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November 6, 2025

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, MI 48909

Re: MPSC Case No. U-21813

Dear Ms. Felice:

Enclosed herewith for filing in the above-referenced matter, please find the Exceptions of Tilden Mining Company L.C., and its proof of service.

Very truly yours,



Jennifer Utter Heston

Enclosures

Cc: All Parties of Record

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application 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

**EXCEPTIONS OF
TILDEN MINING COMPANY L.C.**

Dated: November 6, 2025

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NOW COMES Tilden Mining Company L.C. (“Tilden”), by and through its attorneys, Potomac Law Group, PLLC, and pursuant to the schedule established by Administrative Law Judge Jonathan F. Thoits (“ALJ”), hereby respectfully submits these Exceptions to the ALJ’s Proposal for Decision (“PFD”) issued on October 27, 2025, on Upper Michigan Energy Resources Corporation’s (“UMERC’s”) application for approval of an amended renewable energy plan (“AREP”).

I. INTRODUCTION.

Tilden owns and operates an iron mine near Ishpeming, Michigan. Tilden is a very large consumer of electric energy and is UMERC’s largest customer. Tilden is presently receiving bundled retail electric service from UMERC under a special contract approved in an order dated October 25, 2017, in MPSC Case No. U-18224.

On February 27, 2025, UMERC filed an application, testimony and exhibits seeking approval of its proposed so-called “amended renewable energy plan” and associated renewable energy surcharges (“RESs”). As part of its original filing, UMERC requested approval of \$3.3 billion in new renewable, clean and battery storage resource costs over the next 20 years.¹

This proceeding is UMERC’s first renewable energy plan filing after Michigan’s Public Act 235 of 2023 (“Act 235”) took effect on February 27, 2024. Act 235 amends Michigan’s renewable energy credit standards, among other things. In relevant part, Act 235 establishes: 1) expanded renewable energy standards; 2) a new clean energy standard; and 3) a new statewide energy storage target. Compliance with the expanded renewable energy standards is just one aspect of Act 235 and is the purpose of this proceeding.

¹ 3 Tr. 152.

When UMEREC filed its application in this proceeding, it filed an AREP that, in many respects, does not comply with Act 235. UMEREC's so-called AREP sets forth UMEREC's plans for compliance with Act 235's expanded renewable energy standards, the new clean energy standard, as well as the new statewide energy storage target. UMEREC's AREP details UMEREC's plans for compliance with the clean energy standard as well as the statewide energy storage target despite clear directives in Act 235 that those plans should be addressed in other proceedings.

Not only did UMEREC unlawfully include clean energy resources and battery storage resources in its AREP, UMEREC also inappropriately included the total cost of its Renegade Solar resource for recovery in its AREP. At the time that it sought and obtained approval of the resource, UMEREC stated that it intended to recover the costs of its proposed Renegade Solar resource in base rates. UMEREC also stated at the time that an added benefit of the facility is that there would be no incremental cost to provide renewable energy credits ("RECs") for compliance with Michigan's renewable energy standards. Despite these statements, UMEREC now seeks to recover the total cost of the facility through the renewable energy cost recovery mechanism, and, at the outset of this proceeding, UMEREC depicted 100% of the cost of Renegade Solar as an incremental cost of compliance with Act 235. If approved, the result would be a substantial cost-shift onto Tilden.

Further, UMEREC filed a proposed AREP cost recovery methodology that is also patently unlawful. In its application, UMEREC proposed a RES that seeks to recover the total costs of all the renewable energy resources, clean energy resources and energy storage resources included in its AREP. Not only are clean energy resources and energy storage resources not recoverable in a renewable energy cost recovery mechanism, UMEREC made no attempt to distinguish costs between those costs to be recovered in existing rate mechanisms and those costs that are

incremental costs recoverable in a RES. Further, UMEREC made no attempt to recover the incremental cost of compliance with Act 235 in a manner consistent with the production cost allocation approved in UMEREC's last general rate case, as mandated by Act 235.² UMEREC's initial cost recovery proposal is referred to in this proceeding as its "Scenario 1" cost recovery methodology. UMEREC's Scenario 1 cost recovery proposal is unlawful and cannot be approved.

Through the discovery process, it was made abundantly clear that UMEREC's Scenario 1 cost recovery proposal does not comply with the express terms of Act 235. On May 30, 2025, UMEREC filed supplemental testimony and revised exhibits that reflect a different cost recovery proposal, which is referred to as "Scenario 2". UMEREC's Scenario 2 cost recovery proposal still unlawfully includes the costs associated with its clean energy and energy storage resources, and continues to include costs associated with Renegade Solar. In Scenario 2, however, UMEREC utilizes transfer prices to distinguish between costs to be recovered in UMEREC's PSCR mechanism and the alleged incremental costs to be recovered in a RES. UMEREC's Scenario 2 cost recovery proposal also allocates the incremental cost of compliance using the production plant cost allocator from UMEREC's most recent general, electric rate case.

Under UMEREC's supplemental testimony and exhibit filing, UMEREC now seeks approval of approximately \$4.332 billion for new wind, solar, and battery storage resources over the next 20 years.³ In other words, UMEREC's supplemental filing added \$1 billion in additional costs to UMEREC's AREP.

The MPSC Staff and intervenors the Department of the Attorney General and Citizens Utility Board of Michigan (jointly as "AG/CUB") and Tilden each filed testimony in this

² "An electric provider's 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 under section 6a of 1939 PA 3, MCL 460.6a." MCL 460.1045(2).

³ UMEREC's Initial Brief, p. 15, citing Revised Exhibit A-11.

proceeding. The MPSC Staff and intervenors all express considerable concerns with UMERC's AREP stating that UMERC did not demonstrate that its AREP was lawful, prudent or economic.

In his PFD, the ALJ recognized numerous flaws and statutory violations with UMERC's proposals in this case. The ALJ correctly determined and recommended, the following:

- UMERC's AREP is unreasonable and imprudent to the extent that it contains renewable energy resources and costs that are not used to meet the RPS requirements;⁴
- All resource additions post-2027 should be rejected;⁵
- UMERC should be directed to reduce costs where possible and select projects regardless of utility or third-party ownership;⁶
- UMERC should use competitive bidding using the Commission's competitive bidding guidelines to select projects;⁷
- Battery energy storage systems ("BESS") are not renewable resources under Act 235;⁸
- Costs of BESS must be recovered in base rates;⁹ and
- The inclusion of BESS in this REP is unreasonable and imprudent and that all BESS and all BESS costs should be removed from this AREP.¹⁰

In these respects, Tilden supports the ALJ's determinations and recommendations.

⁴ PFD, p. 21.

⁵ *Id.*

⁶ *Id.*, p. 23.

⁷ *Id.*

⁸ *Id.*, pp. 26-27.

⁹ *Id.*, p. 27.

¹⁰ *Id.*, p. 27.

Despite recognizing that UMEREC's AREP is deeply flawed and unlawful, the ALJ erred in failing to recommend that the Commission reject UMEREC's proposed AREP. Instead, the ALJ recommended that the Commission approve UMEREC's proposed AREP for 2026 and 2027.¹¹ The ALJ's recommendations, if approved, will result in a shocking and unprecedented level of renewable energy surcharges.

