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February 17, 2026

Ms. Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 W. Saginaw Highway  
P.O. Box 30221  
Lansing, MI 48909

Re: MPSC Case No. U-21870

Dear Ms. Felice:

Attached for electronic filing in the above-captioned matter, please find the Exceptions to the Proposal for Decision of the Michigan Energy Innovation Business Council, the Institute for Energy Innovation and Advanced Energy United, along with Proof of Service of same.

Thank you for your assistance in this matter.

Sincerely yours,

VARNUM



Justin K. Ooms

JKO/plf

Attachment(s)

c: All parties of record.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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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

EXCEPTIONS  
OF  
THE MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL,  
THE INSTITUTE FOR ENERGY INNOVATION  
AND  
ADVANCED ENERGY UNITED

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**EXCEPTIONS  
OF  
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THE INSTITUTE FOR ENERGY INNOVATION  
AND  
ADVANCED ENERGY UNITED**

**I. INTRODUCTION**

Pursuant to Rule 435 of the Michigan Public Service Commission’s (“Commission” or “MPSC”) Rules of Practice and Procedure, R 792.10435, and in accordance with the schedule set in this proceeding by Administrative Law Judge (“ALJ”) Jonathan F Thoits, the Michigan Energy Innovation Business Council (“Michigan EIBC”), Institute for Energy Innovation (“IEI”) and Advanced Energy United (“United”; collectively with Michigan EIBC and IEI “MEIU”), submit these Exceptions to the Proposal for Decision (“PFD”) issued in this case on January 29, 2026.<sup>1</sup>

The PFD makes recommendations with respect to Consumers Energy Company’s (“Consumers” or the “Company”) June 2, 2025, Application for authority to increase its rates for the generation and distribution of electricity and for other relief. MEIU broadly appreciate ALJ Thoits’s thoughtful analysis and recommendations in the PFD and support many of those

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<sup>1</sup> Notice of Amended Proposal for Decision, Case No. U-21870, Filing No. U-21870-0473, dated January 29, 2026 (“PFD”).

recommendations. MEIU nonetheless take exception to a few of the PFD's recommendations, as more fully described herein.

MEIU's failure here to take exception to any other recommendations contained in the PFD does not signify an agreement with those recommendations nor a waiver of the positions they have taken in their testimony and briefing with respect to the issues raised in this case.

## **II. EXCEPTIONS**

### **A. The PFD Errs in Recommending a Reduction to the Peak Time Rewards ("PTR") Bill Credit Despite Rejecting Consumers' Basis for Implementing It.**

MEIU witness Sproul raised concerns in testimony regarding Consumers' proposal to reduce both the customer demand savings projections and the bill credits provided under the PTR demand response ("DR") program. See 6 Tr 4211–18. Specifically, he pointed out that the evidentiary basis for Consumers' proposals to implement such reductions was inadequate, since it relied on an outdated 2022 Cadmus Study and a 2025 Cadmus presentation that in turn relied on the conclusions from the 2022 Cadmus Study. *Id.*

The PFD appears to have agreed with witness Sproul's concerns and recommendations regarding the 2022 Cadmus Study, explaining that "the Company has not provided adequate information regarding the reduction in capability values based on current information," and concluding that "the reduction in capability value to 0.13 kW per customer be denied." PFD at 378. The PFD also appears to have agreed with witness Sproul's concern that a reduction in compensation could sabotage an existing cost-effective DR program, noting, "There is no data on the impact that the proposed reduction might have on customer behavior . . . ." PFD at 377. Despite this, the PFD recommended that "the PTR bill credit reduction [from \$1.00] to \$0.50 be adopted." *Id.* This conclusion is inconsistent with the PFD's findings on capability values and otherwise unsupported by the evidence as the PFD has evaluated it.

As witness Sproul explained, Consumers relied on the reduced capability value when it determined to reduce the bill credit: “Consumers states that ‘with this lower [customer demand savings capability] value being nearly half the previous value for PTR, the Company determined that the credit offered to these customers should also be halved.’” 6 Tr 4216 (quoting 3 Tr 1105). Given the PFD’s rejection of the Company’s basis for the bill credit reduction (the reduced capability value), and given the PFD’s apparent recognition that the reduction’s effect on customer behavior was not adequately considered, there is no longer any evidentiary justification for adopting the PTR bill credit reduction.

The Commission should thus reject the PFD’s recommendation to adopt Consumers’ proposal to reduce the PTR bill credit.

**B. The Commission Should Disregard the PFD’s Recommendation to Reject MEIU’s Proposals to Increase the Direct Current Fast Charger (“DCFC”) Rebate and to Extend the Rebate Application Window for Failing to Provide Any Reasons Therefor.**

MEIU provided a thorough basis for increasing the “ceiling” of DCFC rebates available to applicants and for lengthening the period of time over which applicants could apply from two years to the lesser of six years or until funds are exhausted. See Initial Brief of MEIU, Case No. U-21870-0437 (“MEIU Initial Br”) at 7–12. Specifically, MEIU explained that, with the loss of the 30C tax credit, the availability of which was relied upon to justify the reduction in the existing rebate to \$50,000, a rebate increase—without an increase in overall rebate budget—was justified. MEIU Initial Br at 9. MEIU also pointed out that Company witness Myrom appeared to support MEIU’s proposal in principle but proposed that it be considered in a future case. *Id.* In response, MEIU explained that the Company’s next rate case was likely to be decided as much as or more than one year after the expiration of the 30C tax credits, risking making a determination in such a subsequent case academic. *Id.* at 9–10. Especially when coupled with MEIU’s proposal to permit

the Company to provide greater or lesser rebates depending on the application of a clear rubric (which the PFD here has recommended be adopted, see PFD at 405), it is hard for MEIU to see why the Company should not be given the flexibility to support DCFC that are located in particularly costly locations or locations with longer timelines for a return on investment, like rural and seasonal chargers “that may be on routes less traveled (where utilization is lower and thus charging revenue is less).” *Id.* at 10.

