

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

At the December 18, 2025 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Shaquila Myers, Commissioner

ORDER

History of Proceedings

On February 27, 2025, Upper Michigan Energy Resources Corporation (UMERC) filed an application in this case, with supporting testimony and exhibits, pursuant to Public Act 295 of 2008 (Act 295), as amended by Public Act 235 of 2023 (Act 235), MCL 460.1022(3), requesting approval of an amendment to the company’s renewable energy plan (REP).

A prehearing conference was held on April 10, 2025, before Administrative Law Judge Jonathan F. Thoits (ALJ), at which the ALJ recognized the intervention of the Michigan Department of Attorney General (Attorney General) and granted intervention to the Citizens Utility Board of Michigan (CUB) and Tilden Mining Company L.C. (Tilden). UMERC and the

Commission Staff (Staff) also participated in the proceeding. A schedule for the case was also established by the ALJ.

On April 11, 2025, the ALJ adopted a protective order for use in this matter.

On April 17, 2025, the Michigan Environmental Council (MEC) filed a petition for leave to intervene out of time, to which UMERC filed an objection on April 23, 2025. On April 30, 2025, a hearing was conducted on MEC's petition, and on May 6, 2025, the ALJ issued a ruling denying MEC's petition for leave to intervene out of time, finding that MEC had not shown good cause for its untimely filing. *See*, Case No. U-21813, filing #U-21813-0043.

UMERC filed redacted exhibits on May 15, 2025, and supplemental testimony and revised exhibits on May 30, 2025. On June 26, 2025, Tilden filed testimony and exhibits, and the Staff filed testimony. That same date, the Attorney General and CUB jointly filed testimony and exhibits. The Attorney General and CUB jointly filed revised testimony on July 8, 2025, and the Staff filed corrected testimony on July 17, 2025. Tilden filed revised testimony on August 11, 2025, and the Attorney General and CUB jointly filed updated testimony on August 12, 2025.

On July 25, 2025, the Attorney General and CUB, jointly, and Tilden filed rebuttal testimony and exhibits. That same date, UMERC and the Staff filed rebuttal testimony.

On August 4, 2025, UMERC filed a motion to strike and admit surrebuttal testimony, to which the Attorney General and CUB, jointly, and Tilden filed a response on August 8, 2025. On August 18, 2025, the ALJ issued a ruling denying in part and granting in part UMERC's motion.

On August 6, 2025, CUB filed a motion to compel, to which UMERC filed a response on August 11, 2025. On August 18, 2025, the ALJ issued a ruling denying CUB's motion to compel.

Evidentiary hearings were held on August 12 and 13, 2025, wherein testimony and exhibits were bound into the record and cross-examination took place.

UMERC, the Staff, Tilden, and the Attorney General and CUB, jointly, filed initial briefs on September 11, 2025. On September 25, 2025, UMER, the Staff, Tilden, and the Attorney General and CUB, jointly, filed reply briefs.

On October 3, 2025, UMER filed a motion to strike portions of Tilden's reply brief, to which Tilden filed a response on October 10, 2025. On October 15, 2025, a hearing was conducted on UMER's motion to strike, and on October 27, 2025, the ALJ issued a ruling denying UMER's motion. *See*, Case No. U-21813, filing # U-21813-0130.

The ALJ issued a Proposal for Decision (PFD) on October 27, 2025. On November 6, 2025, UMER, Tilden, and the Attorney General and CUB, jointly, filed exceptions to the PFD. On November 18, 2025, UMER and Tilden filed replies to exceptions.

The record consists of testimony from eight witnesses contained within 506 pages of public and confidential transcript, along with 33 exhibits. The docket also contains a public comment, which can be viewed in the section of the docket labeled "Case Comments." *See*, Case No. U-21813, filing #U-21813-0001-CC.

Statutory Requirements

Act 235, among other things, increases renewable portfolio standards (RPS) and requires electric providers to achieve a renewable energy credit (REC) portfolio¹ of at least 15% through 2029, 50% in 2030 through 2034, and 60% in 2035 and each year thereafter. MCL 460.1028(1).

