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
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The Attorney General's Initial Brief

Respectfully submitted,

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I. Introduction, Background, and Recommendations

A. Consumers Energy's Projections for Data Center Growth.

On July 31, 2025, in the middle of cross-examination for this case, Consumers Energy announced that it had "reached an agreement with a new data center, which is expected to add up to 1 gigawatt of load growth in our service territory."[1] This one data center, should it take service as described, would likely add more energy demand to Consumers' service territory than the entire retail demand of Grand Rapids, or adding the entire city of Detroit.[2] this is just one step in Consumers' projected data center additions; its application in this case forecasts 15 GW of additional load, compared to the Company's current peak demand of about 7.65 GW. These customers represent unprecedented additions to Company's energy demands.[3]

Part of the unique consideration for these data center customers is the particularly high degree of energy usage required for their operations. As noted in Consumers application, "the load profile of data centers is unique because, unlike other commercial or industrial businesses that run varying shifts of production or

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[1] *See* Exhibit MEC-46, Consumers' News Release "CMS Energy Announces Strong Second Quarter Results, Reaffirms 2025 Adjusted EPS Guidance," also accessible at https://www.cmsenergy.com/investor-relations/news-releases/news-release-details/2025/CMS-Energy-Announces-Strong-Second-Quarter-Results-Reaffirms-2025-Adjusted-EPS-Guidance/default.aspx.

[2] *See, e.g.*, 4 TR, Isakson Cross, 339:23 – 341:14 (including in part: "Q. So the addition of just one or two of these large customers that we're talking about would eclipse the power demand of the state's largest cities; am I understanding that correctly?"; "A. Yes, I think that's reasonable."); *See also, e.g.*, *See, e.g.,* Spencer Kimball, *Data Centers Powering artificial intelligence could use more electricity than entire cities*, CNBC.COM, November 23, 2024, accessed at https://www.cnbc.com/2024/11/23/data-centers-powering-ai-could-use-more-electricity-than-entire-cities.html (noting, for example, that "A gigawatt-size data center campus running at even the lower end of peak demand is still roughly comparable to about 330,000 households, or a city of more than 800,000 people — about the population of San Francisco").

[3] *See* 4 TR, Isakson Cross, (referring to a hypothetical 500 MW addition: "Q. Okay. So we're talking about unprecedented addition to their grid, right?"; "A. Yes.").

only operate during normal business hours, they require consistent, high levels of demand – operating 24 hours a day, 7 days a week, 365 days a year."[4]

These customers also appear to present different economic risks and benefits than comparably-sized traditional customers would. Per Consumers' Application: "data center customers are unique in that they are extremely large loads but bring more risk than other Rate GPD customers as these customers are unlike traditional manufacturing customers who take service under Rate GPD…. [d]ata centers do not have significant numbers of on-site employees, and do not have significant local supply chain needs, making it easier for data centers to 'pick up shop' and reduce or leave the Company's service…. [t]hese factors create a greater risk for stranded assets with respect to data center customers than exists for other Rate GPD customers."[5]

B. The Potential Impacts of Inadequate Ratepayer Protections.

Several of the parties here have presented testimony on the specific types of risks posed by these new customers compared to others. MPSC Staff witness Isakson, for example, discusses at length in his direct testimony the potential stranded cost risks at issue. In one possible iteration, he considers that: "[f]or example, if the market for artificial intelligence in products and services never matures into a viable, sustainable business model, then a data center customer may exit service and create a stranded asset due to forces beyond the large load customer, the Company, and especially all other customers."[6] Relatedly, Consumers' witness Connolly noted the

[4] Consumers' Application at 2.
[5] *Id*.
[6] 4 TR, Isakson Direct, 300:9 – 12.

AI industry as a source of load growth among the Company's projected 15 gigawatts as part of her direct testimony: "[t]his rapid load growth is fueled in part by developments in artificial intelligence which is an evolving technology."[7]

Another type of risk addressed by the intervenors is the potential for cross-subsidization of these new customers' added costs by existing ratepayers. For example, if revenues collected from these customers do not meet all incremental costs required serve them from Consumers' system, it's possible the Company would seek recovery of the balance of those costs from other ratepayers.[8] Potential subsidization could occur in several forms, as discussed in more detail below.

It appears that some of these cost risks are already becoming realized in other jurisdictions that have previously grappled with the same issues. For example, CEO witness Siddique cited in his direct testimony a March 2025 publication from the Harvard Electricity Law Initiative, noting that the publication "found that 'data center infrastructure costs are finding their way into power bills—to the benefit of utilities that earn a return on those investments.'"[9] Similarly, earlier this month it was reported that the PJM market monitor, Marketing Analytics, had determined

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[7] 3 TR, Connolly Direct at 81:14 – 15.

[8] *See, e.g.*, 5 TR, Siddique Direct at 779:15 – 780:5 (testifying that "[h]igher prices underscore the need for careful, equitable allocation of those costs by the Commission to ensure other ratepayers are not held responsible for the costs incurred to serve new data center load" and that "without careful cost allocation or incentives to minimize new infrastructure or upgrades, the significant expenditures necessary to serve large new loads can be socialized to all ratepayers, not just those causing the demand.").

[9] *Id*, citing Exhibit CEO-6, Eliza Martin & Ari Peskoe, *Extracting Profits from the Public: How Utility Rate Payers Are Paying for Big Tech's Power*, HARVARD ENVIRONMENTAL & ENERGY LAW PROGRAM at 16 (Mar. 2025), and apparently quoting descriptions of the report's findings in Jeffrey Tomich, *Utility customers already subsidizing data center boom – study*, E&ENEWS BY POLITICO, March 7, 2025, accessible at https://www.eenews.net/articles/utility-customers-already-subsidizing-data-center-boom-study/.

that "70% — or $9.3 billion — of last year's increased electricity cost [in PJM] was the result of data center demand."[10]

A common subsidization concern cited in this reporting on ratepayer risks is the implications of shared transmission costs on utilities' other customers.[11] As discussed below, that issue is particularly salient here because Consumers has acknowledged some portion of costs associated with required transmission upgrades are not allocated through the Company's cost of service methodology, but rather shared evenly through the Company's PSCR factor.[12] While historically costs associated with transmission upgrades for a single customer may not have presented such a noticeable risk to other ratepayers, the sheer size of these new customers' load requirements and the investments required to serve these loads change that historical calculus.

C. The Attorney General's Recommendations.

In light of the applicable law and arguments presented below, the Attorney General submits the following recommendations to the Commission to protect against the ratepayer risks addressed at length herein:

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[10] Marc Levy, *As electric bills rise, evidence mounts that data centers share blame. States feel pressure to act*. AP NEWS, August 9, 2025, accessible at https://apnews.com/article/electricity-prices-data-centers-artificial-intelligence-fbf213a915fb574a4f3e5baaa7041c3a (referencing Monitoring Analytics, LLC, *State of the Market Report for PJM January through June*, August 14, 2025, accessible at https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2025/2025q2-som-pjm.pdf).

[11] *See, e.g.*, Exhibit CEO-6, Eliza Martin & Ari Peskoe, *Extracting Profits from the Public: How Utility Rate Payers Are Paying for Big Tech's Power*, HARVARD ENVIRONMENTAL & ENERGY LAW PROGRAM at 16 (Mar. 2025); *See also* Ivan Penn and Karen Weise, *Big Tech's A.I. Data Centers Are Driving Up Electricity Bills for Everyone*, THE NEW YORK TIMES, August 14, 2025, accessible at https://www.nytimes.com/2025/08/14/business/energy-environment/ai-data-centers-electricity-costs.html.

[12] *See, e.g.*, Exhibit AG-1.13 at U21859-AG-CE-0142.b (including that "all customers pay the same PSCR factor").

- **Revenue Guarantee Provisions**. The Attorney General presents three alternative recommendations to the Commission—in combination with her other recommendations such as for the establishment of a standalone rate as soon as possible and in the context of her recommended exit fee calculation—for addressing the issues of incremental cost recovery and stranded cost risks as part of the Rate GPD amendments at issue:
    - 1. A Direct-assignment approach, wherein a 15-year minimum contract term and 80% minimum billing demand apply, and the new large customers are also directly assigned at least the following categories of costs: A) their interconnection costs: B) their attributable portion of non-allocated PSCR costs; and C) the procurement or cost of procurement for their added PA 235 compliance requirements. The Attorney General considers this to be the most effective approach.
    - 2. A no/partial direct-assignment approach, wherein either: A) a 20-year minimum contract term and 90% minimum billing demand apply; or B) a 17.5-year minimum contract term and 85% minimum billing demand apply and the new large customers are also directly assigned their interconnection costs; and
    - 3. A special contract approach, wherein, if the Commission does not prefer either of the other recommended approaches, the terms of service for each customer are determined through a contested special contract proceeding until a standalone rate for these customers is established.

- **Other Contract Term Issues: Exit fee; Ramp-up Period; and Evergreen Periods.** The Attorney General makes the following additional recommendations as to contract term issues addressed in this case:
    - The Attorney General recommends that the exit fee be calculated as a customer's minimum billing demand multiplied by the remaining months in their contract term.
    - The Attorney General recommends that the exit fee apply during the "ramp-up" period as described by the Company, with the remaining term of the contract in that period being the entirety of the minimum contract term.
    - The Attorney General recommends that the Commission should not allow Consumers to unilaterally decide exit fee reductions.
    - The Attorney General recommends that the new large customers be required to pay minimum billing demand at capacity milestone levels during any "ramp-up" period, as outlined in the direct testimony of MNSC witness Palmer.
    - As to termination notice, the Attorney General recommends that the new large customers be held to an evergreen provision of at least 5 years. The exit fee calculation would extend to the end of any applicable evergreen period, meaning that if a customer failed to provide adequate notice, its exit fee would expand to include the remainder of the months in its then-lengthened term.

