

STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
Consumers Energy Company for)
Approval of a gas cost recovery)
plan and authorization of gas)
cost recovery factors for the)
12 months ending March 31, 2024)
_____)

Case No. U-21269

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 March 21, 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 April 11, 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 April 25, 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

Christopher S.

Saunders

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March 21, 2024
Lansing, Michigan

Christopher S. Saunders
Administrative Law Judge

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PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On December 22, 2022, Consumers Energy Company (Consumers), pursuant to 1939 PA 3, MCL 460.6h *et seq.*, filed an application (Application) with the Commission requesting approval of its proposed Gas Cost Recovery (GCR) Plan and monthly GCR factor for the 12-month period from April 1, 2023, through March 31, 2024 (GCR Plan Year), and evaluation of its five-year Forecast. The application included the testimony and exhibits of four witnesses.

On January 13, 2023, a Notice of Hearing was issued by the Commission's Executive Secretary, which set a prehearing for February 14, 2023. On January 19, 2023, Attorney General Dana Nessel filed a Notice of Intervention. On January 23, 2023, the Retail Energy Supply Association filed a Petition for Intervention. On February 7, 2023, the Residential Customer Group filed a Petition for Intervention.

On February 14, 2023, Administrative Law Judge (ALJ) Sharon L. Feldman convened a prehearing in this matter. During the prehearing, the Petitions for Intervention were granted, and the parties mutually agreed upon a schedule which, among other things, set dates for cross examination of November 29 and 30, 2023.

On September 8, 2023, a Reassignment Memorandum was issued by ALJ Feldman, assigning the matter to ALJ Christopher J. Woolf. A hearing was on September 29, 2023; ALJ Feldman presided over the hearing in the absence of ALJ Woolf. At the hearing, the prefilled testimony for all witnesses was bound into the record, and exhibits were admitted without the need for witnesses to appear. On December 6, 2023, ALJ Feldman issued a Reassignment Memorandum, assigning the matter to ALJ Christopher S. Saunders.

The record in this matter consists of 229 pages of transcript and 43 exhibits admitted into the record. On January 10, 2024, Consumers, the Attorney General, and Staff filed briefs. On February 8, 2024, Consumers and the Attorney General filed reply briefs.

II.

OVERVIEW OF THE RECORD

A. Consumers Energy

Heather L. Rayl, Senior Rate Analyst III, testified regarding the GCR Ceiling Factors requested by Consumers for the plan year.¹ Ms. Rayl testified that Consumers is requesting approval of GCR factors consisting of a Base GCR Factor of not less than

¹ Heather L. Rayl's direct testimony is transcribed at 2 Tr. 22-33. Ms. Rayl sponsored Exhibits A1, A-2, and A-3.

\$5.2773 per Mcf plus additional amounts contingent upon future events calculated using the GCR Factor Ceiling Price Adjustment (Contingency) Mechanism.² She testified that the Base GCR Ceiling Factor was calculated as shown in Exhibit A-1. She further testified regarding the determination of the of the Contingent GCR Ceiling Factor and the monthly billed GCR Factor.

Jonathon J. Guscinski, Gas System and Operations Planning Engineer, testified regarding the modeling process used by the company to develop colder-than-normal (CTN) weather purchase plans³. He provided testimony regarding the modeling process employed by Consumers in developing its GCR Plan. Mr. Guscinski additionally testified regarding key model assumptions used in developing the GCR Plan. Furthermore, Mr. Guscinski provided testimony on the company's storage utilization results, its summer GCR storage targets and summer GCR plan, its monthly purchase decision process for the GCR plan year, and its contingency options for design conditions.

Eric J. Keaton, Manager of Sales & Revenue Forecasting in the Financial Planning & Analysis Department, provided testimony regarding Consumers' gas sales forecast for GCR Plan Year of April 2023 through March 2024. He additionally presented Consumers' five-year gas delivery and customer count forecasts.⁴

Michael H. Ross, Director of Gas Supply within Gas Management Services, testified regarding Consumers' Gas Supply Plan for the 2023-2024 GCR Plan year.⁵ He

² 2 Tr. 26; Exhibit A-3.

³ Jonathan J. Guscinski's direct testimony is transcribed at 2 Tr. 34-109. Mr. Guscinski sponsored Exhibits A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, and A-12.

⁴ Eric J. Keaton's direct testimony is transcribed at 2 Tr. 117-126. Mr. Keaton sponsored Exhibits A-13, A-14, A-15, A-16, A-17, A-18, A-19, A-20, and A-21.

⁵ Michael H. Ross' testimony is transcribed at 2 Tr. 127-177. Mr. Ross sponsored Exhibits A-22, A-23, A-24, A-25, A-26, A-27, A-28, A-29, A-30, A-31, A-32, A-33, A-34, and A-35.

provided testimony pertaining to the current market conditions for natural gas and Consumers' gas purchasing strategy based on those conditions. Mr. Ross additionally testified regarding Consumers' gas procurement policy and guidelines as related to Certified Natural Gas (CNG), and how CNG would be incorporated into the GCR procurement strategy.⁶

Mr. Ross further testified regarding Consumers' natural gas supply requirements, the natural gas supply environment, and Consumers' natural gas supply portfolio.

B. Attorney General

Sebastian Coppola, an independent energy business consultant, testified on behalf of the Attorney General⁷. Mr. Coppola provided testimony regarding Consumers' potential acquisition of Certified Natural Gas (CNG). Mr. Coppola additionally testified regarding the company's additional storage capacity of 4 Bcf which had previously been contractually reserved for the Midland Cogeneration Venture Company (MCV). Mr. Coppola also provided testimony pertaining to Consumers' proposed GCR Factor.

C. Staff

Nyrhe U. Royal, Public Utilities Engineer Specialist, testified on behalf of the Michigan Public Service Commission Staff⁸. Ms. Royal provided testimony regarding Consumers' proposed GCR Factor, contingency mechanism, and the relation of both to prior Commission orders. She testified regarding the company's overall GCR Plan and

⁶ 2 Tr. 136-138.

⁷ Sebastian Coppola's direct testimony is transcribed at 2 Tr. 190-207. Mr. Coppola sponsored Exhibits AG-1, AG-2, AG-3, AG-4, and AG-5. Exhibits AG-6, AG-7, and AG-8 were admitted in lieu of cross examination.

⁸ Nyrhe U. Royal's direct testimony is transcribed at 2 Tr. 209-228.

Staff's response thereto, as well as Staff's position pertaining to the possibility of Consumers incorporating CNG into its GCR Plan.

D. Rebuttal

Consumers was the only party to file rebuttal testimony. Heather Rayl provided rebuttal testimony in response to Sebastian Coppola's testimony regarding Consumers' proposed GCR Factor.⁹ Jonathon J. Guscinski provided rebuttal testimony in response to Sebastian Coppola's testimony pertaining to Consumers' gas storage capacity.¹⁰ Michael H. Ross provided rebuttal testimony in response to Sebastian Coppola's and Ms. Royal's testimony regarding Certified Natural Gas, and he provided rebuttal testimony in response to Mr. Coppola's proposed GCR Factor.¹¹

III.

