

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

MPSC Case No. U-21870

PUBLIC

Attorney General's Reply Brief

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Dated: December 23, 2025

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INTRODUCTION

On December 5, 2025, Attorney General Dana Nessel, filed her Initial Brief in this matter before the Michigan Public Service Commission (“Commission”) responding to the Application filed by Consumer’s Energy Company seeking rate relief for its electric business. Other parties also filed Initial Briefs in this proceeding including, but not limited to Consumers Energy Company (“Consumers Energy,” “CECo” or “the Company”). This Reply Brief is being filed to respond primarily to issues raised in Consumers Energy’s initial brief. The Attorney General’s decision not to address certain issues in this Reply Brief is not a waiver of those issues. The Attorney General’s Initial Brief, testimony and exhibits should also be considered in evaluating her position on the issues appearing in this case.

Consumers Energy filed its application seeking \$436 million in rate relief for the 12-month period ending April 30, 2027 (“projected test year” or “test year) on June 2, 2025. It adjusted its revenue requirement down to approximately \$422.8 million in its initial brief, plus an additional \$24.3 million for the distribution deferral.¹ The Company is seeking a 10.25% return on equity (“ROE”).² It is also seeking an overall rate or return of 6.30% after tax,³ and an equity ratio of 50.75% for the projected test year.⁴

This Reply Brief will address the following issues:

¹ Initial Brief of Consumers Energy Company, pp. 1 and 2, and Appendix A, line 10, column (e).

² *Id.*, at pp. 2 and 193.

³ *Id.*, at p. 193 and Appendix D, page 1. *See also*, Exhibit A-21 (MRB-19).

⁴ *Initial Brief of Consumers Energy Company*, p. 193.

1. The level of the Company's proposed capital expenditures are excessive and burdensome to ratepayers.
2. The Company's cash balance is excessive.
3. The Company has failed to prove that its current equity ratio of 50.0% needs to be increased to 50.75%.
4. Consumers Energy's request for an authorized return on equity of 10.25% is excessive and it should be no more than 9.80%.

The Attorney General requests that the Commission grant the Company a rate increase that does not exceed the amount of \$160.465 million as discussed in her Initial Brief.⁵

ARGUMENTS

I. Capital Expenditures.

The Company's Initial Brief included several disagreements with the Attorney General's recommendations to disallow certain capital expenditures. The Attorney General continues to have concerns with the level of spending proposed by the Company and its ever-increasing rate base. Because the Attorney General's initial brief already addresses those issues in detail and to avoid being repetitious, she will briefly comment on certain issues raised in the Company initial brief.

A. Distribution Capital Expenditures.

⁵ Attorney General's Initial Brief, pp. 9 – 10, 196. *See also* Exhibit AG-58 as revised by Appendix A.

According to the Company, a vital component of its proposed rate increase is investment for hardening and improving its electric distribution system and to accelerate improvements in reliability and resiliency for its grid.⁶ It refers to Commission orders addressing electric distribution reliability and resiliency and argues that work necessary to realize improvements in those areas must be a priority.⁷ To support its proposed distribution capital expenditures, the Company points to its Reliability Roadmap for its plans for an electric distribution system, including updates it claims are responsive to the findings of the distribution audit performed by Liberty Consulting Group (Liberty).⁸ The goal of the Reliability Roadmap purportedly is an electric distribution system that is (1) safe, (2) reliable, (3) clean and equitable, and (4) competitive.⁹

The Company states that the Commission should recognize its progress in achieving electric reliability and that more needs to be done. It argues that the “Commission should reject suggestions to stall the work and infrastructure investments necessary to achieve the reliability customers deserve.”¹⁰ And, that it should reject proposed dramatic reductions in distribution funding based on

⁶ Initial Brief of Consumers Energy Company, p. 3.

⁷ *Id.*

⁸ *Id.* at p. 4.

⁹ *Id.* at p. 7.

¹⁰ *Id.* at p. 3.

historical funding or averages or recent actual spending when additional work needs to be done to improve reliability performance.¹¹

First, the Company must demonstrate that any forecasted capital expenditures, including for distribution programs, are reasonable and prudent. Second, moving forward without affordability considerations may not be in the best interest of ratepayers. The requested rate increase will be challenging for some ratepayers and while different types of assistance may be available to qualifying low-income customers, they are not a remedy for excessive rate increases. While operating an electric utility requires investment in capital expenditures, reasonable and prudent¹² investment must include proper planning, allocation, and prioritization. Third, the Company has been concentrating on reliability issues for a few years. Merely spending more money is not the answer. More importantly, some of the Company's proposals are not justified, and or lack support in the record that they are reasonable and prudent.

1. Responses to certain arguments raised in the Company's initial brief.

a. HVD Strategic Customers New Business

Reference to the Record - Hayward, 3 TR 1296 – 1305, Figure 58, Exhibits A-109, A-110; Hayward Rebuttal, 3 TR 1360 – 1367 and 1370;

¹¹ *Id.* at p. 4.

¹² Prudent is defined in part as (1) shrewd in the management of practical affairs, (2) provident, frugal (judicious). The Merriam Webster Dictionary, Copyright ©2016 by Merriam Webster Inc. (8th printing March 2019).

