



Stephen A. Campbell
T (313) 309-4274
F (313) 309-6882
Email:SCampbell@ClarkHill.com

Clark Hill
500 Woodward Avenue, Suite 3500
Detroit, MI 48226
T 313.965.8300
F 313.965.8252

February 17, 2026

VIA ELECTRONIC CASE FILING

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: Case No. U-21870 – 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.

Dear Executive Secretary:

Enclosed for filing please find the **Association of Businesses Advocating Tariff Equity's Exceptions** and **Proof of Service** in the above-referenced proceeding.

Sincerely,

CLARK HILL PLC

**Stephen A.
Campbell**

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O =
Clark Hill PLC
Date: 2026.02.17 14:01:37 -05'00'

Stephen A. Campbell

SAC/lkd

cc: Parties of Record

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.)
_____)

Case No. U-21870

ALJ Jonathan F. Thoits

**EXCEPTIONS OF THE
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

The Association of Businesses Advocating Tariff Equity (“ABATE”), by its attorneys, CLARK HILL PLC, files its Exceptions to the Proposal for Decision (“PFD”) in this proceeding initiated by Consumers Energy Company (“Consumers” or the “Company”) before the Michigan Public Service Commission (“Commission”) in accordance with the schedule established by the presiding Administrative Law Judge (“ALJ”).

TABLE OF CONTENTS

I. INTRODUCTION 1

II. ARGUMENT 1

 A. Rate Base - Cost recovery for numerous proposed capital expenditures was not
adequately supported and should be rejected..... 1

 1. Distribution capital expenditures. 1

 2. Generation capital expenditures..... 13

 B. Adjusted Operating Income - The Company’s proposed O&M expense is unreasonable
and should be rejected..... 16

 1. Distribution O&M expense – electric operations. 16

 2. Line clearing O&M expense..... 21

III. RELIEF REQUESTED..... 22

I. INTRODUCTION

The PFD issued in this case made a number of reasonable recommendations, particularly regarding the Company's return on equity and its cost allocation and rate design. Multiple recommendations to approve cost recovery for certain projections, however, were unreasonable and should not be adopted. These recommendations included cost recovery for certain projected capital expenditures and operations and maintenance ("O&M") costs which were inflated and unreasonable. Accordingly, to ensure just and reasonable rates the Commission should decline to adopt these recommendations and instead issue an Order consistent with the proposals set out below, as well as in ABATE's Initial and Reply Briefs. These proposals will ensure Consumers' rates are reasonable and prudent and avoid unreasonable and excessive revenue collection.

II. ARGUMENT

A. Rate Base - Cost recovery for numerous proposed capital expenditures was not adequately supported and should be rejected.

1. Distribution capital expenditures.

a. HVD capital expenditures.

The PFD recommended the Commission reject ABATE's recommendation to limit HVD spending to historical amounts, stating that "a similar proposal for a blanket reduction to HVD investments was also rejected in Consumers' previous rate case." (PFD at 48.) As the record here demonstrates the unreasonableness of the Company's proposed recovery for HVD capital expenditures the Commission should adopt ABATE's recommended revenue recovery.

In the Company's last rate case the Commission noted that "MNSC recommended that HVD Reliability program spending be overall limited to 2023 levels," although the Commission adopted the ALJ's recommendation to "to evaluate spending on a program-by-program or project-by-project basis." *In the Matter on the Application of Consumers Energy Co*, order of the Public

Service Commission, entered March 21, 2025 (Case No. U-21585), p 23. Here ABATE did not simply recommend blanket disallowances for HVD reliability spending, it explained that disallowances of \$32,263,573 for the HVD Lines Reliability and \$5,715,476 for the HVD Substations Reliability programs were appropriate given Consumers' failure to support the reasonableness of these amounts. (ABATE Initial Br at 15-17.) In other words, these disallowances are not simply based on an incongruence between historical and projected spending, they follow from the Utility Distribution Audit prepared by the Liberty Consulting Group and filed in Case No. U-21305 on September 23, 2024 ("Audit"), which found a lack of a substantial need or benefit in increased HVD lines or substations investment. (*Id.*) As the Audit noted, most SAIDI minutes, and most projected SAIDI improvements, are related to the LVD system, which reality is confirmed by the Company's recent outage data. (*Id.*) Indeed, almost the entirety of outages over the last three years (2022-2024) were the result of a fault that occurred in the LVD System. (*Id.*) The Company's proposed investments to improve the reliability of the HVD system are therefore inadequately supported. (See ABATE Initial Br at 10-17.)

As such Consumers did not meet its burden to demonstrate such cost recovery is effective, reasonable, or prudent. The Commission should therefore reject the PFD's recommendation to increase HVD Lines Reliability and HVD Substations Reliability cost recovery here.

b. HVD lines reliability (ROW acquisition).

The PFD did not adopt ABATE's recommendation to disallow ROW costs, stating "the ROW spending category had been transferred to HVD Lines Reliability and [] historical costs for the program were set forth in Exhibit A-130, with projected and historical costs provided in Exhibit A-218." (PFD at 48.) As the Company's projections were inadequately supported the Commission should reject the PFD's recommendation.

