STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and/or approvals necessary for Upper Peninsula Power Company to comply with Public Act 295 of 2008, as amended	)	Case No. U-21684

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on July 21, 2026.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before August 11, 2026, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before August 25, 2026.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Jonathan F. Thoits

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Jonathan F. Thoits
Administrative Law Judge

July 21, 2026
Lansing, Michigan

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and/or approvals necessary for Upper Peninsula Power Company to comply with Public Act 295 of 2008, as amended	))))))	Case No. U-21684

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On July 1, 2025, Upper Peninsula Power Company (UPPCO) filed its application requesting approval for its 4-year Energy Optimization ("EO") Plan for the years 2026-2029, including UPPCO's Energy Waste Reduction ("EWR") plan and related surcharges, and its Efficient Electrification Measures ("EFEL") plan and related deferred regulatory asset. In support of its application, UPPCO filed the direct testimony and exhibits of Andrew McNeally and Nicole Bell. At the August 11, 2025 prehearing conference, UPPCO and Staff appeared along with SEMCO Energy Gas Company (SEMCO).

SEMCO was granted intervention pursuant to the Ruling on Petition to Intervene, dated August 29, 2025.

On November 19, 2025, Staff filed the testimony and exhibits of Katie Smith, Joshua S. Towslee, Shannon J. Withenshaw, and Elizabeth A. Yeager, and SEMCO filed the testimony and exhibits of Patrick L. Leahy. On January 9, 2026, UPPCO filed the rebuttal testimony of Mr. McNeally.

On January 16, 2026, SEMCO filed its Motion to Strike portions of Mr. McNeally's rebuttal testimony. After a hearing, SEMCO's Motion was granted in part and denied in part pursuant to the Ruling on Motion to Strike dated February 12, 2026.

At the February 13, 2026 evidentiary hearing, the prefiled testimony of all witnesses including the revised prefiled rebuttal testimony of Mr. McNeally, was bound into the record by agreement of the parties and the proposed exhibits were admitted into evidence. UPPCO, Staff, and SEMCO filed briefs on March 6, 2026, and reply briefs on March 13, 2026.

On February 13, 2026, UPPCO filed its letter stating that UPPCO agrees to waive Section 81 of the Michigan Administrative Procedures Act, 1969 PA 306, §81, MCL 24.281 in this proceeding. On February 16, 2026, SEMCO filed its letter stating that SEMCO declines to stipulate to waive Section 81 of the Michigan Administrative Procedures Act, MCL 24.281 and, instead, requests that a proposal for decision be issued.

II.

CLEAN AND RENEWABLE ENERGY WASTE REDUCTION ACT

Michigan's Clean and Renewable Energy Waste Reduction Act, 2008 PA 295, as amended, MCL 460.1001 *et seq* ("Act 295") was adopted to promote the development and use of clean and renewable energy resources and the reduction of energy waste through cost-effective programs.[1] Pursuant to reconciliation processes provided for in Act

[1] MCL 460.1001(2).

295, the Commission shall determine the costs and savings resulting from compliance with the renewable energy, clean energy, and energy waste reduction programs and include those costs and savings in the determination of the rates charged to customers of the electric and natural gas providers.[2]

Section 71 of Act 295 requires that an EWR plan: (a) propose a set of EWR programs that include offerings for each customer class, (b) specifies necessary funding levels, (c) describes how EWR program costs will be recovered, (d) ensures that, to the extent feasible, charges collected from a particular rate class are spent on EWR programs for that rate class, (e) demonstrates that the proposed EWR programs and funding are sufficient to ensure achievement of the applicable standards, (f) specifies megawatt hours of electricity used in the calculation of incremental energy savings will be based on the average number of megawatt hours of electricity sold by the provider annually during the previous 3 years to retail customers in this state, (g) demonstrates that the EWR programs, excluding program offerings to low-income residential customers, will be cost-effective, (h) provides for the practical and effective administration of the proposed EWR programs, and (i) includes a process for obtaining an independent expert evaluation of the actual EWR programs to verify the incremental energy savings from each EWR program.[3]

Section 72 provides that efficient electrification measures under the EFEL plan shall provide health and safety benefits to occupants of the premises or satisfy all of the following: (a) reduce total energy consumption at the premises, (b) reduce greenhouse

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[2] MCL 460. 1001(3).

[3] MCL 460. 1071(3).

gas emissions due to energy use over the life of the electrification measure, and (c) for residential and commercial customers interconnected at secondary voltage, provide annual average energy cost savings.[4] Section 72 also states that an EFEL program shall not have the effect of increasing electric rates for customers that do not participate in the program."[5]

Act 229 amended Act 295 to provide that each year beginning in 2026, an electric provider's EWR programs must collectively achieve an incremental energy savings equivalent to 1.5% of total retail electric sales in megawatt hours in the preceding year with an EWR measure having an 8-year average measure life.[6] Act 229 also amended Act 295 to provide that beginning in 2026, natural gas providers' EWR programs must achieve an incremental energy savings equivalent to 0.875% of total retail natural gas sales with an average savings life of at least 10 years.[7]

Act 229 added Section 80 to Act 295, which requires that electric and natural gas providers must offer low-income EWR programs to assist low-income residential customers in both single-family and multifamily households.[8] Section 80 also provides that a low-income EWR program "shall be designed and funded with the goal that low-income residential customers achieve levels of energy waste reduction similar to or greater than the levels of energy waste reduction of other residential customers."[9] Sections 80(3) and 80(4) provide that an electric provider and a natural gas provider's annual expenditure to implement the low-income EWR programs and measures shall be

[4] MCL 460.1072(1).
[5] MCL 460.1072(3).
[6] MCL 460.1077.
[7] Id.
[8] MCL 460.1080(1).
[9] MCL 460.1080(2).

at least 25% and 35% of total energy waste reduction program spending, respectively, by January 1, 2029.[10] Finally, Section 80 adds that "providers shall minimize barriers to participation in low-income energy waste reduction programs and reduce overly burdensome verification processes . . .".[11]

<u>EWR plan</u>

UPPCO asserts that its EO plan is reasonable, prudent, and consistent with applicable statutory requirements.[12] UPPCO states that its case describes the development of the EWR plan cost-effectiveness modeling for UPPCO's EWR plan to comply with the statutory requirements of Act 295, demonstrates that the energy efficiency portfolio is cost-effective using the Utility System Resource Cost Test ("UCT") (excluding the low-income customers), addresses the continuation of the EWR Financial Incentive Mechanism, and requests authority to create a regulatory asset to record EFEL plan expenses, which UPPCO proposes to recover in a future proceeding before the Commission.[13]

UPPCO asserts that its EWR Plan was designed to meet and exceed the statutory goals of 1.5% as set forth in Act 229, MCL 460.1077(1), which in this case for the current plan cycle is 10,760 MWh.[14] UPPCO adds that its EWR Plan budgets are $4,170,700 for 2026 and $4,391,642 for 2027 to achieve 2.0% incremental energy savings, and $5,016,633 for 2028 and $5,223,535 for 2029 to achieve 2.17% incremental energy savings, totaling $18,802,510.[15]

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[10] MCL 460.1080(3), (4).
[11] MCL 460.1080(5).
[12] UPPCO initial brief, p. 2-3.
[13] Id., p. 2.
[14] Id., p. 6, citing 3 Tr 77; Ex. A-6.
[15] Id., citing 3 Tr 65, 3 Tr 78; Exhibit A-2.

UPPCO states that the typical bill impacts, which account for the differences between the proposed 2024 EWR Reconciliation surcharges in Case No. U-21675 and UPPCO proposed charges in this case, involve increases in the EWR surcharge of between 50% and 53%.[16] UPPCO asserts that the increases are driven principally by the higher savings goals, increased minimum low income spend, added health and safety and workforce development programs, and UPPCO's shift toward deep retrofits.[17]

UPPCO states that with respect to the requirements of Section 71(3) of the Act, it showed that its proposed EWR Plan will, in the aggregate, reduce the future cost of service for its customers.[18] UPPCO adds that the EWR Plan has net benefits of $29,837,016, and that the savings benefits are 275% greater than program costs when low-income programs are excluded from the calculation per the Act.[19]

Generally, Staff finds that UPPCO's EWR plan is adequate and meets the standards provided in Act 295.[20] Ms. Smith testified that UPPCO's EWR plan targets and planned spending are sufficient to reach the goals UPPCO has established in its plan.[21] She adds that UPPCO's EWR plan provides savings targets that accurately reflect the savings provided in UPPCO's integrated resource plan.[22]

However, Staff proposed changes to the EWR plan and requests the Commission approve the EWR plan with the changes it recommends.[23]

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[16] Id., p. 7.
[17] Id.
[18] Id., p. 8.
[19] Id., citing 3 Tr 64; Ex. A-3.
[20] Staff initial brief, p. 4.
[21] 3 Tr 128.
[22] 3 Tr 130.
[23] Id.

For its part, SEMCO does not address the EWR plan in its testimony nor in its briefs.

