STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of Indiana Michigan Power Company for authority to increase its rates for the sale of electric energy and other related matters.	))))	Case No. U-21461

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 May 10, 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 May 30, 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 June 11, 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

Katherine E. Talbot

Digitally signed by: Katherine E. Talbot
DN: CN = Katherine E. Talbot email = talbotk@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2024.05.10 15:17:04 -04'00'

Katherine E. Talbot
Administrative Law Judge

May 10, 2024
Lansing, Michigan

Table of Contents

STATE OF MICHIGAN

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of Indiana Michigan Power Company for authority to increase its rates for the sale of electric energy and for other relief.	)))))	Case No. U-21461

PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On September 15, 2023, Indiana Michigan Power Company (I&M or the Company) filed a rate application requesting a $34 million revenue increase, and other relief. The rates requested in the application are based on a January 2024 through December 2024 projected test year with a 2022 historical test year. The Company's application was accompanied by the testimony and exhibits of 22 witnesses. The most recent rate case Order for I&M, approving a settlement agreement, was issued by the Commission on January 23, 2020, in Case No. U-20359.

Staff, I&M, and potential intervenors attended the October 12, 2023, prehearing conference. Intervention was granted to a total of ten parties, some of whom participated collectively as noted: the Attorney General; Energy Michigan, Inc. (Energy Michigan); Citizens Utility Board of Michigan (CUB); Great Lakes Renewable Energy Association

(GLREA); Association of Businesses Advocating Tariff Equity (ABATE); Wabash Valley Power Association, Inc. d/b/a Wabash Valley Power Alliance (Wabash Valley); City of Auburn Indiana (City of Auburn); Michigan Energy Innovation Business Council, the Institute for Energy Innovation, and Advanced Energy United (collectively MEIU); the Environmental Law & Policy Center, the Ecology Center, and Vote Solar (collectively the Clean Energy Organizations or CEO). The parties agreed to a schedule meeting the time limits of MCL 460.6a.

A Protective Order was entered on October 13, 2023. On December 20, 2023, the Attorney General filed a motion to compel discovery. I&M filed a response to the motion on January 2, 2024. A hearing on the motion was scheduled for January 5, 2024, however the parties resolved the matter, and no hearing was necessary.

Staff and the following intervenors filed direct testimony and exhibits on January 18, 2024: the Attorney General, ABATE, MEIU, energy Michigan, CUB, the City of Auburn, and the CEO. Rebuttal testimony was filed on February 9, 2024, by I&M, Staff, ABATE, and MIEU.

Evidentiary hearings were held on February 22, 23, 26, and 27, 2024, at which time twelve witnesses appeared for cross-examination. The testimony of the remaining witnesses was bound into the record and exhibits were admitted, by agreement of the parties, without the need for the witnesses to appear.

The parties filed briefs and reply briefs on March 21, 2024, and April 5, 2024, respectively. The record in this proceeding contains testimony from 57 witness and is comprised of 2,765 pages of transcript in six volumes, with a total of 395 exhibits admitted into evidence. Portions of the record and some exhibits were designated confidential pursuant to the Protective Order and not available in the public record.

On April 12, 2024, MEIU filed a Motion to strike a portion of an argument in Staff's Reply Brief. On April 17, 2024, MEIU filed a Request to Withdraw the Motion based on an agreement with Staff, and on April 17, 2024, Staff filed an amended reply brief. On April 18, 2024, an Order granting the withdrawal was issued and the matter was resolved.

In order to ensure compliance with the statutorily imposed timeframe for deciding this case, MCL 460.6a(3), the evidence and arguments necessary for a reasoned analysis of the disputed issues are expressly addressed in the Proposal for Decision. However, all of the evidence presented in this case, and the arguments made by the parties based on that evidence, was considered.

II.

OVERVIEW OF THE RECORD

The evidentiary record in this proceeding is contained in six public transcript volumes plus a confidential transcript and a total of 395 exhibits, several of which also have a confidential version. The following overview of the record is not intended to catalog every conclusion reached or recommendation made by each witness, but to give a general overview of the principal issues addressed by each witness.

A. I&M

I&M presented the testimony of a total of 22 witnesses and Exhibits IM-1 through IM-53, IM-54R through IM-72R, IM-71(A)R, and IM-73R through IM-112R, as well as Exhibits A-1 through A-5 and A-11 through A-16.

Steven F. Baker, the President and Chief Operating Officer of I&M, provided an overview of I&M's overall request in its application, and explained the Company used a 2024 forward-looking test year (Test Year) and a Capital Forecast Period from 2023 to 2024. He imparted an overview of I&M's service area, organizational structure, and the Company's relationship with AEP. He discussed operational challenges and the need to replace aging infrastructure and strengthen the grid and stated the Company's plans to continue to modernize its distribution and information technology systems, enhance the reliability and resiliency of the electric grid, and maintain safe and reliable generation resources. His testimony also discussed I&M's efforts to efficiently manage its business and improve its customers' experience. He also provided rebuttal testimony.[1]

Dona Seger-Lawson, the Director of Regulatory Services for I&M, provided testimony to support the overall revenue requirement, the use of forecasted test year, and deferral of certain costs. She stated I&M requests the Commission to approve its projected test year from January 1, 2024, through December 31, 2024 (the test year). She testified the Company's proposals reflect a continuation of existing rate structures and processes. Ms. Seger-Lawson testified that I&M's overall requested rate relief for this Test Year is approximately $34 million, or 9.67% and stated this amount is net of the proposed Tax Rider revenue requirement and the OATT adjustment. She stated I&M proposes to set a level of major storm expense based on a 5-year average (pursuant to settlement in U-20359) and proposes to continue the deferral associated with the Cook Nuclear Plant Dry Cask Storage program and eligible low-income discount program. I&M also proposed a Tax Rider to track tax changes including a Net Operating Loss Carryforward (NOLC), changes resulting from the Inflation Reduction Act (IRA), and production tax credits (PTCs) related to the Cook Nuclear facility. She testified to support the Company's proposed Power Pay Program and the waiver of certain rules to allow implementation. She stated deferred balances will be amortized over a two-year period or in a manner consistent with prior approval. Ms. Seger-Lawson also provided rebuttal testimony.[2]

Zachary B. Wnek, a Financial Analyst, Principal in Corporate Planning and Budgeting with American Electric Power Service Corporation (AEPSC), presented and discussed the Total Company 2024 Test Year financial forecast. He supported I&M's PSCR basing point and sponsored a rate base adjustment related to forecasted fuel stock. Mr. Wnek also provided rebuttal testimony.[3]

Robert A. Jessee, the Managing Director - Generating Assets for I&M with AEPSC, described the operation of I&M's non-nuclear generation fleet, comprised of Rockprot Unit 1, hydro assets and solar assets (Generation Fleet), and asserted this fleet "supports reliability, resiliency, stability, affordability, and environmental sustainability." (6 Tr 1900) He supported I&M's total forecasted O&M expenses and capital investment for the Generation Fleet for the test year and supported the forecasted generation capital

---

[1] Mr. Baker's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 672-725. Cross examination of Mr. Baker begins at 3 Tr 726 and concludes at 3 Tr 757.
[2] Ms. Seger-Lawson's qualifications, direct, and rebuttal testimony are transcribed at 6 Tr 1960-2022. Cross examination of Ms. Seger-Lawson begins at 6 Tr 2023 and concludes at 6 Tr 2059.
[3] Mr. Wnek's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1698-1752. Cross examination of Mr. Wnek begins at 5 Tr 1753 and concludes at 5 Tr 1767.

expenditures for the capital forecast period. He stated witness Morgan provided the Michigan jurisdictional share of these test year capital and O&M expenses. Mr. Jessee also provided rebuttal testimony.[4]

David S. Isaacson, the Vice President of Distribution Operations for I&M, provided an overview of the Company's distribution system and supported its distribution planning and expenditures including the condition of the distribution system and the reliability metrics used. He presented the Distribution Management Plan (the Plan) and identified projects and programs the Company plans to implement. He provided program updates for the Company's AMI program, an overview IIJA grant requests, and I&M's investments in Advanced Distribution Management System (ADMS) and Distributed Energy Resource Management System (DERMS). He supported the distribution O&M expenses during the test year and the forecasted distribution capital investment for the Capital Forecast Period. Mr. Isaacson also provided rebuttal testimony.[5]

Kelly J. Ferneau, the Site Vice President at Cook Nuclear Plant (Cook Plant), provided an overview of I&M's nuclear generation, including an update of the Dry Cask Storage project and license renewal efforts. She supported the Company's test year O&M expenses, including an adjustment to reflect "an increase to outage amortization expense and plant activities identified after the forecast was complete." (3 Tr 1016) She also supported the projected capital expenditures for the Cook Plant, including the LAN and SLR programs. Ms. Ferneau provided rebuttal testimony.[6]

Nicolas C. Koehler, the Director of East Transmission Planning in AEPSC's transmission group, described I&M's transmission system and supported the recovery of transmission costs resulting from membership in the PJM Interconnection LLC (PJM) transition organization, including tariffs charges approved by FERC and OATT charges.[7]

Joe Brenner, Vice President, Business Solutions for AEPSC, provided an overview of AEP's Technology and Security organizations and supported I&M's total O&M expenses and capital expenditures for Technology and Security projects for the historical and projected test years. He also provided details, including project costs and timelines, for specific technology investments for Field Mobility, the Customer Information System (CIS), the Advanced Distribution Management System (ADMS), and the Distributed Energy Management System (DERMS). He stated witness Morgan provided the Michigan jurisdictional share of these expenses. Mr. Brenner also provided rebuttal testimony.[8]

[4] Mr. Jessee's qualifications, direct, and rebuttal testimony are transcribed at 6 Tr 1897-1935. Cross examination of Mr. Jessee begins at 6 Tr 1936 and concludes at 6 Tr 1955.
[5] Mr. Isaacson's qualifications, direct, and rebuttal testimony are transcribed at 4 Tr 1235-1337. Cross examination of Mr. Isaacson begins at 4 Tr 1338 and concludes at 4 Tr 1374.
[6] Ms. Ferneau's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 1013-1070. Cross examination of Ms. Ferneau can be found at 3 Tr 1071-1087; 4 Tr 1099-1107, 1110-1126, 1130-1143.
[7] Mr. Koehler's qualifications and direct testimony are transcribed at 3 Tr 399-427.
[8] Mr. Brenner's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 844-929, 934-979. Cross examination of Mr. Brenner begins at 3 Tr 981 and concludes at 3 Tr 1007.

Katherine K. Davis, the Vice President of External Affairs and Customer Experience for I&M, provided details and support for the Company's proposed PowerPay Program and Customer Information System (CIS). She provided an update on AMI deployment and associated customer service programs and supported I&M's request to continue the IM Plugged In program. Ms. Davis also provided rebuttal testimony.[9]

Daniel M. White, the Managing Director of Economics and Supply Forecasting for AEPSC, presented the energy, load forecast, and peak forecasts used to develop its test year billing determinants and provided the processes and methodology to forecast the Test Year. He also provided rebuttal testimony.[10]

Tyler H. Ross, Director of Regulatory Accounting Services for AEPSC, provided support for financial metrics for Historical Period 2018 through 2022, and details for schedules and adjustments for the 2022 historical period. He supported some adjustments for the projected test year and discussed regulatory accounting treatment and amortization for some I&M jurisdictional items. He stated, unless otherwise noted, his testimony provides the total Company jurisdictional amount. Mr. Ross also provided rebuttal testimony.[11]

Jessica M. Criss, a Tax Accounting and Regulatory Support Manager with AEPSC, presented the Federal and State income tax expense for the historical period and the projected test year, the Accumulated Deferred Federal Income Taxes (ADFIT) and Accumulated Deferred Investment Tax Credit (ADITC) incorporated into the capital structure and used to calculate the Weighted Average Cost of Capital (WACC). She also detailed adjustments to income tax expense and accumulated deferred income taxes, some of which were used by other witnesses in ratemaking adjustments to the test year. And she provided calculation of the gross revenue conversion factor (GRCF), taxes other than income taxes, and calculation of effective federal and state income tax rates. Ms. Criss also provided rebuttal testimony.[12]

Jon C. Walter, Regulatory Innovations Manager for I&M, provided testimony to detail and support the AMI Cost Benefit Analysis, including related DR pilots and tariff-based programs. He supported I&M's Conservation Voltage Reduction (CRV) plan, the request to continue the Net Lost Revenue tracker, and discussed federal and state grant funding opportunities related to IIJA of 2021. He also provided rebuttal testimony.[13]

[9] Ms. Davis's qualifications, direct, and rebuttal testimony are transcribed at 4 Tr 1183-1228.
[10] Mr. White's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1517-1553. Cross examination of Mr. White begins at 5 Tr 1554 and concludes at 5 Tr 1606.
[11] Mr. Ross's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1813-1864. Cross examination of Mr. Ross begins at 5 Tr 1865 and concludes at 5 Tr 1872.
[12] Ms. Criss's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1389-1450.
[13] Mr. Walter's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1452-1512.

Ann E. Bulkley, a Principal at The Brattle Group (Brattle), provided testimony to support I&M's proposed Return on Equity (ROE). She also supported the reasonableness of the projected capital structure and cost of debt. Ms. Bulkley provided rebuttal testimony.[14]

Carrie M. Luedtke, a Staff Analyst of Corporate Fnance for AEPSC, supported I&M's capital structure and weighted average cost of capital. She also presented the Company's anticipated financing activity from the end of the historical period and the end of the projected test year and described I&M's credit ratings and the effect of rate making on the rating process.[15]

Kimberly Kerber, the Director of Compensation for AEPSC, described the AEP System total compensation plan and how the costs are applicable to I&M. She supported the AEP System's employee pay programs and asserted that short term and long-term compensation programs are necessary and reasonable to attract and retain skilled workers. Ms. Kerber also provided rebuttal testimony.[16]

Stacie R. Gruca, a Regulatory Analyst & Case Manager in the Regulatory Services Department of I&M, detailed adjustment to remove revenue or expenses from the test year which will continue in a rider/surcharge, supported adjustments to O&M revenue and expenses, and sponsored the Company's proposed Economic Development Rider 2 (EDR-2). Ms. Gruca also provided rebuttal testimony.[17]

John W. (Wes) Morgan, a Regulatory Consultant Senior in the Regulated Pricing and Analysis Department of AEPSC, supported the test year total jurisdictional cost-of-service study, which allocates the total Company test year rate base, revenues and expenses to the Michigan jurisdiction amount and he provided the calculation of the demand and energy allocation factors. Mr. Morgan also provided rebuttal testimony.[18]

Stephen Hornyak, Regulatory Consultant Staff in the Regulated Pricing and Analysis Department for AEPSC, described the development of the class cost-of-service study used to allocate the total Michigan retail jurisdictional rate base, revenues, and expenses to each rate schedule. And he testified the cost allocation methodology used in the class cost-of-service study assigns costs among customer classes in a fair and equitable manner based on principles of cost causation. Mr. Hornyak also provided rebuttal testimony.[19]

Jennifer C. Duncan, Regulatory Consultant Staff in the Regulated Pricing and Analysis Department of AEPSC, described and supported adjustments to the jurisdictional cost-of

---

[14] Ms. Bulkley's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 440-622.
[15] Ms. Luedtke's qualifications and direct testimony are transcribed at 3 Tr 428-439.
[16] Ms. Kerber's qualifications, direct, and rebuttal testimony are transcribed at 4 Tr 1148-1181.
[17] Ms. Gruca's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 313-359.
[18] Mr. Morgan's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1772-1800. Cross examination of Mr. Morgan begins at 5 Tr 1801 and concludes at 5 Tr 1809.
[19] Mr. Hornyak's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 623-665.

service study, allocation of the Company's Michigan retail jurisdiction for each rate schedule, the Rate Realignment Surcharge calculation, I&M's rate design supporting its proposed tariffs, and presentation of the proposed base rates including typical bill comparisons. She also supported the rate design and factors for I&M's proposed Tax Rider and the calculation of the proposed Distributed Generation 2 (DG 2) Rider outflow credits. Ms. Duncan also provided rebuttal testimony.[20]

Kurt C. Cooper, Regulatory Consultant Staff in the Regulatory Services Department of I&M, sponsored changed to I&M's current Rate Book 17 contained in a proposed new Tariff Book 18, an "updated rules index, modified Terms and Conditions of Standard Service, a new Economic Development Rider, a new Tax Rider, a new DG 2 Rider, and updated Terms and Conditions of Open Access Service." 3 Tr 363. He also provided rebuttal testimony.[21]

David A. Lucas, Vice President—Regulatory and Finance at I&M, provided rebuttal testimony supporting I&M's capital and O&M forecast, the Company's proposed use of a future test year, and the business processes used to manage the Company's finances. He also testified that the Company's financial forecast should be approved by the Commission.[22]

B. Staff

Staff presented the testimony of a total of 23 witnesses and Exhibits S-1 through S-6, S-7.0 through S-7.2, S-8.0 through S-8.4, S-9.0 through S-9.5, S-10.0 through S-10.2, S-11.0, S-12.0 through S-12.1, S-13.0 through S-13.3, S-14.1 through S-14.10, S-15.0 through S-15.9, S-16.0 through S-16.2, S-17.0, S-18.1 through S-18.3, S-19.1 through S-19.7, S-20.0 through S-20.1, and S-21.

Kevin S. Krause, a Gas Cost of Service Specialist within the Rates and Tariff Section of the Commission's Regulated Energy Division, presented in rebuttal testimony Staff's position on the Distributed Generation (DG) tariff and appropriate rates for different DG system sizes.[23]

Robert F. Nichols II, Manager of the Revenue Requirements Section of the Commission's Regulated Energy Division, presented Staff's projected revenue deficiency, projected

---

[20] Ms. Duncan's qualifications, direct, and rebuttal testimony are transcribed at 5 Tr 1613-1654. Cross examination of Ms. Duncan begins at 5 Tr 1655 and concludes at 5 Tr 1693.
[21] Mr. Cooper's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 360-398.
[22] Mr. Lucas's qualifications and rebuttal testimony are transcribed at 3 Tr 764-800. Cross examination of Mr. Lucas begins at 3 Tr 801 and concludes at 3 Tr 838.
[23] Mr. Krause's qualifications and rebuttal testimony are transcribed at 6 Tr 2063-2070.

operating income, interest synchronization adjustment, and revenue conversion factor for I&M.[24]

Paul R. Ausum, an Economic Analyst in the Resource Adequacy & Forecasting Section of the Commission's Energy Resources Division, presented Staff's analysis of the load and peak demand forecast sponsored by I&M.[25]

Timothy G. Witt, an auditor in the Revenue Requirements Section of the Commission's Regulated Energy Division, presented Staff's projected working capital for the test year.[26]

Justin J. Hecht, an auditor in the Revenue Requirements Section of the Commission's Regulated Energy Division, presented Staff's projected rate base for the test year, along with adjustments to I&M's projected depreciation and amortization expense.[27]

Lauren Fromm, a State Administrative Manager of the Data Access, Privacy, and IT Section of the Commission's Customer Assistance Division, presented Staff's recommendation regarding I&M's request for recovery of AMI program costs for the test year. She also testified about the Company's compliance with billing rules, and she recommended changes to the Company's proposed fees for reconnections of AMI opt-out customers outside of regular business hours.[28]

Brittney Klocke, a Senior Analyst in the Data Access, Privacy, and IT Section of the Commission's Customer Assistance Division, presented recommendations regarding I&M's proposed PowerPay program.[29]

Danielle R. Rogers, a Departmental Analyst in the Data Access, Privacy, and IT Section of the Commission's Customer Assistance Division, presented Staff's recommendations regarding I&M's projected information technology capital expenditures for the HR HCM Modernization Project, I&M Capital Software Development, and Other Capital Investments categories.[30]

William Ah Tou, an Information Technology Analyst in the Data Access, Privacy, and IT Section of the Commission's Customer Assistance Division, presented Staff's recommendations related to I&M's request for recovery in the categories of CIS Projects, Security Blanket, and Telecommunications. He also addressed the Company's contingency expenditures.[31]

---

[24] Mr. Nichols's qualifications and direct testimony are transcribed at 6 Tr 2073-2080.
[25] Mr. Ausum's qualifications and direct testimony are transcribed at 6 Tr 2082-2090.
[26] Mr. Witt's qualifications and direct testimony are transcribed at 6 Tr 2092-2096.
[27] Mr. Hecht's qualifications and direct testimony are transcribed at 6 Tr 2104-2114.
[28] Ms. Fromm's qualifications and direct testimony are transcribed at 6 Tr 2115-2133, 2579-2597.
[29] Ms. Klocke's qualifications and direct testimony are transcribed at 6 Tr 2134-2145.
[30] Ms. Rogers' qualifications and direct testimony are transcribed at 6 Tr 2146-2163.
[31] Mr. Ah Tou's qualifications and direct testimony are transcribed at 6 Tr 2164-2175, 2598-2609.

Raushawn D. Bodiford, a Public Utilities Engineer Specialist in the Commission's Energy Operations Division, presented Staff's adjustments to I&M's Fossil, Hydro, and Nuclear Generation capital expenditures, addressed certain O&M adjustments requested by the Company, and evaluated I&M's projected Subsequent License Renewal (SLR) expenditures.[32]

Ally Durfee, a Public Utilities Engineer in the Electric Operations Section of the Commission's Energy Operations Division, presented Staff's recommendations regarding I&M's proposed distribution capital expenditures.[33]

Joseph E. Ufolla, a Financial Analyst in the Revenue Requirements Section of the Commission's Regulated Energy Division, provided Staff's recommendations regarding I&M's capital structure balances and corresponding cost rates.[34]

Michelle L. Schreur, Manager of the Income Analysis Unit in the Revenue Requirements Section of the Commission's Regulated Energy Division, presented Staff's Other O&M Expense Projection for the test year, and she supported two adjustments to I&M's revenue conversion factor.[35]

Theresa L. McMillan-Sepkoski, an Audit Specialist in the Revenue Requirements Section of the Commission's Regulated Energy Division, provided Staff's adjustments to I&M's projected Employee Incentive Compensation Plan (EICP) costs included in working capital and O&M, Supplemental Employee Retirement Plan (SERP) costs included in working capital and O&M, and credit card transaction fees included in O&M expense for the test year.[36]

Ryan Boutet, a Public Utilities Engineer in the Electric Operations Section of the Commission's Energy Operations Division, provided Staff's recommendations regarding I&M's distribution O&M expenses, major storm expenses, and tree trimming procedures.[37]

Nicholas M. Revere, Manager of the Rates and Tariff Section of the Commission's Regulated Energy Division, presented Staff's analysis and recommendations on I&M's proposals related to critical peak pricing (CPP) rates and economic development (ED) riders; Staff's proposed jurisdictional cost of service study (JCOSS) and class cost of service study (CCOSS); calculation of determinants and related data from Staff's proposed sales projection, including PSCR expenses; Staff's proposed customer charges; and Staff's proposed default on-peak rates. Mr. Revere also provided rebuttal testimony regarding the cost of serving incremental load under I&M's proposed EDR-2

[32] Mr. Bodiford's qualifications and direct testimony are transcribed at 6 Tr 2176-2192.
[33] Ms. Durfee's qualifications and direct testimony are transcribed at 6 Tr 2193-2202.
[34] Mr. Ufolla's qualifications and direct testimony are transcribed at 6 Tr 2203-2223.
[35] Ms. Schreur's qualifications and direct testimony are transcribed at 6 Tr 2224-2230.
[36] Ms. McMillan-Sepkoski's qualifications and direct testimony are transcribed at 6 Tr 2231-2239.
[37] Mr. Boutet's qualifications and direct testimony are transcribed at 6 Tr 2240-2249.

tariff; categories and sizes allowed for DG; and transmission allocation, distribution allocation, and minimum system study.[38]

Elaina M. Braunschweig, a Departmental Analyst for the Rates and Tariff Section of the Commission's Regulated Energy Division, presented Staff's position on I&M's proposed rate design, various tariff revisions, present revenue, value-added programs and services (VAPS), and projected low-income assistance provision (LICUS) credit disbursement and enrollment in the test year. Ms. Braunschweig also provided rebuttal testimony regarding the Attorney General's proposed sales adjustment.[39]

Roger A. Doherty, Manager of the Resource Adequacy and Forecasting Section of the Commission's Energy Resources Division, provided Staff's analysis and recommendations on I&M's DR programs and pilots.[40]

Fawzon B. Tiwana, an Economic Analyst in the Energy Waste Reduction Section of the Commission's Energy Resources Division, presented Staff's analysis of I&M's proposed alternative NLRT, also known as a Revenue Decoupling Mechanism (RDM). He also provided rebuttal testimony.[41]

Nicholas M. Evans, Manager of the Electric Operations Section in the Commission's Energy Operations Division, presented Staff's recommendations regarding grant funding, I&M's proposal to defer grant writing costs and application expenses, and the Company's request to defer certain outage credits provided to customers.[42]

April M. Stow, a Departmental Analyst in the Interconnection and DER Section of the Commission's Energy Operations Division, provided Staff's analysis of I&M's request to make changes to its DG Rider and add a new DG 2 Rider.[43]

Charles E. Putnam, an Auditing Specialist in the Revenue Requirements Section of the Commission's Regulated Energy Division, provided Staff's response to I&M's request to establish a new Tax Rider.[44]

Allan David Freeman, an Assistant to the Division Director in the Energy Resources Division of the Commission, presented Staff's analysis of I&M's electric vehicle (EV) proposals.[45]

---

[38] Mr. Revere's qualifications, direct, and rebuttal testimony are transcribed at 6 Tr 2250-2285.
[39] Ms. Braunschweig's qualifications, direct, and rebuttal testimony are transcribed at 6 Tr 2286-2312.
[40] Mr. Doherty's qualifications and direct testimony are transcribed at 6 Tr 2313-2320.
[41] Mr. Tiwana's qualifications, direct, and rebuttal testimony are transcribed at 6 Tr 2321-2329.
[42] Mr. Evans's qualifications and direct testimony are transcribed at 6 Tr 2330-2343.
[43] Ms. Stow's qualifications and direct testimony are transcribed at 6 Tr 2344-2348.
[44] Mr. Putnam's qualifications and direct testimony are transcribed at 6 Tr 2349-2359.
[45] Mr. Freeman's qualifications and direct testimony are transcribed at 6 Tr 2360-2365.

C. Attorney General

The Attorney General presented the testimony of one witness and Exhibits AG-1 through AG-74, AG-76 through AG-78, AG-80 through AG-84, AG-86 through AG-99, AG-101 through AG-104, AG-106 through AG-110, AG-112 through AG-116, and AG-118 through AG-164.

Sebastian Coppola, an independent business consultant with expertise in utility matters, reviewed and made recommendations concerning I&M's proposed capital expenditures and rate base, IT projects, the Company's working capital and cost of capital, depreciation expense, O&M expenses, deferred costs and related amortization expense, the proposed NLRT, and residential and commercial monthly service charges.[46]

D. ABATE

ABATE presented the testimony of four witnesses and Exhibits AB-1 through AB-8.

James R. Dauphinais, a consultant in the field of public utility regulation and an Associate with the firm Brubaker & Associates, Inc., presented ABATE's other witnesses and addressed I&M's use of a projected test year and I&M's proposal to modify its power factor provisions for Tariff LP.[47]

Brian C. Andrews, a consultant in the field of public utility regulation and a Principal with the firm Brubaker & Associates, Inc., addressed the allocation of I&M's transmission and distribution plant.[48]

Jessica A. York, a consultant in the field of public utility regulation and a Principal with the firm Brubaker & Associates, Inc., addressed I&M's proposed revenue requirement. Ms. York made recommendations regarding incentive compensation and major storm damage expense, and she recommended adjustments based on the removal of a portion of the Company's projected distribution capital expenditures.[49]

---

[46] Mr. Coppola's qualifications and direct testimony are transcribed at 6 Tr 2371-2550, 2610-2764. Cross examination of Mr. Coppola begins at 6 Tr 2551 and concludes at 6 Tr 2572.
[47] Mr. Dauphinais' qualifications and direct testimony are transcribed at 3 Tr 43-70.
[48] Mr. Andrews' qualifications and direct testimony are transcribed at 3 Tr 71-95.
[49] Ms. York's qualifications and direct testimony are transcribed at 3 Tr 96-117.

Christopher C. Walters, a consultant in the field of public utility regulation and a Principal with the firm Brubaker & Associates, Inc., addressed I&M's proposed ROE. Mr. Walters also provided rebuttal testimony.[50]

E. MEIU

MEIU presented the testimony of one witness and Exhibits MEIU-1 through MEIU-5.

Jason W. Hoyle, Principal Energy Policy Analyst at EQ Research LLC, addressed I&M's DG program and tariffs, including the Company's proposed DG 2 Rider. He also recommended that the Commission clarify certain DG requirements in light of recently enacted Public Act 235 of 2023. Mr. Hoyle provided rebuttal testimony.[51]

F. Energy Michigan

Energy Michigan presented the testimony of one witness and Exhibit EM-1.

Alexander J. Zakem, an independent consultant with expertise in utility matters, addressed I&M's proposed EDR-2 and provided recommendations on how the incremental cost to serve the EDR-2 customer should be determined.[52]

G. CUB

CUB presented the testimony of one witness and Exhibits CUB-1 through CUB-20.

Robert G. Ozar, a Senior Consultant at 5 Lakes Energy LLC with expertise in energy policy and utility regulation, addressed I&M's proposed CPP and DG tariffs, the proposed PowerPay program, proposed changes to the NLRT, recommended adjustments to contribution in aid of construction (CIAC), the Company's proposed investment in DERMS, major storm restoration expenses, vegetation management, the deferral of outage credits, and distribution capital replacement.[53]

---

[50] Mr. Walters' qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 118-150.
[51] Mr. Hoyle's qualifications, direct, and rebuttal testimony are transcribed at 3 Tr 152-179.
[52] Mr. Zakem's qualifications and direct testimony are transcribed at 3 Tr 181-192.
[53] Mr. Ozar's qualifications and direct testimony are transcribed at 3 Tr 195-279.

H. City of Auburn

The City of Auburn presented the testimony of one witness and Exhibits AUB-1 through AUB-8.

Laurie A. Tomczyk, a Senior Manager in the Energy Practice of NewGen Strategies and Solutions, LLC with expertise in utility regulation, addressed I&M's proposal regarding annual funding for the Cook Plant Nuclear Decommissioning Trust (NDT).[54]

I. CEO

The CEO presented the testimony of one witness and Exhibits CEO-1 through CEO-5.

William D. Kenworthy, Senior Regulatory Director, Midwest, for Vote Solar, provided recommendations on I&M's DG program and its proposed DG 2 Rider.[55]

No testimony or exhibits were offered by the Great Lakes Renewable Energy Association (GLREA) or Wabash Valley Power Association, Inc. d/b/a Wabash Valley Power Alliance (Wabash Valley).

III.

LEGAL STANDARDS

Before addressing the disputes among the parties regarding other matters, it is appropriate to review the legal standards applicable in a rate case. The Commission applies the preponderance of the evidence standard when making findings of fact or weighing conflicting evidence.[56] The Commission is required to set rates that are just and reasonable when exercising its ratemaking authority.[57]

---

[54] Ms. Tomczyk's qualifications and direct testimony are transcribed at 3 Tr 282-296.
[55] Mr. Kenworthy's qualifications and direct testimony are transcribed at 3 Tr 298-308.
[56] January 31, 2017, Order, Case No. U-18014, p 8. (Rejecting a utility's request to apply the "substantial evidence" test and agreeing that the Commission utilizes the preponderance of the evidence standard).
[57] MCL 460.557(4).

The ratemaking process necessarily “involves a balancing of the investor and the consumer interests.”[58] A public utility is constitutionally protected from being limited to rates that are so inadequate as to be confiscatory.[59] One of the factors relevant to the rate-setting process is the return a utility’s investors may reasonably expect given the risk profile of public utilities as business enterprises.[60] The Commission has acknowledged that rates should be set so as to balance the interests of customers and shareholders such that the utility has “the opportunity to earn a reasonable return on its investments.”[61]

In considering whether rates are just and reasonable, it is the result reached, and not the methods employed, that is controlling.[62] Further, the Commission has broad discretion in determining the appropriate amount of investment on which a return will be computed. For example, in discussing the Commission’s predecessor agency, the Michigan Railroad Commission, the Michigan Supreme Court has held that “[w]hat return a public utility shall be entitled to earn upon its invested capital and what items shall be considered as properly going to make up the sum total of that invested capital are questions of fact for the determination of the commission[.]”[63] Additionally, ratemaking is a legislative function, and the Commission is not bound by any particular method or formula in the exercise this legislative function.[64]

---

[58] *Fed Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944).
[59] *ABATE v Pub Serv Comm*, 208 Mich App 248, 269; 527 NW2d 533 (1994).
[60] *Hope Natural Gas Co*, 320 US at 603; see also *Bluefield Water Works & Improvement Co v Pub Serv Comm of West Virginia*, 262 US 679, 692-693; 43 S Ct 675, 679; 67 L Ed 1176 (1923).
[61] May 8, 2020, Order Case No. U-20561, p 7.
[62] *Hope Natural Gas Co*, 320 US at 602; see also *Duquesne Light Co v Barasch*, 488 US 299, 310; 109 S Ct 609; 102 L Ed 2d 646 (1989); *Verizon Communications, Inc v FCC*, 535 US 467, 524–25; 122 S Ct 1646; 152 L Ed 2d 701 (2002).
[63] *City of Detroit v Michigan R Comm*, 209 Mich 395, 433; 177 NW 306 (1920).
[64] *ABATE v Pub Serv Comm*, 208 Mich App 248, 258; 527 NW2d 533 (1994); see also *Hope Natural Gas Co*, 320 US at 602.

Given the Commission’s broad discretion in the ratemaking process, and in the absence of any issues rising to the level of constitutional concern, this PFD will primarily look to past decisions of the Commission for guidance in determining how to resolve disputed issues involving rate case elements.

In its brief, I&M argues that the applicable standard of proof for purposes of determining whether the Company's proposals or recommendations are reasonable and prudent is the substantial evidence standard.[65] Then the Company states it has the burden to prove its case by a preponderance of the evidence.[66] Staff argues that I&M’s confuses the standards applicable to Commission orders with appellant standards when it asserts that the substantial evidence standard applies in this case[67] Staff argues that in fact I&M is required to demonstrate by a preponderance of the evidence that every proposed expenditure is reasonable and prudent.[68] The Attorney General also argues the correct standard of review is preponderance of the evidence.

Despite I&M’s assertions to the contrary, Staff correctly argue the Company has the burden to prove that each and every projected expenditure is not only reasonable and prudent, but likely to be incurred in the test year.[69] The Commission held:

> Moreover, in the case where the Company seeks approval for a projected cost, the Company must not only provide sufficient evidence to demonstrate to the Commission that both the specific project and its cost are reasonable and prudent, but it must also show by a preponderance of the evidence that the cost will in fact be incurred before the end of the test period.[70]

---

65 I&M brief, 11.
66 Id.
67 Staff reply, 3; referencing May 8, order, Case No. U-20561, p3-4 and January 31, 2017 order Case No. U-18014, p 5-8.
68 Staff reply, 3; referencing November 2, 2009 order, Case No. U-15645, p 8-9.
69 Staff reply, 6; referencing January 31, 2017 order, Case No. U-18014, p 9.
70 January 31, 2017, Order, Case No. U-18014, pp 8-9. See also Attorney General brief, p 28.

The Company also argues that a proper assessment of its case should evaluate whether the projected test year is adequately supported, not whether new information has become available during the pendency of the case.[71] I&M argues that the Commission should not allow use of more current information, such as discovery responses, to update the projections its original filings. The Company states it chooses a point in time from which to base its projections and argues:

> To the extent the Commission evaluates the accuracy of components of a test year, that analysis is based on whether the decisions underlying the projected test year were supported by sound data and reasonable assumptions based on information available at that time.[72]

Staff argues that the Company's claim is directly contradicted by the order in Case No. U-21297; the Commission found it has authority to ignore the projection and substitute an alternative it finds to be reasonable and appropriate, such as historical average.[73] And Staff maintains that the Commission has repeatedly upheld its authority to reject unsupported projections and use alternative methods to adjust proposed rates.[74] Staff recommend that the Commission affirm its holding in Case No. U-17895:

> In a case where a utility decides to base its filing on a fully projected test year, the utility bears the burden to substantiate its projections. Given the time constraints under Act 286, all evidence (or sources or evidence) in support of the company's projections should be included in the company's initial filing. If the Staff or intervenors find insufficient support for some of the utility's projections, they may endeavor to validate the company's projection through discovery and audit requests. If the utility cannot or will not provide sufficient support for a particular revenue or expense item (particularly for an item that substantially deviates from the historical data) the Staff,

---

[71] I&M brief, 16.
[72] I&M brief, 15.
[73] Staff reply, 9. December 1, 2023 order, Case No. U-21297, p 9.
[74] Staff reply, 8; referencing December 22, 2021 order, Case No. U-20936, p 9-10; December 1, 2023 order, Case No. U-21297, p 6; September 8, 2016 order, Case No. U-17895, p 2. See also March 29, 2018 order, Case No. U-18322, p 6.

> intervenors, or the Commission may choose an alternative method for determining the projection.[75]

In this case the Company frequently argues: “To the extent Commission does adopt a party's request to adjust the forecast test year for removed projects the Commission must also add projects and costs that replace those removed projects.”[76] I&M cites a 1973 Michigan Supreme Court decision for this proposition, however the Attorney General correctly distinguishes this case, noting it was decided long before statutory authority for a projected test year existed.[77] I&M’s assertions were directly addressed by the Commission in Case No. U-20697:

> If the required information cannot be provided in the direct evidence supporting the initial filing, but could potentially be provided later in rebuttal evidence, then the project is one that should be included in the utility’s next rate case, as soon as 12 months later, where the utility can supply the requisite information. The Commission recognizes that some categories of expenditure will only emerge during the test year. But Consumers’ request to address dozens of expense categories as emergent expenses and to provide its evidence on a rolling basis throughout the ten-month process does not comport with the setting of just and reasonable rates.[78]

The Commission also clearly states the disallowance of a projected expenditures that is not appropriately supported does not permanently bar recovery; the Company can seek recovery in a future rated case, assuming appropriately support is provide.[79]

The Company also claims that a party challenging its projections has the burden to demonstrate their position. The Attorney General disputes this assertion and argues

---

[75] September 8, 2016 order, Case No. U-17895, p 4; citing January 11, 2010 order, Case No. U-15768, p 9-10.
[76] I&M brief, 16-17.
[77] Attorney General reply, 7; referencing Michigan Consolidated Gas Company v Public Service Comm, 389 Mich 624,633 (1973).
[78] December 17, 2020 order, Case No. U-20697, p 20.
[79] Id.

the Commission must determine whether the utility proved its case by a preponderance of the evidence; the fact that a party makes an alternative proposal does not shift the burden from the Company to another party.[80] The Company argues that "[t]he Commission has an obligation to facilitate I&M financial health for the benefit of customers and shareholders."[81] This assertion is erroneous and the Attorney General correctly states in response that the Commission has no duty to facilitate the financial health of a utility, beyond the obligation to avoid setting confiscatory rates.[82] The Company also argues that expenditures are reasonable and prudent simply because they are associated with programs that in service or considered to be "used and useful" by the Company. Again, the contention is incorrect, and Staff properly asserts that the Commission has broad authority to evaluate the reasonableness of expenses and is not bound to apply the used and useful doctrine.[83] Finally I&M claimed that because it complied with the Rate Case Filing Requirements (RCFRs), the Commission should conclude that Company suppled all information necessary for the Commission to evaluate its request. This is also inaccurate. Compliance with the RCFRs is a condition precedent to the Commission's evaluation, and does not, in and of itself, establish the reasonableness and prudence of any Company proposals.

