

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of Consumers
Energy Company for Ex Parte Approval of
Certain Amendments to Rate GPD.

MPSC No. U-21859

**The Attorney General’s Motion to Compel Discovery Responses from
Consumers Energy Company and for Entry of Protective Order**

The Attorney General requests that Consumers Energy Company (“Consumers” or the “Company”) be compelled to provide supplemental discovery responses to ten discovery questions in this matter (compiled in Exhibits A-D and F attached hereto), as specified herein.

For at least one of these discovery questions, Consumers has indicated it may be willing to provide some responsive material subject to entry of a confidentiality agreement. However, while the Company has proposed a draft Protective Order for consideration, intervenor Switch, Ltd., has objected to its entry. The Attorney General thus also moves for entry of a proposed Protective Order, attached hereto as Exhibit G, at least for the purpose of ensuring complete discovery responses from the Company.

**I. Timelines for the Discovery Questions and Partial Responses at
Issue.**

The timing of service and responses for the discovery questions at issue in this Motion have been as follows:

- The Attorney General served her First Discovery Request to Consumers Energy on April 18, 2025, and the Company provided initial partial responses to that request on April 30, 2025. The questions at issue in this Motion from that request and the Company’s initial partial responses are compiled in Exhibit A attached hereto. The Company further provided a supplemental partial response to selected questions from the Attorney General’s First Discovery Request on May 15, 2025, which is attached hereto as Exhibit B.
- MNSC¹ also served its First Discovery Request to Consumers Energy on April 18, 2025, and the Company provided initial partial responses to that request on May 1, 2025. The questions at issue in this Motion from that request and the Company’s initial partial responses are compiled in Exhibit C attached hereto.
- The Attorney General’s Second Discovery Request to Consumers Energy was served on April 23, 2025, and the Company provided initial partial responses to that request on May 5, 2025. The questions at issue in this Motion from that request and the Company’s initial partial responses are compiled in Exhibit D attached hereto.
- On May 7, 2025, the Attorney General followed up with counsel via email to request more complete responses on her first two discovery requests and selected questions from MNSC’s First Discovery Request.

¹ “MNSC” as used herein refers to the Michigan Environmental Council, the Natural Resources Defense Council, Sierra Club, and the Citizens Utility Board of Michigan.

The Attorney General's May 7, 2025, email is attached hereto as Exhibit E. The Company has failed to fully respond to many of the follow-up questions in that email, and several of those follow-up questions are thus reiterated in the Attorney General's present Motion.

- The Attorney General's Third Discovery Request to Consumers Energy was served on May 7, 2025, and the Company provided initial partial responses to that request on May 19, 2025. The questions at issue in this Motion from that request and the Company's initial partial responses are compiled in Exhibit F attached hereto.

II. Legal Background.

“A primary purpose of discovery is to enhance the reliability of the fact-finding process by eliminating distortions attributable to gamesmanship.” *People v Burwick*, 450 Mich 281, 298; 537 NW2d 813 (1995). Necessarily, therefore, the courts must insist that discovery be conducted in a way which “promote[s] the discovery of the true facts and circumstances of a controversy, rather than aid in their concealment.” *Hallett v Michigan Consolidated Gas Co*, 298 Mich 582, 591; 299 NW 723 (1941). Moreover, discovery is necessary to enable a party to anticipate the substance of the opposing party's proof in order to avoid surprise at trial. *Rock Island Bank & Trust Co v Ford Motor Co*, 54 Mich App 278, 280; 220 NW2d 799 (1974).

MCR 2.302(B)(1) provides that:

Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claims or defenses and

proportional to the needs of the case, taking into account all pertinent factors, including whether the burden or expense of the proposed discovery outweighs its likely benefit, the complexity of the case, the importance of the issues at stake in the action, the amount in controversy, and the parties' resources and access to relevant information. Information within the scope of discovery need not be admissible in evidence to be discoverable.

The Michigan Court Rules and Rules of Evidence apply to this case pursuant to MCL 24.275, which states that “[i]n a contested case the rules of evidence as applied in nonjury civil cases in circuit court shall be followed as far as practicable.” In addition, the Commission’s Rules of Practice and Procedure state in R 792.10423 that:

Discovery shall, as far as practicable, be conducted in the same manner as in the circuit courts of this state pursuant to the Michigan court rules or as otherwise provided by law. When appropriate, the presiding officer shall set time limitations for the conduct of discovery. Every party shall respond promptly and fully to requests for discovery. The parties shall not use discovery to harass or cause needless delay.

Accordingly, the Administrative Law Judge (ALJ) should liberally construe the discovery rules to allow parties the ability to acquire necessary information to prepare their cases. The Commission has held in prior proceedings, that “it will not tolerate any violation of the integrity of the discovery process in Commission proceedings. The proper use of discovery is vital to the efficient administration of these proceedings. Abuses of the discovery process should be brought to the administrative law judge's attention for review.”²

² *In the matter of the application of the Detroit Edison Company for accounting and ratemaking authority relating to test generation of the Enrico Fermi 2 power plant*, MPSC Order, August 12, 1986, U-7065, p. 20.

In a more recent Consumers Energy rate case the ALJ, citing prior Commission orders, confirmed that “the utility bears the burden to substantiate its projections. Given the time constraints under Act 286, all evidence (or sources of evidence) in support of the company’s [requests] should be included in the company’s *initial filing*” (emphasis added).³ In fact, the Commission in U-16794 agreed with the ALJ and ruled that “the utility shall place in evidence facts relied upon to support the utility’s petition or application....” (quoting MCL 460.6a(1)). The Commission explained that “if the utility realistically expects inclusion of the total projected costs, it must supply the Commission with enough evidence to support a finding that the costs are just and reasonable – in the absence of thorough, detailed, and meaningful evidence, the Commission’s hands are tied.”⁴

III. Argument.

Consumers Energy Company has failed to timely produce material responsive to many discovery questions served by the Attorney General, as well as discovery requests served by MNSC for which the Attorney General has requested responsive materials through her discovery question U21859-AG-CE-0043.⁵ The Company has now failed to provide such complete responses

³ *In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity, and for other relief*, March 30, 2012, Proposal for Decision, U-16794, p. 33 (citing November 2, 2009, order, Case No. U-15645, p. 9.).

⁴ *In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity, and for other relief*, June 7, 2012, U-16794, p. 13.

⁵ Request U21859-AG-CE-0043 reads as follows and is included in Exhibit D: “Please provide a copy of all responses provided to MPSC Staff audit requests, including the request questions,

well past the 8-day response deadline provided under the Scheduling Memo filed April 16, 2025.

With the exception of unproduced material concerning discovery question U21859-AG-CE-0061 and the Company's supplemental responses to U21859-AG-CE-15 and U21859-AG-CE-16, the Attorney General has for each of the discovery questions addressed below attempted to follow up with counsel via email for additional information. The Attorney General's initial follow-up email, sent May 7, 2025, is attached hereto as Exhibit E. Many of the Attorney General's requests in this Motion reflect questions already asked in her May 7, 2025, email.

The unproduced materials referenced herein fall into three categories: Category A) Unproduced material without any explanation provided for non-production in response; Category B) material the Company has indicated it may produce under confidentiality agreement; and Category C) material for which non-production was based on an assertion of objections, including relevancy objections, objections concerning the attorney-client privilege, and objections concerning the Company's tariff sheets C-70.00 through C-73.00 as to "Customer Data Privacy" (the "Data Privacy Tariff").

Category A. Unproduced material without any explanation provided in response.

as well as copies of all responses to any discovery requests by Staff and other parties. Provide all Excel worksheet information with formulas intact. This is an on-going request."

The Company failed to timely produce complete responses for these questions, and its responses raise no objections to these questions. The Attorney General thus seeks the following materials for each question:

1. Material sought as to Question U21859-AG-CE-0015.d: Provide all analyses and evaluations encompassed in the Company's response that it "has evaluated the financial security of some customers based on their publicly available credit rating," including by producing any analyses performed as described in response to U21859-MNSC-CE-0038⁶ and by stating for each project whether or not the Company would have required collateral.

