

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of
CONSUMERS ENERGY COMPANY for
authority to increase its rates for the
generation and distribution of
electricity and for other relief.

Case No. **U-21870**
(e-file paperless)

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF’S RESPONSE TO
CUSTOMER A’S APPLICATION FOR LEAVE TO APPEAL RULING ON
MOTION TO QUASH DISCOVERY REQUEST AND PROTECTIVE ORDER
AND REQUEST FOR CONTINUATION OF INTERIM RELIEF**

On February 5, 2026, a Consumers Energy Company (the “Company” or “Consumers”) customer anonymously participating in this proceeding for limited purposes as “Customer A” filed an appeal of the ALJ’s Ruling on Motion to Quash Discovery Request and Protective Order (the “Ruling”). In its appeal, Customer A asks the Commission to grant immediate relief allowing Customer A to receive notice of potential further disclosure of the materials at issue in its Motion to Quash similar to the notice that other parties are entitled to under the terms of the June 5, 2025, protective order in this case. (Customer A’s Br in Support of Appeal, p 1.) Customer A also asks the Commission to find that Consumers violated Customer A’s privacy rights by disclosing certain documents through discovery.¹ (*Id.*) Pursuant to Mich Admin Code, R 792.10433(1), Staff provides the limited response below.

¹ Such arguments are not wholly new and originate from Customer A’s original Motion to Quash. (See Customer A’s Motion to Quash, pp 5–9.) Staff maintains the arguments and positions expressed in its September 25, 2025, response to the Motion to Quash. (Staff’s Response to Motion to Quash, pp 5–6.)

On February 2, 2026, Staff filed its own appeal of the Ruling, in which Staff asked the Commission to reverse the Administrative Law Judge’s direction to “delete any electronic copies of the Contracts, destroy any printed copies of the Contracts, and certify to Customer A’s attorney that they have complied with this Ruling and Protective Order.” (Staff’s Br in Support of Appeal, pp 3, 20.) In order to avoid burdening the record or the Commission with duplicative arguments, Staff incorporates that appeal here by reference.

In addition, Staff is compelled to respond to statements in Customer A’s appeal that respond to Staff’s appeal. (Customer A’s Br in Support of Appeal, pp 14–15 (citing Staff’s Br in Support of Appeal, p 9, n 6).) Customer A takes issue with Staff’s position and claims that Staff “alleges that Customer A’s confidential information should receive no more protection than Consumers’ own confidential information.” (*Id.*) In doing so, Customer A cites the following footnote from Staff’s brief in support of its own appeal:

Staff also notes that, while it understands the desire of Customer A to protect information from disclosure, that interest cannot eclipse the Commission’s interest in fulfilling its obligations to required record retention and its stated emphasis on transparency when possible. MCL 15.231(2); MCL 18.1287(2)–(3); see e.g. MPSC Case No. U-21806, 9/30/2025 Order, p 107. [Staff’s Br in Support of Appeal, p 9, n 6.]

Since Customer A filed its Motion to Quash, Staff has also taken the position that the protective order, rather than and Administrative Law Judge order to destroy discovery materials, is the appropriate mechanism to safeguard confidential discovery materials. (Staff’s Response to Motion to Quash, p 6; Staff’s Br in Support of Appeal, p 9.) This is especially true when the discovery materials have been found to have been properly produced and where the only justification for ordering

destruction is the apprehension of a future Freedom of Information Act request. (Staff's Br in Support of Appeal, p 9.) Nothing in Customer A's appeal negates these valid positions, nor does Customer A's appeal address the underlying arguments in Staff's appeal.²

Staff does not dispute that Customer A may take whatever legal actions it deems appropriate in an attempt to prevent the hypothetical disclosure that led to its request to order the destruction of the documents received through discovery. (Customer A's Motion to Quash, p 2.) In fact, Staff counsel agreed to the interim relief that Customer A now seeks the Commission to confirm—to provide notice to Customer A's attorney if a request for the contracts at issue are requested. (1 TR 48–49.)³ Yet, as explained more thoroughly in its appeal, Staff requests that the Commission not adopt any argument that would undermine Staff and other State parties' ability to fully participate in the discovery process or to order the destruction of any materials that likely constitute public records merely based on the apprehension of a future FOIA request. (Staff's Br in Support of Appeal, pp 8–20.)

² Just as Staff has a right to respond to Customer A's appeal here, Mich Admin Code, R 792.10433(1) permitted Customer A to respond to Staff's appeal by February 17, 2026. No such response was filed.

³ Staff notes that the transcript for the September 30, 2025, hearing on the Motion to Quash is labeled Volume 1 on the e-docket (*available at* <https://mipsc.my.site.com/s/filing/a00cs000016RGG1AAO/u218700326>), though there was a previously compiled transcript for the prehearing. To remain consistent with the Ruling and Staff's appeal, Staff has used "Volume 1" in its citations to the September 30, 2025, transcript.

Conclusion

Staff has no objection to Customer A's request that it be provided notice if Staff receives a FOIA request for the underlying discovery documents. However, Staff respectfully requests that the Commission deny Customer A's requested relief to the extent it characterizes Staff's arguments on this subject and conflicts with the relief requested by Staff in its own appeal.

Respectfully submitted,

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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF EATON)

Cherie A. R. Shea, being first duly sworn, deposes and says that on **February 19, 2026**, she served a true copy of **Michigan Public Service Commission Staff's Response to Customer A's Appeal** upon the parties on the attached service list **via email only**:

Cherie A. R. Shea

Subscribed and sworn to before me
This **19th** day of **February, 2026**.

De Ann M. Payne, Notary Public
State of Michigan, County of Eaton
Acting in the County of Eaton
My Commission Expires: 11-29-31

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