

September 25, 2025

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48917

Re: Case No. U-21870 – In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief.

Dear Ms. Felice:

Enclosed for electronic filing in the above-captioned case, please find **Consumers Energy Company's Response to Customer A's Motion to Quash**. This filing is being provided in PDF, with native documents available to the parties electronically.

Sincerely,

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cc: Parties per Attachment 1 to the Proof of Service.

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 generation and distribution of)
electricity and for other relief.)
_____)

Case No. U-21870

**CONSUMERS ENERGY COMPANY’S
RESPONSE TO CUSTOMER A’S MOTION TO QUASH**

Consumers Energy Company (“Consumers Energy” or the “Company”), by and through its attorneys, hereby responds to the Motion to Quash filed by Customer A. The Michigan Public Service Commission (“MPSC” or “Commission”) should deny Customer A’s Motion to Quash because (i) the Company’s Customer Data Privacy tariff permits the disclosure of Customer Account Information, Consumption Data, or Personal Data (collectively referred to hereafter as “Protected Customer Information”), without informed customer consent, when required by Commission Rules, including its rules of discovery under the Rules of Practice and Procedure Before the MPSC (“MPSC Practice Rules”) and (ii), in any case, Consumers Energy has not disclosed any Customer Account Information, Consumption Data, or Personal Data of Customer A in response to the Attorney General’s discovery request. In support of its response, Consumers Energy states as follows:

I. Procedural Background

1. On September 2, 2025, the Attorney General submitted her Sixth Set of Discovery Requests to Consumers Energy. Included in that set of requests was the following question, labeled by the Company as 21870-AG-CE-0478:

Refer to Figure 58 on page 139 of Ms. Hayward's direct testimony on HVD Strategic Customers capex. Please:

a. Expand this table to include the same information for each year 2021- 2024 actual and forecasted for 2025, 2026, 2027. Provide it in Excel.

b. For each customer project, provide the type of business the customer is involved in, the business location, the contract status (whether signed or not), the phase the project is currently in (scoping, conceptual design, engineering design, construction, completed), the project cost by year from inception to completion with and without any CIAC, and what facilities will be installed.

c. For each customer project, provide a copy of the signed contract and explain what provisions have been included in the contract for reimbursement of capital expenditures and O&M expenses incurred by the Company in case the customer abandons the project before completion of construction and also subsequent to start of operations but before the Company has recovered the full investment in the project.

2. On September 16, 2025, Consumers Energy responded to 21870-AG-CE-0478.

The Company's response provided a public response, two public attachments, and nine confidential attachments. The confidential attachments were only provided to the parties who signed the non-disclosure agreement under the terms of the Protective Order issued June 5, 2025. Consumers Energy also redacted several pieces of information contained in the confidential attachments.

3. The Company's public response to 21870-AG-CE-0478 included an objection and answers to the Attorney General's questions as follows:

Response:

Objection of Counsel: Consumers Energy Company objects to this discovery request because it requests information that is not relevant and that is personally identifiable Customer Account information that cannot be disclosed under Consumers Energy's Customer Data Privacy tariff. Subject to this objection, Consumers Energy responds as follows:

- a.) For 2021-2024 actuals, see Exhibit A-130 (MPK-20), page 1, lines 3-4, Lines Strategic Customers- HVD. See Attachment 1 to this response for 2025-2027 forecasted.
- b.) See objection noted above for the type of business and business location requested. See Attachment 2 to this response for the rest of the information requested in part b.
- c.) Please see confidential attachments 3a, 3b, 4, 5, 6, 7, 8, 9, and 10 for copies of the signed contracts. It can be explained that the Company's contracts with customers depending on the type of contract have minimum billing requirements for certain energy usages and terms, and/or provisions for prorated payment of investments if the customer ceases operation prior to the end of the term of the contract. Additionally, the Company performs risk reviews on projects over \$1M and may require additional security (e.g. a letter of credit or parental guaranty) as a result of the review.