The Company's supplemental response to this sub-question states that "no financial calculations or analysis was performed," though this appears to contradict its initial response that it had "evaluated the financial security of some customers based on their publicly available credit rating."

2. Material sought as to Question U21859-AG-CE-0015.d: Provide responsive material as to any evaluations of "ramp up periods" as requested or indicate if no responsive material exists.

The Company's response and supplemental response to Sub-Question D do not indicate whether or not it has made any evaluations of "ramp up periods."

3. Material sought as to Question U21859-AG-CE-0015.e: Produce any responsive material for any inquiry as requested, as well as state for each

⁶ U21859-MNSC-CE-0038 and the Company's response thereon is included within Exhibit C.

project whether such analysis was conducted, or indicate if no responsive material exists.

The Company's initial response to this sub-question indicates that it "does not perform such a study for each inquiry" but does not indicate whether or not it has performed such a study for any inquiry. The Company's supplemental response did not provide any further clarity on this sub-question.

4. Material sought as to Question U21859-AG-CE-0016: Provide all analyses in the Company's possession estimating future revenues from new data center load and expenses to serve these customers or indicate if no responsive materials exist.

The Company did not provide any directly responsive materials in its initial or supplemental response to this question, nor did it identify whether it had performed any such analysis for any one customer. The Company instead produced in its supplemental response "a model spreadsheet that can be used to estimate future revenue."

5. Material sought as to U21859-AG-CE-0061: Provide responsive information as requested for projects "greater than 20MW that the Company expects to begin taking service between now and January 1, 2030, or for which the Company expects to be undertaking infrastructure development/upgrades between now and January 1, 2030, in order to provide service to the data center at contract capacity." If such responsive information is identical to information

already produced, indicate that in response and identify such identical information.

The Company's response may have misunderstood the Attorney General's question, as the response refers only to inquiries and not to all data centers that may take service. The Company produced in response the same document from its supplemental response to U21859-AG-CE-0015, though that question referred only to inquiries received in the prior 12 months. The Company also may not have understood that the question includes all data centers "greater than 20MW...", which would encompass data centers below the 100MW threshold it included for its "Data Center Provision" in its Application; its response states that "at this time, the Company has not signed any data center contracts *under this proposed provision*" (emphasis added).

Category B: Material the Company has indicated it may produce under confidentiality agreement.

No protective order has been entered since the Prehearing on April 16, 2025. The Attorney General's First Discovery Request served April 18, 2025, included that the Company might propose a draft protective order to the extent it believed such an order was necessary. It was not until the Company's May 5, 2025, response to the Attorney General's Second Discovery Request that the Company suggested that "[c]ertain information [responsive to question U21859-AG-CE-0041] may be able to be provided subject to a confidentiality agreement."

After the Attorney General followed up on this language, the Company eventually sent via email a proposed Protective Order for consideration. However, Switch, Ltd., objected to entry of the proposed Protective Order, despite the fact that to date no parties have sought discovery responses from Switch. Likewise, the discovery questions the Attorney General seeks responses to here are questions directed to Consumers Energy. The Attorney General thus requests that the Court enter the proposed Protective Order attached as Exhibit G hereto, at least for the purpose of the Company producing discovery materials to the Attorney General and any other intervenors who do not object to the terms of the proposed Protective Order. The Attorney General likewise requests that the Company be ordered to produce responsive material as follows (following entry of the Proposed Protective Order):

6. Material sought as to Question U-21859-AG-CE-41: Provided any responsive material the Company stated that “may be able to be provided subject to a confidentiality agreement” and provide an explanation to the extent it believes it cannot produce any remaining responsive material.

Category C: Material withheld under assertion of objections.

For questions where the Company has made incomplete responses subject to the assertion of objections, the Attorney General requests that the Court Order the Company to produce responsive material and otherwise respond as follows:

7. Material sought as to U21859-MNSC-CE-0023.a: To the extent the Company has responsive investment figures for any customer, provide responsive material (including the percentage as requested), or indicate in response if no such responsive information exists.

The Company's response indicates that "most" customers have not shared investment figures but does not indicate if it has investment figures for any one customer. The Company objected to response as to this question on the basis of relevancy, though the topic of compliance under MCL 205.54ee was found to be relevant per the ALJ's April 16, 2025, ruling on Consumers' Motion *in Limine*.⁷ The Company further objected on the basis that the question seeks a legal conclusion but has not elaborated on that objection to date and it remains unclear how that objection would apply to this sub-question.

8. Material sought as to U21859-MNSC-CE-0023.c: As requested, provide the percentage of data center load that would be located on a brownfield site.

The Company states that "[t]he majority are not considering brownfield sites" but does not provide the percentage comprising brownfield sites as requested. The Company also objected to response on the basis of relevancy, though the topic of compliance under MCL 205.54ee was found to be relevant per the ALJ's April 16, 2025, ruling on Consumers' Motion *in Limine*.⁸ The

⁷ See Ruling on Consumers Energy's Motion *in Limine*, 1 Tr 49:23 – 25 ("And in kind of the same light, I find that the data centers -- that the requirements for data centers to meet the sales tax exemption are also relevant.").

⁸ *Id.*

Company further objected on the basis that the question seeks a legal conclusion but has not elaborated on that objection to date and it remains unclear how that objection would apply to this sub-question.

9. Material sought as to Question U21859-MNSC-CE-0033.c:
Pending potential *in camera* review, produce the analysis the Company has described in its response to this sub-question.

The Company asserts the following objection in response to this Sub-question: “Consumers Energy Company objects to this discovery request to the extent it calls for privileged attorney client information created in anticipation of litigation.” The Attorney General requested via its May 7, 2025, email to counsel that the company provide more detail as to the basis for this objection, for example to explain how a cost of service study here is different than cost of service studies produced in other contexts (*see, e.g.* a cost of service study produced in the Company’s response to U21859-DCC-CE-0009). To date, the Company has provided no further explanation for its assertion of privilege beyond the conclusory description quoted above. It has thus failed to establish the existence of a privilege.⁹ The Attorney General further requests in the alternative that the Court might conduct *in camera* review as to the applicability of any privilege.

⁹ The burden of establishing the existence of the privilege is on the person asserting it. *See, e.g. Schenet v Anderson*, 678 F Supp 1280, 1282 (E.D. Mich. 1988) (quoting *In re Grand Jury Investigation No 83-2-35*, 723 F.2d 447, 450 (6th Cir. 1983)).

The Company further has not explained what specific pieces of information responsive to this request it believes are subject to protection under its Data Privacy Tariff (attached hereto as Exhibit H), stating only that it “contains unaggregated customer data.” The Data Privacy Tariff describes treatment for certain categories of customer information, namely the three categories defined as follows:

D. "Customer Account Information" means personally identifiable information including customer address, contact information, payment history, account number, and amount billed. Customer Account Information also includes information received by the Company from the Customer for purposes of participating in regulated utility programs, including, but not limited to, bill payment assistance, shutoff protection, renewable energy, demand-side management, load management, or energy efficiency.

E. "Consumption Data" means customer specific electric usage data, or weather adjusted data, including but not limited to kW, kWh, voltage, var, power factor, and other information that is collected by the electric meter by the Company and stored in its systems.

G. "Personal Data" means specific pieces of information collected or known by the Company that merit special protection including the standard types of positive identification information used to establish an account. Personal Data includes, but is not limited to, name and address in conjunction with birth date, telephone number, electronic mail address, Social Security Number, financial account numbers, driver's license number, credit reporting information, bankruptcy or probate information, health information, network, or Internet protocol address.

First Revised Data Sheets C-70.00 – C-73.00 at C17.1.D, E, and G. However, the Company has yet to explain how all components of a cost of service study—including any “cost allocation to customer classes” as

specifically requested by MNSC—would fall into any of these three categories.

The Data Privacy Tariff also provides the following exception:

The Company shall disclose Customer Account Information, Consumption Data, or Personal Data when required by law or Commission rules. This includes law enforcement requests supported by warrants or court orders specifically naming the Customers whose information is sought, and judicially enforceable subpoenas. The provision of such information will be reasonably limited to the amount authorized by law or reasonably necessary to fulfill a request compelled by law.

