

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

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PUBLIC

ATTORNEY GENERAL'S EXCEPTIONS
TO PROPOSAL FOR DECISION

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INTRODUCTION

On January 29, 2026, a proposal for decision (“PFD”) was issued by Administrative Law Judge (ALJ) Jonathan Thoits in this case, and it was amended on that same day. In the Notice of Proposal for Decision, the ALJ advised that exceptions to the PFD must be filed on or before January 17, 2026. Accordingly, the Attorney General files the instant exceptions.

On June 2, 2025, Consumers Energy Company (“Consumers Energy,” “CECo,” or “the Company”) filed its application seeking approximately \$436 million in rate relief for the 12-month period ending February 28, 2026 (“projected test year” or “test year”) and a \$24.3 million surcharge from its distribution deferral mechanism, along with other requests. The Company adjusted its revenue requirement downward in rebuttal testimony and its initial brief and is now seeking approximately \$422.9 million, however it continues to seek a return on equity (“ROE”) of 10.25%, an equity ratio of 50.75%,¹ along with other requests. The Attorney General intervened in this case and filed the Direct Testimony and exhibits (AG-1 – AG-60) of Sebastian A. Coppola on September 30, 2025. She also had Exhibits AG-61 through AG-80 admitted to the record in lieu of cross-examining certain Company witnesses.²

The PFD recommended that the Company be granted rate relief in the amount of approximately \$132 million, a ROE of 8.2%, and equity ratio of 50.0%

¹ Initial Brief of Consumers Energy Company, pages 1 – 2, 193 and Appendix A, line 10, column (e).

² See, Attorney General’s Initial Brief, pp. 7 – 9. See also, 3 TR 2408 – 2594.

along with a number of other recommendations.³ While the PFD included thoughtful analysis, it recommended that the Commission not adopt some of the Attorney General’s proposed adjustments and other recommendations. Therefore, the Attorney General files these exceptions to respond to certain of PFD’s findings and recommendations.

STANDARD OF REVIEW

The Michigan Public Service Commission (MPSC or Commission) has summarized the standard of review of an ALJ’s decision as follows:

[I]n issuing a ruling, an ALJ does not create findings of fact or conclusions of law that bind the Commission. 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. See MCL 24.281(3); MSA 3.560(181)(3) (“On appeal from or review of a proposal of decision the agency, except as it may limit the issue upon notice or by rule, shall have all the powers which it would have if it had presided at the hearing.”)

In the matter of the complaint of AT&T Communications of Michigan, Inc., MPSC Case No. U-12321 (August 31, 2000), p 13.

In fact, the Commission has held that “it will reverse an administrative law judge’s ruling if the Commission finds that a different result is more appropriate.”⁴ For the reasons provided below, a different result is more appropriate for some of the ALJ’s recommendations.

³ PFD, Appendices A and D.

⁴ *In the matter of the application of the Midland Cogeneration Venture Limited Partnership for approval of capacity charges contained in a power purchase agreement with Consumers Power Company*, MPSC Case No. U-8871 (June 28, 1988), p 2.

ARGUMENT

I. Burden of Proof and Standard of Review

In addressing the applicable legal standard, the PFD stated that the Commission applies a preponderance of the evidence standard when making findings of fact or weighing conflicting evidence,⁵ however, it neglected to address the relative evidentiary burdens of the parties in full.⁶ A party seeking relief has the burden of proving his, her, or its claim by a preponderance of evidence in administrative cases.⁷ Likewise, in cases before the Commission, the utility bears the burden of proof by a preponderance of evidence to demonstrate that its proposals are just and reasonable.⁸ The obligation of proving any fact lies upon the party who substantially asserts the affirmative of the issue.⁹ A plaintiff always has the burden of proving its cause of action.¹⁰ Given the nature of the burden of proof, the Commission may reject even uncontradicted evidence.¹¹ When the burden of

⁵ PFD, p 15.

⁶ See, PFD, Legal Standards, pp 15 – 17.

⁷ *Dillon v Lapeer State Home & Training School*, 364 Mich 1, 8; 110 NW2d 588 (1961); *BCBSM v Governor*, 422 Mich 1, 88-89; 367 NW2d 1 (1985).

⁸ *In re Michigan Gas Utilities Co*, MPSC Case No. U-7484, Opinion & Order dated August 30, 1983; *In re Detroit Edison Co*, MPSC Case No. U-8030-R, Opinion & Order dated July 9, 1987, pp 16-17.

⁹ *White v Campbell*, 25 Mich 463, 475 (1872).

¹⁰ *Caruso v Weber*, 257 Mich 333; 241 NW2d 198 (1931).

¹¹ *Woodin v Durfee*, 46 Mich 424, 427; 9 NW 457 (1881); *Accord, Yonkus v McKay*, 186 Mich 203, 211; 152 NW 1031 (1915); *Cuttle v Concordia Mut Fire Ins Co*, 295 Mich 514, 519; 295 NW 246 (1940).

proving a fact falls on one party, then the other party does not have the burden of proving the opposite fact.¹²

II. Net Plant Utility

The Attorney General's initial and reply briefs challenged several of the Company's proposed capital expenditures. The PFD agreed with some of the Attorney General's recommendations, however it did reject or failed to fully adopt others. For the reasons provided below and in the Attorney General's initial briefs the Commission should adopt the Attorney General's recommendations discussed below.¹³

A. The PFD erred in recommending that the Commission not adopt certain disallowances proposed by the Attorney General for the Company's distribution related expenditures.

1. HVD Distribution System

a. HVD Lines Reliability

The PFD recommended that the Commission reject the Attorney General's deductions for several of the expenditures under this category for HVD Substation Replacement projects.¹⁴ The PFD should have used the Attorney General's recommended adjustments and expenditures for those projects because the

¹² *S.C. Gary, Inc v Ford Motor Co*, 92 Mich App 789, 803-804; 286 NW2d 34 (1979).

¹³ The Attorney General's recommendations regarding capital expenditures are included in pages 12 – 108 of her Initial Brief and pages 6 – 9 of her Reply Brief and are incorporated herein by reference.

¹⁴ PFD, pages 53 – 55.

Company failed to justify its forecasted expenditures for the projected test year as discussed below.

i. HVD Lines Rebuild

The Company proposes rebuilding 13 miles of lines during the bridge period at a total cost of \$38,614,000 and an average unit cost of \$2,201,000. For the projected test year, the Company is proposing 65.8 miles of line rebuilds for a total cost of \$35,743,000 with an average unit cost of \$543,207.¹⁵ The Company has averaged 20 miles in lines rebuild annually in the most recent three years with the highest year in 2022 at 40 miles.¹⁶ The nearly 60 miles of rebuilds for the projected test year represents a 50% increase from the highest rebuild year in the last three years and three-fold increase over the average number of miles rebuilt in recent years and appears to be excessive because it is not supported by sufficient data, showing that the higher level of activity is required for the projected test year.¹⁷ Therefore, Mr. Coppola determined a reasonable level of activity by using the highest level of line rebuild activity in the past three years of 40 miles. Second, he multiplied the 40 miles by the Company's forecasted unit cost of \$53,207. The results are forecasted capital expenditures for the projected test year of \$21,778,000. This amount is \$14,015,000 lower than the Company's forecast of

¹⁵ *Id.*

¹⁶ Exhibit AG-3 DR AG-CE-0364 attachment, line 15.

¹⁷ Coppola, 3 TR 2461.

\$35,743,000. The Attorney General recommends that the Commission remove this difference from the Company's forecasted capital expenditure for the projected test year for line rebuilds.

The PFD disagreed with the Attorney General's recommendations. Instead, it agreed with the Company's explanation:

As shown in Exhibit A-109 (MLH-3), page 1, there are eight bridge period HVD line rebuild projects that will carry over beyond the bridge period, and therefore count as zero miles for the bridge period in Figure 21 of my direct testimony. As shown in Exhibit A-110 (MLH-4), page 1, these projects will be completed during the test year, which means all those miles are recorded in the test year in Figure 21 as well. Meanwhile, the test year only has three projects that are carried forward into the next year. In short, Figure 21 contains mileage numbers that imply a large increase in work volume in the test year, this is not actually what is happening if one considers the dollar amounts for the bridge period and the test year in Figure 21, they indicate a relatively flat amount of work rather than a dramatic increase.¹⁸

The PFD found the Company's explanation for the recorded miles to be persuasive and that the difference in spending between the bridge period and the test year to be small, even if the number of miles seems inflated.¹⁹

As discussed the Attorney General's Brief, Ms. Hayward disagreed with the Attorney General's proposed disallowances on HVD Lines Rebuilds and Pole replacements in her rebuttal testimony.²⁰ She claims that the projects span over

¹⁸ PFD, p 44, *quoting* 3 TR 1356.

¹⁹ PFD, p. 48.

²⁰ Hayward Rebuttal, 3 TR 1355 – 1358.

multiple years and the Company reports capital spending in one year and completed projects in another year. While certain projects may have costs that span over more than one year, it is not clear what the impact is on the average cost per mile when dozens or hundreds of projects are being forecasted. In her rebuttal testimony, Hayward does not quantify the impact other than identifying a few projects that may have costs spanning more than one year. The Commission should dismiss these arguments as unsupported and not sufficiently relevant to affect the disallowances proposed by the Attorney General.²¹

The Commission should adopt the Attorney General's recommendations.

ii. HVD Pole Top Rehabilitation

The Company forecasted 116.1 miles of pole top rehabilitations for the projected test year at a total cost of \$11,996,000 and for an average unit cost of \$103,325.²² Pole top rehabilitations have averaged 50.5 miles annually in the last three years and the 116 miles of rebuilds for the projected test year is an increase of 130% over the average number of miles rebuilt in recent years. Because the increase is not justified by any details provided in this case, showing that higher level of activity is required for the projected test year the Attorney General

²¹ Attorney General's Initial Brief, p 20.

²² Hayward, 3 TR 1208, figure 21.

recommended a disallowance of \$6,830,000 based on the 50 miles of pole top rehabilitations completed on average in the past three years.²³

The PFD appears to recommend rejecting the Attorney General's disallowance because bridge and test year spending are similar, even though the number of miles rehabilitated appears to double, in the test year due to ongoing projects being carried over from the bridge period with all the mileage recorded in that year, like with the Line Rebuilds program. Even if there is carry over to the test period from the bridge period, the Company has not demonstrated how the carryover translate to double the miles. To the extent that there is not a doubling of cost consistent with the increase in miles, the use of miles as a basis for calculating cost may be deceptive. As the PFD implies, the number of miles covered is not indicative of the work being done and that providing information regarding pole top assemblies could assist the parties in evaluating spending. The Company has not provided sufficient information to support its cost. Therefore, the Commission should disallow the cost as recommended by the Attorney General in addition to the reasons provided above for Line Rebuilds.

b. HVD Transformer Bank Replacement and Substation rebuilds

i. Alma and Blackstone Transformer and Substation Rebuilds

²³ Coppola, 3 TR 2462.

The Attorney General identified two transformer bank and substation rebuild projects,²⁴ with cost proposed for the bridge period and projected test year that have not yet started the design phase or are in the early stage of project design. The Company indicates that for the Alma and Blackstone projects, design will not be completed until 2027 (1st and 3rd quarter respectively) and that construction will not be completed until 2028 and 2029, respectively.²⁵ The projected expenditures for these projects were included as part of the Attorney General's recommended disallowance for HVD Premature projects.²⁶ The projects which totaled \$9,287,000 for the bridge period and \$13,974,000 for the projected test year, have been highlighted and identified on pages 2 and 6 of Exhibit AG-14.

The PFD notes that the Company witness testified that the Alma and Blackstone projects are multi-year projects with property acquisition ongoing and capital expenditures already incurred. The Company also asserts that expenditures for the projects were included in the Company's last rate case and that the Commission's order approved 95% of the Company's filed position indicating that there were reasonable and prudent.²⁷ The PFD adopted the Michigan Public Service Commission Staff's (Staff) recommendation to disallow \$48.9 million due to underspend by the Company. According to the PFD, "Staff's adjustments should be

²⁴ See, Exhibit AG-14, p 2 and 6.

²⁵ *Id.*

²⁶ See, Attorney General's Initial Brief, p 28 and Coppola, 3 TR 2468 – 2470.

²⁷ PFD, p 61 – 62.

adopted. The Company failed to adequately justify its projected expenditures to support its claim that it will catch up from its slow start in 2024, nor did it demonstrate that additional issues, like the permitting or planned outages problems that Consumers claims limited project execution earlier, will not occur going forward.”²⁸

The PFD recommended that the Commission reject the Attorney General’s recommendation to disallow recovery of costs pointing to Consumers argument that costs were included in the Company’s last rate case, “albeit as part of a different subprogram.”²⁹ It further states that there is no indication in this record that these projects are not ongoing.³⁰ The PFD’s recommendation is erroneous and somewhat confusing. First, it either ignored or failed to recognize that the Attorney General also recommended a disallowance for the bridge period as discussed above. Second, with regard to Staff’s proposed disallowance, it correctly determined that the Company failed to justify its projected expenditures as discussed above and in the PFD.³¹ It notes that the Company did not demonstrate that issues that led to its underspend will not occur going forward. Nonetheless, it concluded that because the projects were included in the last rate case and there is no indication that they are not ongoing, the Attorney General’s recommendations should be rejected.

²⁸ PFD, p. 63.

²⁹ PFD, p. 63.

³⁰ Id.

³¹ See, PFD pp 59 – 61 and 62 – 63.

The Attorney General's recommendation was based on the status of the projects and uncertainty related to completion and the cost of completion. The Attorney General's recommendation was not that the Company could never recover the cost, but it should occur later with certainty that the costs are actually being incurred and a true judgment can be made on the reasonableness and prudence of the cost. Regarding claims that the costs were included in the last rate case, Staff's arguments regarding increasing unit costs, indicate that the Company is treating its proposed expenditures as fluid (i.e. subject to change), which means that any determination of cost in prior cases should still be subject to review going forward. In fact, the Company's performance up till now shows that the Attorney General's concerns about prematurely approving the expenditures for the projects is justified and her recommended disallowance should be adopted.

ii. Metro Rehabilitation

The Attorney General asked the Company to provide a list of HVD projects of \$3.0 million or greater included in the bridge period and the projected test year projections and provide information on the project development phase along with the cost of the project and other pertinent information. Under the subprogram for Metro Rehabilitation, the Company identified a project – Washington Ave Civil which seems premature for the Company to recover capital expenditures in this case. As part of her recommended disallowance for Premature Project, \$3.6 million

was included for that project.³² The Company objected to the recommendation claiming as noted by the PFD that the project was well within the engineering design phase and that Mr. Coppola gave no reason why the Company could not complete the project during the test year.³³

The PFD adopts Staff's proposed disallowances but does not specifically reject the Attorney General's recommendation.³⁴ It states that the Attorney General does not specifically address her proposed adjustment.³⁵ However, the Attorney General's recommendation was included in the total amount for Premature Project and documented in Exhibit AG-14, so there is no question it as addressed in the brief although not specifically called out. Because the PFD did not address it directly other than to discuss the Company's response to Mr. Coppola's testimony, it is not clear on what basis the Attorney General's recommendation was not adopted.

The status of a project does not guarantee timely completion of work as projected for the test year.³⁶ This is something the PFD recognizes in adopting the Staff's linear spending analysis for some of its proposed disallowances. Further, the Company argues that Mr. Coppola did not explain why the project could not be completed as projected. However, the burden is on the Company to demonstrate that the expenditures will be incurred as projected, which the Company did not do.

³² See, Exhibit AG-14, p. 7.

³³ PFD, p. 66.

³⁴ Id., at p 67.

³⁵ Id. at p 66.

³⁶ See, Exhibit AG-14, p. 7.

The Commission should adopt the Attorney General's recommended disallowance of \$3.6 million for this subprogram.

c. LVD Substation Rehabilitation

i. Equipment Replacement and regulatory category

The Company forecasted a significant escalation in the number of projects to be completed during the bridge period and the projected test year for the Equipment Replacement and Regulatory category. For the bridge period, the Company forecasted 26 units for a total cost of \$18,430,000 and average unit cost of \$708,846. For the projected test year, the Company forecasted total capital expenditures of \$16,599,000 for 13 projects at an average cost of \$1,276,846.³⁷ This is in comparison to the most recent historical three years, where the Company had approximately 10 projects annually at an average unit cost of \$511,340. Due to a lack of justification for the higher forecasted unit cost for the bridge period and projected test year. Mr. Coppola recommended using the three-year average unit cost adjusted for future inflation as a reasonable basis to forecast capital expenditure for the bridge period and projected test year.³⁸ Therefore, the Attorney General recommends that the

³⁷ Hayward, 2 TR 1255, Figure 42.

³⁸ Coppola, 3 TR 2456.