This PFD recommends the Commission clarify that the Company has the burden of proof, based on a preponderance of the evidence, to establish that its forecast is

[80] Attorney General reply, 3.
[81] I&M brief, 13.
[82] Attorney General reply, 5. The Attorney General refutes the support I&M cited for its assertion. Attorney General reply, 4-5.
[83] Staff reply, 5; referencing March 29, 2018 order, Case No. U-18322, p 5; November 18, 2022 order, Case No. U-20836, p 11; March 1, 2024 order, Case No. U-21389, p 3.

reasonable and prudent and that the utility must also demonstrate that the costs will be incurred before the end to the test year. If the Company does not provide sufficient support for a particulate item, the Commission can choose an alternative method for proposed by the parties, including use of historical data. However, other parties do not share the same burden of proof as the Company. And the Commission has repeatedly rejected I&M's claims that demonstrating a project is "used and useful" is not sufficient to meet its burden of proof. This PFD recommends the Commission explain that compliance with the filing requirements, is obligatory and does not support the Company's projections or sustain its burden of proof. The Commission should make it clear to the Company that it is not entitled to submit new or emergent projects during the pendency of a rate case. And the Commission should disabuse I&M of the notion that the Commission has a duty to support its financial well-being. The Commission's only obligation to the Company is to make sure that the Company's rates are reasonable and prudent.

IV.

TEST YEAR

A test year is the starting point for establishing just and reasonable rates for both the regulated utility and its customers. The Commission has explained that the selection of an appropriate test year has two components:

> First, a decision must be made regarding a 12-month period to be used for setting the utility's rates. A second determination must then be made regarding how the Commission should establish values for the various revenue, expense, rate base, and capital structure components used in the rate-setting formula. The Commission may use different methods in establishing values for these components, provided that the end result is a

determination of just and reasonable rates for the Company and its customers.[84]

As noted above, in developing its rates for this proceeding, I&M relied on a projected test year from January 1, 2024, through December 31, 2024, explaining that, in determining test year amounts, it began with the 2022 historical year, and then normalized and adjusted for known and measurable changes.

As in prior cases, ABATE objects to the use of a projected test year and projected capital expenses. ABATE witness Dauphinais testified that the Company's use of a fully projected test year has resulted in significant adverse impacts on customers. Mr. Dauphinais testified that, but for use of the projected test year, "I&M would only be able to request a rate increase of $17.82 million."[85]

Mr. Dauphinais described the impacts the use of projected test years has on ratepayers, including: (1) customers experience rate increases sooner than they would had the Company used a historical year; (2) I&M has no incentive to limit certain costs as is necessary to address regulatory lag associated with historical test years; (3) I&M is now able to include projected costs that it has not incurred, or that it may never incur, as soon as rates go into effect; and (4) the Company's use of projected test years has significantly increased the complexity of rate case filings, thereby hampering the ability of Staff and intervenors, and ultimately the Commission, to determine whether costs are reasonable before their inclusion in rates.[86] He opined approximately 47.7%, or $16.23 million, of I&M's proposed rate increase derives directly from the use of a projected test year and

[84] See January 11, 2010, Order, Case No. U-15678, p 9.
[85] 3 Tr 51.
[86] 3 Tr 52.

allows the Company to begin recover of costs before they are reviewed for reasonableness and prudence.[87] ABATE argues the Commission should base the revenue requirement on the Company's historical test year.[88]

Acknowledging that the has Commission accepted use of a projected test year in prior cases, ABATE witness Dauphinais asserted the Commission has directed regulated utilities to include all evidence in support of their test year projections and if the utility "cannot or will not provide sufficient support for a particular revenue or expense item (particularly for an item that substantially deviates from the historical data), 'the Commission may choose an alternative method for determining the projection.'"[89] Mr. Dauphinais asserted the best alternative method is use of a historical test year amounts for all expenses, and adjust for known and measurable changes.[90]

In its brief, ABATE argues that the Commission expects the parties to fully substantiate the basis for the test year projections "by offering into evidence detailed supporting explanations and underlying assumption rooted in expected business, financial, and economic circumstances."[91] And ABATE argues that the Commission should not rely on undocumented estimates of future ratemaking expenses and revenue criteria provided by I&M in this matter. ABATE encouraged the Commission not to accept a utility's cost projections or projected data when use of historical data is more fair and reasonable indicator of expenses.[92] ABATE argues use of a projected test year is

---

[87] 3 Tr 51.
[88] ABATE brief, 2.
[89] 3 Tr 54; citing January 11, 2010, Order, Case No. U-15768, p 9.
[90] 3 Tr 54.
[91] ABATE brief, 3-4. Quoting May 8, 2020, Order, Case No. U-20561, p 13.
[92] ABATE brief, 3-4.

unsupported and unworkable in this case because there is a general lack of customary support from I&M for many of its projections. ABATE maintains the projected test year in this case is unreasonable based on a recent finding of the Court of Appeals:

> [T]he Legislature's treatment of using projected test years "reflects its understanding that the PSC would reject a test year set so far removed from circumstances actually in view as to render it less than workable, or that, should the PSC adopt such a flawed test year, it would be subject to appellate challenges for unreasonableness."[93]

However, as an alternative, ABATE presented a series of recommendations for the Commission, including that it be vigilant in ensuring the expenses and investments projected are truly necessary to provide reliable service at the lowest reasonable cost, that the Company is irrevocable committed to incur the projected expenses or otherwise cannot avoid them, and that the expenses are precisely quantified as to both amount and the quarter in which I&M will incur these expenses.[94]

In rebuttal testimony, I&M witness Baker asserted that Mr. Dauphinais was attempting to improperly bring legislative policy before the Commission and stated that the recommendation to deny the use of a projected test year is inappropriate and has been "well-settled by the Court of Appeals."[95] He conceded that the Company had properly supported its case in chief and advised the Commission "to carefully consider the intervenor positions regarding 'lack of information' as a general justification to recommend disallowances."[96]

---

[93] ABATE brief 2-3. Quoting In re Application of Consumers Energy Co, 338 Mich App 239, 247 (2021)
[94] ABATE brief, 6. 3 Tr 55.
[95] December 1, 2023, Order, Case No. U-21297, p 9.
[96] 3 Tr 710.

In its brief, I&M argues that the Commission should reject ABATE's recommendations regarding use of a projected test year. The Company points out that Mr. Dauphinais made very similar arguments in recent cases involving other regulated utilities, and the Commission rejected the arguments.[97] And I&M cites MCL 460.6a(1) for the provision that "[a] utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rate and charges."[98] The Company states:

> The unambiguous language of MCL 460.6a(1) permits I&M to use a test year, but it remains the Company's burden "to prove the accuracy of each and every test year projection[,]" which the Company has done in this case.[99]

Relying on Mr. Baker's rebuttal testimony, I&M asserted it provided substantially more supporting information in this case as compared to others and the Commission should conclude that ABATE's arguments against use of a projected test year are meritless and should be rejected.[100]

In its reply brief, ABATE maintains that use of a historical test year is a better indicator of costs and repeats that while MCL 460.6a(1) provides for a projected test year, a utility does not have a right to unfettered approval of its projections.[101] And ABATE repeats that, because I&M has not adequately supported its projections, use of a historical test year, adjusted for known and measurable changes, is appropriate.[102]

This PFD agrees with I&M that it is acceptable to use a projected test year to set rates for a 12-month calendar year period, January 1, 2024, through December 31, 2024.

---

[97] See March 1, 2024, Order, Case No. U-21389, p 6 and December 1, 2023, Order, Case No. U-21297, p 9.
[98] MCL 460.6a(1).
[99] I&M brief, 20. Citing December 22, 2021, Order, Case No. U-20963 p 9.
[100] I&M brief, 19-20. 3 Tr 710.
[101] ABATE reply, 2.
[102] ABATE reply, 2.

Commission precedent is clear: "[T]he Commission's approval of projected test years is permissible under MCL 460.6a and challenges to the use of a projected test year have been well-settled by the Court of Appeals."[103] And the Court of Appeals again affirmed the use of a projected test year in Case No. U-20561.[104] However, as noted above, I&M has the burden to prove its projections and it is appropriate for other parties to offer alternatives when faced with insufficient support. This PFD recommends the Commission set rates for 2024 projected test year proposed by I&M, while scrutinizing the Company's projections consistent with prior Commission orders.

V.

RATE BASE

A utility's rate base is the value of the utility's property on which it is permitted to earn a specified rate of return. Rate base consists of the capital invested in used and useful plant, less accumulated depreciation, plus the utility's working capital requirements. In its brief, I&M projected a total jurisdictional rate base of $7,392,997,000, with a Michigan jurisdiction rate base of $1,251,903,000.[105] In its brief, Staff project a Michigan jurisdiction rate base of $1,219,238,000.[106]

A. Net Utility Plant

Net plant is the primary component of rate base, and its key elements are total utility plant (plant in service, plant held for future use, and construction work in progress

[103] December 1, 2023, Order, Case No. U-21297, p 9.
[104] *In re Application of DTE Electric Co.*, unpublished per curiam opinion of the Court of Appeals, issued December 21, 2021 (Docket No. U-353767), *lv den* 509 Mich 989; 974 NW2d 192 (May 31, 2022). As noted by I&M, the court considered arguments which were nearly identical to those made by ABATE in this matter.
[105] I&M brief, 21,133.
[106] Staff brief, 4.

(CWIP)) less the depreciation reserve, which includes accumulated depreciation, amortization, and depletion. The Company divides its historical and projected capital expenditures into the following categories: 1) Fossil (sometimes referred to as Steam), Hydro, and Solar; 2) Nuclear; 3) Distribution; and 4) Intangible & General.[107]

The Company's Capital Forecast period is the two-year period from January 1, 2023, through December 31, 2024. I&M projects capital expenditures of $484,030,000 in 2023 and $470,985,000 in 2024.[108]

1. Contingency

a. Generation Contingency

Staff witness Ah Tou identified projected contingency amounts I&M included in its requested capital expenditures.[109] Based on Mr. Ah Tou's testimony, Staff recommends the Commission fully disallow the contingency expenditures for production plant totaling $936,000 in 2023 and $358,000 in the projected test year.[110] Staff's reasoning is succinctly stated by Mr. Ah Tou:

> Staff recommends a full disallowance of contingency expenditures because it cannot be determined whether these expenses are reasonable or prudent. Contingency expenditures are used to allocate funds for uncertain or unexpected events. Without the Commission's ability to perform retroactive ratemaking, the Company would have the opportunity to over-earn, should these funds not be required as projects get completed. In contrast, the Company has the opportunity to seek recovery in a future case should unexpected expenditures arise.[111]

---

[107] I&M brief, 23. Exhibit A-12, Schedule B-5.
[108] *Id*.
[109] 6 Tr 2174-2175.
[110] Staff brief, 11.
[111] 6 Tr 2175.

I&M confirms these contingency expenses were included but argues that their inclusion is appropriate.[112] In rebuttal, Mr. Lucas testified "the ability to utilize contingency to manage ongoing changes in project costs and balance the overall capital portfolio is a necessary component of the overall financial forecast."[113] And Mr. Jessee testified that if contingency funds are not available, funds from another project would have to be diverted which "in turn, would jeopardize or delay the project from which funds are diverted and/or deprive other areas where capital dollars are needed."[114] In its brief, I&M further argues that Staff's proposed disallowance for contingency expenses is inappropriate and contends: "It is an industry best practice to forecast contingency reserves for known risks, and contingency reserves are integral to I&M's ability to manage its overall capital portfolio. Therefore, contingency reserves should be included in the forecast."[115] In its reply brief, I&M refers to its initial brief and repeats its assertion that contingency costs are necessary.[116]

The Attorney General argues in her brief that Staff's proposed disallowance is appropriate.[117]

This PFD recommends that the Commission accept the proposed disallowance of projected contingency expenditures, as requested by both Staff and the Attorney General, totaling $936,000 in 2023 and $358,000 in 2024. As Staff correctly notes, "the Commission has repeatedly found, although allowing for contingency may be appropriate

---

[112] I&M brief, 129.
[113] 3 Tr 781.
[114] 6 Tr 1931.
[115] I&M brief, 130.
[116] I&M reply, 45; citing I&M brief, 130-132.
[117] Attorney General brief, 4.

in project planning, the inclusion of these costs in customer rates in unjust and unreasonable."[118] The Attorney General also provides a plethora of authority showing this has repeatedly been the Commission's ruling on the inclusion of contingency expenses.[119]

b. Distribution Contingency

In addition to the disallowance discussed above, Staff recommends the Commission disallow $582,000 in distribution contingency capital expense projections.[120] The breakdown of Staff's proposed adjustments is displayed in a table in its brief.[121] Making the same argument as above, Staff recommends disallowance of this capital expense.[122] No other party addressed this proposed disallowance.

For the reasons stated above, this PFD recommends the Commission accept the proposed disallowance of contingency expenditures associated with distribution totaling $582,000, as requested by Staff.

2. Fossil, Hydro, and Solar (non-nuclear) Generation Capital Expenditures

The Company forecasts capital expenditures, during the two-year Capital Forecast Period, to be $57,436,000 on a total Company basis.[123] Specifically, the Company forecasted $25,400,000 in capital expenditures for 2023 and $32,000,000 for 2024, while in 2022, I&M's generation capital spending was only $16,800,000.[124]

---

[118] Staff brief, 10; citing December 17, 2020, Order, Case No. U-20697, p 9.
[119] Attorney General brief, p 5, footnote 23.
[120] Staff brief, 23.
[121] Staff brief, 9. Sourced form Appendix E to that brief.
[122] Staff brief, 23.
[123] 6 Tr 1915. Exhibit A-12, Schedule B-1.
[124] 6 Tr 2394. Exhibit A-12, Schedule B-5.1.

Mr. Jessee described I&M's fossil, hydro, and solar generation fleet, which is comprised of Rockport Unit 1, six run-of-river hydro facilities, and five solar generation facilities.[125] The Company's Rockport Unit 1 plant, with two pulverized coal-fired units, provides a net generating capacity of 1320 MW. He testified the Rockport Unit 2 transitioned to a merchant plant on December 8, 2022 and costs associated with its operation are not include in the Company's forecast for this case.[126] The run-of-river hydro units are power stations situated along a river that utilize the river's flow to generate power without materially altering the normal course of the river.[127] I&M's six hydro units have a combined installed capacity for a total of 20.7 MW and average approximately 100,000 MWh energy per year. The Company's solar generation fleet consist of five units: Watervliet, Olive, Deer Creek, Twin Branch, and St. Joseph.[128] These units have an installed capacity of 34.7 MW of capacity, however, as Mr. Jessee testified the power output of these units is dictated by the amount of sunlight available at any given time.[129]

Mr. Jessee discussed capital expenditures for the Major Projects category; projects with forecast expenditures exceeding $10 million and testified these costs are forecast to be $16,821,000 in 2023 and $26,309,000 in 2024.[130] He also testified the Other Capital Investments category "includes capital expenditures associated with multiple smaller projects" that are summarized in a Project Life File, which forecasts

[125] 6 Tr 1902-1904.
[126] 6 Tr 1902.
[127] 6 Tr 1904.
[128] 6 Tr 1905.
[129] 6 Tr 1906.
[130] 6 Tr 1915.

capital by project.[131] The Company projects costs for these projects to be $8,593,000 in 2023 and $5,713,000 in 2024.[132]

Staff witnesses Bodiford and Attorney General witness Coppola expressed opposition to projected costs associated with multiple elements of the Company's generation capital projections. The proposed adjustments are addressed below.

a. Canceled or Postponed Projects

Based on the testimony of Mr. Bodiford, Staff recommends adjustments to fossil/steam and hydro generation capital expenditures.[133] The first involves removal of projects for which the Company is no longer seeking recovery. I&M identified 26 projects that are either canceled or postponed beyond the bridge and test years.[134] Staff notes that I&M provided updated information in discovery with a Project Life file which included data on projects that were not in the original filings. Staff recommends that the Commission disallow expenditures associated with the canceled projects with a total disallowance of $2,519,746 in 2023 and $792,513 in the test year.[135] Staff calculate the Michigan jurisdictional amount to be $523,000.[136]

Based on reasoning similar to Staff's, the Attorney General recommends that the Commission disallow the recovery of the 2023 capital expenditures associated with the Elkhart Unit 2 Turbine Replacement Capital Upgrade project. Mr. Coppola testified that on Exhibit A-12, Schedule B5.1, the Company projected a total of $1,078,000 for 2023

---

[131] 6 Tr 1916. Exhibit IM-22.
[132] I&M brief, 27.
[133] Staff brief, 12. 6 Tr 2181.
[134] Staff brief, 12-13. See Exhibit S-19.2.
[135] Staff brief, 12-13. 6 Tr 2182.
[136] Staff brief, 13, 15.

and zero for 2024, however, in discovery I&M reported that this project was postponed, and the funds are planned for redistribution to other projects.[137] The Company did not specifically identify the other projects, and Mr. Coppola opined that if the projects were necessary, they should have been included in the initial filing so that parties could complete a proper review. He testified, "[t]o interject new projects in the midst of discovery in a rate case that must be decided in 10 months does not allow sufficient time for a prudency review and is not a reasonable request by the Company."[138] Mr. Coppola calculated the Michigan jurisdiction amount to be $192,000 using the allocation factor of 15.78026%.[139] The Attorney General notes that Mr. Bodiford reached the same conclusion, and that Staff's recommendation includes a full disallowance of these costs in its proposed disallowance, as discussed above.[140]

Mr. Jessee responded to the capital expenditure disallowances proposed by Staff and the Attorney General. He criticized the use of updated data and testified that I&M objected "to the term 'no longer seeking recovery for.'"[141] Mr. Jessee asserted Staff and the Attorney General only considered I&M's updated forecast as it relates to disallowance, and stated the Commission should approve the Capital Forecast submitted in this proceeding and:

> Given the very dynamic nature of the risks and liabilities associated with properly managing a generation facility, the ability to redistribute funds to higher priority need projects that emerge is essential for safe, reliable, compliant, and efficient operation of the facilities.[142]

---

[137] 6 Tr 2396.
[138] 6 Tr 2397.
[139] 6 Tr 2397. See Exhibit A-12, Schedule B5.1.
[140] Attorney General brief, p 27.
[141] 6 Tr 1925. Exhibit IM-75R.
[142] 6 Tr 1925.

He testified Staff's disallowance is incomplete and inappropriate because any identified budget for a project that I&M has canceled or postponed results in those funds being re-distributed to emergent projects.[143] He testified that if Staff had properly considered the information provided in discovery, the capital expenditures would increase by $4,967,600 in 2023 and $4,271,906 in 2024.[144] And Mr. Jessee expressly disagreed with Mr. Coppola's proposed adjustment to the projected capital costs for the Elkhart Unit 2 Turbine Replacement project, making a similar argument.[145]

In its brief, I&M argues its projected capital expenditures are reasonable, contending it is unreasonable to "propose disallowances because a more recent forecast provided in discovery show changes to the anticipated projects for the Capital Forecast Period."[146] I&M argues that Staff and the Attorney General misrepresent the discovery response as noted by Mr. Jessee above. The Company continues to assert that it is reasonable to reallocate funds for the projected expenditures in its Capital Forecast.[147] I&M maintains the Commission should reject the approach utilized by Staff and the Attorney General to adjust the test year forecast based on actual expenditures, but if the Commission considers this methodology, it must consider the additions of new or emergent projects.[148]

In response to rebuttal from Mr. Jessee and Mr. Lucas, complaining that other parties only considered updated projections involving disallowances, Staff contends:

---

[143] 6 Tr 1926-1928.
[144] 6 Tr 1927. Exhibit IM-75R.
[145] 6 Tr 1928-1930.
[146] I&M brief, 27.
[147] I&M brief, 27-28.
[148] I&M brief, 31.

> Staff has determined that the most appropriate way to assess whether the Company's supporting evidence for its initial projection is reasonable and prudent is to evaluate the Company's progress toward its originally filed and supported capital expenditure plans using updated projections of the Company's originally filed Project Life file. This method of analysis ensures that all intervening parties in the case have the same supporting documentation for the projections and are given ample opportunity to evaluate all of the projects included in the Company's originally filed case. Intervening parties base their need to intervene and their prudence assessment on the Company's original filing requests. The introduction of completely new projected project costs after the initial filing inappropriately alters the rate request, denying possible participants the right to review because they did not become a party to the case, and denying actual intervening parties sufficient time to assess these new projections because they were introduced after the original filing date.[149]

Staff observes that the Commission approved its disallowance based on updated spending data in Case No. U-21389 and urges the Commission to be consistent in this matter adopt Staff's disallowance.[150] Staff also notes the Commission requires sufficient evidence that projected costs will be incurred before the end of the test year.[151]

Observing that Mr. Lucas asserted in rebuttal that disallowing expenditures for canceled or postponed projects without adding expenditures for new projects is "cherry picking", the Attorney General argues the Commission has long held that projected expenditures for cancelled projects are not appropriate for inclusion in rate base.[152] The Attorney General cites the Commission Order in Case No. U-18014:

> Moreover, in the case where the Company seeks approval for a projected cost, the Company must not only provide sufficient evidence to demonstrate to the Commission that both the specific project and its cost are reasonable and prudent, but it must also show by a preponderance of the evidence that the cost will in fact be incurred before the end of the test period.[153]

---

[149] Staff brief, 14.
[150] Staff brief, 15; citing March 2, 2024, Order, Case No. U-21389, p 54.
[151] January 31, 2017, Order, Case No. U-18014, pp 8-9.
[152] Attorney General brief, 28.
[153] January 31, 2017, Order, Case No. U-18014, pp 8-9. Attorney General brief, 28

And the Attorney General observes that the Commission has held that the substitution of new projects while a rate case is pending is objectionable "[g]iven the time constraints [of a rate case], all evidence (or sources of evidence) in support of the Company's projections should be included in the Company's initial filing."[154]

In her reply brief, the Attorney General further defends disallowances related to postponed or canceled projects and notes I&M added 54 new projects, to which the funds will be diverted, with no evidence of specifics to support these projects.[155] And the Attorney General repeats that the Commission requires a utility to show not only that projects and costs are reasonable and prudent, but will also be implemented in the test year.[156]

In its reply brief, I&M reiterates that its forecasted capital expenditures should be evaluated based on the information known at the time it was prepared and argues it is improper to utilize updated data.[157]

This PFD finds the arguments of both Staff and the Attorney General to be more persuasive and consistent with Commission precedent. As the Attorney General correctly states, the Commission requires the utility to show not only that its projected expenses are reasonable and prudent, but also that the funds will be spent in the projected test year.[158] And the Commission has held it is inappropriate for a utility to attempt to substitute new projects after filing its initial application in a ten-month rate case.[159]

---

[154] September 8, 2016, Order, Case No. U-17895, p. 4; citing January 11, 2010, Order, Case No. U-15768, p 9-10.
[155] Attorney General reply, 9-10.
[156] Attorney General reply, 10-11.
[157] I&M reply, 14.
[158] Attorney General brief, 28; citing January 31, 2017, Order, Case No. U-18014, pp 8-9.
[159] December 17, 2020, Order, Case No. U-20697, p 20.

Accordingly, this PFD recommends that the Commission accept Staff's proposed disallowance of the canceled projects identified above, which includes disallowance of the costs associated with the Elkhart Unit 2 Turbine Replacement Capital Upgrade project recommended by the Attorney General.

b. Changes in Actual Updated Data

Staff's second adjustment incorporates updated data, provided by I&M in discovery, for actual capital expenditures in 2023. Using Exhibit S-19.3, Mr. Bodiford testified that Staff compared the updated amounts to the projections in the Company's originally filed documents. He testified this resulted in an overall increase to generation capital expenditures of $3,546,359 in 2023 and a reduction of $3,488,544 in the 2024 test year. Based on the same reasoning as above, Staff asserts its calculations are more reasonable and prudent and recommends the Commission include the above amounts in the calculation of capital expenditures in both 2023 and 2024.[160]

I&M disagrees with Staff's recalculation of expenditures based on updated, actual data based on the same argument made to refute the proposed disallowance of cancelled projects. The Company again asserts that its forecast in this case is reasonable and argues that the Commission should reject use of adjusted forecasts based on actual spending.[161]

In its reply brief, Staff comments that the Company chose to "cherry pick" the results of its analysis when claiming the Attorney General and Staff only recommended disallowances, observing that its analysis of the data resulted in an increase to the capital

[160] 6 Tr 2183.
[161] I&M brief, 28.

expenditures “for at least 66 of the Company’s originally filed fossil and hydro generation projects [in 2023] as well as cost projection increases for at least 24 projects in the Test Year.”[162]

In its reply brief I&M continues to argue that Staff did not consider “the fluid nature of a utility’s budget” and that it is improper to consider updated data when analyzing the reasonable and prudent of the as-filed forecast.[163]

This PFD finds Staff’s arguments to be more persuasive and consistent with Commission precedent. As noted above, I&M has repeatedly relied on the erroneous assertion that it is not required to provide project specific support, and that it appropriately relies on budget, to meet its burden to prove projected expenditures are reasonable and prudent. Staff correctly argue that it is appropriate to consider updated information when the utility does not appropriately support its projections. Accordingly, this PFD recommends the Commission adopt Staff’s proposed adjustments to I&M’s generation capital expenditures.

c. Cost Class Estimates

Staff’s next adjustment is based on information provided in discovery related to the Company’s cost class estimates for each project. Mr. Bodiford testified that I&M assigned its own internal cost class estimates to each capital project, which are consistent with the Association for the Advancement of Cost Engineering (AACE) Internal estimation classes.[164] He provide a summary of I&M’s cost estimate classes in Table 1 and noted

---

[162] Staff reply, 15-16; citing Exhibit S-19.3
[163] I&M reply, 10-11.
[164] 6 Tr 2183. Exhibit S-19.4.

these estimate standards are classified from 1 to 5, with level 5 being the least defined.[165] He testified “the further into the future a projected amount is estimated for a project, the more uncertain the cost estimate is.”[166] Based on this analysis, Staff reviewed and adjusted fossil and hydro capital projects with costs over $1 million for which the engineering specifications were not 100% known. Mr. Bodiford identified one project: the “Project ID #EKH000128 Spillway Cut Off Wall” and recommended the removal of $1,144,646 in projected capital expenditures for the test year.[167] He testified:

> To make the adjustment, Staff used the lower bound of the expected accuracy range for each class estimate level. For the project in question, that entailed applying a 15% (Class II) discount to the updated capital expenditure request for the Test Year.[168]

The Company maintains that Mr. Bodiford’s proposed disallowance for the Elkhart Spillway Cutoff Wall project is based on flawed assumptions. Based on Mr. Lucas’s testimony, I&M argues a Class 2 estimate on a project that is well into the execution phase is sufficient to support the forecasted capital expenditure. Mr. Jessee also testified this project has started the execution phase and opined this is “clearly of sufficient estimate quality to be included in a future Test Year case.”[169] And noting the project began construction in July 2023, with a completion date in November 2024, the Company argues it is reasonable to include capital expenses for this project in the test year.[170] I&M

---

[165] 6 Tr 2184. See Table 1.
[166] 6 Tr 2184-2185.
[167] 6 Tr 2185. See Exhibit A-12, Schedule B-5.1.
[168] 6 Tr 2185.
[169] 6 Tr 1929.
[170] I&M brief, 34.

maintains in its brief that the Commission should reject the disallowances recommended by Staff.[171]

Staff argues in its brief that the Commission recently found a substantially similar class cost analysis, to be reasonable and prudent in case U-21389.[172] And Staff maintain the arguments in its reply brief.[173]

In its reply brief, "[t]he Company reiterates that Staff's proposed reduction for a Class II estimated project is unwarranted and should be rejected."[174]

This PFD finds the arguments of Staff to be more persuasive and consistent with Commission precedent. While I&M argues that a Class 2 estimate should support inclusion of 100% of the projected costs, Staff correctly argues that the Commission has approved reductions to projected expenditures when the Company offers insufficient support for those expenditures. As Staff notes, merely claiming that a Class 2 estimate is sufficient support for projected capital expenditures is insufficient. The Commission held: "some proportions of the total projects is likely to land at the low end of the range, and the Commission finds the Staff's proposal to be reasonable and prudent."[175] Accordingly this PFD recommends that the Commission accept the Staff's proposed partial disallowance of 15% of the capital expenditures projected for the Spillway Cut Off Wall project.

d. Solar Facilities

---

[171] I&M brief, 32.
[172] Staff brief, 19; citing March 1, 2024, Order, Case No. U-21389, p 54.
[173] Staff reply, 17.
[174] I&M reply, 12.
[175] March 1, 2024, Order, Case No. U-21389, p 54.

In addition to the generation projects discussed above, the Attorney General proposed adjustments pertaining to two solar projects. Based on Mr. Coppola's testimony, she recommends a complete disallowance of the capital expenditures projected for the Lake Trout and Mayapple solar projects.[176] I&M projected capital costs for the Lake Trout project in the amounts of $1,414,000 for 2023 and $1,390,000 for 2024, and for the Mayapple project in the amounts of $2,178,000 for 2023 and $2,666,000 for 2024.[177] Mr. Coppola remarked that these expenditures were not discussed in the testimony of Company witness Jessee, and in discovery the Company stated these projects will not be in operation until 2025. Noting that the Company provided "a general statement" without specifics, Mr. Coppola asserted these capital costs are unsupported and should be disallowed.

The Attorney General states that I&M disclosed in discovery that the Lake Trout and Mayapple solar projects were not included in testimony because they will not be in operation until 2025, after the test year. When asked for clarification of the expenditures included in both 2023 and 2024, I&M stated "they were for general project oversight, coordination with developers, and review of submitted design packages from the developers."[178] The Attorney General observes that Mr. Jessee testified on cross-examination that the engineering, design, and procurement is actually performed by the project developers, not I&M.[179] And the Attorney General observes that Mr. Jessee

---

[176] Attorney General brief, 30.
[177] 6 Tr 2396. See Exhibit A-12, Schedule B5.1.
[178] Attorney General brief, 32-33. See Exhibit AG-14.
[179] Attorney General brief, 35. 6 Tr 1942.

testified that I&M had not spent anything on either the Lake Trout or Mayapple projects as of the middle of December 2023.[180]

The Attorney General acknowledges that Ms. Seger-Lawson testified in rebuttal that the costs have been classified as construction work in progress (CWIP) and that the Commission generally allows inclusion of CWIP in rate base.[181] However, the Attorney General argues that the Company's assertion that the capital expenditures in 2023 and 2024 have been classified as CWIP is not relevant. Acknowledging the Commission approved total expenditures for the two solar projects, the Attorney General argues the reasonableness and prudence of specific expenditures were not addressed.[182]

The Attorney General recommends that the Commission remove the capital expenditures for these solar projects arguing "the Company has not even come close to supporting the projected costs for those projects it seeks to include in this rate case. I&M has not shown that the costs are likely to be incurred during 2023 or the test year, and has not offered any coherent explanation how it expects to incur $7.6 million reviewing paperwork and plans created by third parties."[183] Mr. Coppola calculated the costs pertaining to the Michigan jurisdiction to be $559,000 for 2023 and $640,000 for 2024 for both projects (using the same allocation factor provided by the Company).[184]

I&M disputes the Attorney General's allegation that the capital expenditures for the Lake Trout and Mayapple Solar facilities are unsupported.[185] The Company argues that

---

[180] Attorney General brief, 35. 6 Tr 1943.
[181] 6 Tr 2006-2007.
[182] Attorney General brief, 34.
[183] Attorney General brief, 36.
[184] 6 Tr 2396. Exhibit AG-11.
[185] I&M brief, 35-36.

because the Commission approved both projects (in Case Nos. U-21189 & U-21377), the inclusion of associated capital costs in this proceeding is appropriate. I&M states the Commission reviewed the reasonableness and prudence of the projects in the other cases and further review is duplicative and unnecessary.[186] And as the capital for these projects is assigned to CWIP and should be included in the test year, I&M argues the Commission should reject the disallowances recommended by the Attorney General.

In its reply brief, the Company reiterates that the capital for the two solar facilities is classified as CWIP. I&M argues, based Mr. Wnek's testimony, that because CWIP is offset by AFUDC accruals in rate base, the effect is revenue neutral.[187] And the Company notes that MCL 460.6s(9) specifies:

> The commission shall not disallow recovery of costs an electric utility incurs in constructing, investing in, or purchasing an electric generation facility or in purchasing power pursuant to a power purchase agreement for which a certificate of necessity has been granted, if the costs do not exceed the costs approved by the commission in the certificate.

Based on this provision and the fact that the reasonableness and prudence of the expenditures will be addressed once the projects are in service, I&M argues that it would be inappropriate for the Commission to disallow the costs in this proceeding.[188]

In her reply brief, the Attorney General again argues that the Company did not support the high costs for these projects and reiterates her position that the approvals granted by the Commission for development of the two solar projects did not approve any

[186] I&M brief, 36.
[187] I&M brief, 16. 5 Tr 1724.
[188] I&M brief, 16-17.

particular costs to be reasonable and prudent. The Attorney General did not address the issue of CWIP in her reply brief.[189]

In its reply brief, the Company maintains that the expenditures related to these solar facilities are being classified as CWIP and "will not be in rate base, and recovered by customers, until the projects are place in service in 2025."[190]

While the Attorney General's concerns about the projected expenditures is not without merit, this PFD finds I&M's arguments to be more persuasive. The Commission has approved the projects in separate proceedings, including costs. The Company persuasively cites MCL 460.6s, quoted above.[191] Clearly the costs included in CWIP do not exceed the total project costs at this point. And, equally significant, the capital expenditures are classified as CWIP, with an AFUDC offset, which in this case renders the expenditures revenue neutral.

3. Nuclear Generation Capital Expenditures

Ms. Ferneau testified:

> The Cook Plant is a two-unit nuclear power plant located along the eastern shore of Lake Michigan in Bridgman, Michigan. Both units are pressurized water reactors with four-loop Westinghouse nuclear steam supply systems. The combined nominally rated net electrical output for both units is 2278 megawatts.[192]

I&M forecasted total Company capital expenditures for nuclear generation at the Cook Nuclear Plant to be $70,856,000 in 2023 and $67,000,000 in 2024.[193] Ms. Ferneau explained the requirement that the Company comply with Nuclear Regulatory

[189] Attorney General reply, 11-12.
[190] I&M reply, 16.
[191] MCL 460.6s(9)
[192] 3 Tr 1019.
[193] I&M brief, 36. 3 Tr 1030. See Exhibit A-12, Schedule B5.2.

Commission (NRC) regulations and how these regulations affect facility operations and upgrades planned by I&M.[194] She testified capital expenditures are categorized as; Major Projects, Regulatory Related Investments, Preventive/Corrective Maintenance, and Other.[195] She testified Major projects are comprised of those valued at $3 million or more, and include the Cook Local Area Network (LAN) Expansion Project, the Makeup Plant Chemical Container Upgrade project, and Projects to Replace Obsolete System and Equipment.[196] Ms. Ferneau testified forecast expenditures for Regulatory Related Investments include plant modifications required by the NRC and in this case consist mostly of projects tied to the Cook Subsequent License Renewal Project (SLR).[197] Preventive/Corrective Maintenance capital expenditures relate to improvements necessary for maintaining preemptive replacement of plant components prior to failure and the Other category represents projects that are not captured in the other categories.[198]

a. Staff Adjustment

Based on the testimony of Mr. Bodiford, Staff recommends a reduction in I&M's proposed nuclear capital expenditures of $2,941,086 in 2023 and a reduction of $384,261 in the projected test year.[199] Using updated nuclear expenditure data provided in discovery, which incorporated actual capital expenditures through July 2023, Mr. Bodiford testified that he calculated the difference between the updated data and the original

---

[194] 3 Tr 1020.
[195] 3 Tr 1029.
[196] 3 Tr 1029-1032.
[197] 3 Tr 1032.
[198] 3 Tr 1032-1033.
[199] Staff brief, 20.

projections which result in Staff's recommendations.[200] Staff states the above reductions correspond to $525,000 in the Michigan jurisdiction.[201]

The Company objects to Staff's proposed disallowance, asserting the Commission should evaluate the projected financial forecast as originally presented in its direct case. I&M again criticizes Staff's analysis as selective and only focused on data resulting in disallowances. Based on the testimony of Mr. Lucas, I&M argues Staff compares snapshots in time and adjusts only certain elements of a forecast which "fails to recognize the ongoing and active management and prioritization of capital investments."[202] I&M argues that its forecast and its proposed expenditures are reasonable and prudent.[203] And, in its reply brief, I&M argues that Staff's disallowance should be rejected as it does not properly consider the total budget. The Company also notes that Staff considered new or emergent projects when analyzing the nuclear forecast but failed to do so for any other capital components.[204]

Staff repeats its assertion that its disallowance is reasonable based on the updated information supplied by the Company.[205] And Staff defends its approach toward nuclear disallowances, acknowledging that it differed from generation disallowances, in its reply brief. Staff argues:

> Staff recognizes the complexities of coordinating necessary nuclear capital projects according to the compliance requirements set forth by the Nuclear Regulatory Commission. Even considering Staff's wholistic approach for analyzing updated nuclear capital projects, Staff ultimately recommended a

---

[200] 6 Tr 2186. Exhibit S-19.5.
[201] Staff brief, 21.
[202] 3 Tr 780.
[203] I&M brief, 42.
[204] I&M reply, 17-18.
[205] Staff reply, 18.

