STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of CONSUMERS ENERGY COMPANY for approval to implement a power supply cost recovery plan for the 12 months ending December 31, 2019.	)	Case No. U-20219

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on January 14, 2020.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before February 4, 2020, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before February 18, 2020.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN OFFICE OF ADMINISTRATIVE
HEARINGS AND RULES
For the Michigan Public Service Commission

Sally L. Wallace Digitally signed by: Sally L. Wallace
DN: CN = Sally L. Wallace email = wallaces2@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2020.01.14 13:46:19 -05'00'

January 14, 2020
Lansing, Michigan

Sally L. Wallace
Administrative Law Judge

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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PROPOSAL FOR DECISION

I.

HISTORY OF PROCEEDINGS

On September 28, 2018, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, requesting authority to implement a power supply cost recovery (PSCR) plan and factors for calendar year 2019.

A prehearing conference was held on December 5, 2018, at which Consumers and Commission Staff (Staff) appeared. At the prehearing conference, petitions to intervene filed by the Department of the Attorney General, Michigan Environmental Council, the Residential Customer Group (RCG), Michigan Power Limited Partnership and Ada Cogeneration Limited, and the Association of Businesses Advocating Tariff Equity were granted.

Per an amended schedule, the Staff and the RCG filed testimony on May 24, 2019, and the company filed rebuttal testimony on June 25, 2019. An evidentiary hearing was held on July 10, 2019. Consumers and the RCG filed briefs and reply briefs on August 12 and September 11, 2019 respectively. The record in this case consists of 265 pages of transcript and 47 exhibits admitted into evidence. Portions of the transcript and 12 exhibits are designated confidential.

II.

OVERVIEW OF THE RECORD

A. Consumers

Daniel S. Alfred, a Senior Rate and Business Support Analyst in the Transmission and Regulatory Strategies Department of Consumers' Energy Supply Operations, explained: (1) the transmission and energy market expenses for which the company is requesting recovery in this proceeding; (2) generation-related credits to PSCR costs relating to Schedule 2 reactive revenues; and (3) he described the company's efforts to control transmission costs.[1]

Mr. Alfred testified that Consumers is requesting recovery of "all of the charges imposed on the Company under [Midcontinent Independent System Operator] MISO's Open Access Transmission, Energy, and Operating Reserve Markets Tariff[,]"[2] noting that the Commission has previously approved these costs. Mr. Alfred testified that the transmission and energy market-related costs for 2019 are set forth in Exhibit A-1. Mr. Alfred then detailed the costs included in MISO Schedules 1, 2, 9, 10, 16, 17, 24, 26, and

[1] 2 Tr 117
[2] Id.

26-A.[3] Mr. Alfred stated that the total transmission expense for the plan year is $443,190,657, including $436,502,240 in transmission cost and $6,688,417 in energy market administration expenses.[4]

On the revenue side, Mr. Alfred explained that Consumers provides generation-related reactive services to MISO, for which the company receives compensation that offsets PSCR costs. Mr. Alfred testified that Consumers expects to receive $4.5 million in Schedule 2 reactive revenues in 2019.[5]

Mr. Alfred testified that to control transmission costs, the company is actively involved in several transmission stakeholder groups, which allows it to validate the need for transmission projects before MISO board approval. In addition, the company monitors MISO Tariff Attachment O formula transmission rates to ensure that the charges are consistent with the tariff.[6]

Steven J. Nadeau, Manager of Natural Gas Supply for Generation in Fossil Fuel Supply for Consumers, testified regarding the company's oil and natural gas commodity price forecasts and procurement strategy for electric generation. Mr. Nadeau explained that the company based the price of natural gas for Karn units 3 and 4 on the monthly New York Mercantile Exchange (NYMEX) market price. The price of gas for the Zeeland and Jackson plants was also based on the NYMEX price, with adjustments supplied by Consumers' Corporate Risk Management Department, including costs for the use of a

[3] 2 Tr 118-122.
[4] 2 Tr 122-123; Exhibit A-1.
[5] 2 Tr 123.
[6] Id. at 123-124.

gas management agent and demand charges associated with lateral pipelines. The cost of natural gas for the Thetford facility is based on the company's GS-3 tariff rate.[7]

Mr. Nadeau testified that much of the oil and natural gas consumed by the Karn and Thetford facilities is purchased on spot price terms, with the remaining fuel purchased under gas management service contracts. He testified the reason for purchasing oil and gas on a spot basis "lies with the difficulty in accurately predicting the demand for these generally higher-cost units[,]"[8] noting that the need to use peaking units depends on a number of factors that are difficult to predict, and these units are frequently the last ones dispatched. Mr. Nadeau added that the company has limited storage for oil and gas to accommodate substantial amounts of fuel purchased but not used. However, the company is able to mitigate natural gas costs by using contracted storage provided by Consumers' gas utility and by fuel switching.[9]

Mr. Nadeau testified that the Zeeland natural gas plant is connected to the ANR pipeline via a lateral pipeline owned and operated by SEMCO Energy Gas Company (SEMCO). The company pays a fixed annual demand charge to SEMCO under a transportation services contract. That contract was extended for five years in 2017, "with more favorable contract extension terms than the original contract."[10] Mr. Nadeau also testified that the Jackson plant is connected to the Vector pipeline via a lateral pipeline owned by Consumers' natural gas utility. According to Mr. Nadeau, the company pays

[7] 2 Tr 24.
[8] Id.
[9] 2 Tr 26.
[10] Id at 27-28.

a fixed annual demand charge to the gas utility based on a 2002 transportation services contract, assumed at the time the company purchased the Jackson plant.[11]

Mr. Nadeau explained that Consumers has contracted with a third party to act as a gas management services agent to arrange gas supply for the Zeeland, Jackson, and Karn facilities. He stated the contracts were competitively bid and include purchase, transportation, and gas storage.[12] These contracts expired in 2018 and the company conducted a competitive bidding process and entered into new contracts for November 2018 through October 31, 2021. Mr. Nadeau testified the company did not seek a bid for agent services from Consumers' natural gas business, because the gas utility does not offer these types of services commercially.[13]