Electric providers must meet the RPS with RECs obtained by any of the following means:

- (a) Generating electricity from renewable energy sources for sale to retail customers.
- (b) Purchasing or otherwise acquiring renewable energy and capacity.
- (c) Purchasing or otherwise acquiring [RECs] without the associated renewable energy or capacity. [RECs] acquired under this subdivision shall be produced

¹ A "renewable energy credit portfolio" is the sum of the RECs achieved by a provider for a particular year. MCL 460.1011(d).

within the territory of the regional transmission organization of which the electric provider is a member, and, except for a municipally owned electric utility, shall not exceed 5% of an electric provider's [RECs] annually used to comply with [the RPS]. [RECs] acquired under this subdivision are not subject to the requirements of [MCL 460.1029] and shall not be used to comply with [the RPS] after 2035.

MCL 460.1028(5).

Section 22(3) of Act 235 requires an electric provider to file with the Commission an amended REP within one year of the effective date of Act 235, which took effect on February 27, 2024.

MCL 460.1022(3). For rate-regulated electric providers, the amended REP must include a forecast of the renewable energy resources needed to comply with the RPS pursuant to a filing schedule established by the Commission. *Id.* Additionally, the amended REP must establish a mechanism for the recovery of the incremental costs of compliance within its customer rates.

MCL 460.1022(2).

For rate-regulated electric providers, the Commission must conduct a contested case on the amended REP pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*

MCL 460.1022(3). After the hearing, the Commission must approve the amended REP, with any changes consented to by the electric provider, or reject the amended REP. *Id.* The Commission must approve an amended REP if it determines both of the following: (1) that the amended REP is reasonable and prudent, and (2) that the amended REP is consistent with the purpose set forth in MCL 460.1001(2) and meets the RPS. MCL 460.1022(5). For rate-regulated electric providers, the Commission must review the projected costs of the amended REP and approve, in whole or in part, the projected costs if the Commission finds those projected costs, in whole or in part, to be reasonable and prudent. In making this determination, the Commission must consider whether projected costs in prior REPs were exceeded. MCL 460.1022(6).

UMERC's last REP was approved by the Commission on January 23, 2018. *See*, January 23, 2018 order in Case No. U-18236. On February 8, 2024, the Commission issued an order in Case No. U-21568 (February 8 order) that required UMEREC to file an amended REP no later than January 17, 2025. February 8, order, p. 4. In that same case, the Commission approved amended REP filing requirements and templates. *See*, May 23, 2024 order in Case No. U-21568, Exhibit A. On November 26, 2024, UMEREC filed a motion for *ex parte* approval in this docket seeking to extend the deadline date for filing its amended REP to February 27, 2025, which the Commission granted on December 19, 2024. *See*, December 19, 2024 order in Case No. U-21813. Accordingly, UMEREC filed its amended REP in this docket on February 27, 2025.

Proposed Amended Renewable Energy Plan

The Attorney General and CUB, jointly, the Staff, and Tilden challenged certain aspects of UMEREC's amended REP. The Commission addresses these issues below in the same order addressed by the ALJ in the PFD.

1. Resource Additions and Costs

UMERC testified that it intends to meet Act 235's clean energy standards² through renewable energy resources, and that, to develop an amended REP that fully complies with Act 235, the company used PLEXOS modeling to assess the optimal long-term expansion of the company's renewable energy resources. 3 Tr 75. UMEREC explained that its modeling included assumptions incorporating both clean energy standards and the RPS. 3 Tr 75. Based on this modeling, UMEREC identified 500 megawatts (MW) of new wind resources at a capital cost of \$1.837 billion,

² Act 235's clean energy standards require electric providers to achieve a clean energy portfolio of at least 80% from 2035 through 2039, and 100% in 2040 and each year thereafter. MCL 460.1051(1). Act 235 further requires electric providers to submit a clean energy plan (CEP) to the Commission as part of the provider's integrated resource plan (IRP) and permits recovery of the costs of compliance with clean energy standards. MCL 460.1051(2).

