STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of **CONSUMERS ENERGY COMPANY** for reconciliation of its power supply cost recovery plan (Case No. U-21257) for the 12 months ended December 31, 2023.	Case No. U-21258

At the June 11, 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

On March 29, 2024, Consumers Energy Company (Consumers) filed an application in this docket, with supporting testimony and exhibits, requesting approval of its reconciliation of power supply cost recovery (PSCR) expenses and revenues for calendar year 2023 pursuant to MCL 460.6j and its calculation of a revised financial compensation mechanism (FCM) pursuant to MCL 460.6t(15).[1] Consumers' PSCR plan for calendar year 2023 was approved in the August 30, 2023 order in Case No. U-21257.

A prehearing conference was held on May 8, 2024, before Administrative Law Judge James M. Varchetti (ALJ Varchetti) at which ALJ Varchetti recognized the intervention of the Michigan

[1] For further background on the FCM, see the June 7, 2019 order in Case No. U-20165 (June 7 order), pp. 84-85, and the December 17, 2020 order in Case No. U-20697, pp. 211-213.

Department of Attorney General (Attorney General) and granted intervention to the Residential Customer Group, the Association of Businesses Advocating Tariff Equity, and the following biomass merchant plants (collectively, the BMPs): Cadillac Renewable Energy L.L.C.; Genesee Power Station Limited Partnership; Grayling Generating Station Limited Partnership; T.E.S. Filer City Station Limited Partnership; National Energy of Lincoln, LLC; and National Energy of McBain, LLC. Consumers and the Commission Staff (Staff) also participated in the proceeding.

On February 20, 2025, this docket was reassigned to Administrative Law Judge Sally L. Wallace (ALJ). The ALJ issued a Proposal for Decision (PFD) in this matter on June 17, 2025. Consumers, the Attorney General, and the BMPs filed exceptions to the PFD on July 8, 2025, and replies to exceptions on July 22, 2025.

The Commission issued an order in this docket on December 5, 2025 (December 5 order) that, among other things, disallowed replacement power costs of $2,355,042 for Outage Event Nos. 108-111 at Consumers' J. H. Campbell Generating Plant (Campbell) Unit 2.

On January 5, 2026, Consumers filed a petition for rehearing (petition) seeking a rehearing on the December 5 order based on a claim of unintended consequences pursuant to Mich Admin Code, R 792.10437 (Rule 437). On January 26, 2026, the Attorney General filed a response in opposition to Consumers' petition (response to petition).

<u>Petition and Answer to Petition</u>

In Consumers' petition, the company provides that Rule 437 permits the Commission to "revisit a decision if a party demonstrates that there will be 'unintended consequences resulting from the compliance with the decision.'" Petition, p. 1. Consumers contends that the December 5 order:

> would have the unintended consequence of disallowing replacement power costs related to outages at J.H. Campbell Plant ("Campbell") Unit 2 for a decision that

> the Commission found was reasonable. Specifically, the Commission determined that Consumers Energy [Company]'s decision to rebuild Unit 2's Start-up Boiler Feedwater Pump ("SUBFP" or "feed pump"), rather than waiting 33 weeks for an identical drive coupling to be built, ***was reasonable***. But the Commission apparently did not realize that the costs of this reasonable decision were included in the disallowance that the Attorney General had proposed, as the Commission adopted the entire proposed disallowance.

Id. (emphasis in original; internal citations omitted). Consumers argues that "if the Commission does not modify the disallowance it approved, it will be disallowing costs for a decision that the Commission said was reasonable. This result would be unfair and presumably unintended." Petition, p. 4. In support, Consumers points to a previous case in which Consumers filed a petition for rehearing relating to the "'unintended consequence' of disallowing 'reasonable and prudent costs despite the Commission's obvious intent to avoid such a result[,]' . . . [where t]he Commission agreed with Consumers Energy [Company]'s arguments and revised its order by striking language that could have led to a result the Commission did not intend." Petition, p. 5 (quoting September 11, 2014 order in Case No. U-17496 (September 11 order), p. 5). Similar to the September 11 order, Consumers argues that "disallowing costs stemming from the Company's decision to rebuild the feed pump would have the unintended consequence of disallowing costs related to the rebuild that the Commission said was reasonable. The Commission should adjust the disallowance to avoid this unintended consequence." Petition, pp. 5-6. As a result, Consumers requests that the Commission revise the disallowance to avoid this unintended consequence by reducing the disallowance for Campbell Unit 2 by $1,365,876 to cover the company's cost of rebuilding the feed pump's drive coupling, or alternatively $989,166 to cover costs from the feed pump's failure that the company did not cause. *Id*., pp. 1-2, 5-6.