Pilot Budget

In his direct testimony, Mr. McNeally states that to ensure UPPCO may continue investing in testing new opportunities to capture energy savings at consistent levels, UPPCO proposes to increase its Pilot Program spend from 5% of total EWR spend to 7% of total EWR spend in 2026 and 2027 plan years, which increase will be used to fund the Measured Savings Pilot.[24]

Ms. Smith recommends the Commission deny UPPCO's request to continue its increased pilot budget of 7% of the total EWR plan budget, stating that the pilot budgets have increased in recent years due to the need to explore and develop health and safety programs and workforce development initiatives, but that now that those are "stand alone" programs due to the amendment to the Act, the cap for pilots should be reduced back down to the historical 5%.[25]

Noting that Mr. McNeally stated that UPPCO is requesting the pilot budget be increased to 7% in order to fund the Measured Savings Pilot, Ms. Smith states that Staff does not have an issue per se with the Measured Savings Pilot program but states that the placement of the program seems better suited for the evaluation, measurement, and verification funding budgets.[26] She notes that UPPCO included the recommendation for measured savings in a section of Exhibit A-1 entitled Evaluation, Measurement, and Verification.[27] She adds that even if the Measured Savings Pilot program remained a pilot,

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[24] 3 Tr 55.
[25] 3 Tr 128-129.
[26] 3 Tr 129.
[27] Id.

Staff recommends against implementing it as a full-scale program until the results of the program are presented to Staff for review.[28] She states that pilot spending should be a way for UPPCO to invest in new and innovative programs and measures that will increase the benefits of EWR for their customers and result in energy savings.[29]

Ms. Smith adds that the 211 Centralized Platform described in Ms. Yeager's testimony would warrant an increase to the 5% pilot spend if UPPCO included it in its EO plan.[30] Ms. Yeager states that Staff recommends the Commission require UPPCO to partner with Michigan 211 efforts and financially contribute to the EWR Centralized Platform, which is a central platform for scheduling, logging and tracking EWR referrals.[31]

For its part, SEMCO argues that UPPCO's Measured Savings Pilot should be rejected, asserting that Staff correctly explains that the proposal is not appropriately housed in the pilot budget, would be better suited to the EM&V budget, and, even if retained in some form, should not be implemented as a full-scale program until results are presented to Staff and the Commission for review.[32] SEMCO adds that Staff's recommendation is especially warranted here because the record shows that UPPCO has tied the Measured Savings Pilot directly to EFEL while simultaneously offering contradictory statements about whether EFEL activity will be included; UPPCO's application, testimony, and Exhibit A-1 describe the Measured Savings Pilot as a mechanism that would include EFEL measures, yet UPPCO later stated in discovery that EFEL activity would not be included.[33] SEMCO argues that contradiction raises serious

[28] Id.
[29] Id.
[30] 3 Tr 130.
[31] 3 Tr 155-156.
[32] SEMCO reply brief, p. 11.
[33] Id.

concerns regarding cost accounting, transparency, and the risk of cross-subsidization between EWR and EFEL.[34]

In rebuttal, Mr. McNeally states that while it is understandable why the Staff recommends reducing the pilot budget to 5% with the transition of health & safety and workforce development as standalone EWR programs, UPPCO continues to propose a pilot budget of 7% for 2026 and 2027, as supported by Ms. Smith's statement that participation in the 211 projects warrants a higher pilot spend by UPPCO.[35] He adds that UPPCO agrees to support and participate in the Michigan 211 proposal contingent upon the participation of the other regulated utilities in Michigan.[36]

Mr. McNeally states that the primary purpose of the proposed Measured Savings pilot is to operationalize a program with embedded measurement and verification, such that it should be eligible for budgeting as a pilot program rather than as part of the EM&V budget.[37] He adds that the Measured Savings pilot is an investment in new and innovative programs and measures that will deliver energy savings, add value to future EWR programs while increasing benefits for our customers.[38]

This PFD finds that the Measured Savings Pilot is, as Staff asserts, better suited for the evaluation, measurement, and verification funding budgets. This PFD also finds that UPPCO should participate in the Michigan 211 proposal -- regardless of the current participation of the other regulated utilities – which participation supports UPPCO's request to continue its increased pilot budget of 7% of the total EWR plan budget. Thus,

[34] Id.
[35] 3 Tr 87, citing 3 Tr 130.
[36] 3 Tr 88.
[37] Id.
[38] 3 Tr 88.

this PFD recommends keeping the pilot budget at 5% until such time as UPPCO agrees to participate in, or the Commission directs UPPCO to participate in, Michigan's 211 proposal.

Load Management and Demand Response

Mr. Towslee states that Staff supports UPPCO's proposal to develop Time-of-Use and Critical Peak Pricing rates for the purpose of load management, adding that Staff recognizes rate design as a successful and cost-effective tool employed by other utilities in Michigan to influence demand and that it believes it will provide similar benefits to UPPCO.[39] He adds that Staff supports UPPCO's proposal to maintain its C&I interruptible load program, adding that Staff is supportive of UPPCO's assertion that its C&I demand response (DR) programs are proven and reliable sources of electric capacity through the curtailment of load and are operating at or near the limit of their current potential.[40] He states that Staff appreciates UPPCO's acknowledgement of considerations for improvement, as evolving technology and circumstances may impact this assessment in future cases.[41]

Mr. Towslee states that Staff supports UPPCO's proposal to include in its Flexible Load Optimization Program to begin promoting end-use technologies that will support future Flexible Load Optimization, specifically including intelligent communicating thermostats and water heaters and to begin requiring that space heating and cooling equipment and water heaters be programmable to minimize use of power during static, seasonal peak hours" for customers wishing to take advantage of any pertinent load

[39] 3 Tr 142.
[40] 3 Tr 143.
[41] Id.

management tariffs.[42] He adds that Staff also supports UPPCO proposal to conduct a pilot to investigate measured savings within its Energy Waste Reduction (EWR) Program, whereby the findings of this pilot are expected to help inform development of the Flexible Load Reduction Program.[43]

Noting that UPPCO’s proposed plan relies on analyses from the 2021 EWR and DR potential study, and that an updated potential study was published in October 2025, but that timing issues prevented its results from being considered for the development of UPPCO's plans in this case, Mr. Towslee states that Staff encourages UPPCO to consider and account for the updated findings as it continues to develop and refine programs proposed in this case, and to include findings from the most recent study in all future cases.[44] He adds that Staff also recognizes the need to specify the regulatory processes through which any eventual DR programs UPPCO may implement will be reviewed and evaluated and that the Commission is presently considering potential changes to the current framework in Case No. U-21637.[45] He states that at such time as UPPCO launches its DR programs, Staff recommends it conform to the relevant regulatory framework, whether the three-phase approach is still in place or new guidance has been delivered through an eventual Commission Order in U-21637 or elsewhere.[46]

In rebuttal, Mr. McNeally states that the 2025 Demand Response study strengthens the rationale for the types of load management measures referenced in UPPCO Exhibit A-1, and warrants consideration of additional measures that would have

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[42] Id.
[43] 3 Tr 144.
[44] 3 Tr 144-145.
[45] 3 Tr 145.
[46] Id.

been ruled out by the results of the 2021 study.[47] He adds that the updated results contained in the 2025 Demand Response potential study do not affect UPPCO's basic load management strategy.[48] He states that UPPCO will consider the updated results of the 2025 Demand Response potential study in future filings and that, as ordered in Case No. U-21637, UPPCO will conform with the Commission's regulatory framework for implementing load management pursuant to its Energy Optimization Plan as presented in this case.[49]

Health and Safety and Workforce Development

Noting that UPPCO's proposed plan provides that the low income programming also includes a health and safety component with a target spend of 1% of the total plan budget, Ms. Yeager states that Staff considers 1% reasonable, provided this figure represents an annual spend rather than a cumulative amount over the 4-year plan period, and that UPPCO should be required to include in their annual report submission the outcomes of their health and safety initiatives.[50] Thus, Staff recommends the Commission consider 1% spend of the annual budget for health and safety programs.[51]

Regarding the eligible health and safety measures, Ms. Yeager states that UPPCO's plan does not specify metrics or criteria for project selection, and thus that she recommends the Commission consider whether UPPCO's plan includes sufficiently clear, objective selection criteria and documentation processes to ensure consistency and transparency in project evaluation and tracking through the program year.[52] She also

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[47] 3 Tr 84.
[48] Id.
[49] 3 Tr 84-85; Staff initial brief, p. 17.
[50] 3 Tr 152.
[51] Id.
[52] Id.; Staff initial brief, p. 16.

recommends the Commission consider whether UPPCO's health and safety programs should include additional measures and upgrades related to structural improvements, and that the Commission require detailed program implementation data within UPPCO's annual report to ensure the purpose of this provision in PA 295 (the Act), as amended by PA 229, is being fulfilled.[53]

Ms. Yeager states that Staff finds UPPCO's workforce development initiatives spend in the plan filing to be appropriate.[54] She adds, however, that Staff is unable to identify specific workforce development initiatives within UPPCO's EWR plan filing.[55] Thus, she recommends that UPPCO work with Staff to design a more comprehensive description of the proposed workforce development programs to be implemented, design estimated spend associated with each innovative component, and show how these efforts align with PA 229, Section 80a.[56]

In rebuttal, Mr. McNeally states that UPPCO intended that health and safety spending be targeted to be 1% of annual program spending and agrees to the Staff's clarification of that intent.[57] He adds that UPPCO will also include reporting on health and safety measures, spending, and EWR measures enabled by health and safety measures in our annual reports.[58]

Mr. McNeally states that UPPCO agrees to work with Staff to further detail workforce development programs.[59] He adds that UPPCO anticipates that the Measured

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[53] 3 Tr 152-153.
[54] 3 Tr 153.
[55] Id.
[56] 3 Tr 153-154.
[57] 3 Tr 89.
[58] Id.
[59] Id.

