



August 28, 2025

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

*Via E-File*

RE: MPSC Case No. U-21806

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Exceptions to the Proposal for Decision by Michigan Environmental Council, Sierra Club, and Citizens Utility Board of Michigan; and
- Proof of Service.

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

Sincerely,

Christopher M. Bzdok  
[chris@tropospherelegal.com](mailto:chris@tropospherelegal.com)

CC: Parties to Case No. U-21806

**STATE OF MICHIGAN**

**MICHIGAN PUBLIC SERVICE COMMISSION**

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

Case No. U-21806

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**EXCEPTIONS TO THE PROPOSAL FOR DECISION**

**BY**

**MICHIGAN ENVIRONMENTAL COUNCIL, SIERRA CLUB, AND  
CITIZENS UTILITY BOARD OF MICHIGAN**

**August 28, 2025**

**Table of Contents**

I. INTRODUCTION ..... 1

II. EXCEPTIONS ..... 1

    A. New Business – Customer Attachment Program: The Commission should adopt the PFD’s recommendation to require Consumers to re-evaluate its customer attachment program in the next rate case but should also disallow a portion of the revenue requirement for new connections because Consumers has not supported with substantial evidence its practice of socializing such a large portion of those costs. .... 1

        1. MSC demonstrated that the assumptions Consumers uses to calculate customer contributions for new service are not reasonable or supported by record evidence, and Consumers did not demonstrate otherwise. .... 3

        2. Basis for MSC’s proposed disallowance..... 11

        3. The PFD found insufficient evidence to support MSC’s position but did not explain any reasons for the finding. .... 12

    B. Fleet Capital Expenditures – The Commission should reduce the Company’s proposed investment in fleet vehicle replacements and require the Company to evaluate the accuracy of its Blended Factor tool. .... 14

    C. Fleet O&M Expenses – The Commission should reduce the Company’s Fleet O&M spending to reflect fuel and maintenance costs savings associated with vehicle electrification; reduce the Company’s projected fleet responsibility costs; and establish a process and deadline for the Company to initiate, complete and present the results of an idling study and incorporate the results into future rate case proceedings. .... 17

        1. Savings Associated with Fleet Electrification (Capital and O&M). .... 17

        2. Itemization of Projected Fleet Responsibility Costs. .... 21

        3. Evaluation of Idling Reduction Opportunities. .... 22

    D. IT Rough Order of Magnitude (ROM) Reduction – The Commission should further reduce the Company’s ROM estimates by an additional 20%. .... 24

    E. Cost-Benefit Modeling – Contra the PFD’s recommendation, the Commission should require Consumers Energy to use probabilistic risk modeling to determine cost-effective levels of material condition pipe replacement capital spending. .... 27

    F. Throughput and Sales – The Commission should adopt the PFD’s recommendation to require Consumers to re-evaluate its load forecast, but it should provide more clarity on improved load forecasts. .... 33

        1. The Commission should find that Consumers’ residential gas sales are declining. .... 33

        2. The Commission should require load forecasts to incorporate historical declines in gas usage. .... 35

3. The Commission should adopt the PFD’s recommendation to require load forecasts to test against out-of-sample data..... 36

4. The Commission should adopt the PFD’s recommendation to incorporate efficiency and electrification into load forecasts and also incorporate historical changes in home heating by directing the submission of load forecasts with low-, medium-, and high-electrification scenarios..... 36

G. Natural Gas Delivery Plan (NGDP): The Commission should adopt the PFD’s recommendation to require substantial changes to the NGDP, but it should accelerate the timeline and provide procedural safeguards so that directions are actually incorporated. .... 38

III. CONCLUSION..... 40

## I. INTRODUCTION

The Michigan Environmental Council (MEC), Sierra Club, and Citizens Utility Board of Michigan (CUB) (collectively, MSC) file these limited exceptions to the Proposal for Decision (PFD) issued on August 14, 2025. Specifically, MSC excepts to certain recommendations in the PFD regarding Consumers Energy's (Consumers or the Company) New Business – Customer Attachment Program, its fleet capital and operations and maintenance (O&M) spending, its Rough Order of Magnitude estimates for information technology capital spending, its modeling to determine reasonable and prudent annual capital spending amounts for material replacement programs, and its load forecasts and Natural Gas Delivery Plan.

## II. EXCEPTIONS

- A. New Business – Customer Attachment Program: The Commission should adopt the PFD's recommendation to require Consumers to re-evaluate its customer attachment program in the next rate case but should also disallow a portion of the revenue requirement for new connections because Consumers has not supported with substantial evidence its practice of socializing such a large portion of those costs.**

Consumers Energy calculates the required Contributions in Aid of Construction (CIAC) amounts for new customer attachments using a method set forth in Rule C8 of the company's tariffs. The C8 methodology generally leads to existing customers paying about 90% of the upfront capital cost of connecting new customers to the system, while the new customers pay only about 10% of the upfront costs of connecting them.<sup>1</sup>

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<sup>1</sup> Direct Testimony of Alice Napoleon, 4 Tr 2289. See *id.* at Table 3 for the specific numbers. These amounts exclude new connections for large customers, which are included within the Large New Business sub-program.

The rationale behind the program is that the new customers will eventually pay back these costs through rates. However, the assumptions the Company uses in these CIAC calculations are not reasonable and, as a result, new customers are unlikely to pay the full incremental revenue requirements of the facilities constructed to attach them to the system – spreading the risk of shortfall onto other customers. Based on the evidence in this case, MSC requested that the Commission disallow \$26,832,000 in New Business capital expenditures to reduce the amount of new customer attachment costs socialized to existing customers. MSC also requested that the Commission require Consumers to re-evaluate the method and assumptions used to calculate CIAC amounts, as it did in DTE Gas Company’s most recent rate case, U-21291.

Finding that MSC has “valid concerns” about the CIAC program, the PFD in this case recommends that the Commission require Consumers to re-evaluate the method and assumptions but does not recommend any disallowance.<sup>2</sup> The PFD states that there is “insufficient evidence” to support a disallowance but never explains the basis for this conclusion.<sup>3</sup>

MSC continues to support the PFD’s recommendation to re-evaluate. However, MSC takes exception to the recommendation against a disallowance because the program assumptions are not supported by substantial evidence and because the PFD did not explain its reasons for finding otherwise. The weight of evidence strongly supports MSC’s position, as explained in detail below.

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<sup>2</sup> PFD, pp 36-37.

<sup>3</sup> *Id.*

**1. MSC demonstrated that the assumptions Consumers uses to calculate customer contributions for new service are not reasonable or supported by record evidence, and Consumers did not demonstrate otherwise.**

a. Overview of customer attachment program.

Consumers Energy's Distribution New Business Program consists of the capital costs of adding new customers to the Company's distribution system – including the cost of installing mains and services and the cost of meter stands.<sup>4</sup> All such projects other than large business projects are now categorized under the Mains, Services & Meter Stands subprogram.<sup>5</sup> In direct, Consumers projected an increase in Mains, Services & Meter Stands capital spending from \$55,338,000 in 2024 to \$61,682,000 in the projected test year.<sup>6</sup> On rebuttal, Consumers witness Lincoln Warriner agreed to a downward adjustment of \$8,018,000 for the test year, due to lower-than-anticipated new customer connections.<sup>7</sup> With that adjustment, Consumers' revised projected test year capital expenditures for Mains, Services & Meter Stands would be \$53,664,000.<sup>8</sup>

Consumers Energy requires new customers to pay for a portion of the cost of the work necessary to connect them.<sup>9</sup> The amount paid by a customer is referred to as a “contribution in aid of construction,” or CIAC.<sup>10</sup> Rule C8 of Consumers' rate book governs the customer attachment or CIAC program.<sup>11</sup> Under Rule C8, the Company uses a discounted cost of service model to

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<sup>4</sup> Direct Testimony of Lincoln D. Warriner, 2 Tr 42.

<sup>5</sup> *Id.* at 51-52.

<sup>6</sup> Ex A-101, p 1, line 1; Warriner Direct, 2 Tr 42.

<sup>7</sup> Warriner Rebuttal, 2 Tr 111.

<sup>8</sup> Author's math.

<sup>9</sup> Warriner Direct, 2 Tr 42.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 51.

calculate the net present value (NPV) of the revenue deficiency anticipated from a new connection project.<sup>12</sup> The model uses the expected incremental revenues and incremental costs associated with the project for each year of a 20-year period.<sup>13</sup> The model calculates the annual net revenue excess or deficiency and discounts it to determine the NPV revenue deficiency.<sup>14</sup> If the revenue deficiency is negative – i.e., the projected revenues exceed the costs – there is no CIAC charge; and if the revenue deficiency is positive, then there is a CIAC charge.<sup>15</sup>

Consumers Energy structures the CIAC contributions as a mix of charges and allowances. For residential customers<sup>16</sup> the mix includes:

- A free footage allowance.<sup>17</sup> In 2025, the free footage allowance for new residential gas-only customers in 2025 is 117 feet, and the free footage allowance for new gas and electric residential customers is 152 feet.<sup>18</sup> Those allowances increased significantly from the 2024 allowances of 88 feet for gas-only residential customers and 124 feet for joint gas and electric residential customers.<sup>19</sup> Longer footage allowances result in lower costs for new customers and greater costs spread across existing customers.<sup>20</sup>

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<sup>12</sup> Consumers Energy Company Natural Gas Rate Book, Rule C8, Sheet C-39.00, Section H.

<sup>13</sup> *Id.*; see also, Cross Examination of Luther A. Bonner, 2 Tr 223-24.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> For non-residential customers the Company uses a revenue deficiency charge. Napoleon Direct, 4 Tr 2291; Ex MEC-7, Consumers Response to DR MSC-CE-0026.