Commission remove \$11,592,000 and \$11,209,000 from the Company's forecasted capital expenditures for the bridge period and projected test year.³⁹

The Company disagreed with the Attorney General's use of the unit-cost approach, claiming it is not appropriate for this category of expenditures given the diversity of project types and the fact that several projects span multiple years.⁴⁰ The Company also claims that the bridge period spending is in line with the Commission approval in the last electric rate case.⁴¹ The PFD agreed with the Company's arguments against the use of unit cost analysis. While it admits that some proposed projects would be delayed, the record as a whole does not support a disallowance, and therefore the Attorney General's recommendations should be rejected.⁴²

The Commission should reject the PFD's recommendation. In light of the PFD's acknowledgement that there is the potential that some projects may not be completed, the Attorney General's use of the three-year average cost to project expenditures is reasonable. First, even with a range of costs, some projects will be more than the average cost and some will be less. The average takes into account the variability of costs. Second, the Attorney General's approach is a reasonable

³⁹ See, Coppola 2 TR 2456 – 2457 and Attorney General's Initial Brief, pp 36 – 38.

⁴⁰ PFD, p 81.

⁴¹ *Id.*

⁴² PFD, p 83.

method for projecting future costs, especially in a situation where total actual cost is uncertain. The Commission should adopt the Attorney General's proposed disallowance. This recommendation will not prevent the Company from seeking approval of additional reasonably incurred cost in a future case.

d. HVD Lines and Substation Capacity

i. Linden Line Rebuild

The Attorney General asked the Company to provide a list of HVD projects of \$3.0 million or greater included in the bridge period and the projected test year, specifying the current phase of development of the project. The Company identified two projects under the HVD Lines and Substation Capacity program. The first of which is the Linden 45kv Line Rebuild with a projected cost for the test year of \$5.1 million.⁴³ The request also asked the Company to identify the next phase of project development with start and completion dates along with the cost of the project and other pertinent information. According to the Company design was started in April 2025 and completion would occur in early 2026. The Company claims that it will then have one year to execute the project within the projected test year.⁴⁴ The Attorney General recommended that the \$5.1 million for the project be disallowed

⁴³ See Exhibit AG-14, p. 8.

⁴⁴ PFD, p. 95.

as part of her proposed disallowance for projects that are too premature to be included in rate base for this case.⁴⁵

The PFD recommended that the Attorney General's proposed disallowance should be rejected because the Linden line rebuild will be completed before the end of the test year, presumably relying on the Company's assertion that it will have one year after completion of design to execute the project. However, that conclusion is based on the assumption that design will be completed as proposed and there will be no delay in performing the work. There are no guarantees that the work will be completed as proposed. Therefore, it is unreasonable to include it in rate base and earning a return based on speculation. The Commission should adopt the Attorney General's recommendation.

ii. Wealthy Street projects

Just as discussed above for the Linden line rebuild, the Company provided information for the proposed Wealthy Street project which it projected to cost just over \$3 million with design expected to start in the second quarter of 2026 with design completion in the first quarter of 2027. According to the PFD the project costs included in this case are for long lead time materials and it recommended rejecting the Attorney General's proposed disallowance because the proposed test year spending for the acquisition of equipment was likely to occur.⁴⁶

⁴⁵ Attorney General's Brief and Coppola testimony pp. 61 – 63.

⁴⁶ PFD, p. 95.

The PFD bases its recommendation on pure speculation. Because the project design has not been completed (if it has even started), there is no way to tell whether the proposed expenditure represents the actual materials needed for the project. Presumably, the design details will help with that determination. The Commission should reject the PFDs recommendation and adopt the Attorney General's proposed disallowance because the proposed expenditures are too premature to include in rates.

e. Metro Assets Relocation

As part of her recommendation to disallow capital expenditures for certain projects because recovery is too premature, the Attorney General included project related to Kalamazoo Avenue totaling \$10 million.⁴⁷ The Company claimed that the engineering and design work was well underway citing a webpage for the project. The ALJ reviewed the webpage, noting that the project that was supposed to start in 2025 was being delayed until the spring of 2026 to allow for grant finalization.⁴⁸ The PFD noted that as of January 17, 2025 (sic), the date the ALJ accessed the website, there were no updates or indications that the project would be further delayed. The PFD also noted that design work began in Q3 of 2025 and is scheduled to be completed in Q1 of 2026 “leaving sufficient time for project

⁴⁷ See, Exhibit AG-14, p 10.

⁴⁸ PFD, p 97.

execution before the end of the test year.”⁴⁹ The PFD recommends rejecting the Attorney General’s disallowance.

The Commission should reject the PFD’s findings. First, there is no guarantee of the timing of the project. Second, the PFD’s reliance on a webpage that was not entered into evidence in the case should be rejected. A mere citation to the webpage should not be sufficient as the content can be modified after the rebuttal testimony is filed. Further, the PFD basing its recommendation in part on the status of the project from a review of a webpage after the record was closed is inappropriate. The Commission should adopt the Attorney General’s recommended disallowance for Kalamazoo Metro projects.

2. Low Voltage System

a. LVD Lines New Business

The Company is projecting approximately \$168 million for bridge period and \$130.2 million for the projected test year to build new LVD lines for residential and small commercial customers.⁵⁰ It spent \$116.1 million in 2024 in capital expenditures to build new LVD lines for residential and small commercial customers.⁵¹ The Company has also forecasted that it will install 12,211 new service lines in the bridge period, and it is projecting 9,252 new lines in the

⁴⁹ Id.

⁵⁰ Coppola 3 TR 2423 and Exhibit AG-1, line 2 of the attachment.

⁵¹ Exhibit A-113 (MPK-3), line 1.

projected test year.⁵² The Attorney General is recommending disallowances for this category of expenditure because the forecasted unit costs for the bridge period and projected test year appear to be higher than reasonable.⁵³ The cost per unit in 2024 was \$12,971, which was lower than the previous two years. The Company forecasted unit costs of \$13,762 for the bridge period and \$14,073 for the projected test year compared to \$12,971 for 2024.⁵⁴

The PFD claims that the Attorney General did not address the Company's objection to the Attorney General's use of a single-year method in determining projected costs.⁵⁵ This is not true, the Attorney General's brief stated:

The Company disagreed with Mr. Coppola's use of the 2024 unit cost, adjusted for inflation, to forecast capital expenditures for this category of expenditures, stating that it is not consistent with Mr. Coppola's use of a three-year historical cost in other areas.⁵⁶ As discussed above, Mr. Coppola used the 2024 unit cost as a base for his projections because it represents a reset of the cost to install new LVD lines.⁵⁷ The three-year average would not be representative of future costs given the changes made by the Company and its commitment to lower unit costs beginning in 2024.⁵⁸

⁵² Partlan, 3 TR 1893 – 1895.

⁵³ *Id.*

⁵⁴ *Id.* See also, Exhibit AG-1.

⁵⁵ PFD, pp 102 and 103. The Company has used a single year to project costs in this case (see the discussion regarding Storm Restoration Cost).

⁵⁶ Partlan Rebuttal, 3 TR 2046 – 2047.

⁵⁷ See also, Coppola, 3 TR 2423 – 2424.

⁵⁸ See, Exhibit AG-70, p.1 (DR AG-CE-0834a).

According to the PFD the Attorney General failed to refute the Company's rebuttal testimony and argument in brief that use of a three-year historical average would result in cost very close to those proposed by the Company in this case and therefore the Attorney General's failure to refute or otherwise address the Company's rebuttal and arguments made in initial brief, demonstrate that the Attorney General's proposed disallowances should be rejected.⁵⁹

There is no merit to the PFD's determination. First, it ignores the evidence and arguments put forth by the Attorney General. To determine the forecasted unit costs, the Company stated that it used an extrapolation of historical costs to forecast both cost and units but could not provide a calculation. Regarding the decline in the unit cost in 2024, the Company reported that it has undertaken a cross-functional unit cost reduction effort and by placing more focus on detailed design reviews, improving labor planning and materials availability, among other efforts, and was able to reduce the service installation costs in 2024.⁶⁰

As discussed above, Mr. Coppola used the 2024 unit cost of \$12,971 to reflect the Company's change in methodology starting that year and applied the inflation rate of 2.9% for the 16 months in the bridge period to arrive at a forecasted unit cost of \$13,347. Multiplying this cost by the 12,211 units provided by the Company, he calculated capital expenditures of \$162,980,000 for the bridge period. For the

⁵⁹ PFD, p 103.

⁶⁰ Exhibit AG-2(DR AG-CE-0335) and Coppola, 3 TR 2424.

projected test year, he applied the inflation rate of 2.4% to the bridge period forecasted unit cost to arrive at a unit cost of \$13,667, which he multiplied by the 9,252 units forecasted by the Company to determine the capital expenditure of \$126,447,000.⁶¹

Second, the Attorney General did not fail to refute the Company's argument, she stood on her initial brief which addressed the Company's.⁶² Third, the PFD's criticism of the Attorney General not addressing arguments in the Company's brief ignores the fact that the ALJ greatly limited what could be addressed in a reply brief when he established a thirty page limit for a complicated electric rate case with many issues as evidenced by the Company's 461 page initial brief. Finally, the claim that the Attorney General did not address certain criticisms by the Company alone should not provide a basis for rejecting her recommendation for this program.

The Commission should adopt the Attorney General's recommendation and based on the calculations provided above, the Commission should remove \$5,067,000 for the bridge period and \$3,753,000 for the projected test year from the Company's forecasted capital expenditures.

b. LVD Lines Reliability (PFD starting on p 115)

⁶¹ See Attorney General's Initial Brief p 40.

⁶² See, Attorney General's Initial Brief, p 41.

As the PFD notes, there are five spending categories under this category of expenditures including zonal health, targeted circuit improvements, pole replacements, ATR loops, circuit exit enhancements and right-of-way acquisitions.⁶³ Zonal health, converting open wire to multiplex, and rejuvenating vintage underground cable are three categories for which the Attorney General recommended disallowances for the bridge period and projected test year.⁶⁴ The PFD erroneously disagreed with the Attorney General's recommendations as discussed below.

i. Zonal Health

The Company proposes spending \$61,320,000 in the bridge period and \$34,917,000 in the projected test year for this expenditure category. Mr. Coppola determined the average unit costs for the 2024 historical year, bridge period and projected test year and found large variances for the bridge period and projected test year that were not adequately supported. He calculated more reasonable forecasted capital expenditures of \$34,016,000 for the bridge period.⁶⁵ This amount is \$27,304,000 lower than the \$61,320,000 forecasted by the Company. For the projected test year, he determined forecasted capital expenditures of \$12,265,000.⁶⁶ This amount is \$22,652,000 lower than the \$34,917,000 amount forecasted by the

⁶³ PFD, page 116.

⁶⁴ Attorney General's Initial Brief, pages 48 – 50.

⁶⁵ *Id.* See also, 3 TR 2431.

⁶⁶ *Id.* at 2432.

Company for the projected test year. Staff also proposed disallowances for the bridge period.⁶⁷

The PFD disagreed with the Attorney General's unit cost approach for projecting costs, purportedly due to the wide range of cost elements involved in Zonal Health subprogram.⁶⁸ At the same time it is very critical of the Company's evidence and presentation of information. Specifically, the PFD states:

As the evidence in this matter demonstrates, the Company spent \$34.243 million in this investment category in 2024, which is consistent with the proposed spending in the projected test year of \$34.917 million. This PFD finds the Company's presentation of the zones that were covered with the 2024 investments and the types of work units that were included in those zones to be lacking and unclear. This lack of clarity makes it difficult to determine why certain zones were chosen, whether there is consistency in zones and types of work units to either support the elevated spending suggested for the bridge period or the proposed investment for the projected test year.⁶⁹

The PFD adopted Staff's approval of the projected test year to be reasonable because it was consistent with 2024 spending and recommended the Commission accept it, but the PFD recommended Staff's disallowance for the bridge period as the most reasonable approach.⁷⁰

The Attorney General disagrees that her recommended disallowances for the bridge period and projected test year should be rejected. The PFD's analysis shows

⁶⁷ See, PFD pp 120 – 121.

⁶⁸ *Id.*, at p 124.

⁶⁹ *Id.*, at pp 124 – 125.

⁷⁰ PFD, p 125.

that the Company has failed to provide sufficient evidence to support its proposed expenditures. The PFD even questions the proposed investment for the projected test year before accepting it based on similarity to the historical test year projections. The Attorney General's unit cost approach, including the application of an inflation factor, bridges the gap between the 2024 historical costs, bridge period, and the projected test year, and is a reasonable approach for forecasting expenditures given deficiencies in the information provided by the Company.

The Commission should adopt the Attorney General's proposed disallowances for the bridge period and projected test year.

ii. Converting Open Wire Secondary to Multiplex Conversions

This program involves the Company's plans to convert secondary wire installations to a multiplex system. The capital spending and number of projects completed in this category has varied from 2021 to 2024, ranging from \$90,300 for three projects in 2023 to \$2.4 million for five projects in 2021.⁷¹ The Company is forecasting 44 projects at a total cost of \$8,427,000, which results in a calculated unit cost of \$191,523 for the bridge period, and 283 projects at a total cost of \$33,115,000 for the projected test year.⁷² However, other information provided by the Company indicates that a lower amount of units will be completed during that

⁷¹ Exhibit AG-4 (DR AG-CE-0346).

⁷² Partlan, page 69, Figure 35.

time. The Company plans to complete 165 units for each year 2026 and 2027.⁷³ Based on these latest numbers, the projected test year units are really 165, instead of the 283 units shown in Ms. Partlan's Figure 35. The lower number of units for 2026 seems to be more in line with the 44 forecasted units for the bridge period and a more reasonable projection for the ramp-up to the projected test year.⁷⁴

The Company is ramping up work in this area from less than 10 units annually during the past four historical years to 33 units in 2025 and 165 units in 2026 and 2027 purportedly to mitigate safety risks of underground wires and increase flexibility and inventory process.⁷⁵ However, the Company also expects to realize economies of scale due to the increased number of units.⁷⁶ When compared to the 2024 unit cost of \$136,044, the forecasted costs proposed by the Company do not show the claimed economies of scale.⁷⁷

Therefore, Mr. Coppola calculated a more reasonable unit and cost and capital expenditure amount by using the most recent actual unit cost of \$136,044 from 2024 and applying the inflation factor of 2.9%. Applying this cost to the 44 units forecasted by the Company, results in a reasonable capital expenditure forecast of \$6,160,000 for the bridge period. This amount is \$2,267,000 less than

⁷³ Exhibit AG-4 (DR AG-CE-0346 attachment).

⁷⁴ Coppola, 3 TR 2432 – 2433.

⁷⁵ *Id.* at 3 TR 2433 and Exhibit AG-4 (DR AG-CE-0346).

⁷⁶ *Id.* Exhibit AG-4 (DR AG-CE-0346c).

⁷⁷ Coppola, 3 TR 2433.

the Company's forecast of \$8,427,000.⁷⁸ The Attorney General recommended that the Commission remove this difference from the Company's forecasted capital expenditures.

Using the information from the Company that appeared to include 165 units for the projected year and applying the inflation adjusted forecasted unit cost of \$143,345, he calculated a reasonable capital expenditures forecast of \$23,653,000 for the projected test year. This amount is \$9,462,000 lower than the Company's forecast of \$33,115,000.⁷⁹ The Attorney General recommends that the Commission remove the \$9,462,000 from the Company's forecasted capital expenditures for the projected test year.

In rebuttal, Ms. Partlan disagreed with the Attorney General's forecasted number of units for voltage conversion,⁸⁰ which were based on the forecasts provided by the Company for 2026 and 2027. According to the Company the 165 units for 2026 are solely within the test period,⁸¹ but that 283 units is the total for the projected test year.

The PFD recommended that the Commission accept the Company's proposed bridge period and projected test year expenditure. It agreed with the Company that

⁷⁸ *Id.* at 3 TR 2433 – 2434.

⁷⁹ Coppola, 3 TR 2434, including footnote 19.

⁸⁰ Partlan Rebuttal, 3 TR 2051 – 2052.

⁸¹ Exhibit AG-71, p. 1 (DR AG-CE-0839).

the Attorney General's discovery request asked for calendar year information as opposed to information reflecting the forecasting periods used by the Company. It asserts that using a calendar year analysis causes a misalignment of actual forecasts made by the Company and does not reflect an error in the Company's proposed work unit.⁸²

Even if the Commission determines that the Attorney General's use of 165 units for the projected test year is incorrect because it does not capture the actual number of units for the projected test year, the PFD errs to the extent that it is using the number of units provided in response to the discovery response in Exhibit AG-3 to disallow costs for the bridge period. The number of units (44) used by the Attorney General to project expenditures for the bridge period comes from Ms. Partlan's Figure 35 and was not adjusted in response to the discovery.⁸³ The PFD provides no analysis of the disallowance for the bridge period. For the reasons provided above and in the Attorney General's brief, the Commission should adopt the disallowance of \$\$2,267,000 for the bridge period.⁸⁴

iii. Underground Cable Rejuvenation

⁸² PFD p 128.