Savings pilot will drive some of the workforce development programs in later years of the Plan since measured results will likely uncover certain measure implementation issues.[60]

This PFD recommends that the Commission require UPPCO to provide a clear and objective selection process for Health and Safety (H&S) spend, and that the Commission require UPPCO provide Staff with regular updates and work with Staff in the development of UPPCO's Workforce Development (WFD) programs.

EFEL plan

UPPCO asserts that its EFEL Plan provides recommended incentive amounts, and a methodology and calculations for individual efficient electrification measure incentive amounts.[61] UPPCO argues that because this is a new program, customer participation levels are unknown, and it is therefore impossible to estimate incentive amounts or administration or implementation costs.[62] UPPCO requests that the Commission grant it authority to create a regulatory asset where it will record any EFEL Plan expenses, inclusive of any and all costs associated with administration, implementation, and incentives.[63] UPPCO adds that recovery will be sought in a future regulatory proceeding in which UPPCO provides evidence that the EFEL Plan is cost effective, consistent with the recommendations in the Commission's Order in Case No. U-21567.[64]

Mr. McNeally states that an EFEL Plan helps an electric provider's customers achieve health and safety benefits within the premises they occupy or reduce energy, greenhouse gas emissions, and annual average energy costs by installing specific

[60] 3 Tr 90.
[61] UPPCO initial brief, p. 14, referencing Ex. A-1, Section 5, pp 75-111.
[62] Id.; 3 Tr 70.
[63] Id.
[64] Id.

electric appliances or equipment that displaces an end use that otherwise combusts a fossil fuel without having the effect of increasing electric rates for non-participating customers of the provider.[65] He adds that similar to an EWR Plan, an EFEL Plan is available to all customers including income eligible, residential, commercial, and industrial customers and has costs allocated to administration, implementation, and incentives.[66] He states that at the same time, an EFEL Plan is dissimilar to an EWR Plan because the installation of each measure is individually analyzed using health and safety, energy consumption, greenhouse gas emission reduction, and annual average energy cost savings criteria.[67]

Mr. McNeally states that UPPCO engaged 5 Lakes Energy to assist in the development of energy efficiency and electrification plans and that the 5 Lakes Energy report describes the analysis and development of the overall EO Plan and specifically addresses the EFEL Plan in Section 5.[68]

Mr. McNeally states that while UPPCO believes there may be justification to request a Financial Incentive Mechanism for an EFEL Plan that shows good performance and delivers special benefits, UPPCO is not proposing a Financial Incentive Mechanism for the EFEL Plan in this docket but may in a future regulatory proceeding.[69]

Mr. McNeally states that UPPCO'S EFEL plan provides recommendations of maximum incentive amounts, as well as methodology and calculations for individual efficient electrification measure incentive amounts.[70] He adds that with customer

[65] 3 Tr 67.
[66] Id.
[67] 3 Tr 67-68.
[68] 3 Tr 69; Ex. A-1.
[69] 3 Tr 69-70.
[70] 3 Tr 70; Ex. A-1.

participation levels unknown, one is not able to estimate incentive amounts or administration or implementation costs.[71]

Mr. McNeally requests that the Commission grant UPPCO authority to create a regulatory asset, whereby UPPCO will record any EFEL Plan expenses, inclusive of any and all costs associated with administration, implementation, and incentives, with UPPCO then seeking recovery of the regulatory asset in a future regulatory proceeding.[72] He adds that as a part of the regulatory proceeding, UPPCO will consider providing the results of one or more cost benefit test, both pre- and post-plan implementation, to provide evidence that the EFEL plan is cost effective, as recommended by the Commission's November 7, 2024 Order in Case No. U-21567.[73]

Staff

Staff argues that UPPCO's EFEL plan should not be approved, finding the plan to be inadequate and lacking important specifics.[74]

Ms. Smith states that UPPCO did not file a comprehensive EFEL plan, asserting that the plan lacks important details, including assessments of what it plans to spend, the measures UPPCO will focus on, and whether those measures can ensure that costs for other customers will not increase from the proposed spending.[75] She adds that UPPCO's EFEL plan provides information related to potential residential, commercial, and industrial EFEL measures, as well as strategies related to implementation, marketing, and evaluation, which is included in a high-level Customer Energy Optimization Plan report,

[71] Id.
[72] 3 Tr 70.
[73] 3 Tr 70-71.
[74] Staff initial brief, p. 4.
[75] 3 Tr 130.

drafted by 5 Lakes Energy, which report includes multiple recommendations.[76] She asserts that this report made it very difficult for Staff to ascertain what exactly UPPCO was requesting to implement as part of its EO plan, as it was not specified whether UPPCO intended to adopt all recommendations from this report.[77] She adds that Staff Exhibit S-1.0 is UPPCO's discovery response regarding which 5 Lakes recommendations UPPCO intends to adopt, which ones are already currently in practice, and which ones UPPCO would like to reserve for a future regulatory filing.[78]

Ms. Smith argues that although UPPCO provides high level information related to administering an EFEL plan, it misses the mark when it comes to providing the actual plan to be executed.[79] She adds that UPPCO does not provide an estimated goal for efficient electrification installations per year, any estimations for the total cost of the EFEL program for each year of the program, and any cost estimates for customers.[80] She notes that UPPCO's discovery responses (Exhibit S-1.1; Exhibit S-1.2) show that UPPCO did not even develop these estimates, but rather only included the 5 Lakes recommendation report as support.[81]

While noting that UPPCO is not required by statute to meet certain "targets" for EFEL similar to the EWR portion of the Act, Ms. Smith asserts that it is important for Staff and the Commission, along with parties to this case, to be aware of the potential costs of such a program, especially when the EFEL plan will undergo a financial reconciliation

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[76] Id.
[77] 3 Tr 131.
[78] Id.
[79] Id.
[80] Id.
[81] Id.

yearly.[82] She adds that Staff will need to reconcile the total program costs to the planned costs to decide if the plan was reasonably and prudently administered to its customers, and that to approve a future cost reconciliation for the EFEL plan, the Commission will need to ensure the objectives that were met align with the stipulated requirements from Act 229, Section 72 (MCL 460.1072) for EFEL plans.[83]

While noting that this is the first EFEL plan filed in Michigan, Ms. Smith states that Staff understands that this nuanced program will evolve over time, but it will be extremely difficult, if not impossible, to reconcile a plan that does not provide costs for the program and customer cost impacts for participating in the EFEL plan and not participating in the EFEL plan.[84]

Noting that in a discovery response (Exhibit S-1.1, SE-UP-1-2), UPPCO claims that meeting the minimum statutory filing requirements demonstrates that the plan is reasonable and prudent, Ms. Smith states that Staff disagrees, asserting that EFEL plans are optional activities allowed by the legislation, not a requirement, and as these types of plans are brand new, the specific due diligence necessary to determine reasonableness and prudence will also evolve as plans are implemented and results are examined.[85]

Noting that UPPCO's plan states that "per U-21567, EFEL plans are not subject to [Utility Cost Test] UCT" and that UPPCO also seems to believe that EFEL plans are not subject to any cost-benefit test because no such analyses or studies were conducted per discovery response SE-UP-1-3 (Exhibit S-1.1), Ms. Smith counters that while the Order in U-21567 does say that "EFEL plans are not subject to a legislative requirement such

[82] 3 Tr 131-132.
[83] 3 Tr 132.
[84] 3 Tr 133.
[85] Id.

as the UCT," MCL 460.1005(a) requires that EFEL measures meet "best-practice standards for cost-effective energy efficiency as determined by the commission."[86] She asserts that some measure of cost-effectiveness is necessary to show that EFEL measures and the plans to provide them meet the definition provided by statute, which could be shown with the UCT, or a number of other test methods.[87] She adds that UPPCO has not addressed cost-effectiveness of its proposed EFEL measures.[88]

Noting that UPPCO claims that evaluation, measurement, and verification (EM&V) is not required for EFEL plans, Ms. Smith states that Staff disagrees.

> Staff notes that the legislation requires that EFEL measures meet "best-practice standards for cost-effective energy efficiency as determined by the commission." Efficient electrification measures, by name and definition, must electrify **efficiently**. In other words, the heat pump or water heater installed as an EFEL measure must be an efficient version of the appliance and not merely converting from fossil fuels to an electric appliance. One of the Commission's directives in Case No. U-21567 was that EFEL measures be housed in the Michigan Energy Measures Database (MEMD) as the "most reasonable place to appropriately vet and incorporate EFEL measures and the values necessary to assist the development of EFEL plans." EM&V is an established best practice of the vetting process for energy efficiency measures in the MEMD and EWR plans; therefore, it must be a component of vetting EFEL measures as well.[89]

Ms. Smith states that Staff has concerns about UPPCO's explanation for applying different EFEL screening for induction cooktops versus space heating measures which Staff asserts should be clarified in this first EFEL plan.[90] Noting that UPPCO maintains that EFEL measures which provide health and safety benefits listed in section 72(1) of Act 295 (MCL 460.1072) do not need to meet the requirements of sub-paragraphs (a),

[86] 3 Tr 133-134.
[87] 3 Tr 134.
[88] Id.
[89] Id. Emphasis in original.
[90] 3 Tr 135.

