



July 11, 2025

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48909

Via E-File

RE: MPSC Case No. U-21806

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Reply Brief by Michigan Environmental Council, Sierra Club, and Citizens Utility Board of Michigan; and
- Proof of Service.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

Christopher M. Bzdok
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CC: Parties to Case No. U-21806

STATE OF MICHIGAN

MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of
CONSUMERS ENERGY
COMPANY for authority to
increase its rates for the distribution
of natural gas and for other relief.

Case No. U-21806

REPLY BRIEF BY
MICHIGAN ENVIRONMENTAL COUNCIL, SIERRA CLUB, AND
CITIZENS UTILITY BOARD OF MICHIGAN

July 11, 2025

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I. INTRODUCTION

The Michigan Environmental Council (MEC), Sierra Club, and the Citizens Utility Board of Michigan (CUB) (collectively, MSC) submit this brief replying to Consumers Energy Company (Consumers or the Company), and in some cases the Association of Businesses Advocating Tariff Equity (ABATE) and Michigan State University (MSU) and Lansing Board of Water and Light (LBWL) (collectively, MSU/LBWL), on the issues set forth in the table of contents.

II. RATE BASE

A. Reply to Consumers Regarding New Business and New Connection Projections

MSC's initial brief explained, and Consumers did not directly rebut, that if new customers do not remain on the gas system for as long as projected or do not use gas at the rates projected by Consumers, remaining customers will be left to cover their costs.¹ In addition, Consumers unreasonably projects an increase in new service connections.² MEC-SC witness Napoleon explained how trends in gas usage and customer connections indicate Consumer's projections are unreasonable. Consumers' initial brief does nothing to change these conclusions, but MSC replies here to address a few points in that brief.

1. Reply to Consumers Regarding Plant in Service Cost Reductions

In its initial brief, Consumers defends an increase of the line footage allowances despite acknowledging that allowances have consistently decreased yearly until 2024. The Company argues it has increased since due to "ongoing efforts to reduce its actual unit costs," resulting in

¹ MSC initial brief, p 20.

² *Id.* at 100.

“lower plant in service cost amounts.”³ This claim is insufficient to justify a reversal of a twenty-year trend of allowance reductions. First, Consumers does not identify which unit costs are decreasing. Exhibit MEC-5 shows that residential gas-only service line costs are decreasing, but the fixed costs of joint gas and electric service lines are increasing.⁴ Costs for some joint service mains are increasing while others remain level.⁵ Second, Consumers states that efforts to reduce actual unit costs are ongoing, and that residential service costs decreased in previous years as well,⁶ but in prior years, the line footage allowance still decreased consistently despite simultaneous reductions in those costs.⁷ It is unclear why 2024 saw a reversal in this trend. Third, Consumers references how plant in service amounts are an input to the model calculations, but the model has not been shared with the parties,⁸ and it therefore cannot be evaluated to see if there were significant cost changes to cause such a significant reversal. Finally, even if cost decreases allow for savings, those savings should not be allocated in their entirety to potential new customers. Instead, they should be allocated to the current customer base. Passing on benefits of cost reductions solely to new customers while consistently raising rates on existing customers is both inequitable and poor policy, given gas usage and connection trends discussed later in this brief and in MSC’s initial brief.

³ Consumers initial brief, p 14.

⁴ Ex. MEC-5, MNSC-CE-0599 ATT 1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ MSC initial brief, p 24.

2. Reply to Consumers Regarding Assumptions that New Natural Gas Customers Will Maintain Usage and Remain on the System for 20 Years

In its initial brief, the Company asserts that customers will stay on the gas system for at least 20 years, since gas furnaces typically last at least that long, and since gas line service retirements have an average age of 43 years.⁹ However, as MSC's initial brief discusses, such retirements are backwards-looking and evaluate the economics of a gas appliance installed a significant time ago. Similarly, while gas furnaces may last for 20 years, they can be replaced earlier by electric appliances, or used significantly less, which is precisely what Consumers is projecting in their natural gas delivery plan: a hybrid plan with gas heating as a backup.¹⁰ Looking backwards at historical line service retirement data, rather than Consumers own NGDP, obscures the reality that homes are increasingly electrifying. Additionally, Consumers does not contend with witness Napoleon's testimony regarding consistently declining gas usage per customer. Not only is it likely that many customers will electrify within the next 20 years,¹¹ even if a customer stays on the system, it is likely their gas usage will decrease as gas becomes a backup option in a hybrid system and gas usage per customer decreases. Projecting customers will stay on the system at a steady rate for 20 years will cause existing customers to cover costs without accrued benefit.

3. Reply to Consumers Regarding New Connections Projections.

In its initial brief section covering Mains Services & Meter Stands, Consumers discusses a variety of sub-issues regarding their new connection projections. MSC responds to the contested sub-issues accordingly.

⁹ Consumers initial brief, p 14.

¹⁰ Ex. A-42, Natural Gas Delivery Plan, p 91-93.

