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 2022 demand response program costs.	))))	Case No. U-21410

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 February 1, 2024.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before February 22, 2024, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before March 7, 2024.

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

Lesley C. Fairrow

Digitally signed by: Lesley C. Fairrow
DN: CN = Lesley C. Fairrow email = fairrowl1@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2024.02.01 13:36:49 -05'00'

February 1, 2024
Lansing, Michigan

Lesley C. Fairrow
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 reconciliation of its 2022 demand response program costs.	))))	Case No. U-21410

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

Consumers Energy Company (Consumers or the Company) filed its application for reconciliation of its 2022 Demand Response (DR) program expenditures on May 5, 2023. As part of the filing, Consumers requested the Michigan Public Service Commission (the Commission) approve its proposed reconciliation of the actual 2022 DR program revenue compared to the revenue requirement approved in Case No. U-20963 and allow the Company to refund the over-recovered DR revenue from customers through a 12-month credit beginning with the January 2024 billing cycle. The Company also requested that the Commission approve a DR financial incentive for 2022 and allow recovery through a 12-month surcharge that is also implemented beginning in January 2024.

The Company and Staff appeared for the properly noticed prehearing that was held on June 29, 2023. No other party intervened in this matter.

In accordance with the schedule established at the prehearing, Staff filed testimony and exhibits; the Company filed rebuttal testimony and an exhibit; cross examination was held on November 8, 2023, at which all testimony was bound into the record, and exhibits admitted, without the need for witnesses to appear; and the parties filed initial and reply briefs. The evidentiary record is comprised of 192 pages of transcript and 26 exhibits.

II.

OVERVIEW OF THE RECORD

Pertinent aspects of the evidentiary record are discussed in greater detail below.

A. Consumers Energy Company Testimony

1. Emily A. McGraw

Emily A. McGraw, Consumers' Executive Director of Product Management, who is responsible for the Company's DR and Energy Waste Reduction (EWR) programs, testified and sponsored Exhibits A-1, A-2, A-3, A-4, and A-5.[1] She described the Company's DR portfolio, proposed reconciliation of capital expenditures and Operations and Maintenance (O&M) expenses for the 2022 program year, requested 2022 performance incentive, and emergent projects.[2]

Witness McGraw described Consumers' DR portfolio 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 reduce costs for customers.[3] Witness McGraw provided Consumers' 2022 DR Annual Report as Exhibit A-3.[4] According to Ms. McGraw, the Company values its DR portfolio at $30,758,330 based on 75% of the Midcontinent Independent System Operator, Inc (MISO) 2022 Cost of New Entry (CONE) for Michigan.[5]

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[1] 2 Tr 16, 20
[2] 2 Tr 19.
[3] 2 Tr 22.
[4] 2 Tr 22-23.
[5] 2 Tr 13.

She said the Company evaluated the DR portfolio and found it to be cost-effective and determined the Commercial and Industrial (C&I) Program area would be targeted for growth.[6]

Consistent with the process the Commission approved in Case No. U-18369, witness McGraw said that with this filing Consumers is seeking to reconcile projected and actual capital expenditures and O&M expenses from Case No. U-20963 for the 2022 DR program year and also requests approval of the DR financial incentive to be collected through a surcharge.[7] Referencing Exhibit A-1, Witness McGraw testified that for the 2022 DR portfolio, capital spending totaled approximately $10.6 million which was approximately $1.325 million higher than was approved in Case No. U-20963 and O&M spending totaled approximately $41.5 million which was approximately $1.474 million lower than the approved amount, resulting in a total over-recovery of $113,136.[8] Witness McGraw testified that Consumers also met or exceeded all the requirements to earn the commission-approved financial incentive of approximately $6.225 million.[9] She said the Company proposes to implement a 12-month surcharge beginning with the January 2024 billing cycle to refund the over-collection and to collect the financial incentive.[10]

Witness McGraw testified that in response to a MISO maximum generation event that took place on December 23, 2022, the Company deployed DR resources through the Rate GI program.[11] During the MISO event, Ms. McGraw said customers were notified to

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[6] 2 Tr 26.
[7] 2 Tr 21, 39.
[8] 2 Tr 23, 38-39.
[9] 2 Tr 39; See July 18, 2019 order in Case No. U-20164, pp 8, 12.
[10] 2 Tr 23-24, 39.
[11] 2 Tr 26-27.

reduce their electric load to a predetermined level within 30 minutes and maintain the load reduction for at least four continuous hours.[12] Ms. McGraw testified that the Company also used its DR programs to reduce load during non-emergency system peak events in 2022.[13] She said the Company called for events during the summer months (June through September) and for the generator pilot, and small business thermostat programs.[14]

Ms. McGraw testified that the Company projected per customer rates for the programs based on evaluations it and a third party completed after the 2021 DR season.[15] The Company projected an Air Conditioning Peak Cycle (ACPC) program performance of 0.58 kW for any given event hour under optimal conditions.[16] She said the Company reviewed preliminary data after each event in 2022, and hired a third party to analyze and evaluate the 2022 DR performance and event season results.[17] The Company observed a demand reduction of 0.67 kW during the June 21, 2022 event and again during the July 21, 2023 event.[18] For the Dynamic Peak Pricing (DPP) program, the maximum observed demand reduction was 0.17 kW during the June 21, 2022 event for Peak Time Reward (PTR), and the maximum observed demand reduction was 0.24 kW during the June 21, 2022 event for Critical Peak Pricing (CPP).[19] And for the Smart Thermostat Program, an average demand reduction of 0.68 kW per customer was projected but the maximum observed demand reduction during the June 15, 2022 event was 0.98 kW.[20]

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[12] 2 Tr 28.
[13] 2 Tr 12.
[14] 2 Tr 12.
[15] 2 Tr 13.
[16] 2 Tr 31.
[17] 2 Tr 31.
[18] 2 Tr 31.
[19] 2 Tr 31.
[20] 2 Tr 32.