<sup>17</sup> Ex MEC-6, Discovery Response MSC-CE-0595.

<sup>18</sup> Napoleon Direct, 4 Tr 2287; Ex MEC-5, Consumers response to DR attachment MSC-CE-0599\_Warriner\_ATT\_1. There are no footage allowances for commercial customers. Ex MEC-6, Consumers response to DR MSC-CE-0595.

<sup>19</sup> *Id.*

<sup>20</sup> Napoleon Direct, 4 Tr 2287; Bonner Cross, 2 Tr 246.

- A revenue deficiency charge.<sup>21</sup> The revenue deficiency charge is \$200 and is billed to residential customers who exceed the footage allowance.<sup>22</sup> Consumers Energy does not know how the amount of this \$200 charge was determined.<sup>23</sup>
- An excess footage charge.<sup>24</sup> The excess footage charge is billed to residential customers who exceed the free footage allowance.<sup>25</sup> In 2025 it is \$21.26 per additional foot for new gas-only customers and \$17.28 per additional foot for joint gas and electric customers.<sup>26</sup>

b. Flawed assumptions and other problems with Consumers' customer attachment program.

Socializing 90% of the cost of connecting new gas customers is not reasonable and prudent. MSC presented eight reasons why the assumptions and methods included in Consumers' customer attachment policy are unreasonable, imprudent, and not supported by substantial evidence:

1. *The CIAC program shifts risk from new customers to existing customers.* MSC witness Alice Napoleon testified that providing free footage allowances and calculating connection charges based on the projected revenue deficiency from the new customer “means that the investment risk is initially borne by ratepayers.”<sup>27</sup> In other words, “if new customers do not remain on the gas system for as long as the Company projects, or if new customers do not purchase gas in

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<sup>21</sup> Ex MEC-6, Discovery Response MSC-CE-0595.

<sup>22</sup> Napoleon Direct, 4 Tr 2287-88; Ex MEC-6.

<sup>23</sup> Napoleon Direct, 4 Tr 2290; Bonner Cross, 2 Tr 242.

<sup>24</sup> Ex MEC-6, Discovery Response MSC-CE-0595.

<sup>25</sup> Napoleon Direct, 4 Tr 2287-88.

<sup>26</sup> *Id.* and Ex MEC-6.

<sup>27</sup> Napoleon Direct, 4 Tr 2288.

the quantities that Consumers expects, then remaining customers will be left to cover the costs.”<sup>28</sup> Consumers did not directly rebut this proposition, but instead argued that the program assumptions and calculation methods are reasonable. But they are not reasonable, as discussed next.

2. *The assumption that new customers will remain on the system for 20 years is not supported by substantial evidence.* Ms. Napoleon explained that Consumers’ model assumes a new customer will remain on the Company’s gas system for 20 years.<sup>29</sup> That is no longer a reasonable assumption because Consumers continues to make large capital investments that push up rates and electrification is becoming more common, so as a result many customers who have the financial means to electrify will do so.<sup>30</sup> Consumers witness Lincoln Warriner argued that because new customers will remain on the system for 20 years because gas furnaces last that long,<sup>31</sup> and Company witness Luther Bonner testified that the average lifespan of recently retired services is 43 years.<sup>32</sup> However, these statistics look backward and not forward, and do not consider recent advances in heat pump technology or the gas rates increasing faster than the rate of inflation<sup>33</sup> – making the economics of electrification more favorable.<sup>34</sup> In this increasingly risky environment, continuing to impose 90% of the costs of new connections on other customers on the assumption that the new customers will eventually pay these costs through rates is unreasonable and imprudent.

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<sup>28</sup> *Id.*

<sup>29</sup> Napoleon Direct, 4 Tr 2290; Ex MEC-8.

<sup>30</sup> *Id.*

<sup>31</sup> Warriner Rebuttal, 2 Tr 117.

<sup>32</sup> Bonner Rebuttal, 2 Tr 204.

<sup>33</sup> Revised Direct Testimony of Sebastian Coppola, 4 Tr 1849-55.

<sup>34</sup> Napoleon Direct, 4 Tr 2292.

3. *The assumption that usage per new customer will remain at current levels for the next 20 years is not supported by substantial evidence.* Consumers' model also assumes the new customer will use gas at an amount equal to the most recent three-year historical average sales for the customer's class for the next 20 years.<sup>35</sup> MSC witness Napoleon explained that this assumption is not reasonable given overall declines in gas consumption for residential customers, warming winters, and trends in heating equipment toward electrification.<sup>36</sup> On cross, Mr. Bonner agreed that if usage per customer declines, the incremental revenue estimates produced by the model could be high.<sup>37</sup> In rebuttal, Mr. Bonner testified that the Company updates the model assumptions annually and uses a rolling three-year historical average for usage, and asserted that the volume of natural gas services is not declining.<sup>38</sup> However, Consumers' sales forecasting witness, Mustafa Sherwani, confirmed in cross that average use per residential customer has been in decline from 2010 (the earliest available data in this record) to 2024.<sup>39</sup> Actual sales in 2010 were close to 100 MCF per customer, and 76.7 MCF in 2024.<sup>40</sup> The decline is especially pronounced for weather normalized average sales per customer:<sup>41</sup>

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<sup>35</sup> Napoleon Direct, 4 Tr 2290; Ex MEC-8.

<sup>36</sup> Napoleon Direct, 4 Tr 2292.

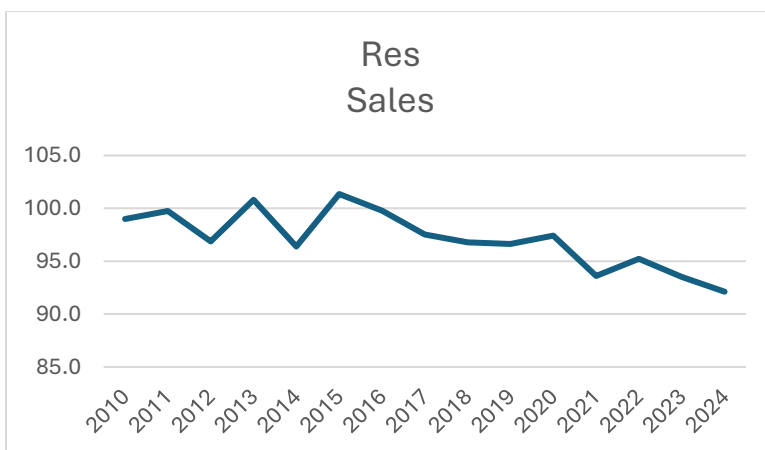
<sup>37</sup> Bonner Cross, 2 Tr 241-42.

<sup>38</sup> Bonner Rebuttal, 2 Tr 208.

<sup>39</sup> Cross Examination of Mustafa Sherwani, 2 Tr 328-330, discussing Ex MEC-29, Consumers Response to DR MSC-CE-0878 and attachment.

<sup>40</sup> *Id.* at 329.

<sup>41</sup> Mr. Sherwani confirmed charts like these created for demonstration purposes from the Ex MEC-29 attachment at 2 Tr 328-330.



Because it is reasonable to expect usage per customer to decline in future years, and usage per customer has in fact been declining, projecting 20 years of future usage based on average use for the last three years is not reliable and represents a major flaw in the model.

4. *Consumers does not track whether actual usage and revenues are consistent with the model assumptions.*<sup>42</sup> Without tracking this information, there is no way to know whether the revenue deficiency calculations are accurate.<sup>43</sup> Ms. Napoleon explained that if the model overestimates new customer revenues, then Consumers is undercharging new customers for connection costs and existing customers have to make up the difference.<sup>44</sup> In rebuttal, Mr. Bonner acknowledged that there is a “risk of subsidization” if the Company does not receive the forecasted revenue over the course of the next 20 years.<sup>45</sup> However, Consumers did not attempt to justify the decision not to track actual usage and revenue.

5. *The model Consumers Energy uses to estimate the revenues and set the charges is not shareable with other parties as required in the settlement agreement of Case No. U-21148.* The

<sup>42</sup> Napoleon Direct, 4 Tr 2292; Ex MEC-9, Discovery Response MSC-CE-0031.

<sup>43</sup> Napoleon Direct, 4 Tr 2293.

<sup>44</sup> *Id.*

<sup>45</sup> Bonner Rebuttal, 2 Tr 208.

settlement agreement in Consumers' 2022 rate case, U-21148, provided in relevant part that Consumers would "transition to a new line extension model that is transparent and is capable of being shared with stakeholders..."<sup>46</sup> Consumers replaced its old model, but the new model is no more capable of being shared than the old model was.<sup>47</sup> The PFD in this case agrees that Consumers' new model is not capable of being shared as required by the U-21148 settlement agreement, and recommends that the Commission direct the Company to comply with that term of the agreement.<sup>48</sup> MSC agree with that recommendation, but also note Commission precedent stating that models and data analyses underlying a utility's projections must be either in the record under MRE 703 or at least shared with the parties to a case.<sup>49</sup> Because Consumers relies so heavily on the model to support the reasonableness and prudence of the customer attachment program, and the model is not in evidence or even discoverable, the model cannot be deemed substantial evidence to support the program.

6. *The model imprudently incentivizes the connection of new gas customers.* MSC witness Napoleon explained that Consumers' line extension policies incentivize new customer connections by subsidizing their true cost.<sup>50</sup> Consumers witness Bonner did not directly rebut that claim – instead noting that while footage allowances are up, they are lower overall than they used to be; and that while excess footage charges recently went down, they are higher than they used to

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<sup>46</sup> Case No. U-21148, Order Approving Settlement Agreement, July 7, 2022, Ex A, paragraph 13 (emphasis added).

