STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief.	)))))	Case No. U-20697

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 October 22, 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 November 10, 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 November 20, 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: 2020.10.22 14:59:50 -04'00'

October 22, 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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In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief.	)))))	Case No. U-20697

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On February 27, 2020, Consumers Energy Company (Consumers) filed a rate case application requesting a $244 million revenue increase, and other relief. The projected test year used in the application is calendar year 2021, and the historical test year used to meet the Commission's filing requirements is calendar year 2018.[1] The Commission authorized Consumers' current electric rates in an order approving a settlement agreement issued on January 9, 2019 in Case No. U-20134.

At the March 23, 2020 prehearing conference,[2] Staff, Consumers, and potential intervenors appeared.[3] Intervention was granted to the Michigan Department of the

[1] Consumers brief, p. 7, incorrectly states that the historical year was 2017. See, 6 Tr 2210

[2] Due to the exigencies of the coronavirus pandemic, and consistent with Governor Gretchen Whitmer's declaration of emergency, all hearings were held via telephone and video conference using the Microsoft Teams communication platform.

[3] Pursuant to the instructions for filing comments provided in the March 19, 2020 scheduling memo, the Michigan Air Conditioning Contractors Association presented comments under Rule 413 of the Commission's rules of practice and procedure on March 23, 2020.

Attorney General (Attorney General); the Kroger Company (Kroger); Michigan Environmental Council (MEC), the Sierra Club (SC),Natural Resources Defense Council (NRDC), Citizens Utility Board of Michigan (CUB) (collectively, the MEC group); City of Grand Rapids (Grand Rapids); Michigan Municipal Association for Utility Issues (MAUI); Association of Businesses Advocating Tariff Equity (ABATE); Hemlock Semiconductor Operations LLC (HSC); Environmental Law & Policy Center (ELPC), Vote Solar, Solar Energies Industry Association, Great Lakes Renewable Energy Association and the Ecology Center (collectively, the Joint Clean Energy Organizations or JCEO); Energy Michigan; the Michigan Energy Innovation Business Council and Institute for Energy Innovation (together, EIBC/IEI); the Residential Customer Group (RCG); Wal-Mart Stores East, LP and Sam's East, Inc. (Walmart); ChargePoint, Inc. (ChargePoint); Michigan State Utility Workers Council, Utility Workers Union Of America, AFL-CIO; Midland Cogeneration Ventures, LP, and the Michigan Cable Telecommunications Association. A petition to intervene filed by Mr. Phil Forner, which was opposed by the company, was held in abeyance. In a ruling issued on March 31, 2020, Mr. Forner's petition to intervene was denied. In orders issued on May 19 and July 23, 2020, the Commission upheld the denial of Mr. Forner's petition to intervene and denied his request for rehearing.

At the prehearing conference, the parties agreed to a 10-month schedule meeting the applicable time limits of MCL 460.6a. A protective order was entered on March 24, 2020. In keeping with the schedule set at the prehearing conference, Staff and the following intervenors filed direct testimony and exhibits on June 24, 2020: MAUI; Attorney General; MEC group; JCEO; Grand Rapids; ABATE; EIBC/IEI; Energy Michigan; ChargePoint; and Walmart. Some testimony was jointly filed on behalf of multiple parties.

Also, consistent with the schedule, on July 14, 2020, Consumers, Staff, Chargepoint, Energy Michigan, ABATE, the Attorney General, Kroger, MEC group, and the JCEO filed rebuttal testimony.

On July 20, 2020, MEC filed a motion to strike a portion of the rebuttal testimonies of Consumers' witnesses Keith Troyer and Josnelly Aponte and rebuttal Exhibit A-133. Consumers filed a response opposing the motion on July 24 and oral argument on the motion was held on July 27, 2020. In a ruling issued from the bench, the ALJ granted in part and denied in part MEC's motion

Evidentiary hearings via videoconference were held on July 29 through July 31, and August 3 through August 5, 2020. Fifteen witnesses appeared for cross-examination on their testimony and, per agreement of the parties, the testimony and exhibits of the remaining witnesses were bound into the record without the need for them to appear.

The following parties filed briefs on August 27, 2020: Consumers; Staff; the Attorney General; Energy Michigan; EIBC/IEI; Walmart; Kroger; JCEO; MEC group;[4] MAUI; Grand Rapids; HSC; the RCG; and ChargePoint. Per agreement of the parties, ABATE filed its initial brief on September 2, 2012. The following parties filed reply briefs on September 16, 2020: Consumers; Staff; the Attorney General; ABATE; JCEO; MEC group, Chargepoint, Energy Michigan, ABATE, MEIB, MAUI, Kroger, Walmart, City of Grand Rapids. Also, MEC group filed a supplemental reply brief to ABATE's initial brief on September 21, 2020.

The evidentiary record in this proceeding is contained in 4,923 pages of transcript in 8 volumes, and numerous exhibits admitted into evidence, with portions of the

[4] Staff and MEC group filed both public and confidential versions of their initial briefs.

testimony and certain exhibits designated as confidential subject to the protective order. This PFD follows the standard organization: after an overview of the record in section II, the test year is discussed in section III, rate base elements are discussed in section IV; the cost of capital is discussed in section V; adjusted net operating income is discussed in section VI; other revenue-related issues are addressed in section VII; and cost of service and rate design issues are discussed in section VIII.

In order to ensure compliance with the statutorily imposed timeframe for deciding this case, only the evidence and arguments necessary for a reasoned analysis of the disputed issues are expressly addressed in this PFD. However, all of the evidence presented in this case, and the arguments made by the parties based on that evidence, were considered. And, again due to the time constraints for completing a rate case, certain issues addressed by the parties were found to be beyond the scope of the proceeding. For those issues, a summary of the matter is provided along with a recommendation for an alternative forum where the issue or issues may be more appropriately addressed.

II.

OVERVIEW OF THE RECORD

The discussion that follows briefly reviews the direct and rebuttal testimony and the exhibits presented by each party. The record is discussed in further detail as necessary in the subsequent sections.

A. Consumers Energy

Consumers presented the direct and rebuttal testimony of the following 28 witnesses:

Michael A. Torrey is Vice President of Rates and Regulations for Consumers.[5] Mr. Torrey presented an overview of the company's rate filing, including an introduction to the testimony of the company's other witnesses. Mr. Torrey provided rebuttal to testimony by Staff, MEC group, and the Attorney General on information technology (IT) expense trends, performance-based ratemaking (PBR), and rates and affordability.

Richard T. Blumenstock, Executive Director of Electric Planning for Consumers,[6] testified in support of Consumers' projected electric distribution capital and O&M expense. Mr. Blumenstock provided rebuttal to witnesses for Staff, MEC group, the Attorney General, and the JCEO on deferred accounting for certain distribution programs, expense adjustments for various distribution projects, distribution planning processes, and the value of distributed generation (DG). Mr. Blumenstock sponsored Exhibit A-12, Schedule B-5.1 (actual and projected distribution capital expense); Exhibit A-29 (5-year historical distribution capital expense); Exhibit A-30 (actual and projected new business expense); Exhibit A-31 (actual and projected reliability program expense); Exhibit A-32 (actual and projected capacity program expense); Exhibit A-33 (actual and projected demand failures expense); Exhibit A-34 (asset relocation expense); Exhibit A-35 (electric operations-other capital expense); Exhibit A-36 through Exhibit A-39 (O&M expense); Exhibit A-40 (actual capital expense per the settlement agreement in Case No. U-20134); Exhibit A-41 (project concept approvals); Exhibit A-42 (summary capital expense); Exhibit A-43 (high voltage distribution (HVD) pole inspection specifications); Exhibit A-44 (HVD pole replacement costs); Exhibit A-45 (line-loss study). Mr. Blumenstock also sponsored

[5] Mr. Torrey's testimony, including direct, rebuttal, and cross-examination, are transcribed at 3 Tr 72-148.
[6] Mr. Blumenstock's testimony, including direct, rebuttal and cross-examination, are transcribed at 6 Tr 1020-1514.

rebuttal Exhibits A-143 (HVD lines reliability pole and switch replacements 2020-2021); A-144 (low voltage distribution (LVD) repetitive outages projects 2020); A-145 (HVD lines and substations rehabilitation projects 2021); A-146 (LVD lines rehabilitation imminent rehabilitation projects 2020); A-147 (HVD remote monitoring and control locations); A-148, A-149, and A-151 through A-159 (discovery responses); and Confidential Exhibit A-150 (concept approval documents).

Douglas E. Detterman, Executive Director of Consumers' Operational and Financial Planning Department,[7] testified concerning the company's proposed capital expense and O&M for the HVD and LVD systems, resource needs, and resourcing approach. Mr. Detterman sponsored Exhibit A-60 (Electric distribution field maintenance and construction resource needs).

Trevor R. Thomas, Director, Customer Experience Communications for Consumers,[8] provided rebuttal testimony to MAUI on various street lighting issues and to MAUI, Staff, and the Attorney General on the replacement of center-suspension street lights.

Scott A. Hugo, Director, Generation Asset Strategy for Consumers,[9] described the company's generation assets (coal, oil, gas, hydroelectric, renewables), its generation support strategy, and generation availability. Mr. Hugo also supported capital expense for fossil and hydroelectric plants (historical, bridge, and test year), capital expense for company-owned solar, operations and maintenance (O&M) expense for fossil and hydro, and capital expenditures and O&M for Karn Units 1 and 2. Finally, Mr. Hugo described

[7] Mr. Detterman's direct testimony is transcribed at 6 Tr 1783-1788.
[8] Mr. Thomas's rebuttal testimony is transcribed at 6 Tr 2419-2447.
[9] Mr. Hugo's revised direct and rebuttal testimony are transcribed at 6 Tr 1930-2106.

Campbell Unit 1 and 2 retirement scenarios and costs and the proposed SCADA Overlay Project for renewables operations. Mr. Hugo provided rebuttal in response to testimony by witnesses for Staff, the Attorney General, and the MEC group on generation expense adjustments and retirement analysis of Campbell 1 and 2. Mr. Hugo sponsored Exhibit A-67 (major outages for test year for fossil and Ludington); Exhibit A-68 (availability factors); Exhibit A-12, Schedule B-5.2 (Generation capital expense); also Exhibits A-69 to A-71 (revised testimony). He sponsored Rebuttal Exhibit A-171, and Confidential Rebuttal Exhibits A-169 and A-170.

Heather A. Breining is a Senior Engineering Technical Analyst II at Consumers.[10] Ms. Breining's testimony described the environmental regulations applicable to the company's generating plants and the timing and amount of projected expenditures to meet air-quality, coal combustion residual (CCR), and water-quality requirements (Rule 316(b) and SEEG). Ms. Breining sponsored Exhibit A-46 (capital expense for air quality compliance); Exhibit A-47 (capital expense for CCR compliance); Exhibit A-48 (capital expense for Rule 316(b) compliance); and Exhibit A-49 (SEEG compliance capital expense). Ms. Breining provided rebuttal to Staff witness DeCooman.

Karen M. Gaston, Director of Corporate Budget, Planning and Analysis for Consumers,[11] testified concerning corporate services capital and O&M expense for the 2021 test year. Ms. Gaston filed rebuttal to the Staff and Attorney General. She sponsored Exhibit A-12, Schedule B-5.4 Schedule C (Summary of corporate services capital expense); Exhibit A-61 (summary of corporate services O&M for test year); Exhibit

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[10] Ms. Breining's direct and rebuttal testimony are transcribed at 6 Tr 1634-1662.
[11] Ms. Gaston's direct and rebuttal testimony are transcribed at 6 Tr 1827-1861.

A-62 (historic corporate services O&M 2018-2021); Exhibit A-63 (S&P ranking of Consumers' administrative and general (A&G) expense for 2018); Exhibit A-64 (uncollectibles expense for 2018-2020 and the test year); and Exhibit A-65 (injuries & damages expense 2014-2021).

Jeffrey D. Tolonen, Manager of Consumers' Application Development Team,[12] provided testimony and exhibits in support of the company's Customer Experience and Operations expense; Corporate Services and Governance expense; Transformation, Engineering and Operations Support expense; and capital and O&M expense for information technology (IT) Operations. Mr. Tolonen provided rebuttal to Staff witnesses McMillan-Sepkoski and Fromm, and Attorney General Witness Coppola. He sponsored Exhibit A-104 (actual and projected IT operations O&M expense); Exhibit A-105 (actual and projected IT investments O&M expense); Exhibit A-106 (description, scope, benefits, implementation dates, and actual and projected costs for IT); Exhibit A-107 (historical and projected cloud computing prepaid balance); Exhibit A-108 (projected IT costs for 25 highest cost projects, project benefits, and timelines). Mr. Tolonen sponsored rebuttal Exhibits A-186, A-187, and A-188.

Patrick C. Ennis, Executive Director of Fleet Services and Facilities Management,[13] described the electric operations support organization and functions including fleet services, facilities, real estate, and administrative operations. Mr. Ennis supplied rebuttal to the Attorney General and Staff witness on the Circuit 501 program, facilities investment, and the Unified Control Center (UCC) proposal.

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[12] Mr. Tolonen's direct and rebuttal testimony are transcribed at 6 Tr 2449-2574.

[13] Mr. Ennis' Revised rebuttal testimony is transcribed at 6 Tr 1816-1825. Mr. Ennis adopted the direct testimony of LaTina Saba, which is transcribed at 6 Tr 1792-1814.

Kyle P. Jones, Director of Fleet Services for Consumers,[14] described fleet service functions and responsibilities, the company's approach to fleet services, and he discussed a 2017 Utilimarc Vehicle Replacement Report. Mr. Jones also explained historic, bridge, and test year capital expense for Fleet Services, Workforce Expansion, and Telematics. Mr. Jones provided rebuttal testimony to the Attorney General witness Coppola and Staff witness Becker on proposed reductions to fleet capital investments. Mr. Jones sponsored Exhibit A-12, Schedule B-5.7 (historical and projected fleet services capital expense), Exhibit A-72 (vehicle replacement report), and rebuttal Exhibits A-172 through A174 (discovery responses).

Steven Q. McLean, Director of Customer Experience Regulatory Strategy,[15] Reporting and Quality in Consumers' Clean Energy Products Department, discussed Customer Experience and Operations (CX&O) capital expense and O&M; Low-Income Assistance Credit (LIAC) capital expense and O&M; demand response (DR) capital expense and O&M; and the DR surcharge. He provided rebuttal testimony to MEC group, ABATE, Attorney General, and several Staff witnesses. Mr. McLean sponsored Exhibit A-12, Schedule B-5.5; Exhibit A-75 (Projected Customer Experience and Operations O&M Expenses & Revenues Summary); Exhibit A-76 (Customer Experience and Operations IT Project Summary).

Marc R. Bleckman, Executive Director of Financial Planning and Analysis,[16] discussed Consumers' proposed capital structure for the test year. He provided rebuttal

[14] Mr. Jones' direct and rebuttal testimony are transcribed at 6 Tr 2108-2161.
[15] Mr. McLean's testimony, including direct, rebuttal, and cross-examination, are transcribed at 3 Tr 154-327.
[16] Mr. Bleckman's testimony, including direct, rebuttal, and cross-examination, are transcribed at 4 Tr 651-780.

testimony to Staff, Attorney General, and ABATE witnesses on equity ratio, long-term debt cost rate, and the company's credit metrics. Mr. Bleckman sponsored Exhibit A-14, Schedule D-1 (Overall Rate of Return (ORR) summary); Exhibit A-14, Schedule D-1a; Exhibit A-14, Schedule D-1b; Exhibit A-14, Schedule D-2 through Schedule D-6; Exhibit A-24 (credit ratings); Exhibit A-25; Exhibit A-26 (peer company equity ratios); Exhibit A-27 (FFO shit) and Exhibit A-28 (Moody's action on DTE Gas). Mr. Bleckman also sponsored rebuttal Exhibits A-138 (Company Revision to Staff's Exhibit S-4, Schedule D-1a); A-139 (Company Revision to Staff's Projected Common Equity Balance); A-140 (Average Common Equity Ratios and S&P Imputed Debt); A-141 (S&P Sector Comment – April 6, 2020); and A-142 (Moody's Outlook Change – July 1, 2020).

Todd Wehner, Director of Corporate Finance for Consumers,[17] presented the company's recommended return on equity and supporting calculations and models. He provided rebuttal testimony to Attorney General, ABATE, Walmart, and Staff witnesses. Mr. Wehner sponsored Exhibits A-14, Schedule D-5; Exhibits A-114 through A-132; and rebuttal Exhibits A-192 through A-196.

Lora B. Christopher, Director of Employee Benefits for Consumers,[18] testified regarding O&M costs for retirement benefits, employee health, life and long-term disability (LTD) insurance, and other benefits. Ms. Christopher also provided rebuttal to the Attorney General on active health care benefits and LTD. Ms. Christopher sponsored Exhibits Exhibit A-51 (Benefits O&M 2018-2021); A-52 (Pension plans); A-53 (Other Post-employment Benefit (OPEB) expense) and confidential rebuttal Exhibit A-161.

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[17] Mr. Wehner's testimony, including direct, rebuttal, cross-examination, re-direct examination, and re-cross-examination, are transcribed at 4 Tr 345-548.

[18] Ms. Christopher's direct and rebuttal testimony are transcribed at 6 Tr 1687-1730.

Amy M. Conrad, Director of Executive and Incentive Compensation for Consumers,[19] testified regarding the company's request to recover projected costs associated with the Employee Incentive Compensation Plan (EICP). Her testimony included a discussion of the company's overall compensation philosophy, a description of the EICP, and the benefits to customers the company perceives from the EICP. Ms. Conrad filed rebuttal testimony in response to the Staff and Attorney General. She sponsored Exhibit A-55 (EICP measures); Exhibit A-56 (Pay level market analysis); and Exhibit A-57 (Actual and projected EICP O&M expense).

R. Michael Stuart, Director of Metrics and Strategic Planning for Consumers,[20] also testified in support of EICP recovery. He explained operational performance goals and customer-related benefits of the program. He sponsored Exhibit A-103 (EICP Performance Measures).

Brenda L. Houtz, Executive Director of Grid Management for Consumers,[21] discussed service restoration cost increases and described the company's proposal to defer and amortize restoration costs in excess of the amount approved in the rate case. Ms. Houtz provided rebuttal testimony to MEC group, ABATE, Attorney General, and Staff witnesses.

Chris A. Shellberg, Executive Director of High Voltage Distribution (HVD) and Forestry Management,[22] described Consumers HVD and LVD line clearing programs and O&M expenses for the test year. He provided rebuttal testimony to Attorney General, MEC group, and Staff witness. Mr. Shellberg sponsored Exhibit A-98 (Line Clearing

[19] Ms. Conrad's direct and rebuttal testimony are transcribed at 6 Tr 1732-1781.
[20] Mr. Stuart's direct and rebuttal testimony are transcribed at 6 Tr 2402-2416.
[21] Ms. Houtz's direct and rebuttal testimony are transcribed at 6 Tr 1884-1927.
[22] Mr. Shellberg's direct and rebuttal testimony are transcribed at 6 Tr 2360-2400.

O&M Expense); Exhibit A-99 (Line Clearing Ramp-up Plan Estimated Service Restoration Reductions); Exhibit A-100 (2021 HVD Line Clearing Work Plan); Exhibit A-101 (Line Clearing Reliability Results); and Exhibit A-102 (Justification of 7-year Cycle VS Other Cycles).

Sarah R. Nielsen, Director of Corporate Strategy for Consumers,[23] discussed the company's proposed electric vehicle (EV) fleet charging program (PowerMIFleet) and cost recovery proposal. Ms. Nielson also supported deferred expense recovery for the PowerMIDrive program. Ms. Nielsen provided rebuttal testimony to Staff, ABATE, MEC group, and EIBC witnesses. Ms. Nielson sponsored Exhibit A-90 (EV Fleet benefit cost analysis); and Exhibit A-91 (PowerMIDrive costs); and Exhibit A-92 (reference summary).

Michael P. Kelly, Director, Corporate Strategy,[24] for Consumers, testified regarding the Long-Term Industrial Load Rate or Long-Term Industrial Load Retention Rate (LTILRR) and HSC contract as provided under 2018 Act 348, MCL 460.10gg. He provided rebuttal to MEC group witness Jester. Mr. Kelly sponsored Confidential Exhibit A-73 (HSC contract revenues) and Confidential Exhibit A-74 (HSC contract).

Phillip M. Rausch, Business Development Manager for Hemlock Semiconductor Operations LLC,[25] appeared on behalf of HSC and Consumers. He testified regarding HSC's qualifications for the LTILRR under MCL 460.10gg(1)(c).

[23] Ms. Nielsen's direct and rebuttal testimony are transcribed at 6 Tr 2280-2349.
[24] Mr. Kelly's Revised direct and rebuttal testimony are transcribed at 6 Tr 2163-2198. Mr. Kelly provided Confidential direct testimony. (Transcribed at 6 Tr 2605)
[25] Mr. Rausch's direct testimony is transcribed at 6 Tr 2351-2358. Mr. Rausch provided Confidential direct testimony. (Transcribed at 6 Tr 2636)

Michael J. Delaney, Executive Director of Regulatory Affairs and Policy,[26] testified concerning the company's conservation voltage reduction (CVR) program incentive mechanism. Mr. Delaney provided rebuttal testimony to witnesses for Staff, MEC group, the Attorney General, and ABATE. Mr. Delaney sponsored Exhibit A-58 (CVR programs benefits/costs) and Exhibit A-59 (CVR regulatory return comparison), and rebuttal Exhibit A-162 (NARUC resolution on CVR).

Lincoln D. Warriner, a Financial Benchmarking Analyst in the Rate Case/Controls section of Consumers' Gas Engineering and Supply Department, provided rebuttal testimony to Staff witness Fromm on the continued filing of a business case for the company's AMI program.[27]

Daniel L. Harry, Director of General Accounting for Consumers,[28] provided details on the company's various accounting proposals for deferred capital spending, Karn costs, PowerMIFleet deferral, CVR incentive, deferred service restoration, and the financial compensation mechanism (FCM) for power purchase agreements with renewable generators. He provided rebuttal testimony to Staff, Attorney General, and the MEC group witnesses. Mr. Harry also addressed cloud-based computing and data storage. Mr. Harry sponsored Exhibit A-66 (amortization of Karn retention and separation costs for test year).

Heidi J. Myers, Director of Revenue Requirements and Analysis for Consumers,[29] testified regarding historical revenues/expenses; revenue deficiency (including an

[26] Mr. Delaney's testimony, including direct, rebuttal, and cross-examination, are transcribed at 5 Tr 957-994.
[27] Mr. Warriner's rebuttal testimony is transcribed at 6 Tr 2586-2597.
[28] Mr. Harry's direct and rebuttal testimony are transcribed at 6 Tr 1863-1882.
[29] Ms. Myers' direct and rebuttal testimony are transcribed at 6 Tr 2201-2278.

analysis of DR and Karn 1 & 2 retention costs); PowerMIDrive pilot costs; distribution capital expense deferral; the recovery method for the FCM and CVR incentives; revenue requirement for the HSC contract; and the company's AMI business case. She provided rebuttal testimony to the Attorney General, Walmart, ABATE, and several Staff witnesses. Ms. Myers sponsored Exhibits A-1 through A-4 (including associated schedules), which contain historical information for 2018. In addition, Ms. Myers sponsored Exhibits A-11 through A-13 (and associated schedules), which are projected test year items and costs, and Exhibit A-83 (Karn retention revenue requirement), Exhibit A-84 (PowerMIDrive), Exhibit A-85 (Electric rate case deferral), Exhibit A-88 (FCM calculation, surcharge with reconciliation in 2022), Exhibits A-86 and A-87 (pertaining to the HSC contract) and Exhibit A-89 (AMI Business Case). She sponsored Exhibits A-177 through A-184, and Exhibit A-198 in rebuttal.

Eugène M.J.A. Breuring, a Senior Rate Analyst II in the Planning, Budgeting & Analysis Section of Consumers' Rates & Regulation and Quality Department,[30] presented Consumers' forecasts of projected sales, deliveries, generation requirements, and peak demand for the projected test year, as well as historical and projected revenues. Mr. Breuring filed rebuttal testimony to Energy Michigan and MAUI witnesses on system losses. And Mr. Breuring sponsored Exhibit A-5, Schedule E-1 (sales by class and system output, 5 year historical); Exhibit A-15, Schedule E-1 (Sales and output 5-year projected); Exhibit A-15, Schedule E-2 (test year deliveries and revenues); Exhibit A-15, Schedule E-3 (deliveries and customer counts); Exhibit A-15, Schedule E-4 (system load

[30] Mr. Breuring's direct and rebuttal testimony are transcribed at 6 Tr 1665-1685.

factor historical and projected); Exhibit A-50 (test year PSCR factor); and rebuttal Exhibit A-160.

Josnelly C. Aponte, Principal Rate Analyst-Lead in Consumers' Rate Analysis and Administration Section of the Rates and Regulation Department,[31] presented the company's cost of service study (COSS), versions 1 and 2. Ms. Aponte provided rebuttal to Staff, the Attorney General, ABATE, JCEO, Energy Michigan, Kroger, MEC group, EIBC/IEI, and MAUI on production cost allocation, state reliability mechanism (SRM) capacity charge calculation, distribution cost study, DG cost of service, standby customer costs, interruptible load, customer related costs, AMI costs, streetlighting, and proposed load studies. Ms. Aponte sponsored Exhibits Exhibit A-16, Schedule F-1 (COSS Version 1); Exhibit A-16 Schedule F-1.1 (COSS Version 2); Exhibit A-17; Exhibit A-18 (WHAT); Exhibit A-19 (WHAT); Exhibit A-20; Exhibit A-21 (WHAT); and Exhibit A-22. Ms. Aponte sponsored rebuttal Exhibit A-133 (Capacity Related Cost and Charge Calculation); Exhibit A-134 (Electric Distribution Cost Allocation Study); Exhibit A-135 (Distribution Cost Allocation Study Presentation & Forum); Exhibit A-136 (Discovery request); and Exhibit A-137 (Distribution Streetlighting Equipment – 2021 Test Year Projection).

Rachel L. Barnes, Senior Rate Analyst II in Consumers' Rates and Regulation Department,[32] testified regarding proposed tariff changes. She also filed rebuttal in response to witnesses for MEC group, EIBC/IEI, and Staff regarding proposed changes to contribution in aid of construction (CIAC), the DG program cap, and the date for

[31] Mr. Aponte's testimony, including direct, Revised rebuttal, and cross-examination, are transcribed at 5 Tr 796-956.

[32] Ms. Barnes' testimony, including direct, rebuttal, and cross-examination, are transcribed at 6 Tr 1616-1632.

implementation of new rates. Ms. Barnes sponsored Exhibit A-23 (Summary of Tariff Changes) and Exhibit A-16, Schedule F-5 (Tariff Sheets).

B. Staff

Staff presented the direct testimony of 24 witnesses.

Danielle Rogers, a Departmental Analyst in the Smart Grid Section of the Energy Resources Division,[33] testified concerning Staff's disallowance of contingency amounts included in the company's capital expenditure budget for the bridge and test years. Ms. Rogers sponsored Exhibit S-19.0 (Staff adjustments to contingency capex).

Jonathan J. DeCooman, a Public Utilities Engineer in the Resource Optimization and Certification Section of the Commission's Energy Resources Division[34] testified concerning disallowances of capital expenditures for non-routine projects at the company's generating facilities and capital expenditures for environmental compliance projects at the J. H. Campbell generating facilities. Mr. DeCooman sponsored Exhibit S-17 (Non-routine projects at Consumers' generating facilities); Exhibit S-17.1 (Consumers' project workflow); S-17.2 (Consumers' Enterprise Project Management Organization (EPMO) cost estimating manual); S-17.3 (Class of cost estimate for generation projects); S-17.4 (actual and projected monthly expenses for generation projects); Exhibit S-17.5 (Consumers' discovery responses on cost discrepancies); Confidential Exhibit S-17.6 (Non-routine project scoping documents); Exhibit S-17.7 (Company discovery responses on environmental compliance projects); Exhibit S-17.8 (Staff's adjustments); Exhibit S-17.9 (Alternative adjustment for SEEG compliance at Campbell).

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[33] Ms. Rogers' direct testimony is transcribed at 8 Tr 4837-4841.
[34] Mr. DeCooman's direct testimony is transcribed at 8 Tr 4742-4773.

Zachary C. Heidemann, a Public Utilities Engineer in the Resource Optimization and Certification Section of the Commission's Energy Resources Division,[35] testified regarding the Campbell Unit 1 and 2 retirement analysis presented in this case. Mr. Heidemann sponsored Exhibit S-16.0 (major maintenance and capital forecast for Campbell 1 & 2).

Nicholas M. Evans, Manager of the Electric Operations Section of the Commission's Energy Operations Division,[36] testified recommended disallowances for capital and O&M expense for electric distribution. Mr. Evans also provided Staff's recommendations for Consumers' proposed deferred accounting for storm restoration. Mr. Evans sponsored Exhibits S-13.1 through S-13.12, all of which are discovery responses from Consumers.

Tayler Becker, a Public Utilities Engineer in Commission's Electric Operations Section,[37] testified regarding adjustments to facilities and fleet services. He also provided Staff's recommendations for a deferred capital spending recovery mechanism. Mr. Becker sponsored Exhibits S-26.0 (Summary of Staff's Capital Adjustments to Fleet); S-26.1 (Summary of Staff's Capital Adjustments to Operations Support); S-26.2 (Company Discovery Responses); and Confidential Exhibit S-26.3.

Lauren Fromm, a Public Utilities Engineer in the Smart Grid section of the Energy Resources Division,[38] testified regarding Staff's adjustments to IT capital and O&M expense. She also provided recommendations for Consumers' AMI business case. Ms.

[35] Mr. Heidemann's direct testimony is transcribed at 8 Tr 4803-4810.
[36] Mr. Evan's direct testimony is transcribed at 8 Tr 4885-4911.
[37] Mr. Becker's direct testimony is transcribed at 8 Tr 4742-4773. Mr. Becker provided Confidential direct testimony. (Transcribed at 8 Tr 5233)
[38] Ms. Fromm's direct testimony is transcribed at 8 Tr 4774-4796.

Fromm sponsored Exhibit S-18.0 (Staff Adjustments to Company-Adjusted AMI Business Case); Exhibit S-18.1 (Staff's Adjustments to Information Technology Capital Expenditures); Exhibit S-18.2 (Staff's Adjustments to Information Technology Capital and O&M Expenses by Project); and Exhibit S-18.3 (Supporting Audit Responses).

Sarah A. Mullkoff, a Departmental Analyst in the Resource Optimization and Certification Section (ROC), of the Energy Resources Division,[39] testified concerning the company's DR programs and proposed spending. Ms. Mullkoff sponsored Exhibits S-20.0 (Company IRP Targets); S-20.1 (Company DR Actual Monthly Enrollment); S-20.2 (2020 Preliminary Results ACPC Promotion); S-20.3 (Peak Demand Reduction); S-20.4 (Customer Impacts per Program); S-20.5 (Pilots Evaluation); S-20.6 (DR Pilots Costs, Savings, Metrics); S-20.7 (Size and Savings of Workplace DR Component); S-20.8 (Demand Response Component of PowerMIFleet Budget); S-20.9 (Expected DR Savings of PowerMIFleet DR Component); and S-20.10 (Detailed Budget Breakdown of Pilots).

Jay S. Gerken, Manager of the Rate Base Unit in the Revenue Requirements Section of the Commission's Regulated Energy Division,[40] presented the Staff's calculation of rate base for the test year, along with adjustments to depreciation and property tax expense consistent with Staff's presentation. Mr. Gerken sponsored Exhibit S-2, Schedule B-1 (Projected Rate Base for Test Year).

Kurt Megginson, a Financial Specialist in the Revenue Requirements Section of the Regulated Energy Division,[41] presented Staff's recommendations for Consumers'

[39] Ms. Mullkoff's direct testimony is transcribed at 8 Tr 4818-4836.
[40] Mr. Gerken's direct testimony is transcribed at 8 Tr 4608-4616.
[41] Mr. Megginson's testimony, including direct, rebuttal, and cross-examination, are transcribed at 8 Tr 3087-3135.

capital structure and ROE. Mr. Megginson supported his analysis in Staff Exhibit S-4; Schedules D-1 through D-5.

Theresa L. McMillan-Sepkoski, an Audit Specialist in the Revenue Requirements Section of the Commission's Regulated Energy Division,[42] testified regarding adjustments to IT O&M expense, invalid 3rd party activity expense, Customer Payment Program expense, and the Authorized Pay Station Fee, for the test year. Ms. McMillan-Sepkoski sponsored Exhibits S-14.0 (Staff's Projection of Business Technology Solutions O&M Expense for Test Year using a 5-Year Average); S-14.1 (Invalid 3rd Party Activity); S-14.2 (Company Response) S-14.3 through S-14.5 (Company Discovery Responses); S-14.6 (Customer Payment Plan Yearly Percentages); and S-14.7 (Authorized Pay Station Fee Removal).

Charyl L. Kirkland, a Department Analyst in the Electric Operations Section of the Energy Operations Division,[43] testified regarding the company's line clearing expense. Ms. Kirkland sponsored Exhibit S-23 (Summary of Staff Distribution O&M Adjustments for Service Restoration Expenditures).

Shannon Rueckert, an auditor in the Revenue Requirements section,[44] testified on Staff's calculation of Injuries and Damages Expense and Staff's inflation adjustments. Mr. Rueckert sponsored Exhibits S-10 (Electric Injuries & Damages Expense for the Test Period); S-10.1 (Electric Injuries & Damages Expense for the test year and Account 925 Reconciliation for the Years 2014 through 2021); S-12 (Inflation Expense for the Test Year); S-12.1 (Inflation Rate Adjustment for the test year); S-12.2 and S-12.3 (Inflation

[42] Ms. McMillan-Sepkoski's direct testimony is transcribed at 8 Tr 4657-4668.
[43] Ms. Kirkland's direct testimony is transcribed at 8 Tr 4912-4921.
[44] Mr. Rueckert's direct testimony is transcribed at 8 Tr 4715-4726.

Discovery Request and Response); S-12.4 (Inflation Presentation Recommendation, DTE C-5 Example); S-12.5 (Discovery Response); and S-12.6 (Inflation Rate correction for the Test Year).

Brian Welke, Manager of the Income Analysis Unit,[45] testified concerning the 2020-2023 Karn Retention and Separation (KRSP) Expenses, Projected Employee Incentive Compensation Plan (EICP) Expenses, projected Bonus Expenses and Insurance Refunds. Mr. Welke also made accounting recommendation for KRSP Costs and cloud computing costs. Mr. Welke sponsored Exhibits S-3, Schedule C5 (Other O&M Expense Projection for the test period); S-7 (2020-2023 KRSP Expenses); S-7.1 (U-20134 Generation Operation and Maintenance Expenses); S-8 (Projected EICP and Bonus Expenses); S-8.1 through S-8.5 and S-9.1 (Discovery Responses); S-9 (Projected Insurance Credits); and S-24 (Cloud Accounting Guidance).

Merideth Hadala, a Departmental Analyst in the Renewable Energy Section of the Commission's Energy Resources Division,[46] reviewed 55 contracts with independent power producers to confirm that the power purchase agreements (PPAs) were eligible for the FCM.

Naomi J. Simpson, Manager of the Resource Optimization and Certification Section, in the Commission's Energy Resources Division,[47] provided Staff's recommendations on Consumers' proposed shared savings mechanism for CVR.

[45] Mr. Welke's direct testimony is transcribed at 8 Tr 4727-4741.
[46] Ms. Hadala's direct testimony is transcribed at 8 Tr 4797-4802.
[47] Ms. Simpson's direct testimony is transcribed at 8 Tr 4842-4855.

Shannon J. Withenshaw, an Auditor Specialist in the Energy Waste Reduction Section of the Energy Resources Division,[48] testified regarding upgrades to support on-bill financing and Consumers' PowerMIFleet EV charging program.

Charles E. Putnam of the Revenue Requirements Section of the Commission's Regulated Energy Division,[49] testified concerning Consumers' accounting requests for PowerMIDrive and PowerMIFleet.

Robert F. Nichols II, Manager of the Revenue Requirements Section of the Regulated Energy Division,[50] testified regarding Staff's projected revenue deficiency, projected net operating income, and Staff's position on the financial compensation mechanism recovery methodology for Consumers. Mr. Nichols sponsored Exhibits S-1 Schedule A-1 (Revenue Deficiency (Sufficiency)); S-3 Schedule C-1 (Adjusted Net Operating Income); S-3 Schedule C-1.1 (Development of Adjusted Net Operating Income); S-3 Schedule C-12 (Tax Effect of Pro-Forma Interest Adjustment); S-3 Schedule C-13 (Tax Effect of Interest Synchronization Adjustment); and S-22 (Audit Response RFN-1: Financial Compensation Mechanism Schedule);

Daniel J. Gottschalk, Electric Cost of Service Specialist in the Rates and Tariff Section of the Regulated Energy Division,[51] provided Staff's COSS and recommendations for the company's Version 2 COSS. He also filed rebuttal testimony in response to Attorney General, Kroger, MEC group, Energy Michigan, and ABATE witnesses. Mr. Gottschalk sponsored Exhibit S-6 F1.1 (Staff's version of the Company's Exhibit A-16,

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[48] Ms. Withenshaw's direct testimony is transcribed at 8 Tr 4856-4864.
[49] Mr. Putnam's direct testimony is transcribed at 8 Tr 4708-4714. (The transcript erroneously states that Mr. Putnam filed rebuttal testimony).
[50] Mr. Nichols' direct testimony is transcribed at 8 Tr 4669-4683.
[51] Mr. Gottschalk's direct and rebuttal testimony are transcribed at 8 Tr 4617-4641.

Schedule F1.1 Electric Cost of Service Study, Projected 12-Month Period Ending December 31, 2021-Version 2); Exhibit S-27.0 (Staff's Generating Plant Statistics); Exhibit S-27.1 (Staff's Analysis of Load Data); Exhibit S-27.2 (Staff's Customer Charge Method); and Exhibit S-27.3 (Capacity Costs and Capacity Charge Determination).

Mark J. Pung, a Departmental Analyst in the Rates and Tariff Section of the Regulated Energy Division,[52] testified concerning Consumers' present revenue, and Staff's recommended rate design, and proposed tariff and rule changes. Mr. Pung sponsored Exhibits S-3, Schedule C3 (Staff's Projected Operating Revenue); S-6, Schedule F2 (Staff's Summary of Present and Proposed Pro Forma Revenues by Rate Schedule); S-6, Schedule F2.1 (Staff's Calculation of Rate Design Targets); S-6, Schedule F3 (Staff's Present and Proposed Revenue Detail); S-6, Schedule F3.1 (Staff's Calculation of Substation Ownership Credit); and S-6, Schedule F4 (Staff's Comparison of Present and Proposed Monthly Bills).

David W. Isakson, a Departmental Analyst in the Rates and Tariff Section of the Regulated Energy Division,[53] testified concerning certain tariff language corrections and rate design for DR. Mr. Isakson sponsored Exhibits S-21.0 and S-21.1 (audit responses from Consumers).

Nicholas M. Revere, Manager of the Rates and Tariff Section of the Regulated Energy Division,[54] testified regarding the LTILRR, rate GSG-2 allocations; cost allocation and rate design for the DR, CVR, FCM, and Electric Rate Case (ERC) surcharge, as well as other aspects of the DR surcharge proposal, certain aspects of the PowerMIFleet pilot;

[52] Mr. Pung's direct testimony is transcribed at 8 Tr 4684-4707.
[53] Mr. Isakson's direct and rebuttal testimony are transcribed at 8 Tr 4642-4656.
[54] Mr. Revere's testimony, including direct, rebuttal, and cross-examination, are transcribed at 7 Tr 2902-2955.

and the Deferred Capital Spending Recovery Mechanism (DCSRM). He provided rebuttal testimony to Attorney General, MEC group, MAUI, ABATE, MEIB, and JCEO witnesses.

Cody Matthews, a Public Utilities Engineering Specialist in the Renewable Energy Section of the Energy Resources Division,[55] testified on the 1% cap on DG. He sponsored Exhibit S-15.0 (Company Audit Response).

Kevin S. Krause, a Gas Cost of Service Specialist within the Rates and Tariff Section of the Regulated Energy Division,[56] provided Staff recommendations on the PowerMIDrive EV charging program and the proposed DG tariff. He provided rebuttal testimony to MEIBC, JCEO, and Grand Rapids witnesses.

C. Attorney General

The Attorney General sponsored the testimony of two witnesses.

Sebastian Coppola, an independent business consultant with expertise in energy and utility regulation,[57] performed an independent analysis of Consumers' rate application. Mr. Coppola reviewed and made recommendations with respect to rate base and capital expenditures, cost of capital, O&M expense levels, and various accounting and cost deferral proposals presented in Consumers' application. Mr. Coppola sponsored Exhibits AG-1.1 through AG-1.71.

Dr. David E. Dismukes, a Consulting Economist with the Acadian Consulting Group,[58] made recommendations concerning Consumers' COSS, production cost

[55] Mr. Matthews' direct testimony is transcribed at 8 Tr 4811-4817.
[56] Mr. Krause's testimony, including direct, rebuttal, and cross-examination, are transcribed at 7 Tr 2853-2899.
[57] Mr. Coppola's Public direct testimony is transcribed at 8 Tr 3331-3520. Mr. Coppola provided Confidential direct testimony. (Transcribed at 8 Tr 4928).
[58] Dr. Dismukes testimony, including direct, rebuttal, and cross-examination, are transcribed at 7 Tr 2713-2851.

allocator, rate design, and customer charge proposals. He filed rebuttal testimony in response to positions taken by witnesses for Kroger and ABATE. Dr. Dismukes sponsored Exhibits AG-2.1 through AG-2.18.

D. MEC group and Attorney General

Roger Colton, a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics,[59] discussed Consumers' low-income assistance programs, (RIA and proposed LIAC) and made recommendations for improvement of these programs. He also made specific recommendations related to the COVID-19 pandemic. Mr. Colton sponsored Exhibits MEC-31 through MEC-45.

E. MEC group

The MEC group sponsored the testimony of an additional seven witnesses.

Tyler Comings, a Senior Researcher at Applied Economics Clinic,[60] addressed the value of Campbell Units 1 and 2 and discussed Consumers' request for rate recovery of certain capital investments in these units. Mr. Comings also reviewed several capital projects at Campbell Unit 3, and he evaluated the transition planning efforts related to Karn Units 1 and 2, which are scheduled for retirement in May 2023. Mr. Comings sponsored Exhibits MEC-69 (Resume); and MEC-70 through MEC-99.[61]

Robert G. Ozar, P.E., a Senior Consultant at 5 Lakes Energy LLC,[62] testified regarding adjustments to Consumers' projected distribution capital expenses, and service restoration and line clearing O&M expenses. Mr. Ozar also recommended an update to

[59] Mr. Colton's direct testimony is transcribed at 8 Tr 3679-3810.
[60] Mr. Comings public direct testimony is transcribed at 8 Tr 3885-3934. Mr. Comings also filed confidential testimony.
[61] Exhibits MEC-87, MEC-89, and MEC-96 are confidential exhibits.
[62] Mr. Ozar's revised direct testimony is transcribed at 8 Tr 3636-3675.

the company's contribution in aid of construction (CIAC) policies, he recommended that Consumers file a report in its next depreciation and rate cases addressing the potential over-capitalization of distribution expense. Mr. Ozar sponsored Exhibits MEC-22 (Resume); MEC-23 (Electric Distribution Capital Expenditures); MEC-24 (Storm Restoration Expenditures); MEC-25 (Payback Times for Distribution System Additions); MEC-26 through MEC-29 (Discovery responses) and Confidential MEC-30C (Discovery response).

Christopher Villarreal, President of Plugged In Strategies, a consulting firm providing services and expertise in grid modernization and distribution planning,[63] discussed Consumers' distribution system planning initiative (i.e., the EDIIP), along with suggestions for improvements and recommendations for Consumers' next 5-year distribution plan. Mr. Villareal also made recommendations for reductions in distribution expenditures for the test year. Mr. Villareal sponsored Exhibits MEC-54 (Villareal CV) and MEC-55 through MEC-68 (Discovery responses).

Douglas B. Jester, a Partner of 5 Lakes Energy LLC,[64] made recommendations concerning adjustments to Consumers' ROE based on overall performance and distribution system reliability (performance-based ratemaking or PBR), distribution and production cost allocation, the LTILRR, cost recovery related to Consumers' integrated resource plan (IRP), rate design and tariff issues, and the need to consider the cumulative impact of the company's rate increases. Mr. Jester sponsored Exhibits MEC-1 (Resume); MEC-2 (Revenue Changes by Rate Schedule and Function); MEC-3 (Consumers

[63] Mr. Villareal's direct testimony is transcribed at 8 Tr 3844-3882.
[64] Mr. Jester's direct testimony is transcribed at 8 Tr 3530-3616. Mr. Jester also provided testimony on behalf of EIBC/IEI as discussed below.

Performance Data for 2018); MEC-4 (Consumers' Performance vs Proxy Companies); MEC-5 (MISO 2020/2021 PRA Results); and Exhibit MEC-6 (Electric Distribution Cost Allocation Study & Powerpoint).

Max Baumhefner, a senior attorney with the Natural Resources Defense Council,[65] testified in support of Consumers' proposed PowerMIFleet program and recommended modifications to certain aspects of the program. Mr. Baumhefner also filed rebuttal testimony to witnesses for ABATE, ChargePoint, and Staff regarding charging parameters, program approval, and the need for project-specific benefit cost analyses. Mr. Baumhefner sponsored Exhibits MEC-100 (Resume) and MEC-101 through MEC-108, consisting of articles and reports on the advantages of transportation electrification.

Chris Neme, a co-founder and Principal of Energy Futures Group,[66] reviewed and made recommendations for modifying the shareholder incentive mechanism that Consumers proposed for its investment in CVR. Mr. Neme sponsored Exhibits MEC-46 (Neme CV); MEC-47 and MEC 48 (Discovery responses); MEC-49 (U-20372, Ex A-2, pp. 7 and 9, of 257); MEC-50 (Delaney Workpapers); and MEC-51 through MEC-53 (Reports evaluations, and communication regarding the performance and efficacy of CVR).

Karl G. Boothman, a senior consultant with 5 Lakes Energy LLC,[67] described the process he undertook in deconstructing Consumers' COSSs, the results of which were supplied to Mr. Jester for his analysis. He sponsored Exhibits MEC-7 (Resume); MEC-8 (Basis for all allocators); MEC-9 (Deconstructed basis of composite allocators); MEC-10 (Initial Production Revenue Requirement, 75/0/25); MEC-11 (Initial Production Revenue

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[65] Mr. Baumhefner adopted the prefiled testimony of Mark Nabong. Mr. Baumhefner's direct and rebuttal testimony are transcribed at 8 Tr 3935-3975.
[66] Mr. Neme's direct testimony is transcribed at 8 Tr 3811-3841.
[67] Mr. Boothman's direct testimony is transcribed at 8 Tr 3617-3635.

Requirement, Allocators 220 and 222 Reallocated, 75/0/25); MEC-12 (Initial Distribution Revenue Requirement, 75/0/25); MEC-13 (Final Production Revenue Requirement, 75/0/25); MEC-14 (Final Distribution Revenue Requirement, 75/0/25); MEC-15 (Combined Revenue Requirement, Production and Distribution, 75/0/25); MEC-16 (Initial Production Revenue Requirement, 89/0/11); MEC-17 (Initial Production Revenue Requirement, Allocators 220 and 222 Reallocated, 89/0/11); MEC-18 (Initial Distribution Revenue Requirement, 89/0/11); MEC-19 (Final Production Revenue Requirement, 89/0/11); MEC-20 (Final Distribution Revenue Requirement, 89/0/11) and MEC-21 (Combined Revenue Requirement, Production and Distribution, 89/0/11).

F. Joint Clean Energy Organizations

The JCEO presented the testimony of seven witnesses.

William D. Kenworthy, Regulatory Director, Midwest for Vote Solar, introduced the other witnesses providing testimony on behalf of the JCEO.[68] Mr. Kenworthy also discussed Consumers' DG proposals, the effects of those proposals on potential DG customers; he recommended changes to rules and tariffs governing DG, and he testified regarding the 1% cap on DG participation. Mr. Kenworthy sponsored Exhibit CEO-1 (Testimony and Comments of William D. Kenworthy) and Exhibits CEO-2 through CEO-5 (Discovery Responses).

Ronny Sandoval, President of ROS Energy Strategies, LLC,[69] discussed the value of DG to the grid and the need to properly value DG to optimize grid design and operation, and he made recommendations concerning integrated distribution planning (IDP). Mr.

[68] Mr. Kenworthy's Corrected direct testimony is transcribed at 8 Tr 4145-4180.
[69] Mr. Sandoval's Corrected direct testimony is transcribed at 8 Tr 4398-4435.

Sandoval also discussed specific components (battery storage, distributed energy resource management system (DERMS) and CVR) of Consumers' grid modernization program. Mr. Sandoval sponsored Exhibits CEO-31 (Resume) and CEO-32 through CEO-34 (reports and presentations on grid planning and modernization and DER integration).

Kevin Lucas, Director of Rate Design at the Solar Energy Industries Association,[70] analyzed the cost to serve DG customers, and he provided an extensive critique of the Brattle Residential Net Energy Metering Study (Brattle Report) upon which Consumers relied in developing some of the assumptions for its DG program. Mr. Lucas also proposed an alternative outflow credit to be used to compensate DG customers based on updated DG data input to the COSS. Mr. Lucas sponsored Exhibits CEO-6 (Lucas CV); Confidential Exhibits CEO-7 (Brattle Residential NEM) and CEO-8 (Brattle Secondary NEM); and Exhibits CEO-9 through CEO-15.

Claudine Y. Custodio, Regulatory Research Manager at Vote Solar,[71] undertook an analysis comparing electricity use by residential customers with DG to usage by residential customers without DG. She sponsored Exhibits CEO-16 (Resume), CEO-17 and CEO-18.

Dr. Gabriel Chan, an Assistant Professor at the University of Minnesota and Chair of the Science, Technology, and Environmental Policy area at the Humphrey School of Public Affairs,[72] described elements of the Minnesota Value of Solar (VOS) proceedings and how a process similar to that in Minnesota could be used to undertake a VOS

[70] Mr. Lucas' Corrected direct testimony is transcribed at 8 Tr 4184-4251.
[71] Ms. Custudio's Corrected direct testimony is transcribed at 8 Tr 4252-4273.
[72] Dr. Chan's Corrected direct testimony is transcribed at 8 Tr 4276-4322.

calculation in Michigan. Dr. Chan sponsored Exhibits CEO-19 (Chan CV); and CEO-35 through CEO-38 (various reports on VOS from Minnesota, the National Renewable Energy Laboratory (NREL), and ICF).

Karl R. Rábago, the principal of Rábago Energy LLC,[73] provided an overview of the regulatory theory underpinning compensation for DG and a review of Michigan's regulatory scheme underlying the DG tariff. Mr. Rábago also recommended that the Commission undertake a comprehensive VOS study in light of the additional data available since this proposal was last considered. Finally, Mr. Rábago reviewed the Brattle Report and discussed various studies that have demonstrated the value of DG to the grid and to non-participating customers. Mr. Rábago filed rebuttal testimony in response to positions taken by Staff witnesses on the DG tariff. Mr. Rábago sponsored Exhibits CEO-20 (Resume) and CEO-21 through CEO-30.

Samantha Houston, an analyst for the Union of Concerned Scientists in the Clean Transportation Program, testified on behalf of the Ecology Center and ELPC.[74] Ms. Houston provided an overview of trends in fleet electrification, benefits of EV fleets, and the need for proactive preparation for the electrification of fleets. Ms. Houston also provided recommendations for the PowerMIFleet program proposed by Consumers.

G. Association of Businesses Advocating Tariff Equity

ABATE sponsored the testimony of two witnesses.

Jeffry Pollock, an energy advisor and President of J. Pollock, Incorporated,[75] testified regarding Consumers' class COSS (Version 2), cost recovery for the FCM, and

[73] Mr. Rábago's Corrected direct and rebuttal testimony are transcribed at 8 Tr 4325-4395.
[74] Ms. Houston's direct testimony can be found at 8 Tr 4126-4142.
[75] Mr. Pollock's direct and rebuttal testimony are transcribed at 8 Tr 2996-3073. Cross and redirect examination of Mr. Pollock can be found at 8 Tr 3074-3085.

credits for Rate GI. Mr. Pollock filed rebuttal testimony in response to the Attorney General and the MEC group's recommendations on production cost allocation, treatment of interruptible loads, and CVR cost allocation. He sponsored Exhibits AB-10 (Derivation of the Average and Excess Allocation Factors); AB-21 (List of Customer Classes Used By Consumers); AB-22 (Derivation of Revised Class Peak Allocation Factors); AB-23 (ABATE's Revised Class Cost-of-Service Study Average and Excess Method Production Capacity); AB-24 (Class Rate Design Targets Using ABATE's Revised Class Cost-of-Service Study); AB-25 (ABATE's Revised Class Cost-of-Service Study 4CP 75-0-25 Production Capacity); AB-26 (Class Rate Design Targets Using ABATE's Revised Class Cost-of-Service Study With 4CP 75/0/25 Production); and AB-27 (Documents Relied Upon in Testimony); and rebuttal Exhibits AB-28 and AB-29 (Documents Relied upon in Rebuttal).

Billie S. LaConte, an energy advisor and Associate Consultant at J. Pollock, Incorporated,[76] addressed Consumers' requested ROE, proposed capital structure, debt cost, and proposed surcharges or accounting deferrals for the FCM, DR, CVR, capital spending, KRSP, PowerMIFleet, and storm restoration. Ms. LaConte submitted rebuttal to witnesses for Staff, the Attorney General, and the MEC group regarding the FCM surcharge, the Deferred Capital Spending Recovery Mechanism, the KRSP, ROE, the storm restoration deferral, the PowerMIFleet Pilot Program and the Conservation Voltage Reduction (CVR) surcharge. Ms. LaConte sponsored Exhibits AB-1 through AB-19 in support of her recommended capital structure, ROE, and debt costs.

[76] Ms. LaConte's direct and rebuttal testimony are transcribed at 8 Tr 3143-3244.

H. Michigan Energy Innovation Business Council/Institute for Energy Innovation

EIBC/IEI sponsored the testimony of two witnesses.

Laura Sherman, President of the Michigan Energy Innovation Business Council and the Institute for Energy Innovation,[77] addressed Consumers' proposed DG tariff and the company's proposed actions once the DG cap is reached. Dr. Sherman sponsored Exhibit EIB-1 (Resume); EIB-2, EIB-4, and EIB-5 (Discovery responses); EIB-3 (Table of state DG program and net metering caps); EIB-6 (Legal memo from Varnum LLP regarding Distributed Generation and Electric Interconnection); and EIB-7 (Affidavit of David B. P. Lewenz).

Mr. Jester also provided testimony on behalf of EIBC/IEI[78] regarding cost recovery for the PowerMiDrive and the PowerMiFleet pilots. Mr. Jester also discussed Consumers' proposed DG tariff (including determination of system size under the DG cap), and adjustments in the COSS treatment of standby service and related rate adjustments. Mr. Jester sponsored Exhibits EIB-8 (Resume) and EIB-9 (Discovery response).

I. Kroger Company

Kroger sponsored the testimony of Justin Bieber, a Senior Consultant for Energy Strategies, LLC.[79] Mr. Bieber made recommendations concerning rate design for Rate GPD and the production cost allocation method and allocator. He also filed rebuttal testimony to the Attorney General witness. Mr. Bieber sponsored Exhibits JBD-1 and JBD-1R (NARUC Manual excerpt).

[77] Dr. Sherman's direct testimony is transcribed at 8 Tr 4439-4463.
[78] Mr. Jester's direct testimony on behalf of EIBC/IEI is transcribed at 8 Tr 4467-4516. Mr. Jester also provided testimony on behalf of MEC group, discussed above.
[79] Mr. Bieber's direct and rebuttal testimony are transcribed at 7 Tr 2659-2688. Cross examination and redirect examination of Mr. Bieber can be found at 7 Tr 2690-2707.

J. Energy Michigan

Alexander J. Zakem, an independent consultant with expertise in utility matters, testified on behalf of Energy Michigan.[80] Mr. Zakem addressed the calculation of the SRM surcharge and the company's forecast of energy losses for electric choice customers. Zakem filed rebuttal to the Staff and Consumers and surrebuttal testimony in response to Consumers' updated SRM calculation. Mr. Zakem sponsored Exhibits EM-1 (Qualifications); EM-2 (Consumers 2019 SEC Form 10-K, page 18); EM-3 (Proposed Loss Percent For Electric Choice Forecast); EM-4 (Discovery Question and Responses) and rebuttal Exhibits EM-5 (Energy Accounting for SRM) and EM-6 (Discovery Question and Response).

K. ChargePoint

ChargePoint sponsored the testimony of Charlotte B. Ancel, ChargePoint's Vice President for Utility Solutions.[81] Ms. Ancel testified in support of the PowerMIFleet proposal, with some clarifications. Ms. Ancel also filed rebuttal testimony in response to recommendations by witnesses for Staff, MEC/NRDC/SC/CUB, and EIBC/IEI. Ms. Ancel sponsored Exhibit CP-1 (Proposed Clarification to Direct Testimony of Sarah R. Nielson), Exhibit CP-2 (ChargePoint Discovery Request to Consumers Energy) and rebuttal Exhibit CP-3 (Consumers Energy's responses to ChargePoint's first set of discovery requests).

L. Walmart

Walmart sponsored the testimony of Lisa V. Perry, Senior Manager, Energy Services for Walmart.[82] Ms. Perry discussed the impacts of Consumers' proposed

[80] Mr. Zakem's testimony, including direct, rebuttal, and surrebuttal are transcribed at 8 Tr 4546-4592.
[81] Ms. Ancel's direct and rebuttal testimony are transcribed at 8 Tr 4089-4117.
[82] Ms. Perry's direct testimony is transcribed at 8 Tr 4521-4543.

revenue increase on business customers. She provided observations on Michigan's regulatory framework and broad trends in authorized ROEs and made specific recommendations the proposed rate design for CVR. Ms. Perry sponsored Exhibits WAL-1 (Witness Qualifications Statement); WAL-2 (Calculation of Revenue Requirement Impact of Consumer's Proposed Increase in ROE vs. Current ROE, Proposed Capital Structure); WAL-3 (Calculation of Revenue Requirement Impact of Consumer's Proposed Alternative ROE and Capital Structure vs. Current ROE and 52.5 Percent Equity); WAL-4 (Reported Authorized Returns on Equity, Electric Utility Rate Cases Completed, 2017 to Present); and WAL-5 (Calculation of Revenue Requirement Impact of Consumer's Proposed ROE vs. National Average ROE, Vertically Integrated Utilities, Proposed Capital Structure).

M. Michigan Municipal Association for Utility Issues

MAUI sponsored the testimony of Richard Bunch, Executive Director of MAUI and a senior consultant at 5 Lakes Energy, LLC.[83] Mr. Bunch's testimony concerns street lighting conversions, LED fixture fees, the conversion of center suspension streetlights, streetlight cost calculation, allocation, and tariff issues. Mr. Bunch sponsored Exhibits MAU-1 (Resume); MAU-2 (City of Ferndale LED conversion budget from DTE Energy); MAU-3 (City of Grand Rapids LED conversion proposal); MAU-4 (City of Detroit LED conversion bid tabulation sheet) Confidential Exhibit MAU-5C (Consumers Energy LED conversion costs, discovery response); MAU-6 (discovery response, tracking of comparative costs of reactive vs planned LED conversions); MAU-7 (Leotek HID-LED

[83] Mr. Bunch's revised public direct testimony is transcribed at 8 Tr 3979-4057. Mr. Bunch also filed confidential direct testimony.

crossover recommendations); MAU-8 (MyLightingGuide.com HID-LED crossover recommendations); MAU-9 (Summary of Results: Round 7 of Product Testing (U.S. DOE Solid-State Lighting CALiPER program)); Confidential Exhibit MAU-10C (LED spec sheet from Consumers' primary LED luminaire provider); MAU-11 (DesignLights Consortium Solid State Lighting (SSL) Technical Requirements Version 5.1); Confidential Exhibit MAU-12C: (Consumers Energy streetlight technical specs tabulation); MAU-13 (discovery response, Consumers Energy unmetered lighting Distribution Plant In Service); MAU-14 (unified unmetered lighting rate); MAU-15 (Lightsmart bid tabulation for various street lighting maintenance and construction tasks); MAU-16 (Consumers Energy streetlight outage statistics); MAU-17 (DTE Energy streetlight outage statistics); and MAU-18 (City of Flint streetlight removal cost).

N. City of Grand Rapids

Alison Waske Sutter, the Sustainability and Performance Management Officer at the City of Grand Rapids,[84] testified regarding Consumers' proposed DG tariff from the perspective of customers with renewable energy and environmental justice goals and an interest in installing on-site solar generation. Ms. Sutter sponsored Exhibits CGR-1 (Equity Assessment Tool-Zero Cities Project, Race Forward for the Zero Cities Project); CGR-2 (Lifting the High Energy Burden, ACEEE 2016 Study); CGR-3 (City of Grand Rapids Strategic Plan, FY2020 – FY2023); CGR-4 (Consumers Energy; Sustainable Energy Solutions, City of Grand Rapids, May 2, 2018); CGR-5 (Consumers Energy; Modified Net Metering Billing Category 2, Distribution Agreements, August 2019, PowerPoint Presentation); CGR-6 (E-mail correspondence between NREL, CECo and

[84] Ms. Sutter's direct testimony is transcribed at 8 Tr 4061-4085.

the City, confirming net-metering assumptions); CGR-7 (Making Solar Installation Easier in Grand Rapids, January 14, 2020); and Exhibit CGR-8 (SolSmart Solar Statement, February 14, 2019).

III.

TEST YEAR

A test year is used to establish representative levels of revenues, expenses, rate base, and capital structure for use in the rate-setting formula. The parties and the Commission may use different methods in establishing values for these components, provided that the end result is a determination of just and reasonable rates for the company and its customers.

Consumers filed its rate application on February 27, 2020, using as a projected test year the calendar test year ending December 31, 2021. No party presented testimony supporting an alternative.

In its initial brief, the RCG argues that the Commission should base rates in this case on the 2018 historical year. The RCG cites Exhibit A-1, Schedule A1 to show that Consumers reports a $21.8 million revenue excess for 2018. The RCG contends, as it has in other rate cases, that a projected test year that ends 22 months after the rate application is filed is unlawful, unjust, and unreasonable. The RCG argues that the "future consecutive 12-month period" referenced in MCL 460.6a(1) must be "anchored" by either the end of the historical test period (December 31, 2018) or at the date the application is filed (February 28, 2020).[85]

[85] RCG brief, pp. 5-6.

Next, the RCG cites the order in Case No. U-20322, which defines rate base as consisting of, among other things, "used and useful utility plant." The RCG maintains that:

> Inherently, capital investment that is merely projected by the utility, but does not yet exist (and may never exist) is not "used and useful" in providing service to customers. This shortcoming becomes all the more problematic and troublesome the farther in the future that a projected text year is utilized. A projected test year complying with 12 consecutive months commencing with a rate filing, as established by Section 6a(1), will inherently contain less speculative and theoretical future capital investment or other expenses in contrast to a proposed projected test year (as here) extending up to 22 months after the rate filing and 36 months after the historical test year.[86]

In its reply brief, Consumers argues that the RCG did not present any evidence that it is reasonable to use purely historical information to set rates for a future period, adding that it is clearly <u>un</u>reasonable to rely on historical amounts when the company is planning significant investments in its electric system. With respect to the used and useful principle cited by the RCG, Consumers responds:

> RCG fails to mention that the Commission has historically used a number of different methodologies to determine what is properly included into a utility's rates. These different methodologies include, but are not limited to, the "used and useful test," the "fair value rule," and the "prudent investment test." And while RCG implies that the use of the "used and useful" standard is required, this is incorrect. In *ABATE v Pub Serv Comm*, the Court of Appeals rejected the argument that the Commission "has no authority to apply anything other than the 'used and useful' test in setting rates." *ABATE v Pub Serv Comm*, 208 Mich App 248, 258; 527 NW2d 533 (1994); see also MPSC Case No. U-5108, May 27, 1977 Opinion and Order, pages 27-28 ("The principle advanced by the attorney general, that customers should only pay for property presently used and useful, was originally formulated and applied with reference to problems of watered stock, artificially inflated rate bases, and jurisdictional allocations which plagued the early twentieth century. The principle was not intended and has not been used as an iron law preventing arrangements which are just and rational under present conditions."). Michigan courts have held that the MPSC is not bound by any

[86] Id. at 9.

> particular method or formula in exercising its function of determining just and reasonable rates.[87]

Based on a review of the arguments of the parties and the Commission's decisions in recent rate cases, which rejected the use of an historical test period raised for the first time in briefs and lacking supporting evidence, the ALJ finds that RCG's request should be rejected, and the projected test year ending December 31, 2021, should be used in this case.

Nevertheless, the RCG makes a salient point regarding the "used and useful" principle and the fact that ratepayers are being asked to prepay a return of and on assets that may not be used in the provision of utility service for a year (or more, in the case of a project that has a multi-year timeline from the beginning to completion) or that are projected so far in advance that the project may never be realized. While the Commission has considerable discretion in the application of the used and useful principle, as Consumers noted, the Commission has recently affirmed the viability of the "used and useful" test in setting just and reasonable rates:

> [T]he Commission agrees with the ALJ's comprehensive examination of the used and useful doctrine, and the limited exceptions thereto, as have long been applied by this Commission. Moreover, the Commission disagrees with Consumers' contention that items included in the approved, projected rate base are not, as a rule, required to be found used and useful during the test period. As the ALJ discussed, the Commission addressed this issue squarely in the January 31, 2017 order in Case No. U-18014, pp. 28-29, where it deferred cost recovery for a computer application, after finding that the item would not likely be deployed during the test year.
>
> The Commission does not dispute that there is no legal requirement that items be used and useful to be included in rate base; however, the used and useful standard has been employed by this Commission, and by many others, to protect ratepayers from unreasonable or excessive facilities while allowing investors a return on the capital which they have reasonably

[87] Consumers reply brief, p. 5.

> devoted to public use. Moreover, application of the used and useful doctrine does not violate Section 6a(1), which provides that the company may base its case on projected revenues and costs. As noted above, the Commission is not bound to accept the company's projections absent sufficient evidence to show that the projection, including the in-service date, is reasonable, prudent, and accurate.[88]

Thus, concerns regarding the reliability of the company's projections are considered in the context of specific challenges to the company's presentations.

IV.

RATE BASE

Rate base consists of the capital invested in used and useful plant, less accumulated depreciation, plus the utility's working capital requirements. In its application, Consumers projected a total electric rate base of $11,893,424,000, adjusted to $11,891,065,000 in its brief. Staff calculated a total rate base of $11,757,437,000, adjusted to $11,755,200,000 in its initial brief.[89] As stated in its application, Consumers' five-year Electric Distribution Infrastructure Investment Plan (EDIIP), and the company's Integrated Resources Plan (IRP), approved in Case No. U-20165, proposed to invest approximately $600 million in distribution capital and to spend approximately $200 million in distribution O&M each year through 2022.

Disputes involving the company's capital expense projections, including distribution, generation, facilities, fleet services, IT, DR, Customer Experience, depreciation, and CWIP are discussed in section A below.

It must be emphasized at the outset (and will doubtlessly be repeated at various points in the ensuing discussion), an adjustment made to the company's cost projection

[88] March 29, 2018 order in Case No. U-18322, pp. 7-8.
[89] Staff brief, Appendix A, F.

for a particular item is not the equivalent of a permanent disallowance of the expenditure. Rather, most adjustments to capital expense items made in this PFD reflect a finding that a specific projected cost is not sufficiently supported at this time. Reasonably and prudently incurred capital expenses will be incorporated into rate base in future cases, or the company may defer the expenditure and present it in a future rate case with additional support demonstrating that the project is reasonable and prudent.

Section B discusses Consumers' working capital requirement and Section C provides the calculation of total rate base.

In addition to capital expenses for the DR and CVR programs, the company requests various incentives or accounting deferrals associated with these and other programs. These requests are discussed below.

A. Net Utility Plant

Net plant is the primary component of rate base, and its key elements are total utility plant – plant in service, plant held for future use, and construction work in progress (CWIP) – less the depreciation reserve, which includes accumulated depreciation, amortization and depletion.

Consumers presented testimony on its projected capital expenditures broken down into the following categories shown in Exhibit A-12, Schedule B-5: electric distribution, generation, IT, electric business services, corporate, customer experience, and demand response. In addition, the company included amounts for contingency, which is also addressed below.

1. Contingency

In its initial filing, Consumers included $7.467 million in contingency for generation capital expense in 2020, and $10.462 million in 2021. Staff identified an additional $4.588 million in contingency for operational support capital expenditures.[90] Staff and the Attorney General object to the inclusion of contingency on grounds that these costs are speculative, and the Commission has consistently found that contingency costs should be disallowed.

In his rebuttal testimony, Mr. Hugo explained that, "[b]ased upon the Company's 5+7 forecast[91] for 2020, the Company has reduced its projected contingency for 2020 from $7.467 million to $0."[92] Mr. Hugo further testified that Consumers expects that it will exceed its 2020 projection by over $5 million, noting that its contingency projections (6.4% of project costs in 2020 and 6.5% in 2021) are conservative. Mr. Hugo added that certain costs associated with the company's COVID-19 response were uncertain when this case was filed.

Staff responds that the Commission "should reject this last-minute attempt to convert its contingency costs into actual costs[,]"[93] noting that the Commission refused a similar proposal, also first presented in rebuttal, in the September 26, 2019 order in Case No. U-20322. In its brief, Consumers reiterates that it fully supported the inclusion of contingency expense, as demonstrated by the fact that the 2020 projection now indicates that capital spending for 2020 will exceed the company's request by $5.64 million. In its

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[90] See Exhibit A-12, Schedule B-5.2, page 4, columns (d) and (f); Exhibit AG-1; Exhibit S-26.1; and 8 Tr 4880.
[9191] The "5+7 forecast" refers to an update to the 2020 projection that includes five months of actual (unaudited) spending plus a projection for the remaining months of the year.
[92] 6 Tr 2081.
[93] Staff brief, p. 9.

reply brief, Consumers asserts that Staff's reliance on prior Commission orders is inapposite because the company fully supported contingency costs in this case.

The ALJ agrees with Staff and the Attorney General that 2020 and 2021 contingency expenses in the total amount of $22,517,000 should be disallowed. As these parties point out, the Commission has consistently rejected the inclusion of projections for contingency, and the Commission has not accepted expense updates that first appear in rebuttal when other parties do not have sufficient time to assess the reasonableness and prudence of these additional costs.[94]

2. Distribution Capital Expenditures.

As explained by Mr. Blumenstock, and shown in Exhibit A-29, the total distribution capital expenditures for which Consumers is requesting rate recognition in 2019, 2020, and the 2021 test year are in the amounts of $628,865, $552,142,000, and $722,675,000, respectively. Staff, the Attorney General, the MEC group, and the JCEO raised a number of concerns about the company's proposed spending. These issues are addressed by program and sub-program *ad seriatim*.

a. New Business (Exhibit A-29, lines 1-6, 7)

Under its New Business program, Consumers projects expenditures totaling $131.8 million for 2019, $131.7 million for 2020, and $145.2 million for the test year. Staff, the Attorney General, and the MEC group contested certain areas of the company's proposed spending.

[94] September 26, 2019 order in Case No. U-20322, p. 41. ("The simple fact that the costs have been incurred does not create a presumption that they belong in rate base. This rate case application was filed in November 2018. These 2018 contingency costs only became 'actual' costs on rebuttal (in 2019) and thus could not be properly reviewed by the Staff or other parties. The Commission does not find that they are unreasonable or imprudent, only that they must be sought in a rate case in which the evidence can be presented in the direct case.")

Relying on Mr. Ozar's testimony, the MEC group contends that total spending in the New Business program should be limited to the 2014 actual spending amount, $62.7 million.[95] Given the still-evolving economic impacts of the COVID-19 pandemic, Mr. Ozar selected 2014 expenditures as a reasonable approximation of post-recession new business spending, explaining that "given both the rapidity and extent of the recent downturn in the economy, there is a commensurately greater risk (than in the recent past) in predicting electric distribution expenditures intrinsically tied to market demand."[96] The MEC group further argues that if New Business spending is higher (or lower) than established in this case, the proposal to implement regulatory asset/liability treatment to over- or underspending on New Business, Asset Relocation, and Demand Failure programs will protect both the company and ratepayers.[97]

Consumers responds that the selection of 2014 as the representative year is arbitrary, and Mr. Blumenstock pointed out that spending on the New Business category rebounded in April 2020 and is now expected to exceed the company's projection for the year.[98]

In its reply brief, Consumers reiterates that the MEC group's claims about economic uncertainty during the test year are speculative at best. According to Consumers, "the evidence provided in this proceeding establishes that New Business investment <u>has not been dramatically affected by the COVID-19 pandemic</u>[,]" noting that

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[95] Exhibit A-29, line 7, column c.
[96] 8 Tr 3664.
[97] MEC group brief, p. 68.
[98] 6 Tr 1354-1355 (highlighting increased activity in Lines New Business-LVD and Asset Relocation subprograms).

as of the time of the company's rebuttal filing, no customers had backed out of their commitments.[99]

The PFD finds that Mr. Ozar's recommendation to limit New Business capital expense in rates to $62.7 million (a reduction of $82.5 million), should be adopted as a reasonable means to address the economic downturn that appears likely to persist into the test year. While the company points to customer commitments, as of July 2020, Mr. Ozar testified, "despite the fact that some customer-specific projects may have been disclosed by customers to the utility in advance, such projects have uncertainty regarding their ultimate disposition[.]"[100] As the MEC group argues:

> The recommendation to use 2014 actual New Building spending for 2021 is not arbitrary: it reflects actual market-driven conditions coming out of the Great Recession. If pandemic-induced adverse economic conditions are limited to 2020, then 2021 is similarly a year coming out of recession. If adverse economic conditions persist well into 2021, then 2014 may even be generous.[101]

While the ALJ finds that 2014 might not be the most representative year for post-recession business activity (2011 or 2012 might be closer to when things began to turn around after the 2008-2009 recession) it is nevertheless a reasonable approximation of business conditions based on the information available in this record. Moreover, the continuation of deferred accounting for New Business programs, discussed in detail below, provides adequate protection for both the company and for ratepayers if spending in the New Business program is higher or lower than projected. However, consistent with information available in Exhibit A-29, the Commission could also adopt the five-year

[99] Consumers reply brief, pp. 39-40.
[100] 8 Tr 3639.
[101] MEC group brief, p. 68.

average ($85.078 million), or the 2020 projection as the base amount for new business, despite the fact that no party advocated for those specific amounts.[102]

Nevertheless, recognizing that the Commission may find that an alternative proposal is a more reasonable approach to addressing projected New Business spending, this PFD also analyzes the specific adjustments proposed by Staff and the Attorney General to the Lines Strategic Customers-HVD sub-program. These were the only adjustments recommended for the New Business program.

Consumers forecasted capital expenditures of $12,114,000 for the year 2020 and $17,281,000 for 2021 to build new HVD lines for large strategic customers.[103] Staff and the Attorney General recommended reductions to this sub-program on grounds that the proposed adjustments corresponded to projects that had not been identified and were therefore placeholders. Mr. Evans testified that the company's application included $3.0 million in spending in 2020 and $1.891 million in spending in 2021 for projects that were not identified. Mr. Evans testified that Consumers should recover half of the 2020 and 2021 amounts (a total of $1.5 million and $945,500 for 2020 and 2021 respectively), explaining that in 2019, Consumers spent 40% of that year's allowance for future projects. Thus, a 50% disallowance was reasonable.[104]

Mr. Coppola similarly recommended that the total 2020 and 2021 amounts for unidentified projects be disallowed as placeholder spending for projects that may never materialize.

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[102] See, e.g., *Assn of Businesses Advocating Tariff Equity v Pub Serv Com'n*, 216 Mich App 8, 23; 548 NW2d 649 (1996) ("The MPSC was entitled to use its regulatory power to fashion an appropriate remedy based on the gargantuan record compiled in the proceedings.").
[103] Exhibit A-29, Line 3.
[104] 8 Tr 4895.

In their initial briefs, both Staff and the Attorney General concede that Consumers provided sufficient evidence in discovery and rebuttal to show that the test year projects will be constructed. Thus, they withdrew their proposed disallowances for 2021. Nevertheless, both Staff and the Attorney General support some amount of disallowance for 2020. According to Staff:

> For 2020, Mr. Blumenstock said that "the Company continues to receive emergent customer requests for work requiring completion later in 2020" but mentions only one customer who contacted the Company recently about a relocation project. (6 TR 1323.) No details on the project were provided beyond one sentence, which is far from adequate support. In addition, this is not a firm project, and the costs are not known. Even if the project does go forward, it may cost less than the $1,500,000 Staff is already recommending for an allowance for future projects for 2020. Therefore, Staff continues to recommend its downward adjustment of $1,500,000 for 2020.[105]

On similar grounds, the Attorney General recommends a full disallowance of $3 million for 2020.

In response, the company urges the Commission to reject the Staff's and Attorney General's "placeholder" arguments, for unidentified projects, contending "If there is spending in a specific program for a to be determined project, it is not based on an unsupported guess and is instead based on reasonable expectations, given historical spending levels and observed trends, that additional projects will emerge."[106]

This PFD finds that the Attorney General's $3 million disallowance for the Lines Strategic Customers-HVD sub-program for 2020 should be adopted. As the Attorney General observes, the Commission has consistently determined that "placeholder" amounts for unidentified projects should not be recovered in current rates due to the

[105] Staff brief, pp. 12-13.
[106] Consumers reply brief, p. 8.

uncertainty about both the cost and whether the project will actually be constructed. In addition, Consumers' claim that it has "reasonable expectations" that new business projects will emerge is entirely speculative and should be rejected. As noted above, any additional, reasonable and prudent spending may be deferred and recovered in a subsequent rate case.

b. Reliability (Exhibit A-29, lines 8-22, 23)

As set forth in Exhibit A-29, line 23, Consumers projects capital expenditures of $230,207,000 in 2019, $201,165,000 in 2020, and $331,234,000 in 2021 for its Reliability program. The Reliability program is broken down into 14 sub-programs, half of which are reliability subprograms (Exhibit A-29, lines 8-14, totaling $157.5 million) and half of which are rehabilitation, grid modernization, and other sub-programs (lines 15-22, totaling $173.8 million).

Mr. Ozar testified that 50% of the company's request for the reliability portion of the Reliability sub-program (i.e., $78.7 million of $157.5 million) should be disallowed, noting that this would bring spending in these seven sub-programs to an amount consistent with 2020 projections (i.e., $82.5 million). Mr. Ozar based his recommendation on the fact that these reliability programs are discretionary and because the proposed spending is significantly higher than past spending. Mr. Ozar added:

> Unfortunately, the Company's capital replacement program (Reliability subprogram) appears to have excessive emphasis on preventing assets from aging beyond their assumed life, as opposed to the asset's actual condition. Such an out of balance approach will necessarily drive up costs, albeit increasing reliability. Again, the balance between rates and service quality comes into focus. The Company's approach may maximize reliability, but at a significant cost ($157 million in the projected test-year). I am suggesting that the Company move the balance toward a condition-

> based replacement paradigm for its Reliability subprogram, as opposed to an age-based replacement paradigm.[107]

In rebuttal, Mr. Blumenstock took issue with Mr. Ozar's claims, contending that Consumers does not in fact prioritize asset replacement by age, but rather by asset condition.

> Even so, while some assets can last beyond their expected lifespans, the concept of an expected lifespan should not be disregarded wholesale when assessing the overall state of the Company's system. At a certain point, wear and tear and obsolescence erodes the ability to maintain aged assets in the field, so while age is not the sole determinant of deterioration, the two are correlated, and on a system-wide basis it is reasonable to use age as a proxy in assessing the approximate scale of investment and work needed each year on the Company's system.[108]

Consumers adds that Mr. Ozar's recommendation was not based on a detailed review of the company's evidence but rather "on the basis of arbitrary policy grounds[.]"[109] Consumers stresses that adopting Mr. Ozar's recommended disallowance would lead to further asset deterioration and a continued decline in reliability, contending, "it should be noted that even the investment levels proposed by the Company for the 2021 test year in this rate case do not reach the point of keeping up with deterioration."[110] Consumers also takes issue with Mr. Ozar's claim that the COVID-19 pandemic, and related economic stress should be taken into consideration, characterizing this assertion as speculative, especially given that rates will not go into effect until 2021.

In response, the MEC group argues:

> These responses do not address the premise of Mr. Ozar's testimony here, which is that the Commission should cut back the Company's proposed unprecedented spending levels on preemptive (non-reactive) spending for policy purposes (i.e., to mitigate adverse customer impacts). The

[107] 8 Tr 3662.
[108] 6 Tr 1343.
[109] Consumers' brief, p. 51.
[110] Id. at 50, citing 6 Tr 1340.

> Company appears entirely unwilling to concede that some reductions from some part of distribution capex may be appropriate in order to balance rate impacts. Not only is such balance appropriate for policy reasons, but it is a legally sound approach to the Company's rate increase request. The Commission is charged with the duty to fix "just and reasonable rates," which "can be accomplished only by balancing the interest of public utility investors and the consuming public." In setting rates, the may consider a variety of factors and make pragmatic adjustments as called for by particular circumstances. There is no single theory or formula for ratemaking, instead the Commission has authority to adopt rate-setting methodology that balances the interests of the utility and the public. Reducing the requested Reliability capex is in the interests of the consuming public and warranted in this case.[111]

In its response, Consumers characterizes the MEC group's recommendation as not only extreme in amount, but completely unsupported by the record. Consumers points out that the MEC group's total adjustment to distribution spending in the test year (only) far exceeds either the Staff's or the Attorney General's proposed exclusions for both 2020 and 2021.

The ALJ generally agrees with the MEC group's approach and recommendation for reliability spending. As the MEC group correctly observes, the Commission's objective is to set just and reasonable rates, considering both the ratepayers and the company. Thus, scrutinizing spending on a particular category, particularly one that is both discretionary[112] and significantly out of line with historical spending,[113] is not only appropriate but necessary. In addition, Mr. Ozar's concerns about the ongoing impacts of the COVID-19 pandemic are not speculative. Rather, the company's apparent belief that on January 1, 2021 all will return to normal seems far more unlikely at this point than

[111] MEC/NRDC/SC/CUB brief, p. 73 (citations omitted).
[112] See, Mr. Blumenstock's testimony at 6 Tr 1133 (Reliability programs "are discretionary, in that they do not respond to an emergency, meaning that the Company has some ability to prioritize and reprioritize its projects in these subprograms.")
[113] As noted above, Consumers' proposed spending on the seven programs in the reliability portion of the Reliability Program is almost double the company's 2020 projected spending.

Mr. Ozar's assumption that there will be a prolonged economic downturn with significant impacts to ratepayers. Thus, taking a pause in the company's ever-increasing spending on reliability is a rational regulatory response to the uncertainty surrounding the COVID-19 pandemic.

That said, if the MEC group's intention is to bring spending on the reliability portion of the Reliability sub-program in line with 2020 spending, then the amount approved should be the 2020 projection of $82.5 million, a reduction of $75 million from the company's proposal. Accordingly, the ALJ finds that this adjustment is reasonable and recommends its adoption.

In addition to the adjustment to lines 8 through 14 of the Reliability sub-program, the MEC group also recommended a 25% reduction to the rehabilitation portion (Exhibit A-29, lines 18-21) of the Reliability sub-program, projected by Consumers to total $95.497 million in the test year.[114] On grounds similar to his recommendation for reliability spending, Mr. Ozar recommended reducing test year spending on rehabilitation to $71 million. The MEC group again emphasizes the need to balance the affordability of rates with service quality, with the balance shifted "towards achieving the lowest possible rates[.]"[115] Mr. Ozar suggested that the company undertake a more aggressive monitoring program to identify assets most at risk of failure to address the reduction in proposed spending.[116]

Consumers responds by arguing that the MEC group presented no evidence that the company's monitoring is insufficient, adding, "Since existing monitoring has already

[114] Historical spending in these categories is not readily available (See, Exhibit A-29, lines 18-21, column h), because rehabilitation was previously included in the Demand Failures subprogram.
[115] MEC group brief, p. 84.
[116] 8 Tr 3654-3655.

identified assets at risk of imminent failure, it is not clear how even more monitoring would suddenly allow these projects to now be deferred without simply increasing the risk of actual failure."[117]

The ALJ finds that the MEC group's recommendation, to limit the spending on the rehabilitation part of the Reliability sub-program, should be rejected. As Consumers points out (and the MEC group recognizes), many of the projects in this category are meant to address assets at risk of imminent failure and thus are not discretionary. The option of deferring some of these repairs may be possible, however, additional monitoring, as Mr. Ozar suggests, will only identify more items in need of repair or replacement. And, because Consumers has reclassified some of these costs from the Demand Failures program to the Reliability program, they will no longer receive deferred accounting treatment for programs where spending is outside the company's control.

As was the approach above, in the event the Commission disagrees with the adjustment to the Reliability subprogram, proposed by the MEC group and adopted by the PFD, an analysis of specific line-item adjustments recommended by the Staff, Attorney General, the MEC group, and JCEO are addressed below. It should be noted that the MEC group's disallowances discussed above apply only to test year spending. Other parties have proposed reductions for 2019 and 2020 bridge year projections, which in some cases were adopted.

[117] Consumers brief, p. 66, citing 6 Tr 1348-1349.

i. Lines Reliability-HVD (Line 9)

The Lines Reliability-HVD sub-program consists of HVD line rebuilds, pole-top rehabilitations, pole replacements, and switch projects.[118] As shown in Exhibit A-29, line 9, the 2018 historical spending for this sub-program was $42.71 million, and the projected 2019 and 2020 expense is $48.1 and $16.3 million, respectively, with a five-year average spending amount of $27.8 million. For the test year, Consumers projects $78.13 million in capital expense, a substantial $50 million increase over the five year average spending.

Staff is recommending that the Commission disallow $4,536,000 for 2020 and $15,936,000 for 2021 for the Lines Reliability-HVD subprogram, on grounds that the company failed to identify specific projects it intended to undertake at the time it filed its application.[119]

In rebuttal, Consumers explained that many of the projects in this program have short lead times and are identified on a rolling basis. Thus, it is impossible to assign all costs to specific projects far in advance. Mr. Blumenstock also provided an update of all the specific projects, with associated costs, that Consumers plans to undertake in 2020. For 2021, only $2.723 million for pole replacements and $450,000 for switch replacements remain to be assigned.[120]

In its brief, Staff continues to support its original disallowances for 2020 and 2021, explaining:

> Staff's position is that projects with short lead times—like pole and switch replacements in the HVD Reliability program—and projects that are identified on a rolling basis—like those in the LVD Repetitive Outages, HVD

[118] 6 Tr 1144.
[119] 8 Tr 4902, Exhibit S-13.5.
[120] 6 Tr 1326.