Keith G. Troyer, a Senior Engineer II in the Transactions and Wholesale Settlements, Electric Contract Strategy Section of Consumers' Electric Grid Integration Department, addressed: (1) power purchase agreements (PPAs) included in the PSCR plan that have not been approved by the Commission; (2) changes to PPAs that have previously been approved; (3) changes to Consumers' Blackstart Resource Agreement; (4) PSCR treatment of MISO revenue and expenses; and (5) the portion of expenses associated with Consumers' Renewable Resource Program (RRP) and renewable energy plan (REP) included in the PSCR plan.[14]

Mr. Troyer testified Consumers has several contracts with suppliers that are Qualifying Facilities (QFs) under the Public Utilities Regulatory Policies Act (PURPA) that will terminate during the five-year forecast period. He provided a list of PPAs that have

[11] 2 Tr 29.
[12] Id. at 30.
[13] 2 Tr 66-67.
[14] 2 Tr 88.

ended, or will end, in 2019. He testified that, "[t]he Company forecasts that at the conclusion of the current contract terms, these facilities will execute new PURPA-based agreements at the rates established in Case No. U-18090."[15] Mr. Troyer testified that Consumers accounted for these new PURPA contracts as "PURPA Aggregate" when forecasting resources in the PSCR for the period from 2019 through 2023.[16] The PURPA Aggregate category includes future PPAs with White's Bridge Hydro Company, Hillman Power Company, LLC, and Black River. Mr. Troyer also testified that the Commission approved extensions of PPAs with STS Hydropower, LLC and Commonwealth through either May 31, 2019 or the final order in Case No. U-18090, whichever is later. He testified, "[t]hese units are represented at their current contract rates through May 31, 2019 . . . [and] are included as part of the PURPA Aggregate . . . beginning June 1, 2019."[17]

Concerning MISO energy markets, Mr. Troyer testified:

> All of the expenses incurred with MISO and all of the revenues received from MISO, to the extent the revenues received were from the output of jurisdictional facilities sold to MISO, are expected to be included in PSCR costs reconciled in the Company's 2019 PSCR Reconciliation case. As with prior PSCR Plan filings, to the extent that the revenue is provided to offset PSCR costs incurred, the Company plans to credit that revenue against PSCR expense. Consumers Energy will include all MISO settled charges incurred and revenues received during the year in the 2019 PSCR Reconciliation case.[18]

Mr. Troyer also testified that the company purchases energy generated by renewable resources and allocates the cost of that energy between power supply costs,

[15] 2 Tr 89.
[16] 2 Tr 90; Exhibit A-20.
[17] 2 Tr 90-91.
[18] Id. at 94.

recoverable from PSCR customers, and renewable energy costs to be recovered by other means.[19]

Mr. Troyer testified that the company entered into a Blackstart Resource Agreement with Michigan Electric Transmission Company, LLC (METC). Ludington Units 2, 3, and 5 and Thetford Units 1, 2, 3, and 4 are available for Black Start service. Subsequent agreements removed the Thetford Units.[20]

Eugene M. A. Breuring, a Senior Rate Analyst II in Consumers' Planning, Budgeting and Analysis Department, testified concerning the company's forecasted power supply requirements, including electric deliveries, generation requirements, and peak demand forecasts, for the years 2019 through 2023. He sponsored Exhibits A-2 through A-6.[21]

Mr. Breuring described the statistical modeling and methods used to develop the company's five-year forecast. He testified that the key variables affecting electric delivery and peak demand forecasts are "weather, the economy, and demographics."[22] Mr. Breuring also explained Consumers' historical electric delivery levels, by customer class, and discussed changes over the five-year period, from 2012 to 2017.[23] Mr. Breuring testified that the company expects total deliveries to decrease 0.1 percent in each of the years from 2019 to 2023 and expects peak demand to decrease 0.8 percent in each of the five years. He provided a forecast of deliveries, by customer class, for the five-year period from 2019 to 2023, along with projected generation requirement and peak demand.

[19] 2 Tr 94.
[20] 2 Tr 91-92.
[21] 2 Tr 132-133.
[22] Id. at 133.
[23] 2 Tr 138-140; Exhibit A-3.

Joshua W. Hahn, a Senior Engineer in the Merchant Operations and Resource Planning Section of the Electric Grid Integration Department, addressed the forecasted costs of fuel and net interchange power need to fulfill system requirements. He sponsored Corrected Exhibits A-7 and A-8 and Exhibit A-9.[24]

Mr. Hahn testified that the company's forecasts for 2019 were derived using PROMOD IV Production Costing program (PROMOD IV), a program that simulates the dispatch of Consumers' generation resources, purchases, and interchange power resources employed to meet demand requirements. Mr. Hahn explained that the main inputs to PROMOD IV were projected system loads, generation unit heat rates, maintenance schedules, unit random outage rates, fuel costs, unit net demonstrated capabilities, and power and interchange (P&I) power availability and costs.[25]

Mr. Hahn provided testimony concerning the sources of energy and the associated expenses for the year 2019, as shown in Exhibit A-7. He detailed the methodology used to allocate the PSCR costs between capacity related and non-capacity related expenses, including those associated with PPAs, and explained how the company accounted for these costs.[26] Mr. Hahn also catalogued planned and completed enhancements to Consumers' facilities during the five-year period, including upgrades to the Ludington pumped storage facility, the addition of solar and wind projects, and retirement or restriction of other facilities.[27] He explained inputs and modelling used to forecast power purchases from third-parties pursuant to various PPAs. He listed the amount of energy

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[24] 2 Tr 147.
[25] 2 Tr 146-148.
[26] Id. at 149-151
[27] Id. at 152-153.

received and delivered by the company, including revenues and costs, along with energy used by MISO to forecast load.[28]