Ms. McGraw testified that Summer 2022 evaluation results were not available when the 2023 values were planned.[21] She said the program per-customer load reduction planning factors remained constant for the 2023 DR event season.[22]

Regarding the Customer Intelligence and Analytics (CIA) and Information Technology (IT) spend for the DR programs, Ms. McGraw testified that customers who are moving into a new home are now able to enroll in DR programs immediately while transferring their service to the new location.[23] She noted that there was a 967% increase in enrollments for the Move-In/Move-Out (MIMO) project in January through April 2022 compared to the same time in 2021.[24] She said that the digital channel has high customer performance and satisfaction and concluded that the availability of easy and automated technology is critical to the future growth and development of the programs.[25] Ms. McGraw testified that the CIA project will provide a single source for all of the customer interaction data and will help identify opportunities to enroll more customers and improve the overall experience.[26]

Ms. McGraw testified that there were no capital expenditures for the MIMO or CIA projects in 2022.[27] The Company did have $326,640 in capital expenditures to purchase and install new switches so that the CIA program customers switches were all from the same vendor.[28] Ms. McGraw testified that these capital expenditures were included in

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[21] 2 Tr 31-32.
[22] 2 Tr 32.
[23] 2 Tr 33.
[24] 2 Tr 33.
[25] 2 Tr 33.
[26] 2 Tr 34.
[27] 2 Tr 33.
[28] 2 Tr 34-35.

Case No. U-21233 and incorporated in the DR revenue requirement approved by the Commission in Case No. U-21224.[29] She said vendor consolidation was necessary to improve customer experience and reduce DR costs in long term since one of the vendors was charging a higher rate and balancing two vendors was complicated.[30] She said the consolidation created O&M savings of approximately $855,000 in 2021 and that the savings will continue in the future and increase as more CIA customers participate in the DR program.[31] Witness McGraw also said that the Company spent $6,771 in O&M for MIMO and $700,261 in O&M for the CIA, and the O&M associated with the analytics team is included in the administrative cost for the residential and business programs.[32]

Witness McGraw also testified that the Company had O&M and capital expenditures to run and market DR programs that were not foreseen during the development of Case No. U-20963 and prior rate cases, which she described as emergent work that was necessary to provide more impactful and cost-effective projects than what was identified at the time of the filing in that case.[33] Specifically, she testified that the emergent DR Stacking project, known as Project PEDRO, was implemented at a cost of $96,572 in O&M and $1,672,222 in capital expenditures to provide enhancements for web and call center enrollments and customer communication.[34] She said the Company's DR portfolio relies on emergent projects to support and increase enrollment

[29] 2 Tr 35.
[30] 2 Tr 34-35.
[31] 2 Tr 34-35.
[32] 2 Tr 33-34.
[33] 2 Tr 35-38.
[34] 2 Tr 35-36.

but the associated costs cannot be planned for during a rate case or during an Integrated Resource Plan (IRP) filing.[35]

2. Lisa M. Biering

Lisa M. Biering, a manager responsible for implementing EWR and DR pilots, testified and sponsored Exhibit A-6.[36] She said the Company piloted four residential DR programs in 2022 which were the Generator, Multi-use Switch, Smart Home, and Low-Income programs.[37]

Witness Biering testified that the Generator program was originally piloted in 2020, residential customers were enrolled in 2021, and in 2022, the Company focused on customer recruitment and testing the efficacy of the dispatch signals.[38] She said the Company did not meet its enrollment targets, dispatching was lower than expected, and the average hourly demand reduction was not as successful as in the 2021 events.[39] Concluding that the residential Generator program was not cost effective, Ms. Biering said the Company discontinued it, de-enrolled customers, and removed the switches.[40]

Ms. Biering also testified that in accordance with the settlement agreement in Case No. U-21233, the Company implemented a fully commercialized small and medium business (SMB) generator pilot in 2023.[41] She said the Company analyzed the performance and costs and concluded the program was cost effective and impactful.[42]

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[35] 2 Tr 38.
[36] 2 Tr 42-43.
[37] 2 Tr 44.
[38] 2 Tr 44.
[39] 2 Tr 44-45.
[40] 2 Tr 45.
[41] 2 Tr 45.
[42] 2 Tr 45.

Witness Biering testified that the multi-use switch pilot targeted electric water heaters in 2022.[43] She said that supply chain issues with the switch device manufacturer delayed the delivery of materials and resulted in a soft relaunch of the program in December 2022 by replacing existing switches with cellular switches at the homes of customers already enrolled in the Company's electric water heater DR program.[44] Ms. McGraw reported that as of December 31, 2022, approximately 190 of 730 water heater switches installed in homes had been replaced to the new cellular model.[45] She said the Company commercialized the pilot and forecasted 7,000 customers by the end of 2023.[46]

Witness Biering also testified about the Smart Home outlet pilot that launched in 2021. She said there were manufacturing delays and the Company called the first test event in 2022.[47] She also said that 90 of the 572 total customers participated in the test event but the results were non-conclusive.[48] While she reported that the Company plans to end the program due to lack of a significant increase in capacity for the residential portion of the DR portfolio, she also said the Company will continue the pilot in 2023.[49]

Witness Biering testified that the through the low-income pilot, the Company investigated how those customers benefit from DR programs as well as the challenges they experience.[50] She said their assessments found that the average low income participant experienced between 1.5% and 7.4% (equivalent to between $1.78 and $8.25)

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[43] 2 Tr 46.
[44] 2 Tr 46.
[45] 2 Tr 46.
[46] 2 Tr 46.
[47] 2 Tr 46.
[48] 2 Tr 46-47.
[49] 2 Tr 46-47, 53.
[50] 2 Tr 47-48.

in monthly bill savings depending on the DR program.[51] She suspected that because newer participants were less familiar with ways to save energy, they were less satisfied with their bill savings and therefore, less likely to recommend DR programs to others.[52] Ms. Biering testified that the Company decided not to proceed to a second phase of the low-income pilot and instead focus on improving the low-income customer experience and increase participation in the Company's existing DR programs.[53]

Ms. Biering also testified about the two business DR test pilot programs that the Company implemented in 2022.[54] She said the Company did not deploy the MISO pilot which was for large C&I customers to shadow their participation in the MISO market for Type I, Type II, or Emergency DR products in hopes that the customers would learn about the value of the ancillary service market.[55] Instead, the Company interviewed customers about issues including their understandings of MISO and their willingness to participate in such a DR program.[56] She said the Company found multiple challenges to successfully design a program different than existing DR offerings and decided not to create a MISO ancillary service program.[57] And Ms. Biering testified that the Company ended the automated DR pilot, which was intended to assess whether a fully-automated DR program would increase participation when events were called, after preliminary research found that working with third-party vendors offered the same outcome at a lower cost.[58]

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[51] 2 Tr 48-51.
[52] 2 Tr 51.
[53] 2 Tr 51.
[54] 2 Tr 51-52.
[55] 2 Tr 52.
[56] 2 Tr 52.
[57] 2 Tr 52-53.
[58] 2 Tr 53.

