STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of UPPER MICHIGAN ENERGY RESOURCES CORPORATION requesting approval of an amended renewable energy plan to comply with Public Act 235 of 2023.	)))))))	Case No. U-21813

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on October 27, 2025.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before November 6, 2025, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before November 18, 2025.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Jonathan F. Thoits

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Date: 2025.10.27 16:16:12 -04'00'

Jonathan F. Thoits
Administrative Law Judge

October 27, 2025
Lansing, Michigan

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of UPPER MICHIGAN ENERGY RESOURCES CORPORATION requesting approval of an amended renewable energy plan to comply with Public Act 235 of 2023.	))))))	Case No. U-21813

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On February 8, 2024, the Commission issued an order in Case No. U-21568 directing Upper Michigan Energy Resources Corporation (UMERC) to file an amended Renewable Energy Plan (REP) pursuant to 2008 Public Act 295, as amended by 2016 PA 342 and 2023 PA 235, MCL 460.1001 *et seq.* no later than January 17, 2025. On November 26, 2024, UMERC filed an ex parte motion to extend the deadline to February 27, 2025, which the Commission granted on December 19, 2024. Accordingly, on February 25, 2025, UMERC filed its application with supporting testimony and exhibits seeking approval of its amended REP to comply with Public Act 235 of 2023.

Pursuant to due notice, a pre-hearing conference was conducted on April 10, 2025. UMERC and Commission Staff appeared at the proceeding, the Attorney General intervened by right, and intervention was granted to Tilden Mining Company L.C.

(Tilden) and Citizens Utility Board (CUB).[1] A Protective Order, agreed to by the parties, was entered on April 11, 2025. On April 17, 2025, Michigan Environmental Council (MEC) filed a Petition to Intervene Out of Time, to which UMERC filed objections. A hearing was held on April 30, 2015, after which the motion was denied with this ALJ finding that MEC did not show good cause for the untimely filing and the elements of permissive intervention were not met.[2]

On August 4, 2025, UMERC filed its Motion to Strike and Admit Surrebuttal Testimony. The motion was denied in part and granted in part.[3]

On August 6, 2025, CUB filed a motion, joined by the Attorney General, to compel certain requested discovery material from UMERC. The motion was denied.[4]

Pursuant to the scheduling memo agreed to by the parties, hearings were held on August 12-13, 2025. At the August 12th hearing, the ALJ heard oral arguments on UMERC's and CUB's motions. During the hearings, UMERC presented the testimony of the following individuals:

1. Richard F. Stasik, Director of State Regulatory Affairs at UMERC's parent company WEC Energy Group (WEC) (Direct, Supplemental Direct, and Rebuttal);

2. Jaimie Cano Lopez, a Senior Business Analyst in Fuel Cost Planning for WEC (Direct);

3. Chelsey A. Biersach, Principal Sales Forecasting Analyst in Financial Planning & Analysis (Direct);

4. James M. Beyer, Lead Analyst in the Finance Department of WEC Business Services, LLC (WBS), a subsidiary of WEC (Direct, Supplemental Direct, Rebuttal, and Surrebuttal);

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[11] 1 Tr 5.
[2] See, Ruling on Petition to Intervene Out of Time, May 6, 2025.
[3] See, Ruling on Motion to Strike and Admit Surrebuttal Testimony, August 18, 2025.
[4] See, Ruling on Motion to Compel Discovery Responses, August 18, 2025.

Through these witnesses, UMERC entered exhibits A-1 through A-4, A-4 revised, A-5, A-5 revised, A-6 through A-8, A-9 revised, A-10 revised, A-11 revised, A-12 revised, and A-13 through A-15.[5]

Commission Staff presented the testimony of two employees:

1. Naomi J. Simpson, the Manager of the Resource Optimization and Certification Section within the Energy Resources Division of the MPSC (corrected Direct);

2. Sarah E. Hutchinson, a Public Utilities Engineer in the Renewable Energy Section within the Energy Resources Division of the MPSC (Direct and Rebuttal).

Staff did not present any exhibits.

AG-CUB presented the revised Direct and Rebuttal testimony of Douglas B. Jester, Managing Partner of 5 Lakes Energy, and entered Exhibits AGCUB-1 through AGCUB-12, AGCUB-14, AGCUB-16, AGCUB-17, and AGCUB-22 through AGCUB-24.

Tilden presented the Direct and revised Rebuttal testimony of Michael Gorman, a public utility regulation consultant and a Managing Principal with Brubaker & Associates, Inc. and entered Exhibits TIL-1 and TIL-2.

On October 3, 2025, UMERC filed it Motion to Strike Portions of Tilden's Reply Brief. The motion was denied.[6]

The evidentiary record is contained in the testimony and exhibits bound into the record during the August 12-13, 2025 hearings. UMERC, Staff, AG-CUB, and Tilden filed initial briefs on September 11, 2025 and reply briefs on September 25, 2025.

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[5] Certain testimony and exhibits filed by the parties in this case are deemed confidential and have been filed under seal.

[6] See, Ruling on Motion to Strike Portions of Tilden Mining's Reply Brief, October 27, 2025.

II.

STATUTORY REQUIREMENTS

Part 2 of PA 295 of 2008, the Clean and Renewable Energy and Energy Waste Reduction Act, as amended by Public Act 342 of 2016 and Public Act 235 of 2023 (the Act) requires electric providers to maintain renewable energy plans (REPs) that meet certain renewable energy credit (REC) portfolio standards, or RPSs.

Section 28 of the Act, as amended by Act 235, requires electric providers to achieve an RPS of 15% through 2029, 50% in 2030 through 2034, and 60% in 2035 and each year thereafter.[7] Under subsection 28(5), electric providers are required to meet the RPS with RECs obtained by: (a) generating electricity from renewable energy systems for sale to retail customers, (b) purchasing or otherwise acquiring renewable energy and capacity, or (c) purchasing or otherwise acquiring RECs without the associated renewable energy or capacity.[8] RECs acquired under subsection 28(5)(c) must be produced within the territory of the regional transmission organization of which the electric provider is a member, and, except for a municipally owned electric utility, shall not exceed 5% of an electric provider's renewable energy credits annually used to comply with the renewable energy standard.[9]

Section 22 of the Act governs the filing and approval of amended REPs. MCL 460.1022(3) states, in part:

> Within 1 year after the effective date of the amendatory act that added section 51, and within 2 years after the commission issues an order approving the electric provider's last amended renewable energy plan, an electric provider shall file an amended renewable energy plan that includes a forecast of the renewable

[7] MCL 460.1028(1).
[8] MCL 460.1028(5).
[9] Id.

> energy resources needed to comply with the renewable energy credit standard pursuant to a filing schedule established by the commission. . . After the hearing, the commission shall approve, with any changes consented to by the electric provider, or reject the amended renewable energy plan.

Under MCL 460.1022(5), the Commission shall approve amendments to an amended REP for rate regulated utilities if the Commission determines both of the following:

> (a) That the amended renewable energy plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs in prior amended renewable energy plans were exceeded.
>
> (b) That the amended renewable energy plan is consistent with the purpose set forth in section 1(2) and meets the renewable energy credit standard.

III.

ANALYSIS

UMERC states that its biennial AREP is a reasonable and prudent plan to meet the PA 235 renewable energy standard and to recover its incremental cost of implementing the AREP in 2026 and 2027.[10] UMERC asserts that the renewable resource additions laid out in this AREP will ensure UMERC's compliance with the RES in the near-term future.[11] UMERC adds that it plans to purchase RECs to comply with the RES through 2029, and beginning in 2030, it will meet all of its PA 235 RES compliance obligations through renewable resource additions and the RECs generated by those resources.[12] UMERC states that its modeling lays out a plan to comply with the RES of 15% over the next two years by bringing the Renegade Solar Project online and

[10] UMERC initial brief, p. 7.
[11] Id.
[12] Id.

by making necessary REC purchases for the remainder of the 15% requirement.[13] UMERC adds that its long term compliance strategy will continue to be updated in its future biennial AREP filings.[14]

UMERC states that its AREP currently has a revenue requirement of $4.332 billion through 2045, and that in 2026 and 2027, UMERC anticipates having a revenue requirement of $23.4 million and $26.8 million, respectively.[15] UMERC states that the 2026 and 2027 costs are associated with developing, placing in service and operating Renegade Solar and purchasing RECs.[16] UMERC states that its AREP also proposes recovering the incremental cost of compliance of the AREP through a PA 235-compliant renewable energy surcharge.[17]

UMERC states that beginning in 2030 and thereafter, it does not anticipate making any REC purchases to comply with the RES because it will generate all necessary RECs using its owned generation.[18] UMERC adds that while the AREP is a comprehensive plan to comply with all aspects of PA 235, it believes that this case should focus on what is needed to comply with the RES for the next two years because it will be submitting a new AREP within two years of the conclusion of this case, which next biennial AREP will provide updated proposals on how it will continue to comply with the RES in the long-term.[19]

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[13] Id.
[14] Id.
[15] Id.
[16] Id.
[17] Id.
[18] Id., p. 11.
[19] Id., p. 11-12.

Staff states that UMERC's application "was deeply flawed," but that its AREP meets the minimum requirements of Public Act 235 of 2023 (PA 235), and meets the filing requirements contained in MPSC Case No. U-21568.[20] Staff recommends approval of the amended REP with certain stated caveats.[21] Staff's caveats for approval of the AREP include the following Staff recommendations: a) that any resource retirement decisions are most appropriately contemplated within the context of an IRP filing where different scenarios and sensitivities can be tested; b) that the Commission also direct UMERC to further consider retirement decisions, resource selection and the proper mix of renewable energy resources, clean energy resources, and storage in its next IRP filing; c) that the recovery of any resources above or beyond the REP requirements, such as the battery storage, should be recovered through other venues; d) that UMERC explicitly consider non-company owned resources in its portfolio and affirming that it will adhere to the Commission's competitive procurement guidelines for all acquisitions regardless of whether that acquisition is company-owned; and e) that UMERC's proposed Scenario 2 to use the transfer price mechanism to collect a portion of the identified revenue requirement pursuant to the PSCR mechanism be adopted.[22]

AG-CUB asserts that UMERC's amended REP is neither reasonable nor prudent.[23] AG-CUB states that UMERC falsely assumes that Public Act 235 requires premature retirement of UMERC's RICE plants, which unreasonably and imprudently drives up the costs of UMERC's REP.[24] AG-CUB argues that the battery storage

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[20] 3 Tr 419; Staff initial brief, p. 1.
[21] Staff initial brief, p. 1.
[22] Id., p. 3-8.
[23] AG-CUB initial brief, p. 1.
[24] Id.

resources UMERC included are not eligible to be included in an REP.[25] AG-CUB asserts that UMERC's resource procurement plan fails to account for the expected end-of-service timeline for its largest customer, the Tilden Mine, and thus unreasonably and imprudently builds in unwarranted long-lived renewables that add unnecessary costs.[26]

Tilden asserts that UMERC's amended REP is unlawful, unreasonable, imprudent and not cost-effective, and thus should be rejected altogether with instructions to file a revised plan or approved only for the next two years consistent with its recommended changes.[27]

This PFD recommends approval of the undisputed aspects of the amended REP and will address the distinct aspects that are disputed by the parties.