- **Collateral Provisions**. The Attorney General makes the following recommendations as to collateral terms required under the Rate GPD amendments at issue:
    - The Attorney General adopts the recommendation made in MPSC Staff witness Isakson's direct testimony that collateral required from new large customers be set at the exit fee amount.
    - To the extent the Commission is not inclined to order the collateral calculation proposed by Staff, the Attorney General in the alternative recommends the collateral calculation recently approved in Ohio Power's Schedule DCT Tariff, which calculates collateral as equal to 50% of the total minimum charges for the full term of the contract.
    - The Attorney General further recommends the collateral exemption provision included in Ohio Power's Schedule DCT Tariff, which permits an exemption if a customer has both (a) a credit rating of at least A- from S&P Global Inc. ("S&P") and A3 from Moody's Corporation ("Moody's") and (b) cash and cash equivalents on an audited balance sheet prepared in accordance with Generally Accepted Accounting Principles ("GAAP") ("Liquidity") greater than ten times the Collateral Requirement.
    - Finally, the Attorney General recommends that the same forms of allowable collateral set forth in the Ohio Power Schedule DCT Tariff be used here as well.

- **Amended Rate Eligibility: Use of NAICS Code to Define Customer Class; Megawatt Threshold.** The Attorney General recommends the following eligibility terms for the Rate GPD amendments at issue:
    - The Attorney General recommends the use of North American Industry Classification System codes (NAICs code) 518210 to define eligible customers, which refers to "Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services."
    - The Attorney General recommends the Commission adopt Consumers' initial application proposal of a 100 megawatt eligibility threshold for aggregate customer operations at a single or multiple sites, and further recommends that customer operations at any single site of 50 megawatts or greater also be eligible.
- **New Rate and Cost Allocation Study.** The Attorney General makes the following recommendations to the Commission concerning requirements that Consumers address, in the near-term, rate-design and cost-allocation for these new large customers:
    - The Attorney General recommends that Consumers be required to put forward a standalone rate for these customers as soon as possible and at least as early as part of its next electric rate case, and that at least three months before filing its application, Consumers provide the parties to the present case with notice of its planned approach for a separate rate applicable to data center customers.

- The Attorney General also herein adopts MNSC witness Palmers' recommendations for incremental cost modelling as part of Consumers' IRP, namely that the Company conduct IRP with and without data center load to isolate incremental costs. The Attorney General specifically recommends that the Commission require such modelling as part of the Company's next IRP.

- **Demand Reductions**. The Attorney General makes the following recommendations as to potential requests for capacity reductions by these customers, as considered in the Company's Application:
  - The Attorney General recommends that in addition to restricting capacity reductions to a one-time allowance, the amended tariff provisions require that the reduction be approved as part of a contested case proceeding.
  - The Attorney General also recommends that any such capacity reduction, or any combined reductions, may not exceed 10% of the customer's initial contract capacity, and further that any customer seeking to request such a capacity reduction provide at least 4 years written notice before the beginning of the year in which such a capacity reduction would go into effect.
  - Finally, the Attorney General recommends that data center customers as addressed in this matter would only be eligible for such capacity reduction after 5 years of their contract term. This will help ensure

against the creation of stranded assets and cost shifting to non-data center customers.

- **Recommendations Concerning Renewable and Clean Energy Provisions.** The Attorney General presents the following recommendations to the Commission concerning the renewable and clean energy topics addressed in this case:
    - The Attorney General reiterates the recommendation of Attorney General witness Deupree that the new large customers be required to cover their added cost of compliance for meeting the resource portfolio standards of PA 235, and enter into contracts with the Company for procurement of at least 60 percent of incremental energy requirements to be supplied by renewable resources.
    - The Attorney General further recommends a requirement that data center customers meet the 90% clean energy procurement standard under the tax exemption statute MCL 205.54ee if they seek to be eligible as enterprise data centers under that statute.
    - The Attorney General further notes that she is not necessarily opposed to other proposals as to renewable and clean energy raised by other parties in this matter, and will continue to review those recommendations.
- **Administrative Fee**. The Attorney General recommends that the Commission require the entirety of any administrative fee associated with

Consumers assessing prospective projects to be directly assigned to the inquiring customer. This is in reference to the fee that Consumers originally proposed as a direct-assignment with a cap of $100,000, but then withdrew in rebuttal testimony.

II. Applicable Law

A. Consumers' failed request for *ex parte* relief.

Consumers Energy Company ("Consumers" or "the Company") filed its application in this matter on February 7, 2025, seeking *ex parte* approval to add a "data center provision" to its tariff sheets.[13] MCL 460.6a(3) sets forth the standard for review as to requested *ex parte* relief, stating that:

> "[a]n alteration or amendment in rates or rate schedules applied for by a public utility that will not result in an increase in the cost of service to its customers may be authorized and approved without notice or hearing."

Several parties, including the Attorney General filed petitions as to Consumers' application in this case, challenging Consumers' request for *ex parte* relief under the standard set forth above. As argued by the Attorney General, the many present and future costs associated with providing service to data centers, some of which are discussed in the Company's application, may result in an increase of cost of service to its other customers. Consumers filed an "Answer" to the several intervenors' petitions on February 28, 2025, stating that the Company's proposals constitute "safeguards" to avoid "unacceptable risks" under its existing Rate GPD.

[13] *See* the header for the proposed language in the Company's Exhibit to its Application (Sheet No. D-67.10).

On March 13, 2025, the Michigan Public Service Commission ("MPSC" or "Commission") issued an Order on the Petitions and Answer denying *ex parte* relief, including that:

> The Commission has reviewed the filed pleadings and applicable legal authority and finds that *ex parte* treatment of the application is not appropriate. The electric load of new data centers presents unique and significant cost implications, and the development of an evidentiary record to consider the February 7 application is prudent and reasonable. MCL 460.6a(3); *see also,* June 30, 2020 order in Case No. U-20763, pp. 69-70. Thus, the Commission grants the requests for a contested case proceeding in this matter. Mich Admin Code, R 792.10415(1).[14]

The Commission's rejection of an *ex parte* proceeding here is crucial to assessing the relative value of the several parties' recommendations. Consumers' failure to demonstrate that its initial proposals "will not result in an increase in the cost of service to its customers" under MCL 460.6a(3) sets a baseline for an evaluation of whether the proposals made by any given party do in fact provide adequate ratepayer protections.

B. Burden of Proof.

Consumers bears the burden of proving, by a preponderance of the evidence, that its proposals for Rate GPD amendments are reasonable and prudent. In administrative cases, a party seeking relief must prove their claim by a preponderance of the evidence.[15] In Commission cases, a utility has the burden of proof by a preponderance of the evidence.[16] Given the nature of the burden of proof,

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[14] U-21859, March 13, 2025, Commission Order at 3.
[15] *Dillon v Lapeer State Home & Training School,* 364 Mich 1, 8; 110 NW2d 588 (1961), *and BCBSM v Governor,* 422 Mich 1, 88-89; 367 NW2d 1 (1985).
[16] *In re Michigan Gas Utilities Co,* MPSC Case No. U-7484, Opinion & Order August 30, 1983, p. 10, and *In re Detroit Edison Co,* MPSC Case No. U-8030-R, Opinion & Order, July 9, 1987, pp. 16-17.

the Commission may reject even uncontradicted evidence.[17] When the burden of proving a fact falls on one party, the other party does not have the burden of proving the opposite fact.[18]

C. PA 235 and MCL 205.54ee.

Several intervenors in this matter have raised issues concerning compliance with the clean and renewable energy standards set forth in PA 235—namely how the addition of these massive customers will impact compliance with those standards and the planning for such compliance costs[19]—as well as the clean energy requirements for "enterprise data centers" set forth under the tax exemption statute MCL 205.54ee.[20] The tax exemption statute is further relevant in that facilities do not qualify for a "enterprise data center" exemption if they take service on "[a] rate that causes residential customers to subsidize the costs incurred to provide electric service to the facility." MCL 205.54ee(10)(e)(X)(C).

Consumers opposed the relevance of these statutes as part of its Answer seeking *ex parte* relief[21] (as denied by the Commission). Consumers again sought to challenge the relevance of these statutes as part of a Motion *in Limine*.[22] The ALJ in this case denied Consumers' Motion on the parts relating to the relevance of these

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[17] *Woodin v Durfee,* 46 Mich 424, 427; 9 NW 457 (1881). *Accord, Yonkus v McKay,* 186 Mich 203, 211; 152 NW 1031 (1915), and *Cuttle v Concordia Mut Fire Ins Co,* 295 Mich 514, 519; 295 NW 246 (1940).
[18] *S C Gary, Inc v Ford Motor Co,* 92 Mich App 789, 803-804; 286 NW 2d 34 (1979).
[19] *See, e.g.*, the Attorney General's Petition at 4 – 5.
[20] *Id*. The tax exemption statute includes a section explicitly contemplating tariff provisions concerning clean energy procurement for data centers: "electric utilities . . . shall identify and, if necessary, ***develop tariffs***, contracts, and other mechanisms that support the enterprise data center in making this demonstration" (emphasis added). MCL 205.54ee(10)(e)(ix).
[21] Consumers' Answer at 3 – 5.
[22] *See, e.g.*, Consumers' Motion *in Limine* at 8.

statutes.[23] The Company then appealed that decision to the Commission, and the appeal is pending.[24]

III. The Attorney General's Recommendations

A. Cost and Revenue Calculations.

A.i. Cost Modelling.