In short, for the reasons stated Tilden's briefs and further below, UMEREC's proposed AREP is patently unlawful, unreasonable and imprudent. Consequently, it cannot be approved. Tilden recommends that the Commission reject UMEREC's AREP.¹²

II. THE ALJ ERRED WHEN RECOMMENDING THAT THE COMMISSION APPROVE UMEREC'S PROPOSED AREP FOR 2026 AND 2027. UMEREC'S AREP IS UNREASONABLE AND IMPRUDENT AND CANNOT BE APPROVED.

Michigan law requires electric providers to file "an amended renewable energy plan that includes a forecast of the renewable energy resources needed to comply with the renewable energy credit standard."¹³ The current renewable energy standard requires 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.¹⁴ To approve the plan, the Commission must find that: 1) the plan is reasonable and prudent, and 2) the plan is consistent with the purpose of the law and meets the renewable energy credit standard.¹⁵ The Commission may approve projected costs in a plan, in

¹¹ *Id.*, p. 21.

¹² UMEREC is required to file an integrated resource plan ("IRP") in 2026. See, Order dated October 9, 2025, MPSC Case No. U-21265. Tilden recommends that the Commission direct UMEREC to file its next AREP on a consolidated basis with UMEREC's 2026 IRP proceeding.

¹³ MCL 460.1022(3).

¹⁴ Prior to Act 235, Michigan's renewable energy standards required a renewable energy credit portfolio of at least 15% in 2021 and beyond. See, Section 28(1) of Public Act 342 of 2016.

¹⁵ MCL 460.1022(5).

whole or in part, if it finds those costs to be reasonable and prudent.¹⁶ Importantly, the approval of costs is a separate statutory requirement from the required approval of the plan.¹⁷

UMERC's plan is fundamentally flawed in numerous respects. UMEREC acknowledges the fundamental flaws with its AREP, but is asking the Commission to approve it anyway.¹⁸ The ALJ likewise found UMEREC's AREP to be unreasonable and imprudent because it contains resources and costs that are not used to meet the renewable energy credit standard.¹⁹ In short, UMEREC's plan is not a reasonable and prudent plan for meeting the renewable energy credit standard.

Further, if UMEREC's AREP is reduced to just 2026 and 2027, then the AREP does not demonstrate compliance with the renewable energy credit standard. While the statute authorizes the Commission to approve part of the costs, it cannot approve only part of the plan. To be approved, the plan must be reasonable and prudent, and it must meet the renewable energy credit standard.²⁰

UMERC's proposed AREP meets neither statutory requirement. It is not a reasonable and prudent plan, nor does it demonstrate compliance with the renewable energy credit standard. Reducing the plan to just 2026 and 2027 does not cure these defects. In fact, reducing the plan to just 2026 and 2027 exacerbates non-compliance with the law because it is no longer a plan that demonstrates compliance with the renewable energy credit standard. As such, UMEREC's proposed AREP cannot be approved.

¹⁶ MCL 460.1022(6).

¹⁷ See, MCL 460.1022(5) v MCL 460.1022(6).

¹⁸ UMEREC's Initial Brief, pp. 20-22.

¹⁹ PFD, p. 21.

²⁰ MCL 460.1022(5).

Despite the obvious legal problems with UMEREC's proposed AREP, and despite explicitly determining that the proposed AREP is unreasonable and imprudent, and that all resource additions after 2027 should be disapproved, the ALJ recommends that the Commission approved UMEREC's proposed AREP for 2026 and 2027.²¹ The ALJ's recommendation should be rejected.

III. THE ALJ ERRED IN RECOMMENDING RENEWABLE ENERGY SURCHARGES FOR 2026 AND 2027. UMEREC'S PROPOSED AREP IS UNREASONABLE, IMPRUDENT, AND NOT COST-EFFECTIVE.

In his PFD, the ALJ recommended that the Commission approved UMEREC's proposed AREP for 2026 and 2027.²² In 2026 and 2027, UMEREC's proposed plan consists exclusively of unbundled RECs and Renegade Solar. Although the ALJ evaluated UMEREC's unbundled REC price,²³ the ALJ did not make any assessment concerning the reasonableness or prudence of UMEREC's Renegade Solar costs.²⁴ Consequently, the ALJ also did not provide any findings or recommendations with respect to the level of UMEREC's proposed RESs for 2026 and 2027.

A. UMEREC's proposed surcharges are excessive, unprecedented, and unaffordable.

UMEREC's proposed RESs in this case are extraordinary.²⁵ Under UMEREC's proposed Scenario 2 surcharges, every residential customer will pay an additional \$70 in 2026 and \$85 in 2027 to support UMEREC's AREP. Small commercial customers on Rates Cg-3M and Mp-1M will pay an additional \$2,496 in 2026 and \$3,024 in 2027. Customers on Rates Cp2, Cp3, Cp4, Schedule A, and Cp-1M Tran will pay an additional \$382,615 in 2026 and \$463,104 in 2027 to support UMEREC's AREP. Tilden will be required to pay nearly \$5.2 million in 2026 and \$6.39 million in 2027 to support UMEREC's AREP.

²¹ PFD, pp. 20-21.

²² *Id.*, p. 21.

²³ *Id.*, p. 22.

²⁴ See, PFD, p. 50.

²⁵ UMEREC's proposed surcharges under its Scenario 2 cost recovery methodology appear at 3 Tr. 175-176.

UMERC's proposed surcharges are unprecedented. Most Michigan ratepayers are not subject to any RES. Consumers Energy Company's RES is currently \$0 for all classes of customers²⁶ and proposed to continue with a \$0 RES in its Act 235 AREP proceeding in MPSC Case No. U-21816, which was approved.²⁷ Likewise, DTE Electric Company's RES for all its customers is \$0.²⁸ Alpena Power Company's RES for all its customers is also \$0.²⁹ The RES for all customers of Indiana Michigan Power Company is \$0,³⁰ and the Commission issued an order in Indiana Michigan's Act 235 AREP proceeding resulting in no RES going forward.³¹ Northern States Power Company (XCEL Energy) does not have a RES for any of its customers, and has not proposed a surcharge in its pending Act 235 AREP proceeding.³² Upper Peninsula Power Company also does not have a RES,³³ and did not propose any RES in its Act 235 AREP.³⁴ Thus,

²⁶ See, Fifth Revised Sheet No. D-2.00, Consumers Energy Company rate book, available on the MPSC's website at: https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/consumers/Consumers_14_current_D.pdf?rev=72fa6944a2774ae7b21bff98390baf49&hash=D5DB0D1C193646BEA03404B52D6139AD.

²⁷ See, Order dated September 11, 2025, MPSC Case No. U-21816.

²⁸ See, Third Revised Sheet No. C-63.00, DTE Electric Company rate book, available on the MPSC's website at: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/dte/dteelcura1throughc.pdf?rev=65012a82797c4084be584ac473dd1f44&hash=17B6560F4E920559D382E6F34A45B90E>.

²⁹ See, Fifteenth Revised Sheet No. D-4.90, Alpena Power Company rate book, available on the MPSC's website at: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/alpena/alpena9curd1throughend.pdf?rev=0b3408597c7747a4aad143aa98dca840&hash=75C1EDB4EC9888BDE45AD39D343C1016>.

³⁰ See, Original Sheet No. D-120.00, Indiana Michigan Power Company rate book, available on the MPSC's website at: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/indiana-michigan/IM-18-current-A-B-C-D.pdf?rev=5354cab132d54872898cff3aad17f941&hash=0562A6833352D64B4E7BBE0875ABF8C6>.