Norman J. Kapala, Consumers' Executive Director of Coal Generation, identified and explained the major outages that are planned for the PSCR period; identified the periodic outage plans and random outage rate (ROR) projections for the PSCR plan year; compared the projected ROR for fossil, hydro, Ludington, and peaker units with actual ROR experienced from 2013 through 2017; addressed the availability of generating units for the five-year forecast period; and identified forecasted urea, aqueous ammonia, lime, and activated carbon expenses for the PSCR Plan year, as well as the period 2020 through 2023. He sponsored Exhibits A-10 through A-15.[29]

Mr. Kapala provided the projected availability for the company's generating units in Exhibit A-11. He listed the units with planned outages of more than 28 days, and he explained the reasons for the outages.[30] Other planned outages were scheduled for less than 28 days. Mr. Kapala testified the ROR projections in the PSCR plan were developed using a five-year average and were modified to reflect current operation conditions and recent investments." He stated the ROR for Ludington Unit 5 and Karn Units 1 & 2 are projected to be lower than the five-year average due to recent upgrades.[31]

Mr. Kapala testified that Consumers does not expect to incur expenses related to nitrogen oxides (NOx) or sulfur dioxide (SO_2) regulatory programs, and he explained that Consumers has compliance measures in place. He testified the company has included

[28] Mr. Hahn provided supplemental direct testimony to correct an error in energy market interchange expenses submitted with his initial testimony. The changes necessitated a correction to the Total Power Supply Cost originally presented by the company. See, Corrected Exhibits A-7 and A-8.
[29] 2Tr 166.
[30] 2 Tr 166-170.
[31] Id. at 170-171.

expenses for urea, aqueous ammonia, lime, and activated carbon during the PSCR plan year and five-year forecast, noting that the Commission has approved inclusion of these expenses in prior PSCR plans.[32]

Kevin C. Lott, the Fuels Transportation and Planning Director in Consumers' Electric Supply Operations Department, provided testimony about projected as-burned costs and projected volumes of coal, oil, and natural gas. He sponsored Exhibits A-16 through A-19.[33] Mr. Lott provided the total as-burned coal costs and amounts for 2019 at Consumers' coal fired plants, including primary fuel, auxiliary fuel, freeze protection, dust inhibiting treatments, and state air emission fees. He provided detailed testimony about how the company calculated these costs.[34]

Mr. Lott detailed Consumers' contracts and contracting procedures for coal transportation, noting that the "freight rates [for coal transportation] were determined either by contract pricing or STB-prescribed rates" with fuel surcharges "included as defined in each of the transportation contracts or in the railroad published tariffs."[35] He testified that the computer model described by Mr. Hahn produced an estimate of the amount of million British thermal units (MMBtu) coal burn requirements needed for each generating unit to meet production forecasts. Mr. Lott stated that the 2019 monthly coal purchase volumes are determined based on these MMBtu coal burn requirements and inventory volume and characteristics.[36]

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[32] Id. at 172-179.
[33] 2 Tr 183.
[34] 2 Tr 183-185.
[35] 2 Tr 187.
[36] Id. at 188.

Mr. Lott testified that Consumers has about 2.8 million tons of coal committed for 2019 from multiyear or annual purchases, and the company projects additional purchases of approximately 1.8 million tons of coal on a spot basis.[37] Mr. Lott explained that the costs projected for the five-year forecast were determined in a similar manner, with adjustments based on "expected performance to the indices to which the contracts are tied."[38]

Adam J. Moritz, a General Engineer II in the Electric Supply Planning Section of Consumers' Electric Grid Integration Department, explained the appropriate capacity planning reserve margin (PRM) target for 2019 through 2023, as well as the resources required to satisfy the capacity PRM. Mr. Moritz listed the resources previously approved by the Commission, the resources included in the plan that have not been previously approved, and the resources remaining to be purchased for the planning period. Finally, Mr. Moritz described Consumers' long-term capacity planning options and how costs from the MISO capacity market are treated in PSCR cases. He sponsored Exhibit A-20.[39]

Mr. Moritz testified that the company relies on MISO to determine the appropriate capacity planning reserve margin required. According to him:

> For [planning year] PY 2018, MISO staff, with consultation by the [loss of load expectation] LOLE Working Group, determined that, using capacity discounted for forced outages, a capacity planning reserve margin target (or "unforced" capacity planning reserve margin target) for MISO of at least 8.4% of the company's demand at the time of MISO's coincident peak demand was sufficient to satisfy Reliability First Corporation's ("RF") capacity planning criteria of expecting to interrupt firm load no more frequently than one occasion in 10 years. For PY 2019, MISO addresses generator forced outages and derates by discounting the generator capacity value used in achieving the capacity planning reserve margin target and, thus, excludes forced outages and derates from the actual target. MISO

[37] 2 Tr 188; Exhibit A-21.
[38] 2 Tr 189.
[39] 2 Tr 199.

> staff with consultation by the LOLE Working Group determined that, using capacity discounted for forced outages, a capacity planning reserve margin target for MISO of at least 7.9% of each LSE's demand at the time of MISO's coincident peak demand was sufficient to satisfy RF's capacity planning criteria.
>
> On September 11, 2018, MISO's LOLE Working Group projected planning reserve margin targets of 7.9% for PY 2019, 8.1% for PY 2022, and 7.6% for PY 2024. The Company has extrapolated these values and rounded to the nearest tenth of a percent to project a planning reserve margin target of 8.0% for PY 2020, 8.0% for PY 2021, and 7.9% for PY 2023.[40]

Mr. Moritz testified that Consumers complies with MISO's unforced capacity PRM targets by maintaining Zonal Resource Credits (ZRCs) "equal to annual firm peak demand at the time of MISO's coincident peak demand" multiplied by the MISO unforced capacity reserve margin target factor for a given year.[41] He identified the company's resources available to meet the capacity PRM targets and how Consumers determines the amount of ZRCs needed, which includes consideration of load modifying resources to provide ZRCs over the five year-period.[42] He testified that the company is pursuing load reducing programs in the PSCR to account for capacity reductions associated with plant retirements and contract terminations.[43]

Angela K. Rissman, the Manager of Coal Procurement in Fossil Fuel Supply for Consumers, provided testimony about the company's coal purchases and coal procurement strategy for the plan and forecast periods. She sponsored Exhibit A-21.[44] Ms. Rismann testified the Company intends to purchase only western coal and low sulfur eastern coal to satisfy an agreement with the EPA to restrict emissions.[45]

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[40] 2 Tr 200-201 (fn. omitted).
[41] 2 Tr 202.
[42] 2 Tr 205-207; Exhibit A-20.
[43] 2 Tr 208.
[44] 2 Tr 214.
[45] Id. at 216.

