

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	
for reconciliation of its 2021 demand)	Case No. U-21233
response program costs.)	
_____)	

At the February 23, 2023 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On May 6, 2022, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, requesting authority to reconcile its 2021 demand response (DR) costs and revenues in accordance with the September 15, 2017 order in Case No. U-18369; Sections 6a and 6x of Public Act 3 of 1939, as amended; and all other applicable law. Associated with the proposed reconciliation, Consumers seeks to refund the overrecovered DR revenue requirement for 2021 and also requests approval of a financial incentive for 2021, along with DR pilot proposals.

A prehearing conference was held on June 16, 2022, before Administrative Law Judge Christopher S. Saunders. Consumers and the Commission Staff (Staff) participated in the proceeding. On September 16 and 26, 2022, the Staff filed testimony and exhibits, and on

October 10, 2022, Consumers filed rebuttal testimony with an exhibit. Subsequently, the parties submitted a settlement agreement resolving all issues in the case.

The Commission has reviewed the settlement agreement and finds that the public interest is adequately represented by the parties who entered into the settlement agreement. The Commission further finds that the settlement agreement is in the public interest, represents a fair and reasonable resolution of the proceeding, and should be approved.

THEREFORE, IT IS ORDERED that:

- A. The settlement agreement, attached to this order as Exhibit A, is approved.
- B. Consumers Energy Company shall reflect a 2021 demand response regulatory liability of \$9,461,624 in its next electric rate case.
- C. Consumers Energy Company shall recover a financial incentive of \$4,639,508 in its next electric rate case.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of February 23, 2023.

Lisa Felice, Executive Secretary

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SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 431 of the Rules of Practice and Procedure before the Michigan Public Service Commission (“MPSC” or the “Commission”), R 792.10431, the undersigned parties agree as follows:

WHEREAS, on May 6, 2022, Consumers Energy Company (“Consumers Energy” or the “Company”) filed an Application with supporting testimony and exhibits requesting approval of (i) a refund of the over-recovered Demand Response (“DR”) revenue requirement through a 12-month surcharge, (ii) recovery of a financial incentive through a proposed surcharge, and (iii) the Company’s DR pilot proposals.

WHEREAS, the initial prehearing conference in this proceeding was held on June 16, 2022. The parties to the case are Consumers Energy and the Commission Staff (“Staff”). Staff filed testimony on September 16 and 26, 2022. The Company filed rebuttal testimony on October 10, 2022. No briefs were filed for this case.

NOW THEREFORE, for purposes of settlement of Case No. U-21233, the undersigned parties agree as follows:

1. The parties agree that Consumers Energy will refund \$9,461,624.
2. The parties agree that the Company met all necessary requirements to earn the full financial incentive approved by the Commission in Case Nos. U-20164 and U-21080 by achieving

569.7 MW of DR by December 31, 2021, which exceeds the Integrated Resource Plan target of 531 MW by 38.7 MW. Consumers Energy earned a financial incentive for 2021 in the amount of \$4,639,508.

3. Consumers Energy will reflect a \$9,461,624 regulatory liability to be incorporated into its next electric rate case, and Consumers Energy will recover the financial incentive of \$4,639,508 through its next electric rate case.

4. The parties agree that the Company's pilot proposals should be approved, including the planned growth and expansion of the Smart Thermostat Pilot and the expansion of the Generator Pilot to small and medium businesses. Consumers Energy will move the small and medium business Smart Thermostat Pilot to a full program as of January 2023 and shorten the pilot phase of the small and medium business Generator Pilot to move to a full program in the first quarter of 2023.

5. The parties agree that Consumers Energy will notify Staff after future maximum generation emergency events where DR resources are dispatched to provide details regarding the performance of DR resources and, if requested, meet with Staff. The Company will also provide Staff a written report detailing events after the Midcontinent Independent System Operator, Inc. settlement as the Company did for the June 10, 2021 event.

