

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>CONSUMERS ENERGY COMPANY</b>	)	
for authority to increase its rates for the generation	)	Case No. U-21585
and distribution of electricity and for other relief.	)	
_____	)	

At the March 21, 2025 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair  
Hon. Katherine L. Peretick, Commissioner  
Hon. Alessandra R. Carreon, Commissioner

**ORDER**

**TABLE OF CONTENTS**

I.	PROCEDURAL HISTORY -----	1
II.	LEGAL STANDARDS -----	4
III.	TEST YEAR-----	5
IV.	RATE BASE-----	9
V.	COST OF CAPITAL -----	222
VI.	ADJUSTED NET OPERATING INCOME -----	254
VII.	REVENUE DEFICIENCY -----	359
VIII.	OTHER REVENUE AND NON-REVENUE RELATED ITEMS -----	360
IX.	COST OF SERVICE, RATE DESIGN, AND TARIFF ISSUES-----	409

**I. PROCEDURAL HISTORY**

On May 31, 2024, Consumers Energy Company (Consumers) filed an application requesting authority to increase its retail rates for the generation and distribution of electricity by approximately \$303 million, plus an additional \$22 million for a distribution deferral by way of a 12-month surcharge.<sup>1</sup> Application, p. 2. Consumers also requested other forms of regulatory relief including miscellaneous accounting authority. The company is currently providing service pursuant to base rates established by the March 1, 2024 order in Case No. U-21389 (March 1 order), in addition to various other approved costs through tariffs on file with the Commission, including power supply cost recovery (PSCR) factors, renewable energy plan (REP) surcharges, energy waste reduction (EWR) surcharges, and securitization bond charges.

According to Consumers, the rate increase sought in this case is based on the company's projections for relevant items of investment, expense, and revenue for a test year covering the 12-month period ending February 28, 2026. Application, p. 2. The company stated that it used depreciation rates authorized in Case Nos. U-20844 and U-20849 in determining its revenue requirements for this case and proposed a return on equity (ROE) of 10.25%, with an overall rate of return (ROR) on total rate base of 6.21% and a 50.75% common equity ratio. Application, p. 3. In its application, Consumers stated that the primary driver of its requested rate relief in this case is for investments needed to support key objectives of its Reliability Roadmap, as presented in its Electric Distribution Infrastructure Investment Plan (EDIIP or distribution plan) filed in Case No. U-20147 on September 27, 2023. Application, pp. 3-4. The company stated that additional

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<sup>1</sup> By the time of briefing, Consumers adjusted this amount to approximately \$255.4 million. Consumers' initial brief, Appendix A, line 10, column (e). Consumers' request for the additional \$22 million for a distribution deferral remained unchanged, however.

factors contributing to its need for increased electric revenues include investments in electric utility generation assets, investments in assets to comply with safety and legal requirements, technology investments, investments in the company's fleet and facilities, operations and maintenance (O&M) expenses to support long-term investments, and increased financing costs to attract capital for necessary investments. *Id.*, pp. 7-8. Additional requests, per the company, include costs associated with the company's demand response (DR) programs, along with the company's request to maintain its transportation electrification plan (TEP) and associated funding as approved in previous Commission cases but with proposed enhancements to its TEP programs. *Id.*, p. 8. The company also sought rate design and tariff changes, along with approval of other mechanisms, surcharges, and amortization expenses in this case. *Id.*, pp. 8-11.

On June 27, 2024, Administrative Law Judge Sally L. Wallace (ALJ) conducted a prehearing conference at which the ALJ either acknowledged or granted intervention in the case to the following parties: the Michigan Department of Attorney General (Attorney General), Michigan Cable Telecommunications Association, Inc.; Michigan Environmental Council, Natural Resources Defense Council, Inc., Sierra Club, and Citizens Utility Board of Michigan (collectively, MNSC, or MNC where Sierra Club testimony is not included);<sup>2</sup> the Environmental Law and Policy Center, Ecology Center, Inc., Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations or the CEOs); Energy Michigan; the Foundry Association of Michigan; Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United (collectively, MEIU); Urban Core Collective (UCC);

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<sup>2</sup> In this case, MNSC presented the testimony of one witness, whereas MNC presented the testimony of three witnesses. Briefing on behalf of these parties, along with replies to exceptions, however, were collectively submitted by MNSC. The Commission uses both in this order where appropriate but considers the evidence and arguments to essentially be on behalf of one and the same.

Michigan Electric Transmission Company (METC); Michigan Municipal Association for Utility Issues (MI-MAUI); the Association of Businesses Advocating Tariff Equity (ABATE); Michigan State Utility Workers Council, Utility Workers Union of America, AFL-CIO (MSUWC); Great Lakes Renewable Energy Association, Inc. (GLREA); Hemlock Semiconductor Corporation (HSC); The Kroger Co.; and Walmart Inc. (Walmart). Consumers and the Commission Staff (Staff) also participated in the proceeding. A schedule for the case was also established by the ALJ in accordance with the 10-month timeframe set forth in MCL 460.6a(5).

On June 28, 2024, the ALJ adopted a protective order for use in the matter.

Direct testimony was filed by the Staff and intervenors on September 27, 2024, and rebuttal testimony was filed by the parties on October 18, 2024.

On October 23, 2024, the Staff filed a motion to strike portions of Consumers' pre-filed rebuttal testimony addressing service restoration expense recovery (motion to strike). On October 28, 2024, MNC filed a response in support of the motion to strike (MNC's response in support), and Consumers filed a response in opposition to the motion to strike. On October 31, 2024, the ALJ granted the motion to strike. 3 Tr 321-325.

Evidentiary hearings were held on October 30 and 31 and November 1 and 4, 2024, where cross-examination took place. Timely initial and reply briefs were filed thereafter by most of the parties in this case.

The ALJ issued her Proposal for Decision (PFD) on January 27, 2025. On February 14, 2025, HSC, the Staff, ABATE, the Attorney General, MEIU, Consumers, the CEOs, UCC, and GLREA filed exceptions. On February 27, 2025, MEIU, UCC, Consumers, ABATE, the Staff, the CEOs, MNCS, and the Attorney General filed replies to exceptions.

The record consists of testimony from 75 witnesses contained within 3,911 pages of transcript, along with 689 exhibits, several of which also have a confidential version.<sup>3</sup>

## II. LEGAL STANDARDS

Before addressing disputed issues in the case, the ALJ provided the following review of the legal standards applicable to this matter:

The Commission applies the preponderance of the evidence standard when making findings of fact or weighing conflicting evidence. The Commission is required to set rates that are just and reasonable when exercising its ratemaking authority.

The rate-making process necessarily “involves a balancing of the investor and the consumer interests.” A public utility is constitutionally protected from being limited to rates that are so inadequate as to be confiscatory. 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. 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.”

In considering whether rates are just and reasonable, it is the result reached, and not the methods employed, that is controlling. 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[.]” Additionally, ratemaking is a legislative function, and the Commission is not bound by any particular method or formula in the exercise [of] this legislative function.

PFD, pp. 15-16 (footnotes omitted, first and second alterations in original). The ALJ then indicated, given the Commission’s broad discretion in the ratemaking process and absent any

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<sup>3</sup> The docket also contains public comments within the Case Comments section. *See*, Case No. U-21585, filing ##U-21585-0001-CC through -0010-CC as of the date of this order.

issues rising to the level of a constitutional concern, that she would primarily look to precedent in guiding her decisions in this case.

In exceptions, the Attorney General asserts that the ALJ failed to address the relative evidentiary burdens of the parties in full when addressing the applicable legal standards to be applied in this case. Given this context, the Attorney General adds that:

[a] party seeking relief has the burden of proving his, her, or its claim by a preponderance of evidence in administrative cases. Likewise, in cases before the Commission, the utility bears the burden of proof by a preponderance of evidence to demonstrate that its proposals are just and reasonable. The obligation of proving any fact lies upon the party who substantially asserts the affirmative of the issue. A plaintiff always has the burden of proving its cause of action. Given the nature of the burden of proof, the Commission may reject even uncontradicted evidence. When the burden of proving a fact falls on one party, then the other party does not have the burden of proving the opposite fact.

Attorney General's exceptions, pp. 3-4 (footnotes omitted).

The Commission agrees with the ALJ and the Attorney General on the legal standards applicable to this case and applies and adopts the same in this order. *See*, PFD, pp. 15-16; Attorney General's exceptions, pp. 3-4.

### **III. TEST YEAR**

In developing its rates for this proceeding, Consumers relied on a projected test year from March 1, 2025 to February 28, 2026 (projected test year or test year); a 14-month bridge period from January 1, 2024 through February 28, 2025 (bridge period); and a 2023 historical year (historical year). The Attorney General, ABATE, and MNC objected and/or made recommendations regarding the company's use of a projected test year in this case.

Due to unnecessary complications and tight time constraints in reviewing rate cases, the Attorney General recommended that the Commission direct Consumers to avoid bridge periods and projected test years that do not end in a calendar year (or to at least end in a calendar quarter)

and for the company to also minimize duplicative testimony and thus be more concise and direct in presenting pertinent evidence to support its forecasted costs. 5 Tr 2721-2723. The Attorney General, in this discussion, also addressed unique regulatory review challenges with the use of a future test year, along with the utility's burden in rate cases, the delay of investments or expenses to subsequent rate case proceedings, and the used and useful standard as it relates to projected capital expenditures. 5 Tr 2909-2914.

Citing over-projection of costs in the past, rate case increases impacting customers sooner, the elimination of the incentive to contain costs, costs that may never actually be incurred, the hindrance for the Staff and intervenors to review costs, and costs that cannot be known and measurable from the historical test year, ABATE recommended that the Commission reject Consumers' projected test year and instead approve the company's historical revenue deficiency of \$69.8 million, adjusted down to reflect ABATE's recommended ROE and capital structure for the company in this case. 5 Tr 3282, 3285-3293. Alternatively, if the Commission allows Consumers to use a projected test year in this proceeding, ABATE recommended that the Commission limit the company's revenue increase to no more than \$234.1 million, or \$212.4 million if Consumers' requests for an expanded investment recovery mechanism (IRM) and DR surcharge are granted. 5 Tr 3282-3285.

MNC discussed how the use of a projected test year complicates evaluation, mentioning how use of the same amplifies the level of scrutiny and discernment required by intervenors and the Commission, removes the need for restraint in capital spending and requests, and encourages utilities to pursue much riskier capital projects and programs. 5 Tr 3028.

Consumers rebutted, noting among other things the Commission's consistent adoption of projected test years in prior rate cases, including in Case No. U-21389. The company also

expressed concern with the use of historical test years, including the potential for write-offs with disallowances, and recommended rejection of the application of the used and useful principle in this case, instead requesting that the Commission continue to evaluate each proposed project on its individual merits to determine reasonableness and prudence. 4 Tr 426-434; Consumers' initial brief, pp. 7-11. Consumers also claimed it has a statutory right to have its rates based on a projected test year. Consumers' initial brief, p. 7 (citing MCL 460.6a(1) and the November 2, 2009 order in Case No. U-15645 (November 2 order)).

The ALJ found that the recommendations to establish new rates based entirely on historical periods have been rejected by the Commission in the past, including in cases involving Consumers' electric and gas businesses, along with DTE Electric Company (DTE Electric) and DTE Gas Company (DTE Gas). The ALJ noted, however, that "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 support, historical data may be used to develop the revenue requirement." PFD, pp. 23-24. Thus, per the ALJ, "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." *Id.*, p. 24. The ALJ further noted that "[t]he 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," and thus found that Consumers' projected test year should be adopted, with costs and revenues adjusted based on the preponderance of the evidence. *Id.*

In exceptions, Consumers overall notes that, "[i]n response to prior Commission direction for the Company to provide more detailed evidence in support of its rate requests, the Company has diligently improved the quality of its evidentiary presentation." Consumers' exceptions, p. 4.

That aside, Consumers takes issue with the ALJ's statement about the company's "'oft-repeated claim that it has a 'right' to have its rates fully set based on projected costs and revenues should again be rejected.'" *Id.*, p. 7 (quoting PFD, p. 24). Consumers expresses confusion as to what position the ALJ is ultimately recommending be rejected here but nevertheless clarifies that its position of any "right" to use a projected test year "is not addressing the evidentiary standard required to approve cost projections or the extent to which historical costs should be considered in examining those projections[ ] [but,] [r]ather, the Company's right to use a projected test year for determining rates arises from the statutory language stating that '[a] utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges.' MCL 460.6a(1)." Consumers' exceptions, p. 7. Consumers also claims the Commission has repeatedly recognized in past cases the legal right to use a projected test year and maintains its statutory "right" to do so in this case pursuant to statute and past Commission orders. *Id.*, pp. 7-8 (citing the November 2 order, p. 8; the December 22, 2021 order in Case No. U-20963 (December 22 order), p. 9; and May 8, 2020 order in Case No. U-20561 (May 8 order), p. 11).

Also objecting, the Attorney General argues that her position on the use of a projected test year is misstated by the ALJ. To thus clarify, the Attorney General states that she:

noted that the use of a projected test year is permissive and that a utility using one in its rate case must be held to its burdens of proof. While the Attorney General identified problems with using a projected test year, she never recommended that the Commission completely deny the Company the ability to use a projected test year. Instead, she focused on the Company's burden of proof to support its projections and identified certain criteria used by her witness(es) for evaluating whether some of the proposed expenditures are adequately supported including whether the projected costs are measurable and known and that the capital investment would be used and useful in the projected test year. She never argued that the Company's projections be limited across the board to the historical year amount. In situations where her witnesses relied in whole or in-part on the historical year amounts in determining amounts for inclusion in rates, it was their opinion that the historical amount provided a reasonable projection for the test year

and not merely adherence to some dogma that all costs should be based on the historical year.

Attorney General’s exceptions, pp. 4-5 (footnotes omitted) (citing Attorney General’s initial brief, pp. 14-20, 111-115; PFD, pp. 275-278). The Attorney General highlights, however, that the ALJ “ultimately agreed that the used and useful standard used by the Attorney General and others could be considered in determining whether the Company supported its projections on a case-by-case basis,” to which she does not dispute. Attorney General’s exceptions, p. 5.

The Commission acknowledges that the use of projected test years by utilities in developing requested rates in rate cases is permissible per statute—subject, however, to the burden that the company prove the accuracy of each and every test year projection. In this vein, the Commission reminds the parties that, while MCL 460.6a(1) “plainly provides the utility with the opportunity to develop requested rates based on projected costs and revenues,” the statutory language “does not require the Commission to approve such requested rates.” January 23, 2025 order in Case No. U-21534 (January 23 order), p. 25. The Commission also acknowledges and accepts the Attorney General’s clarification regarding her position on the use of projected test years in this case. That said, the Commission agrees with the ALJ that “the burden of proof to substantiate projections lies with the utility, and absent sufficient support, historical data may be used to develop the revenue requirement,” that “the used and useful standard should be applied on a case-by-case basis,” and that Consumers’ projected test year should be adopted in this case, with costs and revenues adjusted based on the preponderance of the evidence. PFD, pp. 23-24.

#### **IV. RATE BASE**

Rate base consists of the capital invested in used and useful utility plant, less accumulated depreciation, plus the utility’s working capital requirements. By the briefing stage of this case,

Consumers projected a total electric rate base of \$15,161,786,000 for the test year, and the Staff calculated a jurisdictional rate base of \$14,813,562,000 for the test year. Consumers' initial brief, Appendix A, line 1, column (e); Staff's reply brief, Appendix A, line 1, column (e). The Attorney General recommended a \$936.5 million reduction to rate base, including a \$44.3 million reduction in working capital. Attorney General's initial brief, pp. 10-11. Other parties also addressed individual rate base items.

Contested rate base issues are addressed *ad seriatim* below.

#### A. Net Utility Plant

Net utility plant is comprised of plant held in service, plant held for future use, and construction work in progress (CWIP), less the depreciation reserve. Consumers' projected rate base capital amounts are divided into the following programs: Electric Distribution, Streetlighting, Generation, Information Technology (IT), Security, Electric Vehicles (EVs), Operations Support, Fleet Services, Corporate, Customer Experience and Operations, and DR. Exhibit A-12, Schedule B-5.

##### 1. Distribution Capital Expenditures

Consumers proposed increasing capital spending on low voltage distribution (LVD) and high voltage distribution (HVD) systems in both the bridge period and test year, specifically proposing to invest \$1,016,977,000 in capital projects in the 14-month bridge period and \$1,307,115,000 in the test year (in addition to additional distribution system O&M expenses in the test year which are discussed later within Part VI of this order). 5 Tr 847; Exhibit A-12, Schedule B-5.6. Several parties objected to this increased capital spend, either on a per line basis or overall or both.

On pages 26-40 of the PFD, the ALJ provided an overview of distribution capital expenditures in this case, including Consumers' presentation of evidence and party positions of the Attorney General, MNC, and the Staff, with the ALJ ultimately opining on the same as follows:

First, this [ALJ] 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. This [ALJ] 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 [System Average Interruption Duration Index] [e]x-MEDs [excluding major event days] 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 [ALJ] 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 justify the higher spending levels proposed in this rate case and likely in future rate cases." As Mr. Coppola pointed out:

For All-Weather conditions, customers experienced between 2,079,621 and 2,973,272 [ ] 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. 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.

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 [ALJ] 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 [ALJ] 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 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 [ALJ] 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.

PFD, pp. 38-40 (footnotes omitted) (quoting 5 Tr 2728-2729 and citing 5 Tr 2994, 3861; Staff's initial brief, pp. 170-171). Keeping these concerns in mind, the ALJ then turned to specific distribution programs, subprograms, and spend categories in dispute, beginning with HVD below.

In exceptions, Consumers maintains that its distribution investments, as detailed in its Reliability Roadmap, are necessary to improve reliability and resilience by way of activities including increased line clearing, asset hardening, rehabilitation, and automation; that these proposals are in direct response to the concerns of the Commission and other interested persons with regard to the reliability of the company's distribution system; that these proposed capital expenditures prioritize investments to achieve the important outcomes described in the Reliability Roadmap; and that these proposed investments described in the Reliability Roadmap will result in SAIDI improvements that will place the company in the second quartile when benchmarked against utility peers. Consumers' exceptions, pp. 8-9 (citing 5 Tr 844-845, 860, 862, 864, 869, 906, 929-930; Exhibit A-111). Consumers, in this sense, objects to the ALJ's "perplexing" disregard of the Reliability Roadmap in light of the Commission's stance on the requirement and

value of distribution plans for several years now, including the Commission’s view that the distribution plan docket is informational with utility forward outlooks that then feed into the utilities’ general rate case filings for subsequent approval or rejection, the latter of which is precisely how the company asserts it used its Reliability Roadmap in this case. Consumers’ exceptions, pp. 9-10 (citing PFD, p. 28, and the September 26, 2024 order in Case No. U-20147, pp. 133, 136). Consumers states that it did not argue that the Commission should grant approval of its projected expenditures in the present case simply because they are consistent with the Reliability Roadmap; rather, the company presented its Reliability Roadmap as part of its evidence to support the reasonableness and prudence of its planned distribution expenditures and also to show broader context. Consumers states that “[w]hile the [ALJ] is correct that the Reliability Roadmap was filed in an uncontested proceeding – it was also admitted as an exhibit, and is part of the evidence, in this contested case,” to which the parties had the opportunity to examine and present evidence and arguments in response thereto. Consumers’ exceptions, p. 10.

Consumers also objects to the ALJ’s statement about the “undisputed” fact that the company’s previous investments have resulted in “*de minimis*, if any, improvement in basic reliability metrics,” arguing that:

[t]hat conclusion is wrong – the Company plainly showed the reliability improvements that have been gained with previous investments in the distribution system. Much of the Company’s current distribution strategy began with the development of the first EDIIP filed in 2018, and the Company has delivered improvements in systemwide SAIDI (excluding MEDs) since that time. SAIDI has improved from 233 minutes in 2019 to 176 minutes in 2023. 5 TR 923, 1027. This improvement is not *de minimis*.

*Id.* (quoting PFD, pp. 39-40). Consumers emphasizes that it has made this improvement even with worsening weather and system deterioration, which does impact reliability, as shown by the evidence in this case and contrary to the ALJ’s statement otherwise. Consumers’ exceptions,

pp. 11-14 (citing PFD, p. 39; 5 Tr 855-857, 924-925, 933-935, 1027-1028). In addition to systemwide SAIDI improvements, Consumers also recaps its evidence demonstrating that distribution investments have rapidly provided local benefits (i.e., reductions in outages), including in the areas of zonal health improvements and HVD line rebuilds, reiterating that it does take time for local benefits to reflect in improved systemwide SAIDI considering the size of the company's system. Consumers' exceptions, pp. 14-16 (citing 5 Tr 564-565, 1027, 2024).

Consumers continues:

In seeming response to the Company's explanation that it takes time for local benefits to be reflected systemwide, the [ALJ] stated that "SAIDI is measured and reported annually, and it is not a rolling average that includes several years of reliability results." PFD, page 39. The [ALJ]'s statement misunderstands the Company's testimony. The Company did not contend that SAIDI is a "rolling average" – the Company merely explained that when investing on the distribution system, local benefits are experienced quickly, but since the system is so large and the Company can only improve a small portion at a time, it takes time to accumulate significant SAIDI gains on a systemwide basis.

Consumers' exceptions, p. 16 (quoting PFD, p. 39).

Consumers further objects to the ALJ's statement that increased HVD and LVD distribution spending does not provide sufficient benefits going forward to support the company's proposed spending amounts, arguing that the ALJ is again incorrect. Consumers states that:

[i]nvestments in the distribution system are required to improve reliability, but as discussed above, it takes time to realize systemwide SAIDI improvements, particularly considering deterioration and worsening weather. 5 TR 1040. In addition, not all SAIDI improvements with [sic: will] be accomplished at the same cost – some improvements may require projects that are more complex and costly. 5 TR 1040-1041. That does not mean that the Company should stop striving to improve the system. The investments at the levels identified in the Reliability Roadmap put the Company on the path to a SAIDI of 116 minutes by 2032, which is in the second quartile compared to the Company's peers. 5 TR 1041. The Company submits that building a grid that delivers this improvement in reliability for customers is worth the projected cost.

Consumers' exceptions, p. 16.

Consumers also objects to the ALJ's suggestion that the company's "modeling and resulting proposals should include more complete and robust analysis of all-weather reliability metrics," arguing that its:

use of SAIDI excluding MEDs is consistent with the IEEE [Institute of Electrical and Electronics Engineers] standard used across the industry to normalize for unpredictable weather. 5 TR 1030. And Non-MED SAIDI includes lesser storm activity that still has a significant impact on reliability, contributing 29% of minutes to the Company's performance on SAIDI excluding MEDs. 5 TR 1028. Also, the Company provided data in the case showing SAIDI including MEDs, which indicates a significant year-over-year variation influenced by the number of MEDs each year because any MED is likely to result in more customer outages than those on a typical day. 5 TR 924. Distribution planning is typically based on SAIDI without MEDs given the random nature of MEDs. 5 TR 885.

*Id.*, p. 17 (quoting PFD, p. 38).

Finally, Consumers objects to the ALJ's agreement with the Staff's concern over the completion of the distribution audit in Case No. U-21305 and the possible incentives/disincentives in Case No. U-21400 that might change spending priorities in the near future, noting that the referenced testimony and briefing from the Staff merely raises this concern with regard to Year 2 of the IRM. Moreover, per Consumers, even if the audit results in the company adjusting IRM spend amounts in the test year, "the IRM mechanism includes a reconciliation process that ensures customers are not asked to support spending that does not take place, while also providing stakeholders an opportunity to understand any changes in spending that occurred." Consumers' exceptions, p. 17 (citing 4 Tr 441; PFD, p. 40).

In sum, Consumers contends that it presented "significant and compelling evidence in this case showing that the projected investments will implement the initial years of the Reliability Roadmap and work together to deliver significant reliability and resiliency benefits for customers" and that the Commission should thus reject all arguments to the contrary. Consumers' exceptions, pp. 17-18.

Also in exceptions, the CEOs state that the ALJ acknowledged testimony on non-wires solutions (NWSs) in her overview of distribution capital expenditures (as well as within her overview of the record) but then failed to analyze or resolve the CEOs' recommendation for NWSs—specifically that the Commission should order Consumers to “create a non-wires solution framework in its next distribution grid plan which identifies congestion points on the distribution grid, which could be good candidates for a non-wires solution package and then begin to apply these solutions to those specific grid points.” CEOs' exceptions, pp. 3-4 (quoting CEOs' initial brief, p. 18; 5 Tr 2664); *see also*, PFD, pp. 10, 12, 29. The CEOs assert that “[t]he record demonstrates that NWS[s] are a valuable tool which the Company should consider when identifying solutions to grid congestion and its reliability issues” and, in this regard, argue that the Commission should order Consumers to present an NWS framework in its next distribution plan. CEOs' exceptions, p. 4; *see also, id.*, p. 7.

Consumers, in response, asserts that the Commission should reject the CEOs' additional NWS-related requirement. Recapping testimony on its behalf, Consumers states that it has:

made clear that its concern with NWS is that the Company has seen proposals that NWS should be considered for a significant portion of distribution investments. 5 TR 1020. In that context, NWS would need to be standard and repeatable given the large number of distribution projects. 5 TR 1020-1021. CEO also state that there is typically no downside to implementing NWS, and point to a Consumers Energy pilot as an example of a successful NWS project. CEO's Exceptions, page 3. While the Company agrees that the targeted energy waste reduction (“EWR”) and demand response (“DR”) at the Swartz Creek and Four Mile pilots provided some benefits to participating customers, NWS is not always a zero-regrets proposition. 5 TR 1021. For example, in the Four Mile pilot, the Company was required to perform the traditional substation project anyway. While in that situation there was still time to execute that project, in other situations, the reliability or capacity issues may be more severe and may require more immediate attention. 5 TR 1021.

The Company is engaged in Electric Power Research Institute (“EPRI”) initiatives that are studying NWS, improving its understanding of NWS through working with other utilities. 5 TR 1022. Accordingly, the Company is already looking for ways

to make progress on this issue, but notes that it is important to do so in a way that does not risk grid reliability. *Id.*

Consumers' replies to exceptions, pp. 14-15. On this basis, Consumers asserts that the Commission should allow this engagement to continue but not require the company to develop NWSs by some near-term date.

The Staff also responds to the CEOs' exceptions and maintains that NWSs are not necessarily no-regrets solutions. The Staff reiterates that "[s]ince NWS[s] may be more expensive than wires solutions, . . . they should not be considered no-regrets solutions by default." Staff's replies to exceptions, p. 28. The Staff thus recommends that NWSs "should be considered as an alternative that should be evaluated along with what would be considered more traditional solutions." *Id.*

In response to Consumers' exceptions, MNSC asserts that the company's arguments presented here are "baseless, pointless, and meritless." MNSC's replies to exceptions, p. 4 (citing Consumers' exceptions, pp. 8-18). More specifically, MNSC argues that the ALJ "did not 'disregard' the Reliability Roadmap or any of the assertions, tables, or graphs Consumers presented [but] [i]nstead . . . reviewed the full record and fairly identified substantive and procedural limitations that render the Reliability Roadmap of limited value to support Consumers' capital spending requests;" that the company did not identify errors made by the ALJ with regard to her factual findings or legal conclusions but rather "attack[s] the [ALJ's] discussion of [the company's] contextual strategy instead of specific recommendations related to specific spending requests;" and that the ALJ "appropriately found the Company's proposed distribution reliability capital spending requests sits [sic: sit] upon an undependable foundation, and the Commission should, too." MNSC's replies to exceptions, p. 4 (footnotes omitted). Moreover, according to MNSC, "[t]he record solidly supports that Consumers' projection of reliability benefits (SAIDI excluding MEDs) trickling from its spending plan – as presented in the 2023 EDIIP then replicated

in its rate case – is simultaneously unimpressive and unreliable.” *Id.* (citing Exhibit A-111, p. 37; 5 Tr 860; MNSC’s initial brief, pp. 16-26). MNSC maintains that the company’s 2023 distribution plan is “grossly expensive” and “ignores the proven workhorse of reliability improvements – forestry line-clearing,” with MSNC arguing that, “[i]f ratepayers are lucky, Consumers might, by 2032, achieve a nine-year line-clearing cycle for the majority of its low-voltage lines.” MNSC’s replies to exceptions, pp. 5-6 (emphasis in replies to exceptions) (citing Exhibit A-111, pp. 84-87; MNSC’s initial brief, pp. 83-104). MNSC then goes on to assert that the company argues with the ALJ’s overview of the record “by rehashing its favorite cherrypicked factoids and ignoring most of the record.” MNSC’s replies to exceptions, p. 6. For example, per MNSC:

Consumers takes issue with the ALJs’ [sic] acknowledgement of the undisputed fact that [the] Roadmap failed to address storm conditions (all-weather SAIDI). Outages caused by storms significantly impact the customer experience, yet Consumers has not yet assessed reliability benefits from historic reliability program investments nor modeled the scope of all-weather benefits from its proposed investments. The [ALJ] reasonably concluded that “[a]ddressing those concerns about outages after MEDs might result in a different mix of investments or expenses than those proposed in the 2023 EDIIP.” MNC maintains that the Company’s distribution reliability strategy in gross and at the component level, as first presented in the 2023 EDIIP then in this case, provide[s] inadequate support to increase spending above from [sic] historic 2023 levels. The [ALJ] reasonably identified sufficient concerns about Consumers’ strategy underpinning its overall distribution capital spending strategy.

MNSC’s replies to exceptions, p. 6 (footnotes omitted) (quoting PFD, p. 38, and citing Consumers’ exceptions, p. 17, and MNSC’s initial brief, pp. 10-11).

Also in response to Consumers’ exceptions regarding this portion of the PFD, the Attorney General argues that only distribution investments that are shown to be reasonable and prudent should be approved. Attorney General’s replies to exceptions, p. 5. Along these lines, in addressing objections made by Consumers in the introduction portion of the company’s

exceptions,<sup>4</sup> the Attorney General asserts that providing safe and reliable service has always been an obligation of the company and the company's attempt to draw the Commission into the current state and needs of the distribution grid is a failure that should be rejected. Per the Attorney

General:

It is the Company's responsibility to manage and maintain its distribution system which it apparently failed to do. Second, the Company's claim that the paradigm has changed and that increasingly frequent severe weather patterns now have drawn more attention to resulting outages is an attempt to shift focus from the Company's neglect of its distribution system. The reality is that the Company's customers pay some the highest rates in the Country for relatively poor service.

Attorney General's replies to exceptions, p. 6. In further response to claims by the company here in exceptions, the Attorney General asserts that "[m]erely spending more is not the answer because capital expenditures place tremendous upward pressure on rates and have a disproportionately negative impact on lower income ratepayers, even with payment assistance;" "[i]t is not sustainable to simply heap rate increase after rate increase on ratepayers;" and while operating an electric utility requires investments, for those investments to be reasonable and prudent they "must include proper planning, allocation, and prioritization by the Company of what investments are truly important," requiring those costs to "be closely examined and any expenditures not supported by evidence eliminated." *Id.*, pp. 6-7. The Attorney General avers that the Commission's increased focus on safety and reliability "should not be interpreted as a call or opportunity for unbridled spending;" that "it took years of neglect and inattention for the distribution system to get to its current condition, and it will take time to correct;" and that "[t]he investment amount that should be approved depends on the Company's ability to meet its evidentiary burden," for which the Commission should also take "financial pain" for ratepayers into consideration. *Id.*, pp. 7-8.

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<sup>4</sup> See, Consumers' exceptions, pp. 1-6.

In this vein, the Attorney General underscores that the burden of proof is on Consumers in this case and asserts that, while the ALJ could have recommended even more disallowances as set forth by the Attorney General in exceptions, the ALJ's disallowance recommendations are justified by the record. *Id.*, pp. 8-10.

As to the NWS recommendation provided by the CEOs, the Commission partly agrees. The Commission does not find a separate framework for NWSs necessary at this time, as discussion and analysis of NWSs, along with proposed mechanisms for implementation, can be included readily in the company's next distribution plan, without introducing a preliminary framework review step, to explore potential ways to address congestion points and reliability issues on the distribution grid meaningfully. Further guidance on this topic will also be forthcoming in an upcoming order in Case No. U-20147.

On the topic of distribution plans, the Commission would also like to acknowledge statements made by Consumers in exceptions and note the Commission's full agreement with the company that it appropriately used its Reliability Roadmap in this case—not as evidence and argument that the Commission should grant approval of the company's projected expenditures in the instant case simply because they are consistent with the Reliability Roadmap, but rather as part of the company's evidence to support the reasonableness and prudence of its planned distribution expenditures, to show broader context, and to afford parties to the rate case the opportunity to examine and present evidence and arguments in response thereto. *See*, Consumers' exceptions, pp. 9-10. The Commission underscores that this is how distribution plans are supposed to be used in rate cases.

That all said, the Commission acknowledges the concerns of intervenors, as the ALJ captured in this portion of the PFD and as summarized above. One concern that the Commission would like

to highlight, in this context, is the concern over the difference of increased spending for capital projects of 44% to improve reliability in this case while spending projections for the proven and cost-effective method of tree trimming remains relatively flat. *See*, 5 Tr 2724; MNSC’s initial brief, pp. 9, 12. The Commission finds these spending projections to be incongruous and encourages the company to heed this noted concern.

In addition, the Commission notes that the Staff and intervening parties have expressed concern over capitalization policies and practices in a number of recent cases for both Consumers and DTE Electric. *See, e.g.*, testimony of the Staff and various intervening parties in Case Nos. U-18124, U-18424, U-20836, U-20940, U-21297, and U-21534. In the November 18, 2022 order in Case No. U-20836 (November 18 order), the Commission stated that “[u]tility capitalization policies are an ongoing concern for the Commission which warrants further investigation.” November 18 order, p. 471. At that time, the Commission noted that it had initiated an audit into the distribution systems of both Consumers and DTE Electric. *See*, October 5, 2022 order in Case No. U-21305 (October 5 order). The final results of this audit were posted to the docket in Case No. U-21305 on September 23, 2024, and the Commission subsequently directed Consumers and DTE Electric to file responses to the audit results and invited comments on the audit results. *See*, September 26, 2024 order in Case No. U-21305. In addition, in its recent order in Case No. U-21534, the Commission noted “[w]ith the audit report now filed, the Commission plans to set forth its next steps in evaluating utility capitalization policies in a separate proceeding in the near future.” January 23 order, p. 368. As it does in other portions of the instant order, the Commission notes its concern with the disproportionate increase to capital projects over potentially more cost effective O&M expenditures, as well as ongoing questions over whether certain cost categories have been appropriately classified as capital

projects and, as noted in the January 23 order, will set forth next steps on this issue in the near future.

a. High Voltage Distribution

As described by Consumers, the company's HVD system is the backbone of its distribution system consisting of HVD lines and substations that distribute electricity to the company's LVD substations. Consumers' HVD system includes 145 HVD substations, 4,623 miles of HVD lines, and 164 strategic customer substations and is largely a looped system with built-in redundancies to continue service or minimize customer impacts as a result of loss of any single component.

Consumers described the current health of its HVD system and explained needed investments to address asset health, to improve HVD system performance, and to improve reliability. 5 Tr 2005-2009. Consumers stated that its HVD capital programs are classified as planned (investments planned to proactively improve grid reliability through capacity upgrades and investments in new tools or technology) or unplanned (investments that are demand-driven and for customer-driven needs), with these programs falling under the following HVD program areas: reliability, capacity, electric other, new business, demand failures, and asset relocation. 5 Tr 2011-2012.

Raising concerns over the proposed substantial increases in HVD capital expenditures, including reasonableness and prudence concerns in terms of reliability improvements and goals, the Staff and MNC recommended overall limits on HVD capital spend, with the Staff recommending reductions of \$94.772 million in the 2024 bridge period, \$31.156 million in the affected two-months of the bridge period in 2025, and \$161.573 million in the test year and with MNSC recommending that HVD Reliability program spending be overall limited to 2023 levels

(i.e., a \$120.7 million disallowance). 5 Tr 3016, 3704-3712; Staff's initial brief, pp. 6-15;<sup>5</sup> MNSC's initial brief, pp. 31-35. Consumers disagreed. Consumers' initial brief, pp. 24-26, 38-41.

The ALJ agreed with the Staff's and MNC/MNSC's concerns over the proposed substantial increases in HVD capital expenditures but recommended that their proposals be rejected considering the Commission's consistent preference to evaluate spending on a program-by-program or project-by-project basis. If the Commission, however, decides otherwise, the ALJ recommended that the Staff's adjustments that include inflation for the bridge period and test year be used as a more reasonable approach than the recommendation advocated by MNC/MNSC, which did not include any inflationary adjustments. PFD, pp. 45-46.

No exceptions were filed on this portion of the PFD addressing HVD capital spend overall.<sup>6</sup>

The Commission finds the ALJ's recommendation well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ's findings and conclusion on this issue. *See*, PFD, pp. 45-46.

HVD sub-programs in further dispute are addressed below.

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<sup>5</sup> At briefing, the Staff withdrew certain adjustments, resulting in lower disallowance recommendations here for the bridge period and test year. *See*, Staff's initial brief, pp. 27-28, Appendix E.

<sup>6</sup> MNSC did address overall HVD Reliability program spending in its replies to exceptions; however, MNSC did not file exceptions in this case, and pursuant to Mich Admin Code, R 792.10435(2), "[i]f a party does not file exceptions to a proposal for decision within the time permitted by this rule, any objection to the proposal for decision is waived." Thus, all objections raised by MNSC in its replies to exceptions *as they relate to the ALJ's recommendations in the PFD*, including the objection noted here, are improper and neither summarized nor considered by the Commission in the rendering of this order.

i. High Voltage Distribution Lines Reliability

Consumers explained that its HVD Lines Reliability investments are intended to reduce the contribution of its HVD lines to SAIDI and to address deteriorated HVD lines assets that have been assessed to be in poor health. Work in the HVD Lines Reliability sub-program, per Consumers, consists of six investment categories: HVD line rebuilds; pole-top rehabilitations; pole replacements; switch replacement projects, including supervisory control and data acquisition additions; line sensor deployments; and right-of-way (ROW) acquisition. 5 Tr 2018. The Company projects capital expenditures of \$51.162 million in the bridge period and \$90.995 million in the test year for HVD Lines Reliability projects. 5 Tr 2026-2028; Exhibits A-125, p. 1; Exhibit A-126, p. 1.

Addressing the company's plans to double its HVD pole replacements under this category of expenditures, the Attorney General claimed that Consumers failed to provide sufficient justification for its proposed expenditures and therefore proposed a slower pace for pole replacement (i.e., to spread the increase in pole replacements over a three-year period), thus recommending a disallowance of \$7.205 million from the bridge period and \$4.986 million from the test year. 5 Tr 2770; Attorney General's initial brief, pp. 26-29. The Attorney General also addressed the company's ROW acquisition costs under this cost category, and, to match associated line builds for the projected test year, she recommended a disallowance of \$1.944 million in the test year. 5 Tr 2770-2771; Attorney General's initial brief, pp. 29-30. Consumers disagreed. Consumers' initial brief, pp. 23-24.

Citing concerns over prudent opportunities for reliability improvements in this cost category as compared to investments in the company's LVD lines program, the Staff recommended that capital expenditures for the company's HVD Lines Reliability cost category be reduced by

approximately \$59 million (for expenditures in the bridge period and the projected test year).

5 Tr 3711. With this, the Staff clarified that “[t]his comparison does not suggest moving funds from an HVD program to an LVD program or spending more on LVD programs” but was rather “intended to highlight that, from a perspective of reliability spending, some HVD programs prove to be less prudent than LVD programs at this time, and it would be appropriate to prioritize funding in this rate case on the most cost-effective programs.” Staff’s initial brief, p. 8. As an alternative, the Staff recommended that the Attorney General’s adjustments for HVD pole replacements be adopted. *Id.*, p. 10.

The ALJ rejected the Staff’s proposed adjustment to this cost category overall as being overly broad, albeit agreeing with the concerns raised about the substantial increases in HVD capital expenditures in this case, but did find that the Attorney General’s proposed adjustment for pole replacements (of \$7.205 million for the bridge period and \$4.986 million for the test year and also supported by the Staff) should be adopted. PFD, pp. 45, 48. For the pole replacement adjustment, the ALJ reasoned that:

[t]he 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 [ALJ] 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.

PFD, p. 48. The ALJ also found that the Attorney General’s proposed adjustment of \$1.944 million for ROW acquisition costs should also be adopted given the lack of sufficient detail by Consumers to support its costs, with the ALJ noting that additional ROW spending, if any, may also be recovered in a future rate case. *Id.*, pp. 48-50.

Consumers objects and argues that the Commission should reject the ALJ's recommended reduction in spending to address poles that need to be replaced. The company reiterates that it inspects HVD poles on an approximate 12-year cycle and identifies poles that need to be replaced because of any system threat or safety concerns and maintains that, as a result of these inspections, the company plans to spend about \$20.2 million in the bridge period to replace 847 poles and \$21.6 million in the test year to replace 905 poles. Consumers' exceptions, p. 19 (citing 5 Tr 2025, 2027; Exhibit A-123, p. 3). However, the ALJ's recommendation, according to Consumers, reduces the number of pole replacements to 545 in the bridge period and 696 in the test year. As to the ALJ's findings about the company's inspection cadence since 2022 and the number of poles replaced and expenditures spent in 2023, Consumers states that it:

acknowledges that it is proposing to replace more poles in the bridge period and test year than it has in recent historical periods, but that alone does not mean that the Company's plan should be rejected. Company witness Keith M. Kurdziel explained that the Reliability Roadmap highlighted the scale of needed HVD pole replacements, and the increase in replacements and projected spending in this case is to implement this focus on replacing the poles that have been identified for replacement through the inspection process. 5 TR 2124. Although the inspection cadence has not changed, there is a backlog of poles identified for replacement, and all of the poles planned for replacement in the bridge period and test year are poles that have been identified through inspections as needing replacement. *Id.*

Consumers' exceptions, p. 19 (emphasis in original). Against this backdrop, Consumers asserts that the Commission should approve its proposed pole replacement plan to eliminate this backlog and avoid increased outage and safety risks of delaying the replacement of known deteriorated poles on the company's system.

Consumers also objects to the ALJ's acceptance of the Attorney General's proposal to reduce the rate of increase in ROW acquisition costs to match the rate of increase in line rebuilds, asserting that the ALJ summarily concluded that the company's presentation lacked sufficient

detail to support the increase, a determination which Consumers argues should be rejected.

Consumers reiterates that its:

projected ROW spending represents the funding required to secure property rights needed to perform work within the HVD Lines Reliability sub-program. 5 TR 2020. In discovery, the Company provided the projects that require new rights, or an expansion of rights, to perform the planned reliability work. See Exhibit A-248 (KMK-6), page 2, subpart d. Consumers Energy explained that the Attorney General's assumption that the percentage increase in ROW costs should exactly match the percentage increase in line rebuilds is not accurate. The Company often incurs ROW costs in a given year for projects that are not scheduled to take place until later, and the costs of securing ROW can increase depending on property owners' willingness to work with the Company in securing the necessary rights. 5 TR 2125. In addition, ROW work may be needed for other activities besides HVD line rebuilds, such as to bring existing easements to current standards to provide for access by modern construction and tree clearing equipment. 5 TR 2125.

Consumers' exceptions, p. 20. Consumers asserts that its evidence is credible and reflects actual experience performing ROW work and that the Commission should thus approve expenditures for this work in the projected test year.

MNSC responds and asserts that the Commission should adopt the ALJ's recommended disallowances. MNSC's replies to exceptions, pp. 8-9. MNSC argues that Consumers' exceptions fail to explain why the ALJ's recommendation is not a reasonable resolution to address the backlog of HVD pole replacements. MNSC further disputes Consumers' assertion that the ALJ summarily concluded that the company's presentation lacked sufficient detail to support its increase in ROW acquisition costs. Per MNSC, the ALJ "fully considered the complete record and found the Company's evidence deficient to approve the full request while the Attorney General's evidence and recommended spending level (43% increase to match line rebuild increases) was reasonable," whereas the company, in exceptions, "reiterates its rebuttal testimony, which the ALJ fairly evaluated and rejected" and "provides no good reason to deviate from the

[ALJ]’s recommendation to limit the increase in HVD ROW spending to 43% from the bridge to the test period, which the Commission should adopt.” *Id.*, p. 9.

Also responding, the Attorney General asserts that the Commission should reject Consumers’ arguments in exceptions. For pole replacements, the Attorney General recaps that:

during the five years from 2019 to 2023, capital spending on pole replacements ranged from approximately \$6.0 million in 2023 to \$15.2 million in 2022 with the number of poles replaced ranging from 234 to 545. For the most recent three years, average spending on pole replacements was \$10,301,330 to replace 394 on average each year. Further, Mr. Kurdziel states that the Company’s inspection and replacement criteria presented in Exhibit A-123 (KMK-1) in this rate case are the same as in its two prior rate cases. No evidence has been presented that there has been a spike in failing poles since the last two rate cases to justify the increase in pole replacements and capital spending in this rate case. And, while the Company points to a backlog of poles identified for replacement during inspections, it has not adequately explained why its cadence for replacing the purported deteriorated poles was not increased before and why pole replacement activity needs to be nearly doubled now. Clearly if replacing the poles was critical the Company would have done so at a pace that would have avoided a backlog. Only replacing 234 poles in 2023 also belies the urgency that the Company now seems to display.

Attorney General’s replies to exceptions, p. 12 (footnotes omitted). The Attorney General states that she instead presented a proposal “that increases pole replacement yet blunts the sharp increase in cost by spreading the increase over a three-year period,” which the ALJ found reasonable and prudent as it “allows the Company to continue pole removals, address its backlog, and fairly balances the cost to ratepayers.” *Id.*, pp. 13-14. The Attorney General further asserts that the company’s arguments in exceptions as to ROW acquisition costs also do not support rejecting the ALJ’s recommendation. The Attorney General states that she “did not state that ROW costs exactly match the percentage increase in line rebuilds, however she did note that that ROW easements are primarily associated with line rebuilds;” that the burden is on Consumers to prove the accuracy of its projections and that the company’s presentation lacked sufficient detail to quantify the accuracy of the projections here, as agreed by the ALJ; and that part of the company’s

argument “is based on unknown or speculative future projects.” *Id.*, pp. 16-17. Based on this, the Attorney General asserts that her “use of the percentage increase in forecasted line rebuilds is a reasonable proxy for projecting ROW costs” and that the Commission should adopt the ALJ’s recommended disallowance. *Id.*, p. 17.

The Commission finds the ALJ’s recommendations well-reasoned and supported by the record. The company has not borne its burden of proof to give the Commission confidence that these costs will indeed be incurred in the bridge period and test year. Accordingly, the Commission adopts the ALJ’s findings and conclusions on this issue. *See*, PFD, pp. 45, 48-50; *see also, id.*, Appendix E, lines 2 and 3.

ii. High Voltage Distribution Lines and Substations Rehabilitation

Consumers described this subprogram as having two major purposes: (1) “the capital repair or replacement of 46 kV [kilovolt] and 138 kV lines equipment to address issues where failure has not yet occurred but is at an increased risk of a failure that would threaten customer reliability or system operability” and (2) “the capital repair or replacement of HVD substation equipment and in some cases of entire substations.” 5 Tr 2041. The company then described investment categories within this subprogram, along with the overall investment (of \$39.881 million in the bridge period and \$70.9 million in the test year) and benefits (in terms of customer minutes benefits, reducing asset health risk on HVD lines and substations, and cost benefits). 5 Tr 2041-2058; Exhibit A-125, p. 3; Exhibit A-126, p. 3. The Attorney General raised concerns with the proposed increase in Pole Top Assembly Replacements and HVD Substation Replacement projects within this cost category for the test year and recommended that projected spending on HVD Substation Replacements be held to the three-year historical average plus inflation (and thus a corresponding disallowance of \$9.393 million in the bridge period and \$27.499 million in the test year) and that

the incremental increase in Pole Top Assembly Replacements (i.e., 601 units) be spread over the three years for a total number of 729 pole top replacements in the test year (and thus a corresponding test year disallowance of \$3.690 million). 5 Tr 2772-2773. Consumers disagreed. Consumers' initial brief, pp. 28-30.

The ALJ agreed with the Attorney General as it relates to HVD pole top assembly replacements and found it to be more reasonable and economic to spread the backlog of this work and the associated costs over three years. Per the ALJ:

A review of Figure 23 at 5 Tr 2044 does show some increase in P3 [Priority 3] 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), given the ongoing inspection program and the Company's stated concerns. Therefore, this [ALJ] adopts the Attorney General's recommended test year disallowance of \$3.690 million for pole top assembly replacements.

PF, pp. 52-53. For HVD Substation Replacement projects, however, the ALJ agreed with the company, finding that these types of projects "are too few in number, and too unique, to lend themselves to a unit cost type of analysis," as presented by the Attorney General. *Id.*, p. 55. The ALJ noted that "transformer costs alone can vary from \$1 million to \$5 million, depending on the size and voltage required," and that "the Attorney General does not contest the reasonableness and prudence of the proposed substation replacement work." *Id.* The ALJ thus recommended that the Attorney General's proposed disallowance for HVD Substation Replacements be rejected.

Consumers objects to the ALJ's recommendation to delay replacement of Priority 3 anomalies and asserts that the recommendation should be rejected. The company reiterates testimony that it has identified an increasing number of Priority 3 anomalies since 2019, that this data shows that its current investment in pole top replacements has not been sufficient to keep up with deteriorating pole top assets, and that "[a]ll of the pole top assemblies planned for replacement in this case are

based on Priority 3 anomalies that have already been identified, including those identified in previous years but not yet replaced.” Consumers’ exceptions, p. 22 (citing 5 Tr 2043-2044, 2127).

Responding to the ALJ’s statement that the company did not adequately explain why only 233 pole top replacements were performed in the bridge period, Consumers states that it:

acknowledges that it is proposing to replace more pole top assemblies in the test year than it has in previous years, but that alone does not mean that the Company’s plan should be rejected. Just as with pole replacements, the Reliability Roadmap highlighted the scale of needed HVD pole top assembly replacements, and the increase in replacements and projected spending in this case is to implement this focus on replacing the pole top assemblies that have been identified for replacement during inspection and currently in the backlog. 5 TR 2126. The Attorney General’s and ALJ’s suggested slower replacement rate will leave more of these deteriorated pole top assemblies on the system, increasing outage risks. *Id.* The Commission should reject the recommendation to delay undeniably needed work and approve the Company’s projected test year expenditures to support the Company addressing the backlog for pole top assembly replacement.

Consumers’ exceptions, p. 22.

The Attorney General objects to the ALJ’s recommendation to reject her proposed adjustment for expenditures related to the company’s HVD Substation Replacement projects. The Attorney General acknowledges that she does not contest the reasonableness and prudence of this work for the bridge period and test year; however, she did question the company’s lack of support for the associated costs. The Attorney General states that:

[c]ontrary to the Company’s arguments, [she] did not apply a strict unit cost approach. She did point out that[,] given the level of work performed in previous years (e.g. four substation replacements were performed in 2023), the substantial increase in cost[,] coupled with the lack of detail, seemed unreasonable. The [ALJ] mentions the Company’s claim that substation rebuilds are very large projects that may take many years to complete while describing several overlapping projects. Presumably this was true in prior years with lower overall costs. Other [than] to point out that transformer cost alone can range from \$1 million to \$5 million, neither the Company nor the [ALJ] explain why the overall cost of the proposed projects increased so dramatically, especially considering that fewer new projects will be started in the bridge period and test year.

Attorney General's exceptions, pp. 7-8 (footnotes omitted) (citing 5 Tr 2774-2775; Attorney General's initial brief, p. 33; PFD, p. 53). The Attorney General asserts that the company failed to meet its burden of supporting its proposed expenditures for these HVD Substation Replacement projects, maintaining that her recommended adjustments should be adopted with opportunity for Consumers to recover the difference in future rate cases if the company spends more than allowed in the instant case and can demonstrate the reasonableness and prudence of the costs.

In response to the Attorney General's exceptions, Consumers maintains that the Commission should reject the Attorney General's proposed reduction for its HVD Substation Replacement projects. Recapping testimony and exhibits on its behalf, Consumers states that it:

fully explained that HVD substation rebuilds are very large projects that can span more than one year, and the Company will likely perform some work on more than two projects in any given year. 5 TR 2051. In the bridge period, the Company is completing work on the Bliss substation rebuild and the new Celery substation, and also beginning work on the North Belding and Buskirk substation rebuild projects. 5 TR 2051, Exhibit A-125 (KMK-3), page 3. In addition to continuing work on the North Belding and Buskirk substation rebuilds in the test year, the Company will begin work on the Alma and Blackstone substation rebuild projects. 5 TR 2052, Exhibit A-126 (KMK-4), page 3.

The projects developed 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 averaging historical costs. For example, a transformer alone can cost between \$1 million and \$5 million depending on size and voltage rating. 5 TR 2128. Consumers Energy identified the specific substation rebuild projects planned for the bridge period and test year, and provided the specific cost projections associated with those projects. See Exhibits A-125 (KMK-3), page 3, and A-126 (KMK-4), page 3.

Consumers' replies to exceptions, p. 6. On this basis, Consumers asserts that the Commission should approve the company's cost projections that accurately consider size and scope and thus reject the Attorney General's artificial reductions to costs for these projects.

In response to Consumers' exceptions, MNSC asserts that the Commission should adopt the ALJ's recommended disallowance for HVD pole top assembly replacements. In support, MNSC

states that the ALJ considered the full record in making her recommendation, whereas Consumers in exceptions:

relies almost exclusively on its direct case, mostly disregarding the Attorney General's evidence and the PFD discussion. The Company also notes vaguely that "the Reliability Roadmap highlighted the scale of needed HVD pole top assembly replacements," citing rebuttal testimony of Mr. Kurdziel. But neither Consumers' exceptions nor Mr. Kurdziel's rebuttal testimony identify what part of the 178-page Reliability Roadmap highlighted the scale of needed pole top assembly replacements. Instead, with respect to HVD pole top work, the Roadmap reiterates Consumers' preferred – and cost-ineffective – strategy of replacing equipment (including HVD pole top equipment) based on asset age and vintage – not equipment condition.

MNSC's replies to exceptions, pp. 8-9 (footnotes omitted). MNSC, in this regard, asserts that the Commission should reject Consumers' unsupported exceptions and instead adopt the ALJ's reasonable recommendation to spread the costs of addressing the company's HVD Pole Top Assembly Replacements backlog over a three-year period.

The Attorney General also responds to Consumers' exceptions as it relates to HVD Pole Top Assembly Replacements. The Attorney General reiterates that Consumers more than doubled its HVD Pole Top Assembly Replacements and associated capital spending in the test year, as compared to recent historical levels, and that the company's evidence did not justify the need for the same and asserts that the company's arguments in exceptions also do not justify rejecting the ALJ's recommendation. Attorney General's replies to exceptions, pp. 18-20. Per the Attorney General:

The Company admits that its decisions related to pole top assembly replacements has [sic: have] failed to keep up the condition of some of the pole top assemblies and led to a backlog. The decrease in the proposed number of pole top assemblies in the bridge period demonstrates the degree to which it has mismanaged the program. The anomalies identified through inspections were known before the Reliability Roadmap and so its conclusions do not justify the need for a large increase in expenditure between the bridge period and test year. The Company's proposal to recover this large increase that its actions helped to create in the test year is unreasonable and unfair to ratepayers.

*Id.*, pp. 20-21. The Attorney General avers that the Commission should adopt the proposal to address this ongoing work and backlog in manner that is less burdensome to ratepayers and thus adopt the ALJ's recommended disallowance.

The Commission finds the ALJ's recommendations well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ's findings and conclusions on this issue. *See*, PFD, pp. 52-53, 55; *see also, id.*, Appendix E, line 4.

iii. High Voltage Distribution Strategic Customers New Business

Consumers' overall New Business Program includes capital costs of connecting new customers to the distribution grid, with its HVD Strategic Customers New Business sub-program consisting of capital costs to meet the new business needs of large commercial and industrial (C&I) customers that are too energy intensive to be served by the LVD system and consisting of both existing customers and proposed new customers looking to locate in Michigan, with typical investments including dedicated substations and their interconnection to the HVD system with poles, conductors, and metering. 5 Tr 2090. Consumers' projected expenditures for this sub-program include \$107.642 million in the bridge period (for seven projects) and \$59.673 million in the test year (for five projects), with projected spending primarily based on known and planned projects where customers have signed agreements with the company committing to the projects. The company also include \$10.2 million of capital expenditures in both the bridge period and test year to purchase transformers with long lead times to support meeting customer timeline needs for other high probability projects. 5 Tr 2092; Exhibits A-125, p. 6, and A-126, p. 6.

ABATE, the Attorney General, and MEIU all took issue with certain aspects of this sub-program. ABATE recommended a disallowance of \$5.093 million in the test year for capital

costs for a new 13 kV substation in northwest Michigan due to the project's specific engineering stage being unclear, unknown actual costs incurred to date, and the company's admission that the customer needing the new substation is to pay an incremental distribution facilities charge to cover 100% of the upfront project costs (meaning customer cost recovery should be unnecessary).

ABATE's initial brief, pp. 11-12. MEIU addressed the issue of long-lead times associated with HVD substations (as long as two years or more) and the effect thereof on Michigan's ability to meet its statutory clean energy goals and, in this regard, recommended that the Commission direct Consumers to identify, before its next electric rate case, "hardware commonly associated with interconnecting advanced energy technologies, like DERs [distributed energy resources] and EV charging facilities, that have long acquisition lead times" and for the company to then develop and propose, in its next electric rate case, "a system for maintaining an inventory of such equipment . . . to ensure that [the company] has adequate supplies on hand to timely accommodate the ongoing energy transition . . . [and to] help the Commission and [interested persons] evaluate the merits of maintaining such an inventory." 5 Tr 3233; *see also*, MEIU's initial brief, pp. 31-33.

The Attorney General raised concern over the unfair and unreasonable risk and burden of pre-purchasing transformers and other large equipment to unknown future customers and thus recommended that associated capital expenditures of \$10.2 million for such assets in both the bridge period and test year be rejected. Alternatively, if the Commission permits any amounts associated with the transformers to be recovered in rates, the Attorney General requested that Consumers be prevented from earning a return on the transformers while they are unused.

Attorney General's initial brief, pp. 34-36; Attorney General's reply brief, pp. 17-20. Consumers rebutted, arguing that not pre-purchasing transformers could result in Michigan losing out on potential economic development opportunities, that these transformers can also be used as

strategic spares for other projects or failures as needed, that evaluation of potential hardware needs over the next 10 years as part of a study is neither necessary nor reasonable, and that the customer for the new substation in northwest Michigan did indeed sign the contract, which provides that the customer is to be billed a monthly incremental facilities charge over the life of the contract (ultimately covering the upfront cost of the project and used as an offset in the company's rate case). Consumers' initial brief, pp. 34-36.

The ALJ agreed with ABATE and found that ABATE's recommended test year disallowance of \$5.093 million for the new 13 kV substation should be adopted. In her reasoning, the ALJ agreed with ABATE that there is insufficient evidence in the record to determine if procurement activities for the 13 kV substation project will actually begin in the test year and, as discussed in more detail later in her PFD, also recommended that the company's proposed facilities allowance for the Large Economic Development Rate (Rate LED) be denied, which could affect the contract with this customer or the overall cost of the substation. PFD, p. 58; *see also, id.*, pp. 574-575. The ALJ also agreed with the Attorney General and recommended that \$10.2 million in capital expenditures in both the bridge period and test year for the pre-purchase of transformers for "high probability projects" be disallowed. *Id.*, p. 64. However, the ALJ also agreed 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 [ALJ] 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 [ALJ] 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.

*Id.*

Consumers objects and argues that the ALJ failed to give sufficient weight to its evidence regarding the 13 kV substation project. Per Consumers, its evidence:

indicates that the customer in question signed the Extraordinary Facilities Agreement (“EFA”) on September 13, 2023, that the project is in the Engineering phase, and that the Scheduling/Procurement phase was scheduled to be completed by November 30, 2025. 5 TR 2132, Exhibit A-249 (KMK-7). Thus, based on the signed agreement and the project schedule, the Company presented a clear expectation that procurement activities will begin in the test year. The [ALJ] also suggested that its recommendation to deny the Company’s proposed facilities allowance for Rate LED could “affect the contract or the overall cost of the substation.” PFD, page 58. But the [ALJ] points to no evidence that the Rate LED determination will have any effect on this individual project. The Commission should reject this cost reduction.

Consumers’ exceptions, p. 24. Consumers also objects to the ALJ’s recommendation regarding the \$10.2 million in capital expenditures in both the bridge period and test year to purchase transformers with long lead times for high probability projects, arguing that it did in fact present a “well-thought-out plan” in this case for maintaining an inventory of long-lead-time transformers. *Id.*, p. 25 (quoting PFD, p. 63). The company recaps testimony supporting the need for having transformers on hand as it relates to C&I development in Michigan, along with the compatibility of the transformers with a large portion of the company’s system for quicker proactive replacement of units in poor health and as strategic spaces in case there is a failure of an existing transformer. Consumers’ exceptions, pp. 25-26 (citing 5 Tr 2094-2097). On this basis, Consumers asserts that its proposed purchase of long-lead-time transformers is reasonable and prudent and that disallowing the same will only result in barriers to bringing businesses to Michigan. Consumers further argues that there has been no demonstration that the analysis recommended by the ALJ is necessary. Consumers asserts that:

[t]here is no evidence indicating that the Company has failed to adequately plan its equipment purchases to support the integration of EVs and DERs, and there is no evidence supporting the recommendation that the Company make a new proposal for maintaining long lead-time equipment in its next rate case. Indeed, the

Company's Capacity Program is for the purpose of ensuring that the system can serve peak demand load, and has specifically involved studies on the impact of EVs on the system. 4 TR 645, 653-654; 5 TR 2068. While the Company is also concerned with the availability of long lead time equipment such as transformers, the Company is reasonably and prudently addressing this issue as demonstrated by the Company's request for funding to purchase additional transformers ahead of time so they are available as needed. See 5 TR 1056. The Company is actively working to maintain adequate supplies and does not need a separate study to ensure it is doing so. *Id.*

Consumers' exceptions, pp. 26-27. If the Commission, however, agrees with the ALJ that such an analysis be performed, Consumers maintains that it should not be rushed to be completed in the company's next electric rate case and should rather be considered for inclusion as part of future distribution plan filings in Case No. U-20147, notably in relation to the Staff's proposal in that case for distribution plans to describe "resource challenges and provide tangible examples of resource or material supply shortages and the impact on system planning." Consumers' exceptions, p. 27 (citing Case No. U-20147, filing #U-20147-0137, p. 7).

Responding, MEIU asserts that Consumers' resistance to the ALJ's recommendation regarding long-lead-time equipment used for DER and EV interconnections underlines the necessity of requiring the company to conduct the recommended analysis. MEIU contends that:

[i]ronically, the more "adequate" the Company claims its plans for EV and DER integration are, the less burdensome MEIU's (and the [ALJ]'s) recommendation becomes. If the Company does already make such plans, requiring it to simply put them into testimony or an exhibit in its next rate case would be no significant burden. Once again, MEIU's recommendation is simply that the Company "identify . . . hardware commonly associated with interconnecting advanced energy technologies, like DERs and EV charging facilities, that have long acquisition lead times" and "propose a system for maintaining a sufficient inventory of such equipment to ensure that it has adequate supplies on hand to timely accommodate the ongoing energy transition" in the form of a "rough estimate on paper that Staff and intervenors could respond to." This mirrors the recommendation of the [ALJ], and Consumers' resistance to complying suggests that the Company as yet does not adequately plan for advanced energy technology integration.

MEIU's replies to exceptions, pp. 2-3 (footnote omitted) (quoting MEIU's initial brief, p. 31).

MEIU thus asserts that the Commission should adopt the ALJ's recommendation to require Consumers to conduct MEIU's requested review in the company's next electric rate case.

MEIU also responds, in this vein, to Consumers' continued push for recovery of expenses associated with the company's own long-lead-time transformer purchases in rate cases, arguing that the company is essentially asserting that "planning and purchases for its own purposes must not be delayed, but it is ok [for the company] to delay . . . planning to accommodate the goals of others, which are necessary to accomplish Michigan's energy transition." MEIU's replies to exceptions, p. 3. MEIU further notes that, per the Staff's distribution planning proposal filed in Case No. U-20147 in January 2025, Consumers' next distribution plan would not be filed until somewhere near the end of 2026, more than one year after the company is expected to file its next electric rate case. In other words, as stated by MEIU:

To the extent that the Company truly believes that its long-lead-time equipment needs would be most appropriately evaluated as part of its future distribution grid plan to be filed in just under two years, the Company ought to be content to wait for recovery of any expenses associated with such equipment until after the need for it is fully evaluated in Case No. U-20147. If the Company seeks recovery of such expenses in rate cases, however, it should be able to show that it has fully considered likely system needs—including needs related to advanced energy technology integration and not simply those related to its own priorities.

*Id.*, p. 4. Thus, per MEIU, the Commission should not allow Consumers to defer action on the recommended review while forging ahead with its own priorities in the meantime and, rather, should require the company "to conduct the recommended review for its next rate case and condition approval for recovery of future capital expenditures on compliance with this requirement." *Id.*

ABATE also responds and asserts that the company's arguments in exceptions do not support cost recovery for the new substation in northwest Michigan. ABATE reiterates that the company's

supporting documentation was developed over a year ago; that the updated information from Consumers was not provided until later in this case, and the company “cannot rely on later stages of a rate case proceeding to supplement its initial evidentiary presentation;” that a copy of the contract was not provided; that the specific status of the engineering has not been discussed and thus it cannot be certain that any phase will occur on the planned timeline; and that actual costs to date have not been provided. ABATE’s replies to exceptions, p. 3 (citing 5 Tr 2132-2133, 3360; ABATE’s initial brief, pp. 11-12; May 8 order, p. 13). As such, per ABATE, “based on the evidence presented, it is not reasonable to assume the project will occur as planned during the bridge period or projected test year.” ABATE’s replies to exceptions, p. 3. Moreover, ABATE repeats, “the associated CAD [concept approval document] notes that an incremental distribution facilities charge will cover 100% of the upfront project costs, meaning customer cost recovery should not be necessary and has certainly not been demonstrated to be reasonable or prudent” and, thus, “[g]iven these evidentiary deficiencies[,] the Commission should reject cost recovery at this time.” *Id.*, p. 4 (citing ABATE’s initial brief, pp. 11-12; 5 Tr 3360).

The Attorney General too responds to Consumers’ exceptions and argues that, contrary to the company’s claims that its pre-purchase of transformers is a well-thought-out plan, “the Company’s proposal is speculative, based on some possible future customer(s) that does not exist and does not meet any standard of reasonableness and prudence or fairness to current ratepayers.” Attorney General’s replies to exceptions, p. 24. The Attorney General thus asserts that the company’s arguments in exceptions should be rejected, stating 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. It would earn a return on assets that may not be in use while the customer pays the cost. As noted above [in replies to exceptions], for all other HVD Strategic Customer New Business projects, spending is based on known and planned projects

where an agreement is in place with customers and the Company's claim that transformers have long lead times does not justify a departure from its standard procedure. Further, there is no guarantee that the stockpiled transformers will be usable in any given case, since the Company would only be guessing that a future site would need a particular size and voltage of transformer. Finally, Consumers Energy is in the business of supplying electric service to its customers, it is not an economic development Company and it is unreasonable to force ratepayers to fund economic development in Michigan or pay the Company to stockpile transformers in case a new business wants to locate in its service territory.

*Id.*, pp. 24-25 (footnote omitted). The Attorney General further disputes the company's argument about reallocating transformers to other substation projects if necessary to replace units in poor health and argues that the same should also be rejected. Per the Attorney General:

First, there are transformers of varying size and voltage on the Company's system and there is not [a] guarantee that any of the stored transformers will be compatible with one needing replacement. Second, other than to speculate, the Company has not shown that any specific transformer needs replacing. Third, the other potential projects do not meet the definition of new business as described by the Company, and the Company has not presented evidence satisfying the burden of proof for alternative uses of the transformers. Simply setting rates based on shifting transformers to unsupported uses is not good ratemaking policy. More importantly, this alternative use defeats the purpose for having long lead time transformers ready for new business.

*Id.*, pp. 25-26. The Attorney General thus maintains that the Commission should reject the company's proposal to pre-purchase large transformers and remove associated capital expenditures in the bridge period and projected test year—or, if the Commission decides otherwise, the Commission should at least prevent the company from earning a return on the transformers while they remain unused.

The Commission mostly agrees with Consumers on this issue. First, based on the evidence provided by the company and further illuminated in exceptions, the Commission is persuaded that the inclusion of test year expenditures for the new 13 kV substation in northwest Michigan in this case is, in fact, reasonable and prudent. *See*, 5 Tr 2132; Exhibit A-249; Consumers' exceptions, p. 24. The Commission further finds that Consumers has clearly justified, as reasonable and

prudent, the need for expenditures related to the purchase of long-lead-time transformers in the bridge period and test year in this case. *See*, 5 Tr 2094-2097. Notably, the Commission is persuaded by key evidentiary statements made by Consumers that it “supported 133 requests for proposal from potential large customers in 2022, 153 in 2023, and has fielded 12 in the first two months of 2024, providing evaluation of sites in its electric service territory;” that “[a]ll of these projects would require long lead-time transformers to successfully execute if customers committed, but often the customers’ timelines do not allow for long lead-times in procuring transformers;” and that transformers purchased “are of common size and voltage to be compatible with a large portion of the system to provide maximum flexibility.” 5 Tr 2096-2097; *see also*, Exhibit A-125, p. 6 and Exhibit A-126, p. 6. That said, the Commission does, however, agree with the ALJ and MEIU about the reasonableness of having the company provide greater transparency around these purchases. The Commission thus finds it appropriate for Consumers, in its next electric 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.” PFD, p. 64; *see also*, MEIU’s initial brief, pp. 32-33. The Commission agrees with MEIU that, since Consumers is requesting rate recovery for these items and has said that it is already adequately planning for these expenditures, the timeline to require this plan in the company’s next electric rate case is not overly burdensome. Moreover, absent the information requested regarding long-lead time procurement planning for filing in the company’s next electric rate case, the Commission cannot assess expenditures for reasonableness and prudence. The Commission, in this context, further broadly agrees with the Attorney General’s concern about Consumers not being an economic development company and thus underscores that the need for expenditures related to the

pre-purchase of large transformers was justified by the evidence in this case, that this decision is not to be construed as a green light for the blanket stockpiling of equipment and associated expenditures in future rate cases, and that this decision is not based on state economic development opportunities.

b. Low Voltage Distribution

Consumers explained that its LVD system consists of 2,000 LVD circuits and over 94,000 miles of lines and that it is subject to threats from common outage causes such as vegetation, lightning, unexpected load increases, and third-party damage. The company categorizes its LVD capital spending into unplanned (i.e., new business, demand failures, and asset relocations) and planned (i.e., reliability and capacity programs) investments. 4 Tr 502-504. Consumers testified that the company's actual 2023 capital spending on six LVD programs totaled \$622.292 million and projected its LVD capital spending to be \$758.346 million in the bridge period and \$1.013 billion in the test year. 4 Tr 505, Figure 2. The company explains that it has planned these investments using its Reliability Roadmap and that the most significant investments relate to LVD lines are in the reliability, resiliency, and capacity subprograms. 5 Tr 504.

The Staff and several intervenors took issue with the company's significant escalation in LVD capital investments, as discussed below.

i. Low Voltage Distribution Lines New Business

Consumers explained that LVD Lines New Business consists of overhead or underground distribution extensions and enhancements required to complete new service connections for residential, commercial, and industrial customers. Consumers' projected capital expenditures in this category are \$142.153 million in the bridge period and \$128.160 million in the test year. 4 Tr 508, Figure 3. The company explained that these amounts are based on the projected

11,849 new service connections in the bridge period and 9,719 new service connections in the test year with the cost per new service connection estimated to be \$13,960 in the bridge period and \$14,281 in the test year. Consumers explained that bridge period and test year costs were projected to rise 2.3% from historical costs due to general inflation, the average length of new service connections, materials costs, and contractor costs. 4 Tr 511-512.

The Attorney General agreed with the company's projected number of new customer service connections for the bridge period and test year but disagreed with the company's projected costs, finding them to be excessive. The Attorney General recommended that LVD new business expenditures be determined by using the average cost of new customer service connections from 2021 through 2023 adjusted for inflation, resulting in a unit cost of \$12,845 for the bridge period and \$13,127 for the test year. Using these figures, the Attorney General recommended that the company's projections for LVD new business be reduced by \$11.352 million for the bridge period and \$10.358 million for the test year. 5 Tr 2732-2734.

Consumers disputed the Attorney General's proposed calculations and recommendations. 4 Tr 700-701.

The ALJ agreed with the Attorney General's concerns regarding the continued escalation of the unit cost for new customer service installations. Pointing to Figure 5 at 4 Tr 511, the ALJ observed that per unit costs rose 27% between 2021 and 2022, and that Consumers' approach captured this sharp increase and applied it to forward projections. The ALJ also agreed with the Attorney General that using a three-year historical average normalizes the per unit costs. She recommended that the Commission adopt the Attorney General's proposed reductions of \$11.352 million in the bridge year and \$10.358 million in the test year, adding that doing so should incentivize the company to reduce new service installation costs. PFD, p. 69.

Consumers takes exception to the ALJ's recommendation, specifically her acceptance of future cost projections based on average historical unit costs. The company argues that there are two errors with this approach.

First, for those programs where an average unit cost is a reasonable starting point for projecting unit costs, the [ALJ]'s adoption of a three-year average does not account for the very high inflation in material costs that occurred from 2021 to 2023, and unreasonably expect[s] the Company to be able to return future costs to well below the historical spending that was needed in 2023. But in each instance, there is no data or analysis supporting the notion that the Company has the ability to force material providers to reverse the cost increases that have already been put into place, and thus no support that a three-year average should be approved by the Commission. The second error committed [by] the [ALJ] insisting [on] adopt[ing] a three-year average to project future costs is that for some programs, [applying] average unit costs is not an accurate way to project future costs because of the wide variance in individual project costs. For those programs, the Company developed precise cost projections based on the individual planned projects, and provided project lists showing the names of those projects, the projected costs, the locations of the projects, and the expected benefits.

Consumers' exceptions, p. 28.

The company then repeats its projected method for projecting future costs which includes increased contractor and material costs it incurred. *Id.*, pp. 28-29 (citing 4 Tr 510-512, 710). Consumers states that the ALJ's accepted \$12,845 unit cost for the bridge period and \$13,127 unit cost for the test year are both lower than what the company actually incurred in 2022, and therefore, are unrealistic. Consumers argues that "[i]t would be unreasonable and unsupported by the record to lower these cost projections to 'incentivize the Company to reduce new service installation costs' without any facts or data indicating that these costs could actually be lower." Consumers' exceptions, p. 30 (quoting PFD, p. 69).

In replies to exceptions, the Attorney General recounts her and the company's respective positions and states that Consumers attributes the increase in unit costs to an increase in the length of new service line installations and inflation. However, the Attorney General contends that the

length of new service lines declined in 2023 from 2022. Attorney General's replies to exceptions, p. 27 (citing 4 Tr 512, Figure 6). While conceding that inflation may have a temporary impact on costs, she argued that the company should find ways to manage and offset increased costs. The Attorney General then points to the company's last electric rate case where Consumers stated that it had mitigated contractor cost increases by having contractors perform fewer service line installations and instead performing those installations with company crews at a lower cost. In 2022, the Attorney General states that the company paid contractors more money for fewer units installed and, in this case, did not provide a comparison of the installation costs between contractors and company crews. Attorney General's replies to exceptions, p. 28. The Attorney General calls on the company to negotiate lower unit costs with contractors. *Id.*

Recalling her historical average method and the ALJ's agreement therewith, the Attorney General disputes Consumers' criticisms of the PFD. Beginning with the company's claim that the three-year historical average does not capture the high inflation of material costs in 2021, the Attorney General points out that her average uses costs from 2021 to 2023 adjusted for inflation. *Id.*, p. 30. Secondly, responding to the company's claim that the ALJ's recommendation ignored the wide variance in individual projects, the Attorney General argues that the company's criticisms of the three-year average are unclear given Consumers' use of a two-year average in its projections. The Attorney General contends that this two-year average was more upwardly biased. Lastly, in response to Consumers' claims about increases in material costs over the last two years, the Attorney General repeats that annual costs vary year to year and that her three-year average method appropriately normalizes these costs and incentivizes Consumers to manage costs. Therefore, the Attorney General asks the Commission to adopt the PFD.

The Commission respectfully declines to adopt the ALJ's recommended disallowance for LVD New Business. The Commission finds that Consumers has sufficiently demonstrated that the rising costs of materials and labor and the rate of inflation contributed to its projected per unit costs for new service and that projections based on actually incurred costs result in a reasonable projection for the overall expenditures. *See*, 4 Tr 508-512, 710; *see also*, Exhibits A-95, A-127, and A-128. Nevertheless, the Commission agrees with the ALJ that it is incumbent upon the utility to prudently spend ratepayer dollars and to find savings where possible. To that end, the record shows that Consumers has mitigated contractor costs by offering one-third fewer units to contractors in 2023 than 2022. 4 Tr 512. However, the record shows that unit costs have indeed increased year over year since 2021, and that the company reasonably applied its per unit costs based on those trending increases to the projected number of projects, which was not disputed, for the bridge period and test year. *See*, 4 Tr 510-512; 5 Tr 2732-2734. Therefore, the Commission finds Consumers' projected capital expenditures of \$142.153 million in the bridge period and \$128.160 million in the test year to be reasonable for inclusion in rate base.

However, the Commission finds that the Attorney General's points that additional cost savings may lie in negotiations with contractors and that a comparison of line installation costs by contractors versus the company's own workforce would be beneficial in identifying potential cost savings are well-taken. Therefore, in its next electric rate case, Consumers shall include a comparison of line installation costs by external contractors versus line installation costs by the company's workforce with any request for capital expenditure recovery of LVD New Business expenditures.

ii. Low Voltage Distribution Lines Demand Failures

The LVD Lines Demand Failures subprogram includes capital expenditures incurred during customer interruption restoration or during the repair or replacement of LVD equipment resulting from unanticipated failures categorized into Priority 1 expenditures that require immediate action and Priority 2 expenditures that are less urgent and are addressed within 60 days. 4 Tr 518-519. Consumers projected capital expenditures of \$153.646 million for the bridge period and \$147.408 million for the test year to complete 29,000 orders in the bridge period and 27,800 orders in the test year at an average cost per unit cost of \$5,300. 4 Tr 525. Consumers contended that the increased per unit cost in this subprogram was caused by increased material costs for wire, cable, and poles. 4 Tr 526-527.

The Attorney General argued that the per unit cost estimated by the company is excessive and unsupported on the record and proposed that the unit cost be determined using the average per unit cost during the years 2021 through 2023, adjusted for inflation. Relying on this method, the Attorney General proposed a reduced per unit cost of \$4,683 for the bridge period and \$4,786 for the test year, resulting in a reduced capital expenditure of \$135.807 million for the bridge period and \$133.051 million for the test year. 5 Tr 2736.

In rebuttal, Consumers disagreed with the Attorney General's methodology and proposed reductions to the per unit costs and overall capital expenditures. *See*, 4 Tr 700-702.

The ALJ agreed with the Attorney General that the large escalations in per unit costs captured in Consumers' projections are not sustainable and found that the company did not provide specifics on how the \$5,300 per unit cost was determined. The ALJ also found that the company did not identify any cost saving measures in response to these escalating costs. Thus, the ALJ found the Attorney General's proposed reductions of \$17.839 million to the bridge period and

\$14.357 million to the test year should be adopted. PFD, p. 73. The ALJ added that this recommendation does “not suggest [that] 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.” *Id.*

In exceptions, Consumers argues that similar to its LVD Lines New Business expenditures, the ALJ’s agreement with the Attorney General’s unit cost projection does not account for the large increases in the costs of wire, cable, and poles that the company has experienced since 2020. Consumers’ exceptions, pp. 30-31 (citing 4 Tr 527, 702). The company points out that the \$4,683 unit cost in the bridge period and the \$4,786 in the test year is significantly lower than the unit cost actually experienced in 2023 and is “only slightly higher” than the unit cost in 2022. Consumers’ exceptions, p. 31. Consumers argues that the ALJ’s assertion that her accepted unit costs are attainable through the pursuit of efficiencies is not supported by any facts or data on the record.

Contrary to the ALJ’s statement that the continued escalations in expenditures in the LVD Demand Failures category are not sustainable, Consumers points out that the bridge period unit cost of \$5,298 is a 4.7% increase over the 2023 actual unit cost of \$5,058, and the test year unit cost of \$5,302 is only a .07% increase from the bridge period. Consumers argues that its projections reasonably account for material cost increases between 2020 and 2023 and should be accepted. Lastly, the company contends that the ALJ’s recommended disallowance is based on a simple desire to reduce costs and is therefore unreasonable and should be rejected. Consumers’ exceptions, pp. 31-32.

In replies to exceptions, the Attorney General repeats the parties’ respective positions and her support for her recommended disallowance. Attorney General’s replies to exceptions, pp. 32-34.

Addressing Consumers' argument in exceptions that it experienced increased material costs over the last three years, the Attorney General states that the company's unit costs have had a cumulative increase of 38% in three years; thus, the Attorney General's unit costs on historical costs from 2021 through 2023 already incorporates inflationary increases. The Attorney General then restates Consumers' argument that the company needs increased amounts of materials to address failures and calls it misplaced. The Attorney General explains that:

according to the Company's exceptions, LVD Lines Demand Failures includes capital expenditures that enable the Company to respond to day-to-day equipment failures and perform storm restoration work. The Company appears to be describing LVD Lines Rehabilitation work, which is a separate expenditure category, which addresses problems before failure [sic] occur.

Attorney General's replies to exceptions, pp. 35-36. The Attorney General argues that the purpose of the ALJ's recommendation is to compel the company to seek out efficiencies and that the company has not supported its base unit costs. Lastly, despite Consumers' claims that its request is not a continued large escalation in costs, the Attorney General points out that the company's bridge period proposed expenditure is a 4.7% increase over 2023, which is more than the rate of inflation. *Id.*, p. 36.

The Commission respectfully declines to adopt the ALJ's recommended disallowance for LVD Lines Demand Failures. Similar to the New Business subprogram, the Commission finds that the company sufficiently demonstrated a trend in rising costs due to inflation and increases in material costs for wire, cable, and poles. *See*, 4 Tr 526-527. The Commission further finds that using the actual costs incurred by the company to project expenditures results in a more accurate projection of the expenditures needed to complete the planned projects as opposed to the Attorney General's three-year average method plus inflation. The Commission echoes the ALJ's encouragement for Consumers to pursue efficiencies to reduce costs but does not agree that a disallowance is

warranted when the company has sufficiently demonstrated it has experienced an increase in costs. Therefore, the Commission finds that Consumers' projections of \$153.646 million for the bridge period and \$147.408 million for the test year are reasonable.

### iii. Low Voltage Distribution Substations Demand Failures

Per Consumers, 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 with projects that are divided into categories of regulators, reclosers, transformers, and other equipment. 4 Tr 528-529. Consumers projected \$8.720 million for the bridge period and \$9.0 million for the test year by using the historical failure rates for the five-year period from 2019 to 2023, and the actual spend during the years 2020 to 2023, as well as expected future costs. 4 Tr 529-531, Figure 15.

The Attorney General did not dispute the company's number of projected failures but disagreed with Consumers' projected costs for regulators, calling them excessive. The Attorney General pointed out that the company's testimony showed 50 regulator units and a capital cost of \$3.300 million for the bridge period and 58 regulator units with capital cost of \$3.820 million for the test year for a per unit cost of \$66,000 for the bridge period and \$65,862 for the test year. The Attorney General explained that the \$66,000 forecasted per unit cost represents a 41% increase over the recent average historical cost and argued that the company did not provide a detailed explanation for the significant increase. Therefore, the Attorney General proposed that the unit cost for regulators be determined using the average per unit cost from 2021 to 2023, adjusted for inflation, resulting 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 million for the bridge period and \$2.544 million for the test year. 5 Tr 2737-2738.

The company disagreed with the Attorney General's proposed methodology and recommended reductions to its proposed capital expenditures for the LVD Substations Demand Failures. 4 Tr 700-702.

The ALJ agreed with the Attorney General's concerns regarding the increased costs of regulators and pointed out that, if Consumers' projections are accepted, unit costs will have more than doubled since 2021. The ALJ found that the company did not support its increased unit costs with specific data or provide measures to produce cost savings in response to escalating costs, thus indicating that these costs will continue to increase. Therefore, the ALJ recommended that the Commission adopt the Attorney General's proposed reductions of \$1.154 million for the bridge period and \$1.276 million for the test year to incentivize the company to reduce costs. PFD, pp. 76-77.

Consumers takes exception to the PFD, arguing that the ALJ accepted the Attorney General's argument that unit costs in this category were too high and ignored the company's evidence that it experienced actual significant increases in costs since 2021. Pointing out that its unit costs increased from \$32,484 in 2021 to \$58,537 in 2023, Consumers states that the ALJ's recommended unit costs of \$42,915 in the bridge period and \$43,859 in the test year are much lower than the actual costs that were incurred in 2023. Consumers' exceptions, p. 32 (citing 4 Tr 702; Exhibit A-112). Consumers contends that the ALJ's recommendation amounts to an insistence to lower projected unit costs below historical costs that is not supported by the record. Consumers also disagrees with the ALJ's characterization of the company's projected unit costs for the bridge period and test year as more than double the unit costs from 2021. Consumers' exceptions, p. 33 (citing PFD, p. 76). Consumers maintains that its projection is reasonable because the projection is based on the actual unit costs incurred in 2023, which was nearly double

the costs from 2021. Consumers also points out that its proposed test year unit cost increase represents only a 12.5% increase and asks the Commission to adopt the company's position. Consumers exceptions, p. 33.

In replies to exceptions, the Attorney General repeats her position on the record, as well as the company's. Attorney General's replies to exceptions, pp. 36-38. The Attorney General contends that Consumers' exceptions merely repeat its direct and rebuttal testimony and asks the Commission to reject the ALJ's recommendation because the company claims that the ALJ merely insisted that regulator costs decrease to pre-2023 cost levels. The Attorney General argues that the ALJ's recommendation does not do so. Per the Attorney General:

As discussed above Exhibit A-112, line 145 shows that unit costs have varied – increasing then decreasing before increasing again. The three-year average of 2021–2023 used by [Attorney General witness] Mr. Coppola includes actual costs from the most recent three-years including 2022 and 2023. Further, as noted by the [ALJ], the Company failed to provide specific data regarding its unit cost although it has the burden of proof to support its projections. In addition, although it claims that supply costs have increased substantially, it has [sic: not] demonstrated any interest in seeking savings for its customers.

Attorney General's replies to exceptions, pp. 39-40.

The Commission finds the ALJ's recommendation to be well-reasoned and based on persuasive evidence on the record and therefore, adopts the ALJ's recommendation. The Commission is persuaded by the Attorney General's testimony and reference to the company's per unit cost information provided in Exhibit A-112 showing a significant increase in the per unit cost in 2023. 5 Tr 2737 (citing Exhibit A-112). The Commission notes that, prior to 2023, unit costs for regulators had stayed relatively flat and agrees that the company did not provide sufficient evidence or explanation that the significant jump in 2023 demonstrates that future costs will remain at this elevated level, rather than 2023 being a one-year outlier. Therefore, the

Commission agrees that the Attorney General's historical per unit cost average represents the more reasonable projection of expenditures in this category. *See*, 5 Tr 2737-2738.

iv. Low Voltage Distribution Lines Reliability

Per Consumers, the LVD Lines Reliability subprogram is intended to ensure the safe and reliable operation of the distribution system in support of the company's SAIDI glidepath and is comprised of five categories: (1) targeted circuit improvements, (2) pole replacements, (3) automatic transfer recloser loops, (4) circuit exit enhancements, and (5) ROW and easement acquisition. 4 Tr 552-559. The company further explained the largest spending category within the LVD Lines Reliability subprogram, Targeted Circuit Improvements, reduces non-standard voltages, provide for zonal health improvements, converts open wire to multiplex wire, and restores older underground cable and testified to the category's benefits. 4 Tr 559-565. The company requested a total of \$103.005 million for LVD Lines Reliability in the bridge period and \$298.720 million in the test year. Of these requested capital amounts, Zonal Health Improvements totaled \$45.034 million in the bridge period and \$224.189 million in the test year, secondary wire conversions were projected at \$1.042 million in the bridge period and \$28.180 million in the test year, and ROW acquisitions were projected at \$7.5 million in the bridge period and \$12.0 million in the test year. 4 Tr 579, Figure 39.

The Staff contended that the company had not sufficiently supported the proposed increases in the capital expenditures for Targeted Circuit Improvements and instead recommended an expenditure of \$37,131,258 for the 12-month bridge period and \$43,319,801 for the 14-month bridge period, using a five-year historical average and applying a 40% adder to account for inflation and other factors. For the test year, the Staff then applied an additional 40% to the bridge period to arrive at a recommended test year capital expenditure amount of \$51,983,761. The

Staff's position reflected a \$7.5 million disallowance in the 14-month bridge period and a \$206 million disallowance in the test year. 5 Tr 3654-3655. The Staff also contended that Consumers did not sufficiently explain the reasons for the ROW acquisition expenditure increases and, therefore, recommended a disallowance of \$800,000 for the 14-month bridge period and a \$4.0 million disallowance for the test year using the five-year historical average plus 40% increase methodology.

The Attorney General questioned Consumers' decision to now increase its capital expenditures on zonal health improvements and contended that the ramp up in spending was not adequately supported. Thus, the Attorney General recommended that the company's test year expenditures remain at the same level as the bridge period adjusted for inflation resulting in a test year expenditure of \$45 million for the zonal health improvements, or \$178 million less than Consumers' proposal. 5 Tr 2738-2741. As to the secondary wires program, the Attorney General argued that this program should be scaled back to be completed in 20 years as opposed to the 10 years proposed by Consumers and that the company's test year expenditures be reduced by \$14.090 million. 5 Tr 2742. Lastly, the Attorney General contested the ROW category of spending within LVD Lines Reliability, citing a lack of detail regarding the link between projected costs and specific lines to address. Accordingly, the Attorney General recommended a reduction of \$2.859 million from the bridge period, and \$7.359 million from the test year. 5 Tr 2742-2743.

MNSC recommended that the company's LVD Lines Reliability expenditures remain at the 2023 levels until Consumers demonstrates that it can deliver sufficient value to ratepayers for its spending in this area. In support, MNSC contended that the company's reliance on its Reliability Roadmap and Reliability Analytics Engine is insufficient to support the significant increases in expenditures the company requested. 5 Tr 3007-3013; *see also*, Exhibit CUB-28.

Consumers disputed the positions of the Staff, the Attorney General, and MNSC and maintained that its proposed capital expenditures are reasonable and prudent. 4 Tr 690-707.

The ALJ agreed with the Staff, the Attorney General, and MNSC that the company's proposed increased expenditures in the LVD Lines Reliability subprogram are excessive and unsupported.

The ALJ recalled MNSC's testimony in support that:

the 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 prudence of its spending increases.

PFD, p. 92 (quoting 5 Tr 3006). However, the ALJ disagreed with MNSC's and the Staff's recommended disallowances. Beginning with MNSC, the ALJ reasoned that MNSC's concerns regarding the massive increase are well-taken but that the company will need to spend more in the bridge period and test years compared to 2023 to account for inflation in 2024 and 2025. PFD, p. 92. As to the Staff's position, the ALJ agreed with Consumers that a blanket 40% increase above 2023 capital investments in the bridge period and test year is somewhat arbitrary and that the Commission has generally avoided pursuing such an approach. *Id.*

The ALJ agreed with the Attorney General's proposed disallowances of \$178.189 million in the test year for zonal health improvements and \$2.859 million in the bridge period and \$7.359 million in the test year for ROW acquisitions. First addressing zonal health improvement expenditures, the ALJ reasoned that:

while the Company insists that the Zonal Health program is not new or untested, this [ALJ] 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.

*Id.*, p. 93. The ALJ cited similar reasons in support of her recommendation for the ROW acquisitions category.

However, the ALJ disagreed with the Attorney General's recommendation to disallow \$14.090 million for the secondary wires in the multiplex conversion program. Relying on Consumers' position, the ALJ explained that even if relatively few customers are affected by a secondary outage, "[t]he average 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." PFD, p. 93 (quoting Consumers' initial brief, p. 56). Therefore, the ALJ recommended a reduction to Consumers' capital expenditures of \$2.859 million in the bridge period and \$7.359 million in the test year for ROW acquisition expenditures and \$178.189 million in test year expenditures for zonal health improvements. PFD, p. 94.

In exceptions, the Staff identifies a discrepancy between the ALJ's recommendation regarding the LVD Distribution secondary wires program and Appendix E attached to the PFD. The Staff explains that the ALJ disagreed with the Attorney General's proposed disallowance of \$14.090 million, while Appendix E to the PFD showed a disallowance of \$14.090 million for this expenditure that was then captured in the ALJ's recommended revenue deficiency of \$108.872 million. The Staff recommends that if the Commission adopts the ALJ's recommendation to reject the Attorney General's disallowance, the Commission should adjust for this apparent error and its impact on the revenue requirement. Staff's exceptions, pp. 1-2.

The Attorney General also takes exception regarding the secondary conversions expenditure and disagrees that the ALJ's analysis discussing the duration and number of outages on secondary distribution lines, as well as the outage impacts, justifies a rejection of the Attorney General's proposed disallowance. First, the Attorney General clarifies that she does not recommend that spending in this category be disallowed altogether but rather that the scope proposed by Consumers is lacking in support. Pointing to her initial brief, the Attorney General again argues that the highlighted map presented by the company is insufficient to justify increased spending. Attorney General's exceptions, p. 10 (citing Attorney General's initial brief, p. 50). Further, the Attorney General repeats that the company's Reliability Roadmap does not explain why a longer time horizon for these investments is not reasonable and prudent. Attorney General's exceptions, p. 10 (citing Exhibit A-111, pp. 62-65). Lastly, the Attorney General points out that the company conceded on the record that secondary line issues were not major contributors to SAIDI and that the proposed investment would not result in major SAIDI reductions. Attorney General's exceptions, pp. 10-11 (citing 4 Tr 706).

Therefore, the Attorney General asks that the Commission reject the ALJ's recommendation and adopt the Attorney General's proposed disallowance of \$14.090 million for the test year associated with the secondary wire conversions. Attorney General's exceptions, p. 11.

Consumers takes exception to the ALJ's recommendations regarding zonal health improvements and ROW acquisitions. Beginning with zonal health, the company repeats its testimony regarding the impetus, focus, and benefits of the subprogram and how the subprogram is an existing program that, in this case, has been broken out from the Targeted Circuit Improvements category. Consumers' exceptions, pp. 34-35 (citing 4 Tr 559-563, 704). In response to the ALJ's statement that the company should have provided historical cost and benefit information,

Consumers insists that it did provide this information as part of the Targeted Circuit Improvements category and that it provided substantial detail on the type of work it proposes to do in zonal health improvements. Consumers' exceptions, p. 35 (citing 4 Tr 562-567, 705; Exhibits A-112, A-127, and A-128). Consumers also disagrees with the ALJ's suggestion that the company's historical spending on zonal health improvements has resulted in negligible improvements in reliability. Consumers' exceptions, p. 36 (citing PFD, p. 93). Rather, Consumers attests that SAIDI (excluding MEDs) has improved from 233 minutes in 2019 to 176 minutes in 2023. Consumers' exceptions, p. 36 (citing 5 Tr 923).

Consumers also addresses the ALJ's concern that the company does not have the workforce to complete its proposed bridge period and test year work and argues that the ALJ's statement is unsupported. Consumers points to testimony from two of its witnesses stating that the company has had time to prepare for this increase in planned work so there is no concern with completing the project and that the company has already increased its workforce of internal labor and externally contracted labor. Consumers' exceptions, p. 36 (citing 4 Tr 727, 729-730; 5 Tr 918). As to any potential changes in spending as a result of the distribution audit, Consumers argues that customers would nonetheless benefit from zonal health improvement investments. Lastly, the company adds that LVD Lines Reliability investments have been proposed for inclusion in the IRM and if any spending is lower than approved amounts, the difference would be returned to customers. Consumers' exceptions, p. 37 (citing 4 Tr 375).

Turning to ROW acquisition expenditures, Consumers asks the Commission to reject the ALJ's recommendation. The company repeats that the necessity of ROW acquisitions given the proposed increase to LVD Lines Reliability, points out that the increase is proportionally less than

the total increase to the LVD Lines Reliability category, and maintains that its ROW acquisition projections are reasonable. Consumers' exceptions, p. 37 (citing 4 Tr 695).

In replies to exceptions, the Attorney General responds to Consumers' exceptions regarding Zonal Health Improvements and ROW acquisitions. Beginning with Zonal Health Improvements, the Attorney General repeats that Consumers did not provide a breakdown of spending within this category or fully justify its capital expenditures in the bridge period and test year. Attorney General's replies to exceptions, pp. 41-42. Responding to Consumers' statement in exceptions that it provided substantial detail regarding the planned work, the historical expenditures, and the number of and unit costs of projects over the past five years, the Attorney General contends that the company failed to provide any comparable historical cost data for Zonal Health Improvements work. The Attorney General added that this category of work was spread throughout other spending categories that were not clearly identified. *Id.*, pp. 43-44. As to Consumers' claims about SAIDI improvements from its Zonal Health Improvements work and the resulting benefits demonstrated on this record, the Attorney General points out the company's admission that more work needs to be done and argues that support for the purported benefits was lacking. *Id.*, pp. 44-45.

Addressing ROW acquisition expenditures, the Attorney General recites the parties' respective positions before expressing support for the ALJ's recommended disallowance. In response to Consumers' argument in exceptions that additional ROW procurement is necessary and the related acquisition costs are proportionally less than expected in light of the total increase in LVD Lines Reliability, the Attorney General counters that Consumers did not provide basic information in its ROW procurement request (i.e., costs and specific projects and lines or miles of lines requiring easements). The Attorney General calls the company's claims about the ROW request being

proportionally smaller than the total reliability increase vague and unsupported. *Id.*, pp. 46-47.

Thus, the Attorney General asks the Commission to adopt the ALJ's recommendation for Zonal Health Improvements and ROW acquisition. *Id.*, pp. 45, 47.

In its replies to exceptions, Consumers responds to the Attorney General's argument in exceptions regarding the secondary wire conversions. Consumers asks the Commission to reject the Attorney General's argument that secondary issues are not major contributors to SAIDI and that this work could be extended over a longer time horizon. Consumers counters by repeating its testimony that open-wire secondary that is at the end of its life is more vulnerable to tree damage and not easily repaired and that these secondary outages are high-frequency, long in duration, and disproportionately impact environmental justice (EJ) communities. Consumers' replies to exceptions, pp. 7-8 (citing 4 Tr 567). Consumers then repeats its plan for secondary conversion work and the anticipated benefits and asks the Commission to approve the company's expenditures in this cost category. Consumers' replies to exceptions, p. 8 (citing 4 Tr 568-569, 706).

MNSC defends the ALJ's recommended disallowance for Zonal Health Improvements in its replies to exceptions. In response to Consumers' exceptions, MNSC states that the company's characterization of the disallowance as "massive" is inverted and replies that, rather, it is Consumers' proposed spending that is massive, while the disallowance is fractional. MNSC's replies to exceptions, p. 11. MNSC contends that Consumers ignored the ample evidence opposing its request and failed to address MNSC's criticisms, which MNSC repeats. *Id.*, pp. 11-12. MNSC avers that the ALJ properly considered the whole record, and while she rejected MNSC's ultimate recommended disallowance, she relied upon MNSC's evidence that Consumers failed to address in exceptions. *Id.*, p. 12.

MNSC also responds to Consumers' statement that there is no evidence to suggest that the company will be unable to complete the Zonal Health Improvements work. MNSC counters that it is the company's responsibility to prove that it can complete the work, which it failed to do, and not the intervenors' responsibility to prove that the company cannot. MNSC repeats its reasons for being skeptical of Consumers' ability to complete the planned zonal health improvements work as well as its concern about the associated burden on ratepayers. MNSC thus asks the Commission to adopt the PFD. *Id.*, p. 13.

As to the Zonal Health Improvements and the ROW acquisition portions of LVD Reliability, the Commission finds the ALJ's recommendation to be well-reasoned and supported by persuasive evidence on the record. For Zonal Health Improvements specifically, the Commission agrees that because this is an existing category of reliability expenditures, albeit a relabeled one according to the company, the company should be able to produce historical costs specific to zonal health work. *See*, 4 Tr 704. In testimony, the company was able to produce examples of the projects that had made up Zonal Health Improvements in past years. *See*, 4 Tr 565. If the company can identify individual projects, it follows that cost information should also be identifiable. Should the company seek recovery in a future electric rate case, it is incumbent upon the utility to produce more complete cost information, including historical costs, from which the parties and the Commission can evaluate the reasonableness of future projections.

This is particularly true in instances in which previous cost categories are recategorized or relabeled, as is the case here where Consumers explained that Zonal Health Improvements is an expenditure category that has existed since 2013 but was relabeled in this case. While not inherently improper, without additional detail this practice of recategorization or relabeling of prior spending categories can impede the evaluation of cost expenditures, and there are multiple

instances throughout the record in this proceeding where that is the case. The Commission cautions the company that simply relabeling or recategorizing capital expenditures from one program or tracking method to another does not provide sufficient evidence to demonstrate the reasonableness and prudence of costs nor the benefits of program expenditures. As such, the Commission expects to see additional detail in future electric rate cases regarding line items that have been recategorized, the past spending levels for those line items, how historical spending for any relabeled line items compares to proposed expenditures, and clarity on how these investments deliver value for the company's customers.

Further, while the Commission sees potential value in expanding activities to enhance zonal health, it remains unclear whether the proposed levels of capital investment represent an optimized approach for maximizing customer benefit, including a reduction in SAIDI, particularly given the relatively flat level of expenditures focused on tree trimming. Prior to approving a 500% increase in capital spending for zonal health between the bridge period and test year, the Commission will want to see more analysis of the most cost-effective opportunities to drive improvement in reliability performance, using the results of the recent third-party audit in Case No. U-21305 as a starting point.

Finally, the Commission also shares the ALJ's concern regarding the company's ability to accomplish its ambitious work plan in zonal health considering the company's testimony that it does not currently have the workforce to perform on its Reliability Roadmap, a substantial portion of which is its LVD Reliability subprogram plans. *See*, PFD, p. 93; 4 Tr 470. In exceptions, the company attempts to downplay this workforce concern by pointing to Mr. Kelly's testimony that the company has already increased its internal and external contractor workforce and Mr. Lynd's testimony on cross-examination where he states that the company has planned projects for

construction in 2025 and that he does not have concerns with completing these projects.

Consumers' exceptions, p. 36 (citing 5 Tr 918; 4 Tr 729-730). However, Mr. Lynd explained that, while the company was doing well for 2024 in terms of having the workforce to deploy projects, he then stated that being on track in the bridge period does not necessarily mean the company will be on track in the test year. When asked specifically about whether the workforce is in place to achieve the increased level of spend for January 2025, Mr. Lynd replied that workforce is not his responsibility, so he did not know for certain. *See*, 4 Tr 729-730. The testimony referenced by Consumers in exceptions does not assuage the Commission's concerns about the level of workforce in place to warrant the company's ambitious expenditures. Therefore, the Commission adopts the ALJ's recommendation for zonal health improvements.

As to the ROW acquisitions, the Commission agrees with the Attorney General's position that the company's evidence supporting the projected expenditure was lacking the detail necessary in terms of specific projects and lines or miles of lines tied to needed easements to be fully supported. *See*, 5 Tr 2742-2743. The Commission also agrees with the Attorney General's proposed disallowance for secondary conversions and therefore, respectfully declines to adopt the PFD on this issue. The Commission finds persuasive the Attorney General's testimony that the company's planned investments target a relatively few number of customers and involves a significant ramp up in spending, from \$1.0 million in the bridge period to over \$28 million in the test year. The Commission finds that additional details supporting the benefits of these conversions are necessary prior to approval for inclusion in rate base of such a significant increase in expenditures. *See*, 5 Tr 2740-2742.

v. Low Voltage Distribution Substations Reliability

Per Consumers, this subprogram ensures long-term safety and reliable operation of substations, which are the interface between HVD and LVD lines and reduce the risk of customers experiencing long duration outages. 4 Tr 582-583. For LVD Substations Reliability, Consumers projected capital expenditures of \$19.156 million in the bridge period and \$43.725 million in the test year. 4 Tr 590; Exhibit A-95. These expenditures include work transferred from other subgroups and cover the following investment categories: (1) new or rebuilt substations—\$8.985 million for eight projects in the bridge period and \$25.442 million for 12 projects in the test year; (2) new mobile substations—\$0 spending in the bridge period and \$1.560 million for two projects in the test year; (3) animal mitigation—\$2.373 million for 20 projects in the bridge period and \$2.956 million for 27 projects in the test year; (4) regulator replacements—\$760,000 for 18 projects in the bridge period and \$240,000 for six projects in the test year; (5) transformer replacements—\$4.191 million for four projects in the bridge period and \$5.525 million for seven projects in the test year; and (6) Distribution Supervisory Control and Data Acquisition (DSCADA)—\$2.847 million for five projects in the bridge period and \$8.002 million for 24 projects in the test year. 4 Tr 591, Figure 45.

The Attorney General took issue with the New or Rebuilt substations and the DSCADA categories, arguing that the company's test year spending was excessive in terms of the number of substations the company is proposing to rebuild in the test year and in terms of the per unit cost. The Attorney General argued that the cost per substations in the new and rebuilt category should be set at historical levels and adjusted for inflation. Thus, the Attorney General proposed a \$14.410 million reduction from Consumers' test year projection, resulting in a capital expenditure of \$11.032 million for the test year. 5 Tr 2744-2745. As to the DSCADA category, the Attorney

General contended that a per unit cost of \$249,600 for the bridge period and \$255,091 for the test year was more appropriate as it was based on historical spending levels adjusted for inflation. Thus, she recommended a capital expenditure of \$1.248 million for the bridge period and \$6.122 million for the test year. 5 Tr 2746-2747.

The company disagreed with the Attorney General's proposals. 4 Tr 708-710.

The ALJ agreed with the Attorney General's approach for determining the per unit cost for new or rebuilt substations and for the DSCADA. The ALJ noted that Consumers' forecast for new or rebuilt substations is based on an average unit cost close to the historical average and that apart from stating that the projects in this category vary in scope, the company did not persuasively explain the significant increase in expenditures for the test year. PFD, p. 97. The ALJ also agreed with the Attorney General that the number of new or rebuilt substations should be reduced from 12 to 8 for the test year, reasoning that some of these projects could be delayed and that this reduction would lessen the rate impact on residential customers. *Id.* Therefore, the ALJ recommended that the Commission reduce Consumers' capital expenditures in the LVD Substation Reliability subprogram by \$1.599 million for the bridge period and \$16.290 million for the test year. *Id.*

Consumers excepts to the ALJ's recommendation, contending that it fails to account for the varying costs of individual substation projects and that it will result in reduced reliability benefits. Beginning with the test year, the company repeats its testimony that it has identified at-risk substations and that these investments will improve reliability and provide additional capacity. Consumers' exceptions, p. 38 (citing 4 Tr 583; Exhibits A-127 and A-128). The company argues that the ALJ's recommended reduction from 12 to 8 projects will reduce the benefits to customers. Consumers' exceptions, p. 39.

The company then disputes that its projected costs are too high and argues that it sufficiently explained that the difference in the scope of work accounts for the higher costs of projects in the test year. *Id.* Consumers points back to Exhibits A-127 and A-128 to illustrate the variability between planned projects and highlights that:

the bridge period has 13 line items in Exhibit A-127 (DAL-1), page 24, which includes two substation rebuilds, continuing two new substations started in a previous period, two smaller scope projects, and seven property/easement purchases for future projects. 4 TR 708. Exhibit A-127 (DAL-1), page 24, lines 1 through 13 detail the locations, projected costs, and expected benefits of these individual projects. In the test year, there are 12 line items in Exhibit A-128 (DAL-2), page 25, which include seven substation rebuilds, three new substations, including multi-mile HVD line construction for one substation, and two smaller scope rebuilt substation projects. 4 TR 708. Exhibit A-128 (DAL-2), page 25, lines 1 through 12 detail the locations, projected costs, and expected benefits of these individual projects. New or rebuilt substation projects in the test year varied in cost from \$230,000 to \$2.409 million. 4 TR 710.

Consumers' exceptions, pp. 39-40. The company argues that the ALJ's recommendation to use an average historical unit cost ignores the variance in scope of work. While maintaining that its full number of proposed projects should be approved, Consumers adds that if the Commission rejects the average historical unit cost but adopts the reduction of test year units from 12 to 8, the disallowance should be \$8.481 million rather than \$14.410 million.<sup>7</sup> *Id.*, p. 40.

Turning to DSCADA, Consumers asks the Commission to reject the ALJ's recommended disallowance and contends that it sufficiently explained that the increases in the bridge period and test year are due to the installation of DSCADA in more complex and difficult areas. Consumers repeats that projections are properly based on the specific work for each project and points to Exhibits A-127 and A-128 detailing the locations, projected costs, and expected benefits of each

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<sup>7</sup> Consumers provides its calculation for this correction as follows: "\$25,442,000 projected test year cost minus \$16,961,000 ( $\$25,442,000 / 12 * 8$ ) = \$8,481,000." Consumers' exceptions, p. 40, n. 6.

project. Additionally, the company states that some spending in a particular year does not result in a completed project until the next year and can contribute to the varying unit cost calculations.

Consumers' exceptions, pp. 40-41 (citing Exhibits A-127, A-128, and A-251).

The Attorney General replies to Consumers' exceptions with respect to the new or rebuilt substations and DSCADA projects within LVD Substation Reliability. Per the Attorney General, Consumers, in exceptions, argues that its projected number of substations for the test year should not be reduced and states that before installing a new substation, the company will review SAIDI, system average interruption frequency index (SAIFI), and customer average interruption duration index (CAIDI) benefits; new substation costs compared with traditional line solutions; and long-term capacity needs to optimize new substation locations. Attorney General's replies to exceptions, p. 50 (citing Consumers' exceptions, pp. 38-39). The Attorney General contends that this statement shows that further evaluation is needed prior to final determinations on new substation installations and prompts questions as to whether the 12 substations will be needed and whether benefits will exceed the cost. Attorney General's replies to exceptions, p. 50. Next, addressing Consumers' claims that test year expenditures are not too high, the Attorney General points to and agrees with the ALJ's assessment that the company failed to justify its projections because the average unit cost is close to the historical average. Therefore, the Attorney General asks that the Commission affirm the ALJ's recommendation and remove \$14.410 million from the test year. *Id.*, pp. 50-51.

Turning to DSCADA projects, the Attorney General disputes Consumers' argument in exceptions that its expenditures are justified based on the unique scope and timing for completion of each planned project. *Id.*, p. 52 (citing Consumers' exceptions, pp. 40-41). The Attorney General repeats her position explained on the record that the proper per unit average cost per

project is \$242,859 for the historical years 2021 through 2023. The Attorney General contends that this methodology normalizes year-to-year variances and results in a bridge period per unit cost of \$249,600 for the bridge period and \$255,091 for the test year. Citing the variances in cost year-to-year described in her testimony and briefing, the Attorney General maintains the soundness of her methodology for projecting the costs for this expenditure. Attorney General's replies to exceptions, pp. 51-53 (citing 5 Tr 2746; Exhibit AG-1.7).

The Commission respectfully declines to adopt the ALJ's recommendation with respect to the new or rebuilt substations portion of LVD Substation Reliability. The Commission finds persuasive the company's evidence supporting these projects in terms of the number of at-risk substations in need of being rebuilt or replaced, the costs associated, and the benefits expected. The company also explained the increase to 12 projects in the test year as well as the range of costs included in Exhibits A-127 and A-128 resulting from the varying complexity in each project. 4 Tr 590-593; 708. Further, similar to other subprograms described *supra*, the Commission finds that the company's per unit substation costs are more appropriate as they are based on specific estimates for the planned projects as opposed to the Attorney General's application of a historical average. *See*, 4 Tr 708; Exhibits A-127 and A-128.