⁸³ *See*, Partlan, 3 TR 1956.

⁸⁴ *See*, Attorney General's Initial Brief, pp 51 – 52.

The Company is forecasting capital expenditures of \$27,909,000 for the bridge period for 68 projects under this investment category.⁸⁵ This results in an average unit cost of \$410,426.⁸⁶ For the projected test year, the forecasted spending is \$65,989,000 for 158 projects at a calculated unit cost of \$417,652.⁸⁷ In comparison, historical unit costs for the four years 2021 to 2024 ranged from \$90,664 to \$224,660 with the number of projects ranging from 5 to 10 annually. The average unit cost in the most recent three years was \$161,392, and the average unit cost for 2024 was \$168,852. The Company's forecasted unit costs based on the forecasted spending and planned number of units are excessive, not adequately supported, and need to be lower.⁸⁸

Mr. Coppola used a the three-year average unit cost adjusted for inflation because it should be representative of the cost of completing future projects, particularly with the significant ramp up in activity in future periods and the expected economies of scale that will likely be achieved.⁸⁹ Using the average unit cost of \$161,072 and adjusted for inflation, he calculated a unit cost of \$166,072 for the bridge period, and multiplying it by the Company' forecasted 68 units results in forecasted capital expenditures of \$11,293,000. This amount is \$16,616,000 lower

⁸⁵ Partlan, 3 TR 1956, Figure 35.

⁸⁶ Coppola, 3 TR 2434.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Coppola, 3 TR 2435.

than the \$27,909,000 forecasted by the Company.⁹⁰ The Attorney General recommends that the Commission remove this difference from the Company's projected bridge period capital expenditures.

Likewise, for the projected test year, he added another year of inflation to the bridge period unit cost to arrive at a forecasted unit cost of \$170,058. By multiplying this cost by the Company's forecast of 158 units, Mr. Coppola calculated forecasted capital expenditures of \$26,869,000 for the projected test year. This amount is \$39,120,000 less than the Company's forecast of \$65,989,000.⁹¹ The Attorney General recommends that the Commission remove the \$39,120,000 from the Company's forecasted capital expenditures.

The PFD notes that in rebuttal, Ms. Partlan testified that the Attorney General's unit cost analysis appears to be based on a comparison of the units the Company provided in a discovery response with the units in Figure 35 of her testimony which is depicted by miles. According to Ms. Partlan, when using 50 miles for the units in the discovery response for an accurate comparison, the four year average unit case has been \$646,720, which is higher than the unit cost the Company is projecting.⁹² Specifically, Ms. Partlan admits that the information provided in response to the Attorney General's request used projects as units as

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² PFD, p 131.

opposed to miles. This response is contrary to the Attorney General’s request which asked the Company to expand the table (Figure 35 on page 69 of Ms. Partlan’s direct testimony) to include *the same* information for each year 2021 to 2024 and forecasted for 2025 – 2027 in excel.⁹³ Apparently, the company changed the way it measures units from number of projects to miles without disclosing that information in direct testimony or response to discovery AG-CE-0346. The response was confusing at best and does not present the information as requested by the Attorney General.⁹⁴ The PFD adopted the Company’s arguments that the Attorney General’s analysis misaligns the Company’s use of miles instead of units in her comparison.⁹⁵

The late disclosure of the inconsistent presentation of units in rebuttal which could not be adequately addressed after rebuttal testimony should be dismissed by the Commission. The Attorney General stands by her proposed disallowance based on the information previously provided by the Company.

c. LVD Repetitive Outages

The Company is forecasting capital expenditures for LVD Repetitive Outages of \$21,089,000 for the bridge period and \$30,344,000 for the projected test year.⁹⁶ Capital spending on this subprogram has ranged from \$4.1 million in 2023 to \$10.7

⁹³ See, Exhibit AG-4 (AG-CE-0346a).

⁹⁴ *Id.*, (attachment 1).

⁹⁵ PFD, p 132.

⁹⁶ Exhibit A-113 (MPK-3), line 12.

million in 2021.⁹⁷ Spending for the most recent years 2023 and 2024 have been low with annual spending of \$4.1 million and \$4.5 million which is surprising because repetitive outages have been an area of concern in prior proceedings.⁹⁸ The Company pointed back to work performed in other areas, such as LVD Lines Reliability and LVD Resiliency that it believes accomplish the same goal of reducing SAIDI and CEMI as a reason for this level of spending.⁹⁹

Mr. Coppola evaluated the unit costs based on the forecasted capital expenditure of \$21,090,000 for the bridge period is for 246 units or projects and the forecasted capital expenditures are \$30,344,000 for 337 projects at an average unit cost of \$90,042 for the projected test year.¹⁰⁰ He concluded that the Company's forecasted average unit costs of \$85,728 for the bridge period and \$90,042 for the projected test year are extremely high and not representative of recent actual costs. The Company has not provided specific justification for the large difference in the forecasted unit costs versus recent historical costs.¹⁰¹

⁹⁷ See, Partlan, 3 TR 1966, Figure 39.

⁹⁸ Coppola, 3 TR 2451.

⁹⁹ See, Exhibit AG-10 (DR AG-CE-0349) and Partlan, 3 TR 1967 – 1968.

¹⁰⁰ *Id.* at 2452. See also, Exhibit AG-1, line 35.

¹⁰¹ Coppola, 3 TR 2452.

While Mr. Coppola accepts the Company's forecasted number of projects for the bridge period and projected test year as a reasonable progression toward more activity and focus on this problem area, he determined that the average unit costs are excessive and should to be reduced to reflect recent actual costs.¹⁰² He used a three-year historical average unit cost of \$27,032 from 2022 to 2024, and adjusted this cost by the inflation rate of 2.9% to arrive at a bridge period unit cost of \$27,816. Based on the 246 units forecasted by the Company he calculated forecasted capital expenditures of \$6,843,000, which is \$14,246,000 lower than the \$21,089,000 forecasted by the Company.¹⁰³

Likewise, to calculate capital expenditures for the projected test year, Mr. Coppola adjusted the bridge period unit cost by the inflation rate of 2.4% to arrive at a unit cost of \$28,484, which he applied to the 337 units forecasted by the Company to calculate forecasted capital expenditures of \$9,599,000 for the projected test year. This amount is \$20,745,000 lower than the capital expenditures of \$30,344,000 forecasted by the Company.¹⁰⁴

In addition, information provided by the Company shows that for several projects, and nearly half of the total projects, customers did not experience any interruption minutes in 2023 and 2024. Mr. Coppola explains that if the Company

¹⁰² Coppola, 3 TR 2452.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 2452 – 2453.

is targeting circuits with repetitive outages there should be outage minutes in at least one if not both of those two years.¹⁰⁵ He also he points out that the Company identifies customer outage minutes avoided that in total exceed the total number of outage minutes experienced by customers in 2023 or 2024.¹⁰⁶ According to Mr. Coppola, this contradictory information raises concerns about the accuracy of the purported reduction in outage minutes and whether the Company is targeting the appropriate circuits that experience multiple power outages year after year.¹⁰⁷ Therefore, the Attorney General recommends that the Commission direct the Company to provide information that shows the worst circuits with repetitive outages that are being targeted and that the avoided customer interruption minutes reflect actual reductions from historical outage minutes experienced by customers on that circuit.

The PFD found the Attorney General recommended disallowance for this program to be unreasonable based on the following:

1) Despite uneven spending in the last four years the Company appears poised to exceed her recommended expenditure; and 2) the Company provided some explanation regarding the increased unit cost by noting that it as shifting investment to more robust and costly, hardening project such as line relocation, undergrounding, and replacing bare wire with tree resistant wire, all of which are inconsistent with the Attorney General's use of historical average to project future costs.

¹⁰⁵ Coppola, 3 TR 2453.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

The PFD recommended that the Commission reject the Attorney General's proposed disallowances. The Commission should reject the PFD's recommendation with regard to the Attorney General's proposed disallowances. The PFD accepts the Company's claims regarding the nature of the work to be undertaken as a basis for rejecting the Attorney General's historical average plus inflationary increases to project future costs. However, it ignores that fact that the Company relies on work accomplished under other programs with the same goal as the repetitive outage program to offset the work it needs to perform.

As discussed in the Attorney General's Initial Brief, it is not clear why the Company is now forecasting capital spending in the bridge period and projected test year in the Repetitive Outages program that is four to six times higher than the amount spent in 2024.¹⁰⁸ Further, concern about the Company including work that may not be directly addressing repetitive outage, makes the Attorney General's use of historical averages reasonable. As discussed in the Attorney General's brief, the forecasted reductions in Customer Interruption minutes should relate to the interruption minutes previously experienced to provide an apples-to-apples comparison and the relative benefits to customers for undertaking the proposed capital spending on Repetitive Outages.¹⁰⁹ Further, Ms. Partlan filed rebuttal in response to Mr. Coppola's testimony on the lack of pertinent information to support

¹⁰⁸ Coppola, 3 TR 2451.

¹⁰⁹ Attorney General's Initial Brief, pp 58 – 60.

undertaking projects for Repetitive Outages.¹¹⁰ Her reference to projects identified based on outages from 2021 and 2022 is inconsistent with the presentation of the information in Exhibit A-169.¹¹¹

The Commission should adopt the Attorney General's disallowance, which still allows the Company to ramp up costs from recent historical years.

d. LVD Resiliency

i. Undergrounding

The Company is forecasting capital expenditures of \$1,250,000 to convert 1.4 miles from overhead to underground lines (OHUG) during the bridge period and \$20.0 million to convert 50 miles for the projected test year.¹¹² The Company identified seven criteria for selecting overhead lines for undergrounding: LVD system zones that are single-phase; have had at least one outage in the last 24 months; serve between 10 and 200 customers; be operated at one of the three standard wye voltages; not be considered for another reliability project; have a load after installation of 36% or less of the capacity of the newly installed facilities; and be located in an area that has experienced tree- or weather-related outages.¹¹³

¹¹⁰ Partlan Rebuttal, 3 TR 2058 – 2059.

¹¹¹ See, Exhibit AG-71 (DR AG-CE-0843)

¹¹² *Id.*

¹¹³ Partlan, 3 TR 1985 – 1988.

The criteria proposed from this case differ from the nine criteria identified Case No. U-21585. The changes include the removal of CAIDI (restoration time) requirement of 600 minutes or and the requirement that the LVD line not supply an overhead system.¹¹⁴ The Company also modified the location of the overhead line from being in an area of dense trees to being located in an area that has experienced tree or weather-related outages.¹¹⁵ Despite the Company's claims otherwise, the changing criteria indicates, the Company is searching for a justification for undertaking the overhead to underground conversions by loosening the criteria and broadening the number of lines that qualify for the program.¹¹⁶

There are several problems with the Company's proposal. Based on comparative net present value analysis, the costs of undergrounding overhead lines versus is more expensive than other options.¹¹⁷ The threshold for qualifying for conversion could result in hundreds if not thousands of overhead lines that could qualify for conversion to underground.¹¹⁸ The criteria do not include a cost/benefit analysis (CBA) to determine whether the conversion is economic versus other options for each project.¹¹⁹ The pilot confirms the point that each project can vary significantly from the average cost per mile and needs to pass an economic

¹¹⁴ Attorney General's Initial Brief, p 61 – 62.

¹¹⁵ Coppola, 3 TR 2438 referencing Case No. U-21585, Donald Lynd direct testimony at page 142.

¹¹⁶ PFD, pp 627 – 628 and Coppola 3 TR 2438 – 2439.

¹¹⁷ Kelly, 3 TR 1434, Figure 24.

¹¹⁸ Partlan, 3 TR 1986.

¹¹⁹ Coppola, 3 TR 2440.

cost/benefit analysis to qualify as an acceptable candidate for undergrounding versus other alternatives.¹²⁰ The average cost per mile undergrounding is not a sound economic practice.¹²¹ Mr. Coppola also explains that the presentation in Figure 25 with the societal benefits from assumed avoided customer outages should be disregarded because the ICE calculator tends to overestimate the cost of short outages outside of major storms, which are more common.¹²²

Mr. Coppola discussed that in its June 12, 2025 order in Case No. U-21305, the Commission evaluated the Final Liberty Consulting Group report which stated that the Company should delay expansion of LVD undergrounding beyond the pilot program and pointed out that costs and reliability of benefits of undergrounding remain too uncertain to support expansion of the program. The Commission considered comments on the Liberty Report from various parties, stating that it remains skeptical of the costs of the undergrounding pilot at scale but was not opposed to further consideration of the program. Specifically, the Commission requested additional evidence, including a cost/benefit analysis, to fully evaluate the proposed undergrounding in comparison to other alternatives.¹²³

¹²⁰ Coppola, 3 TR 2441.

¹²¹ Kelly, 3 TR 1434, Figure 24 and Coppola, 3 TR 2441.

¹²² *Id.*

¹²³ Case No. U-21305, June 12, 2025 order for Consumers Energy at page 27.

The Attorney General recommends that the Commission remove the incremental capital spending of \$1,250,000 proposed by the Company for the bridge period and the \$20 million for the projected test year for this program.

The PFD disagreed with the Attorney General's recommendation, stating, "this PFD recommends the Commission reject the Attorney General's recommendation to disallow \$20 million for the projected test year because the Company provided sufficient evidence to rebut the collective criticisms of the Company's OHUG.¹²⁴ The Company claimed that "while OHUG was more expensive than other alternatives, it was only 2% more expensive *on average* and provided a 90% reliability improvement because the threat of trees would be eliminated."¹²⁵ These are very generalized claims and in and of themselves do not support OHUG over all other alternatives. In response to the Attorney General's concern with the potential for a large number of miles being considered for conversion to overhead, the PFD notes that the Company is only seeking approval for 50 miles of lines in the instant case.¹²⁶ However, this is only the tip of the iceberg. The Company does not plan to stop at just fifty miles in the future. Further, based on the Company's criteria, there is no guarantee that the 50 miles

¹²⁴ PFD, p. 632.

¹²⁵ *Id.*, at p 622 (emphasis added).

¹²⁶ *Id.*

selected for work in this case are ones that would receive the most benefits or provide the greatest reliability gains under the revised criteria.

The PFD also discussed the requirements of the June 12, 2025 Order in Case No. U-21305, stating that the quoted language indicated that the Commission did not expect separate BCAs for each individual project, but only one analysis covering the OHUG as a program. It is not clear that the Commission intent was to limit the performance of BCAs to just one for all OHUG work. Even if the Commission's order was seeking a BCA for purposes of evaluating the program as a whole, any recovery of specific costs for each project that is undertaken should still be subject to a BCA since the economics of work on individual segments of line may differ and benefits or availability of alternatives may also differ. The Attorney General recommends that the Commission requires a BCA as part of any analysis of reasonableness and prudence of capital expenditures for specific OHUG projects.

The PFD's recommendation is not supported by the record. If anything, the Company has proposed the opposite of what the Commission may consider reasonable for expanding the OHUG. The Company's proposal to undertake an expanded conversion of overhead lines to underground has not been well defined, it lacks important criteria to ensure that sound economic decisions are made, it is based on a misleading average cost per mile of overhead line to be converted to underground. The proposal does not meet the skepticism expressed by the Commission. For the reasons provided above and in the Attorney General's Initial

Brief, the Commission should adopt the Attorney General's recommendation to disallow \$20 million for the projected test year.¹²⁷

The Company's proposed capital expenditures for the bridge period and the projected test year for the Overload Equipment Upgrade sub-program are overstated and not supported.

e. LVD Capacity

i. LVD Lines Capacity - Overload Equipment Upgrades

The Company is forecasting capital expenditures of nearly \$30 million in the bridge period and \$55 million in the projected test year for overload equipment upgrades. The Company spent less than \$10 million annually on this category of expenditures in the previous five years.¹²⁸ The Company plans to work on 83 projects in the over 140% overload category with related spending of \$15,989,000 in the bridge period. Forty-one of the projects with related capital spending of \$5,375,000 involve circuits that have an overload condition of less than 140%.¹²⁹ For the projected test year, the Company plans to work on 85 circuits with overload conditions of 140% or more and related capital expenditures of \$11,527,000. It is

¹²⁷ The PFD does not specifically address the Attorney General's recommendation to disallow \$1,250,000 for the bridge period. Instead, it recommends adopting the disallowance proposed by Staff. While the Attorney General is not excepting from that recommendation, she is not conceding that her bridge period recommendation should be rejected for the reasons provided in these exceptions for the projected test year expenditures.

¹²⁸ Partlan, 3 TR 2002, Figure 53.