Coppola, 3 TR 2468 – 2473, Exhibit AG-15; Fitzhenry, 6 TR 3712 and 3735 – 3736, York, 6 TR 3690 – 3691, 3697, 3702.

The Company discusses its HVD Strategic New Business Program in its brief, noting among other things that it is required to provide the requested interconnections.¹³ It states that projected spending is primarily based on known or planned projects where the Company has signed an agreement with the customer committing it to the projects and project that have a high probability of moving forward in the near future. It includes projects that are in active negotiation “that are highly likely to move forward in the near future,” and that the Company must invest needs to invest in the bridge period and test year to meet customer needs.¹⁴

The Company disagreed with the Attorney General’s recommendation to remove \$7.4 million in proposed bridge period spending related to unknown high probability projects because they are placeholders.¹⁵ The Company points to the Commission order in Case No. U-21585 to support its positions. However, the issue in Case No. U-21585 involved long lead-time transformers which it also claimed could be reallocated to other substation projects in the Reliability and Capacity programs as needed which will improve reliability by supporting quicker proactive replacements of units in poor health.¹⁶ The Commission limited its decision, indicating “that this decision is not to be construed as a green light for the blanket

¹³ Initial Brief of Consumers Energy Company, pp. 34 – 37.

¹⁴ *Id.* at p. 35.

¹⁵ *Id.* See also, Attorney General’s Initial Brief, p. 26, 27 – 28.

¹⁶ Order dated March 21, 2025, Case No. U-21585, pp. 41 – 43.

stockpiling of equipment and associated expenditures in future rate cases...”¹⁷ The Commission should adopt the Attorney General’s recommendation to disallow recovery of these speculative costs.¹⁸

While the Company agreed with the Attorney General’s recommendation to disallow recovery of costs for cancelled projects in for the projected test year, it disagreed that costs for the bridge period should be removed.¹⁹ It claims that since there was a signed contract in place, the costs incurred for the subsequently cancelled project were reasonable and prudent and should be recovered from ratepayers.²⁰ It states that it is pursuing recovery from the customer of expenses incurred and will refund any amount received back to customers.²¹ The Company has its remedy, to pursue cost recovery from the customer and it is unreasonable for ratepayers to pay for capital expenditures and a return on those expenditures for a project that will never become useful to the Company or may not be recoverable from the customer for which the special contract was entered. To allow recovery of this cost from other ratepayers is cross subsidization and makes them guarantors of the Company’s bad deal. The Commission should remove the cost of these projects from recovery in this case.

¹⁷ *Id.* at p. 43.

¹⁸ Attorney General’s Initial Brief, pp. 26, 27 – 28.

¹⁹ Initial Brief of Consumers Energy Company, p. 36.

²⁰ *Id.*

²¹ *Id.* at 36 – 37.

The Commission should adopt the Attorney General’s proposed disallowances for the Company’s proposed distribution expenditures for the reasons provided above and in her Initial Brief.

B. Working Capital

1. Response to Company’s cash balance argument.

References to the Record - Bleckman, 3 TR 831 – 833, 843 - 848, Exhibit A-12 (PDD-34) Schedule B-4, Exhibit A-13 (PDD-37), Schedule C-1.1, Exhibits A-36 and A-37; Bleckman Rebuttal, 3 TR 915 – 921; Daly Rebuttal, 3 TR 1087 – 1088; Coppola, 3 TR 2506 – 2512, and Exhibits AG-33, AG-34, AG-47 CONF and AG-49 CONF; Attorney General Hearing Exhibits AG-79 and AG-80.

The Company argues that the Commission should reject the Attorney General’s proposed reduction to the Company’s cash balance.²² The Attorney General supported her recommended cash balance of \$9.0 million (a \$41.4 million reduction from the Company’s proposal) in her initial brief, however she will respond to issues raised by the Company in its brief.²³

First, the Company claims that its proposed cash balance of \$50.4 million, which is based on approximately 1% of electric revenues, reflects a normal level of cash needed to manage working capital requirements and financial risk.²⁴ According to the Company, the “1% of test year revenues method is not meant to project all future cash outflows, but is a simple, efficient, and easily calculated

²² Initial Brief of Consumers Energy Company, pp. 184 – 188.

²³ See, Attorney General Initial Brief, pp. 109 – 115.

²⁴ Initial Brief of Consumers Energy Company, pp. 184 and 185.

approach to estimate a reasonable level of cash for the Company.”²⁵ It may be normal in the sense that the Company consistently uses its illogical methodology to project a cash balance, however the methodology results in an inflated cash balance that far exceeds its cash needs. It is unreasonable to require ratepayers to pay for this inflated level for cash.

Second, the Company claims that Mr. Coppola’s suggestion to use short-term debt if cash needs exceeded cash on hand would not be a sound liquidity strategy and that it would not be good for the Company or customers to maintain a permanent layer of short-term debt to meet its payment obligations.²⁶ The Company already has a layer of short-term debt in place which provides more than enough liquidity for its utility operations. Other than allowing the Company to earn a return on the inflated amount of cash on hand to the detriment of ratepayers, there is no need for such a high cash balance.

Third, the Company also claims that cash balances affect credit ratings and quality stating that credit agencies have liquidity measures and consider the level of cash on hand as an important component for assessing the Company’s credit quality and credit rating.²⁷ S&P assessed the Company’s liquidity as adequate.²⁸ While it noted that the supportive regulatory environment provides manageable

²⁵ *Id.* at p. 186.