As to the DSCADA projected expenditures, the Commission finds the ALJ's recommendation to be well-reasoned and based on persuasive evidence on the record and accordingly adopts the PFD. The Commission finds that Consumers' explanation for some years of historical DSCADA expenditures being lower than in the projected years is vague and unpersuasive. The company's general statement that previous years' projects were less complex and that the company is now installing DSCADA projects in more difficult areas does not sufficiently explain or justify the increase in expenditures. In light of the lack of support from Consumers, the Commission finds

the Attorney General's methodology is reasonable and therefore, the Commission adopts the disallowance of \$1.599 million for the bridge period and \$1.880 million for the test year from rate base for the DSCADA expenditures.

vi. Low Voltage Distribution Repetitive Outages

Consumers explained that its LVD Repetitive Outages subprogram is intended to reduce frequent customer outages as measured by customers experiencing multiple interruptions (CEMI). For the bridge period, Consumers projected \$11.538 million for 197 projects, and for the test year, it projected \$10.141 million for 116 projects. 4 Tr 598; Exhibit A-95. Consumers justified its projected expenditures by contending that these significant investments are needed to meet the standards set out in the Commission's Service Quality and Reliability Standards (SQRS), Mich Admin Code, R 460.701 *et seq.*

The Attorney General questioned the company's pattern of historical repetitive outage spending in the repetitive outages, calling it erratic and confusing given that repetitive outages have continually been a concern. Pointing out the low spending levels in 2023, the Attorney General further questioned how projected expenditures for the bridge period and test years could increase so significantly. Using the average per-project spend in the subprogram of \$30,272 between 2021 and 2023, and applying general inflation rates, the Attorney General calculated an average project cost of \$31,112 for the bridge period and \$31,796 for the test year. Applying these figures to the company's projected project numbers, the Attorney General arrived at a projected capital expenditure of \$6.129 million for the bridge period and \$3.688 million for the test year. 5 Tr 2747-2748.

The company disagreed with the Attorney General's position and maintained that it properly supported its capital expenditures for the bridge period and test year. 4 Tr 710.

The ALJ found the Attorney General's reduced projections to be reasonable. The ALJ rejected the company's argument that the Attorney General's proposed expenditures do not account for the escalating unit costs and more expensive projects included in Consumers' forecast. The ALJ pointed out that in the past three years, this subprogram has included a variety of projects with high and low costs and added that Consumers did not provide sufficient detail regarding its historical and projected costs. Therefore, the ALJ recommended that the Commission disallow \$5.409 million from the bridge period and \$6.453 million from the test year, leaving \$6.129 million for the bridge period and \$3.688 million for the test year for inclusion in rate base. PFD, pp. 100-101.

In exceptions, Consumers repeats its description of the LVD Repetitive Outages subprogram and recounts that the updated SQRS state that utility performance is unacceptable if more than 6% of customers have four or more outages in a calendar year. Repeating its testimony that, in 2023, 10.7% of Consumers' customers experienced four or more outages, the company argues that its responsive proposed investments in the Repetitive Outage subprogram are supported and needed. Consumers' exceptions, pp. 41-42 (citing 4 Tr 594-596, 598; Exhibits A-127 and A-128). Consumers argues that the ALJ's finding that the company did not present sufficiently detailed evidence on historical and projected costs is confusing given the level of detail presented in Exhibits A-127 and A-128. Consumers' exceptions, p. 42 (citing 4 Tr 599; Exhibits A-127 and A-128).

Consumers also takes issue with the ALJ's recommendation to use a three-year average unit cost because, per the company, it does not account for the increasing costs necessary to perform more robust hardening projects. The company repeats its explanation that to improve its CEMI performance, it is shifting focus to these robust hardening projects like line relocation,

undergrounding, and replacing bare wire with tree resistant wire. Also not captured in the three-year average method, per Consumers, is the skewed unit cost average in 2023, where the company shifted dollars to address anomalies and to add lateral fusing to circuits. Consumers' exceptions, p. 43 (citing 4 Tr 599-600). Thus, the company argues that its cost projection method and projected expenditures should be adopted by the Commission.

In replies to exceptions, the Attorney General repeats the company's capital expenditure request and the Attorney General's suggested disallowance using a three-year historical per unit average cost. Attorney General's replies to exceptions, pp. 53-54. The Attorney General then replies to Consumers' exceptions wherein the company argued that it provided the locations of individual projects, projected spending, and reduced customer outage minutes, and questioned what additional information could be required. The Attorney General points out that Consumers admitted to shifting dollars in 2023 to address anomalies found during inspections and to add lateral fusing circuits and that these shifted dollars went towards work that accomplished reductions in SAIDI and CEMI. *Id.*, p. 55 (citing Consumers' exceptions, pp. 42-43). The Attorney General also notes Consumers' statement that it is now increasing expenditures in this subprogram above 2023 levels to reduce the number of repeat outages a customer experiences once poor performance is identified. Attorney General's replies to exceptions, pp. 55-56 (citing Consumers' exceptions, p. 43).

The Attorney General dismisses Consumers' arguments as grounds to reject the PFD. First, the Attorney General states that Consumers misunderstands its obligation to support its proposed expenditures by pointing to general information and failing to provide details in support for the line numbers. Secondly, the Attorney General calls for the Commission to reject the company's claim that including 2023 investments in the three-year average unreasonably skews the unit cost.

Per the Attorney General, the company's practice of shifting dollars to other projects supports the inclusion of 2023 spending levels. Attorney General's replies to exceptions, p. 56 (citing 5 Tr 2748). Lastly, the Attorney General claims that Consumers' admission about shifting dollars indicates that ratepayers have already funded some of this work, which the company shifted elsewhere, and that the company is now coming back to ratepayers to fund some of the same projects. Attorney General's replies to exceptions, p. 56. Thus, the Attorney General asks the Commission to adopt the ALJ's recommendation.

Having reviewed the record on the LVD Repetitive Outages subprogram, the Commission finds that the projected work and associated expenditures projected by Consumers for the bridge period and test year are reasonable and prudent and will make progress towards improving the company's compliance with the Commission's SQRS. The Commission finds that the planned work is necessary and reasonably responsive to the fact that an unacceptable 10.7% of Consumers' customers experienced four or more outages in 2023. *See*, 4 Tr 594-596, 598. Further, the Commission agrees that Consumers' per unit costs are more appropriate as they are tied to the specific planned projects and anticipated cost increases. *See*, Exhibits A-127 and A-128. Therefore, the Commission respectfully declines to adopt the ALJ's recommendation and finds that Consumers' projections for expenditures of \$11.538 million in the bridge period and \$10.141 million in the test year are reasonable.

However, the Commission finds that the ALJ and Attorney General's point regarding the relatively low spending in 2023 is well-taken. The Commission therefore expects Consumers to present a robust case in its next electric rate case to demonstrate that these dollars were indeed spent on addressing reliability in LVD repetitive outages.

While beyond the scope of this proceeding, the Commission notes its concern regarding Consumers' admission that, in 2023, 10.7% of its customers experienced four or more outages in violation of the SQRS, Mich Admin Code, R 460.701 *et seq.* 4 Tr 594. Per the reporting requirements of the SQRS, Mich Admin Code, R 460.732, the Commission expects Consumers to include in its next SQRS report an explanation for the unacceptable level of performance as well as its plan for achieving compliance with the SQRS.

vii. Low Voltage Distribution Lines Rehabilitation

Per Consumers, the LVD Lines Rehabilitation subprogram focuses on the repair or replacement of LVD lines equipment with a near-term failure risk and encompasses three investment categories: (1) imminent rehabilitation, (2) subsurface transformer replacements, and (3) the modem replacement program. Consumers projected capital expenditures of \$14.488 million in the bridge period and \$15 million in the test year with the following included as specific areas of expenditures: (1) \$11.404 million for 461 projects in the bridge period and \$11.492 million for 374 projects in the test year for the Imminent Rehabilitation category; (2) \$86,000 for four projects in the bridge period and \$510,000 for 21 projects in the test year for the Subsurface Transformers category; and (3) \$2.998 million for 800 projects in the bridge period and in the test year for the Modem Replacement Program. 4 Tr 623-625, Figure 62.

The Attorney General disputed the company's average costs per unit used to develop its projections, calling them excessive and unsupported, and argued that the scope of work for the Imminent Rehabilitation category was more extensive in 2021 and 2022 than in other years, and therefore, the company's forecast should reflect that abnormality. Using an average per unit cost of \$15,926 for the bridge period, the Attorney General calculated a capital expenditure of \$7.342 million for the bridge period. For the test year, the Attorney General used a

\$16,276 average per unit cost and arrived at a capital expenditure of \$6.087 million. 5 Tr 2749-2750.

Consumers disagreed with the Attorney General's methodology and proposed capital expenditures. 4 Tr 711.

The ALJ agreed with the Attorney General's methodology using the three-year average per unit cost for the Imminent Rehabilitation category. While agreeing with Consumers that there is wide variation in project costs in this category, the ALJ maintained that the variations are leveled out by the 2021 through 2023 average, which incorporates the five-year high cost of \$18,198 in 2021. The ALJ further noted that using the Attorney General's three-year average rather than the company's five-year average incorporates the highest per unit cost over five years but not the lowest, which was \$9,527 in 2020. The ALJ pointed out that Consumers acknowledged that an average unit cost could be used to analyze projections for the subprogram. PFD, p. 104 (citing 4 Tr 627-628). Lastly, the ALJ stated that there were no proposed disallowances to the subsurface transformer and modem replacement investment categories. Thus, the ALJ recommended that the Commission disallow \$4.062 million for the bridge period and \$5.405 million for the test year in the LVD Lines Rehabilitation subprogram.

Consumers excepts to the ALJ's agreement with the Attorney General to base projected expenditures on a three-year average unit cost and her resulting recommended disallowance. Consumers contends that the Commission should instead rely on Consumers' provided details in Exhibits A-127 and A-128 on the size and complexity of the individual planned projects in the bridge period and test year. Consumers' exceptions, pp. 44-45 (citing 4 Tr 627). Consumers repeats its arguments in testimony that there is a wide variance in the work in this subprogram

with planned expenditures ranging from \$1,000 to \$730,000 per project and that an average historical unit cost ignores the details provided by the company. Consumers' exceptions, p. 45.

Disputing the ALJ's support for the Attorney General's recommendation, Consumers argues that:

[a]s apparent support for [her] recommendation, the [ALJ] points to the Company's statement that because of the volume of units, an average unit cost could be used to analyze the projections for the overall subprogram. PFD, page 104. But that is not what the [ALJ] or the Attorney General did – rather, the [ALJ] recommended the application of a historical average unit cost approach to just the Imminent Rehabilitation investment category portion of the subprogram, and ignored the Subsurface Transformers and Modem Replacement Program investment categories. The Modem Replacement Program makes up the majority of the units in the overall subprogram. See 4 TR 625, Figure 62. The Company did not agree that an average unit cost should be used to project the Imminent Rehabilitation investment category[.]

Consumers' exceptions, pp. 45-46. Thus, Consumers asks the Commission to reject the PFD.

In replies to exceptions, the Attorney General repeats the parties' respective positions and expresses support for the ALJ's recommended disallowance. Per the Attorney General, Consumers, in exceptions, pointed to a graph showing the average unit costs for the LVD Lines Rehabilitation subprogram from 2019 to 2023; however, the Attorney General observes that Consumers did not provide specifics regarding the Imminent Rehabilitation investment category. In response to Consumers' reliance on Exhibit A-128 to show that it provided cost information for the 374 projects, the Attorney General argues that Exhibit A-128 includes no details on how the amounts were derived and only includes brief descriptions of the projects. As to Consumers' reliance on 2021 and 2022 to show that the variance in project costs is due to the varying size and complexity of work orders, the Attorney General argues that, again, specifics are lacking, and the three-year average smooths out any variations from project to project. Attorney General's replies to exceptions, p. 60.

Lastly, the Attorney General addresses Consumers' complaint that the ALJ pointed to the company's statement that because of the volume of units, an average unit cost could be used. However, the Attorney General argues that the ALJ instead "recommended the application of the historical average unit cost approach to just the Imminent Rehabilitation investment category portion of the subprogram, and ignored the Subsurface Transformers and Modem Replacement Program investment categories[.]" Attorney General's replies to exceptions, p. 61. The Attorney General states that:

[she] focused on Imminent Rehabilitations because there was a large difference between the projected expenditures versus the historical data. Her decision to use the three-year average of historical data plus inflation was due to the nature of the Imminent Rehabilitation projects and proposed expenditures as discussed above and not some permission from the Company. Further, the Company's exception provides no principle or basis for limiting average unit costs to the LVD Lines Rehabilitation sub-program and not its component investment categories. And, given the emergent nature of the expenditures under the Imminent Rehabilitation investment category, the Attorney General's approach for projecting costs is reasonable.

Attorney General's replies to exceptions, pp. 61-62.

The Attorney General argues that the company failed to justify its proposed expenditures and the emergent or contingent nature of some of the work lessens the certainty of the work actually being done. Additionally, the Attorney General contends that the fact that these lines do not require immediate repair allows the company to defer work. Thus, the Attorney General asks the Commission to adopt the \$4.062 million disallowance from the bridge period and the \$5.405 million disallowance from the test year. *Id.*, p. 62.

Having reviewed the record on this matter, the Commission agrees that Consumers has sufficiently explained and justified its proposed expenditures in the LVD Rehabilitation category. *See*, 4 Tr 619-632. The Commission agrees with Consumers that the ALJ misinterpreted the company's statement regarding the use of a historical average for the whole LVD Rehabilitation

subprogram being acceptable given the volume of projects. The ALJ applied the historical average to the Imminent Investment category only, which contained 461 projects for the bridge period and 374 projects for the test year in comparison with the modem replacement category that contained 800 projects in the bridge period and 800 projects in the test year. *See*, 4 Tr 625. The ALJ's reliance on Consumers' statement as a concession is somewhat misplaced. The Commission finds reasonable and sufficient the company's Imminent Rehabilitation evidentiary presentation of the projected expenditures based on the estimated costs for labor and materials, the descriptions of the identified projects, the explanations for past spending in these subcategories, the benefits associated, and the variance in expenditures based on the nature and scope of the work performed year to year as well as in the projected years. *See*, 4 Tr 625-627; Exhibits A-95, A-127, and A-128. The evidence presented by the company presents a more reliable estimate of expenditures in the bridge period and test year than reliance on a historical average that does not incorporate the details provided.

Therefore, the Commission finds that Consumers' projected expenditures of \$14.488 million in the bridge period and \$15 million in the test year are reasonable.

#### viii. Low Voltage Distribution Resiliency

Per Consumers, LVD Resiliency expenditures are intended to harden the distribution system and reduce the impact of major weather events on customer outages. The company projected \$13.768 million in the bridge period and \$22.623 million in the test year for this subprogram. 4 Tr 640-641; Exhibit A-95. Consumers further explained that two investment categories, Fractionalization and LVD Overhead to Underground Conversions, make up substantial portions of the requested expenditures. For Fractionalization, Consumers requested \$8.189 million for two projects in the bridge period and \$12.623 million for four projects in the test year. 6 Tr 641,

Figure 71. For Overhead to Underground Conversions, it requested \$5.579 million to convert 14 miles in the bridge period and \$10 million to convert 25 miles in the test year. 4 Tr 641, Figure 71.

The Attorney General argued that the company's proposed expenditures within LVD Resiliency are not supported or cost effective and that the company has not shown that the Fractionalization investments have well-defined goals or will reduce outages. Thus, the Attorney General recommended a disallowance for the entire Fractionalization portion totaling \$1.189 million in the bridge period and \$12.263 million in the test year. 5 Tr 2752-2754. The Attorney General also questioned Consumers' cost estimates and potential benefits of the Overhead to Underground Conversions and pointed out that the results from the pilot approved in Case No. U-21389 regarding undergrounding are not yet available, making cost recovery premature. The Attorney General recommended disallowing \$1.879 million for the bridge period, leaving the \$3.7 million that the Commission approved for the pilot in Case No. U-21389. She further recommended disallowing the full \$10 million for undergrounding in the test year. 5 Tr 2756-2758.

Consumers maintained its position regarding the reasonableness and prudence of its proposed investments for Fractionalization and Overhead to Underground Conversions and asked the Commission to reject the Attorney General's disallowances. 4 Tr 712-716; 5 Tr 1044-1045.

The ALJ found that the company's proposed Fractionalization investments were supported and will lead to improved resiliency. The ALJ pointed to the expectation that Fractionalization will result in an approximate 37% reduction in the number of customers per circuit in the identified substations and lead to reductions in customers experiencing outages. PFD, p. 109 (citing 4 Tr 642, Figure 72). The ALJ was not persuaded by the Attorney General's suggestion to remove

the entire investment. Thus, the ALJ recommended approval of the \$8.189 million in the bridge period and \$12.623 million in the test year for Fractionalization. PFD, p. 109.

As to the Overhead to Underground Conversions investments, the ALJ agreed with the Attorney General's argument that full cost approval is premature given that the results of the pilot approved in Case No. U-21389 are not yet known. Thus, the ALJ recommended that the Commission reduce the capital expenditures for this category by \$1.879 million in the bridge period and by \$10 million in the test year. In sum, the ALJ's recommended disallowance for the LVD Resiliency subprogram totaled \$1.879 million in the bridge period and \$10 million in the test year. *Id.*, p. 110.

The Attorney General takes exception to the ALJ's recommendation regarding the Fractionalization capital expenditures. The Attorney General points out that the company's proposed projects showed that some circuits were not fractionalized because the same number of customers would be on the lines post-Fractionalization as was on the line pre-Fractionalization. Attorney General's exceptions, pp. 11-12 (citing 5 Tr 2752). The Attorney General repeats that the 23 minutes saved in outage time does not justify the proposed millions in spending. As to the PFD, the Attorney General contends that the ALJ's recommendation is not supported by the record. Noting that the ALJ acknowledged that this was the first case in which Consumers presented this resiliency subprogram and that, therefore, there was no historical spending to review, the Attorney General argues that the ALJ gave deference to the company's position and ignored the Attorney General's evidence.

Specifically, the Attorney General states that the ALJ ignored the Attorney General's evidence regarding the Backus Substation-Maple Valley, Bennington Substation-Manitou, Eagle Substation-Chicago, Pioneer, and Cottonwood circuits that had the same number of customers pre-

and post-Fractionalization. Attorney General's exceptions, pp. 13-14 (citing 5 Tr 2752). The Attorney General argues that the company struggled to explain the purpose and benefits of Fractionalization for these circuits. Next, the Attorney General restates her evidence regarding outages wherein she:

asked the Company to provide the number of outages that occurred on the targeted fractionalization circuits during each year from 2019 to 2023 and the outages expected after fractionalization. The Company's response shows that most of the circuits had from zero to 2 outages over the past five years with less than a handful with 3 or more outages. It also stated that an overall reduction in outage incidents is not anticipated for fractionalizing projects.

Attorney General's exceptions, p. 14 (citing Exhibit AG-1.8).

Thus, the Attorney General argues that contrary to the ALJ's finding, the Attorney General's position is persuasive and supported by her testimony and exhibits evidence and should be adopted by the Commission. Further, given the burden of proof requirements in this case, the Attorney General states that it is unclear why the ALJ would contend that the Attorney General is obligated to provide an alternative recommendation. Attorney General's exceptions, p. 15.

Consumers takes exception to the ALJ's recommendation regarding the Undergrounding investment category, contending that the disallowance would delay "the unquestionable benefit to resiliency that Undergrounding provides." Consumers' exceptions, pp. 46-47. The company repeats the support it provided in testimony regarding its proposed ramp up of undergrounding projects and the expected benefits and insists that approving additional miles for undergrounding in this case is not premature. *Id.*, pp. 47-48 (citing 4 Tr 639-645; 5 Tr 878-880, 927, 1044-1045; Exhibit A-111, p. 79). Consumers argues that the small comparative increase in the cost of undergrounding compared to alternatives like Aerial Spacer Cable and Tree Wire is justified given the "reliability gains from approximately 64% for the alternatives to more than 90% for Undergrounding." Consumers' exceptions, p. 48 (citing 5 Tr 1044). Consumer repeats that it has

identified circuits where undergrounding will benefit customers and that those benefits will expand beyond direct benefits to also benefit storm-impacted customers with shorter electric interruption durations. Thus, the company asks the Commission to approve its projected Undergrounding expenditures. Consumers' exceptions, pp. 48-49.

Addressing the Overhead to Underground Conversions category in replies to exceptions, the Attorney General asks the Commission to reject Consumers' arguments in exceptions. The Attorney General points to her testimony wherein she identified the following problems with Consumers' undergrounding proposal: (1) the criteria consist of low thresholds under which hundreds if not thousands of overhead lines could qualify for conversion; (2) the criteria do not include a benefit/cost analysis (BCA); (3) the company forecasted approximately 3,200 miles of lines for conversion and at the company's estimated cost of \$400,000 per mile, the total cost would be approximately \$1.3 billion; (4) the company's estimated \$400,000 cost per mile is based on a 2021 study and is not based on a specific and detailed cost analysis[, whereas a] more reasonable estimate based on the ongoing undergrounding pilot is \$415,000 per mile; (5) after correcting for errors in the Excel model used by Consumers to determine the present value of undergrounding, the more correct present values of the revenue requirement is \$5.7 million for Undergrounding, \$5.1 million for Ariel Space Cable, \$5.0 million for Tree Wire, and \$3.3 million for Vegetation Management, making undergrounding the most expensive; and (6) the company's expenditures exceed the \$3.7 million approved for the test year ending February 2025 that were approved in Case No. U-21389. Attorney General's replies to exceptions, pp. 66-68.

The Attorney General argues that the company's proposal is not well-defined, lacks important criteria to ensure economic decisions are made, and is based an incorrect financial analysis. Thus, the Attorney General asks the Commission to adopt the ALJ's recommendation. *Id.*, p. 69.

Consumers, in its replies to exceptions, asks the Commission to reject the Attorney General's requested disallowance for Fractionalization investments within the LVD Resiliency subprogram. Consumers states that the Attorney General's argument rests on her assertion that some of the circuits that the company identified for Fractionalization are not being fractionalized or are only minimally so. Relying on Figure 72 at 4 Tr 642, the company repeats its previously stated explanation:

The six planned fractionalization projects will address four of the 40 highest customer count circuits and four of the 40 highest line exposure circuits, with Figure 72 identifying the pre-investment and post-investment configurations for these circuits. 4 TR 642. The Company explained to the Attorney General in discovery that Figure 72 shows all substations impacted by the fractionalization project even though some of the circuits associated with those substations will not be affected. Exhibit AG-1.8, page 4. Since the Company is focused on reducing the number of circuits with the highest customer count and most overhead line exposure, a fractionalization project may not address every circuit at a substation. For example, at the Backus Substation project, the work scope is focused on fractionalizing the 116 miles of the present Springbrook Circuit and not the Maple Valley Circuit. For the Bennington Substation, the work scope is focused on fractionalizing the 114 miles of the Grand River Circuit and not the Manitou Circuit. And for the Eagle Substation, the work will be focused on the Pinebrook, Wellington, Hager Park, Van Buren, and Rush Lake circuits. See 4 TR 642, Exhibit AG-1.8, page 4. While the Attorney General is correct that circuits exist that "are not being fractionalized," that is only because the Company is reasonably selecting the most impactful circuits for fractionalization, and certainly [that] is not a reason to disallow all fractionalization costs.

Consumers' replies to exceptions, pp. 10-11 (citing 4 Tr 642, Figure 72; Exhibit AG-1.8). Per Consumers, the Attorney General, in her exceptions, argues that Fractionalization was not justified because the company stated that an overall reduction in outage incidents was not anticipated. Consumers' replies to exceptions, p. 11 (citing Attorney General's exceptions, p. 14). Consumers replies that its statements only clarified that the purpose of Fractionalization was to reduce the number of customers that experience an outage when it occurs. The company then repeats the benefits provided on the record and asks the Commission to approve the company's

Fractionalization investments. Consumers' replies to exceptions, pp. 11-12 (citing 4 Tr 713; Exhibit AG-1.8, p. 6; Exhibit A-127, p. 41; Exhibit A-128, p. 40).

Finding the ALJ's recommendations pertaining to the two categories at issue within LVD Lines Resiliency (Fractionalization and Overhead to Underground investments) to be well-reasoned and supported by the record, the Commission adopts the ALJ's recommendations for these categories. With respect to Fractionalization, the Commission agrees that the entire removal of the expenditures for this category, as suggested by the Attorney General, is unreasonable given the Commission's emphasis on the importance of resiliency and the expected 37% reduction in the number of customers experiencing outages. *See*, 4 Tr 642; March 1 order, p. 273 (approving LVD Resiliency, excluding Overhead to Underground, for inclusion in the IRM in that case). Further, the Commission finds that the company sufficiently rebutted the Attorney General's assertion that some circuits were not being fractionalized at all or only minimally. *See*, 4 Tr 642, Figure 7; Exhibit AG-1.8. As to the Overhead to Underground investments, the Commission agrees with the ALJ that awaiting the results of the undergrounding pilot approved in the March 1 order is prudent before ramping up investments in this category.

Therefore, the Commission adopts the ALJ's recommendation to disallow \$1.879 million in the bridge period and \$10.0 million in the test year from the LVD Resiliency subprogram.

#### ix. Low Voltage Distribution Lines Capacity

Consumers explained that the LVD Lines Capacity subprogram addresses and reduces overload risk on components of the LVD lines system and responds to existing risks arising from load growth or load shifting from one area of the LVD system to another. 4 Tr 647. This subprogram is divided into two investment categories: (1) equipment upgrades and (2) new lines associated with substation projects. 4 Tr 647. The company projected \$19.082 million in the

bridge period and \$56.723 million in the test year for the LVD Lines Capacity subprogram. 4 Tr 654; Exhibit A-95. Specifically for the equipment upgrade category, Consumers projected to undertake 18 projects at the cost of \$6.437 million in the bridge period and 327 projects at a cost of \$45.652 million in the test year. 4 Tr 655, Figure 77. For LVD new lines associated with substation projects, the company projected 8 projects in the bridge period at a cost of \$12.645 million and 16 projects in the test year at a cost of \$11.071 million. 4 Tr 655, Figure 77.

The Attorney General took issue with the per unit costs of the projects projected in the LVD Capacity Lines subprogram, arguing that they are excessive and unjustified. For the equipment upgrades category, the Attorney General advocated for a per unit cost of \$140,216 based on a three-year average per unit cost, updated for inflation, resulting in a bridge period capital expenditure amount of \$2.254 million for equipment upgrades, which was a \$3.913 million decrease from the company's position. 5 Tr 2759. For the test year in the same category, the Attorney General objected to the "unprecedented" number of projects projected by the company and pointed out that the highest number completed in the past five years was 59 in 2022. 5 Tr 2760. Using a more gradual increase of the historical three-year average from 44 projects to 90 projects, the Attorney General recommended a test year capital expenditure of \$12.897 million, or \$32.755 million less than the company's position. 5 Tr 2761-2762.

Consumers disagreed with the Attorney General's position and maintained the company's projected expenditures. 4 Tr 717-718.

The ALJ found the Attorney General's position to be reasonable and recommended that the Commission adopt the Attorney General's adjustments to LVD Lines Capacity. The ALJ reasoned that Consumers provided little explanation as to why it plans to decrease the number of equipment upgrade projects from the three-year historical average of 44 to 18 in the bridge period and

increase them by a factor of seven in the test year. The ALJ further agreed with the Attorney General's assessment of the per unit cost, stating that the company's per unit costs that were more than double the five-year average were excessive and insufficiently supported. PFD, p. 114. As to the LVD lines associated with substation work, the ALJ again agreed with the Attorney General that Consumers' bridge period and test year projections "[are] wildly out of line with the five-year average of costs for this type of project." *Id.* Thus, the ALJ recommended adoption of the Attorney General's proposed disallowances of \$13.485 million in the bridge period and \$37.714 million in the test year for the LVD Lines Capacity subprogram. *Id.*, p. 115.

In exceptions, Consumers argues that the ALJ's recommendation to use the historical average cost methodology should be rejected because the company identified the planned projects and associated costs in Exhibits A-127. Consumers states that these costs were developed with consideration for the estimated cost of material and labor as well as the variance in project costs between individual projects and contends that its projected expenditures are, therefore, a more precise estimate. Consumers' exceptions, p. 50 (citing 4 Tr 656; Exhibit A-127). Consumers also asks the Commission to reject the ALJ's recommended reduction in the number of test year projects, arguing that the company's planned projects will address overloaded assets that were identified in a comprehensive review of the distribution system and existing risks to "reliability and safety, equipment failure, disruptions of sectionalizing devices, potential oil spills, equipment heating and potential fire, inadequate voltage to downstream customers, and conductor melting or sagging." Consumers' exceptions, p. 50 (citing 4 Tr 647-648). Consumers avers that completing only 90 projects would increase the risk of overload-related outages and, therefore argues that the ALJ's recommendation should be rejected by the Commission.

As to the lines capacity projects associated with substation work, Consumers also excepts to the ALJ's agreement with the Attorney General's proposed reduction of \$9.572 million in the bridge period and \$4.959 million in the test year by applying a three-year historical average plus inflation. Consumers' exceptions, p. 51 (citing PFD, pp. 113, 115). Consumers again asks the Commission to reject the application of the historical average and argues that its projected expenditures based on the specific projects that have a wide variance in costs is the more reasonable estimation method. Consumers' exceptions, p. 51 (citing 4 Tr 719; Exhibits A-127 and A-128).

In replies to exceptions, the Attorney General defends the ALJ's recommendations regarding overload equipment upgrades and substation work. Beginning with the overload equipment upgrades, the Attorney General first recites the parties' respective positions described on the record and repeats the following perceived issues with the company's proposed expenditures in this case: (1) the increase in unit cost for the bridge period is unsupported and the three-year average unit cost of \$136,429 adjusted for inflation to arrive at a unit cost of \$140,216 is more appropriate and accounts for variances in individual project costs, and (2) the company's planned increase in the number of projects for the test year of 327 projects is unsupported and a drastic increase from 59 projects, which is the highest number of projects completed in a year to date. Attorney General's exceptions, pp. 70-73 (citing 4 Tr 647-648; 5 Tr 2759-2760). In response to Consumers' argument in exceptions that it performed a comprehensive review to identify projects needed to respond to risks, the Attorney General contends that the company did not present evidence quantifying all overload assets on the system and that the company's Exhibit A-128 lacks details to justify the level of projects anticipated. The Attorney General maintains that her per unit cost and

number of projects is reasonable and should be adopted by the Commission, as recommended by the ALJ. Attorney General's exceptions, pp. 73-74.

As to the substation work within the LVD Lines Capacity category, the Attorney General again repeats the parties' respective positions, contends that the company's per unit cost for the projected bridge period and test year are excessive and unsupported, and argues that the Attorney General's three-year historical average unit cost applied to the company's proposed number of projects is reasonable. Attorney General's replies to exceptions, pp. 74-76. In response to Consumers' exceptions, the Attorney General argues that even if there are variances in costs between individual projects, the averaging method used by the Attorney General captures those variances. Further, the Attorney General avers that Exhibits A-127 and A-128 contain only minimal information that is insufficient to support the company's proposed projections. *Id.*, pp. 76-77.

Having reviewed the record on this matter, the Commission agrees with the Attorney General and the ALJ that the nearly seven-fold increase in the anticipated numbers of projects for overload equipment in LVD Lines Capacity is unsupported in this case. *See*, 4 Tr 655; 5 Tr 2760. While the company argues that its increase is in response to the system needs identified in the 2023 EDIIP, the company does not explain why the bridge period number of projects dwindles to 18 and then jumps drastically to 327 or how the company will allocate resources and labor to meet this substantial increase. *See*, 4 Tr 718. Therefore, the Commission finds that the reasonable number of estimated projects for equipment upgrades in the test year is 90, as recommended by the ALJ. This project amount still represents a more-than-doubling of projects from the 2023 historical year and should give both the company and the Commission a better understanding of whether its ramp up rate is truly feasible, as well as how these capital projects fit with other opportunities to enhance the company's reliability performance.

However, the Commission departs from the ALJ's adoption of the Attorney General's application of a historical average for per unit costs. The Commission finds that the company's methodology for estimating per unit costs in the equipment category is based on the specifics of the projects in the category and therefore applies Consumers' per unit cost of \$139,608.56 to the Attorney General's recommended 90 projects. This results in an amount of \$12,564,770 for the test year. The Commission agrees that \$6.437 million is appropriate for inclusion in rate base for the bridge period as this amount was not disputed.

Turning to the substations category within LVD Lines Capacity, the Commission respectfully declines to adopt the ALJ's recommendation. The Commission finds that Consumers presented sufficient explanation and justification to explain the cost variance between planned projects due to the varying scope and complexity of the projects. The Commission finds that a projection based on the specific details attested to by the company provides a more reasonable projection for this cost category. Further, the Commission agrees that the number of projects anticipated by the company is reasonable and not an unrealistic increase. *See*, 4 Tr 655, 657-659; Exhibits A-127 and A-128. Therefore, the Commission adopts Consumers' projected expenditures of \$12.645 million in the bridge period and \$11.071 million for the test year.

To summarize, for the overall LVD Lines capacity subprogram, the Commission authorizes \$19.082 million in capital expenditures for the bridge period and \$23,635,770 for the test year.

x. Wildfire Risk Mitigation

Consumers testified that Wildfire Risk Mitigation is a new program that uses Federal Emergency Management Agency mapping to identify wildfire risk areas and relocate high-risk overhead conductors in those areas to eliminate foreign objects coming into contact with those conductors. Per the company, this is the largest contributor to wildfire ignition from a powerline.

For this program, Consumers projected \$12 million in test year capital expenditures, specifically broken down into \$4 million for undergrounding, \$6 million for covered conductors, and \$2 million for protective line devices. 5 Tr 875-876; Exhibit A-95; Exhibit A-114, pp. 23-26; Exhibit A-128, p. 51. Consumers also proposed accompanying O&M spending for this program, which is discussed *infra* in Part VI of this order.

The Attorney General and ABATE objected to Consumers' proposed capital expenditures for the Wildfire Risk Mitigation program. Beginning with the Attorney General, she argued that the wildfire risk in Consumers' territory is minimal, and that the proposed program adds unnecessary costs onto the company's already large capital expenditures. The Attorney General thus recommended a full disallowance of the \$12 million in proposed capital expenditures. 5 Tr 2765-2767; Exhibit AG-1.11.

Similarly, ABATE also argued that the risk of powerlines igniting wildfires is low and that Consumers did not analyze the number of wildfires started by Consumers' electric lines and equipment over the past 20 years. ABATE added that Consumers has taken precautions to mitigate wildfire risk and did not explain why such precautions were now insufficient. ABATE also recommended a full disallowance for the test year capital expenditures. 5 Tr 3357.

Consumers disagreed with the Attorney General's and ABATE's respective positions and maintained its request for the \$12 million in expenditures for the test year. 5 Tr 1046-1047, 1054.

The ALJ first noted that no party opposed the O&M expenditures for the Wildfire Risk Mitigation program, which consist primarily of line clearing and monitoring. The ALJ found the O&M expenses to be reasonable and thus recommended that the Commission adopt the company's request as discussed in Part VI of this order. However, the ALJ found that the company did not justify the \$12 million in capital expenditures and thus agreed with the full disallowance proposed

by the Attorney General and ABATE. The ALJ stated that the company may repeat its request in a future rate case with a more detailed risk analysis based on the company's history with wildfires and evidence, including a BCA, to support the reasonableness and prudence of any proposed capital expenditures. PFD, pp. 121-122. Although included in a subsequent section of the PFD, the ALJ also recommended that the company be required to document its work with the Michigan Department of Natural Resources (DNR) and other agencies to ensure that active forest management is occurring. *Id.*, p. 417.

Consumers takes exception to the ALJ's recommendation to disallow the \$12 million in test year capital expenditures for the Wildfire Risk Mitigation program. Following a recitation of the support it provided in testimony and its Exhibits A-114 and A-128, Consumers asks the Commission to approve these prudent expenditures aimed at mitigating wildfire risk. Consumers repeats the information contained in its Mitigating Wildfire in Consumers Energy's Service Territory (2024-2028) report, Exhibit A-114, pertaining to the risks and causes of wildfire and its proposals to mitigate wildfire risk in its service territory. Consumers' exceptions, pp. 51-57 (citing 5 Tr 872-876; Exhibits A-114 and A-128). Consumers insists that there is no need to wait for the additional analysis recommended by the ALJ before implementing these proposals and states that it will continue to evolve its approach to wildfire risks and evaluate additional system hardening techniques. Consumers next addresses the ALJ's recommendation for the company to document its work with the DNR and other agencies to ensure that active forest management is occurring. While contending that the details of this recommendation are unclear, Consumers concedes that it would be open to discussing with the DNR and other relevant agencies the information related to the company's line clearing work that would be beneficial to active forest management but

contends that it should be up to those agencies to request the information needed. Consumers' exceptions, pp. 57-58.

In her replies to exceptions, the Attorney General recites the parties' respective positions and defends the ALJ's recommended disallowance. In response to Consumers' arguments in exceptions that such a disallowance delays prudent work aimed at wildfire mitigation and that further analysis is not needed before approving these expenditures, the Attorney General incorporates her previous arguments and adds that Consumers inflates the risk of wildfires in Michigan with its references to wildfires in California, Hawaii, and Texas. Per the Attorney General, Michigan has a different climate and experiences relatively small and containable wildfires. The Attorney General contends that wildfire risk is mitigated by active forest management and that the company should work more closely with the DNR and other agencies in this respect. The Attorney General concurs with the ALJ that the company has not supported its proposal on the record and asks the Commission to adopt the PFD.

ABATE, in its replies to exceptions, similarly asks the Commission to affirm the ALJ's recommendation and reject Consumers' argument in support of the company's exceptions to the PFD that nearly 21% of its service territory is in an area of elevated wildfire risk. ABATE's replies to exceptions, pp. 1-3. ABATE repeats that power lines are not the main cause of wildfires in the Lower Peninsula and that Consumers' reliance on the fires in California, Hawaii, and Texas do not relate to Michigan. ABATE points out that Consumers admitted that it had not studied climate and wildfire risk in Michigan compared to Hawaii and Texas nor had it done an analysis on the number of wildfires started by Consumers' electric lines or equipment of the last 20 years. *Id.*, p. 2 (citing Exhibit AB-4, pp. 7-9). Lastly, ABATE states that Consumers acknowledged that it already takes wildfire precautions in its normal course of business and did not explain why such

work was now insufficient. ABATE's replies to exceptions, p. 2 (citing 3 Tr 203, 239-241; 4 Tr 359; 5 Tr 873, 1054, 3356-3360; and Exhibit AB-4, p. 10).

Finding the ALJ's recommendation to be well-reasoned and based on substantial evidence on the record, the Commission adopts the PFD on this issue. The Commission commends Consumers for its efforts to further mitigate the risk of wildfire and for its commitment to evaluating continuously how to improve its performance in this area of spending. However, the Commission agrees with the ALJ that the record in this case is not sufficient to demonstrate as reasonable and prudent the \$12 million in requested capital expenditures for the test year, which the company is also planning to increase in the years running up to 2029. *See*, Exhibit A-114; *see also*, 5 Tr 2767. Consumers did not explain why its O&M work in wildfire risk mitigation was insufficient such that these capital expenditure measures are justified, nor did it present an analysis of the expected incremental benefits that its proposed capital expenditures would achieve. Most notably, Consumers did not present a historical analysis of wildfires caused or impacted by its own distribution system. The Commission agrees that future recovery of capital expenditures in a new category such as this must be justified by quantifiable benefits and analyses and data specific to Consumers' own distribution system. Noting that no party objected to the O&M expenses for the Wildfire Risk Mitigation program, the Commission adopts the ALJ's recommendation with respect to the O&M portion as well, as discussed in Part VI of this order.

Lastly, while addressed in the Forestry and O&M Expense section of the PFD, the Commission agrees with the company that the ALJ's recommendation for the company to document its work with the DNR and other agencies with respect to active forest management is somewhat unclear. *See*, PFD, p. 417. However, given the company's expressed willingness to coordinate with the DNR and other agencies in its forest management and wildfire mitigation

efforts, and the implied benefits of engaging multiple related parties in effective wildfire mitigation efforts, the Commission agrees that if the company engages in coordination with the DNR and other agencies, then the company shall keep records of these coordination efforts and include them in future rate cases when requesting cost recovery for wildfire risk mitigation. *See*, Consumers' exceptions, pp. 57-58.

xi. Low Voltage Distribution Metering and Transformers

Within the subprogram of LVD Metering and Transformers, the ALJ explained that no party objected to Consumers' projected expenditures for LVD transformers. PFD, p. 122. Therefore, the ALJ addressed only the LVD Metering subprogram. *Id.*, pp. 122-132.

Consumers explained that its LVD Metering subprogram supplies meters and associated equipment and consists of the New Business program, the Demand Failures program, and the advanced metering to address the DR and distributed generation (DG) programs. Consumers projected \$23.931 million in capital expenditures for 44,254 New Business program units in the bridge period and \$20,927,240 in capital expenditures for 32,348 units in the test year. For Metering Demand Failures, the company projected \$28.093 million in capital expenditures for 51,951 units in the bridge period and \$24,566,760 in capital expenditures for 37,973 units in the test year. 4 Tr 673-675; Exhibit A-95. The company's total projected expenditure in the LVD Metering subprogram is \$52.024 million in the bridge period and \$45.494 million in the test year. 4 Tr 675. Consumers noted that it is deferring replacement of its 4G long-term evolution meters to a later date in response to the March 1 order. 4 Tr 674.

Consumers also included in its request \$44,560 in capital expenditures in the test year (as well as \$52,400 in associated O&M expenses) for the Itron Enterprise Edition 2026 upgrade, which is the application that reads advanced metering infrastructure (AMI) meters. 5 Tr 1912. The

company also proposed \$242,538 in capital expenditures (and \$81,266 in associated O&M expenses) for digital infrastructure automation.

The Staff testified regarding Consumer's AMI opt-out charges and recommended that the company be required to re-evaluate its AMI opt-out related charges prior to its next electric rate case to ensure that the charges reflect the cost of service (COS), consistent with the Commission's directive in the September 11, 2012 order in Case No. U-17000. The Staff noted that some of the AMI opt-out charges have not been updated since 2020, and therefore, asserted that a reassessment is prudent. 5 Tr 3697-3698.

MEIU took issue with Consumers' future AMI replacement strategy and requested that the Commission open a separate, standalone proceeding to evaluate Consumers' plans for next generation AMI functionality and capabilities as well as vendor capabilities, to develop a comprehensive business case for AMI, and to execute a procurement and implementation strategy to ensure that AMI investments maximize benefits. 5 Tr 3174, 3197-3198.

Consumers disagreed with MEIU's position and contended that a standalone docket would impermissibly dictate the company's business decisions. Consumers' reply brief, pp. 22-23.

The ALJ recommended that the Commission should strike a balance between the parties' arguments by opening a collaborative docket or technical conference to develop guidelines for next generation AMI meter purchasing. Per the ALJ, such guideline development should consider competitive bidding and the necessary and desirable functionality of advanced meters as it relates to the grid and functionality for DERs and renewable energy expansion going forward. PFD, p. 131.

Addressing AMI opt-out charges, the ALJ explained the rate structures and charges for customers with a non-transmitting meter without radio frequency communication and that these

rates are different from customers with transmitting meters, noting that for non-transmitting meters, Consumers charges \$69.39 for installation before a transmitting meter is installed, and \$123.91 after a transmitting meter is installed, plus \$3 per month per premise. *Id.*, p. 132 (citing 5 Tr 3697). The ALJ recounted that in Case No. U-17000, the Commission ordered AMI opt-out rates and charges be based on COS. PFD, p. 132. As noted by the ALJ, the Staff recommended that Consumers re-evaluate AMI opt-out charges and rates to reflect the COS prior to the company's next electric rate case and testified that some charges have not been updated since 2020 or earlier. *Id.* (citing 5 Tr 3698). Relying on the Staff's testimony, the ALJ recommended that the Commission direct Consumers to update their AMI opt-out related charges and rates to reflect the current COS in the company's next rate case. PFD, p. 132.

MEIU takes exception to the ALJ's recommendation for a technical conference to develop guidelines for next generation AMI meter purchasing, which MEIU interprets to mean a technical conference consisting of a single, day-long meeting at most. Contending that such a technical conference would presumably have a limited scope, MEIU asks the Commission to reject the ALJ's recommendation in favor of a technical conference and contends that a collaborative docket would be "more structured and intentional" and would allow interested persons to discuss and examine the issues involved in AMI investment, which MEIU states could potentially be in the hundreds of millions of dollars. MEIU's exceptions, pp. 9-10.

Consumers also takes exception, asking the Commission to reject the ALJ's recommendation for a collaborative or technical conference, and arguing as follows:

First, since 4G technology is planned to be supported into the mid- to late-2030s, the Company is not planning to begin upgrading 4G meters until at least 2028 or 2029. 5 TR 1055. And second, there has been no showing in this case that a separate collaborative or technical conference is warranted. MEIU's witness Dr. Sherman presented testimony discussing the history of the implementation of AMI technology, AMI reporting and business cases, the replacement of meters

related to cellular technology, and complaints related to consecutive estimated bills. See 5 TR 3173-3185. But this discussion is not proof that Consumers Energy is failing to appropriately consider future metering requirements.

Consumers' exceptions, p. 59.

Consumers adds that it is evaluating AMI technologies offered by its current vendor and others, benchmarking the various options with other utilities, vendors, and industry groups, and is considering functionality in future metering technology, including continued automated reading, remote turn-on/turn-off, and grid-edge computing. *Id.* (citing Exhibits MEIU-12 and MEIU-13). Consumers argues that the record in this case does not support the conclusion that the company is failing to plan ahead in its AMI meter selection such that a standalone docket on this single issue is warranted. Consumers' exceptions, p. 59.

In replies to exceptions, MEIU disagrees with Consumers' statement in exceptions that there is no need for a standalone docket on this single AMI issue. With this statement, MEIU contends that Consumers seems to imply that the AMI implementation is of "little financial consequence," whereas MEIU points to the March 1 order where the Commission noted that the dollar value placed on future AMI meter replacements exceeded \$378 million in 2023. MEIU's replies to exceptions, p. 5 (citing March 1 order, p. 297). MEIU adds that, while Consumers claims nothing on this record supports holding a standalone proceeding, the company's deployment and maintenance of existing AMI meters makes this claim dubious. MEIU again points to the March 1 order, wherein the Commission expressed interest in ensuring that the full scope of AMI capabilities comes to fruition as follows:

[t]he value of this reporting is less about supporting a BCA for meters that have long-since been installed and much more about *how to fully unlock the customer value of this significant investment moving forward*. Specifically, the Commission is interested in the provision of information regarding *continuous opportunities that the investment in AMI brings to customers and the company, including opportunities for efficiencies and cost savings; more awareness of the system and*

*its capabilities, including how such increased awareness can contribute to improved reliability; and how to leverage the AMI infrastructure to unlock opportunities for DER deployment.*

MEIU's replies to exceptions, p. 5 (quoting March 1 order, p. 299) (emphasis in MEIU's replies to exceptions). MEIU then states that its recommendation in the instant case squarely addresses the Commission's stated goals and should be adopted by the Commission. MEIU's replies to exceptions, pp. 5-6.

Consumers also filed replies to exceptions addressing the AMI standalone docket, in which the company incorporates the arguments it made in exceptions and maintains that the Commission should not adopt the ALJ's recommendation for a technical conference or a collaborative docket to address AMI issues. The company repeats that 4G technology is expected to be supported into the mid- to late-2030s and that the company is not planning to begin upgrading 4G meters until 2028 or 2029. Consumers' replies to exceptions, p. 3 (citing 5 Tr 1055). Consumers contends that it is appropriately evaluating AMI technologies from its current vendor and other AMI vendors and that MEIU's proposed standalone docket appears to be aimed at directing the company's management decision contrary to *Union Carbide v Pub Serv Comm'n*, 431 Mich 135, 148-149; 428 NW2d 322 (1988). Consumers' replies to exceptions, p. 3.

Having reviewed the parties' positions on the record, the Commission finds that the ALJ's recommendation with respect to convening a technical conference on the future of AMI implementation is well-reasoned and should be adopted. As to the AMI opt-out charges, the Commission agrees with the Staff that a re-evaluation of charges is prudent at this time to ensure alignment with the COS and should be included in the company's next electric rate case. *See*, 5 Tr 3697-3698.

As to the technical conference, the Commission finds that this option would provide value to the company, interested persons, the Staff, and the Commission in terms of informing the company's future AMI strategy, not only in terms of updating meters for supporting technology, but also for the company's utilization of AMI including for optimizing DER deployment, improving its business case, and plans for future investment. The Commission acknowledges and commends the company's coordination with the Staff in 2024 to come up with the value-focused metrics presented in Exhibit A-118. However, the Commission finds that beyond formulating these metrics, soliciting additional input not only from the Staff but also from others with technical expertise in AMI implementation is a reasonable and not overly burdensome pathway to leverage and apply the devised metrics presented in Exhibit A-118 toward improving the company's AMI usage, value, and investment strategy.

The Commission will issue forthcoming guidance regarding the structure, timing, and specific agenda of the technical conference but, at a high level, the Commission expects the technical conference to focus on the technical aspects of the company's planned investments for AMI; the company's current and planned utilization of AMI, particularly for DER deployment and integration; examining next-generation AMI functionality, improving and bolstering the company's AMI business case; ensuring that future investments in AMI are producing and maximizing value for customers; and ensuring that developments in AMI strategy are applied consistently across other relevant dockets including rate cases and distribution planning cases. The Commission intends for the technical conference to include focused discussion and be open to all rate-regulated utilities as well as other interested persons, including the Staff.

## xii. Other Low Voltage Distribution Adjustments

Regarding the other LVD adjustments, the Attorney General identified eight projects in the bridge period, totaling \$14.428 million, and 26 projects in the test year, totaling \$45.483 million, to be in the planning phase, deferred, or have not had design work completed. 5 Tr 2763-2764; Exhibit AG-1.10. The Attorney General argued that these projects are in the early stages of development and premature for cost recovery, and thus, proposed a disallowance of \$14.428 million in the bridge period and \$14.144 million in the test year. To avoid duplication of other requested disallowances, the Attorney General explained that her recommended disallowance includes only 14 projects in the test year. 5 Tr 2763-2764.

Consumers countered that the Attorney General's assumptions regarding the identified projects are incorrect and unsupported and that the company sufficiently explained that projects to be completed in late 2025 would reasonably have planning occurring in August 2024. Further, Consumers explained that it provided reasons as to why some projects were deferred. 4 Tr 720-721.

The ALJ agreed with the Attorney General's assessment and found it reasonable for premature projects to be removed from rate base. The ALJ stated that Exhibit AG-1.10 showed that the projects disputed by the Attorney General are either deferred or in the planning stage and that the projects in the planning stage are not scheduled to begin until late in the test year. The ALJ was also not persuaded by the company's rebuttal or briefing, explaining that it did not contain any updated information showing that the projects had advanced from the planning phase. Citing the projects' statuses and Consumers' tendency to reprioritize projects, the ALJ found the Attorney General's disallowance of \$14.428 million from the bridge period and \$14.144 million from the

test year to be reasonable and recommended that the Commission adopt this position. PFD, p. 134.

In its exceptions, Consumers argues that the ALJ was wrong to assume that projects in the planning phase are premature and states that it provided expected construction start and completion dates for the identified projects. With the exception of the deferred project, Consumers avers that all the projects for which the ALJ recommended a disallowance have construction completion dates prior to the end of the test year and argues that there is no evidence to suggest that the company will not complete this work. Consumers' exceptions, p. 60 (citing 4 Tr 720; Exhibit AG-1.10, pp. 2-4). As to the deferred project identified by the Attorney General, Consumers states that it has incorporated other projects into its workplan and that the total projected expenditures have not changed. However, Consumers contends that if the Commission finds that a disallowance for the deferred project is appropriate, the reduced amount should only be \$2.238 million and not the \$28.5 million recommended by the ALJ. Consumers' exceptions, p. 60 (citing 4 Tr 720-721; Exhibit AG-1.10).

In her replies to exceptions, the Attorney General repeats that 8 projects in the bridge period and 26 projects in the test year have been identified as being in the planning phase or deferred and that the associated capital expenditures should be disallowed, with an adjustment to avoid duplicative disallowances. Attorney General's replies to exceptions, pp. 82-83 (citing 5 Tr 2763; Exhibit AG-1.10). Per the Attorney General, Consumers argued, in exceptions, that the ALJ was wrong to assume the identified projects would not be completed and maintained that it plans to complete the projects in the test year. As to the deferred project in the amount of \$2.38 million, the company also claimed that it had incorporated other projects into its workplan so that the overall expenditures have not changed. In reply, the Attorney General asks the Commission to

reject these arguments and adopt the PFD. She maintains that the company has not demonstrated that the projects will be completed within the test year given the very preliminary stages of the projects and that mere inclusion of construction start, and completion dates does not mean the projects will be completed within the test year. The Attorney General adds that Consumers is projecting costs when costs cannot be fully known because planning and engineering have not been completed. Attorney General's replies to exceptions, pp. 84-85. Lastly, per the Attorney General, "the Company's attempt to salvage the disallowed amount by shuffling it around to other spending categories late in the game, should also be disallowed." *Id.*, p. 85.

Finding the ALJ's recommendation to be well-reasoned and supported by the evidence on the record, the Commission adopts the ALJ's recommended disallowance of \$14.428 million from the bridge period and \$14.144 million from the test year. The Commission agrees that the inclusion of the start date and completion date for the projects in the planning phase without further updates or information concerning the advancement of these projects, along with the company's admission that shifting projects is known to occur, do not lend certainty to completing these projects within the test year. *See*, 4 Tr 720; Exhibit AG-1.10; Consumers' exceptions, p. 60. As stated in Part VI of this order, the Commission notes that the recategorizing or shifting of expenditures from one subprogram to another may lend confusion to the process of identifying historical costs and benefits as well as justifying projected expenditures, if the company does not in turn properly identify historical costs and benefits.

The Commission reiterates that the company may seek recovery in a future rate case upon a showing that these projects have indeed moved forward toward completion accompanied by sufficient evidence demonstrating the reasonableness and prudence of such expenditures.

d. Grid Modernization

Consumers stated that the company's grid modernization portfolio consists of the following five categories: (1) distribution circuit modernization, (2) substation modernization, (3) distribution asset management (DistAM), (4) planning systems modernization, and (5) operational systems modernization. 5 Tr 2205. For its grid modernization portfolio, Consumers projects capital expenditures of \$24.258 million for the bridge period and \$37.689 million for the test year. 5 Tr 2210; *see also*, Exhibit A-95, p. 1, line 14.

i. Distribution Circuit Modernization

Distribution circuit modernization is a program "researching, developing, and demonstrating desired future state technologies and solutions that result in improved reliability and increased resiliency on the LVD system." 5 Tr 2212. The program includes a project for line sensor installations, which Consumers averred provides reliability and situational awareness benefits. 5 Tr 2216-2217. Consumers stated that the company has identified projects for the installation of 2,860 sensors in 2024, and 1,000 sensors in 2025, and that the expenditures for these projects are projected to be \$10.714 million for the bridge period and \$6.808 million for the test year. 5 Tr 2219; *see also*, Exhibit A-132, pp. 1-2 and Exhibit A-133. According to Consumers, the expenditures are the sum of the individually planned project estimates, which represent the costs of each location included in the circuit based on a unit cost for the line sensors that include known material and labor costs associated with purchasing and mounting the sensors. 5 Tr 2219, 2221. Consumers also stated that the bridge period expenditures for this category include forecasted expenditures for the company's Reliability Analytics Monitoring Program (RAMP). 5 Tr 2219.

Using the testimony provided by the company, the Attorney General calculated Consumers' projected line sensor unit costs to be \$3,539 for the bridge period and \$8,173 for the test year.

5 Tr 2278. However, the Attorney General noted that the company's actual average per-unit cost over the previous three years was only \$2,905; she therefore questioned Consumers' projected unit costs. 5 Tr 2278-2279. Using the company's three-year average annual unit cost adjusted for inflation, the Attorney General recalculated projected expenditures for the planned line sensor projects, which resulted in expenditure reductions of \$1.675 million and \$4.266 million for the bridge period and test year, respectively. 5 Tr 2779.

In rebuttal, Consumers argued that the use of an average unit cost by year was inappropriate because line sensor project costs span multiple years and experience discrepancies in the timing of the delivery of materials, which Consumers contended results in variability of unit costs over the years. 5 Tr 2292 (referencing 5 Tr 2221); *see also*, Exhibit A-112. As such, the company argued that its projected line sensor unit cost was more accurate and should be adopted. Consumers' initial brief, pp. 80-81. Further, Consumers stated that projected test year expenditures are appropriate because they are needed to cover costs associated with the company's renewal of software that provides data from the line sensors into the company's Advanced Distribution Management System (ADMS). 5 Tr 2292. With respect to bridge period expenditures, however, the company noted that it had mistakenly included RAMP expenditures with the line sensor program, and that as a result, \$2.083 million should be removed, resulting in a revised expenditure projection of \$8.631 million for the bridge period. 5 Tr 2292-2293; *see also*, Consumers' initial brief, p. 81.

In her brief, the Attorney General acknowledged and agreed with Consumers' proposed reduction of bridge period expenditures but maintained her proposal to reduce test year expenditures. Attorney General's initial brief, pp. 82-83.

The ALJ accepted Consumers' removal of RAMP costs and found that \$2.083 million in expenditures should be removed for the bridge period. The ALJ further found that "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." PFD, p. 138. Accordingly, the ALJ recommended that the Commission adopt the Attorney General's proposed disallowance of \$4.266 million for the test year but noted that the company could seek reasonable and prudent costs for the ADMS software in a future rate case. *Id.*

In exceptions, Consumers states that it agrees that, based on 2024 installation costs, a unit cost of \$3,051 is a reasonable estimate for line sensor installations. However, the company reiterates that additional installation costs for the test year are necessary to renew software needed to provide data from line sensors to the company's ADMS. Consumers asserts that the Commission should not reject these costs simply because the company responded to the Attorney General's arguments regarding unit cost in rebuttal. Accordingly, Consumers advocates for the Commission to reject the ALJ's recommendation to disallow test year expenditures. Consumers' exceptions, p. 61.

The Attorney General replies and maintains her argument that Consumers should have included more information regarding the ADMS software in its direct case. She also notes that, even if the Commission disallows costs for the software in this case, the ALJ noted that Consumers could seek recovery in a future rate case. Attorney General's replies to exceptions, p. 89.

The Commission has reviewed the record and finds that Consumers has not demonstrated that the projected test year expenditures for line sensors are reasonable and prudent. Although Consumers avers that increased unit costs for the test year are necessary to enable the company to

renew software utilized by the line sensors, both the company's direct and rebuttal cases are devoid of any meaningful information regarding the costs of this software or its justification. Accordingly, the Commission adopts the ALJ's recommendation to disallow \$4.266 million for the test year for line sensors. The Commission notes that Consumers may seek recovery of reasonable and prudent costs for these expenditures in its next rate case.

ii. Distribution Asset Management and Planning Systems Modernization

Consumers projected expenditures of \$7.285 million for the bridge period and \$20.912 million for the test year for its DistAM, planning systems modernization, and operational systems modernization programs. 5 Tr 2211, Figure 1. Included in these totals are test year expenditures of \$6.863 million for the DistAM program and \$2.083 million for RAMP, a project within the planning systems modernization program. 5 Tr 2211, Figure 1.

The Attorney General raised general concerns about Consumers' projected expenditures for these programs. Specifically, based on discovery responses received from the company, the Attorney General argued that the cost of these programs would exceed \$66 million, which she argued should instead be spent on reducing power outages and replacing failing infrastructure. 5 Tr 2780-2781; *see also*, Exhibit AG-1.14. The Attorney General further argued that most of the projects identified within these programs were in the initial conceptual phases, lacked compelling evidence that the programs were necessary, and were unsupported by a BCA to demonstrate an economic justification for their costs. 5 Tr 2780-2781. Accordingly, the Attorney General argued that it would be premature to include the costs for these programs in rates, and in turn, proposed a full disallowance of \$7.285 million for the bridge period and \$20.912 million for the test year for the DistAM, planning systems modernization, and operational systems modernization programs, collectively. 5 Tr 2781.

In rebuttal, Consumers argued that it had provided sufficient support for the programs, including how the programs' objectives support the goals of the company's EDIIP.

5 Tr 2293-2294. With respect to the DistAM program, Consumers noted that the Commission had previously approved expenditures for the program in Case No. U-21389 and that the audit conducted in Case No. U-21305 had concluded that the program would enhance asset management. 5 Tr 2294. Additionally, Consumers argued that it had provided information to support its planning systems modernization programs, which includes RAMP. 5 Tr 2293-2294.

In her initial brief, the Attorney General argued that while the Commission had originally approved expenditures for the DistAM program, the Commission had limited approved expenditures to \$12 million and had directed the company to "provide support and justification for costs above" this amount. Attorney General's initial brief, p. 84 (citing March 1 order). However, the Attorney General noted that Consumers was projecting to spend \$17.288 million on the DistAM program and contended that the company had failed to provide adequate justification for the increase in forecasted expenditures above the amounts approved in the March 1 order. *Id.*, pp. 84-85. As a result, the Attorney General proposed that the Commission disallow \$5.288 million in test year expenditures for the DistAM program, which she stated represented the difference between the amount approved in the March 1 order and the company's current projected costs.<sup>8</sup> *Id.*, p. 85.

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<sup>8</sup> The Attorney General's initial brief appears to misstate the total project cost for DistAM as \$17.288 million; consequently, she proposes a disallowance of \$5.288 million (the difference between the misstated total costs of DistAM of \$17.288 million and the original \$12 million approved in Case No. U-21389). Attorney General's initial brief, pp. 84, 85. However, in its discovery response, Consumers stated that the total project costs for DistAM are \$17.558 million. Exhibit AG-1.68, p. 2. The Commission, therefore, finds the correct total project costs for DistAM are \$17.558 million and the corrected difference between DistAM total costs and the amount approved in Case No. U-21389 is \$5.558 million, not \$5.288 million.

With respect to RAMP, the Attorney General argued that the project appeared to be in its conceptual phase due, in part, to the company's statement that it was working with a vendor to build a reliable solution for needed software. Attorney General's initial brief, p. 85. She therefore argued that the project was premature and should not be included in rates. *Id.* In total, the Attorney General proposed a disallowance of \$7.371 million for test year expenditures for the DistAM, planning systems modernization, and operational systems modernization programs. *Id.*, pp. 85-86. Notably, in her initial brief, the Attorney General stated that she was "withdrawing the \$7.285 million disallowance for the bridge period and \$13,541,000 for the projected test year," ostensibly for all programs. *Id.*, p. 86.

In reply, Consumers again advocated for the Commission to approve the projected grid modernization expenditures and argued that, consistent with the March 1 order, the company "provided a detailed description of the DistAM project, 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. See 5 TR 2260-2273." Consumers' reply, p. 20. In turn, the company urged the Commission to "approve the DistAM expenditures to support capturing and maintaining distribution asset data, which will inform data-driven decisions and support reduced costs and improved reliability. 5 TR 2271." *Id.*

The ALJ noted the Commission's directive in the March 1 order for Consumers to provide "updated data, including total costs, for any future cost recovery requests associated with the DistAM project." PFD, p. 140 (quoting March 1 order, pp. 40-41) (internal quotations omitted). The ALJ found, however, that Consumers did not provide an updated and detailed review of investment categories and total project costs for the DistAM program or an explanation for why the company's projected total costs increased by 30% in one year. *Id.*, pp. 140-141. Accordingly,

the ALJ recommended that the Commission disallow \$5.288 million in expenditures for the test year for the program.<sup>9</sup> *Id.*, p. 141. With respect to RAMP, the ALJ agreed with the Attorney General's assertion that inclusion of the costs of the program in rates would be premature given the company's failure to assure that software associated with the project would be fully developed and deployed in the test year. As a result, the ALJ recommended a disallowance of \$2.083 million in expenditures for the test year for the project. *Id.*, pp. 141-142.

In exceptions, Consumers reiterates that it fully supported the costs and benefits of the DistAM program. Consumers' exceptions, pp. 61-63. The company avers that it complied with the March 1 order by providing "an explanation of the different DistAM investment categories and the amounts that are projected in the bridge period and test year for each category. See 5 TR 2260-2273. The Company has also provided the total estimated project cost of \$17.558 million, and has indicated the categories those expenditures will support." *Id.*, pp. 63-64.

Consumers also argues that the Commission should reject the ALJ's recommendation to disallow expenditures for RAMP. Consumers contends that RAMP is not untested and has already been used to identify insulator failures, damaged lightning arrestors, and signs of arcing due to vegetation. Consumers, in turn, asserts that the company's efforts to deploy new software is therefore building on current capabilities of the project. *Id.*, p. 65. Additionally, Consumers states that its discovery responses to the Attorney General regarding working with a vendor to develop software merely reiterated what the company provided in direct testimony and what was already considered by the company when developing projected expenditures. *Id.*, pp. 65-66. Consumers

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<sup>9</sup> The ALJ appears to have carried the Attorney General's error regarding the total costs of DistAM into the PFD. As previously noted, the Commission finds the correct costs for DistAM to be \$17.558 million and the corrected difference between these costs and costs approved in Case No. U-21389 to be \$5.558 million. *See*, Exhibit AG-1.68, p. 2.

notes that its response also indicated that the company was still planning for expenditures of \$2.083 million in 2025, and that large scale implementation of the project was expected to begin in the first quarter of 2025. As such, Consumers argues that the projected RAMP expenditures are not premature and should not be disallowed. *Id.*, p. 66.

In response, the Attorney General reiterates that Consumers failed to provide the detailed information regarding DistAM that the Commission previously requested. Attorney General's replies to exceptions, p. 92. For RAMP, the Attorney General responds that even if the program is an existing program, the company is seeking to develop new capabilities through a new type of software that is not commercially available. In turn, the Attorney General argues that the company failed to fully support the project. *Id.*, p. 94.

The Commission agrees with the ALJ and finds that Consumers has not demonstrated that the projected costs for the DistAM program are reasonable and prudent. In the March 1 order, the Commission noted that its original approval of the DistAM program was based on a CAD from 2021 which projected total costs of \$12 million through 2024. As such, the Commission stated that it would require updated data, including total costs, for any future recovery. *See*, March 1 order, p. 41. The Commission finds that Consumers has not provided adequate data supporting recovery of the increased costs of the DistAM program. Accordingly, the Commission adopts the ALJ's recommendation and disallows \$5.558 million in expenditures for the program.<sup>10</sup>

Concerning RAMP, the Commission disagrees with the Attorney General and finds that costs for the program are not premature. The Commission finds that RAMP is not untested as demonstrated by the actual benefits identified from the program. *See*, 5 Tr 2276; *see also*,

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<sup>10</sup> As previously noted, the Commission finds the correct costs for DistAM to be \$17.558 million and the corrected difference between these costs and costs approved in Case No. U-21389 to be \$5.558 million. *See*, Exhibit AG-1.68, p. 2.

Exhibit AG-1.14, p. 8. Further, although the cloud software and methodology planned for RAMP are new to the industry and not yet commercially available, the Commission finds that Consumers has demonstrated RAMP has been in use since 2022 and identified plans to enhance the existing program with large scale implementation beginning in 2025. *See*, 5 Tr 2277; *see also*, Exhibit AG-1.14, p. 6. Accordingly, the Commission respectfully rejects the ALJ’s recommendation to disallow \$2.083 million in expenditures for RAMP.

### iii. Operational Systems Modernization

Consumers stated that the company’s operational systems modernization program is broadly split into investment categories for Fault Location, Isolation, and Service Restoration (FLISR) and DER optimization. 5 Tr 2282. The company projected expenditures of \$0.698 million for the bridge period and \$2.500 million for the test year for FLISR, and \$6.633 million for the test year for DER optimization. 5 Tr 2282, Figure 16.

For FLISR, Consumers explained that the program is an ADMS application that uses communicating grid equipment “to quickly detect and locate where faults are on the system, then automatically re-route power, isolating issues to minimize the number of customers impacted.” 5 Tr 2282. As part of the implementation of the program, the company stated that it plans to deploy new switching equipment on select circuits that may include modern reclosers and new device types such as Trip-Savers and remote switches. Consumers further stated that the company plans to create and modify operating procedures to ensure safe and efficient procedures are trained and utilized. 5 Tr 2283.

Regarding DER optimization, Consumers stated that the initiative “includes research, planning, development, and implementation of hardware and software projects to evaluate DER management capabilities across the spectrum of DER types through implementation of a DER

Management System (“DERMS”),” which the company defined as an enterprise scale software platform located at Consumers’ operational center. 5 Tr 2285. The company stated that it will implement DER optimization by:

conducting industry benchmarking and learning sessions with key stakeholders to advance the development of a business case and optimal deployment strategy that supports a reliable and affordable electric distribution system for customers. Utilizing these findings, the Company will collaborate with an industry-leading consultant to formalize a business case and deployment strategy consisting of the implementation of a variety of hardware and software deployment projects that result in improved grid-edge visibility, ensuring a safe, reliable electric distribution system for customers and alignment with Federal Energy Regulatory Commission (“FERC”) Order 2222 and the 2023 Michigan clean energy law.

5 Tr 2285.

MEIU objected to the company’s DERMS proposal. First, MEIU took issue with Consumers’ definition of DERMS and argued that the company’s focus on a centralized system precludes other opportunities that exist among broader forms of DERMS used in the marketplace.

5 Tr 3208-3209. Next, MEIU summarized Consumers’ proposals for a DERMS in prior electric cases. *See*, 5 Tr 3209-3213. Based on this history, MEIU asserted that the Commission:

want[s] to see a better explanation of how any DERMS investments will be utilized and benefit ratepayers before it will approve any implementation plan or rate recovery related to DERMS. Specifically, it appears that the Commission wants to see how a proposed DERMS investment would benefit reliability, be integrated into existing distribution automation systems, be sequenced with other technologies, and be utilized to benefit customers. The Commission also appears to expect Consumers to engage Staff and other interested [persons] to learn about different DERMS options and the needs of [interested persons], including through Commission workshops.

5 Tr 3214. However, MEIU argued that Consumers has not provided this information and instead continues to propose a DERMS that is substantively identical to previously rejected proposals.

5 Tr 3216-3217. MEIU further argued that, contrary to Consumers’ contentions, statutory changes and federal requirements do not justify the company’s current DERMS proposal. 5 Tr 3217-3218,

3219-3220. Finally, MEIU contended that the company had not adequately engaged with interested persons regarding the DERMS proposal. 5 Tr 3217-3219. Accordingly, MEIU proposed that the Commission reject Consumers' DERMS proposal and require the company to finish business planning, benchmarking, and learning before requesting recovery for DERMS implementation. 5 Tr 3234; *see also*, MEIU's initial brief, p. 27. MEIU further proposed that Consumers be required to develop a business case for its DERMS and that, prior to the company's submission of another DERMS proposal, the Commission order Consumers or the Staff to initiate workgroups with interested persons to discuss DERMS, including discussion of forecasted DER adoption, regional or technical limitations around controlling DERs, the potential impacts on DER owners, and the challenges the company seeks to solve and the desired program benefit. 5 Tr 3230-3231; *see also*, MEIU's initial brief, p. 30.

The CEOs stated that they have previously objected to Consumers' investment in a DERMS but now see an opportunity for the company to leverage DERs as a grid asset to meet customer needs. 5 Tr 2665. The CEOs, however, conditioned their support of the DERMS proposal on Consumers initiating a virtual power plant (VPP) pilot using its DERs optimization program. The CEOs' initial brief, p. 21. Additionally, the CEOs advocated for Consumers to use DERs to reduce strain on the grid and to explore VPPs in more detail and to use the company's upcoming distribution grid plan (DGP) to analyze use cases for VPPs. 5 Tr 2669.

In rebuttal, Consumers disagreed with MEIU's contention that the company's definition of DERMS was incomplete and stated that while DERMS focuses on a centralized platform, broader capabilities are still a part of the DER optimization initiative. 5 Tr 2295. Consumers also stated the company would be willing to explore specific use-cases that could be met by third-party owned solutions, but that a DER optimization strategy based solely on third-party solutions would

be unreasonable. 5 Tr 2296. The company further stated that it was willing to initiate a workgroup to discuss the topics requested by MEIU, but that the company is still seeking recovery of DER optimization costs. 5 Tr 2297; *see also*, Consumers' initial brief, p. 87. Consumers explained that the company is planning to use \$2.133 million for the workgroup and strategy development and \$4.5 million for hardware and software projects in the test year. Without this funding, Consumers argued that the company would lag the industry and it would be challenging to meet Michigan's clean energy requirements. 5 Tr 2298; *see also*, Consumers' initial brief, p. 87. Concerning the CEOs' proposal, Consumers argued that the possibility of using DERs to reduce strain would be more appropriately considered in the DERMS workgroup, as opposed to the company's upcoming DGP. Consumers' initial brief, p. 87.

The ALJ found that, although no party recommended any specific disallowance for FLISR, the Attorney General originally proposed a full disallowance for all programs under DistAM, planning systems modernization, and operational systems modernization.<sup>11</sup> PFD, p. 143 (citing 5 Tr 2780-2781 and Exhibit AG-1.14). The ALJ concluded that the evidence presented by Consumers showed that the plans for FLISR were still in development and that, consequently, a disallowance was warranted. For bridge period spending, the ALJ found the company's proposed expenditures for planning and testing to be reasonable; however, the ALJ found that Consumers provided insufficient detail on how funds would be spent during the test year. The ALJ, therefore,

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<sup>11</sup> In the PFD, the ALJ recognized that the Attorney General's initial brief purported to withdraw her original proposal to disallow all expenditures for the DistAM, planning systems modernization, and operational systems modernization programs (except for test year expenditures for DistAM and the RAMP project). PFD, p. 143, n. 597 (referencing Attorney General's initial brief, p. 86). The ALJ stated that, in her exceptions, the Attorney General should clarify the disallowances that she was withdrawing as part of the statement in her initial brief. PFD, p. 143, n. 597. In her exceptions, the Attorney General maintains her proposal to disallow expenditures for FLISR but does not expressly revoke her withdrawal of disallowances for any other program. *See*, Attorney General's exceptions, pp. 15-16.

recommended that the Commission permit recovery of expenditures of \$0.698 million for the bridge period, but recommended a disallowance of \$2.5 million for the test year. PFD, p. 144.

With respect to DER optimization, the ALJ noted that Consumers had indicated that the company had already worked with a consultant to develop its grid modernization strategy; the ALJ, therefore questioned why the company would now be seeking recovery of expenditures to hire a consultant to initiate a workgroup and develop a business case as part of the company's DER optimization initiative. PFD, p. 153 (citing 5 Tr 2207). The ALJ also found the company's DER optimization initiative to be underexplained and lacking justification. With the exception of the increase of the statutory DG cap, the ALJ found that nothing had changed with Consumers' DERMS proposal from prior cases and prior rejections. The ALJ, therefore, recommended that the Commission disallow \$6.633 million for test year expenditures for DER optimization. The ALJ further recommended that Consumers be required to file a business case, including a comprehensive BCA for the program, in the company's future DERMS proposals. Finally, the ALJ "encouraged" the company to initiate a workgroup to explore DERMS-related topics. PFD, p. 153.

In her exceptions, the Attorney General agrees with the ALJ's disallowance of test year expenditures for FLISR but argues that the bridge period expenditures for the program should also be disallowed. She again argues that Consumers failed to provide a BCA for the programs under the grid modernization portfolio and that due to the status of the projects under the portfolio, including FLISR, it would be unfair to have customers bear the cost of a project that may never be realized. Attorney General's exceptions, p. 16. Consumers responds and reiterates its stance that the company fully supported FLISR and that there is no evidence that the forecasted expenditures

for the program will not come to fruition during the bridge period. Consumers' replies to exceptions, pp. 13-14.

Consumers excepts to the ALJ's recommended disallowance for test year expenditures for FLISR. The company argues that it adequately explained the activities involved in the project and that there is no evidence that the projected expenditures are premature. Consumers' exceptions, p. 67. The Attorney General responds and argues that Consumers' request for expenditures for FLISR during the test year is not dispositive and that the company has failed to demonstrate that the project is ready to go. Attorney General's replies to exceptions, p. 97.

Consumers also excepts to the ALJ's recommended disallowance for test year expenditures for DER optimization. The company maintains its assertion that DER optimization, including DERMS, is needed to support compliance with FERC Order 2222 and the expansion of the statutory DG cap. *Id.*, p. 68. Consumers also explains that the company is agreeable to initiating a workgroup and specifies that, while it had previously worked with a consultant on overall grid modernization strategy, the company will now collaborate with a consultant specifically on DER optimization. *Id.*, p. 69. MEIU responds and contends that the company's simple recitation of its hopes for what a DERMS might be capable of does not satisfy the detailed information the Commission has previously required for approval in rates. MEIU's replies to exceptions, pp. 6-8.

MEIU excepts to the ALJ's "encouragement" for Consumers to initiate a workgroup for DERMS-related topics. According to MEIU, to avoid wasting further resources on yet another insufficient DERMS proposal, the Commission should require Consumers to engage in a rigorous workgroup as a condition of future recovery of expenditures. MEIU's exceptions, pp. 10-11.

In their exceptions, the CEOs state their support to require Consumers to develop a business case for DER optimization but argue that the ALJ failed to discuss their proposal regarding VPPs.

In turn, the CEOs urge the Commission to require Consumers' business case to include a plan for a VPP program to leverage the benefits of disparate DERs.

The Commission agrees with the ALJ's finding that Consumers' projected bridge period expenditures for FLISR planning and testing are reasonable. *See*, PFD, p. 144. The Commission, however, respectfully disagrees with the ALJ regarding a proposed disallowance for the test year. The Commission finds that Consumers provided information concerning the activities for the program during the test year, including how the company will select circuits based on categories such as voltage, length, number of protective zones, geography, customer counts, and reliability. *See*, 5 Tr 2284. The Commission, therefore, rejects the ALJ's recommendation to disallow test year expenditures, finding these program expenditures to be reasonable and prudent at this time. The Commission cautions the company that, in its next electric rate case, the Commission expects Consumers to provide greater detail about the program in the company's direct case, including, but not limited to, the specific learnings from current program activities. Should the company seek recovery for expansion of the program, much more detailed information will be required.

Regarding DER optimization, the Commission finds the ALJ's findings and conclusions to be well-reasoned and, therefore, adopts the PFD on this issue. *See*, PFD, p. 153. The Commission agrees with the ALJ and finds that Consumers' DER optimization initiative is underexplained and lacks sufficient justification. The Commission further finds that the company's current DERMS proposal is substantively indistinguishable from previous DERMS proposals, which the Commission has routinely rejected. The Commission sees the potential benefits of a DERMS; however, based on the evidence presented in this case, it is unclear how Consumers will utilize a DERMS or what benefits the company expects to derive from the use of such a platform. Therefore, should Consumers seek recovery for a DERMS in a future electric rate case, it is

incumbent on the company to provide a business case for the program, including a comprehensive BCA, that sufficiently identifies and justifies the program's costs and benefits to customers. When developing such a business case, Consumers should look at other states' best practices for examples of plans that can be readily implemented with regard to valuing the benefits of DERs and that are more actionable than the company's current proposal to hire a consultant to contract for the development of a strategy and business case. *See, e.g.*, Exhibit CEO-5, pp. 13-18. The Commission notes that development of such a business case should provide opportunities for interested persons to provide robust feedback and input into the business case and must include an analysis of the use of VPPs. The Commission encourages the company to initiate a workgroup with interested persons and to develop more pilots or other actionable proposals to develop and further evolve the company's initial proposal.

## 2. Streetlighting Capital Expenditures

Consumers projected expenditures of \$24.696 million and \$30.147 million for streetlighting for the bridge period and test year, respectively. 5 Tr 2504; Exhibit A-12, Schedule B-5.10, p. 1. Included in these expenditures are investment categories for demand failures, planned vicinity conversions, and new business. Exhibit A-12, Schedule B-5.10, p. 1.

Consumers explained that the company owns and maintains a total of 174,000 streetlights (comprised of 10,000 center suspension streetlights and 43,000 post-top fixtures, with the remainder being cobrahead fixtures). 5 Tr 2458. The company's streetlights are either high intensity discharge (HID) or light emitting diode (LED) fixtures. 5 Tr 2458.

Consumers stated that, beginning in 2018, the company began reactively converting all failed cobrahead fixtures from HID to LED (demand failures). 5 Tr 2490. Consumers extended this practice to its center suspension streetlights and post-top fixtures in 2022 and 2024, respectively.

5 Tr 2494. For the test year, Consumers projected expenditures of \$15.998 million for an estimated 19,099 demand failures. 5 Tr 2493; *see also*, Exhibit A-12, Schedule B-5.10, pp. 1, 2.

Additionally, Consumers stated that, in 2022, the company initiated a proactive plan to convert HID cobrahead fixtures in the vicinity of failed streetlights to LED fixtures (planned vicinity conversions). 5 Tr 2461. According to Consumers, this practice will be extended to post-top fixtures beginning in 2025. 5 Tr 2502. For the test year, Consumers projects expenditures of \$10.681 million for 14,247 planned vicinity conversions. 5 Tr 2504; *see also*, Exhibit A-12, Schedule B-5.10, pp. 1, 2.

Consumers also explained that the company utilized LED cobrahead and post-top fixtures in new business applications. 5 Tr 2486. Consumers projected expenditures of \$3.469 million in the test year for the installation of 258 new units. 5 Tr 2486; Exhibit A-12, Schedule B-5.10, p. 2. Consumers also noted that it collects a contribution in aid of construction (CIAC) fee of \$100 per streetlight from customers for new streetlight installations and that this fee was established in 1991 in Case No. U-9346. 5 Tr 2487. Consumers contended that it supports the need for a low and reasonable CIAC fee but that it understands that the fee should be increased to account for inflation. Consumers, therefore, proposed two options for raising the CIAC fee: (1) using the Consumer Price Index (CPI) from 1991 dollars to 2024 dollars to raise the CIAC fee to \$230 per streetlight, and (2) escalating the fee proportionally to the cost increase for a 100W high pressure sodium (HPS) streetlight since 1991 to raise the CIAC fee to \$158 per streetlight. 5 Tr 2489-2490.

The Staff testified that it reviewed Consumers' requested expenditures for streetlighting for 2023 in Case No. U-21389, which totaled \$16.335 million. 5 Tr 3836. However, the Staff found that actual spending for that year only totaled \$11.705 million, which represented an underspend of \$4.630 million. 5 Tr 3836; Exhibit A-12, Schedule B-5.10, p. 1. Based on this historical

underspend, the Staff proposed a 20% disallowance for the company's projected test year expenditures in this case, which amounts to \$6,029,400. 5 Tr 3836. Additionally, regarding the \$4.630 million underspend, the Staff proposed that Consumers be directed to provide more detail about where these funds were spent and voiced its preference that the Staff would "appreciate if Consumers would apply any excess funding in streetlighting to line clearing and storm restoration." 5 Tr 3837.

In rebuttal, Consumers explained that it developed projections for demand failures and new business using five-year historical average amounts for the period from 2019 through 2023, adjusted for inflation. 5 Tr 2509. According to Consumers:

[g]iven the variability of the economy, solely using the previous year as a basis for bridge period and test year funding may introduce more volatility in forecasting than a multi-year averaged approach. Multi-year averaged approaches have greater probability to capture periods of growth as well as economic downturn, thus resulting in a higher level of confidence in the projected level of spending.

5 Tr 2511. Moreover, Consumers stated that actual spending on demand failures and new business in 2024 were trending approximately 117% and 167%, respectively, of the company's original forecasts. 5 Tr 2509. As such, Consumers argued that it "would not make sense to reduce the capital spending for this case when the actual data for current spending shows that it is higher than forecasted rather than lower." 5 Tr 2509. In response to the Staff's other proposals, Consumers stated that specific dollars from unused funds are not traced from one program to another because capital needs in other programs often occur at different times. 5 Tr 2512. The company further argued that the allocation of unused capital funds from streetlighting to fund line clearing and storm restoration O&M programs would be inappropriate as these are two different types of costs. 5 Tr 2512-2513.

In its initial brief, MI-MAUI generally expressed support for Consumers' projected expenditures for streetlighting and took no position on the company's proposal to increase the CIAC fee. However, MI-MAUI proposed that the Commission direct Consumers to explain in its next electric rate case how the company will protect early adopters of LED streetlighting from "effectively paying twice for post-top conversions," stating that it was not clear from Consumers' filings whether the currently active credits include consideration of prior post-top conversions funded by CIAC payments. MI-MAUI's initial brief, pp. 6-7. In response to this proposal, Consumers argued that it did not have an adequate opportunity to investigate the issue and that it would be premature and unnecessary for the Commission to order the directive. Consumers' reply brief, pp. 28-29. Similarly, the Staff responded by arguing that MI-MAUI's arguments were unsupported by the record and inappropriately introduced evidence that could not be properly evaluated. As such, the Staff advocated for this portion of MI-MAUI's brief to be disregarded. Staff's reply brief, pp. 37-39.

In its brief, the Staff maintained its proposed disallowance. The Staff also maintained its proposal to require the company to provide more detailed information about where excess funding was being spent but agreed with Consumers that the allocation of excess streetlight funding should not be made for O&M expenses. Instead, the Staff proposed that any excess funding be first applied to the company's demand failures. Staff's initial brief, pp. 31-33.

The ALJ recommended disallowing 20% of test year expenditures for both demand failures (from \$15.998 million to \$12.798 million) and planned vicinity conversions (from \$10.681 million to \$8.545 million). PFD, pp. 162-163. In support of this recommendation, the ALJ stated as follows:

[a]nalyzing 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. This indicates the Commission's 20% reduction in the previous rate case, [Case No.] U-21389, was an accurate reflection of actual spending. However, it is also noted that spending in 2023 was the lowest amount from 2019 to 2023, with the highest spending on demand failures occurring in 2021, and the highest number of demand failures occurring in 2022. Also [Consumers] testified that 2024 demand failure spending is currently trending at approximately 117% of the Company's original forecast for 2024. 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. The company spent \$805,000 on vicinity conversions in 2022 and \$412,000 in 2023. 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). 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 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.

PFD, pp. 160-162.

With respect to new business, the ALJ recommended no disallowance to the company's projected test year expenditures of \$3.469 million. PFD, p. 163. In support of this recommendation, the ALJ stated as follows:

[t]he 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). 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.

PFD, p. 162. In total, the ALJ recommended a disallowance of expenditures of \$5.335 million for the test year. *Id.*, p. 163.

Additionally, the ALJ recommended that the Commission increase the CIAC fee from \$100 to \$158 because of inflation since the time the fee was initially calculated. With respect to the Staff's other proposals, the ALJ recommended that Consumers "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." PFD, p. 163. The ALJ, however, rejected MI-MAUI's proposal to direct the company to explain in its next electric rate case how the company has, or will, protect early adopters of LED streetlighting from effectively paying twice for post-top conversions, finding that MI-MAUI inappropriately introduced new evidence after the record was closed and that this issue would be better addressed outside of the rate case. *Id.*

In exceptions, Consumers argues that the ALJ failed to recognize evidence in the record demonstrating that the recommended disallowances significantly understate the necessary expenditures needed for the company's streetlighting program in the test year. Consumers' exceptions, p. 70. Specifically, with respect to demand failures, Consumers asserts that the ALJ's focus on 2023 costs, the lowest cost year in the data set, was inappropriate given year-to-year variation in costs. Accordingly, Consumers maintains that its use of a five-year average to project

these costs was appropriate. Additionally, Consumers contends that the ALJ failed to recognize that 2024 was the first year that the company will be implementing reactive conversions for post-top fixtures and that actual spending in 2024 exceeds the ALJ's recommended approved expenditure amount of \$12.8 million. *Id.*, p. 71.

With respect to planned vicinity conversions, the company argues that the ALJ failed to recognize the planned expansion of the program to post-top fixtures, which Consumers asserts will contribute to increased costs. The company also contests the ALJ's finding that Consumers has complete control over planned vicinity conversions, instead arguing that it can only complete conversions where there has been a demand failure, which the company cannot predict and has no control over. Accordingly, Consumers advocates for the Commission to reject the ALJ's recommended disallowances. *Id.*, p. 73. Consumers also asserts that the ALJ's recommendation to direct unspent funds on demand failures is unlawful and violates Michigan Supreme Court precedent. *Id.* (citing *Union Carbide Corp*, 431 Mich at 148-149). In its replies, the Staff contends that its recommendation that Consumers allocate unspent funds to demand failures instead of line clearing and storm restoration efforts does not run afoul of binding caselaw. The Staff also argues that the ALJ's recommendation for the company to provide more detail about the application of excess funds is not the type of management decision that was at issue in the *Union Carbide* case. Staff's replies to exceptions, pp. 8-9.

Finding the ALJ's recommended disallowances for streetlighting expenditures to be well-reasoned and supported by the record, the Commission partially adopts the PFD. *See*, PFD, pp. 160-163. Specifically, the Commission adopts the ALJ's recommendation to disallow a total of \$5.336 million of expenditures for the test year (inclusive of the disallowances outlined for demand failures and planned vicinity conversions). Concerning the CIAC, the Commission

respectfully disagrees with the ALJ's recommendation to increase the fee to \$158 and instead adopts Consumers' alternate proposal to increase the CIAC fee to \$230 per streetlight. The Commission finds the use of the CPI to account for an increase to reflect 2024 dollars to be more appropriate. The Commission also finds the ALJ's recommendations concerning the unspent streetlighting expenditures to be well-reasoned and supported by the record and therefore partially adopts the PFD on these issues. *See*, PFD, p. 163. As a result, the Commission directs Consumers to provide as much detail as the company can provide regarding the application of excess funds and encourages the company to allocate any excess streetlighting funds to demand failures, if needed, before allocating them elsewhere. Finally, the Commission agrees with Consumers and the Staff and finds that the new information presented by MI-MAUI after the record had closed is inappropriate and should be disregarded.

### 3. Generation Capital Expenses

Consumers had generation expenditures of \$859.095 million in 2023, and projected expenditures of \$463.548 million for the bridge period and \$600.484 million for the test year. 5 Tr 1434; *see also*, Exhibit A-12, Schedule B-5.2, p. 1. Consumers did not include any contingency amounts in its projections. Exhibit A-12, Schedule B-5.2, p. 1.

#### a. Fossil Generation and Ludington Pumped Storage

The Staff recommended two categories of adjustments to Consumers' generation capital expenditures on projects over \$1 million: (1) a reduction based on the use of updated costs in the bridge period and test year, and (2) a reduction in the test year based on cost class estimates. 5 Tr 3767.

Regarding the first category, the Staff explained that Consumers provided updated cost projections for the bridge period and test year for projects based, in part, on updated actual

expenditures incurred as of May 2024. 5 Tr 3767; *see also*, Exhibit S-16.1. From these projections, the Staff calculated the difference between the amounts originally filed and the updated amounts, which resulted in the Staff's proposal to reduce expenditures by \$5.760 million for the bridge period and increase expenditures by \$8.984 million for the test year. 5 Tr 3768; *see also*, Exhibit S-16.1, pp. 1-2. Consumers agreed with both of the Staff's proposed adjustments. 5 Tr 1533; *see also*, Consumers' initial brief, p. 95.

Regarding the second category of adjustments, the Staff explained that Consumers assigns cost estimates for each capital project using one of five cost class estimates that range from Class 5 – Rough Order of Magnitude (ROM) (with an expected cost accuracy range of -50% to +100%) to Class 1 – Control (with an expected cost accuracy range of +/- 5%). 5 Tr 3768 (citing Exhibit S-16.3, p. 8). According to the Staff, the company's cost class estimates enabled the Staff to conclude that the further into the future a projected amount is estimated, the more uncertain the cost estimate is. 5 Tr 3769-3770. As a result, the Staff stated that it adjusted Consumers' fossil and hydro projects exceeding \$1 million in the test year for which engineering components were not completely known. To make the adjustments, the Staff used the lower bounds of each cost class estimate's range, which resulted in the removal of \$16.720 million in expenditures from Consumers' original projections. 5 Tr 3769-3770; *see also*, Exhibit S-16.2.

In rebuttal, Consumers explained that the Staff's proposal results in a downward adjustment for 31 projects in the projected test year, with most of these projects being classified with a cost class estimate of Class 3 – Budgetary, resulting in an adjustment of -10% to projected costs. 5 Tr 1533-1534; *see also*, Exhibit S-16.3, p. 8. Consumers disagreed with the Staff's approach of using the lower bounds of the cost class estimates' ranges. Specifically, Consumers asserted that the use of the lower bound to disallow expenditures would result in an improper double counting

of disallowances for projects that the Staff had separately proposed to disallow. 5 Tr 1535.

Additionally, Consumers argued that the Staff's approach would result in artificially low estimates that would prohibit the company from recovering or receiving returns on the actual amounts spent on these projects, which the company averred would likely result in deprioritizing the projects. 5 Tr 1535-1536.

In response, the Staff noted that its cost class adjustments were only applied to projects exceeding \$1 million and argued that the use of the lower bound of the range was reasonable and that this approach was previously adopted by the Commission. Staff's initial brief, pp. 37-38 (citing March 1 order, p. 54). The Staff further noted that the company could seek recovery of future amounts related to the projects in its next electric rate case to the extent that higher expenditures than projected have been incurred. *Id.*, p. 38. Consumers responded and urged the Commission to revisit its conclusion in Case No. U-21389, distinguishing that case as only applying to 11 projects, as opposed to 31 projects in this case. Consumers' initial brief, p. 101.

The ALJ agreed with the Staff and found that, as the Commission found in Case No. U-21389, the "Staff's approach [was] a reasonable and prudent means to address and quantify the uncertainty associated with certain projects that are not fully developed at this point." PFD, p. 168. The ALJ further found that any reasonable and prudent spending above the amounts recommended for approval could be requested in a future electric rate case. In turn, the ALJ recommended that the Commission disallow \$6.997 million in test year expenditures for steam generation projects and \$1.700 million in test year expenditures for pumped storage projects.<sup>12</sup> *Id.*

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<sup>12</sup> The ALJ did not include the Staff's recommended adjustments to hydro projects, which the ALJ noted was addressed later in the PFD. *See*, PFD, p. 166, n. 697; *see also*, PFD, pp. 191-198.

In exceptions, Consumers again urges the Commission to revisit its conclusion in Case No. U-21389 and argues that there is a very low probability that all the projects for which an adjustment was applied would have an actual cost at the low end of the cost class estimate range. Consumers' exceptions, p. 75. The company further argues that the Commission's disallowance of contingency amounts and the adoption of the use of the lower bound of the cost class estimate ranges is virtually certain to underfund generation capital projects, which Consumers contends is unfair. *Id.*, p. 76. Consumers further argues that the proposed disallowance has grown considerably since the Commission's decision in Case No. U-21389 and that the company has provided evidence that the cost class estimate disallowances from the prior rate case were inconsistent with actual results. *Id.*, pp. 76-77. Finally, Consumers notes that the Staff's proposed cost class estimate disallowances included reductions to projects that were separately disallowed; as such, the company asserts that this has resulted in an inappropriate double disallowance of the same dollars related to those projects. *Id.*, p. 78.

In replies, the Staff argues that Consumers has not offered compelling information to undermine the Commission's previous adoption of the Staff's methodology. Staff's replies to exceptions, p. 5. The Staff further argues that the company has provided no basis in the record to support its contention that disallowing contingency costs and using the lower bounds of cost class estimate ranges essentially results in a double counting of disallowances. *Id.*, p. 6.

The Commission finds that the Staff and Consumers agreed to the Staff's proposed adjustments based on updated project costs for the bridge period and test year provided by the company; the Commission, therefore, adopts these proposed adjustments. *See*, 5 Tr 3768; *see also*, Exhibit S-16.1, pp. 1-2. With respect to the Staff's proposed adjustments based on cost class estimates, the Commission agrees with the Staff's analysis and adopts the findings and

recommendations of the ALJ. The Commission finds that the Staff's proposal to use the lower bounds of the cost class estimates' ranges only applies to certain projects that exceed \$1 million dollars and finds that some proportion of the total projects is likely to land at the low end of the company's class estimate ranges. Accordingly, like the decision in the March 1 order, the Commission again finds the Staff's proposal to be reasonable and prudent, and therefore, adopts the ALJ's recommended disallowances. *See*, PFD, p. 168. The Commission notes that the company can request any reasonable and prudent spending above the approved project amounts in a future electric rate case.

b. Association of Businesses Advocating Tariff Equality Adjustments

ABATE recommended numerous adjustments to Consumers' projected generation capital expenditures, which will be discussed below in the same order as presented in the PFD.

i. Covert Units 2 and 3 Selective Catalytic Reduction/Carbon Monoxide Catalyst Replacement

As part of its generation capital expenditures at the Covert plant, Consumers included two Selective Catalytic Reduction (SCR)/Carbon Monoxide (CO) Catalyst Replacement projects at Covert Units 2 and 3, respectively, that were planned to occur in the bridge period and test year. Consumers projected expenditures of approximately \$1.042 million for each of these projects. 5 Tr 1451; *see also*, Exhibit A-12, Schedule B-5.2, p. 9. ABATE, however, noted that, in response to a discovery request, Consumers stated that neither of the SCR/CO Catalyst Replacement projects would be completed during the bridge period or test year and, as a result, that the company was no longer seeking recovery for the projects. 5 Tr 3340; *see also*, Exhibit AB-4, p. 3. Accordingly, ABATE proposed that \$2.084 million (the combined total for both projects in the bridge period) be excluded from rates. 5 Tr 3340-3341.

In rebuttal, Consumers stated that testing showed that the SCR/CO Catalyst Replacement projects could be deferred to 2030, and therefore, partially agreed with ABATE's proposal. 5 Tr 1539. Consumers, however, further stated that the company had incurred bridge period expenditures for the projects totaling \$284,000. 5 Tr 1539; *see also*, Exhibit S-16.1, p. 1; Consumers' initial brief, p. 104. As a result, Consumers argued that ABATE's proposed complete disallowance was inappropriate and that only \$1.8 million (ABATE's proposed disallowance less the company's expenditures) should be removed. *See*, Consumers' initial brief, p. 104. In reply, ABATE contended that the company failed to identify any information describing what the bridge period expenditures were spent on and why these expenditures were reasonable and prudent. ABATE's reply, p. 5. In turn, ABATE maintained its proposal for a full disallowance for expenditures for the projects. *Id.*

The ALJ agreed with ABATE and found that Consumers failed to provide specific details to demonstrate that the capital expenditures the company spent on the projects were reasonably and prudently incurred. PFD, p. 169. The ALJ, therefore, recommended that the Commission adopt a \$284,000 disallowance for bridge period expenditures for the projects.<sup>13</sup> *Id.*, p. 170. However, the ALJ stated that Consumers could request recovery of these expenditures in a future electric rate case if the company provided sufficient evidence to support the reasonableness of the expenditures. *Id.*, p. 169-170.

In exceptions, Consumers argues that the ALJ's recommendation is not reasonable because, as Consumers contends, the Staff already found the expenditures to be reasonable when it included the expenditures as part of its Exhibit S-16.1. Consumers' exceptions, pp. 79-80; *see also*,

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<sup>13</sup> The ALJ noted that Consumers had already adjusted the company's rate base amount to exclude \$1.8 million for the SCR/CO Catalytic Replacement projects. PFD, p. 170.

Exhibit S-16.1, p. 1. Moreover, Consumers argues that the company provided detailed information regarding these expenditures when it explained that the company performed testing for the project. Consumers also advocates for the Commission to rely on the sworn testimony of its witness on this subject, which the company contends is sufficient to permit recovery. *Id.*, pp. 81-83. In reply, ABATE states that the company is required to support its case with substantial evidence and that the company has not met this burden. ABATE's replies to exceptions, pp. 4-9.

The Commission agrees with the company and finds that Consumers provided sufficient detail to demonstrate that the expenditures incurred during the bridge period for the projects were reasonable and prudent. The Commission, therefore, approves the \$284,000 in bridge period expenditures for the Covert Units 2 and 3 SCR/CO Catalyst Replacement project.

ii. Covert Roll-Up Door and Loading Dock Projects

Consumers projects bridge period expenditures of \$0.535 million for the installation of roll-up doors at the Covert plant and test year expenditures of \$1.817 million to build out an existing warehouse and to add a loading dock at the facility. 5 Tr 1452, 1454; *see also*, Exhibit A-12, Schedule B-5.2, p. 9, line 5. With respect to the roll-up doors, Consumers stated that installation was necessary to facilitate ingress and egress for large equipment, eliminate the time-consuming and expensive process of removing and installing panels, reduce downtime and labor costs, and provide significant protection from cold air infiltration. 5 Tr 1452. Concerning the warehouse expansion and loading dock, Consumers stated that the "existing warehouse does not meet the needs for upcoming major outages, or plant maintenance in the future," and that the "addition of a loading dock will provide for safer and efficient loading/unloading of trucks." 5 Tr 1454.

ABATE opposed the projected expenditures for both projects and argued that the company failed to provide an analysis of the time and cost savings that would be realized through

installation of the roll-up doors. 5 Tr 3343. ABATE further argued that Consumers failed to provide an assessment of the company's needs for the upcoming major outages or future plant maintenance that would be affected by the loading dock, and further, that the company failed to explain why the existing facilities were insufficient. 5 Tr 3344. Accordingly, ABATE proposed a disallowance of \$0.535 million in bridge period expenditures and \$1.817 million in test year expenditures for the roll-up doors and warehouse expansion and loading dock, respectively.<sup>14</sup> 5 Tr 3343, 3344; *see also*, ABATE's initial brief, pp. 15-17.

In rebuttal, Consumers contended that ABATE made no attempt to discover more details about the projects, but explained that, due to changing priorities, the company had removed the projects from the bridge period and test year. 5 Tr 1542, 1544. Instead, Consumers stated that the expenditures would now be used for higher priority projects, including load commutated inverter replacements, high voltage bushing and oil replacement on the generator step up transformers, and high-pressure turbine nozzle replacement. 5 Tr 1542, 1544. As a result, Consumers advocated for the rejection of ABATE's proposed disallowances and asserted that disallowing these expenditures would be inappropriate as those funds could still be used for higher priority projects that would benefit customers. 5 Tr 1542-1543, 1544-1545; *see also*, Consumers' initial brief, p. 107.

In response, ABATE stated that it was concerning that Consumers abandoned the company's request to recover expenditures for these projects and instead "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." ABATE's initial brief, p. 15. According to ABATE,

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<sup>14</sup> ABATE appears to have inaccurately attributed capital expenditures of \$1.817 million for the warehouse expansion and loading dock to the bridge period. But Consumers projects capital expenditures matching this total for the test year. *See*, 5 Tr 1454; *see also*, Exhibit A-12, Schedule B-5.2, p. 9, line 5.

such “shifting amorphous cost recovery request . . . without adequate justification, haphazardly shifts costs and revenue figures amongst capital projects in the middle of its rate case proceeding” and should not be tolerated. *Id.* Moreover, in its reply brief, ABATE noted that the company’s abandonment of projects and subsequent replacement during rebuttal goes against prior Commission decisions. ABATE’s reply brief, pp. 6-7 (citing December 17, 2020 order in Case No. U-20697 (December 17 order) and July 2, 2024 order in Case No. U-21461).

The ALJ agreed with ABATE and found that Consumers’ substitution of the projects during rebuttal is contrary to Commission precedent and is unfair to the Staff and the intervenors. PFD, p. 172 (citing the December 17 order, pp. 15-20). As a result, the ALJ recommended that the Commission adopt ABATE’s proposal and disallow \$0.535 million in bridge period expenditures and \$1.817 million in the test year for the projects.<sup>15</sup> PFD, p. 172.

In exceptions, Consumers argues that there is no legal prohibition on substituting one project for another and that the company cannot forego reacting to changing circumstances merely because it is in the midst of a rate case. Consumers’ exceptions, pp. 84-85. Accordingly, Consumers advocates for the Commission to use its discretion to approve recovery for alternate projects, which the company avers are necessary. *Id.*, pp. 85-86. In reply, ABATE again argues that Commission precedent makes it clear that the company must adequately support cost recovery in direct testimony and that the company has not met its burden in this case. ABATE’s replies to exceptions, pp. 10-13.

Finding the ALJ’s recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD on this issue. *See*, PFD, p. 172. The Commission finds that,

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<sup>15</sup> The PFD erroneously states test year expenditures of \$1.187 million instead of the correct amount of \$1.817 million. *See*, PFD, p. 172.

consistent with its prior decisions, Consumers' proposal to shift requested expenditures to alternative projects is not a proper use of rebuttal and does not permit the Staff or intervenors a chance to properly assess and challenge the reasonableness of the proposed expenditures. The Commission cautions the company that simply shifting capital expenditures from one program to another does not provide sufficient evidence to demonstrate the reasonableness and prudence of costs nor the benefits of program expenditures. Therefore, the Commission disallows \$0.535 million for the bridge period and \$1.272 million for the test year for these projects.<sup>16</sup>

iii. Covert Steam Turbine Exciter Project

Consumers projects test year expenditures of \$0.762 million for a project to replace steam turbine exciters at the Covert plant. 5 Tr 1457. According to Consumers, the existing excitation equipment at the plant is obsolete and failure could lead to generators being out of service for approximately 18 to 24 months. 5 Tr 1457.

ABATE proposed a complete disallowance of test year expenditures and argued that Consumers had not "provided an assessment of the current status of the existing equipment, information as to whether the replacement exciters have been procured, or the risk of equipment failure during the test year." 5 Tr 3345. Thus, ABATE argued that recovery would be premature. 5 Tr 3345.

In rebuttal, Consumers reiterated that the existing equipment is obsolete and included evidence to show that replacement of the exciters would save customers at least \$8.6 million compared to doing nothing or running the equipment until failure. 5 Tr 1545; *see also*, Exhibit A-228. The

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<sup>16</sup> The Commission's disallowance of \$1.272 million for the test year reflects a reduction of \$0.545 million in expenditures disallowed because of the Commission's decision, *supra*, to disallow test year expenditures for the warehouse expansion and loading dock project based on cost class estimates adjustments. *See*, Exhibit S-16.2, p. 1, line 36.

company also noted that equipment for gas turbines at the plant had already been replaced, and that the exciter replacement project for steam turbines would commence in 2025 and conclude in 2027. 5 Tr 1545.

The ALJ found that the exciter equipment was over 20 years old and no longer supported by its manufacturer. PFD, p. 174 (referencing Exhibit A-228). The ALJ further found that the risk of failure for the equipment rose 20% per year and that failure could affect both gas and steam turbines at the plant, with the costs to rent replacement equipment during repair exceeding \$2.8 million compared to a replacement cost of \$3.0 million. Accordingly, the ALJ recommended that the Commission reject ABATE's proposed disallowance. *Id.*, p. 174.

In exceptions, ABATE reiterates its belief that Consumers failed to meet its evidentiary burden and argues that the company's claims regarding the project's importance do not supplant the need for detailed information justifying the project. ABATE's exceptions, pp. 3-4. In reply, Consumers avers that it provided evidentiary support for the project, namely through its CAD and that the costs for the project are well-justified. Consumers' replies to exceptions, pp. 21-22.

Finding the ALJ's recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD on this issue. *See*, PFD, p. 174. Based on the evidence provided in the record, the Commission finds the costs of the project to be reasonable and prudent, and therefore, rejects ABATE's proposed disallowance.

#### iv. Karn Units 3 and 4 Sync Wire Replacement Project

Consumers projects to spend \$1.260 million for the bridge period for sync wire replacement at Karn Units 3 and 4. 5 Tr 1462; *see also*, Exhibit A-12, Schedule B-5.2, p. 8. According to Consumers, the project consists of replacing existing copper communication cables between the plant and Hampton Substation. The company states that the 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.” 5 Tr 1462.

ABATE proposed a complete disallowance for the project and argued that the CAD for the project showed that implementation would begin in 2023; however, according to ABATE, Consumers indicated that a project bid has not been issued, a contractor has not been selected to complete the project, and the company has not indicated with specificity when these tasks would occur. 5 Tr 3346; *see also*, Exhibit AB-4, p. 5.

In rebuttal, Consumers noted that the company’s integrated resource plan (IRP) allowed for the continued operation of Karn Units 3 and 4, necessitating the need for the project. Consumers stated that contracts have been issued, materials have been fabricated, and implementation of the project is scheduled. 5 Tr 1547; *see also*, Exhibit A-229. Further, the company stated that the actual spend for the project through September 2024 was \$673,529.13. 5 Tr 1547.

The ALJ found that a review of Exhibit A-229 showed that work for the project was ongoing and is expected to be completed and closed out by mid-2025. Accordingly, the ALJ recommended rejecting ABATE’s proposed disallowance. PFD, p. 176.

No party filed exceptions on this issue.

Finding the ALJ’s recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD on this issue. *See*, PFD, p. 176.

v. Karn Unit 4 Ductwork Expansion Joint Replacement Project

Consumers projects expenditures of \$1.900 million for the test year for the replacement of all expansion joints and entry doors between the induction draft and stack at the Karn Unit 4. 5 Tr 1465; *see also*, Exhibit A-12, Schedule B-5.2, p. 9. Consumers stated the expansion joints are

beyond their end of life and are suspected to be severely degraded based upon the condition of the joints discovered during a project at Unit 3. 5 Tr 1465.

ABATE proposed a full disallowance for the project. ABATE argued that Consumers provided no evidence to confirm that problems discovered at Unit 3 were present at Unit 4. 5 Tr 3347. ABATE also argued that the CAD for the project was last revised in September 2020, and that the company had not provided evidence of any issues having occurred since that time. 5 Tr 3347; *see also*, Exhibit AB-5, pp. 9-14. Finally, based on discovery responses, ABATE stated that no bid had been issued for the project. 5 Tr 3347; *see also*, Exhibit AB-4, p. 6. Accordingly, ABATE questioned whether the project would occur during the bridge period or test year. 5 Tr 3347.

In rebuttal, Consumers stated that the project had been moved out of the test year to prioritize more critical work. 5 Tr 1548. As a result, Consumers noted that the \$1.900 million investment originally planned for the project would instead be made on a different project with a higher priority. 5 Tr 1548.

For the same reasons she cited for the roll-up doors and loading dock projects at the Covert plant, the ALJ recommended that the \$1.900 million expenditure for the test year should be disallowed. PFD, pp. 172, 176.

In exceptions, Consumers presents the same arguments as it did for the roll-up doors and loading dock projects, namely that that there is no legal prohibition on substituting one project for another and that the company cannot forego reacting to changing circumstances merely because it is in the midst of a rate case. Consumers' exceptions, pp. 84-85. Similarly, in reply, ABATE again argues that Commission precedent makes it clear that the company must adequately support

cost recovery in direct testimony and that the company has not met its burden in this case. ABATE's replies to exceptions, pp. 10-13.

Finding the ALJ's recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD on this issue. *See*, PFD, pp. 172, 176. The Commission finds that, consistent with its prior decisions, Consumers' proposal to shift requested expenditures to alternative projects is not a proper use of rebuttal and does not permit the Staff or intervenors a chance to properly assess and challenge the reasonableness of the proposed expenditures. As stated *supra*, the Commission notes that the recategorizing or shifting of expenditures from one subprogram to another without a clear and traceable explanation lends confusion to the process of identifying historical costs and benefits as well as justifying project expenditures. Therefore, the Commission disallows \$1.710 million for the test year for this project.<sup>17</sup>

vi. Karn Ductwork Insulation and Lagging Replacement Project

Consumers projects expenditures of \$4.8 million for the test year to replace the lagging and insulation on all ductwork from the building out to the stack at Karn Unit 4. 5 Tr 1465; *see also*, Exhibit A-12, Schedule B-5.2, p. 9.

ABATE proposed a full disallowance for the project on the basis that the company had not provided adequate support for the project since a CAD had not been prepared. 5 Tr 3348.

In rebuttal, Consumers partially disagreed with ABATE and explained that as the company was preparing for the project, it discovered more wide-spread problems that resulted in the company moving forward with a damper replacement at Karn Unit 4. 5 Tr 1548; *see also*,

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<sup>17</sup> The Commission's disallowance of \$1.710 million for the test year reflects a reduction of \$0.190 million in expenditures disallowed because of the Commission's decision, *supra*, to disallow test year expenditures for the project based on cost class estimates adjustments. *See*, Exhibit S-16.2, p. 1, line 19.

Consumers' initial brief, pp. 113-114. Consumers presented a CAD for the damper replacement that showed that the replacement would cost \$3.0 million. 5 Tr 1549; *see also*, Exhibit A-230; *see also*, Consumers' initial brief, p. 114. Accordingly, Consumers agreed to accept a partial disallowance of \$1.8 million but maintained its request for \$3.0 million for the test year for the damper replacement. 5 Tr 1549; *see also*, Consumers' initial brief, p. 114. In response, ABATE objected to Consumers' use of rebuttal to "swap in and out various projects to which it asserts it will apply varying amounts of requested cost recovery." ABATE's reply, p. 9.

