

STATE OF MICHIGAN

BEFORE THE 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**  
(e-file paperless)

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**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S  
REPLIES TO EXCEPTIONS TO THE PROPOSAL FOR DECISION**

**MICHIGAN PUBLIC SERVICE  
COMMISSION STAFF**

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DATED: September 4, 2025

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In accordance with the schedule established for this case, the Michigan Public Service Commission (MPSC or Commission) Staff (Staff) files the following Replies to Exceptions to the Proposal for Decision issued by the Administrative Law Judge (ALJ) in Consumers Energy Company's application for authority to increase its rates for the generation and distribution of natural gas and other relief.

**I. Rate Base**

**A. Capital Expenditures**

**1. IT Capital Expenditures**

**a. Web Chat AI**

The Company disagreed with the ALJ's recommendation disallowing \$180,565 in test year Web Chat AI project capital expenditures and \$14,929 in O&M expense for the Web Chat AI project, arguing that it "goes far beyond merely making information available and would allow customers to resolve specific inquiries without searching through common inquiries that may or may not be directly relevant to their situation." (Consumers Exceptions, p 37.) However, as Staff explained, "[i]n essence, the Web Chat will simply be aggregating information that is already available to customers on the Company's website." (4 TR 2622.) Simply put, the Web Chat AI is redundant and ratepayers should not be burdened with these costs.

In agreement with Staff's recommendation, the ALJ adopted a full disallowance of the requested costs because the "Web Chat AI tool is redundant as it is designed to provide basic information that is or should be readily available

through the Company's website." (PFD, p 179.) Additionally, the ALJ found the Company's investment in this project to be neither reasonable nor prudent "given the Company's delay in implementing its previously approved website redesign – a project that could potentially render the expenditures associated with the Web Chat AI unnecessary." *Id.* Furthermore, the ALJ correctly noted that the Company could make the relevant information more accessible through its existing website at a lower cost rather than investing in this project. (PFD, pp 179-180.) Finally, the ALJ found that "given the limited functionality of this tool and the lack of evidence showing customer interest, Consumers has not shown that customers will receive adequate value to justify the expense." (PFD, p 180.)

While the Company asserts that an AI chat tool differs from a FAQ page, instead resembling actual speaking contact with a Company employee, the Company already has a customer contact center in place for customers to speak with a customer service representative, and a comprehensive FAQ page would be able to cover other basic questions that do not need to be escalated to a phone call or email. The Web Chat offers nothing new or innovative for the Company's customers and both the Company and its customers would derive more benefit from the Company updating its website instead of spending money on this project.

Additionally, the Company disagrees with the ALJ's finding that little customer interest in the Web Chat tool exists, stating that based on industry research, customers have demonstrated interest in chat-based applications, with 42% of customers preferring live chat versus 23% for email. (Consumers

Exceptions, p 38.) However, this research is industry-wide and generic, not specific to Consumers or its ratepayers who ultimately will pay for this tool. (4 TR 1121.) In effect, the Company failed to demonstrate that it is reasonable and prudent to burden its ratepayers with Web Chat AI tool costs, and therefore Staff agrees with the ALJ's recommendation and urges the Commission to disallow the requested costs for the Web Chat AI project.

**b. Mobile App**

The Company disagreed with the ALJ's recommended disallowance of \$498,727 of capital expenditures in the bridge period and \$649,770 of capital expenditures in the test year, as well as \$6,510 of O&M expenses for the Customer Self-Service Mobile Application (Mobile App or App). (Consumers exceptions, pp 38-39; PFD, p 184.) The Mobile App is another communication channel for customers to interact with the Company's website. (4 TR 1125.)

Staff recommends a full disallowance of the associated costs for the Mobile App in this case, as it has in past Consumers' rate cases. (4 TR 2624-2625.) In the PFD, the ALJ agreed with Staff's recommendation to disallow the undefined or emergent costs that are part of the requested 2025 and 2026 expenditures, because "those costs are equivalent to contingency expenses and prevent a full analysis of their reasonableness and prudence. (PFD, p 183.) The ALJ also pointed to the fact that the disallowance is based on the Company's own audit responses "which provide inadequate information to distinguish between costs based on emergent needs and all other costs." *Id.*

The Company disagreed with the ALJ's recommended disallowance of those costs, stating that the requested costs are, in fact, supported. (Consumers' exceptions, p 39.) Staff disagrees. The audit responses that the Company points to were unclear and, furthermore, Staff maintains that the mere existence of a cost estimate for a project does not mean that those costs are reasonable or prudent. As Staff has stated many times, the Mobile App is unnecessary, redundant, and duplicative of the Company's website, all while offering less functionality. (4 TR 2624-2625.)