3. Jessica R. Byrom

Jessica R. Byrom, Director of Residential Demand Side Management Products, testified and sponsored exhibits A-7, A-8, A-9, and A-10.[59] She described the Company's Residential DR programs, investments, and achievements.[60] She reported the Company enrolled 58,302 customers into residential DR programs in 2022.[61]

Ms. Byrom described the Device Cycling Residential DR program as an initiative whereby the Company installed a switch on the outside of a customer's home to control the output of their central AC unit.[62] She said customers received a prepaid limited-use credit card and a monthly bill credit of $8 during the June 1 through September 30 summer DR season.[63] Ms. Byrom reported that the Company enrolled approximately 2,500 new customers into the program in 2022, for a total of 90,190 at year end.[64]

In describing the cycling process, Ms. Byrom testified that load management may occur for up to 8 hours, between 7 a.m. and 8 p.m. on any weekday, excluding holidays, to maintain system integrity, for economic reasons, or to manage system generation.[65] The Company began sending 75% cycling signals to switches in 2022, according to Ms. Byrom.[66] She said the customers realized an actual cycling rate between 73.8% and 87.5%, and the AC unit colling system returned to normal at the end of the cycling event.[67] She also said that the Company began using a switch with a cellular modem which

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[59] 2 Tr 56-57.
[60] 2 Tr 57-58.
[61] 2 Tr 58.
[62] 2 Tr 58.
[63] 2 Tr 60.
[64] 2 Tr 59.
[65] 2 Tr 59-60.
[66] 2 Tr 58-59.
[67] 2 Tr 58-59.

allowed a single switch to control up to four separate customers' AC units which the Company expects to lower costs for installation and network maintenance.[68]

Ms. Byrom also described the DPP program which offers two pricing options for customers, with the goal to reduce energy use during DR events and during peak hours.[69] Under one option, customers are charged a higher rate during a DR event and offered a discount during weekends, holidays, and all hours of the day except 2 p.m. to 7 p.m.[70] And with the other option, customers are paid for reducing their energy during DR events, but are not penalized for not lowering their usage.[71] According to Ms. Byrom, the Company used an incentive program for its customer service representatives and increased program enrollment in 2022 by approximately 46,000 customers.[72]

Witness Byrom testified about the Smart Thermostat Program too. She said it uses cloud-based software through the customer's thermostat so the Company can directly control their AC load for a maximum of 4 hours on any weekday, except holidays, between 10 a.m. and 8 p.m. or during a MISO emergency day.[73] She said customers receive a pre-paid credit card and a credit toward the purchase of a smart thermostat, if applicable.[74] She reported that net enrollment increased by 9,339 customers in 2022.[75]

Witness Byrom recounted that in Case No. U-20963, the Commission approved $8,100,000 for non-IT related capital expenditures and $24,169,187 for O&M expenses,

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[68] 2 Tr 59.
[69] 2 Tr 60.
[70] 2 Tr 60.
[71] 2 Tr 60, 68.
[72] 2 Tr 60-61, 67.
[73] 2 Tr 61-62.
[74] 2 Tr 63.
[75] 2 Tr 61, 68.

(including $3,773,068 of customer tariff credits included in rate design) for the 2022 residential DR program.[76] She said the Company's actual capital expenditures for 2022 amounted to $7,699,961 and the O&M expenses were $21,503,954, including $3,621,509 of customer tariff credits.[77]

Regarding ACPC program attrition, Ms. Byrom testified that voluntary de-enrollment is a small share of the program attrition and that more than 70% of those who moved into a home where a switch had previously been installed enrolled in the program.[78] And after testing the use of pre-event notices with a small group in 2022, the Company plans to send customers an email the day prior to an event during the 2023 DR season which it expects will result in higher customer satisfaction.[79]

Ms. Byrom testified that the Company is proposing tariff changes as part of its current electric rate case including same day PTR events that would allow PTR to be registered with MISO's DR load curtailment commitment, and a control group of customers to be held out of PTR and CPP events to improve performance evaluation.[80] She also noted that in its IRP, Case No. U-21090, the Company projected incremental increases in MW of base amounts of Residential DR for 2023, 2024, and 2025.[81]

4. Nathaniel S. Carver

Demand Side Management Executive Director of Product Management, Nathaniel S. Carver, testified and sponsored exhibits A-11, A-12, and A-13.[82] He provided

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[76] 2 Tr 64.
[77] 2 Tr 63-64; Exhibit A-7.
[78] 2 Tr 66-67.
[79] 2 Tr 67-68.
[80] 2 Tr 70.
[81] 2 Tr 70.
[82] 2 Tr 74-75.

an overview of the Company's business DR products, investments, achievements, and future residential and business DR pilots.

Witness Carver testified that the business DR program is a summer season program targeted toward businesses that are not currently on an interruptible or retail open access rate, but are able to curtail load (kW).[83] He said that during DR events, participants nominating greater than 100kW at their location receive access to their real-time energy consumption data as well as their energy reduction plans and contracted demand reduction commitment.[84] He said the Company is also able to monitor, manage, and document customer performance.[85] He said the customers may also participate in a simulated DR event to test their performance pre-season.[86] He said that customers receive a bill credit at the end of the program year for being on-call for an event or a per kWh payment for every hour of each event dispatch.[87]

According to Witness Carver, the Company's 2022 capital costs for business DR programs were $493,584 less than the capital expenditures approved in Case No. U-20963 and he attributed the differential to lower than expected installation costs.[88] He testified that the 2022 O&M costs were $325,745 higher than the amount approved by the Commission due to staffing for enrollment recruitment and customer service.[89]

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[83] 2 Tr 75, 78.
[84] 2 Tr 76, 78.
[85] 2 Tr 76-77.
[86] 2 Tr 77.
[87] 2 Tr 77.
[88] 2 Tr 84; Exhibit A-11.
[89] 2 Tr 84; Exhibit A-12.