> net removal of $2,941,086 in project costs from the bridge period, which represent a reasonable 4% decrease from the costs originally projected.[206]

And Staff observes the Company touted Staff's understanding when it recommended approval of the SLR project (discussed below).[207]

This PFD finds Staff's arguments to be more persuasive and consistent with Commission precedent. As discussed numerous times throughout this PFD, when the utility does not sufficiently support its projections, it is reasonable for other parties to use historical data to calculate the projected expenditures. In this case, Staff established that I&M's projections were faulty and used actual data from much of 2023 to annualize and calculate a reasonable projection. Accordingly, this PFD recommends the Commission accept Staff's disallowance to nuclear capital expenditures of $2,941,086 in 2023 and a reduction of $384,261 in 2024.

b. Attorney General Adjustments

i. Local Area Computer Network (LAN)

The Attorney General recommends several adjustments to I&M's projected nuclear capital expenditures. First, based on the testimony of Mr. Coppola, the Attorney General recommends the Commission disallow projected capital costs for the Cook nuclear plant LAN.[208] The Company decided to undertake this project in 2019 and in response to discovery, stated the original cost estimate for the project was $12,000,000, with an expected completion date of October 2020. Then I&M revised the forecasted and

[206] Staff reply, 17-18.
[207] Staff reply, 19.
[208] Attorney General brief, 36. 6 Tr 2400.

increased the projected costs to $22,300,000 (an increase of approximately 86%) with a completion date of June 2024.[209]

The Attorney General argues that I&M did not adequately support these increased costs.[210] Mr. Coppola testified the Company projects to spend a cumulative amount on this project of $19,296,886 as of November 2024, which he noted was $7,302,000 above the original cost estimates for the project. Mr. Coppola testified I&M provided general excuses for the increase in costs, which he opined do not support the projected costs.[211] The Attorney General recommends the Commission disallow all the projected capital costs in the amount of $6,171,000, which reflects $974,000 for the Michigan jurisdiction for 2023.[212] And the Attorney General recommends the Commission disallow all capital expenditures for the LAN project in the test year; he calculated the Michigan jurisdictional amount to be $1,437,000.[213]

The Attorney General claims that the proposed disallowance will still allow the Company to recover $1,131,000 in total jurisdictional costs, which represents a 9% cost increase from the original projected cost estimate for the LAN project for a total of $13,126,000 in the test year.[214] Also based on Mr. Coppola's testimony, the Attorney General recommends the Commission direct I&M not to include the recovery of any costs above $13,126,000 associated with the LAN project for recovery in future rate cases.[215]

---

[209] 6 Tr 2399.
[210] Attorney General brief, 37.
[211] 6 Tr 2400.
[212] Attorney General brief, 38.
[213] 6 Tr 2400.
[214] Attorney General brief, 38. 6 Tr 2400.
[215] 6 Tr 2401.

The Company disagrees with the Attorney General's proposed disallowances and disputes his assertions that the LAN project was not sufficiently supported. Asserting the project costs underwent a "rigorous phased project development process", I&M argues that the cost increase has been supported in great detail through testimony and discovery.[216] Noting that Mr. Coppola admits a lack of expertise in nuclear generation, and that his review of the record was primarily a financial assessment, I&M asserts that there is no basis for his recommended disallowances.[217] The Company argues that the Commission should rely on Ms. Ferneau's analysis,[218] contending that Mr. Coppola misunderstands the complex nature of the LAN project and likens it to setting up a simple IT network. I&M argues that "the LAN project is a large and complex permanent wireless compliant system", which must be installed throughout the nuclear facility and requires the purchase and installation of significant new equipment and the use of specialized personnel.[219] Again, based on the benefits described by Ms. Ferneau, the Company argues it provided detailed evidence that the LAN project is beneficial for customers and will improve plant safety and reliability.[220] As Ms. Ferneau testified, the new infrastructure will support wireless monitoring which will allow the Cook nuclear facility "to move from a time-based preventative maintenance to condition-based preventative maintenance."[221]

The Attorney General argues I&M has not identified any major changes in scope or design elements and has not explained how refining the project's scope through a

---

[216] I&M brief, 47. 3 Tr 1051.
[217] I&M brief, 43.
[218] I&M brief, 44.
[219] I&M brief, 45. 3 Tr 1049.
[220] I&M brief, 46.
[221] 3 Tr 1031.

phased approach resulted in the doubling of costs.[222] The Attorney General contends that Ms. Ferneau did not provide specifics as to how existing conditions at the facility resulted in cost increases and pointed to her acknowledgement that I&M expected to encounter unforeseen obstacles.[223] The Attorney General asserts that the information alluded to by Ms. Ferneau in IM-73R related to costs associated with a Project Life File and did not break down cost changes from the original LAN budget.[224] The Attorney General argues, "[t]he only other information Ms. Ferneau could point to on cross to explain the differences in cost from the $12 million budget to the $22.3 million budget was the same set of unhelpful generalities." Therefore, the Attorney General argues the Company failed to support its projected costs for the LAN project.[225]

In her reply brief, the Attorney General, takes issue with I&M's unnecessary and excessive criticism of Mr. Coppola.[226] And the Attorney General repeats that the Company did not support the original or increased costs associated with the LAN project.[227]

In its reply brief, I&M reiterates its criticism of Mr. Coppola and his analysis. The Company again detailed the need for the project and asserted increased labor and supply cost, as well as the complexity of regulatory environment, resulted in the need for additional expenditures.[228]

---

[222] Attorney General brief, 40.
[223] Attorney General brief, 40-41.
[224] Attorney General brief, 41.
[225] Attorney General brief, 42.
[226] Attorney General reply, 16-17.
[227] Attorney General reply, 16-17.
[228] I&M reply, 18-21.

This PFD finds the Company's arguments to be more persuasive. The Attorney General correctly notes a significant increase in costs associated with an already expensive endeavor, but Ms. Ferneau provided credible testimony to explain some of the variables responsible for the higher estimate including increased equipment and labor costs and demanding NRC regulatory requirements. Accordingly, this PFD recommends the Commission reject the Attorney General's proposed disallowance.

ii. Cook Subsequent License Renewal Project (SLR)

The second disallowance recommended by the Attorney General is associated with capital expenditures involving a subsequent (or second) license renewal project (SLR) for the operating licenses for Cook nuclear Units 1 and 2, which are set to expire in 2034 and 2037 respectively.[229] The project includes activities and costs associated with evaluation, preparation, and application to the NRC for the license extensions. Ms. Ferneau testified that "this project will involve several steps that will take place through the 2027 calendar year including engineering reviews, site inspections, scope definition, capital investment and maintenance requirements and cost estimates."[230] Noting the total costs associated with the application will be between $40 and $45 million,[231] I&M originally forecasted $9.1 million in capital expenditure in the test year for this project; on cross-examination, however, Ms. Ferneau testified the amount is actually $8.8 million.[232] Ms. Ferneau testified that a license renewal is a complex undertaking, and moving forward now allows I&M the time needed to make informed decisions, and, if

[229] 3 Tr 1036.
[230] 3 Tr 1035-1036.
[231] 3 Tr 1041.
[232] 3 Tr 1061 & 3 Tr 1071-72.

approval is received, to adequately plan for additional inspections which will be required by the NRC.[233] Ms. Ferneau estimated the process to obtain the SLR would be approximately four to seven years.[234] The Company states the cost estimates for the SLR project were provided by an experienced outside engineering firm, Enercon Services, Inc., who performed a Feasibility Study for the project that found no obstacles exist to prevent operation of Cook for another 20 years, beyond its current license expiration date.[235] And I&M states that it plans to review continued operation of the Cook facility in its next IRP; if operation of Cook is included in the Company's Preferred Portfolio, the Company will continue to pursue the SLR.[236] However, I&M states: "To the extent the Company determines pursuing a [SLR] is not in the best interests of I&M's customers, I&M requests authority to defer SLR costs as a regulatory asset for recovery in future base rate case proceedings."[237]

The Attorney General objects to inclusion of capital costs associated with the SLR for Cook Unit 1. Noting that I&M could continue to operate Cook for up to five years beyond 2034, if the application is received by 2029, Mr. Coppola opined that beginning the application process in 2024 is premature and unnecessary. And noting the nuclear facility can continue to operate for five years after the license expiration, the Attorney General suggests the SLR could be filed as late as 2029.[238] The Attorney General argues that it is not necessary to file the application in 2024 and opined an SLR filed after 2024,

---

[233] 3 Tr 1038.
[234] 3 Tr 1037.
[235] I&M brief, 52. 3 Tr 1037. See Exhibit IM-3.
[236] I&M brief, 52. 3 Tr 1039-1040.
[237] I&M brief, 51.
[238] 6 Tr 2401.

can be timely completed, pointing to Ms. Ferneau's testimony that the timeline for submission of the SLR to be approximately three years. While acknowledging that the SLR is a complex process, the Attorney General asserts the Company has not supported the need for its proposed expenditures of $8.8 million in the test year. [239]

The Attorney General also challenges I&M's assertion that information gathered will be used in its next IRP. Mr. Coppola stated this is "of little value" as the process will not be complete and any data available will be incomplete.[240] And the Attorney General disputed the relevance of Ms. Ferneau's testimony concerning potential "fees" related to delay by pointing out that she could not provide a timeline for when the Company would begin incurring such fees.[241] The Attorney General argues I&M also failed to support the total projected costs of $8.8 million with any detailed evidence and asserted the Company failed to provide any information related to components in its direct case or in discovery.[242] Observing that I&M agreed to present the SLR in its next IRP, the Attorney General argues the Company's request in this case, to begin the application process before that filing, circumvents the original agreement.[243] In short, the AG argues that I&M has not established it must accelerate the SLR and has not presented sufficient details regarding the expenditures involved in the test year. Therefore, the Attorney General recommends the Commission disallow the entire forecasted amount of $8.8 million in the test year.

[239] Attorney General brief, 43-44.
[240] Attorney General brief, 44. 6 Tr 2402.
[241] Attorney General brief, 46.
[242] Attorney General brief, 48.
[243] Attorney General brief, 48.

In response, I&M argues that delaying submission of the application until 2029, rather that the projected 2027, is possible, but it is not reasonable and prudent. Based on the testimony of Ms. Ferneau, potential consequences include:

> (i) cost increases for expedited work; (ii) cost increases for expedited parts; (iii) cost increases due to extended duration outages to complete the inspections in fewer outages; (iv) increased nuclear safety risk if required to complete all inspection during a single outage due to working multiple trains of safety equipment; (v) compression of the schedule and timeline resulting in a failure to complete critical steps; (vi) repercussions from the NRC for failing to act in a timely manner; and (vii) increased pressure to make critical plant decisions in a compressed schedule.[244]

And I&M argues that the Attorney General fails to consider that inspections will be necessary after submission of the SLR. Ms. Ferneau estimated 800 inspections are required during the approval process and some can only occur during planned outages. She testified that after 2029, the Company has two planned refueling outages, in 2031 and 2032, and she asserted the Company aligned the timing of the SLR to those outages.[245]

Staff recommends that the Commission approve recovery of the total projected costs for the SLR, approximately $42.7 million.[246] Based on the testimony of Mr. Bodiford, Staff concludes that I&M has supported its rationale to begin work activities in 2024 and the projected costs.[247] Staff asserts that Company witnesses Ferneau and Ross provided additional justification to refute the Attorney General's concerns.[248]

---

[244] I&M brief, 55; citing 3 Tr 1059.
[245] 3 Tr 1077.
[246] Staff brief, 21.
[247] Staff brief, 21-22. 3 Tr 1056-57.
[248] Staff brief, 22.

The Attorney General's reply brief again argues that I&M did not justify the timing of the SLR application and argued the Company did not "prove a substantial likelihood of the possible consequences it claims could occur."[249]

In its reply brief, the Company reiterated the benefits of beginning the process to seek the SLR now and the possibility of increased future costs associated with waiting until after 2025.[250] And I&M contends that the Attorney General did not support an alternative timeline.[251]

As with the LAN project, this PFD finds the Company's arguments to be more convincing than the Attorney General's. And this PFD also notes that Staff supports the project. In this case, I&M provided clear testimony concerning the timing of the SLR application and persuasively argued that delay is possible but imprudent. Given that the Company's Feasibility Study showed no real obstacles to continued operation of the Cook Nuclear facility, this PFD finds proceeding with the SLR application, and the projected capital expenditures proposed, are reasonable and prudent. Accordingly, this PFD recommends that the Commission reject the Attorney General's proposed disallowance.

Staff further supports I&M's request for authority to defer SLR costs as a regulatory asset for recovery in a future rate case.[252] This PFD agrees with Staff's analysis and recommendation that the capital expenditures for the SLR project should be deferred and included in a future rate case.

iii. Canceled Projects

---

[249] Attorney General reply, 19.
[250] I&M reply, 21-23.
[251] I&M reply, 22.
[252] Staff brief, 22.

The Attorney General's third recommended disallowance involves projected capital costs for two projects which have been postponed, the "PRF190020 4 U1 Rpl TDAFP Room Coolers" (Room Coolers) and the "PRF200013 RCP Vibration Monitoring System."(Monitoring System).[253] For the Room Coolers project, the Company forecasts $860,892 in capital expenditures for 2023 and $825 in 2024, and for the Monitoring System project, the Company forecasts $141,019 for 2023 and $1,061,275 for 2024.[254]

I&M acknowledged in rebuttal, that the two projects have been postponed, and stated its intention to redistribute the funds to other projects.[255] Noting I&M provided a list of new projects to which the funds might be redistributed in discovery, the Attorney General argued the impropriety of this methodology.[256] And, in response to Ms. Ferneau's assertion that the two projects are being actively worked,[257] the Attorney General reviewed the Project Life File, which shows significantly lower spending than projected, and argues "there is no basis to find that the two postponed projects are being actively worked."[258]

The Attorney General argues the Commission should disallow the recovery of the total Company forecasted amount from projected capital expenses for the two postponed projects.[259] Mr. Coppola calculated the Michigan jurisdiction amount to be $158,000 for

---

[253] Attorney General brief, 48. 6 Tr 2405.
[254] Attorney General brief, 49. 6 Tr 2405. See Exhibit IM-22.
[255] 3 Tr 1062. Exhibit AG-18.
[256] Attorney General brief, 50.
[257] 3 Tr 1062.
[258] Attorney General brief, 51. See Exhibit IM-74R.
[259] Attorney General brief, 50.

2023 and $168,000 for 2024 and the Attorney General recommends this amount be removed from the forecasted capital expenditures in this case.[260]

The Company argues that it should be permitted to reassign the funds to other projects identified in Exhibits IM-74R and IM-22, including projects added "since the Company filed its direct cases."[261] I&M also maintained that that projects have not been delayed, stating "[t]he Company shifted schedules for those projects to better align with plant outages to reduce risk and not impact outage durations; however both projects remain reasonable and necessary."[262]

No further testimony or discussion was presented. In her brief and reply brief, the Attorney General repeats the argument that the Commission should reject inclusion of costs for projects that have been delayed or canceled.[263] In its reply brief, the Company maintains it should be able to divert nuclear capital expenditures from a postponed project to an emergent one.[264]

This PFD finds Staff's proposed capital disallowance (discussed above) includes the Attorney General's proposed disallowance for these projects. Therefore, consistent with the adoption of Staff's proposed disallowance, this PFD finds the Attorney General's arguments to be more persuasive. Accordingly, this PFD recommends, if the Commission accepts Staff's proposed disallowance addressed above, it should not duplicate the disallowance by also accepting the Attorney General's disallowance. However, if the Commission does not accept Staff's disallowance, this PFD recommends

---

[260] Attorney General brief, 50. 6 Tr 2406.
[261] I&M brief, 57.
[262] I&M brief, 57. 3 Tr 1062.
[263] Attorney General brief, 50. Attorney General reply, 20-21.
[264] I&M reply, 23.

it consider and accept the disallowance for the two postponed projects as proposed by the Attorney General.

iv. Updated Actual Data

The Attorney General also recommends a disallowance of nuclear capital expenditures for 2023.[265] Mr. Coppola noted that I&M forecast these capital costs to be $70,856,000 for 2023.[266] However, in discovery the Company reported actual expenditures of $52,519,000 from January through November of 2023. Based on the update, Mr. Coppola calculated an annualized 2023 amount of $57,293,000.[267] Noting that I&M's forecasted amount is $13,563,000 higher than the annualized amount, Mr. Coppola opined that the Company's forecast was inflated.[268] Based on Mr. Coppola's calculations the Attorney General recommends the Commission disallow a Michigan jurisdictional amount of $1,008,000, in addition to the disallowances for the LAN project and the two canceled projects. However, the Attorney General asserts the total recommended disallowance is $2,140,000 and that amount should be disallowed if the other recommended disallowances are rejected by the Commission.[269]

I&M disputes the Attorney General's assertions and argues the disallowance is unjustified and it is improper to utilize information in an updated forecast as the basis for a disallowance.[270]

---

[265] Attorney General brief, 52.
[266] 6 Tr 2406.
[267] Attorney General brief, 52. 6 Tr 2406.
[268] 6 Tr 2407.
[269] Attorney General brief, 54.
[270] I&M reply, 24.

This PFD finds the Attorney General's arguments are persuasive, however, as with canceled projects, Staff's proposed disallowance (addressed above) encompasses the Attorney General's. Accordingly, this PFD recommends, if the Commission accepts Staff's proposed disallowance addressed above, it should not duplicate the disallowance by also accepting the Attorney General's disallowance. However, if the Commission does not accept Staff's disallowance, this PFD recommends it consider and accept Attorney General's proposed disallowance the disallowance based on actual updated information.

4. Distribution System

In Exhibit A-12, Schedule B5.3, I&M lists its Distribution capital expenditures categories as: Asset Renewal, Reliability, and Risk Mitigation; Customer Service and Other; Grid Modernization; Combine Projects; and Vegetation Management. I&M forecasts total distribution system capital expenditures of $296,668,000 in 2023 and $288,699,000 in 2024, compared to a total of $298,705,000 in 2022.[271] Mr. Coppola identified distribution capital expenditures for the Michigan jurisdiction of $60,100,000 for 2022 and forecasted capital spending of $59,700,000 for 2023 and $56,400,000 for 2024.[272]

The Company asserts that the projected amounts are needed to maintain the integrity of I&M's distribution system and provide reliable electric service to its customers.[273] Mr. Isaacson testified that I&M developed its forecast using its Distribution Management Plan and selected projects based on "sound engineering" with cost estimates "derived from proven and effective methods and based on the Company's

---

[271] I&M brief, 60. Exhibit A-12, Schedule B5.3.
[272] 6 Tr 2385. Exhibit AG-2.
[273] I&M brief, 60. 4 Tr 1275.

experience."[274] Asserting the Distribution Management Plan produced tangible results, and describing the inputs developed and utilized to enhance customer benefits, Mr. Isaacson testified the plan "centered on four key objectives: (i) maintain and improve safety, (ii) improve the customer experience, (iii) enhance system reliability and (iv) accommodate new loads and supply sources at the distribution level."[275] The Plan is organized into four categories: 1) Reliability Enhancement, 2) Distribution Asset Management, 3) Risk Mitigation, and 4) Grid Modernization. The Company organized its responses to disallowances proposed by other parties using these categories.[276] Mr. Isaacson testified:

> I&M develops cost estimates for the programs in the Plan based on the experience I&M has gathered by performing these projects and programs over time. That experience establishes a basis for the labor and materials required, as well as the parametric estimate specific to each particular unit and/or type of work. These unit cost estimates incorporate labor, material, stores, equipment, and related overheads. I&M then creates project scopes, including equipment specifications and construction standards, utilizing input from I&M employees who have day-to-day responsibility for operating and maintaining the distribution system. Once the scope is finalized, it is combined with the parametric estimates to determine the functional project cost estimate.[277]

Mr. Isaacson described the Company's parametric estimating process, explaining it uses a relationship between actual historical data from performing "like work activities and other variables (e.g., square footage in construction) to calculate an estimate for activity parameters, such as cost, budget, and duration."[278]

---

[274] 4 Tr 1275.
[275] 4 Tr 1249-1254.
[276] I&M brief, 64. 4 Tr 1256.
[277] 4 Tr 1255.
[278] 4 Tr 1325.

The Company asserts that it has experienced notable improvements in service reliability since its last rate case. Mr. Isaacson testified that over the past five years, I&M's System Average Interruption Duration Index (SAIDI), without Major Event Days, showed a 25% reduction. He also testified the Company experienced an improvement in system resiliency, despite the increased frequency of inclement weather, I&M's outage duration performance indicates 99.5% of customers were restored in under 8 hours and 100% were restored in under 36 hours, and Customers Experiencing Multiple Interruptions of four or more (CEM4) was under one percent for the first half of 2023.[279] After opining that the positive progress is due to I&M's distribution planning processes and implementation of its priorities, Mr. Isaacson cautions "overall asset health remains challenged due to the continuing aging of the Company's distribution infrastructure. Much of I&M's system was built in the 1960s and 1970s . . . and an increasing portion of assets are now reaching the end of their expected design lives."[280] The Company maintains that many of the projects in the capital forecast period are aimed at improving reliability, expanding resiliency, and sustaining overall system performance, and argues that the Commission should approve the full amount of the capital requested in Exhibit A-12, Schedule B5.3.[281] I&M urged the Commission to view its capital distribution expenditures cohesively, rather than focus on specific projects.[282] Several parties took issue with elements of the Company distribution capital spending, addressed below.

a. Reliability Enhancement – Asset Renewal Projects

---

[279] I&M brief, 60-61. 4 Tr 1244-1248.
[280] 4 Tr 1243.
[281] I&M brief, 61-62. 4 Tr 1249.
[282] I&M brief, 64-65.

The Company projects the total Michigan jurisdictional capital expenditures for Asset Renewal projects in the Capital Forecast Period to be $27,072,000 in 2023 and $26,824,000 in 2024.[283] Mr. Isaacson testified that the primary impetus for Asset Renewal Projects is that an increasing portion of the Company's distribution assets are nearing the end of their design life, making them more likely to fail. He testified that "these concerns are compounded when multiple assets begin to reach the end of their design life in the same general time span."[284] Mr. Isaacson explained that this can result in increases in the number and duration of outages, as older assets can be harder to recover or replace after failures due to a shortage of parts.[285] He testified that I&M planned a comprehensive set of asset renewal projects which he further described in his testimony.[286] He asserted that without these projects, I&M would likely experience more asset failures and the quality of service for customers would unnecessarily suffer.[287]

i. Generalized Adjustments

Attorney General witness Coppola, CUB witness Ozar, and ABATE witness York all recommended the Commission disallow distribution capital expenditures based on the assertion that I&M's projections are not sufficiently supported.

Mr. Coppola identified projections for projects for which he claimed the Company has not adequately justified its proposed capital expenditures for the forecasted years. Using the Associated for Advancement of Cost Engineering (AACE) estimate classes, Mr. Coppola assessed additional information provided by I&M, which included individual

[283] I&M brief, 65.
[284] 4 Tr 1262.
[285] *Id*.
[286] 4 Tr 1262-64. See Figure DSI-8 and Figure DSI-9.
[287] I&M brief, 65. 4 Tr 1263.

project costs and the current phase of project development.[288] The phases of project development are: Completed Projects, In Construction, In Detailed Scoping or Scoped, Conceptual Scoping, and Needs Identification.[289] Mr. Coppola testified:

> According to the Company's Distribution Plan Development Process, in the Needs Identification phase, the Company develops a list of projects with very broad cost estimates. The maturity of the project at this phase is near zero and the cost estimates can vary widely. In the Conceptual Scope phase, the Company develops high level solutions with costs falling into Estimate Class 5 with accuracy ranging from -50% to 100% below/above the cost estimate. The project maturity in this phase is 0 to 2%. In the Detailed Scope phase, the project scope is further detailed and preliminary engineering steps are initiated. The project maturity at this phase is 1% to 15% falling in cost Estimate Class 4 with cost accuracy ranging from -30% to +50% of the cost estimate. In the Detailed Design phase, a physical project design is completed and cost estimates are detailed before start of construction. At this stage, the project cost estimate is 30% to 75% developed and the variance in the project cost estimate versus the final cost narrows down 15 to -15% to 20%.[290]

Mr. Coppola asserted that projects in the Needs Identification and Conceptual Scope phases are in the early stages of development and inclusion of costs for these projects is premature. He recommended that the Commission remove 100% of these costs. Mr. Coppola further asserted that the projects in the Detailed Scoping or Scoped phase have a slightly higher level of certainty but are not well developed and have project costs that can vary significantly; he recommended the Commission disallow 20% of the project costs associated with these project types. Mr. Coppola used an inflation factor of 3.23% for 2023 and 2.4% for 2024, based on the Consumer Price Index, for his calculations.[291] Based on Mr. Coppola's testimony, the Attorney General argues for a

[288] See Exhibits AG-3 to AG-9.
[289] 6 Tr 2386.
[290] 6 Tr 2387.
[291] 6 Tr 2386. See Exhibit AG-13.

disallowance of several capital projects in the Asset Renewal and Grid Modernization category.[292] The Attorney General proposes a disallowance of $1,233,752 for 2023 and $6,721,715 for 2024.[293]

On behalf of CUB, Mr. Ozar recommended reduction of the Company's Asset Renewal Projects by 10% in the test year based on the Company's failure to demonstrate the projects are necessary and cost effective. He asserted, "the overall basis for the Company's proposed distribution replacement expenditures, based on age, load growth, reliability, and modernization is disconnected from the level of expenditure requested."[294] He stated the Company did not demonstrate that its proposed level of replacements of aging distribution assets is reasonable and prudent, and asserted "most replacements should be based on actual failure, incipient failure, or impending failure."[295] He stated I&M did not provide sufficient evidentiary support for the proposed expenditures in its initial filings and no engineering report or economic analysis was provided in response to discovery requests. Noting that the Company provided information which was substantially similar to its initial filings in discovery, and stated it would make the requested reports available in its counsel's office because they were too voluminous and contained customer specific information, Mr. Ozar testified: "I would not expect I&M's management to comb through massive, detailed data to attempt to understand the reasonableness and prudence of each proposed project, to prioritize and select the best

[292] Attorney General brief, 8-10. See Exhibits IM-6 and IM-8.
[293] Attorney General brief, 10. See Exhibit AG-28.
[294] 3 Tr 264.
[295] 3 Tr 264-265.

mix."[296] Some of the reasoning expressed for the proposed disallowance of 10% of all capital expenditures in this category are also addressed individually below.

Ms. York testified that ABATE recommends the Commission "disallow capital expenditures associated with projects that have projected in-service dates beyond the end of the future test year, and projects that are not complete and/or that are not currently in the construction phase."[297] Noting, that the Company did not identify capital expenditures for specific projects and instead provided capital requirements for categories of projects, Ms. York testified that I&M did not provide appropriate support for the forecasted expenditures for individual projects.[298] She testified that while the Company provided information concerning the phase and projected completion dates for projects in discovery, it did not provide sufficient detail to support the overall forecasted capital expenditures.[299] Citing Exhibit AB-7, Ms. York testified that several of the projects are in the early stages of development and others show completion dates beyond the test year, and the information provided for other projects is unclear due to apparent conflicts between the level of scoping and the projected in-service dates.[300] Again noting that I&M identified the projected capital expenditures for categories of projects, Ms. York testified there "is a significant level of uncertainty related to distribution projects which I&M requests to include in rates."[301]

---

[296] 3 Tr 267.
[297] 3 Tr 112.
[298] 3 Tr 109-110.
[299] 3 Tr 110. See Exhibit AB-7.
[300] 3 Tr 111.
[301] 3 Tr 112.

Ms. York testified that she "calculated a unit cost for each project category, and applied the unit cost to the number of units associated with each project that should be disallowed." Based on this, ABATE recommended $37.887 million be excluded from the Company's projected distribution capital expenditures. And pointing to the fact that I&M's projected test year plant in-service values are hardcoded in Exhibit A-12, Schedule B-2, she estimates the impact on distribution plant-in-service would be a reduction of $18.944 million.[302]

In its brief, the Company argues the disallowances for Asset Renewal projects, proposed by Mr. Coppola, Ms. York, and Mr. Ozar, are not reasonable and are based on inappropriate and subjective criteria. I&M criticizes these witnesses for not recognizing its use of parametric estimating for categories of work. Noting that parametric estimating uses a statistical relationship between historical data and other variables, the Company argues this "technique can produce higher levels of accuracy depending upon the sophistication and underlying data built into the model."[303] The Company claims its parametric method provides the necessary level of accuracy to project these expenditures and argues that calculations based on other methodologies are less reliable.[304]

The Company first addresses the recommendations of Mr. Coppola and argues his use of a project's development phase, as it relates to the AACE cost estimate classification system was inappropriate. I&M argues this type of estimate maturity model is not appropriate for these Asset Renewal projects which "are much smaller, less

---

[302] 3 Tr 113.
[303] I&M brief, 66. 4 Tr 1325.
[304] I&M brief, 68.

sophisticated, common, repeatable, and similar in nature."[305] The Company maintains the cost estimates for these types of projects are better calculated by its parametric estimating model, regardless of the project phase.[306]

I&M next addresses Ms. York's recommended disallowances, characterizing her analysis as "even more arbitrary and subjective than Mr. Coppola's."[307] Observing that ABATE's total proposed Michigan jurisdiction disallowance for Asset Renewal projects would reduce its proposed capital investments by more than 60%, I&M theorizes this would "have a detrimental impact on the Company's ability to execute its Distribution Management Plan."[308] The Company disputes the propriety of Ms. York's per unit calculations, and based on the testimony of Mr. Isaacson, I&M alleges "she incorrectly applied parametric units to individual project counts instead of units or work associated with each project."[309] And I&M disputes ABATE's claim that it did not provide sufficient detail regarding the projected costs for Asset Renewal projects. Maintaining that Mr. Isaacson provided extensive detail in discovery to support the projected capital expenditures, including details Ms. York claimed were based, I&M also declares its parametric estimating was explained to the parties in a technical conference.[310]

And, referring to Mr. Ozar's proposed disallowance, the Company claims a "10% overall reduction is highly subjective, inappropriate, and undermines the work the Company has done to effectively plan its work to maintain its distribution system."[311]

---

[305] I&M brief, 68. 4 Tr 1325.
[306] I&M brief, 68.
[307] I&M brief, 69.
[308] I&M brief, 69. 4 Tr 1336.
[309] I&M brief, 70. 4 Tr 1331.
[310] I&M brief, 70. 4 Tr 1334-1335. See Exhibit IM-108R.
[311] I&M brief, 71, 4 Tr 1322.

Disputing Mr. Ozar's assertion that the Company failed to demonstrate that its projects are cost effective and necessary, I&M argued that Mr. Ozar did not correctly evaluate its plan and "cherry picked" a few projects. I&M maintains that the Commission should reject proposed disallowances based on a lack of detail claiming no party refuted its use of parametric estimating.[312]

In her brief, the Attorney General points out that when asked to provide the most up to date version of its internal cost estimating guidelines, the Company acknowledged that the AACE standards are used by all business units. The Attorney General argues the Commission has previously disallowed projects that are in conceptual, preliminary, or needs identification phases.[313]

In its brief CUB reiterates "I&M has not presented sufficient evidence to demonstrate that its Asset Renewal Project and Combined Projects are reasonable, prudent, cost effective, or will produce actual reliability benefits."[314] CUB challenged the Company's assertion that Mr. Ozar did not fully review its evidentiary presentation and merely "cherry picked" projects to support his conclusions and to argue that he conducted a full review of the evidence.[315] CUB repeats its recommendation that the Commission disallow 10% of the distribution capital expenditures arguing that the Company failed to present sufficient support that they are reasonable and prudent.[316]

---

[312] I&M brief, 71.
[313] Attorney General brief, 11; citing November 18, 2022, Order, Case No. U-20836, p 137-138, 175-176, and December 1, 2023, Order, Case No. U-21297, p 157.
[314] CUB brief, 9.
[315] CUB brief, 10. See also footnote 49.
[316] CUB brief, 11.

ABATE maintains that I&M did not provide sufficient support for its distribution capital expenditures. ABATE summarizes the deficiencies detailed by Ms. York in her testimony and reviews the confusing information supplied in discovery.[317] Noting that inputs are hardcoded in Exhibit A-12, Schedules B-1 and B-2, ABATE argues that "the Company's application did not provide documentation adequately supporting the reasonable and prudence of cost recover for the forecasted capital expenditure amounts reflected in Exhibits IM-6 through IM-8"[318] ABATE argues that Ms. York's method of calculating a unit cost and applying that cost to the number of units for each project was reasonable, and that the Commission should accept the resulting $37.887 million disallowance of distribution capital expenditures in the test year.[319]

In its reply brief, I&M repeats its argument that the Attorney General's use of AACE estimate class was inappropriate and its parametric estimates sufficiently support these capital expenditures.[320] The Company asserts the Attorney General misrepresented the scope of the delivery model and maintains the work associated with these smaller projects is routine and therefore AACE is not applicable.[321] The Company also replied that the cases cited by the Attorney General actually support I&M's position as the projects involved in those cases were large, non-routine projects.[322]

The Company also repeats its objections to ABATE's proposed disallowance by arguing that it ignores the Company's forward-looking plans and "appears to be driven

---

[317] ABATE brief, 12-15.
[318] ABATE brief, 14. 3 Tr 110-111.
[319] ABATE brief, 17.
[320] I&M reply, 26-29.
[321] I&M reply, 27-28.
[322] I&M reply brief, 28-29; referring to Case Nos. U-20836 and U-21297.

primarily by ABATE's policy concerns related to use of a forecasted test year."[323] I&M contends that its projections are based on its forward-looking five year distribution plan and the need to improve reliability and "leverage advanced technology on the distribution system."[324] And I&M repeats it claim that sufficient detail to support its projection was provided and ABATE's assertion that the projects will not be completed in the test year is not dispositive.[325]

And, I&M repeats, in its reply brief, that CUB witness Ozar's assertion that replacements should be based on "actual failure, incipient failure, or impending failure" to be flawed and argue that it is not reasonable and prudent to wait for assets to fail, especially when multiple assets are growing old simultaneously.[326]

The Attorney General, ABATE, and CUB all provided sound criticism of the support I&M provided for its distribution capital expenditures. ABATE details the confusing information provided by I&M in its initial filings and CUB points out that the Company offered largely the same information in discovery. And the Attorney General relied on confusing information when making her suggested disallowances. The Attorney General correctly observes that I&M provided information indicating it used the AACE estimate classes for all projects. However, the Company also correctly notes the document (found in Exhibit AG-11) specifically states it does not apply to "routine work."[327] This PFD agrees that the Company's argument that the distribution projects include routine work is persuasive – noting, however, that a finding that the work is routine does not necessarily

---

[323] I&M reply, 31-32; citing I&M brief, 18-20.
[324] I&M reply, 32.
[325] I&M reply, 32-33.
[326] I&M reply, 34-35.
[327] I&M reply, 27.

result in a finding that the associated cost benefits are reasonable and prudent. But, in this case, it does undermine the Attorney General's use of the AACE estimate classes. And, while this PFD finds that some of the arguments related to a lack of support are founded, the disallowances proposed by ABATE and CUB are not. Both ABATE and CUB have made speculative assumptions which are not supported any better than the Company's. And I&M has provided some reasonable evidence to refute the assumptions made by CUB and ABATE. Because the calculated distribution capital expenditures and disallowances proposed by the Attorney General, ABATE, and CUB (above) are not reasonably supported, this PFD recommends that the Commission reject the proposals. Accordingly, this PFD recommends the Commission reject the disallowance proposed by the Attorney General, the disallowances proposed by ABATE, and the disallowances proposed by CUB.

ii. Placeholders

Ms. Durfee testified that Staff recommended disallowance of several projected expenditures within the Assets Renewal project category, asserting that they are improper placeholders.[328] Noting that I&M is requesting $816,538 in 2023 and $807,482 in 2024 for Porcelain Cutout and Arrester Replacement, Ms. Durfee testified that Staff supports the amount requested for 2023, however, Staff recommends a complete disallowance of these costs for the projected test year. She testified in a discovery response that the Company provided data for 2023 but stated, "[f]uture locations of porcelain cutouts and arresters will be determined by analysis of outage history not completed at this time."[329]

---

[328] 6 Tr 2197-2002.
[329] 6 Tr 2198. See Exhibit S-13.0.