As explained in ABATE's Initial Brief, the existence and location of the Company's projections is not at issue; it is their reasonableness. (ABATE Initial Br at 17.) The Company asserted that it *may* need to acquire new rights of way or expand existing ones during these periods. (*Id.*) As such, these costs are speculative. Furthermore, as set out in Exhibit A-128, the Company's actual ROW expenditures has steadily *decreased* over the last five years, from over \$2 million in 2020 to less than \$1 million in 2024. The Company's requested cost recovery of \$12.667 million in the bridge period and \$11 million in the test year are therefore extraordinary increases supported by nothing other than conjecture. (*Id.*) In addition, Exhibit A-130, page 1, line 19 demonstrates there were *no* right of way expenditures identified for 2020-2023, and only \$895,861 for 2024. Comparing these amounts to the Company's request of \$12.667 million in the bridge period and \$11 million in the test year demonstrates the extent to which the Company's proposals are unreasonable and excessive. Thus, while the PFD stated that "an assessment of past deviations in projected ROW investment versus actual may have been helpful, especially given the significant increase in ROW expenditures projected here," the Company's historical spending is significantly lower than its projected costs here. (PFD at 48.) As such its projections are excessive and unreasonable and cost recovery should not be approved.

The Company therefore failed to satisfy its burden to demonstrate its cost projections are reasonable or that cost recovery would be prudent here. As such, the Commission should disallow cost recovery for these capital expenditures at this time.

c. LVD asset relocations.

The PFD declined to adopt ABATE's recommendation to limit cost recovery for this program to actual 2024 levels. (PFD at 112-15.) As the PFD's reasoning demonstrated why cost recovery above these amounts is unreasonable the Commission should reject the PFD's recommendation.

The PFD noted the Company's acknowledgement that "the largest factors influencing spending in [this] program[] are externally driven" before stating that the "factors driving the spending in this subprogram are outside of the Company's control – thus, it is non-discretionary and are costs that the Company can't know in advance." (*Id.*) The fact that the Company's costs cannot be accurately forecast is not a basis for rubber stamping its admittedly speculative projections; that is effectively the converse of the standard the Commission must apply. As explained in ABATE's Initial Brief, where a utility decides to base its filing on a fully projected test year, the utility bears the burden to substantiate its projections. *In re Detroit Edison*, order of the Public Service Commission, entered January 10, 2011 (Case No. U-15768), p 9. Utilities must include all evidence (or sources of evidence) in support of their test year projections in their initial rate case filings. *Id.* If the utility does not provide sufficient support for a particular revenue or expense item (particularly for an item that substantially deviates from the historical data), "the Commission may choose an alternative method for determining the projection." *Id.* The PFD itself acknowledged the "compelling testimony and argument in favor of the Commission using historical test year data, adjusted for known and measurable changes, instead of projected test year revenue and expense projections," as well as "the comments made by other parties that a fully projected test year favors the utility over the interests of utility customers." (PFD at 16.) This spending category perfectly demonstrates these concerns. Both the Company and the PFD acknowledged that "the largest factors influencing spending in [this] program[] are externally driven" and thus these "are costs that the Company can't know in advance." As such, these projections cannot be found reasonable or prudent and cost recovery beyond known actual costs should not be approved.

Indeed, while the PFD noted that Consumers' prior projection and actual costs weren't far off, those amounts were \$52.5 million and \$53.3 million, respectively. The Company's request for \$97.911 million of investment in the bridge period and \$79.090 million in the test year are a dramatic increase from these figures. (See ABATE Initial Br at 19-20.) The Company has effectively conceded that it cannot support these projections and the PFD found that these costs cannot be known. As such the Commission should not approve projected capital expenditures for this program above the actual level experienced in 2024, and should instead reinforce the expectation for greater transparency and specificity in future capital requests for asset relocations.

d. LVD lines reliability.

i. LVD pole replacement.

The PFD declined to adopt ABATE's recommendation to use a 5% rejection rate for estimating the number of pole replacements during groundline inspections, finding persuasive the Company's assertions that 10% is a more reasonable figure. (PFD at 135.) As the Company's cost projections based on this figure are unreasonable the Commission should reject the PFD's recommendation.

The Company claimed that using pole age to develop a proxy for replacement costs is reasonable and that its 10% figure was based on "its assessment of the likely average condition of poles of given vintages based on research conducted by the Electric Power Research Institute." (See *Id.*) As explained in ABATE's Initial Brief, the Audit found that Consumers' LVD poles ages are consistent with those of other large electric utilities, that the observed rate of poor pole conditions requiring management attention was low, did not find high numbers of poles with material condition issues, and did not observe significant numbers of safety issues involving poles. (See ABATE Initial Br at 23-24; ABATE Reply Br at 4.) Furthermore, Consumers recognized that the Audit "recommended the Company place less emphasis on asset age when deciding whether

to replace assets,” which the Company “generally agrees with.” (Kelly 2 Tr 943.) In other words, its method of estimating the “likely average condition of poles of given vintages” is not reasonable.

A more reasonable approach would be to utilize a sample of pole inspections to make a more accurate determination of an appropriate rejection rate. (ABATE Initial Br at 23-24.) Without doing so a 10% assumption is unreasonable and inadequately supported. In contrast, ABATE’s recommended 5% figure is at the higher end of rejection rates when comparing the actual rejection rates of utilities who have utilized groundline inspections for pole replacement. (*Id.*) This figure therefore represents a more reasonable and supportable proxy for determining projected costs. The Commission should therefore decline to adopt the PFD’s recommendation and instead adopt ABATE’s proposal as set forth above.

ii. LVD targeted circuit improvement – rejuvenating vintage underground cable.

