

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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DANA NESSEL
ATTORNEY GENERAL

December 8, 2025

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

Dear Ms. Felice:

Re: MPSC Case No. U-21870

Please be advised that the **Attorney General's Petition for Rehearing** in the above-referenced matter. The Attorney General does reserve the right to further proceed in the case according to the schedule.

Sincerely,

Celeste R. Gill
Assistant Attorney General

cc: All Parties

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

**Attorney General’s Petition for Rehearing of the
Michigan Public Service Commission’s November 6, 2025
Order Striking Certain Evidence**

The Attorney General requests that the Michigan Public Service Commission (“the Commission”) reconsider its order striking all evidence produced consistent with the Scheduling Memo in this case.

Consumers Energy Company (“Consumers Energy” or “the Company”) filed its application on June 2, 2025 seeking an increase in its rates for the distribution of electricity. Attorney General Dana Nessel intervened in this case, and a prehearing was held on July 2, 2025. At the prehearing the presiding officer, ALJ Jonathan Thoits announced two requirements that he would be including in the scheduling memo for any party providing testimony regarding return on equity (“ROE”). As part of their testimony a party needs to “submit direct or rebuttal testimony and any supporting exhibits which set forth a) the average expected long-term return on equity for the broader stock market, and b) the average ROE authorized for regulated utilities in the United States for the last five years.” (Scheduling Memo, p.2).

On August 20, 2025, Michigan Public Service Commission Staff (“Staff”) filed a Motion to Amend the Scheduling Memorandum for this case which was issued on July 8, 2025. The Attorney General filed a response supporting of Staff’s motion noting that both requirements are vague among other things. In her response, the Attorney General acknowledged that parts of scheduling memo requirements have some similarity to what the Attorney General already provides in her testimony on ROE, but that attempting to calculate the broad measures required in the scheduling memo could be resource intensive and that any additional future requirements could impinge on resources the Attorney General has dedicated to these cases.

The Attorney General supported Staff’s request that any mandatory requirements to include a) the average expected long-term return on equity for the broader stock market, and b) the average ROE authorized for regulated utilities in the United States for the last five years be removed from the scheduling memo. The ALJ denied the request although he did modify the memo including reducing the number of years for which the parties needed to provide the average authorized ROE for regulated utilities in the United State from five years to two years.

Request for leave to file interlocutory appeals were filed by Staff and on November 6, 2025, the Commission granted the request for leave to appeal and granted Staff’s motion, ordering that the challenged requirements be removed from the scheduling memo. It also ordered that any evidence provided in response to the requirements be stricken from the record. Regarding the requirement to strike

evidence, the Commission's order is general and vague. Unlike other situations where motions to strike are filed and heard, there is no mark-up of testimony or exhibits or other indications of what is being stricken. Is it simply the data points requested by the ALJ or is it any other evidence presented by the party from which this information was derived? If it is the latter, it may inadvertently include evidence that the Attorney General normally includes in the presentation of her case regarding ROEs.

The Attorney General files this petition for rehearing seeking a withdrawal of the requirement to strike all evidence submitted by the parties in response to the requirement or a modification to that part of the order to permit use of evidence submitted voluntarily by a party for its own use.

I. Legal Background

R 792.10437 Rehearings is the relevant rule and provides:

Rule 437. (1) A petition for rehearing after a decision or order of the commission shall be filed with the commission within 30 days after service of the decision or order of the commission unless otherwise specified by statute. A petition for rehearing based on a claim of error shall specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error. A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or **on unintended consequences resulting from compliance with the decision or order** shall specifically set forth the matters relied upon. The petition shall be accompanied by proof of service on all other parties to the proceeding.

(2) Within 21 days after service of a petition for rehearing, any party may file an answer. Any party failing to do so shall be considered to have waived objection to the granting of the petition.