The ALJ agreed with ABATE and found that, while styled somewhat differently, "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." PFD, p. 178. Accordingly, the ALJ recommended a complete disallowance for the project, but found that Consumers could seek reasonable and prudent costs for the damper replacement in a future electric rate case. *Id.*, pp. 178-179.

In exceptions, Consumers again advocated for the Commission to use its discretion to find that the requested costs were reasonable. The company avers that the damper replacement is necessary and that it presented a CAD to support this project. Consumers' exceptions, pp. 84-86. In response, ABATE again argues that Commission precedent makes it clear that the company must adequately support cost recovery in direct testimony and that the company has not met its burden in this case. ABATE's replies to exceptions, pp. 10-13.

Finding the ALJ's recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD on this issue. *See*, PFD, pp. 178-179. The Commission finds that, consistent with its prior decisions, Consumers' proposal to shift requested expenditures to alternative projects is not a proper use of rebuttal and does not permit the Staff or intervenors a

chance to properly assess and challenge the reasonableness of the proposed expenditures. As stated *supra*, the Commission notes that the recategorizing or shifting of expenditures from one subprogram to another without a clear and traceable explanation lends confusion to the process of identifying historical costs and benefits as well as justifying project expenditures. Therefore, the Commission disallows \$3.360 million for the test year for this project.<sup>18</sup> The Commission finds that Consumers may request recovery of reasonable and prudent costs for the damper replacement in a future electric rate case if there is sufficient evidence demonstrating the reasonableness and prudence of such expenditures.

vii. Zeeland Advanced Gas Path Replacement and Axial Fuel Staging Project

Consumers projected expenditures of \$20,356,250 in the bridge period and \$25,743,740 in the test year for the advanced gas path (AGP) replacement and axial fuel staging (AFS) project at the Zeeland plant. 5 Tr 1466, 1470; *see also*, Exhibit A-12, Schedule B-5.2, pp. 8-9. According to the company, the project proposes the integration of AGP and AFS technologies aimed at boosting turbine performance and operational flexibility. 5 Tr 1470; *see also*, Exhibit A-46, p. 2.

ABATE reviewed the company's CAD for the project and asserted that Consumers' justification for the project was largely economic and aimed at capturing potential savings. 5 Tr 3349. Additionally, ABATE contended that the company's CAD noted that AGP is an industry standard, but AFS is not. 5 Tr 3349; *see also*, Exhibit A-46, p. 10. Based on its review, ABATE argued that Consumers failed to provide adequate information on the performance and savings associated with other generation resources that utilize AGP technologies, and further

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<sup>18</sup> The Commission's disallowance of \$3.360 million for the test year reflects a reduction of \$1.440 million in expenditures disallowed because of the Commission's decision, *supra*, to disallow test year expenditures for the project based on cost class estimates adjustments. *See*, Exhibit S-16.2, p. 1, line 37.

argued that the company did not explain why the use of AFS technologies, which are not industry standards, was reasonable and prudent at this time. Accordingly, ABATE proposed a full disallowance of all forecasted expenditures for the project. 5 Tr 3349; *see also*, ABATE's initial brief, p. 20-21.

In rebuttal, Consumers asserted that the project was not being developed for only economic purposes, but also operational reasons. Specifically, Consumers stated that the project would increase the capacity of each unit, which would improve reliability and capacity obligations, would improve the turndown ratio for each unit, and provide for a 2.8% improvement in heat rate efficiency. 5 Tr 1549. Moreover, the company contended that it demonstrated the reasonableness of the use of AFS and that incorporation of the technology in the project would net an additional \$42 million in savings. 5 Tr 1550; *see also*, Consumers' initial brief, p. 116. Finally, the company argued that ABATE's proposed disallowance "would not only prevent customers from experiencing the power supply cost benefits of the upgrades, but would also subject customers to a tighter capacity market and/or more expense associated with the construction and/or purchase of other, necessary capacity." 5 Tr 1550.

Based on her review of the CAD for the project, the ALJ agreed with Consumers and found that the company's proposed investments in AGP and AFS were reasonable and prudent. Additionally, the ALJ found that delaying implementation of the project beyond 2025 would result in considerable delay in customers realizing the benefits of the project. The ALJ, however, recognized the significant investment involved in the projects and that Consumers' assumptions about costs and benefits have not always been accurate. Therefore, the ALJ recommended that the Commission "continue to monitor this project to ensure that projected costs do not significantly increase and that projected benefits are in fact achieved." PFD, p. 181.

In exceptions, ABATE maintains its argument that Consumers failed to provide sufficient justification for the project because the company did not provide information on performance and savings associated with other generation sources that use AGP, as well as the fact that AFS is not a trend in the industry. ABATE's exceptions, p. 4. ABATE also contends that the ALJ's recommendation for the company to monitor the project's costs and benefits is inadequate. *Id.*, p. 5. Consumers replies and maintains that the company fully supported the project and reiterates the economic and operational benefits of both technologies. Consumers' replies to exceptions, pp. 24-25. The company also states that the information ABATE requests is not necessarily information that is publicly available. *Id.*, p. 24. Finally, Consumers states that it does not object to the ALJ's recommendation for continued monitoring of the project, which the company contends is appropriate. *Id.*, p. 23.

Finding the ALJ's recommendation to be well-reasoned and supported by the record, the Commission adopts the PFD on this issue. *See*, PFD, p. 181. The Commission finds that, based on the evidence in the record, the company has adequately demonstrated that the expenditures for both AGP and AFS are reasonable and prudent and provide economic and operational benefits. *See*, 5 Tr 1549-1550; *see also*, Exhibit A-46. The Commission, however, agrees with the ALJ that the investment involved with this project is significant and therefore directs the company to continue to monitor the 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

Consumers is seeking recovery for expenditures for the bridge period and the test year for base outage capital, which the company states "covers the replacement parts and issues found during turbine/generator inspections and the major discovery issues found during annual unit outages."

5 Tr 1453. For the Covert plant, Consumers projected expenditures of \$443,333 for the bridge period and \$383,333 for the test year. 4 Tr 1453, 1459. For the Zeeland plant, Consumers projected expenditures of \$482,555 for the bridge period and \$424,444 for the test year.

5 Tr 1468, 1471. For the Jackson plant, Consumers projected expenditures of \$350,000 for the bridge period and \$300,000 for the test year. 5 Tr 1473, 1476.

ABATE proposed a complete disallowance for all base outage capital expenditures at all three plants. For all expenditures, ABATE contended that Consumers had not identified the specific types of parts or issues that would be associated with the spend and further argued that the company had not explained how it developed its projected expenditures. 5 Tr 3344, 3350-3351, 3352. ABATE, therefore, asserted that the expenditures were speculative and premature. 5 Tr 3344, 3351, 3352.

In rebuttal, Consumers stated that it invested \$789,000 in base outage capital at the Covert plant from June 1, 2023 through December 31, 2023; as a result, the company argued that the planned investments at the plant were not only reasonable, but also conservative. 5 Tr 1543. For the Zeeland plant, Consumers presented evidence of the company's historical spending in the category, which showed an average spend of approximately \$814,929 per year from 2018 to 2023. 5 Tr 1553. For the Jackson plant, Consumers presented evidence of the company's historical spending in the category, which showed an average spend of approximately \$610,081 per year from 2018 to 2023. 5 Tr 1556. In turn, the company argued that the projected expenditures were reasonable and prudent and within the historical spend for the type of work. 5 Tr 1553, 1556.

The ALJ agreed with Consumers and found that the company provided a historical basis for the projected expenditures and had past experience that informed the type of parts and work that

will likely be needed. Accordingly, the ALJ recommended that the Commission reject ABATE's proposed disallowances. PFD, pp. 183, 184-185.

In exceptions, ABATE again takes issue with Consumers' failure to identify the specific types or parts or issues that would be associated with the requested expenditures. ABATE's exceptions, pp. 2, 7, 10. As a result, ABATE argues that the company did not meet its burden and that the expenditures should be disallowed. *Id.*, pp. 2-3, 7, 10. In replies, Consumers asserts that ABATE's purported evidentiary standard has no merit and that the Commission has recognized different evidentiary standards for emergent work where identification of specific projects is not possible. Consumers' replies to exceptions, pp. 16-19. Contrary to ABATE's arguments, Consumers asserts that the company's demonstration of historical costs establish sufficient facts from which the Commission could determine that expenditures are reasonable and prudent. *Id.*, p. 20.

Finding the ALJ's recommendation to be well-reasoned and supported by persuasive evidence on the record, the Commission adopts the PFD on this issue. *See*, PFD, pp. 183, 184-185. The Commission finds that Consumers has provided historical data regarding expenditures for similar work and that this data demonstrates that the currently requested expenditures are reasonable and prudent. As such, the Commission rejects ABATE's proposed disallowances.

ix. Covert, Zeeland, and Jackson Long-Term Service Agreements – Extras

Consumers seeks recovery for expenditures associated with costs exceeding the long-term service agreements (LTSA-extras) at the Covert, Zeeland, and Jackson plants. Consumers described the LTSA-extras as work that is not covered under normal planned maintenance in the LTSA. 5 Tr 1457.

For the Covert plant, Consumers projects LTSA-extras expenditures of \$1,748,333 for the bridge period for Units 1, 2, and 3 for LTSA-extras. 5 Tr 1451. Consumers also projects test year expenditures of \$1,437,717 for Unit 1, \$12,609,633 for Unit 2, and \$10,609,633 for Unit 3. 5 Tr 1456-1457; *see also*, Exhibit A-12, Schedule B-5.2, p. 9. For the Zeeland plant, Consumers projects LTSA-extras expenditures of \$3,925,000 for the bridge period and \$4,275,000 for the test year. 5 Tr 1467, 1469; *see also*, Exhibit A-12, Schedule B-5.2, pp. 8, 9. For the Jackson plant, Consumers projects LTSA-extras expenditures of \$2,908,333 for the bridge period and \$350,000 for the test year. 5 Tr 1472, 1475; *see also*, Exhibit A-12, Schedule B-5.2, p. 8.

Explaining the need for the LTSA-extras at these plants, Consumers stated that, “[b]ased on historical outage experience there are typical discovery items found on this style of gas turbines that are not part of the LTSA planned maintenance scope.” 5 Tr 146, 1469, 1475. For Covert Units 1, 2, and 3, Consumers explained that “[s]ome of the typical items not covered under the LTSA that need to be addressed are labor and material to replace the following: blading, ammonia delivery system, SCR catalyst, turbine rotors, cooling towers, and turbine cooling air cooler.” 5 Tr 1456-1457. For the Zeeland and Jackson plants, Consumers explained that “[s]ome of the typical items that need to be addressed are labor and material to replace the following: blading, combustion cans, ignitors, vanes/bushings, and any components on the compressor end as the compressor is not covered under the LTSA.” 5 Tr 1469, 1475.

ABATE proposed a full disallowance for LTSA-extras at all three plants. ABATE argued that Consumers had not explained how the projected expenditures were determined or provided historical cost data for the typical items discovered that were not included in the LTSA. As such, ABATE argued that the costs were speculative and should not be included in rates. 5 Tr 3342, 3350, 3352. With respect to the expenditures at the Covert plant, ABATE contended that a

disallowance of these expenditures would be consistent with the Commission's findings in Case No. U-21389. 5 Tr 3342 (citing March 1 order, pp. 55-56); *see also*, ABATE's initial brief, p. 14. Finally, ABATE argued that the company's requested expenditures are effectively a contingency request for costs that the Commission has repeatedly found cannot be included in rates. ABATE's initial brief, pp. 13-14.

In rebuttal, Consumers noted the evidence provided in direct testimony and argued that the company adequately provided a basis for the expenditures. Specifically, for the Covert plant, Consumers noted the planned outage inspections for each of the plant's three units, as well as the work typically performed during these outages, which includes "generator inspection, replacement of the generator hydrogen seals, generator rewedge, diaphragm repairs, steam turbine and generator bearing repairs, and high pressure stop and control valve disassembly, inspection, cleaning, and repair." 5 Tr 1540. Consumers further stated that this work is not part of the company's LTSA for the plant. 5 Tr 1540; *see also*, Exhibit A-227. In turn, the company argued that it clearly defined the work to be performed and the basis for such work. 5 Tr 1541. Consumers also contended that the present request was distinguishable from the Commission's rejection of expenditures in Case No. U-21389 because the company "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." Consumers' initial brief, p. 105.

For the Zeeland plant, Consumers provided updated projections that showed that the company had revised its projected expenditures for the bridge period to \$1,233,000 and the test year to \$4,355,000. 5 Tr 1551; *see also*, Exhibit S-16.1, pp. 1-2. Consumers also presented a CAD supporting the investments at the plant and provided data concerning the historical spends for

LTSA-extras for 2021 through 2023. 5 Tr 1551-1552; *see also*, Exhibit A-231. Similarly, for the Jackson plant, Consumers provided testimony outlining the specific LTSA-extras work that was planned for the bridge period and test year and further provided historical data that showed an average spend of approximately \$2,468,546 per year from 2018 to 2023. 5 Tr 1554. Accordingly, Consumers argued that its projected expenditures at these plants were justified. 5 Tr 1552, 1554.

Regarding the Covert plant LTSA-extras, the ALJ found ABATE's arguments to be persuasive and found that, despite owning the plant for over a year, Consumers failed to provide any historical data to justify the company's forecasted expenditures. The ALJ further found that the requested costs were not certain to be incurred and that a disallowance would be consistent with the Commission's decision in Case No. U-21389. Accordingly, the ALJ recommended that the Commission disallow the LTSA-extras expenditures for the Covert plant. PFD, p. 188.

Regarding the Zeeland and Jackson plants LTSA-extras, the ALJ found that the expenditures were adequately supported by the evidence in the record. *Id.*, p. 189, 191. The ALJ noted that that the Commission previously approved LTSA-extras expenditures for the Zeeland plant in Case No. U-21389 and that the evidence Consumers presented in this case was similar to what was presented in that rate case. *Id.*, pp. 189-190. The ALJ further found that the company had provided historical cost data and additional details on the specific work to be completed at the Jackson plant that justified the expenditures. *Id.*, p. 191. Accordingly, the ALJ recommended that the Commission reject ABATE's proposed disallowances for the Zeeland and Jackson plants. *Id.*, p. 190, 191.

In exceptions, regarding the Covert plant LTSA-extras, Consumers reiterates its belief that the company adequately defined the scope of the work to be performed, and that the company's historical outage experience with the particular style of gas turbine found at the Covert plant

provides sufficient justification for forecasted expenditures. Consumers' exceptions, pp. 86-87. Consumers also argues that, unlike Case No. U-21389, the company is not relying on its IRP to justify costs, but instead now has more than a year of direct ownership of the plant that informs its projections. *Id.*, p. 87. Additionally, Consumers disagrees that there is any uncertainty about whether the company will incur the planned LTSA-extras and argues that there is no meaningful difference between how the company developed and presented its projections for this work from the Zeeland and Jackson plants. *Id.*, p. 88. ABATE replies that the ALJ correctly noted that, "[d]espite 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. (PFD at 188)." ABATE's replies to exceptions, p. 10 (internal quotations omitted). As such, ABATE advocates for the Commission to adopt the ALJ's recommended disallowance. *Id.*

ABATE excepts to the ALJ's recommendation for approval of expenditures at the Zeeland and Jackson plants. ABATE's exceptions, pp. 5-6, 8-9. ABATE argues that Consumers is required to offer detailed evidence supporting the specific costs for which it is seeking recovery in the test year; ABATE contends that the company has failed to meet this burden and merely provides speculative and inadequately supported assertions that the company "may face costs for potential work which may or may not occur." ABATE's exceptions, p. 6. In reply, Consumers argues that ABATE is attempting to apply an evidentiary standard that is taken out of context and inapplicable to the LTSA-extras. Consumers also notes that the company's failure to perform the LTSA-extras at these plants would void equipment warranties. Consumers' replies to exceptions, pp. 25-26.

With respect to the Zeeland and Jackson plant LTSA-extras, the Commission finds the ALJ's findings and recommendations to be well-reasoned and supported by the record, and therefore,

adopts the PFD on these issues. *See*, PFD, pp. 189-190, 191. The Commission finds that Consumers has adequately supported the projected expenditures for this work. Notably, the company provided information regarding the specific work that would be conducted during the bridge period and test year, revised cost projections for this work, and historical data supporting the reasonableness of the company's projections for the costs associated with the type of work that will likely be performed. *See*, 5 Tr 1551-1552, 1553-1555; *see also*, Exhibit S-16.1 and Exhibit A-231.

Conversely, with respect to the Covert plant LTSA-extras, the Commission finds that Consumers has not demonstrated that the company's projected costs are reasonable and prudent. In Case No. U-21389, the Commission previously rejected the company's request to recover expenditures for LTSA-extras work because it found that the company's evidentiary presentation on the issue was inadequate. Specifically, the Commission noted that Consumers "presented no historical data in support of the request. The Commission recognizes that the [Covert plant] has not been under Consumers' ownership for long, but finds it probable that the company had access to data that could have been used to support this funding request." March 1 order, p. 56. In the present case, despite owning the Covert plant for an even longer period of time, the company again failed to provide any historical data to demonstrate that its projected expenditures were reasonable. This is in stark contrast to the evidentiary record supplied by the company for LTSA-extras at the Zeeland and Jackson plants, which explicitly contained revised cost projections and historical data to support the requested expenditures. Accordingly, the Commission adopts the ALJ's recommendation to disallow expenditures for both the bridge period and the test year for LTSA-extras at the Covert plant.

c. Hydroelectric Generation

Consumers testified that it owns and operates 14 hydroelectric generation facilities licensed by FERC, 13 of which are referred to as river hydros or dams, with the 14<sup>th</sup> being the Ludington Pumped Storage Plant (Ludington). 5 Tr 2336, 2340; *see also*, Exhibit A-143. The company asserted that “the [river hydro] facilities have a cumulative Generation Verification Test Capacity of 76 megawatts [MW]” and “will remain relatively consistent with current performance, provided that necessary investments are made to ensure safe and reliable operation.” 5 Tr 2337, 2346.

Consumers initially requested approval of capital expenditures for its river hydros of \$42.370 million for the bridge period and \$92.260 million for the test year. The company testified that the bulk of the request is expected to be invested in three Hardy dam projects including \$2,945,631 in the bridge period and \$53,854,369 in the projected test year for spillway replacement, \$163,333 in the bridge period and \$2.760 million in the projected test year for splash wall replacement, and \$236,210 in the bridge period and \$680,825 in the projected test year for crest compaction and roadway replacement. 5 Tr 2349-2357; Confidential Exhibit A-147.

Consumers pointed out that decommissioning the dam would cost \$466 million (in 2021 dollars) and would affect 700 private properties, 20 campgrounds, 20 boat launches, and 400 boat slips. 5 Tr 2360-2361.

Consumers testified that, due to new FERC standards, enacted in part because of the Oroville dam spillway failure in California and the Edenville dam failure in Michigan, “critical reliability investments” are needed to keep the river hydros at FERC standards. 5 Tr 2341. Consumers’ dams are currently FERC-licensed through at least 2034, the company asserted, but failure to comply with new FERC requirements may result in fines and revocation of the FERC operating license. 5 Tr 2341, 2346. Consumers asserted that other consequences of failure to invest in

updates to the facilities could be dam failure resulting in loss of life, homes, roads, bridges, power and gas lines, and environmental damage, as well as possible failure of other dams downstream from the initial failure. 5 Tr 2341. Consumers also stated that 12 of 13 dams operated by the company are rated as “high hazard,” meaning that, if they should fail, they are highly likely to result in loss of life.<sup>19</sup> 5 Tr 2342.

Consumers discussed the new FERC flood-prevention regulations applicable to the river hydros, as well as the engineering studies and community meetings that the company has conducted. The company also testified to having met the requirements of the March 1 order relative to the Hardy facility, in that “a full evaluation of all alternative options and pricing for the work that must be done in order to remain in compliance with [FERC] standards, with projected costs[.]” was submitted as Confidential Exhibit A-147. 5 Tr 2367; *see also*, March 1 order, p. 67.

Consumers also testified to its attempts to reduce the costs of the river hydro projects, stating that:

through its membership in the National Hydropower Association, Consumers Energy and its peer companies have advocated for Congress to include a federal investment tax credit of up to 30% of dam safety project costs in potential future federal legislation. If this tax credit or other financial incentives (such as state funding) became available, the Company would pass along any resulting savings or benefits to its customers.

5 Tr 2361.

The company discussed the Hardy dam facility in detail, including the auxiliary spillway, splash wall, and embankment crest, stating that the dam is licensed through 2034, but the spillway does not meet new FERC requirements for its Probable Maximum Flood standard (now increased by 27%) and must be replaced. The company testified that the splash wall and the embankment

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<sup>19</sup> The Calkins Bridge/Allegan dam is Consumers’ sole low-risk dam. 5 Tr 2343.

crest need to be repaired or replaced because they do not meet dam safety requirements.

5 Tr 2349-2355.

Consumers testified that although the company has developed plans for the replacement of the necessary components of the Hardy facility, it continues to work with FERC and an independent Board of Consultants to implement interim risk reduction measures (IRRM) that were scheduled to be completed by 2024. Due to a delay in receiving FERC's approval, the company has proposed to implement its current IRRM and sought FERC's approval to begin construction in 2025. 5 Tr 2357, 2359, 2361-2365; Confidential Exhibit A-147. Consumers' witness, Adam J. Monroe, testified that, in his opinion, "failure to make this investment in a timely fashion would cause FERC to order the Company to cease operation of the facility well before its project license expires." 5 Tr 2354.

Consumers also testified that the settlement agreement approved in the January 19, 2023 order in Case No. U-21224 (January 19 order):

limited the capital expenditures for the Hardy Auxiliary Spillway, Splash Wall and Crest roadway projects to engineering costs in 2022 and 2023 pending performance of analyses to be coordinated with the [Commission] Staff and the Attorney General. The capital expenditure amounts included in the projected bridge period and test year reflect those limitations.

5 Tr 2368.

The Staff recommended that, so as to avoid possible unnecessary costs, Consumers' planned capital investment for the Hardy dam-related IRRM should be reduced by \$58.823 million (\$29.412 million reduction to rate base). Staff's initial brief, p. 40, *see also, id.*, Appendix E, line 18.

The Staff contended that, due to the uncertainty whether the Hardy dam will be sold, decommissioned, or repaired/replaced, all Hardy dam-related costs should be disallowed with the

exception of costs related to engineering and site preparation (\$1.529 million and \$57.295 million respectively). 5 Tr 3670-3671, 2393-2394; *see also*, Exhibit S-8.3.

In rebuttal, Consumers argued that the company must complete the proposed projects, including the Hardy dam projects, regardless of whether it ultimately decides to sell because failure to do so jeopardizes the company's ability to make a sale, as well as jeopardizes its ability to operate the dam(s) safely. The company further argued that without approval of funds, it must begin immediately to decommission these hydro facilities. The company agreed with the Staff:

that the revenue requirement for the Hardy projects should not be included in the rate relief that the Company has requested in this proceeding, rather the investment should be offset by AFUDC [allowance for funds used during construction] consistent with the Commission's longstanding ratemaking practice for projects that will be completed beyond the end of the test year, which is exactly how the Company presented its filing.

5 Tr 2394.

The Attorney General argued that the future of the river hydros is uncertain considering that the company has discussed the possibility of repairing, selling, or decommissioning the facilities. The Attorney General also pointed out that, in Case No. U-21389, the Commission agreed to disallow projected costs for the Alcona and Rogers facilities and requested a study of alternatives for the Hardy facility. For these reasons, the Attorney General recommends that the Commission remove the company's projected capital investments from its revenue requirement. 5 Tr 2991-2992; Attorney General's initial brief, pp. 88-89.

In addition to arguments related to repairing, selling, or decommissioning the facilities, ABATE added that the possibility of implementing IRRMs for the Hardy hydro contribute to the uncertainty of the future of that facility and that:

according to a recent news article dated September 11, 2024, the Company has been awarded nearly \$23 million in incentives by the U.S. Department of Energy [DOE] for improvements to 10 of the River Hydros that are currently the subject of

Consumers' RFP [request for proposal]. Neither the Direct Testimony of Mr. Blumenstock, nor the testimony of Mr. Monroe address these grants.

5 Tr 3354-3355 (footnote omitted).

As did the Attorney General, ABATE recommended that the company's projected capital investment in the river hydros be removed from the revenue requirement in this case. ABATE also argued that, in the alternative, the Commission should disallow the projected capital investment for the Hardy dam because the company did not meet its burden of proof. 5 Tr 3355-3356; *see also*, ABATE's initial brief, pp. 24-27. In its reply brief, ABATE reiterated these arguments. ABATE's reply brief, pp. 12-13.

In briefing, Consumers reiterated its testimony on the issues and argued that the Commission should reject uncertainty arguments because there exists no uncertainty that the river hydro investments are necessary to meet FERC requirements and for the safe operation of the facilities. Consumers' initial brief, pp. 134-140. In its reply brief, Consumers repeated its case presentation and argued that it would be wrong to dismiss the warnings testified to by the company related to failure to properly maintain its river hydros and that the company continues to work with FERC to develop plans for the facilities, which FERC will expect to be implemented according to approved schedules. Consumers' reply brief, pp. 30-35.

The ALJ agreed with the Attorney General and ABATE that, considering the company's uncertainty about the final disposition of the river hydro facilities and that some proposed investments could be either fully or partially avoided, the company's requested capital expenditures should be disallowed for the time being but may be included in a future electric rate case. The ALJ noted that a decommissioning study is being reviewed and the Commission has not yet "made a decision on the most prudent course of action" for the river hydros and, thus, recommended a cautious approach to any future investments in these projects. PFD, p. 198. The

ALJ also noted that, rather than a complete disallowance, “the Commission could authorize deferred accounting until a final decision is made with respect to the river hydro facilities.”

*Id.*, pp. 197-198.

The Staff and ABATE did not file exceptions on this issue.

In its exceptions, Consumers emphatically repeats arguments made in its case presentation and argues that the ALJ failed to consider that, even while it studies other options, “the Company must maintain the safety and reliability of the plants while it continues to own and operate them.”

Consumers’ exceptions, p. 89 (citation omitted). The company further argues that the ALJ “disregards the Company’s firm warning in its rebuttal testimony and in briefs that the Company will not move forward with these investments without assurance of cost recovery.” *Id.*, p. 91.

Additionally, Consumers disagrees with the ALJ’s apparent assumption that the company may obtain future recovery of investments, stating that “[i]t would not be reasonable for Consumers Energy to risk \$130 million of investments on the *hope* that the money won’t be disallowed anyway in the next rate case. The magnitude of that risk is simply unacceptable.” *Id.* (emphasis in original).

Consumers further argues that the ALJ failed to give appropriate weight to the inevitable consequences of a disallowance, which may be the potential revocation of the hydro licenses or the inability to be relicensed, buyers being unwilling to complete a purchase for an asset in uncertain condition, and the potential decommissioning of a facility. *Id.*, p. 92. As well, Consumers argues that the ALJ did not consider the fact that, regardless of the disposition of the river hydros, the company must make investments at this time and that capital investments as proposed by the company should be thus approved. *Id.* The company urges the Commission to reject the Staff’s,

the Attorney General's, and ABATE's arguments against including projected capital expenditures in the revenue requirement in this case. *Id.*, pp. 89-95.

Finally, however, Consumers states that it would accept "a deferral mechanism as an alternate to immediate recovery in this case." *Id.*, p. 93.

In her exceptions, the Attorney General agrees with the ALJ's reasoning and recommendation that test year projections for the river hydros should be disallowed. Attorney General's exceptions, p. 17. However, the Attorney General voices her disagreement to deferred accounting "to the extent that the alternative recommendation is seen as an invitation to establish yet another tracking mechanism." *Id.*, p. 18. She further states that:

if the Commission prefers to use deferred accounting to keep track of any capital expenditures related to the river hydro facilities, it should make clear in its order that any future recovery of those costs would be subject to a reasonableness and prudence review in a future rate case.

Attorney General's exceptions, p. 18; *see also, id.*, pp. 16-18.

In replies to exceptions, the Attorney General states that, if "the investments are necessary and prudent for operating the dams while [Consumers] still owns and operates them – it should not have a concern about future recovery." Attorney General's replies to exceptions, p. 101. The Attorney General asserts that "any fallout from the disallowance would depend on the actions taken by the Company at its sole discretion." *Id.* She further states that "[t]he Company's argument [that the ALJ did not properly consider Consumers' case presentation] should be rejected because the [ALJ] clearly considered testimony from multiple parties, including testimony regarding the possibility that some costs may be avoided depending on the final resolution for the dams." *Id.*, p. 102. Finally, the Attorney General dismisses the company's argument that disallowance of all costs could force a sale or decommissioning of the river hydros, stating that neither of these options is without cost. *Id.*, pp. 102-103.

Consumers replies that deferred accounting “is not a ‘tracking mechanism.’” Consumers’ replies to exceptions, p. 27. Consumers further argues that:

[t]he deferred accounting treatment is the most sensible solution to the difficult timing issues related to the interplay between needed investments and the ongoing process to prudently determine the best future for the River Hydro plants that will serve the interests of customers, local communities, and the Company. As Consumers Energy said in its Exceptions, the deferred accounting approach should not have been the [ALJ]’s alternative proposal. The [ALJ] should have preferred deferred accounting to complete disallowance.

*Id.*, p. 29. Consumers states that failure to consider deferred accounting would “make that error worse” and that the Commission should “at least approve the deferred accounting mechanism.”

*Id.*

ABATE replies that, due to the uncertainty surrounding the river hydro facilities, “it would be premature to include these significant expenditures [proposed by Consumers] in rates at this time.” ABATE’s replies to exceptions, p. 15. ABATE further states its agreement with the ALJ that, “[o]nce the company has made a decision on the future of these resources” or “explains whether IRRMs could be implemented to minimize the near-term investment that it believes is required and offsetting alternative financing is confirmed, cost recovery cannot be considered reasonable or prudent.” *Id.* Finally, ABATE argues that “[a]t the very least the Commission should . . . reject cost recovery associated with the expenditures relating to the Hardy Dam.” *Id.*, p. 16.

The Staff did not file replies to exceptions in this issue.

The Commission finds that, due to the uncertainty of the disposition of the 13 river hydros as discussed by the parties, and rather than approve or disallow the capital expenditures that Consumers proposed in this rate case, the company may use deferred regulatory accounting of the revenue requirement on actual capitalized investments incurred subject to review in the company’s next electric rate case. The Commission notes that by granting approval of the accounting

authority in this case it is not reducing the evidentiary burden the company must meet for these investments. In other words, the accounting approval provided in this case is no indication, or guarantee, of a favorable outcome as to a future cost recovery request. As well, the Commission points out that capital investments incurred must be deemed reasonable and prudent before they may be recovered in a future rate case.

d. Solar Generation

Consumers projected capital expenditures for four solar projects, including the Mustang Mile, Washtenaw, Muskegon, and Spring Creek projects. 5 Tr 1624-1636. However, the Staff recommended that these projections be removed from base rates because they should be included in the company's amended REP filed on November 15, 2024 in Case No. U-21816. 5 Tr 3684-3689. In rebuttal, the company agreed to the Staff's proposal with the understanding that Consumers may bring these projects for recovery in a future electric rate case if they are denied in the REP case. 5 Tr 1655-1657.

The Attorney General recommended that capital expenditures related to the Washtenaw, Muskegon, and Spring Creek solar projects be removed from this rate case because all have seen construction delays and delayed commercial operation dates (CODs) to the extent that none of the projects will be operational in the projected test year. 5 Tr 2914-2929.

The ALJ found that, given the apparent agreement between the Staff and Consumers on the matter, Consumers should seek recovery of the four solar projects at issue here in its REP case and, if recovery is denied, recovery in a future electric rate case. PFD, pp. 198-199. The ALJ commented that the Attorney General's proposed disallowances are moot considering the company's agreement to move the solar projects to its REP case. PFD, p. 198, n. 797.

No exceptions were filed on this issue.

The Commission finds the ALJ's recommendation well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ's findings and conclusion on this issue. *See*, PFD, pp. 198-199.

e. Battery Grid Storage

Consumers testified that the Weadock and Iosco battery energy storage system (BESS) projects are part of its 75 MW BESS deployment that was set forth in the settlement agreement approved in the June 23, 2022 order in Case No. U-21090. The company also described its grid storage program and proposed capital spending for the Armstrong BESS project. 5 Tr 1643-1650.

i. Weadock and Iosco Battery Energy Storage System Projects

Regarding the Weadock and Iosco projects, the company reported that it has executed Substation Transformer Agreements and is in late-stage negotiations for battery supply and engineering, procurement, and construction (EPC). Projected capital spending on the Weadock project is \$19.750 million in the bridge period and \$44.180 million in the test year. For Iosco, projected spending is \$15.590 million for the bridge period and \$29.870 million for the test year. The company testified that the Weadock project has a COD of December 1, 2025, and the Iosco project has a COD of November 10, 2025. 5 Tr 1638-1643; *see also*, 5 Tr 1641, Table 10.

The Attorney General recommended that all projected capital spending be disallowed for the Weadock and Iosco projects because information received through discovery indicates that the projects have CODs of June 2026. 5 Tr 2923-2924; *see also*, Exhibit AG-2.4.

In rebuttal, Consumers reduced its projections for Weadock to \$19.575 million for the bridge period and \$36.682 million for the test year, and for Iosco, it projects \$14.612 million for the bridge period and \$24.873 million for the test year. The company also conceded that, due to delays in finalizing EPC and battery contracts, the CODs for both projects are delayed until

June 2026. The company continued that the contracts were now finalized and that there are currently no additional anticipated delays. Consumers continued to argue that the capital projections should be approved in this rate case because the associated revenue requirement is offset by the allowance for AFUDC. 5 Tr 1661-1663.

However, in her initial brief, the Attorney General pointed out that there are no figures for the BESS projects included in the company's AFUDC accounting. The Attorney General also argued that Consumers' AFUDC offset calculation initially used an interest rate of 5.86% but later used a 6.17% rate, and likely included depreciation and property tax expenses, such that it would be best to remove the disallowed capital expenditures and related costs from base rates, particularly considering past delays and the uncertainty of whether proposed expenditures take place during the bridge period and test year. Attorney General's initial brief, pp. 101-102.

In its reply brief, Consumers argued that "the Commission routinely uses the most recently approved capital structure from the prior case to calculate the final amount of the AFUDC offset" and that "there are no expenses included in its capital expenditures for depreciation but that the calculation appropriately includes property taxes." Consumers' reply brief, p. 40; *see also*, Exhibit A-260, line 17, column (n). Consumers further argued that the AFUDC offsets are reflected in the company's rebuttal filing. *See*, Consumers' reply brief, pp. 36-41.

The Attorney General did not address this issue in her reply brief.

The ALJ agreed with Consumers that the costs for the Weadock and Iosco projects should be approved (for Weadock, \$19.575 million in the bridge period and \$36.682 million in the test year; for Iosco, \$14.612 million for the bridge period and \$24.873 million for the test period) to be included in Consumers' CWIP and offset in AFUDC. The ALJ noted that "no party challenge[d] the overall merits of the projects or their costs" and that Consumers "established that the projects

are consistent with its approved IRP and has provided support for its proposed capital expenditures.” PFD, pp. 204-205. The ALJ, relying on the December 1, 2023 order in Case No. U-21297 (December 1 order), pp. 82-84, which states that “[t]he 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[,]” also noted that the two projects need not be completed by the end of the test year in order to be included in base rates and that disallowing funds may unnecessarily delay completion of the projects or increase costs. *Id.*, p. 205; *see also, id.*, n. 834.

The Attorney General excepts to the ALJ’s opinion that CWIP and AFUDC render the related expenditures revenue neutral because Consumers’ AFUDC calculations “do not appear to include any accounting for the BESS projects.” Attorney General’s exceptions, p. 20. Additionally, the Attorney General reiterates her arguments regarding the appropriate interest rate for the AFUDC calculations and the failure of the company to remove depreciation or property tax expenses from the calculation. The Attorney General suggests that the company should attempt to recover any Weadock/Iosco related expenditures in its next rate case. *Id.*, pp. 20-22.

Consumers filed replies to exceptions wherein Consumers agrees with the ALJ that projects need not be used and useful in the test year to be included in the revenue requirement. Consumers’ replies to exceptions, p. 30. In addition, Consumers points out that the ALJ is correct in her discussion of the accounting practices related to CWIP and that the Attorney General is not correct when she states that the company did not provide proper evidence of the AFUDC offset. Consumers’ replies to exceptions, pp. 30-31 (citing Exhibit A-260, line 17, column (n)). The company argues that it has used the correct procedures approved by the Commission for CWIP and the AFUDC offset. *Id.*, p. 31. Additionally, Consumers points out that tax expenses are

correctly included because the company incurs taxes for its investments and further notes that the Attorney General did not make a claim that the investments were not reasonable and prudent. *Id.*, pp. 31-32.

The Commission finds the ALJ's recommendation on this issue reasonable and supported in the record. Consumers has clarified the arguments raised by the Attorney General to the extent that the Commission is not persuaded to adopt her proposals in this matter. Further, Consumers updated the revenue deficiency to have the BESS projects offset by AFUDC. Consumers' reply brief, pp. 39-40; *see also*, Exhibit A-260, line 17. The Commission further notes that, as appropriate, depreciation expense is not included in CWIP until the end of the test year and property taxes are appropriately included. *See*, Exhibit A-257, lines 14 and 15.

The Commission agrees with the ALJ's comment that "no party challenge[d] the overall merits of the projects or their costs" and that Consumers "established that the projects are consistent with its approved IRP and has provided support for its proposed capital expenditures." PFD, pp. 204-205. Accordingly, the Commission adopts the ALJ's recommended decision and finds that the projections for the Weadock and Iosco projects (for Weadock \$19.575 million in the bridge period and \$36.682 million in the test year; for Iosco, \$14.612 million for the bridge period and \$24.873 million for the test period) are approved and included in CWIP and offset in AFUDC in this rate case. *See, id.*

ii. Armstrong Battery Energy Storage System Project

Consumers testified that the 2.5 MW Armstrong BESS pilot project is interconnected with the Iosco substation, is designed to allow islanding for one large commercial customer, and is expected to provide a 90% annual reduction in outage minutes. Consumers argued that the project is expected to provide key learnings that may be applied to future, small islanding projects

essential to achieve clean energy goals. The company stated that the project's COD is delayed to February 2026 but that battery procurement, engineering, and simulation testing is ongoing.

5 Tr 1644-1647; Confidential Exhibits A-203 and A-204. Consumers projected that costs for the Armstrong BESS are \$3.931 million for the bridge period and \$4.879 million for the projected test year and noted that, in the March 1 order, the Commission already approved \$1.53 million in capital expenditures for the bridge period ending February 2024,<sup>20</sup> but the company underspent during the bridge period due to delays for completion of testing and the protection study.

5 Tr 1648-1650; *see also*, 5 Tr 1649, Table 11.

The Staff testified that the Commission approved capital expenditures related to the Armstrong BESS project in the March 1 order, expecting that the company would be awarded up to 50% of costs through approval of its federal Infrastructure Investments and Jobs Act (IIJA) application.<sup>21</sup> The Staff testified that it subsequently learned through discovery that Consumers was not awarded the grant that would fund the Armstrong BESS and now ratepayers must bear the entire cost. The Staff expressed its concern that the project benefited only one commercial customer at no cost to that customer rather than providing maximum reliability benefits to the greatest number of customers. Thus, the Staff recommended that the Commission disallow bridge period and test year costs requested by Consumers and that the company should be directed to “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.” 5 Tr 3673; *see also*, 5 Tr 3672-3675. The Staff also stated that it does not recommend “a disallowance of the

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<sup>20</sup> The Commission approved \$6.02 million for the test year. *See*, March 1 order, pp. 71-75.

<sup>21</sup> In the March 1 order, the Commission approved Consumers' full ask without a reduction or contingency for funds that may have been received from approval of an IIJA grant. *See*, March 1 order, pp. 74-75.

2023 capital expenditures spent to develop the protection study. To the extent that the Company pursues future development of distribution connected BESS with similar functionality, the protection study could serve as a useful reference tool for future designs.” 5 Tr 3675-3676.

The Attorney General testified that the Armstrong BESS would not be used and useful by the end of the projected test year and that, given the delays and historical underspend, the requested capital costs should be disallowed. Additionally, the Attorney General raised issues related to the AFUDC offset as it did in relation to the Weadock/Iosco projects. 5 Tr 2922-2923; Attorney General’s initial brief, pp. 98, 100-102.

In rebuttal, Consumers argued that the Staff did not consider the value of the company’s added expertise that would be gained through the Armstrong project. The company also pointed out that its projected costs have increased and were now expected to be \$2.730 million for the bridge period and \$11.304 million for the test year with the COD being set for December 2026. With these changes, Consumers stated that the project could offset the costs by AFUDC. 5 Tr 1657-1659.

In its initial brief, the Staff recommended that the Commission reduce the company’s “generation capital projections for other-Armstrong BESS pilot by \$14,034,000 for the Armstrong BESS which reduces rate base by \$8,382,000[]” because of the company’s increased costs and the “loss of expected grant funding.” Staff’s initial brief, p. 44. The Staff also recommended “that the Armstrong BESS pilot be disallowed, given significant, and increasing, costs of the project relative to its identified benefits to ratepayers.” *Id.* The Staff reiterated the points it had made in its case presentation, as well as the points made by the Attorney General related to the delays and the lack of grant funding, while noting that the project would not be operational by the end of the test year, and the project’s focus on serving one customer rather than many customers. *Id.*, pp. 44-46.

Finally, the Staff argued that, “[w]hile there may not be an impact to revenue requirement in this case due to the use of AFUDC, it is imperative that the Commission establish that this project, under the new schedule and inflated budget, has not been established as reasonable and prudent.” *Id.*, p. 46.

In her initial brief, the Attorney General noted that while an easement had been secured, study delays had resulted in the delayed procurement of a battery until 2024, which further delayed the COD of the project until December 2026. The Attorney General further noted that the five-month delay in completing the engineering study resulted in the company’s underspend on its \$1.533 million bridge period projection and caused the company to spend only \$258,304 during the bridge period of Case No. U-21389. Finally, the Attorney General argued that the Commission should exclude Consumers’ ask of \$8.81 million because the underspend may portend future delays and underspends and because the project will not be used and useful during the test year. Attorney General’s initial brief, pp. 96-98.

In its reply brief, the Staff continued to urge the Commission to reconsider approval of the Armstrong BESS project because of material changes to the project, increased costs, and the fact that the project is still in the early stages of development. The Staff argued that the company did not support why its projected costs had dramatically increased and was not persuaded by the company’s argument that the Commission had approved the project eight months ago in the March 1 order because “the project has materially changed” since that order was issued. The Staff argued that:

this project is still in early stages of development, allowing for the Commission to reassess this pilot before significant funds have been committed and contracts signed. Even without completing the development of the project, with the protection study and other scopes of work completed, the Company could leverage these work products to develop future battery installations, which could provide similar operational experience while providing more tangible benefits to the

broader customer base. Alternately, the Commission should direct the Company 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.

Staff's reply brief, pp. 4-5.

In her reply brief, the Attorney General argued that the Commission should take heed of her argument that projects must be used and useful during the test year because it is an appropriate standard by which to judge the merits of a particular project. Attorney General's reply brief, pp. 5-7.

In its reply brief, Consumers repeated arguments related to the value of the Armstrong BESS that the Commission agreed with in the March 1 order and made arguments regarding the AFUDC similar to arguments for the Weadock/Iosco projects. Consumers' reply brief, pp. 36-40.

The ALJ agreed with the Staff's arguments that the material changes to the project, the early stage of development, the company's failure to obtain the IJA grant, and the increased costs warranted the Commission taking another look at project approval. The ALJ also doubted that the indirect benefits to be provided by the project justified the added costs. Accordingly, the ALJ recommended that \$14.034 million be disallowed (\$2.730 million in the bridge period and \$11.304 million in the test year). *See*, PFD, pp. 214-215. The ALJ opined that, "[i]n 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." PFD, p. 215.

The Staff did not file exceptions on this issue.

The Attorney General excepts to the ALJ's alternative suggestion that the Commission could limit recovery costs to the company's revised estimate \$9.122 million in Case No. U-21389. The Attorney General reiterates the arguments from her case presentation related to rising costs,

Consumers' underspend, and other reasons. Attorney General's exceptions, pp. 22-23. She argues that:

without waiving her objections to the Company's proposal, the Attorney General would add to any alternative, that not only would the total amount recoverable be limited to the amount proposed in Case No. U-21389, if the Commission chooses to not revisit its approval of the project, but that it not approve recovery in this case and instead require the Company to seek recovery in a future rate case for any reasonable and prudent cost it has incurred up to \$9.122 million.

*Id.*, p. 22.

Consumers excepts to the ALJ's recommended disallowance of its proposed bridge period and test year projections and her reasons for doing so. Consumers states that the Commission has approved the cost and value of the project and asserts that there is no reason for re-examination, including lack of receipt of the IJA grant and delays in the project's progress. Consumers' exceptions, pp. 95-96. Additionally, Consumers argues that it updated its case presentation to reflect that the Armstrong BESS project expenditures are offset by the AFUDC. Regarding the added cost, the company asserts that with progress on the project comes an improved and more accurate assessment of the actual project costs, such as EPCs and other engineering and operational equipment costs. *Id.*, pp. 97-98. Consumers states that, "[a]t the very least, the Commission should approve bridge period and test year investments for the project consistent with the \$9.122 million approved in the prior rate case, with an opportunity for the Company to seek recovery for any actual investments above that threshold in a future rate case." *Id.*, pp. 98-99.

In its replies to exceptions, the Staff states that the ALJ correctly adopted its position regarding capital expenditure projections related to the Armstrong BESS, arguing that the ALJ intended for the company to be limited to \$9.122 million in recovery for the project with no further opportunity to seek recovery in future rate cases. The Staff argues that the company erroneously

interpreted the ALJ's alternative recommendation as an approval. Staff's replies to exceptions, pp. 9-12.

Consumers replies that:

[t]he Attorney General's position is consistent with her general opposition to this project, which the Commission did not share in the last rate case. There is no reason for the Commission to reverse course on approving the same level of rate recovery that it has already approved for the same project, which remains supported by the same justification and has been progressing. The Commission should reject the Attorney General's Exception regarding the [ALJ]'s alternative recommendation and continue to approve the Armstrong BESS project at the funding levels the Commission already found reasonable, with any overages considered for reasonableness and prudence in some future rate case.

Consumers' replies to exceptions, p. 32.

In her replies, the Attorney General reiterates arguments made in her case presentation and restates that she:

did not recommend reconsidering the project approval, [but] she did recommend that the \$8.8 million requested in this case be disallowed due to the delays in the schedule. That recommendation would not prevent future recovery if the Commission decides that withdrawing its previous approval is a step too far.

Attorney General's replies to exceptions, p. 106. The Attorney General also argues that other battery storage projects "may come along" to provide learnings with greater justification for the investment. *Id.*; *see also, id.*, pp. 103-107.

The Commission acknowledges that the Armstrong BESS arguments made in this case mirror the arguments made in Case No. U-21389. As well, there are several new arguments that have been made in the instant case related to increased costs, progress delays, underspending, lack of grant funding, and the timing of the COD. *See*, discussion of the Staff's and Attorney General's initial and reply briefs, above.

However, as it did in the March 1 order, the Commission continues to find value and merit in this project in that the learnings that have accrued and should accrue throughout the project will

inform future BESS islanding projects that may serve more customers or other large customers. Such valuable learnings may facilitate future projects being completed more quickly and efficiently and also facilitate the efficient operation of these projects once in service. These essential learnings may include knowledge of the challenges of obtaining timely studies, the timing and obtaining of easements, a more refined knowledge of the costs related to the execution of such a project, and possible functional problems that may arise following the COD and the resolutions to those functional problems. The Commission also notes that funds approved in the March 1 order were not reduced by or made contingent upon the company's receipt of grant money. *See*, March 1 order, pp. 74-75.

Despite finding value and merit in this project, the Commission is not persuaded that the company's projections should be approved in light of the project delays, lack of expected progress, underspends, and large increases in cost projections. Therefore, the Commission finds the ALJ's alternate proposal of "limiting 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[.]" to be appropriate for this case at this time because it permits Consumers to continue to make progress on the project but may limit the continuation of massive underspends, delays, and cost increases. PFD, pp. 214-215.

The Commission further finds that the company may seek recovery for the project in future electric rate cases but advises that it expects to see the project stay on schedule with investment commensurate with capital approvals. Consumers should not rely on the Commission's continued support of this project if the problems presented in this case are evident in the next electric rate case filing. The Commission expects that expenditures will be fully supported by evidence of

considerable progress toward the completion of this project and evidence of appropriate spending of amounts included in the revenue requirement.

#### 4. Facilities and Capital Expenditures

In this rate case, Consumers has again proposed capital expenditures for new and/or renovated facilities, arguing that the buildings at issue are 60 to 70 years old, have not been renovated or updated in at least 20 years, contain hazardous materials such as asbestos, and are inadequate to meet the needs of serving an increasing population. 5 Tr 1802. The company stated that it divides facilities' capital spending into either asset preservation or other equipment. 5 Tr 1807; *see also*, 5 Tr 1802-1814. The facilities at issue in this case are discussed below.

##### a. Lansing Service Center Project

Consumers requested capital expenditures of \$3.405 million for the bridge period and \$13.967 million for the test year to construct a Lansing Service Center (LSC) building in a new location because the current LSC building is lacking in many important aspects. 5 Tr 1813-1820; *see also*, Exhibit A-82. The company stated that it has invested \$1.779 million in the historical year and has made progress toward readiness to build in that: (1) rebuilding on the current site has been ruled out,<sup>22</sup> (2) appropriate land has been acquired and rezoned,<sup>23</sup> (3) Phase 1 environmental investigation and wetlands assessment have been completed, (4) the company has awarded a contract and ordered construction materials to build a municipal water main extension, and (5) the

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<sup>22</sup> The current building is constructed on the site of a former manufactured gas plant that may have resulted in issues with the soil underlying the building. It is located in a flood plain with its lowest floor located three feet below flood stage and a residential neighborhood that accordingly results in large truck traffic being routed through the residential area, and has experienced armed suspect entry into secured areas. 5 Tr 1814. Additionally, the building is about 70 years old, and its mechanicals are past their useful life. 5 Tr 1815.

<sup>23</sup> The prospective site is "located in Windsor Charter Township, at the southeast corner of the intersection of Canal Road and Billwood Highway, Dimondale, Michigan 48821." 5 Tr 1818.

proposed building is expected to be designed to meet U.S. Green Building Council (USGBC) leadership in energy and environmental design (LEED) standards. Consumers testified that it expects that only 250 employees may be housed in the new building as opposed to 450 employees in the current building because the new building is intended to serve only Lansing customers and that employee workstations may be designed to serve more than one employee depending on the day or time of day. 5 Tr 1814-1820.

The Attorney General testified that the Commission approved the project in the December 22 order with a completion date of 2023, but there were delays attributed to the COVID-19 pandemic, as well as supply chain and labor issues. Comparing the company's presentation in this rate case to its presentation in Case No. U-20963, the Attorney General pointed out that the company significantly underspent in what was the 2021 bridge period and the 2022 projected test year in that case. The Attorney General also pointed out that the company significantly underspent its bridge period and projected test year projections presented in Case No. U-21389. Now, the Attorney General asserted, the company has changed its initial plans for the new LSC building to incorporate hybrid work schedules and projects a total cost of \$47.3 million rather than its initial estimate of \$54.8 million and moved the completion date to 2026. *See*, 5 Tr 2924-2925.

The Attorney General recommended that the Commission remove from the revenue requirement both the company's bridge period and test year projections because "the projected costs are not known and measurable" and it "will not be used and useful within the projected [test year]." 5 Tr 2926. The Attorney General also reiterated that approved costs from two previous rate cases have not been spent. 5 Tr 2926.

In rebuttal, the company argued that a completion date beyond the projected test year does not preclude inclusion of projected test year costs and that the project is fully supported in the company's case presentation. 5 Tr 1840-1842. In brief, the company argued that it has continued to make steady, albeit slow, progress on the project and that the pace of progress is expected to increase. 5 Tr 1842; Consumers' initial brief, p. 162; *see also*, Exhibit A-82.

In brief, the Attorney General is:

recommending disallowances for these service centers [Lansing, Hastings, and Kalamazoo] because it appears that the Company has experienced delays in getting certain approvals, and it has also decided to re-evaluate the design and functions of some [of] the service centers. Based on information provided by the Company, it is apparent that the projects are still in the very early stage of development and design.

Attorney General's initial brief, p. 103.

In its reply brief, Consumers argued that the company presented the challenges and processes that it has gone through to move the LSC project forward such as land acquisition, permitting, and material shortages, among others. Consumers asserts that, despite these issues, the project has continued to move forward, and the pace of the project is now increasing. For these reasons, the company argued that the Attorney General's arguments are arbitrary and thus should be rejected. Consumers' initial brief, pp. 161-162.

The ALJ agreed with the Attorney General that Consumers' projections for the bridge period and test year should be removed from the revenue requirement in this case for the LSC due to the lack of progress and the delayed completion date of 2026, and because "the Company has only spent a fraction of the funds that were previously approved for this project." PFD, p. 220. The ALJ reasoned that it would be premature to approve more funds when previous funding has not been spent. Thus, the ALJ recommended that the Commission remove the \$17.372 million in

requested funds (\$3.405 million for the bridge period and \$13.967 million for the test year) from Consumers' revenue requirement in this case. *Id.*, pp. 220-221.

Consumers excepts and reiterates the arguments it made in its case presentation refuting the Attorney General's claim that "used and useful" in the test year is a necessity for approval of funding in this rate case and that requiring projected expenditures to be "known and measurable" is unreasonable. The company explains again that it is making steady progress on the LSC and that the pace of progress is expected to increase. Consumers' exceptions, pp. 101-102.

The Attorney General replies that the Commission should reject the arguments made in Consumers' exceptions, stating that "[w]hether a proposed expenditure is known and measurable is a baseline consideration that must be met before it can be included in rates." Attorney General's replies to exceptions, p. 108. Specifically, regarding the LSC project, the Attorney General argues that there continues to be uncertainty in the timing and capital expenditures required for completion of the project, as well as significant delays resulting in a completion date of late 2026 rather than 2023. The Attorney General also argues that Consumers has spent only a fraction of the money that was approved in Case Nos. U-20963 and U-21389. *Id.*, pp. 108-111.

The Commission finds that the ALJ's analysis and recommendation on this issue are supported in the record and reasonable. PFD, pp. 220-221. The Commission notes with concern the company's lack of progress and the fact that "the Company has only spent a fraction of the funds that were previously approved for this project." *Id.*, p. 220. The Commission agrees with the ALJ that it would 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 minimal." *See, id.*, pp. 220-221. Accordingly, the Commission adopts the ALJ's recommendation that Consumers' projections of \$17.372 million in requested funds for the LSC project (\$3.405 million

for the bridge period and \$13.967 million for the test year) be removed from the revenue requirement in this case. *Id.* Should the company choose to seek inclusion of capital projections in its revenue requirement for this project in the future, that request should be supported by evidence of substantial progress toward completion and that previously allowed funds were properly spent on the project.

b. Hastings Service Center Project

Consumers requested approval of \$136,000 for the bridge period only and \$0 for the test year in order to continue its progress toward the construction of a new Hastings Service Center which the company argued is needed because the current building lacks sufficient space to support necessary operations and is in a condition that merits replacement. 5 Tr 1821-1822. The company testified that land acquisition to site the new service center adjacent to the current center is in process and that \$5,000 was invested in survey and other work done on site in 2023. The company further explained that a Phase 1 environmental study is completed, and a Phase 2 environmental study is in progress. The company testified that the new building, which will be larger than the current one, will be designed to meet USGBC LEED standards and have on-site solar generation. Consumers stated that the new building will house approximately 50 employees as does the current structure. 5 Tr 1822-1824; *see also*, Exhibit A-82.

The Attorney General opposed including capital expenditure projections for the Hastings service Center project in the company's revenue requirement for similar reasons that she opposed including capital expenditure projections for the LSC project: progress delays and a completion date that is outside the projected test year. 5 Tr 2927-2928.

In brief, Consumers argued that capital expenditures for the project are limited to land acquisition that must be completed so construction may begin. The company also noted that it was

not able to complete the acquisition of the original land sought for the project thus delaying progress until the newly selected site could be acquired. Consumers' initial brief, p. 164.

In her initial brief, the Attorney General acknowledged the company's difficulties in securing an appropriate site, but also pointed out Consumers' minimal spending of the funds that were approved in the December 22 order. The Attorney General opined that the Commission should not approve Consumers' request because of the company's underspend and the uncertainty of the project's progress and capital investment required. Attorney General's initial brief, pp. 105-106.

The ALJ agreed with the Attorney General's reasoning and thus recommended that the Commission remove Consumers' request of \$136,000 in bridge year capital expenditures for the Hastings service Center project from the company's revenue requirement in this case, citing the "significant delays" and "the pace at which this project has moved since its approval." PFD, p. 223. The ALJ also agreed with the Attorney General that the costs of the project are not known and measurable. *Id.*

Consumers excepts to the ALJ's recommendation, reiterating its case presentation regarding the progress that is being made on the Hastings service Center and the advantages the completed project provides. The company also refutes the Attorney General's argument that the project must be used and useful in the test year or that costs must be known and measurable. Consumers asserts that these arguments are unreasonable because they fail to "review the specifics of the projects and the details presented by the Company" and because they dismiss the fact that the project is moving forward. *See*, Consumers' exceptions, pp. 101-102. Consumers argues that the \$136,000 projected for the bridge period is "for acquisition of the land parcel which will allow for expansion of the existing Hastings site and construction of the new facility." *Id.*, p. 103 (citation omitted).

The Attorney General replies that:

[d]ue to the uncertainty surrounding the timing and amount of the capital expenditures forecasted for a project that has already experienced significant delays, the projected costs are not known and measurable and the project will not be used and useful within the projected test year. Therefore, the Commission should adopt the [ALJ]'s recommendation to remove the \$136,000 in projected capital expenditures associated with the [Hastings Service Center] project from the Company's revenue requirement.

Attorney General's replies to exceptions, p. 111.

The Commission finds that, due to the slow pace at which the Hastings Service Center project has moved forward since it was approved in the December 22 order, the underspend of previously approved capital projections, and the uncertainty of costs going forward, it is not reasonable or prudent to approve additional capital investments for this project at this time. Accordingly, the Commission adopts the ALJ's recommendation to remove the Consumer's \$136,000 projection from the bridge year revenue requirement in this case. The company may seek recovery in a future rate case accompanied by evidence justifying the cost and timeline of the project.

c. Kalamazoo Service Center Project

Consumers requested capital expenditures of \$4.815 million in the bridge period and \$9.424 million in the test year for renovations of the Kalamazoo Service Center (KSC). The company testified that it abandoned plans to build a new KSC after deciding that renovations would be a better use of capital. Consumers stated that the total cost of the renovation is expected to be \$35 million, reduced from the \$52 million that was projected and approved in Case No. U-20963.<sup>24</sup> The company testified that it spent \$482,000 on the KSC in 2023. Consumers stated that the planned renovation will entail environmental remediation as well as addressing

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<sup>24</sup> The approval in the December 22 order was for new construction, not renovation. *See*, December 22 order, pp. 160-162. The December 22 order approved a total of \$3.83 million for 2021 and about \$35 million for 2022 for all three rebuild projects, Lansing, Hastings, and Kalamazoo. *Id.*

problems with the aging building systems such as replacing windows and doors, adding roof membranes and insulation, redoing plumbing, and reconfiguring transient shared workspaces with new furnishings, lighting, heating, ventilations, and air conditioning. The company presented that it has finalized an agreement for architectural and engineering design services and that these services are in process. Consumers added that some costs are due to the evaluation of the design program and construction schedule by a construction management firm. 5 Tr 1825-1829; *see also*, Exhibits A-22 and A-23.

The Attorney General proposed that \$14.2 million in capital expenditures projected for the KSC be removed from the revenue requirement in this case. The Attorney General cited project delays, that the project has not moved beyond the design phase, and that it remains uncertain when the project will be completed and the actual expenditures that will be required to achieve completion of the project. 5 Tr 2928-2929.

In briefing, Consumers stated that the pace of work on the project will continue to increase, and its request should be approved. Consumers' initial brief, p. 163.

In her brief, the Attorney General restated her case presentation that the proposed funds should be removed from the revenue requirement, citing project delays, lack of progress out of the design phase, and the uncertainty related to "the timing and amount of capital expenditures that will be incurred for a project." Attorney General's initial brief, p. 107.

The ALJ agreed with the Attorney General's reasoning, stating that:

[t]he 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 ALJ 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.

PFD, p. 226. The ALJ recommended that the Commission remove \$14.2 million in capital expenditures for this project from the revenue requirement in this case. *Id.*

In exceptions, Consumers restates its case presentation and points out that:

[t]he Company has bid and awarded a contract for construction management services, as well as a contract for architectural and engineering design services. 5 TR 1828. Architectural and engineering design work on the project is complete and construction has commenced. The Company has relocated employees to perform asbestos remediation work and has begun renovation and construction activities associated with the Kalamazoo Service Center Project. 5 TR 1843. The pace of the Kalamazoo Service Center Project has increased and will continue to increase.

Consumers' exceptions, p. 103. The company repeated its statement that capital projections for the KSC renovation should be included in the revenue requirement as requested. Consumers' exceptions, pp. 102-103.

In reply, the Attorney General states that “[t]he revamped project is still in its design phase. There remains significant uncertainty regarding the timing and amount of capital expenditures that will be incurred for the project.” Attorney General’s replies to exceptions, p. 112 (citation omitted). The Attorney General points out that the ALJ “agrees with the Attorney General that the costs for this project are not known or measurable (especially considering unreliable projections in the past) and the project will not be used and useful within the projected test year.” *Id.*, pp. 112-113.

The Attorney General continues that, although the company claims in exceptions that “architectural and engineering design work has been completed and construction has commenced[,]” that the “Commission Staff supported the Kalamazoo Service Center capital expenditure without adjustments[,]” and that “the pace of this project has increased and will continue to do so[,]” these “exceptions do not guarantee the timing of the completion of the project.” *Id.*, p. 113.

The Commission finds that the ALJ's recommendation is well-reasoned and supported in the record. Consumers' claim in its exceptions that the project has moved into the construction phase and that the pace of the project will continue to increase is simply not enough to overcome the fact that funds were approved in the December 22 order and the March 1 order for a project that has changed substantially since its initial approval, is only now beginning construction, is nowhere near completion, and for which the costs remain uncertain. Accordingly, the Commission adopts the ALJ's recommendation to disallow Consumers' additional projected capital spending of \$4.815 million in the bridge period and \$9.424 million in the test year for the KSC renovation project, particularly when previously approved funds for this and the other service center projects remain unspent. The company may seek recovery in a future rate case accompanied by evidence of the cost and timeline of the project.

d. Control/Dispatch Consolidation Project

In this rate case, Consumers requested approval of capital expenditures of \$4.903 million for the bridge period and \$5.570 million for the test year to be spent on the renovation portion of its Control/Dispatch Center (CDC) consolidation project.<sup>25</sup> 5 Tr 1833; *see also*, Exhibit A-82. Consumers' witness, Andrew R. Snider, testified that "[t]he benefits, scope, total cost, and schedule of the consolidation project outlined in this testimony are the same as what was approved in Case No. U-21389,"<sup>26</sup> and the plans for the project are intended to "enable operational

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<sup>25</sup> Functions to be performed at the CDC are service restoration, grid operations, facilities/IT training, and outage response. 5 Tr 2539.

<sup>26</sup> In the company's previous electric rate case, Case No. U-21389, the Commission approved a lesser amount than was requested by the company for capital expenditures on this project (\$1.10 million was removed from the revenue requirement leaving \$4.40 million). *See*, Case No. U-21389, 2 Tr 3962; PFD, p. 410; March 1 order, p. 176.

flexibility in maintaining critical staffing levels throughout the duration of the project.” 5 Tr 2538. The company noted that the project is currently entering into the design and engineering phase. 5 Tr 1833. The company projects that the building will be complete in the third quarter of 2026. 5 Tr 2538, 2930.

The Attorney General recommended that the Commission remove the company’s entire ask of \$10.473 million from the revenue requirement in this case. As reasons for her recommendation, the Attorney General pointed to costs that are not known and measurable and that the project will not be used and useful during the test year. 5 Tr 2929-2930; *see also*, Exhibit AG-2.7.

In rebuttal, Consumers stated that benefits from this project will begin to be realized before project completion. The company also pointed out that the project was approved by the Commission in the March 1 order and is on schedule according to the case presentation in Case No. U-21389 with completion anticipated for mid-2026. 5 Tr 2557.

In brief, the company argues that the Commission should disregard the Attorney General’s suggestion to remove the projections from the revenue requirement in this case because she ignored the fact that the project was approved in the last rate case, is on schedule, and will be complete in mid-2026. Consumers’ initial brief, pp. 165-166.

In her initial brief, the Attorney General argued that:

[t]he proposed Control/Dispatch Center renovation project has only recently completed conceptual designs, with the Company still preparing to bid design/engineering services for the project. The Company does not anticipate completing the renovations until the third quarter of 2026. The projected costs are not known and measurable due to the uncertainty surrounding the timing and amount of the capital expenditures forecasted for a project that is still in the design phase. Consequently, the project will not be used and useful within the projected [test year].

Attorney General’s initial brief, pp. 108-109 (footnotes omitted).

The ALJ agreed with the Attorney General that, although the project was approved in the March 1 order, bids for design and engineering services for the project are still outstanding and conceptual plans have only just been received, thereby rendering the cost of the project unknown at this time. Accordingly, the ALJ recommended that the Commission adopt the Attorney General's recommendation to remove \$10.473 million in projected capital spending from the company's revenue requirement in this case (\$4.903 million for the bridge period and \$5.570 million for the test year). PFD, p. 229.

Consumers excepts, arguing that the project was approved in the March 1 order and that:

the [ALJ] discounted 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. The ALJ contained no reasoning as to why the Commission's previous decision should be discarded, nor did it disagree with the merits of the project or the evidence provided. The funds requested in this case are for the continuation of ongoing work.

Consumers' exceptions, p. 104.

The Attorney General replies that:

[t]he Company does not anticipate completing the renovations until the third quarter of 2026. The projected costs are not known and measurable due to the uncertainty surrounding the timing and amount of the capital expenditures forecasted for a project that is still in the design phase. Consequently, the project will not be used and useful within the projected test year. Therefore, the Commission should adopt the [ALJ]'s recommendation to remove \$10.5 million in projected capital expenditures associated with the proposed Control/Dispatch Center Consolidation project from the Company's revenue requirement.

Attorney General's replies to exceptions, pp. 115-116.

The Commission finds the ALJ's recommendation to be well-reasoned and supported in the record. In its exceptions, Consumers argues that the ALJ gave no reasoning why she would reject the Commission's previous approval and did not "disagree with the merits of the project or the evidence presented." Consumers' exceptions, p. 104. The Commission does not interpret the

ALJ's recommendation as either the rejection of the previous approval or an indication of problems with the merits of the project or the evidence presented. However, the Commission agrees with the ALJ that, although the project was approved in the March 1 order, bids for design and engineering services for the project are still outstanding and conceptual plans have only just been received, thereby rendering the cost of the project unknown at this time. PFD, p. 229. Therefore, the Commission finds that approval of \$10.473 million in additional capital costs for this project is not reasonable and prudent at this time (\$4.903 million for the bridge period and \$5.570 million for the test year). The company may seek recovery in a future electric rate case accompanied by evidence of the cost and timeline of the project.

e. Asset Preservation/Unplanned Repairs

The Staff recommend that \$106,000 of Consumers' proposed capital spending on asset preservation and unplanned repairs should be disallowed. Consumers agreed with the Staff's recommendation because a mathematical error had occurred when the company's projection for emergent repairs was prepared. The company thus adjusted its projection to \$1.547 million for the 12 months ending February 2026. 5 Tr 1844; *see also*, Exhibit A-22. The ALJ considered the matter resolved due to the agreement between the parties. PFD, pp. 229-230.

There were no exceptions on this issue and, based on the record, the Commission considers the issue resolved according to the parties' agreement. The Commission thus accepts the company's adjusted proposed capital spend on asset preservation and unplanned repairs for the project test year in this case.

## 5. Information Technology Capital Expenditures

### a. Click to Chat

While Consumers testified to a number of IT capital investments in the context of the company's overall IT project planning and implementation, the company did not provide testimony regarding the Click to Chat technology. *See*, 5 Tr 1848-1857, 1871-1943; *see also*, Exhibits A-88 and A-89. However, the company rebutted the Staff's testimony and recommendations on this issue, which is discussed below. *See*, 5 Tr 2183.

The Staff recommended a full disallowance for the requested capital costs for the Click to Chat project (\$96,721 for the 2023 historical year and \$2,905 for the bridge period). 5 Tr 3725. The Staff testified that "the project does not offer any technology or features that are new and innovative, nor does it represent any cost savings," which the company conceded in response to audit questions. 5 Tr 3725; *see also*, Exhibit S-13.1. The Staff reported that the same customer service personnel would respond to Click to Chat as would respond to live calls. The Staff acknowledged that the company wants to offer another contact option for customers, but also pointed out that the additional option would not reduce costs, calls to the call center, or the number of customer service employees at the call center. 5 Tr 3725-3726.

The Staff further testified that:

[p]er 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 CSRs [call center 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.

5 Tr 3526. The Staff also testified that any function that could be performed using Click to Chat could also be performed using the platform that is currently available on Consumers' website and that many customer difficulties would unlikely be resolved on the Click to Chat function.

Additionally, the Staff pointed out that the Click to Chat function had only resolved 100 live interactions with customers in almost two and a half years. 5 Tr 3727-3728.

Consumers rebutted that:

[the] Staff continues to support only the implementation of IT applications that are considered valuable because of associated cost savings. This fails to consider that both customer preference and accessibility have value of their own. J.D. Power has found that live chat has become the leading digital contact method for online customers with 42% of customers preferring live chat compared to just 23% for email. The goal of the Click to Chat project was not to reduce call center costs, but instead to offer access via another option through which customers can communicate directly with the Company—providing value in choice.

5 Tr 2183. Additionally, Consumers explained that the low number of completed interactions on Click to Chat was due to its availability to business customers only. 5 Tr 2183.

Consumers also testified that:

[i]t 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.

5 Tr 2184.

In brief, the Staff recommended disallowing “\$99,626 in total capital costs, with \$96,721 in historical capital costs for the historical year ended 12/31/2023, as well as \$2,905 in capital costs requested for the bridge period ending 12/31/2024, for the Click to Chat project.” Staff's initial brief, p. 48. The Staff reiterated the reasons for the disallowance that were presented in its testimony. Additionally, the Staff argued that it did not oppose the Click to Chat program in Case No. U-21389 but did recommend a disallowance in Case No. U-21490 (the company's settled gas rate case in 2024). *Id.*, pp. 48-49.

In its initial brief, Consumers reiterated that Click to Chat is not intended to reduce costs but to improve service. Consumers remarked that the project was included and approved in both Case

No. U-21308<sup>27</sup> and Case No. U-21389 and that no parties opposed the project. Consumers' initial brief, p. 180.

Neither the Staff nor Consumers addressed the Click to Chat issue in their reply briefs.

The ALJ agreed with Consumers that, although the Click to Chat function does not save money, it contributes to the provision of utility service. Accordingly, the ALJ recommended that the Commission approve Consumers' projections for Click to Chat. PFD, pp. 235-236. The ALJ pointed out that "[i]t should be noted, however, that while \$99,626 is in dispute here, Consumers has estimated total costs for the project of \$801,818." PFD, p. 236; *see also*, Exhibit A-88, p. 3, line 22, column (h); Exhibit A-89, p. 40.

The Staff excepts, stating that its position against approval of the capital expenditures for Click to Chat remains unchanged. The Staff reiterates its case presentation and, additionally, states its opposition to the ALJ's reliance on approvals in two previous cases when recommending approval in this case because, ultimately, Click to Chat is redundant and unnecessary, and its value has not been demonstrated. The Staff further argues that the project's approval in two previous rate cases should not be interpreted as the Staff's support of Click to Chat and points out that it "recommend[ed] a disallowance of Click to Chat in Case No. U-21490,<sup>[28]</sup> a gas rate case that was ultimately resolved through a settlement[]" and that its research into the project for this rate case "has necessitated Staff's recommendation of disallowance for the requested costs." Staff's exceptions, p. 3; *see also, id.*, pp. 2-3.

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<sup>27</sup> Case No. U-21308 is a gas rate case filed by Consumers on December 15, 2022. The case was resolved by a settlement agreement approved by the Commission in an order issued on August 30, 2023.

<sup>28</sup> Case No. U-21490 is a gas rate case filed by Consumers on December 15, 2023. The case was resolved by a settlement agreement approved by the Commission in an order issued on July 23, 2024.

Consumers filed replies to exceptions, stating that [t]here is inherent value in offering customers multiple communications channels and that “Click to Chat has been unopposed in the past.” Consumers’ replies to exceptions, p. 33. Consumers argues that adopting the “Staff’s position would result in a \$96,721 disallowance of historical investment that was already approved by the Commission.” *Id.*, p. 34.

The Commission finds the ALJ’s recommendation to allow recovery of the \$96,721 in historical costs to be reasonable and prudent. Accordingly, the Commission approves Consumers’ historical spending of \$96,721 in capital costs for Click to Chat.

However, the Commission respectfully disagrees with the ALJ’s recommendation relating to the recovery of \$2,905 in capital costs requested for the bridge period. The Commission agrees with the Staff that the Click to Chat function would not reduce costs, reduce calls to the call center, or reduce the number of customer service employees at the call center. 5 Tr 3725-3726. In addition, the Commission notes that, to the extent that Click to Chat were to offer some additional value, the option has been available only to commercial customers, resulting in just 100 completed interactions in two and a half years. 5 Tr 3727-3728. Should the company seek any future recovery connected to the Click to Chat function, it will need to be accompanied by a much more compelling business case and also demonstrate value to customers that justifies the need for any additional investment.

b. Other Information Technology Adjustments

In Exhibit S-10.1, Consumers presented 11 IT projects, seven<sup>29</sup> of which included capital expenditures totaling \$424,571 in the bridge period and \$235,585 in the test year. The Staff proposed a 20% disallowance for each of these projects. 5 Tr 1949-1970; *see also*, Exhibit A-243 and Staff's initial brief, p. 51. The Staff testified that:

[t]he Company indicated that most of the costs of the projects that were asked about were estimated based on the costs of past projects of similar size and scope, however, no detail is provided on those projects (Exhibit S-10.2). It is also stated for most of the projects that a portion of the cost is "based on estimates of capital software, labor, and contractor costs," but no information regarding those estimates is provided (Exhibit S-10.2). 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.

5 Tr 3695-3696. Additionally, the Staff testified that Class III cost estimates completed according to the Association for Advancement of Cost Engineering (AACE) classification system may be overestimated by as much as 20% and so recommended a 20% disallowance to prevent overrecovery for these IT projects. 5 Tr 3696.

Consumers testified that the company has already reduced its projected costs by 20% in order to prevent overrecovery. Consumers explained that the Staff was not aware of this because, in the Staff's audit request, it "did not request complete information, such as project phase or percent complete of project, to classify each project based on the characteristics of the AACE cost estimate classification system" and so made an erroneous assumption about the cost estimates at issue.

5 Tr 1948-1949; *see also*, Exhibit S-10.1. Consumers explained that it does not classify its IT

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<sup>29</sup> The IT projects at issue are the SAP HANA Database Migration, IT Operations Management – Service Operations, Operational Technology – Service Management Upgrade, Software Asset – Service Management Upgrade, SolarWinds Performance Monitoring Expansion Upgrade, Product Family Enhancements – Application Platforms Services – Capital, and Product Family Enhancements – Infrastructure Platforms Services – Capital.

projects according to the AACE system but instead uses the ROM method. 5 Tr 1948, 1952. The company asserted the projects were estimated through a ROM estimate early on in project development but were not identified as such in the Staff's Exhibit S-10.1 "because they were at a more advanced stage of planning and implementation." 5 Tr 1949.

In rebuttal, Consumers addressed each project's capital projections, opposing the Staff's recommended disallowances. The company testified that the SAP HANA Database Migration project was in its execute phase at the time the cost projections were developed. Those projections "were based on the *actual work* completed in 2023 *for the same project's* non-production environments to the cloud and perform a HANA conversation [sic]." 5 Tr 1950 (emphasis in original). As such, the company contended, there should be no disallowance. 5 Tr 1950.

Consumers testified that "the IT Operations Management – Service Operations project was in the execute phase at the time the costs were projected and has since been completed[]" and that estimates for the project "were based on the costs of past projects of similar size and scope." 5 Tr 1952. Consumers argued that Staff's proposed disallowance is unjustified because the Staff stated that it has no issue over the nature of the project. 5 Tr 1952. Consumers theorized that, if a 20% disallowance were to be made, it should be on the projected capital costs for 2024 of \$194,939 resulting in a disallowance of \$38,988. 5 Tr 2952.

Regarding the Operational Technology – Service Management Upgrade project, Consumers testified that the project was in the execute phase at the time the projections were developed and has since been completed. The company further testified that the cost estimates were completed early in the project's development through a ROM estimate based on past similar projects and that the Staff did not request "certain cost estimate details and erroneously assumed the Class III estimate was according to AACE standards." 5 Tr 1953. Thus, Consumers argued, the Staff's

disallowance is “unjustified and does not accurately reflect the project’s detailed and definitive cost estimate.” 5 Tr 1953. Additionally, Consumers posited that, if a disallowance were to be permitted, it should be for 2024 only, resulting in a disallowance of \$32,990 for a capital projection of \$164,952. 5 Tr 1954.

For the Software Asset – Service Management Upgrade, Consumers made similar arguments as it did for the projects discussed above: the project was in the execution phase and is now completed, costs were projected early on through use of a ROM estimate based on past similar projects, and the Staff did not request complete details to classify costs through AACE standards. Consumers stated that, if a disallowance was permitted, it should be for 2024 only in the amount of \$16,655 for a capital projection of \$83,277. 5 Tr 1954-1955.

Regarding the SolarWinds Performance Monitoring Expansion Upgrade, Consumers testified to similar objections: the project was in the execution phase and is now completed, costs were projected early on through use of a ROM estimate based on similar past projects, and the Staff did not request complete details to classify costs through AACE standards. Consumers stated that, if a disallowance was permitted, it should be for 2024 only, in the amount of \$206 for a capital projection of \$1,029. 5 Tr 1956-1957.

Consumers testified that the Product Family Enhancements – Application Platforms Services – Capital program estimates were “based on actual three-year historical average spend based on actual costs for the former Enhancements-IT-Capital and Product Family Enhancements-IT/Digital Foundation-Capital projects[.]” and that the company has identified the following disallowance that should be made if the company’s arguments do not prevail: \$172,224 for projected capital expense of \$861,120 for the two months ending February 28, 2025. 5 Tr 1962-1963; *see also*, Exhibit A-92.

Consumers testified that the projections for the Product Family Enhancements – Infrastructure Platforms Services – Capital project were based on a three -year historical average of actual costs for similar projects. The company opposed a disallowance on capital projections but stated that, if a disallowance was imposed, it should be “\$74,078 (2 months of \$444,466) for the two months ending February 28, 2025 and \$444,466 (10 months of \$444,466 and 2 months of \$444,466) for the projected test year[.]” 5 Tr 1967-1968.

In brief, Consumers reiterated the details of its case presentation. The company argued that the Staff’s proposed reductions should be rejected or, at a minimum, reduced. Consumers’ initial brief, pp. 170-179. Consumers did not file a reply brief on this issue.

In its initial brief, the Staff stated that:

[b]ecause the Company’s projected capital costs for the IT projects listed on Staff Exhibit S-10.1 are based on estimations of previous projects, with no supporting evidence, the Company has the opportunity to over-recover for these projects. To prevent this possibility, the Commission should make the recommended 20% disallowance to each project.

Staff’s initial brief, p. 52; *see also, id.*, pp. 51-52. The Staff did not file a reply brief on this issue.

The ALJ stated that she agreed with the 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 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 [ALJ] 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 [ALJ] recommends against a 20% disallowance for those projects.

PFD, pp. 242-243.

Consumers excepts, stating that the estimates for the four disallowed projects were based on the information the company had at the time and that:

the project estimates were not different from the estimates for the SAP HANA Database Migration, with one minor exception: the estimates for the SAP HANA Database Migration project were based on past experience from the same project, while the estimates for the four disallowed projects were based on past experience from projects of similar size and scope.

Consumers' exceptions, p. 100 (citation omitted); *see also*, 5 Tr 1951-1957 and Consumers' initial brief, pp. 173-176. Consumers argues that, on this basis, the four disallowed projects should be approved. *Id.*

The Staff filed replies to exceptions on this issue, stating that the:

Staff disagrees with Consumers' characterization of this exception as "minor." Estimating costs based on the same project is different from estimating costs based on different projects. (See Staff's Initial Brief, p 52.) Because Consumers did not provide any compelling evidence establishing the estimates of these four projects, the Commission should adopt the [ALJ]'s disallowance.

Staff's replies to exceptions, p. 4.

The Commission finds the ALJ's recommendation to be well-reasoned and supported in the record. *See*, PFD, pp. 242-243. In response to Consumers' exceptions, the Commission is not persuaded that there is little difference between the cost estimates for the SAP HANA Database Migration being based on actual costs for work already completed and the company's failure to update its early ROM estimates for IT Operations Management – Service Operations, Operational

Technology – Service Management Upgrade, Software Asset – Service Management Upgrade, and SolarWinds Performance Monitoring Expansion Upgrade even though the record establishes that “these projects were in the execute phase when costs were projected and have since been completed.” PFD, p. 242; *see also*, Consumers’ exceptions, p. 100.

The record indicates that the three projects that the ALJ recommended the Commission approve were supported by adequate evidence in that the estimates were based on actual costs of the same project or a three-year historical average of similar projects. However, the four partially disallowed projects were not supported by adequate evidence, as discussed above, and, although the company had the opportunity and could reasonably be expected to provide additional support for its cost estimates and update its projections, it did not do so. Accordingly, the Commission adopts the ALJ’s recommended 20% disallowance (\$88,839 in the bridge period) for the four projects discussed above and, as well, adopts her recommendation to approve the company’s request for the remaining three projects: the SAP HANA Database Migration and the two Product Family Enhancements. *See*, PFD, pp. 242-243.

#### 6. Demand Response Capital Expenditures

Consumers testified that it “offers a DR portfolio comprised of both residential and business DR programs.” 5 Tr 2162. There are three residential programs: Device Cycling, Dynamic Peak Pricing, Residential Smart Thermostat; along with two business programs: C&I Contractual DR and C&I Rate options. 5 Tr 2162-2163. Consumers explained that its business DR rates each have criteria to be met for eligibility and, depending on the option selected by the customer, may provide benefits such as discounts, market pricing signals, on-bill incentives, or a combination thereof. These options represent 246 MW from enrolled accounts as of 2023. 5 Tr 2163. The company stated that it also offers a contractual business DR program that sets a specific

contractual timeframe and other specifications that represents 249 MW from enrolled accounts, as well as a residential smart thermostat program representing 47.7 MW of capacity, a residential device cycling program representing 55.1 MW of capacity, and a residential dynamic peak pricing program representing 30.9 MW of capacity from participating residential customers.

Consumers testified that it projected capital costs for these programs of \$909,000, the majority of which is needed for materials such as device cycling switches, and that the projected costs are in conformity with the company's IRM. 5 Tr 2164-2166, 2180; *see also*, Exhibit A-12, Schedule B-5.7.

As discussed above, the Staff recommended that the Commission disallow \$106,000 in capital expenditures projected for the test year for the DR programs, to which, in rebuttal, Consumers conceded because the reduction corrected a math error in the company's calculation. 5 Tr 1844; *see also*, Exhibit A-257, line 5, and Appendix E, line 32 of the Staff's initial brief.

The Staff noted that Consumers proposed a reduction in capital spending for DR of \$2.012 million, which the Staff recommended that the Commission adopt. The Staff's initial brief, pp. 53-54. This reduction was in response to disallowances approved by the Commission in the June 6, 2024 order in Case No. U-21410 (June 6 order) but were too late to include in this case. 5 Tr 2191, 3718-3719; Exhibit A-257, lines 2-3. The disallowances from the June 6 order are as follows:

- \$1,672,222 in capital expenditures for Project PEDRO;
- \$331,143 related to 2021 capital expenditures for Consumers' customer intelligence and analytics (CIA) project; and
- \$17,490 for purchase of a printer used for normal business operations, allocation of which the Company splits between its gas and electric operations, with the electric allocation totaling \$9,055 in this case.

5 Tr 3718-3719.

The ALJ acknowledged the agreement between Consumers and the Staff regarding the proposed adjustment for this cost category resulting from the June 6 order, noted that no other party addressed the capital expenditures for the company's DR programs, and recommended that the Commission approve the company's DR capital expenditures, as adjusted by the company on rebuttal, along with the company's proposed DR program modifications. PFD, p. 245.

No exceptions were filed on this issue.

The Commission finds the ALJ's recommendation is well-reasoned and supported in the record and adopts her recommendations on this issue.

## 7. Transportation Electrification Program Expenditures and Benefit Cost

### a. Transportation Electrification Program Modifications

Consumers stated that it is not proposing to increase the amount included in rates for its TEP in this case but rather proposes enhancements to its EV programs focused on three key strategic programs, all designed to promote off-peak charging, among other things: PowerMIDrive Residential, PowerMIDrive Public, and PowerMIFleet. Considering expected growth in EVs, Consumers asserted that it will be critical to steer EV owners to off-peak charging through these programs to avoid more costly on-peak resources to serve load, noting that new modeling tools will be important as well, including requested funding for a Load Flow Tool Upgrade that will enhance the company's ability to forecast, model, and simulate DER and EV load (and to also help Consumers proactively prepare for new and expanded direct current fast charging (DCFC) locations by enabling the company to better evaluate load growth and redefine TEP designs). Specifically, Consumers proposed the following six TEP enhancements within its existing budget to further support customers and load management:

- (1) The adoption of the North American Charging Standard (“NACS”) wherever a J-1772 or Combined Charging Standard (“CCS”) was previously authorized as a requirement. . . .
- (2) The allowance of Underwriter Laboratories (“UL”) listed, or equivalent safety certification, splitter and dual-cord solutions as eligible costs toward the \$500 rebate and \$1,000 rebate for income qualified residential customers. . . .
- (3) The allowance of a residential referral credit for new enrollees. . . .
- (4) The ability for the customer to choose between receiving a rebate check or having the value applied as a bill credit. . . .
- (5) The addition of a rebate for public and fleet DCFCs that utilize battery arbitrage (i.e. charging the DCFC battery overnight to mitigate daytime, on-peak EV charging) to both minimize make ready service upgrades (given the significant supply chain challenges and demand for transformers) and optimize the load profile of the DCFC to 80% or greater off-peak. Again, this new rebate will be offered within the currently approved TEPs [sic: TEP] budget and does not include separate funding for make ready service like the pilot phases of the TEPs [sic: TEP]. The intent is to avoid significant make ready costs as the CIAC waiver does not apply at such host site projects. The Company believes that significant battery arbitrage is possible given that just 2.9% of DCFC load occurred between 11 PM and 6 AM, as reported in the “PowerMIDrive Program Annual Report 2023.” If DCFCs receiving this rebate do not achieve at least 80% off-peak charging then this rebate category will be discontinued. Public DCFCs will be subject to the 97% uptime requirement for five years just like current public infrastructure rebate recipients are required to meet. The value of the rebate will be up to \$40,000 per DCFC of 150 kW [kilowatts] or greater charging output. This value is approximately equivalent to the average cost of make ready that similar DCFC sites have experienced per pilot results.
- (6) Finally, the Company proposes using any remaining make ready funds from the PowerMIFleet pilot to extend the income qualified enhanced rebate program for fleets. . . .

5 Tr 2406-2407; *see also*, Consumers' initial brief, pp. 189-191.<sup>30</sup>

The Staff supported the proposed enhancements as logical extensions of Consumers' existing EV policies and programs but requested that the company provide an update on each enhancement and any lessons learned in its next electric rate case and the PowerMIDrive and PowerMIFleet annual report. 5 Tr 3869-3870; Staff's initial brief, pp. 172-173. MNSC likewise supported the company's proposed enhancements but recommended that the company convene a process with interested persons and that the company provide future analyses in future cases, all to address distribution grid readiness related to future EV growth, notably in terms of medium- and heavy-duty vehicles, DCFC infrastructure needs, and rethinking the current approach to integrating EV charging with the grid considering increased adoption of renewable generation. 5 Tr 3112-3121; MNSC's initial brief, pp. 49-56. MEIU took issue with the company's proposed rebate for DCFCs over concern about a slowing of EV adoption and driver access to infrastructure, ultimately recommending that Consumers maintain its existing \$70,000 rebate per port for all DCFCs plus establish a new, additional \$30,000 rebate per port for battery-integrated DCFCs.<sup>31</sup> MEIU's initial brief, pp. 7-9. METC expressed concern over DCFCs being "twice as likely to be

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<sup>30</sup> For its proposed DCFC rebate, Consumers clarified that the rebate "would include both bolt-on and fully integrated eligibility." 5 Tr 2413. Further:

The term "bolt-on" means a battery storage system that is separate from the DCFC itself and may be made by a different manufacturer than the DCFC but still helps power the DCFC. Whereas some DCFCs are "fully-integrated" in which the battery is part of a vendor's original DCFC design. Either scenario is acceptable to the Company.

5 Tr 2413, n. 3.

<sup>31</sup> MEIU's original proposal in the case recommended that Consumers maintain its non-battery-integrated DCFC rebate at \$70,000 per port and increase the battery-integrated DCFC rebate by \$40,000-\$60,000 per port, with MEIU proposing that the overall rebate program budget be expanded by \$7.6 million. 5 Tr 3161-3162, 3170; MEIU's initial brief, p. 8.

on-peak, requiring a more robust transmission system,” and the need for transmission coordination to ensure reliability and customer affordability and thus recommended that Consumers be directed “to consider the impact EV charging infrastructure will have on the transmission system by directing Consumers to engage in substantive discussions with METC to proactively assess the grid for EV charging impacts.” 5 Tr 3274. On rebuttal, Consumers agreed that additional EV load analyses would be helpful for future planning and revised its rebate proposal for DCFCs to \$50,000 for all DCFCs plus an additional \$50,000 rebate for battery-integrated DCFCs. 5 Tr 2409-2414, Consumers’ initial brief, p. 192. The Staff argued against continuing and expanding the company’s EV charging infrastructure rebate programs, arguing that utilities and their customers should not fund the entire gap with regard to EV charging. Staff’s initial brief, pp. 126-127.

The ALJ recommended that the company’s proposed enhancements be adopted, including the company’s original \$40,000 rebate for battery-integrated DCFCs, as supported by the Staff and without changing the company’s current TEP budget. The ALJ stated that “[w]hile 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 [National Electric Vehicle Infrastructure] funding is realized.” PFD, pp. 259-260. The ALJ did, however, find merit in testimony on the insufficiency of off-peak charging and the need for additional charging resources and thus recommended “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” and for these issues to also “be considered in Consumers’ TEP case and integrated resource plans going forward.” *Id.*, p. 260.

MEIU objects to the ALJ's recommendations and argues that the Commission should adopt its recommended DCFC rebate levels and TEP budget and that a further collaborative process to review DCFC infrastructure needs is not likely to result in progress. MEIU asserts that the ALJ's recommendation puts ratepayer benefits at risk to the extent that it depresses EV adoption and residential charging and fails to appreciate record evidence that this rebate proposal is a significant reduction in current DCFC rebate levels even before considering the additional costs for battery integration. MEIU recaps testimony and arguments from briefing on the connection between adequate levels of public charging and utility revenues from residential charging (specifically highlighting that “*the existence of public EV charging stations directly enables customers to purchase EVs, leading to significant at-home charging and revenue from electricity sales*” and that “*none of that charging or its associated revenue—public or at-home—would take place or be generated if no EV [was] purchased by a customer in the first place*”), asserting that “[t]his evidence shows that it is not possible or at least not likely that the benefits projected by the Company in its TEP BCA will be realized absent continued investment in public charging infrastructure, including DCFC infrastructure.” MEIU's exceptions, p. 3 (quoting 5 Tr 3139-3141 and MEIU's initial brief, p. 4) (emphasis in exceptions). MEIU notes Consumers' broad agreement with these points, with the company agreeing that it was thus reasonable to increase its DCFC rebate proposal, and contends that, per the discussion summarized directly above, it is not entirely possible to divide public charging from at-home charging. MEIU's exceptions, p. 3. Per MEIU:

the notion of a “skeleton network,” even as defined after-the-fact and outside the record in Staff's Reply Brief as “the minimum network necessary to eliminate range anxiety if it would not have occurred otherwise,” is not static but rather a function of the number of EVs on the road and the corresponding ratio of EVs to chargers. As MEIU previously pointed out, Staff have simply not demonstrated on the record that charging infrastructure growth is self-sustaining or that mass-market

EV adoption has reached the critical mass that would support organic charging infrastructure growth.

MEIU's exceptions, pp. 3-4 (footnotes omitted). MEIU holds steadfast that the record evidence in this case demonstrates that "further utility support is both necessary and justified in light of both infrastructure needs and projected ratepayer benefits" and contends that while Consumers' modified proposal is ultimately insufficient as well, in addition to the company's original proposal, the modified proposal is at least far more realistic than the Staff's position and the ALJ's recommendation. MEIU recaps testimony and briefing on these proposals, highlighting that the company's original proposal, as recommended by the ALJ, would create a situation where "less rebate money would be available to chase more expenses—a charger and the co-located storage—and could reasonably only be anticipated to offset the incremental cost of storage, zeroing out any rebate to cover any expenses associated with the DCFC itself." MEIU's exceptions, p. 5 (quoting MEIU's initial brief, pp. 4-5). Continuing, MEIU states:

Dr. Sherman explained in testimony why the Company's initial reasons (and the [ALJ]'s apparent reasons) for recommending a pause of rebates for DCFCs themselves—waiting for NEVI implementation—were insufficient, specifically that the scope of NEVI-eligible charger locations is limited and the number of expected chargers that would result from the NEVI program was far below the number expected to be needed in the Company's service territory. The recently announced pause in NEVI funding disbursement announced by the U.S. Department of Transportation gives further reason not to rely on the federal government's NEVI implementation before taking initiative in Michigan and the Company's own service territory to ensure that EV adoption can continue and projected ratepayer benefits can be realized.

MEIU's exceptions, p. 5 (footnotes omitted). On this basis, MEIU urges the Commission to "retain the existing DCFC rebate of \$70,000 while adding an increased battery-integrated DCFC rebate of \$100,000 and increase the TEP budget accordingly to support approximately 30% of the Company's anticipated DCFC service requests and provide sufficient funding for the Company's planned number of battery-integrated DCFC installations." MEIU's exceptions, p. 6. Per MEIU,

“[c]ompared to the overall projected ratepayer benefits of \$570 million, this additional \$7.6 million allocation is therefore ‘feasible without unduly undermining ratepayer benefits from downward rate pressure.’” *Id.* (quoting 5 Tr 3170).

Lastly, with regard to the ALJ’s recommendation for a further collaborative process, MEIU expresses confusion as to why the issue of the ideal level of funding for public charging investment was lumped together with future issues raised by MNSC. MEIU argues:

Unlike the emerging issues of the sufficiency of off-peak charging tariffs against the backdrop of the increased integration of renewable energy (and the resulting shift in low-cost hours), which could certainly justify future open-ended collaborative proceedings, the issue of public charging infrastructure has already been the subject of a dizzying number of proceedings, including most major utility rate cases since at least 2018, the Commission’s distribution investment and maintenance plan docket (Case No. U-20147), the Commission’s MI Power Grid New Technologies and Business Models Workgroup (Case No. U-20898), the Commission’s docket for examining the development of potential studies for integrated resource plans covering energy waste reduction, demand response, and electrification (Case No. U-21570), the Benefit-Cost Analysis Tool Collaborative, and the Commission’s TEP technical conference docket (Case No. U-21492). There is no evidence that continued “collaborative process[es]” will be either useful or effective for resolving the issue of the appropriate level of funding for public charging infrastructure. The issue should thus not be kicked down the road to another such proceeding rather than resolved in this case.

MEIU’s exceptions, p. 7 (footnotes omitted). MEIU asserts that the Commission should thus reject the ALJ’s recommendation to defer a decision on this issue and instead adopt MEIU’s recommendation regarding public charging infrastructure funding in this case.

Also in exceptions, Consumers asserts that the Commission should approve the company’s TEP proposals, including its modified DCFC rebate proposal. Consumers clarifies its current DCFC rebate (of \$70,000 plus make-ready support averaging near \$40,000 per site (totaling approximately \$110,000 with no battery arbitrage)) and acknowledges that its modified proposal, although an improvement to its original proposal, would still be lower than the rebates offered through the pilot phase of PowerMIDrive. The company recaps the Staff’s and the ALJ’s

positions and support for the company’s original proposal (with the Staff asserting that the Alternative Fuel Vehicle Refueling Property Credit and NEVI funding may be enough external funding for fast chargers and with the ALJ noting that the extent of additional funding cannot be reasonably established until NEVI funding is realized) and notes that neither the Staff nor the ALJ dispute the benefits that the rebates provide. Consumers, however, maintains its support for its modified rebate proposal (\$50,000 rebate for fast chargers, with an additional \$50,000 possible for battery integration, for a total of \$100,000 in total rebates for fast chargers with 150 kW of charging output or more), contending that:

[t]he increase is needed to spur the construction of a network of fast chargers across the Company’s electric service territory. As Dr. Sherman testified, NEVI funding already does not cover all funding gaps, 5 TR 3160-3166, and funding from NEVI and other federal sources is more uncertain now than ever. Furthermore, battery integrated DCFCs are a developing technology with promising off-peak energy arbitrage and resiliency benefits for the host site. Both technologies require additional economic support if they are to be deployed in the Company’s service territory and yield these benefits.

Consumers’ exceptions, pp. 106-107.

Responding to MEIU’s exceptions, Consumers states that it “occupies the middle ground . . . that allows it to . . . award a higher DCFC rebate now – higher than it originally proposed – without increasing its TEPs [sic: TEP] budget,” which the company asserts “best balances customers’ interests in access to fast chargers and cost considerations.” Consumers’ replies to exceptions, p. 34. Consumers further states that it shares MEIU’s concern over the recently announced pause in NEVI funding disbursement as it relates to EV adoption and realizing ratepayer benefits. Consumers states:

Although the Company agrees with MEIU on many issues, developments at the Federal level are presently highly uncertain given the announced pause in NEVI and new rulemaking that could take multiple years to complete. The Company continues to support its proposed \$50,000 rebate for fast chargers, with an additional \$50,000 possible for battery integration as a permanent program;

however, as an interim measure until new NEVI rules are finalized and the program is back in effect in Michigan, MEIU's supplemental proposal is reasonable for at least the next two years of fast charger rebate applicants. This interim enhanced proposal balances customers' interests in access to fast chargers across the Company's service territory – which the proposed incentive structure will promote – with cost considerations as margin from EV load growth that remains after rebate costs are a benefit to customers.

Consumers' replies to exceptions, pp. 36-37. Consumers thus maintains that the Commission should approve the company's proposals as described in its testimony and briefs.

Also responding, the Staff asserts that MEIU's objections to the ALJ's recommendation to approve Consumers' original DCFC rebate proposal should be rejected. The Staff states that it rebutted MEIU's claims in its initial brief, with the Staff "noting that while benefits may be delayed, benefits would be greater the less ratepayer funds are expended, and that the projected benefits do not support expending further ratepayer funds if they will be achieved absent that spending," also arguing that MEIU "failed to mention the 30C tax credits on the record in this case or acknowledge whether their analysis includes or does not include them," whereas the Staff included such credits in its recommendations. Staff's replies to exceptions, p. 29 (citing 5 Tr 3883-3885; Staff's initial brief, pp. 129-130). The Staff maintains that "benefits may materialize from third party expenditures, the 30C tax credits, or other funding sources that may be adequate to result in further charging infrastructure" and thus MEIU's position to the contrary should be rejected. Staff's replies to exceptions, pp. 29-30.

The Staff also addresses MEIU's claim in exceptions about the minimum network necessary to alleviate range anxiety not being static but rather a function of the number of EVs on the road and states that:

an examination of the transcript reference claiming to support this statement reveals that the testimony is not related to a minimum system to alleviate range anxiety, but instead to the necessary level of infrastructure to support all fast charging. (See 5 TR 3157–58.) These are not the same, which is likely the primary reason why

Staff's and MEIU's positions on the role of ratepayer funding for fast charging infrastructure differ. Staff argued in brief that it is not the ratepayers' responsibility to take care of all funding "gaps" that may exist with regard to fast charging infrastructure. (Staff's Initial Brief, p 126–127.) Staff also mentioned in reply brief how the 30C tax credits will help with funding gaps. (Staff's Reply Brief, p 26–28.)

Staff's replies to exceptions, p. 30. The Staff thus recommends that the Commission adopt the ALJ's recommendation on funding and rebates for DCFCs.

Lastly, the Staff recommends that the Commission decline to base its DCFC determinations on federal funding uncertainty, despite Consumers' and MEIU's concerns otherwise. The Staff argues that "[r]egardless of potential changes to federal funding, it is not clear that ratepayer-funding at the level MEIU and Consumers['] desire is necessary to provide the benefits of charging, as discussed previously[;] [t]herefore, potential federal funding changes should have little weight on the Commission's decision regarding ratepayer funding." *Id.*, p. 31.

Also responding, MNSC agrees with Consumers and MEIU and asserts that the Commission should approve a higher rebate level for battery-integrated DCFC stations than the ALJ recommended. MNSC states that it agrees that the DCFC rebates should be higher for the reasons cited by both parties, particularly in light of the "serious uncertainty" concerning NEVI funding. MNSC's replies to exceptions, p. 27. Per MNSC:

Since the PFD was issued, the federal Department of Transportation has rescinded its NEVI Guidance and has purported to suspend States' previously approved NEVI Plans and to bar them from any new obligations of federal funding, even of funds that had already been made available for fiscal years 2022-2024, with no concrete timetable for reinstatement. These actions jeopardize the vast majority of the roughly \$110M in funding that Michigan expected to receive under the five-year NEVI Formula Program.

*Id.* (footnote omitted). MNSC contends that NEVI funding was "at least a reason, if not the primary reason, why the ALJ declined to recommend a rebate level above \$40,000;" thus, since "some of the facts that formed the basis of the ALJ's determination have changed since the PFD

was issued, and given that the ALJ otherwise found the record evidence to demonstrate a need for increased support of DCFC charging,” MNSC opines that it is appropriate for the Commission to approve a higher rebate for battery-integrated DCFCs than recommended by the ALJ in this case. *Id.*, pp. 27-28.

The Commission accepts Consumers’ proposed TEP enhancements, except for the company’s fifth enhancement pertaining to rebates for battery-integrated DCFCs. Absent a BCA or other justification in support, the Commission is unpersuaded that rebates for any battery-integrated DCFC that applies, with or without additional funds, are reasonable and prudent and instead finds it more appropriate for the company to continue with its current DCFC rebates under previously approved funds at this time. If Consumers, however, wishes to pursue rebate funding for battery-integrated DCFCs in the future, the Commission encourages the company to consider the benefit of battery integration as it relates to interconnection costs and distribution costs and to only allow rebates when the benefits of installing a battery at a DCFC outweigh the costs. Incentivizing installation of energy storage at any and all DCFC chargers, regardless of interconnection constraints, costs, and usage, is not a reasonable and prudent use of funds. That aside, while the Commission does not find a need 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, the Commission does find it appropriate for Consumers to consider these issues in its next TEP filing, given that this is what TEPs are intended for and because an additional collaborative process would merely duplicate efforts. The Commission also finds it appropriate for Consumers to provide updates on approved enhancements and any lessons learned in the company’s next electric rate case and PowerMIDrive and PowerMIFleet annual report, as recommended by the Staff.

b. Benefit/Cost Analysis

Consumers' presented its PowerMIDrive and PowerMIFleet BCA in Exhibit A-153, describing the document as:

the workpaper summarizing the costs and revenues from optimized EV load growth via the TEPs [sic: TEP]. The positive and increasing values in each year clearly show that the additional load growth from EVs creates margin that exceeds the TEP[']s revenue requirement and other costs. Thus, the TEPs [sic: TEP] do[es] not increase rates but instead create[s] downward rate pressure for all customers while optimizing EV load.

5 Tr 2401.

MNSC took issue with the BCA, asserting that it fails to consider the full range of costs and benefits associated with the company's TEP, and thus recommended that the Commission adopt a comprehensive framework for BCAs of future TEPs that includes both analyses of utility net revenues and of societal benefits and costs to ensure transportation electrification is optimally supported. 5 Tr 3113-3115, 3120. MEIU did not have any concerns with the company's BCA in this case but recommended that Consumers be required to account for societal benefits in future TEP BCAs and, to standardize this process, for the Commission to conduct a study to either establish a process for utilities to quantify the societal benefits of transportation electrification in a standard manner or determine an estimated overall societal benefit factor per EV or per kilowatt-hour (kWh) of charging that each utility can utilize. 5 Tr 3144, 3155, 3197-3198. The Staff noted, on one hand, that BCA is an integral part in evaluating a utility's EV programs and thus noted the forthcoming benefit-cost tool from Case No. U-20898 that will assist the Commission in decision-making and which the Staff expects the company to incorporate in future EV testimony once available. 5 Tr 3868. The Staff, however, also noted that "[w]hile an SCT [societal cost test] or other manner of incorporating societal benefits and costs can provide information useful in the Commission's decision-making, 'such a cost test is not appropriate to use

to determine the amount to which such programs should be funded by utility customers regardless of the societal benefits they may produce.” Staff’s initial brief, p. 130 (quoting 5 Tr 3808). ABATE disagreed with MEIU and MNSC and asserted that, “[w]hile the use of the [SCT] for informational purposes as a sensitivity case is not necessarily objectionable, the Commission should not order the use of the SCT, or the inclusion of societal benefits (e.g., greenhouse gas and criteria pollutant emissions) in Consumers’ base case BCA for its TEP.” ABATE’s initial brief, p. 56 (citing 5 Tr 3328). ABATE also noted rejection of similar arguments raised by MEIU and MNSC by both the administrative law judge and the Commission in Case No. U-21297 and asserted that the proper place for evaluating the SCT and societal benefits related to TEPs is in meetings with interested persons rather than in the instant case. However, ABATE adds that, to the extent this request by MEIU and MSNC is granted, it should be limited to the provision of a sensitivity case for the BCA for Consumers’ TEP. ABATE’s initial brief, pp. 56-58 (citing PFD in Case No. U-21297, p. 690; December 1 order, pp. 691-692). Consumers acknowledged the value in a benefit-cost framework that will assist with consistency and streamlining TEP reporting and help the Staff, intervenors, and the public evaluate EV programs and, in this regard, noted its willingness to consider and include societal benefits in future filings and TEP reports. 5 Tr 2410-2412; Consumers’ initial brief, pp. 191-192.

The ALJ agreed with MNSC and MEIU and recommended that, going forward, Consumers include an additional BCA with SCT information for the purpose of providing additional information for the Commission’s review. PFD, p. 268. The ALJ, however, qualified that:

[a]s touched on by Mr. Freeman, this additional information should be in line with what is ultimately determined in Case No. U-20898 to be relevant or required reporting. 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 disproportionate impacts of ratepayer funding for EV programs falling on low-income households,

are well-founded. This [ALJ] 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.

PFD, pp. 268-269 (footnotes omitted).

ABATE objects and argues that, to remain consistent with the Commission's recent order in Case No. U-21534, the Commission should reject the ALJ's recommendation in the instant case for Consumers' TEP to account for societal benefits and instead adopt the same holding here from the January 23 order, pp. 354-355, by setting this issue aside for discussion and analysis in the BCA collaborative and in the utilities' TEPs. ABATE's exceptions, pp. 12-13.

In response to ABATE's exceptions, Consumers states that it "occupies the middle ground between ABATE and MEIU that allows it to consider additional societal benefits in the future . . . [,]" which the company asserts, in consideration with its proposed modified DCFC rebate in this case, "best balances customers' interests in access to fast chargers and cost considerations." Consumers' replies to exceptions, p. 34. Consumers further distinguishes this case from Case No. U-21534 and avers that the Commission's decision in the January 23 order, pp. 354-355, took into consideration DTE Electric's opposed recommendations to consider societal benefits, whereas Consumers in this case:

has already acknowledged the work being done to create an improved benefit-cost framework, and the Company supports this work. 5 TR 2410-2412. This does not preclude it from also supporting a framework now that includes societal benefits or preclude others from opposing it. For example, a societal benefits estimate can be optional information that does not impact the TEP margin projection or proposed budget but instead serves to inform readers that positive externalities will result from the investments.

Consumers' replies to exceptions, p. 35. However, "[i]f the Commission invites the parties to discuss this framework further within the ongoing collaborative, as it did for DTE [Electric],"

Consumers states that it “is certainly willing to wait until the issue is further vetted in the collaborative before laying additional groundwork for an analysis that includes societal benefits as a non-determinative factor.” *Id.*, pp. 35-36.

Also responding to ABATE’s exceptions, MNSC asserts that the Commission should adopt the ALJ’s recommendation to include societal benefit information in the company’s next TEP.

MNSC disputes ABATE’s arguments in exceptions and contends that:

[t]he PFD [in the instant case] is in lockstep with the [Case No.] U-21534 Order, which expressly asks parties to address societal benefits “in the BCA collaborative and in the utilities[’] TEPs.” The PFD is also deferential to the ongoing BCA collaborative, specifying that any new information “should be in line with what is ultimately determined in [Case No.] U-20898.” The ALJ’s recommendation will only advance the [Commission]’s BCA work, and it should be approved.

MNSC’s replies to exceptions, p. 25 (footnotes omitted); *see also, id.*, pp. 25-26. MNSC, in this regard, asserts that the Commission should reject ABATE’s arguments in exceptions as without merit and adopt the ALJ’s recommendation for Consumers to provide societal benefit information in the company’s next TEP.

While the Commission appreciates Consumers’ willingness to consider and include societal benefits in future filings and TEP reports, the Commission nevertheless agrees with ABATE and finds it practical and appropriate to decide this issue consistent with the January 23 order, notably considering the Commission’s indicated desire “for consistency in the application of the open-source tool to leverage the decisions from Case No. U-20898 for DER and non-DER projects in TEPs.” January 23 order, p. 355. The Commission thus defers discussion and analysis of this societal benefit issue to the BCA collaborative and the utilities’ TEPs and approves Consumers’ current cost benefit form, as reflected in Exhibit A-153, as the basis for the company’s BCAs of its TEPs at this time and until such time the collaborative develops the open-source BCA tool and

guidance to be used by utilities to evaluate their TEP programs. *See*, January 23 order, pp. 355-356.

#### 8. Accumulated Provision for Depreciation

The ALJ explained that the differing amounts presented by Consumers, the Attorney General, and the Staff for the accumulated provision for depreciation results from differences in net plant projections. Based on her recommendations in the PFD and as represented in Attachment B to the PFD, the ALJ arrived at an accumulated provision for depreciation of \$6,331,373,000. The ALJ noted, however, that this balance should be adjusted consistent with the Commission's final decision in this case. PFD, p. 269.

Consistent with the Commission's decisions in this order, the Commission finds appropriate an accumulated provision for depreciation of \$6,334,059,000.

#### B. Working Capital

Consumers projected approximately \$3.18 billion in jurisdictional working capital for the test year. Exhibit A-258; Consumers' initial brief, p. 193.

The Attorney General recommended four adjustments to the company's projected working capital amount, resulting in a proposed forecasted working capital amount of \$3.144 billion for the test year. 5 Tr 2832; Attorney General's initial brief, p. 111. These adjustments are discussed below.

##### 1. Test Year Cash Balances

Consumers projected a cash balance of \$45.6 million for the test year. Exhibit A-12, Schedule B-4, line 1, column (f).

The Attorney General asserted that the company has not demonstrated the need for such a high cash balance and has a history of over-projecting its cash needs, which has allowed the company

to earn a higher return on an inflated rate base level. In addition, as the company also has access to meet its payment obligations through short-term borrowing facilities for which customers pay annual fees, the Attorney General recommended that the Commission set the average cash balance for the projected test year at the historical year's actual amount of \$18.6 million. 5 Tr 2833-2836; Attorney General's initial brief, pp. 111-115. Consumers disagreed. 5 Tr 1266-1270; Consumers' initial brief, pp. 194-195.