> Lines and Subs Rehabilitation, and LVD Lines Rehabilitation sub-programs—should not be included in the Company's request for recovery. If the Company wants cost recovery for a project in a planned program, then it should know about the project many months in advance and provide the relevant details. As stated earlier, these details include: the applicable sub-program; project description, line, substation or location; spending amount; number of units; unit type; and investment category. If the Company cannot provide this information, then it should show some restraint and ask for recovery in a future rate case once the projects and their relevant details are known. Staff witness Evans stated that Staff would recommend recovery of incurred expenditures in future rate cases if the incurred expenditures are found to be reasonable and prudent.
>
> The Company should also not recover the capital expenditures that were assigned to projects identified between April and July. By approving cost recovery for these projects, the Commission would, in effect, be allowing the Company to file an incomplete case and then use the rebuttal filing to supply information that should have been provided months earlier in the initial filing. Approving cost recovery would thus undermine the very concept of an initial filing, as the utility could file a case containing inappropriate placeholders and then add new information in rebuttal testimony, transmuting placeholder dollars into dollars allocated to confirmed projects. [121]

In response, Consumers maintains that Staff's disallowance is wholly unreasonable, noting that the company provided updated information on newly assigned projects in April 2020, two months before Staff and intervenor filings were due. Thus, "[t]he updated projects and spending amounts provided to Staff in discovery, and as provided by Company witness Blumenstock in rebuttal, establish that the Company's rolling approach to identifying pole replacements and switch replacements will result in the Company spending the amounts initially projected for 2020 and 2021 in this proceeding."[122]

[121] Staff brief, pp. 19-20.
[122] Consumers reply brief, p. 11.

While not taking issue with 2020 projections in this sub-program, the Attorney General recommends a downward adjustment of $19,084,000 for the test year, based on Mr. Coppola's calculation of the average historical unit cost for line rebuild ($421,000), pole top rehabilitation ($75,973), and pole replacement ($18,235) multiplied by the number of each of these units the company expects to replace or complete in the test year. As a result, the Attorney General calculated:

> The forecasted amount for the 2021 Line Rebuilds should be $30,312,000 instead of the $46,406,000 forecasted by the Company. The difference is $16,094,000. The forecasted amount for the 2021 Pole Top Rehabilitations, should be $8,053,000 instead of the $9,658,000 forecasted by the Company. The difference is $1,605,000. And, the forecasted amount for the 2021 Pole Replacements should be $16,229,000 instead of the $17,614,000 forecasted by the Company with the difference being $1,385,000.[123]

Relying on Mr. Blumenstock's rebuttal, Consumers maintains that the Attorney General's unit cost approach is flawed and should be rejected. Consumers asserts that the company's distribution projects are not mass-produced commodities where one unit should be expected to cost the same as any other unit. Instead, distribution projects may vary significantly in size or complexity and therefore cost. In addition, Consumers points out that a unit cost approach does not take into account spending over several years on a single project, where, for example, the majority of spending occurs in year one, but the project is not completed and counted until year two after minimal additional spending. Consumers posits that the unit cost would then only be based on the second year of spending, yielding inaccurate results.

[123] Attorney General brief, pp. 31-32.

The ALJ agrees with Staff that the $4,536,000 downward adjustment for 2020 is reasonable and should be adopted. As the Staff points out, providing a fill-in-the-blank rate application is not in keeping with the letter or the spirit of MCL 460.6a(1), which provides that “[t]he utility shall place in evidence facts relied upon to support the utility's petition or application to increase its rates and charges, or to alter, change, or amend any rate or rate schedules.” The PFD concurs with the Staff that permitting the company to update its projections over the course of the proceeding would allow for the filing of an incomplete application and could effectively sanction the filing of improper rebuttal. Moreover, the fact that many of these projects cannot be identified so far in advance could be remedied, at least in part, if the company were to adjust its test year to begin when its files its application, as the RCG suggests. As noted above, reasonable and prudent costs incurred after the company’s initial filing may be included in the company’s next rate case once they have been reviewed.

The ALJ also finds that the Attorney General’s $19,084,000 reduction for spending on line rebuilds, pole top rehabilitation, and pole replacement in the test year is based on a reasonable projection of these costs. Consumers’ argument regarding the potential carry-over of spending from one year to the next is rejected. The Attorney General’s calculation was based on an average over several years, thus the variations in when spending occurs, and when a project is completed, are smoothed out. And, while Consumers’ observation that different projects cost different amounts is undoubtedly true,[124] Mr. Coppola’s calculation was based on the number of projects in company’s initial filing, many of which were placeholders. At the time its application was filed,

[124] See, e.g., the example provided at 6 Tr 1384-1385.

Consumers, by its own admission, could not provide detailed information on many of its projects because they were not yet identified. Nevertheless, Consumers was somehow able to determine that these projects will be significantly larger, more complex, and therefore more costly than the average unit cost for each type of project as calculated by the Attorney General. While the company may be able to reconcile these two positions, the ALJ is not.

Therefore, the ALJ recommends exclusion of $4,536,000 for 2020 as proposed by Staff and, if the Commission does not adopt the $75 million adjustment to the Reliability sub-program discussed above, the Commission should exclude $19,084,000 for 2021 for the Lines Reliability-HVD subprogram as recommended by the Attorney General.

ii. Substation Reliability-LVD (Line 10)

Consumers projected capital expenditures of $11.5 million and $15.5 million for 2020 and 2021 respectively for this sub-program. The Attorney General observes that this line item includes six categories of expenses, including mobile substations and animal mitigation. Mr. Coppola calculated the average per unit cost for mobile substations for 2015-2019,[125] and determined that the average cost per substation was $1,260,000. Multiplying this amount by the number of units projected to be acquired in 2020 and 2021, he determined that the amount approved for 2020 should be reduced to $5,040,000 for 2020, exclusions of $1,260,000 for 2020 and $2,100,000 for 2021.[126] The Attorney General asserts that Consumers did not provide sufficient support for the significant cost increase for mobile substations in the bridge and test years.

[125] Mr. Coppola excluded 2017 because there was limited spending on mobile substations that year.
[126] 8 Tr 3355-3356; Exhibit AG-1.9.

Similarly, for animal mitigation, Mr. Coppola calculated a unit cost of $45,174 per animal mitigation project for 2017-2019. Applying this unit cost to the number of projects the company plans to implement in 2020 and 2021, Mr. Coppola, "determined that the Company's forecasted costs for the Animal Mitigation program for 2020 and 2021 are overstated by $996,000 and $2,195,000, respectively. The forecast for 2020 should be $904,000 for 20 projects, and for 2021 it should be $1,807,000 for 40 projects. Instead, the Company has forecasted $1,900,000 for 2020 and $4,002,000 for 2021."[127] Again, the Attorney General argues that the significant per-unit cost increases for these projects was not well supported.

In response, Consumers reiterates that a unit-cost approach is inappropriate generally, and that both mobile substations and animal control projects can vary considerably in size and complexity. Mr. Blumenstock testified that "in 2016 and 2017, the Company purchased three smaller mobile substations costing under $700,000 each, while in 2017 the Company also purchased a larger mobile substation that cost over $3,200,000. Then, in 2018, the Company did not purchase any new mobile substations[,]" thus costs were limited to engineering and inspection of the already-purchased units.

In response, the Attorney General argues that the company also uses unit costs for certain expense projections, and she cites Mr. Coppola's testimony that his unit-cost approach looking at an average over several years, "normalizes various costs from year to year and reflects the most recent costs actually experienced by the Company during a period of very low inflation."[128]

[127] Attorney General brief, p. 34, citing 8 Tr 3356.
[128] Attorney General reply brief, pp. 8-9

On behalf of the MEC group, Mr. Villareal recommended a disallowance of 50% of the cost of three of four substation rebuilds (Mt. Morris, Tawas, and Thornton), a disallowance of $2.250 million,[129] on grounds that Consumers has not demonstrated that the investment in these substations is reasonable and prudent, because the company failed to consider potentially cost-effective NWA solutions to the substation rebuilds. The MEC group disputes Consumers' contention that NWA's are not generally appropriate for reliability programs, arguing that, "contrary to the Company's assertion, load and growth was used to justify one of the projects. And two projects would increase substation capacity. These are not like-for-like replacements, they provide for load growth."[130] They add, "there is no basis in the record to conclude customers would be 'penalized' if these reliability projects were at least delayed to allow consideration of potential NWAs[,]" and "even for Reliability programs independent of load growth, NWAs can act as a consumer protection option that not only defers new investments, but has the practical effect of not burdening consumers with those higher costs via increases in their rates."[131]

In response, Consumers characterizes the MEC group's recommendation as a means of penalizing the company for its failure to implement Mr. Villareal's preferred NWA solution. Consumers maintains that:

> The MEC Coalition incorrectly points to three projects in Confidential Exhibit A-150 (RTB-26) which it claims could have used NWAs, the Mt. Morris, Maple City, Tawas, and Thornton substation rebuild projects. MEC Coalition's Initial Brief, pages 77-78. In making this argument, the MEC Coalition completely ignores the stated purposes of these projects. The Mt. Morris, Maple City, and Tawas Substation rebuild projects are intended to modernize the substations and replace outdated Allis Chalmers transformers with modern transformers. See Confidential Exhibit A-150 (RTB-26), pages 211-221; see also 6 TR 1203-1205 which addresses the

[129] Exhibit A-42, p. 8, lines 6, 8, and 9.
[130] MEC group brief, p. 78.
[131] Id.

> need to replace Allis Chalmers transformers. The Thornton substation rebuild project is to move the project out of a flood zone near the Stanford Dam which had a catastrophic flood in the Spring of 2020. See Confidential Exhibit A-150 (RTB-26), page 222. Therefore, in all situations cited by the MEC Coalition, the Company is proposing a one for one rebuild of existing substations and therefore NWAs would not serve as a solution.[132]

The PFD agrees with Consumers that the Attorney General's proposed adjustment for mobile substations should be rejected. As Consumers points out, mobile substations are "bespoke" items and are not purchased in large enough numbers that a unit-cost approach results in an accurate projection. However, that is not the case with animal mitigation projects, a large number of which are implemented every year. As discussed above, using an historical, multi-year average to determine the per-unit cost of animal mitigation projects is a reasonable approach to projecting this cost, and could help alleviate cost overruns. Thus, if the Commission does not adopt the adjustment to the reliability portion of the Reliability program discussed above, the Attorney General's 2021 adjustment to animal mitigation should be approved. Consistent with the foregoing discussion, the PFD finds that the Attorney General's $996,000 adjustment for animal mitigation projects, for the 2020 bridge year, should be adopted.

The ALJ also finds that the MEC group's recommendation to disallow half of the cost of substation rebuilds should be rejected. Leaving aside concerns about the company's distribution planning process (addressed below), and although there are some incidental capacity increases at one or two of the substations, Consumers provides a reasonable justification for these investments and for not considering an NWA solution based on the primary purpose(s) of the rebuilds.

[132] Consumers reply brief, p. 47.

iii. Repetitive Outages-LVD (Line 13)

According to Consumers, "the primary purpose of this subprogram is to specifically target areas of the LVD system that consistently experience recurring customer interruptions, based on the number of customers who experience five or more interruptions annually (known as the 'CEMI-5+' index)."[133] Staff proposes reductions of $5,355,000 for 2020 and $7,672,000 for 2021 for the Repetitive Outages – LVD subprogram on grounds that a large portion of these amounts have been assigned to placeholder projects. Staff explains:

> Staff's proposed $5.355 million disallowance is for 179 projects "with locations to be determined" as of April 2020. (Staff Exhibit S-13.6.) Staff's position is that the $5,355,000 amount is a placeholder and should be disallowed.
>
> The Company plans on completing approximately 300 repetitive outage projects in 2021, but unfortunately, none of these projects have been identified. (Staff Exhibit S-13.6.) The LVD Repetitive Outages sub-category does, however, help the Company comply with the same-circuit repetitive interruption factor in the MPSC Service Quality and Reliability Standards for Electric Distribution Systems. That being the case, rather than recommend disallowance of the entire $9,710,00 that is projected for the sub-program for 2021, Staff recommends the Company recover the amount Staff is recommending for 2020, adjusted upward by Staff's 2021 inflation amount. This still leaves a disallowance of $7,672,000 for 2021. (8 TR 4903.)

Consumers reiterates that in order to run the program effectively, it must rely on the most recent data to identify circuits where repetitive outages are a problem. As such, specific projects are identified on a rolling basis and cannot be determined far in advance. Consumers also argues that it has identified additional projects for 2020, and that no disallowance should be approved for 2021.[134]

[133] Consumers brief, p. 12, citing 6 Tr 1183-1184.
[134] Consumers reply brief, pp. 12-13; Exhibit A-144.

Noting that the Staff did not propose a total disallowance for 2021, despite the fact that none of the 2021 projects were identified in Consumers' application, for the reasons discussed above, the ALJ agrees that the Staff's adjustments to this program are reasonable. Thus, if the Commission does not adopt the above-recommended adjustment to the reliability portion of the Reliability sub-program, Staff's proposal to exclude $7,672,000 for 2021 for the Repetitive Outages – LVD program should be adopted. In addition, Staff's adjustment of $5,355,000 for 2020 is adopted in this PFD.

iv. Grid Modernization (Exhibit A-29, Lines 16, 17, and 54)

Consumers requests $44.5 million and $60.4 million for the Grid Capabilities: Automation subprogram in 2020 and 2021 respectively. This subprogram consists of four projects: DSCADA and SCADA; ATR loops; line sensors; and regulator controllers.[135] In addition, the company projects $19.9 million and $7.8 million for the Grid Capabilities: Advanced Technologies subprogram in the bridge and test years. The projects included in the Advanced Technologies subprogram include Advanced Distribution Management System (ADMS), Distributed Energy Resources Management System (DERMS) and grid operational analytics. Finally, Consumers proposes to spend $1.4 million in 2021 on the Grid Technologies sub-program. The Attorney General, the MEC group, and the JCEO dispute some of the proposed spending in these subprograms.

According to the Attorney General, Consumers "forecasted capital expenditures of $11,500,000 for the year 2020 and $69,604,000 for 2021 to install automated line sensors, regulators and other potential technology devices."[136] Based on the cost and

[135] 6 Tr 1170. Exhibit AG-1.10.
[136] Attorney General brief, pp. 34-35; Exhibit A-29, lines 16, 17, and 54; Exhibit AG-1.10.

number of historical units installed (2014-2021) applied to the company's projection of the number of units to be installed, Mr. Coppola determined that the company's capital expense projection for line sensors and regulator controllers are overstated and the grid technologies project lacks support. For line sensors, the Attorney General explains:

> Mr. Coppola calculated the average cost per unit for the three historical years 2017 to 2019 for the Line Sensor expenditures. Historically, the average cost per Line Sensor is $4,880. By applying that average historical unit cost to the forecasted units, Mr. Coppola determined that the Company's forecasted costs for Line Sensor for 2021 is excessive. He determined that the forecast for 2021 should be $488,000 for 100 units instead of the $4,544,000 in capital expenditures forecasted by the Company for 2021. The difference is $4,066,000.[137]

Similarly, for regulator controllers, Mr. Coppola found an average cost of these units (2017-2019) of $35,083 per controller. Mr. Coppola's calculations show "that the forecast for 2020 should be $7,367,000 based on 210 projects instead of the $12,580,000 forecasted by the Company"[138]

Finally, with respect to the $1.35 million Grid Technologies project, Consumers proposes to undertake a project to photograph system assets and store them in a geographic information system (GIS) database so that field personnel can review the images before entering the job site. Mr. Coppola testified, "[i]t is not clear how advantageous and cost effective this project would be. The Company did not provide enough support and analysis to adequately justify spending $1,350,000 on this project at a time when there are more pressing priorities."[139]

In total, the Attorney General recommended disallowances of $5,213,000 for 2020 and $5,406,000 for 2021 for the three Grid Modernization sub-programs.

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[137] Attorney General brief, p. 35; Exhibit AG-1.11.
[138] Attorney General brief, p. 36, citing 8 Tr 3358.
[139] 8 Tr 3358-3359.

In response to the Attorney General's unit cost analysis, Consumers again argues that the Commission should reject this type of assessment as flawed and inaccurate. With respect to line sensors, Consumers points to Mr. Blumenstock's rebuttal where he explained: (1) investment in this category was not consistently tracked before 2018, thus accurate cost and unit data is not available; and (2) there was an error in a discovery response reflected in Exhibit AG-1.10. Rather than the 100 line sensors in 2021 that Mr. Coppola used in his calculation, Consumers' workplan actually calls for 1,700 line sensors. "Using this number of locations, the projected cost for line sensors in 2021 should be approximately $2,670 per location, which is lower than the $4,880 per location that Mr. Coppola calculated."[140]

Concerning regulator controllers, Consumers again highlights Mr. Blumenstock's rebuttal where he explained that the company's initial investments in this category were focused on more basic installations, particularly ones that did not require replacement of the regulator tank. Beginning in 2020, the company will be replacing controllers at locations where regulator tank replacement is necessary, thereby increasing the per-unit cost.[141]

Finally, with respect to the Grid Technologies sub-program, Consumers maintains that it provided ample support for this project, noting that Mr. Blumenstock discussed this program over three pages of his direct testimony.[142] Quoting extensively from Mr. Blumenstock's testimony, Consumers highlights benefits of the project including: enhanced prioritization of issues that need to be addressed, and increased system

[140] Consumers brief, p. 30, citing 6 Tr 1390.
[141] 6 Tr 1389-1390.
[142] See, 6 Tr 1177-1179.

assessment frequency, reducing assessments of the LVD system from once every six years to once every three years.[143]

The Attorney General did not address Mr. Blumenstock's rebuttal in her brief.

The ALJ finds that Consumers has supported spending in these three categories (line sensors, regulator controllers, and grid technologies), and therefore the Attorney General's proposed disallowances should be rejected. While the Attorney General's unit cost approach has merit in many instances, here, the company provided substantial evidence that the regulator controllers program is changing going forward, and the correction to the company's discovery response indicates that the unit cost of line sensors is not excessive in 2021. Finally, the ALJ agrees with Consumers that the company provided sufficient evidence to demonstrate that the Grid Technologies subprogram is reasonable and prudent.

The MEC group and the JCEO take issue with the company's proposals to implement ADMS and DERMS. Mr. Blumenstock testified that:

> ADMS is a software platform that integrates components of Grid Modernization, incorporating data from the different devices on the distribution system to increase automation and improve real-time outage management. It is critical to enabling all the Grid Modernization capabilities, including DER integration, laying the foundation for DERMS. ADMS combines a new Distribution Management System ("DMS") and Outage Management System ("OMS") into a single platform, replacing the Company's existing OMS, and integrating these components with DSCADA. ADMS also integrates the Company's GIS mapping to provide operators and dispatchers with an accurate and realistic view of the distribution system, phasing out the need for traditional paper-based single line system diagrams and maps for these users. The Company began its deployment of ADMS in 2019, the beginning of an approximately two-and-a-half-year process that is planned to conclude in the first quarter of 2021.[144]

[143] 6 Tr 1178.
[144] 6 Tr 1172.

Mr. Blumenstock described the benefits of ADMS including (1) reduced time for completing load transfer studies, which will result in shorter outage times through load transfers; (2) system automation to support grid modernization including CVR and DER integration; and (3) improved situational awareness for dispatchers resulting in increased safety for field crews.[145]

Regarding DERMS, Mr. Blumenstock explained:

> DERMS is an advanced software platform including, but not limited to, specific functions to forecast, monitor, control, and coordinate DERs on the electric grid. The DERMS application will provide several key functions including aggregation, translation, simplification, and optimization across a wide variety DERs. DERMS will optimize DER performance at multiple levels based on multiple requirements including local, regional, and system-wide applications.[146]

Mr. Blumenstock further testified that the DERMS program will be limited initially to a small number of DERs, "to . . . address potential local operational challenges associated with DER penetration at the circuit and/or substation level."[147]

On behalf of the MEC group, Mr. Villareal testified that the Commission should remove all 2021 spending for the ADMS and DERMS projects. The company proposes to spend \$5.9 million for ADMS and \$1.2 million for DERMS, for a total of \$7.1 million. On behalf of the JCEO, Mr. Sandoval also recommended exclusion of capital expense for DERMS.

Largely based on his criticism of Consumers' distribution planning, Mr. Villareal testified that although ADMS "is a technology that will be the foundation for a more integrated and optimized distribution utility[,] . . . Consumers does not have that system

[145] Id. at 1174-1175.
[146] Id. at 1176.
[147] Id.

in place today, and has no concrete plan or deliverables to get to that future."[148] For DERMS, Mr. Villareal opined, "Considering the small scale that Consumers is proposing for this project, and the apparently little value the proposed program would provide, if Consumers wants to run a small pilot, it can do so, but can fund it with shareholder funds, rather than ratepayers."[149]

Mr. Sandoval testified that the operation and control aspect of the company's program (e.g., using DERMS to control DER voltage, power factor, real power, and reactive power) is not sufficiently defined, including how DER sites will be compensated for these services. Mr. Sandoval added that the current level of DERs on the company's system is so limited that the DERMS program is simply not warranted:

> The Company has stated it was "not currently experiencing any local operational challenges associated with DER penetration" and that "experience and research shows that operational challenges begin when DER penetration reaches between 20% and 30% at the substation and circuit level". The Company's proposal for DERMS references "potential" local operational challenges as a justification for the investments identified. An alternate approach could involve the Company collecting data on the nature of these "operational challenges" and identify potential strategies, such as demand flexibility and reactive power management as described in the Grid Modernization strategy.[150]

In response, Consumers points out that MEC group witnesses Ozar and Villareal take opposing views on the value of ADMS and DERMS, pointing to Mr. Ozar's testimony on the customer benefits of these projects.[151] Consumers adds that ADMS and DERMS fit into the company's broader distribution planning strategy and the company's plan for increased integration of DERs. And with respect to DERMS specifically, Consumers

[148] 8 Tr 3862.
[149] Id.
[150] 8 Tr 4428-4429.
[151] Consumers brief, p. 70, citing 8 Tr 3655.

argues that although its initial investment is small, "because DERMS will take multiple years to implement, the Company is beginning implementation even before DER penetration increases further. 6 TR 1373. This will allow the Company to be prepared for a future increase in DER, particularly of distributed solar generation in support of the Company's IRP."[152]

The ALJ agrees with the JCEO and the MEC group that capital expenditures for DERMS should be disallowed on grounds that DER penetration in Consumers' service territory is very low at this point, and because the company has yet to detail how the operations and control function of the program will be implemented. While recognizing that DER encompasses considerably more than DG, and that some aspects of DER may increase in the future, the company's insistence that it will end its DG program as soon as the 1% cap is reached, will likely impede a significant increase in DER penetration in the near term, and in turn delay the need for DERMS. Thus, the PFD finds that $1,184,000 in test year spending for DERMS should be excluded from rate base.

However, Mr. Blumenstock provided significant support for ADMS, testifying that although ADMS is useful for addressing DERs, its primary benefits are associated with reliability and operations. Therefore, the MEC group's recommendation to exclude capital expense for ADMS is rejected.

v. Lines and Subs Rehabilitation-HVD (Line 18)

Consumers projected capital expenditures of $14,222,000 for 2020 and $38,921,000 for the year 2021, to rehabilitate and replace HVD lines, substations, and related equipment. Staff recommended an increase of $1,080,000 for 2020 and a

[152] Id. at 71.

reduction of $12,681,500 for the test year for the Lines and Substations Rehabilitation-HVD sub-program. Based on the company's responses to discovery, Staff determined that Consumers will be spending an additional amount on this sub-program in 2020, and therefore adjusted the company's projection. Staff's reduction for 2021 was based on the fact that many of the projects are unidentified placeholders.

Mr. Coppola testified that the cost of most of the projects within this sub-program are reasonable, however, he found that the costs for the HVD Substation failure program are excessive, noting that costs more than triple, from $8.3 million in 2018 to $28.9 million in 2021. After reviewing details the company provided, Mr. Coppola recommended a reduction of $4.9 million for HVD Substation failure projects that were unidentified and were therefore placeholders.

Consumers reiterates that although it cannot identify all projects in advance, its proposed spending in this category is based on historical rates of imminent and actual HVD line and substation failures. Consumers adds that it has a robust inspection program that identifies imminent failures so that they may be addressed before actual failure occurs.

Consistent with the reasoning set forth above, the ALJ agrees with the Staff's reduction based on the numerous placeholders in the company's application.[153] As previously stated, additional reasonable and prudent spending on this program may be included in rate base in a subsequent rate case. Accordingly, the ALJ adopts Staff's recommended increase of $1,080,000 for 2020 and reduction of $12,681,500 for the Lines and Substations Rehabilitation-HVD sub-program.

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[153] The Attorney General's $4.9 million specific reduction is encompassed in the Staff's recommendation.

vi. Substation Rehabilitation-LVD (Line 19)

Consumers projected capital expenditures of $14,500,000 for 2021 to rehabilitate and replace transformers and related equipment that are at risk of failure. The Attorney General recommended a $3.0 million reduction related to the cost of six transformers that are being replaced due to working clearance code violations. The Attorney General posits that because these transformers have been in place for many years, and because they do not pose an immediate risk of failure, these replacements do not need to take place in 2021.

In response, Consumers argues that the Attorney General does not understand the nature of this program and that not every project in this category addresses imminent failure, noting that working clearances are subject to regulations under the National Electric Safety Code (NESC).[154]

In light of the fact that the six transformers at issue are out of compliance with NESC, the ALJ finds that the Attorney General's recommendation should be rejected.

vii. Lines Rehabilitation-LVD (Line 20)

Mr. Blumenstock explained that the LVD Lines Rehabilitation sub-program includes repair or replacement of LVD lines equipment at imminent risk of failure.[155] According to Consumers:

> [T]here are two investment categories in this subprogram: (i) security assessment repairs; and (ii) imminent rehabilitation. The security assessment repairs category follows a fixed inspection schedule in a way that allows for projects to be identified in advance. 6 TR 1332. However, projects which fall within the imminent rehabilitation investment category are not able to be identified far in advance. This is because the imminent rehabilitation investment category is intended to quickly identify and

[154] 6 Tr 1392.
[155] 6 Tr 1208.

> address situations of imminent failure that are identified outside of a normal inspection cycle.[156]

The company is projecting $20,597,000 for 2020 and $37,723,000 for 2021 for this sub-program. Staff recommends the Commission reduce 2020 capital expense on this item by $7.084 million, and that it reduce test year capital expense by $11,893,000.[157] Staff observes:

> In Exhibit A-42 (RTB-15), page 26, line 54, the Company lists "Imminent Rehabilitation Projects (Demand)." This line item had no projects associated with it at the time of the filing, and still had no projects assigned to it two months later, in April. (Staff Exhibit S-13.10.) The $11,893,000 in projected spending for 2021 is a placeholder that should be disallowed.
>
> For 2020, $10 million is earmarked for Imminent Rehabilitation Projects, but $7,084,000 of that amount was not allocated to any specific projects. (Staff Exhibit S-13.9.) The $7.084 million is a placeholder and should be disallowed.

Based on Mr. Coppola's unit-cost calculation applied to the number of units the company expects to rehabilitate in 2020 and 2021, the Attorney General recommends that the Commission remove the excess amounts of $4,416,000 for 2020 and $12,980,000 for 2021 from this rate case.

Consumers again disputes the accuracy of the Attorney General's unit-cost approach, and it again takes issue with Staff's "placeholder" argument for projects that cannot be identified far in advance.

As discussed above, the Commission has consistently found that placeholder amounts should not be included in rate base, even if projected expenditures are assigned to projects over the course of the proceeding. Reasonable and prudent costs of these

[156] Consumers brief, pp. 17-18.
[157] 8 Tr 4905.

projects are recoverable in a future rate case. The ALJ finds that Staff's recommended adjustments of $7.084 million and $11,893,000 for 2020 and 2021 respectively should be approved.

viii. Grid Storage (Line 22)

Consumers projects $5.0 million in 2020, and it requests $10 million in 2021, for the Grid Storage subprogram. This subprogram includes three battery projects at Cadillac, Fort Custer, and Standish. The Cadillac project will be completed in 2020. The Fort Custer project is designed to allow islanding, and the Standish project is a portable battery storage project, with costs to be incurred in 2021. [158]

On behalf of the JCEO, Mr. Sandoval supported the battery projects.[159] However, he also recommended that in future proceedings, Consumers should better define the intended outcomes from pilot proposals, and clarify how pilot battery programs will to lead to large-scale deployment.

In response, Consumers explains that it has been actively participating in the pilots workgroup in the Commission's MI Power Grid initiative, and the issues Mr. Sandoval raises are being addressed in that forum. Consumers recommends that the Commission defer consideration of the JCEO's recommendation until the Staff report on pilot program administration is issued. This PFD agrees with the company's response.

The Attorney General, and the MEC group disputed the costs for battery storage. Based on the high cost of short-term capacity supplied by batteries ($4.9 million per MW for four hours of storage), the fact that batteries were not selected in the company's IRP

[158] 6 Tr 1219-1220; Exhibits A-31, A-41 and A-42.
[159] 8 Tr 4423-4424.

until 2032 at the earliest, and because the company already has two additional battery pilot projects underway,[160] the Attorney General maintains that the additional $15 million for battery storage in 2020 and 2021 is not justified. The Attorney General adds that the company was unable to provide specific information about how it arrived at the $10 million cost for 2021, and Consumers could not identify any near-term benefits of the additional battery pilots, except for potentially deferring $5.1 million in other capital projects over the next decade, which is insufficient to justify spending $15 million in 2020 and 2021. The Attorney General recommends that the entire $15 million be disallowed or, if the Commission that finds the 2020 investment has merit, a disallowance of $10 million for 2021.

In response, Consumers argues that the Attorney General's argument is flawed and generally unsupported. According to Consumers, Attorney General witness Coppola presented no data to show that the cost of battery storage was particularly high, and although the company's IRP did not select battery storage, due to cost, the information used for the IRP dates from 2017. Since then, storage costs have continued to fall. Consumers also disputes Mr. Coppola's claim that the company's existing pilot projects are not designed to assess certain capabilities such as solar smoothing, asset deferral, or islanding. Consumers further argues that it fully supported the $10 million program cost for 2021, citing Exhibits A-42 and Confidential Exhibit A-150, which contain detailed cost information. Finally, Consumers contends that many of the benefits of the battery projects are intangible, "such as the Company developing the capabilities to construct

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[160] Exhibit AG-1.30.

and operate battery systems that will be a critical component of the future energy supply portfolio."[161]

While the MEC group endorsed the Cadillac and Fort Custer projects "because they will provide critical learnings[,]"[162] they argued that the 2021 Standish portable battery project should be disallowed on grounds that the costs for substation upgrades that the $8.1 million project is intended to defer are only about $3 million. Mr. Ozar testified:

> Although the proposed pilot would allow the Company to gain experience and knowledge regarding the concept of infrastructure deferral through mobile energy storage systems, the traditional alternative of upgrading the three substations has a significantly lower cost. Ultimately, the goal of infrastructure deferral should be to save money, thus the expectation of a battery storage pilot should be that the cost of the pilot nearly approximates the savings associated with deferral. I recommend the Company reconsider this project, possibly soliciting grants and partners, or potentially non-wires alternatives (NWA). In addition, the characteristic of a mobile project (deferral) versus a permanent installation (substitution) may be relevant.[163]

Consumers contends that the MEC group "misses the point of the Standish Battery Storage Project[,]"noting that "[t]he goal of this project is to help develop the Company's ability to use batteries themselves as NWAs."[164] Consumers points out that MEC witness Villareal recommends that the company greatly expand its consideration of NWAs in its capacity and reliability programs. Consumers stresses the importance of exploring the concept and capabilities of battery storage as an NWA, as the Standish project will allow.

The ALJ agrees with the MEC group, that although the Fort Custer and Cadillac projects have merit, and are well underway if not completed, the Standish portable battery

[161] Consumers brief, p. 36, citing 6 Tr 1395.
[162] MEC brief, p. 90.
[163] 8 Tr 3657.
[164] Consumers brief, p. 72, citing 6 Tr 1351.

project should be excluded from rates at this time. First, as Mr. Ozar testified, repairs to the substations would be significantly less than $8.1 million cost of the mobile battery. The ALJ agrees with Mr. Ozar's argument that deferral of infrastructure investments should result in savings, not additional costs as is the case here. Second, a delay in implementation of the portable battery storage project until 2022 or 2023 should not significantly impede the company in its development and implementation of battery technology on its system. In addition, as Consumers observes, batteries are demonstrating a downward cost trajectory, thus, a delay could result in a lower cost project. The ALJ therefore adopts a reduction of $8.1 million for the Grid Storage sub-program in the test year.

c. Capacity (Exhibit A-29, Lines 24-33, 34)

Consumers requests approval of $66.323 million for the company's Capacity Program for the 2021 test year. The Attorney General and the MEC group[165] dispute the company's proposed capital spending on several sub-programs.

i. Lines Capacity-LVD (Line 24)

The Lines Capacity- LVD subprogram is intended to prevent overloads on the system that result from increased demand, load growth, or load shifting from one area to another.[166] Consumers projected $11.3 million in capital expense for this program. Mr. Villareal recommended a reduction of 50% to this program for 2021 on grounds that the

[165] On behalf of the MEC group, Mr. Ozar recommended several adjustments to specific sub-programs, which are discussed below. For the remainder of the capacity programs, he recommended a general reduction of 25%, resulting in a total allowance of $35.8 million for the Capacity Program. The general 25% reduction is rejected. Unlike the other distribution program reductions Mr. Ozar recommended, while the derivation of the adjustment was described at 8 Tr 3663, the rationale for the adjustment, tied to the type of program (e.g., discretionary or non-discretionary) or other factors was not.

[166] 6 Tr 1222.

company failed to consider NWAs or other targeted solution for the subprogram and because the projection was based on incomplete information. Mr. Villareal testified:

> I recommend that this program budget should be reduced by 50%, to reflect the poorly-performed integrated distribution planning process and the failure to consider available data to evaluate alternatives to this investment. Similar to its LVD Substation Reliability program, this program suffers from a lack of forward planning that could have identified these needs earlier. Reduction in program costs would also encourage Consumers to incorporate robust, available data, look further into the future, and implement an integrated distribution planning process.[167]

In response, Consumers argues:

> [I]t is entirely unreasonable and arbitrary for Mr. Villarreal to propose the reduction of Lines Capacity – LVD subprogram investment because the Company did not allegedly adhere to Mr. Villarreal's preferred policy objectives. The Company's proposed investments should instead be evaluated based on whether they are reasonable and prudent, particularly based on the information provided in Confidential Exhibit A-150 (RTB-26) which shows detailed plans for the Company's Capacity projects. Mr. Blumenstock further explained that, by disallowing this Capacity spending, as Mr. Villarreal proposes, customers would be penalized through Capacity spending reductions, since the identified projects are already intended to address existing overloads. 6 TR 1370.[168]

In response, the MEC group asserts that Consumers did not provide or identify Concept Approvals for this program in Confidential Exhibit A-150, adding:

> Considering non-wires solutions to load issues on the LVD lines does not reflect a policy objective nor a revised reality. It reflects a reasonable approach to modernizing the grid and incorporating cost-effective alternatives. Not every project is necessarily appropriate for consideration of non-wires solutions, but some may be. Yet in this case, the Company identified 64 LVD Lines Capacity projects to address overload concerns in 2021,345 for a total cost of $11.3 million, and apparently considered non-build alternative for *none* of them. On this record, the Company has not shown that its proposed investment in solely-build solutions to address LVD Lines Capacity overload concerns is reasonable.[169]

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[167] 8 Tr 3874.
[168] Consumers brief, p. 75.
[169] MEC group brief, p. 96.

The ALJ finds that the MEC group's proposed disallowance should be rejected. Leaving aside Mr. Villareal's concerns about Consumers' approach to distribution planning, which are more appropriately addressed in the company's distribution planning case or in the MI Power Grid Stakeholder process, Mr. Blumenstock explained in his rebuttal testimony, these substation projects are for upgrades to substations and lines that are already overloaded. While some alternative to the upgrades proposed here might have been developed (or not), given the short interval between when the company submitted its first distribution plan and the filing in this rate case, it was unlikely that an adequate NWA alternative could have been timely evaluated and presented here.

ii. Lines and Subs Capacity-HVD (Line 25)

The Attorney General recommended a reduction of $2,062,000 for 2021 capital expense in this subprogram on grounds that the company failed to identify the projects in its application. Therefore, according to the Attorney General, the projects are placeholders and should be disallowed. Mr. Ozar likewise recommended disallowance of placeholder amounts in this sub-program, along with a $3 million disallowance for Right-of-Way procurement projects that are ill-defined.

Consumers responds that it provided a list of projects in discovery, and it filed the discovery response in this case as Exhibit A-153, which demonstrates there are no placeholder projects in this sub-program.

As discussed above (repeatedly) filing an application containing placeholder amounts to be updated over the course of the proceeding, is not a reasonable approach to projecting costs and allowing Staff and intervenors to evaluate the proposals. Additional reasonable and prudent spending in this sub-program may be included in the company's next rate case. Accordingly, the ALJ finds that the Attorney General's downward adjustment of $2,062,000 for 2021 for the Lines and Substations Capacity-HVD sub-program should be adopted.

iii. Substation Capacity-LVD (Line 26)

Mr. Ozar recommended a reduction of $8.5 million to this program for five new LVD substations, on grounds that these projects could be delayed. The MEC group quotes testimony by Mr. Blumenstock that projects in this sub-program can be reprioritized and brought forward or, conversely, delayed. The MEC group argues that these projects are for new load and future needs and are therefore "ripe for reprioritization to later years."[170]

Consumers responds that Mr. Ozar offers no evidence for why these costs should be disallowed.

The ALJ finds that the MEC group's surmise, that the LVD substations could be delayed for a year or more, is speculative. As the company points out, the MEC group does not provide evidence to show that a delay in these projects is likely, only that it is possible. The adjustment for new substations is therefore rejected.

iv. New Business Capacity-LVD (Line 28)

Consumers projects capital expense of $11,777,000 for the New Business Capacity-LVD sub-program. Consistent with his recommended reduction for the New Business Program, Mr. Ozar recommends a 43% reduction for this sub-program.[171]

[170] MEC group brief, p. 96.
[171] The MEC group notes that there was no spending on this sub-program in the 2014 reference year. Therefore, Mr. Ozar used the same percentage reduction for this program (43%) as was the result of using 2014 spending for New Business.

Unlike the New Business, Demand Failures, and Asset Relocation Programs, the New Business Capacity-LVD subprogram is not included in the deferred recovery mechanism. Therefore, the ALJ finds that the reduction should be rejected. If spending on this subprogram is reduced due to a decline in economic activity, the company can reallocate the spending to other programs or subprograms.

v. Conservation Voltage Reduction (Line 29)

Capital expenditures of $8.925 million for CVR through 2022 were pre-approved in the settlement agreement in Consumers' IRP, Case No. U-20165. For purposes of this rate case, the company is projecting CVR capital expenditures of $2.74 million in 2020 and $2.86 million in 2021. The parties do not contest this expense. Disputes over the company's proposed shared savings mechanism for CVR are discussed below.

vi. Interconnections-HVD Lines (Line 31)

Mr. Blumenstock testified that the Interconnections-HVD Lines sub-program is new and is intended to fund line work necessary to connect company-owned solar generation, the sites for which Consumers expects to identify later in 2020. The Attorney General recommended a disallowance of $2,062,000 for 2021 for this sub-program. The Attorney General asserts that the funding for these projects is premature given that the specific time when they will be incurred is still unknown and the sites for the solar installations have not been identified.

Consumers responds that these interconnections are related to the company-owned solar generation resources approved in the company's 2019 IRP.

Because the company-owned solar was approved in Consumers' IRP, and because Mr. Blumenstock explained that Consumers is in the process of acquiring the sites and projects, the Attorney General's and the MEC group's recommended reduction to this sub-program is rejected.

d. Demand Failures (Exhibit A-29, Lines 35-42, 43)

Consumers requests approval of $122.6 million for the Demand Failures program in 2021. This program addresses issues related to customer interruptions and equipment failures that arise in an emergent fashion, generally without advance planning. Consumers' five-year average spending on this program was $127.9 million

The MEC group recommends a reduction of 25% for this overall program, from $122.6 million to $91 million. Mr. Ozar explained that a reduction in this program spend will help mitigate the proposed rate increase in this case, and the reduced amount recommended by the MEC group:

> recognizes: (1) the increased ability of Company to survey and monitor its distribution assets; (2) the vastly increased spending anticipated by the Company during 2020 and 2021 for rehabilitation of assets deemed at risk of imminent failure; and (3) the expanded line clearing program. It is only reasonable to assume that these three efforts by the Company (at considerable cost to ratepayers) will reduce unanticipated demand failures and their associated reactive replacement. Importantly, my recommendation includes a regulatory asset and regulatory liability for the revenue requirements associated with any potential over/under spend in the Demand Failures program, thereby mitigating the financial risk to the Company and to its ratepayers[.][172]

The ALJ agrees with the MEC group that this reduction is reasonable. As Mr. Ozar points out, additional spending on line clearance and rehabilitation should reduce the amount required for the Demand Failures program. In addition, any over- or underspending on the program will be captured and addressed by the regulatory asset/liability treatment for this program. Thus, the ALJ recommends that the amount

[172] 8 Tr 3662-3663.

included in rates for the Demand Failures program should be $92 million, a reduction of $30.6 million from the company's projection.

In the event the Commission finds the above recommendation unreasonable, specific Demand Failures subprogram adjustments are discussed below.

i. Line Failures-LVD (Line 35)

Consumers projects capital expenditures of $67,960,000 for the year 2020 and $78,538,000 for 2021 to address LVD line failures. This program has two components: Service Restoration orders and Streetlight Failures.[173] The Attorney General recommends a reduction of $11,717,000 for 2021 and $9.51 million for 2020 in this sub-program based on the historical unit cost of service restorations and streetlight replacements applied to the forecasted number of units for the bridge and test years.

Consumers responds that the Attorney General's unit cost approach is flawed, noting that a single unit in a service restoration order "could involve anything from replacing a few insulators to replacing multiple poles and conductors following a storm."[174] Moreover, Consumers is now replacing failed streetlights with LED fixtures, which has increased the cost for this part of the subprogram.

Consumers' response with respect to the cost of service restoration makes no sense. A review of Exhibit AG-1.2 shows that the company performs something between 18,000 and 38,000 service restorations per year, especially large numbers. And while some of these restorations historically were certainly more involved and costly than others, many of them were not. Thus, Consumers' projection that service restorations in

[173] See Exhibit AG-1.2.
[174] Consumers brief, pp. 37-38.

2020 and 2021 are going to skew to the more expensive side, rather than align with the average unit cost is not satisfactorily explained.

Streetlighting is somewhat more challenging because, as Consumers points out, the company is replacing outdated fixtures with LEDs with a higher initial cost. However, Consumers LED streetlight replacement program started some years ago, thus the higher cost of LED lamps is, to some extent, reflected in the historical numbers. Thus, the ALJ finds that the Attorney General's reduction of $9.51 million for 2020 in this sub-program should be adopted. And, if the Commission does not adopt the reduction to the Demand Failures program recommended above, it should include the $11,717,000 disallowance for 2021, as proposed by the Attorney General.

ii. Streetlighting Center Suspension (Line 41)

Consumers proposes to undertake a program, beginning in 2021 and ending in 2029, to replace center-suspended streetlights with either cobra head street lights or post-top street lights. According to the company, there are 11,000 center-suspended street lights which, in the event of a failure and due to their locations, present traffic, and public and worker safety concerns.[175] Consumers proposes capital expenditures of $5.0 million to replace between 650 and 700 of these streetlights in the test year.

The Attorney General and Staff raise concerns about this program. Staff argues that Consumers failed to provide sufficient detail about the program, noting that Consumers plans to develop a database to prioritize replacements; however, the database is not yet available, and therefore the company could not provide a list of streetlights it plans to replace in 2021. Staff maintains, "[f]or a long-term project like this,

[175] 6 Tr 1114-1115; Exhibit A-33.

Staff expects a list of individual replacements to be provided, similar to how other projects are shown in Company Exhibit A-42[.]"[176] Staff also questions whether the benefits of the program, in terms of public and worker safety, meet or exceed the estimated $82.5 million (in 2021 dollars) total cost. Without a database, and some quantification of the benefits, the program is not ripe for approval at this time. Thus, Staff recommends exclusion of the cost of this program until such time as Consumers can demonstrate a net benefit from the program.

The Attorney General notes that while public and worker safety are significant concerns, "the record does not support such an extensive program or level of expenditures. The Company confirmed that no replacements, and apparently no failures, occurred between 2014 and 2017. In 2018, the Company replaced 8 streetlights and in 2019 it replaced 42 lights."[177] The Attorney General states that she does not oppose reasonable efforts to protect health and safety, "the Company has greater needs in other areas with failing infrastructure and reliability problems." Accordingly, the Attorney General recommends an allowance of $315,000 for the program (thus a disallowance of $4,685,000), which assumes the replacement of 42 lights at $7,500 per light.

Consumers responds that although there is not a great deal of detail about this program available at this time, the center-suspension streetlight replacement program is "unlike other projects and programs which the Company implements; therefore, it warrants additional flexibility."[178] Mr. Thomas testified that depending on circumstances, the priority for replacement of a given street light may change. Consumers adds that

[176] Staff brief, p. 22, citing 6 Tr 1116; ExhibitS-13.3; and 8 Tr 4896.
[177] Attorney General brief, p. 29, Exhibit AG-1.4.
[178] Consumers brief, p. 19, citing 6 Tr 2434.

although there have not been any accidents or fatalities associated with streetlight replacement, there have been worker fatalities in other instances where the company has been working in the roadway. Mr. Thomas testified that, "It would be unreasonable to wait until there was an actual employee injury or fatality associated with a particular type of work before the Company takes reasonable measures to avoid such a risk."[179] Consumers adds that there are additional benefits to the streetlight replacement program including conversion to more energy-efficient and reliable LED lighting, which will simplify future maintenance. In response to the Attorney General, Consumers points out that it has 11,000 center-suspension street lights, with an assumed failure rate of 15%, based on failure rates of other types of streetlights.[180]

The PFD agrees with Staff and the Attorney General, that Consumers has not shown that an accelerated program to replace center suspension street lighting at this time is reasonable. While safety concerns are always important, the company's ability to plan this work and divert traffic during repair or replacement of a failed light[181] better assures worker safety than other types of work that may have to be undertaken more quickly. Nevertheless, Consumers does have to replace some of these lights due to failure, as the Attorney General's evidence shows. Therefore, the ALJ agrees that the $5 million cost should not be excluded entirely, as Staff proposes, but the Attorney General's

[179] 6 Tr 2436.

[180] Consumers brief, p. 38.

[181] Mr. Thomas indicated that the company "must coordinate with the local municipality to ensure the lighting pattern established decades ago at these locations still meets the community's needs, as well as assess the existing infrastructure at each location to ensure it can accommodate the conversion." 6 Tr 2435. Presumably, this coordination could include safety considerations such as blocking streets while replacement work is occurring.

recommended reduction of $4,685,000 for 2021 should be adopted if the Commission declines to approve the reduction to the Demand Failures program recommended above.

iii. Metro Failures (Line 42)

Mr. Blumenstock testified that the Metro Demand Failures sub-program:

> . . . involves the replacement of failed cables, transformers, and civil infrastructure within the Company's six Metro systems. Historically, the Metro Demand Failures sub-program also included work to repair or replace equipment that the Company determined to be at risk of imminent failure, but that work is now included in the new Metro Rehabilitation sub-program discussed later in my direct testimony. Metro Demand Failures costs are highly dependent on contractor construction costs, and are therefore particularly variable, fluctuating based on contractor workload levels. The Company projects its needed investment level in this sub-program based on historical averages and trends.[182]

The company projected $3.0 million and $3.1 million in capital expense for this sub-program in 2020 and 2021 respectively. Mr. Coppola testified that in response to discovery, Consumers indicated that it will only be spending $1.0 million in 2020. The Attorney General therefore recommended that $2.0 million be excluded from 2020 capital expense.[183]

In response, Consumers agrees that it has removed the $2.0 million from the Metro Failures subprogram, but points to another discovery response where it indicated that it has moved the $2.0 million in capital expense to the Lines Rehabilitation Metro sub-program.[184]

Although the Attorney General did not specifically address the company's rebuttal in briefing, the ALJ finds that, consistent with the other instances where the company has chosen to shift costs from one program or sub-program to another after its application

[182] 6 Tr 1116-1117.
[183] 6 Tr 3354; Exhibit AG-1.5.
[184] 6 Tr 1387; Exhibit A-157.

has been filed, the company's request to maintain the $2.0 million expense as part of its overall distribution plan spending should be rejected. The ALJ therefore adopts the Attorney General's $2.0 million disallowance for the Metro Demand Failures sub-program.

e. Asset Relocation

The company requests approval of $41,675,000 and $45,976,000 for the Asset Relocation Program in 2020 and 2021 respectively. Asset Relocation includes capital expenses for the relocation of assets as a result of road building, construction projects, and the company's internal needs.

Consistent with its recommendation for the New Business sub-program, discussed above, the MEC group recommends a reduction of $26.6 million for this program (from $46 million to $19.4 million), an amount equal to 2014 spending on this sub-program. The MEC group notes that the company's proposal is an increase of $18.9 million over the historic 5-year average spending (2014-2018), and an increase of $20 million over the amount in current rates.

Mr. Ozar reiterated that because many of these projects are market-driven, the company's forecasts may be far more optimistic than warranted under the current economic conditions that are likely to persist into 2021. The MEC group argues:

> The bottom line is that, to the extent Asset Relocations are driven by external requests, it would be reasonable to expect softening demand, and to the extent the relocations are internally-driven, the Company may reprioritize projects to reflect highest needs. And to the extent the requests for Asset Relocations in 2021 are more, less, or consistent with what the Company projected before the COVID pandemic, the regulatory asset/liability approach accommodates that risk.[185]

[185] MEC group brief, p. 99.

Consumers repeats that it has already established that new business has not been significantly affected by the COVID-19 pandemic, pointing to Mr. Blumenstock's testimony and chart demonstrating that 2020 actual spending on the Asset Relocation sub-program has rebounded since April 2020, once the Governor's stay-at-home order was lifted.[186] Consumers again asserts that the use of 2014 as a baseline is arbitrary because it is not reflective of economic conditions after the 2008-2009 recession.

The ALJ finds that the MEC group's recommendation should be rejected. Although this finding may appear inconsistent with the recommendation to limit New Business spending discussed above, there are aspects of Asset Relocation that differ markedly from the other program. The New Business program seems to be more closely tied to new customers (who have likely been, and will continue to be, significantly affected by the pandemic), whereas Asset Relocation applies more to existing customers, road building projects, and internal company requests. For asset relocation requests, COVID-19 seems to be a less prevalent concern going into 2021. Accordingly, the PFD finds that the MEC group's recommendation to generally limit base funding for the Asset Relocation program is unreasonable. Nevertheless, the regulatory asset/liability accounting treatment for spending on Asset Relocation, assuming it is approved, will serve to limit the risk to ratepayers in the event that spending in this program is lower than forecast.

In addition to the recommendation by the MEC group, Staff also recommended an adjustment to the Lines Relocations-LVD sub-program.[187] Consumers projects $36,585,000 for 2020 and $41,226,000 for 2021 for this line item.[188]

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[186] 6 Tr 1355.
[187] Exhibit A-26, line 44.
[188] Exhibit A-34.

On behalf of Staff, Mr. Evans recommended that the Commission disallow $5,688,000 for 2020 and $6,178,000 for 2021 for this sub-program. Staff adjusted its 2020 disallowance to $1,688,000 for 2020, after Mr. Blumenstock testified that $4.0 million of its original request had been moved to Lines Reliability-HVD to fund additional pole top work.[189] Mr. Evans testified:

> [A]s shown in Exhibit S-13.4, page 2, $1,688,000 of the $9,282,000 is for "HVD Emergent." No specific projects are listed under this line item. The Commission has issued several orders in which "emergent" expenditures have been explicitly disallowed. In Case U-18370, the Commission found that emergent IT project expenses may be approved for recovery in rates only if Indiana Michigan Power could prove that the costs were incurred and that they were reasonable and prudent. In Case U-20162, the Staff proposed a disallowance based on the uncertainty associated with "emergent" needs as characterized by DTE Electric. The ALJ agreed, "in light of the uncertainty about the need for the projects, coupled with the unknown cost of emergent items", and the Commission adopted the findings and recommendations of the ALJ. Based on these Commission orders, and Staff's opinion that the $1,688,000 amount is a "placeholder", the $1,688,000 for HVD Emergent should be disallowed. [190]

For 2021, Staff explains that $12.2 million is reserved for relocation requests by the company, however, [j]ust over half that amount, or $6,178,000, is for 'additional projects to be identified', making the $6.178 million a placeholder that should be disallowed, for reasons discussed earlier."[191] Staff notes that although the Asset Relocation sub-program is considered one that is outside the company's control, company-initiated relocation requests "are essentially 'planned' investments that can be

[189] 6 Tr 1324. Staff recognized this reallocation of funds in its brief, (page 26) but nevertheless recommended that the $4 million be excluded from rate base on grounds that there was insufficient time for Staff and intervenors to review the projects to which the funds have been reallocated. The ALJ agrees.
[190] 8 Tr 4898-4899.
[191] Staff brief, pp. 25-26, citing 8 Tr 4900-4901.

anticipated in advance. The Company needs to provide the details of internally requested asset relocation projects in order to receive cost recovery for these projects."[192]

Consumers responds that even though some asset relocation requests originate within the company, it often does not know in advance what projects will need to be undertaken.

As discussed above, the Commission has consistently disallowed placeholder amounts that were unidentified at the time the company filed its application. Reasonable and prudent costs for the Asset Relocation program may be recovered in this company's next rate case. Moreover, prudent spending above the base amount set in the rate case is included in the deferred recovery mechanism discussed below. The ALJ therefore adopts Staff recommended disallowance for 2020 of $5,688,000 (which includes the $4 million amount that was redeployed), and $6,178,000 for 2021.

f. Electric Other

Consumers requests approval of $11.4 million for the Electric Other subprogram in 2021. The program includes computers and equipment, tools, system control projects, and grid technologies.

The MEC group recommends that test year capital expense for this program be reduced by 25%, or $2.8 million, to bring spending in line with 2019 spending ($7.5 million), and to strike a balance between low rates and service quality.

The ALJ finds that because the Electric Other Program is relatively small compared to other distribution programs, and because the projected spending is not necessarily discretionary, the MEC group's recommended reduction should be rejected.

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[192] Id. at 26

i. Tools (Line 49)

Consumers includes capital expense of $5,691,000 and $5,792,000 for the Tools subprogram in the Electric Expense Other program. Mr. Coppola recommended reductions of $2,231,000 for 2020 and $1,830,000 for 2021, based on the company's failure to explain the increase in the unit cost of this item compared to the average historical cost.[193] Mr. Coppola testified that there are two components to the Tools subprogram: (1) Truck Tool Packages; and (2) Other Capital Tools. In response to discovery, Consumers provided both historical costs and units of Truck Tool Packages that have been or will be acquired. Mr. Coppola explained that rather than using costs and units for 2017-2019, he based his calculation on just 2018 and 2019, because "[i]t appears that 2017 was an unusual year and an outlier that would depress the average cost."[194] Based on total cost divided by the number of units purchased in 2018 and 2019, Mr. Coppola calculated that the average cost for Truck Tool Packages was $34,387. Multiplying that amount by the number of units the company projects to acquire, Mr. Coppola determined that the 2020 amount for truck tools was overstated by $1,120,000 although the 2021 amount was not. Mr. Coppola added that for Other Capital Tools:

> [I]n Exhibit AG-1.18, I calculated the average cost incurred during the three historical years 2017 to 2019 at $1,844,000. In comparison, the Company's forecasted costs of $2,955,000 for 2020 and $3,674,000 for 2021 are significantly overstated. For 2020, the difference is $1,111,000, or 60% above the three-10 year average, and for 2021, the difference is $1,830,000, or nearly 100%.[195]

In response, Consumers cites Mr. Blumenstock's explanation that spending in the Tools subprogram has been increasing because tool prices have been increasing, and

[193] 8 Tr 3367.
[194] 8 Tr 3367; Exhibit AG-1.17.
[195] 8 Tr 3368

many of the company's tools have reached the end of their useful lives and thus require replacement. In addition, Mr. Blumenstock explained that Consumers is investing in more ergonomic and high visibility tools for increased worker safety. The company will also be investing in tools for additional vehicles consistent with the company's fleet acquisition and deployment plan.[196]

While the ALJ finds Mr. Blumenstock did provide sufficient support for increased costs for the Tools sub-program,[197] the ALJ is nevertheless concerned that tools for new vehicles are included in both Distribution and in Fleet Services,[198] raising an issue whether the costs of the same tools have been included in both of these programs. Even if there is not a double counting issue, Mr. Blumenstock testified that some portion of tool capital spending relates to the company's "fleet acquisition and deployment plan." As discussed below, the company's fleet replacement and acquisition plans have been adjusted, thus, the need for additional tools for the truck tool packages should be reduced.

Given the time constraints for issuing this PFD, which do not allow sufficient opportunity to scrutinize the record to determine the appropriate disallowance for tools (recognizing the adjustment to Fleet Services) the ALJ agrees with the Attorney General's recommendation[199] to remove $2,231,000 for 2020 and $1,830,000 for 2021 from projected rate base for the Electric Other Tools subprogram.

ii. System Control Projects (Line 50)

The System Control Projects sub-program consists of projects that are intended to improve the operations of control centers, streamline operations, and improve remote

[196] 6 Tr 1250-1253.
[197] Id.
[198] See, 6 Tr 2122; Exhibit A-12, Schedule B-5.7.
[199] Albeit for a different reason.

control capabilities.[200] Consumers is projecting capital expenses of $4,022,000 for 2020 and $4,170,000 for 2021 for this sub-program.[201] Staff witness Evans is recommending the Commission disallow $1,316,000 for 2020 and $2,305,000 for 2021, based on the company's application that contained placeholders.[202] Mr. Coppola recommended adjustments of $1,316,000 for 2020 and $1,274,000 for 2021 based on the unit cost of various items within the sub-program.[203]

In rebuttal, Mr. Blumenstock again rejected the Attorney General's unit cost approach as inappropriate. In response to Mr. Evans, Mr. Blumenstock testified that the company identified all HVD monitoring and control projects for 2021.[204] Therefore, Staff's reductions should be rejected.

In its brief, Staff again argues that the company should not be permitted to update its case after filing, and the Attorney General reiterates that Mr. Coppola's unit cost approach is reasonable.

For the same reasons discussed at length above, the ALJ agrees with Staff and finds that its adjustments for placeholders of $1,316,000 for 2020 and $2,305,000 for 2021, should be adopted.

g. Other Recommended Adjustments

The Attorney General recommended a $107.7 million adjustment to the company's Distribution spending plan. Mr. Coppola testified:

> In Exhibit A-42 (RTB-15), the Company listed hundreds of individual projects with the related cost and number of units, where applicable, which are included in 2021 capital expenditures and the projected rate base in this

[200] 6 Tr 1254.
[201] Exhibit A-35.
[202] 8 Tr 4907.
[203] 8 Tr 3369.
[204] 6 Tr 1333; Exhibit A-147.

rate case. In Exhibit A-41 (RTB-14), the Company also provided general descriptions of the categories of projects included in Exhibit A-42 and the supporting Confidential Workpaper RTB-5. The Company titled the schedule in Exhibit A-41 as a Summary of Selected Distribution Project Concept Approvals. The schedule show that some projects have received concept approval as of January 2020 and others have not, and review and approvals are still in progress.

In my analysis of the information provided by the Company in Confidential WP-RTB-5, I focused my attention on projects of $1 million and higher. As a result of that analysis, I identified 27 projects where the project's forecasted cost exceeded $1 million. Because conceptual project costs in the early stage of concept development often change both in cost and timing after they enter the phase of design and construction bidding, in discovery I requested the Company to provide (1) confirmation of the latest cost of the project, (2) the amount included in the projected capital expenditures in this rate case, (3) the project document with approval signatures showing the most recent forecast amount included in this rate case, (4) the concept cost approval documents for projects undertaken in 2019 and to be undertaken in 2020 of $1 million and greater, and (5) any amounts to be spent in 2020 or already spent in 2018 and 2019.

In response to discovery request AG-CE-1120, which is included in Exhibit AG-1.21, the Company stated a general objection to providing the requested information and answered some of the questions, as follows. It refused to provide a copy of the executed approval document instead stating that the projects had received all necessary approvals and signatures. It stated that all conceptual costs shown in the documents in Confidential WP-16 RTB-5 are the costs that have been included in capital expenditures for 2021 in this rate case, and the Company had not updated those conceptual cost estimates. It stated that no historical spending has occurred, and the concept cost approvals pertain to the 2021 test year. The Company refused to provide any similar concept approval documents for projects in 2019 and 2020 of $1 million or greater, claiming that it would be unduly burdensome.

After reviewing the conceptual project approval documents for the 27 projects for 2021, I have determined that all 27 projects should be disallowed in the total amount of $107,697,000. In Exhibit AG-1.21, I have identified those projects and included the Company's response to discovery request AG-CE-1120. In Exhibit AG-1.22 Confidential, I have provided a listing of the projects with the applicable amount to be disallowed and included the pertinent project documents provided by the Company in Confidential WP-8 RTB-5. It is premature to include the conceptual cost of such projects in rate base until they progress past the design stage and the

> cost and timing of the projects have been established with some certainty.[205]

In response, Consumers argues that the Attorney General's disallowance is unreasonable "and also severely misconstrues the intent of the Company's concept approvals and why they were included in this case."[206]

Consumers explains that, contrary to Mr. Coppola's understanding that the projects are in early development stages:

> [C]oncept approval documents represent well-vetted project cost estimates based on input provided to Company planning engineers by various other Company groups, including Electric Design, Real Estate, Supply Chain, and others. 6 TR 1398. The concept approvals define what the scope and cost of any given project are going to be for management approval.[207]

Consumers adds:

> Mr. Coppola completely misunderstands why the concept approval documents were included in the Company's rate case filing, as Exhibit A-41 (RTB-14). Mr. Blumenstock explained that the projects represented by concept approvals in Exhibit A-41 (RTB-14) were only intended to provide "selected examples of documentation" of the Company's concept approval process, to illustrate the Company's process for proposing and approving projects so as to demonstrate how the Company ensures that its investments are reasonable and prudent. 6 TR 1399. As such, contrary to how Mr. Coppola is seeking to use these documents, the purpose of providing some concept approvals was not to explain every single Distribution investment proposed by the Company.[208]

Consumers explains that although some concept approvals in Exhibit A-41 were listed as "in progress" at the time the company filed this case, these projects have nevertheless undergone a significant engineering and cost review. Consumers cites Mr.

[205] 8 Tr 3371-3372.
[206] Consumers brief, p. 43.
[207] Consumers brief, p. 43.
[208] Id. at 44.

Blumenstock's rebuttal where he testified that the company has received final management approvals on all but two of the 27 projects that Mr. Coppola referenced.[209]

In her brief, the Attorney General relies on Mr. Coppola's testimony and discovery responses, reiterating that the projects are conceptual in nature and should not be included in rate base.

The ALJ finds that the $107.5 million disallowance based on concept approval documents should be rejected. The company's explanation of the "concept approval process" for distribution projects makes clear that the resulting "concept approval" is for projects that are not preliminary in nature and represent significant planning and cost estimating efforts for individual projects. Moreover, at the time rebuttal was filed, none of the costs had changed and all but two of the projects had received management approval.

h. Distribution System Planning

On behalf of the MEC group, Mr. Villareal and Mr. Ozar extensively criticized Consumers approach to distribution planning. In a similar vein, JCEO witness Sandoval asserted that Consumers has failed to consider the grid benefits of DG, in a systematic way, as part of its planning. Consistent with its concerns, the MEC group recommended that the Commission provide additional guidance to the company in advance of the filing of its distribution plan in September 2021. Specifically, the MEC group recommended: (1) future load forecasts should be based on AMI data[210] and other data such as hosting capacity analysis; (2) load forecasts should be aligned between the distribution plan and the IRP; (3) the company's rate case distribution spending should be justified by, and

[209] 6 Tr 1400.
[210] Staff agreed with this recommendation. Staff brief, pp. 180-181.

aligned with, the 5-year distribution plan; and (4) the company should be required to consider non-wires solutions for substation projects over $1.5 million.[211]

The JCEO states:

> [B]y implementing an Integrated Distribution Planning process, which expressly leverages customer- and third-party-owned DER to meet grid needs through a robust rather than passively "accommodating" DER that customers add to the grid, the Company can "replace the current paradigm of approaching distribution planning as a process that reacts primarily to system shortfalls, with an approach that provides the Company the tools necessary to proactively pursue the capabilities stakeholders would like to see from their energy system." 8 Tr. 4411 (Sandoval Dir.). Moreover, an IDP can help the Company better assess the value of DG and other DER on the distribution grid, which would be useful considering that the Company has in this case proposed transitioning from net metering to a cost-based compensation regime for DG.[212]

The ALJ agrees that the Commission should provide further guidance to Consumers in advance of the company's upcoming five-year distribution plan filing. That said, the recommendations by the MEC group and the JCEO are more appropriately addressed as part of MI Power Grid initiative, or other forum, given the complex nature of distribution planning and the short timeframe available for completing a rate case.

i. SAIDI Glidepath

Mr. Blumenstock testified that Consumers uses the System Average Interruption Duration Index (SAIDI) as its principal measurement of reliability. Mr. Blumenstock explained that "SAIDI is a measurement of the average number of minutes per year that a typical electric customer is without electric service."[213] Mr. Blumenstock added that:

> SAIDI is comprised of two components: SAIFI and CAIDI. SAIFI is a measure of frequency of outages, which is driven by system condition, system configuration, and system challenges (i.e., weather). CAIDI is a measure of the duration of interruptions, and is driven by system condition,

[211] MEC brief, p. 51.
[212] JCEO brief, pp. 62-63.
[213] 6 Tr 1049.

the number of interruptions, resource availability, and restoration management practices. SAIDI is calculated as follows:

$$SAIDI = SAIFI * CAIDI$$[214]

SAIDI is generally measured excluding major event days (MEDs) to normalize data by removing storm activity that can vary from year to year.[215] Mr. Blumenstock presented graphs showing Consumers' performance (minus MEDs) for SAIDI, SAIFI, and CAIDI from 2010 through 2019, along with a chart showing the number of MEDs per year, also from 2010 through 2019.[216] Mr. Blumenstock then went on to discuss the relationship between SAIFI and CAIDI and the Commissions Service Quality and Reliability Standards and customer satisfaction.[217] He also provided charts illustrating outage causes for HVD and LVD systems.[218]

Mr. Blumenstock testified that the spending levels in this case "will put the Company on a glidepath to a SAIDI performance of approximately 170 minutes, excluding MEDs, by 2025, a reduction of 28 minutes from the 2020 projected performance of 198 minutes."[219] However, in the 2018 EDIIP, Consumers projected reaching the SAIDI target of 120 minutes by 2022. According to Mr. Blumenstock, in developing the EDIIP, the company had less insight into its system and was unable to accurately gauge the system's condition and degree of deterioration. With improved assessment of the system, Mr. Blumenstock testified that the company is better able to project progress in increasing reliability.

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[214] Id. at 1050.
[215] MEDs to be excluded are based on the IEEE Guide for Electric Power Distribution Reliability Indices. 6 Tr 1049-1050.
[216] 6 Tr 1050, 1051, and 1052.
[217] 6 Tr 1054-1055.
[218] 6 Tr 1056-1059, Figures 16-19.
[219] 6 Tr 1038. In this PFD, all reliability numbers are without MEDs, unless otherwise specified.

Mr. Evans commented that moving from a 14.2 year tree trimming cycle to a seven-year cycle will reduce SAIDI by 26 minutes of the 28 minute reduction projected for 2025, "achiev[ing] over 90% of the total SAIDI reduction", adding that the remaining two minutes will result from capital investments in the distribution system. Mr. Evans opined that because Staff recommends fully funding tree-trimming O&M, its recommended reductions to distribution capital spending should have a de minimus impact on achieving the company's SAIDI objective.[220]

On behalf of the Attorney General, Mr. Coppola assessed the company's historical reliability as measured by SAIDI, testifying that:

> It is apparent from the SAIDI results that the increase in capital expenditures for Reliability programs and other increases in spending, such as tree trimming, have not had a beneficial effect on system reliability so far. If the Commission approves a higher level of spending in many of the programs proposed by the Company, the approval should come with 19 conditions and accountability for results. If the Company does not achieve those results, U-20697 then it should forfeit recovery of a portion of the amounts spent.[221]

In response to Staff, Consumers agrees that forestry is an important component of SAIFI, other distribution investments are also necessary to achieve the projected improvement in SAIDI. Consumers asserts:

> [W]hile trees are a leading cause of outages on both the HVD and LVD systems, trees do not cause 90% of the outages. Mr. Blumenstock explained that, given the prominent role that various types of equipment failure also play in causing both HVD and LVD outages, investment in HVD and LVD assets remains of paramount importance. 6 TR 1321.[222]

In response to the Attorney General, Consumers maintains that Mr. Coppola mischaracterizes the company's plan to reduce SAIDI to 170 minutes in 2025, and objects

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[220] 8 Tr 4910-4911.
[221] 8 TR 3348-3349.
[222] Consumers brief, p. 23.

to Mr. Coppola's failure to consider ongoing system deterioration, and updated modeling, when tying SAIDI progress to distribution investments.[223] Finally, the company objects to Mr. Coppola's recommendation to impose conditions on the company's spending, suggesting that it is premature to impose a PBR-type mechanism without more consideration of appropriate design and metrics.

As discussed below, the ALJ declines to adopt performance-based ratemaking as part of this proceeding. However, the Commission should continue to closely monitor Consumers' progress in this area and should consider including a reliability metric as part of any PBR mechanism adopted in the future.

3. Fossil and Hydro Generation Capital Expenditures

As shown on page 1 of Schedule B5.2 of Exhibit A-12 (Schedule B5.2), Consumers projected capital expenditures of $174 million in 2019, $119.6 million in 2020, and $161.1 million in 2021 for its generating plant, including coal and gas fueled steam generation, hydro, Ludington, and other plant. Mr. Hugo and Ms. Breining presented testimony in support of the company's projections. In addition to the summary schedule on page 1 of Schedule B5.2, Mr. Hugo presented actual 2018 through projected 2021 test year expenditures by plant, broken down into cost category including contractor, labor, materials, business expense, contingency, and loadings, on pages 2 through 4 of this schedule; split into environmental versus routine and small projects on page 5 of this schedule, and a listing of projected spending by project for projects with annual expenditures at or projected to be at or above $1 million on pages 6 through 9 of this schedule. Ms. Breining provided greater detail regarding projected spending for

[223] Id. at 41, citing 6 Tr 1381-1382.

environmental compliance, focusing on air quality requirements, the handling of coal combustion residuals, and Clean Water Act requirements, with cost detail in Exhibits A-46 through A-49.

Staff, the Attorney General, and MEC group take issue with several elements of Consumers' generation capital expense projections. In its brief, Staff argues the Commission should reduce 2020 non-contingency capital expense projections by $838,000 and should reduce 2021 non-contingency generation capital expense projections by $14.6 million.[224] Staff relies primarily on the testimony of Mr. DeCooman, who explained Staff's approach to these expenses and the bases for Staff's adjustments.[225]

Mr. DeCooman discussed Consumers project approval process, from project initiation to a signed "project charter," with reference to Exhibit S-17.1. He explained the relationship between project stages and the "class" of cost estimate assigned to the project, with reference to Exhibit S-17.2, explaining that project costs and scope are better defined as a project moves through each stage of the process.[226] After explaining additional data Consumers provided to Staff, including the "class" associated with the projects on pages 8 and 9 of Schedule B5.2, he explained that Staff was able to identify the corresponding stage for each project.[227] Mr. DeCooman then explained that the "class" for a cost estimate "is a measure of both the level of project definition, as well as the expected upper and lower bounds for overall project costs," presenting a chart

[224] Staff brief, pp. 30-48. Staff separately objects to the contingency component of Consumers' capital expense projections.
[225] 8 Tr 4742-4773.
[226] 8 Tr 4750-4752.
[227] 8 Tr 4752-4753.

showing for each cost estimate “class” corresponding information regarding the maturity level and accuracy range of the estimate.[228] Mr. DeCooman also testified in formulating its recommendations, Staff considered the level of project detail included in scoping documents provided by Consumers, for those projects for which scoping documents were available, as well as actual expenditures to date, summarized on Exhibit S-17.0. Mr. DeCooman testified that a review of actual to projected expenditures from Case No. U-20134 shows a range from overprojections of 100% to underprojections of 25% of actual project costs.[229] After discussing additional information regarding these differences, and additional information regarding the company’s projections in this case, he testified that Staff’s recommended adjustments generally reflect multiple deficiencies Staff found in the supporting information provided by the company.[230] He reviewed the adjustments with reference to line items on pages 8 and 9 of Schedule B5.2, and separately addressed Staff’s recommendation that the Commission reject projected expenditures for environmental projects at the Campbell plant, with reference to Exhibits A-48 and A-49. He also presented a summary of Staff’s recommended adjustments in Exhibit S-17.8.

The Attorney General recommends that the Commission reduce Consumers’ 2019 generation capital expenses by $4.8 million, reduce its 2020 non-contingency generation capital expenses by $10.4 million, and reduce its 2021 non-contingency generation capital expenses by $20.6 million.[231] Mr. Coppola provided testimony in support of the Attorney General’s proposed adjustments. As shown in Appendix A to the Attorney

[228] 8 Tr 4753.
[229] 8 Tr 4755.
[230] 8 Tr 4756-57.
[231] The Attorney General separately objected to the contingency component of Consumers’ capital expense projections.

General's brief, although Mr. Coppola proposed additional adjustments to generation capital expenditures in his testimony, the Attorney General is no longer challenging the projected expenditures associated with two projects.[232]

The MEC group recommends that the Commission reduce Consumers' 2021 generation capital expenses by $13.7 million, with two categories of adjustments relating to projects for the Campbell plant units, $4.2 million for projected capital costs the MEC group contends are avoidable under a scenario in which Campbell units 1 and 2 retire in 2024, and $9.5 million in projected capital costs the MEC group contends are unsupported. Mr. Comings testified in support of the MEC group's proposed adjustments, which are also detailed in Exhibit MEC-83.[233] In its brief, the MEC group withdrew its objections to two of the proposed projects Mr. Comings had taken issue with.

Consumers provided rebuttal testimony primarily by Mr. Hugo, with Ms. Breining providing rebuttal regarding certain Staff adjustments to environmental projects, and Mr. Troyer providing rebuttal testimony regarding Mr. Comings' analysis of the economics of the Campbell units. In its briefs, Consumers disputes each of the proposed adjustments, with the exception of Mr. Coppola's recommended reduction to the 2019 capital expenditures. As a general matter, Consumers objects to Staff's approach to reviewing the company's projections.[234] It cites Mr. Hugo's rebuttal testimony at 6 Tr 2073, in which Mr. Hugo objected to Staff's use of the low end of the expected cost range for several projects, testifying:

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[232] The projects are the Jackson Warehouse (see Schedule B5.2, page 8, line 14) and the Hardy Auxillary Spillway repairs (see Schedule B5.2, page 8, line 17 and page 9, line 27).
[233] The MEC group adjustments included in Exhibit MEC-83 include contingency projections that are separately addressed in this PFD.
[234] Consumers brief, pp. 109-111.

> I would expect on average, the actual project costs would settle around the projected cost for the projects, including contingency. I would expect that the actual cost for some of the projects would settle in the low accuracy range, but I would also expect that the actual cost for some of the projects would settle in the high accuracy range. Each of the class level accuracy ranges (low end of low expected accuracy range to high end of high expected accuracy range) have an 80% confidence interval. As such, there is a low to zero probability that 100% of the projects would have an actual cost at the low end of the overall accuracy range.[235]

The utility's brief also addresses individual projects that were the subject of Staff adjustments, citing additional rebuttal from Mr. Hugo containing an "updated status" of the projects:

> [Mr. Hugo] explained that most of the projects for which Mr. DeCooman recommended a partial disallowance were at project gate zero or one, which includes documentation of a business case or project initiation. 6 Tr 2073. A typical project progresses through six gates through the project life cycle, and as such, the scope of documents and the level of estimates that were available at the time of Staff's review of the projects were not mature. *Id*. Therefore, Mr. DeCooman's reliance on the state of the supporting documents was without basis.[236]

Staff addressed this rebuttal testimony in its brief, arguing that Mr. Hugo did not dispute the validity of the information Staff relied on, only the conclusions Staff drew, and further emphasizing his acknowledgment of the uncertainty in estimates at the beginning stages of a project. Staff argues:

> Staff's adjustments target projects that not only are the least developed, and subject to the greatest uncertainty, but also projects where the supporting data are flawed or deficient in a way that undermines the validity of the estimates.[237]

As reflected in the discussion of individual projects that follows, this PFD finds that Consumers' contention that it can present projects at project gate zero or one, missing

[235] 2 Tr 2073.
[236] Consumers brief, p. 111.
[237] Staff brief, p. 32.

sufficient support for approval, and attempt to supply the missing support in the rebuttal phase of this proceeding is fundamentally at odds with the standards the Commission has established for rate cases. The Commission has made clear that the utility is obligated to provide full support for its projections with its filing; this is even more critical in a 10-month rate case, in which the parties typically have less than two weeks to examine the rebuttal filings. The company's argument, as quoted above, constitutes an admission that it has presented immature projects as placeholders. The ALJ notes that if a utility wishes to allow the parties additional time to review new information that is not available until the rebuttal phase, the utility may extend the schedule. Otherwise, the supplemental information is inadequate to remedy the deficiency of supporting evidence with the initial filing.

The specific adjustments recommended by Staff, the Attorney General, and the MEC group are discussed in more detail below. There is little overlap, although some of the adjustments involve multiple projects, or smaller projects for which there is no single line item in Schedule B5.2. After a brief review of the 2019 capital expense level in section 1, the 2020 capital expense projections at issue are discussed in section 2, following to the extent possible the project order on page 8 of Schedule B5.2, and the 2021 capital expense projections at issue are discussed in section 3, following to the extent possible the project order on page 9 of Schedule B5.2, and then addressing Staff's recommendations regarding the environmental costs stated in more detail in Exhibits A-48 and A-49, and the MEC group's recommendations regarding small projects at the Campbell plant that are listed in Exhibit MEC-83. Finally, the MEC group and Staff's recommendations regarding the Campbell retirement analysis Consumers is required to present in its next IRP filing are addressed in section 4.

a. 2019 generation capital expenses (Schedule B5.2, page 1)

In his testimony, Mr. Coppola noted that 2019 actual generation capital expenditures were $4.8 million below the $174 million figure reported on Schedule B5.2, page 1, for 2019. In her brief, the Attorney General argues that the rate base calculation in this case should reflect the revised figure.[238] Consumers acknowledged this adjustment in its reply brief and did not oppose it.[239]

b. 2020 generation capital expenditures (Schedule B5.2, page 8)

i. Campbell Site Commons—Bottom Ash Tanks (line 4)

Staff proposes a reduction of $298,000 to the company's projected $1.2 million 2020 expenditure for a bottom ash chemical treatment system for the Campbell plant bottom ash tank system. Mr. Hugo testified that this project is intended to maintain compliance with National Pollutant Discharge Elimination System permit requirements by installing a chemical treatment system to help reduce suspended solids from the discharge water.[240]

Consistent with the general discussion above, Mr. DeCooman recommended the adjustment because the utility's projection is based on preliminary cost estimates, with a lack of detailed supporting documentation. He explained that the lower end of the range of costs should be used, with the utility able to include all reasonably and prudently incurred costs in rate base in future cases.

[238] Attorney General brief, p. 53.
[239] Consumers reply, p. 105.
[240] 6 Tr 1989.

In his rebuttal testimony, Mr. Hugo objected to the adjustment, detailing the progress made to date, which he characterized as significant, and presenting an updated 2020 expense forecast based on five months of actual data.[241] He testified that his Exhibit A-171 reflects an updated budget for this project. In its brief, Staff addressed this rebuttal testimony. Staff noted Mr. Hugo's testimony regarding an updated budget for the project, but characterizes this as "too little too late."[242] It also noted that the exhibit he presented in support of the updated budget, Exhibit A-171, instead relates to a different project, the Land Training Wall that was a subject of another Staff adjustment.

In its initial brief, Consumers argument reiterates Mr. Hugo's testimony. In its reply brief, Consumers argues its rebuttal evidence did not come too late because it was directly responsive to Mr. DeCooman's testimony "and it was unrebutted and unimpeached."[243]

This PFD finds that Staff's $298,000 adjustment should be adopted. It is reasonable for Staff to rely on the lower end of a range of cost estimates when dealing with uncertainties, so ratepayers are not asked to pay more in advance of construction than the company actually incurs, while still providing some additional revenue to the utility than it would receive if rate recovery awaited a determination of actual costs. The alternative to Staff's approach in circumstances in which the company is unable to fully support its cost projection, as it has failed to do here, would be to exclude the projected cost from projected rate base.

[241] 6 Tr 2074-2075.
[242] Staff brief, p .37.
[243] Consumers reply, pp. 102-103.

While Consumers attempted to present additional cost detail in its rebuttal testimony, even if had provided support in Exhibit A-171, it would be too late because the utility is required to provide all support for its case in its initial filing. If Staff finds that Consumers has failed to support its projection, to be properly and directly responsive in rebuttal, Consumers needs to show where it provided that support, not provide supplemental information with additional support. Also, it is axiomatic that a budget is not a commitment to spend money. That the company has increased its "budget" for a project in the middle of a rate case does not support the legitimacy of its cost projection.

ii. Karn 1 & 2 Common Landfill Environmental Remedial Action Plan (line 5)

Staff recommended a $540,000 reduction to Consumers' projected 2020 capital expense a landfill environmental remediation action plan for the Karn units 1 and 2 site. Mr. DeCooman explained Staff's adjustment.[244] "indicating the project is at an earlier point in the 'Project Process Workflow' with a greater uncertainty for project scope and cost."[245] He used the low end of the confidence range (-50%) as the basis for Staff's recommended adjustment.[246] In its brief, Staff argues that Consumers did not dispute its adjustment.[247]

In its reply brief, however, Consumers asserts that its general objection to Staff's reliance on the lower end of its range of costs estimates applies to this adjustment as well.[248] As discussed generally and in connection with the Campbell common site bottom act chemical treatment system above, this PFD finds that Staff's approach, considering the error ranges associated with the estimates at the various stages of project

[244] 8 Tr 4758-4759.
[245] 8 Tr 4759.
[246] 8 Tr 4758.
[247] Staff brief, pp. 42-43.
[248] Consumers reply, p. 105.

development, is reasonable. This PFD concludes that Staff's recommendation to reduce projected expenditures by $540,000 should be adopted.

iii. Ludington upgrade and overhaul (line 20).

In his direct testimony, Mr. Hugo testified that the 2020 projected expenditure of $12.7 million reflects the cost to upgrade the last of six units at Ludington, unit 3, to a new higher-efficiency design, scheduled to be completed in May 2020.[249]

Mr. Coppola recommended excluding $9.5 million for this project, which is the $12.7 million total on line 20 of Schedule B-5.2, page 8, less $3.2 million in contingency addressed elsewhere. He cited the utility's discovery response in Exhibit AG-1.27 and testified no supporting cost components were provided and that the utility could not provide the winning bid that dated back to 2010.[250]

As shown by Exhibit A-1.27, Consumers was asked to "provide the basis for the $12.7 million cost estimate and related components." The company answered: "The basis of the cost estimate for 2020 . . . reflect the balance of work for the unit 3 (6th and last unit) overhaul. This annual budget amount is consistent with forecasts from 2018."

In his rebuttal, Mr. Hugo relied on the company's discovery response, also testifying that the upgrade is reasonable and prudent, the overall project has been under budget, and the Commission has considered and approved the capital spending related to this project in several previous cases.[251] He testified: "At this stage in the overhaul and upgrade, with five of the six unit upgrades completed, disallowance of the capital

[249] 6 Tr 2019.
[250] 8 Tr 3378-3379.
[251] 6 Tr 2090-2091.

expenditure amount to finish the project is neither reasonable nor prudent."[252] Consumers relies on this testimony in its initial brief.[253]

In her brief, the Attorney General contends that because Consumers failed to provide the requested information, it is not possible to validate the accuracy and reasonableness of this element of its capital expenditures forecast.

This PFD finds that Consumers did not provide support for its cost projection when asked to do so in discovery. The ALJ recommends that the Commission adopt the Attorney General's recommended $9.5 million adjustment to the forecast 2020 capital expenditure. While the hearing took place in late July and early August, there is no suggestion on the record that the work was completed in May 2020 as Mr. Hugo's testimony indicated. More significant is the company's inadequate response to the Attorney General's discovery request. As an important safeguard for the process, notwithstanding that the company's plans involve the final unit of a long-term project that has successfully increased plant efficiency, it was incumbent on Consumer to provide a detailed cost estimate in response to the Attorney General's inquiry.[254] A review of Exhibit AG-1.27 shows it did not. Indeed, with completion of the unit overhaul scheduled for May 2020, Consumers should have had available substantial cost data to share, even if it was unable to locate the original bid documents from 2010.

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[252] 6 Tr 2091.
[253] Consumers brief, p. 130-131.
[254] This PFD notes that the Commission is statutorily obligated under MCL 460.6a to reach a decision on a rate case within 10 months of filing, a deadline that imposes significant challenges on Staff, intervenors, the ALJ, and the Commission, while the utility has the statutory ability to extend the schedule. Consumers bears the burden of proof, and the integrity of the process requires timely and complete responses to discovery.

iv. Karn unit separation (Schedule B5.2, page 1; page 9, line 16)

Mr. Hugo described the projected expenditures of $890,000 in 2020 and $9,781,000 in 2021, as necessary to comply with the company's approved IRP, with the retirement of Karn units 1 and 2 scheduled for May 2023.[255] The 2021 projection is included on line 1 of page 9 of Schedule B5.2; the 2020 projection is $890,000, below the threshold for reporting on that schedule. Mr. Hugo provided the explanation with a list of the major items included in this project in his direct testimony at 6 Tr 1996:

> The scope of this project is the separation of various utilities/systems in order to isolate Karn Units 3 and 4 from Karn Units 1 and 2 prior to their retirement in May 2023. Capital expenditure amounts totaling almost $29 million are projected from 2020 through 2023 to accomplish this work scope. Projected capital expenditure amounts of $0.890 million for 2020 and $10.296 for 2021 are included in the Company's request for relief in this proceeding. These capital expenditures are necessary to comply with the Company's MPSC-approved IRP. The major scope items included in the almost $29 million capital expenditure amounts are as follows:
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> • Utility Separation - Compressed Air, City Water, Sanitary, Natural Gas, etc.;
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> • Demineralized Water System Installation;
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> • LP House Service Water Modifications;
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> • Intake and Discharge Channel Freeze Protection;
>
> • 138kV Substation Controls;
>
> • Power for Auxiliary Buildings;
>
> • Reconfigure Communication Network;
>
> • Relocate House Service Water Chlorination System;
>
> • Distributed Control System Modifications; and
>
> • Electrical Distribution for New Loads.