II. Analysis

As part of her analysis of ROE, the Attorney General normally presents evidence regarding ROEs provided to other utilities for the prior two years to support several of her contentions. While the Attorney General opposed the scheduling requirement mandating five years of ROEs data including an average ROE, she noted in her response that she normally presents similar information in her testimony. In making the statement, the Attorney General acknowledged that she did rely to some extent on similar information and to advise the ALJ that if the scheduling memo requirement was removed, the Attorney General would still include the information she normally relies upon in testimony. While ALJ's decision was appealed, the Attorney General provided the information on ROE's included in other jurisdictions, including a single line in an exhibit that appears to be consistent with the requested information – an average of those ROEs. (Exhibit AG-40).¹

The Commission *sua sponte* ordered the striking of evidence requested by the ALJ. While it appears that the Commission meant to prevent the use of evidence a party was forced to present but would not otherwise provide versus stripping a party of the use of evidence that it would normally rely upon but happens to be consistent with information requested by the ALJ, the broad requirement to strip all responsive evidence has that unintended effect. The Commission rightly determined that the scheduling memo requirements usurped the parties' rights to

¹ The Attorney General also provided her analysis of the overall rate of return for the stock market, however that is not information normally provided by the Attorney General.

present their case in a manner they chose, however the Commission's order striking all the responsive evidence has the same effect in this case.

Because the order to strike is vague and not based on a review of the record, it does not explain what the new record should look like. Regarding the Attorney General's Exhibit AG-40, which is a three-page exhibit that not only lists ROE's received by other utilities, but also information about financing received by some of the utilities among other things, it is not clear what information should be considered stricken.²

In Consumers Energy rate cases going back to at least several years, the Attorney General has provided an exhibit listing ROE recently granted in other rate case proceedings for comparative purposes.³ The outcome of that analysis is summarized in the Attorney General's witness testimony. The use of such comparative information has previously been addressed by the Commission.⁴ The Attorney General will be prejudiced if she is unable to provide this analysis due to the evidence being stricken from the record in this case. It is unlikely that the Commission intended this outcome from its order striking the use of certain evidence.

If the Attorney General misunderstands the Commission's order with regard to the striking of evidence, and that it does not affect her ability to use certain evidence in this case, she asks that the Commission provides a clarification along those lines.

² See, Attachment A.

³ Exhibit AG-40 is similarly formatted.

⁴ Order dated September 30, 2025, Case No. U-21806, page 177.

III. Relief Requested

For the reasons stated above, the Attorney General respectfully requests that the Commission grants her request for a rehearing and modify its November 6 order to prevent the unintended consequence of preventing a party from using evidence it normally relies upon in its ROE analysis by limiting any stricken evidence to that compelled by the scheduling memo requirements to the extent that it would not otherwise be presented or relied upon by the party presenting it to support its case.