The PFD declined to adopt ABATE’s recommendation, stating that “this program, that seeks to pre-emptively improve reliability for customers rather than wait for cable failure, and ensuing outages, is valuable.” (PFD at 131-32.) Regardless of its general value, as the Company failed to adequately demonstrate its *proposed increase* in cost recovery produces customer benefits the Commission should reject the PFD’s recommendation.

While the PFD noted the Company’s testimony that the “Underground Cable Rejuvenation program targets cable that is starting to deteriorate, even if it has not yet failed,” the Company has not explained why it requires an additional \$38,080,000 in capital expenditures in the test year above amounts included in the bridge period. (*Id.*) Again, the Company has the burden to demonstrate the reasonableness of its projections, particularly when they deviate from historic costs. Utilizing the average monthly capital expenditures of \$1,744,312 demonstrates an

appropriate and reasonable revenue level for the 12-month test year period is an expense of \$20,931,750.

The Company has therefore failed to meet its burden to adequately support recovery of its projected costs. As such the Commission should reject the PFD's recommendation and approve cost recovery consistent with average monthly capital expenditures as set forth above.

e. LVD lines rehabilitation.

The PFD declined to adopt ABATE's proposed cost recovery disallowance, stating that Consumers "clearly indicated why the projects were being undertaken in this subprogram, how many projects the Company plans to undertake in the bridge period and projected test year, and the expected total expenditure." (PFD at 156.) As the Company's projected projects and costs are not adequately supported the Commission should reject this recommendation.

As explained in ABATE's Initial Brief, this category of expenditures includes two subprograms for which specific projects cannot be identified, namely the Modem Replacement Program and Meter Voltage Anomalies. (ABATE Initial Br at 26-28; ABATE Reply Br at 5.) For the Modem Replacement Program, for instance, the Company claimed that because it only creates orders for specific modems close to the time that they are replaced, there are no specific projects listed for this investment category and projected spending is based on an assumption of the same volume of work going forward. (*Id.*) Similarly, the Company stated that it does not have specific projects identified for the Meter Voltage Anomalies subprogram and does not identify such projects until closer to the time of project execution. (*Id.*) These subprograms account for approximately 37% and 54% of the projected bridge period and test year LVD Lines Rehabilitation spending, respectively. (*Id.*) In other words, the Company does not actually have specific projects identified for the majority of its projected LVD Lines Rehabilitation costs.

As explained in the PFD, in response to this point the Company simply stated that it has not historically provided a list of all modem replacement projects, since they are individually small and there are 800 of them each year. (PFD at 155.) Similarly, the Company stated that meter voltage anomalies involve several hundred small individual work locations each year, and the Company has treated this similarly to modem replacements by not endeavoring to list out each individual location. (*Id.*) As such, there is no basis for approving additional cost recovery for this program.

Again, adequately substantiating projected spending increases requires that the parties “fully document the basis for their test year projections by offering into evidence detailed supporting explanations and underlying assumptions rooted in expected business, financial, and economic circumstances,” and “[r]ate applications may not rely on undocumented estimates of future ratemaking expenses and revenue criteria.” *In the Matter of the Application of DTE Electric Co.*, order of the Public Service Commission, entered May 8, 2020 (Case No. U-20561), p 13. Without doing so the Commission should limit funding to historical averages, particularly when ratepayers are being asked to fund an expansion of undefined or poorly supported initiatives. Again, as set out above, the PFD itself noted the “compelling testimony and argument in favor of the Commission using historical test year data, adjusted for known and measurable changes, instead of projected test year revenue and expense projections.” (PFD at 16.) Approving funding increases for unspecified future projects exposes ratepayers to unnecessary risk and is not consistent with the Commission’s obligation to ensure cost projections are adequately supported. Where project-level or programmatic detail is lacking, the Commission should approve funding based on historic averages, not on unsupported projected increases.

The Company has failed to meet its burden to demonstrate cost recovery for these subprograms is reasonable or prudent. As such the Commission should only approve projected bridge period and test year capital expenditures for the entire LVD Lines Rehabilitation category at the five-year average level shown on Exhibit A-113 (MPK-3), line 17.

f. LVD resiliency – overhead to underground conversions.

The PFD agreed with “the need for individual BCA[]s for each undergrounding project” and noted “the fact that most outage minutes avoided are confined to only a fraction of the miles proposed for the program,” although it still recommended the Company recover essentially \$4.5 million for this program in the test year. (PFD at 182.) As the Company did not demonstrate this amount is reasonable or prudent the Commission should not permit cost recovery of this program.

The PFD’s recommended cost recovery is still significantly higher than the Company’s bridge period expenditure of \$1.25 million. Further, the Audit recommended the Company delay expanding this program beyond the initial pilot phase, cited significant uncertainties regarding actual costs and reliability benefits, and suggested that a major expansion in annual expenditures be delayed by at least a year or more, and potentially reduced, based on the lessons learned from pilot projects. (Audit Part II at 70-71; see ABATE Initial Br at 28-32.) Further, the Audit noted that historically undergrounding has been much more expensive than overhead construction and its benefit under Consumers’ proposal were not clear. (*Id.*) The Audit also questioned whether the reliability improvements from undergrounding are significantly better than those from less costly alternatives, such as accelerated tree trimming. (*Id.*) The Company’s own presentation also confirmed that undergrounding is the most expensive option when compared to Aerial Spacer Cable including Forestry, Tree Wire Including Forestry, and Existing Overhead Including Forestry using the utility cost test (“UCT”). (Kelly 2 Tr 983, 1149 (“Figure 26 in my direct testimony does show that OHUG is more expensive than alternatives at scale”).) Furthermore, the Company

acknowledged that the Undergrounding Pilot was not completed as planned due to challenges with securing easements. (Fitzhenry 6 Tr 3726-30.)