DISCUSSION

Pursuant to 1982 PA 304 (Act 304), the Commission has the authority to "incorporate a gas cost recovery clause in the rates or rate schedule of a gas utility."¹² To implement its GCR clause, a gas utility must annually file a gas cost recovery plan for a 12-month period that includes a proposed gas cost recovery factor and a five-year forecast of its customers' gas requirements and the company's plans to meet those requirements.¹³

After reviewing the projections and proposals for the plan year under several factors enumerated in MCL 460.6h(6), including the volume, cost, and reliability of

⁹ Heather L. Rayl's rebuttal testimony is transcribed at 2 Tr. 33-37.

¹⁰ Jonathan J. Guscinski's rebuttal testimony is transcribed at 2 Tr. 110-116.

¹¹ Michael H. Ross' rebuttal testimony is transcribed at 2 Tr. 178-187.

¹² MCL 460.6h(2).

¹³ MCL 460.6h(3)-(4).

supplies, and whether the utility has taken appropriate legal and regulatory steps to minimize the cost of gas, the Commission determines whether the decisions underlying the plan are reasonable and prudent. The Commission then issues a final order that may “approve, disapprove, or amend the gas recovery plan accordingly.”¹⁴ In addition, the 5-year forecast is evaluated for a determination of whether future recovery of certain costs, based on present evidence, is unlikely (Section 7 warning).¹⁵

The Attorney General contested three specific issues within Consumer’s proposed GCR Plan: (1) the potential acquisition of Certified Natural Gas; (2) the use of 4 Bcf of storage previously reserved for MCV; and (3) the maximum base GCR Factor proposed by the company. The Attorney General did not oppose any other portions of the plan, or the forecasts presented by Consumers.

Staff generally supports the plan and forecasts filed by Consumers, but also takes issue with the potential acquisition of Certified Natural Gas. Apart from the issue regarding CNG, Staff supports the GCR Plan proposed by Consumers and recommends the Commission approve such. No other intervenors raised additional issues in this case. This PFD will summarize the uncontested portions of the GCR Plan and address the three contested issues individually below.

A. Uncontested issues

1. Sales Forecast

Consumers’ witness Eric Keaton testified regarding the company’s sales forecast. He testified that the company continues to use regression analysis for gas

¹⁴ MCL 460.6h(6).

¹⁵ MCL 460.6h(7).

sales forecasting. Mr. Keaton's testimony pertaining to the company's sales forecast is found at 2 Tr. 120-124. Mr. Keaton also sponsored Exhibits A-13 through A-17, pertaining to the sales forecast.

2. Gas Purchasing Strategy

Witness Michael Ross provided testimony regarding the company's gas purchasing strategy. He testified that Consumers has proposed the same gas purchasing strategy previously approved by the Commission, most recently in U-21062. Mr. Ross discusses an overview of Consumers' gas purchasing strategy and implementation of gas purchasing strategy guidelines in his testimony at 2 Tr 133-143. The company's gas purchasing strategy and quartile fixed price methodology are also shown in Exhibit A-22.

3. Interstate Pipeline Capacity

Mr. Ross also provided testimony pertaining to Consumers' interstate pipeline capacity at 2 Tr. 250 through 2 Tr. 268. He addresses the company's natural gas supply portfolio and its existing and planned firm transportation contracts. Mr. Ross referred to Exhibits A-25, A-27 through A-31, and A-33 in his testimony pertaining to interstate pipeline capacity.

4. Design Peak Day Load Forecast and Methodology

Consumers witness Jonathon Guscinski provided an overview of the company's peak day design load forecasting methodology. He further explained the steps used by the company in its forecasting methodology. Mr. Guscinski's testimony on this subject matter is transcribed at 2 Tr 58-69 and references Exhibits A-6, A-7, and A-8.

5. Planning for Winter and Peak Day Requirements

Witness Guscinski also discussed the company's provisions to meet colder-than-normal (CTN) weather, warmer-than-normal (WTN) weather, and peak day occurrences. He discusses the company's modeling process used for development of the GCR Plan, key assumptions used in that modeling process, results of storage utilization, the summer GCR Plan, the process used to make monthly purchasing decisions during the plan year, and contingency options based on design conditions. Mr. Guscinski discusses these issues in his direct testimony at 2 Tr. 41-95. He also references Exhibits A-4 through A-12.

6. Resiliency Considerations and Key Facilities

Company witness Guscinski provided testimony pertaining to Consumers' contingency options for resilience at key facilities as per the Commission's directives in the Statewide Energy Assessment in Case No. U-20464. Mr. Guscinski's testimony regarding this matter is found at 2 Tr. 94-95.

7. Regulatory Actions to Minimize Cost of Gas

Consumers' witness Ross provided testimony regarding the legal and regulatory actions taken by the company to minimize the cost of gas. Mr. Ross describes those actions at 2 Tr. 174-177 and references Exhibit A-35.

8. Contingency Adjustment Mechanism

Heather Rayl provided testimony regarding Consumers' Contingency Adjustment Mechanism. She describes the adjustment mechanism and Contingent GCR Ceiling Factor in her testimony transcribed at 2 Tr. 28-29. The Contingency Adjustment Mechanism is also described in Exhibit A-3.

9. Five-Year Forecast

Consumers Energy submitted a five-year forecast included in its initial filing. Witness Ross described Consumers' five-year forecast in his direct testimony, transcribed at 2 Tr. 128-177. Exhibit A-32 shows the average NYMEX pricing for the GCR Plan year and forecast period of April 2023 through March 2028.

B. Contested Issues

Three issues in Consumers' GCR Plan were contested by the Attorney General. Staff also contested one of the issues raised by the Attorney General. No other issues pertaining to the GCR Plan were contested, and no other parties took positions regarding the proposed GCR Plan. Each of the contested issues will be discussed in detail below.

1. Consumers' Planned Inventory Target

In his direct testimony, Mr. Guscinski stated that the company's October 31, 2023, GCR/GCC planned inventory target is 179.6 Bcf. He stated that the target of 179.6 Bcf is higher than the target of 175.6 Bcf contained in the 2022-2023 GCR Plan filing (Case No. U-21062) due to a change in the storage contract between MCV and Consumers. The change in the contract resulted in MCV reducing its maximum storage volume from 8 Bcf to 4 Bcf and was effective as of June 2023.¹⁶ Mr. Guscinski stated that Consumers plans to use the additional 4 Bcf of storage capacity for GCR customers, asserting that this approach is "similar to what was done in prior GCR Plan

¹⁶ 2 Tr. 86-87.
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filings when third-party customers have reduced or eliminated their contracted storage capacity with the Company.”¹⁷

The Attorney General argues the company has excess storage capacity of 4 Bcf, previously reserved and utilized by MCV, which is being released because of a change in the storage contract between Consumers and MCV. In his direct testimony, Mr. Coppola states that the company’s planned inventory target for the 2023-2024 plan year is 179.6 Bcf; 4 Bcf higher than the prior GCR year.¹⁸ He notes that Consumers intends to use the newly available 4 Bcf of storage capacity for GCR customers, but asserts that the company “does not explain or provide justification why shifting 4 Bcf of storage capacity previously sold to MCV to GCR customers is in the best interest of those customers.”¹⁹

Mr. Coppola contends that Consumers has not articulated any attempts to market this storage capacity either before or after the release of the storage capacity due to the MCV contract. He asserts that Consumers has not presented any evaluation to show that GCR customers need the additional storage capacity “given that the Company was able to meet GCR gas supply requirements without it, or that the financial benefits from the use of the additional 4 Bcf of capacity would be above what the Company could have sold the capacity for.”²⁰ Mr. Coppola additionally pointed out that in response to discovery, Consumers stated that the 4 Bcf of capacity in question

¹⁷ 2 Tr. 87.