275 MW of new solar resources at a capital cost of \$447.7 million, and 275 MW of new battery energy storage systems (BESSs) at a capital cost of \$856.9 million needed to comply with Act 235. 3 Tr 172-173. UMERC noted that, prior to 2030, it assumed that it would meet the 15% RPS through a combination of generation from the company's 100 MW Renegade Solar project (Renegade Solar) and purchases of Michigan-based RECs. Beginning in 2030, however, UMERC stated that Act 235 standards would be met through the addition of generic renewable energy resources with no purchases of RECs. 3 Tr 75.

UMERC contended that the overall cost to comply with Act 235 by 2040 is approximately \$3.1 billion. 3 Tr 78. Alternatively, UMERC stated that without the new clean energy standards and the RPS requirements, its PLEXOS model did not identify the need for any additional generation assets. UMERC argued, in turn, that this showed that the company's proposed addition of renewable energy resources in the amended REP was driven solely by the requirements of Act 235. 3 Tr 79.

The Attorney General and CUB explained that UMERC proposed to meet clean energy standards through renewable energy only, and that as a result, the amended REP contained renewable energy resources in excess of what is needed to comply with the RPS. Consequently, they argued that additional renewable energy resources should not be included in the amended REP and that UMERC must instead submit these resources in a CEP as part of its next IRP. 3 Tr 374. The Attorney General and CUB further argued that UMERC had not demonstrated that the proposed resources in the amended REP were the most reasonable and prudent way to comply with clean energy standards and that any incremental cost of additional renewable energy needed to comply with these standards should not be attributed to compliance with the RPS. 3 Tr 374-375. They asserted instead that a prudent approach would be for UMERC to utilize

Renegade Solar, 150 MW of new wind resources, and REC purchases to comply with the RPS, which they contended resulted in substantially lower costs. 3 Tr 381-382; *see also*, Confidential Exhibit AGCUB-8.

Tilden, like the Attorney General and CUB, argued that UMEREC's amended REP included added renewable energy resources that are meant to comply with clean energy standards, which Tilden asserted exceeds the resources needed to comply with the RPS. 3 Tr 313. As a result, Tilden advocated for the Commission to disapprove projected costs associated with UMEREC's additional resources and to require UMEREC to competitively bid resources needed to comply with the RPS requirements. 3 Tr 331. Tilden also stated that UMEREC's amended REP included a REC purchase price of \$4/REC. 3 Tr 322 (citing Exhibit A-13). However, Tilden contended that UMEREC was able to purchase RECs at \$2/REC, as demonstrated in the company's renewable energy cost reconciliation proceeding in 2024. 3 Tr 322 (citing the May 21, 2025 application in Case No. U-21834). Accordingly, Tilden proposed adjusting REC purchase prices to \$2/REC in the amended REP. 3 Tr 322.

The Staff testified that it was unclear which resources in the amended REP beyond 2035 were intended to satisfy the RPS or any future clean energy standards requirements. It noted that filing requirements for future CEPs have not yet been developed, making it premature to allocate energy resources to meet clean energy standards. Because UMEREC's CEP is not due until 2027, the Staff stated that it could only recommend approval of the amended REP as filed through 2035. 3 Tr 407. Finally, the Staff contended that it was unclear how UMEREC planned to acquire generic resources to meet the RPS, including whether such resources would be acquired through competitive bidding. 3 Tr 408.

In rebuttal, UMERG argued that the Attorney General's and CUB's proposal did not appear to rely on generation planning principles or modeling, unlike UMERG's amended REP, which was grounded in long-term modeling and analysis. 3 Tr 198-199. The company further stated that although the Attorney General and CUB may not like seeing the significant costs needed to comply with Act 235 those costs are real and are likely understated. 3 Tr 204.

