



THE UNIVERSITY OF CHICAGO  
**THE LAW SCHOOL**  
Abrams Environmental  
Law Clinic

December 23, 2025

***Via E-Filing***

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

RE: MPSC Case No. U-21870

Dear Ms. Felice:

Please find enclosed the Reply Brief of Urban Core Collective, along with proof of service for electronic filing in the above-referenced matter.

Please do not hesitate to contact my office with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark N. Templeton'.

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xc: Parties to Case No. U-21870

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 generation  
and distribution of electricity and for other  
relief.

Case No. U-21870

ALJ Jonathan F. Thoits

**REPLY BRIEF OF**  
**URBAN CORE COLLECTIVE**

December 23, 2025

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## I. INTRODUCTION

Urban Core Collective<sup>1</sup> files this reply brief to oppose or support the positions of other parties as reflected in the initial briefs filed in this proceeding before the Michigan Public Service Commission (MPSC, or the Commission) in this case, U-21870. UCC maintains the positions advanced in its initial brief, filed on December 5, 2025, in response to the application filed by Consumers Energy Company (Consumers, Consumers Energy, or the Company) for approval of its requested rate increase of \$436 million.<sup>2</sup>

In this reply brief, UCC addresses the following:

A. **Affordability**: There is already an affordability crisis in Consumers Energy Company's service territory. Many of Consumers' residential customers experience unaffordable energy burdens, particularly low- and moderate-income (LMI) and Black, Indigenous, and People of Color (BIPOC) customers, and the Company acknowledges that a meaningful percentage of its residential customers cannot regularly pay their bills or are at significant risk of not being able to do so. Approving the requested 11% rate increase in this case would exacerbate this crisis.

At the same time that the affordability crisis worsens, Consumers does not yet provide many vulnerable customers struggling with their bills sufficient assistance through its current programs, including the Low-Income Assistance ("LIA") Credit, Residential Income Assistance ("RIA") Credit, and the Consumers Affordable Resource for Energy Modified Budget ("CARE MB") program, Consumers' primary Affordable Payment Plan ("APP").

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<sup>1</sup> Urban Core Collective is a community organization which was founded with the goal of overcoming the effects of systemic racism by promoting equal access to education, economic prosperity, health, power, and influence.

<sup>2</sup> Consumers Energy Application at 12.

The Commission is required by law to consider affordability in rate cases and must set rates that are “just and reasonable.”<sup>3</sup> If the Commission does not consider the evidence of the affordability crisis provided by UCC on the record and discussed in its initial brief, the Commission would be in violation of the Michigan Administrative Procedure Act and the Michigan Constitution. On the record before the Commission in the instant case, a residential rate increase is unaffordable, and therefore unjust and unreasonable.

UCC reiterates its request that the Commission limit the required rate increase to the greatest extent possible. The Commission should also order Consumers Energy to adopt a full Percentage of Income Payment Plan (PIPP) in this rate case. The Commission should also approve Consumers’ requested changes to the LIA credit and Shut-off Protection Plan (SPP) eligibility, order the Company to conduct regular affordability analyses in line with the Commission’s definition of affordability, and approve the lowest possible return on equity (ROE).

**B. Reliability and Environmental Justice:** Consumers Energy has failed to provide many of its customers with sufficiently reliable service. Portions of the Company’s recent analysis reveal inequities that affect environmental justice (EJ) communities. While the Company has proposed positive steps to remedy disparities, including the Vulnerable Communities Resiliency Plan (VCRP), the Company can and should take additional action to support EJ communities, as outlined in UCC’s initial brief.

In assessing reliability in EJ communities, it is crucial to look at the Company’s SAIDI (system average interruption duration) with MEDs (major event delays, such as extreme weather events), as noted by MPSC Staff, the Association of Businesses Advocating Tariff Equity (ABATE), and the Ecology Center, the Environmental Law & Policy Center, Union of Concerned

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<sup>3</sup> MCL § 460.557.

Scientists, and Vote Solar (the Clean Energy Organizations or CEO) note in their initial briefs, SAIDI without MEDS can obscure performance inequities in EJ communities.

It is also crucial to understand the impacts of poor reliability on EJ communities, particularly in terms of health, finances, access to food, and housing. EJ communities, during power outages, can experience health impacts and financial strain, food and medicine spoilage, and other impacts that are disproportionately burdensome for LMI customers. The Commission and Company must consider these impacts, and in doing so, the Commission should require the Company to take the steps recommended by UCC in its initial brief regarding the VCRP, distributed energy resource deployment, extreme weather, and publicly available reliability data.

**C. Shutoff Practices:** The Company has not sufficiently addressed shutoff practices that disproportionately impact minority customers. Consumers' regression analysis has revealed statistically significant disparities in shutoff rates that cannot be explained by economic factors alone. Racial disparities in service are inherently unreasonable and unjust. To address discriminatory impacts while the Company determines and deploys remedial measures, UCC recommends that the Company and Commission implement any temporary shutoff moratorium within their legal authority that does not impede the access of qualifying customers to assistance. Where such a shutoff moratorium may keep some customers from accessing assistance, the Company should develop and implement other interim mitigation measures within its authority to do so (e.g., pausing arrears accrual).

**D. Investment Recovery Mechanism Modification:** In the instant rate case, the Company seeks to extend the current Distribution Investment Recovery Mechanism (IRM) by two years and proposes more than \$352 million in additional expenditures. However, for the current IRM, the Company overspent overall, underspent in particular areas, and did not follow its timeline

for Year 1 expenditures. In addition, the Company has not provided enough information to comply with the Commission's order in Case No. U-21389 that the Company provide evidence about whether its investments are leading to equitable results. While UCC supports inclusion of the VCRP in the IRM and does not oppose the Company's IRM request, UCC requests that the Commission order increased reporting, track the reconciliation process in Case No. U-21918, and proceed cautiously before extending the IRM through April 2028. Doing so will aid in ensuring that the IRM is accountable, transparent, and equitable, especially with regard to investments in EJ communities.

**E. Customer and Community Engagement:** The Company has not engaged sufficiently with LMI customers and EJ communities on issues of affordability and reliability. While the Company's LMI Customer Support Enhancement project demonstrates a laudable effort towards more meaningful customer engagement, greater reporting and transparency are necessary to determine if this project leads to increased enrollments in affordability programs and the provision of more funds, on average, to those who are enrolled. While the program seems to have the potential to increase engagement, it is not clear that these programs and investments have delivered meaningful incremental benefits to customers yet. UCC does not oppose the proposed investment in the LMI Customer Support Enhancement project, but it recommends that the Commission require transparent reporting and accountability measures for the program and improved community engagement more generally, such as by working more closely with EJ organizations.

**F. Corporate Memberships:** The Company has failed to provide adequate justification for recovering \$830,705 in corporate membership dues and fees from ratepayers. The Company's request for recovery is deficient in two substantial respects. First, Consumers has failed

to provide detailed evidence in its application on the requested recovery expenses and tangible examples of how these dues and fees specifically benefit ratepayers. Second, several of these memberships, particularly the Edison Electric Institute (EEI), fund advocacy activities that are demonstrably contrary to ratepayer interests. Because Consumers has a local monopoly on electric utility service, it therefore compels customers to subsidize political advocacy with which some may disagree. This violates the U.S. Constitution's First Amendment's prohibition against compelled speech. Recovery of these costs, and thereby passing on costs to ratepayers, would not be just and reasonable.

To address these concerns, UCC recommends that the Commission (1) disallow the entire \$830,705 in corporate membership dues, or at minimum disallow all EEI membership costs excepting a \$15,000 mutual assistance program, and (2) require itemized membership disclosures in future rate cases consistent with disclosure standards established for another utility, DTE Electric, at a minimum.

[The next section starts at the top of the next page.]

## II. ARGUMENT

### A. Consumers Energy Has Not Sufficiently Addressed the Affordability Crisis, and its Requested Rate Increase Will Unjustly and Unreasonably Exacerbate the Crisis. (Issue VIII. Customer Assistance Programs and Affordability)

There is an affordability crisis in Consumers Energy’s service territory. Consumers has not addressed the affordability crisis in its territory sufficiently, and the proposed rate increase will exacerbate this crisis, increasing harm to LMI communities.

The Commission is legally required to consider affordability in the instant case in assessing whether the proposed rate increase is just and reasonable.<sup>4</sup> Consumers, as the party seeking Commission action, bears the burden of proving that its requests are just and reasonable by a preponderance of the evidence.<sup>5</sup> A determination of reasonableness depends on a “comprehensive examination of all factors involved,”<sup>6</sup> and the Commission has a duty to balance “the interest of public utility investors and the consuming public”<sup>7</sup> while exercising its “broad discretion” in determining rates.<sup>8</sup>

Therefore, the Commission must consider evidence presented by UCC on the affordability crisis,<sup>9</sup> limit the rate increase to the greatest extent possible,<sup>10</sup> order the Consumers to adopt a long-

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<sup>4</sup> MCL § 460.557. *See also* UCC Initial Brief at 9–11 (describing the relevant legal standard in setting just and reasonable rates, including a balancing of investor and public interests, that the Supreme Court has held that public utilities are entitled to a “reasonably sufficient” return on investments, and that the Michigan Supreme Court has held that the MPSC has broad discretion to determine rates).

<sup>5</sup> *In re DTE Electric Co.*, MPSC Case No. U-20836, Proposal for Decision (Sep. 19, 2022) at 53. Michigan law requires utilities to disclose as evidence the facts they rely upon, MCL § 460.6a(1), and the Commission has interpreted that to require utilities to provide “thorough, detailed, and meaningful evidence” that “costs are just and reasonable”—otherwise, the Commission’s “hands are tied.” *In re Consumers Energy Co.*, MPSC Case No. U-16794, Order (June 7, 2012), at 13.

<sup>6</sup> *Twp. of Meridian v. City of E. Lansing*, 342 Mich. 734, 749 (1955).

<sup>7</sup> *City of Detroit v. Mich. Pub. Serv. Comm’n*, 308 Mich. 706, 716 (1944).

<sup>8</sup> *Ass’n of Businesses Advocating Tariff Equity v. Pub. Serv. Comm’n*, 208 Mich. App. 248, 259, 266 (1994).

<sup>9</sup> *See* UCC Initial Brief at 13–20.

<sup>10</sup> *Id.* at 19–20.

term Percentage of Income Payment Plan (PIPP) to address the affordability crisis,<sup>11</sup> require the Company to conduct a comprehensive affordability analysis,<sup>12</sup> approve the lowest possible ROE,<sup>13</sup> and approve Consumers Energy’s requested amendments to the LIA credit<sup>14</sup> and the SPP eligibility cap.<sup>15</sup>

### **1. The Commission Cannot Approve a Rate Increase Without Considering the Affordability Crisis in Consumers’ Service Territory.**

It is uncontested that there is an affordability crisis in Consumers’ service territory.<sup>16</sup> An affordable energy burden is 6% of a household’s income for all energy utilities (electric and gas).<sup>17</sup> As described in great detail in UCC’s initial brief,<sup>18</sup> LMI customers in Consumers’ service territory often experience energy burdens far exceeding the 6% affordability threshold.<sup>19</sup> The Company has acknowledged that more than one third of Consumers’ customers are LMI customers, and that “11% are low income, meaning they are in crisis and unable to pay their energy bill; 26% are moderate income, commonly identified as being one crisis away from being able to pay their energy bill.”<sup>20</sup>

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<sup>11</sup> *See id.* at 20–41.

<sup>12</sup> *See id.* at 43–45.

<sup>13</sup> *See id.* at 42.

<sup>14</sup> *Id.* at 41.

<sup>15</sup> See Consumers Energy Company Initial Brief at 443.

<sup>16</sup> *See* UCC Initial Brief at 13–20 (noting on page 19 that “Consumers seeks an 11% rate increase, raising the average monthly residential bill from \$132 to \$146. This requested increase is more than double the 4.5% net revenue increase that the Commission approved in last year’s Consumers Energy Rate Case No. U-21585 for the residential customer class.”).