¹⁸ 2 Tr. 202.

¹⁹ *Id.*

²⁰ 2 Tr. 203.

would be assigned to GCR customers for at least 4 years, potentially longer absent changes in third-party storage contracts and volumes.²¹

Mr. Coppola asserts that Consumers should either justify the use of the storage capacity in question for GCR customers or should aggressively market the available capacity to third-party contractors. He contends the company has not taken an approach to utilizing the available storage capacity that minimizes costs to customers, and therefore recommends that the Commission “remind the Company of its obligation to minimize rates charged to customers through the prudent use of storage capacity and if it fails to do so that it could face potential cost disallowances in the reconciliation phase of this GCR plan case and other future ratemaking proceedings.”²²

In rebuttal to Mr. Coppola, Mr. Guscinski disputes the contention that Consumers has excess storage capacity because of the reduction in MCV storage volume. He stated that Consumers’ storage fields, and the ability to utilize them has not changed from previous GCR Plan filings. Mr. Guscinski testified that when examining Exhibits A-11 and A-12:

The values for “Maximum Working Capacity”, “Estimated Max. Forecasted Cyclic Capability”, and “Total” cyclic storage volume for all customers in Exhibit A-11 (JJG-8) are the same as the equivalent exhibit information from prior GCR Plan filings with the only potential exceptions being in GCR Plans where Buy/Sell volumes were under contract at the time of filing and included in the Company’s forecast. The values for “cyclic” storage withdrawals forecasted (column I) in Exhibit A-12 (JJG-9) for the “Total Inventory” rows (rows 4, 12, 20, 28, 36, & 42) are also very similar to equivalent exhibits from prior GCR Plan filings with the same potential exception for differences in Buy/Sell volumes under contract at the time of filing.²³

²¹ Exhibit AG-2

²² 2 Tr. 203-204.

²³ 2 Tr. 111-112.

Consumers therefore asserts that the 4 Bcf of additional storage in question is better described as a shift in regularly utilized pre-existing storage to Consumers' GCR customers and not as excess storage. Mr. Guscinski further testified that Consumers' sales expectations for winter weather GCR/GCC customers would "need to decline by up to 50 Bcf or more (i.e., up to 30% or more) before its existing cyclic storage capacity could be classified as an "excess" compared to customer needs."²⁴

Consumers disputes Mr. Coppola's contention that the shift in storage in question is financially burdensome to the company's GCR customers. Mr. Guscinski testified it is unclear how Mr. Coppola determined that the change in storage would cause a financial burden to GCR customers and states that such a characterization "is fully contradictory to how the Company has historically demonstrated the value its storage capacity and assets provide for managing GCR customers supply costs and ensuring the reliability of GCR customer supply."²⁵ He asserts that the company's storage capacity allows Consumers to buy the "majority of GCR customers gas supply during the generally cheaper summer months and reduces the GCR supply purchases required in the generally more expensive and volatile winter months."²⁶

Mr. Guscinski testified that Consumers' strategy of purchasing the majority of GCR customers' gas supply during the summer months increases the resilience, reliability, and flexibility of the supply Consumers can provide to GCR customers. He points to the direct testimony of witness Michael Ross to illustrate how those results are achieved through the summer months purchasing strategy. Mr. Ross testified that

²⁴ 2 Tr. 113.

²⁵ *Id.*

²⁶ 2 Tr. 113-114.

Consumers purchases approximately 75% of the normal weather gas requirements for its customers in the summer and injects that gas into underground storage for withdrawal during the winter. He testified that approximately 70% of GCR customers' planed normal winter residential heating needs are met from this storage capacity. He further stated that, "On the coldest days, up to 66% of total system demands are planned to be met from storage, with the ability to meet 70 – 80% of customer demands if necessary."²⁷ Mr. Ross testified that this strategy reduces the need for winter market purchases which carry price and supply reliability risks.

Mr. Guscinski contends that direct financial value or savings are provided to GCR customers by utilizing available storage capacity for their benefit. He testified that the planning and modeling methods, inputs, and assumptions discussed in Sections I, II, and III of his direct testimony "demonstrates and explains how the storage utilization modeling performed in the development of the Company's GCR Plan is fully maximizing and optimizing the Company's use of cyclic storage capability for the benefit of GCR customer's supply costs".²⁸ He points to Mr. Ross' direct testimony at 2 Tr. 134 through 2 Tr. 136 and Exhibits A-30 and A-32 as illustrating the differences between forecasted gas prices during the winter and summer months and asserts that:

Securing as much GCR customer supply as possible in storage at favorably priced summer gas prices is the most valuable mitigation the Company can provide for GCR customers and why the Company always seeks to maximize storage utilization and minimize winter purchases per the modeling and analysis in my direct testimony.²⁹

²⁷ 2 Tr. 159.

²⁸ 2 Tr. 114.

²⁹ 2 Tr. 115.

Mr. Guscinski further testified that, in the company's view, using the storage capacity in question for GCR customer storage "is far more reasonable and prudent in the eyes of the Company than spending additional Company resources and overhead trying to market and sell this capability in the hopes of achieving revenue that can offset GCR supply costs".³⁰

In its brief, Consumers argues its storage fields and capability to use them essentially has not changed from prior GCR Plan filings. It states the only change made was the shifting of pre-existing and regularly utilized storage capacity from third-party customers (MCV) to Consumers' GCR customers. Consumers asserts that this shift results in a benefit to the GCR customers stating, "The Company has historically demonstrated the value its storage capacity and assets provide for managing GCR customers supply costs and ensuring the reliability of GCR customer supply."³¹ The company avers that the shift in storage capacity increases the reliability, resilience, and flexibility of the gas supply by allowing it to buy the majority of the GCR customer supply in the generally cheaper summer months and reducing the need to make gas purchases during the generally more volatile and expensive winter months.

Consumers states that it "prioritizes utilizing available storage capacity for GCR customers, as it has historically done in prior GCR Plan cases when third-party storage requirements were reduced or eliminated"³² which is expected to provide direct financial value or savings to GCR customers. The company also argues that its treatment of the storage capacity in question is consistent with its supply strategy by "maximizing winter

³⁰ *Id.*

³¹ Consumers brief, page 27.