³¹ See, Exhibit A, paragraph 4.e, Order Approving Settlement Agreement dated August 7, 2025, MPSC Case No. U-21843, stating that I&M's current RES tariff sheet be replaced with a "blank" tariff sheet.

³² See, Northern States Power Company rate book, available on the MPSC's website at: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/indiana-michigan/IM-18-current-A-B-C-D.pdf?rev=5354cab132d54872898cff3aad17f941&hash=0562A6833352D64B4E7BBE0875ABF8C6>. Northern States Power Company consolidated its Act 235 AREP with its IRP in MPSC Case No. U-21814. It does not appear that the utility is proposing any RES in that proceeding.

³³ See, Upper Peninsula Power Company rate book, available on the MPSC's website at: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/indiana-michigan/IM-18-current-A-B-C-D.pdf?rev=5354cab132d54872898cff3aad17f941&hash=0562A6833352D64B4E7BBE0875ABF8C6>.

³⁴ On August 28, 2025, Upper Peninsula Power Company ("UPPCO") filed a settlement agreement in MPSC Case No. U-21809 and U-21811 (consolidated). See, Docket No. 75, MPSC Case No. U-21809. The settlement agreement

every other Michigan electric utility has crafted an Act 235 REP that results in no incremental costs of compliance to be recovered through a RES.

Other parties reached the same conclusion. The AG/CUB made a similar assessment of UMERC's proposed RESs and determined that UMERC's proposed surcharges are unprecedented, excessive, and unaffordable.³⁵ The MPSC Staff aptly noted that UMERC's AREP did not consider affordability.³⁶

B. Renegade Solar costs included in this AREP are inflated, unreasonable and imprudent.

The primary driver of UMERC's excessive AREP costs in 2026 and 2027 is Renegade Solar. UMERC's Renegade Solar costs have grown considerably. When the Commission authorized UMERC in its 2021 IRP to proceed with the 100 MW solar acquisition, the levelized cost of energy ("LCOE") for the resource was \$72.44/MWh.³⁷ When UMERC filed its application for approval of the Renegade Solar contracts, the LCOE rose to \$89.67/MWh,³⁸ a 23.8% increase. UMERC indicated that the increase was due to "historically high inflation" in 2022 and into 2023.³⁹

states, "In its AREP application, UPPCO also represented that it does not plan to implement a renewable energy cost recovery surcharge at this time." Settlement Agreement, Paragraph 2, MPSC Case No. U-21809. The proposed settlement agreement does not describe any RESs as a part of the settlement. In an Order dated October 9, 2025, the Commission approved the settlement.

³⁵ See, AG/CUB's Initial Brief, pp. 9-12.

³⁶ 3 Tr. 340, ln. 22-23, "Staff believes that the Company's AREP does not consider affordability . . ." See also, 3 Tr. 417-418.

³⁷ See, Affidavit of Richard F. Stasik attached to UMERC's December 1, 2023 Application, MPSC Case No. U-21081, at paragraph 17 ("Although the LCOE assumed in the 2021 IRP was \$72.44, UMERC has determined that the LCOE for the Renegade Solar Project is reasonable because when adjusted for the recent inflation, the LCOE assumed in the 2021 IRP is within range of the actual bids.").

³⁸ See, UMERC's December 1, 2023 Application, MPSC Case No. U-21081, at paragraph 15.

³⁹ *Id.* at paragraph 16.

As part of this proceeding, however, the cost of Renegade Solar jumped again. UMERC's Renegade Solar costs are \$121.21/MWh in 2026⁴⁰ and \$132.51/MWh in 2027.⁴¹ The 20-year LCOE for Renegade Solar is \$123.71/MWh.⁴² Renegade Solar costs are now more than 38% higher than the level presented to the Commission in 2023 when seeking approval of the contracts and more than 70% higher than the 2021 IRP cost of the resource. UMERC says that its Renegade Solar cost needs to be updated to reflect updated internal labor and legal fees, to correct an erroneous capital cost estimate, to adjust for inflation, to include \$13.2 million for AFUDC that UMERC failed to include, to update for its most recent cost of capital, to adjust for the change in the in-service date, and to include an estimate for property taxes that was previously omitted.⁴³ UMERC's continuous errors and omissions are problematic. UMERC sought and obtained approval of Renegade Solar based on a \$72.44/MWh estimate, but now seeks to impose costs for the resource of more than \$120/MWh on ratepayers.

The reason for UMERC's excessive RESs is because UMERC's Renegade Solar costs are now significantly more than the Staff's transfer prices from MPSC Case No. U-15800. The transfer price UMERC included in its AREP for Renegade Solar is \$65.44/MWh in 2026.⁴⁴ The transfer price is a proxy for the cost of a new combined-cycle natural gas facility. In other words, UMERC could have built or acquired a natural gas plant substantially below the price of UMERC's proposed Renegade Solar facility.

⁴⁰ See, Revised Exhibit A-9. The 2026 cost of Renegade Solar appears in column (d), line 2, while the total energy output appears in column (d), line 10.

⁴¹ See, Revised Exhibit A-9. The 2027 cost of Renegade Solar appears in column (e), line 2, while the total energy output appears in column (e), line 10.

⁴² The sum of the levelized costs of Renegade Solar reflected on Revised Exhibit A-9, pages 4-6 of 6, line 2, is \$465,795,554. The sum of the energy from the facility reflected on Revised Exhibit A-9, pages 4-6 of 6, line 10, is 3,765,320. Thus, the levelized cost of the resource divided by the energy output is \$123.71/MWh.

⁴³ Stasik Supplemental Direct, pp. 2-5, 3 Tr. 165-168.

⁴⁴ See, Revised Exhibit A-9, column (d), line 6.

The Commission should also utilize its experience and expertise to make its own assessment of the reasonableness of UMERC's \$120+/MWh Renegade Solar cost. The Commission now has a trove of cases involving review and approval of solar resources across Michigan. The Commission should also take notice of the Energy Information Administration's ("EIA's") publicly available LCOE forecast information.⁴⁵ Particularly noteworthy is the 2021 Report, which was produced the same year UMERC sought approval for a 100 MW solar facility that is now Renegade Solar.⁴⁶ Table 2 in EIA's 2021 Report reflects the regional variation in LCOE for new resources entering service in 2026, the same in-service year for Renegade Solar.⁴⁷ The regional variation takes into account significant regional differences, such as local labor markets, and the cost or availability of fuel. For solar resources, without tax credits, the LCOE range is a minimum of \$27.28/MWh to a maximum of \$43.90/MWh, which the average being \$32.78/MWh. With tax credits, the range for solar resources is \$25.32/MWh to \$40.67/MWh, which an average of \$30.40/MWh.

Competitive bidding can also have a substantial impact on the cost of a new resource. For instance, Consumers Energy Company conducted a competitive solicitation in 2023 for new solar resources. The utility ultimately chose the 148 MW Logan Solar facility at a LCOE of \$57.35/MWh.⁴⁸ This solicitation is informative because it was conducted around the same time that UMERC sought approval of its Renegade Solar contracts. UMERC, however, did not competitively bid Renegade Solar and UMERC continues to resist competitive bidding.⁴⁹

⁴⁵ EIA's LCOE Outlook reports are available here: [EIA Annual Energy Outlook - U.S. Energy Information Administration \(EIA\)](#).