A. Resource Additions and Costs

Mr. Lopez testified that UMERC's economic modeling and analysis demonstrates a need for additional renewable generation to comply with Act 235. He indicated that to fully comply with the 100% clean energy standard by 2040, a total of 500 MW of new wind, 275 MW of new solar are required.[28] He added that UMERC assumed it would meet the 15% renewable energy standard through a combination of generation from its 100 MW Renegade Solar Project and market purchases of Michigan-based RECs, and that starting in 2030, REC purchases would end and all requirements would be met with generation assets.[29] He added that an alternative modeling run without Act 235 considerations reflected no new generation, and he asserted that this indicates that the

[25] Id., p. 2.
[26] Id.
[27] Tilden initial brief, p. 25-26; Tilden reply brief, p. 1.
[28] 3 Tr 68.
[29] 3 Tr 75.

addition of new generation in the amended REP is a result of Act 235 and not a need to add generation to comply with MISO's capacity requirements.[30]

Mr. Stasik elaborated on the resource additions presented by Mr. Lopez. According to Mr. Stasik UMERC is proposing to add 250 MW Wind at $856.5 million and 50 MW Solar at $114.0 million in 2030; 125 MW Wind at $468.1 million in 2034; 50 MW Wind at $191.5 million and 75 MW Solar at $191.2 million in 2035; and 75 MW Wind at $321.0 million and 50 MW Solar at $142.5 million in 2040.[31] He testified that aside from the 100 MW Renegade Solar farm, all the other clean energy resources identified to meet UMERC's obligations are generic resources.[32]

Mr. Jester testified that UMERC proposes sufficient renewable energy resources to comply with an 80% clean energy standard in 2035 through 2039, a 100% clean energy standard in 2040, and thereafter, using only renewable energy.[33] As such, he argues that UMERC proposes renewable resources in excess of what is needed to comply with the renewable energy standard.[34] He adds that while it may be reasonable and prudent to comply with Act 235's clean energy standards by adding additional renewable energy, any renewable energy needed to comply with the clean energy standards should not be included in the amended REP, but as a part of UMERC's IRP, as 2023 PA 235 prescribes that UMERC file its clean energy plan as part of an integrated resource plan.[35]

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[30] 3 Tr 78-79.
[31] 3 Tr 173.
[32] 3 Tr 147.
[33] 3 Tr 374.
[34] Id.
[35] Id., citing Section 51(2)(a) of 2023 PA 235.

Mr. Jester states that UMERC has not demonstrated in this case that this is the most reasonable and prudent way to comply with the clean energy standard, which it must do in its integrated resource plan, since UMERC has only modeled compliance with the clean energy standard based on the false assumption that UMERC must retire its RICE plants prematurely.[36]

Mr. Jester states that any incremental cost of that incremental renewable energy should not be attributed to the renewable energy standard, as UMERC does in this case.[37] He opines that 2023 PA 235 directs that costs of compliance with the clean energy standard be recovered in a rate case as provided by 1939 PA 3, MCL 460.1 to 460.11, asserting that 2023 PA 235 Sections 45 and 47 are specific to the Renewable Energy Plan.[38] Mr. Jester argues that his recommended approach to meet UMERC's renewable energy targets -- that is, using Renegade Solar, 150 MW of wind, and MI REC purchases -- would result in significantly reduced costs.[39]

Mr. Gorman states that Act 235 sets different standards for compliance with the renewable energy credit portfolio standard and the clean energy standard.[40] He asserts that the revised renewable energy standards – which require an electric provider to achieve a renewable energy credit portfolio of at least 15% through 2029, 50% in 2030 through 2034, and 60% in 2035 and beyond -- appear in Section 28 of Act 235, MCL 460.1028, while new clean energy standard – which requires an electric provider to achieve a clean energy portfolio of at least 80% in 2035 through 2039 and 100% in

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[36] 3 Tr 374-375.
[37] 3 Tr 375.
[38] Id., citing Section 51(1)(a) of 2023 PA 235.
[39] 3 Tr 381-382; Conf. Ex. AGCUB-8.
[40] 3 Tr 313.

2040 and beyond -- appears in Section 51 of Act 235, MCL 460.1051.[41] He argues that UMERC's AREP is designed to add renewable resources to comply with the clean energy plan Act 235 standards, which exceed the resources needed to comply with Act 235 renewable energy standards.[42]

Mr. Gorman also asserted that UMERC's price of $4 per REC is too high. He recommended that it be set at $2/REC as he asserted that UMERC was able to purchase RECs at that price in 2024.[43] He recommended that the Commission disapprove of UMERC's projected costs for resource additions and instead require that UMERC use a competitive process and select the most economical resources at the lowest overall cost to customers while also managing service quality.[44]

Ms. Hutchinson testified that it is unclear as to exactly what resources past 2035 UMERC is planning to use to meet the 60% RPS or the future clean energy plan (CEP) requirements of Act 235, as it seems that UMERC's amended REP includes resources to meet both.[45] She maintained that filing requirements for CEPs have not yet been determined by the Commission, such that any discussion related to the allocation of resources to a CEP in this case is premature and should be reserved for UMERC's Clean Energy Plan ("CEP") filing. Thus, she asserts that Staff can only recommend approval of UMERC's AREP up to and through 2035.[46]

Regarding the two payment scenarios UMERC proposed in its application – Scenario 1 (a daily per-meter renewable energy surcharge billed monthly) and Scenario

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[41] Id.
[42] Id.
[43] 3 Tr 322.
[44] 3 Tr 331.
[45] 3 Tr 407.
[46] Id.

2 (use of the transfer price mechanism to collect a portion of the identified revenue requirement pursuant to the PSCR mechanism) -- Staff revised its position to support Scenario 2, agreeing with AG-CUB and Tilden that Scenario 1 does not comply with Act 235 as it is written as it 1) is not based off an incremental cost of compliance, 2) does not propose to be consistent with UMERC's most recent general rate case.[47]

Ms. Simpson testified that Staff envisions consistency between renewable energy plans and clean energy plans, but she emphasized that the amended REP is not an integrated resource plan (IRP) or CEP filing.[48] She adds that any resources approved in UMERC's amended REP should not necessarily be included in UMERC's IRP. She stated that "Staff still views the overall resource selection process, retirement analysis with respect to the Company's reciprocating internal combustion engine units, analysis of an IRP's rate impact, and associated affordability to take place in the IRP."[49] She asserted that Staff imagines that if there are different resources in the IRP, UMERC would file an amended REP to align them.[50]

In rebuttal, Mr. Beyer testified that UMERC used a $4/REC purchase price in its amended REP based on indications of the market.[51] He testified that historical executed purchase contract information for UMERC's most recent REC purchases shows an average price of $3.72 per REC and indicates that the price per REC is increasing and that UMERC's estimate of $4.00 per REC is reasonable for 2026 and 2027.[52]

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[47] Staff initial brief, p. 7-8.
[48] 3 Tr 428.
[49] 3 Tr 429.
[50] 3 Tr 430.
[51] 3 Tr 298.
[52] Id.

Mr. Stasik disagreed with Mr. Gorman's premise that competitive bidding is the only way UMERC can secure the resources that provide the best value to its customers, but he asserted those decisions are most appropriate for UMERC's next IRP.[53] As for Mr. Jester's recommendations, Mr. Stasik asserted that they do not appear to be based on generation planning principles or supported by modeling in contrast to UMERC's amended REP, which is based on long term modeling and analysis.[54]

Mr. Stasik opined that Mr. Jester "may not like seeing in writing the significant costs necessary" to comply with Act 235, but this does not change "the reality that those incremental compliance costs are real and will need to be borne by UMERC's customers."[55] He also asserted that the costs UMERC presented are likely significantly understated due to the passage of federal legislation that drastically reduces the period of time that renewable generation facilities and BESS projects are eligible for tax credits.[56]

In rebuttal, Ms. Hutchinson testified that Staff agrees with Mr. Jester and Mr. Gorman that UMERC should not have included CEP resources or their costs in its amended REP.[57] She elaborated that Act 235 makes explicit mention that any proposed compliance with its clean energy standards be filed in a CEP alongside the Company's IRP with costs recovered in base rates.[58] She testified that Staff maintains its original position that "any renewable and clean resources originally included for recovery in the proposed REP above that of the 60% renewable energy threshold used for compliance

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[53] 3 Tr 196.
[54] 3 Tr 198.
[55] 3 Tr 204.
[56] Id.
[57] 3 Tr 414.
[58] Id.

with Act 235 should have the costs removed and not considered for recovery via an REP, but rather in the more appropriate venue of an IRP/CEP proceeding."[59] However, she added that UMERC should still forecast and track RECs associated with renewable resources above 60% and storage resources within its REP.[60]

In addition, Ms. Hutchinson expressed Staff's belief that UMERC's proposed amended REP does not represent the "least-cost proposal" for its customers.[61] She testified that Mr. Jester's and Mr. Gorman's proposals, which exclude resources not designed to meet Act 235's renewable energy standards, provide "significantly lower" costs.[62] Ms. Hutchinson added that UMERC also made no indication in its original filing as to whether the proposed company-owned resources would be competitively bid, nor did they seemingly consider the option of resources that were not owned by UMERC itself.[63] She asserts that both strategies are integral to ensuring both long-term reliability and affordability for UMERC's customers, and should be explicitly taken into consideration when developing a REP.[64]

In briefing, UMERC states that it developed its amended REP under the backdrop of the Commission's December 2, 2024 report, as required by MCL 460.1051, which concluded that there are no easy solutions to ensure that utilities in the Upper Peninsula can cost-effectively comply with Act 235.[65] Further, UMERC's brief asserts that while its amended REP lays out the renewable resource additions and REC

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[59] 3 Tr 415.
[60] Id.
[61] 3 Tr 417.
[62] Id.
[63] 3 Tr 417-418
[64] 3 Tr 418.
[65] UMERC initial brief, p. 2.

purchases that it will need to comply with the RPS in both the short- and long-term, all proposed post-2027 resource additions are speculative and this case should focus on what is needed to comply with the RPS for the next two years.[66] UMERC notes that prior to 2035, the amended REP only includes the costs associated with RPS compliance, but beginning in 2035 the proposed revenue requirement also includes costs associated with complying with Act 235's clean energy standard requirements.[67]

Nevertheless, UMERC concedes that any resources beyond those needed to comply with the RPS should not be included in the plan or recovered through the renewable energy surcharge (RES), and that resources needed to comply with the clean energy standards or to otherwise meet demand and maintain system reliability should be addressed in UMERC's next IRP.[68] UMERC stresses that those resources and costs do not affect its compliance with the RPS or the proposed RES until it files its next amended REP and the Commission should approve its current plan.[69]

UMERC argues against any recommendation to require competitive bidding in the amended REP because it has not identified any specific projects or begun the procurement process, and it will conduct more extensive PLEXOS modeling in its IRP filing, where, in Case No. U-21081, it committed to discuss competitive procurement with Staff.[70]

In its brief, AG-CUB contends that a prudent alternative to UMERC's proposal is to limit ownership of generation facilities and power purchase agreements (PPAs) to the

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[66] Id., p. 11-12.
[67] Id., p. 15.
[68] Id., p. 21.
[69] Id., p. 21-22.
[70] Id., p. 29.

extent necessary to meet the RPS relating to non-Tilden sales and purchase RECs to meet the requirements relating to Tilden sales.[71] AG-CUB recommends that the Commission approve costs for UMERC to acquire by competitive bidding the ownership of, or a long-term PPA for, approximately 150 MW wind generation (or if not available, solar generation) with a commercial operation date in 2030 and approve costs for UMERC to purchase RECs as needed.[72] Further, AG-CUB argues that the Commission should not find the projected costs of UMERC's plan reasonable or prudent because UMERC failed to follow the Commission's 2021 "competitive procurement guidelines for rate-regulated electric utilities."[73]

Tilden reiterates Mr. Gorman's testimony and asserts that UMERC's amended REP is not a renewable energy plan but is an Act 235 compliance plan and includes resources that "far exceed the resources needed to meet the Act 235 renewable energy standard."[74] Thus, Tilden asserts that UMERC's amended REP costs are significantly overstated and cannot be approved.[75] Tilden recommends that if the Commission approves UMERC's amended REP it should make clear that it is not approving any new resources and direct UMERC to comply with its competitive bidding guidelines when procuring all new resources.[76]

Tilden contends that UMERC's REC purchase price is subject to reconciliation and instead of establishing an inflated price at $4/REC, the Commission should adopt

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[71] AG-CUB initial brief, p. 32.
[72] UMERC initial brief, p. 40.
[73] AG-CUB initial brief, p. 40-41.
[74] Tilden initial brief, p. 5,7.
[75] Id., p. 7.
[76] Id., p. 28.