¹¹ MSC initial brief, p. 20-21.

In its initial brief, Consumers described new gas service numbers prior to the COVID-19 pandemic as averaging “about 9,100” new services installed per year, and noted that while the number dropped significantly during the pandemic, it has partially returned in 2021, 2022, and 2023.¹² Based on this claim, one would assume Consumers cited numbers would demonstrate no significant yearly decrease before COVID-19, a dip during 2020, then consistently rising numbers each year after 2020, but this is not the case.

Instead, Consumers had 11,542 new connections in 2014, and that number declined every year through 2020 except from 2017 to 2018.¹³ Consumers reported 9,943 new connections in 2015, 9,422 in 2016, 8,462 in 2017, 9,243 in 2018, and 8,223 in 2019, indicating a consistent decrease in new connections pre-pandemic. This decrease continued after the pandemic: there were 7,236 new service connections in 2020, which recovered to 7,861 in 2021, before again steadily decreasing to 7,719 in 2022 and 6,870 in 2023.¹⁴ This indicates that the same decline of new connections before COVID-19 has continued post-COVID-19. It is imprudent to assume this decline will suddenly stop, let alone reverse, in coming years.

The Company notes that in 2014, “the Company was actively marketing natural gas service to households using propane for space heating,” and that 3,028 services were installed in 2014 for these propane conversions.¹⁵ Even if all 3,028 were reduced from the 2014 historical installations, however, Consumers numbers would *still* show a consistent downward trend, averaging 183 fewer connections per year.¹⁶ Moreover, it is unclear why those propane conversion connections should

¹² Consumers initial brief, p 10.

¹³ Ex. A-42, Natural Gas Delivery Plan, p 60.

¹⁴ *Id.*

¹⁵ Consumers initial brief, p 15 (citing Rebuttal Testimony of Lincoln Warriner, 2 Tr 112).

¹⁶ Warriner Rebuttal, 2 Tr 112.

be removed in their entirety. Conversions from propane to gas are still new connections that inform future numbers. Additionally, it is unlikely that marketing caused all 3,028 of the conversions from propane in 2014: erasing the whole number from analysis would be unreasonable. Finally, the decline over the past three years from 7,861 in 2021 to 6,870 in 2023,¹⁷ well after Consumers stopped actively marketing natural gas services to households using propane, demonstrates a historical trend unmoored to propane conversion marketing. Consumers also claims in their initial brief that the increase in service alteration requests indicates that customers are continuing to prefer natural gas and will therefore increase usage.¹⁸ While Consumers has seen a 108% increase in gas service alteration requests from 2017 to 2024, that is not a “clear indication that customers continue to utilize natural gas” in Michigan, nor is it proof they are “requesting to use more natural gas.”¹⁹ Gas alteration requests show customers are seeking to either relocate or upgrade service due to load increases.²⁰ Alteration requests arise when customers move: an increase, absent other supporting evidence, does not indicate increased desire for natural gas, nor does it portend increased natural gas usage, especially given presented evidence that average usage per customer has declined since 2010.²¹ Furthermore, the vast majority of alteration request increases have come after the COVID-19 pandemic. Alterations remained relatively stable from 2017 to 2020: 4,272 in 2017, 4,791 in 2018, 4,735 in 2019, and 4,935 in 2020.²² Post-pandemic, the numbers rose significantly, up to 8,896.²³ While Consumers does not explain the sharp rise post pandemic, the

¹⁷ Ex. A-42, Natural Gas Delivery Plan, p 60.

¹⁸ Consumers initial brief, p 16-17.

¹⁹ *Id.*

²⁰ *Id.*

²¹ MSC initial brief, p 22-23.

²² Ex. A-125 (LAB-7).

²³ *Id.*

most likely explanation is more customers having to move, often due to cost concerns. This theory is supported by a 53.7% rise in residential uncollectible expenses from 2021 to 2023.²⁴ Consumers claim that the recent gas service alteration request increase indicates a trend toward increased customer connections or natural gas usage is therefore unpersuasive.

Consumers also argues that Housing Start data indicates increased housing will be built, leading to increased connections.²⁵ MSC stands on its initial brief with respect to Housing Start data, as that data shows a decrease in Housing Start value.²⁶ Additionally, MSC agrees with the AG that even if such data supported Consumers position, it is too abstracted from Michigan specific contexts to be applicable.²⁷

4. Reply to Consumers Regarding Whether New Housing Additions are Primarily Heated by Gas

In response to witness Napoleon’s observation that households are “increasingly choosing electric heating” rather than gas heating over the past decade, Consumers argues that market trends as reported by the U.S. Census Bureau’s American Community Survey do not support such an observation, since “different observations could be drawn.”²⁸ Not only does Consumers witness Warriner’s conclusion that the vast majority of new housing are heated by natural gas depart from the data presented, even if it were true, it would not disprove Ms. Napoleon’s observations regarding electric and gas space heating trends.

²⁴ MSC initial brief, p 120.