[255] 6 Tr 1996-1997.

Citing Exhibit AG-1.24, Mr. Coppola testified that the construction work has not been bid out yet, and bidding is not planned until late 2020 or early 2021. He concluded it would be premature to include the costs in projected rate base in this case. The Attorney General argues the projected costs should be excluded.[256]

In his rebuttal testimony, Mr. Hugo stated that the projected expenditures are necessary in 2020 and 2021 to complete the design and procurement to prepare for the separation. He testified that delays may put the availability of Karn units 3 and 4 at risk when units 1 and 2 cease operations.[257] Mr. Hugo further described the work being undertaken in 2020 and 2021.[258] In its brief, Consumers objects to the Attorney General's recommendation for the reasons stated in Mr. Hugo's rebuttal.[259]

This PFD finds Mr. Coppola's testimony persuasive that the non-contingency cost projections of $0.9 million in 2020 and $9.78 million in 2021 should be rejected. The items Mr. Hugo described in his rebuttal at 6 Tr 2085-2086 include matters that were not mentioned in his initial testimony, and appear to relate primarily to the decommissioning of units 1 and 2, not to the separation of utilities and other elements to allow units 3 and 4 to function separately from the retiring units. The list he provided in rebuttal includes workforce and community transition planning, plant cessation, cold and dark physical utility separation, abatement, dismantling, demolition, site redevelopment alternative analyses, environmental assessments, a demolition cost study, and divestment contractor bidder qualification/evaluation support. In describing the work to be

[256] Attorney General brief, pp. 55-56.
[257] 6 Tr 2085.
[258] Tr 2085-2086.
[259] Consumers brief, pp. 125-127.

undertaken in 2021, Mr. Hugo similarly veered from the separation work listed in his direct testimony in describing the work to be undertaken in 2021.[260] Because many of these items do not match the initial description of the project, appear to relate to the retirement rather than the separation of the utilities, may not even be capital expenditures (for example, the workforce development and community transition planning), and may be properly considered the cost of removal, Mr. Hugo's testimony is unpersuasive that Consumers will actually spend the projected sums in the bridge and test year as proposed in his direct testimony. The ALJ notes Mr. Hugo's testimony that many of the projects Consumers proposed for 2018 and 2019 in its last rate case were subsequently deferred to a later time.

c. 2021 Proposed Adjustments

In the discussion that follows, disputed projections are discussed with reference to line numbers of Schedule B5.2, page 9, where possible. Smaller projects with no corresponding line number(s) on this schedule are addressed last.

i. Campbell Unit 1 -- Realign 4160V Switchgear (line 1)

Mr. Hugo testified that the projected expenditure on line 1 of Schedule B5.2, page 9 is to align the Campbell unit 1 switchgear with the company's new air-quality control system (AQCS) startup transformer. He testified this upgrade will provide safer operation and maintenance.[261]

[260] 6 Tr 2086.
[261] 6 Tr 1984.

Staff proposes a $400,000 reduction to the non-contingency portion of the company's projected $1 million expenditure, while MEC argues that the entire projected expense should be excluded from projected rate base.

Mr. DeCooman testified that Consumers bases its projected cost on a "class 5" estimate, with no signed project charter. He cited Exhibit S-17.6, pages 16-22, to show that the project is at an early point in the project process workflow. He explained that Staff's estimate reduces the projected expense to the low end of the accuracy range associated with a class 5 estimate.[262] Mr. Comings explained his conclusion that the project lacks supporting documentation in confidential testimony.[263] He also testified that he only recommended excluding costs for those projects that Consumers acknowledges can be deferred beyond the projected test year, and for which the company has little to no documentation, intends to conduct an economic analysis before undertaking the project, and/or for which the company has "seriously inconsistent" cost estimates.[264]

In rebuttal, Mr. Hugo testified that the project is planned for execution in 2021. He acknowledged that no additional actions have been completed with respect to project scope, but testified the company still believes the projection is reasonable.[265] He also cited a similar project in 2015 as the basis for the company's cost estimate. Mr. Hugo also testified in response to Mr. Comings' recommendation that the evolving cost estimates Mr. Comings identified are "a result of the multiple reviews and refinements that are a part of the Company's project identification and estimation process."[266] He

[262] 8 Tr 4759.
[263] 8 Tr 3927-3928.
[264] 8 Tr 3925-3926.
[265] 6 Tr 2076.
[266] 6 Tr 2101.

testified that the company does not regularly update older documents in the process.[267] In its brief, Consumers reiterates Mr. Hugo's testimony.

In its brief, Staff argues that the additional explanations provided by the company are not satisfactory, given the lack of a detailed scoping document and the potential for changes in project scope and cost given that the project is still in an early stage of development.[268] Staff also cites Mr. Comings' testimony. The MEC group argue that the company's claims in rebuttal do not provide an adequate basis for cost recovery, characterizing the projection as a "ballpark figure," and question why the company would now rely on a 2015 project when it did not rely on that cost estimate in its 2017 scoping document. The MEC group cites Exhibit MEC-148, page 4.[269]

This PFD finds Mr. Comings' and Mr. DeCooman's testimony persuasive that the company has failed to support its projected expenditure. Given that the project may be deferred to a later date, and is currently at a preliminary stage of planning, the ALJ recommends that the Commission exclude the projected expenditure from projected rate base. Since the contingency component of this project is addressed separately in this PFD, the resulting adjustment is $0.9 million excluding contingency. Should the Commission nonetheless be convinced that Consumers will pursue this project in the test year, Staff's $0.4 million adjustment should be adopted.

ii. Campbell – SEEG Compliance (lines 2, 7, and 8; Exhibit A-49)

Consumers' proposed 2021 capital expenditures to comply with the Steam Electric Effluent Guidelines (SEEG) at the Campbell plant are summarized on Exhibit A-49,

[267] Id. at 2102.
[268] Staff brief, p. 38.
[269] MEC group brief, pp. 135-136.

sponsored by Ms. Breining, and reflected in part on lines 2, 7, and 8 of Schedule B5.2, page 9. Staff argues that the total non-contingency expense projection of $6.3 million should be excluded from projected rate base.

Ms. Breining testified in support of the proposed expenditures. She testified that the EPA proposed a revision to the SEEG regulations applicable to Bottom Ash transport water on November 22, 2019. After indicating that the dates for compliance with the proposed regulations do not apply until a date is determined by the permitting authority, which is to be "as soon as possible" but not later than December 31, 2023, Ms. Breining explained that Consumers' strategy is to plan for full compliance by the end of 2023.[270] She testified that under the existing rule, transport water needs to be managed in a closed-loop system with zero discharge, while the proposed rule would allow facilities with a wet ash handling system to discharge up to 10% of the primary active wetted bottom ash system volume on a 30-day rolling average under certain conditions.[271] She testified that Consumers anticipates constructing closed-loop systems between 2022 and 2023 "to accommodate reissuance of NPDES permits and any regulatory changes from the EPA." She further explained that Consumers plans additional waste water studies for 2020 "to determine the level of required waste water treatment at the Campbell site," with design, engineering, and beginning procurement planned for 2021.[272]

Citing discovery responses Consumers provided in Exhibit S-17.7, Mr. DeCooman explained that Staff recommends excluding projected 2021 expenditures from rate base due to uncertainty surrounding the project. He testified that the company has not

[270] 6 Tr 1649.
[271] 6 Tr 1648, 1651.
[272] Id. at 1651.

developed planning documents for work taking place in the test year, and recognizes that final plans are contingent on additional wastewater studies, finalizing of the SEEG rule by EPA, and additional data gathering and cost development.[273] He testified that the company's projected timeline of work is thus subject to uncertainty, and that Consumers does not expect all the sub-projects in its compliance plan to have finalized design and project charters until after the test year.

As an alternative, if the Commission rejects Staff's recommendation to exclude all projected expenses for this project, Mr. DeCooman recommended that the Commission adopt the $1.2 million adjustment presented on page 2 of Exhibit S-17.9, which is based on the lower end of the accuracy ranges of the for the three projects reflected on lines 2, 7, and 8 of Schedule B5.2, page 9.[274]

In her rebuttal, Ms. Breining objected to Staff's proposed adjustment and alternative adjustment. She emphasized the 2023 compliance date, asserting that Consumers "has a scope of work to meet this compliance date in the test year, 2021."[275] She reiterated that as a result of the studies Consumers is undertaking in 2020, along with anticipated finalization of the proposed SEEG rule in the fall of 2020, the company will be able to perform final design and engineering of the closed loop system "which is planned to occur in the test year."[276] She further testified that the company is facing a "compressed compliance schedule . . . out of its control." She acknowledged that the 2019 proposed rule limits the company's ability to design a compliant system, and cited the Covid-19 pandemic in stating "some delays have occurred in being able to access

[273] 8 Tr 4771.
[274] 8 Tr 4772-4773.
[275] 6 Tr 1659.
[276] 6 Tr 1659.

and bring contractors on-site to conduct SEEG-related testing," further asserting that Mr. DeCooman's recommendation would "put the Company at risk of noncompliance with SEEG."[277] She objected to Staff's alternate adjustment for the same reasons, also citing Mr. Hugo's testimony discussed above.

In its brief, Consumers reiterates Ms. Breining's testimony.[278] Staff cites Mr. DeCooman's testimony and the company's discovery responses in Exhibit S-17.7, pages 5-8 in arguing that the company does not expect to complete the project charters or finalize designs for the sub-projects that make up its SEEG compliance strategy until after the test year.

This PFD finds that Consumers has been unable to establish whether and how it will spend the projected $7 million in 2021, and finds Mr. DeCooman's testimony and Exhibit S-17.7 persuasive that the non-contingency capital expense projection of $6.3 million should be rejected. Contrary to Ms. Breining's testimony at 6 Tr 1651 that "in the test year" Consumers would design, engineer, and begin procurement for the closed loop system and waste water treatment,[279] her discovery response in Exhibit S-17.7, page 8 acknowledges that procurement will begin the third quarter of 2022. Contrary to this testimony and to Ms. Breining's rebuttal testimony at 6 Tr 1659 that the final design and engineering "is planned to occur in the test year," her discovery response in Exhibit S-17.7, page 8, states that a finalized design will not be completed until the end of the second quarter of 2022. Consumers' hyperbolic assertion that it will be unable to meet its SEEG compliance date without advance funding from the Commission is

[277] 6 Tr 1660.
[278] See Consumers brief, pp. 107-108, 119-121.
[279] Also see Consumers brief, pp. 120.

unpersuasive, given both the utility's failure to establish how the money will be spent in 2021, and its failure to recognize its fundamental obligation to raise the capital necessary for it to comply with applicable legal requirements. As to this latter point, Consumers has the ability to raise needed capital; the test-year funding would only represent a portion of the capital investment, which is of uncertain timing and magnitude, while the utility can reasonably be expected to file another rate case before it has finalized its spending plans for 2021, with rates expected to take effect approximately 10 months after that, i.e. around January 1, 2022.

iii. Campbell Avoidable Costs In Advance of Retirement Analysis (lines 3 and 6; Exhibit MEC-83)

The MEC group takes issue with certain projected expenditures for the Campbell units 1 and 2 that would be avoidable if Consumers retired those units in 2024. The expenditures at issue are listed on Exhibit MEC-83, and include the projects Consumers identified as avoidable in its Exhibit A-69, as well as one additional project that is included on line 3 of Schedule B5.2, page 9.[280]

Citing Consumers' obligation to present a retirement analysis evaluating the economics of continuing to operate units 1 and 2 in its 2021 IRP filing, the MEC group argues that Consumers should refrain from making avoidable investments in these units until this forthcoming retirement analysis can be reviewed. Mr. Comings explained the basis for his conclusion that Campbell units 1 and 2 should likely be retired in 2024 or 2025, presenting his analysis of the costs of operating and maintaining these units in comparison to their economic value. After explaining the assumptions underlying his

[280] Mr. Comings initially identified the project on line 6 of Schedule B5.2, page 9, as avoidable. In their brief, MEC group withdraw this characterization based on additional information supplied by Consumers indicating that the project is safety related. MEC group brief, p 127 at n468.

analysis,[281] and concluding from that analysis that the energy and capacity value of the units is significantly outweighed by the fixed costs,[282] Mr. Comings testified that he does not expect a retirement decision to be made based on his analysis:

> I do not expect Consumers to have had perfect foresight, nor do I expect the Company to decide to retire one or both units based only on their recent performance. Instead, both comparisons serve as a “red flag” that should prompt the Company to rigorously evaluate these units by conducting a forward-looking analysis of revenue requirements with and without a 2024 or 2025 retirement. It is critical that such an analysis take place before incurring avoidable costs. If avoidable costs are incurred now, but the Company subsequently decides to retire the units in the mid-2020s, then ratepayers will not realize savings from those costs because they were included in rates.[283]

Mr. Comings also explained in confidential testimony why the projected expenditure to replace the secondary baskets and seals is both unavoidable and unsupported.[284]

Consumers objects to any deferral of its proposed projects, and it disputes the MEC group’s characterizations of the additional projects as avoidable. Mr. Hugo testified in rebuttal that it is premature to evaluate whether retirement is a likely outcome of the analysis.[285] He disputed that the additional projects identified by Mr. Comings are avoidable, stating the company’s basis for replacing the LP turbine at Campbell unit 2 is based on reliability as well as economic considerations.[286] He also disputed that any avoidable projects should be excluded from projected rate base in this case, characterizing any disallowance of capital expenditures that would be avoidable in a 2024

[281] 8 Tr 3894-3905.
[282] 8 Tr 3905-3909.
[283] 8 Tr 3910.
[284] 8 Tr 5138-5139.
[285] 6 Tr 2098.
[286] 6 Tr 2098; as noted above, MEC group subsequently withdrew the characterization of this project as avoidable.

retirement scenario as premature, given that the analysis will not be complete for approximately a year.

In his rebuttal, Mr. Troyer took issue with Mr. Comings' use of a capacity value equal to 60% of the cost of new entry (or CONE) in his analysis of the Campbell units.[287] He testified that Consumers generally uses a 75% of CONE value in long-term analyses of capacity value, and further testified that any alternative is better considered in an IRP proceeding. Mr. Troyer also disputed Mr. Comings' application of random outage rates to the capacity value, characterizing the impact of random outages as more complex and explaining how the company accounts for random outages. He acknowledged that Consumers will address in its next IRP the economics of continued operation of Campbell units 1 and 2 relative to retirement dates ranging from 2024 to 2031.[288] He took issue with Mr. Comings' recommendations regarding that analysis, testifying: "In the upcoming retirement analysis . . . the Company will use the best information available for forecast assumptions when the analysis is performed. If Mr. Comings has concerns with that future analysis, it should be addressed in the Company's next rate case."[289] He also noted that the settlement agreement in Case No. U-20165 details parameters for the retirement analysis.[290]

In its brief, the MEC group argues that the Commission has repeatedly raised questions about the operation of these units, citing Case Nos. U-17990 and U-18322, and reviewing the provisions of the settlement agreement in the company's IRP docket, Case

[287] See 6 Tr 1568-1571.
[288] 6 Tr 1570.
[289] 6 Tr 1570.
[290] 6 Tr 1570-1571.

No. U-20165.[291] After reviewing Mr. Comings' testimony, the MEC group also addressed Mr. Troyer's rebuttal testimony. It argues that Consumers did not challenge the methodology underlying Mr. Comings' analysis, but principally focused on the capacity value assumption. The MEC group characterizes Mr. Troyer's reliance on a capacity value equal to 75% of the cost of new entry (CONE) as cursory, and notes that Mr. Comings' analysis also showed that even at that capacity value, the units are still not economic.[292]

Regarding the capital projects that are avoidable under a 2024 retirement scenario, as noted above, the MEC group withdrew its characterization of one of the projects cited in Mr. Comings testimony. The MEC group argues that the replacement of secondary air heater baskets and seals is avoidable, citing confidential testimony of Mr. Comings and arguing that his finding is essentially undisputed.[293] The MEC group notes that Mr. Hugo did not provide any specific refutation of Mr. Comings' testimony in that regard.[294]

Consumers' brief tracks Mr. Hugo's and Mr. Troyer's rebuttal.[295] In its reply brief, Consumers disputes the MEC group's contention that it failed to dispute that the basket and seal replacement project is avoidable.[296] Consumers cites Mr. Hugo's rebuttal at 6 Tr 2097, as well as his direct testimony in support of the project at 6 Tr 1974 and 1983-1985.[297]

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[291] MEC group brief, pp. 118-120.
[292] MEC group brief, pp. 125-126.
[293] See MEC group brief, p. 127-128; Comings, 8 Tr 3921, 5139.
[294] MEC group brief, pp. 127-128.
[295] Consumers brief, pp. 134-136.
[296] Consumers reply, p .107.
[297] Consumers reply, p.107.

There is no dispute that Consumers is obligated to provide a retirement analysis in its next IRP, based on the settlement agreement approved in Case No. U-20165. There is also no dispute that Consumers could avoid the need to invest in the projects listed at the top of the first page of Exhibit MEC-83 and in Exhibit A-69, with projected test year capital spending of $1.7 million. As noted above, Mr. Comings characterized two additional projects as avoidable, listed on the bottom of the first page of Exhibit MEC-83 and correspond to lines 3 and 6 of Schedule B5.2, page 9, with projected test year capital spending of $5.7 million. Subsequently, the MEC group withdrew its characterization of the $3.3 million expense projection on line 6 as avoidable. Thus, the two questions requiring resolution in evaluating Consumers' generation capital cost projections are whether costs that are avoidable under a 2024 retirement scenario should be included in projected rate base, and whether the projected replacement of the secondary air heater baskets and seals is avoidable.

The ALJ agrees with the MEC group and finds Mr. Comings testimony persuasive that capital costs that are avoidable under a 2024 retirement scenario should not be included in projected rate base in this case. As the MEC group argues, promoting such expenditures on the eve of a comprehensive retirement analysis may unnecessarily add to the burden on ratepayers. Additionally, because the avoidable costs at issue are by definition avoidable, it is questionable whether Consumers will actually make the investments on the eve of its retirement analysis.

This PFD also finds persuasive the MEC group's contention that the basket and seal replacement project is avoidable. In his rebuttal testimony, Mr. Hugo did not provide any basis to conclude the project must be completed in the test year, and he acknowledged in his direct testimony that this project was also included in the company's last rate case, for 2019, and was delayed.[298] Thus, this PFD concludes that the total of the 2021 avoidable generation capital expense projections that should be excluded from the projected rate base calculation is $4.2 million, less contingency costs this PFD has previously addressed.[299]

iv. Campbell Unit 3 – Replace O2 Monitors (line 10)

Staff and the MEC group take issue with Consumers' projected $1 million expense for replacing the post-combustion monitors at Campbell unit 3. Staff recommends a reduction of $209,000 in the included expense, while the MEC group recommends excluding the expense projection in its entirety.

Mr. Hugo explained this project as replacing the post-combustion monitors at Campbell unit 3 so they are able to monitor carbon monoxide as well as oxygen. He testified that this would improve the monitoring of flue gas and in turn, result in increased efficiency and improved environmental monitoring and control.[300]

Mr. DeCooman testified that the cost estimate for this project is "class 4," with no scoping document. He testified that although supporting data adequately described the purpose and scope, "without the proper scoping documents, it must be assumed that this project is still under development and refinement."[301] Staff's adjustment reflects the lower end of the accuracy range associated with a class 4 estimate.

[298] Hugo, 6 Tr 1974.
[299] $1,732,000 (undisputed avoidable expenditures as shown on Exhibit MEC-83) plus $2,425,000 (Schedule B5.2, page 9, line 3).
[300] 6 Tr 1990.
[301] 8 Tr 4760.

Mr. Comings referred to this project by its internal project number (5691) in Exhibit MEC-83, and identified this project as one lacking supporting documentation.[302]

Mr. Hugo responded to Staff's recommendation in his rebuttal testimony, acknowledging that no significant project development had taken place since the company's initial filing, but stating that a "concept approval" document will be completed in the second half of 2020. He also reiterated his general objection to Staff's approach.[303] Mr. Hugo similarly addressed Mr. Comings' testimony.[304]

This PFD concludes that because the project lacks supporting documentation and is deferrable, Consumers has failed to establish it will fund the project during the projected test year. The $0.9 million non-contingency portion of the projected expenditure should therefore be excluded from projected rate base.

v. Campbell Unit 3 – Reheater Sootblower (line 11)

Mr. Hugo explained the purpose of this project to add sootblowers to the unit 3 reheater in his direct testimony as intended to keep ash from building up to a level that would cause localized overheating and erosion conditions, which has caused outages in the past.[305] This projected expenditure, including a contingency amount, is shown on line 11 of Schedule B5.2, page 9.

The MEC group argues that the Commission should reject Consumers' $1.3 million projected expense for this as lacking adequate support. As noted above, Mr. Comings identified projects that are deferrable, and where the project has little or no supporting documentation, where the company indicated it planned to conduct an economic analysis

[302] Also see 8 Tr 3926, n88.
[303] See 6 Tr 2077.
[304] 6 Tr 2104.
[305] 6 Tr 1990-1991.

before undertaking the project, and/or where the company had cost estimates for the project that were "seriously inconsistent."[306] Regarding this project, which Mr. Comings and Exhibit MEC-83 identify by its internal project number (5707), Mr. Comings recommended rejecting the projected expenditure due to lack of supporting documentation.

In rebuttal, Mr. Hugo cited his direct testimony, and testified that the project in question is currently in the study phase and an economic evaluation will be completed at the end of the study, and he expects it will show a significant benefit for customers.[307] Consumers' brief tracks Mr. Hugo's testimony.

In its brief, the MEC group addressed Mr. Hugo's rebuttal testimony, disputing that he provided adequate support for the project with a brief description in his direct, and also noting that because the project is an economic project with an economic analysis pending, approval is premature.[308]

The ALJ finds that this project is deferrable, and the cost estimate lacks adequate documentation. Since Consumers admits an economic analysis will be performed before a final decision is made to pursue this project, this PFD concludes that it is premature to include the projected expenditures in projected rate base. Since contingency is addressed separately in this PFD, this PFD recommends that the non-contingency portion of the projected expense, or $1.1 million, be rejected.

[306] 8 Tr 3925-3926.
[307] 6 Tr 2102.
[308] MEC group brief, pp.136-137.

vi. Campbell Unit 3 – Soot-blowing Air Compressor (line 12)

Mr. Hugo testified that the company plans to evaluate, design, and implement air supply system upgrades to improve unit efficiency and availability at unit 3, with engineering and procurement planned for 2020 and project implementation in the spring 2021 outage.[309] He explained that high furnace exit gas resulting from soot buildup on tube surfaces causes derates and forced outages. Mr. Comings and Mr. DeCooman each addressed Consumers' projected expense of $1.2 million for 2021.

Mr. DeCooman testified that the project has a "class 4" cost estimate, with a project charter that is significantly less than the company's projected expenditure.[310] He testified that Consumers provided additional information regarding the discrepancy between the project charter and projected work, but that clarification did not provide further support for the cost projection. He explained that Staff's recommended reduction of $240,000 to the non-contingency portion of the cost projection reflects the lower end of the range of accuracy associated with a class 4 projection.

In his rebuttal, Mr. Hugo testified that the recently completed study recommended an alternative to the addition of a redundant soot-blowing air compressor, replacing a failed house service air compressor. He testified that this would have the same cost and would no longer be considered an economic project.[311]

In its brief, MEC group withdraws its objection based on Mr. Hugo's rebuttal testimony, stating that Consumers also provided a discovery response subsequent to rebuttal, including a project charter completed in June 2020.[312] Nonetheless, it expresses

[309] 6 Tr 1991.
[310] 8 Tr 4762-4763.
[311] 6 Tr 2103.
[312] MEC group brief, p. 138.

a concern with the provision of additional information at the rebuttal stage of the proceeding:

> [T]his is an unusual situation that rises several important concerns. First, MEC-NRDC-SC-CUB have some concerns about the adequacy of Consumers discovery responses. During this case, MEC-NRDC-SC-CUB served several discovery requests that sought documentation elated to the redundant SBAC project, and the Company's responses – served between early April and late May 2020 – did not mention anything about the Company's potential change in plans. At least two of the three supporting documents that had been completed at the time of the Company's most recent discovery responses, and the September 2019 study suggests that et Company was contemplating changes to project 5708 almost a year ago. MEC-NRDC-SC-CUB know that the Company's discovery obligations in this case were quite heavy, and we do not believe these documents were intentionally withheld. But Mr. Comings's review of project 5708 would have benefited from the production of these documents and a timelier disclosure of the Company's change in plans.
>
> Second, if the Commission awards cost recovery for the revised project, the Commission should recognize that this is an unusual situation. More specifically, the Commission should caution utilities that, if they do not provide support for a capital project until after Staff and intervenor testimony has been filed, recovery of such costs may be disallowed or deferred. Again, MEC-NRDC-SC-CUB do not question the validity and timing of Consumers' change in course for project 5708, but cautioning utilities about this timing issue will help minimize any risk of sandbagging in future cases.[313]

In its brief, Staff notes the study the company recently completed, but argues that the estimate for the replacement project is still "class 4," and further argues that this new solution does not resolve Staff's additional concerns with discrepancies between the project cost in the scoping documents compared to the projected cost in the company's filing.[314] Staff argues that its proposed adjustment should be adopted.

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[313] MEC group brief, pp. 138-139.
[314] Staff brief, p. 41.

The ALJ concludes that the caution sought by the MEC group is unnecessary; as discussed throughout this PFD, the Commission has already articulated these standards. Here, it was the MEC group's choice to withdraw its objection to the proposed expenditure.

This PFD further finds Mr. DeCooman's testimony persuasive that Consumers did not provide adequate cost support for its project when requested by Staff, and recommends that the Commission adopt Staff's proposed reduction of $240,000 to the company's projected expenditure.

vii. Campbell Unit 3 – Mill Overhauls (line 14)

Mr. Hugo explained the projected $1.2 million expense projection on line 14 of Schedule B5.2, page 9, as beginning the periodic rebuild of the coal mills for unit 3:

> Coal Mills experience wear and degradation over time, resulting in reduced performance and increased reliability risk. Suboptimal performance negatively impacts combustion and efficiency due to increased particle sizes. This project will begin the rebuild of the Coal Mills for Campbell Unit 3. The Company has spent an average of $718,000 for the periodic rebuilt of Campbell Units 1 and 2 mills over the last five years. The performance of this work will maintain the higher level of unit availability necessary to provide customer value.[315]

He also testified that $603,000 would be spent on this project in 2020.[316]

The MEC group argues that Consumers has failed to justify its projected expense of $1.2 million for 2021. Mr. Comings testified that for this project, which he identifies by its internal project number 5693, Consumers Energy has no internal rate of return (IRR) calculation, project charter, or scope document, and was supported only "by a few lines of testimony and two sentences in a discovery attachment."[317]

[315] 6 Tr 1991.
[316] 6 Tr 1988.
[317] 8 Tr 3927.

In rebuttal, while Mr. Hugo addressed the budgeting process for mill rebuilds for Campbell unit 1, he did not expressly address this particular expense projection. In its brief, Consumers cites Mr. Hugo's rebuttal at 6 Tr 2100-2101 in arguing that Consumers does not typically prepare scope documents or project charges for routine projects, but relies on historical cost:

> The Company has completed Campbell Unit 1 mill overhauls in 2014, 2017 and 2019 for $587,000, $640,000, and $668,000 respectively. The projection in 2021 to complete similar work is $696,000.[318]

The MEC group argues that the utility's designation of a project as routine does not obviate the need for supporting documentation. This PFD finds the MEC group's contention and Mr. Comings' analysis persuasive and concludes that the $1.24 million projection on line 14 of Schedule B5.2, page 9, should be rejected.

viii. Campbell Site Commons – Dry Ash Landfill Cell (line 15)

The Attorney General argues that the Commission should reject Consumers' projected expense of $5.5 million in 2021 for the construction and permitting of a landfill cell for dry ash disposal at the Campbell plant.

Mr. Hugo explained the project associated with this projected capital expenditure in his direct testimony:

> The on-site landfill is the only licensed and approved method for disposal of fly ash at the Campbell facility. The landfill is projected to run out of usable airspace in 2022 unless additional airspace is constructed. The landfill consists of seven adjacent cells that, when completed and filled, will be integrated together, sealed, and used for the continued disposal of fly ash. The project design will be accomplished in 2020 and the construction will be completed in 2021.[319]

[318] Consumers brief, p. 137.
[319] 6 Tr 1993.

No party took issue with the projected $544,000 spending for 2020.[320]

Mr. Coppola cited a discovery response from Consumers, Exhibit AG-1.23, in testifying that the proposed project may start in 2021 "but it is not likely to be completed in 2021 as planned," and concluded that it is premature to include the forecast amount in rate base. Based on the discovery response, he explained that Consumers requires a construction permit from EGLE, and did not intend to submit the permit request until August 2020, with an additional 4 months expected for permit approval, and bidding to take place subsequently in the second quarter of 2021.[321] He recommended that the Commission reject the forecast expenditure, with a non-contingency projection of $5.2 million.

In his rebuttal, Mr. Hugo stated that the company's current projections are that the usable air space of Ash Cell 5 will be depleted in late 2021 to early 2022. Mr. Hugo testified that the best time for construction is from the spring to the fall. Further, he testified that once the new cell is constructed, it cannot be used until EGLE approves the final construction report, preparation of which will take at least 90 days.[322] He disputed Mr. Coppola's description of the company's discovery response, Exhibit AG-1.23, contending the need to obtain the revised permit should not delay the start of construction.[323]

This PFD finds Mr. Coppola's testimony persuasive that there is uncertainty as to the timing of the project and the projected expenditure of $5.2 million should not be included in the projected test year rate base. If Consumers' permit is approved, it should

[320]Hugo, 6 Tr 1989.
[321] 8 Tr 3374.
[322] 6 Tr 2083.
[323] 6 Tr 2084.

have greater certainty regarding the amount and timing of its expenditures in its next rate case filing.

ix. Karn 1&2 Site Commons – Karn 3&4 decoupling (line 16)

For the reasons discussed in section 2.d above, the Attorney General's recommended adjustment of $9.78 million in non-contingency capital expense projections for this line item should be adopted.

x. Karn Unit 3 – Cooling Tower Rebuild (line 17)

Staff argues the Commission should reduce Consumers' projected $2.5 million capital expenditure for 2021 by $543,000. Mr. DeCooman testified that the company's cost estimate is "class 4," and the project is at the "concept approval" stage and thus lacks a signed project charter.[324] Mr. DeCooman also testified that the "concept approval" document contains only a contingency amount, unlike the projection presented on Schedule B5.2, page 9, line 17, which shows projected costs of $2.5 million with $208,000 in contingency. Then, citing Exhibit S-17.5, page 10, he noted that when the company was asked to explain the discrepancy in discovery, it stated that the total project cost does not include any contingency.[325] Staff's adjustment is based on the low end of the projected cost range for a class 4 estimate.

Consumers objects to Staff's adjustment. Mr. Hugo identified this project in his direct testimony at 6 Tr 2001 as "replacement of the structural timbers, remaining stacks, and fan blades," because the original wooden structure is original equipment that has decayed since its installation. In his rebuttal testimony, he testified that a thorough

[324] 8 Tr 4760.
[325] 8 Tr 4760.

inspection is planned for 2020 “to identify the details of the scope.”[326] He further testified that the company bases its total project cost estimate of $14.8 million on the cost of the Karn Unit 4 cooling tower rebuild that was completed in the Spring of 2020 at a total cost of $15 million, and the project is expected to take 4 years to complete.[327] In its brief, Consumers reiterates Mr. Hugo’s testimony, including his statement that “[a] reduction in 2021 would not be prudent as it is the first year of execution of a multiyear project.”[328]

Staff addressed this testimony in its brief, stating that Mr. Hugo’s rebuttal testimony has not changed Staff’s position:

> The project is still relatively undeveloped, as evidenced by the class-of-cost estimate, and it lacks a signed project charter. Not only this, there is a significant risk of a change in the project scope from the planned 2020 inspection. Considering all these deficiencies together, the Company has not adequately supported its capital expenditures for this project.[329]

The ALJ finds Mr. DeCooman’s testimony and Staff’s analysis persuasive, and concludes that the $543,000 adjustment Staff proposes should be made. As Mr. DeCooman testified, Consumers was given the opportunity in Exhibit S-17.5, to explain the discrepancy between its concept approval “contingency” designation and its projection on line 17 of Schedule B5.2, page 9, and while it admitted an error in its “concept approval” document, did not explain why it reported “contingency” on line 17 if the project cost does not include contingency. While the lack of detailed project scope, the pendency of a 2020 “thorough inspection” required for the project scope to be fully determined, and the company’s track record for delaying projects would justify excluding the projection, Staff’s adjustment takes a middle ground and includes a projected test

[326] 6 Tr 2077.
[327] 6 Tr 2077.
[328] See Consumers brief, p 114, also citing Hugo at 6 Tr 2077.
[329] Staff brief, p 40.

year capital expenditure of approximately $1.8 million in projected rate base for this project.

xi. Karn Units 3 and 4 – Startup Optimization (line 18)

Mr. Hugo testified that the projected $3.9 million expense for 2021 on line 18 of Schedule B5.2, page 9 "includes the procurement and installation of a startup [boiler feed pump (BFP)]." He explained that the utility is improving the reliability and efficiency of Karn units 3 and 4 by retubing the auxiliary boilers in 2020 to restore reliability and investigating the installation of a startup boiler feed pump.[330]

Staff argues Consumers' projected $3.9 million expense should be reduced by $1.56 million to reflect the lower limit of the expected accuracy range, as Mr. DeCooman recommended.[331] Mr. DeCooman testified that the company has a signed project charter, but it covers only the inspection of equipment. The remaining elements of the project lack a detailed scoping, with projected costs based on a "class 5' estimate. He explained that Staff's recommendation to use the lower end of the accuracy range associated with a class 5 estimate is based on the incomplete information provided.

Mr. Hugo did not address this expenditure further in rebuttal, beyond his general disagreement with Staff's approach as discussed above. In its brief, Staff notes that the company did not expressly address these adjustments in its rebuttal testimony.[332] In its reply brief, Consumers renews its general objection to Staff's approach.[333] Consistent with the discussion above, this PFD finds that Staff's $1.56 million adjustment is

[330] 6 Tr 2001.
[331] Staff brief, p 42; 8 Tr 4763.
[332] Staff brief, p 42-43.
[333] Consumers reply brief, pp 103-105.

appropriate based on the incomplete information regarding the scope of this project and its reliance on a thorough inspection planned for 2020.

xii. Jackson Site Commons – Boiler Feed Pump Valve (line 24).

Mr. Hugo testified that the projected expenditures on line 24 of Schedule B5.2, page 9, are to replace the automatic recirculation control valves on the three boiler feed pumps at the plant with pneumatic control valves to reduce maintenance expense, increase efficiency, and increase operational control.[334]

Staff argues the Commission should reduce Consumers' projected expense of $1.16 million by $116,000. Mr. DeCooman testified that the company's projection is based on a "class 3" estimate, and Staff's recommended adjustment reduces the non-contingency projected expenditure to the low end of the associated range of accuracy.[335] He explained that although the company characterized its estimate as "Class 2," it did not have a signed project charter as required to advance to the next stage, "calling into question how advanced the design scope and cost estimates are."[336] Mr. DeCooman also cited Consumers' discovery responses in Exhibits S-17.3, page 4 and S-17.5, pages 11-12.

While Mr. Hugo did not address this project in any detail in his rebuttal testimony, Consumers relies on his general objections to Staff's approach in opposing Staff's proposed adjustment. Consistent with the discussion above, this PFD finds Staff's analysis persuasive and concludes that its recommended $116,000 adjustment should be adopted.

[334] 6 Tr 2010.
[335] 8 Tr 4760-4761.
[336] 8 Tr 4761.

xiii. Hodenpyl Dam – Generator Rewind (line 28)

Mr. Hugo testified that the company projects a $1.6 million capital expenditure for a generator rewind at the Hodenpyl hydro plant because the unit 1 stator and field pole windings are in poor condition and at risk of failure, which would result in a prolonged outage.[337]

Staff recommends a reduction of $316,000 to the utility's non-contingency projected expense for this project. Mr. DeCooman testified that this projection is based on a "class 4" cost estimate, and the project is at the "concept approval" stage. He explained that Staff's adjustment reflects the low end of the range of accuracy associated with the non-contingency portion of the projection.[338]

In his rebuttal testimony, Mr. Hugo testified that the project estimate was recently reviewed in preparation for the company's 2021 long-term financial plan and was increased at that time based on recent generator rewinds at other facilities.[339] He testified that added to the scope of the project is inspection of the thrust and guide bearings, which "will require replacement."[340] He testified that "planning continues this year to be ready to execute next year."[341] Consumers reiterates this testimony in its brief.[342]

In its brief, Staff addressed Mr. Hugo's rebuttal testimony, emphasizing that the scoping document provided for the project shows it is still in the concept phase, "which is

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[337] 6 Tr 2016.
[338] 8 Tr 4761.
[339] 6 Tr 2078.
[340] 6 Tr 2078.
[341] 6 tr 2078.
[342] Consumers brief, pp 114-115.

obviously an early stage of development." Staff cites the evolution of the company's cost estimate and project scope as evidence of the early stage of development.[343]

This PFD finds Staff's analysis persuasive and concludes that Staff's recommended $316,000 adjustment should be adopted. The company's planning is, by its own admission, incomplete; Staff's adjustment still reflects a 2021 capital expenditure of over $1 million for this project in projected rate base.

xiv.Hodenpyl Dam – Spillway Hoist (line 29)

Mr. Hugo testified that the projected $1.6 million expenditure on line 29 of Schedule B5.2, page 9, is to evaluate the original hoist for adequacy, ergonomics, and redundancy, and is tied to the risk evaluation of the emergency spillway at Hodenpyl.[344] He explained that without redundancy, the loss of the single hoist may preclude the utility from brining a crane on site in a storm event, and require the use of the emergency spillway.

Staff recommends a reduction of $1.325 million to Consumers' projected non-contingency expense for replacing the spillway hoist at the Hodenpyl hydro plant. Mr. DeCooman testified that the budgeted total for the project in the company's confidential supporting documents (Exhibit S-17.6, pages 33-37) is "significantly less than" the filed projection.[345] He testified that due to the absence of support for the additional expenses, Staff recommends reducing the projection to the budgeted amount in the project scoping document.

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[343] 6 Tr 2016.
[344] 6 Tr 2016.
[345] 8 Tr 4761.

In his rebuttal, Mr. Hugo testified that during the review in preparation for the company's 2021 long-term financing plan, the company increased its estimate for this project. He testified:

> Preliminary engineering is complete on the spillway hoists and the design calls for moveable hoists. The project team is working with the Company's health and safety team to verify that two sets of movable hoists can be operated safety to protect the health and safety of our workers. If the movable hoists cannot be used safely, the project would require ten fixed hoists, at a higher cost than has been budgeted for this project.[346]

He also stated that final engineering would "resume" this year after the safety review and be completed in time for installation next year. Consumers reiterates Mr. Hugo's testimony in its brief.[347]

In its brief, Staff emphasizes that its recommended adjustment was based on the company's project scoping document. Staff argues that the project was at one of its earliest stages of development, reflecting greater uncertainty, and that this uncertainty was demonstrated by Mr. Hugo's rebuttal testimony, admitting that the company is still working through safety issues and that engineering for the project is not complete.[348]

This PFD finds Staff's $1.325 million adjustment is appropriate based on the supporting information the company provided in discovery. As Staff argues, the scope of the project remains uncertain. This PFD also notes that the company is required to provide supporting documentation for its cost projections with its filing; it is not to include cost projections as placeholders to be filled in during the rebuttal phase of the proceeding. Staff's reliance on Exhibit S-17.6 is appropriate.

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[346] 6 Tr 2078-2079.
[347] Consumers brief, p 115.
[348] Staff brief, p 44-45.

xv. Loud Dam – Training Wall (line 30)

Consumers projected a total 2021 expenditure of $2.2 million to replace the training wall at the Loud hydro plant. Mr. Hugo described this in his direct testimony as based on a 2018 analysis showing significant deterioration in the underwater portion of the training wall. He testified that replacing the wall would reduce the probability of failure. He also testified that a new study is required to "reassure that the new design is adequate." [349]

Staff recommends a $660,000 reduction to Consumers' projected non-contingency expenditure for this project. Citing Exhibit S-17.6, pages 38-42, Mr. DeCooman explained that Staff's review showed no signed project charter for this project, but only a concept approval document with a "class 4" cost estimate. Staff's adjustment reflects the lower end of the expected accuracy range associated with the non-contingency portion of the projection.[350]

In rebuttal, Mr. Hugo testified that FERC recently reviewed and approved the design for this project, citing Exhibit A-171. He testified the company is moving ahead with a competitive solicitation to complete construction by December 31, 2021; he also explained that the cost estimate is based on the length of sheet pile required and the depth, as well as on the cost of similar projects the company has undertaken.[351] In its brief, Consumers reiterates Mr. Hugo's testimony.[352]

In its brief, Staff addressed the company's rebuttal testimony, arguing that it does not alleviate Staff's concerns with the lack of project scope and cost detail:

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[349] 6 Tr 2015.
[350] 8 Tr 4762.
[351] 6 Tr 2079-2080.
[352] Consumers brief, pp 115-116.

> The notice of approval for FERC that the Company admitted into evidence provided some assurance about project timing, (Exhibit A-171), but it did not further refine the project scope or costs, nor did any other part of the Company's rebuttal. The need for competitive solicitation for work on this project further underscores the potential for a change in project scope and costs.[353]

The ALJ finds Staff's analysis and Mr. DeCooman's testimony persuasive and concludes that Staff's $660,000 adjustment should be adopted. The company is required to provide adequate support for its projected capital expenditures with its application, not during rebuttal. Additionally, as Staff argues, the company does not yet know what the project costs will be as a result of the competitive bidding process.

xvi.Ludington Site Commons – Net Barrier Net (AMP) (line 35)

Consumers projects a $1.9 million capital expenditure in 2021 as part of a multi-year project to study and improve the Ludington barrier net, resulting from the Ludington Relicensing Settlement Agreement. He testified that the project objectives are to "optimize barrier net operations and maintenance functions to reduce fish entrainment mortality during pumping and generation," "optimize barrier net design and placement to improve barrier net performance," to utilize data and studies to facilitate this, and to implement fish entrainment prevention technologies.[354]

Staff argues the Commission should reduce Consumers' projected non-contingency test year expense $400,000.[355] Citing Exhibit S-17.6, pages 43-47, Mr. DeCooman testified that the company provided a concept approval document in support

[353] Staff brief, p 46.
[354] 6 Tr 2021-2022.
[355] Staff brief, pp 46-47.

of its request, rather than a signed project charter, and recommended an adjustment to the low end of the accuracy range associated with the company's "class 4" estimate.[356]

Mr. Hugo did not directly address this project in his rebuttal testimony. Consumers relies on its general objections to Staff's approach, and Mr. Hugo's testimony explaining its objections.[357]

Consistent with the discussion above, this PFD finds Staff's analysis and Mr. DeCooman's testimony persuasive that the company's cost estimate is an early stage of project development and thus Staff's $400,000 adjustment to reduce the projection to the low end of the accuracy range is appropriate.

xvii. Ludington Site Commons – Reservoir Liner (line 36)

The Attorney General argues the Commission should reject Consumers' projected test year expenditure of $6.6 million for the reservoir liner replacement at Ludington and exclude the $5.6 million non-contingency portion of this estimate from projected rate base.

Mr. Coppola testified that Consumers was asked in discovery to provide the basis for the repair cost estimate for the liner, and cited but did not provide an engineering study completed by a consultant, and provided no supporting data for cost components. He testified that the utility's discovery response also indicated that the company is still working on the design phase of the project. Concluding he lacked sufficient information to validate the accuracy and reasonableness of the capital expense projection, and that the timing is uncertain, he recommended that the Commission reject the expense projection.[358]

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[356] 8 Tr 4762.
[357] Consumers reply brief, pp 103-105.
[358] 8 Tr 3379-3380.

Exhibit AG-1.28 confirms Mr. Coppola's description of the company's discovery response.

In his rebuttal testimony, Mr. Hugo reiterated the purpose of the project, and the need to complete the work by 2023 in order to avoid greater repair work in 2027. 6 Tr 2092-2093. He took issue with Mr. Coppola's testimony that Consumers did not provide the information requested by the Attorney General, testifying: "The Company directly answered Mr. Coppola's questions and indicated that the project cost was based upon an engineering report."[359] He presented a copy of the engineering report as Exhibit A-170, a confidential exhibit. He also disputed that the timing of the project is uncertain, stating that engineering is complete, and project is "currently undergoing the bid process."[360] Consumers Energy relies on this testimony in its brief.[361]

As with this PFD's recommendation regarding the Ludington unit 3 overhaul, this PFD concludes that the Attorney General's recommendation should be adopted. Despite the assertion in Consumers' brief and Mr. Hugo's testimony that the company answered the Attorney General's discovery request, the company clearly did not provide a credible response, as shown in Exhibit AG-1.28. The Attorney General's request sought supporting cost detail; the company's response was merely that it had an engineer estimate, and did not reveal the basis for the estimate. Once again, it appears necessary to note that 10-month rate cases require that the utility provide complete and accurate information on request.

[359] 6 Tr 2093.
[360] Id. at 2093-2094.
[361] See Consumers brief, pp 131-132.

While Consumers characterizes Mr. Coppola's recommendation as asking the Commission to "remove the $4,844,000 from rate base in this because to conclude otherwise would permit that that the company should not be allowed to include costs in rate base which it did not spend,"[362] to the extent the company is contending that the Attorney General opposes all projected capital expenditures, this mischaracterizes the Attorney General's position.

xviii. Administrative and Other – Enterprise Project Management EMPMO Transformation (line 38)

Consumers projects 2021 capital expenditures of $2.9 million for its Enterprise Project Management Information System, which Mr. Hugo described as an "analytics reporting tool . . . which will enable the company's Enterprise Project Management Office to understand performance and trends across all of its projects, obtain greater insight into cost and schedule metrics, and customer reports and portals to support the business."[363]

Staff recommends a $1.9 million reduction to Consumers' projected non-contingency capital expenditures for this project. Staff initially also took issue with the projected 2020 capital expense for this category, but in its brief, withdrew its objection. Mr. DeCooman testified that Staff's proposed adjustment reflects discrepancies between projected and actual expenses in 2018 and 2019, citing the 64% overprojection shown in Exhibit S-17.0, row 15. He also testified that while Consumers provided information regarding the project in response to discovery, it did not provide any of the standard scoping documents discussed in his testimony. He described the information the company provided as a presentation the company had given, lacking a detailed scope of

[362] Consumers' brief, page 131.
[363] 6 Tr 2026.

work or cost.[364] He explained that Staff's proposed adjustment is based on historical costs.

In rebuttal, Mr. Hugo addressed the company's projected 2020 expenditures in response to Mr. DeCooman's testimony, but did not directly address the 2021 projection.[365] In its brief, Staff note the absence of rebuttal specifically refuting its adjustment to the company's projection for this line item, and argues that the Commission should adopt Staff's recommendation.[366] In its reply brief, Consumers relies on its general objections to Staff's approach and Mr. Hugo's rebuttal testimony explaining those objections.[367]

Consistent with the discussion above, the ALJ finds Mr. DeCooman's testimony and Staff's analysis persuasive and concludes Staff's proposed $1.9 million adjustment should be adopted.

xix.Campbell – section 316(b) (Exhibit A-48)

As shown in Exhibit A-48, Consumers projects spending $500,000 at the Campbell plant in 2021 to comply with section 316(b) of the Clean Water Act. Ms. Breining testified in support of this projected expenditure, explaining that federal rules promulgated under this section set standards for cooling water intake structures at power generation facilities. She testified that to comply with promulgated impingement and entrainment standards for the projection of fish, the Michigan Department of Energy, Great Lakes, and the Environment (EGLE) may require Consumers to make intake modifications at Campbell units 1 and 2:

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[364] 8 Tr 4764.
[365] 6 Tr 2075-2076.
[366] Staff brief, pp 47-48.
[367] Consumers reply brief, pp103-105.

> Preliminary evaluation suggests modifying the deep-water intake for Campbell Unit 3 to accommodate intake for Units 1 and 2 has the potential for significant cost savings and environmental benefits over installing fine mesh screens at the Campbell Unit 1 and 2 intake.[368]

Ms. Breining acknowledged some uncertain regarding the completion of EGLE's review and the company's compliance obligations:

> EGLE's final determination on [Best Technology Available (BTA)] was expected in 2019, with an assumed operational compliance date by year-end 2023, but we have not received any response from EGLE yet. A determination is now expected in 2020. Also, the 2023 compliance date depends on the State's timely issuance of the final NPDES permit, the particular site-specific controls/technologies ultimately determined to be BTA, and the negotiation of appropriate timelines in the NPDES permitting process for the Campbell generating complex. Both the timing and the actual BTA determination for the EGLE are uncertain.[369]

She testified that the projected capital spending would "position us well to be able to react to the EGLE's final Section 316(b) BTA determination," either design and engineering of an alternate intake for units 1 and 2 or impingement studies on both units intakes.[370]

Staff recommends that the Commission reject Consumers' proposed $500,000 expenditure due to the uncertainty in timing and scope of work. Mr. DeCooman cited discovery responses from Consumers in Exhibit S-17.7 in testifying that it is uncertain when the company will receive a determination from EGLE regarding its obligations, and thus when the company will make any required expenditures. He also testified that the scope of work is uncertain:

> The Company has allocated $500,000 in the test year to either conduct impingement studies or begin design of alternate intake structure for entrainment compliance. However, the Company confirmed that it has not fully scoped out either potential project. The company estimated the cost of impingement studies at Campbell as approximately $300,000 based on

[368] 6 Tr 1645.
[369] 6 Tr 1645-1646.
[370] Id. at 1651.

> the cost of similar studies in 2005, and has not developed a scope for entrainment compliance.[371]

Mr. DeCooman concluded that "multiple unpredictable factors out of the Company's control" justified Staff's recommendation.

In rebuttal, Ms. Breining characterized Mr. DeCooman's conclusion regarding ambiguity in the timeframe for final compliance as "short-sighted."[372] She testified that if EGLE does respond "at any point in 2020 or during the first half of 2021, then Consumers Energy will need the requested funds to begin compliance activities during the test year."[373] She also repeated her testimony at 6 Tr 1651, quoted in part and described above.[374]

Consumers' briefs track Ms. Breining's testimony. In its brief, Staff argues that without a final determination from EGLE, "and no date certain for that determination," Consumers cannot finalize its project scope and thus cannot demonstrate that its proposed expenditure is reasonable and prudent.[375] This PFD finds that Staff's $500,000 adjustment is well-supported by Mr. DeCooman's testimony and Exhibit S-17.7 and should be adopted. If Consumers does spend money on some currently-undetermined study in the last half of the projected test year, and it can explain those planned expenditures in its next rate case, it would likely begin recovery as soon as January 1, 2022.

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[371] 8 Tr 4769.
[372] 8 Tr 1661.
[373] 8 Tr 1661.
[374] 6 Tr 1662.
[375] Staff brief, p 33-34.

xx. MEC group smaller projects (Exhibit MEC-83)

The MEC group also argues that the Commission should reject the projected expenses associated with 17 smaller projections, none of which individually is large enough for inclusion in Schedule B5.2. Mr. Comings listed these projects on Exhibit MEC-83, with a designation of the reason for his recommendation, and a reference to the discovery responses he relied on. Excluding the larger projects corresponding to specific line items of Schedule B5.2, page 9, the smaller projects he objected to as unsupported total $6.1 million.

Consumers relies on Mr. Hugo's rebuttal testimony at 6 Tr 2100-2101 and 2104 in arguing that the company does not prepare project charters for routine projects.[376] In its reply brief, Consumers quotes Mr. Hugo's rebuttal testimony that "the scope and cost of this routine work is very predictable based on the Company's experience."[377] It argues that it had a "perfectly valid basis to determine projected costs for its routine projects."[378]

Citing Case No. U-20561, the MEC group argues that the company's designation of a project as routine does not obviate the need for supporting documentation. It further argues that many of the projects the company characterizes as routine projects in line with historic costs do not meet that designation. Citing Exhibits MEC-85 and MEC-86, the MEC group argues the costs of some projects vary significantly from year to year, or are only planned sporadically, once every few years.

The ALJ finds Mr. Comings' analysis and the MEC group's argument persuasive that Consumers has failed to provide support for its cost projections for these smaller

[376] Consumers brief, p 141; Consumers reply brief, pp 108-110.
[377] Consumers reply, p 109.
[378] Consumers reply, p 110.

projects. Mr. Comings sought support for each of these projects from the company in addition to the materials accompanying the company's application, and reported his findings with references as shown in Exhibit MEC-83. Consumers failed to establish that the discovery responses cited actually support the company's cost projections. Thus, the $6.1 million adjustment proposed by the MEC group should be adopted.

4. Facilities Capital Expense

In its initial brief, Consumers explains:

> Exhibit A-12 (LDS-1), Schedule B-5.6, provided the Company's projected Electric Operations Support capital expenditures. These expenditures are broken down into two cost categories: Asset Preservation and Computer and Other Equipment. Investment in Asset Preservation of the Company's facilities generally includes investment in new construction, remodeling of existing facilities, emergent work, lifecycle replacement of infrastructure equipment and system failures. 6 TR 1801. These investments are typically broken into three categories: (i) infrastructure investments; (ii) upgrades and maintenance; and (iii) purchase, new construction, and renovations. 6 TR 1802. Projects which support these three components of Asset Preservation expenditures are described at 6 TR 1802-1803.
>
> The Company's proposed Asset Preservation projects are identified in Exhibit A-94 (LDS-3), lines 7 through 27. As discussed in more detail below, major Asset Preservations projects planned for Facilities include the construction of the Lansing Service Center, Kalamazoo Service Center, Hastings Service Center, and Circuit 501 and land acquisition for future construction of a Unified Control Center ("UCC"). 6 TR 1803.[379]

Staff and the Attorney General dispute costs associated with the Service Centers, and the Circuit 501 and UCC Projects.

a. Lansing, Hastings, and Kalamazoo Service Centers

Consumers projects capital expenses of $2,746,000 and $25,567,000 for 2020 and 2021 respectively for the replacement of service centers in Lansing, Kalamazoo, and

[379] Consumers brief, p. 142.

Hastings.[380] Consumers essentially argues that, based on its facilities' assessments, the three service centers at issue have deteriorated to the extent that replacement is more economical than remodeling or repair. In its brief, Consumers argues that "the space requirements of the existing workforce have significantly changed, requiring open office environments, collaborative work groups, computer technology in the workplace, and the need for internet and wireless communication networks[.]"[381]

The Attorney General contends that the amounts proposed for the service centers should be excluded from rates set in this proceeding. Citing discovery responses from the company, Mr. Coppola testified:

> In discovery, the Company was asked to provide comparative information between the new and old centers, such as the number of square feet of space, the number of employees, the type of operations housed at each center, the total cost of each projects by business line in total for the company, and an explanation for the difference in cost between some of the centers. In its response to discovery request AG-CE-1345, which is included in Exhibit 10 AG-1.31, the Company provided the square feet of space and number of employees housed at the old service centers, but did not provide the same information for the new proposed service centers. This lack of information is evidence that development of the new centers is not sufficiently advanced and the Company has not yet established the design parameters of the new service centers, their size and space requirements.[382]

Mr. Coppola also questioned whether some of the activities housed in the service centers could not more appropriately be undertaken at the company's headquarters in Jackson. Mr. Coppola concluded that:

> From the limited information provided by the Company in testimony and in response to discovery, it is apparent that the projects are still in the very early stages of design and development. Furthermore, the timing of when the forecasted expenditures are likely to occur in 2020 and 2021 is suspect.

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[380] Consumers provides a detailed overview of its Asset Preservation program, the company's evaluation process, and its assessment of the three service centers, beginning on page 142 of its initial brief.
[381] Consumers brief, p. 148.
[382] 8 Tr 3382.

> According to the information shown in Exhibit AG-1.31, the Company may have done some early engineering work in 2019 and had plans to acquire the necessary land in 2020 with construction and furnishings to be completed in 2 2021 and 2022. Given the lack of specifics about the size of the square feet of space, employees and operations to be housed at the new centers, it is evident that the projects are not well advance [sic] to result in capital expenditures in 2020 and 2021 to the level forecasted.[383]

After correcting an error in the company's 2020 expense projection,[384] the Attorney General recommended including $1,782,000 in 2021 capital expenses, with remaining costs deferred to a later rate case.

In response, Consumers primarily takes issue with the fact that when the company made the same proposal in its gas rate case, Case No. U-20650, the Attorney General supported the replacement of the service centers. But, "she has suddenly shifted positions, four months later, and requests disallowances related to the replacement of those same service centers, suggesting that the expenditures be delayed to year 2022."[385] Consumers maintains that it provided detailed discovery responses in both the gas case and in this case setting out project timelines and construction details for all three projects. In sum, Consumers argues that "the Company had provided a great deal of detail for the plans for each of the three service centers, which the Attorney General now says is absent. The Attorney General's own exhibit, Exhibit AG-1.31 demonstrates that this simply is untrue."[386]

[383] Id. at 3383-3384.
[384] Mr. Coppola explained that the cost of the service centers is divided between the gas and electric divisions. According to him, "the amount of capital expenditures allocated to the electric business for 2020 should have been $1,782,000 instead of the $2,746,000 amount included in the exhibits." 8 Tr 3383, citing Attachment 1 to discovery response AG-CE-1345 (i.e., Exhibit AG-1.31). Consumers did not address this discrepancy.
[385] Consumers brief, p. 152.
[386] Consumers brief, p. 154.

In her reply brief, the Attorney General asserts that the company mischaracterizes her position in Case No. U-20650, pointing out that she did some limited discovery on the issue but did not file testimony on the service centers because "other more pressing priorities prevented her from doing enough discovery to enable her to reach a determination on the propriety of the proposed expenditures."[387] The Attorney General adds that the additional discovery in this case led her to conclude that the capital expenses for the service centers are not sufficiently defined for inclusion, noting that although Consumers references discovery responses from the gas case, it failed to introduce those discovery responses as exhibits in this case as means to challenge Mr. Coppola's conclusions.

The ALJ agrees with the Attorney General, in part. A review of the detailed timelines contained in Exhibit AG-1.31, page 3, shows that none of the three service centers will be available for use in the 2021 test year. In fact, although the Kalamazoo and Hastings Service Centers are more advanced, all three of the service centers will still be under construction in 2022, at which point furnishing and commissioning will need to be completed. Thus, none of these buildings will be used and useful in the provision of utility service during the test period. The ALJ therefore finds that capital expenses associated with these projects, $2,746,000 and $25,567,000 for 2020 and 2021 respectively, should be excluded from rate base.

b. Circuit 501 Project

Citing rebuttal testimony by Mr. Ennis, Consumers describes the Circuit 501 project as follows:

[387] Attorney General brief, pp. 12-13.

> [T]he Circuit 501 Project will be, among various other uses by Field Operations and Customer Operations, a demonstration facility for emerging technologies and construction techniques that will highlight the capabilities and outcomes of energy efficient design and execution. 6 TR 1821. Examples of these capabilities and outcomes include incorporating onsite solar power generation to partially offset building energy consumption, utilizing geothermal ground loops to optimize building energy consumption, and utilizing battery storage to balance building energy load impacts to the overall utility grid. 6 TR 1821. In addition, the Circuit 501 Project will showcase how personnel can work as members of cross-functional agile teams that can be paired with Customers (residential, small to medium businesses, and industrial) to solve issues and achieve design solutions. 6 TR 1821. These kinds of advanced interactions between the Company and Customers coupled with emerging technologies and the space in which to effectively collaborate on both are outcomes of the Circuit 501 Project that cannot be effectively achieved at existing facilities. 6 TR 1821. Therefore, this facility is required to execute the work requirements listed above and continue to provide valuable solutions for Customers.[388]

Consumers projects capital expenses of $1,570,000 for 2019, $2,805,000 for 2020, and $26,484,000 for 2021, for the Circuit 501 training center. Staff and the Attorney General disputed these costs. Staff recommends that the Commission disallow the projected expenses for 2020 and 2021 entirely, on grounds that the company has failed to provide sufficient justification to support the project. Staff points out that Ms. LaSaba[389] provided less than one page of testimony on the Circuit 501 project, observing:

> She acknowledged that the project is in its early stages before describing how the facility will be used. (6 TR 1810-1811.) Staff expressed disappointment in the general lack of detail for such a high projected spend amount and the use of ambiguous phrases when describing the Circuit 501 project. (8 TR 4878-4879.) Staff issued multiple discovery in the hopes of better understanding the Circuit 501 project, and Staff witness Tayler Becker testified that it is not the responsibility of Staff or any other intervenor to support the Company's case through the discovery process. (8 TR 4879.)[390]

[388] Consumers brief, pp. 155-156.
[389] Ms. LaSaba's direct testimony was adopted by Mr. Ennis.
[390] Staff brief, p. 75.

Staff observes that Mr. Ennis provided rebuttal testimony “that attempted to provide details to support the business case[.]” However, “The added detail is still insufficient to justify such a high spending level.”[391] The Attorney General also opposed 2020 and 2021 spending on Circuit 501, as well as 2019 bridge year spending of $1.57 million, noting that the project appears to be at early stages of development and no benefit/cost analysis for the project has been performed. The Attorney General concludes:

> This proposed project is superfluous and considering all of the projects and other items directly impacting on the Company’s ability to provide safe and reliable electricity to its customers competing for limited resources, there is just no justification for expending funds on this project.[392]

This PFD agrees with Staff and the Attorney General that 2019, 2020, and 2021 spending on the Circuit 501 project should be disallowed. As Staff points out, Ms. LaSaba’s direct testimony supporting the project is less than one page and only provides a very generalized overview of the training center with references to vague benefits such as the “provi[sion of] more centrally-located training opportunities[,]” “promot[ing] the initiatives of the Company related to the evolution of business practices and work environments (both culturally and physically)[,]” and “showcase[ing] to the business community the effectiveness of energy conservation construction which is a key element of continued energy waste reduction success that enables sustainability for the State.”[393] Mr. Ennis’s rebuttal testimony, while slightly longer, is hardly more illuminating, but does include additional jargon, for example, describing the Circuit 501 project as “a demonstration facility for emerging technologies and construction techniques” that will

[391] Id.
[392] Attorney General reply brief, p. 15.
[393] 6 Tr 1810-1811.

"showcase how personnel can work as members of cross-functional agile teams that can be paired with Customers (residential, small to medium businesses, and industrial) to solve issues and achieve design solutions."[394]

Conspicuously absent from the company's limited presentation is any discussion of the actual need for this project and how such a training center/showcase/"cross-functional" workspace for "agile teams" is required to replace or augment the training centers and workspaces the company already has. While it might be nice to provide a company-owned stage for various construction techniques, renewables, and energy efficiency projects, these types of projects exist throughout Michigan and are available to the public for their review. And the robust private sector working in EWR and renewable energy provides ample opportunity for "customers . . . to solve issues and achieve design solutions" for their current and future energy efficiency and renewable energy needs.

In addition, Consumers provides no expected outcomes and certainly no benefit/ cost analysis to justify the considerable cost for a project which the Attorney General aptly describes as "superfluous." The ALJ therefore finds that capital expenditures of $1.57 million for year 2019, $2.085 million for year 2020, and $26.484 million for year 2021 for the Circuit 501 project should be excluded.

c. Unified Control Center (UCC) Project

Ms. Houtz described Consumers' current control center as comprised of two major groups involved in electric supply and grid management. Electric supply is controlled through the Merchant Operations Center in Jackson and Consumers part of the electric

[394] Id. at 1820-1821.

grid is monitored and controlled at several operations centers with two control centers that address the HVD and LVD systems.[395] Ms. Houtz explained:

> The UCC Project is aimed at bringing two of the major electric system and electric supply groups together and incorporating an emergency operations center function into a coordinated center by constructing a modernized hardened facility designed using current industry security, resiliency, and operability standards. This new facility will allow coordinated business continuity plans, with flexible and expandable utilization of a corporate ICS methodology across the Company's energy systems. The existing electric control and dispatch centers were built as early as the 1950s and 1960s and pose limitations that the UCC Project will address.[396]

Ms. Houtz explained that customers will benefit from reduced risk during catastrophic events and faster restoration times as system conditions will be better known and system operators and dispatchers will be housed in the same location. According to Ms. Houtz, "The UCC will also be far more resilient and hardened to adverse natural and man-made disasters, allowing critical utility operations to recover much more quickly in the case of a major catastrophe."[397] Consumers is thus requesting $1 million to complete concept scoping, facility site requirements, and property selection and acquisition in 2021.[398]

The Attorney General opposes the proposed test year spending on this project on grounds that the UCC is not adequately justified at this point. Mr. Coppola testified that:

> In discovery, the Company was asked to provide certain basic information on the proposed project, such as the number of square feet of space for the facility, the total cost from inception to completion, and the need to replace the current facilities with a new combined center. In the response to several discovery requests, which are included in Exhibit AG-1.33, the Company reported that the new facility will be about 100,000 square feet in size. On the cost side, it reported that the new facility will cost in excess of

[395] 6 Tr 1912-1913.
[396] Id. at 1913.
[397] Id. at 1913-1914.
[398] 6 Tr 1912; Exhibit A-94.

> $100 million, but the timing of the expenditures differs between the response received from witness Ennis in AG-CE-1347 from the response received from witness Houtz in AG-CE-1178. The response from Ms. Houtz has half of the $100 million cost occurring in 2022, while Mr. Ennis's response spreads the capital expenditures over the three years from 2022 to 2024. The location of the new facility has not yet been determined.[399]

Mr. Coppola added that although Ms. Houtz indicated in her direct testimony that the $1.0 million in capital expense would be used for property acquisition, "in response to discovery, she now states that the $1 million is to complete concept scope."[400]

In response, Consumers reiterates the importance and need for the UCC, contending that the projected $1 million is necessary to begin the transition to a UCC.

The ALJ finds that because it is unclear how the $1 million will be spent, whether on project scoping only, or on project scoping and land acquisition, the requested expense should be disallowed in this rate case.[401]

5. Fleet Services Capital Expense

Mr. Jones testified that Consumers' total projected investment for Fleet Services is $28,674,000 in 2019; $33,222,000 in 2020; and $62,749,000 for the 2021 test year.[402] For the 2018 historical year, Consumers' Fleet Services capital expense amount was $17,967,000.[403] As summarized in the company's brief, the specific cost breakdowns for the bridge and test years for Fleet Services are as follows:

> <u>Bridge year ending December 31, 2019</u>: (i) $28.431 million for transportation equipment (lifecycle replacement); and (ii) $243,000 for Fleet tool purchases, for a total of $28.674 million;

[399] 8 Tr 3387.
[400] Id. Exhibit AG-1.33 indicates both. On page 1, Ms. Houtz indicates that "The Company is projecting $1 million to complete concept scope[,]" however the table on page 3 states that the 2021 spending plan is for "Research and Possible Land Purchase."
[401] In the event the Commission finds that the projected UCC expense is reasonable, it should make clear that such approval does not include approval for the $100 million UCC project itself.
[402] 6 Tr 2120; Exhibit A-12, Schedule B-5.7.
[403] Exhibit A-12, Schedule B-5.7.

Bridge year ending December 31, 2020: (i) $31.7802 million for transportation equipment (lifecycle replacement); (ii) $1.202 million to begin installation of Telematics; and (iii) $240,000 for Fleet tool purchases, for a total of $33.222 million; and

Test period ending December 31, 2021: (i) $32.005 million for transportation equipment (lifecycle replacement); (ii) $24.494 million to support the additional Fleet units required for the workforce plan of Electric Operations adding Apprentices, Underground Construction workforce, and Journeymen; (iii) $6.009 million to complete Telematics; and (iv) $240,000 for Fleet tool purchases, for a total of $62.748 million. 6 TR 2121-2123; Exhibit A-12 (KPJ-1), Schedule B-5.7.[404]

According to Consumers, and as indicated above, Fleet Service expense is projected to increase considerably over the historical year, largely due to the company's plan to shorten lifecycle replacement of fleet vehicles from the current 12 to 15 years to five to seven years.[405] Staff recommends a reduction in Fleet Services of $39.569 million, and the Attorney General recommends that base capital expense for the test year should be set at $21,664,000. The specific disputes concerning Fleet Services capital expenditures are discussed in detail below.

a. Transportation Equipment Replacement

Relying on testimony by Mr. Jones, and a 2017 report by Utilimarc on utility fleet management and optimization (Exhibit A-72), Consumers proposes a capital expense budget for vehicle replacement of $31.5 million in 2020 and $32 million in the test year. Consumers explains that limiting spending for transportation equipment to an historical amount of $17.5 million has resulted in a need to "triage" aging vehicles for service on both the gas and electric sides of the business. "This impact, based on the previously

[404] Consumers brief, pp. 158-159.
[405] Consumers brief, p. 157.

budgeted dollar amount, has resulted in a Fleet with an average age of over 8-years-old and, in some cases 12- to 15-years-old, and has also resulted in more than 1500 units out of 7000 being used beyond their lifecycles."[406] Using the Utilimarc study, coupled with the company's internal data, Consumers determined that its fleet purchases were not optimizing cost or fleet availability. Thus, Consumers developed "a plan to replace out-of-lifecycle units in a manner that addresses the lowest cost and highest quality to allow the Company to best serve its customers."[407] According to Consumers:

> [B]y executing on the spending plan recommended by Utilimarc, the Company can optimize maintenance costs; in fact, the plan is forecasting to decrease the average age of the Fleet by 4% per year resulting in an average Fleet age of 6.02 years in 2023, and, based upon the projections, the average Fleet age will be 5.55 years, which is the Company's targeted average age, in 2027. 6 TR 2130. Additionally, by executing the Utilimarc plan consistently, the cost avoidance in 2027 is estimated to be $14 million less in maintenance while sustaining the Company's past performance of zero impacts to start-of-day for Operations. 6 TR 2130.[408]

Staff recommends that the Commission reject the company's proposal to increase spending levels from the historical $17.5 million to the projected $31.5 million and disallow $13.718 million in the 2020 bridge year and $13.604 million in the 2021 test year. Staff calculated its fleet vehicle adjustments by starting with the historical annual capital funding for lifecycle replacements of $17.5 million and applying Staff's inflation factors of 1.610% for 2020 and 2.263% for 2021.[409] According to Staff, "[m]aintaining the historical spending level of $17.5 million annually, plus inflation, for fleet lifecycle replacement is appropriate until the Company can demonstrate the additional spending is reasonable

[406] Consumers brief, p. 160, citing 6 Tr 2119.
[407] Id. at 161, citing 6 Tr 2120.
[408] Consumers brief, p. 161.
[409] Staff brief, p. 77, 80; Exhibit S-26.0.

and prudent."[410] Mr. Becker observed that Consumers' evidence shows that the company has consistently demonstrated that it met a fleet availability percentage of 98.5%, exceeded the customer on-time delivery metric of 50%, and that fleet availability has not impacted any reliability metrics.[411] Mr. Becker also testified that the Commission raised concerns about the Utilimarc report, particularly the treatment of depreciation, in Consumers' 2019 gas case, Case No. U-20322.

Similarly, the Attorney General recommends disallowing additional expenditures for vehicle purchases. She points out that:

> Over an eleven-year period, 2009-2019, operating, maintenance, and repair costs have increased on average 6.3%. For 2020, the Company has projected a 6.1% increase. However, there is no indication that the transportation fleet is deteriorating faster than normal. Despite this, Company witness Jones expresses a concern that O&M expenses for the transportation fleet will begin to increase at an annual rate of $21 million and reach a level of $82 million in 10 years if higher capital expenditures are not made. The calculation that underly [sic] this analysis was provided by Ultimarc [sic] based on inconsistent and divergent assumptions. The calculation compares the O&M expense under the current rate of fleet replacement to the O&M expense under the $51.7 million annual spending level.[412] The O&M expense under the current spending level is escalated at an annual rate ranging from 5% to 29% over the 10-year period from 2018 to 2027, while the rate of increase for O&M expense under the Ultimarc's proposed capital spending level of $51.7 million declines from an annual rate of 5% to 1.8% over the same time period. The Company projected O&M costs for 2018 of approximately $64 million and escalating to $93 million in 2019 and 2020 company-wide in case U-20322 if higher capital expenditures were not made. Of course, this prediction did not come true. Moreover, Ultimarc's [sic] study does not include actual and forecasted O&M costs for operating, maintaining and repairing the Company's equipment, but instead it uses a composite of O&M costs from other utilities. The Company could not provide any Consumers' specific data to support Ultimarc's [sic] study. This lack of comparable information undermines the Company's argument that the age of the fleet will increase its O&M costs going forward.[413]

[410] Staff brief, p. 77.
[411] 8 Tr 4873; Exhibit S-26.2.
[412] This amount includes the cost of transportation equipment for both the gas and electric divisions.
[413] Attorney General brief, pp. 69-70.

The Attorney General also points out that Consumers failed to present a benefit cost analysis to justify the increased expense. Because capital expenditures for transportation equipment have averaged $21,664,000 from 2017-2019, this is the amount she supports for the test year for transportation vehicle replacement.

In response, Consumers maintains that Mr. Becker's testimony regarding the reasonableness and prudence of the additional investment in transportation equipment "is nothing more than a hollow and unsupported statement."[414] Referencing Mr. Jones' testimony, Consumers argues that Staff failed to address the time and expense necessary to keep the company's aging fleet operational, highlighting Exhibit A-172, which shows that maintenance expenses increased 30% from 2016-2017 and another 16% from 2017-2018. Consumers also takes issue with Mr. Becker's reliance on GAAP accounting in his critique of the Utilimarc report, noting that Mr. Jones' use of the term "depreciation" is "'more analogous to the word deterioration or the diminution of value from a physical sense and in a usefulness sense – that deterioration reduces the 'value' of the vehicle[.]'"[415] Finally, Consumers contends that Staff selectively quotes the Commission's order in U-20322, noting that the Commission also found that maintenance costs are expected to trend upward over time.

In response to the Attorney General's rationale for limiting cost recovery in the test year to $21.7 million, Consumers argues that the limitation should be rejected as unsupported. Consumers reiterates that it presented more than sufficient evidence to demonstrate that its proposed investment in replacing its fleet is economically justified.

[414] Consumers brief, p. 167.
[415] Id at 168, quoting 6 Tr 2159.

Citing Mr. Jones' rebuttal, Consumers asserts that high unit availability is the result of the constant work, afternoons and overnight, to ensure that utility vehicles are close to 100% available at the start of the next day.

In the September 26, 2019 order in Case No. U-20322, pp. 46-47, the Commission discussed essentially the same proposal on the gas side of Consumers' utility business:

> Despite the extensive testimony offered by Consumers on this issue, the company never made a convincing case that the alleged exorbitant future maintenance costs will materialize. The Utilimarc analysis provides some interesting information but is based on historical industry data. Exhibit A-114, p. 20. Further, as Consumers admits, Utilimarc's recommendations are skewed by the fact that Utilimarc does not calculate depreciation cost the same way that Consumers does, and the fact that the Utilimarc replacement scenario shows flat replacement numbers for each year rather than a "strategic" replacement cycle. 5 Tr 918-919. There are a number of other weaknesses in Consumers' case. Despite an annual proposed increase from $24 million to $51 million in investment, the decrease to maintenance costs will be $14.5 million, undercutting the alleged value. 5 Tr 918; Exhibit A-114. Consumers admits that it "does not keep data to show the exact frequency" of negative impacts on operations on a daily basis of problems with fleet services. 5 Tr 931. The company also admits that the average operating cost per unit over time is incredibly volatile. 5 Tr 935. While the Commission accepts that this cost will trend upward over time, Consumers expects maintenance costs to increase 3-9% annually. 5 Tr 937. None of this adds up to proving that maintenance costs will increase in the foreseeable future such that the annual $51 million investment suggested by Utilimarc and implemented (albeit at a slower pace) by Consumers becomes the reasonable and prudent option.
>
> The company criticizes the Attorney General's present value analysis by saying that O&M costs could be double what the Attorney General posits, but fails to address the fact that, at that price, the proposed investments still appear to be uneconomic. Exhibit AG-27. With fleet unit availability of almost 99%, the Commission agrees that Consumers is doing an excellent job maintaining that availability, and finds that the company has simply failed to show that actual harm will result from keeping current investment somewhere near the historical level of $8 million. 5 Tr 915-916. The Attorney General's proposed disallowance is based on the fact that Consumers' proposal in this case assigns the gas business about 37% of the $51.7 million proposed total investment for the test year. The Attorney General applied the 37% used by the company to the $24 million in current annual spending for the company (gas and electric), thus recommending

> that the gas side be responsible for $8.880 million for the test year. 7 Tr 1655. Based on the totality of the evidence, the Commission finds this to be a reasonable proposal and adopts the Attorney General's proposed $10.2 million disallowance for the test year.[416]

Noting that this determination was made just over a year ago, and that Consumers relies on essentially the same evidence in this case (namely, the 2017 Utilimarc report) as it did in Case No. U-20322, this PFD finds that Consumers' proposal to almost double its spending on transportation fleet is still not sufficiently supported. As the Commission noted in its order, and has been demonstrated again in this case, O&M costs associated with the company's aging fleet are increasing. Nevertheless, as the Attorney General points out, the company's dire predictions in Case No. U-20322 have not come about, and once again Consumers has not presented a benefit cost analysis. Consistent with the discussion above, the ALJ finds that Staff's recommendation, to use the $17.5 million historical expense, escalated by Staff's inflation amounts is reasonable. Thus, the ALJ finds that $13.718 million in the 2020 bridge year and $13.604 million in the 2021 test year should be excluded from Consumers projected fleet replacement expense. The company is invited to provide a benefit/cost analysis in a later rate case, preferably one that evaluates various average fleet ages, not just the 5.5 years that the Utilimarc report deemed optimal.

b. LVD/HVD Workforce Expansion

Consumers requested $27.320 million to support Electric Operations LVD/HVD Workforce Expansion as supported by Mr. Blumenstock and Mr. Detterman. Staff recommended a 50% disallowance ($12.247 million) in capital expenditures associated

[416] Footnotes omitted.

with additional vehicles for workforce expansion. After a review of the company's workforce expansion proposal, Mr. Becker testified:

> Staff must better understand (1) the need for the additional Company workforce and (2) the Company's ability to obtain the projected additional workforce. Although Staff does not doubt that the Company will need additional workforce to support the future planned LVD and HVD work in the field, the testimony that discusses the additional workforce was limited and fails to show critical pieces of information such as the shortfall if the employees are not added, the impact of retiring employees, and the future trend on the use of contractor crews to help support the field work.
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> * * *
>
> Regarding the Company's ability to obtain the additional workforce, the Company's response in . . . [Exhibit S-26.2, p.1] indicates that the apprentice classes will target 1 class of 24 per quarter. The response provided in [Exhibit S-26.2 p.2] further demonstrates that the Company has only added 12 apprentice employees as of April 21, 2020, more than one quarter of the way through 2020 – an evident shortfall of over 50% from the anticipated number of apprentices.
>
> * * *
>
> Staff understands the Company's desire to add additional resources to carry out the future planned work, but based on the testimony and exhibits provided in the case, Staff does not believe the Company has adequately provided evidence to support the number of employees they plan to hire, therefore inadequately justifying the need to add over $24 million worth of fleet. Staff is also under the impression that, upon hiring an apprentice, there is a period of on-the-job training (OJT) when an apprentice would be limited in job functions and accompanied by a more senior employee. This OJT typically involves a more senior employee coaching the apprentice over that period of time, ultimately weakening the Company's argument that additional fleet would be needed immediately for the 2021 test year as the apprentice(s) would likely use the same fleet as the more senior employee(s) to carry out the work.[417]

The Attorney General also proposes a 50% disallowance for transportation vehicles for new employees, observing:

> According to Mr. Jones, the additional equipment purchases will support 234 new employees in the electric distribution operations. The information provided by Mr. Jones does not match with the information presented by

[417] 8 Tr 4874-4876.

> Company witness Detterman in Exhibit A-60 (DED-1). In that exhibit, Mr. Detterman shows that the number of employees dedicated to LVD and HVD distribution work was 1,257 in 2019 and that number is forecasted to increase to 1,400 employees in 2021. This is an increase of only 143 employees not 234. It appears that the requirements for additional transportation equipment presented by Mr. Jones are highly inflated by 91 employees, or approximately 40%. Given this discrepancy and the likelihood that the Commission will not grant all the capital spending requested by the Company for new distribution projects, it is reasonable to assume that the incremental transportation equipment purchases presented by Mr. Jones will be at least 50% less than forecasted.[418]

Consumers counters that there is no discrepancy in the number of new employees in the exhibits cited by Mr. Coppola, explaining:

> The difference between the number of employees lies in the fact that the Fleet plan was established to fulfill the needs of Operations to hire additional Company employees to meet the demands of the planned workload to be performed by Company employees including a portion of that workload currently being performed by contractors. 6 TR 2154. Mr. Detterman's testimony and exhibit, however, identify the total Company and contractor resource requirements and net change there – irrespective of any shift from contractor resources to Company employees. 6 TR 2154. Thus, while Mr. Coppola perceived a discrepancy, there really was none.[419]

The ALJ agrees with Staff and the Attorney General that, given the progress in hiring apprentices as of April 2020, it appears unlikely that all of the additional vehicles Consumers proposes will be necessary for purchase in the test year. In addition, Mr. Becker's testimony regarding the need for supervision of new employees and apprentices is persuasive, further supporting a delay in the purchase of additional vehicles. This PFD therefore adopts the 50% disallowance, or $12.247 million, for the purchase of additional vehicles in the test year.

[418] Attorney General brief, p. 72, citing 8 Tr 3394 and Exhibit AG-1.34.
[419] Consumers brief, p. 291.

c. Telematics

Mr. Jones described Telematics as “a combination of hardware and software used for monitoring vehicles, equipment, and trailers by using Global Positioning System (“GPS”), the various control modules within the units, and the vehicles’ onboard diagnostics.”[420] Mr. Jones explained that Consumers currently has two systems (Track-star and Fleetilla) that provide relatively basic functionality, and which are no longer supported. Consumers explains that it has projected $1.202 million and $6.0 million in capital costs for 2020 and 2021, respectively, for Telematics. Staff did not take issue with the recovery of costs associated with this program.

The Attorney General recommended a complete disallowance of proposed capital expenditures for Telematics in 2020 and 2021. Mr. Coppola testified that because the Telematics system is expected to pay for itself in operational savings, there is no need to pay for the initial system. In response, Consumers argues that while the system will be fully installed in 2021, the benefits will not be completely realized in that year. Thus, funds to implement the system are required.

The Attorney General did not directly respond to the company’s rebuttal concerning the timing of expected cost savings from Telematics.

The ALJ finds that the company’s request for recovery of the Telematics expense is reasonable and should be approved. As Consumers points out, neither Staff nor the Attorney General question the benefits of Telematics, but because the system will not be fully installed until part way through the test year, the savings that will offset the costs will not accrue immediately.

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[420] 6 Tr 2137.

6. Information Technology

Mr. Tolonen supported the company's proposed capital expenses for the bridge and test years.[421] Consumers forecasted total capital expenditures for Information IT infrastructure and various projects of $56.4 million for 2019, $55.6 million for 2020, and $73.8 million for 2021.

As an initial matter, in discovery, the Attorney General requested that Consumers provide actual 2019 capital expense for IT.[422] The amount the company provided was $4,011,000 lower than the projected amount in the company's application. The Attorney General therefore recommends this amount be excluded, and the company agreed.[423]

Staff and the Attorney General proposed additional disallowances to various IT programs. These adjustments are discussed below.

a. Operations Commercial Theft Project

Ms. Fromm recommended a complete disallowance of $311,842 in capital expenditures and $131,784 in O&M expense for the Operations Commercial Theft project for the test year.[424] Ms. Fromm explained that Consumers has used AMI data to determine instances of residential theft, and the company spent $1.43 million on this endeavor in 2018 and 2018. Consumers proposes an additional $311,842 in capital expense and $131,784 in O&M expense to develop advanced analytics for commercial theft detection. Staff sent audit requests in both the company's gas case and this case requesting more information on the specialized algorithms needed for commercial theft

[421] Consumers provided a detailed review of the company's IT programs beginning on page 174 of its initial brief. IT capital and O&M expense details can be found in Exhibit A-106.
[422] 8 Tr 3405; Exhibit AG-1.40.
[423] Consumers brief, p. 187.
[424] 8 Tr 4782.

and received limited additional information.[425] Ms. Fromm further testified that the company could not estimate the number of instances of commercial theft it expected to find. Therefore, Ms. Fromm concluded that Consumers provided insufficient information to support the reasonableness of this request.

In rebuttal, Mr. McLean stated:

> Commercial meters are more complex than residential meters and the usage patterns differ. Because commercial meters do not have the same technology as residential Advanced Metering Infrastructure ("AMI") meters, this data currently does not exist within the Company's data infrastructure. The project will gather and analyze this unique data, build and test new algorithms, and finally develop and generate reports that will provide high confidence instances of commercial theft.[426]

As Staff contends, a review of the audit responses contained in Exhibit S-18.3, pages 11-12, and Mr. Tolonen's and Mr. McLean's limited testimony in support of this program, are insufficient to recommend approval of the Commercial Theft project at this time. While the company does characterize these algorithms as "high value" and provides a list of potential benefits, the company does not attempt to quantify the benefits.[427] And it does not fully explain why a separate mechanism is required to detect commercial theft, rather than simply using or adapting the existing algorithm for residential theft. Thus, the ALJ agrees with Staff that the capital and O&M costs of $311,842 and $131,784, respectively, should be disallowed until Consumers can provide more information about the project.

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[425] In this case, Staff supplied the audit requests and responses from the gas case and asked that the company confirm that its answers were still correct.
[426] 3 Tr 241.
[427] One of the benefits Consumers lists is "increasing the safety of our field teams." Exhibit S-18.3, p. 11. While this may be applicable to gas shutoffs, this may not be the case on the electric side given the capability for remote service shut off facilitated by AMI.

b. Centralized DR Management Project

Consumers included a request for capital and O&M expense for a Centralized DR Management Assessment project and a Centralized DR Management project. Staff does not take issue with the DR Assessment project, but recommends that the capital and O&M costs for the DR Management project, including $480,481 in 2019 and $1,293,000 in 2021, as well as an O&M expense of $123,000, be rejected. According to Staff:

> There is insufficient evidence to support the "Centralized Demand Response Management" project because the assessment project, which will determine the scope of the project, has not yet been completed. The Company plans to complete the assessment project and then immediately proceed with the project itself. As Staff witness Fromm testified, Staff's concerns are compounded by the fact that the current DRMS system cost ratepayers nearly $15 million in capital expenditures and was only implemented four years ago. (Exhibit S-18.3, p 9.) In this case, the Company is requesting additional capital and O&M expenditures to potentially replace this recent, significant investment. Ms. Fromm recommends that the Company should share the results of the assessment and future plans with Staff before any additional rate recovery is granted.[428]

Staff further recommends that any costs for DR assessment or management included in base utility rates should be reconciled and included in the company's next IRP

In rebuttal, Mr. Troyer explained:

> [T]he two technology projects for the Company's DR management capabilities are interconnected and both are needed in the 2021 test year. Several key gaps exist with scaling the management and control of the Company's DR programs. The Centralized DR Management Assessment project will allow the Company to explore the most efficient and flexible solution for centralizing DR management, while the actual Centralized DR Management project will implement the solution (e.g., enhancements to existing software upgrades, or an entirely new system).[429]

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[428] Staff brief, pp. 54-55.
[429] 6 Tr 1571.