$2/REC as a reasonable price that is supported by the record.[77] If the $2/REC price is below actual costs, then UMERC can use its working capital allowance to manage the time difference between cost incurrence and cost recovery.[78]

In its brief, Staff recommends that the Commission direct UMERC to further consider resource selection and the proper mix of renewable energy resources, clean energy resources, and storage in its next IRP and after the final order to amend its REP accordingly.[79] Staff also recommends that any renewable energy resources above that needed to comply with the RPS are recovered through CEPs, IRPs, general rate cases, and other venues as appropriate to ensure accuracy and affordability for rate payers.[80] Staff also emphasizes that "[g]iven the immense cost associated with the proposed REP, Staff believes it to be in the best interest of ratepayers for the Company to reduce costs where possible by explicitly considering non-company owned resources in its portfolio and affirming that it will adhere to the Commission's competitive procurement guidelines for all acquisitions regardless of whether that acquisition is company-owned."[81]

In reply, UMERC continues to suggest that the Commission should not require UMERC to follow competitive procurement guidelines for generic projects. UMERC states that the Competitive Procurement Guidelines referenced by AG-CUB are inherently nonbinding, as they allow utilities to choose not to follow them, and it would

[77] Id., p. 8
[78] Id., p. 9.
[79] Staff initial brief, p. 4.
[80] Id., p. 5-6.
[81] Id., p. 6-7.

be inconsistent with the Commission approved Settlement Agreement in Case No. U-21081, where UMERC agreed to discuss the issue in the Company's next IRP.[82]

In its reply, AG-CUB contends that UMERC fails to provide any statutory authority to support approval of its amended REP for only two years.[83] AG-CUB argues that Act 235 clearly requires the Commission to review and approve, reject, or propose changes, as well as projected costs, of the renewable energy plan, not just a portion of it.[84] AG-CUB states that, "UMERC's attempt to salvage a portion of its case by requesting approval of the next two years of its plan and deferring the rest to future cases should be rejected."[85]

Further, AG-CUB asserts that there are at least two reasons that the Commission should require competitive bidding in the amended REP: 1) MCL 460.1001(3) instructs the Commission to evaluate specific procurement costs under the utility's REP and failure to require competitive bidding now means that UMERC's future specific proposals will not be meaningfully evaluated for compliance with the Guidelines during a contract approval or reconciliation case; 2) MCL 460.1022(5) and (6) specifically instructs the Commission to review projected costs in a utility's REP and the Guidelines provide a critical framework for the Commission's analysis.[86] AG-CUB dismisses UMERC's suggestion that because it will discuss competitive procurement in its IRP case it would be inconsistent to discuss the issue here, arguing that UMERC does not

[82] UMERC reply brief, p. 2.
[83] AG-CUB reply brief, p. 2.
[84] Id., p. 3.
[85] Id.
[86] Id., p. 13.

cite a case that stands for such a proposition, nor does UMERC explain how evaluating compliance in both REP and IRP cases would be duplicative.[87]

In reply, Tilden agrees with AG-CUB and recommends that the Commission direct UMERC to utilize competitive bidding to lower the costs of the amended REP.[88] According to Tilden, "UMERC's continuing refusal to utilize competitive bidding to solicit all available options for Act 235 compliance is another way in which UMERC's AREP is not reasonable, prudent, or cost-effective."[89]

Tilden argues that UMERC did not provide any evidence to support its witness's testimony that REC prices are increasing and only provided a single data point which does not show a trend.[90] Tilden also contends that Mr. Beyer's testimony in this case is contradicted by testimony filed on May 21, 2025 in Case No. U-21834, where he stated, "[I]n 2024, the amount collected from Tilden through the RE surcharge was $2,250 and UMERC was able to acquire RECs at $2.00/REC."[91]

According to Tilden, the cost of UMERC's amended REP in 2026-2029 is approximately $24.5 million per year due to using unbundled RECS and, that in 2030, when it stops using them in favor of its own resources, the costs jump to $188.8 million per year.[92] Tilden asserts that UMERC's failure to utilize all available unbundled REC opportunities through 2035 unnecessarily increases the costs of the amended REP.[93]

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[87] Id., p. 14.
[88] Tilden reply brief, p. 8.
[89] Id., p. 9.
[90] Id., p. 5-6.
[91] Id., p. 6.
[92] Id., p. 7.
[93] Id., p. 6-7.

In its reply brief, Staff disagrees with AG-CUB that a plan lacking detailed procurement process is deficient, stating that, "an REP committing to using generic resources to fulfill the renewable portfolio standard is not required to discuss a detailed procurement process."[94] Staff argues that UMERC's plan is not required to detail procurement but rather establish a commitment to a plan that meets the Michigan renewable portfolio standard set in PA 235 of 2023, and that UMERC's plan does outline its plan to meet the standard of 50% by 2030 and 60% by 2035.[95]

Staff also disagrees that the costs of the amended REP cannot be approved absent a detailed procurement plan, asserting that cost approval in this case does not circumvent a reasonableness and prudence review in UMERC's reconciliation case.[96] Staff maintains that the lack of details should not be presumed to result in a discriminatory procurement process, as UMERC must demonstrate that it either followed the guidelines or provide appropriate justification when it seeks to recover those costs.[97]

This PFD notes that under Act 235, UMERC is required to file an amended REP "that includes a forecast of the renewable energy resources needed to comply with the renewable energy credit standard."[98] Further, as to UMERC, the Commission "shall approve" an amended REP if it is "reasonable and prudent" taking into consideration "projected costs," it is consistent with purposes of the Clean and Renewable Energy and Energy Waste Reduction Act as listed in MCL 460,1001(2), and it meets the renewable

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[94] Staff reply brief, p. 4.
[95] Id., p. 4-5.
[96] Tilden reply brief, p. 5-7.
[97] Id., p. 6-7.
[98] MCL 460.1022(3).

energy credit standard.[99] Based on the above, UMERC's amended REP should only include resources and costs to comply with Act 235's RPS. Therefore, in agreement with Staff and intervenors, this PFD finds that to the extent that UMERC's amended REP contains renewable energy resources and costs that are not being used to meet the RPS, it is unreasonable and imprudent. As a result, this PFD recommends that the Commission only approve UMERC's proposed plans to comply with the RPS in 2026 and 2027, which consist of the use Renegade Solar and the purchase of RECs, and to disapprove the amended REP's resource additions and cost recovery post 2027.

As for the purchase price of RECs for 2026 and 2027, this PFD finds that UMERC has not established that $4/REC is a reasonable forecast of REC prices for 2026-2029. Mr. Beyer testified that UMERC used a $4/REC "at the time of filing" based on "indications of the market", while referencing a table that he states "shows" the "historical executed purchase contract information for UMERC's most recent REC purchases" at an "average price" of $3.72 per REC, and which table purportedly "shows" that "the price per REC is increasing".[100] However, Mr. Beyer's testimony also states that the purchase reflected in the table was made in "one transaction", for which Mr. Beyer does not indicate the date thereof and for which the table does not show any price(s) attributable to any of the listed three vintage years (2023, 2024, 2025) nor any of the listed volumes purchased.[101]

This PFD finds that a singular, undated transaction does not reasonably constitute evidence of the "indications of the market" at or around the time of UMERC's

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[99] MCL 460.1022(5).
[100] 3 Tr 298
[101] Id.

filing of this case. Similarly, this PFD finds that UMERC's assertion that its data included in the table shows an "average price" is unsupported and misleading; an "average" constitutes the central value of a number or series of prices and the table does not show any number of prices (other than the labeled "average price"). Finally, this PFD finds that UMERC's data in the table does not show that the "price per REC is increasing"; a price increase cannot be shown by the singular price for a singular transaction without a comparison to the prices from other, prior REC purchases.

This PFD further finds that the record evidence includes a recent, lesser stated price for RECs purchased by UMERC; namely, Mr. Gorman's testimony that UMERC stated in its renewable energy cost reconciliation proceeding for 2024 that it was able to purchase RECs at $2/REC in 2024."[102] This PFD notes that UMERC did not attempt to challenge or rebut this $2/REC price or otherwise seek to strike Mr. Gorman's testimony in this regard, which testimony was bound into the record in this case without objection.[103]

This PFD finds that the evidence of a UMERC's $2/REC purchase price from 2024 is as reliable and credible as, and thus is entitled the same weight as, the evidence of a $3.72/REC purchase price from a single, undated transaction. Accordingly, this PFD finds that an average between these two prices – that is, $2.86/REC -- is reasonable and supported by the record evidence in this case.

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[102] 3 Tr 322, citing UMERC Application, Case No. U-21834, Upper Michigan Energy Resources Corporation to commence a renewable energy cost reconciliation proceeding for the 12-month period ending December 31, 2024.

[103] 3 Tr 304-305. While UMERC did not move to strike or otherwise object to the binding in of Mr. Gorman's testimony, it is noted that UMERC attempted to bar a reference to Mr. Gorman's testimony pursuant to UMERC's Motion to Strike Portions of Tilden Mining's Reply Brief. UMERC's Motion was denied, with the Ruling finding that UMERC's application from a prior case was incorporated into Mr. Gorman's testimony by reference, which testimony, in turn, was bound into the record in this case. See Ruling on Motion to Strike Portions of Tilden's Reply Brief, October 27, 2025, p. 14-15.

Further given the significant costs of UMERC's compliance with Act 235's RPS, which was acknowledged by all the parties, this PFD recommends that UMERC be directed to reduce costs where possible and select the most economically feasible projects that are in the best interests of its rate payers regardless of whether the projects are company-owned or third party-owned, and to use a competitive bid process which adheres to the Commission's competitive procurement guidelines for all acquisitions regardless of ownership. However, this PFD does not recommend that UMERC be required to provide details of its procurement process and demonstrate that it meets the competitive procurement guidelines in this case given that its projected resource additions are generic and occur post-2027.

B. BESS

Mr. Stasik testified that UMERC refers to "renewable energy resources" broadly to include resources like battery energy storage systems (BESS) that can generate and store electric energy.[104] According to Mr. Stasik, UMERC's modeling indicates the following BESS additions in its amended REP: 125 MW in 2030 at a cost of $355.7 million; 75 MW in 2035 at a cost of $238.5 million; 50 MW in 2039 at a cost of $173.8 million; and 25 MW in 2040 at a cost of $88.9 million.[105] Mr. Lopez indicated that UMERC's modeling included BESS because of its advantages, such as supporting load during periods facing high peak demand, shifting load from peak and busy times to less demand times, and smoothing the fluctuating power supply provided by intermittent wind and solar.[106]

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[104] 3 Tr 145.
[105] 3 Tr 173.
[106] 3 Tr 79.