²⁵ Consumers initial brief, p 10-11.

²⁶ MSC initial brief, p 103.

²⁷ AG initial brief, p 21.

²⁸ Consumers initial brief, p 16.

In testimony, Mr. Warriner claimed that the American Community Survey data likely indicates “a very large portion of the total housing unit additions since 2014 are heated by utility gas,” while “a large portion of the increase in electrically heated occupied housing units were classified as existing vacant housing units in 2014.”²⁹ He supports this claim because the number of occupied homes increased by 180,784 units since 2014, which is somewhat close to the decrease in vacant homes of 170,366. Similarly, he supports his first claim with the observation that the number of occupied housing units increased by 102,869 since 2014, which is similar to the 96,463 increase in housing units heated by utility gas.³⁰ There are numerous issues with these inferences.

First, Mr. Warriner chooses to count only increases in utility gas, not increases in the combined used of utility gas and LP gas. If added together, the total increase in gas is 154,825 units: far closer to the 170,366 reduction in vacant homes that Mr. Warriner compares to the increase in electrically-heated occupied housing units.³¹ When asked about this combined number, Mr. Warriner acknowledged the number was similar to the reduction in vacant housing units. He did not state a reason for his inference other than pointing to data that total natural gas utility customers have increased.³² While it is true that natural gas utilities have seen an increase in customers, there is no data on what heating source customers occupying new houses are using and what source customers reoccupying vacant ones are using, and no evidence to support the claim that “a large portion of housing unit additions are heated by utility gas.”³³ Notably, unlike the other

²⁹ Warriner Rebuttal, 2 Tr 114-15.

³⁰ *Id.* at 15.

³¹ Warriner Cross, 2 Tr 176-77.

³² *Id.* at 177-79.

³³ Consumers initial brief, p 16.

survey data, there is not a comparable chart on electric customers, so no significant comparisons can be made.

Second, Mr. Warriner admitted to not considering or evaluating the simplest explanation: that “reoccupied units would reflect the overall distribution of heating fuels”³⁴ which would mean primarily natural gas heating, and therefore indicate new houses increasingly use electric space heating.

Third, Mr. Warriner’s analysis seems to contradict the electrification reality that Consumer witness Dreisig references in his testimony: that “older homes often do not carry sufficient insulation to take advantage of heat pump efficiencies.”³⁵ Mr. Dreisig continues to discuss that one hurdle to electrification is the building retrofits required for old homes.³⁶ The corollary to that argument, however, is that new homes are the most primed for electric heating: the exact opposite conclusion that Mr. Warriner comes to.

Finally, even if Mr. Warriner is correct that natural gas is the primary heating source for new homes, that does not disprove Ms. Napoleon’s primary analysis that households are increasingly “choosing electric heating over gas heating in the past decade.”³⁷ The data Mr. Warriner cites states that despite being a minority of the total heating distribution, the increase in electrically heated occupied housing units was larger than the comparative increase in natural gas and propane combined.³⁸ As Ms. Napoleon noted, electric space heating increased by 53%

³⁴ Warriner Cross, 2 Tr 179.

³⁵ Rebuttal Testimony of Neil P. Dreisig, 4 Tr 584.

³⁶ *Id.* at 584-85.

³⁷ Direct Testimony of Alice Napoleon, 4 Tr 2303.

³⁸ *Id.*

compared to just a 3% increase in utility gas.³⁹ Whether that increase came from reoccupied or renovated housing, or from newly constructed housing is not critical to prove Ms. Napoleon's conclusion.

B. Reply to Consumers Regarding Whether the Line Extension Model is Capable of Being Shared with Stakeholders

MSC's initial brief explained that Consumers line extension model did not comply with the settlement order from U-21148: it is not "transparent" and "capable of being shared with stakeholders."⁴⁰ Consumers asserts that, while the Company cannot provide external access and can only demonstrate how the model works at its office, the model is shareable because "the Company can share and provide information from the model that it previously could not."⁴¹ However, the Company's response confuses being able to share information about/from the model with being able to share the *model* itself. The Company still could not share source data or workpapers for several figures and exhibits introduced into evidence, since they were derived from the model.⁴²

Consumers focuses solely on the fact that the model "can share additional information," and that the new model is a way to share significant information "with customers, the Commission, and stakeholders," but does not provide a definition of the word "share" or look to the context surrounding the settlement agreement language.⁴³

³⁹ *Id.*

⁴⁰ MSC initial brief, p 24.

⁴¹ Consumers initial brief, p 19.

⁴² Ex MEC-24, Discovery Responses MSC-CE-0887, 0890, and 0893.

⁴³ Consumers initial brief, p 19-20.

Sharing additional information, such as additional outputs of the model, does not make Consumers more able to “divide and distribute into shares” the model, allow others to “use, participate in, enjoy, receive, etc.,” the model, or give “users access to” the model.⁴⁴ Similarly, even with extra outputs, stakeholders cannot be “partake of, use, experience, occupy, or enjoy with others” the model, nor can they “distribute” electronically such a model.⁴⁵ Consumers confuses sharing information from the model with sharing the model itself with stakeholders. Without the model, data provided by the Company is opaque and cannot be reviewed or evaluated by parties to this case.