<sup>47</sup> See Ex MEC-24, Discovery Responses MSC-CE-0887, 0890, and 0893, and MSC Initial Brief, pp 24-27.

<sup>48</sup> PFD, pp 37-38.

<sup>49</sup> Case No. U-16582, Order, December 20, 2011, pp 15-16; Case No. U-17302, Order, December 19, 2013, p 3.

<sup>50</sup> Napoleon Direct, 4 Tr 2293.

be.<sup>51</sup> However, he also acknowledged that both current trends require lower upfront customer contributions – albeit higher than before the model was updated in 2023.<sup>52</sup>

7. *The Commission recognized similar problems in the most recent DTE Gas rate case, U-21291, and required DTE Gas to reevaluate its CIAC program.*<sup>53</sup> The PFD in this case cited the DTE Gas Order and recommended a similar directive to Consumers, which MSC supports.<sup>54</sup> However, Commission in U-21291 also issued a disallowance on one of DTE’s community expansion projects – albeit mainly for an unrealistic projected subscription rate.<sup>55</sup> In any event, the question of whether a utility has supported its projected spending with substantial evidence of reasonableness and prudence is separate from the question of whether the utility should also be directed to evaluate its program support in a future rate case.

8. *Other jurisdictions have reached similar conclusions and have reduced or eliminated line extension allowances.* MSC witness Napoleon testified that utility commissions in California and Colorado have eliminated customer attachment subsidies entirely, in part because of concerns about declining gas demand.<sup>56</sup> In Oregon, the state commission ordered a gas utility to reduce its allowance for similar reasons.<sup>57</sup> Consumers did not directly rebut this testimony.

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<sup>51</sup> Bonner Rebuttal, 2 Tr 199-203.

<sup>52</sup> Bonner Cross, 2 Tr 249-50.

<sup>53</sup> Case No. U-21291, Order, November 7, 2024, pp 246-247.

<sup>54</sup> PFD, p 37.

<sup>55</sup> *Id.* at 86.

<sup>56</sup> See Napoleon Direct, 4 Tr 2294 and citations therein.

<sup>57</sup> *Id.*

## 2. Basis for MSC's proposed disallowance.

In light of the issues just outlined, MSC witness Napoleon recommended that the Commission order the Company to reduce the allowance for new customer line extension costs to 50% of total costs, or \$37,025,000, for the projected test year.<sup>58</sup> That reasonable step would still authorize Consumers to socialize half of the subject costs but would better protect existing ratepayers from the risks described above.<sup>59</sup> Her original recommended disallowance amount was half of projected test year New Business capital expenditures.<sup>60</sup>

In rebuttal, Consumers witness Lincoln Warriner accepted capital expenditure adjustments totaling approximately \$46 million in the Company's New Business and Asset Relocation programs.<sup>61</sup> Therefore, MSC revised its proposed disallowance. In Mr. Warriner's rebuttal Table 1, he agreed to a downward adjustment of \$8,018,000 for the test year, due to lower-than-anticipated new customer connections.<sup>62</sup> With that adjustment, Consumers' revised projected test year capital expenditures for Mains, Services & Meter Stands would be \$53,664,000.<sup>63</sup> MSC therefore revised its recommended adjustment to 50% of Mr. Warriner's revised Mains, Services & Meter Stands projection, or \$26,832,000, in addition to the \$8 million that Consumers conceded already.<sup>64</sup>

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<sup>58</sup> *Id.* at 2295.

<sup>59</sup> *Id.*

<sup>60</sup> Consumers has been covering roughly 90 percent of average new connection costs. To adjust the current average coverage to 50 percent, I multiplied \$66,645,000 by 50%/90% to get \$37,025,000.

<sup>61</sup> Warriner Rebuttal, 2 Tr 111.

<sup>62</sup> Warriner Rebuttal, 2 Tr 111.

<sup>63</sup> Author's math.

<sup>64</sup> *Id.*

**3. The PFD found insufficient evidence to support MSC’s position but did not explain any reasons for the finding.**

The PFD summarizes the witness testimony and briefing on this issue and the related issue of customer growth rate projections in detail.<sup>65</sup> The PFD then rejects MSC’s recommended disallowance, and in support of rejection states only that “[t]his recommendation is a significant alteration and there is insufficient evidence in the record to support it.”<sup>66</sup>

The PFD then acknowledges that MSC “has valid concerns about the effect of electrification on natural gas use and its associated effect on CIAC policy and the potential for unfair subsidization or stranded costs if a significant number of customers switch heating sources in the coming years.”<sup>67</sup> To address those concerns, the PFD recommends that the Commission direct Consumers to “justify, in its next rate case, its CIAC methodology including whether it is appropriate to revise its assumptions to include declining natural gas demand and how to avoid unfair subsidization in that scenario” – similar to the Commission’s directive to DTE Gas in U-21291.<sup>68</sup> Finally, the PFD agrees with MSC that Consumers’ line extension model is not capable of being shared with the parties as required by the settlement in U-21148, and recommends that the Commission direct the Company to comply with that term of the agreement in the future.<sup>69</sup>

MSC appreciate and support the PFD’s recommended directives to Consumers regarding re-evaluation of the CIAC methodology and sharing of the line extension model. MSC take exception only to the PFD’s recommended rejection of any disallowance within the New Business

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<sup>65</sup> PFD, pp 36-37.

<sup>66</sup> *Id.* at 36.

<sup>67</sup> *Id.* at 37.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 37-38.

– Mains, Services & Meter Stands subprogram. As just discussed, the program assumptions are not supported by substantial evidence, the PFD did not explain its reasons for finding otherwise, and the weight of evidence strongly supports MSC’s position.

The Administrative Procedures Act requires in pertinent part that a PFD “shall contain a statement of the reasons therefor and of each issue of fact and law necessary to the proposed decision...”<sup>70</sup> In determining whether a party has carried its burden of proof, an agency’s “finding of fact must be supported by evidence, and reflect a judgment that the evidence preponderates in favor of the finding” though it “may be based on reasonable inferences of fact.”<sup>71</sup> Here, the PFD states that it finds insufficient evidence in the record to support a reduction in the allowance for new line extension costs but the PFD never explains why the voluminous evidence discussed above was not persuasive or what evidence from Consumers was more persuasive and therefore sufficient to meet the Company’s burden.

As discussed above, it is no longer reasonable to assume that any new customer who connects to the Consumers system will continue to take service for 20 years. Further, undisputed evidence in the record contradicts the Company’s assumption that such customers will continue to use gas at current levels for those 20 years. The Company acknowledges that if these assumptions are not accurate, there is a risk that existing customers will subsidize the connection of new customers. And the model Consumers relies on to support its contentions is not in evidence and not even shareable with the parties – despite a settlement agreement requiring such.

The PFD did not explain why all this evidence is insufficient to support a disallowance. Nor did the PFD explain what evidence from Consumers met the Company’s burden of

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<sup>70</sup> MCL 24.281(2).

<sup>71</sup> Case No. U-5825, Order, July 25, 1980, pp 9-10, quoting *Superior Public Rights, Inc v Department of Natural Resources*, 80 Mich App 72, 80 (1977), citing *Zytkewick v Ford Motor Co*, 340 Mich 309 (1954).

demonstrating that it is still reasonable and prudent to socialize 90% of the costs of connecting new customers onto existing customers.

The PFD's recommendations to reevaluate the program and share the model are significant steps forward. However, they do not substitute for the fact that it is Consumers' burden to support each of its projections and requests for rate relief with substantial evidence. The burden of proof by a preponderance of the evidence "applies to individual proposals and recommendations set forth in the utility's case."<sup>72</sup> "[I]f the utility realistically expects inclusion of the total projected costs, it must supply the Commission with enough evidence to support a finding that the costs are just and reasonable – in the absence of thorough, detailed, and meaningful evidence, the Commission's hands are tied."<sup>73</sup>

For these reasons, MSC appreciate and continue to support the PFD's recommendations to direct Consumers to reevaluate the program and share the model but respectfully request that the Commission disallow inclusion in rate base of \$26,832,000 of the capital costs as well.

**B. Fleet Capital Expenditures – The Commission should reduce the Company's proposed investment in fleet vehicle replacements and require the Company to evaluate the accuracy of its Blended Factor tool.**

Consumers proposes to increase fleet vehicle capital replacement spending from \$9.004 million in historic year 2023 to \$12.923 million in the test year ending October 31, 2026, an increase of \$3.919 million or 43%.<sup>74</sup> While Consumers seeks approval to significantly increase vehicle spending in the test year, the Company proposes to replace 30% fewer vehicles over the same period – down from 137 units in 2023 to 96 units in the test year.<sup>75</sup> As Attorney General

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<sup>72</sup> Case No. U-21461, Order, July 2, 2024, p 8.

<sup>73</sup> Case No. U-16794, Order, June 7, 2012, p 23.

<sup>74</sup> Ex A-12, Sch B5.2, p1, line 1.

<sup>75</sup> Ex A-28, p 1, line 4.

witness Coppola testified, the Company’s projected per-unit cost for vehicle replacement has increased substantially – from \$66,406 for 2023 to \$126,505 for the test year,<sup>76</sup> which is an increase of 90%. The Attorney General and MSC opposed the fleet capital spending increase and recommended reductions in the bridge and test years:<sup>77</sup>

	<b>Bridge Period</b>	<b>Test Year</b>	<b>Total</b>
<b>Attorney General (Coppola)</b>	(\$1.202 million)	(\$4.809 million)	(\$6.011)
<b>MSC (Denzler)</b>	(\$3.390 million)	(\$2.580 million)	(\$5.970)

The basis of the Attorney General’s reduction is that the unit cost of vehicles is unsupported and unreasonable; the basis of the MSC reduction is that the Company failed to justify its requested spending levels.<sup>78</sup>

More specifically, MSC opposed the Company’s requested spending increase because the Company’s vehicle replacement practices rest on an untested foundation – a “blended factor” tool that has never been validated.<sup>79</sup> The Blended Factor – the first in a multi-step process to identify vehicles for replacement – is an algorithm incorporating unit age, utilization, and expected life data.<sup>80</sup> Per the Company, the Company identified 2,794 out of 7,207 units (38.78%) for replacement using the Blended Factor – *i.e.*, vehicles that scored greater than 0.00% using the algorithm.<sup>81</sup> The Company admitted that “it has not, however, completed a full analysis of units that have failed prior to replacement as determined by the Blended Factor” and has known

<sup>76</sup> PFD, p 125 (citing Coppola Direct, 4 Tr 1936-37).

