Act (IIJA): $100 million to perform sectionalization and circuit improvement work in federally-defined disadvantaged communities (DACs) and $500,000 to perform Planned Transmission Tie-in Modifications (PTTM) and High Voltage Distribution (HVD) work for the Nottawaseppi Huron Band of Potawatomi tribe.[2355] Mr. Kenworthy requested that the Company explain in rebuttal how these grants advance the goals of grid equity in its distribution planning.[2356]

Mr. Cira-Reyes testified that it appears that EJ considerations have only been incorporated into Consumers' proposed investments in this rate case using the EJ flag.[2357] While he appreciates this, he does not believe the Company's current process is sufficient. He stated that Consumers has not provided any information to confirm that the EJ flag has resulted in any change in investment in EJ communities.[2358]

Mr. Cira-Reyes also testified that he is highly skeptical of the Company's claims that EJ circuits received a disproportionately high percentage of LVD system and circuit investments. It was unclear to him why the Company would conduct the analysis based on the miles of LVD lines under the assumption that each line of the LVD system requires the same amount of investment. Again, noting the urban location of EJ circuits, he said all things being equal, LVD lines and other energy infrastructure that serve more people should receive more investment.[2359]

[2355] 5 Tr 2656-2657.
[2356] 5 Tr 2657.
[2357] 5 Tr 3507.
[2358] 5 Tr 3508.
[2359] 5 Tr 3506.

According to Mr. Cira-Reyes, Consumers' data regarding investments in different grid archetypes suggests that EJ investment is disproportionately small. He noted that, according to the Company, it is targeting 28% of LVD investment to be spent in Grid Archetype 4, which has significant overlap with EJ communities. However, 41% of Consumers' customers live in circuits within Grid Archetype 4.[2360]

Mr. Cira-Reyes opined that the Company cannot support the equity of its proposed investments in this case. He testified that Consumers must perform and make available the data analyses that were required by the Commission's Order in Case U-21389. He again recommended that the Commission require the Company to delay rate increases for non-essential infrastructure investments until it has provided the regression and other analyses as previously ordered by the Commission.[2361]

In rebuttal, Mr. Kelly responded to Mr. Kenworthy's request that the Company provide examples of how the use of the EJ flag has impacted the Company's proposed investment in this case. Mr. Kelly said his direct testimony provided one example, citing the statistic that EJ circuits comprising 2.5% of the Company's system are receiving 7.5% of the proposed investment in "Archetype-informed investment programs." He noted that the Company does not run a "no-flag" scenario to measure what level of investment EJ circuits would have received were it not for the flag.[2362]

In response to Mr. Kenworthy's point that it is unclear if the Company's investments will improve service in EJ communities, Mr. Kelly provided the Company's newly

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[2360] 5 Tr 3506-3507.
[2361] 5 Tr 3509.
[2362] 5 Tr 1006-1007.

developed “EJ Resiliency Plan,” which directs investment in EJ circuits.[2363] He testified that the goal of the EJ Resiliency Plan is to provide strategic investments that increase EJ communities’ reliability such that every EJ circuit has all-weather SAIDI that is in the second IEEE quartile or better.[2364] According to Mr. Kelly, the EJ Resiliency Plan will include incremental investments particularly in LVD Lines Reliability and Resiliency. Mr. Kelly described the proposed investments:

- Fractionalization: $200 million of total investment
  - Six new substations – one for each EJ circuit with over 3,000 customers
  - 133 new circuit exits – one for each EJ circuit with over 1,000 customers
- LVD line rebuilds: $350 million of total investment
  - Rebuild 665 miles of primary LVD circuit to create a high-reliability 24 mainline three-phase (i.e. aerial spacer cable or underground, based on local conditions
- Other work: $50 million of total investment
  - 400 new reclosers to ensure no protective zones exceed 2 miles in length
  - 335 new switches (i.e. one every mile)
  - Approximately 3,000 additional fuses.[2365]

Mr. Kelly emphasized that the EJ Resiliency Plan investments are incremental to the Company’s reliability investments as outlined in the 2023 EDIIP. He stated that Consumers will maintain its planned reliability investments and then perform the targeted EJ investments in addition. He testified that the Company expects to present a list of detailed projects for the first year of the Plan in its next electric rate case, with the current intention to spread the investments over a 10-year period. But, he said, if the Commission

[2363] 5 Tr 1007.
[2364] 5 Tr 1017.
[2365] 5 Tr 1017-1018.

finds that these investments should be further prioritized, the Company can identify up to $10 million in projects for the test year in this rate case and begin work on them.[2366]

Regarding Mr. Kenworthy's recommendation that the Company and Commission engage in a collaborative effort to enhance the ICE Calculator to better account for investment in EJ communities, Mr. Kelly testified that while this tool is sometimes useful, the Commission should not undertake efforts to enhance it, as it is already undergoing an update and adding further analyses now could create difficulties.[2367]

Mr. Kelly responded to Mr. Kenworthy regarding IIJA grants, noting that the Company already provides IIJA grant information biannually. He said the Company has not yet implemented the distribution related grants but when it does, it will be happy to discuss the lessons learned regarding the goals of incorporating grid equity into distribution planning and investment prioritization.[2368]

Mr. Kelly testified that the Company stands by its assessment of equity in its LVD system and circuits investments based on a comparison of the percentage of distribution investment to the percentage of line miles, despite UCC witness Cira-Reyes' skepticism. He disagreed with Mr. Cira-Reyes' contention that all things being equal, distribution infrastructure that serves more people, such as in urban areas, should receive more investment, noting that many other factors contribute to how much investment is needed per line mile. He provided the example of rural circuits in dense forests or swamps as likely having higher costs per line mile than urban circuits running along a street.[2369] Mr.

[2366] 5 Tr 1018.
[2367] 5 Tr 1019-1020.
[2368] 5 Tr 1019.
[2369] 5 Tr 1037.

Kelly referenced his direct testimony that EJ circuits receive 7.5% of the total investment in subprograms tied to grid archetypes that most affect reliability.[2370]

He urged the Commission to reject Mr. Cira-Reyes' recommendation that the Commission require the Company to delay rate increases for non-essential infrastructure investments until the Company completes the requested EJ analyses ordered in Case U-21389. Mr. Kelly said this would be unreasonable and he asserted that the Company has provided substantial evidence that its distribution investments "are needed to improve system reliability," and that delaying these investments would have a negative impact on all customers.[2371]

In briefing, Consumers reiterates the testimony of its witnesses regarding investment planning in EJ communities.

In its brief, the CEO argue that while the use of the EJ flag in the grid archetype seems promising, the Company must re-evaluate the efficacy of the EJ flag moving forward to ensure it furthers equity.[2372] The CEO also applaud Consumers' EJ Resiliency Plan, saying it directly addresses "the core of Witness Kenworthy's recommendations regarding understanding and improving reliability in EJ communities." The CEO recommend that the Commission approve the Company's proposed EJ Resiliency plan and direct the Company to continue this focus in future distribution plans.[2373]

The UCC also supports the EJ Resiliency Plan it is brief. It recommends that the Commission order Consumers to immediately commence the $10 million in investments

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[2370] 5 Tr 1037-1038; also see 5 Tr 896.
[2371] 5 Tr 1039.
[2372] CEO brief, 7.
[2373] CEO brief, 10.

identified in the Plan that the Company stated it could implement in the test year.[2374] However, the UCC notes that the Company does not provide details of its plan to increase the resilience of EJ communities in this case. It calls for the Company to provide its plan, and asserts that the UCC:

> . . . intends to work with the Company and other interested parties to ensure that the plan (1) identifies correctly the EJ circuits that need upgrading and the costs for doing so, (2) prioritizes addressing the circuits with the greatest need, (3) provides more funds in earlier years than in later years (i.e. does not "back end" the investments), (4) does not exacerbate the affordability crisis, and (5) achieves its goals as quickly as is reasonable, ideally within less than the ten year period identified by the Company.[2375]

In its reply brief, the CEO agree with Consumers that waiting on the revised ICE Calculator is prudent. The CEO request that they be able to work with the Company to revisit this issue once the parties have a chance to review and understand the revisions.[2376]

In its reply brief, the UCC states that the Company must be required to complete a regression analysis comparing similarly situated EJ and non-EJ communities before the Commission approves any rate increases. And further it reiterates its recommendation the Commission order immediate implementation of the $10 million in EJ reliability projects in the Company's EJ Resiliency Plan.[2377]

3. Expanding Energy Justice

Ms. Thompkins explained that while historically EJ was often understood to relate primarily to the disproportionate impacts of pollution on disadvantaged communities, in

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[2374] UCC brief, 18-19.
[2375] UCC brief, 19.
[2376] CEO reply, 2.
[2377] UCC reply, 7.

recent years EJ has been expanded and now encompasses a more holistic view of community benefits and burdens and the associated impacts on affordability and reliability.[2378] She stated that the Company's Diversity, Equity, and Inclusion strategy intersects with its EJ considerations.[2379] She testified that the Company is continuing to learn and grow its understanding and work in the EJ space through collaboration, including participation in various workgroups such as the Commission's Energy Affordability and Accessibility Collaborative. Further, she testified that the Company's Energy Waste Reduction (EWR) program already focuses on equity, and the Company is participating in workgroups to enhance equity considerations, such as the MPSC Energy Affordability and Accessibility workgroup and the EWR-Low Income workgroup.[2380]

Mr. Kenworthy testified that Consumers' attention to its EJ communities must expand beyond simply reliability, opining that it should begin to assess other factors that contribute to the way EJ customers experience the grid including energy burden and affordability, disconnections, and enrollment in Consumers' various programs.[2381] He also stated that the Company should consider how equity is integrated into its operational practices to ensure that decisions are made with a focus on minimizing impacts on vulnerable communities. For example, he recommended that the Company should evaluate how it plans and executes storm response, considering environmental justice and the disproportionate impact of outages on disadvantaged communities.[2382]

[2378] 5 Tr 2575.
[2379] 5 Tr 2576-2577.
[2380] 5 Tr 2585-2586.
[2381] 5 Tr 2652.
[2382] 5 Tr 2659.

In rebuttal, Mr. McLean responded to Mr. Kenworthy's recommendation that the Company's EJ analysis should move beyond reliability. Mr. McLean noted that the Company has taken steps to assess the other contributing factors, and he pointed to Ms. Thompkins' direct testimony.[2383] He testified that Consumers agrees that grid equity involves more than just reliability and he mentioned the Company's implementation of EWR programs in "communities overburdened by energy costs." He noted that the Company is investing in EWR technologies in Flint households that would not otherwise be able to afford them via the "Flint Initiative." He explained that in 2023, the Company invested more than $1 million, and it plans to continue investments through 2025. He also said that workforce development programs target resources in low-income communities, including $250,000 in Flint. Finally, he noted that the Company's recently approved Green Giving Program, described in Case No. U-21374, has a dedicated focus to supporting low-income customers in EJ communities.[2384]

In its brief, Consumers states that it will continue its efforts to better understand EJ communities and its role in supporting just access to energy. This includes coordinating efforts to support grid reliability and affordability, prioritize customer-first processes and technologies to streamline interactions, improve access to clean energy resources, and offer workforce and economic development opportunities in over-burdened communities.[2385]

[2383] 5 Tr 2196-2197.
[2384] 5 tr 2197.
[2385] Consumers brief, 432.

In its briefing, the CEO and the UCC both argue that the Company must expand how it looks at and addresses equity, energy justice, and EJ concerns.[2386]

4. Findings, conclusions and recommendations

The CEO and the UCC generally argue that Consumers has not provided sufficient information to assess the relative reliability of EJ communities compared to non-EJ communities, and that the Company has failed to comply with certain data analysis directives as ordered by the Commission in Case No. U-21389. This PFD finds that the data analyses conducted by Consumers over the 2024 summer, comparing EJ circuits to IEEE quartiles and comparing EJ census tracts to non-EJ urban census tracts, provide much of the data the CEO and the UCC are requesting. This PFD notes, however, that the Company has not provided a process for interested parties to obtain GIS data, nor has it conducted a regression analysis as directed by the Commission in Case No. U-21389. This PFD accepts the Company's assertions that it is working in good faith on these projects and will soon comply with the Commission's directives. The PFD also agrees with the Company that the order in Case No. U-21389 did not set a time limit for the Company to comply with the directive regarding GIS data. However, the order required Consumers to include a regression analysis in its future filings, which the Company has failed to do in this filing.

This PFD finds that the appropriate analysis for EJ considerations compares EJ census tracts to similarly situated non-EJ census tracts, i.e., EJ urban tracts to non-EJ urban tracts, and that regression analysis is a valuable tool in this regard. This PFD

[2386] CEO brief, 7-8; UCC brief 19-20.

agrees with the CEO's recommendation, as supported by the UCC, that the Commission order Consumers to provide regression analyses in all its rate cases and grid distribution plans.

This PFD notes that the CEO provided its own regression analyses in this and the previous rate case and that the CEO considered residential disconnections and found disparities. Based on these disparities, the CEO recommend the Commission order Consumers: (1) to implement a disconnection moratorium in the summer months; (2) to analyze their disconnection data to discover additional disparities; and (3) to revisit their disconnection policies and evaluate if the policies disproportionately disconnect customers in certain communities over other communities.[2387] The UCC agrees with the CEO's recommendations that the Commission should require the Company to determine if EJ-related disparities exist regarding disconnections, to address the apparent race-based difference in disconnection when holding income constant, and to evaluate the Company's disconnection policies more generally.[2388]

This PFD agrees there may be disparities in residential disconnections for EJ communities. Noting that the Company has been or will be collaborating with Staff and the CEO to determine regression parameters, this PFD recommends that the Commission require the Company, Staff, and the CEO and the UCC if they so desire, as a part of this collaboration to discuss and determine appropriate parameters that incorporate residential disconnections into the regression analysis. Further this PFD recommends that the Company evaluate its disconnection policies to determine if

[2387] 5 Tr 2707.
[2388] UCC brief, 20.

disparities exist and to present the results in its next rate case. As to a moratorium on summer disconnections, this is addressed elsewhere in this PFD, in the context of the Company's low-income programs.

Regarding the Company's consideration of EJ in its distribution investments, this PFD agrees with the CEO and the UCC that the EJ flag in the Company's grid archetype process and the EJ Resiliency Plan are positive steps. However, this PFD disagrees with the UCC's recommendation that the Commission immediately approve $10 million of the investments identified in the Plan that the Company says it can start working on in the test year. This PFD notes that Company spending on resiliency, including EJ resiliency, is considered elsewhere in this PFD and the details of any additional spending must be scrutinized by all interested parties before being approved. This PFD recommends that the Commission approve the EJ Resiliency Plan going forward and ask the Company to include spending for the Plan in its future grid planning cases.

As to further expanding EJ considerations to incorporate more than reliability, this PFD finds that Consumers has provided evidence that it is taking steps to assess other factors and to better understand EJ communities. This PFD finds that these other considerations are best addressed in the various workgroups addressing these matters.

C. State Reliability Mechanism

Consumers witnesses Ms. Metz and Ms. Connolly presented the Company's proposed SRM capacity charge of $86.88/MW-day.[2389] Ms. Metz testified that rate was calculated using the method established by the Commission in its 2017 order in Case No.

[2389] 5 Tr 2315; 2 Tr 52.

U-18239.[2390] According to Ms. Metz, the Company is evaluating reopening the docket in that case to propose a new calculation method that would allow for Consumers' full cost recovery and account for MISO's new Seasonal Construct.[2391]

Staff witness Pung testified that the Company's current capacity charge calculation does not comply with Public Act 341 of 2016 because it does not include a true-up mechanism.[2392] According to Mr. Pung, PA 341 requires a reconciliation be performed and included in the capacity charge calculation each year, regardless of whether a charge was administered in that year or not.[2393] Mr. Pung recommended that Consumers be required to include a true-up mechanism as part of its next rate case.[2394] He also calculated $72.90/MW-Day as the SRM capacity charge for this case using the Company's calculation method, but based on a different capacity revenue requirement.[2395]

Staff witness Revere provided an alternative method to calculate the SRM capacity charge, citing several potential issues with the current method.[2396] He testified that the proper cost of capacity used in the calculation should be the Cost of New Entry (CONE), or the cost to build a combustion turbine (CT).[2397] Mr. Revere recommended that if the Commission finds the alternative calculation method more reasonable, it should require

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[2390] 5 Tr 2313.
[2391] 5 Tr 2316.
[2392] 5 Tr 3634.
[2393] 5 Tr 3634-3635.
[2394] 5 Tr 3635.
[2395] 5 Tr 3635; Exhibit S-6, Schedule F1.5; Exhibit A-59 (LMC-2).
[2396] 5 Tr 3798-3802.
[2397] 5 Tr 3799.