⁴⁶ EIA's 2021 Report is available here: [Levelized Costs of New Generation Resources in the Annual Energy Outlook 2021](#).

⁴⁷ *Id.*, Table 2 appears on page 9.

⁴⁸ See, Consumers Energy Company's November 3, 2025 Application, MPSC Case No. U-21090, at P. 7.

⁴⁹ See, UMERC's Reply Brief, pp. 1-2.

The projected cost of Renegade Solar stands in stark contrast to the cost of other solar resources, and the costs are still not yet final. Renegade Solar is not expected to be in-service until sometime in 2026. UMERC has not demonstrated that the Renegade Solar facility is reasonable or prudent at the current cost level. The Commission should not impose substantial and unaffordable RESs on ratepayers based on unreasonable and imprudent forecasted costs for Renegade Solar.

C. UMERC’s decision to accelerate the in-service date for Renegade Solar was unnecessary and to the detriment of ratepayers.

Additionally, UMERC’s decision to accelerate the in-service date for Renegade Solar is harmful to UMERC’s ratepayers and inflates UMERC’s proposed RESs in 2026 and 2027. When UMERC filed its AREP, the in-service date for Renegade Solar was December 2026.⁵⁰ Thus, the cost of compliance with Act 235 in 2026 was associated with the cost of unbundled RECs and was approximately \$1.1 million.⁵¹

On May 30, 2025, UMERC filed supplemental testimony announcing plans to move up the in-service date of Renegade Solar and adjusting its revenue requirements. In so doing, UMERC’s AREP costs increased by \$22.3 million for 2026 alone.⁵² By accelerating the in-service date of Renegade Solar, UMERC is forecasting to purchase 190,000 fewer unbundled RECs that are now forecasting to be supplied by Renegade Solar. The result is that UMERC’s 2026 AREP revenue requirement is now \$23.4 million, a \$22.3 million increase due to the acceleration of the in-service date of Renegade Solar. The revenue requirement for 2027 also increased by \$3.3 million.⁵³ Moving up the in-service date for Renegade Solar increased AREP costs for UMERC’s customers.

⁵⁰ “That project is currently being constructed and is projected to be placed in service at the end of December 2026.” Stasik Direct, 3 Tr. 146.

⁵¹ See, Chart, 3 Tr. 148.

⁵² Stasik Supplemental Direct, p. 7, 3 Tr. 170.

⁵³ Stasik Supplemental Direct Testimony, pp. 7-8, 3 Tr. 170-171.

UMERC did not need to increase AREP costs on its ratepayers in 2026 and 2027. U MERC adjusted the in-service date of Renegade Solar to apparently comply with the Act 235 requirement that no more than 5% of RECs used to comply with the Act 235 renewable energy credit portfolio requirement can be unbundled RECs, meaning RECs acquired without the associated energy or capacity.⁵⁴ U MERC, however, could have avoided the cost increase on its ratepayers in 2026 and 2027 by requesting a small extension of the renewable energy credit portfolio deadline under section 32 of Act 235, MCL 460.1032. For good cause, a utility can receive an extension for up to two years.⁵⁵ Good cause includes practical feasibility and excessive costs to customers.⁵⁶ Renegade Solar was approved prior to the Act 235 requirement suddenly limiting unbundled RECs to just 5%, is currently under construction, and will produce the requisite RECs beginning in 2027. Accelerating the in-service date of the facility unnecessarily increases costs for ratepayers by \$22.3 million in 2026 alone. The Commission should provide guidance to U MERC whether it believes that good cause exists for an extension under these circumstances.⁵⁷

The ALJ in his PFD did not make any assessments about the reasonableness or prudence of U MERC's proposed AREP costs in 2026 and 2027. For the many reasons discussed herein, U MERC's proposed 2026 and 2027 AREP costs are not reasonable nor prudent. If approved, U MERC's RESs will impose substantial hardship on ratepayers. U MERC's proposed AREP costs and resulting RESs for 2026 and 2027 should be rejected.

⁵⁴ See, MCL 460.1028(5)(c).

⁵⁵ MCL 460.1032(1).

⁵⁶ MCL 460.1032(2)(a) & (b).

⁵⁷ U MERC also could have investigated a short-term purchase of RECs with the associated energy or capacity for 2026, rather than accelerate the in-service date for Renegade Solar. U MERC did not provide any testimony indicating that it investigated this approach.

IV. THE ALJ ERRED IN RECOMMENDING THAT THE COSTS OF RENEGADE SOLAR BE RECOVERED THROUGH THE RENEWABLE ENERGY SURCHARGE.

The Renegade Solar project is a 100 MW solar energy facility located in Delta County, Michigan.⁵⁸ Despite having told the Commission when seeking approval of the facility that UMERC planned to recover the cost of the resource in base rates, and that the resource would result in no incremental costs of compliance with Michigan’s renewable energy credit portfolio standards, UMERC now seeks to recover the cost of the facility through the RES. UMERC’s changed position, if approved, will result in a substantial cost-shift on Tilden. The result is that Tilden will be subsidizing rates for UMERC’s other customers.

In his PFD, the ALJ concluded that because UMERC is using Renegade Solar to comply with Act 235, it is reasonable for UMERC to recover the costs of Renegade Solar through the renewable energy cost recovery mechanism.⁵⁹ The ALJ, however, failed to address the numerous reasons Tilden put forth explaining why Renegade Solar costs should not be recovered in this AREP, including the development history of Renegade Solar and the substantial subsidy that will result from recovering Renegade Solar through the RES. The Commission should reject UMERC’s Renegade Solar cost recovery proposals.

A. Renegade Solar costs should be recovered in UMERC’s base rates, as UMERC advised the Commission it would when it sought and obtained approval of the facility.

Renegade Solar stems from UMERC’s most recent IRP proceeding, MPSC Case No. U-21081. UMERC’s IRP modeling resulted in a proposed course of action that would add 100 MW of solar generation to UMERC’s generation portfolio.⁶⁰ UMERC indicated that the new solar

⁵⁸ 3 Tr. 319.

⁵⁹ PFD, p. 49.

⁶⁰ 3 Tr. 320.

resource would reduce UMERC’s dependence on higher-cost MISO energy market purchases and associated price risk and would improve UMERC’s environmental impacts.⁶¹ In an order dated May 12, 2022, the Commission approved a settlement agreement recommending approval of UMERC’s proposed course of action including plans to move forward with the new facility.⁶²

On December 1, 2023, UMERC filed an application also in MPSC Case No. U-21081 for approval of a Purchase and Sale Agreement (“PSA”) between UMERC and Renegade Solar Energy, LLC, along with an Engineering, Procurement and Construction Agreement (“EPCA”). In paragraph 24 of its December 1, 2023, application in MPSC Case No. U-21081, UMERC explicitly stated, “UMERC intends to present its request for rate recovery related to the PSA and EPCA in future general rate case proceedings.”⁶³ Thus, when seeking approval of Renegade Solar, UMERC expressly stated that it planned to recover the cost of the resource in base rates. In an order dated April 11, 2024, the Commission approved UMERC’s December 1, 2023, application. In its Initial Brief, the MPSC Staff acknowledged that UMERC “had both proposed and received approval for Renegade Solar to be recovered via base rates”.⁶⁴

UMERC’s decision to seek recovery of Renegade Solar costs in this AREP is inconsistent with the plans under which UMERC sought and obtained approval from the Commission. The revised cost recovery is significant. As explained by Tilden’s witness Gorman, customers are differently affected by base rate cost recovery from renewable energy plan cost recovery.⁶⁵

To begin, under general rates, the costs of Renegade Solar would be allocated across rate classes based on a production plant allocator and would be recovered largely via power supply

⁶¹ *Id.*

⁶² See, Paragraph 2 of the Settlement Agreement, attached as Exhibit A to the Commission’s Order dated May 12, 2022, MPSC Case No. U-21081.