<sup>77</sup> PFD, pp 126-27 (citing Coppola Direct, 4 Tr 1397, and Denzler Direct, 4 Tr 2467).

<sup>78</sup> *Id.*

<sup>79</sup> Direct Testimony of Joshua W. Denzler, 4 Tr 2466-69.

<sup>80</sup> PFD, p 124 (citing Ballinger Direct, 4 Tr 1424).

<sup>81</sup> *Id.* (citing Ballinger Direct, 4 Tr 1425).

examples where the tool failed to predict failures.<sup>82</sup> CUB witness Denzler recommended that, in addition to rejecting the Company's proposed spending levels, the Company's Blended Factor should be treated as preliminary at best.<sup>83</sup>

The PFD declined to adopt either the Attorney General or MSC recommended disallowances and also declined to adopt MSC's recommendation to require Consumers to evaluate the accuracy of the Blended Factor tool.<sup>84</sup>

MSC excepts to the PFD's recommendation that the Commission approve the Company's vehicle replacement capital spending proposal as presented. Moreover, MSC requests the Commission direct Consumers to evaluate the accuracy of its Blended Factor tool. The Company admitted it is aware of instances where the tool has failed to identify actual failures. The tool identified nearly 40% of the fleet as eligible for replacement, yet it failed to identify actual failures. The tool identified 2,794 eligible replacement vehicles, yet only 96 are scheduled for replacement in the test year (about 3.4%). These undisputed facts highlight real questions about the validity, accuracy, and effectiveness of the tool. The Blended Factor appears to be "data-washing" – an attempt to make a decision-making rubric appear data-driven when it is not. The fact that the Company further manipulates the tool's output of vehicles eligible for replacement does not redeem the tool as a reliable starting point for the Company's vehicle replacement planning and ultimate spending proposals. Given the scope of spending at issue, the Commission should require the Company to evaluate the accuracy of the tool that is the starting point for vehicle replacement decisions. And the Commission should not approve the Company's request to significantly

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<sup>82</sup> Denzler Direct, 4 Tr 2466 (citing Company response to discovery request U21806-CUB-CE-225).

<sup>83</sup> Denzler Direct, 4 Tr 2467.

<sup>84</sup> PFD, pp 129-30.

increase vehicle replacements that rest foundationally on this ineffective tool. MSC respectfully request that the Commission reduce the Company's proposed investment per either Mr. Denzler's or Mr. Coppola's recommendations accordingly.

**C. Fleet O&M<sup>85</sup> Expenses – The Commission should reduce the Company's Fleet O&M spending to reflect fuel and maintenance costs savings associated with vehicle electrification; reduce the Company's projected fleet responsibility costs; and establish a process and deadline for the Company to initiate, complete and present the results of an idling study and incorporate the results into future rate case proceedings.**

MSC supported recommendations, including disallowances, related to three components of the Company's Fleet O&M plans: (a) savings (capital and O&M) associated with fleet electrification; (b) itemization of projected fleet responsibility costs; and (c) evaluation of opportunities to reduce idling.<sup>86</sup> The PFD adopted parts of MSC recommendations related to all three components.<sup>87</sup> MSC excepts to the PFD to the extent it rejected parts of MSC recommendations, as discussed in the following sections.

**1. Savings Associated with Fleet Electrification (Capital and O&M).**

MSC supported a reduction in Fleet O&M spending of \$72,720 in the test year as an offset to reflect fuel and maintenance costs savings associated with vehicle electrification.<sup>88</sup> As reflected in Exhibit CUB-25C, most of the estimated savings are associated with current inventory vehicles, and the estimates are based on the Company's own analysis of EV versus internal combustion engine ownership costs.<sup>89</sup> The Company opposed any offset in the test year on the basis such a

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<sup>85</sup> As discussed below, some of these recommendations involve a combination of capital and O&M spending.

<sup>86</sup> MSC Initial Brief, pp 61-67.

<sup>87</sup> PFD, pp 357-64.

<sup>88</sup> PFD, p 357; MSC Initial Brief, pp 61-63; Ex CUB-25C (breakdown of estimated savings).

<sup>89</sup> Denzler Direct, 4 Tr 2468.

reduction would be “premature.”<sup>90</sup> MSC also requested the Company provide a specific study of expected savings associated with electrification, which the Company in rebuttal indicated it was willing to provide following the test year.<sup>91</sup> The PFD rejected the spending reduction but recommended the Commission order Consumers “to immediately track and quantify EV-related savings and incorporate the savings into projected spending in rate cases going forward.”<sup>92</sup>

MSC accepts the latter recommendation (immediately track EV-related savings) but excepts to the former (reject \$72,720 savings offset to test year spending). The PFD rejected the estimated savings on the basis that Case No. U-21461 “does not provide precedent to reduce fleet responsibility O&M costs based on estimated EV savings.”<sup>93</sup> Per the PFD:

In that case, the commission approved certain I&M expenditures for Advanced Metering Infrastructure over the objections of Staff and the Attorney General, who argued that the company was unable to quantify the benefits of the program.<sup>94</sup>

MSC respectfully disagrees that U-21461 provides no relevant precedent here. To the contrary, in that proceeding, the Commission refused to approve estimated 2023 spending on the basis the utility had failed to quantify and incorporate the promised technology-driven costs savings. In U-21461, I&M requested approval of \$26.10 million for its AMI investment to replace obsolete meters, as follows:<sup>95</sup>

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<sup>90</sup> PFD, p 359 (citing Guinn Rebuttal, 4 Tr 1466).

<sup>91</sup> MSC Initial Brief, pp 61-62; PFD, p 359 (citing Guinn Rebuttal, 4 Tr 1466).

<sup>92</sup> PFD, p 363.

<sup>93</sup> PFD, p 363, citing U-21461, Order, July 2, 2024, p 55.

<sup>94</sup> *Id.* at n 1721.

<sup>95</sup> Ex IM-105R, p 2 of 27; U-21461, Order, July 2, 2024, p 50.

	2017 Actual	2018 Actual	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Estimated	Total Project
Meters Installed*	459	69	140	18,145	11,156	103,298	695	133,962
AMI Program Investment (\$millions - Figure DSI-14)					\$5.80	\$12.00	\$2.70	\$20.50
Power Line Carrier (PLC) (\$millions)			\$2.60	\$2.30	\$0.70			\$5.60

Staff and the Attorney General opposed full cost recovery; per the Order, Staff recommended disallowing \$15.08 million, and the Attorney General recommended disallowing \$5.77 million from 2023 and \$2.91 million from 2024 expenditures.<sup>96</sup> One of their concerns was lack of quantified savings benefits associated with the AMI rollout. The PFD recommended adopting Staff’s disallowance.<sup>97</sup> The Commission declined, finding that “some recovery limited to the historic capital expenditures through 2021 and 2022 is more appropriate” but refusing to approve the 2023 expenditures (\$2.70 million).<sup>98</sup> The Commission noted I&M had completed a BCA, which “forecasted significant benefits” from the AMI rollout, but “the issue is that I&M failed to track the financial benefits that the BCA predicted to actual benefits for Michigan customers that should have appeared with the AMI program rollout being substantially complete.”<sup>99</sup> As quoted in MSC’s initial brief,<sup>100</sup> the Commission concluded:<sup>101</sup>

Yet the unsupported assertions offered by the company that the AMI program is resulting in cost savings other benefits to customers are no substitute for material evidence consisting of dollar amounts, operational metrics, and/or measurable customer benefits linked to the AMI program. See, 3 Tr 714-717; 4 Tr 1274, 1295-1296. Should the company seek recovery in the future for any 2023 or 2024 expenditures, or to include future expenditures in prospective rates, the Commission expects to see quantified benefits to Michigan customers supported by persuasive evidence on the record that allows the parties to discern what the actual expenditures are in each year, as

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<sup>96</sup> Case No. U-21461, July 2, 2024, Order, pp 50-51.

<sup>97</sup> *Id.* at 51 (citing PFD, pp 102-103).

<sup>98</sup> *Id.* at 54-55.

<sup>99</sup> *Id.* at 55.

<sup>100</sup> MSC Initial Brief, pp 62-63.

<sup>101</sup> Case No. U-21461, July 2, 2024, Order, p 55.

opposed to conflicting amounts in discovery that are not responsive to the clarity requested.

Accordingly, the Commission found “I&M’s capital expenditures through 2021 of \$5.8 million and \$12.05 million for the 2022 historical period should be included in rate base” but did not include \$2.70 million for 2023 spending in rate base, as I&M had requested.<sup>102</sup>

MSC here requested the Commission disallow \$72,720 from projected test year spending on the basis Consumers has already incorporated EVs into its inventory (with plans for more) but has not yet incorporated test year savings as an offset to test year expenditures. The U-21461 order was even more aggressive by declining to approve *any* 2023 spending until savings were quantified. MSC’s proposal is not identical to, but still supported by, the Commission’s decision and rationale in U-21461.