²⁶ *Id.* at p. 187.

²⁷ *Id.* at pp. 185 – 186.

²⁸ See Exhibit A-36, p. 11 (report page 11).

cash flow stability (not simply the cash balance), even in times of economic stress ... it stated that “CE can absorb high-impact, low probability events, in our view, as the company maintains about \$1.1 billion in committed credit facilities through 2027 ... and can likely lower its capital spending (averaging \$2.8 billion - \$3.0 billion annually) during stressful periods...”²⁹ Moody’s May 2024 credit update indicates that it expects the Company’s liquidity profile to be adequate over the next 12 – 18 months.³⁰ It also notes the Company’s external liquidity sources including a \$1.1 billion secured revolving credit facility expiring in December 2027. The Company’s credit facilities provide support for working capital needs and act as a backstop to Consumers’ \$500 million commercial paper program.³¹ While it noted that the Company’s continuing capital expenditure program and dividend policy will result in negative free cash flow for the foreseeable future, it has a reasonable amount of external liquidity, demonstrated market access, and regularly receive capital contributions from its parent.³² Finally, Fitch indicates that the Company has adequate liquidity. “

²⁹ *Id.*

³⁰ Exhibit AG-37, p. 7 (report page 7).

³¹ *Id.*

³² *Id.* See also, Moody’s May 2025 update in Exhibit AG-47 CONF, page 8 (report page 7), which contains similar analysis.

³³ The credit agencies agree with the Attorney General that the Company has more than enough liquidity from its short-term borrowing facilities. None of them indicate that the Company's proposed cash balance is required.

Fourth, the Company claims that Mr. Coppola's recommendation to reduce the cash balance by an additional \$16.1 million to account for cash invested in interest bearing securities mischaracterizes that amount as cash investment securities and should be rejected.³⁴ "While the \$16.1 million is included in interest bearing operating cash accounts, these are not cash "investments" – the cash is unrestricted and available to the Company at any time."³⁵ Assuming *arguendo* that these interest bearing accounts should not be considered investments, the Company is earning something on the account and since the money is available to the Company "at any time," the reduction is still reasonable. Even if interest on the account is included as a reduction to the Company's revenue requirement, once it is included in rate base, the Company will earn a return of nearly 10% on it.

The Company claims that a cash balance of \$9 million or 0.2% of revenues is extremely low considering the size of its business and operating cash flows. To the contrary, Mr. Coppola provides the actual cash balance needs versus the inflated amount forecasted by the Company. While the Commission has approved the

³³ Exhibit AG-49 CONF, page 4 (report page 3).

³⁴ Initial Brief of Consumers Energy Company, p. 187.

³⁵ *Id.*

Company's proposed cash balance using its 1% or revenue method, it has limited its findings to the specific case before it. In Case No. U-21806 it stated:

[I]n finding that the company sufficiently justified the use of its 1% benchmark as reasonable for setting its cash balance in this case, based on the further illumination of the evidence detailed by the company in its replies to exceptions, the Commission finds it appropriate for the company to solely be directed to do the same in subsequent cases to demonstrate why its approach in determining its working capital cash balance remains appropriate and should continue to be approved.³⁶

As discussed above, the 1% benchmark does not reflect the Company's actual cash needs and results in an inflated cash balance to the detriment of ratepayers. In addition, the Company has the means to address any cash or liquidity needs through the short-term debt facilities it already maintains.³⁷

Finally, the Company stated that if the Commission were to reject its cash balance based on its 1% of revenue benchmark, it should in the alternative use the historical 13-month average of \$36.4 million shown on its Exhibit A-12 (PDD-34), Schedule B-4, line 1, column (d).³⁸ The Commission should reject this recommendation. The \$9.0 million cash balance recommended by the Attorney General meets the cash needs of the Company in this case as discussed above and she is not recommending a change in her recommendation. Obviously, if the Commission rejects the Attorney General's \$16.1 million adjustment, the cash

³⁶ Order dated September 30, 2025, Case No. U-21806, p. 149.

³⁷ See, Attorney General's Initial Brief, pp. 110 – 112 and 114 – 115.

³⁸ Initial Brief of Consumers Energy Company, p. 188.

balance amount should be no more than \$25.1 million based on the three-year average of actual cash balances.³⁹

II. Capital Structure and Rate of Return

As noted above, the Company continues to request an equity ratio of 50.75% and a ROE of 10.25% in its initial brief.⁴⁰ According to the Company, it relies on willing investors to provide funds that finance the utility's operations and without investor money, it would be unable to purchase, maintain, and operate the plants necessary to provide utility service.⁴¹ It further claims that customers benefit from investors' financial risks that that it is appropriate to compensate them for the use of their capital. As a privately held company, Consumers has only one investor, CMS Energy. As 95% of CMS, Consumers is the workhorse that bolsters CMS's financial position. While CMS may infuse capital into the Company at will, rates paid by Consumers' customers substantially fund the capital investments, operational expenses, and return to the Company's investor.

To support its proposals, the Company discusses the Supreme Court's discussion of financial integrity and revenues "includ[ing] service on the debt and dividends on stock."⁴² The Company also refers to *Bluefield*⁴³ in its brief to support its proposals but fails to give full effect to the entirety of its holding. It states that a

³⁹ See, Attorney General's Initial Brief, p. 113, Coppola, 3 TR 2509 – 2510, and Exhibit AG-34.

