

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of Consumers
Energy Company for Authority to increase its
rates for the generation and distribution of
electricity and for other relief.

MPSC Case No. U-21870

The Attorney General's Initial Brief

PUBLIC

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I. Introduction and Overview

The Attorney General files this Initial Brief before the Michigan Public Service Commission (“Commission”) to respond to Consumers Energy Company’s (“Consumers Energy,” “Consumers,” “CECo,” or “the Company”) application seeking another rate increase for its electric utility just months after the Commission authorized a \$154 million rate increase in Case No. U-21585.¹

Consumers Energy’s application seeking an additional \$436 million in base rates for the 12-month period ending April 30, 2027 (“projected test year” or “test year”) was filed on June 2, 2025.² The Company is also requesting recovery of an additional \$24.3 million for distribution deferral through a 12-month surcharge, which would have resulted in a test year increase of \$460.4 million if the Company’s application was granted in full.³ In rebuttal, the Company adjusted the amount of its revenue deficiency to \$422.9 million.⁴ As part of its case, Consumers Energy is requesting a return on equity (“ROE”) of 10.25%, an overall rate of return on total rate base of 6.35% and equity ratio of 50.75%.⁵

The Company’s initial proposed rate increase represented an overall increase in base rates of 9.7% but an average increase of 13.3% (ranging from 12.4% to

¹ See, Order in Case No. U-21585, dated March 1, 2025 (March 1, 2025 Order) page 211. The total rate includes approximately \$2.979 to be collected through the IRM surcharge and \$88 million to be collected through base rates (see FN 16).

² See, Application, p. 2.

³ Application, p. 2 and 12.

⁴ See, Daly Rebuttal, 3 TR 1088 and Exhibit A-210 (PDD-65), Exhibit A-211 (PDD-66) and Exhibit A-215 (PDD-70).

⁵ Application, p 3.

15.5%) to residential base rates.⁶ The Company's revised revenue deficiency decreases the rate impact slightly. However, the percentages only tell part of the story.

On September 30, 2025, the Attorney General filed the direct testimony of her expert witnesses – Sebastian Coppola. Mr. Coppola's testimony included 184 pages of questions and answers, attached to it was an appendix A with his experience and qualification, and exhibits AG-1 through AG-60. The exhibits included:

1. Exhibit AG-1 DR Response – Capex Dollars & Units at Subprogram
2. Exhibit AG-2 DR Response – Contractor Service Installation Costs
3. Exhibit AG-3 DR Response – Make Ready Asset Relocation Volumes
4. Exhibit AG-4 DR Response – LVD Lines Reliability Unit Costs
5. Exhibit AG-5 DR Response – Undergrounding Pilot Results
6. Exhibit AG-6 DR Response – Premature LVD Projects
7. Exhibit AG-7 DR Response – LVD Line Capacity Percent Overload
8. Exhibit AG-8 DR Response – Transformer Volume and Cost Increases
9. Exhibit AG-9 AG Calculation of Transformer Cost Disallowances
10. Exhibit AG-10 DR Response – Repetitive Outages
11. Exhibit AG-11 DR Response – LVD Substation Capacity Activity
12. Exhibit AG-12 DR Response – HVD Red Tagged Pole Replacement
13. Exhibit AG-13 DR Response – HVD Substation Reliability Projects
14. Exhibit AG-14 DR Response – HVD Premature Projects
15. Exhibit AG-15 DR Response – Strategic Customer Projects
16. Exhibit AG-16 DR Response – Circuit Modernisation Activity
17. Exhibit AG-17 DR Response – Asset Repository System Development
18. Exhibit AG-18 DR Response – Covert Power Plant Projects

⁶ See, Application, Attachment A.

19. Exhibit AG-19 DR Response – Ludington Upgrade Projects
20. Exhibit AG-20 DR Response –Campbell Plant Operation Revenue Credits
21. Exhibit AG-21 DR Response – Generation Premature Projects
22. Exhibit AG-22 DR Response – Control/Dispatch Centers & Consolidation
23. Exhibit AG-23 DR Response – Facilities Emergent Repairs
24. Exhibit AG-24 DR Response – Transportation Fleet Expanded Purchases
25. Exhibit AG-25 AG Recalculation of Fleet Purchases and Costs
26. Exhibit AG-26 DR Response – Fleet Utilization Inactive Vehicles
27. Exhibit AG-27 DR Response – IT Premature Projects – Group 1
28. Exhibit AG-28 AG Calculation of Disallowances for Premature IT Projects
29. Exhibit AG-29 DR Response – IT Premature Projects – Group 2
30. Exhibit AG-30 CONF DR Response – SAP S/4 HANA Project Phase
31. Exhibit AG-31 DR Response – ARP Field Devise Asset Management
32. Exhibit AG-32 CONF Summary Cap Ex, Rate Base, Depreciation & Tax Expense
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46. Exhibit AG-46 Stock Market Forecasted Return
47. Exhibit AG-47 CONF DR Response – Moody’s May 29, 2025 Report
48. Exhibit AG-48 DR Response – S&P August 26, 2024 Report

49. Exhibit AG-49 CONF DR Response – Fitch Investor Service April 16, 2024 Report
50. Exhibit AG-50 DR Response – Blue Chip Treasury Rate Report
51. Exhibit AG-51 Values Line Report on Market Volatility vs. Risk
52. Exhibit AG-52 CONF RRA Report and Attachment
53. Exhibit AG-53 O&M Adjustments - Summary
54. Exhibit AG-54 Distribution O&M Adjustments
55. Exhibit AG-55 Service Restoration Cost Adjustment
56. Exhibit AG-56 Staking & Locating O&M Adjustments
57. Exhibit AG-57 DR Response – Staking and Locating Costs
58. Exhibit AG-58 AG Revenue Deficiency Calculation
59. Exhibit AG-59 Return Calculation on Deferred Line Clearing Costs
60. Exhibit AG-60 Incentive Compensation Actual Performance for five years

The Attorney General also had Exhibits AG-61 – AG-80, which consists of responses to various post-rebuttal discovery requests, admitted in lieu of cross-examining certain Consumers’ witnesses.

After reviewing the testimony, exhibits and discovery conducted in this case, the Attorney General concludes that the Company’s revenue deficiency for the projected test year is excessive and that it should be no more than \$160,465,000 based on the following adjustments:⁷

1. Capital expenditures should be reduced by \$829.4 million and rate base should be reduced by \$642.5 million (including a \$74 million

⁷Coppola, 3 TR 2417 – 2418. As revised after rebuttal from the Attorney General’s original filed position of a revenue deficiency of \$157.7 million. See Appendix A, which is attached to this brief for the adjustments.

reduction in working capital), resulting in a reduction of the Company's revenue deficiency by \$52.5 million.

2. The Commission should adopt a cost of capital rate of 6.06%, a capital structure with 50% equity capital and a return on common equity of 9.80%. The result is a reduction in the Company's revenue deficiency of approximately \$59.3 million.
3. Operations and Maintenance expenses should be reduced by \$137.9 million which results in a corresponding reduction to the Company's revenue deficiency of \$137.9 million.
4. Depreciation expense should be reduced by \$26.2 million because of the lower capital expenditures, and additions to plant discussed in 1 above. This adjustment reduces revenue deficiency by the same amount.
5. Property tax expense should be reduced by \$3.8 million because of the lower capital additions discussed above.
6. The Commission should reject the Company's proposed Service Restoration Resiliency Fund and the Extraordinary Storm Accounting procedure in this case and instead open a separate docket to study the proposals.
7. The Commission approve a deferral of costs from the Line Clearing Ramp-up with a baseline set at the 2024 expense level.
8. The Commission should approve a return on the deferred regulatory asset balance no higher than the short-term interest rate approved in this case and updated by the short-term interest rate approved in each case thereafter.

The Attorney General requests that the Commission issue an order reflecting a revenue deficiency consistent with the recommendations in this brief. Further, the Commission should not authorize a ROE of more than 9.80%.

This Initial Brief has been prepared based on available resources and therefore it focuses on the significant areas of concern summarized above. The Attorney General's silence on other issues should not be construed as approval of the Company's position. Further, the Attorney General reserves the right to address issues raised by other parties in their Initial Briefs in a Reply Brief.

While examining the Attorney General's substantive objections, the Commission should consider that Consumers Energy bears the burden of proof to demonstrate that its proposals are just and reasonable. The obligation of proving any fact lies upon the party who substantially asserts the affirmative of the issue. *White v Campbell*, 25 Mich 463, 475 (1872). A plaintiff always has the burden of proving its cause of action. *Caruso v Weber*, 257 Mich 333; 241 NW2d 198 (1931). As applied to administrative cases, a party seeking relief must prove his, her, or its claim by a preponderance of evidence. *Dillon v Lapeer State Home & Training School*, 364 Mich 1, 8; 110 NW2d 588 (1961); *BCBSM v Governor*, 422 Mich 1, 88-89; 367 NW2d 1 (1985). Likewise, in cases before the Commission, the utility bears the burden of proof by a preponderance of evidence. *In re Michigan Gas Utilities Co*, MPSC Case No. U-7484, Opinion & Order dated August 30, 1983; *In re Detroit Edison Co*, MPSC Case No. U-8030-R, Opinion & Order dated July 9, 1987, pp 16-17. Given the nature of the burden of proof, the Commission may reject even

uncontradicted evidence. *Woodin v Durfee*, 46 Mich 424, 427; 9 NW 457 (1881); *Accord, Yonkus v McKay*, 186 Mich 203, 211; 152 NW 1031 (1915); *Cuttle v Concordia Mut Fire Ins Co*, 295 Mich 514, 519; 295 NW 246 (1940). When the burden of proving a fact falls on one party, then the other party does not have the burden of proving the opposite fact. *S.C. Gary, Inc v Ford Motor Co*, 92 Mich App 789, 803-804; 286 NW2d 34 (1979).

ARGUMENTS

II. Rate Base.

A. Net Utility Plant

While the Attorney General recognizes that Consumers Energy may need to invest in its utility plant, the Company continues to seek greater capital expenditures and expansion of rate base than is justified. A significant part of the Company's rate increase is related to new capital spending. The increase in rate base also has a significant impact on the proposed increase in operations and maintenance (O&M) expense and cost of capital. In fact, approximately \$172 million or 37% of the requested rate increase in the form of return on investment, depreciation expense, property taxes, and O&M expenses are directly related to the increase in capital expenditures.⁸ And, capital spending itself makes up about \$172 million of the rate increase originally sought in this case (not including the \$24

⁸ Coppola citation.

million distribution deferral surcharge).⁹ The Company has proposed capital expenditures of \$1.2 billion for 2024, \$2.0 billion for the 16 months ending April 2026, and another \$1.9 billion for the test year ending April 2027.¹⁰ The Company incurred capital expenditures of \$5.7 billion over the previous five years – 2019 and 2023.¹¹ These expenditures push rates up with a disproportionately negative impact on lower income ratepayers. The reasonableness and prudence of these costs must be closely examined and any expenditures that are not supported by the evidence eliminated.

The evidence supports a \$829.4 million reduction in the amount of capital expenditures requested by the Company and a corresponding \$642.5 million reduction in rate base. The Attorney General’s recommended adjustments to capital expenditures and rate base are explained below.

1. Distribution Capital Expenditures.

a. Company’s request.

The Company identifies multiple projects related to its electric distribution system for which it has proposed increased capital expenditures in this case. The Company indicates that it spent \$920.4 million for electric distribution in 2024 and forecasts spending \$1.598 million for the 16-month bridge period ending April 2026.

⁹ Myers, 4 TR 354. *See also*, Coppola, 3 TR 2419

¹⁰ Exhibit A-12, Schedule B5; and Coppola, pages 11 – 12.

¹¹ *See*, Exhibit A-12, Schedule B-5 in Case No. U-20963, U-20697, U-21224, U-21389, and U-21585. *See also*, Coppola, page 12, lines 2 – 3.

It also forecasts spending \$1.530 billion for the projected test year.¹² Included in these amounts are capital expenditures for New Business, Reliability programs, Capacity expansions, Demand Failures upgrades, Asset Relocation projects and Other Electric Operations.

The Company's electric distribution system consists of High Voltage Distribution ("HVD") and Low Voltage Distribution ("LVD") facilities, and the Company presented its capital expenditures by these categories, therefore, this section of the brief is presented in a similar fashion.

In analyzing the Company's forecasted capital expenditures, Mr. Coppola often considered recent historical costs incurred by the Company, where appropriate, to determine the reasonableness of the Company's forecasted costs. He did not use that methodology for all capital expenditures, however when he did, he also he applied a 2.1% inflation escalator for 2025, an escalator of 2.4% for 2026, and an escalator of 2.4% for 2027.¹³ He also found unit costs to be useful in assessing the reasonableness and prudence of historical and forecasted capital expenditures for most distribution programs.¹⁴

Further, Mr. Coppola noted that the Company's HVD system is in much better shape than the LVD system. The SAIDI reliability index, excluding major

¹² Exhibit A-12 (MPK-1), Schedule B-5.6.

¹³ Coppola, 3 TR 2420.

¹⁴ Id. at 2422.

event days (MED) has been trending down over the past 10 years.¹⁵ This is a strong indication that power outages caused by the HVD system have decreased over the 10-year period as a result of a shorter vegetation clearing cycle and a base level of capital improvements. He opines that large increases in capital spending should not be needed across the board for the HVD system and instead the focus on any increase in capital spending should be directed to the LVD system. Mr. Coppola takes a critical review of the Company's large proposed increases in spending on some of the HVD subprograms, particularly where insufficient justification is provided to support the proposed increase.¹⁶

The Attorney General has determined that the Company fails to support some of its proposed distribution capital expenditures as described in subsections c, d, and e below.

b. High Voltage Distribution

i. HVD Lines Reliability

Hayward, 3 TR 1192 – 1205, 1207 – 1214, Exhibits A-107 – A-111; Hayward Rebuttal, 3 TR 1354 – 1358, 3 TR 1367 – 1370, Coppola, 3 TR 2460 – 2465, Exhibits AG-1, AG-3 and AG-12; Fitzhenry, 6 TR 3712, 3734 – 3735; Attorney General Hearing Exhibit AG-72.

The Company is forecasting capital expenditures of \$133,667,000 for the 16-month bridge period and \$107,667,000 for the projected test year for HVD lines

¹⁵ Hayward, DT p. 7.

¹⁶ Coppola, 2460 – 2461.

reliability projects.¹⁷ According to the Company, there are seven spending programs under this category of expenditures.¹⁸ The Attorney General is recommending disallowances related to three of the categories: line rebuilds, pole top rehabilitation, and pole replacements.

Line Rebuilds. The Company is proposing to rebuild 13 miles of line rebuilds for the bridge period at a total cost of \$38,614,000 and an average unit cost of \$2,201,000. For the projected test year, the Company is proposing 65.8 miles of line rebuilds for a total cost of \$35,743,000 for an average unit cost of \$543,207.¹⁹

Line rebuilds have averaged 20 miles annually in the most recent three years with the highest year in 2022 at 40 miles.²⁰ While the number of miles forecasted for the bridge period appears reasonable, the cost per unit is high. On the other hand, the nearly 60 miles of rebuilds for the projected test year represents a 50% increase from the highest rebuild year in the last three years and three-fold increase over the average number of miles rebuilt in recent years and appears to be excessive because it is not supported by sufficient data, showing that the higher level of activity is required for the projected test year.²¹ Therefore, for the purpose of

¹⁷ Exhibit A-113 (MPK-3), line 8.

¹⁸ See, Hayward, 3 TR 1208, Figure 21.

¹⁹ *Id.*

²⁰ Exhibit AG-3 DR AG-CE-0364 attachment, line 15.

²¹ Coppola, 3 TR 2461.

projecting costs for the projected test year, Mr. Coppola provides an alternative calculation.

First, he determined a reasonable level of activity by using the highest level of line rebuild activity in the past three years of 40 miles. Second, he multiplied the 40 miles by the Company's forecasted unit cost of \$53,207. The results are forecasted capital expenditures for the projected test year of \$21,778,000. This amount is \$14,015,000 lower than the Company's forecast of \$35,743,000. The Attorney General recommends that the Commission remove this difference from the Company's forecasted capital expenditure for the projected test year for line rebuilds.

Pole Top Rehabilitations. The Company is forecasting 54.7 miles of pole top rehabilitations for the bridge period at a total cost of \$9,097,000 and an average unit cost of \$166,307. For the projected test year, the Company forecasted 116.1 miles of pole top rehabilitations for a total cost of \$11,996,000 for an average unit cost of \$103,325.²² Pole top rehabilitations have averaged 50.5 miles annually in the last three years, with a wide disparity from year to year.²³ Mr. Coppola noted that the 54.7 miles forecasted for the bridge period is in line with the historical average and reasonable. However, the 116 miles of rebuilds for the projected test year is an increase of 130% over the average number of miles rebuilt in recent years

²² Hayward, 3 TR 1208, figure 21.

²³ Exhibit AG-3 DR AG-CE-0364 attachment, line 16.

and is excessive and not justified by any details provided in this case, showing that higher level of activity is required for the projected test year.²⁴

Based on the 50 miles of pole top rehabilitations completed on average in the past three years, Mr. Coppola applied the company's forecasted unit cost of \$103,325 to arrive at forecasted capital expenditures of \$5,166,000 for the projected test year. This amount is \$6,830,000 less than the Company's forecasted capital expenditures of \$11,996,000. The Attorney General recommends that the Commission remove this \$6,830,000 from the Company forecasted capital expenditures for the projected test year.

Pole Replacements - The Company is forecasting capital expenditures of \$54,856,000 in the bridge period to replace 2,010 poles and \$33,569,000 for the projected test year to replace 1,161 poles.²⁵ For the most recent three years, the Company has averaged 442 pole replacements annually. According to the Company, there is a backlog of "red tagged" poles that need to be replaced.²⁶ This is reflected in the Company's proposal to accelerate poles replacements over a three-year period from 2025 to 2027.

The Company's explanation for allowing this backlog of poles needing replacing to build included waiting to combine replacements with pole top

²⁴ Coppola, 3 TR 2462.

²⁵ Hayward, 3 TR 1208, figure 21.

²⁶ *Id.* at 1202 – 1204.

rehabilitations and rebuilds, presumably for efficiency, and other time-consuming efforts, among other things. Before 2016 there were 1,353 poles needing replacement and the backlog has steadily increased to 2,250 poles needing replacement by the end of 2024.²⁷ While the Company has offered some explanation for why it allowed this backlog to grow over the last eight to nine plus years, the management and planning of this program was in its control and there is no justification for the persistent delay in addressing pole replacements. Whatever the supposed cause, the Company has not adequately explained why pole replacement activity needs to be accelerated to the levels it proposes now.²⁸ The accelerated pace of the proposed pole replacement places a large cost burden on customers over a short three-year period, especially in comparison to the amount of time that it took for the backlog to grow. To lessen that burden, while allowing the Company to work on the backlog, Mr. Coppola proposes increasing pole replacements over current levels, but at a reduced pace by spreading the work needed to address the backlog over five years.²⁹

The Company forecasted that it plans to replace 3,790 poles over the three years 2025-2027. This includes replacing 2,490 newly tagged poles for replacement over that same time period. The difference of 1,300 is the number of additional poles that the Company plans to replace over the three-year period to reduce the

²⁷ See, Exhibit AG-12 (AG-CE-40465).

²⁸ Coppola, 3 TR 2463 – 2464.

²⁹ *Id.* at 2464.

backlog, which is 433 additional pole replacements annually.³⁰ By spreading the 1,300 pole replacements over five years, the annual additional poles to be replaced would be 260 or 173 fewer than the Company has proposed.³¹ The 173 fewer pole replacements translate to 231 fewer poles for the bridge period, which at a unit cost of \$27,292 result in capital expenditure reductions of \$6,304,000. For the projected test year, the 173 fewer pole replacements at the unit cost of \$28,914 result in lower capital expenditures of \$5,002,000. The Attorney General recommends that the Commission remove the \$6,304,000 for the bridge period and the \$5,002,000 for the projected test year from the Company's forecasted capital expenditures.

Ms. Hayward disagrees with the Attorney General's proposed disallowances on HVD Lines Rebuilds and Pole replacements in her rebuttal testimony.³² She claims that the projects span over multiple years and the Company reports capital spending in one year and completed projects in another year. While certain projects may have costs that span over more than one year, it is not clear what the impact is on the average cost per projects when dozens or hundreds of projects are being forecasted. In her rebuttal testimony, Hayward does not quantify the impact other than identifying a few projects that may have costs spanning more than one year. The Commission should dismiss these arguments as unsupported and not sufficiently relevant to affect the disallowances proposed by the Attorney General.

³⁰ $1,300 / 3 = 433$.

³¹ $1,300 / 5 = 260 - 433 = 173$.

³² Hayward Rebuttal, 3 TR 1355 – 1358.

Conclusion – The Attorney General recommends that the Commission remove a total of \$6,304,000 for the bridge period and \$28,847,000 for the projected test year for the HVD Lines Reliability subprogram.

ii. **HVD Substations Reliability**

Hayward, 3 TR 1223 – 1226, Exhibit A-109 (MLH-3), page 2, Exhibit A-110 (MLH-4), page 2, Exhibit A-113 (MPK-3), line 10, Exhibit A-115 (MKK-5), line 4; Hayward Rebuttal, 3 TR 1342 – 1345, 1358 – 1360, and 1367 – 1370; Coppola, 3 TR 2465 – 2468, Exhibits AG-1 and AG-13; Durfee, 6 TR 4417 – 4418; Fitzhenry, 6 TR, 3711, 3733 – 3735; Attorney General Hearing Exhibit AG-72.

The Company is forecasting capital expenditures of \$47,322,000 for the 16-month bridge period and \$39,680,000 for the projected test year for HVD substation reliability.³³ It identified four spending categories with the related number of units however, the Attorney General recommends adjustments be made to expenditures for just two of the categories – Circuit Breakers and Other/Miscellaneous projects.³⁴

Circuit Breakers – The Company is forecasting capital expenditures of \$20,038,000 in the bridge period to replace 63 circuit breakers/switchers and \$33,469,000 for the projected test year to replace 1,161 poles.³⁵ For the projected test year it is forecasting capital expenditures of \$23,737,000 to replace 74 circuit breakers and switcher.³⁶ During the most recent three years, the Company

³³ Exhibit A-113 (MPK-3), line 10.

³⁴ See, Hayward, 1223, Figure 29.

³⁵ *Id.*

³⁶ *Id.*

averaged 17 circuit breakers/switchers replacements annually at an average unit cost of \$133,500.³⁷ Ms. Hayward's direct testimony provides no specific explanation or justification for why the number of replacement units should increase from an average annual replacement rate of 17 to 67 in the bridge period and 74 for the projected test year.³⁸ No specific anomalies or problems have been identified with the targeted replacements to justify this four-fold increase in replacement activity. Also, no explanation or justification was provided why the replacement unit cost for the bridge period and projected test year more than doubles from \$133,500 in the most recent three years to more than \$300,000 in the next two years.

The Company has not justified its proposed increase; however, Mr. Coppola proposes some increase in the number circuit breaker/switcher replacements. He proposes doubling the historical level of replacements to 40 and applying an inflation-adjusted historical average unit cost of \$137,372, which results in a forecasted capital expenditure amount of \$5,495,000 for the bridge period.³⁹ This amount is \$14,583,000 lower than the Company's forecast of \$20,038,000. The Attorney General recommends that the Commission remove \$14,538,000 from the Company's forecasted capital expenditures for the bridge period for circuit breaker/switcher replacements.

³⁷ See, Exhibit AG-1, (AG-CE-0354 attachment line 28).

³⁸ Coppola, 3 TR 2466. A correction may also be needed either here or on the previous page to address different numbers for the bride period.

³⁹ Coppola, 3 TR 2466, including footnote 50.

Similarly, for the projected test year, using the same 40 replacement units and an inflation adjusted average unit cost of \$140,669, Mr. Coppola calculated a forecasted capital expenditures amount of \$5,627,000, which is \$18,130,000 lower than the Company's forecast of \$23,737,00. The Attorney General recommends that the Commission remove this difference from the Company's forecasted capital expenditures for the projected test year.⁴⁰

The Company disagrees with the Attorney General's proposed reductions, criticizing Mr. Coppola's claim that no specific explanation was provided to support the increase circuit breakers proposed by the Company.⁴¹ Ms. Hayward claims to have provided an explanation, which listed general problems with the circuit breakers in a summary fashion.⁴² It is the Company's burden to fully support its proposed expenditures and seven lines of testimony and a list of projects in an exhibit, is not adequate support for capital spending of \$20 million in the bridge period and \$23 million in the projected test year.

Other/Miscellaneous Projects – The Company is forecasting capital expenditures of \$22,277,000 in the bridge period for 169 units or projects and \$12,758,000 for the projected test year for 83 units or projects for undefined Other

⁴⁰ *Id.* at 2467.

⁴¹ Hayward, 3 TR 1359.

⁴² *Id.* at 1221 – 1222. *See also*, Exhibit AG-72 (DR-AG-CE-0851).

Projects.⁴³ During the most recent three years, the average annual spending in this area ranged from \$332,000 to \$1.1 million.⁴⁴

Ms. Hayward's direct testimony does not explain the reason for this dramatic increase in spending. The Company points to Exhibits A-109 and A-110 for what is included in Other Projects.⁴⁵ While these exhibits list several animal mitigation projects and DSCDA projects, they do not provide any explanation or justification for why these projects are escalating significantly over historical periods.⁴⁶

To set a reasonable amount of capital spending in this area and taking into consideration some amount of increased activity, Mr. Coppola doubled the highest amount spent by the Company in the prior three years from \$1.1 million to \$2.2 million for both the bridge period and projected test year.⁴⁷ The \$2.2 million forecasted amount results in a reduction of \$20,277,000 from the Company's forecasted capital expenditures for the bridge period and a reduction of \$10,558,000 from the Company's forecasted amount of \$12,758,000 for the projected test year.

Therefore, the Attorney General recommends that the Commission remove \$20,277,000 and \$10,558,000 from the Company's forecasted capital expenditures

⁴³ Hayward, 3 TR 1223, figure 29.

⁴⁴ Coppola, 3 TR 2467 and Exhibit AG-1 (AG-CE-0364 attachment line 31).

⁴⁵ Exhibit AG-13 includes DR AG-CE-0469.

⁴⁶ Coppola, 3 TR 2467.

⁴⁷ *Id.* at 2467 – 2468.

for the bridge period and the projected test year, respectively for HVD Other projects.

Conclusion – The Commission should remove \$34,820,000 and \$30,888,000 from the Company’s forecasted capital expenditures for the bridge period and the projected test year, respectively for HVD Substation Reliability.

iii. **HVD Premature Projects.**

Hayward, 3 TR 1296 – 1305, Figure 58, Exhibits A-109, A-110; Hayward Rebuttal, 3 TR 1360 – 1367, 1370 and 1370; Coppola, 3 TR 2468 – 2472, Exhibit AG-14, Exhibit AG-15; Fitzhenry, 6 TR 3712 and 3735 – 3736, York, 6 TR 3690 – 3691, 3697; Attorney General Hearing Exhibit AG-73.

To evaluate the reasonableness of including HVD projects in rate base in this case, the Attorney General asked the Company to provide a list of HVD projects of \$3.0 million or greater included in the bridge period and the projected test year, identifying the current phase of development of the project, the next phase of project development with start and completion dates along with the cost of the project and other pertinent information. The information provided by the Company shows that five projects in the bridge period have been cancelled, have not yet started the design phase, are still in the early stage of project design, or have a placeholder amount without a known specific project. The total forecasted capital expenditures included by the Company in the bridge period for these projects is \$34,654,000.⁴⁸

⁴⁸ See, Exhibit AG-14, pages 2 and 3.

The cancelled projects, totaling to \$27,305,000, should be removed along with the placeholder amount of \$7,349,000 for unknown “High Probability” projects under the Strategic Customers New Business. The Commission has repeatedly ruled that placeholder amounts should not be included in rate base. These remaining projects are still in the early phase of development, and it is uncertain if and when they will be completed and at what specific cost. Therefore, it is premature to include the capital expenditures for these projects in rate base. Customers should not pay in rates for the return on investment, depreciation expense, and other costs related to projects that may not go into service and not be used and useful before the end of the projected period. If the Company completes the projects, the costs related to those projects can be recovered in a subsequent rate case.⁴⁹ The Attorney General recommends that the Commission remove the total amount of \$34,654,000 from the Company’s forecasted capital expenditures for the bridge period.

There are thirteen projects for the projected test year, that have been cancelled, do not have specific projects associated with forecasted dollars, are currently in the scoping phase, or no design and engineering work has yet been completed. The total capital expenditures for these thirteen projects are \$78,051,000.⁵⁰ One of projects with forecasted capital expenditures of \$20,619,000 was cancelled. The Company also included capital expenditures of \$6,470,000

⁴⁹ Coppola, 3 TR 2469.

⁵⁰ See the highlighted projects in Exhibit A-14, pages 4 to 9.

under New Business Strategic Customers for high probability projects that have not yet been identified. This is a placeholder amount and should be removed. The remaining projects are still in the early phase of development, and it is uncertain if and when they will be completed and at what specific cost. Therefore, it is premature to include the capital expenditures for these projects in rate base.⁵¹

For reasons provided above, the capital expenditures related to these thirteen projects should not be included in rate base. The Attorney General recommends that the Commission remove the \$78,051,000 from the Company's forecasted capital expenditures for the projected test year.

In rebuttal, Ms. Hayward recommended a partial disallowance related to the cancelled HVD Strategic Customers New Business project of \$10,653,000.⁵² However, she rejects the Attorney General's recommended disallowances for the remainder of the cost associated with the cancelled projects, other premature projects, and unknown projects.⁵³ The recommended partial disallowance is not adequate for the cancelled projects. As discussed above, approximately \$27 million in costs is at stake.

Ms. Hayward also disagrees with Mr. Coppola's recommendation to disallow \$7.3 million for unknown HVD high probability projects strategic customers

⁵¹ Coppola, 3 TR 1370.

⁵² Hayward rebuttal, 3 TR 1362.

⁵³ *Id.*

claiming that the Commission previously approved the strategic procurement of critical inventory designed to make it easier to execute high probability projects.⁵⁴ However, the Company did not provide any supporting detail or components for those forecasted capital expenditures in testimony or related exhibits. Therefore, the Company's claim that it pertains to some inventory of equipment is unsupported and should be rejected.

Ms. Hayward also claims that property acquisition is ongoing for two substation rebuilds to presumably counter the Attorney General's claim that it is premature to recover expenditures.⁵⁵ First, there is no designation of property acquisitions for any substation other than Alma.⁵⁶ Second, even if there is some plans for property acquisitions, the projects are still in the early stages of development and are premature to include in rate base.

Finally, Ms. Hayward claims in rebuttal that contracts with two high probability strategic accounts were signed since the Company filed the rate case.⁵⁷ However, the Company's rebuttal nor discovery responses provide any capital expenditure amounts for those customers. Without evidence of forecasted capital expenditures for those customers, the Attorney General's proposed disallowance is not rebutted and should be sustained as proposed.

⁵⁴ Hayward rebuttal, 3 TR 1361.

⁵⁵ *Id.* at 1362.

⁵⁶ See, Exhibit AG-15 and Exhibit AG-73.

⁵⁷ Hayward, 3 TR 1363.

Projects for Large Strategic Customers. The Company recently had two large projects cancelled for two large strategic customers. The Company had already incurred \$11.6 million in capital expenditures for one of the projects when it was cancelled. It is not clear whether the second project was cancelled before or after the Company incurred any costs related to the project.⁵⁸ These events raise three major concerns. First, the Company is following a strategy of purchasing equipment and will likely begin design work on certain projects before the customer has signed a contract to expedite completion of the project. This is a very risky undertaking that should not be done at customers' cost.⁵⁹

Second, even after the project is completed and the customer begins operations there is still a risk that the customer may cease operations or decide to move to another state resulting in stranded assets that the Company will likely want to continue to recover from the rest of its customer base. These large strategic customer projects typically involve single customer dedicated substations, power lines, and related facilities at costs exceeding tens of millions of dollars. Although some of the equipment can be salvaged and reused on other projects, the remaining costs, plus the cost of teardown and transportation can still be large. Further, the Company does not often obtain a contribution in aid of construction (CIAC) under its economic development tariff (LEDR). Although the contract may provide for

⁵⁸ Exhibit AG-15 (DR AG-CE-0479).

⁵⁹ Id. (DR AG-CE-0480b). *See also*, Coppola 3 TR 2470.

some make-whole payments, those provisions could be worthless if the customer goes out of business.⁶⁰

Because of her concerns about the potential for stranded costs, the Attorney General sought information from the Company about contractual provisions with large customers for reimbursement of capital expenditures and O&M expenses incurred by the Company in case the customer abandons the project before completion of construction and also subsequent to start of operations but before the Company has recovered the full investment in the project. According to the Company, depending on the type of contract that it has with the Customer, they may include minimum billing requirements for certain energy usages and terms, and/or provisions for prorated payment of investments if the customer ceases operation prior to the end of the term of the contract. The Company also stated that it performs risk reviews on projects over \$1 million and may require additional security, such as a letter of credit or parental guaranty).⁶¹ However, based on the information provided by the Company, only two of the projects appear to have provisions for a letter of credit or parental guaranty. Therefore, the risk that customers could potentially face large, stranded costs remain.⁶²

Third, regarding the accounting for costs incurred on cancelled projects, the Company billed the former customer for a portion of the costs incurred for the

⁶⁰ Id. at 2471.