Consumers to file a calculation consistent with this method in the Company's next general rate case.[2398]

In rebuttal, Ms. Metz disagreed with Mr. Pung's claim that the Company's calculation does not comply with PA 341. She explained that while the statute does require a true-up mechanism, because the Company has not collected any actual revenue from the charge there, is nothing to reconcile.[2399] Ms. Metz further testified that the Company disagrees with the alternative calculation method proposed by Mr. Revere, stating that CONE is not the proper cost of capacity because the renewable energy mandates in PA 325 of 2023 effectively prohibit the Company from relying upon CTs to serve future customer load.[2400] She reiterated that any change in the calculation of the capacity charge should be addressed by re-opening Case No. U-18239.[2401]

In rebuttal, Mr. Zakem, on behalf of Energy Michigan, testified extensively opposing Staff's recommendations.[2402] First, Mr. Zakem said Staff's recommendation that Consumers provide a true-up mechanism in its next rate case should be denied because the current true-up method does not work and because there is nothing to reconcile.[2403] Second, Mr. Zakem asserted that while there are innumerable issues with the current SRM capacity charge calculation method, Staff's alternative using CONE is not viable.[2404] It would create difficulties, he said, because of recent changes in how MISO runs its

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[2398] 5 Tr 3802.
[2399] 5 Tr 2327-2328.
[2400] 5 Tr 2328.
[2401] 5 Tr 2329-2330.
[2402] 5 Tr 3239-3265.
[2403] 5 Tr 3239-3247.
[2404] 5 Tr 3247-3265.

auction and how it imposes capacity obligations.[2405] He presented what he considers a viable calculation method, but he recommended that the Commission reopen the docket in Case No. U-18239 if it does not believe it should make sweeping changes in this proceeding.[2406]

The parties' briefs generally reiterate the testimony and recommendations of their respective witnesses. Consumers further suggests that the Commission should consider opening a new collaborative process for all rate-regulated utilities and interested parties to derive a new calculation method for the SRM capacity charge.[2407]

Consumers, Staff, and Energy Michigan all state the need for a new method to calculate the SRM capacity charge, but they also acknowledge that this case may not be the proper venue for the undertaking. This PFD agrees. Consistent with previous Commission orders, this PFD finds that Case No. U-18239 is the proper docket to consider changes to the SRM calculation method. This PFD recommends that the Commission reopen Case No. U-18239 to determine a new SRM capacity charge calculation method. Further, this PFD agrees with Staff that a true-up or reconciliation mechanism is required under MCL 460.6w, even if the SRM charge is never implemented. Therefore, Staff's recommendation that Consumers be required to include a true-up mechanism as part of its next rate case should be adopted.

D. Demand Response Surcharge

Mr. McLean presented Consumers' proposal for an all-encompassing DR surcharge and testified it "will streamline and simplify the reconciliation process,

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[2405] 5 Tr 3259.
[2406] 5 Tr 3260-3265.
[2407] Consumers reply, 78-79.

eliminating potentially long lags for the recognition of over-recoveries and under-recoveries in rates, and allow for timely and accurate recovery of the performance incentive."[2408] Ms. Connolly testified that the company proposes to consolidate all costs associated with DR into the DR surcharge, including the DR revenue requirement, customer credits, financial incentives, and regulatory balance.[2409] Consumers requests approval to recover $50,506,000, which includes the residential revenue requirement of $22,043,400, the C&I revenue requirement of $22,363,546, the performance incentive of $6,225,000, and the regulatory liability of negative $127,000.[2410]

Pointing to Exhibit A-16, Schedule F-2.1, Ms. Connolly testified that line 2 reflects the removal of the DR revenue requirement from base rates. She testified that "the corresponding DR surcharge to collect the test year DR revenue requirement and customer credits is shown on line 23 in the same exhibit."[2411] Ms. Connolly acknowledged that the Company introduced a DR surcharge in a prior rate case, Case No. U-20963, adding that in that case, Staff suggested that the surcharge include the tariff-based bill credits associated with the DR programs.[2412] She testified that the $59,078,000 to be recovered through the DR surcharge exceeds the DR revenue requirement because of the addition of the tariff bill credits totaling $8,572,000.[2413]

Mr. McLean acknowledged that in Case No. U-21389, the Commission again rejected the Company's proposed DR surcharge because in Case No. U-20963 "there

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[2408] 5 Tr 2168.
[2409] 2 Tr 68.
[2410] Exhibit A-29.
[2411] 2 Tr 68.
[2412] *Id.*
[2413] 2 Tr 68-69.

was a lack of agreement between the Staff and the company on the costs and credits to be included in a surcharge, and on the record in the instant case there is still no evidence that such an agreement exists."[2414] The Commission wanted to see more input on accounting details, particularly from Staff, before considering a DR surcharge for approval.[2415] After the March 1, 2024 order in Case No. U-21389, Consumers met with Staff and agreed on the methodology proposed in this case.[2416] The Company proposes to allocate the costs associated with the DR surcharge in the same manner as in the past, using a production capacity allocator 220 (4CP 75/0/25).[2417]

Mr. McLean testified that the current framework is limited in scope and does not recognize the difference between actual and projected sales. He asserted that use of the surcharge will allow for more accurate reconciliations and rates.[2418] He also asserted that the recovery of the DR revenue requirement through a surcharge will ensure an accurate charge for the DR performance incentive.[2419]

Mr. Pung testified that Staff agrees with the DR surcharge but proposed that the revenue requirements be updated to reflect Staff's case as shown in Exhibit S-6, Schedule F1.8.[2420] Staff's calculation reflects the adjustments to the historic period DR capital expenditures, the DR financial incentive, and the DR regulatory liability, as a result of the Commission's June 6, 2024 order in Case No. U-21410.[2421] Staff's calculation also

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[2414] 5 Tr 2170; March 1, 2024 order in Case No. U-21389, p. 293.
[2415] 5 Tr 2170; March 1, 2024 order in Case No. U-21389, p. 293.
[2416] 5 Tr 2170.
[2417] 2 Tr 53; 5 Tr 3637.
[2418] 5 Tr 2168.
[2419] 5 Tr 2169.
[2420] 5 Tr 3637.
[2421] Exhibits A-29 and S-6, Schedule F1.8.

reflects a proposed pre-tax rate of return of 7.33% instead of 7.68%.[2422] Ms. Aponte acknowledged that "[s]hould the Commission adjust the capital or O&M spending requested for DR, it would be necessary to update [Consumers' DR revenue requirement calculation] to reflect those changes."[2423]

ABATE objected to the use of a surcharge. Noting that this is the seventh case in which this request has been made, Ms. York testified that "[t]he annual dollar amounts at issue do not represent a material or volatile cost to the utility that requires near-real-time recovery. Specifically, the DR revenue requirement represents only about 1% of Consumers' projected sales revenues of about $4.8 billion for the test year."[2424] Ms. York further testified that "[t]o permit Consumers the use of this surcharge to increase costs to customers between base rate cases, when offsetting reductions in non-DR costs might otherwise have negated the need for the rate increase, is unreasonable."[2425] However, Ms. York notes that if the Commission approves the DR surcharge, she supports Consumers' proposed rate design.[2426]

In rebuttal, Consumers asserted that ABATE has not presented any new evidence but maintains its position that the DR surcharge is unnecessary. Consumers disputed this and, in addition to repeating its earlier arguments, argued that "the surcharge is necessary as it would reduce the burden associated with supporting DR in the three regulatory

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[2422] Exhibits A-14, Schedule D-1, A-29, S-4, Schedule D-1, and S-6, Schedule F1.8.
[2423] 4 Tr 38. See 5 Tr 2165.
[2424] 5 Tr 3361-3362.
[2425] 5 Tr 3362-3363.
[2426] 5 Tr 3363.

proceedings, the Integrated Resource Plan, and Electric Rate Case, and the annual DR Reconciliation."[2427]

ABATE raises the same arguments on brief in support of its position that the DR surcharge is unnecessary and unreasonable.[2428] ABATE also argues that the Commission's December 17, 2020 order in Case No. U-20697, pp. 247-248, supports ABATE's position as the order stated "'[w]hile Consumers argues that timing issues justify the approval of a DR surcharge, the Commission does not find this to be a compelling reason' to remove DR costs from base rates and address recovery through a surcharge."[2429]

Staff's brief recommends the Commission approve the DR surcharge allocation method "but updated to reflect Staff's revenue requirements."[2430]

The PFD recommends the Commission approve the DR surcharge as updated to reflect the changes to the amount of the surcharge that result from other adjustments recommended in this PFD. The PFD finds that the Company has complied with the Commission's request in Case No. U-21389 to align with Staff regarding the DR methodology and that the use of a DR surcharge is reasonable as these costs are largely out of the Company's control and use of the surcharge will reduce the regulatory burden associated with supporting DR in three regulatory proceedings.

[2427] 5 Tr 2189-2190.
[2428] ABATE brief, 66-68.
[2429] ABATE brief, 67.
[2430] Staff brief, 140.

E. Distribution Deferral Mechanism

Consumers' brief sets forth its requested continuation of the Distribution Deferral Mechanism in the test year, with the calculation of the $21.8 million deferral set forth in Exhibit A-27.[2431] Staff supports "straight-line amortization of the associated regulatory asset balance," and agrees that the Company's continuation of the deferral mechanism is reasonable and prudent subject to the conditions that: (1) Consumers must provide to Staff a list of sub-programs and investment categories for New Business, Demand Failures, Asset Relocation, Reliability, and Line Clearing, and must communicate any changes to these sub-programs and categories in their planning stages and prior to implementation; (2) the Company must provide quarterly spending reports in each of the five programs, and must notify Staff of any anticipated spending above 110% of approved spending for New Business, Demand Failures, and Asset Relocation programs, with the notification including explanation of the overspending; (3) Consumers may only use deferred accounting treatment if all approved line clearing program funds are spent, and may only use it for underspending if it does not; and (4) if the Company must request any additional deferred accounting treatment in a future rate case.[2432]

In his rebuttal testimony, Mr. Kelly stated that "the Company believes that the conditions are fair and reasonable," and this is repeated in Consumers' brief.[2433] Without apparent opposition, this PFD recommends approval of the requested continuation of the distribution deferral mechanism subject to Staff's recommended conditions.

[2431] Consumers brief, 1-2 & 439-440.
[2432] 5 Tr 3859-3860. Staff brief, 168-169.
[2433] 5 Tr 1005. Consumers brief, 439-440.

F. Regulatory Asset Approvals

Consumers requests regulatory asset treatment for the $371 million acquisition adjustment included in the purchase price of the Covert Plant.[2434] Ms. Aponte testified that Consumers requests approval of a 25-year amortization period to "align with the end of the acquisition adjustment for Zeeland, another natural gas-fired plant owned by the Company, with similar in-service date and useful life."[2435] Consumers also requests continuing regulatory asset treatment for the PowerMIDrive (PMD) and PowerMIFleet (PMF) programs; the decommissioning costs for Karn Units 1 and 2 and Campbell Units 1, 2, and 3 as well as ash disposal costs for these units and the Classic 7 sites; the remaining net book value of Campbell Units 1, 2, and 3; the Pension and OPEB Volatility Mechanism; and the retention costs for Campbell units 1, 2, and 3 and Karns Units 1 and 2.[2436] Ms. Aponte presented Exhibits A-17 to A-26, which calculate the projected test year amortization expenses and deferred balances for these items.[2437]

Ms. Aponte also presented Exhibit A-30, which reflects a revenue requirement adjustment of negative $6.596 million associated with the regulatory asset treatment of Campbell net book value.[2438] Based on differences in Consumers' and Staff's proposed cost of capital, Staff witness Nichols claimed this adjustment should be negative $7.708 million.[2439] In rebuttal, Ms. Myers rejoined that Staff's proposed adjustment is overstated because Staff erroneously used the Company's proposed cost of capital in its

[2434] Consumers brief, 442.
[2435] 4 Tr 416-417.
[2436] Consumers brief, 440-443.
[2437] 4 Tr 409-416.
[2438] 4 Tr 396; Exhibit A-30.
[2439] 5 Tr 3534. See Exhibit S-1, Schedule A-2.

calculations.[2440] On brief, Staff agrees with Consumers and recommends a negative $4.4 million Campbell revenue requirement adjustment, which Staff requests be updated based on final cost of capital and capital structure decisions.[2441] This PFD agrees with Staff the adjustment should be updated to reflect these determinations.

Staff did not raise any other issues, and no other party took issue with the company's presentation or accounting requests. Accordingly, this PFD finds that Consumers' accounting requests and use of regulatory assets and amortization should be approved.

G. Low Income Assistance Programs and Recommendations

Both UCC witness Cira-Reyes and MNC witness Colton provided a comprehensive presentation on the energy challenges faced by Consumers' low- and moderate-income (LMI) customers and made specific recommendations concerning the credit and assistance programs provided by Consumers to address these energy challenges.[2442] Mr. Cira-Reyes explained that there are various bill credit and assistance programs available to qualifying customers, including the Consumers Affordable Resource for Energy (CARE) program, Residential Income Assistance (RIA) credits, and Low-Income Assistance Credits (LIAC).[2443]

The CARE program is funded by the state through the Michigan Energy Assistance Program (MEAP), is available to households at or below 150% of the Federal Poverty Level (FPL), and "provides participants with either one-time bill assistance, or enrollment

[2440] 4 Tr 450-451. Consumers reiterated this position on brief. Consumers brief, 441-442.
[2441] Staff brief, 115-116.
[2442] 5 Tr 3043-3100, 3483-3499.
[2443] 5 Tr 3492-3493.

in a payment plan with reduced energy bills and assistance paying off arrears."[2444] The RIA credit is $8 per month provided to residential customers with a total household income of not more than 150% of the FPL.[2445] The LIAC is a $30 per meter per month credit provided to Company-selected residential customers with a total household income of not more than 150% of the FPL.[2446] Consumers prioritizes customers with the highest need in selecting participants.[2447] Participation in LIAC is capped at 4,200 customers.[2448] A customer may not receive both an RIA credit and a LIAC.[2449]

Consumers is also conducting a Percentage of Income Payment Plan (PIPP) program, which is a two-year pilot that was approved by the Commission in Case No. U-21021 and commenced in October 2022.[2450] "The pilot is currently entering its final phase, after which the Company will be able to utilize information gained during the pilot to determine the feasibility of launching PIPP as an ongoing program."[2451] The PIPP program caps qualifying customers' bill payments at 6% of gross income and includes an "assessment for potential energy waste reduction services and measures, including weatherization, to help customers improve energy efficiency and lower their bills."[2452]

In addition to these credit and assistance programs, Consumers employs weather-related protections for customers. Consumers has an Extreme Weather Policy that prohibits shut offs in temperatures over 90 degrees and at or below 15 degrees.[2453]

[2444] 5 Tr 2157, 2585, 3492.
[2445] 5 Tr 3065.
[2446] 5 Tr 3071, 3493.
[2447] 5 Tr 3071.
[2448] 5 Tr 3493.
[2449] 5 Tr 3071.
[2450] 5 Tr 2193.
[2451] *Id.*
[2452] 5 Tr 2194.
[2453] 5 Tr 2192.