Further, the Company's statement that "[a]doption statistics for the Mobile App show customers prefer to perform more complex interactions in the Mobile App and functionality should be expanded in response" is unsupported in the record of the instant case. (Consumers' exceptions, p 38.) Just 28% of the Company's customers use the App and the Company has never demonstrated that customers prefer to handle complex interactions in the App and current customer feedback regarding the App has never been provided. (Staff's initial brief, p 24.) The fact that 72% of customers are using the Company's website instead of the Mobile App clearly shows that customer preference still lies with the website and the Company should concentrate its resources on making it the most updated, user-friendly website it can. *Id.* For all the reasons stated above and previously in the record of this case, the Commission should disallow the requested expenditures for the Mobile App.

## II. Capital Structure and Rate of Return

### A. Capital Structure

#### 1. The Commission should adopt the PFD's 50% equity layer recommendation.

In its exceptions, the Company offered numerous arguments against the ALJ's recommended 50.0% equity-based capital structure, that the Commission should reject. The Staff, the Attorney General (AG) and the Association for Businesses Advocating Tariff Equity (ABATE) all recommended a 50% ratemaking capital structure and the ALJ agreed. (PFD, p 303.) The Company alleges that the PFD did not properly consider its numerous arguments for a 50.75% equity-based capital structure. However, the request is excessive and unacceptable. Staff will not address all the assertions the Company made in its exceptions but will focus on some of the more erroneous arguments with respect to capital structure.

The Company alleges that the PFD overlooked the harm that an equally balanced capital structure would do to the Company's credit rating and credit metrics in this economic environment. (Consumers exceptions, pp 58-59.) The Company also asserts that the PFD overlooked the rising trend in equity ratios and did not properly consider the Company's equity ratio peer group. *Id.* at 54. Again, those arguments are not persuasive.

For example, the Company alleges that the PFD did not give proper consideration to the average equity ratio of the Company's peer group, which indicated an average ratio of 54.04%, as shown on Exhibit A-32. (Consumers exceptions, p 57.) However, the ALJ was in fact very thorough in his discussion of

Consumers' peer group equity ratio and its many limitations as a reasonable comparator to Consumers' capital structure requirements. (PFD, pp 217-220, 228-230.) The ALJ noted that many of the companies in Consumers peer equity ratio group appeared to be cherry-picked and the peer group analysis was not helpful or useful in establishing a reasonable capital structure for Consumers. (PFD, p 230.) In short, the ALJ stated that the Company's peer group equity ratio exhibit, Exhibit A-32, should be viewed with great caution. *Id.*

Next, the Company argues that different Commissions over the years have allowed for flexibility in the capital structure, which does not have to be balanced indefinitely. (Consumers exceptions, p 62.) The Company stated, "the Commission's Order in Case No. U-17990 may have been a reasonable policy decision in its context approximately eight years ago, but the context has changed." *Id.* at 63. The Company then claims that the change in context occurred with a lower overall rate of return over the years along with new market and regulatory volatility. *Id.* However, Consumers' complaints miss the mark and fall flat.

First, over the years, all the Commissions have allowed for flexibility, but all maintained that a capital structure equally balanced between debt and equity was most preferable. The current Commission's judgement is no different, as this Commission has authorized a capital structure of 50% debt-to-equity in the Company's last gas rate case. See *In re Consumers Energy Company Gas Rate Case*, MPSC Case No. U-21490, 7/23/2024 Order Approving Settlement Agreement, p 2. Economic environments change constantly, and several Commissions have been

steadfast in their judgement that the Company's capital structure should be equally balanced between equity and debt. It is no different in this case.

