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 reconciliation of its 2019 demand response program costs.	))))	Case No. U-20766

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 June 15, 2021.

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 July 6, 2021, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before July 20, 2021.

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: 2021.06.15 12:10:31 -04'00'

June 15, 2021
Lansing, Michigan

Sally L. Wallace
Administrative Law Judge

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On June 1, 2020, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, requesting approval of the reconciliation of the company's 2019 demand response (DR) program costs with revenues approved in Case No. U-20134. Specifically, Consumers requests to recover $883,812 of under-recovered DR costs through a 12-month surcharge, and it requests approval of a financial incentive of $2,446,817, also to be collected though a 12-month surcharge. Finally, Consumers requests approval of an alternative financial incentive for 2020.

Pursuant to due notice, a prehearing conference was held on July 16, 2020. The company and Commission Staff appeared, and a petition to intervene filed by the Association of Businesses Advocating Tariff Equity (ABATE) was granted.[1] On October 9, 2020, Consumers filed revised testimony and exhibits, and on November 6,

[1] Due to the COVID-19 pandemic, the prehearing conference and evidentiary hearing were conducted via video/teleconference using the Microsoft Teams application.

2020, Staff and ABATE filed direct testimony and exhibits. On December 11, 2020, Consumers and ABATE filed rebuttal testimony. An evidentiary hearing was held on January 13, 2021, at which all testimony was bound in, and exhibits were admitted, without the need for witnesses to appear.

The parties filed briefs and reply briefs on February 26 and March 26, 2021, respectively. The record in this case is comprised of 202 pages of transcript and 27 exhibits admitted into evidence.

II.

OVERVIEW OF THE RECORD

A. Direct Testimony and Exhibits

1. Consumers

Consumers presented the testimony of eight witnesses.

Steven Q. McLean, Director of Customer Experience Regulatory Strategy, Reporting and Quality for Consumers,[2] provided an overview of the company's filing and introduced the other company witnesses. In addition, Mr. McLean provided the reconciliation of DR capital expenditures and Operations and Maintenance (O&M) expenses for 2019. He also requested approval of a performance incentive for 2019 and a revised incentive mechanism beginning in 2020. Mr. McLean discussed, and requested approval of, DR pilots planned through 2021.

Mr. McLean explained that in the September 15, 2017 order in Case No. U-18369, the Commission approved a three-step approach for approval, cost recovery,

[2] Mr. McLean's revised direct testimony and rebuttal testimony are transcribed at 2 Tr 17-44. He sponsored Exhibits A-1 (2019 Annual Demand Response Program Capital and O&M costs and Customer Enrollments); A-2 (2019 Demand Response Performance Incentive); A-3 (2019 Demand Response Annual Report); and A-4 (2019 NWA Analysis).

and reconciliation of DR programs. Under this approach, programs and capital expenses are approved in the company's integrated resource plan (IRP), capital and O&M expenses are recovered through a general electric rate case, and an annual reconciliation of DR expenses and megawatts (MW) of DR capacity attained are evaluated in a reconciliation proceeding.[3]

Mr. McLean testified that Consumers offers a range of DR programs for both business and residential customers. According to Mr. McLean, the company's DR portfolio:

> . . . acts as a virtual power plant that can be used during times of peak electricity demand to mitigate system constraints, ensure adequate power is available, and ultimately reduce costs paid by customers. The reduction in peak load resulting from the DR portfolio is intended to relieve stress on the electric system in a more cost-effective manner than purchasing capacity from the market or building additional generation resources to meet peak demand.[4]

As shown in Exhibit A-1, Mr. McLean testified that 2019 DR capital spending totaled $12,621,346, and O&M spending totaled $16,312,115, including residential and business customer incentive payments.[5] Mr. McLean testified that compared to amounts approved in the company's rate case, actual DR capital spending in 2019 was $6,320,654 lower, and O&M spending was $1,533,115 higher, than approved amounts. The difference between rate case revenue for DR and actual spending resulted in an underrecovery of $883,812, which Consumers proposes to collect through a 12-month surcharge.[6] Mr. McLean testified that using a surcharge, rather than rolling under- or overcollections into the next rate case revenue requirement "will streamline and simplify

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[3] 2 Tr 19-20.
[4] Id. at 21; Exhibit A-3.
[5] Id. at 22; Exhibit A-1.
[6] Id.

the reconciliation process, eliminating potentially long lags for the recognition of over-recoveries and under-recoveries in rates."[7]

Turning to the DR financial incentive, Mr. McLean testified that Consumers has met all the requirements set out in the company's IRP. Specifically, as shown in Exhibit A-1, Mr. McLean testified that Consumers attained 424.6 MW of demand savings, exceeding the IRP target of 369 MW, and Consumers met the requirement to evaluate non-wire alternatives (NWAs) as part of the incentive.[8] Thus, for 2019, Consumers is requesting to collect, also via a surcharge, a financial incentive of $2,446,817 as calculated in Exhibit A-2.[9]

Mr. McLean stated that for 2020, Consumers proposes an alternative formulation of the incentive that would provide a maximum incentive amount equal to 20% of non-capitalized DR spending, payable only if the company meets 50% of its DR target. The incentive would then pay 0.40% of non-capitalized DR costs for every 1% above 50% of its DR capacity target that it achieved, up to the 20% maximum incentive for meeting or exceeding the target. In addition, the 2020 incentive would eliminate the NWA evaluation criteria.[10]

Mr. McLean explained that the proposed 2020 incentive mechanism has a similar structure to the mechanism approved in Case No. U-20164, with the main differences relating to the maximum amount of the incentive and the removal of the NWA requirement. Mr. McLean testified that although NWAs may include a DR component, the primary objective of DR is to meet long-term capacity needs. In addition, Mr.

[7] Id. at 22-23.
[8] Id. at 23.
[9] Id.
[10] Id. at 23-24.

McLean noted that the Commission has an alternative forum, specifically Consumers' five-year distribution plan case, which more appropriately addresses NWA solutions.[11] With respect to the proposed increase in the maximum incentive, Mr. McLean testified that the current incentive does not sufficiently encourage the company to invest aggressively in DR, given alternative investments in supply-side resources that earn a higher return. According to Mr. McLean, a higher incentive for demand-side resources will help offset the earnings gap between supply side and demand side investments.[12]

Mr. McLean next provided an overview of the cost-effectiveness of the company's DR programs, as measured by the Utility System Resource Cost Test (USRCT or UCT). Mr. McLean noted that the low UCT score for the Smart Thermostat program resulted from the program's pilot status, and that the pilot is expected to be cost effective once it is fully implemented.[13]

Michael C. Grondin, a Senior Engineer II with Consumers,[14] testified regarding the demand savings achieved by the company's DR portfolio. Mr. Grondin explained that certain demand-side resources can be registered with the Mid-Continent Independent System Operator, Inc. (MISO) as load modifying resources (LMRs). Mr. Grondin described an LMR as a demand-side resource that can commit to reducing load by a certain amount or reducing load to a certain baseline when necessary. LMRs

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[11] Id. at 24-25.
[12] Id. at 25-26.
[13] Id. at 27. Mr. McLean presented two tables listing the cost-effectiveness of the company's various programs and portfolio, with and without the 2019 financial incentive.
[14] Mr. Grondin's direct and rebuttal testimony are transcribed at 2 Tr 61-72. He sponsored Exhibit A-8 (2019 Demand Response Events and Observed Peak Demand Reductions).

are awarded zonal resource credits (ZRCs), which in turn may be used to meet the company's planning reserve margin requirement (PRMR).[15] Mr. Grondin added:

> Although Demand Resources that cannot commit to responding to MISO emergencies are not awarded LMR status, they can be used by [load serving entities] LSEs in the day-ahead market to reduce load during days with high prices and a high probability of coincident peak demand. The Company's Residential Dynamic Peak Pricing ("CPP") Program falls in this category. The Company reduces its peak load forecast by the amount of MW from the DPP program, thereby reducing its PRMR.[16]