Id at C17.3 (emphasis added). As stated in Section II above, discovery in this proceeding is subject to the Commission’s Rules of Practice and Procedure stated in R 792.10423 concerning the scope and procedure of discovery. Further, the Attorney General herein requests entry of the proposed Protective Order to govern production of sensitive information by the Company and is open to discussing further protections. Production of the requested material is thus appropriate under the C17.3 exception in the context of this proceeding and pursuant to entry of the proposed Protective Order. Such production would likewise comport with Michigan Courts’ long-recognized liberal discovery policy.¹⁰

¹⁰ See, e.g., *Micheli v Michigan Auto Ins Placement Facility*, 340 Mich App 360, 371 (2022) (“Michigan follows an open, broad discovery policy that permits liberal discovery....” (quoting *Reed Dairy Farm v Consumers Power Co*, 227 Mich App 614, 616 (1998)). See also, e.g., *Woodington v Shokoohi*, 288 Mich App 352, 361 (2010) (“Michigan has a strong historical commitment to a far-reaching, open and effective discovery practice.... Discovery rules are to be liberally construed in order to further the ends of justice.”) (citing *Daniels v Allen Indus, Inc*, 391 Mich 398, 403 (1974)).

10. Material sought as to Question U21859-MNSC-CE-0020.b:

Pending potential *in camera* review, produce the Company's evaluation of load-shape as it has described in its response to this sub-question.

The Company raises the same objections to this question as it does to question U21859-MNSC-CE-0033.c as described above, and the Attorney General's arguments on those objections apply here as well (including the Attorney General's alternative request for *in camera* review as to the applicability of any privilege). The Company further raises an assertion of confidentiality as to this material, which in turn would be addressed by entry of the proposed Protective Order.

IV. Relief Requested.

For the reasons stated above, the Attorney General respectfully requests that the ALJ grant the Attorney General's Motion to compel supplemental responses to discovery questions as specified above and enter the proposed Protective Order attached hereto as Exhibit G, at least for the purpose of ensuring complete discovery responses from the Company. The Attorney General further requests that the Court provide any other relief as appropriate.

Respectfully submitted,

Dana Nessel
Attorney General

Lucas Wollenzien (P86928)
Assistant Attorney General
Special Litigation Division
Sixth Floor Williams Bldg.
525 W. Ottawa Street
P. O. Box 30755
Lansing, Michigan 48909
517-855-1612

Dated: May 23, 2025

Question:

4. Please provide a list of all requests to serve new data center load the Company has received over the last 12 months, including for each data center:

a. Location of the proposed data center;

b. Requested contract demand;

c. Any contract language for each data center addressing the items described in sub-question 1-3.a-h above (including the entirety of contracts addressing these terms, to the extent they exist);

d. Any determinations the Company has made for financial security measures and any “ramp up period[s]” for such data centers, along with the analyses, studies, and calculations used in making those determinations (including such analyses, studies, and calculations for a data center even if a final determination has not yet been made); and

e. Analyses, studies, and calculations the Company has conducted concerning an assessment of potential stranded asset costs and cost shifting for the data center. To the extent the Company might typically seek a Protective Order concerning material sought by this question and the other questions in this request, it is welcome to propose a draft of such a Protective Order for consideration.

Response:

- a. The following chart sets forth the inquiries for potential service Consumers Energy has received in the last twelve months from potential data center customers. Note that these are inquiries, and do not represent commitments to take service from the Company.

Witness: Laura M. Connolly

Date: April 30, 2025

Id	Location	Load (MW)
1	East Central region	300
2	East Central region	400
3	South Central region	1,000
4	East Central region	300
5	Unknown	300
6	East Central region	300
7	Unknown	200
8	Unknown	Unknown
9	Unknown	200
10	Unknown	250
11	Southeasterly region	Unknown
12	East Central region	200
13	East Central region	1,000
14	East Central region	2,100
15	Southwest region	500
16	West region	300
17	Unknown	300
18	Unknown	500
19	Unknown	420
20	East region	100
21	Unknown	300
22	East region	700
23	Unknown	1,000

Witness: Laura M. Connolly

Date: April 30, 2025

Id	Location	Load (MW)
24	East Central region	300
25	Unknown	Unknown
26	Unknown	500
27	Unknown	Unknown
28	Unknown	60
29	South Central region	100
30	Unknown	70
31	Southwest region	Unknown
32	East region	500
33	Unknown	Unknown
34	South Central region	75
35	Southwest region	50
36	Southwest region	219
37	Unknown	Unknown
38	Unknown	1,200
39	Unknown	300
40	Southwest region	4
41	Unknown	300
42	Unknown	Unknown
43	Unknown	Unknown
44	Southeasterly region	100
45	Unknown	500
46	Southeasterly region	10

Witness: Laura M. Connolly

Date: April 30, 2025

Id	Location	Load (MW)
47	East Central region	300
48	East Central region	1,000
49	Unknown	1,000
50	Unknown	500
51	Unknown	Unknown
52	Unknown	500
53	Unknown	500
54	Unknown	600
55	Southeasterly region	Unknown
56	Unknown	Unknown
57	Unknown	145
58	Unknown	1,000
59	East region	100
60	East Central region	250
61	Unknown	500
62	Southeasterly region	500
63	Unknown	200
64	Unknown	900
65	East Central region	Unknown
66	Northeast region	100
67	Unknown	300

- b. See response to a.
- c. See response to U21859-AG-CE-0014
- d. Financial security has not been evaluated for all inquiries. The Company has evaluated the financial security of some customers based on their publicly available credit rating.
- e. The Company does not perform such a study for each inquiry.

Witness: Laura M. Connolly

Date: April 30, 2025

Question:

5. Please provide all analyses in the Company's possession estimating future revenues from new data center load and expenses to serve these customers. Please provide the requested documents in electronic form with all spreadsheet links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data requested is not available in the form requested, provide the information in the form that most closely matches what has been requested.

Response:

The Company has not performed an analysis of potential future revenues or expenses for all the data center inquiries.

Witness: Laura M. Connolly

Date: April 30, 2025



May 15, 2025

Via Electronic Mail

Lucas Wollenzien, Esq.
ENRA Division
525 West Ottawa Street
6th Floor Williams Building
Post Office Box 30755
Lansing, MI 48909

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

Dear Mr. Wollenzien:

Attached to this letter are copies of the following documents:

- Consumers Energy Company's response to 21859-AG-CE-0015 Supp and 0016 Supp; and
- The attachments pertaining to these supplemental responses are being provided electronically to all parties.

A Proof of service has been electronically filed in this docket. Please contact me if you have any questions regarding this matter.

Sincerely,

Digitally signed by Anne M. Uitvlugt
Date: 2025.05.15 16:30:07 -04'00'

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

CC Parties Per Attachment 1 to the Proof of Service

Question:

4. Please provide a list of all requests to serve new data center load the Company has received over the last 12 months, including for each data center:

- a. Location of the proposed data center;
- b. Requested contract demand;
- c. Any contract language for each data center addressing the items described in sub-question 1-3.a-h above (including the entirety of contracts addressing these terms, to the extent they exist);
- d. Any determinations the Company has made for financial security measures and any “ramp up period[s]” for such data centers, along with the analyses, studies, and calculations used in making those determinations (including such analyses, studies, and calculations for a data center even if a final determination has not yet been made); and
- e. Analyses, studies, and calculations the Company has conducted concerning an assessment of potential stranded asset costs and cost shifting for the data center. To the extent the Company might typically seek a Protective Order concerning material sought by this question and the other questions in this request, it is welcome to propose a draft of such a Protective Order for consideration.

