

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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| In the matter of the application of                | ) |                  |
| <b>CONSUMERS ENERGY COMPANY</b>                    | ) |                  |
| for <i>ex parte</i> approval of certain amendments | ) | Case No. U-21859 |
| to Rate GPD.                                       | ) |                  |
| _____                                              | ) |                  |

At the February 19, 2026 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair  
Hon. Katherine L. Peretick, Commissioner  
Hon. Shaquila Myers, Commissioner

**ORDER**

History of Proceedings

On February 7, 2025, Consumers Energy Company (Consumers) filed an application in this case (February 7 application), with a supporting affidavit and exhibit, requesting *ex parte* approval of certain amendments to the company’s General Primary Demand Rate (Rate GPD) to add a Data Center Provision.

On February 20, 2025, the Data Center Coalition (DCC) and the Association of Businesses Advocating Tariff Equity (ABATE) each filed a petition for leave to intervene and a request for a contested case proceeding. On February 24, 2025, the Michigan Department of Attorney General (Attorney General) filed a petition to intervene and a request for a contested case proceeding.

On February 28, 2025, Consumers filed an answer opposing the motions for a contested case

proceeding and requesting that in-person hearings be held. On March 6, 2025, DCC filed a response to Consumers' answer.

On March 7, 2025, Michigan Environmental Council, Natural Resources Defense Council, Inc., Sierra Club, and Citizens Utility Board of Michigan (collectively, MNSC) filed a petition to intervene and a motion for a contested case. On March 10, 2025, the Ecology Center, Inc., Environmental Law & Policy Center, Union of Concerned Scientists, Inc., and Vote Solar (collectively, the Clean Energy Organizations or CEOs) filed a petition to intervene and a motion for a contested case.

On March 13, 2025, the Commission issued an order in this case (March 13 order) granting the motions for a contested case. The Commission found that:

[t]he electric load of new data centers presents unique and significant cost implications, and the development of an evidentiary record to consider the February 7 application is prudent and reasonable. MCL 460.6a(3); *see also*, June 30, 2020 order in Case No. U-20763, pp. 69-70. Thus, the Commission grants the requests for a contested case proceeding in this matter. Mich Admin Code, R 792.10415(1).

March 13 order, p. 3. The Commission scheduled a prehearing conference and directed that notice be given. The Commission indicated that it would read the record in this matter in order to provide an expeditious decision and directed that the record be closed by September 16, 2025. *Id.*, pp. 3-4. The Commission also stated that additional petitions to intervene could be filed by April 9, 2025.

On March 18, 2025, Switch, Ltd. (Switch) filed a petition to intervene. On April 9, 2025, the Michigan Energy Innovation Business Council, the Institute for Energy Innovation, and Advanced Energy United, Inc. (collectively, MEIU) filed a petition to intervene.

On April 8, 2025, Consumers filed a motion in limine. On April 14, 2025, ABATE, DCC, MNSC, the Attorney General, and the CEOs each filed a response in opposition to the motion in limine.

On April 16, 2025, Administrative Law Judge Katherine E. Talbot (ALJ) held a prehearing conference and a hearing on the motion in limine. The ALJ acknowledged the intervention of the Attorney General and granted the petitions to intervene filed by ABATE, DCC, the CEOs, MNSC, MEIU, and Switch. Consumers and the Commission Staff (Staff) also participated in the proceeding. The ALJ approved a schedule ensuring that the record in this matter would close no later than September 16, 2025. 1 Tr 14-20. After hearing argument, the ALJ denied Consumers' request to hold in-person hearings in this matter and denied Consumers' motion in limine. 1 Tr 14-20, 46-51.

On April 30, 2025, Consumers filed an application for leave to appeal the ALJ's ruling on the motion in limine pursuant to Mich Admin Code, R 792.10433. On May 14, 2025, ABATE, MNSC, the CEOs, and the Attorney General filed responses in opposition to the application for leave to appeal.

On May 23, 2025, the Attorney General filed a motion to compel discovery responses from Consumers and a request for the entry of a protective order. On May 28, 2025, MNSC filed a concurrence with the motion to compel, and on May 29, 2025, Switch filed a response to the motion to compel. On May 30, 2025, the ALJ held a hearing on the motion to compel at which the Attorney General and MNSC stated that they withdrew the motion. 2 Tr 58. The ALJ thereafter approved a protective order for use in this matter. 2 Tr 60.

On June 12, 2025, the Staff, ABATE, DCC, the CEOs, MEIU, MNSC, and the Attorney General filed direct testimony and exhibits. On July 9, 2025, MEIU, ABATE, MNSC,

Consumers, the Staff, the Attorney General, DCC, and the CEOs filed rebuttal testimony and exhibits.

On August 4, 2025, the Attorney General filed a motion to exclude evidence filed by DCC, and DCC filed a motion for leave to file corrected rebuttal testimony and a copy of the corrected rebuttal testimony. On August 5, 2025, DCC filed a response to the Attorney General's motion to exclude evidence. On August 6, 2025, MNSC filed a concurrence with the Attorney General's motion, and the Attorney General filed a response to DCC's motion for leave to file corrected rebuttal testimony. On August 8, 2025, DCC filed its corrected rebuttal testimony. *See*, 6 Tr 1038-1077.