<sup>17</sup> *Id.* at 14 (citing Ex. UCC-5, APPLIED PUB. POL’Y RSCH. INST. FOR STUDY AND EVALUATION (APPRISE), RATEPAYER-FUNDED LOW-INCOME ENERGY PROGRAMS: PERFORMANCE AND POSSIBILITIES (2007), at 8). MPSC Staff have affirmed this in their Energy Affordability Report: “Staff concurs and recommends that an energy burden threshold be no greater than 6% of total household income.” *Id.* (citing Ex. UCC-202, MPSC Staff, Energy Affordability Report, MICH. PUB. SERV. COMM’N (Sep. 10, 2025) [hereinafter Staff Energy Affordability Report], at 89).

<sup>18</sup> *See id.* 14–20.

<sup>19</sup> For example, UCC Witness Williams stated in her direct testimony that her monthly combined bill for gas and electricity from Consumers ranges from \$200 to \$350, about 38% of her income. Williams Direct Testimony at 3 TR 2380–81.

<sup>20</sup> UCC Initial Brief at 18 (citing Byrom Direct Testimony at 3 TR 967.28–29).

By the Commission’s own definition of affordability, Consumers’ rates are already unaffordable for most, if not all, vulnerable customers.<sup>21</sup> The Commission’s definition of energy affordability is “[t]he extent to which a household has the resources to meet their home energy needs for heating, cooling and other uses in a healthy, sustainable and energy efficient manner without compromising a household’s ability to meet other basic needs.”<sup>22</sup> When energy bills are unaffordable, customers are often forced to choose between paying for energy, keeping their homes at safe temperatures, and paying for other basic necessities such as food or medicine.<sup>23</sup> UCC Witnesses Williams and Cira-Reyes report witnessing these tradeoffs firsthand in their communities within the Company’s service territory.<sup>24</sup> MPSC Staff acknowledged in its Energy Affordability Report that an energy crisis can cause Michiganders to forgo food, medication, or other essential needs, keep homes at unhealthy temperatures, and result in psychological stress.<sup>25</sup>

In determining what rate increase would be just and reasonable, the Commission must consider the evidence of this affordability crisis and its impacts on Consumers’ customers. In doing so, the Commission will find that the proposed rate increase is unreasonable. The proposed 11% rate increase, more than twice the 4.5% net revenue increase that the Commission approved last year in Case No. U-21585 for the residential ratepayer class,<sup>26</sup> would exacerbate the affordability

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<sup>21</sup> The harms that arise out of unaffordable energy bills also disproportionately affect BIPOC communities. BIPOC communities make up a higher percentage of LMI communities than non-LMI communities. Additionally, BIPOC ratepayers frequently live in energy-inefficient housing, which contributes to even higher energy bills per square foot than the average American household. UCC Initial Brief at 17–18.

<sup>22</sup> *In re Response to COVID-19*, MPSC Case No. U-20757, Order (Dec. 21, 2023), at 36.

<sup>23</sup> UCC Initial Brief at 15–16. In fact, “51% of households [in the U.S.] with an annual income under \$50,000 report ‘foregoing basic necessities for at least a month each year to be able to afford energy bills and prevent shutoffs.’” *Id.*

<sup>24</sup> *Id.* at 16. As described in UCC’s initial brief and in Witness Williams’ testimony, families often make impossible choices between utilities and other basic needs like food and medicine, while facing shutoffs and high energy prices. *Id.* at 17 (citing Williams Direct Testimony at 3 TR 2374, 2401).

<sup>25</sup> *Id.* (citing Ex. UCC-202, Staff Energy Affordability Report, at 134).

<sup>26</sup> *Id.* at 19 (citing Connolly Direct Testimony at 3 TR 157; Cira-Reyes Direct Testimony at 3 TR 2305).

crisis faced by vulnerable customers. The Commission, in considering the weight of the evidence presented by UCC on the affordability crisis, should limit the proposed rate increase to the greatest extent possible to ensure that any approved rate increase is just and reasonable for customers as well as the Company.

**2. Because the Company’s Existing Payment Assistance Plans Are Inadequate, the Commission Should Require the Company to Adopt a PIPP Program.**

The Company’s current payment assistance plans do not adequately address the affordability crisis. Consumers’ current bill assistance programs include the LIA credit, the Residential Income Assistance (“RIA”) credit, and the Consumers Affordable Resource for Energy Modified Budget (“CARE MB”) Program.<sup>27</sup> The Company itself, in its initial brief, “recognizes that some customers have a need for assistance in meeting their energy burden.”<sup>28</sup> As described in detail in UCC’s initial brief,<sup>29</sup> the Company’s assistance programs, however, fail to meet the needs of many vulnerable customers in multiple ways. The programs do not serve all eligible customers, do not provide enough assistance to those enrolled to make energy affordable across many Federal Poverty Level (FPL) income brackets,<sup>30</sup> and produce inequitable outcomes across FPL income tiers.<sup>31</sup> Moreover, complex interactions of these programs can lead to perverse outcomes,<sup>32</sup> and many customers lack sufficient information to find and navigate these programs.<sup>33</sup> The Commission could and should address these problems by requiring Consumers to revamp its assistance offerings through the implementation of a PIPP instead.

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<sup>27</sup> *See id.* at 21–22 (describing each of these programs).

<sup>28</sup> Consumers Energy Company Initial Brief at 441.

<sup>29</sup> UCC Initial Brief at 20. *See generally id.* 20–31.

<sup>30</sup> *Id.* at 20.

<sup>31</sup> As MPSC Staff has noted, “Consumers Energy’s traditional and modified APPs [Affordable Payment Plans] produce inequitable outcomes within and across FPL income tiers.” Ex. UCC-202, Staff Energy Affordability Report, at 117.

<sup>32</sup> *See* UCC Initial Brief at 24–27.

<sup>33</sup> *See id.* at 27–31.

The Company acknowledges some of these challenges and deficiencies. First, due to “inflationary pressures and economic factors that are challenging many households,” the Company requests an increase in the LIA credit from \$30 to \$42 per meter in 2026, with further increases planned through 2029.<sup>34</sup> The Company also proposes to increase the number of households receiving the credit to 6,200 in 2026, with an additional 1,000 per year through 2029.<sup>35</sup> No party objected to these requests, and the Commission should approve them. Second, the Company proposes to “increase the [Shut-off Protection Plan] enrollment Federal Poverty Guidelines eligibility cap to 400% or less to offer more options to 700,000 moderate income customers.”<sup>36</sup> No party objected to this request, and the Commission should approve it. Third, in response to UCC’s concerns regarding access to information needed to navigate assistance programs and the difficulty in enrolling in these programs, the Company states, “This is something that has been recognized by the Company.”<sup>37</sup> The Company claims that the LMI Simplified Enrollment flow, part of its overall LMI Customer Support Enhancement project, will allow customers to receive personalized recommendations as to which assistance programs may meet their needs.<sup>38</sup> More generally, the LMI Customer Support Enhancement project has four important goals: (1) simplified program enrollment; (2) proactive communication and customer awareness; (3) new and improved LMI offerings, and (4) continuous improvement.<sup>39</sup> Despite Staff’s concerns to the

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<sup>34</sup> Consumers Energy Company Initial Brief at 446 (“The Company is proposing this change based on inflationary pressures and economic factors that are challenging many households. This change also aligns with Michigan Public Acts 168, 169, 170, and 198, which were approved by lawmakers in late 2024 to improve and modernize MEAP by expanding program eligibility, increasing available funding, and ensuring equitable access to funding.”).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 443.

<sup>37</sup> *Id.* at 441.

<sup>38</sup> *Id.*

<sup>39</sup> *See* UCC Initial Brief at 111 (citing Byrom Direct Testimony at 3 TR 967.27).

contrary,<sup>40</sup> efforts to increase the number of customers receiving assistance and increasing the average assistance they receive are valuable and should be approved by the Commission, with some qualifications discussed further below.

As discussed in detail in UCC's initial brief and in Section E of this reply brief below, the Company needs to take additional action even in some of the areas in which it is making progress. For example, UCC witnesses report that it is unclear how many more customers are receiving support and how much additional support customers are receiving, despite the LMI Customer Support Enhancement project being in operation since December 2024.<sup>41</sup> UCC requests that the Commission order regular and specific reporting on the number of LMI customers engaging with the Company's current tools, including the LMI project, to understand how many additional customers receive assistance and how much additional assistance is being provided.<sup>42</sup> This is necessary to assess the LMI project and ensure that the "continuous improvement" promised by the Company actually takes place. While the efforts detailed by the Company in its testimony and initial brief are an important first step to addressing knowledge gaps, regular reporting and additional action can help increase access and awareness for LMI communities and customers.

Relatedly, in its initial brief, the Company overstates UCC's position, stating that UCC suggested that customers should be enrolled "in assistance plans without any required applications."<sup>43</sup> Consumers noted that the Company cannot automatically enroll customers in an assistance plan.<sup>44</sup> Contrary to the Company's assertions, UCC is not asking the Company to take

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<sup>40</sup> MPSC Staff raises concerns about additional expenditures requested in this case being used to direct customers to information that is neither new nor proven to help customers in crisis. MPSC Staff Initial Brief at 42. MPSC Staff argues that the program simply aggregates and reorganizes existing information. *Id.* at 41. *See also supra* Section E (replying to Staff's concerns).

<sup>41</sup> UCC Initial Brief at 113 (citing Cira-Reyes Direct Testimony at 3 TR 2351–52).

<sup>42</sup> *Id.* at 114–15.

<sup>43</sup> Consumers Energy Company Initial Brief at 442.

<sup>44</sup> *Id.* at 443.

action that it is statutorily prohibited from doing,<sup>45</sup> and certainly, UCC is concerned if enrollments in additional programs lead to customers receiving less assistance than they would otherwise due to flaws in program design.<sup>46</sup> However, UCC is troubled about the low enrollment in payment assistance programs to date—“only one of every six low-moderate income (“LMI”) customers in Consumers’ territory is enrolled in at least one assistance program.”<sup>47</sup> The Company can and should take additional steps to increase enrollment in assistance programs that are within its power and authority, as described above.

Despite the Company’s efforts, the affordability crisis persists and is likely to worsen with an increase in rates; therefore, the Commission should order the Company to adopt a long-term PIPP program, rather than or as a supplement to its current assistance program offerings.<sup>48</sup> The Company’s twenty-four-month PIPP pilot program provided enrolled customers with an affordable energy burden,<sup>49</sup> improved their payment behavior,<sup>50</sup> and increased their satisfaction,<sup>51</sup> resulting

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<sup>45</sup> See also UCC Initial Brief at 89 (revisiting its witness’s position after reviewing the Company’s rebuttal testimony and instead asking only for the “Company [to] make it easier for customers to enroll in the Winter Protection Program”).

<sup>46</sup> See *id.* at 24–27.

<sup>47</sup> *Id.* at 27 (citing Byrom Direct Testimony at 3 TR 967.29).

<sup>48</sup> See *id.* at 32–39.

<sup>49</sup> The PIPP pilot capped all enrolled customer payments at 6% of household income per month, which ensured that all customers enrolled had affordable energy bills. *Id.* at 32. As a result, enrolled customers’ monthly payments were on average up to four times less than customers enrolled in CARE MB (varying based on FPL income bracket). *Id.* at 32–33. The PIPP pilot consequently reduced energy burdens by 45% to 83% across all FPL income tiers and produced less variance in energy burdens between FPL income tiers. *Id.* at 33.

<sup>50</sup> The PIPP pilot had a “5% higher on-time payment improvement through year one than CARE and CARE MB, and approximately a 6% higher improvement through year two than CARE” and “higher program completion rates through year one and year two of the PIPP pilot when compared to CARE and CARE MB.” *Id.* at 34 (quoting Ex. UCC-202, Staff Energy Affordability, at 108).