MSC further responds to note that, even without U-21461 as relevant precedent, the Commission can and should decline to approve projected spending that disregards estimated savings. It is neither reasonable nor prudent to request spending for EVs on the promise of fuel and maintenance savings but then not incorporate any savings into rate case cost projections. Consumers must agree there will be savings associated with its EV investment in the test year, so it is unreasonable to approve spending that pretends there are \$0 in savings. It is reasonable to treat the Company’s own estimated savings as an offset to projected savings until the Company quantifies those savings. The Commission should hold Consumers accountable in two ways: first, by reducing spending in the test year, and second, by requiring the Company to quantify savings forthwith, as the PFD recommended. There is no reasonable basis for ratepayers to be burdened with the projected test year costs in rates but not the estimated savings in the test year.

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<sup>102</sup> *Id.*

## 2. Itemization of Projected Fleet Responsibility Costs.

MSC supported reducing the Company's estimated \$75 million in 2025 and "similar total costs" in 2026 for Fleet Responsibility by 20% in 2025 and "similar" costs in 2026 and requiring Consumers to establish in future proceedings the reasonableness of such costs by allocating them between capital and O&M and by cost category and business unit.<sup>103</sup> The Company opposed this recommendation.<sup>104</sup> The PFD declined to reduce projected spending because it "appears arbitrary," instead finding "the company has adequately supported its projected \$75 million expenditure."<sup>105</sup> The PFD did, however, support the recommendation to break fleet responsibility costs into O&M and capital to "better enable their evaluation and facilitate a more precise determination of capital and O&M costs," and recommended an order "that Consumers provide historical and projected fleet responsibility costs by capital and O&M and by cost category and business unit in all rate cases going forward."<sup>106</sup>

MSC accepts the latter recommendation (itemize Fleet Responsibility costs in all future rate cases) but excepts to the former (reduce projected spending by 20%). The Company failed to support its projected \$75 million in 2025 and "similar total costs" in 2026 for Fleet Responsibility spending – there is no explanation nor support in the record for how the Company derived those numbers. It does not relate in any meaningful way to historic spending (\$80.063 million in 2023, \$86.70 million in 2022).<sup>107</sup> The Company's direct testimony witness cited only the historic

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<sup>103</sup> PFD, p 358; MSC Initial Brief, pp 64-66; Denzler Direct, 4 Tr 2470.

<sup>104</sup> PFD, p 360; Guinn Rebuttal, 4 Tr 1467.

<sup>105</sup> PFD, p 363.

<sup>106</sup> PFD, p 364.

<sup>107</sup> Ex A-27.

spending (Exhibit A-27), not a projection of 2025 or 2026 spending.<sup>108</sup> While 2025 and 2026 spending is less than historic spending, that says nothing about how projected spending was derived nor whether projected spending is reasonable. The PFD cites no record evidence to support the assertion that the Company adequately supported its projected 2025 and “similar” 2026 spend levels. The Company’s 2026 projection in particular appears entirely arbitrary – it is not even quantified. The PFD rejected Mr. Denzler’s recommendation to reduce arbitrary spending levels by 20% on the basis that 20% is arbitrary. As Mr. Denzler testified, the “technically-correct” reduction would be 100% of fleet responsibility costs, but 20% would be less impactful on fleet operations.<sup>109</sup> That approach is within the Commission’s discretionary authority to determine what expenses to allow as costs of operation<sup>110</sup> and to balance the interests of the utility and its customers.<sup>111</sup>

### **3. Evaluation of Idling Reduction Opportunities.**

MSC supported the Company’s efforts to reduce fossil fuel consumption through idle-mitigation technologies but recommended the Company do more.<sup>112</sup> In particular, CUB witness Denzler recommended the Company undertake a more detailed analysis of vehicle idling to address four specific aspects of waste and necessary idling by vehicle type: assessment of research and best practices; estimated fuel costs based on Company actual annual average fuel costs;

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<sup>108</sup> Direct Testimony of Corey E. Ballinger, 4 Tr 1419-20.

<sup>109</sup> Denzler Direct, 4 Tr 2471.

<sup>110</sup> *Detroit v Michigan Public Service Comm*, 308 Mich. 706, 716-717; 14 N.W.2d 784 (1944) (PSC had discretion to determine what charges and expenses to allow as costs of operation); *Detroit Edison v PSC*, 127 Mich. App. 499, 524; 342 N.W.2d 273 (1983) (PSC had discretion to allow some and disallow other operating costs, where it expressed a rational basis for doing so) (citations omitted).

<sup>111</sup> *Attorney General v Michigan Public Service Comm*, 463 Mich 912, 912; 618 N.W.2d 904 (2000) (concurring opinion, citations omitted).

<sup>112</sup> MSC Initial Brief, pp 66-67.

estimated wear-and-tear based on research and best practices; and estimated carbon dioxide released during idling.<sup>113</sup> The Company agreed in rebuttal to “work on performing such an analysis.”<sup>114</sup> While conveying some willingness to do something sometime, the rebuttal was no commitment to undertake the assessment Mr. Denzler recommended and incorporate it thereafter. As such, in briefing, MSC requested the Commission ensure the Company follows through by directing the Company (a) to undertake such a study immediately and (b) produce it as a stand-alone filing in this docket, as well as (c) evaluate opportunities for additional idle reductions in the next rate case.<sup>115</sup> In its reply brief, the Company complained that MSC added requests for the first time in briefing, raising particular concerns about it being required to evaluate in the next rate case opportunities for additional idle reductions.<sup>116</sup>

The PFD adopted MSC’s recommendation “as initially described by Mr. Denzler, which was generally agreed to by the company.”<sup>117</sup> The PFD rejected the “additional recommendations provided in briefing for the first time and recommends that as soon as the study is completed, its findings should be used by the company in its efforts to mitigate idling with results provided in subsequent rate cases.”<sup>118</sup> MSC interprets the PFD to *not* recommend ordering Consumers to initiate the study immediately (part (a) above) and to *not* recommend ordering Consumers to file the study as a stand-alone filing (part (b) above), but the PFD *does* recommend the Commission

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<sup>113</sup> *Id.*

<sup>114</sup> Rebuttal Testimony of Quentin A. Guinn, 4 Tr 1467.

<sup>115</sup> MSC Initial Brief, p 67.

<sup>116</sup> Consumers Reply Brief, p 122.

<sup>117</sup> PFD, p 364.

<sup>118</sup> *Id.*

direct Consumers to use the study results to mitigate idling (part of part (c) above) but *not* necessarily in the next rate case (other part of part (c) above).

MSC excepts to the PFD to the extent it declined to impose any timeline on Consumers to undertake the study and to incorporate its findings into a rate case filing. Absent a Commission-imposed timeline and process, the idling study may idle for years and/or this issue may be replicated through redundant testimony in future proceedings. There is no reason not to impose a timeline on the Company. The only reason suggested by the PFD for not recommending the Commission attach a timeline and process to the study is the timing of the recommendation – MSC raised it in briefing rather than testimony. MSC reasonably responded in briefing to the Company’s vague rebuttal that it would “work on performing such an analysis” – the Company’s rebuttal made it necessary to add specificity. There is no basis to reject arguments raised in initial briefs and supported by witness testimony, which provided the factual basis for the study recommendation (*i.e.*, fuel cost savings),<sup>119</sup> and partially agreed to by the Company.

MSC respectfully requests that the Commission impose a reasonable process, including timeline, for the Company to initiate, complete, present, and incorporate an idling study to reduce fuel cost expense for ratepayers.

**D. IT Rough Order of Magnitude (ROM) Reduction – The Commission should further reduce the Company’s ROM estimates by an additional 20%.**

MSC supported reducing the Company’s Rough Order of Magnitude capital estimates by an additional 20% over the 20% reduction already imposed by the Commission in U-20697 and

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<sup>119</sup> Denzler Direct, 4 Tr 2473-74; Ex CUB-26.

U-20963.<sup>120</sup> As demonstrated by witness Denzler, for 2022 to 2024, the Company’s actual project spending has been more than 40% below the Company’s ROM estimates:<sup>121</sup>

**Table 2: ROM Estimate Analysis**

U21148									
Project Category	ROM Estimate			Actuals*			Actual Variance to Estimate		
	Projected Capital	Projected O&M	Total	Capital	O&M	Total	Capital	O&M	Total
2022 Annual Projects	5,417,132	2,220,392	7,637,524	4,242,244	2,678,079	6,920,323	-22%	21%	-9%
2023 Annual Projects	4,999,053	2,555,226	7,554,279	1,190,678	873,855	2,064,533	-76%	-66%	-73%
2024 Annual Projects	NA	NA	NA	NA	NA	NA	NA	NA	NA
Projects	27,465,490	6,348,793	33,814,282	15,947,767	4,030,212	19,977,979	-42%	-37%	-41%
Total All Categories	37,881,675	11,124,411	49,006,086	21,380,688	7,582,146	28,962,835	-44%	-32%	-41%

U21308									
Project Category	ROM Estimate			Actuals*			Actual Variance to Estimate		
	Projected Capital	Projected O&M	Total	Capital	O&M	Total	Capital	O&M	Total
2022 Annual Projects	NA	NA	NA	NA	NA	NA	NA	NA	NA
2023 Annual Projects	2,349,999	3,218,108	5,568,107	125,493	236,395	361,888	-95%	-93%	-94%
2024 Annual Projects	1,195,167	3,031,139	4,226,306	811,450	1,152,158	1,963,608	-32%	-62%	-54%
Projects	10,868,735	3,518,966	14,387,701	4,662,609	592,695	5,255,304	-57%	-83%	-63%
Total All Categories	14,413,901	9,768,213	24,182,114	5,599,552	1,981,248	7,580,800	-61%	-80%	-69%

U21490									
Project Category	ROM Estimate			Actuals*			Actual Variance to Estimate		
	Projected Capital	Projected O&M	Total	Capital	O&M	Total	Capital	O&M	Total
2022 Annual Projects	NA	NA	NA	NA	NA	NA	NA	NA	NA
2023 Annual Projects	NA	NA	NA	NA	NA	NA	NA	NA	NA
2024 Annual Projects	1,205,479	4,271,683	5,477,162	811,450	1,152,158	1,963,608	-33%	-73%	-64%
Projects	3,469,520	721,148	4,190,668	2,599,802	530,560	3,130,362	-25%	-26%	-25%
Total All Categories	4,674,999	4,992,831	9,667,830	3,411,252	1,682,718	5,093,969	-27%	-66%	-47%

The PFD rejected the requested ROM reduction because is it not “appropriate to impose a general, blanket disallowance of this type based upon the premise that the company generally underspends its ROM adjustments.”<sup>122</sup> The PFD does not explain why it is not appropriate to refine the ROM adjustment based on actual historic underspending relative to ROM estimates for three years in both capital and O&M spending. The Commission explained in U-20697 that it is proper

<sup>120</sup> MSC Initial Brief, pp 47-49; Case No. U-20697, Order, Dec. 17, 2020, p 138; Case No. U-20963, Order, Dec. 22, 2021. In Case No. U-21389, the Company included a 20% rough order of magnitude adjustment in the revenue requirement. Order, March 1, 2024, p 87 n 7.

