S T A T E O F M I C H I G A N

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-21423) for the 12 months ended December 31, 2024.	)	Case No. U-21424

At the October 15, 2026 meeting of the Michigan Public Service Commission in Houghton, Michigan.

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

ORDER

On March 31, 2025, 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 2024 pursuant to MCL 460.6j, to reconcile the company's financial compensation mechanism (FCM) amounts collected in 2024 pursuant to MCL 460.6t(15), and to update its FCM for 2027. Consumers' PSCR plan for calendar year 2024 was approved in the June 12, 2025 order in Case No. U-21423.

A prehearing conference was held on May 15, 2025, before Administrative Law Judge Christopher S. Saunders (ALJ Saunders). At the prehearing conference, ALJ Saunders recognized the notice of intervention filed by the Michigan Department of Attorney General (Attorney General) and granted the petitions to intervene filed by the Association of Businesses Advocating Tariff Equity (ABATE) 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 June 11, 2025, and January 14, 2026, Consumers filed revised direct testimony and exhibits. On November 11, 2025, the BMPs filed revised direct testimony and exhibits. A protective order for use in this matter was entered on November 21, 2025. On December 5, 2025, the Staff and the Attorney General filed testimony and exhibits. Consumers filed rebuttal testimony on January 15, 2026. On January 26, 2026, the Staff filed revised direct testimony and exhibits.

On February 20, 2026, this docket was reassigned to Administrative Law Judge Jacqueline Langwith (ALJ). On March 19, 2026, all testimony and exhibits were bound into the record at the request of the parties and the evidentiary hearing scheduled for March 20, 2026, was cancelled.

Consumers, the Staff, the Attorney General, and the BMPs filed initial briefs on April 10, 2026, and reply briefs were filed by the Attorney General and Consumers on May 8, 2026. The ALJ issued a Proposal for Decision (PFD) in this matter on June 12, 2026. Consumers and the Attorney General filed exceptions to the PFD on July 6, 2026, and replies to exceptions on July 20, 2026.

The record in this matter consists of 344 pages of transcript and 67 exhibits admitted into evidence.

The Proposal for Decision

The ALJ provided a detailed overview of the record and the legal requirements for a PSCR reconciliation proceeding on pages 2-14 of the PFD that will not be repeated in this order.

For 2024, the ALJ recited that Consumers calculated a year-end overrecovery of approximately $134 million, which, when combined with the statutory interest and underrecovery from 2023, resulted in a cumulative 2024 proposed underrecovery of approximately $131 million. PFD, pp. 14-15; 2 Tr 56; Revised Exhibit A-7. For its FCM reconciliation, Consumers calculated a year-end overrecovery of $3,962,639 for 2024, which the company proposed to incorporate into an updated FCM surcharge tariff beginning on January 1, 2027. 2 Tr 62; Exhibit A-8.

The ALJ noted that "[t]he parties did not take issue with Consumers' PSCR revenues; fuel costs; purchased, interchange, and renewable power (except for the capacity payments made to the Fremont Community Digester, L.L.C. (Fremont)); or chemical costs." PFD, p. 16. The parties also did not dispute the company's FCM reconciliation or the BMPs' request for approval of $17,545,921 in capped costs and $746,112 in uncapped costs. *Id*. The ALJ further noted that the parties did not dispute the BMPs' request to set the 2024 monthly limit for BMP recovery of fuel and operations and maintenance costs at $1,462,160 per month. *Id*., pp. 16-17. The ALJ recommended approval of these uncontested issues, and finding the parties to be in agreement and having no exceptions filed on these issues, the Commission adopts the ALJ's recommendations on these uncontested issues.

The ALJ, however, identified three contested issues: (1) the recovery of replacement power costs associated with an outage at the company's J.H. Campbell (Campbell) generation facility; (2) the amount of capacity payment Consumers made under an agreement with Fremont; and (3) proposed revisions to Consumers' FCM. PFD, pp. 18-19.

The contested issues, objected to in exceptions, are discussed in detail and organized by issue below.