<sup>51</sup> 95% of customers enrolled in PIPP reported high satisfaction, as compared with only 84% of customers enrolled in CARE MB reporting the same. *Id.* at 34 (citing UCC-38, CONSUMERS ENERGY CO., CONSUMERS ENERGY PIPP PILOT PROGRAM (PERCENTAGE OF INCOME PAYMENT PLAN) (2025), at 71). It is important to note, too, that “although 84% of customers were ‘satisfied’ with receiving help through CARE MB, Witness Cira-Reyes notes that that does not necessarily ‘mean they would not prefer the substantially greater assistance through the PIPP program, especially if they were offered the more affordable alternative.’” *Id.* at 34–35 (quoting Cira-Reyes Direct Testimony at 3 TR 2320).

in greater equity across income tiers.<sup>52</sup> Thus, that pilot is a model that should be emulated, even if it needs to be adjusted.<sup>53</sup>

The Company contends that UCC’s recommendation to move forward with a PIPP program “ignores the conclusions drawn in the [Company’s PIPP] report,”<sup>54</sup> including that the costs of the PIPP program were higher, that low-income customers are satisfied with the CARE program, and that Consumers recommended continuing with the current APP given cross-functional efforts to enhance MEAP and reduce customer confusion.<sup>55</sup>

As described in its initial brief, UCC disagrees that the findings of the PIPP report justify discontinuing the PIPP pilot program. As described above, customers enrolled in the PIPP pilot paid significantly less out of pocket, as their monthly contributions were capped at what is considered an affordable energy burden.<sup>56</sup> For customers with income between 20% and 75% of the Federal Poverty Level, those on CARE MB paid nearly four times the average monthly bills that customers in the same income range paid in the PIPP pilot.<sup>57</sup> The Attorney General’s Office and Citizens’ Utility Board found that the Company’s PIPP pilot reduced energy burdens by 45%

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<sup>52</sup> *See generally id.* at 32–39.

<sup>53</sup> *Id.* at 35 (“While MPSC Staff did not fully endorse the PIPP program as Consumers piloted it, MPSC Staff does state that these results support ‘modifying the APPs to incorporate some elements of the PIPP.’” (citing Ex. UCC-202, Staff Energy Affordability Report, at 167) (listing other reasons from MPSC Staff for why survey comparisons are not robust)).

<sup>54</sup> Consumers Energy Company Initial Brief at 445.

<sup>55</sup> *Id.*

<sup>56</sup> UCC Initial Brief at 32.

<sup>57</sup> *Id.* (“The average electricity bill for a customer making between 20% and 75% of the FPL in the CARE MB program was \$125 per month; The average electricity bill for a customer making between 20% and 75% of the FPL in the PIPP program was \$32 per month.” Cira-Reyes Direct Testimony, at 3 TR 2320 n. 129 (citing UCC-38, CONSUMERS ENERGY CO., CONSUMERS ENERGY PIPP PILOT PROGRAM (PERCENTAGE OF INCOME PAYMENT PLAN) (2025), at 196, 198)).

to 83% across all FPL income brackets.<sup>58</sup> While cost is a factor to consider,<sup>59</sup> the importance of the drastic reductions of energy burdens in the PIPP pilot cannot be understated. Assistance programs are supposed to support customers in need, and data has clearly shown that the PIPP pilot far outperformed the existing payment programs in achieving affordable energy burdens. Furthermore, as described in UCC’s initial brief and above, the PIPP pilot increased on-time payment from the lowest-income customers,<sup>60</sup> and Consumers found a higher satisfaction rate with the PIPP pilot than with CARE MB.<sup>61</sup>

Ultimately, the Company’s arguments against the PIPP pilot do not hold water, for the reasons described here and in greater detail in UCC’s initial brief. Continuing with the status quo would not address the ongoing affordability crisis that the requested rate increase will exacerbate. While improving customer enrollment in existing programs and the amounts of assistance offered through some of those programs are important and worthy of investment, addressing unaffordability requires more significant change. The Commission should require the Company to implement a long-term PIPP program in this rate case.

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<sup>58</sup> UCC Initial Brief at 33 (citing Ex. UCC-48, MICHAEL E. MOODY & CHRISTOPHER BZDOK, MICH. DEP’T OF ATT’Y GEN. & CITIZENS UTIL. BD. OF MICH., U-20929 & U-21021 COMMENTS ON APPLICATIONS OF DTE GAS COMPANY., DTE ELECTRIC COMPANY AND CONSUMER ENERGY COMPANY FOR APPROVAL OF PIPP PILOT PROGRAM (2025), at 5).

<sup>59</sup> As described in UCC’s initial brief, “The Company acknowledges that the “main contributor to the higher program costs” for PIPP were “lower customer payment amount obligations.” This means that the PIPP program helped LMI customers pay less towards energy each month than most would on CARE MB.” *Id.* at 36–37. Notably, the report also includes unexplained discrepancies on what the difference in costs of the programs are. The Company estimated that PIPP would cost \$232 million per year while CARE MB would cost \$156 million per year. However, in the same report, Consumers measured that in January 2025, CARE MB was actually more expensive to administer than PIPP by an average of \$48 per customer. *Id.*

<sup>60</sup> *See supra* note 50.

<sup>61</sup> *See supra* note 51.

### **3. The Commission Is Required to Consider Affordability, Including Relevant Assistance Programs, in this Rate Case.**

The Commission is legally obligated to consider affordability when considering rate increase applications, including in the instant rate case. As described above and in UCC’s initial brief, Michigan law requires the Commission to set rates that are “just and reasonable,”<sup>62</sup> and, as argued in UCC’s initial brief, rates that residential consumers cannot afford cannot be considered just and reasonable.<sup>63</sup> Further, the Michigan Administrative Procedure Act and the Michigan Constitution require the Commission to consider and respond to all evidence on the record, including UCC’s evidence on affordability,<sup>64</sup> and to issue orders supported by “material and substantial evidence on the whole record.”<sup>65</sup> If the Commission follows these requirements, it will have to acknowledge that the unaffordability of rates significantly harms residential customers and address that issue in rate cases, such as this one.

The Michigan Supreme Court has held that the Commission must engage in “a comprehensive examination of all factors involved”<sup>66</sup> when evaluating whether a rate increase is just and reasonable, including the factors of “cost” and “value of service to the consumer.”<sup>67</sup> As described above and in UCC’s initial brief, unaffordable rates greatly compromise the value of service to residential consumers. If the Commission fails to address UCC’s evidence on

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<sup>62</sup> MCL § 460.557(4).

<sup>63</sup> See UCC Initial Brief at 46–53.

<sup>64</sup> MCL § 24.285 (“A decision or order shall not be made except upon consideration of the record as a whole or . . . as supported by and in accordance with the competent, material, and substantial evidence.”).

<sup>65</sup> MICH. CONST. of 1963, art 6, § 28.

<sup>66</sup> *In re Consumers Energy Co.*, 322 Mich. App. 480, 487 (2017).

<sup>67</sup> MCL § 460.577(2).

affordability, its order will also be arbitrary and capricious under the Michigan Administrative Procedure Act.<sup>68</sup>

Consumers Energy and MPSC Staff argued in their initial briefs that the instant rate case is not the proper place to address deficiencies in payment assistance, a key affordability issue.<sup>69</sup> In its initial brief, the Company stated that it “maintains that this issue [of implementing a PIPP] is being considered in another docket, and the Commission is taking a more global approach to examining the PIPP, as well as other affordable payment plans.”<sup>70</sup> MPSC Staff asserted that the “Commission should continue its plan to modify energy assistance programs through the MPSC Case No. U-20757 case docket and Staff’s energy affordability report and align its decisions on energy assistance across all relevant open dockets.”<sup>71</sup> Furthermore, in her rebuttal testimony, MPSC Witness Braunschweig stated that, “[s]eeing as the Commission’s last stated position directed energy assistance and affordability reform to disseminate from [the MPSC Staff’s Energy Affordability Report]/the EAAC, Staff recommends the Commission take a consistent approach and align its decisions with the Staff report . . . .”<sup>72</sup> Witness Braunschweig also asserted that “there are topics and recommendations in witness testimonies in the instant case that could overlap, conflict, or agree with the MPSC Staff Energy Affordability Report.”<sup>73</sup> MPSC Staff reiterated Witness Braunschweig’s recommendation in its initial brief and further contended that “the

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<sup>68</sup> MCL § 24.285 (stating that “[e]ach conclusion of law shall be supported by authority or reasoned opinion.”). *See also* UCC Initial Brief at 53–55 (arguing that the Commission’s approval of Consumers’ requested rates would be arbitrary and capricious without substantial evidence supporting the rate increase).

<sup>69</sup> Consumers Energy Company Initial Brief at 445.

<sup>70</sup> *Id.*

<sup>71</sup> MPSC Staff Initial Brief at 192.

<sup>72</sup> Braunschweig Rebuttal Testimony at 6 TR 4612.

<sup>73</sup> *Id.*

Commission should continue its plan to modify energy assistance programs through the MPSC Case No. U-20757 case docket and Staff’s energy affordability report . . . .”<sup>74</sup>

However, as explained in UCC’s initial brief<sup>75</sup> and above, the Commission is legally required to consider affordability when evaluating rate increase applications, so the Commission must engage with assistance programs, which are central to the affordability of rates to LMI customers, in the instant rate case. Contrary to MPSC Staff’s position, the Commission should not rely solely on the MPSC Staff’s Energy Affordability Report and the EAAC for energy assistance and affordability reform. While the Energy Affordability Report contains relevant information and recommendations on this issue in general,<sup>76</sup> the Commission has a legal duty under Michigan law to itself evaluate the affordability of rates as it decides whether or not to approve the Company’s requested increase as just and reasonable.<sup>77</sup> Additionally, as explained in UCC’s initial brief, in Case No. U-20650, a Consumers Energy gas rate case which kicked off the PIPP pilot program, the Settlement Agreement stated that “[t]he parties expressly reserve their respective rights to advocate for or against any proposed PIP program in *any future proceeding*.”<sup>78</sup> The instant case is a future proceeding in which the Company has made the significant decision not to pursue a PIPP program, a decision which will be detrimental for residential customers who would have benefited from this program.

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<sup>74</sup> MPSC Staff Initial Brief at 192.

<sup>75</sup> See UCC Initial Brief at 45–61 (arguing that the Commission is legally obligated to consider affordability when considering utility rate increase applications).

<sup>76</sup> Ex. UCC-202, Staff Energy Affordability Report, at 89.

<sup>77</sup> See UCC Initial Brief at 45–61 (highlighting the inadequacies of the EAAC as a forum to meaningful address affordability concerns regarding the proposed rate case).

<sup>78</sup> *In re Consumers Energy, Co.*, MPSC Case No. U-21021, Consumers Energy Company’s Application for Ex Parte Approval of a Percent of Income Payment Plan Pilot (Mar. 9, 2021), at 2 (emphasis added).

Further, Witness Braunschweig’s contention that witness testimony in this case might “overlap, conflict, or agree” with Staff’s report presents no reason for the Commission to refrain from engaging with affordability in this case. As MPSC Staff stated in their initial brief, the Commission should “consider all recommendations and dockets currently addressing energy assistance programming and funding as it comes to a decision in the instant case.”<sup>79</sup> In considering whether the proposed rate increase is just and reasonable, the Commission can and should consider relevant recommendations, dockets, and evidence. To the extent that the Commission will offer clear guidance on next steps in Case No. 20757 by February 2026, as MPSC Staff recommended in their Energy Affordability Report,<sup>80</sup> the Commission should align those recommendations with the order that Consumers adopt a long-term PIPP program in this case. The Commission is also legally required to rest its decision on the record in this case, including testimony, exhibits, and briefing.<sup>81</sup> The Commission is not precluded from considering affordability or assistance programs in this case because another docket exists where these issues are also relevant.