Staff asserts, based on the discovery response, that the amount projected for the test year is a “placeholder” and should be disallowed. She testified that a “placeholder is similar to a contingency; while a contingency is an amount of money added to an estimate of a project for unknown costs, a placeholder is an amount that takes the place of an entire project or projects.”[330] In this case, Staff argues that I&M has not provided sufficient information to support the projected expenditures. In order to appropriately evaluate the projections, Staff asserts information concerning the “station, circuit, description, number of units, estimated labor capital expenditures, estimated material capital expenditures, and total estimated capital expenditures” should be provided.[331] Ms. Durfee testified that Staff opposes placeholders, and stated that projects in a placeholder do not exist and may never happen, and therefore, it is inappropriate for the Company to earn depreciation and return on the projected expenditures.[332]

I&M is requesting $916,450 in 2023 and $981,738 and 2024 for Crossarm Replacement. Ms. Durfee testified that Staff supports the amount requested for 2023 but recommend a complete disallowance of the projected costs for the projected test year 2024.[333] As with the allocations for Porcelain Cutout and Arrester Replacement, I&M provided data for 2023, but again stated “future locations of cross arm replacements will be determined by the results of overhead circuit inspections not completed at this time.”[334] She testified based on the Company's response, Staff considered the amount for the

[330] 6 Tr 2198.
[331] Staff brief, 24. 6 Tr 2198.
[332] 6 Tr 2198.
[333] 6 Tr 2199.
[334] Exhibit S-13.1.

projected test year to be an improper placeholder and recommended the projected costs be disallowed.[335]

I&M is requesting $738,954 for 2023 and $931,209 for 2024 for Open Wire Secondary Replacements. Ms. Durfee testified, like the above projects, the Company provided data for 2023, but stated, "[l]ocations open wire secondary replacements will be determined through future overhead circuit inspections."[336] Staff asserts, based on the discovery response, that the amount projected for the test year is a "placeholder" and should be disallowed.[337]

I&M requesting $1,786,369 in 2023 and $1,879,855 in 2024 for Pole Replacements. Ms. Durfee testified that the Company again provided data for 2023 but stated, "[f]uture locations of pole replacements will be determined by the results of poll inspections that have not been completed yet."[338] She testified that Staff finds the projected 2024 amount to be a placeholder.[339] Ms. Durfee testified the Commission has supported disallowance of placeholders in prior cases.[340]

In response to Staff's proposed disallowances, the Company states that none of its scheduled Asset Renewal projects are placeholders.[341] Based on the testimony of Mr. Isaacson, the Company states that its distribution equipment is systematically inspected on an annual basis, including crossarms, cutouts, arrestors, open wire

---

[335] 6 Tr 2199.
[336] Exhibit S-13.2.
[337] 6 Tr 2200.
[338] Exhibit S-13.3.
[339] 6 Tr 2201.
[340] 6 Tr 2202.
[341] I&M brief, 74. 4 Tr 1321.

conductors, and poles.[342] He provided explanations related to the Company's determination that these upgrades were necessary and detailed the projected capital expenses requested.[343] I&M states the inspections and corresponding replacement projects are routine and predictable. Mr. Issacson testified that "[t]he Company does not formally identify a specific location for these replacement projects but identifies a specific volume of the work to be conducted in I&M's service territory in a given year."[344] Mr. Isaacson testified that I&M uses the results from the inspections to determine the locations of specific work to be performed during the year, and asserted the "Company's experience conducting the annual inspections provide a solid basis for determining a reasonable estimate of the volume and associated project costs for this work."[345] Arguing that these replacements are necessary to maintain system resiliency, I&M alleges that Staff's recommended disallowances for the entire budgets of these projects effectively prevents recovery of any costs for the replacement projects. The Company warns:

> If the Commission were to adopt Ms. Durfee's recommendation it would adversely impact the Company's ability to obtain timely recovery for work the Company has or will complete during the Capital Forecast Period for projects that are necessary to maintain the safety and reliability of the distribution system.[346]

In its brief, Staff acknowledges Mr. Lucas's claim that I&M manages a complex distribution system and his assertion that it is impractical and unreasonable to expect that the Company will be able to identify every specific project or piece of equipment in need of replacement several months or years in advance.[347] And Staff agrees that some of the

[342] I&M brief, 74. 3 Tr 1312.
[343] 4 Tr 1261-1264.
[344] 4 Tr 1314.
[345] 4 Tr 1313.
[346] I&M brief, 75.
[347] Staff brief, 26. 3 Tr 777.

projects have value and will benefit the distribution system, but that does not alter the fact that, as presented, the projected expenditures fit the parameters of a placeholder.[348] However, Staff notes that I&M will be able to recover expenses once they are properly supported. And asserting the Commission has a history of disallowing expenditures for placeholders, Staff cites the Commission's holding in Case No. U-20697:

> The issue of placeholders is one which the Commission has addressed in previous rate cases. Citing precedent from 2009, 2010, 2012, and 2016, the Commission offered this guidance in 2017: The Commission agrees with the ALJ that including 'placeholder' amounts in the Company's initial filing, and then attempting to justify these amounts later is unreasonable.[349]

In reply, I&M maintains that the Asset Renewal projects at issue are not placeholders, and the associated capital expenditures are appropriately supported.[350] And the Company asserts that Staff's total disallowance, or apparent assumption that zero dollars will be spent on these projects is "unrealistic and refuted by the record."[351]

In its reply brief, Staff acknowledges an error in its initial brief related to this proposed disallowance. Staff originally used figures that were improperly calculated and corrected the amount of its proposed total disallowance for these placeholders to be $5,339,000.[352]

This PFD finds Staff's arguments to be more persuasive and consistent with Commission precedent. Staff cites a string of authority for the proposition that placeholders are not reasonable and prudent.[353] And, in upholding the PFD in Case No.

---

[348] Staff brief, 26.
[349] Staff brief, 26-27; citing December 17, 2020, Order, Case No. U-20697, p 17 and May 8, 2020, Order, Case No. U-20561, pp 139-141.
[350] I&M reply, 25.
[351] *Id*.
[352] Staff reply, 2.
[353] Staff brief, 26-27.

U-20836, the Commission affirmed it “has provided a clear directive that placeholders, accompanied by more complete information that is not provided until rebuttal, are unacceptable.”[354] That is exactly what occurred in this case. While I&M attempted to explain its methodology related to these asset replacements, it did not refute the assertion that they are placeholders. As Staff correctly states, the Company provided information in discovery that the locations and actual expenditures would be based on future inspections and are not know at this point. This PFD recommends the Commission find the projections for all of Staff’s proposed disallowances are placeholders. Accordingly, this PFD recommends the Commission accept the disallowances.

iii. Single Phase and Three Phase Line Rebuild Projects

The Company asserted aging overhead facilities will be replaced with the Single Phase and Three Phase line rebuild projects, which will reduce the likelihood of unplanned outages and will enhance resiliency when updated to current standards.[355] I&M states that its Capital Forecast includes plans to rebuild 33.2 miles in 2023 and 29.61 miles in 2024 of Single Phase lines at a Michigan jurisdictional cost of $3,966,000 in 2023 and $3,628,000 in 2024. And the Company plans Three Phase line projects of 14.98 miles in 2023, and 15.42 miles in 2024 with projected capital investment of $4,269,000 in 2023 and $4,557,000 in 2024.[356]

Mr. Coppola recommended additional adjustments to capital costs associated with Single Phase Rebuild and Three Phase Rebuild projects. Examining Exhibit IM-6, he testified that the Company intends, under Single Phase projects, to rebuild approximately

[354] November 18, 2022, Order, Case No. U-20863, p 193.
[355] I&M brief, 75-76. 4 Tr 1260.
[356] I&M brief, 76. 4 Tr 1263-1264. See Exhibit IM-6.

30 miles of electrical lines in both 2023 and 2024, but completed only 9 miles of rebuild in 2022, and under Three Phase projects, the Company projects to rebuild approximately 15 miles of lines, but in 2022, built only 6.2 miles. The Company forecasts capital expenditures for Single Phase Rebuilds of $3,965,728 for 2023 and $3,628,256 for 2024, with actual expenditures in 2022 of approximately $2,500,000. And I&M forecasts capital expenditures of $4,268,639 for 2023 and $4,556,915 for 2024, but 2022 actual expenditures were approximately $2,100,000.[357] Mr. Coppola stated I&M did not provide detailed information concerning equipment conditions which would demonstrate the need for such a significant increase in spending versus historical levels and did not supply specifics when responding to discovery requests. He asserted that the Company did not adequately support this level of capital spending. Noting that Mr. Isaacson testified the Company has been able to achieve an approximately 25% improvement in SAIDI and SAIFI reliability indices over the past few years, Mr. Coppola opined the Company should be able to maintain that level with no increase.[358] He stated that cost inflation has risen approximately 21%, and therefore, he recommends that the Commission allow a 25% increase, over 2022 levels, in capital expenditures for the Single Phase and Three Phase projects in 2023 and 2024, which results in a projected amount of $3,089,000 for Single Phase and $2,594,000 for Three Phase Rebuild projects in each year.[359] Based on Mr. Coppola's analysis, the Attorney General recommended that the Commission

[357] 6 Tr 2389.
[358] 6 Tr 2389-2390.
[359] 6 Tr 2390-2391.

disallow capital expenditures of $1,983,000,for 2023 and $1,608,000 for 2024 for these Single Phase and Three Phase Rebuilds.[360]

Mr. Ozar also reviewed two projects in the Three Phase Line Rebuild category, the Kalamazoo Eagle project, and the Valley 34.5 kV project, and asserted the data provided indicated that transmission stations and transmission lines caused most of the outages.[361] He concluded that complete line rebuilds for these projects were not justified by the history and did not strike a reasonable cost benefit balance. Mr. Ozar testified that "the Company has not demonstrated any reliability benefits gained by this program are commensurate with the costs incurred."[362]

In its brief, CUB argues Mr. Ozar determined that a complete rebuild of these projects was unwarranted, and therefore, places an unreasonable burden on ratepayers.[363] The failure to support these projects, as well as others, resulted in CUB's proposed generalized 10% disallowance of all Asset Renewal capital expenditures.[364] (addressed above)

In its brief, I&M argues that Mr. Coppola's proposed disallowance should be rejected because it is "highly subjective, backwards looking, and arbitrary with little regard for the thorough and diligent development of I&M's distribution plan."[365] The Company takes issue with Mr. Coppola's use of improved reliability indicators as the basis for recommending a disallowance, arguing instead that this positive trend is evidence that

---

[360] 6 Tr 2392.
[361] 3 Tr 268.
[362] 3 Tr 269.
[363] CUB brief, 4.
[364] CUB brief, 11.
[365] I&M brief, 77.

I&M's "process for qualifying projects and developing cost estimates is working."[366] While recognizing improvement, I&M avers that it has not reached "an optimal level of reliability performance yet", and asserts that incremental improvements is system reliability, and will require increased spending on system upgrades.[367] The Company argues using an uniform approach, like Mr. Coppola's based on historical values, will not be adequate to achieve continued improvements in reliability and resiliency. I&M argues that it has effectively supported the expenditures for its Single Phase and Three Phase line rebuilds in its original filings and in discovery, including labor and material costs estimates, and repeats that its forecasts are backed by parametric costs estimates. The Company repeats that the Commission should reject Mr. Coppola's recommendations arguing there is no basis to support his disallowance and stating the Company's forward-looking plans include specific projects necessary to execute the Distribution Plan and continue the positive reliability trends.[368]

I&M notes that Mr. Coppola's proposed disallowances for some projects, based on the stage of completion (addressed above), included Single Phase and Three Phase line rebuild projects, and therefore, his above analysis results in additional disallowances of $777,000 for Single Phase line rebuild projects and $2,814,000 for Three Phase line rebuild projects to ensure the Company's level of investment for these projects does not exceed his arbitrary 25% cap.[369]

---

[366] *Id*.
[367] I&M brief, 78. 3 Tr 720.
[368] I&M brief, 78-79.
[369] I&M brief, 77.

The Attorney General repeats her claims that Mr. Isaacson's rebuttal testimony did not provide the specifics that were lacking originally, but merely provided generalities, leaving the Company's projections unsupported.[370]

In its reply brief, I&M maintains sufficient support was provided for these projects, and that Mr. Isaacson's testimony adequately explains the development and need for the projects.[371]

I&M also argues that Mr. Ozar's recommendations are without merit. Addressing the failure to provide outage history for the proposed projects, the Company argues this failure does not justify the disallowance. I&M states a line's outage history is not necessarily an indicator of potential problems and asserted "[e]quipment age and current distribution standards should determine when line reconstruction must occur."[372] The Company criticized Mr. Ozar's selective review of certain projects and stated he ignored project evaluation and selection information provided. Noting its workplans for Single Phase and Three Phase line rebuild projects, I&M argues the proposed disallowance undermines its active assessment of its ability to maintain reliability and continue system improvements.[373] And I&M repeats, in its reply brief, that CUB's "subjective, blanket disallowance should be rejected, and a cost benefit analysis is not necessary."[374]

This PFD finds the Company's arguments to be more persuasive. While the Attorney General's criticism of I&M's support for these capital projects is not groundless, the reasonableness of Mr. Coppola's proposed adjustments has not been established.

---

[370] Attorney General brief, 16.
[371] I&M reply, 30-31.
[372] I&M brief, 79. 4 Tr 1318.
[373] I&M brief, 79.
[374] I&M reply, 43; citing I&M brief, 71, 79, 81-85.

This PFD finds I&M's proposal for such a large increase in the number of miles proposed for its Single Phase and Three Phase line rebuilds is very aspirational, but Mr. Isaacson provide some testimonial support for the cost increases. And the Attorney General's proposed adjustment is simply to increase spending from the historic test year. There is no evidence that this methodology is any more reasonable and prudent than that used by I&M. For the reasons contained in I&M's brief and reply brief, this PFD recommends the Commission reject the Attorney General's proposed disallowance.

iv. Roadside Relocation projects

Based on Mr. Isaacson's testimony, the Company states its Roadside Relocation Projects involve identification of overhead lines that are difficult to access to more accessible locations which facilitates safe and fast restoration.[375] I&M projects it will relocate 23.87 miles in 2023 and 22.22 miles in 2024.[376] The Company observes that Mr. Coppola and Ms. York proposed generalized disallowances that affect Roadside Relocation projects (discussed above). I&M also notes Mr. Coppola's proposed disallowance is $3,395,880 in 2024 and Ms. York's is $5,260,742 for the Capital Forecast period.[377]

Mr. Ozar reviewed the projects proposed under the subcategory Roadside Relocations and determined all the projects are being initiated by the Company.[378] The purpose is to move lines that are in off-road rights-of-way to a more accessible location along the roads and will involve "near-complete rebuilds", replacing all poles, crossarms,

---

375 4 Tr 1260.
376 I&M brief, 80. 4 Tr 1263.
377 I&M brief, 80.
378 See Exhibit IM-6 and Exhibit CUB-14.

insulators, switches, and conductors.[379] He testified that in his opinion the Company has not demonstrated any reliability benefits gained by its Asset Relocation program.[380] Mr. Ozar testified:

> I find it not only hard to believe, but astounding, that for the 55 Michigan Roadside Relocation projects listed in Exhibit IM-6 (DSI-3), at an aggregate cost of $21.2 million for the 2-year period 2023 and 2024, that near-complete rebuilds are standard policy and the Company cannot find a way to save ratepayers money by reusing assets that are simply relocated.[381]

Mr. Ozar asserted that the Company could save ratepayers money by reusing assets or exploring use of specialized equipment to maintain hard to access lines.[382] He stated poles could be reused or reinforced, rather than replaced. And, if it is demonstrated that reuse or reinforcement is not possible with the proposed projects, Mr. Ozar recommends the Commission instruct I&M to investigate a more frequent inspection schedule.[383]

In its brief, CUB emphasizes Mr. Ozar's conclusion that I&M did not support the capital costs associated with these relocations and "does not appear to have explored alternative to line relocation rebuilds such as using specialized equipment to maintain hard to reach lines."[384] And CUB argues that I&M established that spending over $21 million dollars during the capital forecast period "is a reasonable, prudent, or cost effective way to improve reliability."[385] The failure to support these relocation projects, in part, resulted CUB's proposed 10% disallowance of all Asset Renewal capital expenditures.[386]

---

379 3 Tr 269. Exhibit CUB-15.
380 3 Tr 269.
381 *Id*.
382 *Id*.
383 3 Tr 271.
384 CUB brief, 5. 3 Tr 269.
385 CUB brief, 5.
386 CUB brief, 11.

I&M asserted it has demonstrated that customers receive reliability benefits from Roadside Relocation projects.[387] I&M argues it informed the parties that these relocations result in faster restoration times and safer working conditions because the locations along roadways have less vegetation caused outages and the rebuilt facilities will be built to current standards.[388] Citing Mr. Isaacson's testimony, I&M responds to Mr. Ozar's suggested reuse of equipment by arguing:

> First, many of these facilities are aged and deconstructing aged materials is not cost effective or practical when considering the time and effort involved. Second, removing and relocating older materials (poles, wire, hardware) would not bring the reconstructed facilities up to the Company's new, storm hardened standards. This, in turn, would affect resiliency and likely would nullify the value provided in the Company's project value ranking process. Lastly, unless new facilities are built in the new location, taking the old-line section out of service to relocate them would involve an extensive outage to customers. That aspect alone would nullify any marginal benefit of reusing the existing facilities. (citation omitted)[389]

And I&M asserts it will reuse transformers that are salvageable.[390]

As noted above, this PFD recommends the Commission reject CUB's proposed 10% disallowance of distribution capital spending. As the issues raised by CUB in this section incorporate that proposed disallowance, this PFD does not find it necessary to address the matter further here.

b. Risk Mitigation

The Company projects to spend $1,046,000 in 2023 and $1,075,000 in 2024 in the category of Risk Mitigation on four programs: "(i) underground locates to locate underground facilities; (ii) pole inspections to comprehensively conduct pole inspections

---

[387] I&M brief, 80.
[388] I&M brief, 81. 4 Tr 1319.
[389] *Id*.
[390] I&M brief, 81.

and treatment; (iii) URD equipment inspections to inspect above ground structures (pad mounts transformers, enclosures, pedestals); and (iv) overhead distribution line inspections."[391]

As it relates to Risk Mitigation, Mr. Ozar opined that some of the poles could be rehabilitated and reused, either on site or at other locations, and he suggested I&M could explore other cost-saving options such as specialized equipment.[392] And Mr. Ozar testified that the Company could reinforce poles, rather than replacing them, via "stubbing."[393] While expressing skepticism that a majority of poles cannot be rehabilitated, Mr. Ozar asserted that, if true, the Company should implement a more aggressive, shorter inspection intervals. He recommends the Commission order shorter inspection intervals and report its findings in its next general rate case.

I&M asserts the Commission should reject Mr. Ozar's recommendations that the Company should explore remediation measures for poles, observing that the study relied upon by Mr. Ozar is 32 years old. I&M asserts the recommendations are outdated and undesirable. The Company states that stubbing is only an option in the uncommon event that the upper pole is sturdy, and the result is an undesirable eyesore.[394] The Company maintains that its current 10-year cycle for pole inspections is reasonable. However, I&M states that if the Commission adopts CUB's recommendation, the Company will explore the benefits of a shorter cycle for its next rate case.[395]

---

[391] I&M brief, 85. 4 Tr 1266-1268.
[392] 3 Tr 269.
[393] 3 Tr 270.
[394] I&M brief, 68. 4 Tr 1320.
[395] I&M brief, 86.

In its brief, CUB repeats Mr. Ozar's proposition that poles should be remediated or reinforced to reduce the costs associated with these replacements. And, noting that these projects generally involve replacement of other equipment and support structures at the top of the pole, CUB argued reuse of these assets would be more cost effective.[396] If remediation is unsuitable for a high percentage of poles, CUB argues the Company should consider a shorter period for inspections than the current 10-year cycle.[397] The failure to support these pole replacement projects resulted in CUB's proposed 10% disallowance of all Asset Renewal capital expenditures.[398] And, noting that I&M expressed a willingness to explore a shorter inspection cycle, CUB recommends the Commission direct the Company to do so in this case.[399]

As noted above, this PFD recommends the Commission reject the 10% disallowance of distribution capital spending recommended by CUB. As the issues raised by CUB in this section incorporate that proposed disallowance, this PFD does not find it necessary to address the matter further here.

c. Combined Projects

The Company states its Combined Projects are those not included in other categories and "involve work inside or are in conjunction with distribution station projects."[400] Based on the testimony of Mr. Issacson, I&M contends the Combined Projects are thoroughly reviewed by several corporate groups and then selections are made, which will best improve system reliability, increase the ability to serve changing

---

[396] CUB brief, 6.
[397] CUB brief, 6.
[398] CUB brief, 11.
[399] CUB brief, 7.
[400] I&M brief, 82. 4 Tr 1265.

load, promote safety, and enhance technological capabilities.[401] I&M proposed ten Combined Projects in this matter and forecasts a Michigan jurisdiction investment of $5,339,000 for 2023 and $792,000 for 2024.[402]

Mr. Ozar reviewed the ten projects in the Combined Projects category, and asserted that only one of these large, costly projects has merit, the Main Street Station Project, as there are signs of imminent failure.[403] He stated that the Company justified the other nine projects on the basis of consistency of capacity for expected load growth, economic development, increased reliability, and modernization."[404] Noting that I&M provided data which shows the Michigan retail load is expected to decrease by two percent, he testified the Company did not establish that it has been experiencing sufficient load growth to justify these projects.[405] The Company did not provide any evidence to support the proposition that a decline in sales could support "economic development." He stated that three of the projects, Sodus, West Stated, and Scottdale, were justified based on the equipment being old or at the end of its design life, and asserted not all assets need to be replaced simply because of age. He opined this type of "proactive replacement" may result in unnecessary replacements, and therefore, should be performed judiciously. He argues that the Commission should reject I&M's alleged load growth and economic development as a basis for these projects.[406]

---

[401] I&M brief, 82-83. 4 Tr 1266.
[402] I&M brief, 82. 4 Tr 1266. See Exhibit IM-7.
[403] 3 Tr 272.
[404] *Id*.
[405] 3 Tr 273. Exhibit A-15, Schedule E-1.
[406] 3 Tr 275.

And Mr. Ozar stated the remaining six Combined Projects were justified by the Company on the basis that they provide increased opportunity for load transfers during emergency situations.[407] However he argues two of the projects, Crystal Station and Empire Station projects, are very expensive. He stated that the Company did not provide information showing outage and failure history of proposed distribution asset replacements and he recommends a detailed cost benefit analysis be performed before the Commission consider approval of the costs for these two projects.[408] He did not dispute costs for the other four projects.

Arguing that waiting until failure to update this equipment is not cost effective, I&M responded that, "Mr. Ozar's position represents an imprudent management style and is irresponsible."[409] The Company argues that higher costs, including additional labor costs, and resulting service outages make waiting unreasonable. And with respect to the remaining projects, I&M notes Mr. Ozar only challenges two that he believes to be too expensive.[410] The Company asserts that Mr. Ozar "cherry picked" these projects and did not consider their necessity to the distribution systems integrity. And, noting Mr. Isaacson's testimony, I&M argues Mr. Ozar misinterpreted the project costs for the Empire Station project which are actually $19,000, not the $5.1 million amount referenced by Mr. Ozar.[411]

Noting that Mr. Ozar reviewed the ten projects in the category and found only the Main Street Station Project was based on actual need due to imminent failure and the

---

[407] *Id*.
[408] 3 Tr 276.
[409] I&M brief, 83.
[410] I&M brief, 84.
[411] I&M brief, 84. 4 Tr 1266.

other nine projects were based on expected load growth, reliability, and modernization, CUB repeats its assertion that I&M failed to support the need for these costly projects in the Combine Projects category.[412] CUB reiterates that I&M's claims of load growth are belied by the fact that it forecasted a decline in retail load during the five-year period ending in 2028.[413] And, based on Mr. Ozar's testimony, CUB argues proactive replacements simply because the asset is old is not likely to achieve a reasonable balance between reliability gains and the cost to ratepayers.[414]

Noting that two of the Combined Projects are very expensive, CUB recommends that the Commission defer cost recovery of the 2023 capital expenditures for Crystal Station and defer approval of the Empire Station project until I&M completes an analysis of the alternatives and outage history at the substations and the associated distribution lines.[415]

The failure to support these Combined Projects resulted in CUB's proposed 10% disallowance. (addressed above). Again, this PFD recommends the Commission reject the 10% disallowance of distribution capital spending recommended by CUB. As the issues raised by CUB in this section incorporate that proposed disallowance, this PFD does not find it necessary to address the matter further here.

d. Grid Modernization

I&M projected distribution capital expenditures for Grid Modernization projects which are "designed to leverage technology for the purpose of improving system

[412] CUB brief, 7. 3 Tr 272.
[413] CUB brief, 8.
[414] *Id*.
[415] CUB brief, 11. 2 Tr 275.

resiliency and functionality, which provides more timely information allowing I&M to respond quicker once an event has occurred." And I&M asserts the modernization projects will facilitate the incorporation of emerging technologies such as energy storage and microgrids.[416] The Company's Grid Modernization projects include: (i) AMI, (ii) CVR, (iii) DACR; (iv) Grid Modernization station projects, (v) Distribution Line Sensors, (vi) Smart Reclosers, and (vii) Smart Circuit Ties.[417] I&M projects Michigan jurisdiction capital spending in the amount of $11,734,000 for 2023 and $13,147,000 for 2024.[418] The cost estimates for these projects are developed utilizing the Company's parametric estimating which the Company again asserts provides a high degree of accuracy.

I&M states that CVR and DACR Grid Modernization projects are included in the generalized disallowances proposed by Attorney General witness Coppola and ABATE witness York.[419] As noted above, this PFD did not recommend the Commission adopt those disallowances. Therefore, they will not be discussed further. Other disputed issues are addressed below.

i. AMI

The Company argued it reasonably and prudently deployed AMI (Advanced Metering Infrastructure), to replace obsolete meters, and the costs should be included in rate base. Based on the testimony of Mr. Isaacson, I&M claims AMI capital costs in this case to be $26.5 million; program costs of $20.88 million, plus "$5.6 million in pre-program PLC costs."[420] Mr. Isaacson testified that the Company began deployment of its AMI in

---

[416] 4 Tr 1271.
[417] 4 Tr 1268-1271.
[418] I&M brief, 87. 4 Tr 1272-1273.
[419] I&M brief, 88.
[420] I&M brief, 91. 4 Tr 1292-1293.

2019, and completed 99.5% of installations by the end of 2022, with final completion in July of 2023.[421] He testified I&M began to realize operational benefits in 2023 and "is now utilizing AMI technology to identify outages which results in better storm restoration times and provide more real-time information to assist in resolving customer service issues."[422]

I&M acknowledged that it agreed to file a cost benefit analysis (CBA) of AMI if deployment began before its next rate case, pursuant to the Settlement Agreement in its last rate case, Case No. U-20359.[423] The Company states it contracted with a third party, Accenture, to complete the AMI CBA in 2020, included as Exhibit I&M- 29.[424] Mr. Walters summarized the AMI CBA and testified to its results and conclusions.[425] The Company stated it relied on the AMI CBA's conclusion that AMI technology was "reasonable necessary and prudent" to develop the AMI deployment plan.[426] I&M also asserted that its ability to efficiently manage its capital investments is demonstrated by the fact that the AMI CBA projected costs to be $30.4 million, but the Company deployed AMI at a lower cost.[427]

Staff requests that the Commission disallow $15,079,000 of capital expenditures associated with the Company's AMI program.[428] Ms. Fromm testified the Company did not provide sufficient evidence to support its expenditures and could not quantify benefits.

---

[421] I&M brief, 90. 4 Tr 1273.
[422] 4 Tr 1274.
[423] I&M brief, 90; referencing January 23, 2020, Order, Case No. U- 20359, p 4.
[424] I&M brief, 90. 5 Tr 1458.
[425] 5 Tr 1462-1464.
[426] 5 Tr 1464.
[427] I&M brief, 91. 3 Tr 1293.
[428] Staff brief, 27.

I&M provided conflicting responses about reliance on 4G cellular technology which created uncertainty about additional investments at the end of the useful life of meters. She testified the Company has not provided satisfactory information to justify the expenditures and does not recognize any monetary benefits or reductions in the test year despite prior predictions that benefits would result.[429]

Ms. Fromm points out six Company witnesses addressed the AMI program and notes several points of conflict in the testimonies.[430] Staff argues that I&M failed to explain what it is requesting recovery of and assert the only support for AMI costs was provided by Mr. Isaacson in in figure DSI 14,[431] which provides the number of meters (but is unclear whether this represents meters purchased or installed) and corresponding costs.[432] Staff explained that Mr. Isaacson stated the Company would realize operational benefits in 2023, but none are quantified. Ms. Fromm observed that the Company's cost benefit analysis breaks down projected costs into categories and also contained a description of the projected benefits of AMI and when these benefits would begin to be realized.[433] In an attempt to better understand the program costs, Staff asked the Company to provide a breakdown of its request by these categories.[434] In response, the Company states that it does not track AMI costs in the categories specified and then provided different categories: "IM IT AMI infrastructure, IM IN AMI meter project, and IM MI AMI meter project."[435]

---

429 6 Tr 2121.
430 6 Tr 2119-2120.
431 4 Tr 1274.
432 Staff brief, 27-28. 6 Tr 2120.
433 See Exhibit IM-29, confidential.
434 Staff brief, 28. 6 Tr 2122.
435 Staff brief, 28. 6 Tr 2122. See Exhibit S-10.0.

I&M also states that Exhibit A-12, Schedule B5 reflects the total Company AMI costs, which include the IT investment, and Figure DSI 14 reflects the Michigan jurisdictional numbers, which only include AMI meter cost and physical infrastructure deployment costs.[436] However, Staff determined that IM MI AMI meter projects include the AMI meter costs and the physical infrastructure deployment costs because a comparison of the breakdown of the figures in Exhibit S-10.0 match the figures in DSI-14.[437] Staff argues "[t]his raises a significant concern as to whether costs are duplicative."[438] Staff requested the costs of IM IT infrastructure costs and were provided total amounts with no cost breakdown.[439] Staff followed up in subsequent discovery response requesting a breakdown and costs for 2023 and 2024 but the Company did not provide a breakdown and indicated the projected expenditures were for targeted installations to enhance the network once the optimization analysis were complete. Because no data was provided, Staff concluded the analyses have not been done.[440] Staff argues:

> The closest witness Isaacson comes to addressing the duplicative cost concern is by stating "it appears a primary area of concern related to the capital expenditures is the 2023 and 2024 costs which represent a relatively small fraction of the total costs of the project." (4 TR 1295.) The primary area of concern is that the costs are not explained in any detail, much less sufficiently to justify the request as reasonable and prudent. Staff further points out that it is concerning that the Company addresses Staff's discussion of the duplicative nature of the costs between IT infrastructure and physical infrastructure but does not directly dispute it. The Company only attempts to portray it as insignificant.[441]

---

[436] 6 Tr 2122. Exhibit S-10.0.
[437] 6 Tr 2122.
[438] Staff brief, 28.
[439] Exhibit S-10.0.
[440] Exhibit S-10.0.
[441] Staff brief, 29.

Staff also argues that the failure to address duplicative costs "are indicative of a larger problem, which is that the Company has not provided any meaningful details to support its request."[442]

Ms. Fromm also testified that Staff has concerns regarding the realization of benefits from the AMI program. Staff explains that the Company identified several avoided expenses related to implementation of AMI[443] and Mr. Isaacson stated the Company would realize operational benefits in 2023. Ms. Fromm testified:

> However, when asked in discovery, the Company cannot provide any quantifiable monetary benefit being realized currently, or point to any part of its rate case filing where the avoided expenses are being captured in its requested O&M. (Exhibit S-10.0, pp. 18-19.) The Company states that it does not track O&M reductions by these categories and that it would not be beneficial to make efforts to perform the analysis necessary to do so. Staff finds this concerning, since Staff would assume the Company would like to know how its AMI investment is performing. Staff certainly believes this information is valuable.[444]

She stated, since AMI is fully deployed, Staff would expect to see fully projected benefits being realized for the above categories in the projected 2024 test year. However, the Company could not provide quantifiable benefits or identify in its initial filings where the avoided expenses are being captured in its requested O&M. The Company stated that it does not track O&M reductions by these categories, and in its discovery response, the Company stated, "to the extent AMI impacts are realized in actual costs and become elements of the Company's historical references for budget line items … they will be recognized in future forecasts."[445] Staff asserts that this is not an appropriate approach

[442] *Id*.
[443] Exhibit IM-29, confidential.
[444] 6 Tr 2124-2125.
[445] 6 Tr 2125. Exhibit S-10.0.

to recognize AMI benefits. Ms. Fromm concluded that the Company is asking the Commission to allow recovery of expenditures for a program with claimed benefits to be fully realized in 2024, but I&M does not account for them in its projections. Noting that the Company chose to file its application using a projected test year, Staff argues that it is inappropriate to project expenses but not benefits.[446] Staff refutes I&M's assertion that "operational benefits" have occurred, and argues that no such benefits have been recognized, noting that merely claiming the costs have been incurred does not establish they are reasonable and prudent.[447]

Staff acknowledged the Company's attempt to quantify the benefit associated with the meter reading expense resulting from AMI. Staff states that the Company provided actual meter reading expenses in Exhibit S-10.1, p 13 which conflicted with information provided in Exhibit S-10.1, p 12. In those exhibits the Company provided actual meter reading expenses for the total Company with an allocation factor to calculate the Michigan jurisdictional expenses. Staff states that the amounts calculated are significantly lower than the amounts provided by I&M. The Company has requested $259,000 in meter reading expenses in the 2024 test year which is higher than the actual amount from 2022 and given the AMI rollout is complete, this increase is unexplained. While the Company identified that $157,000 of this amount is for outside services, other components of the projected costs for meter reading are problematic. Ms. Fromm testified that Staff is particularly concerned that I&M is projecting $60,000 in labor expense for meter reading

[446] 6 Tr 2125.
[447] Staff brief, 30.

in Michigan, even though the Company indicated AMI deployment is complete which should eliminate the expense.[448]

Staff is also concerned about the use of 4G technology in the AMI program as the Company projects a 20-year life for an AMI meter. Ms. Fromm testified the Company provided conflicting answers in discovery responses about whether or not the AMI infrastructure would require upgrades to be compatible with 5G technology.[449] After the Company confirmed that the AMI system would require upgrades when 4G service ends, Staff requested information on anticipated costs. I&M responded that there were no anticipated costs in the 2024 test year[450] and that the Company did not currently know the amount of potential future costs.[451] Staff expressed concern that the Company's lack of knowledge about these future costs belie the asserted benefits.

Staff contends that the settlement in Case No. U-20359 simply provided for a cost benefit analysis if I&M chose to deploy AMI prior to its next rate case and argues "[t]he Commission is not obligated to approve recovery of expenditures associated with the Company's AMI program simply because the Company complied with the terms of the settlement agreement."[452] Addressing the Company's assertions that it misunderstood the evidence, Staff contends: "If any lack of understanding exists on the part of Staff, it rests primarily on the Company's failure to fully and comprehensively support its request

---

[448] 6 Tr 2125-2126.
[449] See Exhibit S1-10.0, pp 4, 9, and 10.
[450] See Exhibit S-10.0.
[451] *Id*.
[452] Staff brief, 34.

so that all parties and the Commission can effectively evaluate the Company's request."[453]

I&M acknowledges the direct testimony of its witnesses was confusing but asserted Mr. Isaacson and Mr. Walter "provided the necessary clarity" in their rebuttal testimony to support the AMI expenditures.[454] The Company argued that Mr. Issacson's testimony provided "a complete picture of I&M's Michigan AMI rollout" and details related to Michigan jurisdiction costs.[455] In response to Staff's concerns regarding lack of realized benefits, I&M stated:

> Staff's concern is misplaced and fails to recognize both financial and non-financial benefits of the Company's AMI meters. Company witness Baker testified that, as President of I&M, he is confident that the deployment of AMI technology has resulted in cost savings, avoided costs, and numerous customer benefits, such as reduced storm restoration time, real-time online outage information, and improved access to more timely customer usage information. 3 TR 714-717; 4 TR 1274, 1296. From an operations perspective, Company witness Isaacson—as the Vice President of Distribution Operations—confirms that I&M and its customers currently are benefitting from AMI and the Company has recognized avoided O&M as a result of a full year of the meters in Michigan. 4 TR 1295-1296.[456]

The Company acknowledged that discovery responses created confusion related to use of 4G cellular technology, but characterized Staff's concern as speculative, arguing there is no evidence that 4G technology is at risk of becoming outdated in the near future.[457] I&M asserts the AMI meters are fully deployed, used and useful, and being managed

[453] *Id*.
[454] I&M brief, 91.
[455] I&M brief, 92.
[456] I&M brief, 92.
[457] I&M brief, 93.

effectively.[458] The Company argues that the Commission should approve recovery of capital costs for the AMI program.[459]

In its brief, Staff maintains that mere assertions that AMI meters are necessary to provide service is not sufficient to support the expenditures.[460] In its reply brief, Staff repeats its arguments that the capital costs for the Company's AMI program are not supported and maintains its recommendation that the Commission disallow all of I&M's proposed AMI expenses.[461] And Staff reiterates that the information provided by the Company failed to provide any real clarity.[462]

The Attorney General argues AMI capital expenditures should be disallowed based on conflicting information provided by the Company. The Attorney General argues that the Company allocated more capital costs to the Michigan jurisdiction than was appropriate.[463] Mr. Coppola noted I&M included capital expenditures for the AMI program for the Michigan jurisdiction of $8,422,000 for 2023 and $2,912,000 for 2024 in its initial filings. However, Mr. Isaacson testified that AMI capital expenditures are projected to be $2,650,000 for 2023 and zero for 2024 (Figure DSI-12 p 36); these amounts were confirmed by I&M in discovery.[464] Therefore, Mr. Coppola testified that the Commission should remove $5,772,000 ($8,422,000 minus $2,650,000) of capital expenditures for

[458] I&M brief, 91-92.
[459] I&M brief, 94.
[460] Staff brief, 32.
[461] Staff reply, 21.
[462] Staff reply, 22.
[463] Attorney General brief, 21.
[464] Exhibit AG-2.

2023 and $2,912,000 for 2024.[465] The Attorney General argues that this disallowance is appropriate.

In response, the Company asserts that Mr. Coppola's assumptions are erroneous and argued that Exhibit AG-2 was provided for informational purposes only and should not have been relied upon when examining a specific project like AMI.[466] I&M argues that the proposed disallowance would represent an improper allocation to the Michigan jurisdiction.[467]

The Attorney General repeats her arguments in her reply brief and notes that Mr. Morgan's testimony concerning the expense was confusing and did not provide information that could be verified.[468] The Attorney General also expresses support for Staff's total disallowance in her reply brief.[469]

In its reply brief, I&M reiterates its assertion that it provided ample evidence to support the requested capital expenditures for AMI and again point to Mr. Isaacson's testimony and Figure DSI-14.[470] The Company argues the fact that information was not "in the form Staff had hoped for does not mean the costs themselves are not reasonable and prudent[.]"[471] The Company argues Staff's focus on financial benefits is misplaced because there are many non-financial benefits to the program. And I&M repeats that the Commission should approve the expenditures as the AMI program is in service and are

[465] 6 Tr 2393.
[466] I&M brief, 93-94. 5 Tr 1778.
[467] I&M brief, 94.
[468] Attorney General reply, 23.
[469] Attorney General reply, 22.
[470] I&M reply, 35. 4 Tr 1273-1274.
[471] I&M reply, 37.

used and useful.[472] And, in reply to the Attorney General, the Company repeats its assertion the projected costs for the AMI program were properly allocated for the Michigan jurisdiction.[473]

This PFD finds the arguments of both Staff and the Attorney General to be more persuasive and consistent with Commission precedent. Staff and the Attorney General established that I&M failed to support its request and effectively argued that the parties and the Commission cannot adequately evaluate the AMI expenditures. The protracted discussions in both the Staff's brief and the Attorney General's brief detail the Company's failure to support both past expenditures and projections. And, despite the fact that its own cost/benefit analysis predicted financial benefits, I&M did not include any such benefits in this case; Company witnesses simply professed their existence. For the reasons described by Staff and the Attorney General, this PFD finds Staff's total disallowance to be reasonable and prudent. While the parties have provided clear and concise reasons for their proposed adjustments, this PFD addresses the issue of the cost/benefit analysis. Pursuant to the settlement in Case No. U-20359, I&M performed a cost/benefit analysis for the AMI program. As Staff correctly notes, performing this cost/benefit analysis was a condition precedent to inclusion of the costs in rate base, and does not establish the reasonableness and prudence of those costs in any manner. Neither the fact that the AMI rollout is completed, and funds have been spent, nor the fact that the Company spent less than projected in the cost/benefit analysis, should be relevant. The issue is whether the expenditures are reasonable and prudent, not whether

[472] I&M reply, 38.
[473] I&M reply, 39.

or how much was spent. As this PFD recommends the Commission find I&M failed to support the capital expenditures for AMI, Staff's complete disallowance is more appropriate. Accordingly, this PFD recommends the Commission accept Staff's complete disallowance. However, if the Commission does not accept this recommendation, in the alternative, this PFD asserts some disallowance is warranted, and, therefore this PFD recommends the Commission accept the disallowance calculated by Attorney General witness Coppola.

e. Other Proposed Disallowances

Mr. Coppola recommended that capital expenditures under the category Customer Service & Other, subcategory Work Place Service & Other Projects be disallowed as unsupported. He noted that the Company forecasts capital expenditures of $1,055,00 for 2023 and $1,229,000 for 2024, but no historical amounts were shown for the past five years, and there is no explanation in testimony for these projected amounts.[474] The Attorney General argues that the Commission should exclude these amounts from the capital expenditures.[475]

Based on Mr. Isaacson's rebuttal testimony, I&M claims Mr. Coppola's analysis is flawed.[476] Mr. Isaacson testified this capital expense involves "two stand alone workplace service projects for 2023 and 2024."[477] He testified these are the Buchanan Service Center and twelve I&M Electric Vehicle Direct Current Fast Charging Stations, which are both "one off" projects with no historical costs.[478] However, Mr. Isaacson noted no capital

[474] 6 Tr 2393-2394.
[475] Attorney General brief, 23.
[476] I&M brief, 94-95.
[477] 4 Tr 1328.
[478] 4 Tr 1328.

costs for this project have been incurred for the Buchanan Service Center due to a delay in the project. And he stated that capital costs associated with the charging stations should have been allocated to the Indiana jurisdiction.[479] I&M confirmed this testimony in its brief.[480]

Accordingly, based on I&M's response to the proposed disallowance, this PFD recommends that the Commission accept the Attorney General's proposed disallowance.