The starting point for the Attorney General's recommendations, summarized above, is an attempt at estimating the costs for adding large data center customers to Consumers' grid. Neither Consumers nor DCC have attempted comprehensive cost modelling for adding these customers, despite being the best-positioned parties to do so. In fact, the only category of cost put forth in this case is Consumers Energy's estimates for interconnection costs, namely the estimated costs for interconnecting a 100MW customer.[25] Importantly, Consumers acknowledges that these estimates are limited to direct costs associated with connecting the customer's operations to Consumers' grid, and therefore does not include any other generation, transmission, or distribution costs.

For interconnecting a 100 MW customer, the Company estimates a range of $46.5 million to $96 million.[26] The Company has stated that this is comprised of $28

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[23] *See*, 2 TR, Hearing on Consumers' Motion *in Limine* at 48 – 50.
[24] Consumers Energy Company's Application for Leave to Appeal the Administrative Law Judge's April 16, 2025 Ruling on a Motion *in Limine* to Define the Scope of the Proceeding.
[25] *See, e.g.*, 3 TR, Connolly Cross, 113:18 – 114:2 (Company witness Connoly confirming that no cost estimates for generation were presented in testimony or discovery); *See also, e.g., id*, at 116:23 – 117-7 (witness Connolly likewise confirming that no cost estimates for transmission associated with generation build-out were provided in testimony or discovery); *See also, e.g., id,* at 118:1 – 119:1 (Connolly acknowledging some description of distribution costs associated with generation, but confirming that no estimates of that cost category have been presented in this case).
[26] *See* Exhibit AG-1.9.

million to $34 million in estimated distribution costs[27] consisting of a representative transformer cost multiplied by an estimated number of transformers required to serve a 100MW load,[28] and $18.5 to $62 million in estimated transmission costs.[29] While the Company appears to present a conservative assumption about how much of the new load can be accommodated from existing transmission infrastructure,[30] its estimates are still helpful for understanding the central issues in this case.

Though Consumers has not put forth any estimated cost for generation build-out, we do have an estimate from a utility in a neighboring jurisdiction. As noted by witness Deupree in his rebuttal testimony, Indiana Michigan Power Company estimated in a similar case heard last year that 150MW in additional generation capacity would require an estimated $600 million in incremental investment,[31] not including any investment for reserve margins.[32] Scaling this estimate to a 100MW customer results in an initial investment of $400 million investment figure for generation alone. It's unclear from the I&M testimony exactly whether this figure

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[27] Exhibit AG-1.15 at DR response U21859-MNSC-CE-0123.c.
[28] *Id,* at U21859-MNSC-CE-0123.a.
[29] *Id,* at U21859-MNSC-CE-0123.c.
[30] *Id,* at U21859-MNSC-CE-0123.a.
[31] *See* 5 TR, Deupree Rebuttal at 1011:12 – 14 ("Indeed, IM Power testified in Indiana that it would require approximately $600 million of generation investment to serve a 150 MW customer assuming resource costs of $2,000 per kW with an accredited capacity value of 50 percent.") (citing to *In the Matter of the Verified Petition of Indiana Michigan Power Company for Approval of Modifications to its Industrial Power Tariff – Tariff I.P.,* Indiana Utility Regulatory Commission Cause No. 46097, Direct Testimony of Andrew J. Williamson at 7:6-10, accessible at https://iurc.portal.in.gov/docketed-case-details/?id=b8cd5780-0546-ef11-8409-001dd803817e.
[32] *See, e.g., In the Matter of the Verified Petition of Indiana Michigan Power Company for Approval of Modifications to its Industrial Power Tariff – Tariff I.P.,* Indiana Utility Regulatory Commission Cause No. 46097, direct testimony of Indiana Office of Utility Consumer Counselor witness Leader OCC at page 4.

includes a financial carrying cost.[33] Adding to this the Company's estimated interconnection costs for a 100 MW customer of between $46.5 million and $96 million results in a combined required initial investment of between $446.5 million and $496 million.[34] And this estimate still does not account for all cost categories, such as the more generalized transmission build-outs as will be discussed in greater detail below.

A.ii. Consumers' Proposed Revenue Terms Fall Short of Cost Recovery.

Under Consumers' proposed tariff amendments, the guaranteed revenue from new data center customers would not meet even the non-complete cost estimate outlined above. Using a revenue model provided by DCC (see below DCC witness Bieber's Table JB-1 demonstrating the model), Consumers' proposed 80% minimum billing demand over a minimum 15-year contract term would produce $435.33 million in revenue from a 100 MW facility,[35] undershooting even the low end of estimated

[33] Though the absence of a carrying cost from this figure might be indicated by comparison in the I&M case between the estimated generation investment and the Utility's prior net plant in service figure. *See, id.*, appearing to compare the 150 MW investment figure against pre-WACC net plant in service (for example, page 5, FN 6, references the net plant in service figure from Order in IURCC Case No. 45933 at 32 (May 8, 2024)).

[34] The Company might also seek a WACC on some portion of the interconnection cost. For the purpose of this analysis, however, the Attorney General has not attempted to account for that addition, in part because it's also unclear whether some portion of generation investment might not be subject to a WACC (such as if customers themselves procure some generation resources).

[35] *See,* 3 TR, Bieber direct at 632:1 (Table JB-1). Witness Bieber's model arrives at an initial annual revenue figure by taking a total $/Kw-month rate ("Total Demand Rate"), multiplying it by 1000, and then multiplying that result by "contract capacity" input, the "minimum billing demand" input, and 12 (for 12 months). *Id*. His model then scales the "Annual Demand Revenue" by a "Rate GPD Annual Escalation" factor over the number of years projected for minimum contract term. Applying this model to a 100 MW load results in an initial "annual demand revenue" of $23,942,400 if a 100MW load at 80% minimum billing demand is assumed, with the total of $435,330,591 over the lifespan of a 15-year contract (assuming about 2.7% annual increase). Identical results can be derived simply by dividing the inputs included in his direct testimony (500 MW at 80%) by 5, with the resulting "annual demand revenue" equaling the same $23,942,400 figure. The Attorney General spent time during cross-examination of witness Bieber to confirm how his model and its outputs changed under varying assumptions. *See*, 3 TR, Bieber Cross at 695 – 700.

generation costs plus interconnection costs ($446.5 million low-end total, equaling $400 million generation + $46.5 million low-end interconnection), even assuming the generation investment cost includes carrying costs, and not even accounting for added transmission costs from generation build-out or other costs suggested by the Company.[36] It is therefore not surprising that Consumers' failed on its initial request for *ex parte* relief in this matter, which would have required a showing under MCL 460.6a(3) that its proposals "will not result in an increase in the cost of service to its customers."[37]

Table JB-1
Consumers Minimum Billing Demand Example
At Consumers Current Rate GPD 1 Charges

Generation On Peak Demand	
On-Pk Billing Demand June-Sept ($/kW-Mo)	17.15
On-Pk Billing Demand Oct-May ($/kW-Mo)	14.95
Weighted Average ($/kW-Mo)	***15.68***
Transmission Demand	
On-Pk Billing Demand June-Sept ($/kW-Mo)	8.63
On-Pk Billing Demand Oct-May ($/kW-Mo)	8.04
Weighted Average ($/kW-Mo)	***8.24***
Distribution Max Demand	
Maximum Demand ($/kW-Mo)	***1.02***
Total Demand Rate ($/kW-Mo)	***24.94***
Contract Capacity (MW)	500
Minimum Billing Demand %	80%
Annual Minimum Demand Revenue ($)	119,712,000
Minimum Contract Term (Years)	15
Rate GPD Annual Escalation*	2.7%
Minimum Demand Revenues Over Contract	**2,176,652,957**

*Rate GPD annual escalation based on actual Rate GPD 1 escalation between 2018 to 2025.

[36] For example the "distribution" costs from generation as discussed by the Company in Exhibit AG-1.15 and in cross-examination at 3 TR, 113:18 – 114:2.
[37] *See* March 13, 2025, Commission Order denying *ex parte* relief.

Notably too, this output from DCC's revenue model assumes a yearly increase of about 2.7% in expected revenue,[38] which is not included in an exit fee calculation tied to the remaining months of guaranteed revenue. Thus, a 100 MW customer under DCC's revenue model would have an exit fee of $359.136 million (annual $23,942,400 x 15). ***This would undershoot estimated costs by more than $85 million dollars for even the low-end estimate of non-comprehensive costs examined here (and assuming that carrying costs are already included in the cost estimate).*** The Commission should further recognize that the example here is a 100 MW customer, compared to the 1 GW customer announced by Consumers last month. It is likewise not surprising that in the I&M case the utility initially proposed revenue-guarantee terms of a 20-year minimum contract and 90% minimum billing demand,[39] which reflects terms effected by Kentucky Power in its respective jurisdiction[40] (compared to the 15-year and 80% terms proposed by Consumers here). And even then, the Indiana Office of Utility Consumers Counsel raised similar concerns as to whether I&M's initial proposal would result in incremental cost recovery.[41]

While Consumers might claim that some portion of interconnection cost for new large customers would be recovered through its contribution in aid of construction (CIAC) contracts, the Company has admitted in discovery that those

[38] *See*, 3 TR, Bieber Direct at 632:1 (Table JB-1).
[39] *See, Indiana Utility Regulatory Commission Cause No. 46097*, Verified Petition at 3 ("Relief Sought"), accessible at https://iurc.portal.in.gov/docketed-case-details/?id=b8cd5780-0546-ef11-8409-001dd803817e.
[40] *See* 3 TR, Palmer Direct at 883:1 – 2 and 883:19 – 884:1.
[41] *See, e.g.*, *Indiana Utility Regulatory Commission Cause No. 46097*, direct testimony of Indiana Office of Utility Consumer Counselor witness Leader OCC at page 5.