The ALJ found the Attorney General's arguments and evidence persuasive that the December 2023 historical period cash balance of \$18.6 million is the amount normally expected for Consumers, that the company has not shown \$18.6 million to be lower than what is reasonably required for the company, and that the company has not demonstrated in this case that a projected cash balance of 1% of test year electric revenues is reflective of normal and requisite cash balance levels for the company. The ALJ also addressed the company's reliance on the Commission's holding on this issue in Case No. U-21389 and recommended that the Commission accept the Attorney General's proposal, thus removing \$27 million from the company's projected working capital in this case. PFD, pp. 275-278.

Consumers objects and asserts that the ALJ's recommendation is in error and should be rejected. The company recaps testimony that its projected cash balance for the test year in this case should equal approximately 1% of test year electric revenues (\$45.6 million), which is reflective of normal cash balance levels. Consumers adds that there are numerous factors that affect cash balances at any point in time, including unfavorable weather in the company's service territory in 2023, along with storm restoration activity well beyond the five-year historical average, which negatively affected its operating cash flows. Consumers' exceptions, p. 107 (citing 5 Tr 1215, 1266-1268). Consumers states that, regardless of historical years, it "consistently and

thoughtfully projects normal cash levels which equate to approximately 1% of test year revenues” and argues that the Attorney General “has taken a selective and misleading focus on the Company’s actual cash balance versus rate case projections to support a reduction of the cash balance in this case, and unfortunately the [ALJ] follows suit.” Consumers’ exceptions, p. 108 (emphasis in original). The company uses examples of other account balances in the past that had higher and lower actuals than projected and argues that “[t]his does not change the reasonableness of the Company’s request or analysis on this matter.” *Id.* Consumers also repeats that it does not pursue a strategy that maintains a permanent balance of short-term debt and reaffirms that it would not be a sound liquidity strategy to do so. *Id.*, pp. 108-109 (citing 5 Tr 1269). Further, per Consumers, “the Company’s short-term cash investments have no bearing on the projected cash balance for the Company in this case” and the Attorney General and the ALJ’s recommended arbitrary adjustment “fail[s] to recognize the importance of having adequate liquidity on hand for utility operations.” Consumers’ exceptions, p. 109 (citing 5 Tr 1267, 1270; PFD, p. 275).

Consumers also addresses the ALJ’s discussion of Case No. U-21389 on this issue, with the company standing by its testimony and briefing that the Commission found the company’s projection of normal cash levels to approximately 1% of test year revenues to be a reasonable approach in that case. Consumers states that it also relies on the experience and sound business judgment of its Treasury Department and Financial Planning and Analysis Department, as opposed to the Attorney General’s witness, and maintains that testimony on its behalf demonstrates that the company’s request for a \$45.6 million cash balance is reasonable and should be granted.

Consumers’ exceptions, pp. 109-111.

The Attorney General responds and argues that Consumers’ exceptions throw “several specious arguments against the wall in an attempt to support it[s] excessive cash balance.”

Attorney General's replies to exceptions, p. 119. The Attorney General asserts that Consumers' claim that 1% of electric revenues reflects normal levels of cash balance is simply not true, as "[t]he Company has never shown an actual connection between its cash need as a percentage of its revenue" and, "when we compare the projected cash balances approved in Case Nos. U-21224 and U-20963 to the actual cash balances for the test years in those cases, this theoretical balance of 1% of revenues does not reflect the Company's actual cash needs." Attorney General's replies to exceptions, p. 119. The Attorney General further argues that the company's claim that her witness's approach to cash balances is selective and misguided "is the most nonsensical argument put forth in the Company's exceptions." *Id.*, p. 120. The Attorney General states:

The purpose of the cash balance is to reflect the Company's cash needs. There is nothing selective about considering actual cash balances in projecting the Company's cash balance. The Company appears to believe that its cash balance projections[,] no matter how misguided they are shown to be and no matter how contrary to reality[,] are somehow sacrosanct. Following the Company's logic, it really does not matter what the Company's cash needs are, because its projections only matter. Therefore, it can make its cash projections whatever it wants to the detriment of ratepayers. Since, [sic] the Company's high cash balances projections increase working capital unnecessarily and allows it to earn a higher return on an inflated rate base level.

*Id.* The Attorney General further maintains that "[i]t is unnecessary and costly for the Company to have [short-term] borrowing facilities in place and at the same time request to include higher cash balances in Working Capital for the projected test year," noting "[o]f course [that] access to this facility would only occur if needed and given the actual cash needs of the Company in recent years, it may not be accessed." *Id.*, p. 121. The Attorney General also disputes that the company's short-term cash investments have no bearing on its projected cash balance in this case, reiterating Consumers' 2023 short-term investments, which earned the company \$4 million in interest income that it retained for the benefit of its pre-tax bottom line, demonstrate "how excess cash balances, which are detrimental to ratepayers as discussed above [in replies to exceptions], can be exploited

for the benefit of the Company.” *Id.*, pp. 121-122. Finally, the Attorney General disputes the company’s reliance on the March 1 order, highlighting the Commission’s caveat in that order as discussed by the ALJ in the instant case, and further “advise[s] [the Commission] against relying on the Company’s employees [for experience and judgment] because they represent the Company’s interest and are not neutral or unbiased,” as “[t]hey have a duty to [the] shareholders and not the Commission” and “their repeated excessive cash balance projections compared to actual cash needs of the Company means their analysis is inaccurate.” *Id.*, p. 122. The Attorney General, on this basis, contends that the Commission should adopt the ALJ’s recommended adjustment to the company’s cash balance projection.

While there is no rule of thumb or prior finding by the Commission as to a sacrosanct methodology in determining the appropriate cash balance for a utility in a rate case, the Commission is unpersuaded, based on the cash balance fluctuations presented in this record, that Consumers’ approach in determining its projected cash balance is necessarily wrong in this case and therefore finds the company’s projected cash balance of \$45.6 million for the test year to be reasonable and prudent. The Commission also notes, in this context, that there is no guarantee that short-term borrowing will always be available when needed, as seen during the COVID pandemic. Nevertheless, considering the company’s actual cash balance amounts in recent years, as illuminated by the Attorney General, and the Commission’s evaluation of the facts and circumstances surrounding this issue on a case-by-case basis, the Commission finds it appropriate for Consumers to provide further and a more specific explanation in its next electric rate case as to why the company’s approach to determining its cash balance remains appropriate and should continue to be approved.

## 2. Accrued Interest

Consumers projected accrued interest of \$62.5 million for the test year. Exhibit A-12, Schedule B-4, line 13, column (f).

The Attorney General took issue with Consumers' projection, arguing that it is not reflective of the higher interest the company will need to pay on the higher debt outstanding during the projected test year. The Attorney General also disputed the company's assertion that there is a long-standing practice approved by the Commission for Consumers to make minimal adjustments for known, measurable, and material changes. Per the Attorney General, the rate base amount proposed by Consumers in this case is increasing from \$13.9 billion in the 2023 historical period to \$15.6 billion in the projected test year (a 12.3% increase), thus application of the 12.3% increase to the company's accrued interest balance from the 2023 historical period (of \$62.5 million) equals \$7.7 million of additional interest during the projected test year, which should be added to accrued interest in this case and thus results in a decrease of \$7.7 million to working capital. 5 Tr 2836-2838; Attorney General's initial brief, pp. 115-117. Consumers disagreed, arguing that the proposed reduction fails to consider any change in interest rates, fails to consider other proposals to reduce rate base, and is not consistent with the long-standing methodology for calculating working capital in rate cases. 4 Tr 442; Consumers' initial brief, p. 196.

The ALJ agreed with the Attorney General that the company's accrued interest balance should be adjusted to account for the higher interest that Consumers will need to pay on the higher debt outstanding during the projected test year. In her reasoning, the ALJ noted "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.”

PFD, p. 280. The ALJ thus recommended 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 [sic: as] authorized by the Commission in this case).

*Id.*

Consumers objects, maintaining that this proposed adjustment is not consistent with the long-standing methodology for calculating working capital in rate cases. In support, Consumers states:

The reason for this long-standing methodology in rate cases is apparent by Attorney General witness Coppola’s own proposal, which failed to project any change in interest rates that may also affect accrued interest and failed to consider the impact of his other proposals that would reduce rate base by over \$950,000,000 and necessarily change any adjustment to accrued interest. 4 TR 442. The [ALJ] seeks to remedy this weakness in the Attorney General’s proposal by recommending that the final adjustment be calculated based on the final increase in rate base. But the [ALJ]’s recommendation only highlights the oversimplification with attempting to adjust the working capital balance for expected changes in accrued interest without also applying other types of adjustments that would have an impact on working capital. The evidence does not demonstrate a need to change the long-standing methodology for calculating working capital in this case, and the proposed adjustment to accrued interest should be rejected.

Consumers’ exceptions, pp. 111-112.

In response, the Attorney General disputes the company’s arguments in exceptions and argues that “the fact that other adjustments may impact the final accrued interest balance does not give credence to the Company’s preferred methodology and it is not fatal to Mr. Coppola’s analysis, which acknowledges that it is natural for this balance sheet item to increase over time as rate base and debt increases.” Attorney General’s replies to exceptions, p. 125. The Attorney General further states that her witness “chose not to speculate on any particular changes in interest rates”

and notes that the company “has not presented any new interest rate forecasts or calculated what the impact of any lower interest rates would be on the interest accrual liability balance.” *Id.*, p. 126. The Attorney General underscores that “[t]he Company’s debt level will rise commensurate with the increase in the electric business rate base” and that the 12.3% rate of increase calculated by her witness is reasonable considering the evidence in this case that shows an 18% increase in the capital structure between 2023 and the projected test year (on a total company basis). *Id.* (citing 5 Tr 2838; Exhibit A-4, Schedule D-1; Exhibit A-14). The Attorney General, in this regard, argues that the Commission should adopt the ALJ’s recommendation.

The Commission is likewise unpersuaded by the Attorney General’s approach in determining Consumers’ accrued interest amount for the projected test year in this case. The Commission has seen similar arguments on this issue from the Attorney General in the past and further agrees with Consumers that such an approach by the Attorney General is an “oversimplification.” Consumers’ exceptions, p. 111; *see also*, e.g., February 28, 2017 order in Case No. U-17990 (February 28 order), pp. 58-59. The Commission finds the company’s projected accrued interest of \$62.5 million for the test year to be reasonable and prudent.

### 3. Pension/Other Post-Employment Benefits Volatility Mechanism

The Attorney General recommended a reduction in working capital to reflect a correction regarding the company’s Defined Benefit Pension/Other Post-Employment Benefits (OPEB) Volatility Mechanism. 5 Tr 2838-2839. Consumers agreed with the proposed adjustment, to which the Staff also accepted. 4 Tr 443; Exhibit A-258, line 19, column (c); Consumers’ initial brief, p. 196; Staff’s initial brief, p. 5.

The ALJ noted some discrepancies in the record but nevertheless recommended, given the agreement by Consumers and the Staff as to the amount of the reduction, that the Commission

accept a reduction to working capital of \$7.1 million for the company's Pension/OPEB Volatility Mechanism. PFD, p. 282.

No exceptions were filed on this issue.

The Commission agrees with the ALJ and accepts the \$7.1 million reduction to Consumers' Defined Benefit Pension/OPEB Volatility Mechanism, as agreed to by Consumers and the Staff. *See*, PFD, p. 282; Exhibit A-258, line 19, column (c).

#### 4. Ludington Pumped Storage Plant Regulatory Asset

The Attorney General recommended reducing working capital by \$3.4 million to remove the regulatory asset balance related to the company's jointly owned Ludington facility, with the Attorney General asserting that, "[o]nce the Commission decides the appropriate amount of deferred costs that the Company 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." 5 Tr 2840; *see also*, Exhibit AG-1.30; Attorney General's initial brief, pp. 119-122. Consumers disagreed, arguing that the regulatory asset approved by the Commission in the May 18, 2023 order in Case No. U-21310 (May 18 order) ensures that the company can effectively complete corrective work needed at Ludington while pursuing litigation against Toshiba America Energy Systems Corporation (Toshiba) for the benefit of customers and that it would be unreasonable to deny Consumers the financing costs to support that important work. 4 Tr 444-448; Consumers' initial brief, pp. 196-199.

The ALJ agreed with Consumers and found 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" and "would frustrate the purpose of the regulatory asset

approved by the Commission.” PFD, p. 286. The ALJ further noted that the May 18 order “makes clear that [the Commission’s] 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.’” *Id.*, p. 287 (second alteration in PFD) (quoting May 18 order, p. 4).

The Attorney General objects and argues that the ALJ ignored the background and unique nature of this issue and also misinterpreted the Commission’s order in Case No. U-21310. The Attorney General, in this regard, argues three points:

First, as discussed in the Attorney General’s Initial Brief, the established financial concept is that interest costs follow the principal amount. If the principal amount, which in this case are the deferred costs, turns out not to be legitimate, i.e. not recoverable, then the related interest is also not legitimate or recoverable. That is the point of the Attorney General’s discovery request to the Company asking it to “confirm that the costs for corrective work have not yet been found to be reasonable and prudent and therefore the related financing costs cannot be determined yet to be reasonable and prudent for recovery.” 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 may 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.

Second, the Ludington-Toshiba deferred costs are not typical deferred costs and in fact reflect an unusual situation. As noted in the Commission’s Order approving the deferred accounting – “Although litigation has commenced against Toshiba, the Owners state that litigation could take years to resolve, and given the likely duration of litigation and lead time necessary to plan and prepare for repairs and/or replacements, the Owners indicate the importance of starting the engineering, procurement, and design work for the Ludington Plant in the near term before litigation concludes. The Owners thus seek, in the interim, to defer cost recovery through a regulatory asset for all costs incurred with the Toshiba defects, including litigation costs – total costs which the Owners acknowledge will be substantial but which the Owners will seek to offset with proceeds received through litigation. The Owners also assert that this accounting will not result in an increase in the cost of service to customers and thus may be approved without notice or hearing pursuant to MCL 460.6a(3).” Fundamentally, the Company’s request to recovery [sic: recover] financing cost[s] is contrary to its application in Case No. U-21320

[sic: U-21310] that all cost[s] would be deferred and is unfair to ratepayers. Previous costs related to the Toshiba defective work (and according to the Company this is no mere allegation) were sought by the Company in PSCR cases, and were denied. The Company (and DTE [Electric]) then sought deferred accounting with the ability to seek recovery in the future after it completed its litigation against Toshiba. Now, it [is] seeking to recover the return of all of its financing costs irrespective of any future disallowances and any financial loss that would inure to customers.

Third, the [ALJ]'s reference to [“]recovery of reasonable and prudent costs, as well as appropriate carrying cost will be considered in future rate case proceedings,” as a basis for its decision, is taken out of context. As we see above, the Company and DTE [Electric]'s representation is that recovery would come much later after its litigation with Toshiba is complete. The quoted language is meant to convey the message that approval of the deferred accounting and recording costs to the regulatory asset did not convey approval of those costs for recovery. That would occur in a future rate case.

Attorney General's exceptions, pp. 27-29 (footnotes omitted) (citing Exhibit AG-1.70 and quoting May 18 order, p. 2; PFD, p. 287). In sum, per the Attorney General, nothing she proposes here prevents Consumers from continuing the remedial work at Ludington, but the treatment of the financing costs preferred by the company is inappropriate, as “it would be unreasonable to divorce the finance costs from the underlying capital expenditures included in the regulatory asset.” Attorney General's exceptions, p. 29. The Attorney General thus asserts that the Commission should adopt her recommendation.

In response, Consumers asserts that the Commission should reject the Attorney General's argument. Consumers recaps testimony on this issue, along with the Commission's decision in the May 18 order, highlighting that, pursuant to that order, the company is recording the costs to perform the corrective work at Ludington in a regulatory asset and that the company “excluded replacement power costs recorded to the regulatory asset from the projected working capital amount.” Consumers' replies to exceptions, p. 38 (emphasis in original) (citing 4 Tr 446).

Consumers asserts that the Attorney General’s arguments are not supported by the evidence in this instant case and, in this context, provides:

The Company’s discovery response included as Exhibit AG-1.30 indicates a historical regulatory asset amount of \$4,153,000 and a test-year balance of \$3,402,000, with the difference between these two amounts representing the removal of replacement power costs. 4 TR 446. The Attorney General does not point to any evidence that supports the assertion that these figures are “not representative of all replacement power costs.” Rather, the Company’s discovery response explains that the difference “represents the removal of replacement power included in the regulatory asset balance from the rate case working capital request.” See Exhibit AG-1.70, page 2. The Attorney General’s concerns related to replacement power costs do not support the Attorney General’s proposed working capital reduction.

Consumers’ replies to exceptions, p. 38.

Consumers also responds to the Attorney General’s argument that the company should not be permitted to recover financing costs incurred to perform the necessary corrective work at this time. Consumers maintains that this would frustrate the regulatory asset’s purpose of allowing the company to move forward with the corrective work while litigation is pending; that Ludington is a critical generation asset and a fundamental part of the development of clean energy in Michigan; that the corrective work at Ludington “is mission critical, has already begun, . . . must continue while the lawsuit is pending, and . . . must be financed to ensure timely completion of the work;” and that the Attorney General’s proposal is not consistent with established practice for the treatment of regulatory assets. *Id.*, p. 39 (citing 4 Tr 444-445, 447). Per Consumers:

Including a regulatory asset in working capital (and earning a return on the asset) is an accepted regulatory practice and is consistent with the treatment of other working capital financed by the Company. [4 Tr 447.] Regulatory assets are generally included in working capital unless they have a separate recovery mechanism, and none of the costs recorded to the Ludington regulatory asset are being recovered in any other way. *Id.* Even though the Commission will ultimately review the reasonableness and prudence of any costs not ultimately recovered from Toshiba in litigation prior to inclusion in rates, that does not mean that the Company should be prohibited from recovering financing costs for the ongoing corrective work. *Id.*

The regulatory asset approved by the Commission in Case No. U-21310 ensures that the Company can effectively complete the corrective work needed while pursuing the litigation against Toshiba for the benefit of customers. 4 TR 447. It would be unreasonable to deny Consumers Energy the financing costs to support that critical work.

Consumers' replies to exceptions, pp. 39-40.

The Commission directly addressed the Attorney General's argument presented in this case in a similar dispute in Case No. U-21534. In the January 23 order in that case, the Commission stated that:

regulatory assets are generally included in working capital. While there are exceptions to this general rule, they usually include some extenuating circumstances; otherwise financing costs associated with regulatory assets are typically eligible for recovery. In the present case, DTE Electric is currently involved in litigation resulting from allegedly defective work, and the Commission has already authorized DTE Electric to defer specified costs as the litigation plays out. While the Commission was clear that the approval for deferred accounting granted in the May 18 order was for accounting purposes only, and not a guarantee of recovery of financing costs, the Commission in the present proceeding finds that the ongoing litigation over Ludington does not rise to the extenuating circumstances that would warrant the removal of regulatory assets from the company's working capital balance. As such, the Commission declines to adopt the Attorney General's proposed \$9.9 million disallowance. However, the Commission expresses its expectation that should the company ultimately successfully recover from Toshiba an amount that includes financing costs, the company will either refund such an amount to customers or use the recovered financing costs as an offset to potential future rate increase requests.

January 23 order, pp. 29-30. Given the direct applicability of this decision also to Consumers (since Consumers and DTE Electric jointly own Ludington) and finding that the arguments presented in the instant case are substantially similar to those presented by the Attorney General in Case No. U-21534, the Commission adopts the same findings and conclusions on this issue from Case No. U-21534 in the present case. The Commission also accepts Consumers' statement that the company "excluded replacement power costs recorded to the regulatory asset from the projected working capital amount." Consumers' replies to exceptions, p. 38 (emphasis in original)

(citing 4 Tr 446); *see also*, Exhibit AG-1.30. In other words, the Commission declines to adopt the Attorney General’s proposed \$3.4 million reduction and reiterates its expectation, as also applicable to Consumers, that should Consumers “ultimately successfully recover from Toshiba an amount that includes financing costs, the company will either refund such an amount to customers or use the recovered financing costs as an offset to potential future rate increase requests.”

January 23 order, p. 30. The Commission also notes that the docket in Case No. U-21534 reflects that this decision was not appealed.

### C. Rate Base Summary

The decisions in the instant order result in a projected rate base of \$14,857,152,000.

## V. COST OF CAPITAL

The criteria for establishing a fair ROR for public utilities is rooted in the language of the landmark United States Supreme Court cases *Bluefield Waterworks & Improvement Co v Pub Serv Comm of West Virginia*, 262 US 679; 43 S Ct 675; 67 L Ed 1176 (1923) and *Fed Power Comm v Hope Natural Gas Co*, 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944). The Court in *Bluefield* held that:

[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 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. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

*Bluefield*, 262 US at 692-693. In *Hope*, the Court held that:

[b]y 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.

*Hope*, 320 US at 603.

The Commission also notes that the Michigan Supreme Court has held that the determination of what is a fair or reasonable ROR “is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use.” *Meridian Twp v City of East Lansing*, 342 Mich 734, 749; 71 NW2d 234 (1955).

These rulings demonstrate that, in establishing a fair return, consideration should be given to both a utility’s investors and its customers. As the Commission stated in the December 23, 2008 order in Case No. U-15244 (December 23 order), “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.” December 23 order, p. 12

#### A. Capital Structure

In this case, Consumers proposed a capital structure with an equity layer of 50.75%. 5 Tr 1183; *see also*, Exhibit A-14, Schedule D-1. The Staff, however, indicated that an equity layer of 49.92% “aligns with the Commission’s repeated request for balance and provides the Company an opportunity to improve its credit standing and maintain its wide access to capital markets, while being less costly to ratepayers.” 5 Tr 3572. The Attorney General recommended a balanced capital structure with a 50% equity ratio, which she contends would result in approximately \$9.1 million in savings annually. 5 Tr 2799-2800.

The ALJ reviewed the positions of the parties regarding capital structure at pages 288 through 301 of the PFD, which will not be extensively repeated here. The ALJ found 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.” PFD, p. 301. In reviewing prior Commission decisions, the ALJ found that the Commission has indicated its preference for a balanced capital structure, including directives to the company to achieve the same. The ALJ also acknowledged “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.” *Id.*, p. 302. However, after addressing Consumers’ arguments in support of increasing its equity layer, including the potential for unforeseen events and plans for large-scale investments, the ALJ ultimately found each unpersuasive. *Id.*, pp. 302-303.

The ALJ also stated that Consumers overstates concerns regarding both the credit rating agencies’ perception of credit risk and the regulatory environment. She noted that the company relies upon very selective portions of credit reports when, in fact, the credit report tone was positive overall. After a discussion of the contents of credit reports submitted in the record, the ALJ stated that:

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 [ALJ] 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. This [ALJ] acknowledges that any credit rating downgrade is a negative event. However, this [ALJ] 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 ratings. 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. 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. 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.

PFD, pp. 305-306 (footnotes omitted).

The ALJ reviewed the company's comparison to equity ratios of peer companies and concluded that the data submitted did not demonstrate that a balanced capital structure was unreasonable. *Id.*, pp. 306-307. In her review of Exhibit A-37, the ALJ stated that Consumers' selection of proxy companies for the analysis was problematic because limiting its analysis to the eight companies utilized in its prior rate case rather than including additional companies utilized in the instant proceeding skews the result of the analysis. PFD, p. 307. She also found unpersuasive the company's attempted justification for exclusion of the companies as suggested by the Attorney General. *Id.*, p. 308. In addition, the ALJ found that Consumers' analysis demonstrates selection bias, includes many smaller utilities, and utilizes a high concentration of Wisconsin utilities, which when combined with "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." PFD, p. 310. Moreover, she indicates that

when providing appropriate weight to Exhibit A-36, the analysis does not support Consumers' request to deviate from a balanced capital structure.

The ALJ concluded "that the best and most reasonable course of action supported by the evidence presented is to maintain a balanced capital structure" and recommended:

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 company made by its parent company, CMS Energy [Corporation]. Notably, Staff does not oppose the Attorney General's methodology for achieving a balanced capital structure.

PFD, pp. 310-311 (footnote omitted).

Consumers takes exception, arguing that the ALJ's recommendation "will contribute to further deterioration of the Company's credit metrics, rather than maintaining the Company's credit, which is one of the proper constitutional goals that should be driving the decision." Consumers' exceptions, p. 118. The company further contends that the ALJ "selectively" applied prior Commission decisions in her capital structure analysis. Consumers continues, stating that it "does not dispute that a series of its most recent rate cases have concluded with the Commission reaffirming its recent policy preference that the Company maintain a capital structure balanced approximately evenly between debt and equity." *Id.*, p. 119. The company relies upon the Commission's decision in Case No. U-20963 to argue that the Commission has also acknowledged that some flexibility is necessary in setting the appropriate capital structure. *Id.*, p. 119 (citing December 22 order, p. 200). Consumers contends that the ALJ also failed to explain the weight afforded to prior Commission decisions. *See*, Consumers' exceptions, pp. 120-121.

Consumers reiterates its positions regarding unforeseen events and preserving its credit metrics to state that the ALJ erred in her determination. *See, id.*, pp. 122-123. The company states that "because disrupting events do happen, prudently run businesses need to weather those events

and maintain their credit for many reasons especially when they are a provider of an essential public service.” *Id.*, p. 123 (citing 5 Tr 1283-1284). Consumers further claims that the ALJ improperly adheres to a path set eight years ago, which is not a sound policy decision. The company states that the ALJ merely points to perceived flaws in its presentation which do not diminish the company’s evidence. Consumers’ exceptions, p. 124.

In addition, the company claims that the ALJ improperly relies on only selected statements from the credit rating agency reports and does not acknowledge that the “positive regulatory environment in the past years had been fueled in large part by authorized ROE and equity ratios that were significantly higher than [the ALJ] recommends for the Company in this proceeding.” *Id.*, p. 125 (citing 5 Tr 1233). Consumers continues by reiterating its record testimony and evidence to further emphasize its contention that “[a] continuation or, even worse, a further degradation of the authorized equity ratio and ROE puts the Company at risk of dropping further in its regulatory environment rankings which could negatively impact the Company’s credit quality and credit rating.” Consumers’ exceptions, p. 127 (citing 5 Tr 1234).

The company further takes exception to the ALJ’s finding that its peer group analysis evidence pertaining to average equity ratios was problematic. *See*, Consumers’ exceptions, p. 127 (citing Exhibit A-36). Consumers also contends that the ALJ erred in stating that the Staff did not provide a similar analysis, citing to Exhibit S-4, Schedule D-5. In that regard, the company states that:

[t]hese peer group analyses provide the only quantitative evidence available in the case to help the Commission identify an appropriate level for the equity ratio relative to other businesses having corresponding risk. To ignore these analyses has the effect of rendering the [ALJ’s] recommendation devoid of substantial evidence for [her] conclusion.

Consumers' exceptions, p. 128. The company further argues that the ALJ's analysis of its peer group fails to cite specific concerns with respect to the proxy companies and improperly disregarded the evidence. *Id.*, pp. 128-129. Reiterating its record evidence, Consumers avers that the ALJ adopted the Attorney General's criticisms of its peer group analysis without adequately considering the company's testimony in support of its analysis. *Id.*, pp. 129-130.

Continuing, Consumers argues that the ALJ's finding that the company's reasoning was "circular" was not supported. The company avers that it justified exclusion of DTE Energy Company (DTE Energy) as a proxy because it "might skew the results or quality of the analysis." *Id.*, pp. 130-131. Consumers states that it was not inconsistent to exclude DTE Energy in the proxy analysis but reference it in another portion of testimony. More specifically, Consumers claims:

There is nothing inconsistent between those two parts of [Consumers'] testimony. In the first, [Consumers] performs an analysis of recent regulatory equity ratios in other jurisdictions, where inclusion of DTE [Energy] results would be circular and inconsistent with the purpose of the analysis. In the second, [Consumers] is pointing out the inconsistency of Staff's interpretation of the Commission's equity ratio directives and Staff's resulting recommendations in two different cases.

*Id.*, pp. 131-132. The company further disputes that its analysis would ultimately provide support for a balanced capital structure merely because some of the utilities within the proxy group have balanced capital structures. *Id.*, p. 132. Consumers disagrees with the ALJ's determination that its proxy group utilizes too many Wisconsin utilities and small utilities. *Id.*, pp. 133-134.

Specifically, the company claims that the ALJ's rationale is speculative because "[t]here was no showing, for example, that there were better comparators or that, had they been used, the substance or directionality of [Consumers'] analysis would have changed." *Id.*, p. 134.

The company states that the ALJ properly acknowledges that the Wells Fargo report reflects a trend of increasing equity rates and that the company's requested equity ratio is, therefore, "not an

outlier” per the ALJ’s analysis. *Id.*, p. 136. In sum, Consumers contends that adoption of the ALJ’s “recommendation will contribute to further deterioration of the Company’s credit metrics, rather than maintaining the Company’s credit, which is one of the proper constitutional goals that should be driving the decision.” *Id.*, pp. 137-138.

The Staff replies that Consumers’ argument that the ALJ ignored the company’s substantial evidence for its 50.75% equity-based capital structure lacks merit. Specifically, the Staff notes that the company’s capital structure request was “overblown, unreasonable, and imprudent.” Staff’s replies to exceptions, p. 14. The Staff further contends that Consumers “indicates that a prior order from a different Commission should be afforded little significance in this current environment because different Commissioners may view the ratemaking equity ratio differently,” which the Staff describes as “meritless.” *Id.*, p. 16 (citing Consumers’ exceptions, pp. 120-121). Continuing, the Staff reviews prior Commission orders to state that “it appears multiple Commissions, including the current Commission, have believed a capital structure equally balanced between debt and equity is most preferrable [sic].” Staff’s replies to exceptions, p. 17.

The Staff also explains that “[d]espite Consumers’ numerous assertions to the contrary, a balanced capital structure does not represent a degradation to Consumers’ credit metrics, nor will it lead to a credit rating downgrade.” *Id.*, p. 18 (citing 5 Tr 3391-3393, 3561-3564, 3568-3569). In addition, the Staff notes that the ALJ properly referenced the numerous credit rating agency reports on record that indicate “Consumers was in good standing with respect to its credit rating and Consumers’ ability to safely finance its capital investment programs and weather any financial disruptions.” Staff’s replies to exceptions, p. 18 (citing PFD, pp. 303-306). With reference to the funds from operation (FFO)-to-Debt ratio, the Staff again indicates that the ALJ addressed the importance of the FFO-to-Debt ratio in the capital structure portion of the PFD and again in the

analysis of ROE. Staff's replies to exceptions, p. 18 (citing PFD, pp. 294-301 and 363-378).

Overall, the Staff posits that Consumers' contentions with respect to this issue are unpersuasive.

With respect to the rejection of Consumers' peer group equity ratio comparison, the Staff avers that the ALJ properly rejected the company's analysis. Staff's replies to exceptions, p. 19 (citing to PFD, pp. 308-310). Further, the Staff clarifies that the analysis it performed was "an analysis of its proxy group's authorized equity ratios, not a peer utility equity ratio comparison that Consumers performed." Staff's replies to exceptions, p. 19 (citing Exhibit S-4, Schedule D-5, p. 2). The Staff adds that its equity ratio analysis was merely informational as it was not utilized in the Staff's recommendations. Staff's replies to exceptions, p. 20 (citing 5 Tr 3561-3598).

The Attorney General also replies, stating, contrary to Consumers' exceptions, the ALJ reviewed all of the evidence provided and "appeared to weigh the evidence while addressing the risk to the Company and cost to ratepayers." Attorney General's replies to exceptions, p. 133. The Attorney General also disputes the claim that the ALJ selectively applied prior Commission orders and, rather, contends that the Commission has explained various reasons for not balancing the capital structure in each case. Citing the February 28 order, the Attorney General states that:

[w]hile the Commission did not rebalance the Company's equity ratio in that case, . . . it expected the Company to do so within five years, unless it could demonstrate that not doing so would be reasonable and prudent. The Commission slowly and methodically adjusted the Company's equity ratio in the direction of a balanced debt-equity ratio arriving at 50.02% in case No. U-21389. Moreover, the Commission does get to determine the equity ratio for purposes for determining how much is recoverable in rates, which is the germane issue in this electric rate case and the starting point.

Attorney General's replies to exceptions, pp. 134-135.

The Attorney General also states that the PFD contains extensive analysis and does not contain numerous errors, as alleged by the company. With respect to the claim that a higher equity ratio is needed for unforeseen events, the Attorney General contends that "[t]he Company has not

demonstrated that it does not have sufficient financial cushion without increasing its equity ratio, when the Company's credit ratings remain strong with a 50.02% equity ratio." *Id.*, p. 135.

Similarly, the Attorney General responds that Consumers has not demonstrated that its proposed equity ratio is necessary to support the company's credit metrics, emphasizing that "[t]he ratings agencies report that the Company's performance in recent years have been above their respective thresholds for downgrades." *Id.*, p. 136 (citing Exhibits AG-1.25 and AG-1.26). Further, the Attorney General disputes that the ALJ improperly emphasized certain sections of the credit agency reports "to downplay concerns about Michigan's regulatory environment" when, in fact, the reports:

take a broader view of the Company's financial health and how Michigan's regulatory environment is constructive in helping the Company maintain its credit ratings. As noted by the ratings agencies, the Company also benefits from several regulatory mechanisms that reduce business risk, such as regular rate increases, streamlined rate cases, forward looking test years, the PSCR, GCR [gas cost recovery], FCM [financial compensation mechanism], and IRPs, and other cost recovery programs and mechanisms.

Attorney General's replies to exceptions, pp. 136-137.

The Attorney General also replies to the company's claims regarding its peer group analysis for the equity ratio, arguing that it was properly rejected by the ALJ. Specifically, the Attorney General states that Consumers' analysis:

provides a disjointed picture when the peer group for the equity ratio is different from the equity ratio for ROE. In addition, for the six (out of the twelve companies in Consumers' peer group) the Company presents selective information related to some of the operating units of Alliant Energy, Ameren, Entergy, Portland General Electric, WEC Energy Group, and Xcel Energy.

*Id.*, pp. 137-138 (citing 5 Tr 2797).

The Commission finds that, contrary to the company's claims, the ALJ properly looked to prior Commission decisions in making her well-reasoned recommendation. As indicated above,

and acknowledged by the company in exceptions, the Commission must give consideration to both the utility's investors and its customers. In that regard, to determine an appropriate capital structure, the Commission must look to the evidence in each case and appropriately balance the interests of the utility's investors and the customers. The Commission has often found that this appropriate balance is a capital structure balanced between debt and equity. The Commission, like the ALJ, acknowledges that there is some degree of flexibility and "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." PFD, p. 302. The Commission again notes that, while the company acknowledges that *Hope* and *Bluefield* require a balancing of investor and customer interests, Consumers' exceptions primarily focus on the interests of its investors while disregarding customer interests. *See*, Consumers' exceptions, pp. 113-114.

The Commission further agrees with the ALJ that, on this record, the company has not demonstrated significant changes in the economic circumstances to support a deviation from a balanced capital structure. Many of the company's exceptions are repetitious of the arguments it made in briefing. In that regard, the Commission finds that the ALJ exhaustively evaluated Consumers' claims including unforeseen events, plans for large-scale capital investment, and the company's credit metrics. *See*, PFD, pp. 302-304. The Commission further agrees with the ALJ's reasoning and finds no merit in Consumers' claims regarding the ALJ's application of prior Commission orders in this case.

With respect to Exhibit A-36, the Commission finds that the ALJ properly considered the evidence and the Attorney General's contentions regarding Consumers' proxy utility selection. Specifically, the ALJ stated that if Consumers would have "included subsidiaries of FirstEnergy in

[its] analysis, there would have been eleven additional operating company peers with equity ratios ranging from 46% to 53% and averaging around 50%.” PFD, p. 307 (footnotes omitted). The Commission agrees with the ALJ’s analysis and, in giving Exhibit A-36 appropriate weight, is not persuaded by the company’s contention that a balanced capital structure is unreasonable on this record. In addition, as explained by the Staff in replies to exceptions, the ALJ did not err by not similarly considering Exhibit S-4, Schedule D-5, p. 2, given it was not the same analysis as conducted by the company. *See*, Staff’s replies to exceptions, pp. 19-20.

Given the above, the Commission adopts the thorough and well-reasoned findings and recommendations of the ALJ. The Commission finds that the balanced capital structure most appropriately balances the interests of the utility’s investors and customers, consistent with the holdings in *Bluefield* and *Hope*. As such, the Commission adopts a balanced capital structure of 50% debt to 50% equity, utilizing the Attorney General’s methodology. *See*, PFD, pp. 310-311.

## B. Cost Rates

### 1. Long-Term Debt Cost Rate

Initially, the company proposed a long-term debt rate of 4.35%. Exhibit A-14, Schedule D-2. Consumers revised its request to 4.27% upon rebuttal. 5 Tr 1266. The Staff proposed a rate of 4.25%, while the Attorney General proposed a rate of 4.26%. 5 Tr 3574; 5 Tr 2801.

The ALJ reviewed the long-term debt rate proposals by the parties at pages 311-313 of the PFD. She noted agreement with the “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.” PFD, p. 313. Thus, the ALJ recommended that the Commission adopt the Staff’s proposed long-term debt cost rate of 4.25%.

Consumers takes exception to the ALJ's conclusion claiming that, "[w]hile respectfully acknowledging the closeness of the parties' recommendations, the Company takes exception with the [ALJ's] recommendation because there is no factual justification provided for selecting the lowest rate." Consumers' exceptions, p. 164.

The Attorney General replies to this, arguing that she offers no opinion on the Staff's proposed long-term debt cost rate but reiterates that the company's proposal is not appropriate. Attorney General's replies to exceptions, p. 145. As such, the Attorney General recommends that the Commission reject Consumers' arguments in exceptions. *Id.*, p. 146.

The Commission finds that the ALJ properly considered the evidence on the record and adopted the Staff's recommended long-term debt rate of 4.25%. The Commission finds that Consumers has failed to demonstrate any error in the ALJ's recommendation which is supported by record evidence. 5 Tr 3574-3575; Exhibit S-4, Schedule D-2.

## 2. Short-Term Debt Cost Rate

Consumers proposed a short-term debt cost rate of 4.97%. 5 Tr 1210; Exhibit A-14, Schedule D-3. The Staff set forth a short-term debt rate of 4.09%. 5 Tr 3574-3576. The Attorney General adjusted the company's proposed short-term debt cost rate of 4.97% to 4.28% based upon information provided by Consumers. 5 Tr 2800-2801; Exhibit A-14. In briefing, the company noted that it "does not object" to the Attorney General's projection. Consumers' initial brief, pp. 326-327.

The ALJ described the positions of the parties at pages 313 through 318 of the PFD. She recommended that the Commission adopt "the Attorney General's short-term rate of 4.28%, which is based upon updated projections" and noted that "Consumers expressed that it has no objections

to the Attorney General's proposed 4.28% rate." PFD, p. 318 (citing 5 Tr 1247 and Consumers' initial brief, p. 326).

Further, the ALJ agreed with the Staff's additional recommendations, stating that:

the Commission should request that, in its next rate case, the Company should explain and justify the size and expense 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 [ALJ] 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.

PFD, pp. 318-319.

In exceptions, Consumers states that adopting the Staff's recommendation is superfluous.

The company states that it:

described that the size of the Company's short-term debt facilities are necessary, appropriate, and are comparable to peer companies. 5 Tr 1248-1252. The evidence is provided in the proceeding, for this proceeding, and there is no reason for a separate order point in this regard into the future. It may not be a huge burden, but in isolation it also has a very small potential for further contribution to future proceedings.

Consumers' exceptions, p. 165. Further, the company states that it walked through the Staff's concerns regarding its renewables liability balance and asserts that the Staff's "concerns may be more appropriately addressed to the legislature because, respectfully, [Consumers] already comprehensively described how the Company operates pursuant to 2008 PA 295." Consumers' exceptions, p. 165 (citing 5 Tr 1253-1254).

The Commission finds that the ALJ's recommendation of adopting a short-term debt rate of 4.28% is well-supported on the record. The Commission further finds that the ALJ properly

adopted the Staff's additional recommendations. The Commission disagrees with the company's objections that these recommendations are superfluous or unduly burdensome. Specifically, if the information is already provided, adopting the recommendation to include the information in the company's next electric rate case is not an additional burden. Similarly, it does not impose an additional burden for the company to address its renewables liability balance. Therefore, the Commission finds that, in Consumers' next electric rate case, the company shall: (1) explain and justify the size and expense associated with its short-term borrowing facilities if only a very small portion is being or has been utilized and (2) provide a more thorough explanation of its renewables liability short-term debt process. Therefore, the ALJ's recommendation is adopted.

### 3. Return on Equity

Consumers, the Staff, the Attorney General, ABATE, and MNSC each offered analyses of the appropriate ROE. Consumers requested an ROE of 10.25%, the Staff recommended an ROE of 9.85%, the Attorney General set forth an ROE recommendation of 9.80%, ABATE suggests an ROE of 9.50% (alternatively, 9.25% if the Commission approves the requested IRM and DR surcharge), and MNSC recommended an ROE of 9.19%. These parties' analyses are addressed below. Walmart also argued that the Commission "should closely examine" the company's requests in light of factors such as recently approved ROEs in Michigan and nationally. 5 Tr 3461. UCC similarly opposed any increase in an authorized ROE and suggested that Consumers' ROE be reduced to the extent possible "until performance improves in terms of affordability, reliability, and clean energy access for ratepayers." 5 Tr 3498.

As noted above, Consumers requested an authorized ROE of 10.25% relying upon:

(1) the capital asset pricing model (CAPM), (2) an empirical CAPM (ECAPM), (3) a projected risk premium analysis, (4) a discounted cash flow (DCF) model, and (5) a comparable earnings

analysis. 5 Tr 1347. The company explained that it determined its recommended range of 10.0% to 11.0% from this analysis and that “[t]he rise in interest rates and resulting pressure on risk premiums as well as the significant need to update the Company’s and the state’s energy infrastructure would suggest an ROE in the upper half of the recommended range to be most appropriate.” 5 Tr 1347. The company also noted that it utilized seven criteria to select a proxy group of 12 companies, which are the same as those relied upon by Consumers in Case No. U-21389. 5 Tr 1364-1365; *see also*, Exhibit A-14.

The company first described its CAPM and ECAPM approaches. 5 Tr 1366-1377. Consumers indicated that its CAPM results show an average ROE of 12.51% while the ECAPM shows an average of 12.60%. 5 Tr 1369-1377; *see also*, Consumers’ initial brief, pp. 273-274; Exhibit A-14, Schedule D-5, pp. 2-3. In describing the projected risk premium approach, the company argued that the analysis demonstrates an average ROE of 10.62%, which supports the requested ROE. *See*, 5 Tr 1377-1378; Exhibit A-14, Schedule D-5, p. 4. With respect to the DCF approach, Consumers indicated that the results have a large range and an average ROE of 9.85%. 5 Tr 1379-1383; Exhibit A-14, Schedule D-5, p. 5. The Company further stated that the DCF analysis does not fully reflect the cost of equity as required for utilities. 5 Tr 1382. The company continued, describing its comparable earnings analysis with an average projected ROE of 11.22%. 5 Tr 1383-1384. Consumers further contended that the comparable earnings analysis has been considered by the Commission in Case No. U-16749 where “the Commission specifically considered and gave weight to use of the ROE calculated using Value Line book value and earnings.” 5 Tr 1384.

The Staff set forth 9.35% to 10.35% as a reasonable ROE range and recommended that the Commission approve a 9.85% ROE in this case. 5 Tr 3560. The Staff noted that it used a proxy

group of eight publicly traded electric or electric and gas utility companies that were comparable to Consumers. 5 Tr 3560. The Staff indicated that it utilized the DCF and CAPM methods “along with a bond yield + risk premium method and a comparison of recent electric ROE determinations from other state jurisdictions.” 5 Tr 3580. The Staff described its DCF analysis, noting its conclusion of 10.76% as an average cost of equity estimate. 5 Tr 3583-3587. The Staff also stated that it disagreed with the company’s “use of dividend growth rates only in the DCF formula.” 5 Tr 3586.

The Staff next described its CAPM analysis including historical and two projected CAPM analyses. 5 Tr 3587-3594. The Staff indicated that “[t]he historical model produced an average ROE estimate of 10.03% and the projected models produced average ROE estimates of 9.77% and 11.60%.” Staff’s initial brief, p. 67 (citing 5 Tr 3591). With respect to the company’s projected CAPM and ECAPM analyses, the Staff stated that Consumers:

uses an overblown and unreliable S&P 500 market risk premium [MRP] estimate in its analyses that produces overinflated and wholly unreasonable CAPM ROE estimates. The Commission should give no weight to the Company’s projected S&P 500 MRP estimate used in this case and rely on the projected MRP estimate used in the Company’s last electric case . . . .”

5 Tr 3592-3593.

The Staff then outlined its bond yield + risk premium analysis. 5 Tr 3594-3597. The Staff concluded that “[t]he risk premium model produced utility-bond ROE estimates of 9.94% and 10.27% for the A-rated and BBB-rated bonds. The Treasury-Bond yield approach produced an ROE estimate of 8.69%.” Staff’s initial brief, p. 68 (citing 5 Tr 3595). The Staff noted that the Commission should give little weight to the company’s risk premium analysis because it utilizes over inflated datapoints resulting in an unreasonable ROE. 5 Tr 3596. The Staff also stated that it reviewed the ROEs for electric utilities as authorized by other state commissions for the years

2021 through 2024. 5 Tr 3596-3597. Specifically, the Staff stated that “[t]he average country-wide authorized ROE for 2021 was 9.45%, for 2022 was 9.38%, for 2023 was 9.60%, and for the first six months of 2024 was 9.68%. That equates to a 3.5-year average of around 9.55%, which is well below Staff’s ROE 9.85% recommendation.” 5 Tr 3596. Overall, the Staff concluded that a reasonable ROE range based upon its analysis was 9.35% - 10.35%, which supports its recommended 9.85% authorized ROE in this case. 5 Tr 3597-3598.

The Attorney General recommended the adoption of an ROE of 9.80%. 5 Tr 2804. The Attorney General stated that she utilized the DCF method, the CAPM, and the Utility Risk Premium approach in deriving her recommendation. 5 Tr 2803. In developing an appropriate proxy group, the Attorney General noted that her analysis began with 38 electric utilities which was narrowed down to 10 companies considered comparable to Consumers. *See*, 5 Tr 2804-2806.

The Attorney General continued and described her DCF approach. 5 Tr 2806-2809. The Attorney General reflected an ROE of 9.27%, which is lower than the company’s method. 5 Tr 2807-2808. She noted that the “temporary higher dividend growth rates used by [Consumers] may not be sustainable in the long-term, if they are not reflective of long-term earnings growth.” 5 Tr 2808. The Attorney General then described her CAPM approach. 5 Tr 2809-2813. The Attorney General determined an estimated 10.58% ROE under the CAPM approach, but she noted that the CAPM approach was given “less weight than the DCF approach in determining the cost of common equity” because it does not take into consideration company-specific factors of risk. 5 Tr 2813. Finally, the Attorney General discussed her utility risk premium approach which reflected an ROE of 9.72%. 5 Tr 2813-2814.

The ALJ thoroughly reviewed the evidence and positions of the parties and made several recommendations with respect to ROE at pages 321 to 381 of the PFD, which will not be

exhaustively repeated here. The ALJ first discussed the proxy groups utilized by the parties. *See*, PFD, pp. 323-326. She indicated that she “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.” *Id.*, p. 326.

The ALJ then reviewed the CAPM analyses on the record. *Id.*, pp. 326-335. The ALJ concluded that the Staff, Attorney General, and ABATE demonstrated that Consumers’ “unusually high market risk premium is not appropriate and serves to substantially inflate the Company’s CAPM result,” noting that the company’s CAPM result is well outside the range of other parties’ evidence. *Id.*, p. 335. The ALJ continued, holding that she adopted “the dataset in Exhibit WAL-4 as a representative sample of reported ROEs recently approved by regulatory bodies nationwide.” *Id.*, p. 336. With regard to the ECAPM approach, the ALJ found that, “[f]or all the reasons articulated by Staff, the Attorney General, ABATE, and MNC, this [ALJ] is persuaded that the ECAPM approach should be rejected.” PFD, p. 341.

Next, the ALJ reviewed the DCF model analyses of each party at pages 341 to 349 of the PFD. The ALJ recognized that:

the parties present a variety of disputes regarding the proper application of the DCF model and its most appropriate inputs. However, this [ALJ] believes that few of the disputed inputs or modeling assumptions result in a DCF estimate that is wholly unsupported, 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.

*Id.*, p. 348. Thus, she stated that the specific modeling differences did not need to be resolved in this proceeding. In sum, the ALJ accepted the company’s DCF result of 9.85%, the Attorney General’s 9.27%, ABATE’s adjusted and averaged result of 9.24%, and MNSC’s 8.95% for consideration. She also noted that the Staff’s result of 10.76% was afforded less weight. *Id.*, p. 349.

With respect to the bond yield risk premium, after reviewing the positions of the parties, the ALJ held that the company's bond yields used in its risk premium approach were significantly higher than the datapoints utilized by the Staff or ABATE. *Id.*, p. 354; *see also, id.*, pp. 349-354. Nevertheless, the ALJ noted that she "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), 9.72% (The Attorney General), and 10.06% (average of ABATE's utility bond approach and treasury bond approach)." *Id.*, p. 355 (footnotes omitted).

The ALJ reviewed the company's comparable earnings analysis concluding that:

the Company's use of the comparable earnings model was thoroughly addressed in [Consumers'] last [electric] 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 [ALJ] 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. 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. 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. Accordingly, that [administrative law judge] found persuasive the 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. 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.

This [ALJ] adopts the same approach as taken previously . . . 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 [ALJ] accords only the most minimal weight to the company's comparable earnings analysis.

PFD, pp. 357-358.

The ALJ also addressed other company authorized ROE data as submitted by the parties. *Id.*, pp. 358-363. Looking to the range of data, the ALJ concluded that Consumers' requested 10.25% ROE was:

not well aligned with returns received in other enterprises having corresponding risks. For the reasons argued by the Attorney General, this [ALJ] 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.

*Id.*, p. 362 (footnote omitted). The ALJ found that the claim that economic and market volatility supported an increased ROE as a "financial cushion" was unsupported on the record given the demonstration that many utilities have access to capital markets, even with an authorized ROE lower than Consumers' current rate. *Id.*, p. 375 (citing Exhibit AG-1.21). The ALJ also reviewed credit reports and rating agencies' perception of credit risk to state that Consumers has overstated the potential for a credit downgrade or access to credit. *See*, PFD, pp. 375-376. The ALJ again reviews the company's concerns with respect to the FFO-to-debt ratio arguing that a higher ROE is necessary. She stated that:

[r]egarding the FFO-to-debt ratio more generally, this [ALJ] 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 [ALJ] is aware of no order wherein the Commission has agreed to consider such a linkage between these two separate considerations.

*Id.*, p. 378.

In conclusion, the ALJ noted that she afforded full weight to the following ROE estimates:

9.85%	Consumers DCF
9.90%	Staff CAPM (averaged)
9.93%	Staff RP [risk premium] (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

PFD, p. 379. She noted that the average of these ROE estimates is 9.63%, with a range of 8.95% to 10.06%. Therefore, the ALJ concluded that:

after considering the accepted evidence and the parties' arguments, this [ALJ] 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 [ALJ] 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 Company to maintain a strong credit rating and to attract capital. Accordingly, this [ALJ] 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.

*Id.*, pp. 380-381. In the alternative, the ALJ noted that the Commission could adopt an ROE of 9.80% because 9.50% is a significant departure from the currently authorized ROE. She further stated that 9.80% is the Attorney General's well-supported proposal and is also very close to the Staff's recommendation. *Id.*, p. 381.

Consumers takes exception to the ALJ's recommendation. Similar to its exceptions relating to the proposed capital structure, Consumers reiterates in its exceptions many of the arguments it put forth in testimony. *See*, Consumers' exceptions, pp. 138-164. The company argues that the ALJ's initial recommendation of adopting a 9.50% ROE is inconsistent with the decisions in *Hope* and *Bluefield*, claiming that the ALJ "predetermined [her] recommended outcome by simply calculating the average of nationwide ROEs, which includes results for numerous utilities that are not comparable to Consumers Energy." *Id.*, p. 138.

Consumers further argues that the ALJ gave unwarranted weight to Exhibit WAL-4 and improperly and rigidly applied a mathematical computation. In that regard, the company contends that the ALJ's decision misapplies the constitutional standards set forth in *Hope* and *Bluefield*. Specifically, with respect to Exhibit WAL-4, the company avers that the ROEs in that exhibit are not reasonably close in time to the test year, are not close in proximity to Michigan, and have less risk than Consumers, and therefore, are not consistent with the constitutional standard. *See*, Consumers' exceptions, p. 140; *see also*, Consumers' exceptions, p. 143-149. The company states that the Regulatory Research Association (RRA) data is not a nationally complete source of data, was cited by the ALJ too frequently, and was not intended to be utilized as the ALJ did. *Id.*, pp. 140-143. Overall, the company contends that there was no evidence on record to support the ALJ's use of a national average, which it again contends is contrary to precedent. *Id.*, pp. 147-148.

The company claims that the ALJ "seems to recognize that something in [her] approach has gone wrong such that the recommended result is extreme" because she concluded that the 9.50% recommendation is a significant change from the company's currently authorized ROE. *Id.*, p. 149. Consumers claims that the ALJ's alternative recommendation is also extreme and without support and argues that "the Commission should flatly reject the [ALJ's] ROE recommendations and look to the testimony and briefings by the parties in this proceeding. The substantial record evidence supports the Company's reasonably requested 10.25% ROE." *Id.*, p. 150. Furthermore, Consumers contends that a similar analysis was rejected by the Commission in Case No. U-21389, in which the Commission determined that a reduction in the company's authorized ROE was not warranted. Consumers' exceptions, pp. 150-151.

The company claims that the ALJ erred in finding that its CAPM results were outside the range of the other parties' CAPM results, which Consumers claims is the result of a conclusion seeking justification by the ALJ. *See, id.*, pp. 153-155. Consumers further claims that the ALJ's comparison of the company's evidence to that of the other parties "suggests at least the possibility of a misapplication of the standard of proof in rate proceedings." *Id.*, p. 155. In reviewing the preponderance of evidence standard, the company alleges that while "[i]t may be true that several other parties in this case performed CAPM analyses and had similar ranges of results that were lower than Consumers Energy's, . . . those parties also all share a common interest in minimizing rates to the greatest extent that they can." *Id.*, p. 156. As such, the company requests that the Commission again review the testimony and exhibits before rendering a final determination. *See, id.*, pp. 156-157.

With respect to the ECAPM analysis, the company claims that the Commission has not issued an order rejecting the ECAPM methodology and, as such, the ALJ improperly dismissed its ECAPM analysis based upon the fact that the company did not cite to a Commission decision recognizing the same. *Id.*, p. 158. Consumers emphasizes that the ECAPM analysis is, at worst, an additional data point to consider in determining a reasonable authorized ROE. Consumers indicates that the ALJ's second justification for rejecting the ECAPM analysis, was that it did not fit within the arbitrary range of nationwide benchmarks in Exhibit WAL-4. Consumers' exceptions, p. 159. Overall, the company contends that the ALJ erred in disregarding the ECAPM analysis and that the Commission should "at least take note of the directionality of [the company's] results, in that an increase to the Company's ROE is warranted (certainly not a decrease as proffered by the opposing parties and the [ALJ])." *Id.*

Similarly, the company contends that the ALJ improperly compared the results of the risk premium analysis estimate with the inputs utilized by the Staff and ABATE, to reduce the weight assigned to the company's evidence and again "diminishes the results of the Company's analysis because they fall outside a predetermined range. The Company has addressed the defect in that reasoning above." *Id.*, pp. 160-161. Therefore, Consumers asserts that "[t]he Commission should use the Risk Premium results provided by Company witness Bleckman as part of its ROE analysis in this case and give it appropriate weight for the reasons discussed in the Company's briefing." *Id.*, p. 161 (citing Consumers' initial brief, pp. 274-275).

With respect to the Comparable Earnings Model, the company claims that the Commission should consider Consumers' model as it is a valid methodology. Consumers claims that "[a]t a minimum the model suggests the Company's requested 10.25% is not too high and certainly a reduction in the Company's ROE is not warranted at this time." Consumers' exceptions, p. 162.

Per Consumers:

In many instances, the [ALJ] does a thorough job of summarizing the evidence presented and arguments presented by the parties in this proceeding. However, ultimately the expressed reasoning of the [ALJ]'s ROE factual findings boil down to two words: "national average." If adopted, the [ALJ]'s simplistic and unsupported analytical approach would result in an arbitrary and capricious decision. Furthermore, as noted above, the recommendations of the [ALJ] are very similar to the PFD in Case No. U-21389 in reliance on national average ROEs, and the Commission declined to lower the Company's ROE in that case. The Commission should grant the Company's requested 10.25% ROE for all the reasons stated in its testimony and briefings, and, should disregard the other parties' and the [ALJ]'s unwarranted recommendation to lower the Company's ROE from its current level. The evidence supports an increase, not a decrease.

Consumers' exceptions, p. 163. In conclusion, the company argues that the Commission should not lower its ROE because the evidence supports an increase and that "[t]he Commission should approve the capital structure proposed by Consumers Energy in this case without any modifications." *Id.*, p. 164.

The Attorney General also takes exception and contends that the ALJ's determination to give the comparable earnings analysis minimal weight was not supported. Specifically, the Attorney General states that the ALJ's "recommendation is at odds with the record and its analysis should be rejected. The Comparable earnings method adds nothing to the actual determination of ROE. As the Attorney General argued in her brief, no weight should be given to [that] method." Attorney General's exceptions, p. 31.

In exceptions, ABATE states that the ALJ properly concluded that the record supported an authorized ROE of 9.50%. However, ABATE objects to the alternative and more gradual recommendation of 9.80%, stating that, "[a]s this alternative approach to slow walk the Company's ROE towards Consumers' actual cost of equity is unreasonable[,] the Commission should adopt the [ALJ]'s primary recommendation." ABATE's exceptions, p. 11. Reviewing its record evidence, ABATE claims that the 9.50% ROE is supported on the record and should be adopted by the Commission.

UCC also filed exceptions to the PFD, arguing that "the Commission should lower Consumers' ROE as much as possible because of the Company's poor performance and high costs." UCC's exceptions, p. 6. Specifically, the UCC requests that the Commission at least lower the approved ROE to 9.50% that the ALJ found appropriate in the PFD. *Id.*, pp. 6-7.

The company filed replies to exceptions, stating that the Comparable Earnings model is a useful tool in ROE analysis, despite the Attorney General's arguments in exceptions. Consumers further contends that the Attorney General's position:

disregards the Commission's longstanding treatment of ROE models generally, which is to consider and weigh the output of all the models that have been shown to have some sound theoretical basis over time and couple the review of those outputs with professional judgment and experience to discern what ROE is required in the case at hand. With that in mind, Mr. Bleckman's Comparable Earnings analysis is certainly relevant evidence that, for a 2026 test year [sic: 2025-2026 test year], the

Company's requested 10.25% is not too high and a reduction in the Company's ROE is not warranted at this time.

Consumers' replies to exceptions, pp. 40-41. The company again reiterated its record position and evidence to contend that the Commission should approve an ROE of 10.25% in this case. *Id.*, pp. 42-43.

The Staff replies that it "is comfortable with the ALJ's 9.50% ROE recommendation for Consumers in this case. However, if the Commission prefers to not adjust the ROE to that extent in this case, the Commission should, at a minimum, adopt the ALJ's alternative 9.80% recommendation." Staff's replies to exceptions, p. 20. The Staff avers that:

Consumers complaints regarding the [ALJ's] ROE analysis could be divided into three themes: 1) that the [ALJ] had the tendency to accord inappropriately little weight to the expert testimony and model analysis of Consumers' capital structure and ROE witnesses; 2) that the [ALJ] downplayed Consumers' business and credit risk as a utility company in a regulatory environment; and 3) that the [ALJ] placed an inappropriate amount of attention on Walmart's Exhibit WAL-4 that highlighted approved ROEs from 2022 to August 2024 from data presented by the Regulatory Research Associates. Consumers then argues that based on Exhibit WAL-4, the ALJ inappropriately developed a range of reasonable ROE results. Consumers' criticisms of the PFD are unpersuasive and should be rejected by the Commission.

Staff's replies to exceptions, pp. 20-21. With respect to Exhibit WAL-4, the Staff states that the company's objections are not well-received and that "[t]he ALJ was transparent in noting that ROEs rendered by other state commissions can be used as a benchmark for establishing a reasonable ROE in this case, which is consistent with language in *Hope . . .*" *Id.*, p. 21. The Staff also contends that the Commission should disregard the company's claims that the data compiled by RRA was undermined by the record evidence, noting that the RRA data is widely used and was appropriately referenced by the Staff and ABATE on this record. *Id.*, p. 22 (citing 5 Tr 3377, 3569). The Staff also disputes any claims that the ALJ's determination was arbitrary and states that the ALJ considered the model results on record. The Staff reiterates that the ROE

modeling utilized by the Staff, the Attorney General, and ABATE were similar and resulted in recommended ROEs in a reasonable range of one another. Staff's replies to exceptions, p. 22. Further, the Staff states that "[t]he ALJ was correct to scrutinize Consumers' models and find fault with the inputs used in the models that resulted in high-end, outlier results that simply were not reasonable. Consumers' claim of flawed or unfair treatment by the ALJ towards Consumers' model analysis is erroneous and unpersuasive." *Id.* In addition, the Staff states that additional flaws in the company's exceptions:

have already been thoroughly refuted by the [ALJ]'s analysis itself, as well as the record and briefing in this case. Consumers' ROE and equity layer are at question in this case, and its exorbitant 50.75% equity layer and 10.25% ROE requests, both of which are increases from its current 50.02% equity layer and 9.90% ROE, are simply and patently unreasonable.

*Id.*, p. 23. In sum, the Staff concludes that the Commission should adopt the ALJ's 9.50% ROE recommendation, or at least the alternative recommendation of 9.80%. *Id.*, p. 24.

The Attorney General begins her replies to exceptions by stating that the ALJ properly rejected the company's excessive ROE request. She opines that her recommendation of an ROE no greater than 9.80% is supported by the evidence on record, "provides the Company's investors with an ample return on their investment given the Company's risk profile and is consistent with the returns on investments authorized for similar utilities," and "should not hinder the Company's ability to obtain debt at competitive rates." Attorney General's replies to exceptions, p. 138 (citing Exhibit AG-1.21). Like the Staff, the Attorney General references that many of the company's exceptions have already been rebutted in briefing on this issue. With respect to Consumers' claim that the ALJ made numerous errors, the Attorney General states that "[t]here is no merit to the claims as the [ALJ] painstakingly [went] through the parties' various positions and evidence and applied the appropriate standards in reaching appropriate ROE recommendations." Attorney

General's replies to exceptions, p. 139. The Attorney General then reiterates record arguments pertaining to the modeling utilized by the parties and emphasizes that the ALJ properly considered these models and rejected the company's numerous claims. *Id.*, pp. 140-144. However, the Attorney General again states that the Comparable Earnings method should not be given weight as it "is not an academically sound approach to determine the cost of common equity for any company" and "has no [usefulness] for setting an authorized ROE." *Id.*, pp. 144-145.

In reply, ABATE again states that the Commission should adopt the ALJ's primary recommendation of a 9.50% ROE because the company's exceptions are inconsistent with the record evidence. ABATE's replies to exceptions, p. 16. Reviewing record testimony, ABATE contends that it is clear that the ALJ's primary recommendation is appropriate and supported. *Id.*, pp. 17-18. ABATE further claims that Consumers' focus on Exhibit WAL-4 is contrary to the record because it "contains significant and substantial evidence that the [ALJ]'s recommended ROE represents a fair and reasonable result. (See PFD at 359, 380; Walters 5 Tr 3368-444; Coppola 5 Tr 2822.)" ABATE's replies to exceptions, p. 18. With regard to the individual methodologies, ABATE again cites to the record to contend that Consumers' claims have been previously addressed in this case, with ABATE relying upon its briefing in support of this position. *Id.*, p. 19.

MNSC also replies that it "continues to rely on the testimony and exhibits of its witnesses and the arguments in its Initial Brief, which support a meaningful reduction in Consumers' ROE like that which the [ALJ] recommends." MNSC's replies to exceptions, p. 17. MNSC argues that the company's claims of numerous errors "boil down to the Company objecting to the [ALJ]'s use of Exhibit WAL-4, which lists reported ROEs authorized nationwide from 2022 through mid-2024." *Id.* MNSC opines that the use of Exhibit WAL-4 is not inconsistent with the *Hope* and *Bluefield*

decisions and contends that the company selectively applied language from those holdings while ignoring the requirement that the determination of just and reasonable rates requires the Commission to review all relevant facts. More specifically, MNSC states that:

with the exception of the outlier values the [ALJ] excluded, the reported ROEs range from 8.57% to 10.50% – a relatively narrow span of 193 basis points. By contrast, the ROE estimates in this case alone range from 8.01% to 13.85% – a span of 584 basis points. Consumers says the “carefully selected peer groups” offered by the parties in this case “are meant to better represent the Company’s ‘corresponding risks and uncertainties’ than a simple average of a nationwide sample.” But even the results of [the company’s] CAPM analysis, grounded in Consumers’ preferred proxy group, ranged from 11.74% to 13.85% – a span of 211 basis points and nowhere close to any reported ROE besides outlier Alaska Light and Power, which has an approved ROE of 11.45% and is far from being “in the same general part of the country” as Consumers. Consumers also supports its preferred ROE with Exhibit A-37, which includes utilities from Alabama, Florida, Georgia, North Carolina, and Mississippi – i.e., nowhere near Michigan.

*Id.*, pp. 18-19. MNSC states that it is not unreasonable to consider Exhibit WAL-4 merely because the RRA database is not a “complete” nationwide database, especially considering that the ALJ made it clear that she viewed Exhibit WAL-4 as a representative sample of authorized ROEs nationwide. *Id.*, p. 20. With respect to business risk, MNSC disputes the claims that Exhibit WAL-4 should not be given weight because some utilities included have less business risk. MNSC contends that the exhibit also includes some utilities that have more business risk and giving the appropriate weight to Exhibit WAL-4 as a representative sample is reasonable. Next, MNSC reviews the ALJ’s analysis to contend that the PFD contains a thorough review of all evidence from the parties and “[a]t no point did the [ALJ] exclude any party’s ROE estimate solely because it fell outside the range of the adjusted Exhibit WAL-4 data set – at most, it gave such estimates reduced weight.” *Id.*, p. 23. Overall, MNSC avers that the company’s claims are flawed and should be rejected. *Id.*, p. 24.

The Commission again notes the thorough review of the record contained in the PFD and rejects any claims that the ALJ failed to consider the entirety of the evidence submitted on this issue. With respect to the company's claim that the ALJ applied a rigid mathematical computation to support her recommendation, the Commission disagrees. Contrary to Consumers' exceptions, the ALJ did not disregard expert opinions and instead weighed the vast testimony, methodologies, and proposed ROEs on the record. *See*, PFD, pp. 321-381.

Consumers opines that the ALJ afforded excessive weight to "parties who have advocated for too low of an ROE to meet the constitutional minimum" but failed to provide specific support for its position. Consumers' exceptions, p. 139. Merely advocating that the other parties' analyses were "too low" is insufficient to demonstrate that the ALJ's recommendation is inconsistent with the holdings in *Hope* and *Bluefield*. Consumers' attempts to claim that the ALJ inappropriately disregarded the company's evidence because it was outside the range of the other parties' analyses arguing that the ALJ "appears to have accepted evidence based on its support for the ALJ's desired conclusion as opposed to deciding what conclusion to reach based on the totality of the evidence presented. This is not a proper way to evaluate evidence." Consumers' exceptions, p. 155. A careful review of the PFD, however, does not support the company's conclusion. Rather, the ALJ reviewed each parties' presentation of evidence and found that Consumers' evidence was a notable outlier from the vast record of additional expert testimony and results included in the record in this case. This comparison of evidence does not demonstrate that the ALJ misapplied the standard of evidence in this case. Rather, she relied on expert testimony and analyses to evaluate the company's evidence and found that it was not the most reliable and instead resulted in an excessive ROE recommendation. Overall, in this regard, the Commission finds that the ALJ did not afford improper weight to the evidence submitted and did not misapply the evidentiary

standard. Like the ALJ, the Commission finds that Consumers has not demonstrated by a preponderance of evidence that its requested ROE of 10.25% is reasonable.

Finally, the company asserts that “all” of the parties excluding the company have a shared goal of “minimizing rates to the greatest extent that they can.” Consumers’ exceptions, p. 156. Such a claim is patently absurd, and particularly so for the Staff, which plays a vital role in “strik[ing] the right balance between the Company’s interests and its ratepayers’ interests.” Staff’s initial brief, p. 2.

Notwithstanding the above, the Commission respectfully declines to adopt the ALJ’s recommendation of an authorized ROE of 9.50%. As recognized by the ALJ, this is a significant departure from the company’s currently authorized ROE of 9.90%. The Commission emphasizes its recent decision wherein it stated:

absent a radical change in underlying economic conditions, a significant change in the ROE may significantly affect the utility’s ability to maintain its credit and attract capital. The Commission finds that this does not “lock in” an authorized ROE from a prior Commission decision . . . . Rather, it is one factor to consider when evaluating the full range of evidence and proposed ROEs proffered by the parties to the case.

November 7, 2024 order in Case No. U-21291 (November 7 order), p. 108. In that regard, the Commission finds that the record in this case does not reflect radical changes in underlying economic conditions. Commission approval of additional distribution investments and the IRM in this order reduces the company’s risk profile. Considering this, and that the company’s currently authorized ROE of 9.90% falls reasonably within the parties’ range of evidence, and particularly when considering the company’s overall risk profile, the Commission finds that maintaining the current authorized ROE of 9.90% is the most reasonable course at this time. The Commission notes, however, that, with increased certainty of recovery of investments for the company and

additional derisking, the ROE could be impacted in the future depending on the record evidence in the case.

C. Overall Rate of Return

Given the above, the Commission adopts a 50.00% equity layer, a long-term debt cost rate of 4.25%, a short-term debt cost rate of 4.28%, an ROE of 9.90%, and an overall weighted cost of capital of 5.97%, as shown on the table below:

<b>Description</b>	<b>Amount (\$000,000)</b>	<b>Ratio</b>	<b>Cost Rate</b>	<b>Weighted Cost</b>
Long-Term Debt	\$12,139	41.60%	4.25%	1.77%
Preferred Stock	\$37	0.13%	4.50%	0.01%
Common Equity	\$12,177	41.73%	9.90%	4.13%
Short-Term Debt	\$281	0.96%	4.28%	0.04%
Deferred FIT	\$4,430	15.18%	0.00%	0.00%
JDITC Debt	\$58	0.20%	4.25%	0.01%
JDITC Preferred Stock	\$0	0.00%	4.50%	0.00%
JDITC Equity	\$58	0.20%	9.90%	0.02%
<b>Total</b>	<b>\$29,181</b>	<b>100.00%</b>		<b>5.97%</b>

**VI. ADJUSTED NET OPERATING INCOME**

Adjusted net operating income (NOI) is calculated by subtracting the company’s operating expenses including depreciation, taxes, and AFUDC from the company’s operating revenue.

Adjusted NOI includes the ratemaking adjustments to the recorded NOI test year for projections and disallowances.

## A. Jurisdictional Revenues and Sales Forecast

### 1. Sales Forecast

As illustrated in Exhibit A-15, Schedule E-2, Consumers projected jurisdictional electric deliveries of 33,704 gigawatt-hours (GWh) for the test year, with weather, the economy, and demographics affecting the forecast. 5 Tr 1023-1024. The company also forecasted a test year generation requirement of 38,757 GWh, with test year deliveries projected at 36,395 GWh.

Exhibit A-15, Schedule E-1; Exhibit A-15, Schedule E-4.

Consumers stated that it used regression analysis to forecast its electric deliveries and peak demand, using “a combination of econometric and end-use techniques.” 5 Tr 1563. Consumers’ witness, Mr. Breuring, described the six-step process used to develop its electric deliveries forecast. First, the company gathers “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.” 5 Tr 1563. Next, the company imports economic and demographic variables from S&P Global into the sales modeling framework. 5 Tr 1563-1564. “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.” 5 Tr 1564. Consumers’ fourth step is to review “the imported observations to identify data issues before running the econometric models.” 5 Tr 1564. Then, the company carries out regression functions and reviews the corresponding statistical metrics before combining the regression forecasts with the previously imported external forecasts.

The Staff, through its witness, Mr. Ausum, sponsored Exhibit S-14.0 regarding the Staff’s proposed adjustment to increase Consumers’ test year sales forecast by 393,268 MWh (approximately 1.2%). 5 Tr 3739. Mr. Ausum explained that the Staff’s higher sales for the test

year were the result of two adjustments: a change to Consumers' residential energy usage-per-customer projection and a change to Consumers' commercial customer count. 5 Tr 3739. As a result, the Staff recommended a 0.22% increase in the company's commercial customer count for the test year. 5 Tr 3740. Mr. Ausum testified as to the Staff's general methodology and stated that the:

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[al] 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.

5 Tr 3740 (internal citation omitted). Mr. Ausum also testified that "the residential usage-per-customer adjustment and the commercial customer count adjustment . . . better align with historic[al] trends in weather normal sales and customer counts, and, . . . more accurately depict what each variable will be in the test period." 5 Tr 3740-3741. The Staff stated that, "[w]hile it is reasonable to suppose that residential usage will continue to decline to eventually resemble some kind of post-COVID equilibrium, and that Company EWR programs will reduce year over year usage," it did not agree with Consumers that residential usage will decline at the rate proffered by the company and thus described how it calculated a reasonable alternative projection of residential usage per customer in this case. Staff's initial brief, p. 91 (citing 5 Tr 3902-3904 (confidential testimony)).

Regarding commercial customer count forecast adjustments, Staff witness Mr. Ausum described the Staff's method using Figure PRA-3 which "shows the year over year change in the number of commercial customers being served by the Company, along with the Company's

projections for the bridge and test periods.” Staff’s initial brief, p. 93 (citing 5 Tr 3904 (confidential testimony)). The Staff believed that Consumers’ commercial customer forecast was underrepresenting the number of customers taking service in the test year which is why Mr. Ausum suggested a customer count adjustment. The Staff explained that “[t]o calculate a reasonable alternative customer count projection [relative to the company’s commercial customer forecast] within the constraints of the ten-month rate case timeframe, Staff compared various growth rates” that used “different start and end points, a linear trend computed with all available annualized customer count data, and a simple exponential trend smoothing model for commercial customer counts.” Staff’s initial brief, p. 94 (citing 5 Tr 3905).

The Staff recommended that the ALJ and the Commission adopt Mr. Ausum’s recommendations regarding information to be included in future rate cases—namely, “historical and projected sales provided on both a calendar and cycle-billed basis, historical and projected sales broken down on the same level of granularity, and more explanation on certain rate case filing attachments that were previously marked ‘not applicable in this case.’” Staff’s initial brief, p. 100 (citing 5 Tr 3907-3909 (confidential testimony)) and Exhibit S-14.2).

Consumers disagreed with the Staff’s increase of 338,681 MWh for the test year projected deliveries, calling it “a novel and simplistic approach.” Consumers’ initial brief, p. 328. Consumers argued that the Staff incorrectly “took a single point in time, the most recent 12 months, to calculate residential customer use and then offset it with EWR savings to arrive at a test year figure. Staff then multiplied the projected use by the Company’s projected customer count.” *Id.*, pp. 328-329 (citing 5 Tr 1584). Consumers also argued that, for commercial deliveries, the Staff used the last 12 months and applied a two-year compound annual growth rate

to arrive at its forecast, which was also an invalid forecasting method. Consumers' initial brief, p. 329.

Consumers outlined several reasons why the Staff's forecast was invalid, such as not testing its forecasts, assuming that the future will be identical to a single historical year and the post-pandemic trend of returning to the office. *See*, Consumers' initial brief, pp. 329-330. Furthermore, Consumers contended that its regression model was "robust" and that it avoided "placing too much weight on any single factor or snapshot in time," whereas the Staff's modeling process "focuses exclusively on a single period (the most recent 12 months)." *Id.*, p. 329. Consumers' witness, Mr. Breuring, also testified that, for "at least the last 15 years, the Company has utilized MetrixND for its regression modeling" with MetrixND being a software package that utilities use to aid in their sales forecasting needs and which "is considered an industry standard" with over 150 utilities and other energy service providers utilizing it. 5 Tr 1567. Lastly, Consumers argued that the Staff's testimony was "internally inconsistent" as Staff witness Mr. Ausum recommended "adding a total of 338,681 MWh to the Company's projected deliveries" while Staff witness, Mr. Isakson, only adjusted for residential and commercial customer classes, which were also inconsistent with Mr. Ausum's adjustments for these classes. Consumers' initial brief, p. 330 (citing 5 Tr 1588). Consumers also stated that "Mr. Isakson used Mr. Ausum's adjusted cycle-billed residential deliveries and adjusted cycle-billed commercial deliveries without regard for the unbilled factor that Mr. Ausum proposed in his projections" which led to Mr. Isakson overstating his adjustments by 32,027 MWh. Consumers' initial brief, p. 330 (citing 5 Tr 1588). Thus, Consumers asserts that the Commission should reject the Staff's proposed adjustments.

As mentioned above in its initial brief, Consumers argued that Mr. Ausum's unbilled factor was disregarded by Mr. Isakson. However, the Staff viewed Consumers' argument as moot because cycle-billed sales "are the inputs to the Company's forecasting models," with the Staff's unbilled figures included "for illustrative purposes only[.]" Staff's initial brief, p. 99.

While Consumers did not address its sales forecast in its reply brief, the Staff, in its reply brief, argued that its use of the most recent 12-month historical period ended February 2024 was correct because "it offers the most insight into what can be viewed as the 'new normal' level of post-COVID residential electric usage[.]" Staff's reply brief, pp. 18, 20. The Staff admitted that there was "a downward trend in residential usage per customer since February of 2021" but argues that Consumers' forecast of a larger decrease "than any year-to-year decrease since COVID . . . does not align with the fact that much of the COVID-induced variation has stabilized." Staff's reply brief, pp. 19-20 (citing Staff's initial brief, p. 91; 5 Tr 1572). The Staff further argued that using the most recent 12-month period was accurate because using "multiple years' worth of usage would lead to inaccurate projections due to a single year skewing the average," with use of any pre-pandemic year also skewing the normal yearly average. Staff's reply brief, p. 20.

While the Staff argued that its growth rate was "the most conservative amongst available alternatives," it also argued that Consumers failed to offer any explanation for its expected reduction in commercial customers. *Id.* The Staff rejected Consumers' assertion that its methodology was novel and simplistic as the Staff "has much less time than the Company to produce a reasonable estimate of future deliveries and customers" and pointed out that its methods "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." *Id.*, p. 21.

The ALJ found that Consumers' use of its regression models was adequately justified to forecast its electric deliveries with its explanation of its six-step process and regression analysis factors. PFD, p. 393. The ALJ also found that Consumers' method captured behavioral trends, whereas the Staff's approach merely focused on historical trends, and that Consumers' methodology was consistent with previously approved forecasting methods. *Id.* Thus, the ALJ suggested that the Commission reject the Staff's adjustments to residential deliveries and commercial customer counts. *Id.* The ALJ also took note of the Staff and Consumers agreeing to a \$132,0900 reduction in sales revenue due to an error. *Id.*, p. 399.

The Staff takes exception to the fact that its adjustments to forecasted residential deliveries and commercial customer counts were rejected by the ALJ. The Staff argues that the ALJ erred in "not plac[ing] enough importance on the actual outputs of each methodology. When one views Consumers' forecast in the context of recent history," Consumers' regression models are not reasonable. Staff's exceptions, p. 4. For the Staff's residential deliveries adjustment, the Staff asserts that the adjustment "is necessary to correct" a decline in residential electric deliveries "that exceeds anything observed in recent history." *Id.* (citing Staff's confidential initial brief, pp. 90-91). To support its position, the Staff points to figures PRA-1 and PRA-2 which demonstrate the unprecedented reduction. Likewise, the Staff points to figures PRA-3, PRA-4, and PRA-5, which show that Consumers' commercial customer count adjustment "has no precedent in the recorded customer counts over the last five years." Staff's exceptions, p. 4 (citing Staff's confidential initial brief, pp. 93-95). The Staff reiterates its argument that Consumers' adjustment is based on "the onset of the COVID-19 pandemic," which shifted "building occupation and usage from the commercial to the residential sector." Staff's exceptions, p. 5.

The Staff again states that its adjustment is reasonable and the most conservative amongst those considered, being “more reflective of recent trends.” *Id.* (citing Staff’s reply brief, pp. 20-21).

In its replies to exceptions, Consumers explains that its forecast involved a line-loss factor and also took into consideration Dynamic Peak Pricing programs, EWR programs, Conservation Voltage Reduction, and the Residential Summer On-Peak rate. Consumers’ replies to exceptions, p. 44. The company also explains why the Staff’s exceptions were flawed. Consumers again advocates for its regression model, stating that the “Staff applied a simple formula to the 2023 historical results without considering new econometric data . . . ,” which assumes that the future will be identical “to one historical year.” *Id.*, p. 45. Consumers also states that the Staff did not test its forecasts, unlike the company. *Id.* (citing 5 Tr 1585). Lastly, the company again mentions “increased downward pressure on residential load” resulting from the COVID-19 pandemic. Consumers’ replies to exceptions, p. 46. Thus, Consumers states that the Commission should reject the Staff’s adjustments, adopting the ALJ’s findings. *Id.*, p. 47.

The Staff also filed replies to exceptions regarding Consumers’ sales forecast, but it merely reaffirms its prior arguments, stating that “[t]he record of evidence demonstrates the high likelihood that Consumers’ forecast of residential deliveries and commercial customer counts (and in turn, commercial deliveries [due to the pandemic]) is understating what will actually be observed for these variables in the test year.” Staff’s replies to exceptions, p. 24.

The Commission finds the ALJ’s recommendation well-reasoned and supported by the record and therefore adopts Consumers’ sales forecast. However, the Commission notes that while a utility has access to all of its data, the Staff and others only have access to what a utility provides, and here, the Staff had mere weeks to analyze Consumers’ data presented in this case. As such, the Commission agrees with the uncontested recommendation from the Staff that providing more

information at the beginning of a rate case will better assist all parties in presenting their positions and can lead to more accuracy and confidence in a utility company's proposed sales forecast.

## 2. Total Electric Operating Revenues

As shown in its Exhibit A-13, Schedule C-1, Consumers projected a total sales revenue for the test year of \$4.762 billion. The company's base tariff revenues were offset by the following credit revenues: the Residential Senior Citizen (RSC) credit, the Residential Income-Assistance (RIA) credit, and the Low-Income Assistance (LIA) credit. 5 Tr 1570. For the test year, Consumers projected 350,683 RSC customers; 66,555 RIA customers; and 4,200 LIA customers. 5 Tr 1570. The RSC count projection was based on regression modeling "which incorporates historical trends within this customer group." 5 Tr 1570. The RIA count projection was based on a two-year monthly average that ended December 2023, which included a "\$30/meter LIAC<sup>[32]</sup> for 4,200 low-income customers, as approved by the Commission's Case No. U-20697 Order." 5 Tr 1570. For the projected test year, Consumers stated that RSC customer credits amounted to \$16.8 million, RIA credits amounted to \$6.4 million, and LIA credits amounted to approximately \$1.5 million. Consumers' initial brief, p. 331 (citing 5 Tr 1570). Consumers also stated that RIA and LIA credits are available to customers who participate in certain Michigan Department of Health and Human Services (MDHHS) programs. Consumers' initial brief, p. 331 (citing 5 Tr 1591).

In contrast, the Staff ultimately projected test year sales revenue of \$4.793 billion. Staff's initial brief, p. 83 (citing Appendix C, column (b)). Of that increase, the Staff recommended increasing sales revenue by \$1.335 million for RIA credits. Staff's initial brief, p. 83 (citing

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<sup>32</sup> Consumers refers to LIA as LIAC, with both acronyms referring to the Low-Income Assistance Credit.

Appendix C, Line 4). The Staff, through its witness, Mr. Isakson, projected monthly customer counts of 332,344 and 61,816 for RSC and RIA, respectively. Staff's initial brief, p. 84 (citing 5 Tr 3606). Mr. Isakson testified that the Staff's residential credit projection is reasonable because it uses a historical three-year average that has been approved by the Commission in Consumers' most recent rate case along with other Michigan utilities, such that "historic variations and trends in RSC and RIA customer counts will eventually be incorporated into base rates." Staff's initial brief, p. 84 (citing 5 Tr 3606). The Staff asserts that its reliance on historical averages balances the risk for customers of Consumers over-projecting, and the Staff's method "has the added effect of smoothing out variation in residential credit customer count, so that if there is a dramatic change during any one historic year then it will not impact the projection as greatly." 5 Tr 3607. Mr. Isakson also explained that the LIA credit is limited "so only up to 4,200 monthly customers may receive the credits" but that both the Staff and Consumers assume that all available credits will be received by customers during the test year, while any shortfall will carry over to the next test year (whereas RSC and RIA credits are not capped). 5 Tr 3607.

Mr. Isakson arrived at his test year revenue by making three adjustments to Consumers' presented calculation. First, he corrected an error in Consumers' Residential Non-Transmitting Meter (RSM) rate design model which resulted in an increase of \$132,947 in present revenue. 5 Tr 3605. Then Mr. Isakson incorporated the Staff's residential credits projection, based on "the historic[al] 3-year average of customer count" previously approved by the Commission, resulting in a \$1,335,198 increase to present revenue. Lastly, Mr. Isakson incorporated Staff witness Mr. Ausum's sales and customer count forecast, which resulted "in higher energy sales for the residential class and a higher customer count for the commercial class. Staff's increased customer count for commercial customers has the effect of increasing sales for that class as well" amounting

to an increase in present revenue of \$44,656,092. 5 Tr 3606-3608. The Staff projected a PSCR revenue adjustment of \$16,375,207, requiring an increase in PSCR expense, which offset the revenue deficiency for a total increase of \$28,280,885. 5 Tr 3608.

Consumers' witness, Ms. Laura Connolly, acknowledged the error pointed out by the Staff's witness, Mr. Isakson, regarding RSM rate design and agreed that the error should be corrected. 2 Tr 74. Ms. Connolly stated that Consumers "mistakenly transposed the customer count projections for the Residential Income Assistance Service Provision ('RIA') and the Residential Senior Citizen Service Provision ('RSC')," resulting in an "understatement of present value by \$131,947." 2 Tr 74. However, Mr. Breuring disagreed with the Staff's RSC and RIA customer counts and resulting reductions.

Regarding the RSC credit, Mr. Breuring testified that Mr. Isakson incorrectly reduced Consumers' projected test year RSC count to 332,344 on a three-year average because "[t]he current trajectory of senior citizens within the Company's service territory is consistently growing[,] and barring extreme circumstances, such as another pandemic, there is no reason to expect a significant reduction in [the number of] senior citizens." 5 Tr 1589; *see also*, Consumers' initial brief, p. 332. Mr. Breuring stated that Consumers' projection of 350,683 RSC customers "is already a conservative number" given that the June 2024 senior citizen count "has grown to 374,429 customers." 5 Tr 1590. As such, "a three-year average will not be a good approach to forecast the RSC count, since it will understate the senior citizen count." 5 Tr 1590.

Regarding the Staff's RIA adjustment, Mr. Breuring presented a chart showing that Consumers' most recent three-year average of 350,683 RIA customers is higher than the Staff's proposed customer count of 332,344 customers. 5 Tr 1591. Additionally, Consumers maintained that "the RIA count is primarily driven by residential income levels and need, and the Company is

not projecting a significant reduction in customers' need" which in turn "would require a forecasted increase in disposable income." 5 Tr 1591; *see also*, Consumers' initial brief, p. 333. Consumers also asserted that the Staff did not show that disposable income for RIA-qualifying customers "will increase by more than 5% as it projects, [so] there is no sound basis to reduce the number of RIA customers." Consumers' initial brief, p. 333; 5 Tr 1591.

The Staff addressed Consumers' rebuttal of its RIA and RSC credit counts in its reply brief. The Staff stated that Consumers was "correct that the Commission has not previously approved an adjustment to RSC customer count based on a three-year historic[al] average, as Staff proposes in the instant case." Staff's reply brief, p. 17 (citing Consumers' initial brief, p. 332). However, regarding the fluctuation of Consumers' senior citizen population, the Staff stated that by consistently using three-year averages, "any trend in the actual disbursement of these credits will eventually be incorporated into base rates." Staff's reply brief, p. 17 (citing Staff's initial brief, pp. 85-86). The Staff also stated that its lower projection of senior citizens did "not mean [the] RSC customer count would decline over time." *Id.* Regarding the RIA customer count, the Staff argued that there was no need to address Consumers' argument that the "Staff's projection for the RIA count should be rejected because [the] Staff did not forecast an increase in disposable income for RIA-qualifying customers." Staff's reply brief, p. 17 (citing Consumers' initial brief, p. 333; Staff's initial brief, p. 87). The Staff stated that the difference between its projection and Consumers' projection "was whether to use 3 or 2 years of historic[al] data, respectively." Staff's initial brief, pp. 17-18 (citing Staff's initial brief, p. 87).

Regarding the RIA customer count, the ALJ agreed with the Staff that "a three-year average would better smooth out any year-to-year variation in RIA enrollments" and that the forecast should indeed be based on a three-year average, "as was approved by the Commission in the last

rate case.” PFD, p. 399 (citing March 1 order, pp. 146-148). Regarding the RSC customer count, the ALJ found that the Staff’s projection “is likely to unreasonably understate the senior-citizen count” given that Consumers’ estimate was “already conservative.” PFD, p. 399. Thus, the ALJ recommended that the Commission adopt the Staff’s RIA customer count but reject its RSC customer count. *Id.*, p. 400.

Lastly, the ALJ highlighted the Staff’s three recommendations for Consumers to provide additional information in future rate cases. *See, id.*, pp. 400-401. First, Staff witness Mr. Ausum recommended that Consumers “provide both historic[al] and forecasted sales on both a cycle-billed and calendar basis.” 5 Tr 3746. Next, Mr. Ausum proposed that Consumers “provide the 60-months of most recent actual historical, weather normalized historical, and projected sales in the same level of granularity.” 5 Tr 3747. Lastly, Mr. Ausum proposed that Consumers should provide its rationale when deciding that a data request is unreasonable because the data would “allow for a more efficient assessment [by the Staff] of the Company’s sales forecast.” 5 Tr 3748. While Consumers did not address Mr. Ausum’s recommendations, the ALJ found Mr. Ausum’s recommendations to be reasonable and that they “would serve to avoid confusion and better streamline the time-consuming process of assessing the profusion of data involved in a rate case.” PFD, p. 401.

In its exceptions, Consumers states that its projected base tariff revenues are offset by the RSC credit, the RIA credit, and the LIA credit, “which are embedded in the base tariff amount.” Consumers’ exceptions, p. 166 (internal citations omitted). Consumers also reiterates that RIA and LIA credits are available for customers who participate in certain MDHHS programs, while mentioning that RSC customer credits offset \$16.8 million in revenue, with LIA credit offsetting approximately \$1.5 million in revenue. Consumers’ exceptions, p. 166 (citing 5 Tr 1570, 1591).

Consumers continues by mentioning the Staff’s adjustments and how the ALJ ruled on such, contending that the ALJ correctly adopted Consumers’ RSC customer count but was incorrect to “reject [the company’s] RIA count.” Consumers’ exceptions, pp. 166-167. Consumers again asserts that “there is no reason to conclude that customers will have more disposable income and need less assistance in the test year.” *Id.*, p. 167. As such, Consumers asserts, “[t]here is no sound basis to reduce the number of RIA customers[,]” and, if anything, “if adopting a three-year average, the Commission should use the latest figures when rebuttal was filed for a 63,725 three-year average[.]” *Id.*

In its exceptions, the Staff explains that a historical average is indeed prudent for forecasting Consumers’ RSC count because otherwise, Consumers “has a material incentive to over-project customer credits . . . .” Staff’s exceptions, p. 5 (citing 5 Tr 3606-3607). The Staff acknowledges the ALJ’s thought that there was “little risk” in an RSC credit over-projection but asserts that if its “Commission-approved method for projecting the RIA credit is reasonable, then so too is it reasonable to apply to the RSC credit.” Staff’s exceptions, pp. 5-6. The Staff points out that the ALJ agreed that the Staff’s historical three-year method would “smooth out any year-to-year variation in enrollments for the RIA[,]” but it also argues that such an approach is “the most reasonable method” for both RIA and RSC credits alike. *Id.*, p. 6. Thus, the Staff again asks the Commission to approve its method for projecting RSC and RIA credits for a total revenue adjustment of \$1,3235,198. *Id.*

In its replies to exceptions, Consumers refers to its exceptions regarding the Staff’s proposed RIA adjustments. For the Staff’s RSC adjustment, Consumers asserts that the ALJ correctly rejected such. Consumers’ replies to exceptions, p. 47. However, Consumers argues that there are good reasons to treat the RIA and RSC credits differently, as “the senior citizen population does

not fluctuate like the low-income population.” *Id.*, p. 48. Consumers also states that its RSC count for the test year is 6% below current actuals, bolstering the ALJ’s assertion that it is unlikely that Consumers would over-project its RSC credits, with Consumers again asserting that, absent another pandemic, senior citizen numbers are unlikely to plummet by the end of the test year. *Id.*, pp. 48-49. Thus, Consumers concludes that the Commission “should adopt the ALJ’s recommendation and the company’s RSC count and credit level.” *Id.*, p. 49.

In its replies to exceptions, the Staff focuses on the RIA customer count projection, arguing that “Consumers repeats its straw man argument that projecting the RIA customer count requires projecting disposable income of customers.” Staff’s replies to exceptions, p. 25 (internal citations omitted). The Staff asserts that the ALJ was correct in her reasoning that the Staff’s three-year average “better smooths out year-to-year variation” than the two-year historical average of RIA credit disbursements relied upon by Consumers. *Id.* Thus, the Staff concludes that the Commission should adopt its RIA customer count projection. *Id.*

The Commission finds the ALJ’s recommendations to be well-reasoned and supported by the record and therefore adopts Consumers’ RSC count while adopting the Staff’s RIA count. The Commission also agrees with the ALJ regarding her assessment on the Staff’s uncontested recommendations that Consumers provide additional information in future cases, finding that such are reasonable and prudent, and thus, adopts the Staff’s recommendations and directs Consumers to provide the requested information beginning with its next electric rate case. The Commission will further consider the Staff’s recommendations regarding the customer count and sales forecast data in Case No. U-21637 to improve the rate case process.

#### B. Fuel, Purchased, and Interchange Power Expense

Consumers, through its witness Ms. Megan Metz, testified that Exhibit A-140 “is the forecast

of the Company's generation requirements, transmission expenses, and purchased and interchange expenses for the test year ending February 28, 2026." 5 Tr 2304. Ms. Metz explained that the values in Exhibit A-140 were derived from a computer software application called the Aurora Production Costing Program, which was also used in Consumers' 2021 IRP filing, Case No. U-21090. 5 Tr 2305. Ms. Metz explained that Consumers anticipated incurring approximately \$2.125 billion in total PSCR expenses during the test year, with \$77.089 million to be recovered under the Long-Term Retention Rate contract, \$20.188 million to be recovered from Rate LED, and \$2.028 billion to be recovered from Consumers' remaining full-service customers. 5 Tr 2312-2313. As no party contested Consumers' power supply expense calculation, the ALJ adopted such. PFD, p. 402.

No exceptions were filed on this issue.

The Commission adopts Consumers' evidence as proffered.

### C. Other Operations and Maintenance Expense

#### 1. Distribution Operations and Maintenance Expense

##### a. Staking and Locating

Consumers' witness, Mr. Michael Kelly, described the staking and locating sub-program as involving Consumers' "labor and contractor services for the staking and locating of the Company's electric distribution facilities in accordance with the MISS DIG law (Public Act 174 of 2013 ('Act 174'))," which is usually performed by an outside vendor. 5 Tr 962. Mr. Kelly listed five work activity categories relating to the staking and locating sub-program and referred to Figure 49 in discussing 2023 and test year expenses for the sub-program. *See*, 5 Tr 962-963. As shown in Figure 49, the 2023 actual total program cost for this sub-program was \$3,975,053, whereas the projected test year's total program cost is \$6,931,257. 5 Tr 963. To account for this

amount, which is more than would be accounted for by inflation, Consumers listed six primary drivers for increased test year spending:

- (a) increase in the cost per ticket under the contracts with staking contractors (\$1,069,319 total increase);
- (b) anticipated contractor volume increases (\$355,691 total increase);
- (c) Company labor standard labor rate change and volume increase (\$4,970 total increase);
- (d) increases in MISS DIGG 811 membership fees (\$340,733 total increase);
- (e) the dedicated electric asset locating program and expansion (\$1,106,491 total increase); and
- (f) Irth Solutions UtiliSphere ticket management system costs (\$79,000 total increase).

5 Tr 963. In addition, Mr. Kelly testified to an “anticipated increase of 5%” for the test year projection compared to 2023 contractor services, which, he stated, aligns “with the historical data and staking forecasts for the state of Michigan.” 5 Tr 964. Furthermore, Mr. Kelly testified, MISS DIG 811 data showed “a continuous growth in staking and locating ticket requests for the entire state of Michigan . . . .” 5 Tr 965.

The Attorney General’s witness, Mr. Sebastian Coppola, testified that “using the staking requests received only by Consumers Energy[,] the average annual rate of growth over the 2018 to 2023 period has been only 2.5%.” 5 Tr 2848. Mr. Coppola stated that the 5% growth rate that Consumers pointed to “dates back to at least Case No. U-21224.” 5 Tr 2848-2849. Mr. Coppola further stated that the actual 2023 staking results “were approximately 415,000 orders, or 40,000 fewer than projected,” and thus, Consumers’ 5% growth rate was “stale and inappropriate.” 5 Tr 2849. As such, Mr. Coppola recommended a \$200,000 disallowance for the test year. 5 Tr 2849.

Consumers rebutted Mr. Coppola’s testimony, asserting that its statewide MISS DIG projections were appropriate because “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. It is appropriate to use statewide MISS DIG numbers, as the Company has done.” 5 Tr 1049-1050.

The ALJ gave credence to the Attorney General’s argument that Consumers’ “growth rate is consistently lower than the statewide average for staking and locating.” PFD, p. 404. The ALJ also commented that using the statewide average increase has previously provided Consumers with an over-projection, and as such, recommended that the Attorney General’s \$200,000 disallowance be adopted. *Id.*

In its exceptions, Consumers disagreed with the ALJ’s recommendation. Consumers argues that its 5% projection “is in fact less than the statewide rate in five of the last seven years . . . .” Consumers’ exceptions, p. 168. Consumers also repeats its argument that “[l]ocating activity reflects the overall economic situation in Michigan, and does not necessarily follow utility service territory boundaries.” *Id.* (citing 5 Tr 1049-1050). Thus, as Consumers needs to perform staking work, it asserts that its 5% growth rate projection is reasonable to provide “sufficient recovery . . . to ensure the work can be done.” Consumers’ exceptions, p. 169.

In her replies to exceptions, the Attorney General again states that Consumers’ 5% annual growth rate for its Staking and Locating expense was too high for the projected test year. *See*, Attorney General’s replies to exceptions, pp. 146-148. As such, the Attorney General contends that the ALJ was correct in recommending that her \$200,000 disallowance be adopted. *Id.*, p. 147. Notably, the Attorney General contends that Consumers’ argument of a statewide annual growth in staking and locating ticket requests should be rejected because “the Company does not stake

locations outside its service area” and its staking requests for “the average annual rate of growth over the 2018 to 2023 period has only been 2.75%.” Attorney General’s replies to exceptions, pp. 147-148 (citing Exhibit AG-1.34).

The Commission finds the ALJ’s recommendation to be well-reasoned and supported on the record and agrees with the ALJ to adopt the Attorney General’s \$200,000 disallowance.

b. Low Voltage Distribution Reliability Operations and Maintenance

Consumers stated that its LVD Lines Reliability O&M sub-program supplements its LVD Lines Reliability capital sub-program and that the LVD Lines Reliability O&M funds inspection and maintenance of LVD lines assets. 5 Tr 944. Company witness Mr. Kelly testified that “IEEE recommends a certain cadence for inspecting different components of the LVD system, and repairing any issues that are identified. This includes general pole and line inspections, padmount inspections, recloser inspections, capacity inspections, and switch inspections.” 5 Tr 944-945. Mr. Kelly stated that Consumers plans to increase its inspection and maintenance work to align with IEEE recommendations. Consumers projected expenses of \$6,771,000 in the bridge period and \$30,173,000 in the test year, with spending being “\$29,504,000 more than would be accounted for by inflation from 2023 actuals.” 5 Tr 946. Mr. Kelly testified that the large increase was “to align the Company with IEEE recommendations and best practices” and included increases to pole inspections, switch inspections, metro inspections, grid modernization, and digital analytics. 5 Tr 947.

The Attorney General highlighted that Consumers incurred \$0.7 million for LVD Lines Reliability O&M expense in the 2023 historical year, with the largest amount incurred in the last five years of \$1.1 million in 2022. Attorney General’s initial brief, p. 169; *see also*, Exhibit A-106. The Attorney General also highlighted that Consumers had not been following the

IEEE guidelines and best practices, so it was unreasonable to ask for \$30.2 million for the projected test year to make up for the company's "past poor practices." Attorney General's initial brief, p. 169. In recommending her steep disallowance, the Attorney General suggested cutting spending in half for pole, switch, and metro inspections and reducing grid modernization by \$2.713 million, for a \$12.563 million disallowance. *Id.*, pp. 170-171. The Attorney General's witness, Mr. Coppola, suggested spending half of Consumers' proposed test year amount while "increasing it further in the subsequent year" such that \$4.85 million of O&M expense would be removed from the projected test year. 5 Tr 2850.

Consumers disagreed with the Attorney General's "'gradual' ramp-up to IEEE adherence" because it would cut spending in half for pole, switch, and metro inspections by removing \$9.85 million. 5 Tr 1050. Consumers supported its rebuttal by stating that it needed the IEEE adherence amounts to complete required inspections and maintenance and that to receive only half its requested amount would delay "by at least one more year the Company's ability to perform recommended maintenance on its LVD lines." 5 Tr 1050.

The ALJ found that the extent of Consumers' proposed increase in inspections was not justified on the record but that the increase the Attorney General nonetheless supports "will provide sufficient funding for a substantial ramp up in inspections, even if reaching the IEEE standard may take an additional year." PFD, p. 405. However, the ALJ did not agree with the Attorney General's grid modernization O&M disallowance, finding Consumers' projection to be more reasonable, thus adopting only a \$9.85 million disallowance for LVD Lines Reliability O&M expense. *Id.*, p. 406.

In Consumers' exceptions, it maintains that it fully supported its requested expense increase. Consumers asserts that its increase in LVD Line Reliability "is driven by the Company's plans to

align with IEEE recommendations and best practices for inspections and maintenance.”

Consumers’ exceptions, p. 169. Consumers further states that, in developing its Reliability Roadmap, it “identified the spending needed to meet IEEE standards for pole inspections, switch inspections, and Metro inspections, and projected that amount of spend in this proceeding.” *Id.* (citing 5 Tr 1050). Again, Consumers expresses concerns that by cutting inspection expenses by half, it would delay its ability to perform LVD line inspections and maintenance by at least one more year. Consumers’ exceptions, p. 169. Consumers also states that its Grid Modernization expense includes “providing support for programs like line sensors and substation and circuit modernization.” *Id.*, p. 170 (citing 5 Tr 947). The company asserts that maintaining such automated devices includes identifying that equipment is functioning properly, investigating causes of concerns, and repairing or replacing lines as needed. Consumers’ exceptions, p. 170 (citing 5 Tr 946). Thus, Consumers states that its “projected expenses based on the actual maintenance needed for these devices should be approved as more reasonable than the [ALJ] proposal based on a simple two-year average.” Consumers’ exceptions, p. 170.

In her exceptions, the Attorney General argues that \$4.3 million in costs for planning projects seems excessive considering that the company spent less than \$2 million each year from 2021 through 2023. Attorney General’s exceptions, p. 32. Thus, the Attorney General uses the average amount spent for the last two years (as there was no grid modernization spending in 2021), adjusted for inflation, to propose an amount of \$1.609 million for the projected test year. *Id.* Furthermore, the Attorney General asserts that the ALJ erred in adopting Consumers’ position, providing two reasons for her assertion. The first is that Consumers is requesting to more than double its Grid Modernization expense compared to recent historical amounts and that the ALJ claims that “Grid Modernization is somehow different because it supports other programs” such

that the increase in spending is justified. *Id.*, pp. 32-33. Secondly, the Attorney General takes umbrage with the ALJ's decision that her two-year average adjusted for inflation was less reasonable than the Company's projections. *Id.*, p. 33. The Attorney General reminds the Commission that there was no spending for Grid Modernization three years ago in 2021; thus, a two-year average adjusted for inflation is a reasonable basis for calculating the company's grid modernization expense. As such, the Attorney General maintains that there should be a \$2.7 million reduction for Grid Modernization O&M expense.

In its replies to exceptions, Consumers argues that there is no basis to the Attorney General's proposed disallowance simply because it is higher than historical actuals as "it is contrary to the realities of today's marketplace." Consumers' replies to exceptions, p. 50. Consumers also argues that its "Grid Modernization expense represents the ongoing costs for implementing the Company's Grid Modernization initiatives, including providing support for programs like line sensors and substation and circuit modernization." *Id.* (citing 5 Tr 947). Consumers explains that it monitors equipment to ensure it functions properly and repairs and replaces devices as needed. Consumers' replies to exceptions, p. 50 (citing 5 Tr 946). The company concludes by stating that the maintenance for those devices "should be approved as more reasonable than the Attorney General's proposal based on a simple two-year average." Consumers' replies to exceptions, pp. 50-51 (internal citations omitted).

In her replies to exceptions, the Attorney General maintains that the Commission should disallow half of Consumers' pole inspections, switch inspections, and metro inspections, while reducing grid modernization by \$2.713 million. Attorney General's replies to exceptions, pp. 149-151. The Attorney General acknowledges Consumers' exceptions to the PFD, although

she does not delineate any specific argument against Consumers' exceptions. *See*, Attorney General's replies to exceptions, pp. 152-153.

The Commission finds the ALJ's recommendation well-reasoned and supported by the record. Thus, while the Commission accepts the Attorney General's disallowances for pole inspections, switch inspections, and metro inspections, it accepts Consumers' proposed grid modernization expense, ultimately adopting a \$9.85 million disallowance in this area.

c. High Voltage Distribution Lines Demand Operations and Maintenance

In discovery, Consumers admitted that it mistakenly included a \$2.2 million increase in test year funding for HVD Lines Demand O&M instead of for HVD Lines Reliability O&M. Consumers' initial brief, p. 337; 5 Tr 1051; *see also*, Exhibit AG-1.38. Consumers explained that it was increasing its HVD Lines Demand O&M "because recently improved HVD lines inspection technology has resulted in the identification of more anomalies that need to be addressed in this sub-program to prevent customer outages." Consumers' initial brief, p. 337; 5 Tr 1051. Consumers' witness, Mr. Kelly, testified that there now exists a "backlog of anomalies that need to be addressed" and that the increased spending will allow Consumers to clear the backlog and "address newly identified anomalies as they occur." 5 Tr 1051.

The Attorney General highlighted that Consumers admitted that there were no changes to its inspection cycles and that its proposed \$2.2 million increase was a mistake due to a worksheet error. Attorney General's initial brief, p. 172; 5 Tr 2852. While Consumers stated that the \$2.2 million expense was actually for HVD Lines Demand, Mr. Coppola recommended the Commission remove the \$2.2 million forecasted expense because Consumers' testimony did not support the requested increase in O&M expense for HVD Lines Demand. 5 Tr 2852.

The ALJ agreed that the \$2.2 million should be removed from HVD Lines Reliability O&M pursuant to Consumers' admission that it was erroneously added. PFD, p. 407. However, the ALJ departs from the Attorney General's recommendation, having found that Consumers adequately explained that the \$2.2 million will be used for HVD Lines Demand O&M due to the backlog of anomalies that was discovered. *Id.*

In her exceptions, the Attorney General states that the ALJ erred in justifying Consumers' increase in spending due to its backlog of HVD line anomalies. Attorney General's exceptions, p. 34. The Attorney General states that the only evidence Consumers provided of such backlog was witness testimony; no quantitative information was provided, and as such, the Commission should disallow \$2.2 million for HVD Lines Demand O&M. *Id.*, pp. 34-35.

In its replies to exceptions, the company acknowledged the Attorney General's argument in exceptions that the company "did not quantify the extent of the [HVD line anomalies] backlog." Consumers' replies to exceptions, p. 52. However, Consumers argues that no such quantification was needed as its witness "plainly testified that improved inspections have created a backlog of anomalies that will be addressed with the increased spending." *Id.* (citing 5 Tr 1051). Thus, Consumers contends that it fully supported its increase for HVD Lines Demand O&M spending and that the Commission should approve its requested funding.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record and agrees with the ALJ that Consumers adequately explained that the \$2.2 million inadvertently added to HVD Lines Reliability O&M will be removed and instead used for HVD Lines Demand O&M due to the backlog of anomalies discovered. Thus, the Attorney General's proposed disallowance of \$2.2 million is adopted for HVD Lines Reliability O&M, while adding \$2.2 million to HVD Lines Demand O&M.

d. High Voltage Distribution Substations Reliability Operations and Maintenance

Consumers testified that it spent \$2.181 million in 2023 on HVD Substations Reliability O&M expenses, and that it requested \$1.412 million more than would be accounted for by inflation from 2023. 5 Tr 954. It stated that “this increase is part of the broader increase in substation maintenance spending discussed . . . to adhere to the recommended maintenance intervals.”

5 Tr 954. Consumers testified that the HVD Substations Reliability sub-program includes inspections and maintenance that avoid HVD substation outages, thereby decreasing outage frequency and duration while keeping costs down. 5 Tr 954-955.

The Attorney General’s witness, Mr. Coppola, suggested a \$1.4 million disallowance from \$3.6 million in HVD Substation Reliability O&M expenses between 2023 and the projected test year because the “current frequency of inspections is not changing between 2023 and the projected test year.” 5 Tr 2853 (citing Exhibit AG 1.38). Mr. Coppola stated that Consumers’ witness, Mr. Kelly, “provided no additional support” for the company’s \$1.4 million increase above the inflation adjustment. 5 Tr 2853.

The ALJ rejected the Attorney General’s proposed disallowance because she averred that Consumers “has adequately supported an increase in spending based on the increased HVD substation work discussed.” PFD, p. 408.

In her exceptions, the Attorney General disagrees with the ALJ. The Attorney General states that the ALJ erred in relying on Consumers’ witness and that, when asked about the increase in expense and the frequency of inspections compared to Consumers’ 2023 practices, Consumers “did not provide information to justify the proposed increase.” Attorney General’s exceptions, p. 35. The Attorney General argues that the ALJ dismissed the company’s Reliability Roadmap while relying on witness testimony that described increases in substation maintenance spending as

part of such. *Id.*, pp. 35-36. Most notably, the Attorney General notes that Consumers stated that it would not change the frequency of inspections between 2023 and the test year (along with failing to provide information on work practices), and as such, she argues that Consumers “has not established a basis for the proposed spending increase.” *Id.*, p. 36.

In its replies to exceptions, Consumers states that the Attorney General’s discussion of discovery “was only asking for the inspection cycle for a few limited activities” but that “[t]here are other recommended maintenance activities that the Company is seeking to implement through this funding, including a backlog of inspection and repair orders, that were developed based on vendor recommendations, industry best practices, and Company experience.” Consumers’ replies to exceptions, p. 53 (citing Exhibit A-111). Thus, Consumers asserts that the Commission should approve its projected spending to support its inspection and maintenance activities.

The Commission agrees with the ALJ in recommending Consumers’ HVD Substations Reliability O&M expenses in the amount of \$3.6 million as being reasonable and prudent.

e. High Voltage Distribution and Low Voltage Distribution Demand Operations and Maintenance

Consumers stated that its “LVD Substations Demand O&M sub-program includes expenses for emergent restoration and corrective maintenance on LVD substation equipment and facilities.” 5 Tr 978. Consumers also admitted that it needs to “correct situations where equipment in substations violates National Electric Safety Code (‘NESC’) requirements for working space clearance . . . [and that] the Company has committed to complete all this work by 2028 under a 10-year plan.” 5 Tr 958. As such, Consumers projected LVD Substations Demand O&M expenses of \$9,437,000 in the projected test year. 5 Tr 958.