The Company therefore failed to satisfy its burden to demonstrate cost recovery in the test year is reasonable or prudent. As such the Commission should reject the Company's proposal to greatly expand this program.

g. LVD new business capacity.

The PFD declined to adopt ABATE's recommendation, finding that the Company "is on track to exceed ABATE's proposed expenditure," that its "year-to-date spending" supported its request, and that "the five-year historical average reflects steady escalation of spending in this subprogram consistent with the Company's projected expenditures." (PFD at 189-90.) Contrary to this finding the Company's cost projection was inadequately supported and cannot be considered reasonable or prudent.

Similar to the asset relocations discussed above, Company spending in these categories is customer-driven and therefore largely uncertain. (See ABATE Initial Br at 32-33; ABATE Reply Br at 6.) Indeed, the Company acknowledged that it has not identified any specific projects for the test year. (*Id.*) Further, spikes in historic spending for these customer-driven projects do not demonstrate that costs will continue to increase and do not provide evidence of sustained, quantifiable future demand. Furthermore, as these costs are customer-dependent they are sensitive to interest rates, broader economic conditions, and policy changes, all of which inject high uncertainty into forward-looking projections. (*Id.*) As such there are significant unknowns and conjecture inherent in projecting these costs.

The Company has therefore failed to meet its burden and the Commission should adopt a conservative approach to future cost recovery that avoids significant increases for future time periods. Because actual spending in these categories will be driven by customer requests, which

are unknown at this time, it would be more reasonable and prudent to limit the projected investment in this category to the five-year average actual spend shown on Exhibit A-113 (MPK-3), line 25 for both the bridge period and test year.

h. LVD transformers.

The PFD agreed that “to some degree, the Company’s projection, which represents a substantial increase over past investments is speculative and not sufficiently supported,” although it declined to adopt ABATE’s recommended disallowance based on historical data. (PFD at 199.) As the Company’s projections are speculative and not sufficiently supported the Commission should not approve cost recovery above the Company’s actual historic costs.

As explained in ABATE’s Initial Brief, the Company’s dramatic projected increases are based on highly inexact and uncertain expenses. (ABATE Initial Br at 33-35; ABATE Reply Br at 6.) Similar to the discussion of LVD asset relocations above, where the Company’s projections are inadequately supported the Commission should adhere to actual historic costs as the most reasonable metric for cost recovery.

As the PFD found, the Company’s projections represent substantial increases based on speculation and lack sufficient support. A more reasonable and prudent approach to projecting capital expenditures for LVD Transformers would thus be to use 2024 actual capital expenditure amounts for both the bridge period and test year. As such the Commission should decline to adopt the PFD’s recommendation and instead adopt cost projections aligned with 2024 actual capital expenditure.

i. Line regulator controller project.

The PFD agreed that the BCA underpinning the Company’s requested cost recovery “is flawed because it does not accurately portray the full costs of this project,” although ultimately the PFD disagreed with ABATE’s proposed reduction to the installation rate of voltage regulator

controllers and the related disallowance. (PFD at 210.) As the Company's proposal was inadequately supported the Commission should hold approved cost recovery to historic actuals.

The PFD found that Consumers presented "adequate evidence showing that the benefits of this program extend beyond the economic benefits addressed in a BCA," that "the Company has installed more than 1,000 controllers since 2020, and the expenditures proposed in this case would enable the Company to complete its mass deployment with the installation of 437 units," and that ABATE's "proposal to slow the implementation rate to 25% of the current proposed rate is arbitrary and could prove counterproductive by jeopardizing the financial benefits of a competitive labor contract." (PFD at 210.) First, the Company's assertions regarding "a holistic evaluation of all the benefits" outside the BCA rests on opaque and vague benefit claims that cannot be substantiated or reasonably support cost recovery. The Company's BCA is meant to capture whether its investments are cost effective; a proposal to effectively ignore its shortcomings in favor of a "holistic evaluation of all benefits" invites even more speculation than is already inherent in this process. The PFD's claims regarding the "counterproductiv[ity] of potentially "jeopardizing the financial benefits of a competitive labor contract" should also be rejected. If the Company has not adequately supported its proposal, which the PFD found its BCA had not, cost recovery should not be approved based on the possibility of not securing a favorable labor contract. (See ABATE Initial Br at 35-37.) This argument effectively puts the cart before the horse and chases beneficial labor contract terms for significant expenditures which have not been sufficiently supported in the first place. The potential to realize "mass deployment" and contract terms cannot take precedence over whether the projected expenditures have been adequately substantiated in the first place. In this case they have not.

Given these flaws the Commission should reduce the Company's proposed pace for the line regulator controller project to 25% of the proposed installation rate. This approach will allow the Company to utilize actual historical data to validate and improve the input assumptions used in the line regulator controller BCA model.