¹²⁹ *Id.* at 2445.

also targeting 155 circuits that are in the less risky categories (including 111 circuits with overload conditions of 119% or less) for total forecasted capital spending of \$40,911,000.¹³⁰

The Company categorizes the number of circuits and components by the percentage of overload from Minor Risk to High Risk.¹³¹ According to the Company, the increase in spending will occur across the board for all overload percentages during the bridge period and the projected test year, not just for the highest risk circuits.¹³² It claims that different types of devices face different severity of risk at different percentages of overload level. However, that claim does not match the Company's own categorization of risk or severity shown in Figure 52.¹³³

The Company's spending priorities are inconsistent with how it categorizes risk.¹³⁴ It should be focusing on higher risk circuits so that ratepayers are not burdened with costs that are not reasonable and prudent. Therefore, the Attorney General recommends that the Commission remove \$5,375,000 of capital expenditures for the bridge period and \$40,911,000 for the projected test year that is directed at the lower risk projects with overload of less than 140%.

¹³⁰ *Id.*

¹³¹ *Id.* at 1998, Figure 52.

¹³² *See*, Exhibit AG-7 (DR AG-CE-0357 with attachment).

¹³³ Partlan, 3 TR 1998.

¹³⁴ *Id.* at 2446.

The PFD disagreed with the Attorney General's recommendation to disallow expenditures to address system overload risks below a certain level. It claims that the Attorney General has not provided evidence that removing attention to lower risk overloads will be sufficient to protect safety or reliability.¹³⁵ The PFD was persuaded by the Company's position that focusing just on overloads at the highest risk level presents a risk to reliability and is not the most prudent way to approach the risk or efforts to improve reliability or safety. The PFD did recommend adopting Staff's recommendation to disallow \$18.72 million for the projected test year based on a reduction in proposed projects from 278 project to 180 projects, because the Company did not object to the recommendation.¹³⁶ Staff did not recommend any disallowance for the bridge period.

The Attorney General disagrees with the PFD basis for rejecting the Attorney General's proposed disallowance. Ratepayers are being asked to pay increasingly higher rates, which impacts affordability. It is necessary for the Company to prioritize its expenditures because increasing rates without restraint is simply not sustainable. As discussed above, the Company prioritizes risk or severity for this category of expenditures. Figure 52 lists three categories of risk, minor, moderate and high.¹³⁷ Presumably these categories indicate the severity of problems on a circuit with the highest risk needing more urgent attention and minor or moderate

¹³⁵ PFD, p. 187.

¹³⁶ PFD, p. 187.

¹³⁷ Partlan, 3 TR 111.

risk less so. Otherwise, categorizing circuits and components is meaningless.¹³⁸

While Mr. Coppola notes that it makes sense for high-risk circuits to incorporate the severity of the related equipment within the circuit.¹³⁹ It does not make sense to address less risky circuits before higher risk circuits. The Attorney General's approach of funding the higher risk circuits in this case balances risk and affordability. The Commission should adopt the Attorney General's proposed disallowances.

3. Grid Modernization

The Grid Modernization subprogram consists of multiple spending categories and the Attorney General recommended disallowances for the Company's proposed expenditures under this subprogram for Distribution Circuit Modernization, including Voltage Regulator Controller and Metro Modernization, and Distribution Asset Management.¹⁴⁰ The PFD generally agreed with the Attorney General's recommended disallowances and adjustments, however, it disagreed with her recommendations for one of the sub-categories under Distribution Circuit Modernization for Voltage Regulator Controllers.

a. Distribution Circuit Modernization

i. Voltage Regulator Controllers

¹³⁸ Coppola, 3 TR 2444 – 2445.

¹³⁹ *Id.*

¹⁴⁰ *See*, Attorney General's Initial Brief, pp 74 – 81.

The PFD recommended that the Attorney General’s proposed disallowance be rejected asserting that “[t]he Company has demonstrated that Mr. Coppola’s average unit cost approach is not appropriate because the materials for this project are not purchased consistently on an annual basis.¹⁴¹ The Attorney General disagrees with that recommendation.

As the Attorney General noted in her brief and testimony, the Company forecasted \$10,526,000 of capital expenditures for the bridge period for voltage regulator controllers. It also forecasted 294 units for the bridge period. Based on the forecasted capital expenditures, the average unit cost for the 294 units is \$35,803, which is much higher than the \$22,442 unit cost incurred by the Company in 2024 and the three-year average of \$19,357.¹⁴² For the projected test year, the Company forecasted capital expenditures of \$5,120,000 and forecasted 143 units for the year for a calculated unit cost of \$35,804.

Given the upward trend in the unit cost in recent years, Mr. Coppola calculated a reasonable unit cost for the bridge period and the projected test year by using the most recent actual unit cost of \$22,442 for 2024. After adjusting for inflation, the average unit cost is \$23,093 for the bridge period.¹⁴³ This cost multiplied by 294 units results in forecasted capital expenditures of \$6,789,000,

¹⁴¹ PFD, p 209.

¹⁴² Coppola, 3 TR 2474 – 2475.

¹⁴³ Coppola 3 TR 2475 and footnote 58.

which is \$3,737,000 lower than the \$10,526,000 forecasted by the Company. The Attorney General recommends that the Commission remove this difference from the Company's forecasted bridge period capital spending.

Similarly, for the projected test year, Mr. Coppola multiplied the inflation-adjusted unit cost of \$23,647 by the 143 units forecasted by the Company to arrive at forecasted capital expenditures of \$2,382,000.¹⁴⁴ This amount is \$1,738,000 less than the Company's forecast of \$5,120,00. The Attorney General recommends that the Commission remove the \$1,738,000 from the Company's forecasted test year capital expenditures.

The PFD noted that in rebuttal, Mr. McPhail disputed Mr. Coppola's unit approach, recalling his direct testimony that such an approach is not appropriate because of instances where materials to be used for such a deployment year were purchased in the year prior to deployment, or delayed into another year, thus giving an inaccurate view of unit costs when just comparing annual costs to the number of units."¹⁴⁵ Figure 7 from Mr. McPhail's direct testimony is labeled *Voltage Regulator Controller 5-year Historical Spending & Installation Completed*. It is supposed to represent actual spending in the Voltage Regulator Controller investment category during those years.¹⁴⁶ Based on the figure, the Company did spend less in 2023 and

¹⁴⁴ *Id.* and footnote. 59.

¹⁴⁵ PFD citing to 3 TR 1738.

¹⁴⁶ McPhail, 3 TR 1679.

2024, it also installed few controllers in those years. The previous three years had much higher spending levels and higher numbers of controllers installed. It is claimed that most of the carryover for 2024 came from 2022.¹⁴⁷ In 2022 the Company spent \$5.7 million on controllers and installed 367, which is the highest number of controllers installed during the five-year period and more than double the number installed in 2024. It is not clear how many units from 2022 were left or used in 2024, so the impact of any pull ahead purchases has not been fully demonstrated. The Attorney General's projections are reasonable based on available information.

The Commission should adopt the Attorney General's adjustments and remove \$5,475,000 for this investment category.

B. Power Generation Exceptions

1. Covert Plant

The Company is forecasting capital expenditures for the Covert power generation plant of \$67.5 million for the bridge period and \$61.4 million for the projected test year.¹⁴⁸ The Company became the owner and operator of this natural gas-fueled plant in June 2023. It is now planning several capital projects to update and upgrade various equipment and systems in the plant.¹⁴⁹ When questioned

¹⁴⁷ PFD, p 206.

¹⁴⁸ On page 2, line 43, of Exhibit A-12 (RTB-3), Schedule B-5.2,

¹⁴⁹ Blumenstock, 6 TR 3514 – 3526.

about it plans to replace and upgrade large pieces of equipment and systems so soon after the purchasing the plant and whether it was aware of the poor conditions of the equipment at issue during the acquisition due diligence process, the Company stated that it anticipated making future capital investments but was not able to conduct a robust health assessments and detailed engineering evaluations until after taking ownership of the plant.¹⁵⁰

Clearly, the Company did not uncover the deteriorated condition of the equipment and systems during due diligence in time to address those issues during negotiations, including possibly obtaining a lower purchase price to compensate for future work. Mr. Coppola notes that it is a bad deal for ratepayers who are now being asked to pay for capital upgrades and replacements, after the Company may have paid a higher purchase price for the plant than it now appears was justified.¹⁵¹ In addition, the Company plans to recover the new investment through depreciation expense and will effectively receive a return on twice the investment in the same equipment and systems.¹⁵²

The Attorney General recommended that two specific capital expenditures be excluded from rate base due to the shortcomings in the due diligence process. First, The Company is replacing the Load Commutated Inverter (LCI) Static Frequency

¹⁵⁰ See, Exhibit AG-18 (DR AG-CE-0490).

¹⁵¹ Coppola, 3 TR 2481.

¹⁵² Coppola, 3 TR 2480 – 2481.

Converters (SFC) at a cost of \$1,305,000 in the bridge period and \$2,610,000 in the projected test year.¹⁵³ The LCI-SFC is a piece of equipment and system used with the gas turbines and related equipment at the plant. According to Mr. Blumenstock, replacement of the SFC is required to mitigate a significant risk of failure due to obsolescence, ensure operational reliability, and align with manufacturer recommendations. The Company should have discovered the problem with this critical component during its technical due diligence.¹⁵⁴

Second, the Company is planning extensive upgrades to the Netmation Operating System to the latest version at a cost \$2,922,000 in the bridge period and \$8,844,000 in the projected test year.¹⁵⁵ According to Mr. Blumenstock, the Covert plant, which has been in operation since 2004, faces critical challenges with outdated control systems.¹⁵⁶ The Netmation upgrade includes replacement of input/output models, servers, network switches and software. The problem with this critical component should have been discovered during its technical due diligence. In addition to the condition of the equipment at the time of purchase, the Netmation project is still in the early stage of design and engineering development, which is scheduled to be completed in February 2026.¹⁵⁷ This project has not

¹⁵³ Blumenstock, 6 TR 3514 – 3517.

¹⁵⁴ *See*, Coppola, 3 TR 2481.

¹⁵⁵ Blumenstock 6 TR 3514 and 3518.

¹⁵⁶ *Id.* at 3518.

¹⁵⁷ *See*, Exhibit AG-21.

advanced sufficiently to be included in rate base in this rate case. The cost and timing of the project may still change significantly until the engineering work is completed.¹⁵⁸

The Attorney General recommends that the Commission disallows the total bridge period capital expenditures of \$4,227,000 and remove the \$11,454,000 for the projected test year for the two systems discussed above from inclusion in rate base. In rebuttal, Mr. Blumenstock objects to Mr. Coppola's testimony that the Company did not perform sufficient technical due diligence on this recently purchased power plant. He claims the company could not perform sufficient equipment evaluation until it began operating the plant and could identify obsolete equipment.¹⁵⁹

The PFD recommended against adopting the Attorney General's proposed disallowances.¹⁶⁰ According to the PFD:

Mr. Blumenstock testified that Consumers "performed a thorough evaluation of the Covert plant purchase and demonstrated that the acquisition was both reasonable and prudent in its 2021 IRP Case No. U-21090," and the proposal was uncontested at that time. At that time, the Company projected roughly \$67 million of warranty work through 2027, but did not include non-warranty work. However, the acquisition of a new plant would be significantly higher than the Covert purchase, and with the purchase of a previously owned plant there was "an expectation of incremental maintenance to maintain it."¹⁶¹

¹⁵⁸ Coppola, 3 TR 2482.

¹⁵⁹ Blumenstock Rebuttal, 6 TR 3599.

¹⁶⁰ PFD, p 246.

¹⁶¹ PFD, p 243 (internal citations omitted).

Approval of the purchase in the Company's 2021 IRP, does justify inclusion of the cost for these two major systems in this rate case. Approval was based on the information known at the time and the parties to the settlement of that case only knew what was provided to them by the Company. The Company admits that it only addressed warranty work and the Long-Term Service Agreement,¹⁶² which could make the other parties believe that ratepayers would not be asked to fund major system upgrades so soon after the acquisition. Any claim that the existence of the LTSA demonstrated an awareness of the additional investment that would be needed at the time the plant was purchased should be rejected.¹⁶³ The LTSA addressed covered work and provides no indication of what work ratepayers may be asked to cover. Further, comparison to a new plant is not apt.¹⁶⁴ The issue is what the Company knew or should have known with reasonable due diligence before acquiring the Covert plant.

The PFD notes that Mr. Blumenstock characterized Mr. Coppola's claimed lack of due diligence by the Company as hyperbole that should be ignored. He ultimately conceded that the Company could not access and evaluate the plant equipment to the same extent as it would its other plants until it was in position to operate the plant. Mr. Coppola's analysis that the due diligence performed did not

¹⁶² See, PFD, p 245.

¹⁶³ *Id.*

¹⁶⁴ *Id.*, at p 243.

allow the Company to discover the systems addressed above were in need of significant attention is not hyperbole, it is the truth.

The PFD specifically noted its concerns with lack of progress beyond the engineering phase for the Netmation upgrade, it nonetheless claims that failure to complete the project is not inevitable because “most of the computer components and software are not described as those needing unique design;”¹⁶⁵ It is the Company’s burden to demonstrate the reasonableness of the cost of a project as well as its timing. Based on the record the expenditures are too premature for recovery in this case. The PFD also claims that “[i]t is also not inevitable that, even had the need for these capital expenditures been known at the time Consumers purchased the plant, this would have had an impact on the plant’s purchase price.”¹⁶⁶ It appears that the Company was able to negotiate some accommodations on price and other coverage based on the known condition of the plant. The failure to discover the need for the upgrades now being proposed by the Company during due diligence prevented the Company from addressing them during negotiations.

Ratepayers should not be burdened with the cost of new equipment, system upgrades and replacements for a recently purchased power plant when the deteriorated condition of the equipment should have been discovered as part of due diligence conducted before the purchase of the plant and deducted from the

¹⁶⁵ PFD p 246.

¹⁶⁶ *Id.*

purchase price. The PFD's recommendation against adopting the Attorney General's recommended disallowance is not reasonable. The Commission should adopt the Attorney General's recommendations.

2. Campbell Plant

On May 23, 2025, the Department of Energy (DOE) issued an order that the Campbell power plant continue to operate past May 2025 and directed FERC and MISO to issue appropriate directives to the Company to effect the continued operation of the plant and related cost recovery and tariffs. Prior to the DOE May 2025 order the Company was proceeding with recovery of remaining plant costs for retirement of the plant based on the approval received by the Commission in Case No. U-21090 and prepared the current case on that basis.

Considering the DOE order and FERC August order in Docket No. EL2-90-000, the Attorney General asked the Company to explain how it planned to handle any changes to the cost recovery included in this rate case. In response, the Company stated that it would not propose any changes to the rate case filing with regard to the Campbell plant's continued operation and stated that it plans to refund any amounts collected through the FERC process to its MPSC customers to the extent that such amounts may have been collected through MPSC jurisdictional rates.¹⁶⁷

¹⁶⁷ See, Exhibit AG-20 (DR AG-CE-0683).

The Attorney General proposes adjusting the level of expenditure for the Campbell Plant related to a proposed wastewater treatment system. The Company is proposing a Wastewater Treatment System for the Campbell plant and the relocation of the machine shop at the plant in anticipation of the plant closure.¹⁶⁸ The forecasted capital expenditures for this work are \$12.4 million for the bridge period and \$9,600,000 for the projected test year.¹⁶⁹ However, the proposed expenditures appear to be premature for two reasons.

First, according to the Company, the Wastewater Treatment System is still in the planning phase of development and it does not appear it has not advanced sufficiently to be included in rate base in this rate case.¹⁷⁰ Since no design or engineering work has been completed, the cost and timing of the project may change significantly.¹⁷¹ Second, because of the continued operation of the Campbell plant due to the DOE orders, the uncertainty surrounding the length and manner of its operation under FERC jurisdiction makes the timing of proposed work questionable.¹⁷²

¹⁶⁸ Coppola, 3 TR 2486.

¹⁶⁹ See, Exhibit A-12, Schedule B5.2, p. 3, line 64 under Administration and Other, and Blumenstock 6 TR 3550 – 3551.

¹⁷⁰ See, Exhibit AG-66.

¹⁷¹ See, Coppola, 3 TR 2486 and Exhibit AG-21.

¹⁷² *Id.*

Second, in rebuttal, Ms. Blumenstock claims that both projects can continue despite the fact that the plant is not shutting down and the work was tied to the plant shutdown. The Company also agrees that the Campbell plant's continued operation will prevent implementation of the project before the end of the projected test year.¹⁷³ Further, the Company confirmed that the wastewater treatment project is still in the planning development phase and it is too premature to approve this project whether the Company has recorded AFUDC for the project.¹⁷⁴ The PFD agreed with the Company's position despite the information that supports disallowing approval of the projects at this time.¹⁷⁵

As discussed in the Attorney General's brief and above, the projects for the Wastewater Treatment Plant and the relocation of the machine should not be undertaken for the reasons provided above. Therefore, the Attorney General recommendation that forecasted expenditures for these investments be removed from the Company's forecasted capital expenditures for the bridge period and projected test year.