Consumers interpretation of the settlement agreement would effectively render the wording both duplicative and ineffectual. While the current model can share more information, such as the NPV over 20 years in a graphical form or the information in Exhibit A-120,⁴⁶ Consumers provided a presentation of its model in U-21148, and could provide similar, limited discovery responses regarding model inputs.⁴⁷ If any level of information sharing meant that the model was shareable with stakeholders, then the settlement agreement would provide no additional requirements. However, the settlement agreement imposes a new requirement that the model be “capable of being shared with stakeholders,”⁴⁸ implying that the model was not capable of being shared at all previously. This is demonstrated by Consumers discovery response in U-21148, where they stated the Company cannot provide the actual model in excel, but could demonstrate the model live in

⁴⁴ MSC initial brief, p 25 (citing dictionary.com).

⁴⁵ MSC initial brief, p 25 (citing merriam-webster.com).

⁴⁶ Consumers initial brief, p 19-20.

⁴⁷ Case No. U-21148, Direct Testimony of Bradley Cebulko, 2 Tr 1611; *see* Case No. U-21148, Ex. MEC-11 (Response to MSN-CE-0492).

⁴⁸ Case No. U-21148, Order Approving Settlement Agreement, July 7, 2022, Ex A, paragraph 13.

their office, a response eerily similar to Consumers response in this case.⁴⁹ Additionally, MSC witness Napoleon explained that without being able to run and test the model, it is not possible to confirm the model actually works as intended.⁵⁰ This concern was exactly what MNS witness Bradley Cebulko testified about in U-21148, when he expressed concerns about the Company “using a tool that cannot be audited.”⁵¹

Instead of indicating the model can be shared, the fact that the new model can show previously opaque information and “offer a more transparent view of the inputs and outputs”⁵² demonstrates the first requirement of the settlement agreement: that the new model be transparent.⁵³ The fact that Consumers met with MEC and Staff to review assumptions and changes during the development of the model again demonstrates increased *transparency*.⁵⁴ If increased information and a clearer view of inputs and outputs would fulfill both the “transparency” and “capable of being shared” prongs of the settlement agreement, the second prong would be rendered duplicative. This reading should be avoided when there is a more compelling interpretation that renders both prongs distinct and impactful.

That the two terms are distinct is important. Increased transparency ensures that users can understand what inputs and outputs go into the model, and that more information can be given to customers. The model being shareable with stakeholders ensures that calculations can be reviewed, source data for figures and exhibits are able to actually be evaluated, and the model itself able to

⁴⁹ Ex MEC-31, Ex MEC-18 in U-21148, Discovery response MNS-CE-0238; *see* Ex MEC-24, Discovery responses MSC-CE-0887, 0890, and 0893.

⁵⁰ MSC initial brief, p 25.

⁵¹ Case No. U-21148, Cebulko Direct, 2 Tr 1611.

⁵² Consumers initial brief, p 19.

⁵³ Case No. U-21148, Order Approving Settlement Agreement, July 7, 2022, Ex A, paragraph 13.

⁵⁴ Consumers initial brief, p 19.

be analyzed.⁵⁵ Indeed, as MSC showed in our initial brief, the Commission has consistently held that models and data analyses underlying utility projections must at least be shared with parties to a case.⁵⁶ Consumers does not deal with this issue, nor provide a compelling reason why the definition of sharing the model includes providing information about inputs and outputs, especially with the context of the settlement agreement itself.

III. RATE OF RETURN

A. Reply to Consumers Regarding Return on Equity (ROE)

MSC addressed most of Consumers' arguments on ROE in their initial brief but reply here to three points. *First*, with respect to the balancing of shareholder and ratepayer interests under *Hope*⁵⁷ and *Bluefield*,⁵⁸ Consumers' primary argument is that its requested ROE will help it maintain a strong credit rating, and "better credit ratings allow a utility to still access funds and at better rates than they would otherwise get, especially in the face of stresses in the financial markets,"⁵⁹ which benefits ratepayers. Specifically, Consumers claims to have "saved customers \$153 million annually as a result of improved credit ratings and lowered interest costs."⁶⁰ This is both inaccurate and ignores the unjust costs an excessive ROE imposes on ratepayers. The exhibit Consumers references, Exhibit A-35 (MRB-13), indicates that Consumers has saved \$153 million

⁵⁵ See MSC initial brief, p 24.

⁵⁶ MSC initial brief, p 27; See Case No. U-16582, Order, December 20, 2011, p 15-16; Case No. U-17302, Order, December 19, 2013, p 3.

⁵⁷ *Fed Power Com v Hope Natural Gas Co*, 320 US 591, 603 (1944).