⁴⁰ Initial Brief of Consumers Energy Company, p. 193.

⁴¹ *Id.* at p. 191.

⁴² *Id.* at p. 192, citing *Fed Power Comm v Hope Nat Gas*, 320 US 591 (1944).

⁴³ *Bluefield Water Works and Improvement Co v Pub Serv Comm of W Va*, 262 US 679 (1923).

reasonable return is one commensurate with investments of comparable risk and is sufficient to assure confidence in the financial integrity of the enterprise to allow it to maintain its credit and raise required capital.⁴⁴ The Supreme Court’s standard also involves consideration and balancing of interest to arrive at a reasonable return: “The return should be *reasonably sufficient* to assure confidence in the financial soundness of the utility and should be adequate, *under efficient and economical management*, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties...”⁴⁵ It is not a blank check to investors or the Company. It requires the Company to efficiently and effectively manage its business, including presumably the type and timing and investments it makes. This balancing of interests is something that the Commission recognized in its most recent electric rate case order and should continue to do so.⁴⁶

The Attorney General’s brief, witness testimony, and exhibits already provide evidence that the Company’s requests are excessive.⁴⁷ Therefore, this reply brief will respond to a few of the issues raised in the Company’s initial brief.

⁴⁴ Initial Brief of Consumers Energy Company, p. 192.

⁴⁵ *Bluefield Water Works and Improvement Company v Public Service Commission of West Virginia* 262 U.S. 679 (1923) (emphasis added) and *FPC v Hope Natural Gas Company*, 320 U.S. 591 (1944) (emphasis added).

⁴⁶ See, Order dated March 21, 2025, Case No. U-21585, p. 232 (“The Commission again notes that, while the company acknowledges that *Hope* and *Bluefield* require a balancing of investor and customer interests, Consumer’ exceptions primarily focus on the interests of investors while disregarding customer interests.”).

⁴⁷ See, Attorney General’s Initial Brief, pp. 118 – 164, Coppola, 3 TR 2514 – 2567 (Public Testimony) and 3 TR 431 – 484 (Confidential Testimony), and Exhibits AG-35 – AG-52, AG 79 and AG-81.

A. Response to Consumers Energy's arguments regarding its equity ratio.

References to the Record - Bleckman, 3 TR 810 – 836, 842 and Exhibit A-14 (MRB-1) Schedule D-1, Exhibit A-14 (MRB-2), Schedule D-1a, Exhibit A-14 (MRB-3), Schedule D-1b, Exhibit A-27 (MRB-8), Exhibit A-29 (MRB-10), Exhibit A-30 (MRB-11), Exhibit A-31 (MRB-12), Exhibit A-33 (MRB-14) through A-40 (MRB-21); Bleckman Rebuttal, 3 TR 868 – 914, 921 – 926, and 927 – 931, Exhibits A-187 (MRB-22), A-188 (MRB-23), A-189 (MRB-24), and A-190 (MRB-25); Coppola, 3 TR 2514 – 2533 and Exhibit AG-35, Exhibit AG-38, Exhibit AG-44, Exhibit AG-47, Exhibit AG-48, Exhibit AG-49; Megginson, 6 TR 4522 – 4534 and Exhibit S-4, Schedule D-1 – D-5; Walters, 6 TR 3746 – 3747 – 3765, 3766 – 3767; Bandyk, 3973 – 3978 and Exhibit CUB-9; Attorney General Hearing Exhibit AG-79 (DR AG-CE-0897 and DR AG-CE-0899).

According to the Company, it determined the average common equity balance for the test year of 50.75% by starting with the actual balances of long-term debt, preferred stock, common equity, short term debt, deferred income taxes, and ITC as of December 31, 2024,⁴⁸ and making two adjustments to the 2024 year-end common equity balance consisting of \$369 million in projected retained earnings on a weighted average basis from January 2025 through April 2027 and a \$2.142 billion for projected equity infusions from its parent corporation CMS Energy Corporation.⁴⁹ According to the Company the capital equity infusions from its parent are necessary and appropriate investments.⁵⁰ The Company points to the

⁴⁸ Initial Brief of Consumers Energy Company, p. 194 referencing Exhibit A-14 (MRB-2), Schedule D-1a, page 1, column (e).

⁴⁹ Initial Brief of Consumers Energy Company, p. 194.

⁵⁰ *Id.* at p. 220.

resulting equity balance of \$13.916 billion and the Company's long-term debt balance of \$13.465 billion as the basis for its 50.75% equity ratio.⁵¹

However, to the extent that the Company is asserting that its parent company's transfer of equity and board should dictate the appropriate equity ratio for Consumers Energy, it has cited no legal authority for such a proposition. To the contrary, the Commission states that it "seeks an appropriate balance between the risks and costs of investor debt funding,"⁵² in determining an equity ratio. For ratemaking purposes, equity infusions into Consumers by its parent do not determine the appropriate equity ratio.