Consumers also has a Winter Protection Program that allows senior citizens and other qualifying low-income customers to make partial payments and be protected from electricity shutoffs from November through March."[2454]

Low-income programs and policies are currently being evaluated by several workgroups. The Commission "has active cross functional workgroups to address the role of Michigan utilities as it relates to customers in need of assistance or shut off protections."[2455] Consumers participates in these workgroups along with other utility providers, state agencies, and other interested parties. The workgroup participants are collaborating to identify and address low-income specific energy issues and energy optimization measures and to create new initiatives to reduce the cost of the energy burden on Michigan's low-income energy consumers and communities.[2456] Consumers participates in the Commission's Energy Affordability and Accessibility Collaborative (EAAC), which has the goal of defining and ensuring "energy affordability, accessibility, and security/self-sufficiency in collaboration with the EWR-Low Income (EWR-LI) and the Low Income Equity Policy Board (LIEPB)."[2457] Consumers also participates in the Affordability, Alignment, and Assistance (AAA) subcommittee of the EAAC, which is reviewing RIA credits and LIACs as part of its assessment of utilities' fulfillment of MCL 460.11(2)[2458] and evaluating Percentage of Income Payment Plan pilots.[2459]

[2454] 5 Tr 2192 n. 1, 3489.
[2455] McLean, 5 Tr 2192.
[2456] *Id.*
[2457] 5 Tr 2585-2586.
[2458] MCL 460.11(2) authorizes the Commission to establish low-income customer rates and requires a utility to include proposed low-income customer rates and a method to allocate the revenue shortfall attributable to these rates in a rate case.
[2459] 5 Tr 2192-2194.

Both Mr. Cira-Reyes and Mr. Colton raised concerns regarding Consumers' credit and assistance programs and the work being done by the workgroups to address these programs. These concerns and the specific recommendations of Mr. Cira-Reyes and Mr. Colton regarding the credit and assistance programs provided by Consumers are addressed individually below.

1. Summer Protection Plan

Mr. Cira-Reyes proposed that the Commission require Consumers to expand its Winter Protection Plan to summer by providing a similar disconnection moratorium for the months of May to September.[2460] If that is not adopted, Mr. Cira-Reyes requested that Consumers at least "provide shutoff protections during National Weather Service heat advisory warnings."[2461] He discussed the dangerous health consequences that may result from lack of air conditioning and argued that "[d]isconnection protections safeguard households from extreme weather and decrease the chance that residents must sacrifice other necessities to afford their utility bill."[2462]

In rebuttal, CEO witness Tan agreed with the UCC's recommendation of a summer protection plan.[2463] He opined that "when LMI customers experience poor reliability leading to frequent service interruptions, it leads to a cascading set of financial problems that create difficult choices between finding adequate shelter and food, and staying up-

[2460] 5 Tr 3489, 3498-3499.
[2461] 5 Tr 3490.
[2462] 5 Tr 3488-3490.
[2463] 5 Tr 2701-2702.

to-date on utility bills."[2464] He testified that his regression models provide a quantitative explanation for Mr. Cira-Reyes' testimony regarding this dilemma.[2465]

Consumers responded that it already employs weather-related protections for customers through its Extreme Weather Policy that prohibits shut offs in temperatures over 90 degrees or at or below 15 degrees.[2466] Mr. McLean also noted that the Commission "has active cross functional workgroups to address the role of Michigan utilities as it relates to customers in need of assistance or shut off protections."[2467] He argued that changes such as this "should be addressed through the Commission work groups and applied broadly to all Michigan utilities," as this will allow a holistic approach that considers the impact to customer costs.[2468]

The UCC's brief emphasizes Mr. Cira-Reyes' testimony regarding the potential health impacts of lack of air conditioning, including "heat cramps, heat exhaustion, heatstroke, hyperthermia, and respiratory problems that can result in death."[2469] The UCC disputes that Consumers' current policy that prohibits shutoffs in temperatures above 90 degrees is sufficient, noting that other risk factors, such as humidity, may make temperatures lower than the threshold dangerous.[2470] The UCC argues that waiting for the conclusion of a workgroup ignores the immediate public health impacts of this issue.[2471]

[2464] 5 Tr 2702.
[2465] 5 Tr 2705-2707.
[2466] 5 Tr 2192.
[2467] *Id.*
[2468] 5 Tr 2193.
[2469] UCC brief, 29.
[2470] UCC brief, 30.
[2471] UCC brief, 31.

The Attorney General agrees with the recommended summer protection program on brief.[2472] She alleges that Consumers did not provide enough details regarding its Extreme Weather Policy, such as the duration of temperature that would invoke its protections, and that based on the information provided, the policy falls short, particularly in comparison to the National Weather Service's heat advisories, which "are based on hourly heat index rather than temperature alone and can be triggered below 90 degrees Fahrenheit."[2473] She further maintains that Consumers' shutoff protection policy "does not account for potentially exacerbated effects of high temperatures on older, young, or sick customers, nor does it consider the fact that LMI customers tend to have less insulated homes and thus face greater likelihood of harm from high temperatures."[2474]

Consumers relies on Mr. McLean's testimony in its brief, noting that it already halts shutoffs in temperatures over 90 degrees and claiming that this issue is best addressed by the ongoing workgroups.[2475]

In its reply, the UCC counters that "[t]he Company provides no explanation as to why its Extreme Weather Policy's 90-degree cutoff is sufficient to protect customers from health issues from excessive heat, but the Winter Protection Plan is needed in addition to the Extreme Weather Policy's 15-degree cutoff to protect its customers from the cold."[2476] The UCC also disputes Consumers claim that workgroups are handling this issue, noting that Consumers did not identify the specific workgroups.[2477] The CEO's reply

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[2472] Attorney General brief, 214-215.
[2473] Attorney General brief, 214.
[2474] Attorney General brief, 214-215.
[2475] Consumers brief, 444-445.
[2476] UCC reply, 3.
[2477] UCC reply, 5.

asserts that Consumers' policy "fails to recognize the larger, more systemic issues that could lead to shutoffs" and gives as an example the fact that "the policy would not apply the day after a week of sustained heat."[2478]

Consumers' reply emphasizes that its Extreme Weather Policy is currently in place and provides a safeguard for customers in compliance with Mich Admin Code R 460.134, (Rule 134), which requires a utility to adopt and submit to the Commission for approval an extreme weather condition policy.[2479] If the Commission wants Consumers to adopt a summer protection plan, Consumers "maintains that the proposal and its impact should be examined as part of the ongoing EAAC."[2480]

In its reply, Staff does not support or object to the UCC's recommended summer protection plan but agrees with Consumers that this proposal requires further consideration outside of this rate case.[2481] Like Consumers, Staff notes that the Commission approved Consumers' Extreme Weather Policy under Rule 134.[2482] Staff opines that a discussion on a summer disconnection moratorium requires consideration of this rule and the current approved policy, which consideration "could demonstrate any proposal to be helpful, hurtful, or unnecessarily redundant."[2483]

The PFD recognizes the potential hazards that may result from extreme heat if there is a lack of air conditioning, but it agrees with Consumers and Staff that further analysis is needed regarding this proposal. While the UCC, the CEO, and Attorney

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[2478] CEO reply, 3.
[2479] Consumers reply, 80.
[2480] *Id.*
[2481] Staff reply, 36.
[2482] *Id.* See August 28, 2018 order in Case No. U-20140, p. 3.
[2483] Staff reply, 36.

General imply that Consumers has not provided sufficient information to show that its Extreme Weather Policy adequately protects its customers, they overlook the fact that this policy was considered and approved by the Commission in Case No. U-20140. As acknowledged by Staff, further consideration may show the proposed summer protection plan to be helpful, hurtful, or unnecessarily redundant. Until this is known, it would be premature to require Consumers to adopt a summer protection plan. To address the UCC's concern that no workgroup is specifically addressing this issue, the PFD recommends that the Commission direct the EAAC to consider this issue.

2. Percent of Income Payment Plan Program

The UCC proposes that Consumers implement a permanent PIPP program. Mr. Cira-Reyes testified that the credit and assistance programs offered by Consumers do not sufficiently address the energy burdens experienced by Consumers' customers and that "[r]ather than continue to attempt to address the affordability crisis with a mix of different programs and credits," Consumers should replace these programs with a single PIPP program with utility bills capped at 3% of income.[2484] According to Mr. Cira-Reyes, a PIPP program is a "long-term cure" rather than a "short-term, band-aid" approach.[2485] Because it is proactive, instead of reactive, it grants "households the peace of mind that comes from having a fixed percent of their income go towards their energy bill, rather than [having to] apply for emergency energy assistance after arrearages grow."[2486]

In rebuttal, Mr. McLean pointed out that in its February 10, 2022 order in Case No. U-21021, the Commission approved the two-year PIPP pilot program that began in

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[2484] 5 Tr 3492-3494.
[2485] 5 Tr 3494.
[2486] *Id.*

October 2022. Because the pilot is in its final phase, after which the Company will be in a position to determine whether the program should be transitioned into a permanent program, he considers Mr. Cira-Reyes' recommendation premature.[2487] Mr. McLean also noted that the AAA subcommittee is evaluating PIPP pilots and it would be inappropriate to make the recommend change until the AAA subcommittee addresses this issue.[2488] Staff likewise opposed the UCC's recommendation, citing the need to complete the PIPP pilot and allow data collection and analysis to occur.[2489] In addition, Staff argued that replacement of affordable payment plans, such as the CARE program, by a PIPP should be evaluated by a MEAP workgroup "since the MEAP funding and program design is authorized to the Michigan Department of Health and Human Services (MDHHS) and MDHHS contracts with the MPSC to run the program."[2490] Consumers and Staff reiterate these points on brief.[2491]

In its brief, the UCC acknowledges that Consumers "should assess the results of its PIPP program pilot," but proposes that Consumers should implement a permanent PIPP program as soon possible.[2492] The UCC asks the Commission "to order the Company to provide a proposal for a PIPP program [with bills limited to 3% of income] and an analysis of the data from its pilot in the Company's next rate case."[2493] The UCC repeats this request in its reply.[2494]

[2487] 5 Tr 2193.
[2488] 5 Tr 2194.
[2489] 5 Tr 3827-3828.
[2490] 5 Tr 3827.
[2491] Consumers brief, 445; Staff brief, 165-168.
[2492] UCC brief, 10.
[2493] *Id.*
[2494] UCC reply, 6.

In its reply, Consumers objects to the UCC's proposal, asserting that it overlooks the previous direction given by the Commission that requires Consumers to file a report on the PIPP pilot by May 1, 2025, and requires Staff to review the report and "provide an analysis of PIPPs and MEAP programs in order to assist the Commission in understanding current energy assistance offerings.[2495] Consumers also contends that the UCC's proposal would sidestep the work taking place in the EAAC.[2496] Similarly, Staff replies that a permanent PIPP program should not be implemented before analysis of the pilot program is completed: "Since the pilot results could have negative outcomes as well as positive ones, potential negative outcomes (as well as potential improvements) should not be ignored in favor of accelerating a full-scale PIPP implementation."[2497] Staff also objects to the duplication of efforts and potential exclusion of certain key collaborators that addressing energy assistance programs in both rate cases and workgroups would cause.[2498]

The PFD agrees with Consumers and Staff that until the analysis of the PIPP pilot program is completed, any proposed changes to or expansion of the program should be rejected. More generally, recognizing the limited time available to address the manifold and complex issues presented in a rate case, this PFD observes that consideration of this issue is more appropriately addressed by the EAAC and its AAA subcommittee. Once some consensus is reached via discussion in this alternative forum, a proposal may be

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[2495] Consumers reply, 79.
[2496] *Id.*
[2497] Staff reply, 41.
[2498] *Id.*

included as part of a future rate case. Therefore, this PFD finds that the UCC's recommendation should be rejected.

3. Residential Income Assistance Credits and Low-Income Assistance Credits

Mr. Colton described in detail the structure and operation of the RIA credits and the LIACs.[2499] Mr. Colton proposed that Consumers discontinue the RIA credit and apply the funding currently devoted to that credit to a tiered LIAC credit, which he also recommended.[2500] Specifically, he recommended that the LIAC program offer a $90 per month credit to households with income of not more than 50% of the FPL, a $60 per month bill credit to households with income of more than 50% but not more than 100% of the FPL, and a $35 per month bill credit to households with income of more than 100% but not more than 150% of the FPL.[2501]

Mr. Colton defined "an electric non-heating bill to be affordable when it results in a bill-to-income ratio of no more than 4% of income."[2502] Mr. Colton analyzed the RIA credit and concluded that the RIA credit reduces bill burdens by 1.1% or less and, after application of the credit, bill burdens still exceed the 4% demarcation of affordability.[2503] Because of this, he opined that "[c]ustomers who have difficulty paying their bills having not received the RIA credit are likely to continue to have difficulty paying their bills after receiving the RIA [credit]."[2504] He conducted a similar analysis of the LIAC and, while he found the LIAC had a bigger impact on bill burden that the RIA credit, he concluded that

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[2499] 5 Tr 3065-3067, 3071-3072.
[2500] 5 Tr 3067.
[2501] 5 Tr 3075.
[2502] 5 Tr 3056.
[2503] 5 Tr 3067.
[2504] *Id.*

only customers in the highest income range would have affordable bills below 4% of income after application of the LIAC.[2505] However, based on his analysis, the tiered structure he proposed for the LIAC would result in bill burdens that are "reasonably close to the 4% of demarcation of affordability."[2506]

He also proposed that that the LIAC apply both to charges for current service and late payment charges since both types of charges contribute to customers' energy burdens.[2507] In addition, he proposed that LIAC costs be recovered only through base rates.[2508] He argued that certain costs would have existed even in absence of the program due to a low-income customer's inability to pay, which costs are already recovered through the revenue requirement.[2509] When that customer enrolls in LIAC, the amount the customer is no longer required to pay (the discount amount) is charged to nonparticipants. "Accordingly, when a low-income customer enrolls in LIAC, the portion of the bill that the customer previously could not pay, and was paid for in base rates, now becomes the discount amount and is recovered on that basis."[2510] He maintained that this allows Consumers "to collect those dollars in ***both*** places."[2511] He also maintained that this approach ignores program benefits generated by LIAC, such as reduced costs and enhanced revenues that occur because of reductions in arrearage balances, collection expenses, and uncollectibles.[2512] Recovery of LIAC costs through base rates addresses

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[2505] 5 Tr 3073.
[2506] 5 Tr 3076.
[2507] 5 Tr 3076-3077.
[2508] 5 Tr 3078.
[2509] 5 Tr 3079-3081.
[2510] 5 Tr 3081.
[2511] *Id.*
[2512] 5 Tr 3081-3082.

these issues and avoids "the need to specifically dollarize and quantify the costs savings to offset LIAC program costs."[2513]

In connection with these changes, Mr. Colton proposed changes to enrollment. He recommended removing the cap on LIAC participation and expanding program enrollment by allowing participation in the federal Supplemental Nutrition Assistance Program (SNAP) and, over time, participation in other assistance programs such as Medicaid, Supplemental Security Income (SSI), and Temporary Assistance for Needy Families (TANF) to establish low-income status without further documentation being required.[2514] He also noted that Consumers "must already have in practice mechanisms by which to establish that a customer is an 'eligible low-income customer,'" such as its mechanism for determining who is an eligible low-income customer as defined in the Commission's Consumer Standards and Billing Practices.[2515]

Finally, Mr. Colton proposed leveraging federal Inflation Reduction Act dollars to make energy efficient and clean energy investments in the housing units of LIAC participants because these "households lack the capacity to invest in energy efficiency and clean energy measures from their own resources" and generally live in older housing units in need of these resources.[2516] He requested that the Commission require Consumers "to, within six months of a final order in this proceeding, file with the Commission a work plan documenting its efforts to collaborate with state and community-based organizations to target LIAC participants with the highest energy use using braided

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[2513] 5 Tr 3083.
[2514] 5 Tr 3084-3086.
[2515] 5 Tr 3068.
[2516] 5 Tr 3094-3096.