CIAC contracts are completely permissive,[42] do not obligate a customer to the entirety of their interconnection costs even if the utility seeks to apply a CIAC contract,[43] and are completely avoidable by a customer through early termination.[44] Consumers proposes no other mechanism to cover these glaring deficiencies in its recommended terms. Simply put, the Company's proposed revenue guarantee provisions are not reasonable or prudent considering the massive costs at stake for these customers.

A.iii. The Attorney General's Solutions for Consumers' Revenue Deficiency.

As described in greater detail in each corresponding section below, The Attorney General presents three alternative recommendations to the Commission—in combination with her other recommendations such as for the establishment of a standalone rate as soon as possible and in the context of her recommended exit fee calculation—for addressing the issue of incremental cost recovery:

- A.iii.a. A Direct-assignment approach, wherein a 15-year minimum contract term and 80% minimum billing demand apply, and the new large customers are also directly assigned at least the following categories of costs: A) their interconnection costs: B) their portion of non-allocated PSCR costs; and C) the procurement or cost of procurement for their added PA 235 compliance requirements. The Attorney General considers this to be the most effective approach;

[42] *See, e.g.*, Exhibit AG-1.13 at Consumers' discovery response U21859-AG-CE-0143.e-f.
[43] *Id.*
[44] *See, e.g.,* 3 TR, Connolly Cross at 190:13 – 191:17 ("I don't believe the CIAC agreement that we're looking at or the CIAC agreement that we have in place with customers has an exit penalty.").

- A.iii.b. A no/partial direct-assignment approach, wherein either: A) a 20-year minimum contract term and 90% minimum billing demand apply; or B) a 17.5-year minimum contract term and 85% minimum billing demand apply and the new large customers are also directly assigned their interconnection costs; and
- A.iii.c. A special contract approach, wherein, if the Commission does not prefer either of the other recommended approaches, the terms of service for each customer are determined through a contested special contract proceeding until a standalone rate for these customers is established.

A.iii.a. Direct Assignment Approach. The Attorney General has identified several options for shoring up the shortfall presented in Consumers' proposals. The most effective solution would be to directly assign as many costs to the new customers as possible, thus removing them from the calculation of cost/revenue allocation in future rate cases. This would reduce the degree to which Consumers' current cost allocation methods would foist an undue portion of costs onto other customers.

A disproportionate impact on residential ratepayers appears to be assumed as part of the Company's existing cost allocation. As witness Connolly highlighted during cross-examination for transmission cost allocation: "[r]esidential customers will be allocated their cost to serve or their share of those costs based on the approved methodology…. [s]o if it's the 12 CP methodology, ***then they would be allocated more than a primary customer,*** because they're setting those coincident peaks"

(emphasis added).[45] Witness Connolly further confirmed a relatively greater cost responsibility for residential customers versus Rate GPD customers for the Company's generation cost allocation.[46]

One solution to this inequity in allocating costs from giant new loads is to directly assign costs where possible, thus removing them from the allocation process. As a key example, Attorney General witness Deupree recommends direct assignment of interconnection costs to these large customers.[47] Consumers has stated in discovery that it considers all of its estimated interconnection costs to be attributable to each customer,[48] and further that it does not necessarily oppose direct assignment of those costs.[49] Removing interconnection costs from the cost/revenue equation, while not entirely repairing the flaws in Consumers' proposals here, would be one clear inroad towards adequate ratepayer protections.[50]

Other potential costs that could be directly assigned would include costs associated with new generation assets required to serve these customers and the non-allocated portion of transmission costs required to interconnect these generation assets. Consumers has acknowledged in discovery and cross-examination that some

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[45] 3 TR, Connolly Cross at 200 – 202.
[46] *Id,* at 202.
[47] *See, e.g.*, 5 TR, Deupree Direct at 987:13 – 988:2.
[48] Exhibit AG-1.13 at Consumers discovery response U21859-AG-CE-0143.c ("All of the costs estimated in U21859-MNSC-CE-0035 are directly attributable to the hypothetical 100 MW load addition.").
[49] *Id*, at U21859-AG-CE-0143.a ("The Company's rebuttal testimony does not take a position specific to Attorney General witness Deupree's recommendation related to tariff language requiring prospective data center customers to
be responsible for covering all direct interconnection costs. The Company's rebuttal testimony recommended any determination on cost assignment be handled in the context of an electric general rate case.").
[50] The issue of an "administrative fee" as originally proposed in Consumers' Application, is addressed in Section IV below.

portion of these transmission costs will be borne evenly by all ratepayers in the power supply cost recovery process (PSCR), rather than subject to allocation in a rate case where they could be more closely tailored to the large new loads who are incurring the expense.[51] In fact, Consumers' witness Connolly seems to think the non-allocated portion of the costs are cleanly "backed out" somewhere in the Company's PSCR plan cases.[52] Yet the Company proposes no solution for this clear example of subsidization. Rather than allow this undue burden on other ratepayers, the Commission should require that at least the non-allocated portion of these transmission costs necessary to accommodate the new large customers be directly-assigned to those customers.

As alluded to above, another category of cost to consider for direct assignment is the cost to procure new generation resources, and specifically new renewable energy resources to accommodate the new demand as required by PA 235. This represents a candidate for direct assignment because, as discussed in the testimony of Attorney General witness Deupree and MNSC witness Jester, the renewable standards of PA 235 are calculated as a percentage of a utility's retail sales (peaking under the current statute at 60% of retail sales from 2035 and thereafter).[53] Witness Deupree therefore recommended a requirement that the new large customers "cover their added cost of compliance for meeting the resource portfolio standards of PA 235,

[51] *See, e.g., Id*, at U21859-AG-CE-0142.b.
[52] 3 TR, Connolly Cross at 128:15 – 19 ("I haven't been involved in the PSCR calculation in quite a while, but I do recall that there is an exhibit that takes the total PSCR costs, it calculates a PSCR rate, and then it backs out the base PSCR. And what is left over is the factor.").
[53] *See, e.g.*, 5 TR, Deupree Direct at 992:1 – 9.

and enter into contracts with the Company for procurement of at least 60 percent of incremental energy requirements to be supplied by renewable resources."[54]

Adding sales for a 1-gigawatt data center to Consumers' service territory will therefore result in a corresponding increase in renewable compliance cost; the most effective way to account for that cost addition is to require the customers themselves to procure, or pay for procurement of, the requisite renewable resources for compliance. This would in turn remove corresponding generation and related transmission investment from the amounts of incremental costs that Consumers will recover through the customers' revenue, as well as mitigate the risk of cost-shifting through Consumers' cost-allocation mechanisms.[55]

With at least the above categories of costs directly assigned, Consumers' proposal of a 15-year minimum contract term and 80 percent minimum billing demand would probably be adequate.

A.iii.b. No/Partial Direct Assignment Approach. As several parties in this matter have challenged the concept of direct cost assignment, the Attorney General also proposes solutions for adequate revenue recovery with no/partial direct assignment of costs involved. With no direct assignment provisions, the Attorney General recommends a 20-year minimum contract at 90% minimum billing demand. As referenced above, a 20-year, 90% minimum billing structure was incorporated into Kentucky Power's data center tariff, and was proposed initially by Indiana Michigan

[54] *Id*, at 995:16 – 19.
[55] As addressed in greater detail below, Consumers should also be required to directly assign project fees to prospective customers, regardless of what the Commission decides as to the revenue-guarantee provisions.

Power Company in its large load case in Indiana. Using a 20-year minimum contract term likewise is much more in-line with Consumers' exemplary PPA-term lengths, a metric the Company purported to use in its Application proposals, than the 15-year minimum term it recommends.[56]

A 20-year, 90% minimum billing demand formula for a 100 MW results in a flat total revenue amount of 538,704,000 using witness Bieber's revenue model: this figure takes an annual estimated revenue of $26,935,200[57] and multiplies it by 20 (assuming no annual revenue increase factor). This amount is significant, because, if the $400 million generation figure from I&M does not include a carrying cost, the revenue here would clear the high-end calculation of generation plus interconnection set forth above. Applying the WACC of 5.97% as Ordered in Consumers' last rate case,[58] the carrying cost on $400 million would be an additional $23.88 million; the resulting high-end estimate would be $519.88 million ($400 million generation + $23.88 million carrying cost + $96 million high-end interconnection).

Thus, using an exit fee calculated as monthly minimum revenue multiplied by the remainder of a contract term, the revenue produced of about $538 million from a 20-year contract at 90% minimum billing demand clears the high-end cost estimate

[56] *See* 3 TR, Connolly Direct at 83:6 – 8 (attempting to tie the Company's 15-year proposal to PPA term length: "A 15-year minimum contract term ensures that the customer that is causing the assets to be procured 8 is committing to taking service for, and paying for, the assets in place to serve them."); *See also* 3 TR, Connolly Cross, at 196 (acknowledging that of a list of exemplary PPA term-lengths produced in discovery per Exhibit MEC-27: "I would agree, based on this document, that the majority of these fall in the 20-year range.").