Response:

- a. The following chart sets forth the inquiries for potential service Consumers Energy has received in the last twelve months from potential data center customers. Note that these are inquiries, and do not represent commitments to take service from the Company. **Please see attached.**

Id	Location	Load (MW)
1	East Central region	300
2	East Central region	400
3	South Central region	1,000
4	East Central region	300
5	Unknown	300
6	East Central region	300
7	Unknown	200
8	Unknown	Unknown
9	Unknown	200
10	Unknown	250
11	Southeasterly region	Unknown
12	East Central region	200
13	East Central region	1,000
14	East Central region	2,100
15	Southwest region	500
16	West region	300
17	Unknown	300
18	Unknown	500
19	Unknown	420
20	East region	100
21	Unknown	300
22	East region	700
23	Unknown	1,000

Witness: Laura M. Connolly
Date: May 15, 2025

Id	Location	Load (MW)
24	East Central region	300
25	Unknown	Unknown
26	Unknown	500
27	Unknown	Unknown
28	Unknown	60
29	South Central region	100
30	Unknown	70
31	Southwest region	Unknown
32	East region	500
33	Unknown	Unknown
34	South Central region	75
35	Southwest region	50
36	Southwest region	219
37	Unknown	Unknown
38	Unknown	1,200
39	Unknown	300
40	Southwest region	4
41	Unknown	300
42	Unknown	Unknown
43	Unknown	Unknown
44	Southeasterly region	100
45	Unknown	500
46	Southeasterly region	10

Witness: Laura M. Connolly
Date: May 15, 2025

Id	Location	Load (MW)
47	East Central region	300
48	East Central region	1,000
49	Unknown	1,000
50	Unknown	500
51	Unknown	Unknown
52	Unknown	500
53	Unknown	500
54	Unknown	600
55	Southeasterly region	Unknown
56	Unknown	Unknown
57	Unknown	145
58	Unknown	1,000
59	East region	100
60	East Central region	250
61	Unknown	500
62	Southeasterly region	500
63	Unknown	200
64	Unknown	900
65	East Central region	Unknown
66	Northeast region	100
67	Unknown	300

- b. See response to a.
- c. See response to U21859-AG-CE-0014
- d. Financial security has not been evaluated for all inquiries. The Company has evaluated the financial security of some customers based on their publicly available credit rating. **No financial calculations or analysis was performed.**
- e. The Company does not perform such a study for each inquiry.

Witness: Laura M. Connolly
Date: May 15, 2025

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Question:

5. Please provide all analyses in the Company's possession estimating future revenues from new data center load and expenses to serve these customers.

Please provide the requested documents in electronic form with all spreadsheet links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data requested is not available in the form requested, provide the information in the form that most closely matches what has been requested.

Response:

The Company has not performed an analysis of potential future revenues or expenses for all the data center inquiries. Attached is a model that can be used to estimate future revenue. The model is based on 15 GW of load at a 90% load factor on Rate GPD, voltage 1. The "Assumptions" tab can be updated to reflect different levels of load at various load factors.

Witness: Laura M. Connolly

Date: May 15, 2025

Question:

4. Please refer to the Direct Testimony of Laura M. Connolly, p. 5 lines 8-10.
- a. Has Consumers studied the load shape of data center customers being served by other utilities? If not, please explain why not. If yes, please provide the results of such studies, along with all workpapers and documentation.
 - b. Has Consumers taken any other steps to evaluate the potential load shape of data center customers? If not, explain why not. If yes, please provide the results of such evaluations, along with all workpapers and documentation.

Response:

Objection of Counsel: Consumers Energy Company objects to this discovery request to the extent it calls for privileged attorney client information created in anticipation of litigation. Consumers Energy further objects to the request to the extent that any evaluation contains unaggregated customer data that is subject to the Company's data privacy tariff.

- a. No, the Company does not have access to load shape data for customers served by other utilities.
- b. The Company has reviewed the load data for a current data center customer which was prepared at the request of counsel and is confidential.

Witness: Laura M. Connolly

Date: April 30, 2025

Question:

7. Please refer to the Direct Testimony of Laura M. Connolly, p. 8 lines 9-11 and specify whether any of the over 15 GW of prospective data center load would qualify as an enterprise data center under Public Act 207 of 2024, and if so, how much of the prospective data center load would qualify. Please also specify:

- a. Whether the aggregate capital investment in any one of the potential data center facilities would be \$250,000,000.00 or greater, and if so, what percentage of the prospective data center load is this true of.
- b. Whether any of the prospective data center customers, along with their affiliates, would create and maintain a minimum of 30 new full-time jobs in Michigan with an annual wage that is equal to 150% or more of the prosperity region median wage through December 31, 2050, and if so, what percentage of the prospective data center load is this true of.
- c. Whether any of the prospective data center facilities would be located on the property included in a brownfield plan under the brownfield redevelopment financing act or on property that was once an industrial site used primarily as a power plant to generate electricity for sale, and if so, what percentage of the prospective data center load is this true of.
- d. For any of the potential data center facilities located on property described in Request 7(c), whether any of the prospective data center customers, along with their affiliates, would create and maintain a minimum of 30 new full-time jobs in Michigan with an annual wage that is equal to 150% or more of the prosperity region median wage through December 31, 2065, and if so, what percentage of the prospective data center load is this true of.

Response:

Objection of Counsel: Consumers Energy Company objects to this discovery request on the grounds that said request is not relevant to a determination of reasonable modifications to the Company's Rate GPD tariff to allow for certain customer protections. The Company further objects to this request to the extent that it calls for a legal conclusion. Subject to this objection, and without waiving it, Consumers Energy responds as follows:

Qualification as an enterprise data center is determined by the Michigan Strategic Fund. The Company is not a party to that determination.

- a. Most potential data center customers have not shared investment figures with the Company.
- b. This information is not disclosed to the Company.
- c. The majority are not considering brownfield sites. Consumers Energy does not know if potential data center customers are considering former generation plants.

d. This information is not disclosed to the Company.

Witness: Laura M. Connolly
Date: April 30, 2025

Question:

17. Please provide all analyses conducted by or at the direction of Consumers to analyze the potential impact(s) of data centers on:

- a. Consumers' revenue;
- b. Consumers' net income or profit;
- c. Consumers' cost of service study results, including cost allocation to customer classes;
- d. Cost-shifting or cross-subsidization among customer classes; and
- e. Residential rate or bill impacts.

Response:

Objection of Counsel: Consumers Energy Company objects to this discovery request to the extent it calls for privileged attorney client information created in anticipation of litigation. Consumers Energy further objects to the request to the extent that any evaluation contains unaggregated customer data that is subject to the Company's data privacy tariff.

- a. The Company has not performed this analysis.
- b. The Company has not performed this analysis.
- c. Consumers Energy is unable to provide this analysis as it was developed at the request of counsel in anticipation of this litigation and contains unaggregated customer data.
- d. See response to c.
- e. See response to c.

Witness: Laura M. Connolly

Date: April 30, 2025

Question:

22. Refer to Consumers' Application at para. 12, along with the Connolly Testimony at p. 6 line 21 to p. 7 line 2.

- a. Describe in detail how Consumers would determine whether to require financial security from a particular data center customer.
- b. Identify and explain each factor or benchmark that would go into determining whether to require financial security from a particular data center customer.
- c. Identify how the amount of financial security to require would be determined.
- d. Explain why Consumers is not proposing to require financial security from every data center customer.

Response:

- a. The Company will assess the creditworthiness of each data center customer. The Company will require collateral if the customer is not deemed creditworthy. A customer with a credit rating of at least A- from S&P and A3 from Moody's and liquidity greater than ten times the Collateral Requirement shall be exempt from the Collateral requirement. A Large Load Customer that does not have a credit rating from S&P and Moody's but maintains liquidity greater than ten times the Collateral Requirement shall be exempt from 50 percent of the Collateral Requirements not to exceed an exemption of more than \$250 million.
- b. Please see response to a.
- c. The Company could require collateral in amounts up to the projected cost of providing service for the term of the rate contract.
- d. It is unnecessary to require financial security from a customer that has met the criteria described above.

Witness: Laura M. Connolly

Date: April 30, 2025

Question:

8. To the extent projects responsive to the Attorney General's Questions 4 and 7 have been determined to require substation, transmission, or other system infrastructure investments or upgrades, describe:

- a. The amounts and costs incurred and projected for these investments or upgrades;
- b. The financing mechanisms for these investments or upgrades, including by providing any contract terms specific to financing mechanisms and costs; and
- c. The analyses, studies, assumptions, and calculations used in determining the amounts, costs, and financing mechanisms as described in response to Sub-Questions 8.a-b. Please provide the requested documents in electronic form with all spreadsheet links and formulas intact, source data used, and explain all assumptions and calculations used. To the extent the data requested is not available in the form requested, provide the information in the form that most closely matches what has been requested.