Witness Carver also testified about the SMB smart thermostat program that the Company offers.[90] He said under the program, on high electric demand days, the third-party software that is synchronized to the customer's thermostat will pre-cool the facility during the off-peak period.[91] He said the 2022 program year ended with 1,030 enrolled customers.[92] Mr. Carver testified that based on feedback from participants and to reduce administrative costs, the Company will modify the program so that customers receive an on-bill credit for enrollment instead of a pre-paid gift card.[93] And he said that participants will no longer be asked to participate in MISO economic events, only emergency events, which he anticipates will increase enrollment and customer satisfaction.[94]

Regarding the Company's SMB Generator program, Witness Carver testified that although the Company agreed to fully commercialize the program in the first quarter of 2023, it discovered that enrollment was limited by the equipment and software that had been used.[95] He said both that the Company is planning to expand its generator pilot to include SMB customers and that the Company recommends sunsetting the program.[96]

Witness Carver reported that the Company's 2022 small business costs are $524,817 higher than forecasted due to additional marketing costs.[97]

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[90] 2 Tr 79.
[91] 2 Tr 79.
[92] 2 Tr 80.
[93] 2 Tr 80.
[94] 2 Tr 81.
[95] 2 Tr 81.
[96] 2 Tr 79, 81.
[97] 2 Tr 83-85.

5. Svitlana Lykhytska

Svitlana Lykhytska, a Principal Accounting Analyst, also testified. She described accounting rules under the Generally Accepted Accounting Principles (GAAP), the 2022 DR regulatory balance as reflected in the general ledges, and the Company's request related to collection of the 2022 financial incentive.[98]

Witness Lykhytska testified that in accordance with the Commission's directives in Case No. U-18369, the $113,136 revenue requirement for the 2022 reconciliation year was deferred and recorded as a regulatory liability on the Company's books and carrying costs on over-recovery balances at the Company's short-term borrowing rate are recorded from January 2023 until fully funded.[99]

Witness Lykhytska said that according to the GAAP, the DR incentive revenue is not classified as normal revenue and is instead considered an alternative revenue program since the Commission issued the order authorizing the financial incentive mechanism in Case No. U-20164, the revenues are objectively determinable, and the additional revenues could be collected within 24 months following the end of the annual period through a surcharge.[100]

6. S. Austin Smith

S. Austin Smith, a Rate Analyst II, testified about the Company's proposal for collecting the over-recovered DR revenue requirement, the DR financial incentive, and the tariff sheet for the surcharges. He sponsored exhibits A-14 and A-15.[101]

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[98] 2 Tr 89.
[99] 2 Tr 90.
[100] 2 Tr 90-92.
[101] 2 Tr 116.

Witness Smith presented the Company's proposal to remove the DR program costs from base rates and to instead collect the program surcharges from rate Case No. U-21389, together with the earned DR financial incentive surcharge, and the over recovered 2022 DR revenue requirement, as a consolidated 12-month surcharge to be implemented on customer bills beginning January 2024.[102]

7. Andrew G. Volansky

Andrew G. Volansky, a Senior Rate Analyst II, testified about the approved and actual revenue requirement for the capital spending in the Company's Residential and Business DR programs for the 2022 reconciliation period and sponsored Exhibit A-16.[103]

B. <u>Staff Testimony</u>

1. Roger A. Doherty

Roger A. Doherty, the Manager of the Resource Adequacy and Forecasting Section of the Commission's Energy Resources Division, provided Staff's analysis and recommendations regarding recent and upcoming changes with the MISO resource adequacy construct and sponsored Exhibit S-1.0.

Witness Doherty testified that as of planning year 2023/2024, MISO changed its resource adequacy construct whereby resources are accredited based on capacity value and performance in each season.[104] He was concerned since Consumers registered 532.3 MW of capacity for the summer, 230.6 MW for fall, 252.1 MW for winter, and 250.5 MW for spring, but only the GI rates provided capacity in the non-summer months.[105]

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[102] 2 Tr 117-119.
[103] 2 Tr 124.
[104] 2 Tr 132.
[105] 2 Tr 133.

Mr. Doherty also testified that MISO is switching the capacity market from using a vertical demand curve to a sloped demand curve.[106]

Witness Doherty testified that Staff recommends the Company do the following:

- Evaluate likely load modifying resource (LMR) accreditation changes and determine if any adjustments would, cost-effectively, improve the capacity credit of its programs[107];

- Examine the potential to adjust current programs to provide capacity for additional seasons, beyond summer[108];

- Incorporate the seasonal value of its resources in its evaluation of cost-effectiveness[109]; and

- Keep abreast of MISO changes, adjust when necessary, and include an evaluation of the impacts to the Company's DR portfolio and decision-making in future DR filings[110].

2. David W. Isakson

David W. Isakson is a Departmental Analyst in the Rates and Tariff Section of the Commission's Regulated Energy Division. He testified in support of the Company's proposed DR surcharge calculation and collection method and sponsored Exhibit S-2.[111]

3. Cody S. Matthews

Cody S. Matthews is a Public Utilities Engineer Specialist in the Interconnection and Distributed Energy Resources Section of the Commission's Energy Operations

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[106] 2 Tr 134.
[107] 2 Tr 134.
[108] 2 Tr 134.
[109] 2 Tr 134.
[110] 2 Tr 135.
[111] 2 Tr 141.

Division. He presented Staff's recommendations for Consumers' DR reconciliation financial incentive and cost effectiveness and sponsored Exhibits S-3.0 and S-3.1.

Referencing the Company's calculations, Witness Matthews found that the Company's DR portfolio levelized costs of $82,228 per MW per year was under the cost of new entry (CONE) of $93,770, but some of the individual DR programs had levelized costs higher than CONE.[112] He also noted that Consumers had the third most expensive DR portfolio in the country on overall cost and a dollar per MW basis.[113] Staff therefore recommended evaluating the cost effectiveness on a programmatic level rather than as a portfolio to ensure that programs that are not cost effective are properly evaluated.[114]

Mr. Matthews testified that the Company's requested financial incentive for the 2022 program costs was calculated properly.[115] However, Staff recommended the disallowance of the PEDRO program resulting in a reduction of $96,572 in O&M expenses and a reduction to the incentive of $14,486.[116]

Finding that the current structure may incentivize the wrong thing, Witness Matthews also recommended that the Commission direct the Company to develop a new incentive structure.[117] Specifically, Staff proposed limiting the incentive to DR that is credited by MISO and calculating it based on the savings between the levelized cost of each individual DR program and 75% of CONE whereby the Company receives 50% of the savings and customers receive the other 50%.[118]

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112 2 Tr 149-150.
113 2 Tr 150.
114 2 Tr 150.
115 2 Tr 151.
116 2 Tr 151, 155.
117 2 Tr 152.
118 2 Tr 153-155.

4. Karsten Szajner

Karsten Szajner, a Departmental Analyst in the Commission's Energy Resource Division, testified about the reasonableness and prudency of the Company's DR programs and pilots and sponsored Exhibits S-4.0 and S-4.1.

