

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
CONSUMERS ENERGY COMPANY for approval of)	
a simplified Public Utility Regulatory Policies Act of)	Case No. U-21506
1978 Standard Offer Program for certain qualifying)	
facilities and for other relief.)	
_____)	

At the July 23, 2024 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On June 23, 2022, the Commission issued an order in Case No. U-21090 (June 23 order) approving a settlement agreement in Consumers Energy Company’s (Consumers’) 2021 integrated resource plan case. In the settlement agreement, Consumers committed to meet with interested persons and develop “a simplified agreement, tariff-based program, or other mechanism” to allow a qualifying facility (QF) under the Public Utility Regulatory Policies Act of 1978, PL 95-617; 92 Stat 3117 (PURPA) of 150 kilowatts alternating current or below to receive the full avoided cost rate. June 23 order, Exhibit A, p. 10, ¶ 11.c. Consumers was then required to file a proposal for a simplified PURPA standard offer process. *Id.*

Consistent with the June 23 order approving the settlement agreement, Consumers held two sessions with interested persons and after considering feedback, filed an application on

October 25, 2023 in the instant case (October 25 application) requesting *ex parte* approval of a simplified PURPA Standard Offer Tariff Program, which it called the Simple Renewable Program. October 25 application, p. 1. On November 3, 2023, the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United (together, MEIU) filed a petition to intervene and petition to convert this *ex parte* matter to a contested case pursuant to Mich Admin Code, R 792.10410 and R 792.10415 (Rule 415), respectively, and the Michigan Administrative Procedures Act, MCL 24.201 *et seq.* (APA). The Environmental Law & Policy Center, the Ecology Center, and Vote Solar (together, the Clean Energy Organizations (CEOs)) filed a letter similarly requesting that the Commission convert this matter to a contested proceeding pursuant to Rule 415 and the APA. On November 7, 2023, Consumers filed a letter indicating that it did not oppose the requests to convert this matter to a contested case.

A prehearing conference was held in the instant proceeding on January 16, 2024, before Administrative Law Judge James M. Varchetti (ALJ) where the ALJ granted intervention to MEIU, the Great Lakes Renewable Energy Association, and the CEOs. *See*, 1 Tr 7. Consumers and the Commission Staff (Staff) also participated in the proceeding. The ALJ also granted the petition to convert this matter into a contested case. *See*, 1 Tr 6-7. Subsequently, the parties submitted a stipulation and settlement agreement resolving all issues in the case.

The Commission has reviewed the stipulation and 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 stipulation and settlement agreement, attached as Exhibit A, are approved.

B. Within 30 days of the date of this order, Consumers Energy Company shall file with the Commission Staff tariff sheets consistent with the tariffs proposed in Exhibit No. A-2 to the company's October 25, 2023 application, with the added eligibility limitations included in paragraph 6(a) of the stipulation and settlement agreement. After the tariff sheets have been reviewed and accepted by the Commission Staff for inclusion in the company's tariff book, Consumers Energy Company shall promptly file, and serve on all parties, the final tariff sheets in this docket, effective for service rendered on or after January 1, 2025.

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 LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at hugheys@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

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of July 23, 2024.

Lisa Felice, Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of CONSUMERS)	
ENERGY COMPANY for Approval of a)	
Simplified Public Utility Regulatory Policies Act)	Case No. U-21506
of 1978 Standard Offer Program for Certain)	
Qualifying Facilities and for other relief.)	
_____)	

Stipulation and Settlement Agreement

The undersigned parties have reached a Stipulation and Settlement Agreement (“Agreement”) resolving all issues raised in Case No. U-21506 and file this Agreement consistent with MCL 24.278 and Rule 431 of the Rules of Practice and Procedure before the Michigan Public Service Commission (“MPSC” or the “Commission”). Mich Admin Code, R 792.10431. The undersigned parties stipulate to the following facts and resolve the case as follows:

1. In the Consumers Energy Company’s (“Consumers Energy” or the “Company”) 2021 Integrated Resource Plan, Case No. U-21090, the Company entered into a settlement agreement, which the Commission approved, where the Company committed to meet with stakeholders and to develop “a simplified agreement, tariff-based program, or other mechanism” to allow a qualifying facility (“QF”) under the Public Utilities Regulatory Policy Act (“PURPA”) of 150 kWac or below to receive the full avoided cost rate. As early as practical following its stakeholder outreach, the Company was to file a proposal with the Commission for approval of a simplified PURPA standard offer process.