With respect to Tilden's testimony, UMERG argued that it used a \$4/REC purchase price based on indications of the market and that historical purchase contract information for the company's most recent REC purchases showed an average price of \$3.72/REC and that this average price was increasing. 3 Tr 298. UMERG disagreed with Tilden's suggestion that competitive bidding is the only way to secure needed resources but contended that such decisions are most appropriate in the company's next IRP. 3 Tr 196-197.

In its rebuttal, the Staff reiterated that UMERG should have excluded resources needed to comply with clean energy standards in its amended REP. Instead, the Staff asserted that recovery of costs associated with compliance with clean energy standards must be recovered as part of general rates, and not through a renewable energy surcharge (RES). 3 Tr 414-415. The Staff, however, argued that the company should still forecast and track RECs associated with renewable resources above the 60% RPS. 3 Tr 415. Additionally, the Staff opined that UMERG's proposal was not the least-cost proposal for the company's customers, as demonstrated by the Attorney General's and CUB's proposal, and that UMERG made no indication as to whether company-owned resources would be competitively bid or whether non-company owned resources would be acquired. 3 Tr 417-418.

In briefing, UMERG stated that while the amended REP identifies renewable additions and REC purchases needed to comply with the RPS, any resource additions after 2027 are speculative.

As such, UMERG argued that this case should focus on the next two years only (i.e., 2026 and 2027). UMERG's initial brief, pp. 11-12. Nevertheless, UMERG conceded that any resources beyond those needed for RPS compliance should not be included or recovered through the amended REP and should instead be addressed in the company's next IRP. The company, however, stressed that those resources do not affect the amended REP or proposed RES. *Id.*, pp. 21-22. Finally, UMERG opposed requiring competitive bidding in this case, stating that no specific projects have been identified and that procurement and more extensive modeling would be addressed in upcoming IRPs. *Id.*, p. 29.

In their brief, the Attorney General and CUB argued that the amended REP is deficient because UMERG failed to outline how the company would acquire resources or if those resources would be competitively bid. Specifically, the Attorney General and CUB argued that UMERG did not outline a competitive bidding process to acquire renewable energy resources, in contravention of the Commission's guidelines issued in Case No. U-20852, and that the company failed to outline a plan that included non-company owned resources. Attorney General's and CUB's initial brief, pp. 41-44. Accordingly, they urged the Commission to find that the amended REP is unreasonable and imprudent. *Id.*, p. 45.

In reply, UMERG opposed the Attorney General's and CUB's recommendation for the Commission to require competitive bidding and noted that, outside of Renegade Solar, all the resources outlined in the amended REP were generic. UMERG further argued that the Commission's competitive bidding guidelines are nonbinding and would be inconsistent with the Commission-approved settlement agreement in Case No. U-21081. UMERG's reply brief, pp. 1-2.

The Staff replied that it disagreed with the Attorney General and CUB that UMEREC's amended REP was deficient because it lacked a detailed procurement plan, noting that "an REP committing to using generic resources to fulfill the renewable portfolio standard is not required to discuss a detailed procurement process. Here, UMEREC's plan is not required to detail procurement but rather establish a commitment to a plan that meets the [RPS]." Staff's reply brief, pp. 4-5. The Staff also rejected the claim that the amended REP's costs could not be approved without a detailed procurement plan, noting that approving costs in this case does not bypass a reasonableness and prudence review in UMEREC's reconciliation case. The Staff further argued that the absence of detailed information should not be assumed to indicate a discriminatory procurement process because UMEREC will still be required to show that it either followed guidelines or provided appropriate justification when it seeks cost recovery. *Id.*, pp. 5-7.