Mr. Jester opposed the inclusion of BESS in UMERC's amended REP. He testified that BESS is not a renewable energy resource under Act 235, noting that Section 101 of P.A. 235 specifically addresses cost-recovery for BESS in base rates.[107] Accordingly, he asserts that and its costs are not recoverable in the amended REP.[108] Mr. Jester observed that UMERC's share of Act 235's statewide energy storage goal of 2,500 MW would be about 31 MW, which he asserted is considerably less than the BESS UMERC has proposed in this case.[109] However, he testified that UMERC's energy storage requirement should be determined in an IRP case and thus is irrelevant in this proceeding.[110]

Mr. Gorman agreed with Mr. Jester that BESS facilities are not included in Act 235's definition of a renewable energy system and should not be included in UMERC's amended REP.[111] He explained that there are three different and separate mandates in Act 235 and the energy storage mandate explicitly requires the utility to submit its energy storage plan as part of its IRP proceeding and that BESS costs are recovered in base rates.[112]

Staff witness Hutchinson testified that there are no indications that the Commission intends to determine that the output electricity from BESS charged from

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[107] 3 Tr 372.
[108] Id., citing Section 11, par. (i) of 2023 PA 235 for the applicable definition of a renewable energy system; MCL 460.1101(4).
[109] 3 Tr 373.
[110] 3 Tr 373-374.
[111] 3 Tr 312.
[112] 3 Tr 311-316.

the broader electric grid would earn RECs beyond the incentive REC outlined in Section 39(2)(c) of Act 235.[113]

In rebuttal, Mr. Stasik acknowledged that BESS is not listed as a renewable energy resource in Act 235, but that because of the intermittency of existing renewable resources, BESS is an important component of a renewable resource portfolio.[114] He asserted that in the amended REP, UMERC attempted to provide transparency and completeness related to all the resources needed to meet the renewable energy standards.[115] He stressed that if UMERC did not model the use of BESS, it is likely that the cost of the amended REP would have been "substantially higher" because UMERC would have to build or acquire an "even greater quantity of renewable generation capacity."[116] Mr. Stasik maintained that BESS does not impact the proposed renewable energy surcharges for 2026 and 2027 in the amended REP, since BESS is not included until 2035 and thereafter.[117]

In rebuttal, Ms. Hutchinson agreed with Mr. Jester and Mr. Gorman that any BESS originally included for recovery in UMERC's amended REP should be removed and be considered in an IRP or CEP proceeding with costs recovered as part of general rates.[118]

In briefing, UMERC states that its PLEXOS modeling selected BESS in the latter years of the planning period to maintain system reliability and fully realize the benefits of

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[113] 3 Tr 408.
[114] 3 Tr 189
[115] Id.
[116] Id.
[117] 2 Tr 190.
[118] 3 Tr 414-415.

renewable generation.[119] UMERC recognizes that BESS beyond that needed to meet the RPS will be addressed in future IRP proceedings.[120] However, UMERC stresses that the inclusion of the BESS resources in this amended REP is not a problem in the short-term because the plan does not include BESS until the plan's latter periods and it commits to filing a new amended REP that does not include BESS.[121]

In briefing, AG-CUB asserts that UMERC's inclusion of 275 MW of BESS costing $856.9 million, should be excluded from its incremental cost calculations.[122] AG-CUB states that, "[T]o approve UMERC's REP without excluding BESS would artificially drive up the plan's costs, and therefore the Commission should ensure that UMERC removes BESS from its projected costs now rather than waiting for future filings."[123]

Tilden's brief recommends that if the Commission approves an amended REP for UMERC, then it should remove all BESS and its associated costs.[124]

In briefing, Staff states that it does not recommend cost recovery of BESS through Act 235 methods since energy storage is not a defined renewable energy resource.[125]

This PFD agrees with AG-CUB, Tilden, and Staff, as acknowledged by UMERC, that BESS is not a renewable energy resource under Act 235. However, this PFD also agrees with UMERC's assertions that BESS can facilitate the use of renewable energy

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[119] UMERC initial brief, p. 21.
[120] Id., p. 10.
[121] Id., p. 21-22.
[122] AG-CUB initial brief, p. 2, 19-21.
[123] Id., p. 10.
[124] Tilden initial brief, p. 25.
[125] Staff initial brief, p. 5.

and lower the costs of compliance with Act 235's renewable energy standards.[126] Therefore, this PFD finds that BESS could be included in an REP if its facilitation of specific renewable energy resources are fully described and its cost reductions quantified. However, this PFD recommends that the costs of BESS must still be recovered in base rates as provided by MCL 460.1101(4).

This PFD finds that UMERC did not fully describe how its planned BESS resources are facilitating specific renewable energy resources or quantify the provided cost reductions and therefore the inclusion of BESS in the amended REP is unreasonable and imprudent. Further it is unreasonable and imprudent to include BESS cost recovery in the REP. Therefore, this PFD recommends the removal of all BESS and BESS costs from the amended REP.

C. RICE Units

Mr. Lopez testified that to comply with the clean energy requirements of Act 235, UMERC assumed (modeled) that its reciprocating internal combustion engine (RICE) facilities would be retired by 2040.[127] He stated, however, that UMERC's modeling included an alternative status quo model, which assumed continued operation of the RICE units.[128]

Mr. Stasik provided background on the RICE facilities. He explained that the A.J. Mihm Generating Station (Mihm) and F.D. Kuester Generating Station (Kuester) were placed in service in May of 2019 and supply 180 MW of generation.[129] He testified that these RICE units have enhanced the reliability of the entire Upper Peninsula (UP)

[126] 3 Tr 189.
[127] 3 Tr 77
[128] Id.
[129] 3 Tr 151.

energy system and resulted in significant cost savings by avoiding the need for transmission system upgrades that would have cost hundreds of millions of dollars.[130] He added that when compared to the Presque Isle Power Plant (PIPP) they replaced, the RICE units have reduced carbon emissions by 86% or nearly 2.6 million tons.[131]

Mr. Stasik expressed UMERC's concern that despite the significant economic and environmental benefits provided by the RICE units, they are not recognized in Act 235, and UMERC will have to retire them prematurely.[132] He testified that one of the consequences of this premature retirement would be increased costs for most UMERC customers, since Tilden, UMERC's biggest customer, can terminate its Special Contract with UMERC -- where it pays certain operating costs of the RICE units -- thus shifting those costs to UMERC's other customers.[133] He expressed further concern that the premature retirement of the RICE units would erase the reliability gains and other benefits provided by the units to the UP.[134]

Mr. Stasik testified that recent legislation introduced in the Michigan House of Representatives, HB 4007, which would classify RICE units as clean energy systems, would ameliorate UMERC's concerns.[135] He stated that if HB 4007 becomes law, "UMERC will not need 100% renewables to meet the clean energy portfolio, as it will be able to rely on the RICE units as a clean energy system, which would save UMERC customers from having to bear substantial bill increases for the foreseeable future."[136]

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[130] Id.
[131] 3 Tr 151-152.
[132] 3 Tr 152-153.
[133] 3 Tr 160-161.
[134] 3 Tr 161.
[135] 3 Tr 162.
[136] Id.

AG-CUB witness Jester testified that Act 235's clean energy requirement does not prohibit the operation of the RICE units and there are several ways that UMERC can comply with the clean energy standard and operate a resource that is not "clean.[137] He explained that:

> Nothing in 2023 PA 235 prevents UMERC from generating and selling more power to MISO than it purchases from MISO for delivery to UMERC's retail customers. UMERC can continue to operate its RICE units, selling their generation to MISO under economic dispatch as UMERC currently does. UMERC's obligation under the clean energy standard is to sell to the MISO power pool a quantity of clean energy that equals or exceeds the portions of UMERC's retail sales that are required each year by the clean energy standard. It can do that without retiring the RICE plants.[138]

Furthermore, Mr. Jester opined that UMERC does not claim that it needs to prematurely retire its RICE plants in order to comply with the renewable energy standards in Act 235, but in order to comply with Act 235's clean energy standard, which he asserted is not relevant in this case; and even if it was relevant, any resources included in the REP because of the assumed premature retirement of the RICE plants is unreasonable and imprudent.[139] Mr. Jester elaborated that any aspect of UMERC's amended REP and supporting exhibits and testimony that are based on the premature retirement of the RICE units, such as the need for additional renewable resources and their costs, are wrong and should be rejected.[140]

Staff witness Hutchinson testified that the Mihm and Kuester RICE facilities are not currently in compliance with Act 235, but should they be equipped with carbon

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[137] 3 Tr 365-366.
[138] 3 Tr 366-367.
[139] 3 Tr 367-368.
[140] 3 368-371.

capture technology, or if HB 4007 is enacted, they would be.[141] Staff witness Simpson testified that the analysis of the retirement of the RICE units should take place in UMERC's IRP filing."[142]

In rebuttal, Mr. Stasik testified that Act 235 specifically excludes natural gas-fueled generation, such as the RICE units, in the definition of renewable resources and only RICE facilities with 90% carbon capture and sequestration qualify as "clean" under the clean energy standards.[143] He testified that UMERC has not considered carbon capture and sequestration or other carbon reduction options for the RICE units due to their significant costs, particularly if implemented in the UP.[144]

Mr. Stasik testified that Mr. Jester's assertions that UMERC included the cost recovery associated with the premature retirement of the RICE units in its amended REP are baseless and that UMERC only included the recovery of the cost of incremental resources.[145] He maintained that Mr. Jester's suggestion that UMERC could continue to operate the RICE units beyond 2040 and maintain compliance with Act 235, while technically correct, essentially would have UMERC, "a Michigan-jurisdictional regulated public utility, operate its UP RICE units as merchant plants within the MISO market."[146] He asserted that Mr. Jester's proposal is concerning for several reasons. First, he maintained that it is based on the invalid conclusion that UMERC included costs associated with retiring the RICE units in its amended REP, and:

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[141] 3 Tr 408.
[142] 3 Tr 429.
[143] Id.
[144] 3 Tr 200-201.
[145] 3 Tr 201-202.
[146] 3 Tr 202.

> Second, Witness Jester provides multiple pages of testimony supporting his theoretical conclusion that UMERC should be able to operate the UP RICE Units after 2040 by simply selling that generation into the MISO market – as if they were merchant generation facilities. Unfortunately, Witness Jester supports this position with hyperbole and overly simplistic explanations as to how the MISO energy market works while providing no modeling or analysis to support whether or how much, in the hypothetical future he envisions, those units would be dispatched by MISO – even to "cover" the transformation and transmission losses he asserts the UP RICE Units could meet.[147]

Mr. Stasik opined that Mr. Jester seems to imply that the Commission should ignore that the RICE units were constructed upon Commission approval, that the cost of the RICE Units is in rate base, and that Act 235 has prospectively changed the regulatory environment and how UMERC must serve its customers.[148]

In his rebuttal testimony, Mr. Jester disagreed with Staff witness Hutchinson's contentions that the Mihm and Kuester RICE facilities are not in compliance with Act 235.[149] He explained that Act 235 establishes portfolio requirements and "there is no sense in which individual plants can be said to be compliant or not compliant" with Act 235.[150] He also noted that in its discovery responses Staff seemed to revise its position and agree that Act 235 does not specifically prohibit traditional natural gas generation and that a utility could offset traditional natural gas generation with an equal amount of generation from a clean energy system and sell excess generation into the MISO market.[151]

In rebuttal, Ms. Hutchinson testified that Staff agrees with Mr. Jester's testimony that Act 235 does not explicitly prohibit generation from RICE facilities, so long as

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[147] 3 Tr 203.
[148] 3 Tr 202-204.
[149] 3 Tr 392.
[150] Id.
[151] 3 Tr 392-393.

UMERC purchases an amount of clean energy equal to or exceeding its retail sales from MISO.[152] However, she maintained that the issue of premature retirement of the RICE units is outside the scope of an REP case and should be addressed in a more appropriate venue.[153]

In briefing, UMERC notes that when enacting Act 235, the Legislature recognized the "unique" role of the RICE units placed in service to facilitate the retirement of coal plants in the UP.[154] UMERC states while it continues to believe the RICE units will have to be retired by 2040, it is not asking the Commission to decide on this issue in this proceeding, and that it modeled their retirement because the CEP standards will also be in effect at that time.[155] UMERC agrees with Staff that decisions about the future of the RICE units should be made in IRP proceedings and notes that it will file numerous IRPs, which will include additional modeling and updated information, as well as amended REPs, prior to 2040.[156] UMERC asks the Commission to disregard AG-CUB's arguments regarding the RICE units because "they are not relevant to determining" whether UMERC's amended REP is "reasonable and prudent" and will not impact UMERC's compliance with the RPS prior to the filing of UMERC's next amended REP.[157]

In briefing, AG-CUB largely repeats Mr. Jester's testimony and argues that UMERC refused to allow its PLEXOS model to economically optimize the retirement dates for the RICE units and instead forced the model to retire them by 2040. Therefore,

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[152] 3 Tr 416.
[153] Id.
[154] UMERC initial brief, p. 2.
[155] Id., p. 9, 22.
[156] Id., p. 22-23.
[157] Id., p. 23.