⁶¹ Exhibit AG-15 (DR AG-CE-0478c).

⁶² Coppola, 3 TR 2472.

cancelled project and retained the remainder in work in process pending resolution of salvage activities.⁶³ This accounting treatment is not appropriate. Once a project has been cancelled, the costs should be removed from rate base and accounted separately below the line. If some of the facilities, equipment, or materials is later reused for utility projects, those amounts should be charged to the future projects costs and rate base at that time.⁶⁴

The Attorney General recommends that the Commission direct the Company to take appropriate steps to protect customers from future stranded costs pertaining to large customer facilities installations, including obtaining bank letters of credit and parental guaranties at the time a contract is signed to avoid future disputes or having to react to unexpected events. The Commission should also direct the Company to adopt an accounting policy to remove costs from rate base for cancelled projects.⁶⁵

iv. **LVD Substation Capacity**

Hayward 3 TR 1288 – 1292, Exhibits A-113 (MPK-3), line 24, A-109 page 10, A-110 page 10; Hayward Rebuttal, 3 TR 1353 - 1354 Coppola, 3 TR 2457 – 2460, Exhibit AG-1, Exhibit AG-11.

The Company is forecasting capital expenditures for LVD Substations Capacity of \$29,656,000 for the bridge period and \$22,251,000 for the projected test

⁶³ See, Exhibit AG-15 (AG-CE-0479).

⁶⁴ Coppola, 3 TR 2472.

⁶⁵ *Id.* at 2472 – 2473.

year.⁶⁶ There are two components for this subprogram – new substations and existing substations.⁶⁷ The Attorney General recommends adjustments for both components.

New Substations. The company forecasted four new stations for the bridge period at a total cost of \$5,136,000. This forecast is in line with historical trends, and the Attorney General is not recommending any adjustments for the bridge period. However, for the projected test year, the Company forecasted eleven new units at a total cost of \$20,301,000 and an average unit cost of \$1,845,727. In comparison, the Company has completed between 3 and 8 new stations for the last four years with no stations built in 2023.⁶⁸ The Company has not provided sufficient evidence why the historical average number should be doubled for the projected test year and why eleven new stations need to be built. In fact, for the most recent three years (including 2021 instead of 2023), the Company completed an average of 5 new stations annually.⁶⁹

Because the Company has not supported its projected level of activity compared to the historical level of activity, Mr. Coppola uses the three-year average of five units for the projected test year and the Company's forecasted unit cost of \$1,845,727 to forecast expenditures for New Substations. This results in capital

⁶⁶ See, Exhibit A-113 (MPK-3), line 24.

⁶⁷ See, Hayward, p. 133, Figure 56.

⁶⁸ Exhibit AG-1 (DR AG-CE-0364 with attachment).

⁶⁹ Coppola, 3 TR 2458.

expenditures of \$9,229,000, which is \$11,074,000 lower than the company's forecast of \$20,303,000.⁷⁰ Therefore, the Attorney General recommends that the Commission remove this difference from the Company's capital expenditures for the projected test year.⁷¹

Existing Substations. The Company forecasts nineteen substations for capacity expansion for the bridge period at a cost of \$24,520,000. For the projected test year, the Company forecasts four expansion projects at a cost of \$1,948,000. In comparison, the Company completed from seven to twelve projects a year with an average number of nine units annually for the most recent three years 2022-2024. The bridge period forecast more than doubles the average annual number of units. To support this increase, the Company references the direct testimony of Ms. Hayward and provided a list of stations indicating station overload conditions. Ms. Hayward's testimony provides only general statements about addressing customers' increasing load demands but with nothing specific to support the substantial increase in the number of units. Similarly, a list provided by the Company does not identify the level of overload experienced and why these are priority projects that need to be completed in the bridge period.⁷²

Based on the recent historical level of activity, Mr. Coppola forecasts 12 units for the 16-month bridge period at the average cost per unit of \$675,000 per unit.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Coppola, 3 TR 2458 – 2459 and Exhibit AG-11 (DR AG-CE-0477).

This results in forecasted capital expenditures of \$8,100,000.⁷³ This amount is \$16,420,000 less than the Company's forecasted capital expenditures of \$24,520,000 for Existing Capacity in the bridge period.

The Attorney General recommends that the Commission remove \$16,420,000 for the bridge period and \$11,074,000 for the projected test year from the Company's forecasted capital expenditures for the LVD Substations Capacity subprogram.

v. **LVD Substation Rehabilitation**

Hayward 3 TR 1250 - 1256, Exhibit A-113 (MPK-3), line 16, Exhibit A-108 page 5, Exhibit A-110 page 5; Hayward Rebuttal, 3 TR 1350 – 1352; Coppola, 3 TR 2454 – 2457, Exhibit AG-1; Attorney General Hearing Exhibit AG-72.

The Company is forecasting capital expenditures for LVD Substations Rehabilitation of \$40,895,000 for the bridge period and \$31,147,000 for the projected test year.⁷⁴ There are two components for this subprogram – Allis Chalmers Transformers and Equipment Replacement and Regulatory.⁷⁵ The Attorney General is proposing adjustments to the capital expenditures for each component.

Allis Chalmers Transformers. According to the Company, it has 37 Allis Chalmers transformers in operation as of early 2025 and it has had problem with

⁷³ See, Coppola, 3 TR 2459 footnote 43.

⁷⁴ Exhibit A-113 (MPK-3), line 16.

⁷⁵ Hayward, 3 TR 1255, Figure 42.

the transformers for many years.⁷⁶ The Company plans to replace all 37 Allis Chalmers transformers and other transformers by the end of the projected test year, including 26 in the bridge period and 18 units in the projected test year for a total of 44 units.⁷⁷ This represents a significant increase in activity over recent years. The pace of replacement of the transformers had declined in the most recent historical three years from prior years.⁷⁸ The Company averaged four replacements annually between 2022 and 2024.⁷⁹ Now it appears to be accelerating the replacement rate to make up for fewer replacements in the past three years.⁸⁰ The acceleration is excessive and burdensome to customers who pay the cost of the replacements. The Attorney General recommends that the Company stretch replacement over a longer number of years past 2026 to ease the cost burden to ratepayers.⁸¹

Specifically, the Attorney General recommends that nine units be replaced in the bridge period, which is more than twice the average number of units replaced in the past three years. Eight units should be replaced in the projected test year, which is twice the historical average number. The remaining fourteen units should be replaced over the subsequent two years.⁸² Using the nine units proposed for replacement in the bridge period, and using the Company's forecasted unit cost of

⁷⁶ Hayward, 3 TR 1250 – 1251.

⁷⁷ *Id.* at 1255 Figure 42.

⁷⁸ *See*, Hayward, 3 TR 1251 table.

⁷⁹ *See*, Exhibit AG-1, (attachment line 60).

⁸⁰ Coppola, 3 TR 2454 – 2455.

⁸¹ *Id.*

⁸² *Id.* at 2455.

\$864,038, the forecasted capital expenditures should be \$7,776,000 for the bridge period. This amount is \$14,689,000 lower than the Company's forecasted capital expenditures of \$22,465,000. Likewise for the projected test year, using the eight units multiplied proposed above by the Company's forecasted cost of \$808,222 results in capital expenditure of \$6,466,000. This amount is \$8,082,000 less than the Company's forecasted capital expenditures of \$14,548,000.⁸³

Therefore, the Attorney General recommends that the Commission remove the \$14,699,000 and \$8,082,000 from the Company's forecasted capital expenditures for the bridge period and projected test year, respectively.

Equipment Replacement and Regulatory. Similar to the Allis Chalmers' transformers, the Company forecasted a significant escalation in the number of projects to be completed during the bridge period and the projected test year for the Equipment Replacement and Regulatory category. For the bridge period, the Company forecasted 26 units for a total cost of \$18,430,000 and average unit cost of \$708,846. For the projected test year, the Company forecasted total capital expenditures of \$16,599,000 for 13 projects at an average cost of \$1,276,846.⁸⁴

During the most recent historical three years, the Company had approximately 10 projects annually at an average unit cost of \$511,340. It did not provide any explanation, evidence, or justification for the higher forecasted unit cost

⁸³ Coppola, 3 TR 2455.

⁸⁴ Hayward, 2 TR 1255, Figure 42.

for the bridge period and projected test year. Mr. Coppola recommended using the three-year average unit cost adjusted for future inflation as a reasonable basis to forecast capital expenditure for the bridge period and projected test year.⁸⁵ Using the 13 projects multiplied by \$526,000 he arrived at a forecasted capital expenditure of \$6,838,000 for the bridge period.⁸⁶ This amount is \$11,592,000 lower than the \$18,430,000 forecasted by the Company. For the projected test year, he multiplied the adjusted unit cost of \$539,000 to 10 forecasted units to arrive at forecasted capital expenditures of \$5,390,000.⁸⁷ This amount is \$11,209,000 less than the Company's forecasted amount of \$1,599,000. Therefore, the Attorney General recommends that the Commission remove \$11,592,000 and \$11,209,000 from the Company's forecasted capital expenditures for the bridge period and projected test year.

The Commission should remove \$26,291,000 from the bridge period and \$19,291,000 for the projected test year from the Company's forecasted capital expenditures for its LVD substation rehabilitation program.

In rebuttal, the Company disagrees with the Attorney General's proposal to extend the replacement of the Allis Chalmers transformers over four years claiming that it should not drag out the process further.⁸⁸ This response does not indicate an

⁸⁵ Coppola, 3 TR 2456.

⁸⁶ *Id.* at 2457 (including footnote 39)

⁸⁷ *Id.* (including footnote 40).

⁸⁸ Hayward, rebuttal, 3 TR 1351.

inability to do so. Clearly, the Company has not evaluated this as a viable alternative and would just delay the replacement a couple of years but provide rate relief to ratepayers.⁸⁹ Ms. Hayward also claims that the Company's bridge period projections were made by taking into account the Commission's approved spending levels in Case No. U-21585.⁹⁰ It not clear from the Commission's order in U-21585 that a specific spending level was approved for the Allis Chalmers transformers. Ms. Hayward requests that if the Commission does not agree with the Company's plan to finish the Allis Chalmers replacements in the test year in this case, that it should not adopt any bridge year disallowances since it was 10 months into the bridge period. Instead, any adjustments should be made to the test year only.⁹¹

The timing issue is a result of the Company's choice to file rate cases within a few months after an order is issued in the previous case. Unfortunately, that creates a situation where capital spending is forecasted for the same project over two rate cases before they have been completed with capital spending overlapping from case to case. That should not be used as the basis for denying the Attorney General's proposal. The Commission should approve a spending level that will allow replacements to occur over a longer period as proposed by the Attorney General.

c. Low Voltage Distribution

i. LVD Lines New Business

⁸⁹ Exhibit AG-72, p.1 (DR AG-CE-0844).

⁹⁰ Hayward Rebuttal, 3 TR 1351.

⁹¹ *Id.*

Partlan 3 TR 1893, 1895 – 1903, Exhibits A-166 and A-167, Exhibit A-113 (MPK-3), line 1; Partlan Rebuttal, 3 TR 2045 – 2047, Coppola, 3 TR 2423 – 2426, Exhibit AG-1, Exhibit AG-2.; Evans; 6 TR 4453 – 4455; Attorney General Hearing Exhibit AG-70.

The Company is projecting approximately \$168 million for bridge period and \$130.2 million for the projected test year to build new LVD lines for residential and small commercial customers.⁹² It spent \$116.1 million in 2024 in capital expenditures to build new LVD lines for residential and small commercial customers.⁹³ The Company has also forecasted that it will install 12,211 new service lines in the bridge period, and it is projecting 9,252 new lines in the projected test year.⁹⁴ The forecasted number of units appear reasonable.⁹⁵ However, the Attorney General is recommending disallowances for this category of expenditure because the forecasted unit costs for the bridge period and projected test year appear to be higher than reasonable.⁹⁶ The cost per unit in 2024 was \$12,971, which was lower than the previous two years. In contrast, the Company forecasted unit costs of \$13,762 for the bridge period and \$14,073 for the projected test year.⁹⁷

⁹² Coppola 3 TR 2423 and Exhibit AG-1, line 2 of the attachment.

⁹³ Exhibit A-113 (MPK-3), line 1.

⁹⁴ Partlan, 3 TR 1893 – 1895.

⁹⁵ Coppola, 3 TR 2423.

⁹⁶ *Id.*

⁹⁷ *Id.* See also, Exhibit AG-1.

To determine the forecasted unit costs, the Company stated that it used an extrapolation of historical costs to forecast both cost and units but could not provide a calculation. Regarding the decline in the unit cost in 2024, the Company reported that it has undertaken a cross-functional unit cost reduction effort and by placing more focus on detailed design reviews, improving labor planning and materials availability, among other efforts, and was able to reduce the service installation costs in 2024.⁹⁸ According to Mr. Coppola, it is reasonable to assume that the unit cost reductions achieved in 2024 will continue into the bridge period and projected test year with appropriate future inflation adjustments. Therefore, he used the 2024 unit cost of \$12,971 and applied the inflation rate of 2.9% for the 16 months in the bridge period to arrive at a forecasted unit cost of \$13,347. Multiplying this cost by the 12,211 units provided by the Company, he calculated capital expenditures of \$162,980,000 for the bridge period. This amount is \$5,067,000 lower than the \$168,047,000 forecasted by the Company.⁹⁹

Similarly, for the projected test year, he applied the inflation rate of 2.4% to the bridge period forecasted unit cost to arrive at a unit cost of \$13,667. This amount multiplied by the 9,252 units forecasted by the Company results in forecasted capital expenditures of \$126,447,000. This amount is \$3,753,000 lower than the Company's forecast of \$130,200,000.¹⁰⁰

⁹⁸ Exhibit AG-2(DR AG-CE-0335) and Coppola, 3 TR 2424.

⁹⁹ Coppola 3 TR 2424.

¹⁰⁰ *Id.* including footnote 3.

Based on the calculations provided above, the Commission should remove \$5,067,000 for the bridge period and \$3,753,000 for the projected test year from the Company's forecasted capital expenditures.

The Company disagreed with Mr. Coppola's use of the 2024 unit cost, adjusted for inflation, to forecast capital expenditures for this category of expenditures, stating that it is not consistent with Mr. Coppola's use of a three-year historical cost in other areas.¹⁰¹ As discussed above, Mr. Coppola used the 2024 unit cost as a base for his projections because it represents a reset of the cost to install new LVD lines.¹⁰² The three-year average would not be representative of future costs given the changes made by the Company and its commitment to lower unit costs beginning in 2024.¹⁰³

The Commission should adopt the Attorney General's recommendation.

ii. LVD Asset Relocations

Partlan 3 TR 1914 – 1924, Exhibit A-113 (MPK-3), line 38; Figure 16? Exhibit A-166 page1, Exhibit A-167 page 1, Exhibit A-113, line 38, Exhibit A-130, line 38; Partlan Rebuttal, 3 TR 2041 – 2042, 2048 – 2050, 2063 – 2064; Coppola, 3 TR 2426 – 2430, Exhibit AG-1, Exhibit AG-3; Boutet, 6 TR 4366, 4375 – 4377, Exhibits S-13.1, S-13.2, S-13.6, S-13.7, S-13.8, S-13.11; York, 6 TR 3701; Attorney General Hearing Exhibit AG-70.

¹⁰¹ Partlan Rebuttal, 3 TR 2046 – 2047.

¹⁰² *See also*, Coppola, 3 TR 2423 – 2424.

¹⁰³ *See*, Exhibit AG-70, p.1 (DR AG-CE-0834a).

The Company is forecasting expenditures for LVD Lines Demand Failures of \$97,911,000 for the bridge period and \$79,090,000 for the projected test year.¹⁰⁴ There are three major components for this program.¹⁰⁵ The Attorney General is recommending adjustments for two of the components – the Customer Requested and Other Internal Relocations, and the Make-Ready Work.

Customer Requested and Other Internal Relocations. This program involves the relocation of electric poles and lines along with other related items. Customer requests for relocations occur throughout the year and are not fully known to the Company when preparing the capital expenditure amount for the forecasted periods.¹⁰⁶ As shown in Figure 16, the Company forecasted 4,163 work units for the bridge periods and 3,379 units for the projected test year. However, in Exhibit A-166, the Company shows only 1,828 known projects for the bridge period and in Exhibit A-167 it shows only 1,185 known projects for the projected test year. The Company had 2,369 relocations per year on average for the three historical years 2022 – 2024.¹⁰⁷ The total forecasted number of units for the bridge period and projected test year appear to be excessive relative to historical levels and known projects. In addition, the Company provides no justification for the large increase in forecasted units in Ms. Partlan’s testimony.¹⁰⁸

¹⁰⁴ Exhibit A-113 (MPK-3), line 38.

¹⁰⁵ See, Partlan, 3 TR 1922 including Figure 16.

¹⁰⁶ Coppola, 3 TR 2426 – 2427.

¹⁰⁷ See, Exhibit A-130, line 38.

¹⁰⁸ Coppola, 3 TR 2427.

Due to the lack of support for the forecasted increase in the number of work units, Mr. Coppola used the historical average annual number of units of 2,369 for the last three years as a basis to calculate a reasonable capital expenditures forecast. He calculated 3,159 units for the bridge period and using the Company's forecasted unit cost of \$10,814 determined a capital expenditures amount of \$34,161,000.¹⁰⁹ This amount is \$10,857,000 lower than the Company's forecast of \$45,018,000. The Commission should remove the \$10,857,000 from the Company's forecasted capital expenditures.

Likewise, for the projected test year, he used 2,369 units multiplied by the Company's forecasted unit cost of \$9,571 to arrive at the forecasted capital expenditure of \$22,674,000.¹¹⁰ This amount is \$9,667,000 lower than the Company's forecast of \$32,341,000. The Attorney General recommends that the Commission remove the \$9,667,000 from the Company's forecasted capital expenditures.

Ms. Partlan disagrees with the disallowance proposed by Mr. Coppola for this category of expenditures in rebuttal.¹¹¹ She disputes Mr. Coppola's testimony that Exhibit A-166 and A-167 do not show the total forecasted projects but offers nothing more on where in other exhibits the other projects may be located. She also disputes the use of the number of units from the most historical three-year average

¹⁰⁹ See, Exhibit AG-1 attachment, line 38 for the Company's forecasted unit cost of \$10,814.

¹¹⁰ Coppola, 3 TR 2427. See also, AG-1 for forecasted unit cost of \$9,571.

¹¹¹ Partlan Rebuttal, 3 TR 2048.

multiplied by the company's forecasted unit cost, preferring her growth formula of 3.2% of historical capital expenditures from 2020 to 2023. Discovery response AG-CE-0835 points out that the average number of units in the most recent three years captures the increase in the number of units included in her 3.2% formula, which underly the capital expenditures.¹¹² Using the average number of units during the most recent three years multiplied by the Company's forecasted unit cost is a superior approach than forecasting overall capital expenditures from an older period (2020 to 2023) and then applying a rate of growth to 2024 actual capital expenditures when historical capital expenditures have varied from year to year.

The Commission should adopt the Attorney General's recommendation.

Make-Ready Relocations. The Company is forecasting 7,697 units for the bridge period for a total cost of \$45,837,000 for Make-Ready Relocations. That equates to an average unit cost of \$5,955.¹¹³ The Company forecasted 6,572 units at a total cost of \$39,265,000 for the projected test year. That equates to an average unit cost of \$5,975.¹¹⁴ The number of Make-Ready orders or units completed ranged between 1,236 and 1,640 in the past three years.¹¹⁵ Therefore, the forecasted periods include a major escalation in number of units projected by the Company.

¹¹² Exhibit AG-70, page 2 (DR AG-CE-0835)

¹¹³ Coppola, 3 TR 2428.

¹¹⁴ *Id.*

¹¹⁵ *See*, Partlan, 3 TR 1922, Figure 15.

When asked to provide the basis for the large escalation in forecasted Make-Ready work for 2025, 2026, and 2027, the Company pointed to Ms. Partlan's testimony and a Staff discovery response. Both references provide a general discussion of federal grants for expansion of broadband in rural areas but provide no specific basis or calculations to show how the Company arrived at the forecasted number of units.¹¹⁶ The number of Make Ready orders received in the first 8 months of 2025 in comparison to the same period in 2024, shows that Make-Ready orders increased 37 percent in the 2025 year to date period over the prior year.¹¹⁷ This is the only indication available of a recent rate of increase in orders.¹¹⁸

Mr. Coppola used the 37% rate of increase for the 8-month period to calculate the forecasted number of units for 2025, 2026, and 2027. He calculated a total forecasted number of units of 2,243 for 2025. Applying the 37% rate of increase to subsequent years, he arrived at forecasted units of 3,073 for 2026 and 4,210 units for 2027. These numbers provided the basis to calculate the number of units of 3,267 for the bridge period and 5,975 for the projected test year.¹¹⁹

Based on these revised forecasted units, he determined forecasted capital expenditures of \$19,455,000 for the bridge period by multiplying the 3,267 units by the Company's forecasted average unit cost of \$5,955. The revised forecasted

¹¹⁶ Coppola, 3 TR 2428.

¹¹⁷ See, Exhibit AG-3 (DR AG-CE-0341 with attachment).

¹¹⁸ Coppola, 3 TR 2428 – 2429.

¹¹⁹ *Id.*

capital expenditures are \$26,382,000 less than the Company's forecast of \$45,837,000. Similarly, he determined a revised capital expenditures amount of \$20,626,000 for the projected test year by multiplying the 3,452 units by the Company's forecasted unit cost of \$5,975. The forecasted capital expenditures are \$18,639,000 lower than the Company's forecast of \$39,265,000.¹²⁰ Mr. Coppola recommended that the Commission remove the \$26,382,000 and \$18,639,000 difference from the bridge period and projected test year capital expenditures respectively.

Ms. Partlan brings up two issues in her rebuttal regarding the Make-Ready work.¹²¹ First, the Company corrected previously provided forecasted Make-Ready work orders for 2025 through 2027. Second, there is the lack of funding for the Broadband Equity Access and Deployment (BEAD) program, which is the driving factor in the Company's forecasted capital expenditures to complete Make-Ready field orders. The Company's revised forecasted work order units change the cost per unit calculated by Mr. Coppola for the bridge period from \$5,955 to \$12,295. This revised unit cost multiplied by the 3,267 units forecasted by Mr. Coppola for the bridge period results in revised capital expenditures of \$40,168,000. This amount is \$5,669,000 lower than the Company's forecasted capital expenditures of \$45,837,000 for the bridge period. The Attorney General recommends that the Commission approve the \$5,669,000 revised disallowance for the bridge period

¹²⁰ *Id.* at 3430.

¹²¹ Partlan, 3 TR 2048 – 2049.

instead of the previously proposed disallowance of \$26,382,000.¹²² The response to AG-CE-0837 confirms these amounts.

The Attorney General withdraws the disallowance of \$18,639,000 proposed by Mr. Coppola due to the Company's revised forecasted units and the resulting higher unit cost.

The Attorney General recommends that the Commission remove a total of \$37,239,000 for the bridge period and \$28,305,000 from the Company's forecasted capital expenditures for LVD Asset Relocations subprogram.

iii. **LVD Lines Reliability**

LVD Lines Reliability

Partlan, 3 TR 1954 – 1960, Exhibit A-113 (MPK-3), line 7, Exhibit A-166, Exhibit A-167; Partlan Rebuttal 3 TR 2039 – 2041, 2050 – 2053, 2066 – 2067; Coppola, 3 TR 2430 – 2437, Exhibit AG-1, Exhibit AG-4; Boutet, 6 TR 4366, 4372 – 4373, 4377 – 4379, Exhibit S-13.1, S-13.2, S-13.5, S-13.9, S-13.11; Attorney General Hearing Exhibit AG-71.

The Company is forecasting capital expenditures for LVD Lines Reliability of \$180,763,000 for the bridge period ending April 2026 and \$312,886,000 for the projected test year ending April 2027.¹²³ This subprogram consists of nine capital categories.¹²⁴ The Attorney General is recommending adjustments to four of these

¹²² See, Exhibit AG-70, page 3 (DR AG-CE-0837) for supporting information.

¹²³ See, Exhibit A-113 (MPK-3), line 7.

¹²⁴ Partlan, 3 TR 1956, Figure 35.

categories: Zonal Health Improvements, Voltage Conversion, Underground Cable Rejuvenation, and Right-of-Way costs.

Zonal Health Improvement Program. Under the Zonal Health Improvement Program, the Company targets specific zones within a circuit that cause the highest number of power outages by replacing fuses, conductor lines, switches, reclosers and other equipment. The Company proposes spending \$61,320,000 in the bridge period and \$34,917,000 in the projected test year for this category of expenditures. Based on the forecasted capital expenditures and number of units, the Company's forecasts reflect a unit cost of \$123,380 for the bridge period and \$199,525 for the projected test year.¹²⁵ Historically, the number of units under this category increased significantly in 2022 and 2023 to 10,509 and 7,749 over the 169 units in 2021, which decreased the unit cost to approximately \$3,000. In 2024, the number of units declined to 511.¹²⁶ Mr. Coppola points out that a portion of the work in this category includes the installation of fuses on the lines, which are high volume and lower cost, and it appears that most of the fusing work occurred in 2022 and 2023 with significantly fewer installations in 2024, the bridge period, and the projected test year.¹²⁷

In 2024, the Company completed 511 units at a cost of \$33,987,994 for a calculated unit cost of \$66,513. The number of units completed in 2024 is

¹²⁵ Coppola, 3 TR 2431.

¹²⁶ See, Exhibit AG-4 (DR AG-CE-0346).

¹²⁷ Coppola, 3 TR 2431.

comparable to the 497 units forecasted by the Company for the bridge period and closer to the 175 units forecasted for the projected test year than the number of units completed in 2022 and 2023.¹²⁸ However, the unit cost for 2024 diverges considerably from the forecasted unit cost of \$123,380 for the bridge period and the forecasted unit cost of \$199,525 for projected test year. The Company has not provided any justification for such a large variance in unit cost from one year to the next or what changed in the projects that increases that cost significantly. The forecasted unit costs for the bridge period and projected test year are excessive, not adequately supported, and need to be adjusted to a more reasonable level.¹²⁹

Therefore, Mr. Coppola used the historical unit cost of \$66,513 and adjusted it for the inflation factor, to calculate a bridge period unit cost of \$68,442.¹³⁰ He multiplied the Company's forecast of 497 units with the adjusted unit cost to determine forecasted capital expenditures of \$34,016,000 for the bridge period. This amount is \$27,304,000 lower than the \$61,320,000 forecasted by the Company, and the Commission should remove that amount from the Company's forecasted capital expenditures for the bridge period.

For the projected test year, he applied another year of inflation to the bridge period unit cost to arrive at a forecasted unit cost of \$70,085. This cost multiplied by the forecasted units of 175 results in forecasted capital expenditures of

¹²⁸ *Id.* at 2431 – 2432.

¹²⁹ *Id.* at 2431.

¹³⁰ Coppola. 3 TR 2431.

\$12,265,000.¹³¹ This amount is \$22,652,000 lower than the \$34,917,000 amount forecasted by the Company for the projected test year, and the Commission should remove this difference from the Company's forecasted capital expenditures for the projected test year.

Voltage Conversion Program. This involves the Company's plans to convert secondary wire installations to a multiplex system. The capital spending and number of projects completed in this category has varied from 2021 to 2024, ranging from \$90,300 for three projects in 2023 to \$2.4 million for five projects in 2021.¹³² The Company is forecasting 44 projects at a total cost of \$8,427,000, which results in a calculated unit cost of \$191,523 for the bridge period, and 283 projects at a total cost of \$33,115,000 for the projected test year.¹³³ However, other information provided by the Company indicates that a lower amount of units will be completed during that time. The Company plans to complete 165 units for each year 2026 and 2027.¹³⁴ Based on these latest numbers, the projected test year units are really 165, instead of the 283 units shown in Ms. Partlan's Figure 35. The lower number of units for 2026 seems to be more in line with the 44 forecasted units for the bridge period and a more reasonable projection for the ramp-up to the projected test year.¹³⁵

¹³¹ *Id.* at 2432.

¹³² Exhibit AG-4 (DR AG-CE-0346).

¹³³ Partlan, page 69, Figure 35.

¹³⁴ Exhibit AG-4 (DR AG-CE-0346 attachment).

¹³⁵ Coppola, 3 TR 2432 – 2433.

The Company is ramping up work in this area from less than 10 units annually during the past four historical years to 33 units in 2025 and 165 units in 2026 and 2027.¹³⁶ According to the Company the increased planned activity is necessary to mitigate safety risks of underground wires, while also increasing operational flexibility and inventory processes. With the increased number of units, the Company also expects to realize economies of scale.¹³⁷ The forecasted capital expenditure of \$33,115,000 for the projected test year divided by the 165 units results in a unit cost of \$200,697. As stated above, the average unit cost for the bridge period is \$191,523. When compared to the 2024 unit cost of \$136,044, the forecasted costs proposed by the Company do not show the claimed economies of scale.¹³⁸

Therefore, Mr. Coppola calculated a more reasonable unit and cost and capital expenditure amount by using the most recent actual unit cost of \$136,044 from 2024 and applying the inflation factor of 2.9%, which results in a forecasted unit cost of \$139,989 for the projected test year. Applying this cost to the 44 units forecasted by the Company, results in a reasonable capital expenditure forecast of \$6,160,000 for the bridge period. This amount is \$2,267,000 less than the Company's forecast of \$8,427,000.¹³⁹ The Attorney General recommends that the

¹³⁶ *Id.* at 3 TR 2433 and Exhibit AG-4 (DR AG-CE-0346).

¹³⁷ *Id.* Exhibit AG-4 (DR AG-CE-0346c).

¹³⁸ Coppola, 3 TR 2433.

¹³⁹ *Id.* at 3 TR 2433 – 2434.

Commission remove this difference from the Company's forecasted capital expenditures.

Although the increase in the number of projects from the bridge period to the projected test year is significant, Mr. Coppola accepted the Company's forecast of 165 units as necessary to resolve safety risks. Using this forecast and applying the inflation adjusted forecasted unit cost of \$143,345, he calculated a reasonable capital expenditures forecast of \$23,653,000 for the projected test year. This amount is \$9,462,000 lower than the Company's forecast of \$33,115,000.¹⁴⁰ The Attorney General recommends that the Commission remove the \$9,462,000 from the Company's forecasted capital expenditures for the projected test year.

Ms. Partlan disagrees with the Attorney General's forecasted number of units for voltage conversion,¹⁴¹ which were based the forecasts provided by the Company for 2026 and 2027. According to the Company the 165 units for 2026 are solely withing the test period and that it intends to complete planning work in the first quarter of 2026 so that project execution can begin in the test year.¹⁴² The Company does not explain how it gets to 283 for the test year. The Attorney General's forecast is traceable and accurate based on information provided by the

¹⁴⁰ Coppola, 3 TR 2434, including footnote 19.

¹⁴¹ Partlan Rebuttal, 3 TR 2051 – 2052.

¹⁴² Exhibit AG-71, p. 1 (DR AG-CE-0839).

Company and should be adopted along with her proposed capital expenditure disallowances.

Underground Cable Rejuvenation. The Company is forecasting capital expenditures of \$27,909,000 for the bridge period for 68 projects.¹⁴³ This results in an average unit cost of \$410,426.¹⁴⁴ For the projected test year, the forecasted spending is \$65,989,000 for 158 projects at a calculated unit cost of \$417,652.¹⁴⁵ In comparison, historical unit costs for the four years 2021 to 2024 ranged from \$90,664 to \$224,660 with the number of projects ranging from 5 to 10 annually. The average unit cost in the most recent three years was \$161,392, and the average unit cost for 2024 was \$168,852. The Company's forecasted unit costs based on the forecasted spending and planned number of units are excessive, not adequately supported, and need to be lower.¹⁴⁶

According to Mr. Coppola, the three-year average unit cost adjusted for inflation should be representative of the cost of completing future projects, particularly with the significant ramp up in activity in future periods and the expected economies of scale that will likely be achieved.¹⁴⁷ Using the average unit cost of \$161,072 and adjusted for inflation, he calculated a unit cost of \$166,072 for the bridge period, and multiplying it by the Company's forecasted 68 units results in

¹⁴³ Partlan, 3 TR 1956, Figure 35.

¹⁴⁴ Coppola, 3 TR 2434.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ Coppola, 3 TR 2435.

forecasted capital expenditures of \$11,293,000. This amount is \$16,616,000 lower than the \$27,909,000 forecasted by the Company.¹⁴⁸ The Attorney General recommends that the Commission remove this difference from the Company's projected bridge period capital expenditures.