The Attorney General also recommended the Commission disallow some distribution capital expenses associated with category Customer Service & Other, subcategory Customer Upgrade, Relocation or CS Asset Improvement.[481] Mr. Coppola testified, "[t]he Company forecasted capital expenditures of $1,052,000 for 2023 and $1,090,000 for 2024. In comparison, the historical spending in the past five years ranged from $376,000 to $704,000 with the average amount in the most recent three years, 2020 to 2022, being $637,000."[482] He stated I&M did not provide any specific support for the large increase in spending and asserted capital expenditures in this category should be based on an inflation adjusted amount of the most recent three-year average, which resulted in an amount of $658,000 for 2023 and $674,000 for 2024 capital spending. He stated this results in a disallowance of $1,052,000 for 2023 and $1,090,000 for 2024.[483]

In its brief, I&M argued that "[t]he Company fully supported this project category and Mr. Coppola's disallowance numbers are unfounded and should be disregarded."[484]

[479] 4 Tr 1329.
[480] I&M brief, 95.
[481] Attorney General brief, 18. See Exhibit AG-2.
[482] 6 Tr 2392.
[483] 6 Tr 2392-2393.
[484] I&M brief, 95.

I&M argued it had supplied sufficient information about this expense, including historical and projected costs.[485] And asserting that amounts in Exhibit AG-2 do not reflect the capital request in this case and are for informational purposes only, I&M argues it was inappropriate to rely on this exhibit. The Company also noted Mr. Coppola did not ask follow-up questions.[486]

The Attorney General argues in her brief that the Company did not provide any support for the projections. Noting that Mr. Isaacson made reference to historical spending, when asked how the forecast was developed, the Attorney General argues that Mr. Coppola showed the projections are significantly higher than historical spending would support.[487]

This PFD finds that the Attorney General did not establish her proposed disallowance to the Customer Service & Other, subcategory Customer Upgrade, Relocation or CS Asset Improvement was appropriated. This PFD finds the Attorney General did not establish that the method used by Mr. Coppola results in a reliable calculation of the projected expenditures. Accordingly, this PFD recommends that the Commission reject the Attorney General's proposed disallowance of capital expenses for the Customer Upgrade, Relocation, or CS Asset Improvement category. And as noted above, based on I&M's response to the proposed disallowance for Work Place Service & Other Projects, this PFD recommends that the Commission accept the Attorney General's proposed disallowance of $1,055,00 for 2023 and $1,229,000 for the test year.

5. Intangible & General

---

[485] I&M brief, 95. Exhibit IM-108R.
[486] I&M brief, 95.
[487] Attorney General brief, 19.

The Company's Intangible and General Operations category includes Information Technology projects, as well as Facilities and Telecommunication projects.[488] The Company forecasted capital expenditures of $91,091,000 in 2023 and $82,288,888 in 2024 for Intangible and General Operations; I&M incurred capital expenses of $59.7 million in 2022.[489] Explaining the increase, Mr. Brenner testified:

> Unlike O&M that is more routine in nature, capital investments are dependent on the needs and projects at a specific point in time. In 2024, the Company has scheduled multiple large projects that are necessary to replace obsolete systems and take advantage of new technologies.[490]

Mr. Brenner testified that capital costs in this category are recorded by project based on work orders. He described the internal planning, budgeting, approval, and quality control processes and suggested the process is reasonable.[491] I&M separates its Technology and Security capital costs into two types:

> Major Projects are those exceeding $5 million during the Capital Forecast Period. For the Capital Forecast Period there are six Major Projects: I&M Capital Software Development, the Customer Information System ("CIS") Project, Capital Cyber Security Software Development (or Security Blanket, ADMS Implementation, HR HCM Modernization, and the Field Mobility Program. The Other Capital Investment category includes capital expenditures associated with multiple smaller projects. Each project is identified in the Project Life File. Exhibit IM-22 (ZBW-11). These are planned projects that are necessary and reasonable and representative of projects conducted in a typical year.[492]

Several parties disagreed with the Company's projected capital expenditures for projects categorized in this classification of expenditures.

a. Capital Software Development

---

[488] I&M brief, 96. Information Technology is also referred to as Technology and Security by the Company.
[489] I&M brief, 95-96.
[490] 3 Tr 854.
[491] 3 Tr 858-859.
[492] I&M brief, 97. 3 Tr 855.

I&M projects capital expenditures for Capital Software Development to be $36,238,000 during the Capital Forecast period.[493] Mr. Brenner testified that Capital Software Development consists of blanket work orders for projects that are higher in volume and smaller in scope with the same depreciable life and plant accounting category.[494] Based on his testimony, I&M argues that blanket work orders are standard accounting method and industry solution for ongoing capital expenses, "such as maintenance and development of software application."[495]

Staff recommends a complete disallowance of capital requested for this category of projects. Noting that I&M is requesting $6,072,000 for the historical 2022 year, $5,564,000 for 2023, and $30,674,000 for the projected test year, Staff witness Rogers calculated the Michigan jurisdictional amount using the projected payroll allocation factor to be $6,129,000 million for 2022, $915,000 for 2023, and $5, 046,000 for 2024.[496] She focused on I&M's plans to allocate capital funds to specific projects written from blank work orders and argued for full disallowance "because it is impossible to determine its reasonableness and prudence at this time with the information provided by the Company."[497] Ms. Rogers testified Staff attempted to obtain detailed information about projects that make up this category, however, the Company responded that it does not forecast to the level of detail requested by Staff.[498] Based on the description of the categories provided by the Company, Ms. Rogers testified that "Staff has concluded the

[493] I&M brief, 98. See Figure JB-3, 3 Tr 856.
[494] 3 Tr 856.
[495] I&M brief, 97. 3 Tr 856.
[496] 6 Tr 2154.
[497] *Id*.
[498] 6 Tr 2154-2155.

Company plans its IT projects based on its an annual budget versus planning its annual budget based on the necessary IT projects."[499]

Due to lack of information, Staff maintains that it is not possible to conduct an adequate review of the Company's projections for reasonable and prudence. Staff argues that, therefore, it is "inappropriate and unfair to pass requested expenditures without more information onto the ratepayers."[500] Staff acknowledges that the Company provided multiple spreadsheets related to specific projects, and Ms. Rogers reviewed some of the information in her testimony; however, she stated these spread sheet "left Staff with more questions than answers."[501] In its brief, Staff detailed the attempt to ascertain relevant information, and the Company's inadequate response.[502]

The Company argues that it supplied the data requested and conferred with Staff regarding the information.[503] I&M contends that Mr. Brenner summarized a significant amount of information, "including work order level detail of the description of the project, the equipment involved, the refresh life, alternatives considered, and the projects state and end dates."[504] And the Company asserts that the disallowance proposed by Ms. Rogers includes expenditures for projects completed in 2022 and 2023. Asserting details for these projects have been supported, and the projects are currently in-service and are used and useful, I&M argues Staff's proposed disallowance is inappropriate.[505]

---

[499] 6 Tr 2155.
[500] Staff brief, 47.
[501] 6 Tr 2155-2156.
[502] Staff brief, 47-52.
[503] Staff brief, 98.
[504] I&M brief, 98. 3 Tr 898-899.
[505] I&M brief, 99. Exhibit IM-79R.

Staff also contradicts the Company's assertions of misunderstanding as it relates to the projected expenditures for these projects. Staff expresses a recognition that I&M creates an annual funding requirement, then projects are implemented "based on how they fit within the budget as opposed to the Company finding projects that are necessary to implement and creating the forecasted capital expenditure request according to those necessary projects."[506] Staff maintains that this type of budgeting is inappropriate for establishing rates because there is no guarantee of implementation, and no way to assess reasonableness and prudence.[507] Staff argues that the Commission rejected I&M's approach in Case No. U-20836.[508]

Staff also argues that the Company included contingency costs in the projected expenditures in the form of funds set aside for emergent needs. Staff recommends that the Commission reject these costs based on historical precedent.[509]

In its reply brief, I&M repeated its assertion that more than enough information was provided to support its IT budget, which is updated in accordance with specific needs.[510]

This PFD finds Staff's arguments to be more persuasive and consistent with Commission precedent. Again, while budget development may be the most suitable way for the Company to run its business, I&M's adoption of an operating budget does not establish that projected expenditures are reasonable and prudent. In this case, Staff provided credible evidence to establish that the use of blanket work orders for these projects is insufficient to support the projected expenditures; there is no guarantee that

---

506 Staff brief, 53.
507 *Id*.
508 Staff brief, 53-54.
509 Staff brief, 54-55.
510 I&M reply, 40-41.

the work will be performed or that any benefit to ratepayers will be provided. Accordingly, this PFD recommends the Commission adopt Staff's proposed disallowance.

b. Customer Information System (CIS) project

AEP is implementing a new customer information system (CIS) which will be used throughout the organization, including I&M. Mr. Brenner testified AEP uses one system across all companies, and the current technology is over 30 years old and cannot efficiently manage complex information from new technologies such as AMI, bill output, or complex customer programs.[511] He explained:

> Modern CIS system data structures are based upon the customer participation in programs, the devices installed at their home or business, and how the customers use the grid. While the Company's current systems may have databases used to bill the customer, a database used for market settlement, a database for customer programs like alerts, and a database for interval data, a modern CIS system would utilize one common database that minimizes integrations between systems. Modern CIS systems leverage a common database for all these processes, simplifying or eliminating the integration requirements between a meter data management system, settlement systems, and CIS billing systems.[512]

The Company engaged two vendors, who currently provide services, to implement the new CIS. Mr. Brenner testified the Company plans to take a phased approach, which mitigates risk, initially deploying systems to automate manual billing.[513]

The Company reports capital expenditures for the CIS project of $2,540,000 for 2022, and projects costs of $13,978,000 for 2023 and $11,138,000 for 2024.[514] Also in response to discovery, the Company reported capital expenditures for the CIS program

---

[511] 3 Tr 866.
[512] 3 Tr 868.
[513] 3 Tr 869-870.
[514] Exhibit A-12, Schedule B5.3.

of $206,000 in 2020 and $612,000 in 2021, bringing the total cost to I&M of $28,552,000 in 2024.[515] Mr. Brenner testified:

> The cost estimates were developed by evaluating existing functionality and capabilities for AEP's operating environment and identifying required integrations with edge systems that interface with CIS. Taking those capability and integration requirements and applying average expected resource needs to convert customers to the new systems and integrate with AEP systems, and based upon prior experiences with similar sized utilities, AEP was able to derive an initial planning estimate.[516]

He also testified a formal review process has been undertaken to track costs.[517]

Noting I&M did not conduct a cost/benefit analysis for the CIS project, the Attorney General argues the Company could not identify any financial benefits and simply argued elimination of inefficiencies and cost savings would result.[518] Citing a prior ruling, the Attorney General argues "the Commission cannot approve costs recovery for projects which are not adequately supported and fail to include analysis of the severity of the actual risk or how the project will alleviate or reduce the risk, and a sufficient benefit/cost analysis."[519] And the Attorney General observed that the Commission disallowed expenditures for a similar technology platform for a lack of a cost/benefit analysis and a lack of supporting details.[520]

Based on Mr. Coppola's testimony, the Attorney General argues the costs for the CIS are wholly unsupported, including a 68% increase from the original projection of 613 million. Mr. Coppola testified total forecasted costs are now projected to be $1.03 billion

---

[515] Attorney General brief, 61. 6 Tr 2413. See Exhibit AG-25.
[516] 3 Tr 872.
[517] 3 Tr 873.
[518] Attorney General brief, 62.
[519] Attorney General brief, 66; citing December 1, 2023, Order, Case No. U-21297, p 23.
[520] Attorney General brief, 67; citing December 20, 2020, Order Case No. U-20697, p 146.

to AEP, with $131.7 million allocated to I&M on a total Company basis, and $25 million allocated to the Michigan jurisdiction.[521] Mr. Coppola testified:

> Absent the 68% project cost increase, I&M would have incurred only $17,000,000 in costs through the end of 2024 ($28,552,000 ÷ 1.68). The excess cost is $11,552,000. If we assume a reasonable 10% cost overrun for unexpected events, or $1.7 million over the initial cost estimate, the excess cost net of this amount is $9,852,000. The portion applicable to the Michigan jurisdiction is $1,673,000.[522]

Based on his calculations, he recommended the Commission disallow the $1,673,000 in capital expenditures for the CIS program.[523] In her brief, the Attorney General argued the Commission should accept Staff's recommendation, or in the alternative, the disallowance recommended by Mr. Coppola.[524]

Mr. Ah Tou testified that Staff recommends a full disallowance of $13,978,000 in 2023 and $11,138,00 in 2024 on a total Company basis. He acknowledged the need for CIS and asserted Staff understands it would provide many benefits including increased efficiencies, simplified processes, and will better address customer needs. He testified, however, that the Company "has failed to provide Staff adequate details to support their projected costs."[525] He testified that Staff conducted multiple rounds of audit in an attempt to understand how the projected capital costs were determined. He testified the information provided differing amounts for I&M's total expenses, without a clear understanding of how the projected amounts will be spent.[526] Arguing without this information, the Commission cannot determine if the projections are reasonable, and Staff

---

[521] 6 Tr 1979. 6 Tr 2411.
[522] 6 Tr 2413.
[523] 6 Tr 2414.
[524] Attorney General brief, 67.
[525] 6 Tr 2169.
[526] 6 Tr 2169-2170.

states that the Company could be able to over-earn on its rate base investments to the detriment of ratepayers.[527]

Mr. Ah Tou testified that Staff recommends the Commission reject the deferred accounting authority requested by I&M for depreciation expense and debt and equity return until assets are reflected in rate base, in the future. He testified that deferral accounting authority is inappropriate for the CIS project, as its costs are not volatile.[528]

In rebuttal, Mr. Brenner asserted that I&M provided "a comprehensive perspective of the CIS project costs in discovery."[529] Based on Mr. Brenner's testimony, I&M defends the development of the project and the support provided in this matter, arguing that it delivered a complete overview of this multi-jurisdictional project and provided documentation to show "all the different workstreams needed to fulfill the general objective of the CIS project."[530] And the Company states that Staff's proposed disallowance ignores the fact that components are used and useful.

The Company objects to Mr. Coppola's review of the CIS project based on projected costs and observes that he did not review its reasonableness and prudency. In its brief, I&M argues that Mr. Coppola reached his conclusion "by conducting basic arithmetic and not balancing the necessary factors of a prudency analysis (such as benefit to customers, need for the project, scope of the project, safety impacts, possible alternatives, reliability impacts, etc.)."[531] The Company also argues that the Attorney General, based on Mr. Coppola's analysis, inappropriately compared a high-level

[527] Staff brief, 37.
[528] 6 Tr 2170-2171.
[529] 3 Tr 920.
[530] I&M brief, 101.
[531] I&M brief, 102.

preliminary estimate to the current estimate, which it contends was prepared based on more comprehensive evaluation. I&M maintains that no party disputed there is value in the new CIS project, and reiterated Mr. Brenner's prediction of benefits.

In its brief, Staff argues that I&M failed to recognize its burden to prove the reasonableness and prudence of all requested expenditures.[532] Disputing the Company's assertion the CIS project should not be rejected simply because it is complex and difficult to understand, Staff explains:

> Staff expects that a project of considerable size would have a highly detailed breakdown of expected costs with descriptions of what, why, and when funds are being allocated to different areas. Staff spent multiple rounds of audit trying to get these details. The Company did not provide sufficient responses. This does not indicate the project is too complex to understand but instead that the Company has not provided adequate support of its project to justify recovery.[533]

And Staff states that I&M's assertion that the system is used and useful is not sufficient to establish that the expense is reasonable and prudent.[534]

The Attorney General argues in her brief that neither I&M's discovery responses nor Mr. Brenner's rebuttal testimony provided any real support for the CIS project. And the Attorney General argued that "Staff obviously reviews many utility capital projections, and would have no reason to testify that information provides no useful information if it was really cohesive and supported the projected costs."[535]

The Attorney General maintains in her reply brief that the Company mischaracterized Mr. Coppola's understanding of and testimony about the CIS project.[536]

---

[532] Staff brief, 38; citing May 8, 2020, Order, Case No. U-20561, p 112.
[533] *Id*.
[534] *Id*.
[535] Attorney General brief, 64.
[536] Attorney General reply, 23-25.

And the Attorney General repeats that the Commission should require a cost /benefit analysis before approving a project forecast to cost more than one billion dollars.[537]

The Company specifically addressed the Attorney General's proposed disallowance in its reply brief.[538] The Company asserts the Attorney General fails to consider the magnitude of the project, which is a system wide AEP project, and designed to leverage granular information to adapt to evolving customer needs.[539]

This PFD finds the arguments made by Staff and the Attorney General to be well-reasoned and persuasive. The Company did not perform any cost benefit analysis to determine if the undertaking of a project estimated to cost over a billion dollars is reasonable and prudent. Staff established that it conducted multiple rounds of audit to understand the costs and received information with differing expense amounts and no clear details of how the projected costs would be spent. This PFD find this to be simply unacceptable and recommends the Commission clearly signal that supplying parties with an abundant amount of useless data is the antithesis of support. And again, the fact that I&M has already spent funds on the project should not be relevant as it does not inform whether the expenditures are reasonable and prudent. Accordingly, this PFD recommends that the Commission adopt Staff's proposed full disallowance of the projected capital expenditures for the CIS project. If the Commission does not find this to be reasonable, the PFD asserts that some disallowance is warranted and recommends that the Commission disallow the capital expenditures for the CIS program in the amount of $1,673,000 as proposed by the Attorney General.

---

537 Attorney General reply, 25-26.
538 I&M reply, 41-43.
539 I&M reply, 42.

c. Cyber Security – blanket orders

I&M projects capital expenditures for Cyber Security Blanket work orders in the amount of $17,323,000.[540] The Company explains that this category is comprised of work orders for smaller projects related to cyber-security.[541]

Mr. Ah Tou testified that Staff recommends a partial disallowance for Cyber Security Blanket orders in the amount of $8,427,332 in 2023 and $8,649,289 in 2024, on a total Company basis. He testified Staff has several issues orders because it is impossible to know which projects will actually be completed, or what, if any, project might take their place. He stated that Staff cannot reasonably understand where expenditures will be made for these blanket work orders. He testified that an over projection would result in higher rates for customers.[542]

However, Staff recognize that some of the projects are necessary to satisfy compliance and regulatory requirements.[543] Mr. Ah Tou testified that Staff therefore recommends that the Commission approve only those costs related compliance and regulatory requirements. Staff argue in its brief: “Because compliance-based projects should not undergo the same shift in project selection as non-compliance-based projects, Staff [evaluate] these projects as being reasonable and prudent.”[544] Therefore, Staff recommends the partial disallowance representing blanket work orders that do not satisfy compliance and regulatory requirements.[545]

---

[540] I&M brief, 105. Figure JB-3. 3 Tr 856.
[541] I&M brief, 104-105.
[542] 6 Tr 2172.
[543] Staff brief, 40.
[544] Staff brief, 40.
[545] 6 Tr 2172-2173.

I&M objects to Staff's proposed disallowance, asserting that it results in a 98.5% reduction in necessary capital expenditures.[546] Based on the testimony of Mr. Brenner, the Company argues a "blanket order" is a "standard property accounting and industry solution that efficiently govern and account for these ongoing capital items, such as maintenance and development of software applications."[547] I&M argues that the smaller IT capital projects in this category are "reasonable and necessary for the Company to defend its software systems from outside cyber-attacks."[548] And I&M asserts that Staff ignored information which supported its workplans.[549] Contending that it expects to complete all the projects in its work plans, the Company argues these capital expenses should not be excluded.[550]

This PFD finds Staff's arguments to be more persuasive and consistent with Commission precedent. As with the Capital Software Development category (above), Staff provided credible evidence to establish that blanket work orders for these projects are inappropriate. As Staff noted, there is no guarantee that the projects will be performed or that any benefit to ratepayers will be provided, and due to the prohibition on retroactive ratemaking, if the funds were not reasonable spent, ratepayer would be paying for no benefits. Accordingly, this PFD recommends the Commission adopt Staff's proposed disallowance.

d. ADMS and DERMS Implementation

---

[546] I&M brief, 105.
[547] I&M brief, 105. 3 Tr 910-911.
[548] I&M brief, 105. 3 Tr 915.
[549] I&M brief, 106. Exhibit IM-79R.
[550] I&M brief, 106.

Company witness Brenner described Advanced Distribution Management System (ADMS) as “a modular software platform that is used to visualize, manage, and optimize a complex electric distribution network.”[551] He testified that ADMS would fully integrate the Company’s outage management system (OMS) and distribution management system (DMS) capabilities into one network model with a single user interface.[552] Mr. Brenner stated that there is a need to upgrade its systems because the Company’s current OMS vendor is ending support for the Company’s current OMS such that it will receive limited support and updates in the future.[553] He opined that while the Company’s current OMS/DMS systems have been adequate thus far, the complexity of grid operations is “quickly rising to a level that will be difficult to manage without greater situational awareness and dynamic control capabilities.”[554]

Mr. Brenner further stated that ADMS would also fully integrate Distributed Energy Resource Management System (DERMS) capabilities that will be needed to manage the complexities associated with Distributed Energy Resources (DER).[555] He specified that an ADMS/DERMS system would be capable of maintaining DER records and data, providing a visualization of DERs in the Company’s network, and would also deliver advanced applications and analyses, operational forecasting, override capability, and secure data exchanges.[556] He opined that the ADMS update to a unified network model and user interface would result in a positive impact on the outage lifecycle and would

---

[551] 3 Tr 875.
[552] *Id*.
[553] 3 Tr 877.
[554] 3 Tr 878-879.
[555] 3 Tr 875.
[556] 3 Tr 875.

enable the Company to better support and integrate DERs and electric vehicles while minimizing any adverse impacts on the grid.[557]

Mr. Isaacson testified that ADMS/DERMS systems would provide numerous operational benefits including enhanced operational decision making, a more advanced and holistic integration and management system for DERs, and enhanced grid modernization benefits through better situational awareness of real-time conditions.[558] He testified that the Company selected an ADMS vendor and system integrator in 2022, the planning phase was completed in 2023, and the Company's implementation and testing phase is expected to conclude by the end of 2024.[559]

Mr. Brenner listed the following projected costs for the ADMS/DERMS upgrade: 2023-2024 I&M capital expenditures of $8,400,000, total I&M capital expenditures of $11,200,000, forecasted enterprise capital expenditures of $102,400,000, 2022 I&M O&M costs of $60,000, and 2024 I&M O&M costs of $400,000.[560] He testified that I&M's parent Company, AEP, applied for $27 million in federal grants to help defray some of the upgrade costs, and that, if awarded, I&M would receive a portion of that grant funding.[561]

Mr. Walter provided further details about the grant application process in relation to the ADMS/DERMs project; he specified that the Company would complete the ADMS/DERMS project even if it does not receive grants because it is necessary for the

[557] 3 Tr 879.
[558] 4 Tr 1276-1277.
[559] 4 Tr 1277; Mr. Brenner also provided slightly more detailed information about the ADMS procurement process at 3 Tr 879-881.
[560] See Figure JB-8 at 3 Tr 882.
[561] 3 Tr 882.

Company to deploy this technology.[562] Ms. Seger-Lawson described how the Company intended to account for the grants, if awarded:

> For those [projects that the Company will complete with or without grants] that are in the Company's capital forecast, the project cost will be included in base rates. Once the Company receives notice that the grant will be awarded, I&M will file a deferral authority application to properly account for the grant and until it can be incorporated into base rates in a future proceeding. In other words, through this case base rates will include the project costs (capital, O&M, property tax and return on rate base) at the full value of the project.[563]

Ms. Seger-Lawson also testified that the Company will seek recovery of grant application and writing costs for grants that the Company is not ultimately awarded.[564] She justified this position by stating that efforts to pursue grants are necessary and prudent even if the grant is not awarded, and she specified that the Company is seeking to defer grant writing costs and application expenses.[565]

For Staff, Mr. Evans testified that the Company was successful in receiving an ADMS/DERMS grant, and he recommended that the Company should record a regulatory liability for any cost included in base rates that is recovered through a grant.[566] He explained, "Staff proposes that the regulatory liability mechanism be approved in this base rate case, without the need for an *ex parte* case, to record any revenue requirement included in this base rate case that is subsequently recovered through an approved grant, to alleviate any double recovery."[567] In a related vein, Mr. Evans opposed the Company's plan to defer grant writing and application costs because it constituted "single issue

---

[562] 5 Tr 1482, 1483.
[563] 6 Tr 1974.
[564] 6 Tr 1974-1975
[565] 6 Tr 1975.
[566] 6 Tr 2338. See also Exhibit S-12.0.
[567] 6 Tr 2338.

ratemaking outside of the test year" and because the associated costs were relatively small.[568] He suggested that the grant writing costs were minimal because they constitute just 0.029% of the Company's more than two billion dollar operating budget.[569]

Mr. Coppola asserted that I&M's parent Company was awarded a $22 million ADMS/DERMS grant, and he testified that I&M confirmed that the grant amount was not reflected in the forecasted capital expenditures for 2024.[570] He opined that the grant amounts received in 2024 and future years should be considered contribution in aid of construction and should be offset against the capital expenditures capitalized in rate base.[571] Based upon AEP's allocation of 11% of the grant to I&M, and I&M's 16.98% Michigan jurisdictional share, Mr. Coppola recommended a reduction of $411,000 to capital expenditures for 2024.[572] Further, Mr. Coppola stated that the Company gave unhelpful responses to discovery requests inquiring if the Company intended to charge a fee to DER facilities to recover the cost for implementing DERMS.[573] He opined that "[i]t is not fair and just to spread and recover all the costs of the DERMS system from the entire customer base of the Company when other parties directly benefit the most from implementation of the system."[574] Accordingly, he recommended that the Commission direct that the Company, in its next rate case, determine the cost to implement the DERMS component of the ADMS/DERMS upgrade and propose an appropriate fee to

---

[568] 6 Tr 2339.
[569] *Id*.
[570] 6 Tr 2408. See also Exhibit AG-20.
[571] 6 Tr 2408.
[572] 6 Tr 2408-2409.
[573] 6 Tr 2409, 2410.
[574] 6 Tr 2410.

recover the cost of DER installations and incorporate this additional cost as part of the Michigan Interconnection and Distributed Generation Standards.[575]

Mr. Ozar questioned the Company's focus on inclusion of DERMS in the system upgrade, testifying that in the Company's most recent integrated resource plan (IRP) case,[576] the Company concluded that DER were generally not economically feasible, and the Company stated that it had no plans to incentivizes customer installation of DER.[577] He also testified that, based upon its discovery responses, the Company has not experienced any issues resulting from high levels of deployed DER.[578] Mr. Ozar opined that the cost of investments in DERMS should be recovered by DER users who will benefit from it; he added that if the purpose of DERMS was to facilitate aggregation of DER, then the Company has shown no demand for such aggregation and no evidence that DER users would pay for the investment in DERMS. Overall, he recommended that the Commission reject approval of any capital or O&M costs for DERMS because such investments are premature.[579]

Mr. Baker offered generalized rebuttal in response to Mr. Coppola and Mr. Ozar. He opined that their positions were inconsistent with the spirit of new Michigan legislation that sought to increase DG customers; he stated that adding incremental costs to DG customers would hinder the development of such projects.[580] He also stated that their positions are premised on the belief that DERMS would not provide overall value to all

[575] 6 Tr 2410-2411.
[576] Case No. U-21189.
[577] 3 Tr 236, 237 (citing, in part, the testimony of I&M witness Jon Walter in Case No. U-21189).
[578] 3 Tr 238. See also Exhibit CUB-6.
[579] 3 Tr 238.

I&M customers, but he rejected that premise and asserted that the "seamless integration of Distributed Generation will be a fundamental expectation for customers[.]"[581]

In his rebuttal testimony, Mr. Brenner rejected Mr. Ozar's contention that it was premature to invest in DERMS. He explained that Mr. Ozar's objection was "one of timing and not the prudency of the management decision to deploy DERMS."[582] Mr. Brenner asserted that the electrical grid is changing, and that new legislation in Michigan resulted in an increased cap on distributed generation, which can increase DERs.[583] He critiqued Mr. Ozar's approach as a "reactive" one that would wait until problems arise, whereas the better approach was "to proactively address the Company's future needs with respect to grid and DER management."[584] Further, he emphasized that the Company's existing OMS and DMS systems are at the end of their lifecycle with vendor support ending in 2025 and 2026 respectively.[585] Mr. Brenner responded to the alleged lack of demand for DER aggregation by asserting that the Company has an immediate need to upgrade its OMS system, and that there is broad industry agreement that DER will grow dramatically in the future.[586]

Mr. Brenner rejected the idea that new systems could be implemented in a piecemeal fashion, and he opined that delay would cause two problems: "(1) it is extremely difficult to anticipate or determine the tipping point to when additional DER becomes a concern; and (2) at the time when additional DER impacts overall system

---

[581] 3 Tr 712.
[582] 3 Tr 889.
[583] *Id*.
[584] *Id*.
[585] 3 Tr 889-890.
[586] 3 Tr 892.

reliability, it would take approximately two or more years to setup and install DERMS."[587] Mr. Brenner opined that implementing ADMS now and DERMS at a later date would add risk and increase cost compared to simultaneously implementing a unified system as "a package deal", which he opined was "the most cost-effective."[588]

Mr. Walter rejected Mr. Coppola's proposals and argued that the Company's grant award could be placed at risk because it is "based upon the entire scope of the ADMS/DERMS project, not partial components since the grant award included the entire project."[589] He opined that Mr. Coppola's proposed adjustment, and the proposal to examine a fee to charge DER customers "potentially increase the cost of the project to all customers and future DER applicants and disregards the basis in which grant funds were awarded."[590]

Ms. Seger-Lawson opposed Mr. Coppola's recommended adjustment; she stated that I&M proposed to apply the grant to the capital project similar to accounting for a customer's contribution in aid to construction (CIAC). She added that I&M planned to calculate the impact to revenue associated with the grant and defer the net amount as a regulatory liability that will offset rates in the Company's next rate case.[591] She testified that the Commission should reject Mr. Coppola's proposed disallowance because that the ultimate value of the grant is uncertain and the timing of the grant impacts the revenue requirement and the amount of regulatory liability that should be used to offset future

---

[587] 3 Tr 890-891.
[588] 3 Tr 891, 893.
[589] 5 Tr 1511.
[590] 5 Tr 1511-1512.
[591] 6 Tr 2015.

rates.[592] Ms. Seger-Lawson also opposed Mr. Coppola's recommendation to charge a fee to recover the cost of DERMS from DER installations. She testified that "[t]he DERMS project supports the entire distribution system and therefore the cost of DERMS should be properly assigned to all who benefit from the distribution system."[593]

In its initial brief, the Company largely reiterates the ostensible benefits of the ADMS/DERMS project and restates the counterarguments presented in the rebuttal testimony of the Company's witnesses.[594]

Staff repeats its contention that for the ADMS/DERMS grant, the Company should record a regulatory liability for any cost of service included in base rates that is recovered through the grant. Staff also reiterates that the regulatory liability mechanism should be approved in this rate case, and that the Company provided no rebuttal to Staff's position in this regard.[595] Additionally, Staff reaffirms its opposition to the Company's plan to defer grant writing and application costs.[596]

The Attorney General maintains her position that the Commission should consider the grant as contribution in aid of construction and should reduce the Company's projected 2024 intangible and general capital expenditures by $411,000, i.e., by the Michigan jurisdictional share of the ADMS/DERMS grant.[597] The Attorney General rejects Company witness Seger-Lawson's contention that the grant amount should be treated as a regulatory liability because the Department of Energy notified the Company of the grant

---

[592] 6 Tr 2015, 2016.
[593] 6 Tr 2008.
[594] I&M brief, 106-111.
[595] Staff brief, 139.
[596] Staff brief, 137.
[597] Attorney General brief, 55.

amount, and it is likely to be received by the Company by the end of the projected test year.[598]

The Attorney General also reaffirms her position that the Commission should require I&M to recover costs related to DERMS from the owners of DER projects based upon cost causation principles. The Attorney General rejects as unsupported Company witness Baker's contention that adding incremental costs to DER customers would slow the growth of DER in the Company's territory.[599] The Attorney General also rejects Mr. Baker's suggestion that DERMS would provide an overall benefit to all customers pointing out that during cross-examination, Mr. Baker acknowledged that I&M performed no cost-benefit analysis comparing the cost of DERMS if allocated to the customer base as a whole to the benefits to the grid from DERMS facilitating additional DERs connections to the system.[600] The Attorney General emphasizes that Michigan law, specifically MCL 460.11(1), generally mandates that rates must be based on cost causation with only limited exceptions, and DERMS and DER customers were not among them.[601] The Attorney General argues that if DER customers cause the cost of DERMS, then they must pay for that cost regardless of whether I&M believes that DER can provided general benefits to the electrical grid as whole.[602]

In its briefing, CUB reiterates its request for a disallowance of DERMS costs and repeats the arguments presented by Mr. Ozar, including that DERMS is premature, the Company is not incentivizing DERs, and the Company demonstrated no problems

---

[598] Attorney General brief, 56.
[599] Attorney General brief, 58-59.
[600] Attorney General brief, 59.
[601] Attorney General brief, 60.
[602] Attorney General brief, 60.

stemming from DERs or customer demand for aggregation of DER equipment.[603] CUB rejects as "speculative" I&M's argument that that delaying implementation of DERMS would reduce the amount of grant funding and increase project costs.[604] CUB also specifies that it supports the Attorney General's recommendation to direct I&M to break out DERMS implementation costs and propose an appropriate user fee.[605]

In its reply brief, the Company rests on the arguments presented in its testimony and initial brief; however, the Company specifically challenges the proposal by the Attorney General and CUB regarding a fee for DER users to recover the cost of DERMS.[606] The Company contends that the proposal is premised upon an assumption that DERMS does not provide overall value to all I&M customers and that this assumption "is not true nor supported on the record."[607] The Company argues that DERMS will ensure sufficient grid management capabilities and will be an essential tool in managing the Company's grid. Further, I&M contends that a proposal to charge DER customers for DERMS would be inconsistent with recent Michigan legislation that seeks to increase DG resources.[608]

The CEO, while not initially opining on this issue, address it in their reply brief, arguing that the Attorney General's position on allocating DERMS costs to DER customers "is based on a misunderstanding of the use case and value proposition of

---

603 CUB brief, 12-13.
604 CUB brief, 14.
605 *Id*.
606 I&M reply, 42.
607 I&M reply, 43.
608 *Id*.

DERMS."[609] The CEO assert that "[t]he proper place to explore the value of DERMS is in the context of distribution grid planning."[610]

In her reply, the Attorney General stands on the arguments presented in her initial brief and voices support for CUB's arguments.[611] In turn, CUB argues that the Company's decision to implement DERMS is premature and that the Company's claims regarding the future adoption of DERs are speculative.[612] CUB rejects the Company's characterization of its position as "reactive" and asserts that it merely suggests that there should be actual indications of meaningful demand for DER before the Company invests in DERMS.[613]

This PFD disagrees with CUB's recommendation to disallow all costs associated with DERMS as part of the ADMS/DERMS system upgrade. While the Company may not currently be promoting DER, such resources are likely to increase in the future such that it is reasonable to proactively include DERMS in the system upgrade at the present time.

However, this PFD agrees with CUB and the Attorney General that the principle of cost causation suggests that the cost of the DERMS upgrade should ultimately be paid for by the customers that install DERs. Accordingly, this PFD recommends that the Commission direct I&M, in its next rate case, to break out DERMS implementation costs and propose an appropriate user fee to cover said costs.

Further, this PFD agrees with Staff that the Company should record a regulatory liability for any cost of service included in base rates that is recovered through the ADMS/DERMS grant. This PFD also agrees with Staff that the regulatory liability

---

[609] CEO reply, 7.
[610] *Id*.
[611] Attorney General reply, 26.
[612] CUB reply, 4.
[613] *Id*.

mechanism should be approved in this rate case. Finally, this PFD agrees with Staff that the Company's plan to defer grant writing and application costs should be rejected as single-issue ratemaking outside of the test year and because such costs are de minimis in comparison to the Company's operating expenses.

e. HR Human Capital Management Modernization Project

The Company proposes capital expenditures totaling $6,404,000 during the Capital Forecast period for an HR Human Capital Management (HR HCM) Modernization project to replace its existing system. Mr. Brenner testified that the current system is over 20-years old and has become costly to maintain.[614] He testified, "[t]his project will replace the existing system with a modern solution that will support continuous business improvement, deliver customer-driven self-service options, and provide real-time decision making and business intelligence."[615]

Based on Ms. Fromm's testimony, Staff originally recommended a 50% disallowance for the projected capital expenditure for the HR HCM modernization project. Ms. Rogers testified that Staff learned, through audit, that this project has a Class 5 estimate which means the project expenditures could be half of what's estimated. She testified this would result in the Company recovering 50% more than the actual expenses.[616] Staff recommends that this adjustment because if that eventuality occurs, the Commission will be unable to correct the issue through retroactive rate making; however, I&M should be able to recover any deficiency in its next rate case.[617]

---

[614] 3 Tr 857.
[615] *Id.*
[616] 6 Tr 2152.
[617] 6 Tr 2152-2153.