Respectfully submitted,

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Dated: December 8, 2025

Electric Rate Case Return on Equity (ROE) Rates 24 Mo. Ended June 2025)*

Line	ROEs Under 9.9%				IOE Awarded-12 M.E. Jun		Parent Company	Pub Finan'l's Avail.	Long Term Debt Issued Since Date of Rate Order
	Electric Company	Jurisdiction	Order Date		2024	2025			
1	Consolidated Edison of NY	NY	Jul. 20	2023	9.25%		Consolidated Edison	Yes	Nov 2023 \$600M (10 Yr.) at 5.5%
2	Northern Indiana P. S.	IN	Aug. 2	2023	9.80%		NIPSCO	Yes	Jun 2024 \$600M (5 Yr) at 5.2%
3	Entergy Texas	TX	Aug. 3	2023	9.57%		Entergy	Yes	May 2024 \$1.2B (30 Yr.) at 7.125%
4	Duke Energy Progress	NC	Aug. 18	2023	9.80%		Duke Energy	Yes	Sep. 2023 \$600M (10 Yr), \$750M (30 Yr.) at 5.75% & 6.10%
5	Green Mountain Power	VT	Aug. 23	2023	9.58%		Eniger	Private	
6	United Illuminating Group	CT	Aug. 25	2023	8.63%		Avangrid	Yes	Oct. 2023 \$65M 10 Yr. 4.5% (Remarketed)
7	Tucson Electric Power	AZ	Aug. 25	2023	9.55%		Fortis	Canada	Feb 2025 \$300M (30 Yr.) at 5.9%
8	Avista	ID	Aug. 31	2023	9.40%		Avista	Yes	
9	Public Service of Colorado	CO	Sep. 6	2023	9.30%		Xcel Energy	Yes	Feb 2024 \$800M (10 Yr.) at 5.5%
10	MDU Resources	MT	Sep. 21	2023	9.65%		MDU Resources	Yes	
11	Duke Energy KY	KY	Oct. 12	2023	9.75%		Duke Energy	Yes	Jun 2024 \$1.5B (10 Yr & 30 Yr) at 5.45 & 5.80
12	New York State Elec. & Gas	NY	Oct. 12	2023	9.20%		Avangrid	Yes	
13	Rochester Gas & Electric	NY	Oct. 12	2023	9.20%		Avangrid	Yes	
14	Potomac Edison	MD	Oct. 18	2023	9.50%		Exelon	Yes	Feb 2024 \$1.7B (5 Yr, 10 Yr, 30 Yr) 5.15%, 5.45%, 5.6%
15	Southwestern Public Service	NM	Oct. 19	2023	9.50%		Xcel Energy	Yes	Feb 2024 \$800M (10 Yr.) at 5.5%
16	NorthWestern Energy Group	MT	Oct. 25	2023	9.65%		NorthWestern Energy Gr	Yes	Mar 2025 \$400M (5 Yr) 5.07%
17	Madison Gas & Electric	WI	Nov. 3	2023	9.70%		MGE Energy	Yes	Oct 2024 \$50M (10 & 30 Yr.) at 5.3% and 5.59%
18	Public Service of Oklahoma	OK	Nov. 3	2023	9.30%		American Electric Power	Yes	Jun 2024 \$1.0B (30 Yr.) 7%
19	Northern States Power	WI	Nov. 9	2023	9.80%		Xcel Energy	Yes	Feb 2024 \$800M (10 Yr.) at 5.5%
20	Wisconsin Power & Light	WI	Nov. 9	2023	9.80%		Alliant Energy	Yes	Mar 2024 \$300M (10 Yr) Variable
21	Atlantic City Electric	NJ	Nov. 17	2023	9.60%		Exelon	Yes	Feb 2024 \$1.7B (5 Yr, 10 Yr, 30 Yr) 5.15%, 5.45%, 5.6%
22	PacifiCorp	WY	Nov. 28	2023	9.35%		Berkshire Hathaway	Yes	Mar 2025 \$850M (30 Yr.)7.375%
23	Empire District Electric	AR	Dec. 7	2023	9.70%		Algonquin Power & Utili	Canada	
24	Ameren Illinois	IL	Dec. 14	2023	8.72%		Ameren	Yes	
25	Baltimore Gas & Electric	MD	Dec. 14	2023	9.50%		Exelon	Yes	Feb 2024 \$1.7B (5 Yr, 10 Yr, 30 Yr) 5.15%, 5.45%, 5.6%
26	Commonwealth Edison	IL	Dec. 14	2023	8.91%		Exelon	Yes	Feb 2024 \$1.7B (5 Yr, 10 Yr, 30 Yr) 5.15%, 5.45%, 5.6%
27	Portland General Electric	OR	Dec. 18	2023	9.50%		Portland General Electric	Yes	Mar 2025 \$310M (5, 20, 30 Yr) 5.36%, 5.72% & 5.84%
28	Nevada Power	NV	Dec. 26	2023	9.52%		Berkshire Hathaway	Yes	Mar 2025 \$850M (30 Yr.)7.375%
29	Idaho Power	ID	Dec. 28	2023	9.60%		IDACORP	Yes	Mar 2025 \$400M (30 Yr) 5.75%
30	Public Service of New Mexicc	NM	Jan. 3	2024	9.26%		TXNM Energy	Yes	
31	Kentucky Power	KY	Jan. 19	2024	9.75%		Amer. Elec. Power	Yes	Jun 2024 \$1.0B (30 Yr.) 7%
32	UNS Electric	AZ	Jan. 30	2024	9.75%		Fortis	Canada	
33	Jersey Central P & L	NJ	Feb. 14	2024	9.60%		First Energy	Yes	Dec 2024 \$700M (10 Yr) at 5.1%
34	Virginia Electric	VA	Feb. 28	2024	9.70%		Dominion Energy	Yes	
35	Arizona Public Service	AZ	Mar. 5	2024	9.55%		Pinnacle West	Yes	
36	Monongahela Power	WV	Mar. 26	2024	9.80%		First Energy	Yes	Dec 2024 \$700M (10 Yr) at 5.1%
37	Delmarva Power	DE	Apr. 18	2024	9.60%		Dominion Energy	Yes	
38	Indiana Michigan Power	IN	May. 8	2024	9.85%		Amer. Elec. Power	Yes	
39	Potomac Electric	MD	Jun. 10	2024	9.50%		Exelon	Yes	May 2025 \$200M (15 Yr) at 5.48%
40	Fitchburg G & E	MA	Jun. 28	2024	9.40%		Utilicorp	Yes	Aug 2024 \$72M (10, 30 Year) 5.54% and 5.69%
41	Average ROE				9.50%				