³² *Id.*

withdrawal capabilities, minimizing the purchase of winter supplies, and concurrently optimizing the full value of the Company's system investments for the GCR customer benefit."³³ Consumers further argues that it has "no active MPSC approved stand-alone Contract Storage Service Rate to facilitate the marketing of third-party storage."³⁴ It asserts it does not have information on the resources and overhead necessary to market and sell the storage in question such that it could offset GCR supply costs. It additionally states that "any long-term market price for storage would be shaped by the same explicit summer/winter price differentials and the implicit reliability and resilience attribute value built into the Company's incremental storage utilization plan. These benefits are already captured directly for GCR customers."³⁵

In her brief, the Attorney General argues Consumers has not shown that shifting the 4 Bcf of storage capacity to GCR customers is in the best interests of said customers. She asserts that Consumers' past practice of shifting storage capacity to GCR customers in this manner is not justification for doing so now, nor has the company presented an evaluation showing that GCR customers need the additional capacity. The Attorney General notes the company's ability to meet GCR gas supply requirements without the additional storage capacity at issue and therefore questions GCR customers' need for the additional storage, or the alleged financial benefits resulting from the shift.

The Attorney General further argues that as there is no evidence showing that GCR customers need the additional storage capacity in question, the storage capacity

³³ *Id.*

³⁴ *Id.*

³⁵ Consumers brief, page 28.

is excess. She states, “The effect is that storage capacity once available to and paid for by MCV is no longer being used by it and instead the cost is now being assigned to GCR customers in this GCR plan case. This is a shift of the obligation to pay for storage to GCR customers.”³⁶ The Attorney General asserts that Consumers’ indication that the storage capacity in question will be assigned to GCR customers for at least four years shows that Consumers is not marketing the 4 Bcf of storage capacity in question, and that “it is simply charging the excess capacity to GCR customers until another paying option comes along, which demonstrates it is not needed for GCR customers and therefore increases costs unnecessarily.”³⁷

In response to the company’s contention that “the normal winter GCR/GCC customer sales expectation would need to decline by up to 50 Bcf before cyclic storage capacity would be classified as excess”³⁸, the Attorney General argues Consumers has not clearly explained why this is the case and suggests this contention should be rejected. The Attorney General argues Consumers should “better utilize available storage capacity to minimize costs for customers either by aggressively marketing available capacity or by making changes to its gas purchasing practices that would lower the GCR cost of gas.”³⁹ She therefore recommends the Commission warn Consumers that it could face potential disallowances in the reconciliation of this matter “if it fails to minimize rates charged to customers through the prudent use of storage capacity.”⁴⁰

³⁶ Attorney General brief, page 14.

³⁷ Attorney General brief, page 15.

³⁸ Attorney General brief, page 14.

³⁹ Attorney General brief, page 15.

⁴⁰ *Id.*

In its reply brief, Consumers reiterates its arguments that the planned inventory target for the GCR Plan is reasonable. The company asserts that it “has historically demonstrated the value its storage capacity and assets provide for managing GCR customers’ supply costs and ensuring the reliability of GCR customer supply.”⁴¹

In her reply brief, the Attorney General again argues Consumers has not shown that GCR customers need the additional supply in question. She states, “Even if gas is cheaper in the summer, unused and unnecessary capacity still results in excess cost that is unreasonable.”⁴² The Attorney General further argues that the 4 Bcf of storage capacity at issue may not permanently be available for GCR customers and that future changes in third-party storage contracts or volumes may change how the capacity is used. Therefore, she avers that the storage capacity may only be temporarily beneficial for GCR customers and is therefore not truly beneficial or necessary for GCR customers. She recommends the Commission require Consumers to market the 4 Bcf of storage capacity in question.

This PFD does not agree that Consumers should be required to market the 4 Bcf of storage at issue based on the evidence contained in the record. Although Mr. Coppola asserts the storage capacity in question should be marketed to another party, there was no evidence presented to show what marketing the capacity would entail, or what kind of return could be expected from marketing such. Additionally, there was no evidence presented to establish that there is a current demand for such capacity.

⁴¹ Consumers reply brief, page 2.

⁴² Attorney General reply brief, page 4.

Consumers also points out that there is currently no MPSC approved stand-alone Contract Storage Service Rate that would allow the company to market the storage to a third party.⁴³ Absent additional information and analysis, this PFD cannot recommend that Consumers be required to market the storage capacity in question. The record does not contain evidence showing an analysis of what the costs of marketing the storage capacity in question would be versus what kind of return the company could expect to see from a third-party agreement in the current market conditions. This PFD does recommend that an analysis be provided at the reconciliation proceeding in this matter to show a cost/benefit analysis of marketing the storage capacity in question, and if marketing and ultimately leasing said capacity to a third party would be more beneficial to customers than using the capacity for GCR customer storage.

2. Certified Natural Gas

In its current GCR plan, Consumers indicated that it may incorporate CNG in its gas supply. In his direct testimony, Mr. Ross stated that the company monitored the growth of CNG production in 2021 and 2022 and noted an increase from miniscule volumes at the beginning of 2022 to at least 26 Bcf/d by mid-November 2022, which represented roughly 27% of total U.S. dry production.⁴⁴ Mr. Ross testified:

Third-party gas certification involves independent review of producer processes toward meeting certain environmental, social, and governance metrics with a general focus on methane emissions. The Appalachian and Haynesville production basins account for over 90% of all U.S. Certified natural gas. Given the proximity of Consumers system to Appalachian supply and the basin's relevance within our region, the rapid growth in certified natural gas production could impact our regional supply dynamic.⁴⁵

⁴³ Consumers brief, page 27.

⁴⁴ 2 Tr 136.

⁴⁵ 2 Tr 136-137.

He noted that as CNG becomes a larger part of the Appalachian output, volumes of available non-CNG may decrease. As such, the company plans to incorporate CNG purchases into its procurement strategy “in the event market stratification results in insufficient non-certified gas supply necessary to meet supply requirements or certified natural gas supply alternatives become economic to other non-certified supply alternatives.”⁴⁶ He goes on to state that the CNG inclusive strategy would only be utilized in the event that non-CNG supplies become insufficient or uneconomic such that CNG purchases are supported by resiliency or economic considerations.⁴⁷

Mr. Ross testified the company would incorporate CNG into its purchasing strategy by “first utilizing existing winter Trunkline firm transportation capacity for resiliency and price diversification purposes” in accordance with prior Commission approved GCR plans.⁴⁸ In the event Consumers is unable to fill the winter Trunkline firm transportation capacity with non-CNG due to the markets in Appalachia or Haynesville, Consumers will “will request offers for certified natural gas supply prior to stranding the capacity and seeking replacement supply elsewhere.”⁴⁹ Mr. Ross further stated that if a Trunkline supplier only has CNG to offer, Consumers will purchase the CNG “if the offer is economic to non-certified gas alternative offers received that day.”⁵⁰

Mr. Ross additionally testified that for gas supply purchase requirements not directly related to resiliency considerations, Consumers plans to economically evaluate

⁴⁶ 2 Tr. 137.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ 2 Tr. 138.