2. After the Commission approved the settlement agreement in Case No. U-21090, Consumers Energy held two stakeholder sessions discussing the Company’s goals for a simplified PURPA standard offer process and options to achieve these goals. The Company initially proposed a buy-all, sell-all method with an outflow rate based on the Company’s PURPA avoided

cost rates for energy and capacity that would be available to certain QFs without the need for a contract. But some stakeholders objected to this proposal.

3. On October 25, 2023, after considering stakeholder feedback, Consumers Energy filed an application in the present case, with supporting testimony and exhibits, asking the Commission to approve a simplified PURPA Standard Offer Tariff Program, called the “Simple Renewable Program.” The Company proposed an inflow–outflow method that would bill a QF its authorized tariff rate for all power taken from the grid (inflow) and provided a production credit based on the Company’s PURPA avoided cost rates for energy and capacity for excess power put back on the grid (outflow).

4. On November 28, 2023, Governor Gretchen Whitmer signed Public Act 235 of 2023 into law, which expanded each electric utility’s distributed generation cap to 10% of its average in-state peak load for the preceding five calendar years and revised the program capacity allocations under Section 173(3) of Public Act 295 of 2008. Once the cap is reached, utilities are not required to allow additional customers to participate in a distributed generation program but retain discretion to allow additional customers to participate. MCL 460.1173(3).

5. The initial prehearing conference was held on January 16, 2024, before Administrative Law Judge James M. Varchetti. The parties to the case are Consumers Energy; the Commission Staff; the Environmental Law and Policy Center, the Ecology Center & Vote Solar (collectively, the “Clean Energy Organizations” or “CEO”); the Great Lakes Renewable Energy Association; and the Michigan Energy Innovation Business Council, Institute for Energy Innovation and Advanced Energy United (collectively “MEIU”) (all of the above collectively, the “Parties”).

6. For purposes of settling Case No. U-21506, the Parties ask the Commission to enter an order that does all of the following:

a. Approves the Simple Renewable Program for the limited purposes of providing an option (1) for Experimental Advanced Renewable Program (“EARP”) participants whose contracts are ending and whose EARP-eligible facilities do not qualify for the Company’s Distributed Generation Program (e.g., customers whose systems exceed the size limits applicable to the Distributed Generation Program); (2) for EARP participants whose contracts are ending and who do not wish to participate in the Company’s Distributed Generation Program; and (3) for non-EARP customers whose systems permanently or temporarily exceed the consumption-based size limits applicable to the Distributed Generation Program. The Company shall allow customers participating in the Simple Renewable Program under alternatives (2) and (3) to enroll in the Distributed Generation Program at their request at such time as their systems become eligible, without requiring a waiting period or additional fee(s). Approving the Simple Renewable Program for these limited purposes would not impact the ability of EARP customers eligible for the Distributed Generation Program to apply for service under the Distributed Generation Program or other Company programs if otherwise permitted by the Company’s tariffs. The Parties shall, furthermore, remain free to object to the Simple Renewable Program to the extent that it is offered as a successor to or replacement of the Distributed Generation Program in the future and do not by virtue of this agreement necessarily agree that the Simple Renewable Program fulfills the requirements of the settlement agreement in Case No. U-21090 nor that the outflow credit in the Simple Renewable Program represents the Company’s full avoided costs.

b. Directs the Company to file an application presenting the options available to customers with Distributed Generation systems should the Company decide to cap participation in its current DG program consistent with MCL 460.1173(3) as soon as either:

i. The total enrolled distributed generation capacity is equal to 90% of the Company’s overall distributed generation cap, or

ii. The total enrolled distributed generation capacity attributable to any individual statutory category is equal to 90% of the same statutory category. For the purposes of this agreement, “enrolled distributed generation capacity” is capacity stated in Rule C11.2 (Net Metering Program), and Rule C11.3 (Distributed Generation Program) in the Company’s Rate Book for Electric Service, or their successor tariffs approved under MCL 460.6a(14) and MCL 460.1173.

c. Directs the Company to file a report in this docket, including the information identified in Attachment A to this Settlement Agreement, in a form and format substantially similar to Attachment A, reflecting data through December 31

of the prior year, on an annual basis, on or about March 31. When 70% of the Company's prevailing distributed generation cap (either in total or on an allocation-category basis) is reached, the aforementioned reporting frequency will increase to quarterly, with filings due March 31, June 30, September 30, and December 31, in each case reflecting data through the end of the previous quarter, and each report will be filed in a form and format substantially similar to Attachment A.