Second, the ALJ correctly pointed to numerous references from recent ratings' agency reports that noted the Company was in good standing with respect to its important credit metrics such as the FFO-to-Debt ratio, its credit rating, and the Company's ability to safely finance its capital investment programs. (PFD, p 225.) The ALJ noted that the credit opinions from the ratings agencies suggested that there was no indication that a credit downgrade was imminent or likely and the FFO-to-Debt ratio was in solid territory. (PFD, p 226.) The ALJ correctly pointed out that Staff, the AG and other intervenors' analyses were constructive and firmly supported a balanced capital structure which the ALJ agreed with. In sum, the Company's criticism of the PFD with respect to its supposedly deteriorating credit metrics and credit rating is overblown and unpersuasive.

Third, the Company argues that capital structures across the country, along with ROE, have been trending up. (Consumers exceptions, p 79.) In contrast, the Company stated that, "Consumer Energy's equity ratio has trended down to 50%..." *Id.* at 65. However, the Company's argument is predicated on an important inaccuracy. Staff and other intervenors have proposed an equally balanced capital structure for which the Company is currently authorized. No intervenor has suggested that the Company's capital structure debt ratio go higher than or the equity ratio go below the 50% mark. The PFD did not recommend a lower equity ratio, nor has the ratio trended down since the Company's last rate case. The PFD's

recommendation is that the Company maintain the capital structure at its proper level at equilibrium. Therefore, despite the Company's arguments against the ALJ's recommendation, the Commission should reject the Company's erroneous assertions and adopt the ALJ's thoughtful and reasonable 50.0% equity-based capital structure recommendation.

## **B. Return on Equity**

### **1. The Commission should adopt the ALJ's 9.75% ROE recommendation and reject the Company's unreasonable arguments against it.**

Consumers argued that the ALJ's 9.75% ROE recommendation was insufficient and inappropriately rendered in this case. (Consumers' exceptions, p 67.) However, the Commission should adopt the ALJ's 9.75% recommendation, because, among other things, it is above industry average. The ALJ suggested a comparative ROE range that the ROE should be authorized within a range between 9.15% - 10.25%. (PFD, p 257.) The midpoint of that range is 9.70% and the average ROE awarded for gas utilities in 2024 was 9.71%. *Id.* at 295. In addition, the average of the eleven accepted model results that the ALJ gave full weight to was 9.72%. *Id.* at 293, Nonetheless, the ALJ chose a higher recommended ROE of 9.75% for Consumers Energy in this case. (PFD, p 302.) Thus, even though the ROE was above the midpoint of the ALJ's accepted ROE range, above the country average ROE for gas utilities in 2024, and above the average ROE of his accepted model results from the Company, Staff and other intervenors in this case, the ALJ

chose an ROE recommendation of 9.75%, in line with Staff and the AG's recommendation. The ALJ's ROE recommendation is therefore more than fair.

Nonetheless, the Company argued that the PFD erred in not recommending its over the top 10.25% ROE. The Company argued that the ALJ did not properly consider the Company's ROE model analysis, downplayed Consumers business and credit risk, and gave an inappropriate amount of weight on the AG's Exhibit AG-48 that highlighted approved ROEs from 2023 to 2024 from data presented by the Regulatory Research Associates (RRA). (Consumers' exceptions, pp72-74, 83-86.) The Company argued that based on that exhibit, the ALJ inappropriately developed its range of reasonable ROE results. However, the Company's criticisms of the PFD are unpersuasive.

The PFD made a rational and thoughtful argument against the Company's excessive ROE request, noting

this PFD concludes that the 10.25% ROE requested by the company, while within range, is at its very upper limit and is not particularly well aligned with returns received by other utilities having corresponding risks. Even the company's most recently authorized 9.90% ROE is positioned toward the higher end of recently awarded ROEs and is significantly higher than the average ROE award to other utilities in recent years. [PFD, p 296.]