Ms. Rismann testified that Consumers utilizes spot, annual, and multi-year contracts with suppliers, which are "competitively bid and to the extent possible, structured to allow volume flexibility" to ensure its fuel supply.[46] She explained:

> The Company layers its coal purchases in such a way that each year it has a portfolio of coal purchase contracts. The portfolio for a given year will consist of contracts with various coal quality specifications, volumes, term lengths, and prices. Although these purchases are competitively bid, the pricing of these contracts is reflective of the market at the time the purchase was made. Some contracts within the portfolio may be above or below the market at the time of delivery depending on how the market has changed relative to the time the purchase was made. Maintaining such a portfolio minimizes price risk to customers and protects them from price volatility in the market.[47]

Ms. Rismann provided information concerning Consumers' coal delivery contracts for the plan and forecast periods. She stated that the company intends to enter into new contracts with coal suppliers during the five-year forecast period and that the cost of the coal is based on contract pricing or spot market projections. Ms. Rismann provided spot price projections for the 2019 to 2022 period.[48]

Andrew G. Volansky, Senior Rate Analyst II in the Revenue Requirement and Analysis Section of Consumers' Rates and Regulation Department, presented the calculation of the 2019 PSCR Factor. He sponsored Exhibit A-22 and Corrected Exhibit A-22. He testified that the company began the calculation of the PSCR factor by adding system power supply costs of $1,575,502,044, net transmission expenses of $443,190,657, and total environmental costs of $14,809,002 to establish a total system power supply cost of $2,029,011,703. Consumers then divided the total system power supply cost by a total system energy requirement of 36,068,235,000 kWh to obtain the

[46] 2 Tr 214.
[47] Id. at 215.
[48] 2 Tr 217-218.

average cost per kWh equal to $0.05625. A base recovery factor of $0.5570 was subtracted to produce a remaining cost of $0.00055 per kWh. Finally, the base recovery factor was multiplied by the line loss factor of 1.07933 to calculate a maximum PSCR factor of $0.00059 per kWh.[49]

Mr. Volansky provided Supplemental Direct Testimony to correct the PSCR Factor based on the corrected total power supply cost in Corrected Exhibits A-7 and A-8. He also corrected an error in the calculation of the net transmission expense in Exhibit A-22.[50]

B. Commission Staff

Raushawn D. Bodiford, a Public Utilities Engineer in the Energy Operations Division of the Commission, testified that Staff reviewed Consumers' PSCR plan filing to determine what approvals the company was requesting, distinguish between historical and projected costs, and to evaluate the reasonableness and prudence of the plan. Mr. Bodiford testified that Consumers' 2019 plan did not introduce any new issues and was consistent with plans that have been approved in the past.[51] Mr. Bodiford highlighted the Commission's approval of Consumers' coal purchasing strategy and its procedures for modeling unplanned outages in Case No. U-18142.[52]

Mr. Bodiford explained that Staff conducted numeric comparisons to the baseline PSCR plan cases and compiled a forecast of the company's generation by source. Mr.

[49] 2 Tr 228-229.
[50] 2 Tr 231-232; Corrected Exhibit A-22.
[51] 2 Tr 238-240.
[52] 2 Tr 242-243.

Bodiford testified that Staff found the company's forecasts align with historical forecasts, with a few exceptions, which the company explained.[53]

Mr. Bodiford testified Staff compared the major projected cost and requirement data presented in Case No. U-18402 (Consumers' 2018 PSCR plan) to the data supplied in this case. He explained that Staff found the company's assumptions and methodologies, including system, transmission, and environmental costs, used to develop of the PSCR factor, were reasonable and prudent.[54]

C. Residential Customer Group

Geoffrey C. Crandall, a principal and Vice President of MSB Energy Associates, recommended improvements to Consumers' PSCR plan and five-year forecast after his review of the company's case. Mr. Crandall stated that his testimony focused on ensuring that ratepayers receive the benefit of reduced fuel and purchased power costs resulting from the 2017 Tax Cuts and Jobs Act (TCJA). He also asserted that Consumers did not satisfy its burden to establish it acted prudently in leasing, rather than purchasing, the interconnecting pipeline for the Zeeland plant. And, Mr. Crandall raised issues concerning the cost of gas management services utilized for the acquisition of gas at the Zeeland, Jackson, and Karn plants.[55]

Mr. Crandall explained that, beginning January 1, 2018, the TCJA reduced the federal tax rate for corporations from 35% to 21%. However, according to Mr. Crandall:

> There is no explanation of actions taken in CECO's U-20219 filing regarding what Consumers Energy Company (CECO) has done to capture TCJA created PSCR savings for fuel and purchased power in its PSCR factor or five-year PSCR Plan forecast. The Plan filing, testimony and exhibits appear to be devoid of any discussion or explanation of efforts and actions

[53] 2 Tr 244, Table 1.
[54] 2 Tr 249.
[55] 2 Tr 254-255.