Witness Szajner testified that only looking at the portfolio level as the Company suggests, limits the analysis of the costs and benefits of individual programs as well as what might be driving such high costs.[119] Instead, witness Szajner recommended reviewing the programs individually to identify the most efficient and effective programs for customers.[120] In particular, Ms. Szajner cited the high cost of the ACPC program and the increase in customer attrition and decrease in kW per participant, and opined that it was improper to continue investing in the program.[121] She emphasized this point by noting that the expectation is that generally program costs decrease with time because the Company learns and understands how to make the program more effective, but the ACPC program is becoming more expensive.[122] She also said that the program is forecasted to have zero new net enrollments by 2025.[123] Ms. Szajner recommended the Commission order the Company to suspend new enrollments in the ACPC program by late 2024 or early 2025, meet with Staff on how to bring program costs below CONE, or phase it out.[124]

Similarly, witness Szajner found that the SMB DR greatly exceeds CONE and is unlikely to overcome the issues that will allow it to have a levelized cost below CONE.[125]

[119] 2 Tr 161.
[120] 2 Tr 161.
[121] 2 Tr 161-162, 170.
[122] 2 Tr 162.
[123] 2 Tr 162.
[124] 2 Tr 163-164.
[125] 2 Tr 164-165.

Witness Szajner recommended the Commission allow the Company to continue enrolling new customers into the program but require the Company to meet with Staff to determine if costs can be lowered or if the program should be phased out.[126]

Regarding the PTR program under DPP, Staff found it to be the most cost-effective program the Company currently operates and that it is a good gateway program for customers to get familiar with how DR works, and recommended the Commission order the Company to cap new enrollees' participation in the PTR at one year, then shifting them to another DR program.[127]

Witness Szajner also testified about the Company's emergent project, Project PEDRO, and found the program to be broad and the Company's description of how it enhances the DR portfolio unspecific and speculative and that it was difficult to associate a cost with a benefit.[128] She concluded that because the Company was unable to show the impact or cost-effectiveness of the program, the associated $96,572 in O&M and $1,672,222 in capital expenditures should be disallowed.[129]

Witness Szajner rescinded Staff's prior position that expenses of $812,253.59 for the MIMO program should be disallowed.[130]

According to Ms. Szajner, Staff continued to find it appropriate to disallow $331,143 related to capital expenditures for the CIA projects because the Company did not prove the spending was prudent and necessary.[131] And Witness Szajner

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[126] 2 Tr 165.
[127] 2 Tr 164, 170.
[128] 2 Tr 166.
[129] 2 Tr 166-167, 171.
[130] 2 Tr 167.
[131] 2 Tr 167-168, 171.

recommended disallowing the additional $291,533 listed for residential and business CIA projects shown on the Company's general ledger since the Company said the CIA project was completed in 2021.[132]

Witness Szajner further testified that the Company's capital expenditures of $326,640 for switch installation should be disallowed since the Company did not show the actual correlating savings in O&M costs referenced in its application.[133]

Witness Szajner testified that Staff is in support of the Company's proposal to sunset or commercialize all pilots except for the smart outlet pilot.[134]

According to Witness Szajner, the Company did not comply with the Commission's directive from Case No. U-20766 to notify and meet with Staff when DR expenditures significantly vary from approved amounts and spending exceeds 10%.[135]

5. Gretchen M. Wagner

Gretchen M. Wagner, an Auditing Specialist in the Commission's Energy Operations Division, testified about the Staff's audit of the Company's 2022 DR reconciliation and sponsored Exhibits S-5.0, S-5.1, and S-5.2. She said Staff's audit revealed the following inconsistencies or areas of concerns:

- The Company's average balance calculations in its actual revenue requirement calculations did not account for adjustments to the 2021 ending balances.[136]
- The Company included adjustments to the calculation of the revenue requirement of capital for asset reclassifications and the gas portions of

[132] 2 Tr 168-169, 171.
[133] 2 Tr 169, 171.
[134] 2 Tr 1169.
[135] 2 Tr 169-171.
[136] 2 Tr 180.

common assets to plant, construction work in progress and the depreciation reserve in its 2021 ending balances but did not include the adjustments in its average balance calculations or include the calculations in its beginning balances in this case.[137]

- Consumers reported that the CIA programs closed in 2021 and there were no costs in 2022 but the Cap Ex general ledger included 2022 transactions.[138]

Staff also adjusted the calculations based on the recommended disallowances for the PEDRO Project and CIA program, depreciation, and taxes.[139] Staff calculated the Company's total revenue requirement for all DR costs in 2022 at $48,650,635 which was offset against the Company's approved total revenue requirement and Staff concluded the Company had an over recovery for 2022 of $672,908.[140]

C. Rebuttal Testimony

1. Consumers Witness Steven Q. McLean

Steven Q. McLean, Director of Customer Regulatory and Compliance in Consumers' Customer Strategy and Data Analytics department, responsible for the filing and planning of the Company's EWR Plans, Renewable Energy Voluntary Green Pricing programs, and DR programs, provided testimony in rebuttal to some of the Staff's recommendations and sponsored Exhibit A-17.[141]

In response to Staff witness Doherty's recommendation for Consumers to respond to the MISO resource adequacy construct changes, Mr. McLean acknowledged that the

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[137] 2 Tr 182-183, 186.
[138] 2 Tr 187-188.
[139] 2 Tr 180-181, 189-191; Exhibits S-5.0, S-5.1, S-5.2.
[140] 2 Tr 180-181, 191; Exhibits S-5.0, S-5.1, S-5.2.
[141] 2 Tr 97-98.

