



Via Electronic Case Filing

August 5, 2025

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

**RE: Case No. U-21859**

Executive Secretary Lisa Felice,

Please find attached the following for paperless filing in the above captioned matter:

The Data Center Coalition's Response to the Attorney General's Motion to Exclude; and  
Proof of Service

Thank you for your consideration.

Sincerely,

/s/ Nikhil Vijaykar

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CC: Parties to Case No. U-21859

**STATE OF MICHIGAN**

**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the Application of )  
Consumers Energy Company for *Ex Parte* ) Case No. U-21859  
Approval of Certain Amendments to Rate )  
GPD )

**THE DATA CENTER COALITION’S  
RESPONSE TO THE ATTORNEY GENERAL’S MOTION TO EXCLUDE**

Pursuant to Rule 432 of the Michigan Public Service Commission’s Rules of Practice and Procedure, Mich. Admin. Code R. 792.10432, and the schedule established by the Administrative Law Judge, the Data Center Coalition (DCC) hereby responds to the Attorney General’s (AG) *Motion to Exclude DCC’s Prejudicial Discovery Supplement and Purported Supplemental Testimony*, (Motion to Exclude) filed August 4, 2025. As this Response explains below, DCC does not object to the AG’s request seeking exclusion of the admission of certain updated and corrected workpapers DCC provided on August 3, 2025 as an attachment to its supplemental response to discovery from Michigan Environmental Council/Natural Resources Defense Council/Sierra Club/Citizens Utility Board (MNSC) (MNSC-DCC 2.1b), because DCC does not seek admission of those workpapers. However, the Commission should permit DCC to submit—and seek admission of—corrected testimony to remedy certain technical errors in Table 3 in the rebuttal testimony of DCC witness Shana Ramirez.<sup>1</sup> In support of this Response, DCC states as follows:

1. On July 9, 2025, in response to a discovery request from MNSC, DCC produced a workpaper in support of the rebuttal testimony of witness Ramirez (DCC supplemental response to MNSC-DCC 2.1b). That workpaper was developed to support an

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<sup>1</sup> On August 3, 2025, DCC filed a Motion for Leave to Submit Corrected Rebuttal Testimony *Instantly*.

illustrative example of the cash flow associated with two different scenarios with respect to the collateral required from large load customers. That illustrative example is provided in Table 3 presented on page 24 of witness Ramirez's rebuttal testimony.

2. Following the evidentiary hearing held on August 1, 2025, during the evening (Eastern Time) of Sunday, August 3, 2025, it came to DCC's attention that DCC had inadvertently supplied an outdated version of the workpaper supporting the illustrative example provided in Table 3 of witness Ramirez's rebuttal testimony (as a part of DCC's supplemental response to MNSC-DCC 2.1b). Further, it came to DCC's attention that the updated workpaper to witness Ramirez's rebuttal testimony includes two technical errors, resulting in corresponding errors in the values in Table 3 of Ms. Ramirez's rebuttal testimony. The first error in the updated workpaper is that it reflects an 85% minimum demand charge, rather than an 80% minimum demand charge. The second error in the updated workpaper appears in the formula for the net present value of the cash flow associated with each collateral scenario. Correcting those errors results in modest changes to the values in Table 3 of witness Ramirez's rebuttal testimony, and does not result in any other change to any other aspect of witness Ramirez's testimony.
3. Counsel for DCC sent an email to counsel for all parties on the evening of Sunday, August 3, 2025, immediately after identifying the issues described in ¶ 2 of this Motion, to alert the parties to those issues and to make them aware that DCC would be supplementing its discovery response later that day. Counsel and experts for DCC then worked diligently to supplement DCC's response to MNSC-DCC 2.1b later the same evening, including calling on support staff over the weekend to ensure the discovery

response was served and proof of service filed without further delay.<sup>2</sup> As an attachment to that supplemental response, DCC produced the updated workpaper to witness Ramirez's rebuttal testimony.<sup>3</sup> DCC also made corrections to the workpaper to address the errors described in ¶ 2 of this Motion above, and provided the corrected workpaper as a second attachment to its supplemental response.<sup>4</sup> Finally, in the interest of clarity, in the text of its supplemental response, DCC provided a corrected version of Table 3 in witness Ramirez's rebuttal testimony.<sup>5</sup> DCC also stated, in the supplemental response, that it would seek leave to file a corrected version of witness Ramirez's rebuttal testimony to reflect a corrected Table 3.<sup>6</sup>