Consumers stated that its “HVD Substations Demand O&M sub-program includes expenses for unplanned and emergent restoration, as well as corrective maintenance on HVD and Strategic

Customer substation equipment and facilities.” 5 Tr 959. Likewise, Consumers admitted that it is “required to correct several situations where equipment in substations violates NESC requirements for working space clearance . . . [and that it] has committed to complete all this work by 2028 under a 10-year plan.” 5 Tr 959. Thus, Consumers has requested \$7.803 million in the projected test year for its HVD Substations Demand O&M expense. 5 Tr 959.

Consumers stated that the work identified through inspections for both LVD and HVD substations “reduces the potential for outages from unplanned events” and that “it is almost always more cost efficient to perform the work in a planned manner than waiting for the unit to fail [from unplanned events]. This provides value to the customer and provides the best reliability.” 5 Tr 960. Consumers stated that the projected increases will allow it to perform additional inspections and corrective maintenance. Furthermore, Consumers plans on doubling its LVD substation inspection cadence by moving from a bi-monthly to a monthly inspection schedule. Exhibit AG-1.38; *see also*, Exhibit A-111.

The Attorney General recommended a disallowance of \$5.308 million for LVD Substation Demand O&M and a \$4.467 million disallowance for HVD Substation Demand O&M, with these numbers based on a three-year average historical expense adjusted for inflation, as Consumers’ numbers “are more than 100% of the 2023 O&M expense amounts.” 5 Tr 2854. Furthermore, the Attorney General found that there was “no sound basis” in Consumers’ claim that moving from bi-monthly to monthly inspections will increase maintenance activity, thus increasing the forecasted O&M expense. 5 Tr 2854. Instead, the Attorney General argued, the forecasted O&M expense should be lower as problems would be discovered sooner before they become more severe, resulting in “lower maintenance and repair costs[,] not more.” 5 Tr 2854. Furthermore, the Attorney General calculated that LVD facilities’ expense, adjusted for inflation, should be

\$4.129 million, while HVD facilities' expense, adjust for inflation, should be \$3.336 million.

5 Tr 2854-2855. As such, the Attorney General recommended a total disallowance of

\$9.775 million from the forecasted O&M expense for the test year. 5 Tr 2855.

The ALJ agreed with the Attorney General "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." PFD, p. 409. As such, the ALJ recommended adoption of the Attorney General's proposed disallowances of \$5.308 million for LVD Substations Demand and \$4.467 million for HVD Substations Demand based on a three-year average historical expense that was then adjusted for inflation. The ALJ also agreed that the \$2.2 million should be removed from HVD Lines Reliability pursuant to Consumers' admission that it was erroneously added. PFD, p. 407. However, the ALJ also adopted Consumers' explanation that the \$2.2 million error admitted to in HVD Lines Reliability will be used for HVD Lines Demand O&M, as described above.

In its exceptions, Consumers disagreed with the ALJ's recommendation to adopt the Attorney General's disallowance. Consumers instead argued that its current levels of funding for substations demand "have not been sufficient to adequately perform all of the maintenance activities outlined in the Reliability Roadmap and based on the Electric Substation Reliability Guidelines (or 'ESR-1')." Consumers' exceptions, p. 170 (citing Exhibit AG-1.38). Consumers continues, explaining that LVD maintenance includes such activities as single-phase regulator maintenance, single-phase regulator oil samples and dissolved gas analysis, and metro vault inspection and cable testing. Consumers' exceptions, p. 171 (citing Exhibit AG-1.38). Consumers also provided examples of HVD maintenance such as HVD breaker inspections and maintenance, circuit switch inspections and maintenance, and capacity bank inspections and maintenance.

Consumers maintains that its projected spending will allow it to perform the required corrective maintenance activities and inspections. Thus, Consumers maintains that the Commission should approve its projected costs for funding its inspection and maintenance activities which will increase reliability while decreasing outages due to equipment failure, and allow “for more predictable future capital investments.” Consumers’ exceptions, p. 171 (citing Exhibit A-111).

In her exceptions, the Attorney General focused on the \$2.2 million allowance that the ALJ recommended approval for based on an error Consumers conceded to in HVD Lines Reliability. The Attorney General states that the reason to allow the \$2.2 million here was to allow Consumers “to identify more line anomalies, and the increase is intended to clear a backlog of HVD line anomalies.” Attorney General’s exceptions, p. 34 (citing PFD, pp. 406-407). Because Consumers only provided witness testimony regarding the anomalies, the Attorney General argues that the \$2.2 million for HVD Lines Demand O&M expenses should be denied. Attorney General’s exceptions, pp. 34-35 (citing Exhibit AG-1.52).

In her replies to exceptions, the Attorney General maintains that moving from bi-monthly to monthly inspections “would aid in discovering problems sooner before they become perhaps more severe. The result should be lower maintenance and repair costs[,] not more.” Attorney General’s replies to exceptions, pp. 153-154. Thus, the Attorney General maintains that, adjusted for inflation, the expenses for the projected test year are \$4.129 million for LVD Substation Demand O&M and \$3.336 million for HVD Substation Demand O&M, for a total disallowance of \$9.775 million for HVD and LVD Substation Demand O&M expense. *Id.*, pp. 154-155. While the Attorney General notes Consumers’ argument that its current funding levels have been insufficient to perform all of its maintenance activities outlined in the Reliability Roadmap, she maintains that her three-year average adjusted for inflation is reasonable for these expenses and

that even the ALJ found that “a more frequent inspection cycle does not justify a spending increase.” Attorney General’s replies to exceptions, p. 156. As such, the Attorney General states that the ALJ’s recommendations should be adopted.

The Commission finds the ALJ’s recommendation well-reasoned and supported by the record and agrees with the ALJ that Consumers’ switch from bi-monthly to monthly inspections does not justify a spending increase as such was not adequately supported by Consumers on the record. However, historical five-year annual spending demonstrates that actual substation demand expenditures increased significantly from 2021 to 2022 compared to historical annual spending between the years 2019 and 2021, inclusive, such that the Commission finds the two-year average for 2022 and 2023 is more appropriate in reflecting recent O&M expenses than the Attorney General’s calculation using the three-year average. Thus, the Commission will use the two-year average adjusted for inflation, using 2022 and 2023 actuals.

f. Undergrounding Workforce Operations and Maintenance

Consumers, through its witness, Mr. Michael Kelly, testified that its “Underground Workforce Program is responsible for undergrounding work in subdivisions and new business services, and for the general expansion of undergrounding work . . . plus future overhead-to-underground conversions that the Company expects to pursue through the Reliability Roadmap.” 5 Tr 980. Mr. Kelly also explained that the Undergrounding Workforce Program can “perform replacement of failed underground and new underground construction for LVD overhead lines replacement.” 5 Tr 980-981. Consumers, through its witness, Mr. Kelly, projected spending \$2.517 million on undergrounding for the test year. Exhibit A-110. That amount is \$2.173 million more during the test year than what would be accounted for by 2023 inflation actuals. 5 Tr 981; Exhibit A-110,

Line 28, column (i). That is because the workforce “was first established in 2021, and continues to grow” and has not yet reached “a stable number” of employees. 5 Tr 981.

The Attorney General recommended a disallowance of \$2.517 million for Consumers’ undergrounding workforce. *See*, 5 Tr 2856. The Attorney General’s witness, Mr. Coppola, mentioned that the company’s actual 2023 expense was only \$327,000, nowhere close to the projected test year’s amount of \$2.517 million. *See*, 5 Tr 2856. Mr. Coppola set forth several reasons for his projected disallowance. He stated that “the Commission only approved a limited pilot for undergrounding of overhead lines for the 12 months ending February 2025,” and as such, expanding the program “should be rejected as premature” as should “any additional O&M expenses for training a larger workforce.” 5 Tr 2856. Furthermore, Mr. Coppola argues, “the Company should already have trained employees or contractors that can perform this work for the pilot and any future expansions approved by the Commission.” 5 Tr 2856.

Consumers rebutted the Attorney General’s testimony by stating that Consumers “has already started developing an undergrounding workforce, given that some undergrounding work has already been approved by the Commission, meaning those employees are already with the Company.” 5 Tr 1053. Furthermore, Mr. Kelly testified that Consumers’ “underground workforce has a lower cost per hour than a traditional LVD overhead crew, which reduces the cost of undergrounding compared with using overhead crews.” 5 Tr 1053.

The ALJ posited that because Consumers’ undergrounding pilot was ongoing, the Attorney General’s proposed disallowance should be rejected; however, “[t]he Commission should

nevertheless reevaluate the need for additional training funds in Consumers' next rate case." PFD, p. 410.

In its exceptions, Consumers explains that "[u]ndergrounding will replace certain sections of overhead LVD lines with underground lines and associated equipment and services to avoid outages caused by falling trees." Consumers' exceptions, p. 46 (citing 4 Tr 638-639). Thus, Consumers' undergrounding "will reduce the number of outages or the extent of the LVD system impacted during an outage." Consumers' exceptions, p. 46 (citing 4 Tr 643). As such, Consumers argues, the ALJ's recommendation to delay Consumers' expansion of its undergrounding investment should be rejected as it "would only delay the unquestionable benefit to resiliency that Undergrounding provides." Consumers' exceptions, p. 47.

In her exceptions, the Attorney General reiterates that Consumers is asking for \$2.517 million to train employees to perform undergrounding when it only spent \$327,000 for such in 2023, while the Commission only approved a limited undergrounding pilot for the 12 months ending February 2025. Attorney General's exceptions, p. 36 (citing 5 Tr 980; Exhibit A-106). The Attorney General laments that the ALJ "has gotten the proverbial cart before the horse by recommending approving the increase during the pilot and then evaluating [the] need for additional training funds in the next case." Attorney General's exceptions, p. 37. Instead, the Attorney General argues that the Commission should reject Consumers' proposed undergrounding expansion "because it is premature to do so before the pilot is completed and evaluated." *Id.* (citing 5 Tr 2755-2758). The Attorney General presumes that Consumers' "current undergrounding is being done with existing workforce and with current training funding" such that Consumers "or its contractors should already be knowledgeable about undergrounding electrical lines because nearly all new housing subdivisions and many other installations have electrical lines underground." Attorney General's

exceptions, p. 37 (citing 5 Tr 2856). The Attorney General argues that “[i]n any event, it is unreasonable to increase spending for training an underground workforce until an actual need to do so is demonstrated and that has not been done in this case.” Attorney General’s exceptions, pp. 37-38.

In its replies to exceptions, Consumers highlighted that the ALJ rejected the Attorney General’s removal of Consumers’ entire projected expense while the pilot is ongoing. Consumers’ replies to exceptions, p. 53 (citing 5 Tr 2856; PFD, p. 410). As mentioned in its exceptions, Consumers reiterates that the Commission should approve its proposal to ramp up undergrounding as the company “has already started developing the Undergrounding Workforce based on the Commission’s previous approval of some Undergrounding work, and a 100% disallowance of this expense as recommended by the Attorney General would unreasonably remove the funding for those employees already with the Company.” Consumers’ replies to exceptions, p. 54 (citing 5 Tr 1053). Furthermore, Consumers argues that it is cheaper to use “a dedicated Electric Underground Construction crew instead of a traditional LVD overhead crew . . . because the Electric Underground Construction crew has a lower cost per hour.” Consumers’ replies to exceptions, p. 54 (citing 5 Tr 981).

The Commission finds that extending funding for the existing undergrounding workforce, adjusted for inflation, is reasonable. However, agreeing with the Attorney General, the Commission finds that substantially expanding Consumers’ undergrounding workforce is premature given that the ongoing undergrounding pilot has not been completed. Therefore, the Commission finds that \$2.173 million disallowance for this expense is appropriate.

## 2. Forestry Operations and Maintenance Expense

Consumers stated that trees cause more LVD system customer outages than any other source, along with being “a significant cause of customer outages on the HVD system.” Consumers’ initial brief, p. 340; 3 Tr 202. Consumers also stated that “conductors downed by trees and tree branches during major weather events pose a significant safety risk to the public and require a large amount of public safety and utility resources to secure before service restoration activities begin.” 3 Tr 231. Consumers explained that, in this filing, the company is proposing an increase in spending for its LVD line clearing program starting in 2025, as the fifth year of multi-year increases previously described in prior rate cases to ramp up miles cleared each year until one-seventh of total LVD mileage is cleared annually. 3 Tr 204.

Consumers plans to adopt a seven-year effective LVD clearing cycle which is why it has invested more in line clearing recently. Consumers’ initial brief, p. 340; *see also*, 3 Tr 224. The company anticipates that its cost per mile will begin to decline after 2025 once it “moves closer to a seven-year effective cycle on its LVD system and clears more backlog miles.” Consumers’ initial brief, p. 341 (citing Exhibit A-47). Consumers’ witness, Ms. Bolden, also testified that consistent with its last four electric rate cases, Consumers is proposing to increase its LVD-line clearing program spending. Ms. Bolden also asserted that the seven-year effective clearing cycle was the most cost effective as it “provides a better contractor cost per mile . . . and a better cost per primary outage incident . . .” 3 Tr 211. Ms. Bolden further explained that the Commission previously addressed the benefits of a seven-year effective cycle in its Case No. U-20963, as well as DTE Electric’s Case No. U-21062. 3 Tr 212. Ms. Bolden explained that Consumers’ Line Clearing Program “is designed to minimize [tree-caused] occurrences, improve reliable service to its customers, and decrease reactive maintenance and capital expense associated

with interruptions during weather events” and that as Consumers “moves closer to a seven-year effective cycle on the LVD system, improved reliability of service and decreased impacts and costs of weather events to the LVD and HVD systems will be realized.” 3 Tr 203. Ms. Bolden also testified that many plants and animals will see improved habitats, the risk of wildfires from tree contacts will decrease, and public safety will improve. 3 Tr 203. As such, Consumers proposed spending of \$125.086 million for line clearing in the 2025 calendar year. 5 Tr 223-224, Figure 10.

The Staff, through its witness, Ms. Jessica Duell, stated that it supported Consumers’ projected test year O&M expense because it is “crucial to allow Consumers to spend the full amount for line clearing to increase the resiliency” of its electric distribution system. 5 Tr 3835. Staff’s witness, Mr. Nicholas Evans, stated that if Consumers “spends the approved amounts in the Line Clearing programs, deferred accounting treatment shall be authorized for both the overspend and the underspend (two-way tracker).” 5 Tr 3860. However, Mr. Evans also stated that if Consumers does not spend the full amount for line-clearing, “deferred accounting treatment should only be used for the underspend (one-way tracker).” 5 Tr 3860. Likewise, MNC also agreed with Mr. Evans’ rationale, stating that “[m]ore resources are not necessarily the solution . . . [as t]he Company is presently financially incentivized to request and spend as much as [sic] capital as possible to grow rate base and earn shareholder returns . . . [which] creates an implicit bias towards capital overspend . . . .” 5 Tr 2988.

MNSC argued that Consumers’ seven-year cycle for LVD circuits was too long, highlighting that Consumers itself showed that the optimal cycle clearing was a four-year cycle. MNSC’s initial brief, p. 83. MNSC explained that Consumers will not be on its seven-year cycle until 2031, “which is too slow” because, in the meantime, “customers in all classes will experience

excess and unnecessary outages for at least the next 6 years . . . .” *Id.*, pp. 83-84. Furthermore, MNSC contends that Consumers’ approach to line-clearing “lacks transparency” as the company’s circuits have not each been assigned a cycle-length; thus, “[t]here is no transparent way to assess what the *actual* line clearing cycle is for any given circuit.” *Id.*, p. 85 (emphasis in original). Additionally, lines are cleared based on circuit voltage class which is not an industry best practice, such as use of a “true variable cycle.” 5 Tr 3017. Currently, under Consumers’ plan, higher-voltage circuits with slower vegetation regrowth will likely be trimmed more often than lower-voltage circuits with faster vegetation growth which are more likely to cause outages. 5 Tr 3018. As such, MNSC asked the Commission to direct Consumers “to take swift and aggressive action to improve LVD line clearing with a shorter cycle and additional risk-driven refinements” while pausing an increase in distribution capital spending. *Id.*, p. 84. Because “there is significant opportunity to improve Consumers’ LVD forestry programming to reduce outages and outage-related costs for all customers, MNSC is not recommending a reduction in forestry spending for this reason.” MNSC’s initial brief, p. 103. Mr. Denzler also stated that Consumers has admitted that it has “remote sensing and analytical tools necessary to conduct [a four-year cycle], so there should be minimal barrier to establishing a targeted and optimized variable cycle.” 5 Tr 3021. Mr. Denzler provided other recommendations while suggesting that the Commission reject Consumers’ capital spending increases, maintaining the 2023 status quo. *See*, 5 Tr 3021-3022.

On rebuttal, Consumers acknowledged agreement with the Staff’s position regarding line clearing trackers as the “conditions are fair and reasonable.” 5 Tr 1005. However, Consumers disagreed with MNSC on a four-year line-clearing cycle, stating that such “would create upward rate pressure for customers, particularly residential customers” while insisting that its seven-year

effective cycle is the “most cost-beneficial approach to reducing tree-related outages” on the LVD system. 3 Tr 247-248. Consumers maintains that a seven-year cycle will not financially overburden its residential customers. 3 Tr 248. Furthermore, Consumers denied MNC’s claim that it asserted that the company had remote sensing data; however, the company did agree that such technology would assist it, but that it “would require additional funding to supplement the forestry model.” 3 Tr 249-250. Consumers also disagreed with the various other suggestions MNC made to improve its vegetation clearance. *See*, 3 Tr 250-251.

The ALJ recommended approval of Consumers’ proposed test year O&M line clearing expense. PFD, p. 417. The ALJ found that 2025 will be the fifth year of the company’s seven-year LVD line-clearing cycle, and that the company “should again be required to provide an analysis of the feasibility of more aggressive line clearing . . . in its next electric case.” *Id.* Lastly, the ALJ found that, regarding a line clearing tracker, “there is insufficient support for this proposal on the record” and that more details should be provided in the future if the parties wish to pursue such. *Id.*, pp. 417-418.

Consumers’ only exception on this issue is related to the Commission’s direction in Case No. U-21389 for Consumers to analyze “the feasibility of more aggressive line clearing in everything outside of the first zone.” Consumers’ exceptions, pp. 171-172 (quoting March 1 order, p. 163). Consumers asserts that it has already complied with this directive, so it should not be ordered to perform the same analysis again for its next rate case. Consumers’ exceptions, p. 172.

While MNSC did not file exceptions on this issue, it did file replies to exceptions. MNSC focused on Case No. U-21389, in which Consumers was ordered to perform a Formal Optimization Analysis of Line Clearing Cycles (Optimization Analysis) that “should look with

particularity to the customer costs and restoration costs associated with tree-caused outages and not at average values across all outages.” MNSC’s replies to exceptions, p. 14 (quoting March 1 order, pp. 157-161). MNSC criticizes Consumers for filing its Optimization Analysis after this current case was filed such that the findings were not incorporated into the Company’s Reliability Roadmap or its forestry line-clearing O&M approach or spending proposal. MNSC’s replies to exceptions, p. 14. MNSC asserts that the Optimization Analysis “unequivocally shows that more aggressive line clearing cycles would reduce outages with net cost savings for customers,” as Mr. Denzler testified. *Id.*, p. 15 (citing 3 Tr 254-314; 5 Tr 3017-3022). While MNSC posits that Consumers can do more in its line-clearing approach, it supports the company’s Forestry O&M spending because “less spending promises worse outcomes.” MNSC’s replies to exceptions, p. 15.

MNSC supports two recommendations to improve reliability for Consumers’ customers in a cost-effective way: (1) “Consumers should develop programmatic improvements to its line clearing program, starting with a strategy and plan to move faster towards shorter clearing cycles” and (2) Consumers should maintain its status for its 2023 levels of capital spending “because increases are premature ahead of a revised line clearing.” *Id.* MNSC mentions Consumers’ exceptions, while stating that it is “frustrated by the Company’s dilatory and non-committal approach to implementing more aggressive line clearing cycles,” again arguing that Consumers’ seven-year cycle “is ineffective.” *Id.*, p. 16. MNSC asserts that Consumers needs to be ordered to present a clear plan for more aggressive line clearing and that such reporting be consistent with what DTE Electric includes in its own annual tree-trim reports. *Id.* (internal citations omitted). Lastly, MNSC asserts that the Commission “should disallow the proposed spending increases for

HVD and LVD Reliability programs discussed above because they are based upon cost-ineffective strategies – relative to cost-effective line clearing . . . .” MNSC’s replies to exceptions, p. 16.

The Commission finds the ALJ’s recommendations well-reasoned and supported by the record and agrees with the ALJ that Consumers’ proposal of \$125.086 million for its O&M line clearing expense is reasonable and prudent as it will allow Consumers to spend the full amount for line clearing to increase the resiliency of its electric distribution system. However, the Commission agrees with MNSC’s argument that Consumers’ own Optimization Analysis shows that greater investment in tree trimming will result in reduced outages, along with cost savings for customers. Indeed, under cross-examination, the company’s witness Ms. Bolden agreed that “the analysis [underlying Consumers’ Optimization Analysis] concluded that a four-year fixed cycle is the optimal cycle length to maximize customer benefits at the lowest possible cost to customers.” 3 Tr 296. Further, the company’s only purported justification for not embracing this “optimal cycle length” is that it would be inequitable for residential customers to pay a disproportionate amount for the additional costs of shifting to a four-year fixed cycle as the majority of benefits accrue to non-residential customers. Yet the Commission notes that this same reasoning also applies to the company’s current efforts to move to a seven-year effective cycle, as noted by MNSC (*see*, 3 Tr 303-305), and it is unclear why the company would not move forward with at least considering a more aggressive, more optimal tree trim cycle. As such, the Commission expects Consumers to incorporate the results of the analysis underlying its own Optimization Analyses and directs the company to consider the benefits of shifting to a four-year fixed tree trimming cycle in its next electric rate case. At a time when the company is proposing a 44% increase in capital spending in this case to improve reliability, it seems incongruous to keep LVD O&M essentially flat through 2028 even while acknowledging that a four-year fixed tree trimming

cycle is optimal. The Commission notes that this directive to consider the benefits of shifting to a four-year tree trim cycle is also consistent with the ALJ's recommendation that Consumers provide an analysis of the feasibility of more aggressive line clearing in its next electric rate case.

### 3. Service Restoration Operations and Maintenance Expense

#### a. Service Restoration Expense

Consumers is projecting service restoration O&M expenses of \$133.5 million for the projected test year. Exhibit A-106. Consumers' witness, Mr. Andrew Snider, testified on service restoration costs, stating that those costs have been increasing "in large part by catastrophic storms."

5 Tr 2521. Mr. Snider testified that in 2023, more than \$109 million in O&M spending was due to catastrophic storms, with "[f]our of the top 15 worst storm events (in terms of customer impact) of the past 25 years hav[ing] occurred just since 2020 . . . ." 5 Tr 2522-2523. As "Michigan is experiencing more volatile and several weather patterns due to climate change[.]" Consumers expects service restoration costs to increase. 5 Tr 2524. To mitigate such costs, Mr. Snider testified, Consumers has a dedicated team to study and improve restoration efficiencies and has "been able to reduce [its] utilization of mutual assistance and broker crews by 25% and plan[s] to achieve another 25% reduction over the next two years." 5 Tr 2524. Consumers has also entered into a storm on-call agreement with its own internal union workforce as its studies have shown that its "own internal crews complete more than twice as many orders per shift and have a 33% cost advantage compared to contract crews." 5 Tr 2525. Consumers also completed a competitive bid for storm contractors in 2023 which allowed it to secure "46 vendors with more than 1,300 crews under contract to respond to storms," with the vendors ranked from lowest to highest in cost so that the company can utilize lowest cost resources first. 5 Tr 2025. Mr. Snider also testified that upon approval in several prior electric cases such as Case Nos. U-20697, U-20963, and U-21389,

Consumers has used a five-year average to determine storm restoration expenses which is not only reasonable but also “a conservative means of estimating the amount of storm restoration expense the Company will incur in the test year, and results in a base rate amount that is significantly less than the Company incurred in each year of the five-year period.” 5 Tr 2530.

Mr. Snider testified that Consumers’ storm insurance policy was terminated in 2019 “as a result of a 137% increase in policy premiums coupled with a low number of historical occurrences where costs were recovered under the insurance policy[,]” and the company has no future plans to purchase storm insurance “because the potential benefits do not exceed the costs of such insurance.” 5 Tr 2519-2520. Regarding technology that supports Service Restoration, Mr. Snider testified that Consumers was requesting \$54,000 “to resolve software obsolescence of its integrated Tools for Operations Application (‘iTOA’),” which is used to schedule and log work management activities on Consumers’ HVD system. 5 Tr 2535-2536.

The Attorney General’s witness, Mr. Coppola, also used a five-year average of actual expenses from 2019-2023, calculating \$124.872 million before adjustments. Exhibit AG-1.33. This was in part due to tree-related power outage data that showed “an average decline of 2.38% over the five-year period.” Attorney General’s initial brief, p. 181. Using that information, Mr. Coppola’s adjustments led the Attorney General to recommend a disallowance of \$3.618 million for the projected test year with a service restoration expense of \$129.882 million for the projected test year. *Id.*, p. 182 (citing Exhibit AG-1.33).

Mr. Coppola also noted two problems with Consumers’ proposed expense. The first is that Consumers proposes \$2.8 million more in adjusted Service Restoration costs, as shown in Mr. Snider’s Figure 1 in his direct testimony, than the Service Restoration costs set forth on line 22 of Exhibit A-106. Attorney General’s initial brief, pp. 179-180 (citing 5 Tr 2519). The

difference, according to Mr. Snider, was that he excluded insurance recovery credits from his calculations; however, Mr. Coppola contends that the “credits should not be excluded since they offset a portion of actual service restoration costs.” Attorney General’s initial brief, p. 180. In fact, the Attorney General mentioned that in Consumers’ last electric rate case, Case No. U-21389, the Commission agreed ““with the Attorney General that any insurance proceeds and voluntary refund mechanism credits received by Consumers from 2018-2022 should be included in the five-year average of actual service restoration O&M expense.”” *Id.* (quoting March 1 order, p. 170). As such, Mr. Coppola used the actual expense amounts from Exhibit A-106 which included the insurance proceeds.

Mr. Coppola further stated that Mr. Snider’s adjustment for Consumers’ enhanced tree trimming program was inadequate when it made a reduction of \$506,000 attributable to its forestry management program for the test year. Attorney General’s initial brief, p. 181. Mr. Coppola’s basis for disagreement was that the Commission directed Consumers to provide a more detailed analysis of cost savings in Case No. U-20963. *Id.*; December 22 order, pp. 259-260. The Attorney General also argued that Consumers only provided information showing that it assumed “minimal reductions of less than 2% in power outages beginning in 2024” due to the company’s increased forestry management spending, and “could not provide the basis on which it estimated that rate of decline.” Attorney General’s initial brief, p. 181 (citing 5 Tr 2847). However, Mr. Coppola used Consumers’ tree-related power outage data to arrive at an average rate of decline of 2.38% over the five-year period of 2019-2023, and he used that rate to calculate “a service restoration cost savings benefit of \$1.280 million, which is \$774,000 higher than the Company’s calculated amount.” Attorney General’s initial brief, pp. 181-182 (citing 5 Tr 2847; Exhibit AG-1.35). Mr. Coppola’s adjustment led to a service restoration expense of

\$129.882 million for the projected test year, which was \$3.618 million lower than Consumers' forecasted amount, and as such, the Attorney General requested that the Commission reduce Consumers' O&M expense for the projected test year by \$3.618 million, thus approving \$129.882 million for the projected test year. Attorney General's initial brief, p. 182.

Mr. Snider rebutted Mr. Coppola's testimony. Not only did Mr. Snider assert the accuracy of his own five-year average service restoration calculation, but he stated that Mr. Coppola incorrectly calculated potential savings. 5 Tr 2543-2544. Mr. Snider stated that Mr. Coppola miscalculated future expenses due to Consumers no longer having storm insurance and no longer having a voluntary refund mechanism for storm restoration expense. 5 Tr 2543. Mr. Snider also stated that Mr. Coppola incorrectly recommended "a disallowance of \$0.78 million due to a re-forecasted reduction of tree-caused outage incidents and a recalculation of service restoration cost avoidance" because "they are based on the cumulative incident savings, and not the annual savings from one year to the next." 5 Tr 2544. Mr. Snider asserted that Mr. Coppola erred because he did not consider "that as more circuits are cleared on the low voltage distribution ('LVD') system on shorter cycles, there will be fewer tree-caused outage incidents, and this leaves fewer opportunities for savings when the on-cycle circuits are cleared again." 5 Tr 2544.

The ALJ found Consumers' testimony regarding insurance proceeds and its voluntary refund mechanism compelling. *See*, PFD, pp. 421-422. She recommended that the O&M expense for service restoration be approved "based on the five-year average of actual service restoration costs from 2019 through 2023, excluding insurance proceeds and voluntary refund mechanism credits received during that period." *Id.* The ALJ also recommended that the Commission "use Consumers' proposed factors for inflation of 0.367% and forestry program investment savings of 2%" to set the storm restoration O&M at \$133.5 million. *Id.*, p. 422.

In its exceptions, Consumers reiterates that \$133.5 million was its baseline needed to support its service restoration practices based on Mr. Snider’s projection “on a five-year average of service restoration costs from 2019 through 2023, adjusted for inflation and service restoration savings from increased line clearing.” Consumers’ exceptions, pp. 172-173 (citing 5 Tr 2518; Exhibit A-107). Given that the ALJ adopted Consumers’ projection, Consumers did not take exception to the ALJ’s finding.

In her exceptions, the Attorney General reiterates that her witness, Mr. Coppola, used a five-year average restoration service cost but, unlike Consumers, he did not factor in unacceptable considerations such as omitting insurance proceed credits. Attorney General’s exceptions, pp. 38-39. Furthermore, the Attorney General argues, “the Company’s adjustment for savings attributable to the enhanced tree trimming program is too small.” *Id.*, p. 39 (citing 5 Tr 2847-2848). Because of these issues, the Attorney General states that the ALJ “errs by not considering the full record on this issue.” Attorney General’s exceptions, p. 40. The Attorney General again argues that insurance recovery credits should not be excluded “since they offset a portion of actual service restoration costs,” while also reminding the Commission that it previously agreed with the Attorney General that “any insurance proceeds and voluntary refund mechanism credits received by Consumers from 2018-2022 should be included in the five-year average of actual service restoration O&M expense.” *Id.* (quoting March 1 order, p. 170). The Attorney General also argues that Consumers did not provide a basis upon which it estimated its minimal rate of forestry management decline, whereas Mr. Coppola was able to calculate a 2.38% decline over the five-year period. Attorney General’s exceptions, p. 42 (citing 5 Tr 2847; *see also*, Exhibit AG-1.35 and Exhibit AG-1.36). The Attorney General comments that Mr. Coppola’s rate of decline was supported by actual data and “leads to an appropriate service restoration expense

for the projected test year of \$129,882,000” which is “\$3,618,000 lower than the Company’s forecasted amount.” Attorney General’s exceptions, p. 42 (citing Attorney General’s initial brief, pp. 181-182; *see also*, Exhibit AG-1.35).

In its replies to exceptions, Consumers reiterates that the ALJ agreed with the company based on its five-year average which excluded insurance proceeds and voluntary refund mechanism credits. Consumers’ replies to exceptions, p. 58 (citing PFD, pp. 421-422). Consumers also argues that the Attorney General is unable to overcome the new evidence the company produced that “led the ALJ to properly conclude that insurance proceeds and voluntary refund mechanism credits should be excluded from the five-year average.” Consumers’ replies to exceptions, p. 58. Furthermore, Consumers argued that the ALJ did consider evidence of insurance-related proceeds and “concluded they should be excluded.” *Id.*, p. 59 (citing PFD, p. 422). Because Consumers provided proof that it did not renew its insurance policy, it contends that the Commission should find such evidence to be compelling. Consumers’ replies to exceptions, p. 59. Regarding voluntary refund mechanism credits, Consumers states that as the Attorney General “did not address the new record evidence [that Consumers does not intend to request a voluntary refund for storm restoration expenses] or the Commission’s order denying the prior Company request to include storm restoration expense [in Case No. U-21332], the Commission should reject the Attorney General’s exceptions.” *Id.*, p. 60.

The Attorney General maintains that her witness, Mr. Coppola, performed a five-year average from 2019 to 2023 of actual expenses for restoration service cost which amounted to \$124.872 million before adjustments, which, she asserted, is reasonable, unlike Consumers’ five-year average utilizing the same time period. Attorney General’s replies to exceptions, pp. 38-39. Again, the Attorney General notes Mr. Coppola’s issues with Consumers’ proposal,

that the company failed to include insurance proceeds and calculated an insignificant adjustment for savings from the enhanced tree trimming program. *Id.*, p. 39 (citing 5 Tr 2521, Figure 3). The Attorney General avers that the ALJ failed to consider the full issue, thus erring by adopting Consumers' position instead of considering the insurance proceeds and voluntary refund mechanism credits. *See*, Attorney General's replies to exceptions, pp. 39-40. The Attorney General again reminds the Commission that in Consumers' last electric rate case, the Commission agreed with the Attorney General that "'insurance proceeds and voluntary refund mechanism credits'" received by the company "'should be included in the five-year average of actual service restoration O&M expense.'" *Id.*, p. 41 (quoting March 1 order, p. 170).

The Attorney General also disagrees with the ALJ, rejecting her proposed cost savings as Consumers "was previously ordered to provide a more detailed analysis of those cost savings in subsequent rate cases[,] with Consumers assuming only minimal reductions of less than 2% without providing a basis for its estimated minimal rate of decline. Attorney General's replies to exceptions, p. 42 (citing December 22 order, pp. 259-260; 5 Tr 2847; Exhibit AG-1.35).

Mr. Coppola, on the other hand, calculated a rate of decline of 2.38% over the five-year period based on tree-related power outage data that shows that tree-related outages have declined from 11,247 to 8,489 in the five years of 2019 to 2023. Attorney General's replies to exceptions, p. 42. The Attorney General asserts that using the 2.38% rate of decline "leads to an appropriate service restoration expense for the projected test year of \$129,882,000 . . . [which] is \$3,618,000 lower than the Company's forecasted amount." *Id.* (citing Attorney General's initial brief, pp. 181-182; Exhibit AG-1.35). Lastly, the Attorney General asserts that the ALJ's claim of restoration costs trending upward is inaccurate because "[w]hile there was an increase from 2022 to 2023, the

actual expense has fluctuated up and down over the five-year period.” Attorney General’s replies to exceptions, pp. 42-43.

The Commission agrees with the ALJ regarding the company’s proper exclusion of insurance proceeds and the voluntary refund mechanism based on the evidence provided by Consumers in this case showing that storm restoration costs are trending upward and that the company is no longer purchasing insurance, unlike the evidence presented in Case No. U-21389. However, the Commission finds persuasive the Attorney General’s arguments with respect to her calculation of a 2.38% rate of decline for tree-related outages, which is better supported than the company’s 2% rate of decline. On this basis, the Commission adopts a disallowance of \$774,000 to the company’s Service Restoration O&M expense.

b. Service Restoration Cost Sharing Mechanism

Consumers stated that even approving the full amount of \$133.5 million that it is requesting for its service restoration expense, the amount “will still not be enough to cover the Company’s service restoration costs in some years.” Consumers’ initial brief, p. 360. That is because, per Consumers, restoration expenses are driven by volatile weather.

Consumers’ witness, Mr. Snider, testified that Consumers is continuing to pursue its proposed Service Restoration Cost Sharing Mechanism (SRCSM), defining such as “a symmetrical, equalized (50-50) cost sharing mechanism designed to both incentivize cost controls and ensure adequate funding for storm response.” 5 Tr 2531, *see also*, 5 Tr 2544-2557. Mr. Snider explained that the SRCSM “will be triggered if the annual service restoration spend is below or above the five-year average included in base rates . . . . For any annual spending below the five-year average included in base rates, customers will receive a 50% refund of the difference.” 5 Tr 2531.

Mr. Snider testified that while Consumers had “marked improvement in its restoration

performance in recent years,” it had also “outspent amounts for cost recovery year over year.” 5 Tr 2544. Thus, the company’s proposed SRCSM “would reasonably split the risk of storm restoration costs . . . between the Company and its customers.” 5 Tr 2544-2545. Mr. Snider stated that the SRCSM provides both Consumers and its customers “a level of financial clarity and appropriate risk-sharing in the wake of catastrophic storms, which are outside the control of the Company and of customers.” 5 Tr 2534. Mr. Snider testified that the SRCSM is preferable to “the status quo” where either Consumers “shoulders the increase costs of catastrophic storms” or customers fail to benefit “from reduced costs when catastrophic storms do not occur . . . .” 5 Tr 2534. Mr. Snider also averred that the company’s SRCSM is beneficial to customers because “when the weather is unpredictably bad, customers can be assured that the Company will have access to the resources needed to quickly restore customers’ power.” 5 Tr 2546. As such, Consumers’ SRCSM allows it to control costs and “is, far and away, the best mechanism [Consumers] has ever proposed” because it “benefits customers in any scenario.” Consumers’ initial brief, pp. 361-362. Likewise, when weather is extremely good, customers receive a financial benefit such that “[t]he proposed mechanism appropriately balances the risk of variations in storm restoration expense between the Company and customers.” 5 Tr 2546.

Consumers stated that the SRCSM does not conflict with potential audit learnings in Case No. U-21305, with Mr. Snider testifying that the SRCSM “supports any future process improvements by offering customers a refund opportunity . . . and also requires the Company to bear half of any storm restoration costs in excess of the five-year average included in base rates.” 5 Tr 2533-2534. Mr. Snider further testified that the SRCSM addressed the Commission’s concerns concerning the storm restoration mechanism in Case No. U-21389. *See*, 5 Tr 2534-2535.

The Staff opposed the Company’s SRCSM for four reasons:

- 1) Staff is supporting the full service restoration for the test year:
- 2) The Commission rejected similar mechanisms in prior cases ([Case Nos.] U-20963, U-20697, and U-21389);
- 3) Staff does not believe customers will see any benefit to this proposal due to the increase in catastrophic storms [Michigan] has witnessed these past few years; and
- 4) The way the Company currently recovers service restoration expenses provides a stronger incentive to control costs than the Storm Restoration Cost Sharing Mechanism. The Company currently keeps 100% of savings, rather than 50%, and absorbs 100% of cost overages, rather than 50%.

5 Tr 3839. As such, the Staff recommends approval of \$133.5 million for the projected test year O&M expense in service restoration while recommending disapproval of Consumers' SRCSM.

Consumers delineated the four reasons that the Staff objected to its SRCSM and responded to each one in turn. Regarding the first reason, Consumers argued that its proposed expense is a "solid baseline for service restoration cost recovery, but it is not necessarily the 'full' service restoration expense" and "does not account for volatile weather." Consumers' initial brief, pp. 362-363. To support this position, Mr. Snider testified that since 2019, Consumers "has spent \$341 million more in service restoration expense than what was approved for those years."

5 Tr 2545. Furthermore, Mr. Snider testified, Consumers spent over \$38 million more in service restoration O&M expenses for 2024 than what was approved in Case No. U-21389. 5 Tr 2545-2546. Consumers asserted that its SRCSM would allow it to manage volatility caused by weather "while maintaining an incentive to control costs and improve performance." Consumers' initial brief, p. 363.

Regarding the Staff's second complaint, Consumers stated that "[t]here are no grounds for similar concerns about the Company's proposed Cost Sharing Mechanism in this case [as compared to Case No. U-21389], as it provides the right incentives." Consumers' initial brief,

p. 363. Mr. Snider testified in rebuttal that Consumers has shown “*marked improvement in recent years* across all storm classifications except for Catastrophic.” 5 Tr 2547 (emphasis in original). He asserted that “previous rejections of the Company’s prior storm restoration mechanism proposals do not justify rejection of the current proposal because the Company has responded to the Commission’s concerns about the previous storm restoration mechanism proposals.” 5 Tr 2547.

Regarding the Staff’s third point, Consumers argued that it contained “two false premises: (1) it assumes that customers do not benefit if the mechanism operates in bad-weather years when the Company spends more than projected; and (2) it assumes that there will not be years when the Company spends less than projected.” Consumers’ initial brief, p. 364. Mr. Snider testified in rebuttal that “[w]eather is uncertain, and customers will see benefit from the mechanism.” 5 Tr 2548. Mr. Snider also testified that Michigan’s recent volatile weather demonstrates “the vital need for cost recovery to be able to effectively perform storm restoration work.” 5 Tr 2548. Mr. Snider illustrated this point by referring to various recent weather events such as when Hurricane Helene impacted electric customers across 10 states. Mr. Snider asserted that Consumers’ SRCSM provides certainty that when volatile weather impacts Michigan, the company will have sufficient resources to deliver electricity to its customers. 5 Tr 2548. Lastly, Consumers argued that the Staff was “wrong to assume that there will not be years when the Company spends less than projected,” albeit acknowledging that the weather is “getting worse overall.” Consumers’ initial brief, pp. 364-365.

Consumers rebutted the Staff’s last argument by stating that “[f]orcing the Company to shoulder the full burden of the cost risk provides an incentive to prioritize cost control over restoration performance.” 5 Tr 2549; *see also*, Consumers’ initial brief, p. 365. Instead,

Mr. Snider testified, Consumers is equally committed to improving restoration times for customers as it is to controlling its costs. 5 Tr 2549. Mr. Snider goes on to argue that the status quo is currently “penalty heavy,” whereas Consumers’ SRCSM provides “an incentive to improve restoration times that does not penalize the Company but also provides for partial cost recovery when bad weather drives up restoration costs.” 5 Tr 2549.

Like the Staff, the Attorney General also disagrees with Consumers’ SRCSM, stating that this is the fifth time the company has brought up a cost sharing mechanism in its last five rate cases. Attorney General’s initial brief, p. 182. The Attorney General states that while “the percentage of cost sharing with customers has changed[,] the basis mechanism has not changed much from previous proposals other than the percentage of cost recovery.” 5 Tr 2873; Attorney General’s initial brief, p. 182. The Attorney General states that the current proposal is similar to rejected proposals found in Case Nos. U-20697, U-20963, U-21224, and U-21389. 5 Tr 2873; Attorney General’s initial brief, pp. 182-183.

The Attorney General proffered five arguments against Consumers’ current SRCSM proposal:

- 1) Despite 2023’s service restoration costs being \$188 million, prior years were lower, with the five-year average being \$124,872,000 before adjustments such as inflation.
- 2) A reasonable O&M expense for service restoration is approximately \$130 million through the test year.
- 3) With the Attorney General’s recommendation, both the high and low service restoration costs are addressed.
- 4) The reason for a large portion in the significant increase in service restoration expense in 2021 was due to additional people to manage the Incident Command System (ICS) for storm preparedness and “significant weather emergencies.”
- 5) The Attorney General believes that Consumers would be incentivized to increase cost via a cost deferral and recovery mechanism because the company would be

able to pass recovery of “50% of any incremental service restoration costs to customers.”

Attorney General’s initial brief, pp. 183-184 (internal citations omitted). Given the five arguments delineated above, the Attorney General’s position is that there is insufficient evidence on the record to establish the need for Consumers’ SRCSM mechanism in this case.

Consumers outlined the Attorney General’s arguments against its SRCSM, referring to them as “superficial and lack[ing] nuance.” Consumers’ initial brief, p. 366. Consumers claims that its current SRCSM proposal is different, takes into consideration prior suggestions, and is improved from prior rejected proposals such that Consumers will not be the only beneficiary and “could not recover more than 50% of any overage through the deferred recovery process.” *Id.* Consumers also posits that, in agreement with Mr. Coppola at 5 Tr 2874, it anticipates that there will be increasingly volatile and unpredictable weather events but that when costs are less than the five-year average included in base rates, customers will receive a refund. *Id.*, p. 367 (citing 5 Tr 2551). Consumers categorized Mr. Coppola’s complaint regarding additional people needed for storm preparedness as “puzzling,” as if Mr. Coppola suggested that an increase in ICS staff was unnecessary in terms of costs and inefficiencies; however, Consumers argued that “ICS is designed to be a scalable system engaging resources *as needed* to manage incidents.” Consumers’ initial brief, p. 367 (citing 5 Tr 2551) (emphasis in original). Mr. Snider also argued that ICS’s pre-staging was a best practice which “only accounts for approximately 3-4% of the total restoration spend” while ICS’s staff is well-trained and “ready to engage where needed.” 5 Tr 2551. Lastly, Consumers relied on Mr. Snider’s testimony that “[t]here is absolutely no upside for the Company to spend more than is recoverable; overspending is always an undesirable financial outcome” to argue against the Attorney General’s position that Consumers’ proposed SRCSM would incentivize Consumers to increase costs. 5 Tr 2552. Consumers argued that “[a]

well-structured incentive construct should match desired outcomes and balance penalties and cost recovery, and the Company's proposed mechanism does both." Consumers' initial brief, p. 367.

MNSC also found fault with Consumers' SRCSM, stating that it would "skew cost recovery in favor of Consumers at the expense of ratepayers and weaken incentives to control service restoration costs." MNSC's initial brief, pp. 104-105. To support its conclusion, MNSC provided three points. The first is that Consumers' proposed SRCSM shifts more risks to the company's ratepayers as extreme weather in Michigan has been on the rise with actual service restoration costs exceeding historical averages. MNSC's initial brief, pp. 105-106 (citing 5 Tr 2519, 2533, and 3023). Thus, it would be more likely that customers would be paying for costs instead of receiving refunds.

MNSC's second argument is that Consumers' SRCSM weakens the company's incentives to control its service restoration costs. For this argument, MNSC relied upon testimony from Mr. Denzler, who explained that Consumers' proposal "would mean that every incremental restoration dollar spent now would cost the Company only \$0.50," thus providing a financial incentive for Consumers to expand its scope of restoration work as it would be 50% cheaper. MNSC's initial brief, p. 106 (quoting 5 Tr 3024). MNSC pointed out that by increasing restoration costs, Consumers would increase the size of its five-year trailing historical average, thus increasing how much it could recover through its base rates. MNSC's initial brief, p. 106 (citing 5 Tr 3024).

Lastly, MNSC pointed out that the Commission has previously rejected similar mechanisms to Consumers' current SRCSM proposal. MNSC stated that in Consumers' last rate case, Case No. U-21389, the company proposed a similar mechanism called the Symmetric Performance Enhancement Mechanism (SPIM). MNSC's initial brief, p. 107 (citing March 1 order, p. 175).

MNSC argued that Consumers is still attempting to allocate too much risk to customers and that the company “is already expected to meet the Service Quality and Reliability Standards, with or without the SRCSM.” MNSC’s initial brief, p. 107 (citing 5 Tr 2535). Per Mr. Denzler, like the SPIM, Consumers’ SRCSM proposal in the instant case should be rejected because “it does not adequately incentivize cost control or any performance improvement.” 5 Tr 3025.

MNC’s Mr. Denzler recommended that the Commission reject Consumers’ SRCSM, stating that Consumers’ “financial recovery for service restoration should be tied to a balanced set of relevant performance metrics to ensure an alignment of incentives to the public interest.” 5 Tr 3025-3026. Mr. Denzler further recommended that, to provide an incentive for innovation and improvement, Consumers be ordered “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.” 5 Tr 3026.

Consumers rebutted MNC/MNSC’s arguments. Consumers argued that its ability to recover 50% of service restoration cost overruns is not an incentive to overspend “when the Company would lose 50% of all the cost overruns.” Consumers’ initial brief, p. 368. Meanwhile, Consumers argued that it should not be allowed to shoulder the risk of natural disasters alone, and as such, its SRCSM “is an appropriately balanced way to share this risk.” *Id.* (citing 5 Tr 2552). Consumers also argued that it indeed has cost-efficiently improved its restoration times with its restoration management team constantly monitoring the weather to identify storm threats early. Consumers’ initial brief, p. 368; 5 Tr 2524. Consumers further argued that its objective “is to reduce the scope and impact of storms as efficiently as possible” but that the one variable that determines the company’s scope of work is storm damage. Consumers’ initial brief, pp. 368-369

(citing 5 Tr 2554). Lastly, in rebuttal to MNC/MNSC's argument that the company's SRCSM proposal is similar to prior proposals in previous cases, Consumers argued that "[t]he Cost Sharing Mechanism stands on its own merits" and that "there is no need for additional metrics." Consumers' initial brief, p. 369 (citing 5 Tr 2555-2556).

The ALJ found that Consumers' proposed SRCSM should be denied because, while Consumers argues that it will share the risk and reward of the SRCSM in expenses with its customers, it is unlikely that its customers will receive a refund given that storm restoration expense has been higher than predicted and will continue to be higher than predicted. PFD, p. 425. Thus, the ALJ found that Consumers' proposed SRCSM in this instant case "is no different than those the Commission denied four times in the past." *Id.* Regardless of whether the Commission adopts or rejects the company's proposed SRCSM, the ALJ suggested that, moving forward, the Commission require Consumers to implement the service restoration performance criteria as set forth by MNC's witness, Mr. Denzler. *Id.*

In its exceptions, Consumers objects to the ALJ recommending that the Commission reject the company's SRCSM, stating that "[c]ustomers would benefit from the mechanism in both bad- and good-weather years, and the mechanism is different from past service restoration mechanisms." Consumers' exceptions, p. 173. Meanwhile, Consumers states that it "is willing to accept conditions [as suggested by MNC's witness, Mr. Denzler], as the ALJ recommended, if the mechanism is adopted." *Id.*, p. 174. Consumers also proposes conditions, but states that if its SRCSM is rejected, "there is nothing to tie the criteria to and no reason to adopt additional criteria beyond the Commission's Service Quality and Reliability Standards that already include service-restoration metrics." *Id.* Consumers states that it is willing to tie its SRCSM to reasonable performance criteria related to required restoration times. *Id.*, p. 175. The company also suggests

tying its SRCSM to its “restoration performance in every weather condition” to “provide a holistic view of the Company’s performance, and the amount to be recovered would be adjusted accordingly.” *Id.*, p. 176. Thus, Consumers argues that it is providing a concession in response to the ALJ’s recommendation such that it “would not offset 50% of the amount that it owes to customers” if it “spends less than projected and fails to restore power as required.” *Id.* Overall, however, the company repeats many of its previous arguments, such that “when the weather is unpredictably good . . . customers will benefit from a refund under the mechanism” and that the SRCSM “appropriately balances the risk of variations in storm restoration expense between the Company and customers.” *Id.*, p. 175 (citing 5 Tr 2549). Consumers also distinguishes its SRCSM proposal from DTE Electric’s Storm Restoration and Cost Sharing Mechanism, which was rejected in the January 23 order, p. 311, stating that its own “mechanism promotes cost controls *and* quicker restoration times.” Consumers’ exceptions, p. 177 (emphasis in original).

Additionally, in its exceptions, Consumers appeals the ALJ’s October 31, 2024 evidentiary ruling granting the Staff’s motion to strike certain pre-filed rebuttal testimony from Consumers’ witness Ms. Myers addressing the SRCSM. Consumers’ exceptions, pp. 198-200.<sup>33</sup> Consumers avers that its witness, Mr. Snider, presented testimony opposing that of the Staff, Attorney General, and MNC, explaining why the company’s SRCSM should be approved. Consumers’ exceptions, p. 199 (citing 5 Tr 2544-2557). Turning to the subject of the motion to strike, the company states that it supplied pre-filed rebuttal testimony from Ms. Myers, offering an alternative proposal that “would defer any amounts incurred for service restoration expense that are above or below the amounts included in base rates for future recovery from or refund to

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<sup>33</sup> Per Mich Admin Code, R 792.10433(5), a party may appeal the ruling of a presiding officer in exceptions.

customers.” Consumers’ exceptions, p. 199. Consumers argues that its alternative proposal, offered in the stricken rebuttal testimony, “was prompted by and in response to the parties’ testimony that the SRCSM should be rejected, and was not something that should have been included in the Company’s direct case” as it was “not ‘supplemental direct’ testimony.” *Id.* Consumers asserts that its alternative proposal “was not an entirely new proposal” but merely “provided a limited number of adjustments” to its original proposal, and, as such, Ms. Myers’ rebuttal testimony should not have been stricken as “[t]he parties had the opportunity to review and present testimony responding to the primary aspect of both [the original and alternative] proposals.” *Id.*, pp. 199-200.

The Staff addresses Consumers’ SRCSM concession, stating the Commission should reject it as Consumers presented it for the first time in its exceptions, which is contrary to Mich Admin Code, R 792.10435(3) and (4). Staff’s replies to exceptions, pp. 35-36. The Staff asserts that “[a]s Consumers did not make this proposal until the exceptions phase, there is no record evidence supporting it. In fact, there is not a single citation to the record or law . . . .” Staff’s replies to exceptions, p. 36. The Staff avers that Consumers anticipated such in its exceptions “by claiming it is merely ‘a concession in response to the ALJ’s recommendation’ and ‘a limiting condition that the Company is voluntarily accepting if the Commission approves its proposed mechanism.’” *Id.*, p. 36 (quoting Consumers’ exceptions, pp. 176-177). Furthermore, the Staff asserts, Consumers knows that the Commission has repeatedly rejected cost sharing mechanism proposals and that the proper time “to address the deficiencies with these past proposals was during the submission of the application,” and as such, the Commission should reject Consumers’ SRCSM proposal in this case. Staff’s replies to exceptions, p. 36.

The Attorney General also highlights that Consumers’ “current proposal is the fifth variation

on this [cost sharing mechanism] theme in as many rate cases.” Attorney General’s replies to exceptions, p. 157. The Attorney General goes on to reassert the five reasons it proffered in her initial brief as to why Consumers’ SRCSM proposal “is unjustified and unnecessary.” *Id.*, p. 159 (citing Attorney General’s initial brief, pp. 182-184). Again, the Attorney General recommends rejecting Consumers’ SRCSM proposal, while approving the reasoning and analysis set forth by the ALJ. Attorney General’s replies to exceptions, p. 160.

MNSC also filed replies to exceptions regarding Consumers’ SRCSM proposal. MNSC highlights that Consumers is already “expected to ‘deliver for customers’ by meeting the Service Quality and Reliability Standards for service restoration – and has expressed its ‘commit[ment] to meeting or exceeding’ those standards – irrespective of whether the Commission approves” its proposed SRCSM. MNSC’s replies to exceptions, p. 29. Furthermore, MNSC asserts that the ALJ correctly concluded that given storm trends, “customers are *unlikely* to realize a refund.” *Id.* (citing PFD, p. 425) (emphasis in original). MNSC points out that even Consumers acknowledged that weather volatility is rising such that Consumers’ proposed SRCSM does not evenly distribute risk. MNSC’s replies to exceptions, p. 29. MNSC asserts that the Commission’s reasons for rejecting Consumers’ previous proposals still apply despite Consumers’ assertions that it made appropriate changes based on the Commission’s prior rejection, as “those changes [from the SPIM to the SRCSM] have not solved the problems the Commission identified in Case No. U-21389.” *Id.*, pp. 29-30.

Along with rejecting Consumers’ SRCSM proposal, MNC’s witness Denzler recommended “that the Commission direct Consumers to develop 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.” *Id.*, p. 30 (quoting 4 Tr 3026). MNSC agrees with the Staff that when Consumers stated that it would accept such metrics as a concession if its SRCSM was approved, the company was indeed posing a new proposal, “one that Consumers is presenting far too late for consideration in this case” such that, if it were to be approved, “would deprive MNSC and other parties of the opportunity to review and respond . . . .” MNSC’s replies to exceptions, p. 31. Thus, Consumers’ SRCSM proposal should be rejected according to MNSC.

In Consumers’ replies to exceptions, it merely requests that the Commission approve its SRCSM, including approving its “accounting requests and use of regulatory assets or regulatory liabilities, as needed” as related to its SRCSM. *See*, Consumers’ replies to exceptions, p. 75.

In its replies to exceptions, the Staff again argues that Consumers proposed its SRCSM at the exceptions phase and as such, “there is no record evidence supporting it. In fact, there is not a single citation to the record or law in the three paragraphs describing this new proposal.” Staff’s replies to exceptions, p. 35 (citing Mich Admin Code, R 792.10435(3), (4)). Additionally, the Staff notes that the Commission has repeatedly rejected Consumers’ cost sharing mechanism proposals. Staff’s replies to exceptions, p. 36. Given these two reasons, the Staff posits, the Commission should reject Consumers’ current proposed SRCSM. *Id.*

MNSC supports the ALJ’s recommendation to reject Consumers’ SRCSM, quoting the PFD, which summarized the SRCSM’s flaws. *See*, MNSC’s replies to exceptions, p. 28 (quoting PFD, p. 425). MNSC goes on to repeat the arguments that it made in its exceptions: that Consumers is expected to meet the Service Quality and Reliability Standards for service restoration; and that customers are not likely to realize a refund, given the state’s storm trend evidence. *See*, MNSC’s replies to exceptions, pp. 28-29. MNSC also addressed Consumers’ assertion that it addressed the reasons its last proposed mechanism was rejected, stating that Mr. Denzler testified that the

“reasons for rejecting that mechanism still apply here.” *Id.*, p. 29 (citing 5 Tr 3025). Likewise, MNSC reiterated its proposed service restoration performance criteria described by Mr. Denzler, arguing that Consumers’ willingness to accept conditions upon approval of its SRCSM was presented too late, and that such is “unsupported by testimony and long after the closing of the evidentiary record.” MNSC’s replies to exceptions, pp. 30-31.

MNSC also asks the Commission to uphold the ALJ’s ruling striking Consumers’ witness Ms. Myers’ rebuttal testimony. *See*, MNSC’s replies to exceptions, pp. 54-55. MNSC argues that “[t]he standard for reviewing the ALJ’s evidentiary decision is abuse of discretion” such that “the result must be so palpably and grossly violative of fact and logic that it evidences perversity of will, defiance of judgment or the exercise of passion or bias.” *Id.*, p. 54 (quoting, among other sources, the October 30, 1984 order in Case No. U-7660, p. 4). However, MNSC posits that Consumers did not argue that any abuse of discretion occurred but merely asserts that Ms. Myers’ testimony was not improper. MNSC’s replies to exceptions, p. 54. MNSC argues that Ms. Myers’ testimony “was not proper rebuttal” as it merely supplemented her direct testimony and did not contradict, explain, or disprove any other party’s argument on this issue, and as such, the ALJ’s ruling was correct, was not an abuse of discretion, and should be upheld. *Id.*, pp. 54-55. Thus, MNSC asks that the Commission adopt the ALJ’s recommendation rejecting Consumers’ proposed SRCSM while directing it to develop performance criteria for consideration in the future.

The Commission finds the ALJ’s recommendation to not approve the company’s proposed SRCSM to be well-reasoned and supported by the record. The Commission agrees with the ALJ that Consumers’ SRCSM proposal in the instant case is akin to the company’s previously proposed mechanisms and does not see sufficient benefit for customers to outweigh the additional risk this proposal would place on them. While severe storms are unpredictable, the company has more

control over the costs associated with restoration than customers do and therefore should bear more of the risk. The Commission thus rejects Consumers' SRCSM proposal in this case. However, the Commission declines to adopt the ALJ's recommendation that Consumers implement restoration performance criteria, as this overlaps with the newly implemented Financial Incentives and Disincentives in Case No. U-21400.

Turning to the motion to strike, the Commission agrees with the ALJ and finds that Ms. Myers' testimony appearing at 4 Tr 436-437 was properly stricken. As Consumers points out, in its direct case, the company's proposal provided that "if the annual service restoration spend is below the amount included in rates, customers will receive a 50% refund of the difference, and if the annual service restoration spend is above the amount included in rates, 50% of the difference will be eligible for deferred recovery." Consumers' exceptions, p. 199 (citing 5 Tr 2531). Conversely, Ms. Myers' rebuttal testimony proposes that the Commission simply adopt deferred accounting for the SRCSM. The Staff objected to being presented with a new proposal for service restoration cost recovery on rebuttal, with no opportunity to address or refute that testimony, and MNC agreed. Motion to strike, pp. 3-4; MNC's response in support, pp. 1-2. The Commission agrees with the ALJ's finding that this is a "brand-new proposal." 3 Tr 325. The proposal to simply rely on deferred accounting does not appear in the company's direct case. The purpose of rebuttal is not to have another chance at one's direct case but rather to rebut the direct cases of the other parties. Ms. Myers' testimony offers a new proposal but does not contradict, repel, explain, or disprove evidence produced by another party, and only impeaches the company's own direct case. *See, Kirk v Ford Motor Co*, 147 Mich App 337, 345; 383 NW2d 193 (1985). The Commission thus affirms the ALJ's October 31, 2024 ruling.

#### 4. Generation Operations and Maintenance Expense

Consumers' witness, Mr. Richard Blumenstock, testified that "[t]he major drivers [in determining the requested O&M expenses for cost recovery] are identifying the funding needed to support the daily operation and maintenance of the Company's fleet of generating facilities and identifying the funding needed for certain internal organizations that support Generation Operations." 5 Tr 1490. Consumers projected a total Generation O&M expense of \$111.851 million for the test year. 5 Tr 1491; Exhibit A-43. Mr. Blumenstock stated that the total O&M expense for 2023 through the projected test year resulted in an average annual decrease of approximately 2.7%. 5 Tr 1492-1493.

Mr. Blumenstock explained that Generation O&M expenses are categorized into four major sections: base; environmental operations, major maintenance, and retention and separation. 5 Tr 1492. He explained that base O&M expenses are broken down into two categories: labor and non-labor. 5 Tr 1492. While labor makes up the majority of the base O&M expenses, both categories have a predictable rate of increase, whereas non-labor costs involve those items required to operate electric plants. 5 Tr 1492. Non-labor generation O&M costs cover such items as vehicle and equipment fuel, tools, cleaning supplies, security, and road and grounds maintenance. 5 Tr 1492. Actual 2023 O&M expenses were developed by accessing Consumers' internal accounting records, whereas the 14-month projected bridge period and projected test year are determined "by considering staffing levels and historical spending." 5 Tr 1492-1493.

Mr. Blumenstock also explained that Environmental Operations and Major Maintenance were identified on Exhibit A-43, showing adjusted O&M expenses that "are new or projected to change from past years' expense levels." 5 Tr 1493. There is an appreciable decrease from \$9.225 million to \$2.584 million in the Retention and Separation expenses because the Karn

(Units 1 and 2) sites and Campbell (Units 1, 2, and 3) sites have retired or are retiring, respectively. 5 Tr 1493, 1499. Because Consumers received approval to defer the recovery of the Karn and Campbell retention and separation amounts, it is not requesting O&M recovery of \$4.621 million as the projected amount for the test year. 5 Tr 1513. Mr. Blumenstock also projected that Consumers would incur \$31.203 million in Major Maintenance O&M expenses during the test year to maintain reliability, such as allowing its “plants to avoid equipment issues.” 5 Tr 1300; Exhibit A-43. However, Mr. Blumenstock testified, Major Maintenance expenses are not routine from year to year because the “outages occur relatively infrequently.” 5 Tr 1500.

The Attorney General rejected Consumers’ Base O&M expense calculation for the test year, noting 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.” 5 Tr 2857. As such, the Attorney General proposed two adjustments to reduce the Generation O&M expense related to the Croton Hydro plant and Karn Units 1 and 2.

Regarding the Croton Hydro plant, the Attorney General’s witness, Mr. Coppola, “used the historical expense of \$1,665,000 and adjusted it for inflation through the end of the projected test year” which resulted in an expense of \$1.747 million, much closer to the \$1.664 million average O&M expense for the Croton plant compared to Consumers’ projection of \$3.055 million for the test year. 5 Tr 2857. The Attorney General also took umbrage with Consumers linking Hardy, Roger, and Croton Hydro expenses all under Croton without providing notice of such, stating that “the Company has not provided any justification for the increase in expense for the projected test year versus the historical amount.” Attorney General’s initial brief, pp. 185-186. Thus, the

Attorney General recommended that the Commission remove \$1.308 million from Consumers' projected O&M expense for the test year. *Id.*, p. 186.

Mr. Blumenstock admitted that the O&M expense projected for the Croton Hydro Unit in the amount of \$3.055 million as presented in Exhibit AG-1.40 was incorrect because it "erroneously included \$53,333 for a project (Cooke Right and Left Upstream Wingwall Repair) that was incorrectly attributed to the Croton Hydro Unit." 5 Tr 1529. However, Mr. Blumenstock did not agree with Mr. Coppola's analysis because the Croton Hydro unit provides maintenance and operations "for all three Muskegon River Hydro Units--Croton, Hardy, and Rogers," which is an actual O&M expense that Mr. Coppola ignored. 5 Tr 1529. Because of this, Mr. Blumenstock stated that the "actual incremental amount is less than \$100,000 and can be accounted for in the incremental Part 12 comprehensive assessment work required to be performed on the Muskegon River Hydro Units." 5 Tr 1530. Furthermore, company witness, Mr. Adam Monroe, testified that if the Commission did not allow hydroelectric generation capital expenditures for the bridge period and test year to be included in rates, the Commission could still "authorize the Company to record the revenue requirement of actual spending for the River Hydros for the bridge period and test year to a regulatory asset until the determination of the future of the River Hydros is certain and base rates are set to appropriately include actual spending." 5 Tr 2390-2391.

The ALJ agreed with Consumers that the Commission should reject the Attorney General's proposed \$1.308 million disallowance, while not faulting "Mr. Coppola for not realizing that these expenses also relate to the Hardy and Rogers Hydro Plants" such that when the historical Base O&M expenses for all three plants are considered, the Croton Hydro Unit's O&M expense appears reasonable. PFD, p. 431. The ALJ noted that if the Commission were to agree with Mr. Coppola's method, she recommended that there be an adjustment "to \$91,000 rather than the

\$1.308 million proposed by the Attorney General to reflect the expenses required for all three hydro plants,” since the difference between the historical three-year average and the projected Base O&M expenses for the test year is only \$91,000, “which is attributable to increased FERC requirements.” *Id.*, p. 432. Finally, regarding hydroelectric units overall, the ALJ stated that, if the Commission adopts Mr. Monroe’s proposed alternative to allow “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 [at the Campbell units].” *Id.*, p. 433.

In its exceptions, Consumers states that there is no basis for the ALJ’s general alternative proposal that ““expenditures for hydro facilities included in Generation O&M expenses should be removed.”” Consumers’ exceptions, p. 179 (quoting PFD, p. 433). Consumers asserts that such “would be catastrophic to the Company’s ability to operate those plants in the test year,” as Consumers “will still be the owner and operator of the plants during the test year of this case, and Consumers Energy will still incur all of its ordinary O&M expenses during the test year for those plants.” Consumers’ exceptions, p. 179. Thus, Consumers urges the Commission to reject the ALJ’s “unsupported and unexplained link to removing the Company’s O&M expense.” *Id.*

The Attorney General contends that while Consumers’ witness, Mr. Blumenstock, stated that the Hardy, Roger, and Croton expenses are all linked under the Croton expenses, “there is no such link provided” in Exhibit AG-1.40. Attorney General’s exceptions, p. 44. As such, the Attorney General argues that Consumers “has not provided any justification for the increase in expense for the projected test year versus the historical amount.” *Id.* First, the Attorney General contends, “it is not clear what historical cost the [ALJ] is referring to” when discussing the historical base O&M expenses for the Hardy and Rogers Hydro plants. *Id.*, p. 45. Next, the Attorney General takes

exception with Consumers providing simple summary level forecasts instead of project-level detail “to justify any incremental work that needs to be done above historical levels.” *Id.* (citing 5 Tr 1528); *see also*, Attorney General’s initial brief, p. 186.

In its replies to exceptions, Consumers highlights that the Attorney General’s witness made errors which were acknowledged in the PFD but that she “persists in arguing that the Commission should adopt [her] erroneously conceived disallowance.” Consumers’ replies to exceptions, p. 55 (citing Attorney General’s exceptions, pp. 43-45). This relates to the Attorney General’s proposed disallowance of \$3.055 million for O&M expenses for Croton, which, after Consumers’ acknowledgement of inadvertently attributing \$53,333 for Cook to Croton, Consumers requested approval for \$3.001 million. Consumers’ replies to exceptions, p. 55 (5 Tr 1529). Consumers also took issue with the Attorney General’s argument that the company forecasted approximately three times the historical amount for Croton while failing “to notice that the Company’s forecasted O&M [expenses] did not include any O&M amounts for the Hardy and Rogers Dams, even though there was historical spending for those units in the exhibits.” Consumers’ replies to exceptions, p. 56. Consumers again pointed to Mr. Blumenstock’s testimony that the Croton Unit’s projected O&M expense ““is based upon the Croton Headquarters which provides maintenance and operations for all three Muskegon River Hydro Units--Croton, Hardy, and Rogers.”” *Id.* (quoting 5 Tr 1529). Consumers repeats its position that if the Attorney General had applied Mr. Coppola’s methodology for calculating the proposed disallowance while using the historical average for all three units, there would have been a difference of only \$91,000 and that the \$91,000 “is explained by the Company’s testimony” due to “an increase in the scope of the Company’s FERC Part 12 inspections.” Consumers’ replies to exceptions, p. 57 (citing 5 Tr 1528, 1529). As such, the company contends that the Commission should approve \$3.001 million of O&M expense for the

Croton Unit which aligns with the ALJ's recommendation. Consumers' replies to exceptions, p. 58.

The Attorney General also disagreed with Consumers' forecasted O&M expense of \$10.4 million for the Karn plant, stating that such "is overstated and should be adjusted." Attorney General's initial brief, p. 186. Mr. Coppola explained that Consumers shut down Karn Units 1 and 2 at the end of May 2023; "[t]herefore, during 2023, the plant had five months of operations for Karn 1 and 2 and 12 months of operation for Karn Units 3 and 4." 5 Tr 2858. Mr. Coppola noted that for 2023, Consumers reported \$16.554 million in O&M expense for the Karn plant despite Units 1 and 2 having only partial operation, such that he would "expect a decrease of \$20,414,000 ( $\$10,207,000 \times 2$ ) in the annual expense for the Karn plant." 5 Tr 2858. Mr. Coppola suggested that the Commission remove \$3.745 million from Consumers' forecasted O&M expense for the test year because he calculated the remaining expense for Karn 3 and 4 for 2024, 2025, and the projected test year to be \$6.666 million after inflation, which "is \$3,745,000 lower than the \$10,411,000 that the Company forecasted for the Karn plant expense for the projected test year." 5 Tr 2858.

Mr. Blumenstock rebutted Mr. Coppola's testimony for the Karn Steam Unit as well, stating that "Mr. Coppola's starting point of \$26.761 million was incorrect . . . . The corrected base O&M expense reduction totals \$11.207 million." 5 Tr 1531 (citation omitted). Mr. Blumenstock also stated that Mr. Coppola erred in his methodology in expecting a decrease in Karn's annual expense of \$20.414 million. 5 Tr 1531. Mr. Blumenstock stated that "Mr. Coppola multiplies the seven-month reduction for Karn Units 1 and 2 by two rather than performing a pro-ration," which would correctly yield "an annual base O&M expense reduction of \$19.212 million." 5 Tr 1531 (citation omitted). That pro-ration, after applying inflation, would result in a projected base O&M

expense for Karn Units 3 and 4 of \$8.979 million, “thereby reducing the difference to \$1.437 million.” 5 Tr 1532 (citation omitted). Mr. Blumenstock explained that the \$1.437 million in expense for Karn site operations is necessary because “base O&M expense for activities such as security and facilities can no longer be shared between four units, they must now be fully covered by Karn Units 3 and 4.” 5 Tr 1532.

The ALJ also agreed with Consumers to reject the Attorney General’s proposed disallowance of \$3.745 million in forecasted O&M expense because “Mr. Coppola incorrectly calculated the historic[al] 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 represented a seven-month reduction.” PFD, p. 432. The ALJ found that the correct calculation was a projected Base O&M expense of \$8.979 million, adjusted for inflation, which takes into consideration shared costs now covered completely by Karn Units 3 and 4. *Id.* Likewise, the ALJ stated that if the Commission agreed with Mr. Coppola’s calculation, then the adjustment be limited to \$1.437 million rather than the \$3.745 million as proposed “to reflect the required corrections to Mr. Coppola’s calculation.” *Id.*, p. 433.

The Attorney General did not file exceptions on this issue.

Consumers took exception to the ALJ’s alternative proposal recommending that, “if the Commission adopts the deferral mechanism for the River Hydro capital investments proposed by the Company, the ‘expenditures for hydro facilities included in Generation O&M expenses should be removed.’” Consumers’ exceptions, p. 179 (quoting PFD, p. 433). Consumers argues that there is no basis for the ALJ’s recommendation, that it was not proposed by any party in this case, and, thus, “it should be rejected.” Consumers’ exceptions, p. 179.

In her recommendation, the ALJ drew the analogy between the hydro units and the Retention and Separation expenses, both of which are approved for regulatory asset treatment in this case, and recommended disallowance of O&M costs for both on that basis. However, it appears this recommendation was not based on any evidence in the record, and the Commission finds that these two issues are distinct and should be decided differently based on the record in this case. Specifically, the Commission finds that the Retention and Separation expenses for the Campbell coal units are intrinsically tied to the retirement of those units, while the O&M expenses connect to the company's hydro units in largely the same manner as most O&M: the expenses needed to continue to operate and maintain these units. Therefore, the Commission approves Consumers' expense of \$3.001 million for its Croton Unit and \$8.979 million, adjusted for inflation, for its Karn Unit.

While the hydroelectric and steam generation O&M expenses with the Croton and Karn units have been deemed reasonable and prudent in the instant case, the ongoing uncertainty regarding the future of these units warrants continued attention to the spending connected with them. As such, there is no indication or guarantee that continuing O&M expenses for these units will be deemed reasonable and prudent in Consumers' future electric rate cases, and these expenses will need to be fully supported for any future requests for recovery.

#### 5. Customer Experience and Operations Operations & Maintenance Expense

Consumers projected \$25.4 million of O&M expenses for the test year for its Customer Interactions program. 5 Tr 2145. Consumers' witness, Mr. McLean, stated that Customer Interactions has five areas of focus: (1) Digital Customer Operations, (2) Customer Contact Center, (3) Business Customer Care, (4) Credit and Assistance, and (5) Analytics and Outreach. 5 Tr 2145. Of note, Mr. McLean testified about the Credit and Assistance area, which consists of

theft investigations, revenue operations, and energy assistance. 5 Tr 2156. Those groups “manage the Company’s collections cycle and support its most vulnerable customers,” while the Theft Investigation Team “provides the critical service of identifying and ending energy theft . . . [,] [thus] minimizing all customers’ costs.” 5 Tr 2156. Mr. McLean also stated that Revenue Operations “addresses past due customer accounts or those involved in bankruptcy,” while Consumers’ Energy Assistance team administers its “Consumers Affordable Resource for Energy” or “CARE” Program, which assists low-income customers struggling with their monthly energy bills. 5 Tr 2156-2157. Consumers’ actual spend total for its Customer Interactions program in 2023 was \$24.1 million while its projected test year total is \$25.4 million. Exhibit A-13.

a. Collection Agency Services

Consumers projected a \$571,961 increase in Collection Agency Services expenses for the test year. Exhibit S-13.10. However, it also agreed with the Staff’s adjustment and agreed to remove the entire \$571,961 projected expense based on the results of its RFP for its collections services. 5 Tr 2187. Consumers’ witness, Mr. Steven McLean, explained that its RFP costs were higher than anticipated while continuing “to support the costs associated with collection activities.” 5 Tr 2187.

The Staff, through its witness, Ms. Brittney Klocke, testified that “the variance between 2023 and the projected test year is \$571,961.” 5 Tr 3730 (citing Exhibit S-13.7). Ms. Klocke took umbrage with the lack of detail or justification for Consumers’ RFP, and stated that without that information, the “Staff cannot support such a large increase.” 5 Tr 3730. However, Ms. Klocke stated that the Staff would adjust the difference between the test year and 2023 so that “over \$700,000 will still be allocated to this project, to match what was actually spent in 2023.” 5 Tr 3730 (citing Exhibit S-13.7).

As Consumers agreed with the Staff's adjustment, the ALJ recommended adoption of a \$571,961 disallowance. PFD, p. 435.

No exceptions were filed on this issue.

The Commission agrees with the ALJ that the Staff's adjustment of \$571,961 should be adopted as it was agreed to by the company and is both reasonable and prudent.

b. Theft – Field

In its testimony, Consumers stated that at the time of filing, the Revenue Recovery-Field and Revenue Recovery-Theft teams were “two different departments with similar but disparate responsibilities[;]” however, after testimony was filed in this matter, the teams were merged. 5 Tr 2186. Upon merging the two departments, Consumers' projected expenses for Theft-Field increased by \$159,118, and Revenue Recovery-Field expenses decreased by \$111,909 from 2023 expenses, resulting in a net increase of approximately \$47,000. Exhibit S-13.7. As such, Consumers explained that Revenue Recovery-Field expenses involve both disconnection orders and physical investigations of utility theft. Exhibit S-13.8. Thus, Consumers calculated \$47,000 in increased labor expense after the merger, which “reflect[s] 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.” 5 Tr 2186.

The Staff objected to the increase for Theft-Field and instead recommended a disallowance of \$159,118, the amount of increased expenses projected for Theft-Field. Staff's initial brief, p. 105; 5 Tr 3730. The Staff contended that Consumers' Theft-Field and Revenue Recovery-Field teams were too similar to allow an increase from the 2023 expense for Theft-Field, and as such, suggested that the actual 2023 expense of \$395,971 should be allocated for this project for the test year. 5 Tr 3731 (citing Exhibit S-13.7). Furthermore, the Staff opined that Consumers did “not

state exactly when that merger of the two areas occurred,” and as such, it concluded that the costs for the two areas were overlapping and redundant, warranting a disallowance. Staff’s initial brief, p. 106 (citing Exhibits S-13.7, S-13.8, and S-13.9).

The ALJ agreed with the Staff that Consumers did not provide adequate explanation on what the costs included or how the merger affected the costs; however, because of the overlap in expenses that included a decrease in Revenue Recovery-Field, the ALJ found that there was a “true increase of actual costs” of \$47,000, and that the Theft-Field expenses should be reduced by this amount. PFD, p. 437.

In its exceptions, Consumers requests that the Commission reject the ALJ’s recommendation of disallowing \$47,000 of its proposed expense for its Theft-Field O&M expense. Consumers again explained that its Revenue Recovery-Field team and its Theft-Field teams were merged after this matter was filed, with an overall increase of \$47,000 in labor expense. Consumers’ exceptions, p. 180 (internal citations omitted).

In her exceptions, the Attorney General references the ALJ’s decision for its Customer Interactions O&M expense, including a \$47,000 reduction for the Theft-Field expense. *See*, Attorney General’s exceptions, p. 47. Generally speaking, the Attorney General states that the ALJ erred because she “credits the Company with an additional \$1.34 million in expense based on its cost shifting argument, when the basis for that amount has not been completely evaluated.” *Id.* Furthermore, the Attorney General states that Consumers failed to provide information on the cost shifting argument in a timely manner, especially when it knew about its reorganization despite not mentioning such in discovery. *Id.*, pp. 47-48. Thus, the Attorney General argues, “there is no basis for assuming that the Company incurred an additional \$1.35 million in expense [including

\$47,000 additional cost for Theft-Field expense]” to offset her own recommended disallowance. *Id.*, p. 48.

The Commission agrees with the ALJ that Consumers failed to provide any information on how or why the merger of these two departments resulted in an increase of \$47,000. As such, the Commission adopts the ALJ’s recommendation to disallow the \$47,000 additional in labor expense.

c. Customer Interactions

Consumers’ witness, Mr. McLean, testified that “Customer Interactions is responsible for the execution and ownership of all channels of customer interactions,” such as the customer order service tracker and the customer work request web portal. 5 Tr 2145. Mr. McLean testified that there are five areas of focus that have goals of: “(i) providing customers the opportunity to reach Consumers Energy via their channel of choice; (ii) facilitating program enrollment and product selection to meet customer energy needs; and (iii) allowing the Company to achieve its clean energy goals.” 5 Tr 2145. To meet its goals, Consumers projected \$25.4 million of O&M expenses for the test year. 5 Tr 2145; *see also*, Exhibit A-130.

The Attorney General suggested a disallowance of \$2.6 million for Consumers’ Customer Interactions program. The Attorney General’s witness, Mr. Coppola, testified that Consumers O&M expense for Customer Interactions appeared to be overstated when the Attorney General asked for quarterly expense information and found that such was \$1.3 million lower than 2023’s expense and \$2.6 million lower than the projected test year. 5 Tr 2860. Mr. Coppola took further umbrage with Consumers’ response to discovery in which the company stated that “it had not incorporated any savings in the projected test year from large improvements [to customer call

response] . . . even though those improvements will be implemented well before the end of the test year.” 5 Tr 2860 (citing Exhibit AG-1.41).

Mr. McLean rebutted Mr. Coppola’s testimony, stating that Consumers’ quarterly expenses were artificially low because there was a reorganization that shifted people and costs in the first two quarters of 2024, resulting “in an artificially low O&M expense amount relative to the actual cost of operating [those] functions,” with “a shift of \$368,000 of O&M from Customer Interactions to Customer Billing.” 5 Tr 2187-2188. However, in rebuttal, Mr. McLean conceded to a \$571,961 reduction that was effectuated from the company’s reorganization. 5 Tr 2188. Mr. McLean also noted that after the reduction, the projected cost for the test year was \$24.8 million, approximately \$716,000 higher than the historical test year, but “less than it would have been if the Company had based the increase on inflation alone.” 5 Tr 2188. As such, Consumers objected to a revised \$2.1 million disallowance.

The ALJ found the Attorney General’s approach to be reasonable because “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.” PFD, p. 439. Combined with the \$47,000 reduction in Theft-Field and the agreed-to reduction of \$571,961 in Collection Agency Services, the ALJ found that a disallowance of \$1.4 million from the originally proposed \$25.4 million was justified, resulting in a total Customer Interaction O&M expense of \$24 million. *Id.*

Consumers, in its exceptions, argues that the “[ALJ] recommended a Customer Interactions O&M expense of \$24 million,” which was inaccurate. Consumers’ exceptions, p. 180. As discussed above, Consumers merged its Revenue Recovery-Field team and its Theft-Field team after testimony was filed in this matter, with there being an ultimate increase in labor expense of

\$47,000. *Id.* (citing 5 Tr 2186); *see also*, Exhibits S-13.7, 13.8, and 13.9. Consumers also argues that there was a reorganization in the company which experienced “a shift of \$368,000 of O&M from Customer Interactions to Customer Billing.” Consumers’ exceptions, p. 181 (quoting 5 Tr 2188). Consumers argues that while its total projected cost is approximately \$716,000 higher than the historical test year, it is still less than the cost of inflation and thus, is reasonable. Consumers’ exceptions, p. 181.

The Attorney General focuses on Consumers’ Customer Interaction O&M Expense in her exceptions. As mentioned above, the Attorney General points to the PFD as the ALJ credited Consumers with an additional \$1.34 million in expense due to the company’s cost-shifting argument, which “has not been completely evaluated.” Attorney General’s exceptions, p. 47. The Attorney General argues that Consumers failed to provide information in a timely manner, including that of the reorganization, that she could not evaluate it, and that “there is no basis for assuming that the Company incurred an additional \$1.34 million in expense to offset the Attorney General’s recommended disallowance.” *Id.*, p. 48.

Consumers contends that the Attorney General’s exceptions “are inappropriate as they fail to recognize that there was a reorganization in the business” which shifted people and costs but that “[a]ll of the same work is being completed at the projected costs.” Consumers’ replies to exceptions, p. 62 (citing 5 Tr 2187). Furthermore, Consumer contends that the Attorney General failed to acknowledge the company’s \$571,961 concession relating to its Collection Agency Services expenses; thus, “the Attorney General’s proposed adjustment should be modified from \$2.6 million to \$2.1 million.” Consumers’ replies to exceptions, p. 62. Consumers concludes by again stating that its expenses, which are below the cost of inflation, are reasonable. *Id.*

In her replies to exceptions, the Attorney General highlights that Consumers' actual expenses for Customer Interactions for the 12 months ending June 2024 was \$22.7 million, which is \$1.3 million lower than the 2023 expense, and \$2.6 million lower than the test year. *See*, Attorney General's replies to exceptions, p. 161. As such, her witness, Mr. Coppola, concluded that Consumers' Customer Interactions O&M expense "is overstated" and that \$2.6 million should be removed from the forecasted expense. *Id.* The Attorney General also notes that while Consumers conceded to a \$571,962 disallowance, she recommended that the remaining \$2.1 million should be disallowed because Consumers "failed to provide [actual O&M expenses for the four quarters ending June 2024] . . . sooner, which would allow [the Attorney General] to evaluate the proposed costs." *Id.*, p. 162. While the ALJ found the Attorney General's approach to be reasonable, she suggested removing only \$760,000 from Consumers' proposed expense.

The Attorney General categorizes Consumers' exceptions as "meritless" because the company is claiming a projected cost that is higher than the cost of inflation despite a reorganization where "the same work is being completed at the projected cost." *Id.*, pp. 162-163. Furthermore, as the Attorney General contends, Consumers failed to provide accurate information to her which affected what actual cost information she used for her own calculations. *Id.*, p. 163. The Attorney General ends her replies to exceptions by stating that an "inflationary increase is not warranted" simply because the company's increased expense does not exceed the rate of inflation. *Id.*

As stated *supra*, the Commission notes that the recategorizing or shifting of expenditures from one subprogram to another without a clear and traceable explanation lends confusion to the process of identifying historical costs and benefits as well as justifying project expenditures. Because the company was able to trace the movement of costs across programs and calculate the total impact on the Customer Interactions program operating expenses, the Commission finds the

ALJ's recommendation well-reasoned and supported by the record. The Commission thus adopts the ALJ's proposed disallowance of \$760,000 on this issue. *See*, PFD, p. 439.

#### 6. Corporate Services Operations and Maintenance Expense/Insurance

According to Consumers, "Corporate Services includes those areas common to the administrative functions of a regulated corporation[.]" including "[t]he Risk Management area[, which] provides services for[, among other things,] corporate insurance programs[.]" 5 Tr 1721-1722. Consumers explained that "[g]as and electric insurance programs include 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." 5 Tr 1722. Consumers provided that the insurance expenses were based on 2023 actual O&M expenses, adjusted for one-time increases and decreases, and then adjusted for inflation. 5 Tr 1724-1725. In addition to increases related to inflation, Consumers explained that Column (m) in Exhibit A-72 "include[d] three types of line item changes resulting in a \$9,744,564 reduction to the projected test year: (1) \$5,595,864 reduction for insurance distributions; (2) \$600,000 reduction for reduced legal expense; and (3) \$3,548,700 reduction for organizational efficiencies." 5 Tr 1725. Consumers explained that the \$5,595,864 reduction for insurance distributions it used in its calculations was based on "Consumers remov[ing] \$3,519,597 in actual insurance distributions received in 2023 and replac[ing] this with the \$9,115,461 five-year average for insurance distributions" as provided in a table "showing the 2019 through 2023 historical amounts and the five-year average included in the projected test year." 5 Tr 1725-1726; *see also*, PFD, p. 440.

While the Attorney General agreed with the inflation rates Consumers used in its calculations, she took issue with the company's \$16.593 million forecasted insurance expense for the projected

test year. 5 Tr 2842, 2862-2863; *see also*, PFD, p. 440. The Attorney General testified that Consumers provided no calculations to show how the 2025 expense amounts were determined beyond stating that the property insurance premiums were based on estimated values and rate increases, and other insurance premiums within the total forecast were calculated using year-over-year percent increases. 5 Tr 2862. In her initial brief, the Attorney General opined that:

[b]ecause the Company failed to provide adequate details to confirm its premium amounts, Mr. Coppola determined a reasonable insurance expense. He calculated the compound rate of change for the five-year historical insurance premiums and applied that rate of increase to the 2023 actual amount to arrive at the forecasted amount for the projected test year. For refund distributions, he used the five-year average amount from 2019 to 2023. Because these amounts vary significantly from year to year and like injuries and damages and the practice used with insurance premium refund[s] in other rate cases, he used a five-year average approach.

The result is a forecasted insurance expense of \$10,475,000. This amount is \$6,118,000 lower than the Company's forecasted amount.

Attorney General's initial brief, p. 191 (footnotes omitted). Thus, the Attorney General argued that \$6.118 million should be removed from Consumers' forecasted O&M expense for the projected test year. 5 Tr 2863.

In its initial brief, Consumers opined that:

Attorney General witness [Mr.] Coppola's recommendation to remove \$6 million from [Consumers' projected] test year O&M is misaligned with what the Company has requested. Mr. Coppola places the Company's forecasted insurance expense as \$16.6 million, referencing to the Company's discovery response provided as Exhibit AG-1.42. However, this was not the amount the Company projected for the test year insurance expense.

Consumers' initial brief, p. 383 (citations omitted). Consumers pointed out that its "actual projection for the insurance expense that was included in the test year is \$9,846,634 as shown in Exhibit A-242 (MJF-7), which is lower than (although close to) the Attorney General's projections." *Id.* Thus, Consumers argued that:

the Attorney General’s adjustment should not be adopted because a \$6 million adjustment would lower the Company’s insurance O&M request down to about \$3.8 million for the test year, [and] the Company’s actual projection for O&M in the test year of \$9.8 million is already below Mr. Coppola’s projection of \$10.5 million.

*Id.*, p. 384.

In the PFD, the ALJ noted that Consumers’ explanation regarding its “methodology for calculating the [O&M insurance expense] amount [of \$9,846,634] . . . does not appear to be an under-projection” and “is less than the expense independently forecasted by [the Attorney General].” PFD, p. 441. The ALJ thus recommended that Consumers’ O&M insurance expense of \$9,846,634 be approved without further reduction. *Id.*

No exceptions were filed on this issue.

The Commission finds the ALJ’s recommendation well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ’s findings and conclusion on this issue. *See*, PFD, p. 441.

#### 7. Information Technology Operations and Maintenance Expense

Consumers provided that it “uses [IT] Operations O&M expense to provide the required level of operational support, reliability, and security for technology investments approved in prior and current rate cases.” 5 Tr 1857. Consumers testified that the “summary of the electric allocation of actual and projected IT Department Investments O&M expenditures” set out in Exhibit A-87 “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 historical year.” 5 Tr 1867; PFD, pp. 441-442. Consumers explained that “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.” 5 Tr 1865. Consumers further explained

that “[u]pgrading applications, operating systems, and database management systems [are] essential to delivering safe, reliable, and affordable electricity to the Company’s customers[.]” *Id.*

In relying on its witness Mr. Hansen, the Staff argued for “a 20% disallowance of O&M expenses, totaling \$76,302,” for the following four projects:

- **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).

PFD, p. 443 (emphasis in original); 5 Tr 1959, 1961, 1965, 1970, 3695. The Staff explained that Consumers, through an audit response, provided the basis for the cost estimates of multiple IT projects based on “the costs of past projects of similar size and scope, however, no detail [was] provided on those projects[.]” and further noting “that a portion of the costs [were] ‘based on estimates of capital software, labor, and contractor costs,’ but no information regarding those estimates [was] provided.” 5 Tr 3695-3696. The Staff further explained that:

[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 projects. Based on the basis provided for the project cost estimates, the projects listed in Exhibit S-10.1<sup>[34]</sup> have been identified by Staff as having estimates in line with Class III cost estimates according to the Association for the Advancement of Cost Engineering (AACE) cost estimate classification system. The AACE cost estimate classification system states that a project with this classification could be over-estimated by as much as 20%. Therefore, to avoid the possibility of the Company over-reaching for these IT projects, Staff is recommending that a 20% disallowance be made to both the capital and O&M portion of the project cost estimates.

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<sup>34</sup> The seven additional projects listed in Exhibit S-10 are addressed in the capital expenditures section of this order.

5 Tr 3696.

In response, Consumers disagreed with the Staff's argument for a 20% disallowance of the IT projects. 5 Tr 1970. Consumers testified that "Staff witness [Mr.] Hansen did not request the complete information to classify the cost estimates according to the AACE cost estimate classification system[, and Consumers] does not utilize the AACE cost estimate classification system for classifying IT projects." 5 Tr 1958, 1960, 1964, 1969. Consumers explained that the Business Continuity - Program Management Tool project, which "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[,] and is in the "investment planning stage and . . . the costs were projected based on subject matter expertise and knowledge of similar past projects for internal labor costs, as well as vendor bids for contractor costs." 5 Tr 1957-1958. Consumers further explained that it "does not have the opportunity to recover the O&M expenses in a future case[, and because] . . . Staff indicated it does not have issue with the nature of the project[,] . . . the project should be included and approved in this case." 5 Tr 1958-1959. However, Consumers noted that "if the Commission were to disallow this project based on Staff witness [Mr.] Hansen's position, . . . the electric projected O&M expense disallowance of \$12,506 (20% of \$62,529) for the projected test year would be the correct disallowance amount." 5 Tr 1959.

Consumers explained that the Enterprise Risk Management project, which "will allow the Company to be more proactive and efficient in managing enterprise risk by centralizing risk identification, management, and mitigation plans[,] is also in the "investment planning stage and . . . the costs were projected based on subject matter expertise and knowledge of similar past projects for labor, contractor, and software costs." 5 Tr 1959-1960. Consumers further explained

that it “does not have the opportunity to recover the O&M expenses in a future case[, and because] . . . Staff indicated it does not have issue [sic] with the nature of the project[,] . . . the project should be included and approved in this case.” 5 Tr 1960. However, Consumers noted that “if the Commission were to disallow this project based on Staff witness [Mr.] Hansen’s position, . . . the electric projected O&M expense disallowance of \$7,286 (20% of \$36,429) would be the correct disallowance amount.” 5 Tr 1961.

Consumers explained that the Product Family Enhancements – Application Platforms Services – O&M project and the Product Family Enhancements – Infrastructure Platforms Services – O&M project, which “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[,]” had projected costs “based on actual three-year historical average spending of the predecessor Enhancements-IT-Capital and Product Family Enhancements-IT Digital Foundation-Capital projects.” 5 Tr 1963-1964, 1968; *see also*, PFD, pp. 445-446. Consumers further explained that it performs analysis and management of enhancements to “ensure that enhancement cost estimates are reasonable and prudent” and pointed to the enhancement analysis Consumers provided in Exhibit A-92 that “compares historical projects for the years 2019 through 2026 with actual spending for the same years up to 2023[, to] . . . demonstrate[] that the Company does not over estimate enhancement costs.” 5 Tr 1965, 1969. Again, Consumers asserted that because “Staff indicated it does not have issue with the nature of the project[s,] . . . the project[s] should be included and approved in this case.” 5 Tr 1965, 1969. However, Consumers noted that “if the Commission were to disallow [the Product Family Enhancements – Application Platforms Services – O&M] project based on Staff witness [Mr.] Hansen’s position, . . . the electric projected O&M expense disallowance of \$14,823 (20% of \$74,114) for the projected test year would be the

correct disallowance amount[,]” and “if the Commission were to disallow [the Product Family Enhancements – Infrastructure Platforms Services – O&M] project based on Staff witness [Mr.] Hansen’s position, . . . the electric projected O&M expense disallowance of \$41,867 (20% of \$208,435) for the projected test year would be the correct disallowance amount.” 5 Tr 1965, 1970.

In the PFD, the ALJ noted that the Staff showed “that the estimates for [the Business Continuity – Program Management Tool and Enterprise Risk Management] projects were not fully developed and lacked important details that Consumers has since failed to provide through this proceeding.” PFD, p. 447. The ALJ thus recommended that a “\$19,792 O&M disallowance for the Business Continuity – Program Management Tool and Enterprise Risk Management projects” be approved. *Id.*

The ALJ also noted that Consumers “adequately supports its initial estimates for [the Product Family Enhancement] projects with three-year average historical spending of predecessor projects and additional data showing historical projected and actual costs for the company’s Enhancement projects.” *Id.* The ALJ thus recommended that “an adjustment to the Product Family Enhancement projects is not warranted.” *Id.*

In its exceptions to the PFD, Consumers argues that the Business Continuity – Program Management Tool and Enterprise Risk Management projects “are in the investment planning stage, which is a more advanced stage of planning than the Rough Order Magnitude (‘ROM’) estimates that the Commission has found are too imprecise for ratemaking purposes and merit a 20% project reduction.” Consumers’ exceptions, p. 183. Consumers states that because these projects were “in the investment planning phase, there were not actual costs on which to base estimates[, which required] . . . subject matter experts [to] forecast[] the costs of these projects

based on their knowledge of similar past projects for internal labor costs and vendor bids for contractor costs.” *Id.*

Consumers also argues that “Staff did not request all the information it needed to evaluate these projects’ costs[,]” and “[w]ithout this information, Staff classified these two projects as a Class III Association for the AACE projects, concluding that [Consumers’] estimate could be as much as 20% too high.” Consumers’ exceptions, p. 183. Consumers asserts that “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.” *Id.* Moreover, because neither “[the] Staff nor the ALJ disputed the need for these projects,” Consumers argues that it “should be allowed to recover amounts it reasonably expects to spend.” *Id.*

In its replies to Consumers’ exceptions, the Staff points out that Consumers “did not provide any information in support of these ‘[subject matter] experts’ or their forecasts[,]” nor did “Consumers provide[] [any] information on these ‘similar’ [past] projects.” Staff’s replies to exceptions, p. 13. The Staff asserts that “[i]t would be imprudent to pass these costs onto ratepayers when Consumers can only provide vague information regarding the basis of the cost estimates.” *Id.*

The Staff also points out that the burden is on Consumers to “provide all necessary information to prove that any given cost is reasonable and prudent[, and thus, t]he Commission must reject Consumers’ attempts to shift this burden to Staff.” Staff’s replies to exceptions, pp. 13-14. The Staff argues that “Consumers failed to adequately support its request and, therefore, the Commission should adopt the [ALJ’s] disallowance for [the Business Continuity – Program Management Tool and Enterprise Risk Management] projects.” *Id.*, p. 14.

The Commission finds the ALJ's recommendation for a \$19,792 O&M disallowance of the Business Continuity – Program Management Tool and Enterprise Risk Management projects well-reasoned and supported by the record. The Commission agrees with the ALJ in rejecting the Staff's proposed disallowance of \$14,823 to the Product Family Enhancements – Application Platforms Services – O&M project and proposed disallowance of \$41,687 to the Product Family Enhancements – Infrastructure Platforms Services – O&M project, and finds the ALJ's recommendation that Consumers recover \$282,459 for the Product Family Enhancement projects well-reasoned and supported by the record. *See*, PFD, p. 447. Accordingly, the Commission adopts the ALJ's findings and conclusion on this issue.

#### 8. Employee Benefits Expense

Consumers projected for the test year a total O&M expense level for employee benefits expenses of \$66.656 million, which include:

(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.

Consumers' initial brief, p. 391. Consumers explained that the Other Benefits category includes expenses "for the electric utility benefits labor, the absence management program, the educational assistance program, the employee assistance program, and the Leaving It Better Award [LIBA] program[,]" providing that these programs are necessary to attract and retain qualified employees. 5 Tr 1789-1791. Consumers further explained that the LIBA program "is used to recognize and reward regular salaried, exempt, and non-exempt employees who impact [Consumers'] 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." 5 Tr 1791.

In relying on its witness Ms. York, ABATE argued that the proposed increase for the Other Benefits category is “\$868,000, or about 27%, from the historic level of \$3.213 million[,]” and the main driver of the increase is the inclusion of the LIBA program expense. 5 Tr 3336. ABATE pointed out that Consumers “has provided limited information supporting the LIBA[ program, and noted that] LIBA rewards employees for furthering the Company’s goals, but the Company d[id] not explain in its discovery response or in testimony whether this is in part tied to furthering financial performance goals.” 5 Tr 3337. ABATE asserted that the \$868,000 increase should be disallowed and “the actual historic 2023 level of \$3,213 million” for the Other Benefits category be maintained. 5 Tr 3337.

In relying on its witness Mr. Rueckert, the Staff argued for removal of the LIBA program expense of \$795,000 “as it does not provide additional benefit to the rate payer[,]” as well as a “corresponding disallowance of the capital portion of the LIBA [program] totaling \$2,666,000[,] . . . [which consists of] \$875,000 for the bridge year ending December 31, 2024, \$894,000 for the 2 months ending February 28, 2025, and \$897,000 for the test year ending February 28, 2026.” 5 Tr 3778-3779. The Staff pointed out that Consumers’ “Employee Incentive Compensation Program (EICP) already provides short-term incentive compensation for operational goals” and the company’s stated purpose for the LIBA program of rewarding 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” furthers “the Company’s corporate reputation[, which] does not benefit the rate payer and should be funded by the shareholders instead.” 5 Tr 1791, 3778-3779.

In response, Consumers testified that “LIBA is not a new program, it only recently was centralized under the benefits area.” 5 Tr 1794. Consumers also explained that the Staff’s

proposed disallowance of LIBA program capital costs incorporated an error, noting that the Staff included a capital amount of \$894,000 for the bridge year ending February 28, 2025, which represents costs for the entire 2025 year and that the costs associated with the two months ending February 28, 2025, are \$149,000. 5 Tr 1795.

In its initial brief, the Staff “agree[d] with Consumers that an incorrect amount was used for the 2 months ending February 28, 2025, and has updated that figure” to reflect “a corresponding disallowance of the capital portion of the LIBA [program] totaling \$1,921,000[,] . . . [which reflects] \$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.” Staff’s initial brief, p. 56.

In the PFD, the ALJ noted that “there were no disputes over [Consumers’] 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 [implementation of the OPEB] VM [(Volatility Mechanism) approved in the Commission’s March 1 order].” PFD, p. 449. As a result, the ALJ recommended that the Commission approve these O&M expenses. *Id.*

In regard to the “O&M expenses totaling \$795,000 for the LIBA program[,]” the ALJ found that the Staff “correctly assert[ed] that the EICP provides incentive compensation to achieve operational goals, and . . . that Consumers did not establish [that] the LIBA program provide[d] additional benefits to ratepayers . . . .” PFD, p. 454. The ALJ also “agree[d] 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.” *Id.* Thus, the

ALJ “recommend[ed] that the Commission disallow all costs for the LIBA program because [Consumers] did not sustain its burden to show the program is reasonable and prudent.” *Id.*

With the LIBA program deemed unnecessary, the ALJ also found that the Staff “correctly argue[d] that capital costs [related to the LIBA program] should . . . be rejected.” *Id.* As such, the ALJ found the Staff’s “proposed disallowance of capital costs related to LIBA . . . appropriate and recommend[ed] the Commission disallow” \$1.921 million, which reflects “\$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.” *Id.*

The ALJ also “reject[ed] ABATE’s proposed disallowance of \$868,000 to the Other Benefits category[ b]ecause expenses for the LIBA program make up the majority of the proposed increase [and] ABATE’s proposed reduction is duplicative and unnecessary.” *Id.* The ALJ noted that “[t]he expenses associated with the Other Benefits category include four categories inclusive of LIBA[, and a]fter removal of the amount attributable to LIBA, the increase in th[e Other Benefits] category is \$73,000, or approximately 3% increase over the 2023 expense amount.” *Id.* The ALJ found “no evidence in the record that an increase of this amount [was] unreasonable for the other three programs in the Other Benefits category.” *Id.*

In its exceptions to the PFD, Consumers argues that “[t]he Commission should approve [costs associated with the LIBA program as a] reasonable expense that can reduce costs and encourage excellent service to customers.” Consumers’ exceptions, p. 184. Consumers reiterates that “[t]he LIBA program is not a new program” and that “the added recognition provided under the LIBA program benefits the Company’s customers through encouraging increased levels of productivity, reducing employee turnover, reducing costs of hiring new employees and contractors, and improving service to customers.” *Id.*

In its replies to Consumers' exceptions, ABATE points out that "Consumers provided limited information supporting the LIBA, including whether or not the goals associated with this incentive include financial performance goals." ABATE's replies to exceptions, p. 20. ABATE also points out that Consumers "has not adequately demonstrated that these incentive costs benefit ratepayers." *Id.* ABATE argues that because "Consumers has not met its burden to show that these costs are reasonable or prudent, the Commission should maintain the projected test year level of Other Benefits expense at the actual historic 2023 level of \$3.213 million[, which] reduces the Company's projected test year O&M expense by \$868,000." *Id.*, pp. 20-21.

While the Commission recognizes that there is a potentially valuable benefit to the LIBA program, it does not find that Consumers has justified the LIBA program's costs for inclusion in rates in this case. While Consumers argues that the LIBA program is not new, it is unclear from the company's presentation how the program has been funded, or whether the program had previously been included in rates. While disagreeing with the ALJ and the Staff that the LIBA program could never be shown to have benefit to the company's customers, as opposed to simply benefiting Consumers and its shareholders, the Commission does not find the O&M expenses totaling \$795,000 for the LIBA program to be recoverable at this time because Consumers has not met its burden of justifying the program's costs and inclusion in rates with the information on the record in this case.

Further, the Commission rejects Consumers' request to recover capital costs related to the LIBA program because the company has not presented a clear case on why the LIBA program

would be capitalized. Should the company seek future cost recovery for these expenses, more evidence supporting the reasoning for capitalization is required.<sup>35</sup>

The Commission finds the ALJ's analysis and recommendations related to the undisputed employee benefit O&M expenses of Healthcare, Life Insurance, LTD, retirement plans, ESP, and OPEB expenses to be well-reasoned and supported in the record. *See*, PFD, p. 449. Therefore, the Commission adopts the ALJ's recommendations on the undisputed employee benefits O&M expenses.

The Commission agrees with the ALJ in rejecting ABATE's proposed disallowance of \$868,000 to the Other Benefits category under the employee benefits O&M expenses. The Commission finds that the ALJ's recommendation to approve Consumers' recovery of \$73,000 for the management program, the educational assistance program, and the employee assistance program is well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ's findings and conclusion on this issue. *See*, PFD, pp. 454-455.

#### 9. Employee Incentive Compensation Plan Expense

To begin, Consumers noted that it is not requesting recovery of the portion of EICP expense that relates to financial incentives; rather, the company is requesting recovery of EICP expense that relates to operational measures. *See*, 5 Tr 1672-1673; *see also*, Consumers' initial brief, p. 380. Consumers explained that non-officer employees receive a base salary and are eligible to receive annual incentive compensation. 5 Tr 1671-1672. The company stated that officers receive a base salary, annual incentive compensation, and long-term incentive compensation. 5 Tr 1672.

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<sup>35</sup> The Commission reiterates that, now that the audits in Case No. U-21305 are complete, the Commission plans to set forth its next steps in evaluating rate regulated utility capitalization policies in a separate proceeding in the near future. *See*, January 23 order, p. 368.

Consumers noted that it is not seeking recovery of long-term incentive compensation. *See*, 5 Tr 1673.

Consumers asserted that Exhibit A-68:

identifies the operational performance areas that the EICP focuses on and identifies the specific measures that have been adopted for each of these areas. For the 2023 historical year, 50.0% of the non-officer incentive compensation and 30% of officer incentive compensation [were] based on operational performance. For purposes of this rate case, the Affordability (O&M savings from Waste Elimination) measure associated cost has been removed from the rate request as the Company has determined that it is financial in nature.

5 Tr 1690. In addition, Consumers noted that “[i]n the third quarter of 2023, [it] implemented an updated job architecture[,] . . . [and a]s part of implementing the new job architecture, compensation programs such as EICP were reviewed[, which] . . . resulted in the EICP target for non-officers 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.)” 5 Tr 1691.

Next Consumers noted that Exhibit A-68 provides the payout levels. The company explained that:

[w]hen setting payout levels, [the] 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). These levels are [meant] to engage the employees in meeting the goals. Employees must re-earn the incentive at-risk portion of compensation each year. If the threshold to achieve a payout were set at a level viewed as not achievable, it would be difficult to maintain employee motivation and would result in fewer customer benefits.

5 Tr 1693. In addition, Consumers “has discontinued determining target levels at absolute goal achievement to individual banded goals that provide each measure with its own threshold, target, and maximum performance goal for achieving a certain level of payout.” 5 Tr 3757. Furthermore,

the company asserted that it combined gas and electric performance measures to improve efficiency and service. 5 Tr 1694.

Consumers asserted that the operational goals for which it is seeking recovery of EICP expense are: (1) employee safety, (2) culture index, (3) customer experience, (4) electric reliability, and (5) methane emission reduction. 5 Tr 1695. The company stated that it is requesting recovery of \$2.6 million for this expense. *See*, 5 Tr 1695; Exhibit A-70; *see also*, Consumers' initial brief, p. 394. Consumers contended that the EICP is not a bonus or profit-sharing plan and that it benefits customers because "it is based on predetermined goals and objectives and award levels. Incentive compensation is part of an employee's overall compensation and not in addition to it . . . ." 5 Tr 1699-1700. Moreover, the company argued that the EICP is a "carve out" of the employee's base salary and, therefore, is achieved without additional expense to customers. 5 Tr 1700. Consumers also asserted that the EICP assists the company in attracting, retaining, and motivating talented employees and executives, which in turn provides both qualitative and quantitative customer benefits. 5 Tr 1700-1701.

Finally, Consumers provided Exhibits A-157 through A-160, which contain details regarding the 2024 EICP operational goals, the customer benefits of employee safety, the customer benefits of reliability, and the benefits of reduced employee turnover. In addition, the company explained the payout levels for each goal and a description of the direct quantitative benefits Consumers has identified. *See*, 5 Tr 2561-2571.

The Staff stated that it supports Consumers' request for \$2.196 million in EICP expenses, but it recommended that the EICP expense of \$414,700 for Consumers' top five officers be excluded from the projected test year O&M expense. 5 Tr 3760. The Staff explained that, according to Consumers, "[e]mployees' salaries should be comparable to the market median[;]" however, when

the “Staff asked for the compensation level of the top five officers compared to market median[, t]he Company declined to provide this information to Staff (see Staff 16 Exhibit S-15.2, page 1 of 2)[,]” stating that the information is confidential. 5 Tr 3758-3759. Therefore, because the Staff could not review the confidential information, it requested that the \$414,700 EICP expense for the company’s top five officers be disallowed.

The Attorney General noted that after a review of Consumers’ previous EICP measures presented in Exhibit A-32 from Case No. U-20650, she found that two previous operating performance measures—customer on-time delivery measure and service on-time commitment metric—are no longer included in the EICP. 5 Tr 2866. The Attorney General stated that these metrics were redundant and agreed with the company that they should be removed from the EICP. 5 Tr 2867. Regarding the methane emission reduction metric, she argued that “it is questionable if it belongs within the employee performance metrics or within the electric business performance measures. Most employees have little impact on achieving this metric.” 5 Tr 2867.

The Attorney General asserted that the short-term incentive plans for officers and non-officers “are too heavily weighted toward financial measures that mostly benefit shareholders and not customers.” 5 Tr 2867; *see*, Attorney General’s initial brief, p. 192. The Attorney General also contended that Consumers’ calculation for cost savings and purported customer benefits for reduced safety incidents, improved system reliability, and reduced employee turnover was “inconsistent with recent trends in performance, speculative and at best transitory.” 5 Tr 2869-2870. Finally, she stated that:

[t]he Company’s proposed incentive compensation expense of \$2.6 million for the projected test year assumes that the Company will achieve target performance for all its goals. There is no track record with the revised performance measures that supports that conclusion. It is probable that the Company may fall short of achieving 100% of the performance measures. In response to discovery, the

Company stated if it achieved only the lower threshold level of performance that the incentive compensation would be \$1.3 million for the projected test year.

5 Tr 2871. The Attorney General recommended that the Commission disallow the entire amount associated with EICP, which is approximately \$2.6 million, or in the alternative, recovery should be limited to \$1.3 million, which is half of the amount requested for this expense. 5 Tr 2871; Attorney General's initial brief, pp. 201-202.

ABATE recommended that the Commission only approve "half of the [amount] requested by [Consumers], consistent with the Commission's [March 1] Order in the prior rate case, [Case] No. U-21389," which reduced the Company's EICP expense by \$1.306 million. 5 Tr 3335. According to ABATE, the company's projected EICP expense presumes that Consumers will pay 100% of the budgeted amount. 5 Tr 3334; ABATE's initial brief, p. 52. ABATE noted that Consumers' "operational performance metrics reflect a variety of goals[, and] . . . include a methane emission reduction goal which the Commission previously found should not be included in the incentive compensation plan[.]" 5 Tr 3335; *see also*, March 1 order, p. 196. ABATE explained that Consumers' Exhibit A-68 showed that "employees can fail to achieve all but one operational performance goal and still qualify for incentive compensation[, making] . . . the thresholds for achieving the Company's operational goals . . . still low, and, thus . . . [an] insufficient incentive for employees to appreciably improve operational performance or system reliability to the benefit of the customers." 5 Tr 3335. ABATE contended that:

[t]he Commission's [March 1] Order . . . acknowledged the concerns noted above, and the Company has not adequately addressed these concerns in this case. As a result, [ABATE] recommend[ed] that projected test year incentive compensation expense be set at half of the level requested by the Company, [which is] consistent with the Commission's [March 1] Order . . . . This reduces the Company's projected test year O&M expense by \$1.306 million.