Response:

- a. The Company has developed cost estimates for serving two customers. Those studies were performed under a Non-Disclosure Agreement and contain customer information including load data. Certain information may be able to be provided subject to a confidentiality agreement with Consumers Energy.
- b. See response to A.
- c. See response to A.

Witness: Laura M. Connolly

Date: May 5, 2025

Question:

10. Please provide a copy of all responses provided to MPSC Staff audit requests, including the request questions, as well as copies of all responses to any discovery requests by Staff and other parties. Provide all Excel worksheet information with formulas intact. This is an on-going request.

Response:

Copies of all MPSC Staff Audit responses will be provided to the parties on a go-forward basis. To date, no questions have been received.

Provided by Counsel

Date: May 2, 2025



U-21859 -- Points of incomplete production/response from current discovery responses

From Wollenzien, Lucas (AG) <WollenzienL@michigan.gov>

Date Wed 5/7/2025 4:07 PM

To Anne M. Uitvlugt <anne.uitvlugt@cmsenergy.com>

Cc 'Chris Bzdok' <chris@tropospherelegal.com>

 1 attachment (40 KB)

21859_Proposed Draft Protective Order_5.7.2025.docx;

Hi Anne,

I wanted to flag some discovery questions the Company has not provided full production/response on in its responses to date — this includes points from the AG's first two discovery requests as well as MNSCs initial discovery request (I have likewise CC'd MNSC's counsel here):

- Question U21859-AG-CE-0015 — The Company has not provided a complete response:
 - o The Company's response to Sub-Question D indicates some evaluation of financial security, but does not provide any such analyses. Please provide those analyses, including by producing any analyses performed as described in response to U21859-MNSC-CE-0038 and by stating for each project whether or not the Company would have required collateral.
 - o The Company's response to Sub-Question D does not indicate whether or not it has made any evaluations of "ramp up periods." Please provide that responsive material as requested or indicate in writing if no responsive material exists.
 - o The Company's response to Sub-Question E indicates that it "does not perform such a study for each inquiry" but does not indicate whether or not it has performed such a study for any inquiry. Please produce any such responsive material as requested, as well as state for each project whether such analysis was conducted, or indicate in writing if no responsive material exists.
- Question U21859-AG-CE-0016 — The Company's response indicates that it has not "performed an analysis of potential future revenues or expenses for all the data center inquiries," but does not indicate whether or not it has responsive material for any individual data center inquiry:
 - o Produce such responsive material to the extent it exists, or indicate in writing if no responsive material exists.
- Question U-21859-AG-CE-41 — See attached a proposed draft protective order for this matter for responsive material the Company has identified in response to this question. Please let us know if the Company is amenable to the terms of the proposed draft protective order.
- Question U21859-MNSC-CE-0033 — The Company's response indicates it has material responsive to Sub-Questions C-E, but asserts that it "is unable to provide this analysis as it was developed at the request of counsel in anticipation of this litigation and contains unaggregated customer data":
 - o Please explain further the Company's basis for asserting attorney-client privilege over a cost of service study necessary for the intervenors to evaluate the Company's analyses concerning potential cost shifting. Include in your explanation your reasons for differentiating discoverability for a cost of service study concerning this case as compared to a cost of service study for the Company's rate cases (such as the cost of service study the Company has already produced in this matter in response to DCC's discovery question U21859-DCC-CE-0009). Please provide explanations on these same

points for any other materials responsive to Sub-Questions C-E for which the Company is raising this objection.

- o Please explain the Company's belief that its data privacy tariff prevents discovery of its responsive cost of service study, including what specific section of its tariff that it believe applies to prevent discovery. Please provide explanations on this same point for any other materials responsive to Sub-Questions C-E for which the Company is raising this objection.
- Question U21859-MNSC-CE-0020 — The Company's response to Sub-Question B raises the same objections as raised to Question U21859-MNSC-CE-0033, as well as a confidentiality concern, as to an evaluation of the load shape of data center customers:
 - o Please provide further explanations of the objections along the same lines described for Question U21859-MNSC-CE-0033 above.
 - o Please explain whether the attached draft protective order would address the Company's stated concern as to confidentiality, and if not further explain why not.
- Question U21859-MNSC-CE-0023 — The Company's has not provided a complete response:
 - o For Sub-Question A, the Company indicates that "most" customers have not shared investment figures. To the extent the Company has responsive investment figures for any customer, respond accordingly, or indicate in writing if no such responsive material exists.
 - o For Sub-Question C, the Company states that "[t]he majority are not considered brownfield sites" but does not provide the percentage comprising brownfield sites as requested. Please provide that information.

Given the short schedule for this matter, as well as the fact that we are past the deadlines for responses on these discovery questions, the Attorney General requests a prompt response on the productions and explanations sought for each of the points flagged above.

Sincerely,
Lucas Wollenzien

Question:

13. Identify all data center projects with contract capacity or inquired contract capacity greater than 20MW that the Company expects to begin taking service between now and January 1, 2030, or for which the Company expects to be undertaking infrastructure development/upgrades between now and January 1, 2030, in order to provide service to the data center at contract capacity, and for each data center:

- a. Identify the data center's location;
- b. Identify the data center's contract capacity or inquired contract capacity;
- c. Identify what tariff provisions or terms of service the Company expects the data center to take service under;
- d. Identify when the Company expects each project will begin taking service at its contract capacity;
- e. Identify whether the data center is a contracted project that has been studied by the Company's transmission provider and approved through MISO's Expedited Project Review ("EPR") process, and further whether each of these projects are under construction, scheduled to begin construction, or still in the engineering phase;
- f. Identify whether the data center, while not contracted, is a project pending commitment that has been through a study by the Company's transmission provider;
- g. To the extent applicable, identify whether and how each project identified in response to this question correlates to a data center identified in response to the Attorney General's Question U21859-AG-CE-0015 (i.e., if it represents a project also identified in response to Question U21859-AG-CE-0015, and if so which project);
- a. Provide any other material and information as would be responsive to the descriptions in the Attorney General's Sub-Questions U21859-AG-CE-0015.a-e in the Attorney General's First Discovery Request (to the extent not already provided); and b. Provide any other material and information as would be responsive to the descriptions in the Attorney General's Question U21859-AG-CE-0041 (to the extent not already provided).

Response:

The Company has received inquiries from several customers as provided for in 21859-AG-CE-0015. The inquiries are all in various stages of the pipeline, from Lead which is an identified project, oftentimes without known load assumptions, to Qualified in which the Company has engaged with the customer or a consultant, to High Probability in which the customer has participated in a site visit and we've had in depth conversations with the customer about the project. However, the Company does not plan for or undertake infrastructure upgrades until a project has a signed contract. At this time, the Company has not signed any data center contracts under this proposed provision.