Company is aware that evaluation of the seasonality changes MISO is implementing is necessary and referenced his testimony in the Company's most recent electric rate case, Case No. U-21389, about some of the shifts within the DR program the Company is making to prepare for the MISO changes.[142] He opined that the discussion of LMR accreditation was better suited for the rate case rather than the DR reconciliation because of the impact the changes have on rates.[143] And he testified that the Company was willing to meet with Staff to discuss the Company's plans related to the changes.[144]

Witness McLean disagreed with Staff witnesses Matthews and Szajner's recommendation to disallow O&M and residential capital expenses for project PEDRO and to reduce the Company's Performance Incentive Mechanism.[145] He said that project PEDRO was beneficial because it is used to operate the ACPC program.[146]

To rebut witness Matthews' recommendation for the Company to file a thorough explanation for why it should receive a DR incentive, Mr. McLean referenced Case No. U-18369 where the Commission found a financial incentive for DR to be reasonable.[147]

Regarding witness Matthews' recommendation to develop a new DR incentive based on Staff's shared savings structure, witness McLean testified that the Company was willing to consider developing a new structure, but the Company requires flexibility to grow and manage its DR portfolio by testing and running new programs with and without pilots.[148] He opined that a program that has costs that exceed CONE could

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[142] 2 Tr 98.
[143] 2 Tr 98.
[144] 2 Tr 98-99.
[145] 2 Tr 99, 105.
[146] 2 Tr 106.
[147] 2 Tr 99.
[148] 2 Tr 100.

become cost-effective with maturity and should not be prematurely discontinued.[149] He further testified that the structure Staff proposes would lead to a stagnant DR portfolio.[150]

Witness McLean agreed with Staff witness Szajner's recommendation to cease enrollments for ACPC but he testified that the Company would like to continue to enroll new customers through the MIMO process through 2024 if a customer moves into a home where there is already a switch installed because it would be a low cost way to use the program's MW achievements and the investment already made in installing the switch.[151]

Witness McLean also agreed with Staff witness Szajner's recommendation to cease enrollments into the SMB program.[152]

Mr. McLean, however, disagreed with witness Szajner's recommendation to cap new enrollees in the PTR program at one year contending that it would harm the program or otherwise limit low-income customers' ability to participate in DR.[153] He said that enrollees in the PTR program may not be eligible for another program, may not want to enroll in another program, may have technological constraints that would prevent participation in another program, or may not benefit financially from another program.[154]

Witness McLean also disagreed with witness Szajner's recommendations to implement multiple disallowances due to concerns that to do so would be detrimental to the Company's DR portfolio and likely lead to underperformance.[155] He said that although the Company's DR programs are some of the most expensive in the country, the

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[149] 2 Tr 100.
[150] 2 Tr 100.
[151] 2 Tr 101.
[152] 2 Tr 101.
[153] 2 Tr 102-103.
[154] 2 Tr 102.
[155] 2 Tr 104-105.

Company is in line with other utilities when comparing the data in terms of dollars per MW.[156] Mr. McLean testified that the Company forecasts individual projects and associated spending in the IRP and rate cases based on the best estimates at the time of those filings but the Company needs to be able to reallocate money within the DR portfolio to achieve IRP goals without being concerned about the possibility of disallowance at the time of reconciliation.[157] He said that the Company will be forced to cease projects and pilots that require flexible spending and/or avoid up-front expenses that were not explicitly approved in a rate case but will ultimately save money if such disallowances are imposed.[158]

Witness McLean was also opposed to Staff's recommendation to disallow 2021 capital expenditures for the CIA Project and claimed that those expenditures were being used to target and enroll customers in DR programs to meet the IRP targets.[159] He also testified that Staff misinterpreted the Company's general ledger regarding the CIA project.[160] He said the program closed in 2022 and there was no capital spending in 2022, and the capital expenditures listed are adjustments to the 2021 expenditures.[161] He did note that the Company found an error in the ledger, where a $17,490 printer purchase was attributed to the CIA project, but was used for normal business operations.[162]

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[156] 2 Tr 104.
[157] 2 Tr 104.
[158] 2 Tr 105.
[159] 2 Tr 106-107.
[160] 2 Tr 107.
[161] 2 Tr 107-109.
[162] 2 Tr 108.

Additionally, witness McLean testified in opposition to the recommendation for a disallowance from the revenue requirement for vendor consolidation.[163] He said it was a one-time capital expenditure used in 2021 to reduce the multiple vendors that provided the switches to a single vendor that charged less and would result in future savings.[164]

Witness McLean also noted that the disallowances recommended by witness Szajner in this case were included in the Company's most recent rate cases, Case Nos. U-21224 and U-21389.[165] He testified that Staff did not recommend disallowances in those cases nor did Staff oppose the capital expenditures included in the settlement agreement in Case No. U-21224.[166] He opined that a disallowance in this case would require the Company to write-off the costs and prevent any future recovery despite the fact that the costs are already included in the 2023 DR revenue requirement and will potentially be approved by the Commission in Case No. U-21389.[167]

To rebut witness Szajner's testimony that the Company has not complied with the Commission's order in Case No. U-20766, witness McLean testified that the Company is willing to meet with Staff if total DR program spending exceeds 10% of what was approved but it has not.[168] He said that the Company is opposed to meeting with Staff if an individual program spend is over 10% or when an emergent project is implemented finding it unnecessary to do so.[169] He testified that the Company is willing to meet with Staff

[163] 2 Tr 109.
[164] 2 Tr 109.
[165] 2 Tr 110.
[166] 2 Tr 110.
[167] 2 Tr 110.
[168] 2 Tr 111.
[169] 2 Tr 111.

regularly to discuss the DR program, but did not believe it would be effective or prudent to discuss every emergent project.[170]

III.

DISCUSSION

A. Positions of the Parties

Consumers requests that the Commission approve the refund of the $113,136 over-recovered DR revenue requirement through a 12-month billing credit, approve the Company's financial incentive of $6,225,453 for 2022, approve recovery of the financial incentive through a 12-month surcharge, and approve the Company's proposed revisions to the financial incentive mechanism.[171]

Staff asks the Commission to approve a revised DR reconciliation based on adjustments to the Company's calculations for disallowances for O&M and capital expenditures for project PEDRO, capital expenditures for vendor consolidation switch installation, and capital expenditures for the CIA programs. Staff also recommends the Commission find that the Company's ACPC and SMB programs are not cost-effective. And Staff asks the Commission to clarify and affirm Staff's ability to do a reasonableness and prudency review of expenses in DR reconciliation cases; to order the Company to evaluate likely changes to the MISO resource adequacy construct and determine if any DR program adjustments would improve the capacity credit of its programs and whether programs should be adjusted to provide capacity for additional seasons; to order utilities to meet with Staff when an individual programs costs exceed 10% above approved DR

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[170] 2 Tr 111.
[171] Consumers' Initial Brief.

spending amounts or if the Company has an emergent project, and to order the Company to modify the financial incentive methodology and justify an incentive is necessary in its next reconciliation.

The Company opposes Staff's proposed disallowance of DR program costs and the recommendations to change the parameters for Staff and Company meetings and the financial incentive mechanism.