The ALJ noted that Act 235 requires UMEREC to file an amended REP that "includes a forecast of the renewable energy resources needed to comply with the [RPS]," and that the Commission must approve an amended REP if it is reasonable and prudent, taking into consideration projected costs consistent with the purpose outlined in the Act and the RPS. PFD, pp. 20-21 (quoting MCL 460.1022(3)) (internal quotes omitted). The ALJ, therefore, concluded that to the extent the amended REP includes renewable energy resources and costs that are not being used to comply with the RPS, it is unreasonable and imprudent. PFD, p. 21. The ALJ, in turn, recommended that the Commission approve only UMEREC's proposed plans for 2026 and 2027, which consist of the use of Renegade Solar and the purchase of RECs to comply with Act 235's RPS. *Id.*

With respect to the purchase price of RECs, the ALJ found that UMEREC had not established that \$4/REC was reasonable, explaining that the company's use of a single data point was not a

reliable indicator of the market or that REC prices were increasing. *Id.*, pp. 21-22. The ALJ further found that Tilden's testimony regarding UMERC's purchase of RECs for \$2/REC was unrebutted, was reliable, and should therefore be entitled to the same weight as UMERC's proffered evidence. *Id.*, p. 22 (citing 3 Tr 322). Accordingly, the ALJ recommended that an average price between the two proffered prices, \$2.86/REC, was reasonable and supported by the record. PFD, p. 22.

Finally, given the costs of compliance, the ALJ recommended that the Commission direct UMERC to:

reduce costs where possible and select the most economically feasible projects that are in the best interests of its rate payers regardless of whether the projects are company-owned or third party-owned, and to use a competitive bid process which adheres to the Commission's competitive procurement guidelines for all acquisitions regardless of ownership.

Id., p. 23. The ALJ, however, did not recommend that the company be required to provide details of its procurement process or be required to demonstrate that it meets competitive procurement guidelines given that projected resource additions are generic and occur after 2027. *Id.*

UMERC excepts to the ALJ's recommendation to approve a REC price of only \$2.86/REC. The company contends that its proffered purchase price of \$4/REC is forward-looking, which is necessary as the price of RECs is likely to increase as Act 235 continues to be implemented. UMERC's exceptions, pp. 2-3. UMERC also asserts that its proposed purchase price is based on a three-year average, as opposed to a single data point used by Tilden, and is therefore more appropriate. *Id.*, p. 3. Accordingly, UMERC urges the Commission to reject the ALJ's recommended REC purchase price and to instead adopt a purchase price of \$4/REC. *Id.* In reply to UMERC's exceptions, Tilden contends that UMERC failed to provide evidence to support its

recommended \$4/REC purchase price and argues that a data point from a single transaction cannot be used to show an increasing REC purchase price trend. Tilden's replies to exceptions, pp. 1-2.

In its exceptions, Tilden objects to the ALJ's recommendation to approve the amended REP for 2026 and 2027. According to Tilden, Act 235 requires UMERC to file an amended REP that includes a forecast of renewable energy resources needed to comply with the RPS, which includes portfolio standards for 2026 to 2029, 2030 to 2034, and 2035 and beyond. Tilden's exceptions, p. 5 (citing MCL 460.1022(3)). Tilden further states that, to approve an amended REP, the Commission must find that the REP is: (1) reasonable and prudent, and (2) consistent with the Act's purpose and that the plan meets the RPS. Tilden's exceptions, p. 5 (citing MCL 460.1022(5)). While Tilden explains that the Commission may approve partial projected costs in an amended REP, it asserts that this is a separate and distinct statutory requirement from the Commission's obligation to find that an amended REP complies with the RPS. Tilden's exceptions, pp. 5-6 (citing MCL 460.1022(6)).

Tilden argues that UMERC's amended REP is unreasonable and imprudent because it contains energy resources that are not used to meet the RPS. It further asserts that the amended REP, even if reduced to 2026 and 2027, is deficient because it does not demonstrate compliance with the RPS. Tilden's exceptions, p. 6. As a result, Tilden advocates for the Commission to reject the ALJ's recommendation to approve the amended REP for 2026 and 2027. *Id.*, p. 7.