<sup>121</sup> Denzler Direct, 4 Tr 2461 (data from Consumers response to discovery request U21806-CUB-CE-0119).

<sup>122</sup> PFD, pp 172-73.

to reduce ROM estimates by 20% because the Company's ROM estimates are an improper basis for ratemaking in the first place:<sup>123</sup>

Because Michigan utilities are permitted to rely on fully projected test year costs and revenues, which already introduces a measure of uncertainty, the Commission finds it unreasonable to include ROM estimates with such a wide range of project costs. The Commission agrees with the Staff and the ALJ that these estimates are too imprecise for ratemaking purposes and may be burdensome for ratepayers. If Consumers reasonably and prudently incurs costs for these projects, the company may request recovery in a future rate case.

In reiterating approval of the 20% reduction to IT project cost projections based on ROM estimates, the Commission treated the ROM like improper contingency – “The Commission finds that the disputed amount on this issue is akin to contingency and that the inclusion of the same in rates is unjust and unreasonable.”<sup>124</sup>

Over the last three years, the record shows that a mere 20% downward adjustment to ROM is insufficient to ensure approved projected IT project spending reflects actual IT project spending. Rather, Consumers' ROM projections are, on average, more than 40% above actual spending, as shown in the table above. If the Company's consistent, self-reported historic actual spending relative to ROM estimates is not proper evidence to support a further downward adjustment to ROM estimates, what is? As the Commission stated in U-20697 (and reiterated in U-20963<sup>125</sup>), the safeguard is the Company's ability to request recovery in a future case if costs exceed approved spending.

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<sup>123</sup> Case No. U-20697, Order, Dec. 17, 2020, p 138.

<sup>124</sup> Case No. U-20963, Order, Dec. 22, 2021, p 128.

<sup>125</sup> Order, Dec. 22, 2021, p 128 (“As reiterated by the ALJ, “if reasonably and prudently incurred costs exceed the projection, the company may include the costs in a future rate case.”) (citing U-20936, PFD, p 192).

To the extent the PFD reflects apprehension to approve a “general, blanket disallowance of this type” – *i.e.*, a further across-the-board 20% reduction on the prior 20% reduction – the Commission should dispel that apprehension. If “general, blanket disallowances of this type” are not proper, that would preclude the Commission’s prior and repeated disallowance of 20% of ROM-based IT cost projections, which no party posits. The alternative to the 20% reduction – and a further 20% reduction – may be a complete (100%) disallowance of ROM-based cost projections on the basis they are “too imprecise for making purposes.” The Commission has exercised its discretion to set rates that include less-than-all of the Company’s ROM-based IT project cost projections. It is within the Commission’s discretion to further revise and refine the ROM adjustment based on additional evidence, including the undisputed evidence in this case that the Company’s ROM projections are on average more than 40% above actual spending.

Finally, MSC concedes that, while witness Denzler presented testimony that the Company’s ROM estimates collectively exceed actual spending across both capital and O&M spending, his testimony recommended disallowances to ROM estimates for capital spending alone, not O&M spending.<sup>126</sup> MSC retracts its prior argument supporting O&M disallowances associated with ROM-based cost projections in this proceeding.<sup>127</sup>

**E. Cost-Benefit Modeling – Contra the PFD’s recommendation, the Commission should require Consumers Energy to use probabilistic risk modeling to determine cost-effective levels of material condition pipe replacement capital spending.**

In this case, MSC recommended that the Commission should require Consumers to undertake probabilistic risk modeling to determine reasonable and prudent annual capital spending

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<sup>126</sup> Denzler Direct, 4 Tr 2461.

<sup>127</sup> MSC Initial Brief, pp 48-49.

amounts for material replacement programs such as the Enhanced Infrastructure Replacement Program (EIRP), Vintage Service Replacement Program (VSR), and Material Condition Non-Modeled Program (MCNM). Currently, Consumers sets its capital spending projections for these programs based on the maximum number of projects that can be done each year up to the limits of contract and labor resources available to do the work.<sup>128</sup> It is no surprise then, that the Company is on track to spend \$3.6 billion in the next decade on these three programs alone.<sup>129</sup> The escalating capital expenditures will increase rate base, which in turn will have to be supported by declining sales.<sup>130</sup>

To incorporate *some* consideration of cost-effectiveness into Consumers' material replacement programs where none currently exists, MSC witness Dr. Sol deLeon recommended using a probabilistic risk model to evaluate the level of risk reduction expected from alternative measures compared to their cost.<sup>131</sup> She explained that such a model uses historical data and subject matter expertise to estimate the likelihood of failure and consequence of failure for specific areas or pipeline segments, the product of which is the risk.<sup>132</sup> It then estimates cost-effectiveness, or risk spend efficiency (RSE), by dividing the risk reduction of each alternative by its cost.<sup>133</sup>

A probabilistic risk model is a more rigorous tool than a relative risk model like Consumers' current Distribution Risk Analysis Model (DRAM),<sup>134</sup> which is more or less just a

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<sup>128</sup> See Pascarello Cross, 3 Tr 498-99.

<sup>129</sup> deLeon Direct, 4 Tr 2328.

<sup>130</sup> deLeon Direct, 4 Tr 2337; Napoleon Direct, 4 2297-2305 .

<sup>131</sup> *Id.* at 2337-38.

<sup>132</sup> *Id.* at 2338.

<sup>133</sup> *Id.*

<sup>134</sup> Pascarello Direct, 3 Tr 416-17.

priority ranking.<sup>135</sup> Consumers agrees that probabilistic models “show great promise as a tool in more accurately assessing pipeline risk,” as compared to relative risk models.<sup>136</sup> They allow parties and the Commission to examine the level of risk reduction expected from strategic capital projects (as opposed to mandatory compliance projects), the cost to achieve the reductions, and a meaningful assessment of alternatives.<sup>137</sup> Such information is necessary to understand the inherent tradeoffs between risk reduction and affordability – which is impossible when presented only with vague utility proclamations about reducing risk.<sup>138</sup> Particularly in the face of the energy transition, “gas utility actions that avoid, reduce, or delay irreversible investments have particular value.”<sup>139</sup>

The Pipeline and Hazardous Materials Safety Administration endorsed probabilistic risk modeling as a potential best practice for pipeline operators over other risk models.<sup>140</sup> Other utilities and regulators have adopted it as well – including Washington Gas and the California Public Utilities Commission.<sup>141</sup> Consumers developed a probabilistic risk model for transmission assets; is developing a model for storage wells that it expects to begin utilizing in 2025; and plans to develop a probabilistic risk model for distribution assets by 2027.<sup>142</sup>

Consumers’ current transmission asset risk model illustrates the importance of risk modeling. It shows that 80% of the current risk on the transmission system is contained within just

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<sup>135</sup> *Id.* at 2343. See also, Pascarello Direct, 3 Tr 416-17.

<sup>136</sup> *Id.* at 2338, quoting in part Direct Testimony of Consumers witness Michael Griffin, 4 Tr 1264-65.

<sup>137</sup> deLeon Direct, 4 Tr 2339.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> Revised Direct Testimony of Michael P. Griffin, 4 Tr 1264-65.

<sup>141</sup> deLeon Direct, 4 Tr 2340-42.

<sup>142</sup> *Id.* at 2342.

over 9% percent of the transmission miles.<sup>143</sup> This kind of information allows investments to be targeted. It can be contrasted with the approach Consumers currently uses for distribution material condition projects – which is to max out the number of projects that can be done each year up to the limits of contract and labor resources available to do the work.<sup>144</sup> The max approach will of course escalate rate base and drive up rates in exactly the manner that has been happening with Consumers.<sup>145</sup>

Dr. deLeon recommended that Consumers be required to present more transparent information regarding the tradeoffs between safety and affordability based on probabilistic risk assessment in its future rate cases.<sup>146</sup> This information should include risk rankings and cost-effectiveness calculations, summaries of its evaluations of alternatives, and inputs and assumptions for the analyses.<sup>147</sup> It should also include assessment of the impact prior year’s expenditures have made to reduce risk on the system.<sup>148</sup>

The PFD finds that it “need not address” MSC’s recommendation to incorporate risk modeling for material replacement programs because Consumers “is already developing probabilistic models for a variety of asset classes, including a distribution-related probabilistic model, but the distribution-related probabilistic model will not be ready for use in time for the company’s next rate case.”<sup>149</sup> While that is partially true, the real point of contention is that

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<sup>143</sup> *Id.* at 2340.