5 Tr 3335; *see also*, March 1 order, p. 196.

In response, Consumers objected to the Attorney General's request that the methane emission reduction metric be removed from the employee performance metrics. The company asserted that "[s]ome employees will be in a better position to influence whether particular goals and objectives are met, but having every employee linked to a set of common customer-focused objectives is an effective method for emphasizing the importance of customer value and service." 5 Tr 1706. Additionally, Consumers disagreed with the Attorney General's claim that the company's short-term EICP is too heavily weighted toward financial measures. 5 Tr 1707. The company asserted that it is not seeking recovery of EICP expense related to financial measures; rather, it "has adopted incentives that are designed to emphasize operational performance criteria in areas that are critical to the Company's utility business and customers. Focusing employees on these goals provides both qualitative and quantitative benefits for Consumers Energy's utility customers." 5 Tr 1707. Consumers also disputed the Attorney General's claim that mediocre performance will be rewarded by the company's EICP. 5 Tr 1708-1709. Consumers stated that "[t]he incentive compensation portion of the Company's total compensation ensures that employees are provided a reasonable incentive to achieve exceptional performance levels." 5 Tr 1709.

Responding to the Staff's recommendation to disallow \$414,700 for the company's top five officers, Consumers asserted that the company "is contractually prohibited from sharing" information about officer compensation. 5 Tr 1713. However, Consumers stated that it provided "non-confidential market data using the following compensation elements from the Compensation Peer Group's publicly filed proxy statements: salary, stock awards, and non-equity incentive" to assist the Staff in evaluating the reasonableness of the proposed compensation. 5 Tr 1711; *see*, Exhibit A-241. The company also noted that:

[i]n previous cases, the Company regarded the work performed by the top five officers as focused broadly across the entire CMS Energy enterprise; however, in light of the move to a 30% weighting on Consumers Energy-specific operational measures for EICP, we now have a measurable component of their compensation linked directly to work on behalf of the utility and to operational outcomes that benefit customers.

5 Tr 1715.

Consumers disputed ABATE's claim that "it is not reasonable for the Company's EICP expense to be based on an assumed payout at 100%, the methane emission reduction goal should not be included, and that pay banding is an insufficient incentive for employees to improve operational performance." Consumers' initial brief, pp. 411-412. Consumers contended that:

[t]he Company's EICP payout has exceeded the 100% payout threshold almost every year (except one) and any cost in excess of the target is absorbed by shareholders. For efficiency purposes and improved service, the Company combines operations as one organization and for that reason the EICP contains gas and electric measures. Lastly, the Company disagree[s] that the thresholds for achieving its goals are low, creating insufficient incentive for employees to improve operational performance due to the pay banding. . . . [T]he EICP is part of overall compensation, maximum payout is common market practice, and structuring the payout to consider performance of each goal individually "ensures that employees have an independent motivation to achieve each goal regardless of whether another goal may be off target to meet payout levels during the year."

Consumers' initial brief, p. 412 (citations omitted; quoting 5 Tr 1708).

The ALJ agreed with the Staff's proposed disallowance, and "recommend[ed] the Commission reject \$414,700 in EICP expenses for [Consumers'] top five officers." PFD, p. 468.

The ALJ noted that:

[t]he same issue was addressed in the Company's last rate case, Case No. U-21389 and the expense was disallowed. Moreover, the Commission agreed with the PFD [in Case No. U-21389], finding: "[I]t was the company's choice to rely on information in a database owned and controlled by a third party." 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." 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." 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.

*Id.*, pp. 468-469 (quoting the March 1 order, pp. 195-196). The ALJ found Consumers' arguments unpersuasive and noted that the evidence presented in this case and in Case No. U-21389 are not materially different. PFD, p. 469.

The ALJ agreed with the Attorney General and ABATE that "inclusion of the operational performance metric for the reduction of methane emissions is not a proper EICP goal for electric employees." *Id.*, p. 470. The ALJ noted that the Commission already addressed this issue in the March 1 order, finding that this metric should not be included in the EICP. *Id.*

The ALJ also agreed with the Attorney General and ABATE that Consumers' "threshold for EICP payout is exceedingly low and recommend[ed] the Commission disallow \$1,306,000 in EICP expenses." *Id.* The ALJ provided that in the March 1 order, "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 metric and still qualify for EICP if the threshold level of 50% is achieved for that single goal[.]" and Consumers' "EICP operational metrics and payout thresholds have not changed materially since [the March 1 order]." *Id.*, pp. 470-471 (citing March 1 order, pp. 196-197). Moreover, the ALJ noted that Consumers "implemented an updated job architecture in 2023 and revise[d] the EICP metrics and thresholds in 2022. Given these changes, past performance may not be an accurate indicator for future EICP payout levels." *Id.*, p. 471. The ALJ found unpersuasive Consumers' argument that the EICP payouts at the 50% threshold level would be improbable because most payouts in the last six years exceeded the 100% level. *Id.*

The ALJ did not believe Consumers “sustained its burden to prove that the EICP operational goals result[ed] in sufficient customer benefits to justify the inclusion of the expenses at the payout level of 100%[.]” PFD, p. 471. Thus, the ALJ “recommend[ed] 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.” *Id.* The ALJ found unpersuasive the Attorney General’s argument to disallow recovery of all EICP expenses, and thus, recommended the Commission reject the Attorney General’s proposal to disallow the entire EICP expense amount. *Id.*, pp. 471-472.

In exceptions, Consumers objects to the ALJ’s recommendation to disallow \$414,700 in EICP expense for the company’s top five officers. Consumers reiterates that it is “contractually prohibited from sharing the data that Pay Governance used to develop its pay recommendation.” Consumers’ exceptions, p. 185. Thus, Consumers points out that “[t]he safeguards referenced by the [ALJ] are irrelevant when the Company is under a contractual obligation that prohibits it from sharing the information.” *Id.* Consumers also asserts that it “does not even possess the information[,]” noting that:

[t]he Company engages Pay Governance to provide the Company’s Compensation Committees with information about the market to help guide compensation decisions. It is not reasonable for other parties in rate cases to insist on receipt of information that the Company itself does not possess. Further the Company has gained Pay Governance’s consent to provide extracts of the report and offered to make the Pay Governance reports available to Staff in the presence of a Company representative without copies being made or distributed and exempting Pay Governance from public disclosure. These are reasonable conditions given the Company’s contractual obligations.

*Id.*, pp. 185-186 (citations omitted). Consumers points out that it “acquired the publicly available information in Exhibit A-241 (AMC-4) precisely so that the Commission could see that the Company’s top five officers are not overpaid compared to their peers.” *Id.*, p. 186.

Consumers also objects to the ALJ's recommendation of a reduction of EICP to the 50% threshold. Consumers asserts that the ALJ disregards "the improving trends to SAIDI and Safety that have a clearly quantifiable benefit. At a minimum, improvement in these two metrics alone more than justify the EICP expense by clearly resulting in a high dollar value benefit of \$21 million compared to the cost of \$2.6 million." Consumers' exceptions, p. 187. Consumers points out that "[c]alling the threshold for EICP 'exceedingly low' is a mischaracterization; the EICP thresholds should be achievable and disallowing 50% of the payout does not have a tangible connection to how the EICP should function." *Id.* Consumers also points out that the ALJ is "incorrect to assume changes to job architecture would have any significant impact on achieving EICP payout levels, past performance is a much stronger indicator of future payouts than a minor change to how EICP now ties to career stream rather than salary or grade." *Id.*

In her replies to exceptions, the Attorney General argues that Consumers "failed to demonstrate how the EICPs influence employee performance in a way that benefits rate payers commensurate with the cost." Attorney General's replies to exceptions, p. 170. The Attorney General asserts that Consumers' witnesses "have been unable to draw a direct correlation between the performance metrics, incentive compensation, and benefits to Consumers' electric customers that are at least commensurate with the cost. The Company attempts to quantify alleged customer benefits of certain performance measures included in the EICP but fails in its efforts." *Id.*, p. 166. The Attorney General points out that "some of the measures that [Consumers] relies upon to demonstrate purported benefits to ratepayers, have had worse outcomes in recent years that call into question their value to customers." *Id.*, p. 167. Specifically, the Attorney General points out that "[w]hile, the Company's 2022 workers compensation and other related cost have decreased slightly to \$1.9 million, overall, the increase in safety incidents does not show superior

performance or an improving trend[,]” and the savings Consumers claims “for electric reliability based on the results of its SAIDI index . . . have been erratic [in the past years] with no consistent trend of improvement.” *Id.*, p. 167. Moreover, the Attorney General argues that “[t]here is an extremely low threshold for [incentive] payout based on operational goals. Employees can fail to meet all but one of the operational goals and still qualify for at least some incentive pay as long as [employees] reach a 50 percent threshold for that goal.” *Id.*, p. 169. The Attorney General points out that Consumers’ EICP “rewards mediocre to average performance which diminishes any real customer benefits. Incentive compensation should be paid for exceptional performance, at least to pass the test of cost recovery in rates. Performance that is ordinary and achieves basic goals and efficient operations should be paid for in base salaries.” *Id.*

In its replies to exceptions, ABATE argues that “Consumers’ operational performance metrics reflect a variety of vague measures related to employee safety, culture index, customer experience, and electric reliability which do not provide a reasonable metric or basis for establishing customer benefits such that ratepayers should compensate the Company for these costs.” ABATE’s replies to exceptions, p. 21. ABATE also argues that Consumers’ “thresholds for obtaining incentive compensation . . . [provide an] insufficient incentive for employees to appreciably improve performance or system reliability to the benefit of customers.” *Id.*, p. 22. ABATE points out that the Commission’s March 1 order found that Consumers “set an exceedingly low threshold for payout based on operational goals[,]” and “[t]he Company has not adequately addressed these concerns here.” *Id.* (quoting Commission’s March 1 order, p. 196).

The Commission finds the ALJ’s recommendation for a disallowance of \$414,700 for Consumers’ top five officers well-reasoned and supported by the record. As such, the Commission adopts the ALJ’s recommendation on this issue. However, with respect to the ALJ’s

recommended 50% reduction of the company's proposed EICP expense of \$2.611 million, the Commission respectfully disagrees and finds that Consumers has demonstrated how the EICP program benefits customers such that it should be recoverable.

The Commission also agrees with the ALJ's finding that the Reduction of Methane Emissions metric is not a proper EICP operational goal for Consumers' electric employees. *See*, PFD, pp. 468-471. In fact, while the company asserts that it combines gas and electric performance measures to improve efficiency and service, the specific goal tied to the EICP methane emissions metric is the "Reduction of Methane Emissions through replacements of Mains and Services, and through implementation of gas venting protocols," which seemingly is exclusively tied to the gas portion of the company's business activities. While the Commission conceptually understands the motivation for combining operations under one organization to incentivize strong operational performance across gas and electric measures, in future rate case filings, the Commission requests more support and explanation from the company regarding how it coordinates operations between its gas and electric businesses to justify how it can expect electric business employees to achieve the methane emission reduction goals labeled under the "Environmental" category.

#### 10. Demand Response Operations and Maintenance Expense

The ALJ noted that no party opposed Consumers' Demand Response Operations and Maintenance Expense and recommended that the Commission approve the company's proposed expense of \$34.5 million with a \$0.531 million reduction to the DR Reconciliation expense. *See*, 5 Tr 2163; PFD, pp. 472-473.

No exceptions were filed on this issue.

The Commission finds the ALJ's findings and recommendations reasonable and prudent and that they should be adopted.

## 11. Inflation Rates

Consumers provided evidence of non-power supply O&M expenses of \$694.126 million in 2023, with an adjusted amount of \$670.580 million for the test year. PFD, p. 473. However, MNSC testified to various inflation rates that would reduce the inflation factor by a productivity factor of 0.61% for non-labor costs and a productivity factor of 0.70% for labor costs. 5 Tr 2945, 2971.

In response to MNSC, Consumers 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.” 4 Tr 448. Consumers noted that column (g) of Exhibit A-13, Schedule C-5a, shows other adjustments to O&M expenses, many of which “reflect a reduction from the costs incurred in the historical year 2023[, and] . . . the Company’s O&M costs for the projected test year are 2.75% lower than the actual costs incurred in the year 2023.” 4 Tr 448.

The ALJ agreed with MNSC 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.” PFD, p. 475. The ALJ noted that “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.” *Id.* The ALJ “recommend[ed] that the Commission accept [Consumers’] projection in this case but direct[ed] Consumers to present more

detailed evidence to demonstrate that it is in fact offsetting inflation by productivity in the Company's next rate case." *Id.*, pp. 475-476.

In exceptions, Consumers objects to the ALJ's recommendation to "present more detailed evidence to demonstrate that it is in fact offsetting inflation by productivity in the Company's next rate case." Consumers' exceptions, p. 188 (quoting PFD, p. 476). Consumers' asserts that:

[r]equiring the Company to "demonstrate that it is in fact offsetting inflation by productivity" grossly oversimplifies the Company's O&M projection process, which is not a simple application of inflation rates to historical actual costs - as demonstrated by the test year O&M projection in this case that is lower than the 2023 actual expense. The Company's individual witnesses support their particular O&M projections, which may use inflation to varying degrees, but which also incorporate any expected cost savings.

*Id.*, pp. 189-190 (quoting PFD, p. 476).

No replies to exceptions were filed.

The Commission finds the ALJ's recommendation well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ's findings and conclusion on this issue. *See*, PFD, pp. 475-476.

#### D. Depreciation and Amortization Expense

The ALJ stated that "[t]he differences among the parties concerning depreciation [and amortization expense] reflect differences in the underlying plant balances, with no methodological disputes to resolve." PFD, p. 476. Based on the findings above, depreciation and amortization expense is \$745,067,000.

#### E. Taxes

##### 1. Property Tax

Consumers stated that as set forth in Exhibit A-161, the property tax rate for the projected tax year is 0.011553991. 5 Tr 2591. The company noted that the estimated property taxes for the

electric portion of the business is \$265.6 million for 2025. 5 Tr 2592. In addition, Consumers asserted that when plant investment, coal plant valuation tax reduction, property taxes on real property, and the 2025 Muskegon Solar investment were included, it resulted in an estimated 2026 property tax amount of \$299.4 million for the electric portion of the business. 5 Tr 2594. The company contended that it is not “currently involved in property tax litigation at this time.” 5 Tr 2594.

MNSC argued that “[t]he 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.” MNSC’s initial brief, p. 5. MNSC asserted that:

“Consumers had . . . a practice of quietly retaining property tax refunds as a windfall to the Company without crediting them back to customers.” MN[S]C argues that the \$8 million reduction ordered by the Commission in [its March 1 order] is missing from the Company’s projected property tax expense for the test year. Based on discovery responses, MN[S]C believes that the Company intends to count reductions in taxable value that had already been achieved before [the March 1 order] towards the annual \$8 million reduction. MN[S]C 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.’” According to MN[S]C, the Company has ignored the Commission’s order, and the Commission should reduce the property tax expense in the test year by \$8 million.

*Id.* (footnotes omitted) (quoting MNSC’s initial brief, pp. 109-111).

In response, Consumers argued that MNSC has misinterpreted the Commission’s March 1 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[.]” Consumers’ reply brief, pp. 73-74 (emphasis in original). Consumers emphasized that “‘the Company is not currently a party in any pending property tax litigation cases.’ Thus, there is no potential tax refund in the test year.” *Id.*, p. 74 (quoting 5 Tr 2595). Consumers also pointed out that when comparing net actual electric property tax

expense and estimated property tax expense in electric rates over the 10 years from 2014 through 2023, it demonstrates that “the tax assessment litigation undertaken did not provide a ‘windfall’ to the Company.” *Id.*, pp. 75 (emphasis in original); *see also*, 5 Tr 2595-2596.

The ALJ agreed with Consumers that the March 1 order “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.” PFD, p. 478. The ALJ noted that it interprets the March 1 order “as saying, that based on past results, it is likely the Company will receive \$8 million per year from property tax refunds and any refunds thus received may be applied to tax projections in future rate cases.” *Id.*, pp. 478-479. The ALJ recommended that the Commission reject MNSC’s request to reduce Consumers’ property tax expense for the test year by \$8 million “[s]ince the Company is not involved in any property tax litigation and therefore is not expecting any refunds in the test year.” *Id.*, p. 479. The ALJ also recommended that “Consumers continue to provide a list of pending tax assessment litigation cases and negotiations in rate case filings going forward.” *Id.*

The Commission finds the ALJ’s recommendation well-reasoned and supported by the record. Accordingly, the Commission adopts the ALJ’s findings and conclusion on this issue. *See*, PFD, pp. 478-479.

## 2. Federal, Michigan, Local, and General Taxes

The ALJ stated that “[t]he differences among the parties’ calculations of federal, state, local, and general tax result from differences in projected revenues and expenses.” PFD, p. 479.

No exceptions were filed on this issue.

The Commission finds that the federal, state, local, and general tax amounts should reflect the decisions pertaining to projected revenues and expenses in this order.

F. Allowance for Funds Used During Construction

The ALJ stated that “[t]he 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.” PFD, p. 479.

No exceptions were filed on this issue.

Based on the decisions in this order, AFUDC is \$7,706,000.

G. Net Operating Income Summary

Based on the findings above, Consumers’ jurisdictional adjusted NOI is \$769,167,000.

**VII. REVENUE DEFICIENCY**

Consistent with the findings and determinations made in this order, the Commission finds that Consumers has a jurisdictional revenue deficiency for the test year of \$153,809,000<sup>36</sup> computed as follows:

Rate Base	\$14,857,152,000
Required Rate of Return	5.97%
Income Required	\$887,611,000
Adjusted Net Operating Income	\$769,167,000
Income Deficiency (Excess)	\$118,445,000

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<sup>36</sup> The \$153,809,000 revenue deficiency includes \$5,173,000 for the IRM surcharge. Accordingly, \$148,636,000 will be collected through base rates and \$5,173,000 will be collected through the IRM surcharge.

Revenue Multiplier	1.3381
Revenue Deficiency	\$158,488,000
Campbell Revenue Requirement Adjustment	(\$4,679,000)
Total Revenue Deficiency	\$153,809,000

**VIII. OTHER REVENUE AND NON-REVENUE RELATED ITEMS**

A. Investment Recovery Mechanism

In the March 1 order, the Commission approved an IRM for certain distribution investments in the amount of \$49.3 million for the 12 months ending February 28, 2025 (year 1), and another \$49.3 million for the 12 months ending February 28, 2026 (year 2), with \$36.9 million attributed each year to LVD Lines Reliability, \$8.9 million for Resiliency, and \$3.5 million for System Protection. March 1 order, pp. 272-273. The Commission also directed that IRM planning meetings be held, and required a reconciliation at the end of each annual period. As is typical with an IRM, the Commission required an annual reconciliation by customer class with any underspent amounts to be returned to customers. *Id.* The Commission denied a request to extend the IRM to 2027, in order to allow evaluation of the program prior to any extension. *Id.* At the time of the filing of the instant case, the first year of the IRM had just commenced. With year 1 having concluded on February 28, 2025, the first reconciliation has yet to commence.

In the instant case, Consumers proposed to increase year 2 IRM spending to \$278.8 million (a 465% increase over the amount approved in the March 1 order), divided into \$260.8 million for LVD Lines Reliability, \$12.6 million for Resiliency, and \$5.2 million for System Protection. 4 Tr 377-379, 919-920; Exhibit A-150. Consumers stated that the increase is required due to increasingly severe weather and in order to bring IRM spending in line with the company's Reliability Roadmap (the 2023 EDIIP). Consumers stated that it would continue to carry out the

tracking and reporting requirements included in the March 1 order, and that the increase is necessary in order to bring the IRM spending in line with these proposed distribution investments.

The Staff opposed the increase to year 2. 5 Tr 3861-3862. The Staff noted that in the December 1 order, p. 289, the Commission denied a request for increased IRM spending due to the ongoing audit in Case No. U-21305, and the Staff recommended that the Commission address the results of the audit prior to increasing this spending.

ABATE opposed the increase to year 2 because year 1 had only just commenced and there has been no reconciliation yet. 5 Tr 3297-3298.

The Attorney General opposed the increase to year 2 and noted that she has argued, as reflected in the rate base discussions above, that Consumers' proposed reliability investments are not justified. 5 Tr 2721, 2783-2784.

The CEOs opposed the increase to year 2, noting that the Commission already limited Consumers' IRM in scope and duration in the March 1 order, and the Commission stated that it would review the benefits of prior investments before increasing the amount. 5 Tr 2669-2672.

MNC opposed the increase to year 2 on grounds that it would expand the spending before any review of the IRM's effectiveness has taken place or any cost reconciliation. 5 Tr 3002-3005.

UCC opposed the increase to year 2 because no review of the effectiveness of the program has taken place. 5 Tr 3511-3513. UCC argued that the amounts should not be increased until the IRM has been proven to be beneficial to customers.

In rebuttal, Consumers again argued that the increase should be approved in order to allow IRM spending to match the amounts that are proposed in rate base, to match the test year amount approved in this case, to improve reliability, and to allow for an appropriate reconciliation. 4 Tr 438-441. Consumers maintained that the increase is simply an update, and noted that

customers will only pay for work that is actually completed. Consumers argued that it is confusing to have a portion of test year capital spending collected through base rates and a portion collected through the IRM.

The ALJ agreed with the Staff and intervenors and recommended that the Commission deny the requested increase to year 2 IRM spending. PFD, p. 491. The ALJ found that the current amount of \$49.3 million should be maintained and that “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.” *Id.* The ALJ also noted that, regarding LVD and HVD distribution capital expenditures, she has recommended significant disallowances due to the lack of evidentiary support.

In exceptions, Consumers argues that the ALJ’s recommendation should be rejected because amounts spent on the three IRM cost categories during the test year should align with what is approved for those cost categories. Consumers’ exceptions, pp. 191-192; 4 Tr 378-379. Consumers contends that the IRM provides a strong incentive to avoid shifting spending between programs. Consumers further argues that if the amounts approved in this order for spending on the IRM cost categories are not aligned with the IRM, it will “confuse the IRM process because it would be challenging to determine the portion of spending that should be applied to the IRM versus the portion that should be included in base rates.” Consumers’ exceptions, pp. 191-192. Consumers notes that the IRM requires a reconciliation, so ratepayers are protected from paying for spending that does not occur, and argues that the certainty of the IRM process should apply to the full approved amounts.

In reply, the Staff supports the ALJ’s recommendation. Staff’s replies to exceptions, p. 37.

In reply, ABATE argues that Consumers failed to support this request, and notes that the IRM has only just begun to operate, that the first reconciliation will occur in 2025, and that the Commission advised a cautious approach to the IRM in the March 1 order, pp. 272-273. ABATE argues that no benefit to customers has yet been demonstrated. ABATE's replies to exceptions, pp. 22-23.

In reply, the Attorney General contends that the company presents no evidence that increasing year 2 funding to align with projected spending will actually maximize customer benefits. The Attorney General argues that the company attempts to avoid any review of how the IRM is performing. Attorney General's replies to exceptions, p. 171. She further contends that the Commission made clear in the March 1 order that the IRM would be evaluated before it was either expanded or extended. *See*, March 1 order, p. 272. The Attorney General asserts that IRMs are not good for customers because they thwart the regulatory lag process and incentivize spending. Finally, she notes that in the March 1 order the Commission expressed a desire to see whether the investments are deployed equitably, and whether they have a positive effect on reliability and resilience. Attorney General's replies to exceptions, p. 172. She contends that no expansion should occur until the effectiveness of the IRM has been analyzed, as the ALJ recommends.

In reply, MNSC supports the ALJ's recommendation, noting that the Commission took a cautious approach in the March 1 order by limiting the IRM to two years and halving the requested amount. MNSC's replies to exceptions, pp. 32-33. MNSC further argues that no benefit to customers has yet been shown and the request for an increase is premature in light of the distribution audit in Case No. U-21305. MNSC notes that in the March 1 order the Commission:

stated that it would 'consider, among other things, evidence presented on whether the investments are, in fact, being deployed equitably, whether the investments exacerbate or perpetuate racial or socioeconomic disparities in service, whether there has been a positive impact on reliability and resilience, whether there is

sufficient opportunity for scrutiny of the investments, and whether customers have benefitted from the IRM mechanism.’

MNSC’s replies to exceptions, pp. 33-34 (quoting the March 1 order, p. 273). MNSC points out that the Commission also noted that the results of the audit may lead to additional changes.<sup>37</sup> *Id.* MNSC asserts that the requested amount for year 2 is a 5.5-times increase to that year, and the requested increase for LVD Lines Reliability alone is a 6.5-times increase. MNSC contends that Consumers’ witness conceded that the company does not currently have the workforce in place to carry out this spending, and, in any case, the ALJ has not recommended approval of all of this spending. MNSC’s replies to exceptions, p. 35 (citing 4 Tr 469-470).

Turning to Consumers’ exceptions, MNSC contends that the company has provided no evidence on this record of benefits accruing to customers as a result of the IRM and has not evaluated the risks associated with the unprecedented spending increase. MNSC also maintains that there are significant deviations between the company’s Reliability Roadmap and the proposed LVD Lines Reliability spending. MNSC notes that in the March 1 order the Commission approved “both IRM expenditures and separate base rates expenditures for the LVD lines reliability and resiliency programs” without apparent confusion. MNSC’s replies to exceptions, pp. 39-40. Finally, MNSC argues that the Commission may not have any means of changing approved IRM spending based on the results of the audit.

The Commission begins by noting that, in the rate base decisions discussed above, the Commission has agreed with the ALJ’s recommended disallowances for several cost categories within LVD Lines Reliability, including the zonal health category. Despite the opposition to

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<sup>37</sup> The Commission reiterates that, now that the audits in Case No. U-21305 are complete, the Commission plans to set forth its next steps in evaluating rate regulated utility capitalization policies in a separate proceeding in the near future. *See*, January 23 order, p. 368.

increasing the IRM in year 2, the Commission is not persuaded to forgo this opportunity. The Commission agrees with MNSC that the potential for confusion is not a credible reason to increase the year 2 funding. However, in recent years, as the intervenors are likely aware, the Commission has attempted to focus on measures that will improve reliability and reduce outage frequency and duration. The IRM presents the not insignificant benefit of ensuring that the amounts that are approved for particular work will actually be spent on that work or else be refunded to customers. This is a benefit that is not available for approved rate base expenditures, which can be moved by the company to other cost categories at will (despite the evidentiary presentations made in rate cases indicating that the money will be spent on a particular project such as, for example, improving reliability). Thus, the Commission finds that Consumers should be authorized to increase the year 2 IRM to reflect the amounts actually approved in the rate base discussion, above, for the three affected cost categories. The Commission approves a total of \$86.347 million for year 2 IRM funding, which consists of \$68.523 million for LVD Lines Reliability, \$12.623 million for Resiliency, and \$5.201 million for System Protection. The Commission is not abandoning the cautious approach that it took in the March 1 order, but finds, as discussed within the rate base sections of this order, that Consumers has presented evidence on the record in this case showing that these particular reliability investments are reasonable and prudent and should be made, whether as part of the IRM or in base rates. The Commission also notes the advances made by Consumers (discussed in the following section of this order) regarding the use of the EJ flag (a designation used to prioritize circuits that intersect with EJ communities), development of a regression analysis, and development of the EJ Resiliency Plan, and finds that, pending the outcome of IRM planning meetings designed to solicit and incorporate additional input from intervenors and identify any concerns in a transparent manner, there is sufficient reason to

conclude that the year 2 IRM approved amounts are on track for deployment in an equitable manner. Finally, the Commission notes that there is no year 3 or additional out year that would be affected by this decision, and thus no guaranteed recovery of amounts that have not been adequately reviewed.

## B. Environmental Justice

The ALJ noted that Consumers provided evidence regarding reliability in EJ communities, and that the evidence was critiqued by the CEOs and UCC. PFD, p. 491. The ALJ described three areas of testimony and then offered recommendations. Her headings are used in this order.

### 1. Electric Reliability Data and Analysis in Environmental Justice Communities

Consumers defined an EJ community or census tract as one that is above the 80<sup>th</sup> percentile on the MiEJScreen, and identified EJ census tracts in Muskegon, Grand Rapids, Flint, Kalamazoo, Battle Creek, Jackson, and Adrian. 5 Tr 883. Consumers presented evidence showing that SAIDI in EJ census tracts is significantly better than SAIDI in non-EJ census tracts and better than systemwide SAIDI. 5 Tr 883-884. Consumers also analyzed the following: (1) CAIDI and SAIFI with and without MEDs; (2) customers experiencing at least four or seven service interruptions in a year (CEMI-4 and CEMI-7); (3) percentage of customers with at least one 5-hour outage during the year (CELID-5); (4) all-weather 36-hour restoration percentage; (5) catastrophic conditions 48-hour restoration percentage; (6) normal conditions 8-hour restoration percentage; and (7) gray-sky conditions 24-hour restoration percentage. The company reported that it found that EJ communities consistently experience better reliability than non-EJ communities, and better reliability than the overall system. 5 Tr 885-893. Thus, Consumers posited that customers in EJ communities do not face systemic reliability issues. Consumers opined that this may be because

all of the EJ census tracts are in urban areas, and urban areas traditionally receive more investment than rural areas receive, due to the denser population. 5 Tr 893-894.

Consumers presented evidence showing that it has performed additional EJ reliability analyses resulting from the March 1 order and the settlement agreement approved in the January 19 order (the rate case prior to Case No. U-21389), including a limited hosting capacity analysis and the compilation of reliability metrics broken down in 5% increments on the MiEJScreen. 5 Tr 896-897. The company indicated that it is developing a regression analysis with the Staff and interested parties, and is working on a means for interested parties to access geographic information system (GIS) data. Consumers indicated that it will develop the regression analysis before its next update to the Reliability Roadmap, and hoped to provide GIS data access in 2024. 5 Tr 893, 898.

The CEOs recommended the use of more targeted metrics that can show whether progress is occurring. 5 Tr 2651-2653. The CEOs indicated that they are one of the parties working on the regression analysis and testified about its importance to these issues. The CEOs recommended that the Commission direct Consumers to provide regression analysis in all rate cases and distribution planning cases. 5 Tr 2679-2680, 2696. The CEOs provided their own regression analysis using 2023 data and incorporating grid archetypes. The CEOs reported finding lower SAIDI in dense communities and in Black, Indigenous, and people of color (BIPOC) communities, and higher SAIDI in communities with higher home values. 5 Tr 2687-2690. The CEOs presented evidence about which grid archetypes experience worse reliability.

The CEOs also analyzed residential disconnections for 2023 and found that the number of disconnections is higher in census tracts with higher MiEJScreen scores and in BIPOC communities, and the number of disconnections is lower in communities with higher home values.

5 Tr 2692-2696. The CEOs recommended that the Commission direct Consumers to include data on residential disconnections as part of its reliability analysis. 5 Tr 2696.

UCC argued that Consumers should provide more granular data, a regression analysis, and access to GIS data before any non-essential infrastructure costs are allowed, because the intervenors cannot verify the company's claims regarding the difference between EJ circuits and non-EJ circuits in urban areas. 5 Tr 3504-3509.

On rebuttal, Consumers reported that some EJ communities face reliability issues but that there is no systemic reliability problem. 5 Tr 1009-1011. Regarding a second EJ reliability analysis performed more recently, Consumers stated that for the years 2019 through 2023, looking at 12 reliability metrics including SAIDI, SAIFI, CAIDI, CEMI, and CELID, EJ census tracts performed worse on average in 9 of the 12 metrics than non-EJ urban census tracts. 5 Tr 1016. Consumers reported that it expects to complete a regression analysis in the first months of 2025 and will provide the results in its next rate case, which will be more comprehensive than the analysis offered by the CEOs. 5 Tr 1023-1024. Consumers argued that the company should not be required to provide data on residential disconnections until it has had the chance to refine this issue with the Staff and the CEOs. Consumers argued that because residential disconnections are not part of distribution planning, these metrics could inhibit the reliability analysis.

On rebuttal, the CEOs presented evidence showing that an increase to median income for a census tract produced a decrease in residential disconnections, and that the number of disconnections is higher in BIPOC communities. 5 Tr 2704-2705. The CEOs urged the

Commission to implement a summer disconnection moratorium and to direct Consumers to revisit its disconnection policies.

## 2. Environmental Justice Considerations in Investment Planning

Consumers stated that EJ communities experience better reliability which is likely a result of the fact that the company's distribution investments are disproportionately large in these communities. Consumers reported that it found that circuits serving EJ census tracts represent 2.5% of the primary LVD system, but 3.1% of system investments were made to these circuits; and these circuits receive more frequent line clearing than the overall system, thus again demonstrating that there is no systemic underinvestment. 5 Tr 893. Consumers explained the implementation of the EJ flag in its grid archetype process, which, according to the company, has resulted in higher investment in EJ circuits because it prioritizes LVD investments in circuits that intersect with EJ census tracts. 5 Tr 894-895; Exhibits A-127, A-128. Again, Consumers presented evidence showing that while EJ community circuits comprise 2.5% of the company's LVD lines, EJ community circuits comprise 7.5% of the company's LVD investments. 5 Tr 896.

The CEOs supported use of the EJ flag and asked for examples of how the EJ flag has affected proposed investments. 5 Tr 2651. But the CEOs continued to argue that the customers' actual experience may not be fully reflected in the data and further analysis is necessary. 5 Tr 2654. The CEOs recommended enhanced use of the interruption cost estimate (ICE) calculator, in collaboration with the Staff, to more accurately account for reliability improvements. 5 Tr 2657-2659. The CEOs also asked for additional information on how Consumers is using its federal IJJA grants. 5 Tr 2657.

UCC argued that the company has not provided enough information on this record to determine whether the EJ flag is making a difference. UCC noted that LVD lines that serve more

customers should receive greater investment and that EJ investment by Consumers actually appears to be disproportionately small. 5 Tr 3506-3507.

On rebuttal, Consumers presented testimony describing its new EJ Resiliency Plan which is intended to direct investment into EJ community circuits, with a goal of increasing EJ communities' reliability such that every EJ community circuit has an all-weather SAIDI in the second quartile (or better) of the IEEE quartiles. 5 Tr 1016-1019. The investments proposed in the EJ Resiliency Plan will be incremental to the investments outlined in the 2023 EDIIP and will amount to \$600 million over 10 years. Consumers stated that it expects to present a list of proposed projects for the first year of the EJ Resiliency Plan in its next electric rate case. But the company also offers, if the Commission finds that such investments should be accelerated, to identify \$10 million in projects for the test year and begin implementing the plan during the test year. 5 Tr 1018. Consumers argued that the ICE calculator is already undergoing an update, and provided additional information on its IJA grants. 5 Tr 900-905, 1019.

The CEOs responded with support for the EJ Resiliency Plan and a recommendation that the Commission approve the plan and direct the company to continue in this vein. CEOs' initial brief, p. 10. The CEOs also agreed with Consumers' proposal to wait on the revision of the ICE calculator. CEOs' reply brief, p. 2.

UCC also supported the EJ Resiliency Plan, and supported the offer of \$10 million in immediate investments. UCC's initial brief, pp. 18-19. However, UCC argued that the regression analysis should be completed.

### 3. Expanding Energy Justice

Consumers provided testimony regarding its diversity, equity, and inclusion programs and its participation in the Energy Affordability and Accessibility Collaborative (EAAC) and the EWR Low Income workgroup. 5 Tr 2575-2586.

The CEOs and UCC argued that Consumers should expand its scope beyond simply reliability to include affordability, disconnections, and program enrollment issues, as well as storm response. 5 Tr 2652-2659; CEOs' initial brief, pp. 7-8; UCC's initial brief, pp. 19-20. Consumers responded that it participates in the EWR programs and has invested in workforce development programs. 5 Tr 2196-2197.

### 4. Findings, Conclusions, and Recommendations

Regarding the CEO and UCC requests for more information, the ALJ found 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 [ALJ] 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 [ALJ] 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 [ALJ] 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.

PFD, p. 513. The ALJ further found 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 [ALJ] 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.

*Id.*, pp. 513-514. Noting that the company, the Staff, and the CEOs are collaborating on the parameters of the regression analysis, the ALJ recommended that the Commission require those parties (and UCC if it so desires) to collaborate in a determination as to how to include residential disconnections on the regression analysis. *Id.*, p. 514. She recommended that Consumers evaluate its disconnection policies for disparities and present the results in its next electric rate case. The ALJ noted that the issue of a disconnection moratorium is addressed elsewhere in the PFD.

Finally, the ALJ found the use of the EJ flag to be a positive step but did not recommend that the Commission adopt the proposal to immediately approve \$10 million for investments identified in the EJ Resiliency Plan. *Id.*, p. 515. Noting that resiliency is addressed in other parts of the PFD, she recommended 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.” *Id.* With regard to expanding beyond reliability in its equity considerations, the ALJ found that “Consumers has provided evidence that it is taking steps to assess other factors and to better understand EJ communities” and added that the additional considerations “are best addressed in the various workgroups addressing these matters.” *Id.*

In exceptions, Consumers argues that it is not necessary to require the company to provide regression analyses because that was required by the March 1 order, p. 286, and the company is complying with that directive via its collaboration with the CEOs and the Staff. Consumers’ exceptions, p. 193 (citing 5 Tr 1023-1024). Consumers indicates that it plans to present that regression analysis in its next rate case. Consumers also argues that the Commission should not require the company to include residential disconnections in its regression analysis, but instead should allow the parties to reach consensus on the components of the regression analysis. Consumers contends that it should not be required to evaluate its disconnection policies for

evidence of disparities and present the results in its next rate case because this proposal was raised by the CEOs for the first time on rebuttal. Consumers' exceptions, pp. 193-194 (citing 5 Tr 2707). Consumers also notes that the CEOs did not request that such an evaluation be presented in the next rate case. Consumers asserts that, because of the late proposal, the record lacks detail as to what the evaluation should include and how it should be performed. Consumers notes that it is "engaging in collaborative efforts in the EJ space" by participating in the EAAC and the EWR Low Income workgroup. Consumers' exceptions, p. 194 (citing 5 Tr 2586). The company also states that it provides information on disconnections pursuant to requirements set in Case Nos. U-18120 and U-20757. Consumers adds that disconnection issues should continue to be dealt with in the workgroups, and through the billing rules and reporting requirements.

In exceptions, the CEOs note that the EJ Resiliency Plan was presented on rebuttal and includes proposals to spend over \$600 million on EJ circuits over ten years, which the CEOs support. The CEOs state that they "understand the [ALJ's] reticence to approve immediate spending[,] but they call the plan a "critical step forward" and encourage the Commission to support the plan and order the company to present it again in its next rate case, with additional detail. CEOs' exceptions, p. 3.

In exceptions, UCC also supports the EJ Resiliency Plan, but notes that there was no opportunity for discovery or responsive testimony on the plan. UCC encourages the Commission to ensure that there are filing requirements that address reliability disparities, noting the company's evidence showing that 72 circuits serving EJ communities are experiencing below-average reliability. UCC's exceptions, p. 10 (citing 5 Tr 1009-1010). UCC asks the Commission to "modify the [ALJ's] recommendation to require future EJ Resiliency Plan proposals be included in initial rate case or grid planning filings with: (1) project-specific cost estimates and

implementation timelines, (2) analysis demonstrating how investments will address documented reliability disparities, (3) evidence of community input in investment prioritization.” UCC’s exceptions, p. 11. UCC also recommends that the Commission require Consumers to propose at least \$60 million in investments in its next rate case, based on the plan to invest \$600 million in infrastructure over the next 10 years. *Id.*

In reply, Consumers again argues that the EJ Resiliency Plan will make targeted investments on EJ circuits to ensure that every EJ circuit is in the second IEEE quartile for SAIDI including MEDs, with a goal of spending \$600 million over 10 years, most of which is incremental to the Reliability Roadmap. *See*, 5 Tr 1017-1018. The company reiterates that it will develop a detailed list of projects for the first year, to be presented in its next electric rate case, but it can also “identify up to \$10 million in projects for the test year of this case.” Consumers’ replies to exceptions, p. 64. Consumers recognizes that the plan was only presented on rebuttal and states that it will present more detail in its next rate case. *See*, 5 Tr 1005, 1016-1018, 1038. Consumers argues that it should not be required to demonstrate that it has sought community input because it is already planning to prioritize the worst-performing circuits and such a requirement “could lead to increased costs and delays in project selection and performance.” Consumers’ replies to exceptions, p. 65. Consumers adds that no evidence has been presented supporting the need for community involvement and no statutory authority has been demonstrated. Consumers also argues that it should not be required to propose \$60 million for the first year but should be allowed to develop and present reasonable projected expenditures.

In their reply, the CEOs argue that the regression analysis should be required in both rate cases and in grid planning cases, and should be expanded beyond reliability to include disconnections. CEOs’ replies to exceptions, p. 1. The CEOs argue that the Commission should adopt the ALJ’s

findings. The CEOs note the testimony of Mr. Tan showing that the collaboration with Consumers has been productive, and that the regression analysis will provide useful information in both rate cases and in distribution plan cases. *See*, 5 Tr 2681-2683. The CEOs note Mr. Tan’s rebuttal testimony “concluding that ‘a census tract with 100% BIPOC population would experience about 120 more residential disconnections compared to a 0 percent BIPOC population census tract with the same income level.’” CEOs’ replies to exceptions, p. 3 (quoting 5 Tr 2705). The CEOs urge the Commission to adopt the ALJ’s recommendation that the company be required to evaluate its disconnection policies, arguing that the fact that this analysis was presented for the first time in rebuttal should not prevent its adoption because there is no disallowance associated with this testimony, but simply a request for further evaluation of an issue that demands attention.

The Commission adopts the findings and recommendations of the ALJ. Like the intervenors, the Commission finds the use of the EJ flag and the presentation of the EJ Resiliency Plan to be positive steps forward. The Commission accepts the plan as presented on this record and expects to see the more detailed version, with specific proposed investments, in the company’s next electric rate case. The Commission also adopts the ALJ’s recommendation that the regression analysis be presented in the company’s next electric rate case, and be filed in all electric rate cases and distribution planning cases. Both the regression analysis and the EJ Resiliency Plan should inform Consumers’ distribution investment strategies. The Commission agrees with the ALJ that the proposed \$10 million test year investment is not appropriate for consideration in this case, as it was presented on rebuttal and thus the record contains no evidence as to the nature of the investment (and no opportunity to test that evidence). The Commission also finds merit in the CEOs’ recommendation that the company evaluate how it executes storm response measures within the EJ framework and analyze any disproportionate impact of outages on EJ communities.

*See*, 5 Tr 2659. Finally, the Commission agrees with the ALJ that the regression analysis should incorporate information that goes beyond reliability, including data on residential disconnections. The Commission will consider whether Consumers should be directed to evaluate its disconnection policies once additional data is available from the regression analysis.

### C. State Reliability Mechanism

Consumers proposed a state reliability mechanism (SRM) capacity charge of \$86.88 per megawatt-day (MW-day), calculated based on the method established in the November 21, 2017 order in Case No. U-18239. 5 Tr 2313-2315. The company added that it is considering requesting to reopen that docket in order to propose a new calculation method that would account for the Midcontinent Independent System Operator, Inc.'s (MISO's) new seasonal construct.

The Staff argued that Consumers' calculation does not comport with the requirements of Public Act 341 of 2016 because it does not include a reconciliation, which must be included whether or not a charge has been administered. 5 Tr 3634-3635. The Staff proposed an SRM charge of \$72.90/MW-day (using the same method as the company but applying a different revenue requirement) and recommended that the company be directed to include a reconciliation mechanism in its next rate case. 5 Tr 3635; Exhibit S-6, Schedule F1.5. Noting the shortcomings of the current method, the Staff also proposed an alternative calculation method based on the cost of new entry (CONE) or the cost to build a combustion turbine (CT). 5 Tr 3798-3802. The Staff suggests that, if the Commission adopts the new calculation method, then the company should be directed to apply this method in its next electric rate case.

On rebuttal, Consumers contended that no reconciliation mechanism is necessary because the company has not collected any revenue from the SRM charge (it has not been imposed).

Consumers also disputed the alternative calculation, arguing that it does not comply with Public

Act 235 of 2023 which prohibits reliance on the cost of a CT. 5 Tr 2328. Consumers asserted that any change to the SRM charge calculation should be addressed in Case No. U-18239 or in a collaborative.

On rebuttal, Energy Michigan also opposed the Staff's requirement for a true-up mechanism and argued that CONE does not provide a basis for a viable alternative calculation. Energy Michigan presented an alternative calculation but also advocated for reopening Case No. U-18239. 5 Tr 3259-3265.

The ALJ found as follows:

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 [ALJ] agrees. Consistent with previous Commission orders, this [ALJ] finds that Case No. U-18239 is the proper docket to consider changes to the SRM calculation method. This [ALJ] recommends that the Commission reopen Case No. U-18239 to determine a new SRM capacity charge calculation method. Further, this [ALJ] 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.

PFD, p. 518.

In exceptions, Consumers argues that inclusion of a true-up is unnecessary when there is nothing to true up, because MCL 460.6w "does not include any language suggesting that the Commission must engage in a purely hollow mathematical exercise in every single rate case." Consumers' exceptions, p. 195. Consumers argues that statutes should not be read to arrive at absurd results and urges the Commission to reject the ALJ's recommendation. Consumers states that if it ever imposes an SRM capacity charge, then it will include a true-up in its next-filed SRM capacity charge calculation. *See*, 5 Tr 2328.

In reply, the Staff supports the ALJ's recommendation, arguing that:

the SRM reconciliation is truing up the projected net revenues included in the calculation of the capacity charge and associated capacity rates from Section 6w(3) of PA 341 with the actual amounts that occur in the period and reflecting any difference between those revenues for all customers in their capacity rates and the capacity charge on a going forward basis.

Staff's replies to exceptions, pp. 26-27.

In the January 23 order, pp. 381-390, the Commission addressed these identical issues. The Commission adopted the Staff's position on the true-up; approved the utility's calculation method (which matched the Staff's, as it does in this case); and advised the parties to reopen Case No. U-18239 if they desire to change the calculation method. January 23 order, p. 390. The Commission also noted that it made a similar finding regarding the appropriate forum for a change to the calculation method in the March 1 order, p. 291; the December 1 order, p. 307; and the December 22 order, p. 385. January 23 order, p. 390. The Commission sees nothing on this record which indicates that it should deviate from findings it made six weeks ago. Recognizing that the Staff will re-calculate the SRM charge based on the findings in this order, the Commission approves the calculation method used by both the company and the Staff, and, as in the January 23 order, agrees with the Staff that the statute requires the reconciliation as described by the Staff above and therefore orders the company to include a reconciliation calculation consistent with this order in its next rate case filing. Whether to change the calculation method is a topic for a separate docket, as the Commission has stated several times.

#### D. Demand Response Surcharge

Consumers proposed adoption of an all-encompassing DR surcharge in this case. 5 Tr 2168-2170; *see also*, Exhibit A-29. The company contended that:

[t]he DR surcharge will be adjusted during the Company's annual DR Reconciliation proceedings to account for changing costs, over/under-recoveries, and recovery of the performance incentive. During the annual reconciliation, the

Company will use the same DR surcharge methodology approved by the Commission in the most recent rate case.

5 Tr 2168. The Staff did not take a position on approval of the proposed surcharge but agreed with the company's allocation method and noted that the surcharge should be "updated to reflect Staff's revenue requirements." Staff's initial brief, p. 140 (citing 5 Tr 3637-3639). ABATE objected to the proposed DR surcharge, arguing that it is unnecessary and has previously been rejected by the Commission numerous times. 5 Tr 3361-3363.

The ALJ described the parties' positions at pages 518 to 522 of the PFD before concluding that Consumers complied with the Commission's directive to work with the Staff regarding the DR methodology. PFD, p. 522; *see also*, March 1 order, p. 293. Therefore, the ALJ recommended that 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," finding 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." PFD, p. 522.

In exceptions, Consumers reiterates its position that the Commission should approve the proposed DR surcharge. *See*, Consumers' exceptions, p. 200.

ABATE excepts to the ALJ's recommendation, arguing that the ALJ's rationale does not justify the proposed surcharge which it contends should be rejected. Relying upon its initial brief, ABATE states that "a surcharge is not needed to provide appropriate cost recovery for Consumers' DR costs and incentives." ABATE's exceptions, p. 20 (citing ABATE's initial brief, pp. 66-68). ABATE further contends that the claim "that the proposed surcharge will streamline and simplify the reconciliation process reflects an illusory concern considering Consumers' routine annual rate case filings using projected test year values." ABATE's exceptions, pp. 20-21.

ABATE also argues that approval of the proposed DR surcharge is inconsistent with prior Commission decisions. Specifically, ABATE quotes the December 17 order to support its position that timing issues do not provide compelling rationale to approve the proposed surcharge. *See*, December 17 order, pp. 247-248. ABATE states that:

[p]ermitting a surcharge to increase customer costs between base rate cases, when offsetting reductions in non-DR costs might otherwise have negated the need for the rate increase, is therefore unnecessary and unreasonable. The Company's projected costs are meant to reasonably reflect cost and benefit estimates, meaning a surcharge is unnecessary and, if projections are meant to be accurate, will have no impact on ostensible regulatory burdens.

ABATE's exceptions, p. 21.

Consumers replies to ABATE's exceptions, describing ABATE's claims as "inaccurate" and stating that "the surcharge will allow for timely refunds of any potential over-recoveries and timely rate recovery for the Company for any potential under-recoveries and the performance incentive." Consumers' replies to exceptions, p. 63 (citing 5 Tr 2190). Thus, Consumers contends that the ALJ's recommendation should be adopted. Consumers' replies to exceptions, p. 63.

The Commission adopts the findings and recommendations of the ALJ. Contrary to ABATE's exceptions, the Commission finds that the ALJ's recommendation is consistent with the Commission's prior orders. Specifically, in the March 1 order, the Commission held that it "would like to see more input on accounting details in the future, particularly from the Staff, before a change in the way in which DR costs are recovered from ratepayers can be fully considered for approval." March 1 order, p. 293. Consistent with this language, the company met with the Staff and agreed upon the DR surcharge methodology presented in this case. 5 Tr 2170. Notwithstanding the above, the Commission agrees that Consumers' proposed DR surcharge should be updated to reflect the revenue requirements as adjusted by this order. *See*, 5 Tr 3637-3639; *see also*, Exhibit S-6, Schedule F1.8.

#### E. Distribution Deferral Mechanism

Consumers requested to continue its Distribution Deferral Mechanism for the test year.

4 Tr 417-420; Exhibit A-27. The Staff agreed that the continuation of the deferral mechanism, including the use of straight-line amortization, was reasonable subject to the following conditions:

1. The Company shall provide a list of sub-programs and investment categories within each of the five programs of New Business, Demand Failures, Asset Relocation, Reliability, and Line Clearing and communicate any significant changes to these sub-programs and investment categories to Staff while the changes are still in the planning stages and prior to the implementation of the proposed changes.
2. The Company shall provide quarterly spend reporting in each of the five programs throughout the test year and notify Staff of any anticipated spending above 110% of the approved spend amount for New Business, Demand Failures, and Asset Relocation programs. Each notification must include an explanation for the overspend.
3. The Company shall spend the full amounts approved by the Commission in the Line Clearing programs. If the Company spends the approved amounts in the Line Clearing programs, deferred accounting treatment shall be authorized for both the overspend and the underspend (two-way tracker). If the Company fails to spend the approved amounts in the Line Clearing program, deferred accounting treatment shall only be authorized for the underspend (one-way tracker).
4. Deferred accounting treatment, if sought by the Company again in the future, must be requested in a future rate case.

5 Tr 3859-3860. Consumers responded that the Staff's proposed conditions were fair and reasonable. 5 Tr 1005; *see also*, Consumers' initial brief, pp. 439-440.

The ALJ found that “[w]ithout apparent opposition” the Commission should approve the “requested continuation of the distribution deferral mechanism subject to Staff’s recommended conditions.” PFD, p. 523.

No exceptions were filed on this issue.

The Commission finds that there is no dispute remaining regarding the continuation of the deferral including the Staff's conditions. Therefore, the ALJ's recommendation is adopted. *See, id.*, p. 523.

#### F. Regulatory Asset Approvals

The company requested continuing regulatory asset treatment with respect to the PowerMIDrive and PowerMIFleet pilot programs, decommissioning and ash disposal costs for the Karn and Campbell units, the Pension and OPEB Volatility Mechanism, and retention costs associated with the Karn and Campbell units. *See*, Consumers' initial brief, pp. 440-443. In addition, Consumers requested that the Commission:

approve a 25-year amortization period for the \$371 million acquisition adjustment included in the purchase price of the Covert Plant. The Covert Plant is a natural gas-fired combined cycle generating unit acquired by the Company in 2023. Its purchase was agreed to in the Company's IRP settlement in Case No. U-21090 and the electric rate case settlement agreement in Case No. U-21224.

4 Tr 416-417. Further, the company stated that “[t]he 25-year amortization period aligns with the end of the acquisition adjustment for Zeeland, another natural gas-fired power plant owned by the Company, with similar in-service date and useful life.” 4 Tr 417.

The ALJ found that no party raised concerns with regard to the above-referenced accounting requests. Therefore, she recommended that the Commission approve “Consumers’ accounting requests and use of regulatory assets and amortization . . . .” PFD, p. 525.

In addition to the above requests, the company indicated that:

[t]he settlement agreement approved by the Commission in Case No. U-21090 on June 23, 2022, established that in the next rate case filed after the conclusion of the IRP case (Electric Rate Case No. U-21389), the actual remaining net book value of Campbell Units 1, 2, and 3 would be removed from plant-in-service and accumulated depreciation accounts and placed into a regulatory asset.

4 Tr 412. As such, Consumers presented Exhibit A-30, which reflected “the associated revenue requirement adjustment of negative \$6.596 million.” Consumers’ initial brief, p. 441; *see also*, Exhibit A-30. The Staff disputed the company’s adjustment, noting that its:

Campbell revenue requirement adjustment is (\$7,708,000), which is (\$1,113,000) greater than the Company’s (\$6,596,000) adjustment. (Exhibit S-1, Schedule A-2; Exhibit A-30 (JCA-65).) Staff is projecting a larger Campbell revenue requirement adjustment because Staff has applied its proposed cost of capital from Exhibit S-4, Schedule D1 with a 9% return on equity (ROE) applied for Campbell per the Order in [] Case No. U-21090 in lieu of the Company’s projection.

5 Tr 3534. Consumers responded that the Staff made errors in its calculations. 4 Tr 451. In briefing, the Staff noted agreement with the company, corrected the adjustment, and therefore, provided an updated recommended “\$4,400,000 Campbell revenue requirement adjustment.” Staff’s initial brief, p. 115. Further, the “Staff recommends the ALJ, and the Commission update this adjustment based on the final cost of capital and capital structure decisions in its Order.” *Id.*, pp. 115-116.

The ALJ agreed with the Staff’s contentions and found that the revenue requirement adjustment should be updated based upon the Commission’s final cost of capital and capital structure decisions. PFD, p. 525.

No exceptions were filed on this issue.

The Commission finds that the ALJ’s recommendation is reasonable, supported by the record, and is therefore adopted. The Commission concludes that the Campbell revenue requirement adjustment should be consistent with the Staff’s recommendation and the final cost of capital and capital structure determinations in this order, as discussed above.

## G. Low-Income Assistance Programs and Recommendations

At pages 525 to 528 of the PFD, the ALJ reviewed the presentations by the CEOs and UCC regarding energy challenges facing low- and moderate-income (LMI) customers in Consumers' service territory. The ALJ also indicated that:

[L]ow-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." 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. 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)." 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) and evaluating Percentage of Income Payment Plan pilots.

PFD, p. 527 (footnotes omitted). Like the ALJ, the Commission addresses specific recommendations and concerns pertaining to these issues individually as follows.

### 1. Summer Protection Plan

UCC proposed an expansion of Consumers' Winter Protection Plan by expanding the disconnection moratorium to include May through September. 5 Tr 3489. In the alternative, UCC proposed additional disconnection protections during National Weather Service heat advisory periods. 5 Tr 3490. The CEOs and the Attorney General indicated support for the proposals. *See*, 5 Tr 2702-2707; *see also*, Attorney General's initial brief, pp. 214-215. Consumers responded that its Commission-approved Extreme Weather Policy already provides shut-off protection when temperatures exceed 90 degrees and that such a change in policy would be more appropriately considered through a workgroup. 5 Tr 2192-2193. In briefing, the Staff noted that it neither

supported nor opposed the proposals, but stated that consideration of such a change may be more appropriate outside of the instant case. Staff’s reply brief, p. 36.

The ALJ stated that Consumers’ current extreme weather conditions policy was evaluated by the Commission and approved in Case No. U-20140. While acknowledging that the record reflects potential hazards that could result from extreme heat due to lack of air conditioning, the ALJ concluded that further analysis regarding the proposed Summer Protection Plan was necessary. PFD, p. 531. Further, “[t]o address the UCC’s concern that no workgroup is specifically addressing this issue, the [ALJ] recommend[ed] that the Commission direct the EAAC to consider this issue.” *Id.*, p. 532.

The CEOs take exception, arguing that “[t]he evidence in the record demonstrates that low-income and BIPOC communities are disproportionately burdened by energy rates, and that this leads to unsafe home temperatures.” CEOs’ exceptions, p. 6. Thus, the CEOs urge the Commission to implement “a shutoff moratorium in order to protect vulnerable customers during the heat of the summer months, just like it already has during the winter months.” *Id.*

UCC also disagrees with the ALJ’s recommendation, stating that the record clearly reflects escalating patterns of disconnections that require immediate Commission action. Specifically, UCC states that:

[t]he record shows summer shutoffs in Consumers’ service territory are substantially increasing. As argued in UCC’s initial brief, Consumers disconnected a total of 13,279 customers in July and August of 2024, a 15.7% increase from those months in 2023. Such a significant increase indicates that an urgent issue is rapidly worsening, and requires appropriate action by the Commission.

UCC’s exceptions, pp. 11-12 (footnote omitted). UCC further contends that immediate action is warranted given that “[t]he health consequences of losing access to cooling are dire – nationally, heat-related deaths in 2023 were triple the 2004-2018 average, with 2,302 deaths compared to the

historical average of 702.” *Id.* (citing Exhibit UCC-16). UCC claims that, while the EAAC may be the appropriate venue for future discussions regarding long-term solutions, “the clear record evidence of growing summer disconnection risks demands immediate Commission action to protect vulnerable households during increasingly dangerous summer months.” UCC’s exceptions, p. 13.

In reply, Consumers reiterates that it “has a policy in place to protect customers during extreme weather conditions and believes that changes related to income specific energy issues, such as a summer shutoff moratorium, should be addressed by the Commission workgroups.” Consumers’ replies to exceptions, p. 66. Consumers continues, stating that review of such a proposal in a workgroup would allow for broader discussion, including the application of a revised policy to all utilities. *Id.* (citing 5 Tr 2193). In sum, Consumers notes agreement with the ALJ’s determination.

The Commission first expresses appreciation for the discussion surrounding this issue. Like the parties, the Commission recognizes the growing concerns surrounding changing weather patterns including extreme weather conditions. The Commission finds that consideration of additional protections beyond those already included in the company’s Commission-approved Extreme Weather Policy is well-reasoned. As previously indicated, the current extreme weather condition policies were approved for utilities by the August 28, 2018 order in Case No. U-20140 (August 28 order). In that docket, the Commission directed each regulated electric and natural gas utility to file an extreme weather condition policy pursuant to Mich Admin Code, R 460.134 (Rule 34) of the Commission’s Consumer Standards and Billing Practices for Electric and Natural Gas Service. The Commission stated that it:

views the protection of utility customers during extreme weather events to be of paramount importance and applauds the efforts of those Staff members and utility

personnel who worked diligently to review and further define these policies. Having reviewed each policy in accordance with Rule 34, and in light of the Staff's filing recommending approval, the Commission is satisfied that these extreme weather condition policies, in conjunction with other customer protections, will protect the safety of each utility's customers, and finds that they should be approved.

August 28 order, p. 2. The Commission reiterates that protection of customers is of paramount importance and agrees that this record reflects that, nationally, heat-related deaths have substantially increased since the issuance of the August 28 order. *See*, Exhibit UCC-16, p. 4. Thus, the Commission finds that modifications to the current extreme weather condition policies should be considered comprehensively and with respect to all Michigan regulated electric and natural gas utilities. The Commission finds that this broader discussion should be conducted as part of Case No. U-20140, and an additional order providing further guidance on this matter will be forthcoming.

## 2. Percent of Income Payment Plan Program

UCC also proposed the implementation of a permanent Percent of Income Payment Plan (PIPP) "with electricity capped at 3% of income" to replace the mix of different low-income credit and payment programs. 5 Tr 3494. The company responded that the proposal is premature given that the Commission approved a two-year PIPP pilot program, which is in the final phases, and that the EAAC is still evaluating the PIPP pilots. 5 Tr 2193-2194. UCC agreed that Consumers "should assess the results of its PIPP program pilot and look to implement a PIPP program as soon as it can" and that the "Commission should order the Company to provide a proposal for a PIPP program and an analysis of the data from its pilot in the Company's next rate case." UCC's initial brief, p. 10. UCC further stated that "the Commission should expedite the EAAC's process and order the Company to propose, in their next rate case, a way to incorporate Staff's EAAC recommendations, which should have been released by that time." *Id.*, p. 15. The Staff noted

appreciation for UCC’s proposal but opined that there may not be sufficient time before the company’s next rate case. Therefore, the Staff requested that the proposed implementation of the EAAC’s as-yet undetermined PIPP recommendations be postponed until the EAAC’s analysis is complete. *See*, Staff’s reply brief, pp. 41-42.

The ALJ noted agreement “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.” PFD, p. 534.

No exceptions were filed on this issue.

The Commission agrees that it is not reasonable to change or expand the PIPP program until the completion of the analysis of the pilot program. Therefore, the Commission adopts the ALJ’s recommendation on this issue. *See, id.*, p. 534.

### 3. Residential Income Assistance Credits and Low-Income Assistance Credits

As discussed at pages 535 through 538 of the PFD, MNSC presented proposed “modifications to improve the effectiveness of Consumers’ low-income programs.” MNSC’s initial brief, p. 136.

As summarized in MNSC’s initial brief, it:

recommended that Consumers discontinue the RIA program, which has little impact on affordability, shift its RIA funding to the LIAC program, and remove the cap on LIAC participation. [MNSC] further recommended that Consumers transition from offering a flat LIA credit to eligible households at all income levels to a tiered program that increases the LIA credit amount for households with lower incomes so that bill burdens are meaningfully reduced. Finally, [MNSC] made recommendations to streamline LIAC eligibility determinations, braid LIA credits with [the federal] Inflation Reduction Act (IRA) rebates for energy efficiency and clean energy investments, and improve data collection and reporting on affordability issues.

*Id.* Consumers responded that the Commission is already considering similar changes through its workgroup process and that MNSC’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. In addition, the LIAC credit funding should be handled deliberately as it is recovered through base rates from all customers. Based on the projected number of customers receiving the RIA credit, this would result in a rate increase of approximately \$18 million dollars. Therefore, these issues are more suited for discussion in the Workgroup. Until the collaborative finds a path forward, any wholesale changes are premature.

5 Tr 2195. Similarly, the Staff opposed the program changes in this proceeding. Specifically, the Staff stated that it:

does not support programmatic changes to the RIA and LIAC at this time, since these programs are under review at the behest of the Commission, and the AAA subcommittee is tasked with making recommendations to likely reform utility energy assistance. This includes but is not limited to changing the structure of how the credit is used, increasing the credit amount of and increasing enrollment of the LIA credit.

5 Tr 3821. The Staff further emphasized that it would be imprudent to implement changes in this case without a cost estimate or study and that review of such changes:

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. It takes more collaboration outside of a rate case to ensure programs are able to be designed well—especially by including program administrators in program design deliberations.

5 Tr 3822.

In response, MNSC contends that the Commission should not continue to wait for the EAAC and AAA subcommittee. Specifically, MNSC quoted the November 7 order, which stated: ““a good solution now does not need to be passed over in favor of a potentially better solution later.”” MNSC’s initial brief, p. 146 (quoting November 7 order, pp. 207-208). MNSC further disputed that the uncapping of the LIAC would cost \$18 million and requested that Consumers be required to present a cost estimate in its next rate case, if the proposal is not adopted in this case. *See*, MNSC’s initial brief, pp. 142-145.

Consumers responded that the November 7 order does not support MNSC's contentions because the Commission:

only found the limited action of increasing the Low-Income Assistance Credit to be reasonable. The Commission continued on stating that it "maintains the previous directives to the EAAC and AAA to assess assistance program issues such as enrollment assignment and caps, revisions to the LIA/RIA programs, and the overall effectiveness of utilities' affordability assistance programs." *Id.* These are the type of proposals that are being discussed in this case, and as the [Commission] just indicated should be examined during the workgroups.

Consumers' reply brief, p. 81. The Staff also replied that MNSC's request for Consumers to be required to present a cost estimate in its next rate case "would be redundant and undermine the EAAC efforts to streamline energy assistance analysis/reform for all investor-owned utilities." Staff's reply brief, p. 39.

The ALJ recognized that portions of MNSC's proposal may have merit. However, she ultimately concluded that "this rate case is not the appropriate forum to make this determination." PFD, p. 543. Continuing, the ALJ noted that the AAA subcommittee is currently reviewing the RIA credits and LIACs, and the Commission is already reviewing additional low-income considerations in EWR plan cases. The ALJ held that it is not "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." *Id.* Responding to discussion of the effectiveness of the workgroups to initiate change, the ALJ suggested that the Commission could consider the workgroups' findings and incorporate the same into future orders. In sum, the ALJ found that both MNSC's proposal to discontinue the RIA credit and apply a tiered LIAC credit and its "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" should be rejected.

No exceptions were filed on this issue.

The Commission first indicates its appreciation for MNSC's thoughtful proposal on this issue. Like the ALJ and the Staff, the Commission finds value in the proposal. However, the Commission agrees with the Staff that the instant rate case is not the appropriate forum for such policy modifications. As already noted by the ALJ, the Commission is currently reviewing low-income programs in numerous forums, including in the EAAC and EWR plan proceedings. While the November 7 order addressed DTE Gas's programs, the Commission in the instant case for Consumers nevertheless stands by its same holding in that case which states, in part:

While the Commission agrees with the Staff that many of the issues pertaining to affordability and the company's energy assistance programs are well suited for holistic and participatory process of the EAAC, the Commission also agrees . . . that a good solution now does not need to be passed over in favor of a potentially better solution later. . . . The Commission clarifies, however, that it maintains the previous directives to the EAAC and AAA to assess assistance program issues such as enrollment assignment and caps, revisions to the LIA/RIA programs, and the overall effectiveness of utilities' affordability assistance programs.

November 7 order, pp. 207-208 (citations omitted). Again, while there is value in MNSC's proposal, the Commission finds that it is distinguishable from the narrow action approved by the Commission in Case No. U-21291 and that such reforms are more appropriately addressed holistically outside of an individual company's rate case as acknowledged in the November 7 order.

In addition, the Commission finds that many of aspects of MNSC's proposal are already being investigated by the AAA subcommittee. Specifically, the AAA subcommittee is reviewing reform options with respect to the LIA and RIA credits, enrollment and eligibility issues, and PIPP programs, to name a few. The AAA subcommittee's report is expected in August 2025, which will analyze many topics covered by MNSC's proposal and will provide recommendations going forward. The Commission again emphasizes the need for a holistic approach to program reform

and desires to utilize the vast array of information from the affordability pilot programs and the spectrum of work being done by the committees and subcommittees on these issues, to enable the Commission to review low-income programming comprehensively.

In addition, the Commission agrees with the ALJ's recommendation to reject UCC's suggestion that the Commission should not 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." UCC's initial brief, p. 15. As stated by the ALJ, this recommendation "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." PFD, p. 547.

No exceptions were filed on this issue.

The Commission adopts the ALJ's recommendation. *See, id.*, p. 547.

#### 4. Data Reporting Requirements

MNSC proposed "that Consumers be directed to file the same monthly zip code level data that Illinois utilities have been directed to file by the Illinois Commerce Commission" including 22 metrics with the goal of increasing transparency. 5 Tr 3098; *see also*, 5 Tr 3097-3100. Consumers opposed the recommendation and indicated that additional reporting would result in additional costs and would raise data privacy concerns. 5 Tr 2196. The Staff addressed the proposal and averred that the Commission is already requiring similar data reporting and continues to review the benefits of additional reporting requirements. *See*, 5 Tr 3785-3790. In briefing, MNSC "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 reflected in MNC’s testimony. MNSC’s initial brief, p. 145.

No exceptions were filed on this issue.

The Commission finds that the ALJ’s recommendation is well-supported on the record and is, therefore, adopted. The Commission reiterates the Staff’s position that “[t]he ordering of additional customer focused data to be collected could be redundant and burdensome on the regulated utilities while not providing additional insight for Staff, the public[,] or interested parties.” 5 Tr 3787-3788.

## H. Community Solar, Distributed Generation, Microgrids, and Nanogrids

### 1. Community Solar

GLREA requested that the Commission direct Consumers to create terms and tariffs for community solar projects that would be located in the company’s service territory. *See*, 5 Tr 2609. GLREA stated that there are three important elements to administering a community solar program: “1) compensation similar to that received by customers having the solar panels on their home or business, 2) provisions to ensure the community solar investor/customer acquires equity associated with the community solar investment, and 3) community involvement.” 5 Tr 2614. To accomplish these goals, GLREA recommended several models: virtual inflow/outflow, direct ownership, Power Purchase Agreements or subscription options, and community engagement. GLREA stated that virtual inflow/outflow and bill credits appear to be the most predominantly used methodologies used by utilities in the U.S.

GLREA explained that:

[v]irtual inflow/outflow is a metering function that is currently offered by the metering company. The utility does not need to administer a virtual inflow/outflow program. This is where the appropriate proportion of the community solar array generation meter is added to the customer[’]s meter on a real time basis. The

portion of the community solar meter read would be subtracted from usage and if there is a resulting negative it would be registered in the outflow part of the customer's meter. This approach would result in customer meter reads (inflow and outflow) being more analogous to the installation of solar panels on the customer's home or business. The utility would not have to create any new billing or metering practices as they would simply treat the community solar customer as a DG customer. This is the ideal methodology as it would establish community solar compensation at exactly the same compensation available to a DG customer, which compensation is already determined in annual rate cases. This approach would also be consistent with both the DOE definition and the position stated by Staff Witness [Julie] Baldwin in [Case No.] U-21244, and intervenor goals of establishing community solar customer[']s compensation similar to that which is applicable to DG customers and which would be completely fair for all customers regardless of economic standing.

5 Tr 2615; *see also*, 5 Tr 2620, 2624.

In addition, GLREA asserted that pursuant to the virtual inflow/outflow method, ownership is either community owned or third-party owned. GLREA contended that customers should be allowed to sell ownership of the shares in the community solar array to another customer, in which case, the metering company would assign that portion to another billing meter. GLREA stated that “[t]his approach would also permit the community solar customer to build equity investment value very similar to the equity built by DG customers who invest in solar installations at their home or business.” 5 Tr 2616.

GLREA asserted that the next best alternative to virtual inflow/outflow is permitting a customer to buy into the community solar project and be provided a bill credit. GLREA described a project-based investment model in Minnesota that could serve as an example for designing a similar program in Michigan. *See*, 5 Tr 2617-2619.

UCC also contended that:

[c]ommunity solar programs have the potential to decrease energy burdens while accelerating the clean energy transition. Community solar programs can reduce energy bills anywhere from 5% to 25%. Community solar programs are especially beneficial for LMI customers since they allow residents of multi-family housing units to access the benefits of solar energy. Community solar has thus far been an

underutilized tool for increasing energy affordability, and [UCC] recommend[ed] the Company increase its investments into locally owned community solar programs to promote long-term energy affordability.

5 Tr 3497 (footnote omitted). However, UCC objected to GLREA’s proposed option of utility-owned solar projects with some community participation. In UCC’s opinion, “[r]eal community solar should be owned by residents of the community, or by entities owned and controlled by residents of the community, in which the solar project is sited.” 5 Tr 3525.

UCC explained the benefits of community-owned solar projects, including energy self-sufficiency, political autonomy, and wealth generation. Accordingly, UCC recommended that the Commission direct Consumers to:

amend 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.

5 Tr 3526.

Consumers responded, stating that it filed a community solar proposal on September 22, 2023, in Case No. U-21374, which was approved in the August 22, 2024 order in that case. The company asserted that any changes to the community solar program should be addressed in a future voluntary green pricing (VGP) program filing and not in the immediate case. Consumers stated that it “is open to collaborating with Staff and other interested parties to consider voluntary solar options for customers which are legal and fair to the Company and all of its customers, including nonparticipating customers. No tariff provisions should be approved until the underlying program is appropriately considered.” 5 Tr 1751.

The Staff stated that GLREA and UCC have not provided viable community solar proposals in this case. In the Staff's opinion, "[w]ithout knowing the costs of potential Community Solar arrays, nor the compensation structure that would be to [sic] used for these potential programs, it is premature to promise any bill savings whatsoever." 5 Tr 3878. Additionally, the Staff asserted that GLREA's proposal to use virtual DG billing for a community solar program would not be appropriate. The Staff explained that:

[c]onsideration for the DG tariff was strongly based on how customers use the electrical system. Thus, a tariff was created recognizing how much customers use onsite, import, and export. Generation and use on-site reduces imports and is thus effectively compensated at the full retail rate. Community Solar is, with the possible exception of an anchor tenant, located off-site from the customer. Compensating the customer at a virtual DG rate is compensating the customer as if they are not using the distribution system, which they clearly are to a varying extent depending on relative location.

5 Tr 3878-3879.

The Staff also contended that GLREA's proposal for meter reading in a community solar project is unclear, but that it appears to conflict with current regulation of utility metering and billing. *See*, 5 Tr 3809-3810.

In response, GLREA argued that Consumers and the Staff provided inconsistent testimony about GLREA's recommendations for a community solar project, stating that the company and the Staff were open to considering a community solar project, but objected to considering the project in this case. GLREA also stated that the Staff failed to "provide any specifics as to [its] 'legal' conclusions, and fails to explain how the Company would face insurmountable legal obstacles to the adoption of credible community solar projects when such projects have been readily implemented in other states, and in Michigan also." GLREA's initial brief, pp. 11-12. In addition, GLREA asserted that the Staff did not specifically explain why the outflow from a community

solar project could not have a compensation structure similar to the compensation given to direct DG customers.

UCC contended that the Commission does not have to wait until the next biennial VGP case to amend Consumers' community solar program. Specifically, UCC stated that "there is no provision within the VGP statute nor the Commission's Order that would preclude the Company from addressing existing programmatic deficiencies prior to the next VGP proceeding." UCC's initial brief, p. 26. UCC also reiterated its recommended amendments to Consumers' community solar program. *See, id.*, pp. 26-28.

The ALJ recommended that the Commission deny GLREA's and UCC's requests that the Commission direct Consumers to modify its community solar program in this case. She stated that "[c]ommunity 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." PFD, p. 553. However, the ALJ noted that when Consumers' community solar program is next reviewed, the Commission should determine whether program rates and compensation consider the COS and whether customers are appropriately assessed for their use of the grid and equitably compensated for excess power injected into the grid.

UCC disagrees with the ALJ that community solar is not at issue in this case. UCC reiterates that the Commission should consider affordability in this case, which is linked to community solar. In addition, UCC states that one of Consumers' main objectives in this case is to improve the reliability of distribution infrastructure. UCC asserts that:

[i]n pursuit of these goals, the Company contemplates future upgrades to the grid to accommodate renewable energy. For the Commission to devote considerable resources to analyzing these issues without considering the role community solar may play in the long-term viability of the Company's investments would be a

mistake. Put simply, if a community solar plan is eventually implemented, the Company will have to navigate its integration into the grid and any accompanying changes to energy distribution. Overlooking community solar at this juncture makes the discussion of these investments incomplete, undermining efficiency. It would be detrimental to decline to consider community solar in a case where distribution investments are a principal focus.

UCC's exceptions, p. 8 (citing PFD, p. 105; 4 Tr 361-362). Therefore, UCC requests that the Commission direct Consumers to amend its community solar program before the next VGP case.

Moreover, UCC states that if the Commission desires "Michigan-specific data to support a full-fledged community solar program at this time," the Commission should direct Consumers "to devise a pilot proposal for a community solar program in its next VGP case, informed by extensive stakeholder input in this case, [which] would be a simple and efficient way to attain this necessary data." UCC's exceptions, pp. 8-9.

Furthermore, UCC contends that the immediate record contains sufficient information to consider community solar and that the Commission should not delay consideration. UCC asserts that "[t]he Commission can and should order concrete amendments to the Company's current program in line with its directive in [Case No.] U-21354 [sic: U-21534], including those previously proposed by UCC. Indeed, the Company can address this issue in its next VGP case while requiring changes to the basic design of the existing program in the interim." UCC's exceptions, p. 10 (citing UCC's initial brief, p. 26).

In exceptions, GLREA states that "[w]hile Consumers Energy and the Staff assert that community solar issues were not raised by the Company in their case[, it] does not diminish the importance of taking action on tariff proposals, tariff[s] and other issues as presented by other parties including Intervenors." GLREA's exceptions, p. 1. GLREA asserts that there are no legal barriers to establishing community solar projects in Michigan, and the Commission should require

Consumers and the Staff to participate in a workgroup that will result in the company providing a robust and detailed community solar proposal in a standalone case or rate case.

In replies to exceptions, UCC reiterates the arguments set forth in testimony, briefing, and exceptions. *See*, UCC’s replies to exceptions, pp. 1-3. If the Commission declines to adopt UCC’s proposals, UCC requests that the Commission adopt GLREA’s request for a workgroup, “conditional on a Commission directive limiting the scope and timeline for work to be completed such that the work group does not unnecessarily delay implementation of a community solar program.” *Id.*, p. 3.

Consumers responds that UCC’s and GLREA’s community solar proposals in this case do not reflect the actual costs and credits of the solar array’s generation and would likely create cross-subsidization by non-participating customers. The company asserts that it “is open to collaborating with Staff and other interested parties to consider voluntary solar options for customers which are legal and fair to the Company and all of its customers, and which comply with cost of service principles and applicable law.” Consumers’ replies to exceptions, p. 72.

In replies to exceptions, the Staff restates that “there is no actionable proposal in the instant case nor is there a proposed tariff to approve.” Staff’s replies to exceptions, pp. 27-28 (citing 5 Tr 3877; Staff’s initial brief, pp. 133-134; Staff’s reply brief, pp. 31-32). The Staff requests that the Commission reject GLREA’s and UCC’s exceptions and adopt the ALJ’s recommendation.

The Commission notes that in the July 12, 2017 order in Case Nos. U-18349 *et al.* (July 12 order), the Commission directed investor-owned electric utilities to file, in separate cases, VGP proposals that comply with MCL 460.1061 and with the guidance in the July 12 order. In addition, the Commission opened contested cases for Consumers and DTE Electric to address concerns regarding their VGP programs.

In Consumers' contested VGP case, Case No. U-18351, the Commission approved Consumers' Solar Gardens program and Large Customer Renewable Energy Program Option A and Option B on October 5, 2018, after considering several hundred pages of testimony and exhibits from Consumers, the Staff, and several intervenors; a PFD; and exceptions and replies. Then, on February 23, 2023, in Case Nos. U-18349 *et al.*, the Commission opened a contested case in Case No. U-21374 and directed Consumers to file its next VGP proposal by September 22, 2023. After considering hundreds of pages of testimony and exhibits from Consumers, the Staff, and several intervenors; a PFD; and exceptions and replies, the Commission approved a VGP program for Consumers on August 22, 2024, which included a community solar program.

The Commission notes that GLREA, UCC, and Consumers have differing ideas about how a community solar program should be defined and executed. However, the Commission agrees with Consumers and the ALJ that community solar is not at issue in this case. As discussed above, Consumers' recent VGP and community solar proposals have been addressed in separate, contested, and complex case proceedings that involve broad input and voluminous filings from the company, the Staff, and intervenors. To effectively address the specific issues and data involved with community solar projects, the Commission finds that Consumers' community solar program is appropriately addressed in a VGP case, including consideration of the objectives GLREA proffers by proposing the launch of a workgroup.

Even so, the Commission agrees with the Staff that GLREA and UCC did not adequately describe or explain how their proposed community solar programs would comply with Michigan's legal and regulatory structure, and they failed to include the costs and compensation structure to support their predicted bill savings. *See*, 5 Tr 3497-3498, 3525-3526, 3877-3879. The Commission also agrees with the Staff that GLREA's proposal to compensate community solar

customers using the virtual DG rate should be rejected. As noted by the Staff, most community solar projects are located off-site from the customer, thus requiring energy to be transported through the distribution system to the community solar customer. The virtual DG rate would compensate the community solar customer as if they are not using the distribution system, “which they clearly are to a varying extent depending on relative location.” 5 Tr 3879. Therefore, the Commission denies GLREA’s and UCC’s request that Consumers amend its community solar proposal in this case. However, the Commission finds persuasive the ALJ’s recommendation that in Consumers’ next VGP case, the company’s program rates and compensation structure should “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.” PFD, p. 553. The Commission is also supportive of community solar proposals from the company that include opportunities for interested persons to have input into program design and help shape the deployment of cost-effective community solar, consistent with Michigan law.

## 2. Distributed Generation Credits

GLREA asserted that pursuant to MCL 460.1177(2), the “DG billing credit should include all total charges, . . . the monthly service charge, all capacity and energy charges, and all surcharges including securitization surcharges among any other charges or surcharges.” 5 Tr 2625. GLREA disagreed with the Commission’s determination in the July 23, 2024 order in Case No. U-21569 *et al.* (July 23 order) that outflow credits may not be used to offset securitization charges on a customer’s bill. Rather, GLREA stated that “there is no reason why the securitization surcharges on the bill cannot continue to be applied to the customer, while at the same time DG customers will receive a billing credit for outflow that includes the securitization surcharges.” 5 Tr 2625. GLREA asserted that the outflow credit and the securitization surcharges would operate

separately, similar to the Commission's recognition of senior citizen discounts or low-income billing credits. Furthermore, GLREA argued that Consumers:

presented no evidence in this case that the elimination of securitization charges from the subject DG billing credit is in any way necessary to ensure the continuation of adequate revenues to pay the securitization bonds over the remaining life of any securitization bond issuances. The reality is that the company's revenues are vastly sufficient to ensure the continued amortization payments on the already issued securitization bonds.

5 Tr 2625-2626. Finally, GLREA asserted that the Commission should deny Consumers' request to exempt securitization charges from the billing credits to be received for DG customer outflow in Case No. U-21796. GLREA contended that the proposed changes affect rates, that the request should be filed and considered in a rate case, and that the tariff provision is contrary to MCL 460.1177(2).

In the Staff's opinion, GLREA is "conflat[ing] and/or confus[ing] 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." 5 Tr 3810. The Staff explained that pursuant to the Commission's previous decisions, the DG outflow credit calculation may only include the DG outflow credit set forth on the company's tariff and the PSCR factor. Additionally, the Staff argued that MCL 460.1177(2) does not provide a calculation of the DG credit; rather, the statute explains "that the DG credit in any billing period cannot be larger than the total bill it is to be applied to" and that any credit amount that exceeds the total bill must be carried over to the next billing period. 5 Tr 3811. The Staff requested that the Commission issue a determination that is consistent with the Staff's understanding of the statute.

Consumers responded to GLREA, stating that:

[u]nder MCL 460.10k, 460.10l, and 460.10n, securitization charges occupy a special status. The right to impose those charges does not belong to the utility but rather to the Special Purpose Entity, because those charges must be remote from the

utility for bankruptcy purposes and are nonbypassable. [*I*]d., page 4. The utility carries out the task of billing for the securitization charge only as a servicer for the Special Purpose Entity. As such, the securitization charges cannot be offset by outflow credits for DG.

2 Tr 83. In addition, the company asserted that, in the July 23 order, the Commission found that a DG bill credit may not be applied to the securitization charge on the customer's bill and, therefore, this issue has been settled by the Commission.

In briefing, GLREA objected to the Commission's decision in the July 23 order, stated that no "party has presented adequate evidence to support the precipitous conclusion that securitization charges must be exempted from the DG billing credit," and reiterated its request that the Commission reject Consumers' *ex parte* tariff filing in Case No. U-21796. *See*, GLREA's initial brief, pp. 13-19; GLREA's reply brief, pp. 2-7.

Consumers disagreed, asserting that "[t]he Commission directed the Company to make the separate *ex parte* tariff filing" in the July 23 order and "GLREA should not be permitted to challenge the Commission's direction in an unrelated proceeding." Consumers' reply brief, p. 83.

The ALJ recommended that the Commission deny GLREA's request to reject Consumers' *ex parte* filing in Case No. U-21796, asserting that this is not the proper proceeding to challenge the tariff filing. In addition, the ALJ stated that she "agrees with Consumers that the Commission has already considered and decided whether 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." PFD, p. 557.

GLREA excepts, arguing that:

[t]he factual and legal reality is that the securitization charges were authorized on the basis that the charges and the underlying bonds would be assigned to the Special Purpose Entity (SPE) to keep them separate from the utility in a bankruptcy remote construct.

In contrast, [MCL 460.1177(2)] requires the utility (not the SPE) to render the DG billing credit in accordance with the plain language of that statute, which relates to the customer's total bill. The SPE charges are completely separate and independent from the billing credit to be rendered by the utility. Therefore, if the utility is required to render a DG credit that is equal to the customer's total bill, without exceptions, this enforcement of [MCL 460.1177(2)] would not diminish, alter, threaten, or affect the separate SPE charges rendered on customer bills that would continue.

GLREA's exceptions, p. 2.

In addition, GLREA disputes the ALJ's finding that this issue has already been considered by the Commission. GLREA contends that in Case Nos. U-21569, U-21767, and U-21796, "there was no discovery, no contested case, no other process in those *ex parte* dockets to establish without question that the SPE charges are totally separate from the DG billing credit to be rendered by the utility, and no conflict exists between the securitization statutes and [MCL 460.1177(2)] whatsoever." GLREA's exceptions, p. 3. GLREA asserts that there is no factual or legal explanation as to why a DG billing credit must be reduced by securitization charges.

Consumers reiterates that GLREA is attempting to improperly relitigate the Commission's July 23 order and requests that the Commission reject GLREA's proposal to modify the DG billing credit. *See*, Consumers' replies to exceptions, pp. 72-74.

In replies to exceptions, the Staff states that:

[w]hile Staff takes no position on the main issue discussed by GLREA, Staff reiterates to the Commission that [MCL 460.1177(2)] does not refer to the calculation of the DG outflow credit, "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 billing period carrying over to the next," and reiterates the request that the Commission rule consistent with this understanding.

Staff's replies to exceptions, p. 31 (citing Staff's initial brief, pp. 134-135).

The Commission finds that the ALJ's recommendation should be adopted. As noted by the ALJ and Consumers, this issue was thoroughly considered in Case Nos. U-21569 *et al.* and decided in the July 23 order, a separate proceeding, and the immediate case is not the proper proceeding to challenge the tariff filing.

### 3. Microgrids and Nanogrids

GLREA asserted that the development of microgrids would increase the reliability and resilience of Consumers' system and mitigate the impact of service outages. According to GLREA, microgrids provide the following benefits to customers: (1) localized generation, (2) energy storage, (3) islanding capabilities, (4) energy management and control, (5) grid interaction and flexibility, (6) resilience and reliability, (7) energy efficiency and sustainability, and (8) integration of EVs. 5 Tr 2630-2635; *see also*, GLREA's initial brief, pp. 20-21. In addition, GLREA stated that "microgrids and nanogrids can decrease the number of meters, drops[,] and transformers that are needed. If microgrid owners submeter with neighbors (as utilities presently allow for large industrial customers) then [Consumers] may have fewer customers. This will decrease the number of customers [Consumers] needs to bill and in low-income areas [it] will also reduce the burden of collections." 5 Tr 2635.

Consumers responded that the concept of nanogrids is new and not fully developed and asserted that GLREA's proposal for microgrids "is short on details." 5 Tr 1035. The company stated that if, in the future, GLREA provided "a more detailed and well-engineered concept for nanogrids" that was consistent with Michigan law, it "would require a well-developed DER Optimization system of the type proposed in the instant case by Company witness [Scott A.] McPhail." 5 Tr 1035.

The Staff contended that microgrids are more complex than traditional standard electric service. Specifically, the Staff explained that microgrids “involve additional hardware and software in order to balance the microgrid as well as manage the interconnection to the main grid.” 5 Tr 3880. The Staff stated that customers may still experience outages within the microgrid and that there are additional costs to acquire the “hardware and software needed to make the microgrid island as well as balance properly . . . .” 5 Tr 3880. In addition, the Staff noted that the utility and the microgrid customers would need to discuss peak inflow through the microgrid interconnection and whether the microgrid could be subject to a standby tariff. Furthermore, the Staff asserted that microgrid customers should pay for microgrid costs because they will receive the benefit of significantly greater reliability and resilience, which is a different type of service compared to standard electric service. Finally, the Staff disagreed with GLREA that nanogrids should become the center of microgrids that would allow neighbors to share stable power. The Staff stated that “nanogrids should not be expanded beyond the meter of the nanogrid” and that it “is unsure if neighbors sharing power falls within Michigan’s current legal and regulatory framework.” 5 Tr 3882.

In its initial brief, Consumers reiterated that GLREA’s nanogrid proposal should be rejected because it lacks detail and may conflict with Michigan law. *See*, Consumers’ initial brief, p. 447. In its initial brief, the Staff reiterated the arguments set forth in testimony. *See*, Staff’s initial brief, pp. 148-149.

GLREA responded that Consumers:

fails to discuss or oppose the reasons why microgrids should not be established and encouraged, particularly with respect to customers who may have more than one building located on the same or adjacent property sites, where efficiencies could be developed with respect to the implementation of energy efficiency, demand response, self-generation, and solar and battery projects, which in turn can reduce the utility’s peak load costs and PSCR costs.

GLREA's reply brief, p. 11. In addition, GLREA stated that microgrids better address the capacity and energy needs of public, taxpayer supported institutions and provide taxpayer and utility cost savings.

The ALJ recommended that the Commission deny GLREA's request. She stated that:

[a]s 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. However, if despite these issues the Commission wants to consider the development of microgrids on Consumers' system, [this ALJ] recommends the Commission direct Consumers to include a discussion of microgrids in its next EDIIP filing.

PFD, pp. 559-560 (footnote omitted).

Although Consumers supports the ALJ's recommendation to reject GLREA's proposal, the company objects to the ALJ's suggestion that if the Commission would like to consider the development of microgrids, the Commission should direct the company to provide a discussion of microgrids in Consumers' next EDIIP filing. The company asserts that:

it has already evaluated different potential applications of microgrids, and has included the Armstrong battery energy storage system in this case to allow the Company to develop the necessary expertise to effectively plan and deploy battery-supported microgrids. It is not necessary in this case to order the Company to include additional discussion of microgrids in its next EDIIP filing.

Consumers' exceptions, p. 196 (citing 5 Tr 1035, 1657-1658).

The Commission agrees with Consumers, the Staff, and the ALJ that GLREA's microgrid and nanogrid proposal lacks sufficient detail for Commission consideration in this case and raises potential legal and regulatory concerns. *See*, 5 Tr 1035, 3880-3882. Therefore, GLREA's microgrid and nanogrid proposal should be rejected in this case. In addition, while the Commission declines to adopt the ALJ's recommendation that Consumers be specifically directed

to discuss microgrids in the company's next EDIIP filing, there may be instances in which microgrids can serve as an NWA. As discussed in Part IV above and also noted by Consumers, the information and data resulting from the Armstrong BESS pilot will provide valuable input and experience to facilitate future BESS islanding projects that may serve more customers and that can be completed more quickly and efficiently.

#### I. Power for America Training Trust Fund

MSUWC asserted that at Consumers, in the state of Michigan, and nationally, the utility workforce is aging, and utilities are facing challenges to recruit and train “skilled workers from diverse backgrounds to supplement and replace [the] aging workforce.” 5 Tr 3468. MSUWC noted that in an effort to address these challenges, the Utility Workers Union of America founded Power for America (P4A), which is “a labor-management Taft-Hartley trust fund” that provides “training support to workers as well as administering apprenticeship programs.” 5 Tr 3467.

MSUWC stated that:

[a]dditional investment in P4A would increase its ability to train more qualified workers and allow the Company to increase reliability. Additionally, while widespread retirements present a number of issues related to training and recruitment it also creates 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.

5 Tr 3469. For these reasons, MSUWC recommended that the Commission direct Consumers to review and investigate further investment in P4A.

Consumers disagreed, asserting that:

[t]he 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.

5 Tr 1057.

MSUWC did not file a brief. In its initial brief, Consumers reiterated that, at this time, there is no need for the Commission to order the company to engage in additional investments. *See*, Consumers' initial brief, p. 448.

The ALJ found MSUWC's concerns regarding the retirement of skilled utility workers, the challenges of recruitment, and the need to train new utility workers to be persuasive. However, she stated that Consumers presented testimony acknowledging these concerns and demonstrating that "the Company is invested in the P4A and actively engaged with MSUWC in developing new programs. Therefore, this [ALJ] does not find MSUWC's proposal to be necessary." PFD, p. 561.

No exceptions were filed on this issue.

While the Commission recognizes the benefits P4A provides in the recruitment and training of new utility workers, the Commission finds that the ALJ's recommendation should be adopted.

## **IX. COST OF SERVICE, RATE DESIGN, AND TARIFF ISSUES**

### **A. Cost of Service**

Consumers explained that the cost-of-service study (COSS):

is a three-part analysis that quantifies the utility's cost to serve each rate class. The COSS filed in this case serves two primary purposes. First, it identifies and assigns the utility's electric production and distribution costs to the jurisdictional electric rate classes. Second, the COSS is used to determine the contribution of each jurisdictional electric rate class to jurisdictional earnings. Ultimately the information provided by the COSS is used to guide rate design among other things. The fundamental guiding principle used to assign costs in the COSS is cost causation. In other words, the costs assigned to a class or group of customers should reflect how those customers drive or influence the utility's costs.

2 Tr 45. Consumers stated that the first step in performing a COSS is functionalization, which involves the identification and separation of plant expenses into specific categories according to the function of each cost. The company noted that its “electric functional cost categories are production and distribution.” 2 Tr 45. The second step, Consumers asserted, is cost classification, which groups functionalized costs by demand, customer, and energy components based on the primary cost drivers. The company stated that the final step is cost allocation, which “assigns costs to each customer class using a variety of factors that correlate to the identified cost drivers. Common allocation factors include energy use, demand, and number of customers among others.” 2 Tr 45.

Consumers stated that Version 1 of the COSS was updated with historical and test year data and that it “incorporates a number of items that were approved in Case No. U-21389, the Company’s most recent electric general rate case.” 2 Tr 49; *see also*, Exhibit A-16, Schedule F-1. The company contended that it was not providing any proposals that would require a Version 2 of the COSS. *See*, 2 Tr 51.

The Staff recommended adjustments to Consumers’ COSS, which are set forth in Exhibit S-6, Schedule F1. The Staff stated that it used the results of the adjusted COSS and “designed rates to collect the appropriate amount of revenue for each customer class.” 5 Tr 3631.

MNC asserted that the Commission should direct Consumers to adopt a four-year tree-trim cycle and provide a plan for the four-year cycle in its next electric rate case. MNC stated that:

[t]his plan should include a shift from the Company’s “effective” cycle to a true variable cycle which optimizes line clearing cycles to vegetation risk, based on actual risk conditions and not voltage classes. The Company has already stated it has the remote sensing and analytical tools necessary to conduct such activities, so there should be minimal barrier[s] to establishing a targeted and optimized variable cycle.

[MNC] also recommends the Commission order the Company to prepare a COSS which proportionately and fairly allocates the incremental costs of the new cycle to customer classes based on the incremental benefits to those classes.

5 Tr 3021. In testimony, MNC provided two graphics demonstrating “how the Company’s proposed test year revenue requirement would look if the Company’s incremental costs of a four-year cycle are allocated proportionally to the customer cost savings from that new standard” and “the total benefits to customers when accounting for those savings.” 5 Tr 3020.

In response to MNC, Consumers noted that the COSS assigns costs to a class or group of customers according to how they influence costs. The company contended that “residential customers drive a larger share of investment in the low voltage distribution system” compared to C&I customers. 2 Tr 82. In addition, Consumers argued that MNC fails to provide a specific allocator for the Commission’s consideration. Accordingly, the company requested that the Commission deny MNC’s request.

MNC disagreed with Consumers, asserting that the company’s *Formal Optimization Analysis* demonstrates that “non-residential classes do use the LVD lines at issue, and they would drive up incremental line clearing costs to achieve the 4-year clearing cycle . . . because they suffer higher outage-related costs, which the optimal line clearing cycle aims to minimize or avoid.” MNC’s initial brief, p. 112. In addition, MNC opined that the *Formal Optimization Analysis* shows that the current allocator is unfair to residential customers. Therefore, MNC asserted that Consumers should justify its line-clearing allocator or provide an alternative that is consistent with the conclusions in the company’s *Formal Optimization Analysis*.

The ALJ noted that MCL 460.11(1) (Section 11(1)) requires that the Commission establish rates equal to the cost of providing service to each customer class. She asserted that:

[t]o 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. Consistent with the requirements of Section 11(1), this [ALJ] 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.

PFD, p. 564 (citing 2 Tr 46-48). The ALJ stated that if a party pursues this issue in a future rate case, the party should provide an allocator for the Commission's review and discuss whether that proposed allocator, based on assumed benefits to each customer class, complies with Section 11(1).

No exceptions were filed on this issue.

The Commission finds that the ALJ's recommendation should be adopted.

## B. Rate Design

### 1. Rate Modifications

#### a. Rate GPD Coincident Peak Energy Provision

Consumers requested that the Commission approve a coincident peak provision for Rate GPD.

The company stated that:

[c]apacity 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.

2 Tr 62. Consumers explained how the coincident peak provision would operate and noted that, for the time being, the provision would only be available for three customers so that the company can evaluate the impact of the provision. Consumers asserted 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. Due to the limited nature of the proposal, the Company did not forecast any determinants on the provision at this time.” 2 Tr 63.

The ALJ noted that no party addressed Consumers’ proposal and, therefore, recommended that it be approved. *See*, PFD, p. 565.

No exceptions were filed on this issue.

The Commission finds that Consumers’ coincident peak provision for Rate GPD should be adopted.

b. Power Factor Credits and Penalties

Consumers noted that the January 19 order approved a settlement agreement that “directed the Company to develop a report on issues pertaining to the impact of [the] power [sic: poor] customer power factor associated with Rates GSD, GP, GPD, GPTU, EIP [Energy Intensive Primary], and GSG-2. In response to findings in that report and meetings with the interested parties, the Company is proposing a change to the application of power factor credits and penalties.” 2 Tr 65.

Specifically, Consumers explained that it is:

[c]alculat[ing] the excess kVARh [kilovolt-ampere reactive hour] for customers with an average power factor at or above 0.875 based on 2023 actual usage and kVARh data. From there, the power factor charge was determined based on the actual power factor credit revenue from 2023. The proposed power factor charge is \$1.14 per kilovar. The same \$1.14 per kilovar was then applied to the excess kVARh for customers with a power factor below 0.875 but above 0.700 to determine the penalty revenue in column (b). The calculated credit revenue from column (a) and penalty revenue in column (b) was then compared to the actual power factor revenue in 2023. The difference was used to calculate a power factor penalty for accounts with power factor below 0.700. The proposal is to continue to allow customers with a power factor below 0.700 a two-month period to correct their power factor. After that, these customers would be subject to a charge of \$5.25 per kilovar.

2 Tr 67. The company requested that the effective date for the power factor modifications be the first day of the November 2025 billing month.

ABATE did not object to Consumers' proposed changes to the power factor charge but did recommend that the changes be approved "on a going forward basis, beginning on the date Consumers' final approved rates in this proceeding go into effect . . . ." 5 Tr 3310.

Consumers disagreed with ABATE's proposed implementation date, asserting that "[t]he Company requires a minimum of six months to configure, test and implement the changes supporting this proposal in the SAP billing system. In addition, changes to the power factor calculation must be made on a bill month basis and cannot be prorated." 5 Tr 1752. Therefore, the company reiterated that the first day of the November 2025 billing month is the preferred effective date for the power factor modifications.

The ALJ noted that although ABATE's initial brief references Consumers' assertion that the company requires six months to implement the power factor modifications, ABATE does not dispute the company's claim. The ALJ stated that:

[b]ecause 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, [this ALJ] agrees with Consumers that these changes should take effect no later than the first day of the November 2025 billing month, sooner if possible.

PFD, p. 568.

No exceptions were filed on this issue.

The Commission finds that the ALJ's recommendation should be adopted.

c. Large Economic Development Rate Facilities Allowance

Consumers noted that Rate LED was approved in the December 22, 2021 order in Case No. U-21160, and from the date of implementation, there has been significant interest in the rate. Additionally, the company asserted that "many potential customers have inquired about the availability of a facilities allowance such as that offered under DTE Electric Company's Rate D13.

To better align with other cost-based large customer rate options in Michigan, the Company is proposing to add language to the tariff that would clarify a facilities allowance would be applicable for customers on the rate.” 5 Tr 63. Accordingly, Consumers proposed “to calculate the facilities allowance for each prospective customer based on the net present value (NPV) of margin—defined as the non-energy related costs—based on their expected load over the life of the contract.” 5 Tr 64. The company contended that it would not exclude power supply costs from the calculation because exclusion would not result in a rate that is more competitive than DTE Electric’s rate. Consumers averred that, in addition to attracting new load and revenue, Rate LED may attract new large companies to Michigan and, thus, provide new jobs, more tax revenue, new homes, and a better quality of life for Michigan residents.

ABATE supported the company’s proposed Rate LED modification “but only up to the expected system contribution and delivery service revenues of the customer over the term of the customer’s contract. Expected non-energy power supply revenues should not be included.” 5 Tr 3299. ABATE explained that following Consumers’ last rate case, Case No. U-21389, the company increased the power supply production demand charge because of rising market prices for capacity. ABATE stated that, as a result, “Rate LED non-energy power supply revenues are likely just sufficient to cover Consumers’ incremental capacity and transmission cost to serve a new Rate LED customer.” 5 Tr 3300.

The Staff objected to Consumers’ proposed facilities allowance for Rate LED customers.

The Staff stated that:

Rate LED charges for capacity based on CONE at the time the Customer’s contract is executed and for energy based on MISO real-time or day-ahead locational marginal price (LMP). Rate LED customers also pay a nominal contribution to embedded costs through the system contribution charge. This implies that the Company does not need to produce additional capacity via base rates to serve the LED customer. In other words, Rate LED does not materially pay for embedded

capacity costs now or in the future, as it does for distribution. Therefore, the revenue associated with this marginal capacity should not be included in the facilities allowance, as it is only enough to cover the assumed costs of serving the customer, much lower than other similarly situated customers, and the contribution to embedded costs is not material.

5 Tr 3617. The Staff contended that, ultimately, Rate LED customers will not pay embedded costs and, therefore, will not contribute to base rates or make all customers better off. The Staff asserted that “[o]nly distribution revenue and revenue generated by the System Contribution Charge would be appropriate to include in a facilities allowance for Rate LED.” 5 Tr 3617.

The Staff argued that the rationale behind a facilities disallowance is to provide a new customer a discount for the additional costs caused by the customer joining the utility’s system because the new customer provides additional revenue that, in theory, should reduce or eliminate the initial discount and should benefit existing customers by adding another paying customer. The Staff stated that DTE Electric’s rate book allows new Rate D13 customers to “receive the same line extension, or facilities allowance, that is already available to other customers,” which includes power supply revenue. 5 Tr 3615. However, the Staff argued that Consumers’ proposal for a facilities allowance significantly differs from the established line extension policy. The Staff explained that the company’s facilities allowance proposal:

is based on the customer’s margin for the *lifetime* of its contract, and not total revenue over a limited number of years. Rate LED contracts are limited to 20 years, so the Company’s proposal essentially grants new Rate LED customers revenues over 20 years to be included in the facilities allowance rather than 3 years for a Rate GPD customer. 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.

5 Tr 3617 (emphasis in original). Therefore, the Staff recommended that the Commission reject Consumers’ proposal and asserted that if the company proposes a facilities allowance in a future rate case, Consumers should propose a rate similar to DTE Electric’s Rate D13.

Consumers responded, stating that it finds ABATE's proposal reasonable. The company contended that "[i]n adopting [ABATE's] proposed modification, the concerns raised by both ABATE and Staff are addressed." 2 Tr 75.

The Staff agreed with the portions of ABATE's proposal that reflected its initial testimony. The Staff agreed that power supply production demand revenue should not be included in the facilities allowance and that only system contribution and distribution revenue should be used to calculate a facilities allowance for Rate LED. However, the Staff argued that it is not "appropriate to include system contribution and distribution revenue in the facilities allowance for the customer's entire contract term," reiterating that doing so would erase any benefits of the additional system load and associated revenue. 5 Tr 3623.

ABATE contended that rather than recommending rejection of Consumers' proposed facilities allowance for Rate LED, the Staff should have proposed modifications. In ABATE's opinion:

[o]utright rejection goes too far in that it unduly handicaps Consumers' ability to pursue large non-data center customer economic development in its service territory at the expense of its existing customers. In contrast, approving the proposed facilities allowance with appropriate limitations to ensure it does not create a subsidy from existing customers to new customers, as [ABATE] proposed in . . . testimony, appropriately addresses the problem without handicapping economic development in Consumers' service territory.

5 Tr 3326. ABATE reiterated its recommended modifications to Consumers' proposed facilities allowance for Rate LED.

Walmart supported the facilities allowance as proposed by Consumers, and HSC contended that "ABATE's proposed facilities allowance effectively addresses the Staff's concerns and ensures no rate subsidy." 5 Tr 3463; HSC's initial brief, p. 5.

In briefing, Consumers stated that it does not object to ABATE's proposal, but disagreed with the Staff's proposal because it will hinder the company's ability to attract non-data center

economic development in its service territory. *See*, Consumers' initial brief, p. 458 (citing 2 Tr 64).

ABATE responded to the Staff, reiterating the arguments set forth in testimony. ABATE also asserted that:

[i]t is imperative for Rate LED to fully cover the incremental cost to serve a new customer, thus preventing existing customers from subsidizing the new customers. In making this determination, any contribution of revenue in excess of the incremental cost to serve a new customer is a contribution toward reducing Consumers' fixed costs for service to its existing customers that would not be provided but for the new customer and should be considered. Thus, a facilities allowance should be based on expected system contribution charge revenues and expected delivery service revenues for up to the length of the term of the contract. All of these 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.

ABATE's initial brief, p. 62 (internal citations omitted).

MNC objected to Consumers' proposed facilities allowance, asserting that the company's proposal is too vague and leaves too many details to be resolved by Consumers and new customers in the contracting process. In addition, MNC argued that under the proposal, other customers will subsidize Rate LED customers: "[b]ecause the contracts can run up to 20 years, when considering the time value of money there is no time in the foreseeable future where a customer whose allowance is equal to their full distribution revenue will contribute to the embedded costs of the distribution system that other customers contribute to." MNC's initial brief, p. 120. Furthermore, MNC contended that because Rate LED customers are eligible for 100% interruptible service, it would result in no incremental production revenue or incremental delivery revenue to Consumers. MNC also disputed the company's claim that Rate LED will result in significant economic development; rather, MNC stated that Consumers failed to provide persuasive evidence that there is extensive interest in a facilities allowance. Finally, MNC disagreed with Consumers that a

facilities allowance would help the company compete with DTE Electric. In MNC's opinion, DTE Electric's Rate D13 continues to be more competitive than Consumers' proposed facilities allowance. *See*, MNC's initial brief, pp. 121-122. Therefore, MNC requested that the Commission deny the company's proposed facilities disallowance.

In its initial brief, Consumers again requested that the Commission adopt its modified proposal, asserting that the Commission should reject the "Staff's proposal to limit the allowance to three years as this provides little benefit to customers." Consumers' initial brief, p. 458.

The Staff reiterated its position set forth in testimony and stated that "only distribution and system contribution revenues should be considered in a facilities allowance for a limited time and not the entirety of the customer's contract. Staff maintained its position that the Company should propose a facilities allowance that mimics DTE Electric's in the Company's next rate case." Staff's initial brief, p. 147 (citing 5 Tr 3623); *see also*, Staff's reply brief, pp. 34-35.

ABATE disputed the Staff's and MNC's claims that Consumers' modified facilities allowance would not benefit other customers. ABATE argued that even if Rate LED customers make a minimal or zero contribution toward the embedded distribution system costs, the purpose of the facilities allowance is to attract large, energy intensive customers who are interested in competitive energy prices, which will also provide employment opportunities, tax revenue, and new infrastructure and residences. In addition, ABATE reiterated that the company "only offers Rate LED if it expects the marginal contract revenues will exceed the expected marginal costs of serving the incremental load" and therefore maintained that it will not increase costs to other customers. ABATE's initial brief, p. 27.

The ALJ stated that she:

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, [she] 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, [she] agrees with Staff and [MNC] 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.

PF, p. 574. If Consumers would like to offer a facilities allowance for Rate LED, the ALJ recommended that the company propose a facilities allowance that is similar to DTE Electric's Rate D13.

In exceptions, ABATE objects to the ALJ's recommendation, arguing that Consumers and ABATE provided persuasive testimony demonstrating a strong customer interest in a facilities allowance for Rate LED and explaining that the company's "proposal is necessary to improve Rate LED's competitiveness compared with similarly situated utilities (e.g., DTE Electric Company) and advance further economic development." ABATE's exceptions, p. 15. In addition, ABATE contends that the ALJ's finding that a facilities allowance for Rate LED should be rejected because it may not lower other customers' rates in all circumstances is misguided. Rather, ABATE reiterates that the purpose of the facilities allowance for Rate LED, "even without a contribution toward embedded cost, as the Company explained (and the Commission noted in approving Rate LED), [is] 'attracting large companies to Michigan [that] can provide transformational opportunities, includ[ing] jobs, tax revenue, infrastructure, new residences, and quality of life improvements.'" *Id.*, p. 16 (quoting 2 Tr 64). Moreover, ABATE reiterates that Rate LED customers who are provided a facilities allowance may actually contribute to embedded costs, that other customers will not subsidize Rate LED customers, and that a facilities allowance for Rate LED will not increase costs to other customers. *See, id.*, pp. 16-18.

ABATE states that “to the extent the Commission does not agree it is reasonable and prudent to use the entire term of the contract (i.e., the entire contract net margin) for the allowance, it could approve a facilities allowance which uses an alternative time frame to determine the allowance amount.” ABATE’s exceptions, p. 18. ABATE asserts that if the Commission chooses not to adopt its proposed modification to Consumers’ facilities allowance for Rate LED, the Commission should approve a facilities allowance of up to five years of net margin. *Id.*, p. 20.

Consumers also objects to the ALJ’s recommendation that the Commission deny the facilities allowance and that the company should provide a proposal in its next rate case that is similar to DTE Electric’s Rate D13. Consumers contends that the ALJ’s recommendation is:

based on the conclusion that using the entire term (up to 20 years) of a customer’s contract to calculate the facilities allowance would essentially erase any benefit to the system and could result in other customers subsidizing the customer on Rate LED. While it is essential for the rate to fully cover the incremental cost to serve a new customer to prevent subsidization, any contribution of revenue in excess of the incremental cost to serve a new customer is a contribution toward reducing Consumers’ fixed costs for service to its existing customers that would not be provided but for the new customer. This would be a benefit to customers.

Consumers’ exceptions, p. 197 (citing PFD, p. 574; 5 Tr 3327). The company reiterates that the Commission should approve its modified facilities allowance proposal for the reasons set forth in testimony and briefing.

In exceptions, HSC argues that:

[t]he ALJ erred in finding that Consumers did not adequately support the value of a facilities allowance for Rate LED. Consumers’ expert witness explained that a facilities allowance would help new Rate LED customers with the upfront costs of distribution facilities needed to provide service to the new load. The witness also explained that a facilities allowance for Rate LED would also help Consumers attract customers in light of facilities allowances available under similar economic development rates offered by other utilities, such as DTE Electric Company’s Rate D13.

HSC's exceptions, p. 4 (citing 2 Tr 63-34). HSC asserts that Consumers' testimony was not rebutted. HSC also contends that the Commission recognized the value of economic development when approving a facilities allowance for DTE Electric.