Mr. Troyer further testified that although there are a number of systems used to manage DR assets at this time, “the Company[] desire[s] to enable an ultimate DR management system, that would not only allow for the many different current programs to be consolidated, but will also add functionality for other future programs including integration with the Distributed Energy Resource Management Solution.”[430] Mr. Troyer added that a centralized system would improve response time and reduce waste by using a central operator rather than several employees to manage several aspects of the system, noting that without the Centralized DR Management project, the company would need to hire additional employees, which would cost more in the long run than the project. Mr. Troyer also objected to including DR assessment and management costs in the IRP, citing concerns with regulatory lag.[431]

Staff reasserts that the cost of the DR Management project should be excluded. However:

> Staff . . . has not recommended that the Company wait to start work on the “Centralized Demand Response Management” project. Staff’s recommendation is strictly limited to potential recovery. While the Company may believe it is reasonable to plan and budget for this spending internally, as Mr. Troyer states, it does not make it reasonable nor prudent to obtain recovery when, by the Company’s own admission, the design is unknown. Furthermore, the Company does not address Staff’s concern regarding the previous $15 million spent on the current DRMS.

Noting that the company mistakenly included $480,481 in capital expenditures in 2019, which Consumers agrees should be disallowed, the ALJ agrees with the remainder of Staff’s disallowance, namely $1,293,000 in capital costs for 2021, as well as an O&M expense of $123,000, for the Centralized DR Management Project. As the company

[430] Id. at 1572.
[431] Id. at 1573.

admits, the project will not be developed until the Centralized Demand Response Assessment is complete, thus, the scope of the DR management project is unknown at this point. The ALJ also agrees with Staff's concern about the fate of DRMS, for which ratepayers covered the $15 million cost only four year ago. Finally, the ALJ agrees that costs of DR assessment and DR management (when approved) should be reviewed and included as DR costs in the IRP. As Staff clarifies in its brief:

> Staff is not suggesting that the Company may only obtain recovery through the process in its next IRP case. Instead, it is recommending that the costs be reflected in the Company's next IRP case in order to accurately represent the costs of the DR resources that it supports. While Staff is recommending the Centralized Demand Response Management project be disallowed, Staff is not recommending the Commission disallow the "Centralized Demand Response Management Assessment" project in this case, but is recommending that the cost of the assessment project be included in the Company's next IRP and assigned to the DR resources.[432]

c. Replace and Re-Badge Project

Ms. Fromm recommended a disallowance of $347,105 capital for 2020, and $69,305 from 2021 because, in response to a Staff audit question, Consumers indicated that the project has been reprioritized and will not begin until 2021. In rebuttal, Mr. Tolonen agreed with Staff's 2020 disallowance. Consistent with the parties' concurrence on this issue, the ALJ recommends that $347,105 be excluded from 2020 capital expense.

Consumers' objects to Staff's $69,305 adjustment to 2021 capital expense because the adjustment was based on a rough order of magnitude (ROM) estimate that the company disputes. As discussed below concerning other adjustments based on

[432] Staff brief, p. 66.

ROM, the ALJ finds that Staff's approach is reasonable and recommends the $69,305 capital expense adjustment to the replace and rebadge project to be reasonable.[433]

d. ARP – Operational Technology Support Project

In its brief, Consumers explains:

> With respect to the Company's ARP – Operational Technology Support Project, Staff witness Fromm proposed to increase capital expenditures by $385,979 in 2018, $156,261 in 2019, $144,168 in 2020 and $202,497 in 2021 as well as the test year O&M expense of $7,333. 8 TR 4788-4789. The Company agrees. As Mr. Tolonen explained, the recommended increases for the ARP – Operational Technology Support Project more appropriately reflect the Company's allocation related to the electric business. These increases were not part of the Company's initial filing in this case as Staff's recommendation to remove such costs from the Company's natural gas rate case, Case No. U-20650, was made after the Company's initial application was filed for this electric rate case, Case No. U-20697. 6 TR 2559.[434]

Like the NERC-CIP issue addressed below, this matter appears to be settled, and the increased capital expense for this project should be included in electric rate base.

e. NERC CIP v5 Project

In the company's most recent gas case, Case No. U-20650, Staff recommended that the Commission disallow $105,149 in 2019 spending associated with the North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) Version 5, which is a set of requirements that apply to the security of the electric (not gas) system. In its initial filing, Staff recommended that the $105,149 be added back in this case.[435]

[433] This is included in the ROM adjustments discussed below.
[434] Consumers brief, p. 180.
[435] 8 Tr 4790.

In rebuttal, Mr. Tolonen explained that the company agrees with Staff that this cost should be allocated to the electric side of the business, and further indicated that the company had already included the cost in its filing in this case. Staff therefore requests that the Commission disregard its original adjustment for this project.

This issue appears to be settled, and there should be no adjustment to the company's request capital expense for the NERC CIP v5 Project.

f. Application Currency and Enhancement Projects

Mr. Tolonen testified that the projects within the Application and Currency Enhancement area are intended "to keep applications current for security and reliability, to make enhancements to existing software, and to address requests generated by changing business requirements."[436]

In discovery, Staff asked how application upgrades and enhancements were determined. In response, Consumers indicated that upgrades were assessed annually, beginning mid-year, as part of financial planning, whereas enhancements are decided on a monthly basis.[437] According to Staff, from that discovery response, "Ms. Fromm reasoned that the cost projection for the IT application currency planned for 2020 would have been completed mid-2019; however, according to the Company's response, planning would not be completed by the 2021 test year for application currency."[438] Thus, based on the timing of these assessments, "neither the cost projection for 2020 nor 2021 would include the planned work for the enhancements portion of the project[,]" because the company's application was filed in February 2020. Because the projects are not

[436] 6 Tr 2515.
[437] Exhibit S-18.3, p 10.
[438] Staff brief, p. 54.

defined, Staff determined that they are “unknown and unauditable.” Ms. Fromm therefore recommended a reduction of $2,145,217 in capital expenditures for 2020, $2,047,086 in capital expenditures for the test year, and $1,247,029 in O&M expense for the Company’s Application Currency and Enhancement projects.[439]

In rebuttal, Mr. Tolonen pointed out that Staff did not recommend reductions to this program in the company’s previous two rate cases, and although the Staff asked about timing only, Mr. Tolonen provided a list of applications the company intends to upgrade in the test year.[440] In addition, Mr. Tolonen sponsored Exhibit A-188, which is an Enhancement Summary Report. Mr. Tolonen explained that the company does not know which precise software applications will require enhancement, the company has sufficient history to expect that enhancements will be required for the company’s larger applications.[441] Mr. Tolonen further explained:

> [H]istorically, the Company only had sufficient funding to perform a fraction of the proposed enhancements. As a result, each enhancement idea is carefully vetted for the highest benefits with only the best ideas moving forward. Enhancements typically emerge from new or changing business conditions, compliance requirements, customer feedback, and other improvement ideas. Enhancing applications to enable cost savings, efficiencies, improved customer experience, and other benefits requires a short timeframe between inception and implementation and cannot, and should not, wait for rate case approval at an individual line-item level. This funding enables the Company to respond to emergent needs for system changes and ideas that bring value to the Company’s customers that were not necessarily identified at the time the rate filing was prepared.[442]

[439] 8 Tr 4785-4786.
[440] 6 Tr 2564-2566.
[441] Id. at 2567.
[442] Id.

Mr. Tolonen added that simply because enhancements are not identified before a rate case application is prepared, it “does not mean the investments are not auditable” citing the detailed project information contained in Exhibit A-188.[443]

In response, Staff argues that in fact, because the company’s projections are not defined at the time it files it rate case, the proposed expenditures cannot be audited, adding:

> Staff stands by its recommendation. It is in many ways similar to Staff’s position on contingency costs: The Company can ask to recover these funds once it can prove their reasonableness and prudence, which cannot be done until the Company knows how it will use the funds (i.e., the scope of the work). While Staff understands the ever-changing nature of Company to be flexible, the Company has chosen to file its case based on a projected test year. The Company cannot reasonably expect the Commission to approve rates for projects of unknown scope with un-auditable cost projections. If the work either does not occur in full or is mismanaged, there is no easy way, perhaps no way at all, to go back and correct it.[444]

The ALJ agrees with Staff that the reduction for Application and Currency Enhancement should be adopted. As discussed above, the amounts that the company has included for these projects are placeholders for software application updates or enhancements that will be determined at some point in the future; they are indeed unauditable. And, as Staff points out, if a particular project goes awry, ratepayers are at risk of unreasonable or imprudent spending that cannot be recouped. Again, Consumers may include these IT costs in its next rate case. This PFD recommends the Commission adopt a reduction of $2,145,217 in capital expenditures for 2020, $2,047,086 in capital expenditures for the test year, and $1,247,029 in O&M expense for this IT program. The ROM adjustment for this program is included in the discussion below.

[443] Id. at 2568.
[444] Staff brief, p. 56.

g. Dashboard/Website Redesign/Mobile Application

According to Consumers:

> Mr. Coppola challenged the Company's inclusion of costs to pursue the Dashboard Redesign and Website Redesign projects. 8 TR 3399-3400. However, as explained by Company witness McLean in discovery response U-20697-AG-CE-1331 (Exhibit AG-1.37), the Company does not plan to pursue the Dashboard Redesign project with $2,528,027 capital in 2021 and $164,670 of O&M expense in the projected test year and the Website Redesign Project with $3,184,331 in capital in 2021 and $434,445 of O&M expense in the projected test year. These projects may be pursued in the future. Instead, the Company plans to pursue the Customer Self-Service Mobile Application ("Mobile App") Project with $5,712,358 capital in 2021 and $599,115 of O&M expense in the projected test year.[445]

However, Mr. Coppola testified:

> The new project, named Mobile Application, will cost approximately $10 million and appears to be at the very early concept stage. The key project deadlines provided in the discovery response show an investment planning stage to be completed by January 1, 2021, a plan and definition phase for the project in the spring of 2021, a project execution phase sometime in 2021 to 2022, and a project go-live date in the first quarter of 2022.
>
> This information, plus a description of what the new application could accomplish was provide on June 18, 2020, six days before filing of Staff and intervenors testimony in this case. The discovery response included a couple of attachments on forecasted cost data and a general industry survey purporting to show that 30% of the Company's customers and particularly young people prefer to use their cell phone to access information from the Company's website.
>
> Aside from the short notice and the inability to adequately evaluate this change in direction, the project is at an early stage of development that even calling it a conceptual project may be a misnomer. The justification offered by the Company for this new project needs to be more fully vetted with insufficient time to perform that task in this rate case.[446]

In its initial brief, Staff states that it agrees with the Attorney General that the capital and O&M costs of the Mobile Application project should be disallowed. According to Staff:

[445] Consumers brief, p. 187.
[446] 6 Tr 3400.

> In the Company's rebuttal testimony, it argues that the 2021 test year cost for the Mobile App is $220,000 less than the combined costs for the two redesign projects. (3 TR 260.) However, the Company's discovery response shows that implementation is not anticipated until 2022, and neither this nor the Company's rebuttal testimony addresses costs outside of the test year. While the Company further tries to justify this project in its rebuttal testimony by testifying to the importance and benefits of a mobile app, it does not address the AGs concern that the Company would like to invest approximately $10 million on a project that, by its own data, would be utilized by 30% of its customers. (8 TR 3401.) Furthermore, the Company has not addressed the Attorney General's concerns regarding the report the Company relies on from Accenture, who provides consulting services and project implementation services for similar IT projects and may be self-serving.
>
> Staff recommends the Commission disallow the capital and O&M expense that the Company initially supported for the Dashboard and Website Redesign projects, and now is supporting for the Mobile App project. The Company has not provided sufficient evidence in support of this project, and Staff and Intervenors have not had adequate time to review the prudency of this new investment, for the new direction the Company intends to take with it.[447]

In its brief, the company summarizes its testimony on the advantages of the application and customers' increasing reliance on smartphones to interact with the company.

As an initial matter, Consumers again appears to mischaracterize the Attorney General's actions. A review of the discovery request on page 1 of Exhibit AG-1.37 reveals that the Attorney General was not "challenging" the Dashboard/Web Design projects, but rather engaged in the type of inquiry that is typically part of the discovery process.

The ALJ agrees with Staff and the Attorney General that the costs for the Mobile Application should be disallowed. The project was presented far too late in the proceeding for Staff and intervenors to evaluate or assess the reasonableness and

[447] Staff brief, pp. 68-69.

prudency of the Mobile Application; the company failed to justify the $10 million cost of the project when only 30% of the company's customers are expected to utilize the app and, based on the company's testimony and exhibits, the application will not be used and useful until sometime after the test year. Accordingly, this PFD finds that the $2,528,027 capital in 2021 and $164,670 of O&M expense in the projected test year for the Dashboard Redesign project and $3,184,331 in capital in 2021 and $434,445 of O&M expense in the projected test year for the Website Redesign Project should be excluded.[448]

h. Bill Design and Delivery Transformation, Move In/Move Out, On Bill Financing, and Move In/Move Out 3.0

Mr. McLean testified that Mr. Tolonon included at total of $9,114,701 of capital and $1,568,428 of O&M expenses for IT projects that support the Customer Experience Design work. Mr. McLean provided Table 3 containing more detail on the projects at 3 Tr 193. Although two of the six projects were not disputed, the Attorney General takes issue with the timing of four listed above.

Mr. Coppola testified that:

> In discovery, the Company was asked to identify the current phase of each of the projects, the total capital expenditures from inception to completions, the projects' cost estimate details, and other pertinent information to assess the reasonableness, timing and certainty of each of the projects. In response to discovery request AG-CE-1329, which is included in Exhibit AG-1.39, the Company provided some of the detailed information requested.
>
> The Company disclosed that the four projects are still in the investment planning stage to discover the business requirements and possible technology options. In other words, like the projects discussed above, the Company is still trying to determine what it needs and how it will accomplish

[448] It does not appear that Consumers updated its IT costs to reflect the difference between the Dashboard Redesign and Website Redesign Projects and the Mobile Application Project.

> its undefined requirements. These projects are again at a very conceptual and preliminary stage of development. The forecasted capital expenditures do not belong in rate base for the project test year. The timeline provided in the discovery response is not credible given that the Company has not yet defined its requirements and does not know what technology options it needs to implement.[449]

In response, Mr. McLean testified:

> Each of these projects have already undergone necessary planning activities to ensure the Company is making a prudent investment. Work performed in this phase includes identifying high-level business requirements, determining whether the functionality needed is already present in the Company's IT environment, exploring alternatives, identifying performance and security requirements, working with software vendors and cloud solution providers to demonstrate the effectiveness and security of their products and services, and developing the business case with project costs and benefits to confirm whether a proposed project should be approved for development and implementation. Simply because a project is in the first, or Investment Planning Stage, does not mean that it is purely conceptual. These projects are currently awaiting cost approval through this instant case before further planning and implementation activities, which will require the projected funding, are completed.[450]

Mr. McLean explained that the Bill Design project is in process to select a vendor, the project scope has been developed for the Move In/Move Out projects; the design work has been identified, however, "[the] projects are currently on hold awaiting funding approval through this rate case." Similarly for the On-Bill Financing project, "[i]nternal Stakeholders have held multiple design sessions to determine which energy savings projects would be eligible and have met with external stakeholders, including Michigan Saves, to determine scope and details regarding the financing options the Company plans to make available to customers[.]"[451]

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[449] 8 Tr 3404-3405.
[450] 3 Tr 258-259.
[451] Id. at 259.

While it is somewhat concerning that the company lacks sufficient confidence in two of its programs to move forward until funding is approved in this rate case, and the ALJ agrees that the timeline for all four of the projects is ambitious, Consumers nevertheless provided sufficient support to show that the projects are in progress and will be completed in the test year. The Attorney General's recommendation is therefore rejected.

i. Rough Order of Magnitude Adjustments

Consumers included a number of IT projects with costs based on ROM estimates. According to Mr. Tolonen:

> IT's investment forecasts begin with a Rough Order of Magnitude ("ROM") estimate. The Company follows a ROM estimating process . . . where actual project costs may be in the range of -25% to +75% of the ROM estimate. ROM estimates are typically determined by technology and subject matter experts inside and outside the Company in comparison to similar historical projects. From that point, investment forecasting depends on the method used to deliver the intended solution.[452]

Ms. Fromm testified that "Staff is recommending the Commission disallow 20% of the capital expenditures from the projects and corresponding years listed on Exhibit S-18.3, pp 2-7 that are designated as "ROM."[453] The adjustments set forth in Exhibit S-18.3 total $15.93 million, or $14.785 million after incorporating the adjustments discussed above.[454] Ms. Fromm explained:

> Staff is recommending the Commission adjust these projects' projected costs by 20% to reflect the lower bound of their estimated cost range. The projects listed on Exhibit S-18.3, pp 2-7 that are labeled "ROM" have cost projections that are based on a Rough Order of Magnitude (ROM) estimate. ROM cost estimates can have actual project costs in the range of -25% to +75%, whereas definitive estimates that are derived as the projects become more defined, have a range of -5% to +10%. Staff believes it is

[452] 6 Tr 2482-2483.
[453] 8 Tr 4787.
[454] In its brief, Consumers incorrectly reported this amount as $11.866 million.

inappropriate to recover project expenditures that are based on a ROM estimate and may have costs as much as 25% lower than what has been projected. When a company files its application based on a projected test year, these capital expenditures, if unadjusted by the Commission, are used to set rates that go into effect at the beginning of that projected test year. Once set, the Commission cannot go back and retroactively adjust these rates, should they turn out to be too high. This means that the ratepayers have the potential to overpay for their services. Because the Company has chosen to file its case based on a projected test year, and these projects have cost projections based off a ROM estimate, Staff finds it inappropriate to allow full recovery of these projects. Instead, Staff recommends the Commission adjust these costs by 20% to reflect the lower bound of a definitive cost estimate, which is -5% as opposed to -25%. Similar to Staff's position on contingency, Staff believes it is inappropriate for the Company to earn a return of and on costs that may not occur, and foresees the Company returning at a later date to recover expenditures in excess of the amounts Staff has adjusted them by, if and when they occur and can be proven to be spent prudently.[455]

In response, Mr. Tolonen explained:

[T]he statistic of actual project costs typically falling within the range of -25% to +75% of the ROM estimate comes from the Project Management Institute, which bases its information on industry-wide data. Using the midpoint of this industry range, it is statistically more likely that the projects with ROM estimates included in this case will collectively have actual costs +25% of ROM, or $12.4 7 million more than the amount of test year capital requested by the Company in this case. The Company certainly is not seeking that extra 25%, or $12.4 million, and likewise, should not be disallowed 20% for these projects.[456]

Mr. Tolonen added:

[A] 20% reduction in capital for the specified projects imposes a shortfall in the funding required to deliver the scope and expected outcomes of those projects. The Company's IT projects plan and execute on a budget. These budgets are based on the analysis resulting from the ROM estimate. Reducing the budget by one-fifth would require the Company to perform additional analysis for each of these projects, determining what scope could be removed with the least amount of impact to the expected outcomes of the projects. This additional analysis imposes an unreasonable burden on the Company, requiring additional Investment Planning time and budget to perform.[457]

[455] Id. at 4787-4788.
[456] 6 Tr 2561.
[457] Id.

Mr. Tolonen also pointed out that the company has used ROM estimates for IT cost projection in its previous two rate cases and Staff did not recommend any disallowance on that basis, Moreover, according to Consumers, “[t]o adopt a disallowance based on ROM estimates, after allowing the Company recovery based on the same method in previous cases, would impose a new and significantly compounded constraint for the Company, particularly when combined with Staff’s continued recommendation to disallow Investment Planning expense.”[458]

In its brief, Staff responds:

> While Staff generally attempts to be consistent, Staff’s prior positions do not dictate the positions it takes in this case. Staff reserves the right to exercise its independent judgement in each case it participates in as it discovers new and different information through audit and discovery. In this case, Staff has identified several proposed projects with forecasted costs that could be as much as 25% higher than actual costs. This is simply not precise enough for ratemaking purposes. Staff finds the range of a definitive estimate to be more reasonable and has thus recommended a 20% adjustment to reflect the lower bound of the definitive estimate. Further, Staff’s desire to see project forecasts closely match actual project costs is a burden the Company puts on itself when it chooses to file its case based on a projected test year. If the Company were to file a historic test year, which is a choice it is able to make with each new rate case, Staff would not have the same concerns. If the Company finds it too burdensome to base rates on reasonably precise projections, it should consider filing a historic test year.[459]

This PFD finds that Staff’s $14,785,329 adjustment for project costs based on ROM is reasonable. The ALJ agrees with Staff that each rate case stands alone, and Staff’s methods for evaluating costs may evolve over time. Thus, Staff’s acceptance of ROM estimates in a previous case is not dispositive in this case. As was the case with

[458] Consumers brief, pp. 182-183.
[459] Staff brief, pp. 51-52.

generation capital expense, the ALJ agrees with Staff that ROM estimates that are of such a wide range are simply too imprecise for ratemaking purposes, when the company has the option of including only projects that have definitive cost estimates ranging from -5% to +10%. Actual, reasonable and prudent costs for these projects are recoverable in a future rate case.

7. Demand Response Capital Expenditures

Mr. McLean described Consumers' DR programs for residential and business customers, including proposed changes to existing programs and pilot programs. Mr. McLean supported DR capital expenses totaling $36.9 million ($3.7 million for business DR and $32.1 million for residential DR) from 2019 through the test year. In addition, the company requests $3.2 million for two residential DR pilots.[460]

Mr. Coppola testified:

> On a combined basis, between capital spending and O&M expense, the Company is now forecasting total spending on the DR program of $111.0 million for the three years 2019 to 2021. In comparison, the Company had forecasted total spending of $75.5 million in the IRP. Therefore, the Company will be spending 47% more to achieve a lower volume of DR capacity reduction. As stated earlier, the Company now plans to achieve between 27% to 53% fewer MW capacity reductions during the three-year period. This is a disastrous outcome for customers.[461]

Because of these increased costs and decreased capacity savings, Mr. Coppola recommended a disallowance of a $3.2 million pilot DR programs, one designed to implement a customized load control switch to enable Consumers to cycle power levels to certain designated end-use devices on designated peak days, and a second program that targets residential customers with back-up generators.

[460] 3 Tr 217; Exhibit A-12, Schedule B5.5.
[461] 8 Tr 3408. Mr. Coppola's objections to DR O&M spending is addressed below.

Staff did not contest Consumers proposed capital expense amounts for DR, or its proposed pilot projects.[462] Ms. Mulkhoff did make some recommendations for future pilot design and reporting including: (1) a definition of key questions the pilot will answer; (2) more detailed work plans and measurable outcomes and metrics both before and during the pilot; (3) the provision of interim evaluations for DR pilots expected to last more than one year; (4) consultation with Staff throughout the pilot; (5) inclusion of the DR portion of PowerMIFleet in the company's DR reconciliation; and (6) inclusion of the DR pilot reports in the DR Annual Report, the 45-day Report, and the IRP Report.

Consumers agreed with the Staff's recommendations, except for the additional reporting. Consumers expresses concern that the timing for the filing of the different reports could introduce confusion about the status of the pilots. The ALJ agrees, and finds that, in light of the consultation and collaboration called for, it is sufficient to include DR pilot updates in the DR Annual Report only.

The ALJ finds that Mr. Coppola did not dispute the reasonableness of the proposed pilots, and Staff supported the program. Thus, the Attorney General's proposed disallowance is rejected. The Attorney General's additional concerns are addressed below.

8. Customer Experience Capital Expenditures

Consumers projected Customer Experience and Operations (CX&O) capital expense of $9.92 million in the bridge period and $3.068 million in the test year.[463] Consumers describes CX&O as:

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[462] Staff did take issue with one of the company's residential behavioral DR programs. This issue is addressed below in Section VIII.
[463] Exhibit A-12, Schedule B-5.5, p. 2.

> comprised of three areas that collectively define the customers' experience when interacting with the Company: (i) Customer Analytics and Outreach, which involves using data analysis to understand, communicate with, and engage with customers in a meaningful way; (ii) Customer Interactions, which involves connecting with customers in their preferred channel (phone, text, and email) and enhancing the Company's digital offerings in response to customer feedback that they prefer self-serving through digital channels; and (iii) Billing and Payment, which involves providing customers timely and accurate bills and consistent payment options.[464]

Mr. McLean testified that the Customer Analytics portion of the program "is the business process of creating relationships with and satisfying customers."[465] Through research and analysis, Customer Analytics determines (1) what programs to offer; (2) who to target; and (3) how to engage customers.[466]

Staff recommended that capital expense of $1,949,996 million and O&M expense of $44,625 be excluded from rates for the Advanced Analytics Hub (AAH), which purports to "[m]easur[e] the impact of communications, outreach, and engagement on utility products and services and overall customer experience[]" so that the company can "predict the next best service to offer a customer based on their past engagement, and measuring the effectiveness of communication messages[.]"[467] Staff also recommends disallowance of $4.92 million in capital expense and $266,296 in O&M expense for Customer Relationship Management (CRM), which is a technology platform intended to "support the ability to identify and manage customer relationships, in person or virtually."[468] Staff maintains that the company failed to adequately support these programs. For the CRM program, Staff argues:

[464] Consumers brief, p. 297, citing 3 Tr 157.
[465] 3 Tr 163.
[466] Id. See, also Table 1 at 3 Tr 164-165 for detail on the Customer Analytics & Outreach programs and investments.
[467] 3 Tr 164, Table 1.
[468] Id. at 165.

> Though the Company's supplied cost/benefit analysis shows benefits from existing programs that deliver incremental participation in areas like Demand Response, the Company failed to provide the expected growth in the effected programs when asked to do so in response to Staff's audit. (Exhibit S-18.3, p 16.) The Company only stated that it expects to see growth but cannot quantify it until the project is underway. This is concerning to Staff. If this project relies on future benefits that cannot be quantified until after spending has begun, it does not seem appropriate to burden ratepayers with the risk.[469]

Staff further points out that the CRM program "is elective in nature, and does not directly impact the quality of service the customer receives[,]" adding that for both "[w]hile the Company uses a cost/benefit analysis to aid in the support of this project, it does not provide explanation for how the benefits included were derived."[470] Staff compares this program to the company's AMI implementation, where costs were front-loaded and justified on the basis of future benefits. Staff notes that the two benefits the company does quantify are slightly reduced vendor costs that are far outweighed by the $15.5 capital and O&M cost for the program.[471]

Likewise, for the AAH project, Staff asserts that "the Company has failed to support the usefulness of this project with concrete evidence." Staff further observes: "While the Company can quantify expected benefits in the amount of $775,000/year for this project in the form of reduced customer acquisitions costs, avoided costs and operational efficiencies achieved through the project, it cannot provide whether or not the expected reduction in future spending will exceed the total expected project spend. Not until the project is actualized. (Exhibit S-18.3 p 21.)"[472]

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469 Staff brief, p. 69-70.
470 Id. at 70, citing 8 Tr 4792.
471 Staff brief at 72, citing 8 Tr 4793.
472 Id. at 72-73.

Consumers responds that both the AAH and CRM programs "are necessary to support the Company's efforts to offer the right customer experience, to the right customers, in the right channel, at the right time[,]"[473] emphasizing the need to evolve from understanding what has occurred historically to anticipating what customers will want in the future. Consumers asserts that better customer analytics through the AAH, coupled with improved communication via the CRM, are integral to supporting the company's IRP, through increased customer enrollments in EWR, DR, and renewable energy programs. With respect to the CRM project, Mr. McLean testified that:

> CRM is a technology for managing all relationships and interactions with 1 customers. This technology platform connects customer care, account management, customer activation, and customer acquisition for products and services. This will permit anyone in the Company that needs to (and has access rights) to view the complete customer relationship including what has been offered to them, service issues, programs they are engaged in, and usage patterns. Customers may be contacting you on a range of different platforms including phone, email, or social media — asking questions, following up on orders, or contacting the Company about an issue. Without a common platform for customer interactions, communications can be missed or lost in the flood of information, leading to a slow or unsatisfactory response. The CRM solution will permit the Company to integrate with existing software solutions to create a Company-wide tool for supporting customer relations. The Company will be able to compare marketing data with customers' energy usage and other datasets, which the Company expects to lead to improved programs and increased customer enrollment in Company programs such as DR.[474]

Mr. McLean went on to describe a number of expected benefits from the CRM program, including maintaining detailed customer information on accounts, activity, program participation, and communications preferences, integration with SAP, and maintenance of campaigns across various customer segments.[475]

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[473] Consumers brief p. 299, citing 3 Tr 170.
[474] 3 Tr 171.
[475] Id. at 173.

Staff reiterates that the AAH program is elective; it does not immediately impact the quality of service the customer receives, and "[it] is lacking support in the aspirational benefits the Company claims."[476] In addition, Staff highlights its concern that there is an overlap (and therefore double-counting) of the benefits attributable to the AAH project and the CRM program, noting that Consumers cites reduced customer acquisition costs for AAH, but included the same benefit for CRM in a discovery request.[477] Finally, if AAH and CRM are essential to achieving the goals set out in the company's IRP, Staff questions why these additional costs were not included in the IRP as part of the DR, EWR, and renewable energy programs they are supposed to support. According to Staff, "There is no requirement that this investment, nor the CRM, should be pushed through to rates simply because the Company doesn't believe it can achieve its IRP goals without it. The investment is still subject to a preponderance of evidence standard in this case, which the Company has not met."[478]

The ALJ agrees with Staff that the capital and O&M costs of the AAH project and CRM program should be excluded from rates set in this case. As Staff points out, these programs are elective; the majority of the benefits that the company lists are aspirational at best, and it is unclear whether the one quantified benefit, the reduction in customer acquisition costs, avoided costs, and operational efficiencies, Consumers did not provide the sort of detailed benefit cost analysis required to support such a program. The ALJ also agrees that the costs of the AAH project and a portion of the costs of the CRM program are to support the company's efforts to expand DR and EWR program

[476] Staff brief, p. 73.
[477] See, Exhibit S-18.3, p.14.
[478] Staff brief, p. 73.

participation. As such, these costs should be assigned to these programs in Consumers' next IRP, if the company intends to pursue these projects.

The Attorney General also disputed the costs for the work scheduling, service tracker, and a streetlight applications the company proposes. For 2021, Consumers has forecasted capital expenditures of $1,020,000 for online work scheduling, $2,040,000 for 2021 for the service tracker, and $1,020,000 for the streetlight application.[479]

Mr. Coppola testified that in response to discovery, Consumers provided some information about the scope and status of these projects "to assess the reasonableness, timing and certainty of each of the projects."[480] According to the Attorney General, "[t]he Company disclosed that the three projects are still in the investment planning stage to discover the business requirements and possible technology options. In other words, the Company is still trying to determine what it needs and how it will accomplish its undefined requirements."[481] Mr. Coppola described the projects as "very conceptual" and deemed the timeline provided for implementation of the projects as not credible.

In response, Consumers reiterates the benefits of the applications including allowing customers to schedule work online without having to call and make an appointment, allowing customers to track the status of work orders, and providing a more convenient and accessible way to report streetlight outages. Consumers adds that for the online work scheduling project, "[t]he Company has produced prototypes and developed use cases for short cycle and emergency situations for this project, which includes the ability to expand in other service use cases."[482] For the service tracker,

[479] 3 Tr 184-185, Table 2.
[480] 8 Tr 3403; Exhibit A-1.38.
[481] Id.
[482]Consumers brief, p. 201.

"[w]ork has been performed in this project to craft a high-level architecture solution and basic screen flows. Application diagrams, communication diagrams, and process flows have also been developed."[483] And for the streetlight application, [t]he Company has developed concept designs to identify and test the highest value use cases and has worked with the IT vendor to identify the key areas of focus for scope, which led to a project estimate. 3 TR 257. The IT vendor has implemented similar solutions, which supports the accuracy of its estimate, and the Company conferred with Subject Matter Experts to determine internal costs and technical dependencies. Id."[484] In sum, Consumers maintains:

> The Company has engaged in significant planning and design for the Online Communication and Service Enhancement projects, and it is incorrect for the Attorney General to contend that the projects are "very conceptual and preliminary." Other than claiming the projects are still conceptual, Mr. Coppola did not provide reasons that the projects should not be completed. See 8 TR 3402-3403. The Commission should approve the projected capital expenditures that will allow the Company to finalize and complete the projects to provide the enhanced scheduling, tracking, and reporting capabilities to customers.[485]

The Attorney General argues that, like the Dashboard/Web Redesign projects that were initially included in the company's application, but were cancelled and replaced, these projects could also be cancelled or delayed or costs may be significantly revised. "However, the Company still seeks to include those preliminary and tentative capital spending amounts in rate base and earn a return, plus recover depreciation expense and property taxes on them."[486]

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[483] Id. at 201-202, citing 3 Tr 257.
[484] Consumers brief, p. 202.
[485] Id.
[486] Attorney General brief, p. 78.

The ALJ finds that although the Attorney General's position may have some merit, without more (for example a history of projects being proposed, funded, and then either cancelled or delayed[487]) the Attorney General's position relies solely on Mr. Coppola's opinion that the company's timeline is unrealistic. This is insufficient to adopt the disallowance she proposes.

9. Corporate Services Capital Expense

Consumers projects Corporate Services capital expenditures in the amount of $900,000 in the bridge period and $472,000 in the test year. Ms. Gaston explained that Corporate Services includes Governmental, Regulatory, and Public Affairs; Legal and Risk Management; Human Resources and Learning and Development; Chief Financial Officer; General Activities; and administration and other costs, including costs to equip and support the Corporate Services areas with office furniture and equipment, primarily at the company's headquarter locations.[488] No party opposed these projected expenditures.

10. Depreciation

Consumers initially projected that its total accumulated depreciation and amortization reserve will be $6,698,598,735,[489] which was adjusted to $6,695,979,000 in rebuttal.[490] Staff recommended a $6.687 billion reserve in its initial brief. The parties do not appear to dispute the rates to use in the calculation of the accumulated provision for depreciation, and the difference between the company's projected test year accumulated

[487] This may be a fruitful area of inquiry in future rate cases.
[488] 6 Tr 1850; Exhibit A-12, Schedule B-5.4.
[489] Exhibit A-12, Schedule B-3.
[490] Exhibit A-178.

provision for depreciation amount and Staff's proposed amount was the result of adjustments by Staff to the company's projected capital expenditures.

11. Construction Work in Progress

On behalf of Walmart, Ms. Perry acknowledged the Commission's long-standing practice of including CWIP in rate base, but nevertheless raised concerns, contending that CWIP in rate base shifts risk to customers, requires customers to pay for assets that are not used and useful (thus violating the matching principle), and that the reduced risk to shareholders as result of the practice should be reflected in the company's authorized ROE.[491]

Consumers disagrees, arguing that Ms. Perry ignores the Allowance for Funds Used During Construction (AFUDC) offset that was included. Ms. Myers testified:

> Pursuant to long-standing Commission practice, construction projects over six months in duration and over $50,000 are considered AFUDC eligible. In a rate case, the return calculated on AFUDC eligible CWIP is offset in the revenue requirement calculation by increasing net operating income with an AFUDC offset. The effect is that there is no requested rate relief for AFUDC eligible projects. Instead, the financing costs during construction for these projects are accrued and capitalized with the project to be collected over the life of the asset. Capital spending included in CWIP that is not AFUDC eligible does receive a return in the revenue requirement calculation. This is simply to cover the cost of financing during construction because it is not eligible to be accrued and capitalized with the asset for future recovery.[492]

Consumers further asserts that the matching principle is not violated by including CWIP in rate base because:

> Only CWIP that is not AFUDC eligible receives a return in a rate case. 6 TR 2272. The purpose of this return is to cover financing costs of the dollars spent during construction. Customers are not asked to pay for the asset and are instead paying for the financing costs that would actually be incurred during the construction period. This practice does not violate the

[491] 8 Tr 4531-4533.
[492] Consumers brief, pp. 206-207, quoting 6 Tr 2271.

> matching principle because financing costs are requested for recovery during the period in which the financing costs are incurred.[493]

Finally, Consumers points out that including CWIP in rate base does not reduce shareholder risk because, "this well-established practice provides for the recovery of incurred financing costs, in the period when they are incurred." Thus, "for CWIP that receives a return in the rate case, the financing costs are not accrued and capitalized with the asset."[494]

As Consumers points out in its brief, the Commission has previously rejected the same argument by Walmart regarding the propriety of including CWIP in rate base.[495] Given the Commission's consistent affirmation of including CWIP in rate base, the ALJ finds that Walmart's recommendation should be rejected.

B. <u>Working Capital</u>

Using the balance sheet method mandated in the June 11, 1985 order in Case No. U-7350, Consumers projected that its jurisdictional working capital requirement for the test year will be $1,225,087,000.[496] In its initial brief, Staff indicates that it accepts the company's calculation of working capital, and no other party took issue with the company's method or resulting working capital amount.[497]

In addition, Consumers requested approval to include projected pre-paid cloud computing expenses in working capital, consistent with GAAP and FERC accounting

[493] Id. at 206-207.
[494] Id. at 207, citing 6 Tr 2273.
[495] See, e.g., February 28, 2017 order in Case No. U-17990, pp. 57-58, and November 19, 2015 order in Case No. U-17735, page 24.
[496] Exhibit A-178, Appendix B, p.1.
[497] Staff brief, p. 6; Appendix B.

guidance issued December 20, 2019, in Docket No. AI20-1-000. No party took issue with the company's request, and the ALJ recommends that it be granted.

C. Rate Base

Based on the discussion and recommendations above, this PFD calculates a total electric rate base of $11,610,475,000.

V.

COST OF CAPITAL

A. Test Year Capital Structure

As the Commission has indicated,

> The appropriate capital structure of a utility is based on considerations of cost and risk, and in accordance with these considerations, the Commission has from time to time adjusted a company's capital structure to one that was more reasonable. While a company with more debt is a financially riskier enterprise, a company with more equity has a greater amount of capital invested in the most expensive type of capital. Not only is equity capital more expensive than debt capital, but the return on equity adds a tax burden to total revenue requirements, whereas debt does not. Thus, the Commission seeks an appropriate balance between the risks and costs of investor and debt funding.[498]

The company has proposed that the rate of return be calculated using a projected Consumers Energy capital structure for the period ending December 31, 2021.[499] The company and Staff agree with the amounts outstanding to be used in the company's proposed capital structure for long-term debt, short-term debt, preferred stock, deferred federal income taxes ("FITs"), and the Job Development Investment Tax Credit

[498] February 28, 2017 order in Case No. U-17990, p. 63.
[499] 4 Tr 656, 730; Exhibit A-138.

(JDITC).[500] Staff, the Attorney General, ABATE and RCG disagree with the company's recommendation for common equity balance and cost rates.

1. Common Equity Balance

In calculating the 13-month average common equity balance for the test year of 52.50%, Mr. Bleckman started with the actual balances of long-term debt, preferred stock, common equity, short term debt, deferred income taxes, and ITC as of December 31, 2018, as shown in Exhibit A-14, Schedule D-1a, page 1, column (e), and then made the adjustments shown in column (f) to arrive at the average test year balance ending December 31, 2021.[501] Mr. Bleckman projected that the 13-month common equity balance for the test year will be $2.175 billion higher than the December 31, 2018 balance.[502]

Mr. Bleckman states that the common equity adjustment of $2.175 billion consists of two components; an adjustment to reflect $344 million in projected retained earnings, and an adjustment of $1.831 billion to reflect the projected equity infusions from January 2019 through December 2021.[503] For the retained earnings adjustment, he started with the December 31, 2018 balance for common equity, and increased the common equity balance to reflect the retained earnings that will occur through December 31, 2021.[504]

For the equity infusions adjustment, Mr. Bleckman states that the $1.831 billion adjustment is the amount needed to hold a 52.50% equity ratio for the test period in this case.[505] He adds that CMS Energy made an equity infusion into Consumers of $350

[500] Exhibit A-138; Exhibit S-4, Schedule D-1a.
[501] 4 Tr 657; Exhibit A-14, Schedule D-1a.
[502] 4 Tr 658.
[503] Id.
[504] Id.
[505] 4 Tr 660.

million in January 2019 and made an equity infusion of $325 million into Consumers in June 2019.[506] Mr. Bleckman notes that CMS Energy plans to make an equity infusion into Consumers of $350 million by February 2020, $300 million by June 2020, $400 million by February 2021, and $310 million by June 2021.[507] Mr. Bleckman states that, to arrive at the equity infusions for 2020 and 2021, the company reviews a number of factors in determining the level of required equity infusions, including the level of cash flows, capital expenditures, and the resulting credit metrics, and also considers the current mix of debt and equity (equity ratio) and how to strike the optimal balance for customers.[508]

Mr. Bleckman testified that the average equity ratio for the company's ROE proxy peer group was 53.2%, 70 basis points higher than the 52.50% proposed in this case.[509] He notes that the average authorized equity ratios adopted by utility commissions so far in 2019 have been higher than 2018 and 2017.[510] He adds that Staff noted in SEMCO Energy Gas's recent rate case (Case No. U-20479), the average authorized equity ratio for 2017, 2018, and the first half of 2019 are 49.88%, 50.09%, and 54.60% respectively.[511] Mr. Bleckman states that it is appropriate to consider peer company equity ratio averages and trends in determining the equity ratio for the company in this case since the Commission cited Staff's authorized ROE national average analysis in Consumers' most recent gas rate case (U-20322).[512]

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[506] Id.
[507] Id.
[508] Id.
[509] 4 Tr 661.
[510] 4 Tr 662.
[511] Id.
[512] Id.

Mr. Bleckman states that the TCJA, effective beginning in January 2018, reduced the corporate tax rate and affects current and deferred tax accounting methods used by utilities.[513] He notes that while the savings from lower tax rates will be passed on directly to Consumers' customers, those same savings reduce future cash inflows to Consumers.[514] He adds that the reduced cash inflows weaken Consumers' credit metrics, which degrades Consumers' credit quality, potentially increasing financing costs.[515] He notes that the reduction in current tax expense collection (Credit A) did not begin until July 2018 for the gas utility and August 2018 for the electric utility, and that the reduction in deferred tax expense collection (Calculation C) did not begin until October 2019.[516]

Mr. Bleckman states that a key financial metric used by rating agencies is the ratio of Funds From Operations ("FFO") to Debt ("FFO to Debt ratio"), and that the calculation of this financial metric includes, in part, both the equity ratio and the authorized ROE of the company.[517] As such, he asserts that there needs to be a balance between the company's equity ratio and ROE that will ensure that this key financial metric does not drop and cause significant credit deterioration.[518] He adds that an equity ratio of 52.50% and an ROE of 10.50%, as recommended by the Consumers in this case, results in an FFO to Debt ratio that is sufficient in striking this balance.[519]

Mr. Bleckman calculated the impact of the TCJA on Consumers' FFO to Debt ratio in Exhibit A-27, which shows that FFO is reduced by $138 million (starting with 2018

[513] 4 Tr 663.
[514] Id.
[515] Id.
[516] Id.
[517] 4 Tr 664.
[518] Id.
[519] Id.

actuals, which already include partial impacts of the TCJA) for both S&P and Moody's.[520] He notes that, assuming approximately half of this reduction in cash is replaced with long-term debt, the S&P ratio is reduced by 190 basis points and the Moody's ratio is reduced by 200 basis points.[521] Mr. Bleckman adds that for S&P, an adjusted FFO to Debt ratio of 23% is the threshold between an Intermediate Risk profile and a Significant Risk profile, while for Moody's, an adjusted FFO to Debt ratio of 22% is the threshold between an "A" rating and a "Baa" rating when evaluating a company's financial strength.[522] Thus, he asserts that the impacts of Tax Reform, in combination with an equity ratio of 52.05% and a 9.90% ROE (as approved in Case No. U-20322), are reflective of FFO to Debt ratios of 18.6% for S&P and just above 19% for Moody's, which is well below the established thresholds, which places Consumers' credit quality at risk.[523] He adds that rating agencies have stated that the Consumers credit rating could be lowered if core financial measures underperform.[524]

Mr. Bleckman asserts that, because ROE and equity ratio are two inputs in determining the Consumers' ratio of FFO to Debt, and FFO to Debt ratios are used by credit agencies to determine the Consumers' financial health, Consumers' ROE and equity ratio cannot be evaluated in isolation, but should be viewed as interconnected components.[525] He argues that a lower authorized ROE would necessitate a higher approved equity ratio to maintain the same level of financial health.[526]

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[520] 4 Tr 665.
[521] Id.
[522] 4 Tr 666-667.
[523] 4 Tr 667; Exhibit A-27.
[524] 4 Tr 667.
[525] 4 Tr 668.
[526] 4 Tr 669.

Mr. Bleckman argues that some credit rating agencies include additional debt when calculating equity ratios, which can significantly reduce the equity ratio and the FFO/Debt ratio.[527] He asserts that, as such, the rating agencies' debt adjustments support the need for the Consumers to maintain a relatively higher equity ratio before adjustment to be on par with comparable utilities after adjustment.[528] Thus, "a regulatory equity ratio of at least 52.50% is necessary to support the Commission's desire, as stated in Case No. U-20322, for Consumers to maintain an evenly balanced capital structure."[529]

Mr. Bleckman testified that Consumers is making significant capital investments over the next five years to maintain and improve infrastructure to the benefit of customers, and that Consumers will rely heavily on the capital markets to fund these investments.[530] He adds that, as a higher credit rating results in lower financing rates, it will be important for Consumers to maintain strong credit ratings over this period.[531] Mr. Bleckman asserts that strong credit ratings also enable Consumers to issue long-term debt ahead of upcoming maturities ("prefund") to take advantage of low interest rates without jeopardizing the company's financial ratios.[532]

Staff recommends a 51.11% common equity balance, which Staff asserts supports the Commission's objective of a more balanced capital structure that is less costly to ratepayers and yet still reasonable for the company to improve its credit standing and maintain its wide access to capital markets.[533] In determining Staff's recommended

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[527] 4 Tr 672-673.
[528] 4 Tr 673.
[529] $ Tr 673-674.
[530] 4 Tr 670.
[531] Id.
[532] 4 Tr 670.
[533] 8 Tr 3101.

common equity balance, Mr. Megginson considered the Consumers' actual common equity balance through March 2020, and then estimated approximately $148 million in retained earnings to the end of the test year.[534] In addition, Mr. Megginson modified all the equity infusions after April 2020 to $300 million, using Consumers' higher 2019 net income and leveling the equity infusions to adhere to the Commission's objective for a more balanced capital structure while accommodating Consumers with its equity infusion requests.[535] He notes that infusion forecasts are not set in stone and are subject to change at Consumers' discretion.[536] He argues that the proper equity to debt ratio is an important objective to maintain reasonable costs to ratepayers and Staff's 51.11% equity recommendation helps achieve that sensible objective.[537]

Regarding Consumers' current credit rating, Mr. Megginson states that most of Consumers' long-term debt is in the form of first mortgage bonds that the rating agencies label as senior secured debt.[538] He notes that as shown on the company's Exhibit A-24, Schedule D-6, page 1, Standard & Poor's (S&P) rates Consumers Energy's senior secured debt "A," which was raised from "A-" on December 4, 2014; Moody's rates Consumers senior secured debt "Aa3," which was raised from "A1" in April 2017; and Fitch rates Consumers senior secured debt "A+," which was raised two notches from "A-" in March 2016.[539] He asserts that this suggests that the company should have no problem accessing the capital markets for reasonably, if not preferably, priced borrowings

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[534] 8 Tr 3099
[535] 8 Tr 3100, *quoting* Case No. U-17990, February 28, 2017 order, p. 64, and Case No. U-18124, July 31, 2017 order, p. 45-46.
[536] 8 Tr 3100.
[537] 8 Tr 3102.
[538] 8 Tr 3096.
[539] Id.; Exhibit A-24.

in the future.[540] He adds that Staff believes that lower pricing on the company's debt promotes a more reasonable required return.[541]

Mr. Megginson states that Consumers' credit rating has been favorably impacted by Michigan's regulatory framework.[542] He notes that Consumers has filed several electric rate cases since the passage of Public Act 286, as later modified by PA 341, and the company has taken advantage of the increasingly favorable provisions in the legislation, as well as the benefit of other regulatory mechanisms approved by the Commission.[543] He adds that Consumers' credit metrics are solid in relation to its financial ratios and Consumers' credit rating has been stable or rising for the past 5+ years.[544]

Mr. Megginson states that since the passage of the TCJA in 2017, Consumers' credit rating has not changed, nor has its credit rating outlook changed.[545] Thus, the TCJA has not negatively impacted the company's credit metrics.[546] He adds that, as shown on Consumers' Exhibit A-24, Schedule D-6, its credit rating has held steady even with Consumers noting a reduction to its FFO/debt ratio due to the passage of TCJA.[547] Mr. Megginson notes that Consumers indicated that it will likely not reduce its capital spend in its transmission, distribution system, asset relocation and new business programs, which would lower the need for long-term borrowing and improves important credit metrics such as the FFO/debt ratio.[548] In addition, as noted on Consumers' Exhibit No. A-14, Schedule D-5, page 7, Consumers long-term debt issuances actually increased since

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[540] Id.
[541] Id.
[542] 8 Tr 3097.
[543] Id.
[544] Id.
[545] 8 Tr 3097.
[546] Id.
[547] Id.
[548] Id.

the passage of the TCJA in 2017, with Consumers able to access credit markets for billions in short-term and long-term loans at very competitive pricing.[549] He concludes, thus, that Consumers' notion that the TCJA has harmed its credit metrics and requires either an increased ROE or a higher equity level is overblown and not well supported.[550]

In rebuttal, Mr. Bleckman argues that instead of using the common equity balance on a regulatory basis, Staff used the common equity balance on a financial basis, which has Staff's projected equity balance for the test year being understated by $28 million.[551] In addition, Staff used a 25-month average, and had Staff taken the 13-month average from December 2020 to December 2021, the projected common equity balance would have been $380 million higher.[552] Mr. Bleckman asserts that the use of a 13-month average for projected capital structure balances is a long-standing practice used by the company and various intervenors for several years and is a practice that has been accepted by the Commission.[553] As such, he argues that a 13-month average of month-end equity balances must be used to accurately calculate the average equity balance during the test year.[554] He adds that had Staff incorporated the correct March 2020 equity balance and correctly calculated the 13-month test year equity average, Staff's projected equity balance would be $408 million higher, resulting in an equity ratio of 52.26%.[555]

Mr. Bleckman also argues that Staff's common equity balance fails to recognize the full amount of Consumers' planned equity infusions from CMS Energy.[556] He asserts

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[549] 8 Tr 3097-3098.
[550] 8 Tr 3098.
[551] 4 Tr 699-700
[552] 4 Tr 700.
[553] 4 Tr 701.
[554] Id.
[555] 4 Tr 702.
[556] Id.

that these adjustments were not backed by empirical data or facts and circumstances from the case, and reduced Consumers projected February 2021 equity infusion by $100 million and reduced the projected June 2021 equity infusion by $10 million.[557] He adds that his projected common equity balance for the test year in this case takes into account equity infusions from CMS Energy that are planned, needed, and consistent with the expected capital needs of Consumers through the test year ending December 2021.[558] Mr. Bleckman acknowledges that actual equity infusions sometimes differ from amounts projected in previously filed rate cases, noting that "actual financial results, cash flows, and (in the case of the TCJA) fundamental economics of the industry can change", and that Consumers strives to adapt to these changes and, if needed, "will adjust the timing and amount of its debt and equity financing in order to achieve its targeted and approved equity ratio."[559]

Regarding Mr. Megginson's statement that Consumers' current credit ratings "suggests that the Company should have no problem accessing the capital markets for reasonably, if not preferably, priced borrowings in the future," Mr. Bleckman asserts that this statement "is an unsupported and reckless assumption that current credit ratings, with the current equity ratio, are indicative of future credit quality, access to capital markets, and favorable pricing, with a reduced equity ratio and in the current economic climate."[560]

Regarding Mr. Megginson's assertion that the TCJA has not negatively impacted Consumers' credit metrics, Mr. Bleckman asserts that Moody's credit rating outlook for

[557] 4 Tr 702-703.
[558] 4 Tr 703.
[559] 4 Tr 706.
[560] 4 Tr 708.

the company has changed from stable to negative, and that the fact that Consumers' credit rating has not yet changed does not mean that Consumers' credit metrics have been unaffected by the negative impacts of the TCJA.[561] He adds that Moody's July 2020 ratings action, which changed the credit outlook for the company from stable to negative, "indicates a higher likelihood of a credit rating downgrade in the near future."[562] Mr. Bleckman notes that Moody's specifically identified Consumers' ROE and equity ratio in their announcement, stating that "the possibility of a lower authorized ROE and equity capital structure could put further pressure on the organization's already weakened credit metrics…"[563]

Mr. Bleckman also points to the COVID-19 pandemic as affecting the need for the equity ratio it proposes.

> The COVID-19 pandemic has had a devastating impact on the U.S. economy. The unemployment rate increased from 3.5% in February 2020 to 14.7% in April 2020 (an all time high), representing a decline of more than 25 million people employed, plus another 8 million that exited the labor force. It should be noted that in May 2020, the state of Michigan had the third highest unemployment rate in the country at 21.2%. The pandemic and social distancing has also widely disrupted economic activity, causing a dramatic drop off in manufacturing production, home construction, and consumer spending. The stock market has seen unprecedented volatility, including March 16th when the Dow Jones Industrial Average was down almost 13%, dropping by nearly 3,000 points, the worst single day point drop in history. In June 2020, it was determined that the U.S. economy had entered a recession in February 2020. As explained by the National Bureau of Economic Research, "the unprecedented magnitude of the decline in employment and production, and its broad reach across the entire economy, warrants the designation of this episode as a recession."[564]

[561] 4 Tr 708.
[562] 4 Tr 709, citing Exhibit A-142.
[563] 4 Tr 711.
[564] 4 Tr 713.

He adds that Moody's highlighted the pandemic and the potential for a further weakening of financial metrics, noting that Moody's stated that '[t]he effects of the pandemic could result in financial metrics that are weaker than expected."[565] Mr. Bleckman added that in April 2020, S&P lowered the entire North American utilities sector outlook to negative, specifically citing the COVID-19 risk.[566] He concludes that the rating agencies recognize the negative financial impacts of the COVID-19 pandemic, and they are closely monitoring companies' cash flow and financial metrics for results that would warrant a credit downgrade.[567] He also states that the COVID-19 pandemic has led to a recession of the U.S. economy and that this economic downturn has had a direct detrimental impact to the Consumers' cash flow and financial credit metrics.[568] Despite the pandemic, Consumers is maintaining its filed equity ratio of 52.50% because, while the negative credit impacts of federal Tax Reform and the COVID-19 pandemic would support a higher equity ratio, Consumers "has heard and understands the input of the Commission in previous rate cases and is attempting to strike the right balance for customers, the state of Michigan, and credit rating agencies."[569]

Mr. Bleckman also asserts that Consumers' equity ratio is already balanced from a rating agency perspective, noting that Consumers' equity ratio on a financial basis was under 50%, and that given the impact of the rating agency adjustments, the Commission should view a regulatory equity ratio of at least 52.50% as necessary to support its desire for Consumers to maintain an appropriately balanced capital structure.[570]

[565] 4 Tr 713-714.
[566] 4 Tr 714, citing Exhibit A-141.
[567] 4 Tr 715.
[568] Id.
[569] 4 Tr 717.
[570] 4 Tr 721, 722.

Mr. Bleckman states that the average equity ratio of Consumers' peer group was 53.2%, above the 52.50% it proposes in this case.[571] He adds that he calculated an average equity ratio of nearly 53% for Staff's proxy group.[572]

Mr. Bleckman states that the Commission's Order in Case No. U-17990 asked the company to move to a balanced capital structure, but also noted that if the company is unable to do so, a more complete analysis should be included to explain why such a result is reasonable and prudent.[573] He adds that the Tax Reform was not contemplated or taken into account at the time of the Commission's July 31, 2017 Order in Case No. U-18124, and the impact of the TCJA "make the glide path to a 50% equity ratio by 2023 no longer sound planning based on the new economic reality that the Company is facing."[574]

The Attorney General recommends adopting the permanent capital structure proposed by Consumers, with an increase to the long-term debt component of $432 million and a reduction to the common equity component by the same amount.[575] This adjustment results in a capital structure with 50% common equity and 50% of debt and preferred stock.[576]

Mr. Coppola states that the proposed adjustment was the result of four factors: (1) the Commission's directive in the Consumers' electric rate case U-17990 that moving to a 50/50 capital structure is appropriate in the absence of evidence suggesting otherwise; (2) Consumers' practice of funding a significant part of its equity contributions with long term debt issued at the parent company level; (3) Consumers' unsupported position that

[571] 4 Tr 724; Exhibit A-26.
[572] Id.; Exhibit A-140.
[573] 4 Tr 718.
[574] 4 Tr 720.
[575] 8 Tr 3416-3417.
[576] 8 Tr 3417.

a higher equity cushion is needed to maintain its credit ratings on long-term debt; and (4) the fact that the common equity ratio of the peer group, used to assess the cost of common equity in this case, is approximately 45%.[577]

Mr. Coppola states that Consumers' witness Andrew Denato testified in his direct testimony in Case No. U-18424, which was the company's 2018 gas rate case, that Consumers' plan was to reduce its common equity ratio to 52.5% in 2018, 52.0% in 2019, 51.5% in 2020; and by a half of a percentage point in each year until the 50% ratio is achieved in 2023.[578] Mr. Coppola notes that in this rate case and in cases Nos. U-20134, U-20650 and U-20322 (Consumers' last electric case and the two most recent gas rate cases), Consumers' position has changed, and it now asserts that the TCJA, the financing required for Consumers' planned infrastructure upgrade, the effect of PPAs, and maintaining certain cash flow ratios in support of the Consumers' credit ratings makes a common equity ratio of 52.5% mandatory for the foreseeable future.[579]

Mr. Coppola states that the company has communicated to investors and securities analysts that because of the pass-through to customers of lower taxes from the TCJA, it has "headroom" to increase capital expenditures at an even higher level, which he asserts clearly contradicts the view that Consumers needs a higher equity ratio as a result of the TCJA.[580]

Mr. Coppola states that the additional debt to fund additional capital expenditures is likely to be the real issue for rating agencies when assessing the company's credit ratios, and that a better option to increasing the equity ratio would be for Consumers to

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[577] 8 Tr 3417. (Footnote omitted)
[578] 8 Tr 3418.
[579] 8 Tr 3419.
[580] 8 Tr 3419.

decrease capital expenditures and issue less debt if it is concerned with its cash flow to debt coverage ratios.[581] He adds that if Consumers' capital program is not scaled down and instead is further escalated, the resulting incremental debt will weaken the same cash flow ratios with which Consumers is concerned.[582]

Mr. Coppola also notes that in its September 26, 2019 order in the company's last gas rate case No. U-20322, the Commission decided to set the common equity ratio at 52.05%, as recommended by the Staff, based in part on "…the Commission's desire to see the Company move toward a 50/50 capital structure."[583]

Regarding Mr. Bleckman's testimony (and chart) that based on a 52.05% common equity ratio and a 9.9% ROE (assigned in Case No. U-20322), Consumers would face a credit rating downgrade from a credit rating of "A" to the "Baa" category by Moody's Investor Service (Moody's), Mr. Coppola asserts that Mr. Bleckman's analysis and conclusions are incorrect, noting that the current senior secured credit rating by Moody's is "Aa3", which is two notches above the "A" rating assigned by Standard & Poor's (S&P) and one notch above the "A+" rating assigned by Fitch Investor Service (Fitch).[584] He adds that Mr. Bleckman's chart shows that the Consumers would move from the "Intermediate Risk" category to the "Significant Risk" category according to the S&P credit criteria, and it does not mean that any such change in the risk profile will occur or that S&P would downgrade Consumers' credit rating.[585]

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[581] 8 Tr 3419-3420.
[582] 8 Tr 3420.
[583] 8 Tr 3420-3421.
[584] 8 Tr 3421.
[585] Id.

Mr. Coppola states that S&P's January 29, 2020 report shows that Consumers' senior secured debt is rated as "A", and the report states that "We could lower our rating on Consumers Energy if its stand-alone financial measures weaken such that its FFO to debt weakens to consistently below 15%."[586] Mr. Coppola adds that the report also shows the 2018 FFO to debt coverage ratio for Consumers at 21.4%, and that Mr. Bleckman's own Exhibit A-27 shows a coverage ratio of 18.6% after adjusting 2018 results for the effects of the TCJA and the ROE and common equity parameters from Case No. U-20322.[587] Noting that the 18.6% coverage ratio for 2018 is well above the 15% threshold referenced by S&P in the report, he argues that there is no risk of a S&P downgrade of the company's debt due to the TCJA cash flow changes as implied by Mr. Bleckman.[588] He adds that although Moody's June 19, 2019 report stated that a downgrade could be considered if the regulatory environment in Michigan becomes less constructive and if financial metrics deteriorate "…such as CFO pre-W/C falling to below 20% or if parent [company] debt increases", even if a one notch downgrade by Moody's were to occur, the credit rating would still be one notch above S&P's credit rating and at par with Fitch's credit rating.[589] He adds that Mr. Bleckman arrives at the 19.1% coverage ratio for 2018 by making unexplained and improper adjustments for the TCJA, and that if these adjustments are excluded, the coverage ratio would be 21.1%, which is above the 20.0% coverage ratio threshold.[590] Mr. Coppola further notes that Moody's June 19, 2019 report shows the CFO Pre-W/C to Debt ratio at 22.3% for the 12 months ended March 2019,

[586] 8 Tr 3422; Exhibit A-24.
[587] 8 Tr 3422.
[588] Id.
[589] 8 Tr 3422-3423.
[590] 8 Tr 3423-3424.

which further supports the conclusion that Consumers is exceeding the 20% coverage threshold more than a year after the TJCA went into effect.[591]

Mr. Coppola calculated Consumers' key cash flow to debt coverage ratios, utilizing both the S&P and Moody's coverage ratio results for 2017 and adjusted them for the TCJA cash flow changes, the ROE rate of 9.50%, and a 50% common equity capital ratio as advocated by the Attorney General.[592] His calculations resulted in the cash flow coverage ratios drop to 18.3% for S&P and 21.1% for Moody's, which exceeded the minimum cash flow to debt coverage ratios of both rating agencies in 2017 by comfortable margins.[593]

Mr. Coppola asserts that the real motivation behind Consumers' proposed equity ratio is to expand the base on which the Consumers can get a greater return on investment and increase its earnings.[594] Mr. Coppola states that the average common equity ratio of the peer company group for 2019 was 45.5%.[595] He adds that the cost of equity for those companies in the peer group is highly dependent on the financial risk reflected in their capital structure, and, thus, it is critical to synchronize the capital structure of the Consumers to the peer group average as closely as possible, in order to have consistency with the cost of equity capital derived from those peer group companies.[596] Mr. Coppola states that the revenue requirement savings related to a lower

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[591] 8 Tr 3424.
[592] Id.
[593] 8 Tr 3425.
[594] 8 Tr 3426.
[595] 8 Tr 3432.
[596] Id.

common equity ratio of 50% in comparison to Consumers' proposed 52.5% is approximately $24.6 million annually.[597]

In rebuttal, Mr. Bleckman notes that in its January 29, 2020 credit report on Consumers, S&P acknowledges that "the company plans significant investment in gas infrastructure upgrades over the next few years"; that in Fitch's July 2, 2019 credit opinion on the company, "Fitch expects Consumers Energy's financial profile to remain supportive of the ratings, despite the large capex program;" and that in its June 19, 2019 credit report, Moody's stated its expectation that "the Michigan legislative and regulatory environments will remain constructive and allow the utility to recover, and earn a reasonable return on, prudently incurred capital investments such that the utility's financial profile will remains healthy."[598] He adds that the statements of the credit reporting agencies thus demonstrate that, contrary to the assertions of Mr. Coppola, the rating agencies do not cite the size of the Consumers' capital expenditure program as the leading driver of credit risk.[599]

Mr. Bleckman asserts that Consumers is not suggesting that a 52.05% equity ratio and a 9.9% ROE would result in a credit downgrade, but rather a significant deterioration in credit metrics that would indicate a higher risk category for the Consumers with regard to S&P and Moody's.[600] He adds that while several factors go into the rating agencies' overall assessment of the company, and no single equity ratio / ROE combination should be considered an automatic trigger for a credit downgrade, the company's FFO-to-Debt

[597] 8 Tr 3433.
[598] 4 Tr 737.
[599] Id.
[600] 4 Tr 740.

analysis clearly shows the negative credit implications of this key credit metric.[601] Mr. Bleckman notes that Mr. Coppola's assertion that there is no risk of a credit downgrade by S&P relies on a credit opinion from S&P that was issued prior to the major impacts of the COVID-19 pandemic, and recent reports from Moody's demonstrate a very real risk of a credit downgrade.[602]

Regarding Mr. Coppola's testimony that the common equity ratio of his peer group is approximately 45%, Mr. Bleckman argues that Mr. Coppola's evaluation uses the equity ratio at the parent holding company level and thus, is a misleading comparison.[603] He adds that as shown on Exhibit A-140, the average equity ratio for Mr. Coppola's ROE proxy group for 2018 was 53.0%.[604] Mr. Bleckman states that comparing the average utility equity ratios at the regulated subsidiary level is more appropriate, and that the average equity ratio for Consumers' ROE proxy group for 2018 was 53.2% and that the average equity ratio for Mr. Coppola's ROE proxy group for 2018 was 53.0%.[605]

Regarding Mr. Coppola's testimony that the company is communicating to investors and analysts that the TCJA has given Consumers additional headroom to increase capital expenditures, Mr. Bleckman asserts that Mr. Coppola mischaracterizes the analyst report as well as statements made by the company.[606]

Regarding Mr. Coppola's argument that the long-term debt and equity between CMS Energy and Consumers are linked, Mr. Bleckman counters that in its July 31, 2017 Order in Case No. U-18124, the Commission adopted the findings and recommendations

[601] Id.
[602] 4 Tr 741.
[603] 4 Tr 750.
[604] 4 Tr 751.
[605] 4 Tr 751.
[606] 4 Tr 735.

of the Administrative Law Judge, who determined this argument from the AG "has been considered and rejected by the Commission."[607]

ABATE recommends that the Commission lower Consumers' financial common equity ratio to 51.5%, which moves Consumers closer to its Commission directed goal of a more balanced capital structure.[608] In that regard, Ms. LaConte notes that in its September 26, 2019, Order, p. 61 in Case No. U-20322, the Commission stated:

> [a] common equity ratio that is unnecessarily equity-heavy burdens ratepayers because equity capital is more expensive than debt capital and carries with it the additional expense of a tax burden that is not present with debt capital. The Commission continues to find that Consumers' treatment as a stand-alone company for ratemaking purposes requires it to maintain a capital structure that is evenly balanced between debt and equity.[609]

ABATE's recommended adjustment lowers the equity by approximately $173 million and increases the amount of long-term debt by the same amount, resulting in a decrease in the revenue requirement of $9.8 million (assuming the proposed 10.5% ROE).[610] Ms. LaConte asserts that Consumers' proposed common equity ratio results in higher costs to ratepayers.[611]

Ms. LaConte states that according to S&P's January 20, 2020, credit report, Consumers' long-term credit rating is A-, while Moody's assigned Consumers a credit rating of A2 in June 2019.[612] She states that these credit rating scores indicate it has upper medium grade creditworthiness and a strong capacity to meet its financial

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607 4 Tr 748.
608 8 Tr 3200.
609 8 Tr 3197.
610 8 Tr 3200.
611 Id.
612 8 Tr 3148.

obligations.[613] She adds that Consumers' credit ratings are above the average credit ratings of the companies in her proxy group, which indicates it has lower financial risk.[614]

Regarding Consumers' reliance upon the credit rating agencies' FFO-to-Debt metric, Ms. LaConte notes that Consumers' FFO-to-Debt ratio as of December 31, 2018, was 24.1% using S&P's methodology and 24.3% using Moody's methodology, and that Consumers' estimated FFO to-Debt ratio, based on its proposed ROE and capital structure, is 22.3% using S&P's methodology and 21.7% using Moody's methodology.[615]

Ms. LaConte asserts that Consumers' credit ratings would not change if the Commission adopts a lower ROE and common equity ratio than Consumers is requesting in this case.[616] She notes that, according to Moody's, financial strength accounts for 40% of a utility's credit rating, while 50% of a utility's credit rating is determined by the regulatory environment; that is, the framework under which the Commission operates and the timeliness and sufficiency of cost recovery.[617] She concludes that even if a particular credit metric falls below the optimum range, the fact that other metrics are well within or even above the recommended ranges, coupled with a strong regulatory environment, substantially mitigate the risk of any credit downgrade.[618]

Ms. LaConte states that Michigan has a strong regulatory environment, which benefits utilities by reducing their risk and income variability.[619] She notes that Michigan's ranking is Above Average/3, which puts it in the top 11% of regulatory commissions

[613] 8 Tr 3149.
[614] Id.
[615] 8 Tr 3149-3150.
[616] 8 Tr 3151.
[617] 8 Tr 3151-3152.
[618] 8 Tr 3152.
[619] 8 Tr 3151-3152.

across the United States according to Regulatory Research Associates (RRA) — a division of S&P Global Market Intelligence.[620] She adds that RRA notes that the Commission has several constructive practices, such as: a streamlined rate case process, a framework for the utilization of forecast test years to reduce regulatory lag, and a framework that permits utilities to earn a cash return on certain construction work in progress, which reduces the uncertainty of cost recovery.[621]

Ms. LaConte disagrees with Consumers' assertion that a lower equity ratio will negatively affect Consumers' credit rating, noting that S&P reviewed Consumers' credit rating in January 2020, after implementation of Consumers' TCJA refunds, and maintained its A- credit rating, which demonstrates that Consumers has not been negatively affected by tax reform.[622] She adds that lowering the common equity ratio to 51.5%, as well as reducing the ROE to 8.9%, will produce favorable credit metrics for Consumers, allowing it to maintain its current credit ratings.[623]

Ms. LaConte also notes that Consumers is implementing an FCM, which serves as an offset to the imputed debt caused by power purchase agreements ("PPAs").[624] The FCM revenues offset the financial obligation associated with the PPAs, which will reduce Consumers' imputed debt.[625]

Ms. LaConte states that, based on her recommended ROE and common equity ratio, Consumers' FFO-to-Debt ratio using S&P's methodology is 20.9%, which is above S&P's projected range of 18.5-19.5% for Consumers, and that the ratio is 21% using

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[620] 8 Tr 3152.
[621] Id.
[622] 8 Tr 3198.
[623] Id; Exhibit AB-1, AB-2.
[624] 8 Tr 3198.
[625] 8 Tr 3199.

Moody's methodology, which falls within the agency's projected range of 20%-24%.[626] Thus, she concludes that Consumers' credit rating will not be negatively affected by a lower authorized ROE or common equity ratio and Consumers will maintain its financial strength.[627]

In rebuttal, Mr. Bleckman asserts that the impacts of the TCJA and the COVID-19 pandemic "make the glide path to a 50% equity ratio by 2023 no longer reasonable based on the new economic backdrop that the Company is facing," and that, accordingly, he anticipates that "maintaining an equity ratio of 52.5% will be appropriate for the foreseeable future."[628] Noting that he calculated an average equity ratio of 53.4% for Ms. LaConte's ROE proxy group,[629] he asserts that Ms. LaConte fails to address or provide justification for her recommended equity ratio in this case when the average of her own proxy group's equity ratio significantly exceeds her recommendation.[630]

Regarding Ms. LaConte references the Commission's September 26, 2019 Order in Case No. U-20322, Mr. Bleckman points to the following provision of the Commission's Order:

> While the Commission finds that the February 28 order, p. 64, directed Consumers to move towards a more balanced capital structure, the February 28 order did not set a prescriptive, year-to-year tempo for the company to achieve; rather, it allowed for flexibility. Furthermore, the settlement agreement approved in the August 28 order did not set a rigid requirement that Consumers strictly pursue a balanced capital structure plan.[631]

[626] 8 Tr 3153; Exhibit AB-1, AB-2.
[627] 8 Tr 3153.
[628] 4 Tr 754.
[629] 4 Tr 754; Exhibit A-140.
[630] 4 Tr 754.
[631] 4 Tr 753.

Regarding Ms. LaConte's assertion that the FCM serves as an offset to the imputed debt caused by the PPAs, Mr. Bleckman counters that the company's FCM does not offset any of the large existing PPAs as it is only applicable going forward on new PPAs that the company enters into, and that, even for the new PPAs going forward, the FCM does not fully offset the impact of imputed debt associated with the PPAs.[632]

Regarding Ms. LaConte argument that reducing the company's ROE to 8.9% and its equity ratio to 51.5% "will produce favorable credit metrics for Consumers, allowing it to maintain its current credit ratings," Mr. Bleckman counters that her calculations are based on Consumers' Part III #108, which should not be used for that purpose due to the disclaimers included therein.[633]

RCG argues that the Consumers' debt to equity ratio should be reduced for ratemaking purposes, as at present, its debt to equity ratio is overly rich and expensive despite the Commission's order in U-17990, which suggested movement toward reducing the high capital structure ratio.[634] RCG argues that the common equity return range recommended by Staff, and other parties, is appropriate.[635] RCG points to a June 2018 Moody's report that concluded Consumers, on a stand-alone basis, was in a strong financial position, but that Consumers' credit ratings would be higher if it were not for the adverse impact of the much lower credit ratings of its unregulated parent company, CMS Energy Company.[636]

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[632] 4 Tr 757.
[633] 4 Tr 756.
[634] RCG brief, p. 17.
[635] Id.
[636] Id.

This PFD finds that the company's proposal to increase its common equity balance to 52.5% is neither reasonable nor supported by the record.

While Consumers acknowledges the Commission's prior directives that Consumers should return to a balanced capital structure, Consumers asserts that its previous commitment to rebalance its capital structure is "no longer sound planning" based on the "new economics" that it is facing as a result of the TCJA and the current pandemic, such that an authorized equity ratio of 52.5% will be appropriate "for the foreseeable future." However, the evidence presented in this case indicates that the effect of the TCJA does not justify deviating from moving towards a balanced capital structure. As Staff, the Attorney General and ABATE point out, Consumers has strong credit ratings from the credit reporting agencies, made after the TCJA became law, which should allow it to maintain its access to capital markets and to meet its financial obligations.[637] Indeed, as Staff notes, Consumers' credit rating has not changed since the passage of the TCJA in 2017.[638] Similarly, as ABATE notes, S&P reviewed Consumers' credit rating in January 2020, after implementation of Consumers' TCJA refunds, and S&P maintained Consumers' A- credit rating.[639] In addition, as Staff notes, Consumers' long-term debt issuances have increased since the passage of the TCJA.[640]

Moreover, as both Staff and ABATE note, Michigan has a very strong regulatory framework which reduces Consumers' risk and income variability, and thereby favorably impacts Consumers' credit rating.[641]

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[637] 8 Tr 3096; 8 Tr 3422; 8 Tr 3148-3149.
[638] 8 Tr 3097.
[639] 8 Tr 3148.
[640] 8 Tr 3097-3098.
[641] 8 Tr 3097; 8 Tr 3151-3152.

In its order in Consumers' last contested gas rate case last year, entered after the TCJA went into effect, the Commission reiterated its desire for a balanced capital structure:

> [a] common equity ratio that is unnecessarily equity-heavy burdens ratepayers because equity capital is more expensive than debt capital and carries with it the additional expense of a tax burden that is not present with debt capital. The Commission continues to find that Consumers' treatment as a stand-alone company for ratemaking purposes requires it to maintain a capital structure that is evenly balanced between debt and equity.[642]

Consumers relies heavily on a purported "key" credit metric, the FFO/Debt ratio, and its adjusted calculation of those ratios as calculated by S&P and Moody's rating agencies to show that the TCJA (and lower ROE and equity balance percentages) have adversely affected those ratios for Consumers, which may in turn adversely affect its credit rating. In addition, noting that both the equity ratio and the authorized ROE are included in the calculation of the FFO/Debt ratio, Consumers asserts that its equity ratio and ROE "cannot be evaluated in isolation" but should be viewed as "interconnected components" that collectively need to be in "balance" in order to ensure that this metric does not drop and cause credit deterioration.[643] That is, Consumers asserts that a lower authorized ROE would "necessitate" a higher approved equity ratio to maintain the same level of financial health.[644] Both assertions are problematic.

While Consumers makes calculations purporting to show that the TCJA adversely affects the FFO/Debt ratio and may adversely affect its credit rating, the Attorney General and ABATE each indicate that FFO/Debt calculations suggest that Consumers' credit

[642] Case No. U-20322, September 26, 2019 order, p. 61.
[643] 4 Tr 668.
[644] 4 Tr 669.

ratings are not at risk as a result of the TCJA.[645] In that regard, in rebuttal, Consumers acknowledges that its calculation of the rating agencies FFO/Debt ratios as impacted by the TCJA, while assuming an equity ratio of 52.05% and an ROE of 9.90%, was not meant to suggest a resulting credit downgrade but rather to suggest a significant deterioration in credit metrics.[646] Indeed, Consumers acknowledges that several factors go into the rating agencies' overall assessment of Consumers, and that no single equity ratio/ROE combination should be considered an automatic trigger for a credit downgrade.[647] Similarly, ABATE notes that, according to Moody's, financial strength accounts for 40% of a utility's credit rating, while 50% of a utility's credit rating is determined by the regulatory environment -- the framework under which the Commission operates and the timeliness and sufficiency of cost recovery – such that even if a particular credit metric falls below the optimum range, the fact that other metrics are well within or even above the recommended ranges, coupled with a strong regulatory environment, substantially mitigate the risk of any credit downgrade.[648]

In addition, as indicated regarding the equity ratio, Consumers' attempts to "link" its equity ratio and its authorized ROE are unsupported. First, the various factors that the Commission considers in assessing what may be a reasonable equity ratio and the various factors that the Commission considers in assessing what may be a reasonable ROE are not the same. In addition, the Commission has not agreed to the linkage between equity balance and ROE that Consumers proposes. Indeed, the only apparent linkage between equity balance and ROE seems to be that these are both inputs, included

[645] 8 Tr 3422-3425, Exhibit A-24; 8 Tr 3149-3150, 3153, Exhibits AB-1, AB-2.
[646] 4 Tr 740.
[647] Id.
[648] 8 Tr 3151-3152.

among other inputs, in determining a company's FFO/Debt ratio by the credit rating agencies, with each agency using their own different FFO/Debt ratio calculation formulas which produce different ratios for the same company.[649]

Consumers' assertion that the linkage between equity ratio and ROE requires a balance between equity ratio and ROE, such that a lower ROE necessitates a higher equity ratio, also is unsupported. Indeed, this proposed balance between these two inputs is fundamentally at odds with the calculation of the FFO/Debt ratio and the purpose for which the ratio is considered. Consumers' purported linkage of equity ratio and ROE serves to elevate the importance of these two inputs over other inputs, such as debt. Certainly, as recognized by the other parties and the credit rating agencies, if Consumers' debt were to change, its FFO/Debt ratio could also change with or without a material change to either Consumers' equity ratio and/or its ROE. Similarly, Consumers' proposed linkage also tends to elevate the significance of this particular credit metric ratio over other credit metrics. Again, as ABATE points out, according to Moody's, financial strength accounts for 40% of a utility's credit rating, while 50% of the rating is determined by the regulatory environment.[650] Thus, since the FFO/Debt ratio is but one financial metric, Consumers credit rating may well be changed for reasons other than any material or adverse change to either Consumers' equity ratio and/or its ROE.

The inherent illegitimacy of Consumers' proposed linkage can be seen by Consumers' arguments in this case. Consumers asserts that the impacts of the TCJA and the COVID-19 pandemic "make the glide path to a 50% equity ratio by 2023 no longer

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[649] See, e.g., 4 Tr 435.
[650] 8 Tr 3151-3152.

reasonable based on the new economic backdrop that the Company is facing," and accordingly, that Consumers anticipates that "maintaining an equity ratio of 52.5% will be appropriate for the foreseeable future," provided that a (linked) ROE of 10.5% is also established.[651] Thus, since an equity ratio of 52.50% is required going forward and under the logic of Consumers' proposed equity ratio/ROE linkage such that the equity ratio and ROE must be "balanced," an ROE of 10.5% is also required going forward, regardless of the evidence relating to the applicable factors that determine a reasonable ROE. This makes no sense.

In its rebuttal testimony, Consumers asserts that the COVID-19 pandemic in addition to tax reform could adversely affect Consumers' financial metrics and, in that regard, references Moody's July 2020 ratings action (Exhibit A-142) and S&P's Market Report (Exhibit A-141) in support. Moody's July 2020 ratings action changed Consumers' "credit outlook" from stable to negative, and stated that it expects the credit metrics of Consumers to "remain under pressure".[652] S&P's Market Report lowered the entire North American utilities sector outlook to negative citing COVID-19 risk.[653]

However, as other parties have noted, Moody's ratings action did not change Consumers' credit rating. Rather, it "affirmed all ratings" including the "Aa3 senior secured and Prime-1 short-term commercial paper ratings" of Consumers.[654] Moreover, Moody's ratings action stated that it expected Consumers "to be resilient to recessionary pressures related to the coronavirus because of [its] regulated business model."[655] In sum, Moody's

[651] 4 Tr 720
[652] Exhibit A-142. It should be noted that this Rating Action was dated July 1, 2020, after Staff's and the intervenors' testimony and evidence was filed on June 24, 2020.
[653] Exhibit A-141.
[654] Exhibit A-142.
[655] Id.

indicates that it is not making any change to Consumers' credit rating while it closely monitors companies' cash flow and financial metrics for results that would warrant a credit downgrade.[656]

Like Moody's, S&P offers additional explanation which tempers its action in downgrading the industry's outlook. Specifically, S&P stated that it expects North American regulated utilities to "remain a high-credit quality investment-grade industry", while projecting a "modest weakening of credit quality," and warning that its industry median rating of A- could move to BBB+."[657] S&P adds that the regulated utility industry exhibits "adequate liquidity and access to the debt markets" and is "benefiting from proactive risk management of establishing large credit facilities, having good access to additional liquidity through new term loans from banks, and public issuance of utility debt," while noting that "availability to the equity markets remains extraordinarily challenging."[658]

In addition, no other credit rating agency appears to have altered either Consumers' credit outlook or its credit rating.

In short, the ratings agencies have retained Consumers' specific credit rating while indicating that they in effect will be taking a 'wait and see' approach for the effects of the pandemic on each individual utility. And, indeed, this is exactly the position Consumers has taken; that is, Consumers acknowledges that the "long-term impacts of this pandemic crisis are not yet fully known" and that it is "not yet updating its capital structure projections."[659] As Staff notes, Consumers expressed that it "will likely not reduce its capital spend in its transmission, distribution system, asset relocation and new business

[656] Id.
[657] Exhibit A-141.
[658] Id.
[659] 4 Tr 712.

programs."[660] Staff also notes that, despite projecting in its application that its long-term debt issuances would be approximately $1 billion in 2020 and $1.68 billion in total for 2020 and 2021, in the first six months of 2020, the company borrowed $500 million more than the company projected in all of 2020, and over 90% of the company's total forecasted debt issuances in two-years ending December 2021.[661] Staff asserts that a reduction in capital spending "lowers the need for long-term borrowing and improves important credit metrics such as the FFO/Debt ratio."[662] The concern regarding Consumers capital spending and borrowing is supported by the recent rating agency reports. See, Moody's Ratings Action (Exhibit A-141)(" . . . financial metrics of both CMS and Consumers Energy have weakened considerably due to tax reform and *higher leverage to support elevated capital investments at the utility*."); S&P Report (Exhibit A-142)("Utilities have levers it can use to mitigate some of the risks caused by the coronavirus, *including cutting capital spending* . . . .")(emphasis added).

Despite the credit rating agencies and Consumers itself holding off on making changes until a better assessment of the effects of the pandemic can be had, Consumers nonetheless is asking the Commission to raise its equity ratio now due to the pandemic. This request is fundamentally at odds with the positions of the ratings agencies and Consumers itself.

However, while the credit rating agencies and Consumers are waiting to more fully assess the extent of the impact the COVID-19 pandemic on the economy in general and on Consumers' financial metrics specifically, the Commission need not wait to recognize

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660 Staff brief, p. 94.
661 Staff brief, p. 94-95, citing Exhibit S-31, p.9.
662 8 Tr 3097.

and appreciate the impact of the pandemic on those whose interests are required to be balanced in assessing an appropriate equity ratio; namely, the ratepayers. For Consumers' ratepayers, the impact of the pandemic on the economy and thus on their financial situations, has been sudden, immediate, and severe, likely directly affecting the affordability of increased costs manifested by an increased equity ratio. As Consumers' indicates:

> The COVID-19 pandemic has had a devastating impact on the U.S. economy. The unemployment rate increased from 3.5% in February 2020 to 14.7% in April 2020 (an all time high), representing a decline of more than 25 million people employed, plus another 8 million that exited the labor force. It should be noted that in May 2020, the state of Michigan had the third highest unemployment rate in the country at 21.2%. The pandemic and social distancing has also widely disrupted economic activity, causing a dramatic drop off in manufacturing production, home construction, and consumer spending. The stock market has seen unprecedented volatility, including March 16th when the Dow Jones Industrial Average was down almost 13%, dropping by nearly 3,000 points, the worst single day point drop in history. In June 2020, it was determined that the U.S. economy had entered a recession in February 2020. As explained by the National Bureau of Economic Research, "the unprecedented magnitude of the decline in employment and production, and its broad reach across the entire economy, warrants the designation of this episode as a recession."[663]

Certainly, the devastating impact of the pandemic on Consumers' ratepayers relates directly to the affordability of increased rates resulting from an increased equity ratio and provides the appropriate backdrop against which the reasonableness of the increased costs to the ratepayers must be evaluated. Indeed, as the Commission has repeatedly stated, the reasonableness of a utility's capital structure is a function of determining "an appropriate balance between the risks and the costs of investor and debt funding", noting that "equity capital more expensive than debt capital."[664] As such, an

[663] 4 Tr 713.
[664] Case No. U-17999, February 28, 2017 order, p. 63.

increase in the equity ratio as requested by Consumers is under the present circumstances wholly unreasonable.

Staff recommends a common equity balance of $8,587,376,960, which represents 51.11% of the permanent capital structure. Staff's recommendation is made to "conform with the Commission's request for Consumers to rebalance its capital structure to more equivalent debt-to-equity levels" and highlights the "substantially higher cost to ratepayers of a larger than necessary equity layer."[665] Staff considered Consumers' actual common equity balance through March 2020, approximated the amount of retained earnings to the end of the test year using Consumers' higher 2019 net income, and modified Consumers' projected equity infusions to a uniform $300 million while noting that the timing and amount of equity infusions into Consumers are at the discretion of the parent.[666] Staff asserts that its levelized equity infusion amounts for 2020 and 2021 provides a "fair and reasonable accommodation," and that Staff's recommended 51.11% common equity balance supports the Commission's objective of a more balanced capital structure that is less costly to ratepayers and yet still reasonable for Consumers to improve its credit standing and maintain its wide access to capital markets.[667] This PFD agrees.