<sup>144</sup> See Pascarello Cross, 3 Tr 498-99.

<sup>145</sup> See Coppola Direct, 4 Tr 1849-55.

<sup>146</sup> *Id.* at 2349-51.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> PFD, p 470.

Consumers is not developing the distribution probabilistic model to assess cost-benefit or cost effectiveness.

On that point, the PFD rejects MSC's recommendation that cost-effectiveness calculations should be integrated with the probabilistic risk model.<sup>150</sup> Citing Dr. deLeon's testimony, the PFD finds that "there is a distinction between compliance programs that mandate repairs or replacements (suggesting that cost effectiveness is a moot point) and discretionary programs where there is greater flexibility."<sup>151</sup> The PFD rejects Dr. deLeon's position that all such programs should be evaluated for cost effectiveness because the distinction between legal compliance programs and discretionary replacement programs is not always clear.<sup>152</sup> The PFD finds that "calculating cost effectiveness for all programs would be unduly burdensome if, for example, a certain repair or replacement was legally mandated."<sup>153</sup> The PFD also finds, based on Consumers' testimony, that it is not possible to integrate cost-benefit evaluation with probabilistic risk modeling.<sup>154</sup>

The Commission should decline to adopt the PFD's recommendation, and should require Consumers to begin integrating cost-benefit evaluation in its material replacement capital programs, for several reasons. First, not to do so will lead to continued escalation of rate base revenue requirements collected against flat or declining sales – as described above.

Second, not to do so would depart from the Commission's longstanding precedent that cost-benefit analysis is required to support rate recovery of large capital expenditures. For example, in Case No. U-21297, the Commission stated that "the Commission cannot approve cost

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<sup>150</sup> *Id.* at 471.

<sup>151</sup> *Id.*, citing deLeon Direct, 4 Tr 2340.

<sup>152</sup> PFD, p 407.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*, citing Snyder Rebuttal, 4 Tr 1820.

recovery for projects which are not adequately supported and fail to include analysis of the severity of the actual risk or how the project will alleviate or reduce the risk, and a sufficient benefit/cost analysis (BCA).”<sup>155</sup> In in Case No. U-20697, the Commission disallowed capital expenditures and O&M expenses for new customer technology platforms and directed Consumers to include in its IT plan more details “including, but not limited to, a benefit/cost analysis for the programs...”<sup>156</sup> In *In re Detroit Edison Co*, the Court of Appeals reversed the Commission’s approval of rate recovery for Detroit Edison’s Advanced Metering Infrastructure (AMI) program, holding that decision was unreasonable because it lacked “discussion of competing considerations regarding the program or the necessity of the program and its costs as related to any net benefit to customers” and therefore was not “an informed assessment supported by competent, material, and substantial evidence.”<sup>157</sup>

Third, while the PFD’s concern about the burden of requiring cost-benefit evaluation of legally mandated programs is understandable, that concern is not a basis for not requiring evaluation of the costs and benefits of discretionary programs. The PFD did not provide any rationale for that decision.

Finally, as to whether it is possible to integrate cost-benefit evaluation with probabilistic risk modeling, the PFD relied on Consumers witness Bryan Snyder’s claim that the probabilistic risk model cannot be used to evaluate cost effectiveness without substantial further development, specifically to predict site-specific costs of remediation.<sup>158</sup> However, in discovery Mr. Snyder acknowledged that cost estimates for transmission-related remediation projects are not based on

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<sup>155</sup> Case No. U-21297, Order, December 1, 2023, p 23.

<sup>156</sup> Case No. U-20697, Order, December 27, 2020, p 146.

<sup>157</sup> *ABATE v MPSC (In re Detroit Edison Co)*, 296 Mich App 101, 115 (2012).

<sup>158</sup> Snyder Rebuttal, 4 Tr 1815-16.

site-specific factors – they are based on the history of the line segment and the average cost of a dig.<sup>159</sup> Consumers could use the same kind of information to estimate costs using a probabilistic risk model for distribution.

In sum, Consumers projects large capital spending increases on material replacement programs well into the future. The projects are prioritized based on a relative risk ranking, but the overall spending levels are limited only by the number of projects the Company can accomplish with available labor and contract resources. The spending levels will continue driving up rate base and revenue requirements in a time of flat or declining sales and an emerging energy transition. MSC recommends that the Commission require Consumers to incorporate meaningful cost-effectiveness evaluation into project selection through risk modeling that considers costs and benefits, to protect customers from the business-as-usual state of uncontrolled cost escalation.

**F. Throughput and Sales – The Commission should adopt the PFD’s recommendation to require Consumers to re-evaluate its load forecast, but it should provide more clarity on improved load forecasts.**

**1. The Commission should find that Consumers’ residential gas sales are declining.**

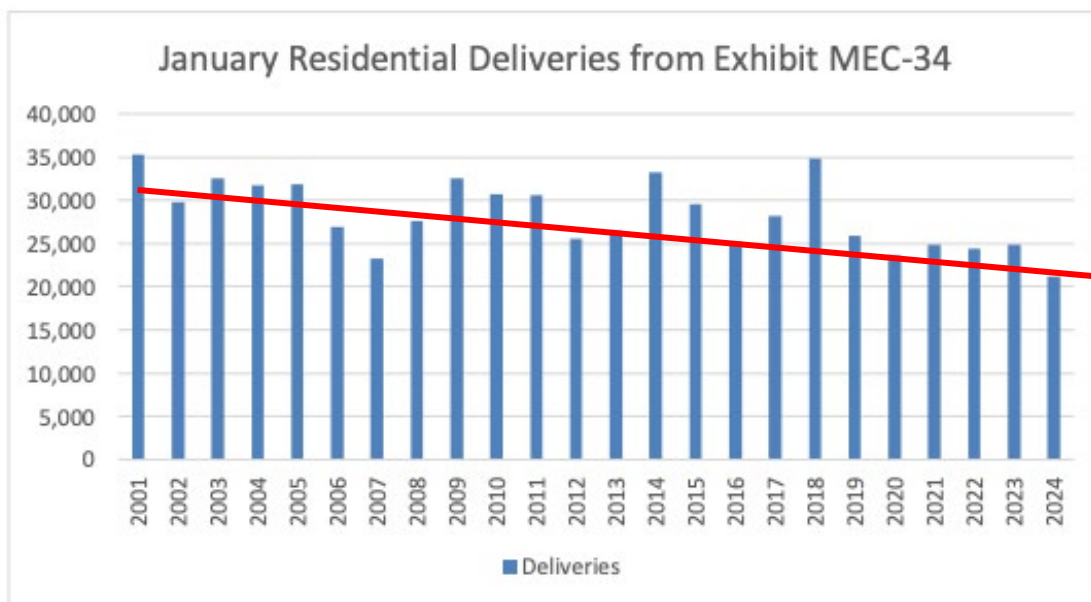
The PFD states that it is “open for debate whether there is currently a clear, long-term trend of declining gas usage.”<sup>160</sup> While the Company may have been successful at obfuscating data showing declines in residential gas sales, the Commission should not adopt this position. The Company’s *own charts* show substantial and steady declines in peak residential gas sales since 2001 (see below, trendline added). The Company tried to explain away these trends by not including trendlines and pointing to volatility between years. However, year-to-year departures

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<sup>159</sup> Ex MEC-69, Discovery Response MNSC-CE-0922.

<sup>160</sup> PFD, p 319.

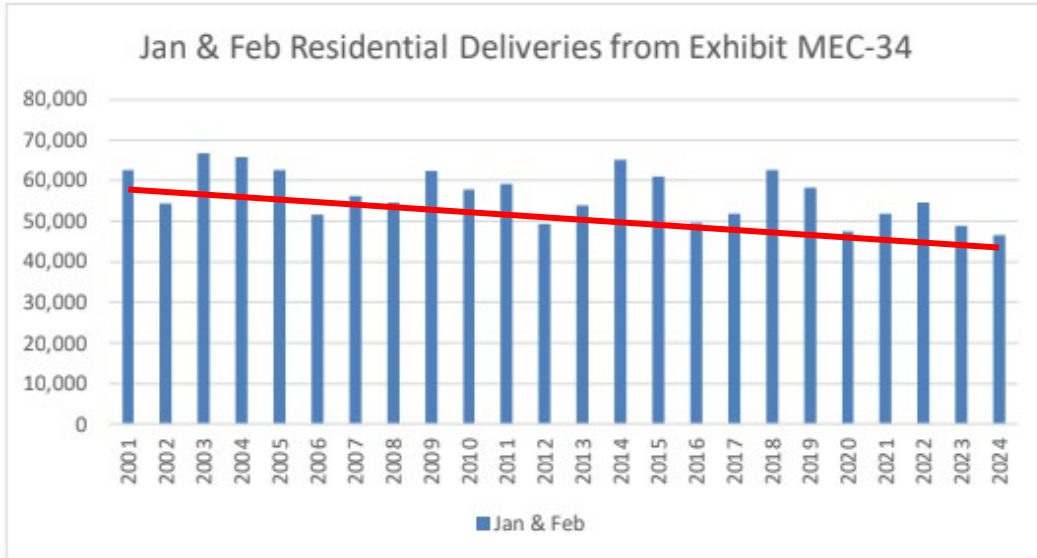
from a trendline do not negate the overall trend: residential gas sales are down, declining on average 4% each year.<sup>161</sup>



The Company attempted to further obscure the data by disputing MSC’s use of January to represent peak residential sales. Not only did Company witness Sherwani concede that January is representative of peak gas demand, the Company did not even argue that February was the best month to represent peak residential demand. Indeed, Consumers states that February was the peak demand month 42% of the time between 2001 and 2024. What is left unstated is that January was the peak demand month the remaining time, 56% of the years. Even still, the Company’s own presentation of combined January and February residential deliveries demonstrated a clear downward trend, again with some variations year-to-year (see chart below, with trendline added).<sup>162</sup>

<sup>161</sup> MSC initial brief, p 97.