Likewise, for the projected test year, he added another year of inflation to the bridge period unit cost to arrive at a forecasted unit cost of \$170,058. By multiplying this cost by the Company's forecast of 158 units, Mr. Coppola calculated forecasted capital expenditures of \$26,869,000 for the projected test year. This amount is \$39,120,000 less than the Company's forecast of \$65,989,000.¹⁴⁹ The Attorney General recommends that the Commission remove the \$39,120,000 from the Company's forecasted capital expenditures.

Right-of-Way (ROW) Costs. The Company is forecasting ROW costs of \$6,188,000 for the bridge period and \$17,667,000 for the projected test year.¹⁵⁰ ROW costs ranged from \$4.2 million to \$6.2 million during the four years from 2021 to 2024.¹⁵¹ According to Mr. Coppola, the projected test year increase to more than \$17 million for ROW costs represents a significant increase that has not been adequately supported by the Company.¹⁵² He points out that the Company stated in response to discovery that there are no individual projects supporting the ROW

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Partlan, 3 TR 1956, Figure 35.

¹⁵¹ Exhibit AG-4 (DR AG-CE-0346 with attachment).

¹⁵² Coppola, 3 TR 2435 – 2436.

forecast and the Company used a 14% ratio of historical ROW costs to target capital investments for its projections. No data or calculation were provided to support the 14% or the range of 11% to 19% noted in the discovery response.¹⁵³

According to Mr. Coppola, the 14% ratio used by the Company may not be pertinent to the need for ROW easements and that not all capital projects require new or expanded ROWs. He provided an example that pole replacements with \$127.5 million of spending or 41% of the total capital expenditures of \$312.9 million for the projected test year do not generally require new ROW easements unless they are being moved outside the current right of way. While he found the bridge period ROW costs in line with recent spending in this area, the Company had not adequately associated the ROW costs to specific projects and justified the increased ROW costs to relevant projects planned for the projected test year.¹⁵⁴

Therefore, he determined a reasonable spending level for the projected test year by using the highest level of ROW costs in the past four years of \$6,202,000 (from 2024) as the forecasted amount. This amount is slightly higher than the \$6,188,000 forecasted by the Company for the 16-month bridge period ending April 2026, and it is even higher than the 12-month annualized amount of \$4,641,000. The \$6,202,000 forecast for the projected test year is \$11,465,000 less than the Company's forecast of \$17,667,000. The Attorney General recommends that the

¹⁵³ *Id.* at 2436. *See also*, AG-4 (DR ST-CE-0155).

¹⁵⁴ Coppola, 3 TR 2436.

Commission remove this difference from the Company's forecasted capital expenditures.¹⁵⁵

LVD Repetitive Outages.

Partlan, 3 TR 1960 – 1968, Exhibit A-113 (MPK-3), line 12, Exhibit A-166 pages 23 through 27, Exhibit A-167 pages 11 through 16; Partlan Rebuttal 3 TR 2041, 2058 – 2060; Coppola, 3 TR 2450 – 2454, Exhibit AG-1, Exhibit AG-10; Boutet, 6 TR 4366, 4373 – 4375, Exhibit S-13.1, S-13.2, S-13.11; Attorney General Hearing Exhibit AG-71.

The Company is forecasting capital expenditures for LVD Repetitive Outages of \$21,089,000 for the bridge period and \$30,344,000 for the projected test year.¹⁵⁶ Capital spending on this subprogram has been erratic from year to year ranging from \$4.1 million in 2023 to \$10.7 million in 2021.¹⁵⁷ Spending for the most recent years 2023 and 2024 have been low with annual spending of \$4.1 million and \$4.5 million which is confusing considering the importance of the program since repetitive outages have been an area of concern in prior proceedings.¹⁵⁸ The Company pointed back to work performed in other areas, such as LVD Lines Reliability and LVR Resiliency that it believes accomplish the same goal of reducing SAIDI and CEMI as a reason for this level of spending.¹⁵⁹ If it is true that other work accomplishes the same goal as the repetitive outage program, it is not clear

¹⁵⁵ *Id.* at 2436 – 2437.

¹⁵⁶ Exhibit A-113 (MPK-3), line 12.

¹⁵⁷ *See*, Partlan, 3 TR 1966, Figure 39.

¹⁵⁸ Coppola, 3 TR 2451.

¹⁵⁹ *See*, Exhibit AG-10 (DR AG-CE-0349) and Partlan, 3 TR 1967 – 1968.

why the Company is now forecasting capital spending in the bridge period and projected test year in the Repetitive Outages program that is four to six times higher than the amount spent in 2024.¹⁶⁰

The forecasted capital expenditure of \$21,090,000 for the bridge period is for 246 units or projects. This translates to a unit cost of \$85,728. For the projected test year, the forecasted capital expenditures are \$30,344,000 for 337 projects at an average unit cost of \$90,042.¹⁶¹ The average number of projects completed in the most recent historical three years is 228 at an average cost of \$27,032.¹⁶² The average cost per unit in 2024 was \$20,890. Therefore, the Company's forecasted average unit costs of \$85,728 for the bridge period and \$90,042 for the projected test year are extremely high and not representative of recent actual costs. The Company has not provided specific justification for the large difference in the forecasted unit costs versus recent historical costs.¹⁶³

While Mr. Coppola accepts the Company's forecasted number of projects for the bridge period and projected test year as a reasonable progression toward more activity and focus on this problem area, he determined that the average unit costs are excessive and should to be reduced to reflect recent actual costs.¹⁶⁴ To calculate reasonable capital expenditure amounts, he started with the three-year historical

¹⁶⁰ Coppola, 3 TR 2451.

¹⁶¹ *Id.* at 2452. *See also*, Exhibit AG-1, line 35.

¹⁶² Exhibit AG-1, line 35.

¹⁶³ Coppola, 3 TR 2452.

¹⁶⁴ Coppola, 3 TR 2452.

average unit cost of \$27,032 from 2022 to 2024, and adjusted this cost by the inflation rate of 2.9% to arrive at a bridge period unit cost of \$27,816. Multiplying this cost by the 246 units forecasted by the Company he calculated a forecasted capital expenditures of \$6,843,000. This amount is \$14,246,000 lower than the \$21,089,000 forecasted by the Company.¹⁶⁵ Therefore, the Attorney General recommends that the Commission remove this difference from the Company's forecasted capital expenditures for the bridge period.

To calculate capital expenditures for the projected test year, Mr. Coppola adjusted the bridge period unit cost by the inflation rate of 2.4% to arrive at a unit cost of \$28,484. He applied this cost to the 337 units forecasted by the Company to calculate forecasted capital expenditures of \$9,599,000 for the projected test year. This amount is \$20,745,000 lower than the capital expenditures of \$30,344,000 forecasted by the Company.¹⁶⁶ The Attorney General recommends that the Commission remove the \$20,745,000 from the Company's forecasted capital expenditure for the projected test year.

The Attorney General has additional concerns about this category of expenditures. The Attorney General asked the Company to identify the outage minutes experience by customers in 2023 and 2024 on the same circuits that the Company plans to address in the bridge period and projected test year for repetitive

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* at 2452 – 2453.

outages. The information provided by the Company shows that for several projects, and nearly half of the total projects, customers did not experienced any interruption minutes in 2023 and 2024. Mr. Coppola explains that if the Company is targeting circuits with repetitive outages there should be outage minutes in at least one if not both of those two years.¹⁶⁷ He also he points out that the Company identifies customer outage minutes avoided that in total exceed the total number of outage minutes experienced by customers in 2023 or 2024.¹⁶⁸ According to Mr. Coppola, this contradictory information raises concerns about the accuracy of the purported reduction in outage minutes and whether the Company is targeting the appropriate circuits that experience multiple power outages year after year.¹⁶⁹ Therefore, the Attorney General recommends that the Commission direct the Company to provide more pertinent information that shows the worst circuits with repetitive outages that are being targeted and that the avoided customer interruption minutes reflect actual reductions from historical outage minutes experienced by customers on that circuit.

In her rebuttal, Ms. Partlan responds to Mr. Coppola's testimony on the lack of pertinent information to support undertaking projects for Repetitive Outages.¹⁷⁰ Her reference to projects identified based on outages from 2021 and 2022 is

¹⁶⁷ Coppola, 3 TR 2453.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ Partlan Rebuttal, 3 TR 2058 – 2059.

inconsistent with the presentation of the information in Exhibit A-169.¹⁷¹ The response is very muddled and does not address the point made in Mr. Coppola's testimony that the forecasted reductions in Customer Interruption minutes should relate to the interruption minutes previously experienced to provide an apples-to-apples comparison and the relative benefits to customers for undertaking the proposed capital spending on Repetitive Outages.

Resiliency

Partlan, 3 TR 1978 – 1994, Exhibit A-113 (MPK-3), line 20, Exhibit A-166 page 21, Exhibit A-167 page 21; Partlan Rebuttal, 3 TR 2053 – 2054, 2066 - 2067; Kelly, 3 TR 1432 – 1440, Exhibits A-12 (MPK-1) Schedule B-5.7, Exhibit A-112, Exhibit A-113 (MPK-3); Kelly Rebuttal, 3 TR 1586 – 1589, 1599 - 1601; Coppola, 3 TR 2438 – 2446, Exhibit AG-1, Exhibit AG-6; Fitzhenry, 6 TR 3725 – 3729; Attorney General Hearing Exhibit AG-71, Exhibit AG-68.

The Company forecasts capital expenditures for Resiliency of \$21,194,000 for the 16-month bridge period ending April 2026 and \$35,765,000 for the projected test year ending April 2027.¹⁷² In contrast, the Company spent \$7.8 million on this subprogram in 2024, \$1.4 million in 2023, and no amounts in prior years, so that it appears that this is a relatively new subprogram for the Company. There are three components under this subprogram¹⁷³ and the Attorney General will address

¹⁷¹ See, Exhibit AG-71 (DR AG-CE-0843)

¹⁷² Exhibit A-113 (MPK-3), line 20.

¹⁷³ Partlan, 3 TR 1988, Figure 48.

adjustments in two of the components of this subprogram – Overhead to Underground and the EGLE-MIEJ Undergrounding Secondary & Services.

Overhead to Underground Conversions. The Company is forecasting capital expenditures of \$1,250,000 to convert 1.4 miles during the bridge period and \$20.0 million to convert 50 miles for the projected test year.¹⁷⁴ Ms. Partlan identifies seven criteria for selecting overhead lines for undergrounding. These criteria are: LVD system zones that are single-phase; have had at least one outage in the last 24 months; serve between 10 and 200 customers; be operated at one of the three standard wye voltages; not be considered for another reliability project; have a load after installation of 36% or less of the ampacity of the newly installed facilities; and be located in an area that has experienced tree- or weather-related outages.¹⁷⁵ These criteria have been reduced from 9 in the previous rate case U-21585 with the requirement of CAIDI (restoration time) of 600 minutes or more removed and the requirement that the LVD line not supply an overhead system also removed. The Company also modified the location of the overhead line from being in an area of dense trees to being located in an area that has experienced tree or weather-related outages.¹⁷⁶ The changes indicate that the Company is still

¹⁷⁴ *Id.*

¹⁷⁵ Partlan, 3 TR 1985 – 1988.

¹⁷⁶ Coppola, 3 TR 2438 referencing Case No. U-21585, Donald Lynd direct testimony at page 142.

searching for an effective approach that adequately justifies undertaking the overhead to underground conversions.¹⁷⁷

Mr. Kelly also discusses the results of the undergrounding pilot project that was approved by the Commission in Case No. U-21389.¹⁷⁸ He provides comparative net present value costs of undergrounding overhead lines versus other options, showing that undergrounding is the most expensive option versus other alternatives.¹⁷⁹ Mr. Kelly also presents a comparison of costs for the four alternatives after imputing societal costs based on the ICE calculator.¹⁸⁰

There are several problems with the Company's proposal. First, the criteria outlined in Ms. Partlan's direct testimony are relatively low thresholds that could result in hundreds if not thousands of overhead lines that could qualify for conversion to underground.¹⁸¹ Mr. Coppola points out that low thresholds such as only one outage in the last 24 months, 10 to 100 customers affected, and lines located in an area that experiences tree or weather-related outages would likely apply widely. He questions the choice and relevance of these thresholds.¹⁸² In discovery in Case U-21585, the Company stated that it had not determined the number of projects and the miles of overhead lines that would meet all nine

¹⁷⁷ Coppola 3 TR 2438 – 2439.

¹⁷⁸ Kelly, 3 TR 1432 – 1438.

¹⁷⁹ Kelly, 3 TR 1434, Figure 24.

¹⁸⁰ *Id.* at 1435.

¹⁸¹ Partlan, 3 TR 1986.

¹⁸² Coppola, 3 TR 2440.

criteria.¹⁸³ He questions how the Company can develop relevant criteria without knowing what the impact or outcome would be.

Second, the criteria do not include a cost/benefit analysis (CBA) to determine whether the conversion is economic versus other options for each project. This is a major shortcoming, and the Commission should not approve any undergrounding program that lacks such a key criterion.¹⁸⁴ The Company could not adequately explain why a CBA was not incorporated in the selection criteria.¹⁸⁵ In this rate case, the Attorney General asked again if the Company will include a present value economic analysis to determine that each undergrounding project is the least cost option. The response states that the Company does not plan to include this key screening criterion.¹⁸⁶

Third, the results of the pilot program show a calculated average cost of \$443,079 per comparable mile of overhead line converted to underground. However, 5 of the 8 projects in the pilot program, or 63%, had a cost that was above the average cost from 20% to 126% of the average cost. Even excluding the Saugatuck-Douglas project which was 126% above the average cost based on the Company's claims that it was unusual and would not repeat, the next highest cost project was \$693,773 per mile, or 74% above the average cost of \$443,079. According to Mr.

¹⁸³ Coppola, 3 TR 2440 referencing U-21585 Exhibit AG-1.9 (DR AG-CE-0492).

¹⁸⁴ Coppola, 3 TR 2440.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

Coppola, the pilot confirms the point that each project can vary significantly from the average cost per mile and needs to pass an economic cost/benefit analysis to qualify as an acceptable candidate for undergrounding versus other alternatives.¹⁸⁷

Fourth, Mr. Coppola explains that the information in Figure 24 in Mr. Kelly's testimony, shows that even at the average cost per mile undergrounding is not a sound economic practice.¹⁸⁸ He also explains that the presentation in Figure 25 with the societal benefits from assumed avoided customer outages should be disregarded. While the ICE calculator information used in the analysis assumes that for each minute of sustained power interruptions customers incur an equal cost, that is contrary to reality because some customers can sustain power outages for hours without incurring costs.¹⁸⁹ He explains that it is when power outages span into a day or longer that potentially costs are incurred, and therefore, the ICE calculator tends to overestimate the cost of short outages outside of major storms, which are more common.¹⁹⁰ The most pertinent comparison is the cost incurred by the Company for each alternative, as shown in Figure 24, which all customers must pay. On this basis, undergrounding is more costly on average in comparison to other alternatives presented by the Company.¹⁹¹

¹⁸⁷ Coppola, 3 TR 2441.

¹⁸⁸ Kelly, 3 TR 1434, Figure 24 and Coppola, 3 TR 2441.

¹⁸⁹ Coppola, 3 TR 2441.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

Mr. Coppola discussed that in its June 12, 2025 order in Case No. U-21305, the Commission evaluated the Final Liberty Consulting Group which stated that the Company should delay expansion of LVD undergrounding beyond the pilot program and pointed out that costs and reliability of benefits of undergrounding remain too uncertain to support expansion of the program. The Commission also considered comments on the Liberty Report from various parties, including the Attorney General. It agreed with the comments from the Attorney General and MNSC, stating that it remains skeptical of the costs of the undergrounding pilot at scale but was not opposed to further consideration of the program. Specifically, the Commission requested additional evidence, including a cost/benefit analysis, to fully evaluate the proposed undergrounding in comparison to other alternatives.¹⁹²

The Company's proposal to undertake an expanded conversion of overhead lines to underground has not been well defined, it lacks important criteria to ensure that sound economic decisions are made, it is based on a misleading average cost per mile of overhead line to be converted to underground and should be rejected. Therefore, the Attorney General recommends that the Commission remove the incremental capital spending of \$1,250,000 proposed by the Company for the bridge period and the \$20 million for the projected test year.

EGLE-MIEJ Undergrounding. The Company included forecasted capital expenditures for three EGLE-MIEJ Undergrounding projects in Grand Rapids,

¹⁹² Case No. U-21305, June 12, 2025 order for Consumers Energy at page 25.

Flint, and Kalamazoo for the bridge period totaling \$4,118,000 and the same amount for the projected test year.¹⁹³ In discovery, the Attorney General asked the Company to provide the current phase of project development for the three projects. In response, the Company reported that they are in the scoping phase.¹⁹⁴ The projects are still in the preliminary phase of development. No design or other advanced work has been performed on the projects. Therefore, the costs and timing of the projects are still preliminary and too premature for inclusion in rate base in this case. Therefore, the Attorney General recommends that the Commission remove the capital expenditures of \$4,118,000 from both the bridge period and projected test year.

Conclusion for the resiliency subprogram – The Attorney General recommends that the Commission remove \$5,368,000 for the bridge period and \$24,118,000 for the projected test year from the Company’s forecasted capital expenditures.

iv. **LVD Line Capacity**

Partlan, 3 TR 1995 - 2004, Exhibit AG-113 (MPK-3), Line 22, Exhibit A-166 pages 29 – 31, Exhibit A-167 pages 23 – 27; Partlan Rebuttal, 3 TR 2038 – 2039, 2055 – 2056, Coppola 3 TR 2444 – 2446, Exhibit AG-1, Exhibit AG-7; Boutet, 6 TR 4366, 4370 – 4371, Exhibit S-13.1, S-13.2, S-13.4, S-13.11 Attorney General Hearing Exhibit AG-71.

¹⁹³ See, Partlan, 3 TR 1988, Figure 48 which shows these amounts and they are included in Exhibit A-130.

¹⁹⁴ Exhibit AG-6 (DR AG-CE-0363 with attachments).

LVD Lines Capacity

The Company is forecasting \$28,580,000 for the bridge period and \$54,911,000 for the projected test year ending April 2027 to increase capacity on LVD lines.¹⁹⁵ There are two components under this subprogram –Overload Equipment Upgrades and Line Capacity Projects for Substation Work.¹⁹⁶ The Attorney General is proposing that adjustments be made to capital expenditures for the Overload Equipment Upgrades category because the Company has not demonstrated a level of risk for overloads justifying the proposed increase in spending as discussed below.

Overload Equipment Upgrades. The Company is forecasting capital expenditures of nearly \$30 million in the bridge period and \$55 million in the projected test year for overload equipment upgrades. In comparison, the Company spent less than \$10 million annually for this category of expenditures in the previous five years.¹⁹⁷ The Company’s proposed capital expenditures for the bridge period and the projected test year for the Overload Equipment Upgrade sub-program are overstated and not supported.

The Company categorizes the number of circuits and components by the percentage of overload from Minor Risk to High Risk.¹⁹⁸ The Attorney General

¹⁹⁵ Exhibit A-113 (MPK-3), line 22.

¹⁹⁶ Partlan, 3 TR 2003, Figure 54.

¹⁹⁷ *Id.* at 2002, Figure 53.

¹⁹⁸ *Id.* at 1998, Figure 52.

inquired whether the ramp-up in spending is directed at the high-risk circuits with over 140% overload. According to the Company, the increase in spending will occur across the board for all overload percentages during the bridge period and the projected test year, not just for the highest risk circuits.¹⁹⁹ It claims that different types of devices face different severity of risk at different percentages of overload level. However, that claim does not match the Company's own categorization of risk or severity shown in Figure 52.²⁰⁰ Mr. Coppola notes that it makes sense for high-risk circuits to incorporate the severity of the related equipment within the circuit. Otherwise, categorizing circuits and components is meaningless.²⁰¹

The Company plans to work on 83 projects that fall in the over 140% overload category with related spending of \$15,989,000 in the bridge period. Forty-one of the projects with related capital spending of \$5,375,000 involve circuits that have an overload condition of less than 140%.²⁰² For the projected test year, the Company plans to work on 85 circuits with overload conditions of 140% or more and related capital expenditures of \$11,527,000. It is also targeting 155 circuits that are in the less risky categories (including 111 circuits with overload conditions of 119% or less) for total forecasted capital spending of \$40,911,000.²⁰³

¹⁹⁹ See, Exhibit AG-7 (DR AG-CE-0357 with attachment).

²⁰⁰ Partlan, 3 TR 1998.

²⁰¹ Coppola, 3 TR 2444 – 2445.

²⁰² *Id.* at 2445.

²⁰³ *Id.*

The Company's spending priorities are inconsistent with how it categorizes risk.²⁰⁴ It should be focusing on higher risk circuits so that ratepayers are not burdened with costs that are not reasonable and prudent. Therefore, the Attorney General recommends that the Commission remove \$5,375,000 of capital expenditures for the bridge period and \$40,911,000 for the projected test year that is directed at the lower risk projects with overload of less than 140%.

v. **Metering and Transformers**

LVD Transformers.

Partlan, 2022 – 2027, Exhibit A-113 (MPK-3), line 5;
Partlan Rebuttal, 3 TR 2056 – 2057, 2062 – 2063;
Coppola, 3 TR 2446 – 2450, Exhibit AG-1, Exhibit AG-8,
Exhibit AG-9; York, 6 TR 3699 – 3700.

The Company forecasts capital expenditures for LVD Transformers of \$227,963,000 for the period ending April 2026 and \$207,782,000 for the projected test year ending April 2027.²⁰⁵ The proposed amount represents a significant increase in spending in the forecasted periods over the prior five years.²⁰⁶ According to Ms. Partlan, the increase in spending is driven by both volume and price increases.²⁰⁷ The increase in volume results from new purchases of pad mount

²⁰⁴ *Id.* at 2446.

²⁰⁵ Exhibit A-113 (MPK-3), line 5.

²⁰⁶ Partlan, 3 TR 2024, Figure 64.

²⁰⁷ *Id.* at 2026 – 2027.

transformers tied to increase undergrounding work for new services, primary and secondary circuits likely related to undergrounding overhead lines, and EVs.²⁰⁸

The Company provided the number of units of 1-phase and 3-phase transformers it planned to purchase and shows large increases from 2024 to 2027.²⁰⁹ The forecast for the 1-phase pad mount transformers shows an increase from 2,876 units in 2024 to 7,469 units in 2027. These increases are in addition to a 48% increase in the number of units in 2023 over 2022 and another 24% increase in 2024 over 2023.²¹⁰

The forecast for the 3-phase pad mount transformers shows similar high increase of 64% in 2025 over 2024 followed by a decrease of 20% in 2026 and an increase of 60% in 2027. The increase in units from 2023 to 2024 was 32%. According to Mr. Coppola, the increases for 2025 through 2027 are excessive and are not supported by any calculations or basis other than general statements about projects that may need new pad mount transformers.²¹¹ The lack of support is made clear by other evidence presented by the Company in the case. For example, New Service Connections are forecasted to increase at an annual rate of approximately 1% from 2024 to the projected test year.²¹² And, the number of miles of undergrounding projects is 1.4 miles in the bridge period and 50 miles in the

²⁰⁸ Coppola, 3 TR 2446.

²⁰⁹ See, Exhibit AG-8 (AG-CE-0361 with attachments) and Coppola 3 TR 2446 – 2447.

²¹⁰ Coppola, 3 TR 2447.

²¹¹ Coppola 3 TR 2447.

²¹² See, Partlan, 3 TR 1898, Figure 4.

projected test year.²¹³ This level of activity does not justify the forecasted increases in pad mount transformers.

Mr. Coppola calculated an appropriate number of 1-phase and 3-phase transformers. First, he determined the number of units that will provide the Company with some additional inventory of 1-phase pad mount transformers for the bridge period and projected test year. He used the 24% rate of increase in 2024 actual purchases over the number in 2023 and applied it to the 2,876 units purchased in 2024 which results in 5,040 units for the bridge period and 4,776 units for the projected test year.²¹⁴

To determine a reasonable capital expenditure amount for the bridge period for 1-phase transformers, he multiplied the 5,040 units by the year-to-date price of \$5,287 per unit provided by the Company that already reflected inflation based on actual prices billed by vendors, resulting in a forecasted capital expenditures of \$26,646,000.²¹⁵ This amount is \$9,791,000 less than the cost of \$36,437,000 included in the Company's forecasted capital expenditures for the bridge period. The Attorney General recommends that the Commission remove the \$9,791,000 from the Company's forecasted capital expenditures.

²¹³ Coppola 3 TR 2447.

²¹⁴ See, Coppola 3 TR 2448 and FN 29.

²¹⁵ See, Exhibit AG-8 (DR AG-CE-0361 with attachments), Coppola 3 TR 2448, and Exhibit AG-9.

For the projected test year, he adjusted the bridge period price for the 1-phase pad mount transformer by inflation to arrive at a price of \$5,414.²¹⁶ This price multiplied by the forecasted number of units of 4,776 results in forecasted capital expenditures of \$25,857,000 for 1-phase transformers, which is \$11,777,000 lower than the Company's forecasted cost of \$37,634,000.²¹⁷ The Attorney General recommends that the Commission remove the \$11,777,000 from the Company's forecasted capital expenditures for the projected test year for 1-phase transformers.

Second, a reasonable number of units was determined for 3-phase pad mount transformers for the bridge period and projected test year. Mr. Coppola used the 32% rate of increase in 2024 actual purchases over the number in 2023 and applied it to the 564 units purchased in 2024 resulting in 991 units for the bridge period and 820 units for the projected test year.²¹⁸

To determine capital expenditures for the bridge period, he multiplied the 991 units by the year-to-date price of \$27,217 per unit based on the information provided by the Company that already reflects inflation in actual prices billed by vendors.²¹⁹ The result is forecasted capital expenditures of \$26,972,000. This amount is \$5,514,000 less than the cost of \$32,486,000 included in the Company's forecasted capital expenditures for phase-3 transformers for the bridge period.²²⁰

²¹⁶ See, Coppola 3 TR 2449, footnote 31.

²¹⁷ See, Exhibit AG-9.

²¹⁸ Coppola 3 TR 2449 including footnote 33.

²¹⁹ Exhibit AG-8 (DR AG-CE-0361 with attachments).

²²⁰ See, Exhibit AG-9.

Therefore, the Attorney General recommends that the Commission remove the \$5,514,000 from the Company's forecasted capital expenditures for the bridge period.

Likewise, for the projected test year, Mr. Coppola adjusted the bridge period price for the 3-phase pad mount transformer by inflation to arrive at a price of \$27,870.²²¹ Multiplying this price by the forecasted units of 820 results in forecasted capital expenditures of \$22,853,000, which is \$3,005,000 lower than the Company's forecasted cost of \$25,858,000.²²² The Attorney General recommends that the Commission remove the \$3,005,000 from the Company's forecasted capital expenditures for the projected test year.

In total for LVD transformers, the Attorney General recommends that the Commission remove \$15,305,000 for the bridge period and \$14,782,000 for the projected test year from the Company's forecasted capital expenditures.

d. Grid Modernization

The Company is forecasting \$25,691,000 for the bridge period and \$17,837,000 for the projected test year in Grid Modernization capital expenditures.²²³ This subprogram consists of various spending categories; however, the Attorney General is only recommending disallowances for Distribution Circuit

²²¹ \$27,217 x 1.024 = \$27,870.

²²² Exhibit AG-9.

²²³ See, Exhibit A-113 (MPK-3), line 14 and McPhail, p. 12, Figure 1.

Modernization components –Voltage Regulator Controllers, and Peer to Peer Automation and Metro Modernization, and Distribution Asset Management component – Asset Performance Management.

i. **Distribution Circuit Modernization**

Voltage Regulator Controllers

McPhail, 3 TR 1664, 1674 – 1681, Exhibit A-142 (SAM-1) page 3, Exhibit A-143 (SAM-2) page 1, Exhibit A-130 (MPK-20), Exhibit A-146 (SAM-5); McPhail Rebuttal, 3 TR 1737 – 1741; Coppola, 3 TR 2474 – 2475, Exhibits AG-1, Exhibit AG-16; Fitzhenry, 6 TR 3729 – 3733.

The Company forecasted \$10,526,000 of capital expenditures for the bridge period for voltage regulator controllers. It also forecasted 294 units for the bridge period. Based on the forecasted capital expenditures, the average unit cost for the 294 units is \$35,803, which is much higher than the \$22,442 unit cost incurred by the Company in 2024 and the three-year average of \$19,357.²²⁴ For the projected test year, the Company forecasted capital expenditures of \$5,120,000 and forecasted 143 units for the year for a calculated unit cost of \$35,804. Mr. Phail did not provide any explanation or justification for the large increase in the unit cost for the bridge period or the projected test year.

Given the upward trend in the unit cost in recent years, Mr. Coppola calculated a reasonable unit cost for the bridge period and the projected test year by using the most recent actual unit cost of \$22,442 for 2024. After adjusting for

²²⁴ Coppola, 3 TR 2474 – 2475.

inflation, the average unit cost is \$23,093 for the bridge period.²²⁵ This cost multiplied by 294 units results in forecasted capital expenditures of \$6,789,000, which is \$3,737,000 lower than the \$10,526,000 forecasted by the Company. The Attorney General recommends that the Commission remove this difference from the Company's forecasted bridge period capital spending.

Similarly, for the projected test year, Mr. Coppola multiplied the inflation-adjusted unit cost of \$23,647 by the 143 units forecasted by the Company to arrive at forecasted capital expenditures of \$2,382,000.²²⁶ This amount is \$1,738,000 less than the Company's forecast of \$5,120,00. The Attorney General recommends that the Commission remove the \$1,738,000 from the Company's forecasted test year capital expenditures.

In total for voltage regulator controllers, the Attorney General recommends that the Commission remove \$5,475,000 from capital expenditures in this case.

Peer to Peer Automation and Metro Modernization.

McPhail, 3 TR 1685 – 1687, 1692 - 1695, Exhibit A-148 (SAM-7), Exhibit A-151 (SAM-10); McPhail Rebuttal, 3 TR 1745 – 1747; Jerore Rebuttal Coppola, 3 TR 2476, Exhibits AG-16, AG-75; Fitzhenry, 6 TR

The Company forecasted capital expenditures for the bridge period of \$895,000 for Peer-to-Peer Automation and \$305,000 for Metro Automation. For the

²²⁵ Coppola 3 TR 2475 and footnote 58.

²²⁶ *Id.* and footnote. 59.

projected test year, the respective forecasted capital expenditures are \$270,000 and \$650,000. Mr. McPhail describes some of the features of the two systems and estimates potential avoided customer interruption minutes, however there is no evidence that these technologies have worked effectively at other utilities and provided proven benefits.²²⁷ Mr. Coppola notes that they appear to be experimental. In addition, the Company stated that it did not perform a cost/benefit analysis to demonstrate there is some economic value to this new technology.²²⁸

Due to the lack of evidence that the two proposed technology systems will create significant value for customers, Mr. Coppola recommended that the Commission disallow the combined capital expenditures of \$1,200,000 for the bridge period and \$920,000 for the projected test year for these projects.²²⁹

In rebuttal testimony, Mr. McPhail indicates that the Company has withdrawn the proposed capital spending for the Peer-to-Peer Automation project in line with the Attorney General's proposal to disallow the total amount.²³⁰ Therefore, the Commission should remove \$1,165,000 (\$895,000 for the bridge period and \$270,000 for the projected test year) for this program from capital expenditures in this case.

²²⁷ Hayward, 3 TR 1685 – 1687 and 1692 – 1695.

²²⁸ Exhibit AG-16 (DR AG-CE-0541c).

²²⁹ Coppola, 3 TR 2476.

²³⁰ McPhail rebuttal, 3 TR 1745. *See also*, Exhibit AG-75 (DR AG-CE-0860).

However, the Company continues to seek capital expenditures for the Metro Modernization project.²³¹ Like the Peer-to-Peer project, The Metro Modernization project involves experimental technology and the Company did not present evidence of a track record for the technology to justify the capital spending.²³² Unlike reclosers, regulators, and sensors, which have been in use for years and are proven technology, the new technology the Company wants to evaluate is unproven and the claims of reliability and safety exposure are unsupported. Furthermore, the Company's response to discovery shows that employees spend 2,000 hours in underground vaults, which means the 185-hour reduction stated in McPhail's rebuttal represents a relatively minor reduction in safety exposure. The Commission should reject this proposal and remove \$955,000 (\$305,000 for the bridge period and \$650,000 for the projected test year) from capital expenditures in this case.

ii. Distribution Asset Management

McPhail, 3 TR 1701 – 1712, Exhibit A-152 (SAM-11), ;
McPhail Rebuttal, 3 TR 1741 - 1745; Coppola, 3 TR 2476 –
2479, Exhibit AG-1, Exhibit AG-17; Shi 6 TR 4488 - 4491.

The Company is proposing capital expenditures for Electric Distribution Asset Management systems, specifically for the Asset Repository System and the

²³¹ McPhail Rebuttal, 3 TR 1746.

²³² Exhibit AG-75 (DR AG-CE-0862).

