



ENVIRONMENTAL LAW & POLICY CENTER

September 9, 2026

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
P.O. Box 30221
Lansing, MI 48909

RE: MPSC Case No. U-21985 *In the matter of the application of Consumers Energy Company for approval of the sale of its River Hydroelectric Generating Fleet, related Power Purchase Agreement, and other relief.*

Dear Ms. Felice:

Attached for paperless electronic filing is Response to Consumers Energy's Notice of Further Limited Waiver of Statutory Deadline filed by Michigan Trout Unlimited, Michigan Steelhead and Salmon Fishermen's Association, the Great Lakes Council of Fly Fishers International, Anglers of The Au Sable, and the Michigan Hydro Relicensing Coalition (together, "MHRC"). Proof of service is also attached.

Thank you,

Daniel Abrams (P87696)
Environmental Law & Policy Center
dabrams@elpc.org

cc: Service List, Case No. U-21985

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Manny Flores, Chair | Howard A. Learner, Executive Director

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**STATE OF MICHIGAN
MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the application of	)	
Consumers Energy Company for approval	)	
of the sale of its River Hydroelectric	)	Case No. U-21985
Generating Fleet, related Power Purchase	)	
Agreement, and other relief.	)	

**MICHIGAN TROUT UNLIMITED, MICHIGAN STEELHEAD AND SALMON
FISHERMEN’S ASSOCIATION, THE GREAT LAKES COUNCIL OF FLY FISHERS
INTERNATIONAL, ANGLERS OF THE AU SABLE, AND MICHIGAN HYDRO
RELICENSING COALITION’S RESPONSE TO CONSUMERS ENERGY’S NOTICE
OF FURTHER LIMITED WAIVER OF STATUTORY DEADLINE**

Michigan Trout Unlimited, Michigan Steelhead and Salmon Fishermen’s Association, the Great Lakes Council of Fly Fishers International, Anglers of the Au Sable, and the Michigan Hydro Relicensing Coalition (collectively, “MHRC”) oppose Consumers Energy’s notice of limited waiver filed less 48 hours before the long-scheduled September 10, 2026 final decision date requesting that the Commission extend the deadline for issuing its final order under MCL 460.6q an additional 60 days to November 9, 2026. Consumers Energy claims to “extend its limited waiver to allow for an additional 60 days,” but also “asks the Commission to refrain from issuing a final order on September 10, 2026....” Consumers Notice at 1. MHRC responds specifically to Consumers Energy’s request for relief from the Commission.

The Commission should deny Consumers Energy’s motion, and the Commissioners should fulfill their responsibility to issue a lawful final decision on September 10, 2026 as set by the longstanding schedule in this case. The evidentiary record closed long ago, and the Administrative Law Judge’s comprehensive 312-page Proposal for Decision (“PFD”) was issued three months ago recommending that the Commission reject Consumers Energy’s misguided proposal as inconsistent with the public interest and contrary to sound public policy. *After* the Commission

issues its final decision on September 10th, nothing prevents Consumers Energy, MHRC, the Attorney General, Michigan DNR, ABATE, the Commission's Staff and other parties from convening to negotiate better solutions in good faith following the Commission's decision on the merits. That is the proper course here.

Judicial and administrative adjudications in cases like the present are guided by principles of finality in decision-making and of fair and reasonable processes. Under Consumers Energy's scheme, a utility could simply avoid a final decision not to its liking by seeking to waive and extend the scheduled deadline for that Commission decision and a just and reasonable resolution based on the evidentiary record that has already been closed. That is contrary to sound administrative and regulatory processes, finality in decision-making following an Administrative Law Judge's comprehensive recommended proposal for final decision, procedural due process, and the Commission making a final decision on an established schedule based on applying the Michigan statutory standards to the facts in the evidentiary record.

In this case, Consumers Energy did not reach out to MHRC prior to filing its last-minute motion attempting to subvert and stall the Commission's proper administrative process and a final decision based on applying the governing statutory standards to the evidentiary record as the Administrative Law Judge's PFD properly did in this case. MHRC only became aware of this motion when it was filed yesterday, and that alone makes Consumers Energy's motion inappropriate.

This is not a case in which the parties are fully and deeply engaged in ongoing negotiations that are close to resolution, and they *jointly* (not just Consumers Energy) want a little more time from the Commission in order to finalize a settlement. That is just not the reality here, today, in this case.

Consumers Energy's "Hail Mary" motion now argues that "there may be an opportunity for the parties to reach a constructive solution in this case that addresses the concerns raised during the course of the proceeding and wishes to engage the parties to discuss such a solution." Consumers Notice at 1. But Consumers Energy has sat on its hands for months and refused to negotiate or accept any suggested changes or conditions to its misguided proposed dams sale, overpriced PPA and other related transactions to an unaccountable out-of-state private equity firm. MHRC has not received any settlement offers or communications from Consumers Energy in the last six months. *See* Ex. A, Declaration of Abrams.