Additionally, while Witness Braunschweig in her rebuttal testimony referenced the Commission’s Order in Case No. 21585 that “the instant rate case is not the appropriate forum for [payment assistance program] policy modifications,”<sup>82</sup> she failed to include the Commission’s following statement that “a good solution now does not need to be passed over in favor of a

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<sup>79</sup> MPSC Staff Initial Brief at 192.

<sup>80</sup> Ex. UCC-202, Staff Energy Affordability Report, at 248.

<sup>81</sup> As described above, Michigan law requires utilities to disclose as evidence the facts they rely upon, and the Commission has interpreted that to require utilities to provide “thorough, detailed, and meaningful evidence” that “costs are just and reasonable”—otherwise, the Commission’s “hands are tied.” *In re Consumers Energy Co.*, MPSC Case No. U-16794, Order (June 7, 2012), at 13 (discussing MCL § 460.6a(1)).

<sup>82</sup> Braunschweig Rebuttal Testimony at 6 TR 4611 (quoting MPSC Case No. U-21585, Order (Mar. 21, 2025), at 391).

potentially better solution later.”<sup>83</sup> While a long-term PIPP program would be a significant change to existing assistance offerings, MPSC Staff’s Affordability Report and the Company’s PIPP report<sup>84</sup> provide the kind of factual basis that did not exist when MNSC brought its proposal in Case No. U-21585.<sup>85</sup> Additionally, the Company did not hold back on its proposal to increase the LIA credit or expand eligibility under the SPP to await the results of further discussions in workgroups or resolutions in other dockets.<sup>86</sup> Given that the Company is open to modifying LIA and SPP, which are assistance programs, the Commission can and should consider other beneficial modifications to assistance programs in the instant rate case, rather than doing little while it waits for a potentially better solution.

Therefore, the instant rate case is a necessary setting for addressing affordability. Given the significant benefits discussed in UCC’s initial brief and above,<sup>87</sup> the Commission should order the Company to adopt a PIPP program and take all other available steps to resolve the affordability crisis.

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<sup>83</sup> *In re Consumers Energy Co.*, MPSC Case No. U-21585, Order (Mar. 21, 2025), at 391 (citing Case No. U-21291, Order (Nov. 7, 2024), at 207–08).

<sup>84</sup> *See generally* Ex. UCC-38, CONSUMERS ENERGY CO., CONSUMERS ENERGY PIPP PILOT PROGRAM (PERCENTAGE OF INCOME PAYMENT PLAN) (2025).

<sup>85</sup> *See In re Consumers Energy Co.*, MPSC Case No. U-21585, Order (Mar. 21, 2025), at 387-92 (discussing MNSC’s proposal for a PIPP program and finding the PIPP pilot should be completed before considering expansions or changes to the program).

<sup>86</sup> Consumers Energy Company Initial Brief at 446.

<sup>87</sup> *See* UCC Initial Brief at 32–41 (arguing that discussion of a PIPP is relevant to this proceeding and that the Commission should require the Company to develop and implement a PIPP).

**B. The Commission Should Consider Consumers’ Poor Reliability and Continued Outages in Light of Their Disproportionate Impacts on Environmental Justice Communities.** (*Issue III.A.1. Distribution Capital Expenditures, Issue VIII. Other Issues, Issue VIII.A. Distribution Investment Recovery Mechanism, Issue VIII.B. Distribution System Planning and Analysis, Issue VIII.H. Virtual Power Plants*)

Aspects of the Company’s recent regression analysis reveal inequities in reliability that affect EJ communities.<sup>88</sup> While the Company has proposed positive steps to address these disparities such as through the Vulnerable Communities Resiliency Plan (VCRP),<sup>89</sup> as UCC explained in its initial brief, the Company can and should do more by providing more concrete implementation plans over a longer time period for the VCRP for public understanding and feedback,<sup>90</sup> facilitating the deployment of distributed energy resources (DERs), especially in EJ communities,<sup>91</sup> addressing the impacts of extreme weather events on reliability and household health, especially for LMI customers,<sup>92</sup> and making GIS data on reliability more accessible to general members of the public.<sup>93</sup> Even if, for the sake of argument, the Company is correct that some reliability problems in EJ communities are “isolated local issues,”<sup>94</sup> the Commission must bear in mind when assessing reliability issues that poor reliability of any sort has a disproportionate impact on low- to moderate-income households, which do not have the resources of wealthier households to replace food or medicine easily, find alternative sources of power or shelter, or otherwise cope with outages.<sup>95</sup>

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<sup>88</sup> UCC Initial Brief at 72 (citing Kelly Rebuttal Testimony at 3 TR 1619).

<sup>89</sup> *See id.* at 72–73 (recognizing positively the Company’s plans to make incremental investments with the goal of achieving equity in reliability in EJ communities within ten years).

<sup>90</sup> *Id.* at 75–77.

<sup>91</sup> *Id.* at 77–83.

<sup>92</sup> *Id.* at 84–95.

<sup>93</sup> *Id.* at 95–99.

<sup>94</sup> *See* Consumers Energy Company Initial Brief at 438.

<sup>95</sup> *See* UCC Initial Brief at 64–67 (citing Cira-Reyes Direct Testimony at 3 TR 2322–23, Williams Direct Testimony at 3 TR 2384–88).

Inequities in EJ communities become particularly stark when reliability data is assessed based on multiple metrics. As CEO notes favorably in its initial brief, the Company has measured reliability performance based on overall “system average interruption duration” (SAIDI), as well as SAIDI without “major event delays” (MEDs), such as extreme weather events.<sup>96</sup> While SAIDI demonstrates “typical, or day-to-day, reliability for customers,” MEDs “helps us understand the Company’s resiliency for responding to all types of outages, especially from storms.”<sup>97</sup> As MPSC Staff, ABATE, and CEO show, assessing reliability using the Company’s SAIDI *with* MEDs, or “all-weather,”<sup>98</sup> metric is critical. ABATE notes that the Company’s reliability performance is lower when MEDs are included<sup>99</sup> and that overall, the Company’s reliability performance based on the SAIDI with MEDs metric ranks “near the bottom” when “compared [to] its peer utilities over the last five years.”<sup>100</sup> ABATE and MPSC Staff argue that the Company’s use of data on SAIDI *without* MEDs to assess the impact of its investments is selective and can be misleading.<sup>101</sup> According to ABATE’s analysis using the SAIDI with MEDs metric, the Company’s investments in distribution plant additions have not translated into meaningful reliability gains for customers.<sup>102</sup>

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<sup>96</sup> CEO Initial Brief at 14 (citing Shaver Direct Testimony at 4 TR 3255–56).

<sup>97</sup> *Id.* at 14 (quoting Tan Direct Testimony at 4 TR 3228), 21 (“Witness Kelly explains that the Company includes MEDs in this case “to account for the actual experience of customers on EJ Circuits.”” (quoting Shaver Direct Testimony at 4 TR 3256 (quoting Kelly Direct Testimony at 3 TR 1444))).

<sup>98</sup> ABATE Corrected Initial Brief at 14.

<sup>99</sup> ABATE notes that based on the Utility Distribution Audit of Consumers Energy prepared by the Liberty Consulting Group in MPSC Case No. U-21305, “the Company’s SAIDI and CAIDI metrics for 2022 and 2023 were in the 4th quartile, including MEDs, and the 3rd quartile, excluding MEDs.” *Id.* at 10 (citing Audit Part I at 71).

<sup>100</sup> Based on the SAIDI with MEDs metric, “the average Consumers’ customer experienced approximately 339 minutes more of outages per year than the average Investor Owned Utility customer in Michigan, Indiana, Wisconsin, and Ohio.” *Id.* at 10–11.

<sup>101</sup> *Id.* at 13 (stating that “[t]he Company’s claim that reliability is improving is based on a curated perspective of its data, selectively focusing on SAIDI excluding MEDs, while ignoring the more critical all-weather SAIDI metric that reflects the actual experiences of its customers”) (citing Kelly Direct Testimony 2 TR 947–50, 1144–50); MPSC Staff Initial Brief (Dec. 5, 2025) at 174.

<sup>102</sup> ABATE Corrected Initial Brief at 12 (noting that “the Company’s capital expenditures for distribution plant additions increased approximately \$287 million (49%) between 2020 and 2024 without any

SAIDI without MEDs data also obscures performance inequities in EJ communities, as CEO shows.<sup>103</sup> According to the Company’s analysis, a majority of EJ communities performed well—62% of the circuits fell in the first and second quartiles—in SAIDI without MEDs.<sup>104</sup> However, analysis of SAIDI with MEDs showed that “half of the same circuits performed poorly.”<sup>105</sup> The analysis also showed that EJ tracts experienced worse reliability compared to similarly situated non-EJ tracts.<sup>106</sup>

In addition to focusing on the right metrics, such as SAIDI with MEDs, it is important to understand the impacts of poor reliability on EJ communities with respect to health, finances, access to food, and housing. For example, as UCC showed in its initial brief, unreliable electricity service can create life-threatening risks for customers living in EJ communities.<sup>107</sup> Witness Williams, whose daughter has severe asthma, testified that she has “worried all through her life about what would happen if my daughter had a medical need while the power was out,” given that her daughter’s medication requires refrigeration and that her daughter’s nebulizer, a tool for treating asthma, requires electricity.<sup>108</sup> Drawing on expert research and his own experience in communities, witness Cera-Reyes also explained that power outages in EJ communities can cause health impacts and financial strain and frequently lead to food and medicine spoilage, hotel stays, and home repairs, all of which increase costs for impacted customers.<sup>109</sup> Power outages caused by

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discernable improvement trend in the Company’s SAIDI with MEDs metric”) (citing Fitzhenry Direct Testimony 6 TR 3713–19); MPSC Staff reiterates this point. *See* MPSC Staff Initial Brief at 174.

<sup>103</sup> CEO Initial Brief at 16.

<sup>104</sup> *Id.* (citing Ex. A-129 at 46).

<sup>105</sup> *Id.* (citing Ex. A-129 at 48).

<sup>106</sup> *Id.*

<sup>107</sup> *See* UCC Initial Brief at 64.

<sup>108</sup> *Id.* at 64 (quoting Williams Direct Testimony at 3 TR 2385).

<sup>109</sup> *Id.* at 65 (citing Cera-Reyes Direct Testimony at 3 TR 2322–23; Ex. UCC-49, Joan A. Casey et al., *Power Outages and Community Health: A Narrative Review*, 7 CURRENT ENV’T HEALTH REPS. 371 (2020), at 6–9; Ex. UCC-50, Patrick Madamba, *How Do Power Outages Affect Households?*, U.S. CENSUS BUREAU (Oct. 2, 2024) at 3).

extreme weather events create dangerous conditions for vulnerable customers who lack the resources to cope.<sup>110</sup> Williams noted that she cannot afford a generator and during a power outage last winter, she “was very worried about being without power for a long time” when “it was very cold.”<sup>111</sup>

To ensure that reliability inequities are addressed and investments have meaningful results, the Company must focus on reliability inequities revealed by SAIDI with MEDs data. Furthermore, the Company and the Commission must understand this data in the context of the disproportionate impact that poor reliability has on low-income communities compared to wealthier communities, even if both communities have the same level of reliability. This is also why the Commission should require the Company to take the steps that UCC recommends with regard to investments in the VCRP, facilitating DER deployment, addressing the impacts of extreme weather on reliability and household health, and making reliability data more publicly available and understandable.

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<sup>110</sup> *Id.* at 65.

<sup>111</sup> *Id.* at 65–66 (quoting Williams Direct Testimony at 3 TR 2387–88).