Mr. Grondin discussed Consumers' approach to deploying DR resources in the real time or day ahead markets, explaining that the company's Electric Supply Operations Planning division forecasts hourly load each day and determines the least-cost resource mix. Mr. Grondin testified:

> To accomplish this, the Company developed market price and load levels that, when exceeded, indicate that DR resources should be considered and dispatched. For the summer of 2019, the Company calculated the trigger condition for Air Conditioning Peak Cycling ("ACPC") and DPP based on a four-hour load forecast exceeding 27,000 MWh. For the summer of 2019, the Company utilized the trigger condition for business economic (non-emergency) DR program based on a forecasted energy price of $75/MWh (the price paid to participating customers). The Company's residential ACPC and Business DR programs were available for up to 12 system peak events over the summer, plus five emergency events had MISO called the events. The Critical Peak Pricing ("CPP") and Peak Time Rewards ("PTR") programs (collectively the DPP Program) were available for up to 14 events each.[17]

Mr. Grondin stated that although MISO did not call any emergencies in 2019, Consumers implemented DR during non-emergency peak events, including five ACPC events, two CPP and PTR events, and one business economic event. Mr. Grondin noted that two of the ACPC events were called to test circuit-level ACPC response for

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[15] 2 Tr 62-63.
[16] Id. at 63.
[17] 2 Tr 64.

NWA assessments.[18] Mr. Grondin reported that the results of Consumers' DR events in 2019 are shown in Exhibit A-8,[19] and that the total value of the company's DR portfolio was $26,329,212 based on 75% of the MISO 2019 Cost of New Entry (CONE) for Michigan. Mr. Grondin testified that based on 2019 evaluations comparing actual demand reductions to projected, Consumers has updated its forecasted load reductions for 2020.

Emily A. McGraw, Director of Residential Demand Response and Demand-Side Customer Pilot Programs for Consumers,[20] described the company's Residential DR programs, expenses, and DR savings. Ms. McGraw testified that for the ACPC program, the company installs a switch near the customer's air conditioner and during peak events, the switch is activated to cycle the output of the unit by 50%. Ms. McGraw explained:

> Load management may occur any weekday (excluding holidays) between 7 a.m. and 8 p.m. for no more than an eight-hour period in any one day and may be implemented to maintain system integrity, for economic reasons, or when there is insufficient system generation available to meet anticipated system load. Load management may only occur outside of the hours of 7 a.m. and 8 p.m. during a declared Midcontinent Independent System Operator, Inc. ("MISO") emergency.[21]

Ms. McGraw added that customers are incentivized through the receipt of a $25 gift card on sign up, and a monthly bill credit of $8.00 from June through September.[22]

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[18] Id. at 64-65.
[19] Exhibit A-8 shows event date, program, and observed load reduction in MW.
[20] Ms. McGraw's testimony and rebuttal testimony are transcribed at 2 Tr 92-112. She sponsored Exhibits A-11 (2019 Annual Residential Demand Response Program Investments); Exhibit A-12 (2019 Residential Demand Response Program Certification); A-13 (Air Conditioning Peak Cycling Program Annual Evaluation Report, 2019 Program Year); A-14 (Peak Time of Use Pricing Plans Program Annual Evaluation Report, 2019 Program Year); A-15 (Smart Thermostat Pilot Program Annual Evaluation Report, 2019 Program Year); and A-16 (Summary - Proposed Demand Response Pilots).
[21] 2 Tr 95.
[22] Id.

Ms. McGraw next discussed Consumers' two DPP programs: CPP and PTR, noting that both programs are designed to encourage customers to shift usage from on-peak to off-peak hours.[23] Ms. McGraw also described Consumers' Smart Thermostat pilot program launched in 2019. The Smart Thermostat pilot involves direct load control "that uses cloud-based software deployed through the customer's wi-fi thermostat to control the air conditioning load of residential customers' homes."[24] Customers were incentivized to enroll in the program through gift cards or rebates for the purchase of smart thermostats. Ms. McGraw explained that the objectives of the pilot were: (1) call DR events and measure customer response; (2) meet customer enrollment goals; and (3) measure customer satisfaction.[25] Ms. McGraw reported that the company accomplished all three objectives, enrolling 2,391 customers, calling DR events resulting in demand reductions of 1.25 kW per customer, and achieving customer satisfaction scores of 8.7 out of 10.[26]

Next, Ms. McGraw discussed the NWA pilot, which began in 2017. Customers on specific circuits were recruited to participate in DR and energy efficiency programs to evaluate the ability to use demand-side reductions to delay or eliminate the need for investments in additional capacity.[27] Ms. McGraw also reviewed the projected and actual capital and O&M costs for the residential DR programs, noting that O&M costs were higher than expected due to higher costs associated with customer enrollment.[28]

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[23] Id.
[24] Id. at 96.
[25] Id. at 97.
[26] Id.
[27] 2 Tr 98; Exhibit A-4.
[28] 2 Tr 98-100.

Ms. McGraw outlined customer enrollments, attrition, and MW demand savings for 2019 for the ACPC and DPP programs as shown in Exhibits A-10 and A-11. Ms. McGraw explained that Consumers engaged a third-party evaluator to assess actual energy savings from the company's residential programs, and she described future enrollment, demand savings targets, and minor changes to existing programs.[29] Finally, Ms. McGraw discussed two residential pilot programs to be implemented in 2020-2021. The first pilot is a customized load control switch that will allow the company to control load to certain end-use appliances including hot tubs, pool pumps, and electric water heaters. The second pilot involves recruiting customers with home generators to allow the company to shut off power to the home during certain peak DR events, automatically switching the customers' load to the generator during the event.[30]

Derek D. Kirchner, Director of Demand Response, Commercial and Industrial Products for Consumers,[31] provided an overview of the company's business DR products, costs, and outcomes. Mr. Kirchner explained that the business DR program is aimed at customers who can curtail at least 100 kW of demand and who are not on interruptible or retail open access rates. Participating customers agree to reduce their loads by a specified amount during the June 1 – September 30 period. Customers may sign up for an emergency program, an economic program, or both, and a contract between Consumers and the customer specifies the required load reduction, timing, and

[29] Id. at 103-104.
[30] Id. at 105-106.
[31] Mr. Kirchner's testimony is transcribed at 2 Tr 75-82. He sponsored Exhibits A-9 (2019 Business Demand Response Program Investments and Variance) and A-10 (2019 Business Demand Response Enrollment Certification Letter).

frequency of events, notice requirement, payment, and penalty for non-performance, among other terms.[32]

Mr. Kirchner discussed the three cost components (materials, labor, and incentives) for the business DR programs, and he testified that Consumers enrolled 243 customers with a combined 111.4 MW of capacity under contract in the emergency DR program. In addition, 45 customers in that program opted to enroll in the economic DR program. Mr. Kirchner noted that the company called one economic event in 2019, when day ahead prices were forecast to exceed $75 per MWh.[33] According to Mr. Kirchner, the customers in the economic program responded and curtailed 7.5 MW during the event.[34]

Next, Mr. Kirchner discussed approved and actual business DR program costs, as shown in Exhibit A-9, including an explanation of the variance in these costs. Mr. Kirchner also provided a projection of business DR enrollment from 2020 through 2024.[35] Finally, Mr. Kirchner testified that Consumers undertook a pilot involving three business customers with lower usage who participated in two events in 2019. The customers responded to the events and curtailed between 125 and 240 kW. However, due to the high cost of mail solicitation, and limited response, Consumers will only continue to offer the program through direct outreach to customers. Consumers is not proposing any business pilots for 2020.[36]

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[32] 2 Tr 77.
[33] Id. at 80.
[34] Id.
[35] Id. at 80-81.
[36] Id. at 82.