The Company argues that the Commission has expressed possible flexibility in setting the equity ratio and there is not an automatic requirement that it be 50%. And, that the other parties' witnesses claim that the Commission's orders express an intent to maintain the Company's equity ratio at 50%, which it claims is misleading without clarification.⁵³ First, the Company's argument is misleading to extent it claims that the Attorney General simply pointed to the Commission's orders as the basis for maintaining the Company's equity ratio at 50%. Mr. Coppola discussed more than just the Commission order in his recommendation.⁵⁴

⁵¹ *Id.* at p. 198.

⁵² February 28, 2017 Order in MPSC Case No. U-17990, p. 63.

⁵³ *Id.* at 199.

⁵⁴ *See*, Coppola, 3 TR 2514 – 2433.

Second, it was never intended for the Company's equity ratio to be anything but balanced. Unfortunately, over the years the Company's equity balance continued to increase until the Commission finally acknowledged what had been intended all along as noted in its February 28 Order in Case No. U-17990:

Beginning in the 1980s, Consumers adopted a holding company structure **and the Commission treated Consumers as a stand-alone company for ratemaking purposes. However, treating Consumers as a stand-alone company has been predicated on the company maintaining “a capital structure roughly balanced between debt and equity.”** June 7, 2012 order in Case No. U-16794. In the instant case Consumers states that a balanced capital structure continues to be its goal.⁵⁵

Therefore, the Commission indicated that if the Company has not reached a 50/50 balance by its next rate case it must “present a strategy to return to a balanced structure within the five-year infrastructure plan time period.”⁵⁶

In a series of rate cases, the Commission made corrective adjustments to properly balance the Company's debt/equity ratio despite the Company's arguments to the contrary.⁵⁷ In Case No. U-20963, the Commission indicated that “a capital structure roughly balanced between debt and equity strikes the appropriate balance between ensuring access to capital at attractive rates, on the one hand, and maintaining customer affordability on the other.”⁵⁸ The Commission further indicated that anything other than a 50/50 ratio should be treated as an exception

⁵⁵ February 28, 2017 Order, Case No. U-17990 p. 63 (emphasis added).

⁵⁶ *Id.*, at p. 64.

⁵⁷ Attorney General's Initial Brief, pp. 119 – 120, and Coppola, 3 TR 2515 – 2516.

⁵⁸ December 21, 2022 Order, Case No U-20963, p. 220.

and not the rule. In fact, the Commission refers to such deviations as “temporary,” with the Company having the burden of proving why anything other than a balanced capital structure is appropriate.⁵⁹ Clearly, the Commission’s preference is for a balanced debt-equity ratio to balance the interest of investors and customers, unless the Company can demonstrate an unbalanced capital structure is appropriate.⁶⁰ Consumers has not demonstrated that its earnings have been negatively impacted by its current 50% equity ratio. It has not demonstrated that it has been unable to fund its capital programs. The arguments presented by the Company do not justify anything more than a completely balanced equity ratio.⁶¹

The Company points to a “heavy infrastructure investment cycle” as a reason to increase its equity ratio.⁶² It claims that it strengthens the balance sheet and credit quality.⁶³ However, CMS is already planning approximately \$2 billion in equity infusions into the Company.⁶⁴ And based on its current credit ratings and recent financing activity, it has access to debt capital markets.⁶⁵ So, this argument for increasing the Company’s equity ratio is without merit.

⁵⁹ *Id.* at pp. 200 – 201.

⁶⁰ *See*, Order dated March 21, 2025, Case No. U-21585, pp 224, 232 and 233.

⁶¹ Initial Brief of Consumers Energy Company, pp 136 – 181.

⁶² *Id.* at p. 201.

⁶³ *Id.*

⁶⁴ *Id.* at p. 194.

⁶⁵ *See*, Coppola, 3 TR 2563.

The Company claims that there are additional reasons to support a modest increase in the equity ratio in this case.⁶⁶ First, a 75 basis point increase is not modest. Second, the Company claims that issues such as stock market volatility, the federal shutdown, geopolitical conflicts and uncertainty represent a material change in the Company's risk environment since previous Commission orders.⁶⁷ Not true. Except for the federal shutdown, all the other issues identified are old news, that occurred before the most recent Commission orders earlier this year. And, the Company has not demonstrated any harm from the recent federal shutdown.

The Company claims that the other parties do not correctly understand the credit rating agencies reports, which indicate that the Company's credit outlook is stable.⁶⁸ It argues that a stable outlook does not mean that a downgrade may not occur in the near future. It points to the Company's downgrade in May 2021.⁶⁹ First, the Company's FFO-to-debt ratios are above the levels that the ratings agencies indicate would lead to negative credit action. S&P indicates one of the scenarios that could lead to it lowering the Company's rating if the stand-alone measures weaken such that FFO to debt weakens to *consistently below* 15%. Moody's indicates the possibility of a downgrade if the CFO-pre-WC to debt ratio

⁶⁶ Initial Brief of Consumers' Energy Company, p. 201.

⁶⁷ *Id.*

⁶⁸ *Id.* at p. 203 – 204.

⁶⁹ *Id.* at 204 and 217 – 218.

declined *below 18% on a sustained basis*.⁷⁰ Second, analysis shows that the ratio should remain above the levels for downgrade.⁷¹ Further, the Company has not indicated that it has been notified by any of the ratings agencies that it is on some type of credit watch or that there is a specific threat of a downgrade.