4. Consistent with the ethical obligations in Rule 3.3 of the Michigan Rules of Professional Conduct, and in order to ensure the record reflects a corrected version of Table 3 in witness Ramirez's rebuttal testimony, DCC moved for leave to file a corrected version of that testimony *instanter* on August 4, 2025.<sup>7</sup> DCC also requested the opportunity to seek admission of the corrected testimony at the hearing scheduled in this proceeding on August 8, 2025.<sup>8</sup> DCC attached clean and redline versions of its corrected rebuttal testimony to its motion.<sup>9</sup>
5. The AG's Motion to Exclude makes three requests for relief:

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<sup>2</sup> Exhibit A, U-21859 DCC Second Supplemental Response to MNSC's Second Set of Discovery.

<sup>3</sup> Exhibit B, Consumers Collateral Calculation Workpaper MNSC-DCC-2.1b (SUPP2) Attach 1.

<sup>4</sup> Exhibit C, Consumers Collateral Calculation Workpaper MNSC-DCC-2.1b (SUPP2) Attach 2.

<sup>5</sup> Exhibit A, U-21859 DCC Second Supplemental Response to MNSC's Second Set of Discovery.

<sup>6</sup> *Id.*

<sup>7</sup> DCC Motion for Leave to File Corrected Rebuttal Testimony Instanter (Aug. 4, 2025).

<sup>8</sup> *Id.*

<sup>9</sup> Exhibit D, Corrected Rebuttal Testimony of Shana Ramirez on behalf of the Data Center Coalition; Exhibit E, Corrected Rebuttal Testimony of Shana Ramirez on behalf of the Data Center Coalition (redline version).

- i. It requests the Commission exclude any admission of the updated and corrected workpapers DCC supplied as attachments to its supplemental discovery response issued on August 3, 2025;
  - ii. It requests the Commission exclude admission or binding in of “supplemental testimony” (which DCC interprets as the corrected testimony it seeks leave to submit); and,
  - iii. It requests the Commission exclude any reference to the existence or content of DCC’s updated and corrected workpapers, as well as any corrected testimony, on the record.<sup>10</sup>
6. With respect to the first request listed in ¶ 5 above, DCC has not sought admission of the updated and corrected workpapers DCC supplied as attachments to its supplemental discovery response to MNSC-DCC 2.1b. DCC does not object to the AG’s request.
7. With respect to the second request listed in ¶ 5 above, DCC opposes the request. On August 4, 2025, DCC filed a motion requesting leave to file corrected rebuttal testimony *instanter*. The Commission should grant that request to ensure the record is corrected. The corrected testimony makes modest changes to the values in Table 3 of witness Ramirez’s rebuttal testimony. While DCC acknowledges that the timing of DCC’s supplemental discovery response and request for leave to submit corrected testimony is inconvenient for both parties and the Administrative Law Judge, and regrets that timing, parties have three<sup>11</sup> days to review the corrections to the values in Table 3 of witness Ramirez’s rebuttal testimony and the calculation underlying those

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<sup>10</sup> Motion To Exclude at 4.

<sup>11</sup> Between August 4, 2025, when DCC provided corrected rebuttal testimony accompanying its Motion for Leave to File Corrected Rebuttal Testimony, and August 8, 2025, when the hearing in this proceeding will resume.

values, and witness Ramirez will be available for cross examination should parties have questions regarding those corrections.

8. With respect to the AG's third request listed in ¶ 5 above, DCC opposes the request, because, to the extent the Commission denies the AG's second request listed in ¶ 5 above, and grants DCC's request for leave to submit and seek admission of corrected testimony, parties may be required to reference the existence or content of DCC's updated and corrected workpapers as well as DCC's corrected testimony on the record.

WHEREFORE, for the reasons described above, the Commission should not exclude admission or binding-in of DCC's corrected rebuttal testimony, and should not exclude references to the existence or content of DCC's updated and corrected workpapers as well as its corrected testimony from the record.

Dated: August 5, 2025

DATA CENTER COALITION

By: /s/ Nikhil Vijaykar  
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# 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

### PROOF OF SERVICE

On August 5, 2025, an electronic copy of the foregoing was served on the following via email:

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

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Dated: August 5, 2025