Svitlana Lykhytska, a Principal Accounting Analyst in Consumers' General Accounting department,[37] described Generally Accepted Accounting Principles as they relate to the company's request to collect the 2019 financial incentive. Ms. Lykhytska testified that deferred regulatory accounting treatment was applied to the DR undercollection of $883,812, with carrying charges at Consumers' short-term borrowing rate.[38]

Ms. Lykhytska testified that Consumers' financial incentive meets the criteria for an alternative revenue program if the incentive is collected within 24 months of the time the incentive is recognized. Thus, the incentive proposed for 2019, which was recorded in the company's books in 2019, would need to be collected by December 2021. Ms. Lykhytska noted that this approach is consistent with the one used for the energy efficiency financial incentive.[39]

Rachael L. Dziewiatkowski, a Senior Rate Analyst II in the Revenue Requirement and Analysis section of Consumers' Rates and Regulation Department,[40] described the revenue requirement for capital spending associated with DR programs. She explained that the revenue requirement, both approved and actual, uses the average net plant balances for the actual DR capital dollars spent multiplied by the pre-tax rate of return, resulting in a return-on-investment amount. Then, depreciation expense and taxes are added to the return on investment, resulting in the total revenue requirement.[41] Ms. Dziewiatkowski also explained how approved and actual rate base amounts, pre-tax

[37] Ms. Lykhytska's testimony is transcribed at 2 Tr 85-89.
[38] 2 Tr 86-87.
[39] Id. at 88-89.
[40] Ms. Dziewiatkowski's testimony is transcribed at 2 Tr 54-58. She sponsored Exhibit A-7 (Revenue Requirement Calculation for the 2019 Reconciliation Period).
[41] 2 Tr 56; Exhibit A-7, line 5.

rate of return, and real and personal property tax amounts were developed for DR capital expense.

Laura M. Collins, a Principal Rate Analyst - Lead in the Pricing Section of Consumers' Rates and Regulation Department,[42] sponsored the Company's proposed recovery of the DR financial incentive earned in 2019 and the under-recovery of 2019 DR costs. Ms. Collins explained that Consumers underrecovered a total of $883,812 in DR expenses in 2019, and the company earned a DR incentive of $2,446,817.[43] The company proposes to collect these amounts through 12-month surcharges beginning with the January 2021 billing cycle.[44] If the surcharges are not implemented in January 2021, the company would adjust the amounts as illustrated in Exhibit A-5. Ms. Collins further explained that the surcharges were allocated based on the cost-of-service allocation for capacity used in the settlement of Case No. U-20134.

Richard A. Morgan, President of Morgan Marketing Partners, LLC (MMP),[45] provided testimony regarding the cost-effectiveness calculation for Consumers' DR programs. Mr. Morgan explained that MMP used the DSMore model for evaluating cost-effectiveness of Consumers' DR programs, testifying that DSMore is used nationally for evaluating DR and energy efficiency programs.[46] Specifically, Mr. Morgan testified that the DSMore program:

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[42] Ms. Collins' testimony is transcribed at 2 Tr 47-51. Ms. Collins sponsored Exhibits A-5 (Development of Demand Response Revenue Requirement Recovery and Incentive Surcharges) and A-6 (Proposed Demand Response Revenue Requirement Recovery and Incentive Tariff).
[43] 2 Tr 49-50.
[44] 2 Tr 49; Exhibit A-6.
[45] Mr. Morgan's revised direct testimony is transcribed at 2 Tr 115-122. MMP provides independent design and evaluation services for energy efficiency and DR programs. 2 Tr 115-116.
[46] 2 Tr 119.

> . . . takes hourly prices and hourly energy savings from the specific measures/technologies being considered for each program, and then correlates both to weather. The algorithm used by the modeling software looks at over 30 years of historic weather variability to fully capture the weather variances. In turn, this allows the model to capture the low probability, but high consequence weather events and apply appropriate value to them. Thus, a more accurate view of the value of the DR can be captured in comparison to other alternative supply options.[47]

Mr. Morgan further testified that the UCT test compares the net benefits of a DR program to the utility's cost. According to Mr. Morgan, a UCT score of one or more indicates that the program is cost-effective.[48] Mr. Morgan then described the inputs to the DSMore model, including participation rates, incentives paid, length of participation, and implementation and program administration costs for use in the UCT calculation. Program benefits for the UCT were assumed to be the avoided cost of electricity, or 75% of CONE for 2019-2020.[49] Finally, Mr. Morgan provided details on the costs and benefits of each DR program, with a resulting UCT score of 1.02 for Consumers' DR portfolio.[50]

2. Staff

Staff presented the testimony of three witnesses. Gretchen M. Wagner, an Auditor in the Renewable Energy Section of the Commission's Energy Resources Division,[51] testified that Staff audited Consumers' 2019 DR reconciliation. According to Ms. Wagner, Staff compared the company's actual capital and O&M expenses for DR to those approved in the January 9, 2019 order in Case No. U-20134. These expenses were then compared to Consumers' general ledger accounts to confirm that the

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[47] Id.
[48] Id.
[49] Id. at 119-120.
[50] Id. at 121-122.
[51] Ms. Wagner's testimony is transcribed at 2 Tr 196-200.

company's exhibits and booked DR amounts were consistent. Staff also reviewed the company's capital expenditure revenue requirement calculation and other supporting documents. Ms. Wagner stated that Staff found no issues in the course of its audit.[52]

Roger A. Doherty, an Engineer in the Resource Adequacy and Retail Choice Section of the Commission's Energy Resources Division,[53] provided an overview of the three-step method for DR program approval and cost recovery, testifying that under this method, DR capital costs are approved in IRP cases and recovered in rate cases, O&M costs are approved and recovered in rate cases, and the reconciliation case reconciles approved capital and O&M costs to actual DR costs. Mr. Doherty added that, "[t]he DR Reconciliation case is also solely focused on DR related matters. It offers an annual opportunity to evaluate the Company's DR portfolio and individual DR program's effectiveness as well as other DR issues."[54]

Mr. Doherty summarized the company's requests and testified that Staff had no concerns about the accuracy of the company's calculations or Consumers' request for recovery of $883,812. Mr. Doherty testified that Staff did not agree with Consumers' request to recover the undercollection through a surcharge, instead it recommended that this amount be deferred as a regulatory asset and recovered in the company's next rate case. Although Staff had recommendations for future DR programs and costs, Staff found that 2019 DR costs were reasonably and prudently incurred.[55]

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[52] 2 Tr 200.
[53] Mr. Doherty's testimony is transcribed at 2 Tr 148-159. He sponsored Exhibit S-1.0 (DR Incentive Calculation Examples).
[54] 2 Tr 148.
[55] Id. at 149-150.

Next, Mr. Doherty outlined the structure of the 2019 DR financial incentive approved in Case No. U-20164, noting that Consumers met the DR capacity target and the requirement to evaluate NWA solutions for at least five distribution planning projects. Thus, Staff recommends approval of the 2019 financial incentive of $2,446,817; however, like the treatment of DR under- and overcollections Staff recommends that the incentive be addressed through deferred accounting.[56]

Mr. Doherty testified that Staff opposes, in part, Consumers' proposed incentive for 2020, noting that although the incentive has a similar structure to the 2019 incentive, the increase in the maximum payout, from 15% of non-capitalized costs to 20%, was "overly generous" and "premature" given that 2019 is the first year that the company will receive an incentive. Mr. Doherty opined that more time is needed to assess the effectiveness of the current incentive before making changes.[57] Mr. Doherty further explained that although the incentive for energy efficiency is up to 20% of O&M costs, energy efficiency provides savings for both energy and capacity, whereas DR provides only capacity savings. Specifically:

> Demand response differs from energy waste reduction because energy waste reduction implements measures that will continue to reduce the amount of energy customers need for the life of the measure. In addition, energy waste reduction provides some programs that benefit at-risk and disadvantaged customers at relatively higher cost than other energy waste reduction programs. Demand response programs by nature require that customers have devices or equipment that can be cycled on and off to provide the grid with a resource during peak times and therefore are more likely available to more affluent customers.[58]

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[56] Id. at 150-152, 159; Exhibits A-2 and A-4.
[57] 2 Tr 152-153.
[58] Id. at 153.