On August 21, 2025, initial briefs were filed by the Staff, Consumers, DCC, MNSC, the CEOs, the Attorney General, MEIU, and ABATE. On August 22, 2025, Consumers filed a corrected initial brief (with pagination).

Also on August 21, 2025, DCC filed a motion seeking administrative notice of a proposed settlement agreement being considered by the Kansas State Corporation Commission (KSCC), hereafter referred to as the pending KSCC settlement agreement. On August 28, 2025, the ALJ held a hearing on the motion. There was no opposition to the motion and the ALJ granted it. 7 Tr 1087. On September 4, 2025, the Attorney General filed a motion for administrative notice of certain documents and websites. On September 11, 2025, the ALJ held a hearing on the motion and granted it, noting that there was no opposition. *See*, Ruling Granting Relief Requested in the Attorney General's Motion for Administrative Notice, filing #U-21859-0208.

On September 16, 2025, reply briefs were filed by the Staff, Consumers, DCC, MNSC, the CEOs, the Attorney General, MEIU, and ABATE, and the ALJ transmitted this matter to the

Commission.<sup>1</sup> The record consists of testimony from 12 witnesses in 1,089 pages of public and confidential transcript, along with 114 exhibits and 10 items that were granted administrative notice.

On November 6, 2025, the Commission issued an order approving certain amendments to Rate GPD for large load customers and addressing all other issues in this matter (November 6 order).<sup>2</sup>

On December 8, 2025, the Attorney General filed a petition for rehearing pursuant to Mich Admin Code, R 792.10437 (Rule 437). On December 29, 2025, Consumers and DCC each filed a response to the Attorney General's petition.

#### The Petition for Rehearing and the Responses

The Attorney General begins by describing her briefing in the instant proceeding and the purported inadequacies of Consumers' proposals that she identified in the underlying case.

Attorney General's petition, pp. 1-5. The Attorney General states that the Commission mischaracterized her recommendations with respect to the minimum contract term and the

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<sup>1</sup> On September 29, 2025, the Attorney General filed a notice stating that she had adopted two of the positions of other parties. On September 30, 2025, DCC filed a motion for administrative notice of a contested settlement agreement recently filed with the Missouri Public Service Commission for potential approval. On November 3, 2025, the Attorney General filed another notice stating that she had adopted two of the positions of other parties. In the November 6, 2025 order in the instant case, p. 5, n. 4, the Commission found that the record in the instant case closed on September 16, 2025. *See*, March 13 order, pp. 3-4; and filing #U-21859-0217.

<sup>2</sup> The Commission noted that:

[t]he various parties' summaries of the evidence and arguments in support of their respective positions are fully set forth in the evidentiary record. While the Commission has considered the entire record in arriving at its findings and conclusions expressed in this order, only the arguments and evidence necessary for a reasoned analysis of the disputed issues will be directly addressed in this order.

November 6 order, p. 10.

minimum billing demand (MBD) in the November 6 order. *Id.*, pp. 5-11. The Attorney General contends that the order incorrectly indicates that the Attorney General agreed with the company's proposal for a 15-year minimum contract term and an 80% MBD, but, in fact, she did not agree with Consumers regarding these provisions (though she notes that the Commission acknowledged in the order that some aspects of her later arguments differed from the company's). *Id.*, p. 5, n. 4. The Attorney General contends that, in fact, she challenged these proposals at pages 14-19 of her initial brief. She avers that she (and MNSC) recommended a 20-year/90% MBD term, while only Consumers and the Staff recommended a 15-year/80% MBD term. Attorney General's petition, p. 6.

The Attorney General asserts that the November 6 order also ignored the comprehensive cost analysis provided at pages 14-19 of her initial brief. She argues that she demonstrated that Consumers' proposal would not "cover even the low end of a non-comprehensive cost estimate." *Id.* (citing Attorney General's initial brief, pp. 14-19). The Attorney General contends that the Commission erred in failing to adopt her analysis and instead adopting an arbitrary analysis which concluded that 15 years is preferable for balancing competing risks. *See*, November 6 order, pp. 107-108. She argues that the Commission's analysis lacks explanation and fails to engage with the arguments of the parties and ignores the undisputed evidence that a 20-year term would more closely align with the average power purchase agreement (PPA) term. Attorney General's petition, p. 8.

The Attorney General maintains that the Commission's decision on the MBD improperly relies on benchmarking and ignores the fact that Indiana Michigan Power Company (I&M) initially requested a 20-year/90% MBD term before its recent data center case was settled in Indiana. The Attorney General states that I&M has also recently applied for approval of a large

load tariff in Michigan wherein I&M requests a 90% MBD, and she argues that this constitutes newly discovered evidence which results in the need for a rehearing under Rule 437. *Id.*, p. 9 (citing Case No. U-21986). As another example of newly discovered evidence on this issue, the Attorney General states that Consumers' contribution in aid of construction (CIAC) tariff provisions may allow large load customers to avoid the CIAC obligation. The Attorney General argues that:

[b]ased on Consumers' tariff sheets, a 100MW [megawatt] customer on a 5-year contract at GPD voltage 3 would appear to receive \$33.5M [million] in CIAC allowance, though it remains unclear how this schedule might differ for a 15-year contract. For comparison, Consumers had provided a range of \$28-\$35M in substation costs for a 100MW customer. Reiterating this concern, DTE's [DTE Electric Company's] recent application for a contract approval concerning a 1.4GW [gigawatt] customer indicated that [] DTE would see no CIAC obligation for substation investment under its standard allowance schedule. Given the apparently diminished value of a CIAC provision in this context, the Commission should be even more cautious in assessing minimum revenue guarantee provisions to cover incremental costs.

