

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)	Case No. U-21870
and distribution of electricity and for other relief.)	
_____)	

At the January 15, 2026 meeting of the Michigan Public Service Commission in Lansing, Michigan.

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

ORDER

On June 2, 2025, Consumers Energy Company (Consumers) filed an application in this case requesting authority to increase its retail rates for the generation and distribution of electricity by approximately \$436 million, plus an additional \$24.3 million for a distribution deferral by way of a 12-month surcharge and other requested forms of regulatory relief.¹

On June 5, 2025, Administrative Law Judge Jonathan F. Thoits (ALJ) adopted a protective order for use in the matter.

On July 2, 2025, the ALJ conducted a prehearing conference at which the ALJ either acknowledged or granted intervention in the case to several parties, including the Michigan

¹ At briefing, Consumers lowered its annual revenue requirement request to approximately \$422.8 million, plus the uncontested distribution deferral. Consumers’ initial brief, p. 1; *see also*, Consumers’ initial brief, Appendix A, line 10, column (e).

Department of Attorney General (Attorney General); Michigan Environmental Council, Citizens Utility Board of Michigan (CUB), Sierra Club, and Natural Resources Defense Council, Inc. (collectively, MNSC); and Walmart Inc. (Walmart). Consumers and the Commission Staff (Staff) also participated in the proceeding. During the proceeding, the ALJ also notified the parties that “with respect to any witnesses who are going to opine on return on equity, or ROE, that those witnesses are going to be directed [in the forthcoming scheduling memo] to include testimony and supporting exhibits regarding the long-term forecast of the average returns for the broader stock market,” with the ALJ noting that “[t]he staff and interveners can do that in their direct testimony, and the company can do that in rebuttal testimony.” 1 Tr 24.

On July 8, 2025, the ALJ issued the corresponding scheduling memo reflecting the ROE provision mentioned above, along with a schedule for the case in accordance with the 10-month timeframe set forth in MCL 460.6a(5) (July 8 scheduling memo).

On August 20, 2025, the Staff filed a motion to amend the July 8 scheduling memo, specifically requesting that the ROE provision be removed (Staff’s motion).

On August 22, 2025, the Attorney General filed a response in support of the Staff’s motion (Attorney General’s response).

On September 4, 2025, the ALJ issued a ruling denying the Staff’s motion but indicating that the July 8 scheduling memo would nevertheless be amended for clarification purposes.

On September 5, 2025, the ALJ issued the amended scheduling memo (September 5 amended scheduling memo) stating, in relevant part:

Return On Equity (Amended). Any party submitting testimony regarding the authorized return on equity (ROE) requested by the utility in this case shall submit direct or rebuttal testimony and any supporting exhibits which set forth a) the reported forecasted return on equity for the United States stock market, and b) the reported average ROE authorized for regulated utilities in the United States for the last two or more years. The requested returns and authorized ROEs shall be those

as reported in public resources or resources otherwise available to the party. The party may but is not requested to undertake its own calculation or compilation of the requested information. If the party is unable to locate the requested information, the party's ROE testimony shall include a statement that the witness has in good faith attempted to locate the requested information in public resources or resources available to the party.

September 5 amended scheduling memo, p. 2 (emphasis in original) (pagination based on natural order).

On September 18, 2025, the Staff filed an application for leave to appeal the ALJ's denial of its motion with the Commission (Staff's application for leave), along with a brief in support, pursuant to Mich Admin Code, R 792.10433(1), requesting immediate limited relief from enforcement of the contested ROE provision.

On October 2, 2025, Consumers filed a response in support of the Staff's application for leave to appeal.

On October 13, 2025, MNSC filed a motion for leave to respond to the Staff's application for leave to appeal, along with a brief in support and its response in opposition also attached.

Cross-examination in the matter began on November 4, 2025, and concluded on November 10, 2025. During this time, the Commission issued an order on November 6, 2025 (November 6 order) granting the Staff's application for leave to appeal, along with the requested relief therein, and accordingly struck the amended ROE provision set forth in the September 5 amended scheduling memo, along with any evidence filed in response thereto and since admitted into the record.

On December 8, 2025, the Attorney General and MNSC filed petitions for rehearing pursuant to Mich Admin Code, R 792.10437 (Rule 437). No answers were filed.

Petitions for Rehearing

1. The Michigan Department of Attorney General

On the basis of preventing unintended consequences pursuant to Rule 437, the Attorney General requests that the Commission reconsider its November 6 order striking all evidence produced consistent with the September 5 amended scheduling memo in this case or modify this portion of the November 6 order to permit use of evidence voluntarily submitted by a party for the party's own use. Attorney General's petition for rehearing, pp. 1, 3, 6 (pagination based on natural order).