[57] To reiterate witness Bieber's annual revenue formula, this takes his assumed total demand rate of 24.94 ($kw-Mo), multiplies it by 1000, multiplies that by 12 (months), and multiplies that by the 100 (MW) and .90 (90% minimum billing demand).

[58] *See* March 21, 2025, MPSC Order in Consumers' electric rate case U-21585 at page 254.

of $519.88 million. However, this analysis still does not account for transmission or distribution costs associated with generation build-out. In this sense, even if financial carrying costs are included in the $400 million figure derived from the I&M case, there is still a buffer for the known unknown costs.

While these are large numbers, the risk of undershooting these numbers is conversely several tens of millions, if not an order of magnitude larger, being borne by other ratepayers. For example, as staff witness Isakson touches on in his direct testimony, the potential for expected load to never materialize here poses a unique risk that another customer could never appear to utilize stranded assets.[59] In this sense, planning for this larger portion of costs to be covered via exit fee, and in turn allowing some potential buffer for the known unknown costs (transmission and distribution from generation build-out) is an adequate approach. The Attorney General further recommends below that the Company be required as part of its next IRP and rate case, or otherwise as quickly as possible, to develop a more precise rate design and incremental cost model for these large customers. Until such a time when more granular cost-accounting is readily ascertainable, the Attorney General urges that the Commission proceed with caution.

To the extent the Commission would be inclined to order direct cost allocation of the new customers' interconnection costs (i.e. no other direct-assigned categories), the Attorney General would in the alternative recommend a 17.5-year minimum contract term at 85% minimum billing demand. This formulation produces flat total

[59] *See* 4 TR, Isakson Direct at 294:21 – 295:7.

contract revenue of $445,179,000 using witness Bieber's revenue model; this presents a difference of about $93 million from the flat amount produced from a 20-year and 90% minimum billing demand formula, a difference roughly equivalent to the high-end of interconnection costs ($96 million) as estimated by the Company per Exhibit AG-1.9. For comparison, MNSC witness Palmer noted in testimony that Ohio Power's then-pending (now effective) data center tariff sets a minimum billing demand of 85% for loads larger than 116MW.[60]

A.iii.c. Special Contract Approach. To the extent the Commission prefers neither of the other two approaches described above, the Attorney General recommends that the new large customers take service under special contracts, subject to a contested case, until a standalone rate and/or cost-allocation model is established for them. The sheer size of these customers, combined with their operational idiosyncrasies present tremendous risks to existing ratepayers. And, as detailed herein, the ratepayer protections proposed by the likes of Consumers, DCC (recovering even less than Consumers' proposal), and MPSC Staff, would be inadequate to achieve incremental cost recovery or protect against stranded cost risks.

ABATE witness Dauphinais has similarly recommended that "Consumers should be required to, at least on an *ex parte* basis, file an application with the Commission for approval of each proposed large data center load contract and demonstrate in that filing that Consumers' incremental cost to serve that new

[60] 5 TR, Palmer Direct at 884:1 – 2.

customer is less than Consumers' average embedded cost to serve it."[61] In cross examination, Staff witness Revere suggested that two factors that might be considered when assessing the potential use of a special contract are the size of a customer and an atypical cost to serve customers;[62] a 1 GW customer such as announced by Consumers, exhibiting unprecedented size and unprecedented incremental cost for Consumers, would appear to qualify under these factors. Requiring a contract-by-contract approval for these customers might provide an adequate process for mitigating cost risks, at least until the Company develops a more tailored rate and incremental cost method.

B. Other Contract Term Issues: Exit fee; Ramp-up Period; and Evergreen Periods.

The Attorney General recommends that the exit fee be calculated as a customer's minimum billing demand multiplied by the remaining months in their contract term, essentially as proposed by Consumers Energy in its initial application testimony and also as recommended by Staff witness Isakson.[63] As stated in Consumers' application: "This will protect the Company and its other customers in the event the data center stops taking full service during the term of its contract with the Company."[64] In conjunction with the Attorney General's Proposals on minimum contract term and minimum billing demand, as explained in detail above, and in light

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[61] *See, e.g.*, 5 TR, Dauphinais Direct at 818:12 – 13.
[62] *See* 5 TR, Revere Cross at 471:15 – 19 ("For example, there are a couple for smaller utilities where they have one relatively large compared to the rest of their customers, a customer that gets served under a special contract for that reason"); *id,* at 471:22 – 472:3 ("… you have to show that the customers' cost to serve differs so much from other customer classes that a special contract would be appropriate.").
[63] *See, e.g.*, 3 TR Connolly Direct at 84:8 – 10; *see also, e.g.*, 4 TR, Isakson cross at 365:18 – 23.
[64] *See* Consumers' Application at 5, paragraph 13.

of the Attorney General's recommendations for establishing a new rate and incremental cost model, this exit fee calculation should provide adequate protections.

The Attorney General further recommends that the exit fee apply during the "ramp-up" period as described by the Company, with the remaining term of the contract in that period being the entirety of the minimum contract term. Without such a provision, new large customers would be able to avoid an exit fee simply by backing out of their contract before the end of their "ramp-up," thus potentially incentivizing them to leave early.[65] MPSC Staff witness Isakson and MNSC witness Palmer similarly recommend that the exit fee should apply during the ramp-up period,[66] and Company witness Connolly similarly supported this recommendation in her rebuttal testimony.[67]

The Attorney General also recommends that the Commission should not allow Consumers to unilaterally decide exit fee reductions, as this discretion leaves open the possibility for potential harm to ratepayers by granting undue flexibility to the Company.[68] As to the Company's proposed ramp-up period, the Attorney General recommends that these customers be required to pay minimum billing demand at capacity milestone levels, as outlined in the direct testimony of MNSC witness Palmer.[69]

[65] 5 TR, Deupree Direct at 989:7 – 19.
[66] *See*, 4 TR, Isakson Direct at 316:16 – 317:4; 5 TR, Palmer Direct at 892:13 – 14.
[67] 3 TR, Connolly Rebuttal at 93:20.
[68] 5 TR, Deupree Direct at 990:1-2.
[69] 5 TR, Palmer Direct at 892:14 – 893:2.

As to termination notice, the Attorney General Recommends that the new large customers be held to an evergreen provision of at least 5 years, meaning that new data center customers taking service under Rate GPD will have their contracts automatically extended for at least an additional five years upon the completion of the initial and subsequent rate contracts unless the customer provides a written notice of termination to Consumers at least five years prior to the current contract term end date.[70] This would prevent against a customer leaving stranded assets by not providing Consumers adequate notice that it intends to leave at the end of a contract term.[71] As a corollary to this recommendation, the exit fee calculation would extend to the end of any applicable evergreen period, meaning that if a customer failed to provide adequate notice, its exit fee would expand to include the remainder of the months in its then-lengthened minimum term.

C. Collateral Provisions.

The Attorney General adopts the recommendation made in MPSC Staff witness Isakson's direct testimony that collateral required from new large customers be set at the exit fee[72] (for which staff's direct testimony provided the same essential calculation of the remainder of monthly payments under contract). To the extent the Commission is not inclined to order the collateral calculation proposed by staff, the Attorney General in the alternative recommends the collateral calculation recently

[70] 5 Tr, Deupree Direct at 982:15 – 21.
[71] As similarly noted in the direct testimony of ABATE witness Dauphinais, "This would permit Consumers to reflect such full-service contract terminations and the freed-up capacity they would provide in its resource planning." 5 TR at 809:10 – 12.
[72] 4 TR, Isakson Direct at 307:9 – 10.

approved in Ohio Power's Schedule DCT Tariff, which calculates collateral as "equal to 50% of the total minimum charges for the full term of the contract."[73]

The Attorney General further recommends the collateral exemption provision included in Ohio Power's Schedule DCT Tariff, which permits an exemption if a customer has "both (a) a credit rating of at least A- from S&P Global Inc. ("S&P") and A3 from Moody's Corporation ("Moody's") and (b) cash and cash equivalents on an audited balance sheet prepared in accordance with Generally Accepted Accounting Principles ("GAAP") ("Liquidity") greater than ten times the Collateral Requirement."[74] Finally, the Attorney General recommends that the same forms of collateral set forth in the Ohio Power Schedule DCT Tariff be used here as well.[75]

D. Amended Rate Eligibility: Use of NAICS Code to Define Customer Class; Megawatt Threshold.

While Consumers' Application testimony described only data center customers at issue in this case, several parties, and Consumers in rebuttal, have expressed concerns about a rate specific to data centers. This concern is not well-founded given that the only category of customer from which Consumers is projecting these unprecedented new loads is data centers, which have unique operational characteristics as described by several of the parties here.[76] Such a concern was

[73] Exhibit AG-1.23, Ohio Power's Schedule DCT at sheets No. 223-5 – 223-6 ("Collateral Requirement").
[74] *Id.*
[75] *Id.*
[76] *See, e.g.,* Consumers' Application at 2 (noting that "the load profile of data centers is unique because, unlike other commercial or industrial businesses that run varying shifts of production or only operate during normal business hours, they require consistent, high levels of demand – operating 24 hours a day, 7 days a week, 365 days a year.").

similarly addressed in the recent Ohio Power proceeding, with the Ohio Public Utility Commission there approving tariff provisions applying only to data centers.[77]

Nonetheless, a solution to the parties' concerns about singling out data center customers can be seen in recent legislation ("HB 3546") enacted in Oregon, referred to as the POWER Act, which directs minimization of cost-shifting in tariff provisions concerning eligible customers.[78] The POWER Act uses the North American Industry Classification System codes (NAICs codes) to describe the industries at issue.[79] The statute specifically references NAICS code 518210, which refers to "Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services."[80] This category does not single-out data centers, and includes both large data center operations and similar large non-data center computing operations.