⁵⁸ *Bluefield Water Works & Improvement Co v Pub Serv Comm*, 262 US 679, 692-693 (1923).

⁵⁹ Consumers Initial Brief, p 145.

⁶⁰ Consumers Initial Brief, p 144 (citing Ex A-35 (MRB-13)).

cumulatively from 2007 to 2024, which comes out to only about \$9 million annually.⁶¹ That \$9 million in savings pales in comparison to how much customers lose paying for Consumers' shareholders to enjoy an ROE that is higher than it should be.⁶²

Second, Consumers insists that a 10.25% ROE is necessary to maintain the Company's financial strength, citing its influence on the Company's credit rating, investor expectations, and the perceived supportiveness of the regulatory environment. Consumers claims that a lower ROE "*could potentially cascade into challenges* in accessing capital, accessing capital at reasonable rates, forward progress on projects to maintain and/or improve customer service, and the Company's ability to provide secure and reliable energy supply at affordable rates"⁶³ This claim is speculative and simply not credible. Consumers has not had an ROE as high as 10.25% since 2015⁶⁴ and has had an ROE of 9.90% since 2019.⁶⁵ Despite the ever-changing list of current events that Consumers points to as causing uncertainty and increased market volatility in rate case after rate case,⁶⁶ conditions have been sufficiently favorable for Consumers to have grown its rate base

⁶¹ Ex A-35 (MRB-13), Cumulative Annual Interest Savings; see Direct Testimony of Matthew J. Bandyk, 4 Tr 2421-22.

⁶² Bandyk Direct, 4 Tr 2421-22.

⁶³ Consumers Initial Brief, p 188 (emphasis added).

⁶⁴ Case No. U-17882, Order, April 21, 2016, pp 4-5 (authorizing use of same ROE for reporting purposes or other calculations the same ROE as was approved in the Commission's January 13, 2015, Order in Case No. U-17643); Case No. U-17643, Order, January 13, 2015, pp 5-6 (approving settlement agreement reflecting authorized ROE of 10.3%).

⁶⁵ Case No. U-20322, Order, September 26, 2019, p 145; Case No. U-20650, Order, September 10, 2020, Exhibit A, Settlement Agreement, p 2; Case No. U-21148, Order, July 7, 2022, p 2; Case No. U-21308, Order, August 30, 2023, p 2; Case No. U-21490, Order, July 23, 2024, p 2.

⁶⁶ For example, in 2017, Consumers identified a decline in oil prices, greater competition for capital investments, Brexit, and the election of Donald Trump as creating uncertainty and increased volatility. Case No. U-18322, Consumers Initial Brief, pp 100-01. In 2023, Consumers pointed to the then-recent US banking crisis, Russia-Ukraine conflict, and COVID-19 pandemic. Case No. U-21389, Consumers Initial Brief, p 265. Now, the main culprits are inflation and tariffs. Consumers Initial Brief, p 141.

from about \$4.3 billion in 2016⁶⁷ to a projected \$11.75 billion as of its December 2024 application in this case,⁶⁸ while apparently saving \$9 million per year in borrowing costs.⁶⁹ Consumers' claim that a lower ROE would be unjust and unreasonable because it would be inadequate to ensure the company's "financial soundness"⁷⁰ is not supported by the evidence in this case or by the past decade of Consumers' actual performance.

Third, regarding Ms. Bulkley's quantitative analyses, Mr. Bandyk and other Staff and intervenor witnesses presented detailed testimony explaining how her assumptions, inputs, and use of disfavored models like the ECAPM resulted in inflated ROE estimates, which MSC will not repeat here. MSC will, however, reiterate that Consumers' manipulation of Staff and intervenor witnesses' analyses to ostensibly support the Company's preferred ROE is disingenuous and misleading, and the Commission should disregard it. Consumers is not correcting mathematical errors – it is fundamentally altering the intentional assumptions and inputs Staff and intervenor witnesses used to support their recommended ROEs, all of which were at least 50 basis points lower than witness Bulkley's recommended 10.25% ROE.⁷¹ For Consumers to conclude its discussion of every other ROE witness's analyses by replacing their assumptions and inputs with those Ms. Bulkley would have used, Consumers is doing nothing more than presenting alternative analyses from Ms. Bulkley, whose methods are flawed for the reasons detailed in Mr. Bandyk's and the other ROE witnesses' testimony. Ms. Bulkley's "[a]djustments" to Mr. Bandyk's analyses

⁶⁷ Case No. U-18124, Order, July 31, 2017, p 41.

⁶⁸ Direct Testimony of Heather L Rayl, 4 Tr 1761.

⁶⁹ Bandyk Direct, 4 Tr 2421-22.

⁷⁰ Consumers Initial Brief, p 189.

⁷¹ See Consumers Initial Brief, p 222 (summarizing Staff and intervenors' recommended ROEs as ranging from 9.24% to 9.75%).

are neither “[v]alid” nor “[p]roper,”⁷² and Mr. Bandyk’s analyses unequivocally do not support the Company’s requested ROE.