*Id.*, pp. 9-10 (citations omitted). The Attorney General contends that the November 6 order is arbitrary and capricious and results in the unintended consequence of "setting unnecessarily less-protective terms for ratepayers as minimum provisions within the tariff and large load special contracts." *Id.*, p. 10. Thus, the Attorney General "recommends, as she did in briefing," that the Commission rehear the November 6 order and issue an order adopting a 20-year/90% MBD term. *Id.*

Next, the Attorney General "reiterates her recommendation that any case-by-case approval-process for new large customers occur as a contested case." *Id.*, p. 11 (citing Attorney General's initial brief, p. 26). She contends that the November 6 order finds that the assessment of costs may be performed *ex parte* but fails to explain why that is acceptable. Attorney General's petition, p. 11. The Attorney General adds that:

[t]he Commission’s allowance for *ex parte* applications also has the unintended consequence of adding a layer of unnecessary litigation and delay to the review process for these large customers. This phenomenon is currently playing out in DTE’s application for *ex parte* approval of large load contracts in Case U-21990. While the Attorney General provided an early Notice of Intervention in that matter identifying that *ex parte* relief was inappropriate, the case has now turned into five weeks of litigation between DTE and several intervenors—garnering over five thousand case comments and requiring a town hall to address mounting public frustration—while the many problems identified with DTE’s application go unresolved.

*Id.*, pp. 11-12. The Attorney General argues that similar errors and unintended consequences result from the decision to forego a contested case proceeding regarding the issues of exit fee mitigation and capacity reduction. *Id.*, p. 12. She states that in briefing in this case she argued that Consumers should not be allowed to unilaterally decide on an exit fee reduction. *Id.* (citing Attorney General’s initial brief, p. 28). The Attorney General argues that the Commission is arbitrary and capricious in its determinations regarding capacity reductions as well. “The Attorney General thus requests, as she sought in briefing, that the Commission issue an Order requiring a contested case process for exit fee mitigation requests and capacity reduction requests.” Attorney General’s petition, p. 13.

Moving on, the Attorney General asserts that the November 6 order is vague on the issue of the costs of compliance with Public Act 235 of 2023 (Act 235). Attorney General’s petition, p. 13. She argues that, in order to provide clarity, the Commission should specify that costs associated with Act 235 compliance are among the costs captured by the Commission’s discussion on page 117 of the November 6 order. Referring to her exhibits and briefing, the Attorney General argues that the evidence showed that some degree of subsidization from other customers with respect to transmission costs will occur with respect to compliance costs. The Attorney General notes that, in the instant case, she argued that data center customers should contract for 60% of incremental

energy requirements to come from renewable energy resources. Attorney General’s petition, pp. 14-15 (citing Exhibit AG-1.13 and Attorney General’s initial brief, p. 34).

Finally, the Attorney General “reiterates her recommendation from briefing for a 50 MW single-site eligibility threshold, combined with a NAICS [North American Industry Classification System] code 518210 customer-class definition.” Attorney General’s petition, p. 15 (citing Attorney General’s initial brief, pp. 30-32). She argues that the November 6 order has the “unintended consequence that customers substantially near but not reaching 100 MW contract capacity could avoid the ratepayer protections required under the amended tariff provisions.” Attorney General’s petition, p. 15. The Attorney General notes that she advocated for a 50 MW eligibility threshold (which the Commission rejected), and she argues that the Commission did not meaningfully engage with this recommendation or with the recommendation to apply the NAICS code provision, and “arbitrarily and capriciously ignored the potential for use of the NAICS code here.” *Id.*, p. 16.

In response, DCC states that the Attorney General’s petition recycles arguments that were considered and rejected by the Commission in the November 6 order and thus does not meet the standard for rehearing under Rule 437. DCC notes that the Commission has repeatedly found that Rule 437 does not simply present an opportunity to disagree with the Commission’s decisions. DCC’s response, pp. 1-2. DCC describes the Attorney General’s positions on the contract term and the MBD as a “moving target in this proceeding[.]” *Id.*, p. 2. DCC points to the testimony of the Attorney General’s witness describing the 15-year contract term as “sufficient” and later describing a 15-year contract term and 80% MBD as the “more reasonable and prudent approach.” *Id.*, pp. 2-3 (citing 5 Tr 982, 1012). DCC notes that the Attorney General’s initial brief offered (for the first time) a menu of alternative recommendations, one of which included a 15-year

contract term and an 80% MBD provided that direct cost assignment was approved. DCC's response, p. 3 (citing Attorney General's initial brief, p. 5). DCC contends that the Commission carefully and accurately described the Attorney General's arguments and considered those arguments.