Ms. Rogers originally testified the projected total Company investment for the project is $3.531 million for 2023 and $2.872 million for 2024. She calculated the Michigan jurisdictional amount to be $0.581 million for 2023 and $0.472 million for 2024 using the payroll allocation factor for Michigan provided by the Company. Then she calculated Staff's 50% disallowance to be $0.29 million in 2023 and $0.236 million in the projected test year.[618]

The Company argues that Ms. Rogers' assertion that the HR HCM project has a Class 5 estimate is erroneous. Mr. Brenner testified this project is at a Class 2 estimate based on a cost benefit analysis performed in 2022.[619] And I&M asserts it provide support to establish it has already spent 52.7% of the forecasted capital expenditures on this project.[620] The Company argues that, given Staff's misunderstanding, the projected expenditures should be approved.

In its brief, Staff modified its proposed disallowance of capital expenses for this project.[621] Staff now recommends disallowance of 15% of the projected expense for the HR HCM which amounts to $87,000 in 2023 and $71,000 in 2024.[622] Noting that I&M originally provided discovery showing the HR HMC project with a Class 5 estimate, Staff acknowledged Company witness Brenner's rebuttal testimony wherein he clarified that the project is currently matured to a Class 2 estimate.[623] Staff maintains that some

[618] 6 Tr 2153.
[619] 3 Tr 893. See Exhibit IM-77R.
[620] I&M brief, 112. See Exhibit IM-79R.
[621] Staff brief, 42.
[622] Staff brief, 42.
[623] Staff brief, 43. 3 Tr 895.

adjustment is necessary as a Class 2 estimate has an accuracy range of +20% / -15%, and that it is inappropriate to project expenses that may not be incurred.[624]

And in its brief, Staff notes Exhibit IM-81R, filed with Mr. Brenner's rebuttal testimony, has a column titled "Updated Request" with the only project being updated as the HR HCM. The updated request is for $6.6 million, apparently updating the originally requested amount of $6.4 million, by $200,000. Staff argues that there is no support for this update. Therefore, Staff recommends the Commission disallow this amount in addition to the 15% disallowance above.[625]

This PFD finds Staff's arguments to be more persuasive and consistent with Commission precedent. As noted above, the Commission has approved of the use of cost class estimates when reviewing a utility's projected expenditures. Staff again notes that the risk of approving unsupported projections will fall on the ratepayers as the prohibition on retroactive ratemaking will prevent recouping the unspent funds. However, Staff acknowledges a miscalculation of the proposed disallowance and adjusted its recommendation. Accordingly, this PFD recommends the Commission adopt Staff's proposed disallowance of 15% of the projected expense for the HR HCM which amounts to $87,000 in 2023 and $71,000 in 2024. And, as Staff discovered Exhibit IM-81R contains a column titled "Updated Request" with the HR HCM as the only project being updated. Staff surmises that I&M is attempting to add an addition projected amount of $200,000 and recommends the Commission reject this amount as well. Given that the

---

[624] Staff brief, 44-45.
[625] Staff brief, 45.

Company did not respond to this proposed disallowance, this PFD recommends the Commission adopt it.

f. Field Mobility Program

I&M proposes a Field Mobility program designed to leverage new technologies that will improve work in the field.[626] Mr. Brenner testified this program "is a set of applications and hardware that I&M uses to communicate, organize, and complete distribution work."[627] The Company projects capital expenditures of $5,277,000 in the Capital Forecast period for this project.[628] Noting that no party took issue with this this investment, I&M argues the Commission should approve the project.

This PFD agrees with I&M that the Commission should accept this projection as apparently, no party disputes it.

g. Telecommunication Blanket Orders

I&M is proposing a Field Mobility project that "will leverage new technologies to change the way I&M does fieldwork across its distribution system."[629] Mr. Brenner testified that the project is a set of applications and hardware that I&M will use to communicate, organize, and complete distribution work.[630] The Company forecasts that Telecommunication capital improvements will require total jurisdictional capital expenditures of $8,356,000 in 2023 and $7,983,000 in 2024.[631]

---

[626] I&M brief, 112.
[627] 3 Tr 860.
[628] I&M brief, 112.
[629] *Id*.
[630] 3 Tr 860.
[631] I&M brief, 113. See Exhibit A-12, Schedule B5.4.

Mr. Ah Tou testified Staff recommends a partial disallowance of $6,781,000 (Michigan jurisdiction amount of $1,113,985) in 2023 and $3,951,000 (Michigan jurisdiction amount of $649,072) in the 2024 projected test year.[632] He testified telecommunication was listed as a single line item designated as other capital investments in Exhibit A-12, schedule B 5.4, and in audit responses, the Company indicated this included telecom-related projects as well as "telecom blanket" including depreciations and costs.[633] As with Security Blanket section, this would allow the Company to spend on projects without Staff's ability to understand and determine whether the expenditures are reasonable and prudent. Staff argues that these small projects represent the majority of the costs associated with this line item, and Staff again notes that if the Company does not spend the projected amount, "customers would end up being burdened with unnecessarily higher rates."[634]

I&M notes that Mr. Ah Tou's analysis of these expenditures is similar to Security Blanket and should be rejected for the same reasons as above. Based on the testimony of Mr. Brenner, the Company contends this category involves small projects and miscellaneous replacements and addition of telecommunications equipment, which are at the end of useful life.[635] I&M asserts the "telecommunications network is essential to operations and monitoring of the electric grid," and Staff's disallowance will adversely affect the Company's ability to reliably operate the system.[636] And I&M argues that it proved support for these telecommunications projects in its original filings and

[632] Staff brief, 41. 6 Tr 2173.
[633] 6 Tr 2173-2174. See Exhibit S-16.1.
[634] Staff brief, 42. 6 Tr 2174.
[635] 3 Tr 915-916.
[636] I&M brief, 114.

discovery.[637] The Company argues "based on the volume and completeness" of the data provided, the Commission should find the capital expenditures to be reasonable and prudent.[638]

This PFD finds Staff's arguments to be more persuasive and consistent with Commission precedent. As with the Capital Software Development and Cyber Security Blanket work orders, Staff provided credible evidence to establish that blanket work orders for these projects are inappropriate. Again, Staff observes there is no guarantee that the project will be performed or that any benefit to ratepayers will be provided, and due to the prohibition on retroactive ratemaking, if the funds were not reasonable spent, ratepayer would be paying for no benefits. Accordingly, this PFD recommends the Commission adopt Staff's proposed disallowance.

h. Other IT Capital Investments

The other capital investments category is comprised of capital expenditures for smaller projects, less than $5 million individually.[639] The Company requested $3.584 million for 2022, $7.982 million for 2023, and $2.897 million for the projected test year based on the total jurisdiction. Staff calculated the Michigan jurisdictional amounts to be $609,000 for 2022, $1,313,000 for 2023, and $477,000 for the projected test year.[640]

Staff recommends full disallowance of capital requested for projects in the Other Capital Investment category for the same reason as above; an analysis of the reasonable and prudence of projects is not possible with the information provided.[641] The projects in

---

[637] I&M brief, 114. Exhibit IM-78R.
[638] I&M brief, 114.
[639] 3 Tr 896-897.
[640] 6 Tr 2157.
[641] Staff brief, 56.

this category were developed in the same manner as those in the Software Development category and are based on a budget.[642] Ms. Rogers testified that Staff attempted to gain detailed information about the projects, but the Company again indicated that it does not forecast to the level of detail requested.[643] Staff strongly disagrees with the Company's capital expenditure development practices and repeats that "Staff is unable to determine the reasonableness and prudence of requested costs within a budget and without project level details period."[644] And Ms. Rogers repeats Staff's position that there is no guarantee projects will be of benefit to ratepayers at a reasonable cost and if not spent in its entirety the Commission will be unable to correct the overspend.[645]

Using Ms. Rogers' testimony, Staff notes that the Commission found I&M did not provide adequate support for its IT projects in Case No. U-18370 and ordered "in future cases, the Company should provide a detailed analysis of the projected and actual incurred costs for these projects."[646] Staff quotes the Commission's holding:

> Regardless of whether costs are for projects that are similar to earlier projects, it is still necessary to have a clear understanding of the timing of the project and a level of detail regarding the costs that demonstrates that the costs are reasonable and prudent—without that, the costs cannot be properly evaluated by the Commission for inclusion in rate base and the projections are incomplete. The Commission also finds it appropriate that the Staff recommends adjustments to individual projects rather than to a budget as a whole. That is the only way to determine whether a project presents benefits to ratepayers. The Commission's determination of reasonableness and prudency (and its obligation to protect ratepayers) involves more than the simple hope that the over- and under-projections balance one another out. MCL 460.6; MCL 460.6a.[647]

---

[642] 6 Tr 2157-2158.
[643] 6 Tr 2158-2159.
[644] 6 Tr 2160.
[645] 6 Tr 2161.
[646] 6 Tr 2161-2162.
[647] 6 Tr 2162; citing November 18, 2022, Order, Case No. U-20836, p 192.

Ms. Rogers notes that the Commission approved new rate case filing requirements on May 18th, 2023, in Case No. U-18238, which requires a spreadsheet for IT projects which lists individual project level detail and a breakdown of both capital and O&M costs. Staff asserts that this order illustrates the Commission's expectation that IT projects are to be analyzed individually, as opposed to an IT budget as a whole.[648]

In its brief, Staff disputes I&M's assertion that it supplied sufficient support for its projections with a lengthy description of the unworkable data provided by the Company.[649] And Staff "acknowledge the Company did ultimately provide an abundance of information; however, the information was incomplete, generic, and puzzling, and therefore does not and cannot support the reasonableness and prudency of the projects."[650] Therefore, Staff continues to recommend disallowance.[651]

I&M did not address Staff's disallowance in its brief; however, Mr. Brenner testified that "the Company's direct case supports the reasonableness and prudence of the forecasted costs."[652] He asserted that I&M provided detailed responses in discovery with specific project data.[653]

Based on the testimony of Mr. Coppola, the Attorney General recommends a disallowance of projected capital costs in 2023 for this category.[654] Mr. Coppola observed that I&M projected expenditures of $91,091,000 for 2023; however, based on the amount spent in the first 11 months of that year, I&M spent only $67,375,000. He annualized this

---

[648] 6 Tr 2162-2163.
[649] Staff brief, 58-61.
[650] Staff brief, 57
[651] Staff brief, 62.
[652] 3 Tr 897.
[653] 3 Tr 898-899.
[654] 6 Tr 2419.

amount to estimate the capital expenditures for 2023 to be $73,500,000.[655] Noting that the forecasted amount exceeded this amount by $17,591,000, Mr. Coppola opined that I&M's forecast was highly inflated and recommended a disallowance in this amount; he calculated the Michigan jurisdiction amount to be $2,987,000.[656]

In its brief, I&M disputes Mr. Coppola's analysis and his assertion that its forecast was inflated, arguing the allocated capital will be spent in 2024. And the Company criticizes Mr. Coppola's adjustments asserting that the Company actually spent $74,136,000 in 2023.[657] Finally I&M argues that Mr. Coppola's "suite of unsupported disallowances essentially double dips on several line items."[658]

The Attorney General responds to the assertion that her proposed disallowance represents a "double dip", noting that the recommended amount excludes the proposed PowerPay, and that the Company did not identify any other areas of overlap.[659]

This PFD finds the arguments made by Staff and the Attorney General to be well-reasoned and persuasive. Again, Staff established it conducted multiple rounds of audit and received information with differing expense amounts and no clear details of how the projected costs would be spent. This PFD recommends that the Commission find providing the parties with a copious amount of disparate and irrelevant data is the antithesis support. Accordingly, this PFD recommends that the Commission adopt Staff's proposed full disallowance of the projected capital expenditures for these projects. If the Commission does not find this to be reasonable, the PFD asserts that the Attorney

---

[655] *Id*.
[656] *Id*.
[657] I&M brief, 115.
[658] *Id*.
[659] Attorney General brief, 73.

General appropriately argued that the costs are inflated and accept her proposed disallowance in the amount of $2,987,000.

6. PowerPay

In Workpaper WP-JB-1 (AG-24) Capital, the Company shows capital expenditures for the PowerPay project of $2,892,569 for 2023 and $1,202,692 for 2024 for I&M in total. The total cost of the project over its development life is unknown.660

Ms. Davis testified that this project is a voluntary payment option called "PowerPay" that would allow customers to pre-pay their electric bills in a manner similar to prepaid cellphone plans.[661] She opined that the prepayment option would provide customers with an additional payment choice and might better suit certain customer's lifestyles.[662] She touted several ostensible benefits of the program including greater choice of how and when to pay bills, daily updates on usage, removing the requirement for deposits, reconnection fees, and late fees, a grace amount of negative $50 before shutoff, and various other benefits.[663] Ms. Davis cited a J.D. Power survey related to utility customer service satisfaction as supporting the need for flexible payment options, and she likewise testified that I&M's sister utility, the Public Service Corporation of Oklahoma (PSO), successfully instituted a prepay program.[664]

The program would allow customers to deposit funds into their account, and they would be charged daily based upon actual usage; customers would need to prepay at

---

[660] 6 Tr 2415-2416.
[661] 4 Tr 1188.
[662] 4 Tr 1189.
[663] 4 Tr 1189-1190.
[664] 4 Tr 1191-1192.

least $40 to enroll in PowerPay.[665] She testified that PowerPay would be open to residential customers with AMI meters, but it would be unavailable to customers with medical certification or critical care protection, seniors, customers on payment plans, or customers that seek assistance for shut off protection.[666] Ms. Davis explained that upon enrollment, customers would opt to receive updates from I&M via email, text message, or both, and customers could also check their balance by phone, online, or on the Company's mobile app.[667] The Company would provide a low-balance notification when a customer's account reached $25, or at another low-balance alert amount set by the customer; the customer would continue to receive daily updates while the account was below the low-balance notification amount.[668] Customers would receive daily notices if their account had a negative balance, and remote shutoffs would occur only when a customer's balance reached negative $50.[669] She testified that customers would have various options to add funds to their account: in-person payment, by telephone, via website or the Company's app, electronic check, recurring bank payments, and debit or credit card payment without an added transaction fee. Ms. Davis explained that customers could voluntarily unenroll in the program or they would be automatically unenrolled if circumstances changed such that their participation was no longer appropriate (i.e., unsubscribing from customer alerts, incurring two shutoffs, requesting shutoff protection, switching to an ineligible tariff, opting out of AMI metering, etc.).[670]

---

[665] 4 Tr 1189, 1194.
[666] 4 Tr 1193.
[667] 4 Tr 1196.
[668] 4 Tr 1197.
[669] 4 Tr 1199.
[670] 4 Tr 1198.

Ms. Seger-Lawson testified that the Company seeks a waiver of nine Billing Rules to implement the PowerPay Program, including but not limited to requirements to present certain charges on an electric bill and requirements related to notification prior to a shutoff.[671] She testified that the protection provided by these Billing Rules for post-pay customers would be unnecessary in the PowerPay program because enrolled customers would already receive regular communication from the Company about their account balance with instructions regarding how to avoid a shutoff if applicable.[672]

Mr. Cooper proposed several changes and updates to Section C of the Company's Tariff Book 18 in order to implement the PowerPay program.[673] Ms. Davis testified that a $650,000[674] capital expenditure for software and programming changes was needed to implement the program, along with a budget of $20,000 to educate and inform customers about the PowerPay program.[675]

For Staff, Ms. Klocke recommended a full disallowance of all costs requested for the PowerPay program; this included $106,914 attributable to the Michigan jurisdictional amount of capital spend and $130,000 for amortization expense.[676] She testified that Staff is concerned that the Company indicating that it had not surveyed its customers about interest in a prepayment program and that the Company did not intend to do so.[677] She noted that the Company cited feedback from a J.D. Power customer survey about utility

---

[671] See 6 Tr 1993-1995. More specifically, the Company seeks the waiver of Billing Rules Mich Admin Code, R 460.120(1), 460.120(3), 460.123(1), 460.129(4), 460.139(1), 460.139(6), 460.140(1), 460.140(2) and 460.143(1).
[672] 6 Tr 1194.
[673] 3 Tr 397.
[674] Company witness Brenner specified that $520,000 of this cost was capital expense for upgrades while the remaining $130,000 was for amortization and implementation. 3 Tr 851-852.
[675] 4 Tr 1198.
[676] 6 Tr 2138.
[677] 6 Tr 2138, 2139.

customer satisfaction, but that survey did not actually address customer interest in prepay programs. Ms. Klocke acknowledged I&M's report that its sister utility PSO implemented a prepay program in 2016 with 2.2% of customers participating in the program. However, she testified that the feedback I&M presented related to PSO's implementation of a prepay program came from 2018 and was nearly six years out of date.[678] She also opined that the difference in service territories and the relatively low customer uptake of the PSO's program failed to present a compelling case for creating a prepay program.[679] Ms. Klocke expressed concern that the Company neglected to develop any proposed outreach materials or an online portal for the program.[680] Ms. Klocke also raised concerns that the Company presented PowerPay as a permanent program rather than as a pilot program, and is seeking waivers of the Bill Rulings for a permanent program. She explained that per Commission precedent and the Billing Rules themselves, the Commission cannot grant an indefinite waiver of the Billing Rules.[681]

Ms. Klocke also testified that the tariff sheet I&M presented for PowerPay "does not contain all the information needed for Staff to be satisfied with it being approved."[682] She suggested three changes to the tariff's Availability of Service section and eight changes to the Terms and Conditions of Service.[683] While she reiterated that Staff opposed the PowerPay program as presented, she also acknowledged some positive attributes of the program, including its exclusion of vulnerable customers from

---

[678] 6 Tr 2139.
[679] 6 Tr 2139, 2140.
[680] 6 Tr 2140, 2141.
[681] 6 Tr 2141-2142.
[682] 6 Tr 2142.
[683] 6 Tr 2142-2144.

participating, the grace period before shutoffs, and the variety of payment methods available for customers.[684]

Mr. Coppola emphasized that, in response to discovery, the Company stated that it undertook no customer surveys to gauge interest in PowerPay, but I&M nevertheless estimated that 1,500 customers might enroll; further, he explained that the Company admitted that it had not performed a cost-benefit analysis for the program.[685] Mr. Coppola criticized the PowerPay proposal as “a classic case of a solution looking for a problem[,]” and he recommended rejecting the program because it has not been sufficiently justified. He contended that it was difficult to understand how low-income customers that accumulate arrearages would have sufficient funds and be willing to pre-pay their electric bills.[686] He further argued that I&M identified no financial benefits from the program, such as a reduction of uncollectible accounts receivable, that might potentially defray the high cost of implementing the program.[687] Mr. Coppola argued that the Commission rejected a similar prepay program presented by DTE Electric in Case No. U-21297, and that the Commission should likewise reject I&M’s current proposal and disallow the Michigan jurisdictional amounts allocated to capital expenditures for the program (which he contended were $491,000 and $204,000 for a total of $695,000).[688]

For CUB, Mr. Ozar recommended that the Commission deny I&M’s request for approval of the PowerPay program and its associated rule waivers. He opined that the program was targeted toward low-income customers, and that such customers would be

---

[684] 6 Tr 2145.
[685] 6 Tr 2416.
[686] 6 Tr 2417.
[687] 6 Tr 2417-2418.
[688] 6 Tr 2418-2419.

particularly vulnerable to health and safety risks resulting from the swift remote shutoffs and the waiver of billing and notification protections.[689] He opined that the Company did not make a convincing case that other customer segments would enroll, and he suggested that savvy or budget-conscience customers would be better served by the Company's average monthly payment plan or DR programs.[690]

Mr. Ozar rejected the Company's favorable comparison of the PowerPay program to prepaid cell phone plans; he explained that prepaid cellphone plans give flexibility to change service providers as an alternative to contract-based phone services. By comparison, he explained that I&M's customers cannot choose their electric provider, so the choice-based advantage of prepaid cell phone plans has no analog for electric customers.[691] He also testified that electricity usage is largely non-elastic and inherently more difficult to reduce or control than cell phone usage.[692] Mr. Ozar stated that the features of PowerPay that appeal to low-income customers, i.e., no credit check, no deposit requirement, no reconnection fees, etc., have no direct impact on a person's electricity needs and thus are of little value in controlling usage.[693] He further noted that unlike prepaid cell phone service, which is required to provide emergency dialing at all times, prepaid electric service is either on or off with no provision for emergency service.[694]

---

[689] 3 Tr 207.
[690] 3 Tr 207, 215.
[691] 3 Tr 209.
[692] 3 Tr 210, 211.
[693] 3 Tr 212.
[694] 3 Tr 213.

Mr. Ozar also critiqued the Company's proposal to place limits on enrollment to prevent particularly vulnerable customers—i.e., seniors, customers with certain medical conditions, or customers requiring winter heating assistance—from enrolling in PowerPay. He opined that these proposed limitations mean that the Company "is tacitly acknowledging that PowerPay does in fact create increased risks to health, safety, and life that are not characteristic of traditional post-pay service."[695] Mr. Ozar also questioned the effectiveness of the proposal with regard to customers having medical conditions, particularly if they do not already have documentation of their medical condition on file with the Company.[696] He testified that regardless of these proposed limitations, the program still targets credit-challenged customers likely to incur a shutoff.[697] He also testified that the Company's proposal to set a cutoff for remote shutoff at a balance of negative $50 would not be an effective protection against shutoffs. He opined that the negative $50 cutoff balance "is likely to become the new $0 for many customers" and that "it is unrealistic to expect cash-strapped customers like those I&M is targeting for enrollment in PowerPay to carry a positive balance if they do not have to."[698] Mr. Ozar also opined that that the fact that this negative $50 "grace amount" must be repaid in full to restore service after a shutoff means that low-income customers that incur a shutoff will fall further behind than they otherwise would.[699]

Mr. Ozar questioned the Company's ability to adequately educate customers about the drawbacks of PowerPay given what he described as the Company's inability to

---

[695] 3 Tr 216.
[696] 3 Tr 217-220.
[697] 3 Tr 214.
[698] *Id*.
[699] 3 Tr 215.

properly educate customers with respect to the Company's less complex critical peak pricing rate.[700] He also cited a study by the ACEEE[701] that concluded that while prepayment programs reduce electricity usage, it was unclear whether this was due to prepayment itself or frequent utility feedback about electricity usage; further, the study pointed out that shutoffs are more frequent under prepaid programs than under standard post-paid service.[702] Regarding utility notifications, Mr. Ozar contended that it was problematic for the Company to use electronic means of communication (like cell phone or internet-based messages) to warn about impending shutoffs because customers unable to make prepayments for electric service would likely also face shutoffs from internet or cell phone service as well.[703] Finally, he opined that remote shutoffs are "the very foundation" of the PowerPay program, such that the program was conceived to support the Company's investment in advanced meters rather than to meet actual customer needs.[704] He opined that waiver of the Commission's billing and notification rules would not be in the public interest, and that the Commission should reject the PowerPay proposal.[705]

In rebuttal, Ms. Davis disagreed with Mr. Coppola that there was no market for prepaid electric service, arguing that if Mr. Coppola's logic were correct, then there would also be no market for prepaid cell phone service.[706] She also took issue with the magnitude of Mr. Coppola's recommended $695,000 disallowance; she stated that the

---

[700] 3 Tr 221.
[701] American Council for an Energy Efficient Economy.
[702] 3 Tr 222.
[703] 3 Tr 224.
[704] 3 Tr 226.
[705] 3 Tr 226.
[706] 4 Tr 1216.

allocated cost to Michigan was only $106,914 and Mr. Coppola's suggested disallowance apparently confused PowerPay with an unrelated (but similarly named) program in one of the Company's exhibits.[707] Ms. Davis rejected the idea that a customer survey or that a cost-benefit analysis was required because I&M's sister Company PSO already successfully implemented a prepay program.[708] She also contended that, contrary to Mr. Coppola's assertion, the Company provided proof of financial benefits from prepay programs because its sister utility PSO noted that its customers reduced arrears by $1.4 million after two years.[709] Ms. Davis disputed Ms. Klocke's contention that PSO's feedback data was out of date, and she also presented data from a different utility in 2020 and 2023 suggesting that customers in prepayment programs are satisfied.[710]

Ms. Davis rejected the argument that PowerPay was primarily targeted at low-income customers; she contended that other customer segments may also find the program attractive including younger customers that prefer digital interaction and pay-as-you-go options, or customers with rental or vacation homes.[711] She also countered Mr. Ozar's concerns about the ostensible dangers posed by PowerPay by reiterating that it is a voluntary program, customers can leave the program at any time, and PowerPay customers will receive greater notice of arrearages or shutoffs than through traditional notification procedures.[712] Ms. Davis disagreed with Mr. Ozar's contention that the negative $50 grace period would allow customers to fall further behind; she contended

---

[707] 4 Tr 1216-1217.
[708] 4 Tr 1217,1219.
[709] 4 Tr 1217-1218.
[710] 4 Tr 1220; citing Confidential Exhibits IM-96R and IM-97R.
[711] 4 Tr 1221.
[712] 4 Tr 1222.

that the PowerPay program would actually place customers subjected to a shutoff in a better position because they would not be able to incur an arrearage as large as a post-pay customer.[713] She also addressed Ms. Klocke's concern about the lack of outreach materials by stating that the Company did not find it prudent to create such materials prior to receiving approval for the program.[714]

Mr. Cooper addressed Ms. Klocke's proposed changes to the tariff sheet regarding PowerPay. Of the three proposed changes to the Availability of Service section, he agreed to modify the first (providing that a customer removed from PowerPay twice will not be eligible to re-enroll in the same calendar year), but he raised concerns that Staff's two other proposed changes were duplicative of terms already in the tariff.[715] Mr. Cooper also agreed to Staff's eight suggested modifications to the Terms and Conditions section of the tariff, while requesting clarification about one modification that appeared to place the burden on the Company to establish a valid communication method with the customer.[716]

Ms. Seger-Lawson's rebuttal focused on Ms. Klocke's concern that the Company proposed PowerPay as a permanent program rather than as a pilot, and that the Commission's Billing Rules cannot be permanently waived. Ms. Seger-Lawson suggested that Staff could recommend an end date for the wavier, and that the Company would request only a temporary waiver of the Billing Rules for the time period that PowerPay is in effect.[717]

---

[713] 4 Tr 1224.
[714] 4 Tr 1227.
[715] 3 Tr 395.
[716] 3 Tr 396.
[717] 6 Tr 2021.

In initial briefing, I&M argues that it proved customer interest in a prepayment option by citing the experience of its sister utility PSO and by providing research or data from other utilities or trade organizations.[718] I&M also argues that it proved that there are financial benefits to prepay programs because of PSO's experience in which enrolled customers reduced their arrearages. I&M argues that "[r]educing potential bad debt expenses not only benefits PowerPay participants, but all customers."[719] Regarding concerns that PowerPay mainly targets vulnerable, low-income customers and provides inadequate shutoff protection, the Company largely reiterates the responses already provided by the rebuttal testimony of Ms. Davis.[720] The Company responds to Mr. Coppola's suggestion that budget-conscious customers would be better off in a levelized billing program by arguing that PowerPay is different from such programs because it would give customers the option to pay ahead of time.[721] Finally, in a bid to address Staff's concerns about the lack of outreach materials, the Company states that if approved, the Company will develop and share outreach materials with Staff to gather feedback before the program is launched.[722]

Staff's brief reiterates the call for a disallowance of $106,914 (the Michigan jurisdictional capital expense for PowerPay) and $130,000 for amortization related to PowerPay.[723] Staff contends that while other utilities may have instituted prepay programs, the Company failed to demonstrate that its customers were interested in such

---

718 I&M brief, 119, 120; citing Confidential exhibits IM-96R and IM-97R.
719 I&M brief, 120.
720 I&M brief, 121-123.
721 I&M brief, 123.
722 I&M brief, 124.
723 Staff brief, 63.

a program.[724] Staff takes issue with the Company's failure to provide a cost-benefit analysis, and Staff also argues that the Company's estimate that only 2.7% of its customers would use PowerPay showed that the program was not reasonable or prudent.[725] Staff also asserts that the Company's program is premature given the failure to develop outreach materials and customer notifications, and Staff argues that the Company's promise to develop and share such materials with Staff before launching the program is "insufficient."[726] Staff asserts that significant changes to the Company's tariff sheet are needed, and while the Company was open to changes, such revisions were better suited for discussion in a future filing.[727] Finally, Staff reiterates that the Commission cannot grant an indefinite waiver of the Billing Rules as the Company requested, see Mich Admin Code, R 460.101a. Staff argues that a more appropriate approach would be for the Company to further develop PowerPay and propose it as a temporary pilot in a future case.[728]

In her brief, the Attorney General acknowledged an error in the size of her proposed disallowance, and she states that she now recommends a disallowance of the Michigan share of PowerPay capital expenditures of $106,914 in the projected test year.[729] In all other respects, the Attorney General states that she concurs with and adopts CUB's briefing on the PowerPay program.[730]

---

[724] Staff brief, 63, 64.
[725] Staff brief, 65.
[726] Staff brief, 66.
[727] *Id*.
[728] Staff brief, 66-67.
[729] Attorney General brief, 70.
[730] Attorney General brief, 70.

In turn, CUB argues that I&M proposed PowerPay as a permanent program, but the Billing Rules only allow temporary waivers, and I&M's requested waivers do not advance the public interest.[731] CUB contends that the Company's estimate that only 2.7% of its Michigan customers (approximately 1,500 people) would enroll in PowerPay shows a lack of significant customer interest.[732] CUB also argues that the J.D. Power Electric Utility Customer Satisfaction Survey cited by I&M does not address prepay programs.[733] CUB reiterates its argument that PowerPay will naturally attract financially-vulnerable customers, and such customers are placed at risk by the proposed waiver of billing rules related to shutoffs.[734] CUB also again questions the adequacy of PowerPay's exclusion of certain vulnerable customers, particularly those with medical certifications or critical care conditions, given the complexity of identifying and maintaining such certifications.[735]

Further, CUB repeats that sending shutoff notifications solely via text message or email is problematic because low-income customers that are likely to incur a shutoff may similarly lose cell phone or internet service as well, potentially leaving them without notice.[736] CUB also repeats the reasons that Mr. Ozar rejected I&M's comparison of prepaid electrical service with prepaid cell phone plans.[737] Finally, CUB contends that the Commission rejected a similarly structured prepayment pilot program presented by DTE

---

[731] CUB brief, 42-43.
[732] CUB brief, 43.
[733] CUB brief, 43-44.
[734] CUB brief, 44, 45.
[735] CUB brief, 46-47.
[736] CUB brief, 47.
[737] CUB brief, 48-50.

Electric in Case No. U-21087, and that the same reasons for rejecting that program apply with equal force to I&M's PowerPay program.[738]

In their reply briefing, I&M, Staff, and the Attorney General rest on their initial briefs.[739] CUB's reply brief largely reiterates the arguments presented in its initial brief.[740]

This PFD recommends rejecting the PowerPay Program proposal and disallowing all costs associated with it. As both Staff and CUB pointed out, the Company proposed PowerPay as a permanent program, not as a pilot program. The PowerPay Program cannot proceed without a waiver of the Billing Rules, but the Billing Rules cannot be waived on a permanent basis. See Mich Admin Code, R 460.101a(3).[741] This fact alone requires rejection of the proposal without further consideration.

Company witness Seger-Lawson partially addressed this issue in rebuttal testimony by stating that the Company "requests only a temporary waiver for the time period PowerPay is in effect."[742] However, since PowerPay was proposed as a permanent program, this request appears to create a distinction without a difference; if PowerPay is permanent, then any associated waiver of the Billing Rules would need to be permanent as well. Even if Ms. Seger-Lawson's suggestion was interpreted to convert PowerPay from a permanent program into a proposed temporary pilot, such a request should still be

---

[738] CUB brief, 50-52.
[739] I&M reply, 43; Staff reply, 1; Attorney General reply, 27.
[740] CUB reply, 5-8.
[741] "Upon written request of a person, utility, or on its own motion, the commission may *temporarily* waive any requirements of these rules when it determines the waiver will further the effective and efficient administration of these rules and is in the public interest." Mich Admin Code, R 460.101a(3) (emphasis added).
[742] 6 Tr 2021.

rejected because it is inappropriate for the Company to convert its proposal from a permanent program to a pilot program through a statement made in rebuttal testimony.

Further, in Case No. U-20645, the Commission defined pilot programs and provided guidance regarding the objective criteria by which pilot proposals are to be evaluated.[743] The Company's PowerPay proposal is deficient in many important respects. The Commission's guidance in Case No. U-20645 indicates that the need for a pilot must be expressed, and that results and findings of past similar pilots should show justification for the currently proposed pilot. The preponderance of the evidence in the instant matter does not show the need for a prepayment pilot program, or even significant customer interest in such a program.

The Company did not survey its own customers to gauge interest in a prepayment option.[744] Instead, the Company presented results of a J.D. Power Utility Customer Satisfaction survey which generically addressed billing and payment concerns; it offered no direct support for Michigan consumer interest in prepayment programs.[745] The Company also offered as evidence the ostensible positive experience of its sister utility, PSO, in implementing a prepayment option in 2016. This PFD agrees with Staff that PSO's reported enrollment of just over 2% of its customers in a prepayment option (and I&M's derivative estimate of similar enrollment for its proposed program) does not offer compelling support for the creation of such a program. I&M also offered results of three 2018 PSO focus groups to support customer interest in, or the need for, prepayment options. See Exhibit IM-95R. However, this PFD rejects the notion that three 2018 focus

---

[743] See October 29, 2020, Order, Case No. U-20645, pp 4-5.
[744] Exhibit IM-94R, p 4.
[745] See 4 Tr 1191.

groups of PSO customers containing a combined total of 24 participants (only 12 of whom participated in PSO's prepayment program) could be adequately representative of the current needs or interests of I&M's Michigan customer base in 2024. Simply put, I&M did not establish the need for, or customer interest in, a prepayment program.

The Commission also values an evaluation of the projected cost-effectiveness of any piloted measure.[746] As Mr. Coppola pointed out, I&M did not provide a cost-benefit analysis of the proposed PowerPay program, and in fact, contended that such an analysis was unnecessary because of the experience of its sister utility, PSO.[747] However, the alleged benefit to be provided by the prepay program was simply an assertion that after implementing a prepay program in 2016, I&M's sister utility PSO identified that its customers were able to "reduce their debt as of Nov 2018 by $1,357,994."[748] It is unclear whether or exactly how PSO's experience in observing a reduced level of customer debt would necessarily translate to a benefit for I&M's ratepayers if I&M were to implement a similar program. In any event, I&M offered no clear financial analysis of the costs and benefits that are specific to its proposed PowerPay program. The failure to present a clear cost-benefit analysis of the Company's own proposal is significant and cannot be overlooked.

Turning to the more substantive merits of the program, this PFD agrees with many of the concerns raised by Staff, the Attorney General, and CUB. The most obvious target participants of PowerPay would be vulnerable, credit-challenged customers, and the utility's contention that various other customer segments would find the program

[746] See October 29, 2020, Order, Case No. U-20645, pp 4-5.
[747] 4 Tr 1217-1218.
[748] Exhibit IM-94R.

appealing is speculative and unsupported in the record. The proposal does attempt to mitigate potential harm to certain particularly vulnerable populations—like persons with medical certifications or critical care protection—by preventing them from enrolling in PowerPay. However, CUB raised several substantial concerns regarding the adequacy of such measures which this PFD finds persuasive.[749] This PFD further notes that the Commission recently rejected similar prepayment pilots offered by DTE Electric in Case No. U-21297 and in Case No U-21087, and those proposals were arguably more developed than the instant proposal offered by I&M.[750]

In sum, this PFD finds that the proposed permanent PowerPay program is not supported in the record and is not reasonable and prudent. Similarly, I&M's request for the waiver of certain Billing Rules to implement PowerPay should be denied both because it has not been shown to be in the public interest and because such waivers cannot be permanent.[751] This PFD further notes that, for the reasons stated above, the PowerPay program would not be reasonable and prudent, and would not be supported on the record, even if considered as a temporary pilot. Accordingly, this PFD agrees with Staff, the Attorney General, and CUB, and recommends disallowing all costs associated with PowerPay, which were identified by Staff as $130,000 in amortization expense and

[749] See generally 3 Tr 217-221.
[750] See December 1, 2023, Order, Case No. U-21297, p 153-156. See also December 21, 2022, Order Case No. U-21087.
[751] Because this PFD does not recommend approval of the PowerPay proposal or the waiver of Billing Rules, it declines to address the derivative concerns regarding the various proposed changes to tariffs in order to implement PowerPay which were raised by Staff witness Klocke and addressed by I&M witness Cooper.

another $650,000 of capital spend for the projected test year, of which $106,914 would be the capital spend attributable to Michigan's jurisdictional share.[752]

7. Capitalized Incentive Compensation

The Company argues that capitalized labor costs are reasonable and necessary to providing safe and reliable service to customers and contends incentive compensation is a necessary part of the Company's compensation structure.[753] I&M asserts there is inherent benefit to having its employees compete capital projects and asserts its "incentive packages are structured to balance operational and financial goals, which in turn drives employees to provide quality service and maintain financial responsibility."[754]

Staff recommends a disallowance of financially based incentive compensation, tied to earnings and cash flow, because shareholders are the primary beneficiaries of these performance measures and should not be paid by ratepayers.[755] Ms. McMillan-Sepkoski described I&M's Employee Incentive Compensation Plan (EICP):

> I&M provides incentive based compensation in the form of Short-Term Incentive (STI) for all employees and Long-Term Incentive (LTI) to employees in senior-level and leadership positions. LTI performance measures are 50% based on Earnings Per Share (EPS), 40% Total Shareholder Return (TSR) and 10% Annual AEP (American Electric Power) strategic goal. STI performance measures are 10% based on Operating Earnings and 10% based on Return on Equity (ROE), and 80% based on operating measures.[756]

Staff originally recommended a disallowance of the capitalized incentive compensation based on financial measures for LTI in the amount of $450,102 and STI in the amount of

---

[752] See 6 Tr 2138.
[753] I&M brief, 125.
[754] I&M brief, 126. 4 Tr 1165.
[755] 6 Tr 2237.
[756] 6 Tr 2236.