- a. Attached is a list of inquiries based on the 15 GW data center pipeline which provides detail on location, load, requested in service year, ramp assumptions, and date of inquiry. This list is different than that provided in 21859-AG-CE-0015 as it is based on the original 15 GW of data center inquires, however, it provides more detailed information than the previous response. We do not have signed contracts from any of these inquiries.
- b. See response to a.
- c. The Company expects any future data center customer to take service on the terms approved in the instant case, as may be modified by the Commission in future orders.
- d. See response to a.
- e. See response to 21859-AG-CE-0040.
- f. See response to 21859-AG-CE-0040
- g. Not applicable

Witness: Laura M. Connolly

Date: May 15, 2025

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-21859

PROTECTIVE ORDER

This Protective Order governs the use and disposition of Protected Material that any Party discloses to another Party during the course of this proceeding. This Protective Order protects non-public, confidential information and materials so designated by the Disclosing Party as Protected Material, as defined herein. Accordingly, it is ordered:

I. “Protected Material” and Other Definitions

A. “Protected Material” consists of trade secrets or confidential, proprietary, or commercially sensitive information provided in Disclosing Party’s application, exhibits, discovery or audit responses, any witness’ related exhibits and testimony, motions, objections, briefing, responses to an order issued by the presiding hearing officer or the Michigan Public Service Commission (“MPSC” or the “Commission), and any arguments of counsel describing or relying upon the Protected Material. Subject to challenge under Paragraph IV.A, Protected Material shall also consist of non-public confidential information and materials including, but not limited to, the following information disclosed during the course of this case if it is marked as required by this Protective Order:

1. To the extent permitted, information obtained under license from a third-party licensor, to which the Disclosing Party or witnesses engaged by the Disclosing Party is a licensee, that is subject to any confidentiality or non-transferability clause. This information includes reports; analyses; models

(including related inputs and outputs); trade secrets; and confidential, proprietary, or commercially sensitive information that the Disclosing Party or one of its witnesses receives as a licensee and is authorized by the third-party licensor to disclose consistent with the terms and conditions of this Protective Order.

2. Information that is protected as confidential in another jurisdiction that the Applicant provides utility service, and the source of the other jurisdiction's protective designation is made known to the Receiving Party.

B. The information subject to this Protective Order does not include:

1. Information that is or has become available to the public through no fault of the Receiving Party or Reviewing Representative and no breach of this Protective Order, or information that is otherwise lawfully known by the Receiving Party without any obligation to hold it in confidence;
2. Information received from a third party free to disclose the information without restriction;
3. Information that is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization;
4. Information that is required by law or regulation to be disclosed, but only to the extent of the required disclosure; or Information that is disclosed in response to a valid, non-appealable order of a court of competent jurisdiction or governmental body, but only to the extent the order requires.

C. "Applicant" refers to the filing party in this proceeding.

D. "Disclosing Party" means a Party producing Protected Material in this proceeding.

E. "Party" refers to the Applicant, MPSC Staff ("Staff"), Michigan Attorney General, or any other person, company, organization, or association that is granted intervention in this case under the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10401 et al.

F. "Receiving Party" means any Party to this proceeding who requests or receives access to Protected Material. A Receiving Party is responsible for assuring that persons,

representatives, or agents under its control or supervision comply with this Protective Order.

G. “Reviewing Representative” means a representative of the Receiving Party who is:

1. An attorney who has entered an appearance in this proceeding for a Receiving Party;
2. An attorney, paralegal, or other employee associated, for the purpose of this case, with an attorney described in Paragraph I.G.1;
3. An expert or employee of an expert retained by a Receiving Party to advise, prepare for, or testify in this proceeding; or an employee or other representative of a Receiving Party with significant responsibility in this case.

H. “Nondisclosure Certificate” refers to Attachment 1 to this Protective Order.

Except as otherwise provided herein, the Reviewing Party and Reviewing Representatives will be required to sign Nondisclosure Certificates. However, Nondisclosure Certificates will not be required from administrative law judges, members of the Commission and its support staff, Staff (excluding consultants, third-party experts, agents or other similar persons), and Staff counsel, for whom by virtue of their employment are presumed to be bound by the terms of this Protective Order.

II. Access to and Use of Protected Material

A. This Protective Order governs the use of all provided Protected Material. This Protective Order protects: (i) the Protected Material; (ii) any copy or reproduction of the Protected Material made by any person; and (iii) any memorandum, handwritten notes, or any other form of information that copies, contains, or discloses Protected Material. All Protected Material in the possession of a Receiving Party and a Reviewing Representative shall be maintained in a secure place. Access to Protected Material shall be limited to the Receiving

Party and the Reviewing Representative, after each has executed the Nondisclosure Agreement and provided a copy of the Nondisclosure Agreement to the Disclosing Party, subject to the limited exception in Paragraph I.H.

B. Protected Material must be used and disclosed by the Receiving Party solely in accordance with the terms and conditions of this Protective Order. A Receiving Party and Reviewing Representative may analyze the Protected Material; make or respond to discovery; present evidence; prepare testimony, argument, briefs, or other filings; prepare for cross-examination; consider strategy; and evaluate settlement. A Reviewing Representative shall not release or disclose the content of Protected Material to any other person or use the information for any other purpose.

C. The Disclosing Party may request the Receiving Party withhold certain information from a Reviewing Representative and retains the right to object to any designated Reviewing Representative if the Disclosing Party has reason to believe that there is an unacceptable risk of misuse of confidential information. If a Disclosing Party objects to a Reviewing Representative, then the Disclosing Party shall submit the dispute to the presiding hearing officer simultaneously upon objection. If the Disclosing Party notifies a Receiving Party of an objection to a Reviewing Representative, then the Protected Material shall not be provided to that Reviewing Representative until the objection is resolved by agreement or by the presiding hearing officer.

D. The obligations under this Protective Order do not expire by entry of a final order in this case and are enforceable by the MPSC or a court of competent jurisdiction. To the extent Protected Material is not returned to a Disclosing Party, it remains subject to this Protective Order. Members of the Commission, Commission staff assigned to assist the Commission with its deliberations, and the presiding hearing officer shall have access to all Protected Material

that is submitted to the Commission under seal.

E. A Party retains the right to seek further restrictions on the dissemination of Protected Material to persons who have or may subsequently seek to intervene in this MPSC proceeding.

F. Nothing in this Protective Order precludes a Party from asserting a timely evidentiary objection to the proposed admission of Protected Material into the evidentiary record for this case.

III. Procedures

A. The Disclosing Party shall identify what portion(s) of any document designated confidential it considers confidential. This can be done through highlights or other clear identifier. The Disclosing Party must mark any information that it considers confidential as “CONFIDENTIAL: SUBJECT TO THE PROTECTIVE ORDER ISSUED IN CASE NO. U-21859.” Software executable files containing Protected Material may not be capable of being marked with the foregoing required protective language. The inability to mark software executable files containing Protected Material with such protective language shall not diminish the requirements of this Protective Order. It shall be sufficient if the medium used to deliver software executable files containing Protected Material is marked with the required protective

language. However, any output from the software executable files containing Protected Material that is generated only as a reproducible document, whether electronic or non-electronic, that is capable of being marked with the required protective language, shall be marked by the party who generated the output with such protective language and subject to the requirements of this Protective Order. If the Receiving Party or a Reviewing Representative makes copies of any Protected Material, they shall conspicuously mark the copies as Protected Material. Notes of Protected Material shall also be conspicuously marked as Protected Material by the person making the notes.

B. If a Receiving Party wants to quote, refer to, or otherwise use Protected Material in pleadings, pre-filed testimony, exhibits, cross-examination, briefs, oral argument, comments, or in some other form in this proceeding (including administrative or judicial appeals), the Receiving Party shall do so consistent with procedures that will maintain the confidentiality of the Protected Material. For purposes of this Protective Order, the following procedures apply:

1. Written submissions using Protected Material shall be filed in a sealed record to be maintained by the MPSC's Docket Section, or by a court of competent jurisdiction, in envelopes clearly marked on the outside, "CONFIDENTIAL – SUBJECT TO THE PROTECTIVE ORDER ISSUED IN CASE NO. U-21859." Simultaneously, identical documents and materials, with the Protected Material redacted, shall be filed and disclosed the same way that evidence or briefs are usually filed;
2. Oral testimony, examination of witnesses, or argument about Protected Material shall be conducted on a separate record to be maintained by the MPSC's Docket Section or by a court of competent jurisdiction. These separate record proceedings shall be closed to all persons except those furnishing the Protected Material and persons otherwise subject to this Protective Order. The Receiving Party presenting the Protected Material during the course of the proceeding shall give the presiding officer or court sufficient notice to allow the presiding officer or court an opportunity to take measures to protect the confidentiality of the Protected Material; and
3. Copies of the documents filed with the MPSC which contain Protected Material, including the portions of the exhibits, transcripts, or briefs that refer

to Protected Material, shall be marked or identified as, “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER IN CASE NO. U-21859” and shall be maintained in a separate portion of the record under seal, segregated in the files of the Commission, and withheld from inspection by any person not bound by the terms of this Order.