DCC asserts that the Commission addresses the Attorney General's *ex parte* process arguments in the November 6 order and adds that, in any case, the Attorney General does not explain why the Commission should "tie its hands" by insisting that all such cases be heard on a contested basis. DCC's response, p. 3. With respect to Act 235 compliance, DCC maintains that the Attorney General ignores the Commission's reasoning provided in the November 6 order and fails to address the fact that several other proceedings exist wherein these issues will be disputed. DCC notes that nothing in the November 6 order precludes the Attorney General or any other interested person from raising their concerns in these future related proceedings. DCC contends that the Attorney General makes no attempt at a new argument regarding the threshold requirement. *Id.*, p. 4.

In its response, Consumers also contends that the Attorney General is using the rehearing process to reargue her positions and that she presents no errors, newly discovered evidence, or unintended consequences that will occur as a result of the November 6 order (as required by Rule 437). Consumers' response, pp. 1-2. Consumers asserts that the Attorney General simply expresses her disagreement with the outcome of the proceeding. Regarding the allegation that the November 6 order (as a whole) is flawed, Consumers posits that this is not a proper basis for rehearing.

With respect to the contract term and the MBD, Consumers notes that the Attorney General presented evidence in support of a 15-year contract term at 5 Tr 982 and 1012, though in briefing

she presented three alternative recommendations on this issue. Consumers notes that the Commission summarized all of these positions in the November 6 order. *See*, November 6 order, pp. 70-71; *see also, id.*, pp. 11-101. Consumers contends that the order presented the range of the parties' positions on the issues and discussed all of the positions. Consumers' response, p. 4. Consumers avers that the testimony of a qualified expert constitutes competent evidence upon which the Commission may properly rely, and the Commission may also weigh conflicting testimony. *Id.*, pp. 4-5. Consumers notes that the Commission described the applicable legal standards and the framework for its decisions in the November 6 order on pages 101-102, and provided an analysis of its reasons for adopting the position of the Staff, the company, and the Attorney General's witness on pages 107-109. *Id.*, p. 6. Regarding the Attorney General's argument that Consumers' CIAC tariff language constitutes newly discovered evidence, Consumers contends that "this information [has] been available all along [and] was cited by the Attorney General's witness and incorporated into her Initial Brief." *Id.* Consumers also notes that the Attorney General's cost analysis was actually disputed by the Staff and DCC as noted in the November 6 order at pages 69-70, 86, and 99-100. *Id.*

Turning to the Attorney General's process arguments, Consumers notes that the November 6 order approves serving large load customers on a tariffed rate (Rate GPD) that is subject to the approved cost allocation principles requiring that electric rates be based on the cost of providing service to each customer class per MCL 460.11. Consumers' response, p. 7. Consumers notes that the November 6 order requires the company to file an *ex parte* proceeding prior to each large load customer taking service under Rate GPD. The company argues that:

the costs of the new resources will not impact any customers until they are incorporated into a future rate case. When those costs finally appear in a subsequent rate case, the Commission performs its ratemaking duties and determines whether the costs are assigned exclusively to the new large load

customer or shared by other customers within the customer class. Thus, there are no rate implications that would make a contested case proceeding necessary for approval of these customers' contracts.

*Id.*, p. 8. The company further points to the legal obligation to provide service to the public, including large load customers. *Id.* (citing *City of Saginaw v Consumers Power Co*, 213 Mich 460, 481; 182 NW 146 (1921); *City of Lansing v Michigan Power Co*, 183 Mich 400, 410; 150 NW 250 (1914); and Mich Admin Code, R 460.106). Consumers notes that the instant proceeding was fully litigated and resulted in the establishment of customer protections. Consumers' response, p. 9. Regarding the Attorney General's arguments about the need for contested proceedings to address exit fee mitigation and capacity reductions, Consumers notes that the Attorney General quotes from the initial briefs. Consumers contends that the Commission reviewed and addressed these arguments in the November 6 order at pages 60-74.

Regarding Act 235 compliance issues, again, Consumers points out that the Attorney General repeats her briefing position, and that the Commission addressed these issues in the November 6 order, pages 118-119. Regarding the Attorney General's proposed eligibility requirement of 50 MW, Consumers contends that the Attorney General repeats her arguments from the proceeding and offers no support for rehearing. Consumers asserts that these issues were considered by the Commission in the November 6 order, pages 72, 86, and 105-107, wherein the Commission explained the reasoning behind its eligibility findings. Consumers adds that regardless of the chosen eligibility level, "there is always a possibility that a customer would narrowly miss the requirements." Consumers' response, p. 13.

### Discussion

Rule 437 provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences

resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

In her petition, the Attorney General is careful to document the fact that she made the same arguments in her initial brief. The Attorney General's petition does not meet the standard for rehearing set in Rule 437, as the entire petition consists of a re-argument of positions that were fully considered by the Commission in the November 6 order and duly rejected.