Attachment 1, which was public, provided forecasted data regarding Consumers Energy's capital costs for its HVD Lines Strategic Customers New Business capital investments. Attachment 2, which was also public, provided a project description, contract status, current phase of the project, certain costs information, the amount of Contributions in Aid of Construction for the project, and the facilities being installed for the HVD Strategic Customers New Business projects identified for the bridge period and test year of this case. Confidential Attachments 3a, 3b, 4, 5, 6, 7, 8, 9, and 10 provided contracts supporting the projects identified for the HVD Strategic Customers New Business sub-program during the bridge period and test year under the protective order with certain sensitive information redacted. The Commission has previously held that it generally will not approve projected capital investments for the HVD Strategic Customers New Business sub-program where the projects are unidentified and lacking a signed contract. See MPSC Case No. U-21389, March 1, 2024 Order, page 18.

II. The Commission Approved a Customer Data Privacy Tariff for Consumers Energy that Permits Disclosure of Private Customer Information in Discovery in MPSC Proceedings

4. Rule 53 of the Commission's Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code; R 460.153, requires electric and gas utilities to file

with the Commission, for the Commission’s approval, a Customer Data Privacy tariff that contains a customer data privacy policy. The rule specifies several required features of a data privacy policy but otherwise leaves it to the Commission’s discretion to determine whether the data privacy policy proposed by the utility is appropriate. For example, the statute *requires* a data privacy policy to include a term that permits disclosure without customer consent “in response to a warrant or court order,” (see R 460.153(2)(e)) but the rule *does not prohibit* the Commission from approving a term in a data privacy policy that expands on that requirement or identifies additional circumstances under which a utility may disclose private customer information without customer consent. The Commission is free to expand on the requirements in Rule 53.

5. Pursuant to Rule 53, Consumers Energy filed its Customer Data Privacy tariff for Commission review and approval in Case No. U-18485. The Commission approved the Company’s Data Privacy tariff on October 24, 2018. See Rule C17 of the Company’s tariff. The Customer Data Privacy tariff generally protects three specific types of Protected Customer Information: (i) Customer Account Information, (ii) Consumption Data, and (iii) Personal Data.¹

6. Under the Commission-approved Customer Data Privacy tariff, Consumers Energy is permitted to disclose Protected Customer Information without informed customer consent “when required by law or Commission rules.” Section C17.3.A. Consumers Energy’s

¹ Under the Company’s electric tariff, “Customer Account Information” is defined as “personally identifiable information including customer address, contact information, payment history, account number, and amount billed. Customer Account Information also includes information received by the Company from the Customer for purposes of participating in regulated utility programs, including, but not limited to, bill payment assistance, shutoff protection, renewable energy, demand-side management, load management, or energy efficiency.” Section C17.1.D. The tariff also defines “Consumption Data” as “customer specific electric usage data, or weather adjusted data, including but not limited to kW, kWh, voltage, var, power factor, and other information that is collected by the electric meter by the Company and stored in its systems.” Section C17.1.E. Finally, the tariff defines “Personal Data” as “specific pieces of information collected or known by the Company that merit special protection including the standard types of positive identification information used to establish an account. Personal Data includes, but is not limited to, name and address in conjunction with birth date, telephone number, electronic mail address, Social Security Number, financial account numbers, driver’s license number, credit reporting information, bankruptcy or probate information, health information, network, or Internet protocol address.” Section C17.1.G.

Commission-approved Customer Data Privacy tariff states that this includes “law enforcement requests supported by warrants or court orders specifically naming the Customers whose information is sought, and judicially enforceable subpoenas.” C17.3.A. This provision clearly *includes* the provision required by R 460.153(2)(e) (i.e. disclosure “in response to a warrant or court order”), but incorporates that provision within an expanded category of circumstances in which Consumers Energy is permitted to disclose Protected Customer Information without informed customer consent (i.e. whenever “required by law or Commission rules”).

7. Rule 423 of the MPSC Practice Rules requires that “[e]very party shall respond promptly and fully to requests for discovery.” R 792.10423. Since Attorney General request 21870-AG-CE-0478 was a discovery request in this electric rate case, Consumers Energy was permitted to disclose any Protected Customer Information responsive to request 21870-AG-CE-0478 without informed customer consent under its Commission-approved Customer Data Privacy tariff, which permits disclosure without customer consent whenever “required by law or Commission rules,” including the Commission’s discovery rules. Pursuant to Rule 423, Consumers Energy could have provided the full and unredacted contract with Customer A pursuant to the tariff language and the MPSC Practice Rules.