⁵⁰ *Id.*

CNG offers compared to non-CNG offers if the non-CNG supply is insufficient to meet supply requirements at the location. He stated:

For example, if indicative pricing supports filling the Company's existing firm Panhandle transportation (sic) capacity but there are insufficient non-certified natural gas supply offers to do so, the Company will request certified natural gas supply offers before stranding the capacity and seeking replacement supply elsewhere. To the extent certified gas offers are received at the Panhandle receipt location, those offers will be evaluated against other supply alternatives (likely city gate non-certified gas supply offers) on a variable incremental delivered cost basis with the most economic alternative chosen.⁵¹

Mr. Coppola testified that the company's strategy regarding CNG as outlined in company witness Ross' testimony is "confusing, incomplete, and unnecessarily convoluted."⁵² He testified that the lack of clarity in the strategy raises concerns over a potential increase in the cost of gas from implementing the CNG strategy. Mr. Coppola noted that Consumers does not indicate if a premium would be paid for the CNG. He stated that in the GCR plan case for 2022-2023, the company proposed a strategy of purchasing CNG at a premium price over non-CNG gas, but that proposal was withdrawn by the company. Mr. Coppola asserted that he was unable to determine if Consumers' CNG strategy involves paying a premium for CNG over non-CNG based on the company's responses to discovery requests.⁵³

Mr. Coppola testified that if Consumers were to pay a premium for CNG over the cost of non-CNG, "payment of CNG premiums would not result in the Company minimizing the cost of purchased gas when gas supply is available that has a lower

⁵¹ *Id.*

⁵² 2 Tr. 198.

⁵³ 2 Tr. 199-200; Exhibit AG-1.

cost.”⁵⁴ He recommends that in its order in this matter, the Commission tell Consumers “that the price paid for reliable gas supply must be the lowest gas price available, irrespective of whether it is CNG or non-CNG gas supply for all gas supply needs including for resiliency considerations, whatever those may be.”⁵⁵

Staff witness Nyrhe Royal testified that Staff “recommends caution with any contingency plan to purchase certified natural gas, as MCL 460.6h(6) requires utilities to continue to minimize the cost of natural gas.”⁵⁶ She testified that Michigan does not currently have a CNG market, nor does Michigan have an actual emission reduction requirement which would justify participation in such a market. Ms. Royal further testified Consumers has not identified a federal mandate which would justify participation in a CNG market. She stated, “If any of these things changes, then participation in this market may be reexamined and the inclusion of certified natural gas and possible premiums could be justified as a reasonable and prudent added cost in their GCR plan.”⁵⁷

In rebuttal, Mr. Ross responded to Ms. Royal and Mr. Coppola’s testimony regarding the use of CNG. Mr. Ross testified that in evaluating the reasonableness and prudence of a GCR Plan, MCL 460.6(h)(6) instructs the Commission to consider not just the cost of gas, but numerous other relevant factors. He stated that Consumers is not requesting Commission consideration of potential CNG procurement beyond the reasonableness and prudence guidelines in MCL 460.6(h)(6), “as any potential certified gas purchases would be guided by the same economic, reliability, and resiliency

⁵⁴ 2 Tr. 200-201.

⁵⁵ 2 Tr. 201.

⁵⁶ 2 Tr. 227.

⁵⁷ *Id.*

considerations currently employed in the evaluation of gas supply alternatives.”⁵⁸ He also suggests that because any CNG purchase during the GCR Plan year will be evaluated for reasonableness and prudence in the subsequent reconciliation proceeding, the caution to the company recommended by Staff is unnecessary.

Mr. Ross further testified that, “Restricting or prohibiting access to a supply source, due only to certification, particularly when that source may be needed for purposes of reliability and resiliency, would be unreasonable and imprudent.”⁵⁹ He testified that having an additional supply source available is in the best interests of the company’s customers, especially if such supply may be needed for reliability and resiliency purposes. He stated that CNG is available in Michigan, and that, “Almost one third of U.S. gas production has received third-party certification according to S&P Global Commodity Insights, and certified natural gas is accessible using the same interstate pipeline system as non-certified natural gas.”⁶⁰

In response to Mr. Coppola, Mr. Ross testified the company’s procurement strategy pertaining to CNG is the same as it employs for non-CNG purchases; considering economics, reliability and resiliency needs in its procurement strategy. He testified:

The Company clearly states that non-resiliency procurement of certified natural gas would be based on economic considerations. Economic considerations are the same traditional cost considerations used for non-certified gas procurement and would encompass the various market pricing options, including a premium adder.⁶¹

⁵⁸ 2 Tr 180.

⁵⁹ 2 Tr 181.

⁶⁰ *Id.*

⁶¹ 2 Tr 182.

As Mr. Ross asserts Mr. Coppola was not clear in how he used the term “premium” in direct testimony, Mr. Ross contends discussion of the word “premium” is not necessary as any procurement of CNG would be evaluated for reasonableness and prudence in a reconciliation review and the company would consider economics, resiliency, and reliability in any decision to procure CNG.

Mr. Ross testified Consumers’ resiliency considerations have been incorporated into its supply plan as required by the Commission in Case No. U-20464. Therefore, he contests Mr. Coppola’s assertion that the concept of resiliency considerations pertaining to potential CNG purchases is vague. He further contests Mr. Coppola’s assertion that purchasing CNG would not result in the company minimizing the costs of gas when cheaper gas may be available. He stated, “The Company’s certified gas discussion does not contemplate procurement of certified natural gas when non-certified natural gas volumes are available at a lower cost.”⁶² Mr. Ross asserted that Mr. Coppola’s interpretation of MCL 460.6(h)(6) is overly narrow, and contends that the statute “instructs the Commission to consider cost, amongst numerous other relevant factors, in evaluating the reasonableness and prudence of decisions underlying the GCR Plan.”⁶³ Therefore, Mr. Ross asserts that looking solely at cost minimization when procuring natural gas is not consistent with the statute and states that the Attorney General’s recommendation regarding a Section 7 warning is unnecessary.

In its brief, Consumers argues that the growth of CNG production in the Appalachian and Haynesville basins, the fact that those basins account for 90% of all

⁶² 2 Tr. 184.

⁶³ 2 Tr. 185.

CNG in the U.S., and Consumers' proximity to those regions could impact regional supply. As such, Consumers has monitored the growth of CNG production and stated in this matter that CNG may be incorporated into its gas supply. Consumers argues that as the production of CNG increases, the availability of non-CNG volumes may decrease, which may result in an available supply of non-CNG which is not sufficient to meet supply requirements. As such, Consumers asserts that its approach "is reasonable as it balances future market uncertainty with customer supply reliability and cost considerations in an objective transactional manner appropriate for a GCR Reconciliation review."⁶⁴

Consumers avers that Staff's caution regarding the purchase of CNG is unnecessary. It argues that Consumers "does not request the Commission's consideration of possible certified natural gas procurement beyond the reasonableness and prudence guidelines specified in MCL 460.6h(6)"⁶⁵ and that any potential CNG purchases would be guided by the same considerations currently used in the evaluation of gas supply alternatives. Consumers further argues that it is not planning on purchasing CNG for the purpose of environmental benefits, and notes that CNG is "currently available in Michigan by many of the same counterparties involved in non-certified natural gas transactions and is accessible using the same interstate pipeline system as non-certified natural gas."⁶⁶

Consumers asserts that the Attorney General's argument that the company would pay a premium for CNG "reflects an apparent misunderstanding of the

⁶⁴ Consumers brief, 24.