Staff did however agree with Consumers' proposal to eliminate the NWA evaluation requirement from the 2020 incentive. According to Mr. Doherty, Staff concurs with the company that the primary purpose of DR is to reduce long-term capacity need, and that while DR may be a part of an NWA solution, NWAs should nevertheless be evaluated as part of the company's five-year distribution plan. Mr. Doherty further noted that there are workgroups focused on issues related to NWAs as part of the MI Power Grid initiative.[59]

For the 2020 financial incentive, Mr. Doherty recommended that the maximum incentive remain at 15% of non-capitalized DR costs and that "the Company earns 0.3% of non-capitalized costs for each 1% of the DR growth target achieved starting at 50% of the growth target and increasing up to the 15% cap for achieving 100% of the growth target."[60]

Mr. Doherty explained that in determining the amount of incentive earned, it is essential to define both the target DR savings and the baseline. Mr. Doherty testified that Staff's view is that "[t]he Company's most recently approved IRP should be used for identifying both the baseline and target for each year."[61] Mr. Doherty added that until the current IRP is updated, the baseline for the incentive should be the DR target for that year, regardless of whether the company achieved or exceeded the target in a previous year. Mr. Doherty further clarified that:

> In the hypothetical case where there were significant fluctuations between an approved IRP and actual achievement throughout the years, it would be reasonable to consider adjusting forward capacity targets within a DR reconciliation case, but the evidence supporting such an adjustment would

[59] 2 Tr 154.
[60] 2 Tr 154-155; Exhibit S-1.0.
[61] 2 Tr 155.

> need to be very strong because such a decision would be made without the full picture analysis and scrutiny provided by the IRP process. Also, it is important to note, comparisons need to be "apples to apples." There is a difference between installed capacity and the capacity credit a DR resource earns within the Midcontinent Independent System Operator (MISO) resource adequacy construct. DR resources within MISO's resource adequacy construct are increased from their "installed" amount based on transmission losses and the planning reserve margin (both of which can change slightly from year to year). Staff's recommendation is that for the purposes of evaluating the Company's performance towards earning a DR financial incentive, capacity targets and levels achieved should be measured in "installed" megawatts.[62]

Mr. Doherty noted that in 2020, Consumers could earn a portion of the financial incentive (i.e. 7.46%) simply by maintaining the DR level attained in 2019. He pointed out that the company should not be penalized for over-achievement in one year, adding that the mechanism would "also have an effect in the other direction" if the company failed to achieve its target in a given year. As such, according to Mr. Doherty:

> The Company's targets will continue to increase per the IRP even if the Company fails to achieve the target the previous year. In other words, if the Company had failed to acquire enough megawatts to meet its target in 2019, it would need to realize those megawatts in 2020 plus the already planned growth from 2019 to 2020 in order to earn the incentive in 2020. It is also the case that DR programs can experience natural attrition if customers are no longer amenable to the program and potential disruptions; therefore, it is likely that the Company will have to continue to invest to maintain the same level of DR as it acquired in a previous year.[63]

Lastly, Mr. Doherty made several observations and recommendations with respect to Consumers' future DR programs, including: (1) ensuring that accurate assumptions are made about DR costs (including incentives) and prospective achievements in IRP and DR potential studies at both the portfolio and program levels; (2) the timing of IRP proceedings could lead to stale information; (3) Staff should

[62] 2 Tr 155-156.
[63] 2 Tr 157.

continue to evaluate the cost-effectiveness of DR programs and the overall DR portfolio; and (4) the financial incentive mechanism should continue to be evaluated for its value in encouraging cost-effective DR.[64]

Sarah A. Mullkoff, a Departmental Analyst in the Resource Optimization and Certification Section of the Commission's Energy Resources Division, [65] testified that Staff reviewed Consumers' approved and actual capital and O&M spending for its DR programs. Ms. Mullkoff explained that while Staff recognizes that customer acquisition costs are likely to increase over time, Staff nevertheless has concerns with significant cost overruns, noting that Consumers should not assume it will recover excess costs if they are not reasonably and prudently incurred.[66]

Ms. Mullkoff reviewed Consumers' residential DR programs, testifying that while the ACPC program is successful in terms of enrollments, Staff has concerns that Consumers only called two events in the summer of 2019. Ms. Mullkoff pointed out that Consumers paid customers for DR capacity that the company did not use. Ms. Mullkoff indicated that Staff believes the company should call more frequent events to more fully capture the benefits of the program. In the future, Ms. Mullkoff recommended that the company provide more information on the criteria for calling an event to evaluate if Consumers is deploying the program effectively.[67]

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[64] Id. at 158.
[65] Ms. Mulkoff's testimony is transcribed at 2 Tr 162-193. She sponsored Exhibits S-2.0 (Monthly DR Spend, Enrollment, and Savings), S-2.1 (DR Levelized Cost Spreadsheet) S-2.2 (Smart Thermostat Program Update – Sept. 23, 2020); S-2.3 (UCT Calculation Explanation; S-2.4 (Audit Response); and S-2.5 (Consumers Energy Demand Response Program Update).
[66] 2 Tr 167-168.
[67] Id. at 173.

Turning to the DPP programs, Ms. Mullkoff noted that Consumers called two DPP events in 2019, compared to 10 events called in 2018 and 12 events in 2017. Ms. Mullkoff testified that in the first event (July 18, 2019) CPP participants reduced peak load by 0.31 kW per participant during the third event hour, and PTR customers reduced peak load by 0.29 kW per participant. During the second event (July 19, 2019), CPP and PTR customers reduced their peak loads by .36 and .27 kW respectively.[68] Ms. Mullkoff observed that the peak load reductions for both CPP and PTR customers in 2019 was higher than in 2018, indicating that the programs are maturing and demand reduction through the programs is effective. In addition, the levelized cost of the DPP program has decreased since the last reconciliation.[69] However, Ms. Mulkoff testified that, like the ACPC program, there were limited event days called in 2019, "so the [DPP] program may have been underutilized. The DPP Program is not registered with MISO as a resource, so the majority of the value of the resource is seen by customers when it reduces peak demand."[70] Ms. Mullkoff noted that Staff continues to prefer the CPP program over the PTR program because the CPP program is directly tied to savings and not to a calculation of baseline energy use.[71]

For the Smart Thermostat pilot program, Ms. Mullkoff observed that the demand reductions for the three events called in 2019, including one test event on September 11, 2019, far exceeded the reductions for other residential DR programs, with an average savings of 0.91 kW per participant. Ms. Mullkoff added that in 2020, Consumers began a new program to provide 100,000 Google Nest thermostats to

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[68] Id. at 174.
[69] Id. at 174-175.
[70] Id. 175.
[71] Id. at 176.

customers who agree to participate in the smart thermostat program. Ms. Mullkoff reported that 47,100 thermostats had been distributed and 6,576 customers enrolled in the Smart Thermostat program.[72] Ms. Mullkoff testified that the high levelized cost and low UCT score for the Smart Thermostat program in 2019 was of concern; however, Consumers' projection of the levelized cost over the life of the program indicates that it will be cost-effective.[73] Ms. Mullkoff also testified that Staff has concerns about the company's verification that thermostats are installed at the address of record and that that the customer enrolls in the program, recommending that Consumers confirm compliance with program requirements. In addition, some customers, especially low-income customers may not be able to participate due to a lack of home Wi-Fi. Staff therefore urges the company to continue to explore DR opportunities for low-income customers.

After reviewing Consumers' residential DR pilot programs, Ms. Mullkoff recommended that for future pilot programs, the company: (1) provide detailed workplans including key metrics and success measures; and (2) engage with Staff and stakeholders over the course of the pilot. Ms. Mullkoff noted that Staff made the same recommendations in Case No. U-20697.[74]

Next, Ms. Mullkoff discussed the cost-effectiveness of Consumers' DR programs, testifying:

> The reality is, according to the DSMore UCT calculation, each of the Company's residential programs are costing the Company more to administer than the total avoided cost benefits the Company is receiving from each program. That is why looking at the total portfolio cost

[72] Id. at 177-178; Exhibit S-1.2.
[73] 2 Tr 178.
[74] Id. at 180.