In her petition for rehearing, the Attorney General recalls her response supporting the Staff's motion earlier in the case seeking amendment to the July 8 scheduling memo, asserting the ALJ's requirements in that scheduling memo to be vague, among other things, but also recalls her acknowledgment in that response that parts of the requirements from the July 8 scheduling memo had some similarity to what she already provides in her testimony on ROE in rate cases. *Id.*, pp. 2, 4. The Attorney General states that:

[w]hile it appears that the Commission meant to prevent the use of evidence a party was forced to present but would not otherwise provide versus stripping a party of the use of evidence that it would normally rely upon but happens to be consistent with information requested by the ALJ, the broad requirement to strip all responsive evidence has that unintended effect. The Commission rightly determined that the scheduling memo requirements usurped the parties' rights to present their case in a manner they chose, however the Commission's order striking all the responsive evidence has the same effect in this case.

Id., pp. 4-5. The Attorney General, in this regard, asserts that the November 6 order is vague and unclear as to what information should be considered stricken, contending that she will be prejudiced if the analysis she provided in this case on ROE is stricken from the record, an outcome she believes was not the Commission's intention in the November 6 order.

2. Michigan Environmental Council, Citizens Utility Board of Michigan, Sierra Club, and Natural Resources Defense Council, Inc.

Under Rule 437, MNSC asserts one claim of error and one claim of unintended consequences resulting from the striking of evidence in the November 6 order and thus requests a corrected order from the Commission to address these issues. MNSC's petition for rehearing, p. 1.

In terms of error, MNSC argues that the Commission granted relief that was unsupported by the record. Per MNSC, striking evidence was not part of the relief requested in the Staff's application for leave; the Commission did not identify the evidence to be stricken or evaluate the admissibility of the evidence at issue; the record contains no information about what evidence the parties may have filed in response to the stricken provision, let alone sufficient information to support the decision to strike such evidence; and the Commission provided no legal authority to support its decision. *Id.*, pp. 2-3.

MNSC also argues that compliance with the November 6 order will result in unintended consequences, including the deprivation of due process and an unclear record upon which to adjudicate this case. MNSC contends that because neither the Staff's motion nor the Staff's application for leave to appeal requested that evidence be stricken, no party received notice and an opportunity to be heard on the Commission's decision to strike the evidence, thereby depriving the parties of due process. MNSC further contends that some parties may have filed evidence in response to the now stricken provision that they wish to remain in the record, identifying specific evidence in particular provided by CUB. Moreover, per MNSC, it is unclear what evidence this applies to and, thus, what has been stricken and what remains permissibly in the record. MNSC states that while some witnesses indicated when they were addressing the now stricken provision, others may not have done so or filed evidence that appears to be in response but which they would have submitted anyway, noting the type of evidence provided by the Attorney General and

Walmart in the instant case that has also been filed in previous rate cases as well. MNSC presumes that the November 6 order does not extend to such evidence but asserts that the boundaries of the order are unclear and that even if it can be determined where the evidence filed in response begins, determining where it ends may be difficult. Finally, per MNSC:

in addition to the Commission's order potentially being over-inclusive, striking evidence that parties do not wish to have stricken or that may appear to have been filed in response to the stricken provision but was not, it may also be under-inclusive. When the Commission issued its order on November 6, the parties were in the middle of the third day of cross examination, meaning that some parties' testimony had already been bound into the record and their exhibits admitted, while other parties had yet to finish their evidentiary presentation. The order strikes evidence "filed in response thereto and since admitted into the record" as of the date the Commission issued it. It does not address the admissibility of subsequently presented evidence. While the Attorney General had already bound in the testimony and exhibits of witness Coppola on November 4, 2025, several parties bound in testimony and moved for the admission of their exhibits on November 10, 2025, including CUB. No party objected to the binding in of any party's testimony or admission of any exhibits, including evidence that may have been in response to the stricken provision. Without clarification, it appears that some parties' evidence was stricken while similar evidence from other parties remains in the record.

MNSC's petition for rehearing, pp. 5-6.

In conclusion, MNSC argues that, "[a]s no party has requested that any evidence be stricken and no party objected to the admission of any other party's evidence containing information responsive to the stricken provision, there is no reason to find that any party has been prejudiced by the inclusion of such evidence" and therefore requests that the Commission amend its November 6 order by eliminating the phrase "along with any evidence filed in response thereto and since admitted into the record." *Id.*, p. 6 (quoting November 6 order, p. 19).

Discussion

Rule 437 provides that a petition for rehearing may be based on a claim of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences, the Commission will not grant rehearing.