Asset Performance Management System. The forecasted capital expenditures for the projects totals \$1,740,000 for the bridge period and \$4,050,000 for the projected test year.²³³ According to Mr. McPhail, the implementation costs of the Asset Repository system have increased. In addition, the Company claims that purchasing and installing a new Asset Performance Management system would be expensive and decided to build its own system in-house at a lower cost.²³⁴

The background and support for these projects are problematic. The Company reported that the original estimated cost of the Asset Repository system was approximately \$2.5 million, including development O&M costs. It now forecasts the revised cost of the system will be \$8.8 million, including O&M costs.²³⁵ This is a substantial increase in cost considering that the Company proposed this system in the two prior rate cases, dating back to 2023 at a much lower cost. The Company's explanation for the increase is that the initial capital estimate was based on early planning assumptions and as the project progressed it proved to be more complex and costly. It also stated that the software-as-a-service model tool was higher than originally forecasted. As Mr. Coppola noted, this is a classic case of not doing enough upfront research and analysis, before making a decision to

²³³ McPhail, 3 TR 1703, Figure 9.

²³⁴ *Id.* at 1704.

²³⁵ *See*, Exhibit AG-17 (DR AG-CE-0544 with attachments).

proceed with a project and finding out later that the cost ballooned to five times more than originally estimated.²³⁶

The Attorney General questioned the need to undertake this project and the related Asset Performance Management system and recommended that the Commission disallow the forecasted capital spending for multiple reasons, the Company had not demonstrated that the new systems was necessary and that current systems could no longer be used, and a cost/benefit analysis (CBA) had not been performed in the last case (but provided one in this case) incorporating all the systems the Company wants to implement, including the Asset Repository, Asset Performance Management system, Asset Investment Planning system, and the Device Management system.²³⁷ In addition, the Device Management system is a new system that the Company added in this rate case at a cost of \$2.5 million without any explanation or justification.²³⁸

Mr. Coppola points out problems with the CBA. First, it is premised on the total cost for all systems being approximately \$16 million instead of the current forecast of nearly \$21 million and is now stale. Second, the new higher cost makes the result of the net present value analysis unfavorable. It is now at about breakeven, assuming all of the soft savings included in the CBA are achievable. Third, the purported savings were not documented, and it is not possible to

²³⁶ Coppola, 3 TR 2477.

²³⁷ Coppola, 3 TR 2477 – 2478.

²³⁸ *Id.* at 3 TR 2478.

determine whether they are realistic or achievable. Fourth, the Company also included cost savings for “Societal Improved Power Quality” and reduced “Reliability Degradation Risk,” which are vague concepts and the Company has not demonstrated that they provide tangible and realistic cost savings to the Company or its customers.²³⁹ The proposed systems are not economically justified.²⁴⁰

Customers should not pay for projects that are incurring significant cost overruns and are not economically justified. Additionally, the Asset Performance Management system is still in the planning phase of development, and it is too premature to include its capital spending in rate base in this rate case.

In rebuttal, the Company disagreed that the Asset Performance Management System funding should be excluded from funding in this rate case.²⁴¹ According to Mr. McPhail, “the APM is scalable, meaning as each health score is developed for each asset, that information becomes useful and will be used to guide investment decisions.”²⁴² However, the Company subsequently confirmed that the Asset Performance Management System is still in the planning phase and despite Mr. McPhail’s claims otherwise, is still too premature to include in capital expenditures in this case.²⁴³

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ McPhail rebuttal, 3 TR 1743.

²⁴² McPhail Rebuttal, 3 TR 1743.

²⁴³ See, Exhibit AG-75 (DR AG-CE-0861).

The Commission should remove the forecasted capital expenditures of \$1,740,000 for the bridge period and \$4,050,000 for the projected test year from this rate case.

2. Power Generation Capital Expenditures

a. Overview

Exhibit A-12 (RTB-3), Schedule B-5.2; Coppola, 3 TR 2479.

The Company is forecasting capital expenditures for the bridge period and projected year for its Power Generation facilities in this case of \$275.4 million and \$188.6 million, respectively.²⁴⁴ It incurred capital expenditures of \$145.3 million in 2024.²⁴⁵ Included in these forecasts are capital expenditures for Solar Generation, Steam (Fossil Fuel) Power Generation, Hydro Power Plants, Pumped Storage Generation (Ludington), and Other Production Plant. The Attorney General proposes adjustments to several of these programs and component projects.

b. Proposed Capital Expenditure Reductions.

i. Covert Power Plant

Blumenstock, 6 TR 3513 – 3526, Exhibit A-12 (RTB-3), Schedule B-5.2, Exhibit A-46 (RTB-7); Blumenstock Rebuttal, 6 TR 3591 – 3594, 3598 – 3600, 3604 – 3605, 3606 – 3607, 3609 – 3615, Exhibit A-191, Exhibit A-198; Coppola, 3 TR 2480 – 2483, Exhibit AG-18 (DR AG-CE-0480), Exhibit AG-21; Maio, 6 TR 4466 – 4469, Exhibits S-

²⁴⁴ Exhibit A-12 (RTB-3), Schedule B-5.2, page 1 and Coppola, 3 TR 2479.

²⁴⁵ *Id.* at 3 TR 2479.

8.0, S-8.3, S-8.4; York, 6 TR 3690, 3692 - 3693. Attorney General Hearing Exhibit AG-65.

The Company is forecasting capital expenditures for the Covert power generation plant of \$67.5 million for the bridge period and \$61.4 million for the projected test year.²⁴⁶ The Company became the owner and operator of this natural gas-fueled plant in June 2023. It is now planning several capital projects to update and upgrade various equipment and systems in the plant.²⁴⁷ When questioned about it plans to replace and upgrade large pieces of equipment and systems so soon after the purchasing the plant and whether it was aware of the poor conditions of the equipment at issue during the acquisition due diligence process, the Company stated that it anticipated making future capital investments but was not able to conduct a robust health assessments and detailed engineering evaluations until after taking ownership of the plant.²⁴⁸ Based on this response, it appears that the Company bought the plant without understanding that it required large capital expenditures to replace old and failing equipment and systems much sooner than expected.

The level of due diligence that was performed did not uncover the deteriorated condition of the equipment and systems in time to address those issues during negotiations, including possibly obtaining a lower purchase price to compensate for future work. Mr. Coppola notes that it is a bad deal for ratepayers

²⁴⁶ On page 2, line 43, of Exhibit A-12 (RTB-3), Schedule B-5.2,

²⁴⁷ Blumenstock, 6 TR 3514 – 3526.

²⁴⁸ *See*, Exhibit AG-18 (DR AG-CE-0490).

who are now being asked to pay for capital upgrades and replacements, after the Company paid a higher purchase price for the plant than it now appears was justified. Essentially, they are paying twice.²⁴⁹ In addition, the Company plans to recover the new investment through depreciation expense and will effectively receive a return on twice the investment in the same equipment and systems.²⁵⁰

The Attorney General is proposing that two specific capital expenditures be excluded from rate base due to the shortcomings in the due diligence process. First, The Company is replacing the Load Commutated Inverter (LCI) Static Frequency Converters (SFC) at a cost of \$1,305,000 in the bridge period and \$2,610,000 in the projected test year.²⁵¹ The LCI-SFC is a piece of equipment and system used with the gas turbines and related equipment at the plant. According to Mr. Blumenstock, replacement of the SFC is required to mitigate a significant risk of failure due to obsolescence, ensure operational reliability, and align with manufacturer recommendations. The Company should have discovered the problem with this critical component during its technical due diligence.²⁵²

Second, the Company is planning extensive upgrades to the Netmation Operating System to the latest version at a cost \$2,922,000 in the bridge period and \$8,844,000 in the projected test year.²⁵³ According to Mr. Blumenstock, the Covert

²⁴⁹ Coppola, 3 TR 2481.

²⁵⁰ Coppola, 3 TR 2480 – 2481.

²⁵¹ Blumenstock, 6 TR 3514 – 3517.

²⁵² *See*, Coppola, 3 TR 2481.

²⁵³ Blumenstock 6 TR 3514 and 3518.

plant, which has been in operation since 2004, faces critical challenges with outdated control systems.²⁵⁴ The Netmation upgrade includes replacement of input/output models, servers, network switches and software. As stated above, there is no excuse for the Company failing to discover the problem with this critical component during its technical due diligence. At the time of purchase, the Company should have considered the implication of purchasing a nearly two-decades-old power plant that would have to be overhauled shortly after it was acquired.²⁵⁵

In addition to the condition of the equipment at the time of purchase, the Netmation project is still in the early stage of design and engineering development, which is scheduled to be completed in February 2026.²⁵⁶ This project has not advanced sufficiently to be included in rate base in this rate case. The cost and timing of the project may still change significantly until the engineering work is completed.²⁵⁷

Ratepayers should not be burdened with the cost of new equipment, system upgrades and replacements for a recently purchased power plant when the deteriorated condition of the equipment should have been discovered as part of due diligence conducted before the purchase of the plant and deducted from the purchase price. The Attorney General recommends that the Commission disallows

²⁵⁴ *Id.* at 3518.

²⁵⁵ Coppola, 3 TR 2482.

²⁵⁶ See, Exhibit AG-21.

²⁵⁷ Coppola, 3 TR 2482.

the total bridge period capital expenditures of \$4,227,000 and remove the \$11,454,000 for the projected test year for the two systems discussed above from inclusion in rate base.

In rebuttal, Mr. Blumenstock objects to Mr. Coppola's testimony that the Company did not perform sufficient technical due diligence on this recently purchased power plant. He claims the company could not perform sufficient equipment evaluation until it began operating the plant and could identify obsolete equipment.²⁵⁸ The Attorney General asked the Company to identify the technical due diligence it performed and what problems were identified. The Company did not provide the information requested on the technical due diligence performed before the plant acquisition.²⁵⁹ No specifics were provided regarding other problems discovered after the acquisition that had not been uncovered during due diligence. No evidence was provided in this case or prior cases that the equipment the company wants to replace now was identified as needing to be replaced soon after the acquisition was completed.

The Commission should adopt the Attorney General's recommendation.

ii. **Ludington Power Plant.**

Blumenstock 6 TR 3542 – 3549, Exhibit A-12 (RTB-3),
Schedule B-5.2, p. 3, line 57,; Blumenstock Rebuttal, 6 TR
3595 – 3597, 3600 – 3602, Exhibits, A-192, A-193, A-194,

²⁵⁸ Blumenstock Rebuttal, 6 TR 3599.

²⁵⁹ See, Exhibit AG-65, page 2 (DR AG-CE-0785).

A-195, A-196, A-197; Coppola, 3 TR 2483 – 2484, Exhibit AG-19; York; Attorney General Hearing Exhibit AG-65.

The Company is forecasting capital expenditures for the Ludington power plant of \$15,225,000 for the bridge period and \$13,282,000 for the projected test year.²⁶⁰ The Company is planning several capital projects to update and upgrade various equipment and systems in the plant.²⁶¹ The plant has already had extensive equipment and system overhauls to each of its six units between 2015 and 2022.²⁶² When asked why the plant was undergoing large capital spending on equipment and system upgrades, so soon after the major overhaul of the six units as recently as three years ago, the Company responded that the proposed capital expenditures in this rate case address components that were outside the scope of the original overhaul. However, it provided no evidence to support this statement.²⁶³ There is no explanation for why large systems and equipment components, such as the Units 1 through 6 DCS Control Relay, which costs nearly \$3 million would not have been replaced at the time of the units' major overhaul.²⁶⁴ The same issue applies also to the Lower Penstock Expansion Joint Chamber Waterstop, Hydro Governor Replacement, Pony Motor Overhaul, etc.²⁶⁵ While the Company claims that the equipment has degraded since the Company began the

²⁶⁰ Exhibit A-12 (RTB-3), Schedule B-5.2, p. 3, line 57.

²⁶¹ See, Blumenstock, 6 TR 3543 – 3549.

²⁶² Coppola, 3 TR 2483.

²⁶³ Coppola 3 TR 2483 and Exhibit AG-19 (DR AG-CE-0493).

²⁶⁴ *Id.* at 3 TR 2484.

²⁶⁵ See, Blumenstock, 6 TR 3542 – 3549. *See also*, Coppola, 3 TR 2484.

major overhaul that began approximately ten years ago, it provides not evidence of any degradation or problems experienced with the current equipment.²⁶⁶

According to Mr. Coppola, the Company has not provided sufficient evidence to justify that the capital upgrades it seeks to recover in this rate case are necessary at this time given the recent overhaul of the plant.²⁶⁷ Therefore, the Attorney General recommends that the Commission remove the forecasted bridge period capital expenditures of \$15,225,000 and capital expenditures of \$13,282,000 for the projected test year for the Ludington power plant.

iii. **Campbell Power Plant**

Blumenstock, 6 TR 3550 – 3551, Exhibit A-12 (RTB-3), Schedule B-5.2, pages 3 and 8; Blumenstock Rebuttal, 6 TR 3603 – 3604; Myer Rebuttal, 3 TR 1846 – 1848; Daly, 3 TR 1064 – 1066, Exhibits A-12 (PDD-34), Schedule B-4, A-13 (PDD-43) Schedule C-6; Coppola, 3 TR 2484 – 2487, Exhibit AG-20; Attorney General Hearing Exhibit AG-66.

On May 23, 2025, the Department of Energy (DOE) issued an order that the Campbell power plant continue to operate past May 2025 and directed FERC and MISO to issue appropriate directives to the Company to effect the continued operation of the plant and related cost recovery and tariffs. Prior to the DOE May 2025 order the Company was proceeding with recovery of remaining plant costs for

²⁶⁶ See, Exhibit AG-65 (DR AG-CE-0787).

²⁶⁷ *Id.* at 3 TR 2484.

retirement of the plant based on the approval received by the Commission in Case No. U-21090 and prepared the current case on that basis.

Considering the DOE order and FERC August order in Docket No. EL2-90-000, the Attorney General asked the Company to explain how it planned to handle any changes to the cost recovery included in this rate case. In response, the Company stated that it would not propose any changes to the rate case filing with regard to the Campbell plant's continued operation and stated that it plans to refund any amounts collected through the FERC process to its MPSC customers to the extent that such amounts may have been collected through MPSC jurisdictional rates.²⁶⁸

Although the ideal solution would have been to unwind the settlement in Case No. U-21090 given sufficient time and a clearer view of the length of the continued operation of the Campbell plant. That solution would not work at this time. Therefore, the Company proposed solution to make later refunds is the only workable solution at this time. However, to ensure that a full and proper accounting of costs and revenue from the continued operation of the Campbell plant occurs, as well as the cost recovery in rates established in Case U-21585 and in the current case, Mr. Coppola recommends that the Commission open a new docket for

²⁶⁸ See, Exhibit AG-20 (DR AG-CE-0683).

a contested proceeding to review all aspects, impacts, cost and revenue reconciliation, and refunding of net amounts to customers.²⁶⁹

In addition, the Attorney General does propose adjusting the level of expenditure for the Campbell Plant related to a proposed wastewater treatment system. The Company is proposing a Wastewater Treatment System for the Campbell plant and the relocation of the machine shop at the plant in anticipation of the plant closure.²⁷⁰ The forecasted capital expenditures for this work are \$17,782,000 for the bridge period and \$9,600,000 for the projected test year.²⁷¹ However, the proposed expenditures appear to be premature for two reasons.

First, according to the Company, the Wastewater Treatment System is still in the planning phase of development and it does not appear it has not advanced sufficiently to be included in rate base in this rate case.²⁷² Since no design or engineering work has been completed, the cost and timing of the project may change significantly.²⁷³ Second, because of the continued operation of the Campbell plant due to the DOE orders, the uncertainty surrounding the length and manner of its

²⁶⁹ Coppola 3 TR 2485 – 2486.

²⁷⁰ Coppola, 3 TR 2486.

²⁷¹ See, Exhibit A-12, Schedule B5.2, p. 3, line 64 under Administration and Other, and Blumenstock DT, pp. 98 – 99.

²⁷² See, Exhibit AG-66.

²⁷³ See, Coppola, 3 TR 2486 and Exhibit AG-21.

operation under FERC jurisdiction makes the timing of proposed work questionable.²⁷⁴

In rebuttal, Ms. Blumenstock claims that both projects can continue despite the fact that the plant is not shutting down and the work was tied to the plant shutdown. Further, the Company confirmed that the wastewater treatment project is still in the planning development phase and it is too premature to include in rate base regard to whether the Company has recorded AFUDC for the project.²⁷⁵ The projects for the Wastewater Treatment Plant and the relocation of the machine should not be undertaken for the reasons provided above. Therefore, the Attorney General recommends that these costs be removed from the Company's forecasted capital expenditures for the bridge period and projected test year in the amount of \$17,782,000 and \$9,600,000, respectively.

iv. **Other Premature Power Generation Capital Projects**

Blumenstock, 6 TR 3508, 3518, 3531 – 3532, 3534,
Blumenstock Rebuttal, 6 TR 3604 – 3607, Blumenstock
Exhibit A-12 (RTB-3), Schedule B-5.2, page 9, Exhibit A-
44 (RTB-5), Exhibit A-45 (RTB-6), Exhibit A-46 (RTB-7),
Exhibit A-199 (RTB-22); Coppola, 3 TR 2487 – 2488,
Exhibit AG-21; Attorney General Hearing Exhibit A-66.

The Attorney General asked the Company to identify the current phase of development for projects of \$3 million or greater. According to the Company, five

²⁷⁴ *Id.*

²⁷⁵ Exhibit AG-66 (AG-CE-0792)

projects are in the planning phase or recently entered the design/engineering phase.²⁷⁶ Two of those projects, CGS-Netmation (MHPSA Operating System) and JHC Wastewater Treatment System, have already been addressed and their removal from capital expenditures recommended above. The other three projects are:

1. PP-00542: Covert Spare GSU \$5,910,000
2. B-PP-00171: (13497) ZGS - Phase II GT Advanced gas path replacement and axial fuel staging \$8,331,000
3. PP-00488: ZGS SITE SPARE GSU \$4,481,000

The total amount for these three projects is \$18,722,000.²⁷⁷ They are still in the early stage of development, and it is not sufficiently certain they will proceed at the forecasted cost and timeline.²⁷⁸ Therefore, the Commission should remove the \$18,722,000 from the Company's forecasted capital expenditures for the projected test year.

3. Facilities Capital Expenditures

The Company forecasts capital expenditures of \$23.7 million for the bridge period and \$27.4 million for the projected test year for Asset Preservation under Facilities and Shared Services.²⁷⁹ The forecasts include capital expenditures for the

²⁷⁶ Exhibit AG-21 (DR AG-CE-0496 with attachment).

²⁷⁷ See, Exhibit A-12 (RTB-3), Schedule B5.2, p. 9.

²⁷⁸ Coppola, 3 TR 2488. See also, Exhibit AG-66 (DR AG-CE-0794 and 0793).

²⁷⁹ Exhibit A-12 (QAG-1), Schedule B-5.6, line 1. See also, Exhibit A-102, page 1.

Control/Dispatch Centers in Grand Rapids and Parnal/Jackson and Emergent Repairs. The Attorney General is recommending adjustments be made to those proposed expenditures

a. **Control/Dispatch Centers.**

Guinn Exhibit A-12 (QAG-1) Schedule B-5.6, line 1, Exhibit A-102 (QAG-3); Guinn Rebuttal, 3 TR 625; Snider, 3 TR 2157 – 2166; Snider Rebuttal, 3 TR 2175 - 2181; Coppola, 3 TR 2489 – 2491, Exhibit AG-22; Duell, 6 TR 4399 – 4401; Attorney General Hearing Exhibit AG-77.

The Commission approved the Company's proposal for a consolidated Control/Dispatch Center in its electric rate case U-21389.²⁸⁰ While the Attorney General previously supported the revised consolidation proposal based on the forecasted cost savings, she is not supporting the two control/dispatch centers proposed for Grand Rapids and Parnal Road in Jackson in this case. The Company has spent a combined amount of \$2,406,000 in 2024 and forecasts capital expenditures of \$10,746,000 for the bridge period and \$15,497,000 for the projected test year for the two centers.²⁸¹

The Company's claims that having two fully-staffed control/dispatch centers, one in Grand Rapids and the other in Jackson, Michigan, are the best solution for a fully functional back-up control center in Grand Rapids in addition to the main control center in Jackson.²⁸² This is a complete change in direction by the Company

²⁸⁰ Order dated March 1, 2024, Case No. U-21389, page 176.

²⁸¹ See, Exhibit A-102 (QAG-3), p. 1, lines 25 and 26.

²⁸² Snider citation.

from its proposal for a consolidated control/dispatch center in less than two years. Just a year ago, the Company advocated for the consolidation of the two centers in Jackson with the Grand Rapids location being an unstaffed backup center.²⁸³ The Company has or had a third dispatch center in Saginaw that was also part of the planned consolidation plan.²⁸⁴

The original plan was going to cost \$17.2 million in capital spending and create annual cost savings of \$8.6 million. The Company's new proposal will cost \$30.2 million and create purported annual cost savings of \$10.2 million. The tradeoffs here are not advantageous to customers with the cost of the new proposal increasing by \$13 million and the cost savings increasing by only \$1.6 million annually.²⁸⁵ In addition the purported \$10.2 million cost savings are not actual cost savings, but potentially avoided additional costs based on anticipated increases in efficiencies and faster customer restoration time for power outages during storms.²⁸⁶ However, the Company does not explain how two fully staffed centers instead of one will create incremental savings.²⁸⁷ Further, information provided by the Company only shows \$7.8 million in savings.²⁸⁸

²⁸³ Coppola, 3 TR 2489.

²⁸⁴ *Id.*

²⁸⁵ Coppola, 3 TR 2489 – 2490.

²⁸⁶ Exhibit AG-22 includes DR AG-CE-0633.

²⁸⁷ See, Coppola, 3 TR 2490 for Mr. Coppola full analysis. See also, Exhibit AG-22 for list of purported saving.

²⁸⁸ *Id.* and footnote 67.

The Company has not shown the reasonableness or prudence of having two fully staffed control/dispatch centers or how it is advantageous and in the best interest of customers. In rebuttal, the Company stands by its proposal although the Grand Rapids center has worked well without the additional cost to modify the Grand Rapids center and duplicating staffing with two additional centers.²⁸⁹ The Company is increasing capital expenditures by building two redundant centers and not achieving actual cost savings.²⁹⁰ Therefore, the Attorney General recommends that the Commission reject the proposal and remove the forecasted capital expenditures of \$10,746,000 for the bridge period and \$15,497,000 for the projected test year. However, if the Commission decides to approve the proposal and the related capital expenditures, the Attorney General recommends that the forecasted cost savings of \$7.8 million be included as a reduction to the Company's forecasted O&M expense for the projected test year.

b. Emergent Repairs

Guinn, 3 TR 553 Exhibit A-102 (QAG-3); Guinn Rebuttal, 3 TR 626; Coppola, 3 TR 2491 – 2492, Exhibit AG-23; Attorney General Hearing Exhibit AG-67.

The Company forecasts capital expenditures for Emergent Repairs of \$1,344,000 for the bridge period and \$2,706,000 for the projected test year.²⁹¹ When asked to identify any specific and known projects that made up those total amounts,

²⁸⁹ Exhibit AG-67.

²⁹⁰ Coppola, 3 TR 2491.

²⁹¹ Exhibit A-102 (QAG-3), p. 1, line 8.

the Company responded by providing a list of projects for the bridge period and stating that there are no known projects for the projected test year.²⁹² This means that the \$2,706,000 amount in the projected test year is a placeholder amount. The Commission previously has rejected the inclusion of placeholder amounts in rate base.²⁹³

In rebuttal, Mr. Guinn states that the Commission previously granted recovery for Emergent repairs in prior rate cases.²⁹⁴ Of course, the expenditure was not challenged in the referenced cases.²⁹⁵ Further, Commission orders are not purely precedential. Therefore, the Attorney General recommends that the Commission remove the \$2,706,000 from the Company's forecasted capital expenditures for the reasons provided above..

4. Fleet Services Capital Expenditures.

Guinn 3 TR 579 – 601, 613 – 622, Exhibit A-12, Schedule B-5.6, page 4, Exhibit A-104; Guinn Rebuttal 3 TR 626 – 627; Coppola, 3 TR 2492 – 2496, Exhibits AG-24, AG-25, and AG-26; Attorney General Hearing Exhibit AG-67.

The Company is forecasting capital expenditures for the Transportation Fleet of \$25.9 million for the bridge period and \$67.9 million for the projected test year.²⁹⁶ In comparison, the Company had capital expenditures of \$16.6 million in 2024. In

²⁹² Exhibit AG-23 (DR AG-CE-0647).

²⁹³ Coppola, 3 TR 2492.

²⁹⁴ Guinn Rebuttal, 3 TR 626.

²⁹⁵ See, Exhibit AG-67 (AG-CE-0797).

²⁹⁶ Exhibit A-12, Schedule B-5.6, page 4.

Exhibit A-104, Mr. Guinn lists the number of vehicles and field equipment within each vehicle class that the Company purchased in 2024 and plans to purchase in 2025, 2026, and the projected test year along with the related cost, including the additional number of vehicles and equipment it claims is needed to support the planned capital spending in the distribution area.²⁹⁷

The projections assume that the Commission will fully adopt the Company's distribution spending plans for future years. To assess the reasonableness of the fleet acquisition plans for the bridge period and projected test year, the Attorney General asked the Company to provide additional historical information by vehicle class and additional details about the fleet expansion by Distribution program. Mr. Coppola found the forecasted capital spending on new vehicles for the bridge period reasonable. However, he made adjustments for the projected test year expenditure.

The projected test year fleet expansion detail shows that of the 229 new planned vehicle purchases, 71 vehicles are for electric undergrounding work and 158 vehicles for other LVD programs.²⁹⁸ Consistent with the Attorney General's recommended disallowance for the Company's overhead to undergrounding program, Mr. Coppola removed the 71 vehicles pertaining to this program from his analysis. Also, consistent with the Attorney General's proposed reductions in LVD capital programs and projects, he reduced the number of proposed fleet purchases

²⁹⁷ See, Exhibit A-104, line 3.

²⁹⁸ Coppola 3 TR 2493 and Exhibit AG-24 (DR AG-CE-0661 with attachment.)

for LVD projects by half, to avoid having excessive vehicles on hand for work that may not materialize.²⁹⁹ Furthermore, the Company has a significant number of vehicles that are not being fully utilized and should focus on better utilization of the fleet to reduce purchases of new vehicles.

Mr. Coppola carried out a full analysis of the fleet purchases, including unit cost adjustments, and determined that reduction to the fleet expansion plans were appropriate. The Company did not disclose any vehicle price data for the projected test year. Therefore, it is not clear where the 2026 and 2027 prices were sourced from and their validity. So, Mr. Coppola calculated the average cost per vehicle purchased within each vehicle class during the most recent three years from 2022 and 2024.³⁰⁰ The routine vehicle purchases by the Company total to 89 vehicles, and he adopted the same forecast number of units proposed by the Company.³⁰¹ The total forecasted purchase cost for those 89 vehicles based on Mr. Coppola's calculations is \$16,407,000. This amount is \$4,371,000 lower than the \$20,778,000 forecasted by the Company. The difference reflects higher prices for vehicle purchases forecasted by the Company above normal inflation projections.³⁰²

Regarding the expanded fleet purchases, Exhibit AG-25 reflects the reductions discussed above, removing the undergrounding work-related vehicle

²⁹⁹ *Id.* at 2493.

³⁰⁰ *See*, Exhibit AG-25 and Coppola, 3 TR 2494 for Mr. Coppola's calculations for cost per vehicle.

³⁰¹ *Id.* at 3 TR 2494.

³⁰² *Id.*

purchases and the other reductions to LVD program purchases. To arrive at a reasonable forecast of the cost of those vehicle purchases, Mr. Coppola applied the same inflation-adjusted unit cost from the average three-year period discussed above for routine purchases. The result is a total forecasted cost of \$18,139,000. This amount is \$27,931,000 lower than the Company's forecast of \$46,070,000. This difference reflects the lower number of vehicles that Mr. Coppola included in the forecast and lower unit costs than used in the Company's forecast.

The Attorney General recommends that the Commission remove \$33,142,000 which is the total reduction amount for the two categories of vehicles for the projected test year.

The Attorney General also performed an evaluation of the Company's transportation fleet utilization, which he found to be low. In fact, 2,278 of the Company's vehicles and field equipment were utilized less than 50% of the time during 2024. More importantly, the analysis shows that 381 vehicles were used less than 5% in 2024 with some of these vehicles being last used in June 2021. Approximately 1,050 vehicles were used between 5% and 20%, and the remaining 1,216 vehicles were used between 20% and 50%.³⁰³ The Commission should be concerned with the Company's low utilization of a significant portion of its transportation fleet. The Company needs to take steps to improve the utilization rate of the fleet and minimize new vehicle purchases when existing vehicles are still

³⁰³ See, Coppola, 3 TR 2495 and Exhibit AG-26 (DR AG-CE-0656 with the attachment).

available for use by field personnel. The Attorney General recommends that the Commission direct the Company to present a thorough plan in the next rate case that addresses the utilization rate of vehicles and field equipment and the impact on reduced vehicle purchases in future years.³⁰⁴

5. IT and Security Capital Expenditures

a. Overview and Expenditures

Coppola 3 TR 2496; Baker, Exhibit A-12 (SHB-4), Schedule B-5.1, page 1

The Company forecasted capital expenditures for Information Technology (IT) of \$80.3 million for the bridge period and \$77.7 million for the projected test year in its original filing.³⁰⁵ There are several projects that are still the initial phase of development that are too premature to include in rate base in this case, including the large SAP 4/S HANA ERP project. Additionally, the forecasted capital expenditures for ARP-Field Devices are excessive and need to be adjusted downward.

b. Proposed Capital Expenditure Reductions

i. ARP-FDAM

Baker, Exhibit A-22 (SHB-7), page 5; Baker Rebuttal, 3 TR 762 – 766, 800 – 803; Coppola, 3 TR 2503 - 2504; Zichi, 6 TR 4344 – 4347, Exhibit S-14.0, Exhibit S-14.1; Attorney General Hearing Exhibit AG-64.

³⁰⁴ Coppola, 3 TR 2495 – 2496.

³⁰⁵ Exhibit A-12 (SHB-4), Schedule B-5.1, page 1.

The Company forecasted test year capital expenditures for ARP-Field Device Asset Management (FDAM) program assigned to the electric business of \$4,850,461 with its application.³⁰⁶ This amount was approximately double the amount allocated to the electric business in 2024 and 2025. According to the Company, the number of devices is refreshed on a four-year cycle.³⁰⁷ That would mean that the previous cycle was in either 2022 or 2023 in order for the next refresh cycle to fall in 2026 or 2027. The projected test year includes 8 months from 2026 and four months from 2027. The cost data provided by the Company shows that for 2022 the electric business was only assigned \$1,678,000 of the expenditures and in 2023 \$2,224,000. Those amounts are less than half the amount that the Company has included in the projected test year in this case. The Company explanation for why capital expenditures are increasing in the projected test year due to the four-cycle replacement is not supported by its own information.³⁰⁸

Therefore Mr. Coppola calculated a more reasonable forecast for the bridge period, by using the average capital spending in this area from the most recent three historical years from 2022 to 2024 of \$2,218,000, prorating it to 16 months and applied the inflation factor of 2.9% to arrive at forecasted capital expenditures

³⁰⁶ A-22 (SHB-7), page 5.

³⁰⁷ Exhibit AG-31 (DR AG-CE-0603 with attachment).

³⁰⁸ Coppola, 3 TR 2503.

of \$2,957,000.³⁰⁹ This amount is \$1,039,000 lower than the Company's forecasted amount of \$3,996,000 for the bridge period.³¹⁰

In rebuttal, the Company disagreed with the Attorney General's recommendation.³¹¹ Ms. Baker made an adjustment to the forecasted capital expenditure, which the Attorney General does not challenge. Therefore, the Attorney General recommends that the Commission remove the \$953,000 rather than \$1,039,000 from the Company's forecasted capital expenditures for the bridge period.³¹²

Similarly, for the projected test year, Mr. Coppola adjusted the annualized bridge period amount of \$2,282,000 by the 2.4% inflation rate to arrive at a forecasted capital expenditures amount of \$2,337,000.³¹³ This amount is \$2,513,000 lower than the Company's forecast of \$4,850,000. The Attorney General recommends that the Commission remove the \$2,513,000 from the Company's forecasted capital expenditures for the projected test year.

ii. **SAP S/4 HANA**

Baker, 3 TR 739 – 749 [confidential record – 3 TR 305 – 315] Exhibit A-21 [confidential]; Baker Rebuttal, 3 TR 776, 795 – 799; Coppola, 3 TR 2499 – 2503 [confidential record 3 TR 416 – 420], Exhibit AG-30 (CONF); Zichi, 6

³⁰⁹ See, Coppola 3 TR 2504 and footnote 81 for the calculation.

³¹⁰ *Id.* and see footnote 82 for the calculation.

³¹¹ See, Baker Rebuttal, 3 TR 800 – 802.