Consumers and IRA funding for investments in energy efficiency and clean energy measures."[2517]

However, Mr. Colton did not develop a cost estimate in connection with his proposed changes. He stated that "[t]he cost of a modified LIAC bill credit program depends on three inputs, only one of which I currently have."[2518]

In rebuttal, Mr. McLean noted that these issues are being addressed by the EAAC workgroup. He also noted that "Mr. Colton's recommendations entail some sweeping policy, programming, and compliance issues that are applicable to more than just the Company and would require potential legislative, Commission, and other involvement."[2519] In addition, Mr. McLean explained that the LIAC is capped to leverage the available dollars to assist as many customers as possible. Uncapping it would result in a rate increase of approximately $18 million that would impact all customers.[2520] For these reasons, he claimed that these changes are best addressed by the workgroup and that it is premature to make these changes at this time.[2521]

Staff objects to the changes proposed by Mr. Colton on similar grounds. Ms. Braunschweig testified that "Staff does not support programmatic changes to the RIA and LIAC at this time, since those programs are under review at behest of the Commission, and the AAA subcommittee is tasked with making recommendations to likely reform utility energy assistance."[2522] Staff also pointed out that Mr. Colton's tiered LIAC proposal is

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[2517] 5 Tr 3096.
[2518] 5 Tr 3077.
[2519] 5 Tr 2195.
[2520] 5 Tr 2195-2196.
[2521] 5 Tr 2195.
[2522] 5 Tr 3821.

similar to the PIPP pilot that is also being analyzed by Consumers, Staff, and the AAA subcommittee. While Staff acknowledged that Mr. Colton's proposal "may achieve similar aims to a PIPP while being easier to administrate," Staff argued that "such a structure should be contemplated in that analysis."[2523]

In addition, Ms. Braunschweig emphasized that Mr. Colton does not know how much his proposal would cost. She found "it imprudent to not have a cost estimate or study done to know how much witness Colton's tiered LIAC would cost, even if its costs difference would be reconciled."[2524] She explained this is one of the reasons why Staff supported the PIPP pilot, as the pilot would allow costs and outcomes to be understood. She added that the "lack of a fully fleshed out plan reinforces why the Commission-requested energy assistance reform analysis should be performed in the AAA subcommittee, where costs (of both the direct bill subsidy as well as staffing costs) of energy assistance reform are being estimated and mindful program design is being considered."[2525] She also raised concerns that implementing the proposed changes could duplicate program costs and current reform efforts.[2526]

Regarding allowing participation in other programs to establish income eligibility, Ms. Braunschweig countered that MCL 460.10t(6)(b) does not permit "the Commission to add eligible programs to the list if the qualification for the program is not at or below 150% FPL," and because programs may change over time, Consumers would still have to ensure each program's eligibility remains at or below 150% of the FPL.[2527] Similarly, with

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[2523] *Id.*
[2524] 5 Tr 3822.
[2525] *Id.*
[2526] 5 Tr 3822-3823.
[2527] 5 Tr 3824.

respect to the assertion that Consumers could identify additional customers for eligibility based on the definition of eligible low-income customer in the Commission's Consumer Standards and Billing Practices, Ms. Braunschweig replied that the recommendation should be rejected because "it conflates the Consumer Standards and Billing Practices definition of low-income customer with the definition outlined in MCL 460.10t(6)(b) used to authorize low-income rates in MCL 460.11(2)."[2528] She explained that "the definition of a low-income customer must adhere to that legislation."[2529]

Regarding the recommendation that Consumers be directed to file a work plan documenting its collaborated efforts to utilize federal IRA funding for energy efficient and clean energy investments for LIAC participants, Ms. Braunschweig responded that if the Commission adopts the recommendation "the work plan should include all customers identified as income-eligible consistent with low-income energy waste reduction (EWR) program income qualifications" with a focus on customers with incomes that are not more than 150% of the FPL.[2530] However, she suggests that the EWR plan cases might be a better place to address this issue "since it is already in the companies' EWR plan to braid low income EWR with IRA and Infrastructure Investment and Jobs Act funds with quarterly reporting to parties to the case."[2531]

Staff primarily relies on Ms. Braunschweig's testimony on brief.[2532] Staff argues that program design requires more than simply focusing on providing customers with assistance: "Instead, appropriate program design requires input from program

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[2528] 5 Tr 3825-3826.
[2529] 5 Tr 3826.
[2530] 5 Tr 3825.
[2531] *Id.*
[2532] Staff brief, 161-165.

administrators and collaboration from parties who may not be party to a contested rate case, or indeed may not even participate in MPSC proceedings."[2533] Consumers' brief continues to stress that the workgroup is considering this issue and that it would be premature to implement any changes at this time.[2534]

MNC's brief reiterates much of Mr. Colton's testimony.[2535] In general, MNC responds to the rebuttal arguments by asserting that the Commission should not wait for the EAAC and its AAA subcommittee to make recommendations because Mr. Colton's proposals "are reasonable, evidence-based, and grounded in deep knowledge and experience."[2536] MNC quotes the Commission's November 7, 2024 order in Case No. U-21291, pp. 207-208, which allowed DTE Gas Company to increase its LIAC by $10. It maintains that "a good solution now does not need to be passed over in favor of a potentially better solution later."[2537] MNC contends that the workgroup process results in only nonbinding Staff recommendations that utilities do not have to implement and that may not be reflected in a future Commission order.[2538] MNC questions the effectiveness of the workgroup, noting it has been 5 years since Mr. Colton first suggested a tiered LIAC.[2539]

In addition, MNC disputes that uncapping LIAC will cost $18 million and asserts that this does not consider amounts that would not have been collected or offsetting cost

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[2533] Staff brief, 162-163.
[2534] Consumers brief, 446.
[2535] MNSC brief, 136-150.
[2536] MNSC brief, 136-137.
[2537] MNSC brief, 136.
[2538] MNSC brief, 147-148.
[2539] MNSC brief, 149-150.

reductions and revenue enhancements.[2540] MNC requests the Commission, if it declines to approve Mr. Colton's recommendation because of uncertainty regarding costs, to "direct Consumers to present an estimate of those costs in its next rate case."[2541]

In its reply, Consumers rejects MNC's argument that the Commission's recent decision in the DTE Gas Company rate case supports its position. Consumers states that the Commission found only the limited action of increasing the LIAC reasonable but maintained its previous position that other issues, such as enrollment, revisions to the LIAC and RIA programs, and overall program effectiveness, should be examined by the EAAC and the AAA subcommittee.[2542] Consumers also disputes MNC's claim that improvements to the program cannot be made through the workgroup process, noting that through its orders "[t]he Commission can, and has, taken a number of different actions based on the recommendations from different collaboratives and workgroups."[2543]

Staff's reply objects to the proposal that the Commission direct Consumers to provide a cost estimate in its next rate case if the Commission does not approve Mr. Colton's recommendation, contending that this directive would result in redundant analyses and duplicative efforts because of the work already being done by the EAAC.[2544] Staff controverts the allegation that the AAA subcommittee can make only nonbinding Staff recommendations that may not be implemented. Staff asserts that while the workgroup process may not occur according to MNC's preference, it does not mean that

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[2540] MNSC brief, 142-143.
[2541] MNSC brief, 144-145.
[2542] Consumers reply, 81.
[2543] *Id.*
[2544] Staff reply, 39.

"Commission orders responding to workgroups cannot issue binding requirements for utilities to implement."[2545]

The PFD agrees with Consumers that Mr. Colton makes broad recommendations that involve "sweeping policy, programming, and compliance issues that are applicable to more than just the Company and would require potential legislative, Commission, and other involvement."[2546] While the PFD recognizes, as does Staff, that some of Mr. Colton's ideas such as a tiered LIAC may have merit, the PFD agrees with the Commission and Staff that this rate case is not the appropriate forum to make this determination. The AAA subcommittee is already reviewing RIA credits and LIACs. The EWR plan cases are already considering interweaving low-income EWR with federal funds and require quarterly reporting on the same. The PFD does not find it prudent to require sweeping program changes without fully understanding the costs and outcomes of these changes, especially when thoughtful consideration of low-income assistance programs is currently being performed by workgroups. While MNC disputes the ability of the workgroups to initiate change, the Commission may consider the workgroups' conclusions and incorporate those findings into future orders. Therefore, the PFD finds that Mr. Colton's proposed changes should be rejected. This PFD also rejects Mr. Colton's alternative proposal to require Consumers to provide a cost estimate related to uncapping LIAC in its next rate case as an unnecessary duplication of efforts.

[2545] Staff reply, 40.
[2546] 5 Tr 2195.

4. Data Reporting Requirements

Mr. Colton recommended that the Commission require Consumers "to file the same monthly zip code level data that Illinois utilities have been directed to file by the Illinois Commerce Commission," which includes 22 metrics related to nonpayment, disconnections, payment arrangements, and similar items.[2547] Mr. Colton argued that it is critical for the Commission and stakeholders to be able to track this data.[2548]

Mr. McLean responded that the "recommendation will result in additional costs and has implications on data privacy."[2549] He stated that any changes to data reporting should first be addressed by a workgroup.[2550]

Staff witness Armstrong testified that since the COVID-19 pandemic the Commission has required regulated utilities to submit similar data, including a monthly report with residential shutoff, customer protection, and arrearage data, and a quarterly report with shutoff data for business and residential customers. Residential shutoff and arrearage data is made accessible on the Commission's Utility Customer Data webpage.[2551] Ms. Armstrong indicated that there is "significant overlap" in the data requested by Mr. Colton and the data already required to be collected.[2552] She argued that Mr. Colton's proposal "could be redundant and burdensome on regulated utilities while not providing additional insight for Staff, the public or interested parties."[2553]

[2547] 5 Tr 3098-3100.
[2548] 5 Tr 3097.
[2549] 5 Tr 2196.
[2550] *Id.*
[2551] 5 Tr 3785-3787.
[2552] 5 Tr 3787.
[2553] 5 Tr 3787-3788.

Ms. Armstrong acknowledged that the Commission does not collect the requested information regarding deposit-related data and late fee-related data. However, she explained that workgroups have already considered these issues.[2554] The EAAC's Data Analysis and Regulatory Review (DARR) subcommittee evaluated rules and practices related to customer deposits and Staff recommended that no further action be taken.[2555] The DARR subcommittee also evaluated "what data continues to be useful in better understanding trends in customer bill payments, shutoffs, and reconnections" and what data "is no longer needed post-pandemic."[2556] The DARR subcommittee reached a general consensus on the data to be submitted, which recommendation was adopted by the Commission.[2557] Beginning in the first quarter of 2025, the monthly shut off and arrearage report and the quarterly report will be combined into a single quarterly report with the data broken down by month. Also, "the Commission accepted DARR's recommendations to submit arrearage data for balance accrued, to add an arrearage category for arrearage amounts written off and to add a category for number of disconnected customers restored within five days of disconnection among other recommendations."[2558] Ms. Armstrong testified that the quarterly information will continue to be easily accessible.[2559]

In addition, Ms. Armstrong stated that the Commission "ordered Staff to move towards zip code and census tract level data" and Staff is currently determining how to

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[2554] 5 Tr 3788-3789.
[2555] 5 Tr 3788.
[2556] 5 Tr 3788-3789.
[2557] 5 Tr 3789.
[2558] *Id.*
[2559] *Id.*

do this and "how to increase the accessibility of the data for public analysis."[2560] She presented Staff's recommendation that the Commission continue this process and "focus on collecting the data that will actually be analyzed and useful."[2561] Staff maintains this position on brief.[2562]

In its brief, MNC recognizes that "the Commission in Case No. U-20757 has ordered Consumers and other utilities to regularly report data pertaining to affordability issues, including arrearage and shutoff data, but encourages the consideration of additional data points as Mr. Colton detailed in his testimony."[2563]

In its reply, Consumers relies on the points made in Staff's brief and emphasizes its rebuttal position that "this recommendation will result in additional costs and could have implications on data privacy" and should be reviewed by a workgroup.[2564]

The PFD agrees with Consumers and Staff that Mr. Colton's recommendation regarding data reporting should be rejected. This proposal is based on data reporting required by the Illinois Commerce Commission but ignores the data reporting already required by the Commission in this State. Extensive workgroup discussions have occurred regarding data reporting and this process is ongoing. The PFD recommends that the Commission have Staff continue to follow its current directives pertaining to shutoff and arrearage data and not adopt Mr. Colton's recommendation.

[2560] 5 Tr 3790.
[2561] *Id.*
[2562] Staff brief, 152-156.
[2563] MNSC brief, 145.
[2564] Consumers reply, 78.

5. Affordability Considerations

Mr. Cira-Reyes maintained that if the Commission continues to wait for the EAAC to provide recommendations before implementing changes to low-income programs, "the Commission should also wait to approve any significant increases in rates until the EAAC has provided its recommendations."[2565] He argued it is unreasonable for the Commission to raise rates without an understanding of the harm caused by doing so.[2566] The UCC makes the same argument on brief and asserts "the Commission should wait to increase rates until after the EAAC issues its recommendations, so that the Commission does not exacerbate the issue of unaffordability before it has all the data before it."[2567]

The PFD recommends that the Commission reject Mr. Cira-Reyes' recommendation as this would replace a reasoned determination based on the consideration of evidence presented by the parties and an analysis of the items at issue with a blanket moratorium on rate increases. The Commission has found "that an item-by-item examination is more likely to yield a fair and judicious result."[2568] Furthermore, his proposal ignores the balancing of investor and consumer interests required in setting just and reasonable rates.[2569]

[2565] 5 Tr 3496.
[2566] *Id.*
[2567] UCC brief, 15.
[2568] December 1, 2023 order in U-21297, pp. 85-86 (rejecting an across-the-board 10% cut to all strategic capital expenditure categories).
[2569] See *Fed Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944).

H. Community Solar, Distributed Generation, Microgrids, and Nanogrids

1. Community Solar

GLREA witness Rafson recommended "that the Commission establish the terms and tariffs for community solar projects to be located in Consumers Energy's service territory."[2570] He gave a detailed description of community solar, including its benefits and the options for administering a community solar program.[2571] He noted that the community solar array may be "community owned (meaning the individual customer/investors) or externally owned (meaning owned by the third party developers)."[2572] If owned by a third-party developer, the developer would fund and build the project, and a customer would buy a portion of the array from the developer through a lump sum or monthly payment.[2573] In connection with this, he opined that it would "be important for the Commission to regulate the investments and cost of service and profit applicable to the community solar projects, and determine the upfront costs and subscription fee."[2574]

He proposed that customers that purchase or subscribe to community solar should be compensated through a virtual inflow/outflow approach (also known as virtual net metering). This is a function "currently offered by the metering company" that adds the customer's portion of the generated community solar to the customer's meter on a real time basis.[2575] If subtracting the customer's portion of the generated community solar from usage results in a negative amount, the utility would credit the customer at a rate

[2570] 5 Tr 2609.
[2571] 5 Tr 2610-2624.
[2572] 5 Tr 2616.
[2573] 5 Tr 2616-2618.
[2574] 5 Tr 2618.
[2575] 5 Tr 2615.

commensurate to a DG or successor tariff, which would treat a community solar customer in the same manner as a DG customer with rooftop solar panels.[2576] Mr. Rafson also proposed allowing ownership shares in the community solar array to be transferred to a new address or sold to another customer and allowing subscribers to choose either a standard bill credit where the subscriber retains the renewable energy credits (RECs) generated, or an enhanced bill credit where the subscriber sells the RECs generated to the utility at a rate approved by the Commission.[2577] In addition, he recommended that community solar projects "include a significant number of installations in low-income communities, and incorporate both community involvement, job training, and construction jobs for local people."[2578]

Mr. Cira-Reyes also testified that the Company should increase its investments and support individual investments in community solar.[2579] Mr. Cira-Reyes generally agreed with Mr. Rafson regarding community solar but objected to the suggestion that community solar may be utility-owned.[2580] He recommended that the Commission require Consumers to do the following:

> [A]mend their community solar proposal provided in Case No. U-21374 to include (1) a locational requirement, (2) a requirement that any community solar arrays be owned by members of the community (or entities owned and controlled by members of the community), (3) a requirement that community solar subscribers receive comparable benefits to owners of DG, and (4) a directive to the Company to provide an investment plan to install a significant number of community solar arrays in low-income communities.[2581]

[2576] 5 Tr 2615, 2620, 2624.
[2577] 5 Tr 2616, 2619, 2624.
[2578] 5 Tr 2624.
[2579] 5 Tr 3497.
[2580] 5 Tr 3524-3525.
[2581] 5 Tr 3526.

In rebuttal, Ms. Gray indicated that the Company would be willing to collaborate with Staff and other interested parties to consider community solar options but objected to the creation of a community solar program in this case. She also argued that tariff provisions should not "be approved until the underlying program is appropriately considered."[2582] Mr. McLean noted that Consumers "has not proposed a community solar program in this case" and pointed out that in Case No. U-21374, the Company filed a community solar proposal that the Commission accepted.[2583] He maintained that changes to Consumers' "community solar program should be addressed in future Voluntary Green Program filings."[2584]

Staff witness Krause responded that the UCC and GLREA did not present a viable community solar proposal.[2585] He disputed that community solar would definitely result in lower utility costs for customers, given that the costs of the potential community solar arrays and the compensation structure are unknown.[2586] Mr. Krause also objected to compensation being virtual DG because this rate compensates "the customer as if they are not using the distribution system," which the customer is to some extent since community solar is generally located off-site from the customer.[2587] In addition, Staff witness Revere objected to Mr. Rafson's reference to a metering company as inconsistent with the current regulatory scheme and to Mr. Rafson's suggestion that the Commission regulate community solar developers as lacking statutory authority.[2588]

[2582] 5 Tr 1751.
[2583] 5 Tr 2191.
[2584] *Id.*
[2585] 5 Tr 3877.
[2586] 5 Tr 3878.
[2587] 5 Tr 3878-3879.
[2588] 5 Tr 3809-3810.