$151,051 in the historical year;[757] a disallowance for LTI in the amount of $65 and STI in the amount of $530 in 2023;[758] and a disallowance for LTI in the amount of $192,710 and STI in the amount of $292,369 in 2024.[759]

I&M disagreed with Staff's proposed disallowance. Mr. Ross testified that Ms. McMillan-Sepkoski inadvertently used I&M Total Company financial-based capitalized incentives of $601,153 to calculate Staff's proposed disallowance.[760] Based on Mr. Ross's testimony, I&M argues that "if the Commission were to adopt Staff's recommendation, the adjustment should be corrected to reflect only the Michigan jurisdictional costs as identified above, which would result in a total recommended adjustment of $588,700 for 2022 through 2024."[761]

Staff acknowledged this error in its brief and adjusted its recommended disallowance for financially based incentive compensation to $102,408 for 2022, $1,216 for 2023, and $485,077 for 2024; a total of $588,700.[762]

Based on Mr. Coppola's testimony, the Attorney General also claims a portion of employee incentive compensation, including amounts associated with financial measures, has been capitalized and included in this rate case.[763] She contends that the Commission disallowed incentive compensation triggered by financial measures in Case No. U-18370.[764] Using discovery, Mr. Coppola identified $4,843,000 in compensation

[757] Exhibit S-9.1.
[758] Exhibit S-9.2.
[759] 6 Tr 2236.
[760] 5 Tr 1860.
[761] 5 Tr 1860.
[762] Staff brief, 68.
[763] 6 Tr 2420.
[764] Attorney General brief, 74; citing April 12, 2018, Order, Case No. U-18370, p 57.

based on financial measures which was improperly capitalized from 2018 to 2024.[765] Based on this testimony, the Attorney General argues, because the incentive compensation related to financial measures was improperly capitalized, the Commission should disallow its inclusion in this rate case.[766]

The Attorney General observes that Staff witness McMillan-Sepkoski included the same disallowance for improperly capitalized incentive compensation for the years 2022 and 2023 but did not include the total amount from the full period after the Commission's 2018 Order in U-18370.

Based on Mr. Ross's testimony, I&M asserted the Commission did not improperly capitalize employee incentive compensation after the Order in Case No. U-18370. Mr. Ross testified:

> [W]hile it addressed the inclusion of incentive compensation ***expense*** (Emphasis [in original]) in I&M's test year cost of service, [the Commission] did not address capitalized incentive compensation costs. It makes sense that if the Commission did order I&M to cease capitalization of incentive compensation costs it would have explicitly done so like it did for vegetation management costs in that same order. (citation omitted)[767]

The Company argues that Mr. Coppola is incorrect about the Order in U-18370 and asserts that the Commission did not address capitalized incentive compensation.[768]

The Attorney General argues the Commission order in Case No. U-18370 was clear and that the Company "brazenly" ignored it.[769] The Attorney General points out that the Commission recently addressed the same behavior by DTE in Case No. U-20561.

---

[765] 6 Tr 2421. Exhibit AG-27.
[766] Attorney General brief, 74-75. 6 Tr 2421.
[767] 5 Tr 1858.
[768] I&M brief, 126.
[769] Attorney General brief, 76.

DTE had capitalized incentive compensation that included financial measures from 2018 through the test year. Like I&M, DTE argued that any disallowance should be prospective because disallowance after rates became effective would result in a significant write off the expenses.[770] The Attorney General noted that the ALJ provide a long citation for cases where the Commission disallowed compensation tied to financial measures and found the Company did not provide anything to "show that the Commission affirmatively approved this capitalization method."[771] And the Attorney General states the Commission rejected these arguments ordering the complete disallowance of DTE's proposed capitalized incentive compensation expense tied to financial measures.[772] Noting that that Commission has clearly stated for years that costs for incentive compensation tied to financial measures cannot be recovered from Michigan ratepayers, the Attorney General argues this case is squarely on point and its reasoning should be followed. The Attorney General maintains that the total amount of improperly capitalized compensation expense should be disallowed.

The Company asserts that Staff's proposed disallowance "more accurately reflects the financial component of I&M's incentive compensation plans", and assert that if the Commission orders a disallowance, Staff's is more appropriate.[773] I&M argues if the Commission intends that incentive compensation based on financial measures should no longer be capitalized, the order should be specific and prospective. And the Company

---

[770] Attorney General brief, 77; referring May 8, 2020, Order, Case No. U-20561, pp 14-15.
[771] Attorney General brief, 77; citing May 8, 2020, Order, Case No. U-20561, p 15.
[772] Attorney General brief, 77-78.
[773] I&M brief, 128.

asserts it “would be overly punitive to go back two rate cases to penalize I&M for not implementing a Commission finding that does not exist.”[774]

In reply, I&M avers to its initial brief.[775] However, the Company also disputes the Attorney General’s assertion that inclusion of incentive compensation related to financial matters has been rejected “for years.”[776] I&M cites to MPSC Case No. U-20940 for the proposition that the Commission recently “rejected the Attorney General’s proposed disallowance of capitalized incentive compensation.”[777]

This PFD finds no merit in I&M’s claim that it was entitled to treat incentive compensation for financial measures as a recoverable capital cost and recommends that the adjustment proposed by the Attorney General be adopted. First the Company’s assertion that the Commission has not consistently ruled that incentive compensation tied to financial measures are not reasonable and prudent and not recoverable in rate base, is at best mistaken. The Commission has “unequivocally and consistently disallowed incentive compensation costs tied to financial measures[.]”[778] The Commission also has held that these incentive compensation plans largely benefit shareholders.[779] Based on this reasoning it is difficult to conceive of how a party would argue the Commission’s holdings would not apply to both capital and O&M expenses. And as the Attorney General fittingly notes the Commission never granted I&M the authority to capitalize these costs. This PFD recommends the Commission find its prior rulings have been consistent in their

---

[774] I&M brief, 128. 5 Tr 1860.
[775] I&M reply, 44; citing I&M brief, pp 73-79.
[776] I&M reply, 44.
[777] I&M reply, 44. The discussion at the citation referenced by I&M does not involve a discussion of capitalized incentive compensation.
[778] May 8, 2020, Order, Case No. U-20561, p 17.
[779] May 2, 2019, Order, Case No. U-20162, pp 93-94

disallowance of incentive compensation tied to financial measures tied and clearly convey its findings to the Company in this matter.

And the Attorney General correctly argues that Commission recently addressed this issue with DTE. That utility also capitalized incentive compensation related to financial measures after the Commission ruled it was inappropriate to include this compensation in rate base. DTE argued disallowance of the capitalized incentive compensation would result in significant write-offs, just like I&M did in this matter. However, the Commission clearly found this argument to be irrational as it held:

> These incentive compensation costs—whether they were included in rate base to set rates previously or are part of rate base in the projected test year in the instant proceeding—are not reasonable and prudent to recover from ratepayers. The fact that DTE Electric booked these incentive compensation costs to rate base without being “caught” by parties or the Commission in prior proceedings does not render them reasonable and prudent now, nor does their removal from rate base for rates being set on a going-forward basis constitute retroactive ratemaking.[780]

In this case I&M was “caught” booking these capital costs improperly. The fact that it may have to write-off the improperly capitalize incentive compensation, does not make the costs reasonable and prudent and they should not be included in rate base at any time.

While Staff proposes to disallow only the capital compensation related to the period 2022 through 2024, the Attorney General recommends a disallowance of all the improperly capitalized financial compensation from I&M’s last rate case in 2018. This PFD finds the Attorney General’s proposed disallowance to be more suitable. As support for her proposed disallowance, the Attorney General correctly observes that the Commission held:

---

[780] May 8, 2020, Order, Case No. U-20561, p 18.

> While the Commission has not explicitly disallowed capitalized labor costs involving incentive compensation tied to financial measures in the past, this specific issue also has not been previously raised for the Commission's consideration. Rather, this issue was previously raised in the context of O&M expenses. And, as outlined by the Staff in its initial brief, for over a decade, the Commission has unequivocally and consistently disallowed incentive compensation costs tied to financial measures, most recently in the Company's last rate case decided just two months prior to the filing of this case. That being said, while the Commission is profoundly concerned as to why DTE Electric would think it would be acceptable to capitalize financial-based employee compensation incentives under rate base, the Commission finds the Attorney General's $44 million adjustment sufficient based on this record and accepts the Company's explanation in exceptions that no double recovery has occurred. (citation omitted) (U-20561 p 17-18)

The disallowance approved by the Commission above included all the improperly capitalized incentive compensation. Accordingly, this PFD recommends the Commission approve the Attorney General's proposed disallowance of $4,843,000 in compensation based on financial measures which was improperly capitalized from 2018 to 2024.

Staff also recommends that the Commission disallow $4,000 in capitalized supplemental employee retirement plan (SERP) as an O&M expense. Staff argues that the Commission has consistently ruled "that the benefits of this plans accrue to investors in the form of higher share prices and dividends but benefit ratepayers only tangentially."[781] Staff asserts the same reasoning as applied to incentive compensation above, should be applied to capitalized SERP.[782]

While I&M addressed SERP expenditures related to O&M, the Company did not address Staff's proposed disallowance of capitalized SERP.

---

[781] Staff brief, 68; citing April 22, 2018, Order, Case No. U-18370, p 57-58. This was I&M's last contested rate case. See also December 22, 2005, Order, Case No. U-14347, p 34.
[782] Staff brief, 68.

This PFD recommends SERP expenditures be treated the same whether capital or O&M expenses. Accordingly, for the reasons discussed below, and because I&M did not refute this capital expenditure, this PFD recommends the Commission accept Staff's proposed disallowance of capitalized SERP.

B. Working Capital

Based on the testimony of Mr. Wnek, I&M contend the projected Test Year Working Capital was prepared in accordance with the balance sheet methodology, approved in Case No. U-7350 and, depending on the type of account, the assets and liabilities included in the Company's projected test year Working Capital "were calculated either at the account level based on the historical 13-month average balance as of December 31, 2022, . . . or the projected 13-month average balance as of Test Year Ended December 31, 2024."[783] And Mr. Ross testified that each item was further analyzed to determine if the amount should be directly assigned to a specific jurisdiction, or whether it should be allocated.[784] I&M requests Working Capital for the Michigan jurisdiction to be set at $46,436,000 for the purpose of rate determination.[785]

According to Mr. Coppola, the Company forecasted an increase in working capital of $32.7 million. (A-12, Schedule B-4) Based on Mr. Coppola's testimony, the Attorney General recommends a reduction in the amount of $10.1 million in reduction of working capital proposed by I&M, for a total of $36.4 million.[786] Observing I&M's is proposing a 76% increase in working capital over the 2022 historical amount, the Attorney General

[783] 5 Tr 1741-1742.
[784] 5 Tr 1728.
[785] I&M brief, 130.
[786] Attorney General brief, 81. 6 Tr 2423.

proposes three reductions.[787] The first involves the Company's projections of accrued taxes. Noting that I&M's total accrued taxes were $98.7 million in the 13-month period ending December 2022, Mr. Coppola testified that the projected amount of $74.5 million in 2024 is too low.[788] He stated the reduction equals a total of $24,200,000 or $4,300,000 in the Michigan jurisdiction in the test year. The Attorney General argues the Company did not provide an adequate explanation for this decrease. Asserting repeated discovery requests were made, the Attorney General claims "[t]he Company stated only that the lower balance was due to the lower taxable income in the projected test year; and it could not provide the calculation because accrued taxes are automatically calculated within its Utilities International (UI) forecasting model."[789] The Attorney General argues the inability to review the inputs, makes the resulting calculations "invalid and unacceptable."[790] Noting that the Commission recently found use of computer models (known as DGP and GPM) that was not accessible by other parties was insufficient to support expenditures, the Attorney General cited MPSC Case No. U-21297:

> [T]he Commission notes that DTE Electric presented the GPM and the DGP as the sole sources of support offered by the Company for many capital expenditure programs in the distribution category. The Commission requires greater transparency into the basis for the GPM and the internal review process, as well as some explanation for the instances where the Company deviated from the GPM's conclusions and sought funding for projects that were assigned a low priority. Without this additional information on how the rankings were arrived at, assessments of reasonableness and prudence are hampered and at times impossible.[791]

---

[787] Attorney General brief, 81.
[788] 6 Tr 2423. Exhibit A-2, Schedule B-4.
[789] Attorney General brief, 82. See Exhibit AG-30.
[790] Attorney General brief, 83. 6 Tr 2425.
[791] Case No. U-21297 12/1/23 Order, pp 71-72. Also citing Case No. U-16582, Order 12/20/11 pp 15-16 and Case No. U-17302 Order 12/19/13, p 3

And, based on Mr. Coppola's testimony, the Attorney General notes that I&M is requesting an increase in rates in this matter and, assuming some increase, the Company will produce a higher taxable income, not lower. And the Attorney General also notes I&M did not include any accrued taxes on the income projected for this rate case.[792] Mr. Coppola proposed use of the historical average balance of $98.7 million for Accrued Taxes, which results in a decrease to the Michigan jurisdiction working capital in the amount of $4,300,000 in the test year.[793] The Attorney General conveys this argument asserting it is reasonable as there will likely be some increase in accrued taxes based on an increase in rates as a result of this case.

This PFD finds the Attorney General's arguments concerning accrued taxes to be more persuasive and consistent with Commission precedent (further addressed below).

The Attorney General's second proposed adjustment involves a large adjustment in the Other Current and Accrued Liabilities category. Mr. Coppola stated that the Company forecasted $62,600,000 for this category, but in the historical test year, the Company showed a balance of $95,300,000; the difference is a total reduction of $32,700,000, or $5,600,000 for the Michigan jurisdiction.[794] The Attorney General requested an explanation and in discovery I&M stated it made an adjustment to accrued lease expense from an affiliated Company which decreased the historical balance from a positive to a negative amount in that category, resulting in a significant increase to working capital of $32,700,000 million.[795] I&M state it made the adjustment to Accrued Lease

[792] 6 Tr 2425-2426.
[793] 6 Tr 2427.
[794] *Id*.
[795] Attorney General brief, 87. 6 Tr 2427.

Expense, a subcategory of Other Current and Accrued Liabilities, "to sync Other Current Liabilities to the Company's projected test year 13-month average balances."[796] When the Attorney General inquired further, the Company stated it was necessary to balance this category in the projected test year working capital with the UI Financial Model projected test year balances, and that no further detail could be provided due to the financial model.[797] Mr. Coppola testified: "It appears that the Company arbitrarily inserted an amount in the liabilities side of the balance sheet in order to balance the projected balance sheet for purposes of calculating working capital. The adjustment is unsupported, unreasonable, and should be rejected."[798] The Attorney General argues that Mr. Wnek's rebuttal testimony did not provide clarity or sufficient support for the adjustment. The Attorney General expounds: "What we are left with is an adjustment in a non-transparent UI financial model that the parties are not allowed to access, and a vague explanation for the adjustment that makes no sense."[799] As a result of Mr. Coppola's testimony, the Attorney General recommends the balance of Other Current and Accrued Liabilities, be increased by $32.7 million to a total of $95.3 million in the test year, with $5.6 million for the Michigan jurisdiction.[800]

Ms. Criss provided rebuttal testimony to Mr. Coppola and argued the "UI model is a complicated software that generates data that is not easily interpreted by non-users."[801] And Ms. Criss testified that Mr. Coppola did not account for tax benefits associated with

---

[796] Attorney General brief, 87, citing Exhibit AG-31.
[797] Attorney General brief, 88. Exhibit AG-31.
[798] 6 Tr 2428.
[799] Attorney General brief, 89-90.
[800] Attorney General brief, 86. 6 Tr 2429.
[801] 5 Tr 1447.

Nuclear PTC benefits passed through the Tax Rider.[802] He testified it is not appropriate to simply use the Accrued Tax balance from the 2022 historical year, as suggested by Mr. Coppola, repeating the claimed reliability of the Company's UI financial model and asserting Mr. Coppola did not properly account for "book to tax timing differences" which impact the category of taxes.[803]

I&M reiterates the development methodology used for its working capital projections were appropriately developed using the balance sheet method and its amounts are reasonable and prudent. The Company merely listed the Attorney General's proposed disallowances without further discussion in its brief.[804]

In its reply brief, I&M again repeated its use of the balance sheet method was appropriate to calculate working capital, but also addressed some of the Attorney General's arguments for her proposed adjustments. The Company argues its projected calculation for Accrued Taxes is reasonable and adequately supported by the record.[805] Citing Ms. Criss's testimony, the Company asserts that it explained the reason for projecting a decrease in accrued taxes with:

> Although the Company generally agrees with the assumption that a revenue increase would increase taxable income in this case and for this Test Year, the Company is projected to receive tax benefits that it will pass back to customers, which will reduce the accrued tax balance. 5 TR 1448-1449. Company witness Criss explained that the anticipated tax benefits are attributable to two main drivers: (i) the Company's treatment of Nuclear Production Tax Credits ("PTCs") and (ii) book to tax timing differences. 5 TR 1449-1450. (citations in original)[806]

[802] 5 Tr 1449.
[803] 5 Tr 1449-1450.
[804] I&M brief, 131.
[805] I&M reply, 46-47.
[806] I&M reply, 47.

The Company also argues use of the UI financial model was appropriate and took issue with the Attorney General's contention that the data was essentially useless because the model lacks transparency and other parties cannot assess its outputs.[807] The Company argued the modeling was "open, transparent, and clearly explained in the record."[808]

The Company disputes the Attorney General's reliance on the holding in MPSC Case No. U-21297, arguing that the Commission found the GPM used by DTE in that case was the sole support offered for the projections.[809] I&M argues this case is distinguishable because "[T]he record supports that I&M was transparent and provided detailed supporting explanations and underlying assumptions rooted in expected business, financial, and economic circumstances to develop its projections based on the UI financial mode."[810]

And the Company defended its projected amounts in the Other Current and Accrued Liabilities balance and argued the Commission should reject the Attorney General's disallowance resulting from Mr. Coppola's suggestion that the 2022 historical balance be used.[811] The Company repeats that Mr. Coppola characterization of the UI financial model is incorrect and maintains its argument that the model produces accurate projections and argues "[i]f the Commission were to accept the Attorney General's recommendation, the Company's projected working capital balance would be understated and would not be reflective of the Company's Test Year forecast"[812]

---

[807] I&M reply, 48.
[808] I&M reply, 48, citing 5 Tr 1743-1744 and 5 Tr 1447-1450.
[809] I&M reply, 49.
[810] *Id*.
[811] I&M reply, 50.
[812] I&M reply, 52.

The Company relies on its UI financial model to support its projected accrued taxes and a large adjustment in the Other Current and Accrued Liabilities category. But the results of this model are not auditable. As Ms. Criss points out, the model is a "complicated software that generates data that is not easily interpreted by non-users." This makes it clear that I&M understands its financial model is not auditable. While not useless, this model is insufficient to establish the projection is reasonable and prudent. As the Attorney General points out, the "Commission requires greater transparency[.]"[813] And while I&M attempts to distinguish the Commission's decision in Case No. U-21297 by arguing it provided sufficient additional support for its projections beyond use of the model, this PFD recommends that the Commission find that it did not succeed. Much of the testimony focused on the model itself and did not address the concerns that the inputs and assumptions were not available for review.

The Company is requesting a rate increase, and it is likely some increase will result, however, however, I&M did not include any accrued taxes on the income projected for this rate case. And its projected accrued taxes are significantly lower than the historical amounts. These inconsistencies undermine the Company's alleged support for its projections. Because I&M failed to support its projections, this PFD finds Mr. Coppola's calculations to be appropriate. Accordingly, the PFD recommends that the Commission accept the Attorney General's reduction to working capital for accrued taxes in the amount of $4,300,000 in the test year. And accept the recommended increase of $5,600,000, for the Michigan jurisdiction, to the balance of Other Current and Accrued Liabilities.

[813] December 1, 2023, Order, Case No. U-21297, p 71.

The Attorney General's third recommendation involves a proposed reduction to remove excessive expenses associated with case preparation and litigation expenses. The Attorney General recommends a disallowance of $400,000 for these expenses. Consistent with the finding below, this PFD recommends removal of $150,000 of proposed witness coaching expenses but does not recommend removal of the litigation expenses. And, as noted below, this PFD recommends these litigation expenses be amortized over a four-year period, rather than the two-year period proposed by the Company. Accordingly, this PFD recommends the Commission reduce the Company's proposed working capital by $150,000 over a four-year period.

Staff recommends reducing I&M's projected working capital by $860,000 which reflects the removal of DR balances related to the adjustments O&M-4 and O&M-5.[814] As addressed below, Staff argues that the "deferred regulatory assets related to these adjustments are subject to change in I&M's 2022 DR reconciliation case (MPSC Case No. U-21457)", and therefore, it is inappropriate to include the amounts in this rate case, prior to that reconciliation.[815] I&M argued the disallowance was improper and argued Staff's recommendation should be rejected. For the reasons discussed below, this PFD recommends that the Commission remove the two adjustments (O&M-4 and O&M-5) to I&M's DR balances. Accordingly, this PFD recommends that the Commission accept Staff's proposed adjustment to working capital in the amount of $860,000.

C. Rate Base Summary

[814] See Exhibit IM-50.
[815] Staff brief, 7.

This PFD estimates that the recommendations discussed above result in a projected rate base, excluding Rockport, of $1,200,405 billion as shown in Attachment A to this PFD.

VI.

CAPITAL STRUCTURE, COST OF CAPITAL, and RATE OF RETURN

The rate of return component of the revenue requirement determination is designed to meet the constitutional and statutory standards entitling the utility to a fair rate of return on its investments that serve the public. To determine the rate of return to use in setting rates, it is customary to start with the development of an appropriate capital structure, and then to evaluate the appropriate costs to assign to each element of the capital structure. The appropriate capital structure is discussed in subsection A below, the cost of debt is discussed in subsection B, and the cost of equity capital is discussed in subsection C. Subsection D addresses the remaining components of capital structure, and subsection E provides a summary of the overall rate of return.

The rate of return used to set rates is based on the weighted average costs of the sources of capital comprising the capital structure. The weighted cost for each component of the capital structure is determined by multiplying the percentage ratio for that component by the cost rate for the component. The weighted cost rates for each component are then added to determine the overall rate of return.

A. Capital Structure

The capital structure used for ratemaking is composed of long-term debt, preferred stock, and common equity capital, along with short-term debt and other items, such as deferred taxes that reflect sources of financing available to the Company. Only long-term debt, preferred stock, and common equity capital are considered part of a utility's "permanent" capital, and it is common for capital structures to be shown in exhibits on both a "permanent" basis and on a ratemaking basis. The Commission has previously explained that its goal in selecting a utility's capital structure is to strike an appropriate balance between debt, with its higher risks but lower tax burdens, and equity capital, with its lower risks but higher expense and tax burdens.[816]

Ms. Luedtke testified that I&M proposes an overall after-tax weighted average cost of capital of 6.42%, based on an average permanent capital common equity ratio, for the 13 months ending December 31, 2024, of 50.62% and long-term debt ratio of 49.38%.[817]

Ms. Bulkley testified that based on the actual capital structures of the utility subsidiaries of the proxy group of companies she selected, she determined that I&M's proposed common equity ratio of 50.62% was reasonable.[818] She testified that "equity ratio is the primary indicator of financial risk for a regulated utility," emphasizing the interplay between capital structure and ROE: "To the extent the equity ratio is reduced, it is necessary to increase the authorized ROE to compensate investors for the greater financial risk associated with a lower equity ratio."[819] Ms. Bulkley also cited concerns about the utility sector raised by Moody's, Fitch, and S&P based on inflation, increasing interest rates, and high natural gas prices.[820]

Staff did not make any adjustments to the Company's proposed equity layer, but Mr. Ufolla noted that a more gradual increase from the currently approved 46.56% equity

---

[816] See February 28, 2017, Order in Case No. U-17999, p 63.
[817] 3 Tr 433, Exhibit A-14, Schedule D-1.
[818] 3 Tr 516. Issues concerning the selection of proxy companies are discussed in more detail below.
[819] 3 Tr 513.
[820] 3 Tr 514-516.

ratio would also be reasonable, citing I&M's historical equity ratio of 48% shown in Exhibit A-1, Schedule A-2.[821]

Attorney General witness Coppola also recommended a more gradual approach to adjusting the equity ratio, proposing a capital structure comprised of 48% equity and 52% long-term debt, achieved by increasing long-term debt by $164 million and decreasing equity by the same amount.[822] According to him:

> Although the Company reported an equity ratio of 50.8% for the historical test year, in the last rate case (Case No. U-20359) the Company proposed an equity ratio of 46.66%, which the Commission approved in its January 23, 2020 order. Furthermore, in the Company's last rate case in Indiana, the Indiana Utilities Regulatory Commission (IURC) in its order of February 23, 2022 in Cause No. 4556 approved a capital structure with an equity ratio of 49.46% and a ceiling of 50%. Also, as of the end of each of the last four quarters, the Common Equity ratio for the Company has ranged from a low of 46.9% to a high of 48.0%.

Mr. Coppola considered other elements, including the fact that a 48% equity layer has not affected the Company's credit rating, and his proxy group has an average equity ratio of 47.5%.[823] Mr. Coppola further discussed a discrepancy between Schedule D1 for the 2022 historical test year, which includes amounts for the Rockport Unit 2 Merchant Plant that is no longer part of utility operations, and also the capital amounts pertaining to River Transportation Division, and Exhibit A-1, Schedule A-2, where I&M presents the historical financial metrics on a regulatory basis, wherein the equity ratio was 48% for 2022 and averaged 47.5% between 2021 and 2022. He noted that the equity amounts reflected in Exhibit A-1, Schedule A-2 did not include Rockport or the River Transportation

---

[821] 6 Tr 2208.
[822] 6 Tr 2433, Exhibit AG-33.
[823] 6 Tr 2434, Exhibit AG-36.

Division, and it was based on the standard 13 months of average balances, whereas Schedule D1 included only 12 months.

Next, Mr. Coppola discussed Exhibit AG-44, a report from Moody's that shows I&M's 2022 key cash flow ratio (i.e., funds from operation to debt or FFO/debt), indicating that I&M's current FFO/debt was 24.5%, "well above the Moody's threshold of 18% which is the level at which Moody's would consider a credit rating downgrade."[824] Using the same approach used by Moody's, Mr. Coppola adjusted the FFO/debt calculation to include the Attorney General's recommended capital structure and ROE, resulting in a ratio of cash flow to debt of 21%, still above the threshold used by Moody's.[825] He observed that using a 48% equity layer results in a $2.8 million reduced revenue requirement, or 8% of I&M's requested amount based on a 50.6% equity amount.[826]

Lastly, Mr. Coppola described his concerns for a possible credit downgrade for the Company, pointing to a November 29, 2023, report from S&P, which states that the ratings agency might downgrade I&M if it lowers its rating for AEP, I&M's parent Company. According to Mr. Coppola, "[t]he credit problem is not with I&M[,]" adding "if the Company's S&P credit rating falls below A- in the near term . . . it will be due entirely to the high level of debt and financial weaknesses at AEP. The level of debt at AEP reached 60.5% as of September 30, 2023, with common and other equity falling to 39.5%, and its key cash flow ratios are under significant pressure."[827]

---

[824] 6 Tr 2437.
[825] 6 Tr 2437-2438, Exhibit AG-42.
[826] 6 Tr 2240.
[827] 6 Tr 2438-2439, citing American Electric Power Form 10-Q for the period ended September 30, 2023.

In rebuttal, Ms. Bulkley testified that Mr. Coppola inappropriately compared capital structures at the holding Company level for the proxy group to I&M's proposed capital structure, adding, "if the capital structures at the holding Company level are to be considered such as suggested by Mr. Coppola, then the market value of debt and equity must be used to estimate the percentage of debt and equity in the capital structure, not the book value of debt and equity as was used by Mr. Coppola."[828] Ms. Bulkley also took issue with Mr. Coppola's reference to the ROE authorized for I&M by the IURC in 2022, noting that he failed to acknowledge an ongoing rate case in Indiana, where a settlement agreement, filed in December 2023, provides for a 51.1% equity ratio, higher than the 50.62% equity amount requested here.[829]

In her brief, the Attorney General points out that Ms. Bulkley's rebuttal focused primarily on holding Company versus regulated subsidiary capital structures, and she did not address Mr. Coppola's testimony regarding I&M's ability to attract capital at a lower equity ratio.

Next, the Attorney General addresses I&M's principal argument regarding the use of holding Company capital structures in developing the capital structure for I&M. According to her:

> [T]he average capital structure of the holding companies is offered as a benchmarking data point. While utility subsidiaries' historic average common equity ratios may be higher than their holding companies' equity ratio for various reasons, that does not prevent the Commission from noting the capital structure. Moreover, holding Company historic equity ratios may reflect the market environment more accurately than historic equity ratios of regulated utility subsidiaries, which are by definition regulated and thus insulated from market conditions. Moreover, since the holding Company –

[828] 3 Tr 614-615.
[829] 3 Tr 621.

> not the subsidiary – issues the stocks that support the subsidiary's capital structure, it is not inappropriate to benchmark the utility's capital structure to that of peer holding companies.
>
> Moreover, the range of utility subsidiary historic equity ratios is so wide (45.51% to 61.61%) as to be unhelpful here. Both the Company proposal (50.62%) and Attorney General proposal (48%) are comfortably within this range, and both proposals are also comfortably within the range of historic common equity of the proxy holding companies – 31.1% to 62.0%. The Company proposal is several points below the average of the proxy group utility subsidiary equity ratios (53.29%), rending [sic] the Company proposal seemingly arbitrary.[830]

Turning to I&M's claim that it is inappropriate to use book, rather than market, value in determining capital structure, when market value is used for developing ROE, the Attorney General maintains that I&M's "analysis adds more wildly divergent data points to the capital structure analysis but does nothing to support the reasonableness of the Company's 50.6% proposal nor to undermine the reasonableness of the Attorney General's 48% recommendation."[831]

Lastly, the Attorney General contends that Ms. Bulkley's discussion of the rate case settlement in Indiana is incomplete, noting that "the unapproved settlement contemplates capital structure at 50%/50% in 'Phase I;' for 'Phase II,' the capital structure would be approved at the actual December 31, 2024, ratio but no higher than 51.2%."[832]

I&M's brief points to the Statewide Energy Assessment Final Report (SEA) which, according to I&M, highlighted the importance of utility grid investments for resiliency, reliability, and decarbonization goals. I&M asserts that:

> The goals of this rate case are consistent with Governor Whitmer's goals for reliability and resiliency, as well as the incorporation of renewable energy sources for Michiganders. To achieve these goals, the Company has to

[830] Attorney General brief, 99, citing Exhibits I&M-46 and AG-36.
[831] Attorney General brief, 100, Exhibit IM-70R.
[832] *Id*.

> invest in its electric infrastructure and renewable energy projects – and to do that, the Company has to be able to attract capital, access capital markets, and obtain favorable financing rates so that those projects are as low cost as possible – which translates to benefits for customers, both financially and for obtaining safe and reliable electric service.[833]

The remainder of I&M's brief relies on the testimony of the Company's witnesses, emphasizing that the Attorney General's adjustment to the Company's proposed capital structure is "artificial."

In her reply brief, the Attorney General urges the Commission to disregard I&M's introductory argument on grounds that the theory (i.e., that an increased equity layer and ROE are required to achieve reliability and resiliency goals) was first presented in the Company's brief without record support. The Attorney General adds that I&M relies on two new pieces of evidence (the SEA and a report by NARUC), not contained in the record, to bolster its claims. Staff similarly urges the Commission to reject I&M's claim, stating: "the determination of a reasonable Cost of Capital or ROE are not driven by the State of Michigan reliability and resiliency goals, but instead by a market driven analysis such as the CAPM, DCF, and Market Risk Premium models."[834]

This PFD agrees with the Attorney General that, based on the record in this case, a 52%/48% debt/equity ratio is reasonable. I&M generally confines its criticism of the Attorney General's presentation to the use of capital structures at the holding Company level, rather than at the level of the regulated subsidiary. However, the Attorney General points out that her proposed equity ratio is well within the equity percentage ranges at both the holding Company and subsidiary levels. Moreover, this PFD finds persuasive

[833] I&M brief, 135-136.
[834] Staff reply, 24.

Mr. Coppola's unrebutted testimony that: (1) I&M was historically able to attract capital with an equity layer less than 50%; and (2) I&M's FFO/debt ratio, even with a 52/48 equity/debt capital structure and the Attorney General's recommended ROE, was 21%, well above the 18% FFO/debt ratio that Moody's has established as a limit for a potential downgrade.

B. Debt Cost Rates

1. Long-Term Debt Cost Rate

Mr. Luedtke projected a long-term debt cost rate of 4.59%, as shown in Exhibit A-14, Schedule D2.[835] No party opposed the Company's recommendation, which should be adopted.

2. Short-Term Debt Cost Rate

The utility projected a short-term debt cost rate of 4.53% as shown in Exhibit A-14, Schedule D3.[836] No party took issue with the Company's recommendation, which should be approved.

C. Return on Common Equity

A utility's cost of common equity, generally referred to as the return on equity (ROE), is the return that investors expect to provide the utility with capital for use in its various operations. The cost of this capital essentially represents an opportunity cost; to induce investors to purchase a utility's common stock or bonds, there must be the prospect of receiving earnings sufficient to make the investment attractive when compared to other investment opportunities.

---

[835] 3 Tr 435.
[836] 3 Tr 436.

The criteria for establishing a fair rate of return for public utilities is rooted in the language of the United States Supreme Court cases *Bluefield Water Works Co v Pub Serv Comm of West Virginia*, 262 US 679; 42 S Ct 675; 67 L Ed 1176 (1923) and *Fed Power Comm v Hope Natural Gas Co*, 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944). In *Bluefield*, the Supreme Court explained:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.[837]

In turn, the Supreme Court provided further guidance in *Hope*, stating:

> The rate-making process under the Act, i.e., the fixing of just and reasonable rates, involves a balancing of the investor and the consumer interests. . . . [T]he investor interest has a legitimate concern with the financial integrity of the Company whose rates are being regulated. From the investor or Company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[838]

The Commission has recognized and adopted the principles announced in *Bluefield* and *Hope* by explaining that the rate of return "should not be so high as to place an

---

[837] *Bluefield*, 262 US at 692-693.
[838] *Hope Natural Gas Co*, 320 US at 603 (quotation marks and citations omitted).

unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise."[839] The Commission also stated that any determination of what is fair and reasonable "is not subject to mathematical computation with scientific exactitude but [rather] depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use."[840]

1. The Company

Ms. Bulkley testified that in developing her ROE recommendation, she utilized a constant growth discounted cash flow (DCF) model, the capital asset pricing model (CAPM), an empirical CAPM (ECAPM), and a bond yield plus risk premium (RP) analysis. She added that her ROE recommendation also considered flotation costs, I&M's generation portfolio and environmental regulations, the Company's capital expenditure forecast, and the small size of I&M's operations in Michigan.[841] Ms. Bulkley presented a summary of her results from the DCF, CAPM, ECAPM, and RP models in Figure 1 at 3 Tr 447 and in Exhibit IM-38, showing a range of ROEs from 10.00%-11.00%, with the midpoint of that range, 10.50%, being her recommendation.

Ms. Bulkley discussed current capital market conditions that may not be reflected in the results of the models, including persistent inflationary pressures on utility costs, increases in long-term interest rates, Fed monetary policy, a forecasted decline in utility share prices due to less attractive dividend yields, and a negative outlook for utilities from

---

[839] April 12, 2018, Order in Case No. U-18370, p 30.
[840] April 12, 2018, Order in Case No. U-18370, p 30 (citing *Meridian Twp v City of East Lansing*, 342 Mich 734, 749; 71 NW2d 234 (1955)).
[841] 3 Tr 444-445, 449.

various ratings agencies, among other things.[842] With these factors in mind, Ms. Bulkley testified that:

> [T]he Commission's order in this proceeding should establish rates that provide the Company with the opportunity to earn an ROE that is: (1) adequate to attract capital at reasonable terms under a variety of economic and financial market conditions; (2) sufficient to ensure good financial management and firm integrity; and (3) commensurate with returns on investments in enterprises with similar risk. To the extent I&M is authorized the opportunity to earn its market-based cost of capital, the proper balance is achieved between customers' and shareholders' interests.[843]

Next, Ms. Bulkley addressed her selection of proxy companies, starting with the 36 companies classified as electric utilities by Value Line. Using that list, Ms. Bulkley applied the following screening criteria: (1) selected companies must be paying quarterly dividends that have not been reduced in the past three years; (2) proxy group companies have investment grade ratings from both S&P and Moody's; (3) the included companies are covered by more than one utility industry analyst and have positive long-term earnings growth forecasts from at least two analysts; (4) the selected companies own regulated generation assets and derive at least 40% of generation from owned assets; (5) the proxy companies derive at least 80% of regulated operating income from electric operations and at least 60% of operating income from regulated operations; and (5) the selected companies were not party to a merger or other transaction that would have affected the market data for the Company during the period used in the analysis.[844] Noting that she did not select AEP for inclusion in her proxy group,[845] Ms. Bulkley provided a list of 12 proxy companies that met her screening criteria shown in Figure 7 at 3 Tr 472.

---

[842] 3 Tr 448; 455-468
[843] 3 Tr 454.
[844] 3 Tr 470-471.
[845] Ms. Bulkley also excluded OGE Energy Company and Hawaiian Electric from her initial analysis.

Next, Ms. Bulkley discussed the importance of employing several analytical models for estimating ROE, in particular noting that "the CAPM, ECAPM and Bond Yield Risk Premium methods offer some balance through the use of projected interest rates since the effect of changes in interest rates, particularly the recent increase in interest rates, may not be captured as well in the DCF model at this time."[846]

Turning to her DCF model, Ms. Bulkley reported an average mean constant growth DCF ranging from 8.46% to 10.61% and an average median constant growth DCF ranging from 9.04% to 10.68%. She testified that because the DCF model assumes a constant price to earnings ratio, and because utilities are expected to under-perform the market over the next few years, she recommended that the DCF results should be reviewed with caution.[847]

Moving on to her CAPM analysis, Ms. Bulkley explained the theory underlying the model, as well as her assumptions for risk-free rates (ranging from 3.89% for the 30-day average yield on 30-year U.S. Treasury bonds to 3.80% for the average projected 30-year U.S. Treasury bond yield for 2025-2029), beta coefficient (based on Value Line betas for her proxy group companies), and market RP ranging from 8.79% and 8.88%.[848] Ms. Bulkley commented that it was important to rely on a forward-looking market RP to reflect investors' expectations during the test year. [849]

Ms. Bulkley testified that she also considered the results of her ECAPM analysis, explaining the operation of the model and the advantages of its use:

---

[846] 3 Tr 474.
[847] 3 Tr 478.
[848] 3 Tr 479-481, Exhibits IM-38 and IM-40.
[849] 3 Tr 481.