(b), and (c) if they first satisfy the health and safety benefits requirement, Ms. Smith asserts that Staff disagrees, calling attention to the definition of an EFEL measure in Section 5 and the intentional name of efficient electrification.[91] She asserts that by definition, electrification can only be efficient if it reduces total energy consumption at the premises; therefore, this must still be demonstrated in an EFEL plan for each measure.[92] She argues that this approach reinforces the legislation's meaning and does not require all of the criteria in (b) and (c).[93]

Noting that UPPCO is not proposing a Financial Incentive Mechanism for the EFEL Plan in this case "but may in a future regulatory proceeding," Ms. Smith states that Act 295 does not authorize a financial incentive for EFEL plans.[94] Ms. Smith adds that the financial incentive related to EO plans is specific to EWR plans, which are distinct from EFEL plans, as defined in Section 75.[95]

Ms. Smith states that Staff recommends the Commission reject UPPCO's EFEL plan, but allow for it to file a new EFEL plan that includes the plan's goals each year, including cost assessments, measures, and cost effectiveness evaluation strategies to be utilized along with the subsequent impact to customer rates.[96] She adds that the Commission recently conducted a Statewide Electrification Potential Study which would allow UPPCO to select measures and programs based on potential and based on the stipulations of the Act.[97]

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[91] Id.
[92] Id.
[93] Id.
[94] 3 Tr 136.
[95] Id.
[96] Id.
[97] Id.

Ms. Smith states that if the Commission decides to approve UPPCO's EFEL plan, Staff recommends a $1 million cap annually until a reconciliation and annual report can prove that what UPPCO does is reasonable, prudent, and complies with the stipulations of the Act.[98] She adds that if, after any year, a reconciliation shows that the EFEL plan is non-compliant with the stipulations of the Act, then UPPCO should not be able to recover the costs of the implementation of the EFEL plan from its customers.[99]

Ms. Withenshaw states that UPPCO requested a regulatory asset because costs of the filed EFEL plan are unknown as are the number of customers UPPCO expects to participate in this program, and thus, UPPCO cannot create a surcharge for the revenues needed to cover the costs of the programming.[100] She adds that through the reconciliation process, costs will be evaluated and verified so that revenue recovery will be reasonable and prudent and that the costs were incurred for the EFEL plan in line with the requirements of Act 295, as amended by Act 229.[101]

Ms. Withenshaw states that UPPCO notes that it intends to include incentive, administrative, and implementation costs as part of the EFEL plan, but because customer participation levels are unknown, it cannot provide an estimate of the costs that will be incurred.[102] She adds that Staff proposed that the regulatory asset be capped at $1 million as a starting basis for any costs that will be associated with the EFEL plan and its implementation.[103]

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[98] Id.
[99] Id.
[100] 3 Tr 161.
[101] 3 Tr 161-162.
[102] 3 Tr 162.
[103] Id.

Ms. Withenshaw states that Staff proposes that the EFEL plan will operate largely in the same way the EWR plan operates, with UPPCO filing yearly reconciliations with the Commission in the same docket as the EWR reconciliation but with a separate filing specific to EFEL programming.[104] She adds that Staff will evaluate that the revenues and expenditures associated with the EFEL plan are reasonable and prudent and are in accordance with the Act, while UPPCO will be responsible for ensuring all costs are for EFEL programming specifically and will develop rates to recover the costs of the program.[105]

Ms. Withenshaw states that UPPCO will develop an EFEL surcharge specific to the EFEL programming and costs to recover the costs of the EFEL plan, with this surcharge only being applicable to customers who participate in the program in accordance with the Act.[106] She adds that any cost that is associated with the EFEL program should be recovered through the EFEL surcharge and that these costs should include the incentive, administrative, and implementation costs as indicated in the filing, together with any evaluation and overhead costs that would also be accrued from UPPCO personnel and activities as part of the program.[107] She adds that Staff will evaluate the surcharge and revenues to ensure that only customers who participate in this program are paying into the program.[108] She states that if the Commission finds that UPPCO's EFEL plan should be approved, Staff feels stringent tracking of all expenditures and

[104] Id.
[105] 3 Tr 162-163.
[106] 3 Tr 163.
[107] Id.
[108] Id.

revenues associated with EFEL activity should be ordered and well documented and clearly distinct from EWR activities in the yearly reconciliation.[109]

SEMCO

SEMCO requests that the Commission reject UPPCO's EFEL plan, arguing that UPPCO has failed to provide sufficient evidentiary support to reasonably assess the EFEL plan's impact to customers or its compliance with the requirements set forth in Act 295, as amended by Act 229.[110] SEMCO argues that UPPCO has failed to demonstrate that its proposed EFEL plan will protect customer bills, avoid rate impacts, or deliver verifiable lifecycle greenhouse gas (GHG) reductions, energy savings, and health and safety benefits.[111]

Noting that a plan should establish measurable expectations for performance for which the utility must demonstrate compliance, Mr. Leahy states UPPCO instead offers a generalized electrification "objective" and high-level concepts, but does not present proposed budgets, participation forecasts, or quantitative performance metrics.[112]

Mr. Leahy states that UPPCO seeks authorization to record a regulatory asset for EFEL-related costs it may incur in future program years, but that UPPCO's request is not accompanied by defined cost estimates, participation projections, or measurable goals that would normally form the foundation of a Commission-reviewed program.[113] He adds that although authority to establish a regulatory asset does not establish the reasonableness or prudence of an expense and does not guarantee recovery, the EFEL

[109] 3 Tr 164.
[110] SEMCO initial brief, p. 1.
[111] Id.
[112] 3 Tr 170.
[113] Id.

plan should, at minimum, establish that projected costs are designed with a recovery mechanism that ensures costs are recovered only from those customers participating in the EFEL program.[114]

Mr. Leahy states that UPPCO has not provided consistent information regarding the inclusion of EFEL measures in its EWR Plan, noting that UPPCO states that it plans to include EFEL measures in its measured savings pilot, while in its discovery response UPPCO indicated that EFEL activity will not be included in the pilot.[115] He adds that UPPCO's plan indicates that EFEL is being layered directly onto EWR pilots, EWR marketing, and EWR EM&V infrastructure that are funded today through EWR surcharges.[116] Thus, he states that UPPCO "falls short" in demonstrating how the shared costs will be allocated to ensure no cross-subsidization.[117] To avoid cross-subsidization, Mr. Leahy states that UPPCO will ensure that customers who do not directly participate in electrification programs will not incur incremental costs attributable to these programs, and that any future recovery of EFEL-related costs will be determined in a later case.[118]

Noting that UPPCO defines gross margin for EFEL screening as distribution revenue only and explicitly assumes that increased distribution costs will not be required and that production costs will be similar to existing sales, Mr. Leahy argues that by excluding distribution cost impacts by assumption and ignoring generation and transmission cost changes, this "gross margin" construct does not provide a robust basis to conclude that non-participating customers are protected from rate impacts.[119]

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[114] 3 Tr 170-171.
[115] 3 Tr 171-172. Citations omitted.
[116] 3 Tr 172.
[117] Id.
[118] Id., referencing Ex. A-1, Section 2.7.4.
[119] 3 Tr 174.

Noting that UPPCO explained that it will screen EFEL "on a per project basis" but seek recovery "on a portfolio basis" in order to compare EFEL costs to gross margin on electricity sales, Mr. Leahy asserts that UPPCO's proposed approach is concerning because screening each project but recovering costs on a portfolio basis creates a risk that weak or non-compliant projects will be masked by stronger ones.[120] He argues that if recovery is sought as a lump sum at the portfolio level, it becomes very difficult for the Commission or intervenors to see which specific EFEL projects exceeded their gross margin, failed emissions criteria, or did not deliver promised bill savings.[121] He adds that UPPCO's plan does not establish a specific mechanism, tracking account, or reconciliation process that would ensure incremental revenues are actually applied to offset EFEL costs, nor does it explain how EFEL-related costs will be segregated from EWR and base-rate expenses, or how the portfolio-level recovery will be reconciled to project-level screens.[122] He asserts that UPPCO has not performed the minimum due diligence necessary to show that non-participating customers are protected from EFEL-related rate impacts.[123]

Mr. Leahy states UPPCO has not conducted any cost-benefit analyses for its EFEL proposal, and that the Commission's November 7, 2024 Order in Case No. U-21567 does not relieve UPPCO of the obligation to demonstrate in this case that its EFEL plan is cost-effective, quoting from the November Order as follows:

> "Therefore, the Commission finds that an electric provider should consider providing the results of one or more cost-benefit tests, both pre- and post-

[120] 3 Tr 175.
[121] Id.
[122] 3 Tr 176.
[123] Id.