³¹² See, Appendix A and Baker Rebuttal, 3 TR 802.

³¹³ Coppola, 3 TR 2504 see footnote 83.

The Company proposes implementing a new Enterprise Resource Planning (ERP) system with SAP Software Company (SAP), which the Company refers to as the SAP S4/HANA development project.³¹⁴ The Company confirmed that prior information provided in the gas rate case, Case No. U-21806 is still valid. The Company also confirmed that the project is still in the Investment Planning phase and no detailed requirements for the new system have been completed. The Company is forecasting [Begin Conf] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[End Conf].³¹⁶

Ms. Baker states that the current ERP system with SAP needs to be modernized because it will reach the end of mainstream vendor maintenance on December 31, 2027. Although the system would be modernized with a new software system, it will basically replace the same functions of the current ERP system of billing, materials purchasing, warehousing, finance, accounting, payroll, customer

³¹⁴ Baker, DT 102 - ??

³¹⁵ U-21870 Stacey Baker direct testimony at 102 and Exhibit AG-30 CONF (DR AG-CE-0598 with ATT_1 CONF).

³¹⁶ Coppola, 3 TR 417 CONF and Baker 3 TR 308 CONF

relationship management, and other technical functions.³¹⁷ The Company admits that the current SAP-ERP system functions well and it is being replaced because of the end of system support by SAP.³¹⁸ The Company plans to extend the current system support and maintenance service with SAP past the December 2027 date and into 2028, noting that the extended support is only available until 2030.³¹⁹ When previously asked whether it had asked SAP to extend the service and support agreement through and potentially past 2030, the Company responded that it had not done so and pointed out that it would need to purchase extended support.³²⁰ According to the Company it would cost [Begin Conf] [REDACTED] [End Conf] to purchase extended support.³²¹ According to Mr. Coppola, this fee for system support is logical and is likely similar to what the Company currently pays for system support and software releases and upgrades. He concludes that operating the current system past 2030 is a viable solution given that the system is still functioning well and is meeting all the operating requirements of the Company.³²²

In addition, the Company has not identified any cost savings or financial benefits for implementation of a new ERP system. The Company's financial analysis shows the project costs but no financial benefits and a negative

³¹⁷ Coppola 3 TR 2500 referring to U-21806 Exhibit AG-28 CONF. includes DR AG-CE-0622 with ATT_1 CONF and AG-CE-0850 CONF.

³¹⁸ Id. at 3 TR 2500, referring to U-21806 Exhibit AG-29 includes DR AG-CE-0624.

³¹⁹ Baker, 3 TR 744.

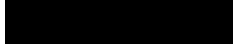
³²⁰ Coppola, 3 TR 2501.



³²¹ Coppola, 3 TR 418 CONF, referring to U-21806 Exhibit AG-28 CONF includes DR AG-CE-0851.

³²² Coppola, 3 TR 2501.

Cost/Benefit ratio of negative 1.0, meaning the project is not financially justified.³²³ Moreover, the project is currently in the Investment Planning phase and planned to issue a Request for Proposal (RFP) to different vendors in May 2025.³²⁴ Although the Company seems to prefer to stay with SAP to simplify the conversion to the new system, it is not clear yet who the winning bidder will be and which system the Company will ultimately select to implement and at what cost.

As discussed above, the proposed new system is not justified. The current ERP system still functions well and meets the operating needs of the Company. The option also exists for the Company to continue to operate the system into 2030 and potentially pass that date with system support by SAP. Furthermore, the Company still has not selected a vendor for the new ERP system and will likely undertake the evaluation of the optimal system to purchase in the second half of 2025. It is premature to include any capital expenditures in this rate case and to defer large forecasted O&M costs in a regulatory asset without firm plans for project execution.³²⁵

Therefore, the Commission should remove the [Begin Conf] 

³²³ Exhibit A-21 Confidential, p. 136.

³²⁴ Coppola, 3 TR 2501 – 2502 referring to U-21806 DR AG-CE-0622d (U-21806 Exhibit AG-28 CONF) and U-21806 DR AG-CE-0625 in U-21806 Exhibit AG-29.

³²⁵ Coppola, 3 TR 2502.

[REDACTED]
[REDACTED]
[REDACTED] [End Conf].³²⁷

iii. **Projects in Investment Planning Phase**

Baker 3 TR 690, 717 – 718, 738, 752 – 755, Exhibit A-12 (SHB-4), Exhibit A-20 (SHB-5), Confidential Exhibit A-21 (SHB-6); Coppola 3 TR 2496 – 2499, Exhibit AG-27, Exhibit AG-28, and Exhibit AG-29; Attorney General Hearing Exhibit AG-61, Exhibit AG-62.

Group 1 - Contains four projects with projected costs and related O&M expense for the projected test year.

1. Electric Geographic Information System (GIS) Design Platform Modernization
2. Electric GIS Utility Network Transformation
3. Integrated Energy Management Platform Optimization
4. Service Restoration Artificial Intelligence

In response to discovery, the Company provided the forecasted capital expenditures by year for the projects and disclosed that the four projects are still in the Investment Planning phase and that no detailed requirements have yet been completed.³²⁸ Because these projects are still in the initial stage of development there is significant uncertainty whether or when they will advance further. The

³²⁶ Baker testimony, 3 TR 306 CONF.

³²⁷ Coppola, 3 TR 419 – 420 CONF.

³²⁸ Exhibit AG-27 (DR AG-0592 with attachments).

projects are too premature to include in rate base in this rate case. Customers should not pay for the depreciation and return on project cost that may not materialize within the forecasted time frame.³²⁹

Based on the cost data provided by the Company, Mr. Coppola calculated forecasted capital expenditures for the four projects of \$1,448,000 for the bridge period and \$3,067,000 for the projected test year. In addition, the Company identified \$1,260,000 of O&M expenses for the projected test year in conjunction with development of the projects.³³⁰ The Attorney General recommends that the Commission remove these amounts from the Company forecasted capital expenditures and O&M expense.

In rebuttal Ms. Jerore disagreed that the Integrated Energy Management Platform Optimization project was too premature to be included in rates and that once funding is approved the project will move forward as expected.³³¹ While not directly addressing the fact that the project is still in the early stages of development and therefore too premature to include in rate base, Ms. Jerore claims that it is needed and valuable to the Company.³³² The Company was asked why it does not proceed with development if it is confident about its development value. The response states that the company does not want to take the risk if the project is

³²⁹ Coppola, 3 TR 2497.

³³⁰ *See*, Exhibit AG-28

³³¹ Jerore Rebuttal, 3 TR 1801.

³³² Jerore rebuttal, 3 TR 1801.

later disallowed, which means the company is not confident about the value of the project and wants to place the project development risk on customers.³³³ This lack of confidence is likely due to the fact that the project Benefit to Cost ratio is a negative 1.0, meaning that it has no financial benefits and is not economically justified.

The Commission should reject the Company's claims and adopt the Attorney General's recommendation.

Group 2 – Consists of four projects.³³⁴

1. Critical Substation Upgrade³³⁵
2. OT Datacenter Migration³³⁶
3. Forward Web Proxy Services³³⁷
4. Physical Access Management and Alarm Response³³⁸

In response to discovery, the Company provided forecasted capital expenditures by year and disclosed that the five projects are still in the Investment Planning phase and no detailed requirements have yet been completed.³³⁹ Because

³³³ Exhibit AG-75 (DR AG-CE-0863).

³³⁴ The Attorney General has withdrawn her proposed disallowances for the Data and Analytics Platform IT project. See Appendix A.

³³⁵ Baker, 3 TR 717 – 718.

³³⁶ *Id.* at 738.

³³⁷ *Id.* at 752 – 753.

³³⁸ *Id.* at 753 – 755.

³³⁹ See, Exhibit AG-29 (DR AG-0594, 0595, 0596, 0601, and 0602 with attachments).

these projects are still in the initial stage of development, there is significant uncertainty whether or when they will advance further. The projects are premature to include in rate base in this rate case. Customers should not pay for the depreciation and return on project cost that may not materialize within the forecasted time frame.³⁴⁰

Based on the cost data provided by the Company, Mr. Coppola calculated forecasted capital expenditures for the four projects of \$3,456,000 for the bridge period and \$8,916,000 for the projected test year. In addition, the Company identified \$1,876,000 of O&M expense for the projected test year in conjunction with development of the projects.³⁴¹ The Attorney General recommends that the Commission remove these amounts from the Company forecasted capital expenditures and O&M expense.

In total, for the 8 projects, the Attorney General recommends that the Commission remove \$4,904,000 for the bridge period and \$11,983,000 for the projected test year from the Company's forecasted capital expenditures. In addition, she recommends that the Commission remove \$3,136,000 from the projected test year O&M expense.

B. Working Capital

³⁴⁰ Coppola, 3 TR 2498.

³⁴¹ See, Exhibit AG-28 for additional cost details by project.

The Company proposed approximately \$2.126 billion in working capital for the projected test year.³⁴² The Attorney General disagrees that level of working capital is necessary and is recommending three adjustments that will reduce the amount of Working Capital to \$2.052 Billion. The proposed adjustments include (1) reductions to the Company's projected test year cash level (\$41.4 million), (2) an adjustment to the Company's accrued taxes amount, which decreases working capital (\$30.0 million), (3) a reduction in working capital for the cloud computing deferred cost for the SAP S/4HANA project (\$2.6 million) for a total working capital reduction of \$74 million.³⁴³

1. Test-year Cash Balance Adjustment

Bleckman, 3 TR 843 - 848, Exhibit A-12 (PDD-34) Schedule B-4; Bleckman Rebuttal, 3 TR 915 – 921; Daly Rebuttal, 3 TR 1087 – 1088; Coppola, 3 TR 2507 – 2512, and Exhibits AG-33 and AG-34; Attorney General Hearing Exhibits AG-79 and AG-80.

The Company is requesting a cash balance of \$50.4 million, however the Attorney General is recommending a lower cash balance because the Company has not demonstrated the need for such a high cash balance. Consumers has a history of over projecting its cash needs. The Company bases its forecast on a 1% ratio of cash on hand to revenues and continues to point to disruptions due to COVID-19 and the 2022 spike in gas prices to support its requested cash balance.³⁴⁴ The

³⁴² Exhibit A-12(PDD-34), Schedule B-4.

³⁴³ See, Coppola, 3 TR 2506 – 2507 and Exhibit AG-33.

³⁴⁴ Coppola, 3 TR 2507 and Bleckman, 3 TR 902.

Company has received approval for excessive cash balances to the detriment of ratepayers in the last few rate cases. However, there is clearly a problem with the Company's use of its 1% rule of thumb. This theoretical balance of 1% of revenues does not reflect the Company's actual cash needs. Mr. Coppola points out several shortcomings and other problems with the Company's approach:

First, a sizable amount of the existing cash in the Company's historical periods ends up in short-term investments bearing interest which simply increases the Company's bottom line.³⁴⁵

Second, cash on hand is not used to pay for revenues. It is used to pay operating expenses, capital expenditures, and dividends to the parent company. Therefore, use of the 1% ratio that the Company has calculated based on revenues has no connection to the need to keep cash on hand.³⁴⁶

Third, utilities maintain different levels of cash on hand during different months of the year depending on their seasonal needs for cash to pay for operating expenses and construction costs.³⁴⁷

Fourth, every utility has different short-term borrowing facilities and different practices as to how they use or do not use them and may retain more or less cash on hand depending on those circumstances. Therefore, using an average

³⁴⁵ Coppola, 3 TR 2507.

³⁴⁶ *Id.* at 3 TR 2508.

³⁴⁷ *Id.*

ratio of cash on hand to revenues at a specific point in time does not take into consideration the unique aspects of a particular utility.

Fifth, the analysis that the Company performed to arrive at the 1% ratio was based on a comparison of cash reported by the other utilities in the financial statements. Those cash balances included cash invested in short-term securities under generally accepted accounting practices (GAAP). The Commission does not allow those short-term cash investments with interest bearing securities in the calculation of cash on hand for inclusion in working capital. Therefore, the 1% is likely inflated and inapplicable for ratemaking in a Michigan rate case.³⁴⁸ Although the company agrees that under GAAP the Cash balance reported by companies includes short-term cash investments, it claims that the 1% ratio it wants to use is based on ratemaking revenues and does not reflect those short-term investments, which the Commission has ruled should not be included in the Cash balance to be included in working capital.³⁴⁹ This seems inconsistent with the Company's analysis of its 1% rule of thumb which includes a comparison to other utilities cash balances.³⁵⁰

Sixth, contrary to the Company's claims that a higher cash balance enhances liquidity to protect against unusual events such as COVID-19, spikes in gas prices

³⁴⁸ Coppola, 3 TR 2508.

³⁴⁹ See, Exhibit AG-80, p. 2 (DR AG-CE-0902).

³⁵⁰ *Id.* at p.1 (DR-AG-CE-0901).

or higher storm restoration costs,³⁵¹ cash on hand does not solve liquidity problems arising from such events. According to Mr. Coppola, it is access to short-term credit facilities that is critical in solving large cash needs. For example, in 2022 during the spike in natural gas prices, the Company increased its credit lines from \$1.1 billion to \$1.8 billion to meet additional cash needs.³⁵² Regarding liquidity, the Company has stated that it was “...not aware of any instance in which it was directly refused short-term credit...”³⁵³ More importantly, problems involving hundreds of millions of dollars cannot be solved by holding an extra \$40 million in cash. Also, to the extent that liquidity issues are smaller, the Company can always draw on its bank lines or from issuing commercial paper.³⁵⁴

While the Commission has approved cash balances based on the Company’s 1% rule of thumb in the past, it has also indicated its willingness to review use of that approach going forward. The Commission approved the \$53.7 million Cash balance in Case No. U-21389, however it stated:

The Commission agrees that Consumers’ 13-month average method is consistent with past approvals of methods to determine cash balances and is reasonable given the abnormal disruption in the company’s typical cash balance. See, 4 Tr 627-628, 795-800. However, the Commission notes that while it finds that the circumstances described by Consumers in this case constitute an abnormal disruption, the Commission will continue to evaluate the facts and circumstances of

³⁵¹ Bleckman, 3 TR 845 – 846.

³⁵² Coppola, 3 TR 2511 referring to the Company’s SEC filings on Form 10-K for the periods ending December 31, 2021 and 2022 on page 123 in each case.

³⁵³ Coppola 3 TR 2511.

³⁵⁴ Coppola 3 TR 2511 – 2512.

each rate case to determine whether deviation from the historical period is appropriate.³⁵⁵

Likewise in Case No. U-21585, in response to the Attorney General pointing out the Company's propensity to forecast cash balances that end up being well above the actual cash that the Company keeps on hand, the Commission made it clear that another approach may be appropriate in future rate cases.³⁵⁶

Nevertheless, considering the company's actual cash balance amounts in recent years, as illuminated by the Attorney General, and the Commission's evaluation of the facts and circumstances surrounding this issue on a case-by-case basis, the Commission finds it appropriate for Consumers to provide further and a more specific explanation in its next electric rate case as to why the company's approach to determining its cash balance remains appropriate and should continue to be approved.³⁵⁷

Because the \$50.4 million Cash balance requested by the Company is excessive and unnecessary for the projected test year, Mr. Coppola recommends that the Commission set the average cash balance for the projected test year using the average cash balance that the Company actually held over the past three years based on the 13-month average cash balances at the end of each year 2022, 2023, and 2024. This three-year approach provides a normalized average of the cash needs of the Company over the most recent three years and is specific to the Company and its needs for cash on hand.³⁵⁸ The three-year average of cash on hand held by the Company was \$25.1 million, which is \$25.3 million lower than the

³⁵⁵ Order dated March 1, 2024 in Case No. U-21389, at page 120.

³⁵⁶ Coppola, 3 TR 2509.

³⁵⁷ Case No. U-21585, MPSC order dated March 21, 2025 at page 213.

³⁵⁸ Coppola, 3 TR 2509 – 2510.

amount forecasted by the Company in this case.³⁵⁹ Moreover, the \$25.1 million cash level noted above includes an average level of cash invested in interest bearing securities of \$16.1 million based on the analysis provided by the Company in response to discovery and summarized in Exhibit AG-34.³⁶⁰ Therefore, the net cash required to operate the Company's electric business is approximately \$9.0 million.

The Attorney General recommends that the Commission reject the Company's 1% ratio calculation approach and instead adopt Mr. Coppola's proposed cash balance of \$9.0 million for the projected test year by removing \$41.4 million from the Company's forecasted working capital and rate base in this case. To do otherwise, the Commission will allow the Company to continue to earn a return on the excess cash on hand at the expense of ratepayers. Mr. Coppola further explains how a higher cash balance benefits the Company at the expense of ratepayers.³⁶¹

In rebuttal, the Company disagreed with the Attorney General's recommendations, especially the analysis related to the amount of the cash balance.³⁶² Mr. Bleckman claims that the 1% of test years revenue rule of thumb is not intended to match other utilities liquidity and financing practices and instead it looked to other utilities' total cash as a point of reference to demonstrate the reasonableness of its approach.³⁶³ However, it could not explain why using the 1%

³⁵⁹ See, Exhibit AG-34.

³⁶⁰ Exhibit AG-34 (DR AG-CE-0456).

³⁶¹ Coppola, 3 TR 2510 – 2511.

³⁶² Bleckman, 3 TR 916 – 917.

³⁶³ Id. at 916.

revenue rule of thumb is a better approach to using the Company's own average cash balance as recommended by Mr. Coppola.³⁶⁴ The company has no sound basis for using it to forecast an appropriate level of cash on hand for working capital and instead has chosen a formula that overstates its actual cash needs. This is evidenced by the Company's acknowledgement that its cash needs may ultimately be lower than projected and its confirmation that it may invest excess cash in short-term interest-bearing investments.³⁶⁵ As discussed above, the Company has invested excess cash in interest-bearing accounts in prior years. And, contrary to the Company's claims otherwise, its preferred method of calculating its cash balance, which consistently overestimates its cash needs, is not reasonable or appropriate.³⁶⁶

2. Accrued Taxes Adjustment

Vanblarcum, 3 TR 2261 – 2268, Exhibit A-180 (BJV-1); Vanblarcum Rebuttal, 3 TR 2268 – 2272 and Exhibits A-228 (BVJ-3) and A-229 (BJV-4); Coppola, 3 TR 2512 – 2513, and Exhibits AG-33 and AG-78.

According to the Company, its accrued taxes for the projected test year does not include additional income from rate relief requested in this case.³⁶⁷ In fact the Company showed a decrease in accrued taxes. However, this seems inconsistent

³⁶⁴ Exhibit AG-80, p. 1 (DR AG-CE-0901).

³⁶⁵ *Id.* at 3 (DR AG-CE-0905).

³⁶⁶ *See*, Exhibit AG-80, p. 2 (DR-AG-CE-0902a).

³⁶⁷ Coppola, 3 TR 2512, referring to footnote 90.

when the rate relief requested in this rate case, which would increase taxable income and thus Accrued Taxes.³⁶⁸

According to Mr. Coppola, the Company's assumption of no new rate relief from this rate case is an unrealistic assumption and therefore, the Company's calculation of accrued taxes is flawed. He noted that in the Company's most recent electric rate case (Case No. U-21585), the Company received 51% of the amount requested or approximately \$154 million annually. While the exact amount of rate relief that will be granted in this case is unknown, Mr. Coppola conservatively recommended using actual accrued taxes from the historical year 2024 to recompute accrued taxes at a higher level.³⁶⁹ Mr. Coppola's calculation results in a reduction in working capital of \$30.0 million.

The Company disagrees with Mr. Coppola's recommendation in rebuttal claiming that the Company calculated the appropriate amount of accrued taxes.³⁷⁰ The Company quotes a section of the Internal Revenue Code which addresses the treatment of adjustments which use estimates or projections with some exceptions.³⁷¹ However, the Company included income tax liability for the projected test year in this case.³⁷² There is no mention or prohibition in the IRS rules for the calculation of accrued taxes through the end of the projected test year that would

³⁶⁸ Coppola, 3 TR 2512.

³⁶⁹ Coppola, 3 TR 2512 – 2513.

³⁷⁰ Vanblarcum rebuttal, 3 TR 2271 and Exhibit AG 78, page 3 (DR AG-CE-0894).

³⁷¹ Exhibit AG-78, p. 2 (DR AG-CE-0892a).

³⁷² *Id.* See also, p. 3.

take into account the additional income taxes that the company will need to pay from the additional income generated from the rate increase. In fact, there is a disconnect in the Company's practice because it has calculated income tax expense for the proposed rate increase but has not recognized that the additional tax expense will result in Accrued Taxes to be paid to the U.S. Treasury during the projected test year.

Accordingly, the Attorney General recommends that the Commission use the historic balance of Accrued Taxes of \$286.1 million for the projected test year and reduce Working Capital by \$30.0 million.³⁷³

3. Cloud Computing Deferred Costs

Daly, 3 TR 1068 – 1070, Confidential Exhibit A-85 (PDD-62) and Exhibit A-12 (PDD-34), Schedule B-4; Daly Rebuttal, 3 TR 1079 – 180, Exhibit A-212 (PDD-67); Coppola, 3 TR 2513 and

The Company included an increase of \$2,576,000 to the projected test year working capital for the deferral of cloud computing costs for the SAP S/4 HANA project.³⁷⁴ The Attorney General recommends that capital funding for the SAP S/4 HANA project and related costs be rejected at this time because the project is still in the early phase of development and it is premature to include costs in rate base.³⁷⁵ The same is true with the cloud computing costs pertaining to the SAP S/4 HANA

³⁷³ Coppola, 3 TR 2513.

³⁷⁴ Exhibit A-12 (PDD-34), Schedule B-4, column (m)

³⁷⁵ *Supra*.

project. According to Mr. Coppola, the Company also admits that it did not have a contract in place for the SaaS solution that would support the cloud computing costs.³⁷⁶

Therefore, the Attorney General recommends that the Commission remove the \$2,576,000 from the projected test year working capital.

4. Total Adjustments to Working Capital

The items discussed above reduce Working Capital by \$74 million. The Commission should incorporate these changes into its determination of rate base for the projected test year.

C. Total Rate Base and Capital Expenditures Adjustments Summary

The Attorney General recommends a reduction in capital expenditures of \$829.4 million and a reduction in rate base of \$642.5 million. The resulting effect of the lower rate base from the reduction in capital expenditures is a reduction in the revenue deficiency of \$52.5 million.

III. Capital Structure and Rate of Return

A. Introduction of Company's proposal.

Consumers Energy proposes a capital structure with 50.75% equity, with a ROE of 10.25%.³⁷⁷ Company witness Bleckman provided direct and rebuttal

³⁷⁶ Coppola, 3 TR 2513.

³⁷⁷ Bleckman, 3 TR 811.

testimony on behalf of the Company regarding the capital structure. Witness Bulkley provided testimony for the Company's on its rate of return. The Attorney General is recommending a balanced capital structure with a 50% equity ratio. She is also recommending a return on common equity of 9.80% along with other adjustments to the Company's cost rates as described below.

B. Test Year Capital Structure

Bleckman, 3 TR 811 – 836, 842 and Exhibit A-14 (MRB-1) Schedule D-1, Exhibit A-14 (MRB-2), Schedule D-1a, Exhibit A-14 (MRB-3), Schedule D-1b, Exhibit A-27 (MRB-8), Exhibit A-29 (MRB-10), Exhibit A-30 (MRB-11), Exhibit A-31 (MRB-12), Exhibit A-33 (MRB-14) through A-40 (MRB-21); Bleckman Rebuttal, 3 TR 868 – 914, 921 – 926, and 927 – 931, Exhibits A-187 (MRB-22), A-188 (MRB-23), A-189 (MRB-24), and A-190 (MRB-25); Coppola, 3 TR 2514 – 2533 and Exhibit AG-35, Exhibit AG-38, Exhibit AG-44, Exhibit AG-47, Exhibit AG-48, Exhibit AG-49; Megginson, 6 TR 4522 – 4534 and Exhibit S-4, Schedule D-1 – D-5; Walters, 6 TR 3746 – 3747 – 3765, 3766 – 3767; Bandyk, 3973 – 3978 and Exhibit CUB-9; Attorney General Hearing Exhibit AG-79 (DR AG-CE-0897 and DR AG-CE-0899).

1. Common Equity Balance.

The Company has proposed a permanent capital structure with a common equity component of 50.75%,³⁷⁸ which is more than the current 50.0% approved in Case No. U-21585.³⁷⁹ The Attorney General disagrees that the equity ratio should be increased and believes there are several factors³⁸⁰ that need to be considered in

³⁷⁸ Exhibit A-14 (MRB-1), Schedule D1.

³⁷⁹ March 21, 2025 order in Case No. U-21585 (March 21 order), page 129. In the previous Case No. U-21389 (March 1 order), page 129, the Commission authorized a 50.02% equity ratio.

³⁸⁰ Coppola, 3 TR 2515.

determining whether the Company's proposal is reasonable and prudent, including: (1) the Commission's directive in the Company's Case No. U-17990, which it reaffirmed in Case Nos. U-20963, U-21224, and U-21389, and U-21585 that the Company move to a totally balanced capital structure unless it can demonstrate that it would not be reasonable to do so; (2) the Company's strong cash flow to debt coverage ratio and credit ratings; (3) the Company's practice of funding a significant part of its equity contributions with long term debt issued at the parent company level and the parent's debt load; (4) the favorable regulatory environment in Michigan supported by historical return on common equity above industry averages and statutory and regulatory provisions that provide for timely cost recovery ; and (5) the fact that the common equity ratio of the peer group, used to assess the cost of common equity in this case, is approximately 42%.³⁸¹

The Attorney General is recommending that the Commission approve a capital structure for the Company with a debt/equity ratio of 50% debt and preferred equity and 50% common equity. Exhibit AG-35, column (c) shows the Attorney General's recommended long-term debt, preferred equity, and common equity permanent capital for the projected test year. It rebalances the Company's proposed capital structure. The long-term debt component has been increased by \$207 million, and the common equity component has been reduced by the same amount.³⁸²

³⁸¹ Coppola 3 TR 2515. *See also*, Exhibit AG-38 which shows the equity ratio for each peer group company and the average ratio of 42.2% for the peer group.

³⁸² Coppola, 3 TR 2514.

Starting in Case No. U-17790, the Commission stated:

“The Commission expects that Consumers will have arrived at, or will present a strategy to return to, a balanced structure within the five year infrastructure plan time period. If Consumers is unable to do so, a more complete analysis should be included to explain why such a result is reasonable and prudent.”

After some incremental reduction in the equity ratio over the next few rate cases, the Commission decided in the Company’s last electric rate case to set Consumers’ equity ratio at 50.0% finding that “the balanced capital structure most appropriately balances the interest of the utility’s investors and customers, consistent with the holdings in Bluefield and Hope.”³⁸³ For the reasons provided below, the Commission should require the Company to maintain a 50% equity ratio.

a. **The Company’s proffered reasons for a 50.75% common equity ratio should be rejected.**

The Company claims that it needs an equity ratio of 50.75% for different reasons –the need to maintain certain cash flow ratios in support of the Company’s credit metrics, credit quality, consistency with peer group equity ratios, concerns about the regulatory environment in Michigan, and the best interest of ratepayers among other things.³⁸⁴ The Company resisted the move to a 50% equity ratio, although its position was not supported by the record. The reasons offered by the Company do not require a 50.75% equity ratio. As referenced above and discussed

³⁸³ March 21 Order, page 129. *See also*, Coppola, 3 TR 2516.

³⁸⁴ Bleckman, 3 TR 815 – 816, and 817 – 827.

in more detail below, there are several reasons for maintaining an equity ratio of 50%.

i. **Credit Reports and Cash flow ratios support completely balanced debt/equity ratio.**

First, the Company has not proven that it needs a common equity ratio of 50.75% to maintain certain cash flow ratios in support of its credit metrics. The ratings agencies report that the Company's performance in recent years has been above their respective thresholds for downgrades. Moody's May 2024 report shows the Company's performance under the CFO-Pre-W/C to Debt ratio at [Begin

Confidential] [REDACTED]

[REDACTED]

[REDACTED].[End Confidential]³⁸⁵

[Begin [REDACTED]

[REDACTED]

[REDACTED][End Confidential]³⁸⁶ Notably, Moody's states that [Begin [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]"[End Confidential]³⁸⁷

³⁸⁵ Exhibit AG-47 (CONF), report page 2 (Exhibit p. 3 of 11).

³⁸⁶ *Id.* at report page 1 (exhibit p. 2 of 11).

³⁸⁷ *Id.* at report page 2 (exhibit p. 3 of 11).

reduction in the coverage ratio.³⁹³ In 2024, the Company increased its net income by \$142 million over the 2023 net income and also reported an increase in ROE to 9.1%. The increase in profitability nearer to the authorized ROE boost the cash flow to debt ratio.³⁹⁴

The Company claims that its FFO-to-debt ratio as calculated by Moody's is trending down ...well below the low end of Moody's expected range.³⁹⁵ This is not true. As discussed above, Moody's cash flow ratios have exceeded its 18% threshold for downgrade. The Company focuses on declines in the coverage ratio that occurred in 2022 and 2023, however Mr. Bleckman mischaracterizes the unusual and short-term issues faced by the Company in 2022 and 2023.³⁹⁶ The decline in 2022 was due to a temporary increase in natural gas prices which required the Company to increase its short-term borrowing. It also increased the cost of gas purchases and inventories.³⁹⁷ The temporary increase in debt receded in 2023 and 2024. If an adjustment is made for this temporary condition, the Moody's FFO to Debt ratio actually increases from 20% to 20.9%.³⁹⁸ Because of the transient nature

³⁹³ *Id.*

³⁹⁴ *Id.*

³⁹⁵ Bleckman, 3 TR 820.

³⁹⁶ Coppola, 3 TR 2519.

³⁹⁷ *Id.*

³⁹⁸ *Id.* See also, Exhibit AG-44, page 2 for adjustment.

of temporary events, ratings agencies focus on the long-term financial health of a company.³⁹⁹

In Exhibit AG-44, Mr. Coppola calculated the Company's key cash flow-to-debt ratio for the 12-months ended March 2025 adjusted for the ROE (9.80%) and Common Equity ratio (50%) levels he advocates in this case for Moody's, starting with the actual 2025 ratio results from Moody's on line 1. The result of his analysis for Moody's is shown on line 4 with a cash flow-to-debt ratio of 20.0%. This ratio is well above the 18% downgrade threshold noted by Moody's in its most recent report. Mr. Coppola did not perform the same calculation for S&P given the similarity in the calculations and the lower 15% ratio for downgrade.⁴⁰⁰

In rebuttal, Mr. Bleckman attempts to discredit the information presented in Exhibit AG-44 by claiming that there is a difference between rate case information and GAAP information provided to investors in publicly issued financial statements.⁴⁰¹ In Exhibit AG-44, the Attorney General used publicly available information available to Moody's. Mr. Bleckman confirms this fact.⁴⁰² His statement that the 50% equity ratio is on a ratemaking basis and therefore the FFO to Debt ratio is somehow faulty is an incorrect conclusion. The calculation in

³⁹⁹ *Id.*

⁴⁰⁰ See, Coppola, 3 TR 2520 – 2521 and Exhibit AG-44 for the complete analysis.

⁴⁰¹ See, Bleckman Rebuttal, 3 TR 900 – 901.

⁴⁰² Exhibit AG-80, page 2 (DR-AG-CE-0902a).

Exhibit AG-44 shows what the impact to the FFO to Debt ratio will be once the ratio declines to 50%.

Mr. Bleckman also claims in rebuttal, that Mr. Coppola brushed off the Company's recent lower FFO to Debt ratios.⁴⁰³ This is not true. Mr. Coppola addressed the recent declines Company's FFO to Debt ratios in six pages of testimony and four exhibits.⁴⁰⁴ Based on this robust record, he determined that the credit agencies had a favorable outlook on the Company's credit profile contrary to Mr. Bleckman's bleak predictions.⁴⁰⁵

Third, there is no factual basis for the Company's claim that it needs to increase its equity ratio to 50.75% to maintain its credit worthiness. As demonstrated above, there is ample space in Consumers' FFO-to-debt ratio to support a 50% equity ratio and a ROE of 9.8% and still avoid a downgrade. If the Company is truly concerned about future downgrades, there are actions it can take to alleviate those concerns, including reducing debt with a more moderate capital expenditure program. More importantly, the credit ratings agencies' reports for the Company do not reveal any significant concerns regarding a possible downgrade with an equity ratio of 50%. Instead, they highlight the Company's stable outlook

⁴⁰³ Bleckman Rebuttal, 3 TR 898.

⁴⁰⁴ See, Coppola 3 TR 2516 – 2522 and Exhibits AG-44 a pro-forma cash flow to debt coverage ratio calculation and ratings agencies' reports in Exhibits AG-47 CONF, AG-48 CONF and AG-49 CONF.