This PFD finds the Attorney General's and ABATE's proposed adjustments to the common equity balance are not recommended at this time. While both rely on the same evidence showing Consumers' strong credit posture, the lack of a significant adverse impact from the TCJA and the COVID-19 pandemic, and incorporate the Commission directives to move to a balanced capital structure, and thus both recommendations

[665] Staff brief, p. 91, citing 8 TR 3101-3102.
[666] 8 Tr 3099-3101.
[667] 8 Tr 3101.

represent a reasonable equity ratio based on the evidence presented, this PFD finds that the equity ratio proposed by Staff is more appropriate.

Accordingly, this PFD recommends the Commission adopt Staff's proposed common equity balance of $8,587,376,960, which represents approximately 51.11% of the permanent capital structure and 41.5**%** of the ratemaking capital structure, as set forth in Appendix D to this PFD.

2. Long-Term Debt Balance

For the test year, the company projects a long-term debt balance of $8.178 billion, a projection with which Staff concurs.[668] The company's long-term debt balance projection is therefore adopted.

3. Short-Term Debt Balance

For the test year, the company projects a short-term debt balance of $138.8 million, a projection with which Staff concurs.[669] The company's short-term debt balance projection is therefore adopted.

4. Deferred Federal Income Tax

For the test year, the company projects a $3.655 billion deferred tax balance, a projection with which Staff concurs.[670] The company's deferred federal income tax balance projection is therefore adopted.

5. Other Capital Structure Balance

The company and Staff used projected balances for preferred stock and Job Development Investment Tax Credit (JDITC) corresponding to balances in the historical

[668] Consumers brief, p. 221; 8 Tr 3098; Exhibit A-14, Schedule D-1.
[669] Consumers brief, p. 221-222; Exhibit A-14, Exhibit A-138; Exhibit S-4, Schedule D-1a.
[670] Consumers brief, p. 222; Exhibit A-14, Exhibit A-138; Exhibit S-4, Schedule D-1a.

period, with components for JDITC based upon the allocation of long-term debt, preferred stock, and common equity.[671]

B. Cost Rates

1. Return on Common Equity

A utility's cost of common equity, generally referred to as the return on equity (ROE), is the return that investors expect to provide the utility with capital for use in its various operations. The cost of this capital essentially represents an opportunity cost; in order to induce investors to purchase common stock or bonds, there must be the prospect of receiving earnings sufficient to make the investment attractive when compared to other investment opportunities.

The criteria for establishing a fair rate of return for utilities like Consumers evolved from the decisions issued by the United States Supreme Court in *Bluefield Water Works Co. v Public Service Commission of West Virginia*, 262 US 679 (1923) and *Federal Power Comm. v Hope Natural Gas Co.*, 320 US 591 (1944). With these decisions, the Court determined that when establishing a fair rate of return for a public utility, consideration must be given to both customers and investors. As enunciated by the Commission in previous rate case final orders, the rate of return "should not be so high as to place an unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise."[672] The Commission has observed nonetheless that any determination of what is fair and reasonable "is not subject to mathematical computation with scientific exactitude but [rather] depends upon a

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[671] Id.
[672] Case No. U-15244, December 23, 2008 order, p. 12.

comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use."[673] In addition, in its recent order in the company's electric rate case, the Commission noted that "it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions."[674]

a. Consumers

The company is seeking an authorized ROE of 10.50%, which represents a 50-basis point increase above its currently authorized ROE of 10.00% set in the company's last electric rate case, Case No. U-20134. Mr. Wehner states that his recommendation of a 10.5% ROE is "given the recommended equity ratio of 52.5% provided by company witness Marc Bleckman."[675]

In his direct testimony, Mr. Wehner explains that his recommendation of 10.50% is within his reasonable ROE range of 10.00% - 11.00%[676], and is based upon consideration of the current state of the economy and capital markets; the need to continue to attract capital and maintain financial strength as Consumers undertakes a large capital expenditure program designed to improve safety, reliability, and customer value; the risk profile of Consumers' electric business compared to the proxy group; established principles for setting a fair ROE including ensuring the financial soundness

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[673] *Id*., citing *Meridian Twp. v City of East Lansing, Mich*., 342 Mich 734, 749 (1955).
[674] Case No. U-18322, March 29, 2018 order, p. 44.
[675] 4 Tr 350.
[676] Mr. Wehner states that his "reasonable ROE range" is 10.00 – 11.00%. However, he does not explain or otherwise support how he came up with his recommended "range". Generally, in statistics, the "range" of a set of data is the difference between the largest and smallest values. In this case, Mr. Wehner's range does not appear to be based on or have any correlation to (i.e., an average or a median value) the results of the cost of equity calculations he performed under the various economic models he utilized. See Exhibit A-14, Schedule D-5, with ROE average estimates from 9.35% to 16.23%. Thus, Mr. Wehner's "reasonable ROE range" does not appear to lend any independent support for his recommended ROE.

and credit of the utility; and the results of various economic models used to calculate the cost of equity.[677]

Mr. Wehner states that while national ROEs may have trended downward in the years leading up to the TCJA, the Commission should note that national equity ratios have trended upward over the same period.[678] He adds that ROEs and equity ratios are linked and must be viewed together to balance credit supportive financial metrics.[679] He notes that, as discussed by Mr. Bleckman in his direct testimony, the average equity ratio for the company's peer group is 53.2% (see Exhibit A-26) , which is meaningfully higher than the 52.5% being recommended by the company in this case.[680] Mr. Wehner asserts that if the Commission does not desire to raise the ROE to 10.5% given its preference for gradualism, the Commission could alternatively maintain an ROE of 10.0%, in which case, Consumers would propose an equity ratio higher than the 52.5% recommended by Consumers' witness Bleckman and would request approval of an equity ratio of 53.7%.[681]

Mr. Wehner testified that several analyses were performed to determine a reasonable ROE.[682] He also performed an analysis of the ROE and equity ratio that would support the company's long-term FFO/Debt and credit to determine a reasonable ROE, and employed several quantitative models to determine a return for investments having commensurate risk.[683] He stated that he utilized multiple methodologies and analyses as determining an ROE for an investment of commensurate risk is not an exact science, and

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[677] 4 Tr 350-351.
[678] 4 Tr 351.
[679] Id.
[680] Id.
[681] Id.
[682] 4 Tr 358.
[683] Id.

any methodology utilized is based on assumptions and inputs that may be less than certain.[684] Mr. Wehner adds that each methodology assumes that economic conditions are relatively stable and that current market inputs are reflective of their long-term outlook.[685] He states that assumption may not be true in current market conditions, mainly because of the unprecedented amount of central bank intervention and the impacts of the TCJA on the economy and credit quality of utilities observed during the last several years.[686] Thus, he believes that the application of multiple methods, in combination with an overall qualitative assessment of the marketplace, is most appropriate in evaluating the required cost rate for common equity capital.[687]

Mr. Wehner states that investors have generally viewed the regulatory environment in Michigan as supportive, but this perspective can change since their interests and expectations are predicated on expected future outcomes.[688] He adds that if the investor view of the Michigan regulatory environment becomes less certain or less predictable, then they will be less inclined to invest further capital into Michigan utilities, which would lead to higher funding costs and would be detrimental to customers.[689] Mr. Wehner asserts that investors are likely to consider an authorized ROE of 10.5% together with an equity ratio of 52.5%; the legislative impacts of 2008 Public Act 286 , 2016 PA 341, 2012 PA 342; and other regulatory adjustment mechanisms proposed by Consumers to be commensurate with the risks involved in investing in Consumers.[690]

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[684] Id.
[685] 4 Tr 359.
[686] Id.
[687] 4 Tr 358-359.
[688] 4 Tr 362.
[689] 4 Tr 362.
[690] 4 Tr 364.

Mr. Wehner states that the TCJA has had a significant impact on utilities, noting that Moody's initially revised the outlook of 24 utilities to "negative" and continued in June 2018 by revising its outlook for the entire U.S. regulated electric and gas utility sector from "stable" to "negative."[691] He adds that Moody's has downgraded the outlook and credit of numerous holding and utility companies, specifically citing Tax Reform's negative effect on company credit metrics as a main driver for the ratings action, although he acknowledges that Consumers has not yet been put on negative watch.[692]

Mr. Wehner states that the FFO/Debt ratio is a key metric that is used to identify the credit worthiness of a company, and that Consumers' ROE and equity ratio are two key factors that help determine this ratio.[693] He adds that the change from the ROE and equity ratio pair of 10.5%/52.5% to the company's 9.9%/52.05%, as determined by the Commission in its Order in Case No. U-20322, would result in a further deterioration of the resultant FFO/Debt ratio.[694] Mr. Wehner states that his proposed FFO/Debt ratio most closely aligns with Moody's methodology, and that an FFO/Debt ratio of approximately 20% is the minimum level that would be supportive of the company's current credit rating, noting that Moody's noted in their most recent credit opinion that a factor that could lead to a downgrade is a "deterioration in financial metrics such as CFO pre-WC to debt falling below 20%".[695]

Regarding interest rates, Mr. Wehner states that long-term interest rates have been, and continue to be, held low by the Federal Reserve as a response to anemic

[691] 4 Tr 366.
[692] Id.
[693] 4 Tr 367, 368.
[694] 4 Tr 368.
[695] Id.

domestic and global economic growth.[696] He adds that the interest rate on long-term government bonds is a key component in many of the quantitative models, but that in an environment where the Federal Reserve is purposefully keeping long-term interest rates artificially low, these unadjusted models become less reliable.[697] Mr. Wehner acknowledges that lower long-term interest rates lead to a lower cost of debt which decreases the overall cost of capital, and this benefit is passed on to customers.[698] Mr. Wehner notes that there has been federal and state recognition of the anomalous market conditions that have existed for more than a decade and should be, similarly, recognized by the Commission in this case, referencing in support the recognition by FERC of these anomalous market conditions in FERC Docket No. EL16-64-002 (Exhibit A-116).[699]

Regarding the quantitative models applied by Consumers as part of its ROE analysis, Mr. Wehner states that the quantitative models typically utilized to determine required ROE rely on either static conditions or use of historical data as benchmarks that do not correctly reflect today's current market conditions or the market conditions in the future.[700] Consumers addressed the limitations of various models by employing multiple methodologies, using projections for market inputs (risk-free rates, dividends, and risk premiums), and using independent judgment based on conversations with and feedback from the investment community.[701] He adds that the analysis includes a methodology for calculating the impact on credit metrics for both ROE and equity ratio.[702]

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[696] 4 Tr 370.
[697] 4 Tr 372.
[698] 4 Tr 373.
[699] 4 Tr 375.
[700] 4 Tr 376.
[701] Id.
[702] Id.

Mr. Wehner states that over the next five years, the company plans to invest approximately $11.8 billion on a total company basis, with $6.7 billion being earmarked for electric supply and electric distribution investment.[703] He adds that this level of capital investment increases the risk profile of the company for investors and the rating agencies.[704]

Mr. Wehner indicated that he applied multiple financial methodologies using a proxy group of companies, each of which had to be classified as a publicly traded electric utility in the S&P Global database, as well as: (1) have regulated generation capacity greater than 2,000 MW, (2) have net property, plant and equipment between $5 billion and $60 billion; (3) be headquartered in and have the vast majority of operations within the United States; (4) currently not be a recent merger target or be engaged in significant restructuring; (5) have a dividend payout ratio in the last 12 months equal to or greater than 55%; and (6) have bonds rated at or above a minimum investment grade of Baa3 by Moody's and BBB- by Standard & Poor's.[705] These criteria resulted in a proxy group of 12 companies.[706] Mr. Wehner then used this group of proxy companies in performing various analyses based on the Empirical Capital Asset Pricing Model (ECAPM), the Risk Premium analysis, the Discounted Cash Flow (DCF) analysis, and the Comparable Earnings analysis.[707]

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[703] 4 Tr 381-382.
[704] 4 Tr 382.
[705] 4 Tr 385-3863; Exhibit A-14.
[706] Id.
[707] 3 Tr 1311-1331; Exhibit A-14. Consumers also performed a CAPM analysis, which resulted in a 14.3% ROE and a Company Guidance DCF analysis which produced an average of 9.34%, ranging from 8.76% to 10.44%. However, Consumers does not rely on either of these analyses to form its recommended ROE in this case.

Applying each of the five above-mentioned analyses performed by Mr. Wehner to the proxy group that he selected produced the following average rate of return figures: the ECAPM analysis produced an average of 9.38% and ranged from 8.75% to 11.04%; the Risk Premium analysis resulted in an average of 16.23% and ranged from 15.39% to 16.15%; the Analyst Consensus DCF analysis produced an average of 9.35%, ranging from 7.15% to 11.84%; and the Comparable Earnings analysis resulted in an average of 10.36%, ranging from 8.43% to 12.58%.[708]

b. Staff

In contrast to Consumers, Staff recommends adopting an ROE of 9.75%, which is at the upper end of Staff's ROE range of 8.75% and 9.75% provided by Mr. Megginson.[709]

According to Mr. Megginson, he employed the DCF method, the Capital Asset Pricing Model (CAPM), a bond yield + risk premium method, and a comparison of recent electric ROE determinations from other states.[710] His analysis began by using a "modified version" of the company's proxy group by using the following criteria for each company: (1) net plant greater than $2.0 billion but less than $26.0 billion to better compare in size and footprint to Consumers' gas division; (2) derive no less than approximately 50% of its revenues from regulated electric distribution service; (3) an investment grade rating within three notches from that of Consumers from the two primary rating agencies, S&P and Moody's; (4) currently be paying dividends to shareholders; and (5) not currently involved in a merger or major corporate buyout.[711] Staff then removed several companies from the

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[708] Exhibit A-14, Schedule D-5.
[709] 8 Tr 3122. Mr. Megginson states that his recommended ROE range" is 8.75 – 9.75%. Like Mr. Wehner, he does not explain how he derived his recommended range. See Exhibit S-4, Schedule D-5, with ROE average estimates from 8.09% to 13.21%.
[710] 8 Tr 3106-3107.
[711] 8 Tr 3107.

proxy group as being unsuitable, while adding others, which resulted in Staff's gas utilities proxy group.[712]

In conducting his analysis, Mr. Megginson employed several models including some of the same models relied upon by Mr. Wehner. Specifically, Mr. Megginson used the DCF analysis (which produced an average estimate of 9.39%), a projected CAPM analysis (with an estimate of 13.21%), a historical Risk Premium analysis for A-rated utilities (which produced an estimate of 8.09%), a historical Risk Premium analysis for BBB-rated utilities (which produced an estimate of 8.62%), a Treasury bond + Risk Premium (which produced an estimate of 7.94%), and a comparison of recent gas ROE determinations from other state jurisdictions (that produced an average estimate for 2018 – March 2020 of 9.56%.[713]

Mr. Megginson noted that the proxy group's average S&P credit rating is A-/BBB+, which is one to two notches below Consumers' credit rating of A, and that its Moody's average credit rating is A3/Baa1, which is two to three notches below Consumers' credit rating of Aa3.[714] Thus, Mr. Megginson asserts that Consumers is considered a safer company than the proxy group.[715] He adds that Consumers dividends out to its parent company 80% of its net income compared to the proxy group's 65% payout ratio.[716] He states that the average authorized ROE is 9.65% for the proxy group, which is less than Consumers' current 9.90% authorized ROE and more in line with Staff's 9.75% ROE recommendation.[717] Mr. Megginson states that the average ROE over the 5-year period

[712] 4 Tr 2424; Exhibit S-4, Schedule D-1.
[713] 8 Tr 3122.
[714] 8 Tr 3108.
[715] Id.
[716] Id.
[717] Id.

for the proxy group was 8.83% while the company's was 10.40%.[718] Thus, on average, the proxy group's financial return did not reach its average authorized return on equity, while over the past five years Consumers Electric division has earned an average of 10.69% return over the past five years, earning over Consumers' authorized ROE for the years 2015-2018, but under its authorized ROE in 2019.[719]

Mr. Megginson's DCF analysis resulted in an average DCF cost of equity estimate of 9.39%.[720] Mr. Megginson agreed with Consumers' traditional DCF ROE estimate but disagreed with parts of Consumers' analysis.[721] Specifically, he disagreed with Mr. Wehner's use of IBES 3-year consensus dividend growth rates and the percent earnings payout ratio metric, asserting that the use of dividend per share growth metrics is unwarranted.[722] He states that Staff uses the growth in earnings per share metric, which is the basis and foundation for the dividends a company can pay out, is the preferred metric used by Staff and the other intervenors, and which Consumers has used in the past as earning growth metrics are routinely tracked by analysts used by Consumers, Staff and other intervenors.[723] Mr. Megginson also disagrees with the company's earnings percent payout ratio approach, which he says is not reasonable to use in the DCF model as it is irregular and unfounded, and has never been accepted by this Commission or any other commission to his knowledge.[724] Finally, Mr. Megginson challenged Consumers' inclusion of flotation costs, which represent costs that Consumers has not incurred.[725]

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[718] 8 Tr 3109.
[719] Id.
[720] 8 Tr 3111.
[721] 8 Tr 3112.
[722] Id.
[723] Id.
[724] 8 Tr 3112-3113.
[725] 8 Tr 3113.

In his CAPM analysis, Mr. Megginson used two equity risk premiums, an historical risk premium and a projected risk premium.[726] Mr. Megginson calculated an historical CAPM cost of equity of 6.46% and a projected CAPM ROE estimate of 13.21%.[727] Mr. Megginson states that neither estimate is reasonable, asserting that the historical CAPM estimate of 6.46% is well below previous estimates and well below a reasonable ROE to consider in this case, while the projected CAPM estimate is well above other previous estimates and well above a reasonable ROE to consider in this case.[728] He adds that the COVID-19 pandemic and its impact on the U.S. economy has skewed the inputs to the CAPM materially.[729]

Regarding Consumers' CAPM analysis, Mr. Megginson asserts that Consumers' total beta analysis is unreliable, noting that this approach suggests that Consumers, as a regulated utility with a dedicated service territory and a dedicated customer base, actually has a beta over 1.00 and is thus riskier than an open-competition, unregulated company.[730]

Regarding Consumers' ECAPM analyses, Mr. Megginson states that the ECAPM was established based on the results of the CAPM using raw betas and short-term debt metrics, and that Consumers' ECAPM analysis uses adjusted betas and long-term debt estimates, which elevates the ROE estimate in the model and renders the need for the ECAPM adjustment moot.[731] Mr. Magginson adds that Staff's ratemaking CAPM analysis,

[726] 8 Tr 3114.
[727] 8 Tr 3115-3116.
[728] 8 Tr 3116.
[729] Id.
[730] 8 Tr 3118.
[731] 8 Tr 3118.

with its use of long-term risk-free rates and adjusted betas, renders the ECAPM adjustment unnecessary.[732]

Mr. Megginson calculated a Risk Premium ROE estimate for the A-rated bond of 8.09% and a Risk Premium ROE estimate for the BBB-rated bond of 8.62%.[733] Mr. Megginson disagrees with the company's Risk Premium analysis, asserting that Consumers uses short timelines which tends to make market data quite volatile and unreliable, and which makes Consumers' ROE estimate overinflated and wholly unreasonable.[734]

Mr. Megginson also reviewed the authorized rate of return decisions for electric utilities rendered by other state commissions across the country for the years 2018, 2019 through the first quarter of 2020.[735] He found that the average authorized ROE decisions for 2018 was 9.58%, 9.60% for 2019 and 9.50% through March 2020.[736]

Mr. Megginson maintains that the company's recommended ROE of 10.50% should be rejected for several reasons.

> First, the ROE request is 60 basis points higher than the Company's currently authorized 9.90% ROE, which does not coincide with the Commission's request for prudence. The request also does not coincide with Consumers Energy's solid credit rating and the current low interest rate environment. In its January 29, 2020 ratings report for Consumer, S&P noted that
>
> > "We generally would not view an electric rate case reduction, and a gas rate case with a lower authorized ROE and equity ratio as supportive of credit quality; however, we believe that Consumers Energy will continue to effectively manage regulatory risk through the use of the many constructive rate mechanisms made available to the company through the Michigan Public Service Commission (MPSC).

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[732] 8 Tr 3119.
[733] 8 Tr 3121.
[734] Id.
[735] 8 Tr 3121-3122.
[736] 8 Tr 3122.

> We consider Michigan an above-average regulatory jurisdiction compared to peers due to the benefit of forward-looking test years, a streamlined 10-month rate case process, and various constructive rate mechanisms that allow the company to earn its allowed return on equity and minimize regulatory lag."[737]

He adds that coupled with the exceptionally low interest rate environment we are currently in that entails lower debt costs for Consumers, this should entail a more equitable return on equity for the benefit of the company and its ratepayers.[738]

Mr. Megginson adds that the company is requesting an FCM, a DR incentive, and a CVR incentive.[739] He notes that the Commission adopted recovery of the capital costs related to Consumers' DR and CVR programs, and the FCM, as part of the Settlement Agreement in Consumers' IRP, Case No. U-20165, and that Consumers requests a surcharge mechanism for its requested programs that will all but ensure recovery of the costs associated with those programs.[740] He adds that this lowers Consumers' overall business and financial risk, which calls for a more prudent ROE.[741]

Mr. Megginson also states that Consumers also requests that the Commission approve a revenue requirement deferral for capital spend related to the company's asset relocation and new business programs, which will benefit Consumers by treating as a regulatory asset any expense related to those programs over and above what is already in rates and collecting the deferred difference through a surcharge.[742] Thus, Consumers

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[737] 8 Tr 3123.
[738] Id.
[739] 8 Tr 3124.
[740] Id.
[741] Id.
[742] Id.

surcharge requests along with its practice of filing of a new rate case no more than 12 months after its prior rate case, practically gives Consumers 100% risk-free investment.[743]

c. Attorney General

The Attorney General recommends an ROE of 9.50% be adopted in this case.[744] Mr. Coppola commenced his analysis by using a proxy group made up of the 12 electric utility companies followed by the Value Line Investment Survey, less companies he eliminated due to foreign and propane investments, and relatively small size and diversified operations, and companies with no projected dividend growth or with projected earnings fall-off. [745] Mr. Coppola asserts that his peer group is more reflective of the electric business of Consumers than the group of companies selected by Consumers, noting that Consumers' inclusion of NiSource, Evergy and Dominion make Consumers' peer group unreliable.[746] Using this revised proxy group, Mr. Coppola then performed his own DCF, CAPM, and Utility Risk Premium analyses, arriving at ROE estimate figures of 9.03% from the DCF method, 7.04% from the CAPM approach, and 8.67% from the Risk Premium analysis.[747]

Mr. Coppola disagrees with the various calculations made by Consumers. Regarding Consumers' analyst-based DCF analysis, Mr. Coppola notes that if the results for two unsuitable peer group companies are excluded, Consumers' DCF result basically equals his.[748] Mr. Coppola asserts that Mr. Wehner's CAPM analysis uses an excessively

[743] Id.
[744] 8 Tr 3436.
[745] 8 Tr 3437.
[746] 8 Tr 3437-3438.
[747] 8 Tr 3439, 3442, 3443; Exhibits AG-41, AG-42, AG-43.
[748] 8 Tr 3440.

high risk premium rate, well above the historical long-term risk premium rate.[749] For his CAPM analysis, Mr. Coppola asserts that Mr. Wehner used a beta factor almost twice the Value Line reported betas for the peer group.[750] Mr. Coppola adds that the ECAPM produces a faulty cost of equity rate with a bias toward overstating and inflating the true cost of equity capital, and that the use of ECAPM is not widely accepted by state regulatory commissions regulating gas and electric utilities.[751] Mr. Coppola states that Mr. Wehner's Comparable Earnings analysis is not an academically sound approach to determine the cost of common equity, and that relying on this methodology would in effect allow utilities to set their own allowed ROE by estimating ever increasing EPS.[752]

In addition to conducting these analyses, Mr. Coppola reviewed the ROEs that other regulatory commissions have granted in 2018 and 2019. He noted that, since 1990, return on equity rates approved by regulatory commissions have been on a steady decline from over 12.7% in 1990 to approximately 9.6% in 2018 and 9.6% in 2019.[753] Mr. Coppola adds that for many of the electric utilities that have business and financial risks comparable to Consumers' electric operations, the ROE rates have averaged around 9.5% in the past two years.[754]

Mr. Coppola states that the fact that the company needs to raise capital because of a large capital investment program to upgrade its infrastructure and for other purposes is not unique to the company, and that other electric utilities face the same issues and are able to raise capital at competitive interest rates since receiving an ROE near or below

[749] 8 Tr 3444.
[750] 8 Tr 3446.
[751] 8 Tr 3451, 3454.
[752] 8 Tr 3454-3455.
[753] 8 Tr 3455.
[754] 8 Tr 3456.

the average rate of 9.50%.[755] He adds that there is no evidence equity investors have abandoned utilities that have been granted ROEs below 10%; on the contrary, stock investors continue to migrate to utility stocks, recognizing that authorized ROEs are still above the true cost of equity.[756]

Mr. Coppola states that the market for new long-term debt has been receptive to utilities issuing debt during the COVID-19 pandemic, noting that many companies did so in March, April, May and June of 2020.[757] He adds that Consumers issued $575 million of new 31-year long-term debt in March 2020 at 3.5%, making it one of its lowest cost long-term debt issues in recent years.[758] Moreover, he notes that the common equity markets have recovered after the significant decline in March 2020 to levels comparable to the beginning of 2020.[759]

Based on all components of his ROE analysis in this case and giving more weight to the DCF method as a more reliable approach to estimating the cost of equity, Mr. Coppola developed a weighted average cost of equity of 8.44%.[760] However, Mr. Coppola then increased this number to a recommended ROE of 9.50% because (1) the current state of the economy and financial markets has increased business risk, (2) the Commission may be reluctant to set an ROE for the company at the 8.44% true cost of capital at this time, preferring instead a more gradual reduction, and (3) the 9.5% proposed ROE is in line with the average ROE granted to other electric utilities by state

[755] 8 Tr 3460.
[756] Id.
[757] 8 Tr 3462.
[758] Id.
[759] 8 Tr 3463.
[760] 8 Tr 3463; Exhibit AG-1.45.

regulatory commissions around the country during 2019.[761] Mr. Coppola adds that if the Commission were to grant an 10.00% ROE in this case versus a 9.95% ROE, the additional cost to customers is approximately $34.2 million.[762] Conversely, if the Commission were to grant an 8.44% ROE in this case versus a 10.00% ROE, the reduction in the revenue requirement would be approximately $103 million annually.[763]

d. ABATE

ABATE's witness Ms. Laconte recommends an ROE of 8.90%, which is the average of her recommended range of 6.2% - 11.6%.[764]

Ms. Laconte states that according to S&P's January 20, 2020 credit report, Consumers' long-term credit rating is A-, while Moody's assigned Consumers a credit rating of A2 in June 2019.[765]

Noting that Consumers focuses on the FFO/Debt ratio, Ms. LaConte states that the company's FFO/Debt ratio in December 2018 was 24.1% using S&P's methodology and 24.3% using Moody's methodology.[766] She adds that the company's estimated FFO/Debt ratio, based on its proposed ROE and capital structure, is 22.3% using S&P's methodology and 21.7% using Moody's methodology.[767]

Ms. LaConte states that the company's credit rating would not change if the Commission adopts a lower ROE and common equity ratio that the company requests in this case, noting that according to Moody's, financial strength accounts for 40% of a

[761] 8 Tr 3463-3464.
[762] 8 Tr 3464.
[763] 8 Tr 3465.
[764] 8 Tr 3144, 3164.
[765] 8 Tr 3148, citing S&P Global Ratings, RatingsDirect, Consumers Energy Company (Jan. 29, 2020) and Moody's, Credit Opinion, Consumers Energy Company, Update to credit analysis at 1 (Jun. 19, 2019).
[766] 8 Tr 3149, citing Part III-Standard Filing Requirements, Attachment 108.
[767] 8 Tr 3149-3150, citing Part III-Standard Filing Requirements, Attachment 108.

utility's credit rating, while 50% of the rating is determined by the regulatory environment; that is, the framework under which the Commission operates and the timeliness and sufficiency of cost recovery.[768] Thus, even if a particular credit metric falls below the optimum range, the fact that other metrics are well within or even above the recommended ranges, coupled with a strong regulatory environment, substantially mitigate the risk of any credit downgrade.[769]

Ms. LaConte states that rating agencies often adjust a utility's debt for PPAs, which increases the utility's overall debt. However, she notes that in Case No. U-20165, Consumers received approval to implement an FCM, which allows Consumers to recover a return on its PPA payments.[770] Thus, she asserts that the FCM reduces Consumers' imputed debt, which improves its financial metrics.[771]

Ms. LaConte adds that Michigan ranks in the top 11% of regulatory commissions across the United States according to Regulatory Research Associates (RRA) a division of S&P Global Market Intelligence.[772] She notes that RRA notes that the Commission has several constructive practices, including a streamlined rate case process, projected test years that reduce regulatory lag, and permitting utilities to earn a cash return on certain construction work in progress, all of which benefits utilities by reducing their risk and income variability.[773]

[768] 8 Tr 3151-3152.
[769] 8 Tr 3152.
[770] 8 Tr 3150.
[771] 8 Tr 3151.
[772] Id., citing S&P Global Market Intelligence, RRA Regulatory Focus, State Regulatory Evaluations (May 19, 2020).
[773] Id.

Ms. LaConte states that the company's credit rating will not be negatively affected by a lower authorized ROE or common equity ratio and that Consumers will maintain its financial strength.[774] In that regard, she testifies that based on her recommended ROE and common equity ratio, Consumers' FFO/Debt ratio using S&P's methodology is 20.9%, which is above S&P's projected range of 18.5-19.5% for the Consumers, and that the ratio is 21% using Moody's methodology, which falls within their projected range of 20%-24%.[775]

Ms. LaConte states that Consumers currently recovers a number of its costs through various surcharges and cost recovery factors, such as the PSCR surcharge and the Energy Efficiency surcharge.[776] These adjustment clauses allow Consumers to receive expediated recovery of these costs outside of a rate case.[777] In addition, she notes that Consumers files frequent rate cases and uses a projected test year, which also reduces regulatory lag and lowers its risk.[778] Finally, she notes that the company is requesting several deferred regulatory assets to ensure recovery certain projected costs, while also earning a return on these costs, which reduces its income variability and, thus, its financial risk.[779] Ms. LaConte adds that the rating agencies have recognized the company's reduced risk, noting the S&P stated in its January 29, 2020 credit rating report as follows:

> [W]e believe that Consumers Energy will continue to effectively manage regulatory risk through the use of the many constructive rate mechanisms made available to the company through the Michigan Public Service Commission (MPSC). We consider Michigan an above-average regulatory

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[774] 8 Tr 3153.
[775] 8 Tr 3153; Exhibit AB-1, Exhibit AB-2.
[776] 8 Tr 3156.
[777] Id.
[778] 8 Tr 3157.
[779] Id.

> jurisdiction compared to peers due to the benefit of forward-looking test years, a streamlined 10-month rate case process, and various constructive rate mechanisms that allow the company to earn its allowed return on equity and minimize regulatory lag.[780]

Ms. LaConte states that the Regulatory Research Associates reports that the national average authorized ROE for electric utilities was 9.6% in 2018, and 9.65% in 2019, and was 9.63% for the first quarter of 2020, prior to the rate cuts by the federal reserve.[781] Ms. LaConte notes further that in the company's last gas rate case, the Commission noted that "Nationally, ROE's have been trending downward."[782]

Ms. LaConte states that the current stock market volatility is due to the recent COVID-19 outbreak causing significant swings in the stock market.[783] While this volatility is concerning, she notes that S&P Global has indicated:

> [O]ut of a total of 19 industry sectors, utilities is one of four that is expected to have a low sensitivity to the economic impact of the coronavirus outbreak. . . . Our view has been that given the relatively essential characteristics of utility services and the economically-regulated nature of their businesses, this sector will be among those that fare better.[784]

She adds that since utilities are known as defensive stocks, which typically provide investors with consistent dividend payments and stable earnings regardless of the state of the overall stock market, the stock market volatility will have less of an impact on utilities such as Consumers.[785]

Ms. LaConte testified that long-term interest rates have decreased significantly, with the long-term rate on 30- year treasury bonds having decreased from 2.33% on

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[780] 8 Tr 3157-3158, citing S&P Global Ratings, RatingsDirect, Consumers Energy Co.at 2 (Jan. 29, 2019).
[781] 8Tr 3158; Exhibit AB-3.
[782] Id., quoting Case No. U-20322, Sept. 26, 2019 order, p. 71.
[783] 8 Tr 3160.
[784] Id., quoting S&P Global Market Intelligence, Financial Focus, Utilities Outperform in COVID-19 Recovery Legislation-Driven Market Upswing (Mar. 27, 2020).
[785] 8 Tr 3160, 3161.

January 2, 2020, to 1.41% on June 11, 2020.[786] She adds that lower interest rates will benefit Consumers because it has an opportunity to refinance its debt at a much lower cost, thus lowering its cost of capital.[787] In that regard, she notes that several utilities have recently accessed capital from the capital market, including Consumers which issued $575 million in first mortgage bonds on March 26, 2020, $525 million of first mortgage bonds on May 13, 2020, and $134.3. million of floating rate first mortgage bonds on May 20, 2020.[788] Ms. LaConte adds that Mizuho Securities noted in an April 2, 2020, that "Several utilities . . . [are] using the opportunity to take advantage of attractive borrowing costs, so there does not appear to be an inability to access capital."[789]

To determine an appropriate ROE for Consumers, Ms. LaConte used two DCF analyses (a Constant Growth and a Multi-Stage), a Projected CAPM, and two Risk Premium methods.[790] To estimate the company's cost of common equity under various methodologies used by the company, Ms. LaConte used similar criteria that the company used when it created its proxy group.[791] However, she asserts that Mr. Wehner's proxy group criteria produces a proxy group of companies that is not comparable to Consumers, noting that Mr. Wehner's screening criteria did not include a requirement that a company must generate most of its revenues through electric utility operations, and he included companies that are not classified as regulated electric utilities by Value Line.[792] Ms. LaConte states that Consumers has more adjustment clauses as compared to the proxy

[786] 8 Tr 3161.
[787] Id.
[788] 8 Tr 3161-3162. Citations omitted.
[789] 8 Tr 3162, quoting S&P Global Market Intelligence, US Utilities Demonstrate Access to Capital with Billions in Debt Offerings (Apr. 2, 2020).
[790] 8 Tr 3165.
[791] 8 Tr 3168-3169.
[792] 8 Tr 3169-3170.

group companies and its credit rating is higher than the average of the companies in the proxy group, which shows that Consumers' risk, as compared to the proxy group, is lower.[793]

Ms. Laconte's used a single stage DCF method with a constant growth rate (which resulted in an average ROE of 9.2% and an ROE range of 8.7%-9.8%), a multi-stage DCF method with varying growth rates (which produced an average of 8.4% and a range of 8.2%-8.9%), two CAPM methods (which estimated ROE at 6.2% and 11.6%, respectively), and two risk premium methods (which estimated the ROE at 7.6% and 7.51%, respectively).[794]

Ms. LaConte states that Consumers' FFO/Debt ratio using S&P's formula and her recommended ROE is 20.9%.[795] She adds that if the Commission adopts her ROE recommendation, the subsequent FFO/Debt ratio likely would have no impact on Consumers' credit rating.

> Consumers has excellent (meaning low) business risk and significant financial risk, as indicated in its latest credit report from S&P. S&P determines financial risk using certain financial metrics, including FFO-to-Debt, Debt to-Earnings Before Interest, Taxes, Depreciation and Amortization, and Debt-to-Capital. Consumers' financial metrics place it within the significant level of financial risk. S&P's benchmark range for the FFO-to-Debt ratio for a utility with significant financial risk (medial volatility) is 13% - 23%. Consumers' FFO-to-Debt ratio would fall within the upper range of S&P's benchmark range; therefore, its credit rating will not be affected.[796]

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[793] 8 Tr 3171.
[794] 8 Tr 3171, 3173, 3175, 3179, 3181.
[795] 8 Tr 3181.
[796] 8 Tr 3181-3182. Citations omitted.

She adds that the estimated FFO/Debt ratio using Moody's methodology is 21%, which falls within Moody's expected range for Consumers.[797] She also notes that her ROE recommendation will lower the utility's requested revenue increase by $109.4 million.[798]

Ms. LaConte testified that the company's ROE analyses were faulty. She states that Mr. Wehner's CAPM analysis uses an uncommon calculation for beta, which leads to an overstated ROE of 14.3%.[799] She adds that Mr. Wehner uses total beta in his calculation, which she asserts is inapplicable since total beta is used when valuing a private company and private company benchmarks are not available and since the data necessary to estimate beta used in the CAPM analysis for Consumers is public and widely available.[800]

Ms. LaConte states that Mr. Wehner's ECAPM analysis is unnecessary, as the betas used by Mr. Wehner are from Value Line, which have been adjusted, and Mr. Wehner re-adjusts these betas to account for the under-estimation (or over-estimation) of the ROE.[801] She adds that there is no need to perform an ECAPM analysis as it results in readjusting the beta that has already been corrected.[802] She also notes that the Commission has not adopted the ECAPM methodology.[803]

Ms. LaConte states that Mr. Wehner's Risk Premium analysis uses an unsuitable short-term period of eighteen years (19421951 & 2011-2018) to estimate the historical spread on electric utility common stock over utility bond yields, noting that a sample of

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[797] 8 Tr 3182.
[798] Id.; Exhibit AB-13.
[799] 8 Tr 3185.
[800] Id.
[801] 8 Tr 34187.
[802] Id.
[803] Id.

eighteen years is not enough data to represent the long-term risk premium yield when data is available dating back to 1932.[804] She adds that there may be significant variations in the historical spread over abbreviated time periods that skew the results and that using the long-term spread – as she does – smooths out any significant variations and provides a reasonable risk premium.[805]

Ms. LaConte states that Mr. Wehner's DCF analysis relies on analysts' consensus growth in dividends per share to estimate the ROE, while her DCF analysis relies on analysts' consensus growth in earnings per share, since investors' growth expectations typically rely on trends in earnings, which will support future dividends.[806] She adds that Mr. Wehner's use of company-provided long-term guidance in earnings growth rates in his DCF analysis instead of the earnings growth projections by professional analysts is inherently biased and lacks impartiality.[807] She notes that average estimated ROE is 8.24% when using Mr. Wehner's proxy group and her earnings growth estimate.[808]

Ms. LaConte states that the Comparable Earnings method is not a reliable method to estimate the ROE, as it represents a forecast return on book equity and not a required return or cost of equity.[809]

Ms. LaConte states that Consumers' estimated ROE using her revised CAPM, Risk Premium, and DCF analyses and Mr. Wehner's proxy group is 8.1%.[810]

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[804] 8 Tr 3189.
[805] 8 Tr 3190.
[806] 8 Tr 3191.
[807] Id.
[808] 8 Tr 3192.
[809] 8 Tr 3192-3193.
[810] 8 Tr 3193.

e. Rebuttal

In his rebuttal testimony, Mr. Wehner takes issue with the testimony of witnesses for Staff, the Attorney General and ABATE.

Mr. Wehner testified that the implied FFO/Debt ratios he calculates based on the recommendations for Staff, the Attorney General and ABATE (18.2%, 17.3% and 17.5%, respectively) are all drastically lower than the 20% threshold recommended by Consumers.[811]

Mr. Wehner notes that, despite the Commission's prompting that "it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions", Staff, the AG and ABATE all recommend ROEs that are "meaningfully lower" than currently authorized even though there has been no change in circumstances since the Commission's last order to warrant a reduction in the authorized ROE.[812] He adds that, on the contrary, there has been a major change in underlying economic conditions – the ongoing global COVID-19 pandemic -- to warrant a significant increase in the authorized ROE.[813] He adds that the impacts of the TCJA has led to a credit quality deterioration across the utility sector, which deterioration would suggest the need for an upward movement in Consumers' ROE, equity ratio, or both.[814] He asserts that this is particularly true since Moody's downgraded the company's outlook, citing TCJA as a contributor to that decision.[815]

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[811] 4 Tr 418-419.
[812] 4 Tr 419-420.
[813] 4 Tr 420.
[814] 4 Tr 421.
[815] Id.

Mr. Wehner states that, although there is no rigid set of credentials or experience needed to evaluate the company's ROE or equity, "managing the credit and financial health" of a large public company is "complex" and requires "experience and judgment".[816] He adds that the witnesses for Staff, the Attorney General and ABATE are asking the Commission "to trust their judgment that there is no need to address large changes to key financial metrics of the company since the advent of Tax Reform or the onset of an unprecedented global pandemic."[817] He asserts that increasing the ROE 50 basis points in conjunction with a 52.50% equity ratio would properly account for the negative credit impacts the TCJA and the pandemic have had on the utility industry and, specifically, Consumers.[818]

Mr. Wehner indicates that Mr. Megginson's credit analysis does not address either the TCJA or the pandemic.[819] He adds that Mr. Megginson "ignores any possible market impact" of COVID-19 on credit metrics or his ROE analysis except to recognize that the Federal Reserve has slashed the Fed Funds rate, and that while Mr. Megginson notes the current pandemic has "rocked" the markets and the economy, he proceeds to perform similar analyses he has in prior cases.[820] He adds that Mr. Megginson fails to address how his recommended ROE, in conjunction with his recommended equity ratio (with both being lower than currently authorized), will impact Consumers' credit ratings.[821] Mr. Wehner states that Mr. Megginson's implied FFO/Debt ratio in this case is only 18.2%, which is 165 basis points below 20%, the derived level recommended by the company

[816] 4 Tr 421.
[817] 4 Tr 422.
[818] 4 Tr 426.
[819] 4 Tr 429.
[820] Id.
[821] 4 Tr 431.

and, thus, is an unacceptable level to support Consumers' credit and ensure its long-term financial strength.[822]

Mr. Wehner states that, like Mr. Megginson's analysis, Mr. Coppola's implied FFO-to-Debt ratio of 17.3% in this case is an unacceptable level to support the credit of Consumers and ensure its long-term financial strength.[823] He argues that Mr. Coppola minimizes the credit impacts of the TCJA.[824] He adds that Mr. Coppola's recommendation will also negatively affect Consumers' credit rating and diminish the company's financial strength.[825] Mr. Wehner also states that Mr. Coppola does not adequately discuss the effects of the pandemic.[826]

Mr. Wehner asserts that Ms. LaConte excludes any discussion of the TCJA impacts on the industry other than to summarize that S&P's January 2020 affirmation of Consumers' credit rating, "demonstrates that Consumers has not been negatively affected by tax reform.".[827] He adds that while Ms. LaConte suggests that her recommended ROE and equity ratio support the credit of Consumers, given her inexperience managing credit or interacting with rating agencies, and lack of justification, the Commission should not give significant weight to her recommendations.[828]

Mr. Wehner indicates that the inputs to the various financial models performed by Staff, the Attorney General, and ABATE have not been properly vetted and that his analyses have support from - while those of the other witnesses do not - other cost of

[822] 4 Tr 432.
[823] 4 Tr 434.
[824] 4 Tr 435.
[825] 4 Tr 436.
[826] 4 Tr 436.
[827] 4 Tr 441.
[828] 4 Tr 443.

capital witnesses and regulatory commissions, including FERC Docket No. EL16-64-002 (Exhibit A-116).[829]

Mr. Wehner states that proxy group and flotation costs – which he asserts are not incorporated in the summary results included in his direct testimony -- are not primary drivers of the difference between the quantitative analyses performed by him and those of other witnesses.[830] Mr. Wehner states that each of the witnesses for Staff, ABATE, and the AG performed a DCF, CAPM, and Risk Premium analysis, however neither the Attorney General nor ABATE used a projected risk premium for either the CAPM or Risk Premium analysis.[831] Mr. Wehner also challenges the other witnesses' use of ROEs in other jurisdictions, noting that the Commission has indicated that it gives little weight to ROE's established in other unrelated proceedings, and that the RRA data that the other parties point to is incomplete and unreliable.[832]

Mr. Wehner asserts that the Staff's testimony does not address how its recommendation to lower the ROE by 25 basis points would support Consumers' credit or help attract capital.[833] He adds that Staff's quantitative analysis was flawed, given the application of either inconsistent or incorrect inputs to models and as such, produced results which are not reasonable and fail to accurately measure the returns of comparable investments.[834]

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[829] 4 Tr 444.
[830] 4 Tr 447-448.
[831] 8 Tr 450.
[832] 4 Tr 451-452.
[833] 4 Tr 467.
[834] Id.

Mr. Wehner states that Mr. Coppola performed a CAPM and Risk Premium analysis without using a projected risk premium.[835] He adds that Mr. Coppola provides no persuasive evidence that Consumers will be able to attract the significant capital it needs to invest in system upgrades with his recommended ROE.[836] He states that Mr. Coppola he has provided an inadequate and incomplete analysis that ultimately does not support lowering the ROE 50 basis points and, further, does not support his position that the company could continue to adequately, much less competitively attract capital.[837] Mr. Wehner asserts that Mr. Coppola's assertion that the comparable earnings method should not be considered is rebutted by the Commission, which in Case No. U-16794, specifically gave weight to determining the ROE using the Comparable Earnings analysis, and by FERC which determined in Docket No. EL11-66-001, that equal weighting to the Comparable Earnings analysis along with the DCF, CAPM, and Risk Premium methodologies was appropriate.[838] Mr. Wehner asserts that Mr. Coppola's direct testimony is based on his own conjecture and, unlike his own assertions, is unsupported by any academic literature or regulatory decisions.[839] He adds that Mr. Coppola's quantitative analysis was flawed given the application of either inconsistent or incorrect inputs to models, which produces results which are not reasonable and fails to accurately measure the returns of comparable investments.[840]

Addressing Ms. LaConte's testimony, he asserts that Ms. LaConte, like Staff and the Attorney General, has provided no substantive evidence that economic conditions

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[835] 4 Tr 468.
[836] Id.
[837] 4 Tr 471.
[838] 4 Tr 478.
[839] 4 Tr 480.
[840] Id.

have changed so radically since the Commission's order in Case No. U-20134 that a significant downward adjustment to the ROE is warranted.[841] Ms. LaConte's quantitative analysis was limited and flawed given the application of either inconsistent or incorrect inputs to models.[842] Similar to Staff's and the Attorney General's direct testimonies, her direct testimony does not appropriately address how its recommendation to lower the ROE by 110 basis points serve to support Consumers' credit or maintain financial strength.[843]

In rebuttal, ABATE challenges Staff's and the Attorney General's ROE analyses. As to Staff, Ms. LaConte notes that Mr. Megginson's recommended ROE and range are not supported by his analysis, and that he identified several risk reducing factors but failed to adjust his recommended ROE, recommending the highest ROE in his recommended range.[844] She adds that his recommended ROE is influenced by Consumers' currently authorized ROE rather than his analytically determined ROE and is not supported by the risk-mitigating factors he identified.[845] She notes that adopting Staff's recommended ROE as opposed to Staff's estimated ROE inflates Consumers' revenue requirement by $20.5 million.[846]

Ms. LaConte disagrees with Mr. Coppola increasing his estimated average ROE, asserting that his reasons for adjusting his calculations are inconsistent with accepted financial practices: his assumption that the current economic and financial market climate increases business and financial risk assumes the economy and financial market will

[841] 4 Tr 481.
[842] 4 Tr 489.
[843] Id.
[844] 8 Tr 3233
[845] 8 Tr 3234.
[846] 8 Tr 3236.

remain static and continue into the test year (January 1 through December 31, 2021), his 106 basis adjustment ignores Consumers' numerous risk-mitigating factors, and while Mr. Coppola may believe that the Commission is reluctant to assign an ROE that actually reflects Consumers' true cost of equity, this does not negate the fact that his average estimated ROE is significantly lower than his recommended ROE.[847] She adds that Mr. Coppola's 106 basis point increase to his estimated average ROE increases Consumers' revenue requirement by $72.5 million.[848]

f. Recommended ROE

In reviewing the different analyses presented by the witnesses, and mindful of the Commission's reliance on the principles enunciated in *Bluefield* and *Hope, supra,* that there is no precise mathematical formula to determine the appropriate return on equity, this PFD finds that Consumers' recommended return of 10.5% is excessive and should be rejected for the following reasons.

First, Consumers' contention that it needs to increase its return by 50 basis points overlooks the impact of its solid credit rating and current low interest rate climate. As Staff, the Attorney General and ABATE point out, Consumers has strong credit ratings from the credit reporting agencies, made after the TCJA became law, which should allow it to maintain its access to capital markets and to meet its financial obligations.[849] Indeed, as Staff notes, Consumers' credit rating has not changed since the passage of the TCJA in 2017.[850] Similarly, as ABATE notes, S&P reviewed Consumers' credit rating in January

[847] 8 Tr 3238.
[848] Id.
[849] 8 Tr 3096; 8 Tr 3422; 8 Tr 3148-3149.
[850] 8 Tr 3097.

2020, after implementation of Consumers' TCJA refunds, and S&P maintained Consumers' A- credit rating.[851]

In addition, as Staff notes, Consumers' long-term debt issuances have increased since the passage of the TCJA.[852] Further, as ABATE notes, long-term interest rates have decreased significantly, with the long-term rate on 30- year treasury bonds having decreased from 2.33% on January 2, 2020, to 1.41% on June 11, 2020.[853] Ms. LaConte adds that lower interest rates will benefit Consumers because it has an opportunity to refinance its debt at a much lower cost, thus lowering its cost of capital.[854] In that regard, she notes that several utilities have recently accessed capital from the capital market, including Consumers, which issued $575 million in first mortgage bonds on March 26, 2020, $525 million of first mortgage bonds on May 13, 2020, and $134.3. million of floating rate first mortgage bonds on May 20, 2020.[855] Mr. Coppola concurs, stating that the market for new long-term debt has been receptive to utilities issuing debt during the COVID-19 pandemic, noting that many companies did so in March, April, May and June of 2020.[856] Ms. LaConte also notes that Mizuho Securities noted in an April 2, 2020, that "Several utilities . . . [are] using the opportunity to take advantage of attractive borrowing costs, so there does not appear to be an inability to access capital."[857]

Moreover, as both Staff and ABATE note, Michigan has a very strong regulatory framework which reduces Consumers' risk and income variability, and thereby favorably

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[851] 8 Tr 3148.
[852] 8 Tr 3097-3098.
[853] 8 Tr 3161.
[854] Id.
[855] 8 Tr 3161-3162. Citations omitted.
[856] 8 Tr 3462.
[857] 8 Tr 3162, quoting S&P Global Market Intelligence, US Utilities Demonstrate Access to Capital with Billions in Debt Offerings (Apr. 2, 2020).

impacts Consumers' credit rating.[858] As S&P stated in its January 29, 2020 credit rating report:

> [W]e believe that Consumers Energy will continue to effectively manage regulatory risk through the use of the many constructive rate mechanisms made available to the company through the Michigan Public Service Commission (MPSC). We consider Michigan an above-average regulatory jurisdiction compared to peers due to the benefit of forward-looking test years, a streamlined 10-month rate case process, and various constructive rate mechanisms that allow the company to earn its allowed return on equity and minimize regulatory lag.[859]

Consumers asserts that the other ROE witnesses either disregarded the impacts of the TCJA or they dismissed its significance without any meaningful analysis of its impact. This assertion is misplaced. The witnesses for Staff, the Attorney General and ABATE all considered the impact of the TCJA on the financial status of the company, albeit concluding that such impact was over-stated as shown by the evidence and the conclusions of the credit agencies.

Consumers relies heavily on a purported "key" credit metric, the FFO/Debt ratio, and its adjusted calculation of those ratios as calculated by S&P and Moody's rating agencies to show that the TCJA (and lower ROE and equity balance percentages) have adversely affected those ratios for Consumers, which may in turn adversely affect its credit rating. In that regard and noting that both the equity ratio and the authorized ROE are included in the calculation of the FFO/Debt ratio, Consumers asserts that its equity ratio and ROE "cannot be evaluated in isolation" but should be viewed as "interconnected components" that collectively need to be in "balance" in order to ensure that this metric does not drop and cause credit deterioration.[860] That is, Consumers asserts that a lower

[858] 8 Tr 3097; 8 Tr 3151-3152.
[859] 8 Tr 3157-3158, citing S&P Global Ratings, RatingsDirect, Consumers Energy Co.at 2 (Jan. 29, 2019).
[860] 4 Tr 668.

authorized ROE would “necessitate” a higher approved equity ratio to maintain the same level of financial health.[861] Both of these assertions are problematic.

While Consumers makes calculations purporting to show that the TCJA adversely affects the FFO/Debt ratio and may adversely affect its credit rating, the Attorney General and ABATE each provide FFO/Debt calculations which suggest that Consumers’ credit ratings are not at risk as a result of the TCJA.[862] In that regard, in rebuttal, Consumers acknowledges that its calculation of the rating agencies FFO/Debt ratios as impacted by the TCJA while assuming an equity ratio of 52.05% and an ROE of 9.90% was not meant to suggest a resulting credit downgrade but rather to suggest a significant deterioration in credit metrics.[863] Indeed, Consumers acknowledges that several factors go into the rating agencies’ overall assessment of Consumers, and that no single equity ratio/ROE combination should be considered an automatic trigger for a credit downgrade.[864] While Mr. Wehner asserts that his proposed FFO/Debt ratio “most closely aligns with Moody’s methodology”, he does not state that his calculation is the same as Moody’s, and indeed, Consumers acknowledges that Consumers “is not in possession of the precise methodology utilized by each [credit] agency.”[865]

Similarly, ABATE notes that, according to Moody’s, financial strength accounts for 40% of a utility’s credit rating, while 50% of a utility’s credit rating is determined by the regulatory environment – the framework under which the Commission operates and the timeliness and sufficiency of cost recovery – such that even if a particular credit metric

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[861] 4 Tr 669.
[862] 8 Tr 3422-3425, Exhibit A-24; 8 Tr 3149-3150, 3153, Exhibits AB-1, AB-2.
[863] 4 Tr 740.
[864] Id.
[865] 4 Tr 368, 756.

falls below the optimum range, the fact that other metrics are well within or even above the recommended ranges, coupled with a strong regulatory environment, substantially mitigate the risk of any credit downgrade.[866]

In addition, for the reasons explained at length in Section A above, addressing the equity ratio, Consumers' attempts to "link" its equity ratio and its authorized ROE are unsupported and illegitimate. More importantly, as also explained in section A above, while the credit rating agencies and Consumers are waiting to more fully assess the extent of the impact the COVID-19 pandemic on the economy in general and on Consumers' financial metrics specifically, the Commission need not wait to recognize and appreciate the impact of the pandemic on those whose interests are required to be balanced in assessing an appropriate ROE; namely, the ratepayers. As quoted above in Section A above, Consumers has acknowledged the impact of the pandemic on the economy.[867]

As with the capital structure, the devastating impact of the pandemic on Consumers' ratepayers provides the appropriate backdrop against which the reasonableness of the increased costs to the ratepayers must be evaluated. Indeed, as the Commission has repeatedly stated, the rate of return "should not be so high as to place an unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise."[868] As such, an increase in the ROE as requested by Consumers clearly places an unnecessary burden on ratepayers under the present circumstances and, thus, is wholly unreasonable.

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[866] 8 Tr 3151-3152.
[867] 4 Tr 713.
[868] Case No. U-15244, December 23, 2008 order, p. 12.

Second, the parties make convincing arguments that several of the model-based analyses performed by Mr. Wehner appear to be based on flawed assumptions and application of inappropriate inputs. For example, Staff and ABATE disagree with Mr. Wehner's use of dividend growth rates instead of earnings growth rates used in the DCF analysis, asserting that Staff uses the growth in earnings per share metric, which is the basis and foundation for the dividends a company can pay out, the preferred metric used by Staff and the other intervenors, and which Consumers has used in the past as earning growth metrics are routinely tracked by analysts used by Consumers, Staff and other intervenors.[869] In addition, Staff, the Attorney General and ABATE each assert that Consumers' total beta analysis in its CAPM analysis is unreliable, noting that this approach suggests that Consumers, as a regulated utility with a dedicated service territory and a dedicated customer base, is riskier than an open-competition, unregulated company.[870] Moreover, Staff argues that Consumers' ECAPM analysis is unnecessary as it includes a redundant adjustment of inputs. Mr. Megginson disagrees with the company's Risk Premium analysis, asserting that Consumers uses short timelines which tends to make market data quite volatile and unreliable, and which makes Consumers' ROE estimate overinflated and wholly unreasonable.[871]

As a result of these issues, many of the company's analyses based on the models used have likely produced results that were higher than they should have been.

Mr. Wehner adds that each methodology assumes that economic conditions are relatively stable and that current market inputs are reflective of their long-term outlook.[872]

[869] 8 Tr 3112; 8 Tr 3191.
[870] 8 Tr 3118; 8 Tr 3446; 8 Tr 3185.
[871] Id.
[872] 4 Tr 359.

He states that that assumption may not be true in current market conditions, mainly because of the unprecedented amount of central bank intervention and the impacts of the TCJA on the economy and credit quality of utilities observed during the last several years.[873] He adds that the interest rate on long-term government bonds is a key component in many of the quantitative models, but that in an environment where the Federal Reserve is purposefully keeping long-term interest rates artificially low, these unadjusted models become less reliable.[874] Mr. Wehner acknowledges that lower long-term interest rates lead to a lower cost of debt which decreases the overall cost of capital.[875] Mr. Wehner notes that there has been federal and state recognition of the "anomalous market conditions" that have existed for more than a decade and should be, similarly, recognized by the Commission in this case. Thus, he believes that the application of multiple methods, in combination with an overall qualitative assessment of the marketplace, using projections for market inputs (risk-free rates, dividends, and risk premiums), and using independent judgment based on conversations with and feedback from the investment community is most appropriate in evaluating the required cost rate for common equity capital.[876]

However, Consumers' application of various adjustments to inputs used it its various quantitative models - correspondingly challenging the propriety of the models as applied by the Staff, the Attorney General, and ABATE - is misplaced. In FERC Opinion 551, following its prior FERC Opinion 531, FERC indicated that it may consider whether market anomalies may affect the reliability of the DCF analysis in order to assess whether

[873] Id.
[874] 4 Tr 372.
[875] 4 Tr 373.
[876] 4 Tr 358-359, 372-376.

the authorized ROE should be moved from the mid-point of the DCF-analyzed ROE range.[877] Subsequently, on appeal, the D.C. Circuit Court of Appeals vacated FERC Opinion 531.[878] On remand, FERC issued its Order Directing Briefs, dated October 16, 2018 (FERC Remand Order), wherein FERC proposed a new approach for determining a lawful ROE, changing from primarily relying on the DCF model to utilizing the results of the DCF, CAPM, Expected Earnings and Risk Premium models:

> In short, we intend to give equal weight to the results of the four financial models in the record, instead of primarily relying on the DCF model. . . .
>
> We begin with the Commission's proposed framework for determining whether an existing ROE remains just and reasonable (i.e., the first prong of the FPA section 206 analysis). Specifically, we propose (1) relying on the three financial models that produce zones of reasonableness—the DCF, CAPM, and Expected Earnings models—to establish a composite zone of reasonableness; and (2) relying on that composite zone of reasonableness as an evidentiary tool to identify a range of presumptively just and reasonable ROEs for utilities with a similar risk profile to the targeted utility. . . .
>
> We then turn to the Commission's proposed framework for establishing a new just and reasonable ROE, where the existing ROE has been shown to be unjust and unreasonable (i.e., the second prong of the FPA section 206 analysis). At that stage, we propose to rely on all four financial models in the record—i.e., the three listed above, plus the Risk Premium model—to produce four separate cost of equity estimates. We propose to then give them equal weight by averaging the four estimates to produce the just and reasonable ROE.[879]

However, FERC indicated that "whether the continuing low-interest rate capital market conditions should be considered 'anomalous' and whether those conditions distort the results of a DCF analysis" were "largely irrelevant" under its new approach for determining just and reasonable ROE's:

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[877] FERC Opinion 531, *Coakley v. Bangor Hydro-Elec. Co,* 147 FERC ¶ 61,234 (June 19, 2014). FERC Opinion 551, *Ass'n of Businesses Advocating Tariff Equity, et al., v. Midcontinent Indep. Sys. Operator, Inc., et al.,* 156 FERC ¶ 61,234 (Sept. 28, 2016).
[878] *See Emera Maine v Federal Energy Regulatory Comm'n*, 854 F.3d 9 (2017).
[879] FERC Remand Order, Exhibit A-153, p. 13.

> There is thus no need to find that low-interest rate capital market conditions distort the results of a DCF analysis so as to justify adjusting the ROE for average risk utilities above the midpoint. To the contrary, our primary reason for proposing to average the results of a DCF analysis with the results of the CAPM, Expected Earnings, and Risk Premium analyses is that investors use those models, in addition to the DCF methodology, to inform their investment decisions. Under this approach, whether a change in the capital market conditions is anomalous or persistent is of less importance, because relying on multiple financial models makes it more likely that our decision will accurately reflect how investors are making their investment decisions. As discussed above, a key consideration in determining just and reasonable utility ROEs is determining what ROE a utility must offer in order to attract capital, i.e., induce investors to invest in the utility in light of its risk profile. For this purpose, we must look to the methods investors use to analyze and compare their investment opportunities in determining what ROE to award a utility consistent with the *Hope* and *Bluefield* capital attraction standards, and those methods include methods other than the DCF methodology.[880]

Third, although not dispositive, this PFD notes that in the company's last contested gas rate case, Consumers sought an ROE of 10.60%, which request was similarly based on certain qualitative factors which Consumers asserts here, including investors' view of Michigan's positive regulatory environment, the current state of the economy and capital markets, and the need to attract capital to finance its capital expenditure program.[881] However, the Commission concluded that an ROE of 10.10% "will best achieve the goals of providing appropriate compensation for risk, ensuring the financial soundness of the business, and maintaining a strong ability to attract capital", and that it "appropriately balances the interests of the utility with the interests of its ratepayers, and will ensure investor interest and confidence while protecting customers from unnecessarily burdensome rates."[882]

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[880] Id., p. 29-30.
[881] Case No. U-18124, 5 Tr 430-433.
[882] Case No. U-18124, July 31, 2017 order, pp. 52-53.

Similarly, in another recent rate case, Consumers sought an ROE of 10.75%, which request was also based on many of the same factors which the company asserts in this case, including the current state of the economy and capital markets, the need to attract capital to finance the capital expenditures program at the company's gas business, and the potential adverse impact of the TCJA on the company's credit.[883] The ALJ in that case recommended that the Commission set the company's ROE at 10.00%, reasoning that that return "is based upon an objectively reasonable analysis which is consistent with past Commission decisions and the requirements of *Bluefield* and *Hope*", "acknowledges the volatility in United States and global markets and the likelihood of rising interest rates", and will still allow the company to achieve the goals of providing appropriate compensation for risk and assuring reasonable access to capital on reasonable terms and conditions, while also remaining cognizant of the burden on ratepayers."[884] Thereafter, the company agreed to the recommended 10.00% ROE pursuant to a settlement agreement approved by the Commission.[885]

Fourth, the authorized ROEs approved by other Commissions for electric utilities have generally declined in recent years, with the average authorized returns in the presentations compiled by the witnesses generally within the range of 9.50% to 9.72%.[886] Staff asserts that the average ROE over the 5-year period for the proxy group was 8.83% while Consumers' was 10.40%.[887] The Attorney General notes that, since 1990, return on equity rates approved by regulatory commissions have been on a steady decline from

[883] Case No. U-18424, PFD, July 2, 2018 order, p. 179, 190. Citations omitted.
[884] Case No. U-18424, PFD, July 2, 2018 order, p. 207-208.
[885] Case No. U-18424, August 28, 2018 order, p. 207-208.
[886] 6 Tr 1741, Exhibit S-4, Schedule D-5. p. 12; 7 Tr 2446-2447, Exhibit AG-49; 7 Tr 2168, 2172, Exhibit AB-6.
[887] 8 Tr 3109.

over 12.7% in 1990 to approximately 9.6% in 2018 and 9.6% in 2019, and that for many of the electric utilities that have business and financial risks comparable to Consumers' electric operations, the ROE rates have averaged around 9.5% in the past two years.[888] Ms. LaConte states that the Regulatory Research Associates reports that the national average authorized ROE for electric utilities was 9.6% in 2018, and 9.65% in 2019, and was 9.63% for the first quarter of 2020, prior to the rate cuts by the Federal Reserve.[889] While Consumers argues that the Commission has stated its disinclination "to give significant weight to ROE determinations resulting from evidentiary records that are not a part of this proceeding and that are exclusively related to geographically and structurally different utilities", the Commission nonetheless considers and relies on other ROEs. *See*, *e.g*., Case No. 18124, July 31, 2017 order, p. 52 ("Nationally, and in Michigan, ROEs are trending downward."); Case No. U-18999, September 13, 2018 order, p. 52 ("Nonetheless, the Commission considers other ROEs and notes that the authorized ROEs for gas utilities in other states may have declined and, in some cases, are below 10.00%."); Case No. U-20322, September 26, 2019 order, p. 71 ("Nationally, ROEs have been trending downward. As noted by the Staff and the Attorney General, in 2016, 2017, and 2018, numerous state regulatory commissions issued decisions, in general gas rate cases, approving an average ROE of approximately 9.50%.").

Notwithstanding this PFD's determination that the company's requested ROE of 10.5% is excessive and unreasonable, consideration must be given to Consumers' need to access capital and maintain a solid credit rating. As Mr. Wehner states:

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[888] 8 Tr 3455-3456.
[889] 8Tr 3158; Exhibit AB-3.

In fact, in Case No. U-18322 (Consumers Energy – 2017 Electric Rate Case) the Commission noted that a lower ROE is not always in the best interest of customers:

> This decision also reinforces the Commission's belief that customers do not benefit from a lower ROE if it means the utility has difficulty accessing capital at attractive terms and in a timely manner. [MPSC Case No. U-18322, February 28, 2018 Order, page 43.]

The Commission's comments are more applicable in this case than ever. The last Consumers Energy gas rate case in which the Commission addressed and ruled on competing proposals for ROE (which contested that proposed by the Company), Case No. U-20322, the Commission noted in its Final Order:

> The Commission is cognizant that Consumers will need continued access to capital and the ability to maintain its solid credit rating; thus, the Commission finds the Staff's proposed ROE of 9.65%, the Attorney General's proposed ROE of 9.5%, and ABATE's proposed ROE of 9.22% to be low. [MPSC Case No. U-20322, September 28, 2019 Order, page 53.]

Thus, in Case No. U-20322, the Commission found the highest ROE promoted by intervenors in that case (9.65%), to be too low. In this case, the AG and ABATE each recommend an ROE that is even lower than the level already deemed by the Commission to be too low for Consumers Energy's gas business in Case No. U-20322, which was less than 10 months ago. Moreover, each of the witnesses in this case recommend ROEs that are meaningfully lower than currently authorized despite the Commission's prompting in Case No. U-18322 wherein the Commission said:

> The Commission also asks other parties to consider the degree of financial adjustment they are requesting the Commission to undertake in one proceeding, because it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions. [MPSC Case No. U-18322, February 28, 2018 Order, page 44 (emphasis added).]

There has been no such change in circumstances since the Commission's last Order to warrant a reduction in the authorized ROE. Staff, the AG, and ABATE witnesses provide no substantive evidence in this case to suggest there has been a "radical change" in economic conditions to warrant a

> reduction in authorized ROE of any magnitude despite their recommendations for such a reduction.[890]

This PFD acknowledges some of the concerns raised by Consumers. As indicated, considerable evidence was presented which supports the conclusion that the TCJA has not had such an adverse effect on Consumers' abilities to raise capital and maintain a solid credit rating, so as to preclude a lowering of its authorized ROE. However, Consumers and its ratepayers are in the throes of any unprecedented pandemic, which has had sudden and profound impacts on the economy. And while the exact nature and extent of the impact of the pandemic may not yet be known, and while the credit rating agencies and Consumers' are still evaluating its effects, the potential disruption to Consumers' financial performance suggest that a change to Consumers' authorized ROE at this time is neither appropriate nor reasonable. Thus, although generally supported by the evidence in this case, this PFD finds that the ROEs recommended by Staff, the Attorney General, and ABATE could be unduly harmful to the company's credit ratings in the context of this economy and the current pandemic, thus, should not be adopted at this time.

Instead, this PFD finds that the Commission should keep Consumers' authorized ROE at 10%. This return is based upon an objectively reasonable analysis which is consistent with past Commission decisions and the requirements of *Bluefield* and *Hope*, while at the same time acknowledging the unprecedented disruption to the economy caused by the pandemic. This PFD concludes that such an ROE will assure reasonable

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[890] 4 Tr 419-420.

access to capital on reasonable terms and conditions, while also remaining cognizant of the burden on ratepayers.

Accordingly, this PFD recommends the Commission authorize an ROE of 10% for the company.

2. Long-Term Debt Cost Rate

Initially, Consumers projected a long-term debt cost rate 3.95% as shown in Exhibit A-14, Schedule D-2.[891] To calculate the interest rate on Consumers' projected 2021 long-term debt issuance, Staff used the latest projections of the 30-year United States Treasury rate and added a spread of 105 basis points. While Consumers believes that Staff's 105 basis point spread is low, and that a spread of 136 basis points (at a minimum) is justified, the company accepted Staff's 3.81% annual cost rate for long-term debt as reasonable.[892]

3. Short-Term Debt Cost Rate

Consumers initially forecasted a short-term debt cost rate of 3.46%.[893] In response, Staff recommended a short-term debt cost rate of 2.03%, using more recent interest rate projections, which Consumers accepted.[894]

4. Other Cost Rates

Both Consumers and Staff agree to a 4.50% cost rate for preferred stock, and agree that the cost rates for long-term debt, preferred stock, and common equity components of JDITC should correspond to the cost rates established for long-term debt, preferred stock, and common equity, respectively. In addition, the company and Staff

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[891] Consumers brief, p. 221, citing 4 Tr 685.
[892] Consumers brief, p. 221, citing 4 Tr 727-729.
[893] 4 Tr 690.
[894] 4 Tr 729.

agree that the cost rates for customer deposits and for other interest-bearing accounts should be zero.

C. Overall Rate of Return

Based on the foregoing discussion, this PFD recommends that the Commission adopt Consumers capital structure and common equity balance, along with a long-term debt cost of 3.81%, a short-term debt cost of 2.03%, and a return on equity of 10%, resulting in an estimated overall weighted after-tax cost of capital of 5.71%, as shown in Appendix D to this PFD.)

VI.

ADJUSTED NET OPERATING INCOME

Net operating income (NOI) is calculated by subtracting the company's operating expenses including depreciation, taxes, and allowance for funds used during construction (AFUDC), from the company's operating revenue. Adjusted NOI includes the ratemaking adjustments to the recorded test year NOI for projections and disallowances.

A. Sales Forecast and Revenue

Mr. Breuring presented Consumers' projected jurisdictional electric deliveries for the test year of 34,131 gigawatt-hours (GWh), for full service and choice customers.[895] In addition, Mr. Breuring supported Consumers total generation requirements, which were increased by a line-loss factor of 7.73%, based on the company's most recent line-loss study.[896] The forecasted electric deliveries and peak demand are also adjusted for EWR and DR.

[895] 6 Tr 1671-1674; Exhibit A-15.
[896] 6 Tr 1679.

On behalf of Energy Michigan, Mr. Zakem took issue with Consumers' line loss factor as applied to choice customers, contending that the historical five-year weighted average loss rate of 2.23%, updated to 2.53%,[897] should be applied to choice load. According to Mr. Zakem, losses for choice customers are lower because these customers are predominately industrial customers, "which at primary voltage has substantially lower losses than the secondary Commercial class."[898]

Consumers responds that although it is true that losses for choice customers are overstated, this is not a problem because the loss factors in Exhibit A-15 are not used for cost allocation.

Energy Michigan counters that using correct numbers for system losses is important for two reasons. First, because system losses are expected to decrease over time due to initiatives such as CVR, it is important to properly reflect the impacts of such efforts on both choice and full-service customers. Second, any cost allocation that involves system output or energy loss, directly or indirectly, would result in an incorrect cost allocation.[899]

The PFD finds that Energy Michigan's concerns are valid, and that in future rate cases Consumers should use the correct loss factors for choice customers based on the method Mr. Zakem recommended.

Mr. Breuring also presented the company's projected test year total electric operating revenues, including base tariff revenues, PSCR revenues, and miscellaneous revenues. Mr. Breuring testified that Consumers has projected its total electric

[897] Exhibit EM-3.
[898] 8 Tr 4569.
[899] Energy Michigan brief, pp. 15-16.

jurisdictional operating revenue for the projected test year to be $4.358 billion.[900] The company's projections include credits for residential senior citizen (RSC) and residential income assistance (RIA credits). In rebuttal, Mr. Miller projected a reduction in the number of streetlights under Rate GUL, which reduces present revenues by $5.4 million, as reflected in Exhibit A-160.

Staff states:

> Given that Staff has accepted the Company's sales forecast, Staff also adopts the Company's $5,421,000 decrease to sales that was introduced in rebuttal. Staff's sales revenue is higher than the Company's because Staff increased the Company's projection for the residential demand response credit by $222,000.

The PFD agrees with the increase in the DR credit proposed by Staff.

B. Fuel, Purchased, and Interchange Power Expense

Consumers' projected test year power supply costs of approximately $2.1 billion is shown in Exhibit A-13, Schedule C1, line 5, on both a total company and jurisdictional basis. Mr. Blumenstock testified in support of the company's projection, also presenting Exhibit A-58. Staff incorporated the same values in its analysis, as shown in Exhibit S-3, Schedule C1. No party took issue with the projections.

C. Other Operating and Maintenance Expense

Consumers initially projected 2021 O&M expenses of $684,695,000, a $110.7 million or 19.3% increase over 2018 historical test year expenditures. Exhibit A-13, Schedule C-5, shows component costs for both the historical and projected test years, with source references to additional supporting exhibits. In rebuttal and in its brief,

[900] Exhibit A-15, Schedule E-2, line 28, column (l)

Consumers revised its projected test year O&M downward by $10.8 million to $673,866,000.[901]

Staff recommends projected test year O&M expenses of $624,350,000, including a list of its recommended adjustments in its brief at page 116. The Attorney General recommends projected test year O&M expenses of $585,700,000, a $99 million reduction from the company's filed projection, with a list of the component adjustments in Exhibit AG-1.55. In its reply brief, the MEC group states that it supports Staff's position on O&M expenses.

Consumers' projected O&M expenses as filed are shown in Schedule C5 of Exhibit A-13, along with historical test year expense levels, in the following line items: electric distribution; line clearing; fossil & hydro generation; operations support; information technology--operations; information technology – investments; pension; defined contribution plan; 401(k) savings plan; active health care, insurance, and long-term disability (LTD); retiree health care and life insurance; other benefits; corporate; uncollectibles; injuries and damages; demand response; billing and payments; customer experience; jobwork expense; and incentive compensation and bonuses. Line items that are in dispute are discussed below.

After a general discussion of inflation factors in subsection 1 below, the disputed line items are discussed in subsections 2 through 14.

1. Inflation Factor

One of the elements of dispute among the parties is the treatment of inflation, which relates to several of the expense categories. Putting aside the Pension & Benefits

[901] See Consumers brief, Appendix C.

category discussed below, although Consumers cited inflation as an element of its expense projections for several categories, it presented an explicit adjustment in only one category, the corporate services group O&M expenses shown on line 13 of Exhibit A-13, Schedule C5. Consumers breaks down several of its expense categories into "labor" and "non-labor"; in its line item projections for the corporate services category, as detailed in Exhibit A-62, it applies separate inflation factors to these categories in deriving its 2021 expense projection. Consumers used a 3.2% inflation factor to escalate "labor" costs from prior periods to the historical test year, and projected CPI inflation factors of 2% for 2019, 1.5% for 2020, and 2.3% for 2021, taken from the IHS Markit forecast as of November 2019 for "non-labor" costs.[902] Ms. Gaston testified that the labor escalation was based on "an assumed 3.2% merit rate."[903] Mr. McLean testified that he used a 3% labor escalation rate to reflect "planned merit increases."[904]

Staff and the Attorney General object to the bifurcation of costs and the application of different inflation factors, arguing that the projected CPI inflation factors should be used for all costs collectively, and also recommend the use of updated CPI factors. As discussed in more detail below, Mr. Coppola used the CPI in formulating several adjustments. Mr. Rueckert recalculated the inflation component of the corporate service costs, with a revised calculation presented in Staff's brief, recommending a reduction of $1.31 million to the corporate service O&M expense projection presented in Exhibit A-62.

Mr. Megginson presented the inflation factors Staff recommends, also shown in Schedule D3 of Exhibit S-4, including the actual 2019 inflation (1.81%), and the values

[902] Gaston, 6 Tr 1834.
[903] 6 Tr 1834.
[904] 4 Tr 246.

1.38% for 2020 and 2.16% for 2021. He explained that the projected inflation values are based on an average of projections from three sources, IHS Global Insight, Value Line, and the Energy Information Association, updated in April and May of 2020. He testified that Staff's testimony reflected the use of earlier estimates, explaining that Value Line updated its February 2020 projection on May 28, 2020, and that update is incorporated in his recommended values.[905] With this context, Mr. Rueckert identified the projected CPI values for the time period 2019 through 2021 of 1.81% (2019), 1.61% (2020), and 2.26% (2021).[906]

The Attorney General used similarly updated values, although Mr. Coppola looked only to IHS projections of 0.5% for 2020 and 2.3% for 2021 as of April 2020.[907] Mr. Coppola objected to the bifurcated inflation rates, testifying that the combination of the two rates results in a blended inflation rate that is higher than the CPI, and citing Commission decisions in Case Nos. U-20162 and U-20561 in concluding that the Commission has rejected this approach.[908] Mr. Rueckert explained that Staff objects to the separate labor inflation rate because the company controls the rate of wage increases it grants to its employees.[909]

While Consumers did not object to using updated inflation factors for categories of expenses it labels "non-labor," it objected to using the CPI to inflate historic test year costs it labels as "labor." As noted above, in her direct testimony, Ms. Gaston merely identified

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[905] 8 Tr 3105.
[906] 8 Tr 4725.
[907] 8 Tr 2469.
[908] 8 Tr 3477.
[909] 8 Tr 4725.

the 3.2% labor escalation rate she used as "an assumed 3.2% merit rate." In her rebuttal, she explained her objection to the use of the CPI:

> Inflation rates for projecting non-labor expense are based on the Consumer Price Index ("CPI") which considers factors specific to pricing of goods and services, such as the cost of food, energy, and housing. The labor rate used to project the Company's test year Corporate labor expense applies a projected salary increase derived by independent third-party survey sources. For example, see the Payfactors survey attached as Exhibit A-166. The Company's projected salary increases do not include cost of living adjustments. Labor rates and inflation rates can change based on different influences and at different rates. For example, a low supply in the housing market may increase CPI but could have no impact to the cost of labor. Therefore, using rates that align with the type of expense, as the Company did . . . is a more accurate method to project expenses than using a single inflation rate.[910]

She also asserted that reducing the expense projection in the rate case "could result in Consumers Energy's employee compensation being below market," and "could hinder the Company's ability to attract and retain a qualified workforce."[911] Ms. Gaston testified, however, that Consumers does not object to updating the CPI for application to the identified "non-labor" costs. She presented revised calculations in her Exhibit A-163, calculating a $24,000 difference.[912]

Staff and the Attorney General also recommend additional adjustments to this category of expense, which are discussed below. Because inflation is also discussed in connection with other cost categories, however, this PFD first addresses the dispute over the use of a bifurcated inflation rate.

As Staff and the Attorney General argue, the Commission has previously rejected reliance on a separate labor inflation rate. In its May 2, 2019 order in Case No. U-20162,

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910 6 Tr 1855.
911 6 Tr 1855; also see 6 Tr 1858-1859.
912 Ms. Gaston stated that she used the inflation rates recommended by Mr. Megginson, but the rates shown on Exhibit A-163 for 2021 is not the 2.16% rate in Mr. Megginson's testimony.

the Commission addressed the appropriate rate of inflation, rejecting DTE's proposed blended inflation rate:

> The Commission agrees with the ALJ that DTE Electric has not presented sufficient evidence in this case to induce the Commission to depart from its decisions in the 2018 orders and previous rate cases rejecting a blended inflation rate. The Commission agrees with the Staff that while DTE Electric will see some inflation, the company will also offset some of the inflation with productivity gains. Therefore, the Commission finds the Staff's proposed inflation rates to be the most reasonable and adopts the findings and recommendations of the ALJ.[913]

Consistent with this decision, this PFD likewise concludes that use of a separate labor escalation factor should be rejected in this case. Consumers has not established the reliability of its 3.2% labor escalator,[914] and has not established that once labor costs are excluded from the total O&M expenditures, the CPI is appropriate for the remaining expenses. Clearly, labor costs are a component of the goods and services that make up the CPI. Moreover, it is well established that Consumers has substantially increased capital expenditures in recent cases; it is also well established that Consumers has a strong incentive to control its O&M costs between rate cases, and indeed touts its success in that regard on this record.[915] The application of a labor inflation rate for "labor" expenses based solely on wages ignores any productivity increases associated with those capital expenditures and the company's track record of holding O&M cost increases below the general rate of inflation. Because the CPI reflects the results of both the rate of change

[913] See May 2, 2019 order, p. 73.
[914] For example, the company presented 2019 actual figures for its corporate services expense category, that do not reflect a 3.2% increase. See Exhibit A-165, which shows 2018 "labor" costs of $31.32 million, and 2019 "labor" costs of $31.37 million, an increase of 0.18%, well below not only the company's labor inflation rate but below the 2% rate it used to project 2019 non-labor costs, as shown in Exhibit A-62. Indeed, actual inflation for 2019 as measured by the CPI was approximately ten times this rate of increase, 1.8% as shown in Exhibit S-4, Schedule D3.
[915] See, e.g., Gaston, 6 Tr 1846-1847; Stuart, 6 Tr 2407-2408.

of the costs of labor and goods and to some extent, increased productivity in the production or delivery of those goods and services, it is appropriately applied to labor and other cost components. While Consumers cites the Commission's order in Case No. U-20322, a dispute regarding the use of a labor inflation rate was not presented to the Commission for resolution in that case.

Additionally, this PFD finds that Staff's reliance on the actual CPI for 2019, and its reliance on multiple sources for projections for 2020 and 2021, are reasonable. Perhaps as a casualty of the 10-month rate schedule, neither Staff nor Consumers fully incorporated the inflation factors recommended by Mr. Megginson, although that was clearly Staff's intention. This PFD finds that the inflation factors Mr. Megginson presented are the inflation factors that should be used in projecting corporate service costs and in any other expense items where application of an inflation rate is appropriate.

2. Electric Distribution and Energy Supply

Mr. Blumenstock presented Consumers' projected test year O&M expenses of $170.7 million for this category, as shown in Exhibit A-36, an increase of approximately $30 million over historical test year expenditures of $140.7 million. His Exhibit A-36 also identifies projected 2019 spending of $166.2 million and 2020 spending of $124.4 million. Exhibit A-37 shows the separation of cost into Electric Operations and Electric Engineering and Support categories; while Exhibits A-38 and A-39 contain more detail by expense type or project, by year.

a. Staff's inflation adjustment

In addition to revising the inflation factors Consumers explicitly used in projecting corporate services costs, Staff reviewed cost projections the company claimed were based in part on inflation. In particular, Staff took issue with the expense projections on Exhibits A-36 and A-75, contending the company's projections were unsupported, and particularly objecting to the lack of transparency in the inflation assumptions included in those projections.

Mr. Rueckert explained Staff's concern with the expense projections in these exhibits. He testified that in this case and the recently-concluded Consumers gas rate case, Staff and other parties have been concerned with the lack of clarity in the utility's use of inflation, finding it difficult to determine "how the inflation rate and basis translated into a projected expense."[916] He concluded that Consumers did not present its entire projected inflation expense clearly in its filed testimony in this case.[917]

Focusing on Exhibits A-36 and A-75, he explained that while Mr. Blumenstock, who sponsored Exhibit A-36, and Mr. McLean, who sponsored Exhibit A-75, each referenced inflation as a factor in their test year projections, they did not indicate the basis from which inflation was projected or the rate that was applied in the exhibits or in related workpapers.[918] He further testified that Staff requested the total impact of inflation on O&M expenses in discovery, and explained inconsistencies in the company's response, further illustrated in Exhibit S-12. Beginning with the inflation included in Exhibit A-36, he explained that Staff calculated the basis associated with the inflation rates and expense amounts provided by the company, and found that the basis for 2020 would be $10.9 million more than the company's total 2020 projected expenditure. He also testified that Staff sought the spreadsheets underlying the projected test year expense calculation with

[916] 8 Tr 4721.
[917] 8 Tr 4721-4722.
[918] 8 Tr 4722.

formulas and cell references intact, but "the Company's response did not provide the formulas requested."[919]

Mr. Rueckert also reviewed the company's response to the Attorney General's discovery, with the question and response presented in Exhibits S-12.2 and 12.3. He testified that the company only provided the Attorney General with a portion of the information requested, and that the 2% inflation rates referenced in the response regarding service restoration costs is not consistent with the rates the company otherwise indicated it was using, again citing Exhibit S-12.

Finding that the company's claim to have included an inflation component of $12,584,000 in its projections in Exhibit A-36 could not be verified, Mr. Rueckert recommended excluding that amount from the test year expense projection. Mr. Rueckert also recommended that the Commission direct the company in future cases to present inflationary impacts consistent with the approach used by DTE Gas as shown in Exhibit S-12.4, "or in a way that shows how incremental inflation is calculated."

Mr. Blumenstock and Ms. Myers testified in rebuttal.[920] Mr. Blumenstock testified that his Exhibit A-36 includes service restoration costs, which are addressed by Ms. Houtz. He then testified that the company's projected 2021 electric distribution projection "is not based on inflation," citing his discovery response in Exhibit A-148.[921] He then went on to assert that by excluding the company's estimated inflation, Staff's adjustment would be "effectively imposing an inflation rate of 0%."[922] He testified that if Staff's adjustment

[919] 8 Tr 4723, also citing Exhibit S-12.5.
[920] Mr. McLean also testified in rebuttal addressing a similar Staff adjustment in the IT category, as discussed below.
[921] 6 Tr 1336.
[922] 6 Tr 1337.

is adopted, "the Company will not have sufficient funding for what is needed, and it will greatly impair the Company's ability to deliver the reliability improvements" he presented.

Ms. Myers presented Exhibit A-198 to show what she referred to as the "as filed" calculation of inflation for distribution O&M. She testified that the inflation rate used in the calculation was 1.9% for 2020, with a 3.2% labor inflation rate, showing how the application of these rates to base values shown on that exhibit produce the 2020 expense of $124.4 million.[923] She testified that had Mr. Rueckert used 1.9% instead of 1.5%, he would have been able to reproduce the figures in Exhibit A-36. She testified that the total inflation calculated this way matches the inflation figures the company provided in Exhibit S-12.[924]

Responding to Mr. Rueckert's concerns regarding transparency, Ms. Myers testified that Consumers "now understands the detail needed to support inflation calculations," and provided this in Exhibit A-198. She testified that "Consumers has never been ordered to provide these details to support inflation included in a rate case filing."[925]

Consumers reiterates Ms. Myers' testimony in its brief, indicating that the company had not been told to present inflation in any particular format, and asserting that it will improve its presentation in future cases, but asserting that its expense projections should not be reduced in this case. It argues that Ms. Myers' demonstrated the basis for the company's inflation projections in this category. The company argues that Staff has in essence adopted a $0 inflation allowance, and labels Staff's adjustment a penalty.[926]

[923] 6 Tr 2263.
[924] 6 Tr 2264-2265.
[925] 6 Tr 2265.
[926] Consumers brief, pp. 274-277; also see Consumers reply, pp. 155-159.