> plan implementation, to provide further evidence that the EFEL plan is cost-effective."[124]

He adds that the absence of a cost-benefit analysis or any similar analysis in UPPCO's evidentiary presentation makes it difficult to evaluate whether the proposed activities will deliver net benefits to participants or avoid unintended cost impacts on non-participants, such that the Commission and stakeholders are left without a factual basis to assess the financial prudence of the plan or its alignment with customer interests.[125]

Mr. Leahy states that UPPCO's emissions modeling is faulty, noting that UPPCO states that it used the RFC Michigan (RFCM) eGRID subregion 3 as the basis for its electricity emissions factor, while UPPCO's service area is actually located in the MRO East (MROE) eGRID subregion, which has higher emission rates than RFCM according to EPA's eGRID summary tables.[126] He adds that by using eGRID emissions factors from a less emissions-intensive subregion, UPPCO artificially inflates the environmental benefits of its proposed EFEL measures, potentially qualifying measures that would otherwise fail the statutory test.[127]

Noting that UPPCO used baseload eGRID emission rates, not non-baseload (marginal) rates and that baseload factors average all generation while EFEL affects incremental load, which is served by marginal units that are typically more carbon-intensive, Mr. Leahy states that using baseload instead of non-baseload further understates EFEL emissions and makes the results of EFEL modeling look cleaner than the grid actually is.[128] He adds that UPPCO's EFEL modeling relies heavily on national

[124] 3 Tr 176-177, quoting Case No. U-21567, Order, November 7, 2024, p. 27.
[125] Id.
[126] 3 Tr 178. Citation omitted.
[127] 3 Tr 179.
[128] 3 Tr 179-180. Citation omitted.

building stock datasets, which he asserts are not sufficient for detailed, location-specific analysis, such as verifying proposed EFEL impacts in rural service territories like UPPCO's.[129]

Mr. Leahy states that UPPCO's calculations for heat pump "savings" appear to be limited to space heating demand only and do not account for situations where cooling may be an additional new electric load.[130]

Mr. Leahy states that he used the Carbon Management Information Center ("CMIC") Source Energy and Emissions Analysis Tool ("SEEAT") to evaluate UPPCO's electrification cost and emissions claims.[131] He asserts that the SEEAT analysis showed that, even with top-of-the-line electric technologies, average Michigan energy prices for electricity and propane, and the correct MROE eGRID emissions factors, the all-electric home produced higher total emissions and higher total energy cost than the baseline propane configuration without energy efficient heating and water heating appliances.[132]

Mr. Leahy states that for its assertion that replacing gas stoves with electric induction ranges produces significant health benefits, UPPCO relies heavily on a single cost-benefit literature review prepared for UPPCO by students at the University of Wisconsin–Madison, which analysis he asserts uses highly uncertain modeled health damage functions and reports extremely wide ranges of potential monetized benefits.[133] He adds that UPPCO's Stove Analysis takes varied indoor-air and health research contemplating a variety of contributing factors and attempts to collapse it into a single "net

[129] 3 Tr 180.
[130] 3 Tr 181.
[131] 3 Tr 182.
[132] 3 Tr 183.
[133] 3 Tr 184-185. Citation omitted.

benefit" number per stove replacement, even though its own Monte Carlo results show an extremely wide range of possible outcomes.[134] He states that UPPCO Stove Analysis' own "Safety" section cites research indicating that induction stoves can have different fire and burn risk profiles and suggests there may be circumstances where injury or fire risks increase, not decrease, with induction.[135]

Mr. Leahy states that UPPCO's Integrated Resource Plan (Case No. U-21809), explicitly acknowledges a persistent winter-season capacity shortfall, despite generation additions to UPPCO's capacity.[136] He adds that electrification, specifically of heating load, as UPPCO has proposed in this case would raise winter electric load precisely when UPPCO's system is already short on capacity, increasing reliability risk, and wholesale energy costs, and rely on non-baseload peaking plants with higher emissions.[137]

Noting that when discussing electric vehicle charger deployment, UPPCO stated that "the distribution lines were the limiting factor," Mr. Leahy asserts that winter heating electrification would compound UPPCO's shortfall, leading to higher reliance on MISO emergency purchases during peak cold events when non-baseload electric generation is introduced and emissions are higher, greater exposure to volatile spot-market prices, and increased risk of service interruptions during extreme weather.[138] He adds that these outcomes would be inconsistent with the statutory requirement that an EFEL measures plan 'shall not have the effect of increasing electric rates for customers that do not

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[134] 3 Tr 185.
[135] 3 Tr 187-188. Citation omitted.
[136] 3 Tr 188. Citation omitted.
[137] Id.
[138] 3 Tr 189.

participate in the program,' absent a robust demonstration from UPPCO that incremental EFEL load does not worsen winter capacity needs or upward pressure on rates.[139]

Noting that UPPCO states that the electric grid is getting cleaner, emissions are decreasing, and the lifecycle emissions reduction will increase over time, Mr. Leahy asserts that the claim is questionable and not grounded in historical data, noting that over the most recent eGRID data years, non-baseload emission rates in MROE have not shown a consistent downward trend and non-baseload emissions have increased overall.[140]

Mr. Leahy requests that the Commission deny UPPCO's EFEL plan as UPPCO has failed to demonstrate that its proposed EFEL will deliver verifiable lifecycle GHG reductions, energy savings, health and safety benefits, protect customer bills, or avoid rate impacts.[141] He adds that, if the Commission allows UPPCO to undertake some EFEL activity, EFEL should be limited to clearly defined measures with capped budgets and separate EFEL accounting, and UPPCO should be required to correct its emissions and energy savings modeling, perform measure-level cost-effectiveness tests, and file an EM&V plan that includes pre- and post-installation billing data and, where appropriate, end-use and indoor-air measurements for a statistically valid sample.[142] He asserts that EFEL continuation and any future expansion should then be contingent on EM&V and benefit-cost test demonstrating that actual outcomes are reasonably consistent with modeled bill savings, energy and emissions reductions, do not have the effect of

[139] 3 Tr 189.
[140] 3 Tr 190-191. Citation omitted.
[141] 3 Tr 191-192.
[142] 3 Tr 192.

increasing electric rates for customers that do not participate in the program, and do not worsen winter capacity or marginal system costs.[143]

Rebuttal

Mr. McNeally states that UPPCO will accept Staff's recommendation to cap the EFEL regulatory asset at $1 million as a starting point for the program.[144]

Mr. McNeally states that UPPCO partly agrees that the EFEL program should operate much like the EWR program with UPPCO filing yearly reconciliations and recovering costs through an EFEL surcharge but considers the proposal that EFEL surcharges only be charged to participants to be contrary to Commission instructions, conceptually wrong, and crucial to the viability of an EFEL program.[145]

Noting that in its February 8, 2024 Order in Case No. U-21567, the Commission directed that "these costs will be recovered via a separate surcharge that will be added to the applicable EWR surcharge for purposes of including it on customer bills," Mr. McNeally states that UPPCO considers Staff's recommendation to only apply surcharges to program participants to be contravened by the Commission's instructions.[146]

Mr. McNeally offers a comparison to the funding of EWR programs, for which he states that program expenditures are justified as reducing the costs of service to all customers, as measured by the Utility System Resource Cost Test.[147] He states that the surcharges are then charged to all customers, even though the reduced costs of service to all customers in aggregate flow predominantly to the participating customers and

[143] Id.
[144] 3 Tr 91.
[145] Id.
[146] 3 Tr 91-92, citing Case No. U-21567, Order, February 8, 2024, p. 3.
[147] 3 Tr 92.

participating customers often have bill reductions from the EWR measure that exceed the reduction in cost of service due to the EWR measure.[148] He asserts that, as a result, non-participating customers both pay the surcharge and experience a shift of costs onto them through cost of service and rate design.[149] He states that for this reason, EWR measures would typically fail a Rates Impact test.[150]

For UPPCO's EFEL, Mr. McNeally states that the program costs would be deferred and that the deferred asset would be amortized as costs to be recovered in a rate case but only to the extent that gross margin on the incremental electricity sales produced by the electrification measures would pay for the amortized EFEL costs.[151] He adds that the result would be that the revenue paid by customers participating in the EFEL program for the increased electricity sales due to an electrification measure would (1) pay for the incremental costs of the additional load and (2) pay for the amortized EFEL program costs.[152] He asserts that UPPCO has shown that electrification measures are highly unlikely to increase distribution system costs, such that the incremental distribution revenue due to the EFEL electrification measures to be available as gross margin against which to amortize deferred EFEL program costs.[153] He states that the incremental production and transmission revenues from increased electricity sales due to an electrification measure will be sufficient to pay for incremental production and transmission costs.[154]

[148] Id.
[149] Id.
[150] Id.
[151] Id.
[152] Id.
[153] Id.
[154] 3 Tr 92-93.