1. Replacement Power Costs

The Attorney General's witness, Sebastian Coppola, an independent business consultant in the fields of energy and utility regulation, testified that after reviewing the company's 2024 outage information provided in Exhibits A-11 and A-13, he found one particular outage incident at Campbell Unit 1 where Consumers failed to exercise proper care and diligence, resulting in higher power costs to PSCR customers. 2 Tr 172. Mr. Coppola explained that the company's Outage Event #74 relates to a coal feeder failure that began on August 25, 2024, and lasted through September 3, 2024. 2 Tr 173. Mr. Coppola further noted the incident report provided by the company stated that "[a] large piece of steel was found in the feeder. This appears to have caused the feeder malfunction, which led to other failures." 2 Tr 173 (quoting Exhibit AG-1). Mr. Coppola testified that "the reports also explain that the root cause of the feeder failure is attributed to foreign material in the coal feeder, which ultimately caused feedwater runback and the unit to trip resulting in the power outage. To correct the problem, the Company removed the large piece of steel and restarted the coal feeder after performing other repairs." 2 Tr 173. Mr. Coppola opined that the company and its employees failed to use proper care when unloading the coal feeder and/or working the feeder, thus failing to prevent the large piece of steel from being introduced into the coal feeder. 2 Tr 174.

The Attorney General argued that the $908,063 in replacement power costs due to this outage event lasting from August 25, 2024 through September 3, 2024, should be disallowed. Attorney General's initial brief, p. 6. The Attorney General maintained that the company had to purchase 45,760 megawatt-hours (MWh) of replacement power during the outage period at an incremental cost of $908,063 and that the incremental power costs are the result of company personnel failing to take adequate steps and proper care to prevent an incident that caused a power outage. *Id*., p. 8.

The Attorney General argued that customers should not pay for the incremental cost of replacement power resulting from an incident caused by company employees. *Id*.

Consumers argued that Outage Event #74 was not caused by the improper or imprudent actions of the company or its employees. Consumers' witness, Nathan J. Hoffman, Executive Director of Fossil Generation for Consumers, testified that the large piece of metal found in the feeder was tramp iron, which is unwanted metal pieces such as bolts, tools, or equipment parts that get mixed up with the coal during mining, transport, or processing and is normally removed at the coal plant using powerful electromagnets and metal detectors. 2 Tr 104. Consumers maintained that, during the event, all of Campbell's magnetic detectors were in service and operating correctly; thus, there is no reason to conclude that company employees did not use proper care to prevent the tramp iron from being introduced into the coal feeder. Consumers' initial brief, p. 21. Consumers further argued that it is incorrect to think that the employees should have seen the tramp iron, as visual inspection of the coal would be impractical, inefficient, and inconsistent with utility industry practice. *Id*., pp. 21-22. Consumers' witness maintained that the company relies on the coal supplier and its magnetic separation equipment to remove tramp iron from coal and that based on his operational experience, a visual inspection would be far less effective and efficient than magnetic separation and even large pieces of tramp iron can be imperceptible in the coal. 2 Tr 105.

Consumers also disagreed that the entire duration for Outage Event #74 was caused by the tramp iron and argued that only the first 14 hours of the outage resulted from that issue. Mr. Hoffman testified that following the removal of the tramp iron and during the hot restart, workers noticed a steam leak and made the decision to abort the restart and repair the pressure seal. 2 Tr 106. According to Mr. Hoffman, the repair to the pressure seal extended the outage an

extra eight days and Consumers' employees acted reasonably and prudently surrounding the forced outage event and employed decision-making that possibly avoided future plant outages. 2 Tr 108. Mr. Hoffman noted that the replacement power costs for the outage caused by the tramp iron was only $279,119, and when adjusted downward for the responsive rating and the random outage rate, the maximum replacement power costs at issue for Outage Event #74 are $229,830. 2 Tr 108.

The Staff contended that Consumers' management of all outages in 2024 was reasonable and that the company had not imprudently or negligently caused or extended any reported outage during the plan year. Staff's initial brief, p. 8.

The ALJ agreed with Consumers that the company's actions related to Outage Event #74 were reasonable and prudent. PFD, p. 25. The ALJ further agreed with Consumers that the company's employees were following long-standing procedures in transferring coal to the feeder and would not necessarily observe the tramp iron before it caused the feeder to malfunction. *Id*. The ALJ further determined that Consumers acted reasonably in stopping the restart of the unit to repair the main steam strainer pressure seal and recommended that the entire amount of the Attorney General's recommended disallowance for Outage Event #74 be rejected.

The Attorney General takes exception to the ALJ's recommendation and argues that it is the company's burden to demonstrate the reasonableness and prudence of its actions and that the ALJ assumes that the company's claim of having used an industry best practice is the limit of what is reasonable and prudent in all situations. Attorney General's exceptions, p. 6. The Attorney General further argues that the ALJ incorrectly accepted the company's explanation that using magnetic separators and metal detectors is the industry best practice without evidence that Mr. Hoffman inspected other utilities' operations or other evidence to support his assertion. *Id*.