⁶³ 3 Tr. 321, quoting from UMERC’s December 1, 2023 Application in MPSC Case No. U-21081.

⁶⁴ Staff’s Initial Brief, p. 8.

⁶⁵ 3 Tr. 323-327.

demand charges.⁶⁶ If recovered through the renewable energy cost recovery mechanism, UMERC's 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.⁶⁷

Further, a general rate case would provide the Commission with an opportunity to review Renegade Solar costs for reasonableness and prudence. When approving the PSA and EPCA, the Commission stated that it "does not make a determination regarding the reasonableness or prudence of the costs associated with the Projects beyond consistency with the approved plan in the May 12 order."⁶⁸ A rate case would afford the Commission and interested parties with an opportunity to conduct that prudence review.

Additionally, recovery of Renegade Solar costs in general rates would also ensure that UMERC's rates are set appropriately. Tilden's witness Gorman explained that UMERC is likely to over-recover its costs if Renegade Solar is not recovered as part of a general rate case.⁶⁹

Witness Gorman observed that UMERC's last general rate case was filed May 1, 2024, in Case No. U-21541, based on a projected 2025 test year.⁷⁰ He explained that there are many changes to UMERC's cost of service over time and that the totality of UMERC's costs can be reviewed as part of a general rate proceeding.⁷¹ In particular, he noted that since UMERC's last rate case, UMERC's costs may increase due to plant additions, but some of UMERC's other costs decreased, such as due to increases in accumulated depreciation.⁷² Witness Gorman testified that UMERC's production net plant rate base value decreased from by \$5 to \$8 million

⁶⁶ 3 Tr. 324.

⁶⁷ 3 Tr. 325.

⁶⁸ Order dated April 11, 2024, MPSC Case No. U-21081, p. 4.

⁶⁹ 3 Tr. 325-326.

⁷⁰ 3 Tr. 325.

⁷¹ *Id.*

⁷² 3 Tr. 325.

annually.⁷³ Thus, adding the Renegade Solar resource to UMERC's general rates 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. Including costs in the RES without reflecting decreases in other of UMERC's costs harms ratepayers. It would be akin to a single-issue rate increase. By including Renegade Solar costs in the AREP, UMERC avoids rate case review while significantly increasing and accelerating revenues. A rate case provides a complete and thorough review of changes in UMERC's cost of service.

There is also a fairness issue with respect to UMERC's Renegade Solar proposals. When seeking approval of Renegade Solar, UMERC conveyed a plan to recover Renegade Solar costs in base rates. Tilden's cost of service under its special contract would be unaffected by that proposal. Tilden reasonably relied on those statements and did not oppose UMERC's requested approval. UMERC conveyed that non-Tilden customers would benefit from the resource addition, and it seemed clear that non-Tilden customers would incur the cost to receive the benefit. Tilden reasonably did not intervene in what was presented as a non-Tilden matter.⁷⁴ Now that Renegade Solar has been approved, however, and the time to challenge the inclusion of Renegade Solar in UMERC's portfolio of resources has passed, UMERC seeks to impose most of the Renegade Solar costs on Tilden thereby dramatically changing Tilden's cost of service.

In its rebuttal testimony, the MPSC Staff commented on Tilden's base rate recovery proposal.⁷⁵ MPSC Staff opined that it is reasonable for the resource to be recovered in the AREP.⁷⁶ In support of its position, the MPSC Staff note that four solar resources were recently removed

⁷³ *Id.*

⁷⁴ If Tilden had sought to intervene it is likely that Tilden's intervention would have been challenged for lack of standing.

⁷⁵ 3 Tr. 416-417.

⁷⁶ *Id.*

from Consumers Energy Company's base rates and included in Consumers' AREP.⁷⁷ In his PFD, the ALJ likewise cited these examples.⁷⁸

The MPSC Staff's and the ALJ's comparison of Renegade Solar to Consumers' four solar resources is without merit. To begin, no party opposed the proposal to move the four solar projects in Case No. U-21585, so the issue was not contested.⁷⁹ Consumers also expressly reserved the right to seek cost recovery for the four projects in a future rate case if they are denied recovery in its AREP. Thus, it is clear that other utilities recognize that renewable energy projects can be recovered in base rates even in an Act 235 environment.⁸⁰

Importantly, Consumers Energy Company does not have a RES and it did not propose a RES as part of its AREP proceeding, MPSC Case No. U-21816. Thus, the total costs for the four solar resources are being recovered in Consumers' AREP via Consumers' PSCR mechanism via application of the transfer price. Consumers' ratepayers who would have paid for the four solar resources in base rate power supply demand and energy charges are now paying for the four solar resources in Consumers' PSCR mechanism. The same customers are paying for the same resources. Unlike the situation here involving UMERC and Renegade Solar, 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. Neither Staff nor the ALJ addressed the cost-shift and subsidization that would result from shifting Renegade Solar costs from base rate recovery to recovery via a RES.

Further, Act 235 supports recovery of renewable energy compliance costs in base rates. "An electric provider may propose a revenue recovery mechanism in an amended renewable

⁷⁷ *Id.*, p. 418.

⁷⁸ PFD, p. 49.

⁷⁹ See, Order dated March 21, 2025, MPSC Case No. U-21585, pp. 158-159.

⁸⁰ *Id.*

energy plan to include all or a portion of the electric provider’s incremental cost of compliance in base rates.”⁸¹ It is both lawful and reasonable to recover Renegade Solar costs in UMERC’s base rates. In light of the subsidization issue, discussed further below, it is preferable to recover Renegade Solar costs in base rates to avoid the subsidy.

In short, UMERC should recover the costs of the Renegade Solar facility through future general rate case proceedings, as it stated it intended to do when it obtained approval of the facility. The facility was chosen as the preferred resource through extensive modeling as the least cost resource that provided UMERC’s ratepayers with the most benefits. Although the resource is renewable, it was not developed for purposes of Act 235 compliance. The costs of the facility should be allocated among the rate classes using a production plant allocator and, as a solar facility, should be recovered largely through UMERC’s power supply demand rates.

B. As UMERC explained, there are no incremental costs of compliance with Michigan’s renewable energy credit standards for Renegade Solar. Only incremental costs of compliance with the renewable energy credit standards are recoverable in the renewable energy surcharge.

When UMERC filed its December 1, 2023 application for approval of Renegade Solar, UMERC stated that RECs from the resource could be used by UMERC for compliance with Michigan’s renewable energy standards at no incremental cost. UMERC witness Stasik stated in his duly sworn Affidavit in support of the December 1, 2023 Application, “The Company will receive the Michigan-sourced RECs produced by the facility to support its REPS obligations, as noted above, at no incremental cost to customers.”⁸² When it filed its application in this proceeding, however, just 15 months later, UMERC contended that 100% of the cost of Renegade

⁸¹ MCL 460.1045(2).

