

February 28, 2025

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Post Office Box 30221
Lansing, MI 48909

RE: MPSC Case No. U-21859 – In the Matter of the Application of Consumers Energy Company for Ex Parte Approval of Certain Amendments to Rate GPD.

Dear Ms. Felice:

Enclosed for electronic filing in the above-captioned case, please find **Consumers Energy Company's Answer to the Association of Businesses Advocating Tariff Equity, the Michigan Attorney General, and the Data Center Coalition's Motions for a contested case and alternatively Consumers Energy Company's request for an in person hearing.** This is a paperless filing and is therefore being filed only in PDF. Also included is a Proof of Service showing service upon the parties.

Sincerely,

Anne M. Uitvlugt
Phone: 517-788-2112
Email: anne.uitvlugt@cmsenergy.com

cc: Parties Per Attachment 1 to the Proof of Service

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
CONSUMERS ENERGY COMPANY)
for Ex Parte Approval Certain Amendments)
to Rate GPD.)
_____)

Case No. U-21859

**CONSUMERS ENERGY COMPANY’S ANSWER TO THE ASSOCIATION OF
BUSINESSES ADVOCATING TARIFF EQUITY, THE MICHIGAN ATTORNEY
GENERAL, AND THE DATA CENTER COALITION’S MOTIONS FOR A
CONTESTED CASE AND ALTERNATIVELY CONSUMERS ENERGY COMPANY’S
REQUEST FOR AN IN PERSON HEARING**

On February 7, 2025, Consumers Energy Company (“Consumers Energy” or the “Company”) requested that the Michigan Public Service Commission (“MPSC” or the “Commission”) approve certain amendments to Rate GPD. These proposed amendments will balance the interests of new data centers with other Consumers Energy customers by proposing changes to address the unique circumstances created by data centers and to ensure that accommodating future potential load growth attributed to data centers does not create unacceptable risks for Consumers Energy or its customers. After the filing of the Company’s Application, the Association of Businesses Advocating Tariff Equity (“ABATE”), the Data Center Coalition (“DCC”), and the Michigan Attorney General (“Attorney General”) each filed a motion requesting a contested case proceeding. These requests for a contested case are based on faulty premises or a misunderstanding of the Company’s Application. These arguments are addressed below.

ABATE’s request for a contested case hearing is based on an incorrect premise – that the Company is requesting to serve data center load on Rate GPD. See ABATE’s Motion, page 4-6. This is inaccurate. Consumers Energy is not requesting approval to serve customers on Rate GPD; such a request is unnecessary because Rate GPD is already approved for large customers, including

data centers. As indicated in the Company's filing, if a new data center customer requested service today that customer would take service on Rate GPD as that rate is the most appropriate and competitive rate for the prospective load currently available. The Company's filing is focused on placing financial and other risk-related safeguards on the potential new load and absent the Company's filing, there will not be any protections in place for the Company's other customers. The Company's Application is designed to ensure that certain protections are in place due to the size of the data center customer's load and the impacts it could cause to the Company and its other customers if that load is reduced or eliminated after the Company begins serving it.

ABATE further contends that *ex parte* treatment of the Company's request is inappropriate because "the revisions to Rate GPD which will increase taking service on that rate by, according to the Company, as much as 15 GW, with uncertain cost and revenue impacts for the Company and its customers." ABATE's Motion, pages 6-7. But the potential increase in service on Rate GPD would occur irrespective of the Company's proposed modifications. And while ABATE's Motion suggests that the Company should not serve these customers until a separate rate is approved (ABATE's Motion, pages 8-9), that suggestion is inconsistent with Michigan law. The Company is obliged to serve customers who locate in its service territory, and Rate GPD is the rate which would apply to data centers.

Based on its concerns, ABATE advances the idea creating a separate standalone rate for the data center customers on an *ex parte* basis based on its proposed modifications. ABATE's Motion, page 10. Once large-scale data centers start to come online, the Company expects to use

the load data to analyze putting data centers in their own cost of service column and developing a rate specific to data centers. Direct testimony of Company witness Laura Connolly, page 5.¹

In its Motion, the Attorney General argues that this case should be converted to a contested case proceeding as the Company's Application "may disrupt the State's ability to achieve its renewable and clean energy standards established by the legislature under Public Act 235." Attorney General's Motion, page 4. This reflects a misunderstanding of the Company's request. As indicated above, Consumers Energy is obliged to serve new data center customers today. Any new data center customer load would be on Rate GPD. Like any potential new customer, the projected load of that customer would be incorporated into the sales forecast. The forecasted electric retail sales are used in calculating the renewable energy compliance targets over RE Plan period. This process would be true for any load added or lost by the Company. It is for this reason that the legislature required the Company to file renewable energy plan amendments approximately every two years. While the Company's renewable energy plan addressed some of the risks for meeting the renewable energy compliance targets, as required by the Commission's filing requirements, this risk would be present irrespective of the Company's proposed amendments to Rate GPD. Moreover, Consumers Energy currently has an application pending in Case No. U-21816 in which the Company's amended Renewable Energy Plan is being considered as part of a contested case to which the Attorney General is a party. Concerns about the Company's ability to meet the renewable energy standard should be raised in that case, not this one.