Tilden also excepts to the ALJ's recommendation to approve a REC price of \$2.86 per REC. Tilden instead advocates for the Commission to adopt its proposed price of \$2.00 per REC, arguing that its proposal is more reasonable and based on recent actual price data. *Id.*, pp. 25-27. In reply, UMERC maintains its previous arguments regarding the appropriateness of a \$4/REC purchase price. UMERC's replies to exceptions, p. 15.

The Commission has reviewed the record and the parties' arguments and finds that UMERC's amended REP should be rejected. The record demonstrates that UMERC modeled its amended REP for compliance not only with the RPS, but also with Act 235's clean energy standards. *See*, 3 Tr 75-77. The Commission agrees with Tilden, the Staff, and the Attorney General and CUB, however, that Act 235's clean energy standards are beyond the scope of REPs and must instead be addressed through a CEP that is part of an electric provider's IRP. *See*, MCL 460.1051. As a result, as UMERC concedes, the Commission finds that the amended REP includes renewable energy resources and costs that go well beyond those necessary for compliance with the RPS and that should not be recovered through a RES. *See*, UMERC's initial brief, p. 21. Although the Commission acknowledges UMERC's acquiescence to limit approval of the amended REP to only 2026 and 2027, the Commission finds that such a partial approval would contravene Act 235 and the Commission's filing requirements and agrees with Tilden that even if limited in this way, UMERC's proposed amended REP fails to demonstrate compliance with the RPS. *See*, Tilden's exceptions, p. 6. The Commission finds that both Act 235 and the Commission's filing guidelines envision amended REPs demonstrating compliance with all the RPS, which extend beyond the two-year period for which UMERC seeks approval. *See*, MCL 460.1028(1); *see also*, May 23, 2024 order in Case No. U-21568, Exhibit A. Consequently, the Commission finds that the amended REP does not meet the requirements of the RPS as required by statute. *See*, MCL 460.1022(5)(b).

Additionally, because the amended REP includes additional resources and costs that are not necessary for compliance with the RPS, the Commission finds that the projected costs associated with these resources are not reasonable and prudent. *See*, MCL 460.1022(6). As the Commission is required to take into consideration the projected costs in the amended REP, the Commission

consequently finds that the amended REP is not reasonable and prudent. MCL 460.1022(5)(a). Therefore, the Commission rejects the amended REP and directs UMERC to file a new amended REP that meets the RPS requirements by October 15, 2026, in conjunction with the filing of its next IRP. The Commission notes that UMERC may file a new, standalone amended REP prior to this deadline if the company chooses to do so.

The Commission recognizes that rejecting UMERC's amended REP may cause some uncertainty regarding the recovery of costs for Renegade Solar, which UMERC has stated is expected to enter into service in February 2026. 3 Tr 170. However, the Commission notes that Renegade Solar has not gone into service as of the date of this order and that UMERC may seek approval from the Commission for deferred accounting for the resource prior to the February 2026 in-service date.

With respect to REC purchase prices and competitive bidding, because the Commission has rejected the amended REP, the Commission finds that these issues are moot. The Commission, therefore, declines to adopt the ALJ's recommendation on these issues. *See*, PFD, pp. 21-23.

2. Other Issues

In addition to resource additions and costs, the parties also raised several issues contesting the approval of UMERC's amended REP. These issues included the incorporation of BESSs (*see*, PFD, pp. 23-27), the retirement of the company's existing reciprocating internal combustion engine units (*see*, PFD, pp. 27-34), the life expectancy of the Tilden Mine (*see*, PFD, pp. 34-37), the recovery of costs for Renegade Solar (*see*, PFD, pp. 37-50), and the amended REP's cost recovery mechanism (*see*, PFD, pp. 51-63).

The Commission finds that, given the rejection of the amended REP for the reasons stated above, the remaining contested issues in this proceeding are moot. The Commission, however,

recognizes the unique challenges of providing energy to Michigan's Upper Peninsula, particularly within UMERC's service territory. The Commission, therefore, encourages UMERC to consider and address the various issues raised in this proceeding that uniquely impact the company and its customers when filing its new amended REP.