CECO has taken or expects to take to deliver savings for its PSCR customers attributable to the TCJA. So while it is possible that CECO may have already pursued and obtained TCJA related fuel and purchase power cost savings, CECO does not provide any such explanation in its U-20219 filing to establish that CECO has been aggressively pursuing these cost savings opportunities. CECO may have a unique opportunity to renegotiate or require changes in its fuel or other supplier contracts to reflect the lower costs of fuel procurement due to the lowering of the supplier's corporate taxes and costs charged to CECO's PSCR customers.[56]

Mr. Crandall testified he understood the FERC process for adjusting transmission tariffs provides for an immediate downward adjustment of the tariff if federal taxes are reduced. "That being the case, it follows logically that CECO should reexamine their fuel and purchase power contracts and renegotiate contracts to downwardly adjust coal, fuel, purchase power and other costs which are proposed to be included in the CECO'S PSCR factor and five-year PSCR forecast."[57]

Mr. Crandall asserted that, under Act 304, Consumers has an obligation to minimize fuel, purchase power, and other costs, and therefore must take action to secure cost reductions from suppliers.[58] Mr. Crandall testified that the company should be required to explain and quantify potential TCJA savings in its reconciliation case and in subsequent PSCR plan cases, or face a disallowance under MCL 460.6j(13)(g).[59]

Mr. Crandall maintained that the company did not establish that its decision to lease, rather than purchase, the pipeline transporting natural gas to the Zeeland facility was reasonable and prudent. He stated that the Commission adopted the RCG's recommendation of a partial disallowance of the company's proposed Zeeland interconnection lease costs in Case No. U-18142. Mr. Crandall recommended that the

[56] Id. at 256.
[57] Id.
[58] Id. at 258-259.
[59] 2 Tr 259.

Commission continue to disallow the higher cost lease payments on grounds that lower costs would be incurred if Consumers exercised its option to purchase the pipeline. Mr. Crandall testified that the Commission should issue a warning under MCL 460.6j(7) that the remainder of its lease payments may be disallowed.[60]

Mr. Crandall also testified that Consumers failed to justify the costs associated with a gas management service contract utilized at the Zeeland, Jackson, and Karn facilities. He recommended the Commission disallow recovery if the company fails to justify these costs in the PSCR reconciliation.[61]

D. Consumers' Rebuttal

Several company witnesses provided rebuttal to Mr. Crandall's testimony. Mr. Alfred disputed Mr. Crandall's claim that PSCR costs do not reflect savings associated with the TCJA. Mr. Alfred testified that METC reduced its rates to account for the TCJA tax reduction in 2018 and has carried the reduction forward in its projected 2019 rates filed with MISO. Thus, all TCJA transmission savings were reflected in this PSCR Plan case filing.[62]

Mr. Nadeau took issue with Mr. Crandall's claims that Consumers has not justified use of a gas management services contract and that the company must take action to reduce fuel cost from suppliers based on TCJA savings. And, he stated that Mr. Crandall's assertions and recommendations related to the lease costs for the lateral pipeline that supplies the Zeeland facility are unfounded. According to Mr. Nadeau, the Commission did not adopt a partial disallowance of the lease cost for the SEMCO lateral

[60] Id. at 260.
[61] Id. at 261.
[62] 2 Tr 128.

pipeline in Case No. U-18142, explaining that the company proposed recovery of both the cost to purchase the pipeline and the demand charge for the pipeline in that case. Mr. Nadeau noted that the RCG actually supported the recovery of both amounts. Mr. Nadeau pointed out that the Commission disallowed the $1.0 million purchase cost after determining that this cost would be more appropriately recovered in a rate case, but it did include the $700,000 demand charge as part of PSCR costs. Mr. Nadeau added that the Commission found the RCG's analysis of the benefit of purchasing the pipeline lacking because the RCG failed to consider the ongoing operations and maintenance costs in addition to the purchase price.[63]

Mr. Nadeau disputed Mr. Crandall's assertion that Consumers did not justify its decision to renew the lease with SEMCO, referencing testimony he provided in the company's 2017 PSCR reconciliation case:

> The Company received a proposal from SEMCO to extend the term of the agreement at a new, lower annual demand charge. In evaluating the cost of ownership compared to this new annual demand charge, the Company determined it was more cost effective to forgo the purchase of the pipeline and instead extend the transportation contract for another five years and pay the lower annual demand charge.[64]

Mr. Nadeau testified that the company performed a benefit/cost analysis to determine whether leasing the Zeeland lateral, versus purchasing the pipeline, was the most advantageous to its customers. The results showed that the company will save PSCR customers at least $225,000 per year from 2018 through 2022.[65] Mr. Nadeau concluded that the company has justified its decision to extend the lease with SEMCO

[63] 2 Tr 33-34.
[64] 2 Tr 35, quoting Case No. U-20068, 2 Tr 275.
[65] 2 Tr 35; Confidential Exhibit A-23.

and that the RCG has tried and failed to establish that purchase of the pipeline, rather than leasing, is more cost effective in this and prior PSCR cases.

Mr. Nadeau also took issue with Mr. Crandall's assertion that the company failed to justify use of gas management services agents. He testified that the company competitively bids these contracts, and he provided an analysis showing that the contract costs are lower than the cost for the company to perform the same functions.[66] In cross-examination, Mr. Nadeau reiterated that Consumers does not provide gas management services and Consumers' gas utility does not provide storage services to commercial entities such as Consumers' electric utility.[67]

Mr. Nadeau disputed Mr. Crandall's claim that the company should take additional measures to secure reductions from its fuel and power suppliers. He reiterated that the oil and gas for the Karn units and Thetford combustion turbines is purchased on the spot market and that the management service contracts for the Jackson and Zeeland facilities is competitively bid, which should induce bidders to reflect savings associated with the TCJA, or risk loss of the company's business.[68] Mr. Nadeau reiterated that, "[t]he gas management services contracts do not provide the ability to renegotiate the contracts to reflect the impact of the TCJA."[69]

Mr. Troyer provided rebuttal to Mr. Crandall's recommendation that Consumers examine its PPAs and take actions to reduce PPA costs as a result of the TCJA. Mr. Troyer testified that Consumers has not entered into negotiations with any supplier as a result of the TCJA, stating that there is no mechanism in the company's PPAs which

[66] 2 Tr 38; Confidential Exhibit A-24.
[67] 2 Tr 71-72.
[68] 2 Tr 38.
[69] Id. at 39.

would allow for renegotiation.[70] He further testified that such negotiations could lead to poor precedent for future contracts. Mr. Troyer stated:

> If the Company has the authority or negotiating power to force its suppliers to convey all or a portion of their additional revenue to the Company as a result of reduced tax rates, it would be logical to assume that the reverse may also be true, meaning that the supplier could force the Company to take on part of their tax liability when taxes rise. It would be a poor outcome for the Company's customers if they were required to pay tax increases simply because the supplier had a higher tax liability in future years. The Company and its PPA suppliers entered into these contracts with an understanding that tax laws may change during the term of the agreement and each party may be affected by these changes which are outside of their control.[71]

With no indication that negotiations would result in meaningful changes for customers, Mr. Troyer noted that Consumers does not intend to pursue contract adjustments based on the TCJA.[72]

Mr. Lott provided testimony to rebut Mr. Crandall's assertions that the company's coal contracts should be renegotiated. He testified there are no contractual provisions which require suppliers to share potential savings resulting from the TCJA or that require contract renegotiation. He also opined there is some potential financial risk to the company and its PSCR customers, further indicating that the company's competitive bidding creates an incentive to account for lower costs or risk a loss of business.[73]

Ms. Rissman provided testimony to rebut Mr. Crandall's assertions that the company should re-examine its fuel contracts related to coal and take action to reduce the costs based on the TCJA. Like Mr. Lott, she also testified there were no contractual provisions, or other means, to compel suppliers to renegotiate fully executed contracts

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[70] 2 Tr 100.
[71] Id. at 100-101.
[72] Id.
[73] 2 Tr 192-194.

and opined there could be potential financial risk to the Company and its PSCR customers Ms. Rissman also stated the Company does not have specific knowledge that supplier costs are reduced, noting suppliers may have other expenses that have increased.[74]

III.

POSITIONS OF THE PARTIES

Consumers requests approval of its 2019 PSCR plan and five-year forecast as set forth in its testimony and exhibits. Consumers further requests that the Commission authorize the company to charge a maximum PSCR factor of $0.00059 per kWh as set forth in Mr. Volansky's testimony and Corrected Exhibit A-22. Consistent with Mr. Bodiford's testimony, the Staff agrees that Consumers' plan, PSCR factor, and five-year forecast are reasonable and prudent.

The RCG maintains that Consumers failed to carry its burden to show that it has attempted to obtain cost-savings from various suppliers as a result of the TCJA. The RCG argues that adjustment clauses in contracts between utilities and vendors are not unusual, and contract renegotiation in light of changed circumstances is likewise common. The RCG posits that "CECO has not even attempted to ask for or inquire into contract modifications with its suppliers to reduce costs . . . CECO instead presents merely bald speculative conclusionary statements as to why such an effort should not even be attempted."[75] Noting that Consumers has all of the information on its supplier contracts, the RCG recommends that Consumers be ordered "to undertake a study and to specifically present testimony and exhibits in its 2019 PSCR reconciliation case, and subsequent PSCR cases, to describe all efforts that CECO has or is undertaking to seek

[74] 2 Tr 220-222.
[75] RCG's brief, p. 33.

supplier cost reductions in light of the adoption of the federal income tax reduction adopted by TCJA."[76]

Next, the RCG maintains that demand charges for the pipeline serving the Jackson plant should be disallowed on grounds that Consumers gas division owns the pipeline and presumably collects pipeline investment and O&M costs, along with a return, through gas rates. According to the RCG, "The demand and other charges are not actual expenses charged by an independent outside supplier to CECO as an entity, and therefore demand charges represent a highly theoretical non-cost that should not be included as costs in this case."[77] The RCG also recommends that the Commission disallow demand charges associated with the Zeeland plant, contending that Consumers' decision to forgo purchase of the pipeline was unreasonable and imprudent.

Finally, the RCG asserts that Consumers failed to carry its burden to demonstrate that payments to independent gas service agents are reasonable and prudent. While not proposing a specific remedy, the RCG again contends that Consumers should be required to present specific evidence showing that the costs of the gas acquisition, transportation, and storage services provided by these agents are reasonable compared to other alternatives, including having the company carry out these functions itself.

In reply, Consumers argues that the RCG's claims should be dismissed as without merit. Specifically, Consumers points out that transmission costs have already been reduced consistent with the TCJA, and the reduced costs are reflected in the proposed PSCR factor. With respect to the company's PPAs with various generators and its supplier contracts, Consumers maintains that these contracts do not contain a

[76] Id. at 34.
[77] Id. at 35.

mechanism that would allow the parties to renegotiate the contract; any renegotiation would not be likely to result in a meaningful reduction in costs, and the result of a renegotiation could set a poor precedent for future contracts. The company also pointed to its competitive bidding, and "layering" of contracts as a means of leveraging competition and controlling costs.

Consumers asserts that the costs the company incurs for transportation service from the SEMCO lateral are reasonable and prudent, and therefore the RCG's recommended disallowance of these costs is misplaced. First, Consumers maintains that the RCG misconstrues its own position and the Commission's February 5 and July 24, 2018 orders in Case No. U-18142. In that case, the company proposed to include costs to purchase the pipeline for $1.0 million, as well as for the annual $700,000 demand charge, both of which the RCG supported. Subsequently, the Commission disallowed the $1.0 million cost to purchase the lateral, finding it more appropriately recovered in a rate case. Consumers adds that the RCG ignores the company's testimony in Case No. U-20068, its 2017 PSCR reconciliation, where the company stated that it had decided not to purchase the SEMCO lateral because SEMCO's demand charge had been significantly reduced.[78] In this case, Mr. Nadau explained that a benefit-cost analysis demonstrated that continuing the SEMCO contract for the next five years would save ratepayers $225,000 annually compared to the cost of purchasing the pipeline. And, Consumers points out that the Commission has consistently approved recovery of demand charges for the SEMCO lateral, pointing to the company's 2010 PSCR reconciliation, Case No. U-

[78] It does not appear that this was a contested issue in the case.

16045-R; its 2011 PSCR plan, Case No. U-16432; its 2011 PSCR reconciliation, Case No. U-16432-R; and its 2012 PSCR plan, Case No. U-16890.