> effectiveness is misleading, because the higher cost effectiveness of the Business DR skews the overall average to a higher number, which could lead one to believe that all of the programs are similarly cost-effective.[75]

Ms. Mullkoff also observed that bill credits were not included in the DR cost projections and calculations in the IRP; however, Staff believes that bill credits should be included as part of DR costs. Ms. Mullkoff testified that Staff undertook its own evaluation of the cost-effectiveness of Consumers DR programs as shown in Exhibit S-2.0, and Staff requested that Consumers calculate the Net Present Value Revenue Requirement (NPVRR) for each DR program over the IRP planning horizon, presenting each year as a cost per MW of capacity.[76] Ms. Mullkoff reported that the results of the analysis showed that, on a levelized cost basis, compared to the company's previous DR reconciliation, DPP and business DR costs have decreased or only increased slightly. However, ACPC levelized costs have increased substantially. While the levelized cost of most programs are less than CONE, the cost of the ACPC program has increased from $65,443 per MW to $82,207.[77] According to Ms. Mullkoff:

> When including the entire duration of the program since 2015, the levelized cost of ACPC is higher than CONE, at $99,756 compared to $83,333 which was assessed in the 2018 case. This shows that the ACPC program, which has become more costly at the program level, is no longer projected to be cost effective through the IRP planning period. This indicates that ratepayers may see more benefit if the Company utilized its Smart Thermostat program for those customers with Wi-Fi availability. However, the ACPC program does provide a reasonable alternative for those customers that do not have Wi-Fi available.[78]

Ms. Mullkoff explained the difference between the DSMore/UCT calculation performed by the company and the NPVRR, noting that "the costs in Staff's audit were

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[75] 2 Tr 184.
[76] 2 Tr 184-185; Exhibit S-2.1.
[77] 2 Tr 185-186.
[78] 2 Tr 186.

based on actual historical costs and cumulative enrollments for the 2015-2019 period, along with future projected enrollments and costs projected in the Company's IRP, allowing for a levelized cost projection for the 2015-2040 period, as supported by Exhibit S-2.3."[79] She added, "[w]hile the UCT is calculated as a one-year snapshot of the cost effectiveness, it does not provide the whole picture of the program effectiveness over a longer forecast, but still presents enough data to inform that for the present year the program was cost effective."[80] As such, Ms. Mullkoff recommended that multiple cost tests, including the NPVRR and other tests that take participant, ratepayer, and utility impacts, be considered in future reconciliations.

Lastly, Ms. Mullkoff reviewed the guidance provided by MCL 460.6t(17) and the Commission's September 15, 2017 order in Case No. U-18369, testifying that these are the bases for Staff's assessment of the reasonableness and prudence of Consumers' DR programs and investments. Ms. Mullkoff testified that Consumers is projecting that it will spend above projected amounts for 2020, as shown in Exhibit S-2.5, and that in the company's upcoming 2020 reconciliation, Consumers should explain any anticipated spending changes for 2021. In addition, Ms. Mullkoff recommended that the Commission allow the company flexibility to shift funding from less cost-effective programs to more cost-effective programs as long as an appropriate justification is provided.[81]

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[79] Id. at 187.
[80] Id.
[81] 2 Tr 191-192.

3. ABATE

ABATE presented the testimony of Amanda M. Alderson, a consultant in the field of public utility regulation and an Associate with the firm of Brubaker & Associates, Inc. energy, economic and regulatory consultants.[82] Ms. Alderson testified that ABATE does not support Consumers' proposal to collect underrecovered DR expenses and its 2019 financial incentive through a surcharge rather than regulatory accounting, noting that the company made the same proposal in its pending rate case, Case No. U-20697. Ms. Alderson stated that the DR costs at issue are not substantial or volatile; thus, there is no need for immediate refund or recovery of over-or undercollections. Ms. Alderson testified that these costs should instead be deferred to the company's next rate case. Ms. Alderson also disputed Consumers' claim that it must recover its financial incentive within 24 months of recognizing the incentive.[83]

Turning to Consumers' proposed incentive for 2020, Ms. Alderson testified that she does not support the increase from 15% to 20% of non-capitalized costs, noting that the DR target was approved in the company's IRP as the most reasonable and prudent investment without any incentive. Ms. Alderson stated that she concurs with the Commission's previous determination, "that it need not 'incentivize the use of what would already qualify as the most reasonable and prudent choice' of generation resource."[84] In addition, Ms. Alderson testified that Consumers has not demonstrated that a higher incentive is required to motivate the company to invest more aggressively in DR, noting that, in discovery, ABATE requested that Consumers provide documents

[82] Ms. Alderson's direct and rebuttal testimony are transcribed at 2 Tr 126-143. She sponsored Exhibits AB-1, AB-2, and AB-3 (Discovery Responses).
[83] 2 Tr 129-131.
[84] 2 Tr 133, quoting July 18, 2019 order in Case No. U-20164, p. 12.

or analyses in support of this claim and the company provided none of the requested information.[85] Ms. Alderson also pointed out that the addition of a 20% incentive would result in a DR portfolio that was not cost effective.[86]

Finally, Ms. Alderson recommended two adjustments to the 2019 incentive to be implemented in 2020:

> 1. The total incentive should be capped at the lesser of 15%, or the total dollar value at which the UCT score for the total DR portfolio would reach 1.00. In other words, the awarded incentive should not bring the UCT score for the portfolio below 1.00.
>
> 2. Consumers should not earn any incentive award unless it at least maintains the DR enrollment levels achieved in 2019. Under the current approved incentive formula, Consumers could begin earning an incentive so long as it achieves at least 50% of its IRP DR enrollment target for the program year. Consumers' IRP target for 2020 is 451 MW, and achieving only 50% of that target (225 MW) would represent a 199 MW (47%) reduction from Consumers' 2019 achieved enrollment level of 425 MW. This is an extremely low bar, given that the vast majority of Consumers DR enrollment comes from dependable and long-standing interruptible rate customers. I recommend the bar be raised, and that Consumers earn a financial incentive only if it exceeds its 2019 enrollment levels, with the incentive awarded growing on a linear sliding scale capped at 15% of non-capitalized costs. The maximum 15% award would further be subject to reduction as I have previously recommended in order to ensure the UCT score for the total DR portfolio does not fall below 1.00.[87]

B. Rebuttal Testimony

In response to testimony by Staff and ABATE witnesses, Mr. McLean disputed Mr. Doherty's contention that the proposed incentive for 2020 was premature or overly generous, testifying that although the DR financial incentive is relatively new, this should not be a barrier to approval of a more appropriate incentive. According to Mr. McLean,

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[85] 2 Tr 133.
[86] 2 Tr 134; Id at 135, Table 1.
[87] 2 Tr 136 (fns omitted).

"[t]he Commission can and should address any improvement over the existing incentive methodology to ensure the incentive is serving the purpose of encouraging utility investment in demand-side resources over a supply-side option."[88] Mr. McLean also disagreed with Mr. Doherty's contention that the DR incentive should be less than that available for energy efficiency programs, observing that although the two programs serve different purposes, the impact on Consumers' earnings is similar. Mr. McLean reiterated that the Commission should adopt the company's proposed incentive amount to motivate Consumers to aggressively invest in DR by decreasing the earnings gap between demand and supply-side resources.[89]

In response to Ms. Alderson's testimony that in Consumers' IRP, DR costs were found reasonable and prudent without a financial incentive, Mr. McLean points out that no financial incentive for DR had been approved at the time the company filed its IRP. Therefore, no incentive cost was included in the filing. In response to her claim that Consumers 2019 DR portfolio would not be cost-effective if a 20% incentive were included, Mr. McLean points out that the company is only requesting a 15% incentive for 2019. And, even if a higher incentive were to reduce the UCT score for Consumers' DR portfolio to slightly less than 1.00, "[t]he cost-effectiveness evaluation is not yet perfected for DR and will continue to mature, thus limiting the evaluation to the UCT score may be inappropriate in the long term."[90] Mr. McLean also disagreed with Ms. Alderson's suggestion that Consumers should not earn an incentive in 2020 unless it

[88] 2 Tr 33.
[89] Id. at 33-34.
[90] Id. at 43.

maintains its DR capacity amount at 2019 levels, testifying that he agreed with Staff that the company should not be penalized for exceeding its IRP target in a given year.