IV. ADJUSTED NET OPERATING INCOME AND OTHER REVENUE RELATED ISSUES

A. Reply to Consumers Regarding Load Forecast

Rather than respond to MEC-SC witness Napoleon’s concerns regarding the Company’s load forecast, the Company simply repeats Company witness Sherwani’s testimony.⁷³

The Company’s reasoning for why it could not hold historical sales data out-of-sample in order to test the accuracy of its regression model does not withstand scrutiny. It claims it did not hold data out-of-sample because it would have had to pull data out of sample from over a decade ago.⁷⁴ This ignores a very obvious solution, presented by witness Napoleon in testimony⁷⁵ and to Mr. Sherwani in cross-examination:⁷⁶ hold historical data in the middle of the 11-year time frame out of the sample and see whether the best fit line still holds up. Indeed, Mr. Sherwani refused to even engage with the possibility of holding, for example, data from 2017 to 2021 out-of-sample, instead vocalizing an unsureness about removing data from the model and reading back lines from testimony.⁷⁷

The Company’s initial brief echoes Mr. Sherwani’s seeming lack of understanding of the Company’s load forecast model. It makes the puzzling claim that Mr. Sherwani’s testimony “has

⁷² Consumers Initial Brief, p 247.

⁷³ Consumers Initial Brief at 260-263.

⁷⁴ Consumers Initial Brief at 261.

⁷⁵ Napoleon Direct, 4 Tr 2298.

⁷⁶ Cross Examination of Mustafa Sherwani, 2 Tr 325.

⁷⁷ Sherwani Cross, 2 Tr 325.

essentially included a one-year-at-a-time out-of-sample model test for many years, and that test supports the predictive accuracy of the model.”⁷⁸ In doing so, the Company seems to imply that the blue line in the chart below, taken from Mr. Sherwani’s testimony, is not a trendline used to develop a prospective forecast, as it was originally framed in Mr. Sherwani’s testimony.⁷⁹ The Company *now* claims that the blue forecast line represents the Company’s historical load predictions for each year from 2016 to 2023. First, this is inconsistent with Mr. Sherwani’s own testimony, where the blue line is quite clearly a “regression model”, i.e. best fit line based on 2016 to 2023 actuals, which is then weather-normalized and used to forecast future sales while incorporating vague “econometric” inputs that Mr. Sherwani declines to describe.⁸⁰ Second, as explained in detail in MSC’s initial brief and as revealed by examining the Company’s historical sales predictions in prior rate cases, it is simply false that the blue line represents historical sales predictions: none of the annual predictions from prior rate cases line up with the “forecast.”⁸¹ In its initial brief, the Company has apparently decided to repeat the incorrect statement from Mr. Sherwani’s cross-examination: that its best fit line is actually a representation of historical predictions and proof of the reasonableness of the Company’s model.⁸² Whether this misrepresentation is intentional or a misunderstanding, the fact that the Company is relying on it to justify its load forecast should be enough to reject the forecast entirely.

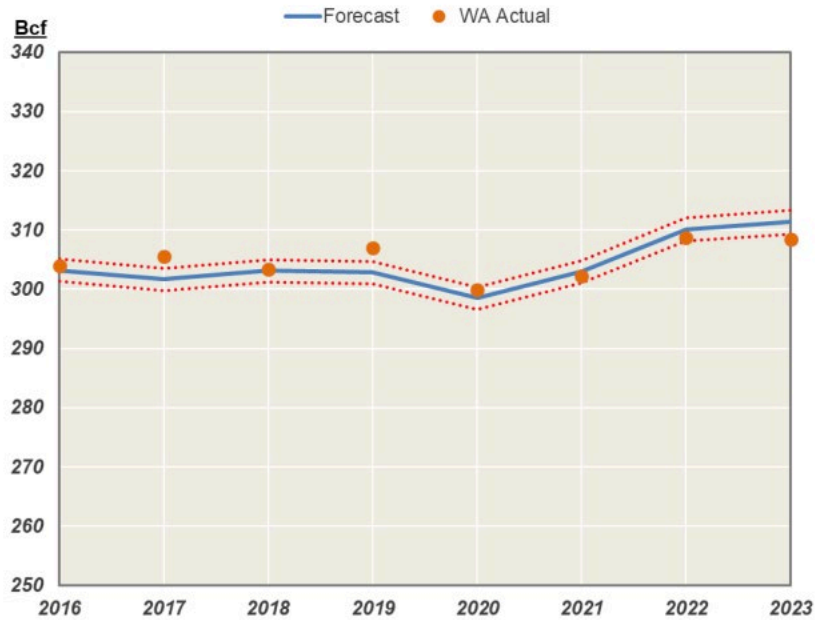
⁷⁸ Consumers Initial Brief at 261.

⁷⁹ Sherwani Direct, 2 Tr 271-2.

⁸⁰ Sherwani Cross, 2 TR 308.