As to a megawatt capacity threshold for eligibility, the Attorney General recommends the Commission adopt Consumers' initial application proposal of a 100MW threshold for aggregate customer operations at a single or multiple sites,[81] and would further recommend that customer operations at any single site of 50 megawatt or greater also be eligible.[82] As Consumers has identified a contract capacity of around 30MW as a general upper limit for current Rate GPD customers,[83]

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[77] *See* Exhibit AG-1.23, Ohio Power's Schedule DCT at sheet No. 223-2, "Availability of Service."
[78] *See* 5 TR, Deupree Rebuttal at 1012:9 – 1013:2.
[79] *Id*, noting that "NAICS is a standard developed by the Office of Management and Budget ("OMB") 18 in collaboration with agencies representing Canada and Mexico that is used by the U.S 19 statistical agencies in classifying business establishments for the purposes of collecting, analyzing, and publishing statistical data."
[80] *Id* (citing North American Industry Classification System, U.S. Census Bureau).
[81] *See* 3 TR, Connolly Direct at 81:1 – 4.
[82] *See* as recommended by Attorney General witness Deupree at 5 TR at 973:10; *See also* as recommended by MNSC witness Palmer at 5 TR at 879:1 – 5.
[83] *See* 3 TR, Connolly Direct at 86:15 – 16.

a 50MW threshold should not cause issues in the near-term with the current Rate GPD constituency. As described by witness Palmer, "[a] lower threshold would capture a broader range of potential data center customers, limiting more of the potential risk" from these customers.[84] In comparison, Ohio Power's Schedule DCT tariff that went into effect last month establishes a minimum capacity threshold of only 25MW.[85]

E. New Rate and Cost-Allocation Study.

As recommended by witness Deupree in rebuttal testimony, the Attorney General recommends here that the Company be required to seek approval for a stand-alone rate as soon as possible to address these massive new customers.[86] This echoes similar recommendations made by MNSC witness Palmer[87] and ABATE witness Dauphinais.[88] The Attorney General further recommends that Consumers be required to request for such approval as part of its next electric rate case, and that at least three months before filing its case application, Consumers provide the parties to the present case with notice of its planned approach for a separate rate applicable to data center customers.

While Consumers has expressed a need for a representative load shape before creating a standalone rate class,[89] such a representative load shape has been

[84] 5 TR, Palmer Direct at 879:3 – 5.
[85] *See* Exhibit AG-1.23, Ohio Power's Schedule DCT at sheet No. 223-2, "Availability of Service."
[86] 5 TR, Deupree Rebuttal at 1013:13 – 19.
[87] 5 TR, Palmer Direct at 881:5 – 12.
[88] 5 TR, Deupree Rebuttal at 1013:6 – 8 (referencing 5 TR, Dauphinais Direct at 808:11 – 18.
[89] *See, e.g.* 3 TR, Connolly Rebuttal, at 82:8 – 10.

produced in this case as part of DCC's worksheets.[90] It should not be surprising that DCC and other entities would maintain such representative load shapes for data center customers, and Consumers' has not yet articulated why such representative load shapes would not suffice for evaluating an initial proposal for a new rate class. In contrast, developing a separate rate as soon as possible is crucial to remedying many of the subsidization and stranded cost risks identified by the Attorney General herein. The Commission should accordingly require Consumers to develop that rate as recommended by the Attorney General and other parties.

Similarly to the Attorney General's recommendation on a standalone rate, the Attorney General also herein adopts MNSC witness Palmers' recommendations for incremental cost modelling as part of Consumers' IRP,[91] namely that the Company conduct IRP with and without data center load to isolate incremental costs. The Attorney General specifically recommends that the Commission require such modelling as part of the Company's next IRP.

F. Demand Reductions.

As outlined in witness Deupree's testimony, the Attorney General recommends that in addition to restricting capacity reductions to a one-time allowance, the tariff provisions require that the reduction be approved as part of a contested case proceeding.[92] The Attorney General also recommends that any such capacity

[90] Exhibit AG-1.27, tab "DataCenterLoadShape"; see also 5 TR Ramirez Cross at 595:12 – 14 ("Q. Are you saying that likewise it represents the hourly usage pattern of a high load factor data center?"; "A. Correct.").
[91] *See, e.g.*, 5 TR, Palmer Direct at 875:11 – 13.
[92] 5 TR, Deupree Direct at 991:3 – 16.

reduction, or any combined reductions, may not exceed 10% of the customer's initial contract capacity,[93] and further that any customer seeking to request such a capacity reduction provide at least 4 years written notice before the beginning of the year in which such a capacity reduction would go into effect.[94]

Finally, the Attorney General recommends that data center customers as addressed in this matter would only be eligible for such capacity reduction after 5 years of their contract term.[95] This will help ensure against the creation of stranded assets and cost shifting to non-data center customers.[96] Other utilities have used similar mechanisms to address this risk, such as I&M's terms for data center service in its Indiana service territory.[97]

G. Recommendations Concerning Renewable and Clean Energy Provisions.

The Attorney General here reiterates the Recommendation of witness Deupree that the new large customers be required to "cover their added cost of compliance for meeting the resource portfolio standards of PA 235, and enter into contracts with the Company for procurement of at least 60 percent of incremental energy requirements to be supplied by renewable resources."[98] This would help to ensure that Consumers meets its statutory obligations for renewable energy procurement, made all the more sensitive given Consumers' apparent failure to model this new data center demand as part of its currently pending Renewable Energy Plan case U-21816. The Company

[93] *Id.*
[94] *Id.*
[95] *Id.*
[96] *Id.*
[97] *Id.*
[98] *Id,* at 995:16 – 19.

stated in discovery that its peak "Industrial LED" sales forecast in U-21816 Exhibit A-6 only includes customers eligible for rate LED;[99] this means that new large data center customers, which are not eligible for Rate LED,[100] were not included in that sales forecast. MPSC Staff appears to be of the same understanding.[101] The Attorney General's proposal would also ensure that the large cost burden associated with procuring new renewable generation required under PA 235 to accommodate these new large customers are correctly directly assigned to these new large customers.

The Attorney General further recommends, as recommended by witness Deupree and MNSC witness Jester in testimony, a requirement that data center customers meet the 90% clean energy procurement standard under the tax exemption statute MCL 205.54ee if they seek to be eligible as enterprise data centers under that statute.[102] As noted at several points in this case, the tax exemption statute explicitly contemplates a tariff provision as to the clean energy requirement, stating in relevant part that: "electric utilities . . . shall identify and, if necessary, ***develop tariffs***, contracts, and other mechanisms that support the enterprise data center in making this demonstration." MCL 205.54ee(10)(e)(ix) (emphasis added).

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[99] Exhibit AG-1.17 at Consumers' discovery response U21859-AG-CE-0148.

[100] The Company's tariff sheets for Rate LED explicitly states that "[A]s of June 7, 2024, the Large Economic Development Rate is not available to data centers within the Company's service territory who have not already contracted for service under this rate." *See* Consumers' tariff sheet D-78.10 at "Availability", accessible at https://www.consumersenergy.com/-/media/CE/Documents/rates/electric-rate-book.pdf.

[101] 4 TR, Revere Cross at 466:9 – 12 ("Q. Mr. Revere, are you aware of whether Consumers pending REP case includes large amounts of data center load in the forecast?"; "A. I am not certain, but I do not believe it does.").

[102] 5 TR, Deupree Direct at 993:18 – 994:12; 5 TR, Jester Direct at 866:8 – 11.

The Attorney General further notes that she is not necessarily opposed to other proposals as to renewable and clean energy raised by other parties in this matter, and will continue to review those recommendations.

IV. Inadequate Proposals from Other Parties.

The Attorney General highlights here some examples of inadequate proposals for ratepayer protections as recommended on behalf of other parties here in testimony.

A. Consumers Energy.

As described at length above, Consumers Energy's recommendation for minimum billing demand falls short of even a partial cost accounting for these large customers. In the same way, Consumers' exit fee proposal falls short even if tied to the Company's recommendations on revenue guarantee. Noteworthy as well is that Consumers Energy is arguably the party best positioned to provide cost information for analysis by the parties. Instead, it stated in discovery that it based its requested minimum billing demand solely on benchmarking.[103] Consumers should not receive the benefit of the doubt for failing to develop information crucial to a full assessment of its proposals. Company witness Connolly further was unwilling to adopt in her rebuttal testimony any recommendations for direct-cost allocation that might offset a revenue deficiency.[104] In light of the above, the Company has failed to show how its proposals for revenue guarantee provisions are reasonable and prudent, and the

[103] *See* Exhibit AG-1.11 at discovery response U21859-AG-CE-0013.2.iii.
[104] *See* 3 TR, Connolly Rebuttal at 100:2 – 14 (asserting that "The issue of direct assigning costs to data center customers is beyond the Company's proposal in this case.").

Commission should reject its requested 80% minimum billing demand term accordingly.