In this matter, statutorily constrained by a 10-month deadline that can only be extended by the applicant (i.e., Consumers in this case), timing is of the utmost importance and played a role in the Commission's decision in the November 6 order. *See*, MCL 460.6a(5). To illustrate, at the time the Staff filed its application for leave to appeal on September 18, 2025, Staff and intervenor testimony was not yet due. While waiting for responses to the application for leave to appeal, however, the case schedule continued to advance, with Staff and intervenor testimony subsequently filed on or around September 30, 2025. By the time the Commission issued an order addressing the Staff's application for leave to appeal, several other filing events pursuant to the September 5 amended scheduling memo occurred or began in the case, including the evidentiary hearing which started on November 4, 2025. It was thus the Commission's intention to address and give full effect to the Staff's request in the Staff's application for leave to appeal based on the stage of where the case was at the time; to do otherwise, and simply strike the amended ROE provision with nothing more, appeared meaningless for purposes of the Staff's request.² It was further the Commission's belief that the parties would acknowledge the November 6 order during the evidentiary hearing and address the impacted evidence accordingly, as the Commission could not do so with an open record. Recognizing, however, that "[n]o party objected to the binding in

² *See*, Mich Admin Code, R 792.10403 and MRE 403.

of any party's testimony or admission of any exhibits [at the evidentiary hearing], including evidence that may have been in response to the stricken provision," and that the Commission's November 6 order has since led to the unintended consequence of confusion and ambiguity, the Commission finds it appropriate to grant the petitions for rehearing pursuant to Rule 437 and remove the requirement for any evidence filed in response to the amended ROE provision in the September 5 amended scheduling memo and since admitted into the record to be stricken. MNSC's petition for hearing, pp. 5-6; *see also*, November 6 order, p. 19. All other decisions in the November 6 order, however, remain in full force and effect.

THEREFORE, IT IS ORDERED that:

A. The petitions for rehearing filed by the Michigan Department of Attorney General and the Michigan Environmental Council, Citizens Utility Board of Michigan, Sierra Club, and Natural Resources Defense Council, Inc., are granted, as set forth in this order.

B. The November 6, 2025 order in this case is amended to remove "along with any evidence filed in response thereto and since admitted into the record" from Ordering Paragraph C. All other decisions in the November 6, 2025 order in this case remain in full force and effect.

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

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

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

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Shaquila Myers, Commissioner

By its action of January 15, 2026.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

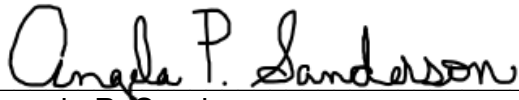
Case No. U-21870

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on January 15, 2026 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 15th day of January 2026.



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

Service List for Case: U-21870

Name	On Behalf Of	Email Address
Adam M. Cozort	MPSC Staff	cozorta1@michigan.gov
Alena M. Clark	MPSC Staff	clarka55@michigan.gov
Amanda Urban	Urban Core Collective	aurbanlaw@gmail.com
Amit T. Singh	MPSC Staff	singha9@michigan.gov
Anne M. Uitvlugt	Consumers Energy Company	anne.uitvlugt@cmsenergy.com
Benjamin J. Holwerda	Association of Businesses Advocating Tariff Equity	bholwerda@clarkhill.com
Bret A. Totoraitis	Consumers Energy Company	bret.totoraitis@cmsenergy.com
Celeste R. Gill	Department of Attorney General	gillc1@michigan.gov
Christopher M. Bzdok	Sierra Club	chris@tropospherelegal.com
Christopher M. Bzdok	Michigan Environmental Council	chris@tropospherelegal.com
Christopher M. Bzdok	Natural Resources Defense Council	chris@tropospherelegal.com
Christopher M. Bzdok	Citizens Utility Board of Michigan	chris@tropospherelegal.com
Consumers Energy Company (1 of 2)	Consumers Energy Company	mpsc.filings@cmsenergy.com
Consumers Energy Company (2 of 2)	Consumers Energy Company	kelly.hall@cmsenergy.com
Courtney F. Kissel	Michigan Electric Transmission Company, LLC	ckissel@dykema.com
Daniel E. Sonneveldt	MPSC Staff	sonneveldtd@michigan.gov
Daniel H.B. Abrams	Union of Concerned Scientists, Inc.	dabrams@elpc.org
Daniel H.B. Abrams	Vote Solar	dabrams@elpc.org
Daniel H.B. Abrams	Environmental Law & Policy Center	dabrams@elpc.org
Daniel H.B. Abrams	The Ecology Center	dabrams@elpc.org
Don L. Keskey	Great Lakes Renewable Energy Association	donkeskey@publiclawresourcecenter.com
Evan B. Keimach	Consumers Energy Company	evan.keimach@cmsenergy.com
Gary A. Gensch Jr.	Consumers Energy Company	gary.genschjr@cmsenergy.com
Hannah E. Buzolits	Michigan Electric Transmission Company, LLC	hbuzolits@dykema.com
Holly L. Hillyer	Natural Resources Defense Council	holly@tropospherelegal.com
Holly L. Hillyer	Michigan Environmental Council	holly@tropospherelegal.com
Holly L. Hillyer	Citizens Utility Board of Michigan	holly@tropospherelegal.com
Holly L. Hillyer	Sierra Club	holly@tropospherelegal.com
Jacob R. Schuhardt	Urban Core Collective	jschuhardt@uchicago.edu
Jennifer U. Heston	Hemlock Semiconductor Operations, LLC	jheston@potomaclaw.com
Jennifer U. Heston	Solar Technology LLC	jheston@potomaclaw.com
Jody Kyler Cohn	The Kroger Company	jkylercohn@bkllawfirm.com
Jody Kyler Cohn	The Kroger Company	jkylercohn@bkllawfirm.com
John R. Liskey	Citizens Utility Board of Michigan	john@liskeypllc.com
Jonathan F. Thoits	ALJs - MPSC	thoitsj@michigan.gov