In response to Mr. Doherty's recommendation that DR targets and resources be modeled in the IRP at both the program and portfolio levels, Mr. McLean agreed in part that IRP timing may lead to dated inputs for DR; however, Consumers monitors its DR program performance between IRPs. In addition:

> In regard to cost effectiveness and individual program evaluation, the Company recommends the continued utilization of the proven EWR approach which conducts evaluation at the program level but also evaluates the overall performance at the portfolio level. It is not necessary to separately model the individual DR programs within the IRP to be able to effectively evaluate their performance. Program specific information related to costs and performance has been included in the IRP without the need to separately model them. Modeling at the portfolio level creates accurate results and allows for flexibility to offer multiple different programs, which helps the Company engage with different types of customers and increases overall performance. Finally, the IRP modeling process is a significant undertaking that requires a long lead time. Any new or changed IRP modeling requirements for DR should be addressed in the IRP proceeding and should be determined years prior to any given IRP filing.[91]

Mr. McLean further observed that Staff's concerns about addressing DR in the IRP, "support consideration of moving closer to an EWR-like process, with a plan and reconciliation. This would reduce the need to reconcile assumptions and program data between multiple regulatory proceedings and processes straddling multiple years."[92]

In response to Ms. Mullkoff's recommendation that bill credits be included in the DR program cost calculation, Mr. McLean testified that bill credits are included in the UCT calculation. However, "[t]o the extent that rates and bill credits are designed to

[91] Id. at 34-35.
[92] Id. at 35.

reflect a lower cost of service, they should not be considered an additional cost but should be considered a rate developed using an appropriate rate design[,]" noting that bill credits included in rate design represent the lower cost to serve customers who participate in DR.[93]

Next, Mr. McLean agreed with Ms. Mullkoff's recommendation that the company disclose anticipated changes to DR spending in reconciliation cases, reiterating that a more streamlined process, including both a plan and reconciliation case, similar to that used for energy waste reduction (EWR), would be preferable to the three-step process approved in Case No. U-18369. He also agreed with the recommendation that Consumers should be permitted to shift costs from less to more cost-effective programs, provided Staff was notified if program costs are anticipated to increase by more than 10%.[94] Mr. McLean also agreed in part with Ms. Mullkoff's recommendation to evaluate DR at both the program and portfolio levels, noting that there is value in assessing cost effectiveness for individual programs. Nevertheless, Mr. McLean explained that, like EWR programs:

> Evaluating the overall performance at the portfolio level allows for the administrative/overhead costs to be weighted against all DR programs, creating a more comprehensive and meaningful evaluation. This is particularly important in the early years of growing a DR program as the Company makes substantial investments necessary to operate the overall DR program effectively. In addition, just like with EWR, there are numerous reasons why a program with a lower UCT or cost effectiveness score provides value to the overall portfolio and broader goals of ensuring all customers have opportunity to participate in DR. Further, given that DR programs are still evolving and growing and the performance against peak

[93] Id. at 37-38.
[94] Id. at 38-39

> demand and associated MW savings values may improve, it is possible for programs to fall below the UCT in early years but then meet the UCT in the future.[95]

Finally, while defending the use of DSMore as an appropriate and widely-accepted tool for evaluating demand-side programs, Mr. McLean indicated that Consumers does not oppose implementing additional evaluation methods, including NPV or other tests of cost effectiveness, in future DR reconciliations.[96]

Mr. Grondin responded to Ms. Mullkoff's testimony concerning Consumers use of, and criteria for, calling residential DR events. Specifically, with respect to calling ACPC events, Mr. Grondin explained:

> More than 97% of the value of the Company's ACPC Program is realized by eliminating the need to secure traditional capacity resources. The ACPC Program is registered with the Midcontinent Independent System Operator, Inc. ("MISO") as a Load Modifying Resource. Through this process with MISO, the Company receives the value of avoided capacity in its planning process, whether the resource is called for a DR event or not. Calling DR events does result in minimal reductions in energy purchases. For example, the average Locational Marginal Price ("LMP") over the 2019 DR event periods was $43.48 per MWh. Assuming the maximum number of economic events were called for the ACPC Program (40 total hours), this would yield customer value of $1,739 per delivered MW per year. This is a small amount compared to the capacity value, which at 75% of CONE is approximately $66,622 per delivered MW per year. The Company is concerned that calling many ACPC events during mild summers will result in decreased customer satisfaction and increased attrition, and is not supported by the value of the energy portion of DR.[97]

Mr. Grondin noted that the need to balance the value of calling a DR event with customer satisfaction also applies to calling DPP events, especially in a relatively mild summer like the one that occurred in 2019.[98]

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[95] 2 Tr 39.
[96] Id. at 41.
[97] 2 Tr 70-71.
[98] Id. at 71-72.

Ms. McGraw filed rebuttal testimony in response to concerns raised by Ms. Mullkoff regarding the high levelized costs of the ACPC program. Ms. McGraw explained that the company is addressing ACPC program costs by: (1) renegotiating the contract for ACPC switch installation; and (2) adding an option for customers to cycle their air conditioners for 75% of the event duration, rather than only 50% of the event.[99] Ms. McGraw noted that because 70% of residential DR comes from the ACPC program, 70% of administrative costs are allocated to that program. As the Smart Thermostat program matures, administrative costs will be spread more widely. Similarly, with respect to concerns about the cost of the Smart Thermostat program, Ms. McGraw explained that the upfront costs for launching a pilot program are higher, but per customer costs will be reduced as the program develops.

In response to Staff's preference for the CPP program over the PTR program, Ms. McGraw stated that the PTR program is a critical part of the company's residential DR portfolio, characterizing it as "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 is a valuable option to attract and educate customers on the value of DR."[100]

Responding to Ms. Mullkoff's other concern, that the company has no way of confirming that the smart thermostat sent to a customer is actually installed at the customer's service address, Ms. McGraw testified that Consumers is able to confirm the customer accounts that have enrolled in the Smart Thermostat program and installed the thermostats. However, "address information of installed thermostats is proprietary

[99] 2 Tr 108.
[100] Id. at 109.

to thermostat manufacturers, and thus the Company cannot confirm that the address where the DR rebated thermostat is installed is the same address as the account holder that enrolled in the [program]."[101] Nevertheless, Ms. McGraw indicated that the company does not expect that many customers will enroll in the Smart Thermostat program and install the thermostat at another address. In addition, to ensure that smart thermostats received are in fact installed, Consumers is providing installation assistance and has implemented a campaign to call customers who have received thermostats but have yet to install them.[102] Ms. McGraw added that the company intends to pilot programs for low-income customers that incorporate DR and energy efficiency and that do not require home Wi-Fi for the DR component.