2. Generation capital expenditures.

a. Covert plant.

The PFD noted that “past Commission disallowance of the LTSA extras spending keyed on the lack of historical data used in cost estimation” and such “historical data is still lacking, particularly in relation to Unit 3, where the projected spending exceeds that actually incurred for Covert Unit 2.” (PFD at 260-61.) As the Company's projected spending is unsupported it should not be approved for recovery here.

The PFD noted that “the Unit 3 spending projection” is “inexplicable, as it appears wholly speculative in comparison to” historical data and “the Company's testimony regarding actual spending in relation to Unit 2.” (*Id.*) Given this acknowledgement, the Commission should reject the PFD's recommendation to permit recovery of \$3,690,199 for the projected test year. Indeed, the PFD's reasoning that “[b]ased on the spending in relation to Unit 2, Consumers has presented reasonable evidence that at least some projected expenses will be incurred for Unit 3, a similarly situated unit in all respects to Unit 2” does not provide a reasonable basis for authorizing millions of dollars of cost recovery. As the projections for Covert Unit 3 are “inexplicable” and “speculative” the Commission should not still approve significant cost recovery based on assumptions related to projected spending on a separate unit. Where the Commission previously found “that Consumers' evidentiary presentation on this issue was inadequate” it stated that the “simple fact that a potential expenditure was included in an exhibit in a previous IRP proceeding is not sufficient to demonstrate the reasonableness and prudence of that expenditure in a rate case,

and the support provided on the instant record is insufficient.” *In the Matter of the Application of Consumers Energy Co*, order of the Public Service Commission, entered March 1, 2024 (Case No. U-21389), p 56. As the Company’s evidentiary presentation for Covert Unit 3 continues to be inadequate here the Commission should not approve cost recovery based on assumptive forecasts relating to a separate unit. (See ABATE Initial Br at 38-40.)

The Company has not rectified the evidentiary deficiencies the Commission previously found to warrant rejecting cost recovery. Again, as the Commission noted in the Company’s prior rate case, the Company “may recover reasonable and prudent costs in a future rate case” after the amount actually incurred is known. *In the Matter of the Application of Consumers Energy Co*, order of the Public Service Commission, entered March 1, 2024 (Case No. U-21389), p 56. Considering this context, and the fact that historical annual amounts vary significantly from year-to-year with no clear trend, it is neither reasonable nor prudent to approve the Company’s significant proposed cost increase projections.

b. Zeeland.

Regarding LTSA extra work at Zeeland, the PFD found that “\$0.81 million for the projected test year is not out of keeping with historical spending amounts reflected for 2021 and 2022, reflecting only a modest increase to meet increasing costs.” (PFD at 262-63.) The Company’s historic spending for this cost category demonstrates its projections are not reliable and the Commission should reject cost recovery here.

Despite the PFD’s assertion that “the projected test year spending is in line with historical spending amounts,” actual spending for this issue varies widely. (See ABATE Initial Br at 40-41.) For instance, in 2021 and 2022 actual costs were approximately \$0.5 million, in 2023 they were \$15.2 million, and in 2024 the actual cost was negative \$191,534. (Exhibit AB-3 at 2-59.) Indeed, the Company acknowledged that “[a]t first glance, the trend in investment has not been consistent.”

(Blumenstock 6 Tr 3596.) The Company’s assertion that this amount is incorrect because of “a credit to the 2018 LTSA extra work capital expenditure amount” further demonstrates the volatility of these costs, as does its assertions that “LTSA extra work capital expenditure amounts for 2023 and 2024 were \$0.497 million and \$0.330 million, respectively.” (Blumenstock 6 Tr 3592-96.) In other words, there is no clear historic trend in the capital expenditures associated with this category. The amounts proposed by Consumers are therefore highly speculative and may or may not be incurred at all.

Consumers has therefore not met its burden to demonstrate these projections are reasonable or prudent and, as a result, it is premature to include them in rates at this time. The Commission should therefore disallow Consumers’ total proposed capital expenditures for this extra work not included in the LTSA.

c. Jackson.

The PFD found that the projected \$0.315 million test year costs were “within historical norms” and recommended cost recovery. (PFD at 264-65.) As the Company’s costs for this expenditure category vary widely the Commission should not approve cost recovery based on the projections presented here.

The PFD noted that Consumers’ attempt to propose increased bridge period projections rested on documentation described as “thin.” (*Id.*) The fact that the Company’s bridge period costs increased but were not adequately supported further evidences the reality that the Company’s cost projections here are not sufficient to support recovery based on projections. As with the Zeeland LTSA extra work, the Company’s projected costs are significantly out of line with historical actuals. (ABATE Initial Br at 41-42.) In 2021, the actual cost was \$4.2 million, while in 2022 the actual cost was negative \$180,921 and in 2023 and 2024 the actual cost was less than \$0.5 million. (Exhibit AB-3 at 2-59.)

As such, the Company failed to adequately support its projections and there is no clear historical trend justifying Consumers’ proposal. The Company therefore failed to meet its evidentiary burden and the amounts proposed by Consumers are speculative and may or may not be incurred. The Commission should therefore disallow cost recovery of Consumers’ total proposed capital expenditures for this extra work not included in the LTSA. Once these costs (if any) are incurred the Company can seek cost recovery in a future rate case.

