

# VARNUM

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June 25, 2025

Ms. Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 W. Saginaw Highway  
P.O. Box 30221  
Lansing, MI 48909

Re: MPSC Case No. U-21870

Dear Ms. Felice:

Attached for electronic filing in the above-captioned matter, please find the **Petition for Leave to Intervene** of the **Michigan Energy Innovation Business Council, the Institute for Energy Innovation, and Advanced Energy United**.

Thank you for your assistance in this matter.

Sincerely yours,

VARNUM



Justin K. Ooms

JKO/lml  
Enclosures  
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c: All parties of record.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of <b>Consumers</b> )	
<b>Energy Company</b> for authority to increase its )	
rates for the generation and distribution of )	<b>Case No. U-21870</b>
electricity and for other relief. )	
_____ )	

**PETITION FOR LEAVE TO INTERVENE  
OF THE MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL,  
THE INSTITUTE FOR ENERGY INNOVATION AND  
ADVANCED ENERGY UNITED**

The Michigan Energy Innovation Business Council (“Michigan EIBC”), the Institute for Energy Innovation (“IEI”), and Advanced Energy United (“United”) (referred to hereafter collectively as “MEIU”),<sup>1</sup> by their attorneys, Varnum LLP (“Varnum”) hereby petition the Michigan Public Service Commission (“MPSC” or “Commission”) for leave to intervene by MEIU in the above-captioned proceeding (“Petition”) pursuant to R 792.10410 (“Rule 410”) of the Commission's Rules of Practice and Procedure and the Michigan Administrative Procedures Act, MCL § 24.201 *et seq.* In support of this Petition, MEIU state as follows:

1. On June 2, 2025, Consumers Energy Company (“Consumers” or the “Company”) filed an application proposing revised rate structures, cost allocations, and new rates and tariff changes that affect all of its customer classes by requesting, in part, a \$436 million annual electric rate increase above levels established in Case No. U-21585, plus an additional \$24.3 million for a distribution deferral through a 12-month surcharge. (“Application”) Contained in that Application

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<sup>1</sup> The comments expressed in this filing represent the position of Michigan EIBC/IEI/United as organizations but may not represent the views of any particular member of Michigan EIBC, IEI, or United.

are proposed changes and modifications to various rates, rules and regulations previously approved by the Commission in several areas, including various investments in electric utility generation assets stemming from the Settlement Agreements approved by the Commission in the Company's IRP in Case Nos. U-20165 and U-21090; costs associated with its Demand Response ("DR") programs; and proposed enhancements for the Company's approved Transportation Electrification Programs ("TEPs"), among others. These requested changes and modifications, and perhaps additional ones as well, will directly affect MEIU's members.

2. On June 3, 2025, the Commission issued a Notice of Hearing setting the date of intervention as June 25, 2025, and the date and time of the Pre-Hearing Conference in this proceeding as July 2, 2025.<sup>2</sup>

3. Michigan EIBC is a business trade association representing companies in Michigan's advanced energy sector. Michigan EIBC's mission is to grow Michigan's advanced energy economy by fostering opportunities for innovation and business growth and offering a unified voice in creating a business-friendly environment for the advanced energy industry in Michigan. Michigan EIBC member companies represent the full range of the advanced energy sector, including advanced materials, biomass/biofuels, energy efficiency, energy storage, lighting, smart grid, solar, transportation, and wind, and include some who are customers in the Consumers electric service territory.

4. IEI is a partner organization of Michigan EIBC and is a Michigan non-profit, 501(c)(3) organization whose mission is to promote greater public understanding of advanced and renewable energy and its economic potential for Michigan, and to inform the public and policy

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<sup>2</sup> Case No. U-21870-0014.

discussion on Michigan's energy challenges and opportunities, including by engaging with the public and representing ratepayers' interests in administrative and other proceedings at the state level.

5. United is a national association of advanced energy business leaders who are making the global energy system more secure, cleaner and more affordable. United educates, engages, and advocates for policies that allow its member companies to compete to repower the economy with 100% clean energy. United is active at the federal level and in numerous states across the country, working with a coalition of state partner organizations, including Michigan EIBC. United's membership includes providers of advanced energy technologies and services as well as large energy users seeking to procure renewable energy. United has worked collaboratively with corporate purchasers and renewable energy suppliers to build consensus around solutions that work for both. United's membership includes full-service customers of Consumers who are interested in accessing renewable and advanced energy options and who would be eligible for participation in many of Consumers' programs as purchasers.

6. Michigan EIBC, IEI and United intend to cooperate in this proceeding and to make joint filings, which should increase efficiency in this proceeding.

7. Michigan EIBC, IEI and United, individually or collectively, are participating in, or have participated in, several other formal Commission proceedings, including Case Nos. U-21860, U-21816, U-21375, U-21585, U-21859, U-21482, U-21389, U-18419, U-18351, U-18352, U-20649, U-20697, U-20713, U-20851, U-20963, U-21224, U-21193 and U-21172, as well as numerous Commission-sponsored workgroups and comment proceedings. Michigan EIBC and IEI

also participated in Consumers' first IRP, filed in 2018, in Case No. U-20165, as well as its 2021 IRP proceeding, in Case No. U-21090.

8. MEIU and their members are directly affected by these proceedings because rates, rate schedules and cost allocations that affect MEIU and their members are subject to alteration in this proceeding. MEIU's members are customers of Consumers, and those rate and tariff changes that are approved will directly affect the rates and costs paid to Consumers by MEIU's members.