HSC states that "[t]he ALJ further erred in recommending that Consumers propose yet another facilities allowance where the time period for revenues that Consumers can consider when setting a facilities allowance for the Rate LED customer be limited to less than the full contract term. The ALJ's recommendation is administratively inefficient." HSC's exceptions, p. 5. HSC asserts that there is sufficient evidence on the record to support Consumers', ABATE's, and HSC's request to consider any number of years up to the full 20-year term of the Rate LED contract. In HSC's opinion:

[t]he Commission is well aware that the shorter the time period, the smaller the facilities allowance, and the less support the Rate LED customer will have to develop new or expanded operations in Michigan. The Commission should adopt the longest time period it deems reasonable in light of the totality of the circumstances and the record in this case. Importantly, the Commission should not promote more protracted litigation by adopting the ALJ's recommendation to deny a facilities allowance altogether with instructions to file again. If the Commission has reservations about adopting a Rate LED facilities allowance due to a concern about the level of system benefits provided by the Rate LED customer, then the Commission should apply a reasonable cap on the time period of distribution and system contribution revenues able to be considered and should do so in this case. Any concerns about a time limitation in the calculation of the proposed facilities allowance is not a basis for rejecting a facilities allowance for Rate LED altogether.

HSC's exceptions, pp. 5-6. Accordingly, HSC requests that the Commission approve a facilities allowance for Rate LED in this case.

In replies to exceptions, Consumers reiterates that the Commission should approve the facilities allowance as set forth in its testimony, briefing, and exceptions. *See*, Consumers' replies to exceptions, pp. 68-69. Consumers also asserts that ABATE's alternative, proposed in exceptions, would be reasonable.

In response to HSC's claim that the ALJ failed to consider the value of a facilities allowance to customers, the Staff argues that this issue is not in dispute; "the value of the facilities allowance to prospective Rate LED customers is obvious." Staff's replies to exceptions, p. 32. Rather, the Staff contends that "[a]t issue in this case is the value of said new customers to existing customers, which was very much in dispute. Therefore, HSC's exception to the PFD on the grounds that the ALJ did not properly consider evidence that a facilities allowance could attract new LED customers is misplaced and should not be given any weight by the Commission." *Id.* (citing PFD, p. 570). The Staff states that, in exceptions, ABATE argued similarly to HSC, stating that Rate LED customers would benefit from the facilities allowance. However, the Staff asserts that because one type of customer benefits from a proposal "is not, in itself, sufficient for its approval and ABATE can provide no convincing authority to show that it is." Staff's replies to exceptions, p. 33.

Additionally, the Staff states that HSC:

incorrectly attributed Staff with proposing a facilities allowance that included three years of distribution and system contribution revenue. This is a misinterpretation of the direct testimony of Staff witness David W. Isakson, which states "the Company's proposal essentially grants new Rate LED customers revenues over 20 years to be included in the facilities allowance **rather than 3 years for a Rate GPD customer.**" Staff made no such three-year proposal. Rather, Staff pointed out that Consumers' current, approved line extension policy for the customer most similar to a Rate LED customer is only three years. HSC correctly notes that the Contribution in Aid of Construction (CIAC) schedule in Consumers' rate book allows for up to 5 years of revenue for primary customers.

Staff's replies to exceptions, p. 34 (citing HSC's exceptions, p. 5; 5 Tr 3617) (emphasis in original). The Staff asserts that, although HSC and ABATE correctly claim that the Commission could approve a facilities allowance that is limited to a number of years of revenue, the record also supports the ALJ's recommendation to adopt the Staff's proposal. The Staff requests that the Commission adopt the ALJ's recommendation.

MNC responds to Consumers, ABATE, and HSC, asserting that they “have not supported their factual claims about the proposals with substantial evidence. Further, their new proposals for a shorter time period in which to capture revenues should not be considered because they made [the proposals] for the first time in exceptions with no support in the record and no opportunity for other parties to submit contrary evidence.” MNSC’s replies to exceptions, p. 54.

The Commission finds that the ALJ’s recommendation should be adopted. As noted by the ALJ, the parties do not dispute that a facilities allowance for Rate LED should only consider distribution and system contribution revenues, not power supply revenues. The Commission agrees. The Commission also agrees with the ALJ and the Staff 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.” PFD, p. 574. The Commission finds that Consumers, ABATE, and HSC failed to provide evidence adequately rebutting this assertion by the Staff. *See*, 5 Tr 3623. In exceptions, ABATE and HSC concede that the Commission could adopt a shorter period for revenues that Consumers can consider when setting a facilities allowance. HSC specifically proposes “a reasonable cap on the time period” and ABATE proposes a “facilities allowance of up to five years of net margin.” HSC’s exceptions, p. 5; ABATE’s exceptions, p. 20. As noted by MNC, these proposals were raised in exceptions and after the record was closed and, therefore, the parties did not have an opportunity to adequately respond to or rebut HSC’s and ABATE’s proposals with testimony, exhibits, or briefing. Accordingly, the Commission finds persuasive the ALJ’s recommendation that Consumers’ proposed facilities allowance for Rate LED in this case should be denied; however, in its next electric rate case, if the company believes it beneficial to provide a facilities

allowance for Rate LED, Consumers should propose a facilities allowance that includes only distribution and system contribution revenues, not power supply revenues, and that is based on a limited term, similar to DTE Electric's Rate D13.

## 2. Customer Charge

Consumers and the Staff agreed that the residential customer charge should be maintained at \$8.00 per month. *See*, 2 Tr 74; 5 Tr 3633; Consumers' initial brief, p. 459. However, the company and the Staff disagreed as to how the charge should be calculated. The Staff explained that:

Step 1 in calculating the customer charges is to determine which costs are appropriate for inclusion in the customer charge. Costs that are appropriate to include in the customer charge include expenses incurred from customer installs, meters, customer accounts (including uncollectible accounts), customer service and information (excluding sales expenses), depreciation and amortization expense corresponding to meters, services and customer installs in rate base, return on meters, services and customer installs in the rate base less accumulated depreciation, and property tax on meters and services in rate base. The customer charge is then calculated by dividing the appropriate cost by the number of customers taking service, and then dividing by twelve for the number of months in a year.

5 Tr 3631-3632. The Staff contended that this is the method currently approved by the Commission. In addition, the Staff noted that the Commission did not address the customer charge method in Consumers' last rate case, Case No. U-21389; however, the Staff stated that neither the company nor the Staff recommended a change to the customer charge in that case.

The Staff argued that it is important to use historical, rather than projected, amounts in the customer charge calculation "due to the uncertainty regarding the test-year cost projections included in the Company's COSS. . . . 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." 5 Tr 3632; *see also*,

Exhibit S-6, Schedule F1.4. Moreover, the Staff asserted that this method has been approved by the Commission for DTE Electric. Going forward, the Staff requested that the Commission approve the Staff's proposed customer charge calculation method using historical amounts.

Consumers contended that "this issue was litigated in the Company's previous electric rate case (Case No. U-21389)" and that "the Commission reaffirmed that the Company's reliance on historic[al] ratios to breakout test year costs in the COSS is appropriate and reasonable." 2 Tr 73. The company also argued that the Staff's proposal would require Consumers to prepare a historical COSS and "[t]his could add significant additional work without any benefit." 2 Tr 74; Consumers' initial brief, pp. 459-460. Furthermore, Consumers stated that "[t]he customer charge calculation in the COSS is only one data point the Company uses to determine an appropriate customer charge. The Company also considers 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." 2 Tr 73-74.

The Staff averred that, in the company's previous rate case, "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." Staff's initial brief, p. 139 (citing the March 1 order, p. 225). In response to Consumers' claim that the Staff's proposal will require extra work with little resulting benefit, the Staff stated 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." Staff's initial brief, p. 139. The Staff reiterated that its proposed customer charge calculation method should be approved.

The ALJ recommended that the Staff's proposal be denied. She stated that although the Staff claimed that its customer charge calculation was approved by the Commission for use by DTE Electric, the Staff failed to provide a citation to the case that supports its claim. In addition, the ALJ "finds persuasive Consumers' contention that the COSS is only one data point that the Company uses in calculating the customer charge, 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.'" PFD, pp. 576-577 (quoting 2 Tr 73-74).

No exceptions were filed on this issue.

The Commission finds that the ALJ's recommendation should be adopted.

## C. Tariff Issues

### 1. Land Lease Tariff

Consumers requested that the Commission approve tariff language that would provide for the payment of land leases or easements through a bill credit. *See*, 5 Tr 1651-1652. MEIU and the Staff objected, asserting that the company's proposal is unfair to third-party developers, and it may have potential tax consequences for customers. *See*, 5 Tr 3171-3172, 3619. Consumers withdrew its proposal on rebuttal. *See*, 5 Tr 1663, 1751.

The ALJ acknowledged the company's withdrawal of its proposal and found the issue moot. PFD, p. 577.

No exceptions were filed on this issue.

The Commission also acknowledges the company's withdrawal of its land lease tariff proposal, rendering this issue moot.

## 2. Self-generation Tariff

Consumers agreed to adopt ABATE's proposed revision to Tariff Sheet No. C-59.00, which "clarif[ies] when the Company can refuse to contract for energy from a Qualifying Facility in certain energy-only contracts." PFD, pp. 577-578 (citing 5 Tr 1752; Consumers' initial brief, p. 465).

No exceptions were filed on this issue.

The Commission finds that ABATE's proposed revision to Tariff Sheet No. C-59.00 is reasonable and prudent and should be approved.

## 3. Demand Response Credits

Consumers noted that, in the March 1 order, the Commission directed the company to file updated DR credit calculations in its next electric rate case. Consumers stated that "[t]he latest estimate of CONE for MISO Zone 7 is \$127,135 per MW-year for the 2024/2025 planning year. This is a 20% increase from the prior year. The Company has complied with the [March 1] order requirement but is not proposing new credits for DR programs in this case." 5 Tr 2171.

Consumers explained that although CONE has increased, the Staff has argued that the company's DR portfolio is one of the most expensive in the nation and it would not be prudent to increase the credits at this time. Therefore, the company asserted that:

[b]y maintaining the same credit level, the Company can be more cost effective with these programs and the overall portfolio. Also, the stability and simplicity of not changing with every fluctuation in CONE is valuable to customers. The 20% increase in CONE this year would be a boon to participants, but next year if there was a 20% decrease, it would be very challenging to participants to see their credits drop, leading to more attrition and jeopardizing the cost effectiveness of the Company's DR portfolio.

5 Tr 2171.

Consumers noted that its residential Air Conditioning Peak Cycling (ACPC) program is the only program that is active with per-customer load reduction and credits that are administered monthly. The company stated that it “did not have any events in which it could calculate a new value in 2023, so the per customer load reduction value remains at 0.60 kW.” 5 Tr 2171.

Accordingly, with the updated value of CONE and in order to align with MISO’s summer season (removing September), Consumers asserted that:

[t]he new calculation is  $(\$127,135 \text{ per MW-year} / 1,000 * 75\% * 0.60 \text{ kW reduction per customer}) / 3 \text{ summer months} = \$19.07 \text{ per summer billing month}$ . Like was done in previous iterations of this calculation, the Company would apply a 50% reduction to account for administrative costs, resulting [in] a credit of about \$9.50 per summer billing month.

5 Tr 2172. For the DR credits for the General Interruptible (GI) provision, Consumers stated that the current credit is \$7/kW per month in the summer months and \$6/kW per month in the non-summer months. The company explained that “[t]he new calculation is  $(\$127,135 \text{ per MW-year} * 75\%) / 12 \text{ months} = \$7.95 \text{ per kW-month}$ . Maintaining a \$1 differential between summer and non-summer months, the credit would be \$8.50 per kW-month in the summer and \$7.50 per kW-month in the non-summer.” 5 Tr 2172.

As an initial matter, the Staff noted that the DR credits for the GI provision were updated seven years ago and that the ACPC credit has remained static for many years. Regarding Consumers’ proposal in the immediate case, the Staff stated that it:

does not agree that it is appropriate to apply a 50% reduction to the Company’s updated ACPC credit because there is no support for such an adjustment. The Company did not provide any evidence that administration of the ACPC program equals half the value of the DR credit. Also, dividing the ACPC credit by the number of summer months (3) is inappropriate because it assumes that the annual value of the load reduction is recovered during the summer. This is untrue because the ACPC program does not have any DR value when there is no air conditioning load to reduce, such as during the winter months. The Company’s calculation essentially includes a year’s worth of CONE into 3 months instead of 12. The

Company's calculation of updated GI credits does not suffer from the same problems as the ACPC credit.

5 Tr 3612. Thus, the Staff recommended that the company's proposed DR credits of \$8.50/kW per month in the summer months and the \$7.50/kW per month in the non-summer months for the GI provision be approved. The Staff contended that "[t]his is a straightforward method of applying the value of DR resources as 75% of CONE which can be used as a basis for calculating other DR credits that are not based on demand (i.e. monthly or on energy)." 5 Tr 3613.

However, the Staff requested that Consumers' proposal for the ACPC DR credits be modified.

Specifically, the Staff proposed setting:

the ACPC DR credit to \$5 per month. Staff's proposal is calculated by multiplying the proposed summer GI credit (\$8.50) times the expected 0.6 kW average customer load reduction, which is rounded to the nearest whole dollar amount (from \$5.10 to \$5). This essentially applies the same price for a demand reduction offered to all other DR customers but converts it to the flat monthly credit to which residential ACPC customers are accustomed. In future rate cases the credit can be adjusted if it is shown that ACPC customers have increased their average load reduction. Staff's 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. Furthermore, Staff's proposal will bring DR credits for all customers up to date with the current value of DR, and not its value from 7 years ago.

5 Tr 3613; *see also*, Staff's initial brief, pp. 142-143. The Staff asserted that its proposal will decrease DR credit expense by \$325,000 for the test year. In addition, the Staff noted that "updating the GI credits will also affect DR credits for Rates GSTU and EIP, which are derived by converting demand-based DR credits to energy-based credits." 5 Tr 3614.

In rebuttal, Consumers stated that:

[t]he Company did not propose changing the DR credits in its initial filing because the net result would have strained the cost effectiveness of its DR programs. Because Staff's proposal results in a net decrease to the projected total DR credits, the Company supports Staff's calculations and agrees the Commission should approve Staff's proposal.

5 Tr 2189; *see also*, Consumers' initial brief, p. 188.

The ALJ found that “[b]ecause Consumers and Staff are in agreement and no other party addressed this issue, the [ALJ] recommends that the Commission approve these changes to the DR credits and incorporate them into the appropriate tariff.” PFD, p. 580.

No exceptions were filed on this issue.

The Commission finds that the ALJ's recommendation should be adopted.

#### 4. GPTU General Interruptible Tariff

In exceptions, ABATE states that Consumers “proposed a change to the ‘Reduce-To’ option for the GI provision of Rate GPTU ‘to change the interruptible load definition to the average on-peak billing demand created during the current month from the on-peak billing demand.’” ABATE's exceptions, p. 21 (quoting 5 Tr 1747-1748). ABATE contends that the company requested that a cap be added to the amount of interruptible load based on historical usage. ABATE asserts that the ALJ did not directly address this issue and, instead, the ALJ noted that “no party ‘took issue with the proposed operation of the DR programs or the company's proposed modifications,’ and recommend[ed] that ‘the Commission approve . . . the modifications of the DR programs.’” ABATE's exceptions, pp. 21-22 (quoting PFD, pp. 244-245). ABATE asserts that Consumers failed to provide sufficient evidence to demonstrate that its proposed revision to Rate GPTU was reasonable or prudent.

Specifically, ABATE cites case and statutory law that requires Consumers to provide evidence to support a change to rates and asserts that the company has the burden to prove its case by a preponderance of the evidence. *See*, ABATE's exceptions, pp. 22-23. In ABATE's opinion, Consumers failed to satisfy its burden of proof because the company “did not provide any facts or evidence to support its proposed revision to the Rate GPTU GI provision other than a conclusory

and unsupported statement that the ‘change will assure accuracy and equity for customers participating in interruptible service.’” *Id.*, p. 23 (quoting 5 Tr 2175).

ABATE contends that Consumers did not provide a discussion of how this change will impact customers’ service, rates, behavior, or use of the GPTU GI provision. ABATE states that:

capping the amount of interruptible load for billing purposes at a customer’s historical usage by changing the interruptible load definition to the *average* on-peak billing demand created during the current month will most likely reduce the customer benefit provided by this provision. This could have significant implications, including less interruptible load, which could result in the Company being required to service more load and thus maintain more capacity, meaning higher utility costs and customer rates. If the purpose of the GPTU GI provision is to reduce the Company’s demand (and customer rates) by incentivizing customers to self-serve or otherwise limit their demand on the Company’s system, this change may likely have the opposite effect. Reducing large customers’ incentive to limit the service obligation their load places on the Company’s system, and the resulting system reliability and resiliency implications that come along with those potential changes in demand and costs, are serious concerns warranting thoughtful consideration.

ABATE’s exceptions, p. 24 (emphasis in original). ABATE asserts that Consumers has not sufficiently supported its proposed change to the GPTU GI provision and, therefore, ABATE requests that the Commission reject Consumers’ proposed revision.

In reply, Consumers asserts that “[f]or the first time in Exceptions, ABATE now challenges the recommended approval of the proposed demand response tariff changes. Notably, as no party challenged the proposed change on the record, ABATE could not point to any evidence as to why this proposal should not be adopted.” Consumers’ replies to exceptions, p. 70.

The Commission finds that the ALJ correctly noted that, other than the Staff’s proposed adjustment to the historical period for DR capital expenditures that were disallowed in the June 6, 2024 order in Case No. U-21410, “[n]o 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.” PFD, p. 245. A review of the record

confirms that Consumers provided an ample description of the changes to the “Reduce-To” option for the GI provision on Rate GPTU, which was uncontested by any other party. *See*, 5 Tr 1747-1748.

In exceptions, ABATE raises questions regarding Consumers’ proposed revisions to the GI provision of Rate GPTU. Because these questions were raised for the first time in exceptions and after the record was closed, the parties were not provided an opportunity to respond to or rebut ABATE’s claims with testimony, evidence, or briefing. In addition, the Commission finds that, in exceptions, ABATE hypothesizes scenarios in which the proposed changes “*could* have significant implications” but does not provide or point to any evidence demonstrating that the changes to the GI provision on Rate GPTU will cause actual harm to customers. ABATE’s exceptions, p. 24 (emphasis added). Therefore, the Commission finds that ABATE’s exception on this issue should be rejected and approves the company’s changes to the GI provision on Rate GPTU.

THEREFORE, IT IS ORDERED that:

A. Based on the findings in this order adopting a March 1, 2025 through February 28, 2026 test year, a jurisdictional rate base of \$14,857,152,000, an authorized rate of return on common equity of 9.9%, and an authorized overall rate of return of 5.97%, Consumers Energy Company is authorized to implement rates that increase its annual electric revenues by \$153,809,000, on a jurisdictional basis and as set forth in the order, over the rates approved in the March 1, 2024 order in Case No. U-21389.

B. Consumers Energy Company is authorized to implement rates consistent with the revenue deficiency approved by this order on a service-rendered basis for electric service provided on and after April 4, 2025, as reflected in Attachment A (a summary of revenue by rate class), Attachment B (tariff sheets), and Attachment C (updated capacity charge calculation) to this order.

Within 30 days the date of this order, Consumers Energy Company shall file with the Commission Staff tariff sheets substantially similar to Attachment B. After the tariff sheets have been reviewed and accepted by the Commission Staff for inclusion in the company's tariff book, Consumers Energy Company shall promptly file the final tariff sheets in this docket and serve all parties. Consumers Energy Company shall implement a state reliability mechanism capacity charge of \$23,773.90 per megawatt-year, or \$65.13 per megawatt-day, for customers taking capacity service, as shown on Attachment C to this order. Attachment B contains the associated capacity rates. When filing the tariffs consistent with those ordered, Consumers Energy Company shall also update the Contributions In Aid of Construction Allowance Schedule amounts on Tariff Sheet C-4.00, Section C1.4, to be consistent with the rates approved in this order.

C. In its next distribution investment and maintenance plan to be filed in Case No. U-20147, Consumers Energy Company shall include discussion and analysis of non-wires solutions to explore potential ways to address congestion points and reliability issues on the distribution grid meaningfully.

D. In its next electric rate case, Consumers Energy Company shall identify equipment generally needed for distributed energy resource and electric vehicle interconnections, such as transformers, that currently have a long-lead time for procurement and propose a plan for maintaining an adequate inventory of that equipment to support future development.

E. In its next electric rate case, Consumers Energy Company shall include with any request for capital expenditure recovery of low voltage distribution new business expenditures a comparison of line installation costs by external contractors versus line installation costs by the company's workforce.

F. Prior to its next electric rate case, Consumers Energy Company shall re-evaluate its advanced metering infrastructure opt-out charges to ensure alignment with the cost of service and shall include the results of its evaluation in its next electric rate case.

G. Consumers Energy Company shall provide the Commission Staff with as much detail as possible regarding the application of excess funds for streetlighting.

H. Consumers Energy Company shall continue to monitor the Zeeland Advanced Gas Path Replacement and Axial Fuel Staging Project to ensure that projected costs do not significantly increase and that projected benefits of the project are in fact achieved.

I. In its next transportation electrification plan filing, Consumers Energy Company shall consider and discuss grid readiness, direct current fast charging infrastructure needs, integration of electric vehicle charging and renewable energy into the grid, and the continued sufficiency of off-peak charging.

J. In its next electric rate case and PowerMIDrive and PowerMIFleet annual report, Consumers Energy Company shall provide an update on each transportation electrification plan enhancement approved by this order and any lessons learned.

K. In its next electric rate case, Consumers Energy Company shall provide further and a more specific explanation as to why its approach in determining its working capital cash balance remains appropriate and should continue to be approved.

L. Consumers Energy Company, in its next electric rate case, shall: (1) explain and justify the size and expense associated with its short-term borrowing facilities if only a very small portion is being or has been utilized and (2) provide a more thorough explanation of its renewables liability short-term debt process, consistent with the Commission Staff's recommendations in this case.

M. In its next electric rate case, Consumers Energy Company shall provide an analysis of the feasibility of more aggressive line clearing.

N. In its next electric rate case, Consumers Energy Company shall consider the benefits of shifting to a four-year fixed tree trimming cycle based on the findings of its Formal Optimization Analysis of Line Clearing Cycles into its forestry line clearing operations and maintenance approach and spending proposal.

O. Beginning with its next electric rate case and as set forth in this order, Consumers Energy Company shall provide, as it relates to sales forecast calculations, historical and projected sales provided on both a calendar and cycle-billed basis, historical and projected sales broken down on the same level of granularity, and more explanation on certain rate case filing attachments previously marked not applicable in this case.

P. In future applicable rate case filings, Consumers Energy Company shall provide more support and explanation regarding how it coordinates operations between its gas and electric businesses to justify how the company can expect electric business employees to achieve the methane emission reduction goals labeled under the “Environmental” category.

Q. Year 2 of Consumers Energy Company’s investment recovery mechanism is approved as described in this order.

R. In its next electric rate case, Consumers Energy Company shall present its EJ Resiliency Plan with specified proposed investments, and a regression analysis which includes data on residential disconnections, as described in this order.

S. In its next electric rate case, Consumers Energy Company shall include a reconciliation for the state reliability mechanism as described in this order.

T. In Consumers Energy Company's next voluntary green pricing case, the company's program rates and compensation structure shall 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.

U. In Consumers Energy Company's next voluntary green pricing case, the company shall solicit input on future community solar proposals that aligns with the intervenor requests in this case.

V. Consumers Energy Company's appeal of the October 31, 2024 evidentiary ruling, pursuant to Mich Admin Code, R 792.10433(5), is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at [LARA-MPSC-Edockets@michigan.gov](mailto:LARA-MPSC-Edockets@michigan.gov) and to the Michigan Department of Attorney General - Public Service Division at [sheac1@michigan.gov](mailto:sheac1@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Daniel C. Scripps, Chair

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Katherine L. Peretick, Commissioner

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Alessandra R. Carreon, Commissioner

By its action of March 21, 2025.

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Lisa Felice, Executive Secretary

Line No.	(a) Description	(b) Customers Mthly	(c) Sales MWh	(d) Revenue		(e) Net Increase / (Decrease)	
				Present \$000	Proposed \$000	Revenue \$000	Percent %
<b>FULL SERVICE</b>							
<u>Residential Class</u>							
1	Summer On-peak RSP	1,620,688	12,143,888	\$ 2,288,424	\$ 2,392,411	\$ 103,986	4.5
2	Smart Hours RSH	20,783	138,697	26,262	27,429	1,167	4.4
3	Night Time Savers RPM	11,179	93,400	17,023	17,786	763	4.5
4	Non-Transmitting Meters RSM	14,085	125,371	23,930	24,717	787	3.3
5	Total Residential Class	1,666,735	12,501,356	\$ 2,355,639	\$ 2,462,343	\$ 106,704	4.5
<u>Secondary Class</u>							
6	Energy-only GS	198,674	4,008,175	\$ 692,107	\$ 718,143	\$ 26,036	3.8
7	Time-of-Use GSTU	1,682	59,011	10,283	10,692	409	4.0
8	Demand GSD	21,283	2,936,099	429,146	449,494	20,347	4.7
9	Total Secondary	221,640	7,003,284	\$ 1,131,536	\$ 1,178,328	\$ 46,792	4.1
<u>Primary Class</u>							
10	Energy-only GP	1,434	717,836	\$ 86,666	\$ 87,440	\$ 775	0.9
11	Demand GPD	863	4,954,151	471,239	468,797	(2,442)	(0.5)
12	Time-of-Use GPTU	1,414	4,263,723	459,962	462,367	2,406	0.5
13	Energy Intensive EIP	17	383,357	32,348	30,923	(1,425)	(4.4)
14	Total Primary	3,727	10,319,067	\$ 1,050,215	\$ 1,049,528	\$ (687)	(0.1)
<u>Lighting &amp; Unmetered Class</u>							
15	Metered Lighting GML	385	10,992	\$ 1,743	\$ 1,679	\$ (64)	(3.7)
16	Universal Unmetered Lighting UUL	4,686	79,140	37,783	33,587	(4,196)	(11.1)
17	Unmetered GU	460	95,184	10,925	10,689	(237)	(2.2)
18	Total Lighting & Unmetered	5,531	185,316	\$ 50,451	\$ 45,955	\$ (4,496)	(8.9)
<u>Self-generation Class</u>							
19	Small Self-generation GSG-1	-	-	\$ -	\$ -	\$ -	NA
20	Large Self-generation GSG-2	22	124,663	13,783	14,009	227	1.6
21	Total Self-generation	22	124,663	\$ 13,783	\$ 14,009	\$ 227	1.6
22	Total Full Service	1,897,655	30,133,687	\$ 4,601,624	\$ 4,750,163	\$ 148,539	3.2
<b>ROA SERVICE</b>							
<u>Secondary Class</u>							
23	Energy-only GS	88	20,665	\$ 1,201	\$ 1,320	\$ 119	9.9
24	Demand GSD	454	171,477	7,971	8,875	904	11.3
25	Total Secondary	542	192,142	\$ 9,172	\$ 10,195	\$ 1,022	11.1
<u>Primary Class</u>							
26	Energy-only GP	59	72,990	\$ 1,547	\$ 1,835	\$ 288	18.6
27	Demand GPD	339	3,305,059	24,470	28,445	3,975	16.2
28	Total Primary	398	3,378,049	\$ 26,016	\$ 30,280	\$ 4,264	16.4
29	Total ROA Service	940	3,570,191	\$ 35,189	\$ 40,475	\$ 5,286	15.0
30	Total Jurisdictional Service	1,898,595	33,703,878	\$ 4,636,813	\$ 4,790,638	\$ 153,825	3.3
31	Plus: Rounding			-	(15)	(15)	
32	Total Jurisdictional Revenues			\$ 4,636,813	\$ 4,790,623	\$ 153,811	3.3
33	Less: PSCR Factor Revenues			347,154	347,154	-	
34	Less: DR Surcharge			-	58,485	58,485	
35	Less: IRM Surcharge			-	5,173	5,173	
36	Total Jurisdictional Base Revenues			\$ 4,289,659	\$ 4,379,812	\$ 90,153	2.1
37	Total Jurisdictional Revenues			4,636,813	4,790,623	153,811	3.3
38	Plus: ERC Deferral Surcharge			-	21,811	21,811	
39	Total Jurisdictional Revenues Requested			\$ 4,636,813	\$ 4,812,434	\$ 175,621	3.8

Line No.	(a) Description	(b) Sales MWh	(c) Revenue		(d) Net Increase / (Decrease)	
			Present \$000	Proposed \$000	Revenue \$000	Percent %
<b>FULL SERVICE</b>						
<u>Residential Class</u>						
1	Summer On-peak RSP	12,143,888	\$ 1,254,650	\$ 1,298,560	\$ 43,911	3.5
2	Smart Hours RSH	138,697	14,216	14,698	481	3.4
3	Night Time Savers RPM	93,400	9,140	9,441	301	3.3
4	Non-Transmitting Meters RSM	125,371	13,175	13,341	167	1.3
5	Total Residential Class	12,501,356	\$ 1,291,181	\$ 1,336,041	\$ 44,860	3.5
<u>Secondary Class</u>						
6	Energy-only GS	4,008,175	\$ 413,660	\$ 416,523	\$ 2,863	0.7
7	Time-of-Use GSTU	59,011	6,481	6,548	67	1.0
8	Demand GSD	2,936,099	285,666	290,485	4,819	1.7
9	Total Secondary	7,003,284	\$ 705,806	\$ 713,556	\$ 7,750	1.1
<u>Primary Class</u>						
10	Energy-only GP	717,836	\$ 70,492	\$ 68,469	\$ (2,023)	(2.9)
11	Demand GPD	4,954,151	425,575	415,516	(10,059)	(2.4)
12	Time-of-Use GPTU	4,263,723	392,965	383,709	(9,255)	(2.4)
13	Energy Intensive EIP	383,357	30,288	28,578	(1,710)	(5.6)
14	Total Primary	10,319,067	\$ 919,319	\$ 896,272	\$ (23,047)	(2.5)
<u>Lighting &amp; Unmetered Class</u>						
15	Metered Lighting GML	10,992	\$ 796	\$ 678	\$ (118)	(14.8)
16	Universal Unmetered Lighting UUL	79,140	5,672	4,708	(965)	(17.0)
17	Unmetered GU	95,184	8,384	7,963	(421)	(5.0)
18	Total Lighting & Unmetered	185,316	\$ 14,851	\$ 13,348	\$ (1,503)	(10.1)
<u>Self-generation Class</u>						
19	Small Self-generation GSG-1	-	\$ -	\$ -	\$ -	NA
20	Large Self-generation GSG-2	124,663	11,905	11,905	-	-
21	Total Self-generation	124,663	\$ 11,905	\$ 11,905	\$ -	-
22	Total Full Service	30,133,687	\$ 2,943,063	\$ 2,971,123	\$ 28,060	1.0
<b>ROA SERVICE</b>						
<u>Secondary Class</u>						
23	Energy-only GS	-	\$ -	\$ -	\$ -	NA
24	Demand GSD	-	-	-	-	NA
25	Total Secondary	-	\$ -	\$ -	\$ -	NA
<u>Primary Class</u>						
26	Energy-only GP	-	\$ -	\$ -	\$ -	NA
27	Demand GPD	-	-	-	-	NA
28	Total Primary	-	\$ -	\$ -	\$ -	NA
29	Total ROA Service	-	\$ -	\$ -	\$ -	NA
30	Total Jurisdictional Service	30,133,687	\$ 2,943,063	\$ 2,971,123	\$ 28,060	1.0
31	Plus: Rounding		-	(2)	(2)	
32	Total Jurisdictional Base Revenues		\$ 2,943,063	\$ 2,971,121	\$ 28,058	1.0
33	Less: PSCR Factor Revenues		347,154	347,154	-	
34	Less: DR Surcharge		-	58,485	58,485	
35	Less: IRM Surcharge		-	-	-	
36	Total Jurisdictional Base Revenues		\$ 2,595,909	\$ 2,565,482	\$ (30,427)	(1.2)
37	Total Jurisdictional Revenues		2,943,063	2,971,121	28,058	1.0
38	Plus: ERC Deferral Surcharge		-	-	-	
39	Total Jurisdictional Revenues Requested		\$ 2,943,063	\$ 2,971,121	\$ 28,058	1.0

Line No.	(a) Description	(b) Sales MWh	(c) Revenue		(d) Net Increase / (Decrease)	
			Present \$000	Proposed \$000	Revenue \$000	Percent %
<b>FULL SERVICE</b>						
<u>Residential Class</u>						
1	Summer On-peak RSP	12,143,888	\$ 1,033,775	\$ 1,093,850	\$ 60,076	5.8
2	Smart Hours RSH	138,697	12,045	12,731	686	5.7
3	Night Time Savers RPM	93,400	7,882	8,344	462	5.9
4	Non-Transmitting Meters RSM	125,371	10,756	11,376	620	5.8
5	Total Residential Class	12,501,356	\$ 1,064,458	\$ 1,126,302	\$ 61,844	5.8
<u>Secondary Class</u>						
6	Energy-only GS	4,008,175	\$ 278,447	\$ 301,620	\$ 23,173	8.3
7	Time-of-Use GSTU	59,011	3,802	4,144	341	9.0
8	Demand GSD	2,936,099	143,481	159,009	15,528	10.8
9	Total Secondary	7,003,284	\$ 425,730	\$ 464,772	\$ 39,042	9.2
<u>Primary Class</u>						
10	Energy-only GP	717,836	\$ 16,174	\$ 18,971	\$ 2,797	17.3
11	Demand GPD	4,954,151	45,665	53,281	7,616	16.7
12	Time-of-Use GPTU	4,263,723	66,997	78,658	11,661	17.4
13	Energy Intensive EIP	383,357	2,061	2,345	285	13.8
14	Total Primary	10,319,067	\$ 130,896	\$ 153,256	\$ 22,360	17.1
<u>Lighting &amp; Unmetered Class</u>						
15	Metered Lighting GML	10,992	\$ 947	\$ 1,001	\$ 54	5.7
16	Universal Unmetered Lighting UUL	79,140	32,110	28,879	(3,231)	(10.1)
17	Unmetered GU	95,184	2,542	2,726	184	7.2
18	Total Lighting & Unmetered	185,316	\$ 35,599	\$ 32,606	\$ (2,993)	(8.4)
<u>Self-generation Class</u>						
19	Small Self-generation GSG-1	-	\$ -	\$ -	\$ -	NA
20	Large Self-generation GSG-2	124,663	1,877	2,104	227	12.1
21	Total Self-generation	124,663	\$ 1,877	\$ 2,104	\$ 227	12.1
22	Total Full Service	30,133,687	\$ 1,658,560	\$ 1,779,040	\$ 120,479	7.3
<b>ROA SERVICE</b>						
<u>Secondary Class</u>						
23	Energy-only GS	20,665	\$ 1,201	\$ 1,320	\$ 119	9.9
24	Demand GSD	171,477	7,971	8,875	904	11.3
25	Total Secondary	192,142	\$ 9,172	\$ 10,195	\$ 1,022	11.1
<u>Primary Class</u>						
26	Energy-only GP	72,990	\$ 1,547	\$ 1,835	\$ 288	18.6
27	Demand GPD	3,305,059	24,470	28,445	3,975	16.2
28	Total Primary	3,378,049	\$ 26,016	\$ 30,280	\$ 4,264	16.4
29	Total ROA Service	3,570,191	\$ 35,189	\$ 40,475	\$ 5,286	15.0
30	Total Jurisdictional Service	33,703,878	\$ 1,693,749	\$ 1,819,515	\$ 125,766	7.4
31	Plus: Rounding		-	(13)	(13)	
32	Total Jurisdictional Base Revenues		\$ 1,693,749	\$ 1,819,502	\$ 125,753	7.4
33	Less: PSCR Factor Revenues		-	-	-	
34	Less: DR Surcharge		-	-	-	
35	Less: IRM Surcharge		-	5,173	5,173	
36	Total Jurisdictional Base Revenues		\$ 1,693,749	\$ 1,814,329	\$ 120,580	7.1
37	Total Jurisdictional Revenues		1,693,749	1,819,502	125,753	7.4
38	Plus: ERC Deferral Surcharge		-	21,811	21,811	
39	Total Jurisdictional Revenues Requested		\$ 1,693,749	\$ 1,841,313	\$ 147,564	8.7

(Continued From Sheet No. C-14.00)

**C4. APPLICATION OF RATES (Contd)**

**C4.3 Application of Residential Usage and Non-Residential Usage (Contd)**

**D. Rate Application for Seasonal Condominium Campgrounds (Contd)**

- (6) The customer must notify individuals and co-owners utilizing the customer's property that requests and concerns regarding electric service will be addressed between the single legal entity and ownership and primary operating authority, not with individuals.
- (7) The customer shall be responsible for ensuring that the electrical facilities are adequate to meet the needs of the units placed within the Seasonal Condominium Campground in their entirety and shall pay the Company for any charges incurred for modifications necessary to accommodate load according to other portions of this Electric Rate Book.

**C4.4 Resale**

This provision is closed to resale for general unmetered service, unmetered or metered lighting service and new or expanded service for resale for residential use.

No customer shall resell electric service to others except when the customer is served under a Company rate expressly made available for resale purposes, and then only as permitted under such rate and under this rule.

Where, in the Company's opinion, the temporary or transient nature of the proposed ultimate use, physical limitation upon extensions, or other circumstances, make it impractical for the Company to extend or render service directly to the ultimate user, the Company may allow a customer to resell electric service to others.

For the purposes of this tariff, the provision of electric vehicle charging service for which there is no direct per kWh charge shall not be considered resale of service.

A resale customer is required to take service under the resale provision of one of the following rates for which they qualify: General Service Secondary Rate GS, General Service Secondary Time-of-Use Rate GSTU, General Service Secondary Demand Rate GSD, General Service Primary Rate GP, Large General Service Primary Demand Rate GPD, or General Service Primary Time-of-Use Rate GPTU. Resale Service is provided pursuant to a service contract providing for such resale privilege. Service to each ultimate user shall be separately metered.

- A. If the resale customer elects to take service under a Company Full Service resale rate, the ultimate user shall be served and charged for such service under standard Rate RSM for residential use or under the appropriate standard General Service Rate applicable in the Company's Electric Rate Book available for similar service under like conditions. Reselling customers are not required to offer or administer any additional service provisions or nonstandard rates contained in the Electric Rate Book, such as the Income Assistance Service Provision or the Educational Institution Service Provision.
- B. If the resale customer elects to take service under a Company Retail Open Access Service rate, the ultimate user shall be served and charged for such service under Rate ROA-R for residential use or under Rate ROA-S or ROA-P applicable in the Company's Electric Rate Book available for similar service under like conditions.
- C. If the ultimate user is a campground lot or boat harbor slip, the resale customer has the option to charge a maximum of the following all inclusive rate per kWh in place of billing the ultimate customer on the appropriate standard Company tariff rate:  
    \$0.197458 per kWh for all kWh during the months of June-September  
    \$0.174375 per kWh for all kWh during the months of October-May

The Company shall be under no obligation to furnish or maintain meters or other facilities for the resale of service by the reselling customer to the ultimate user.

The service contract shall provide that the reselling customer's billings to the ultimate user shall be audited each year by February's month end, for the previous calendar year. The audit shall be conducted either by the Company, if the Company elects to conduct such audit, or by an independent auditing firm approved by the Company. The reselling customer shall be assessed a reasonable fee for an audit conducted by the Company. If the audit is conducted by an independent auditing firm, the customer shall submit a copy of the results of such audit to the Company in a form approved by the Company.

(Continued on Sheet No. C-16.00)

(Continued From Sheet No. C-35.00)

**C8. POWER SUPPLY COST RECOVERY (PSCR) CLAUSE (Contd)**

A. Applicability of Clause (Contd)

"Power Supply Costs" means those elements of the costs of fuel and purchased and net interchanged power as determined by the Commission to be included in the calculation of the Power Supply Cost Recovery Factor. The Commission determined in its Order in Case No. U-10335 dated May 10, 1994 that the fossil plant emissions permit fees over or under the amount included in base rates charged the Company are an element of fuel costs for the purpose of the clause.

B. Billing

(1) The Power Supply Cost Recovery Factor shall consist of an adjustment factor of *1.07898* applied to projected average booked cost of fuel burned for electric generation and purchased and net interchange power incurred above or below a cost base of \$0.05570 per kWh (excluding line losses). Average booked costs of fuel burned and purchased and net interchange power shall be equal to the booked costs in that period divided by that period's net system kWh requirements. The average booked costs so determined shall be truncated to the full \$0.00001 cost per Kilowatt-hour. Net system kWh requirements shall be the sum of the net kWh generation and net kWh purchased and interchange power.

(2) Each month the Company shall include in its rates a Power Supply Cost Recovery Factor up to the maximum authorized by the Commission as shown on Sheet No. D-6.00.

Should the Company apply lesser factors than those shown on Sheet No. D-6.00, or if the factors are later revised pursuant to Commission Orders or Michigan Compiled Laws, Annotated, 460.6 et seq., the Company shall notify the Commission if necessary and file a revised Sheet No. D-6.00.

C. General Conditions

(1) The power supply and cost review shall be conducted not less than once a year for the purpose of evaluating the Power Supply Cost Recovery Plan filed by the Company and to authorize appropriate Power Supply Cost Recovery Factors. Contemporaneously with its Power Supply Cost Recovery Plan, the Company shall file a 5-year forecast of the power supply requirements of its customers, its anticipated sources of supply and projections of Power Supply Costs.

(2) Not more than 45 days following the last day of each billing month in which a Power Supply Cost Recovery Factor has been applied to customers' bills, the Company shall file with the Commission a detailed statement for that month of the revenues recorded pursuant to the Power Supply Cost Recovery Factor and the allowance for cost of power included in the base rates established in the latest Commission order for the Company, and the cost of power supply.

(3) All revenues collected pursuant to the Power Supply Cost Recovery Factors and the allowance for power included in the base rates are subject to annual reconciliation proceedings.

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(Continued on Sheet No. C-37.00)

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**C11. SELF-GENERATION, NET METERING, DISTRIBUTED GENERATION AND SIMPLE RENEWABLE PROGRAM**

**C11.1 Self Generation**

A customer who meets the Federal Energy Regulatory Commission's (FERC) criteria for a Qualifying Facility, but elects not to participate in the Company's Standard Offer under Rule C18, Distributed Generation Program, or Net Metering Program, may elect to sell energy to the Company under an energy-only contract. The Company has the right to refuse to contract for the purchase of energy *if the Qualifying Facility is connected to the Company's system and cannot meet the below Distribution Requirements for Sellers Connected to Company System*. Sales of energy to the Company under this provision shall require a written contract with a minimum term of one year.

A. Distribution Requirements for Sellers Connected to Company System

- (1) All facilities operated in parallel with the Company's system must meet the Parallel Operation Requirements set forth in Rule C1.6 B. The Company shall install, own, operate, and maintain all metering and auxiliary devices (including any telecommunication links, if applicable) connected to the Company System. Meters furnished, installed, and maintained by the Company meter generation equipment.
- (2) Energy delivered to the Company shall be alternating current, 60-hertz, single-phase or three-phase (as governed by Rule B8., Interconnection and Distributed Generation Standards) service. The Company will determine the particular nature of the voltage in each case.
- (3) If the seller's QF is connected to a distribution line serving other Company customers, then the point of delivery for energy measurement purposes shall be at the high voltage side of the generating facility's isolation transformer connecting the seller's generating facility to the Company's distribution system. If the seller's generating facility is not connected to a distribution line serving other Company customers, then the point of delivery for energy measurement purposes shall be at the point at which the radial line connecting the seller's generating facility to the Company's distribution system terminates at the first substation beyond the facility's isolation transformer.
- (4) Interval Data Meters are required for each generating unit served under this rate. For a seller in which the measurement of energy delivered to the Company is not located at the point of delivery, then electric losses as determined by the Company for losses between the energy measurement location and the point of delivery shall be deducted for billing purposes from the energy measurements thus made.
- (5) The seller must meet the requirements contained in Rule B8., Interconnection and Distributed Generation Standards R 460.911 – R 460.992, for the category of generator installed. Per these standards, testing and utility approval of the interconnection and execution of a parallel operating agreement must be completed prior to the equipment operating in parallel with the distribution system of the utility. Additionally, the Company will confirm and ensure that an electric generator installation at the seller's site meets the IEEE 1547 anti-islanding requirements.
- (6) The seller is required to obtain the characteristics of service from the Company prior to the installation of equipment. The Company shall provide the characteristics in writing upon request. In the event that the equipment proposed for connection is not compatible with these characteristics, the Company shall have no obligation to modify its distribution system or provide any monetary compensation to the seller.

Any service facilities shall be dedicated to the generator and shall not be shared with those providing service to any seller. The Company shall determine the characteristics of service. Should the installation of new Company distribution facilities be necessary for the equipment, all costs for the distribution facilities installed may be charged to the applicant in advance of construction as a nonrefundable contribution. If the applicant desires underground service facilities, the difference in cost between overhead and underground service facilities shall be charged to the applicant in advance of construction as a nonrefundable contribution.

- (7) If, in the sole judgement of the Company, it appears that connection of the equipment and subsequent service through the Company's facilities may cause a safety hazard, endanger the Company facilities or the seller's equipment or to disturb the Company's service to customers and other sellers, the Company may refuse or delay connection of the equipment to the facilities.

A seller who contracts to sell energy to the Company on an energy-only contract is not eligible to participate in the Company's Standard Offer, Net Metering Program or Distributed Generation Program during the term the energy-only contract is in effect. Sellers with unsatisfactory payment history on their delivery account are not eligible to participate.

- (8) The Company may discontinue purchases during system emergencies, maintenance, and other operational circumstances.

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(Continued on Sheet No. C-59.10)

(Continued from Sheet No. C-64.10)

**C11. SELF-GENERATION, NET METERING AND DISTRIBUTED GENERATION (Contd)**

**C11.3 DISTRIBUTED GENERATION PROGRAM (Contd)**

A. Distributed Generation Program Availability

The Distributed Generation Program is available for eligible Distributed Generation customers for service rendered on and after January 1, 2021.

A customer participating in a net metering program approved by the Commission before January 1, 2021 shall have the option to take service under this tariff at the time service under the terms and conditions of the previous net metering program terminates in accordance with MCL 460.1183.

The Distributed Generation Program is voluntary and available on a first come, first served basis for new customer participants or existing customer participants increasing their aggregate generation. The combined legacy Net Metering and DG program size is equal to 4.0% of the Company's average in-state peak load for Full-Service customers during the previous 5 calendar years. Within the Program Capacity, 2.0% is reserved for Category 1 legacy Net Metering and Distributed Generation customers, 1.0% is reserved for Category 2 legacy Net Metering and Distributed Generation customers and 1.0% is reserved for Category 3 legacy Net Metering and Distributed Generation customers. The Company shall notify the Commission upon the Program reaching capacity in any Category.

If an existing Net Metering customer increases the aggregate generation following the effective date of the Distributed Generation Program, all onsite generation will be subject to the terms and conditions of the Distributed Generation Program.

B. Customer Eligibility

In order to be eligible to participate in the Distributed Generation Program, customers must generate a portion or all of their own retail electricity requirements with an Eligible Electric Generator which utilizes a Renewable Energy Resource, as defined in C11.3.B., Distributed Generation Definitions.

A customer's eligibility to participate in the Distributed Generation Program is conditioned on the full satisfaction of any payment term or condition imposed on the customer by pre-existing contracts or tariffs with the Company, including those imposed by participation in the Distributed Generation Program, or those required by the interconnection of the customer's Eligible Electric Generator to the Company's distribution system.

C. Customer Billing – Category 1, 2 and 3 Customers

1. Inflow

a. Full Service Customers

The customer will be billed according to their retail rate schedule, plus surcharges, and Power Supply Cost Recovery (PSCR) Factor on metered Inflow for the billing period or time-based pricing period.

b. Retail Open Access Customers

The customer will be billed as stated on the customer's Retail Open Access Rate Schedule on metered Inflow for the billing period or time-based pricing period.

2. Customer Billing – Outflow Credit

The customer will be credited on Outflow for the billing period or time-based pricing period. The credit shall be applied to the current billing month and shall be used to offset power supply charges on that bill. Any excess credit not used will be carried forward to subsequent billing periods. Unused Outflow Credit from previous months will be applied to power supply charges in the current billing month, if applicable. Outflow credit is non-transferrable. *At the Company's discretion, a check may be issued to the customer.*

(Continued on Sheet No. C-64.30)

(Continued from Sheet No. C-64.20)

**C11. SELF-GENERATION, NET METERING AND DISTRIBUTED GENERATION (Contd)**

**C11.3 DISTRIBUTED GENERATION PROGRAM (Contd)**

E. Customer Billing – Category 1, 2 and 3 Customers (Contd)

a. Full Service Customers Outflow Credit

Customers will be credited per kWh or per kW of Outflow based on the power supply rates (which include transmission costs) of their Full Service Rate Schedule as shown below, plus the PSCR factor as shown on Tariff Sheet No. D-6.00.

<b>Residential Rates</b>		
Summer	\$(0.150562)	per kWh of On-Peak Outflow between June 1 and September 30
On-Peak Basic	\$(0.099222)	per kWh of Off-Peak Outflow between June 1 and September 30
Rate RSP	\$(0.085252)	per kWh of all Outflow kWh between October 1 and May 31
	\$(0.150562)	per kWh of On-Peak Outflow between June 1 and September 30
Smart Hours	\$(0.099222)	per kWh of Off-Peak Outflow between June 1 and September 30
Rate RSH	\$(0.095326)	per kWh of On-Peak Outflow between October 1 and May 31
	\$(0.082971)	per kWh of Off-Peak Outflow between October 1 and May 31
	\$(0.150562)	per kWh of On-Peak Outflow between June 1 and September 30
Nighttime Savers	\$(0.111465)	per kWh of Off-Peak Outflow between June 1 and September 30
Rate RPM	\$(0.082008)	per kWh of Super Off-Peak Outflow between June 1 and September 30
	\$(0.095326)	per kWh of On-Peak Outflow between October 1 and May 31
	\$(0.092810)	per kWh of Off-Peak Outflow between October 1 and May 31
	\$(0.071386)	per kWh of Super Off-Peak Outflow between October 1 and May 31
<b>Secondary Rates</b>		
Rate GS	\$(0.105382)	per kWh of Outflow during the billing months of June through September
	\$(0.082299)	per kWh of Outflow during the billing months of October through May
Rate GSTU <sup>(1)</sup>	\$(0.143964)	per kWh of On-Peak Outflow during the billing months of June through September
	\$(0.109833)	per kWh of Mid-Peak Outflow during the billing months of June through September
	\$(0.080255)	per kWh of Off-Peak Outflow during the billing months of June through September
	\$(0.090563)	per kWh of On-Peak Outflow during the billing months of October through May
	\$(0.070953)	per kWh of Off-Peak Outflow during the billing months of October through May
Rate GSD <sup>(1)</sup>	\$(0.033424)	per kWh of Outflow during the billing months of June through September
	\$(0.027323)	per kWh of Outflow during the billing months of October through May
	\$(27.63)	per kW of Outflow Demand during the billing months of June through September
	\$(17.07)	per kW of Outflow Demand during the billing months of October through May

<sup>(1)</sup> Outflow credit will be reduced by the applicable Interruptible Credit for GSTU and GSD customers participating on GSI Provision.

(Continued on Sheet No. C-64.40)

(Continued from Sheet No. C-64.30)

**C11. SELF-GENERATION, NET METERING AND DISTRIBUTED GENERATION (Contd)**

**C11.3 DISTRIBUTED GENERATION PROGRAM (Contd)**

E. Customer Billing – Category 1, 2 and 3 Customers (Contd)

a. Full Service Customers Outflow Credit (Contd)

<b>Primary Rates</b>		
Rate GP		
Customer Voltage Level 1	\$(0.093229)	per kWh of outflow during the billing months of June through September
	\$(0.072836)	per kWh of outflow during the billing months of October through May
Customer Voltage Level 2	\$(0.094426)	per kWh of outflow during the billing months of June through September
	\$(0.073764)	per kWh of outflow during the billing months of October through May
Customer Voltage Level 3	\$(0.095479)	per kWh of outflow during the billing months of June through September
	\$(0.074577)	per kWh of outflow during the billing months of October through May
Rate GPD <sup>(2)</sup>		
Customer Voltage Level 1	\$(0.042727)	per kWh of On-Peak Outflow during the billing months of June through September
	\$(0.027682)	per kWh of Off-Peak Outflow during the billing months of June through September
	\$(25.78)	per kW of Outflow Demand during the billing months of June through September
	\$(0.029145)	per kWh of On-Peak Outflow during the billing months of October through May
	\$(0.025104)	per kWh of Off-Peak Outflow during the billing months of October through May
	\$(22.99)	per kW of Outflow Demand during the billing months of October through May
Customer Voltage Level 2	\$(0.043240)	per kWh of On-Peak Outflow during the billing months of June through September
	\$(0.028014)	per kWh of Off-Peak Outflow during the billing months of June through September
	\$(26.12)	per kW of Outflow Demand during the billing months of June through September
	\$(0.029495)	per kWh of On-Peak Outflow during the billing months of October through May
	\$(0.025405)	per kWh of Off-Peak Outflow during the billing months of October through May
	\$(23.29)	per kW of Outflow Demand during the billing months of October through May
Customer Voltage Level 3	\$(0.043667)	per kWh of On-Peak Outflow during the billing months of June through September
	\$(0.028291)	per kWh of Off-Peak Outflow during the billing months of June through September
	\$(26.42)	per kW of Outflow Demand during the billing months of June through September
	\$(0.029787)	per kWh of On-Peak Outflow during the billing months of October through May
	\$(0.025656)	per kWh of Off-Peak Outflow during the billing months of October through May
	\$(23.56)	per kW of Outflow Demand during the billing months of October through May

<sup>(2)</sup> For customers on Rate GPD GI Provision, On-Peak kW Outflow Credit shall be reduced by \$7.00 per kW during the billing months of June through September and \$6.00 per kW during the billing months of October through May.

(Continued on Sheet No. C-64.50)

(Continued from Sheet No. C-64.40)

**C11. SELF-GENERATION, NET METERING AND DISTRIBUTED GENERATION (Contd)**

**C11.3 DISTRIBUTED GENERATION PROGRAM (Contd)**

E. Customer Billing – Category 1, 2 and 3 Customers (Contd)

a. Full Service Customers Outflow Credit (Contd)

Rate GPTU		
Customer Voltage Level 1		per kWh of High-Peak Outflow between June 1 and September 30
	<i>\$(0.129361)</i>	
		per kWh of Mid-Peak Outflow between June 1 and September 30
	<i>\$(0.114706)</i>	
		per kWh of Low-Peak Outflow between June 1 and September 30
	<i>\$(0.090449)</i>	
		per kWh of Off-Peak Outflow between June 1 and September 30
	<i>\$(0.067951)</i>	
		per kWh of High-Peak Outflow between October 1 and May 31
	<i>\$(0.084662)</i>	
		per kWh of Mid-Peak Outflow between October 1 and May 31
	<i>\$(0.079992)</i>	
		per kWh of Off-Peak Outflow between October 1 and May 31
	<i>\$(0.067868)</i>	
Customer Voltage Level 2		per kWh of High-Peak Outflow between June 1 and September 30
	<i>\$(0.131004)</i>	
		per kWh of Mid-Peak Outflow between June 1 and September 30
	<i>\$(0.116169)</i>	
		per kWh of Low-Peak Outflow between June 1 and September 30
	<i>\$(0.091604)</i>	
		per kWh of Off-Peak Outflow between June 1 and September 30
	<i>\$(0.068813)</i>	
		per kWh of High-Peak Outflow between October 1 and May 31
	<i>\$(0.085737)</i>	
		per kWh of Mid-Peak Outflow between October 1 and May 31
	<i>\$(0.081010)</i>	
		per kWh of Off-Peak Outflow between October 1 and May 31
	<i>\$(0.068733)</i>	
Customer Voltage Level 3		per kWh of High-Peak Outflow between June 1 and September 30
	<i>\$(0.132440)</i>	
		per kWh of Mid-Peak Outflow between June 1 and September 30
	<i>\$(0.117451)</i>	
		per kWh of Low-Peak Outflow between June 1 and September 30
	<i>\$(0.092617)</i>	
		per kWh of Off-Peak Outflow between June 1 and September 30
	<i>\$(0.069566)</i>	
		per kWh of High-Peak Outflow between October 1 and May 31
	<i>\$(0.086674)</i>	
		per kWh of Mid-Peak Outflow between October 1 and May 31
	<i>\$(0.081901)</i>	
		per kWh of Off-Peak Outflow between October 1 and May 31
	<i>\$(0.069490)</i>	
Rate EIP		
Customer Voltage Level 1		per kWh of Critical Peak Outflow between June 1 and September 30
	<i>\$(0.181549)</i>	
		per kWh of High-Peak Outflow between June 1 and September 30
	<i>\$(0.121033)</i>	
		per kWh of Mid-Peak Outflow between June 1 and September 30
	<i>\$(0.107716)</i>	
		per kWh of Low-Peak Outflow between June 1 and September 30
	<i>\$(0.085437)</i>	
		per kWh of Off-Peak Outflow between June 1 and September 30
	<i>\$(0.063507)</i>	
		per kWh of Critical Peak Outflow between October 1 and May 31
	<i>\$(0.119141)</i>	

	<i>\$(0.079427)</i>	per kWh of High-Peak Outflow between October 1 and May 31
	<i>\$(0.074679)</i>	per kWh of Mid-Peak Outflow between October 1 and May 31
	<i>\$(0.063616)</i>	per kWh of Off-Peak Outflow between October 1 and May 31
Customer Voltage Level 2	<i>\$(0.183844)</i>	per kWh of Critical Peak Outflow between June 1 and September 30
	<i>\$(0.122563)</i>	per kWh of High-Peak Outflow between June 1 and September 30
	<i>\$(0.109085)</i>	per kWh of Mid-Peak Outflow between June 1 and September 30
	<i>\$(0.086524)</i>	per kWh of Low-Peak Outflow between June 1 and September 30
	<i>\$(0.064309)</i>	per kWh of Off-Peak Outflow between June 1 and September 30
	<i>\$(0.120646)</i>	per kWh of Critical Peak Outflow between October 1 and May 31
	<i>\$(0.080431)</i>	per kWh of High-Peak Outflow between October 1 and May 31
	<i>\$(0.075624)</i>	per kWh of Mid-Peak Outflow between October 1 and May 31
	<i>\$(0.064423)</i>	per kWh of Off-Peak Outflow between October 1 and May 31
Customer Voltage Level 3	<i>\$(0.185840)</i>	per kWh of Critical Peak Outflow between June 1 and September 30
	<i>\$(0.123894)</i>	per kWh of High-Peak Outflow between June 1 and September 30
	<i>\$(0.110280)</i>	per kWh of Mid-Peak Outflow between June 1 and September 30
	<i>\$(0.087476)</i>	per kWh of Low-Peak Outflow between June 1 and September 30
	<i>\$(0.065006)</i>	per kWh of Off-Peak Outflow between June 1 and September 30
	<i>\$(0.121955)</i>	per kWh of Critical Peak Outflow between October 1 and May 31
	<i>\$(0.081303)</i>	per kWh of High-Peak Outflow between October 1 and May 31
	<i>\$(0.076448)</i>	per kWh of Mid-Peak Outflow between October 1 and May 31
	<i>\$(0.065127)</i>	per kWh of Off-Peak Outflow between October 1 and May 31

b. Retail Open Access Customers

The Outflow Credit will be determined by the Retail Service Supplier

**(Continued on Sheet No. C-64.60)**

(Continued From Sheet No. C-76.00)

**C18. STANDARD OFFER - PURCHASED POWER (Contd)**

D. Monthly Rate (Contd)

Rate Options (Contd)

Capacity

The monthly capacity payment will be equal to the number of Zonal Resource Credits (“ZRCs”) that MISO determines the seller’s QF can supply to the Company for the applicable MISO resource planning period multiplied by the applicable capacity rate expressed in such units of capacity. The current resource planning period is the planning year which runs from June 1st of each year through May 31st of the following year. If no historical generation data is available for the first year of generation a QF shall be assigned the MISO class average capacity credits by technology.

Capacity value paid to QFs does not depend on whether the Company actually obtains ZRCs for such capacity, only that the Company could obtain ZRCs for the QF capacity. Capacity value paid to a QF is in units of \$ per ZRC-Month. MISO ZRCs are equal to the project’s nameplate capacity (in MW<sub>AC</sub>) modified by the MISO effective load carrying capacity (ELCC) calculation.

Capacity will be paid based on the average of the methodologies utilized by MISO at the time the QF contract is executed and at the time of capacity delivery from the QF, according to the MISO Business Practices Manual (BPM) calculation method effective at the respective times.

Eligible QFs that meet the requirements of Section C18A (1) or C18A (2) of this Rule can select one of the Energy Rate Options listed below:

Rate Option	Energy Rate \$/kWh			
1. As Available Rate	Actual MISO Day Ahead Locational Marginal Price (LMP) at the Company’s CONS.CETR load node under a 15-year term then multiplied by 1 plus the line loss adjustment factor of 2.32% for interconnection voltages less than 46 kV or 1.33% for interconnection voltage at 46 kV and less the Administrative Fee of \$0.001/kWh.			
2. LMP Energy Rate Forecast (Year 1-5)	A 10-year term based on a forecast of LMPs for the first five years and year six through year 10 of the term will be based on actual LMPs as described below. Rates include the line loss adjustment and Administrative Fee.			
	On-Peak Energy Rate Interconnection Voltage <46 kV	Off-Peak Energy Rate Interconnection Voltage <46 kV	On-Peak Energy Rate Interconnection Voltage =46 kV	Off-Peak Energy Rate Interconnection Voltage =46 kV
Year	\$/kWh	\$/kWh	\$/kWh	\$/kWh
2022	\$0.02983	\$0.02477	\$0.02955	\$0.02453
2023	\$0.03076	\$0.02553	\$0.03048	\$0.02529
2024	\$0.03118	\$0.02643	\$0.03089	\$0.02618
2025	\$0.03145	\$0.02646	\$0.03116	\$0.02621
2026	\$0.03293	\$0.02755	\$0.03263	\$0.02729
2027	\$0.03455	\$0.02863	\$0.03423	\$0.02836
2028	\$0.03527	\$0.02874	\$0.03495	\$0.02847
2029	\$0.03621	\$0.02973	\$0.03588	\$0.02945
2030	\$0.03724	\$0.03049	\$0.03690	\$0.03021
Actual LMP (Year 6-10)	Actual MISO Day Ahead Locational Marginal Price (LMP) at the Company’s CONS.CETR load node under the remaining contract term then multiplied by 1 plus the line loss adjustment factor of 2.32% for interconnection voltages less than 46 kV or 1.33% for interconnection voltage at 46 kV and less the Administrative Fee of \$0.001/kWh.			

(Continued on Sheet No. C-78.00)

**SURCHARGES**

*Electric Rate Case  
Demand Response Surcharge  
(Case No. U-21585)  
Effective for service rendered  
XXXX XX, 2025 through  
XXXX XX, 2026*

**Rate Schedule**

Rate RSP	\$0.002250/kWh
Rate RSH	0.002250/kWh
Rate RPM	0.002250/kWh
Rate RSM	0.002250/kWh
Rate GS	0.002106/kWh
Rate GSTU	0.002106/kWh
Rate GSD	0.71/kW
Rate GP	
Customer Voltage Level 1	0.001786/kWh
Customer Voltage Level 2	0.001807/kWh
Customer Voltage Level 3	0.001825/kWh
Rate GPD	
Customer Voltage Level 1	0.80/kW
Customer Voltage Level 2	0.81/kW
Customer Voltage Level 3	0.82/kW
Rate GPTU	
Customer Voltage Level 1	0.001608/kWh
Customer Voltage Level 2	0.001628/kWh
Customer Voltage Level 3	0.001644/kWh
Rate EIP	
Customer Voltage Level 1	0.001365/kWh
Customer Voltage Level 2	0.001382/kWh
Customer Voltage Level 3	0.001395/kWh
Rate LED	
Customer Voltage Level 1	NA
Customer Voltage Level 2	NA
Customer Voltage Level 3	NA
Rate LTLRR	NA
Rate GSG-2	
Customer Voltage Level 1	NA
Customer Voltage Level 2	NA
Customer Voltage Level 3	NA
Rate GML	0.000518/kWh
Rate GUL	0.000498/kWh
Rate GUL-LED	0.000498/kWh
Rate GU	0.001366/kWh
Rate PA	NA
Rate ROA-R	NA
Rate ROA-S	NA
Rate ROA-P	NA

**SURCHARGES**

<b>Rate Schedule</b>	<b>Investment Recovery Mechanism (IRM) (Case No. U-21389) Effective for service rendered March 15, 2024 through February 28, 2025</b>	<b>Investment Recovery Mechanism (IRM) (Case No. U-21389) Effective for service rendered March 1, 2025 through XXXXXX XX, 2026</b>	<b>Investment Recovery Mechanism (IRM) (Case No. U-21585) Effective for service rendered XXXX XX, 2025 through February 28, 2026</b>
Rate RSP	\$0.000150/kWh	\$0.000424/kWh	\$0.000259/kWh
Rate RSH	0.000150/kWh	0.000424/kWh	0.000259/kWh
Rate RPM	0.000150/kWh	0.000424/kWh	0.000259/kWh
Rate RSM	0.000150/kWh	0.000424/kWh	0.000259/kWh
Rate GS	0.000119/kWh	0.000337/kWh	0.000211/kWh
Rate GSTU	0.000119/kWh	0.000337/kWh	0.000211/kWh
Rate GSD	0.000084/kWh	0.000237/kWh	0.000151/kWh
Rate GP			
Customer Voltage Level 1	0.000007/kWh	0.000020/kWh	0.000013/kWh
Customer Voltage Level 2	0.000023/kWh	0.000066/kWh	0.000043/kWh
Customer Voltage Level 3	0.000038/kWh	0.000109/kWh	0.000076/kWh
Rate GPD			
Customer Voltage Level 1	0.000005/kWh	0.000014/kWh	0.000009/kWh
Customer Voltage Level 2	0.000017/kWh	0.000046/kWh	0.000029/kWh
Customer Voltage Level 3	0.000027/kWh	0.000076/kWh	0.000051/kWh
Rate GPTU			
Customer Voltage Level 1	0.000005/kWh	0.000014/kWh	0.000009/kWh
Customer Voltage Level 2	0.000017/kWh	0.000046/kWh	0.000029/kWh
Customer Voltage Level 3	0.000027/kWh	0.000076/kWh	0.000051/kWh
Rate EIP			
Customer Voltage Level 1	0.000005/kWh	0.000014/kWh	0.000009/kWh
Customer Voltage Level 2	0.000017/kWh	0.000046/kWh	0.000029/kWh
Customer Voltage Level 3	0.000027/kWh	0.000076/kWh	0.000051/kWh
Rate LED			
Customer Voltage Level 1	0.000005/kWh	0.000014/kWh	0.000009/kWh
Customer Voltage Level 2	0.000017/kWh	0.000046/kWh	0.000029/kWh
Customer Voltage Level 3	0.000027/kWh	0.000076/kWh	0.000051/kWh
Rate LTILRR	NA	NA	NA
Rate GSG-2			
Customer Voltage Level 1	0.000005/kWh	0.000014/kWh	0.000009/kWh
Customer Voltage Level 2	0.000017/kWh	0.000046/kWh	0.000029/kWh
Customer Voltage Level 3	0.000027/kWh	0.000076/kWh	0.000051/kWh
Rate GML	0.000148/kWh	0.000419/kWh	0.000257/kWh
Rate GUL	0.000743/kWh	0.002101/kWh	0.001028/kWh
Rate GU-LED	0.000743/kWh	0.002101/kWh	0.001028/kWh
Rate GU	0.000047/kWh	0.000132/kWh	0.000081/kWh
Rate PA	NA	NA	NA
Rate ROA-R	Same as Full Service Delivery Schedule	Same as Full Service Delivery Schedule	Same as Full Service Delivery Schedule
Rate ROA-S	Same as Full Service Delivery Schedule	Same as Full Service Delivery Schedule	Same as Full Service Delivery Schedule
Rate ROA-P	Same as Full Service Delivery Schedule	Same as Full Service Delivery Schedule	Same as Full Service Delivery Schedule

**SURCHARGES**

<b>Rate Schedule</b>	<b>Electric Rate Case Deferral Surcharge (Case No. U-21389) Effective for service rendered March 15, 2024 through <u>March 14, 2025</u></b>	<b>Electric Rate Case Deferral Surcharge (Case No. U-21585) Effective for service rendered XXXX XX, 2025 through <u>XXXX XX, 2026</u></b>
Rate RSP	\$0.000430/kWh	\$0.001090/kWh
Rate RSH	0.000430/kWh	0.001090/kWh
Rate RPM	0.000430/kWh	0.001090/kWh
Rate RSM	0.000430/kWh	0.001090/kWh
Rate GS	0.000342/kWh	0.000889/kWh
Rate GSTU	0.000342/kWh	0.000889/kWh
Rate GSD	0.000240/kWh	0.000638/kWh
Rate GP		
Customer Voltage Level 1	0.000021/kWh	0.000055/kWh
Customer Voltage Level 2	0.000070/kWh	0.000183/kWh
Customer Voltage Level 3	0.000114/kWh	0.000319/kWh
Rate GPD		
Customer Voltage Level 1	0.000015/kWh	0.000037/kWh
Customer Voltage Level 2	0.000050/kWh	0.000123/kWh
Customer Voltage Level 3	0.000082/kWh	0.000214/kWh
Rate GPTU		
Customer Voltage Level 1	0.000015/kWh	0.000037/kWh
Customer Voltage Level 2	0.000050/kWh	0.000123/kWh
Customer Voltage Level 3	0.000082/kWh	0.000214/kWh
Rate EIP		
Customer Voltage Level 1	0.000015/kWh	0.000037/kWh
Customer Voltage Level 2	0.000050/kWh	0.000123/kWh
Customer Voltage Level 3	0.000082/kWh	0.000214/kWh
Rate LED		
Customer Voltage Level 1	0.000015/kWh	0.000037/kWh
Customer Voltage Level 2	0.000050/kWh	0.000123/kWh
Customer Voltage Level 3	0.000082/kWh	0.000214/kWh
Rate LTILRR	NA	NA
Rate GSG-2		
Customer Voltage Level 1	0.000015/kWh	0.000037/kWh
Customer Voltage Level 2	0.000050/kWh	0.000123/kWh
Customer Voltage Level 3	0.000082/kWh	0.000214/kWh
Rate GML	0.000425/kWh	0.001082/kWh
Rate GUL	0.002131/kWh	0.004333/kWh
Rate GU-LED	0.002131/kWh	0.004333/kWh
Rate GU	0.000133/kWh	0.000343/kWh
Rate PA	NA	NA
Rate ROA-R	Same as Full Service Delivery Rate Schedule	Same as Full Service Delivery Rate Schedule
Rate ROA-S	Same as Full Service Delivery Rate Schedule	Same as Full Service Delivery Rate Schedule
Rate ROA-P	Same as Full Service Delivery Rate Schedule	Same as Full Service Delivery Rate Schedule

**RATE CATEGORIES AND PROVISIONS**  
(Continued From Sheet No. D-10.00)

<u>Description</u>	<u>Full Service</u>	<u>Retail Open Access</u>
<b>GENERAL SERVICE PRIMARY RATE GP</b>		
Commercial (Customer Voltage Level 1, 2 or 3)	1200	2200
Industrial (Customer Voltage Level 1, 2 or 3)	1210	2210
<u>Provisions</u>		
Commercial (Customer Voltage Level 1, 2 or 3) Resale	Applicable	Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Educational Institution (GEI)	Applicable	Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Self-Generation (SG) **	1745	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Self-Generation (SG) **	1750	Not Applicable
Net Metering Program	Applicable	Applicable
Distributed Generation Program	Applicable	Applicable
Demand Response Program	Applicable	Not Applicable
Green Generation Program ***	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
Non-Residential Electric Vehicle Programs	Applicable	Applicable
<b>LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD</b>		
Commercial (Customer Voltage Level 1, 2 or 3)	1220	2220
Industrial (Customer Voltage Level 1, 2 or 3)	1230	2230
<u>Provisions</u>		
Commercial (Customer Voltage Level 1, 2 or 3) Resale	Applicable	Applicable
Industrial (Customer Voltage Level 1, 2 or 3) Resale	Applicable	Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Aggregate Peak Demand (GAP) **	Applicable	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Aggregate Peak Demand (GAP) **	Applicable	Not Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Educational Institution (GEI) **	Applicable	Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Educational Institution (GEI) **	Applicable	Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Interruptible (GI)	Applicable	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Interruptible (GI)	Applicable	Not Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Self-Generation (SG) **	1755	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Self-Generation (SG) **	1760	Not Applicable
Net Metering Program	Applicable	Applicable
Distributed Generation Program	Applicable	Applicable
Demand Response Program	Applicable	Not Applicable
Green Generation Program ***	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
Non-Residential Electric Vehicle Programs	Not Applicable	Applicable
<i>Coincident Peak Demand</i>	<i>Applicable</i>	<i>Applicable</i>
<b>GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU</b>		
Commercial (Customer Voltage Level 1, 2, or 3)	1280	Not Applicable
Industrial (Customer Voltage Level 1, 2, or 3)	1285	Not Applicable
<u>Provisions</u>		
Commercial (Customer Voltage Level 1, 2 or 3) Resale	Applicable	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) Resale	Applicable	Not Applicable
Commercial with Education Institution (GEI)	Applicable	Not Applicable
Industrial with Education Institution (GEI)	Applicable	Not Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Interruptible (GI)	Applicable	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Interruptible (GI)	Applicable	Not Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Self-Generation (SG) **	1765	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Self-Generation (SG) **	1770	Not Applicable
Net Metering Program	Applicable	Not Applicable
Distributed Generation Program	Applicable	Not Applicable
Demand Response Program	Applicable	Not Applicable
Green Generation Program ***	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
Non-Residential Electric Vehicle Programs	Applicable	Not Applicable

\*\* Provisions shall not be taken in conjunction with the Net Metering Program or Distributed Generation Program.

\*\*\* Closed to new customers, effective April 5, 2019.

(Continued on Sheet No. D-12.00)

**RATE CATEGORIES AND PROVISIONS**  
(Continued From Sheet No. D-11.00)

<u>Description</u>	<u>Full Service</u>	<u>Retail Open Access</u>
<b>GENERAL SERVICE ENERGY INTENSIVE PRIMARY RATE EIP</b>		
Industrial (Customer Voltage Level 1, 2, or 3)	1250	Not Applicable
<u>Provisions</u>		
Commercial (Customer Voltage Level 1, 2, or 3) With Self-Generation (SG) **	1775	Not Applicable
Industrial (Customer Voltage Level 1, 2, or 3) With Self-Generation (SG) **	1780	Not Applicable
Distributed Generation Program	Applicable	Not Applicable
Green Generation Program *	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
<b>LARGE ECONOMIC DEVELOPMENT RATE LED</b>		
Commercial (Customer Voltage Level 1, 2 or 3)	1900	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3)	1910	Not Applicable
Commercial (Customer Voltage Level 1, 2 or 3) With Interruptible	Applicable	Not Applicable
Industrial (Customer Voltage Level 1, 2 or 3) With Interruptible	Applicable	Not Applicable
<b>LONG TERM INDUSTRIAL LOAD RETENTION RATE – LTILRR</b>		
Industrial	1240	Not Applicable
Industrial With Interruptible	Available	Not Available
<b>GENERAL SERVICE SELF GENERATION RATE GSG-2</b>		
<i>Commercial (Customer Voltage Level 1, 2, or 3) - Primary Service greater than 100 kW</i>	1330	Not Applicable
Industrial (Customer Voltage Level 1, 2, or 3) - Primary Service greater than 100 kW	1350	Not Applicable
<u>Provision</u>		
Demand Response Program	Applicable	Not Applicable
Green Generation *	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
<b>EXPERIMENTAL ADVANCED RENEWABLE PROGRAM AR</b>		
Residential	1015	2015
Commercial – Secondary Delivery, Rate GS	1105	2105
Industrial – Secondary Delivery, Rate GS	1115	2115
Commercial – Secondary Delivery, Rate GSD	1125	2125
Industrial – Secondary Delivery, Rate GSD	1135	2135
Commercial – Primary Delivery, Rate GP	1205	2205
Industrial – Primary Delivery, Rate GP	1215	2215
Commercial – Primary Delivery, Rate GPD	1225	2225
Industrial – Primary Delivery, Rate GPD	1235	2235
<b>PILOT SOLAR PROGRAM</b>		
Residential	1800	Not Applicable
Commercial	1825	Not Applicable
Industrial	1850	Not Applicable
<b>VOLUNTARY LARGE CUSTOMER RENEWABLE ENERGY PROGRAM (LC-REP)</b>		
Commercial – (Customer Voltage Level 1, 2, or 3) - Primary Delivery	1260	Not Applicable
Industrial – (Customer Voltage Level 1, 2, or 3) - Primary Delivery	1265	Not Applicable
Commercial – (Customer Voltage Level 1, 2, or 3) - Primary Delivery	1270	Not Applicable
Industrial – (Customer Voltage Level 1, 2, or 3) - Primary Delivery	1275	Not Applicable

\* Closed to new customers, effective April 5, 2019.

\*\* Provisions shall not be taken in conjunction with the Net Metering Program or Distributed Generation Program.

(Continued on Sheet No. D-13.00)

**RATE CATEGORIES AND PROVISIONS**  
(Continued From Sheet No. D-12.00)

<u>Description</u>	<u>Full Service</u>	<u>Retail Open Access</u>
<b>GENERAL SERVICE METERED LIGHTING RATE GML</b>		
Commercial – Secondary Metered Service	1400	Not Applicable
Commercial – Primary Metered Service	1405	Not Applicable
<u>Provisions</u>		
Net Metering Program	Applicable	Not Applicable
Green Generation Program *	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
<b>GENERAL SERVICE UNMETERED LIGHTING RATE GUL</b>		
<i>Commercial – Customer Owned Lighting</i>	<i>1470</i>	<i>Not Applicable</i>
<i>Commercial – Company Owned Lighting</i>	<i>1475</i>	<i>Not Applicable</i>
<i>Commercial – Company Owned Outdoor Lighting</i>	<i>1480</i>	<i>Not Applicable</i>
<u>Provisions</u>		
Green Generation Program *	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
<b>GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED</b>		
Commercial – Company-Owned Secondary Service, <i>LED</i>	1600	Not Applicable
Commercial – Customer-Owned Secondary Service, <i>LED</i>	1650	Not Applicable
<u>Provisions</u>		
Green Generation Program *	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
<b>GENERAL SERVICE UNMETERED RATE GU</b>		
Commercial – Secondary Service	1500	Not Applicable
<u>Provisions</u>		
Commercial – Lighting Service	Applicable	Not Applicable
Commercial – Traffic Lighting Service	Applicable	Not Applicable
Commercial – Cable Television (CATV) Service	Applicable	Not Applicable
Commercial – Wireless Access Service	Applicable	Not Applicable
Commercial – Security Camera Service	Applicable	Not Applicable
Green Generation Program *	Applicable	Not Applicable
Renewable Energy Credit (REC) Programs	Applicable	Not Applicable
<b>GENERAL SERVICE SPECIAL CONTRACTS</b>		
Commercial	1150	Not Applicable

\* Closed to new customers, effective April 5, 2019.

**RESIDENTIAL SUMMER ON-PEAK BASIC RATE RSP**

**Availability:**

Subject to any restrictions, this rate is available to any Full Service Customer desiring electric service for any usual residential use in: (i) private family dwellings; (ii) tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for up to six persons; or (iii) existing multifamily dwellings containing up to four households served through a single meter. Service for single-phase or three-phase equipment may be included under this rate, provided the individual capacity of such equipment does not exceed 3 hp or 3 kW, nor does the total connected load of the home exceed 10 kW, except as provided for below.

Service for charging Electric Vehicles is available on this rate and shall not exceed 9.6 kW, except as provided for below. Electric Vehicle charging equipment is not included in the total connected load of the home for purpose of this section.

Individual equipment exceeding 3 hp or 3 kW, Electric Vehicle charging equipment exceeding 9.6 kW or total household load exceeding 10 kW may be subject to additional charges in accordance with Rule C6., Distribution Systems, Line Extensions and Service Connections. Such charges shall only apply to the extent the cost exceeds that of ensuring the connecting equipment matches that provided as standard to new residential customers.

This rate is not available for: (i) resale purposes; (ii) multifamily dwellings containing more than four living units served through a single meter; (iii) tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons; (iv) any other Non-Residential usage; or (v) Rule C5.5 – Non-Transmitting Meter Provision participants.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this rate only under the Rules and Regulations contained in the Company's Electric Rate Book.

**Nature of Service:**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

**Monthly Rate:**

**Power Supply Charges:      These charges are applicable to Full Service Customers.**

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.091516	\$0.007706	\$0.099222	per kWh for Off-Peak kWh between June 1 and September 30
\$0.139098	\$0.011465	\$0.150563	per kWh for On-Peak kWh between June 1 and September 30
\$0.079248	\$0.006004	\$0.085252	per kWh for all kWh between October 1 and May 31

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges:      These charges are applicable to Full Service Customers.**

System Access Charge:	\$8.00	per customer per month
Distribution Charge:	\$0.078955	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**RESIDENTIAL SUMMER ON-PEAK BASIC RATE RSP**  
(Continued From Sheet No. D-15.00)

**Monthly Rate: (Contd)**

**Device Cycling Program**

A customer who is taking service from the Company may be eligible to participate in the Company's voluntary Device Cycling Program for load management of eligible electric equipment, including air conditioning and water heaters. Customer eligibility to participate is determined solely by the Company and Device Cycling Program Credits may be taken in conjunction with one another. The Company will accept a customer's qualifying electric equipment under this program only if it has the capability to be controlled by the Company or with a contractual agreement with a landlord if the customer is not the property owner. The Company will install the required equipment at the premises which will allow load management upon signal from the Company. When load management equipment is installed at a premises, future customers will be auto-enrolled into the Device Cycling Program. Upon move in, the customer will be notified confirming participation in the Device Cycling Program and will have 30 days to opt out. Such equipment shall be furnished, installed, maintained and owned by the Company at the Company's expense. Equipment installations must conform to the Company's specifications.

Customers can elect to participate in the Device Cycling Program and the Peak Reward Program as described in this tariff. When a customer participates in both programs, the customer's credit earned from their incremental savings through Peak Reward is compared to the total credit earned under the Device Cycling Program. The greater of the two credits will be applied to the customer's invoice for that billing month. Both credits will not apply in a single billing month.

The Company reserves the right to specify the term or duration of the program. The customer's enrollment shall be terminated if the voluntary program ceases, if the customer tampers with the control switch or the Company's equipment or any reasons as provided for in Rule C1.3, Use of Service. The Company reserves the right to call test events between *September 1* and *May 31* for customers participating in the Device Cycling Program.

Load management may occur during the summer billing months of June through *August* only. Load management may be implemented for, but not limited to, maintaining system integrity, making an emergency purchase, economic reasons, or when there is insufficient system generation available to meet anticipated system load. Load management may occur on any day, during any hour, and for any length of time during a declared emergency event as directed by MISO.

The customer may contact the Company to request to override a load management event for one load management event during the June through *August* months in any one calendar year for the balance of the hours left in that load management event with no penalty. The request shall be granted at the discretion of the Company. If the override request was granted by the Company and the customer requests and is granted any additional overrides in the same calendar year, the Device Cycling Credit may be forfeited for that billing month.

Rule C1.1 Character of Service, Rule C3 Emergency Electrical Procedures and other rules and regulations contained in the Company's Electric Rate Book apply to customers taking service under this Device Cycling Program.

The monthly credit(s) for the Peak Power Savers Program shall be applied as follows:

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Air Conditioner Peak Cycling Credit:     \$(5.00) per customer per month during the billing months of June – *August*

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(Continued on Sheet No. D-17.00)



**RESIDENTIAL SMART HOURS RATE RSH**

**Availability:**

Subject to any restrictions, this rate is available to any Full Service residential customers who have the required metering equipment and infrastructure installed. The Company will furnish, maintain and own the required equipment at the customers’ premises at the Company’s request. By selecting this rate schedule, the customer agrees to provide an email address. Electric consumption is billed using on-peak and off-peak periods year-round on the Residential Smart Hours Rate.

Service for single-phase or three-phase equipment may be included under this rate, provided the individual capacity of such equipment does not exceed 3 hp or 3 kW, nor does the total connected load of the home exceed 10 kW, except provided for below.

Service for charging Electric Vehicles is available on this rate and shall not exceed 9.6 kW, except as provided for below. Electric Vehicle charging equipment is not included in the total connected load of the home for purposes of this section.

Individual equipment exceeding 3 hp or 3 kW, Electric Vehicle charging equipment exceeding 9.6 kW, or total household load exceeding 10 kW may be subject to additional charges in accordance with Rule C6., Distribution Systems, Line Extensions and Service Connections. Such charges shall only apply to the extent the cost exceeds that of ensuring the connecting equipment matches that provided as standard to new residential customers.

This rate is not available for resale purposes or for any Non-Residential usage.

**Nature of Service:**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

**Monthly Rate:**

**Power Supply Charges: These charges are applicable to Full Service Customers.**

	Non-Capacity	Capacity	Total	
Off-Peak – Summer	\$0.091516	\$0.007706	\$0.099222	per kWh for all Off-Peak kWh between June 1 and September 30
On-Peak – Summer	\$0.139098	\$0.011465	\$0.150563	per kWh for all On-Peak kWh between June 1 and September 30
Off-Peak – Winter	\$0.077159	\$0.005812	\$0.082971	per kWh for all Off-Peak kWh between October 1 and May 31
On-Peak – Winter	\$0.088715	\$0.006611	\$0.095326	per kWh for all On-Peak kWh between October 1 and May 31

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges: These charges are applicable to Full Service Customers.**

System Access Charge:	\$8.00	per customer per month
Distribution Charge:	\$0.078955	per kWh for all kWh for a Full Service customer

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.





**RESIDENTIAL NIGHTTIME SAVERS RATE RPM**

**Availability:**

The Residential Nighttime Savers Rate is voluntary and available for service rendered on and after June 1, 2021 to Full Service residential customers who have the required metering equipment and infrastructure installed. The Company will furnish, install, maintain and own the required equipment at the customers' premises at the Company's expense.

Service for single-phase or three-phase equipment may be included under this rate, provided the individual capacity of such equipment does not exceed 3 hp or 3 kW, nor does the total connected load of the home exceed 10 kW, except as provided for below.

Service for charging Electric Vehicles is available on this rate and shall not exceed 9.6 kW, except as provided for below. Electric Vehicle charging equipment is not included in the total connected load of the home for purposes of this section.

Individual equipment exceeding 3 hp or 3 kW, Electric Vehicle charging equipment exceeding 9.6 kW, or total household load exceeding 10 kW may be subject to additional charges in accordance with Rule C6., Distribution Systems, Line Extensions and Service Connections. Such charges shall only apply to the extent cost exceeds that of ensuring the connecting equipment matches that provided as standard to new residential customers.

This rate is not available for: (i) resale purposes; (ii) multifamily dwellings containing more than four living units served through a single meter; (iii) tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons; (iv) any other Non-Residential usage or (v) customers being served under Rule C5.5 Non-Transmitting Meter Provision.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this program only under the Rules and Regulations contained in the Company's Electric Rate Book.

**Nature of Service:**

Service under this program shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

**Monthly Rate:**

**Power Supply Charges: These charges are applicable to Full Service Customers.**

**Energy Charge:**

	Non-Capacity	Capacity	Total	
Super Off-Peak - Summer	\$0.076716	\$0.005292	\$0.082008	per kWh for all Super Off-Peak kWh between June 1 and September 30
Off-Peak - Summer	\$0.102772	\$0.008693	\$0.111465	per kWh for all Off-Peak kWh between June 1 and September 30
On-Peak - Summer	\$0.139098	\$0.011465	\$0.150563	per kWh for all On-Peak kWh between June 1 and September 30
Super Off-Peak - Winter	\$0.066802	\$0.004585	\$0.071387	per kWh for all Super Off-Peak kWh between June 1 and September 30
Off-Peak - Winter	\$0.086417	\$0.006392	\$0.092809	per kWh for all Off-Peak kWh between October 1 and May 31
On-Peak - Winter	\$0.088715	\$0.006611	\$0.095326	per kWh for all On-Peak kWh between October 1 and May 31

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges:** These charges are applicable to Full Service Customers.

System Access Charge:	\$8.00	per customer per month
Distribution Charge:	\$0.078955	per kWh for all kWh for a Full Service Customer

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

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**RESIDENTIAL NIGHTTIME SAVERS RATE RPM**

(Continued From Sheet No. D-40.50)

**Monthly Rate: (Contd)**

**Senior Citizen Service Provision (RSC):**

When service is supplied to the Principal Residence Customer who is 65 years of age or older and head of household, a credit shall be applied during all billing months.

The monthly credit for the residential Senior Citizen Service Provision shall be applied as follows:

**Delivery Charges:** These charges are applicable to Full Service Customers.

**Senior Citizen Credit:** \$(4.00) per customer per month

This credit shall not be taken in conjunction with a credit for the Income Assistance Service Provision (RIA) and shall not be applied to more than one account per Principal Residence Customer.

**Residential Plug-In Electric Vehicle Only Credit (REV):**

When service is supplied for Level 2 Charging of a separately metered electric vehicle, a credit shall be applied during all billing months. Electric usage for the separately metered electric vehicle will be billed under the Residential Nighttime Savers Rate.

“Level 2 Charging” is defined as voltage connection of either 240 volts or 208 volts and a maximum load of 50 amperes or 9.6 kW.

Vehicles shall be registered and operable on public highways in the State of Michigan to qualify for this credit. Low-speed electric vehicles including golf carts are not eligible for this credit even if licensed to operate on public streets. The customer may be required to provide proof of registration of the electric vehicle to qualify for this credit.

**Delivery Charges:** These charges are applicable to Full Service Customers.

**Residential Plug-In Electric Vehicle Only Credit:** \$(8.00) per customer per month

**Device Cycling Program:**

A customer who is taking service from the Company may be eligible to participate in the Company's voluntary Device Cycling Program for load management of eligible electric equipment, including air conditioning and water heaters. Customer eligibility to participate in this program is determined solely by the Company and Device Cycling Program Credits may be taken in conjunction with one another. The Company will accept a customer's qualifying electric equipment under this program only if it has the capability to be controlled by the Company or with a contractual agreement with a landlord if the customer is not the property owner. The Company will install the required equipment at the premises which will allow load management upon signal from the Company. When load management equipment is installed at a premises, future customers will be auto-enrolled into the Device Cycling Program. Upon move in, the customer will be notified confirming participation in the Device Cycling Program and will have 30 days to opt out. Such equipment shall be furnished, installed, maintained and owned by the Company at the Company's expense. Equipment installations must conform to the Company's specifications.

Customers can elect to participate in the Device Cycling Program and the Peak Reward Program as described in this tariff. When a customer participates in both programs, the customer's credit earned from their incremental energy savings through Peak Reward is compared to the total credit earned under the Device Cycling Program. The greater of the two credits will be applied to the customer's invoice for that billing month. Both credits will not apply in a single billing month.

The Company reserves the right to specify the term or duration of the program. The customer's enrollment shall be terminated if the voluntary program ceases, if the customer tampers with the control switch or the Company's equipment or any reasons as provided for in Rule C1.3, Use of Service. The Company reserves the right to call test events between *September 1* and *May 31* for customers participating in the Device Cycling Program.

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(Continued on Sheet No. D-42.00)

**RESIDENTIAL NIGHTTIME SAVERS RATE RPM**  
(Continued From Sheet No. D-41.00)

**Monthly Rate: (Contd)**

**Device Cycling Program: (Contd)**

Load management may occur during the summer months of June through *August* only. Load management may be implemented for, but not limited to, maintaining system integrity, making an emergency purchase, economic reasons, or when there is insufficient system generation available to meet anticipated system load. Load management may occur on any day, during any hour, and for any length of time during a declared emergency event as directed by MISO.

The Customer may contact the Company to request to override a load management event for one load management event during the June through *August* months in any one calendar year for the balance of the hours left in that load management event with no penalty. The request shall be granted at the discretion of the Company. If the override request was granted by the Company and the customer requests and is granted any additional overrides in the same calendar year, the Device Cycling Credit may be forfeited for that billing month.

Rule C1.1 Character of Service, Rule C3 Emergency Electrical Procedures and other rules and regulations contained in the Company's Electric Rate Book apply to customers taking service under this Peak Power Savers – Device Cycling Program.

The monthly credit(s) for the Peak Power Savers Program shall be applied as follows:

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Air Conditioner Peak Cycling Credit: \$(5.00) per customer per month during the billing months of June-*August*

**Peak Reward:**

Participating customers are able to manage electric costs by reducing load during critical peak events. The Company may call up to fourteen critical peak events between June 1 and *August 31* and up to five critical peak events between *September 1* and May 31. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer. In the circumstance that MISO declares a maximum Generation Emergency Event, participating customers may receive a critical peak event communication without a guarantee of advance notice. The maximum Generation Emergency Event will be in accordance with the currently effective MISO Emergency Electrical Procedure or North American Electric Reliability Corporation Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared emergency status.

A control group will be established for each critical peak event. Control group participants will not receive notice and shall receive a standard credit of \$3.00 for participation in the control group for the critical peak event. Customers may be assigned to a maximum of two control groups per event season.

Customers must have a transmitting meter to participate in Peak Power Savers. Customers who relocate within the Consumers Energy electric service territory will have their Peak Reward Enrollment transferred to their new premises, unless a request for cancelation is submitted to the Company.

During a critical peak event, customers on will be credited the Peak Reward per kWh of incremental energy reductions. Customers participating in the Peak Reward Program cannot participate in the Critical Peak Price Program.

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Peak Reward \$(1.00) per kWh of incremental energy reduction during a critical peak event

(Continued on Sheet No. D-43.00)

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**RESIDENTIAL NIGHTTIME SAVERS RATE RPM**  
(Continued From Sheet No. D-42.00)

**Monthly Rate: (Contd)**

**Critical Peak Price:**

Participating customers are able to manage electric costs by shifting load during critical peak events to a lower cost pricing period. The Company may call up to fourteen critical peak events between June 1 and *August 31*. Customers will be notified by 11:59 PM the day before a critical peak event is expected to occur. Receipt of such notice is the responsibility of the participating customer.

A control group will be established for each critical peak event. Control group participants will not receive notice and shall not be penalized for not participating in the critical peak event. Customers may be assigned to a maximum of two control groups per event season.

Customers must have a transmitting meter to participate in Peak Power Savers. Customers who relocate within the Consumers Energy electric service territory will have their Critical Peak Price enrollment transferred to their new premises, unless a request for cancellation is submitted to the Company.

During a critical peak event, customers on will be charged the Critical Peak Price per kWh consumed during the critical peak event. Customers participating in the Critical Peak Price Program cannot participate in the Peak Reward Program.

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Critical Peak Price \$1.00 per kWh of energy consumed during a critical peak event between June 1 and *August 31*

Off-Peak Discount \$(0.007918) per kWh for Off-Peak kWh between June 1 and *August 31*

**Self-Generation (SG):**

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

**Net Metering Program:**

The Net Metering Program is available to any eligible customer as described in Rule C 11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.2.B., Net Metering Definitions.

A customer who participates in the Net Metering Program is subject to the provision contained in Rule C 11.2., Net Metering Program.

**Distributed Generation Program:**

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

**Green Generation Program:**

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

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(Continued on Sheet No. D-44.00)

**RESIDENTIAL SERVICE SECONDARY NON-TRANSMITTING METER RATE RSM**

**Availability:**

Subject to any restrictions, this rate is available to any customer desiring electric service for any usual residential use in: (i) private family dwellings; (ii) tourist homes, rooming houses, dormitories, nursing homes and other similarly occupied buildings containing sleeping accommodations for up to six persons; or (iii) existing multifamily dwellings containing up to four households served through a single meter. Service for single-phase or three-phase equipment may be included under this rate, provided the individual capacity of such equipment does not exceed 3 hp or 3 kW, nor does the total connected load of the home exceed 10 kW, except as provided for below.

Service for charging Electric Vehicles is available on this rate and shall not exceed 9.6 kW, except as provided for below. Electric Vehicle charging equipment is not included in the total connected load of the home for purposes of this section.

Individual equipment exceeding 3 hp or 3 kW, Electric Vehicle charging equipment exceeding 9.6 kW, or total household load exceeding 10 kW may be subject to additional charges in accordance with Rule C6., Distribution Systems, Line Extensions and Service Connections. Such charges shall only apply to the extent the cost exceeds that of ensuring the connecting equipment matches that provided as standard to new residential customers.

This rate is only available to customers electing a Non-Transmitting Meter in accordance with Rule C5.5, Non-Transmitting Meter Provision, customers with a Non-Communicating Advanced Metering Infrastructure (AMI) Meter, or customers determined to be eligible at the Company's sole discretion.

A Non-Communicating AMI meter is unable to consistently transmit interval data to the Company's billing system. Non-Communicating Meters are determined at the Company's sole discretion and are subject to a minimum of one communication review per calendar year. When the meter has been determined to successfully communicate interval data, the customer *may* be transferred to Residential Service Secondary On-Peak Summer Basic Rate RSP. The transfer to Rate RSP shall not occur between June 1 and September 30.

This rate is not available for: (i) resale purposes; (ii) multifamily dwellings containing more than four living units served through a single meter; (iii) tourist homes, rooming houses, dormitories, nursing homes and similarly occupied buildings containing sleeping accommodations for more than six persons; or (iv) any other Non-Residential usage.

Residences in conjunction with commercial or industrial enterprises and mobile home parks may take service on this rate only under the Rules and Regulations contained in the Company's Electric Rate Book.

**Nature of Service:**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

The Company will schedule meter readings on a monthly basis and attempt to obtain an actual meter reading for all tourist and/or occasional residence customers at intervals of not more than six months.

**Monthly Rate:**

**Power Supply Charges: These charges are applicable to Full Service customers.**

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.079248	\$0.006004	\$0.085252	per kWh for the first 600 kWh per month during the billing months of June - September
\$0.139098	\$0.011465	\$0.150563	per kWh for all kWh over 600 kWh per month during the billing months of June - September
\$0.079248	\$0.006004	\$0.085252	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

(Continued on Sheet No. D-44.20)

**RESIDENTIAL SERVICE SECONDARY NON-TRANSMITTING METER RATE RSM**  
(Continued From Sheet No. D-44.10)

**Monthly Rate: (Contd)**

**Delivery Charges:** These charges are applicable to Full Service and Retail Open Access customers.

System Access Charge: \$8.00 per customer per month

Distribution Charge: \$0.078955 per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**Income Assistance Service Provision (RIA):**

When service is supplied to a Principal Residence Customer, where the total household income does not exceed 150% of the Federal Poverty level, a credit shall be applied during all billing months. The total household income is verified when the customer has provided proof that they have received, or are currently participating in, one or more of the following in the past 12 months:

1. A Home Heating Credit energy draft
2. State Emergency Relief
3. Assistance from a Michigan Energy Assistance Program (MEAP)
4. Medicaid

If a customer does not meet any of the above requirements, a low-income verification form will be provided by the Company for the customer to complete and return.

The monthly credit for the Income Assistance Service Provision (RIA) shall be applied as follows:

**Delivery Charges:** These charges are applicable to Full Service and Retail Open Access Customers.

Income Assistance Credit: \$(8.00) per customer per month

If a credit balance occurs, the credit shall apply to the customer's future electric utility charges.

This credit shall not be taken in conjunction with a credit for the Senior Citizen Service Provision (RSC).

**Low Income Assistance Credit (LIAC):**

Company selected Residential customers may receive LIAC for up to 12 consecutive months. The number of customers enrolled may be adjusted, at the Company's discretion, in order to dispense Commission-approved LIAC funding on an annual basis. Any shortfall in the dispensing of annual LIAC funds to qualified customers shall be carried over into the subsequent LIAC program year. LIAC customer selection will be based on highest need and with total household income that does not exceed 150% of the Federal Poverty level. The total household income is verified when the customer has provided proof that they have received, or are currently participating in, one or more of the following within the past 12 months:

1. Customers whose total household income does not exceed 150% of the Federal Poverty level within the last 12 months
2. Customers who have received assistance from a Michigan Energy Assistance Program (MEAP)
3. Customers who have received a Home Heating Credit energy draft
4. A State Emergency Relief program
5. Medicaid
6. Customers that have participated in a Supplementary Nutrition Assistance Program where the total household income does not exceed 150% of the Federal Poverty level within the last 12 months.

If the customer does not meet any of the above requirements, a low-income verification form will be provided by the Company for the customer to complete and return.

The monthly credit for LIAC shall be applied as follows:

Low Income Assistance Credit: \$(30.00) per meter per month

If a credit balance occurs, the credit shall apply to the customer's future electric utility charges. Re-enrollment, if applicable, and confirmation of qualification is required for each annual period of participation.

Customers selected for LIAC will not be eligible for the RIA Provision while enrolled in LIAC.

(Continued on Sheet No. D-44.30)

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## GENERAL SERVICE SECONDARY RATE GS

### Availability:

Subject to any restrictions, this rate is available to any general use customer, political subdivision or agency of the State of Michigan, either acting separately or in combinations permitted under the laws of this state, desiring Secondary Voltage service for any of the following: (i) standard secondary service, (ii) public potable water pumping and/or waste water system(s), or (iii) resale purposes. This rate is also available for service to any Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is not available for: (i) private family dwellings, (ii) lighting service except for private streets, mobile home parks or service to temporary lighting installations, (iii) heating water for industrial processing, (iv) resale for lighting service, or (v) new or expanded service for resale to residential customers. Unmetered Billboard Service is not available to Retail Open Access service.

### Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Three-phase, 3-wire service requires that the customer furnishes all transformation facilities required for single-phase load and so arranges the load as to avoid excessive unbalance of the three-phase load. When the service is single-phase, or 4-wire, three-phase, the single-phase individual motor capacity shall not exceed 3 hp, nor the total single-phase motor capacity of 10 hp, without the specific consent of the Company.

Where the Company elects to measure the service on the Primary side of the transformers, 3% shall be deducted for billing purposes from the energy measurements thus made. Where the Company elected to provide a Primary Rate Customer one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer, 3% shall not be deducted for billing purposes from the energy measurements thus made.

### Monthly Rate:

**Power Supply Charges:      These charges are applicable to Full Service customers.**

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.097639	\$0.007743	\$0.105382	per kWh for all kWh during the billing months of June-September
\$0.076879	\$0.005420	\$0.082299	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges:              These charges are applicable to Full Service and Retail Open Access customers.**

System Access Charge:	\$20.00	per customer per month
Distribution Charge:	\$0.063166	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

### Billboard Service Provision:

Monthly kWh shall be determined by multiplying the total connected load in kW (including the lamps, ballasts, transformers, amplifiers, and control devices) times 730 hours. The kWh for cyclical devices shall be adjusted for the average number of hours used.

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(Continued on Sheet No. D-46.00)

**GENERAL SERVICE SECONDARY RATE GS**  
(Continued From Sheet No. D-45.00)

**Monthly Rate: (Contd)**

**Resale Service Provision:**

Subject to any restrictions, this provision is available to customers desiring Secondary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

**Educational Institution Service Provision (GEI):**

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

**Delivery Charges:            These charges are applicable to Full Service and Retail Open Access Customers.**

Education Institution Credit:            \$(0.000923)            per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

**Demand Response Program:**

Customers participating in the voluntary Demand Response Program help reduce peak demand when energy use is the highest. A customer specific agreement stating the customer's Contracted Capacity kW shall be completed prior to participation in the Demand Response Program. Customer eligibility to participate in this program is determined solely by the Company. The Company reserves the right to specify the term or duration of the program.

Under this program, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this program must be supported by an updated energy reduction plan on an annual basis.

Demand Response Program customers shall receive an annual Program Payment on the customer bill or a check for the capacity amount delivered during events specified in the customer specific agreement within three billing cycles after the program season ends. Eligible customers may also receive Emergency Event Performance Payments on the customer bill under specific circumstances as outlined in the customer specific agreement. If a customer fails to deliver their total Contracted Capacity during an Emergency Event ordered by Consumers Energy, an Underperformance Penalty may be applicable. Any applicable penalties or program incentives shall be applied to the customer bill. As a condition of enrollment, Customers will be required to provide energy reduction plans that detail their load reduction procedure as specified in the agreement. Customers will be required to provide event notification contacts that support the program. The program agreement will specify the terms of the program that include program duration, number and length of events, performance calculations and program rules.

**Self-Generation (SG):**

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-47.00)

**GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU**

**Availability**

Subject to any restrictions, General Service Secondary Time-of-Use Rate GSTU is available to any Full Service Customer taking service at the Company’s Secondary Voltage level with advanced metering infrastructure and supporting critical systems. Standby service shall be provided on this rate for secondary customers with solar installations equal to or greater than 150 kW.

This rate is not available for: (i) private family dwellings, (ii) lighting service except for private streets, mobile home parks or service to temporary lighting installations, (iii) heating water for industrial processing, (iv) resale for lighting service, or (v) new or expanded service for resale to residential customers.

This rate shall not be taken in conjunction with any other Demand Response Program or Net Metering.

**Nature of Service**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Three-phase, 3-wire service requires that the customer furnishes all transformation facilities required for single-phase load and so arranges the load as to avoid excessive unbalance of the three-phase load. When the service is single-phase, or 4-wire, three-phase, the single-phase individual motor capacity shall not exceed 3 hp, nor the total single-phase motor capacity of 10 hp, without the specific consent of the Company.

Where the Company elects to measure the service on the Primary side of the transformers, 3% shall be deducted for billing purposes from the energy measurements thus made. Where the Company elected to provide a Primary Rate Customer one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer, 3% shall not be deducted for billing purposes from the energy measurements thus made.

**Monthly Rate**

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.075218	\$0.005037	\$0.080255	per kWh for all Off-Peak kWh during the billing months of June-September
Mid-Peak-Summer	\$0.102027	\$0.007806	\$0.109833	per kWh for all Mid-Peak kWh during the billing months of June-September
On-Peak-Summer	\$0.134569	\$0.009395	\$0.143964	per kWh for all On-Peak kWh during the billing months of June-September
Off-Peak-Winter	\$0.066563	\$0.004390	\$0.070953	per kWh for all Off-Peak kWh during the billing months of October-May
On-Peak -Winter	\$0.084687	\$0.005876	\$0.090563	per kWh for all On-Peak kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges: These charges are applicable to Full Service Customers.**

System Access Charge:	\$20.00	per customer per month
Distribution Charge:	\$0.063166	per kWh for all kWh for a Full Service Customer

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**(Continued on Sheet No. D-49.00)**

**GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU**  
(Continued From Sheet No. D-48.00)

**Monthly Rate (Contd)**

**Schedule of Hours**

The following schedule shall apply Monday through Friday (except holidays designated by the Company). Weekends and holidays are off-peak. Holidays designated by the Company include: New Year's Day – January 1, Memorial Day – Last Monday in May, Independence Day – July 4, Labor Day – First Monday in September, Thanksgiving Day – Fourth Thursday in November and Christmas Day – December 25. Whenever January 1, July 4, or December 25 falls on Sunday, extended holiday periods such as Monday, January 2, Monday, July 5 and Monday, December 26 shall not be considered as holidays for application of off-peak hours.

Summer Billing Months of June through September:

- |                    |  |
|--------------------|--|
| (1) Off-Peak Hours | 12:00 AM to 7:00 AM and 11:00 PM to 12:00 AM |
| (2) Mid-Peak Hours | 7:00 AM to 2:00 PM and 6:00 PM to 11:00 PM   |
| (3) On-Peak Hours  | 2:00 PM to 6:00 PM                           |

Winter Billing Months of January through May and October through December:

- |                    |                     |
|--------------------|---------------------|
| (1) Off-Peak Hours | 11:00 PM to 7:00 AM |
| (2) On-Peak Hours  | 7:00 AM to 11:00 PM |

**Resale Service Provision**

Subject to any restrictions, the provision is available to customers desiring Secondary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

**Educational Institution Service Provision (GEI)**

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service Customers.**

Education Institution Credit:                      \$(0.000923)                      per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

**General Service Secondary Interruptible (GSI) Provision:**

This provision is available to no more than 200 Full Service Customers desiring interruptible service in conjunction with service taken under General Service Secondary Demand Rate GSD or General Service Secondary Time-of-Use Rate GSTU. Service to interruptible load shall be taken through separately metered circuits and permanently wired. The design and method of installation for application of this rate shall be subject to the approval of the Company.

Any load designated as interruptible by the customer is subject to Midcontinent Independent System Operator's, Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO declares a Maximum Generation Emergency Event that requires deployment of Load Modifying Resources in accordance with the currently effective MISO Emergency Electrical Procedures or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status.

(Continued on Sheet No. D-50.00)

**GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU**  
**(Continued From Sheet No. D-49.00)**

**Monthly Rate: (Contd)**

**General Service Secondary Interruptible (GSI) Provision: (Contd)**

Under this provision, the customer shall be interrupted at any time the Company deems it necessary to maintain system integrity. Service to interruptible load shall not be transferred to firm service circuits to avoid interruption. The Company shall provide the Customer at least 30 minutes notice in advance of a required interruption. Failure to acknowledge receipt of such notice shall not relieve the Customer of the obligation for interruption under the GSI provision. Failure by a customer to comply with a system integrity interruption order of the Company shall be considered unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of demand created during the interruption period in addition to the prescribed monthly rate.

This rate is not available for loads that are primarily off-peak, for example parking lot lighting. Participation requires a minimum term of one year. *All contracts under this provision shall be negotiated on an annual basis for the following capacity planning year (June 1 through May 31) and the Customer must notify the Company by December 10th of each year of their desire to renew the GSI Provision, unless the Customer chooses to lengthen the term of their commitment (up to five years). Annual changes to the amount of interruptible kW for long term contracts are open to adjustment through December 10th of each year.*

The monthly credit for the Interruptible Service Provision shall be applied as follows:

**Power Supply Charges – These charges are applicable to Full Service Customers.**

Capacity Credit: These charges are applicable to Full Service Customers.

Interruptible Credit: \$(0.021295) per kWh for all kWh

**Demand Response Program:**

Customers participating in the voluntary Demand Response Program help reduce peak demand when energy use is the highest. A customer specific agreement stating the customer's Contracted Capacity kW shall be completed prior to participation in the Demand Response Program. Customer eligibility to participate in this program is determined solely by the Company. The Company reserves the right to specify the term or duration of the program.

Under this program, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this program must be supported by an updated energy reduction plan on an annual basis.

Demand Response Program customers shall receive an annual Program Payment on the customer bill or a check for the capacity amount delivered during events specified in the customer specific agreement within three billing cycles after the program season ends. Eligible customers may also receive Emergency Event Performance Payments on the customer bill under specific circumstances as outlined in the customer specific agreement. If a customer fails to deliver their total Contracted Capacity during an Emergency Event ordered by Consumers Energy, an Underperformance Penalty may be applicable. Any applicable penalties or program incentives shall be applied to the customer bill. As a condition of enrollment, Customers will be required to provide energy reduction plans that detail their load reduction procedure as specified in the agreement. Customers will be required to provide event notification contacts that support the program. The program agreement will specify the terms of the program that include program duration, number and length of events, performance calculations and program rules.

**Self-Generation (SG)**

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

**Distributed Generation Program:**

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

**(Continued on Sheet No. D-50.10)**

**GENERAL SERVICE SECONDARY TIME-OF-USE RATE GSTU**  
**(Continued From Sheet No. D-50.00)**

**Monthly Rate: (Contd)**

**Green Generation Program:**

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provision contained in Rule C 10.2, Green Generation Program.

**Renewable Energy Credit (REC) Programs:**

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

**Non-Residential Electric Vehicle Programs:**

The Non-Residential Electric Vehicle Programs are available to any eligible customer as described in Rule C19.2., Non-Residential Electric Vehicle Programs.

**General Terms:**

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

**Minimum Charge:**

The System Access Charge included in the rate and any applicable non-consumption based surcharges. Special Minimum Charges shall be billed in accordance with Rule C15., Special Minimum Charges.

**Due Date and Late Payment Charge:**

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

**Term and Form of Contract:**

Service under this rate shall not require a written contract except for: (i) resale service, (ii) service under the Green Generation Program, (iii) for Special Minimum Charges, (iv) service for lighting or where mobile home parks are involved, (v) service under the Educational Institution Service Provision, (vi) service under the Demand Response Program (vii) *service under the General Service Secondary Interruptible Provision* or (viii) at the option of the Company. If a contract is deemed necessary by the Company, the appropriate contract form shall be used and the contract shall require a minimum term of one year.

**GENERAL SERVICE SECONDARY DEMAND RATE GSD**

**Availability:**

Subject to any restrictions, this rate is available to any customer desiring Secondary Voltage service, either for general use or resale purposes, where the Peak Demand is 5 kW or more. This rate is also available for service to any Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is not available for: (i) private family dwellings, (ii) lighting service, (iii) resale for lighting service, or (iv) new or expanded service for resale to residential customers.