B. Adjusted Operating Income - The Company’s proposed O&M expense is unreasonable and should be rejected.

1. Distribution O&M expense – electric operations.

a. Non-forestry reliability.

The PFD declined to adopt ABATE’s recommendation to disallow cost recovery for the “Other Adjustments” contribution to the Company’s projections, which account for \$10.003 million (i.e., 99%) of the increase from 2024 to the future test year. (PFD at 583-87.) As these costs were not adequately supported the Commission should adopt this disallowance.

The PFD noted the Company’s assertions that it “did not develop projected distribution O&M spending by starting with the most recent historical year, adding inflation, and then making adjustments from that level; rather, projected distribution O&M spending was usually based on a projected level of work, and the specific approach for each O&M sub-program.” (PFD at 583-84.) More specifically, the “purpose of presenting the Company’s distribution O&M was to illustrate what amount of the Company’s projected O&M spending was tied to inflation, particularly so that interested intervenors could see the impact of different inflation rates.” (*Id.*) This assertion is effectively an acknowledgement that there is no basis for approving cost recovery of this amount.

As explained in ABATE’s Initial Brief, the Company’s testimony did not specifically describe or show the basis for how it derived these amounts. (ABATE Initial Br at 60-63; ABATE

Reply Br at 11.) Indeed, the Company admitted that the “Other Adjustments” column simply reflects the difference between Consumers’ historical actual spend and its projected test year spend. (Exhibit AB-2 at 4-5.) The Company’s explanation itself demonstrates that these “Other Adjustments” do not reflect any tangible, forecasted changes in workload, operational needs, new requirements, or work order volume. As such the Company’s request lacks the granular, project-level, or workforce-specific evidence required to demonstrate prudence and necessity, particularly where these adjustments are significantly above historical budgets. (ABATE Initial Br at 60-63.)

Again, the Commission has stated that its “expectation is that the parties will fully document the basis for their test year projections by offering into evidence detailed supporting explanations and underlying assumptions rooted in expected business, financial, and economic circumstances,” and “[r]ate applications may not rely on undocumented estimates of future ratemaking expenses and revenue criteria.” *In the Matter of the Application of DTE Electric Co.*, order of the Public Service Commission, entered May 8, 2020 (Case No. U-20561), p 13. The Company failed to satisfy that burden here. Again, as explained in ABATE’s Initial Brief, for LVD Lines Reliability O&M, HVD Lines Reliability O&M, and LVD Substations Reliability O&M, the Company did not identify work units for the specific project types or tasks that are expected to occur in each program, or an adequate level of detail with respect to the cost of specific project types. (ABATE Initial Br at 60-63.) Indeed, the PFD found multiple detailed instances in which the Company failed to support cost recovery for this program and its subcategories. (See PFD at 5765-76, 578, 587.)

The Company has therefore failed to demonstrate cost recovery for these amounts is reasonable and prudent. As such the Commission should reduce the Company’s projected O&M expense by \$10.003 million.

b. O&M and metering without service restoration.

The PFD declined to adopt ABATE's recommended cost recovery disallowance for the Company's staking and location program, instead recommending a more limited disallowance along with a deferred accounting mechanism for fluctuations tied to ticket volume variability. (PFD at 608.) As the Company's projected costs for this program were inadequately supported the Commission should adopt ABATE's proposed disallowance.

As explained in ABATE's Initial Brief, rather than adequately justify these significant increases, the Company instead simply provided a high-level description of its approach. (ABATE Initial Br at 63-67.) In other cases, instead of describing the basis for its projection, the Company simply stated that the projected spending level is higher than historical amounts because that is what it projects. Further, for staking specifically, the Company asserted that "[s]pending in this subprogram is primarily driven by staking request volume . . ." (*Id.*) Without evidence supporting the reasonableness of its projected increase this approach does not satisfy the Company's burden to provide "detailed supporting explanations and underlying assumptions rooted in expected business, financial, and economic circumstances" and instead constitutes reliance "on undocumented estimates of future ratemaking expenses and revenue criteria." *In the Matter of the Application of DTE Electric Co*, order of the Public Service Commission, entered May 8, 2020 (Case No. U-20561), p 13.

Indeed, while spending projections are shown across various exhibits, those exhibits' supporting data only reflects underlying inputs that do not explicitly show how the Company arrived at its test year projections. (York 6 Tr 3681-84.) For example, while the projected spend for HVD Lines Demand is based on a projected number of work orders, the Company's testimony does not appear to identify the number of historical actual or projected work orders that form the basis of the projection. (See ABATE Initial Br at 63-67.) Similarly, the Company's testimony does

not appear to identify the expected volume of work driving the increase in Meter Services projected spending. (*Id.*) Furthermore, the Company's projected 7% increase in the volume of staking requests is directly contrary to historical data showing significant year-over-year volatility, with no apparent trend. (*Id.*)

A more appropriate growth factor tied to Consumers' own historical averages is more reasonable. Again, Consumers' historic averages demonstrate historic growth in staking requests, specifically, has not consistently reached 7%. Without supporting details the Company's blanket assertions that projections are simply based on increased spending, without supporting details explaining or demonstrating how these figures actually relate to the specific work being forecast, do not satisfy the Company's burden. Given its failure to adequately demonstrate its projections are reasonable or prudent, the Commission should not grant cost recovery for the same. As such the Commission should reduce the Company's projected O&M expense for these subprograms by \$18.118 million.

c. Field operations - training.