9. Furthermore, certain MEIU members' businesses will be directly affected by the Company's proposals regarding its DR tariffs, as well as electric vehicle ("EV") pilots and programs. MEIU intend to participate in these proceedings to the extent necessary to protect the interests of their members and to evaluate these and the other requested tariff and rate changes in the Company's Application. Specifically, MEIU intend to ensure that the programs, rate changes, rate schedule changes, and cost allocation changes proposed by Consumers and other parties in this docket result in charges or other impacts on MEIU members that are just, reasonable, and lawful. These interests of MEIU and its members in this proceeding cannot be adequately represented or protected by any other party.

10. This Commission applies a two-prong test for standing as of right, as set forth in *Association of Data Processing Service Organizations, Inc. v Camp*, 397 US 150 (1970) ("*Data Processing*"), which has been applied to utility matters in *Drake v The Detroit Edison Co.*, 453 F Supp 1123 (WD Mich, 1978). As set forth in *Data Processing* and applied by the Commission, the two-prong test requires a party to show that: (1) it would likely suffer injury in fact (*i.e.*, its interests are endangered or at issue); and (2) its interests that are allegedly endangered are within

the zone of interests to be protected or regulated by the statute under consideration. See, e.g., *In Re. Michigan Consolidated Gas Co.*, Case No. U-9138 (November 10, 1988).

11. Michigan EIBC and United meet the “injury in fact” test because some of their members are customers of Consumers who will be directly affected by the costs and available programs that will result from a Commission decision in this proceeding. These members, as customers of Consumers, are within the zone of interest protected by the statutes under which this rate case has been brought, namely MCL 460.6 *et seq.*

12. Michigan EIBC and United therefore respectfully submit that they meet both prongs of the Commission’s test for intervention in this case.

13. IEI, as the partner organization for Michigan EIBC that is involved in public policy on the issues of advanced and renewable energy, should be granted permissive intervention. IEI has already been granted intervention in previous Commission proceedings, a status which was explicitly affirmed by an order of the Commission. In Case No. U-17319, the Commission, in a challenge to IEI’s intervention in DTE’s power supply cost recovery proceeding, noted that:

permissive intervention is appropriate where the intervenor’s participation will provide a benefit that outweighs any resulting delay or expense. Permissive intervention has also been granted where a proceeding “raises novel questions and important issues of policy” and the intervenor will “bring a unique perspective” to the case. June 5, 1996, order in Case No. U-11057, pp. 2-3. The Commission has also granted permissive intervention in a rate case to an association that represents the interests of its members, where the members generally meet the zone of interests test. January 11, 2010, order in Case No. U-15768 et al, p. 8; see, also, *Drake*, 453 F Supp at 1129.

Order of March 6, 2014, in Case No. U-17319, p. 10. In affirming the Administrative Law Judge’s grant of permissive intervention to IEI, the Commission additionally observed that: “The

Commission recognizes the importance of policy and economic considerations related to the integration of advanced technologies into the electric supply mix, particularly given the dynamic environment in which utilities are operating and the changing mix of generation resources over the next five to ten years.” *Id.* at p. 11.

14. Even if Michigan MEIU did not satisfy the test for intervention as of right, MEIU should be permitted to intervene under the Commission’s permissive intervention standards. As the Commission has noted, “the Commission’s discretion to grant leave to intervene is broader than the two-prong test. As recognized in prior Commission orders, the requirements for standing before the Commission are not as strict as those applied by the courts. Unlike a court of law, an administrative agency can allow intervention whenever the resulting delay will likely be outweighed by the benefit of the intervenor’s participation.” *In re Michigan Consolidated Gas Co*, Case No. U-10150, at 5 (December 8, 1992) (finding that discretionary intervention was appropriate, and “a detailed discussion of the two-prong test is unnecessary”). Furthermore, the Commission has stated that, “[t]he granting of permissive intervention without satisfying the two-pronged test is a long-established Commission practice.” *In re DTE Gas Co*, Case No. U-17332, at 4 (May 13, 2014).

15. The Commission has said that “permissive intervention is appropriate where the intervenor’s participation will provide a benefit that outweighs any resulting delay or expense. Permissive intervention has also been granted where a proceeding ‘raises novel questions and important issues of policy’ and the intervenor will ‘bring a unique perspective’ to the case.” *In re the application of DTE Electric Co*, Case No. U-17319 (March 6, 2014) at 10. Furthermore, the Commission has granted permissive intervention in a rate case “to an association that represents the interests of its members, where the members generally meet the zone of interests test.” *Id.*

16. Because IEI will coordinate its involvement with Michigan EIBC and United, its involvement in this proceeding will not result in any additional delay.

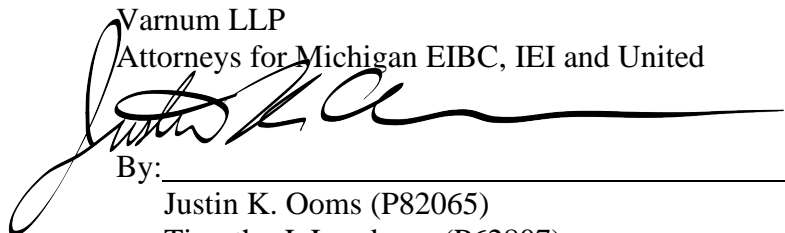
17. For all of these reasons, MEIU should be granted full participation in this proceeding as coordinating intervenors so that they may provide useful expertise and information on a range of applicable issues affecting Consumers' proposed changes and modifications to its rates, rules and regulations.

18. WHEREFORE, MEIU respectfully requests that the Commission:

- a. Grant MEIU's Petition for Leave to Intervene; and
- b. Grant such other and further relief as is deemed lawful and appropriate.

Respectfully submitted,

Varnum LLP  
Attorneys for Michigan EIBC, IEI and United



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June 25, 2025



**Administrative Law Judge**

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