Motion to Strike

On October 3, 2025, UMERC filed a motion to strike (Motion) seeking to strike certain portions of Tilden's reply brief. *See*, Case No. U-21813, filing #U-21813-0125. Specifically, UMERC argued that certain portions of Tilden's reply brief did not constitute proper rebuttal and contained factual allegations that were unsupported by the evidence. Motion, p. 2. Of importance to this order, UMERC first argued that Tilden's arguments concerning the reasonableness of the costs of Renegade Solar relied on an affidavit submitted by UMERC witness Richard F. Stasik in Case No. U-21081, which was not made a part of the record in this proceeding. *Id.*, pp. 8-9 (referencing Tilden's reply brief, p. 3, nn. 10-12). UMERC next argued that Tilden's arguments regarding discrepancies between UMERC's evidence related to REC purchase prices relied on the direct testimony of UMERC witness James M. Beyer in Case No. U-21834, which was also never made a part of the record in this case. Motion, pp. 9-10 (referencing Tilden's reply brief, p. 6, n. 27). Accordingly, UMERC argued that because these portions of Tilden's reply brief did not comply with Mich Admin Code, R 792.10427 (Rule 427) and Mich Admin Code, R 792.10434(3), they must be stricken from the record. Motion, pp. 9, 10.

In response, Tilden argued that the affidavit cited in footnotes 10 through 12 of Tilden's reply brief was a sworn statement that was cited and incorporated by reference into this proceeding through UMERC's own testimony. Case No. U-21813, filing #U-21813-0128, p. 15 (citing 3 Tr 166). Tilden, in turn, asserted that UMERC had ample notice of the affidavit and its

relevance to the case. Accordingly, Tilden argued that the Commission would be permitted to consider the affidavit and the statements made therein. Case No. U-21813, filing #U-21813-0128, p. 15. With respect to its arguments regarding REC purchase prices, Tilden contended that its witness, Michael P. Gorman, directly cited the evidence in his testimony and that this testimony was bound into the record in this case. *Id.*, p. 17. Moreover, Tilden contended that even if this evidence was not incorporated into the record in this proceeding, the Commission would still be permitted to take notice of the evidence. *Id.*

In his ruling on the Motion, the ALJ found that Mr. Stasik's affidavit—relied upon by Tilden to argue about the reasonableness of costs for Renegade Solar—was record evidence because it was incorporated by reference in UMERC's direct testimony in this case. Case No. U-21813, filing #U-21813-0130, p. 12. Additionally, the ALJ opined that the affidavit is UMERC's sworn testimony and, therefore, it cannot reasonably be found to have deprived the company of an opportunity to submit rebuttal evidence, to ask questions regarding information contained within the affidavit, or from explaining the information on cross-examination. *Id.*

The ALJ further found that the evidence supporting Tilden's arguments concerning REC purchase prices was incorporated into Tilden's direct testimony, which was bound into the record in this case. *Id.*, p. 15. Accordingly, the ALJ determined that the evidence was record evidence and need not be stricken. *Id.*

In exceptions, UMERC appeals the ALJ's ruling on its Motion and advocates for the Commission to overturn the ALJ's determinations. Specifically, UMERC urges the Commission to strike footnotes 10 through 12 and footnotes 27 and 28³ of Tilden's reply brief. UMERC's

³ The Commission notes that UMERC never sought to strike footnote 28 of Tilden's reply brief in its Motion. As such, it appears that UMERC's appeal is the first time the company has sought this relief. *See*, Motion, p. 11 and Appendix A, p. 6.

exceptions, pp. 4, 8. UMERC argues that the ALJ's ruling permits Tilden to introduce information in its reply brief that was not made a part of the record in this proceeding. More pointedly, UMERC contends that both the affidavit from Mr. Stasik and the prewritten testimony from Mr. Beyer were never incorporated by reference in this case and thus cannot be relied upon. *Id.*, pp. 4-6. Although MCL 24.276 does permit the incorporation of evidence by reference, UMERC asserts that nothing in the testimony in this proceeding demonstrates that such an incorporation by reference occurred. Moreover, UMERC contends that the mere reference of a previous case in testimony cannot serve to incorporate by reference all the documents from that previous case, and that a finding to the contrary would lead to an absurd expansion of the evidentiary record in many Commission proceedings. *Id.*, pp. 6-7.