⁸² See, Affidavit of Richard F. Stasik, Paragraph 18, attached to the December 1, 2023 Application, MPSC Case No. U-21801 (emphasis added).

Solar is an incremental cost of UMEREC's compliance with Act 235. UMEREC's change in position defies logic and violates Act 235. UMEREC's position should be rejected.

Not every renewable energy facility is acquired for compliance with Act 235. Where renewable energy facilities are least-cost or otherwise the most suitable option to meet a utility's capacity or energy needs as determined in an IRP proceeding, then the utility should select the facility. The fact that the facility also produces RECs which can be used for compliance with REC standards is an added benefit but is an added benefit with no incremental cost.

Indeed, that is the situation with Renegade Solar. As part of its IRP proceeding, UMEREC recommended acquisition of a 100 MW solar facility to displace high-cost, on-peak, MISO market purchases. UMEREC's proposal was made consistent with least-cost planning. UMEREC explained that an added benefit of the resource being solar was that it would produce RECs that could be used for compliance with Michigan's REC standard with no added cost. Thus, UMEREC intended to acquire a solar resource in its IRP proceeding not for the purpose of complying with Act 235, but because it was a reasonable and prudent acquisition for UMEREC's ratepayers. The renewable energy credit benefit was a secondary benefit that was derived with no added cost.

UMEREC claims that the reason for the change in the ratemaking treatment of Renegade Solar is because the law changed.⁸³ The 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. While Act 235 expanded the REC standards by adopting increased standards in future years, it did not change the fundamental approach to compliance with the standard, which is a REC portfolio. In 2023, UMEREC was subject to a REC portfolio requirement and in 2025 UMEREC is subject to a REC portfolio requirement. In 2023,

⁸³ See, 3 Tr. 193.

UMERC was planning to use RECs from Renegade Solar to comply with Michigan’s REC standards and, in 2025, is still planning to use RECs from Renegade Solar to comply with the standards.

Under Act 235, only the “incremental cost of compliance” is recoverable in the RES mechanism.⁸⁴ Because, as UMEREC explained, the RECs from Renegade Solar are available “at no incremental cost”, UMEREC cannot lawfully recover the cost of those RECs in the RES. UMEREC’s proposal to recover Renegade Solar costs in the AREP should be rejected.

C. UMEREC’s revised cost recovery for Renegade Solar will result in a substantial cost-shift and subsidization of non-Tilden customers by Tilden. UMEREC’s proposed cost recovery is unjust and unreasonable and should not be approved.

UMERC’s change in position with respect to Renegade Solar cost recovery will result in a substantial cost-shift onto Tilden and subsidization. The change in cost recovery methodologies, if approved, would result in shifting Renegade Solar costs away from UMEREC’s 37,500 other customers onto just one customer – the Tilden mine.⁸⁵ The cost-shift would be a windfall to UMEREC’s non-Tilden customers at the expense of Tilden. UMEREC’s proposal is unjust and unreasonable and should be rejected.

If permitted, UMEREC will be recovering most Renegade Solar capacity costs from Tilden even though Tilden receives no energy benefit from the resource. Under the Tilden special contract, Tilden receives no capacity or energy benefit from Renegade Solar.⁸⁶ Tilden pays capacity costs based on the costs of UMEREC’s RICE (reciprocating internal combustion engine) generating units and pays for energy at a price based on the fuel cost of the RICE generating units

⁸⁴ See, MCL 460.1045(1).

⁸⁵ See, Exhibit TIL-2 (MPG-2).

⁸⁶ 3 Tr. 347.

plus MISO market purchases when the RICE units do not provide sufficient energy to meet Tilden's load.⁸⁷

Under base rate recovery, UMERC's non-Tilden customers would pay 100% of the capacity costs of Renegade Solar and would receive 100% of the \$0 fuel cost energy benefit. The costs and benefits are symmetrical – the customers who receive the energy benefits of the resource pay for the resource. Renegade Solar would benefit UMERC's non-Tilden customers by avoiding high-cost, on-peak MISO market purchases UMERC would otherwise purchase to serve non-Tilden customers. Tilden would receive no energy price benefit from this resource because Tilden would continue to pay for energy costs pursuant to its contract, which is based on the fuel costs of the RICE facilities plus any MISO market purchases made to support Tilden's load when the output from the RICE facilities is insufficient.

Under UMERC's cost recovery proposals in this case, however, there are distinct asymmetries in who pays for Renegade Solar and who benefits. Under UMERC's Scenario 2 cost recovery proposal, Tilden will pay approximately 50% of the capacity costs of Renegade Solar but will receive 0% of the energy benefit. In contrast, UMERC's non-Tilden customers will pay approximately 50% of the capacity costs of Renegade Solar but will receive 100% of the energy benefit. This scenario results in a distinct subsidy of UMERC's non-Tilden customers by Tilden.

In its rebuttal testimony, UMERC claims that recovering the cost of Renegade Solar through the renewable energy cost recovery mechanism is "more equitable" than base rate recovery.⁸⁸ This statement is false. As noted above, there is a distinct asymmetry in who pays for the capacity costs of Renegade Solar and who receives the energy benefits if Renegade Solar is recovered in the RES.

⁸⁷ 3 Tr. 346.

⁸⁸ See, 3 Tr. 194, ln. 9-10.

Further, if Renegade Solar is recovered in the RES as UMEREC proposes, then the amount of added costs Tilden will pay for RECs needed to satisfy its portion of the REC standards is extraordinary. As explained in Tilden’s Initial Brief, under UMEREC’s Scenario 2 proposal, Tilden would be required to pay \$27.12 per REC in 2026 and \$32.94/REC in 2027.⁸⁹ The market price for RECs is approximately \$2/REC,⁹⁰ and the added cost of Renegade Solar RECs is \$0/REC. Thus, Tilden is clearly being tasked with paying far more than the value or cost of the RECs from Renegade Solar. Tilden is clearly being tasked with paying for the capacity costs of Renegade Solar even though it will receive no energy benefits. This is not “more equitable” than recovering the cost of Renegade Solar in UMEREC’s base rates. UMEREC’s proposals would result in an extraordinary subsidy of UMEREC’s non-Tilden customers by Tilden. Subsidies are unjust and unreasonable and should be avoided wherever possible.⁹¹

In their rebuttal testimonies, witnesses for Tilden and the AG/CUB both explained that UMEREC’s proposed Renegade Solar cost recovery would result in a rate subsidy.⁹² Both witness Gorman and witness Jester analyzed UMEREC’s most recent PSCR filing in MPSC Case No. U-21600 to illustrate their points.⁹³ Witness Gorman’s analysis shows that the \$0 fuel cost savings of the Renegade Solar facility will accrue exclusively to the benefit of those customers who are subject to UMEREC’s PSCR mechanism.⁹⁴ Witness Jester testified that any transfer price applied to Renegade Solar must be carefully set to reflect the combined market price of capacity and energy because failure to do so “would result in a subsidy of other customers by Tilden Mine.”⁹⁵ The

⁸⁹ Tilden’s Initial Brief, p. 18.

⁹⁰ See, 3 Tr. 322, citing UMEREC’s Application in MPSC Case No. U-21834.

⁹¹ See, MCL 460.11(1) requiring the Commission to establish rates equal to the cost of providing service to each customer class.

⁹² See, Witness Gorman’s rebuttal testimony at 3 Tr. 342-346 & Witness Jester’s rebuttal testimony at 3 Tr. 393-397.