On brief, Consumers relies on the testimony of Ms. Gray and Mr. McLean, as well as that of Mr. Krause, and repeats its position that community solar should not be considered in this case.[2589] Staff reiterates the testimony of Mr. Krause and Mr. Revere and similarly contends "that there is not a valid proposal for community solar in the instant case."[2590]

In its brief, GLREA summarizes the testimony provided on community solar and asserts that the rebuttal testimony did not outright oppose GLREA's community solar recommendations, offer any specific criticisms or alternatives, or adequately "explain how the Company would face insurmountable legal obstacles to the adoption of credible community solar projects."[2591] GLREA argues that the Commission has the "full regulatory authority to outline the criteria and tariffs to be applicable to a community solar project as a stand-alone matter, which regulatory policy and tariff could then be utilized on a voluntary basis" and "would provide further guidance to the utility, the public, and ratepayers as how to proceed to negotiate the actual development of a community solar project."[2592] Similarly, the UCC's brief argues that community solar may be addressed in this proceeding instead of waiting for the next Voluntary Green Program (VGP) proceeding.[2593] The UCC also points out that in accepting Consumers' community solar program in Case No. U-21374, the Commission instructed Consumers to make changes

[2589] Consumers brief, 463-464.
[2590] Staff brief, 131-134.
[2591] GLREA brief, 4-12.
[2592] GLREA brief, 13.
[2593] UCC brief, 25-26.

to the program to address concerns raised by Staff and MEIU; the UCC contends that its recommendations address these concerns.[2594]

In its reply, Consumers disputes this characterization of the order in Case No. U-21374, noting that the order provides that "the proposed Solar Gardens program is a mere starting point for the company's community solar program and that Consumers should address the concerns raised by the Staff and MEIU **in the company's next VGP filing.**"[2595] Consumers points out that the order also recognized that the Commission "cannot compel third-party ownership for the program."[2596] Consumers explains that it will present a community solar proposal in its next VGP case that complies with the order in Case No. U-21374.[2597]

In response to GLREA's assertion that no specific criticisms or alternatives were offered, Staff replies that "Staff is not required to rehabilitate GLREA's faulty proposal nor propose an alternative to the same."[2598] In addition, Staff asserts that Staff did raise a specific criticism regarding the use of a virtual DG rate, which is that it fails to account for a community solar customer's use of the distribution system.[2599] Staff also elaborates on its claim that there is not a valid community solar proposal in this case, noting that no tariff language is in evidence for consideration.[2600]

In its reply, GLREA maintains that it did not need to present a specific proposal because it proposed community solar be treated in the same manner as DG,

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[2594] UCC brief, 24-27.
[2595] Consumers reply, 84, quoting the August 22, 2024 order in Case No. U-21374, p. 16.
[2596] *Id.*
[2597] Consumers reply, 85.
[2598] Staff reply, 31.
[2599] *Id.*
[2600] Staff reply, 31-32.

compensation for which is already established. The GLREA also suggests establishment of a workgroup "to iron out any details applicable to community solar projects that may be of concern to the utility."[2601] The UCC replies that if there is not enough information to consider community solar in this case, the Commission should require community solar information to be provided in a future case. The UCC also rejoins that many of its requests "do not require implementation of a program in this rate case."[2602]

The PFD recommends that the Commission reject the GLREA and UCC recommendations. Community solar is not at issue in this case and the Commission has already directed Consumers to address its community solar program in its next VGP filing. Furthermore, as Staff elucidated, there are differences between rooftop solar and community solar that make a virtual DG rate inappropriate. The PFD recommends that, when the community solar program is addressed, program rates and compensation consider the cost of service to ensure that community solar customers are assessed for their fair and equitable use of the grid while being equitably compensated for excess power injected into the grid.

2. Distributed Generation Credits

Mr. Rafson proposed "that the billing credit applicable to outflow from Distributed Generation (DG) customers include all charges and surcharges compromising the total bill rendered to DG customers, and without excluding securitization surcharges or any other charge or surcharge on the total customer bill."[2603] He argued that MCL

[2601] GLREA reply, 10-11.
[2602] UCC reply, 2.
[2603] 5 Tr 2609.

460.1177(2)[2604] requires the billing credit to "include 'the total charges' included in the customer bill."[2605] Mr. Ralfson disagreed with the Commissions determination in Case No. U-21569 "that securitization charges should be exempt from the billing credit."[2606] Mr. Rafson suggested that offsetting securitization surcharges "would be similar to any other situation where the Commission has adopted discounts or billing credits, such as senior citizen discounts or low income billing credits."[2607] He asserted that Consumers did not present any evidence to show that the elimination of securitization surcharges is necessary to ensure adequate revenues to pay the securitization bonds.[2608] He also urged the Commission to reject Consumers' ex parte tariff filing in Case No. U-21796 because it incorrectly provides that securitization charges may not be offset by the DG outflow credit.[2609]

Mr. Revere responded that Staff does not take a position on this issue, but that Mr. Rafson appears to "confuse the calculation of the DG outflow credit under the Commission's previous decisions on the matter with the charges on the bill that charge is allowed to offset."[2610] Staff interprets MCL 460.1177(2) as "not discussing the calculation of the DG credit itself, but that the DG credit in any billing period cannot be larger than the total bill it is to be applied to, with any amount exceeding what is so applied in that

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[2604] MCL 460.1177(2) provides that "[a] distributed generation customer shall be credited by the customer's supplier of electric generation service for the outflow during the billing period. The credit must appear on the bill for the following billing period and be limited to the total charges on that bill. Any excess bill credits not used to offset inflow charges in the next billing period will be carried forward to subsequent billing periods."
[2605] 5 Tr 2624-2625.
[2606] 5 Tr 2625, discussing the July 23,2024 order in Case No. U-21569, pp 13-15.
[2607] 5 Tr 2625.
[2608] 5 Tr 2625-2626.
[2609] 5 Tr 2626.
[2610] 5 Tr 3810.

billing period carrying over to the next."[2611] He requested that any Commission ruling on this issue be consistent with this interpretation.[2612] Staff reiterates this position on brief.[2613]

In rebuttal, Ms. Connolly responded that, under MCL 460.10k, 460.10*l*, and 460.10n, the right to impose securitization charges belongs to the special purpose entity (SPE) and the utility bills for the securitization charge only as a servicer for that entity. The securitization charges belong to the SPE "because those charges must be remote from the utility for bankruptcy purposes and are nonbypassable."[2614] Therefore, the securitization charges may not be offset by the credit. Ms. Connolly emphasized that this issue was already discussed and decided in Case No. U-21569 and the Commission found "that the DG customer's bill credit may not be applied to the securitization charge on the DG customer's bill."[2615] Consumers provided a detailed description of Case No. U-21569 in its brief and noted that GLREA's motion for a rehearing on this issue was denied.[2616]

In its brief, GLREA requests that the Commission reject Consumers' "*ex parte* tariff filed in U-21796 on September 20, 2024" that exempts securitization charges from the DG billing credit.[2617] GLREA reiterates its arguments that under the law, the total charges to be offset by the DG billing credit include securitization charges and that the Commission wrongly decided these charges were not included.[2618] GLREA also argues

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[2611] 5 Tr 3811.
[2612] *Id.*
[2613] Staff brief, 134-135.
[2614] 2 Tr 83.
[2615] *Id.* (quoting the July 23, 2024 order in Case No. U-21569, p. 15).
[2616] Consumers brief, 460-462 (citing to the October 10, 2024 order in Case No. U-21569).
[2617] GLREA brief, 13.
[2618] GLREA brief, 13-19.

that in this case no "party has presented adequate evidence to support the precipitous conclusion that securitization charges must be exempted from the DG billing credit."[2619] In addition, GLREA maintains that the *ex parte* tariff was unlawfully filed "outside of this ongoing contested electric rate case."[2620]

In reply, Consumers explains that the Commission directed Consumers to make the separate *ex parte* tariff filing and argues that "GLREA should not be permitted to challenge the Commission's direction in an unrelated proceeding."[2621]

GLREA's reply continues to raise the same arguments.[2622] In addition, GLREA explains that, under its position, "all SPE charges will continue to be collected on all customer bills while at the same time, the utility is responsible for providing the separate bill credit to DG customers."[2623] Because of this, the DG billing credit does not affect, diminish, or offset the separate securitization charges.[2624]

The PFD agrees with Consumers that this is not the proper proceeding to challenge Consumers' tariff filing. Regarding GLREA's assertion that an *ex parte* tariff filing was unlawfully filed outside of a contested rate case, the Commission already addressed this issue and stated that "[t]he Michigan Court of Appeals has affirmed the Commission's authority to approve tariffs on an *ex parte* basis."[2625] The PFD also agrees with Consumers that the Commission has already considered and decided whether

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[2619] GLREA brief, 18.
[2620] GLREA brief, 15.
[2621] Consumers reply, 83, citing the July 23, 2024 order in Case No. U-21569, p. 22.
[2622] GLREA reply, 2-9.
[2623] GLREA reply, 3.
[2624] *Id.*
[2625] October 10, 2024 order in Case No. U-21569, pp. 8-9, citing *Attorney General v Pub Serv Comm*, 269 Mich App 473, 486-487; 713 NW2d 290 (2005).

securitization charges may be offset by the DG billing credit and this issue should not be relitigated in this case. GLREA has not presented any new arguments that would warrant reconsideration of this issue by the Commission.

3. Microgrids and Nanogrids

Mr. Rafson maintained that Consumers "has experienced excessive service outages and serious delays in restoring service to customers."[2626] He described options that protect customers during power outages, including backup generators, battery backups, and bi-directional EV (V2H) options, but explained that these options are too expensive for low-income customers.[2627] To address reliability issues, he proposed that the Commission "specifically allow and encourage the development of nanogrids[2628] and microgrids," including allowing nanogrid customers to provide power to their neighbors.[2629] He described in detail how microgrids benefit utilities and customers, including by islanding customers which reduces the demand on distribution and allows reliable power during outages.[2630] He opined that microgrids may result in less equipment required and, if microgrid owners submeter with neighbors, fewer customers to service.[2631]

Mr. Kelly responded that the Company is not necessarily opposed to microgrid development but objected to Mr. Rafson's proposal as "short on details."[2632] He stressed that nanogrids are a "novel concept" that should not be allowed without more details being

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[2626] 5 Tr 2627.
[2627] 5 Tr 2628-2629.
[2628] Mr. Rafson defined a nanogrid as a microgrid for a single property. 5 Tr 2629.
[2629] 5 Tr 2609, 2630, 2635.
[2630] 5 Tr 2630-2635.
[2631] 5 Tr 2635.
[2632] 5 Tr 1035.

considered, including whether nanogrids "comply with Michigan law and meet important safety requirements."[2633] He also noted that "nanogrid deployment would require a well-developed DER Optimization system."[2634]

Mr. Krause agreed that, theoretically, microgrids may increase reliability and resilience if something outside of the microgrid causes the outage, but pointed out that a microgrid itself may experience an outage.[2635] Mr. Krause explained that microgrids are more complex and cost more than traditional electric service because additional software and hardware is required to balance the microgrid and manage the interconnection to the main grid.[2636] He noted that there would need to be discussions to determine rates for microgrid services and that the costs of a microgrid should be paid for by the microgrid customers as they are the beneficiaries.[2637] He objected to the idea that nanogrids may be expanded beyond the meter of the nanogrid as unsupported by law.[2638]

Consumers raises the same points in its brief and further explains that "the owner of a microgrid (or nanogrid) that consists of independently owned distribution lines would be considered a utility under several statutory provisions, and would require a proper certificate of approval."[2639] Staff's brief recommends that the increased costs associated with microgrids be considered in addition to potential benefits. Staff also "recommends,

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[2633] *Id.*
[2634] *Id.*
[2635] 5 Tr 3880.
[2636] *Id.*
[2637] 5 Tr 3880-3882.
[2638] 5 Tr 3882-3883.
[2639] Consumers brief, 446-447.

that with the possible exception of public service institutions, that microgrid users pay for the costs of their microgrids."[2640]

GLREA's brief disagrees with Mr. Krause's suggestion that a microgrid could be less reliable as unsupported. GLREA relies on Mr. Rafson's testimony and refers to the National Renewable Energy Laboratory's (NREL's) description of a microgrid, which the NREL states "can improve customer reliability and resilience to grid disturbances."[2641] Staff's reply states that GLREA misstated its position as it didn't claim that a microgrid could be less reliable, rather that "a microgrid is subject to many of the same potential failures as standard service from the Company's distribution system."[2642]

GLREA's reply asserts that "[n]o party has adequately explained why the Company should not be required to encourage the development of microgrids on its system" and proposes that the Commission require Consumers "to undertake proposals to promote microgrids" and establish a workgroup on this issue.[2643]

The PFD recommends that the Commission reject Mr. Rafson's proposal. As Consumers points out, GLREA's proposal lacks details, raises safety issues, and may require legislative or regulatory changes. Moreover, the New Technologies and Business Models Workgroup already considered microgrids in Case No. U-20898, including identifying barriers and hurdles to microgrid implementation and potential solutions, some of which require legislation.[2644] However, if despite these issues the Commission wants

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[2640] Staff brief, 148-149.
[2641] GLREA brief, 20-22.
[2642] Staff reply, 32-33.
[2643] GLREA reply, 11.
[2644] See the MI Power Grid – New Technologies, Business Models and Staff Recommendations – Revised Final Report filed on January 12, 2022 in Case No. U-20898, pp. 2, 19-20, 77-84.

to consider the development of microgrids on Consumers' system, the PFD recommends the Commission direct Consumers to include a discussion of microgrids in its next EDIIP filing.

I. Power for America Training Trust Fund

MSUWC witness Wright explained that the P4A is a labor-management Taft-Hartley trust fund that provides training support to workers and administers apprenticeship programs.[2645] Consumers is a member of the P4A, and Mr. Wright recommended that the Commission encourage the Company to consider making additional investments in the fund.[2646] Mr. Wright presented several exhibits to demonstrate what he described as a "crisis" of the aging utility workforce and the need for increased hiring and training, both nationally and in Michigan.[2647] He testified that this trend presents a challenge for Consumers:

> The Company is posed with an additional challenge because senior employees have traditionally provided training for new employees in Company training and apprenticeship programs. In recent years there have been a significant number of retirements. While the Company has made efforts to replace those workers there still is a significant shortage of skilled, clerical, and other employees, who can provide quality training to the Company's new recruits. The ratio between trainers and apprentices is significantly out of balance. Simply put, this imbalance has created a scenario where there are not enough experienced employees to provide training for new employees. This imbalance places great pressure on experienced employees who are responsible for providing both on-the-job training and classroom training. Support for P4A could help reduce some of this pressure by attracting new apprentices and providing training for those students.[2648]

[2645] 5 Tr 3467.
[2646] 5 Tr 3467, 3469.
[2647] 5 Tr 3468.
[2648] 5 Tr 3468-3469.

In addition, Mr. Wright testified that widespread retirements in the workforce "create[ ] an opportunity for energy companies to attract and hire groups of people, such as women and minorities, who have not traditionally made up the utility workforce."[2649]

Mr. Kelly disagreed that it was necessary for the Commission to encourage additional investment in the P4A:

> The Company is already partnered with the MSUWC and has partnered with P4A since 2013 with an existing contract in place through 2028. There is no need for the Commission to encourage the Company to explore additional investments in P4A. Through these already established partnerships, the MSUWC is free to approach the Company, and the Company is free to approach the MSUWC to explore further investment in P4A, if opportunities exist. The Company and P4A in partnership with MSUWC are currently engaging in discussions for the development and implementation of new programs.[2650]

MSUWC did not file a brief. In its brief, Consumers reiterates that the Commission's involvement in this matter is unnecessary.[2651]

This PFD acknowledges MSUWC's concern about the loss of talent due to retirements and the need to train new utility workers. But there is nothing to suggest that Consumers lacks a similar concern. To the contrary, the Company is invested in the P4A and actively engaged with MSUWC in developing new programs. Therefore, this PFD does not find MSUWC's proposal to be necessary.