Consumers maintains that the RCG's concerns about gas management services agreements for the Zeeland and Jackson plants, and Karn Units 3 and 4, should be rejected as outside the scope of this proceeding. Consumers points out that Mr. Crandall did not request that the Commission take any action as part of this plan case; instead he recommended that these agreements be addressed as part of the reconciliation. Substantively, Consumers points out that the company's gas management services agreements have been reviewed extensively in prior proceedings, highlighting the Commission's determination, in Case No. U-17918, that these competitively-bid agreements save customers money.

In its reply brief, the RCG repeats that, by failing to undertake a complete review of its supplier and vendor contracts to determine possible cost savings from the TCJA, Consumers did not meet its burden to show that its PSCR plan is reasonable and prudent. The RCG maintains that Consumers always has a means to renegotiate its contracts, pointing to the recent renegotiation of the contract with SEMCO for pipeline services to the Zeeland plant. The RCG further argues that Consumers' claim, that reopening contract negotiations could result in higher costs for the company, is speculative and should be dismissed. The RCG asserts:

> It should also be emphasized that RCG's criticism of the lack of any proactive efforts of the company to seek cost reductions from its suppliers or vendors as a result of TCJA is not limited to only coal or transportation contracts, but relates to virtually every type of supplier or vendor (such as rail and vessel transportation, natural gas and oil purchases, coal purchases, management agent contracts, pipeline transportation costs [including costs charged by CECO under the Zeeland pipeline contract, or for the interconnection pipeline to the Jackson natural gas plant, which

> pipeline is owned by CECO itself] or any other costs included by CECO in this PSCR case for supplier or vendor costs of any kind.[79]

The RCG points out that it does not have sufficient information to recommend a specific adjustment to Consumers' PSCR factor, however, they posit that "a viable remedy is for . . . the Commission to require, that CECO make a complete presentation of its efforts to reduce its PSCR costs by diligently reviewing all of its suppliers and vendors contracts or other agreements and by pursuing discussions with all of its suppliers and vendors to seek cost savings due to the adoption of TCJA[,]" to be included in future PSCR plan and reconciliation cases.[80]

Next, the RCG reiterates its concerns about the demand charge for the Jackson pipeline, again contending that Consumers is double-recovering pipeline costs in both gas rates and through the PSCR factor. The RCG also counters that Consumers, and not the RCG, misrepresented the RCG's position in Case No. U-18142. In that proceeding, the RCG's witness recommended that Consumers receive $1.7 million total for the $700,000 demand charges for one year and the $1 million purchase price of the pipeline at the end of the lease term, so that Consumers could purchase the pipeline rather than entering another five-year lease. The RCG maintains that Consumers' failure to purchase the pipeline in 2017 was unreasonable and imprudent; thus, the demand charges included in this and future PSCR plans should be disallowed.

Finally, the RCG contends that consideration of the cost of a gas management services agent is not beyond the scope of this case, asserting that "it is beneficial to the parties and the Commission process that issues that are being challenged be presented

[79] RCG's reply brief, p. 3.
[80] Id. at 4.

as soon as possible, such as in the plan phase of the case, in advance of pursuing the issue in the reconciliation phase of the case."[81] The RCG also dismisses Consumers' claim that costs associated with gas management services have been approved in past PSCR proceedings, contending that the company presented no analysis in this case to show that the use of competitively bid gas management services is more cost effective than undertaking those services in-house, as part of the company's gas business.

IV.

LEGAL REQUIREMENTS

Act 304, MCL 460.6j *et seq*., provides for a PSCR clause that requires the utility to "annually . . . file . . . a complete power supply cost recovery plan describing the expected sources of electric power supply and changes in the cost of power supply anticipated over a future 12-month period specified by the commission and requesting for each of those 12 months a specific power supply cost recovery factor." MCL 460.6j(3). In addition, a PSCR plan must:

> [D] escribe all major contracts and power supply arrangements entered into by the utility for providing power supply during the specified 12-month period. The description of the major contracts and arrangements shall include the price of fuel, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. For gas fuel supply contracts or arrangements, the description shall include whether the supply contracts or arrangements include long-term firm gas transportation and, if not, an explanation of how the utility proposes to ensure reliable and reasonably priced gas fuel supply to its generation facilities during the specified 12-month period. The plan shall also include the utility's evaluation of the reasonableness and prudence of its decisions to provide power supply in the manner described in the plan, in light of its existing sources of electrical generation, and an explanation of the actions taken by the utility to minimize the cost of fuel to the utility.
> MCL 460.6(j)(3).

[81] RCG's reply brief, p. 7.

Along with the PSCR plan, under MCL 460.6j(4) a rate-regulated electric utility must file:

> [A] 5-year forecast of the power supply requirements of its customers, its anticipated sources of supply, and projections of power supply costs, in light of its existing sources of electrical generation and sources of electrical generation under construction. The forecast shall include a description of all relevant major contracts and power supply arrangements entered into or contemplated by the utility, and any other information the commission may require.
>
> For the PSCR plan, the Commission shall:
>
> [C]onduct a proceeding, to be known as a power supply and cost review, for the purpose of evaluating the reasonableness and prudence of the power supply cost recovery plan filed by a utility pursuant to subsection (3), and establishing the power supply cost recovery factors to implement a power supply cost recovery clause incorporated in the electric rates or rate schedule of the utility.
> MCL 460.6j(5).
>
> (6) In its final order in a power supply and cost review, the commission shall evaluate the reasonableness and prudence of the decisions underlying the power supply cost recovery plan filed by an electric utility under subsection (3), and shall approve, disapprove, or amend the power supply cost recovery plan accordingly. In evaluating the decisions underlying the power supply cost recovery plan, the commission shall consider the cost and availability of the electrical generation available to the utility; the cost of short-term firm purchases available to the utility; the availability of interruptible service; the ability of the utility to reduce or to eliminate any firm sales to out-of-state customers if the utility is not a multi-state utility whose firm sales are subject to other regulatory authority; whether the utility has taken all appropriate actions to minimize the cost of fuel; and other relevant factors. The commission shall approve, reject, or amend the 12 monthly power supply cost recovery factors requested by the utility in its power supply cost recovery plan. The factors shall not reflect items the commission could reasonably anticipate would be disallowed under subsection (13). The factors ordered shall be described in fixed dollar amounts per unit of electricity, but may include specific amounts contingent on future events.
>
> For the five-year forecast, the Commission must:
>
> [E]valuate the decisions underlying the 5-year forecast filed by a utility under subsection (4). The commission may also indicate any cost items in the 5-year forecast that, on the basis of present evidence, the commission would

> be unlikely to permit the utility to recover from its customers in rates, rate schedules, or power supply cost recovery factors established in the future. MCL 460.6j(7).