Consumers responds in reply that the ALJ correctly found that the company should recover its entire replacement power costs for Outage Event #74. Consumers' replies to exceptions, p. 3. Consumers further argues that the ALJ correctly found that the company relied on long-standing procedures when transferring coal to the feeder, and it would be unreasonable to assume that company workers should have seen the iron in the coal. *Id*. Consumers also maintains that the ALJ correctly found that the company properly extended the outage to repair the main steam strainer pressure seal before restarting the unit. *Id*.

The Commission finds the ALJ's evaluation of the evidence related to Outage Event #74 to be well-reasoned and adopts her recommendations on the issue. The Commission agrees that Consumers followed industry standards when transferring coal to the feeder and that its actions were reasonable and prudent. The Commission further agrees that the actions the company employed following discovery of the steam leak were reasonable and possibly avoided a longer future outage. Therefore, the Commission rejects the Attorney General's recommended disallowance of $908,063 in replacement power costs.

2. Digester Capacity Costs

Consumers argued that 2024 capacity payments were made to Fremont:

> in accordance with a [r]enewable PPA [power purchase agreement] between the two companies, which the Commission approved with its [o]rder dated October 13, 2009 in Case No. U-15805. The Company's total capacity payments to F[reemont] in 2024 were $949,941 (Exhibit AG-2), of which $470,644 were treated as transfer price costs and recovered under the PSCR pursuant to the Company's renewable energy plan [REP] approved in Case No. U-21374. *See* Exhibit A-1 (ZSC-1) Revised, line 3, column (f).

Consumers' initial brief, p. 23.

The Attorney General argued that $705,572 of the capacity payments should be disallowed because Fremont ceased generation in March 2024 due to fuel supply and permit-related issues.

Attorney General's initial brief, p. 15. The Attorney General averred that the utility had sufficient reasons for suspending capacity payments under the PPA after receiving notification from Fremont in March 2024 that it was ceasing operations. *Id*., p. 17. The Attorney General argued that the $705,572 of the total 2024 capacity payment of $949,941 should be disallowed because the payments were made after March 2024. *Id*.

Consumers argued that the Attorney General mischaracterizes the amount of capacity payments the company is requesting to recover with its 2024 PSCR factors. Consumers' initial brief, p. 24. Consumers maintained that it only recovered a portion of the capacity payments as PSCR costs and the rest will be recovered under the company's REP. *Id*. Consumers further explained that it was obligated to continue making the capacity payments pursuant to Section 7.1 of the PPA, which states that "'[c]ommencing with the Commercial Operation Date and continuing for the term of this Agreement, Buyer shall pay Seller the Capacity Purchase Price on Resource Adequacy Capacity supplied during the Billing Month. Such payments shall be made on a Monthly basis.'" *Id*., p. 24 (quoting Exhibit AG-2, pp. 21-22). According to Consumers, because Fremont had resource adequacy capacity in 2024, Consumers properly made monthly capacity payments in accordance with the PPA. Consumers' initial brief, p. 25. Consumers also pointed out that the company intends to terminate the PPA pursuant to Section 10.1 if Fremont fails to deliver energy for 730 days. *Id*.

The ALJ recommended rejecting the Attorney General's proposed disallowance of the capacity payments made to Fremont, finding that Consumers was required by Section 7.1 of its PPA with Fremont to make the capacity payments and the Commission approved the PPA in Case No. U-15805 on October 13, 2009. PFD, p. 33. The ALJ further stated that it would be unreasonable for Consumers to violate the terms of the PPA. *Id*.

The ALJ also recommended that:

> Consumers be directed to terminate the Fremont [sic] PPA pursuant to Section 10.1, which the Company has indicated that it intends to do. Further, this PFD recommends that Consumers be directed to reassess the prudency of provisions like Section 7.1 since Consumers appears to have 80 contracts containing similar provisions.

Id.

The Attorney General filed exceptions to the PFD and again argues that the $705,572 from the power costs that the company seeks to recover in this reconciliation be disallowed because it was not reasonable or prudent for the company to continue to make capacity payments to Fremont after it ceased operations in March 2024. Attorney General's exceptions, p. 10. The Attorney General disagrees with the ALJ's conclusion that Consumers was contractually obligated to continue making capacity payments throughout 2024. *Id*. The Attorney General argues that the ALJ provided an incomplete analysis of the contractual obligations of both parties to the PPA and that it was unreasonable for Consumers to continue to make the capacity payments after March 2024 because Fremont was in violation of several provisions. *Id*.