In response, the Attorney General argues that Consumers has not demonstrated that any unintended consequences resulted from the December 5 order, and, as such, the Commission should deny Consumers' petition in its entirety. Response to petition, pp. 2, 9. Regarding Consumers' request for a $1.3 million reduction in the disallowance, the Attorney General argues that the company's use of separate events to bifurcate the outages at Consumers' Campbell Unit 2 as Outage Event Nos. 108-109 relating directly to the thrust event that caused the feed pump to fail and Outage Event Nos. 110-111 relating to the company's decision to rebuild the feed pump's drive coupling "obscure what was a continuous extended 149-day outage during the PSCR plan year." *Id*., pp. 3-4. The Attorney General asserts that the December 5 order "rightfully made no such bifurcation because the events are part of the same outage. . . . Apparently, the Commission thought it reasonable for the Company to try to mitigate the outage, but that did not make the replacement power cost incurred during and after the repair reasonable." Petition, p. 4. The Attorney General also disagrees with Consumers' parallel assertion between the June 19 order and the December 5 order, arguing that the orders address entirely different subsections of MCL 460.6j(13) and entirely different actions (i.e., the June 19 order addresses the impact of statutory requirements or future action by the company and the December 5 order addresses the past actions and replacement power costs related to an extended outage). Petition, p. 6. As for Consumers' request for a $989,166 reduction in the disallowance, the Attorney General asserts that the company's arguments ignore the Commission's focus on Consumers' failure to meet its burden of proof under MCL 460.6j(1)(c). As such, the Attorney General argues that:

> [t]he Company did not identify any unintended consequence. And, the Commission did not indicate that the Company's actions during the outage were all reasonable and prudent. The Company simply repeated parts of the Commission's analysis, which indicates that the Commission intended the result of its ruling based on the law and facts. The Company is trying to reverse the disallowance and by offering these "alternative" bases for reducing the approved disallowance, it is hoping that the Commission will adopt one maybe both options. This is nothing more than an attempt to reverse the Commission's order while appearing to not directly challenge the decision by claiming unintended consequences. The Commission should reject this approach.

Id., p. 8.

Discussion

Rule 437(1) provides, in pertinent part, that a petition for rehearing may be based on "a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or on unintended consequences resulting from compliance with the decision or order[.]"

The Commission has consistently held that 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 rehearing.

The Commission finds no unintended consequences in the December 5 order associated with the disallowance of replacement power costs for the outages at Consumers' Campbell Unit 2. The Commission agrees with the Attorney General's arguments that Outage Event Nos. 108-111 at Campbell Unit 2 are part of a single outage and that there is a distinction in issues between this case and the issues involved in Case No. U-17496 and the Commission's September 11 order in that case. Furthermore, the Commission finds Consumers' argument relying on "the Commission['s] determin[ation] that Consumers Energy[Company]'s decision to rebuild [the SUBFP], rather than waiting 33 weeks for an identical drive coupling to be built, ***was reasonable***" ignores the second half of the very sentence from the December 5 order on which the company bases its argument. Petition, p. 1 (citing December 5 order, p. 9) (emphasis in original). While the Commission did indeed find that the company had "acted reasonably in its decision to rebuild the SUBFP instead of waiting 33 weeks for an identical drive coupling to be built, the Commission **d[id] not find that the company acted reasonably** when it failed to fully purge the SUBFP of trapped gases or inadequately lubricate the seal." December 5 order, p. 9 (emphasis added). Continuing, the Commission found in its December 5 order that "the company cannot demonstrate by clear and satisfactory evidence that the outage was not extended by the company's failure to perform the basic task of purging the SUBFP of trapped gases or lubricating the seal prior to startup." December 5 order, p. 9. As such, the Commission finds that this is not a case of unintended consequences that would warrant reconsideration; rather, as the Commission explicitly found in the December 5 order, the company failed to carry its statutory burden of showing that "the outage, or any part of the outage, was not caused or prolonged by the utility's negligence or by unreasonable or imprudent management." MCL 460.6j(13)(c). Accordingly, the Commission finds that Consumers has not met the standard for rehearing outlined in Rule 437 and that the company's petition should therefore be denied.

THEREFORE, IT IS ORDERED that Consumers Energy Company'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 and to the Michigan Department of Attorney General - Public Service Division at sheac1@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

Shaquila Myers, Commissioner

By its action of June 11, 2026.

Lisa Felice, Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-21258

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on June 11, 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 J. Brown

Brianna Brown

Subscribed and sworn to before me
this 11th day of June 2026.

Angela P. Sanderson

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

Service List for Case: U-21258

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