⁸¹ MSC Initial Brief at 98-99 (for example, “In U-20650, the Company forecasted 2020 demand to be 301,155 MMcF, 2021 demand to be 306,152 MMcF, and 2022 demand to be 308,087 MMcF,” and none of these data points reflect the blue regression line).

⁸² See Sherwani Cross, 2 Tr 323-4; Consumers Initial Brief at 261.



Finally, during the hearing, Mr. Sherwani was presented with and did not dispute evidence that residential gas sales were decreasing.⁸³ He was also presented with and did not dispute evidence showing that electrification has been accelerating in Michigan since at least 2014.⁸⁴ Despite this, the Company’s brief doubles down on its claim that it is premature to include assumptions about electrification in this case’s load forecast.⁸⁵ As noted in MSC’s initial brief, the Company is conveniently willing to speculate about mortgage rates and their effect on real estate trends to forecast increasing new connections,⁸⁶ but it finds it premature to incorporate electrification impacts when historical data shows electrification has already made impacts on gas sales.⁸⁷ It appears that the Company will only account for historical trends and impending

⁸³ Sherwani Cross, 2 Tr 304-5.

⁸⁴ Sherwani Cross, 2 Tr 298.

⁸⁵ Consumer’s Initial Brief at 262.

⁸⁶ See MSC Initial Brief at 103.

⁸⁷ See MSC Initial Brief at 93-95.

technology developments if directed to do so. MSC stands by its recommendations in its initial brief that the load forecast be rejected and replaced with one that incorporates both historical data showing declining gas demand and prospective assumptions regarding energy efficiency and electrification.⁸⁸

V. COST OF SERVICE AND RATE DESIGN

A. Reply to Consumers Regarding Customer Charge

Consumers' initial brief and testimony relies on a history of Commission orders detailing methods approved by the Commission and stressing the importance of cost studies.⁸⁹ In its brief, Consumers argues that any non-cost-based argument should be rejected, again relying on Commission precedent.⁹⁰ Consumers refers to the customer method first approved in U-4331 in testimony and its brief as well as on U-17999's discussion of past precedent.⁹¹ However, the precedent cited by Consumers does not require customer charges to equal the entire amount of customer-related costs estimated in the cost-of-service study. Instead, the U-4331 order only set the "maximum allowable service charge," limiting what costs could be included, not requiring their inclusion.⁹² Indeed, the decision from U-17999 cited by Consumers does not fully support the Company's position. While the Commission did note "the reasoning relied upon in determining that customer charges should be limited to costs associated directly with supplying service remains as viable today as it was then," the Commission was referring to the reasoning limiting what costs

⁸⁸ See MSC Initial Brief at 100.

⁸⁹ Consumers initial brief, p 353.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Case No. U-4331, Order, January 18, 1974, p 30.

could be considered, not requiring that no other issues were considered.⁹³ Indeed, on that same page, the Commission rejected DTE's proposal because it included costs *not* approved by the Commission, and therefore exceeded the maximum allowable charge.⁹⁴ The Commission should therefore reject Consumers claim that any non-cost based recommendations should be denied.

Consumers also argues that raising the customer charge will not harm LMI customers or weaken price signals.⁹⁵ MSC stands on its initial brief with respect to the harms of raising the customer charge.

B. Reply to ABATE and MSU/LBWL Regarding Uncollectibles Expense Allocation

In their Initial Brief, MSC explained how Consumers' proposed allocation of its uncollectibles expense based on historical net write-offs is misaligned with recent Commission precedent requiring allocation based on revenue. Both MSC and Staff recommend that Consumers allocate its uncollectibles expense based on revenue, and Consumers has agreed. ABATE and MSU/LBWL, however, oppose this method, arguing that it makes some customer classes responsible for more uncollectibles expense than those classes cause.

Both ABATE and MSU/LBWL rely on a handful of anomalous and outdated orders the Commission issued between 2015 and 2017. In Case No. U-17689, the Commission opened a docket to implement Public Act 169 of 2014, which directed the Commission to commence a proceeding for the examination of DTE Electric's cost allocation and rate design methods.⁹⁶ While DTE Electric had previously allocated its uncollectibles expense based on revenue, it proposed

⁹³ Case No. U-17999, Order, December 9, 2016, p 66.

⁹⁴ *Id.*

⁹⁵ Consumers initial brief, p 353-55.