C. The Protected Material subject to this Order shall be shielded from disclosure to the extent permitted by law. If any person files a request under the Freedom of Information Act (“FOIA”) with the MPSC or the Michigan Attorney General seeking access to documents subject to this Protective Order, the MPSC’s Executive Secretary, Staff, or the Attorney General shall promptly notify the Disclosing Party, and the Disclosing Party may take whatever legal actions it deems appropriate to protect the Protected Material from disclosure. In light of Section 5 of the Freedom of Information Act, MCL 15.235, the notice must be given at least five (5) business days before the MPSC, Staff, and/or the Michigan Attorney General grant the request in full or in part.

IV. Termination of Protected Status

A. A Receiving Party reserves the right to challenge by motion whether a document or information is Protected Material and whether this information can be withheld under this Protective Order. The Receiving Party challenging the protected status of the document must explicitly state its reason for challenging the confidential designation. In response to a motion, the Commission or the presiding hearing officer in this case may revoke a document’s protected status after notice and hearing. If the presiding hearing officer revokes a document’s protected status, then the document loses its protected status after 14 days unless a Party files an application for leave to appeal the ruling and a request for a stay to the Commission pursuant to R 792.10433. If the application for leave is timely, the document’s protected status will continue during the Commission appeal process. Any Party opposing the application for leave to appeal

and the stay shall file an answer with the Commission no more than 14 days after the filing and service of the appeal. Continued protected status post order, will be determined by the Commission in its order addressing the application for leave and the request for stay. Nothing in this paragraph shall prohibit the Disclosing Party from seeking a stay on appeal of the Commission's decision regarding the revocation of any document's protected status.

B. The Disclosing Party bears the burden of proving that the document should continue to be protected from disclosure.

V. Retention of Documents

Protected Material remains the property of the Disclosing Party and, except as required by applicable law and State retention schedules, only remains available to the Receiving Party until the time expires for petitions for rehearing of a final MPSC order, until the MPSC has ruled on all petitions for rehearing in this case (if any), or until judicial review is completed and the time to take further appeal has expired. If the Disclosing Party seeks to have the Receiving Party return all Protected Material in the Receiving Party's possession or in the possession of its Reviewing Representatives, or certify in writing that all Protected Material has been destroyed, it is the responsibility of the Disclosing Party to contact the Receiving Party and make its request no earlier than the expiration of time for filing petitions for rehearing of a final MPSC order, until the MPSC has ruled on all petitions for rehearing in this case (if any), or until judicial review is completed and the time to take further appeal has expired. Further, for a Receiving Party that is associated with the State, the request must be consistent with the expiration of the State retention requirement.

Notwithstanding the foregoing, counsel for the Receiving Party may maintain a single confidential file of Protected Material subject to all other provisions in this Order. Should

counsel seek to refer to the Protected Material in another Commission proceeding, the Disclosing Party must be the Applicant in said proceeding and counsel must ensure there is a protective order in said proceeding which protects the Protected Material from public disclosure.

VI. Limitations and Disclosures

This Protective Order does not apply to a particular document, or portion of a document, described in Paragraph II.A if a Receiving Party can demonstrate that it has been previously disclosed by the Disclosing Party on a non-confidential basis or meets the criteria set forth in Paragraphs I.B.1 through I.B.4. A Receiving Party intending to disclose information taken directly from materials identified as Protected Material must-before actually disclosing the information-do one of the following: (i) contact the Disclosing Party's counsel of record and obtain written permission to disclose the information, or (ii) challenge the confidential nature of the Protected Material and obtain a ruling under Paragraph IV that the information is not confidential and may be disclosed in or on the public record.

VII. Remedies

If a Receiving Party violates this Protective Order by improperly disclosing or using Protected Material, the Receiving Party shall take all necessary steps to remedy the improper disclosure or use. This includes promptly notifying all Parties and the presiding hearing officer in writing. The written notice must identify the person known or reasonably suspected to have obtained the Protected Material. A Party or person that violates this Protective Order remains subject to this paragraph regardless of whether the Disclosing Party could have discovered the violation earlier than it was discovered. This paragraph applies to both inadvertent and intentional violations. Nothing in this Protective Order limits the Disclosing Party's rights and remedies, at law or in equity, against a Party or person using Protected Material in a manner not authorized by this Protective Order, including the right to obtain injunctive relief in a court of competent jurisdiction to prevent violations of this Protective Order.

VIII. Modification

Formal Addendums to this agreement may be established by an ALJ upon motion by any party and after notice and hearing.

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
For the Michigan Public Service Commission

Administrative Law Judge

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-21859

NONDISCLOSURE CERTIFICATE

By signing this Nondisclosure Certificate, I acknowledge that access to Protected Material is provided to me under the terms and restrictions of the Protective Order issue in Case No. U-21859, that I have read the Protective Order, and that I agree to be bound by the terms of the Protective Order.

Reviewing Representative:

Date: _____

Receiving Party:

**SECTION C – PART IV
COMPANY RULES AND REGULATIONS
(FOR ALL CUSTOMERS)**

INTENT OF SECTION C - PART IV

These Company Rules and Regulations for all customers are not to supersede but are in addition to Rule B1., Technical Standards for Electric Service; Rule B2., Consumer Standards and Billing Practices for Electric and Natural Gas Service; Rule B5., Underground Electric Lines; Rule B6., Electrical Supply and Communication Lines and Associated Equipment; Rule B7., Rules and Regulations Governing Animal Contact Current Mitigation (Stray Voltage); Rule B8., Interconnection and *Distributed Generation* Standards; and Rule B9., Service Quality and Reliability Standards for Electric Distribution Systems.

C17. CUSTOMER DATA PRIVACY

C17.1. Definitions

- A. "Aggregated Data" means any Consumption Data or Customer Account Information, from which all identifying information has been removed so that the individual data or information of a customer cannot be associated with that customer without extraordinary effort.
- B. "Contractor" means an entity or person performing a function or service under contract with or on behalf of the Company, including customer service, demand response, energy efficiency programs, payment assistance, payroll services, bill collection, or other functions related to providing electric service.
- C. "Customer" means a purchaser of electricity that is supplied or distributed by a utility for residential or Non-Residential purposes.
- D. "Customer Account Information" means personally identifiable information including customer address, contact information, payment history, account number, and amount billed. Customer Account Information also includes information received by the Company from the Customer for purposes of participating in regulated utility programs, including, but not limited to, bill payment assistance, shutoff protection, renewable energy, demand-side management, load management, or energy efficiency.
- E. "Consumption Data" means customer specific electric usage data, or weather adjusted data, including but not limited to kW, kWh, voltage, var, power factor, and other information that is collected by the electric meter by the Company and stored in its systems.
- F. "Informed Customer Consent" means, in the case where consent is required: (1) the Customer is provided with a clear statement of the data or information to be collected and allowable uses of that data or information by the party seeking consent; (2) the frequency of data or information release and the duration of time for which the consent is valid; and (3) process by which the Customer may revoke consent. In no case shall silence by the Customer ever be construed to mean express or implied consent to a request by the Company, or its Contractors. Customer consent may be documented in writing, electronically, or through recording of an oral communication.
- G. "Personal Data" means specific pieces of information collected or known by the Company that merit special protection including the standard types of positive identification information used to establish an account. Personal Data includes, but is not limited to, name and address in conjunction with birth date, telephone number, electronic mail address, Social Security Number, financial account numbers, driver's license number, credit reporting information, bankruptcy or probate information, health information, network, or Internet protocol address.
- H. "Primary Purpose" means the collection, use, or disclosure of information collected by the Company or supplied by the Customer in order to: (1) provide, bill, or collect for, regulated electric service; (2) provide for system, grid, or operational needs; (3) provide services as required by state or federal law or as specifically authorized by an order of the Commission; (4) plan, implement, or evaluate programs, products or services related to energy assistance, demand response, energy management, energy efficiency, or renewable energy by the Company or under contract with the Company, under contract with the Commission, or as part of a Commission-authorized program conducted by an entity under the supervision of the Commission, or pursuant to state or federal statutes governing energy assistance.