3. Premature Generation Projects

The Attorney General asked the Company to identify the current phase of development for projects of \$3 million or greater. According to the Company, five

¹⁷³ PFD, p 251.

¹⁷⁴ Exhibit AG-66 (AG-CE-0792)

¹⁷⁵ PFD, pp 251 – 253.

projects are in the planning phase or recently entered the design/engineering phase.¹⁷⁶ Two of those projects, CGS-Netmation (MHPSA Operating System) and JHC Wastewater Treatment System, have already been addressed and their removal from capital expenditures recommended above. The other three projects are:

1. PP-00542: Covert Spare GSU \$5,910,000
2. B-PP-00171: (13497) ZGS - Phase II GT Advanced gas path replacement and axial fuel staging \$8,331,000
3. PP-00488: ZGS SITE SPARE GSU \$4,481,000

The total amount for these three projects is \$18,722,000.¹⁷⁷ The Attorney General recommended that capital expenditures for the project be disallowed because they were still in the early stage of development, and it is not sufficiently certain they will proceed at the forecasted cost and timeline.¹⁷⁸

The PFD recommends approving the funding over the Attorney General's recommended disallowance.¹⁷⁹ It bases its conclusion with regard to the Covert Spare GSU and Zeeland Phase II projects on the Company's assertion that they have been offset with AFDUC and will have no impact on revenue requirement in this case.¹⁸⁰ However, the Company admits that neither project is projected to close

¹⁷⁶ Exhibit AG-21 (DR AG-CE-0496 with attachment).

¹⁷⁷ See, Exhibit A-12 (RTB-3), Schedule B5.2, p. 9.

¹⁷⁸ Coppola, 3 TR 2488. See also, Exhibit AG-66 (DR AG-CE-0794 and 0793).

¹⁷⁹ PFD, p 256.

¹⁸⁰ *Id.*, at p 254.

before the end of the test year, which supports the Attorney General’s position that they are too premature for approval in this case. With regard to the Zeeland Phase I project, the PFD bases its recommendation to approve the spending on the Company’s claim that manufacture of the spare GSU will be completed in April 2025, which is the final phase of the project. The Company presumes that there will be not delays in the manufacturing schedule.

At this point, the Attorney General still recommends that the Commission remove the \$18,722,000 from the Company’s forecasted capital expenditures for the projected test year.

C. Facilities Capital Expenditures

1. Control-Dispatch Centers

The Commission approved the Company’s proposal for a consolidated Control/Dispatch Center in its electric rate case U-21389.¹⁸¹ In this case, the Company is now proposing operating two control/dispatch centers, one in Grand Rapids and the other in Jackson. The Company has spent a combined amount of \$2,406,000 in 2024 and forecasts capital expenditures of \$10,746,000 for the bridge period and \$15,497,000 for the projected test year for the two centers.¹⁸²

¹⁸¹ Order dated March 1, 2024, Case No. U-21389, page 176.

¹⁸² See, Exhibit A-102 (QAG-3), p. 1, lines 25 and 26.

The Company's claims that having two fully-staffed control/dispatch centers, is the best solution for a fully functional back-up control center in Grand Rapids in addition to the main control center in Jackson.¹⁸³ This is a complete change in direction by the Company which previously advocated for the consolidation of the two centers in Jackson with the Grand Rapids location being an unstaffed backup center.¹⁸⁴ The Company has or had a third dispatch center in Saginaw that was also part of the planned consolidation plan.¹⁸⁵

The original consolidation plan was expected to cost \$17.2 million in capital spending and create annual cost savings of \$8.6 million. The Company's new proposal will cost \$30.2 million and create purported annual cost savings of \$10.2 million. The tradeoffs here are not advantageous to customers with the cost of the new proposal increasing by \$13 million and the cost savings increasing by only \$1.6 million annually.¹⁸⁶ In addition the purported \$10.2 million cost savings are not actual cost savings, but potentially avoided additional costs based on anticipated increases in efficiencies and faster customer restoration time for power outages during storms.¹⁸⁷ However, the Company does not explain how two fully staffed

¹⁸³ Snider citation.

¹⁸⁴ Coppola, 3 TR 2489.

¹⁸⁵ *Id.*

¹⁸⁶ Coppola, 3 TR 2489 – 2490.

¹⁸⁷ Exhibit AG-22 includes DR AG-CE-0633.

centers instead of one will create incremental savings.¹⁸⁸ Further, information provided by the Company only shows \$7.8 million in savings.¹⁸⁹

The Attorney General recommended that the Commission reject the proposal and remove the forecasted capital expenditures of \$10,746,000 for the bridge period and \$15,497,000 for the projected test year. However, if it decides to approve the proposal and the related capital expenditures, the Attorney General recommends that the forecasted cost savings of \$7.8 million be included as a reduction to the Company's forecasted O&M expense for the projected test year.

Staff recommended disallowances based on the Company's underspending, which the PFD recommended be adopted. It also stated that since it appears that the Company anticipates O&M savings to be realized in 2028 and not necessarily by the end of the test year, which it claims render Mr. Coppola's O&M reduction inappropriate for the projected test year.¹⁹⁰

The Company has not shown the reasonableness or prudence of having two fully staffed control/dispatch centers or how it is advantageous and in the best interest of customers. The Company claims that both control/dispatch centers are needed for operational resilience and risk mitigation.¹⁹¹ The original consolidation

¹⁸⁸ See, Coppola, 3 TR 2490 for Mr. Coppola full analysis. See also, Exhibit AG-22 for list of purported saving.

¹⁸⁹ Id. and footnote 67.

¹⁹⁰ PFD, p 293.

¹⁹¹ PFD, p 288.

plan provided for operational resilience and risk mitigation with an unstaffed center in Grand Rapids available for back-up use. Further, the Grand Rapids center has worked well without the additional cost to modify it and duplicating staffing with two additional centers.¹⁹² The Company is increasing capital expenditures by building two redundant centers and not achieving actual cost savings.¹⁹³ The Commission should reject this proposal and related expenditures. As discussed above, the Company claims that it will realize \$7.8 million in O&M savings annually and if the Commission approves this project any savings realized should be used to offset O&M expense.

2. Emergent Repairs

The Company forecasts capital expenditures for Emergent Repairs of \$1,344,000 for the bridge period and \$2,706,000 for the projected test year.¹⁹⁴ When asked to identify any specific and known projects that made up those total amounts, the Company responded by providing a list of projects for the bridge period and stating that there are no known projects for the projected test year.¹⁹⁵ This means that the \$2,706,000 amount in the projected test year is a placeholder amount. The

¹⁹² Exhibit AG-67.

¹⁹³ Coppola, 3 TR 2491.

¹⁹⁴ Exhibit A-102 (QAG-3), p. 1, line 8.

¹⁹⁵ Exhibit AG-23 (DR AG-CE-0647).

Commission previously has rejected the inclusion of placeholder amounts in rate base.¹⁹⁶

The PFD determined that adjustments proposed by Staff and agreed by the Company were reasonable. The result is a reduction in the emergent repair expenditures to \$1,756,933 for the projected test year. The proposed bridge period amount did not change.¹⁹⁷ While the PFD agreed that the Attorney General is correct in asserting that placeholder amounts are generally disallowed, it did not adopt her recommendation, stating that “it is not reasonable to anticipate that nothing will break in the projected test year.”¹⁹⁸ What is not reasonable is to include an amount in rate base that may not be needed for emergent repairs, but for which the Company earns a return at the expense of ratepayers. Rather than include the cost in rate base at this time, the Company can always seek recovery in a future rate case *if* it incur qualifying repair costs.

In rebuttal, Mr. Guinn states that the Commission previously granted recovery for Emergent repairs in prior rate cases.¹⁹⁹ Commission orders are not purely precedential. Therefore, the Attorney General recommends that the

¹⁹⁶ Coppola, 3 TR 2492.

¹⁹⁷ PFD, pp 295 – 296.

¹⁹⁸ *Id.*

¹⁹⁹ Guinn Rebuttal, 3 TR 626.

Commission remove capital expenditures for this investment categories for the reasons provided above.

D. Fleet Services

1. Vehicle Replacement Plan

The Company is forecasting capital expenditures for the Transportation Fleet of \$25.9 million for the bridge period and \$67.9 million for the projected test year.²⁰⁰ In comparison, the Company had capital expenditures of \$16.6 million in 2024. In Exhibit A-104, Mr. Guinn lists the number of vehicles and field equipment within each vehicle class that the Company purchased in 2024 and plans to purchase in 2025, 2026, and the projected test year along with the related cost, including the additional number of vehicles and equipment it claims are needed to support the planned capital spending in the distribution area.²⁰¹

The projections assume that the Commission will fully adopt the Company's distribution spending plans for future years. While Mr. Coppola found the forecasted capital spending on new vehicles for the bridge period reasonable, he recommended adjustments for the projected test year expenditure.²⁰²

²⁰⁰ Exhibit A-12, Schedule B-5.6, page 4.

²⁰¹ See, Exhibit A-104, line 3.

²⁰² See, Attorney General's Initial Brief, pp 95 – 99 for complete analysis.

The PFD adopted the Attorney General's recommended disallowances for the Vehicle Expansion Plan, so these exceptions will only address the PFD's recommendations regarding the Vehicle Replacement Plan.

According to Mr. Coppola, the Company did not disclose any vehicle price data for the projected test year. Therefore, it is not clear where the 2026 and 2027 prices were sourced from and their validity. So, Mr. Coppola calculated the average cost per vehicle purchased within each vehicle class during the most recent three years from 2022 and 2024.²⁰³ The routine vehicle purchases by the Company total to 89 vehicles, and he adopted the same forecast number of units proposed by the Company.²⁰⁴ The total forecasted purchase cost for those 89 vehicles based on Mr. Coppola's calculations is \$16,407,000. This amount is \$4,371,000 lower than the \$20,778,000 forecasted by the Company. The difference reflects higher prices for vehicle purchases forecasted by the Company above normal inflation projections.²⁰⁵

Mr. Coppola also carried out an evaluation of the Company's transportation fleet utilization, which he found to be low. In fact, 2,278 of the Company's vehicles and field equipment were utilized less than 50% of the time during 2024. The analysis shows that 381 vehicles were used less than 5% in 2024 with some of these vehicles being last used in June 2021. Approximately 1,050 vehicles were used

²⁰³ See, Exhibit AG-25 and Coppola, 3 TR 2494 for Mr. Coppola's calculations for cost per vehicle.

²⁰⁴ *Id.* at 3 TR 2494.

²⁰⁵ *Id.*

between 5% and 20%, and the remaining 1,216 vehicles were used between 20% and 50% of the time.²⁰⁶ The Company needs to take steps to improve the utilization rate of the fleet and minimize new vehicle purchases when existing vehicles are still available for use by field personnel. The Attorney General recommends that the Commission direct the Company to present a thorough plan in the next rate case that addresses the utilization rate of vehicles and field equipment and the impact on reduced vehicle purchases in future years.²⁰⁷

The PFD declined to adopt the Attorney General's reductions in fleet replacement spending, asserting that the fleet replacement price projections from the Company are more aligned with actual vehicle prices than Mr. Coppola's calculations in Exhibit AG-25. It also concluded that requiring Consumers to demonstrate the elimination of replacement vehicles purchasing is unsupported. It points out that Consumers has presented testimony regarding the elimination of 450 fleet vehicles since mid-2022.²⁰⁸ According to Mr. Coppola, it was not clear where the Company sources the pricing information or its validity, so Mr. Coppola's use of actual historical average prices adjusted for inflation is a reasonable substitute. Given the Company's poor vehicle utilization as discussed above, it is only reasonable to require the Company to address the seemingly excess vehicles for which ratepayers are required to pay a return on. Finally, the fact that the

²⁰⁶ See, Coppola, 3 TR 2495 and Exhibit AG-26 (DR AG-CE-0656 with the attachment).

²⁰⁷ Coppola, 3 TR 2495 – 2496.

²⁰⁸ PFD, p 302.

Company has eliminated some fleet vehicles in recent years should not foreclose it from trimming more excess vehicles.

The PFD noted that the Attorney General's point is well-taken and it recommended that the Consumers be directed to provide more detail regarding existing vehicle usage by spec in its next rate case filing. The PFD also encourages the Company to provide additional information regarding actual units to be purchased and purchase prices to the extent possible but does not recommend a specific Commission directive on the issues. This seems to relate to the observation that automakers choose what they will produce which can change and is outside of the Company's control.²⁰⁹ The Attorney General disagrees with the recommendation that no directive be issued by the Commission regarding providing the actual units to be purchased. While it is true that automakers choose what to produce, it has not been demonstrated that model changes are abrupt or that the Company will not know what vehicle it will be purchasing within reason.

E. Information Technology and Security Capital Expenditures

1. ARF-FDAM

The Company forecasted test year capital expenditures for ARP-Field Device Asset Management (FDAM) program assigned to the electric business of

²⁰⁹ PFD pp 302 – 303.

\$4,850,461.²¹⁰ This amount was approximately double the amount allocated to the electric business in 2024 and 2025. According to the Company, the number of devices is refreshed on a four-year cycle.²¹¹ That would mean that the previous cycle was in either 2022 or 2023. The projected test year includes 8 months from 2026 and four months from 2027. According to data provided by the Company, for 2022 the electric business was only assigned \$1,678,000 of the expenditures and it was assigned \$2,224,000 in 2023. Those amounts are less than half the amount that the Company has included in the projected test year in this case. The Company explanation for why capital expenditures are increasing in the projected test year due to the four-cycle replacement is not supported by its own information.²¹²

Using a three-year historical average from 2022 to 2024 and applying a 2.9% inflation factor, the Attorney General determined a more reasonable forecast of \$2,957,000 for the bridge period.²¹³ This amount was \$1,039,000 lower than the Company's forecasted amount of \$3,996,000 for the bridge period.²¹⁴ Based on adjustments made by the Company to the forecasted capital expenditure, the Attorney General recommended a disallowance of \$953,000 for the bridge period.²¹⁵

²¹⁰ A-22 (SHB-7), page 5.

²¹¹ Exhibit AG-31 (DR AG-CE-0603 with attachment).

²¹² Coppola, 3 TR 2503.

²¹³ See, Coppola 3 TR 2504 and footnote 81 for the calculation.

²¹⁴ *Id.* and see footnote 82 for the calculation.

²¹⁵ See, Appendix A and Baker Rebuttal, 3 TR 802.

For the projected test year she determined a forecasted capital expenditures amount of \$2,337,000.²¹⁶ This amount is \$2,513,000 lower than the Company's forecast of \$4,850,000 and the Attorney General recommended that the Commission disallow that amount.

The PFD declined to adopt the Attorney General's recommended disallowances, the "PFD finds the Company has shown that Mr. Coppola's method of comparing historical spending to the spending presented in this case is not appropriate because it fails to account for field devices that were previously purchased as part of other projects but will be refreshed through the ARP-FDAM project in 2026."²¹⁷ The PFD's conclusion was erroneously influenced by the a rebuttal exhibit A-185.²¹⁸

The Company uses a four-year historical average of years 2021 to 2024 to project its costs not the individual costs and allocations listed on Exhibit A-185. While the Company claims that ARP-FDAM includes recovery of costs previously recovered under ARP-WAM, ARP-WAM remains a category of expenditures in this case.²¹⁹ Inclusion of ARP-WAM as an adjustment to historical costs smack of revisionist. At best, the Company's practice of shifting costs among different cost

²¹⁶ Coppola, 3 TR 2504 see footnote 83.

²¹⁷ PFD, p. 321.

²¹⁸ See, Exhibit AG-64, p.3.

²¹⁹ Id.

categories confuses the presentation of its case. If the Commission decides to include the ARP-WAM expenditures in determining the historical average, it should not use the Company's average. The year 2021 which is included in Exhibit AG-183, is outside of the four-year refresh cycle and nearly three times more than the next highest year cost greatly skewing the average. Mr. Coppola used a three-year average of 2022 through 2024 because they coincide with the refresh cycle for the equipment being replaced in 2026 and 2027 and provide a better measurement of future costs than costs from over five years ago. The Commission should adopt the Attorney General's proposed disallowances of \$953,000 for the bridge period and \$2,513,000 for the projected test year.