AG-CUB asserts that UMERC improperly overstated both resources and costs needed for compliance in its REP.[158] AG-CUB urges the Commission not to wait, but instead to reject UMERC's plan now as unreasonable and imprudent, or at a minimum find that UMERC's assumption about the RICE units is not reasonable and reject the plan's projected costs and future procurements of capacity to replace the RICE capacity.[159]

In its brief, Staff recommends that the retirement of the RICE units be considered within an IRP "where different scenarios and sensitivities can be tested" and the conflicting positions of UMERC and AG-CUB can be appropriately considered.[160] Therefore, Staff maintains its position that UMERC has presented a REP that meets the renewable portfolio requirements of PA 235 regardless of whether UMERC's RICE units continue to operate or not.[161]

This PFD agrees with AG-CUB that it is possible for UMERC to operate its RICE units beyond 2040 as merchant plants and still meet the RPS, that is that Act 235 does not per se require their retirement. However, the economic and other implications of such a scenario must be considered in an appropriate proceeding. Further, this PFD finds that to the extent that UMERC must consider its total 2040 generating fleet when planning to meet is 2040 RPS requirement, it is reasonable for UMERC to consider both an operational and a non-operational status for its RICE units. And while UMERC's amended REP is based upon the assumption that UMERC will retire the RICE units prematurely in 2040, UMERC does include alternative modeling that is based on the RICE units being operational in 2040 and beyond.

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[158] AG-CUB initial brief, p. 12-19.
[159] AG-CUB reply brief, p. 9.
[160] Staff initial brief, p. 3.
[161] Id., p. 9-10.

Nonetheless, this PFD agrees with Staff that any specific discussion of whether the RICE units must be prematurely retired to comply with Act 235's clean energy requirements is not ripe for consideration in this case as Act 235 provides that these discussions occur in UMERC's next IRP. It is noted that UMERC stated that its amended REP does not include the cost recovery associated with the retirement of the RICE units, premature or otherwise.[162]

Based on the foregoing, this PFD declines to find that UMERC's assumption of the retirement of the RICE units in 2040 is unreasonable and recommends that any discussion of the RICE units' retirement take place in UMERC's next IRP.

D. Tilden Mine

Mr. Jester testified that UMERC did not properly tailor its amended REP to the expected life of its largest customer, the Tilden Mine. He asserted that mines are expected to eventually exhaust their ore body and cease operations, which may mean that UMERC's renewable energy obligations based on sales to Tilden are temporary.[163] He asserted that prudent strategies to meet temporary needs are likely different than those for long-term needs.[164]

Mr. Jester testified that UMERC proposes to own renewable generation facilities that will be constructed in 2027, 2030, 2034, 2035, and 2040 with expected lives of 35 years or more, yet UMERC does not consider any scenario where the Tilden Mine is not operating and purchasing electricity.[165] Mr. Jester stated that Tilden provided a report to AG-CUB in discovery which estimated that the mine's expected life is 25 years, which

[162] 3 Tr 201, 203.
[163] 3 Tr 375.
[164] Id.
[165] 3 Tr 375-376.

puts its end of operations around 2045.[166] He asserted that it would be imprudent for UMERC to plan to meet renewable energy standards based on its sales to Tilden by owning renewable resources with life expectancies beyond 2045.[167] Therefore he recommended that UMERC not own renewable energy systems or enter into any long-term Power Purchase Agreements (PPAs) that extend beyond 2045 except as needed to meet the renewable energy requirements associated with non-Tilden customers.[168] He outlined the owned assets and/or long-term PPAs that he asserted would prudently satisfy UMERC's non-Tilden REC requirements.[169] These include Renegade solar and a 150 MW wind system.[170]

Mr. Jester then recommended that Tilden-based RPS requirements be met through fixed-term contract REC purchases [171] He stated that, "if UMERC is efficient in its purchases of RECs bundled with energy and capacity and in selling the associated energy and excess ZRCs [zonal resource credits] that it thereby acquires, the net cost of the RECs should be approximately the same as the cost of unbundled RECs."[172] He testified further that Tilden sales many not even be reliable through the end of 2045 and therefore UMERC should enter specifically designed term contracts around 2030 to 2035 and exercise caution when contracting near the end of the mine's life.[173] Mr.

[166] 3 Tr 376; Ex. AGCUB-6 Technical Report Summary on the Tilden Property, Michigan, USA S-K 1300 Report
[167] 3 Tr 376-377.
[168] 3 Tr 377.
[169] 3 Tr 377-379; Ex. AGCUB-7 and Conf. Ex. AGCUB-8.
[170] 3 Tr 378.
[171] 3 Tr 379.
[172] 3 Tr 379-380.
[173] 3 Tr 380.

Jester concluded that it is “eminently achievable” for UMERC to meet the renewable energy standards through the approaches he described.[174]

In rebuttal, Mr. Stasik asserted that Mr. Jester’s testimony on the Tilden Mine is a “red herring” being used to bolster the idea that UMERC is overstating the amount of energy it needs in the amended REP.[175] He maintained that the Tilden report referenced by Mr. Jester indicates that the Tilden Mine can operate cash flow positive through 2046, or beyond the 20-year study period included in UMERC’s modeling.[176] He also asserted that Mr. Jester’s proposal that UMERC only secure enough renewable generation resources to meet its deliveries to non-Tilden customers and meet the requirements for deliveries to Tilden with REC purchases is flawed. He maintained that Act 235 limits REC purchases to a maximum of 5% of a utility’s energy deliveries until 2035, yet, Tilden represents over 60% of UMERC’s retail electric deliveries and is expected to operate well beyond 2035.[177] Based on this, he opined that Mr. Jester’s proposal to purchase RECS proportional to the Tilden Mine load would not comply with Act 235’s current 15% standard, let alone the 50% and 60% standards in 2030 and 2035, respectively.[178]

In briefing, UMERC contends that it properly considered the life of the Tilden Mine and it is undisputed that the mine will operate at least through the end of its amended REP.[179] UMERC asserts that if the mine is slated to retire in the future, then UMERC will address this circumstance in future amended REPs and IRPs, but in the

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[174] 3 Tr 380-381.
[175] 3 Tr 204.
[176] 3 Tr 204-205.
[177] 3 Tr 205.
[178] 3 Tr 206.
[179] UMERC initial brief, p. 23.

short term, the life of the Tilden Mine will not impact UMERC's compliance with the RPS or the proposed renewable energy surcharge during 2026 and 2027.[180]

In briefing, AG-CUB counters UMERC's criticisms of Mr. Jester's testimony and argues that his proposal to purchase RECs to satisfy the RPS associated with Tilden sales is not flawed, as he clearly discussed that the purchased RECs would include the associated energy and capacity such that the limitations in subsection 28(5) of Act 235 do not apply.[181] AG-CUB reasserts that the Commission should find that UMERC's amended REP is unreasonable and imprudent to the extent that it fails to consider the finite life of the Tilden Mine and proposes to acquire renewable energy generation resources in excess of what will be needed after Tilden ceases operations.[182]

This PFD finds that the evidence indicates that the Tilden Mine's expected life is 25 years from 2021, putting its end of operations around the end of 2045.[183] Further, this PFD agrees with AG-CUB that the appropriate end of the Tilden Mine should be considered in UMERC's projections of future demand and its plan to comply with the RPS, and thus that it is unreasonable and imprudent to acquire renewable energy generation resources in excess of what will be needed after Tilden ceases operations.

Renegade Solar

Mr. Lopez testified that UMERC's proposed solar additions include "the already approved 100 MW Renegade Solar farm (Renegade)."[184] Mr. Stasik testified that, "because Renegade Solar will provide renewable energy to UMERC electric customers,

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[180] Id., p. 24.
[181] AG-CUB initial brief, p. 38-39.
[182] Id., p. 39-40.
[183] Ex. AGCUB-6.
[184] 3 Tr 68.

and be owned and operated by UMERC for the benefit of its customers," UMERC's amended REP includes its cost recovery through its proposed renewable energy surcharge (RES).[185]

Mr. Gorman testified that Commission approval of Renegade was based on UMERC's statement that it intended to recover its costs through rate case proceedings and he criticized UMERC's "change of position" to seek cost recovery through the REP.[186] He testified that recovering the cost in a general rate case would ensure that customers are not over charged and explained:

> If this resource cost is included in a general rate case UMERC's full cost of service will be examined and rates will only be changed by an amount that is needed to provide UMERC a reasonable opportunity to recover its cost of service. This examination of UMERC's full cost of service protects both customers and UMERC. Under UMERC's change of position in this case, customers do not receive comparable rate setting protection. In UMERC's changed cost recovery proposal, the increase to its cost of service caused by the Renegade Solar facility will reflect solely in its RES and PSCR charges to customers. However, the increase in customer charges for the full revenue requirement of the Renegade Solar facility may be more than is necessary to adjust rates to fully recover UMERC's total cost of service.[187]

Mr. Gorman elaborated that under a general rate case, the recovery of Renegade's costs would be allocated across rate classes based on a production plant allocator, and cost recovery would be front-loaded as the asset is depreciated over time.[188] He added that if recovered through the REP, the costs of the facility would be levelized over a 20-year planning period with costs recovered through a combination of

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[185] 3 Tr 146.
[186] 3 Tr 320-321.
[187] 3 Tr 323.
[188] 3 Tr 324.

the PSCR transfer price mechanism and the RES.[189] He added that the PSCR mechanism is volumetric, so large energy users will bear a greater portion of the costs of the facility than they would incur under traditional rate-base, rate of return regulation.[190]

Mr. Gorman stated that under general rates, changes in UMERC's cost of service reflect increases in cost for plant additions (such as Renegade) and decreases in cost due to accumulated depreciation on plants in service.[191] He testified that UMERC's production net plant rate base decreased by $5 to $8 million annually over the period 2018 through 2024, and he asserted that the decrease would partially offset the increase in production net plant from adding Renegade.[192] Therefore, he testified, "adding the Renegade Solar resource to UMERC's general rate case cost of service would produce a lower increase in customers' rate base compared to leaving base rates unchanged and recovering the cost of the Renegade Solar resource in the RES."[193]

Mr. Gorman recognized that the opportunity to levelize Renegade's cost recovery could be a significant benefit for ratepayers, and therefore he suggested that recovery through the REP may be acceptable if the total cost of Renegade is recovered via the PSCR mechanism.[194] He explained that "because the Renegade Solar facility was the resource that UMERC's IRP modeling selected absent any consideration of Act 235 renewable energy compliance requirements, then the levelized costs of the Renegade

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[189] 3 Tr 324-325.
[190] 3 Tr 325.
[191] 3 Tr 324-325.
[192] 3 Tr 325.
[193] Id.
[194] 3 Tr 327.

Solar facility should be the transfer price for the Renegade Solar facility."[195] Mr. Gorman emphasized that under this proposal, there would be no incremental costs of compliance for Renegade and its RES would be $0.[196]

In rebuttal, Mr. Stasik disagreed that recovering the costs of Renegade through the REP results in higher costs for customers. He asserted that Mr. Gorman's suggestion that decreases in UMERC's costs due to accumulated depreciation would mitigate Renegade's revenue requirement if recovered in base rates is erroneous.[197] He maintained that Mr. Gorman's analysis only included a subset of costs and did not include UMERC's "total net plant" and that, "in addition to the costs of Renegade, in a retail base rate case UMERC would also seek recovery of the revenue requirement associated with the increased net total plant."[198] Hence, he maintained that base rate recovery of Renegade would likely result in higher customer costs when compared to recovery through the REP.