X.

COST OF SERVICE, RATE DESIGN, AND TARIFF ISSUES

A Cost-of-Service Study (COSS) by rate class is a systemic functionalization, classification, and allocation of a utility's fixed and variable costs to provide service. A

[2649] 5 Tr 3469.
[2650] 5 Tr 1057.
[2651] Consumers brief, 448.

COSS has two broad purposes. First, the COSS can identify and separate costs associated with the utility's production and distribution of electricity into the jurisdictional electric rate classes. Second, it can determine relative contribution to jurisdictional earnings from each of the utility's jurisdictional electric rate classes.[2652]

A. Cost of Service

Ms. Connolly presented Consumers Cost of Service Study (COSS) as summarized in Exhibit A-16, Schedule F-1. According to Ms. Connolly, the Company made routine updates to the COSS and incorporated the changes approved in Consumers' last rate case, as listed at 2 Tr 49.

Mr. Pung presented Staff's COSS, which allocates Staff's revenue requirement to the Company's customer classes, as set forth in Exhibit S-1, Schedule F1. Mr. Pung further explained that Mr. Isakson used Staff's COSS to design rates to collect the appropriate amount of revenue from each customer class.[2653]

As discussed above, Mr. Denzler testified that a 4-year tree-trimming cycle is "technically optimal," but noted that Consumers had explained that it uses a seven-year cycle to appropriately balance the benefits with the cost burdens of a shorter tree-trimming cycle on residential customers.[2654] Mr. Denzler suggested that "the appropriate solution would be to use the optimal [4-year] cycle length, and then adjust the Cost of Service Study allocation to equitably distribute costs proportional to the benefits," and he provided his conclusions regarding savings.[2655] He recommended that the Commission

[2652] See December 17, 2020 order in Case No. U-20697, p. 273.
[2653] 5 Tr 3631.
[2654] 5 Tr 3019-3021.
[2655] 5 Tr 3019-3020.

order the Company to prepare a COSS which proportionately and fairly allocates the incremental costs . . . to customer classes based on incremental benefits to those classes," with the annual line clearing report providing better raw data on reliability benefits.[2656] In Figure 12 at 5 Tr 3020, Mr. Denzler provided "how the Company's proposed test year revenue requirement would look if the Company's incremental costs of a four-year cycle [is] allocated proportionally to the customer cost savings from that new standard," and, in Figure 13, Mr. Denzler provided his calculation of the net benefits that would accrue to residential and non-residential classes based on a change to a 4-year tree trimming schedule.

Ms. Connolly responded that costs are assigned "to a class or group of customers based on" cost causation, and that "residential customers drive a larger share of investment in" LVD systems.[2657] She asserted that the Commission should reject Mr. Denzler's proposal because he did not offer a specific allocator, instead requesting that the Commission require Consumers to propose an alternative.[2658]

MNC's brief contends that the Company's *Formal Optimization Analysis* indicates that non-residential classes use the LVD lines, and that the non-residential classes suffer higher outage-related costs.[2659] From this, MNC argues that customers who suffer greater losses during outages drive investments, and that either the *Formal Optimization Analysis* is wrong, or Consumers must propose an alternative allocator that complies with the analysis.[2660]

[2656] 5 Tr 3021 & 3031.
[2657] 2 Tr 82.
[2658] 2 Tr 82-83.
[2659] MNSC brief, 112-113.
[2660] MNSC brief, 113.

Consumers' brief disagrees, noting that the COSS assigns "costs to customers based on how they impact the utility's costs," and that "residential customers drive a larger share of the investment," with the line clearing costs then proportionally allocated to the residential class.[2661] The brief ultimately asserts that the Company's "COSS properly assigns line clearing costs."[2662] Consumer's reply brief advances the same arguments.[2663]

MCL 460.11(1), in relevant part, states that "the commission shall ensure the establishment of electric rates equal to the cost of providing service to each customer class." To this end, costs are assigned to each customer class based on "identified cost drivers" with allocation schedules used to assign costs based on the use by each customer class.[2664] Consistent with the requirements of Section 11(1), this PFD rejects MNC's recommended allocation of line clearing costs for the reasons set forth by the Company, including MNC's failure to propose an alternative allocator. Should any party elect to pursue this issue in a future rate case, it should present an allocator for evaluation and discuss whether an allocation based on assumed benefits to each customer class complies with MCL 460.11(1).

B. Rate Design

Rate design refers to the framework to set prices and standards for the reliable provision of electricity services. Ms. Connolly presented the Company's rate design proposals in Exhibit A-16, Schedule F-3.0. This PFD breaks down rate-design issues into

[2661] Consumers brief, 452-453.
[2662] Consumers brief, 453.
[2663] Consumers reply, 82-83.
[2664] 2 Tr 46-48.

those affecting residential service and those affecting commercial and industrial service. As discussed in more detail above, there was an error in the customer counts for the RIA and RSC credits, which was corrected in the Company's rebuttal.[2665]

1. Rate Modifications

a. Rate GPD Coincident Peak Energy Provision

Ms. Connolly discussed the need for a coincident peak provision for Rate GPD as follows:

> Capacity costs on Rate GPD are collected through an On Peak Billing Demand charge. On Peak Billing Demand is based on the highest On Peak demand created during the billing month but never less than 60% of the highest On Peak billing demand of the four preceding summer billing months (this is generally referred to as a demand ratchet). The On Peak Billing period is defined as 11 AM to 7 PM. There are unique circumstances where customers might run production during the Off Peak hours and avoid the On Peak window to keep costs low. In the event their production was delayed and ran into the On Peak window in the summer, they would be charged for 60% of that On Peak demand for the next eleven months. This can have a huge impact on the bill of a customer that is trying to respond to price signals to keep their bill low. The coincident peak provision is proposed as a solution to help this very specific type of customer.[2666]

After explaining how the coincident peak provision would operate, Ms. Connolly noted that the provision would only be open to three customers for now, so that the Company can evaluate the impact of the provision. She further testified that "[b]ecause this provision would only benefit a customer that uses primarily Off Peak, the Company does not expect a high customer interest in the provision[,]" and given the limited nature of this proposal, she did not forecast any billing determinants.[2667]

No party addressed this proposal, which should be approved.

[2665] 2 Tr 72, 74.
[2666] 2 Tr 62.
[2667] 2 Tr 63.

b. Power Factor Credits and Penalties

Consumers requests that the Commission approve proposed changes to its existing power factor credit and penalty structure associated with Rates GSD, GP, GPD, GPTU, EIP, and GSG-2, effective beginning the first day of the November 2025 billing month.[2668] While both Consumers and ABATE agree that power factor[2669] adjustments are appropriate because customers with lower power factors impose more costs on the system, in Case No. U-21224, ABATE raised concerns regarding the disproportionate impact of Consumers' existing methodology on bundled customers because of the use of all metered-based charges, excluding surcharges, to calculate credits and penalties.[2670] As a result, Consumers is proposing changes "to the application of power factor credits and penalties" in this case.[2671]

Under the proposed changes, Consumers will apply a per kilovolt-ampere reactive (kvar) credit or penalty charge based on a 0.875 lagging power factor, which charges Consumers calculated based on actual power factor revenue from 2023 to achieve a revenue-neutral result.[2672] If a customer's average power factor during the billing period is higher than 0.875, a $1.14 per kvar credit will be applied to the amount by which the

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[2668] Consumers brief, 456, 465.

[2669] Power factor is the ratio of real power (power that produces actual work) to apparent power (supplied power). 2 Tr 65; 5 Tr 3301. Customers with more "lagging" reactive power (power drawn due to the impedance that devices involving magnetic fields, such as electric motors, induce on the system, but that does not produce actual work) have a lower power factor. 5 Tr 3301-3302. Because reactive power cannot be transmitted over long distances, in addition to contributing to real power losses, it may also result in "degraded voltage, or electric pressure, on the electric power system and elevate the risk of voltage instability (a/k/a voltage collapse)." 5 Tr 3301. A utility generally addresses these issues by locating capacitors near customer load, which provides a local source of reactive power thus reducing the flow of lagging reactive power over the interconnected electric transmission system. 5 Tr 3303.

[2670] See 5 Tr 3306-3307 for Mr. Dauphinais' explanation of ABATE's concerns raised in Case No. U-21224.

[2671] 2 Tr 65.

[2672] 2 Tr 66-67; 5 Tr 3307-3309; Exhibit A-67.

average lagging kvar demand during the billing period is below that for an average power factor of 0.875.[2673] If a customer's average power factor during the billing period is less than 0.875, a per kvar penalty charge will be applied to the amount by which the average lagging kvar demand during the billing period is in excess of that for an average power factor of 0.875, in accordance with the table presented at 2 Tr 66. In addition, a customer with a power factor below 0.700 must install necessary corrective equipment within two months.[2674] If the customer's power factor remains below 0.700 after two consecutive months, a $5.25 per kvar penalty applies.[2675]

ABATE agreed with the proposed changes but suggested that Consumers adopt the changes "beginning on the date Consumers' final approved rates in this proceeding go into effect."[2676] In rebuttal, Mr. Gray responded that Consumers "requires a minimum of six months to configure, test and implement the changes supporting this proposal in the SAP billing system" and pointed out that "changes to the power factor calculation must be made on a bill month basis and cannot be prorated."[2677] Mr. Gray reiterated that Consumers' preferred date for implementing the changes is the "first day of the November 2025 bill month."[2678]

No party objected to the proposed changes to Consumers' existing power factor credit and penalty structure associated with Rates GSD, GP, GPD, GPTU, EIP, and GSG-2, which should be approved. The only contested issue is when these changes should

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[2673] 2 Tr 66-67; Exhibit A-16, Schedule F-5, p. 40.
[2674] 2 Tr 67; Exhibit A-16, Schedule F-5, p. 40.
[2675] 2 Tr 67; Exhibit A-16, Schedule F-5, p. 40.
[2676] 5 Tr 3310.
[2677] 5 Tr 1752.
[2678] *Id.*

take effect. ABATE's brief refers to Mr. Gray's rebuttal testimony "claiming the Company needs six months to implement the proposed change," but does not otherwise address this issue on brief.[2679] Because of this and because Consumers is in the best position to know how quickly it can implement changes in its billing system and its proposal to configure and test the changes before implementation is a reasonable and prudent approach to avoid errors and omissions, the PFD agrees with Consumers that these changes should take effect no later than the first day of the November 2025 billing month, sooner if possible.

c. Rate LED Facilities Allowance

Consumers is proposing to include a facilities allowance in its LED tariff. According to Ms. Connolly, there is robust interest from potential customers in the availability of a facilities allowance in Consumers' Rate LED that is like the allowance DTE can offer large customers in its Rate D13.[2680]

Ms. Connolly testified that the Company proposes to calculate the facilities allowance based on the NPV of margin—defined as the non-energy related costs—based on each customer's expected load over the life of their contract.[2681] She further explained that the Company proposes including power supply costs in the calculation of the NPV margin because DTE's Rate D13 facilities allowance includes power supply revenues. Therefore, she said, including it in Consumers facilities allowance would result in an allowance that is competitive with what DTE is able to offer customers. According to Ms.

[2679] ABATE brief, 64 n.42.
[2680] 2 Tr 61, 63.
[2681] 2 Tr 64.

Connolly, a facilities allowance for Rate LED would enhance economic development in the State and provide lower rates for all the Company's' customers.[2682]

ABATE witness Dauphinais testified in support of a facilities allowance for Rate LED, except he recommended modifying the Company's proposed calculation of the allowance. He testified that ABATE cannot support the inclusion of non-energy power supply charges in the calculation because these revenues are likely just sufficient to cover Consumers' incremental capacity and transmission cost to serve a new Rate LED customer. Mr. Dauphinais recommended that the Company's proposed facilities allowance calculation for Rate LED should only consist of system contribution charge and delivery service charge revenues.[2683]

In his testimony, Staff witness Isakson recommended that the Company's facilities allowance proposal be rejected because it includes power supply costs and because it is based on the life of the contract. Echoing Mr. Dauphinais' testimony, Mr. Isakson said only distribution revenue and revenue generated by the System Contribution Charge would be appropriate to include in a facilities allowance because Rate LED does not materially pay for embedded capacity costs now or in the future, as it does for distribution.[2684]

Mr. Isakson described how DTE provides a facilities allowance for Rate D13 customers. He said that Rate D13 customers may receive the same line extension, or facilities allowance that is already available to other customers. He provided the example

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[2682] 2 Tr 64.
[2683] 5 Tr 3299-3300.
[2684] 5 Tr 3616.

that commercial and industrial customers with less than 1,000 kW of expected load may receive a standard allowance of two times the estimated annual revenue of the customer for whom the line, or facilities, are being extended. This allowance, he said, would include power supply revenue.[2685]

But Consumers' proposal, he testified, differs from established or normal line extension policy in that it is based on the customer's margin for the lifetime of its contract. The Company's proposal essentially grants new Rate LED customers revenues over 20 years to be included in the facilities allowance rather than three years as it is for other large customers not on the rate, i.e., Rate GPD customers.[2686]

Mr. Isakson disputed the Company's assertion that attracting new load to the Company's economic development rate benefits other customers. Mr. Isakson concluded that if the entire contract net margin, as defined by the Company, is allowed to offset the cost to connect a new Rate LED customer then 20 years of benefit, albeit meager, of adding that new customer is erased.[2687]

Mr. Isakson said, if in its next rate case, the Company chooses to again propose a facilities allowance, then it should propose something like DTE's facilities allowance that is available to Rate D13 customers.[2688]

In rebuttal, Ms. Connolly testified that Consumers finds ABATE witness Dauphinais' proposal for a modified method of calculating the facilities allowance reasonable. That is that the facilities allowance for Rate LED should not include power

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[2685] 5 Tr 3615.
[2686] 5 Tr 3617.
[2687] 5 Tr 3617-3618.
[2688] 5 Tr 3618.

supply revenues but should only be based on the expected system contribution and delivery service revenue of the customer over the term of the customer's contract.[2689]

In rebuttal, Mr. Isakson stated that while Staff agrees with excluding power supply costs and using only system contribution and distribution revenue in calculating a facilities allowance for Rate LED, it still takes issue with the proposal to allow customers to use the margins over their entire contract term. He stated that the Company's proposal to allow the attaching customer to retain the entire potential benefit of their added load via the facilities allowance, erases any good the additional load and associated revenue would have done for other customers and defeats the purpose of the system contribution charge.[2690]

Mr. Dauphinais testified in rebuttal that Staff's outright rejection of the facilities allowance goes too far. Instead, he said, the Commission should approve the proposed Rate LED facilities' allowance but limit it to expected system contribution charge revenues and expected delivery service revenues for a period not to exceed the lesser of the customer's contract term or the period Consumers prudently determines is necessary to secure the new customer.[2691]

In its brief, Consumers confirms that it agrees to limit the facilities allowance to the expected system contribution and delivery service revenue. However, the Company continues to argue that the allowance should be based on the entire contract term and not be limited to three years as Staff asserts, contending that limiting it provides little

[2689] 2 Tr 75.
[2690] 5 Tr 3622-3623.
[2691] 5 Tr 3326-3327.

benefit to the customer. The Company continues to maintain that the facilities allowance as proposed will attract new large, non-data center customer economic development that would not occur but for the rate.[2692]

In briefing, ABATE continues to support the Company's modified facilities allowance proposal based on system contribution and delivery service revenues up to the length of the term of the contract. ABATE argues that all revenue contributions above the incremental cost to serve are in addition to revenues the Company would otherwise receive and should be included in a facilities allowance calculation.[2693] ABATE further asserts that the proposed facilities allowance would attract large, unique, and energy-intensive customers while still providing a rate that is just, reasonable and equal to the cost of providing service. Staff's rationale for rejecting the proposal because it is possible Rate LED customers may not significantly lower other customers' rates in every circumstance, should not lead to an outright rejection of the facilities allowance.[2694]

