

February 27, 2026

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Post Office Box 30221
Lansing, MI 48909

RE: MPSC Case No. U-21310 – In the matter of the ex parte Application of Consumers Energy Company and DTE Electric Company for cost deferral accounting and a regulatory asset for the costs to restore defective work performed by Toshiba on the Ludington Pumped Storage Plant.

Dear Ms. Felice:

Enclosed for electronic filing in the above-captioned case, please find **Consumers Energy Company and DTE Electric Company's Third Annual Report on Ludington Regulatory Asset and Litigation Progress**. This is a paperless filing and is therefore being filed only in PDF. Also included is a Proof of Service showing service upon the parties.

Sincerely,



Digitally signed by
Spencer A. Sattler
Date: 2026.02.27
15:31:18 -05'00'

Spencer A. Sattler
Phone: 517-474-6638
Email: spencer.sattler@cmsenergy.com

cc: Parties Per Attachment 1 to the Proof of Service

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the ex parte Application of	)	
CONSUMERS ENERGY COMPANY	)	
and DTE ELECTRIC COMPANY	)	
for cost deferral accounting and a	)	Case No. U-21310
regulatory asset for the costs to restore	)	
defective work performed by Toshiba	)	
on the Ludington Pumped Storage Plant.	)	

Third Annual Report on Ludington Regulatory Asset and Litigation Progress

The Commission’s May 18, 2023 Order in Case No. U-21310 stated that, “Consumers Energy Company and DTE Electric Company shall file an annual report in this docket on or before the last business day of each calendar year detailing the amount of the regulatory asset and any material developments relating to the ongoing litigation with Toshiba America Energy Systems Corporation that are likely to impact the total amount of cost exposure relating to restoring the allegedly defective work at the Ludington Pumped Storage Plant.” On September 28, 2023, the Commission issued an order in this case revising the filing date to February 28 of each calendar year. The Commission also directed Consumers Energy Company (“Consumers Energy” or the “Company”) and DTE Electric Company (“DTE Electric”) to coordinate with the Michigan Public Service Commission (“MPSC” or the “Commission”) Staff on the form and specific information to be included in the report.

On February 28, 2024, Consumers Energy and DTE Electric filed their first annual report in response to these Commission directives. On February 28, 2025, Consumers Energy and DTE Electric filed their second annual report. This is the third annual report that includes balances from year end 2023 and 2024, and adds 2025 activities.

LITIGATION UPDATE

Consumers Energy and DTE Electric are co-owners of the Ludington Pumped Storage Plant (the “Ludington Plant”). Consumers Energy owns 51% of the Ludington Plant and DTE Electric owns 49% of the Ludington Plant. Consumers Energy and DTE Electric entered into a 2010 engineering, procurement, and construction agreement with Toshiba International Corporation (“TIC”), under which TIC contracted to perform a major overhaul and upgrade of the Ludington Plant. TIC later assigned the contract and all of its obligations to Toshiba America Energy Systems Corporation (“TAES”). TAES performed overhaul work on all six units at the Ludington Plant.

TAES’ work was incomplete, defective, and non-conforming in a number of respects. For several years, Consumers Energy and DTE Electric demanded that TAES provide a comprehensive plan to resolve those issues, including adherence to its warranty commitments and other contractual obligations. Consumers Energy and DTE Electric engaged in extensive efforts to resolve these

issues with TAES, including formal demands to TAES' parent, Toshiba Corporation, under a parent guaranty it provided. TAES did not provide a comprehensive plan or otherwise meet its performance obligations. As a result of TAES' defaults, Consumers Energy and DTE Electric terminated the contract.

In order to enforce their rights under the contract and parent guaranty, and to pursue appropriate damages, Consumers Energy and DTE Electric filed a complaint against TAES and Toshiba Corporation in the U.S. District Court for the Eastern District of Michigan in April 2022. The complaint sought damages and other relief for breach of warranty, breach of contract, and, as against Toshiba Corporation, breach of the Parent Guaranty. In 2025, the parties participated in three court-ordered facilitations, including one with a federal Magistrate Judge, but did not resolve the matter. The parties also participated in extensive pre-trial motion practice during 2025. The case against TAES was tried to a jury in the fourth quarter of 2025.

In December 2025, the jury rendered a verdict in Consumers' and DTE Electric's favor, finding that TAES breached the parties' contract and finding damages of approximately \$383 million. The parties separately stipulated to approximately \$11 million in additional liquidated damages for late performance by TAES. Total damages therefore exceed \$394 million. These amounts are subject to pre- and post-judgment interest. In addition, the jury rejected TAES' counterclaim, determining that Consumers and DTE Electric did not breach the contract. The parent guaranty provided by Toshiba allows Consumers and DTE Electric to recover legal costs in addition to damages. The parties are still engaged in post-trial proceedings at the District Court and the jury verdict may be appealed; these processes could take two years or more to conclude with finality. Consumers and DTE Electric must still also resolve their claim against Toshiba under the parent guaranty, which is still pending but which was bifurcated by the Court from the claims against TAES.