Mr. Stasik testified further that Act 235 was enacted after UMERC filed its application in Case No. U-21081 where it stated that it intended to recover Renegade costs in base rates.[199] He added that neither the Settlement Agreement in that case nor the Commission's ex parte order approving the Renegade contracts makes any mention of the mechanism to be used for cost recovery.[200] He determined that UMERC's

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[195] Id.
[196] Id,
[197] 3 Tr 191-193.
[198] 3 Tr 192-193.
[199] 3 Tr 193.
[200] 3 Tr 193-194.

proposed RES for recovering the costs of Renegade is equitable for all of UMERC's customers and is supported by Act 235.[201]

Mr. Stasik rejected Mr. Gorman's alternative proposal based on a transfer price for Renegade Solar that is set at its full levelized costs such that there are no incremental costs. He testified that it ignores the modeling UMERC performed in its IRP and would shift costs away from Tilden and push them on the utility bills of other customers.[202] He asserted UMERC correctly used the transfer price that was established in Case U-15800.[203]

In rebuttal, Ms. Hutchinson testified that Staff believes it is reasonable for Renegade to be recovered as part of UMERC's amended REP.[204] She testified that a similar issue was raised in Consumers Energy's most recent rate case, Case No. U-21585, and that four solar projects were removed from base rates and were included in Consumers Energy's amended REP filed in Case No. U-21816.[205]

Ms. Hutchinson added that Staff agrees that recovery up to the 2023 transfer price schedule as filed in Case No. U-15800 for Renegade is appropriate for this case.[206] However, she maintained that Staff believes that cost allocation above that of the transfer price should be determined in a rate case as an REP is not the most appropriate venue for this kind of determination.[207] Staff recommended that Renegade

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[201] 3 Tr 194.
[202] 3 Tr 194-196.
[203] 3 Tr 195.
[204] 3 Tr 416-417.
[205] 3 Tr 417.
[206] Id.
[207] Id.

Solar should be removed from base rates and recovered by the lesser of the levelized project cost or the transfer price.[208]

In its initial brief, UMERC states there is precedent to include Renegade in UMERC's amended REP, reiterating Staff's observation that four solar projects were removed from Consumers Energy's rate base to the Company's REP.[209] UMERC also notes that the costs of Renegade are not currently included in UMCERC's rate base and that the Company has no plans to file a new rate case in 2026, when Renegade will be used and useful.[210] UMERC also argues that its statements made in Case U-21081 are not binding and the Settlement Agreement did not require UMERC to seek recovery of Renegade through base rates.[211] UMERC argues that recovering the costs of Renegade through the REP cost recovery mechanism is consistent with the law and appropriate.[212]

AG-CUB's brief supports Mr. Jester's recommendation in support of including Renegade costs in the REP.[213]

In briefing, Tilden contends that it reasonably relied upon UMERC's statement in Case No. U-21081 and did not oppose Commission approval of Renegade because recovery in base rates would not affect Tilden's cost of service under its special contract.[214] Tilden argues that UMERC will be recovering most Renegade capacity costs from Tilden even though Tilden receives no energy benefit from Renegade per its

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[208] 3 Tr 418.
[209] UMERC initial brief, p. 25-26.
[210] Id., p. 26.
[211] Id., p. 27.
[212] Id., p. 26.
[213] AG-CUB initial brief, p. 46.
[214] Tilden initial brief, p. 12.

special contract.[215] Tilden opines that under UMERC's Scenario 2 cost recovery proposal, Tilden will pay approximately 50% of the capacity costs of Renegade but will receive 0% of the energy benefit, while non-Tilden customers will pay approximately 50% of the capacity costs and receive 100% of the energy benefit.[216] Tilden suggests that this is unfair and a "bait-and-switch" and is not "more equitable" than base rate recovery, as UMERC suggests.[217] Tilden contends that recovery through the REP with the transfer price set at Renegade's levelized costs and the ICC set at "0" would ensure that Tilden does not subsidize the capacity costs of Renegade Solar.[218]

Tilden argues that the comparison to Consumers' four solar resources is without merit since no party opposed moving the four solar projects into the REP and Consumers also expressly reserved the right to seek cost recovery in a future rate case.[219] Tilden asserts that Consumers did not propose a RES as part of its amended REP and unlike the situation here, "there was no shifting of the four solar resource costs onto a ratepayer via application of a RES who would not otherwise have been subject to the four solar resource costs when those costs were recovered in base rates."[220]

Tilden states that when UMERC filed its December 1, 2023 application for approval of Renegade, it stated that RECs from the resource could be used by UMERC for compliance with Michigan's renewable energy standards at no incremental cost.[221] Tilden contends that UMERC's claims that the reason for the change in the ratemaking

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[215] Id., p. 16.
[216] Id., p. 17.
[217] Id., p. 12, 18-19.
[218] Id., 19-20.
[219] Id., p. 13.
[220] Id., p. 13.
[221] Id., p. 14.

treatment of Renegade is because the law changed are unjustified as "[t]he law, however, did not change in a manner that would result in costs that were not incremental costs of compliance with Michigan's renewable energy standards to suddenly become incremental."[222]

Staff's brief reasserts its opinion that it is reasonable for the costs of Renegade to be recovered through UMERC's amended REP, "given recent legislative changes increasing the renewable requirement in addition to the fact that Renegade has not yet been placed in service and therefore recovery under the Company's original proposal had not yet begun."[223]

In reply, UMERC emphasizes that the costs of Renegade have never and are not being recovered in base rates, nor has the Commission approved Renegade for inclusion in UMERC's rate base.[224] UMERC contends that nothing legally binds UMERC to recover the costs of Renegade through base rates, and statements made by its witnesses in prior proceedings are merely snapshots of UMERC's intentions at the time.[225] Furthermore, UMERC adds that Tilden cannot reasonably claim reliance on statements made by witnesses in a case in which Tilden chose not to participate and there is no indication that the Commission or any other party relied on UMERC's statement.[226] As for UMERC's statement in an affidavit in its application for Renegade approval that RECs from the resource could be used by UMERC for compliance with the RPS at no incremental cost, UMERC argues that it takes a single statement out of

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[222] Tilden initial brief, p. 15.
[223] Staff initial brief, p. 8-9.
[224] UMERC reply brief, p. 3.
[225] Id., p. 8.
[226] Id.

context, it is not evidence in this case nor the type of information that the Commission may take judicial notice of, and it does not support Tilden's argument.[227]

UMERC argues that Tilden's argument that Renegade should be recovered in base rates "seems self-serving or at a minimum misplaced because Tilden is a special contract customer and does not pay base rates."[228] UMERC adds that neither Tilden nor any other party has challenged the reasonableness of Renegade's cost.[229] UMERC points out several Staff statements in other cases that promote REP recovery of solar projects previously included in a utility's rate base and suggest that the Legislature's intent is for the costs of all renewable resources to be recovered via the REP.[230]

UMERC argues that recovery of Renegade in the REP will not lead to the subsidization of non-Tilden customers by Tilden as the REP "is not intended to assign costs to individual customers based on the benefits a specific customer receives from a specific resource."[231] The Company asserts that UMERC must acquire 171,907 RECs in 2026 and 172,169 RECs in 2027 simply to meet its RPS obligation with respect to Tilden's load and only 114,604 RECs in 2026 and 114,779 RECs in 2027 to meet its RPS compliance requirements for all the non-Tilden customer load.[232]

UMERC also criticizes Tilden's comparison of the incremental costs of UMERC's amended REP with the current price of RECs, stating that it "fundamentally misconstrues" UMERC's RPS obligation because Act 235, specifically, MCL

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[227] Id., p. 9.
[228] Id.
[229] Id., p. 9-10.
[230] Id., p. 10-11.
[231] Id., p. 12.
[232] Id.

460.1028(5), does not allow UMERC to comply with its RPS compliance obligation by simply purchasing RECs at market price.[233]

As for Tilden's argument that it would be unfair to impose a RES for Renegade upon Tilden because Tilden does not benefit from Renegade, UMERC points to Case No. U-20889 as providing the Commission's determination that it is proper to apply generally applicable surcharges from a utility's ratebook to customers, like Tilden, whose electric rates are calculated based solely upon a single generation resource.[234] UMERC asserts that the Commission applied a securitization surcharge to retire coal-fired electric plants to Hemlock Semiconductor even though Hemlock's rates were determined based solely upon the costs of a single gas-fired electric plant.[235] UMERC notes that in an opinion affirming the Commission's order, the Court of Appeals cited the fact that Hemlock's contract included a provision allowing for the inclusion of other surcharges from the company's tariffs as applicable.[236] UMERC asserts that Tilden's special contract also includes an explicit requirement that Tilden is responsible for paying a renewable energy surcharge.[237]

In its reply, Tilden points out that Renegade costs have ballooned from a "levelized cost of energy" (LCOE) of $72.44/MWh when the Commission authorized its acquisition in UMERC's 2021 IRP to $89.67/MWh in UMERC's application for approval of Renegade contracts. And according to Tilden, UMERC is now seeking $116.94/MWh

[233] Id., p. 12-13.
[234] Id., p. 13.
[235] Id., p. 13-14.
[236] Id., p.14
[237] Id.

on an LCOE basis.[238] Tilden asserts that UMERC has not demonstrated that Renegade's current costs are reasonable or prudent nor has it received Commission approval for the costs.[239]

Tilden adds that accelerating the in-service date of Renegade harms UMERC's ratepayers because it decreases the amount of less expensive unbundled RECs UMERC will purchase and increases costs by $22.3 million for 2026 and by $3.3 million for 2027.[240] Tilden argues that UMERC could have mitigated the cost increases by requesting an extension of its RPS deadline for good cause.[241]

Tilden asserts that in a February 27, 2025 filing UMERC was quite certain that Renegade would be placed in-service in December 2026 and just three months later, in its May 30, 2025 supplemental filing, UMERC accelerated the forecasted in-service date to February 1, 2026, "due to favorable conditions.[242] Tilden maintains that UMERC provides no support or evidence for the "favorable conditions" and asserts that the change in the in-service date seems to have more to do with Act 235's restriction on the use of unbundled RECs to just 5%.[243] Tilden argues that under the "used and useful doctrine" until Renegade is actually in-service, its costs should not be recovered from ratepayers, whether via base rates or through the PSCR mechanism.[244] Tilden

[238] Tilden reply brief, p. 3.
[239] Id., p.3-4.
[240] Id., p.4.
[241] Id., p.4-5.
[242] Id., p. 11.
[243] Id.
[244] Id., p. 10-12.

recommends that the Commission advise UMERC that it may seek recovery of its Renegade costs in a future general rate proceeding after the facility is in-service.[245]

Staff's reply argues against Tilden's proposal to set the transfer price of Renegade at its LCOE. Staff states that the LCOE has historically only been applied as a transfer price if it is lower than Staff's transfer price and UMERC provided evidence in Case No. U-21081 and in this case showing the LCOE for Renegade is greater than the Staff's transfer price.[246] Therefore asserts Staff, the transfer price of Renegade should remain at the level set by Staff in Case No. U-15800 with any additional cost being recovered via UMERC's proposed incremental cost of compliance recovery mechanism.[247] Staff notes that it held a symposium, as ordered by the Commission in Case No. U-21662, which included discussions on changes to the transfer price and that Staff's recommendation, as well as the consensus among other intervening parties, is that it would not be prudent to adopt any changes to the transfer price methodology at this time.[248]

Staff agrees with UMERC that Tilden should incur the incremental costs of compliance associated with Renegade.[249] Staff points out that the vast majority of UMERC's other customers are residential customers, who have substantially lower energy usage and should Tilden be exempt from recovery of Renegade, less than 40% of UMERC's portfolio would be responsible for 100% of Act 235 compliance costs, severely impacting affordability and unduly shifting compliance costs from Tilden to

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[245] Id., p. 13.
[246] Staff reply brief, p. 1.
[247] Id., p. 1-2.
[248] Id., p. 2.
[249] Id., p. 3.

these other customers.[250] Further adds Staff, Tilden's Special contract clearly states that it will pay "the Renewable Energy Charge" and "there is no provision of PA 235 that exempts UMERC from meeting compliance for the load created by Tilden nor is there any provision in PA 235 that exempts Tilden from paying those compliance costs associated with their load."[251]

This PFD finds that UMERC is using Renegade to comply with Act 235's RPS and therefore agrees with Staff that it is reasonable for UMERC to recover Renegade's costs through the REP. Additionally, this PFD notes, as pointed out by Staff, that the Commission recently approved Consumers Energy's shifting of solar costs from base rates to the REP. This PFD also finds that Tilden's special contract explicitly states that it will pay for the costs of renewable energy needed for compliance with UMERC's RPS and that Tilden's load accounts for 60% of the company's compliance requirements. This PFD finds that the transfer price for Renegade should be the transfer price set by the Commission in Case No. U-15800.[252] Consequently, the PFD recommends that the Commission allow UMERC to seek recovery of Renegade using the transfer price set in Case No. U-15800 with incremental costs recovered though the RES.