With respect to the Company's business and credit risk going forward and its effect on ROE, the ALJ made clear through references to the ratings agencies and analysts reports, that the Company's business and credit risk profiles were not in danger of degradation anytime soon. ( PFD, p 228.) Thus, the several arguments made by the Company in its exceptions with respect to business risk and its ROE

should be rejected. With respect to the Company's argument of a rising trend in ROE authorizations by other commissions across the country and the need for the Company's ROE to rise accordingly, that argument also lacks merit. The PFD noted that the average approved country-wide ROE in 2023 was 9.57% and the average approved ROE in 2024 was 9.71%. (PFD, p 295.) Whereas the Company argues that ROEs have risen over the years, the Company's 9.90% ROE has remained steady for approximately 5 years or more. The Company's currently authorized ROE is, at a minimum, still 20 basis points higher than the rising yearly averages. Thus, the Company's argument for a higher ROE due to rising ROE averages over the years is particularly unrealistic given the Company's already high-end authorized ROE to begin with.

The Company then criticizes the ALJ's reliance on Exhibit AG- 48 that outlined other state regulatory commission gas utility ROE decisions from 2023 through 2024. (Consumers exceptions, p 86.) However, the ALJ was very transparent in noting that ROEs rendered by other state commissions can be used as a benchmark for establishing a reasonable ROE for Consumers in this case and is consistent with language in *Hope*<sup>1</sup> noting that equity returns for a utility "should be commensurate with returns on investments in other enterprises having corresponding risks." (PFD p 295.) The ALJ used the data as a reasonable measuring stick and indicated that results ranging from 9.15% to 10.25% could be considered feasible ROE estimates. *Id.* Countering the Company's argument, the

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<sup>1</sup> *Federal Power Commission v Hope Natural Gas Co*, 320 US 591(1944)

ALJ noted that the data in Exhibit AG-48 was illustrative and not necessarily a complete list of ROEs compiled by the Regulatory Research Associate. *Id.*

Nonetheless, the ALJ was well aware that RRA data is widely referenced and well known and used by Staff and most other intervenors in this case and past rate cases. The Company further complains that the ALJ's ROE range using the RRA data was arbitrary and didn't properly consider the results of the Company's models, especially the results that exceeded the high-end of the ALJ's range.

(Consumers exceptions, pp 83-84.) However, the PFD's rationale for using the data was clearly laid out and weighed not only the Company's model results, but Staff's and the other intervenor's model results accordingly. Thus, the ALJ thoroughly evaluated all the intervenors models and ROE results and was correct to scrutinize the Company's models and find deficiency with the inputs used in the models that resulted in very high, outlier results that weren't reasonable.

The Company's exorbitant 50.75% equity layer and 10.25% ROE recommendation are plainly unreasonable and should be rejected. The Commission should adopt the PFD's reasonable 9.75% ROE recommendation and even balanced 50-50 capital structure.

### **III. Rate design**

#### **1. Transmission-Only Transportation Service Rate**

In its exceptions to the PFD, the Company merely repeats its arguments regarding the rate design for the Transmission-Only Transportation Service rate.

(Consumers Exceptions, pp 113-116.) The ALJ correctly found, based on a review of the record, that the Company did not support its proposal, stating:

This PFD agrees with Staff that Consumers failed to adequately support its proposal and demonstrate that separate rates, including breakeven thresholds, for TOT customers are justified as they are for other transportation customers. Consumers' justification on this point relies on one or two lines of testimony from Mr. Smith avowing that the service to TOT customers does differ, without any further support as to how or why it differs. Therefore, this PFD finds that Consumers' proposal should be rejected at this time. [*Id.*]

The Company's reiteration of its arguments made in its testimony and briefing fails to allay Staff's concerns that, as noted in the PFD, "the Company has still failed to show "how service provided to these customers differed in a way that supports separate rates for the break-even based classes.'" (PFD, p 448, Staff's initial brief, p 102.) For this reason, the Commission should reject the Company's proposal for separate rates, including breakeven thresholds, for Transmission-Only Transportation customers.

**2. ABATE's exception to the PFD's decision on revenue apportionment should be rejected.**

ABATE claims the PFD's recognition that ABATE's recommended revenue apportionment "appears to shift revenue from one customer class to another consistent with ABATE's preferred outcome, but without any meaningful COS basis" and should therefore be rejected<sup>2</sup> is "inconsistent with the record". (ABATE Exceptions, p 11.) ABATE then rehashes the same arguments from its previous

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<sup>2</sup> PFD, p 445.

briefs which were already rejected by the PFD. (ABATE Exceptions, pp 11-14.) As the PFD already considered these arguments, as well as those made in opposition by Staff and the Company,<sup>3</sup> and appropriately decided in favor of Staff and the Company based on the strength of those arguments from the record, ABATE's exception should be rejected.