⁴⁰⁵ Coppola, 3 TR 2522.

and point to credit positive factors such as a credit positive regulatory environment in Michigan.⁴⁰⁶

The Company points to industry and nationwide reports to support its proposed increase in the Company's equity ratio.⁴⁰⁷ Mr. Bleckman discusses a report by UBS on the regulatory environment.⁴⁰⁸ UBS, ranks regulators in Michigan and 57 other jurisdictions. However, UBS is not a credit rating agency. It is a stock brokerage and investment banking firm among other things. As discussed in the article, UBS's analysis is concerned with "fair outcomes for investors" and not necessarily creditors or customers.⁴⁰⁹ Mr. Bleckman claims that "It is apparent that rating agencies and analysts are taking note of the Company's regulatory outcomes and are viewing them unfavorably."⁴¹⁰ However, the article by UBS does not address any specific regulatory outcomes or concerns related to Consumers Energy or CMS Energy. Moreover, the article is now more than two years old.⁴¹¹

The Company also refers to an S&P report on negative trends in the utility industry.⁴¹² The information is generic. While the Company relies on the report to

⁴⁰⁶ See, Coppola 3, TR 2521 – 2522, Exhibit AG-48 CONF report page 1. Exhibit AG-47, report page 2, and Exhibit AG-49 CONF, report page 1.

⁴⁰⁷ Bleckman, 3 TR 824 – 827.

⁴⁰⁸ *Id.* at 825.

⁴⁰⁹ See, Exhibit A-34 (MRB-15).

⁴¹⁰ Bleckman, 3 TR 825.

⁴¹¹ Coppola, 3 TR 2523.

⁴¹² See, Exhibit A-35 (MRB-16) and Bleckman, 3 TR 826 – 827.

support its position, its witness did not note the key areas of concern - higher interest rates, changes to inflation, delays of offshore wind projects, and rising taxes which are not specific to the Company.⁴¹³ The S&P report also points to concerns with wildfire risks for utility companies west of the Mississippi River.⁴¹⁴

Most of these risks do not apply to the Company. First, CMS Energy and Consumers have no off-shore wind projects. Second, the projected test year ratemaking construct used in Michigan permits utility companies to recover projected costs and CPI inflationary increases for O&M expenses and capital expenditures in setting new rates. Third, regarding “higher interest rate risk”, most of the Company’s debt is long-term fixed-rate debt with only seasonal short-term debt which are forecasted for the projected test year and included in rates. In contrast, other utilities may use significant short-term debt and do not have a projected test year cost recovery mechanism. As such, the Company is in a superior position on this issue relative to other utilities. Fourth, S&P’s concerns with the potential higher tax rates at this time appear to be a minor risk. No federal legislation is currently being considered that would increase the corporate income tax rate. Interestingly, S&P points out the Alternative Minimum Tax (AMT) provisions of the Inflation Reduction Act as a possible concern for larger utility companies. However, it goes on to indicate ‘...we expect that most fully integrated large utilities...will use their renewable tax credits to minimize or eliminate

⁴¹³ See, Exhibit A-35, report p. 11.

⁴¹⁴ Id. report pp. 7 and 8.

AMT...” Accordingly, no concerns are warranted in this area.⁴¹⁵ In summary, the Commission should dismiss the generic utility industry concerns raised by Mr. Bleckman and described in the S&P report, because they are inapplicable to the Company’s regulatory and financial position.

Finally, Mr. Bleckman points to S&P’s January 2025 “Industry Credit Outlook 2025” for concerns worthy of the Commission’s attention.⁴¹⁶ However, the information does not justify the angst expressed by the Company. First, Michigan and five other states rank highest as being “Most Credit Supportive” among the 50 states based on S&P’s Regulatory Assessment.⁴¹⁷ Second, the article raises three key concerns which are (a) the need for more common equity in the industry; (b) potential tax legislation which could adversely affect the industry; and (c) robust capital spending. Mr. Coppola explains that the potential for adverse federal corporate tax legislation does not seem to be a concern for the foreseeable future.⁴¹⁸ He points out that the applicability of other two items vary from utility to utility depending on their circumstances. Regarding additional common equity, as discussed above, a balanced capital structure with 50% common equity provides a strong financial position for the Company to continue to raise new capital to address spending on infrastructure improvements. Regarding the high level of capital

⁴¹⁵ Coppola, 3 TR 2524.

⁴¹⁶ Bleckman, 3 TR 826. *See also*, exhibit A-40 (MRB-21).

⁴¹⁷ Exhibit A-40, publication p. 8.

⁴¹⁸ Coppola, 3 TR 2525.

spending by the industry, the Company has the ability to moderate its spending and take a more gradual approach in increasing capital spending.⁴¹⁹

None of the reports referenced by the Company justify a higher equity ratio than the current 50% ratio.

Mr. Bleckman states that maintaining a higher credit rating benefits customers because it will result in lower financing costs.⁴²⁰ He also claims that the ROE and equity ratio cannot be evaluated in isolation since they are inputs for determining the Company's FFO-to-Debt ratios that credit agencies rely upon to determine the Company's financial health.⁴²¹ Mr. Bleckman further claims that "[a]n ROE of 10.25%, when taken together with an equity ratio of 50.75% results in an FFO-to-Debt ratio that the Company believes is acceptable in the current case and is responsive to recent Commission orders. A lower authorized ROE would therefore, necessitate a higher approved equity ratio to maintain the same level of financial health."⁴²² Those claims are baseless. The Company does not provide any evidence from the ratings agencies that certain minimum equity ratios or ROEs are needed to maintain credit ratings. Further, the Company's attempt to tie bar these items as proposed by Mr. Bleckman should be rejected.

⁴¹⁹ *Id.*

⁴²⁰ Bleckman, 3 TR 818 - 819.

⁴²¹ *Id.* at 819.

⁴²² *Id.*

While ROE and equity ratios are both part of the cost of capital, different considerations are used to determine their reasonableness and prudence, and they must be judged on their own merits. In addition, the ratings agencies take a broader view of the Company's financial health and how Michigan's regulatory environment is constructive in helping the Company maintain its credit ratings. As noted by the ratings agencies, the Company also benefits from several regulatory mechanisms that reduce business risk, such as regular rate increases, streamlined rate cases, forward looking test years, the PSCR, GCR, FCM, and IRPs, and other cost recovery programs and mechanisms.⁴²³ As discussed above, the agencies have clearly indicated what could lead to a downgrade. The ratios and ROE advocated by the Company were not mentioned as a necessary means to avoid a downgrade.

Moody's notes that [Begin Confidential]

[Redacted]

[Redacted] ⁴²⁴ [End Confidential] Any

such argument tie barring ROE and the common equity ratio should be rejected.

b. Consumers Energy's equity ratio should be more in line with the ratios of its peer group.

The average common equity ratio of the peer company group for 2024 was 42.2%.⁴²⁵ Because the cost of equity for those companies in the peer group is highly

⁴²³ See, Exhibit AG-47 CONF Moody's Credit Opinion dated May 29, 2025, page 3. *See also*, Exhibit AG-48 CONF, S&P Global, Ratings Score Snapshot for Consumers Energy Company, dated August 20, 2024, page 2 (first paragraph).

⁴²⁴ Exhibit AG-47, Moody's Credit Opinion, page 1. (emphasis added)

⁴²⁵ *See*, Exhibit AG-38.

dependent on the financial risk reflected in their capital structure, it is critical to synchronize the capital structure of the Company to the peer group average as closely as possible in order to have consistency with the cost of equity capital derived from those peer group companies.⁴²⁶ The Company's proposed common equity capital ratio of 50.75% creates a disconnect and is also more costly to customers.⁴²⁷ Further, the lower peer group equity ratios also demonstrate that similarly situated companies are operating and thriving with a lower equity ratio.

Mr. Bleckman presented an exhibit purportedly showing an average common equity ratio of 51.85% for various utility companies decided in rate cases between 2020 – 2025.⁴²⁸ According to Mr. Coppola, the exhibit is not comprehensive and contains inaccuracies.⁴²⁹ Mr. Coppola identified specific problems with Exhibit A-29.⁴³⁰

First, the common equity ratio information presented by Mr. Bleckman includes decisions for natural gas utilities with equity ratios averaging 53.1% while the electric utility decisions have equity ratios averaging 51.5%. It appears that

⁴²⁶ Coppola, 3 TR 2530.

⁴²⁷ *Id.*

⁴²⁸ Exhibit A-29 (MRB-10).

⁴²⁹ Coppola, 3 TR 2531.

⁴³⁰ Coppola, 3 TR 2531 – 2532.

inclusion of the gas decisions was intended to inflate the outcome because they do not provide comparable information for an electric utility.⁴³¹

Second, Mr. Bleckman has included several small electric utilities in the exhibit. Smaller electric companies with higher equity ratios help to boost the overall average equity ratio in Mr. Bleckman's analysis. According to Mr. Coppola, smaller utilities tend to have higher equity ratios to sustain them during potential volatility in their business, which larger utilities can better manage.⁴³² To support his analysis Mr. Coppola points to Kingsport Power on line 9 of the exhibit which has a 53.5% ratio and serves approximately 50,000 customers in rural Kentucky and Tennessee.⁴³³ Alaska Electric Light & Power on line 13 of the exhibit has a 60.7% equity ratio and serves 18,000 customers in an isolated area in Alaska.⁴³⁴ Southwestern Public Service, shown on lines 49 and 50 of the exhibit, serves 410,000 customers in two states with equity ratios of 54.6% and 54.7% set in each of the two states.⁴³⁵ Finally, Duke Energy Kentucky with a 54.1% equity ratio on line 24 of the exhibit operates with a \$1.8 billion capital base which is less than 6% the size of Consumers Energy with a capital base of \$32.4 billion.⁴³⁶ Unfortunately, Mr.

⁴³¹ Coppola 3 TR 2531.

⁴³² Coppola, 3 TR 3532.

⁴³³ *Id.*, from page 1 of American Electric Power 2024 Form 10-K report.

⁴³⁴ *Id.*, from page 32 of Avista 2024 Form 10-K report

⁴³⁵ *Id.*, from page 57 of Xcel Factbook from July 2025.

⁴³⁶ *Id.* See also, Exhibit A-14, Schedule D1.

Bleckman did not disclose or consider these factors in his exhibit in his attempt to justify a higher equity ratio.

Third, some of the data in Mr. Bleckman's exhibit is stale. Mr. Coppola points to the entry for Alliant Energy's Wisconsin Power & Light unit, listed with an equity ratio of 55.09% on line 2 of Exhibit A-29, now has a 53.7% equity ratio.⁴³⁷ Similarly, the equity ratio for Duke Energy Progress-NC, listed with an equity ratio of 53% on line 26 of the exhibit, actually has an equity ratio of 50.5%.⁴³⁸ Fourth, in compiling Exhibit A-29, Mr. Bleckman excluded utility companies in the northeastern part of the United States where ROEs and equity ratios tend to be lower.⁴³⁹

As discussed above, Mr. Bleckman has constructed a selective group of utilities in Exhibit A-29 that are not representative of the electric utility industry and result in an inflated average equity ratio.⁴⁴⁰ The Commission should give no weight to this exhibit which presents a misleading industry average equity ratio.

c. Impact of CMS Energy's level of long-term debt.

The relationship between Consumers Energy and its parent company, CMS Energy ("CMS"), impacts the Company's proposed capital structure.⁴⁴¹ First, CMS

⁴³⁷ *Id.*, from page 37 of Alliant Energy 2024 Form 10-K report.

⁴³⁸ *Id.*, see page 15 of the Duke Energy 2024 Form 10-K report

⁴³⁹ *See*, Exhibit A-190, page 2.

⁴⁴⁰ Coppola, 3 TR 2532 – 2533.

⁴⁴¹ *Id.* at 2526 – 2530.

controls when and how capital is injected into the Company. Therefore, it can make the Company's common equity ratio whatever it wants in its discretion.⁴⁴² Over the last five years, 2020 to 2024, Consumers Energy's has experienced a net increase in common equity of \$3.7 billion.⁴⁴³

Second, CMS Energy is a frequent issuer of long-term debt in the capital markets. CMS's parent-only debt increased from \$3.3 billion at the end of 2019 to \$5.0 billion at year end 2024. Nearly 95% of CMS' assets and earnings come from Consumers Energy. Therefore, from a practical operating standpoint, CMS and Consumers Energy are one and the same.⁴⁴⁴ The Company's practice of funding a significant part of its equity contributions with funds from long term debt issued at the parent company level is problematic.

The excessive debt and low common equity ratio (approximately 34% at the end of 2024) at CMS has been a concern for the rating agencies when assessing the debt rating of Consumers Energy.⁴⁴⁵ It is not clear how much the debt-laden capital structure of CMS has impacted the Company. However, rating agencies' previous comments indicate that the debt-laden capital structure of CMS has contributed to

⁴⁴² *Id.* at 3 TR 2526.

⁴⁴³ *Id.* at 2526 – 2527 and Table 1.

⁴⁴⁴ *Id.* at 2529.

⁴⁴⁵ Coppola 3 TR 2529. *See also*, Exhibit AG-47, Moody's May 2025 Credit Opinion, page 1 under Summary; Exhibit AG-48, S&P's August 20, 2024 Report, page 4 under Downside Scenario; and Exhibit AG-49, FitchRatings Report dated April 16, 2024, page 2 under Parent/Subsidiary Linkage and page 3 under Factors that Could, Individually or Collectively Lead to a Positive Ratings Action/Upgrade and likewise a Negative Ratings Action/Downgrade.

a lower debt rating than the Company could have achieved if CMS was capitalized with more equity capital. The result has been higher interest costs for customers. Partially to compensate for the impact of the significant leverage at CMS, the Company now wants a higher equity ratio in the capital structure that will further increase costs to ratepayers.⁴⁴⁶

See Mr. Coppola's testimony for a complete analysis of the impact of CMS's financial condition on Consumers.⁴⁴⁷

d. Equity ratio impact.

The revenue requirement savings related to a lower common equity ratio of 50% when compared to the Company's proposed equity ratio of 50.75% is approximately \$9.0 million annually.⁴⁴⁸ This reflects (a) the difference between the pre-tax cost of common equity of approximately 14% versus the cost of long-term debt of 4.5%; (b) the Company's proposed rate base of approximately \$15.4 billion; and (c) the percentage of total capital being shifted from common equity to long-term debt.⁴⁴⁹ Therefore, the Attorney General recommends that the Commission approve a 50-50 balanced debt to equity ratio. As discussed above, the Company has not provided justification for increasing the equity ratio from its current 50%.

⁴⁴⁶ Coppola, 3 TR 2529 – 2530.

⁴⁴⁷ *Id.* at 2526 – 2530.

⁴⁴⁸ *Id.* at 2533.

⁴⁴⁹ *Id.* at 2533.

2. Long term debt balance.

The Attorney General is utilizing the long-term debt balance found in Exhibit AG-35.

3. Short-term debt balance.

The Attorney General is utilizing the short-term debt balance sponsored by Company witness Bleckman in Exhibit A-14 (MRB-1), Schedule D1, page 1.

C. Cost Rates - The Commission should adopt the Attorney General's adjustment to the cost of capital and ROE.

Bulkley, 4 TR 2715 - 2769 and Exhibit A-14 (AEB-1); Bulkley Rebuttal, 4 TR 2791 – 2916, Exhibit A-206 (AEB-2) and Exhibit A-207 (AEB-3); Bleckman, 3 TR 811 and 841, Exhibit A-14 (MRG-1), Schedule D-1, page 1; Coppola, 3 TR 2533 - 2567 and Exhibit AG-35, Exhibit AG-36, Exhibit AG-37 through Exhibit AG-44, Exhibits AG-47 – AG-52,; Megginson, 6 TR 4519 – 4528, 4534 – 4557, and Exhibit No. S-4, Schedules D-1 through D-6; Walters, 6 TR 3746 – 3765, 3768 – 3818, and Exhibit AB-5, Exhibit AB-6, Exhibit AB-7, Exhibit AB-8, Exhibit AB-9, Exhibit AB-10, Exhibit AB-11, Exhibit AB-12, Exhibit AB-13, Exhibit AB-17, Exhibit AB-18, Exhibit AB-19; Bandyk, 6 TR 3941 – 3974 and Exhibits CUB-2 through CUB-10; Lyon, 3 TR 2602 – 2614 and Exhibits WAL-2 – WAL-4; Attorney General Hearing Exhibit AG-81.

1. Return on Common Equity

a. The Company's requested ROE.

According to Company witnesses Bleckman and Bulkley, an appropriate ROE for the Company is 10.25%.⁴⁵⁰ However, as will be discussed below, the Company

⁴⁵⁰Bleckman, 3 TR 811 and 841; Bulkley, 4 TR 2720; Bulkley Rebuttal, 4 TR 2797.

used flawed assumptions and novel and untested analysis which has led to overinflated estimates for the Company's proposed ROE.

b. **Applicable Principles – Standard for Determining ROE.**

A utility company is entitled to a fair return that will allow it to attract capital and be sufficient to assure investors of its financial soundness. In its opinion in *Bluefield Water Works and Improvement Company v Public Service Commission of West Virginia* (the “Bluefield Case”) 262 U.S. 679 (1923), the United States Supreme Court indicated that

“A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that being made at the same time...on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties...”

The principals of the *Bluefield* Case were re-affirmed by the U.S. Supreme Court in 1944 in the case *FPC v Hope Natural Gas Company*, 320 U.S. 591. The Attorney General's witness followed these guiding principles. Based on these standards, Mr. Coppola recommends a ROE that will enable the Company to maintain its financial integrity.⁴⁵¹

⁴⁵¹ Coppola, 3 TR 2536 – 2537.

Mr. Coppola also noted that determining the cost of common equity for an enterprise or an industry group is inexact since investors can only estimate what the future cash flows from any enterprise may be over time. As a result, most financial experts will not rely solely on any one method. Mr. Coppola utilized three approaches in assessing the cost of common equity – the Discounted Cash Flow (DCF) Method, the Capital Asset Pricing Model (CAPM) and the Utility Risk Premium approach.⁴⁵² He also considered the cost of common equity of a proxy group of peer companies in connection with the methods listed above in determining the cost of common equity.⁴⁵³ Applying these three methodologies, Mr. Coppola calculated an average ROE of 9.73%.⁴⁵⁴ However, he recommended an allowed rate of return on common equity of 9.80% for reasons provided below.

c. Qualitative Market and Risk Considerations

Before addressing the calculation of the ROE, it should be noted that one of the most important factors in determining the required return on equity of a utility is risk. Utilities face less risk compared to most other businesses due to the regulatory scheme which provides for rate increases if reasonable and prudent and authorized rates of return. Therefore, a utility's return should be lower than other riskier businesses. Second, a utility should earn comparable returns to other businesses with similar degrees of risk to maintain its financial soundness

⁴⁵² *Id* at 2537.

⁴⁵³ *Id.* 2538. *See also*, Exhibit AG-42

⁴⁵⁴ Coppola, 3 TR 2537.

including, but not limited to, maintaining its credit standing and attracting capital for investment.

d. Quantitative Methodologies and Conclusions -The Attorney General ROE calculation and recommendation

Consistent with the legal principles stated above and the proper application of recognized models, the Attorney General's expert recommends a reasonable ROE of 9.80%.

i. Proxy Group Selection Criteria.

Despite not being publicly traded, as a subsidiary of CMS Energy, Consumers Energy operates in, and its financial performances are a part of the general economic and industry environment. Potential investors will still compare Consumers Energy's expected returns on investment to the market returns on other available alternatives. Consequently, a broad analytical approach including studying the underlying economic environment, Federal Reserve policy, likely investors' expectations of future returns, and the utility industry's expected returns in the current market is appropriate. The cost of equity of an appropriate peer group of other utilities provides the best guide to establishing an appropriate ROE rate for the Company.⁴⁵⁵

⁴⁵⁵ Coppola, 3 TR 2537 and 2538.

Mr. Coppola established a peer group starting with a broad search with 38 utilities. Through a process of elimination,⁴⁵⁶ he narrowed this group down to the eleven companies shown in Exhibits AG-41 and AG-43, all of which have growing earnings and dividends and are comparable to the Company.⁴⁵⁷ Mr. Coppola's peer group is smaller than the one sponsored by Company witness Bulkley, which contains nineteen companies.⁴⁵⁸ Only eight of the companies in Consumers' peer group are also in Mr. Coppola's peer group. The remaining companies are not appropriate for various reasons.

First, three should be removed because of size considerations. Duke Energy, Southern Company, and NextEra Energy have annual revenues of \$30 billion, \$26.7 billion, and \$24.8 billion, respectively. Due to their excessively large size compared to Consumers Energy's \$7.5 billion in revenue, these utilities are not an appropriate fit for the Company's peer group.⁴⁵⁹ Second, NextEra Energy should also be removed from the peer group due to its significant investments in non-utility power production in several states, representing over 40% of its assets. Third, Mr. Coppola removed Entergy, NorthWestern Energy, and TXNM Energy from his peer group because of M&A activity that distorts the dividend yield and earnings growth of these companies. TXNM is involved in the sale of certain assets to Blackstone Infrastructure Company, while Entergy is looking to sell its Louisiana gas

⁴⁵⁶ See, Coppola 3 TR 2538 and Exhibit AG-42.

⁴⁵⁷ *Id.* at 2538.

⁴⁵⁸ *Id.* at 2539.

⁴⁵⁹ *Id.*

distribution properties, and NorthWestern has announced merger plans with Black Hills. Fourth, the remaining utilities included in the Company's peer group, but not Mr. Coppola's peer group, should be excluded because of poor earnings history and inconsistent earnings growth rates.⁴⁶⁰

The Company takes issue to the exclusion of PPL from Mr. Coppola's peer group claiming it is not entirely clear how her determined if the company should be excluded from the group due to "low/no growth in earning."⁴⁶¹ PPL was included in the fourth category of utilities excluded from Mr. Coppola's peer group as discussed above for poor earnings history and inconsistent earnings growth rates. Mr. Coppola excluded PPL due to recent volatility in its earnings.⁴⁶² The removal of this company from the peer group is appropriate because recent hurricanes have negatively affected the company's earnings, its stock price, and related financial metrics. The rebound in earnings from those earlier events distorts the near-term earnings growth, making it a poor candidate to include in the peer group of comparable utilities to the company, which has had relatively stable earnings growth.

As discussed above, the Company's proposed peer group includes companies that are not comparable to Consumers Energy and should not be relied on by the

⁴⁶⁰ Coppola, 3 TR 2539.

⁴⁶¹ Bulkley Rebuttal, 4 TR 2823 – 2824.

⁴⁶² Exhibit AG-42.

Commission in determining an appropriate cost of equity capital in this rate case. Mr. Coppola provides a comparable peer group that should be used instead.⁴⁶³

ii. Application of Quantitative Models

Consumers Energy is subject to the same risks that other firms in its industry face, including variation in demand, limits on growth, environmental compliance costs, employee benefit costs, the cost of infrastructure improvements, regulatory decisions, capital market conditions (interest rates), and the availability to credit and access to capital markets. Therefore, Mr. Coppola utilized standard DCF and CAPM methodologies to evaluate a group of comparable companies. The CAPM model considers market risk. He also used a third method – a Utility Risk Premium approach. To avoid bias and make the cost of capital analysis more reliable, the conventional approach is to select and analyze a proxy group of comparable companies as discussed above.

iii. Cost of Common Stock

Two of the approaches used by Mr. Coppola in his analysis are market-based methods: the Discounted Cash Flow (DCF) method and the Capital Asset Pricing Model (CAPM), which are both recognized methods used in evaluating the cost of capital. The DCF method is based on anticipation of the company's futures earnings and growth opportunities. The CAPM model is a risk premium model. It is based on the proposition that the expected return on a common equity security is a function

⁴⁶³ See, Exhibit AG-41.

of risk as measured by the “Beta” of that security.⁴⁶⁴ The third method is a Utility Risk Premium approach. In addition, Mr. Coppola also considered investors’ understanding and expectation of the economic environment, Michigan’s economy and the current industry and company specific information.

iv. Discounted Cash Flow Methods

The DCF method provides the minimal return for a company to attract and maintain investment in the company’s common equity. It represents the investor’s expectation based on available current market information. It is a measuring stick to compare alternative investment opportunities. The DCF approach is based on the proposition that the price of any security reflects the present value of all future cash flows (dividend flows) from the security discounted at a single discount rate which, in the case of common stocks, is the required return on equity.⁴⁶⁵

The DCF method calculates the required return for an investor as follows:

$$R = D/P + g$$

where “R” = the Required Equity Return

“D/P” = the Dividend Yield on the Security

and “g” = the expected growth rate in dividends

Mr. Coppola further explains his inputs for the DCF model, including the stock price he uses, his calculation of the dividend yield, the growth rate he utilized

⁴⁶⁴ Coppola, 3 TR 2543.

⁴⁶⁵ Coppola, 3 TR 2540.

and why he used it.⁴⁶⁶ Using the DCF Method, Mr. Coppola calculated an average return on common equity for the proxy group of 9.57%.⁴⁶⁷ This result is lower than the Company's DCF calculations of 10.24%.⁴⁶⁸ Differences in the dividend yield and earnings growth rate in the DCF formula contribute to the difference between the Company's and Mr. Coppola's DCF estimates.

Mr. Coppola used a dividend yield of 3.56% in his analysis, but the Company calculated a higher yield of 3.75%, which accounts for approximately 20 of the 67-basis point difference between his and the Company's DCF ROE.⁴⁶⁹ The projected growth rate is higher in the Company's case at 6.48% compared to 6.01% in Mr. Coppola's analysis, which accounts for the remaining difference of 47 basis points.⁴⁷⁰ In addition, the data on the dividend yield and the earnings growth rates used by the Company were compiled earlier in 2025 and are now stale. According to Mr. Coppola, the stock prices of the utilities in the peer group are now higher, thereby justifying a lower dividend yield compared to the Company's filed case.⁴⁷¹

Further, the earnings growth rates used by the Company include higher earnings growth rates for Avista, Dominion Energy, and NextEra, which are inappropriate for inclusion in the DCF peer group as discussed above. Moreover, the earnings growth rate of NextEra ranges from 7.11% to 8.50% due in part to its

⁴⁶⁶ Coppola, 3 TR 2540 – 2541.

⁴⁶⁷ *Id.* at 2541. *See also*, Exhibit AG 37.

⁴⁶⁸ *See*, Exhibit A-14 (AEB-1), page 1.

⁴⁶⁹ Coppola, 3 TR 2541.

⁴⁷⁰ *Id.* *See also*, Exhibit A-14 (AEB-1), page 3 for the Company's growth rates.

⁴⁷¹ Coppola, 3 TR 2542.

power generation business. Dominion Energy's growth of 10.2% reflects, in part, Dominion's restructuring of its businesses to sell certain gas assets and a 50% interest in its Coastal Wind project. As such, the 10.2% growth rate is a temporary situation. Avista should not be included since this company is now seen as having "Wildfire Risk". This has depressed this company's stock price and inflated its dividend yield.⁴⁷²

Mr. Coppola believes that DCF results are reliable especially when considered in conjunction with other methods for determining the cost of common equity.⁴⁷³

v. **The CAPM Method**

As noted above, the CAPM method is based on an analysis of risks. It considers two types of risks: risk that investors can diversify away or reduce by combining different investments into a portfolio; and market risk that an investor cannot reduce by diversification. Therefore, the CAPM method is a risk premium model, based on the calculation of the risk differential between investments on the market portfolio and the individual stock. The calculation of the required rate of return on the company's stock is as follows:

$$K_e = R_F + (\beta \times R_p)$$

Where: K_e = the market cost of common equity for a specific security.
 R_F = the risk-free rate of return.
 R_p = the required overall market return less the risk free rate (over several years); and

⁴⁷² *Id.*

⁴⁷³ *Id.* at 2541.

$\beta =$ beta, a measure of a given security's risk relative to that of the overall market.

The purpose for using the CAPM model to calculate the required return on the individual investment is to find the equivalent return for an investor based on the relative risk of the investment as compared to the alternative investment opportunities. This measure of risk reflects the extent to which the price of a particular security varies in relationship to the movement of the overall market. Some securities vary less in price over time than the overall market and therefore their Beta will be less than 1.00. Securities that vary more than the overall market over time will have a Beta that is greater than 1.00.⁴⁷⁴ Mr. Coppola states that “[u]tility stocks tend to move less than the overall market. Reflective of this outcome, the average Beta of my Peer Group is 0.76.”⁴⁷⁵

The Attorney General's CAPM calculation can be found in Exhibit AG-38.⁴⁷⁶ The resulting ROE based on the CAPM is 9.98%. Mr. Coppola believes that the CAPM is useful in assessing the relative risk of different stocks or portfolios of stocks. However, it has limitations because it assumes that the entire risk of a stock can be measured by the “Beta” component and as such the only risk an investor faces is created by fluctuations in the overall market. However, investors take into consideration company-specific factors in assessing the risk of each

⁴⁷⁴ Coppola, 3 TR 2543.

⁴⁷⁵ *Id.*

⁴⁷⁶ *See*, Mr. Coppola's testimony at 3 TR 2544, for a detailed explanation of the calculation.

particular security. Therefore, Mr. Coppola gives the CAPM approach less weight than the DCF approach in determining the cost of common equity.⁴⁷⁷

The Company's CAPM results result in a higher ROE than the Attorney General. Ms. Bulkley projected CAPM ROE is 10.79%.⁴⁷⁸ The table below, shows the development of Ms. Bulkley's CAPM ROE result compared to Mr. Coppola's.⁴⁷⁹

Comparison of CAPM Results		
CAPM Results Simplified	CAPM Estimate of:	
	AG	CECo
Market Risk Premium (MRP)	7.35%	8.28% *
Avg. Beta Factor (B)	0.76	0.78
MRP x B	5.58%	6.49%
Projected 2026 Risk Free Rate	4.40%	4.30%
Total CAPM Result	9.98%	10.79%
* Results based on a Projected Growth Rate for the S&P 500. See Exhibit A-14 (AEB-1), Sched. D5, page 14.		

Mr. Coppola notes that the key difference between his CAPM ROE and the Company's is the Company's use of a higher Market Risk Premium, which is discussed below.⁴⁸⁰ The Company also used ECAPM in its ROE analysis, which had

⁴⁷⁷ Coppola, 3 TR 2544.

⁴⁷⁸ See, Exhibit A-14 (AEB-1), page 1.

⁴⁷⁹ Coppola, 3 TR 2585.

⁴⁸⁰ *Id.*

results slightly higher than the CAPM result in the table above.⁴⁸¹ This is also discussed below.

vi. Utility Risk Premium Approach

Generally, you can estimate the cost of common equity for a peer group of utility companies by (1) projecting the cost of debt for the peer group and adding to this cost (2) the average return differential of utility common stocks over utility bonds.⁴⁸² This approach is called the utility risk premium approach. Mr. Coppola calculated a return on common equity using this approach by adding the credit spread of utility bonds rates “A” of 5.56% with the spread of utility bonds issued in 2024 over U.S. treasury bonds of 4.25%. He then added the two rates to determine the rate of return for the Risk Premium method of 9.81%.⁴⁸³

The Company does not provide a traditional utility risk premium analysis in terms of measuring returns on utility stocks relative to an interest rate benchmark such as utility bonds. Ms. Bulkley uses an unorthodox approach referred to as the Bond Yield Risk Premium (BYRP) to project a ROE rate of 10.56%.⁴⁸⁴ Problems with this approach are discussed below.

vii. Criticisms of the Company’s methods of calculating ROE.

⁴⁸¹ *Id.*

⁴⁸² *Id.* at 2551.

⁴⁸³ *See*, 3 TR 2551 and Exhibit AG-39 for a complete description of Mr. Coppola’s calculation of the Risk Utility Premium Approach.

⁴⁸⁴ Coppola, 3 TR 2552 – 2552.

As noted above, the Company is seeking a ROE of 10.25% using novel and unorthodox methodology to reach that result. First, Ms. Bulkley uses an inappropriate risk-free rate and higher Market risk premium in its CAPM. Second, she also uses the ECAPM method to determine ROE, which is also flawed and inappropriate. The Attorney General did not provide an estimate of ROE using the ECAPM method for reasons discussed below. Third, she uses the unorthodox BYRP approach which should be rejected for the reasons discussed below.

The Company's Risk-Free Rate – The Company developed multiple CAPM ROE estimates using various risk-free rates of 4.61%, 4.52%, and 4.30%. Mr. Coppola notes that the Company's use of multiple rates seems to be a hunt for an approach that will result in a higher ROE rate. The Company ultimately used the 4.30% 30-year forecasted U.S. Treasury bond rate which is particularly flawed because it reflects U.S. Treasury rates forecasts for 2026 to 2030. This period in large part includes periods beyond the test year ending October 2026 and is inappropriate for using in a projected test year ending in 2027.⁴⁸⁵ Mr. Coppola used the single rate of 4.40% for the 30-year U.S. Treasury bond rate forecasted for the second and third quarters of 2026, which is at the outset of the projected test year.⁴⁸⁶

⁴⁸⁵ Coppola, 3 TR 2548.

⁴⁸⁶ See, Exhibit AG-50 (DR AG-CE-0398 and attached Blue Chip Forecast of May 1, 2025.