6. Consumers Energy agrees to identify the expenditures for the Customer Insight and Analytics and Information Technology projects that are assigned to specific DR programs and interruptible tariffs in future cases seeking approval of DR costs, including any associated hardware, software, labor, or contracted work and a discussion of the need for the expenditures and how they facilitate DR. Consumers Energy agrees to make this presentation of the 2021 expenditures for these projects assigned to DR programs in its next electric rate case. The

Company will also identify these expenditures in DR Reconciliation proceedings and will provide support for any significant increase in spending from approved amounts. This settlement does not constitute an explicit determination of the prudence or imprudence of the expenditures for the Customer Insight and Analytics and Information Technology projects.

7. Consumers Energy Company shall provide notice to the Commission Staff whenever DR expenditures will significantly vary from the amount approved. The Company shall meet with the Commission Staff if DR program spending exceeds 10% above approved expenditures.

8. The parties agree that the Company should no longer be required to file the Load Reduction Program annual report in Case No. U-12278 since the report is duplicative of other annual DR reporting requirements.

9. This settlement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are, and shall be considered, privileged under MRE 408. If the Commission approves this Settlement Agreement without modification, neither the parties to this Settlement Agreement nor the Commission shall make any reference to, or use, this Settlement Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this Settlement Agreement and the order approving it.

10. This Settlement Agreement is based on the facts and circumstances of this case and is intended for the final disposition of Case No. U-21233. So long as the Commission approves this Settlement Agreement without any modification, the parties agree not to appeal, challenge, or

otherwise contest the Commission order approving this Settlement Agreement. Except as otherwise set forth herein, the parties agree and understand that this Settlement Agreement does not limit any party's right to take new and/or different positions on similar issues in other administrative proceedings or appeals related thereto.

11. This Settlement Agreement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of the Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall be without prejudice to the pre-negotiation positions of the parties.

12. The parties agree that approval of this Settlement Agreement by the Commission would be reasonable and in the public interest.

13. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969 (MCL 24.281), as it applies to the issues resolved in this Settlement Agreement, if the Commission approves this Settlement Agreement without modification.


WHEREFORE, the undersigned parties respectfully request the Michigan Public Service Commission to approve this Settlement Agreement and to make it effective in accordance with its terms by final order.

**MICHIGAN PUBLIC SERVICE
COMMISSION STAFF**

By: 
Heather M.S. Durian (P67587)
Monica M. Stephens (P73782)
Assistant Attorneys General
Public Service Division
7109 West Saginaw Highway
Post Office Box 30221
Lansing, MI 48909

Date: February 3, 2023

CONSUMERS ENERGY COMPANY

By: 
Robert W. Beach (P73112)
Gary A. Gensch, Jr. (P66912)
Attorneys for Consumers Energy
One Energy Plaza
Jackson, MI 49201

Digitally signed by
Gary A. Gensch, Jr.
Date: 2023.02.03
09:57:30 -05'00'

Date: February 3, 2023


PROOF OF SERVICE

STATE OF MICHIGAN)

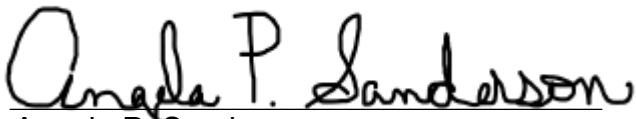
Case No. U-21233

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on February 23, 2023 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 23rd day of February 2023.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case:**U-21233**

Name	On Behalf of	Email Address
Christopher Saunders	ALJs - MPSC	saundersc4@michigan.gov
Consumers Energy Company 1 of 2	Consumers Energy Company	mpsc.filings@cmsenergy.com
Consumers Energy Company 2 of 2	Consumers Energy Company	michael.torrey@cmsenergy.com
Gary A. Gensch Jr.	Consumers Energy Company	gary.genschjr@cmsenergy.com
Heather M.S. Durian	MPSC Staff	durianh@michigan.gov
Monica M. Stephens	MPSC Staff	stephensm11@michigan.gov
Robert W. Beach	Consumers Energy Company	robert.beach@cmsenergy.com