⁶⁵ *Id.*

⁶⁶ *Id.*

Company's gas purchasing strategy and testimony on this matter."⁶⁷ Consumers argues its purchasing strategy relative to CNG is the same as its strategy relative to non-CNG and that it is not requesting to charge a premium for CNG. It states that CNG "is simply traditional natural gas supply which is certified as meeting certain metrics and may be a reasonable and prudent source of supply to meet the reliability or resilience needs of customers."⁶⁸ Consumers avers that it does not intend to purchase CNG if non-CNG volumes are available at a lower cost, and asserts that restricting access to supplies of CNG would be unreasonable and imprudent if such supply may be needed for purposes of reliability and resiliency.⁶⁹

In her brief, the Attorney General argues the company's description of its purchasing strategy regarding CNG lacks clarity and raises concerns that the cost of gas could increase. The Attorney General asserts that Consumers did not explain if a premium would be paid for CNG over non-CNG cost, or if purchasing CNG would result in an increase in the total annual cost for GCR supply. She further argues the company has introduced the concept of resiliency considerations regarding the potential purchase of CNG "as a reason to purchases CNG without defining what those resiliency consideration may be and why they are an exception to the strategy of making economic purchase decisions."⁷⁰

The Attorney General avers that Consumers "has resisted confirming that it would not pay a premium for CNG above the cost of non-CNG gas supply, instead it

⁶⁷ Consumers brief, page 24.

⁶⁸ Consumers brief, page 25.

⁶⁹ *Id.*

⁷⁰ Attorney General brief, page 9.

claims that the word premium was vague and lacked certainty among other claims.”⁷¹ She argues that in Case U-21062, the company previously described the incremental cost to be paid for CNG as a premium. Despite Consumers’ lack of a CNG proposal or program in the instant matter, the Attorney General argues that Consumers’ stated intent to treat CNG as a supply source for planning purposes leads to a concern that CNG may be acquired at a price higher than non-CNG.

The Attorney General expresses concern that Consumer’s purchases of CNG may include a premium cost, which she argues is not permitted under MCL 460.6h(6). She states:

The law does not provide for paying premiums above the base cost of natural gas. To the contrary, the law states that the Commission must determine whether the utility has taken all appropriate legal and regulatory actions to minimize the cost of purchased gas. The payment of CNG premiums would not result in the Company minimizing the cost of purchased gas when gas supply is available that has a lower cost. Any “other relevant factors” would need to be relevant to the volume and cost of gas purchases. Therefore, Act 304 does not permit recovery of any premium paid by Consumers above the base cost of gas.⁷²

The Attorney General argues the cost of gas supply for GCR customers may be increased if the company purchases CNG at a cost higher than non-CNG. She therefore recommends the Commission inform Consumers that it must pay the lowest gas price available for reliable gas supply and that it is Consumers’ “responsibility to demonstrate by clear and convincing evidence that it acted prudently in obtaining sufficient gas price quotes from all available suppliers and sources of supply to minimize the cost of gas.”⁷³

The Attorney General further recommends the Commission warn Consumers that under

⁷¹ Attorney General brief, page 10.

⁷² Attorney General brief, page 11.

⁷³ Attorney General brief, page 12.

Section 7 of Act 304, the company may face gas cost disallowances if it fails to demonstrate that it acted prudently. The Attorney General did not address this issue further in her reply brief.

In its brief, Staff states it does not recommend preapproval of a contingency plan to purchase CNG. Staff notes the lack of emissions reduction requirements in Michigan and the lack of an identified federal mandate for participating in the CNG market as noted in the testimony of Ms. Royal.⁷⁴ In response to Mr. Ross' testimony that he finds cautioning the company to be unnecessary due to the ability to review the purchase of CNG in reconciliation case, Staff states that it "does not aim to presuppose that it will be an economic or otherwise reasonable and prudent choice without further justification regarding the benefit to its customers."⁷⁵

In its reply brief, Consumers reiterates that it is not requesting preapproval of the purchase of CNG and that it has not requested recovery of a premium cost for the purchase of such. Consumers states that it relies on the arguments presented in its initial brief.

This PDF finds the arguments proffered by the Attorney General and Staff to be persuasive. Although Consumers has not indicated plans to procure CNG, it indicated such may be a possibility in the future. Consumers further stated it will not purchase CNG if adequate volumes of non-CNG are available to meet supply needs and that purchases of CNG will only be made if such purchases are consistent with Consumers' purchasing strategy as used for non-CNG. The concern expressed by both the Attorney

⁷⁴ Staff brief, page 6.

⁷⁵ Staff brief, page 7.

General and Staff is that the cost of CNG may be higher than non-CNG, which would result in higher costs of gas ultimately being paid by customers. Staff and the Attorney General assert a failure to minimize the cost of natural gas would be a violation of MCL 460.6h(6), which states as follows:

(6) In its final order in a gas supply and cost review, the commission shall evaluate the reasonableness and prudence of the decisions underlying the gas cost recovery plan filed by the gas utility pursuant to subsection (3), and shall approve, disapprove, or amend the gas cost recovery plan accordingly. In evaluating the decisions underlying the gas cost recovery plan, the commission shall consider the volume, cost, and reliability of the major alternative gas supplies available to the utility; the cost of alternative fuels available to some or all of the utility's customers; the availability of gas in storage; the ability of the utility to reduce or to eliminate any sales to out-of-state customers; whether the utility has taken all appropriate legal and regulatory actions to minimize the cost of purchased gas; and other relevant factors. The commission shall approve, reject, or amend the 12 monthly gas cost recovery factors requested by the utility in its gas cost recovery plan. The factors ordered shall be described in fixed dollar amounts per unit of gas, but may include specific amounts contingent on future events, including proceedings of the federal energy regulatory commission or its successor agency.⁷⁶

In Case No. U-21064, the Commission ruled on an analogous issue involving Responsibly Sourced Gas (RSG). The issue in U-21064 is distinguishable from the current matter in that the issue in that case involved payment of a premium for gas classified as RSG. There was no evidence presented in the current case that Consumers is planning on paying a premium for CNG; however, the concern of Staff and the Attorney General regarding the potential purchase of CNG remains the same regarding the potential of paying more for CNG than non-CNG gas.

In U-21064, the Commission found that a Section 7 warning was warranted for the premium payment for RSG. The Commission stated that while it recognizes

⁷⁶ MCL 460.6h(6).
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potential value in RSG, support for the purchase was not provided in the record. The Commission stated:

Similarly, should the company seek to recover all or a portion of RSG premiums in its reconciliation case or in future filings, it will need to see fuller support for the expected benefits to its customers compared to the additional costs incurred from emergent third-party certifications such as those verifying RSG.⁷⁷

Therefore, the Commission found that absent support in the record for the premium paid for RSG, the issuance of a section 7 warning was appropriate.