(Continued on Sheet No. C-71.00)

Issued May 9, 2023 by
Garrick J. Rochow,
President and Chief Executive Officer,
Jackson, Michigan

Effective for service rendered on
and after April 25, 2023

Issued under authority of the
Michigan Public Service Commission
dated April 24, 2023
in Case No. U-20890

(Continued from Sheet No. C-70.00)

C17. CUSTOMER DATA PRIVACY (Contd)

C17.1. Definitions (Contd)

- I. "Secondary Purpose" means any purpose that is not a Primary Purpose.
- J. "Standard Usage Information" means the usage data that is made generally available by the electric utility to all similarly situated Customers on a regular basis, delivered by the electric utility in a standard format.
- K. "Third-party" means a person or entity that has no contractual relationship with the Company to perform services or act on behalf of the Company.
- L. "Weather Adjusted Data" means gas consumption data for a given period that has been normalized using stated period's heating or cooling degree days.
- M. "Written Consent" means a signed form with the customer's signature received by the Company through mail, facsimile, or email. A customer may also digitally sign a form that is transmitted to the Company.

C17.2 Collection and Use of Data and Information

- A. The Company collects Customer Account Information, Consumption Data, and Personal Data as necessary to accomplish Primary Purposes only.
- B. The Company may collect and use Customer Account Information, Consumption Data, and Personal Data for Primary Purposes without Informed Customer Consent.
- C. Informed Customer Consent is necessary before collection, use, or disclosure of Customer Account Information, Consumption Data, and Personal Data for Secondary Purposes.
- D. The Company will not sell Customer Account Information, Consumption Data, and Personal Data except in connection with sales of certain aged receivables to collection firms for purposes of removing this liability from its accounts.

C17.3 Disclosure without Informed Customer Consent

- A. The Company shall disclose Customer Account Information, Consumption Data, or Personal Data when required by law or Commission rules. This includes law enforcement requests supported by warrants or court orders specifically naming the Customers whose information is sought, and judicially enforceable subpoenas. The provision of such information will be reasonably limited to the amount authorized by law or reasonably necessary to fulfill a request compelled by law.
- B. Informed Customer Consent is not required for the disclosure of customer name and address to a provider of a *value-added program or service, regardless of whether that provider is a utility affiliate or other entity within the corporate structure or a third party provider, in compliance with MCL 460.10ee(10)(a) and Mich Admin Code, R 460.10109(2) or a value-added program or service competitor in compliance with MCL 460.10ee(10)(a) and Mich Admin Code, R 460.10109(2).*
- C. The Company may disclose Customer Account Information, Consumption Data, or Personal Data in the context of a business transaction such as an asset sale or merger to the extent permitted by law.

(Continued on Sheet No. C-72.00)

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(Continued from Sheet No. C-71.00)

C17. CUSTOMER DATA PRIVACY (Contd)

C17.4 Disclosure to Contractors

- A. The Company only shares information in the smallest increment necessary for the Contractor to provide service to the Company. When practical, the Company shall only provide Aggregated Data to a Contractor.
- B. Contracts between the Company and its Contractors specify that all Contractors are held to the same confidentiality and privacy standards as the Company, its employees, and its operations. These contracts also prohibit Contractors from using any information supplied by the Company for Secondary Purposes.
- C. The Company requires its Contractors who maintain Customer Account Information to implement and maintain reasonable data security procedures and practices appropriate to the private nature of the information received. These data security procedures and practices shall be designed to protect the Customer Account Information, Consumption Data, and Personal Data from unauthorized access, destruction, use, modification, or disclosure. The data security procedures and practices adopted by the Contractor shall meet or exceed the data privacy and security policies and procedures used by the Company to protect Customer Account Information, Consumption Data, and Personal Data.
- D. The Company requires Contractors to return or destroy Customer Account Information, Consumption Data, or Personal Data that is no longer necessary for the purpose for which it was transferred.
- E. The Company maintains records of the disclosure of customer data to Contractors in accordance with Company record retention policies and Commission rules. These records include all contracts with the Contractor and all executed non-disclosure agreements.
- F. A Customer may request that his or her Customer Account Information or Consumption Data be released to a Third-party of the Customer's choice. Once the Company verifies the Customer's request, the Company is not responsible for loss, theft, alteration, or misuse of the data by Third-parties or Customers after the information has been transferred to the Customer or the Customer's designated Third-party.

C17.5. Customer Access to Data

- A. Michigan Administrative Code, R 460.153 (Rule 53) of the Commission's Consumer Standards and Billing Practices for Electric and Natural Gas Service provides for Customer access to consumption data and confidentiality for that data. The Customer has a right to know what Customer Account Information, Consumption Data, or Personal Data the Company maintains about the Customer. The Customer can access their Customer Account Information, Consumption Data, or Personal Data by either contacting the utility by telephone, or by creating an online profile on the homepage of the Company's website.

If the Customer chooses to use the Company's website to obtain their Customer Account Information, Consumption Data, or Personal Data, then the Customer is required to go to the homepage of the Company's website and create an online profile that will register the address in the Company's system to the Customer. Once the online profile is created, the Customer can select their address to download their data, or view it in a tabular .CSV format.

If the Customer chooses to contact the utility by telephone, the Company will verify the Customer and provide them with their Customer Account Information, Consumption Data, or Personal Data either by phone, electronically in a .CSV format, or in a tabular hardcopy format. The Customer can sign, scan, and email the hardcopy form to the Company; the Company will contact residential customers to validate their information. The Company shall not provide information to a Customer that the Company considers proprietary or used for internal Company business. The Company will make a reasonable effort to respond to requests for this information within 10 business days of being contacted by the Customer.

(Continued on Sheet No. C-73.00)

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(Continued from Sheet No. C-72.00)

C17. CUSTOMER DATA PRIVACY (Contd)

C17.5. Customer Access to Data (Contd)

- B. Customers have the right to share their own Customer Account Information, Consumption Data, or Personal Data with Third-parties of their choice to obtain services or products provided by those Third-parties. The Customer must provide the Company with signed Written Consent via a Standard Company form that authorizes a Third-party access to their Customer Account Information, Consumption Data, or Personal Data. This form can be provided to the customer upon request by telephone or downloaded from the Company's website. Once Informed Customer Consent has been received and validated, the Company shall release the requested customer data to the specific Third-party within 10 business days. The Company is not responsible for unauthorized disclosure or use of this information by a Third-party.
- C. Customers have the opportunity to request corrections or amendments to Customer Account Information or Personal Data that the Company collects, stores, uses or distributes. Requests of this nature shall be made in writing.
- D. Fulfilling certain requests for data in accordance with the provisions of this tariff is consistent with the provision of normal utility service to our Customers. When the data requested is Standard Usage Information, the request will be fulfilled without charge. Some requests for information extend beyond Standard Usage Information. Fulfilling these requests requires special data processing that is not a part of normal utility service and results in expenses that would not otherwise be incurred. Such requests are fulfilled at the discretion of the Company within the parameters of this Data Privacy Tariff. The costs of fulfilling any special requests shall be borne solely by the Customer, and be based on the specifics of the data request and the associated costs of developing, processing, and transmitting the requested data.

C17.6. Customer Notice of Privacy Policies

- A. Notice of the Company's privacy policies is prominently posted on the Company's website. The notice includes a customer service phone number and Internet address where Customers may direct additional questions or obtain additional information regarding how to obtain customer data or more information about the Company's privacy policies and procedures.
- B. Customers receive a copy of the privacy policy upon initiating utility service with the Company. The Company shall provide a written copy of these privacy policies upon Customer request.

C17.7. Limitation of Liability

The Company and each of its directors, officers, affiliates, and employees that disclose Customer Information, Consumption Data, Personal Data or Aggregated Data to Customers, Contractors or Third-parties as provided in this tariff, shall not be liable or responsible for any claims for loss or damages resulting from such disclosure.

(Continued on Sheet No. C-74.00)

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PROOF OF SERVICE - U-21859

The undersigned certifies that a copy of the *Attorney General's Motion to Compel* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 23rd day of May 2025.

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