2. SAP S/4Hanna

The Company proposes implementing a new Enterprise Resource Planning (ERP) system with SAP Software Company (SAP), which the Company refers to as the SAP S4/HANA development project. It confirmed that the project is still in the Investment Planning phase. According to the Company the current ERP system with SAP needs to be modernized because it will reach the end of mainstream vendor maintenance on December 31, 2027. Although the system would be modernized with a new software system, it will basically replace the same functions of the current ERP system of billing, materials purchasing, warehousing, finance, accounting, payroll, customer relationship management, and other technical

costs of the SAF S/4HANNA project in rate base.²²⁶ Finally, it noted that the Commission approved spending for the project in Case No. U-21806 and that there is no basis for a different conclusion in this case.²²⁷

The Attorney General disagrees that it is prudent for the Company to incur the cost in this case. The current system is still functioning well and meets all the operating requirements for the Company.²²⁸ Further, the Company has not identified any cost savings or financial benefits for implementation of a new ERP system. The Company's financial analysis shows the project costs but no financial benefits and a negative Cost/Benefit ratio of negative 1.0, meaning the project is not financially justified.²²⁹ The Company claims to have selected an alternative to migration to SAP's S/4HANA software, but the Company confirmed that it had not completed the detailed requirements.²³⁰ The option also exists for the Company to continue to operate the system into 2030 and potentially pass that date with system support by SAP.

While the Commission in its order dated September 30, 2025 (the same date as testimony was filed in this case) disagreed with the Attorney General's recommendation, it should adopt the Attorney General's recommendation based on

²²⁶ *Id.*

²²⁷ *Id.*, at 333 – 334.

²²⁸ Coppola, 3 TR 2501.

²²⁹ Exhibit A-21 Confidential, p. 136.

²³⁰ *See*, AG-64, p 2.

the record in this case as discussed above and in the Attorney General's Initial Brief.²³¹

3. Projects in investment planning phase.

The Attorney General recommended disallowances of \$4,904,000 for the bridge period and \$11,983 for the projected test year for several IT projects because the inclusion in rate base is too premature at this time.

Group 1 - Contains four projects with projected costs and related O&M expense for the projected test year.

1. Electric Geographic Information System (GIS) Design Platform Modernization
2. Electric GIS Utility Network Transformation
3. Integrated Energy Management Platform Optimization
4. Service Restoration Artificial Intelligence

Based on the cost data provided by the Company, Mr. Coppola calculated forecasted capital expenditures for the four projects of \$1,448,000 for the bridge period and \$3,067,000 for the projected test year. In addition, the Company identified \$1,260,000 of O&M expenses for the projected test year in conjunction with development of the projects.²³²

²³¹ Attorney General's Initial Brief, pp 101 – 105.

²³² See, Exhibit AG-28

Group 2 – Consists of four projects.²³³

1. Critical Substation Upgrade²³⁴
2. OT Datacenter Migration²³⁵
3. Forward Web Proxy Services²³⁶
4. Physical Access Management and Alarm Response²³⁷

Based on the cost data provided by the Company, Mr. Coppola calculated forecasted capital expenditures for the four projects of \$3,456,000 for the bridge period and \$8,916,000 for the projected test year. In addition, the Company identified \$1,876,000 of O&M expense for the projected test year in conjunction with development of the projects.²³⁸

These projects were identified as being in the investment planning phase.²³⁹ Because these projects are still in the initial stage of development, there is significant uncertainty whether or when they will advance further. The projects are premature to include in rate base in this rate case. Customers should not pay for the depreciation and return on project cost that may not materialize within the

²³³ The Attorney General has withdrawn her proposed disallowances for the Data and Analytics Platform IT project. See Appendix A.

²³⁴ Baker, 3 TR 717 – 718.

²³⁵ *Id.* at 738.

²³⁶ *Id.* at 752 – 753.

²³⁷ *Id.* at 753 – 755.

²³⁸ See, Exhibit AG-28 for additional cost details by project.

²³⁹ See, Exhibit AG-29 (DR AG-0594, 0595, 0596, 0601, and 0602 with attachments).

forecasted time frame.²⁴⁰ Therefore, the Attorney General recommended that the Commission remove \$4,904,000 for the bridge period and \$11,983,000 for the projected test year from the Company's forecasted capital expenditures. In addition, she recommends that the Commission remove \$3,136,000 from the projected test year O&M expense.

The PFD declined to adopt the Attorney General's "blanket recommendation to disallow these projects because they are in the "investment planning phase," and premature. While agreeing with the Attorney General that customers should not have to pay for uncertain and premature projects, this PFD disagrees that a project in the investment planning phase is per se premature."²⁴¹ As discussed in the Attorney General's Initial Brief, it appears that final decisions on some aspects of the projects had not been finalized and therefore it was too premature to include the projects in rate base because the work and costs were uncertain.²⁴² In fact, the Company confirmed post-rebuttal, that the projects, except for one²⁴³ had not completed the detailed requirements phase.²⁴⁴

According to the PFD Exhibits AG-26 through AG-27 support the recommended disallowances because many of the projects have board approval and

²⁴⁰ Coppola, 3 TR 2498.

²⁴¹ PFD, p. 365.

²⁴² Attorney General's Initial Brief, pp 105 – 108.

²⁴³ For which the Attorney General withdrew her disallowance.

²⁴⁴ See, Exhibit AG-61, pp 1 and 3.

completed BCAs, and all but two projects have planned 2026 expenditures. It also claims that the Attorney General's statement that detailed cost estimates were not provided in discovery, but that it does not appear that requested this information for all projects.²⁴⁵ Just because the Company received board approval and performed a BCA and claims that it has expenditures planned in 2026 mean that its not too premature to rely on the Company's projections. As discussed above, the concern is that it is too soon to base the recovery of capital expenditures and inclusion in rate base when the project may not be sufficiently developed or supported in this case. Also, the claim that the Attorney General did not request information for all projects does not support the PFD's conclusions. Whether the Attorney General asked for information in discovery or not, the Company has the burden to provide sufficient information to support its request.

For the reasons provided above and in the Attorney General's Initial Brief, the Commission should adopt the Attorney General's recommended disallowances.

III. Working Capital

The Company proposed approximately \$2.126 billion in working capital for the projected test year.²⁴⁶ The Attorney General disagrees that level of working capital is necessary and is recommending three adjustments that will reduce the amount of Working Capital to \$2.052 Billion. The proposed adjustments include (1)

²⁴⁵ PFD, p. 365.

²⁴⁶ Exhibit A-12(PDD-34), Schedule B-4.

reductions to the Company's projected test year cash level (\$41.4 million), (2) an adjustment to the Company's accrued taxes amount, which decreases working capital (\$30.0 million), (3) a reduction in working capital for the cloud computing deferred cost for the SAP S/4HANA project (\$2.6 million) for a total working capital reduction of \$74 million.²⁴⁷ The PFD disagreed with the Attorney General's recommendations and these exceptions will address the PFD's recommendations for the above referenced working capital adjustments.

A. Working Capital Adjustment for Cash Balance

The Company is requesting a cash balance of \$50.4 million, however the Attorney General is recommending a lower cash balance because the Company has not demonstrated the need for such a high cash balance. The Company bases its forecast on a 1% ratio of cash on hand to revenues.²⁴⁸ However, this theoretical balance of 1% of revenues does not reflect the Company's actual cash needs.²⁴⁹ Therefore, the Attorney General recommends that the Commission set the average cash balance for the projected test year using the average cash balance that the Company actually held over the past three years based on the 13-month average cash balances at the end of each year 2022, 2023, and 2024. The three-year average of cash on hand held by the Company was \$25.1 million, which is \$25.3 million

²⁴⁷ See, Coppola, 3 TR 2506 – 2507 and Exhibit AG-33.

²⁴⁸ Coppola, 3 TR 2507 and Bleckman, 3 TR 902.

²⁴⁹ See, the Attorney General's Initial Brief, pp 109 – 115 and Reply Brief, pp 9 – 14 for the detailed analysis and support for her position.

lower than the amount forecasted by the Company in this case.²⁵⁰ In addition, the \$25.1 million cash level noted above includes an average level of cash invested in interest bearing securities of \$16.1 million based on the analysis provided by the Company in response to discovery and summarized in Exhibit AG-34.²⁵¹ Therefore, the net cash required to operate the Company's electric business is approximately \$9.0 million.

The PFD adopts the Company's position including the 1% rule of thumb and the cash balance of \$50.4 million.²⁵² It rejected the Attorney General's proposed \$9 million cash balance because the three year average included 2022 and 2023 which it considered unusual and the "removal of \$16.1 million based on it being the average level of cash invested in interest bearing securities based on the Company's assertions that relevant cash accounts are not restricted, are properly included in working capital, and any interest is deducted from Consumers' revenue request."²⁵³

The Commission should reject the PFD's recommendation and adopt the Attorney General's proposed cash balance of \$9 million because the PFD erroneously relies on the Company's position. The PFD found the Company's presentation of the historical ratio of cash balances to revenues from 2016 to 2024

²⁵⁰ See, Exhibit AG-34.

²⁵¹ Exhibit AG-34 (DR AG-CE-0456).

²⁵² PFD, p. 417.

²⁵³ *Id.*

compelling. As part of the analysis the Company excluded the 2020 ratio of over 6% and 2022 and 2023 ratios of less than 0.5% thereby skewing the results. The PFD notes that in all the other years, the cash ratio was around 1% (either higher or lower). This analysis does not address the lack of cause and effect between the company's case needs and revenue. As discussed in the Attorney General's initial brief, cash on hand is not used to pay for revenues. It is used to pay operating expenses, capital expenditures, and dividends to the parent company. Therefore, use of the 1% ratio that the Company has calculated based on revenues has no connection to the need to keep cash on hand.²⁵⁴ To the extent the cash balances were around 1% was more likely coincidence.

The PFD claims that the Attorney General's argument that the Company's actual cash balances were lower than the 1% is based on balances from 2022-2024 and that the Company rebutted the use of 2022 and 2023 because they were unusual due to gas price spikes and weather incidents.²⁵⁵ To the contrary, the Attorney General's three-year approach provides a normalized average of the cash needs for the Company over the most recent three years and is specific to the Company and its needs for cash on hand.²⁵⁶

²⁵⁴ Coppola, 3 TR 2508.

²⁵⁵ PFD, p 416 – 417.

²⁵⁶ Coppola, 3 TR 2509 – 2510.

The PFD agreed with the Company that use of short-term debt to address unusual cash needs is imprudent because it is considered in the Company's credit rating. It also noted the Commission's statement that there is no guarantee that short-term borrowing will be available when needed.²⁵⁷ The Attorney General addressed these claim in her briefs. First, the Company already has a layer of short-term debt in place which provides more than enough liquidity for its utility operations.²⁵⁸ Further, the credit ratings agencies view the Company's short-term borrowing facilities as a positive. S&P assessed the Company's liquidity as adequate.²⁵⁹ While it noted that the supportive regulatory environment provides manageable cash flow stability (not simply the cash balance), even in times of economic stress ... it stated that "CE can absorb high-impact, low probability events, in our view, as the company maintains about \$1.1 billion in committed credit facilities through 2027 ... and can likely lower its capital spending (averaging \$2.8 billion - \$3.0 billion annually) during stressful periods..."²⁶⁰ Moody's May 2024 credit update indicates that it expects the Company's liquidity profile to be adequate over the next 12 – 18 months.²⁶¹ It also notes the Company's external liquidity sources including a \$1.1 billion secured revolving credit facility expiring in December 2027. The Company's credit facilities provide support for working capital

²⁵⁷ PFD, p 417.

²⁵⁸ Attorney General's Reply Brief, p10.

²⁵⁹ See Exhibit A-36, p. 11 (report page 11).

²⁶⁰ *Id.*

²⁶¹ Exhibit AG-37, p. 7 (report page 7).

needs and act as a backstop to Consumers’ \$500 million commercial paper program.²⁶² While it noted that the Company’s continuing capital expenditure program and dividend policy will result in negative free cash flow for the foreseeable future, it has a reasonable amount of external liquidity, demonstrated market access, and regularly receive capital contributions from its parent.²⁶³

Finally, Fitch indicates that the Company has adequate liquidity. “ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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The credit agencies agree with the Attorney General that the Company has more than enough liquidity from its short-term borrowing facilities through the projected test year.²⁶⁵

Further, cash on hand does not solve liquidity problems arising from unusual events such as COVID-19, spikes in gas prices or higher storm restoration costs.²⁶⁶ According to Mr. Coppola, it is access to short-term credit facilities that is critical in solving large cash needs. For example, in 2022 during the spike in natural gas

²⁶² *Id.*

²⁶³ *Id.* See also, Moody’s May 2025 update in Exhibit AG-47 CONF, page 8 (report page 7), which contains similar analysis.

²⁶⁴ Exhibit AG-49 CONF, page 4 (report page 3).

²⁶⁵ Attorney General’s Reply Brief, pp 10 – 12.

²⁶⁶ See, Attorney General’s Initial Brief, pp 111 – 112.

prices, the Company increased its credit lines from \$1.1 billion to \$1.8 billion to meet additional cash needs.²⁶⁷ Regarding liquidity, the Company has stated that it was “...not aware of any instance in which it was directly refused short-term credit...”²⁶⁸ More importantly, problems involving hundreds of millions of dollars cannot be solved by holding an extra \$40 million in cash. Also, to the extent that liquidity issues are smaller, the Company can always draw on its bank lines or from issuing commercial paper.²⁶⁹

The PFD also disagreed with the Attorney General’s removal of \$16.1 million based on it being the average level of cash invested in interest bearing securities based on the Company’s claim that relevant cash accounts are not restricted. Assuming *arguendo* that these interest bearing accounts should not be considered investments, the Company is earning something on the account and since the money is available to the Company “at any time,” the reduction is still reasonable. The fact that interest on the account may be a reduction to the Company’s revenue requirement should not be dispositive. Once the inflated cash balance is included in rate base, the Company will earn a return on it (currently 9.9%), which may exceed any reductions in revenue requirement due to interest.²⁷⁰

²⁶⁷ Coppola, 3 TR 2511 referring to the Company’s SEC filings on Form 10-K for the periods ending December 31, 2021 and 2022 on page 123 in each case.

²⁶⁸ Coppola 3 TR 2511.

²⁶⁹ Coppola 3 TR 2511 – 2512.

²⁷⁰ *Id.*, at p 12.

While the Commission has approved cash balances based on the Company's 1% rule of thumb in the past, it has also indicated its willingness to review use of that approach going forward.²⁷¹ The Attorney General recommends that the Commission reject the Company's 1% ratio calculation approach and instead adopt Mr. Coppola's proposed cash balance of \$9.0 million for the projected test year by removing \$41.4 million from the Company's forecasted working capital and rate base in this case. If the Commission rejects the Attorney General's \$16.1 million adjustment, the cash balance should be \$25.1 million. The \$50.4 million cash balance requested by the Company is unreasonable because it is excessive and unnecessary.

B. Accrued Tax Adjustment

The Company's accrued taxes for the projected test year does not include additional income from rate relief requested in this case.²⁷² In fact the Company showed a decrease in accrued taxes. However, this seems inconsistent when the rate relief requested in this rate case, which would increase taxable income and thus Accrued Taxes.²⁷³

According to Mr. Coppola, the Company's assumption of no new rate relief from this rate case is an unrealistic assumption and the Company's calculation of

²⁷¹ See, Order dated March 1, 2024 in Case No. U-21389, at page 120, and Order dated March 21, 2025 Case No. U-21585, page 213.

²⁷² Coppola, 3 TR 2512, referring to footnote 90.

²⁷³ Coppola, 3 TR 2512.

accrued taxes is flawed. He noted that in the Company's most recent electric rate case (Case No. U-21585), the Company received 51% of the amount requested or approximately \$154 million annually. While the exact amount of rate relief that will be granted in this case is unknown, Mr. Coppola conservatively recommended using actual accrued taxes from the historical year 2024 to recompute accrued taxes at a higher level.²⁷⁴ Mr. Coppola's calculation results in a reduction in working capital of \$30.0 million. In rebuttal the Company claims that it calculated the appropriate amount of accrued taxes.²⁷⁵

The PFD declined to adopt the Attorney General's proposed adjustment, which it claims was based on the Attorney General's perception of inconsistent treatment of taxes related to any additional income from the rate relief requested in this case. According to the PFD, the Company sufficiently explained why its \$30 million adjustment was necessary and in accordance with ratemaking principles and the IRS rules.

As discussed above, the primary reason for the Attorney General's adjustment is the Company's assumption of no new rate relief in determining the amount of accrued taxes is unrealistic. In response to the Company's assertions about the appropriate treatments of accrued taxes and ratemaking principles and

²⁷⁴ Coppola, 3 TR 2512 – 2513.

²⁷⁵ Vanblarcum rebuttal, 3 TR 2271 and Exhibit AG 78, page 3 (DR AG-CE-0894). See also, PFD, pp 418 – 419.