Although distinguishable, the issue regarding CNG in the instant matter is analogous to the Commission's ruling regarding RSG. If Consumers were to pay a premium for CNG, the benefits of and reasoning for making such a purchase would have to be clearly articulated to the Commission. Therefore, although Consumers has not expressed a definitive plan for purchasing CNG or for paying a premium thereon, this PFD finds purchase of CNG at a premium without adequate justification would be a violation of MCL 460.6h(6) and recommends the Commission issue a warning to the company under Section 7.

3. GCR Factor

Consumers is requesting approval of a Base GCR Ceiling Factor of \$5.2773 per Mcf for the period of April 2023 through March 2024. Consumers is also requesting approval of additional amounts contingent upon future events to be calculated using the proposed GCR Factor Ceiling Price Adjustment (Contingency) Mechanism. The Base GCR Ceiling Factor is "the maximum GCR Factor that Consumers Energy can charge

⁷⁷ October 12, 2023 Order, Case No. U-21064, page 17.
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for the cost of gas if there are no increases to the ceiling price pursuant to the contingency mechanism.”⁷⁸

The Base GCR Ceiling Factor was calculated as shown in Exhibit A-1. Ms. Rayl testified that:

The Maximum Allowable GCR Factor, or ceiling price, limits how high the Company can set the Billed GCR Factor. The Maximum Allowable GCR Factor is equal to the Base GCR Ceiling Factor plus the contingent ceiling price adjustment, if any. The Actual GCR Factor Billed can be at or below the Maximum Allowable GCR Factor.⁷⁹

Ms. Rayl further testified that the company determines the monthly billed GCR Factor with the goal of eliminating either over or under-recoveries for the entire GCR Plan year. Consumers does not make a profit on the natural gas commodity. If Consumers has an under-recovery of costs, “customers must pay the under-recovered amount with interest at the average short-term borrowing rate available to the Company.”⁸⁰ Conversely, if Consumers has an over-recovery, the company must then refund the over-recovered amount to customers with interest equal to the company’s authorized rate of return.⁸¹ Ms. Rayl testified that delays in the recovery of GCR costs are detrimental to both the company and to customers in that “The Company may be required to borrow money to make up for the under-recovery. A delay in recovery also hurts the customer, as any unrecovered costs would be recovered with interest in the following GCR Plan year.”⁸²

Attorney General witness Coppola testified he does not agree with Consumers’ proposed GCR Factor. He testified that since the company performed its forecasted gas

⁷⁸ 2 Tr. 26.

⁷⁹ 2 Tr. 27.

⁸⁰ 2 Tr. 31.

⁸¹ Consumers’ authorized rate of return is 9.90% pursuant to the settlement agreement approved by the Commission in Case No. U-21148.

⁸² 2 Tr. 31.

price analysis in December 2022, the price of natural gas has declined sharply. He stated:

Based on my analysis of forecasted NYMEX future prices for the 12-month period from April 2023 to March 2024 as of the first five days of April 2023, natural gas prices declined 44% from December 2022. The Company used a forecasted NYMEX price of \$5.115 per Dth versus the updated April 2023 price of \$2.86. Exhibit AG-3 shows the calculation of the updated NYMEX price. Exhibit A-32 shows the Company's proposed NYMEX prices for the 2023-2024 GCR year.⁸³

Mr. Coppola testified that the company did not provide an updated cost of gas and GCR Factor reflecting the decline in gas prices. He testified that the Attorney General requested Consumers provide updated gas prices to what was previously provided in Exhibit A-32, as well as "a recalculation of the cost of gas in Exhibit A-25 based on updated gas prices, an updated Exhibit A-1 with the recalculated GCR Factor, and an updated Exhibit A-3 with the updated contingency factor rates."⁸⁴, but that the company objected to the request. Mr. Coppola requested this information because the company uses a proprietary cost of gas model that is not in Excel. He stated that the "inability to access and use the Company's cost of gas model requires reliance on the Company to recalculate the GCR cost of gas whenever changes to the components, such as updated gas prices, are required."⁸⁵ Mr. Coppola additionally testified that the Attorney General's ability to perform reasonable due diligence, prudence review, recalculation of an appropriate GCR Factor, and calculation of related contingency factors was hindered by the lack of the requested information.

⁸³ 2 Tr. 204.

⁸⁴ *Id.*

⁸⁵ 2 Tr. 205.

Despite not receiving the information requested of Consumers, Mr. Coppola was able to calculate what he asserts is a reasonable updated gas purchase cost and revised GCR Factor. Mr. Coppola stated he applied revised NYMEX prices as of April 2023 (including the base prices provided by the company in its GCR plan filing) to the forecasted monthly purchases resulting in revised gas cost purchases of \$478.2 million. He also calculated a revised GCR Factor of \$2.644 by replacing Consumers' forecasted purchase cost on line 13 of Exhibit A-1 with his revised gas purchase cost.⁸⁶

Mr. Coppola recommends the Commission reject Consumers' proposed GCR Factor and instead approve a revised GCR Factor of \$2.664 per Mcf. He further recommends the Commission instruct the company to "be more cooperative in the future in assisting the Attorney General, the Commission Staff and other intervenors in using its gas cost model to perform alternative calculations that may be necessary."⁸⁷

Ms. Royal testified that Staff believes Consumers' GCR Plan, apart from the discussion pertaining to CNG, is reasonable and prudent. She testified Staff is recommending the Commission approve the base gas cost recovery factor of \$5.2773 per Mcf for the period of April 1, 2023, through March 30, 2024, which can be adjusted to a different maximum allowable GCR Factor by using Consumers' proposed monthly contingency mechanism process and NYMEX-based contingency factor matrix.⁸⁸

Heather Rayl provided rebuttal testimony on behalf of Consumers to respond to the testimony of Mr. Coppola pertaining to the proposed GCR Factor. Ms. Rayl testified the company does not agree it should have provided a recalculated GCR Factor and

⁸⁶ 2 Tr. 206.

⁸⁷ *Id.*

⁸⁸ 2 Tr. 227-228.

updated Exhibit A-3 based on the change in gas prices from the time of filing. She testified that in updating the proposed GCR Factor, Consumers would have to update all components of its GCR Plan which she states is inappropriate mid-case. She testified:

Performing one post-filing update in response to one party's request with respect to changes in the Company's filed projections, opens the Company's GCR Plan cases to what could be numerous requested updates with corresponding arguments that the Company's GCR factor should move up or down depending on the point at which the updates are provided. This is not consistent with a forward-looking, forecasted plan.⁸⁹

Ms. Rayl testified that the projections contained in the GCR Plan are used to establish the GCR Ceiling Factor, and not the actual billed factor that customers will pay. She testified that it maybe necessary to adjust a GCR plan's factors if the price of gas experienced a significant increase, resulting in a considerable under-recovery from customers; however, she stated that it is unnecessary to adjust the current plan's factors due to the decrease in gas prices because Consumers has the incentive to adjust the billed GCR Factor downward "as over-recovering from GCR customers results in the Company not only refunding that over-recovery, but also paying customers interest at the Company's Return on Equity ("ROE") rate."⁹⁰

Ms. Rayl testified that Mr. Coppola's request for updated exhibits in this matter did not amount to simple updates. She stated such updates would "require a recalculation of the Company's entire GCR Plan because such "updated" exhibits do not exist."⁹¹ Ms. Rayl testified Mr. Coppola's proposed changes are unnecessary and "the

⁸⁹ 2 Tr. 35.