**C. The Commission Should Order a Disconnection Moratorium While the Company Investigates Racial Disparities in Disconnection Rates.** (*Issue VIII.E. Disconnection Regression Analysis*)

The Company’s regression analysis revealed an alarming pattern of racial disparities in residential shutoff rates “even when [p]ercentage [b]elow [p]overty and [u]nemployment [r]ate are included in the model.”<sup>112</sup> The Company initially stated that it would complete an assessment of these results in September 2025,<sup>113</sup> but it later extended the timeline to December 31, 2025.<sup>114</sup> Meanwhile, the Company has not explicitly committed to a specific time by which it will implement countermeasures or change the policies and practices that have led to racial disparities in shutoffs.<sup>115</sup>

The Company’s actions fail the just and reasonable and comparable treatment standards by producing demonstrable racial disparities in shutoff rates.<sup>116</sup> The Company’s data shows that BIPOC customers have already experienced unjust and unreasonable shutoffs.<sup>117</sup> Even if the Company identifies the problematic practices by the end of 2025, which is by no means assured, BIPOC customers will still experience additional months of unjust and unreasonable shutoffs until the Company develops and implements the countermeasures or changes its policies and practices. To ensure that racially disparate shutoffs do not occur during the period of investigation and proposal for corrective action, the Commission should order the Company to halt shutoffs while it investigates the cause and develops a comprehensive remedial plan. As CEO affirms in its initial

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<sup>112</sup> UCC Initial Brief at 68 (quoting Ex. A-138 at 34).

<sup>113</sup> *Id.* at 69–70 (citing Ex. UCC-51, Consumers Electric’s Response to UCC’s First Discovery Request, U21870-UCC-CE-0233, at 3).

<sup>114</sup> *Id.* at 70 (citing Byrom Rebuttal Testimony at 3 TR 967.77).

<sup>115</sup> Consumers Energy Company Initial Brief at 448–49 (“Based on the results, the Company would be open to having further conversation on revisiting the regression analysis *within an aligned timeframe*.... Through these efforts, Consumers Energy intends to *identify* causes, impact, and effective countermeasures to address the analysis and will provide relevant updates as the process is completed.” (emphasis added)).

<sup>116</sup> See MCL § 460.557(4); see also UCC Initial Brief at 69.

<sup>117</sup> *Id.* at 68 (citing Ex. A-138 at 34).

brief, by instituting a temporary shutoff moratorium, “the Company can take action now to ensure that this concerning relationship [between BIPOC populations and increasing disconnection rates] does not perpetuate any further inequality.”<sup>118</sup>

The Company contends in its initial brief that “requiring the Company to stop disconnections entirely would not have the desired effect,” because “[a] disconnection moratorium would not stop customers from accruing bills and could put customers in a position for their energy bills to become unaffordable due to past due balances.”<sup>119</sup> The Company further notes that a shutoff moratorium “could prevent some customers from receiving funding assistance to help make their bills more affordable.”<sup>120</sup>

UCC clearly does not want customers to be in a worse position due to a temporary shutoff moratorium. But the Company does not explain in its initial brief or elsewhere why a temporary shutoff moratorium would render balances unaffordable,<sup>121</sup> lead customers not to pay their bills,<sup>122</sup> or prevent customers from receiving funding assistance.<sup>123</sup> With respect to the last consideration, to the extent that accrued arrears, for example, could impact eligibility for affordability assistance,<sup>124</sup> the Company should, within its legal authority, waive any arrears caps or other potential triggers that would negatively affect eligibility for affordability programs. Additionally,

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<sup>118</sup> CEO Initial Brief at 25.

<sup>119</sup> Consumers Energy Company Initial Brief at 448.

<sup>120</sup> *Id.*

<sup>121</sup> *See id.* (stating that a disconnection moratorium could make energy bills unaffordable for customers due to past due balances). *But see* UCC Initial Brief at 71 (noting that “[i]f the Company is concerned about unpaid balances due to a shutoff moratorium, it could and should take additional measures, such as implementing a payment plan that forgives arrears, to address these potential secondary impacts. If the Company is concerned about impacts to its own financial health, the Commission ultimately allows the Company to charge uncollected bills to the rate base, so the Company would not suffer financially over the long term.” (internal citations omitted)).

<sup>122</sup> *See* Consumers Energy Company Initial Brief at 448. It would be revealing and regrettable if the Company’s position is that customers do not pay their bills unless they face the threat of a shutoff.

<sup>123</sup> *See id.*

<sup>124</sup> *See id.*; *see also* Ex. UCC-202 Staff Energy Affordability Report at 24 (outlining the arrears requirements, caps, and forgiveness programs for energy assistance payment plans).

the Commission should order a pause in arrears accrual or, at the very least, suspend any caps or other triggers related to arrears that may threaten a customer's access to affordability programs. In other words, the Company and the Commission should develop solutions to manage the potential side effects of the temporary moratorium, rather than assuming the Company's only solution is to continue shutting off power, given the racially disparate impact in shutoffs.

The Company has known about this issue since September 2024, when CEO Witness Tan initially conducted a regression analysis on shutoffs that revealed racial disparities,<sup>125</sup> but it has not taken proactive steps to mitigate ongoing or potential harm to BIPOC communities during this time and has extended the analysis period.<sup>126</sup> There is no reason to believe that harms have not continued to occur in the sixteen months since Witness Tan demonstrated this problem. Harms will continue to occur, and they are too great for the Company and the Commission not to take action now. Thus, the Company and Commission should implement any temporary moratorium within their legal authority that does not impede the access of qualifying customers to assistance. Where there may be an impediment to accessing assistance, the Company should be required to assess and implement mitigation measures within its authority to do so (e.g., pausing arrears accrual).

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<sup>125</sup> See *In re Consumers Energy Co.*, MPSC Case No. U-21585, Tan Direct Testimony (Sep. 26, 2024), at 16–19.

<sup>126</sup> UCC Initial Brief at 69–70 (noting that the Company has merely offered to stand up a cross-functional team to address these issues, has not changed or committed to change the policies contributing to racial disparities in shutoffs, and has moved the completion date for its “problem-solving process” from September 24, 2025, to December 31, 2025 (citing Ex. UCC-51, Consumers Electric’s Response to UCC’s First Discovery Request, U21870-UCC-CE-0233, at 3; Byrom Rebuttal Testimony at 3 TR 967.77)).

**D. The Commission Should Order Increased Reporting and Transparency Related to IRM Expenditures.** (*Issue VIII. Distribution Investment Recovery Mechanism, VIII.B. Distribution System Planning and Analysis*)

UCC does not oppose the Company’s IRM request,<sup>127</sup> but to ensure that the IRM is accountable, transparent, and equitable, the Commission should order increased reporting, track the reconciliation process in Case No. U-21918, and proceed cautiously before extending the IRM through April 2028.<sup>128</sup> UCC recognizes that spending, execution, and equity issues associated with the current IRM are being examined in the ongoing reconciliation process in Case No. U-21918. UCC appreciates that the Company is investing in EJ communities<sup>129</sup> and that “the Company is seeking to include the VCRP in its IRM proposal in this case to ensure that the IRM has a positive impact on equity.”<sup>130</sup> Yet issues with the current IRM—including overspending on projects generally, underspending in particular investment areas, project delays,<sup>131</sup> and insufficient analysis on equity outcomes<sup>132</sup>—are relevant in the instant case. If they are not accounted for going forward, then there is a risk, as ABATE Witness Dauphinais observed, that the “IRM will become

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<sup>127</sup> See generally *id.* at 100–07 (discussing the IRM). MPSC Staff misstates UCC’s position in Staff’s initial brief as recommending “large IRM reductions.” MPSC Staff Initial Brief at 163 (citing Evans Rebuttal Testimony at 6 TR 4458).

<sup>128</sup> See generally UCC Initial Brief at 100–07. See also CEO Initial Brief at 23 (citing Shaver Direct Testimony at 4 TR 3262) (“Witness Shaver recognized that ‘it will be important to track the impacts, ensure that the desired outcomes are realized, and make adjustments to spending and activities, as necessary.’”).

<sup>129</sup> In the context of the proposed IRM investment in EJ communities, MPSC Staff also states that “[t]he Company should invest in these communities . . . .” MPSC Staff Initial Brief at 162. See also CEO Initial Brief at 23 (“recommend[ing] that the Commission approve the Company’s spending allocated to the Vulnerable Communities Resilience Plan in this case.”).

<sup>130</sup> Consumers Energy Company Initial Brief at 431. See also *id.* at 429 (“In addition, including the VCRP in the IRM responds to the Commission’s direction that the company should show how the IRM promotes system equity.”) (citing Kelly Rebuttal Testimony at 3 TR 1577). MPSC Staff, however, disagrees, stating that “recovery of those expenditures does not need to occur through the IRM.” MPSC Staff Initial Brief at 162 (citing Evans Direct Testimony at 6 TR 4450). While MSPC Staff states that it makes its recommendation because EJ communities have comparably good reliability, it does not explain why that purported reason justifies putting the VCRP investments in the rate base instead of the IRM. See *id.* at 162, 164; Evans Direct Testimony at 6 TR 4450.

<sup>131</sup> See UCC Initial Brief at 101–03.

<sup>132</sup> See *id.* at 104–07.

a mechanism that allows Consumers to unreasonably and greatly expand its distribution investments at the expense of its ratepayers, regardless of the need and cost effectiveness of those investments.”<sup>133</sup>

To ensure that the IRM is implemented equitably and with transparency and accountability, the Commission must track and understand the issues revealed by the reconciliation process in Case No. U-21918 and how they interact with the matters before the Commission in this case. The Commission must also reaffirm its commitment to accountability by mandating a comprehensive equity evaluation in the reconciliation process that demonstrates the actual benefits of investments in EJ communities. In any extended IRM, the Commission should also mandate quarterly reporting on project completion rates, spending versus budget, and equity outcomes. Finally, to ensure that the Vulnerable Communities Resiliency Plan (VCRP) actually has a positive impact on equity in any future IRM, the Commission should order quarterly reporting on equity outcomes that directly link the Company’s investments in EJ communities to the needs of those communities.<sup>134</sup>

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<sup>133</sup> Dauphinais Direct Testimony at 6 TR 3648.

<sup>134</sup> UCC also supports the recommendations made by CEO witness Shaver in this regard, which are consistent with UCC’s requests. *See* CEO Initial Brief at 23 (citing Shaver Direct at 4 TR 3262–63).

**E. The Commission Should Require Transparent, Frequent Reporting on the Implementation and Efficacy of the LMI Customer Support Enhancement Project and Improved Community Engagement More Generally.** (*Issue III.A.8. Customer Experience and Operations Capital Expenditures, VIII.D. Customer Assistance Programs and Affordability*)

While the LMI Customer Support Enhancement project has laudable goals, regular reporting on the efficacy of this project is required to ensure that it benefits LMI customers through increased enrollments and increased assistance, on average. As described in detail in UCC’s initial brief, Consumers Energy has failed to sufficiently engage with LMI customers on key issues of affordability, reliability, and environmental justice.<sup>135</sup> Despite the launch of the LMI Customer Support Enhancement project, LMI customers continue to face hurdles in accessing payment assistance. Furthermore, a disproportionate focus on technology in this project as a mode of engaging with customers can create barriers for particularly vulnerable customers<sup>136</sup> and should not substitute for meaningful community engagement, including through environmental justice organizations.

The LMI Customer Support Enhancement project is intended to help LMI customers understand what payment assistance programs they are eligible for and ease the enrollment process.<sup>137</sup> The Company states the four goals of the LMI Customer Support Enhancement Program are: “Simplified Enrollment,” “Proactive Communication and Community Awareness,” “New and Improved LMI Offerings,” and “Continuous Improvement and Feedback.”<sup>138</sup> In its initial brief, the Company further notes “five key elements the project will deliver: (i) enhancing energy equity; (ii) addressing risks of unpaid bills and service disconnections; (iii) build trust with LMI customers; (iv) reduce the bill and energy burden on low-income families; and (v) engage

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<sup>135</sup> See UCC Initial Brief at 117–19.

<sup>136</sup> *Id.* at 112–13.

<sup>137</sup> Consumers Energy Company Initial Brief at 155.