IRS requirements in rebuttal, the Attorney General also noted the inconsistency with how the Company treated its income tax liability to rebut the argument.²⁷⁶ As discussed in the Attorney General's brief, there is no mention or prohibition in the IRS rules for the calculation of accrued taxes through the end of the projected test year that would take into account the additional income taxes that the company will need to pay from the additional income generated from the rate increase. There is a disconnect in the Company's practice because it has calculated income tax expense for the proposed rate increase but has not recognized that the additional tax expense will result in Accrued Taxes to be paid to the U.S. Treasury during the projected test year.²⁷⁷

The Commission should use the historic balance of Accrued Taxes of \$286.1 million for the projected test year and reduce Working Capital by \$30.0 million as recommended by the Attorney General.²⁷⁸

C. Cloud Computing Deferred Cost

The Company included an increase of \$2,576,000 to the projected test year working capital for the deferral of cloud computing costs for the SAP S/4 HANA project.²⁷⁹ The Attorney General recommends that capital expenditures for the SAP

²⁷⁶ Exhibit AG-78, p. 3. See also, Attorney General's Initial Brief p

²⁷⁷ Attorney General's Initial Brief, pp 116 – 117.

²⁷⁸ Coppola, 3 TR 2513.

²⁷⁹ Exhibit A-12 (PDD-34), Schedule B-4, column (m)

S/4 HANA project and related costs be rejected at this time because the project is still in the early phase of development and it is premature to include costs in rate base.²⁸⁰ Cloud computing costs for the SAP S/4 HANA project are also premature for reasons provided in the her recommended disallowance for the SAP S/4HANA project and the fact that a contract is not in place for the SaaS solution that would support the cloud computing costs.²⁸¹ Further, the PFD notes that the Company argues “that approving the deferral of O&M expenses, and amortizing cloud implementation costs over 15 years, *will align the cost recovery with the period over which the project delivers benefits* and help mitigate customer rate impact.”²⁸² This argument is an implicit admission that the project will not be delivering benefits during the projected test year and is therefore premature for inclusion in rate base for which it will earn a return.

The PFD rejects the Attorney General’s recommendation for the reasons it provided for rejecting her recommendations for capital expenditures. For the reasons provided above and in her exceptions for the SAP S/4HANA project, the Commission should adopt the Attorney General’s recommendation.

IV. Other Operations and Maintenance Expenses.

A. Distribution O&M Expense

²⁸⁰ *Supra.*

²⁸¹ Coppola, 3 TR 2513.

²⁸² PFD, p 422 (emphasis added).

1. Electric Operations

a. Non-forestry Reliability

i. LVD Lines Reliability

The Company is forecasting \$8 million in the projected test year for the LVD Lines Reliability O&M expense. The Company incurred \$0.6 million for this category of expenses in the historical year 2024 and the largest amount incurred in this area in the last five years was \$1.1 million in 2022.²⁸³ The dramatic increase proposed by the Company in this case is excessive and unreasonable.

The Attorney General asked the Company to provide the actual expense during the first eight months of 2025. The Company's response shows that \$607,360 was spent in the first eight months of 2025, or an annualized level of \$911,000.²⁸⁴ Adding inflation adjustments to this amount brings the expense for the projected test year to \$940,000, which is less than one-eighth the Company's forecasted amount of \$8.0 million for the projected test year. The Attorney General recommended that the Commission remove the difference of \$7,060,000 from the O&M expense forecasted for the projected test year. Staff also recommended a disallowance for this subprogram totaling \$7.2 million.²⁸⁵

²⁸³ See, Exhibit A-124 (MPK-14), line 4 and Coppola, 3 TR 2578 – 2579.

²⁸⁴ DR-AG-CE-0507 with attachment.

²⁸⁵ PFD, p 572.

The PFD found that based on the dollars spent by the Company and that the five-year average for Lines Reliability LVD O&M is only \$574,000, it is unlikely that it will spend an additional \$7 million for LVD Lines reliability in 2025.²⁸⁶ However, the PFD recommended a disallowance of \$5.684 million – “Therefore, this PFD recommends that the Commission approve \$2.262 million for 2025 and \$2.316 million for 2026 and 2027 (2.4% inflation factor applied) for a disallowance of \$5.684 million.”²⁸⁷ Presumably the recommended disallowance is for the projected test year and that \$5,738,000 is the recommended disallowance for 2025.

While the Attorney General agrees that it is unlikely that the Company will spend \$7,000,000 for the remainder of 2025, based on its historical spending and spending in this case, it is also unlikely to spend over \$2 million as proposed in the PFD. As discussed above, the most that the Company has spent in the last five years is \$1.1 million. It is also unclear how the PFD determined the amounts that it recommended to be approved. The PFD does not provide an explanation, nor does the appendices include a calculation. The PFD’s analysis supports a higher disallowance. As discussed above and in the Attorney General’s Brief and testimony, the amount disallowed should be at least \$7.06 million.²⁸⁸

ii. Staking and Locating O&M Expense

²⁸⁶ Id., at pp 575 – 576.

²⁸⁷ PFD, p. 576.

²⁸⁸ See, Attorney General’s Initial Brief, pp 171 – 172.

The Attorney General recommended a total disallowance of \$6,178,000 for staking and locating O&M expense. Part of the disallowance of \$866,000 relates to the Company's proposal to use a 7% annual growth rate in calculating the number of Staking and Locating requests it uses for its test year projections.²⁸⁹ Other parties also recommended disallowances or commented on this issue. The Second disallowance for \$5,872,000 related to the Company's decision to move to a dedicated contractor approach for its staking and locating program from a shared contractor approach which has unnecessarily increased costs for ratepayers.²⁹⁰

The PFD recommended that the Commission disallow \$1,517,000 as recommended by Staff based on the Company's underspend in certain sub-programs and the Company's request does not support a 7% increase in requests.²⁹¹ The PFD also recommended that the Commission "(re-) approve the dedicated contractor model."²⁹² The PFD does not specifically address the Attorney General's proposed disallowance related to the Company's use of a 7% growth rate for staking and locating requests, but she assume that it is rejected. The PFD's recommendation for the two staking and locating issues identified above is erroneous.

²⁸⁹ Kelly, 3 TR 1522 and Coppola, 3 TR 2574.

²⁹⁰ Coppola, 3 TR 2574 – 2575.

²⁹¹ PFD, p 606.

²⁹² *Id.*

As discussed in the Attorney General’s Initial Brief, the Company’s use of a 7% annual growth rate in calculating the number of Staking and Locating requests for its test year projections,²⁹³ is too high and needs to be reduced.²⁹⁴ It does not reflect the Company’s actual experience with staking request over the last few years²⁹⁵ Based on the Company’s own numbers, the actual annual rate of growth in staking and locating requests has been 2%.²⁹⁶ Using the annual 2% rate of growth over the 2019 to 2024 period, results in a lower expense amount of \$13,052,000 based on 453,640 projected staking and locating requests and the contractor’s average cost rate plus Miss Dig annual dues and fees of \$734,000. This amount is \$866,000 less than the \$13.9 million staking and locating expense forecasted by the Company. The Attorney General recommends that the Commission adopt the Attorney General’s proposed disallowance to ensure that ratepayer are not paying a higher than reasonable expense amount through rates.²⁹⁷

The Company changed its staking and locating program to a dedicated contractor approach instead of a shared contractor model throughout its service territory.²⁹⁸ According to the Company the dedicated contractor model with purportedly lower unit costs would improve timeliness, staking accuracy, excavator

²⁹³ Kelly, 3 TR 1522 and Coppola, 3 TR 2574.

²⁹⁴ See, Attorney General’s Initial Brief, p 169.

²⁹⁵ Coppola, 3 TR 2574.

²⁹⁶ *Id.*

²⁹⁷ *Id.* See also, Exhibit AG-56 for the calculation.

²⁹⁸ Kelly 3 TR 1518 – 1526.

communication.²⁹⁹ Mr. Coppola notes that the move to a dedicated contractor model increases costs dramatically from \$6.1 million in 2024 to \$13.9 million in the projected test year, without any evidence from the Company that a significant problem exists in the rest of the Company's service area that could not be resolved without a costly dedicated contract approach.³⁰⁰ Mr. Kelly asserted that the primary drivers for increased spending in the test year included among other things, increases in the cost per ticket under the contract with staking contractors (approximately \$6.8 million of the total increase) included dedicated model expansion³⁰¹

The Company's change to a dedicated contractor approach to staking and locating throughout its service territory is unjustified and appears to increase the expense. Based on the Company's cost information,³⁰² the increase in expense of expanding the dedicated model to other areas of the state is \$5,872,000.³⁰³ This is not the touted cost savings from switching to a dedicated model. While the Commission may not require the Company to rethink this approach, ratepayers should receive the benefits of this approach to staking and locating. Therefore, the

²⁹⁹ See, PFD p 596.

³⁰⁰ Coppola, 3 TR 25754.

³⁰¹ PFD, p 597 *citing to* 3 TR 1521.

³⁰² Exhibit AG-56 (DR AG-CE-0445).

³⁰³ *Id.*

Commission should remove the \$5,872,000 from the Company's forecasted O&M expense for the projected test year.

The Attorney General recommends that the Commission reduce the Company's staking and locating expense by a total of \$6,738,000.

2. Field Operations

a. Electric Distribution-LVD

Expenses in this area cover salaries and other expenses for the LVD engineering organization which includes LVD planning, design, joint pole rental expenses, and the Grid Automation teams. The Company is projecting \$11.773 million of expenses for 2025.³⁰⁴ Over the past five years, expenses in this area have ranged from \$5.8 million to \$8.6 million. The expense for 2024 was \$7.3 million.³⁰⁵ According to the Company, the large increase in expense is attributable to additional "...projects being identified as part of the Reliability Roadmap."³⁰⁶

Based on the expenses for the first eight months of 2025 of \$3.243 million, it appears that the annualized expense would be \$4,865,000, which is well below the actual 2024 expense.³⁰⁷ It is also well below the Company's projected test year expense. The Attorney General's expert also noted that the tasks performed in this

³⁰⁴ Exhibit A-124 (MPK-14).

³⁰⁵ *Id.* at 3 TR 2580.

³⁰⁶ Kelly, 3 TR 1553.

³⁰⁷ Coppola, 3 TR 2580.

area have been on-going for some time and therefore the rationale for a large ramp-up of expenses does not appear to be supported by the Company's testimony.³⁰⁸ According to the PFD, the Company claims that the projected increase is being driven by Grid Automation work, which is not related to ongoing work.³⁰⁹ The Attorney General recommended that this expense be set at the 2024 level of \$7,254,000 which reduces the O&M expense for the projected test year by \$4,519,000.³¹⁰

According to the PFD, although the increase in this expense is significant, the Company provided adequate justification for the increase expenditure in this subprogram.³¹¹ It points to the Company's claim that the increased expense relates to the increased LVD planning and design work necessary to support the increased number of LVD projects identified as part of the Reliability Roadmap. It also notes the Company's claim that increased Grid Automation work supports the work and project described in Mr. McPhail's testimony.³¹²

None of the reasons cited justify the level of increase proposed by the Company. First, the Reliability Roadmap itself is not evidence to support the recovery of cost. Second, assuming *arguendo* that Grid Automation has some

³⁰⁸ *Id.* at 3 TR 2581.

³⁰⁹ PFD, p. 634.

³¹⁰ See, Attorney General's Initial Brief, pp 175 – 176.

³¹¹ PFD, p 635.

³¹² *Id.*

impact on cost, the Company has not justified the new spending level, especially considering the amount of underspend that has already been observed which presumably includes Grid Automation related work. The PFD's recommendation to reject the disallowance, but to recommend that the Company be directed to show how the money was spent is putting the proverbial cart before the horse and should be rejected. If there is any concern regarding how the funds are being spent, that indicates a lack of support for the expenditures from the Company. The Company has not demonstrated that this spending level is justified. The Commission should adopt the Attorney General's proposed disallowance.

b. Line Clearing

According to the PFD, the Attorney General supported the expenditure. While the Attorney General does not object to proposed spending of \$186.7 million, she does disagree with the proposed baseline that will be used for line clearing deferral mechanism which will be discussed below. She proposes that a baseline of \$110,225,000 be used which would move an additional \$54.3 million out of the O&M expense compared to the Company's proposed \$164.5 million baseline if her proposal is adopted.

3. Service Restoration.

a. Service Restoration Expense

The Company is forecasting service restoration O&M expenses of \$165.2 million for the projected test year.³¹³ It incurred \$156,098,000 for this expense item in 2024 and the five-year average for this expense is \$137,666,000.³¹⁴ Company witness Snider used a new method for determining the service restoration expenses for the bridge period, which involves taking 8 months of that expense and adding for months of the built up 2027 service restoration expense using the actual expense from 2024 as a base.³¹⁵ This new methodology veers from the long-standing practice of using an average of the last five years of restoration expense to set the forecasted amount for the projected test year. The five-year approach normalized and evened out peaks and valleys in the annual expense to avoid large fluctuations in the projected test year expense instead of relying solely on the expense incurred in the most recent year, as Mr. Snider has done under his new approach.³¹⁶

Mr. Coppola used the actual service restoration expenses for the five years from 2020 to 2024, to calculate the average expense amount of \$137,666,000. He adjusted this amount by the inflation rates for 2025 to the end of the projected test year and arrived at the adjusted forecasted expense of \$144,572,000. This amount is \$20,643,000 less than the \$165,213,000 forecasted by the Company.³¹⁷ The

³¹³ Exhibit A-124 (MPK-14), line 23.

³¹⁴ *Id.*

³¹⁵ *See*, Snider, 3 TR 2140.

³¹⁶ *See*, Coppola, 3 TR 2571 – 2572.

³¹⁷ *Id.* at 3 TR 2572. *See also*, Exhibit AG-55 for the calculations.

Attorney General recommends that the Commission adopt the traditional method of calculating the expense as performed by Mr. Coppola and remove \$20,643,000 from the Company's forecasted O&M expense for the projected test year.

The PFD recommends that the Commission reject the Attorney General's proposed disallowance asserting that the historical method of calculating this expense has left service restoration underfunded.³¹⁸ It also cited to the Liberty audits recommendation to move away from using historical costs to establish restoration budgets, which it claims the Company did in this case.³¹⁹ However, the Liberty report does not recommend any specific methodology, let alone the method chosen by the Company.³²⁰

The Attorney General disagrees with that recommendation because as stated in her initial brief the Company's method is flawed. It relies largely on the expense from the most recent historical year.³²¹ As the PFD explains, "the bridge period and test year funding was calculated by inflating the historical year 2024 expense for years 2025, 2025, and 2027. For the bridge period the calculation included all of calendar year 2025, plus four months of 2026. The calculation for the test year considered eight months of the year 2026 and four months of 2027."³²² In effect the

³¹⁸ PFD, p 674.

³¹⁹ *Id.*

³²⁰ *See*, Exhibit AG-76 (AG-CE-0883).

³²¹ *See*, Attorney General's Initial Brief, pp 179 – 180.

³²² PFD, p 670. *See also*, Exhibit AG-76 (AG-CE-0884).

Company has substituted the actual expense of a single year of 2024 instead of using a five-year average of historical expense.

While this approach may be reasonable for a less volatile expense, this single year methodology is inappropriate because this expense is subject to significant volatility with weather including major storms varying significantly from year to year. This variability can greatly affect service restoration costs. The five-year average methodology proves a smoother forecast that avoids the peaks and valleys from using a single year as the base to forecast future Storm Restoration expense. The Attorney General recommends that the Commission reject the Company's approach and adopt the Attorney General's recommendation.

b. Service Restoration Resiliency Fund and Extraordinary Storm Accounting

The PFD recommends that the Commission not adopt the Service Restoration Resiliency Fund (SRRF) and Extraordinary Storm Accounting (ESA) proposals put forward by the Company because they are neither reasonable nor fair to ratepayers.³²³ The Attorney General agrees and is not filing an exception to that recommendation. The PFD also recommends not adopting the Attorney General's proposal to open a separate docket to further study the Company's request. The Attorney General has no problem with that recommendation assuming the Commission adopts the PFD's recommendation to reject the SRRF and ESA.

³²³ PFD, p 691.

However, if the Commission is considering adopting one or both of these proposals, she recommends that it first consider opening a docket so that more research and study can be done to assess how they will work in practice and the implications for cost recovery for these complex proposals.³²⁴

B. IT O&M Expense

1. IT O&M Expense

The Attorney General recommended disallowances for O&M related to several IT capital programs that she determined were too premature to be included in rates in this case including the SAP S/4HANA project. The Attorney General recommended a total disallowance amount of \$3,136,000 (not including SAP S/4HANA which is discussed below) be removed from rates. As discussed above under capital expenditures and in her initial brief, two groups of projects were identified by the Attorney General as too premature for inclusion in rate base and likewise their related expenses were too premature.³²⁵ For Group 1, the Attorney General recommended \$1,260,000 in disallowances because the projects were in the Investment Planning phase with no detailed requirements. For Group 2 she recommended \$1,876,000 for the same reason as Group 1.