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy - Electric Rate Case

Electric Rate Case Return on Equity (ROE) Rates 24 Mo. Ended June 2025)*

Electric Rate Case Return on Equity (ROE) Rates (12 Mo. Ended June 2024 and 2025)*

Case No. U-21870

Exhibit AG-40

September 30, 2025

Page 2 of 3

Line	Electric Company	Jurisdiction & Order Date		ROEs Under 9.9%		Parent Company	Pub Finan'ls Avail.	Long Term Debt Issued Since Date of Rate Order
				2024	2025			
1	Indiana Michigan Power	IN	Jul. 2	2024	9.86%	Amer. Elec. Power	Yes	
2	Central Hudson G & E	NY	Jul. 18	2024	9.50%	Fortis	Canadian	
3	Interstate Power & Light	IA	Sep. 17	2024	9.87%	Alliant Energy	Yes	May 2025 \$600M (10 Yr.) 5.6%
4	Sierra Pacific	NV	Sep. 18	2024	9.74%	Berkshire Hathaway	Yes	Mar 2025 \$850M (30 Yr.)7.375%
5	Idaho Power	OR	Sep. 23	2024	9.50%	IDA Corp.	Yes	Mar 2025 \$400M (30 Yr) 5.75%
6	Upper Peninsula Power	MI	Sep. 26	2024	9.86%	Private	No	
7	Massachusetts Electric	MA	Sep. 30	2024	9.35%	National Grid	No	
8	AEP Texas	TX	Oct. 3	2024	9.76%	Amer. Elec. Power	Yes	
9	Public Service	NJ	Oct. 10	2024	9.60%	Public Service Enterp. Gr	Yes	
10	Upper Michigan Energy Res	MI	Oct. 16	2024	9.86%	WEC Energy	Yes	Jun 2025 \$900M (3 Yr CNV) 3.375
11	Minnesota Power	MN	Oct. 24	2024	9.78%	Allete	Yes	July 2025 \$250M (Var. to 30 Yr) Various
12	Appalachian Power	VA	Nov. 20	2024	9.75%	Amer. Elec. Power	Yes	
13	Potomac Electric	DC	Nov. 25	2024	9.50%	Exelon	Yes	
14	Oklahoma Gas & Electric	OK	Nov. 26	2024	9.50%	OGE Energy	Yes	Apr 2025 \$350M (30 Yr.) 5.8%
15	PacifiCorp	OR	Dec. 19	2024	9.50%	Berkshire Hathaway	Yes	Mar 2025 \$850M (30 Yr.)7.375%
16	Wisconsin Electric Pwr	WI	Dec. 19	2024	9.80%	WEC Energy	Yes	Jun 2025 \$900M (3 Yr CNV) 3.375
17	Wisconsin Public Service	WI	Dec. 19	2024	9.80%	WEC Energy	Yes	Jun 2025 \$900M (3 Yr CNV) 3.375
18	Avista Washington	WA	Dec. 20	2024	9.80%	Avista	Yes	
19	Portland General Electric	OR	Dec. 20	2024	9.34%	Portland General Elec HI	Yes	
20	Public Service Co of Okla.	OK	Jan. 15	2025	9.50%	Amer. Elec. Power	Yes	
21	Duke Energy	IN	Jan. 29	2025	9.75%	Duke	Yes	
22	Southern Indiana G & E	IN	Feb. 3	2025	9.80%	CenterPoint	Yes	
23	Black Hills Colorado	CO	Mar. 12	2025	9.40%	Black Hills	Yes	
24	CenterPoint Texas	TX	Mar. 13	2025	9.65%	CenterPoint	Yes	
25	Versant Power	ME	Mar. 13	2025	9.35%	EnMax of Alberta	No	
26	Orange and Rockland	NY	Mar. 20	2025	9.75%	Consolidated Edison	Yes	
27	Liberty Utilities	NH	Mar. 25	2025	9.10%	Algonquin	Canadian	
28	PacifiCorp	UT	Apr. 25	2025	9.38%	Berkshire Hathaway	Yes	
29	Public Service of New Mexicc	NM	May. 15	2025	9.45%	TXNM Energy	Yes	
30	PacifiCorp	WY	Jun. 2	2025	9.50%	Berkshire Hathaway	Yes	
31	Wind Energy	TX	Jun. 20	2025	9.60%	Private	No	
32	Northern Indiana P.S.	IN	Jun. 26	2025	9.75%	NiSource	Yes	
33	Average ROE				9.61%			