⁹⁶ Case No. U-17689, Order, August 5, 2014, p 1.

changing that method to one based on historical write-offs by customer class.⁹⁷ ABATE supported DTE’s proposal, while the Attorney General, Staff, and MEC/CARE/NRDC opposed it. The PFD recommended rejecting DTE’s proposal, noting that there is nothing that paying customers of any class can do to change the uncollectibles level for their class, that uncollectibles expense can vary widely from year to year, and that utilities influence their uncollectibles levels through the choices they make about policies, staffing, technology, and where they direct their billing and collection activities.⁹⁸ Nonetheless, the Commission found DTE’s proposal better reflected cost causation principles and approved it.⁹⁹

After about six years of applying the class-based allocation method in Consumers and DTE gas and electric rate cases,¹⁰⁰ the Commission in DTE Gas Company’s 2021 rate case, Case No. U-20940, reconsidered the issue and concluded that returning to a revenue-based allocation would “more accurately reflect[] both cost of service principles and . . . the approach used by most other companies.”¹⁰¹ The Commission rejected DTE Gas’s argument that doing so “would unfairly assign to ratepayers costs they did not cause,” recognizing, as Staff had argued, that the previous allocation method “d[id] just that – assigning the costs of the company’s uncollectibles largely to residential customers, even though ‘one customer who does not pay their bill does not ‘cause’ another to pay or not pay, regardless of which class the customers are in.”¹⁰² Since then, the

⁹⁷ Case No. U-17689, Order, June 15, 2015, p 25.

⁹⁸ Case No. U-17689, PFD, pp 116-17.

⁹⁹ Case No. U-17689, Order, June 15, 2015, p 27.

¹⁰⁰ See, e.g., Case No. U-17767, Order, December 11, 2015, p 114 (DTE Electric rate case); Case No U-17999, Order, December 9, 2016, p 57 (DTE Gas rate case); Case No. U-17990, Order, February 28, 2017, p 132 (Consumers Electric rate case); Case No. U-18124, Order, July 31, 2017, pp 110-11 (Consumers Gas rate case).

¹⁰¹ Case No. U-20940, Order, December 9, 2021, p 189 (citation omitted).

¹⁰² Case No. U-20940, Order, December 9, 2021, p 189 (quoting PFD, p 254).

Commission has restored the revenue-based approach in DTE Electric¹⁰³ and Consumers¹⁰⁴ electric rate cases but has not yet had the opportunity to do so in a Consumers gas rate case, as Consumers' gas rate cases since 2021 have been resolved through settlement.

ABATE and MSU/LBWL have identified no Commission orders since 2017 supporting their position, and they ignore what the Commission has said on the subject since 2021. In their initial brief, MSU/LBWL claim that Staff's revenue-based allocation method "would require the Commission to break from its precedent,"¹⁰⁵ citing the Commission's July 31, 2017, order in Case No. U-18124,¹⁰⁶ while ignoring the fact that the Commission first broke with that precedent nearly four years ago in Case No. U-20940. MSU/LBWL then say there is "no valid reason to deviate" from the U-18124 order,¹⁰⁷ ignoring all the valid reasons the Commission provided for doing exactly that in Case Nos. U-20940, U-21297, and U-21389. MSU/LBWL argue that, under a revenue-based allocation method, Rate XXLT customers would incur costs they had not caused. But they appear to miss the point that, under their preferred class-based allocation method, many customers will still bear costs they have not caused, and at higher levels than if the costs were allocated as general overhead. Payment or nonpayment of bills is not a function of customer class, and it would be unreasonable and unjust to allocate uncollectibles expense as anything other than a general cost of doing business.

Similarly, ABATE cites Commission orders adopting ABATE's preferred reasoning between 2015 and 2017 but does not contend with the Commission's decisions to the contrary

¹⁰³ Case No. U-21297, Order, December 1, 2023, p 296.

¹⁰⁴ Case No. U-21389, Order, March 1, 2024, p 228.

¹⁰⁵ MSU/LBWL Initial Brief, p 4.

¹⁰⁶ *Id.* at 5.

¹⁰⁷ *Id.*

since 2021. In particular, ABATE emphasizes that the 1992 NARUC Electric Utility Cost Allocation Manual states that “it may be appropriate to directly assign uncollectible accounts expense to specific customer classes.”¹⁰⁸ But, as ABATE has recognized in prior cases, “the NARUC Manual takes no position on whether direct assignment of uncollectibles by customer class or treating it as company overhead, is more reasonable.”¹⁰⁹ Unlike the NARUC Manual, the Commission *has* taken a position, and its position since 2021 has been that it is more reasonable and more reflective of cost causation principles to allocate uncollectibles by treating it as company overhead. ABATE and MSU/LBWL have offered no compelling reason or authority to support a different position, and the Commission should maintain the revenue-based allocation method it restored in Case No. U-20940 in 2021.

VI. CONCLUSION

For the reasons discussed above, MSC respectfully reiterate the requests for relief in their initial brief.

¹⁰⁸ ABATE Initial Brief, pp 71-72 (quoting the NARUC Manual).

¹⁰⁹ Case No. U-17689, Order, June 15, 2015, p 26 (referencing ABATE and DTE exceptions to PFD).

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
CONSUMERS ENERGY COMPANY for U-21806
 authority to increase its rates for the
 distribution of natural gas and for other
 relief.

PROOF OF SERVICE

On the date below, an electronic copy of **Reply Brief by Michigan Environmental Council, Sierra Club, and Citizens Utility Board of Michigan** was served on the following:

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The statements above are true to the best of my knowledge, information and belief.

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