**3. ABATE's exception regarding breakeven points should be rejected.**

ABATE claims the PFD's decision to reject the reestablishment of breakeven points to what ABATE prefers relies on evidence that does "not merit maintaining the current breakeven points" and should therefore be rejected. (ABATE Exceptions, p 16.) ABATE then repeats arguments made in previous briefing. (ABATE Exceptions, pp 16-18.) As the PFD already considered these arguments, as well as those made in opposition by Staff and the Company,<sup>4</sup> and appropriately decided in favor of Staff and the Company based on the strength of those arguments from the record, ABATE's exception should be rejected.

**4. ABATE's Exception regarding Other Distribution Plant allocation should be rejected.**

ABATE claims the PFD found "there was insufficient information in the record to allocate costs for FERC accounts 374, 375, and 377 by pressure level," further claiming that the information to do so is on the record and therefore should

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<sup>3</sup> PFD, pp 435-445.

<sup>4</sup> PFD, pp 449-455.

be used. (ABATE Exceptions, p. 20.) This is an incorrect interpretation of the recommendation. No dispute over whether the information necessary to enact the proposal originally made by LBWL/MSU can be found in the record of this case, well covered and considered by the ALJ in the PFD. (PFD, pp 430-434.) The dispute was whether there was enough information on the contents of the accounts in question on the record to *justify* the proposed allocation; the ALJ, after considering the evidence and arguments on both sides, properly found that there was not sufficient information. Therefore, ABATE's exception should be rejected.

**5. The Average and Peak (A&P) Method is the appropriate way to allocate distribution mains.**

The Association for Businesses Advocating for Tariff Equity (ABATE) argues that Average and Excess (A&E) is the correct method to allocate distribution mains (ABATE Exceptions, pp 6-14). Staff acknowledges here that the A&E method is not based solely on demand or design day and that the A&E method does include throughput, just like the A&P method. However, as stated in Staff's brief, the A&P method has been used for decades by the Commission and the A&E method does not appear in the NARUC Gas rate design manual. (Staff reply brief, page 16.) The ALJ ruled correctly on the matter based on an appropriate consideration of the record. For this reason (as well as those in the record cited by the PFD) Staff recommends that the Commission adopt the PFD and accept the A&P method for allocating mains.

**6. Uncollectible Expense should be calculated on revenue.**

ABATE does not support allocating the uncollectible expense based on revenue as recommended by the PFD. (ABATE Exceptions, pp 18-20.) ABATE needs to go back to orders issued in 2017 to find support for their position. (ABATE Exceptions, p 19.) Staff points out that more recent orders have resulted in a shift in Commission position and quotes orders from 2021 and 2022. (Staff Reply Brief, p 15) The ALJ ruled correctly on the matter based on an appropriate consideration of the record. For this reason (as well as those in the record cited by the PFD) Staff recommends that the Commission adopt the PFD and accept revenue as appropriate for allocating uncollectible expense.

**7. The Company's and Attorney General's positions on the Customer Charge should be rejected.**

The Company proposes customer charges that are higher than the PFD (Company Exceptions, pp 116-122), while the AG proposes lower customers charges than the PFD (AG Exceptions, p 49). Neither the Company nor the AG produce any new arguments for why the PFD adopted its recommended customer charges. (PFD, pp 456-462.) The AGs argument that customer charges were increased in the last case is true, however, the last case was a settlement and the agreed to charges were still below cost of service. (Staff's initial brief, p 91.) Staff continues to argue that the Company does not appropriately forecast customer connection expenses. (Staff brief, p 91.) Staff recommends that the Commission reject the positions of the AG and the Company on customer charges.