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy - Electric Rate Case

Case No. U-21870

Exhibit AG-40

September 30, 2025

Page 3 of 3

Electric Rate Case Return on Equity (ROE) Rates 24 Mo. Ended June 2025)*

Summary of All Cases (incl. ROEs at 9.9% and Above)*

State	Company /Description	Number of Companies		ROEs Awarded		Explanations & Commentary **
		12 Mo; Ended June of 2024	2025	12 Mo; Ended June of 2024	2025	
1	Average ROEs - Companies Under 9.9%	40	32	9.50%	9.61%	
2	ROEs Awarded - at 9.9% and Above					
3	California Pacific Gas & Electric	1	1	10.70%	10.28%	Wildfire Risk
4	Southern California Edison	1	1	10.75%	10.33%	Wildfire Risk
5	San Diego Gas & Electric	1	1	10.65%	10.23%	Wildfire Risk
6	PacifiCorp	1		10.00%		Wildfire Risk
	Bear Valley Electric Service		1		10.00%	Small Utility - 25k customers
7	Florida Florida Public Service		1		10.20%	Hurricane Risk
8	Duke Energy Florida		1		10.30%	Hurricane Risk
9	Tampa Electric		1		10.50%	Hurricane Risk
10	Michigan DTE Electric	1	1	9.90%	9.90%	
11	Consumers Energy	1	1	9.90%	9.90%	
12	Alaska Alaska Electric Light & Power	1		11.45%		Small Isolated Utility - 18K Customers
13	Other Jurisd. Duke Energy Carolinas	NC	1	10.10%		
14	Duke Energy South Carolina	SC	1	9.94%		
15	AES Indiana	IN	1	9.90%		Small Utility - 531K customers
	Otter Tail Power	ND	1		9.94%	Small Utility - 134k customers
16	Dominion Energy - S. Carolina	SC	1		10.10%	
17	Green Mountain Power	VT	1		9.97%	Small Utility - 275K customers
18	Virginia Electric	VA	1		9.95%	
19	Puget Sound	WA	-	1		9.90%
18	Cases at 9.9% + with ROEs Stated (Excl. Lmted. Issue Rider:	10	14	10.33%	10.11%	
19	Average of All ROEs Awarded	50	46	9.67%	9.76%	

* All ROE data from Regulatory Research Associates & excludes Limited Issue Rider cases

** Customer size information is from SEC documents and Company web sites

PROOF OF SERVICE - U-21870

The undersigned certifies that a copy of the *Attorney General's Petition for Rehearing* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 8th day of December 2025.

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