The PFD found that "adjustments based on 'Other Adjustments' would not be appropriate absent additional justification" and recommended the Commission "not disallow expenses on that basis alone." (PFD at 616.) As ABATE's recommended cost recovery disallowance was not based on this alone the Commission should reject the PFD's recommendation.

As set out in ABATE's Initial Brief, the Company requested a significant increase based on cost projections that dramatically exceeded its historic actual costs. (ABATE Initial Br at 67-69; ABATE Reply Br at 11-12.) Thus, while the PFD properly found that "ABATE raises a legitimate concern regarding the significant increase in projected spending for the bridge period and projected test year," its conclusion that "there was insufficient evidence to discredit the Company's projected spend" does not reflect the record here. (PFD at 616.) Contrary to this claim

ABATE provided a detailed explanation of the deficiencies in the Company's support for this projection. For instance, while Consumers asserted that expenses were determined based on the number of employees, apprentices, and external candidates, multiplied by the expected hours of training they will receive each year, it is unclear what assumptions the Company made with respect to the new number of employees, apprentices, and external candidates that will actually require training during the projected test year, and whether that projection is reasonable and likely to be accurate. (ABATE Initial Br at 67-69.) Further, the Company acknowledged that challenges in obtaining the necessary crews can occur, resulting in projects not being completed as planned. (*Id.*)

In addition, despite the Company's claim that its projected Training O&M budget supports training for employees at all stages, rather than just onboarding for new hires, the underlying assumptions used to forecast its projections were not substantiated with specific and transparent data. (*Id.*) The Company has referenced historical headcount trends and indicated a general increase, but it has not sufficiently detailed the basis for projected incremental training costs. (*Id.*) Without clear evidence of an incremental cost structure beyond historic averages and generalized workforce growth claims the Company has not met its burden and the Commission should not approve the Company's full requested amount. Instead, a moderated approach consistent with documented historical spending trends, supplemented only for substantiated changes, is appropriate.

As set out above, the Company has the burden to substantiate the reasonableness of its projections; intervenors need not prove the contrary. Given the lack of adequate supporting information and detail the Company has failed to meet that burden here. As such the Commission should reduce the Company's projected test year O&M expense by \$4.793 million, as shown on

Exhibit A-128 (MPK-18), line 21, which adjustment would bring this projected test year spend closer in line with the five-year average.

2. Line clearing O&M expense.

The PFD declined to adopt ABATE's proposed \$1.184 million disallowance and instead recommended that "Consumers should spend the entire amount of line clearing expenses approved in this and each rate case and trim all proposed miles, and if unable to do so, explain how the unspent amounts were reallocated." (PFD at 660.) As this recommendation conflicts with Consumers' failure to substantiate its cost projections and would unreasonably prioritize utility revenues over reasonable customer rates the Commission should adopt ABATE's proposed disallowance.

As explained in ABATE's Initial Brief, the Company projected test year O&M of \$11.840 million for the HVD Line Clearing Program despite actual spending on this subprogram averaging roughly \$10.550 million from 2020 through 2024. ((ABATE Initial Br at 69-70.) Thus, Consumers' projected O&M for this subprogram represents an increase of about 12% relative to the historical average despite the Company consistently underspending its planned HVD Line Clearing O&M amounts from 2020 through 2024 by about 10%. The Company's testimony does not provide any basis for assuming this trend won't continue, as it demonstrates that on an annual basis through 2030 Consumers expects to continue clearing a similar number of miles of HVD lines each year, using the same number of crews that have been used for several years. (*Id.*) In other words, nothing about the Company's past expenses or efforts, or its projected efforts, demonstrates a revenue increase is justified or reasonable for this program.

The Company (and PFD's) suggestion that in the event it "completes its HVD workplan spending less than the full proposed amount, it will reallocate any net decrease in HVD clearing costs for the test year to the Low Voltage Distribution ('LVD') system" is neither prudent, nor

does it support cost recovery of essentially admittedly excessive amounts. (*Id.*) Again, the Company must “fully document the basis for their test year projections by offering into evidence detailed supporting explanations and underlying assumptions rooted in expected business, financial, and economic circumstances.” *In the Matter of the Application of DTE Electric Co*, order of the Public Service Commission, entered May 8, 2020 (Case No. U-20561), p 13. Given this standard the Commission should not approve speculative cost recovery based on the assertion that excessive revenue will simply be diverted to another program without any regulatory oversight, particularly where the Company’s requested cost recovery for that alternative program is also excessive.

The Company’s demonstrated track record of consistently underspending planned amounts, achieving the planned number of HVD line miles cleared, and utilizing the same number of crews used to accomplish that goal, demonstrates that Consumers has not met its burden to show a revenue increase is reasonable or prudent. As such the Company’s projected test year HVD Line Clearing O&M should be reduced to historical levels.

III. RELIEF REQUESTED

WHEREFORE, ABATE requests the Commission issue an Order adopting ABATE’s positions as outlined in its Direct and Rebuttal Testimony, as well as its Initial and Briefs and these Exceptions.

Respectfully submitted,

CLARK HILL PLC

Stephen A.