Mr. McNeally states that UPPCO considers that the key to compliance with the statutory requirement not to increase "electric rates for customers that do not participate in the program" is to (1) limit the EFEL program costs for each electrification measure to an amount that would be recovered on a net present value basis through incremental distribution revenue on the increased sales due to the EFEL program, and (2) amortize the EFEL program costs out of the EFEL deferred asset account into utility expenses at a slow enough pace that those costs are concurrently covered by the incremental distribution revenue on the increased sales due to the EFEL program.[155] He adds that the principal reason to defer EFEL program expenses was not to deal with uncertainties about program levels, expenditures, and surcharges but to achieve an alignment in time of cost recovery for EFEL program expenditures with the availability of gross margin for incremental electricity sales due to the EFEL program.[156]

Noting that Staff objected to recovering the EFEL program costs by amortizing the deferred asset account for the EFEL program as utility expenses in rate-making and instead proposed recovering those costs through an EFEL surcharge that would be established through annual reconciliations in conjunction with the annual EWR reconciliation case, Mr. McNeally states that UPPCO agrees that this approach can satisfy the statutory requirements for the EFEL program provided that the same principles and equivalent methods are applied in that process as UPPCO proposed in this case; that is, UPPCO would continue to (1) limit program costs per EFEL measure to an amount that would on a net present value basis be supported by the incremental distribution

[155] 3 Tr 93.
[156] Id.

revenue produced by the EFEL electrification measure and (2) would continue to amortize the EFEL deferred asset at a pace such that annual incremental distribution revenue on the increased sales resulting from EFEL electrification measures will exceed revenue from the EFEL surcharge.[157] However, Mr. McNeally states

> [I]t is essential that the EFEL surcharge be charged to all customers, segregated by class, in order to produce a fair result and to promote electrification. When an EFEL measure is adopted by a customer and that increases electricity sales, if rates are not changed, it produces incremental revenue to UPPCO that will help to delay UPPCO's next request for a rate increase. When UPPCO requests a rate increase, the increased sales due to the EFEL program will be considered in the calculation of distribution rates and produce lower rates for ALL customers in the same rate class than would otherwise be requested in the rate case. Thus, requiring that only EFEL participating customers pay the EFEL surcharge produces a manifestly unfair result, lower rates for all customers paid for by the revenue from the customers that participated in EFEL.
>
> Additionally, an EFEL surcharge only to the customers that participate in the EFEL program effectively turns the program into a loan program in which the participating customers receive a rebate and must then pay that rebate back through surcharges. This would significantly detract from the economic results for a customer that participates in the EFEL program. The customers participating in the EFEL program would be paying the full costs of the EFEL program, plus the revenues of the incremental electricity sales due to the electrification measures, with the gross margin on those increased sales being used to dilute the rates of the non-participating customers.[158]

Mr. McNeally offers a comparison with the funding of line extensions, noting that all Michigan electric utilities currently provide an allowance to new customers for line extensions, which allowances are effectively rebates on the cost of the line extension which are conceptually funded by the gross margin in the revenue from the increased sales to the new customer.[159] He adds that the customer is not required to separately

[157] 3 Tr 93-94.
[158] 3 Tr 95.
[159] Id.

reimburse the utility for the line extension allowance.[160] He concludes that the approach proposed by UPPCO in this case is exactly analogous to the way that line extensions are financed.[161]

Mr. McNeally states that UPPCO agrees that all EFEL program costs should be recovered through the EFEL cost recovery mechanism and not through either the EWR program or general rates.[162] He adds that current EWR cost accounting is analogous, and UPPCO expects to follow the same practices for identifying EFEL costs as UPPCO currently follows for EWR costs, with the additional provision that those costs will be recorded into the EFEL deferred asset account.[163]

Regarding Staff's assertion that UPPCO's EFEL plan is deficient as it doesn't provide an estimations of efficient electrification installations per year, the total cost of the EFEL program for each year, and costs for customers, Mr. McNeally acknowledges that UPPCO did not put forth expected installations per year nor estimations of total costs of the program for each year, asserting that it is difficult to develop such estimates with any reliability, and because it is unnecessary.[164] He adds that any estimates would simply have been guesses, since this is a completely new program without referenceable precedents.[165] He states that it is desirable that future plans characterize UPPCO's expectations for the EFEL program, but in the absence of a statutory goal, Staff and other intervenors would have no legal basis to argue that the program should be larger or

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160 Id.
161 Id.
162 Id.
163 Id.
164 3 Tr 96.
165 Id.

smaller than what might be proposed by UPPCO.[166] He asserts that it is unnecessary, because there is no statutory objective or goal that must be met and because UPPCO proposed that all cost recovery be deferred.[167] Thus, he concludes that contrary to Ms. Smith's testimony, it is not the case that "Staff will need to reconcile the total program costs to the planned costs to decide if the plan was reasonably and prudently administered to its customers," arguing that because the costs are to be deferred and only recovered after the fact, there is no need to reconcile total program costs to planned costs as UPPCO will only be able to recover booked EFEL costs that are determined in reconciliation to be prudent and reasonable. [168]

Mr. McNeally states that UPPCO evaluated each individual implementation of each measure for two principal reasons; first, Staff have not yet developed electrification measures in the MEMD, so there is no basis for deemed results, adding that UPPCO's proposed approach is not unlike the approach currently used for custom measures in the EWR program, with UPPCO being prepared to shift to deemed results if and as Staff establishes MEMD electrification measures, and second, the most consequential measures in the EFEL program will be for space heating, and for certain customers, commercial kitchen measures, which measures are inherently quite varied amongst implementations of measures as building heating requirements and kitchen operations vary considerably between premises, such that these measures will not be susceptible to using deemed results per measure.[169]

[166] Id.
[167] Id.
[168] 3 Tr 96-97, citing 3 Tr 132.
[169] 3 Tr 98, citing Ex. A-1.

Mr. McNeally states that Staff does not need to reconcile costs for the program to any plan, as participants in the program will be provided a custom analysis of the efficient electrification measures they are considering, and non-participating customers will not see any increase in rates due to the practice of deferring and pacing cost recovery to ensure that the revenue collected from non-participating customers is less than the reduction of rates for non-participating customers that is attributable to increased electricity sales to participating customers.[170] Regarding Ms. Smith's assertion that UPPCO has not addressed cost-effectiveness of its proposed EFEL measures, he counters that those specific calculations will be done for each implemented measure referencing Ex. A-1, Tables 5.1, 5.4 – 5.10, and 5.15.[171]

Regarding Ms. Smith's assertion that EFEL measures must meet "best-practice standards for cost-effective energy efficiency as determined by the commission, which could be shown with the UCT or a number of other test methods, and that UPPCO has not addressed cost-effectiveness of its proposed EFEL measures, Mr. McNeally counters that the UCT is not applicable to an EFEL measure as the statute does not require it and only requires the tests that UPPCO has applied.[172] He adds that because the UCT compares total avoided supply-side costs to the provider to the total costs to the provider for administering and delivering the energy waste reduction program and because in the case of an EFEL program, there are increased and not avoided supply-side costs of the program, the UCT is not a sensible metric for the evaluation of an EFEL program.[173] He states that UPPCO has demonstrated that the gross margin on increased electricity sales

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[170] 3 Tr 99.
[171] Id.
[172] 3 Tr 100.
[173] 3 Tr 101.

due to each EFEL measure exceeds or is equal to proposed program costs for each measure, thereby assuring no economic harm to non-participating customers; societal benefits through reduced greenhouse gas emissions, and net energy bill savings to the participating customers sufficient to induce their voluntary adoption of the measure with the offered rebates.[174] He adds that UPPCO welcomes an effort by the Staff to add electrification measures to the MEMD, in order to establish "best-practice standards for cost-effective energy efficiency as determined by the commission".[175] He states that Staff has not identified any measure in the plan that they do not consider to be cost-effective.[176]

Regarding Ms. Smith's assertion that the requirement in law that EFEL measures meet "best-practice standards for cost-effective energy efficiency as determined by the commission" implicitly requires evaluation, measurement, and verification (EM&V), Mr. McNeally counters that there is no statutory requirement for EM&V like there is for EWR programs.[177] He adds that UPPCO will compare electricity sales to participating customers before and after measure implementation and include those data in annual reconciliations.[178] He states that after the pilot phase of the Measured Savings program, presentation of pilot results, and discussion with Staff, UPPCO will consider using the Measured Savings tools for this purpose with appropriate cost allocation to the EFEL program, but asserts that cannot be done until the Measured Savings pilot is completed so that appropriate baselines and measurements of change are available for this analysis.[179]

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[174] Id.
[175] Id.
[176] 3 Tr 102.
[177] Id.
[178] Id.
[179] Id.

Regarding Ms. Smith's statement that in Case No. U-21567 the Commission directed that EFEL measures be housed in the MEMD as the most reasonable place to appropriately vet and incorporate EFEL measures and the values necessary to assist the development of EFEL plans, Mr. McNeally counters that UPPCO concurs but argues that it is not within UPPCO's power to add EFEL measures to the MEMD.[180] He adds that UPPCO encourages Staff to accelerate that process, while meanwhile, UPPCO's only option to offer an EFEL Plan is to offer custom measures, as it has proposed.[181]

Regarding Ms. Smith's statement that an EFEL measure must be an efficient version of the appliance and not merely converting from fossil fuels to an electric appliance, Mr. McNeally states that UPPCO agrees and will only include Energy STAR certified products in its programs for equipment categories in which Energy STAR certification is available.[182]

Regarding Ms. Smith's concern about UPPCO's use of different screening criteria for induction cooktops versus space heating measures, Mr. McNeally states that UPPCO believes that the statute very clearly says that measures providing health and safety benefits to the occupants of the premises need not pass any of the tests otherwise applied by the statute, such that Ms. Smith's argument that at least reducing total energy consumption at the premises should apply in order for the measure to be considered an "efficient" measure is not justified.[183] He adds that UPPCO does not think that it is a valid interpretation of legislative intent that an EFEL program should exclude a measure that

[180] 3 Tr 102-103.
[181] 3 Tr 103.
[182] Id.
[183] 3 Tr 103.