The Company claims that its FFO-to-Debt ratio has been trending down and that the Attorney General's false assumption of credit stability should be disregarded.⁷² The Attorney General is not assuming that the Company's credit ratings are stable. The ratings agencies themselves are describing the Company's ratings outlook as stable.⁷³

The Company also claims that S&P stated that having such a minimal financial cushion increases the susceptibility to a downgrade if an unexpected event occurs, that further weakens financial performance. The S&P Comments refer to the North American regulated utility industry and not specifically to the Company. It is worth noting that the median rating among North American investor-owned regulated utilities is BBB+ whereas Consumers Energy's S&P rating is A-/Stable/A-2.⁷⁴

⁷⁰ See, Exhibit A-36 (MRB-17), p. 3 and Exhibit A-37 (MRB-18), p. 3.

⁷¹ Attorney General's Initial Brief, pp. 124 – 127.

⁷² Initial Brief of Consumers Energy Company, pp. 206 – 208.

⁷³ See, Exhibits A-36, A-37, AG-47 CONF, AG-48 CONF, AG-49 CONF.

⁷⁴ See, Exhibit A-35, p. 5 of 17 - S&P Outlook for North American Investor Owned Regulated Utilities, dated April 18, 2024.

The Company also argues that the Attorney General's claim that the Company's proposed equity ratio is higher than the equity ratio of its peer group is wrong. It claims that Mr. Coppola's use of the equity ratio at the parent holding level is a distorted and inappropriate comparison.⁷⁵ It cited to the Commission order in Case No. U-20963 that such data could not be used if it did not contain equity ratios set by a regulatory commission.⁷⁶ It also argues that Mr. Coppola's analysis is skewed because the sources of his debt and equity balances are Securities and Exchange Commission reported financial statements, which are prepared under GAAP.⁷⁷ The Company's arguments are meritless.

There are reasons for using equity ratios at the parent company level in the analysis. First, since the common stock of Consumers Energy is not publicly traded, it is necessary to use indirect or proxy approaches in the analysis of an appropriate cost of equity. Comparison to a proxy group of publicly traded companies can be useful. Second, to the extent that the Commission has rejected the use of equity ratios or any other data of publicly traded companies that may be holding companies of regulated entities because they may not result from a commission order, the Attorney General asks it to reconsider that position.

The Company attempts to refute Mr. Coppola's criticism of the Company's use of gas utilities in its peer analysis. It argues that the gas utilities included are

⁷⁵ Initial Brief of Consumers Energy Company, pp. 221 – 222.

⁷⁶ *Id.* at p. 221.

⁷⁷ *Id.* at p. 222.

regulated subsidiaries of the Company's ROE proxy group and represent a representative sampling of recent case decisions.⁷⁸ However, the standard practice is to use like utilities, which in this case would be other electric utilities, especially since the Company has not demonstrated that the gas utilities used are comparable in terms of risk to Consumers' electric business. There is nothing in Case No. U-20963 that requires the inclusion of gas utilities in the analysis. The Company also disagrees with Mr. Coppola's statement that the inclusion of certain "smaller" utilities results in the overstatement of the peer average.⁷⁹ The Company's argument should be disregarded. The relative size of the companies impacts their riskiness and likely ability to access credit. The Company did not demonstrate how these small utilities were comparable to it. Mr. Coppola pointed to specific facts to emphasize the differences between the Company and the smaller utilities. Further, the Company even acknowledges the difference in risk between larger and smaller utilities in its ROE analysis.⁸⁰ The Commission should reject this argument.

B. Consumers Energy's requested ROE is excessive.

References to the Record - Bulkley, 4 TR 2715 - 2769 and Exhibit A-14 (AEB-1); Bulkley Rebuttal, 4 TR 2791 – 2916, Exhibit A-206 (AEB-2) and Exhibit A-207 (AEB-3); Bleckman, 3 TR 811 and 841, Exhibit A-14 (MRG-1), Schedule D-1, page 1; Coppola, 3 TR 2533 - 2567 and Exhibit AG-35, Exhibit AG-36, Exhibit AG-37 through Exhibit AG-52; Megginson, 6 TR 4519 – 4528, 4534 – 4557, and Exhibit No. S-4, Schedules D-1 through D-6; Walters, 6 TR 3746 – 3765, 3768 – 3818, and Exhibit AB-5, Exhibit AB-6, Exhibit AB-7, Exhibit AB-8, Exhibit AB-9, Exhibit AB-10, Exhibit AB-11, Exhibit AB-12, Exhibit

⁷⁸ *Id.* at pp. 224 – 225.

⁷⁹ Initial Brief of Consumers' Energy Company, p. 225.

⁸⁰ *Id.* at p. 239.

AB-13, Exhibit AB-17, Exhibit AB-18, Exhibit AB-19; Bandyk, 6 TR 3941 – 3974 and Exhibits CUB-2 through CUB-10; Lyon, 3 TR 2602 – 2614 and Exhibits WAL-2 – WAL-4; Attorney General Hearing Exhibit AG-81.