In testimony, Walmart supported the facilities allowance originally proposed by Consumers, while in briefing HSC supports the allowance as modified to exclude non-energy power supply costs.[2695]

In its brief, MNC offers several reasons why the Company's modified proposal is not reasonable, prudent, or fair to other customers. They say that applying the revenues over the entire term of the contract results in other customers subsidizing the customer on Rate LED since there is no time in the foreseeable future where a customer whose

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[2692] Consumers brief, 458.
[2693] ABATE brief, 62.
[2694] ABATE brief, 62-63.
[2695] 5 Tr 3463; Hemlock brief, 4-5.

allowance is equal to their full distribution revenue will contribute to the embedded costs of the distribution system. They also contend that the Company's proposal is not fully developed, and they dispute that there is widespread customer interest in it. Finally, they argue that the Company's proposal is not like DTE's facilities allowance because DTE's Rate D13 is not based on the entire term of the customer's contract.[2696]

In its brief, Consumers continues to argue that limiting the facilities allowance to three years provides little benefit to customers. The Company recommends adoption of its modified proposal for a facilities allowance because it will make its Rate LED competitive and provide transformational opportunities such as jobs, tax revenue, infrastructure, new residences, and quality of life improvements.[2697]

In briefing, Staff notes that while the Company, ABATE, and Staff agree that power supply revenues should not be included in a facilities allowance, they do not agree on the period over which distribution and system contribution revenue should apply. Staff reiterated Mr. Isakson's rebuttal that revenues should be considered for a limited time and not the entirety of the customer's contract. Staff maintains its position that the Company should propose a facilities allowance that mimics DTE's in the Company's next rate case, if they so choose. But that it be rejected in the current case.[2698]

In its reply, ABATE addresses Staff's and MNC's various arguments against the Company's modified facilities allowance proposal. According to ABATE, even assuming a facilities allowance would result in Rate LED customers making minimal or no

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[2696] MNSC brief, 120--122.
[2697] Consumers brief, 458-459.
[2698] Staff brief, 147.

contribution towards embedded costs of the distribution system, the Company's proposal is consistent with the purpose of Rate LED to attract large, unique, and energy-intensive facilities and it will not result in increased costs to other customers.[2699]

In reply, Staff emphasizes that it does not oppose a facilities allowance for Rate LED in general, it just opposes the specific proposal for the allowance, even as modified—only including non-power supply revenues—because the proposal would still use margin for the entirety of the customer's contract.[2700] According to Staff, "the Commission should encourage the Company to include a proposal that mimics the facilities allowance granted by DTE for its Rate D13 customers."[2701]

This PFD agrees with the Company, ABATE, and Staff that a facilities allowance for Rate LED should only consider distribution and system contribution revenues and not power supply revenues. However, this PFD finds that the Company has not provided sufficient evidence to demonstrate that a facilities allowance for Rate LED is needed or that it would lead to enhanced economic development. Additionally, this PFD agrees with Staff and MNSC that using the entire term (up to 20 years) of a customer's contract to calculate the facilities allowance—as proposed by the Company and supported by ABATE, HSC, and Walmart—would essentially erase any benefit to the system and could result in other customers subsidizing the customer on Rate LED.

This PFD finds that if the Company believes it needs to offer a facilities allowance for Rate LED to attract large customers, it should propose a facilities allowance that is

[2699] ABATE reply, 26-30.
[2700] Staff reply, 33-34.
[2701] Staff reply, 36.

based on a limited term, like DTE's Rate D13. Therefore, this PFD recommends that the Commission deny the proposed facilities allowance.

2. Customer Charge

As noted in Consumers' and Staff's briefs, these parties agreed that the $8.00 per month residential customer charge should not be adjusted in this case, however the parties disagreed on how the charge should be calculated.[2702] Referencing Exhibit S-6, Schedule F1.4, Mr. Pung discussed the costs that are appropriate to include in the customer charge along with how the monthly charge is then calculated, noting that, except for the use of historical numbers, this method is the one currently approved for Consumers.[2703] Mr. Pung noted that the Commission did not expressly address the customer charge calculation method in Consumers' last rate case, including the use of historical numbers, adding that "This is also the exact method Staff has proposed and the Commission adopted for Michigan's other large investor-owned utility, DTE Electric Company."[2704]

Mr. Pung testified that using historical amounts in calculating the customer charge is more appropriate due to the uncertainty surrounding the test year cost projections included in Consumers' COSS. According to him,

> Projecting test-year amounts for COSS accounts that are included in the customer charge calculation based upon historical ratios will likely result in costs being included in the charge that should not be and vice versa. To get a more accurate projection of what the customer charge should be, a more comprehensive COSS would need to be developed that includes the direct impact of proposed spending in the appropriate COSS accounts.[2705]

[2702] Consumers brief, 459; Staff brief, 138.
[2703] 5 Tr 3631-3632.
[2704] 5 Tr 3632.
[2705] 5 Tr 3632.

In rebuttal, Ms. Connolly disagreed with Staff's approach, testifying that Consumers used the same, Commission-approved approach for calculating the customer charge as it did in Case No. U-21389. Specifically, Ms. Connolly stated that the use of historical ratios to break out test year costs in the COSS was litigated in the previous rate case and the Commission affirmed the Company's approach. Ms. Connolly added that the customer charge calculation in the COSS is only one data point the Company uses to determine the customer charge, further stating that adopting Staff's method would require the development of a historical COSS, "could add significant additional work without any benefit as demonstrated by the fact that the Company and Staff do not have any disagreement on the residential customer charge in this case."[2706]

Consumers' brief reiterates Ms. Connolly's testimony. Staff contends that the Commission "took note of Staff's concern regarding a disconnect between cost recovery and cost causation when using historical amounts to make test-year projections."[2707] Staff adds that it was able "to use the historical cost amounts from the Company's COSS workpapers to calculate a historical customer charge without a significant amount of extra work by updating the applicable accounts in the COSS, thus eliminating this disconnect."

This PFD finds that Staff's recommendation regarding the appropriate method for calculating the customer charge should again be rejected. Although Mr. Pung testified that Staff's method was approved for DTE Electric, Staff failed to provide a citation to the case for support. Moreover, the PFD finds persuasive Consumers' contention that the COSS is only one data point that the Company uses in calculating the customer charge,

[2706] 2 Tr 74.
[2707] Staff brief, 139, citing the March 1, 2024 order in Case No. U-21389, p. 225.

and that it also takes into account "how a change to the customer charge impacts the total bill and the impact to the Low Income and Senior Citizen credits, which are set based on the residential customer charge."[2708]

C. Tariff Issues[2709]

1. Land Lease Tariff

In testimony, Consumers requested the addition of tariff language that would enable the payment of land leases or easements via a bill credit.[2710] However, MEIU witness, Sherman, urged the Commission to reject the proposal indicating that the primary customer using the tariff would be the Michigan Department of Natural Resources who would get bill credits as payment for leasing state-owned land to Consumers for the development renewable energy projects. She raised a concern that this could give the Company an unfair advantage over third-party developers who could not offer a utility bill credit and that it could result in an undervaluation of state land.[2711]

Staff witness Isakson also expressed concerns about the potential tax implications of the tariff.[2712] However, in rebuttal testimony, the Company withdrew the proposed tariff language, making the issue moot.[2713]

2. Self Generation Tariff

As set forth in Mr. Gray's testimony and Consumers' brief, the Company and ABATE agreed to ABATE's proposed revision to Tariff Sheet No. C-59.00 clarifying when

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[2708] 2 Tr 73-74.
[2709] Certain tariff issues (e.g., Community Solar, DG credits) and other proposals are discussed above.
[2710] 5 Tr 1651-1652, 1746.
[2711] 5 Tr 3171-3173.
[2712] 5 Tr 3619-3620.
[2713] 5 Tr 1663, 1751.

the Company can refuse to contract for energy from a Qualifying Facility in certain energy-only contracts.[2714]

3. Demand Response Credits

The March 1, 2024 order in Case No. U-21389 directed Consumers "to file updated calculations of its DR credits in its next general rate case, including the latest estimate of Cost of New Entry ('CONE') and updated values of expected per-customer load reduction for credits that are administered monthly."[2715] The Company complied with this and its "latest estimate of CONE for MISO Zone 7 is $127,135 per MW-year for the 2024/2025 planning year," which is a 20% increase from the prior year.[2716] However, because "Staff has repeatedly argued that the Company's DR portfolio is among the most expensive in the country," Consumers is not proposing new credits for the DR programs to be more cost effective and provide stability to customers.[2717] The residential Air Conditioning Peak Cycling (ACPC) program is the Company's only active program with per-customer load reduction and credits administered monthly. Because Consumers did not have any events from which it could calculate a new value in 2023, "the per customer load reduction value remains at 0.60 kW."[2718]

Based on the updated value of CONE and the removal of September as a monthly billing month to align with MISO's summer season, the new calculation for the ACPC program proposed by the company is ($127,135 per MW-year / 1,000 * 75% * 0.60 kW reduction per customer) / 3 summer months = $19.07 per summer billing month.

[2714] 5 Tr 1752; Consumers brief, 465.
[2715] 5 Tr 2171. See March 1, 2024 order in Case No. U-21389, pp. 97-98.
[2716] 5 Tr 2171.
[2717] *Id.*
[2718] *Id.*

Consumers reduced this amount by 50% for administrative costs, resulting in a credit of approximately $9.50 per summer billing month.[2719] The new calculation proposed by the company for the GI Provision is ($127,135 per MW-year * 75%) / 12 months = $7.95 per kW-month. The Company proposes to maintain a $1 differential between summer and non-summer months, which results in a credit of $8.50 per kW-month in the summer and $7.50 per KW-month in the non-summer.[2720]

Noting that the DR credits were last updated seven years ago, Mr. Isakson recommended implementing the changes to the credits, as adjusted by Staff, even though Consumers did not propose any changes in this case.[2721] He agreed with the Company's calculation of the updated GI credits but disagreed with its calculation of the updated ACPC credit.[2722] Mr. Isakson argued that Consumers did not provide evidence to support a 50% reduction for administrative costs and inappropriately included a year's worth of CONE in three months instead of 12.[2723] He proposed multiplying the proposed $8.50 summer GI credit by the expected 0.6 KW average customer load reduction and rounding the result to the nearest who dollar amount, which results in a $5 credit. Mr. Isakson testified that this "proposal will correct the imbalance between monthly credits for the ACPC program and the actual value of DR that is paid to other DR customers on the GI provision or on Rate EIP" and "bring DR credits for all customers up to date with the current value of DR, and not its value from 7 years ago."[2724]

[2719] 5 Tr 2172.
[2720] *Id.*
[2721] 5 Tr 3612-3614.
[2722] 5 Tr 3612.
[2723] *Id.*
[2724] 5 Tr 3613.

Regarding Consumers' assertion that is not updating credits because of Staff's argument that the Company's DR portfolio is one of the most expensive in the country, Mr. Isakson noted that Staff's proposal "would actually *decrease* the overall cost of DR credits to all customers because the existing credits are misaligned with the actual benefits of DR. Customers are currently over-paying for lower than expected demand reduction from the ACPC and underpaying for GI provision load reduction, and Staff's proposal corrects this issue."[2725] Therefore, Staff recommends the Commission change the ACPC DR credit to $5 for the summer months when the program is active and the GI provision to $8.50 per kW for the summer and $7.50 per KW for the winter.[2726] On rebuttal, Mr. McLean agreed with Staff's proposal.[2727]

On brief, both "the Company and Staff request the Commission set the Air Conditioning Peak Cycling Program credit to $5 for the summer months when the program is active and set the . . . credit for the General Interruptible Provision to $8.50 per kW for the summer and $7.50 per kW for the winter."[2728] Because Consumers and Staff are in agreement and no other party addressed this issue, the PFD recommends that the Commission approve these changes to the DR credits and incorporate them into the appropriate tariff.

[2725] 5 Tr 3614.
[2726] *Id.*
[2727] 5 Tr 2189.
[2728] Consumers brief, 188. See Staff brief, 143-144.

XI.

CONCLUSION

Based on the foregoing discussion, this PFD recommends that the Commission adopt the findings, conclusions, and recommendations set forth above, including the findings and recommendations on rate base, capital structure, cost of capital, and operating revenues and expenses leading to an estimated revenue deficiency of approximately $108,872,000, with an authorized return on equity of 9.5% and an overall cost of capital of 5.24%, as well as recommendations regarding various accounting requests, cost of service allocations, and rate design, and including recommendations for additional Commission investigation, and additional utility reporting and analysis.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Sally L. Wallace

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Date: 2025.01.27 14:09:33 -05'00'

Sally L. Wallace
Administrative Law Judge

Issued and Served:
January 27, 2025

Appendix A

MICHIGAN PUBLIC SERVICE COMMISSION
Consumers Energy Company
Revenue Deficiency (Sufficiency)
For the Projected 12-Month Period Ending February 28, 2026
($000)

Case No.: U-21585
PFD
Appendix A

Line No.	(a) Description	(b) Source	(c) (Initial Brief) Applicant Projection	(d) PFD Adjustment	(e) PFD Projection
1	Rate base	Appendix B	15,161,786	(446,496)	14,715,290
2	Adjusted net operating income	Appendix C	739,230	31,920	771,150
3	Overall rate of return	Line 2 / Line 1	4.88%	0.36%	5.24%
4	Required rate of return	Appendix D	6.17%	-0.36%	5.81%
5	Income requirement	Line 1 * Line 4	935,054	(80,597)	854,457
6	Income deficiency (sufficiency)	Line 5 - Line 2	195,824	(112,517)	83,307
7	Revenue conversion factor	Exhibit No.: A-13 (JCA-38)	1.3381	-	1.3381
8	Revenue deficiency (sufficiency)	Line 6 * Line 7	262,028	(150,557)	111,471
9	Campbell revenue requirement adjustment	Appendix A.1	(6,596)	3,996	(2,599)
10	Adjusted revenue deficiency (sufficiency)	Line 8 + Line 9	255,433	(146,560)	108,872

Appendix A.1

MICHIGAN PUBLIC SERVICE COMMISSION Case No. U 21585
Consumers Energy Company PFD
Campbell Units Revenue Requirement Adjustment **Appendix A.1**
(000)

Line	Description		Amount	Source
(a)	(b)		(c)	(d)
	Net Book Value (NBV) Regulatory Asset Balance Test Year			
1	Campbel 1-2	$	395,620	Exhibit A-21 (JCA-56), line 10
2	Campbell 3		839,854	Exhibit A-22 (JCA-57), line 10
3	Total NBV Regulatory Asset Balance Test Year	$	1,235,474	Line 1 + Line 2
	Cost of Capital			
4	Full year proposed WACC[1]	$	88,400	Line 3 x Note 1
5	Full year proposed WACC with post-retirement ROE[2]		84,935	Line 3 x Note 2
6	Cost of Capital Mar 2025 through Feb 2026		85,801	[(Line 4 * 3) + (Line 5 * 9)] ÷ 12
7	**Revenue Requirement adjustment**	**$**	**(2,599)**	**Line 6 - Line 4**

Note:

1	PFD Appendix D	7.16%
2	PFD Appendix D w/ 9% ROE applied for Campbell per U-21090	6.87%

Appendix B

MICHIGAN PUBLIC SERVICE COMMISSION
Consumers Energy Company
Rate Base
For the Projected 12-Month Period Ending February 28, 2026
($000)

Case No.: U-21585
MPSC Staff Reply Brief
Appendix B

Line No.	(a) **Description**	(b) **Source**	(c) (Initial Brief) **Applicant Projection**	(d) **PFD Adjustment**	(e) **PFD Projection**
1	Total utility plant	Exhibit No.: A-12 (JCA-32)	18,389,174	(427,349)	17,961,825
2	Depreciation reserve	Exhibit No.: A-12 (JCA-33)	6,346,926	(15,554)	6,331,373
3	Net utility plant	Line 1 - Line 2	12,042,248	(411,796)	11,630,452
4	Customer advances for construction	Exhibit No.: A-2 (JCA-7)	(60,766)	-	(60,766)
5	Utility plant rate base	Sum Lines 3 - 4	11,981,482	(411,796)	11,569,686
6	Working capital	Exhibit No.: A-12 (JCA-34)	3,180,304	(34,700)	3,145,604
7	Total rate base	Line 5 + Line 6	15,161,786	(446,496)	14,715,290