Josh L. Kluzak	Michigan Electric Transmission Company, LLC	jdkluzak@dykema.com
Justin K. Ooms	Energy Michigan	jkooms@varnumlaw.com
Justin K. Ooms	Foundry Association of Michigan	jkooms@varnumlaw.com
Justin K. Ooms	Michigan Energy Innovation Business Council	jkooms@varnumlaw.com
Justin K. Ooms	Advanced Energy United	jkooms@varnumlaw.com
Justin K. Ooms	Institute for Energy Innovation	jkooms@varnumlaw.com
Katherine S. Duckworth	Vote Solar	kduckworth@elpc.org
Katherine S. Duckworth	Environmental Law & Policy Center	kduckworth@elpc.org
Katherine S. Duckworth	Union of Concerned Scientists, Inc.	kduckworth@elpc.org
Katherine S. Duckworth	The Ecology Center	kduckworth@elpc.org
Kurt J. Boehm	The Kroger Company	kboehm@bkllawfirm.com
Kurt J. Boehm	The Kroger Company	kboehm@bkllawfirm.com
Laura A. Chappelle	Energy Michigan	lachappelle@varnumlaw.com
Laura A. Chappelle	Advanced Energy United	lachappelle@varnumlaw.com
Laura A. Chappelle	Michigan Energy Innovation Business Council	lachappelle@varnumlaw.com
Laura A. Chappelle	Institute for Energy Innovation	lachappelle@varnumlaw.com
Laura A. Chappelle	Foundry Association of Michigan	lachappelle@varnumlaw.com
Lori Mayabb	MPSC Staff	mayabbl@michigan.gov
Lucas Wollenzien	Department of Attorney General	wollenzienl@michigan.gov
Mark N. Templeton	Urban Core Collective	templeton@uchicago.edu
Mark Templeton	Urban Core Collective	templeton@uchicago.edu
Melissa M. Horne	Walmart, Inc.	mhorne@hcc-law.com
Michael J. Orris	MPSC Staff	orrism@michigan.gov
Michael J. Pattwell	Association of Businesses Advocating Tariff Equity	mpattwell@clarkhill.com
Michael L. Kurtz	The Kroger Company	mkurtz@bkllawfirm.com
Nicholas Q. Taylor	MPSC Staff	taylorn10@michigan.gov
Olivia R.C.A. Flower	Michigan Electric Transmission Company, LLC	oflower@dykema.com
Richard J. Aaron	Michigan Electric Transmission Company, LLC	raaron@dykema.com
Sean P. Gallagher	Michigan Cable Telecommunications Association	sgallagher@fraserlawfirm.com
Spencer A. Sattler	Consumers Energy Company	spencer.sattler@cmsenergy.com
Stephen A. Campbell	Association of Businesses Advocating Tariff Equity	scampbell@clarkhill.com
Timothy J. Lundgren	Advanced Energy United	tjlundgren@varnumlaw.com
Timothy J. Lundgren	Energy Michigan	tjlundgren@varnumlaw.com
Timothy J. Lundgren	Institute for Energy Innovation	tjlundgren@varnumlaw.com
Timothy J. Lundgren	Michigan Energy Innovation Business Council	tjlundgren@varnumlaw.com
Timothy J. Lundgren	Foundry Association of Michigan	tjlundgren@varnumlaw.com
Tracy Jane Andrews	Citizens Utility Board of Michigan	tjandrews@tropospherelegal.com
Tracy Jane Andrews	Natural Resources Defense Council	tjandrews@tropospherelegal.com

Tracy Jane Andrews
Tracy Jane Andrews
Valerie J.M. Brader

Sierra Club
Michigan Environmental Council
Anonymous Customer

tjandrews@tropospherelegal.com
tjandrews@tropospherelegal.com
valerie@rivenoaklaw.com