provides health and safety benefits to the occupants unless it is more efficient measured by on-site energy consumption than the fossil-fueled alternative.[184]

Mr. McNeally disagrees with Ms. Smith's recommendation that the Commission reject UPPCO's EFEL Plan but allow it to be refiled with certain changes, asserting that the changes she recommends are that the new plan "includes the plan's goals for each year, including cost assessments, measures, and cost effectiveness evaluation strategies to be utilized along with the subsequent impact to customer rates".[185] He argues that UPPCO has included cost assessments, measures, and cost effectiveness evaluation strategies and impacts to customer rates, while not having established goals for each year because that cannot be done reliably and is not needed.[186]

Mr. McNeally rejects Mr. Leahy's challenges to UPPCO's EFEL plan for the same reasons he rejects many of Staff's objections to the EFEL plan.[187]

Regarding Mr. Leahy's concern that the EFEL costs will be recovered through EWR surcharges, Mr. McNeally reiterates that, per the Commission's Order of February 8, 2024 in Case No. U-21567, EFEL costs will be recovered through an addition to the EWR surcharge.[188] He adds that UPPCO committed to account for all EFEL program costs in separate accounts for EFEL than from EWR programs.[189]

Regarding Mr. Leahy's objections to UPPCO's approach to ensuring that EFEL costs do not raise rates for other customers, Mr. McNeally states that UPPCO's analysis demonstrates that UPPCO should not expect electrification to require capacity upgrades

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[184] 3 Tr 104.
[185] 3 Tr 104-105.
[186] Id.
[187] See, e.g., 3 Tr 112 regarding a cost-benefit analysis.
[188] 3 Tr 108.
[189] Id.

to our distribution system as a result of an EFEL program, because the resulting winter demand by an electrified customer will still be a lower fraction of distribution system capacity than is their summer demand.[190]

Regarding Mr. Leahy's concerns regarding UPPCO's modeling, Mr. McNeally questions his using non-baseload data from eGRID, stating that Mr. Leahy's argument that increased winter sales will lead to higher greenhouse gas emissions is incorrect for three reasons; because of UPPCO's obligation to meet the Renewable Energy Standard, UPPCO will add renewable generation for a large and increasing share of its energy requirements, in winter MISO's marginal units are nearly always highly-efficient gas combined cycle plants, and those marginal units typically have significantly lower greenhouse gas emissions than baseload fossil plants.[191]

Regarding Mr. Leahy's statement that "UPPCO's calculations for heat pump 'savings' appear to be limited to space heating demand only and do not account for situations where cooling may be an additional new electric load," Mr. McNeally counters that any impact on cooling-related electricity load is irrelevant for compliance with Act 235.[192] Noting that SEMCO presented an alternative fuel-switching analysis based on a publicly available tool developed by GTI Energy, Mr. McNeally argues that these results are not relevant for evaluating UPPCO's proposed EFEL plan, as the tool's results for energy, GHG emissions, and customer impact are all based on changes in total source energy consumption whereas PA 235 requires analysis of changes in energy consumption at the customer premises.[193]

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[190] 3 Tr 109.
[191] 3 Tr 113.
[192] 3 Tr 117-118, citing sections 5 and 72(2) of the Act.
[193] 3 Tr 118.

The disputed issues regarding the FEEL plan are addressed as follows.

<u>Increased Electric Rates for Non-participating Customers</u>

Under Section 72(3) of the Act, "An efficient electrification measures program under subsection (1) shall not have the effect of increasing electric rates for customers that do not participate in the program" MCL 460.1072(3). In its Order, the Commission found that the costs for an approved EFEL plan "will be recovered via a separate surcharge", that EFEL plans will have "similar reconciliation and annual report filing requirements as EWR plans", and that post evaluations will be necessary "to prove that customers who did not participate in the program did not realize increased electric rates as required under Act 229."[194]

Both Staff and SEMCO argue that UPPCO has not demonstrated how the EFEL Plan would not increase electric rates for non-participating customers. Thus, Staff proposes that EFEL Plan costs be recovered in a surcharge applicable only to customers participating in the EFEL Plan, arguing that applying the EWR surcharge to all customers would of necessity increase rates to non-participating customers.[195] UPPCO agrees that the EFEL program should operate much like the EWR program with UPPCO filing yearly reconciliations and recovering costs through an EFEL surcharge, but considers the proposal that EFEL surcharges only be charged to participants "to be contrary to Commission instructions, conceptually wrong, and crucial to the viability of an EFEL program."[196]

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[194] Case No. U-21567, Order, February 8, 2024, p. 3.
[195] Staff initial brief, p. 11.
[196] 3 Tr 91.

Noting that in its February Order that the Commission directed that approved EFEL plan costs “will be recovered via a separate surcharge that will be added to the applicable EWR surcharge for purposes of including it on customer bills,” UPPCO argues that Staff’s recommendation to only apply surcharges to program participants is contravened by the Commission’s instructions.[197] This PFD disagrees.

The Commission’s statement that “a separate surcharge” will be added to the applicable EWR surcharge “for purposes of including it on customer bills” cannot reasonably be interpreted to mean that the Commission was directing that the separate surcharge be applied to all customers, including customers participating in the voluntary EFEL program and all non-participating customers. Indeed, the Commission’s statement cannot reasonably be interpreted as UPPCO asserts when the statement is followed immediately by the Commission stating that EFEL plan providers will be responsible for “proving” that the costs for the EFEL plan “will not increase electric rates for customers who do not participate in an EFEL program.”[198]

UPPCO argues that its EFEL Program “does not increase electric rates for non-participating customers.”[199] This PFD disagrees. As Staff asserts, applying the EFEL surcharge to all customers “will inherently increase everyone’s electric rates.”[200] Indeed, by definition, a surcharge is an additional fee or charge added to the cost of the electricity. Moreover, UPPCO’s testimony that requiring that only EFEL participating customers pay the EFEL surcharge produces a “manifestly unfair result”[201] implicitly acknowledges

[197] 3 Tr 91-92.
[198] Case No. U-21567, Order, February 8, 2024 (“February Order”), p. 3.
[199] UPPCO reply brief, p. 6.
[200] Staff initial brief, p. 11.
[201] 3 Tr 94.

Staff's assertion. UPPCO is asserting that fairness requires the non-participating customers to pay increased rates – pursuant to the EFEL surcharge. Similarly, UPPCO argues that without having the EFEL surcharge, the customers participating in the EFEL program "would be paying the full costs of the EFEL program, plus the revenues of the incremental electricity sales due to the electrification measures."[202] As such, UPPCO is again asserting that non-participating customers pay increased rates pursuant to a surcharge in order to cover some of the costs of the EFEL program.

In addition to asserting that an EFEL surcharge be charged to all customers in order to produce a "fair result", UPPCO argues that an EFEL surcharge must be charged to all customers in order to "promote electrification."[203] However, what may or may not be "fair result" or whether and if so, how to "promote electrification" are questions of policy for the Legislature to address in its promulgated statutes, and in interpreting and applying those statutes, such as Section 72(3) of the Act, it is not for the Commission (or the courts) to question or alter those policy decisions that may have informed the Legislature in promulgating the statutes.[204] As such, this PFD must adhere to the statutory mandate (and the Commission's similar direction in its February Order) that the EFEL program "shall not" increase electric rates for customers that do not participate in the program."[205]

<u>Cost-effectiveness of the EFEL plan</u>

Both Staff and SEMCO argue that UPPCO's EFEL Plan does not contain a sufficient level of detail or demonstrate that it would be cost-effective. Indeed, Staff

[202] 3 Tr 95.
[203] Id.
[204] *See, e.g., Mayor of the City of Lansing v. Michigan Public Service Commission*, 470 Mich 154, 161, 680 N.W. 2d 840 (2004)("This dispute over the wisdom of a law, however, cannot give warrant to a court to overrule the people's Legislature.").
[205] MCL 460.1072(3).

references UPPCO's discovery response which indicates that UPPCO did not conduct any cost benefit analyses or studies, and which claims that meeting the minimum statutory filing requirements demonstrates that its plan is reasonable and prudent.[206] Staff asserts that EFEL plans do require a cost-benefit analysis:

> While the Order in U-21567 does say that "EFEL plans are not subject to a legislative requirement such as the UCT," Staff notes that the legislation MCL 460.1005(a) requires that EFEL measures meet "best-practice standards for cost effective energy efficiency as determined by the commission." Therefore, some measure of cost-effectiveness is necessary to show that EFEL measures and the plans to provide them meet the definition provided by statute. This could be shown with the UCT, or a number of other test methods, but it does have to be shown. The Company has not addressed cost-effectiveness of its proposed EFEL measures.[207]

Staff also disagrees with UPPCO's assertion that evaluation, measurement, and verification (EM&V) is not required for EFEL plans, with Ms. Smith asserting that the legislation requires that EFEL measures meet "best-practice standards for cost-effective energy efficiency as determined by the commission", and that EM&V is an established best practice of the vetting process for energy efficiency measures in the Michigan Energy Measures Database (MEMD) and EWR plans, such that "it must be a component of vetting EFEL measures as well."[208]

UPPCO counters that its EFEL Plan satisfies the requirements of Section 72 of the Act, which is what the Commission's November Order provided,[209] and, as the first EFEL Plan proposed in the State, provides the level of detail and demonstration of cost-effectiveness that demonstrates that the proposal is reasonable and lawful.[210] Regarding

[206] 3 Tr 133; Staff Ex. S-1.1, p. 6.
[207] 3 Tr 133-134.
[208] 3 Tr 134: Ex. S-1.1, p. 7.
[209] Case No. U-21567, November 7, 2024 ("November Order"), p. 27.
[210] UPPCO reply brief, p. 8.