⁹³ *Id.*

⁹⁴ 3 Tr. 344-346.

⁹⁵ 3 Tr. 395.

transfer prices from MPSC Case No. U-15800, which are used by UMEREC in its Scenario 2 proposal and are based on the costs of a combined-cycle natural gas plant, do not satisfy witness Jester's criteria. Witness Jester ultimately concludes that neither of UMEREC's cost recovery scenarios are viable and should be rejected.⁹⁶

As an alternative to base rate recovery for Renegade Solar, Tilden's witness Gorman put forth a proposal that would permit ratepayers to pay for Renegade Solar on a levelized basis through the renewable energy cost recovery mechanism that would not result in a subsidy.⁹⁷ Witness Gorman proposed including Renegade Solar costs in the AREP, but setting the transfer price for the facility at its levelized cost. The result would be no incremental cost of compliance with Act 235 for Renegade Solar. The approach would permit non-Tilden customers to pay for the capacity costs of Renegade Solar on a levelized basis over its useful life through the PSCR mechanism. The approach would also ensure that Tilden does not subsidize the capacity costs of Renegade Solar. Tilden would still pay an RES based on the incremental costs of UMEREC's other assets used to comply with the Act 235 renewable energy standards, which, for 2026-2029, would be Tilden's share of the purchased cost of unbundled RECs used to meet the renewable energy standards for its load. In his PFD, the ALJ rejected this proposal in favor of using the Staff's transfer prices set forth in MPSC Case No. U-15800.⁹⁸ Tilden excepts to the ALJ's transfer price recommendation and continues to assert that the Staff's transfer prices are a point of reference, not a mandate, and this alternative transfer price proposal is reasonable.

⁹⁶ 3 Tr. 397.

⁹⁷ See, 3 Tr. 327.

⁹⁸ PFD, p. 63.

D. Base rate recovery of Renegade Solar costs is more appropriate.

The MPSC Staff claim that it is “acceptable” for Renegade Solar to be removed from base rates and recovered through the REP.⁹⁹ UMERC also continues to support recovery of Renegade Solar costs in this AREP.¹⁰⁰ Tilden explained in detail above and in its Initial Brief why such costs should not be shifted from base rate recovery to the AREP.¹⁰¹ Although Staff claim that it is “acceptable” to recover the cost of Renegade Solar in the AREP, they do not explain why it would be more suitable to base rate recovery, which Act 235 explicitly permits.

It is acceptable, lawful, reasonable and more suitable in this case for Renegade Solar costs to be recovered in base rates. It is both acceptable and lawful under Act 235 for renewable energy costs to be recovered in base rates.¹⁰² It is also reasonable and more suitable for Renegade Solar costs to be recovered in base rates: i) because that is the basis on which UMERC received approval for Renegade Solar, ii) in order to avoid cost shifting and rate subsidies, iii) to give the Commission an opportunity to review the costs for reasonableness and prudence in the context of a rate case, iv) to avoid a form of single-issue ratemaking that is harmful to ratepayers wherein the utility-owned Renegade Solar costs are added to the utility’s cost of service and recovered in the PSCR mechanism while there is no recognition of any decline in the utility’s other costs, including depreciated utility plant costs, and v) to avoid an acceleration of Renegade Solar costs.

UMERC also argues that it should be permitted to recover Renegade Solar costs in this AREP because it “has no plans to file a new general rate case in 2026 when Renegade Solar will be used and useful.”¹⁰³ UMERC’s stated intention to not file a rate case when Renegade Solar is

⁹⁹*Id.*

¹⁰⁰ UMERC’s Initial Brief, pp. 24-28.

¹⁰¹ Tilden’s Initial Brief, pp. 9-20.

¹⁰² “An electric provider may propose a revenue recovery mechanism in an amended renewable energy plan to include all or a portion of the electric provider’s incremental cost of compliance in base rates.” MCL 460.1045(2).

¹⁰³ UMERC’s Initial Brief, p. 26.

placed in-service in 2026 is a decision of its own making and should not have any bearing on the Commission's determinations in this proceeding. UMERC can file a rate case in 2026 once Renegade Solar is in-service, if it chooses.

The Commission should not approve Renegade Solar for recovery in UMERC's renewable energy cost recovery mechanism.

V. THE ALJ ERRED IN RECOMMENDING THAT THE PRICE FOR UNBUNDLED RECS BE SET AT \$2.86/REC.

UMERC included in its AREP a forecasted REC price of \$4/REC for 2026-2029.¹⁰⁴ UMERC insists that its forecasted unbundled REC price is reasonable.¹⁰⁵ It relies on a single transaction wherein UMERC claims to have purchased RECs for 2023, 2024 and 2025 at an average cost of \$3.72 per REC.¹⁰⁶ UMERC did not provide any evidence to support its witness's testimony. UMERC knew that this issue was disputed yet did not produce a single document to support its alleged REC purchase in this case. UMERC, however, states that this shows that REC prices are increasing,¹⁰⁷ even though it is axiomatic that a single data point cannot show a trend.

In his direct testimony, Tilden's expert witness Gorman adjusted the REC price forecast to \$2/REC, which is the price that UMERC reported as being its REC purchase price in its 2024 renewable energy cost reconciliation proceeding, MPSC Case No. U-21834, the most recent proceeding for which there is actual price data.¹⁰⁸ Witness Gorman testified that UMERC did not support a \$4/REC price forecast, a price which is double its most recent actual purchase price.¹⁰⁹

¹⁰⁴ See, Exhibit A-13 (JMB-5).

¹⁰⁵ UMERC's Initial Brief, pp. 28-29.

¹⁰⁶ *Id.*, p. 28

¹⁰⁷ *Id.*

¹⁰⁸ See, 3 Tr. 322, citing UMERC's Application in MPSC Case No. U-21834.

¹⁰⁹ *Id.*

In his PFD, the ALJ determined that UMEREC did not establish that a \$4/REC price is a reasonable forecast.¹¹⁰ The ALJ noted that UMEREC's single REC alleged \$3.72/REC purchase transaction does not reasonably constitute evidence of market indications and that could not be relied upon as an average or a trend in REC pricing.¹¹¹ The ALJ found Tilden's \$2/REC price from UMEREC's 2024 renewable energy cost reconciliation to be as reliable and credible as UMEREC's \$3.72/REC price.¹¹² He then averaged UMEREC's \$3.72/REC price with Tilden's proposed \$2/REC price to recommend a REC price of \$2.86/REC.¹¹³

The Commission should adopt Tilden's proposed \$2/REC price. Importantly, Tilden's proposed REC purchase price is reasonable, is supported by UMEREC's actual price data, and does not harm UMEREC. UMEREC's REC purchase price is subject to reconciliation to UMEREC's actual, reasonable cost in UMEREC's renewable energy reconciliation cases. Rather than establishing an inflated price, the Commission should adopt a reasonable price that is supported by the record. If the REC purchase price is set above UMEREC's actual costs, then ratepayers are burdened with having to pay inflated rates with the hope of an adjustment in the future. If the REC purchase price is set below actual costs, however, then UMEREC can use its working capital allowance provided in its general rate proceedings and funded by ratepayers to manage the time difference between cost incurrence and cost recovery.

Tilden's expert witness Gorman adjusted the REC price forecast in this case to \$2/REC.¹¹⁴ Tilden's adjustment is reasonable and consistent with UMEREC's most recent, actual REC purchase price. UMEREC did not meet its burden to establish that \$4/REC is a reasonable forecast of REC

¹¹⁰ PFD, p. 21.