Ms. Alderson filed rebuttal in response to Staff's recommendations. Ms. Alderson reiterated that Consumers should not receive an incentive if its DR capacity declines in future years, even if the company meets or exceeds its IRP targets for DR capacity. According to Ms. Alderson, "it is unreasonable to reward Consumers when it loses enrollment, especially when the vast majority of DR enrollment comes from dependable and long-standing business DR and interruptible rate programs."[103] Ms. Alderson further noted that Staff's recommendation for the 2020 financial incentive does not align with her recommendation that the incentive be capped at 15% or at the dollar amount where the UCT score is at 1.00.[104] Ms. Alderson also supported Ms. Mullkoff's recommendations to allow flexibility in shifting DR funds, reporting on spending in

[101] 2 Tr 110.
[102] Id. at 111.
[103] 2 Tr 141; Exhibit AB-2.
[104] 2 Tr 143.

excess of approved amounts, and implementing additional tests for evaluating cost-effectiveness of DR programs and Consumers' DR portfolio.[105]

C. Positions of the Parties

1. Consumers

Consumers summarized the results of its 2019 DR residential and business programs, contending that it reasonably and prudently incurred capital and O&M expenses in implementing its DR plan. As such, the company requests that the Commission approve recovery of $883,812 in underrecovered 2019 DR expense through a 12-month surcharge beginning January 2021. Consumers also requests approval of a DR financial incentive of $2,446,817, again to be recovered through a 12-month surcharge implemented in 2021. For the 2020 DR incentive, Consumers proposes that it be updated to allow recovery of up to 20% of non-capital spending, with the removal of the NWA requirement. Finally, Consumers requests approval of its proposed residential pilot programs for 2020.

In response to Staff and ABATE, Consumers contends that an increased financial incentive for 2020 is neither premature, nor is it too generous, reiterating that an increased incentive will reduce the gap in returns from DR compared to traditional supply-side options. Consumers further argues that the company's DR surcharge proposal is reasonable and an improvement over the existing approach for addressing DR under- or overrecoveries. And, although Consumers agrees that cost effectiveness of individual programs is important, the company's overall DR portfolio should be evaluated. Consumers asserts that some programs that are less economic initially may

[105] Id.

improve as they develop. For 2019, the company notes that the portfolio, including the 2019 financial incentive, is cost-effective. Finally, Consumers contends that the use of DSMore for program evaluation is appropriate, although other types of analyses in addition to DSMore could be assessed and incorporated in the future.

2. Staff

Staff recommends that the Commission approve recovery of $883,812 in underrecovered DR costs and recovery of a financial incentive of $2,446,817, with the total amount to be included as a regulatory asset in the company's next rate case. Staff also agrees with the company that the NWA requirement be removed from the financial incentive in the future. Staff agrees that NWA opportunities are better considered as part of the company's five-year distribution plan.

Staff raises concerns about variance in DR spending above approved amounts, and it indicates that Consumers should not assume that the company will recover costs that exceed amounts approved in the IRP or rate case. Noting that the company intends to continue to meet with Staff to address spending variances, and that Consumers agreed to adjust projected spending in future reconciliation cases to allow parties to address future increases, Staff nevertheless disagreed with Consumers' suggestion to implement a plan proceeding along with the reconciliation proceeding. Staff asserts that the three-step framework is reasonable and was established after significant stakeholder involvement.

After a review of the company's DR targets and costs, Staff observes that the Smart Thermostat pilot program is the least cost-effective of the DR programs, and it recommends that for future pilots, Consumers should provide detailed workplans, including key metrics and measures of success, and engage with Staff and stakeholders throughout the pilot.

Staff argues that bill credits should be included as a cost of the DR program because these credits are a part of the cost incurred by customers. In addition, Staff maintains that Consumers should evaluate future DR investments on a program level, rather than on a portfolio level only, to assess the cost-effectiveness of individual programs. Staff points out that the high UCT score of Consumers business DR programs masks the far less cost-effective residential programs with UCT scores below 1.00. Staff also supports allowing Consumers flexibility to shift funding from less to more economical programs. Staff encourages the company to shift from the sole use of DSMore/UCT for cost-effectiveness evaluation to other methods that would provide additional insight into program costs and benefits. Noting that Consumers does not oppose the implementation of other tests, Staff urges the Commission to direct the company to work with Staff on the implementation of alternative assessments of cost-effectiveness. Finally, consistent with Mr. Doherty's testimony, Staff recommends that the Commission adopt the Staff's proposed 15% incentive for 2020, without the NWA evaluation requirement.

3. ABATE

Consistent with Ms. Alderson's testimony, ABATE asserts that Consumers' proposed surcharge is unreasonable and unnecessary, reiterating that the company's total costs of approximately $3.3 million are not so significant or volatile to merit immediate recovery. ABATE further notes that the Commission recently denied

Consumers' request to implement a DR surcharge in the December 17, 2020 order in Case No. U-20697.

ABATE urges the Commission to reject Consumers' request to increase the DR financial incentive from 15% to 20% of non-capitalized costs, contending that DR was approved as reasonable and prudent, without an incentive, as part of the company's IRP. Moreover, Consumers did not provide any information to demonstrate that the current 15% incentive is insufficient to encourage the company to invest in DR. ABATE adds that the company's request for a higher incentive is inconsistent with Consumers' claims that DR is a high-value proposition for customers that reduces capacity needs and enables a transition to a clean energy future. ABATE also argues that a 20% incentive might reduce the DR portfolio UCT score to below 1.00.

ABATE also takes issue with Staff's recommendation for the 2020 financial incentive, arguing that under Staff's formulation, Consumers could earn an incentive even if there is a decrease in DR capacity in the future. ABATE maintains that this is especially unreasonable in light of the fact that Consumers' DR portfolio is substantially comprised of long-standing business DR and interruptible rates. Instead of Staff's proposal, ABATE argues that no financial incentive should be available if DR capacity is reduced from the previous year, and the total dollar amount of the incentive should be capped at 15% of non-capitalized costs or the amount where the UCT score would reach 1.00.

III.

DISCUSSION

A. Uncontested Matters

The parties do not dispute Consumers' calculation of its underrecovered amount of $883,812 in DR expense for 2019. The parties also do not dispute the amount of the financial incentive the company earned for DR performance in 2019. And, although still highlighting the purported benefits of a surcharge, in its reply brief, Consumers acknowledges the Commission's directive in the December 17, 2020 order in Case No. U-20697, p. 248, denying the request for a surcharge and recommending that the company file a DR cost recovery proposal in its next rate case. Consumers states that, consistent with the Commission's order, it has filed a comprehensive DR proposal in Case No. U-20963. Accordingly, Consumers accepts Staff's and ABATE's recommendation to recover the DR revenue underrecovery and financial incentive of $2,446,817 in its next rate case.[106]

The parties also agree that the evaluation of NWA solutions, which was required for the 2019 incentive, should be removed from the financial incentive going forward. Staff agrees with Consumers' position that the primary purpose of the DR program is to reduce long-term capacity needs, and that there is a more appropriate forum for addressing NWAs.

Finally, as outlined in the company's reply brief, Consumers agreed with Staff's recommendations to: (1) notify Staff of significant projected variances in DR costs, and it will meet with Staff if DR program spending exceeds 10% of the approved

[106] Consumers reply brief, pp. 4-5.

expenditures (2) include a discussion of known spending adjustments for the following year in DR reconciliation filings; and (3) provide pilot program plans, proposed metrics, and regular updates on pilot implementation.[107] In addition, no party objects to the company's proposed residential pilots for 2020 or to allowing Consumers to shift spending from less cost-effective to more cost-effective programs, so long as a reasonable justification for doing so is provided.

Consistent with the parties' agreement, the Commission should approve recovery of the undercollection and financial incentive amounts through a regulatory asset. In addition, the Commission should remove the NWA evaluation requirement from the DR financial incentive going forward, and it should approve the agreed-to recommendations for notification of changes to program spending and pilots.

B. Contested Issues

1. 2020 financial incentive

As set forth above, Consumers requests that its maximum financial incentive be increased from 15% to 20% of non-capitalized costs. Consumers maintains that the 15% limit on the incentive does not sufficiently encourage the company to invest aggressively in DR. Consumers adds that DR should be treated similarly to energy efficiency, which receives a maximum incentive of 20% of non-capital spending, on grounds that DR has a similar impact on company earnings.