Consumers argues in its replies to exceptions that the ALJ correctly concluded that the company was required to continue making capacity payments pursuant to Section 7.1 of the PPA. Consumers' replies to exceptions, p. 9. Consumers provides that Section 7.1 of the Fremont PPA states in relevant part that:

> Commencing with the Commercial Operation date and continuing for the term of this Agreement, Buyer shall pay Seller the Capacity Purchase Price on Resource Adequacy Capacity during the Billing Month. Such payments shall be made on a monthly basis.

Id.; *see also*, Exhibit AG-2, p. 21. Consumers argues that, as applied in this particular case, the monthly resource adequacy capacity (RAC), for which Section 7.1 requires Consumers to pay, is created by Midcontinent Independent System Operator, Inc. (MISO) in the seasonal planning

resource auction (PRA). Consumers' replies to exceptions. p. 9; *see also*, Exhibit AG-2, p. 11. Consumers contends that Fremont is a behind the meter generation resource in MISO, and, as such, must submit generation verification test capacity (GVTC) results to MISO no later than October 31 prior to the next planning year. Consumers' replies to exceptions, p. 10. According to Consumers, MISO uses the GVTC results to confirm the capacity of a generation resource for reliability planning, which is the basis on which MISO awards zonal resource credits (ZRCs). *Id*.; 2 Tr 138-139. Consumers argues that, in this case, MISO established Fremont's RAC for 2024, which generated MISO ZRCs. Consumers' replies to exceptions, p. 10. Consumers maintains that, because Fremont had RAC in 2024, Consumers had to make monthly capacity payments for the unit in accordance with Section 7.1 of the PPA. *Id*.

Consumers further argues that the Attorney General's argument that Consumers could apply other provisions of the PPA to stop making payments after March 2024 should be rejected as the argument does not square with the PPA. *Id*., p. 11. Consumers argues that the ALJ correctly noted that Consumers was bound by the specific provisions of Section 7.1 to continue to make the capacity payments in question. *Id*., p. 12.

Consumers also filed exceptions to address the ALJ's recommendations that Consumers be directed to terminate the Fremont PPA pursuant to Section 10.1 and be "'directed to reassess the prudency of provisions like Section 7.1 since Consumers appears to have 80 contracts containing similar provisions.'" Consumers' exceptions, pp. 3-4 (quoting PFD, p. 33). Without conceding that the Commission has authority to require Consumers to terminate the PPA, Consumers notes that the Fremont PPA was terminated effective June 9, 2026. Consumers' exceptions, p. 4.

Consumers also addresses the ALJ's recommendation to reassess provisions like Section 7.1 in other contracts. Consumers argues that the language of other PPAs is not part of the record in

this case and that each contract should be evaluated on a case-by-case basis. *Id*., p. 5. Consumers, however, submits that it will re-examine its PPA provisions in future negotiations which will then be subject to Commission review when the company files the PPA with the Commission for approval. *Id*., p. 6.

The Attorney General argues in her replies to exceptions that the Commission should adopt the ALJ's recommendation and that Consumers should be required to reassess the prudency of provisions like Section 7.1 without delay. Attorney General's replies to exceptions, p. 4. The Attorney General further argues that the company should be required to review existing PPAs for similar contract provisions and justify why such terms are reasonable and prudent. *Id*.

The Commission agrees with the ALJ and Consumers that Section 7.1 of the PPA required the utility to continue making the capacity payments to Fremont past March of 2024. The Commission agrees with Consumers that Fremont had RAC in 2024, and, therefore, the company had to make monthly capacity payments for the unit throughout 2024 in accordance with the PPA and that no other provision allowed the utility to discontinue those payments.

The Commission also finds that Consumers' statement that it terminated the Fremont PPA and will re-examine its PPA provisions similar to Section 7.1 in future negotiations adequately satisfies the recommendation of the ALJ. The Commission finds it unnecessary in this case to specifically order a reassessment of existing contracts and further finds that future PPAs are subject to Commission approval.