As stated above, the Company reiterated its request for an authorized ROE of 10.25% in its initial brief,⁸¹ which is 35 basis points higher than the Company's currently authorized return on equity of 9.90% for the electric side of the business.⁸² It is also 45 basis points higher than the Attorney General's recommended return on equity of 9.80%. The Attorney General addressed the principles for setting a ROE, and the results of various economic models as the basis for her proposed cost of equity in her witness's testimony and her Initial Brief and she will not repeat it here.⁸³ She also addressed problems with the Company's analysis in her initial brief.⁸⁴

The Company also discusses regulatory and business risk such as the Company's capital investment program, the regulatory environment, and credit rating as a basis for its to support its proposed ROE.⁸⁵ The issues, which are also discussed above with regard to the equity ratio, do not support the Company's proposal, so they will not be repeated here. Instead, Attorney General will respond to a few of the arguments contained in the Company's initial brief.

⁸¹ *Id.* at p. 231.

⁸² In Case No. U-21806 the Commission authorized a ROE of 9.80% for the natural gas side of the utility. See, Order dated September 30, 2025, pp. 178 – 179.

⁸³ Attorney General's Initial Brief, pp. 137 – 149, 156 – 161, and Coppola, 3 TR 2533 – 2564.

⁸⁴ Attorney General's Initial Brief, pp. 149 – 156 and 161 – 164.

⁸⁵ Initial Brief of Consumers Energy Company, pp. 233 – 235.

1. **Specific responses to the Company's Arguments.**

The Company identifies two issues with Mr. Coppola's DCF analysis. First, it criticizes his use of Yahoo Finance instead of Zacks (which he used in the Company's gas rate case) for EPS growth rates.⁸⁶ The Zacks' forecasted EPS growth rates were not readily available to Mr. Coppola for all the electric utilities in the peer group at the time of preparing testimony for the electric rate case. Therefore, he used Yahoo finance EPS growth rates, which were available. It was nothing nefarious. While, the two rate cases deal with different types of companies, electric vs. gas, with different businesses and earnings growth rates, the impact on the ROE rate from using Zacks' in the gas case and Yahoo Finance in this electric rate case, is minimal, especially when considering that in calculating the overall ROE rate, Mr. Coppola applies a 50% weight to the DCF result, which means that only half of the difference impacted the overall ROE rate. Further, in Exhibit AG-36, Mr. Coppola round up the overall calculated ROE rate by 7 basis points from 9.73% to 9.80%, which would cover any differential. Therefore, the Company's argument is akin to a tempest in a teapot.

Second, the Company claims that Mr. Coppola arbitrarily excluded certain growth rates in his DCF analysis.⁸⁷ Regarding the issue of Mr. Coppola excluding EPS growth rates of between 7.50% to 8.17%, the notes at the bottom of Exhibit AG-37 explain that columns (f) and (g) are from Attorney General workpapers. The

⁸⁶ *Id.* at p. 245

⁸⁷ *Id.* at p. 246.

Company was provided with Workpaper AG-37B providing the source of that information for Evergy, Centerpoint and IDACORP. The Company did not request further explanation in discovery to the Attorney General.

The calculation of 9.86% performed by the Company does not correct any errors, but simply substitutes the information presented by Mr. Coppola in Exhibit AG-36 with Ms. Bulkley's own data and preferred approach in calculating the DCF cost of capital.⁸⁸ It should be rejected by the Commission.

The Company claims to have identified defects in certain parties' risk free rates including the Attorney General.⁸⁹ First, the fact that Ms. Bulkley prefers to use other data and assumptions does not mean that the data used by the other witnesses is defective. The data provided by Mr. Coppola in this case has been consistently presented in prior cases and the Commission has found it acceptable. Instead, it is often the data and approaches used by Ms. Bulkley and previous Company ROE witnesses that are unconventional and have been rejected by the Commission for excessively inflating the ROE rate calculations.

The Company calls the use of the historical risk premium rate a defect, while preferring a short-term forecasted risk premium. Mr. Coppola discusses in his testimony the problems with using a short-term forecasted calculation of the risk

⁸⁸ See Exhibit A-206, p. 29.

⁸⁹ Initial Brief of Consumers Energy Company, pp. 255 – 259.

premium.⁹⁰ There is no inconsistency with using a projected risk-free rate and a long-term historical risk-premium, as done by Mr. Coppola, Staff, and other cost of capital experts. This is a conventional approach that is widely accepted in the calculation of the CAPM. The risk-free rate is forecasted by various economists and forecasting services whereas the forecast risk developed by the Company is not.⁹¹ The historical average risk premium over the past 100 years and reflecting multiple economic cycles is the most reliable rate.

The Company confuses the use of the long-term risk premium used by Mr. Coppola with recent interest rates.⁹² These are two different issues. The Company's argument that interest rates have increased since Mr. Coppola filed his testimony in September is nonsense. It is simply engaging in speculation that interest rates are higher now or will be higher during the projected test year because of tariffs, immigration, and some unknown taxes on the economy. The assumption that these same issues affect the risk premium is even more speculative and confirms Mr. Coppola's testimony that Ms. Bulkley's forecasted risk premium is highly influenced by short-term issues.⁹³ The Commission should reject these faulty arguments. Further, the argument that Mr. Coppola's use of the historical risk premium could produce a negative risk premium is absurd.⁹⁴ Although over

⁹⁰ Coppola, 3 TR 2543 – 2548. *See also*, Attorney General's Initial Brief, pp. 151 – 153.

⁹¹ *See*, Coppola, 3 TR 2546 – 2547.