**Nature of Service:**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Secondary Voltage service. The Company will determine the particular nature of the voltage in each case.

Three-phase, 3-wire service requires that the customer furnishes all transformation facilities required for single-phase load and so arranges the load as to avoid excessive unbalance of the three-phase load. When the service is single-phase, or 4-wire, three-phase, the single-phase individual motor capacity shall not exceed 3 hp, nor the total single-phase motor capacity of 10 hp, without the specific consent of the Company.

Where the Company elects to measure the service on the Primary side of the transformers, 3% shall be deducted for billing purposes from the demand and energy measurements thus made. Where the Company elected to provide a Primary Rate Customer one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer, 3% shall not be deducted for billing purposes from the energy measurements thus made.

**Monthly Rate:**

**Power Supply Charges: These Charges are applicable to Full Service customers.**

Peak Demand Charge:

Non-Capacity	Capacity	Total	
\$25.46	\$2.17	\$27.63	per kW for all kW of Peak Demand during the billing months of June-September
\$15.14	\$1.93	\$17.07	per kW for all kW of Peak Demand during the billing months of October-May

Energy Charge:

Non-Capacity	
\$0.033424	per kWh for all kWh during the billing months of June-September
\$0.027323	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factors shown on Sheet No. D-6.00.

**Delivery Charges: These Charges are applicable to Full Service and Retail Open Access (ROA) customers.**

System Access Charge:	\$30.00	per customer per month
Capacity Charge:	\$1.00	per kW for all kW of Peak Demand
Distribution Charge:	\$0.048648	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

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**GENERAL SERVICE SECONDARY DEMAND RATE GSD**  
(Continued From Sheet No. D-52.00)

**Monthly Rate: (Contd)**

**Educational Institution Service Provision (GEI):**

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, “school” shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. “College” or “University” shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

**Delivery Charges: These charges are applicable to Full Service and Retail Open Access Customers.**

Education Institution Credit: \$(0.000745) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

**General Service Secondary Interruptible (GSI) Provision:**

This provision is available to no more than 200 Full Service Customers desiring interruptible service in conjunction with service taken under General Service Secondary Demand Rate GSD or General Service Secondary Time-of-Use Rate GSTU. Service to interruptible load shall be taken through separately metered circuits and permanently wired. The design and method of installation for application of this rate shall be subject to the approval of the Company.

Any load designated as interruptible by the customer is subject to Midcontinent Independent System Operator’s, Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO declares a Maximum Generation Emergency Event that requires deployment of Load Modifying Resources in accordance with the currently effective MISO Emergency Electric Procedure or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status.

Under this provision, the customer shall be interrupted at any time the Company deems it necessary to maintain system integrity. Service to interruptible load shall not be transferred to firm service circuits to avoid interruption. The Company shall provide the Customer at least 30 minutes notice in advance of a required interruption. Failure to acknowledge receipt of such notice shall not relieve the Customer of the obligation for interruption under the GSI provision. Failure by a customer to comply with a system integrity interruption order of the Company shall be considered unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of demand created during the interruption period in addition to the prescribed monthly rate.

This rate is not available for loads that are primarily off-peak, for example parking lot lighting. Participation requires a minimum term of one year. *All contracts under this provision shall be negotiated on an annual basis for the following capacity planning year (June 1 through May 31) and the Customer must notify the Company by December 10th of each year of their desire to renew the GSI Provision, unless the Customer chooses to lengthen the term of their commitment (up to five years). Annual changes to the amount of interruptible kW for long term contracts are open to adjustment through December 10th of each year.*

The monthly credit for the Interruptible Service Provision shall be applied as follows:

**Power Supply Charges – These charges are applicable to Full Service Customers.**

Capacity Credit: These charges are applicable to Full Service Customers.

Interruptible Credit: \$(8.50) per kW for all kW of Peak Demand during the billing months of June - September

\$(7.50) per kW for all kW of Peak Demand during the billing months of October - May

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(Continued on Sheet No. D-53.50)

**GENERAL SERVICE SECONDARY DEMAND RATE GSD**  
(Continued From Sheet No. D-53.50)

**Monthly Rate: (Contd)**

**Green Generation Program:**

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

**Renewable Energy Credit (REC) Programs:**

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

**General Terms:**

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

**Minimum Charge:**

The System Access Charge included in the rate and any applicable non-consumption based surcharges.

**Due Date and Late Payment Charge:**

The due date of the customer bill shall be 21 days from the date of mailing. A late payment charge of 2% of the unpaid balance, net of taxes, shall be assessed to any bill which is not paid on or before the due date shown thereon.

**Term and Form of Contract:**

Service under this rate shall not require a written contract except for: (i) resale service, (ii) service under the Green Generation Program, (iii) service under the Educational Institution Service Provision, (iv) service under the Net Metering program, (v) service under the Demand Response Program (vi) *service under the General Service Secondary Interruptible Provision* or (vii) at the option of the Company. If a contract is deemed necessary by the Company, the appropriate contract form shall be used and the contract shall require a minimum term of one year.

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**GENERAL SERVICE PRIMARY RATE GP**

**Availability:**

As of January 1, 2021, this rate is closed to new business other than for service to DCFC fast charging stations. Subject to any restrictions, this rate is available to any customer, political subdivision or agency of the State of Michigan, either acting separately or in combinations permitted under the laws of this state, desiring Primary Voltage service for general use or for public potable water pumping and/or waste water system(s).

This rate is available to existing Full Service Customers with an electric generating facility interconnected at a primary voltage level utilizing General Service Primary Rate GP for standby service on or before June 7, 2012. The amount of retail usage shall be determined on an hourly basis. Customers with a generating installation are required to have an Interval Data Meter.

This rate is not available to a Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is not available for lighting service, except for temporary service for lighting installations.

**Nature of Service:**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

Where service is supplied at a nominal voltage of 25,000 Volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 Volts *and where the meter is located on the Company side of the substation transformer*, 1% shall be deducted for billing purposes, from the energy measurements thus made.

Where the Company elects to measure the service at a nominal voltage of less than 2,400 Volts, 3% shall be added for billing purposes, to the energy measurements thus made.

**Monthly Rate:**

**Power Supply Charges: These charges are applicable to Full Service customers.**

Charges for Customer Voltage Level 3 (CVL3)

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.089071	\$0.006408	\$0.095479	per kWh for all kWh during the billing months of June-September
\$0.070092	\$0.004485	\$0.074577	per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 2 (CVL2)

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.088106	\$0.006319	\$0.094425	per kWh for all kWh during the billing months of June-September
\$0.069341	\$0.004423	\$0.073764	per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 1 (CVL1)

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.087002	\$0.006228	\$0.093230	per kWh for all kWh during the billing months of June-September
\$0.068477	\$0.004359	\$0.072836	per kWh for all kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**(Continued on Sheet No. D-56.00)**

**GENERAL SERVICE PRIMARY RATE GP**  
(Continued From Sheet No. D-55.00)

**Monthly Rate (Contd)**

**Delivery Charges:** These charges are applicable to Full Service and Retail Open Access (ROA) customers.

System Access Charge: \$100.00 per customer per month

Charges for Customer Voltage Level 3 (CVL3)

Distribution Charge: \$0.024779 per kWh for all kWh

Charges for Customer Voltage Level 2 (CVL2)

Distribution Charge: \$0.010731 per kWh for all kWh

Charges for Customer Voltage Level 1 (CVL1)

Distribution Charge: \$0.002918 per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**Adjustment for Power Factor**

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above or below .875, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is higher than .875, a \$1.14 per Kilovar credit will be applied to the amount which the average lagging demand during the billing period is below that for an average Power Factor of .875. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .875, a per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of .875 in accordance with the following table:

<b>Power Factor</b>	<b>Penalty</b>
0.700 to 0.874	\$1.14 per Kilovar
Below 0.700	\$1.14 per Kilovar first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A \$5.25 per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of 0.875, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the \$5.25 per Kilovar penalty applies again.

**Resale Service Provision**

Subject to any restrictions, this provision is available to customers desiring Primary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

(Continued on Sheet No. D-57.00)

**GENERAL SERVICE PRIMARY RATE GP**  
(Continued From Sheet No. D-56.00)

**Monthly Rate (Contd)**

**Substation Ownership Credit**

Where service is supplied at a nominal voltage of more than 25,000 volts, and the customer provides all of the necessary transforming, controlling and protective equipment for all of the service there shall be deducted from the bill a monthly credit.

The monthly credit for the substation ownership shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service and Retail Open Access customers.**

Charges for Customer Voltage Level 2 (CVL 2)  
Substation Ownership Credit: \$(0.001925) per kWh for all kWh

Charges for Customer Voltage Level 1 (CVL 1)  
Substation Ownership Credit: \$(0.001438) per kWh for all kWh

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kWh.

**Educational Institution Service Provision (GEI)**

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service and Retail Open Access Customers.**

Educational Institution Credit: \$(0.000558) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

**Demand Response Program:**

Customers participating in the voluntary Demand Response Program help reduce peak demand when energy use is the highest. A customer specific agreement stating the customer's Contracted Capacity kW shall be completed prior to participation in the Demand Response Program. Customer eligibility to participate in this program is determined solely by the Company. The Company reserves the right to specify the term or duration of the program.

Under this program, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this program must be supported by an updated energy reduction plan on an annual basis.

Demand Response Program customers shall receive an annual Program Payment on the customer bill or a check for the capacity amount delivered during events specified in the customer specific agreement within three billing cycles after the program season ends. Eligible customers may also receive Emergency Event Performance Payments on the customer bill under specific circumstances as outlined in the customer specific agreement. If a customer fails to deliver their total Contracted Capacity during an Emergency Event ordered by Consumers Energy, an Underperformance Penalty may be applicable. Any applicable penalties or program incentives shall be applied to the customer bill. As a condition of enrollment, Customers will be required to provide energy reduction plans that detail their load reduction procedure as specified in the agreement. Customers will be required to provide event notification contacts that support the program. The program agreement will specify the terms of the program that include program duration, number and length of events, performance calculations and program rules.

**Self-Generation (SG):**

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-58.00)

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**

**Availability**

Subject to any restrictions, this rate is available to any customer desiring Primary Voltage service, either for general use or resale purposes, where the On-Peak Billing Demand is 25 kW or more. This rate is also available to any political subdivision or agency of the State of Michigan, either acting separately or in combinations permitted under the laws of this state, for Primary Voltage service for potable water pumping and/or waste water system(s).

This rate is not available to a Primary Rate Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer.

This rate is also not available for lighting service, for resale for lighting service, or for new or expanded service for resale to residential customers.

**Nature of Service**

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

Where service is supplied at a nominal voltage of 25,000 Volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 Volts *and where the meter is located on the Company side of the substation transformer*, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made. Where the Company elects to measure the service at a nominal voltage of less than 2,400 Volts, 3% shall be added for billing purposes, to the demand and energy measurements thus made.

Interval Data Meters are required for service under this rate. Meter reading will be accomplished electronically through telecommunication links or other electronic data methods able to provide the Company with the metering data / billing determinants necessary for billing purposes.

**Monthly Rate:**

**Power Supply Charges: These charges are applicable to Full Service Customers**  
Charges for Customer Voltage Level 3 (CVL 3)

Demand Charge:

Non-Capacity	Capacity	Total	
\$15.31	\$2.23	\$17.54	per kW of On-Peak Billing Demand during the billing months of June-September
\$13.23	\$2.07	\$15.30	per kW of On-Peak Billing Demand during the billing months of October-May

Transmission Charge:

Non-Capacity		
\$8.88	per kW of On-Peak Billing Demand during the billing months of June-September	
\$8.27	per kW of On-Peak Billing Demand during the billing months of October-May	

Energy Charge:

Non-Capacity		
\$0.043667	per kWh for all On-Peak kWh during the billing months of June-September	
\$0.028291	per kWh for all Off-Peak kWh during the billing months of June-September	
\$0.029787	per kWh for all On-Peak kWh during the billing months of October-May	
\$0.025656	per kWh for all Off-Peak kWh during the billing months of October-May	

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
 (Continued From Sheet No. D-59.00)

**Monthly Rate: (Contd)**

**Power Supply Charges: These charges are applicable to Full Service Customers (Contd)**

Charges for Customer Voltage Level 2 (CVL 2)

Demand Charge:

Non-Capacity	Capacity	Total	
\$15.16	\$2.20	\$17.36	per kW of On-Peak Billing Demand during the billing months of June-September
\$13.10	\$2.04	\$15.14	per kW of On-Peak Billing Demand during the billing months of October-May

Transmission Charge:

Non-Capacity			
\$8.76			per kW of On-Peak Billing Demand during the billing months of June-September
\$8.15			per kW of On-Peak Billing Demand during the billing months of October-May

Energy Charge:

Non-Capacity			
\$0.043240			per kWh for all On-Peak kWh during the billing months of June-September
\$0.028014			per kWh for all Off-Peak kWh during the billing months of June-September
\$0.029495			per kWh for all On-Peak kWh during the billing months of October-May
\$0.025405			per kWh for all Off-Peak kWh during the billing months of October-May

Charges for Customer Voltage Level 1 (CVL 1)

Demand Charge:

Non-Capacity	Capacity	Total	
\$14.98	\$2.17	\$17.15	per kW of On-Peak Billing Demand during the billing months of June-September
\$12.94	\$2.01	\$14.95	per kW of On-Peak Billing Demand during the billing months of October-May

Transmission Charge:

Non-Capacity			
\$8.63			per kW of On-Peak Billing Demand during the billing months of June-September
\$8.04			per kW of On-Peak Billing Demand during the billing months of October-May

Energy Charge:

Non-Capacity			
\$0.042727			per kWh for all On-Peak kWh during the billing months of June-September
\$0.027682			per kWh for all Off-Peak kWh during the billing months of June-September
\$0.029145			per kWh for all On-Peak kWh during the billing months of October-May
\$0.025104			per kWh for all Off-Peak kWh during the billing months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

(Continued on Sheet No. D-61.00)

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
(Continued From Sheet No. D-60.00)

**Monthly Rate: (Contd)**

**Delivery Charges:** These charges are applicable to Full Service and Retail Open Access (ROA) customers.

System Access Charge: \$200.00 per customer per month

Charges for Customer Voltage Level 3 (CVL3)

Capacity Charge: \$7.02 per kW of Maximum Demand

Charges for Customer Voltage Level 2 (CVL2)

Capacity Charge: \$3.50 per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL1)

Capacity Charge: \$1.02 per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**Adjustment for Power Factor:**

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above or below .875, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is higher than .875, a \$1.14 per Kilovar credit will be applied to the amount which the average lagging Kilovar demand during the billing period is below that for an average Power Factor of .875. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .875, a per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of .875 in accordance with the following table:

<b>Power Factor</b>	<b>Penalty</b>
0.700 to 0.874	\$1.14 per Kilovar
Below 0.700	\$1.14 per Kilovar first 2 months

Adjustment for Power Factor shall not be applied when the On-Peak Billing Demand is based on 60% of the highest On-Peak Billing Demand created during the preceding bill months of June through September or on a Minimum On-Peak Billing Demand.

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A \$5.25 per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of 0.875, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the \$5.25 per Kilovar penalty applies again.

(Continued on Sheet No. D-62.00)

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
(Continued From Sheet No. D-61.00)

**Monthly Rate: (Contd)**

**Maximum Demand:**

The Maximum Demand shall be the highest 15-minute demand created during the current month or previous 11 months.

**On-Peak Billing Demand:**

The On-Peak Billing Demand shall be based on the highest on-peak demand created during the billing month, but never less than 60% of the highest on-peak billing demand of the four preceding summer billing months (June through September), nor less than 25 kW.

The On-Peak Billing Demand shall be the Kilowatts (kW) supplied during the 15-minute period of maximum use during on-peak hours, as described in Rule C14., Provisions Governing the Application of On-Peak and Off-Peak Rates.

The Company reserves the right to make special determination of the On-Peak Billing Demand, and/or the Minimum Charge, should the equipment which creates momentary high demands be included in the customer's installation.

**Transmission On-Peak Billing Demand:**

The Transmission On-Peak Billing Demand for each billing month shall be the Kilowatts (kW) supplied during the 15-minute period of maximum use during on-peak hours, as described in Rule C14., Provisions Governing the Application of On-Peak and Off-Peak Rates.

**Resale Service Provision:**

Subject to any restrictions, this provision is available to customers desiring Primary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

**Substation Ownership Credit:**

Where service is supplied at a nominal voltage of more than 25,000 Volts, energy is measured through an Interval Data Meter, and the customer provides all of the necessary transforming, controlling and protective equipment for all of the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly credit for the substation ownership shall be applied as follows:

**Delivery Charges: These charges are applicable to Full Service and Retail Open Access Customers.**

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.83) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.66) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

(Continued on Sheet No. D-63.00)

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
(Continued From Sheet No. D-62.00)

**Monthly Rate: (Contd)**

**Aggregate Peak Demand Service Provision (GAP):**

This provision is available to any customer with 7 accounts or more who desire to aggregate their On-Peak Billing Demands for power supply billing purposes. To be eligible, each account must have a minimum average On-Peak Billing Demand of 250 kW and be located within the same billing district. The customer's aggregated accounts shall be billed under the same rate schedule and service provisions. The aggregate maximum capacity of all customers served under this provision shall be limited to 200,000 kW.

This provision commences with service rendered on and after June 20, 2008 and remains in effect until terminated by a Commission Order.

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

Interval Data Meters are required for service under this provision.

The aggregated accounts shall be summarized for each interval time period registered and a comparison shall be performed to determine the on-peak time at which the summarized value of the aggregated accounts reached a maximum for the billing month. The individual aggregated accounts shall be billed for their corresponding On-Peak Billing Demand occurring at that point in time.

**Educational Institution Service Provision (GEI):**

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

**Delivery Charges:                      These charges are applicable to Full Service and Retail Open Access Customers.**

Educational Institution Credit:                      *\$(0.000194)*      per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

**Demand Response Program:**

Customers participating in the voluntary Demand Response Program help reduce peak demand when energy use is the highest. A customer specific agreement stating the customer's Contracted Capacity kW shall be completed prior to participation in the Demand Response Program. Customer eligibility to participate in this program is determined solely by the Company. The Company reserves the right to specify the term or duration of the program.

Under this program, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this program must be supported by an updated energy reduction plan on an annual basis.

Demand Response Program customers shall receive an annual Program Payment on the customer bill or a check for the capacity amount delivered during events specified in the customer specific agreement within three billing cycles after the program season ends. Eligible customers may also receive Emergency Event Performance Payments on the customer bill under specific circumstances as outlined in the customer specific agreement. If a customer fails to deliver their total Contracted Capacity during an Emergency Event ordered by Consumers Energy, an Underperformance Penalty may be applicable. Any applicable penalties or program incentives shall be applied to the customer bill. As a condition of enrollment, Customers will be required to provide energy reduction plans that detail their load reduction procedure as specified in the agreement. Customers will be required to provide event notification contacts that support the program. The program agreement will specify the terms of the program that include program duration, number and length of events, performance calculations and program rules.

(Continued on Sheet No. D-64.00)

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**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
(Continued From Sheet No. D-64.00)

**Monthly Rate: (Contd)**

**Interruptible Service Provision (GI): (Contd)**

Conditions of Interruption (Contd)

Interruptions beyond the Company's control, described in Rules C1.1, Character of Service, and C3., Emergency Electrical Procedures, of the Company's Electric Rate Book, shall not be considered as interruptions for purposes of this provision.

Should the Company be ordered by Governmental authority during a national emergency to supply firm instead of interruptible service, billing shall be made on an applicable firm power schedule.

Cost of Customer Non-Interruption

Failure by a customer to comply with a system integrity interruption order of the Company shall be considered as unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of Interruptible On-Peak Billing demand created during the interruption period, in addition to the prescribed monthly rate. In addition, the interruptible contract capacity of a customer who does not interrupt within one hour following notice shall be immediately reduced by the amount which the customer failed to interrupt, unless the customer demonstrates that failure to interrupt was beyond its control.

The monthly credit for the Interruptible Service Provision shall be applied as follows:

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Interruptible Credit:	\$(8.50)	per kW of On-Peak Billing Demand during the billing months of June-September
	\$(7.50)	per kW of On-Peak Billing Demand during the billing months of October-May

**Interruptible Service Provision – Market-Price Option (GI2):**

**Availability:**

This provision is available to any Full Service GPD customer account willing to designate at least 3,000 kW of On-Peak Billing Demand as Defined Interruptible Capacity. A customer participating in this provision is not eligible to participate in Demand Response programs with an Aggregator of Retail Customers during any MISO season. The Company reserves the right to limit the amount of designated interruptible load available to any single customer, but in no case shall it exceed 100,000 kW. The combined aggregate amount of monthly On-Peak Billing Demand subscribed under the GI and GI2 provisions shall be limited to 400,000 kW.

In the event the combined aggregate amount of monthly On-Peak Demand subscribed is less than the approved limit specified above, the Company may offer the remaining capacity, to otherwise eligible customers willing to designate less than the minimum amounts specified above.

The customer may choose to have the interruptible load separately metered. The customer shall bear any expense incurred by the Company in providing a separate service for the interruptible portion of an existing customer load. The customer must provide space suitable for the separate metering. Consumers Energy may require the Customer to monitor and provide real-time, Internet-enabled power monitoring. If such monitoring is required, Consumers Energy will provide the metering or monitoring devices necessary, which shall be owned by Consumers Energy and provided to the Customer at the Company's expense. The Customer may be required to provide suitable space for such monitoring equipment and either a static or non-static, as applicable, Internet Protocol (IP) address and Local Area Network (LAN) access that allows for Internet-based communication of the Customer's site electricity consumption and interruption event performance.

**Contracted Firm Capacity and Defined Interruptible Capacity**

Defined Interruptible Capacity shall be the amount of the customer's On-Peak Billing Demand at the time of the most recent annual MISO peak hour that exceeds the Customer's Firm Contract Capacity.

The minimum difference between the Customer's Contracted Firm Capacity and the Customer's On-Peak Billing Demand required to participate in the GI2 Provision is 3,000 kW and is subject to Company verification.

Customers shall contract for a specified capacity in kilowatts sufficient to meet the customers' maximum interruptible requirements, but not less than the minimum contract capacity amounts, specified above. The contract capacity shall not be decreased during the term of the contract and subsequent renewal periods as long as service is required unless there is a verified reduction in connected load. Capacity disconnected from service under this provision shall not be subsequently served under any other tariff during the term of this contract and subsequent renewal periods. The Customer must notify and contract with the Company by December 10<sup>th</sup> of each year of their desire to renew the GI2 provision and the amount of interruptible kW for the following capacity planning year (June 1 through May 31).

**(Continued on Sheet No. D-66.00)**

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**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
 (Continued From Sheet No. D-65.00)

**Monthly Rate: (Contd)**

**Interruptible Service Provision – Market-Price Option (GI2) (Contd)**

**Monthly Billing**

For billing purposes, the Contracted Firm Capacity will be billed first on Rate GPD, with the load in excess of contracted firm being billed on the GI2 charges specified in this rate schedule.

**Power Supply Charges - These charges are applicable to contracted interruptible capacity.**

The customer shall be responsible for the MISO Real-Time Locational Market Price (LMP) for the Company’s load node (designated as “CONS.CETR” as the date of this Rate Schedule), multiplied by the customer’s consumption (kWh), plus the Market Settlement Fee of \$0.002/kWh.

Charges for Customer Voltage Level 3 (CVL 3)

LMP Energy Charge: MISO Real-Time LMP per kWh for all kWh  
 Capacity & Transmission Charge: \$0.032871 per kWh for all kWh during the billing months of June-September  
 \$0.030146 per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 2 (CVL 2)

LMP Energy Charge: MISO Real-Time LMP per kWh for all kWh  
 Capacity & Transmission Charge: \$0.031540 per kWh for all kWh during the billing months of June-September  
 \$0.028315 per kWh for all kWh during the billing months of October-May

Charges for Customer Voltage Level 1 (CVL 1)

LMP Energy Charge: MISO Real-Time LMP per kWh for all kWh  
 Capacity & Transmission Charge: \$0.029172 per kWh for all kWh during the billing months of June-September  
 \$0.026113 per kWh for all kWh during the billing months of October-May

The MISO Real-Time LMP per kWh shall be adjusted for losses based on the customer’s point of metering as shown below:

	Meter Point	
	High Side	Low Side
Customer Voltage Level 1	0.000%	1.004%
Customer Voltage Level 2	1.328%	2.296%
Customer Voltage Level 3	3.300%	7.407%

**Delivery Charges – These charges are applicable to contract capacity**

Rate GPD Delivery Charges will apply to all Delivery service, including contracted capacity designated as GI2 interruptible service.

System Access Charge:

If contracted capacity is separately metered: \$ 100.00 per additional meter installation per month

This provision is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10 as well as the System Access Charge, Delivery Charges, General Terms, Adjustment for Power Factor, Substation Ownership Credit, Minimum Charge and the Due Date and Late Payment Charge applicable to Rate GPD.

**Annual Power Test Requirement**

Under this provision, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer’s annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer’s contracted capacity under this provision must be supported by an updated energy reduction plan on an annual basis.

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**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**

(Continued From Sheet No. D-66.00)

**Monthly Rate: (Contd)**

**Interruptible Service Provision – Market-Price Option (GI2) (Cont)**

**Conditions of Interruption**

The Company will notify the customer as to the amount of total load on this rider to be curtailed. Load identified as monthly firm service and billed on Rate GPD is not considered as interruptible and does not need to be curtailed under the terms of GI2. Although actual load at time of interruption may vary from contract capacity, the total measured load on this provision shall be subject to curtailment by the Company.

The Company shall provide the Customer at least thirty minutes advance notice of a required interruption, and if possible, a second notice. The notice will be communicated by telephone to the contact numbers provided by the Customer. The Customer shall confirm the receipt of such notice through the automated response process. Failure to acknowledge receipt of such notice shall not relieve the customer of the obligation for interruption under the GI Provision. The customer shall be informed, when possible, of the estimated duration of the interruption at the time of interruption. Within 30 minutes of receiving an interruption notice, the customer shall reduce their total load level by the amount of contracted interruptible capacity or have the total facility subject to interruption.

Any load designated as interruptible by the customer may require the installation and maintenance of equipment that allow the Company to remotely interrupt the customer's load. If the company determines it is required to install and maintain equipment at the customer's site to comply with any requirements associated with the GI service provision then it shall do so at the customer's expense. In addition, the customer shall also adhere to any advance notification requirements the Company deems are necessary to comply with its obligations to MISO under this provision.

Any load designated as interruptible by the customer is also subject to Midcontinent Independent System Operator's Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO declares a Maximum Generation Emergency Event that requires deployment of Load Modifying Resources in accordance with the currently effective MISO Emergency Electrical Procedure or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status. Participation in the GI provision does not limit the Company's ability to implement emergency electrical procedures as described in the Company's Electric Rate Book including interruption of service as required to maintain system integrity.

Under this provision, the customer shall be interrupted at any time, on-peak or off-peak, the Company deems it necessary to maintain system integrity. The Company shall provide notice in advance of probable interruption, and if possible, a second notice of positive interruption. The notice will be communicated by telephone to the contact numbers provided by the Customer. The Customer shall confirm the receipt of such notice through the automated response process. Failure to acknowledge receipt of such notice shall not relieve the Customer of the obligation for interruption under the GI2 provision. The customer shall be informed, when possible, of the estimated duration of the interruption at the time of interruption.

The Company shall not be liable for any loss or damage caused by or resulting from any interruption of service under this provision.

Interruptions beyond the Company's control, described in Rules C1.1, Character of Service, and C3., Emergency Electrical Procedures, of the Company's Electric Rate Book, shall not be considered as interruptions for purposes of this provision.

Should the Company be ordered by Governmental authority during a national emergency to supply firm instead of interruptible service, billing shall be made on an applicable firm power schedule.

**Cost of Customer Non-Interruption**

Failure by a customer to comply with a system integrity interruption order of the Company shall be considered as unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of Interruptible On-Peak Billing demand created during the interruption period, in addition to the prescribed monthly rate. In addition, the interruptible contract capacity of a customer who does not interrupt within one hour following notice shall be immediately reduced by the amount which the customer failed to interrupt, unless the customer demonstrates that failure to interrupt was beyond its control.

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(Continued on Sheet No. D-67.10)

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
*(Continued From Sheet No. D-67.00)*

**Monthly Rate: (Contd)**

**Coincident Peak Demand Provision (CPD)**

This provision is available to any customer on Rate GPD but limited to the first three customers enrolled in the provision. Customers served under this provision will be charged capacity and transmission through a volumetric on peak energy charge as stated below. This will be charged on all energy consumed during the on peak window, from 11 AM to 7 PM. They will pay the On Peak Demand Charge on all demand during the coincident peak window of 4 PM to 6 PM. Customers served under this provision will be subject to Critical Peak Event Pricing.

**Critical Peak Event Determination**

A Critical Peak Event occurs when a System Integrity Event is enacted.

A System Integrity Event is enacted when MISO declares that a Maximum Generation Emergency Event has occurred and MISO has instructed the Company to implement Load Management Measures using Load Modifying Resources. A System Integrity Event shall occur at any time for any duration. A Critical Peak Event caused by a System Integrity Event shall be billed the full on peak demand charge plus \$1.00/kWh during the duration of the event.

**Monthly Rate:**

**Power Supply Charges: These charges are applicable to Full Service Customers**

Charges for Customer Voltage Level 3 (CVL 3)

*Demand Charge:*

<i>Non-Capacity</i>	<i>Capacity</i>	<i>Total</i>	
NA	\$0.032171	\$0.032171	<i>per kWh of On-Peak kWh during the billing months of June-September</i>
NA	\$0.027648	\$0.027648	<i>per kWh of On-Peak kWh during the billing months of October-May</i>
\$15.31	\$2.23	\$17.54	<i>Per kW of On-Peak Billing Demand during the coincident peak window of 4PM-6PM during the billing months of June-September</i>
\$13.23	\$2.07	\$15.30	<i>Per kW of On-Peak Billing Demand during the coincident peak window of 4PM-6PM during the billing months of October-May</i>

*Transmission Charge:*

<i>Non-Capacity</i>			
\$0.016289			<i>per kWh of On-Peak kWh during the billing months of June-September</i>
\$0.014945			<i>per kWh of On-Peak kWh during the billing months of October-May</i>

*Energy Charge:*

<i>Non-Capacity</i>			
\$0.028291			<i>per kWh for all Off-Peak kWh during the billing months of June- September</i>
\$0.043667			<i>per kWh for all On-Peak kWh during the billing months of June- September</i>
\$0.025656			<i>per kWh for all Off-Peak kWh during the billing months of October-May</i>
\$0.029787			<i>per kWh for all On-Peak kWh during the billing months of October-May</i>

*Critical Peak Event:*

<i>Non-Capacity</i>	<i>Capacity</i>	<i>Total</i>	
\$15.31	\$2.23	\$17.54	<i>per kW of On-Peak Billing Demand during a System Integrity Event during the billing months of June-September</i>
\$13.23	\$2.07	\$15.30	<i>per kW of On-Peak Billing Demand during a System Integrity Event during the billing months of October-May</i>
NA	\$1.00	\$1.00	<i>per kWh for all kWh during a System Integrity Event</i>

*(Continued on Sheet No. D-67.20)*

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
 (Continued From Sheet No. D-67.10)

**Monthly Rate: (Contd)**

**Coincident Peak Demand Provision (CPD)**

**Power Supply Charges: These charges are applicable to Full Service Customers (Contd)**

Charges for Customer Voltage Level 2 (CVL 2)

Energy Charge:

Non-Capacity	Capacity	Total	
NA	\$0.031076	\$0.031076	per kWh of On-Peak kWh during the billing months of June-September
NA	\$0.027142	\$0.027142	per kWh of On-Peak kWh during the billing months of October-May

Demand Charge

\$15.16	\$2.20	\$17.36	Per kW of On-Peak Billing Demand during the coincident peak window of 4PM-6PM during the billing months of June-September
\$13.10	\$2.04	\$15.14	Per kW of On-Peak Billing Demand during the coincident peak window of 4PM-6PM during the billing months of October-May

Transmission Charge:

Non-Capacity			
\$0.015679			per kWh of On-Peak kWh during the billing months of June-September
\$0.008036			per kWh of On-Peak kWh during the billing months of October-May

Energy Charge:

Non-Capacity			
\$0.028014			per kWh for all Off-Peak kWh during the billing months of June- September
\$0.043240			per kWh for all On-Peak kWh during the billing months of June- September
\$0.025405			per kWh for all Off-Peak kWh during the billing months of October-May
\$0.029495			per kWh for all On-Peak kWh during the billing months of October-May

Critical Peak Event:

Non-Capacity	Capacity	Total	
\$15.16	\$2.20	\$17.36	per kW of On-Peak Billing Demand during a System Integrity Event during the calendar months of June-September
\$13.10	\$2.04	\$15.14	per kW of On-Peak Billing Demand during a System Integrity Event during the calendar months of October-May
N/A	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event

Charges for Customer Voltage Level 1 (CVL 1)

Energy Charge:

Non-Capacity	Capacity	Total	
NA	\$0.028949	\$0.028949	per kWh of On-Peak kWh during the billing months of June-September
NA	\$0.025209	\$0.025209	per kWh of On-Peak kWh during the billing months of October-May

Demand Charge:

\$14.98	\$2.17	\$17.15	Per kW of On-Peak Billing Demand during the coincident peak window of 4PM-6PM during the billing months of June-September
\$12.94	\$2.01	\$14.95	Per kW of On-Peak Billing Demand during the coincident peak window of 4PM-6PM during the billing months of October-May

Transmission Charge:

Non-Capacity			
\$0.014572			per kWh of On-Peak kWh during the billing months of June-September
\$0.013548			per kWh of On-Peak kWh during the billing months of October-May

Energy Charge:

Non-Capacity			
\$0.027682			per kWh for all Off-Peak kWh during the billing months of June- September
\$0.042727			per kWh for all On-Peak kWh during the billing months of June- September
\$0.025104			per kWh for all Off-Peak kWh during the billing months of October-May
\$0.029145			per kWh for all On-Peak kWh during the billing months of October-May

(Continued on Sheet No. D-67.30)

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
*(Continued From Sheet No. D-65.00)*

**Coincident Peak Demand Provision (CPD) (Contd)**

**Monthly Rate: (Contd)**

**Power Supply Charges: These charges are applicable to Full Service Customers (Contd)**

*Charges for Customer Voltage Level 1 (CVL 1) (Cont)*

*Critical Peak Event:*

<i>Non-Capacity</i>	<i>Capacity</i>	<i>Total</i>	
\$14.98	\$2.17	\$17.15	<i>per kW of On-Peak Billing Demand during a System Integrity Event during the calendar months of June-September</i>
\$12.94	\$2.01	\$14.95	<i>per kW of On-Peak Billing Demand during a System Integrity Event during the calendar months of October-May</i>
N/A	\$1.00	\$1.00	<i>per kWh for all kWh during a System Integrity Event</i>

**LARGE GENERAL SERVICE PRIMARY DEMAND RATE GPD**  
(Continued From Sheet No. D-67.30)

**Monthly Rate: (Contd)**

**Net Metering Program:**

The Net Metering Program is available to any eligible customer as described in Rule C11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C11.2.B., Net Metering Definitions.

A customer who participates in the Net Metering Program is subject to the provisions contained in Rule C11.2., Net Metering Program.

**Distributed Generation Program:**

The Distributed Generation Program is available to any eligible customer as described in Rule C 11.3., Distributed Generation Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C 11.3.B., Distributed Generation Definitions.

A customer who participates in the Distributed Generation Program is subject to the provisions contained in Rule C 11.3., Distributed Generation Program.

**Green Generation Program:**

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

**Renewable Energy Credit (REC) Programs:**

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

## GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU

### Availability:

Subject to any restrictions, this General Service Primary Time-Of-Use (GPTU) Rate is available to any Full Service Customer taking service at the Company's Primary Voltage level. Standby service shall be provided on this rate for primary customers with solar installations equal to or greater than 150 kW.

This rate is not available for Standby service with generators that exceed 550kW, except for solar installations, nor available for lighting service, except for temporary service for lighting installations.

### Nature of Service:

Service under the rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

Where service is supplied at a normal voltage of 25,000 Volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling, and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 Volts *and where the meter is located on the Company side of the substation transformer*, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made.

Where the Company elects to measure the service at a nominal voltage of less than 2,400 Volts, 3% shall be added for billing purposes, to the demand and energy measurements thus made.

Interval Data Meters are required for service under this rate. Meter reading will be accomplished electronically through telecommunication links or other electronic measuring equipment available to provide the Company with the metering data necessary for billing purposes.

### Schedule of Hours:

The following schedule shall apply Monday through Friday (except holidays designated by the Company):

#### Summer:

Off-Peak Hours:	12:00 AM to 6:00 AM and 11:00 PM to 12:00 AM
Low-Peak Hours:	6:00 AM to 12:00 PM and 7:00 PM to 11:00 PM
Mid-Peak Hours:	12:00 PM to 2:00 PM and 5:00 PM to 7:00 PM
High-Peak Hours:	2:00 PM to 5:00 PM

#### Winter:

Off-Peak Hours:	12:00 AM to 2:00 PM and 9:00 PM to 12:00 AM
Mid-Peak Hours:	2:00 PM to 4:00 PM and 7:00 PM to 9:00 PM
High-Peak Hours:	4:00 PM to 7:00 PM

Weekends and holidays are off-peak. Designated Company holidays are: New Year's Day - January 1; Memorial Day - Last Monday in May; Independence Day - July 4; Labor Day - First Monday in September; Thanksgiving Day - Fourth Thursday in November; and Christmas Day - December 25. Whenever January 1, July 4 or December 25 fall on a Sunday, extended holiday periods such as Monday, January 2, Monday, July 5 and Monday, December 26 shall not be considered as holidays for application of off-peak hours.

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(Continued on Sheet No. D-71.00)

**GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU**  
 (Continued from Sheet No. D-70.00)

**Monthly Rate:**

**Power Supply Charges:**

Charges for Customer Voltage Level 3 (CVL3)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.065802	\$0.003764	\$0.069566	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.087045	\$0.005572	\$0.092617	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.110513	\$0.006938	\$0.117451	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.125172	\$0.007268	\$0.132440	per kWh during the calendar months of June-September
Off-Peak - Winter	\$0.065478	\$0.004011	\$0.069489	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.077240	\$0.004661	\$0.081901	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.082011	\$0.004663	\$0.086674	per kWh during the calendar months of October-May

Charges for Customer Voltage Level 2 (CVL2)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.065101	\$0.003712	\$0.068813	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.086109	\$0.005495	\$0.091604	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.109327	\$0.006842	\$0.116169	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.123837	\$0.007168	\$0.131005	per kWh during the calendar months of June-September
Off-Peak - Winter	\$0.064777	\$0.003956	\$0.068733	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.076414	\$0.004597	\$0.081011	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.081138	\$0.004599	\$0.085737	per kWh during the calendar months of October-May

Charges for Customer Voltage Level 1 (CVL1)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.064293	\$0.003658	\$0.067951	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.085033	\$0.005416	\$0.090449	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.107963	\$0.006743	\$0.114706	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.122297	\$0.007064	\$0.129361	per kWh during the calendar months of June-September
Off-Peak - Winter	\$0.063969	\$0.003899	\$0.067868	per kWh during the calendar months of October-May
Mid-Peak - Winter	\$0.075462	\$0.004530	\$0.079992	per kWh during the calendar months of October-May
High-Peak - Winter	\$0.080130	\$0.004532	\$0.084662	per kWh during the calendar months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges:**

System Access Charge:	\$200.00	per customer per month
<u>Charges for Customer Voltage Level 3 (CVL3)</u>		
Capacity Charge:	\$7.02	per kW of Maximum Demand
<u>Charges for Customer Voltage Level 2 (CVL2)</u>		
Capacity Charge:	\$3.50	per kW of Maximum Demand
<u>Charges for Customer Voltage Level 1 (CVL1)</u>		
Capacity Charge:	\$1.02	per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**Adjustment for Power Factor**

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above or below .875, the customer bill shall be adjusted as follows:

(Continued on Sheet No. D-72.00)

**GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU**  
(Continued from Sheet No. D-71.00)

**Monthly Rate (Contd)**

**Adjustment for Power Factor (Contd)**

- (a) If the average Power Factor during the billing period is higher than .875, a \$1.14 per Kilovar credit will be applied to the amount which the average lagging Kilovar demand during the billing period is below that for an average Power Factor of .875. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .875, a per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of .875 in accordance with the following table:

<b>Power Factor</b>	<b>Penalty</b>
0.700 to 0.874	\$1.14 per Kilovar
Below 0.700	\$1.14 per Kilovar first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A \$5.25 per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of 0.875, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the \$5.25 per Kilovar penalty applies again.

**Maximum Demand**

The Maximum Demand shall be the highest 15-minute demand created during the current month or previous 11 months.

**Resale Service Provision**

Subject to any restrictions, this provision is available to customers desiring Primary Voltage service for resale purposes in accordance with Rule C4.4, Resale.

**Substation Ownership Credit**

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all the necessary transforming, controlling and protective equipment for all the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly substation ownership credit shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service Customers.**

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.83) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.66) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

**Educational Institution Service Provision (GEI)**

When service is supplied to a school, college or university, a credit shall be applied during all billing months. As used in this provision, "school" shall mean buildings, facilities, playing fields, or property directly or indirectly used for school purposes for children in grades kindergarten through twelve, when provided by a public or nonpublic school. School does not include instruction provided in a private residence or proprietary trade, vocational, training, or occupational school. "College" or "University" shall mean buildings located on the same campus and used to impart instruction, including all adjacent and appurtenant buildings owned by the same customer which are located on the same campus and which constitute an integral part of such college or university facilities.

The monthly credit for the Educational Institution Service Provision shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service Customers.**

Educational Institution Credit: \$(0.000194) per kWh for all kWh

Customers on this provision shall require a written contract, with a minimum term of one year, and shall be evaluated annually to determine whether or not the accounts shall remain on the service provision.

(Continued on Sheet No. D-72.10)

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**GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU**

(Continued from Sheet No. D-72.00)

**Monthly Rate (Contd)**

**Demand Response Program:**

Customers participating in the voluntary Demand Response Program help reduce peak demand when energy use is the highest. A customer specific agreement stating the customer's Contracted Capacity kW shall be completed prior to participation in the Demand Response Program. Customer eligibility to participate in this program is determined solely by the Company. The Company reserves the right to specify the term or duration of the program.

Under this program, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this program must be supported by an updated energy reduction plan on an annual basis.

Demand Response Program customers shall receive an annual Program Payment on the customer bill or a check for the capacity amount delivered during events specified in the customer specific agreement within three billing cycles after the program season ends. Eligible customers may also receive Emergency Event Performance Payments on the customer bill under specific circumstances as outlined in the customer specific agreement. If a customer fails to deliver their total Contracted Capacity during an Emergency Event ordered by Consumers Energy, an Underperformance Penalty may be applicable. Any applicable penalties or program incentives shall be applied to the customer bill. As a condition of enrollment, Customers will be required to provide energy reduction plans that detail their load reduction procedure as specified in the agreement. Customers will be required to provide event notification contacts that support the program. The program agreement will specify the terms of the program that include program duration, number and length of events, performance calculations and program rules.

**Interruptible Service Provision (GI):**

This provision is available to any customer account willing to either (1) contract for at least 250 kW of On-Peak Billing Demand as interruptible or (2) contract for a service level of On-Peak Billing Demand that the customer account is willing to reduce to when the Company deems interruption is necessary to maintain system integrity. For customers who participate in the Interruptible Service Provision (GI) on this Rate Schedule, the On-Peak Billing Demand shall be the Kilowatts (kW) supplied during the 15-minute period of maximum use within on-peak hours during the billing month as described in Rule C14., Provisions Governing the Application of On-Peak and Off-Peak Rates. For customers who are not enrolled in the GI provision, the On-Peak Billing Demand shall not apply.

The Company reserves the right to limit the amount of load contracted as interruptible, but in no case shall it exceed 300,000 kW per customer. Customers with multiple locations participating in the GI Provision may manage the locations jointly to meet the contracted interruptible commitment. Customers served under Rate *GPTU* shall have no more than 50% of their annual On-Peak Billing Demand contracted as interruptible when contracting for more than 50,000 kW of interruptible load. The aggregate amount of monthly On-Peak Billing Demand subscribed under this provision shall be limited to 400,000 kW.

Consumers Energy may provide the Customer equipment to provide real-time, Internet-enabled power monitoring. If such monitoring is provided the metering or monitoring devices shall be owned by Consumers Energy and provided to the Customer at the Company's expense. The Customer may be required to provide suitable space for such monitoring equipment and either a static or non-static, as applicable, Internet Protocol (IP) address and Local Area Network (LAN) access that allows for Internet-based communication of the Customer's site electricity consumption and interruption event performance.

**Billing for Contracted Interruptible Demand – Reduce by Contracted On-Peak Billing Demand**

For billing purposes, the monthly interruptible On-Peak Billing Demand shall be billed first and discounted under this interruptible service provision. The actual On-Peak Billing Demand for the interruptible load supplied shall be credited by the amount specified under the Power Supply Charges - Interruptible Credit listed below. Subsequently all firm service used during the billing period in excess of the contracted interruptible shall be billed at the appropriate firm rate.

**Billing for Contracted Service Level – Reduce to Contracted On-Peak Billing Demand**

For billing purposes, the contracted firm service level shall be billed first at the appropriate firm rate. Subsequently, the On-Peak Billing Demand determined to be interruptible, in excess of the contracted firm service level, shall be billed and discounted under this interruptible service provision. *The interruptible demand shall be the average on-peak billing demand created during the current month.*

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(Continued on Sheet No. D-72.20)

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**GENERAL SERVICE PRIMARY TIME-OF-USE RATE GPTU**

(Continued from Sheet No. D-72.10)

**Monthly Rate (Contd)**

**Interruptible Service Provision (GI): (Contd)**

All contracts under this provision shall be negotiated on an annual basis for the following capacity planning year (June 1 through May 31) and the Customer must notify the Company by December 10<sup>th</sup> of each year of their desire to renew the GI Provision, unless the Customer chooses to lengthen the term of their commitment (up to five years). Annual changes to the amount of interruptible kW for long term contracts are open to adjustment through December 10<sup>th</sup> of each year. Within 30 minutes of receiving an interruption notice, the customer shall reduce their total load level by the amount of contracted interruptible capacity.

At the Company's discretion, the customer may adjust the contracted amount one time within the annual contract period.

Any load designated as interruptible by the customer is also subject to Midcontinent Independent System Operator's Inc. (MISO) requirements for Load Modifying Resources and the Company shall inform the Customer of such MISO requirements. Interruption under this provision may occur if MISO declares a Maximum Generation Emergency Event that requires deployment of Load Modifying Resources in accordance with the currently effective MISO Emergency Electrical Procedures or NERC Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared Emergency Status. Participation in the GI provision does not limit the Company's ability to implement emergency electrical procedures as described in the Company's Electric Rate Book including interruption of service as required to maintain system integrity.

**Annual Power Test Requirement**

Under this provision, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this provision must be supported by an updated energy reduction plan on an annual basis.

**Conditions of Interruption**

Under this provision, the customer shall be interrupted at any time, on-peak or off-peak, the Company deems it necessary to maintain system integrity. The Company shall provide the Customer at least thirty minutes advance notice of a required interruption, and if possible, a second notice. The notice will be communicated by telephone to the contact numbers provided by the Customer. The Customer shall confirm the receipt of such notice through the automated response process. Failure to acknowledge receipt of such notice shall not relieve the customer of the obligation for interruption under the GI Provision. The customer shall be informed, when possible, of the estimated duration of the interruption at the time of interruption.

The Company shall not be liable for any loss or damage caused by or resulting from any interruption of service under this provision.

Interruptions beyond the Company's control, described in Rules C1.1, Character of Service, and C3., Emergency Electrical Procedures, of the Company's Electric Rate Book, shall not be considered as interruptions for purposes of this provision.

Should the Company be ordered by Governmental authority during a national emergency to supply firm instead of interruptible service, billing shall be made on an applicable firm power schedule.

**Cost of Customer Non-Interruption**

Failure by a customer to comply with a system integrity interruption order of the Company shall be considered as unauthorized use and billed at (i) the higher of the actual damages incurred by the Company or (ii) the rate of \$25.00 per kW for the highest 15-minute kW of Interruptible On-Peak Billing demand created during the interruption period, in addition to the prescribed monthly rate. In addition, the interruptible contract capacity of a customer who does not interrupt within one hour following notice shall be immediately reduced by the amount which the customer failed to interrupt, unless the customer demonstrates that failure to interrupt was beyond its control.

The monthly credit for the Interruptible Service Provision shall be applied as follows:

**Power Supply Charges: These charges are applicable to Full Service Customers.**

Interruptible Credit:     \$(8.50) per kW of On-Peak Billing Demand during the billing months of June-September  
                                   \$(7.50) per kW of On-Peak Billing Demand during the billing months of October-May

(Continued on Sheet No. D-73.00)

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## ENERGY INTENSIVE PRIMARY RATE EIP

### Availability

Subject to any restrictions, the Energy Intensive Primary Rate EIP is available to any Full Service electric metal melting customer taking service at the Company's Primary Voltage levels, where the electric load on this rate is utilized for industrial metal melting processes such as electric arc or induction furnaces or to any Full Service electric industrial customer who qualified as energy intensive as defined herein. For metal melting customers, only electric load that directly supports the process of melting metal using electricity as the main melting source qualifies as load to be served under this rate. Ancillary equipment required for the metal melting process is not intended to be served on this rate.

Existing or former metal melting customers taking service under the Company's Metal Melting Primary Pilot as of November 30, 2015 are eligible for service on Rate EIP. An additional 200 MW of Maximum Demand capacity will be available on a first-come, first-served basis to Full Service customers with new electric metal melting or energy intensive industrial load not previously served by the Company. To qualify as energy intensive load, the customer must demonstrate viable options to site the production outside of the state and the customer's incremental load must exceed 2 MW at a single site with an annual load factor that exceeds 70% or the customer's incremental load must exceed 15 MW with a minimum of 75% of their total consumption occurring during Off-Peak Hours. New electric metal melting load must be separately metered. The customer must provide a special circuit or circuits in order for the Company to install separate metering.

### Nature of Service

Service under the rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

Where service is supplied at a nominal voltage of 25,000 Volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 Volts *and where the meter is located on the Company side of the substation transformer*, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made.

Where the Company elects to measure the service at a nominal voltage of less than 2,400 Volts, 3% shall be added for billing purposes, to the demand and energy measurements thus made.

Interval Data Meters are required for service under this rate. Meter reading will be accomplished electronically through telecommunication links or other electronic measuring equipment available to provide the Company with the metering data necessary for billing purposes.

The Company may elect to install devices that can enable direct load management, power metering, data collection, near real-time data communication and internet based monitoring. There shall be no cost to the customer associated with the system equipment or installation of the system equipment. The Company reserves the right to remove the system equipment if the customer moves from Rate EIP to another primary rate.

For purposes of this rate, the appropriate measure of market price is the Real-Time LMP for the Company's retail aggregating node CONS.CETR established by the Midcontinent Independent System Operator Inc. (MISO).

**ENERGY INTENSIVE PRIMARY RATE EIP**  
 (Continued from Sheet No. D-74.50)

**Monthly Rate:**

**Power Supply Charges:**

Charges for Customer Voltage Level 3 (CVL 3)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.062133	\$0.002873	\$0.065006	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.082986	\$0.004489	\$0.087475	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.104822	\$0.005458	\$0.110280	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.118309	\$0.005584	\$0.123893	per kWh during the calendar months of June-September
Interruptible Credit	\$0.000000	\$(0.008476)	\$(0.008476)	per kWh during the calendar months of June-September
Emergency Event	NA	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event during the calendar months of June-September
Critical Peak-Summer Economic Event				the greater of either 150% of the High-Peak-Summer Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of June-September
Off-Peak-Winter	\$0.062001	\$0.003125	\$0.065126	per kWh during the calendar months of May-October
Mid-Peak-Winter	\$0.072882	\$0.003566	\$0.076448	per kWh during the calendar months of May-October
High-Peak-Winter	\$0.077688	\$0.003615	\$0.081303	per kWh during the calendar months of May-October
Interruptible Credit	\$0.000000	\$(0.008476)	\$(0.008476)	per kWh during the calendar months of May-October
Emergency Event	NA	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event during the calendar months of May-October
Critical Peak-Winter Economic Event				the greater of either 150% of the High-Peak-Winter Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of October-May

Charges for Customer Voltage Level 2 (CVL 2)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.061476	\$0.002833	\$0.064309	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.082097	\$0.004427	\$0.086524	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.103702	\$0.005383	\$0.109085	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.117056	\$0.005507	\$0.122563	per kWh during the calendar months of June-September
Interruptible Credit	\$0.000000	\$(0.008476)	\$(0.008476)	per kWh during the calendar months of June-September
Emergency Event	NA	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event during the calendar months of June-September
Critical Peak-Summer Economic Event				the greater of either 150% of the High-Peak-Summer Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of June-September
Off-Peak-Winter	\$0.061341	\$0.003082	\$0.064423	per kWh during the calendar months of May-October
Mid-Peak-Winter	\$0.072107	\$0.003517	\$0.075624	per kWh during the calendar months of May-October
High-Peak-Winter	\$0.076866	\$0.003565	\$0.080431	per kWh during the calendar months of May-October

Interruptible Credit	\$0.000000	<i>\$(0.008476)</i>	<i>\$(0.008476)</i>	per kWh during the calendar months of May-October
Emergency Event	NA	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event during the calendar months of May-October
Critical Peak-Winter Economic Event				the greater of either 150% of the High-Peak-Winter Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of October-May

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(Continued on Sheet No. D-76.00)

**ENERGY INTENSIVE PRIMARY RATE EIP**  
(Continued from Sheet No. D-75.00)

**Monthly Rate (Contd):**

**Power Supply Charges:**

Charges for Customer Voltage Level 1 (CVL 1)

Energy Charge:

	Non-Capacity	Capacity	Total	
Off-Peak-Summer	\$0.060715	\$0.002792	\$0.063507	per kWh during the calendar months of June-September
Low-Peak-Summer	\$0.081073	\$0.004363	\$0.085436	per kWh during the calendar months of June-September
Mid-Peak-Summer	\$0.102411	\$0.005305	\$0.107716	per kWh during the calendar months of June-September
High-Peak-Summer	\$0.115605	\$0.005427	\$0.121032	per kWh during the calendar months of June-September
Interruptible Credit	\$0.000000	\$(0.008476)	\$(0.008476)	per kWh during the calendar months of June-September
Emergency Event	NA	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event during the calendar months of June-September
Critical Peak-Summer Economic Event				the greater of either 150% of the High-Peak-Summer Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of June-September
Off-Peak-Winter	\$0.060579	\$0.003037	\$0.063616	per kWh during the calendar months of May-October
Mid-Peak-Winter	\$0.071212	\$0.003466	\$0.074678	per kWh during the calendar months of May-October
High-Peak-Winter	\$0.075914	\$0.003513	\$0.079427	per kWh during the calendar months of May-October
Interruptible Credit	\$0.000000	\$(0.008476)	\$(0.008476)	per kWh during the calendar months of May-October
Emergency Event	NA	\$1.00	\$1.00	per kWh for all kWh during a System Integrity Event during the calendar months of May-October
Critical Peak-Winter Economic Event				the greater of either 150% of the High-Peak-Winter Energy Charge or the average Market price per kWh for a Critical Peak Event during the calendar months of October-May

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Delivery Charges:**

System Access Charge: \$200.00 per customer per month

Charges for Customer Voltage Level 3 (CVL 3)

Capacity Charge: \$7.02 per kW of Maximum Demand

Charge for Customer Voltage Level 2 (CVL 2)

Capacity Charge: \$3.50 per kW of Maximum Demand

Charge for Customer Voltage Level 1 (CVL 1)

Capacity Charge: \$1.02 per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**ENERGY INTENSIVE PRIMARY RATE EIP**

(Continued from Sheet No. D-76.00)

**Monthly Rate (Contd):**

**Adjustment for Power Factor:**

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar-hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above or below .875, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is higher than .875, a per Kilovar credit will be applied to the amount which the lagging Kilovar demand during the billing period is below that for an average Power Factor of .875. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .875, a per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of .875 in accordance with the following table:

<b>Power Factor</b>	<b>Penalty</b>
0.700 to 0.874	\$1.14 per Kilovar
Below 0.700	\$1.14 per Kilovar first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A \$5.25 per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of 0.875, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the \$5.25 per Kilovar penalty applies again.

**Maximum Demand:**

The Maximum Demand shall be the highest 15-minute demand created during the current month or previous 11 months.

**Interruptible Credit:**

Due to the nature of this rate schedule, all customers on this rate schedule shall receive an Interruptible Credit per kWh for all consumption for each calendar month.

**Substation Ownership Credit:**

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all the necessary transforming, controlling and protective equipment for all the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly substation ownership credit shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service and Retail Open Access Customers.**

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.83) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.66) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

**Self-Generation (SG):**

To be eligible for Self-Generation, a Customer with a generating installation operating in parallel with the Company's system, must meet the requirements described in Rule C 11.1., Self-Generation.

(Continued on Sheet No. D-78.00)

**LARGE ECONOMIC DEVELOPMENT RATE LED**  
(Continued From Sheet No. D-78.10)

**Nature of Service:**

Service under the rate shall be alternating current, 60-Hertz, three-phase Primary Voltage service. The particular nature of the voltage service provided to the customer shall be specified in a written agreement.

Where voltage is supplied at a nominal voltage of 25,000 volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Where the Company elects to measure the service at a nominal voltage above 25,000 volts *and where the meter is located on the Company side of the substation transformer*, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made.

Where the Company elects to measure the service at a nominal voltage of less than 2,400 volts, 3% shall be added for billing purposes, from the demand and energy measurements thus made.

Interval Data Meters are required for service under this rate. Meter reading will be accomplished electronically through telecommunication links or other electronic measuring equipment available to provide the Company with the metering data necessary for billing purposes.

Line losses shall be applied to the customer's monthly metered production capacity, transmission capacity and energy to reflect the energy consumed in moving electric power through the Transmission system and the Company's distribution system to the customer's point of delivery as determined by the Company and approved by the Commission as reflected in the Monthly Rate.

**Monthly Rate:**

System Contribution Charge: \$0.000284 per kWh for all kWh

**Power Supply Charges:**

Production Charge:

Customer Voltage Level 1	\$4.73	per kW of On-Peak Billing Demand for all calendar months
Customer Voltage Level 2	\$4.81	per kW of On-Peak Billing Demand for all calendar months
Customer Voltage Level 3	\$4.86	per kW of On-Peak Billing Demand for all calendar months

Transmission Charge:

Customer Voltage Level 1	\$1.59	per kW of On-Peak Billing Demand for all calendar months
Customer Voltage Level 2	\$1.62	per kW of On-Peak Billing Demand for all calendar months
Customer Voltage Level 3	\$1.64	per kW of On-Peak Billing Demand for all calendar months

The monthly Transmission Charge is based on the incremental transmission charges applicable with the load served under this tariff and shall be adjusted and reconciled on an annual basis in the Company's PSCR proceedings.

Energy Charge: For all energy supplied by the Company, the customer shall be responsible for either the MISO Real-Time or Day Ahead Locational Marginal Price (LMP) for the Company's load node (designated as "CONS.CETR" as of the date of this Rate Schedule), multiplied by the customer's consumption (kWh). Customers also enrolled in the Voluntary Large Customer Renewable Program LC-REP (LC-REP) may choose, at the Company's discretion, to have the billing of energy under this Rate Schedule match with the crediting methodology of energy under the LC-REP Program for administrative purposes.

Line losses applied to Energy Charge

Voltage Level 1	3.06%
Voltage Level 2	4.26%
Voltage Level 3	5.26%

(Continued on Sheet No. D-78.30)

**LARGE ECONOMIC DEVELOPMENT RATE LED**  
(Continued From Sheet No. D-78.20)

**Monthly Rate: (Contd)**

**Delivery Charges:**

Distribution Charges:		
Customer Voltage Level 1:	\$1.02	per kW of Maximum Demand
Customer Voltage Level 2:	\$3.50	per kW of Maximum Demand
Customer Voltage Level 3:	\$7.02	per kW of Maximum Demand

The Distribution Charges for the Large Economic Development Rate are equivalent to the Distribution Charges for Large General Service Primary Demand Rate GPD. The monthly charge per kW of Maximum Demand per calendar month may be adjusted to contribute to the recovery of the annual revenue requirement associated with investments made by the Company for incremental distribution facilities required to serve the customer and specified in the contract for electric service.

**Substation Ownership Credit:**

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all the necessary transforming, controlling and protective equipment for all the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the Maximum Demand.

The monthly substation ownership credit shall be applied as follows:

**Delivery Charges - These charges are applicable to Full Service Customers.**

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.83) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.66) per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10. This rate is not subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Interruptible Service Provision**

The monthly credit available to the customer under this Interruptible Service Provision shall not exceed the Production Capacity Charge specified in the Large Economic Development Rate.

The Company reserves the right to limit the amount of load contracted as Interruptible Service Capacity under this rate schedule or require testing to demonstrate the customer's ability to meet the contracted Interruptible Service Capacity.

Customers contracting for interruptible service under this rate schedule shall be required to monitor and provide real-time, Internet-enabled power monitoring. The Company will provide the metering or monitoring devices necessary, which shall be owned by the Company and provided to the customer at the Company's expense. The customer may be required to provide suitable space for such monitoring equipment and either a static or non-static, as applicable, Internet Protocol (IP) address and Local Area Network (LAN) access that allows for Internet-based communication of the customer's site electricity consumption and interruption event performance.

The interruptible load is subject to the MISO Load Modifying Resource requirements. Within 30 minutes of receiving an interruption notice from the Company, the customer shall reduce its total load level down to the Firm Contracted Capacity level or as required by the MISO partial curtailment request.

Any load designated as interruptible is subject to MISO requirements for Load Modifying Resources and the Company shall inform the customer of such MISO requirements. Interruption under this Interruptible Service Provision may occur if MISO declares a Maximum Generation Emergency Event that requires deployment of Load Modifying Resources in accordance with the currently effective MISO Emergency Electrical Procedure or North American Electric Reliability Corporation Emergency Event Alert 2 notice indicating that MISO is experiencing or expects to experience a shortage of economic resources and the Company has declared emergency status. Participation in the Interruptible Service Provision does not limit the Company's ability to implement emergency electrical procedures as described in the Company's Electric Rate Book including interruption of service as required to maintain system integrity.

(Continued on Sheet No. D-78.40)

**GENERAL SERVICE SELF GENERATION RATE GSG-2**  
 (Continued From Sheet No. D-81.00)

**Nature of Service (Contd)**

Where service is supplied at a nominal voltage equal to or greater than 2,400 volts, the Company elects to measure the service at a nominal voltage above 25,000 volts *and where the meter is located on the Company side of the substation transformer*, 1% shall be deducted for billing purposes, from the demand and energy measurements thus made.

Where service is supplied at a nominal voltage equal to or greater than 2,400 volts and the Company elects to measure the service at a nominal voltage of less than 2,400 volts, 3% shall be added for billing purposes, to the demand and energy measurements thus made.

Where service is supplied at a nominal voltage less than 2,400 volts and the Company elects to measure the service at a nominal voltage equal to or greater than 2,400 volts, 3% shall be deducted for billing purposes from the energy measurements thus made.

There shall be no double billing of demand under the base rate and Rate GSG-2.

**Monthly Rate**

**Standby Charges**

**Power Supply Standby Charges**

For all standby energy supplied by the Company, the customer shall be responsible for the MISO Real-Time Locational Market Price (LMP) for the Company's load node (designated as "CONS.CETR" as of the date of this Rate Schedule), multiplied by the customer's consumption (kWh), plus the Market Settlement Fee of \$0.002/kWh. In addition capacity charges will be assessed monthly, calculated using the highest 15 minute kW demand associated with Standby Service occurring during the Company's On-Peak billing hours will be multiplied by the highest contracted capacity purchased by the Company in that month, plus allocated transmission and ancillaries. The capacity charges will be prorated based on the number of On-Peak days that Standby Service was used during the billing month.

A customer with a generator(s) nameplate rating more than 550 kW must provide written notice to the Company by December 1 if they desire standby service in the succeeding calendar months of June through September. Written notice shall be submitted on Company Form 500.

**Real Power Losses**

Real Power Losses shall be measured based on the transmission loss factor of 2.01% plus the associated meter point as listed below:

	Meter Point	
	<u>High Side</u>	<u>Low Side</u>
Customer Voltage Level 1	0.000%	1.004%
Customer Voltage Level 2	1.328%	2.296%
Customer Voltage Level 3	3.300%	7.407%

**Delivery Standby Charges**

System Access Charge:            \$100.00    per generator installation per month

Charges for Customer Voltage Level 3 (CVL 3)

Capacity Charge:            \$7.02            per kW of Maximum Demand

Charges for Customer Voltage Level 2 (CVL 2)

Capacity Charge:            \$3.50            per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Capacity Charge:            \$1.02            per kW of Maximum Demand

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

(Continued on Sheet No. D-83.00)

**GENERAL SERVICE SELF GENERATION RATE GSG-2**  
(Continued From Sheet No. D-82.00)

**Monthly Rate (Contd)**

**Standby Charges (Contd)**

**Adjustment for Power Factor**

This rate requires a determination of the average Power Factor maintained by the customer during the billing period. Such average Power Factor shall be determined through metering of lagging Kilovar -hours and Kilowatt-hours during the billing period. The calculated ratio of lagging Kilovar-hours to Kilowatt-hours shall then be converted to the average Power Factor for the billing period by using the appropriate conversion factor. Whenever the average Power Factor during the billing period is above or below .875, the customer bill shall be adjusted as follows:

- (a) If the average Power Factor during the billing period is higher than .875, a \$1.14 per Kilovar credit will be applied to the amount which the average lagging Kilovar demand during the billing period is below that for an average Power Factor of .875. This credit shall not in any case be used to reduce the prescribed Minimum Charge.
- (b) If the average Power Factor during the billing period is less than .875, a per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of .875 in accordance with the following table:

<b>Power Factor</b>	<b>Penalty</b>
0.700 to 0.874	\$1.14 per Kilovar
Below 0.700	\$1.14 per Kilovar first 2 months

- (c) A Power Factor less than 0.700 is not permitted and necessary corrective equipment must be installed by the customer. A \$5.25 per Kilovar penalty will be applied to the amount by which the average lagging Kilovar demand during the billing period is in excess of that for an average Power Factor of 0.875, after two consecutive months below 0.700 Power Factor and will continue as long as the Power Factor remains below 0.700. Once the customer's Power Factor exceeds 0.700, it is necessary to complete two consecutive months below 0.700 before the \$5.25 per Kilovar penalty applies again.

**Substation Ownership Credit**

Where service is supplied at a nominal voltage of more than 25,000 volts, energy is measured through an Interval Data Meter, and the customer provides all of the necessary transforming, controlling and protective equipment for all of the service there shall be deducted from the bill a monthly credit. For those customers, part of whose load is served through customer-owned equipment, the credit shall be based on the billed Standby Demand.

The monthly credit for the substation ownership shall be applied as follows:

**Delivery Charges**

Charges for Customer Voltage Level 2 (CVL 2)

Substation Ownership Credit: \$(0.83) per kW of Maximum Demand

Charges for Customer Voltage Level 1 (CVL 1)

Substation Ownership Credit: \$(0.66) per kW of Maximum Demand

For those customers served by more than one substation where one or more of the substations is owned by the customer, the credit will be applied to the customer's coincident Maximum Demand for those substations owned by the customer. This credit shall not operate to reduce the customer's billing below the prescribed minimum charges included in the rate. The credit shall be based on the kW after the 1% deduction or 3% addition has been applied to the metered kW.

**GENERAL SERVICE SELF GENERATION RATE GSG-2**  
(Continued From Sheet No. D-83.00)

**Monthly Rate (Contd)**

**Standby Charges (Contd)**

**Transmission Interconnect Credit**

Where standby service is provided to a non-utility electric generator located within the Company's service territory and taking power through its transmission interconnect, where the Company has no owned infrastructure other than metering, including billing grade current transformers and potential transformers, telemetry facilities and associated wiring, the following monthly credit shall be applied to the bill:

**Delivery Charges**

Transmission Interconnect Credit:        \$(1.02)        per kW of Maximum Demand

This credit shall be based on the kW after the 1% deduction has been applied to the metered kW. The credit supersedes any applicable substation ownership credit.

**Sales of Energy to the Company**

**Administrative Cost Charge**

Generation installation with a capacity of over 550 kW but less than or equal to 2,000 kW  
As negotiated or \$0.0010 per kWh purchased, at the option of the customer

Generation installation with a capacity of over 2,000 kW  
As negotiated

**Energy Purchase:**

An energy purchase by the Company shall be bought at the Midcontinent Independent System Operator's Inc. (MISO) real-time Locational Marginal Price (LMP) for the Company's load node (designated as "CONS.CETR" as of the date of this Rate Schedule).

**Demand Response Program**

Customers participating in the voluntary Demand Response Program help reduce peak demand when energy use is the highest. A customer specific agreement stating the customer's Contracted Capacity kW shall be completed prior to participation in the Demand Response Program. Customer eligibility to participate in this program is determined solely by the Company. The Company reserves the right to specify the term or duration of the program.

Under this program, the customer shall provide a documented energy reduction plan. The energy reduction plan shall serve as the representation of the customer's annual simulated power test in compliance with the Commission Order issued October 29, 2020 in Case No. U-20628. Any changes to the customer's contracted capacity under this program must be supported by an updated energy reduction plan on an annual basis.

Demand Response Program customers shall receive an annual Program Payment on the customer bill or a check for the capacity amount delivered during events specified in the customer specific agreement within three billing cycles after the program season ends. Eligible customers may also receive Emergency Event Performance Payments on the customer bill under specific circumstances as outlined in the customer specific agreement. If a customer fails to deliver their total Contracted Capacity during an Emergency Event ordered by Consumers Energy, an Underperformance Penalty may be applicable. Any applicable penalties or program incentives shall be applied to the customer bill. As a condition of enrollment, Customers will be required to provide energy reduction plans that detail their load reduction procedure as specified in the agreement. Customers will be required to provide event notification contacts that support the program. The program agreement will specify the terms of the program that include program duration, number and length of events, performance calculations and program rules.

(Continued on Sheet No. D-84.00)

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## GENERAL SERVICE METERED LIGHTING RATE GML

### Availability

Subject to any restrictions, this rate is available to any political subdivision or agency of the State of Michigan having jurisdiction over public streets or roadways, for Primary or Secondary Voltage energy-only metered lighting service where the Company has existing distribution lines available for supplying energy for such service. Luminaires which are served under the Company's unmetered lighting rates shall not be intermixed with luminaires served under this metered lighting rate. Luminaire types in addition to those served on Rate Schedule GUL, such as light-emitting diode (LED) streetlights, may receive service under this Rate Schedule.

This rate is not available for resale purposes or for Retail Open Access Service.

### Nature of Service

#### Secondary Voltage

Service under this rate shall be alternating current, 60-hertz, single-phase or three-phase (at the Company's option), 120/240 nominal Volt service for a minimum of ten luminaires located within a clearly defined area. Control equipment shall be furnished, owned and maintained by the Company. The customer shall furnish, install, own and maintain the rest of the equipment comprising the metered lighting system including, but not limited to, the overhead wires or underground cables between the luminaires, protective equipment, and the supply circuits extending to the point of attachment with the Company's distribution system. The Company shall connect the customer's equipment to the Company's lines and supply the energy for its operation. All of the customer's equipment shall be subject to the Company's approval. The customer shall not change the capacity requirements of the equipment owned by it without first notifying the Company in writing of such changes and the date that they shall be made.

#### Dusk to Midnight Service

Dusk to midnight service shall be the same as Secondary service except:

The customer shall pay the difference between the cost of the control equipment necessary for dusk to midnight service and control equipment normally installed for Secondary service. Circuits shall be arranged approximating minimum loads of 3 kW.

#### Primary Voltage

Service under this rate shall be alternating current, 60-hertz, single-phase or three-phase (at the Company's option), Primary Voltage service for actual kW demands of not less than 100 kW for each point of delivery and where the customer guarantees a minimum of 4,000 annual hours' use of the actual demand. The Company will determine the particular nature of the voltage in each case. The customer shall furnish, install, own and maintain all equipment comprising the metered lighting system including, but not limited to, controls, protective equipment, transformers and overhead or underground metered lighting circuits extending to the point of attachment with the Company's distribution system. The Company shall furnish, install, own and maintain the metering equipment and connect the customer's metered lighting circuit to its distribution system and supply the energy for operation of the customer's metered lighting system.

### Monthly Rate

#### Secondary Power Supply Charge

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.050983	\$0.000000	\$0.050983	per kWh for all kWh

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

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(Continued on Sheet No. D-86.00)

**GENERAL SERVICE METERED LIGHTING RATE GML**  
(Continued From Sheet No. D-85.00)

**Monthly Rate (Contd)**

**Secondary Delivery Charge**

System Access Charge:	\$10.00	per customer per month
Distribution Charge:	\$0.087373	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**Primary Power Supply Charge**

Energy Charge:		
Non-Capacity	Capacity	Total
\$0.025020	\$0.000000	\$0.025020
per kWh for all kWh		

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

**Primary Delivery Charge**

System Access Charge:	\$20.00	per customer per month
Distribution Charge:	\$0.066586	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

**Net Metering Program**

The Net Metering Program is available to any eligible customer as described in Rule C11.2., Net Metering Program, who desires to generate a portion or all of their own retail electricity requirements using a Renewable Energy Resource as defined in Rule C11.2.B., Net Metering Program.

A customer who participates in the Net Metering Program is subject to the provisions contained in Rule C11.2., Net Metering Program.

**Green Generation Program**

Customer contracts for participation in the Green Generation Program shall be available to any eligible customer as described in Rule C10.2, Green Generation Program.

A customer who participates in the Green Generation Program is subject to the provisions contained in Rule C10.2, Green Generation Program.

**Renewable Energy Credit (REC) Programs:**

These programs provide customers with the opportunity to subscribe to the environmental attribute of renewable energy by offering customers the ability to utilize renewable energy credits to match up to 100% of their total annual energy.

A customer that participates in one of the Renewable Energy Credit (REC) Programs is subject to the provisions contained in Rule C10.7., Renewable Energy Credits (REC) Programs.

(Continued on Sheet No. D-87.00)

**GENERAL SERVICE UNMETERED LIGHTING RATE GUL**  
(Continued From Sheet No. D-88.00)

**Facilities Policy: (Contd)**

**Company-Owned**

At the customer's request, the Company shall install new luminaires and associated facilities under this rate, or replace existing luminaires and associated facilities served under this rate with other luminaires and associated facilities for which it has rates available in accordance with the following guidelines:

- A. The installation of all new, standard unmetered lights shall require a customer contribution of \$100 per luminaire. This policy includes the extension of up to 350 feet of distribution facilities to serve any individual light. Any extension beyond 350 feet shall require a contribution based on the Company's general service line extension policy.
- B. At the customer's request, the Company shall convert its existing incandescent/fluorescent luminaires to the nearest standard size high-pressure sodium luminaire at no cost to the customer. If requirements for installations make it necessary for the Company to convert luminaires or if the customer requests a conversion of luminaires that the Company can no longer maintain due to federal or state requirements, the Company shall cover the cost of the bulb and the customer shall be responsible for all other expenses as a contribution. For conversions completed with normal Company maintenance such as replacement of bulbs on a routine schedule or due to failure, then the average cost of that work type shall be deducted from the total work order cost to determine the required customer contribution. If other light upgrading is also involved, the Company expenditure shall be calculated in accordance with the Company's general service line extension policy. Any costs in excess of this amount shall be borne by the customer.

Additional annual revenue is the greater of (1) the difference between the annual revenue from the nearest size high-pressure sodium luminaire and the annual delivery revenue from the upgraded light which would be installed or (2) the difference between the annual delivery revenue from the existing light and the annual delivery revenue from the light which would be installed.

- C. Where upgrading of high-pressure sodium unmetered lights are requested, the customer shall pay the estimated cost of conversion. Where the upgrading results in additional revenues to the Company, the customer shall receive a credit calculated in accordance with the Company's general service line extension policy to be applied against the estimated cost of conversion. If the cost of conversion is overestimated, the Company shall, upon completion of construction, refund that portion of the contribution resulting from the overestimate.
- D. Where Company-approved nonstandard poles are requested, the customer contribution shall be the difference in installed cost between standard wood poles and the requested pole. Where Company-approved nonstandard fixtures are requested, a customer contribution shall be required to cover costs in excess of the equivalent Company standard fixture.
- E. For unmetered lighting systems installed underground (exclusive of subdivisions where the developer's contribution provided for underground unmetered lighting), the customer shall be required to contribute the estimated difference in cost between the equivalent standard overhead construction and required underground construction. No contribution shall be required for that footage of unmetered lighting cable which can be satisfactorily installed in underground conduit furnished by the customer for the Company's use and in accordance with the Company's specification.
- F. For system-wide conversions from one light source to another, the customer may be limited to an annual quota as determined by the Company.
- G. If underground unmetered lighting cable is requested, except that requested in conjunction with the Company's residential underground electric distribution policy, the customer shall contribute to the Company the difference between the Company's estimated installed costs of the underground unmetered lighting cable and the Company's estimated installed costs of standard overhead unmetered lighting conductors.

(Continued on Sheet No. D-90.10)

Consumers Energy Company

M.P.S.C. No. 14 – Electric  
 Sheet No. D-90.10

**GENERAL SERVICE UNMETERED LIGHTING RATE GUL**  
 (Continued From Sheet No. D-90.00)

Monthly Rate (Contd)

Universal Unmetered Streetlighting Rates, effective for service rendered on and after XXXXXXXX XX, 2025:

Company-Owned Equipment		Energy Charges			Delivery	Monthly Cost
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.33	\$0.00	\$0.33	\$9.67	\$10.00
25-34 W	Per Light	\$0.49	\$0.00	\$0.49	\$10.19	\$10.68
35-44 W	Per Light	\$0.66	\$0.00	\$0.66	\$10.71	\$11.37
45-54 W	Per Light	\$0.83	\$0.00	\$0.83	\$11.23	\$12.06
55-64 W	Per Light	\$1.00	\$0.00	\$1.00	\$11.75	\$12.75
65-74 W	Per Light	\$1.16	\$0.00	\$1.16	\$12.27	\$13.43
75-84 W	Per Light	\$1.33	\$0.00	\$1.33	\$12.79	\$14.12
85-94 W	Per Light	\$1.50	\$0.00	\$1.50	\$13.31	\$14.81
95-104 W	Per Light	\$1.66	\$0.00	\$1.66	\$13.83	\$15.49
105-114 W	Per Light	\$1.83	\$0.00	\$1.83	\$14.35	\$16.18
115-124 W	Per Light	\$2.00	\$0.00	\$2.00	\$14.87	\$16.87
125-134 W	Per Light	\$2.17	\$0.00	\$2.17	\$15.38	\$17.55
135-144 W	Per Light	\$2.33	\$0.00	\$2.33	\$15.90	\$18.23
145-154 W	Per Light	\$2.50	\$0.00	\$2.50	\$16.42	\$18.92
155-164 W	Per Light	\$2.67	\$0.00	\$2.67	\$16.94	\$19.61
165-174 W	Per Light	\$2.83	\$0.00	\$2.83	\$17.46	\$20.29
175-184 W	Per Light	\$3.00	\$0.00	\$3.00	\$17.98	\$20.98
185-194 W	Per Light	\$3.17	\$0.00	\$3.17	\$18.50	\$21.67
195-204 W	Per Light	\$3.34	\$0.00	\$3.34	\$19.02	\$22.36
205-214 W	Per Light	\$3.50	\$0.00	\$3.50	\$19.54	\$23.04
215-224 W	Per Light	\$3.67	\$0.00	\$3.67	\$20.06	\$23.73
225-234 W	Per Light	\$3.84	\$0.00	\$3.84	\$20.58	\$24.42
235-244 W	Per Light	\$4.01	\$0.00	\$4.01	\$21.10	\$25.11
245-254 W	Per Light	\$4.17	\$0.00	\$4.17	\$21.62	\$25.79
255-264 W	Per Light	\$4.34	\$0.00	\$4.34	\$22.13	\$26.47
265-274 W	Per Light	\$4.51	\$0.00	\$4.51	\$22.65	\$27.16
275-284 W	Per Light	\$4.67	\$0.00	\$4.67	\$23.17	\$27.84
285-294 W	Per Light	\$4.84	\$0.00	\$4.84	\$23.69	\$28.53
295-304 W	Per Light	\$5.01	\$0.00	\$5.01	\$24.21	\$29.22
305-314 W	Per Light	\$5.18	\$0.00	\$5.18	\$24.73	\$29.91
315-324 W	Per Light	\$5.34	\$0.00	\$5.34	\$25.25	\$30.59
325-334 W	Per Light	\$5.51	\$0.00	\$5.51	\$25.77	\$31.28
335-344 W	Per Light	\$5.68	\$0.00	\$5.68	\$26.29	\$31.97
345-354 W	Per Light	\$5.84	\$0.00	\$5.84	\$26.81	\$32.65
355-364 W	Per Light	\$6.01	\$0.00	\$6.01	\$27.33	\$33.34
365-374 W	Per Light	\$6.18	\$0.00	\$6.18	\$27.85	\$34.03
375-384 W	Per Light	\$6.35	\$0.00	\$6.35	\$28.37	\$34.72
385-394 W	Per Light	\$6.51	\$0.00	\$6.51	\$28.89	\$35.40
395-404 W	Per Light	\$6.68	\$0.00	\$6.68	\$29.40	\$36.08
405-414 W	Per Light	\$6.85	\$0.00	\$6.85	\$29.92	\$36.77
415-424 W	Per Light	\$7.02	\$0.00	\$7.02	\$30.44	\$37.46
425-434 W	Per Light	\$7.18	\$0.00	\$7.18	\$30.96	\$38.14
435-444 W	Per Light	\$7.35	\$0.00	\$7.35	\$31.48	\$38.83
445-454 W	Per Light	\$7.52	\$0.00	\$7.52	\$32.00	\$39.52
455-464 W	Per Light	\$7.68	\$0.00	\$7.68	\$32.52	\$40.20
465-474 W	Per Light	\$7.85	\$0.00	\$7.85	\$33.04	\$40.89
475-484 W	Per Light	\$8.02	\$0.00	\$8.02	\$33.56	\$41.58

(Continued on Sheet No. D-90.20)

**GENERAL SERVICE UNMETERED LIGHTING RATE GUL**  
 (Continued From Sheet No. D-90.10)

**Monthly Rate (Contd)**

Universal Unmetered Streetlighting Rates, effective for service rendered on and after XXXXXXXX XX, 2025:

Customer-Owned Equipment		Energy Charges			Delivery	Monthly Cost Per Light
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.33	\$0.00	\$0.33	\$6.67	\$7.00
25-34 W	Per Light	\$0.49	\$0.00	\$0.49	\$7.19	\$7.68
35-44 W	Per Light	\$0.66	\$0.00	\$0.66	\$7.71	\$8.37
45-54 W	Per Light	\$0.83	\$0.00	\$0.83	\$8.23	\$9.06
55-64 W	Per Light	\$1.00	\$0.00	\$1.00	\$8.75	\$9.75
65-74 W	Per Light	\$1.16	\$0.00	\$1.16	\$9.27	\$10.43
75-84 W	Per Light	\$1.33	\$0.00	\$1.33	\$9.79	\$11.12
85-94 W	Per Light	\$1.50	\$0.00	\$1.50	\$10.31	\$11.81
95-104 W	Per Light	\$1.66	\$0.00	\$1.66	\$10.83	\$12.49
105-114 W	Per Light	\$1.83	\$0.00	\$1.83	\$11.35	\$13.18
115-124 W	Per Light	\$2.00	\$0.00	\$2.00	\$11.87	\$13.87
125-134 W	Per Light	\$2.17	\$0.00	\$2.17	\$12.38	\$14.55
135-144 W	Per Light	\$2.33	\$0.00	\$2.33	\$12.90	\$15.23
145-154 W	Per Light	\$2.50	\$0.00	\$2.50	\$13.42	\$15.92
155-164 W	Per Light	\$2.67	\$0.00	\$2.67	\$13.94	\$16.61
165-174 W	Per Light	\$2.83	\$0.00	\$2.83	\$14.46	\$17.29
175-184 W	Per Light	\$3.00	\$0.00	\$3.00	\$14.98	\$17.98
185-194 W	Per Light	\$3.17	\$0.00	\$3.17	\$15.50	\$18.67
195-204 W	Per Light	\$3.34	\$0.00	\$3.34	\$16.02	\$19.36
205-214 W	Per Light	\$3.50	\$0.00	\$3.50	\$16.54	\$20.04
215-224 W	Per Light	\$3.67	\$0.00	\$3.67	\$17.06	\$20.73
225-234 W	Per Light	\$3.84	\$0.00	\$3.84	\$17.58	\$21.42
235-244 W	Per Light	\$4.01	\$0.00	\$4.01	\$18.10	\$22.11
245-254 W	Per Light	\$4.17	\$0.00	\$4.17	\$18.62	\$22.79
255-264 W	Per Light	\$4.34	\$0.00	\$4.34	\$19.13	\$23.47
265-274 W	Per Light	\$4.51	\$0.00	\$4.51	\$19.65	\$24.16
275-284 W	Per Light	\$4.67	\$0.00	\$4.67	\$20.17	\$24.84
285-294 W	Per Light	\$4.84	\$0.00	\$4.84	\$20.69	\$25.53
295-304 W	Per Light	\$5.01	\$0.00	\$5.01	\$21.21	\$26.22
305-314 W	Per Light	\$5.18	\$0.00	\$5.18	\$21.73	\$26.91
315-324 W	Per Light	\$5.34	\$0.00	\$5.34	\$22.25	\$27.59
325-334 W	Per Light	\$5.51	\$0.00	\$5.51	\$22.77	\$28.28
335-344 W	Per Light	\$5.68	\$0.00	\$5.68	\$23.29	\$28.97
345-354 W	Per Light	\$5.84	\$0.00	\$5.84	\$23.81	\$29.65
355-364 W	Per Light	\$6.01	\$0.00	\$6.01	\$24.33	\$30.34
365-374 W	Per Light	\$6.18	\$0.00	\$6.18	\$24.85	\$31.03
375-384 W	Per Light	\$6.35	\$0.00	\$6.35	\$25.37	\$31.72
385-394 W	Per Light	\$6.51	\$0.00	\$6.51	\$25.89	\$32.40
395-404 W	Per Light	\$6.68	\$0.00	\$6.68	\$26.40	\$33.08
405-414 W	Per Light	\$6.85	\$0.00	\$6.85	\$26.92	\$33.77
415-424 W	Per Light	\$7.02	\$0.00	\$7.02	\$27.44	\$34.46
425-434 W	Per Light	\$7.18	\$0.00	\$7.18	\$27.96	\$35.14
435-444 W	Per Light	\$7.35	\$0.00	\$7.35	\$28.48	\$35.83
445-454 W	Per Light	\$7.52	\$0.00	\$7.52	\$29.00	\$36.52
455-464 W	Per Light	\$7.68	\$0.00	\$7.68	\$29.52	\$37.20
465-474 W	Per Light	\$7.85	\$0.00	\$7.85	\$30.04	\$37.89
475-484 W	Per Light	\$8.02	\$0.00	\$8.02	\$30.56	\$38.58

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

(Continued on Sheet No. D-91.00)

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**GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED**

(Continued From Sheet No. D-93.00)

**Facilities Policy (Contd)**

**Company-Owned Option (Contd)**

- D. The Company will determine LED lighting fixtures to be offered under this rate. The list of approved fixtures is subject to modification at the sole discretion of the Company to accommodate new product development and advances in technology. Upon customer request, the Company shall provide a list of LED lighting available under this rate.
- E. For customer requested material requiring special order, an additional per luminaire per month charge may apply for procurement and material handling. The Company and the Customer shall mutually agree to the monthly charge prior to procurement and installation of the special order material.
- F. The Company shall determine all associated equipment necessary to provide service under the Company-Owned Unmetered LED Lighting option.
- G. Any charges, deposits or contributions may be required in advance of commencement of construction.
- H. At the Company's discretion, any fixture may be converted to LED at no cost to the customer. The replaced fixture will be moved to General Unmetered Light Emitting Diode Lighting Rate GU-LED upon completion of the installation and reconciliation of the community's streetlighting inventory for billing accuracy.

**Customer-Owned Option**

If it is necessary for the Company to install distribution facilities to serve a customer-owned system, contributions and/or deposits for such additional facilities shall be calculated in accordance with the Company's general service line extension policy. Any charges, deposits or contributions may be required in advance of commencement of construction.

**Monthly Rate**

**Company-Owned Conversion Credit:**

A conversion credit may be available to Customers who converted to LED municipal streetlighting.

Customers who converted to LED streetlighting before April 1, 2018 are eligible for the following Conversion Credit per billing month beginning with the January 2021 billing month through the December 2028 billing month:

Fixture Credit per Luminaire:     \$(6.91)   per month

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(Continued on Sheet No. D-94.20)

**GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED**  
(Continued From Sheet No. D-94.10)

Monthly Rate (Contd)

Universal Unmetered Streetlighting Rates, effective for service rendered on and after XXXXXX XX, 2025:

Company-Owned Equipment		Energy Charges			Delivery	Monthly Cost
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.33	\$0.00	\$0.33	\$9.67	\$10.00
25-34 W	Per Light	\$0.49	\$0.00	\$0.49	\$10.19	\$10.68
35-44 W	Per Light	\$0.66	\$0.00	\$0.66	\$10.71	\$11.37
45-54 W	Per Light	\$0.83	\$0.00	\$0.83	\$11.23	\$12.06
55-64 W	Per Light	\$1.00	\$0.00	\$1.00	\$11.75	\$12.75
65-74 W	Per Light	\$1.16	\$0.00	\$1.16	\$12.27	\$13.43
75-84 W	Per Light	\$1.33	\$0.00	\$1.33	\$12.79	\$14.12
85-94 W	Per Light	\$1.50	\$0.00	\$1.50	\$13.31	\$14.81
95-104 W	Per Light	\$1.66	\$0.00	\$1.66	\$13.83	\$15.49
105-114 W	Per Light	\$1.83	\$0.00	\$1.83	\$14.35	\$16.18
115-124 W	Per Light	\$2.00	\$0.00	\$2.00	\$14.87	\$16.87
125-134 W	Per Light	\$2.17	\$0.00	\$2.17	\$15.38	\$17.55
135-144 W	Per Light	\$2.33	\$0.00	\$2.33	\$15.90	\$18.23
145-154 W	Per Light	\$2.50	\$0.00	\$2.50	\$16.42	\$18.92
155-164 W	Per Light	\$2.67	\$0.00	\$2.67	\$16.94	\$19.61
165-174 W	Per Light	\$2.83	\$0.00	\$2.83	\$17.46	\$20.29
175-184 W	Per Light	\$3.00	\$0.00	\$3.00	\$17.98	\$20.98
185-194 W	Per Light	\$3.17	\$0.00	\$3.17	\$18.50	\$21.67
195-204 W	Per Light	\$3.34	\$0.00	\$3.34	\$19.02	\$22.36
205-214 W	Per Light	\$3.50	\$0.00	\$3.50	\$19.54	\$23.04
215-224 W	Per Light	\$3.67	\$0.00	\$3.67	\$20.06	\$23.73
225-234 W	Per Light	\$3.84	\$0.00	\$3.84	\$20.58	\$24.42
235-244 W	Per Light	\$4.01	\$0.00	\$4.01	\$21.10	\$25.11
245-254 W	Per Light	\$4.17	\$0.00	\$4.17	\$21.62	\$25.79
255-264 W	Per Light	\$4.34	\$0.00	\$4.34	\$22.13	\$26.47
265-274 W	Per Light	\$4.51	\$0.00	\$4.51	\$22.65	\$27.16
275-284 W	Per Light	\$4.67	\$0.00	\$4.67	\$23.17	\$27.84
285-294 W	Per Light	\$4.84	\$0.00	\$4.84	\$23.69	\$28.53
295-304 W	Per Light	\$5.01	\$0.00	\$5.01	\$24.21	\$29.22
305-314 W	Per Light	\$5.18	\$0.00	\$5.18	\$24.73	\$29.91
315-324 W	Per Light	\$5.34	\$0.00	\$5.34	\$25.25	\$30.59
325-334 W	Per Light	\$5.51	\$0.00	\$5.51	\$25.77	\$31.28
335-344 W	Per Light	\$5.68	\$0.00	\$5.68	\$26.29	\$31.97
345-354 W	Per Light	\$5.84	\$0.00	\$5.84	\$26.81	\$32.65
355-364 W	Per Light	\$6.01	\$0.00	\$6.01	\$27.33	\$33.34
365-374 W	Per Light	\$6.18	\$0.00	\$6.18	\$27.85	\$34.03
375-384 W	Per Light	\$6.35	\$0.00	\$6.35	\$28.37	\$34.72
385-394 W	Per Light	\$6.51	\$0.00	\$6.51	\$28.89	\$35.40
395-404 W	Per Light	\$6.68	\$0.00	\$6.68	\$29.40	\$36.08
405-414 W	Per Light	\$6.85	\$0.00	\$6.85	\$29.92	\$36.77
415-424 W	Per Light	\$7.02	\$0.00	\$7.02	\$30.44	\$37.46
425-434 W	Per Light	\$7.18	\$0.00	\$7.18	\$30.96	\$38.14
435-444 W	Per Light	\$7.35	\$0.00	\$7.35	\$31.48	\$38.83
445-454 W	Per Light	\$7.52	\$0.00	\$7.52	\$32.00	\$39.52
455-464 W	Per Light	\$7.68	\$0.00	\$7.68	\$32.52	\$40.20
465-474 W	Per Light	\$7.85	\$0.00	\$7.85	\$33.04	\$40.89
475-484 W	Per Light	\$8.02	\$0.00	\$8.02	\$33.56	\$41.58

(Continued on Sheet No. D-94.30)

**GENERAL UNMETERED LIGHT EMITTING DIODE LIGHTING RATE GU-LED**  
 (Continued From Sheet No. D-94.20)

**Monthly Rate (Contd)**

Universal Unmetered Streetlighting Rates, effective for service rendered on and after XXXXXXXX XX, 2025:

Customer-Owned Equipment		Energy Charges			Delivery	Monthly Cost Per Light
		Non-Capacity	Capacity	Total		
15-24 W	Per Light	\$0.33	\$0.00	\$0.33	\$6.67	\$7.00
25-34 W	Per Light	\$0.49	\$0.00	\$0.49	\$7.19	\$7.68
35-44 W	Per Light	\$0.66	\$0.00	\$0.66	\$7.71	\$8.37
45-54 W	Per Light	\$0.83	\$0.00	\$0.83	\$8.23	\$9.06
55-64 W	Per Light	\$1.00	\$0.00	\$1.00	\$8.75	\$9.75
65-74 W	Per Light	\$1.16	\$0.00	\$1.16	\$9.27	\$10.43
75-84 W	Per Light	\$1.33	\$0.00	\$1.33	\$9.79	\$11.12
85-94 W	Per Light	\$1.50	\$0.00	\$1.50	\$10.31	\$11.81
95-104 W	Per Light	\$1.66	\$0.00	\$1.66	\$10.83	\$12.49
105-114 W	Per Light	\$1.83	\$0.00	\$1.83	\$11.35	\$13.18
115-124 W	Per Light	\$2.00	\$0.00	\$2.00	\$11.87	\$13.87
125-134 W	Per Light	\$2.17	\$0.00	\$2.17	\$12.38	\$14.55
135-144 W	Per Light	\$2.33	\$0.00	\$2.33	\$12.90	\$15.23
145-154 W	Per Light	\$2.50	\$0.00	\$2.50	\$13.42	\$15.92
155-164 W	Per Light	\$2.67	\$0.00	\$2.67	\$13.94	\$16.61
165-174 W	Per Light	\$2.83	\$0.00	\$2.83	\$14.46	\$17.29
175-184 W	Per Light	\$3.00	\$0.00	\$3.00	\$14.98	\$17.98
185-194 W	Per Light	\$3.17	\$0.00	\$3.17	\$15.50	\$18.67
195-204 W	Per Light	\$3.34	\$0.00	\$3.34	\$16.02	\$19.36
205-214 W	Per Light	\$3.50	\$0.00	\$3.50	\$16.54	\$20.04
215-224 W	Per Light	\$3.67	\$0.00	\$3.67	\$17.06	\$20.73
225-234 W	Per Light	\$3.84	\$0.00	\$3.84	\$17.58	\$21.42
235-244 W	Per Light	\$4.01	\$0.00	\$4.01	\$18.10	\$22.11
245-254 W	Per Light	\$4.17	\$0.00	\$4.17	\$18.62	\$22.79
255-264 W	Per Light	\$4.34	\$0.00	\$4.34	\$19.13	\$23.47
265-274 W	Per Light	\$4.51	\$0.00	\$4.51	\$19.65	\$24.16
275-284 W	Per Light	\$4.67	\$0.00	\$4.67	\$20.17	\$24.84
285-294 W	Per Light	\$4.84	\$0.00	\$4.84	\$20.69	\$25.53
295-304 W	Per Light	\$5.01	\$0.00	\$5.01	\$21.21	\$26.22
305-314 W	Per Light	\$5.18	\$0.00	\$5.18	\$21.73	\$26.91
315-324 W	Per Light	\$5.34	\$0.00	\$5.34	\$22.25	\$27.59
325-334 W	Per Light	\$5.51	\$0.00	\$5.51	\$22.77	\$28.28
335-344 W	Per Light	\$5.68	\$0.00	\$5.68	\$23.29	\$28.97
345-354 W	Per Light	\$5.84	\$0.00	\$5.84	\$23.81	\$29.65
355-364 W	Per Light	\$6.01	\$0.00	\$6.01	\$24.33	\$30.34
365-374 W	Per Light	\$6.18	\$0.00	\$6.18	\$24.85	\$31.03
375-384 W	Per Light	\$6.35	\$0.00	\$6.35	\$25.37	\$31.72
385-394 W	Per Light	\$6.51	\$0.00	\$6.51	\$25.89	\$32.40
395-404 W	Per Light	\$6.68	\$0.00	\$6.68	\$26.40	\$33.08
405-414 W	Per Light	\$6.85	\$0.00	\$6.85	\$26.92	\$33.77
415-424 W	Per Light	\$7.02	\$0.00	\$7.02	\$27.44	\$34.46
425-434 W	Per Light	\$7.18	\$0.00	\$7.18	\$27.96	\$35.14
435-444 W	Per Light	\$7.35	\$0.00	\$7.35	\$28.48	\$35.83
445-454 W	Per Light	\$7.52	\$0.00	\$7.52	\$29.00	\$36.52
455-464 W	Per Light	\$7.68	\$0.00	\$7.68	\$29.52	\$37.20
465-474 W	Per Light	\$7.85	\$0.00	\$7.85	\$30.04	\$37.89
475-484 W	Per Light	\$8.02	\$0.00	\$8.02	\$30.56	\$38.58

(Continued on Sheet No. D-95.00)

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## GENERAL SERVICE UNMETERED RATE GU

### Availability:

Subject to any restrictions, this rate is available to the US Government, any political subdivision or agency of the State of Michigan, and any public or private school district for filament and/or gaseous discharge lamp installations maintained for traffic regulation or guidance, as distinguished from street illumination and police signal systems. Lighting for traffic regulation may use experimental lighting technology including light-emitting diode (LED). This rate is also available to Community Antenna Television Service Companies (CATV), Wireless Access Companies or Security Camera Companies for unmetered Power Supply Units. Where the Company's total investment to serve an individual location exceeds three times the annual revenue to be derived from such location, a contribution to the Company shall be required for the excess.

This rate is not available for resale purposes, new roadway lighting or for Retail Open Access Service.

### Nature of Service:

Customer furnishes and installs all fixtures, lamps, ballasts, controls, amplifiers and other equipment, including wiring to point of connection with Company's overhead or underground system, as directed by the Company. Company furnishes and installs, where required for center suspended overhead traffic light signals, messenger cable and supporting wood poles and also makes final connections to its lines. If, in the Company's opinion, the installation of wood poles for traffic lights is not practical, the customer shall furnish, install and maintain suitable supports other than wood poles. The customer shall maintain the equipment, including lamp renewals, and the Company shall supply the energy for the operation of the equipment. Conversion and/or relocation costs of existing facilities shall be paid for by the customer except when initiated by the Company.

The capacity requirements of the lamp(s), associated ballast(s) and control equipment for each luminaire shall be determined by the Company from the specifications furnished by the manufacturers of such equipment, provided that the Company shall have the right to test such capacity requirements from time to time. In the event that said tests shall show capacity requirements different from those indicated by the manufacturers' specifications, the capacity requirements shown by said tests shall control. The customer shall not change the capacity requirements of the equipment owned by it without first notifying the Company in writing of such changes and the date that they shall be made.

### Monthly Rate:

#### Power Supply Charges:

Energy Charge:

Non-Capacity	Capacity	Total	
\$0.067926	\$0.003187	\$0.071113	per kWh for all kWh

This rate is subject to the Power Supply Cost Recovery (PSCR) Factor shown on Sheet No. D-6.00.

#### Delivery Charges:

System Access Charge:	\$2.00	per customer per month
Distribution Charge:	\$0.028437	per kWh for all kWh

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00 and the Securitization Charges shown on Sheet Nos. D-7.00 and D-7.10.

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(Continued on Sheet No. D-97.00)

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**RETAIL OPEN ACCESS RESIDENTIAL SECONDARY RATE ROA-R**

(Continued From Sheet No. E-21.00)

**RETAILER**

**Monthly Rate - Retailer:**

**Transmission Service:**

Subject to Rule E1.5, Transmission Service must be obtained from the appropriate transmission service providers and the charges for such service shall be as specified in the Applicable FERC Open Access Tariff.

**Real Power Losses:**

The Retailer is responsible for replacing Real Power Losses of 7.407% on the Company's Distribution System associated with the movement of Power and for compensation for losses.

**General Terms and Conditions:**

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

**Term and Form of Contract - Retailer:**

All service under this rate shall require a written ROA Service Contract between the Company and a Retailer.

**ROA CUSTOMER**

**Monthly Rate – ROA Customer:**

**ROA System Access Charge, Distribution Charge, General Terms, Minimum Charge and Due Date and Late Payment Charge:**

The System Access Charge, Distribution Charge, General Terms, Minimum Charge and the Due Date and Late Payment Charge shall be as provided for under the ROA Customer's otherwise applicable Company Full Service rate.

This rate is subject to the Surcharges shown on Sheet Nos. D-2.00 through D-5.00, the Power Plant Securitization Charges shown on Sheet No. D-7.00 and the Karn 1 and 2 Securitization Charges Shown on Sheet No. D-7.10.

Customers taking ROA service on December 6, 2013 are excluded from the Power Plant Securitization Charges. This exclusion does not apply to customers first taking ROA service after December 6, 2013 or to customers taking service on December 6, 2013 who discontinue taking ROA service any time after December 6, 2013. Customers who discontinue taking ROA service any time after December 6, 2013 and who return to ROA service shall pay the Power Plant Securitization Charges applicable to the customer's otherwise applicable Company Full Service Rate Schedule.

Customers taking ROA service on December 17, 2020 are excluded from the Karn 1 and 2 Securitization Charges. This exclusion does not apply to customers first taking ROA service after December 17, 2020 or to customers taking service on December 17, 2020 who discontinue taking ROA service any time after December 17, 2020. Customers who discontinue taking ROA service any time after December 17, 2020 and who return to ROA service shall pay the Karn 1 and 2 Securitization Charges applicable to the customer's otherwise applicable Company Full Service Rate Schedule.

**State Reliability Mechanism for ROA:**

Beginning June 1, 2018 all ROA customers may be subject to a State Reliability Mechanism Capacity Charge. This charge shall not apply to ROA customers for any planning year in which their Alternative Electric Supplier can demonstrate to the Commission that it can meet its capacity obligations by the seventh business day of February each year starting in 2018.

If a capacity charge is required to be paid in the planning year beginning June 1, 2018, or any of the three subsequent planning years, due to the Alternative Electric Supplier not meeting its capacity obligations, then the capacity charge is applicable for each of those planning years. Any capacity charged required to be paid any time after the first initial four-year period shall be applicable for a single year. The planning year is defined as being June 1 through the following May 31 of each year. The capacity charge paid by ROA customers will be the same amount as a Full Service Customer on the otherwise applicable Rate Schedule. Non-capacity charges shall not apply.

**ROA Customer Switching Service Charge:**

A \$5.00 switching fee shall be charged the ROA Customer each time a ROA Customer switches (i) from one Retailer to another or (ii) from ROA to a Company Full Service rate. The ROA Customer may switch Retailers at the end of any billing month by having their new Retailer give the Company at least 30 days' written notice. The Company will notify the ROA Customer's previous Retailer and new Retailer electronically of the effective date of the switch. The ROA Customer may choose to return to Company Full Service at the end of any billing month in compliance with Rule E2.5 D., Return to Company Full Service - Residential ROA Customers. The ROA Customer Switching Service Charge shall not be applied (i) for the initial switch to ROA Service or (ii) at the time the ROA Customer returns to Company Full Service or another Retailer because the ROA Customer was Slammed by the Retailer.

**Term and Form of Contract - ROA Customer:**

Service under this rate shall not require a ROA Service Contract between the Company and a ROA Customer.

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**RETAIL OPEN ACCESS SECONDARY RATE ROA-S**  
**(Continued From Sheet No. E-23.00)**

**Metering Requirements:**

The ROA Customer with a Maximum Demand of less than 20 kW shall be separately metered by a Wireless Under Glass Meter or an Energy Registering Meter, with or without maximum demand registers, of billing quality. Such metering equipment shall be furnished, installed, maintained and owned by the Company.

The ROA Customer with a Maximum Demand of less than 20 kW may elect to install an Interval Data Meter. Such metering equipment shall be furnished, installed, maintained and owned by the Company. The requesting ROA Customer shall be required to pay the System Access Charge, as provided for under the ROA Customer's otherwise applicable Company Full Service rate, for all such metering equipment.

The ROA Customer with a Maximum Demand of 20 kW or more shall be separately metered by a Wireless Under Glass Meter or an Interval Data Meter of billing quality. Such metering equipment shall be furnished, installed, maintained and owned by the Company. The ROA Customer shall be required to pay the System Access Charge, as provided for under the ROA Customer's otherwise applicable Company Full Service rate, for all such metering equipment.

The ROA Customer with an Interval Data Meter shall be responsible for (i) the communication links that allow access to the meter data by the Company and are compatible with the Company's metering and billing systems, and (ii) all associated costs relating to the communication links including other accompanying equipment and monthly fees.

**RETAILER:**

**Monthly Rate - Retailer:**

**Transmission Service:**

Subject to Rule E1.5, Transmission Service must be obtained from the appropriate transmission service providers and the charges for such service shall be as specified in the Applicable FERC Open Access Tariff.

**Real Power Losses:**

The Retailer is responsible for replacing Real Power Losses of 7.407% on the Company's Distribution System associated with the movement of Power and for compensation for losses.

**General Terms and Conditions:**

This rate is subject to all general terms and conditions shown on Sheet No. D-1.00.

**Term and Form of Contract - Retailer:**

All service under this rate shall require a written ROA Service Contract between the Company and a Retailer.

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**(Continued on Sheet No. E-25.00)**

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## RETAIL OPEN ACCESS PRIMARY RATE ROA-P

### Availability:

Subject to any restrictions, this rate is available to any customer receiving service at a Primary Voltage for the delivery of Power from the Point of Receipt to the Point of Delivery and for resale service in accordance with Rule C4.4, Resale.

This rate is not available to a ROA-P Customer where the Company elects to provide one transformation from the available Primary Voltage to another available Primary Voltage desired by the customer. This ROA Customer must take service under Retail Open Access Secondary Rate ROA-S.

This rate is not available for unmetered general service or for any unmetered or metered lighting service.

Service under this rate shall be separately metered. The Retailer shall deliver a flat, fixed amount of power every hour of every day.

Any ROA Customer whose monthly minimum Maximum Demand is less than 1,000 kW must utilize an Aggregator.

### Nature of Service:

Service under this rate shall be alternating current, 60-Hertz, single-phase or three-phase (at the Company's option) Primary Voltage service. The Company will determine the particular nature of the voltage in each case.

The Company shall not be required to, but may expand its existing facilities to make deliveries under this tariff. The ROA Customer and/or Retailer shall be liable for any and all costs incurred as a result of an expansion of facilities made to make deliveries under this tariff.

### Metering Requirements:

The load under this tariff shall be separately metered by a Wireless Under Glass Meter or an Interval Data Meter of billing quality. Such metering equipment shall be furnished, installed, maintained and owned by the Company. The ROA customer shall be required to pay the System Access Charge, as provided for under the ROA customer's otherwise applicable Company Full Service rate, for all such metering equipment.

The ROA Customer with an Interval Data Meter shall be responsible for (i) the communication links that allow access to the meter data by the Company and are compatible with the Company's metering and billing systems, and (ii) all associated costs relating to the communication links including other accompanying equipment and monthly fees.

## RETAILER

### Monthly Rate - Retailer:

#### Transmission Service:

Subject to Rule E1.5, Transmission Service must be obtained from the appropriate transmission service providers and the charges for such service shall be as specified in the Applicable FERC Open Access Tariff.

#### Real Power Losses:

The Retailer is responsible for replacing Real Power Losses as shown below on the Company's Distribution System associated with the movement of Power and for compensation for losses.

	Meter Point	
	<u>High Side</u>	<u>Low Side</u>
Customer Voltage Level 1	0.000%	1.004%
Customer Voltage Level 2	1.328%	2.296%
Customer Voltage Level 3	3.300%	7.407%

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(Continued on Sheet No. E-27.00)

**MICHIGAN PUBLIC SERVICE COMMISSION**  
Consumers Energy Company  
 Electric Cost-of-Service Study  
 Capacity Related Cost and Charge Calculation  
 Projected 12-Month Period Ending February 28, 2026  
 FOR ORDER

MPSC Case No.: U-21585  
 ATTACHMENT C  
 Page: 1 of 1

Line No.	(a) <u>Description</u>	(b) <u>Total Electric</u> <u>(\$000)</u>	(c) <u>Capacity Charge</u>	(d) <u>Formula</u>
1	Total Production Related Cost	\$ 2,623,967		
2	<u>Non-Capacity Related Cost:</u>			
3	Fuel Expense	\$ 764,326		
4	Purchased & Interchanged	656,350		
5	Energy Related Other O&M Expense	36,639		
6	PSCR Revenue Credits	(473,007)		
7	Non-PSCR Revenue Credits	(131,384)		
8	Transmission Expense	567,841		
9	Total Non-Capacity Related Cost	<u>\$ 1,420,765</u>		Σ Lines 3:8
10	Total Capacity Related Cost	\$ 1,203,202		Line 1 - Line 9
11	<u>Offsets:</u>			
12	Energy Market Sales	\$ 1,594,825		
13	Off-System Energy Sales	10,000		
14	Ancillary Service Sales	9,000		
15	Bilateral Energy Sales	-		
16	Total Revenue	<u>\$ 1,613,825</u>		Σ Lines 12:15
17	Related Fuel Cost	<u>630,769</u>		
18	<b>Total Revenue Less Fuel Cost</b>	<b>\$ 983,056</b>		Line 16 - Line 17
19	<b>Net Capacity Cost</b>	<b><u>\$ 220,146</u></b>		Line 10 - Line 18
20	<b>Capacity Charge Demand (MW)</b>		<b>9,260</b>	
21	<b>Capacity Charge (\$/MW-Day)</b>		<b>\$65.13</b>	[(Line 19 x 1,000) ÷ Line 20] ÷ 365
22	<b>Capacity Charge (\$/MW-Year)</b>		<b>\$23,773.90</b>	Line 21 * 365

# PROOF OF SERVICE

STATE OF MICHIGAN )

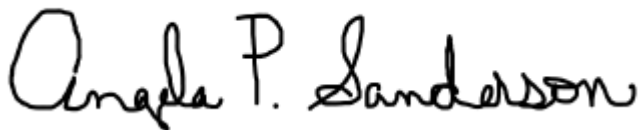
Case No. U-21585

County of Ingham )

Brianna Brown being duly sworn, deposes and says that on March 21, 2025 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

  
Brianna Brown

Subscribed and sworn to before me  
this 21<sup>st</sup> day of March 2025.



Angela P. Sanderson  
Notary Public, Shiawassee County, Michigan  
As acting in Eaton County  
My Commission Expires: May 21, 2030

**Service List for Case: U-21585**

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