3. Financial Compensation Mechanism

Although the parties did not dispute Consumers' FCM calculation of a year-end overrecovery of $3,962,639 for 2024, the Attorney General recommended certain changes to the structure of the FCM. First, the Attorney General argued that the interest rate on the overrecovery balance should

be changed to align with the company's approved return on equity (ROE). Attorney General's initial brief, p. 20. According to the Attorney General, applying the ROE rate would provide an appropriate incentive to minimize overrecoveries. *Id*. The Attorney General acknowledged that Consumers currently does not have the ability to change the surcharge without Commission approval but that the restriction could be easily addressed by making the surcharge a maximum rate with the Commission also permitting the company to lower the surcharge during the year if necessary to avoid or minimize an overrecovery balance. *Id*.

Consumers argued that the Attorney General failed to provide any valid reason for the Commission to depart from its prior approval of the appropriate rate, the after-tax weighted average cost of capital (WACC) to be applied to FCM overrecoveries. Consumers' initial brief, p. 28. Consumers further argued that the Attorney General's claim that applying the higher ROE rate would incentivize the company to reduce its FCM overrecovery is unsupported by the realities of FCM forecasting and is punitive. *Id*. As for the proposal to allow adjustments to the FCM surcharge, Consumers argued that the Attorney General did not identify any statutory authority that would allow the Commission to authorize the utility to adjust its FCM surcharges without prior Commission approval. *Id*., p. 29.

The ALJ recommended that the Commission reject the FCM structural changes proposed by the Attorney General. PFD, pp. 40-41. The ALJ noted that the Commission's December 17, 2020 order in Case No. U-20697 (December 17 order) addressed the FCM as a matter of first impression and agreed with applying the after-tax WACC for overrecovery balances. PFD, p. 41. The ALJ also agreed with Consumers that the Attorney General failed to identify any statutory authority that would allow FCM adjustments throughout the year. *Id*.

In exceptions, the Attorney General argues that the FCM structure adopted by the Commission in Case No. U-20697 has resulted in persistent overrecoveries of FCM costs and that "[t]he repeated over-recoveries require a different approach." Attorney General's exceptions, p. 14. Continuing, the Attorney General argues that "[t]he primary, if not only reason for originally approving FCMs was to allow utilities to earn a recovery on PPAs to incentivize their use, instead of relying just on new Company owned generation. Since FCMs are an incentive, it makes sense to adjust the FCM to address the persistent over-recoveries." *Id*., p. 15. Finally, the Attorney General argues that "the Commission approved the FCM methodology without referring to any express authority or statutory guidance regarding the process," and the ALJ "has not explained why the Commission cannot impose additional conditions or processes on the FCM now." *Id*.

Consumers argues in replies to exceptions that the Attorney General's proposal is contrary to the December 17 order and that the ALJ correctly determined that the company's WACC should apply to overrecoveries. Consumers' replies to exceptions, p. 14.

The Commission finds that the ALJ's recommendations related to the Attorney General's proposed structural changes to the FCM are well-reasoned and should be adopted. The Commission further agrees that the Attorney General failed to provide any statutory authority that would allow the Commission to adjust the FCM surcharge throughout the year. However, the Commission respectfully declines to adopt the ALJ's findings and conclusion on the appropriate interest rate to be applied to FCM overrecovery balances.

While the Commission acknowledges that the December 17 order set the after-tax WACC as the appropriate rate, the Commission finds that revisiting this rate is appropriate. The Commission finds it appropriate to apply the ROE rate to the FCM overrecovery balance, just as MCL

460.6j(16) directs for PSCR overrecovery. The Commission finds that these two forms of overrecovery are similar and therefore matching the interest rate applied to the overrecovery balance in each situation is the most reasonable and prudent outcome.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company's application for a power supply cost recovery reconciliation for calendar year 2024 is approved, as modified by this order.

B. The request of the biomass merchant plants for $17,545,921 in capped costs and $746,112 in uncapped costs is approved.

C. The request of the biomass merchant plants to set the 2024 monthly limit for recovery of fuel and operations and maintenance costs at $1,462,160 per month is approved.

D. Consumers Energy Company's net power supply cost recovery underrecovery balance of $131,192,350, inclusive of interest, shall be reflected as the company's 2025 power supply cost recovery reconciliation beginning balance.

E. Consumers Energy Company's net financial compensation mechanism overrecovery balance of $3,962,639, inclusive of interest, shall be incorporated into an updated financial compensation mechanism surcharge tariff beginning on January 1, 2027.

F. In all power supply cost recovery reconciliation cases filed after the issuance of this order, Consumers Energy Company shall apply the utility's authorized return on equity rate as the interest rate to any financial compensation mechanism overrecovery balance.

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 October 15, 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-21424

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on October 15, 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 15th day of October 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-21424

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