Market Risk Premium (MRP) – As discussed above, the Company calculated a MRP of 8.28% which resulted in a higher CAPM ROE than the one calculated by the Attorney General. The Company’s MRP analysis is problematic for a few reasons.

First, instead of using a proven historical MRP, the Company developed its MRP based largely on future expected stock price growth rates and dividends for a select group of companies from the S&P 500 stock index over the next three to five years. Based on her sample of companies, Ms. Bulkley calculates a forecasted stock market return of 12.58%. She then deducts her forecasted 30-year U.S. Treasury risk-free rate of 4.30% from that percentage to arrive at a forecasted MRP of 8.28%.⁴⁸⁷ Mr. Coppola points out that when witness Bulkley conducted her analysis of projected market returns in case U-21806 earlier in 2025, her expected market return was 12.04%, or 50 basis points less than in this case.⁴⁸⁸ The Commission should give no weight to this projected MRP methodology given this substantial swing in the stock market return over a short timeframe.

Second, many of the companies in the list of S&P 500 Index with dividend yields and long-term growth estimates are omitted from the Company’s analysis.⁴⁸⁹ Mr. Coppola notes that approximately 125 companies or 25% of the named companies in the S&P 500 are not represented in the calculation of the 12.58% stock

⁴⁸⁷ Coppola, 3 TR 2546.

⁴⁸⁸ *Id.* at 2546 – 2547.

⁴⁸⁹ *Id.* at 2547. *See also*, Exhibit A-14 (AEB-1), pages 16 to 21.

market return. And that large technology companies have an oversized impact because high growth prospects have a larger than normal weighting in the calculation of the 12.58% return due to their relatively large market capitalization.⁴⁹⁰

Third, Mr. Coppola's uses long-term historical market returns in his risk premiums analysis, whereas witness Bulkley utilizes an extremely short period of three to five years to measure stock market return in her MRP analysis.⁴⁹¹ The Company's projected MRP does not include a complete cycle of economic expansion and contraction, which is what occurs over the long-term. To adopt the Company's approach would be akin to only selecting the positive return years over the 98-year historical period of stock market returns used by Mr. Coppola and not the losses in the downturn years.⁴⁹² The result is a far higher overall return for the market and a far higher MRP, which is the flawed result achieved by witness Bulkley's 12.58% market return and her forecasted MRP.⁴⁹³

To determine an appropriate expected market return and risk premium, multiple economic cycles over a long timeframe must be considered. Otherwise, the calculations of MRP would result in very high ROEs during periods of economic expansion, and very low and perhaps even negative ROEs during periods of

⁴⁹⁰ Coppola, 3 TR 2547.

⁴⁹¹ Coppola, 3 TR 2547.

⁴⁹² Coppola, 3 TR 2547.

⁴⁹³ *Id.*

economic decline. Dr. Roger Morin who favors the use of the longest possible period for calculating a MRP also discusses these concerns.⁴⁹⁴ On page 114 of his book

“New Regulatory Finance” Dr. Morin states the following:

Therefore, an historical risk premium study should consider the longest possible period for which data are available. Short-run periods during which investors earn a lower risk premium than they expect are offset by short-run periods during which investors earn a higher risk premium than they expect. Only over long time periods will investor return expectations and realizations converge. Clearly, the accuracy of the realized risk premium as an estimator of the prospective risk premium is enhanced by increasing the number of years used to estimate it...

Clearly, Ms. Bulkley’s approach to calculating a projected market risk premium is not academically or practically sound. It only serves to inflate the ROE result for the Company. The Commission should not give any weight to ROE calculations relying on the Company’s MRP methodology.

ECAPM Method - The Commission should also give no weight to the Company’s use of the ECAPM method in calculating ROE. The argument for using the ECAPM method is that the Beta factors published by Value Line when used in CAPM analysis do not accurately predict stock performance. However, for reasons discussed in Mr. Coppola’s testimony, that argument is flawed.⁴⁹⁵ There is academic disagreement with the validity of the original studies that led to the use of ECAPM. First, the original study used raw betas and not the adjusted Value Line betas, which Mr. Coppola uses, and which other cost of capital experts normally rely

⁴⁹⁴ *Id.* at 2548.

⁴⁹⁵ Coppola, 3 TR 2548.

upon. Second, the original studies relied upon short-term risk-free rates. Instead, cost of capital witnesses, including Mr. Coppola, use long-term risk-free rates in the CAPM model. The ECAPM method tends to overstate and inflate the true cost of capital and should not be used.⁴⁹⁶

Examples that the Company has previously relied on from other jurisdictions to support its use of the ECAPM should be disregarded.⁴⁹⁷ Based on Mr. Coppola's testimony, the ECAPM does not appear to be widely accepted method by state regulatory commissions and the Commission should disregard the Company's ECAPM cost of equity estimate in determining ROE in this case.⁴⁹⁸

Bond Yield Risk Premium Analysis – The Company uses an approach called the Bond Yield Risk Premium (BYRP). According to Ms. Bulkley, she compared authorized ROEs from electric utility rate case decisions from 1980 to early 2025 to the 30-year U.S. bond yields and ran a regression model with this data. She claims to have found a strong relationship between these bond yields and authorized ROEs. Based on the results of the cases prepared using this approach, she concludes that the average risk premium over the 1980-2025 period is 6.15%. She added an estimated rate of 4.41% for the 30-year U.S. bond yield for the

⁴⁹⁶ *Id.* at 2548 – 2549.

⁴⁹⁷ *Id.* at 2549 - 2550.

⁴⁹⁸ *Id.*

projected test year to this risk premium to arrive at a 10.56% ROE rate for the projected test year under this unorthodox approach.⁴⁹⁹

Mr. Coppola discusses three major flaws with the BYRP approach. First, it lacks any comparison to actual utility returns achieved from price appreciation and dividends to bond yields, which he states is the key and necessary measurement in any risk premium analysis. Using authorized ROEs as a substitute ignores investors' return expectations.⁵⁰⁰ Second, the analysis is biased because it covers a period when interest rates were declining from 12.1% in late 1980 to 4.2% in 2024.⁵⁰¹ Third, this analysis assumes a direct relationship between declining interest rates and ROE decisions as happening almost instantaneously monthly concept of gradualism in reducing or increasing ROEs that do not move in lock step with interest rate changes.⁵⁰² The Commission should give no weight or reliance to this alternative method.

It does not appear that other regulatory commissions have embraced the BYRP approach. The Company could not provide evidence that any commission accepted this methodology.⁵⁰³ Instead, Mr. Coppola provided an example of a jurisdiction rejecting the BYRP approach. The Utah commission in its April 2025

⁴⁹⁹ See, Bulkley 4 TR 2748 – 2752 and Exhibit A-14 (AEB-1), page 22. See also, Coppola, 3 TR 2552, including footnote 121.

⁵⁰⁰ Coppola, 3 TR 2552 – 2553.

⁵⁰¹ *Id.* at 2553. See also, Exhibit A-14 (AEB-1) pages 23 and 25.

⁵⁰² Coppola, 3 TR 2553.

⁵⁰³ See, Coppola, 3 TR 2553 including footnote 123.

decision in Docket 24-035-04 involving Rocky Mountain Power (RMP), a subsidiary of PacifiCorp, stated that “As persuasively argued by OCS, and not disputed by RMP, a fundamental component of the BYRP model is commission behavior (i.e., the authorized ROEs set by commissions over a historical period) and not investor behavior.”⁵⁰⁴ The Utah commission concluded that the RMP calculation of the BYRP ROE results to be unreliable. The Utah commission correctly recognized that the “investor behavior component” is absent in the BYRP model approach. In contrast, investor behavior is a key component in the DCF, CAPM, and the Utility Risk Premium approaches used by Mr. Coppola in this case.⁵⁰⁵ The Company’s BYRP analysis should be rejected.

viii. The Attorney General’s ROE calculation is reasonable and fair to the Company and ratepayers.

The weighted average return on equity of 9.73% reflects the Company’s true cost of equity. However, Mr. Coppola recommends an allowed ROE of 9.80%. The recommended ROE is fair to the Company. By allowing a ROE that is slightly higher than the required ROE for investment purposes, it represents a gradual return to the true and just cost of equity.

To confirm his analysis, Mr. Coppola compared his recommended ROE of 9.80% to allowed ROEs granted by the public service commissions in the U.S. Exhibit AG-40 shows the ROEs granted by state regulatory commissions for U.S.

⁵⁰⁴ Utah Commission order of April 2025 in Docket 24-035-04 at pages 25 and 26.

⁵⁰⁵ Coppola, 3 TR 2553 – 2554.

electric utilities for the two years ending June 2024 and June 2025. Forty of the fifty ROE decisions in the twelve months ending June 2024 and thirty-two of the forty-six decisions ending in the twelve months ending June 2025 are below the Company's current authorized ROE of 9.9%.⁵⁰⁶

Commission orders from Michigan, California, Florida and some small utilities predominated the cases with higher ROEs.⁵⁰⁷ Utilities like Consumers in terms of risk, generally had ROEs around 9.5% and 9.6%.⁵⁰⁸ In addition, recent ROEs among Mr. Coppola's peer group of Companies have averaged 9.57%.⁵⁰⁹ This evidence supports Mr. Coppola's proposed ROE rate of 9.80%. The Company's proposed ROE rate of 10.25% is outside the realm of reasonableness and clearly unsupportable.

In an attempt to bolster its proposed ROE, the Company presents Exhibit A-30 (MRB-1) and A-33 (MRB-4) in which it provides ROEs and equity ratios for select utilities. According to Mr. Coppola, "much of the information in Exhibit A-33 is incorrect, misleading, and does not accurately captures the assessment of Michigan regulatory environment present in Exhibit A-33 by RRA."⁵¹⁰ The cases are distinguishable from the Company's situation because some ROEs result from

⁵⁰⁶ Coppola, 3 TR 2554. See also, Exhibit AG-40, pages 1 and 2 for ROEs below 9.9% and page 3, for ROEs at or above 9.9%.

⁵⁰⁷ See, Coppola, 3 TR 2554 – 2555 and Exhibit AG-40, page 3 for individual explanations.

⁵⁰⁸ Id. at 2555.

⁵⁰⁹ *Id.*

⁵¹⁰ Coppola, 3 TR 2556

multi-year agreements or otherwise cover multiple years, the utilities are located in areas impacted by extreme weather (e.g., hurricanes) with higher risks for costs, some involve agreements to increase ROEs without increasing rates, one involves a utility with significant expenditures (and risk) related to nuclear plants with large cost overruns and write-offs, or they included cases that were otherwise inaccurate or misleading.⁵¹¹

Mr. Coppola further notes that the RRA report categorized the Michigan regulatory environment at Average-1, which is the high end of average and just below the above average ranking. RRA also assigns Average-2 and Average-3 rankings, which are below the Average-1 ranking. The Average-1 ranking assigned to the Michigan regulatory environment is still very strong and when combined with the S&P ranking of the Michigan regulatory jurisdiction as “Most Credit Supportive.”⁵¹² S&P states that the Company benefits from a very supportive regulatory environment.⁵¹³ As noted above Exhibit A-33 does not accurately portray Michigan’s regulatory environment.

A 10.25% ROE is not needed to attract capital. Exhibit AG-40 also shows several electric utilities that have accessed the capital markets at competitive interest rates since receiving a ROE near or below an 9.5%.⁵¹⁴ Likewise, there is no

⁵¹¹ See, Coppola, 3 TR 2556 – 2558.

⁵¹² Coppola, 3 TR 2559.

⁵¹³ See, Exhibit A-40, S&P January 14, 2025 Report, page 8.

⁵¹⁴ Coppola, 3 TR 2559.

evidence that equity investors have abandoned utilities that have been granted ROEs at or near the industry average. The evidence suggests that stock investors continue to migrate to utility stocks because authorized ROEs are still above the true cost of equity. Exhibit AG-43 shows the market to book ratios for each of the peer group companies, and many of these companies have received rate orders during the past few years reflecting ROEs as low as 8.63%. Yet this group of companies has an average market to book common equity value ratio of approximately 2.0 times.⁵¹⁵ According to Mr. Coppola, a market to book value greater than 1.0 shows that investors are attracted to the ROE earned by the utilities on their book value and a higher market to book ratio indicates that the utility is earning a higher return on book value than other utilities.⁵¹⁶ It also indicates that the utility is over-earning on book value compared to investors' expectations for that type of investment and that they are willing to pay a market price higher than book value.⁵¹⁷ So, the need to raise capital because of large capital expenditures does not require the ROE requested by the Company.

The market for new long-term debt has been receptive to new utility debt issues in 2023 and 2024. The Company's exhibit A-28 (MRB-9) shows over 400 new bond issuances completed in 2023 and 2024.⁵¹⁸ Also, as discussed above, many utility companies issued new debt shortly after receiving a rate order with ROEs

⁵¹⁵ *Id.* at 2560.

⁵¹⁶ *Id.*

⁵¹⁷ *Id.*

⁵¹⁸ *See*, Exhibit A-28 (MRB-9).

below 9.50%. A salient fact is that Consumers Energy issued \$1.125 billion of new long-term debt in 2024 at an interest rate of 4.5% for a 5-year term and 5.05% for a 10-year term.⁵¹⁹ The Company also issued \$700 million of debt at an interest rate of 4.7% for a 5-year term in July 2024, and it issued \$600 million in debt with a maturity of 10 years at a 4.6% interest rate in January of 2024.⁵²⁰ Clearly, the debt markets are receptive to utility companies' capital raising activities without the excessive ROE requested by the Company.

Recent volatility in the capital markets should not be a concern in setting a fair ROE for the Company in this case. Ms. Bulkley claims that the higher volatility represented by the VIX reflects a need for higher returns in the market. The 52.3% VIX level she shows in Figure 4 in her testimony,⁵²¹ reflects a period of temporary market turmoil when the "Trump tariffs" were introduced.⁵²² According to Mr. Coppola, once things surrounding the tariffs settled down, the VIX fell to 14.79 by August 19, 2025, which is near the lowest level so far this year.⁵²³

The stock market has historically been very volatile. The VIX measures volatility over the next 30 days.⁵²⁴ However, in setting ROE rates for utilities, the Commission should be focused on the long-term financial health of the utility not

⁵¹⁹ Coppola, 3 TR 2563.

⁵²⁰ *Id.*

⁵²¹ Bulkley, 4 TR 2732.

⁵²² Coppola 3 TR 2561.

⁵²³ *Id.*

⁵²⁴ *Id.*

the short-term gyrations of the stock market. Further, the Commission should not confuse volatility with risk because they are not the same thing.⁵²⁵ Finally, utility stocks are a safe haven for investors during times of uncertainty and volatility because they are not as susceptible to volatility as the general stock market. This is reflected in the average Beta value of 0.76 for the utility peer group used in the CAPM analysis discussed above, in contrast with the general stock market value of 1.0.⁵²⁶ Therefore, the Commission should not give any weight to arguments that the Company's ROE should reflect investors' concerns with stock market volatility.⁵²⁷

ix. The Commission should reject the Company's ROE rebuttal testimony.

The Company attempts to refute Mr. Coppola's ROE analysis in rebuttal, however it fails to provide convincing contrary evidence and should be rejected.⁵²⁸ Mr. Coppola's testimony and this brief supports the Attorney General's recommendation of a 9.80% ROE. However, this brief will address a few issues raised by Ms. Bulkley's rebuttal.

First, Ms. Bulkley uses a great deal of her rebuttal "correcting" the analysis of other ROE witnesses. Her adjustments are summarized in Figures 20, 21, 22,

⁵²⁵ See, Exhibit AG-51.

⁵²⁶ Coppola, 3 TR 2562.

⁵²⁷ See, Coppola, 3 TR 2564.

⁵²⁸ The entirety of Ms. Bulkley's rebuttal can be found at 4 TR 2791 - 2916 .

and 23 in her rebuttal testimony.⁵²⁹ While Ms. Bulkley denies that she has taken other witnesses testimony and made changes to conform to her preferred approach, her explanation of her approach in response to discovery explains the lengths she has taken to modify other witnesses' calculations.⁵³⁰ In some instances she claims it is to update old information, but it also include adjustments simply based on her preference for certain sources without explaining why that source is more reliable than the other witness's source, or analysis that she disagrees with, without explaining why is faulty, just that it is different. It is not surprising that after her "adjustments" the other witnesses' ROE calculations support or exceed the Company's proposed ROE of 10.25%, except for her adjusted ROE for the Attorney General which still does not support the Company's proposed ROE.⁵³¹ It was clearly her intention to conform the other witnesses' testimony to the Company's preferred outcome, and the extent of her efforts belie any claims otherwise.

This mixing and matching of pieces of calculations and analysis is inappropriate and inaccurate because each party uses different time periods and inputs, and it distorts the analysis, not correct it. The Commission should reject such a brazen attempt to calculate faulty outcomes to bolster the Company's projected ROE.

⁵²⁹ Bulkley rebuttal, 4 TR 2908 – 2911.

⁵³⁰ See, Exhibit AG-81, pp. 2 and 3 (DR AG-CE-0909).

⁵³¹ Bulkley rebuttal, 4 TR 2909.

Second, Ms. Bulkley updates her previous ROE calculations with more recent data.⁵³² These revised calculations presented in rebuttal do not provide an adequate opportunity for the Attorney General and other parties to analyze and challenge the new information provided by the Company in the short timeframe after rebuttal. While she claims that she disagreed with the inputs and assumptions used by other ROE witnesses, she admits that she updated her cost of equity analysis using the same methodologies used in her direct testimony to reflect more recent market data to be consistent with the time period for the market data used by those witnesses.⁵³³ That is not the same thing as rebutting a witnesses testimony. The Commission should reject the updated calculations as inappropriate to provide in rebuttal testimony because they are not specifically rebutting any witness testimony and are meant to supplement the company's direct testimony.

Third, Ms. Bulkley argues that the ROE rates approved by other commissions and presented by other witnesses include ROEs for distribution-only electric utilities and not only vertically electric utilities, which in her view is the only group that applies to the company as a vertically integrated utility.⁵³⁴ The premise of her testimony is that vertically integrated utilities face higher risks due to owning generation assets and should commend higher ROE rates.⁵³⁵ This premise may be true if the utility owns merchant power generation plants with

⁵³² *Id.* at 2799 – 2800. See also, Exhibit A-206 (AEB-2), pages 1 – 24 and .

⁵³³ See, Exhibit AG-81, p. 4 (DR AG-CE-0910).

⁵³⁴ Bulkley rebuttal, 4 TR 2804.

⁵³⁵ *Id.*

sales subjected to market dynamics and related price risk. Her reliance on Moody's operational risks from generation assets seems to apply to generation assets held by CMS Energy and other affiliates outside of the regulated utility.⁵³⁶ However, the company's generation assets are fully regulated by the Commission with mechanisms, such as the IRP and PSCR, that allow the company to fully recover its costs similar to and perhaps even better than the distribution business. Therefore, Bulkley's testimony on this matter is flawed and should be disregarded by the Commission.

x. **ROE Conclusion**

The Attorney General recommends a ROE of no more than 9.80%. In Exhibit AG-26, Mr. Coppola summarized the cost of equity rates from the three methods used as discussed above. The result is a weighted average cost of common equity of 9.73%. To this base cost of equity capital, he added an additional premium adjustment of 7 basis points to arrive at a recommended ROE rate of 9.80% for Consumers Energy – a very conservative ROE. The Attorney General also recommends against simply maintaining the status quo at 9.90% since that results in additional costs for customers of approximately \$8.9 million annually compared to a 9.80% ROE.⁵³⁷

2. **Long-Term Debt Costs.**

⁵³⁶ *Id.* at footnote 19.

⁵³⁷ *Id.*

For the long-term debt cost rate, Mr. Coppola used the rate of 4.39%, which 0.15% lower than the Company's proposed rate.⁵³⁸ According to Mr. Coppola, the reasons for the lower average long-term debt are: The Company anticipated four new long-term debt issuances in 2025 and 2026 (two in each year). Mr. Bleckman assumed a 6.32% cost rate for each of these issues.⁵³⁹ However, the 2025 debt issuances have only had a cost based on net proceeds of 4.46% for one debt issue and 5.22% for the other debt.⁵⁴⁰ The lower cost of debt actually issued in comparison to the assumed interest rates used by Mr. Bleckman reduces interest costs by \$15.2 million annually (a portion of these savings is applicable to the company's gas business).

For the other two debt issues anticipated in 2026, Mr. Bleckman assumed a 6.35% interest rate. However, this debt cost rate assumes a 4.89% 30-year U.S. Treasury rate in the cost build-up section of Exhibit A-14 (MRB-4), Schedule D1. This assumed rate of 4.89% for the 30-year U.S. Treasury rate is above actual U.S. Treasury rates as of September 15, 2025, as well as the lowest 30-year Treasury rate used by Company witness Bulkley for cost of equity purposes of 4.30%.⁵⁴¹ Therefore, Mr. Coppola used a more recent forecast of the 30-year U.S. Treasury rate of 4.40%, which is 0.49% lower than the rate used by Mr. Bleckman.⁵⁴² He

⁵³⁸Coppola, 3 TR 2534. *See also*, Exhibit AG-35, page 2.

⁵³⁹ *See*, Exhibit A-14 (MRB-4), Schedule D1, lines 44 and 45.

⁵⁴⁰ Coppola, 3 TR 2534.

⁵⁴¹ Exhibit A-14 (AEB-1) Schedule D-5, pages 7 and 8. *See also*, Coppola, 3 TR 2534 – 2535.

⁵⁴² *Id.* at 2434.

calculated an updated interest rate for the new debt issuances of 5.86% compared to the Company's rate of 6.35%, for an additional reduction to the cost of capital.⁵⁴³ The lower interest costs from the May 2025 debt issues and the projected savings from the 2026 debt issues that will reduce the revenue deficiency in this case by \$10.2 million.⁵⁴⁴

3. Short-term Debt Costs.

Mr. Coppola uses the Short-term Debt rate recommended by the Company.⁵⁴⁵

4. Cost Rate Used for Preferred Stock

Mr. Coppola used the 4.5% cost rate recommended by Mr. Bleckman.⁵⁴⁶

5. Other Cost Rates

Mr. Coppola also used the cost rate recommended by the Company for Deferred Taxes cost rates. Cost rates for JDITC reflect those rates Mr. Coppola used for the permanent capital sources.⁵⁴⁷

D. Overall Rate of Return

⁵⁴³ Id. See also, Exhibit AG-35, page 2.

⁵⁴⁴ *Id.* at 2535.

⁵⁴⁵ *Id.*

⁵⁴⁶ *Id.*

⁵⁴⁷ Coppola, 3 TR 2535.

The Attorney General recommends an overall return on capital of 6.06% and a pre-tax weighted cost of capital of 7.47%.⁵⁴⁸ Mr. Coppola's testimony includes an explanation of his calculation.⁵⁴⁹

IV. Adjusted Net Operating Income

A. Other O&M Expense

The Company is projecting operations and maintenance ("O&M") expenses of approximately \$805.0 million for the projected test year, an increase of \$141.2 million, from the historical year 2024.⁵⁵⁰ Substantial increases in expense in three areas have contributed to this overall increase: (a) Electric Division costs including for service restoration (\$54.4 million); (b) \$76.5 million higher forecasted forestry management expense; and (c) \$33 million more for higher Information Technology expenses. Together, these three areas reflect an increase of \$169.3 million which is offset mostly by lower power generation expense and lower pension and OPEB expenses.⁵⁵¹ The Attorney General recommends reducing the Company's projected O&M expenses by an additional \$137.9 million as discussed below.⁵⁵²

1. Distribution O&M Expense

⁵⁴⁸ Coppola, 3 TR 2536. *See also*, Exhibit AG-35, page 1.

⁵⁴⁹ See, Coppola, 3 TR 2536.

⁵⁵⁰ Exhibit A-13 (PDD-42), Schedule C-5.1.

⁵⁵¹ Coppola, 3 TR 2568.

⁵⁵² *Id.* *See also*, Exhibit AG-53 for a summary of proposed O&M expense adjustments.

The Company is projecting \$301 million in expenses for distribution operations for the projected test year.⁵⁵³ This compares to expenses of \$246.6 million in the historical test year.⁵⁵⁴ Excluding Service Restoration Costs, which is addressed separately below, the total Distribution Expenses are projected by the Company to increase from \$90.5 million in 2024 to \$135.8 million in the projected test year.⁵⁵⁵ It appears that the expenses are for increased inspections and maintenance of lines and facilities and include the hiring of additional employees or contractors. However, according to Mr. Coppola, support for the projected expenses included on Exhibit A-124 is lacking in that there is very little quantifiable support for some increases at the program and subprogram level.⁵⁵⁶ Therefore, the Attorney General proposes certain adjustments be made to the projections for this category of expenses for both electric operations and electric engineering support programs and subprograms.⁵⁵⁷

a. **Electric Operations**

i. **Staking and Locating.**

Coppola, 3 TR 2573 – 2575, Exhibit AG-56; Kelly 3 TR 1517 - 1526, Exhibit A-125 (MPK-15); Kelly Rebuttal, 3 TR 1589.

⁵⁵³ See, Exhibit A-124 (MPK-14), line 55.

⁵⁵⁴ *Id.*

⁵⁵⁵ Coppola, 3 TR 2570.

⁵⁵⁶ Coppola, 3 TR 2570 – 2571.

⁵⁵⁷ See, Exhibit AG-54 for a summary of adjustment.

The Company is using a 7% annual growth rate in calculating the number of Staking and Locating requests it uses for its test year projections.⁵⁵⁸ This forecasted rate of growth for staking requests is too high and needs to be reduced. The problem with the Company's approach is that it is not reflective of the staking and locating requests that it has received annually over the last few years⁵⁵⁹ Based on the Company's own numbers, the actual annual rate of growth in staking and locating requests has been 2%.⁵⁶⁰

Using the annual 2% rate of growth over the 2019 to 2024 period, Mr. Coppola calculated a lower expense amount of \$13,052,000 based on 453,640 projected staking and locating requests and the contractor's average cost rate plus Miss Dig annual dues and fees of \$734,000. This amount is \$866,000 less than the \$13.9 million staking and locating expense forecasted by the Company, which the Attorney General recommends that the Commission deduct from the Company's forecast for the projected test year.⁵⁶¹

More impactful is the Company's decision to move to a dedicated contractor approach for its staking and locating program from a shared contractor approach which has unnecessarily increased costs for ratepayers.⁵⁶² According to Mr. Kelly, the Company has decided to change its staking and locating program to a dedicated

⁵⁵⁸ Kelly DT p. 150 and Coppola, 3 TR 2574.

⁵⁵⁹ Coppola, 3 TR 2574.

⁵⁶⁰ *Id.*

⁵⁶¹ *Id.* See also, Exhibit AG-56 for the calculation.

⁵⁶² Coppola, 3 TR 2574 – 2575.

contractor approach instead of a shared contractor model throughout its service territory.⁵⁶³ Until recently, the Company only had a dedicated contractor approach for Oakland and Kent counties because of performance problems experienced with a previous contractor. Mr. Coppola notes that the move to a dedicated contractor model increases costs dramatically from \$6.1 million in 2024 to \$13.9 million in the projected test year, without any evidence from the Company that a significant problem exists in the rest of the Company's service area that could not be resolved without a costly dedicated contract approach.⁵⁶⁴ There is no basis for assuming that improvement in performance in Oakland County will occur in other counties if no significant performance problems exist in those counties.⁵⁶⁵

The Company's change to a dedicated contractor approach to staking and locating throughout its service territory is unjustified and the increase in expense imprudent. Based on the Company's cost information,⁵⁶⁶ the increase in expense of expanding the dedicated model to other areas of the state is \$5,872,000.⁵⁶⁷ Therefore, the Commission should remove the \$5,872,000 from the Company's forecasted O&M expense for the projected test year.

⁵⁶³ Kelly 3 TR 1518 – 1526.

⁵⁶⁴ Coppola, 3 TR 25754.

⁵⁶⁵ *Id.*

⁵⁶⁶ Exhibit AG-56 (DR AG-CE-0445).

⁵⁶⁷ *Id.*

The Attorney General recommends that the Commission reduce the Company's staking and locating expense by a total of \$6,738,000.

ii. **LVD Lines Reliability**

Coppola, 3 TR 2578 – 2579, Exhibit AG-54; Kelly 3 TR 1498; Exhibit A-122, A-123, A124, A-125; Kelly Rebuttal, 3 TR 1592 – 1593.

The Company is forecasting \$8 million in the projected test year for the LVD Lines Reliability O&M expense. The Company incurred \$0.6 million for this category of expenses in the historical year 2024 and the largest amount incurred in this area in the last five years was \$1.1 million in 2022.⁵⁶⁸ The dramatic increase proposed by the Company in this case is excessive and unreasonable. The Company previously admitted that it has not followed IEEE recommendations and best practices for inspection and maintenance.⁵⁶⁹ It is unreasonable for the Company to undertake an 8-fold escalation in expense in less than two years to reverse past poor practices.⁵⁷⁰ While the Company has scaled back its request from its last rate case, it is still seeking too much for this category of expense.⁵⁷¹ Therefore, the Attorney General recommends further reductions

The Attorney General asked the Company to provide the actual expense during the first eight months of 2025. The Company's response shows that \$607,360

⁵⁶⁸ See, Exhibit A-124 (MPK-14), line 4 and Coppola, 3 TR 2578 – 2579.

⁵⁶⁹ Coppola, 3 TR 2578.

⁵⁷⁰ *Id.*

⁵⁷¹ *Id.* at 3 TR 2579.

was spent in the first eight months of 2025, or an annualized level of \$911,000.⁵⁷² Adding inflation adjustments to this amount brings the expense for the projected test year to \$940,000, which is less than one-eighth the Company's forecasted amount of \$8.0 million for the projected test year. Therefore, the Attorney General recommends that the Commission remove the difference of \$7,060,000 from the O&M expense forecasted for the projected test year.

iii. **HVD Lines Reliability**

Coppola, 3 TR 2579 – 2580 and Exhibit AG-56; Exhibit A-124 (MPK-14), line 5; Kelly, Exhibit A-124 (MPK-14), line 5; Kelly Rebuttal, 3 TR 1593.

The Company proposed increasing HVD Lines Reliability expense from \$109,000 in the historical test year to \$891,000 in the projected test year with its application.⁵⁷³ However, the Company has reevaluated its position that the five-year average expense amount of \$214,000 provides an adequate level of spending for this program.⁵⁷⁴ This amount is \$677,000 lower than the amount included on Exhibit A-124.⁵⁷⁵ Therefore, the Attorney General recommends that the Commission remove \$677,000 from the Company forecasted O&M expense for the projected test year.

iv. **Lines Demand – HVD.**

⁵⁷² DR-AG-CE-0507 with attachment.

⁵⁷³ See, Exhibit A-124 (MPK-4), line 5.

⁵⁷⁴ Exhibit AG-56 (AG-CE-0445).

⁵⁷⁵ Coppola, 3 TR 2575.

Coppola, 3 TR 2575 – 2576, Exhibit AG-58; Kelly, 3 TR and Exhibit A-106 (MPK-14), line 9.); Kelly Rebuttal, 3 TR 1591.

The Company is forecasting O&M expense for Lines Demand for the HVD system of \$2,979,000 for the projected test year. The expense was only \$898,000 in 2024.⁵⁷⁶ In fact, it did not exceed \$1.1 million in the previous five years.⁵⁷⁷ The \$1.4 million increase is not supported on the record.

Mr. Kelly states that the Company has increased the use of infrared cameras to spot anomalies in HVD lines and the expense level supports preventative maintenance.⁵⁷⁸ The Company did not make any claims regarding the need for additional preventive maintenance in its last rate case.⁵⁷⁹ Further, the O&M expense for the first eight months of 2025 were only \$453,130, reflecting an annualized expense level of \$680,000. This amount is significantly below the Company's 2025 projection of \$2.2 million. It is apparent from this recent actual level of spending that the forecasted expense amount for the projected test year is overstated.

Mr. Coppola recommends that the projected test year spending level should be set at \$1,086,000, which is the highest expense incurred in the past five years. This amount is \$1,893,000 lower than the \$2,979,000 forecasted by the Company.

⁵⁷⁶ Exhibit A-124 (MPK-14), line 9.

⁵⁷⁷ Coppola, 3 TR 2576.

⁵⁷⁸ Kelly, 3 TR 1511 - 1512.

⁵⁷⁹ Coppola, 3 TR 2576.

Since the Company failed to support its test year projection,⁵⁸⁰ the Attorney General recommends that the Commission remove \$1.89 million from the Company's forecasted O&M expense.

v. **Service Calls.**

Coppola, 3 TR 2577 – 2578; Kelly, 3 TR 1531 - 1532 and Exhibit A-124 (MPK-14), line 17; Kelly Rebuttal 3 TR 1592.

The work performed in this category is related in part to service disconnections, reconnections, and new service line connections, among other customer requests. The Company is forecasting O&M expense for service calls of \$5,699,000 for the projected test year which is an increase from the \$4,194,000 incurred in 2024.⁵⁸¹ The Attorney General recommends a reduction in the amount projected for the test year.