<sup>138</sup> *Id.* at 157–59.

LMI household not just in bill assistance programs but also with clean energy solutions.”<sup>139</sup> In response to questions from both MPSC Staff and UCC, the Company asserts that this project is modernizing the Company’s approach.<sup>140</sup> As evidence of the program’s efficacy, the Company asserts that 78,000 customers, 52,000 of which identify as LMI, have engaged with the tool, that “[o]f the 52,000 customers who have interacted with the tool roughly 35% completed the full eligibility assessment, successfully identifying one or more programs for which they may qualify,” and that 25,000 customers have completed the enrollment flow, “nearly 20% [of which] have enrolled in more than one offering.”<sup>141</sup> The Company further justifies increased spending on the LMI project because the Commission has indicated that it “found value” in the project.<sup>142</sup>

As described in UCC’s initial brief, UCC is concerned with the lack of clear data on the program’s impact in helping to address the affordability crisis faced by LMI customers since its launch in December 2024.<sup>143</sup> Community witness testimony demonstrates that customers are unaware of this program and have continued to face enrollment barriers and communication challenges.<sup>144</sup> The Company has not provided details on all of the assistance programs that the customers who interfaced with the tool have enrolled in—such as their primary assistance program, CARE MB, or how engagement helps customers who are in a crisis.<sup>145</sup> Furthermore, the increased focus on technology as a platform for customer engagement has the potential to create barriers for customers with disabilities, who often seek assistance via phone or human interaction, and other vulnerable individuals, including those who may not have reliable internet access.<sup>146</sup>

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<sup>139</sup> *Id.* at 156.

<sup>140</sup> *Id.* at 160.

<sup>141</sup> *Id.* at 159.

<sup>142</sup> *Id.* at 156.

<sup>143</sup> UCC Initial Brief at 110.

<sup>144</sup> *Id.* at 110–13.

<sup>145</sup> *Id.* at 113.

<sup>146</sup> *See id.* at 112–13.

While the LMI Customer Support Enhancement project’s stated goals are a step in the right direction given the scale of the ongoing affordability crisis and its impacts on LMI customers,<sup>147</sup> greater reporting on the project’s efficacy would help show the incremental value it brings to customers.

MPSC Staff in its initial brief takes issue with the LMI Customer Support Enhancement project, requesting that the Commission reduce expenditures for low moderate income (LMI) customer support enhancements by \$1,870,000.<sup>148</sup> Staff “does not support the expenditures for this project as it is unclear to Staff how this program will actually assist customers who are identified as low or moderate income.”<sup>149</sup> Staff contends that “nothing this project provides has been shown to increase customers’ experience or enhance financial stability” and that the four elements of the program simply “aggregate and reorganize information on the Company’s website to direct LMI customers” to information about customer assistance programs.<sup>150</sup> The core concern from MPSC Staff appears to be about additional expenditures to connect customers to information that is allegedly neither new nor “proven to actually help customers who are at or near crisis.”<sup>151</sup> Staff further takes issue with the limited number of customers who have completed the enrollment flow or eligibility assessments,<sup>152</sup> as well as the Company’s statements that streamlining processes for finding and enrolling in assistance programs will provide a robust and sustainable support system for those in need.<sup>153</sup> “The Company did not do its due diligence on this project and . . . missed

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<sup>147</sup> *See id.* at 14–18.

<sup>148</sup> MPSC Staff Initial Brief at 41.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.* at 41–42.

<sup>151</sup> *Id.* at 42.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.* at 43.

opportunities to seek information from its own low moderate income customers regarding what will help them in the long run.”<sup>154</sup>

While UCC shares some of MPSC Staff’s underlying concerns, UCC requests, at this time, that the Commission order greater transparency and reporting to allow for assessment of the efficacy of the LMI Customer Support Enhancement project. To be clear, UCC is not asking for a reduction in the recoverable expenses associated with this project but rather for increased transparency and information that show the benefits of the current requested expenditures. UCC agrees with some of MPSC Staff’s process and substantive concerns regarding the project. The Company could and should have consulted its own low- and moderate-income customers, conducted sufficient due diligence, and designed the program to work towards long-term affordability goals. Accountability and transparency are necessary to ensure that this effort adds incremental value to the lives of LMI customers. To the extent that continued and ongoing reporting shows that the LMI Customer Support Enhancement project is not making meaningful progress towards its stated goals, UCC reserves the ability to request further action from the Commission to change, scale, or otherwise modify both the LMI Customer Support Enhancement project and the Company’s broader community outreach efforts in future rate cases.

To ensure the tool is “delivering on its intended purpose,”<sup>155</sup> the Commission should order the Company to report publicly on a quarterly basis on the benefits delivered to all customers, particularly LMI customers, and the costs incurred to secure those benefits, including specific enrollment metrics for payment assistance programs and benefits delivered to LMI households.<sup>156</sup> Reporting should include: (1) the number of new LMI customers enrolled in payment assistance

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<sup>154</sup> *Id.* at 43–44.

<sup>155</sup> Byrom Direct Testimony at 3 TR 967.32.

<sup>156</sup> UCC Initial Brief at 114–15.

programs, (2) the average amount of assistance they and existing assistance program enrollees receive through each program, (3) funding allocated to personalized, rather than technology-forward, customer service and engagement for vulnerable populations, and (4) documented improvements based on enrollment data and customer feedback.<sup>157</sup>

In addition, as explained in detail in UCC’s witness testimony<sup>158</sup> and UCC’s initial brief,<sup>159</sup> customer engagement—even improved—does not substitute for the Company’s insufficient community engagement in environmental justice communities. Community engagement is different from customer engagement in that it focuses on lasting relationships to benefit an entire community within the context of a shared vision rather than an individual customer’s immediate needs.<sup>160</sup> The Company claims in its initial brief that it is “very active in the community and works with community leaders and assistance organizations across the state . . . .”<sup>161</sup> A dedicated outreach energy assistance staff member connects with approximately 25 new organizations each month.<sup>162</sup>

Despite the Company’s claims, community witness testimony highlights the need for more direct engagement with environmental justice community organizations. One UCC witness testified that they have not seen the Company “show any interest in . . . community input.”<sup>163</sup> Another witness testified about the connections that EJ organizations have in their communities; the expertise they can contribute about their communities’ concerns about energy affordability, reliability, and the energy transition; and the need for the Company to engage in meaningful

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<sup>157</sup> *Id.* at 115.

<sup>158</sup> *See generally* Cirra-Reyes Direct Testimony at 3 TR 2346–54 (discussing community engagement); Williams Direct Testimony at 3 TR 2399–400.

<sup>159</sup> *See* UCC Initial Brief at 117–20.

<sup>160</sup> *See* Cirra-Reyes Direct Testimony at 3 TR 2346.

<sup>161</sup> Consumers Energy Company Initial Brief at 442.

<sup>162</sup> *Id.*

<sup>163</sup> Williams Direct Testimony at 3 TR 2400.

dialogue with EJ communities, rather than just presenting information to them one way.<sup>164</sup> Thus, for the reasons explained in further detail in UCC’s initial brief, the Commission should require that the Company proactively reach out to EJ communities, offer accessible opportunities for dialogue on affordability and reliability issues, and report on the feedback the Company is receiving from community members and how it is addressing that feedback.<sup>165</sup>

[The next section starts at the top of the next page]

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<sup>164</sup> See Cira-Reyes Direct Testimony at 3 TR 2347–49, 2351–54.

<sup>165</sup> UCC Initial Brief at 120.

**F. The Commission Should Deny Consumers Energy’s Request to Recover its Discretionary Corporate Membership Dues Because the Company Failed to Provide Sufficient Evidence of Benefits to Ratepayers and Several of its Memberships Undermine Ratepayers’ Interests and Rights. (*Issue V.C. Other O&M Expense*)**

Consumers Energy has failed to meet its burden under Michigan law to show that ratepayer recovery for its discretionary corporate membership dues would be “just and reasonable.”<sup>166</sup> An electric utility seeking a rate increase must include sufficient evidence in its initial application to demonstrate that its rates are “just and reasonable.”<sup>167</sup> This requires reasonability in recovered costs that are charged to customers through those rates. Both the Michigan Constitution and the state’s Administrative Procedure Act clarify that this is a demanding evidentiary burden, as all Commission orders must be supported by “competent, material, and substantial evidence.”<sup>168</sup> In the instant case, the Company’s requested recovery of \$830,705 in corporate membership fees<sup>169</sup>—\$770,775 of which is to Edison Electric Institute (EEI) alone<sup>170</sup>—is not just and reasonable and is not supported by competent, material, and substantial evidence. As UCC demonstrated in its initial brief,<sup>171</sup> Consumers did not provide in its application the information necessary to justify recovery from ratepayers, failed to provide sufficient evidence of benefits to ratepayers, and is asking for recovery of several discretionary memberships that advocate contrary to ratepayer interests and that violate ratepayers’ First Amendment rights under the U.S. Constitution.

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<sup>166</sup> MCL § 460.557. Furthermore, relevant case law points to a standard of reasonableness and prudence for recouped utilities costs. “[A]s explained by the PSC, a utility ‘simply recoups’ reasonable and prudent operation and maintenance expenses . . . .” *In re DTE Electric Co.*, 2021 WL 743782, at \*3–4 (Mich. Ct. App. Feb. 25, 2021). Or, put simply, “[t]he ratemaking process requires a determination by the PSC of what utility costs and expenses are reasonable and prudent.” *Ford Motor Co. v. Pub. Service Comm’n*, 221 Mich. App. 370, 385 (1997).

<sup>167</sup> MCL § 460.557.

<sup>168</sup> MCL § 24.285; Const 1963, art 6, § 28, cl 2; *see also Dowerk v. Charter Twp. of Oxford*, 233 Mich. App. 62, 72 (1998) (defining “substantial evidence” as “evidence that a reasonable person would accept as sufficient to support a conclusion”).

<sup>169</sup> UCC Initial Brief at 121 (citing Foster Revised Rebuttal Testimony at 5 TR 3374).

<sup>170</sup> Ex. UCC-68 at 1.

<sup>171</sup> *See generally* UCC Initial Brief at 121–44, 148.

**1. Consumers Energy Failed to Provide Sufficient Evidence of Discretionary Corporate Memberships and Tangible Benefits to Ratepayers.**

The Company did not include the substantive evidence in its initial application or at any time in this proceeding necessary to support its request for recovery of discretionary membership dues. As described in detail in UCC’s initial brief,<sup>172</sup> the Company did not include any reference to the \$830,705 it seeks recovery for in its initial application. In discovery, the Company pointed only to a few words of testimony and two line items of an exhibit in its application as evidence of its requests for recovery.<sup>173</sup> In its initial brief, the Company did not disagree with UCC’s recommendation that the Commission require the Company to provide additional details related to corporate memberships in future rate applications and expressed its willingness to provide that information in the future.<sup>174</sup>

And yet, in response to UCC’s assertions that the Company has failed to provide sufficient information on the costs and benefits of these memberships to ratepayers to justify recovery in this case, the Company asserts that the “evidence that UCC is looking for is clearly included in the initial filing.”<sup>175</sup> The Company relies on Workpaper WP-PDD-18, which discloses “the dues, donations, and lobbying costs disallowed for recovery . . . .”<sup>176</sup> The Company also mentions its discovery request responses to UCC.<sup>177</sup>

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<sup>172</sup> See UCC Initial Brief at 122–25.

<sup>173</sup> See UCC Initial Brief at 123 (“The Company pointed to two lines of Witness Foster’s testimony, which simply mentioned “trade association dues and memberships” and “Administrative and Other – These costs are primarily for Edison Electric Institute dues,” respectively. The accompanying exhibit referenced in response to discovery merely included two line items labeled “Sustainability & External Affairs” and “Administration & Other-Electric Portion,” respectively.” (internal citations omitted)); see also Ex. UCC-68, Consumers Electric’s Response to UCC’s First Discovery Request, U21870-UCC-CE-0236\_ATT\_1 (referencing Witness Foster’s testimony on page 4, line 4 and page 5, lines 29–30 and Ex. A-91, lines 2 and 11).