Accordingly, this case requires a determination of the reasonableness and prudence of the decisions underlying the PSCR plan and the proposed plan itself. MCL 460.6j(3), (5) and (6). In addition, the costs items in the 5-year forecast will be reviewed to determine if, based on “present evidence”, any of them are unlikely to be recovered in future proceedings, generally referred to as a “Section 7 warning.” MCL 460.6j(7).

IV.

DISCUSSION

This PFD recommends that Consumers’ proposed PSCR plan and maximum monthly PSCR factor of not less than $0.00059 per kWh for all customer classes be approved and that the five-year forecast be accepted. Although the RCG raises some concerns, discussed in more detail below, it does not recommend any specific changes to the plan or factors. And the Staff supports the company’s plan and factors as consistent with previous plans.

The RCG raises four issues in its brief: (1) the company has failed to demonstrate that it has attempted to obtain costs savings from its suppliers as a result of the TCJA; (2) Consumers has not shown that the demand charges for the Zeeland lateral are reasonable and prudent; (3) because Consumers’ gas utility owns the Jackson lateral pipeline, all demand charges paid by the electric utility should be disallowed; and (4) the company has failed to demonstrate that its payments to gas service agents are reasonable and prudent.

First, the PFD finds that changes in tax rates may or may not be reflected in supplier costs, depending on the type of service and contract length, with more recent contracts potentially reflecting the TCJA. As the company points out, tax decreases may have been offset by increases in other costs and attempts to renegotiate agreements could be detrimental to customers in the long run if tax rates, or other costs, increase and counterparties demand renegotiation on those grounds. Moreover, Consumers does employ some means of controlling costs, primarily through competitive bidding, along with spot purchases, and staggered contracts.[82]

The RCG's recommendation that Consumers renegotiate its PPAs should also be rejected. As Consumers points out, these agreements do not contain provisions that permit renegotiation, and the price term set in the original agreement recognizes the risk that underlying costs may increase or decrease in the future.

Next, the PFD finds that the RCG's claims concerning the SEMCO lateral should be dismissed. As Consumers points out, the RCG fails to acknowledge that the demand charges have been reduced as discussed in Mr. Nadau's testimony in Case No. U-20068. And, the RCG fails to address Mr. Nadau's testimony and Confidential Exhibit A-23, which demonstrate annual cost savings of $225,000 if SEMCO continues to own and operate the lateral.

The RCG argues that all charges associated with the Jackson lateral should be disallowed on grounds that, because Consumers' gas division owns the pipeline "[the

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[82] The ALJ further notes that Mr. Crandall cited the significant sums that were refunded to Michigan gas and electric ratepayers through the Credit A, Credit B, and Calculation C cases. However, the great majority of those amounts were from deferred taxes refunded under Calculation C. Those funds and refunds pertain to regulated utilities, not Consumers' suppliers, which are not subject to pervasive regulation or regulatory accounting.

PSCR cost is an] unreasonable result that CECO obtains by having its 'left hand' charge its 'right hand' . . . then pass on to ratepayers unnecessary and duplicative costs being recovered both in base rates and in PSCR cases."[83] The ALJ disagrees. While it is no doubt the case that the Jackson lateral is included in Consumers Gas' rate base, and that operations and maintenance costs for the pipeline are recovered from gas customers, the RCG fails to recognize that electric customers benefit from the pipeline and compensate the gas side of the company through the demand charges.[84] Adopting the RCG's suggestion that the pipeline services be provided to the electric business *gratis*, would unreasonably result in gas customers subsidizing electric customers for the use of the lateral.

That said, although Consumers' presentation on the continued reasonableness and prudence of the charges for the Zeeland lateral was sufficient, there is little evidence in this record on the reasonableness and prudence of the demand charge paid for the use of the Jackson lateral. Mr. Nadau testified that, "[t]he Company pays an annual demand charge as provided for in the March 12, 2002 Transportation Services Contract assumed by the Company from the previous owner of the Jackson Plant which provides firm gas transportation from the point of interconnection with the Vector pipeline to the Jackson Plant." The Act 9 transportation agreement is contained in Confidential Exhibit RCG-16, and, except as quoted above, there is no additional testimony about the Jackson lateral. However, because the contract was entered into 18 years ago by the previous owner of the Jackson plant; it has not been revisited since that time, and because it is an affiliate transaction, the PFD recommends that the company be required to provide more

[83] RCG's reply brief, p. 5.
[84] This could be confirmed by an audit request in Consumers gas rate case.

support for the current reasonableness and prudence of the demand charges associated with the Jackson lateral in its PSCR reconciliation case and in future PSCR cases.

Finally, with respect to the RCG's concerns about Consumers' agreements with gas management service agents, the PFD agrees with the company that its use of these agents and agreements has been reviewed and approved by the Commission in numerous PSCR plan and reconciliation cases, and the RCG raises no new issues here. Mr. Nadau explained that these agreements are competitively bid, and although Consumers' gas utility arranges supply, transportation, and storage for the company's bundled customers, it does not offer these services commercially. Thus, the RCG's claim that it would be more economical for the gas side of the company to undertake these services for the electric side of the company is speculative and without any evidentiary support in this record. And, as Consumers points out, specific issues concerning the reasonableness of gas management services agreements can be addressed in the PSCR reconciliation.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
For the Michigan Public Service Commission

Sally L. Wallace

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Sally L. Wallace
Administrative Law Judge

January 14, 2020
Lansing, Michigan