In replies, Tilden argues that UMERC's appeal is without merit and should be rejected. Tilden contends that Rule 427, which normally requires facts and evidence to be offered and made a part of the record, contains an important exception that permits the consideration of evidence otherwise permitted by law. Tilden, in turn, argues that MCL 24.276 permits evidence to be incorporated by reference and that the Commission is allowed to take notice of facts that are within its specialized knowledge. Tilden's replies to exceptions, pp. 7-8. Additionally, Tilden argues that the information in footnotes 10 through 12 and 27 and 28 of its reply brief was included in the record in this case and, therefore, may be relied upon by the Commission. *Id.*, pp. 9-11. Finally, Tilden argues that UMERC's appeal, even if granted, would have no consequence on the evidence in this proceeding because UMERC merely seeks to strike the footnotes in Tilden's reply brief, and not the information contained within the arguments in the body of the brief. *Id.*, pp. 12-13.

The Commission notes that it rejected UMERC's amended REP for the reasons previously outlined in this order. The Commission, therefore, finds that UMERC's appeal of the ALJ's ruling on its Motion is moot. Accordingly, the Commission declines to overturn the ALJ's findings and conclusions in his ruling on UMERC's Motion.

THEREFORE, IT IS ORDERED that:

A. Upper Michigan Energy Resources Corporation's amended renewable energy plan is rejected for the reasons stated in this order.

B. Upper Michigan Energy Resources Corporation shall file a new amended renewable energy plan by October 15, 2026, in conjunction with the filing of the company's integrated resource plan. The company is permitted to file a standalone, new amended renewable energy plan prior to this date if the company chooses to do so.

C. Upper Michigan Energy Resources Corporation's appeal of the administrative law judge's ruling on the company's motion to strike is denied as the issue is moot.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at sheacl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Shaquila Myers, Commissioner

By its action of December 18, 2025.

Lisa Felice, Executive Secretary

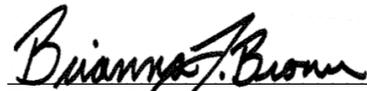
PROOF OF SERVICE

STATE OF MICHIGAN)

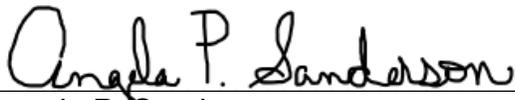
Case No. U-21813

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 18, 2025 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 18th day of December 2025.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

Service List for Case: U-21813

Name	On Behalf Of	Email Address
Adam M. Cozort	MPSC Staff	cozort1@michigan.gov
Christopher M. Bzdok	Department of Attorney	chris@tropospherelegal.com
Holly L. Hillyer	Citizens Utility Board of Michigan	holly@tropospherelegal.com
Jennifer U. Heston	Tilden Mining Company, LC	jheston@potomaclaw.com
John G. Walker Mogen	Upper Michigan Energy Resources Corporation	mogen@millercanfield.com
Jonathan F. Thoits	ALJs - MPSC	thoitsj@michigan.gov
Lauren A. Teichner	Citizens Utility Board of Michigan	lauren@teichnerlaw.com
Lucas Wollenzien	Department of Attorney	wollenzienl@michigan.gov
Michael E. Moody	Department of Attorney General	moodym2@michigan.gov
Monica M. Stephens	MPSC Staff	stephensm11@michigan.gov
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Sherri A. Wellman	Upper Michigan Energy Resources Corporation	wellmans@millercanfield.com
Upper Michigan Energy Resources Corporation	Upper Michigan Energy Resources Corporation	colleen.sipiorski@wecenergygroup.com