<sup>174</sup> Consumers Energy Company Initial Brief at 356.

<sup>175</sup> *Id.* at 357.

<sup>176</sup> *Id.* (quoting Foster Revised Rebuttal Testimony at 5 TR 3372).

<sup>177</sup> *Id.*

But pointing to Workpaper WP-PDD-18 does not cure the failure of the Company's initial application. The Company discusses Workpaper WP-PDD-18 for the first time in its rebuttal testimony, not in its initial application.<sup>178</sup> The Company never entered this workpaper as an exhibit, even in its rebuttal testimony.<sup>179</sup>

Moreover, UCC addresses the deficiencies of Workpaper WP-PDD-18 and discovery request responses regarding corporate membership benefits in significant detail in its initial brief.<sup>180</sup> Numbers and data in the workpaper did not match the dollar amounts reported in discovery response requests.<sup>181</sup> The Company did not convert specific figures in the workpaper to the test year, and it included some organizations in the workpaper but not in the discovery request responses.<sup>182</sup>

Additionally, Consumers has on the whole failed to provide evidence of sufficient, concrete benefits of these memberships to ratepayers which would justify recovering costs from ratepayers. In a previous Commission order related to recovery of discretionary corporate membership expenses of another utility, DTE Electric, the Commission ordered that "DTE Electric shall provide in its next general rate case a detailed description of how these organizations *specifically* impact/benefit customers . . . , which will convey [the utility's] roles and responsibilities in advancing ratepayer interests through its participation in each organization."<sup>183</sup> Presumably, the

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<sup>178</sup> UCC Initial Brief at 123.

<sup>179</sup> *Id.* (citing Foster Cross Examination at 5 TR 3379).

<sup>180</sup> *See* UCC Initial Brief at 122–32.

<sup>181</sup> *Id.* at 123–24.

<sup>182</sup> *Id.* If the Company had different definitions of what counted as a corporate membership, it never explained that. Nowhere in the initial application, discovery responses, or rebuttal testimony did the Company explain what constitutes a corporate membership and what constitutes a different type of membership. *Id.* at 124.

<sup>183</sup> *In re DTE Electric Co.*, MPSC Case No. U-21297, Order (Dec. 1, 2023) [hereinafter U-21297 Order], at 221. *See also In re DTE Electric Co.*, MPSC Case No. U-21860, PFD (Dec. 22, 2025), at 473–75 (holding that DTE failed to provide information sufficient to meet the requirements set forth by the Commission and recommending disallowance of recovery of its requested discretionary corporate membership dues).

Commission believed that this is the kind of information necessary to meet “substantial evidence” standard required by state law to justify continued recovery of the utility’s discretionary memberships.<sup>184</sup>

In this case, the Company failed to provide specific benefits to Customers in its application, in discovery request responses, and in rebuttal testimony. As described in UCC’s initial brief, in its initial application, “the Company did not provide a list of organizations for which it was seeking recovery, did not specify the requested amount for all corporate memberships or any particular corporate membership, and failed to provide any concrete benefits associated with any membership.”<sup>185</sup> In subsequent discovery and rebuttal testimony, the Company’s offered lists of benefits were neither tangible nor detailed enough to warrant recovery from ratepayers.<sup>186</sup> In rebuttal testimony, the Company provided four “broad” categories of benefits that memberships supposedly provide, followed by seven examples of how EEI membership allegedly benefits customers.<sup>187</sup> UCC’s initial brief addresses each broad category and description provided by the Company in discovery and rebuttal testimony and describes the intangible nature of each.<sup>188</sup> As one example, the Company lists “benchmarking” as a benefit, but fails to provide information on how “benchmarking” information is superior to publicly available information, or how benchmarking studies affect a specific operation, decision, or policy that impacts and benefits ratepayers.<sup>189</sup> The Company furthermore has taken no efforts to calculate the monetary value of

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<sup>184</sup> MCL § 24.285; Const 1963, art 6, § 28, cl 2.

<sup>185</sup> UCC Initial Brief at 126.

<sup>186</sup> *Id.* “With the sole exception of a specific program offered by Edison Electric Institute (EEI) on ‘Mutual Assistance Coordination,’ the Company offers only broad, generic descriptions of membership benefits with no explanation of how dues are allocated among different activities or services offered by the organizations.” *Id.* at 127.

<sup>187</sup> Foster Revised Rebuttal Testimony at 5 TR 3371–74.

<sup>188</sup> UCC Initial Brief at 126–29.

<sup>189</sup> UCC Initial Brief at 127.

benchmarking to ratepayers .<sup>190</sup> None of the benefits provided by the Company offered compelling, specific benefits to ratepayers, and no monetary values of these broad benefits have been calculated.

The Company in its initial brief specifically addresses its membership dues to the Edison Electric Institute (EEI). The Company claims that

the Company clearly derives value from its EEI membership as ‘it provides a wide range of services and collaborative opportunities that directly support the Company’s ability to deliver safe, reliable, and affordable service.’ Some of these benefits include access to initiatives and knowledge sharing related to best practices for cybersecurity and technology, customer support, transportation electrification, and industry expertise and innovation in emerging technologies as well as giving the Company access to diverse suppliers and regulatory insights. As Mr. Foster stated, ‘these services are foundational to the Company’s ability to operate efficiently, respond to emergencies, and plan for the future.’ ‘EEI membership is a prudent investment that supports customer value . . . .’<sup>191</sup>

The Company, therefore, asserts that it receives value from its EEI membership.

However, as described in greater detail in UCC’s initial brief, these unquantified purported benefits fail to highlight tangible benefits to ratepayers, rather than shareholders.<sup>192</sup> For example, the Company failed to provide in its initial application, discovery responses, or elsewhere in this case specific examples of how access to information or knowledge is implemented and used within the Company to improve customer experiences.<sup>193</sup> Even more importantly, however, the Company has not attempted to quantify any of these benefits to ratepayers in monetary value—despite asking for recovery of membership fees from ratepayers.<sup>194</sup> Claims that benefits are “foundational” and

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<sup>190</sup> *Id.* at 127–28 (citing Foster Cross Examination at 5 TR 3428).

<sup>191</sup> Consumers Energy Company Initial Brief at 358 (internal citations omitted).

<sup>192</sup> *See* UCC Initial Brief at 129–31 (addressing each purported benefit’s deficiencies, including lack of information or specific examples on how the Company has used information or access provided by these memberships to improve customers’ experiences).

<sup>193</sup> *Id.*

<sup>194</sup> *See id.* at 131 (citing Foster Cross Examination at 5 TR 3430–31).

memberships are “prudent investment[s]” must be supported with evidence.<sup>195</sup> Outside of a specific program EEI offers on mutual assistance coordination, which requires an additional \$15,000 annual fee,<sup>196</sup> the Company has not identified a single specific project, initiative, or outcome that demonstrates specific customer value.<sup>197</sup>

In sum, Consumers failed to provide any substantive, concrete information about corporate memberships in its initial application and failed to demonstrate through these broad categories and descriptions how ratepayers, rather than shareholders, benefit. Critically, as discussed above, the Company confirmed that it has taken no efforts to calculate the monetary value of any of the listed benefits to ratepayers in dollars.<sup>198</sup> As a result, the Company has failed to provide “substantial evidence” of the benefits to ratepayers of these memberships to justify recovery of its discretionary corporate memberships in this case.

## **2. Forcing Ratepayers to Subsidize Anti-Ratepayer Advocacy Is Not “Just and Reasonable” and Violates First Amendment Requirements Regarding Compelled Speech.**

The Commission should not allow Consumers to recover membership dues that fund political advocacy that can undermine ratepayers’ interests. Doing so would violate the U.S. Constitution’s First Amendment’s prohibition on compelled speech.

The Company notes in its initial brief that it “agrees with [UCC Witness] Mr. Cira-Reyes that lobbying activity should not be recovered from customers and excludes costs on this basis as made clear in the Company’s initial filing.”<sup>199</sup> But the Company states that “[t]he Commission

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<sup>195</sup> Consumers Energy Company Initial Brief at 358 (quoting Foster Revised Rebuttal Testimony at 5 TR 3374).

<sup>196</sup> UCC Initial Brief at 129–30 (“Here, the Company has at a minimum identified a service to ratepayers that is unique to being a member of EEI. However, this program is a \$15,000 *additional* voluntary fee on top of the broader EEI membership fees.”).

<sup>197</sup> UCC Initial Brief at 131–32.

<sup>198</sup> *Id.* at 127–31; *see also* Foster Cross Examination at 5 TR 3430–31.

<sup>199</sup> Consumers Energy Company Initial Brief at 357.

should reject Mr. Cira-Reyes’s recommendation because a significant amount of the membership dues expense is excluded from rates and all of the expenses associated with political advocacy are as well.”<sup>200</sup> The Company rests these assertions on its exclusions of specific percentages of some membership fees and an additional overall thirty-three percent deduction on the remaining amounts, which the Company asserts is in line with the order in Case No. U-15245.<sup>201</sup>

As described in UCC’s initial brief, the Company, despite these assertions, has failed to prove with sufficient evidence that all of the expenses associated with political advocacy are excluded correctly from the requested recovery.<sup>202</sup> When calculating the amount to request for recovery, the Company first excludes specific percentages of fees that the membership organizations provide to the Company that account for their lobbying costs.<sup>203</sup> The Company does not scrutinize the amounts identified by the organizations: it does not ask for additional information to support percentages provided by the organizations, does not deploy third-party contractors to review this information, or otherwise make an independent judgment on the portion of dues that should not be passed on to customers.<sup>204</sup> The Company has not verified that there is a consistent definition of lobbying used by relevant organizations or if that definition of lobbying aligns with 26 U.S.C. § 162(e)(1), which is the standard apparently used by Consumers’ parent CMS Energy.<sup>205</sup> Even if the Company receives a “lobbying” percentage from these organizations, that

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<sup>200</sup> *Id.* at 358.

<sup>201</sup> *Id.* at 357–58.

<sup>202</sup> *See* UCC Initial Brief at 137–142.

<sup>203</sup> *Id.* *See also* Foster Cross Examination at 5 TR 3388–89, 3392–93 (noting that percentages disallowed by membership organization come from those organizations: Detroit Regional Chamber of Commerce (six percent), Michigan Chamber of Commerce (thirty percent), and EEI (sixteen percent and twenty-seven percent for specific EEI line items)).

<sup>204</sup> Foster Cross Examination at 5 TR 3395–96.

<sup>205</sup> CMS Energy’s “corporate political engagement” webpage directs readers to 26 U.S.C. § 162(e)(1) to identify “dollars used for lobbying a legislative body” related to dues. *See* UCC Initial Brief at 138 (citing Ex. UCC-205, *Corporate Political Engagement*, CMS ENERGY, at 3).

does not guarantee that none of the remaining fees go towards broader political advocacy efforts that may harm ratepayer interests.

Reducing the resulting amount by an additional thirty-three percent does not satisfy the Company's evidentiary burden. After disallowing the amount for lobbying identified by each organization, the Company then takes an additional thirty-three percent disallowance from corporate memberships. As described in UCC's initial brief, in Case U-15245, the Commission adopted a thirty-three percent disallowance "for certain trade association dues based on testimony listing just three general categories of benefits, one of which was explicitly acknowledged to exclusively benefit shareholders."<sup>206</sup> This figure was an approximation based on limited information nearly two decades ago. While it is an important step towards limiting recovery of funds that may support lobbying or political activity, the utility still bears the burden of providing substantial evidence that the remaining costs do not go towards harmful political advocacy and that they actually benefit ratepayers.<sup>207</sup> The Company's assertion in its initial brief that UCC's argument is "misleading" by "ignor[ing] the already established split for corporate association dues that the Company worked out with the Attorney General and Staff in prior cases"<sup>208</sup> is therefore unavailing. The Company is statutorily obligated to demonstrate with competent material and substantial evidence that its request is just and reasonable in *this* case.