Beginning with the issues of the 15-year contract term and 80% MBD, the Commission rejects the Attorney General's description of the November 6 order as mischaracterizing her positions. The November 6 order describes the Attorney General's direct testimony from Mr. Michael W. Deupree (5 Tr 968-995, Exhibits AG-1.1 through AG-1.11) on pages 25-27, and describes his rebuttal testimony (5 Tr 1001-1017) on pages 42-43; and the order describes the Attorney General's initial brief on pages 68-74 (wherein the Commission provides the Attorney General's new menu of three alternative approaches to cost recovery on page 70 (quoting the Attorney General's initial brief, pp. 19-20)), and describes her reply brief on pages 93-96. The Attorney General does not allege that any of this information is inaccurate. The Attorney General refers repeatedly to her initial brief, pages 14-19. Attorney General's petition, pp. 5, 6, 8, 9.

With respect to the contract term, the Commission found as follows:

Turning to the contract term, the Commission agrees with Consumers, the Staff, and the Attorney General that the appropriate term is 15 years. The contract term will begin after the conclusion of the ramp-up period. The ramp-up period shall not exceed five years but is otherwise subject to negotiation with Consumers. The positions on the issue of contract term ranged from 10 years (DCC) to 20 years (MNSC). The Commission agrees with the company, the Staff, and the Attorney

General that, while not a perfect match, 15 years approximates the life of the investments that will need to be made in the form of PPAs and self-built generation. In this case, as in so many proceedings, the Commission is called upon to balance competing risks—the significant risk of stranded costs versus the risk of disincentivizing economic development of the kind represented by data centers and other large load customers. The Commission finds that the longer proposed contract term of 20 years is longer than needed to provide the revenue certainty required and the shorter term of 10 years presents too much risk for the creation of stranded assets.

November 6 order, pp. 107-108. With respect to the MBD, the Commission found as follows:

Turning to the MBD, the Commission agrees with Consumers, the Staff, and the Attorney General that an 80% MBD is reasonable.<sup>10</sup> Positions on the MBD issue ranged from 70% (DCC) to 90% (MNSC). The Commission approves an MBD to begin at the end of the ramp-up period of on-peak demand, transmission, and max demand charges based on no less than 80% of the contracted capacity, regardless of the customer's actual usage. DCC's 70% MBD proposal is based on DCC's analysis of the NPV [net present value] of the minimum transmission revenues for 2.65 GW [gigawatts] of load. As many parties noted, the usefulness (and resulting relevance) of DCC's analysis is limited by the fact that it includes only transmission interconnection costs and revenues and ignores generation, distribution, and all other transmission costs, along with potential costs associated with building the generation and all embedded fixed costs. *See*, 4 Tr 644-648, Table JB-4. The Commission recognizes that Consumers provided little else for DCC to work with in the form of evidence on these future costs. However, the Commission is not convinced that DCC has demonstrated that 70% is the appropriate MBD based on this analysis. For its 90% proposal, MNSC relies on its characterization of best practices in other states; however, the Commission notes that the Indiana Settlement and the pending KSCC settlement agreement adopt an 80% MBD. The Commission also observes that the 80% MBD received the most support among the parties and aligns with what was approved in Indiana—the closest state, geographically, to Michigan, and a fellow midwestern and MISO [Midcontinent Independent System Operator, Inc.] state which also shares regulation of I&M. Combined with the minimum contract term, the Commission finds that an 80% MBD reasonably balances Consumers' and ratepayers' interests in ensuring sufficient financial support for the necessary investments and large load customers' interests in flexibility and a fair assessment of the risk.

10 The Commission recognizes that the Attorney General's position is contingent upon adoption of the 15-year contract term and direct assignment of certain costs to the large load customer. Cost allocation proposals are addressed below.

November 6 order, pp. 108-109.

As the quotes demonstrate (and contrary to the Attorney General's assertions), the Commission acknowledges that the 15-year contract term does not perfectly match up with the lifecycles of PPAs and self-built generation, and that the Attorney General's support for an 80% MBD is contingent upon the adoption of the 15-year contract term and direct assignment of costs. As the Attorney General knows, Mr. Deupree testified that "[w]hile the Company's proposed 15 year initial contract term is sufficient, the Company's proposal makes no mention of how data center customers taking service under Rate GPD will be handled upon the conclusion of this initial 15 year term." 5 Tr 982. He indicated that "I further recommend the Company explicitly limit eligibility to only customers who are anticipated to maintain at least an 80 percent load factor after initial operations, consistent with my recommendation regarding minimum billing demand discussed later." 5 Tr 981-982; *see also*, 5 Tr 994. In evaluating DCC's proposed 10-year/70% MBD terms, Mr. Deupree testifies that "a more cautious approach of requiring a minimum 80 percent billing demand over a minimum 15 year contract term represents a more reasonable and prudent approach to protect against the risks of cost-shifting here." 5 Tr 1012.

