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September 9, 2026

VIA ELECTRONIC CASE FILING

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

RE: 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 Executive Secretary:

Enclosed for filing please find the **Association of Businesses Advocating Tariff Equity's Response to Consumers Energy Company's Notice of Further Limited Waiver of Statutory Deadline** and **Proof of Service** in the above-referenced matter.

Sincerely,

CLARK HILL PLC

**Stephen A.
Campbell**

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cc: Parties of Record

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

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.)
_____)

Case No. U-21985

ALJ James M. Varchetti

**RESPONSE TO CONSUMERS ENERGY COMPANY’S NOTICE OF FURTHER
LIMITED WAIVER OF STATUTORY DEADLINE OF THE
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

The Association of Businesses Advocating Tariff Equity (“ABATE”), by its attorneys, CLARK HILL PLC, files its Response (“Response”) to the Notice of Further Limited Waiver of Statutory Deadline (“Notice”) filed by Consumers Energy Company (“Consumers” or the “Company”) in this proceeding on September 8, 2026.

I. INTRODUCTION

After over a thousand pages of testimony and briefing and two days before the anticipated Commission order resolving this contested case proceeding, Consumers has filed a Notice attempting to further extend the schedule for this matter even further beyond the statutorily prescribed timeframe in MCL 460.6q(5). It has done so based on allusions to “opportunity” for a “constructive solution” and cooperative resolution without any further elaboration, explanation, or detail. Consumers’ request is inconsistent with the applicable statute, does not provide any support or tangible basis for further extending the schedule, and has come far too late in the collaboratively established case schedule. As such the Commission should reject Consumers’ request to refrain from issuing a final order on September 10, 2026 and proceeding accordingly.

II. ARGUMENT

A. **The statutorily prescribed timeframe was already collaboratively extended and Consumers has provided no basis for extending it further.**

Consumers' Notice states that during the prehearing in this proceeding, which took place on November 24, 2025, it agreed to a limited waiver of the 180 day timeframe for an order under MCL 460.6q(5) and instead agreed to a schedule that would allow a final order from the Commission within approximately 300 days. Now, after testimony, hearing, briefing, a Proposal for Decision ("PFD"), exceptions, and replies to exceptions in this case, and two days before Consumers expects the Commission to issue a final order, Consumers' Notice has requested a further 60-day extension "to allow the parties an opportunity to resolve the issues in this case cooperatively" based on Consumers' assertion 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 has provided no basis for this request and it should not be granted.

Under MCL 460.6q(5), within 180 days from the date an application is filed under MCL 460.6q for a jurisdictional regulated utility to sell, assign, transfer, or encumber its assets, the Commission shall issue an order approving or rejecting the proposed sale, acquisition, or transfer of control. While the Notice states that Consumers agreed to a limited waiver of its right to receive a final order in the above-captioned case within 180 days under MCL 460.6q, the case schedule in this proceeding was established through a "consensus schedule" without objection. (1 Tr 11-12.) Consumers' Notice does not indicate any consensus by any parties to extend Consumers' "waiver to allow an additional 60 days for the Commission to issue its final order under MCL 460.6q to November 9, 2026," nor does it indicate any consensus by any parties that the Commission should "refrain from issuing a final order on September 10, 2026." Consumers has no authority to

unilaterally dictate the case schedule for this proceeding through an unprompted and spontaneous decree that it “further extends its limited waiver to allow an additional 60 days for the Commission to issue its final order under MCL 460.6q to November 9, 2026.”

Further, Consumers’ assertions regarding a “constructive solution” and “an opportunity to resolve the issues in this case cooperatively” are not accompanied by any additional details or an explanation of what that solution or opportunity for cooperation might entail, or how Consumers has come to the determination 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.” As demonstrated across over 1,000 pages of testimony and briefing in this case, and as set out in the PFD’s 312-page discussion of the extensive record and its recommendations, given the party positions in this proceeding ABATE is not aware of any potential “constructive solution” or “opportunity to resolve the issues in this case cooperatively,” nor Consumers provided any basis to believe there may be one.

In addition, this case was effectively scheduled for a contested case process as set out in Mich Admin Code, R 792.10415 et seq. (See Filing Nos. 4, 34.) That process provides for a prehearing, filing of evidence, oral arguments and briefs, a proposal for decision, exceptions to the proposal for decision, and replies to exceptions. Mich Admin Code, R 792.10415 et seq. Nowhere in that process does it provide for a unilateral utility Notice to extend the schedule in a case such as this one. The Notice and Consumers’ request have no basis and should not be granted.

Consumers’ Notice is therefore improper, untimely, and insufficient. The Company’s request is procedurally deficient and provides no basis for granting the relief requested therein. The Commission should therefore decline to approve Consumers’ request.

III. RELIEF REQUESTED

WHEREFORE, ABATE requests the Commission reject Consumers' request that the Commission refrain from issuing a final order on September 10, 2026.

Respectfully submitted,

CLARK HILL PLC

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Date: September 9, 2026

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ALJ James M. Varchetti

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