B. Legal Standards

DR is a required part of every IRP, and factors into the Commission's decision on approval of an IRP.[172] DR costs are addressed in a three-phase approach: (1) DR capital costs are approved in an IRP; (2) O&M costs are approved in a general rate case; and (3) deferred DR capital and O&M costs are addressed in reconciliation cases with any over- or under-recovery retained as a regulatory asset or liability until the next rate case, where it is included in rates along with any approved DR incentive.[173]

The Commission is required to authorize a shared savings mechanism to the extent that the electric utility has not otherwise capitalized the costs of the DR measures, subject to MCL 460.6a(13).[174] The Commission may approve an alternative to the shared savings mechanism if the mechanism does not result in a reasonable and cost-effective method to ensure that investments in DR programs are not disfavored when compared to utility supply-side investments.[175]

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172 MCL 460.6t(5)(f), (8)(a).
173 September 15, 2017 order, Case No. U-18369.
174 MCL 460.6x(1).
175 MCL 460.6a(13).

C. Uncontested Issues

Because the parties agree and the record supports the conclusions, this PFD recommends the Commission make the following findings:

- The Company shall cease new enrollments and switch installations under the ACPC program by January 1, 2025.[176] The Company may continue to enroll new customers through the MIMO process through 2025.[177]
- The Company shall cease enrollments into the SMB DR program.[178]
- The Company's methodology of calculating and collecting the DR program funding, over/under recovery, and financial incentive through a surcharge beginning with the first billing cycle after the final order in this case.[179] The recommendation for the total DR revenue requirement and financial incentive is discussed further below.

Further, Staff witness Szajner recommended capping participation for new customers enrolling in the PTR program at one year, and then transitioning them to another DR program.[180] In its initial brief, the Company argued Staff's recommendation would hinder the DPP Program and reiterated Company witness McLean's testimony that low-income enrollees in the PTR program may not be eligible for another program, may not want to enroll in another program, may have technological constraints that would prevent participation in another program, or may not benefit financially from another program.[181] The Company concluded that enforcing Staff's recommendation would mean

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[176] Consumers' Initial Brief, p 25; Staff's Initial Brief, p 6.
[177] Consumers' Initial Brief, p 25; Staff's Initial Brief, p 6.
[178] Staff's Initial Brief, pp 6-7; 2 Tr 102.
[179] Consumers' Initial Brief, p 23; 2 Tr 141.
[180] 2 Tr 164, 170.
[181] Consumers' Initial Brief, p 26.

low-income customers would be forced to leave the PTR after one year and no longer receive the benefits of participating in DR.[182] Staff did not present any rebuttal evidence or brief the matter. This PFD finds Consumers' argument persuasive, that Staff concedes the issue, and recommends the Commission reject witness Szajner's proposal.

D. <u>Contested Issues</u>

Based on the briefing, it appears that the remaining issues are limited to Staff's recommendation to change the parameters for Staff and Company meetings and the financial incentive mechanism, Staff's recommendation that the Company evaluate likely changes to the MISO resource adequacy construct and adjust the DR programs accordingly, and Staff's recommended disallowances for O&M and capital expenditures for project PEDRO, capital expenditures for vendor consolidation switch installation, and capital expenditures for the CIA programs. These contested issues are addressed below.

1. Meeting with Staff

In Case No. U-20766, the Commission ordered Consumers to notify the Staff whenever DR expenditures significantly vary from the amount approved, and found that the Company "shall meet with the Commission Staff if [DR] program spending exceeds 10% of approved expenditures."[183] As part of discussion on that issue, the parties agreed that Consumers could shift costs from less to more cost-effective programs, provided Staff was notified if costs are anticipated to increase by more than 10%.[184]

In this case, Staff recommends that Consumers be required to meet with Staff when any of its individual programs exceed 10% above approved DR spending amounts

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[182] Consumers' Initial Brief, p 26.
[183] September 24, 2021 order, Case No. U-20766, p 14.
[184] June 15, 2021 PFD, Case No. U-20766, p 27.

or if the Company has an emergent project.[185] Staff contends this will allow the Company to explain how the expenditures are cost-effective and impactful and provide Staff an opportunity to make recommendations for what would need to be included in a future reconciliation to justify the spending, and it may reduce the need for litigation.[186]

Consumers agrees with continuing to report to Staff when overall DR spending exceeds 10% of the approved amount, but it is opposed to meeting on individual programs or when an emergent project is pursued.[187] Consumers argues that complying with Staff's recommendation would not be an effective use of resources and would unlawfully interfere with the Company's management decisions.[188]

This PFD recommends the Commission reject Staff's proposal on this issue. Staff acknowledges that even if the meetings were required, they would have no impact on Consumers ability to make decisions it finds necessary to manage its DR portfolio.[189] This PFD concludes that requiring the Company to meet with Staff about individual and emergent projects as Staff proposes would disturb the well settled practice whereby the Company's decisions are reviewed during a reconciliation to determine if there was a reasonable justification for the action.

2. DR Resource Accreditation

Referencing recent and upcoming changes within the MISO resource adequacy construct, Staff recommends the Commission order the Company to keep abreast of MISO's changing construct, evaluate likely DR LMR accreditation changes, determine if

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[185] Staff's Reply Brief, p 14.
[186] Staff's Reply Brief, p 15.
[187] Consumers' Initial Brief, p 24.
[188] Consumers' Initial Brief, p 24.
[189] Staff's Reply Brief, p 15.

any program adjustments would, cost-effectively, improve the capacity credit of its programs, and include its analysis in its next DR filing.[190]

Consumers acknowledges the changes are pending and reports that it is exploring DR program and design enhancements in response to the changes. The Company is willing to meet with Staff regarding its plans, but argues consideration of the LMR accreditation changes should occur in the Company's rate cases since the changes will impact rates.[191]

This PFD agrees with Staff and recommends the Commission order the Company to include the results of the analysis it is already undertaking in the next reconciliation. This PFD also recommends the Commission order the Company to make recommendations for program adjustments based on new and future MISO changes that are known by the time of the next reconciliation. This PFD urges the Commission to reject the suggestion to address this issue in a rate case where timelines are significantly constrained.