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<sup>206</sup> UCC Initial Brief at 140 (citing *In re Consumers Energy Co.*, MPSC Case No. U-15245, MPSC Order (June 10, 2008), at 33 ("Consumers accepted the adjustments proposed by the Staff"); *In re Consumers Energy Co.*, MPSC Case No. U-15245, Midkiff-Powell Direct Testimony at 11 TR 1774 ("Staff is already providing an opportunity for the shareholders to earn a return on their investment. Therefore, Staff is disallowing 1/3 of these dues because 1/3 of the benefits are provided to the shareholder.")).

<sup>207</sup> MCL § 24.285; Const 1963, art 6, § 28, cl 2; *see also Dowerk*, 233 Mich. App. at 72 (defining "substantial evidence" as "evidence that a reasonable person would accept as sufficient to support a conclusion").

<sup>208</sup> Consumers Energy Company Initial Brief at 357.

Recovering membership fees that fund political advocacy contrary to ratepayers’ interests violates the U.S. Constitution’s First Amendment requirements regarding compelled speech. As described in UCC’s initial brief, “[c]ontrolling case law clearly establishes that forcing individuals to subsidize advocacy with which they may disagree is unconstitutional.”<sup>209</sup> Consumers is a monopoly provider of the essential service of electricity distribution, and Michigan law severely constrains the ability of customers to receive power from alternative sources.<sup>210</sup> Residential customers have no option but to pay their electric utility bills. The Company gives them no option not to pay the portion of those bills that go toward political advocacy.<sup>211</sup> No matter how large or small a customer’s contribution towards political advocacy, they have no recourse should they find corporate membership activities objectionable. This is precisely the context in which the U.S. Supreme Court has found violations of the First Amendment, i.e., individuals compelled to subsidize political advocacy with which they may disagree, with no ability to exit or withhold their funds.<sup>212</sup>

There are compelling reasons why individual customers would not want to fund the corporate memberships supported by Consumers, especially to EEI, and other state commissions have forbidden or severely limited these kinds of expenditures. EEI has an extensive history of

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<sup>209</sup> UCC Initial Brief at 133–34 (“The First Amendment to the U.S. Constitution, which was made applicable to states by the Fourteenth Amendment, bars government officials from enacting policies ‘abridging the freedom of speech.’ The U.S. Supreme Court has held consistently that freedom of speech ‘includes both the right to speak freely and the right to refrain from speaking at all.’ Political advocacy and association have long been affirmed as fundamental forms of protected speech; thus, the Court has also repeatedly held that ‘[t]he right to eschew association for expressive purposes is likewise protected.’ Finally, given that the First Amendment protects one’s right to spend money on political advocacy, the Court has also made clear that ‘compelled subsidization’ of advocacy on matters of public concern ‘seriously impinges on First Amendment rights.’” (internal citations omitted)); *see generally* UCC Initial Brief at 133–36.

<sup>210</sup> MCL 460.10a(1)(c).

<sup>211</sup> *See* UCC Initial Brief at 135 (citing Foster Cross Examination at 5 TR 3431).

<sup>212</sup> UCC Initial Brief at 134 (“... the Court has consistently prohibited organizations from using membership dues to fund advocacy when the organizations collect payments from dissenting individuals and those individuals have no way not to support the advocacy”).

advocacy against ratepayers’ interests,<sup>213</sup> such that it would make good sense that some individual customers would not want to fund EEI’s advocacy. Other state commissions have disallowed or limited recovery of similar membership costs. As described in UCC’s initial brief, the Missouri PSC established a standard that only allowed recovery for organizations engaged in political advocacy if the company includes “not only a direct quantifiable benefit to the ratepayer, but also a method for allocating the expenses between the shareholders and the ratepayers once the benefits have been quantified.”<sup>214</sup> In forty years, no portion of EEI dues have been recovered under this rule.<sup>215</sup> Kentucky, Oregon, Arizona, California, and Colorado have all taken similar measures to protect ratepayers.<sup>216</sup> These states all went above and beyond what the Commission did in Case No. U-15245 to reduce or eliminate recovery for corporate membership dues.<sup>217</sup>

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<sup>213</sup> *See id.* at 135–36 (“EEI has an extensive history of advocacy against policies that promote solar energy, including campaigns against rooftop solar and net-metering policies and funding disinformation campaigns targeting lawmakers who support solar access. EEI has opposed EPA regulations aimed at lowering power plant emissions and toxic pollutant discharges, and has advocated for bailouts to keep coal plants operating. It has advocated against legislation targeting corruption in utility regulation, and against regulations requiring corporate emissions disclosures. EEI furthers its policy goals through legal advocacy by intervening in or filing amicus briefs in support of utility lawsuits that challenge environmental protection laws and utility commission orders. EEI has engaged in extensive efforts related to both political and policy advocacy and lobbying. Many of these positions are likely opposed by many of Consumers’ customers—including, for instance, UCC Witness Cira-Reyes, who testified about the benefits of community solar.” (internal citations omitted)).

<sup>214</sup> *Id.* at 141 (citing Ex. UCC-92, *In re Evergy Missouri West, Inc.*, Missouri PSC Case No. ER-2024-0189, Giacone Direct Testimony (June 27, 2024) (excerpted), at 4).

<sup>215</sup> *Id.* (citing Cira-Reyes Direct Testimony at 3 TR 2366; Ex. UCC-92, *In re Evergy Missouri West, Inc.*, at 4).

<sup>216</sup> *Id.* at 141–42 (“In 2021, the Kentucky Public Service Commission disallowed the recovery of any portion of Kentucky Utilities’ EEI membership dues, after the utility failed to meet its burden to identify how much of its EEI dues were spent on ‘regulatory advocacy and public relations.’ Oregon has excluded trade association dues from recovery. The Arizona Corporation Commission disallowed recovery of any of Arizona Public Service Company’s EEI dues, concluding it was neither just nor reasonable. The California Public Utilities Commission in 2019 prevented more than 75% of EEI dues from being passed onto Southern California Edison’s (SCE) ratepayers, stating that SCE failed to present evidence supporting a determination of EEI’s beneficial services cost to ratepayers. And Colorado has disallowed trade association dues and lobbying fees from being paid by customers.” (internal citations omitted)).

<sup>217</sup> In its initial brief, the Company asserts that UCC excluded the 2008 Order in MPSC Case No. U-15245 from this list. Consumers Energy Company Initial Brief at 357. However, as UCC addressed in its initial brief, the 2008 Order capped the requested recovery of sixty-seven percent in that case; it did

This Commission has both the authority and the responsibility to protect ratepayers from being forced to fund political advocacy contrary to their interests. By disallowing recovery of EEI and other membership dues, and by establishing clear standards against such recovery going forward, the Commission can ensure that Consumers' customers are not made instruments of advocacy they may oppose. Shareholders, who benefit from the political activity of these membership organizations and who voluntarily invest in the Company, remain free to fund these activities. But the Company—and the Commission—should not compel captive ratepayers to subsidize private speech on contested matters of public concern.<sup>218</sup>

In line with the above reasons, UCC respectfully requests that the Commission disallow the entire \$830,705 in corporate membership dues sought by Consumers Energy. At a minimum, the Commission should disallow all costs associated with EEI membership, or limit EEI recovery to a maximum of \$15,000 for the documented mutual assistance program. In addition, the Commission should require itemized membership disclosures in future rate cases showing tangible customer benefits and clear allocation of fees between activities benefiting ratepayers and any political advocacy, lobbying, or services that primarily benefit shareholders. This requirement should be consistent with the disclosure standards established for DTE Electric in the orders in Case Nos. U-20836, U-21297, and U-21534, ensuring equal treatment of similarly-situated utilities.

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not indicate that the Company was entitled to recover sixty-seven percent. UCC Initial Brief at 140–41. The six states listed here and in UCC's initial brief disallow far more than thirty-three percent or set more stringent rules to justify recovery of dues for membership organizations. *See* UCC Initial Brief at 141–42.

<sup>218</sup> *Id.* at 142–43.

### III. CONCLUSION AND PRAYER FOR RELIEF

To address the concerns articulated above and in its initial brief, UCC respectfully reiterates its requests from its initial brief that the Commission:

(1) With respect to affordability:

- a. Sufficiently consider the evidence provided by UCC of an affordability crisis when making a rate increase determination, as is required by Michigan law;
- b. Limit any rate increase approval to the maximum extent possible, to avoid further exacerbating the existing affordability crisis;
- c. Address Consumers' discontinuation of the Percentage of Income Payment Plan (PIPP) pilot program in the instant case, and order Consumers to adopt a long-term PIPP plan;
- d. Approve Consumers Energy's requested amendments to the Low-Income Assistance (LIA) Credit;
- e. Approve Consumers Energy's requested expansion of the eligibility for the Shut-off Protection Plan (SPP);
- f. Order Consumers to conduct a comprehensive affordability analysis incorporating the Commission's definition of energy affordability every time the Company requests a rate increase; and
- g. Approve only the lowest possible ROE.

(2) With respect to reliability and environmental justice:

- a. Require the Company to (1) proactively notify all customers of their right to receive outage credits and (2) provide customers with an explanation of how outage credits are calculated and applied;

- b. Reassess the amount paid as outage credits so that they more accurately reflect the costs incurred by customers;
- c. Require the Company to emphasize reliability analyses and metrics that incorporate SAIDI with MEDs;
- d. Require the Company to perform further analysis to remedy deficiencies, such as insufficient analysis of similarly-situated communities;
- e. Require Consumers to provide a more detailed plan for the ten-year Vulnerable Communities Resiliency Plan (VCRP);
- f. Require further Company support for the deployment of Distributed Energy Resources (DERs) in EJ communities, and scrutinize closely the Company's community solar efforts in other cases such as Case No. U-21972;
- g. Order Consumers to adopt minimum extreme heat policies, including: (1) prohibiting disconnections of residential service when either: (a) the forecasted temperature will reach 90°F or above in the service area, or (b) the NWS issues a heat advisory, excessive heat watch, or excessive heat warning for the service area; (2) restricting disconnections for at least twenty-four hours before and after extreme heat events, and extending restrictions to weekends and holidays; and (3) disallowing disconnections during the summer months of June, July, August, and September. The Commission should also consider policies which (1) address affordability issues simultaneously and (2) require Consumers to make reasonable efforts to reconnect individuals who have been disconnected for nonpayment;



- a. Order the Company to report publicly on a quarterly basis on the benefits delivered to all customers, particularly LMI customers, and the costs incurred to secure those benefits as a part of the LMI Customer Support Enhancement Project;
- b. Require reporting on how Analytics and Outreach efforts directly benefit and engage with customers and how information received is analyzed and addressed;  
and
- c. Require that the Company proactively reach out to EJ communities and offer accessible opportunities for dialogue on affordability and reliability issues, including through collaboration with environmental justice organizations.

(6) With respect to corporate memberships:

- a. Disallow recovery of the entire \$830,705 in corporate membership dues sought by Consumers Energy.
- b. In the alternative and at a minimum, disallow all costs associated with EEI membership, or limit EEI recovery to a maximum of \$15,000 for the documented mutual assistance program; and
- c. Require itemized membership disclosures in future rate cases demonstrating tangible customer benefits and clear allocation of fees between activities benefiting ratepayers and any political advocacy, lobbying, or services that primarily benefit shareholders.

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Date: December 23, 2025

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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 generation and distribution of electricity and for other relief.

Case No. U-21870

ALJ Jonathan F. Thoits

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**PROOF OF SERVICE**

I, Mark N. Templeton, certify that an electronic copy of the Reply Brief of Urban Core Collective was served on the following on December 23, 2025.

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The statements above are true to the best of my knowledge, information, and belief.

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