Similarly, with respect to the rebate application window, MEIU explained that the Company’s two-year window proposal risks “artificially truncat[ing]” the program “when previously allocated funding remains unspent.” *Id.* at 11 (quoting 6 Tr 4171). Given the interest shown by the Staff in a similar proposal from MNSC witness Jester, *id.*, the failure of the Company to provide a compelling response, and the fact that there are no cost impacts to increasing the application window (since the window would close as soon as approved funds are exhausted), there is no basis on which to reject MEIU’s proposal.

Nonetheless, the PFD did reject both of these proposals—out of hand without any discussion. The PFD simply stated, “As to the MEIU and MNSC recommendations to raise the rebate values and lengthen the application window, this PFD recommends that the Commission not adopt them in this rate case.” PFD at 405. Especially since in general the Commission owes a PFD no deference, see August 31, 2000 Order in Case No. U-12321 at 13 (“The ALJ’s decision is a recommendation, and the Commission is not subject to the constraints imposed by a legal standard of appellate review in deciding whether to accept, reject, or modify the ALJ’s assessment of the evidence or legal analysis.”), a PFD’s recommendation that lacks any reasoning to support it provides *no* basis on which the Commission can make a decision, and the Commission should undertake its own analysis of the underlying facts and legal arguments.

The Commission should thus disregard the PFD's recommendations regarding the rebate "ceiling" and the rebate application window and instead find that both of MEIU's recommendations on these issues are reasonable and should be adopted.

**C. The PFD Should Have Contained a Recommendation that the Commission Warn Consumers of Future Disallowances Should the Company Continue to Ignore the Value Provided by Virtual Power Plants ("VPPs").**

The PFD explicitly found that "the CEO and GLREA provided extensive support for VPPs" and "agree[d] that VPPs can provide a multitude of grid benefits, increase system reliability, and avoid or defer costly capital investments." PFD at 986. Nonetheless, relying on its conclusion that "there is no statute which explicitly requires Consumers to invest in and develop a VPP" and that "[s]ince Consumers is not proposing any VPP-related costs" in a rate case analyzing the "reasonableness and prudence of the utility's revenue request," the PFD concluded that "Consumers' decision not to develop VPPs at this time is a managerial or business decision, which rests solely with the Company." *Id.*

Against this backdrop, MEIU's explanation of the Commission's authority adequately demonstrates that the Commission has the power to reject future requests for cost recovery related to proposed investments and expenses that could have been avoided by use of VPPs. See Reply Brief of MEIU, Case No. U-21870, Filing No. U-21870-0462 ("MEIU Reply Br") at 2–4. Thus, it would have been entirely appropriate for the PFD, and would be entirely appropriate for the Commission in its Order, to issue a prospective warning to the Company that, in light of the "extensive support for VPPs" in the record and the fact that "VPPs can provide a multitude of grid benefits, increase system reliability, and avoid or defer costly capital investments," future proposed

investments that fail to account for VPPs may be disallowed. The Commission should thus issue just such a warning in its final order in this case.<sup>2</sup>

### III. CONCLUSIONS AND PRAYER FOR RELIEF

WHEREFORE, the Michigan Energy Innovation Business Council, the Institute for Energy Innovation and Advanced Energy United continue to respectfully request that the Commission:

- (a) Accept Consumers' forecast of EV adoption as reasonable;
- (b) Adopt Consumers' proposed "enhancements" to its EV rebate programs, subject to the modifications advocated by MEIU as stated in their Initial Brief;
- (c) Reject Consumers' proposal to cut the incentive provided under the PTR program in half unless and until the Company provides evidence that the current incentive levels exceed the value provided by PTR participants;
- (d) Reject the Staff's recommendation to close Rate GP to EV charging customers and to require Consumers to file an EV fast charging rate proposal in its next rate case;
- (e) Direct Consumers, as a prerequisite for filing an EV fast charging rate proposal in the future, to conduct a comprehensive evaluation of best practices as it relates to DCFC tariffs being implemented in other states and countries, to conduct a stakeholder convening to gather key stakeholder and industry feedback on issues related to DCFC tariffs and demand charges, and to present its findings and propose a long-term plan for the eventual implementation of an appropriate DCFC tariff;
- (f) Develop an electric heating/heat pump rate for inclusion in its next rate case;
- (g) Explicitly confirm its expectation that Consumers continue to make its inventory of equipment with long acquisition lead times available to DER and EV projects initiated by third parties on the same basis that such equipment is available to the utility for projects that it initiates;
- (h) Direct Consumers to work with stakeholders to develop a VPP program in line with that recommended by CEO witnesses Kenworthy and Boehke; and
- (i) Grant such other relief as the Commission deems lawful, necessary, reasonable or prudent.


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<sup>2</sup> It would be similarly appropriate for the Commission to *direct* rather than simply "encourage" the Company to "initiate a workgroup with interested persons and to develop more pilots or other actionable proposals to develop and further evolve the Company's initial [DERMS] proposal," a workgroup that should include discussion of VPPs. PFD at 987-88.

Respectfully submitted,

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February 17, 2026

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Case No. U-21870

PROOF OF SERVICE

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF KENT )

Pamela Fox, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on Tuesday, February 17, 2026, she served a copy of the Exceptions to the Proposal for Decision of the Michigan Energy Innovation Business Council, the Institute for Energy Innovation, and Advanced Energy United, along with this Proof of Service upon those individuals listed on the attached Service List via email.

\_\_\_\_\_  
Pamela Fox

**Administrative Law Judge**

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