The Company attributes the proposed increase in expense to higher labor costs (16% more than in the five-year average) and a projected increase in hours worked (17% more).⁵⁸² While Mr. Coppola does not disagree with Mr. Kelly's 16% increase due to labor costs he disagrees with the 17% increase in workload because it is not supported in Mr. Kelly testimony.⁵⁸³

⁵⁸⁰ Coppola, 3 TR 2576.

⁵⁸¹ Exhibit A-124 (MPK-14), line 17.

⁵⁸² Kelly, 3 TR 1531 – 1532..

⁵⁸³ Coppola, 3 TR 2577.

When asked to justify the cost increases the Company was unable to do so. Information provided by the Company's shows actual Service Call hours worked in 2022 of 27,185, which declines slightly in 2023 and again in 2024.⁵⁸⁴ This data does not support the 17% increase in workload in the past three years and no other evidence has been provided about large increases in future years.

Mr. Coppola used the Company's historic five-year average expense of \$4,225,000 as the base amount in this case after adjusting it for the labor cost increase of 16% or \$676,000. This adjustment results in an expense amount of \$4,901,000 for the projected test year. This amount is \$798,000 lower than the Company's forecast of \$5,699,000.⁵⁸⁵

The Attorney General recommends that the Commission remove a total of \$708,000 from the Company's forecasted Service Calls O&M expense for the projected test year.

b. Electric Engineering and Support

i. LVD engineering organization expense

Coppola, 3 TR 2580 – 2581; Kelly, 3 TR1551 - 1552 and Exhibit A-124 (MPK-14); Kelly Rebuttal 3 TR 1593.

Expenses in this area cover salaries and other expenses for the LVD engineering organization which includes LVD planning, design, joint pole rental

⁵⁸⁴ Id.

⁵⁸⁵ Coppola, 3 TR 2578.

expenses, and the Grid Automation teams. The Company is projecting \$11.773 million of expenses for 2025.⁵⁸⁶ Over the past five years, expenses in this area have ranged from \$5.8 million to \$8.6 million. The expense for 2024, which is the most recent year during that five year period, was \$7.3 million.⁵⁸⁷ According to the Company, the large increase in expense is attributable to additional "...projects being identified as part of the Reliability Roadmap."⁵⁸⁸

The Company incurred total expenses for the first eight months of 2025 of \$3.243 million, which if annualized would result in an expense level of \$4,865,000. That amount is well below the actual 2024 level of \$7,254,000.⁵⁸⁹ It is also well below the Company's projected test year expense. Moreover, the tasks performed in this area have been on-going for some time and therefore the rationale for a large ramp-up of expenses does not appear to be supported by the Company's testimony.⁵⁹⁰

Because, the Company has not supported the proposed increase in the level of expense, the Attorney General recommends that the Commission set the expense at the 2024 level of \$7,254,000 which reduces the O&M expense for the projected test year by \$4,519,000.

⁵⁸⁶ Exhibit A-124 (MPK-14).

⁵⁸⁷ *Id.* at 3 TR 2580.

⁵⁸⁸ Kelly, 3 TR 1553.

⁵⁸⁹ Coppola, 3 TR 2580.

⁵⁹⁰ *Id.* at 3 TR 2581.

2. Line Clearing O&M Expense

a. Line Clearing Expense or LVD Line Clearing Ramp up Deferral.

Stewart, Exhibit A-170(SSES-1), Exhibit A-13, Schedule C-5.1; Coppola, 3 TR 2581 – 2582; Bunch, 6 TR 4072, Exhibit CUB 28; Duell 6 TR 4386-4396

The Company is proposing to establish a regulatory asset to defer tree clearing costs above a stated threshold. The Attorney General disagrees with the proposal and recommends changes as discussed below. The Company is proposing a baseline of \$164.5 million as the threshold above which tree or line clearing expenses would be deferred and charged to the regulatory asset account for later financing through securitization has been proposed by the Company. While the Attorney General agrees in principle with the proposal to defer the line or tree clearing costs above a reasonable threshold, the Company's proposed baseline is too high and reduces the opportunity to defer and securitize a higher amount of tree clearing costs.

The deferral proposal is an outcome of the Company shift from a seven-year tree clearing cycle to a five-year cycle. Although the Company plans to officially start the five-year cycle after the Commission issues an order in this case, it has already started to accelerate spending on tree trimming in 2025 to \$125.4 million from the \$110.2 million spent in 2024.⁵⁹¹ The number of miles scheduled to be

⁵⁹¹ Exhibit A-170 (SES-1).

cleared in 2025 are increasing to 6,108 from 5,400 miles in 2024.⁵⁹² According to Mr. Coppola, the expense level from the historical year 2024 of \$110,225,000 provides a reasonable baseline for tree clearing expenses and expenses above that amount beginning with 2025 or 2026 and future years should be charged to the regulatory asset for future securitization.⁵⁹³ Therefore, the Commission should approve the 2024 line clearing expense amount of \$110,225,000 as the baseline amount and direct the Company to defer all expenses above that amount beginning in 2026 to the regulatory asset.

The Company forecasted \$186,684,000 in O&M expense for line clearing (Forestry) for the projected test year.⁵⁹⁴ Based on this amount and the baseline of \$110,225,000, the difference of \$76,459,000 should be removed from O&M expense in this rate case and included the regulatory asset account.

The Attorney General recommends that the Commission approve both the \$110,225,000 baseline and the transfer of \$76,459,000 from O&M expense to the regulatory asset account for the projected test year.

3. Service Restoration O&M Expense

a. Service Restoration Expense

⁵⁹² Stewart, DT p. 35, Figure 12.

⁵⁹³ Coppola, 3 TR 2582.

⁵⁹⁴ See, Exhibit A-170 and Exhibit A-13, Schedule C-5.1.

Coppola, 3 TR 2571 – 2572, Exhibit AG-55; Snider, 3 TR 2129 – 2139 and Exhibit A-124 (MPK-14), line 23; Snider Rebuttal, Duell, 6 TR 4398.

The Company is forecasting service restoration O&M expenses of \$165.2 million for the projected test year.⁵⁹⁵ It incurred \$156,098,000 for this expense item in 2024 and the five-year average for this expense is \$137,666,000.⁵⁹⁶ Company witness Snider uses a new methodology for building up the service restoration expenses for the bridge period. It involves taking 8 months of that expense and adding for months of the built up 2027 service restoration expense by using the actual expense from 2024 as a base.⁵⁹⁷ This new methodology veers from the long-standing practice of using an average of the last five years of restoration expense to set the forecasted amount for the projected test year.

In comparison, the five-year approach normalized and evened out peaks and valleys in the annual expense to avoid large fluctuations in the projected test year expense instead of relying solely on the expense incurred in the most recent year, as Mr. Snider has done under his new approach. Mr. Snider's approach is flawed and should be rejected.⁵⁹⁸

To calculate a reasonable expense amount, Mr. Coppola used the actual service restoration expenses for the five years from 2020 to 2024, to calculate the

⁵⁹⁵ Exhibit A-124 (MPK-14), line 23.

⁵⁹⁶ *Id.*

⁵⁹⁷ *See*, Snider, 3 TR 2140.

⁵⁹⁸ *See*, Coppola, 3 TR 2571 – 2572.

average expense amount of \$137,666,000. He adjusted this amount by the inflation rates for 2025 to the end of the projected test year and arrived at the adjusted forecasted expense of \$144,572,000. This amount is \$20,643,000 less than the \$165,213,000 forecasted by the Company.⁵⁹⁹ The Attorney General recommends that the Commission adopt the traditional method of calculating the expense as performed by Mr. Coppola and remove \$20,643,000 from the Company's forecasted O&M expense for the projected test year.

b. Service Restoration Resiliency Fund and Extraordinary Storm Accounting.

Coppola, 3 TR 2571 – 2572; Snider, 3 TR 2143 – 2152; Snider Rebuttal, 3 TR 2170 - 2175; Myers, 3 TR 1817 – 1818; Bunch, 6 TR 4066 – 4071; Duell 6 TR 4399.

Both the Resiliency Fund and Extraordinary Storm Accounting (ESA) are complex proposals that require more research and study to assess how they would work in practice and their implication on cost recovery. They also are designed to reduce financial risk for the Company, which has considerable implications for the return on equity rate. A major reduction in risk and the likelihood of increased cost recovery of historical storm restoration costs would need to be reflected in a significant decrease in the approved ROE rate for the Company.

The few examples that the Company has referenced in Mr. Snider testimony are not compelling.⁶⁰⁰ No evidence has been presented of how well or poorly those

⁵⁹⁹ *Id.* at 3 TR 2572. *See also*, Exhibit AG-55 for the calculations.

⁶⁰⁰ Snider, 3 TR 2145, 2150 testimony.

mechanisms have worked for customers and the companies involved. The examples are primarily for smaller utilities than the Company that have less financial flexibility to handle peaks and valleys in annual restoration costs. Even if the Commission were inclined to consider the proposal, it is premature at this time to do so and Mr. Coppola recommended that the Commission not do so in this rate case.⁶⁰¹ If the Commission finds merit in exploring the Company's proposals and or other proposals, it should open a new docket to review various proposals that could be applied not only to the Company but to other electric utilities in Michigan, since they all face the issue of volatility in service restoration costs. The Commission should have a consistent approach to ratemaking on this type of expense across all utilities under the Commission's jurisdiction.⁶⁰²

The record does not establish the need for such a mechanism, and the Attorney Gener recommends that the Commission reject this proposal.

4. Information Technology O&M Expense.

Coppola, 3 TR 2583

For the reasons discussed above in the Capital Expenditures section of this brief, the Attorney General recommends that the Commission approve the removal

⁶⁰¹ Coppola 3 TR 2573.

⁶⁰² *Id.*

of \$18,314,000 of O&M expense from the Company's forecasted projected test year expense.⁶⁰³

5. Incentive Compensation (EICP) Expense

Coppola, 3 TR 2583 – 2591, Exhibit AG-60; Conrad, 3 TR 982 – 1022 and Exhibit A-71 (AMC-1), Exhibit A-72 (AMC-2), Exhibit A-73 (AMC-3) and Exhibit A-74 (AMC-4); Conrad Rebuttal, 3 TR 1023 – 1032; Meschke, 3 TR 1755 – 1768, Exhibit A-156 (AEM-1), Exhibit A-157 (AEM-2), Exhibit A-158 (AEM-3), and Exhibit A-159 (AEM-4), Daly Exhibit A-13 PDD-42) Schedule C-5.1; McMillan-Sepkoski, 6 TR 4512 – 4515 and Exhibit S-9.1, Exhibit S-9.2; Attorney General Hearing Exhibit AG-82.

Consumers Energy has requested the inclusion of approximately \$2.2 million in its rates for short-term incentive compensation.⁶⁰⁴ The overall structure of the short-term incentive plan has not changed from previous rate cases, however, the operating performance measures for the short-term incentive payouts were revised for 2022 along with the level of performance needed to qualify for incentive pay under the EICP.⁶⁰⁵ Further, the Company claims that the proposed expense amount relates only to operational metrics and not financial metrics.⁶⁰⁶

The Company has two distinct short-term Employee Incentive Compensation Plans (EICP) for non-officers and officers, both of which are still weighted toward financial measures that mostly benefit shareholders and not customers because

⁶⁰³ Coppola, 3 TR 2583. See also, Exhibit AG-53.

⁶⁰⁴ Exhibit A-73 (AMC-3)

⁶⁰⁵ Coppola, 3 TR 2583 – 2584.

⁶⁰⁶ Coppola 3 TR 2583.

50% of the non-officer EICP⁶⁰⁷ and 70% of the officer EICP relate to financial metrics. The amount of the EICP requested for inclusion in customer rates assumes a 100% payout for both officer and non-officer EICPs will occur.⁶⁰⁸ For the reasons discussed below, the Commission should not allow recovery of the cost of the EICPs in rates or at most allow recovery only for an amount related to potential achievement of operating measures at the threshold level as discussed below.

a. **Consumers Energy has not met its burden of demonstrating how its short-term incentive compensation plans benefit ratepayers.**

There are several shortcomings with the Company's proposed EICPs. Mr. Coppola's testimony includes a history of the Company's incentive pay plans and how they compare to the current plan.⁶⁰⁹ Recent changes to the plans, especially the operational measures make a historically weak plan even weaker, and making any benefits for ratepayers more remote.

i. **Non-Officer EICP**

The major components of the non-officer EICP with weightings are included in Exhibit A-71 (AMC-1). It is especially lacking in benefits for ratepayers. As discussed above 50% of the metrics are financial metrics consisting of earnings per share and 50% are based on operational metrics. The operational metrics include

⁶⁰⁷ Exhibit A-71 (AMC-1) and Coppola, 3 TR 2584.

⁶⁰⁸ Coppola, 3 TR 2584.

⁶⁰⁹ See, Coppola, 3 TR 2584 – 2585 and 2589 – 2590.

(1) employee safety, (2) culture index (consisting of employee empowerment, employee engagement, and DEI), (3) customer experience (survey measuring customer experience), (4) electric reliability (as measured by SAIDI), (4) affordability, and (5) methane emission reduction from repairing/replacing leaking gas pipes.⁶¹⁰

Since the 2022 EICP plan year, the Company has moved away from arguably more customer related goals to more internal administrative goals. More importantly, it has become easier to qualify for incentive pay. There used to be a minimum requirement of at least two-thirds of the metrics being met to trigger an incentive payout (e.g., 9 of 11 in 2011 or 6 of 9 in 2021 to receive 100% payout). Minimal requirements have essentially been eliminated, and achievement of only one metric is now sufficient to trigger a payout. Therefore, even mediocre performance can be rewarded if only a single metric is achieved. This is a very generous incentive plan that is not directly connected with achieving superior customer benefits before making threshold incentive payouts.⁶¹¹

Other weaknesses include the fact that the performance measures use CMS Energy financial information and comingle electric and gas business measures. Although the Company is a combined gas and electric utility and makes up more than 95% of CMS Energy, appropriate cost segregation is required to avoid having

⁶¹⁰ Exhibit A-71 (AMC-1).

⁶¹¹ Coppola, 3 TR 2584 – 2585, and 2586.

electric customers subsidize other businesses, particularly non-utility operations.⁶¹² Furthermore, the Company continues to pay salary or merit increases each year above the rate of inflation (approximately 4.24% for officers and 3.1% for non-officers).⁶¹³ So any claims that incentive pay is needed to make up competitive market pay should be dismissed.

ii. Officer EICP

Incentive pay under the officer EICP is based primarily on two financial measures – earnings per share and operating cash flow, with only 30% related to the operational measures discussed above and 70% related to achieving financial measures.

iii. Standard for Recovering Incentive pay not met.

Historically, the Commission had been reluctant to grant recovery of incentive pay from ratepayers because of the utility companies' inability to demonstrate how such pay benefits their customers. The Commission established the standard for allowing the recovery of incentive compensation pay in its Opinion and Order in the Matter of the Application of Consumers Energy Company for Authority to Increase its Rates for the Generation and Distribution of Electricity and for Other Relief, Case No. U-14347, dated December 22, 2005 (December 22 Order): “[E]xecutive bonus and employee incentive plans require a showing that

⁶¹² Coppola, 3 TR 2586

⁶¹³ Coppola 3 TR 2587 including footnote 146.

the **benefits to ratepayers from** the bonus and incentive plans, **at a minimum, will be commensurate with the programs costs.** Moreover, **the utility has the burden of establishing how the proposed programs benefit ratepayers.**” P. 34. [Emphasis added].

To recover incentive pay, Consumers has a three-part burden of showing (1) that benefits accrue to ratepayers **as a result of** the bonus and incentive plans; (2) that those benefits are at least equal to the cost; and (3) exactly how ratepayers are benefited by the incentive pay plan. For the reasons explained below, Consumers fails to meet its burden.

The EICPs, as designed by the Company, are heavily weighted toward achieving and rewarding financial measures that benefit shareholders of Consumers’ parent company, CMS Energy, or meeting the Company’s business goals. While the Company is not requesting recovery of any EICP dollars in this case related to the financial metrics, the continued inclusion of financial metrics in the EICPs is clearly intended to focus employee on achieving the Company’s financial goals. Further, the officer group that sets the direction of the Company is still far too focused on financial results because 70% of officers’ payout is based on financial measures.⁶¹⁴ The Company’s witnesses did not demonstrate how the financial measures benefited ratepayers to the extent that they and not shareholders should bear the cost of the EICPs. Customers do not directly benefit

⁶¹⁴ Coppola, 3 TR 2585.

from shareholders achieving a higher return on their investment.⁶¹⁵ Further, the Company does not issue common stock directly to public shareholders and it has not issued any significant common stock to parent CMS Energy in more than five years.⁶¹⁶ There is no direct proof that the financial focus even benefits ratepayers by lowering the cost of capital.

The Commission noted in its December 22 Order, while Consumers characterized its EICP as an overall part of its compensation package, it was clear that those payments were significantly related to improving the Company's bottom line. "The benefits of improved employee performance because of Consumers' incentive programs accrue to investors in the form of higher prices and dividends but benefit rate payers only tangentially." P. 34. Like the incentive pay program presented in case number U-14347, the current plan does not meet the Commissions' standard. The Attorney General is aware that the Commission has granted partial recovery of incentive pay related to the non-officer EICP's performance goals in recent Consumers Energy cases, but for reasons explained in this brief, she does not believe the standard for recovery has been met in this case.

As discussed above, the non-officer EICP and to a certain extent the officer EICP, purports to measure and reward achieving certain performance goals. The descriptions of these measures are general and vague. And officers are guaranteed

⁶¹⁵ *Id.*

⁶¹⁶ *Id.* at 3 TR 2586.

to receive almost all their incentive compensation if the financial metrics are met, even if the Company fails to meet operational performance metrics. In addition, the Company's witnesses have been unable to show a direct connection between the performance metrics, incentive compensation, and benefits to Consumer's electric customers that are at least commensurate with the cost. The Company attempts to quantify alleged customer benefits of certain performance measures included in the EICP but fails in its efforts.

First, the Company's analysis of the benefits of the EICP does not account for the fact that other factors could influence employee performance, such as training, possible discipline, promotion, or legal requirements. It is also possible that capital investments and spending on other parts of O&M, which ratepayers also fund, could affect achieving the EICP's goals. The methane emission reduction goal is one such metric. Under the Company's plan employees can receive incentive pay for activities that the Company is required by EPA requirements to do as part of its normal operations. Further, it is more an issue for the gas side of the business, not electric. Another is electric reliability for which the Company. The Company spent \$920.4 million on improving its distribution system in 2024 and is proposing \$1.6 billion in the bridge period and \$\$1.5 billion in the projected test year for capital investments for its distribution system overall.⁶¹⁷ Specific "reliability" capital expenditures and O&M expenses include "reliability" program investments of

⁶¹⁷ See, Exhibit A-12 (MPK-1), Schedule B-5.7.

\$610.9 million in the bridge period and \$697.1 million in the projected test year; and O&M expenses concerning non-forestry reliability of \$22.01 million in the bridge period and \$16.7 million in the test year.⁶¹⁸

Second, some measures that the Company relies upon to demonstrate purported benefits to ratepayers have had worse outcomes in recent years that call into question their value to customers. Ms. Meshke provided an exhibit showing Safety Incidents of 107 in 2022, which is higher than the 124 incidents in 2024.⁶¹⁹ Overall, the trend in safety incidents has been upward.⁶²⁰ In an attempt to quantify cost savings, the Company assumes that it will be able to reduce the number of safety incidents to 83 in 2025 and used that assumption to calculate potential savings. As Mr. Coppola noted, “this is wishful thinking and not actual cost savings achieved.”⁶²¹ Higher safety incidents in 2024 than previous years evidences a likely increase, not decrease in costs. Further, the Company’s workers compensation and other related cost have erratic in recent years and do not demonstrate a consistent downward trend which would portend cost savings. The evidence does not demonstrate performance that would support incentive pay for the Safety Incidents metric.⁶²²

⁶¹⁸ See, Exhibit A-12, Schedule B-5.7, line 2; Exhibit A-125 (MPK-15), line 8.

⁶¹⁹ Exhibit A-157 (AEM-2).

⁶²⁰ Coppola, 3 TR 2587.

⁶²¹ *Id.*

⁶²² *Id.* See also, Exhibit A-158 (AEM-2).

The Company claims savings for electric reliability based on the results of its SAIDI index. According to Ms. Meschke, the annual SAIDI value for the Company was 155 in 2024 which is lower than the average indicated for the prior four years of 195 or 8 minutes lower per year from 2020 to 2024 and she estimates savings of \$25 million per year for customers due to fewer minutes of interruption.⁶²³ The result of 155 minutes of interruption per customer is good news compared to prior years, but according to Mr. Coppola, this statistic fluctuates from year to year based on weather conditions.⁶²⁴ More importantly, this outcome is also impacted by the Company's increased expenses for tree trimming and capital expenditures to improve the Company's infrastructure as discussed above. Company witness Kelly confirms as much in his testimony where he indicates "...SAIDI excluding MEDs has been consistently better than historical levels for the past three years, which indicates that the Company's reliability investments are delivering results."⁶²⁵ The Company is asking to recover more from ratepayers for reliability related expenditures. The improvement in the SAIDI does not support the claimed savings.

Third, the Company claims certain savings related to the Company's culture index, specifically regarding employee turnover. This is a corporate-wide issue not specifically related to the provision of electric service to ratepayers. Further, employee total-company turnover for 2024 was 2.6%, which is an increase from

⁶²³ Exhibit A-158 (AEM-3).

⁶²⁴ Coppola, 3 TR 2588.

⁶²⁵ See, Kelly, 3 TR 1397, lines 19 to 21 and Coppola 3 TR 2588.

2.5% in 2022, 2.0% in 2021 and 1.1% in 2020.⁶²⁶ This is a worsening trend and any claimed savings for this culture index metric are suspect. The again makes some assumptions related to its purported savings. Ms. Meschke assumes that the Company can reduce employee turnover in the category of “one to four years of tenure” by 2% and uses that assumption to calculate savings of \$7.1 million to \$9.5 million. This analysis is inconsistent with the Company’s recent experience in turnovers performance and is aspirational not actual savings.⁶²⁷

Fourth, as discussed above, there is an extremely low threshold for payout based on operational goals. Employees can fail to meet all but one of the operational goals and still qualify for at least some incentive pay as long as reach a 50 percent threshold for that goal. In rebuttal, Ms. Conrad tries to counter Mr. Coppola’s testimony that the Company’s EICP will make a payout even when a single goal is achieved and therefore mediocre performance still be rewarded.⁶²⁸ However, her recitation that employees must re-earn incentive compensation each year, employees having independent motivation not to give up on one goal because others may not be achievable, aligning pay for performance and not setting thresholds for payouts at a level that is unachievable, does not rebut Mr. Coppola’s testimony. The EICP rewards mediocre to average performance which diminishes any real customer benefits. Incentive compensation should be paid for exceptional

⁶²⁶ Coppola, 3 TR 2588; Exhibit A-159 (AEM-4).

⁶²⁷ Coppola, 3 TR 2589.

⁶²⁸ Coppola, 3 TR 2586 and Conrad, 3 TR 1025 – 1026. *See also*, Exhibit AG-82, pp. 1 and 2.

performance, at least to pass the test of cost recovery in rates. Performance that is ordinary and achieves basic goals and efficient operations should be paid for in base salaries.

Fifth, management and other employees receive large annual merit salary increases.⁶²⁹ While the Company claims that it must pay a competitive compensation package to retain talented management and employees, customers should not pay for all or most of that expense. Shareholders also significantly benefit from talented management, perhaps even more so than customers. Customers are paying for higher base pay each year. Shareholders can share the burden by paying for the incentive compensation that disproportionately favors their interests.⁶³⁰

Sixth, as discussed above, the Company seeks recovery of incentive pay at 100% of target. So, the Attorney General asked the Company to provide the target operating measures and the actual performance achieved for each year from 2020 to 2024. The information provided by the Company shows that in 2020 the Company only met 7 of the 9 operating measures at 100% of target or higher for an average rate of 78% of target. In 2021, only 6 of 9 measures were met at target or higher reflecting a 67% achievement rate. In 2022, 4 of the 6 operating measures were achieved at target or better reflecting a 67% achievement rate. In 2023, only 3 of

⁶²⁹ See, Exhibit A-13 (PDD-42) Schedule C-5.1.

⁶³⁰ Coppola, 3 TR 2590 – 2591.

the 6 operating measures were met at target or better reflecting a 50% achievement rate. In 2024, only 4 of the 6 measures were achieved at target or better reflecting a 67% achievement rate. The average achievement rate for the past five years is 66%.⁶³¹

In rebuttal, Ms. Conrad disagrees with the achievement rate calculated above and instead provided a five-year average total performance percentage of 105%.⁶³² While the Company confirms that its percentage reflects metrics achieved above 100% and up to 200% of target, they do not compensate for metrics not below the minimum threshold. However, the response confirms that in arriving at the 105% average payout and overall performance result the Company included results from performance measures achieved above the target level to offset measures that were not achieved at all or were achieved below target level. This approach does not reward superior performance when only a few performance measures are achieved and the rest fall significantly short of target level performance.⁶³³

The Company has failed to demonstrate how the EICPs influence employee performance in a way that benefits rate payers commensurate with the cost. Because Consumers' EICP programs for both non-officers and officers do not provide

⁶³¹ *Id.* at 3 TR 2589 – 2590. *See also*, Exhibit AG-60.

⁶³² Conrad rebuttal, 3 TR 1028 -1029.

⁶³³ *See*, Exhibit AG-82, p. 3 (DR AG-CE-0917).

a benefit to ratepayers commensurate with the cost *none* of the \$ 2.2 million should be included in customer rates.

Although Mr. Coppola summarized reasons for rejecting any recovery of incentive pay in rates, he noted the Commission's recent approval of a portion of incentive pay relating to operating measures. Because it is not clear that the Company will achieve 100% of the performance measure assumed in its projected amount, Mr. Coppola recommends that any recovery of incentive pay set at no more than \$1,459,000 million related to potential achievement of operating measures at 66% of the targeted performance measures over the past five years.⁶³⁴ Therefore, the Attorney General recommends that the Company should not receive any incentive pay in rates, but if any recovery is approved by the Commission, it should be limited to \$1.459 million.

6. Inflation Rate and Labor Rate

a. Inflationary Cost Adjustments

Coppola, 3 TR 2592; Daly, 3 TR 1050 – 1051 and Exhibit A-13 (PDD-42), Schedule C-5.1; Bunch, 6 TR 4025 – 4049.

According to Mr. Coppola, the Company's use of an inflation rate that is equal to the CPI forecasted inflation rate is appropriate. Therefore, the Attorney

⁶³⁴ Coppola, 3 TR 2591.

General agrees with inflationary increases of 2.1% for 2025, and 2.4% for 2026 and 2027 used by the Company.⁶³⁵

7. Summary of Adjustments to Other O&M Expenses.

Operations and maintenance expenses represent a large part of the Company's cost structure. As discussed above, certain expenses are excessive or not needed and should be disallowed. The Attorney General recommends that the Commission reduce the amount of total O&M costs proposed by the Company by \$137.9 million and reduce the revenue deficiency accordingly.⁶³⁶

B. Depreciation and Amortization Expense

Coppola, 3 TR 2505, Exhibit AG-32 CONF.

The Attorney General is recommending that approximately \$829.4 million in reductions be made to the Company's proposed capital expenditures with a resulting reduction in rate base of \$ 642.5million including a \$74 million reduction to working capital.⁶³⁷ The reduction in capital expenditures lower the amount of depreciation expense that the Company will incur during the projected test year by approximately \$26.2 million.⁶³⁸ The Attorney General recommends that the Commission reduce the Company's depreciation expense by \$26.2 million for the projected test year.

⁶³⁵ Coppola, 3 TR 2592 and Daly, 3 TR 1050 – 1051.

⁶³⁶ See, Exhibit AG-53; and Coppola, 3 TR 2568 – 2592.

⁶³⁷ See, Exhibit AG-32 CONF, lines 26 – 39 as amended by Appendix A.

⁶³⁸ See, Exhibit AG-32 CONF, line 27, column (g) as amended by Appendix A.

C. Taxes

1. Property Taxes.

Coppola, 3 TR 2506 and Exhibit AG-32 CONF;
VanBlarcum, 3 TR 2261 – 2264, Exhibit A-180 (BJV-1).

The Attorney General identified adjustments that should be made to the Company's proposed capital expenditures as discussed above and in Exhibit AG-32 CONF. Those reductions lower the amount of property tax expense that the Company will incur during the projected test year. She made further adjustments in response to rebuttal and further discovery as noted in Appendix A. If the Commission adopts the Attorney General's recommendations, the property tax expense should also be reduced by approximately \$3.8 million.⁶³⁹

V. Revenue Deficiency Calculation

Daly, 3 TR 1049 – 1050, Exhibit A-11 (PDD-28), Daly Rebuttal, 3 TR 1088 – 1089, Exhibit A-208 (PDD-63) through A-217 (PDD-72); Coppola, 2592 – 2593, and Exhibit AG-58, Appendix A; Nichols, 6 TR 4563 – 4567, Exhibit S-1 Schedule A-1; York, 6 TR 3703.

Exhibit AG-58 as amended by Appendix A summarizes the Attorney General's adjustments to rate base and operating income. The net result is a jurisdictional revenue deficiency of \$160.465 million, which is a reduction of approximately \$275.4 million from the Company's originally requested level of \$435.9 million and a reduction of approximately \$262.4 million from the Company's rebuttal revenue deficiency of \$422.9 million. Therefore, the Attorney General

⁶³⁹ Exhibit AG-32 CONF, columns (h) and (i), as amended by Appendix A.

recommends that the Commission adopt her proposed adjustments and issue an order granting rate relief to the Company no greater than \$157.7 million.

VI. Other Issues

A. Rate of Return on Deferred Line Clearing Costs

Daly, 3 TR 1070 – 1072, Exhibit A-82 (PDD-58); Daly Rebuttal, 3 TR 1081 – 1085; Coppola, 3 TR 2593 and Exhibit AG-59; Bunch Exhibit CUB-28; Duell, 6 TR 4389 – 4390.

The Attorney General proposes that a different rate of return than proposed by the Company be applied to the deferred line clearing costs from the ramp-up expense.

The Commission should approve the use of the short-term debt rate approved in this rate case and that it be revised going forward for any changes to the short-term interest rate in future rate cases. In approving a similar surge in tree trimming cost in Case No. U-20162 for DTE Electric, the Commission established that the short-term interest rate was most appropriate during the time that the Company holds the costs in a regulatory asset and until those costs are financed through securitization. It is necessary to maintain consistent treatment between Consumers Energy and DTE Electric. Furthermore, the short-term interest rate is appropriate it reflects the short period that the costs will be held in the regulatory asset until securitization and will provide an added incentive to securitize the costs sooner than later.

In Exhibit AG-59, Mr. Coppola calculated the appropriate return by using the 4.92% short-term interest rate included in Exhibit A-14, Schedule D1 multiplied by the average regulatory balance of \$38,230,000 ($\$76,459,000 / 2$) during the projected test year. The proposed return is \$1,811,000. The Attorney General recommends that the Commission approve this amount and methodology.

VII. Conclusion and Request for relief.

The Attorney General respectfully requests the Administrative Law Judge to issue a proposal for decision that is consistent with the positions set forth in the Attorney General's Initial Brief.

Respectfully submitted,
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Dated: December 5, 2025

Michigan Attorney General
 Adjustments to O&M Expense, Capex and Revenue Deficiency
 Case No. U-21870

Line #	Adjustment to Capex (\$000):	Period ¹	Attorney General			Explanation
			Brief	As Filed	Adjustment	
1	Critical Substation Upgrade IT project	PTY	(2,799)	(3,136)	337	Baker Rebuttal testimony correction on pages 33-34
2	Data & Analytics Platform Ration. IT project	BP	-	(2,827)	2,827	Baker Rebuttal testimony correction on page 34
3		PTY	-	(2,512)	2,512	Baker Rebuttal testimony correction on page 34
4	ARP-FDAM IT program	PTY	(953)	(1,039)	86	Baker Rebuttal testimony proposed correction on page 43
5	Distribution LVD Make=Ready Relocations	BP	(5,669)	(26,382)	20,713	Partlan Rebuttal testimony corrected data on pages 12-13.
6		PTY	-	(18,639)	18,639	Partlan Rebuttal testimony corrected data on pages 12-13.
7	Grid Modernization - Line Sensors	BP	-	(2,345)	2,345	McPhail Rebuttal testimony addl. Information on page 2.
8	Total Capex Adjustments		\$ (9,421)	\$ (56,880)	\$ 47,459	
Adjustment to Revenue Deficiency (\$000):			Amount			
9	Revenue Deficiency Amount as filed in Exhibit AG-1.45		\$ 157,722			
10	Adjustment for above items		<u>2,743</u>			
11	Adjusted Revenue Deficiency Amount		\$ 160,465			

¹ BP=Bridge Period, PTY=Projected Test Year

PROOF OF SERVICE - U-21870

The undersigned certifies that a copy of the *Attorney General's public Initial Brief* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 5th day of December 2025.

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