In its brief, Staff urges the Commission to adopt the adjustments recommended by Mr. Rueckert and argues that Consumers test year expense projections are not transparent. Staff addressed Consumers' rebuttal exhibit, Exhibit A-198, arguing that it does not provide auditable detail showing how the inflation estimates relate to the historic expense levels. It also argues that the same inconsistencies are shown in this exhibit as in Exhibit S-12.[927] Staff addresses Mr. Blumenstock's rebuttal testimony, noting that the inflation amounts in Exhibit S-12 were not calculated by Staff, but were presented by the company in response to Staff's discovery. Staff also cites Exhibit S-30 to show the company has acknowledged this.

This PFD finds Staff's analysis persuasive that Consumers identified a portion of its projected test year expenses in these categories as attributable to inflation, but it could not demonstrate what costs were being escalated to produce those estimates. This is not a question of form, but one of substance; in order to determine whether the company's projection has a legitimate basis, Staff needs to be able to understand the component parts, and to determine if the costs that are being inflated are appropriately being inflated. Are they cost estimates based on 2019 dollars that should be escalated to 2020 and 2021? As Staff notes, the company projected 2020 costs significantly lower than 2019 costs; what is the relevance of inflation based on 2019 costs? Instead of providing substantive answers to Staff to show how its projections were derived, the company provided merely reflexive calculations. As Staff argues in its brief:

> Exhibit A-198 (HJM-79) deconstructed inflation from total projected expense amounts in the same year, but it does not show in detail how inflation was used to project future expenses. There is no audit trail

[927] Staff brief, p. 134-135.

> provided for inflation in Exhibit A-198 (HJM-79). Inflation cannot be traced from the projected test year back to the historic test year basis.[928]

The company's attempt to extract an inflation assumption is at odds with Mr. Blumenstock's own testimony that the expense projections are "not based on any specific inflation factors."[929] Because the company provided an inflation estimate that it has not supported on this record, Staff reasonably proposes to reject that estimate and exclude the costs ($12,584,000) from the company's projection. As discussed below, this PFD also finds Mr. Rueckert's testimony persuasive that the Commission should reject the $2.17 million inflation projection the company claims is embedded in the projections in Exhibit A-75.

b. Future inflation estimates

Consistent with Mr. Rueckert's testimony, Staff argues that the Commission should require the company to improve the transparency of its cost projections in future filings. Consumers does not object, as Ms. Myers explained in her rebuttal testimony.[930]

While Staff prefers the format of Exhibit A-62, in which the inflation applied to expenses for each year appears to be clearly stated, a review of Exhibit A-62 also shows that this exhibit is not fully transparent. There are two reasons: first, as stated in Exhibit S-9.1, the company has adjusted the numbers in line 2 of this exhibit without providing any explanation notes, masking its treatment of insurance refunds discussed below, and distorting a comparison of year-to-year costs; second, as Mr. Coppola stated in Exhibit AG-1.60, it is inappropriate to carry over expense items that should be excluded from the 2018 base, and subtract them after inflation has been applied to the higher value.

[928] Staff brief, p. 134.
[929] 6 Tr 1336.
[930] 6 Tr 2265.

c. Storm Restoration Expense and Deferral

Mr. Coppola recommended a reduction in 2021 Distribution O&M from $170.7 million to $139 million. He testified that a review of Exhibit A-36 showed that O&M spending in this category is expected to increase 21% from 2018 to 2021, including an increase in Service Restoration expense of $11.2 million (from $53.9 million in 2018 to $65.1 million in 2021) and an increase in All Other Distribution O&M of $18.9 million (from $86.7 million in 2018 to $105.6 million in 2021).[931]

Mr. Coppola presented Exhibit Ag-1.56, which shows that service restoration costs have fluctuated from $35.5 million in 2016, to a high of $92.5 million in 2019. For Other Distribution O&M however, the fluctuation was less pronounced. Mr. Coppola explained:

> To establish a reasonable level of Service Restoration costs for the projected test year, I used a five-year average of actual expenses from 2015 to 2019. The resulting amount is $54.0 million. Given the variability of restoration costs, the use of a five-year average is a reasonable approach. In its recent rate case No. U-20561, DTE Electric proposed a five-year of actual costs from 2014 to 2018 and the Commission accepted that approach with no party to the case objecting to the approach.

The company also based its $65 million Storm Restoration O&M expense on an average, but used three years, rather than Mr. Coppola's recommended five year average. Consumers maintains that there has been significantly more storm activity in recent years, therefore a three year average provides a better projection.

The Attorney General argues that, when asked in discovery about service restoration costs and outages over a longer time period, "the Company provided information that shows that the number of severe storms between 2010 and 2013 were higher than in the most recent five years, and more customers were impacted by weather

[931] 8 Tr 3465-3466.

events during that time period. Therefore, the Company's justification to use a three-year average to forecast restoration costs for the projected test year is faulty and should not be accepted by the Commission."[932]

Staff likewise recommends that Consumers' Service Restoration O&M expense be reduced to the five year average of $54 million noting that in the three-year average that the company used, "the Company essentially admitted that 2019 was an outlier. For example, it acknowledged that MA crewing expenses increased more than 100% that year. After staying steady at $8 million in 2017 and $7 million in 2018, its MA crewing expenses jumped to $19 million in 2019[.]"[933] Staff also noted that DTE Electric has used a five-year average of restoration expenses in its last two rate cases. On behalf of the MEC group, Mr. Ozar also recommended that storm restoration O&M expense be based on a five-year average.

This PFD agrees with Staff, the MEC group, and the Attorney General that $11.1 million for Service Restoration should be excluded based on the five year average of actual service restoration costs.

The remainder of the Attorney General's recommended disallowance for Distribution O&M was calculated by Mr. Coppola as follows:

> In Exhibit AG-1.56, I have taken the base O&M expense of $81.2 million for the most recent actual period of 2019 and have added the $54 million of service restoration costs to arrive at total expense amount of $135.2 million. I have increased this amount for the forecasted annual CPI rate of 0.5% for 2020 and 2.3% projected by IHS Markit as of April 2020 to arrive at a forecasted expense for the projected test year of $139.0 million.[934]

[932] Attorney General brief, p. 131; Exhibit AG-1.62.
[933] Staff brief, p. 127.
[934] 8 Tr 3469.

Mr. Coppola testified that in addition to storm restoration expense, Consumers is projecting far higher O&M expense in other categories without sufficient support. Focusing specifically on higher cost for training new hires to replace retiring workers. Mr. Coppola explained, "[I]n response to discovery, the Company provided information that shows the number of forecasted retirements over the next three years are in line with historical numbers in the past five years. Similarly, the number of new hires for field employee positions for the next two years is within the historical range of 22 to 78 hires."[935] Mr. Coppola pointed to additional areas including LVD device management and Grid Management where he found the O&M cost increases to be unsupported.

In response, Consumers asserts that its projected retirements are not in line with historical averages, noting that the company projects 30 retirements per year of electric lines field employees, an increase of 34% over the 2014-2019 historical number of retirements. Consumers further contends that the Attorney General's "range" of 22 to 78 new hires is far too wide to consider. Finally, Consumers asserts:

> Mr. Coppola also failed to provide the complete picture from the Company's hiring data. Mr. Blumenstock explained that, from 2015 through 2018, the Company averaged 39 ¼ hires per year. 6 TR 1402. In 2019, the Company hired 78 apprentices, which Mr. Blumenstock explained was an outlier year driven by the Company's commitment to complete an increased amount of Reliability work under the settlement in Case No. U-20134. 6 TR 1402. If this outlier year is discounted, then the Company's plan to hire 72 apprentices in 2021 represents an 83% increase in hiring over the 2015 through 2018 average.[936]

This PFD finds that Consumers' estimates of expected retirements and new hires is supported, whereas the basis for the Attorney General's proposed reduction is not. In

[935] Id. at 3470.
[936] Consumers brief, pp. 278-279.

addition, as Consumers points out, although Mr. Coppola mentions other programs that he found unsupported, he failed to provide sufficient detail about the alleged lack of support.

In a related issue, Consumers requests that the Commission authorize a storm restoration tracking mechanism. Ms. Houtz testified that Consumers is requesting an expense tracker that uses the three-year average storm expense amount of $65 million as a base with any storm restoration costs above $75 million deferred. Consumers explains that due to insurance premium increases and low pay-outs, the company did not renew its storm insurance policy in 2020. Consumers notes that the plan to self-insure eliminates the $8.3 million insurance premium costs and ensures that customers only pay actual restoration costs.[937]

Staff, the Attorney General and ABATE dispute the need for a service restoration tracker. Mr. Ozar recommended approval of the deferral mechanism but with a three-year amortization period on the regulatory asset for spending over $54 million, with carrying costs set at the company's short-term borrowing rate.

Mr. Evans testified that the $54 million Staff supports for service restoration O&M is sufficient and exceeds annual spending for 2014 to 2018. In addition, "DTE Electric Company, the largest electric utility in the state, does not carry storm insurance and is not authorized to use deferred accounting treatment for service restoration expense."[938]

[937] 6 Tr 1837.
[938] 8 Tr 4908.

Mr. Coppola testified that deferred accounting is unnecessary, noting that the proposed mechanism is a one-way tracker on top of an already inflated expense projection. Mr. Coppola added:

> It is also noteworthy to point out that during the past five years, the Company has capitalized service restoration costs of between $63 million to $98 million annually for a total amount of $372 million over the five-year period from 2015 to 2019. These amounts are in addition to the O&M expense amounts and have allowed the Company to recover those costs in their entirety. Exhibit AG-1.69 also includes this information.[939]

In response, Consumers argues that DTE Electric and the company have very different service territories "[t]hus, a service restoration recovery method that works for DTE is not necessarily the most reasonable recovery method for Consumers Energy."[940] Consumers adds that other state commissions permit the use of riders, reserve accounts, or securitization for storm restoration recovery and, to allay concerns about the one-way mechanism, Consumers would agree to a two-way tracker.

This PFD finds that Consumers' proposal for a deferred recovery mechanism for storm restoration expense should be denied for the reasons stated by Staff and the Attorney General.

3. Line Clearing

Ms. Shellberg described Consumers HVD and LVD line-clearance O&M expense request, explaining that trees are the most significant cause of outages on the company's electrical system, and that the company's current LVD line-clearing cycle is about 14.2 years. Consumers wishes to reduce its LVD clearance cycle to seven years, while maintaining its HVD clearing cycle at four years.[941]

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[939] 8 Tr 3495.
[940] Consumers brief, p. 288.
[941] 6 Tr 2377.

Consumers requests a total amount of $84 million, of which $71.430 million will be spent on LVD line clearing beginning in 2021, with clearance miles ramping up annually until the company achieves a seven-year clearance cycle for LVD lines.[942]

Staff recommends that the Commission approve the requested line clearance expense, with the condition that Consumers be directed to submit an annual report containing the information detailed in Ms. Kirkland's testimony.[943]

Consumers maintains that Staff's recommended reporting "would go beyond what is needed to ensure the Company prudently manages the Line Clearing Program and that customer benefits are being realized."[944] Nevertheless, Consumers acknowledges that it tracks and monitors the metrics Staff requests, and meets annually with Staff to discuss forestry operations.

The PFD finds that, in light of the significant increase in funding for line clearance, Consumers should at least be required to file an annual report containing the information Staff requests. In addition to the annual report, informal meetings with Staff to refine program metrics and address future strategies would be beneficial.

The Attorney General recommended: (1) based on Mr. Coppola's calculation of the increase in per-mile line clearing expense, escalating at 5% per year from 2004 to 2018, Consumers needs to put controls in place to limit escalating costs; (2) because the company intends to ramp its tree clearing up quickly in 2021, the increase in line clearance expense should be limited to $68 million, to avoid the need for inefficient spending on overtime in order to meet program goals; and (3) the Commission should

[942] 6 Tr 2366-2377, 2372.
[943] 8 Tr 4920.
[944] Consumers brief, p. 282, citing 6 Tr 2399.

authorize spending above $68 million, to the total $84 million amount, with any additional amount deferred and amortized over five years.[945]

Consumers objects to these recommendations. Referring to Ms. Shellberg's rebuttal, Consumers asserts: (1) the new contracts that have been put in place for line clearing work in 2021 specify that, except for Sundays and holidays, overtime hours will be billed to the company at straight time, allowing the company and contractors to ramp up staffing at little or no additional cost; (2) the contracts also contain an inflationary index that limit cost increases to an average of 1.2% annually for five years and 1.8% annually for ten years, well below CPI; (3) deferral of line clearance costs would require ratepayers to assume significant costs in later years without additional reliability benefits.[946]

The Attorney General's brief relies on Mr. Coppola's testimony and does not address Ms. Shellberg's rebuttal.

The ALJ finds Consumers explanation of how it intends to increase line clearance work, and control clearance costs, to be reasonable. In addition, the PFD agrees that deferring and amortizing these costs would cost ratepayers considerably more than simply paying the costs in current rates.

Consistent with the discussion above, this PFD recommends that the Commission approve $84 million for line clearance expense.

4. Fossil and Hydro Generation

As shown on line of Schedule C5 of Exhibit A-13 and in Exhibit A-70, Consumers projects total O&M expenditures on generating units totaling approximately $167 million

[945] Attorney General brief, pp. 134-135.
[946] Consumers brief, pp. 283-284.

in 2021, with historical test year expenditures totaling approximately $148 million. Staff and the company agree that $7.4 million in projected expenses for the Karn Retention and Separation plan should be excluded from the test year O&M expense projection and deferred as a regulatory liability, as discussed in section VII.L below. The MEC group and the Attorney General recommended additional adjustments to this expense category.

a. MEC group adjustments

As discussed in section IV.A.3 above, the MEC group argues that capital and major maintenance costs for Campbell units 1 and 2 that are avoidable under an early retirement scenario should not be included in projected test year expense projections. Exhibits A-70 and MEC-83 identify avoided major maintenance (O&M) costs totaling $672,000 that are avoidable under both a 2024 and 2025 retirement scenario. As also discussed above, Consumers objects to excluding the avoidable costs. For the reasons discussed above, this PFD finds the MEC group's argument persuasive that avoidable costs should be avoided until the forthcoming retirement analysis is evaluated in the company's 2021 IRP, resulting in a $672,000 reduction in the company's O&M expense projection.

The MEC group also argues that two major maintenance projects planned for the Campbell units for 2021 should be excluded from test year expense projections, based on Mr. Comings' testimony that the two projects, Landfill-Clean Dry Ash Silo and Screenhouse and Tunnel Cleaning, were not adequately supported. As shown in Exhibit A-83, the total test year expense associated with these two projects is $366,000. Mr. Hugo presented direct testimony explaining major maintenance expense at 6 Tr 2042 and described projects planned for the Campbell units at 6 Tr 2047-2048. In his rebuttal, Mr. Hugo characterized the major maintenance projects as routine, with costs based on historical experience.[947] MEC group disputes that the projects are routine, arguing that one project in particular, the screenhouse and tunnel cleaning, is performed only sporadically.[948]

This PFD finds that Consumers has adequately supported the planned major maintenance projects for the units. Because these are not capital projects, they do not require the same degree of engineering and procurement, and are less likely to be delayed.

b. Attorney General adjustments

Mr. Coppola recommended a $6.4 million reduction to the expense for this line item, presenting an analysis in Exhibit AG-1.57 to show a slightly downward trend in spending in this category once the costs for major maintenance projects and for the Karn Separation and Retention are separated. He recommended that the 2017-2019 three-year average of the expenses thus adjusted be used, with the major maintenance and Karn Separation and Retention costs added back, resulting in a projected expense for this category of $160.4 million.[949]

Although not directly addressing the Attorney General's analysis in rebuttal or in its initial brief, Consumers objects to the Attorney General's recommendation as without merit, citing Mr. Hugo's direct testimony in support of the base O&M costs. The company also argues that the company's projection results in annual increase in base O&M expense of only 1.6%, and an annual decrease in environmental expense of 2.6%.

[947] 6 Tr 2100-2104.
[948] MEC group brief, p 134.
[949] 8 Tr 3474; also see Attorney General brief, pp. 136-137.

Consumers also argues that the company's expenses averaged over a longer period would have been significantly higher, citing the historical data in Exhibit AG-1.57.[950]

This PFD finds that Consumers has reasonably projected expenditures for this category taking into account work that needs to be done during outages, and recommends that the Attorney General's proposed adjustment be rejected.

5. Customer Experience

Staff recommended a reduction in the expense projection in this category to reflect a lack of support for the company's contention that $2.17 million in inflation is included in the projection in Exhibit A-75.[951] Ms. Myers' rebuttal and Exhibit A-198 are discussed in subsection 2 above regarding electric distribution. Mr. McLean also provided rebuttal testimony, but principally focused on Staff's rejection of a separate labor inflation rate.[952] As did Mr. Blumenstock, he objected that a reduction in the projected expenses would result in insufficient funding.[953] For the reasons discussed in subsection 2 above, this PFD finds Staff's $2.17 million adjustment to exclude Consumers' unsupported inflation calculation is reasonable and should be adopted. The company has failed to establish that its inflation projections are tied to historical or other base costs that can be evaluated.

In section IV.A.8, this PFD discussed and accepted Staff's proposed O&M expense reductions of $44,625 and $266,296 for the AHA and CRM respectively. In addition to these two programs, Staff raises several issues with respect to the company's customer payment program. First, after noting that O&M costs for credit card payments

[950] Consumers reply, pp.162-163.
[951] The total projected costs in this exhibit include Analytics & Outreach, Customer Interactions, Billing & Payment, and Demand Response. Staff's adjustments are shown on lines 17 to 19 of Exhibit S-12, and total $2.17 million.
[952] 4 Tr 246.
[953] Id.

are expected to increase from $4.5 million in 2017 to $7.0 million in 2021,[954] Ms. McMillan-Sepkoski testified:

> Staff understands the Company proposing to allow this service for their customers but is concerned about the rising costs of this program. However, as convenient as this service may be to some utility customers, this service is not used by all customers, as illustrated in Company Witness Steven McLean's testimony, page 56, figure 12a. In 2018, 30% of payments made were done by mail, 4% in person, 22% by auto-pay (RCP or ACH), 8% by phone, and 36% electronically (credit/debit card).
>
> By 2023, the Company is projecting electronic payments to increase to 47%. In order to perform an audit of these fees, the costs for each customer rate class, without the inclusion of other expenses should be available. Although DTE has the ability to supply this information to the MPSC (9 TR 3283), Consumers states in their discovery response that it does not do so. (see, Staff Exhibit S-14.5).

In addition, Ms. McMillan-Sepkoski objected to the company's inclusion of invalid third-party activity costs, which she described as "payments made by a third-party consolidator for customer utility payments made by credit card that are processed by a third-party vendor the Company has contracted with for this service."[955] According to Ms. McMillan-Sepkoski, these payments are invalid because, as shown in Exhibit S-14.2, "[t]he terms and conditions stated on the Company's website prohibit payments from these consolidators."[956]

Ms. McMillan-Sepkoski testified that the electric portion of the invalid payments totaled $238,248, which she recommended be excluded from this case.[957]

Next, Ms. McMillan-Sepkoski explained:

> Staff believes it was not the Commission's intent to socialize any other costs than the cost of the credit/debit card fee in rates when these fees were first approved by the Commission *In re Consumers Energy Company*, MPSC

[954] 8 Tr 4664, referencing Mr. McLean's testimony.
[955] Id. at 4665.
[956] Id.
[957] Id. at 4666; Exhibits S-14.1 and S-14

> Case No. U-18124, 07/31/2017 13 Order, pp. 70-71. Staff has calculated a three-year average of actual costs from the Company's third-party vendor that handles the credit/debit card payments, using the annual total of invoices from the vendor to Consumers (see Staff Exhibit S-14.6). Staff Believes using this process provides a more accurate account of credit/debit card fees that are socialized to the utility customer. Staff has adjusted the Company's projected 2021 amount of $10.4 million by decreasing the projected amount by $2.074 million (see Staff Exhibit S-14.6).[958]

Ms. McMillian-Sepkoski presented Staff's recommendation that Consumers provide much more detail on transactions costs by customer class, which would facilitate insight into the company's credit card program.

Finally, Ms. McMillan-Sepkoski recommended that the Commission disallow $1,913,000 to remove the fee for authorized pay stations. In rebuttal, the company proposed a lower amount of $442,175, in recognition of the fact that fewer customers use this service.[959] Staff agreed with this reduced amount.

In response, Consumers argues that Staff's other adjustments should be rejected. Consumers asserts that the $2.074 million disallowance based on a three-year historical average, fails to take into account projected growth in credit/debit card payments. According to Consumers, "[t]he Company's projected credit card expense in 2021 is $7.67 million, which is reasonably based on actual 2019 expenses plus forecasted growth."[960]

As for the reduction associated with invalid third-party activity by a third-party consolidator, Consumers asserts that "this unauthorized payment activity is an inherent part of the payment processing industry and is an unavoidable expense."[961] Finally, with

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[958] Id. at 4667.
[959] 3 Tr 246; Exhibit A-181.
[960] Consumers brief, p. 305, citing 3 Tr 211, 243.
[961] Id. at 306, citing 3 Tr 245.

respect to breaking down credit card payments and fees by customer class, Consumers reiterates that it does not track these amounts.

This PFD finds that that $238,248 for invalid third-party activity costs, and the $2.074 million adjustment for credit/debit vendor fees should be adopted. As Staff points out, utility customers are unaware of third party activity costs and should not be responsible for covering these costs. Concerning credit/debit card vendor fees, the ALJ agrees with Staff that when the Commission authorized socialization of these fees it intended to limit that cost to only actual credit card fees. Given the lack of information in the company's filing, Staff's use of a three-year average for calculating the adjustment is reasonable.

6. Corporate Services

As discussed in subsection 1 above, this PFD finds that Staff's recommendation to revise the projected expenses in this category using actual and projected CPI inflation rates is reasonable and should be adopted, using the inflation rates sponsored by Mr. Megginson. Staff's brief states the appropriate reduction as $1.314 million.[962]

The Attorney General and Staff propose additional adjustments. The Attorney General proposed a $5.9 million reduction in this expense category. Based on his conclusion that the annual expenses are variable, Mr. Coppola recommended using the three-year average expenditure for 2017 through 2019, adjusted for inflation to 2021. As shown in Exhibit AG-1.60, this analysis led to a projected 2021 expense of $50.9 million, $5.9 million less than the $56.8 million projected on Exhibit A-62.

[962] See Staff brief, p. 137.

Consumers objects to the adjustment, contending that its corporate services expenses are relatively consistent from year to year, citing Ms. Gaston's rebuttal at 6 Tr 1858, and contending that Mr. Coppola's recommendation is less accurate and unnecessary.[963]

Staff instead takes issue with the company's normalization of certain insurance rebates. Mr. Welke testified that the company regularly receives insurance refunds, and explained that those refunds are included on line 2 of Exhibit A-62, "General Counsel, Legal and Risk Management." These are the refunds that Ms. Gaston listed for 2018 in her testimony at 6 Tr 1835 and for 2019 in Exhibit A-164. Mr. Welke explained that Consumers recommends projecting these refunds using a five-year average from 2014 through 2018, which results in a reduction to expenses of $4,867,593. He testified that Staff recommends using a three-year average, based on the 2017 through 2019 refund amounts, which results in a reduction to expenses of $7,758,000. He explained that this three-year period was reasonable in light of the three-year difference between the projected test year in the company's last rate case and the projected test year in this case.[964] He testified that the resulting adjustment to the company's projection is a reduction of $2,890,407, but noted that after he prepared his testimony, Consumers revised the figures Staff relied on, which are not included in Staff's adjustment. In its brief, Staff recalculates the adjustment as $2,426,000 based on the company's updated insurance refund figures. Staff cites the Commission's order in a Consumers electric rate case, Case No. U-16191, as approving a three-year average, while acknowledging that it

[963] Consumers brief, pp. 167-168.
[964] 8 Tr 4738.

has approved five-year averages in several cases, citing an order in a Consumers gas rate case, Case No. U-17735.

Consumers objects to Staff's recommendation to use a three-year average of refunds and credits. It cites Ms. Gaston's rebuttal testimony that "refunds are based on activity in the insurance markets and can be extremely volatile with high refunds in one year, to low or possibly no refunds in the next year."[965] She presented Exhibit A-164 to show this volatility. As Ms. Gaston explained in her rebuttal, Consumers does not object to updating the five-year average to include 2019 refunds and credits, if its projected expense for this category is also updated to reflect 2019 actual expenditures. She presented a calculation in Exhibit A-165 to calculate the revised 2021 projection based on 2019 actual data with inflation for the years 2020 and 2021. She testified based on this exhibit that if 2019 actuals are used, the 2021 expense projection would increase by $1,586,000, while the offsetting insurance refund adjustment based on a revised five-year average would increase by $1,048,000 as shown in her Exhibit A-164.[966]

This PFD finds the company's presentation extremely troubling. Beginning with the Attorney General's proposal, the difficulty with this proposal is that it appears Mr. Coppola's recommendation reflects the variability in certain insurance refunds that Consumers has comingled with other expenses in line 2 of Exhibit A-62. As noted above and as stated in the company's discovery response in Exhibit S-9.1, Consumers' 2018 actual expenses for the General Counsel, Legal and Risk Management category on line 2 of Exhibit A-62, in the total and non-labor columns (c) and (d), reflect $10,852,439 in

[965] 6 Tr 1858.
[966] 6 Tr 1857-1858.

refunds and credits from three sources; these are itemized in Ms. Gaston's testimony at 6 Tr 1835, which also shows the calculation of the five-year average over the period 2014-2018. Ms. Gaston testified regarding Exhibit A-62:

> Specific line item changes are included as increases or decreases as appropriate to reflect exclusions, remove one-time costs, reflect transfers of costs into or out of the Corporate Services area, or reflect significant ongoing changes in Corporate services O&M expense.[967]

Indeed, several adjustments are shown as line-item changes in this exhibit, including a $625,000 adjustment to exclude corporate giving and lobbying expenditures. However, as Exhibit S-9.1 makes clear, buried in what looks like a straightforward spreadsheet applying inflation factors to successive columns is the company's adjustment for insurance refunds and credits; this is accomplished in that spreadsheet in row 2 by simply adding the approximately $6 million difference between the five-year average refund ($4,867,593) and the refund included in the 2018 actual value ($10,852,439) to the spreadsheet entry for the 2021 non-labor projected value in column (l). Not only is there no separate line item to incorporate this adjustment, there is not even a footnote. What purports to be a column multiplying the number in column (i) by the inflation rate 1.023 is in reality that multiplication plus $6 million.

This is not "transparent" and it is not proper. The Commission and the parties have the right to expect that figures presented in a spreadsheet will follow the stated spreadsheet formulas without the need for them to check the arithmetic underlying all the entries. As discussed above, this reinforces Staff's recommendation that the Commission demand greater transparency from Consumers in presenting cost projections.

[967] 6 Tr 1834.

Nonetheless, because the "actual" expenses Consumers reported contain actual refund amounts, not adjusted, from year to year but only adjusted for the year 2021, a review of Mr. Coppola's calculations in Exhibit AG-1.60 show that the annual costs he worked with must contain these variable refund amounts. Since no specific adjustment is stated, it appears the 2019 actuals he used included an offsetting refund of approximately $7 million. For this reason, this PFD does not recommend accepting this adjustment.

Turning next to Consumers' claim that using 2019 actual expenses for this category would result in a higher cost projection, a review of the company's presentation shows this claim is based on its deceptive treatment of the insurance credits and refunds in his exhibits, as well as the confusing interplay of other adjustments. Consumers reported 2019 expenses for this category on line 13[968] of Exhibit A-165, column (g), as $54.4 million, prior to the adjustments on subsequent lines. In contending that an additional $1.6 million should be added to the company's test year expense projection, Consumers compares this $54.4 million to what it labels as its projected 2019 expense of $52.8 million on line 13, column (g) of Exhibit A-62. This comparison is not accurate because these lines reflect differing amounts of insurance refunds and credits, and Consumers' final projected expense for 2019 also includes a projected level of excluded EICP expense (line 14 of Exhibit A-62) that proved to be an understatement (line 14 of Exhibit A-165), as well as accounting for insurance premiums that were paid in 2018 (line 19 of Exhibit A-62), but not in 2019. Because Consumers made no effort to account for these differences, its claims regarding 2019 should be dismissed without further analysis.

[968] This line is misnumbered, since it follows line 7.

Nonetheless, to properly compare the company's 2019 estimate to the 2019 actuals, it should be noted that Consumers' 2019 estimate presumes the $10.9 million in credits and refunds will continue from 2018, plus inflation at 2% for a total of $11.1 million, while 2019 actuals contain a refund of $7.2 million; if Consumers properly accounted for this $3.9 million difference, it would raise the 2019 projection to $56.7 million for comparison purposes. Additionally, the 2019 projection forecast excludable EICP payments of $3.1 million, while the 2019 actual expense included $4.8 million; had that increase been properly forecast, Consumers 2019 forecast would have increased by $1.7 million before the exclusion of those EICP payments, equivalent to a $58.3 million projection. Finally, because Consumers ceased paying certain insurance premiums in 2018, its 2019 forecast was adjusted to reflect that cessation; subtracting the $3.3 million storm insurance premium from the forecast (as Consumers does on a subsequent line of Exhibit A-62) is necessary for a proper comparison to 2019 actuals, making the company's 2019 forecast for comparison purposes $55 million. Thus, putting the 2019 forecast on a basis comparable to the reported 2019 actual expense shows that 2019 actuals were not in fact higher than projected, but approximately $0.6 million less, once the differences in refunds, EICP payments, and insurance premiums are taken into account.

Also as noted above, there are other troubling aspects of the company's presentation in Exhibit A-62 and subsequent iterations in Exhibits A-163 and A-165. Because the normalizing adjustments to 2018 are made in lines 14-22, and carried forward without an inflationary adjustment, the 2021 projection will include inflation on those base items that are not going to be actual expenses in the projected test year.

While the amount of distortion is relatively small, given Staff's concern with transparency, this approach should be discouraged in future filings.

This PFD further finds that it is appropriate to update the adjustment for the insurance refunds and credits to include the 2019 value, and to adopt Staff's recommended three-year average for this category. While Ms. Gaston presented Exhibit A-164 to show historic variability, she only presented the 2014 through 2019 data, and made no effort to account for the significant increases in the recent two years. This PFD finds Mr. Welke's testimony persuasive on this point.

In summary, this PFD finds that Staff's incorporation of the 2019 insurance refund amount and its use of a three-year average is appropriate, resulting in an additional reduction of $2,426,000, while Consumers has failed to establish that appropriately using the 2019 actual data in a revised projection would lead to an increased expense projection for 2020.

7. Information Technology

Through testimony and exhibits of Mr. Tolonon, Consumers projects electric IT operations O&M expense of $48,440,000 in 2020, and $49,287,000, in 2021, amounts that are 11.1% and 13.1% higher than 2019.[969] In addition, the company projected $21,884,000 in IT investment O&M, which includes $978,000 for Investments Planning.[970]

This PFD addressed and accepted Staff's recommendation to exclude $123,000 in O&M expense for the Centralized DR Management Project as discussed above.

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[969] 6 TR 2466.
[970] 6 Tr 2475-2476; Exhibit A-105.

This PFD addressed and accepted Staff's recommendation to exclude $1,247,029 in O&M expense from the projected test year expense for Application and Currency Enhancement projects, as discussed in section IV.A.6.f above.

This PFD addressed and accepted the Attorney General's and Staff's recommendation to exclude $164,670 in projected O&M expense for the Dashboard Redesign project and $434,445 in projected O&M expense for the Website Redesign Project, as discussed above in section IV.A.6.g above.

In addition to the IT O&M expense categories that were addressed as part of rate base, and summarized above, Staff recommends a reduction to IT operations O&M of $11,357,000, based on a five-year average of these costs, and a reduction of $978,000 for the investment planning portion of IT investment O&M expense.[971]

For the investment planning expense (a/k/a origination expense), Staff points to the fact that the Commission has previously disallowed this expense, finding it speculative and contingent on moving forward with a project.[972] For IT operations O&M, Staff again points to Commission orders which have found that a five-year historical average is a reasonable projection of these expenses.[973]

Consumers responds that (1) investment planning is a necessary activity to ensure that future investments provide value; (2) the use of a five-year average to project O&M expense in a category that demonstrates little volatility, rather a year-over-year trend of increasing costs, is inappropriate. Consumers recommends that the Commission reject the disallowance of investment planning expense and, if the Commission finds that some

[971] 8 Tr 4662.
[972] Staff brief, p. 117, citing September 26, 2019 order in Case No. U-20322, p 82.
[973] Id. citing in addition, July 13, 2017 order in Case No. U-18124, p. 76.

adjustment to IT operations O&M is merited, the Commission should use 2018 historical spend of $46 million plus inflation.

Staff quotes Mr. Tolonen's rebuttal testimony regarding the company's claim that Staff's standards for IT cost recovery are not defined:

> If Staff provided an acceptable range for yearly IT Operations O&M, and then showed that the Company operated outside of those boundaries, the terms "sporadic" and "volatile" may have applied. However, the Company has not received such guidance and therefore cannot be expected to meet an undefined standard.[974]

Staff characterizes this response as "a thinly veiled criticism of past Commission orders." Staff observes that the use of the five-year average is not only for volatility, quoting Ms. McMillan-Sepkoski:

> [T]he Commission has adopted averaging for this expense as a projection methodology in the past. This is because *a historical average anchors IT O&M expense projections in audited and verified actual expense experience, which could result in a more reasonable, prudent, consistent, and reliable approach to projecting this expense type.* This methodology protects the ratepayer from speculative, unpredictable, and volatile expense projections by smoothing them for ratemaking. [8 TR 4664 (emphasis added).]

This PFD agrees with Staff, that the Commission has previously found that IT O&M expense for investment planning should be disallowed, and the company provides no compelling reason to reverse this determination. Moreover, the Commission has also determined that a five-year average for projecting IT O&M operations expense is reasonable. Although Exhibit S-14.0 does demonstrate an increase in IT O&M for 2019-2021, all of the costs in the exhibit are projected and therefore unaudited. The PFD

[974] Staff brief, pp. 117-118, quoting 6 TR 2547.

therefore adopts Staff's recommended adjustments to IT O&M of $11,357,000, and $978,000.

8. Pension and Benefits

Ms. Christopher supported Consumers' pension and benefits O&M expense. As summarized in the company's brief:

> For the projected test year, the Company proposed a total electric O&M expense level for employee benefits of $8,718,000. Exhibit A-51 (LBC-1). The test year employee benefit O&M expense amount is comprised of: (i) a Pension Plans expense; (ii) a Defined Company Contribution Plan ("DCCP") expense; (iii) a 401k Employees' Savings Plan ("ESP") expense; (iv) an active employee health care, life insurance, and Long-Term Disability ("LTD") insurance expense; (v) a retiree health care and life insurance expense; and (vi) an Other Benefits – Absence Management/Education expense. Exhibit A-51 (LBC-1) summarizes the electric O&M expenses for these retirement and insurance benefit plans offered to employees and retirees.[975]

Mr. Coppola recommended a $1 million reduction in active health care expense, noting that Consumers projects a 14% increase in this cost from 2018 to the test year (from $24.2 million to $27.5 million). Mr. Coppola noted that Ms. Christopher began with 2018 actual expense and escalated it by 4%, 2.3% and 6% for 2019, 2020, and 2021 respectively.[976] Mr. Coppola questioned the validity of the company's increases, testifying:

> The forecasted rates of health care cost increases used by Ms. Christopher overstate the forecast expense for the projected test year and do not reflect the actual cost increases experienced by the Company in recent years. In Exhibit AG-1.61, I used the actual Health Care & Other costs from 2014 to 2019 provided by the Company to determine the actual trend in costs. Costs over this historical period show no increase. In fact, health care costs were $25.4 million in 2014 and are still $25.4 million in 2019 with lower amounts in the 8 years in between. This information contradicts the inflation rates of up to 6% used by Ms. Christopher and sourced from various health

[975] Consumers brief, pp. 327-328.
[976] 8 Tr 3478.

> care consultants. It is not clear how consultants have calculated these projections, but I have found from similar information provided by the Company in prior rate cases that the projections are consistently over inflated and unreliable, at least with regard to the actual cost increases experienced by the Company.
>
> Although over the past five years health care costs have been flat, to give the Company the benefit of the doubt that it may experience some increases in costs, I have calculated a 2.5% rate of increase during the three-year period from 2017 to 2019. In Exhibit AG-1.61, I used this 2.5% average rate of increase to forecast Health Care & Other costs for the projected test year based on the actual costs of $25.4 million incurred in 2019. The result is a projected test year expense of $26.5 million. This expense amount is $1.0 million less than the Company's forecast of $27.5 million. [977]

In response, Consumers characterizes the Attorney General's adjustment as arbitrary, contending that this particular line item includes not only active health care expense, but also various life insurance and LTD expenses, all of which are escalating at a different rate. Consumers contends:

> Ms. Christopher also rebutted Mr. Coppola's intent to rely on historic, actual expenses for purposes of his proposal by explaining that reliance only on past years' claims experience is not a comprehensive or accurate method for predicting future year cost increases. 6 TR 1728. She explained that, while past claims experience is an important component in predicting future health care costs, a more holistic, future-looking actuarial model is required to get the most accurate estimate of future health care costs. Id. As such, the Company worked with its independent health care consultant WTW to compile its 2020 and 2021 health care cost projections. The WTW study includes past claims experience and forward-looking medical/prescription drug expense trend expectations, enrollment/migrations, future design, claim adjustments, administration fees, wellness assumptions, and known future changes to these categories[.][978]

This PFD finds that the Attorney General's fairly modest $1 million adjustment should be adopted. To support its position Consumers points to testimony, a healthcare cost study, and its claim that this is all terribly complicated; however, the company never

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[977] 8 Tr 3479.
[978] Consumers brief, p. 331.

really explains why, after several years of costs that have been essentially flat, there is an escalation of 4%, 2.3% and 6% projected increases in the active healthcare and other O&M expense. In addition, Consumers does not address, let alone rebut, Mr. Coppola's contention that the company has consistently overstated its projection for this expense.

9. Employee Incentive Compensation Plan

The company relies on the testimony of Ms. Conrad, Mr. Wehner, and Mr. Stuart in support of its projected $5.2 million in EICP payments. Ms. Conrad discussed the company's overall compensation policy and the EICP, summarizing her conclusions:

> My conclusions include the following: (i) use of incentive compensation by utility companies is an accepted, common, and reasonable practice; (ii) Consumers Energy's decision to make a portion of compensation at-risk and subject to incentives is reasonable; (iii) the amount of overall compensation included by Consumers Energy in this case is reasonable and is reasonably necessary to attracting and retaining a talented workforce; (iv) incentive compensation is part of the reasonable level of market-based compensation and not in addition to it; (v) recovering costs of Consumers Energy's EICP employee incentive plans will not result in excess rates; (vi) Consumers Energy's EICP performance goals and thresholds provide customer-related benefits; and (vii) the EICP goals provide customer-related benefits at no incremental cost to customers above those included in market-based compensation.[979]

Ms. Conrad testified that Consumers is not seeking to recover costs associated with its long-term incentive plans. She presented Exhibit A-55 to identify the operational and financial performance measures for the 2019 EICP, and testified the 2020 plan has not been finalized.[980] She cautioned against looking at the results for individual goals in isolation rather than as a complete package.[981] She acknowledged that a portion of annual incentive expenses are capitalized based on labor studies performed by each

[979] 6 Tr 1736.
[980] 6 Tr 1754.
[981] 6 Tr 1756.

business unit.[982] Discussing benefits she ascribes to the plan, she also referenced Mr. Stuart's testimony.[983]

Recognizing that the Commission's rate orders decline to authorize recovery of costs associated with financial measures, she suggested that a 50/50 sharing of such costs would be more appropriate than a complete disallowance.[984] Ms. Conrad also presented Exhibit A-56 in support of her testimony that the company uses salary survey data from utility and energy companies as a benchmarking tool to establish market compensation levels.[985] And she presented Exhibit A-57 as an illustration of projected expense levels totaling approximately $5.2 million.[986]

Mr. Wehner also testified in support of the company's request to recover projected payments associated with financial measures, contending the $88 million benefit of the company's credit rating he calculated on page 7 of Schedule D5 of Exhibit A-14 should be considered a benefit of the incentive program.[987]

Mr. Stuart testified regarding the EIPC operational performance goals and presented an estimate of customer benefits associated with those goals. He testified that "specific quantification of the costs of the program and the benefits is not easy to perform for every metric," but presented an evaluation to show direct quantitative benefits of two key metrics of the program, with an assessment of indirect and/or quantitative benefits associated with other metrics.[988] He quantified savings from a reduction in employee

[982] 6 Tr 1760.
[983] 6 Tr 1759-1767.
[984] 6 Tr 1763.
[985] 6 Tr 1744.
[986] 6 Tr 1759.
[987] 4 Tr 413-414.
[988] 6 Tr 2405.

safety incidents as $4.4 million in annual direct savings and $7.4 million of total savings; he quantified savings from increased distribution reliability by looking at a 5.7 minute average reduction in outage minutes from 2006 to 2018 as an economic benefit to customers in excess of $17 million.[989] He also described indirect and quantitative benefits associated with customer interaction, on-time delivery, and generation customer value, as well as benefits primarily to gas operations.[990] He testified that a comparison of the change in the company's O&M expenses to the CPI shows that the company's O&M costs have remained practically flat while CPI has increased approximately 1.9% per year since 2006.[991] He provided his opinion that the program has made it "significantly more likely that customer benefits will be achieved," and that the program metrics are not duplicative.[992]

Staff argues that the projected EICP expense should be reduced by at least $3.4 million, and the $1.23 million bonus expense should be excluded entirely. Staff cites the Commission's prior orders excluding incentive compensation expense projections tied to the achievement of financial measures.[993] Staff argues that its recommendation to include a portion of the EICP expense projection tied to the attainment of financial measures is consistent with prior orders, but objects in principle to recovery of even this portion of the expense, because the "market-median" level of payout can be made under the program if only financial measures, and no operational measures, are attained. Mr. Welke testified: "It's not reasonable that an opportunity to earn 'market-median' pay

[989] 6 Tr 2405-2406.
[990] 6 Tr 2406-2407.
[991] 6 Tr 2407-2408.
[992] 6 Tr 2409.
[993] Staff brief, pp. 123-124.

exists after falling short of safety and reliability priorities."[994] Mr. Welke also testified that two of the exhibits Ms. Conrad presented in support of the plan lack source references, and also that her Exhibit A-55 was "re-presented" as Exhibit A-103.

The Attorney General argues that the Commission should reject the company's requested EICP funding in its entirety.[995] Addressing the EICP, Mr. Coppola testified that 50% of the target award for the non-officer employees under the EICP program turns on the attainment of financial measures, while prior to 2012, non-officer incentive compensation was based entirely on operational measures.[996] He testified that since then, the company has also relaxed the number of operational measures that need to be met to achieve target payout. He identified payout ratios significantly in excess of 100% in all years since 2011, when the payout was zero because only 6 out of 11 operational measures were achieved.[997] For the officer program, he noted that the target payout is based almost entirely on earnings per share and operating cash flow. He testified that the company's projected expense assumes 100% payout for both the officer and non-officer employees.

Addressing the performance measures Consumers identified for 2019, he testified they are essentially the same as the 2018 measures, but identified significant changes from 2017 to 2018, and explained his concern with some of the measures. After discussing his conclusion that the plans are too heavily weighted to financial performance metrics that do not directly benefit customers,[998] Mr. Coppola took issue with the

[994] 8 Tr 4735.
[995] Attorney General brief, pp. 144-154.
[996] 8 Tr 3484.
[997] 8 Tr 3484-3485.
[998] 8 Tr 3486, 3489-3490.

operational measures as duplicative, and expressed a concern that only 4 of 9 measures need be achieved for a 50% payout, characterizing this as "sub-standard performance not worthy of any payout."[999] He also objected that the financial and operational measures comingle gas and electric operations. Mr. Coppola disputed Mr. Stuart's quantification of benefits under the program, testifying that performance trends in safety and reliability have reversed recently:

> For example, safety incidents have increased some 32% in the Company's gas business and 87% in the electric business (2018 vs. 2017).
>
> In addition, more recent data shows that the Distribution Reliability statistics show an increase in the SAIDI from 168 in 2014 to 235 in 2019. Discovery request AG-CE-182 from case U-20650 shows that these two areas did not meet target levels in 2019 again. Therefore, this more recent information shows that, despite the incentives of the EICP, certain key measures are moving in the wrong direction.[1000]

The Attorney General argues that Consumers has not demonstrated a benefit to ratepayers, highlighting that 90% of the officer compensation program payout turns on financial measures, disputing that financial measures benefit ratepayers, and disputing that the operational measures are successful or have benefits demonstrably in excess of their cost.

In rebuttal, Ms. Conrad largely reiterated her testimony regarding financial measures. She also testified that Mr. Stuart calculated the annual benefits from two measures, safety and distribution reliability, totaling $182 million.[1001] This figure appears to relate to gas operations.[1002] Regarding Mr. Coppola's concern that the operational measures have a low threshold for payment, she testified to the need for those measures

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[999] 8 Tr 3487.
[1000] 8 Tr 3489.
[1001] 6 Tr 1772.
[1002] Stuart, 6 Tr 2413.

to be achievable to maintain employee motivation.[1003] She disputed his characterization of the payments as a bonus, characterizing a bonus as "a discretionary payment given without predetermined goals or objectives . . . not part of total cash compensation market levels."[1004] She also disputed Mr. Coppola's testimony that the company is increasing salaries for employees, arguing that the company has no set salary increase for non-union employees, and relies on surveys to determine market compensation levels.[1005] In his rebuttal, Mr. Stuart testified that even if Mr. Coppola's critique of the number of measures and the quantification of benefits were correct, the benefits to customers would still exceed $5.2 million.[1006] He further testified:

> All calculations are based on industry norms or studies, therefore the benefits are not inflated. Additionally, there are clear customer benefits from including long-standing operational goals such as Employee Safety and Distribution Reliability System Average Interruption Duration Index ("SAIDI") in the EICP portfolio. There are ebbs and flows in performance, however in the long and medium run the improvement trends are clear. For example, employee safety incidents decreased by 87% from 2006 to 2017, and more recently decreased by 30% from 2014 through 2019. Similarly, SAIDI has been 201 or less, in four of the past six years, while it had never been 201 or less, in any of the previous nine years.[1007]

Mr. Stuart also disputed that there is considerable duplication in measures, contending that the portfolio of measures was carefully constructed to provide a balance between customer value, reliability, and safety.[1008] As did Ms. Conrad, he disputed that low thresholds are a concern; he testified that "aggressive targets" for the measures are set annually. In its briefs, Consumers reiterates the testimony of its witnesses.[1009]

[1003] 6 Tr 1778.
[1004] 6 Tr 1777.
[1005] 6 Tr 1780.
[1006] 6 Tr 2413.
[1007] 6 Tr 2415.
[1008] 6 Tr 2414.
[1009] See Consumers brief, pp. 332-347; reply pp.170-171.

This PFD finds the Attorney General's recommended full EICP disallowance persuasive for a number of reasons. First, Consumers' EICP payout criteria is far too heavily weighted to financial performance rather than achieving operational objectives. The Commission has rejected the company's claim that financial measures benefit ratepayers. And while Mr. Wehner ascribes an $88 million benefit due to the company's credit rating, this PFD notes that ratepayers pay a substantial amount in rates to cover the company's debt costs and provide a return on equity. For example, this PFD includes $663 million for the 2021 test year as shown in Appendix A. Second, despite a history of EICP payments, in some cases at more than 100%, Consumers' performance with respect to reliability and safety continue to decline, as Mr. Coppola's testimony illustrates. Finally, as Mr. Welke testified, the EICP is structured so that employees can receive market-based pay without meeting any operational objectives at all. Therefore, the company's requested $5.2 million for EICP should be rejected.

10. Outstanding Contributor/New Employee Signing Bonus

At issue are $3,000 bonus payments Consumers provides as a signing bonus to new employees, or for current employees who make an outstanding contribution to the company. Mr. Welke explained Staff's recommendation that these bonus payment expenses be excluded: "They are based on vague criteria and appear highly discretionary. Further, given the current economic situation, it may be bad public policy to approve these types of discretionary expenses."[1010]

[1010] 8 Tr 4737; also see Staff brief, p. 124.

Ms. Myers presented rebuttal testimony in support of the program. She testified that customers benefit from the company's ability to attract a talented workforce.[1011] She described the outstanding contributor award as follows:

> The outstanding contributor award, currently referred to as the "Leaving it Better" award, is used to recognize and reward regular salaried, exempt and non-exempt employees who impact the Company's success by exhibiting one or more of the Company's Guiding Principles, in a way that furthers the Company's strategy, operational excellence, customer satisfaction, and/or corporate reputation. Employees receive a lump sum of up to $3,000, if approved.[1012]

She testified that this increases the level of productivity at work and reduces the employee turnover, increasing customer satisfaction.[1013] She also disputed that it should be viewed as duplicative of the EICP. In its brief, Consumers relies on Ms. Myers' rebuttal testimony.[1014] The company also contends that Mr. Welke's testimony regarding the current economic situation is "speculative," further arguing that while the impacts of the current pandemic were well-known in the first half of 2020, the rates in this case do not go into effect until 2021. Consumers also argues these are not new programs to the company, and characterizes removing the associated expense as "reversing course."[1015]

This PFD finds that Staff's recommendation to exclude $1.23 million attributable to this expense projection is reasonable and should be adopted. The company's reliance on rebuttal testimony to support this program is noted. The company also does not cite any Commission decision expressly approving this program in the past, so it is not appropriate to label Staff's recommendation a course reversal. As quoted above, Ms.

[1011] 6 Tr 2269.
[1012] 6 Tr 2269.
[1013] 6 Tr 2269.
[1014] Consumers brief, pp. 354-355.
[1015] Consumers brief, p. 356.

Conrad described a bonus program as a discretionary payment given without predetermined goals or objectives that is not part of total cash compensation market levels. Consumers has failed to establish that either the signing bonus or outstanding contributor award programs are appropriately funded by ratepayers, without regard to any particular economic circumstances currently present or that may be present during the test year.

11. Demand Response

As shown in Exhibit A-75, Consumers' test year O&M costs for its residential and business DR programs are $34,681,000, which includes $15,748,000 for the Business DR Program and $18,933,000 for the residential DR Program.[1016]

The Attorney General recommended a reduction of $18.9 million to the DR program, on grounds that DR costs have increased while projected MW savings have decreased from the amounts in the company's IRP. In response, Consumers argues that the discovery response upon which the Attorney relied for her claim that the MW reductions do not align with IRP projections, only included a portion of the company's DR programs.

In her initial brief, the Attorney General withdrew her recommended disallowance.[1017]

12. Uncollectible Expense

Ms. Gaston calculated test year uncollectible expense of $18.1 million based on a three-year bad debt loss ratio (BDLR) of cash basis uncollectible accounts expense for

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[1016] 3 Tr 217.
[1017] Attorney General brief, p. 156, n. 280; Appendix A. The Attorney General's recommendation for increased reporting on DR costs and savings should be addressed as part of Consumers DR reconciliation proceedings.

2016 through 2018.[1018] Using the same method, the Attorney General updated the uncollectible expense amount for 2017-2019, resulting in a reduction of $1.2 million.[1019] Consumers agreed with this amount.[1020]

13. Electric Injuries and Damages

Consumers projected a total of $4,531,000 in electric injuries and damages expense for the test year based on a five-year average of actual expense for the years 2014 through 2018.[1021] Using the same five-year average method, updated to include 2019, Staff and the Attorney General recommended reducing the injuries and damages expense by $746,000 to $3,785,000.[1022] Consumers agreed with this adjustment.[1023]

D. Depreciation, Amortization Expense, Taxes, Allowance for Funds Used During Construction

Staff and the company agreed to an AFUDC amount of $6,203,000.[1024] The remaining items should be recalculated based on the Commission's findings in the final order.

VII.

ADJUSTED NET OPERATING INCOME AND REVENUE DEFICIENCY

Based on the rate base, cost of capital, and adjusted net operating income as presented above, Consumers' jurisdictional revenue deficiency for the projected test year is estimated to be $105,644,000, or a net revenue increase of approximately $143,344,000 taking into account the expiration of the TCJA tax credit, Credit C,

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1018 Exhibit A-64.
1019 8 Tr 3475.
1020 6 Tr 1854.
1021 6 Tr 1849; Exhibit A-65.
1022 8 Tr 3476, 4721.
1023 Consumers brief, p. 351.
1024 Consumers brief, p. 360; Exhibit S-3, Schedule C-1

simultaneously with the effective date of the rates approved in the Commission's final order.

VIII.

OTHER REVENUE-RELATED ISSUES

A. Financial Compensation Recovery Mechanism

As part of the settlement agreement approved in Case No. U-20165, Consumers' IRP, the company received an FCM on eligible power purchase agreements (PPAs) entered into after January 1, 2019.[1025] The settlement agreement deferred approval of the mechanism to recover FCM revenues to the instant case. Consumers presented an FCM amount of $3,031,000 for 2019 through 2021, and has proposed a method for recovery of the FCM revenues. Staff does not contest the amount of financial compensation or the PPAs to which it applies.[1026]

Consumers explains:

> The Company specifically proposes that the initial FCM amount of $3,031,000 be collected through a surcharge beginning January 1, 2021. 6 TR 2236. The Company further proposes that an initial contested case proceeding be filed by March 31, 2022 to: (i) reconcile actual surcharge collections during 2021 to the actual FCM amount through 2021; and (ii) establish the surcharge to be billed beginning July 1, 2022, designed to collect the 2022 FCM, as well as any difference between the actual surcharge billed during 2021 and the actual FCM amount through 2021. Ms. Myers explained that the Company proposes that similar filings be made annually by March 31st each year to reconcile the prior year FCM and establish the current year surcharge. 6 TR 2236. Given the limited nature of these filings and for reasons discussed, the Company requests that these annual filings be conducted on an expedited basis and the Company initially proposed a 90-day case schedule. Exhibit A-88 (HJM-69) provides a timeline and details supporting the Company's proposed method for recovering the FCM.[1027]

[1025] See, MCL 460.6t(15).
[1026] 8 Tr 4800-4802; Exhibit S-25.0.
[1027] Consumers brief, p. 361.

Consumers notes that although the timing of the FCM filing is coincident with the company's PSCR reconciliation filing, it does not propose to include the FCM as part of the PSCR reconciliation, given that PSCR cases have no statutory time limits. Consumers points out that for alternative revenue programs like the FCM, accounting rules require, "the FCM revenues must be collected within 24 months of when they are recorded in order to record them in the period earned[,]"[1028] thus, collecting FCM revenue through a surcharge, with an expedited reconciliation schedule, are appropriate to comply with the accounting rules.

Staff indicates that the company's proposal for collecting and reconciling the FCM are reasonable, however, Staff recommends that the timetable for the FCM reconciliation case be expanded to 180 days. Staff also notes that the FCM plan and reconciliation could be included in the company's PSCR plan filing as a standalone component. According to Staff:

> Under this option, the FCM surcharge would be calculated independently from the PSCR and have no impact on the PSCR. . . . An advantage to including the FCM in the PSCR would be that the Power Purchase Agreement (PPA) costs used to calculate the FCM surcharge would be approved in the PSCR and allow those costs to seamlessly flow into the FCM calculations. (8 TR 4678.) Additionally, it would result in less proceedings before the Commission.[1029]

Staff agreed with the company that PSCR proceedings are often much longer than the 90-day schedule proposed by the company, however, "alternate revenue recognition would not be necessary if the Company waited to record the revenue until the incentive

[1028] Id. at 362.
[1029] Staff brief, pp. 144-145.

amount is approved[.]"[1030] Staff maintains that this is similar to the treatment of the EWR financial incentive.

Staff observes that Consumers proposes using projected sales for calculating the FCM incentive. While Staff agrees that either actual or projected sales could be used, in the circumstance where projected sales are used, Staff recommends that carrying costs be included using the same rates applied to PSCR over- and underrecoveries (e.g., the carrying cost on over-recoveries is set at the currently-approved ROE and the carrying cost on under-recoveries is the company's short-term debt rate).

In response, Consumers disagrees with Staff's carrying cost proposal, noting that the PSCR requirements for over- and underrecoveries are only required for PSCR reconciliations under MCL 460.6j, and the Commission has used various rates for carrying charges, including short-term debt cost rates and the weighted average cost of capital. Consumers insists that because any overrrecoveries are expected to be of short durantion, then the short-term cost of debt should be applied. Consumers adds that, "if that approach is not adopted by the Commission, the Commission should not exceed the Company's weighted average cost of capital as the carrying charge for over recoveries related to the FCM recovery mechanism."[1031]

Although Consumers continues to prefer a 90-day schedule for FCM reconciliations, the company is amenable to using the Staff's preferred 180 schedule for the proceeding. Consumers adds:

> Regardless of whether the Commission ultimately approves the Company's initially proposed 90-day schedule or Staff's proposed 180-day schedule, the Company specifically requests that <u>the Commission</u>

[1030] Id. at 145.
[1031] Consumers brief, p. 364.

> explicitly approve either the 90-day schedule or 180-day schedule for the FCM recovery proceeding in its final order in this case so that the Company is properly permitted to record FCM revenues in the period earned.[1032]

On behalf of ABATE, Ms. LaConte testified that "[t]he true economics of the program can be recognized by collecting the FCM in base rates . . . over the life of the PPA, the same as the return on any other asset in rate base."[1033] ABATE maintains that the FCM is not an alternative revenue program, and therefore its recommendation, to include the FCM in base utility rates, is appropriate.[1034]

In response, Consumers argues that:

> Since the FCM amounts are considered an alternative revenue program, and will be considered an alternative revenue program whether the amount is collected through a surcharge or through base rates, recovery through base rates is not necessary. Recovery through base rates would actually further complicate the economics of the program because rate case proceedings are not required to be filed annually. 6 TR 2274. That means that recovery of FCM revenues cannot be guaranteed to be collected within 24 months of when the amounts should be recorded which could violate the applicable accounting rules and put FCM revenue cost recovery at risk.[1035]

Finally, the RCG contends that the Commission should reject Consumers' proposal to include an FCM surcharge in rates in this proceeding. The RCG argues that although the settlement agreement in Case No. U-20165 included an FCM, the company has no entitlement to begin collecting the FCM immediately. Instead, the RCG argues that only the FCM mechanism was to be addressed in this proceeding. The RCG also agrees that the FCM should be included in the company's PSCR plan and reconciliation cases.

[1032] Id.
[1033] 8 Tr 3206.
[1034] ABATE also requests recognition of the FCM as a means of reducing the company's risk, which should be recognized when setting Consumers' ROE. ABATE's concerns about the allocation of the FCM is addressed below.
[1035] Consumers brief, p. 365.

The ALJ finds that Staff's proposal to file the FCM as a standalone part of the PSCR is reasonable. While the FCM meets the definition of an alternative revenue program, and although PSCR cases can take over a year, Staff's point, that the company could simply wait to record incentive until it is approved, is well taken.

With respect to ABATE's and the RCG's recommendations, while it is true that the FCM revenues could be collected through base utility rates, the fact that the company will not necessarily file a rate case annually means that recovery within 24 months may not occur. Thus, ABATE's and the RCG's recommendations are rejected. The ALJ also agrees that for carrying costs, the Commission should apply the weighted average cost of capital to any overrecoveries of FCM revenue and the company's most recently approved short-term debt cost rate to any underrecoveries.

B. <u>Deferred Revenue Recovery Mechanism</u>

The settlement agreement in Consumers' previous electric rate case provided for the deferral of the revenue requirement for capital expenditures for the New Business, Demand Failures, and Asset Relocation distribution programs, where spending was found to be outside the company's control. The Commission approved base amounts of $94,000,000 for New Business, $87,000,000 for Demand Failures, and $24,000,000 for Asset Relocation.[1036]

Ms. Myers testified that Consumers had actual capital spending, totaling $6,300,000, in excess of the base amounts for all three programs in 2019.[1037] In addition, these amounts were also deferred in 2020, resulting in a total deferral of $12.6 million

[1036]January 9, 2019 order in Case No. U-20134, Exhibit A, ¶ 8.
[1037] 6 Tr 2232; Exhibit A-85.

that the company seeks to recover in this proceeding. Ms. Myers explained that "The 2020 deferral on line 13 [of Exhibit A-85] represents the amount that would have been in rates in 2020 if the capital spending above the amounts included in the settlement agreement would have been included in the settled rates established in Case No. U-20134[,]"[1038] noting that these amounts would have been included in rates had the terms of the settlement agreement permitted the company to file a rate case before January 1, 2020. Ms. Myers testified:

> Given this, the earliest the Company could have reset rates to incorporate the additional distribution capital spending in base rates would have been November of 2020. In addition, the Company is filing this rate case with a projected test year beginning January of 2021 so the Company will not be adjusting base rates to incorporate the revenue requirement of the additional capital spending in base rates until 2021. The 2020 deferral is intended to acknowledge that had the rates established in the settlement considered the additional capital spending, the 2019 revenue requirement would have also been in rates in 2020.[1039]

Consumers requests that a 12-month surcharge be established on January 1, 2021, to collect the $12.6 million deferral. Finally, Consumers requests that the same deferral mechanism be approved in this rate case for the same three programs, based on capital spending above the amounts approved in the Commission's final order.

Staff supports the continuation of the deferral mechanism, subject to certain conditions. Mr. Becker testified that:

> First, it is important to closely monitor the spending programs' performance throughout the year and, therefore, Staff recommends the Company communicate any substantial changes to the spend programs. This will allow Staff to observe and monitor the programs' spending levels throughout the year and their potential impacts on other programs such as Reliability and Line Clearing. Close monitoring and reporting of the programs will also serve to inform Staff of any spending above Commission-

[1038] Id. at 2233.
[1039] Id. at 2233-2234.

> approved spending levels and allow Staff to proactively communicate with the Company, as opposed to Staff discovering the deviations in the Company's next filed rate case.
>
> Second, the Company must consistently spend the allocated amount in both Reliability and Line Clearing spending programs to improve safety, reliability, and resilience. Spending these allocated amounts should improve the distribution system and its performance and avoid a certain level of reactive expenditures, such as spending on demand failures.
>
> Third, Staff recommends the deferred accounting treatment be symmetrical and apply to both underspending and overspending.[1040]

Consistent with the above, Mr. Becker recommended that the Commission approve the continuation of the deferral mechanism, subject to Consumers' agreement with the following stipulations applied to each of the programs (New Business, Demand Failures, and Asset Relocation):

> **Stipulation #1:** The Company shall provide a list of sub-programs and investment categories within each of the five programs of New Business, Demand Failures, Asset Relocation, Reliability, and Line Clearing and communicate any significant changes to these sub-programs and investment categories to Staff while the changes are still in the planning stages and prior to the implementation of the proposed changes – even if these changes occur at the end of a prior case. For example, prior to the instant rate case filing, the Company changed Imminent Demand Failures from the Demand Failures program to the Reliability program.
>
> **Stipulation #2:** The Company shall provide quarterly spend reporting in each of the five programs throughout the test year and notify Staff of any anticipated spending above 110% of the approved spend amount for Distribution New Business, Distribution Demand Failures, and Distribution Asset Relocation programs. Each notification must include an explanation for the overspend.
>
> **Stipulation #3:** The Company shall spend the full amounts approved by the Commission in Reliability and Line Clearing programs in order to receive deferred accounting treatment for an overspend, and the deferred accounting treatment must be symmetrical. If the Company spends the approved amounts in the Reliability and Line Clearing programs, deferred accounting treatment shall be authorized for both the overspend and the

[1040] 8 Tr 4882-4883.

underspend (two-way tracker). If the Company fails to spend the approved amounts in either the Reliability or Line Clearing programs, or both, deferred accounting treatment shall only be authorized for the underspend (one-way tracker).

Stipulation #4: Deferred accounting treatment shall be requested for approval in each future rate case.[1041]

Consumers agreed to Staff's stipulations, and therefore they should be incorporated into the deferral mechanism going forward.

The Attorney General raised two major objections to the deferred recovery mechanism: (1) the inclusion of the revenue requirement for 2019 and 2020 is contrary to the terms of the settlement agreement in Case No. U-20134; and (2) the continuation of the deferral mechanism will promote excess spending. ABATE also contends that a deferred cost recovery proposal provides no incentive to control costs.

Based on Mr. Coppola's testimony the Attorney General argues:

Paragraph 8 of the settlement agreement is very clear that the deferred accounting mechanism applied only to the 2019 revenue requirement for the excess capital expenditures incurred in that year. There is no mention in the settlement for the Company to also recover the revenue requirement for the subsequent year in 2020. In that same agreement, the Company agreed to not file a rate case until after January 1, 2020. The other parties to the agreement expected that this mechanism would be a one-year adjustment to supplement the agreed upon revenue deficiency in Case No. U-20134, and therefore the Company should be made to live with the bargain it made. The Attorney General recommends that the Commission reject the Company's proposal to recover the 2020 revenue requirement of $6.3 million for 2020.[1042]

Noting that the 2020 revenue requirement for the deferred expenses is different than the 2019 revenue requirement, Ms. Myers explained:

The Company is not requesting recovery of the 2019 and 2020 revenue requirement associated with the deferred capital spending. The Company

[1041] Id. at 4483-4484.
[1042] Attorney General brief, pp. 157-158.

> is seeking recovery of the amount that would have been in rates had the Case No. U-20134 Settlement Agreement considered the revenue requirement associated with the higher actual 2019 capital spending. The applicable rates will be in place for all of 2019 and 2020. The Company's request includes the 2019 revenue requirement related to the capital spending and the continuation of the 2019 revenue requirement through 2020.[1043]

Regarding the Attorney General's and ABATE's claims that the deferral mechanism could lead to excessive spending in these programs, Consumers points out that the New Business, Demand Failures, and Asset Relocation programs include spending for items that are customer-initiated or that are otherwise outside the company's control.[1044]

The ALJ finds that the amount and recovery mechanism that the company proposes for deferred 2019 spending on New Business, Demand Failures, and Asset Relocation programs should be approved. The ALJ finds Ms. Myers' testimony persuasive that the company has not included 2020 spending in its request here. As Consumers points out in its brief:

> Mr. Coppola's position is entirely unreasonable because it would result in the Company getting recovery of its investments in 2019, the removal of those investments from rate base in 2020, and then the reentry of those investments in rate base in 2021 when the Commission sets final rates at the conclusion of this case. That position should be rejected because it is inconsistent with basic principles of ratemaking. It is notable that no other party, including Staff, took issue with the Company's proposed recovery of deferred excess distribution spending pursuant to the Case No. U-20134 Settlement Agreement.[1045]

In addition, the ALJ agrees with Consumers that, due to the nature of the New Business, Demand Failures, and Asset Relocation programs, where spending is largely

[1043] 6 Tr 2255.
[1044] Consumers brief, p. 371.
[1045] Consumers brief, p. 371.

driven by customer requests or equipment failures that are outside the company's control, excessive spending is not a problem. Therefore, the Commission should approve cost recovery for 2019 expenses in the amount and manner Consumers proposes. And the Commission should approve the continuation of the deferred recovery mechanism as the company requests, subject to Staff's stipulations listed above.

C. Conservation Voltage Reduction Incentive and Recovery Mechanism

As discussed above, Consumers IRP settlement includes approved spending for CVR, but the settlement agreement is silent with respect to a financial incentive. According to Mr. Blumenstock, CVR is intended "to flatten the voltage profile on our distribution circuits and when flattening the voltage, it has the consequence of reducing the amount of usage by our customers. So by reducing voltage, we reduce usage."[1046] Mr. Blumenstock further explained that the company intends to incorporate CVR in 500 circuits by 2032.[1047] According to Exhibit A-58, Consumers projects that it will achieve 80 MW of capacity reduction and reduce annual energy consumption by approximately 185,000 MWh by 2025.

As part of this rate case, Consumers proposes a CVR incentive, a shared savings mechanism,[1048] on grounds that, similar to DR, CVR is a low-cost, demand-side solution that replaces a more costly supply-side solution that would result in greater benefits to shareholders. According to Consumers, "[t]he CVR Program is cost effective for customers – by 2025, the CVR Program is expected to generate approximately $18.6 million of avoided cost benefits[,] however,

[1046] 6 Tr 1463.
[1047] 6 Tr 1245. Consumers implemented CVR on 10 circuits in 2019 and plans to add 65 more circuits in 2020 and 2021.
[1048] Exhibit A-58 provides an overview of the company's proposed incentive mechanism.

> [T]he program also results in lost earnings opportunities for the Company. 5 TR 967. CVR is expected to reduce the annual electric usage of the Company's customers by 184,491 MWh in 2025. Exhibit A-58 (MJD-1). This will not only result in reduced electric sales, but also the reduced need for distribution and capital investments. Thus, from a purely financial perspective, it would be advantageous for the Company to make a prudent investment in a more traditional, proven supply-side resource to meet customers' needs and shareholder expectations. 5 TR 967.[1049]

Consumers projects that its investment in CVR is expected to earn a return of approximately $1 million in 2025, but comparable solar resources would provide earnings of about $5.3 million, adding "[t]he earnings gap between CVR and a traditional supply-side resource grows wider over a longer time horizon – the NPV return opportunity from 2021 through 2040 of the 50% owned/50% PPA solar is $41.2 million, while it is only $8.1 million for CVR."[1050]

Consistent with MCL 460.6x and MCL 460.6a(13), Consumers proposed a shared savings mechanism "that allows the Company to share 15% of the actual, realized benefits to customers."[1051] Consumers states:

> The projected CVR incentive in 2021 based on the proposed 15% shared savings mechanism would be approximately $800,000. 5 TR 974. Thus, this shared savings structure allows the Commission to evaluate the success of the program while the incentive is still relatively modest. The incentive is expected to increase as the CVR Program is fully deployed and customers realize more savings. Id. The Company proposes to recover this incentive through a surcharge mechanism beginning in 2021 that is later reconciled based on actual savings that customers receive.[1052]

The company also outlined an annual method for addressing future CVR incentives and reconciliations of surcharges with actual savings.

[1049] Consumers brief, pp. 373-374.
[1050] Id. at 374, citing 5 Tr 968.
[1051] Id. at 375.
[1052] Id. at 376-377.

Staff, the Attorney General, and ABATE oppose the company's proposal on several grounds. First, Staff contends that Consumers' claims about lost revenue are inadequately supported, noting that if less energy is sold to customers due to CVR, then the company can simply adjust its sales forecast to reflect reduced sales. Staff adds that CVR savings on a given circuit are highly dependent on the specific loads on that circuit, and the company has not adequately modeled actual energy savings from CVR.

Second, Staff disputes the company's contention that CVR is "disfavored" when compared to supply-side resources. Ms. Simpson testified:

> CVR was approved in the Company's IRP as part of the plan that was found to be the "most reasonable and prudent" means of serving the customer's demand and energy needs. CVR was approved in the IRP at costs that did not include the shared savings incentive. Had the Company included the shared savings incentive, CVR may have been replaced by other resource options such as increased EWR. Since the model optimizes based upon the resource costs and operational characteristics, CVR is also not disfavored by the model during the selection process.[1053]

Thus, according to Staff, based on the way that IRP modeling is done a more costly supply-side resource would only have been selected if it were more reasonable and prudent than CVR.

Third, Staff maintains that CVR is part of the company's grid modernization and AMI programs, and therefore does not require an incentive beyond a return on the CVR investment. Staff agrees with Mr. Coppola that CVR is a technology that facilitates the provision of electricity at the appropriate voltage and that "'[t]his is part of the basic service that a utility should provide when customers purchase power.'"[1054] Staff notes that ABATE also agrees that CVR is a technology advancement that is, or should be part, of the basic

[1053] 8 Tr 4852.
[1054] Staff brief, pp. 154-155, quoting 8 TR 3499

service Consumers supplies. Staff further argues that the implementation of advanced technologies like CVR was part of the company's justification for its investment in AMI,[1055] and that Consumers identified CVR as part of its grid modernization program in 2017 in Case No. U-17990. Staff contends:

> It is disingenuous to now expect a shared savings mechanism to support the use of CVR when it is finally delivering a benefit that has been promised since 2008. The CVR investment is nothing more than a way to deliver the appropriate voltage customers need, provide for efficient use of grid assets, and deliver good power quality on a modernized grid.[1056]

Finally, Staff argues that although the Commission has requested comments on shared savings mechanisms in Case No. U-20747, the Commission has not yet issued an order in that case. Thus, even if the Commission finds that a shared savings mechanism is warranted for CVR, it would be premature to approve a mechanism in this proceeding. Staff recommends that if the Commission finds that an incentive for CVR is reasonable, then the Commission should adopt Staff's mechanism, which (1) is based on metrics to be established in the company's first reconciliation proceeding in March 2021; (2) is based only on O&M expenses for CVR; (3) the shared savings incentive should only be recognized as income once the Commission approves a specific amount.

As noted above, the Attorney General and ABATE oppose the CVR incentive. ABATE points out that because the investment in CVR is capitalized, the company is not foregoing a return on the investment, thus no additional incentive is required. In addition, the Attorney General maintains, "[t]he Company should not receive an incentive for delivering good quality power[,]" adding:

[1055] Staff brief, p. 155, quoting Consumers' testimony from Case No. U-15645.
[1056] Staff brief, p. 156.

> [T]he fact that CVR reduces power consumption for customers, and also reduces generating capacity, means that currently and in the past customers were receiving more voltage than necessary and were billed for more power costs than they should have been. CVR simply corrects a problem that has been endemic to the Company's system. The Company should not receive shared savings, or an incentive, for correcting a shortcoming with the current delivery of energy.[1057]

On behalf of the MEC group, Mr. Neme testified that Consumers should receive an incentive for CVR, noting that "the net present value (NPV) of benefits from CVR over the 2021 through 2040 time period ($283 million) are more than ten times the NPV of spending ($27 million), providing customers over a quarter of a billion dollars of electric bill savings."[1058] However, the MEC group asserts that the incentive the company proposes is flawed and far too generous. Specifically, they argue: (1) the company's proposed incentive is not sufficiently tied to performance. Thus, if the company mismanages the implementation of the program, shareholders will still receive an incentive;[1059] (2) although avoided costs are largely outside of Consumers' control, the company nevertheless uses avoided costs to calculate its incentive; (3) the proposed incentive provides unreasonably large returns to shareholders because it is based on the absolute value of returns on an alternative, more costly, supply-side resource; (4) Consumers' projection of on-peak energy savings resulting from CVR is too optimistic, and validation of these savings will not be sufficiently robust; and (5) the measurement of energy savings from CVR is not transparent and should be done by an independent evaluator.[1060]

[1057] Attorney General brief, pp. 167-168.
[1058] 8 Tr 3823.
[1059] MEC group brief, p. 152. The MEC group points out that for both EWR and DR, the company must meet certain benchmarks before any incentive is earned.
[1060] Consumers agreed to this recommendation, provided that the company can recover the additional O&M costs for a third-party evaluator. 6 Tr 1381.

Recognizing that the Commission is in the process of evaluating shared savings mechanisms in Case No. U-20747, the MEC group does not recommend a specific alternative incentive mechanism at this time.[1061]

In response to the MEC group's support of a CVR incentive generally, Staff posits that Mr. Neme's calculation of the net benefit of CVR is incorrect, because it does not account for grid modernization and AMI programs, the costs of which have accrued since 2008. CVR was a benefit that was used to justify those costs.[1062]

Under MCL 460.6x(1):

> Subject to section 6a(13), in order to ensure equivalent consideration of energy waste reduction resources within the integrated resource planning process, the commission shall by January 1, 2021 authorize a shared savings mechanism for an electric utility to the extent that the electric utility has not otherwise capitalized the costs of the energy waste reduction, conservation, demand reduction, and other waste reduction measures.

Section 6a(13) provides:

> The commission shall consider the aggregate revenues attributable to revenue decoupling mechanisms, financial incentives, and shared savings mechanisms the commission has approved for an electric utility relative to energy waste reduction, conservation, demand-side programs, peak load reduction, and other waste reduction measures. The commission may approve an alternative methodology for a revenue decoupling mechanism authorized under subsection (12), a financial incentive authorized under section 75 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1075, or a shared savings mechanism authorized under section 6x if the commission determines that the resulting aggregate revenues from those mechanisms would not result in a reasonable and cost-effective method to ensure that investments in energy waste reduction, demand-side programs, peak load reduction, and other waste reduction measures are not disfavored when compared to utility supply-side investments. The commission's consideration of an alternative methodology under this subsection shall be conducted as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

[1061] MEC brief, p. 164.
[1062] Staff reply brief, pp. 31-32.

The application of a shared savings mechanism to CVR turns on whether CVR is an "other waste reduction measure[]," as the company and the MEC group contend it is, or whether CVR is part and parcel of Consumers' grid modernization efforts and a "basic requirement[] for a regulated utility's service[.]"[1063] The ALJ finds persuasive the positions taken by Staff, the Attorney General, and ABATE, that CVR is fundamentally a means to improve power quality to customers with the incidental, although potentially significant, benefit of reducing energy use overall. As Staff aptly it sums up:

> The CVR investment is nothing more than a way to deliver the appropriate voltage customers need, provide for efficient use of grid assets, and deliver good power quality on a modernized grid.[1064]

Moreover, CVR, and related advanced technologies, were used to justify the company's investments in AMI and grid modernization, which have been promising benefits since 2008, when the Commission first approved the company's AMI program. In addition, the ALJ finds that the approval of an incentive for CVR raises the specter that Consumers will expect some incentive for almost any grid modernization technology that it might implement so long as it results in some reduction in energy use.

Finally, if the Commission does find that CVR is eligible for an incentive,[1065] the Commission should be mindful of the company's justifications for its preferred incentive. As the MEC group points out, the company implies that if an acceptable mechanism is not forthcoming, such action "could create an incentive to make minimal projections as to the potential savings in order to maximize an incentive opportunity."[1066] When

[1063] ABATE brief, p. 53.
[1064] Staff brief, p. 156.
[1065] The ALJ agrees with Staff and the MEC group that consideration of an appropriate shared-savings mechanism should be deferred until the completion of the proceedings in Case No. U-20747.
[1066] MEC group brief, p. 153.

pressed further in discovery, Mr. Delaney indicated that because "forecasts of the future inherently involve uncertainty which typically results in a range of possible outcomes . . . Mr. Neme's proposed minimum level of performance may create an incentive for utilities to select a value near the low end of an uncertainty range."[1067] The ALJ concurs with the MEC group's assessment that:

> In essence, Mr. Delaney is saying that the Company feels free to skew the IRP inputs within the range of reasonableness in order to choose IRP inputs that are resource on which the Company can earn a significant profit. Put another way, Consumers is asking the Commission to not hold Consumers accountable for the performance of its CVR program, or else Consumers will find another way to guarantee a profit for its shareholders.[1068]

This should raise substantial concerns for the Commission not only with respect to how incentives are evaluated, structured, and awarded but also the integrity of the IRP process itself. Staff also alludes to the fact that if the IRP process is an honest and objective one, there is little or no chance that any resource, demand side or supply side, will be disfavored.

In sum, this PFD concludes that Consumers' request for a CVR incentive should be rejected.

D. Long-Term Industrial Load Retention Rate/Hemlock Contract

As Consumers explains in its brief:

> Under [2018 PA 348, MCL 460.10gg] Act 348, eligible large industrial customers can receive a rate for electric service based on the cost of a designated power supply resource. This rate must be based on the cost of one or more designated power supply resources; the customer must agree to a long-term contract to pay the costs of the designated power supply resources for the expected remaining life of the resources; the customer must have an annual electric demand of at least 200 MW at a single site and an annual load factor of at least 75%; the contract must be for a

[1067] Id., quoting Exhibit MEC-153, p. 6.
[1068] MEC group brief, pp. 153-154.

> minimum of 100 MW of firm capacity; the customer must demonstrate a self-service alternative to standard utility service in a quantity equal to the contract demand level; and the rate must ensure the utility recovers its direct costs to provide transmission and distribution service to the customer.[1069]

On behalf of the company, Mr. Kelly, outlined the company's proposed LTILRR and contract with HSC,[1070] and on behalf of HSC, Mr. Rausch described how HSC meets the requirements of Act 348.[1071] Staff agrees that Consumers and HSC meet the requirements of the Act.[1072]

MEC group witness Jester raised a concern that because O&M expenses in the HSC contract are projected, "there is the distinct possibility that over time there will be a gap between the supposed and projected fixed operations and maintenance expense covered by the capacity charge and operations and maintenance expenses that are classified as variable and recovered through energy charges."[1073] To remedy this concern, Mr. Jester recommended that the Commission consider all O&M in excess of the amount covered by the capacity charge as variable O&M.[1074]

Both Consumers and HSC point out that Mr. Jester's recommendation is contrary to the plain language of MCL 460.10gg(1)(e)(i) which requires the calculation of a capacity charge for fixed O&M expense at the time the contract is entered into.

In its reply brief, the MEC group:

> concedes that the statutory language provides for the inclusion in the capacity charge of fixed O&M at the time of contracting. However, the Commission should acknowledge that Company administration of the LTILRR tariff, including the classification of O&M expenses as variable

[1069] Consumers brief, pp. 385-386.
[1070] 6 Tr 2165-2193; Confidential Exhibits A-73 and A-74.
[1071] 6 Tr 2353-2358.
[1072] 7 Tr 2914.
[1073] 8 Tr 3596-3597.
[1074] Id. at 3597.

> or fixed under this rate, is within the Commission's jurisdiction to regulate all rates, fares, fees, charges, and services and other matters pertaining to the formation, operation, or direction of the utility.59 The statutory language in MCL 460.10gg(1)(e) does not exempt the LTILRR rate from the Commission authority to oversee rates generally.[1075]

The ALJ finds that HSC is eligible to take service under the LTILRR and that the HSC contract provides a net benefit to Consumers' customers as required under MCL 460.10gg(4). Accordingly, the Commission should approve the LTILRR and the HSC contract.

E. State Reliability Mechanism Calculation

As set forth in MCL 460.6w, Consumers, Staff, and Energy Michigan calculated the SRM capacity charge. In rebuttal, Consumers provided revised calculation that included variable PPA costs as fuel costs.[1076]

Energy Michigan argues that even in the company's direct case, Consumers made changes to the SRM capacity charge calculation that were inconsistent with the statute and the method the Commission has approved for the calculation. Energy Michigan points to two key changes the company made that resulted in the increase in the charge from $335.99 per MW-Day to $447.71 per MW-Day.[1077] First, rather than using the MW value from the company's most recent Annual Report on Form 10-K in the denominator,

[1075] MEC group reply brief, p. 16.
[1076] The ALJ finds that Consumers' alternative calculation, first raised in rebuttal, should be disregarded in this case. Although the parties were given an abbreviated opportunity to provide surrebuttal to the company's proposal, there was insufficient time to fully address a new recommendation, which could have, and should have, been presented in the company's direct case.
[1077] 8 Tr 4548.

Consumers used a load forecast from its capacity demonstration case.[1078] Second, Consumers converted this load forecast from MW to zonal resource credits (ZRCs).[1079]

Consumers argues that the changes it proposes are reasonable. According to Consumers:

> The Company believes that the use of the SEC information is inappropriate because it is historical information and not an accurate representation of the Company's plans for the test year that is the subject of this proceeding. Therefore, in this proceeding, the Company is requesting the Commission to approve sourcing the Company's load coincident with MISO from the Company's PSCR forecast which more accurately presents the Company's plans for the test year.[1080]

As for the change from MW to ZRCs, Consumers posits:

> Mr. Troyer explained that the denominator should be measured in ZRCs which is MISO's commodity for capacity and the method by which the Company is required to demonstrate compliance under MISO's Resource Adequacy construct and the SRM capacity demonstration filing with the MPSC. 6 TR 1561. ZRCs, and not MWs, are a measure of a resource's available capacity after discounting for the resource's equivalent forced outage rate or, for intermittent resources, its Effective Load Carrying Capability. Mr. Troyer further explained that, under the MISO's Resource Adequacy Construct, one ZRC is sufficient to serve one MW of demand. Since ZRCs are the more accurate measure of a resource's capacity in the MISO system, it should also be the basis for the denominator in the SRM Capacity Charge.[1081]

Energy Michigan took issue with the company's method and calculation of the SRM capacity charge. According to Mr. Zakem:

> Since the numerator is the capacity cost of all Consumers Energy production resources net of offsets specified in MCL 460.6w, the logical denominator would likewise be the capacity MW value of all of the production resources. In fact, such a value was used in all of the SRM Charges that the Commission has approved for Consumers Energy as well

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1078 Case No. U-20590.

1079 Consumers' SRM capacity charge calculation, based on the amounts in the company's application, can be found in Exhibit A-17. The SRM capacity charge should be recalculated consistent with the final order.

1080 Consumers brief, p. 392.

1081 Id. at 396.

> as for DTE Electric. In each case, the Commission has used the MW value from the utility's most recent annual report on Form 10-K as filed with the SEC. The MW value for Consumers Energy, as stated in its 10-K for the fiscal year ended December 31, 2019, filed on February 6, 2020, is 8,241 MW. This is shown on page 18 of the 10-K filing, a copy of which is included as Exhibit EM-2.

With respect to the company's decision to convert MWs to ZRCs, Mr. Zakem cited several discovery responses that were inconsistent with Mr. Troyer's testimony.[1082]

> There are three primary reasons why Mr. Zakem's recommendation would not result in an SRM charge which adequately assesses the cost of capacity to SRM-applicable customers. 6 TR 1562-1563. First, as explained above, the Company is proposing to base the denominator of the SRM Capacity Charge on the ZRCs necessary to serve customer demand (or load) which is different than both the ZRCs from the Company's resources and the installed MW of Company resources, as proposed for use in the SRM charge calculation by Mr. Zakem. 6 TR 1562. Second, the Company's customers get capacity value from supply resources on a ZRC basis. Only ZRCs, and not installed MWs, count towards the Company's compliance obligations with MISO or SRM capacity demonstration with the MPSC. Mr. Troyer explained that there are some cases where the ZRCs provided by a resource are vastly different than the installed capacity, such as intermittent resources and dispatchable resources with high Equivalent Forced Outage Rate on Demand calculations. 6 TR 1562-1563. Third, as discussed in more detail below, the capacity costs and offsets included in the numerator of the calculation do not appropriately represent the correct amount of costs and cost offsets associated with the Company's PPAs. 6 TR 1563.[1083]

The ALJ finds that Consumers' proposed revisions to the method for calculating the SRM capacity charge should be rejected. As Energy Michigan argues:

> In keeping with past Commission precedent, therefore, and on the basis that the total MW of capacity used for the denominator should align with the resources whose costs are reflected in the numerator, which the existing methodology ensures, Energy Michigan recommends that the Commission retain its existing methodology and source the denominator MW value from Consumers' most recent 10-K, included in the record as Exhibit EM-2 (AJZ-2). This would result in a value of 8,241 MW.[1084]

[1082] 8 Tr 4556-4557.
[1083] Consumers brief, p. 397.
[1084] Energy Michigan brief, p. 8.