⁹⁰ *Id.*

⁹¹ 2 Tr. 36.

projections are only used to establish a Ceiling Factor and not the actual billed factor that customers ultimately will pay, and the process of basing the GCR Factor on the latest data at the time of filing does not harm customers.”⁹² Ms. Rayl stated that Consumers determines the GCR Factor monthly depending on the latest forecasts and sales of gas costs with the goal of having the company’s annual sales revenues equal to the annual cost of gas, as far as practicable. Consumers therefore contends the adjustments proposed by Mr. Coppola are unnecessary for determining the appropriate GCR Ceiling Factor and should be rejected by the Commission.

In its brief, Consumers argues it has no incentive to charge customers more than necessary to recover its costs and that the GCR Factor proposed should be approved. Consumers points out that it makes no profit on the natural gas commodity and argues that it attempts to “implement GCR Factors that will result in a zero *annual* over- or under-recovery.”⁹³ Consumers notes that the GCR Factors to be established in this case are maximum allowable, or Ceiling Factors which are the maximum amount Consumers can charge for the gas commodity costs and not necessarily the amount the customers would be charged.

Exhibit A-1 shows how the proposed base GCR Factor of \$5.2773 per Mcf was calculated. Consumers states that it “calculates the base factor using existing fixed-price supply and transportation contracts and using NYMEX futures pricing for those volumes not under fixed-price contract.”⁹⁴ Consumers argues Mr. Coppola’s proposed reductions used in the calculation of the proposed GCR Factor are inappropriate and

⁹² *Id.*

⁹³ Consumers brief, page 18.

⁹⁴ Consumers brief, page 20.

unnecessary, reiterating the factor calculated in this matter is only a Ceiling Factor and not the actual amount to be charged to customers. Consumers asserts that “the process of basing the GCR Factor on the latest data at the time of filing does not harm customers.”⁹⁵ The company argues that the GCR Factor is determined each month based on the latest forecasts of sales and gas costs, and that “updating projections in a GCR Plan every time circumstances change, the result would be an always changing GCR Plan, which would render it difficult to ever arrive at an appropriate end point for decision making.”⁹⁶ Consumers avers that Mr. Coppola’s proposed adjustments are unnecessary for determining an appropriate Ceiling Factor as the “proposed modifications would reduce the GCR Factor and significantly understate the Company’s actual and projected cost of gas.”⁹⁷

In her brief, the Attorney General asserts Consumers’ proposed GCR Factor is based on old data. She points to Mr. Coppola’s testimony regarding the reduction in natural gas prices since December 2022. The Attorney General points to the December 2022 forecasted NYMEX price of gas of \$5.115 per Mcf used by Consumers in determining the GCR Factor, and notes that the updated NYMEX price as of April 2023 is \$2.86 per Mcf.⁹⁸ As such, the Attorney General asserts Consumers has used old data in formulating its GCR Factor which should be updated using the new pricing.

The Attorney General notes that Consumers did not update its cost of gas and GCR Factor based on new gas prices, claiming doing so would be unduly burdensome. She notes that the company stated that it may be reasonable to revise a GCR Plan’s

⁹⁵ Consumers brief, pages 20-21.

⁹⁶ Consumers brief, page 21.

⁹⁷ *Id.*

⁹⁸ Attorney General brief, pages 4-5.

factors should the price in gas increase significantly, which would result in a significant under-recovery from GCR customers. She notes that Consumers did update its cost of gas and GCR Factor in Case No. U-21062, when the cost of gas increased significantly.⁹⁹ She argues that “a ceiling factor that is based on the cost of gas projections that are significantly higher than reality is meaningless.”¹⁰⁰ As stated above, Mr. Coppola applied the revised NYMEX prices as of April 2023 to calculate a revised cost of gas purchases of \$478.2 million and a revised GCR Factor of \$2.644 per Mcf. The Attorney General therefore recommends the Commission approve her revised GCR Factor of \$2.644 per Mcf, or in the alternative “require the Company to provide a revised GCR Factor based on updated prices as of June 2023 with related contingency factors for approval.”¹⁰¹

In its brief, Staff recommends that the ALJ and the Commission approve the base GCR Factor requested by Consumers. Staff points to the testimony of Nyrhe Royal wherein she reviewed the company’s application, exhibits, and the relevant standards regarding approval of the factor, and ultimately found the proposed base GCR Factor to be reasonable. Staff asserted, “Overall, Staff concluded that the proposed factor is reasonable and prudent, to be trued up for actual costs in the reconciliation case.”¹⁰² Further, Staff “determined that the plan and resulting GCR Factor should be approved, as meeting the standard for peak day, inclusive of worst-case scenario, planning.”¹⁰³

⁹⁹ Attorney General brief, pages 5-6.

¹⁰⁰ Attorney General brief, page 6.

¹⁰¹ Attorney General brief, page 7.

¹⁰² Staff brief, page 3.

¹⁰³ Staff brief, page 4.

This PFD finds the GCR Factor proposed by Consumers to be reasonable and prudent. As the Attorney General points out, gas prices have declined significantly since the company filed its application in this matter on December 22, 2022; however, the decline in gas prices does not necessitate a recalculation of the GCR Ceiling Factor as suggested by Mr. Coppola. Both Consumers and Staff argue that the GCR Ceiling Factor is the maximum factor that may be charged, not the actual price customers will be charged for gas.

This PFD finds Consumers' argument that it has no incentive to charge a higher amount for gas to be persuasive, in that any over-recovery would have to be paid back to customers with interest equal to the Company's approved rate of return. Therefore, the GCR Ceiling Factor remaining the same despite the decline in gas prices does not mean customers will be charged a higher amount for gas resulting in an over-recovery for the company. The evidence of record supports a conclusion that the cost of gas and GCR Factor of \$5.2773 per Mcf proposed by the company are reasonable and prudent and should be approved by the Commission.

IV.

CONCLUSION

This PFD recommends that the Commission adopt the following Findings of Fact and Conclusions of Law:

1. Consumers Energy's GCR Plan for 2023-2024 is reasonable and prudent and should be approved.
2. Consumers Energy is authorized to implement a maximum GCR Factor of \$5.2773 per Mcf, which may be adjusted to a new maximum rate by the

contingent factor mechanism in Exhibit A-23, for the period of April 1, 2023, through March 31, 2024.

3. The Commission should issue a Section 7 warning, pursuant to MCL 460.6h(7), to Consumers Energy that costs paid for CNG that are above the cost of non-CNG may not be recoverable in future reconciliation cases.
4. The Commission should deny the Attorney General's request to have Consumers Energy market the 4 Bcf of storage previously reserved for the MCV.
5. The Commission should require Consumers Energy to provide an analysis of the costs/benefits of marketing the 4 Bcf of storage capacity versus using the storage for GCR customers in the reconciliation proceeding for this matter.
6. The Commission should find Consumers Energy's five-year plan to be reasonable and prudent.

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

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