The Administrative Law Judge correctly recognized in the PFD that Consumers Energy refused to negotiate and adopted a *my way or the highway* type of approach expressing no willingness to accept any conditions to its fundamentally flawed proposal. PFD at 265. Consumers Energy's belated motion provides no substantive factual basis for its last-ditch attempt to avoid a final decision rejecting its misguided proposed dams sale and overpriced PPA that: (1) the ALJ's PFD recommends that the Commission "reject," (2) the Governor "opposes," (3) the Attorney General opposes, (4) the Michigan Department of Natural Resources opposes, (5) MHRC opposes, and (6) ABATE opposes. Likewise, the Commission's Staff stated no objections (other than a minor one) to the ALJ's PFD. Consumers Energy had unlimited opportunity to negotiate with parties at any time up until now but waited until two days before the Commission plans to issue its order on September 10th, which is the date that all parties agreed to long ago.

Consumers Energy provides no basis for its belief that "a constructive solution" can be reached now. Consumers Notice at 1. Nor does it explain why it waited until this late hour to work towards a settlement. It is improper for any utility to wait until less than 48 hours before the

Commission is set to issue its final decision and then file a belated motion to sidetrack and avoid that decision without consulting the very parties it says it wants to work with.

Under Consumers Energy's novel scheme, a utility could subvert, indefinitely delay, and perpetually avoid an adverse final decision by the Commission based on the evidentiary record. That is not a fair, reasonable and prudent, or legal process, and the Commission should reject this utility's scheming and procedurally improper gamesmanship to avoid finality in this case after the extensive evidentiary record has closed, the ALJ issued a comprehensive 312-page PFD with findings supporting the recommendation that the Commission reject the proposed dams sale, as inconsistent with the public interest and contrary to sound public policy.

The Michigan Supreme Court recently rejected analogous gaming of the Commission's administrative process in its 6-1 decision reversing the Commission's decision in the Enbridge Line 5 oil pipeline case. *In Re Application of Enbridge Energy*, Case No. 168335, 2026 WL 2212865 (Mich. July 31, 2026).

Moreover, there is no assurance whatsoever that Consumers Energy would not seek an additional 60 days or more after its current delay request to November 9, which is after the election of a new Governor and a new Attorney General so that they can weigh in sometime in Spring 2027.

MHRC respectfully requests that the Commission deny Consumers Energy's motion and issue its final order based on the evidentiary record in this case without further delay.

Dated: September 9, 2026

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Daniel Abrams", written over a horizontal line.

Daniel Abrams (P87696)
Katie Duckworth (P86670)

Howard A. Learner (*pro hac vice*)
Rob Kelter (*pro hac vice*)
Brad Klein (*pro hac vice*)

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*Counsel for Michigan Trout Unlimited,
Michigan Steelhead and Salmon
Fishermen's Association, Great Lakes
Council of Fly Fishers International,
Anglers of the Au Sable, and the
Michigan Hydro Relicensing Coalition*

Exhibit A

**STATE OF MICHIGAN
MICHIGAN PUBLIC SERVICE COMMISSION**

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Consumers Energy Company for approval	)	
of the sale of its River Hydroelectric	)	Case No. U-21985
Generating Fleet, related Power Purchase	)	
Agreement, and other relief.	)	

**DECLARATION OF DANIEL ABRAMS FILED ON BEHALF OF MICHIGAN TROUT
UNLIMITED, MICHIGAN STEELHEAD AND SALMON FISHERMEN'S
ASSOCIATION, THE GREAT LAKES COUNCIL OF FLY FISHERS
INTERNATIONAL, ANGLERS OF THE AU SABLE, AND MICHIGAN HYDRO
RELICENSING COALITION**

1. My name is Daniel Abrams. I am a Senior Associate Attorney at the Environmental Law & Policy Center. I am licensed to practice law in the State of Michigan.
2. In Case No. U-21985, I represent the MHRC parties consisting of Michigan Trout Unlimited, Michigan Steelhead and Salmon Fishermen's Association, the Great Lakes Council of Fly Fishers International, Anglers of the Au Sable and the Michigan Hydro Relicensing Coalition. I filed an appearance in this case on November 17, 2025.
3. I have received all subsequent service emails and other correspondence addressed to counsel in this matter.
4. I have received one correspondence regarding settlement related to this case, from Consumers Energy counsel Bret Totoraitis on March 4, 2026.
5. Since March 4, I have not received nor am I aware of any other settlement communications related to Case No. U-21985.

Date: September 9, 2026



Daniel Abrams

**STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

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PROOF OF SERVICE

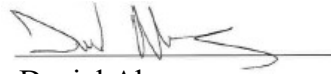
I hereby certify that a true copy of the foregoing *Response to Consumer's Energy's Notice of Further Limited Waiver of Statutory Deadline by Michigan Trout Unlimited, Michigan Steelhead and Salmon Fishermen's Association, the Great Lakes Council of Fly Fishers International, Anglers of The Au Sable, and the Michigan Hydro Relicensing Coalition* was served by electronic mail upon the following Parties of Record, this Wednesday, September 9, 2026.

Administrative Law Judge *Hon. James M. Varchetti	varchettij@michigan.gov
Consumers Energy Company *Bret A. Totoraitis *Evan Keimach *Melissa Harris *Crystal Chacon *Kelly Hall	mpsc.filings@cmsenergy.com bret.totoraitis@cmsenergy.com evan.keimach@cmsenergy.com melissa.harris@cmsenergy.com crystal.chacon@cmsenergy.com kelly.hall@cmsenergy.com
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Grand Traverse Band of Ottawa and Chippewa Indians William Rastetter	bill@envlaw.com
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*Receives confidential material



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