The PFD recommended that the Commission adopt \$1,028,000 of the recommended disallowances for two projects in the investment planning phase – the

³²⁴ See, Attorney General's Initial Brief, pp 180 – 181 for the Attorney General's analysis.

³²⁵ See, Attorney General's Initial Brief, pp. 105 – 108.

Electric GIS Utility Network Transformation and the Integrated Energy Management Platform Optimization (\$520,000 and \$508,000 respectively).³²⁶ Presumably the remaining projects were rejected for the same reasons that were provided in the PFD for rejecting her proposed capital expenditures as discussed above.

To avoid being repetitive, the Attorney General will rely on the arguments put forth above for her exceptions to the disallowance of the capital expenditures. For the reasons provided above, the Commission should adopt all the Attorney General's recommended O&M disallowances.

2. SAP S/4HANA

In addition, to capital expenditures, the Company forecasts O&M expense for the SAP S/4HANA which it proposes to record in a deferred regulatory asset account for later amortization to expense.³²⁷ As discussed above and in the Attorney General's Initial Brief, the proposed system is not justified. Further, the project is too premature to include the capital expenditures in rates base or approve any O&M expenses.³²⁸ To avoid being repetitive, the Attorney General will rely on the arguments put forth in her exception above to the PFD's recommendation

³²⁶ PFD, pp 717 – 718 and 365 - 366.

³²⁷ Coppola, 3 TR 417 CONF and Baker 3 TR 308 CONF.

³²⁸ See, Attorney General's Initial Brief, pp 101 – 105.

regarding the SAP S/4HANA capital expenditures. For the reasons provided in this brief, the Commission should adopt the Attorney General’s recommendations.

C. Incentive Compensation

Consumers Energy has requested the inclusion of approximately \$2.2 million in its rates for short-term incentive compensation.³²⁹ The overall structure of the short-term incentive plan has not changed from previous rate cases, however, the operating performance measures for the short-term incentive payouts were revised for 2022 along with the level of performance needed to qualify for incentive pay under the EICP.³³⁰ Further, the Company claims that the proposed expense amount relates only to operational metrics and not financial metrics.³³¹

The Attorney General identified several shortcomings with the Company’s proposed EICPs. Recent changes to the plans, especially the operational measures make a historically weak plan even weaker, and making any benefits for ratepayers more remote. It is especially lacking in benefits for ratepayers because 50% of the metrics for the non-officer EICP are financial metrics consisting of earnings per share and 50% are based on operational metrics.

The operational metrics include (1) employee safety, (2) culture index (consisting of employee empowerment, employee engagement, and DEI), (3)

³²⁹ Exhibit A-73 (AMC-3)

³³⁰ Coppola, 3 TR 2583 – 2584.

³³¹ Coppola 3 TR 2583.

customer experience (survey measuring customer experience), (4) electric reliability (as measured by SAIDI), (4) affordability, and (5) methane emission reduction from repairing/replacing leaking gas pipes.³³² Since the 2022 EICP plan year, the Company has moved away from arguably more customer related goals to more internal administrative goals. More importantly, it has become easier to qualify for incentive pay.³³³

Other weaknesses include the fact that the performance measures use CMS Energy financial information and comingle electric and gas business measures. Although the Company is a combined gas and electric utility and makes up more than 95% of CMS Energy, appropriate cost segregation is required to avoid having electric customers subsidize other businesses, particularly non-utility operations.³³⁴ Furthermore, the Company continues to pay salary or merit increases each year above the rate of inflation (approximately 4.24% for officers and 3.1% for non-officers).³³⁵ So any claims that incentive pay is needed to make up competitive market pay should be dismissed.

Incentive pay under the officer EICP is based primarily on two financial measures – earnings per share and operating cash flow, with only 30% related to

³³² Exhibit A-71 (AMC-1).

³³³ *See*, Attorney General's Brief, pp 183 – 185 for a discussion of the structure of the Non-Officer EICP.

³³⁴ Coppola, 3 TR 2586

³³⁵ Coppola 3 TR 2587 including footnote 146.

the operational measures discussed above and 70% related to achieving financial measures.

i. Standard for Recovering Incentive pay not met.

The Commission established the standard for allowing the recovery of incentive compensation pay in its Opinion and Order 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-14347, dated December 22, 2005 (December 22 Order): “[E]xecutive bonus and employee incentive plans require a showing that the **benefits to ratepayers from the bonus and incentive plans, at a minimum, will be commensurate with the programs costs. Moreover, the utility has the burden of establishing how the proposed programs benefit ratepayers.**” P. 34. [Emphasis added].

To recover incentive pay, Consumers has a three-part burden of showing (1) that benefits accrue to ratepayers **as a result of** the bonus and incentive plans; (2) that those benefits are at least equal to the cost; and (3) exactly how ratepayers are benefited by the incentive pay plan. For the reasons explained below, Consumers fails to meet its burden.

The EICPs, as designed by the Company, are heavily weighted toward achieving and rewarding financial measures that benefit shareholders of Consumers’ parent company, CMS Energy, or meeting the Company’s business

goals. While the Company is not requesting recovery of any EICP dollars in this case related to the financial metrics, the continued inclusion of financial metrics in the EICPs is clearly intended to focus employee on achieving the Company's financial goals. Further, the officer group that sets the direction of the Company is still far too focused on financial results because 70% of officers' payout is based on financial measures.³³⁶ The Company's witnesses did not demonstrate how the financial measures benefited ratepayers to the extent that they and not shareholders should bear the cost of the EICPs. Customers do not directly benefit from shareholders achieving a higher return on their investment.³³⁷ Further, the Company does not issue common stock directly to public shareholders and it has not issued any significant common stock to parent CMS Energy in more than five years.³³⁸ There is no direct proof that the financial focus even benefits ratepayers by lowering the cost of capital.

The Commission noted in its December 22 Order, while Consumers characterized its EICP as an overall part of its compensation package, it was clear that those payments were significantly related to improving the Company's bottom line. "The benefits of improved employee performance because of Consumers' incentive programs accrue to investors in the form of higher prices and dividends

³³⁶ Coppola, 3 TR 2585.

³³⁷ *Id.*

³³⁸ *Id.* at 3 TR 2586.

but benefit rate payers only tangentially.” P. 34. Like the incentive pay program presented in case number U-14347, the current plan does not meet the Commissions’ standard.

While the Commission has granted partial recovery of incentive pay related to the non-officer EICP’s performance goals in recent Consumers Energy cases, the Attorney General does not believe the standard for recovery has been met in this case. The Company attempts to quantify alleged customer benefits of certain performance measures included in the EICP but fails in its efforts.³³⁹

First, the Company’s analysis of the benefits of the EICP does not account for the fact that other factors could influence employee performance, such as training, possible discipline, promotion, or legal requirements. It is also possible that capital investments and spending on other parts of O&M, which ratepayers also fund, could affect achieving the EICP’s goals.

Second, some measures that the Company relies upon to demonstrate purported benefits to ratepayers have had worse outcomes in recent years that call into question their value to customers.

Third, the Company claims certain savings related to the Company’s culture index, specifically regarding employee turnover. This is a corporate-wide issue not

³³⁹ See, Attorney General’s Initial Brief, pp 185 – 194 for a complete analysis of the EICPs performance measures.

specifically related to the provision of electric service to ratepayers. Further, employee total-company turnover for 2024 was 2.6%, which is an increase from 2.5% in 2022, 2.0% in 2021 and 1.1% in 2020.³⁴⁰ This is a worsening trend and any claimed savings for this culture index metric are suspect.

Fourth, as discussed above, there is an extremely low threshold for payout based on operational goals. Employees can fail to meet all but one of the operational goals and still qualify for at least some incentive pay as long as reach a 50 percent threshold for that goal. In rebuttal, Ms. Conrad tries to counter Mr. Coppola's testimony that the Company's EICP will make a payout even when a single goal is achieved and therefore mediocre performance still be rewarded.³⁴¹ However, her recitation that employees must re-earn incentive compensation each year, employees having independent motivation not to give up on one goal because others may not be achievable, aligning pay for performance and not setting thresholds for payouts at a level that is unachievable, does not rebut Mr. Coppola's testimony. The EICP rewards mediocre to average performance which diminishes any real customer benefits.

Fifth, management and other employees receive large annual merit salary increases.³⁴² While the Company claims that it must pay a competitive

³⁴⁰ Coppola, 3 TR 2588; Exhibit A-159 (AEM-4).

³⁴¹ Coppola, 3 TR 2586 and Conrad, 3 TR 1025 – 1026. *See also*, Exhibit AG-82, pp. 1 and 2.

³⁴² See, Exhibit A-13 (PDD-42) Schedule C-5.1.

compensation package to retain talented management and employees, customers should not pay for all or most of that expense. Shareholders also significantly benefit from talented management, perhaps even more so than customers. Customers are paying for higher base pay each year. Shareholders can share the burden by paying for the incentive compensation that disproportionately favors their interests.³⁴³

Sixth, as discussed above, the Company seeks recovery of incentive pay at 100% of target. So, the Attorney General asked the Company to provide the target operating measures and the actual performance achieved for each year from 2020 to 2024. The information provided by the Company shows that in 2020 the Company only met 7 of the 9 operating measures at 100% of target or higher for an average rate of 78% of target. In 2021, only 6 of 9 measures were met at target or higher reflecting a 67% achievement rate. In 2022, 4 of the 6 operating measures were achieved at target or better reflecting a 67% achievement rate. In 2023, only 3 of the 6 operating measures were met at target or better reflecting a 50% achievement rate. In 2024, only 4 of the 6 measures were achieved at target or better reflecting a 67% achievement rate. The average achievement rate for the past five years is 66%.³⁴⁴

³⁴³ Coppola, 3 TR 2590 – 2591.

³⁴⁴ *Id.* at 3 TR 2589 – 2590. *See also*, Exhibit AG-60.

Because the Company did not demonstrate how the EICPs influence employee performance in a way that benefits rate payers commensurate with the cost, the Attorney General recommended that *none* of the \$ 2.2 million should be included in customer rates. However, given the Commission's recent approval of a portion of incentive pay relating to operating measures the Attorney General offers an alternative disallowance. As discussed above, it is not clear that the Company will achieve 100% of the performance measures assumed in its projected amount, therefore, any recovery of incentive pay should be no more than \$1,459,000 million related to potential achievement of operating measures at 66% of the targeted performance measured over the past five years.³⁴⁵

The PFD recommended that the Commission reject the Attorney General's proposal to disallow the entire EICP expense amount and her alternative recommendation that \$752,000 be disallowed based on the likely achievement of 66% of its targeted performance goal. It based the decision to reject the Attorney General's recommendation to disallow all of the incentive pay expense on the Company's presentation and Commission precedent. The PFD's errs in making this recommendation. The Attorney General addressed the Company's position above and in her initial brief demonstrating its proposal does not meet the standard for

³⁴⁵ Coppola, 3 TR 2591.

recovery in rates. In addition, the Commission is not bound by previous orders and should reconsider its recent position of the recovery of incentive pay.

The PFD's recommendation to disallow the Attorney General's alternative for partial recovery is based on its finding that the Attorney General did not establish that an amount equal to 66% of the Company's projected total EICP is reasonable and prudent. The Attorney General has demonstrated that no incentive pay is warranted. However, to the extent that it may be awarded based on operational measures, the Attorney General's recommendation that incentive pays inclusion in rates be based the actual achievement of the operational measures and not merely their existence. The Attorney General's approach is reasonable and prudent for ratepayers.

The Attorney General recommends that the Commission not include incentive pay in rates, but if any recovery is approved by the Commission, it should be limited to \$1.459 million.

V. Other Issues

A. Separate Campbell Plant Docket

The Attorney General recommends establishing a separate docket to address the issue raised by the plant's operation under a series of federal emergency orders. The PFD disagrees that a separate docket is needed. As discussed above it recommended rejecting the Attorney General's recommendation to halt closure

related activities because the plant is still in operation.³⁴⁶ It agreed with the Company's claim that a full and proper accounting of Campbell's costs and revenues and the refund of any necessary amount can take place in a future rate case proceeding.³⁴⁷

The Attorney General disagrees given the uncertainty surrounding the duration of the emergency orders requiring the plant's continued operation. As discussed in the Attorney General's brief,³⁴⁸ while the Company proposed solution to make later refunds is the only workable solution at this time, to ensure that a full and proper accounting of costs and revenue from the continued operation of the Campbell plant occurs, as well as the cost recovery in rates established in Case U-21585 and in the current case, the Commission should open a new docket for a contested proceeding to review all aspects, impacts, cost and revenue reconciliation, and refunding of net amounts to customers.³⁴⁹ The Commission should adopt the Attorney General's recommendation.

B. Accounting – Deferrals

1. SAP S/4HANA

The Company proposes establishing a regulatory asset to record deferred O&M expense associated with the SAP S/4HANA project and to amortize it over 15

³⁴⁶ See, PFD p 994.

³⁴⁷ *Id.*

³⁴⁸ Attorney General's Initial Brief, pp 87 – 90.

³⁴⁹ Coppola 3 TR 2485 – 2486.

years.³⁵⁰ Because approval of the SAP S/4HANA project is premature and the Attorney General recommends that capital funding for the SAP S/4 HANA project and related costs be rejected at this time,³⁵¹ deferred accounting request should be denied.

The PFD disagrees with the Attorney General's argument that the project is premature and thereby recommends approving the accounting request.³⁵² It also claims that deferring the SAP S/4HANA project O&M costs and amortizing the cloud implementation costs for the SaaS solution over fifteen years are appropriate for the reasons provided by the Company and would mitigate impact on customer rates. For the reasons provided above (including the discussion of capital expenditures, O&M expense and working capital) the SAP S/4HANA related expenditures and expenses should not be included in this case, therefore there is no need for deferred accounting. The Company's request should be denied.

2. Deferred Line Clearing Costs

The Company is proposing establishing a regulatory asset to defer tree clearing costs above a stated threshold. While the total proposed expense is \$186,683,974, the Company is proposing including \$164.5 million in rates with any tree or line clearing expenses above that threshold, deferred and charged to the

³⁵⁰ PFD, p 995.

³⁵¹ *Supra.*

³⁵² PFD, p 997.

regulatory asset account for later financing through securitization. While the Attorney General agrees in principle with the proposal to defer the line or tree clearing costs above a reasonable threshold, the Company's proposed baseline is too high and reduces the opportunity to defer and securitize a higher amount of tree clearing costs.

The deferral proposal is an outcome of the Company shift from a seven-year tree clearing cycle to a five-year cycle. Although the Company plans to officially start the five-year cycle after the Commission issues an order in this case, it has already started to accelerate spending on tree trimming in 2025 to \$125.4 million from the \$110.2 million spent in 2024.³⁵³ The number of miles scheduled to be cleared in 2025 are increasing to 6,108 from 5,400 miles in 2024.³⁵⁴

The expense level from the historical year 2024 of \$110,225,000 provides a reasonable baseline for tree clearing expenses and expenses above that amount beginning with 2025 or 2026 and future years should be charged to the regulatory asset for future securitization.³⁵⁵ Given the Company's forecasted \$186,684,000 in O&M expense for line clearing for the projected test year, the Attorney General's

³⁵³ Exhibit A-170 (SES-1).

³⁵⁴ Stewart, 3 TR 2218, Figure 12.

³⁵⁵ Coppola, 3 TR 2582.

recommendation would result in total of \$76,459,000 being removed from O&M for this rate case and included in a regulatory asset.³⁵⁶

The Company and Staff oppose the Attorney General's recommended baseline adjustment and the PFD declined to adopt the Attorney General's recommendation. The PFD agreed with Staff that it is desirable to reduce ratepayers' exposure to interest expense.³⁵⁷ Staff asserted that with the higher baseline of \$164.5 million, less expense will go into the regulatory asset resulting in lower interest rates.³⁵⁸ MNSC argued that Consumers' baseline would raise operating expenses, which are not amortized and cause more immediate impact to customers' rates. The lower baseline would mitigate rate impact because it would defer more of the surge spending.³⁵⁹ The Attorney General agrees and recommends that the Commission approve both the \$110,225,000 baseline and the transfer of \$76,459,000 from O&M expense to the regulatory asset account for the projected test year.

³⁵⁶ See, Exhibit A-170 and Exhibit A-13, Schedule C-5.1.

³⁵⁷ PFD, p 1006.

³⁵⁸ PFD, p 1003.

³⁵⁹ PFD, p 1005.

CONCLUSION AND RELIEF REQUESTED

The Attorney General respectfully requests that the Commission issue an Order that is consistent with the record in this case, her briefs and the positions put forth in these exceptions.

Respectfully submitted,

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PROOF OF SERVICE - U-21870

The undersigned certifies that a copy of the *Attorney General's public Exceptions to the PFD* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 17th day of February 2026.

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