This PFD is compelled to note that two parties made unsupported arguments regarding the Renegade costs and thus were rejected from consideration. First, Tilden argued that Renegade costs have ballooned from a "levelized cost of energy" (LCOE) of $72.44/MWh when the Commission authorized its acquisition in UMERC's 2021 IRP to $89.67/MWh in UMERC's application for approval of Renegade contracts to now

[250] Id.
[251] Staff reply brief, p. 3-4.
[252] 3 Tr 295 ("Transfer prices are provided by the [Commission] and updated annually in Case No. U-15800.")

seeking $116.94/MWh on an LCOE basis.[253] However, the $116.94/MWh LCOE figure was not included as record evidence in this case, having been included in certain working papers produced in this case but which working papers were not admitted as an exhibit in this case. Thus, the $116.94/MWh LCOE figure shall not be considered as record evidence, which in turn negates the comparison value of the other referenced LCOE figures.[254]

Second, Staff states that it disagrees with Tilden's argument that the transfer price of the project should be set at its levelized cost of energy ("LCOE"), arguing that "the LCOE has historically only been applied as a transfer price if it is lower than the applicable transfer price, which in this case is the transfer price set by Staff", and that "as shown in the Company's workpapers, and Case No. U-21081, the LCOE for Renegade Solar is greater than the Staff transfer price, rendering Renegade's LCOE ineligible for use as a transfer price."[255] Both of Staff's assertions are unsupported. Staff does not cite any Commission order(s) or other authority which show or suggest that LCOE has historically only been applied as a transfer price if it is lower than the applicable transfer price. Similarly, Staff does not cite to any specific work papers or any specific evidence in Case No. U-21081, nor assert, let alone show, that such work papers or evidence from a prior case are record evidence in this case. Thus, Staff's argument in this regard shall not be considered.

[253] Tilden reply brief, p. 3.
[254] See, Ruling on Motion to Strike Portions of Tilden Mining's Reply Brief, October 27, 2025.
[255] Staff reply brief, p. 1, citing 01-AG-CUB-O1 JMB; 4/11/24 Order, MPSC Case No. U-21081.

E. Cost Recovery Mechanism

In his supplemental direct testimony, Mr. Beyer provided two scenarios under which UMERC proposed to recover Act 235 compliance costs. Under Scenario 1, which Mr. Beyers described in his direct testimony, the total annual revenue requirement for compliance was allocated to customer classes based on forecasted MWh sales and a per meter per day surcharge for each customer was calculated.[256] Mr. Beyer described Scenario 2, the Transfer Price Methodology with Revenue Requirement Allocation on a Production Plant Basis, as follows:

> In this scenario the Company used the transfer price mechanism to collect a portion of UMERC's AREP revenue requirement as a power supply cost through the PSCR mechanism. The incremental cost of compliance in this scenario was allocated to customer classes based on the allocation of production plant costs from UMERC's class cost of service study used in its last general rate case in U-21541, and recovered through the proposed Renewable Energy Surcharge based on customer counts within each customer class to determine a daily, per-customer surcharge.[257]

Both scenarios contained updates from Mr. Stasik's direct supplemental testimony, including a change in Renegade Solar's in-service date to February 1, 2026.[258] For each scenario, Mr. Beyer presented UMERC's calculation of its proposed renewable energy surcharge (RES) for 2026 through 2045, as well as a summary of the forecasted revenues used to derive the monthly customer impacts.[259]

Mr. Lopez discussed the differences between the two proposed scenarios in terms of the RES. He testified that in Scenario 1, the full revenue requirement resulting from UMERC's compliance with the renewable energy standards is allocated to all

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[256] 3 Tr 282-283, 288.
[257] 3 Tr 288.
[258] Id.
[259] 3 Tr 288; Ex. A-9 Rev. and Ex. A-10 Rev.

customer classes based on each class's percentage share of total MWh sales and collected via the RES.[260] Under Scenario 2, the revenue requirement is recovered via the PSCR mechanism (allocated to all classes with the exception of the Tilden RICE special contract class) and the incremental costs of compliance (ICC) are recovered through the RES (allocated to each customer class based on the production plant from class cost of service).[261] According to Mr. Beyer, the total revenue requirement to implement UMERC's amended REP for 2026 is $23,419,859.[262]

Mr. Jester opined that both of UMERC's proposed cost recovery scenarios are inconsistent with law and unreasonable. He testified that both scenarios provide for fixed daily charges, and therefore are contrary to Section 45(2) of Act 235, which specifies that the "incremental cost of compliance shall be recovered through a revenue recovery mechanism that is designed consistent with the production allocation approved in the provider's most recent general rate case…."[263] He noted that UMERC's most recent general rate case does not provide for recovery of production costs through fixed charges and since Act 235's compliance costs are "clearly energy-related," the Commission "should not condone use of fixed charges per customer for recovery of these costs."[264]

Mr. Jester recommended that the Commission require that for company-owned resources, the levelized recovery of required revenue is used rather than the annual

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[260] 3 Tr 292-293.
[261] 3 Tr 293.
[262] Id.
[263] 3 Tr 385.
[264] 3 Tr 385-386.

revenue requirements that UMERC proposes.[265] He calculated UMERC's annual levelized cost based on his recommended resource additions, which consist of the Renegade solar project ($17,560,090) and a future 150 MW Wind Project ($22,460,370).[266] He recommended that the Commission require UMERC to recover the costs of UMERC-owned resources, up to the transfer price, through the PSCR and that any incremental cost of compliance be allocated to classes consistent with production allocations in UMERC's rate cases and recovered through volumetric rates, not monthly fixed charges.[267]

Mr. Gorman agreed with Mr. Jester that neither of UMERC's cost recovery scenarios are reasonable, since among other things, they are not based on levelized costs. He asserted that Scenario 1 should be rejected because the RES is not based on the incremental amended REP revenue requirement, is not limited to the cost of resources needed to comply with the renewable energy standards, and is not allocated across rate classes based on a production plant allocator.[268] He opined that the cost recovery in Scenario 2 more closely aligns with the requirements of Act 235 as it uses transfer prices and the RES charges are based on incremental revenue requirements allocated using a production plant allocator.[269] Mr. Gorman proposed an incremental revenue requirement and class RES based on Scenario 2 with changes that he said would make it compliant with Act 235. His recommended changes included: 1) REC

[265] 3 Tr 386.
[266] Id.
[267] Id.
[268] 3 Tr 321.
[269] 3 Tr 310, 322.

purchases prices at $2/REC;[270] 2) removal of Renegade solar costs or recovering them via the PSCR mechanism with the RES set at $0;[271] 3) removal of BESS;[272] and 4) removal of costs for resources needed to comply with Act 235's clean energy standards.[273]

Ms. Hutchinson testified that Staff supports Scenario 1 and believes that Scenario 2 represents a subsidy to Tilden [274] She testified that Scenario 2 was rejected because the share of the revenue requirement that would have been paid by the Tilden Special Contract associated with UMERC's RICE units would be allocated across remaining customer classes and that this subsidizes the cost share of the Special Contract at the expense of other customer classes, with the residential class impacted the most.[275]

In rebuttal, Mr. Beyer commented on Mr. Gorman's and Mr. Jester's claims that the annual revenue requirement is not reasonable unless it is calculated on a levelized basis. He pointed out that MCL 460.1045(3) does not use the word, "shall" but rather provides that incremental compliance costs "may" be recovered on a levelized basis.[276] He testified that UMERC proposes to collect the costs associated with renewable energy on a non-levelized basis for a number of reasons: 1) costs are recovered as they occur each year, matching Generally Accepted Accounting Principles (GAAP) pertaining to expense and revenue recognition; 2) doing so aligns with the Commission's

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[270] 3 Tr 322.
[271] 3 Tr 322-327.
[272] 3 Tr 328.
[273] Id.
[274] 3 Tr 410.
[275] Id.
[276] Id.

previously-authorized methods for recovering UMERC's renewable energy surcharges; and 3) RECs must be retired annually and actual revenues collected will be compared with actual incremental costs in the reconciliation proceeding.[277]

Mr. Beyer countered Mr. Jester's recommendation that the ICC be collected through volumetric rates and not monthly fixed charges by arguing that Act 235 does not mandate which type of charge (fixed, volumetric or another method) should be used to collect the associated costs.[278] He testified that UMERC believes that a fixed per meter per day charge is reasonable as shown by the fact that UMERC and other Michigan utilities currently have Commission-approved tariffs that contain per meter per day (fixed) RES.[279]

In his rebuttal testimony, Mr. Stasik disagreed with Ms. Hutchinson's characterization of Scenario 2 as a subsidy to Tilden. He stated that UMERC's proposed scenario "merely identifies the revenue requirement of Renegade that would be recovered through the PSCR and its proposed RES as calculated consistent with the requirements under Michigan law."[280]

Mr. Stasik responded to Mr. Gorman by noting that the Special Contract between UMERC and Tilden addresses renewable energy surcharges and clearly states that Tilden will be responsible for paying a Renewable Energy Charge that is the maximum allowed by the law.[281] He observed that prior to the passage of PA 235 that amount was

[277] 3 Tr 298-299.
[278] 3 Tr 299.
[279] Id.
[280] 3 Tr 188.
[281] 3 Tr 191.

$187.50 per meter per month, but under Act 235 it is far larger.[282] Mr. Stasik opined that, "[w]itness Gorman seems to be doing all he can to achieve lower costs for his client, regardless of the bill impacts his proposals would have on UMERC's 37,500 electric customers."[283]

Mr. Jester rebutted Ms. Hutchinson's recommendation that UMERC's Scenario 1 should be used because Scenario 2 results in a subsidy to Tilden. He testified that her testimony "is rooted in an incomplete accounting of the effects of the transfer price on PSCR."[284] He stated:

> It is true that under the Special Contract, Tilden Mine does not pay PSCR, and therefore that all of the transfer price from the Renewable Energy Plan will be borne by other customers. However, it is also the case that all electricity production from Renewable Energy Plan resources will be sold to MISO, reducing the net interchange power that is included in UMERC's PSCR. The quantity of electricity that will be charged to PSCR at the transfer price is equal to the quantity of electricity that is sold to MISO from Renewable Energy Plan resources and credited to PSCR. It is further the case that UMERC can and should sell additional Zonal Resource Credits ("ZRCs") from its RICE plants equal to the ZRCs provided by Renewable Energy Plan resources. Revenue from ZRC sales should be credited to PSCR. Thus, there is a net increase in PSCR due to the Renewable Energy Plan only if the transfer price exceeds the combined market price of electricity and market price of capacity per unit production from Renewable Energy Plan resources. Under cost recovery Option 2, there is only a subsidy to the Tilden Mine due to Renewable Energy Plan cost recovery through the PSCR if the transfer price exceeds the combined market price of electricity and market price of capacity per unit production from Renewable Energy Plan resources. In fact, because sales of energy and capacity from Renewable Energy Plan resources will be credited to PSCR, failure to apply the PSCR mechanism for cost recovery in the UMERC Renewable Energy Plan would result in a subsidy of other customers by Tilden Mine.[285]

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[282] Id.
[283] Id.
[284] 3 Tr 394.
[285] 3 Tr 394-395.