<sup>162</sup> Consumer’s reply brief, p 82.



**2. The Commission should require load forecasts to incorporate historical declines in gas usage.**

The PFD, in declining to adopt MSC’s recommendation to reject Consumer’s load forecast, notes that the existence of a downward trend in gas usage “is highly dependent on the datapoints selected to support it.”<sup>163</sup> MSC contends that the data on historical sales are clear on this matter, and that at the very least, the Company should be required to incorporate historical declines into at least one load forecast. MSC suggests the Commission require the Company include at least one scenario that incorporates historical declines in residential gas usage into its forecasting. MSC further suggests that the Company be required to demonstrate incorporation of historical declines in residential gas usage in that one forecast scenario by sharing relevant methodology and model inputs in its filings.

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<sup>163</sup> PFD, p 319

**3. The Commission should adopt the PFD’s recommendation to require load forecasts to test against out-of-sample data.**

The PFD agrees with MSC’s recommendation to incorporate out-of-sample data to test its regression model for its load forecast, noting that “using out-of-sample data is a valuable way of confirming the predictive power of a regression model.”<sup>164</sup> MSC suggests the Commission be more clear in its direction and require that the Company follow MSC witness Napoleon’s recommendation to withhold data for years in the middle of the time period used for the regression model.<sup>165</sup>

**4. The Commission should adopt the PFD’s recommendation to incorporate efficiency and electrification into load forecasts and also incorporate historical changes in home heating by directing the submission of load forecasts with low-, medium-, and high-electrification scenarios.**

MSC demonstrated that electric heating is becoming increasingly viable compared to gas heating. Nevertheless, the Company chose not to factor historical changes in choice of heating fuel into its load forecast. From 2014 to 2023, households heated by electricity grew 53 percent, while households heated by gas grew just 3 percent.<sup>166</sup> These trends indicate a marked shift towards electric heating. The Company did not dispute this data, instead arguing that electric heating is coming from new homes and has nothing to do with fuel-switching.<sup>167</sup>

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<sup>164</sup> PFD, p 320.

<sup>165</sup> Napoleon Direct, 4 Tr 2298, 2299.

<sup>166</sup> Napoleon Direct, 4 Tr 2303.

<sup>167</sup> Warriner Rebuttal, 2 Tr 113-115.

**Table 5. Michigan heating fuel types, 2023 and 2014, in number of households, percent change, and annual growth rates**

	<b>2023</b>	<b>2014</b>	<b>Changes in heating fuel types (# of households)</b>	<b>Changes in heating fuel types (%)</b>	<b>Annual growth rate</b>
<b>Utility gas</b>	3,039,167	2,942,704	96,463	3%	0.4%
<b>Propane</b>	372,796	314,434	58,362	19%	1.9%
<b>Electricity</b>	523,137	342,353	180,784	53%	4.8%
<b>Fuel oil</b>	32,099	47,572	-15,473	-33%	-4.3%
<b>Wood</b>	88,484	129,455	-40,971	-32%	-4.1%
<b>Other*</b>	52,126	58,056	5,930	10%	1.2%

*Note: \*includes solar, no fuel used, coal or coke, and other fuel.*

The Company also did not dispute that Public Act 229 could trigger widespread electrification and that would have a significant impact on gas demand.<sup>168</sup> These factors militate in favor of load forecasts that incorporate *both* historical trends in favor of electric heating and the prospect of widespread electrification due to changes in technology and policymaking.

The PFD agrees with Staff and MSC that electrification measures should be incorporated into gas demand forecasts, but is not specific enough in its direction: “this PFD agrees with Staff and MEC/SC that the Commission should direct that, in future cases requiring long-term forecasts, the company should find a way to incorporate the impact on gas demand attributable to increasing electrification measures.”<sup>169</sup> MSC contends that the ratepayers can be best protected from overly optimistic load forecasts if the Commission directs the Company to include low-, medium-, and high-electrification scenarios into its load forecasts. Incorporating multiple electrification scenarios is increasingly common practice given the uncertainty of gas demand in the wake of

<sup>168</sup> Consumers reply brief, p 88.

<sup>169</sup> PFD, p 320.

electrification.<sup>170</sup> Moreover, a load forecast with multiple scenarios enables the Company to identify its preferred load forecast while also making available within rate cases load forecasts that incorporate electrification scenarios, if intervenors and the Commission disagree with the Company's subjective assessments regarding forecast inputs.

**G. Natural Gas Delivery Plan (NGDP): The Commission should adopt the PFD's recommendation to require substantial changes to the NGDP, but it should accelerate the timeline and provide procedural safeguards so that directions are actually incorporated.**

The PFD appropriately recognizes that the Company's NGDP does not adequately consider the uncertainty of future gas demand nor the impending energy transition.<sup>171</sup> It also notes the scarcity of detail in the NGDP on Company plans to achieve carbon reduction goals.<sup>172</sup> Finally, the PFD notes that the NGDP mentions a study modeling decarbonization pathways, but that the study's findings are not incorporated nor is a potential reduction in gas demand addressed.<sup>173</sup>

As MSC noted in briefing, the company's NGDP, by not considering at all non-pipeline alternatives or other decarbonization solutions that account for reduced gas demand, risks saddling ratepayers with paying for stranded assets and is also inconsistent with the Michigan Healthy Climate Plan and state greenhouse gas reduction goals.<sup>174</sup> The NGDP does not consider alternatives to capital investments in gas infrastructure, does not consider electrification, energy efficiency, or demand response at all, does not justify Company choices to eschew non-pipeline alternatives, and includes very little detail overall.<sup>175</sup> Moreover, the NGDP apparently relies on a

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<sup>170</sup> Napoleon Direct, 4 Tr 2277 (describing a "high-electrification" scenario).

<sup>171</sup> PFD, p 482.

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> MSC initial brief, pp 4, 125, 137.

<sup>175</sup> *See* MSC initial brief, pp 126-136.

decarbonization pathways analysis that it cannot even share in full with the Commission or ratepayers because it was state-level analysis conducted by a third party.<sup>176</sup> In sum, the NGDP is so far off from being a robust analysis of decarbonization pathways and alternatives to capital investments that it requires strong direction to remedy.

MSC supports the content of the PFD's recommendations for an updated NGDP. However, MSC is concerned that without clear direction, including a list of required elements of an updated NGDP, the Company will be free to submit a similarly opaque plan. As a result, MSC recommends the Commission provide procedural safeguards for a robust NGDP by directing the Company to share an NGDP that includes *each* of the below elements with stakeholders prior to the filing of its next rate case. MSC further recommends that the Commission direct the Company to give stakeholders an opportunity to submit written comments on the NGDP, and then require the Company to file a revised NGDP along with explanations of how it responded to each stakeholder comment in its next rate case. Without such detail, direction, and stakeholder involvement, the recommendations in the PFD are unlikely to be addressed beyond surface level analyses and conclusions, like in the current NGDP.

Recommended required elements of an updated NGDP:<sup>177</sup>

- Costs and risks of each energy transition pathway, in detail.
- Detailed timeline for achieving emissions reductions goals, in five year increments.
- Detailed accounting of major capital investments and analysis of alternatives to those capital investments.

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<sup>176</sup> Consumers reply brief, p 137; *see also* MSC initial brief, p 136-137.

<sup>177</sup> These recommendations largely follow the PFD's recommendations for an updated NGDP. PFD, pp 482-83.

- Alternatives considered must include pipeline repairs and non-pipeline alternatives, including electrification, demand response, and energy efficiency.
- Historical trends of natural gas demand and projections incorporating those trends.
- Gas demand projections incorporating electrification trends.
- Projected impacts of the transition to electrification.
  - Detailed geographic analysis of the areas of the distribution system that will be most impacted by electrification.

In order to enable stakeholder engagement prior to the next rate case, as recommended by the PFD, MSC recommends the Commission require an updated NGDP by the end of 2025, rather than 2026.

### **III. CONCLUSION**

For the reasons discussed above and in its prior briefing in this case, MSC respectfully requests that the Commission:

1. Disallow a portion of the revenue requirement for new connections, as discussed above;
2. Require the Company to use probabilistic risk modeling to determine cost-effective levels of material condition pipe replacement capital spending, as discussed above;
3. Reduce the Company's proposed investment in fleet vehicle replacements and require the Company to evaluate the accuracy of its Blended Factor tool, as discussed above;
4. Reduce the Company's Fleet O&M spending to reflect fuel and maintenance costs savings associated with vehicle electrification, as discussed above;
5. Reduce the Company's projected fleet responsibility costs, as discussed above;

6. Establish a process and deadline for the Company to initiate, complete and present the results of an idling study and incorporate the results into future rate case proceedings, as discussed above;
7. Reduce the Company's ROM estimates by an additional 20%, as discussed above;
8. Find that Consumers' residential gas sales are declining; require the Company to incorporate historical declines into its load forecast; require the Company to incorporate out-of-sample data to test its regression model for its load forecast, as specified above; and require Consumers to include low-, medium-, and high-electrification scenarios into its load forecasts; and
9. Require Consumers to update its NGDP using the process described above and to include the required elements identified above.

Respectfully Submitted,

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Counsel for MSC

Date: August 28, 2025

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

**PROOF OF SERVICE**

On the date below, an electronic copy of **Exceptions to the Proposal for Decision by Michigan Environmental Council, Sierra Club, and Citizens Utility Board of Michigan** was served on the following:

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

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