Additionally, the Attorney General cites to MCL 205.54ee as a reason for the Company's Application to be converted to a contested case proceeding. However, this statute is unrelated

¹ DCC argues that this proceeding should be converted into a contested case proceeding as the Company filed testimony supporting the request. DCC's Petition, page 9. This argument ignores the fact that the Company also filed an affidavit accompanying the testimony swearing to the truthfulness therein.

and irrelevant to the actions being proposed in this docket. MCL 205.54ee establishes a sales tax exemption for data centers subject to certain requirements. Specifically, the Attorney General points to MCL 205.54ee(10)(E)(ix), which provides,

At the time an exemption is claimed under subsection (4), the facility will have procured or will procure clean energy as that term is defined in section 51 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1051, equivalent to 90% of the facility's forecasted electricity usage on an annual basis, and a qualified entity or its affiliates claiming the exemption will certify to the Michigan strategic fund in accordance with subsection (6)(c) that this requirement is met. Demonstration that this requirement is met may be made by any of the following and electric utilities, cooperative electric utilities, and municipal utilities shall identify and, if necessary, develop tariffs, contracts, and other mechanisms that support the enterprise data center in making this demonstration:

(A) Self-supply through on-site generation that meets the definition of renewable energy as that term is defined in section 11 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1011.

(B) Long-term contract with the electric utility, cooperative electric utility, or municipal utility serving the geographic area where the facility is located, which ensures no costs to serve the facility are passed onto other customers of the electric utility, cooperative electricity utility, or municipal utility. This sub-subparagraph shall not be interpreted to require the facility to be allocated costs of network transmission upgrades that would otherwise be allocated to other customers through the electric utility, cooperative electric utility, or municipal utility's generally applicable rate-making processes for the recovery of such costs, such as power supply cost recovery proceedings under section 6j of 1939 PA 3, MCL 460.6j.

(C) Participation in a voluntary green pricing program as set forth in section 61 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1061.

Consumers Energy recognizes that if a data center claims a sales tax exemption, depending on the exemption claimed, the data center will have to procure clean energy equivalent to 90% of the facility's forecasted electricity usage on an annual basis, and the data center will need to certify

that this requirement has been met. For its part, Consumers Energy will support the data center in making this representation; however, this is not what this proceeding is addressing. This case is solely focused on putting safeguards in place so that when the Company accommodates the growth attributed to data centers it does not create unacceptable risks for Consumers Energy or its customers. As indicated above, the Company expects to analyze data centers' load data to put data centers in their own cost of service column and ultimately develop them a specific rate.

DCC argues that *ex parte* treatment of the Company's Application is unlawful as it would increase costs to customers. DCC's Petition, pages 7-8. DCC's request is premised on the contention that the proposed changes to Rate GPD will result in an increase in the cost of service to its customers, and further contends that even if Consumers Energy's Rate GPD proposals would not change existing rates, the proposals will increase the charges and fees paid by data center customers by changing the tariff's terms and conditions. DCC's Petition, page 8. In its Petition, the DCC states that its members include current and prospective customers of Consumers Energy. DCC's Petition, page 2. While it is accurate that the Company currently serves a data center customer, that customer is not on Rate GPD and would not be impacted by the changes to Rate GPD proposed by the Company's Application. Any changes requested in the Company's application would not impact the cost of service to the Company's customers. While it is true that future customers may be impacted by these proposed amendments, that does not modify the ability to approve the Commission's ability to approve the Application on an *ex parte* basis.

Consumers Energy has several new data center customers who are considering locating in the Company's service territory. In order to ensure the requested amendments to Rate GPD are in place before the Company enters into contracts to serve new data centers, the Company requests the Commission grant the relief requested in this Application in an expeditious manner.

Consumers Energy recognizes that the issues presented by the large data center requests are extraordinary and unprecedented. See ABATE's Motion, page 7. While Consumers Energy worked diligently to develop proposed modifications to provide safeguards for customers, there may be value to allow for further discussion. To that extent, rather than set a contested case proceeding, Consumers Energy requests that the Commission set dates for initial and reply comments to further discuss the Company's request and then review the Company's proposed amendments to the Company's Rate GPD on an *ex parte* and expeditious basis.

In the event the Commission determines that this case should be conducted as a contested case, the Company requests that a schedule be set that allows for an expeditious decision. In addition, if a contested case is ordered, the Company requests that the evidentiary hearings be conducted in person at the Commission's offices. Consumers Energy also requests that the Commission direct the parties to meet in person to conduct settlement negotiations on the matters presented in the Company's Application.

Respectfully submitted,

CONSUMERS ENERGY COMPANY



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Bret A. Totoraitis (P72654)

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Jackson, Michigan 49201

Attorneys for Consumers Energy Company

(517) 788-2112

Dated: February 28, 2025

By:

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
CONSUMERS ENERGY COMPANY)
for Ex Parte Approval Certain Amendments)
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_____)

Case No. U-21859

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Crystal L. Chacon, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on February 28, 2025, she served an electronic copy of **Consumers Energy Company’s Answer to the Association of Businesses Advocating Tariff Equity, the Michigan Attorney General, and the Data Center Coalition’s Motions for a contested case and alternatively Consumers Energy Company’s request for an in person hearing** upon the persons listed in Attachment 1 to this Proof of Service.

Crystal L. Chacon

Crystal L. Chacon

Subscribed and sworn to before me this 28th day of February 2025.

Melissa K. Harris

Melissa K. Harris, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 06/11/2027
Acting in the County of Hillsdale

ATTACHMENT 1 TO CASE NO. U-21859

Party	Mailing Address	Email Address
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