III. Despite Authority to Disclose Under the Customer Data Privacy Tariff, Consumers Energy Did Not Disclose Protected Customer Information in this Case; Such Protected Customer Information Is Not Relevant to this Proceeding

8. Consistent with the Commission’s March 1, 2024 Order in Case No. U-21389 (discussed supra), the question of whether Consumers Energy’s forecast of its bridge period and test year costs for its HVD Strategic Customers New Business sub-program are supported by identified projects and signed contracts is relevant in this case. The Attorney General’s discovery request 21870-AG-CE-0478 sought details about the identified projects and copies of the signed

contracts associated with the projects. Although the Attorney General’s discovery request generally sought relevant material, it was stated in broader-than-necessary terms and encompassed information that went beyond solely the material that would be relevant under the Commission’s March 1, 2024 Order in Case No. U-21389. For example, it is not necessary to know the name of a customer who has signed a contract under the HVD Strategic Customers New Business sub-program in order to validate that the project has been identified and involves a signed contract. Consumers Energy determined that it was possible to provide the Attorney General the relevant information she sought while excluding the irrelevant Protected Customer Information about the customers involved in each project.

9. Accordingly, in its response to the Attorney General’s discovery request 21870-AG-CE-0478, Consumers Energy redacted Customer A’s name, address, service location, maximum projected demand, capacity available, off-peak energy forecast, power factor, total estimated cost and payback schedule, and certain information about third-party business activity that might have identified Customer A. In other words, Consumers Energy redacted all information that might have constituted Protected Customer Information under its Customer Data Privacy tariff. There was no disclosure of this Protected Customer Information to any party in this case. The remaining unredacted information in discovery response 21870-AG-CE-0478 does not constitute Protected Customer Information within the meaning of the Customer Data Privacy tariff.

10. Rule 423 of the MPSC Practice Rules provides that “[d]iscovery shall, as far as practicable, be conducted in the same manner as in the circuit courts of this state pursuant to the Michigan court rules or as otherwise provided by law.” Among other things, the Michigan Court Rules permit a party to seek a protective order to limit disclosure of confidential information. MCR 2.302(C). To the extent that a discovery request seeks confidential customer information

that is relevant to a material issue in an MPSC proceeding and otherwise admissible, the proper procedure for handling such information is to provide the information to the requesting party confidentially and subject to a protective order.

11. Even though the Company redacted any Protected Customer Information from its response to discovery request 21870-AG-CE-0478, out of an abundance of caution, Consumers Energy marked the unredacted portions of discovery response 21870-AG-CE-0478 as “confidential” and provided them to the parties in this case subject to the protective order entered on June 5, 2025 in this case. In order to obtain information through discovery in this case that has been marked as confidential, the protective order requires parties to sign a non-disclosure agreement and adhere to certain specified procedures to maintain the confidentiality of those materials. A party who does not sign a non-disclosure agreement under the protective order may not receive the confidential information.

12. The Company’s actions provided a double layer of protection to Customer A’s private customer information by first withholding any actual disclosure of Customer A’s Protected Customer Information – no party actually received that information – and, then by subjecting even the redacted version of Consumers Energy’s contracts with Customer A to confidential treatment, which involved limited distribution to only parties that are further obligated to maintain the confidentiality of the limited information they received. In undertaking these actions, the Company fully complied with its obligations under its Customer Data Privacy tariff.

IV. Customer A’s Arguments that Consumers Energy Violated the Customer Data Privacy Tariff Have No Merit and Should Be Rejected

13. As a result of the circumstances described above, there is no merit to Customer A’s Motion to Quash and no need for its requested relief. First, Customer A states that it “seeks to quash the same portions of part (b) that Consumers objected to, for many of the same reasons:

relevancy, violation of customer data privacy rules, and additionally that the harm to customers from the disclosure far outweighs any benefit to disclosure of that information.” Customer A’s Motion, page 5. However, Consumers Energy did not provide the parties with the objectionable information from part (b) of Attorney General discovery request 21870-AG-CE-0478 (i.e. information about Customer A’s “type of business” or its “business location”). Therefore, there’s nothing to quash. Consumers Energy only provided information about its own facilities and its own costs in response to part (b).

14. Second, Customer A seeks to quash production of confidential attachments 3a, 3b, 4, 5, 6, 7, 8, 9, and 10, but as discussed above, those materials did not contain any of Customer A’s Protected Customer Information. They are merely copies of Consumers Energy’s standard contracts with a handful of customers governing such matters as construction of extraordinary facilities, allowance for contributions in aid of construction, and service under the Company’s Large Economic Development rate where all customer identifying information has been redacted. What remains of the contracts provided in discovery consists of Consumers Energy’s typical terms for those types of agreements and some limited information validating that the Company has actual signed contracts supporting its forecasted capital expenditures for the HVD Strategic Customers New Business projects identified for the bridge period and test year of this case.

