



## ENVIRONMENTAL LAW & POLICY CENTER

February 17, 2026

Ms. Lisa Felice  
Michigan Public Service Commission  
7109 W. Saginaw Hwy.  
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Lansing, MI 48909

RE: MPSC Case No. U-21870

Dear Ms. Felice:

Attached for paperless electronic filing please find the Exceptions to the Proposed Final Decision of The Ecology Center, The Environmental Law & Policy Center, Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations (“CEO”). Proof of Service is also attached.

Sincerely,

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**STATE OF MICHIGAN  
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

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**EXCEPTIONS TO THE PROPOSED FINAL DECISION OF  
THE ECOLOGY CENTER, THE ENVIRONMENTAL  
LAW & POLICY CENTER, UNION OF CONCERNED SCIENTISTS, AND  
VOTE SOLAR**

**February 17, 2026**

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The Ecology Center, the Environmental Law & Policy Center, the Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations (“CEO”)), hereby file their Exceptions to the Proposed Final Decision (“PFD”) in the above-captioned Consumers Energy Company (“Consumers” or the “Company”) contested rate case. The CEO limit their responses in these Exceptions to the following issues: (1) the PFD’s refusal to adopt the CEO’s recommendations regarding virtual power plants (“VPP”) and (2) the PFD’s failure to recommend a disconnection moratorium.

**I. The Commission Should Direct Consumers to Create a VPP Plan**

In testimony and in briefs, the CEO presented the customer and grid benefits associated with virtual power plants. CEO Opening Br. at 6-7; Kenworthy Direct, 4 TR 3206-9; *see also* Ex. CEO-3. The benefits of VPP are clear: fast implementation (within six months); lower cost than comparable resources; grid relief. *Id.* The CEO also pointed to a real-world example of the effectiveness of VPP, where in California multiple California VPP aggregators discharged 535 MW of average output between 7 pm and 9 pm, coinciding with CAISO’s net system peak, visibly reducing net load during peak. Ex. CEO-4. CEO Witness Kenworthy also identified the Company’s existing, successful demand response program as the perfect platform to host an expanded VPP program. Kenworthy Direct, 4 TR 3209. As Witness Kenworthy pointed out, a future VPP program could utilize the same aggregator platform, Energy Hub, as the Company’s demand response program. *Id.* Ultimately, the CEO recommended that the Commission direct Consumers to develop a VPP program plan. CEO Opening Br. at 10.

The Company disagreed with the CEO’s recommendation arguing that the Commission lacks authority to order the Company to propose a program and also questioned the near-term viability of VPP. Consumers Opening Br. at 451.

The PFD refused to adopt the CEO’s recommendations regarding the development of a VPP plan. The PFD reasoned that “there is currently no basis for forcing Consumers to use the [demand response] program to institute a VPP.” PFD at 381. Later the PFD found that, “there is no statute which explicitly requires Consumers to invest in and develop a VPP.” *Id.* at 986. At the same time, the PFD recognized “that the CEO and GLREA provided extensive support for VPPs and this PFD agrees that VPPs can provide a multitude of grid benefits, increase system reliability, and avoid or defer costly capital investments.” *Id.*

The CEO urge the Commission to reverse the PFD’s conclusions regarding VPP planning. While no statute mandates Consumers to implement a VPP program, the Commission has significant discretion to guide Consumers’ investments and strategy. *See In re Consumers Energy Co.*, 913 N.W.2d 406, 413 (Mich. Ct. App., Dec. 28, 2017). Further, the Commission already required the Company to investigate virtual power plants when it develops a business case for future DERMS spending. Case No. U-21585, Final Order at 118 (Mar. 21, 2025); *see also* CEO Reply Br. at 2.

The record in this case clearly demonstrates that VPPs add value, a point the PFD agreed with, recognizing the “multitude of grid benefits” VPPs provide. The Commission could reasonably conclude that implementing this important tool would be just and reasonable. Further, the CEO did not recommend or request that Consumers deploy a VPP, rather the recommendation is to “order Consumers to create a VPP plan which builds on its Demand Response program and the Whole Home Optimization Pilot...not to deploy a virtual power plant immediately.” CEO Reply Br. at 2. As the CEO pointed out in our reply brief, “the Company’s upcoming distribution system plan and integrated resource plan both present excellent opportunities for the Company to model and analyze VPPs.” *Id.* at 3.

Accordingly, the Commission should direct Consumers to create a VPP plan in its next distribution system plan, using the guidelines and parameters outlined by CEO Witness Kenworthy in testimony. Kenworthy Direct, 4 TR 3211-13; CEO Opening Br. at 10. Relatedly, the Commission should order Consumers to model VPP in its upcoming IRP.

## **II. The Commission Should Order Consumers to Implement a Disconnection Moratorium Pending Further Analyses of Racial Disparity in Shutoffs**

Based on several cases of CEO regression analyses and a set of Commission orders, Consumers enlisted an outside consultant, Exponent, to conduct regression analysis on its behalf. Among the analyses Exponent ran were a set analyzing the Company's disconnection data. *See* Consumers Ex. A-138. Exponent's analysis found that increasing BIPOC population is correlated with increasing disconnection rates, even when poverty rate, unemployment rate, and other variables are factored in. A-138 at 42. These findings confirmed earlier analysis conducted by CEO Witness Boratha Tan which reached the same conclusions. Tan Direct, 4 TR 3232.

Consumers recognized the findings by its consultants but disagreed with the CEO's recommendation regarding a disconnection moratorium. The Company argued that a moratorium "would not have the desired effect" because it "would not stop customers from accruing bills and could put customers in a position for their energy bills to become unaffordable due to past due balances. It could also prevent some customers from receiving funding assistance to help make their bills more affordable." Consumers Opening Br. at 448.

The PFD observed "that the statistically significant result showing that minority households are more likely to experience disconnection is quite concerning." PFD at 954. However, the PFD was "not persuaded by calls for a moratorium on residential disconnections." *Id.* at 954-55. Specifically, the PFD found that "a disconnection moratorium could result in a

large arrearage balance, putting low-income customers who are already struggling in an even worse position.” *Id.*

As the CEO argued in our reply brief, Consumers’ concerns, echoed in the PFD should not outweigh the potential for disparate impact in the Company’s disconnection practices. *See* CEO Reply Br. at 5. Importantly, the Company “failed to develop its argument about detrimental impacts to ratepayers’ access to assistance programs despite ample opportunity in rebuttal testimony.” *Id.* And, the Company’s concerns ignore its ability to implement mitigation measures to protect customers and itself from those impacts. *See* UCC Opening Br. at 71.

The Commission should take this statistically significant relationship between disconnection and race seriously. The correct path forward is to order Consumers to halt disconnections until it can conduct an internal audit of its practices and better understand why this relationship exists.

### **III. Conclusion and Recommendations**

The CEO recommend that the Commission modify the proposed final decision by: (1) directing Consumers to create a VPP plan in its next distribution system plan and to model VPP in its upcoming IRP; and (2) ordering Consumers to implement a shutoff moratorium and to conduct a root cause analysis around racial disparity in disconnections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dan Abrams', is written over a horizontal line.

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Dated: February 17, 2026

**STATE OF MICHIGAN  
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
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**PROOF OF SERVICE**

I hereby certify that a true copy of the foregoing *Exceptions to the Proposed Final Decision of The Ecology Center, Environmental Law & Policy Center, Union of Concerned Scientists, and Vote Solar* was served by electronic mail upon the following Parties of Record, Tuesday, February 17, 2026.

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