The Attorney General did not disavow any of Mr. Deupree's testimony on her behalf and continued to support the 15-year/80% MBD terms under certain circumstances. In her initial brief, the Attorney General offered new thoughts on cost recovery (fully quoted in the November 6 order). Despite the fact that these arguments were not presented until initial briefing and thus were not subject to a full examination by the other parties, they were considered by the Commission in its deliberations. The Commission finds that it did not mischaracterize the Attorney General's positions, and that the Attorney General's repeated references to pages 14-19 of her initial brief do not constitute a showing of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the November 6 order.

The Attorney General is attempting to use the rehearing process to reargue the positions that she presented in the underlying case—positions that have already been fully considered by the Commission in the initial order.

The Commission also finds that the Attorney General's assertions about the identification of new evidence fall short of the Rule 437 standard. The Commission is not persuaded that I&M's request for a 90% MBD in a recently-filed case seeking approval of modifications to I&M's Large Power Tariff constitutes new evidence that is pertinent to the instant case. *See*, Case No. U-21986. The Commission is likewise unconvinced by the Attorney General's CIAC arguments since, as Consumers correctly points out, the Attorney General made these CIAC-related arguments in her initial brief at pages 18-19, and 42; and the Attorney General's cost analysis was not undisputed. The Commission rejects the Attorney General's claim that these arguments illustrate newly discovered evidence.

Regarding the Attorney General's process arguments, the November 6 order requires Consumers to file an *ex parte* proceeding for approval of any large load customer taking service under Rate GPD and notes that such proceedings may be converted to contested cases at the Commission's discretion. November 6 order, pp. 117, 123-124; *see also*, p. 111, n. 11. The Commission found that:

[w]ithout better understanding how these large new loads will be served and the costs involved in doing so, it is impossible for the Commission to understand whether existing customers will end up bearing a portion of such costs. As such, prior to each large load customer taking service under this tariff, Consumers must make an *ex parte* filing with the Commission that clearly demonstrates compliance with the tariff requirements and that costs caused by the interconnecting large load customer to be served under this tariff are not being paid for by other customers. In support of this filing, Consumers should include any modeling or COSSs [cost of service studies] that support this demonstration. In addition, the Commission recognizes that, in many cases, Consumers may enter into special contracts with these customers to address the generation and other resources needed to serve these customers, deviations from the default collateral requirements detailed above, and

other provisions. An application for approval of any special contract shall also include a showing that the full costs of serving the large load customer are paid for by that customer under the provisions of the special contract. While the Commission is not requiring the dedication of specific bespoke generation or other resources to serve the large load customer or requiring such customers to provide their own generation or other resources (or to contract with Consumers for any additional resources), the filing should detail the generation, storage, and other resources (including, potentially, VPPs [virtual power plants] and demand-side resources) that will be required to serve that large load customer and how that interconnecting customer will cover the costs of such resources.

November 6 order, p. 117. The Commission found that exit fee mitigation, capacity reductions, and alternative collateral requirements shall also be subject to *ex parte* proceedings (which may also be converted to contested cases). November 6 order, pp. 111, 114.

Discussing the Commission's case-by-case approach, the Attorney General states that "[w]hile reviewing each customer individually may allow for a more granular cost-causation assessment as the Commission appears to envision, its Order that such applications may occur *ex parte* undermines the ability for a full and robust vetting of such an assessment (presenting an unintended consequence)." Attorney General's petition, p. 11 (footnote omitted). In its decision, the Commission made no finding that cost recovery or cost allocation may be performed outside of a rate case, and the Commission is not persuaded that the process followed in Case No. U-21990 somehow undermines the findings in the November 6 order. The Commission found that "issues involving cost allocation must be undertaken in a rate case[.]" November 6 order, p. 114. Additionally, once again, the Attorney General relies on her initial brief. The Commission finds that the Attorney General has failed to demonstrate her claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the November 6 order with respect to the Commission's findings on future required *ex parte* filings from Consumers.

The Attorney General also relies on her initial brief for her arguments regarding Act 235 compliance costs. On this issue, the Commission found as follows:

Likewise, the Commission agrees with Consumers and the Staff that issues related to renewable and clean energy standards should be addressed in the proceedings that are already structured to address these issues, including REP [renewable energy plan], CEP [clean energy plan], IRP [integrated resource plan], and VGP [voluntary green pricing] program cases, as well as rate cases. As the Staff notes, capacity demonstration cases and EWR [energy waste reduction] cases will be involved as well. The Commission recognizes that MCL 460.1051 and MCL 460.1028 require a ramping-up of clean and renewable energy supplies and they are volumetrically-based. These are requirements that will be addressed in the proceedings where such requirements are reviewed under the statutorily authorized process. As the Staff correctly noted, the existing separate proceedings authorized by statute have a wider scope and allow for better consideration of alternatives. Thus, the Commission declines the suggestion to include mandated renewable and clean energy requirements in the large load provisions of Rate GPD. This does not foreclose the possibility of changes to the tariff at a later date based on the results of future CEP, REP, IRP, VGP, and rate cases, nor does it ignore that many of these issues are likely to be included in the required filings detailed above that show the generation and other resources required to serve these new large load customers and how the costs associated with these resources will be recovered from the large load customers in order to avoid cost shifting. But it means that the Commission is not persuaded to include such requirements based on the record in the instant case. Recognizing that this is likely to happen in any case, the Commission directs Consumers to discuss VGP options with prospective large load customers during contract negotiations.