Staff and ABATE oppose any increase in the incentive. Staff argues: (1) the DR incentive is new and more time is needed to determine if the 15% incentive is working as it should; (2) a 20% incentive is overly generous; and (3) unlike energy efficiency,

[107] Id. at 2.

which provides both energy and capacity savings year-round, DR is more limited and only provides capacity a few days per year. ABATE argues that the IRP found DR investments to be reasonable and prudent without an incentive and increasing the financial incentive could make Consumers' DR portfolio uneconomic.

This PFD agrees with Staff and ABATE that an increase in the maximum incentive is not warranted at this time. 2019 was the first year that Consumers received an incentive for DR, and more time is required to assess the effectiveness of the 15% incentive. Moreover, as ABATE points out, Consumers provided no analysis to show that a 15% incentive was insufficient to motivate the company to invest in DR. Finally, although Consumers assumes that its DR portfolio in 2020 will have a higher UCT score, the 2019 DR portfolio earned a UCT of just 1.02 with the 15% incentive. As ABATE demonstrated, a higher incentive would have rendered the 2019 DR portfolio uneconomic, and it could do so in the future.

In a related issue, ABATE contends that the 2020 incentive should only be earned if the company exceeds the MW of DR capacity attained in 2019. Conversely, Staff and Consumers argue that the "baseline" DR capacity for the financial incentive should be the target set out in the most recently completed IRP.

This PFD agrees with Staff and Consumers that the baseline for earning the incentive should be set at the level established for that year in the company's most recent IRP. Contrary to ABATE's claim, it would not be "rewarding" the company in a subsequent year if DR capacity fell off to some extent, since lost capacity would need to be made up to earn an incentive in the future. Thus, as Staff points out, the company should not be penalized for overachievement in one year particularly when the incentive could be limited in the future if DR capacity does not increase.

ABATE also argues that the dollar amount of the financial incentive should be limited to a lesser amount than the 15% of non-capitalized spending, if the full financial incentive would result in a portfolio that had a UCT score of less than 1.00. In other words, the incentive should not be so high as to result in a DR portfolio that is not cost-effective.

This PFD agrees with ABATE's reasoning, noting that limiting the financial incentive to 15%, or an amount such that the UCT score does not fall below 1.00, could also provide an incentive to the company to focus on more cost-effective DR programs. That said, it might also be reasonable to remove pilot programs from the calculation of UCT for the purposes of determining the financial incentive. Consumers makes a persuasive case that start-up costs for pilot programs are often high but moderate over time as pilot programs become established. While this PFD finds that Staff's recommended incentive for 2020 should be adopted, the Commission should consider adding cost-effectiveness of the DR portfolio as a criteria for determining the amount of the financial incentive in future reconciliations.[108]

2. Demand response event criteria

Staff argues that because Consumers called relatively few events in 2019, the company failed to take full advantage of DR capacity that had been paid for. Staff recommends that Consumers provide more information on how the company decides to

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[108] The incentive could also be increased based on UCT score if the cost-effectiveness of the DR portfolio has a UCT score that reaches a certain level above 1.00.

call a DR event, to allow for better evaluation of whether Consumers is deploying DR effectively. Consumers responds, quoting Mr. Grondin's testimony on DR event criteria, adding:

> Determining to call events involves consideration of program performance, program costs, and customer satisfaction, and the Company is concerned that calling events outside of the trigger criteria could result in less customer satisfaction, more customer attrition, and higher customer acquisition costs for the next DR season. Generally, 90+ degree days with humidity are the ideal days to call economic events. Because Michigan experienced a mild summer in 2019, the trigger criteria for calling an ACPC event only occurred twice. 2 TR 71. Just as with ACPC, there is limited benefit in calling DPP events where conditions do not warrant and calling too many events may result in customer fatigue. 2 TR 72. ACPC and DPP events should not be called more frequently.[109]

Staff characterized the company's concerns regarding customer satisfaction, participant attrition, and customer fatigue, if events are called when not strictly warranted, by characterizing these concerns as speculative.[110] This PFD disagrees, finding that Consumers raises a legitimate issue that customers could be discouraged from continuing participation in a DR program if it appears that the company is acting arbitrarily in calling DR events. And, contrary to Staff's claim, Mr. Grondin did provide Consumers' criteria for calling DR events in 2019.[111] In sum, Consumers called an ACPC or DPP event when the four-hour load forecast exceeded 27,000 MWh for the following day and, for business economic DR programs, events were called based on a forecasted energy price of $75/MWh. If Staff has questions or concerns about the appropriateness of the company's DR event trigger criteria, those issues should be explored more fully in the company's next reconciliation.

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[109] Consumers brief, pp. 17-18.
[110] Staff reply brief, p. 9.
[111] See, 2 Tr 64.

3. Demand response program evaluation

Consumers provided an assessment of the cost-effectiveness of its DR programs and portfolio through Mr. Morgan's testimony. Staff raises concerns that the DSMore tool and UCT test do not provide a complete or accurate picture of the economics of the various DR programs the company offers. Staff provided an NPVRR analysis that looked at the levelized cost of each DR program, highlighting the fact that under an NPV approach, the ACPC program is no longer projected to be cost-effective through the IRP plan period. In response, Consumers indicates its willingness to explore other tests or assessment tools beyond DSMore and UCT, while defending the appropriateness of its current approach to evaluating cost-effectiveness.

The record in this case clearly demonstrates the shortcomings of DSMore and the UCT test, although the company did look at the cost-effectiveness of individual programs as well as the overall portfolio using these methods. As Staff points out, DSMore/UCT is only a one-year snapshot of program effectiveness, whereas the NPV levelized cost analysis provides insight over a much longer time horizon. As suggested by Staff and supported by ABATE, Consumers should work with interested parties in developing additional methods for evaluating cost-effectiveness of DR programs and portfolio.

4. Other issues and recommendations

Consumers suggests that a more streamlined approach to addressing DR programs and costs to would be to implement plan and reconciliation proceedings, including a surcharge or refund mechanism, as is done with EWR programs and costs. Staff opposes this recommendation on grounds that the three-phase framework was established after much stakeholder input, and that any cost or program updates can be provided in the reconciliation. Thus, a plan case is unnecessary.

This PFD agrees with Staff that the current, three-step framework for addressing DR programs, capacity targets, evaluation, and cost recovery is reasonable and should continue. Staff makes an important point that DR targets are set as part of the IRP process that carefully scrutinizes both supply- and demand-side options to determine optimal levels of each. Using a DR plan case to revisit or supplant the IRP determinations seems both unnecessary and unwise.

Staff contends that bill credits should be included as part of the cost of DR because bill credits represent costs incurred by the company to implement the DR program. Consumers responds that bill credits are included in the UCT and levelized cost analysis, and, to the extent that bill credits represent the lower cost to serve customers in DR programs, they are incorporated in cost of service and should not be included as an additional cost for DR.

Given the very limited testimony on this issue, this PFD finds that this matter should be addressed in Consumers' next IRP or in its next DR reconciliation.

IV.

CONCLUSION

This PFD recommends that the Commission make the following findings and conclusions:

1. Consumers 2019 DR program costs were reasonable and prudent, and excess costs of $883,812 should be approved and deferred for recovery in Consumers' next rate case.

2. Consumers met the requirements for DR capacity and for assessment of NWAs in 2019. Therefore, the Commission should approve a financial incentive of $2,446,817 for 2019, to be recovered in the company's next rate case.
3. The Commission should approve the company's request to remove the NWA evaluation criteria from the 2020 incentive.
4. The Commission should adopt Staff's recommended 2020 financial incentive, with a baseline amount established in the company's last IRP and a maximum incentive amount of 15% of non-capitalized DR spending. In future reconciliations, the parties and the Commission should consider additional criteria, including cost-effectiveness, in devising a DR financial incentive.
5. Consumers should be directed to present an NPVRR levelized cost analysis of its DR programs in the company's next DR reconciliation case. The company should also be directed to work with Staff and other stakeholders on additional tools or tests for evaluating Consumers' DR programs.

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

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Administrative Law Judge

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