## **IV. Other Issues**

### **A. Sales Forecasting**

#### **1. Throughput and sales**

In its exceptions, the Company addresses three recommendations made by the ALJ in the PFD. (Consumers Exceptions, pp 95-99.) First, the Company addresses the recommendation to employ data outside of the sample used to estimate the regression equation, in order to test the accuracy of the model's outputs. The Company purports to use out-of-sample data as a test of accuracy in future rate cases, but notes that the PFD was unclear as to what period of time this test data should come from. The Company proposes three separate periods of time that can be used to accomplish this: the first future period recorded after the training data, a set of historical periods that would otherwise be included in the 11-year training sample but is held out for testing, or periods that predate the most recent 11-year training sample. Regarding the second method offered by Consumers for out-of-sample testing, the Company does not want to shorten the 11-year period it currently uses to train its model, as this would leave it more prone to error. Consequently, the Company recommends that the Commission allow it to apply out-of-sample testing using the first and third methods it describes, but not the second. (Consumers Exceptions, pp 96-97.) On this topic, MSC prefers that the Company withhold data for years in the "middle of the time period used for the regression model." (MSC Exceptions, p 36.)

In reply to these exceptions, Staff maintains that the purpose of any forecast is to predict the future with as much accuracy as possible. To this end, the model that demonstrates the lowest average error over a range of test sets is the most reasonable and prudent model to forecast with. Staff recommends that the Commission order the Company to test its models using multiple out-of-sample sets, including those that predate the training set entirely, those that immediately follow the training set<sup>5</sup>, and test sets that mimic the length of time between the present and the projected test year. For example, if in the next rate case the Company chooses a projected test year consisting of the twelve months ending December 2027, and the sample of time used to train the forecasting model sponsored by the Company ends in March of 2025, the out-of-sample sets used to test the model should fall 21 months from the training sets, in order to replicate the length of time between model development and projected test year. Staff reiterates that these out-of-sample tests should be performed for each customer class level forecast sponsored by the Company. (Staff Initial Brief, p 110.)

In response to the second exception made by the Company to the PFD, Staff maintains that while building electrification and its effect on gas loads may be harder to quantify and model in the near term, in an effort to track these impacts, the Company should begin to try and model those impacts in the latter years of the 5-year forecasts submitted to the Commission. All inputs should stem from a

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<sup>5</sup> Similar to the Company's current practice, as depicted by the graph on page 8 of Company witness Sherwani's direct testimony. (2 TR 272.)

consistent set of data that can be viewed and analyzed by all intervenors to a case, and all Company sponsored Efficient Electrification and Energy Optimization inputs should also be consistent with relevant plan cases. (Staff Reply Brief, p 19.)

Regarding the third exception to the PFD made by Consumers regarding the inclusion of forecasted sales and peak day gas demand for each of the 10-years in the gas delivery plans going forward, Staff does not disagree with the Company that the level of certainty in a forecast's predictions decreases as the forecast horizon increases, but this does not invalidate the inclusion of such a forecast in gas delivery plans. The gas delivery plan is a useful snapshot in assessing the Company's plans for maintaining the safety, reliability, resiliency, and affordability of its gas system 10 years in the future. It would be useful for all interested parties to also know the Company's estimate of gas demands for those 10 years, as they inform many of the investment decisions supported by the gas delivery plan. The Commission should accept the PFD's recommendation that the Company include yearly forecasts and peak demand estimates for each year in the next gas delivery plan that is submitted with a rate case.

## V. Conclusion

Staff respectfully requests the Commission adopt Staff's recommendations explained in its replies to exceptions. Moreover, Staff urges the Commission to adopt Staff's position on all other issues related to this rate case that were detailed in Staff's testimony, exhibits, and other briefs.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE  
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Dated: September 4, 2025

STATE OF MICHIGAN

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**PROOF OF SERVICE**

STATE OF MICHIGAN    )  
  ) ss  
COUNTY OF EATON    )

**Cherie A. R. Shea**, being first duly sworn, deposes and says that on **September 4, 2025**, she served a true copy of **Michigan Public Service Commission Staff's Replies to Exceptions to the Proposal for Decision** upon the parties on the attached Service List **via email only**:

\_\_\_\_\_  
Cherie A. R. Shea

Subscribed and sworn to before me  
this **4<sup>th</sup>** day of **September, 2025**.

\_\_\_\_\_  
E. M. Fielder-Attia, Notary Public  
State of Michigan, County of Jackson  
Acting in the County of Eaton  
My Commission Expires: 07-09-2031

Case No. U-21806  
Service List

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