If the Michigan Legislature eliminates the cap altogether, then subparts (b) and (c) of this provision will no longer be operative.

7. The Parties further agree that if, while any case filed under Paragraph 6(b) is pending, the distributed generation cap for the overall or individual statutory categories discussed in Paragraph 6(b) is reached, the Company will continue to connect eligible electric generators within the capped statutory category under Tariff C11.3 or its successor tariff approved under MCL 460.6a(14) and MCL 460.1173 until the case is resolved and a final Commission order is entered. This obligation ends twelve months after the date of filing of the case under Paragraph 6(b). The Company shall not in any event discriminate against nor make any distinctions between customers admitted to the Distributed Generation Program before the cap was reached and those admitted under this Paragraph 7.

8. Notwithstanding any other provision in this Settlement Agreement, Paragraph 6(b) does not preclude the Company from proposing other programs, alternatives, or changes to its Distributed Generation Program should its enrolled distributed generation capacity approach or exceed the distributed generation cap for the overall or individual statutory categories discussed in Paragraph 6(b). This Settlement Agreement also does not preclude the Company from proposing other programs, alternatives, or changes to its Distributed Generation Program at any other time.

9. The parties agree that by entering into this Settlement Agreement and for so long as it remains in compliance with this Settlement Agreement, the Company will also be deemed to

be in compliance with its obligations under Paragraph 11c of the settlement agreement in Case No. U-21090.

10. 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 considered privileged under Michigan Rule of Evidence 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. References to this Settlement Agreement may be made, however, to enforce or implement the provisions of this Settlement Agreement and the order approving it.

11. This Settlement Agreement is based on the facts and circumstances of this case and is intended for the final disposition of Case No. U-21506. 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 in this Settlement Agreement, the parties agree that this Settlement Agreement does not limit any party's right to take new or different positions on similar issues in other administrative proceedings.

12. This Settlement Agreement is the entire agreement of the parties and 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.


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.

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


15. This Settlement Agreement may be executed in multiple counterparts.

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


CONSUMERS ENERGY COMPANY

By:  _____ Date: June 12, 2024
Digitally signed by
Spencer A. Sattler
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Date: June 17, 2024

**COUNSEL FOR
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Date: _____

**COUNSEL FOR
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INSTITUTE FOR ENERGY INNOVATION
ADVANCED ENERGY UNITED**

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U-21506 Settlement Agreement - Attachment A

	Category A	Category B	Category N
Total kW available under the program by statutory allocation category (given statutory cap)			
Current installed/operational kW by statutory allocation category			
Remaining kW available for installation under each statutory allocation category given total kW available and current kW installed/operational as reported above			
Remaining percentage currently available in each statutory allocation category			
Current kW of pending applications by statutory allocation category			
Total installed/operational kW currently for each statutory allocation category plus total kW subject to pending applications			
Remaining kW that would be available for installation under each statutory allocation category given all installed/operational systems and assuming all pending applications were completed and operational			
Remaining percentage available in each statutory allocation category given all installed/operational systems and assuming all pending applications were completed and operational			
For the reporting period, the number of applications received for each statutory allocation category and the number of kW requested in such applications			
Number of projects with associated storage systems installed in each statutory allocation category during the reporting period			
Total kW of storage systems associated with systems installed in each statutory allocation category during reporting period			

PROOF OF SERVICE

STATE OF MICHIGAN)

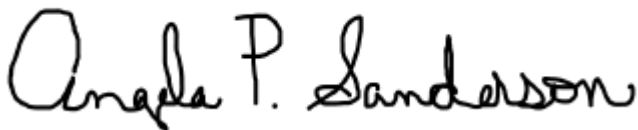
Case No. U-21506

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 23, 2024 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 July 2024.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

Service List for Case: U-21506

Name	On Behalf Of	Email Address
Brian W. Coyer	Great Lakes Renewable Energy Association (GLREA)	bwcoyer@publiclawresourcecenter.com
Consumers Energy Company (1 of 2)	Consumers Energy Company	mpsc.filings@cmsenergy.com
Consumers Energy Company (2 of 2)	Consumers Energy Company	kelly.hall@cmsenergy.com
Don L. Keskey	Great Lakes Renewable Energy Association (GLREA)	donkeskey@publiclawresourcecenter.com
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Nicholas N. Wallace	The Ecology Center	nwallace@elpc.org
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