One change in position by Consumers' witness Connolly in this matter was a reversal of her recommendation concerning project fee proposals. The Company initially proposed a direct assignment for these costs up to $100,000, stating that it hoped establishing this fee component would help filter through only those customers who were seriously interested in operating in Michigan;[105] this would in turn prevent needless costs, which the Company would otherwise account for as operating expense in a rate case,[106] from customers shopping around in multiple jurisdictions without serious intent to take service in Michigan.[107]

The Company retracted this position on an administrative fee in rebuttal. [108] The Company complained in part that that direct-assigning the administrative cost could create a "blurred line" between stages of project development,[109] but fails to explain why other customers, as opposed to the prospective large customers, should eat the cost of correcting for that "blurred line." The Company further asserts that implementing an administrative fee would present an administrative burden,[110] though it fails to explain why this burden would be prohibitive to Consumers vis-à-vis the other utilities to which it purportedly bench-marked its proposal in the first

[105] *See* 3 TR, Connolly Direct at 85:7 – 86:6 (stating in part that "[a]fter benchmarking other utilities, it was identified that many have or are in the process of implementing similar fees to deter speculative interest and support extensive engineering analysis that is required for this level of load requests").
[106] *See* 3 TR, Connolly Cross at 231:4 – 5 ("Q. How are those costs allocated? That's general O&M?" "A. That's my understanding, yes.").
[107] *See* 3 TR, Connolly Direct at 85:7 – 86:6.
[108] 3 TR, Connolly Rebuttal at 101:5 – 19.
[109] *Id*.
[110] *Id.*

place. When asked to explain its evaluation of an "administrative burden" in discovery, the Company described only generalized concerns, such as that "there are numerous departments and staff resources required" and that "[a] standardized system, protocols and training would need to be developed."[111]

In short, the Company has not presented evidence sufficient to justify its reversal as to collecting administrative fees from prospective large customers. The Commission should reject the Company's rebuttal recommendation on that point accordingly. Instead, the Commission should adopt the recommendation of Attorney General witness Deupree on this point that such costs be directly assigned to the prospective customers.[112]

Consumers has displayed a continued stubbornness towards addressing renewable and clean energy topics as part of this case. This stubbornness is put even more at issue given the Company's apparent lack of modelling for new data center loads as part of its pending renewable energy plan case (as discussed in more detail in Section III above). The Attorney General therefore reiterates her recommendations set forth above concerning renewable and clean energy topics.

In addition to the specific points here where the Attorney General recommends rejection of Consumers' proposals, the Attorney General further requests that the Commission reject Consumers' other proposals to the extent that they conflict with the Attorney General's recommendations as set forth above and in the conclusion of this brief.

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[111] Exhibit MEC-30 at discovery response U21859-MNSC-CE-0136.e.
[112] *See*, 5 TR, Deupree Direct, 983:8 – 984:6.

B. MPSC Staff.

i. MPSC Staff's Testimony Displays a Lack of Concern as to Any Cost or Revenue Analyses.

MPSC Staff presents maybe the most perplexing position in this matter. As a starting point, Staff witness Isakson acknowledges some of the unique risks posed by these new large customers.[113] He notes the potential for stranded costs and the heightened risk posed given the size of the customers at issue, stating, for example, that "not only do large load customers expose the Company's system to greater costs, but also have a higher risk of stranding those costs than the existing customer base due to their uniquely high level of demand."[114] He also considers a more specific risk scenario as part of his direct testimony:

> The current GPD customer class is made up of customers from a variety of industries, such that a downturn in any one would not much affect the entire class. On the other hand, if interest and investment in artificial intelligence, for example, evaporates after the necessary infrastructure has been expanded to serve energy to data centers, then there is no obvious way in which other new customers would appear that would require the new capacity. This would leave existing customers and/or the utility with a tremendous amount of capacity that is no longer used and useful. So not only do large load customers expose the Company's system to greater costs, but also have a higher risk of stranding those costs than the existing customer base due to their uniquely high level of demand.[115]

Despite these stated concerns, the upshot of Staff's position in this case seems to be that any of the parties' proposals—or even none at all—would be reasonable and prudent. On the question of an adequate minimum billing demand term, for example,

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[113] *See, e.g.,* 4 TR, Isakson Direct, 294:3 – 295:7.
[114] *Id*, at 295:5 – 7.
[115] *Id*, at 294:3 – 295:7.

Staff witness Isakson highlighted in cross-examination that: "as I say in my rebuttal testimony, staff's discussion is to highlight that there is no right answer, per se, except for the one that the Commission picks."[116] On the one end, witness Isakson testified that for this reason Staff does not necessarily oppose the 20-year minimum contract term proposed by MNSC witness Palmer.[117] But on the other end, he further opined that service under exiting Rate GPD would be reasonable and prudent even without any additional protections put into effect for Rate GPD as it exists presently:

> 20 [Q…] I'm assuming that recommendations you've
> 21 made as far as protections to ratepayers, staff
> 22 considers them to be reasonable and prudent in light
> 23 of the new large loads we're talking about here,
> 24 right?
>
> 25 A. Yes.
>
> 1 Q. Without additional protections added to Rate GPD,
> 2 would it be reasonable and prudent for the Company to
> 3 offer service to those customers under Rate GPD?
>
> 4 A. I -- hmm. Yes, because the customers currently
> 5 qualify for service under Rate GPD. [Can be][118] said
> 6 that it's reasonable and prudent that they can take
> 7 service under that rate.
>
> 8 Q. So you're saying that eligibility for a rate is, in
> 9 and itself, a determinant of whether service would be
> 10 reasonable and prudent?
>
> 11 A. Yes, I am.[119]

[116] 4 TR, Isakson Cross, 394:5 – 8.
[117] *Id*, at 394:23 – 395:6.
[118] This corrects errata from the transcript, which included "I think you" rather than "can be." Counsel for the Attorney General consulted the video recording of cross-examination to confirm this errata.
[119] 4 TR, Isakson Cross, 357:20 – 358:11.

This opinion appears to ignore the Commission's rejection of Consumers' request for *ex parte* relief; as described in Section II above, the Commission's Order there stated that "[t]he electric load of new data centers presents unique and significant cost implications, and the development of an evidentiary record to consider the February 7 application is prudent and reasonable."[120] If Rate GPD provided reasonable and prudent safeguards for these customers as it exists there would be no need to hear this matter as a contested case. Nor does Consumers appear to suggest that Rate GPD on its own would be reasonable in light of the risks at issue; in its Answer, Consumers describes its proposals as attempting to avoid "unacceptable risks for Consumers Energy or its customers" in accommodating new data centers.[121]

Staff's "anything goes" position is further reflected in a lack of concern for evaluating cost or revenue modelling in assessing the other parties' positions. Staff confirmed in discovery responses that it had performed no cost modelling.[122] Staff witness Isakson also testified in cross-examination that he had no idea what portion of incremental costs for these customers would be covered by any given amount of revenue.[123] He likewise confirmed that he had no idea what portion would be covered by any given amount of an exit fee.[124] This further limits Staff's analysis concerning the adequacy of a collateral requirement, as Staff has recommended that collateral requirement might be tied to remaining exit fee.[125]

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[120] U-21859, March 13, 2025, Commission Order at 3.
[121] Consumers' Answer at 1.
[122] *See* Exhibit AG-1.21, Staff's responses to Attorney General's question 6.a-d.
[123] 4 TR, Isakson Cross, 365:12 – 366:8.
[124] *Id*.
[125] *See e.g. id*, at 380:19 – 21 (confirming Staff's recommendation as to a collateral requirement calculation); Id, at 384:10 – 13.

Staff appears content to ignore any analyses that might actually explicate the cost and revenue estimates for these massive customers. In response to revenue modelling presented by DCC witness Bieber, witness Isakson opined in rebuttal that "[i]mprecise rates (i.e. not tailored to the individual) are a *good* thing [emphasis original], because it [sic] causes rates to change gradually over time…. [t]his saves the customer from financing each and every upgrade, replacement, or change to their specific service as they occur."[126] Here, witness Isakson seems to be recommending that the tens of millions, if not hundreds of millions, of dollars in interconnection costs—which Consumers itself has said are directly attributable to these giant customers[127]—should preferably be socialized among Consumers' ratepayers.

In the same section of his rebuttal testimony, witness Isakson references the CIAC as a mechanism for requiring some attribution of costs to individual customers.[128] But as confirmed in cross-examination, he has no idea what portion of incremental costs the CIAC would cover,[129] and this position ignores the permissive and avoidable nature of Consumers' CIAC provisions.[130] Further, as discussed at length above, the portion of these unprecedented costs socialized through Consumers'

[126] 4 TR, Isakson Rebuttal, 320:10 – 321:13.
[127] Exhibit AG-1.13 at Consumers discovery response U21859-AG-CE-0143.c ("All of the costs estimated in U21859-MNSC-CE-0035 are directly attributable to the hypothetical 100 MW load addition.").
[128] 4 TR, Isakson Rebuttal, 320:10 – 321:13.
[129] *Id*, at 384:4 – 9. He thus also can't know to what extent a CIAC might even theoretically offset any shortfall from the revenue guarantee provisions.
[130] *See, e.g.*, TR 3, cross-examination of Company witness Connolly at 190:13 – 191:17 ("I don't believe the CIAC agreement that we're looking at or the CIAC agreement that we have in place with customers has an exit penalty.").

cost allocation methodology would disproportionately impact residential ratepayers.[131]

In summary, MPSC Staff's testimony displays a lack of concern towards assessing whether any revenue-related terms might actually be sufficient to provide adequate safeguards, going so far as to assert that it would be reasonable to provide service with no additional protections to Rate GPD. Staff's recommendations on these points—specifically as to minimum billing demand and minimum contract term—or deferral to other parties' recommendations on the same, thus present little to no probative value in this case. The Commission should weight Staff's opinions on these terms accordingly when considering the recommendations of the parties.

ii. Staff Applies a Mistaken and Ill-Fitting Approach in Evaluating Direct-Assignment Provisions.