November 6 order, pp. 118-119. The Attorney General relies on her initial brief, p. 34, to repeat her arguments on this issue. The Commission finds that the order is not vague, and that the Attorney General again fails to meet the standard required by Rule 437 on this issue.

Finally, on the issue of an eligibility threshold and the use of the NAICS code, the Commission found that:

[t]o start, the Commission finds that these large load issues should be dealt with through revisions to Rate GPD rather than through the creation of a separate rate class using the record in this matter. The Commission agrees with the company and the Staff that there is some urgency to the need for tariff provisions that will provide protection to the utility and its existing ratepayers against the unusual risks associated with loads larger than any that the utility has ever served, and the parties

have shown that the existing provisions of Rate GPD do not provide that protection.  
...

Turning to eligibility, the Commission finds that the new large load tariff provisions should apply to loads of 100 MW or greater. Additionally, these provisions should apply to customers with an aggregate load of 100 MW or more when those customers share a common owner and individually have a load of 20 MW or more. Consumers has discretion in determining when common ownership is present. The positions on this eligibility issue ranged from 25 MW (MEIU) to 300 MW (ABATE). MEIU's 25 MW proposal was centered on the concept of providing customers with greater input into how they are served and did not constitute a recommendation on eligibility for the additional ratepayer protections that are the focus of this effort. In the context of this record, ABATE's 300 MW proposal appears to be an outlier and would eliminate too many very large customers (19 out of 67, for example, in the instant case) from the tariff requirements that address the risk of stranded costs. Exhibits AG1.1, AG-1.2. Arguments for a lower threshold based on the size of Rate GPD's current customer base do not seem relevant, as the loads that are contemplated in the instant proceeding are on a different scale from the current customer base (Rate GPD's largest current customer has a load of 28 MW). The 100 MW threshold would capture at least 61 of the 67 inquiries that Consumers has received and possibly more if aggregation is involved (which cannot be known at this point). Exhibits AG-1.1, AG-1.2. The Commission further finds that a single owner with multiple sites of at least 20 MW per site should be subject to the large load provisions of Rate GPD if all sites together total 100 MW or more. Thus, the Commission agrees with Consumers, the Staff, and DCC that 100 MW (with a 20 MW aggregation provision) is the appropriate eligibility threshold.

The Commission also finds that eligibility should be end-use neutral, rather than applied only to data center customers. The Commission agrees with the Staff that the end-use at issue here does not involve a unique type of service such as that required for metal melting or electric vehicle charging, but that the size itself is the unique feature that must be addressed. 4 Tr 308-309. While ABATE is correct that MCL 460.557 does not preclude the creation of rates with different terms and conditions for one group of customers versus another, the Commission agrees with the Staff that, in this case, it is the size of the customer that results in the need for additional tariff-based protections. The Commission sees no reason to limit those protections to a particular end-use, despite the relative certainty that data centers are the only potential customers that are likely to be assigned to the large load provisions of Rate GPD in the near future.

November 6 order, pp. 104-107.

The Commission finds that the November 6 order adequately explains the Commission's rationale for selecting the 100 MW (with a 20 MW aggregation provision) eligibility threshold.

The Attorney General's NAICS code suggestion would apply a definition to the class to be served by the tariff, based on use. Thus, in finding that the large load customer tariff should be end use neutral, the Commission addressed the Attorney General's NAICS code argument. And again, the Attorney General cites to her initial brief for the basis of her argument in the petition for rehearing. The Commission finds that the Attorney General has again failed to demonstrate her claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the November 6 order with respect to the Commission's findings on the eligibility threshold and use issues.

THEREFORE, IT IS ORDERED that the Michigan Department of Attorney General's petition for rehearing is denied.

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](mailto:LARA-MPSC-Edockets@michigan.gov) and to the Michigan Department of Attorney General - Public Service Division at [sheacl@michigan.gov](mailto:sheacl@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



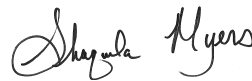
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Daniel C. Scripps, Chair



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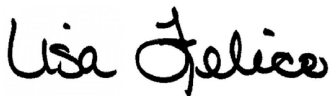
Katherine L. Peretick, Commissioner



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Shaquila Myers, Commissioner

By its action of February 19, 2026.



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Lisa Felice, Executive Secretary

# PROOF OF SERVICE

STATE OF MICHIGAN )

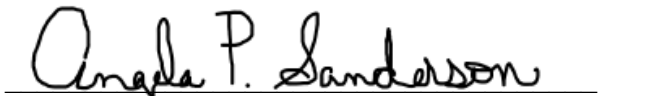
Case No. U-21859

County of Ingham )

Brianna Brown being duly sworn, deposes and says that on February 19, 2026 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 19<sup>th</sup> day of February 2026.