CONSUMERS ENERGY AND DTE ELECTRIC'S REGULATORY ASSET

Consumers Energy Regulatory Asset as of December 31, 2025

2025

Ludington Regulatory Assets

Items	Balance 12/ 2023	Balance 12/ 2024	2025 Activities	Balance 12/2025
CE Share of Capital Replacements	14,237,384	31,646,007	28,597,302	60,243,309
CE Share of O&M Repairs	62,018	370,611	294,589	665,200
CE Share PSCR costs	3,167,702	3,500,515	2,019,408	5,519,923
CE Share Liquidated Damages	(4,794,000)	(4,794,000)	-	(4,794,000)
TOTAL	\$ 12,673,103	\$ 30,723,133	\$ 30,911,299	61,634,432
 SAP Balance as of Year End	 \$ 12,659,982	 \$ 30,720,558	 \$ 29,031,267	 59,751,825
 2023 Difference	 \$ 13,121 *	 \$ (13,121) *		
2024 Difference		\$ 2,574 *	\$ (2,574) *	
2025 Difference			\$ 44,104 **	\$ 44,104 **
			\$ 1,838,503 ***	\$ 1,838,503 ***

*December PSCR costs that get moved to Regulatory asset in Feb of the following year

** Work Order charges timing, was moved to Regulatory asset in January

*** True up of 2025 Replacement Power Cost recorded in February 2026

Detail of CE Share of Capital Replacements

	Balance as of 2023	Balance as of 2024	Activity in 2025	Balance as of 2025
Labor	822,474	1,505,502	918,019	2,423,521
Material	44,995	222,276	612,049	834,325
Outside Services	13,118,059	28,987,982	25,761,231	54,749,212
Other	85,001	137,069	1,026,216	1,163,285
Loadings	166,856	793,179	279,787	1,072,966
	14,237,385	31,646,008	28,597,302	60,243,309

¹ As noted above, in Consumers Energy's and DTE Electric's litigation against TAES and Toshiba, the parties stipulated to an amount of liquidated damages owed to the utilities as a result of TAES' late work. However, because the litigation is ongoing and subject to post-trial procedures and appeals, the calculation of Liquidated Damages shown in this report reflects an earlier estimate; the actual amount of liquidated damages to be recovered is subject to the Companies' ongoing evaluation of these issues and ongoing litigation with TAES and Toshiba. The final amount of liquidated damages recovered from TAES and Toshiba when the litigation is resolved with finality will ultimately be recorded to each company's regulatory asset consistent with the Commission's Orders in Case No. U-21310.

DTE Electric Regulatory Asset as of December 31, 2025

Items	Balance 12/2023	Balance 12/2024	2025 Activities	Balance 12/2025
DTE Capital Replacements	13,676,785	31,526,312	26,645,291	58,171,603
DTE O&M Repairs	59,586	434,145	(40,832)	393,313
DTE PSRC Cost	3,079,714	3,313,567	2,019,408	5,332,975
DTE Liquidated Damages	(4,606,729)	(4,606,729)		(4,606,729)
TOTAL	12,209,356	30,667,295	28,623,868	59,291,163

Detail of DTE Share of Capital Replacements

	2023	2024	2025	Total
Labor	790,089	1,048,223	855,356	2,693,668
Materials	43,223	170,329	570,271	783,823
Outside Services	12,601,533	15,372,186	24,002,806	51,976,526
Other	81,653	90,897	956,168	1,128,719
Loadings	160,286	1,167,892	260,689	1,588,868
	13,676,785	17,849,527	26,645,291	58,171,603

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for cost deferral accounting and a)
regulatory asset for the costs to restore)
defective work performed by Toshiba)
on the Ludington Pumped Storage Plant.)
_____)

Case No. U-21310

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF JACKSON)

Melissa K. Harris, being first duly sworn, deposes and says that she is employed in the Legal Department of Consumers Energy Company; that on February 27, 2026, she served an electronic copy of **Consumers Energy Company and DTE Electric Company's Third Annual Report on Ludington Regulatory Asset and Litigation Progress** upon the persons listed in Attachment 1 hereto, at the e-mail addresses listed therein.



Melissa K. Harris

Subscribed and sworn to before me this 27th day of February 2026.



Crystal L. Chacon, Notary Public
State of Michigan, County of Eaton
My Commission Expires: 05/25/30
Acting in the County of Jackson

ATTACHMENT 1 TO CASE NO. U-21310

Party	Email Address
Counsel for Consumers Energy Company	
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