Witness Isakson's sentiments towards direct cost assignment are echoed in witness Revere's rebuttal testimony. Witness Revere asserts that there is no evidence that the investments required to serve the new customers will present more costs than would be otherwise incurred such that direct assignment might be warranted.[132] But there is plain evidence even in the Company's Application: ***The Company is projecting 15 GW of added load from these customers[133] to a system that***

[131] *See* 3 TR, Connolly Cross at 200 – 202.
[132] 4 TR, Revere Rebuttal, 417:2 – 417:5 ("First, the intervenors seem to believe that any resources built to accommodate load under the provision would be more expensive than the resources that would otherwise be built to serve customers. This belief is not supported by any evidence provided in the instant case. In fact, it is entirely possible that the scale of the generation required to serve the load contemplated under the provision in addition to that already planned for could be less expensive than what would have otherwise been built.").
[133] 3 TR, Connolly Direct, 18:7-8.

currently serves about 7.65 GW peak demand.[134] Even a 1 GW customer as recently announced by Consumers presents an unprecedented addition, likely exceeding the entire retail demand of Detroit.[135] Unless witness Revere has reason to believe a dozen metropolitan areas would suddenly spring up in Consumers' service territory during the same timeframe as Consumers' projected data center growth, his assertion here is mistaken.

In the same sense, witness Revere is mistaken in his assertion that subsidization by other ratepayers is impossible under the Company's cost allocation model.[136] Categorically, the vast majority of investments required to accommodate Consumers' projected 15 GW in load will be incurred explicitly to provide service for that new customer class; if revenue guarantee provisions are not adequately tailored, those customers could run the course of their contracts, or leave early subject to an exit fee, without providing revenue to cover their incremental costs to serve, thus entailing subsidization by other customers. The Attorney General has further identified herein instances where an undue portion of that cost will be borne by other classes of ratepayers, such as the portion of transmission costs distributed without allocation through the PSCR.[137] The sheer size of the customers and investments at issue will amplify the impact of those non-allocated costs.

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[134] Case No. U-21585, Consumers' Ex. A-15, Schedule E-4, May 31, 2024 (identifying Consumers' system peak demand for 2025 as 7,637 MW.
[135] *See*, 4 TR, Isakson Cross, 339:23 – 341:14.
[136] *See*, 4 TR, Revere Cross, 417:20 – 418:2 ("In addition, these facts show that claiming "subsidization" by other customers is inaccurate if every customer pays the cost to serve their portion of the total requirement based on appropriate allocations of the total costs, leading to the necessity of rejecting those claims.").
[137] *See, e.g.*, Exhibit AG-1.13 at U21859-AG-CE-0142.b.

Staff appears to approach an unprecedented problem with an ill-fitting solution. In the process, Staff fails to understand how applying direct cost-allocation here could resolve several points of rate-payer risk presented in this case. As such, the Commission should reject Staff's recommendation to deny the Attorney General's proposals for direct-cost assignment.

V. Conclusion

For the reasons stated above, the Attorney General respectfully presents the following recommendations to the Commission:

- **Revenue Guarantee Provisions**. The Attorney General presents three alternative recommendations to the Commission—in combination with her other recommendations such as for the establishment of a standalone rate as soon as possible and in the context of her recommended exit fee calculation—for addressing the issues of incremental cost recovery and stranded cost risks as part of the Rate GPD amendments at issue:
    - 1. A Direct-assignment approach, wherein a 15-year minimum contract term and 80% minimum billing demand apply, and the new large customers are also directly assigned at least the following categories of costs: A) their interconnection costs: B) their attributable portion of non-allocated PSCR costs; and C) the procurement or cost of procurement for their added PA 235 compliance requirements. The Attorney General considers this to be the most effective approach.

- 2. A no/partial direct-assignment approach, wherein either: A) a 20-year minimum contract term and 90% minimum billing demand apply; or B) a 17.5-year minimum contract term and 85% minimum billing demand apply and the new large customers are also directly assigned their interconnection costs; and
- 3. A special contract approach, wherein, if the Commission does not prefer either of the other recommended approaches, the terms of service for each customer are determined through a contested special contract proceeding until a standalone rate for these customers is established.

- **Other Contract Term Issues: Exit fee; Ramp-up Period; and Evergreen Periods.** The Attorney General makes the following additional recommendations as to contract term issues addressed in this case:
  - The Attorney General recommends that the exit fee be calculated as a customer's minimum billing demand multiplied by the remaining months in their contract term.
  - The Attorney General recommends that the exit fee apply during the "ramp-up" period as described by the Company, with the remaining term of the contract in that period being the entirety of the minimum contract term.
  - The Attorney General recommends that the Commission should not allow Consumers to unilaterally decide exit fee reductions.

- The Attorney General recommends that the new large customers be required to pay minimum billing demand at capacity milestone levels during any "ramp-up" period, as outlined in the direct testimony of MNSC witness Palmer.
- As to termination notice, the Attorney General recommends that the new large customers be held to an evergreen provision of at least 5 years. The exit fee calculation would extend to the end of any applicable evergreen period, meaning that if a customer failed to provide adequate notice, its exit fee would expand to include the remainder of the months in its then-lengthened term.

- **Collateral Provisions**. The Attorney General makes the following recommendations as to collateral terms required under the Rate GPD amendments at issue:
  - The Attorney General adopts the recommendation made in MPSC Staff witness Isakson's direct testimony that collateral required from new large customers be set at the exit fee amount.
  - To the extent the Commission is not inclined to order the collateral calculation proposed by Staff, the Attorney General in the alternative recommends the collateral calculation recently approved in Ohio Power's Schedule DCT Tariff, which calculates collateral as equal to 50% of the total minimum charges for the full term of the contract.

- The Attorney General further recommends the collateral exemption provision included in Ohio Power's Schedule DCT Tariff, which permits an exemption if a customer has both (a) a credit rating of at least A- from S&P Global Inc. ("S&P") and A3 from Moody's Corporation ("Moody's") and (b) cash and cash equivalents on an audited balance sheet prepared in accordance with Generally Accepted Accounting Principles ("GAAP") ("Liquidity") greater than ten times the Collateral Requirement.
- Finally, the Attorney General recommends that the same forms of allowable collateral set forth in the Ohio Power Schedule DCT Tariff be used here as well.

- **Amended Rate Eligibility: Use of NAICS Code to Define Customer Class; Megawatt Threshold.** The Attorney General recommends the following eligibility terms for the Rate GPD amendments at issue:
  - The Attorney General recommends the use of North American Industry Classification System codes (NAICs code) 518210 to define eligible customers, which refers to "Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services."
  - The Attorney General recommends the Commission adopt Consumers' initial application proposal of a 100 megawatt eligibility threshold for aggregate customer operations at a single or multiple sites, and further recommends that customer operations at any single site of 50 megawatts or greater also be eligible.

- **New Rate and Cost Allocation Study.** The Attorney General makes the following recommendations to the Commission concerning requirements that Consumers address, in the near-term, rate-design and cost-allocation for these new large customers:
    - The Attorney General recommends that Consumers be required to put forward a standalone rate for these customers as soon as possible and at least as early as part of its next electric rate case, and that at least three months before filing its application, Consumers provide the parties to the present case with notice of its planned approach for a separate rate applicable to data center customers.
    - The Attorney General also herein adopts MNSC witness Palmers' recommendations for incremental cost modelling as part of Consumers' IRP, namely that the Company conduct IRP with and without data center load to isolate incremental costs. The Attorney General specifically recommends that the Commission require such modelling as part of the Company's next IRP.
- **Demand Reductions**. The Attorney General makes the following recommendations as to potential requests for capacity reductions by these customers, as considered in the Company's Application:
    - The Attorney General recommends that in addition to restricting capacity reductions to a one-time allowance, the amended tariff

provisions require that the reduction be approved as part of a contested case proceeding.

- The Attorney General also recommends that any such capacity reduction, or any combined reductions, may not exceed 10% of the customer's initial contract capacity, and further that any customer seeking to request such a capacity reduction provide at least 4 years written notice before the beginning of the year in which such a capacity reduction would go into effect.
- Finally, the Attorney General recommends that data center customers as addressed in this matter would only be eligible for such capacity reduction after 5 years of their contract term. This will help ensure against the creation of stranded assets and cost shifting to non-data center customers.

- **Recommendations Concerning Renewable and Clean Energy Provisions.** The Attorney General presents the following recommendations to the Commission concerning the renewable and clean energy topics addressed in this case:
  - The Attorney General reiterates the recommendation of Attorney General witness Deupree that the new large customers be required to cover their added cost of compliance for meeting the resource portfolio standards of PA 235, and enter into contracts with the Company for

procurement of at least 60 percent of incremental energy requirements to be supplied by renewable resources.

  - The Attorney General further recommends a requirement that data center customers meet the 90% clean energy procurement standard under the tax exemption statute MCL 205.54ee if they seek to be eligible as enterprise data centers under that statute.
  - The Attorney General further notes that she is not necessarily opposed to other proposals as to renewable and clean energy raised by other parties in this matter, and will continue to review those recommendations.

- **Administrative Fee**. The Attorney General recommends that the Commission require the entirety of any administrative fee associated with Consumers assessing prospective projects to be directly assigned to the inquiring customer. This is in reference to the fee that Consumers originally proposed as a direct-assignment with a cap of $100,000, but then withdrew in rebuttal testimony.

Respectfully submitted,

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PROOF OF SERVICE - U-21859

The undersigned certifies that a copy of the ***Attorney General's Initial Brief*** was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 21st day of August 2025.

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