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

**Service List for Case: U-21859**

| Name                                 | On Behalf Of                                          | Email Address                 |
|--------------------------------------|-------------------------------------------------------|-------------------------------|
| Adam M. Cozort                       | MPSC Staff                                            | cozorta1@michigan.gov         |
| Amit T. Singh                        | MPSC Staff                                            | singha9@michigan.gov          |
| Anne M. Uitvlugt                     | Consumers Energy Company                              | anne.uitvlugt@cmsenergy.com   |
| Benjamin J. Holwerda                 | Association of Businesses Advocating<br>Tariff Equity | bholwerda@clarkhill.com       |
| Bret A. Totoraitis                   | Consumers Energy Company                              | bret.totoraitis@cmsenergy.com |
| Christopher M. Bzdok                 | Citizens Utility Board of Michigan                    | chris@tropospherelegal.com    |
| Christopher M. Bzdok                 | Michigan Environmental Council                        | chris@tropospherelegal.com    |
| Christopher M. Bzdok                 | Sierra Club                                           | chris@tropospherelegal.com    |
| Christopher M. Bzdok                 | National Resources Defense Council                    | chris@tropospherelegal.com    |
| Consumers Energy Company<br>(1 of 2) | Consumers Energy Company                              | mpsc.filings@cmsenergy.com    |
| Consumers Energy Company<br>(2 of 2) | Consumers Energy Company                              | kelly.hall@cmsenergy.com      |
| Daniel H.B. Abrams                   | Environmental Law & Policy Center                     | dabrams@elpc.org              |
| Daniel H.B. Abrams                   | Union of Concerned Scientists, Inc.                   | dabrams@elpc.org              |
| Daniel H.B. Abrams                   | The Ecology Center                                    | dabrams@elpc.org              |
| Daniel H.B. Abrams                   | Vote Solar                                            | dabrams@elpc.org              |
| David W. Isakson                     | MPSC Staff                                            | isaksond@michigan.gov         |
| Jacob Elkin                          | Sierra Club                                           | jelkin@earthjustice.com       |
| John R. Liskey                       | Citizens Utility Board of Michigan                    | john@liskeypllc.com           |
| Justin K. Ooms                       | Advanced Energy United                                | jkooms@varnumlaw.com          |
| Justin K. Ooms                       | Michigan Energy Innovation Business<br>Council        | jkooms@varnumlaw.com          |
| Justin K. Ooms                       | Institute for Energy Innovation                       | jkooms@varnumlaw.com          |
| Katherine E. Talbot                  | ALJs - MPSC                                           | talbotk@michigan.gov          |
| Katherine S. Duckworth               | Vote Solar                                            | kduckworth@elpc.org           |
| Katherine S. Duckworth               | Union of Concerned Scientists, Inc.                   | kduckworth@elpc.org           |
| Katherine S. Duckworth               | The Ecology Center                                    | kduckworth@elpc.org           |
| Katherine S. Duckworth               | Environmental Law & Policy Center                     | kduckworth@elpc.org           |
| Laura A. Chappelle                   | Michigan Energy Innovation Business<br>Council        | lachappelle@varnumlaw.com     |
| Laura A. Chappelle                   | Advanced Energy United                                | lachappelle@varnumlaw.com     |
| Laura A. Chappelle                   | Institute for Energy Innovation                       | lachappelle@varnumlaw.com     |
| Lucas Wollenzien                     | Department of Attorney General                        | wollenzienl@michigan.gov      |
| Michael E. Moody                     | Department of Attorney General                        | moodym2@michigan.gov          |
| Michael G. Oliva                     | Data Center Coalition                                 | moliva@fosterswift.com        |
| Michael J. Pattwell                  | Association of Businesses Advocating<br>Tariff Equity | mpattwell@clarkhill.com       |

|                     |                                                    |                                                                        |
|---------------------|----------------------------------------------------|------------------------------------------------------------------------|
| Nikhil Vijaykar     | Data Center Coalition                              | <a href="mailto:nvijaykar@keyesfox.com">nvijaykar@keyesfox.com</a>     |
| Shannon W. Fisk     | Sierra Club                                        | <a href="mailto:sfisk@earthjustice.org">sfisk@earthjustice.org</a>     |
| Stephen A. Campbell | Association of Businesses Advocating Tariff Equity | <a href="mailto:scampbell@clarkhill.com">scampbell@clarkhill.com</a>   |
| Susan J. Mahoney    | Switch Ltd.                                        | <a href="mailto:susie@rivenoaklaw.com">susie@rivenoaklaw.com</a>       |
| Timothy J. Lundgren | Michigan Energy Innovation Business Council        | <a href="mailto:tjlundgren@varnumlaw.com">tjlundgren@varnumlaw.com</a> |
| Timothy J. Lundgren | Institute for Energy Innovation                    | <a href="mailto:tjlundgren@varnumlaw.com">tjlundgren@varnumlaw.com</a> |
| Timothy J. Lundgren | Advanced Energy United                             | <a href="mailto:tjlundgren@varnumlaw.com">tjlundgren@varnumlaw.com</a> |
| Travis Murray       | Data Center Coalition                              | <a href="mailto:tmurray@keyesfox.com">tmurray@keyesfox.com</a>         |
| Valerie J.M. Brader | Switch Ltd.                                        | <a href="mailto:valerie@rivenoaklaw.com">valerie@rivenoaklaw.com</a>   |