⁹² Initial Brief of Consumers Energy Company, p. 257.

⁹³ *See*, Coppola, 3 TR 2547 – 2548.

⁹⁴ Initial Brief of Consumers Energy Company, p. 259.

the 100 years, there are periods when the stock market has had negative returns, in other years it has positive returns exceeding those negative returns over time.⁹⁵ Mr. Coppola uses the composite return over the total 100-year period, which is positive.⁹⁶ Therefore, this argument should be dismissed.

The issue of the inverse relationship between interest rates and the risk premium raised by the Company is only a short-term phenomenon that comes into play when the Company uses its three to five-year risk premium calculation.⁹⁷ Mr. Coppola does not use such a short-term approach. As discussed above, he uses the 100-year long-term risk premium that reflects multiple economic cycles and market returns that normalize any inverse relationship between interest rates and the market risk premium. The Company's argument is faulty and should be rejected.

Regarding the Company's criticism of Mr. Coppola's Equity Risk Premium calculation,⁹⁸ Exhibit AG-39 shows that Mr. Coppola uses the same risk-free rate of 4.40% used in the CAPM calculation and adds the Spread of 1.16% for Utility A-Rated Bonds. To the total of those two percentages, Mr. Coppola adds the historical premium of utility common stock over corporate bonds to arrive at the 9.81% ROE under this methodology.⁹⁹ The use of the historical bond premium and the stock return premium over bonds are widely used and accepted by cost of capital

⁹⁵ See Exhibit AG-45.

⁹⁶ *Id.*

⁹⁷ Initial Brief of Consumers Energy Company, p. 273.

⁹⁸ *Id.* at pp. 273 – 274.

⁹⁹ *See also*, Coppola, 3 TR 2551.

experts. There is no forecasted methodology to estimate the spread of A-Rated Utility Bonds. Similarly, the utility common stock premium over utility bonds is not calculated or published by any reliable source. Therefore, the historical stock premium is the best source for what the future premium may likely be. The Company tries to undermine the conventional methodology for the Equity Risk Premium by raising false issues of inconsistency where none exist. The Commission should dismiss these arguments.

The Company claims that the 4.40% risk-free rate used by Mr. Coppola is outdated versus the Company calculation of a risk-free rate of 4.60% in the third quarter of 2025.¹⁰⁰ The Company brings up this updated rate in rebuttal testimony, which does not provide the Attorney General an adequate opportunity to evaluate it and rebut it. In addition, interest rates may spike from time to time for a short period of time and it appears this is what happened during the third quarter of 2025. Regarding the Bond spread of 1.16% versus 1.19%,¹⁰¹ the correct percentage is 1.19% due to a calculation error and is insignificant in the totality of Mr. Coppola's calculation and proposed 9.80% ROE since he only gives 25% weight to the Equity Risk Premium methodology, Regarding Mr. Coppola's use of 4.25% for the utility stock premium, this reflects a rounding down of 2 basis points, which again has an insignificant effect on the total proposed ROE rate of 9.80%. The Company's 10.06% calculation results mainly from the Company using its own

¹⁰⁰ Initial Brief of Consumers Energy, p. 274.

¹⁰¹ *Id.*

preferred higher risk-free rate. This practice by the Company of picking and choosing its preferred data assumptions and labelling them corrected calculations of other witnesses' testimony should be rejected by the Commission as misleading and unhelpful.

The Company also criticizes the other parties' use of national regulatory ROE information. While the Company agreed that authorized returns from regulatory agencies for utilities in other jurisdictions can be relevant for benchmarking, it did not agree with the analyses or conclusions promoted by the other witnesses.¹⁰² Ms. Bulkley claims that listed utilities were not screened for comparable risk consistent with *Hope* and *Bluefield*.¹⁰³ While the Attorney General compared the Company's ROE to others recently granted, they were not used by the her witness to determine a reasonable ROE for the Company. The Attorney General used a proxy group and application of appropriate quantitative models for that.¹⁰⁴ And contrary to the Company's arguments, the Attorney General's analyses did address the relative risk of certain utilities used for comparison.¹⁰⁵ In any event, the Company admitted that applying its own screening criteria, the average ROE for each year over a five year period is still somewhat lower than Consumers' current ratemaking ROE, although it tries to caveat it with the claim that even using Ms. Bulkley's more proper

¹⁰² Initial Brief of Consumers Energy Company, pp. 283 – 284.

¹⁰³ *Id.* at p. 284.

¹⁰⁴ *See*, Exhibit AG-41 and Attorney General's Initial Brief, pp. 140 – 156.

¹⁰⁵ *See*, Attorney General's Initial Brief, p. 157 and Exhibit AG-40, p. 3.

screening criteria, utilities that are not comparable to Consumers are considered.¹⁰⁶

It is not clear what the point of the argument is, other than to point out that the outcome of the Company's analysis confirms that its requested ROE is excessive.

Requested Relief

The Attorney General requests that the ALJ issues a PFD consistent with the arguments included in the Attorney General's Initial Brief and this Reply Brief.

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Dated: December 23, 2025

¹⁰⁶ Initial Brief of Consumers Energy Company, p. 285.

PROOF OF SERVICE - U-21870

The undersigned certifies that a copy of the *Attorney General's public Reply Brief* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 23rd day of December 2025.

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