Consistent with the discussion above, the ALJ recommends that the SRM capacity charge be set using the previously-approved method as described by Energy Michigan.

F. PowerMIFleet Program and Deferral Request

Ms. Nielsen presented the Company's proposal for a three-year PowerMIFleet Pilot Program (PowerMIFleet) to support the growing EV fleet market in Consumers' electric service territory.[1085] The objective of the pilot is to ensure that the company is prepared to facilitate the full benefit of EV adoption for all customers by learning to manage grid impacts while the EV market is small, thereby positioning the company to capture benefits for customers while avoiding expensive, reactive adjustments once the market has matured.[1086]

Similar to the PowerMIDrive program, the PowerMIFleet pilot is proposed as a three-year program with rebate offerings under a "make ready" model, rather than company ownership.[1087] As Ms. Nielsen explained, rather than wait until the end of the pilot, the company will continuously assess and adjust program components based on insights gained and evaluations by stakeholders and then captured in annual PowerMIFleet program reports provided to the Commission.[1088]

The estimated costs for the Pilot Program are $12.2 million. Over the life of the program, costs are expected to be:

- Fleet Charging Infrastructure Capital (make-ready): a three-year cost of $4.5 million;

- Fleet Charging Infrastructure O&M (Level 2 rebates): up to $5,000 per port (cost of the rebate), for a three-year cost of $2.5 million;

[1085] 6 Tr. pgs. 2287-2288
[1086] 6 Tr. pg. 2302
[1087] 6 Tr. pg. 2305
[1088] 6 Tr. pg. 2315

- Fleet Charging Infrastructure O&M (DCFC rebates): up to $70,000 per public-use charger and $35,000 per non-public charger (cost of the rebate), for a three-year cost of $0.5 million;

- Education and Outreach: a three-year cost of $1.3 million for resources to recruit customers and site hosts for the Program, concierge service analyses, as well as educate all customers on the benefits of EVs and managed charging;

- Technical Development: a three-year cost of $3.4 million for the critical system underpinning charging data collection and analysis, demand response, and bi-directional power flow as well as allowance for two FTEs; and

- The fleet electrification concierge, workplace DR, and bi-directional power flow components will leverage rebates and make-ready investment from the fleet charging infrastructure component as well as Program support from the education and outreach and technical development components to operate, so there are not incremental costs for these components.[1089]

Because the market is evolving, annual costs are expected to vary depending on customer uptake of rebates and/or vehicle availability. Any differences between estimated costs and actual costs for each program element above will be provided to the Commission.[1090]

Consumers requests regulatory asset treatment of the PowerMIFleet pilot. If approved, the pilot would result in a deferred asset until the fleet EV program rebates and related O&M costs are verified.[1091] This approach would allow the company to invest in EV charging infrastructure now to benefit Consumers' customers. And it would allow cost recovery at a later date along with a prudency review prior to collection through rates.

[1089] Consumers brief, p. 411.
[1090] 6 Tr pp. 2316-2317
[1091] 6 Tr. pgs. 1869-1870

Several parties weighed in with recommendations for the program, including ChargePoint, EC/ELPC, EIBC/IEI, the MEC group, Staff, and ABATE. As set forth in the company's brief, Consumers found some of these recommendations to be conducive to the pilot including: ChargePoint witness Houston's recommendations to: (1) reduce the minimum kW requirement for dual port DC fast chargers (DCFCs) to reduce the cost of DCFC rebates and minimize the demands of vehicle charging on the grid; (2) limit employee-owned vehicle charging to Level 2 chargers; and (3) continue to pursue third-party funds from the Volkswagen settlement or other funding that may become available in the future.

Consumers also agreed with EIBC/IEI witness Jester who recommended (1) rebates should be flexible within the overall pilot budget; (2) the company should evaluate electrification of its own fleet as part of the program; (3) Consumers should make a particular effort to identify and adapt open standards and protocols for fleet charging; and (4) Consumers should address the managed charging objective of the PowerMIFleet pilot as part of its concierge service.[1092] The ALJ agrees with Consumers that these recommendations are reasonable and improve the proposed pilot.

However, Consumers rejected certain other recommendations. First, ABATE recommends that the PowerMIFleet pilot be rejected entirely for failure to demonstrate a benefit to customers.[1093] The ALJ disagrees that a benefit cost analysis is necessary at this time for a small pilot program. Ms. Neilson testified that while there are numerous potential benefits to the program, there nevertheless remain a number of unknowns,

[1092] See 6 Tr 2326-2328, 2332-2336.
[1093] 8 Tr 3214-3215.

including the fleet types, use cases, and fleet locations and loads that the pilot is intended to resolve. On behalf of the JCEO, Mr. Baumhefner also opposed ABATE's recommendation.[1094] Along that same line, Staff recommended that Consumers be required to provide a benefit cost analysis on each potential project to ensure there will be a net benefit.[1095] The ALJ disagrees that individualized benefit cost analyses are necessary at this point. In the future, if the pilot is successful and the company plans to expand certain aspects of the program, such analysis may be required.

Consumers took issue with Ms. Houston's recommendations to (1): shift unused funds from PowerMIDrive to PowerMIFleet; (2) redesign incentive tiers to better support electrification of public service fleets (school and transit busses); and (3) provide detailed reporting information, including types and distribution of fleets participating in the program, number and type of ports per site, aggregated charging behavior by type of fleet and by tariff, costs of make-ready infrastructure and charger by site, participation in the demand response program and in DR, compensation for participation in demand response events, bi-direction flow results, and other data.[1096]

Ms. Nielson responded that Consumers plans to use remaining PowerMIDrive funds for additional public DCFC chargers, noting that the two programs have two different objectives.[1097] Ms. Nielson agreed in part with the recommendation to incentivize public service fleet conversions, but given the nascency of the PowerMIDrive program, the suggested change should not be formalized at this time.[1098] Finally, with

[1094] 8 Tr 3969-3971.
[1095] 7 Tr 2920-2922.
[1096] 8 Tr 4139-4142
[1097] 6 Tr 2327-2328.
[1098] Id. at 2329.

respect to the suggested reporting requirements, Ms. Nielson again recommended that the Commission take a wait-and-see approach before determining what information might be useful going forward.[1099]

The ALJ agrees that because the program is so new, flexibility with respect to incentives and reporting requirements should be assessed as the pilot progresses, and should not be mandated at this time. In addition, Ms. Nielson explained that the objectives of PowerMIDrive and PowerMIFleet differ, and the company plans to add more DCFCs to the PowerMIDrive project, thus, the transfer of funding from one program to another is not appropriate.

Consumers objects to the EIBC/IEI's (and others') recommendations to (1) institute mandatory collaboration and reporting;[1100] (2) require the company to provide a body of case reports from the concierge service as part of the program evaluation; (3) mandate the company include certain defined customer fleets, including municipal buses, passenger vans, school buses, and public works vehicles (among others) in the pilot program;[1101] (4) include electrification of the company's fleet in the next rate case; (5) mandate reporting on efforts to identify and adopt relevant open standards and protocols; and (6) reframe the DR part of PowerMIFleet as "managed charging".[1102]

In response to the first, second, and the fifth of these recommendations, as well as Staff's recommendation that the company provide 45-day reports and include the pilot in the DR and IRP annual reports, Ms. Nielson reiterated that Consumers intends to file an

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[1099] Id. at 2330.
[1100] The MEC group recommends mandatory quarterly meetings separate from other meetings on EV programs.
[1101] This recommendation was echoed by MEC group witness Nabong and Staff witness Withenshaw, who recommended that Consumers focus its program on air pollution non-attainment areas.
[1102] 8 Tr 4476-4

annual PowerMIFleet report considering feedback from stakeholders. Thus, mandatory collaboration and specific reporting requirements are unnecessary at this time. Ms. Nielson highlights the fact that there have been no issues with the PowerMIDrive collaboration and none should be anticipated for PowerMIFleet. In response to Staff, she noted that additional reports could be confusing, given the timing of the reports.

The ALJ agrees with the company that reporting requirements should be developed over time, as the pilot progresses, and that the company should continue its collaboration with stakeholders to that end. With respect to Staff's recommendation, the ALJ agrees that for now, an annual report on PowerMIFleet is reasonable. As Ms. Nielson points out, if the DR component of the pilot becomes significant, including it as a DR resource and covering the program in the DR report will be appropriate.

With respect to the third recommendation, Ms. Nielson agreed in part, noting that a goal of the pilot is to include as many types of fleets as possible. Nevertheless, because the program is new, and considering the uncertainty around COVID-19, it is difficult to assess market participation at this time. The ALJ agrees that mandating specific types of fleets for inclusion in the pilot is unreasonable at this time. Consumers' commitment to remaining flexible as the program develops will allow the company to encourage participation from different sectors.

In response to the fourth recommendation, Ms. Nielson agrees that analyzing the company's fleet as part of the concierge program would be valuable for the company's fleet electrification goals and as an educational opportunity. However, given the size and complexity of Consumers' fleet, developing an electrification proposal before the next rate case might not be possible. The ALJ agrees in part, that although a proposal to convert the entire company fleet could probably not be developed as quickly as EIBC/IEI proposes, Consumers should nevertheless consider a small pilot to expand the PowerMIFleet program to focus on some portion of the company's fleet.

Finally, with respect to the last recommendation, regarding the reframing of the DR component of the program as managed charging, Ms. Nielson testified that although managed charging is a primary objective of the DR part of program, "the Company proposes to test EVs as a demand response asset in a workplace setting to understand the potential and cost of these assets for demand response, to understand how customers respond to curtailment, and to experientially learn alongside employers offering charging to employees."[1103]

Finally, the MEC group made additional recommendations including: (1) a requirement that the company provide guidance in determining the best build size and other design elements as part of the charging rebate component;[1104] (2) require site hosts to pass through underlying time varying price signals to the end user/drivers;[1105] (3) require that the bi-directional power flow component include measures to ensure broad participation from a variety of fleet sizes, geographic locations, charging profiles, distance of fleet usage, and vehicle types;[1106] and (4) require a contingency plan for education and outreach to help protect outreach efforts from challenging circumstances.[1107]

[1103] 6 Tr 2335.
[1104] 8 Tr 3956
[1105] 8 Tr 3950-3951
[1106] 8 Tr 3957
[1107] 8 TR 3957

Because the PowerMIFleet pilot is Consumers' first venture into the fleet EV market sector, therefore flexibility is essential, and for the reasons set forth in Ms. Nielsen's rebuttal testimony at 6 Tr 2337-2343, these recommendations are rejected.

G. Advanced Metering Infrastructure

Two issues were raised concerning AMI. First, in its brief, the RCG asserted that the Commission should direct the company to eliminate or reduce surcharges to AMI opt-out customers. The RCG contends that there is no cost-based information that supports the opt-out charges, and the Commission's rules permit customers to self-read meters and report to the company. Thus, meter reading costs for AMI opt-out are unnecessary and punitive.

In response, Consumers points out that it does not intend to change the opt-out charges for non-transmitting meters in this proceeding. Because the company does not propose any changes, and because the RCG did not provide testimony in this case, "[t]here is quite literally no evidence in this case on the subject of the non-transmitting meter provision at all and, hence, no basis for any Commission order related to a change in the non-transmitting meter provision."[1108] As to the rest of the RCG's claims, Consumers argues that these issues have been raised repeatedly and have been rejected by the Commission and the Court of Appeals.

The ALJ agrees with Consumers that, absent any evidence on opt-out costs, there is no basis to reject the AMI opt-out tariff and charges. Further, the company correctly notes that the remainder of the RCG's claims have been litigated repeatedly in both Consumers and DTE cases, and the Court of Appeals has rejected these claims.

[1108] Consumers reply brief, p. 256.

Second, Ms. Myers sponsored an updated AMI business case in Exhibit A-89, and she testified that Consumers should be relieved of the requirement that it present an updated AMI business case in every rate case. Ms. Myers explained that Consumers began implementing AMI in 2012 and completed its AMI installations in 2017.[1109] She discussed the NPV analysis of the Smart Grid/AMI program, noting that "[t]he revisions made in this case to the cost/benefit analysis changed the business case NPV of net savings in revenue requirements from $93.9 million in Case No. U-20134 to $160.5 million, an improvement of $66.6 million."[1110] Ms. Myers explained the higher NPV in this case resulted from including additional costs and benefits from the company's DR programs, changes to discount factors, and "to reflect the difference in timing between rate cases, the NPV calculation was adjusted so that all future net revenue requirements were discounted back to the beginning of 2021."[1111]

On behalf of Staff, Ms. Fromm provided Staff's calculation of the NPV of the company's AMI investment in Exhibit A-18. Ms. Fromm recommended that the company be required to continue submission of AMI business cases going forward because there are ongoing investments in AMI for technology upgrades and system maintenance. In addition, Ms. Fromm explained:

> The cost/benefit analysis also offers valuable insights into future programs where prudency relies on projected benefits that are anticipated to occur after upfront costs. It is important to continue to update the business case with actual benefits to be able to use the Company's experience with this project as a guide to judge future projects of a similar nature. If the Company expects to recover expenditures upfront for investments that deliver future benefits with no recourse for the Commission should these investments not deliver what they promise, the Company should at least be held accountable to reporting realized benefits for transparency, which is

[1109] 6 Tr 2249.
[1110] Id.
[1111] Id. at 2250.

vital information for Staff, Intervenors, and the Commission to consider when making future decisions regarding utility investments.[1112]

Ms. Fromm also raised issues with Consumers' AMI business case presented in Exhibit A-89, noting that certain upgrade costs were excluded, and that by only discounting future revenue requirements to 2021, rather than to the beginning of the program in 2009, "it treats all costs that were incurred prior to the test year (2009-2020) as sunk costs, which is not appropriate when looking at the investment as a whole."[1113] By making the above noted changes, Ms. Fromm calculated an NPV of negative $2.2 million on the electric side and negative $5.3 million overall.[1114]

In rebuttal, Mr. Warriner agreed that costs for upgrades should be included, but that Ms. Fromm misinterpreted the information in Exhibit A-89 and the company's audit responses in Exhibit S-18.3, pp. 22-29 with respect to the base year Consumers used in its NPV analysis. Mr. Warriner explained:

> As displayed in both Exhibit A-89 2 (HJM-70) and Exhibit S-18.3, pages 22 to 29, the Company used an NPV factor of 1.000000 for every year from 2009 through 2020 and discounted the future values for 2021 through 2032. As a result, the first 12 years of the multi-year NPV calculation include the full value of the quantified annual net revenue requirements. Because the Company's NPV calculations recognize 100% of the 2009 through 2020 historical net revenue requirements, it is incorrect to claim that the Company is only looking at the investment in AMI on a forward-looking basis.
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> * * *
>
> Staff witness Fromm's adjustment to the NPV calculation ignores the Company's consistent practice in prior rate cases of including historical net revenue requirements in the AMI cost benefit analysis at their estimated full historical value and applying time-based discount factors only to future years projected net revenue requirements. The Commission has relied upon the Company's NPV calculations for several rate cases. The approach taken by Staff witness Fromm in this proceeding has never been recommended by Staff or directed by the Commission. Suggesting a

[1112] 8 Tr 4779.
[1113] Id. at 4780.
[1114] Id.

revision to the Company's analytical approach three years after the completion of the AMI meter installations results in an arbitrary NPV metric that should not be relied upon by the Commission in this proceeding.[1115]

Staff responds:

Staff disagrees with the Company's arguments. Staff's analysis is meant to show the whole of the AMI project, at the onset. When the NPV factor is 1.00 for years 2009 through 2020 that means that costs and benefits incurred in 2009 are looked at in the same time frame as costs and benefits incurred in 2020, which is inherently false when considering the time-value-of-money, which is exactly what the NPV is meant to demonstrate. The fact that the majority of costs were incurred before the Company began realizing quantifiable benefits needs to be reflected in the NPV calculation which, when evaluating the program as a whole, would have been done in present-day dollars when the project began, in 2009. The intention of an NPV calculation is to see how the investment will pay off, as compared to other investments. Since investments began in 2009, it is natural that this would be the base year. A positive NPV (calculated from 2009) indicates that the investment will be favorable and result in a net benefit, whereas a negative NPV indicates that the benefits will not exceed the costs. Staff's analysis shows that, had the Company known what actual costs would be incurred and the level of benefits that would be realized before it began incurring costs in 2009, the investment in AMI would not be one that would deliver a net benefit. While Staff is not recommending any action be taken regarding the AMI investment, since there is no recourse for the Commission at this point, it is recommending that the Company continue to supply a business case with updated costs and benefits as they become realized, to continue to evaluate the performance of the program, benchmarked against the original projected performance.[1116]

Consumers responds that the Staff's approach to the NPV calculation is departure from the method that the company has used for the past decade, and for numerous reasons, the Staff NPV calculation is simply incorrect. Among other things, Consumers maintains that Staff used the incorrect discount rate and that using 2009 as the base year is also incorrect because AMI costs prior to the beginning of AMI deployment in 2012 were minimal.

[1115] 6 Tr 2593, 2595.
[1116] Staff brief, pp. 89-90.

Given the conflicting testimony and dueling approaches to calculating the NPV of the AMI program presented in this case, this PFD finds that it would be reasonable to maintain the status quo, and require (at least) one more AMI business case presentation by Consumers. The ALJ also recommends that before filing its next case, Staff and the company attempt to come to an agreement on the correct approach to developing the business case for AMI, including the appropriate base year, costs to be included, and discount rate to be applied.

H. Demand Response Surcharge

Under the three-phase approach to address DR costs, set forth in the September 15, 2017 order in Case No. U-18369, DR capital costs are approved in an IRP, O&M costs are approved in a general rate case, and a reconciliation of both capital and O&M spending occurs annually in a reconciliation case. Any over- or underrecovery is retained as a regulatory asset or liability until the next general rate case when it is included in rates, along with any DR incentive that has been approved.

In this case, Consumers is proposing to include a DR surcharge, instead of including DR costs in base rates. Mr. McLean testified that while the company is not proposing to change the framework, managing over- underrecoveries through a surcharge will allow for more prompt customer refunds and will permit the company to timely collect any underrecoveries or financial incentives. In addition, the reconciliation process will be streamlined.[1117] As an example, Mr. McLean pointed to the company's 2017 DR reconciliation in Case No. U-20164, where the Commission approved an

[1117] 3 Tr 218-219.

overrecovery of $489,633, a regulatory liability that the company will have carried for four years until it is recognized in rates set in this case.

On behalf of Staff, Mr. Revere opposed the company's proposal to include a DR surcharge at all and, if the Commission determines that a surcharge is appropriate, there are a number of problems with the company's proposal, particularly the fact that the surcharge method does not recognize any difference in revenue collected to cover the expense. According to him:

> As rates, once set, are disconnected from the expenses that were used in their calculation, it is difficult to say if the Company has actually collected more or less than was expected to cover any given cost. If the Company were to experience higher than expected sales, there would be commensurately higher revenue collected from customers above the expectation used to set rates. If the surcharge is not set to collect all costs associated with DR, it would not be possible to reconcile the revenue collected to cover the costs, whether actual or included in rates. If the Company were to spend more on DR programs than was assumed in rates, but at the same time had higher sales, it is entirely possible that the Company could collect money for an under-recovery that did not actually occur. By separating all DR costs into a surcharge, both the revenues and costs could be reconciled, ensuring that both sides of the equation match. This would avoid compounding over/under-recoveries. Staff recommends that, if the Commission determines a surcharge is appropriate for DR costs, it should place all such costs into a surcharge so that both revenue and expenses can be reconciled.[1118]

As for the company's concerns about delays in refunds or collections of over- or underrecoveries and financial incentives, Mr. Revere points out that Consumers' 2017 DR reconciliation was its first, and future reconciliations should not take so long to reach a final decision. Moreover, if the company waits to recognize any financial incentive until the Commission approves it, there should be no problem collecting the incentive within

[1118] 7 Tr 2918.

24 months.[1119] ABATE also takes issue with the company's proposed surcharge on generally the same grounds. Ms. LaConte testified that "[t]he DR surcharge is an example of single-issue or piecemeal ratemaking, which may trigger an adjustment to rates without considering Consumers' total costs. Whether the adjustment results in a surcharge or a refund, it assumes all other costs remain static, although there may be an offsetting cost reduction (or increase) that negates the adjustment."[1120]

In response to Staff and ABATE, Consumers reiterates its concerns about timing, noting that the current approach depends on rate case filings, which may not occur annually. "Even if a rate case is filed annually, the refunds or collections will likely be delayed by a year or more when compared to the Company's proposed DR surcharge. If rate cases are filed less frequently, the delay could be longer."[1121] In addition, the company disagrees with Staff's recommendation to wait to record a financial incentive until after the Commission issues an order approving the incentive. According to Consumers:

> [R]ecording the financial incentive in the same period of the associated costs aligns the cost of the DR program with the revenue, including the incentive. 3 TR 250. As the Company continues to expand DR under the Company's Clean Energy Plan, the performance incentive will be an important contributor to the Company's financial performance, and the ability to record the revenue in the period earned will provide a better economic picture of the program for both the Company and customers. Id. And even if the revenue is booked at the conclusion of a DR Reconciliation, the Company would still require a surcharge to ensure the Company is able to recover the incentive within 24 months of booking the revenue. 3 TR 250-251.[1122]

[1119] Id. at 2917.
[1120] 8 Tr 3208.
[1121] Consumers brief, p. 422, citing 3 Tr 249.
[1122] Id. at 423.

Admitting that the DR surcharge the company proposes is not optimal, and agreeing with Staff that all costs and revenues should be included, Consumers nevertheless maintains:

> [T]he best approach would be to remove all DR costs from base rates and recover them through a surcharge. 3 TR 252. This approach would allow all changes in DR costs, over- or under-recoveries, and performance incentives to be reviewed in DR reconciliations and implemented through surcharges without the need for rate case filings. Id. However, the Company requests that the Commission approve the Company's DR surcharge proposal for over- and under-recoveries and the performance incentive in this case, which represents an incremental improvement over the current methodology. 3 TR 253. The Company can then develop a comprehensive DR program methodology and surcharge to include all DR program costs for consideration in its next general rate case filing. Id.[1123]

The PFD agrees with Staff, that Consumers' surcharge proposal is flawed and should not be approved in this proceeding. Consumers' primary concern appears to be related to timing, citing the extended time for processing the company's first reconciliation case, which was more complex due to issues concerning the design and implementation of the financial incentive, well as the cost and revenue reconciliation. If the company continues to believe that a DR surcharge is an appropriate approach to addressing DR revenues, expenses, and incentives, Consumers can make a more complete proposal in its next rate case.

I. <u>Municipal Street Lighting</u>

On behalf of MAUI, Mr. Bunch raised a number of concerns about Consumers' municipal lighting program, specifically focused on issues related to streetlighting conversions. Introducing the subject, Mr. Bunch explained that for municipalities that do not operate water treatment systems, streetlighting is often the largest expense, in some

[1123] Id. at 424.

cases comprising as much as 30% of the municipality's energy costs. To address these costs, or to achieve climate or sustainability goals, many municipalities are seeking to convert from older high-intensity discharge (HID) lighting to LED lighting, which represents energy savings of 65%, along with better illumination and reliability. [1124]

As summarized in his testimony, Mr. Bunch highlighted the following issues:

- The Company's LED conversions have significantly higher costs than peer utilities, municipal utilities and third-party lighting providers;

- The Company's proposed LED fixture fee is too high and denies customers who have previously paid full cost for LED conversions fair recovery of their investments as originally projected in conversion proposals provided by the Company. The proposed fee also requires customers to begin paying for second-generation LED fixtures long before the customer-paid first-generation fixtures can be expected to require replacement;

- The Company's LED conversions result in higher illumination than the replaced fixtures, driving up costs, wasting energy and potentially creating illumination hazards and nuisances;

- The Company's plan to convert center-suspension streetlights to pole-mounted LED installations is too expensive and needlessly increases illumination levels;[1125]

- The Company's burnout conversion program and proposed tariff structure create inequities among customers, who have little effective influence over the timing of costs that affect their rates;

- The Company's calculation and allocation of distribution plant-in-service rate base and O&M costs for the GUL and GU-LED unmetered rates contain methodological and data errors;[1126]

- The Company's streetlight reliability and outage restoration performance fail to meet company standards and customer expectations, and the company's plans for improving performance are unresponsive and insufficient;

[1124] 8 Tr 3982.
[1125] As discussed above, the Center Suspension streetlight program was significantly reduced in scope.
[1126] This recommendation is addressed below in Cost of Service.

- The Company's streetlight removal fee policy charges customers too much for removal of unwanted fixtures.[1127]

Consumers responds that many of MAUI's proposals are unlawful, citing *Union Carbide Corp v Pub Serv Com'n*, 431 Mich 135; 428 NW2d 322 (1988), and arguing that the Commission lacks authority to direct the company to incur costs in a particular way, although it can disallow unreasonable and imprudent costs. More generally Consumers asserts:

> [T]he rate case process is not well suited to large-scale proposals for the complete redesign of an entire statewide program, like streetlighting, that may affect very diverse communities in different ways. When a party submits far-ranging proposals to completely redesign Company programs in ways that go well beyond the issues introduced by the Company as part of its own filing in the case, the Company is afforded only about three weeks for response in its rebuttal testimony. Consumers Energy submits that three weeks may be wholly inadequate in some cases to respond to such comprehensive new proposals, which also begs the question about whether the Company has received the full range of due process protections to which it is entitled. Consumers Energy urges the Commission to caution intervenors that such comprehensive proposals for the complete redesign of significant Company programs should more properly be reserved for collaborative processes outside of the rate case[.][1128]

The ALJ finds that some of MAUI's concerns, specifically those that address certain cost of service or rate design issues, can be addressed within the 10-month time frame for a rate case, and they will be addressed here. The remaining issues, however, simply cannot be tackled within the time allowed.

That said, Mr. Bunch raises some potentially significant problems with Consumers' municipal lighting program that should be more carefully evaluated. Although an exhaustive review of Commission orders concerning municipal lighting was not done, it

[1127] 8 Tr 3982-3983.
[1128] Consumers brief, pp 87-88.

does not appear that the Commission has focused on the issue of municipal lighting since the January 11, 2010 order in Case No. U-16186, where the Commission directed Consumers and other electric utilities to submit *ex parte* applications for approval of tariffs "governing the provision of unmetered street lighting, area lighting, and traffic signal services based on emerging light-emitting diode technologies."[1129] Given the substantial advances in energy efficient lighting in the decade since the order in Case No. U-16186 was issued, the time is ripe to undertake a comprehensive review of municipal lighting programs. Thus, the ALJ recommends that the Commission should direct Staff to convene a technical conference or collaborative to evaluate, and possibly improve, Consumers' municipal streetlighting program.

J. Low-Income Rates and Rate Affordability

1. Rate Affordability

A number of parties raised concerns about the affordability of Consumers electric service. On behalf of the MEC group, Mr. Jester provided rate data ($/kWh) and bill data from the Energy Information Administration (EIA) from 2018[1130] that showed that although Consumers' Industrial rates are lower than the average rates in 13 states, Commercial rates are higher than all but nine states, and residential rates are higher than all but 10 states.[1131] Looking at total bills (electric + heating) Michigan, and likely Consumers' customers, had bills higher than all but 16 states, and the average residential bill for electric and gas, as a percentage of household income, was higher than all but 14 states.

[1129] Order, p. 3.
[1130] See Exhibit MEC-3
[1131] 8 Tr 3549.

Mr. Jester concluded, "In short, Consumers' industrial rates are competitive but its commercial and residential rates are relatively high."[1132]

Dr. Dismukes testified that Consumers rates have increased by $849.7 million since 2009, "or by nearly three percent per year over an 11-year period." Dr. Dismukes further observed that "[t]he revenues collected from residential customers have increased by 45.6 percent since Case No. 15645. Revenues from primary-voltage customers, on the other hand, have decreased by 0.5 percent over the same period."[1133]

Like Mr. Jester, based on a 2019 analysis Dr. Dismukes also determined that Consumers' residential and commercial rates compare unfavorably to other utilities nationwide and to most other Midwestern utilities.[1134] However, Consumers' industrial rates are competitive with regional peer utilities.[1135]

In response, Consumers contends that even with the rate increase proposed here, "the average Consumers Energy residential customer's combined utility bill (gas and electric) only represents about 3.5% of household income[,]" a significantly lower amount than the 6% threshold for unaffordability cited by Mr. Colton.[1136] In defending its 5.9% overall rate increase in this case (which includes a 14% increase for residential customers, and a 6.7% decrease for primary customers) Consumers frames affordability of residential rates as follows:

> Based on this increase, the Company expects that the average residential electric customer will pay less than $4.00 a day for electricity during 2021. Since the Company has adjusted its requested rate relief to $229,748,000, the impact on customers will be even less than originally assumed.[1137]

1132 Id.
1133 7 Tr 2717; Exhibit AG-2.1.
1134 Id. at 2718-2720; Exhibits AG-2.2 (residential rates); AG-2.3 (commercial); and AG-2.4 (industrial)
1135 Id. at 2721; Exhibit AG-2.4.
1136 Consumers brief, 428-429, citing 3 Tr 311.
1137 Consumers brief, p. 6.

The intervenors do not really ask for anything here, except for the Commission to keep in mind the escalation of Consumers' residential and commercial rates over the past decade in evaluating the revenue and COS proposals in this case. The ALJ agrees.

2. Low Income Rates

On behalf of the MEC group and the Attorney General, Mr. Colton provided extensive testimony on the affordability of Consumers' electric bills, specifically focused on affordability for low-income customers in the company's service territory. Mr. Colton also discussed the impact of existing arrearages on customers' ability to afford bills going forward, and the impact of income loss from the COVID-19 pandemic on low-income populations. Next, Mr. Colton provided an assessment of the company's low-income assistance programs (the RIA and the LIAC credits) comparing the effectiveness of these programs to what should be the objectives of low-income bill assistance. Mr. Colton also discussed the relationship between effective bill assistance and utility costs and low-income payment patterns. Finally, Mr. Colton made a number of recommendations for addressing low-income assistance to be implemented as part of this rate case, and in future rate cases, as follows:

1. Consumers Energy should transition low-income bill payment assistance to a fixed-payment Percentage of Income Plan ("PIPP"). This transition should occur over the 18-month period following this proceeding through a multi-stakeholder working group.

2. Consumers Energy should implement an arrearage management program ("AMP"). Implementation of an AMP should occur over the six-month period following the final order in this proceeding.

3. Consumers Energy should expand its low-income bill payment assistance to include the automatic enrollment of Food Stamp recipients into LIAC. Once the PIPP is implemented, automatic enrollment for these customers should continue as part of that program.

4. Pending implementation of a fixed-payment PIPP, Consumers Energy should:

    a. Expand the LIAC program credit from $30 per month to $60 per month;

    b. Provide a special LIAC benefit adder of $20 a month to customers who demonstrate that they participate in certain programs, including Temporary Aid to Needy Families (TANF) and Supplement Security Income (SSI), which indicate the customers fall in the extremes of low Poverty Level.[1138]

For program changes and cost recovery in this case, Mr. Colton recommended:

1. The RIA credit should be discontinued and its funding repurposed to fund the bill assistance recommended above.[1139]

2. The existing RIA and LIAC funding should be used, in combination with additional ratepayer funds, to fund a basic portion of the total costs of the bill assistance through rates.

3. Incremental over- or under-collections should be reconciled on an annual basis and accrued in a reserve fund that should be recovered as part of CECo's next rate case.[1140]

Finally, with respect to addressing the ongoing impacts of COVID-19, Mr. Colton recommended:

1. Consumers Energy should continue to support Michigan's COVID-19 emergency relief program. While many of the program eligibility requirements and program parameters are within the jurisdiction of the Michigan Department of Health and Human Services (MDHHS) rather than CECo (or the Michigan Commission), aside from MDHHS decisions, I recommend that CECo should:

a. Continue its moratorium on nonpayment disconnections until the Commission determines that the economic displacement resulting in extraordinary levels of unemployment has dissipated.

[1138] 8 Tr 3686.
[1139] In addition to transitioning 40% of RIA customers to the LIAC, and increasing the LIAC credit to $60 per month, Mr. Colton recommended that the Commission add $12.467 million to O&M costs to fund the expanded LIAC program.
[1140] Id.

b. Continue to extend its waiver of late charges on unpaid residential bills until the Commission determines that the economic displacement resulting in extraordinary unemployment has dissipated.

c. Continue to waive 25 percent of outstanding bills for households receiving direct CARES-funded LIHEAP payments.

d. Make clear that its emergency relief extends not only to active customers, but also to customers who have already had service disconnected for nonpayment. For those customers, the Company's 25% waiver should apply not only to bills for reconnected current service, but also to any reconnection charges that might impede the restoration of service

e. In response to the sharp drop in the number of "low-income" customers identified on its system beginning in October 2019, extend its COVID-21 emergency relief to all customers that had been identified as a low-income in September 2019 even without a new request or application by the customer. And finally,

f. Avoid limiting the emergency relief it provides exclusively to customers who are receiving emergency LIHEAP assistance. If a customer can demonstrate that they are currently receiving unemployment benefits, which benefits were newly received on or after March 1, 2020, CECo's emergency relief should be extended to those customers on an ongoing basis.

2. In all situations, of course, CECo should refrain from sending disconnection notices to customers who are protected from a nonpayment disconnection by an internal policy or external regulation, or who the Company does not intend to disconnect for nonpayment at the time the shutoff notice is issued.[1141]

Consumers disputes much of Mr. Colton's data and argues that many of his recommendations are misplaced. First, Consumers contends that Mr. Colton's calculation of the number of customers living at or below different federal poverty levels (FPL), noting that the company's own analysis that shows that 12% of the company's

[1141] 8 Tr 3687. The ALJ agrees with Consumers that issues concerning COVID-19 emergency relief are being addressed in Case No. U-20757 and related workgroups. Therefore, Mr. Colton's recommendations with respect to COVID-19 relief are not addressed further in this PFD.

customers earn at or below 100% of FPL,[1142] in contrast to Mr. Colton's 17.8% estimate.[1143]

Second, Consumers points out that Mr. Coulton misconstrues the qualifications for participation in some of the company's programs, citing his contention that the LIAC is misdirected because it overcompensates customers at 150%-200% of FPL. The company points out that neither the RIA nor the LIAC is available to customers above 150% of FPL.[1144] And, with respect to Mr. Colton's AMP proposal, Consumers contends that its CARE program "already operates almost identically to Mr. Colton's proposal[,]"thus, "[i]t is duplicative and unnecessary to create a separate AMP that is nearly identical to the CARE program." [1145]

Third, Consumers objects to Mr. Colton's recommendation that customers enrolled in food stamps should automatically be enrolled in the LIAC program credit, claiming that the company's would have to work with the State of Michigan to determine who these customers are, assuming the State were willing to share this information. In addition, Consumers cites the unknown cost to implement this proposal.[1146]

Finally, concerning the MEC group/Attorney General's low-income proposals going forward, Consumers responds:

> Mr. Colton recommended that the Company transition its LIAC and RIA programs to a PIPP during an 18-month period that would include a multi-stakeholder working group. 8 TR 3801, 3808. While the Company agrees that there could be value in developing a PIPP pilot, the Commission should not require the Company to transition the current RIA and LIAC programs to a PIPP. As an initial matter, Mr. Colton's proposed 18-month time frame is not realistic. Developing and implementing a PIPP would require

[1142] See, MEC-123.
[1143] Consumers brief, p. 504.
[1144] Id. at 505.
[1145] Id. at 506.
[1146] Id. at 506.

> significant time and resources to write, test, and implement new billing processes for a PIPP, particularly considering that each customer's PIPP would be unique to their income and usage. 3 TR 272. Company personnel would also need to be trained on how to manage the program, run reports, and manage customer questions and concerns related to the PIPP. Id. Importantly, the Company has not included the administrative funding in this proceeding that would be necessary to develop and implement the PIPP. 3 TR 272-273.[1147]

On behalf of Staff, Mr. Revere testified that adding customers or funds to Consumers' low-income programs does not solve the underlying problem:

> Lowering a customer's bill does not increase their income, only their net income. The LIA credit does not cause a customer to no longer have a low income; thus the credit does not address the fundamental reason customers participate in the program: because they have a low income. There is also a question of whether or not an administrative ratemaking proceeding is the appropriate place to address such a social problem. A utility bill is not an effective nor appropriate avenue to address the actual problem of a customer's inability to pay. That actual problem is the customer's income, and not their utility bill. It is neither appropriate nor adequate to address a customer's income, or income inequality more broadly, in the context of a regulatory proceeding regarding electric rates. The Michigan Public Service Commission's mission is to ensure safe, reliable, accessible, and affordable energy. The LIA credit addresses affordability obtusely, because the real cause of the unaffordability of bills is the customer ability to pay.[1148]

Mr. Revere questioned Mr. Colton's claim that increasing payments and decreasing uncollectible amounts through more bill assistance would actually result in a benefit, claiming that the additional benefits and programs the MEC group/Attorney General propose could be quite costly to other customers. Mr. Revere did however support a pilot PIPP, noting that Staff made a similar proposal in the company's gas case.[1149]

[1147] Consumers brief, p. 505.
[1148] 7 Tr 2934.
[1149] Id. at 2936.

In response, the MEC group/Attorney General argue that (1) the small discrepancies in the data do not make Mr. Colton's analysis otherwise unreliable, particularly given the small size of Consumers' low income programs compared to either the company's or Mr. Colton's estimate of the number of low income customers the company serves;[1150] (2) Mr. Colton included customers up to 200% of poverty in his analyses based on the company's definition of low-income as "having a family income up to 200 percent of the federal poverty guidelines."[1151] In any event, the inclusion of customers between 150% and 200% of FPL does not invalidate Mr. Colton's conclusion that Consumers' programs are not sufficiently targeted at addressing bill affordability, especially for the poorest customers; (3) the company's concerns about costs of modifying the RIA and LIAC programs are overstated. Recognizing that moving customers from the RIA program to the LIAC program will be more costly, but will provide more meaningful bill assistance to more customers, Mr. Colton recommended increasing rates by $12.5 million, in addition to the $6.1 million the company proposes; (4) automatically enrolling customers who receive food stamps into the LIAC program should not be an insurmountable obstacle in light of the fact that Consumers already exchanges information with the Department of Health and Human Services (DHHS). Moreover, identifying customers in extreme poverty, thus qualifying for the $20 adder to the LIAC credit, is already part of the company's intake process for the shutoff protection program;[1152] and (5) contrary to the company's claims, the CARE program is not duplicative of an AMP; the CARE program is administered by service agencies in

[1150] MEC group brief, pp. 255-257.
[1151] Exhibits MEC-33 and MEC-115.
[1152] Exhibit MEC-115.

Consumers service territory, and the goal of the CARE program is self-sufficiency and not to address arrearages.

In response to Mr. Revere, the MEC group/Attorney General argue that Mr. Revere's claim, that the costs of expanding the LIAC credit would be quite substantial, was presented without any support, noting that the additional $12.5 million for the expanded LIAC program is minimal compared to the $280 million rate increase to residential customers the company proposes. According to them:

> The investment would convert the LIAC program into a more meaningful bill assistance program for 25,000 customers, compared to the inconsequential RIA assistance for 45,000 customers and insufficient proposed LIAC assistance for 4,200 customers. Comparative costs to customers would be another perspective on the cost context for Mr. Colton's proposed LIAC credit increases. Mr. Colton's recommendations would increase average customers rates by less than a quarter per month ($0.24). Consumers' rate increase request would increase average customer rates by $15/month. Given the evidence of utility cost benefits resulting from reduced disconnection, collections efforts, and otherwise, the $12.5 million increase may overstate the actual cost to ratepayers. Investing an incremental $12.5 million in 2021 to provide meaningful assistance to low-income customers is reasonable and well-supported.[1153]

In addition, the MEC group/Attorney General point out that Staff otherwise supports the new LIAC program, and Mr. Colton's recommendations serve to improve the company's proposal.

The ALJ agrees in part with the MEC group/Attorney General that the minimal assistance provided by the RIA program is nearly meaningless for many customers with a high energy burden, whereas a $30 per month credit (with an additional $20 for customers at or below 50% FPL) would provide significant relief from high energy bills, at least until a better, more targeted program can be developed. Although the MEC

[1153] MEC brief, pp. 267-268.

group/Attorney General advocate for a $60 per month payment under the LIAC program, in order to serve approximately 40% of the customers in the RIA program, the ALJ finds that maintaining the credit amount at $30, as Consumers proposes, will allow more customers to obtain some relief. Although Mr. Colton characterizes the $30 per month amount as insufficient, especially for above average electricity users at the lower end of FPL, he also did not account for additional energy assistance available in the form of the HHC, and other programs. In addition, because not all of the current RIA recipients can be transferred to the LIAC program, those customers who are not moved should still receive the $7.50 per month credit.

Thus, the ALJ finds that the Commission should direct Consumers to develop an expanded LIAC program that provides $30 per month bill assistance for customers at or below 100% of FPL, with an additional $20 per month for customers at or below 50% FPL, once Consumers is able to identify these customers. The Commission should direct the company to submit the proposal within 30 days of the final order in this case. The total program budget should not exceed $18,628,808, including administration costs (which should be minimal since most of the customers participating are already identified).

At the same time, the company's concerns about developing a PIPP program within 18-months are well-taken. In addition, while the PIPP approach has been used in many states, as Mr. Colton explained, other methods, including lifeline rates (i.e., providing a discounted rate for a certain number of kWhs per month) may also be appropriate. Nevertheless, the ALJ agrees that the Commission should form a workgroup or collaborative to address low-income rates, with significant interaction with the already-existing Low Income EWR workgroup.

K. Independent Administrator Costs

Mr. Troyer testified that, as required by the settlement agreement in Consumers' IRP, the company must undertake a competitive solicitation process for the procurement of new supply-side resources, and must do so using an independent administrator. According to Consumers, although the settlement defined the responsibilities of the independent administrator, it did not provide for cost recovery. According to Exhibit A-109, Consumers expects to incur $200,000 in administrator costs, which it proposes to recover through its PSCR clause, as the most appropriate mechanism.[1154] In the event the Commission finds that costs should be included in base rates, Consumers requests that the Commission approve $200,000 in additional O&M for independent administrator costs. There was no opposition to the company's recommendation to include these costs in PSCR.

L. Accounting Approvals

Consumers requested accounting approvals for deferred regulatory asset/liability treatment for: (1) Deferred Capital Spending Recovery Mechanism; (2) deferral and amortization of Karn 1 & 2 retention and separation costs; (3) PowerMIFleet deferred accounting; (4) CVR and DR incentives; (5) Storm Restoration; and (5) the FCM.[1155]

The only issues that were raised with respect to the requested accounting approvals (other than those related to approval of specific programs or incentives that are discussed above) concerned the deferred accounting for Karn 1 & 2 retention and separation costs. As discussed above, Consumers withdrew its request for KRSP costs

[1154] Consumers indicates that it included these costs in its PSCR Plan case docketed as Case No. U-20525.

[1155] Consumers describes the proposed accounting for each of these requests in its brief, pages 431-435.

for 2019 and 2020, which addresses concerns by Staff and the Attorney General.[1156] The MEC group recommends that the KRSP deferred costs should be amortized over three years rather than the 19 years the company proposes. In the alternative, the MEC group recommends that the costs be securitized as part of the securitization of Karn units 1 & 2.

In rebuttal, Mr. Harry explained:

> The Company's proposed amortization through 2039 represents the average remaining life of the Company's remaining coal plants. This is the typical approach to amortize unrecovered costs upon a plant retirement. Also, a 19-year amortization minimizes the rate impact on customers by spreading the recovery over a longer time frame than a three-year amortization approach.[1157]

In its brief, the MEC group argues that the amortization period should be consistent with remaining life of the Karn plant rather than the 19 year remaining life for the Campbell 3 unit.[1158] The MEC group questions why the amortization period should be tied to Campbell unit 3, and it points out that the longer amortization period significantly increases costs for customers. In the alternative, the MEC group recommends that the KRSP costs be included in the securitization of Karn units 1 and 2, thus significantly decreasing the carrying costs of the unamortized KRSP amounts.

ABATE also takes issue with the company's plan to defer and amortize KRSP costs, contending that these costs should be securitized along with the Karn units per the settlement agreement in Case No. U-20165.[1159]

[1156] 6 Tr 1881-1882.
[1157] Id. at 1881.
[1158] Campbell 3 unit is the last coal unit Consumers plans to retire. 8 Tr 3889. Other Campbell units are expected to retire in 2031 or sooner.
[1159] ABATE initial brief, p. 45.

In its reply brief, Consumers reiterates that using the average remaining life of the company's remaining coal plants is the typical approach to amortizing unrecovered costs for unit retirement. In response to ABATE's and the MEC group's securitization recommendations, Consumers argues that although the Commission's June 7, 2019 order in Case No. U-20165 inadvertently used the word "decommissioning" when discussing the Karn unit 1 & 2 securitization, but paragraph 3 of the settlement agreement itself is clear that the financing order applies only to the unrecovered book value of Karn 1 & 2. Thus, the KRSP costs are not included.

The ALJ agrees with the company that the settlement agreement in Case No. U-20165 does not provide for the inclusion of KRSP costs in the Karn 1 & 2 securitization. However, Mr. Harry's explanation that the amortization period should be tied to the average remaining life of the company's coal fleet because it is "typical" is not persuasive. If the amortization period were mandatory under the accounting rules or some other authority, Consumers certainly would have said so. In addition, as the MEC group points out, "[p]lacing the costs into an asset imposes carrying cost for ratepayers by carrying an estimated $27 million operational expense for 19 years."[1160] Notably, Consumers does not dispute this amount. The ALJ finds that the three-year amortization period recommended by the MEC group should be adopted.

M. <u>Performance Based Ratemaking</u>

On behalf of the MEC group, Mr. Jester testified regarding the need to implement a performance based ratemaking mechanism (PBR) for Consumers.[1161] Mr. Jester

[1160] MEC group brief, p. 168.
[1161] Mr. Jester's ROE recommendations related to performance are rejected as significantly related to the adoption of a PBR mechanism, and therefore beyond the scope of these proceedings.

discussed the significant investments Consumers is making in its distribution system, noting that in terms of reliability, as typically measured by SAIDI, SAIFI, and CAIDI, the company compares poorly to the U.S. averages for these metrics. Mr. Jester further noted that Consumers ranked 17th among states for electric and heating costs per household in 2018, and has the 11th highest residential electric rates on a per kWh basis. Given the high cost of service and poor reliability, Mr. Jester posited that "it is . . . important that Consumers' investments to improve reliability be rigorously examined for cost-effectiveness and that Consumers be accountable for results."[1162] For accountability, Mr. Jester cited with approval the Commission's Report on the Study of Performance-Based Regulation, and recommended that the Commission consider addressing the company's performance through upward or downward adjustments to ROE, or through a performance incentive.[1163]

In its brief, the MEC group argues that although the Commission has opened a number of dockets and stakeholder initiatives addressing distribution planning and PBR, including a PBR workgroup established in the settlement in Case No. U-20134,[1164] as yet, no mechanism for Consumers has been proposed or approved. The MEC group acknowledges the ongoing discussions in the Financial Incentives/Disincentives workgroup of the Mi Power Grid initiative, however it maintains that concrete proposals emerging from those efforts are off in the future and are not likely to materialize before Consumers files its next five-year distribution plan or rate case in 2021. Thus, the MEC

[1162] 8 Tr 3559.
[1163] Id. at 3560.
[1164] The MEC group notes that Consumers held three workgroup sessions in 2019, however, "[t]he discussions were not fruitful –they did not result in Consumers proposing in this case any PBR mechanism to link distribution spending to performance metrics." MEC group brief, p. 30, citing 3 Tr 142.

group asserts: “the Commission should direct Consumers to include a distribution system PBR proposal in its next 5-year distribution plan, to be filed in September 2021 in Case No. U-20147 and in the Company’s next rate case, to be filed in the spring of 2021.”

The MEC group quotes extensively from the Commission’s May 8, 2020 order in Case No. U-20561, DTE Electric’s recent rate case, which provides detailed directions to that company on developing a PBR proposal to be submitted in its 2021 distribution plan. The MEC group asserts that the Commission’s order in this case should mirror the instructions provided in Case No. U-20561.

Consumers rejects the MEC group’s recommendation on grounds that (1) there are numerous ongoing proceedings, in which Consumers is actively participating, that are considering PBR and that should be allowed to continue and develop appropriate PBR mechanisms; (2) adding a PBR proposal as a requirement in the company’s next rate case would needlessly add another forum for the consideration of PBR, and in any event, the company does not have time to develop a proposal before it files its next case in Spring 2021; and (3) there is no urgency to adopting a PBR mechanism because the company is committed to providing safe, reliable, electric service, and the Commission is able to incentivize the company to spend appropriately by approving or disallowing distribution capital and O&M expenses. Consumers adds that the MEC group’s recommendation here conflicts with the DTE order because DTE will have 13 months to develop a PBR to file with its distribution plan, whereas Consumers may only have two months before it files its next rate case, and insufficient time before it files its next distribution plan in September 2021.

The ALJ disagrees. While Consumers may not have sufficient time to develop an appropriate PBR proposal for its next rate case, given the numerous collaboratives and workgroups in which it has been participating, the company must have gleaned something, about a PBR that contains appropriate carrots and sticks for incentivizing improved performance, so that it could present a proposal in its five-year distribution plan filing in Case No. U-20147.[1165] Given the timing of that filing, it is unlikely that a PBR mechanism could be implemented before 2023. The ALJ therefore recommends that, consistent with the instructions provided to DTE Electric in Case No. U-20561, Consumers should also be required to file a PBR proposal in its September 2021 filing in Case No. U-20147.

IX.

COST OF SERVICE, RATE DESIGN, AND TARIFF ISSUES

A. Cost of Service

Ms. Aponte explained the COSS process as follows:

> A COSS by rate class is a systematic functionalization, classification, and allocation of a utility's fixed and variable costs to serve. Each COSS filed in this case serves two purposes. First, the process of preparing the COSS identifies and separates costs associated with the utility's production and distribution of electricity into the jurisdictional electric rate classes. Secondly, the COSS is used to determine the relative contribution to jurisdictional earnings from each of the Company's jurisdictional electric rate classes.[1166]

Through the testimony and exhibits of Ms. Aponte, Consumers presented two versions of its COSS: Version 1 conforms to the COSS approved in Case No. U-

[1165] Consumers points out that DTE Electric has 13 months to develop a PBR proposal before its distribution case filing, whereas the company will only have nine months.
[1166] 5 Tr 804-805

20322,[1167] including the 4CP 75-0-25 production cost allocator. The majority of disputes concerning COSS, pertain to COSS Version 2, and are discussed in detail below.[1168]

1. COSS Version 2

COSS Version 2contains the following modifications from COSS Version 1: (1) the production cost allocator is changed from 75-0-25 demand/energy weighting to 89-0-11; (2) the distribution allocation for Rate GSG-2 (self-generation) was modified; (3) the treatment of capacity for interruptible load was changed so that it was included in COSS rather than rate design; (4) the treatment of capacity for energy intensive primary (EIP) load was likewise modified; (5) the breakdown of load profiles for GS primary was modified; (6) additional items were included in customer related costs.[1169] Consumers recommends that COSS Version 2 be approved in this proceeding.

Various parties raised issues with respect to Consumers COSS Version 2. These issues are addressed below.

a. Production Cost Allocator

In its COSS Version 2, Consumers recommends that production costs should be allocated on 4CP 89-0-11. According to Consumers, this is an update to the calculation used in Case No. U-17688, and better represents how production costs should be weighted based on the company's current generation plant.

Staff recommends continuing the current 4CP 75-0-25 production cost allocation method because, without a specific evidentiary showing (not demonstrated in this case) under MCL 460.11(1), the 75-0-25 energy weighting is required. The Attorney General

[1167] See, Exhibit A-16, Schedule F-1.
[1168] See, Exhibit A-16, Schedule F-1.1.
[1169] 5 Tr 812.

recommends that the allocator be changed to 4 CP 50-0-50 based on his calculation of system load factor and modifications to Staff's calculation in Case No. U-17688. Kroger and ABATE recommend changing the method to the average and excess (A&E) method contending that this better represents actual usage by large customers by not double-counting peak demand. Finally, the MEC group recommends a production cost allocator of 70-0-30 based on CONE and the SRM capacity cost.

Ms. Aponte explained that the current production cost allocation is based on the discretionary energy weighting method (DEW) which provides for some judgment in determining how energy and demand contribute to production costs.[1170] Ms. Aponte further explained that the Commission approved 4CP 75-0-25 in its order in Case No. U-17688, and subsequently, the 75-0-25 demand and energy weightings were codified at MCL 460.11(1), which provides:

> The Commission shall ensure that the cost of providing service to each customer class is based on the allocation of production-related costs based on using the 75-0-25 method of cost allocation and transmission costs based on using the 100% demand method of cost allocation. The Commission may modify this method if it determines that this method of cost allocation does not ensure that rates are equal to the cost of service.

After a review of the various production cost allocation methods presented in the NARUC Electric Utility Cost Allocation Manual, Ms. Aponte concluded that an allocator based 100% on demand is most appropriate. Nevertheless, Ms. Aponte decided to continue with the current DEW method by updating the analysis in Case No. U-17688. Consumers explains that "in Case No. U-17688, the Commission justified the 25% energy

[1170] 5 Tr 813.

weighting of the production allocator by supporting an analysis prepared by Staff which relied on the Company's 2013 Generating Plant Statistics."[1171]

The updates that Ms. Aponte made included: (1) using the most recent historical plant data; (2) applying the appropriate allowance when calculating the minimum load for baseload coal plants; and (3) excluding hydroelectric plants from the calculation of baseload generation.

In its brief, Consumers indicates that Kroger supports the company's proposed 89-0-11 demand and energy weighting proposal, and that both ABATE and Kroger recommend that if the Commission decides to depart from the DEW method, the A&E method should be used. Consumers agrees with ABATE and Kroger that the A&E method is superior to the DEW method for determining appropriate demand/energy weightings.[1172]

Staff disagrees with the company's proposed modification to demand and energy weighting, contending that the company's analysis is based on flawed assumptions including: (1) the removal of hydro from the analysis; and (2) assuming that the minimum load each coal or other baseload unit produces should be considered baseload. Staff asserts that the company's hydro plants serve load for more hours in a year than most of the company's other baseload plants and therefore should not be excluded from the calculation. With respect to the company's minimum load assumptions, Staff argues that the company presumes that:

> [O]nly the minimum load that each coal unit or other base load plant produces should be considered base load and these traditional base plants do not "necessarily" meet 100% of the Company's system base load. The

[1171] Consumers brief, p. 440, citing 5 Tr 815.
[1172] In its initial brief, p. 10, Walmart also agrees that the A&E method is superior to the current DEW method.

> Company contends that MISO determines which resources clear the market which could include resources other than coal. MISO market forces do not affect the embedded costs of generating plants in the Company's system. The Company fails to substitute other resources to meet its system baseload costs in the calculation in Company Exhibit A-18 after only accounting for a portion of its coal plant costs. This artificially low calculation of the relationship of base load plant costs to total plant costs is what results in the Company's proposed 11% energy allocation in the production allocator. (8 TR 4628.) In fact, on cross examination, Company witness Aponte admitted that the costs assigned to baseload in the Company's calculation of the production allocator would not correlate to enough capacity to meet even one third of the minimum hour of the year. (5 TR 899-900.) This demonstrates that the Company attributed an insufficient amount of costs to baseload, which results in an artificially low energy weighting in the production allocator.[1173]

In reply, Consumers maintains that Staff's argument "actually reinforces the Company's position that '[c]oal plants do not necessarily meet 100% of the system base load.'"[1174] According to Consumers, the company's analysis:

> correctly reflects the new reality of the Company's generation plant, which is that "[t]he Company's investment in generation has evolved in the last few years; the Company has reduced its dependence on coal and increased its reliance on renewable energy resources and demand response ("DR") programs." 5 TR 816. The adjustments proposed by the Company in this proceeding ultimately account for these changes in the Company's generation plant and correctly apply the appropriate energy weighting to the production allocator based on the Company's current generation plant and its increase in the reliance of renewable energy resources and DR programs.[1175]

On behalf of the MEC group, Mr. Jester testified that the Commission should consider cost allocation methods based on principles of IRP, which evaluates production plant investment decisions.[1176,1177] In developing his recommended production cost

[1173] Staff brief, p. 177.
[1174] Consumers reply brief, p. 212, quoting 5 Tr 816.
[1175] Id.
[1176] 8 Tr 3578-3588.
[1177] Mr. Jester described Staff's method for arriving at 75-0-25, in Case No. U-17688 and criticized it as illogical and unfounded. In its brief, p. 175, (citing 8 Tr 4636) Staff points out that the calculation shown in Exhibits S-27.0 and S-27.1, as well as the calculation from U-17688, are not "Staff's method" for production

allocator of 4CP 70-0-30, Mr. Jester explained that "[a]llocation of anything less than marginal costs for any allocator is a subsidy to that allocator and therefore to any customers who use that allocator in greater relative proportion than the average customer."[1178] After explaining how the SRM charge is developed, Mr. Jester recommended using the SRM capacity charge, shown in Exhibit A-17, as a means to determine the marginal cost of energy. He posited that "the costs allocated to capacity in the cost of service study should not exceed the 'Net Capacity Cost' in Exhibit A-17."[1179] Based on the information contained in Exhibit A-17, Mr. Jester concluded that "no more than 70% of production plant costs should be allocated to peak demand and not less than 30% should be allocated to energy."

Alternatively, Mr. Jester explained, if the Commission were to determine capacity cost based on MISO's CONE, and allocate the remainder to energy, "the allocation of production plant would be 47% to demand and 53% to energy."[1180] Mr. Jester concluded that, based on these methods for determining production cost allocation, "[p]roduction plant cost allocation must be between 47% and 70% to production plant and, inversely, between 53% and 30% to energy. Any allocation outside of that range is a subsidy to either demand or energy and hence to certain customers."[1181]

Consumers responds that Exhibit A-17 is inappropriate for use in Mr. Jester's calculation because the SRM charge calculation does not include all of the variable costs

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cost allocation. "The calculation was simply a sanity check to assess the reasonableness of allocating 25% of production costs on energy and provided supplementary support to Staff's main arguments for supporting the 4CP 75-0-25 production cost allocator." The ALJ agrees.

[1178] Id. at 3588.

[1179] Id. at 3589.

[1180] Id. at 3591; Exhibit MEC-5.

[1181] Id. at 3592.

that should be included as part of the SRM capacity charge.[1182] And, with respect to the use of CONE, Consumers maintains that:

> CONE is not an appropriate reflection of the Company's embedded cost of capacity because it was not a driver in the decisions that led the Company's embedded costs of capacity. 5 TR 840. For the same reason, it is also inappropriate to attempt to measure and use marginal costs to determine demand weighting. Marginal costs are forward looking and do not reflect the circumstances and costs that are included in the Company's revenue requirement. As Ms. Aponte explained, the Commission has consistently relied on embedded costs in cost of service because they capture the true costs incurred by the Company to provide service to customers. *Id.*[1183]

Finally, on behalf of the Attorney General, Dr. Dismukes recommended that the Commission approve a production cost allocation method based on 4 CP 50-0-50. According to Dr. Dismukes, the Commission's current 75-0-25 cost allocation method, as well as Consumers' proposed 89-0-11 method, "closely resembles the Average and Peak ("A&P") cost allocation methodology, or peak and average demand cost allocation methodology, used in some other regulatory jurisdictions."[1184] Dr. Dismukes added that although the framework for 4CP 75-0-25 is consistent with accepted cost allocation methods, "the 75 percent demand and 25 percent energy weighting for classifications does not. It is typically accepted that the weighting between demand and energy components should be equal (i.e. 50-50) or based on the utility's system load factor[,]" which Dr. Dismukes calculated as ranging from 52.8% to 56.5% for Consumers.[1185] In Exhibit AG-2.9, Dr. Dismukes presented an alternative analysis correcting for purported

[1182] As discussed above, Consumers' attempt to update its SRM capacity charge in rebuttal was rejected.
[1183] Consumers brief, p. 444.
[1184] 7 Tr 2733.
[1185] 7 Tr 2734-2735, citing NARUC Manual pp. 57-59 and Exhibits AG-2.5 through AG-2.7.

errors in the company's presentation, which again resulted in an energy weighting near 50%.[1186]

On behalf of ABATE, Mr. Pollock criticized the approaches taken by Dr. Dismukes and Mr. Jester, contending that neither witness "demonstrate[d] that their recommendations are consistent with cost causation, [and] they have failed to justify why allocating ownership costs in excess of the cost of a peaker (or the CONE as a proxy for a peaker) should be allocated on year-round energy usage[,]"[1187] noting that because units are now dispatched by MISO based on price "the type of generating unit (i.e., base load, intermediate, and peaking) is irrelevant in determining which unit is dispatched and the order of dispatch."[1188]

In response to Dr. Dismuke's claim that 50/50 demand and energy weightings are "typically accepted," Staff asserts that a review of his citation to the NARUC Manual provides no support for his claim.

The ALJ agrees with Staff, that Consumers, the Attorney General, ABATE, and Kroger did not demonstrate that the 75-0-25 method "does not ensure that rates are equal to the cost of service," as required for the Commission to modify the method under MCL 460.11(1). As Staff, the Attorney General, and the MEC group discuss at length, Consumers approach was significantly flawed, not only excluding hydro plants but also removing significant costs from coal generation in its minimum load calculation. The ALJ also concurs with Staff's criticism of Dr. Dismuke's recommendation as not well supported. Finally, although Kroger, Walmart, and ABATE advocate the adoption of the

[1186] Id. at 2739.
[1187] 8 Tr 3051.
[1188] Id. at 3052.

A&E method if the Commission does not agree with the company's proposal, the ALJ notes that this method has been rejected several times by the Commission. Moreover, the Commission has determined that any party seeking to revise the production cost allocation method should also include an analysis based on the equivalent peaker method.[1189]

Consistent with this discussion, the ALJ recommends that the Commission continue the use of 4CP 75-0-25 for allocating production costs.

b. General Service Self-Generation (GSG-2) Distribution Allocation

As listed above, in COSS Version 2, Consumers proposed to adjust the allocation of capacity costs based on a stand-by analysis conducted by the Brattle Group (Standby Study).[1190] Ms. Aponte testified that:

> [T]he Company determined that the current allocation of distribution costs based on historic class peak does not appropriately reflect the investments in the distribution assets that are ready to serve stand by customers. Therefore, the Company is proposing to utilize the contracted demand of GSG-2 customers, adjusted by a coincidence factor, in place of the average historic class peak[.]" . . . For the Test Year COSS – Version 2, the Company used the coincidence factor of 45%, which was calculated using 2018 historic data, considering that the peak of total customer demand for this group of customers increased more than 900% from 2016 to 2018.[1191]

Mr. Revere testified that although the Standby Study references contract demand, rather than observed demand, as "a more appropriate allocator of demand related distribution costs for Standby customers because Consumers must plan for Standby

[1189] January 31, 2017 order in Case No. U-18014, pp. 100-101.
[1190] 5 Tr 820; Exhibit A-21.
[1191] Id.

customers' contract demand[,]""[t]he Company has not actually shown that this is how the Company plans."[1192] Mr. Revere added:

> For certain parts of the distribution system, it is likely true, while for others the planning is likely based on the peak experienced at the relevant piece of equipment. How GSG-2 customers contribute to these peaks likely depends on their size and the composition of load at that point of the distribution system. The Company has not shown how these customers contribute to that load, or how that contribution compares to other similarly situated customers, and changes such as those proposed should not be made without such a showing. Currently standby customers are treated as members of the same class as other Primary customers for the purpose of distribution rate design. The Company has not shown that the coincidence of standby customers differs significantly from those other customers such that they should no longer be considered as taking distribution service in a similar enough manner to other customers in the class to merit their own class.[1193]

On behalf of EIBC/IEI, Mr. Jester also took issue with Consumers' proposal. First, he contends that cost allocation for GSG-2 customers should be aligned with the costs calculated for the LTILRR. Referencing Mr. Kelly's testimony on the LTILRR, Mr. Jester testified:

> Consumers presents the correct calculation of the costs of standby service elsewhere in the present case. In presentation of the proposed Long Term Industrial Load Retention Rate ("LTILRR"), witness Michael P. Kelly describes the basis on which Consumers and Hemlock Semiconductor Operations LLC ("HSC") established the cost of backup service for HSC's use of the designated Zeeland plant as its power supply source pursuant to the LTILRR.
>
> * * *
>
> The principle behind this method is that within MISO, all capacity resources back up all capacity resources. In the case of HSC, having selected that its designated power source will be the Zeeland plant, the Zeeland plant is backed up by the planning reserve margin of MISO's resource adequacy construct. In the case of a customer with self-generation under the GSG-2 tariff, the standby contract amount is the capacity of the customer's designated generator that is backed up by the planning reserve margin.

[1192] 7 Tr 2915.
[1193] Id.

> The correct inclusion of standby service in the cost of service study will be obtained by using the Resource Requirement Capacity (formula 4) above, with the caution that because the cost of service study uses 4CP demand to allocate capacity costs, the Customer Coincidence should be calculated using standby customer 4CP rather than the customer's peak load.[1194]

In response, Ms. Aponte pointed out that Zeeland is not the power supply source for the LTILRR, but Zeeland was the basis for LTILRR costs. However, that "does not mean that the designated power supply resource meets the capacity and energy needs of the customer under the LTILRR, as Mr. Jester suggests. This is different from a customer with self-generation whose energy and capacity needs are in part or fully met by its self-generation."[1195]

According to Mr. Jester, the Standby Study was conducted as required by the settlement agreement in Case No. U-20134; however, the study was only partially responsive to the settlement. According to Mr. Jester, although it did evaluate the demands standby customers place on the system, it did not evaluate the costs of the investments needed to serve standby customers. In addition, Mr. Jester extensively criticized the method by which the Standby Study calculates and then assigns demand to standby customers,[1196] and further discussed the deficiencies in the cost component of the Standby Study.[1197]

Mr. Jester concluded that Consumers' proposal to allocate distribution costs to standby customers based on contract demand should be rejected. And, because of the deficiencies in the Standby Study presented in this case:

> [T]he Commission should require Consumers to complete the study of standby customer distribution costs ordered in U-20134 by assessing

[1194] 8 Tr 4506-4507.
[1195] 5 Tr 854-855.
[1196] See, EIBC/IEI brief, pp. 35-37.
[1197] 8 Tr 4511; Exhibit EIB-9.

> Consumers embedded distribution system costs dedicated to, or caused by, particular standby customers, in order to determine what distribution system costs should be allocated based on contract demand and on actual demand. 8 TR 4516.[1198]

In response, to Staff's and EIBC/IEI's critiques of the Standby Study, Consumers asserts:

> [T]he standby study filed by the Company considers all relevant data and information available regarding the group of less than 20 standby customers. 5 TR 853. There is no data to specifically show the extent and nature of the cost of the investments that are in place to provide standby service. As acknowledged by Mr. Jester, these dedicated facilities are only the facilities to interconnect the standby customer to the Company's electric system and are not part of the Company's rate base when paid by the customer up front. Id. The COSS assigns costs related only to the Company's electric system to which the interconnection facilities are connected and that are also required and depended on to provide the standby service. Therefore, Mr. Jester's request for additional standby studies should be rejected.[1199]

The ALJ agrees with Staff and EIBC/IEI that Consumers proposed changes to GSG-2 distribution allocation should be rejected. As quoted above, these parties provided significant detail demonstrating that the company's Standby Study was deficient. The ALJ further finds that the Commission should direct Consumers to provide a more complete standby study in a future rate case, as EIBC/IEI recommend.[1200]

c. Interruptible Load and Energy Intensive Primary Load Capacity Treatment

Consumers proposed to allocate capacity costs for interruptible load in the COSS rather than in rate design. Thus, interruptible load would be removed from the production capacity allocator for rates GP and GPD in COSS Version 2. Ms. Aponte explained that

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[1198] EIBC/IEI brief, p. 39.
[1199] Consumers brief, p. 448.
[1200] Because this PFD rejects the company's proposed change to the GSG-2 distribution allocation, and because the EIBC/IEI's proposal concerning the use of LTILRR costs as a proxy for standby costs was not sufficiently evaluated in this proceeding, the proposal should not be adopted at this time.

in COSS Version 1, capacity costs are allocated to interruptible load, and are then removed in rate design because the company does not plan for or purchase capacity for these customers.[1201] Quoting from Bonbright's Principles of Public Utility Rates, Ms. Aponte averred that this treatment was correct. Mr. Jester disputed this recommended change; however, the MEC group did not address the issue further in its brief or reply brief, and no other party took issue with the company's recommendation.

d. General Service Primary Rates Load Profile Adjustment

As set forth in its initial brief, Consumers explains:

> The Company proposed two changes to the General Service Primary Rates Load Profile in the COSS Version 2. First, the Company proposed to separate the load profile and costs of General Service Primary Time-of-Use Rate ("GPTU") from the Large General Service Primary Demand Rate ("GPD"). 5 TR 822. The reason the GPTU load profile was previously included with Rate GPD was because Rate GPTU was a relatively new rate with limited historical load data available for the COSS. With the addition of the 2018 load study, the Company now has three years of historical load data to calculate the test year load profile for Rate GPTU. This data provides the Company with sufficient information to now separate the GPTU load profile from the GPD load profile and gain better insight into how GPTU customers us the system and cause costs. 5 TR 822-823. In addition, the Company is proposing to separate the load profile for GPD Voltage 3 interruptible customers from GPD Voltage 1 and 2 interruptible load profiles. This change, creating a separate load profile for GPD Voltage 3 interruptible customers, will facilitate the appropriate assignment of line losses and the removal of interruptible load for purposes of assigning capacity costs proposed by the Company. 5 TR 823.[1202]

No party objected to this proposal, and the ALJ finds that it should be adopted.

e. Customer-Related Costs Adjustments

Consumers recommended various adjustments to customer-related costs within the COSS, which in turn is used to calculate the customer charge. Based on its

[1201] 5 Tr 821.
[1202] Consumers brief, pp. 450-451.

adjustments and resulting calculation, Consumers recommends a residential customer charge of $8.50 per month, and $30.00 per month for GSTU customers.

Staff opposes the company's adjustments, maintaining that Consumers included a number of costs that are not actually customer-related in its calculation. Staff points to the Commission's decisions on what should be included as customer costs in Case Nos. U-4771 and U-4331, which were recently affirmed in Case Nos. U-20561 and U-20162. Staff also notes that Ms. Aponte agreed with Staff's method in rebuttal.[1203]

Using the approved method for calculating the customer charge,[1204] Staff calculated a residential customer charge of $8.00 per month and $17.00 per month for GSTU customers. Staff reasoned that the $17.00 for GSTU is reasonably close to the current $20.00 per month charge that no change in the amount is required.

The Attorney General recommends keeping the current customer charges the same, on grounds that higher per-meter charges, and therefore lower volumetric usage charges, may affect energy efficiency efforts. Staff responds, reiterating that customer charges should be based on an appropriate method which adheres to standards articulated by the Commission.

The MEC group recommends that instead of increasing the customer charge, the charge should be reduced from $7.50 to $6.50 per month. Mr. Jester testified that because the AMI meters provide more benefits than simply metering (i.e., non-customer benefits), some portion of the AMI meter costs should not be included in calculating the customer charge. Mr. Jester calculated that if $90.6 million in meter costs that are other

[1203] See 5 Tr 855.
[1204] See, Exhibit S-27.2 and 8 Tr 4622-4623.

AMI benefits not associated with metering were excluded from the customer charge calculation, the customer charge would be reduced.

Consumers responds that the number of customers drives the installation of meters, and although AMI meters provide additional benefits beyond metering, "the fact remains that the addition of a customer requires the investment and installation of a meter for that customer. Therefore, it is appropriate to classify 100% of a meter's cost as customer-related and to recover those costs through the customer charges[.]"[1205]

The ALJ agrees with Staff that its proposed method for calculating customer charges is reasonable; it includes only costs that are customer-related, and it has been approved by the Commission in rate cases dating back decades, including two recent DTE cases. The ALJ agrees with Mr. Gottschalk's reasoning that, "[w]ith Consumers Energy and DTE Electric being the two largest investor-owned utilities in the State of Michigan, it is fair and reasonable to consider consistency when determining the appropriate customer charge methodology."[1206] The ALJ further finds that the *de minimus* increase in residential customer charges that Staff proposes will not affect energy conservation efforts, thus, the Attorney General's proposal to maintain current customer charges should be rejected. As for the MEC group's recommendation to exclude non-customer related AMI benefits from customer costs, the ALJ agrees with the company that it is the existence of the customer that drives the investment in the meter, therefore the cost of the meter should be included in customer charge, even if the meter itself provides some additional benefits beyond energy metering.

[1205] Consumers brief, pp. 452-453.
[1206] 8 Tr 4625.

In a related recommendation, Staff requests that in future rate cases the company should be directed to account for, and allocate, clearly attributable customer costs to the applicable customer class. Staff points out that costs associated with the customer care center, which serves residential and small commercial customers, should only be allocated to these customer classes, whereas the expenses associated with business customer care, which serves large commercial and industrial customers, should be allocated to those classes. Currently, all customer assistance expenses are allocate based on sales or number of customers. Staff points out that residential and small business customers pay most of the costs for business customer care, despite the fact that they do not receive any benefit from this program. Conversely, commercial and industrial customers pay for a portion of customer care center costs that benefit residential and small business customers.

Consumers responds that the company is unable to separate these costs. According to Consumers:

> As explained by Company witness McLean, the Business Customer Care group works not only with commercial and industrial customers but also serves a diverse population of small business, commercial, and industrial customers. 3 TR 247. No mechanism exists that would allow the Company to separate the Business Customer Care work activities and related costs by customer classification[.][1207]

In its brief, Staff argues:

> The Company claims it is unable to separate costs in this manner, but fails to provide reasons for this inability or why the Company could not allocate on sales or number of customers for specific rate classes as it currently does for all rate classes. (5 TR 855; 3 TR 247.) Instead, the Company contends that there is no mechanism that exists that would allow them to separate the business customer care work activities and related costs by customer classification. (3 TR 247.) Separating costs by work activities is

[1207] Consumers brief, p. 452.

> a well-known practice in the field of accounting and is known as "Activity Based Costing." The Company also claims that the Business Customer Care (BCC) group "does not only work with commercial and industrial customers, but serves a diverse population of small business, commercial and industrial customers." (Id.) Small business customers are still served under commercial rates. The diversity of the customers served by the BCC is irrelevant in this discussion, so long as those customers belong to commercial and industrial rate classes.[1208]

The ALJ agrees with Staff that this recommendation is reasonable and consistent with the company's overall efforts to specifically assign individual costs to the class that caused those costs. Accordingly, in its next rate case, Consumers should assign Customer Care Center Costs and Business Care costs to the appropriate customer classes.

f. Other COSS Proposals

i. Substation Ownership Credit Calculation

Ms. Aponte sponsored Consumers' substation ownership credit calculation in Exhibit A-19. As noted it the company's brief, no party disputed the method or resulting calculation of the credit.[1209]

ii. Mid-Peak Summer Fuel for Generation and Mid-Peak Purchased Power Accounts

MEC group witness Boothman pointed out that Mid-Peak Summer Fuel for Generation and Mid-Peak Summer Purchased Power are allocated on Allocator 103 – Energy On-Peak @ Gen Summer, whereas these expenses should be allocated on Allocator 108 – Energy Summer Mid-Peak @ Gen.[1210] In its brief, Staff indicates that it

[1208] Staff brief, pp. 173-174.
[1209] Consumers brief, p. 453.
[1210] 8 Tr 3633

has verified and agrees Mr. Boothman's correction and that these expenses should be allocated on Allocator 108.[1211]

iii. Allocation of Surcharges

Ms. Aponte sponsored Exhibit A-20, which shows the allocation of surcharges for the FCM, the DR refund, and the deferrals from Case No. U-20134. On behalf of ABATE, Mr. Pollock testified that the FCM cost "should be allocated in proportion to the rate base allocated to each customer class."[1212] Consumers agreed with this recommendation. Mr. Troyer testified that the FCM "could be viewed as a return on the PPA, because it is an incentive that can be recognized in lieu of the return that the Company would have earned and allocated to customers on a utility-owned asset included in rate base."[1213]

The MEC coalition recommended that the allocation of FCM costs "be modified from that proposed by Consumers such that FCM revenue for capacity payments in power purchase agreements are allocated directly to capacity cost allocators rather than 75% based on capacity and 25% based on energy"[1214] Consumers disagreed based on its concurrence with Mr. Pollock's recommendation.

The ALJ agrees that the FCM is analogous to the return Consumers receives on company-owned assets and should be treated in the same way for cost allocation purposes.[1215]

[1211] Staff brief, p. 180.
[1212] 8 Tr 3023.
[1213] 6 Tr 1574-1575.
[1214] 8 Tr 3615.
[1215] The company and the MEC group also made recommendations concerning cost allocation of the CVR incentive. Because this incentive was rejected, these recommendations are moot.

iv. Streetlighting

On behalf of MAUI, Mr. Bunch testified that Consumers' unmetered lighting rates (GUL and GU-XL) cost allocations contain data errors. According to Mr. Bunch:

> The first problem with this allocation is that bracket, pole and transformer costs are not related to luminaire costs. The fact that an LED luminaire is more expensive than an HPS luminaire does not mean it needs a more-expensive pole, bracket or suspension arm, and because it uses less electricity it may actually cause less wiring and transformer cost. A more equitable way to allocate non-luminaire street lighting asset costs among the lighting rates would be by fixture count, although both wiring and transformer costs arguably should be allocated according to measures of electricity usage.
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> The second problem with the Company's allocation of Streetlighting Equipment Plant in Service is that it incorporates changes in LED luminaire count but does not account for offsetting changes in HID luminaire count. From 2019 through 2021, the Company projects that it will convert 55,000 fixtures from HID to LED, or about 42% of the total HID fixtures it owned as of 12/31/2018. Yet, witness Aponte's allocation of Plant In Service to the GUL rate shows 2018 Historic Balance of $90,820,000, and the exact same 2021 Test Year Balance, suggesting no change in luminaire count under GUL.[1216]

Based on his update considering the retirement of HIDs, Mr. Bunch testified that the HID plant in service amount was overstated by $23 million.

In addition, Mr. Bunch testified that Consumers overallocated O&M costs to LEDs, observing that because "LEDs cost less to operate and maintain than HIDs[,] [c]harging LEDs higher O&M based on their higher capital cost is inconsistent with cost causation principles."[1217] Finally, Mr. Bunch recommended that Consumers should "[c]hange its method for allocating streetlighting assets other than luminaires according

[1216] 8 Tr 4020.
[1217] 8 Tr 4021.

to luminaire type. Poles, brackets and suspension arms should be allocated by fixture count and wiring and transformers should be allocated according to electricity use."[1218]

In rebuttal, Ms. Aponte testified that (1) Consumers addressed the issue of inequitable allocation of asset costs among lighting rates by making an adjustment to maintain the relationship between Rate GUL and Rate GU-XL as shown in Exhibit A-16; (2) the total amount for distribution streetlighting equipment at the end of 2021 includes an assumption for retirements as shown in Exhibit A-137; (3) Consumers made a $1.7 million adjustment in the COS model to offset O&M costs assigned to Rate GU-XL.

In its reply brief, MAUI argues that Consumers response was incomplete, and that the company failed to address its primary recommendation to unify unmetered lighting rates into one schedule, and the company did not respond to MAUI's recommendation to track O&M costs by asset type going forward. Finally, MAUI contends that "the Company did not respond to Mr. Bunch's testimony regarding migration from GUL to GU-LED rate base of non-luminaire assets (poles, wiring, transformers, mast arms, etc.) that serve fixtures converted from HID to LED."

The company appears to have made several adjustments to its COSS to address certain concerns raised by Mr. Bunch and MAUI. The remaining issues, particularly Mr. Bunch's recommendation to develop a unified tariff for unmetered lighting, is addressed below.

g. U-20134 Settlement Agreement

As part of the settlement agreement approved in the January 9, 2019 order in Case No. U-20134, ¶¶ 16-18, Consumers agreed to perform a standby study (which is

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[1218] Id. at 4024.

discussed above) and a COSS that separates RS and RT rate classes for information purposes.[1219] In addition, ¶ 18 of the settlement agreement provides:

> Consumers Energy agrees that it will provide to interested parties the results of its distribution cost allocation study within 30 days after it is final. In addition, the Company agrees to confer with interested parties after the distribution cost allocation study is shared to answer questions about the study and provide the pertinent back up data.

Consumers avers:

> [T]he Company performed a review of its distribution allocation methodologies in 2019 and prepared a distribution cost allocation study ("DCAS"), which was circulated among all parties to the settlement on December 9, 2019. The study aligned with the requirements of the Settlement Agreement and was included in this proceeding in Exhibit A-134 (JCA-10). Further, the Company prepared presentations of the DCAS results (Exhibit A-135 (JCA-11)), shared such results in an open forum with interested parties on January 15, 2020, provided follow-up research and responses to questions raised at the forum, provided an opportunity for interested parties to provide written feedback on Company-provided follow-up information, and hosted an additional discussion on April 10, 2020 with interested parties and the Company's engineering experts to answer distribution system designing questions. 5 TR 845.

The MEC group agrees with Consumers' recitation of the company's actions, but it maintains that the study the company performed was deficient because "Consumers did not attempt to allocate distribution costs via any method other than class peaks. Further, Consumers' defense of that method in the study and in testimony in this case is found lacking[.]"[1220]

Mr. Jester testified that Consumers allocates a significant portion of its fixed costs on the basis of non-coincident class peaks (NCPs), which results in a substantial allocation of costs to residential customers.[1221] After discussing the problems with the

[1219] See, Exhibit A-22.
[1220] MEC group brief, p. 213.
[1221] 8 Tr 3564-3566; Exhibits MEC-14 and MEC-20.

NCP approach, Mr. Jester recommended that allocators for distribution costs should be based on distribution planning methods "rather than simplistic arguments about which costs are demand-related, energy-related, or customer-related. Cost allocators should also recognize that on most components of the distribution system, demand from many classes or rate schedules are combined in the demand on the component."[1222]

In its brief, the MEC group focuses on the rebuttal testimony and cross examination of Ms. Aponte. According to the MEC group, Ms. Aponte supported the company's approach by referencing the company's literature review on the topic, including the NARUC Manual and Bonbright's Principles of Public Utility Rates.[1223] The MEC group argues however, that the literature that Ms. Aponte relied upon does not completely support the use of NCP, adding, "If anything, much of it pointed in the opposite direction."[1224] The MEC group argues:

> Ms. Aponte acknowledged that the language from the NARUC manual quoted above supported the use of class peaks only for those components of the distribution system with high load diversity. For components with lower load diversity, she acknowledged that NARUC recommended the use of individual customer maximum demands. Ms. Aponte stated that this was a change Consumes was open to making. She also acknowledged that NARUC recommends that some utilities' large distribution substations should be allocated using the same method used to allocate transmission, which for Consumers would be 12CP demand. However, Ms. Aponte said Consumers was not willing to consider that change. In sum, the NARUC manual only partly supports Consumers' distribution cost allocation method – since NARUC recommends using NCP only for a portion of the system components while Consumers uses NCP for all of the components.
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> As for Bonbright, rather than supporting the use of NCP for allocating distribution costs, Bonbright states that "Economists have been particularly critical of this method as it ignores variations in the timing of the peak demands."[1225]

1222 8 Tr 3569.
1223 MEC brief, pp. 215-216; Exhibit MEC-128.
1224 Id at 217.
1225 Id at 217-218, citing 5 Tr 929-936.

The MEC group also points out that Consumers also reviewed Electricity Pricing by Lawrence Vogt, stating that on cross-examination:

> Ms. Aponte agreed that one of Vogt's instructions on this topic is that further functionalization of distribution plant accounts may be necessary to differentiate equipment and facilities by voltage levels. Ms. Aponte agreed that this instruction supports Mr. Jester's recommendation that distribution allocators should reflect the most detailed cost accounts used in the COSS, including breakdowns by voltage level. Ms. Aponte noted that she performed that subfunctionalization as part of the COSS, but as discussed above the COSS then allocated all of those components based on NCP.[1226]

The MEC group concludes that the Commission should direct Consumers to prepare an alternate version of its COSS that is based on Mr. Jester's recommendations, rather than on class peaks in its next electric rate case.

In a related concern, ABATE argues that the class peak method should be applied to aggregated demand by rate class, rather than for 40 separate rate classes and subclasses. Mr. Pollock testified that, as shown in Exhibit AB-21, "there are up to five separate GS, GSD and GP subclasses; 15 separate GPD subclasses including firm, educational institutions, ROA and interruptible (GI) service for each of the three separate voltage levels; and three EIP subclasses."[1227] Mr. Pollock asserted that Consumers' approach is inconsistent, noting that "Consumers does not separately quantify the class peak by voltage level for the GP and GPTU classes, as is the case for GPD and EIP."[1228] In addition, Mr. Pollock characterized Consumers' approach as too granular and therefore not reflective of the diversified demands of each customer class. Thus, "Consumers' application of the Class Peak method assigns more costs to those rate classes, like GPD,

[1226] MEC brief, p. 218, citing 5 Tr 943-944.
[1227] 8 Tr 3016.
[1228] Id.

having the most subclasses."[1229] Mr. Pollock recommended that class peaks be defined at the rate class level because: (1) it is consistent with Consumers' rate design practices; (2) it is consistent with cost causation; and (3) it recognizes that the same distribution system is used for customers within each class. Finally, Mr. Pollock presented Exhibit AB-22 which shows the class peak demand allocation factors by rate schedule for COSS Version 2.[1230]

In response to ABATE, Consumers agrees that ABATE's proposal is an improvement; however, "it calculates peaks at the rate class level, and not the class voltage level, which would better represent how the Company's system is designed."[1231] Staff agrees that class peaks should be defined by voltage level and not class level as ABATE suggests.[1232] Consumers also agrees with ABATE's recommendation to use demand loss factors for the allocation of distribution costs, noting that this was one of the areas in its distribution study where the company found distribution cost allocation could be improved.

In response to the MEC group, ABATE argues that its "objections are misplaced" because:

> [W[hile distribution facilities are joint costs (i.e., they are shared by all customer classes), not all distribution facilities are shared equally and not all facilities peak at the same time. (Id.) As such, utilizing the Class Peak method in accordance with the recommendations set out above is an appropriate approach for a CCOSS to allocate demand-related distribution plant and related expenses that are not otherwise directly assigned to specific customer classes
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> Furthermore, while MEC's proposal did not describe a specific approach for determining which system-wide allocator (other than Class Peak) would

[1229] Id. at 3017.
[1230] Id. at 3019.
[1231] Consumers brief, p. 459 citing 5 Tr 848.
[1232] Staff brief, p. 179.