3. Reconciliation of DR program costs and savings

Consumers argues that it prudently incurred capital expenditures of $10,642,750 and O&M expenses of $41,503,019 in 2022.[192] Noting that the capital spending was $1,325,750 higher and the O&M spending was $1,474,491 lower than the amounts approved in its IRP, Case No. U-20963, the Company requests that the Commission

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[190] Staff's Initial Brief, pp 2-3.
[191] Consumers' Initial Brief, pp 24-25; Consumers' Reply Brief, p 6.
[192] Consumers' Initial Brief, p 2.

approve its calculations and its plan to refund the $113,136 over-collection through a 12-month billing credit it calls a surcharge.[193]

Staff asks the Commission to clarify and affirm Staff's ability to do a reasonableness and prudency review of a utility's expenses in DR reconciliation cases.[194] Staff also recommends disallowances for O&M and capital expenditures for project PEDRO, capital expenditures for vendor consolidation switch installation, and capital expenditures for the CIA programs finding that the Company is vague, speculative or otherwise deficient in proving that the programs are beneficial.[195]

Consumers contends that the Commission has already considered whether the DR spending was reasonable and prudent when it approved the projected spending as part of the rate and IRP cases and to allow any disallowances in this case would limit its flexibility to reallocate spending within the DR program in the future.[196] Furthermore, Consumers argues that the expenditures in the projects that Staff is recommending for disallowance were reasonable and prudent.[197]

The Commission has previously held that reconciliations are intended to function as a review of DR programs and that such programs may have deviated significantly from the initial plans proposed in an IRP or rate case, but "[a] prudence review shall be completed prior to including any deferrals in rates."[198] Therefore, this PFD agrees that Staff's review of a utility's DR reconciliation application and supporting evidence for

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[193] Consumers' Initial Brief, pp 2-3, 8-9.
[194] Staff's Initial Brief, p 4.
[195] Staff's Initial Brief, pp 7-11.
[196] Consumers' Initial Brief, pp 17-18; Consumers' Reply Brief, pp 2-3.
[197] Consumers' Reply Brief, p 4
[198] September 15, 2017 order, Case No. U-18369, p 9.

reasonableness and prudence is proper and asks the Commission to affirm this conclusion.

This PFD finds that a disallowance of $331,143 from the CIA program was part of the settlement agreement the Commission approved in Case No. U-21233 and should not have been included here.[199] Additionally, given that Company witness McLean admitted as part of his rebuttal testimony that a $17,490 purchase of a printer used for "normal business operations" was improperly included as a DR cost, it should be disallowed here.[200] This PFD accepts the Company's explanation that the remaining capital expenditures for the CIA program were adjustments to the 2021 capital expenditures which the Commission previously found were reasonable and that there were no expenditures in 2022.[201]

This PFD agrees with Staff that the Company failed to prove that Project PEDRO was an emergent project that incurred costs that could not have been planned. Company witness McLean's testimony on rebuttal that Project PEDRO was necessary to operate the ACPC program illustrates this point given that the ACPC program that was vetted during the rate case and IRP and therefore any costs to support it should be planned or at a minimum attributed to the program.[202] This PFD also notes that given the short time frame available for reviewing costs in rate cases, this PFD does not assume that Staff found the costs were reasonably and prudently incurred just because they were not contested.

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[199] February 23, 2023 order, Case No. U-21233.
[200] 2 Tr 108.
[201] Consumers' Initial Brief, pp 19-20.
[202] 2 Tr 106.

Further, this PFD agrees with Staff's assessment that the Company failed to show the benefits of the PEDRO program. Notably, Company witness McLean pointed to the purported successes of the ACPC program in his testimony to rebut Staff's contention that the benefits of Project PEDRO are undefinable, but the Company and Staff have agreed that the ACPC program is not useful.[203] Indeed, the parties concurred with the plan for the ACPC program not to accept new enrollments and end completely by 2025.[204] The Company has not shown that additional investment via the PEDRO program was emergent nor reasonable.

And this PFD is not persuaded that customers should cover costs for unsubstantiated spending merely because the total DR spending was less than forecasted.

This PFD finds the capital expenditures related to the vendor consolidation were reasonable and resulted in cost savings to the customers. This PFD recommends the Commission require the Company to itemize the O&M savings that resulted from the consolidation by documenting the O&M expenses year over year since 2021 in the next DR reconciliation.

4. Financial Incentive Mechanism

Noting that the Company's DR portfolio is one of the most expensive DR programs in the country and the Company currently earns incentives for programs with costs that are much higher than CONE, Staff argues that the Commission should require the Company to justify why a financial incentive is necessary in its next reconciliation.[205] Staff

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[203] 2 Tr 105-106; Consumers' Initial Brief, p 25; Staff's Initial Brief, p 6.
[204] Consumers' Initial Brief, p 25; Staff's Initial Brief, p 6.
[205] Staff's Initial Brief, p 12.

recommends incentivizing cost-effective programs by using an incentive mechanism in which the Company receives 50% of the savings calculated from the levelized cost of each program and no incentive for programs that are above 75% of CONE.[206]

The Company is opposed to measuring each DR program individually in comparison to CONE, arguing that to do so would make it difficult to test or run new programs and ultimately hinder its ability to remain flexible and grow.[207] The Company argues that it should be allowed to develop a proposal for a shared savings incentive in its next reconciliation instead of the Commission adopting Staff's recommendation.[208]

This PFD notes that the Commission previously found that a financial incentive mechanism is reasonable and finds no basis on this record to reverse that finding. Still, the Commission invited analysis of the efficacy of the performance metrics of the financial incentive mechanism in Case No. U-20164, when the Commission noted that DR financial incentive mechanisms may need to undergo some refinement and would be subject to revision in future DR reconciliations.[209] And given that Staff offers to work with the Company to develop a new incentive structure that reiterates cost-effectiveness but also allows the Company flexibility to grow and manage its DR portfolio,[210] this PFD recommends the Commission order that such a meeting occur and a revised structure be developed prior to the next reconciliation.

For the instant case, based on testimony from Company witnesses McGraw, Lykhytska and Smith and Staff witnesses Isakson and Matthews, there is sufficient

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[206] Staff's Initial Brief, p 12.
[207] Consumers' Initial Brief, pp 21-22.
[208] Consumers' Initial Brief, p 22.
[209] July 18, 2019 order, Case No. U-20164, p 12.
[210] Staff's Initial Brief, p 13.

evidence that the Company met the current criteria to earn a financial incentive and used the proper methodology to calculate it.[211] This PFD recommends the financial incentive be adjusted based on the above recommended changes to O&M and capital expenditures.

IV.

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 the total DR revenue requirement and financial incentive.

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

Lesley C. Fairrow

Digitally signed by: Lesley C. Fairrow
DN: CN = Lesley C. Fairrow email = fairrowl1@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2024.02.01 13:37:12 -05'00'

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Lesley Carr Fairrow
Administrative Law Judge

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[211] 2 Tr 25, 39, 91-92, 118-119, 141, 151; Consumers' Initial Brief, p 23.