Campbell

By:

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O =
Clark Hill PLC
Date: 2026.02.17 14:02:14 -05'00'

Michael J. Pattwell (P72419)
Stephen A. Campbell (P76684)
Attorneys for the Association of
Businesses Advocating Tariff Equity
Clark Hill PLC
500 Woodward, Suite 3500
Detroit, Michigan 48226
313-309-4274
mpattwell@clarkhill.com
scampbell@clarkhill.com

Date: February 17, 2026

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.)
_____)

Case No. U-21870

ALJ Jonathan F. Thoits

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF WAYNE)

Stephen A. Campbell, being first duly sworn, deposes and says that on February 17, 2026, he did cause to be served: the *Association of Businesses Advocating Tariff Equity's Exceptions*, as well as this *Proof of Service*, in the above docket, via electronic mail to the persons identified on the attached service list.

Stephen A.
Campbell

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O =
Clark Hill PLC
Date: 2026.02.17 14:01:55 -05'00'

Stephen A. Campbell

SERVICE LIST
MPSC Case No. U-21870

<p>Administrative Law Judge Hon. Jonathan F. Thoits Administrative Law Judge Michigan Public Service Commission 7109 W. Saginaw Hwy., 3rd Floor Lansing, Michigan 48917 Email: thoitsj@michigan.gov</p>	<p>Counsel for MPSC Staff Daniel E. Sonneveldt Amit T. Singh Nicholas Q. Taylor Alena M. Clark Adam M. Cozort Michael J. Orris Email: sonneveldtd@michigan.gov singha9@michigan.gov taylor10@michigan.gov clarka55@michigan.gov cozortal@michigan.gov orrism@michigan.gov</p> <p>Lori Mayabb Email: mayabbl@michigan.gov</p>
<p>Consumers Energy Company Gary A. Gensch Jr. Anne M. Uitvlugt Evan B. Keimach Spencer A. Sattler Bret A. Totoraitis Kelly Hall Email: gary.genschjr@cmsenergy.com anne.uitvlugt@cmsenergy.com evan.keimach@cmsenergy.com spencer.sattler@cmsenergy.com bret.totoraitis@cmsenergy.com kelly.hall@cmsenergy.com mpsc.filings@cmsenergy.com</p>	<p>Michigan Attorney General Celeste R. Gill Lucas Wollenzien Email: gillcl@michigan.gov wollenzienl@michigan.gov AG-ENRA-Spec-Lit@michigan.gov</p>
<p>Walmart, Inc. Melissa M. Horne Email: mhorne@hcc-law.com</p>	<p>Hemlock Semiconductor Operations, LLC and Solar Technology LLC Jennifer U. Heston Email: jheston@potomaclaw.com</p>
<p>The Ecology Center; Environmental Law & Policy Center; Union of Concerned Scientists; and Vote Solar Daniel Abrams Katie Duckworth Alondra Estrada</p>	<p>Great Lakes Renewable Energy Association Don Keskey Carol Dane Email: dkeskey@publiclawresourcecenter.com cdane@publiclawresourcecenter.com</p>

<p>Katie Toolan Email: dabrams@elpc.org kduckworth@elpc.org aestrada@elpc.org ktoolan@elpc.org MPSCDocket@elpc.org</p>	
<p>Michigan Electric Transmission Company Richard J. Aaron Courtney F. Kissel Olivia R.C.A. Flower Hannah Buzolits Josh L. Kluzak Email: raaron@dykema.com ckissel@dykema.com oflower@dykema.com HBuzolits@dykema.com jkluzak@dykema.com</p>	<p>Citizens Utility Board of Michigan, Michigan Environmental Council, Sierra Club, and Natural Resources Defense Council Christopher M. Bzdok Holly L. Hillyer Tracy Jane (TJ) Andrews Natasha Fowles John Liskey Sean Clark Email: chris@tropospherelegal.com holly@tropospherelegal.com tjandrews@tropospherelegal.com natasha@tropospherelegal.com john@liskeypllc.com sean@tropospherelegal.com</p>
<p>Michigan Energy Innovation Business Council; Institute for Energy Innovation; Advanced Energy United; Foundry Association of Michigan; and Energy Michigan Laura Chappelle Timothy Lundgren Justin Ooms Email: lachappelle@varnumlaw.com tjlundgren@varnumlaw.com jkooms@varnumlaw.com</p>	<p>Urban Core Collective Amanda Urban Mark Templeton Jacob Schuhardt Madison S. Wilson Email: aurbanlaw@gmail.com templeton@uchicago.edu jschuhardt@uchicago.edu madisonswilson@uchicago.edu aelc_mpsc@lawclinic.uchicago.edu</p>
<p>Michigan Cable Telecommunications Association Sean Gallagher Email: sgallagher@fraserlawfirm.com</p>	<p>The Kroger Company Michael Kurtz Jody Kyler Cohn Email: mkurtz@bkllawfirm.com jkylercohn@bkllawfirm.com</p>

<p>Counsel for Pseudonymous Customer A Valerie J.M. Brader Email: valerie@rivenoaklaw.com</p>	
<p>Counsel for ABATE Michael J. Pattwell Stephen A. Campbell Benjamin J. Holwerda Email: mpattwell@clarkhill.com scampbell@clarkhill.com bholwerda@clarkhill.com</p> <p>Lauren Degnan Email: ldegnan@clarkhill.com</p>	<p>Consultants for ABATE James Dauphinais Jessica York Email: jdauphinais@consultbai.com jyork@consultbai.com</p>