Staff's assertion that UPPCO has not addressed cost-effectiveness of its proposed EFEL measures, Mr. McNeally states that specific cost-effectiveness calculations will be done for each implemented measure, referencing Exhibit A-1, Tables 5.1, 5.3 – 5.10, and 5.15.[211] In this regard, he adds that by virtue of passing the greenhouse gas emissions test adopted by the legislature, each remaining measure is providing benefits to the rest of society, and that if a participating customer chooses to voluntarily adopt a measure based on a custom analysis of the effects of that measure on all of the stated factors, standard economic analysis is that it must be a net benefit to that participating customer or they would not make the choice.[212]

Regarding Staff's assertion that EFEL measures must meet "best-practice standards for cost-effective energy efficiency", Mr. McNeally counters that the UCT is not applicable to an EFEL measure, the statute does not require it, and the statute only requires the tests that UPPCO has applied.[213] He also states that the UCT is not a sensible metric for the evaluation of an EFEL program since the UCT compares total avoided supply-side costs to the provider to the total costs to the provider for administering and delivering the energy waste reduction program, and since in the case of an EFEL program, there are increased and not avoided supply-side costs of the program.[214] Mr. McNeally asserts that what UPPCO has provided is a demonstration that the gross margin on increased electricity sales due to each EFEL measure exceeds or is equal to proposed program costs for each measure, thereby assuring no economic harm to non-participating customers; a demonstration of societal benefits through reduced

[211] 3 Tr 99-100.
[212] 3 Tr 100.
[213] 3 Tr 100.
[214] 3 Tr 101.

greenhouse gas emissions; and a demonstration of net energy bill savings to the participating customers sufficient to induce their voluntary adoption of the measure with the offered rebates.[215]

Regarding Staff's claim that the EFEL plan is deficient in that it does not provide "an estimated goal for efficient electrification installations per year, any estimations for the total cost of the EFEL program for each year of the program, and any cost estimates for customers," UPPCO acknowledges that it did not put forth expected installations nor estimations of total costs of the program, asserting that it is difficult to develop such estimates with any reliability and because it is unnecessary.[216] UPPCO argues that any estimates would have been "guesses", since this is a completely new program without referenceable precedents, and that in the absence of a statutory goal, Staff and other intervenors would have no legal basis to argue that the program should be larger or smaller than what might be proposed by UPPCO. [217] UPPCO further argues that providing estimates is unnecessary, because there is no statutory objective or goal that must be met and because we proposed that all cost recovery be deferred.[218] UPPCO also argues that there is no need to reconcile total program costs to planned costs because the costs are to be deferred and only recovered after the fact.[219]

This PFD agrees with Staff that UPPCO is required to demonstrate the cost-effectiveness of its EFEL plan. In its November Order, the Commission stated that while EFEL plans are not subject to a legislative requirement such as the UCT like EWR plans

[215] Id.
[216] 3 Tr 96.
[217] Id.
[218] 3 Tr 96-97.
[219] 3 Tr 97.

are, EFEL plans “should comply with the stipulations found in Section 72”, and that an electric provider “should consider providing the results of one or more cost benefit tests, both pre- and post-plan implementation, to provide further evidence that the EFEL plan is cost effective.”[220] Thus, the Commission in essence agrees with Staff that cost benefit tests should be provided in addition to showing compliance with the conditions found in Section 72. Moreover, regarding UPPCO’s argument that any estimates it might provide would be mere guesses, Staff effectively counters by noting that in 2008 UPPCO similarly had to implement an EWR plan with no such previous plan of its kind in place and had to provide the Commission with a planned number of measures to be installed per year, a planned amount of spending, and a cost-effective plan.[221]

Contrary to UPPCO’s assertion that evaluation, measurement and verification (“EM&V”) is not required by statute for EFEL plans, Staff argues that EM&V must be a component of vetting EFEL measures, noting that one of the Commission’s directives in Case No. U-21567 was that EFEL measures be housed in the Michigan Energy Measures Database (MEMD) as the “most reasonable place to appropriately vet and incorporate EFEL measures and the values necessary to assist the development of EFEL plans.”[222] Staff adds that EM&V is an established best practice of the vetting process for energy efficiency measures in the MEMD and EWR plans and thus must be a component of vetting EFEL measures as well.[223]

UPPCO counters that although EM&V is a “best practice”, UPPCO’s EFEL plan includes a custom analysis of every measure before implementation which lessens the

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[220] Case No. U-21567, Order, November 7, 2024, p. 27.
[221] Staff reply brief, p. 3.
[222] 3 Tr 134.
[223] Id.

"only plausible role of EM&V".[224] UPPCO adds that UPPCO will compare electricity sales to participating customers before and after measure implementation and include those data in annual reconciliations and will consider using the Measured Savings program for this analysis once the Measured Savings pilot is completed.

This PFD agrees with Staff that EM&V should be a component of vetting EFEL measures. As the Commission indicated in its November Order, an electric provider should consider providing the results of "one or more cost benefit tests, both pre- and post-plan implementation."[225]

As an alternative to the Commission rejecting UPPCO's EFEL plan, if the Commission accepts UPPCO's EFEL plan, Staff recommends a $1 million cap annually until a reconciliation and annual report can prove that what UPPCO does is reasonable, prudent, and complies with the stipulations of the Act, and that if, after any year, a reconciliation shows that the EFEL plan is non-compliant with the stipulations of the Act, then UPPCO should not be able to recover the costs of the implementation of the EFEL plan from its customers.[226] Staff asserts that this would keep the EFEL plan at a reasonable spending amount and allow Staff to review UPPCO's actuals without placing unreasonable costs on customers.[227]

Similarly, SEMCO asserts that the Commission should reject UPPCO's EFEL plan in its entirety, but that if the Commission permits limited EFEL activity, then the Commission should adopt the most restrictive conditions necessary to protect customers, with any such relief being limited to a narrowly capped amount, require separate EFEL

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[224] 3 Tr 102.
[225] Case No. U-21567, Order, November 7, 2024, p. 27.
[226] 3 Tr 136-137.
[227] Staff initial brief, p. 6.

accounting and annual reconciliation, and restrict any EFEL surcharge to participating customers only.[228]

UPPCO agrees to Staff's recommendation to initially cap the regulatory asset at $1 million annually and revisit the cap level in future proceedings.[229] In this regard, with that modification, UPPCO argues that Staff concedes that spending would be budgeted at a reasonable level, and the Commission would be able to conduct an appropriate review of UPPCO's revenues and expenditures for the EFEL Plan in annual reviews.[230] As such, UPPCO submits that this concession undercuts the vast majority of objections that both Staff and SEMCO raise in their testimony and briefs to the adequacy of the EFEL Plan.[231]

This PFD disagrees. Staff makes clear that UPPCO's EFEL plan "does not provide an estimated goal for efficient electrification installations per year, any estimations for the total cost of the EFEL program for each year of the program, and any cost estimates for customers."[232] As such, merely proposing a cap in the event the Commission does approve UPPCO's proposed plan cannot reasonably be found to be Staff's agreement that spending necessarily would be budgeted at a reasonable level. In addition, SEMCO acceptance of Staff's proposed alternative $1 Million cap on the regulatory asset includes having the Commission adopt the "most restrictive conditions necessary to protect customers", which conditions are "consistent with the statute and far more faithful to the present record than the broad, open-ended approval UPPCO seeks."[233] Thus, this PFD

[228] SEMCO reply brief, p. 10.
[229] 3 Tr 90; UPPCO initial brief, p. 15.
[230] UPPCO reply brief, p. 5.
[231] Id., p. 5-6.
[232] 3 Tr 131.
[233] SEMCO reply brief, p. 10.

finds that neither Staff nor SEMCO concede their respective objections to UPPCO's EFEL plan.

For the reasons set forth herein, this PFD recommends that the Commission approve UPPCO's EWR plan which incorporates the changes thereto recommended by Staff. This PFD also recommends that the Commission reject UPPCO's EFEL plan, while allowing it to file a new EFEL plan which corrects the noted deficiencies of its filed plan.

MICHIGAN OFFICE OF ADMINISTRATIVE
HEARINGS AND RULES
For the Michigan Public Service Commission

Jonathan F.
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Jonathan F. Thoits
Administrative Law Judge

July 21, 2026
Lansing, Michigan

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

STATE OF MICHIGAN	)	
	) SS.	Case No. U-21684
County of Ingham	)	
	)	

PROOF OF SERVICE

Meaghan Dobie being duly sworn, deposes and says that on July 21, 2026, she served a copy of the attached Notice of Proposal for Decision and Proposal for Decision via email and/or first-class mail, to the persons as shown on the attached service list.

Meaghan Dobie

Meaghan Dobie

Subscribed and sworn to before me this
21st day of July 2026.

Brianna L. Brown

Brianna L. Brown
Notary Public, Gratiot County, Michigan
My Commission Expires July 4, 2028

Case No. U-21684
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