He maintained that the proper resolution of Staff's concern about subsidies between Tilden and other customers is to ensure that the transfer price closely matches the market value of energy and capacity from REP resources and since the transfer price is determined in the REP, this concern should be addressed in those future cases.[286] He illustrated how his proposal would work and noted that it would result in no net PSCR cost difference to non-Tilden customers, despite the Special Contract.[287]

Mr. Jester also argued that Act 235 amended PA 295 of 2008's instruction on the recovery of compliance costs and now includes "the instruction that the 'incremental cost of compliance shall be recovered through a revenue recovery mechanism that is designed consistent with the production allocation approved in the provider's most recent general rate case.'"[288] He determined that production costs are not recovered through fixed charges and therefore since both of UMERC's scenarios use fixed charges, neither are viable.[289] He asserted that the proper approach to cost recovery is to apply the transfer price method to recover the PSCR costs that are avoided as a result of the REP and to recover the ICC through a volumetric charge to each rate class, including Tilden.[290]

In rebuttal, Mr. Gorman testified that Staff's preference to use Scenario 1 sets aside the clear guidance in Act 235 for how a RES should be developed, and Staff's concerns that Scenario 2 results in a subsidy to Tilden fails to acknowledge that the

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[286] 3 Tr 395.
[287] 3 Tr 395-396; Ex. AGCUB-12.
[288] 3 Tr 396-397; MCL 460.1045(2).
[289] 3 TR 397.
[290] Id.

structure of the special contract pricing and the tariff base rate pricing provides an equitable allocation of UMERC's cost of service across all customers.[291]

Mr. Gorman asserted that Staff's arguments do not consider the costs and benefits of renewable resources and fail to recognize that Tilden will not receive any of the operating benefits produced by the renewable resources, such as fuel savings.[292] He states that UMERC's PSCR filing in case U-21600 indicates that in 2025 and 2026 before Renegade is placed in-service, energy costs for all of UMERC's customers are projected to be the same, while after Renegade is placed in-service in 2027, non-contract customers fuel costs decline by over $4.2/MWh, while fuel costs for contract customers stay relatively flat.[293] Mr. Gorman contended that all of the fuel savings benefits are allocated to non-contract customers in reduced PSCR charges.[294]

In rebuttal, Ms. Hutchinson testified that Staff now agrees with Mr. Jester's and Mr. Gorman's assertions that Scenario 1 is inconsistent with Act 235. She stated that:

> Upon further investigation, Staff agrees with both witnesses that Scenario 1 does not comply with Act 235 as it is written as it 1) is not based off of an incremental cost of compliance, 2) does not propose to be consistent with the Company's most recent general rate case.[295]

Ms. Hutchinson asserted that as for Scenario 2:

> Staff agrees that recovery up to the 2023 and 2025 transfer price schedule as filed in Case No. U-15800 for Renegade Solar and planned projects, respectively, is appropriate for recovery of renewable resources in this case. However, Staff believes that cost allocation above that of the transfer price should be determined in a rate case as an REP is not the most appropriate venue for this kind of determination.[296]

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[291] 3 Tr 342-343.
[292] 3 Tr 343.
[293] 3 Tr 344-345.
[294] 3 Tr 345-346.
[295] 3 Tr 414.
[296] 3 Tr 418.

In its brief, UMERC proposes adoption of its Scenario 2 cost recovery mechanism, with the ICC recovered through an RES that is a fixed, daily, per-meter charge that it will calculate for each customer class.[297] UMERC reiterates its witnesses' testimony that in 2026 and 2027, it is seeking to recover the costs of Renegade and REC purchases necessary to comply with the RPS. To calculate the ICC for 2026 and 2027, UMERC states that it subtracted the costs it will recover through the PSCR transfer price, which was calculated by multiplying the transfer price by the projected MWh of renewable energy generated by Renegade in 2026 and 2027 and then adding the projected cost of REC purchases.[298]

UMERC contends that its proposed RES for 2026 and 2027 complies with Act 235 and the Commission should disregard arguments stating otherwise. UMERC contends that it followed the directives of subsection 47(2) when calculating the incremental cost of compliance, used a 20-year period as required by subsection 45(3), and allocated the recovery of the ICC to each rate class using the production allocation established in its last general rate case as required by subsection 45(2).[299] Further, states UMERC, the Commission has approved the use of a fixed per-meter, per-day RES in the past.[300]

UMERC emphasizes that its proposed, long-term revenue requirement and the incremental cost of compliance only diverge from those prepared by the intervenors

[297] UMERC initial brief, p. 3, 7.
[298] Id., 31.
[299] Id., p. 30-34.
[300] Id., p. 34.

beginning in 2030 and "there is ample opportunity to revisit, update and refine these costs" in future REP and IRP proceedings, and UMERC commits to doing so.[301]

In its brief, AG-CUB argues that UMERC's proposed RES is excessive, stating that, "[f]or residential customers, the surcharges start at 19 cents per day in 2026 ($5.76 per month or $70 per year), jump to almost $2 per day in 2030 ($60 per month or $722 per year), and continue escalating from there."[302] AG-CUB also argues that the proposed RES is unprecedented stating that, "based on a reasonably diligent search, it appears the largest REP surcharges the Commission has approved in the history of the program were in Detroit Edison's 2009 REP – at $3 per month for residential customers, up to $16.58 per month for commercial secondary customers, and up to $187.50 per month for primary and industrial customers."[303]

AG-CUB contends that UMERC's RES is based on a series of "unreasonable decisions" in the preparation of its amended REP.[304] Those decisions are the assumption that it must retire the RICE plants,[305] the inclusion of BESS costs,[306] the use of a fixed RES,[307] and the use of non-levelized costs.[308] AG-CUB reiterates Mr. Jester's solution to make sure that there is no subsidy to Tilden is "to ensure that the transfer price closely matches the market value of energy and capacity" from the renewable resources.[309]

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[301] Id., p. 31-32.
[302] AG-CUB initial brief, p. 10.
[303] Id., p. 11.
[304] Id., p. 11-12.
[305] Id., p. 12-19.
[306] Id., p. 19-21.
[307] Id., p. 25-27
[308] Id., p. 27-29.
[309] Id., p. 29-30.

In briefing, Tilden maintains that its proposals comply with the law and result in lower RESs for all UMERC ratepayers as compared to the RESs proposed by UMERC and opines that even under its own proposals:

> Tilden will be paying more for incremental renewable energy costs than any other Michigan ratepayer, by far. Tilden proposes to pay $8,000 per month in 2026 and $7,200 per month in 2027 via the RES for incremental costs of compliance with the Act 235 renewable energy standards. Most Michigan ratepayers, however, are not subject to a RES at all.[310]

Tilden recommends that if the Commission approves UMERC's amended REP it should not approve any surcharges beyond 2027 and should make several conditions clear: 1) it is not approving any new resources as part of this proceeding; 2) it is not approving any surcharges beyond 2027; and 3) it is directing UMERC to comply with its competitive bidding guidelines when procuring all new resources.[311]

In reply, UMERC states that a cursory review of UMERC's most recently approved tariff sheets reflects recovery of costs pursuant to fixed charges and distribution charges, and therefore, the assertion that the RES cannot be a fixed daily charge is "without merit."[312] UMERC argues that it is questionable whether cost causation for compliance with the RPS is energy related, "given the fact that the sun and wind are free, and cost recovery is related to fixed capital cost investments."[313] UMERC emphasizes that Scenario 2 provides for the allocation of a portion of the compliance costs via the PSCR which is on an energy-volumetric basis consistent with MCL 460.1047 and there is nothing in the statute which prevents UMERC from

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[310] Tilden initial brief, p. 26.
[311] Id., p. 28.
[312] Tilden reply brief, p. 5.
[313] Id.

recovering the remaining incremental costs pursuant to fixed daily surcharges, as it has been authorized to do in the past.[314]

In its reply, AG-CUB contends that while the statute may not specifically require levelizing, it does require that projected costs are reasonable and prudent and since levelizing would mitigate costs, unlevelized cost recovery is unreasonable.[315] As for UMERC's proposed fixed daily RES, AG-CUB argues that the statute requires that the RES is designed consistent with the production allocation in the last rate case, not just allocated consistent with it.[316] In reply to UMERC's argument that the Commission has approved its fixed daily surcharges in the past, AG-CUB states that prior versions of the statute did not require a provider to design its revenue recovery mechanism consistent with the production allocation from its rate case and UMERC's surcharges in this case are unprecedent, such that "past cases are inapposite."[317]

This PFD notes the statutory provisions for cost recovery as provided in Section 45 of Act 235. For UMERC, "the commission shall determine a revenue recovery mechanism, subject to section 47, for the electric provider's tariffs that permit recovery of the incremental cost of compliance to implement the amended renewable energy plan."[318] The incremental cost of compliance must be recovered through a "revenue recovery mechanism that is designed consistent with the production allocation approved in the provider's most recent general rate case" and an electric provider may recover all

[314] Id.
[315] AG-CUB reply brief, p. 7.
[316] Id.
[317] AG-CUB reply brief, p. 8.
[318] MCL 460.1045(1).

or a portion of the incremental cost of compliance in base rates.[319] Finally, subsection 45(3) states that the incremental cost of compliance "shall be calculated for a 20-year period" beginning with approval of the amended REP and "may be recovered on a levelized basis."[320]

This PFD finds that UMERC's proposed Scenario 2, as described by witness Beyer below, satisfies the directives in Section 45:

> In this scenario the Company used the transfer price mechanism to collect a portion of UMERC's AREP revenue requirement as a power supply cost through the PSCR mechanism. The incremental cost of compliance in this scenario was allocated to customer classes based on the allocation of production plant costs from UMERC's class cost of service study used in its last general rate case in U-21541, and recovered through the proposed Renewable Energy Surcharge based on customer counts within each customer class to determine a daily, per-customer surcharge.[321]

This PFD disagrees with AG-CUB and Tilden that the incremental costs must be recovered on a levelized basis, and notes that the statute does not preclude fixed charges nor require that the incremental costs be recovered through volumetric rates, as AG-CUB posits.[322]

This PFD agrees with Staff and recommends that UMERC's Scenario 2 be adopted with recovery up to the 2023 transfer price as filed in Case No. U-15800 for Renegade and up to the 2025 transfer price schedule for planned projects allocated to meet Act 235's renewable energy standards. Further, this PFD agrees with Staff and recommends that any incremental compliance cost recovery should be recovered via a RES.

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[319] MCL 460.1045(2).
[320] MCL 460.1045(3).
[321] 3 Tr 288.
[322] Id.

IV.

CONCLUSION

This PFD recommends that the Commission issue an order consistent with the findings of fact and conclusions of law outlined above.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Jonathan F. Thoits

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Jonathan F. Thoits
Administrative Law Judge

Issued and Served:
October 27, 2025

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

STATE OF MICHIGAN)
) SS.
County of Ingham)
_____)

Case No. U-21813

PROOF OF SERVICE

Meaghan Dobie being duly sworn, deposes and says that on October 27, 2025, she served a copy of the attached Notice of Proposal for Decision and Proposal for Decision via email and/or first-class mail, to the persons as shown on the attached service list.

Meaghan Dobie

Subscribed and sworn to before me this
27th day of October 2025.

Brianna L. Brown
Notary Public, Gratiot County, Michigan
My Commission Expires July 4, 2028

Case No. U-21813
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