15. Contrary to Customer A’s claims, there is no general prohibition in Consumers Energy’s Customer Data Privacy tariff that prohibits “disclosure of customer contracts.” See Customer A’s Motion, pages 6-9. Also contrary to Customer A’s claims, the contracts that Consumers Energy produced did not contain “precisely the kind of unredacted, customer specific information protected by the Commission’s data privacy rules and the tariff.” Customer A’s Motion, pages 6-7. All customer-specific information was redacted.

16. It is irrelevant that Consumers Energy was “not operating in response to either a warrant or a court order, nor was it undertaking collection activities” or that the information was not “aggregate data.” Customer A’s Motion, page 7. Those are required provisions in a data privacy tariff under MPSC Rule 460.153, but the Commission has the discretion to identify other circumstances where disclosure without informed customer consent is permissible, and it has done so. Again, Consumers Energy’s Commission-approved Customer Data Privacy tariff permits disclosure of Protected Customer Information without informed customer consent “when required by law or Commission rules,” including the Commission’s discovery rules. See Section C17.3.A. The MPSC Practice Rules require full and prompt responses to discovery in MPSC proceedings.

17. Customer A argues that the limited number of contracts provided and the length of a redaction *might* enable a competitor to figure out who Customer A is *if* the competitor was independently aware of contextual clues such as the fact Customer A was “undergoing an expansion that likely requires an energy upgrade” and that Customer A “qualified for service under a particular rate.” Customer A’s Motion, page 8. Even if Customer A’s hypothetical claim is true (which seems far-fetched), neither the number of contracts Consumers Energy has with customers under its HVD Strategic Customers New Business sub-program nor the length of a redaction is identified as Protected Customer Information in the Customer Data Privacy tariff.

18. Consumers Energy’s Commission-approved Customer Data Privacy Tariff protects customers from disclosure of specific pieces of Protected Customer Information as defined and identified in the tariff. It does not broadly bar disclosure of any conceivable information that could be used as a contextual clue that might allow someone with special knowledge beyond Consumers Energy’s control to divine who the customer *might* be. Consumers Energy submits that the Customer Data Privacy tariff is not meant to deprive the Commission, Commission Staff, and

intervenors of the information they need to litigate and decide relevant issues in rate proceedings whenever a customer claims that there exists the most remote possibility that someone could guess at the customer's identity.

V. The ALJ Should Deny Company A's Motion to Quash


19. Consumers Energy takes the confidentiality of its customers' private information seriously. The Company also takes its obligation to be transparent with the Commission, Commission Staff, and other parties in rate proceedings seriously. Consumers Energy has appropriately balanced those two competing obligations by providing all relevant information responsive to the Attorney General's discovery request 21870-AG-CE-0478 in this case, while redacting all Protected Customer Information within the ambit of the Company's Customer Data Privacy tariff from those materials and then further protecting the materials by marking the redacted versions as "confidential" and subject to the protective order in this case. Consumers Energy's treatment of the response to discovery request 21870-AG-CE-0478 is compliant with the Customer Data Privacy tariff, the Commission's Practice Rules, and all of Consumers Energy's other legal obligations. No Protected Customer Information was supplied to any other party to this case and even the redacted version of the contracts is being handled confidentially and consistent with the protective order. There is no valid legal basis for Customer A's Motion to Quash.

WHEREFORE, Consumers Energy Company requests the ALJ to deny the Motion to Quash in its entirety.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

Dated: September 25, 2025

By: 
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
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Case No. U-21870

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Melissa K. Harris, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on September 25, 2025, she served an electronic copy of **Consumers Energy Company’s Response to Customer A’s Motion to Quash** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein, as well as the parties listed below.

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Melissa K. Harris

Subscribed and sworn to before me this 25th day of September 2025.



Jennifer Joy Yocum, Notary Public
State of Michigan, County of Jackson
My Commission Expires: 12/17/30
Acting in the County of Jackson

ATTACHMENT 1 TO CASE NO. U-21870

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* Receives Confidential Materials

ATTACHMENT 1 TO CASE NO. U-21870

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