> best reflect cost causation, its recommendation would require a statistical analysis demonstrating which of the available system-wide allocators best predicts the contribution of customer classes to the sizing and costs of the population of local distribution system components. (Id.) In other words, at a minimum MEC's recommendation would require a separate analysis of a representative sample of every local distribution system component (i.e., distribution substation, overhead and underground circuit, and line transformer). (Id.) The time, effort, and cost required to complete such a study would be significant.[1233]

The ALJ agrees with Consumers that the company complied with the settlement agreement in Case No. U-20134. The ALJ also agrees with ABATE and finds that although the MEC group's recommended approach may, in theory, offer some additional precision in the assignment of distribution costs, without additional information about how such an analysis would be done, it appears to be infeasible at this point.

2. Rate Design and Tariff Issues

Mr. Miller described Consumers' objectives in designing rates in this case, and he outlined the company's rate design proposals as follows:

> (i) Maintain the current TOU residential rate design structures agreed to in the Settlement Agreement of the Company's previous electric rate case (Case No. U-20134) with four modifications. The first modification is to increase the Critical Peak Pricing charge and Peak Time Rebate credit from $0.95 per kilowatt-hour ("kWh") to $1.00 per kWh as a way to encourage more customer participation in these DR programs. The second modification is to approve a LIAC to help increase assistance for some of the Company's most vulnerable customers and to allow recovery of the credit in a similar fashion to that used for the Company's current residential income assistance provision. The third modification is to approve a $1.00 per month increase to the residential system access charge as a partial movement toward the level suggested in the Company's test year COSS. The fourth modification is to increase the consistency across the three residential TOU rate options by aligning the charges assessed for equivalent time periods in each option;
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> (ii) Approve closing the secondary and primary class flat energy rates (GS and GP) to new business as the first step in transitioning all business

[1233] ABATE brief, pp. 20-21.

customers to more advanced TOU rate designs (GSTU or GPTU) that better reflect the cost of providing service;

(iii) Approve the Company's proposal to add a small interruptible provision to its secondary TOU and demand-based rate options (GSTU and GSD) as a way to provide a DR option for small business customers. Today, these customers have no available options;

(iv) Increase consistency across the secondary business class rate options by approving the Company's proposal to use uniform delivery rate structures for GSTU and GSD. In addition, the Company recommends that the Commission approve its proposal to update its power factor adjustment for the secondary class to align with the adjustment mechanism used for the primary class; and

(v) Approve the Company's proposal to transition customers taking service under its existing LED rate option, GU-XL, to a new rate design structure as a way to improve customer insight into the charges assessed to collect the production and delivery costs associated with providing street lighting service. In addition, the Company proposes that the Commission approve a four-year credit for municipal street lighting customers who have already paid to upgrade to LED lights.[1234]

Specific issues or concerns related to these proposals are discussed below.

a. Adjustments to COSS

Consumers lists the following adjustments to its COSS made in rate design, noting that these adjustments are standard and consistent with prior rate cases:[1235] (1) reallocation of DR credits recovered through base rate to reflect the reduced capacity requirements of these programs; (2) capacity costs are assigned to Rate EIP to reflect the fact that a portion of EIP load is firm; (3) an adjustment to reflect the difference between the market cost of production capacity and the embedded cost of capacity in the COSS applied to Rate GSG-2; (4) additional adjustments for production energy and transmission costs for Rate GSG-2; (5) a correction for an over-allocation of substation

[1234] 4 Tr 559-560; Exhibit A-16, Schedule F-3.
[1235] 4 Tr 566; Exhibit A-16, Schedule F-2.1.

costs for voltage levels 1 and 2 in the COSS; (6) a transfer of delivery costs between Rates LED and GUL in the streetlighting class; and (7) an adjustment for RSC and RIA credits.

b. Adjustments to Production Costs in Rate Design

In its initial brief, Consumers explains:

> The Company recommended a change to its traditional approach of designing rates for the collection of production costs. 4 TR 569. In general, production costs are comprised of both fixed (capacity) and variable (energy) costs. Traditionally, the Company used a combination of forecasted and actual prices based on the MISO market as a way to estimate the capacity and energy cost spread of providing service during different time periods. In this proceeding, Mr. Miller explained that the Company recommends two changes to the method used for estimating the price spreads going forward. Id. The first change involves using only the actual real-time Locational Marginal Price ("LMP") from the years 2014 to 2019 to calculate the energy charge spreads for the various TOU rates. This change will avoid any underrepresenting of expected time differential in marginal energy prices that will be observed in 2021. Id. In addition, Mr. Miller explained the second change would "design the production capacity portion of rates to collect the portion of fixed plant costs in each period based on the expectation of serving customer demand during the time based on the latest hourly load study for each class (MISO Cost of New Entry) and allocated production capacity in the COSS." 4 TR 569.[1236]

Staff indicates that it does not oppose the company's proposal adding that it, "recommends the Commission approve rates updated using Staff's COSS and revenue requirement."[1237] Noting that there was no opposition to the company's proposal, the ALJ finds that it should be approved.

c. Residential Rates

As summarized in the company's brief, Consumers recommends four modifications to its current residential rate design:

[1236] Consumers brief, p. 470.
[1237] Staff brief, p. 182, citing 8 Tr 4691-4692.

> (i) an increase to the critical peak price charge and peak-time rebate credit, assessed during peak events, from $0.95 per kWh to $1.00 per kWh as a way to encourage customer enrollment, participation, and retention; (ii) the addition of a LIAC charge of $30 per month for 4,200 residential customers; (iii) a gradual increase to the residential system access fee from $7.50 per month to $8.50 per month to better align the monthly charge with the $10.00 per month amount supported by the Company's COSS; and (iv) improving consistency in the TOU charges assessed across the residential rates.[1238]

Staff raises an issue with respect to Consumers' peak time rewards program (PTR), which provides customers with a per kWh credit during peak events, based on the participant's calculated baseline usage. In contrast, the company's residential critical peak pricing (CPP) program offers discounted rates off-peak in exchange for a significant increase in cost per kWh during critical peak events.[1239] Staff views the CPP program with approval. Distinguishing the CPP and the PTR programs, Mr. Isakson testified:

> The PTR only encourages reduction during the critical peak. The CPP both encourages reduction during critical peak and encourages shifting energy use to off-peak times throughout all of the summer months. Further, the customer cannot directly tell the impact of their usage reduction on their bill until after the critical event has passed, because they do not know the baseline from which the PTR credit will be calculated. A CPP, however, allows the customer to tell exactly how any change in their energy consumption at any time will affect their bill. This is because the customer knows exactly how much each kWh will cost at any given hour along with the billing determinant for each of those hours. With a PTR, only the price is known, but the margin between the customer[']s usage and their baseline is unknown. Further, the Company estimates CPP to result in nearly double the per customer kW savings compared to the PTR. Another advantage CPP holds over PTR is that the Company designed the CPP to be revenue neutral. That is, the off-peak discount is designed to be the inverse of the excess revenue generated from the critical price of $1 per kWh. From a rate design perspective (i.e. not include any other program costs) the PTR is more expensive and will result in fewer MW of demand reduction than the CPP.[1240]

[1238] Consumers brief, p. 471, citing 4 Tr 570-571. The LIAC program is discussed above, as are the company's proposed change to the residential service charge.
[1239] 3 Tr 227-228.
[1240] 8 Tr 4648-4649; Exhibit S-21.1.

Given these concerns, Staff recommends that the Commission decline to approve the PTR program and tariff.

In response, Mr. McLean recognized Staff's criticisms regarding the precision of the PTR program. Nevertheless, he maintained that:

> [T]he Company continues to see PTR as a critical component of its overall demand portfolio for three key reasons. First, the PTR provision is designed to be a no-penalty program that introduces customers to DR in a no-regrets way, ideal for customers who are hesitant to participate in DR and a valuable option to attract and educate customers on the value of DR. Second, the Company maintains that while PTR utilizes a baseline calculation, to encourage customers to save during critical events, it is not necessary for customers to know their specific kWh baseline. As with other price-based DR programs, a critical event signals to customers that it is temporarily more expensive to consume electricity. For both Critical Peak Pricing and PTR, the key element customers need to know is that the cost (whether actual cost or opportunity cost) is higher during critical events, and that they can save on their bills by reducing consumption below normal during those times. . . . Third, the Company maintains that an overall cost-effective portfolio of multiple DR options is the most prudent and promising approach for continuing to meet the Company's aggressive DR program goals as approved in the Company's IRP and reviewed in the annual DR reconciliation proceeding.[1241]

The PFD finds that Staff's recommendation should be adopted, and the PTR program should be discontinued. The company's claim that the PTR program provides some entrée into some more advanced DR is not supported by any evidence that shows that customers do in fact enroll in more effective DR programs. In addition, the ALJ agrees that the baseline the company calculates for each customer, upon which to determine the reward, is opaque, and Staff's concerns that the PTR program is not revenue neutral are persuasive.

[1241] 3 Tr 254-255.

d. General Service Secondary and Primary Rates

As summarized in the company's brief, Consumers proposes four changes to its secondary and primary rates:

> (i) closure to the Company's flat energy rate (General Service Secondary Rate ("GS") and General Service Primary Rate ("GP")) to new business; (ii) the addition of an interruptible provision to the secondary TOU and demand-based rate options (General Service Secondary Time-of-Use Rate ("GSTU") and General Service Secondary Demand Rate ("GSD"); (iii) alignment of the delivery charges assessed under Rates GSTU and GSD; and (iv) an update to the power factor adjustment calculation applied under Rate GSD. 4 TR 572.[1242]

Staff argues that Consumers proposed interruptible credit for Rates GSTU and GSD should be a demand credit rather than an energy credit. Staff notes that the company calculates the credit using the existing interruptible credit offered to primary customers, but then converts it to an energy credit for commercial secondary customers. Staff maintains "that it is more appropriate for this credit to be applied on demand, because it is demand-related."[1243]

The company did not appear to dispute this recommendation in its briefs, therefore, Staff's recommendation should be approved.

In addition, Staff contends that Rate GS should not be closed to new customers, as the company proposes. Staff argues that the alternative to Rate GS that the company offers (i.e., TOU, demand-based, and subscription-based bills) may be problematic for some small commercial customers. Staff posits:

> These individual customers are not large enough to sway enough load to move the actual Coincident Peak but would be paying as if they could if they were forced onto a demand-based rate. (8 TR 4698.) In addition, it is not appropriate to close Rate GS while the Company evaluates shifting

[1242] Consumers brief, p. 472.
[1243] Staff brief, p. 189, citing 8 Tr 4651.

> commercial customers to TOU rates because it could cause unfair advantages in certain business sectors where a flat rate would be more beneficial. (8 TR 4699.)[1244]

The company responds that it views closing Rates GS and GP as "a reasonable first step to advancing non-residential rate design[.]"[1245]

This PFD agrees that the company should continue to evaluate the transition of small commercial and industrial customer to TOU rates and should maintain rate GS open in the meantime.[1246]

Next, Staff objects to Consumers' plan to add a peak demand charge to rate GSTU, on grounds that it is important to send an accurate price signal for the cost of delivering power, and a consistent rate design across rates within a class is appropriate.[1247] Staff maintains that the Commission should reject the proposal. Mr. Pung testified:

> Staff does not support the addition of a peak demand charge to TOU Rate GSTU for the same reasons as mentioned above concerning the closure of Rate GS to new business. Demand charges for small customers can be problematic and can result in customers being charged for costs they are not contributing to. The Company currently has a General Service Secondary Demand Rate GSD available for customers who desire to be on a demand rate.[1248]

Consumers' reply brief reiterates Mr. Miller's rebuttal testimony on the importance of accurate price signals, and the need for consistency across rates within the same rate class.

[1244] Id. at 192.
[1245] Consumers brief, p. 472.
[1246] Staff does not oppose closing rate GP to new customers. 8 Tr 4701.
[1247] 4 Tr 573.
[1248] 8 Tr 4699.

This PFD finds that the Staff's concerns, about small customers being charged costs to which they have not contributed, have merit. In addition, as Staff points out, Rate GSD is available to customers who prefer a demand rate. Therefore, the company's proposal to add a demand charge to Rate GSTU is rejected.

e. Streetlighting Rates

Consumers recommended two changes to streetlighting class rate design: (1) replacement of the company's current GU-XL rate for LED with a simpler, more transparent rate design; and (2) the addition of a conversion credit for streetlighting customers who paid to convert HID lights to LED lights prior to the initiation of Consumers' LED replacement program. Consumers notes that the simplification of the GU-XL tariff was identified as an issue in the company's last rate case, and a stakeholder collaborative on streetlighting was convened as required by the settlement agreement in that case. Mr. Miller testified that the company is requesting approval of a six-month transitional rate until a new LED rate structure can be implemented.[1249] Staff supports the company's plan to simplify the streetlighting tariff.

As discussed above, Mr. Bunch recommended that the Commission adopt a tariff for unmetered streetlighting that combines rates GUL and GU-XL.[1250] While Consumers did not oppose Mr. Bunch's general proposal, it did identify several problems with Mr. Bunch's calculation including: (1) Mr. Bunch only included a portion of costs in the calculation of tariff charges; (2) Mr. Bunch did not take into account the time needed to

[1249] 4 Tr 574.
[1250] Mr. Bunch described his approach to calculating the combined tariff at 8 Tr 4016-4017.

transition to a new tariff; and (3) the company made an error in it streetlight count, which in turn affected the rates Mr. Bunch calculated.

The ALJ finds that Consumers' proposals with respect to simplifying the GUL tariff and providing a credit for LED conversions prior to the adoption of the company's LED replacement program are reasonable and should be adopted. Noting that Consumers does not oppose MAUI's recommendation to develop a single tariff for rates GUL and GU-XL, the company should be directed to provide such a tariff in its next rate case.

3. Other Tariff Issues

The majority of changes to Consumers' tariffs were unopposed, or were agreed to and should therefore be approved. The parties disputed the company's proposed DG tariff, its low-income program, and CIAC policies. Recommendations for the low-income program are discussed above and the DG tariff and CIAC are addressed below.

a. Distributed Generation Tariff

Consistent with MCL 460.6a(14) and MCL 460.1173(1) Consumers submitted a DG program tariff, set forth in Exhibit A-16, and Tariff Sheet Nos. C-64.10 through C-64.80.[1251] Consumers notes that, in compliance with the April 18, 2018 order in Case No. U-18383, the company's tariff is substantially similar to the model Inflow/Outflow tariff contained in Attachment A to that order, and to the DG tariff approved for DTE Electric in the May 2, 2019 order in Case No. U-20162. Consumers notes that the Commission affirmed the continuation of DTE Electric's DG tariff in the May 8, 2020 order in Case No. U-20561.

[1251] 6 Tr 1620.

Mr. Miller testified that:

> The Inflow/Outflow method is an eloquent solution—simple, transparent, and accurate—that leverages investments in advanced metering infrastructure for designing and implementing a DG Program. Under this design, customers with solar or wind generation are billed their normal rates for all power taken from the grid (Inflow) and provided a production credit for all excess generated power put back on the grid (Outflow). In Case No. U-18383, the Commission Staff ("Staff") found this method of billing superior to the current Net Energy Metering ("NEM") design and recommended it as the preferred billing method for replacing the current NEM Program.[1252]

Mr. Miller explained that while net metering was a reasonable approach before AMI, the implementation of advanced metering has allowed the company "to provide a more accurate and transparent solution for fairly and efficiently determining the customer's use of the utility's system and compensating DG customers for energy sent to the grid."[1253] Mr. Miller testified under net metering, customers were charged full retail rates (production, transmission and delivery) for electricity taken from the grid and received the same rate for excess electricity sent out to the grid. Under the Inflow/Outflow method, DG customers still pay full retail rates for inflows, but outflows, measured instantaneously, are compensated at a lower outflow rate. In the case of the outflow rate the company proposes here, Mr. Miller testified that "[t]he Company is proposing to pay its embedded production rates (power supply less transmission) for the excess power from DG customers, which will be applied as an offset to the production section of their monthly energy bill."[1254] Mr. Miller opined that it was appropriate to exclude compensation for transmission because DG customers do not provide transmission services and thus should not be compensated as though they do.[1255]

[1252] 4 Tr 575-576.
[1253] Id. at 576.
[1254] Id. at 577.
[1255] Id. at 578-579.

With respect to the 1% cap on DG, set forth in MCL 460.1173(3), Mr. Miller indicated that while Consumers fully supports renewable energy, "the Company also has a responsibility to manage costs by not over paying for power. This means that the Company must balance its support of DG with the higher cost of purchasing the excess power these customers put back on the grid."[1256] Thus, Consumers proposes to maintain the current cap of the amount of excess power it purchases from DG customers. Once the 1% cap is reached, Mr. Miller testified that DG customers will still have the option to sell excess electricity to the company at the company's avoided cost rate.

In response to stakeholders who have argued that DG customers should be compensated for outflows at higher rates because these customers are less costly to serve, Mr. Miller referenced Exhibit A-21 (Standby Study), which, according to him, shows that the per unit cost of serving residential customers with DG ranges between 20% to 50% more than that of other customers."[1257] Finally, Mr. Miller observed that although the Inflow/Outflow method significantly reduces intra-class subsidies compared to net metering:

> [T]here is still a subsidy issue with rate designs that primarily recover fixed costs through volumetric charges. That is, the current volumetric TOU rate designs do not effectively reflect the fixed costs of providing grid support services—such as load balancing, reliability, and optionality—which could be achieved with more advanced rate design structures.[1258]

Staff supported the company's proposed DG tariff, however, Mr. Krause disagreed with Mr. Miller's concerns regarding intra-class subsidies, testifying that "[i]ntra-class subsidies have always existed[,]" explaining that some customers who live on more

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[1256] Id. at 579.
[1257] Id. at 580-581. (NB: Exhibit A-21 is the Standby Study; however
[1258] 4 Tr 581.

expensive circuits do not pay more, nor do customers who have reduced their bills through DR or EWR, even though they still rely on the same the system as they did before implementing DR or EWR.

The JCEO, EIBC/IEI, Grand Rapids, and Staff took issue with various aspects of the DG tariff and with Consumers' DG program overall. These concerns are addressed *ad seriatim*.

i. Program Cap

Under MCL 460.1173(3), "An electric utility . . . is not required to allow for a distributed generation program that is greater than 1% of its average in-state peak load for the preceding 5 calendar years." Within that 1% allowance, 0.5% is allocated to customers "with an eligible electric generator capable of generating 20 kilowatts or less[,]" with the remaining 0.5% split evenly between generators of more than 20kW and methane digesters. Mr. Matthews described these limits as "soft caps," and, referencing Exhibit S-15.0, "the Company forecasts that the soft caps could be reached as soon as October 2020, for category 1 [i.e., generators less than 20kW] distributed generation and end of year 2021 for category 2 [i.e., generators 20kW to 150kW]."[1259] Mr. Matthews acknowledged that Consumers will continue to purchase power from customers under the PURPA standard contract at the avoided cost rate, or customers may enter an energy-only contract with the company.

Mr. Matthews raised concerns about the different pricing and contract language in the standard offer, noting that the contract has an early termination provision that is not included in the DG program, and the contract requires Commission approval, making it

[1259] 8 Tr 4815.

administratively inefficient for applicants.[1260] Mr. Matthews recommended that once the caps on participation are reached, the company should voluntarily increase the cap to 2%. Mr. Matthews explained that because the Inflow/Outflow tariff is cost-based, and because the net metering program will close, "limiting aggregate participation to the PA 295 soft caps is no longer necessary."[1261] Grand Rapids also recommends that the Commission find that the 1% cap on the DG program is inapplicable, as long as the DG tariff is cost-based.

On behalf of EIBC/IEI, Dr. Sherman echoed Mr. Matthews' concern that the 1% program cap could be reached soon, and she observed that no other state has set a cap on participation in net metering or DG. Dr. Sherman surmised that the caps may have been included in the 2008 energy legislation due to concerns about system reliability and potential cross-subsidization or cost-of-service issues, neither of which have been an issue.[1262]

Referencing Exhibit EIB-6, a legal opinion, and Consumers' tariff, which provides that "[t]he Company has the right to refuse to contract for the purchase of energy only," (after the DG program is fully subscribed), Ms. Sherman testified that while there may be some protections for small solar DG customers under federal law, outside the DG program, there are no protections under state law. Ms. Sherman testified that under the DG program, application timelines are short and interconnection fees are low, and Consumers can apply whatever fee structure it finds appropriate.[1263] Ms. Sherman also raised an issue that the company proposes to reference the program cap in its tariff, while

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[1260] Id.
[1261] Id. at 4817.
[1262] 8 Tr 4454-4456.
[1263] Id. at 4459.

the Legislature is currently debating eliminating the cap. Ms. Sherman opined: "as there is an active legislative discussion around removing or increasing the DG caps statewide, it does not seem reasonable to add multiple references to the current caps in the Company's tariff sheet."[1264]

Finally, Ms. Sherman testified that:

> According to business members of Michigan EIBC, the potential closure of the distributed solar market due to Consumers Energy and other utilities reaching the solar caps poses an existential threat to the industry. It is difficult for companies to consider rehiring workers or expanding in Michigan when the market may literally be closed in 7 months. These concerns are detailed by David Lewenz, National Director of Business Development & Commercial Operations for Power Home Solar in Exhibit EIB-7 (LSS-20 7).[1265]

Also on behalf of EIBC/IEI, Mr. Jester testified that the measurement of system size, which in turn affects the amount to be capped, is not well defined in Section 173(3). According to him:

> For inverter-based systems such as solar photovoltaics, the generation capability of a system can be measured in two places: at the output of direct current from the solar panels to the inverter, which is generally referred to as kWDC, and at the output of alternating current from the inverter to the grid interconnection, which is generally referred to as kWAC. As a general practice, inverters are selected such that kWAC can be 20-30% less than kWDC. For purposes of measuring system size against the Net Energy Metering and DG tariff cap, Consumers measures system size in kWDC. MISO measures solar system size in kWAC. To my knowledge, the Commission has not determined how system size is to be measured for purposes of Section 173(3). Since Consumers' "average in-state peak load for the preceding 5 calendar years" is measured in alternating current and any Inflow and Outflow between a customer with distributed generation and Consumers is measured in alternating current, I recommend that the Commission decide that system size and program limits for purposes of Section 173(3) be measured in alternating current.[1266]

[1264] Id. at 4462.
[1265] 8 Tr 4464.
[1266] 8 Tr 4501-4502.

Similarly, for systems with back-up battery storage, Mr. Jester recommended that system size should also be measured in kWAC rather than kWDC. Staff supported EIBC/IEI's recommendations for measuring DG system size.[1267]

In rebuttal, Mr. Troyer testified that, for purposes of measuring contributions toward the 1% cap, the company would agree to measure system size in kWAC if that information is available. Mr. Troyer further explained that "[t]he Company estimates that it has AC ratings for 93.5% of the net metering program participants readily available in its records."[1268]

As provided under MCL 460.1173(3), Consumers, or any other electric utility, is not required to allow for a program that exceeds more than 1% of its five-year average in-state peak load. The fact that other utilities have voluntarily increased their caps, or that intervenors have provided compelling reasons for Consumers to do so as well, does not mean that the Commission has any authority to direct the company to increase the cap on DG.

That said, the ALJ agrees with EIBC/IEI, Staff, and Consumers that the measurement of program size should be in kWAC rather than the current installed capacity measured in kWDC. Not only is the use of kWAC consistent with what the DG customer delivers, which is AC power, it also provides some more headroom under the cap for additional DG program participants. The ALJ therefore recommends that the Commission direct the company to recalculate the amount of capacity subscribed and

[1267] Staff reply brief, p. 51.
[1268] 6 Tr 1587-1588.

provide a report on the available capacity under the 1% cap to the Commission within 60 days of the date of this order.

Finally, Mr. Jester testified that the provision in Section 173(3) that references program size based on the "average in-state peak load for the preceding 5 calendar years" is unclear "whether the 'distributed generation program' is to be measured by the sum of system sizes or by the average output of such systems at the time of the utility's in-state peak load."[1269] Mr. Jester explained:

> Since most of the generation in Consumers Net Energy Metering and DG programs is fixed array solar, which produces about 50% of its alternating current size during MISO's peak period, basing the size of "a distributed generation program" on the average output of such systems at the time of the utility's in-state peak load would approximately double the program limits based on system size in kWAC. Since kWAC is about 20-30% smaller than system size in kWDC, a program limit based on average output of participating systems at the time of the utility's in-state peak load would be about 2.5 times larger than one based on summing system sizes measured in kWDC. Average output at the time of Consumers' in-state peak demand could be closely approximated by using MISO's system capacity credit method. The Commission should consider adopting DG program limits based on average system output coincident with Consumers in-state peak load.[1270]

Consumers responds that:

> Mr. Jester's proposal would be inconsistent with that provision of the law because it would result in a cap based on the five-year average in-state peak for gross bundled load, which, Mr. Troyer explained, is different than the forecast peak load coincident to MISO (used as an input to Planning Reserve Margin Requirement ("PRMR")). 6 TR 1588. Mr. Troyer also explained that Mr. Jester's proposal improperly seeks to use MISO's calculation for solar ZRCs as follows:
>
>> Mr. Jester is also proposing to use MISO's calculation for solar ZRCs to determine system size, which is not supported in the statute. It is not correct to compare the size of the DG systems on the ZRC market fundamentals to a non-market-based program size

[1269] 8 Tr 4502.
[1270] Id.

> from statute. It should also be noted that the statute refers to in-state peak load which peaks at a different time than MISO's peak, and MISO's peak is the basis for both PRMR and capacity credit (ZRC calculations). [6 TR 1588-1589][1271]

In response, EIBC/IEI contend that Consumers uses the MISO ZRC construct for other programs like its Solar Gardens VGP program, for determining PRMR, and for the SRM capacity charge, despite the fact that the MISO method is not specified in statute. According to them, [t] To say that the use of the MISO ZRC capacity measurement inappropriately uses 'market fundamentals' for a state statute is not only incorrect, but is also inconsistent with the myriad of additional ways that the Company utilizes the ZRC capacity construct for other Company measurements."

The ALJ finds persuasive, the company's argument that the statute at issue does not reference the MISO capacity method. In addition, the VGP programs under MCL 460.1061 do not specify program size limits at all, thus, EIBC/IEI's claim regarding Consumers' use of ZRCs in that program is inapposite. And, as Consumers points out, the used of the MISO method for assigning capacity credits is inappropriate since Consumers' system peak is not coincident with the MISO peak.

ii. Outflow Credit

Consumers' DG tariff includes an outflow credit consistent with MCL 460.1177(4)(b) (i.e., power supply less transmission), which the company contends is superior to the former net metering approach, where inflows and outflows were netted on a monthly basis, and the outflow credit equaled the inflow cost. Consumers adds that its DG tariff and outflow credit mirror the model tariff the Commission included in Appendix

[1271] Consumers brief, p. 500.

A to the April 18, 2018 order in Case No. U-18383, and the DG tariff the Commission approved for DTE Electric in the May 2, 2019 order in Case No. U-20162. Although Consumers believes that the DG tariff contained in Exhibit A-16 is superior to net metering, the company nevertheless maintains that non-DG customers are providing a subsidy to DG customers, although the subsidy has been reduced.

The JCEO take issue with a number of the company's claims. Although the JCEO agree that the Inflow/Outflow method "provides a reasonable foundation for accounting for the range of costs and benefits . . . of DG[,]"[1272] they nevertheless argue that compliance with COS principles, equity, and economic efficiency are highly dependent on the amounts assigned to the inflow cost and outflow credit.

The JCEO contend that Consumers offered no COS analysis, no data, and no real justification for either the inflow charge or the outflow credit in its presentation in this case. Specifically, the JCEO argue that Consumers did not analyze the value of DG in terms of (1) impact on line losses; (2) distribution system impacts; (3) demands on distribution infrastructure; (4) load diversity resulting from DG; (5) the use of excess DG power; or (6) the rate impacts of the DG tariffs. According to the JCEO, "[i]nstead of studying these impacts, the Company simply assumes that under net metering, the customer "avoids paying for their use of the system," and that its proposed DG Tariff would—by reducing the rate at which customers are compensated for Outflow—reduce cross-subsidies." [1273]

First, the JCEO address the Brattle Report that Consumers relies on to demonstrate that DG customers actually cost more to serve than non-DG customers. The

[1272] JCEO brief, p. 11, citing 8 Tr 4347.
[1273] Id. at 12, citing 4 Tr 577.

JCEO posit that: (1) the report inappropriately models DG customers as a separate class despite the fact that they represent a miniscule proportion of customers; (2) the load data used in the report dates from 2018 and includes only a small subset of DG customers; and for the ones included in the study, much of the relevant data was missing; and (3) the report makes a number of questionable assumptions including a failure to normalize 2018 data for the test year.[1274] However, despite the errors and omissions in the Brattle Report, the JCEO argue that:

> [T]he Brattle Report in fact ultimately shows that DG customers are slightly less expensive to serve than non-DG customers. In the appendix to its Report, Brattle shows that on an allocated cost per kWh basis, the total cost to serve DG customers is approximately 7% lower than other residential customers, equal to $0.153/kWh for DG customers compared to $0.164/kWh for non-DG customers.[1275]

Mr. Lucas testified that in claiming that DG customers are more costly to serve than non-DG customers:

> Mr. Miller relies on a misleading presentation of the Brattle findings. Mr. Miller relied on a breakdown of costs that are neither reflective of rates nor the CCOSS model. Figure 7 below shows the results in the body of the Brattle presentation, which appear to be the basis for Mr. Miller's assertion. Further below, Figure 8 shows the results from the Brattle study's appendix, showing the lower total cost to serve NEM customers as compared to non-NEM customers. Comparison of Figure 7 and Figure 8 makes clear that Mr. Miller's assertion is off base. [1276]

Mr. Lucas explained that Figure 7 in the body of the Brattle Report is misleading for three reasons:

> First, the CCOSS does not allocate any costs based on the single CP hour. This hour is combined with others to produce the 4CP value, which is then combined in part with total energy usage to produce the 4CP allocator. Similarly, the "capacity-related cost offset" is not an actual cost that is allocated in the CCOSS model. Rather, it is a plug-in value found after

[1274] JCEO brief, pp. 25-26.
[1275] Id. at 27, citing 8 Tr 4208-4209.
[1276] 8 Tr 4209.

subtracting the production capacity costs and non-capacity-related costs from the total revenue requirement, which, by definition, includes any revenue deficiency the Company is modeling. In Brattle's modified CCOSS, the total production revenue requirement of 14 $926,156 includes a revenue deficiency of $264,727, meaning nearly 30% of the production costs for NEM customers (and in fact more than the entire "capacity-related cost offset" value) is not based on the CCOSS allocators but based on the Company's target revenue. By contrast, the non-NEM customers in this model show a 13% revenue deficiency, meaning substantially fewer costs are allocated to these customers outside the CCOSS allocators. In other words, the results that Brattle presented do not contain detailed enough data from the CCOSS to reflect the actual cost to serve NEM customers based on the their load 2 characteristics. The best Brattle can do is use a circular stand in for how NEM customer costs should be allocated. But even that modeling fiction shows that NEM customers are lower cost to serve than non-NEM customers.

Secondly, presenting information in the way Brattle does suggests that lowering a class's CP would somehow increase costs to serve that class. This defies common sense. When I manually lowered the 1CP value (corresponding to class load during the July 2018 peak hour) for the NEM customers from 1,247 kW to 1,000 kW, the recalculated net capacity costs fell from $252,051 to $242,543. That outcome made sense: lower demand during the peak hour of the year reduces the 4CP allocator, which reduces production costs allocated to that class. However, since net capacity costs are not determined solely from this value, the $/kW CP value that Brattle shows actually increased from $202 to $243. The total cost to serve NEM customers fell, but Brattle's presentation of the results (which were the exact ones relied on by Mr. Miller) suggests the costs increased. That outcome does not make sense.

Finally, residential customers are not charged based on 1CP or NCP demand. Residential customers are charged a fixed customer charge and a volumetric per kWh of inflow rate. As long as this is the case, it is appropriate to frame the cost to serve the customers in terms of the rates they are charged. While one could present CCOSS results in terms of $ / customer, this does not fully account for the fact that NEM customers tend to use more energy than the average non-NEM customer. Denoting the costs per kWh of sales is preferable as it helps normalize the results between higher-use customers and lower-use customers.[1277]

[1277] 8 Tr 4210-4211.

In its response to the Brattle Report, which the JCEO maintain should be given no weight, the JCEO presented an analysis of the cost to serve DG customers compared to non-DG customers. The JCEO argues that its analysis, performed by Mr. Lucas, relied on updated, much more complete data, than the Brattle Report, and corrected several other errors contained in that report.[1278] The results of Mr. Lucas' analysis showed that "DG customers are substantially less costly to serve than both non-DG customers overall, and non-DG customers of a similar energy usage (16.3% less costly than each)."[1279]

In response, Consumers argues that the Brattle Group used the best data available at the time the study was undertaken, and that in any event, the sample size used in the Brattle Report was larger than what would be required in a random sample survey. Consumers points to Ms. Aponte's rebuttal testimony that the Brattle Report correctly used the company's COSS, and that Mr. Lucas incorrectly used average cost per kWh, rather than demand, in concluding that DG customers are less costly to serve than non-DG customers.[1280]

This PFD finds that the preponderance of the evidence demonstrates that DG customers do <u>not</u> cost more to serve than non-DG customers and may in fact cost less. The ALJ agrees with the JCEO that Consumers' reliance on the Brattle Report is misplaced, given the limited data on which the study relies. At the same time, there appear to be some issues with Mr. Lucas' analysis, as Consumers points out, that could only have been addressed with another round of rebuttal, which was not possible without an extension of the schedule. Nevertheless, Mr. Lucas' much more complete analysis of

[1278] JCEO brief, p. 29.
[1279] Id. at 30 citing 8 Tr 4230.
[1280] Consumers brief, p. 461, citing 5 Tr 850.

the available data on residential DG is persuasive that the cost to serve DG customers is likely less than the cost to serve non-DG customers.

Turning to the issue of whether the outflow credit Consumers proposes properly compensates DG customers, the JCEO asserts that Consumers' recommendation is not based on any data or quantitative analysis of the costs and benefits of DG. They also point out that the company admits there may be benefits to the distribution grid provided by DG, but those benefits have not been included in the outflow credit.[1281] The JCEO points to testimony by Mr. Sandoval that DG provides value through: (1) reduction in peak demand, which can in turn defer capital investments in distribution; (2) reduced energy losses, which reduce the amount of energy that needs to be generated; (3) increased diversification of energy supply, which can increase reliability; and (4) voltage and reserves regulation.[1282]

Referencing Exhibit CEO-41 and Mr. Blumenstock's cross-examination, the JCEO conclude:

> [I]f the Company's DG Tariff—which includes no compensation for reduced loading on equipment, reduced electrical losses, voltage support and other values that DG provides to the grid—were approved, the Company's customers would be providing the Company grid benefits for free. This would effectively penalize DG customers for the Company's failure to gather the necessary data and carry out a robust analysis of the costs and benefits associated with DG—a fundamentally inequitable result.[1283]

To address the appropriate outflow credit, Mr. Lucas performed an analyses of DG generation and outflows that he asserted were COS based. Based on these assessments, Mr. Lucas determined that an outflow credit of $0.234957 per kWh would

[1281] See, Exhibit CEO-41; 6 Tr 1485.
[1282] 8 Tr 4418.
[1283] JCEO brief, p. 18.

reflect DG customers' fair and equitable use of the grid.[1284] Mr. Lucas also calculated an adder, between $0.02739/kWh and $0.05341/kWh, to the outflow credit to reflect the lower cost to serve these customers.

Consumers avers that the JCEO outflow credit proposal is excessive and unreasonable, calculating that, based on Mr. Lucas' analysis, DG energy would cost $270 per MWh. Consumers contrasts this with recent solar contracts that the Commission has approved with costs of $44 per MWh and $61 per MWh. Mr. Miller testified:

> [T]he Company can provide customers with clean, renewable energy at a fraction of what EC-ELPC witness Lucas is suggesting customers not participating in the DG Program pay. Not only would this exacerbate the subsidy concerns expressed above, it would also represent a departure from the idea of avoided costs. The second concern is the incorrect conclusion that using an embedded cost of service translates to marginal costs when applied to the outflow of energy put back on the network. The Company's revenue requirement primarily comprises fixed costs based on long-term investments to produce and deliver energy to customers across an integrated system. EC-ELPC witness Lucas' analysis is flawed in that he assumes these fixed costs become avoided when applied to the excess energy generated by customers.[1285]

In response, the JCEO argues:

> [T]he Company's several attempts to equate utility-scale solar and DG are misleading. First, while the Company indeed procures "solar resources" through IRP competitive solicitations, and while DG is also a "solar resource" (both resources produce electricity through solar photovoltaic technology), that does not mean that the two "solar resources" are the same. In fact, they are quite different. Utility-scale solar is transmission connected, and like the Company's other sources of power supply, uses the Company's transmission and distribution infrastructure to reach customers. DG, on the other hand, is located and interconnected close to load, and therefore uses little transmission and distribution infrastructure as it exports Outflow to nearby loads. (8 Tr. 4215 (Lucas Dir.)). The cost and, consequently, the value associated with the two resources therefore differ—DG is more valuable. Further, whereas the Company earns a rate of return on its power purchase agreements with solar resources, it does not earn a

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[1284] 8 Tr 4246-4247.
[1285] 4 Tr 594.

> profit on compensation to DG customers. (4 Tr. 612:15-18 (Miller Cross); 7 Tr. 2955 (Revere Cross)). The Company's customers are therefore not indifferent to the source of their solar energy. Importantly, the utility-scale solar resources that the Company procures through competitive solicitations are not the marginal generation resources that DG Outflow avoids. It is therefore inappropriate to use the cost of solar resources procured through competitive solicitations as a proxy for the value of DG Outflow—the Company must analyze that value through a VOS framework.[1286]

This PFD agrees with the JCEO that Consumers largely relied on assumptions and findings from other proceedings, namely, the Commission's approval of DG tariffs for DTE Electric and other utilities, without undertaking a comprehensive analysis of DG on its own system in this case. In addition, Consumers used the Brattle Report, discussed above, to bolster its claim that DG customers cost more to serve, and therefore an outflow credit based on power supply less transmission is reasonable.

At the same time, Consumers points to significant shortcomings in the JCEO's presentations, most concerningly the large differential between the cost of solar energy procured through competitive bidding under the company's IRP, and the calculated cost of solar energy purchased from small DGs. Although the JCEO contests whether this is a fair comparison, and the ALJ agrees that in some ways it is not, the JCEO nevertheless does not dispute the company's calculation of the cost of DG versus the cost of utility-scale solar under PURPA avoided costs. The only way to address the conflicting positions is to undertake a more comprehensive assessment of the costs and benefits of DG outside of a rate case.

In the end, Consumers requests that the Commission adopt its proposed DG tariff; Staff recommends that the Commission approve "the power supply retail rate, including

[1286] JCEO reply brief, pp. 10-11.

or excluding transmission, is the appropriate compensation rate for DG outflow[;]"[1287] and the JCEO recommend: (1) that the Commission reject the company's proposed tariff, (2) direct Staff to facilitate a VOS analysis to determine the appropriate outflow credit; and (3) [d]irect the Company to credit all DG customers for their Outflow at the full retail rate during the interim period while a VOS framework is being developed[.][1288]

Consistent with the findings and conclusions discussed above, the PFD finds that the JCEO's recommendation, to maintain the status quo until a VOS analysis is completed, is reasonable and should be adopted. Issues concerning VOS are addressed below.

iii. Value of Solar

Relying on the testimony of Mr. Rábago and Dr. Chan, the JCEO relate the advantages of a VOS framework for appropriately evaluating the costs and benefits of DG to all stakeholders, "including the customer installing the DG, to all other customers, to the utility, and to all members of the public—including future generations."[1289] The JCEO maintains that a VOS analysis would provide all of the following: (1) a means to determine equitable, cost-based compensation for DG customers, consistent with Michigan law; (2) would eliminate intra-class subsidies; (3) produce rates that are consistent with rate design principles; (4) a means of balancing the interests of the company, ratepayers, and DG customers; and (5) support for the company's distribution planning process.

[1287] Staff brief, p. 206.
[1288] JCEO brief, p. 70.
[1289] JCEO brief, p. 40 citing 8 Tr 4376 and 8 Tr 4296.

Dr. Chan testified extensively about Minnesota's experience with establishing a VOS tariff through stakeholder meetings and workshops, culminating in the Minnesota Department of Commerce selecting a methodology for valuing DG, noting that since 2017 Xcel Energy has received approval of a VOS method and tariff for solar DG customers. Thus, the JCEO, with support of other intervenors, recommends that the Commission direct the Staff to:

> facilitate a VOS study that establishes a VOS framework in order to ensure the development of a Tariff that complies with Michigan law and ratemaking principles. The VOS study itself should be carried out by an independent third-party consultant, but Staff should coordinate with the Company and stakeholders to lead and inform the VOS framework development process[.][1290]

In response, Consumers argues that a VOS approach is not appropriate because it does not align with MCL 460.1173 or the company's approach to COS-based ratemaking. According to Consumers:

> First, the Company does not base its rates on the value of generation or distribution assets used to serve customers, but instead establishes rates based on the cost of these assets. Therefore, the Company supports compensation for DG based on the quantifiable cost of providing service versus compensation based on the theoretical value of service. This approach is consistent with the intent of MCL 460.11 which provides for "rates equal to the cost of providing service...ensur[ing] that each class, or sub-class, is assessed for its fair and equitable use of the electric grid." Second, that concept of solar value, and the process of calculating that value, is not straightforward. 6 TR 1576. Mr. Troyer explained that, what is, or is not, included in the calculation, as well as the basis for the input, varies widely depending on the perspective of the individual or organization.
>
> Mr. Troyer explained that, if solar is to be valued for purposes of compensating DG customers, the Company views the IRP framework as a general approximation of the additional value of DG by avoiding the cost of additional solar resources procured through an IRP competitive solicitation. 6 TR 1577. That solicitation process, as approved in the

[1290] JCEO brief, p. 61.

> Company's IRP, provides for the Company to procure its supply side capacity needs based on the resources included as part of the Company PCA. Currently, pursuant to the glide path in the PCA, the Company is seeking only solar resources as part of its competitive solicitations. This is a reasonable approach to quantifying the cost of avoided generation (equivalent to fuel, plant O&M, generation capacity, reserve capacity) and it is particularly a reasonable approach to quantifying the value of solar since the Company is actively procuring solar resources to meet its supply side capacity needs.[1291]

Consumers also disputes that compensation based on the societal benefit of solar DG reflects ""equitable cost of service for utility revenue requirements for customers." Under MCL 460.6a(14). Consumers posits that, "[s]ince the environmental attributes and externalities [included in the VOS calculation] are not based on the Company's cost of service, compensation for DG customers based on those factors would be contrary to the law."[1292] Consumers raises other concerns about Minnesota's approach including the lengthy, 25-year contracts required that do not allow for renegotiation under changed circumstances, and risks to the company's earnings and non-DG customers.

MCL 460.6a(14) provides:

> Within 1 year after the effective date of the amendatory act that added this subsection, the commission shall conduct a study on an appropriate tariff reflecting equitable cost of service for utility revenue requirements for customers who participate in a net metering program or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. In any rate case filed after June 1, 2018, the commission shall approve such a tariff for inclusion in the rates of all customers participating in a net metering or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. A tariff established under this subsection does not apply to customers participating in a net metering program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211, before the date that the commission establishes a tariff under this

[1291] Consumers brief, pp. 488-489.

[1292] Id. at 489. Staff also raises concerns about what should or should not be included as benefits in a VOS framework. This PFD agrees, but finds that these issues should be addressed as part of the VOS analysis and not in this rate case.

subsection, who continues to participate in the program at their current site or facility.

In a series of orders issued in Case No. U-18383, the Commission determined, *inter alia*, that:

> Within the timeframe permitted by the statute, the Staff has conducted an extensive study and analysis, which resulted in the development of the Inflow/Outflow tariff. The Inflow/Outflow tariff is an adaptable billing mechanism that allows for equitable COS and is enabled by improved data collection. As the DG program evolves and more data becomes available, the Commission will better be able to assess the cost and benefit impacts and conduct rate design consistent with COS principles. While the Commission finds that the Inflow/Outflow tariff resulting from the study satisfies the requirements of Section 6a(14), the Commission reserves final determination of the DG tariff and accompanying rates for any rate case filed after June 1, 2018, as the statute dictates.[1293]

The Commission was clear that the Inflow/Outflow tariff approved in Case No. U-18383 was not the end of the inquiry, and that "[a]s the DG program evolves and more data becomes available the Commission will better be able to assess the cost and benefit impacts and conduct rate design consistent with COS principles."[1294] Consistent with the two and a half years since the Commission's final order in Case No. U-18383 was issued, and the significantly larger amount of data available now, the JCEO's recommendation that a VOS analysis be conducted is a reasonable approach to evaluating, and potentially refining, the outflow credit, which is currently based on MCL 460.1177. Although Consumers raises concerns that VOS might result in a tariff that is not COS-based, and therefore unlawful, those concerns can be addressed as part of the VOS analysis.[1295]

[1293] April 18, 2018 order in Case No. U-18383, pp. 17-18
[1294] Id. (emphasis supplied).
[1295] The ALJ also finds that concerns about Minnesota's approach to VOS can be addressed as an initial part of the workgroup.

Accordingly, the ALJ recommends that the Commission direct Staff to convene a workgroup of interested stakeholders to develop a VOS-based outflow credit consistent with the requirements of MCL 460.6a(14), within 90 days of the date of the final order in this case.

iv. Other Distributed Generation Issues

EIBC/IEI raised additional concerns about the current interconnection standards and whether Consumers' self-generation tariff complies with PURPA. Because the interconnection rules are in the process of an extensive update, interested parties have an opportunity to participate in the ongoing Distributed Generation and Legacy Net Metering Rules workgroup. In addition, concerns about Consumers' self-generation tariff, in the event the company refuses to connect a customer and purchase energy "as available," should be addressed in a complaint, or in Consumers' next PURPA avoided cost proceeding.

b. Contribution in Aid of Construction

On behalf the MEC group, Mr. Ozar presented a proposal for updated CIAC policies, which are set forth in Consumers' tariff C6. According to Mr. Ozar, the current CIAC policies predate unbundled ratemaking, and the contribution for residential overhead lines is 600 feet, and for all other extensions, it is three times the estimated production and distribution revenues. Mr. Ozar posited:

> [S]ince Company contributions are for additions to distribution plant, Company contributions based on total revenue are likely to cause subsidies by those rate classes with a high ratio of distribution revenue to total revenue (i.e., residential customers) by those rate classes with a low ratio of distribution revenue to total revenue.[1296]

[1296] 8 Tr 3660-3670.

In Exhibit MEC-25, Mr. Ozar calculated the payback period, with and without distribution revenue, for residential, commercial, primary, and lighting customers, noting that under both calculations, the payback period varies considerably across rate schedules. According to Mr. Ozar, "in order to establish an equitable CIAC policy, the same payback period should be set for customers under all rate schedules."[1297] Consistent with his calculations and testimony, Mr. Ozar recommended that the Commission direct Consumers to change its CIAC tariffs "to establish that the maximum contribution to distribution system extensions will be 4.4 times the estimated annual distribution revenue from the customer."[1298]

In response, Consumers asserts that it does not agree with updating the CIAC policies at this time. Ms. Barnes pointed out that the company's line extension charge of $3.50 per foot for residential line extensions beyond 600 feet has not been updated since 1989, noting that DTE Electric's charge is $6.50 per foot for extensions beyond 600 feet. Nevertheless, Ms. Barnes indicated that she agreed with Mr. Ozar that the CIAC policy should be equitable and that affordability is also a concern.

The ALJ agrees with Consumers that because the CIAC is complex, and therefore not amenable to the piecemeal approach to changes presented here, the Commission should initiate a workgroup or technical conference on CIAC policies and tariffs with the objective of presenting updated tariffs in Consumers' next rate case.

[1297] 8 Tr 3673.
[1298] Id. at 3674

X.

CONCLUSION

Based on the foregoing discussion, this PFD recommends that the Commission adopt the findings, conclusions and recommendations set forth above, including the findings and recommendations on rate base, capital structure, cost of capital, and operating revenues and expenses leading to an estimated revenue deficiency of approximately 105,644,000, with an authorized return on equity of 10.00% and an overall cost of capital of 5.71%, as well as recommendations regarding various accounting requests, ratemaking mechanisms, cost of service allocations, rate design, and tariff modifications, as well as recommendations for additional reporting and analysis.

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

Sally L. Wallace

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Date: 2020.10.22 15:02:58 -04'00'

Sally L. Wallace
Administrative Law Judge

October 22, 2020
Lansing, Michigan

Appendix A

Michigan Public Service Commission
Consumers Energy Company
Revenue Deficiency (Sufficiency)
Projected 12 Month Period Ending December 31, 2021
($000)

Appendix A
PFD
Case No. U-20697

			Total Company		
	(a)	(b)	(c)	(d)	(e)
Line No.	**Description**	**Source**	**Applicant Projection**	**PFD Adjustment**	**PFD Projection**
1	Rate Base	Exhibit: A-12 (HJM-42)	$ 11,891,065	$ (280,591)	$ 11,610,475
2	Adjusted Net Operating Income	Exhibit: A-13 (HJM-49)	537,730	46,288	584,018
3	Overall Rate of Return	Line 2 / Line 1	4.52%	0.51%	5.03%
4	Required Rate of Return	Exhibit: A-14 (MRB-1)	6.03%	-0.32%	5.71%
5	Income Required	Line 1 * Line 4	716,741	(53,830)	662,912
6	Income Deficiency/ (Sufficiency)	Line 5 - Line 2	179,012	(100,118)	78,894
7	Revenue Multiplier	Exhibit: A-13 (HJM-50)	1.3391	0.0000	1.3391
8	Revenue Deficiency (Sufficiency)	Line 6 * Line 7	239,710	(134,066)	105,644

Michigan Public Service Commission
Consumers Energy Company
Projected Rate Base
Projected 12 Month Period Ending December 31, 2021
($000)

Appendix B
PFD
Case No. U-20697

			Total Company		
	(a)	(b)	(c)	(d)	(e)
Line No.	Description	Source	Applicant Projection	PFD Adjustment	PFD Projection
1	Total Utility Plant	Exhibit: A-12 (HJM-44)	$ 17,415,904	$ (292,346)	$ 17,123,558
2	Depreciation Reserve	Exhibit: A-12 (HJM-45)	6,695,979	(11,755)	6,684,224
3	Net Utility Plant	Line 1 - Line 2	$ 10,719,925	$ (280,591)	$ 10,439,334
4	Retainers & Customer Advances	Exhibit: A-2 (HJM-5)	(59,839)	-	(59,839)
5	Adjusted Net Utility Plant	Sum Lines 3 - 4	10,660,086	(280,591)	10,379,496
6	Working Capital	Exhibit: A-12 (HJM-46)	1,230,979	(0)	1,230,979
7	Total Projected Period Rate Base	Line 5 + Line 6	$ 11,891,065	$ (280,591)	$ 11,610,475

MICHIGAN PUBLIC SERVICE COMMISSION

Appendix C
PFD
Case No. U-20697

Consumers Energy Company
Development of Adjusted Net Operating Income
for the Test Year Ended December 31, 2021
($000)

		Revenue				Expenses									NOI		
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
Line No.	Description (Witness)	Sales Revenue	Wholesale Revenue	Other Electric Revenue	Total	Power Supply Costs	Other O&M Expense	Depreciation & Amort.	R&PP Tax	Other General Taxes	Other (or Local) Taxes	State Income Tax	FIT	Total	NOI	AFUDC	Adjusted NOI
	Company Filed																
	Operating Income (Initial Filing)	4,252,458	24,648	120,040	4,397,146	2,160,757	684,695	705,582	198,800	33,305	1,077	30,672	53,928	3,868,814	528,332	6,234	534,565
	SL Revenue	(5,421)			(5,421)						(9)	(288)	(1,076)	(1,373)	(4,048)		(4,048)
	Karn 1 and 2 Employee Retention and Severance				-		(7,413)				12	394	1,472	(5,536)	5,536		5,536
	PowerMIDrive				-			54			(0)	(3)	(11)	40	(40)		(40)
	Uncollectibles Expense				-		(1,200)				2	64	238	(896)	896		896
	Injuries and Damages				-		(746)				1	40	148	(557)	557		557
	Corporate O&M: Inflation				-		(24)				0	1	5	(18)	18		18
	IT O&M				-		46				(0)	(2)	(9)	34	(34)		(34)
	Customer Experience O&M				-		(20)				0	1	4	(15)	15		15
	Billings and Payments O&M				-		(1,471)				2	78	292	(1,098)	1,098	-	1,098
	Depreciation Expense {D}				-			(1,438)			2	76	285	(1,074)	1,074		1,074
	Property Tax Expense {D}				-				(107)		0	6	21	(80)	80		80
	Proforma Interest {B}				-						12	414	1,548	1,975	(1,975)		(1,975)
	Interest Synchronization {C}				-						0	3	10	12	(12)		(12)
	Rounding				-						-	-	-	-	-		-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1	Operating Income (Initial Brief)	4,247,037	24,648	120,040	4,391,725	2,160,757	673,866	704,198	198,693	33,305	1,100	31,455	56,855	3,860,229	531,496	6,234	537,730
	PFD Adjustments																
2	IT Five Year Average (McMillan-Sepkoski)				-		(12,335)				20	655	2,449	(9,212)	9,212		9,212
3	Information Technology (Fromm)				-		(1,494)				2	79	297	(1,116)	1,116		1,116
4	Customer Experience (Fromm)				-		(311)				0	17	62	(232)	232		232
5	Incentive Compensation (Welke)				-		(6,430)				10	341	1,276	(4,802)	4,802		4,802
6	Invalid Activity (McMillan-Sepkoski)				-		(238)				0	13	47	(178)	178		178
7	Credit Card Processing (McMillan-Sepkoski)				-		(2,074)				3	110	412	(1,549)	1,549		1,549
8	Distribution 5-Year Average (Kirkland)				-		(11,127)				18	591	2,209	(8,309)	8,309		8,309
9	Surplus Distributions - Insurance Refunds (Welke)				-		(2,426)				4	129	482	(1,811)	1,811		1,811
10	Inflation (Rueckert)				-		(16,040)				26	852	3,184	(11,978)	11,978		11,978
11	Sales - Residential DR Credit	222			222						0	12	44	56	166		166
12					-						-	-	-	-	-		-
13	Low Income Assistance Credit	(12,647)			(12,647)						(20)	(672)	(2,511)	(3,202)	(9,445)		(9,445)
14	Campbell 1 & 2 Avoidable Costs				-		(672)				1	36	133	(502)	502		502
15	Active Healthcare				-		(1,000)				2	53	199	(747)	747		747
16					-						-	-	-	-	-		-
17	CE Updated at Rebuttal that Staff does not adopt				-						-	-	-	-	-		-
18	Unocllectibles				-						-	-	-	-	-		-
19	Dashboard Redesign				-		(165)				0	9	33	(123)	123		123
20	Website Redesign				-		(434)				1	23	86	(324)	324		324
21					-												
22	Cap Ex Adj Impact on Prop. Tax & Depr. (Gerken)				-			(16,224)	(3,465)		32	1,045	3,908	(14,703)	14,703		14,703
23	Proforma Interest (Nichols)				-						(0)	(11)	(41)	(52)	52		52
24	Interest Synchronization (Nichols	-	-	-	-	-	-	-	-	-	0	15	56	71	(71)	-	(71)
25	**Total Adjustments**	(12,425)	-	-	(12,425)	-	(54,746)	(16,224)	(3,465)	-	99	3,297	12,325	(58,714)	46,288	-	46,288
26	**PFD NOI - Test Year (Total Co.)**	4,234,612	24,648	120,040	4,379,300	2,160,757	619,121	687,974	195,228	33,305	1,199	34,752	69,180	3,801,515	577,784	6,234	584,018

Michigan Public Service Commission
Consumers Energy Company
Overall Rate of Return Summary
Projected Capital Structure & Cost Rates
Projected 12 Month Period Ending December 31, 2021

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
			13-Month	% of	% of		Weighted Cost			
Line			Average	Permanent	Total	Cost	Permanent	Total	of	Pre-Tax
No.	**Description**	**Source**	($000)	Capital	Capital	Rate	Capital	Capital	Debt	Basis
1	Long Term Debt	WP-HJM-75	$ 8,178,497	48.67%	39.53%	3.81%	1.85%	1.51%	1.51%	1.51%
2	Preferred Stock	WP-HJM-75	$ 37,315	0.22%	0.18%	4.50%	0.01%	0.01%		0.01%
3	Common Equity	WP-HJM-75	$ 8,587,377	51.11%	41.50%	10.00%	5.11%	4.15%		5.56%
4	Permanent Capital		$ 16,803,189	100.00%			6.97%			
5	Total Short Term Debt	WP-HJM-75	$ 138,800		0.67%	2.03%		0.01%	0.01%	0.01%
6	Deferred FIT	WP-HJM-75	$ 3,655,000		17.66%	0.00%		0.00%		0.00%
	Deferred JDITC/ITC									
7	Long Term Debt	WP-HJM-75	$ 45,752		0.22%	3.81%		0.01%	0.01%	0.01%
8	Preferred Stock	WP-HJM-75	$ 209		0.00%	4.50%		0.00%		0.00%
9	Common Equity	WP-HJM-75	$ 48,039		0.23%	10.00%		0.02%		0.03%
10	Total Capitalization		$ 20,690,989		100.00%			5.71%	1.53%	7.13%

Appendix E

Michigan Public Service Commission
Consumers Energy Company
Capital Expenditure and Rate Base Adjustments
Projected 12 Month Period Ending December 31, 2021
($000)

Appendix E
PFD
Case No. U-20697

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
			Total PFD	Impacts on Cap-Ex From PFD on Company's Test Year				
Line	Adjustment Description	Party	Cap Ex Adj.	Plant Adj.	Accum Depr.	Rate Base	Depreciation	Property Tax
1	**Contingency**	**Staff**	**(22,517)**	**(15,751)**	**(694)**	**(15,057)**	**(914)**	**(187)**
2								
3	**Distribution**							
4	Distribution Asset Relocation - LVD Lines Relocation	Staff	(11,866)	(8,777)	(221)	(8,556)	(268)	(104)
5	Distribution Capacity - HVD Lines Interconnect	AG	(2,062)	(1,031)	(16)	(1,015)	(31)	(12)
6	Distribution Demand Failures	MEC	(31,642)	(15,821)	(241)	(15,580)	(483)	(187)
7	Distribution Demand Failures - LVD Lines Demand Failures	AG	(9,506)	(9,506)	(290)	(9,216)	(290)	(113)
8	Distribution Demand Failures - Metro Failures	AG	(2,000)	(2,000)	(61)	(1,939)	(61)	(24)
9	System Control Projects (ST-CE-432, 434).	Staff	(3,621)	(2,469)	(473)	(1,995)	(617)	(29)
10	Distribution Electric Other - Truck and Other Tools	AG	(4,061)	(3,146)	(82)	(3,064)	(96)	(37)
11	Distribution New Business	MEC	(82,460)	(41,230)	(629)	(40,601)	(1,258)	(489)
12	Distribution New Business - HVD New Business	AG	(2,999)	(2,999)	(91)	(2,908)	(91)	(36)
13	HVD Lines Reliability - poles and switches (ST-CE-389)	Staff	(4,536)	(4,536)	(138)	(4,398)	(138)	(54)
14	Repetitive Outages LVD (ST-CE-402).	Staff	(5,355)	(5,355)	(163)	(5,192)	(163)	(63)
15	HVD Lines and Substations Rehabilitation (ST-CE-404, 405).	Staff	(11,602)	(5,261)	(64)	(5,197)	(160)	(62)
16	LVD Lines Rehabilitation (ST-CE-412, 413).	Staff	(18,977)	(13,031)	(307)	(12,724)	(397)	(154)
17	Distribution Reliability	MEC	(74,991)	(37,496)	(572)	(36,924)	(1,144)	(444)
18	Distribution Grid Modernization DERMS	MEC/JCEO	(1,184)	(592)	(9)	(583)	(18)	(7)
19	Distribution Grid Storage - Standish Portable Battery Project	MEC	(8,100)	(4,050)	(62)	(3,988)	(124)	(48)
20	Distribution Reliability - LVD Substation Reliability (Animal Mitigation)	AG	(996)	(996)	(30)	(966)	(30)	(12)
21	**TOTAL**		**(275,958)**	**(158,294)**	**(3,449)**	**(154,845)**	**(5,370)**	**(1,876)**
22								
23	**Generation**							
24	Hodenpyl, Hodenpyl 1 Generator Rewind	Staff	(316)	(158)	(14)	(144)	(28)	(2)
25	Hodenpyl, Spillway Hoist Replacement	Staff	(1,325)	(663)	(59)	(604)	(117)	(8)
26	Loud, Loud Training Wall Replacement Project	Staff	(660)	(330)	(29)	(301)	(58)	(4)
27	EPMO Transformation - Enterprise Project Management Information System	Staff	(1,913)	(957)	(16)	(940)	(32)	(11)
28	Ludington, Design & Install Net Barrier Net (AMP)	Staff	(403)	(202)	(5)	(197)	(9)	(2)
29	Generation: Ludington Upgrade/Overhaul	AG	(9,500)	(9,500)	(441)	(9,059)	(441)	(113)
30	Generation: Ludington Reservoir Liners	AG	(5,618)	(2,809)	(65)	(2,744)	(130)	(33)
31	J.H. Campbell, Units 1&2 - 316(b)	Staff	(450)	(225)	(6)	(219)	(11)	(3)
32	SEEG	Staff	(6,390)	(3,195)	(79)	(3,116)	(158)	(38)
33	Karn 1&2, Landfill Remedial Action Plan	Staff	(540)	(540)	(27)	(513)	(27)	(6)
34	Campbell, Bottom Ash Tanks Chemical Treatment System	Staff	(298)	(298)	(15)	(283)	(15)	(4)
35	Karn 3, Cooling Tower Rebuild	Staff	(543)	(272)	(7)	(265)	(13)	(3)
36	Jackson, Boiler Feed Pump Automatic Recirculation Valve Replacement	Staff	(116)	(58)	(1)	(57)	(3)	(1)
37	Karn 3&4, Startup Optimization	Staff	(1,560)	(780)	(19)	(761)	(39)	(9)
38	Campbell 3, Redundant Sootblowing Air Compressor	Staff	(240)	(120)	(3)	(117)	(6)	(1)
39	Generation: Steam - Campbell 1 Switch Gear 4160V	MEC	(900)	(450)	(11)	(439)	(22)	(5)
40	Generation: Steam - Campbell 1 & 2 Avoidable Costs	MEC	(1,657)	(829)	(20)	(808)	(41)	(10)
41	Generation: Steam - Campbell 2 SAH Replace Baskets/Seals Avoidable Costs	MEC	(2,183)	(1,091)	(27)	(1,064)	(54)	(13)
42	Generation: Steam - Campbell 3 O2 Monitors	MEC	(941)	(470)	(12)	(459)	(23)	(6)
43	Generation: Steam - Campbell 3 Reheater/Sootblower	MEC	(1,125)	(563)	(14)	(549)	(28)	(7)
44	Generation: Steam - Campbell 3 Mill Overhaul	MEC	(1,235)	(618)	(15)	(602)	(31)	(7)
45	Generation: Steam - 17 Small Projects from MEC-83	MEC	(6,100)	(3,050)	(75)	(2,975)	(151)	(36)
46	Generation: Karn 1 and 2 Decommissioning	AG	(10,671)	(5,781)	(165)	(5,616)	(286)	(69)
47	Generation: Dry Ash Cell Landfill	AG	(5,209)	(2,605)	(64)	(2,540)	(129)	(31)
48	**TOTAL**		**(59,892)**	**(35,560)**	**(1,189)**	**(34,371)**	**(1,851)**	**(421)**
49								
50	IT: BP Functionality - Customer Operations Commercial Theft	Staff	(312)	(156)	(16)	(140)	(32)	(2)
51	IT: BP Functionality - Centralized Demand Response Management	Staff	(1,293)	(647)	(67)	(580)	(133)	(8)
52	IT: BP Functionality Disallowance for "20% ROM" estimates	Staff	(8,484)	(5,579)	(1,028)	(4,550)	(1,150)	(66)
53	IT BP Funtionality - Mobile App/Customer Self-Service Redesign	Staff/AG	(5,519)	(2,759)	(284)	(2,475)	(569)	(33)
54	IT: Enhancement Disallowance for "20% ROM" estimates	Staff	(180)	(126)	(35)	(91)	(26)	(1)
55	IT: Security Disallowance for "20% ROM" estimates (includes Replace & Rebadge)	Staff	(1,316)	(893)	(141)	(753)	(184)	(11)
56	IT: Service Delivery Disallowance for "20% ROM" estimates	Staff	(2,483)	(1,936)	(425)	(1,511)	(399)	(23)
57	IT: Upgrades & Replacements - Application Currency and Enhancement	Staff	(4,130)	(3,106)	(535)	(2,571)	(640)	(37)
58	IT: Upgrades & Replacements - Application Currency and Enhancement "20% ROM" estimates	Staff	(63)	(63)	(13)	(50)	(13)	(1)
59	IT: Upgrades & Replacements (Business) Disallowance for "20% ROM" estimates	Staff	(1,405)	(1,122)	(202)	(920)	(231)	(13)
60	IT: Upgrades & Replacements (Enterprise) Disallowance for "20% ROM" estimates	Staff	(855)	(729)	(137)	(592)	(150)	(9)
61	**TOTAL**		**(26,038)**	**(17,115)**	**(2,883)**	**(14,232)**	**(3,527)**	**(203)**
62								
63	**Customer Experience and Operations**							
64	Customer Relationship Management (CRM) Product Suite	Staff	(4,918)	(3,763)	(796)	(2,967)	(941)	(45)
65	Customer Analytics Hub	Staff	(1,950)	(1,572)	(346)	(1,227)	(393)	(19)
66	**TOTAL**		**(6,868)**	**(5,335)**	**(1,142)**	**(4,193)**	**(1,334)**	**(63)**
67								
68	**Operations Support**							
69	Facilities - Service Centers	AG	(28,313)	(15,530)	(119)	(15,411)	(202)	(184)
70	Facilities - Grand Rapids Training Center 501 Circuit	AG	(30,859)	(17,617)	(163)	(17,454)	(229)	(209)
71	Facilities - Unified Control Center	AG	(1,000)	(500)	(3)	(497)	(7)	(6)
72	**TOTAL**		**(60,172)**	**(33,647)**	**(285)**	**(33,361)**	**(437)**	**(399)**
73								
74	**Fleet Services**							
75	Fleet Services - Equipment Replacement	Staff	(27,322)	(20,520)	(1,792)	(18,728)	(2,148)	(243)
76	Fleet Services - Workforce Expansion	Staff	(12,247)	(6,124)	(321)	(5,803)	(641)	(73)
77	**TOTAL**		**(39,569)**	**(26,644)**	**(2,113)**	**(24,531)**	**(2,790)**	**(316)**
78								
79	**TOTAL**		**(491,014)**	**(292,346)**	**(11,755)**	**(280,591)**	**(16,224)**	**(3,465)**

U-20697 Consumers Electric Staff Case Reconciliation

REVENUE DEFICIENCY

Line	Description	AG (Initial Filing) Subtotal	AG (Initial Filing) Total	Staff (Initial Filing) Subtotal	Staff (Initial Filing) Total	Staff (Initial Brief) Subtotal	Staff (Initial Brief) Total	PFD Subtotal	PFD Total	Co vs Staff	Division	Description (Staff Adjustments)
	(a)	(b)	(c)	(b)	(c)	(b)	(c)	(d)	(c)	(d)	(e)	(f)
	Company Revenue Deficiency (Initial Filing)	**JURISDICTIONAL**	**244,357,000**	**TOTAL CO.**	**254,475,060**	**TOTAL CO.**	**254,475,060**		**254,475,060**			
	Rate Base (Cap Ex Adj Impact on RD)						(178,465)		(178,465)			
	Depreciation Expense						(1,438,000)		(1,438,000)			
	Property Tax Expense						(107,000)		(107,000)			
	Cost of Capital						(7,684,030)		(7,684,030)			
	SL Revenue						5,421,000		5,421,000			
	Karn 1 and 2 Employee Retention and Severance						(7,413,000)		(7,413,000)			
	PowerMIDrive (Depr & Amort)						54,000		54,000			
	Uncollectibles Expense						(1,200,000)		(1,200,000)			
	Injuries and Damages						(746,000)		(746,000)			
	Corporate O&M: Inflation						(24,000)		(24,000)			
	IT O&M						46,000		46,000			
	Customer Experience O&M						(20,000)		(20,000)			
	Billings and Payments O&M						(1,471,000)		(1,471,000)			
	Rounding						(7,318)		(4,565)			
1	**Company Revenue Deficiency**	**JURISDICTIONAL**	**244,357,000**			**TOTAL CO. Rebut**	**239,707,247**	**TOTAL CO. Brief**	**239,710,000**			
2	**Reduction in Rate Base**	(253,355,180)		(135,986,494)		(135,865,680)		(280,590,588)				(see page 2)
3	Company Pretax Return	7.38%	(18,700,000)	7.63%	(10,375,653)	7.57%	(10,278,759)	7.57%	(21,227,752)			
4	**Change in Overall ROR**											
5	ROE Reduction	(68,000,000)	9.5% ROE	(50,901,478)		(50,901,267)		(33,516,395)		10.5 v 9.75	RED	Megginson. $6.8m per 10 bp. AG=9.5%. PFD=10.0%
6	Equity Outstanding	(26,000,000)	50/50	(16,365,964)		(16,635,172)		(16,958,571)		52.5 v 51.1	RED	Megginson. 51.11% layer. Levelized the equity infusions to $300 million, CE projected $300-$400 million. AG=50/50
7	LTD Rate			(3,782,037)		(13,447)		(13,281)		3.95 v 3.87	RED	Updated Rate.
8	LTD Outstanding			(36)		-		-				
9	STD Rate			(1,123,569)		2,678		2,645		3.46 v 2.03	RED	Updated Rate.
10	STD Outstanding			226		-		-				
11	DFIT			13,893		-		-				
12	JDITC			(353,382)		(352,905)		(356,895)				
13	Total Change in ROR		(94,000,000)		(72,512,347)		(67,900,114)		(50,842,498)			
14	**Staff Adjustments NOI (RR Impact)**											
15	IT Five Year Average			(12,335,000)		(12,335,000)		(12,335,000)			RED	McMillan-Sepkoski. Typical. 5 yr ave of the O&M expense part of IT for Operations and Investment Planning (i.e., Origination). The Commission has consistently disallowed.
16	2021 Karn Retention			(7,413,000)							RED	Welke. Exhibit S-9. Removes 2020 overspend vs. approved in rates.
17	Incentive Compensation	(5,200,000)		(4,626,000)		(4,626,000)		(6,430,000)			RED	Welke. Removes impact of financial metrics.
18	Fromm IT Investments			(1,494,000)		(1,494,000)		(1,494,000)			ERD	Fromm. A-105 (JDT-2) line 5. Projections based off undetermined work
19	Fromm Customer Experience			(331,000)		(311,000)		(311,000)			ERD	Fromm. A-75 (SQM-2) page 1 line 6. CRM, Advanced Analytics & Storm Activation
20	Invalid Activity			(238,000)		(238,000)		(238,000)			RED	McMillan-Sepkoski. Errors from incorrect charges from merchants cards, Company included charging the utility customer for this but this is the Company's and their third party vendors error, not the utility customer.
21	Credit Card Processing			(2,074,000)		(2,074,000)		(2,074,000)			RED	McMillan-Sepkoski. 3-yr ave actual invoicing received from 3rd party vendor. Consumers has started including allocations of Admin costs into the Customer Payment Plan.
22	Distribution 5-Year Average			(11,127,000)		(11,127,000)		(11,127,000)		65 v 54	EOD	Kirkland. 5-yr ave of actual storm costs 2015-2019. Company's 3-yr ave 2017-2019. 2019 anomaly year data.
23	Injuries and Damages	(700,000)		(746,000)							RED	Rueckert. 5 year average updated to include 2019
24	Surplus Distributions (Insurance)			(2,890,000)		(2,425,667)		(2,425,667)			RED	Welke. Adds more insurance refunds.
25	Inflation			(15,869,000)		(16,040,000)		(16,040,000)			RED	Rueckert. Removing stated inflation entirely and also suggesting a standardized and clear presentation of it future cases. Lack of adequate/transparent Discovery responses.
26	Property Tax			(1,713,761)		(1,683,288)		(3,464,625)			RED	WF Cap Ex.
27	Sales - Increase Residential DR Credit					(221,755)		(221,755)			RED	Isakson.
28												
29	Low Income Assistance Credit (Sales Rev)							12,647,000				
30	Campbell 1 & 2 avoidable costs							(672,000)			MEC	
31	Active Healthcare Expense							(1,000,000)			AG	
32												
33												
34												
35	Electric Distribution	(31,700,000)	AG								AG	
36	Line Clearing	(16,000,000)	AG								AG	
37	Fossil & Hydro Generation	(6,900,000)	AG								AG	
38	Uncollectibles	(1,200,000)	AG								AG	
39	Corporate Expenses	(5,900,000)	AG								AG	
40	Active Health Care, Insurance & LTD	(1,000,000)	AG								AG	
41	Info. Technology Expense*	(11,500,000)	AG								AG	
42	Demand Response Program	(18,900,000)	AG								AG	
43	Interest Sync	487,000	AG WF									
44												
45	Not Adopting CE Updates											
46	Uncollectibles					1,200,000						CE Added @ Rebuttal. PFD adopts reduction to uncollectibles that AG/CE agreed upon.
47	IT O&M					(45,778)						CE Added @ Rebuttal. Dashboard & Website Redesign not adopted by PFD.
48	Dashboard Redesign							(164,670)			Staff/AG	Dashboard Redesign (Added at CE Rebuttal)
49	Website Redesign							(434,445)			Staff/AG	Website Redesing (Added at CE Rebuttal)
50												
51	Total Change in NOI		(98,513,000)		(60,856,761)		(52,022,900)		(45,785,162)			
52												
53	**Depreciation Expense**		(12,437,000)		(11,169,440)		(11,081,115)		(16,223,867)		RED	WF Cap Ex.
	Rounding						14,640		14,640			
54	Rounding		-		(242)		0		(1,361)			
55	**Revenue Deficiency / (Sufficiency)**	JURISDICTIONAL	**20,707,000**	TOTAL CO.	**99,560,617**	TOTAL CO.	**98,439,000**	TOTAL CO.	**105,644,000**			
				JURISDICTIONAL	**90,044,000**							

RATE BASE ADJUSTMENTS

Line	Description	AG (Initial Filing) Amount	AG (Initial Filing) Division	Staff (Initial Filing) Amount	Staff (Initial Filing) Division	Staff (Initial Brief) Amount	Staff (Initial Brief) Division	PFD Amount	PFD Division	Description (Staff Adjustments)
	(a)	(b)	(c)	(b)	(c)	(b)	(c)	(b)	(c)	(d)
	Company Filed Rate Base (Initial Filing)	**11,893,423,968**		**11,893,423,968**		**11,893,423,968**		**11,893,423,968**		
	Steam Power Generation - 2019 Actuals					(230,000)	AG	(230,000)	AG	
	Hydraulic Power Generation - 2019 Actuals					(2,830,000)	AG	(2,830,000)	AG	
	Pumped Storage Generation - 2019 Actuals					(748,000)	AG	(748,000)	AG	
	Other Production Plant - 2019 Actuals					(1,055,000)	AG	(1,055,000)	AG	
	ARP - Operational Tech Support					787,657	ERD	787,657	ERD	
	Centralized Demand Response					(480,481)	ERD	(480,481)	ERD	
	Dashboard Redesign					(1,264,014)	AG	(1,264,014)	AG	
	Website Redesign					(1,592,166)	AG	(1,592,166)	AG	
	Customer Self-Service Redesign					2,759,391		2,759,391		
	Replace and Rebadge					(347,105)	ERD	(347,105)	ERD	
	IT - 2019 Actual Capital Spend					(4,011,000)	AG	(4,011,000)	AG	
	Accumulated Depreciation					2,755,863	WF	2,755,863	WF	
	Working Capital - PowerMI Drive					189,000		189,000		
	Karn 1 & 2					3,707,000	RED	3,707,000	RED	
	Rounding					(113)		(113)		
1	**Company Filed Rate Base (Rebuttal)**					**11,891,065,000**		**11,891,065,000**		
2	**Staff Adjustments to Plant In Service**									
3	**Contingency**	(12,698,000)		(15,751,000)		(15,751,000)	ERD	(15,751,000)	Staff	Rogers. Typical.
4	**Distribution**									
5	Distribution - New Business							(41,230,000)	MEC	Distribution - New Business (2021)
6	Distribution - Reliability							(37,495,500)	MEC	Distribution - Reliability (2021)
7	Distribution - Grid Modernization DERMS							(592,000)	MEC/JCEO	Distribution - Grid Modernization DERMS (2021)
8	Distribution - Grid Storage Standish Portable Battery							(4,050,000)	MEC	Distribution - Grid Storage Standish Portable Battery Project (2021)
9	Distribution Demand Failures							(15,821,000)	MEC	Distribution Demand Failures (2021)
10	Distribution: New Business			(1,972,750)		(1,500,000)	EOD			
11	Distribution: Reliability			(11,803,949)		(11,803,949)	EOD			
12	Distribution: Reliability			(4,536,000)		(4,536,000)	EOD	(4,536,000)	Staff	Evans. Line Reliability HVD (2020)
13	Distribution: Reliability			(5,355,000)		(5,355,000)	EOD	(5,355,000)	Staff	Evans. Repetitive Outage LVD (2020)
14	Distribution: Reliability			(5,260,750)		(5,260,750)	EOD	(5,260,750)	Staff	Evans. Lines & Subs (2020 & 2021)
15	Distribution: Reliability			(13,030,500)		(13,030,500)	EOD	(13,030,500)	Staff	Evans. Lines Rehab-LVD (2020 & 2021)
16	Distribution: Demand Failures			(2,500,000)		(2,500,000)	EOD			Evans. Adjustments to electric distribution capex are due to lack of project specificity.
17	Distribution: Asset Relocation			(8,777,000)		(8,777,000)	EOD	(8,777,000)	Staff	Evans. Adjustments to electric distribution capex are due to lack of project specificity.
18	Distribution: Electric Other			(2,468,500)		(2,468,500)	EOD	(2,468,500)	Staff	Evans. Adjustments to electric distribution capex are due to lack of project specificity.
19	HVD New Business Customers	(3,945,000)	AG					(2,999,000)	AG	New Business (2020)
20	LVD Lines Demand Failures	(15,363,000)	AG					(9,506,000)	AG	Distribution Demand Failures - LVD Lines Demand Failures (2020)
21	Center Suspended Streetlights	(2,343,000)	AG							
22	Metro Failures	(2,000,000)	AG					(2,000,000)	AG	Distribution Demand Failures - Metro Failures (2020)
23	HVD Lines Reliability	(9,542,000)	AG							
24	LVD Substation Reliability	(4,404,000)	AG					(996,000)	AG	Distribution Reliability - LVD Substation (2020 Animal Mitigation)
25	Grid Modernization -Station Automation	(7,916,000)	AG							
26	HVD Substation Rehab	(2,450,000)	AG							
27	LVD Substation Rehab	(1,500,000)	AG							
28	LVD Lines Rehab	(10,936,000)	AG							
29	Grid Storage	(14,985,000)	AG							
30	HVD Line & Substation Capacity	(1,042,000)	AG							
31	HVD Lines Interconnect	(1,031,000)	AG					(1,031,000)	AG	Distribution Capacity - HVD Lines Interconnect (2021)
32	Truck Tools and Other Tools	(3,146,000)	AG					(3,146,000)	AG	Distribution Electric Other - Truck and Other Tools (2020 & 2021)
33	HVD System Remote Controls	(1,953,000)	AG							
34	Concept Projects - 27 projects	(53,849,000)	AG							
35	**Generation**									
36	Generation: Steam							(450,000)	MEC/Staff	Generation: Steam - Campbell 1 Switch Gear 4160V
37	Generation: Steam							(828,500)	MEC	Generation: Steam - Campbell 1&2 Avoidable Costs ($1.732M Exhibit MEC-83)
38	Generation: Steam							(1,091,250)	MEC	Generation: Steam - Campbell 2 Secondary Air Heater (A-12, SchB5.2 pg9, Ln 3 of $2.325M)
39	Generation: Steam							(470,250)	MEC/Staff	Generation: Steam - Campbell 3 O2 Monitors
40	Generation: Steam							(562,500)	MEC	Generation: Steam - Campbell 3 Reheater/Sootblower
41	Generation: Steam							(617,500)	MEC	Generation: Steam - Campbell 3 Mill Overhaul
42	Generation: Steam							(3,050,000)	MEC	Generation: Steam - 17 Small Projects from MEC-83 Exhibit
43										
44	Generation: Steam			(120,000)		(120,000)	ERD	(120,000)	STAFF/MEC	Steam: Campbell 3 Redundant Sootblowing
45	Generation: Steam			(6,575,000)		(5,672,000)	ERD	(5,367,500)	STAFF	DeCooman. Includes projects with a scope that's not well defined. Most adjustments partial to reflect the
46	Generation: Hydraulic			(1,150,500)		(1,150,500)	ERD	(1,150,500)	STAFF	DeCooman. Projects with partial adjustment based off of inconsistent cost allocations in project charters, as
47	Generation: Pumped Storage			(201,500)		(201,500)	ERD	(201,500)	STAFF	DeCooman. Partial adjustment based off of class of cost estimate. Project does not have project charter,
48	Generation: Other Production			(2,217,445)		(956,675)	ERD	(956,675)	STAFF	DeCooman. Did not provide any kind of scoping documents/project charter/concept approval. Adjustment
49										
50	Ludington Upgrade/Overhaul	(9,500,000)	AG					(9,500,000)	AG	Ludington Upgrade/Overhaul
51	Karn 1 and 2 Decommissioning	(5,781,000)	AG					(5,780,500)	AG	Karn 1 and 2 Decommissioning
52	Dry Ash Cell Landfill	(2,605,000)	AG					(2,604,500)	AG	Dry Ash Cell Landfill
53	Ludington Reservoir Liners	(2,809,000)	AG					(2,809,000)	AG	Ludington Reservoir Liners
54	Jackson Warehouse	(780,000)	AG							
55	Hardy Spillway Remediation	(4,500,000)	AG							
56										
57										
58	Actual 2019 Cap Ex under Forecast	(4,844,000)	AG							
59	**Information Technology**									
60	IT: BP Funtionality - Customer Operations and					(155,921)	ERD	(155,921)	STAFF	IT: BP Funtionality - Customer Operations and Commercial Theft (2021)
61	IT: BP Funtionality - Centralized DR Mgmt (2021)					(646,500)	ERD	(646,500)	STAFF	IT: BP Funtionality - Centralized DR Mgmt (2021)
62	IT: BP Functionality Disallowance for "20% ROM"			(7,432,987)		(6,150,085)	ERD	(5,578,849)	STAFF	IT: BP Functionality Disallowance for "20% ROM" estimates
63	IT: Enhancement Disallowance for "20% ROM"			(125,671)		(125,671)	ERD	(125,671)	STAFF	IT: Enhancement Disallowance for "20% ROM" estimates
64	IT: Service Delivery Disallowance for "20% ROM"			(1,148,015)		(1,935,671)	ERD	(1,935,671)	STAFF	IT: Service Delivery Disallowance for "20% ROM" estimates
65	IT: Security Disallowance for "20% ROM" estimates			(1,135,098)		(893,142)	ERD	(893,141)	STAFF	IT: Security Disallowance for "20% ROM" estimates (Inclusive of Replace & Rebadge ROM)
66	IT: Upgrades & Replacements (Business) - Application			(3,105,961)		(3,105,961)	ERD	(3,105,961)	STAFF	IT: Upgrades & Replacements (Business) - Application Currency and Enhancements(2020 &2021)
67	IT: Upgrades & Replacements (Business) - Application			(62,799)		(62,799)	ERD	(62,799)	STAFF	IT: Upgrades & Replacements (Business) - Application Currency and Enhancements Disallowance for "20%
68	IT: Upgrades & Replacements (Business) Disallowance			(1,122,000)		(1,122,000)	ERD	(1,122,000)	STAFF	IT: Upgrades & Replacements (Business) Disallowance for "20% ROM" estimates
69	IT: Upgrades & Replacements (Enterprise)			(729,213)		(729,213)	ERD	(729,213)	STAFF	IT: Upgrades & Replacements (Enterprise) Disallowance for "20% ROM" estimates
70										
71	Dashboard Redesign/Mobile App	(1,264,014)	AG							
72	Website Redesign/Mobile App	(1,592,166)	AG							
73	Work Scheduling, Service Tracker, Streetlights App.	(2,040,000)	AG							
74	Bill Design, MIMO and On Bill Financing	(4,557,000)	AG							
75	Actual 2019 Cap Ex under Forecast	(4,011,000)	AG							IT - 2019 Actual Underspend vs. Forecast - CE Accepted this in Brief $4,011,000.
76	IT: BP Functionality - Mobile App/Customer Self-							(2,759,391)	AG	IT: BP Functionality - Mobile App/Customer Self-Service Redesign
77	**Demand Response**	(1,600,000)	AG							
78	**Customer Experience and Operations**									
79	Customer Relationship Management Suite			(3,763,002)		(3,763,002)		(3,763,002)	STAFF	CRM (2020 &2021)
80	Customer Analytics Hub			(1,572,496)		(1,572,496)		(1,572,496)	STAFF	Advanced Analytics (2020 and 2021)
81	**Operations Support**									
82	Customer Service Centers	(14,639,000)	AG					(15,529,500)	AG	Facilities - Service Centers (2020 & 2021)
83	Grand Rapids Training Center	(17,617,000)	AG	(16,047,000)		(16,047,000)	EOD	(17,617,000)	AG/Staff	Facilities - GR Training Center Circuit 501 (2019, 2020, 2021)
84	Unified Control Center	(500,000)	AG					(500,000)	AG	Facilities - Unified Control Center (2021)
85	**Fleet Services**									
86	Equipment Replacements	(19,493,500)	AG	(20,520,000)	EOD	(20,520,000)	EOD	(20,520,000)	STAFF	Fleet Services - Equipment Replacement (2020 & 2021)
87	Workforce Expansion	(6,123,500)	AG	(6,123,500)	EOD	(6,123,500)	EOD	(6,123,500)	STAFF/AG	Fleet Services - Workforce Expansion (2021)
88										
89	**Accumulated Depreciation (Rate Base Impact)**		RED	8,621,142	RED	8,645,691	RED	11,755,453	RED	W.F.
90		4,000	plug							
91										
92	**Total Rate Base Reduction**	**(253,355,180)**		**(135,986,494)**		**(135,865,680)**		**(280,590,588)**		
94	**Rate Base**	**11,640,068,788**		**11,757,437,474**		**11,755,199,320**		**11,610,474,412**		
96	Rate Base Reduction	(253,355,180)		(135,986,494)		(135,865,680)		(280,590,588)		
97	Company Filed Pretax Return	7.38%		7.63%		7.57%		7.57%		
98	**Rev. Req. Impact of Rate Base Reduction**	**(18,700,000)**		**(10,375,653)**		**(10,278,759)**		**(21,227,752)**		