Appendix C

MICHIGAN PUBLIC SERVICE COMMISSION

Case No.: U-21585
PFD
Appendix C

Consumers Energy Company
Development of Adjusted Net Operating Income
For the Projected 12-Month Period Ending February 28, 2026
($000)

		Revenue				Expenses									NOI		
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
Line No.	Description (Witness)	Sales Revenue	Wholesale Revenue	Other Electric Revenue	Total	Power Supply Costs	Operations & Maintenanc	Depreciatio n & Amort.	Property Taxes	General Taxes	Other (Local) Taxes	State Income Tax	FIT	Total	NOI	AFUDC	Adjusted NOI
	Company Filed																
	Operating Income (Direct)	4,762,080	-	171,786	4,933,866	2,374,056	675,029	771,698	254,100	37,974	1,238	35,925	65,636	4,215,657	718,209	17,033	735,242
	Correction to low income and senior customer count on Ra	132			132						0	7	26	33	99		99
	Solar projects moved to REP				-		(3,252)				5	170	646	(2,430)	2,430		2,430
	DR Regulatory Liability				-		(531)				1	28	105	(397)	397		397
	C&I Online Account Management				-		(94)				0	5	19	(70)	70		70
	CARE Program - Collection Agency Services				-		(572)				1	30	114	(427)	427		427
	AFUDC Solar				-						-	-	-	-	-	(11,845)	(11,845)
	AFUDC BESS				-						-	-	-	-	-	4,552	4,552
	Depreciation				-			(10,266)			16	538	2,039	(7,672)	7,672		7,672
	Property Tax Expense				-				(4,747)		8	249	943	(3,548)	3,548		3,548
					-						-	-	-	-	-		-
	Income Tax Effect of Interest				-						21	695	2,636	3,353	(3,353)		(3,353)
	Interest Synchronization Adjustment	-	-	-	-	-	-	-	-	-	0	2	7	9	(9)	-	(9)
1	Operating Income (Initial Brief)	4,762,212	-	171,786	4,933,998	2,374,056	670,580	761,433	249,353	37,974	1,291	37,649	72,172	4,204,508	729,490	9,740	739,230
	PFD Adjustments																
2					-						-	-	-	-	-		-
3	**Sales Revenue**				-						-	-	-	-	-		-
4	RIA (Isakson)	455			455						1	24	90	115	340		340
5					-						-	-	-	-	-		-
6					-						-	-	-	-	-		-
7					-						-	-	-	-	-		-
8					-						-	-	-	-	-		-
9	Generation - Croton Hydro				-		(91)				0	5	18	(68)	68		68
10	Generation - Karn				-		(53)				0	3	11	(40)	40		40
11	**Electric Division**				-						-	-	-	-	-		-
12	Staking & Locating (AG)				-		(200)				0	10	40	(149)	149		149
13	Lines Reliability - LVD (Pole Inspection) (AG)				-		(4,850)				8	254	964	(3,625)	3,625		3,625
14	Lines Reliability - LVD (Switch Inspection) (AG)				-		(4,000)				6	210	795	(2,989)	2,989		2,989
15	Lines Reliability - LVD (Metro Inspection) (AG)				-		(1,000)				2	52	199	(747)	747		747
16					-						-	-	-	-	-		-
17	Substation Demand - LVD (AG)				-		(5,308)				8	278	1,054	(3,967)	3,967		3,967
18	Substation Demand - HVD (AG)				-		(4,467)				7	234	887	(3,338)	3,338		3,338
19					-						-	-	-	-	-		-
20	**Information Technology Investments**				-						-	-	-	-	-		-
21	IT/Digital Foundation & Corporate Projects (Hansen)				-		(20)				0	1	4	(15)	15		15
22	Customer Projects (Klocke)				-						-	-	-	-	-		-
23					-						-	-	-	-	-		-
24	**Billing & Payment**				-						-	-	-	-	-		-
25	CARE Program - Collection Agency Services (Klocke)				-						-	-	-	-	-		-
26	CARE Program - Theft - Field (Klocke)				-		(47)				0	2	9	(35)	35		35
27	Customer Interactions (AG)				-		(760)				1	40	151	(568)	568		568
28	Other Benefits (Rueckert)				-		(795)				1	42	158	(594)	594		594
29					-						-	-	-	-	-		-
30	Incentive Compensation (McMillan-Sepkoski)				-		(415)				1	22	82	(310)	310		310
31	Incentive Compensation (ABATE / AG)				-		(1,306)				2	68	259	(976)	976		976
32	Armstrong BESS Cap Ex Adj Impact on AFUDC				-						-	-	-	-	-	(520)	(520)
33	Cap Ex Adj Impact on Prop. Tax & Depr.				-			(19,484)	(4,490)		38	1,256	4,763	(17,917)	17,917		17,917
34	Hydro Cap Ex Adj Impact on AFUDC				-						-	-	-	-	-	(1,882)	(1,882)
35											-	-	-	-	-		-
36	Proforma Interest (Nichols)				-							288	1,059	1,346	(1,346)		(1,346)
37	Interest Synchronization (Nichols)	-	-	-	-	-	-	-	-	-	-	2	8	11	(11)	-	(11)
38	**Total Adjustments**	455	-	-	455	-	(23,312)	(19,484)	(4,490)	-	76	2,792	10,551	(33,867)	34,322	(2,402)	31,920
39	**PFD NOI - Test Year**	4,762,667	-	171,786	4,934,453	2,374,056	647,269	741,949	244,863	37,974	1,367	40,441	82,723	4,170,641	763,812	7,338	771,150

MICHIGAN PUBLIC SERVICE COMMISSION
Consumers Energy Company
Rate of Return Summary
For the Projected 12-Month Period Ending February 28, 2026

Case No.: U-21585
PFD
Appendix D

Line No	(a) Description	(b) ($000,000)	(c) Capital Structure Percent Permanent Capital	(d) Capital Structure Percent of Total Capital	(e) Cost Rate %	(f) Weighted Cost Permanent Capital	(g) Weighted Cost Total Cost %	(h) Weighted Cost Conversion Factor	(i) Weighted Cost Pre-Tax Return
1	Long term debt	12,139	49.85%	41.60%	4.25%	2.12%	1.77%		1.77%
2	Preferred stock	37	0.15%	0.13%	4.50%	0.01%	0.01%	1.3381	0.01%
3	Common equity	12,177	50.00%	41.73%	9.50%	4.75%	3.96%	1.3381	5.30%
4	Permanent Capital	24,353	100.00%			6.88%			
5	Short term debt	281		0.96%	4.28%		0.04%		0.04%
6	Deferred federal income taxes	4,430		15.18%	0.00%		0.00%		0.00%
7	Deferred JDITC - long term debt	58		0.20%	4.25%		0.01%		0.01%
8	Deferred JDITC - preferred stock	0		0.00%	4.50%		0.00%	1.3381	0.00%
9	Deferred JDITC - common equity	58		0.20%	9.50%		0.02%	1.3381	0.03%
10	Total	29,181		100.00%			5.81%		7.16%

MICHIGAN PUBLIC SERVICE COMMISSION
Consumers Energy Company
Capital Expenditure and Rate Base Adjustments
For the Projected 12-Month Period Ending February 28, 2026
($000)

Case No.: U-21585
PFD
Appendix E

Line No.	Party	Capital Project Bucket/Description	(a)	(b) Total Adjustment	(c) Plant	(d) CWIP	(e) Accum Dep.	(f) Rate Base	(g) Depreciation	(h) Property Tax	(i) AFUDC
					Test Year Impacts						
1		**ELECTRIC DISTRIBUTION**									
2	AG	HVD Lines - Reliability - Pole Replacements		(12,191)	(9,698)	-	(270)	(9,428)	(289)	(112)	-
3	AG	HVD Lines - Reliability - ROW		(1,944)	(972)	-	(14)	(958)	(29)	(11)	-
4	AG	HVD Lines - Lines and Subs Rehabilitation - Pole Top Replacement		(3,690)	(1,845)	-	(27)	(1,818)	(55)	(21)	-
5	ABATE	HVD New Business - 138kV Substation in Northwest Michigan		(5,093)	(2,547)	-	(38)	(2,509)	(76)	(29)	-
6	AG	HVD Lines - Lines Strategic Customers - New Business		(20,400)	(15,300)	-	(405)	(14,895)	(456)	(177)	-
7	AG	LVD Lines - New Businesss		(21,710)	(16,531)	-	(444)	(16,087)	(493)	(191)	-
8	AG	LVD Lines - Demand Failures		(32,196)	(25,018)	-	(683)	(24,335)	(746)	(289)	-
9	AG	LVD Substations - Demand Failures		(2,430)	(1,792)	-	(47)	(1,745)	(53)	(21)	-
10	AG	LVD Lines - Reliability - Zonal Health Improvements		(178,189)	(89,095)	-	(1,328)	(87,767)	(2,655)	(1,029)	-
11	AG	LVD Substations - Reliability - New or Rebuilt Substations		(14,410)	(7,205)	-	(107)	(7,098)	(215)	(83)	-
12	AG	LVD Substations - Reliability - DSCADA Projects		(3,479)	(2,539)	-	(66)	(2,473)	(76)	(29)	-
13	AG	LVD Repetitive Outages-Reliability		(11,862)	(8,636)	-	(223)	(8,413)	(257)	(100)	-
14	AG	LVD Lines Rehabilitation-Reliability		(9,467)	(6,765)	-	(171)	(6,593)	(202)	(78)	-
15	AG	Resiliency-Overhead to Underground -Reliability		(11,879)	(6,879)	-	(135)	(6,744)	(205)	(79)	-
16	AG	LVD Lines - Capacity - Overload Equipment		(36,668)	(20,291)	-	(370)	(19,920)	(605)	(234)	-
17	AG	LVD Lines - Capacity - Substation Work		(14,531)	(12,052)	-	(346)	(11,706)	(359)	(139)	-
18	AG/ABATE	Wildfire Risk Mitigation Program		(12,000)	(6,000)	-	(89)	(5,911)	(179)	(69)	-
19	AG	LVD Lines - Premature Projects		(28,572)	(21,500)	-	(571)	(20,929)	(641)	(248)	-
20	AG	LVD Lines - Reliability - Secondary Wire Program		(14,090)	(7,045)	-	(105)	(6,940)	(210)	(81)	-
21	AG	LVD Lines - Reliability - Right of Way		(10,218)	(6,539)	-	(147)	(6,391)	(195)	(76)	-
22	AG	Reliability - Grid Modernization - Line Sensors		(6,349)	(4,216)	-	(99)	(4,117)	(126)	(49)	-
23	AG	Reliability - Grid Modernization - DistAM (DAM)		(5,288)	(2,644)	-	(39)	(2,605)	(79)	(31)	-
24	AG	Reliability - Grid Modernization - Planning Systems Modernization (PSM)		(2,083)	(1,042)	-	(16)	(1,026)	(31)	(12)	-
25	AG/MEIU	Reliability - Grid Modernization - Operational Systems Modernization (OSM)		(9,133)	(4,567)	-	(68)	(4,498)	(136)	(53)	-
26											
27		**TOTAL ELECTRIC DISTRIBUTION**		**(467,872)**	**(280,713)**	**-**	**(5,809)**	**(274,904)**	**(8,366)**	**(3,243)**	**-**
28											
29		**STREET LIGHTING**									
30	Staff	Street Lighting		(5,335)	(2,668)	-	(40)	(2,628)	(79)	(31)	-
31		**TOTAL STREET LIGHTING**		**(5,335)**	**(2,668)**	**-**	**(40)**	**(2,628)**	**(79)**	**(31)**	**-**
32											
33		**GENERATION**									
34	Staff	Steam - Cost Class Adjustments		(6,997)	(3,499)	-	(72)	(3,426)	(144)	(40)	-
35	Staff	Pumped Storage - Ludington Cost Class Adjustments		(1,742)	(871)	-	(12)	(859)	(24)	(10)	-
36	ABATE	Steam - Covert Plant - Unit 2 SCR/CO Catalyst Replacement		(142)	(142)	-	(6)	(136)	(6)	(2)	-
37	ABATE	Steam - Covert Plant - Unit 3 SCR/CO Catalyst Replacement		(142)	(142)	-	(6)	(136)	(6)	(2)	-
38	ABATE	Steam - Covert Plant - Gas/Steam Turbine Generator Roll-up Doors		(535)	(535)	-	(26)	(509)	(22)	(6)	-
39	ABATE	Steam - Covert Plant - Office Space with Loading Dock		(1,817)	(909)	-	(19)	(890)	(37)	(10)	-
40	ABATE	Steam - Karn Units 3 & 4 - Unit 4 Expansion Joint Replacement		(1,900)	(950)	-	(20)	(930)	(39)	(11)	-
41	ABATE	Steam - Karn Units 3 & 4 - Replacement of Ductwork Insulation and Lagging		(4,800)	(2,400)	-	(50)	(2,350)	(99)	(28)	-
42	ABATE	Steam - Covert Plant - Units 1-3 Extra Work Not included in LTSA		(24,657)	(12,328)	-	(254)	(12,074)	(509)	(142)	-
43	AG/ABATE	Hydro - River Hydros		(130,340)	(54,190)	(30,320)	(8,840)	(75,671)	(9,646)	(626)	(1,882)
44	Staff	Other - Armstrong BESS Pilot		(14,034)	-	(8,382)	-	(8,382)	-	-	(520)
45		**TOTAL GENERATION**		**(187,106)**	**(75,966)**	**(38,702)**	**(9,305)**	**(105,363)**	**(10,533)**	**(878)**	**(2,402)**
46											
47		**OPERATIONS SUPPORT**									
48	AG	Facilities and Shared Services - New Construction - Lansing Service Center		(17,372)	(10,389)	-	(105)	(10,283)	(162)	(120)	-
49	AG	Facilities and Shared Services - New Construction - Hastings Service Center		(136)	(136)	-	(2)	(134)	(2)	(2)	-
50	AG	Facilities and Shared Services - Renovations - Kalamazoo Service Center		(14,239)	(9,527)	-	(117)	(9,410)	(149)	(110)	-
51	AG	Facilities and Shared Services - Renovations - Control/Dispatch Center		(10,473)	(7,688)	-	(106)	(7,582)	(120)	(89)	-
52		**TOTAL OPERATIONS SUPPORT**		**(42,220)**	**(27,740)**	**-**	**(331)**	**(27,409)**	**(433)**	**(321)**	**-**
53											
54		**INFORMATION TECHNOLOGY**									
55	Staff	IT/Digital Foundation - 20% ROM adjustment		(89)	(89)	-	(19)	(70)	(18)	(1)	-
56		**TOTAL INFORMATION TECHNOLOGY**		**(89)**	**(89)**	**-**	**(19)**	**(70)**	**(18)**	**(1)**	**-**
57											
58		**OTHER**									
59	Staff	LIBA Program		(1,921)	(1,473)	-	(50)	(1,423)	(55)	(17)	-
60		**TOTAL OTHER**		**(1,921)**	**(1,473)**	**-**	**(50)**	**(1,423)**	**(55)**	**(17)**	**-**
61											
62		**TOTAL**		**(704,543)**	**(388,647)**	**(38,702)**	**(15,554)**	**(411,796)**	**(19,484)**	**(4,490)**	**(2,402)**
63											
64		**Working Capital**									
65	AG	Cash						(27,000)			
66	AG	Accrued Interest						7,700			
67		**TOTAL WORKING CAPITOL**						**(34,700)**			
68											
69		**TOTAL**						**(446,496)**			

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

STATE OF MICHIGAN)
) SS.
County of Ingham)
_____)

Case No. U-21585

PROOF OF SERVICE

Meaghan Dobie, being duly sworn, deposes and says that on January 27, 2025, she served a copy of the attached Notice of Proposal for Decision and Proposal for Decision via email to the persons as shown on the attached service list.

Meaghan Dobie

Subscribed and sworn to before me this
27th day of January 2025.

Brianna L. Brown
Notary Public, Gratiot County, Michigan
My Commission Expires July 4, 2028

SERVICE LIST
CASE NO. U-21585

CONSUMERS ENERGY COMPANY
Spencer A. Sattler
Gary A. Gensch Jr.
Anne M. Uitvlugt
Bret A. Totoraitis
Evan B. Keimach
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