¹¹¹ *Id.*, pp. 21-22.

¹¹² *Id.*, p. 22.

¹¹³ *Id.*

¹¹⁴ See, 3 Tr. 322, citing UMEREC's Application in MPSC Case No. U-21834.

prices for 2026-2029. The Commission should determine that the appropriate REC price forecast for UMEREC is \$2/REC.

VI. THE ALJ ERRED IN NOT RECOMMENDING THAT THE COMMISSION DIRECT UMEREC TO RECOVER INCREMENTAL COST OF COMPLIANCE ON A LEVELIZED BASIS.

Act 235 permits the incremental cost of compliance to be recovered on a levelized basis.¹¹⁵ UMEREC, however, elected not to levelized its proposed cost recovery. Both Tilden and the AG/CUB support levelized cost recovery.

In his PFD, the ALJ determined that UMEREC's proposed Scenario 2 cost recovery methodology satisfies the directives in MCL 460.1045.¹¹⁶ He notes that while MCL 460.1045(3) authorizes the incremental cost of compliance to be recovered on a levelized basis, the law does not mandate such recovery.¹¹⁷

While not mandated, the ability to levelize the cost recovery of renewable resources benefits ratepayers in the near-term over traditional base rate recovery. As noted above, UMEREC's proposed AREP is decidedly unaffordable. If the Commission approves UMEREC's proposed AREP for 2026 and 2027 and approves Renegade Solar costs for recovery in the renewable energy cost recovery mechanism, then the Commission should utilize all lawful steps to mitigate the economic harm caused by such a decision. The law expressly permits levelized cost recovery. Where renewable energy resources are included in the AREP for UMEREC, the recovery of their costs should be levelized. The Commission should direct UMEREC to amend its AREP to levelize the recovery of its renewable energy resource costs.

¹¹⁵ See, MCL 460.1045(3).

¹¹⁶ PFD, p. 63.

¹¹⁷ *Id.*

VII. THE ALJ ERRED IN NOT ADDRESSING THE IN-SERVICE DATE OF RENEGADE SOLAR FOR PURPOSES OF COST RECOVERY. FACILITIES MUST BE USED AND USEFUL FOR THEIR COSTS TO BE RECOVERED FROM RATEPAYERS.

The ‘used and useful’ doctrine is a longstanding and fundamental principle of utility regulation. The doctrine dates to *Smyth v. Ames*,¹¹⁸ a U.S. Supreme Court decision in 1898, and is intended to promote equity between utility investors and captive ratepayers. The ‘used and useful’ doctrine requires that utility assets not be included in utility rates for recovery unless or until the assets can be demonstrated to be providing services that are useful to ratepayers.¹¹⁹ While the Commission has allowed certain expenses incurred in phases to be included in rates before a plant is used and useful,¹²⁰ the Commission has not typically permitted the recovery of capital expenditures associated with utility generating assets prior to those assets being placed in-service. Only the costs of generation facilities actually in-service can be recovered from ratepayers under the longstanding ‘used and useful’ doctrine.

UMERC likewise acknowledges the effect of the used and useful doctrine on the recovery of utility costs. UMERC claims that it could not obtain recovery for Renegade Solar costs in its 2024 rate case because the facility was not in-service.¹²¹ UMERC claims that it should be permitted to recover its Renegade Solar costs in this AREP because it expects the facility to be in-service in 2026 and it has no plans to file a rate case in 2026.¹²² By seeking Renegade Solar costs in this AREP, UMERC is seeking to accelerate its recovery of those costs.

¹¹⁸ *Smyth v Ames*, 169 U.S. 466 (1898).

¹¹⁹ *Id.*

¹²⁰ See e.g., Order dated July 31, 2017, MPSC Case No. U-18124, p. 25-28.

¹²¹ UMERC’s Initial Brief, p. 26.

¹²² *Id.*

In its February 27, 2025 filing, UMERC was quite certain that Renegade Solar would be placed in-service in December 2026.¹²³ Just three months later, in its May 30, 2025 supplemental filing, UMERC accelerated the forecasted in-service date for Renegade Solar from December 2026 to February 1, 2026 “due to favorable conditions”.¹²⁴ There is no testimony, affidavit, or updated project schedule from anyone associated with Invenergy, the firm constructing the facility, confirming the revised in-service date. The Renegade Solar contracts filed in MPSC Case No. U-21081 remain unchanged, including the project schedule appended as Exhibit V to the Engineering, Procurement and Construction Agreement filed in that case. The change in the in-service date seems to have more to do with complying with the statutory requirement limiting the use of unbundled RECs to just 5%.¹²⁵

UMERC’s May 30, 2025 supplemental testimony filing was submitted to reduce the number of legal infirmities with UMERC’s AREP and to further increase the projected cost of the AREP. The supplemental filing addressed UMERC’s failure to utilize any transfer prices in violation of MCL 460.1045 & MCL 460.1047, and failure to allocate the incremental cost of compliance consistent with the production allocation approved in UMERC’s most recent general rate case in violation of MCL 460.1045(2). The failure to comply with the 5% limitation on the use of unbundled RECs under MCL 460.1028(5)(c) for 2026 was another Act 235 violation that UMERC addressed through its supplemental filing.¹²⁶ The change in the in-service date for

¹²³ “That project is currently being constructed and is projected to be placed in service at the end of December 2026.” Stasik Direct, 3 Tr. 146.

¹²⁴ 3 Tr. 167, ln. 7.

¹²⁵ “Renewable energy credits acquired under this subdivision shall 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.” MCL 460.1028(5)(c).

¹²⁶ See, Exhibit A-13. For 2026, UMERC limits the number of unbundled RECs to “96” GWh, which is 5% of its total load for that year of “1,907” GWh. UMERC now plans to obtain “190” GWh of RECs from Renegade. Prior to its supplemental filing, however, UMERC intended to purchase all its need for RECs in 2026. See, 3 Tr. 149.

Renegade Solar permitted UMERC to reduce the number of unbundled RECs purchased to 5% in 2026. Indeed, the forecasted in-service date for Renegade Solar was adjusted precisely to result in UMERC's forecast to purchase exactly 5% unbundled RECs as reflected on Exhibit A-13.

UMERC's revised in-service forecast is a forecast. In-service dates of generation facilities are uncertain. Generation facilities are complex and there are many parties involved in successfully interconnecting and commissioning a new plant. Until the facility is actually in-service, the costs of Renegade Solar should not be recovered from ratepayers, whether via base rates or through the PSCR mechanism. Only costs for used and useful facilities should be included in utility rates. If any Renegade Solar costs are approved for recovery as part of this proceeding, then it should be made explicit that any such recovery is contingent on Renegade Solar being placed in-service prior to any such recovery.

VIII. CONCLUSION AND PRAYER FOR RELIEF.

For all the reasons explained in the preceding sections of these Exceptions, Tilden respectfully requests that the Commission reject the AREP for UMERC.

Respectfully submitted,

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Date: November 6, 2025

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

CERTIFICATE OF SERVICE

Jennifer Heston hereby certifies that, on the 6th day of November 2025, she served the Exceptions of Tilden Mining Company L.C., and this Certificate of Service upon the persons identified on the attached service list by electronic mail.

/s/ Jennifer Heston

Jennifer Heston

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