> In essence, the empirical form of the CAPM addresses the tendency of the "traditional" CAPM to underestimate the cost of equity for companies with low beta coefficients such as regulated utilities. In that regard, the ECAPM is not redundant to the use of adjusted betas in the traditional CAPM; rather, it recognizes the results of academic research indicating that the risk-return relationship is different (in essence, flatter) than estimated by the CAPM, and that the CAPM underestimates the "alpha," or the constant return term.[850]

The results of Ms. Bulkley's CAPM and ECAPM analyses are shown in Figure 10 at 3 Tr 485.

Turning to her market RP analysis, Ms. Bulkley explained that "this approach is based on the fundamental principle that equity investors bear the residual risk associated with equity ownership and, therefore, require a premium over the return they would have earned as a bondholder."[851] Ms. Bulkley emphasized that "It is important to recognize both academic literature and market evidence indicating that the equity risk premium (as used in this approach) is inversely related to the level of interest rates (i.e., as interest rates increase, the equity risk premium decreases, and vice versa)."[852] She presented Figure 11, which shows her risk premium regression analysis, the results of which indicate that based on a 30-day average of the 30-year Treasury bond yield, the RP would be 6.42% and the ROE would be 10.31%. For the near term (Q4 2023-Q4 2024), based on the projected 30-year Treasury bond yield, the RP would be 6.44% resulting in an ROE estimate of 10.26%. And, for the longer-term estimate (2025-2029) Ms. Bulkley estimated an RP of 6.47% and an ROE of 10.27%.[853]

---

[850] 3 Tr 484.
[851] 3 Tr 485.
[852] *Id*.
[853] 3 Tr 487-488, Exhibit IM-41.

Lastly, after noting that the quantitative models only provide a range of estimates for ROE, Ms. Bulkley discussed other business and regulatory risks that informed her ROE recommendation, including: consideration of flotation costs associated with the issuance of new stock;[854] the Company's capital expenditure plans for transforming its generation fleet;[855] regulatory risk (including ROEs authorized by the Commission and the availability of cost recovery mechanisms such as the PSCR clause and renewable energy cost reconciliation, the net lost revenue tracker (NLRT), and use of projected test years) that may impact access to debt and equity capital;[856] and I&M's small-size risk resulting from a limited customer base, reduced financial resources, and a lack of diversification.[857]

2. Staff

Mr. Ufolla testified that Staff recommends an ROE of 9.90%, which is near the midpoint of Staff's reasonable ROE range of 9.50% to 10.50%.[858] In developing his ROE recommendation, Mr. Ufolla identified 10 publicly traded proxy companies, the data from which was used in the DCF and CAPM analyses. In addition, Mr. Ufolla developed an RP model, reviewed recent authorized ROEs from other jurisdictions, and considered I&M's currently authorized ROE of 9.85% in arriving at his recommendation.[859]

---

[854] 3 Tr 489-492, Exhibit IM-42. This PFD notes that Ms. Bulkley testified that she did not include a 12-13 basis point adjustment for flotation costs in her ROE recommendation; however, "the incremental cost associated with stock issuance supports my recommended ROE of 10.50 percent." 3 Tr 492.
[855] 3 Tr 493-497.
[856] 3 Tr 498-507.
[857] 3 Tr 507-513.
[858] 6 Tr 2209.
[859] *Id*. at 2209-2210.

Staff's proxy group was selected based on the following criteria: (1) each Company must be listed as an Electric Utility by Value Line; (2) a full Value Line report must be available for each proxy Company; (3) the proxy companies must be currently paying dividends to shareholders; (4) the Company must not be the target of a merger or acquisition; and (5) to be selected, a proxy Company must have a Moody's credit rating of Baa1 or higher.[860] Mr. Ufolla observed that I&M utilized 12 proxy companies in its analysis, only six of which corresponded to companies Staff selected. Mr. Ufolla explained that in part the difference in the selections was the result of Staff's emphasis on credit ratings "done to acknowledge the outstanding credit metrics of I&M, with an A3 rating from Moody's and an A- rating from S&P, because so few suitable proxy candidates can meet that standard."[861]

Mr. Ufolla discussed the DCF method and presented Staff's results as detailed in Exhibit S-4, Schedule D-5, pp 3-5. For the growth rate input to the DCF formula, Staff used an average of estimates ranging from -12.34% to 17.21% published by Yahoo Finance, Zacks, and Value Line. Staff arrived at an average adjusted DCF ROE estimate of 10.29% and a median adjusted DCF ROE of 9.99%.[862]

Addressing Ms. Bulkley's DCF analysis, Mr. Ufolla testified that although Staff agrees with her use of average stock prices for 90- and 180-day periods, it disagrees with the use of 30 days of data, on grounds that the time horizon is too short and may capture short-term stock price variations. Mr. Ufolla noted, however, that removing the 30-day

---

[860] 6 Tr 2211.
[861] 6 Tr 2212.
[862] 6 Tr 2214.

period did not materially change I&M's DCF results, when only 90 and 180 days of data are considered.[863]

Next Mr. Ufolla discussed the theory and development of the CAPM and Staff's inputs to the model. Mr. Ufolla stated that Staff derived its equity RP from the Ibbotson Associates study "Stocks, Bonds, Bills and Inflation: The 2023 Classic Yearbook" for the years 1926-2022. According to Mr. Ufolla, "[t]aking the difference between the average stock return and government bond return indicated a 7.18% risk premium over the period."[864] For the risk-free rate used in the model, Mr. Ufolla testified that he used projections of 2024 Treasury bond yields from IHS Markit over a three-month period, resulting in an average projection of 4.073%. And for beta, Mr. Ufolla used a 60-month average raw beta from Value Line in selecting a value of 0.92. Staff's historical CAPM resulted an average ROE of 10.68% and a median of 10.53% for the proxy group.[865] Mr. Ufolla noted that although Staff has performed a projected CAPM in past cases, in this proceeding, the results were a significant outlier and were therefore not useful.[866] Mr. Ufolla added that although the historical CAPM results were reasonable, he nevertheless cautioned that the proxy group beta of .92 "is far above the historical beta range for utilities, and it would not be unreasonable to believe that this elevated beta level will not be sustained."[867]

Turning to I&M's CAPM analyses, Mr. Ufolla testified that Staff has several issues with Ms. Bulkley's presentation: (1) Staff did not agree with the current and long-term

---

[863] 6 Tr 2214-2215.
[864] *Id*. at 2216.
[865] 6 Tr 2216-2217.
[866] *Id*. at 2217.
[867] *Id*.

models used by I&M because they are not reflective of the test year; (2) Staff disagrees with the use of ECAPM, particularly the use of adjusted, rather than raw, betas, noting that the Commission has historically rejected the results of ECAPM, and Staff's CAPM analysis "incorporates the desired effect of the ECAPM adjustment."[868] Mr. Ufolla further explained that because I&M's CAPM analyses used projected market RPs, the results, although not necessarily unreasonable, tended to be higher.

Next, Mr. Ufolla described the RP approach to estimating ROE, explaining that Staff provided three RP estimates: two of which used the difference between utility equity and utility bonds and one of which used the difference between utility equity and Treasury bond returns. According to Mr. Ufolla:

> The average electric utility market return over the period was 10.95%, the average return of an A-rated composite utility bond was 6.29%, and the average Treasury yield was 4.92% over the same period. Subtracting these bond yields from the electric utility market returns gives risk premiums of 4.66% and 6.03% respectively. Taking these risk premiums and adding them to current yields of 6.00% for an A-rated utility and 4.07% for a Treasury bond gives an estimate of 10.66% using the A-rated utility bond method and 10.10% using the Treasury bond method.[869]

Discussing I&M's RP approach, Mr. Ufolla testified that Staff disagreed with the use of current and long-term estimates, again because only the near-term analysis aligns with the test year. In addition, Mr. Ufolla pointed out that Ms. Bulkley used a regression analysis, rather than the more conventional approach used by Staff, "which is more widely accepted in the ratemaking process." Mr. Ufolla also critiqued I&M's RP results, noting

[868] 6 Tr 2219.
[869] 6 Tr 2220, Exhibit S-4, Schedule D-5, pp 8-9.

that it used authorized ROEs rather than earned ROEs, and I&M’s data set only starts in 1992, whereas Staff’s data set begins in 1931.[870]

Lastly, Mr. Ufolla testified that Staff reviewed authorized ROE decisions for electric utilities for 2022 and 2023, reporting that the average ROE decision for 2022 was 9.54% and for 2023 was 9.55%.[871] Mr. Ufolla presented Chart 4 at 6 Tr 2222, which provides a summary of Staff’s ROE results and recommended ROE of 9.90%. Mr. Ufolla further highlighted the Commission's preference for gradualism in adjusting ROE, especially when there are no significant changes to underlying economic conditions.[872]

3. Attorney General

Mr. Coppola recommended an ROE of 9.80%, based on his application of the DCF method, CAPM, and RP approaches, as shown in Exhibit AG-34. Mr. Coppola began with 38 electric utilities followed by Value Line, and he eliminated those larger utilities with revenues over $8 billion, those with no dividend growth, those involved in reorganization or merger and acquisition activity, and those with higher risks associated with nuclear or offshore wind development. The resulting 10 companies are shown in Exhibit AG-40.[873] Mr. Coppola observed that I&M’s proxy group includes a mix of smaller and larger utilities, whereas Mr. Coppola limited his group to only smaller utilities with earnings that are more

---

[870] 6 Tr 2221, 2220
[871] 6 Tr 2221, Exhibit S-4, Schedule D-5, p 11.
[872] 6 Tr 2222-2223.
[873] 6 Tr 2444.

comparable to I&M.[874] Given the flaws he identified in I&M's proxy group, Mr. Coppola urged the Commission to discount its use in developing an appropriate ROE.[875]

Next, Mr. Coppola described the DCF approach to estimating ROE, and provided his results, an average of 9.53% for the proxy group, as set forth in Exhibit AG-35. Mr. Coppola testified that he "place[s] a fairly high degree of reliability in the DCF results" when coupled with the results of the additional analyses he performed.[876] Mr. Coppola observed that Ms. Bulkley's DCF average of 9.67% was largely the result of the inclusion of large companies in her proxy group. Were these companies excluded, as was the case in the Attorney General's DCF, the result would have been an average of 9.2%.[877]

Mr. Coppola then described the utility RP approach, testifying that; "In general, the cost of common equity for a peer group of utility companies can be estimated by (1) projecting the cost of debt for the peer group and (2) adding to this cost the average return differential of utility common stocks over utility bonds."[878] The results of Mr. Coppola's RP analysis, with an average of 10.03%, are shown in Exhibit AG-37. Mr. Coppola testified that I&M did not provide a traditional RP analysis, "[i]nstead, the Company performed a "Bond Yield Plus Risk Premium" calculation.[879] According to Mr. Coppola, there are three major flaws to this approach: (1) the approach does not compare actual utility returns from price appreciation and dividends to bond yields; (2) the analysis is biased because

[874] Mr. Coppola eliminated Duke Energy, Nextera, Entergy, and Xcel Energy from his proxy group due to their large size (four to nine times larger than I&M), and he removed Pinnacle West due to decreased earnings, and Allete because of significantly higher earnings from non-regulated businesses, which does not match the risk profile of I&M. 6 Tr 2445-2446.
[875] 6 Tr 2447.
[876] *Id*. at 2448.
[877] 6 Tr 2449.
[878] *Id*.
[879] 6 Tr 2450.

it only includes the period from 1992 to 2023 when interest rates were declining; and (3) the "analysis assumes a direct relationship between declining interest rates and ROE decisions as happening almost instantaneously on a monthly basis[]" when ROE decisions are based on a multitude of factors and do not simply assume that ROE changes corresponding with changes in interest rates.[880]

Next, Mr. Coppola reviewed the CAPM approach, explaining that the beta component of the model "reflects the extent to which the price of a particular security varies in relationship to the movement of the overall market," observing that utility securities tend to vary less in price than the overall market. Mr. Coppola calculated a beta for his proxy group of 0.86.[881] Mr. Coppola presented the results of his CAPM (an estimated ROE of 9.99% for the proxy group) in Exhibit AG-36. Mr. Coppola opined that although the CAPM has value, it does not take into account risk factors for individual securities. Therefore, he gave the CAPM results less weight than the DCF model in making his recommendation.[882]

Turning to Ms. Bulkley's CAPM analyses, Mr. Coppola presented a comparison of his inputs to those used in I&M's assessment. As shown in the summary table at 6 Tr 2454, derived from Exhibits AG-36 and IM-38, Mr. Coppola found that the most significant difference in the two approaches involved the estimated market RP. According to him, his analysis used the historical market RP from 1926-2022 (7.17%), whereas I&M used a forecasted market RP over the next three to five years (8.79%). Mr. Coppola objected to Ms. Bulkley's use of "a calculated expected market return of 12.68% based on the short-

[880] 6 Tr 2451-2452.
[881] 6 Tr 2452-2453.
[882] 6 Tr 2454.

term projected returns of a select group of S&P 500 companies[,]" opining that "short-term fluctuations in expectations and projected stock market returns can cause the developed expected market return to vary significantly over short periods of time."[883] He also pointed to Exhibit IM-40, which omitted many of the dividend yield percentages and long term growth estimates, and which also did not include companies not paying a dividend, companies with negative growth rates or growth rates above 20%, and other entities projected to have poor earnings prospects. At the same time, Mr. Coppola testified that large tech companies with expected growth rates between 13% and 20% are over-represented in the analysis. Lastly, Mr. Coppola testified that at the time I&M was preparing its ROE analysis, the actual results of the S&P 500 had been negative, and "[a]s such it is logical that returns over the next five years will be higher than what we would normally expect in the long term. Thus, the Company's MRP is clearly upwardly biased."[884]

Mr. Coppola further criticized I&M's market risk premium on grounds that the time period used was far too short and did not include a full cycle of economic expansion and contraction. According to him: "To adopt the Company's approach would be akin to only selecting the positive return years over the 97-year period compiled in the Ibbotson stock market return series and not the losses in the downturn years. Expectedly and incorrectly, we would derive a far higher overall return for the market and a far higher market risk premium, similar to what witness Bulkley has proposed."[885] Quoting from "New Regulatory Finance" by Dr. Roger Morin, page 114, Mr. Coppola testified that there is

---

[883] 6 Tr 2455.
[884] 6 Tr 2456.
[885] 6 Tr 2457.

also academic support for using the longest time frame possible for estimating market RP.[886]

Addressing Ms. Bulkley's ECAPM, Mr. Coppola pointed out that there is academic disagreement over the development of the ECAPM approach, adding that this Commission has rejected the ECAPM results in several proceedings. When asked to provide examples of other regulatory commissions that relied on ECAPM, Mr. Coppola testified that I&M was only able to provide two orders. Mr. Coppola concluded that not only is ECAPM controversial, but it is also not widely accepted by other state regulatory commissions.

Next Mr. Coppola discussed ROEs authorized in other jurisdictions in 2022 and 2023, noting a steady decrease in authorized ROEs since 1990. Referencing Exhibit AG-38, he testified that the average ROE for 2022 was 9.52% based on 32 decisions and 9.64% based on 23 decisions in the first nine months of 2023.[887] He further observed that 75% of the decisions had authorized ROEs at or below 9.8% and that for 2023, only four of 23 decisions (including two from Michigan) authorized ROEs above 9.8%.[888] For those companies with higher authorized ROEs, Mr. Coppola discussed the various unique risks (i.e., wildfires in California, hurricanes in Florida, cost overruns for nuclear plants in Georgia, remote service territories in Alaska) that justified higher returns.[889]

Mr. Coppola dismissed concerns that a lower ROE could impact I&M's access to capital markets, again pointing to Exhibit AG-38, "[which] shows several electric utilities

[886] 6 Tr 2457-2458.
[887] 6 Tr 2460.
[888] 6 Tr 2460-2461, Exhibit AG-38.
[889] 6 Tr 2461.

that have accessed the capital markets at competitive interest rates since receiving a ROE near or below my recommended rate of 9.80%."[890] He added:

> Similarly, there is no evidence equity investors have abandoned utilities that have been granted ROEs at 9.6% or below. On the contrary, stock investors continue to migrate to utility stocks, recognizing that authorized ROEs are still above the true cost of equity. Exhibit AG-41 shows the market to book ratios for each of the peer group companies, and some of these companies have received rate orders during the past few years reflecting ROEs as low as 7.85%. Yet this group of companies has an average Market to Book common equity value ratio of approximately 1.4 times at September 30, 2023.[891]

Mr. Coppola also discussed access to the market for long-term debt, observing that I&M issued almost a billion dollars in long-term debt in 2021 and 2023, at relatively favorable rates.[892]

Mr. Coppola criticized Ms. Bulkley's small-size adjustment, citing several problems including: (1) Ms. Bulkley appeared to have only considered I&M's utility operations in Michigan, failing to recognize that the Company's Michigan service territory is only a portion of the overall utility operations or that I&M is part of a much larger holding Company; (2) the information Ms. Bulkley presented pertains to small companies in competitive industries, conclusions from which do not pertain to monopoly utilities; and (3) had Ms. Bulkley excluded larger utility companies from her peer group, a small-size adjustment would not have been necessary. Mr. Coppola added that the three utilities that Ms. Bulkley cited as examples (Alaska Electric Light & Power, ENSTAR Natural Gas, and Otter Tail Power) are inapposite because these entities are significantly smaller than

---

[890] 6 Tr 2463.
[891] *Id*. (Internal citation omitted).
[892] 6 Tr 2464

I&M; they operate in remote and challenging service areas, or they present special circumstances not applicable to I&M.[893]

Lastly, Mr. Coppola responded to Ms. Bulkley's suggestion that if flotation costs were included, I&M's ROE recommendation would increase by 13 basis points. According to Mr. Coppola, in Case No. U-14317, the Commission held that because flotation costs are borne by the parent Company, these costs should not be assigned to the regulated utility.

4. ABATE

Mr. Walters provided an overview of the results of Ms. Bulkley's ROE analysis, and he critiqued the inputs, methods, and recommended ROE. Specifically, Mr. Walters took issue with: (1) the use of unsustainably high growth rates for the constant rate DCF model; (2) inflated risk premiums used in developing CAPM and ECAPM analyses; (3) the use of adjusted betas in the ECAPM; and (4) the RP model which "relies on an overly simplistic regression formula that significantly overstates a reasonable estimate of the current equity risk premium."[894]

Mr. Walters pointed out that Ms. Bulkley's assumed growth rates in her DCF model were excessive, explaining:

> [T]he averages for her proxy group's low, mean, and high growth rates are 4.61%, 5.80%, and 6.72%, respectively. These assumed long-term growth rates compare the projected GDP growth rate of 4.2% over the next 10 years. In other words, her proxy group's growth rates are between 9.8% (low growth) and 60.0% (high growth) higher than the expected growth rate of the U.S. economy. Growth rates that exceed the growth rate of GDP in the country in which the utility provides goods and services cannot be sustained. Because of the economic infirmities in her use of an assumed

[893] 6 Tr 2466-2468.
[894] 3 Tr 123.

> proxy Company growth rate that exceeds the expected growth of the US economy in perpetuity, Ms. Bulkley should have: (a) given more weight to her low growth DCF results or (b) considered the results of a multi-stage DCF.[895]

To further support his position that utility growth rates cannot exceed GDP growth over the long term, Mr. Walters quoted "Fundamentals of Financial Management," by Eugene Brigham and Joel F. Houston, as well as Morningstar, Inc., Ibbotson SBBI 2013 Valuation Yearbook, pages 51-52.

Mr. Walters provided a similar critique of Ms. Bulkley's CAPM analysis, again noting that she relied "on a single DCF-derived expected market return ultimately used to estimate the market risk premiums [which] inflates her results."[896] Mr. Walters discussed the market RP derived by Ms. Bulkley reiterating that the assumed growth rate of 10.68% was unsustainable given the projected growth rate of the overall economy.[897]

Turning to Ms. Bulkley's ECAPM analysis, Mr. Walters explained that his primary objection was her use of adjusted betas, testifying that:

> The impact of Ms. Bulkley's ECAPM adjustments increases her adjusted beta estimates of 0.75, 0.80, and 0.87 to a range of 0.815-0.903. The weighting adjustments applied in the ECAPM are mathematically the same as adjusting beta since the inputs are all multiplicative[.][898]

According to him, Ms. Bulkley's approach is not supported by academic research on the development ECAPM, further observing that, "[t]he ECAPM with adjusted betas has the effect of increasing CAPM return estimates for companies with betas less than 1, and

---

[895] *Id*. at 124, citing "Blue Chip Financial Forecasts" (Blue Chip) December 1, 2023, p 14 for projected GDP growth.
[896] 3 Tr 127.
[897] 3 Tr 127-128.
[898] 3 Tr 130

decreasing the CAPM return estimates for companies with betas greater than 1."[899] Like Mr. Ufolla and Mr. Coppola, Mr. Walters also testified that the ECAPM approach is not widely accepted by utility regulatory commissions, quoting orders from Illinois and California.

Next, Mr. Walters discussed Ms. Bulkley's RP analysis, stating that it assumes that "equity risk premiums are inversely related to interest rates[,]" resulting in an average utility RP of 6.05% from 1992 through June 2023.[900] According to Mr. Walters, this approach is "simplistic" because it fails to take into account the myriad considerations in setting an appropriate ROE.[901] Discussing empirical evidence on utility RPs, Mr. Walters explained:

> The calendar year 2023 average ROE authorized for vertically integrated electric utilities was 9.71% and the corresponding average of the 30-year Treasury yield is 4.10%. As such, the 2023 average equity risk premium for vertically integrated electric utilities was 5.62%. In other words, Ms. Bulkley's lowest equity risk premium of 6.42% is 80 basis points higher than what was realized over 2023.[902]

Finally, Mr. Walters discussed average ROE's authorized recently along with trends in utility ROEs over the past decade, testifying that average authorized ROEs have been stable and below 10% for a decade. As such, Mr. Walters opined that I&M's request for an ROE of 10.50% "does not reflect the current market and unnecessarily increases I&M's claimed revenue deficiency in this proceeding."[903] Consistent with his assessment, Mr. Walters recommended an ROE for I&M of no more than 9.70%.[904]

---

[899] 3 Tr 131.
[900] 3 Tr 134, Exhibit AB-8.
[901] 3 Tr 135.
[902] 3 Tr 136. (Internal citations omitted).
[903] 3 Tr 138.
[904] *Id*. at 139.

5. Rebuttal

Ms. Bulkley responded to Staff, the Attorney General, and ABATE in rebuttal. Ms. Bulkley explained that she updated her analysis based on market data through December 31, 2023, the results of which support her recommended ROE of 10.50%.[905] Ms. Bulkley generally criticized Staff and intervenor recommendations on grounds that they failed to take into account changes in market conditions including higher interest rates that are expected to persist and declining utility stock prices. She pointed out that despite these changes, Staff, ABATE, and the Attorney General recommend nearly the same, or a slightly lower, ROE than that approved in I&M's last rate case.[906]

Ms. Bulkley reiterated that inflation is expected to remain elevated above target rates until 2026, quoting comments from Federal Reserve Chair Powell from December 2023. She stated that Mr. Coppola appeared to discount the impact of inflation on ROE, simply because inflation has declined to 3.2%, although current inflation remains well above the Fed target rate of 2%. She further testified that Mr. Coppola relied on a "Blue Chip Financial Forecast" from June 2023 to project a bond yield of 3.82% for the 30-year Treasury bond, when a later report (from December 2023) projected a bond yield of 4.23% for 2024.[907] Ms. Bulkley reiterated her testimony regarding the higher yield on government bonds compared to utility dividend yields, stating, "it is reasonable to expect that investors would have a preference for investing in government bonds as compared with utility

---

[905] This PFD agrees with the Attorney General that I&M's updates to its ROE analysis are not proper rebuttal because "[the] testimony is not attempting to respond to the direct testimony of Staff nor any intervener; it does not identify any testimony to which it is responsive . . . but instead supplements the initial testimony[.]" Attorney General brief, 108. As such, the various updates were disregarded in this PFD.
[906] 3 Tr 535.
[907] 3 Tr 537-539.

stocks because they can achieve a higher return on the bond investments with less risk than the equity investment in utility stocks."[908]

Turning to authorized ROE's in other jurisdictions, discussed by the other cost of capital witnesses, Ms. Bulkley acknowledged that it is reasonable to consider this information, but cautioned that: (1) it is important to screen the data to only include companies with comparable risk to I&M; and (2) the market conditions at the time the ROE decisions were made must also be considered.[909] According to Ms. Bulkley, Mr. Ufolla, Mr. Coppola, and Mr. Walters erroneously included transmission and distribution (T&D) utilities as well as vertically integrated utilities in their analyses and none of these witnesses considered the changes in market conditions that have occurred over the past two years.[910]

Next, Ms. Bulkley addressed Staff's and the Attorney General's proxy groups, criticizing Mr. Ufolla's focus on selecting companies with credit ratings greater than or equal to Baa1, which she testified unduly restricted the number of companies selected. Nevertheless, she explained that the difference in methodologies, rather than the proxy companies, largely explained the difference in results between the Company and Staff.[911] As for Mr. Coppola's selection, Ms. Bulkley objected to his exclusion of Allete, Inc., and Pinnacle West Capital Corporation (PNW) and the inclusion of Unitil Corporation. According to her, because Unitil is primarily a T&D utility, which is generally considered a lower risk enterprise than vertically integrated utilities, it should not have been included

[908] 3 Tr 543, Figure 6 at 3 Tr 544.
[909] 3 Tr 545.
[910] 3 Tr 547, see also Figure 7 at 3 Tr 548, which shows average authorized ROEs for vertically integrated utilities only for 2020-2023.
[911] 3 Tr 552.

in the Attorney General's proxy group. Conversely, Ms. Bulkley testified that Mr. Coppola should have included both Allete and PNW in his proxy group (as Staff did). Ms. Bulkley explained that Mr. Coppola's reasoning for omitting Allete (e.g., the Company's substantial investment in non-regulated businesses and rapid increase in earnings) was erroneous for several reasons, including the fact that the purported earnings increase resulted in part from a $44.3 million damages award. According to Ms. Bulkley, this was a one-time event and should not have resulted in removal of Allete from the proxy group.[912]

Concerning PNW, which Mr. Coppola omitted due to a decline in earnings resulting from a "surprise" rate order that included an 8.70% ROE, Ms. Bulkley countered that Mr. Coppola failed to explain how a historical reduction in earnings was a reasonable basis to exclude that Company from the proxy group.[913]

Ms. Bulkley testified that she disagreed with the DCF analyses performed by Mr. Ufolla and Mr. Coppola, noting that Mr. Ufolla relied on negative estimates of earnings growth for OGE, which was included in Mr. Ufolla's proxy group, "which is incompatible with the use of the constant growth DCF model."[914] Ms. Bulkley explained that after removing OGE from Staff's analysis, as well as another outlier, PPL Corporation, which had a projected earnings rate of positive 17.21%, the mean ROE in Staff's DCF increased from 10.29% to 10.56%.[915]

---

[912] 3 Tr 555, Exhibit IM-60R.
[913] 3 Tr 555-556.
[914] 3 Tr 557, Exhibit S-4, Schedule D5.
[915] 3 Tr 558, Exhibit IM-62R.

With respect to Mr. Coppola's DCF, Ms. Bulkley testified that in addition to his incorrect proxy group, she also took issue with Mr. Coppola's reliance on 2024 dividends per share projection from Value Line. According to her:

> There are two issues with Mr. Coppola's approach. First, the use of Value Line's projected DPS for 2024 relies on the estimate of only one analyst since the growth rates published by Value Line are not consensus estimates. Second, Mr. Coppola has used two different growth rates in his constant growth DCF model. Mr. Coppola applies the growth in DPS to the dividend yield while using EPS growth rates as the perpetual growth rate. The use of two growth rates in [sic] violates the premise of a constant growth DCF model.[916]

After adjusting Mr. Coppola's proxy group and using earnings per share rather than dividends per share, Ms. Bulkley testified that the mean ROE result increased from 9.53% to 10.15% in Mr. Coppola's DCF analysis.[917]

In response to Mr. Walters' criticism of her earnings growth rate, Ms. Bulkley testified that earnings "are the fundamental determinant of a Company's ability to pay dividends," and thus should be used in the DCF analysis. She added that there is academic research demonstrating that earnings growth rates are most relevant in stock valuation generally, and for investment analysts in particular. She further noted that in other rate proceedings, Mr. Walters has relied on earnings growth rates in estimating ROE, and that the GDP growth rate he referenced was for 10 years, not indefinitely.[918] Lastly, Ms. Bulkley disagreed that Ibbotson's SBBI 2013 Valuation Yearbook supports Mr. Walters' projection of long-term growth rates, noting that "it is clear that Ibbotson recommends that the long-term growth rate reflect the sum of long-term historical average

[916] 3 Tr 559.
[917] *Id*.
[918] 3 Tr 562.

real GDP growth rate and the expected inflation rate[.]"[919] According to her, adding inflation to the projected GDP growth rate results in a long-term GDP growth rate of 5.51% rather than the 4.20% Mr. Walters reported.[920]

Turning to Mr. Ufolla's and Mr. Coppola's CAPM analyses, Ms. Bulkley testified that her principal objections to their modeling involved Mr. Coppola's use of a projected yield on 30-year Treasury bonds as of June 30, 2023, when his analysis included data through November 30, 2023, as well as the market RPs used by both witnesses.[921] Ms. Bulkley testified that had Mr. Coppola used a more updated source, his risk-free rate would have increased by 41 basis points. Ms. Bulkley further testified that Mr. Ufolla and Mr. Coppola used historical market RPs, rather than forward projections that better match the time when rates will be in effect, again citing higher interest rates and the inverse relationship between interest rates and market RP. After adjusting the CAPM analyses, Ms. Bulkley testified that Mr. Ufolla's mean and ROE results increased by 71 and 70 basis points respectively. Likewise, after adjusting the proxy group and updating the CAPM, Ms. Bulkley stated that results of Mr. Coppola's CAPM increase by 102 basis points.[922]

Next, Ms. Bulkley dismissed Mr. Coppola's and Mr. Walters' claims that her projected market RP was too high, stating: "It is reasonable to assume that the projected growth of the S&P 500 Index could be sustainable in the long run." She added, "because the [S&P 500] index is composed of the largest top performing companies, it is reasonable to assume the index will always contain individual companies with projected earnings

---

[919] 3 Tr 564.
[920] *Id.*
[921] 3 Tr 566.
[922] 3 Tr 573-574, Exhibits IM-65R and IM-66R.

growth rates that will be considered high."[923] She testified that Mr. Coppola did not explain the relevance of the decline in the S&P 500 Index from 2021 to 2023, and disputed that she had omitted certain companies from her market return calculation, reiterating that the only companies excluded were those with negative earnings and those with earnings greater than 20%.[924]

Ms. Bulkley disagreed with Mr. Ufolla, Mr. Coppola, and Mr. Walters that the ECAPM involves a duplicative adjustment to beta that inflates the ROE results. According to her, "[t]he use of adjusted betas in the CAPM is important because if beta trends towards 1.00, . . . then the adjusted beta will be more reflective of the beta that can be expected over the near-term."[925] She also noted the text of Dr. Morin's "New Regulatory Finance," also quoted by Mr. Coppola, that indicates that the argument that the ECAPM results in double counting is erroneous.[926] Similarly, Ms. Bulkley testified that the academic references cited by Mr. Walters do not support his claim that the adjusted betas in ECAPM are inconsistent with academic research, citing additional studies that did use adjusted betas.[927] And, contrary to Mr. Walters' claim that regulatory commissions generally do not rely on ECAPM, Ms. Bulkley cited the New York Public Service Commission (PSC), the Montana PSC, and the North Carolina Utilities Commission that have accepted ECAPM analyses.[928]

---

[923] 3 Tr 575.
[924] 3 Tr 577.
[925] 3 Tr 581.
[926] 3 Tr 582-583, Exhibit IM-71R quoting "New Regulatory Finance", p 191.
[927] 3 Tr 585-588.
[928] 3 Tr 591-592.

Addressing Mr. Ufolla's and Mr. Coppola's RP analyses, Ms. Bulkley reiterated that the use of a historical market RP is inappropriate because "it fails to consider the inverse relationship between interest rates and the market risk premium."[929] She further noted another regulatory proceeding where Mr. Walters relied on a market RP that was higher than the historical RP, in recognition of current level of inflation.[930] Ms. Bulkley presented Exhibit IM-67R, which is an alternative historical market RP, that Ms. Bulkley testified demonstrates that the historical market RPs used by Mr. Coppola and Mr. Ufolla are understated.[931]

Ms. Bulkley addressed the various critiques of her RP analysis set forth in the testimony of Mr. Ufolla, Mr. Coppola, and Mr. Walters, countering that: (1) ratings agencies and investors both consider authorized (and not just earned) ROEs in determining the value of utility stocks; (2) Mr. Coppola's analysis is inconsistent because he posits that authorized ROEs reflect commission, and not investor, behavior, and therefore should not be relied on, while using authorized ROEs in his own analysis; (3) in prior proceedings, including I&M's last rate case, Mr. Walters relied only on long-term Treasury bond yields or utility bond yields in his RP analysis, thus belying his claim that other factors should be considered in the RP modeling; and (4) Mr. Coppola and Mr. Walters fail to recognize the academic research that supports the inverse relationship between interest rates and RPs.[932] Lastly, Ms. Bulkley presented summary results of Mr.

---

[929] 3 Tr 593.
[930] 3 Tr 595.
[931] 3 Tr 597.
[932] 3 Tr 599-602.

Ufolla's quantitative analyses, adjusted per her recommendations, at 3 Tr 603-604, and did the same for Mr. Coppola's results at 3 Tr 605.

Next, Ms. Bulkley defended her small size adjustment stating:

> [T]he fact that I&M also has operations in Indiana and is affiliated with AEP is not an appropriate consideration in this base rate case. Furthermore, even given the fact that AEP may have greater access to capital, I&M's electric operations in Michigan still need to compete against I&M's electric operations in Indiana and other AEP subsidiaries to have capital allocated to it over another subsidiary, making the size of I&M's electric operations in Michigan a relevant determination in capital allocation.[933]

Accordingly, she testified that Mr. Coppola's revenue screen applied to his proxy group was inappropriate because it considered all of I&M and not just the Company's Michigan jurisdiction, thereby "violating the stand-alone principle of ratemaking[.]"[934] She added that the Kroll's reference she relied upon for the adjustment does include utilities, and that ratings agencies take into account both size and diversity in establishing credit ratings.[935]

Finally, Ms. Bulkley reiterated that while she did not make an adjustment for flotation costs in her ROE analysis and recommendation, "[j]ust as rate base investments, flotation costs are also part of the invested costs of the utility, and the need to reimburse shareholders for the lost returns associated with equity issuance costs has been recognized by the academic and financial communities."[936] Thus, according to her, the Commission should take flotation costs into account in setting I&M's authorized ROE.

Mr. Walters addressed Staff's analysis and recommendation in his rebuttal, testifying that: (1) like Ms. Bulkley, Mr. Ufolla also used an unsustainably high growth rate

---

[933] 3 Tr 606.
[934] 3 Tr 607.
[935] 3 Tr 610-611.
[936] 3 Tr 613.

in his DCF analysis; (2) Mr. Ufolla's sole reliance on recent Value Line betas in his CAPM was inappropriate because of the influence of COVID-19 pandemic on those values; and (3) Mr. Ufolla incorrectly assumed that long-term equity risk premiums are appropriate in the current market, where "the equity risk premium for utilities is well below-average right now[,]" indicating that "investor-required risk premiums to invest in utility stocks are below their long-term averages, meaning that Mr. Ufolla's reliance on a long-term equity risk premium overstates the cost of equity."[937]

6. Discussion

After considering the voluminous record on this issue and being mindful of the standards set forth in *Hope* and *Bluefield*, this PFD finds that Staff's recommended ROE of 9.90% should be adopted. I&M's recommendation of an ROE of 10.50% diverges significantly from the Company's currently authorized ROE in Michigan (9.86%), ABATE's recommendation (9.70% or less) the Attorney General's recommendation (9.80%) and Staff's recommendation (9.90%). The Attorney General also points out that I&M recently accepted a 9.85% ROE in a settlement in Indiana, positing that "[this] is strong evidence that its proposed 10.50% ROE here is excessive."[938] Moreover I&M proposes an ROE that is almost 100 basis points higher than the ROEs authorized for electric utilities in 2022 and 2023, despite the fact that inflation, a primary concern of I&M in the instant case, was significantly higher when those returns were authorized, when compared to the present economic circumstances. Thus, as ABATE contends:

> I&M's recommended (and current) ROE should be evaluated in light of the reality that authorized returns on equity for electric utilities have been

[937] 3 Tr 149, Table CCW-1 and Figure CCW-1 at 3 TR 150.
[938] Attorney General brief, 112.

> reasonably stable and well below 10.0% for about the last ten years. . . . In 2019, when the Commission approved the Company's current 9.86% ROE, the national average was 9.64%, meaning a decline of 5 basis points occurred through the first half of 2023. This is a modest decrease relative to the Company's egregious proposed increase of 144 basis points and is significantly lower than the Company's current ROE. Thus, the Company's requested 10.5% ROE does not reflect the current market and, while authorized ROEs have remained in the mid 9% range, utilities continue to have access to large amounts of external capital even as they are funding large capital programs.[939]

As noted above, this PFD agrees with the Attorney General that I&M's purported updates to its ROE analysis should be disregarded as improper rebuttal used to bolster the Company's direct case, rather than rebut any of the positions taken by other parties or witnesses. Specific disputes over proxy Company selection and ROE analytical methods are addressed below.

a. Proxy Group Disputes

As related above, I&M, Staff, and the Attorney General only had some overlap in their selection of proxy companies, with the Attorney General limiting his group to smaller companies with revenues more similar to I&M, as well as those companies with different risk profiles, thus eliminating Duke Energy, Entergy, Allete, PNW, and Nextera from his proxy group. Staff, on the other hand, focused its selection on companies with credit ratings comparable to I&M's. The Company maintains that the Attorney General's and Staff's respective proxy groups are too constrained, and that the Commission should adopt I&M's proxy group as the basis for ROE estimation. This PFD disagrees.

First, I&M takes issue with the Attorney General's inclusion of Unitil in his proxy group, maintaining that as a T&D utility it presents a different risk profile than companies

---

[939] ABATE reply, 8.

with significant generation. However, as the Attorney General points out, I&M's claim is inapposite, given that Mr. Coppola's screening criteria eliminated companies with higher risk than I&M, whereas lower risk enterprises, such as a purported T&D Company like Unitil, were included in the analysis.[940]

I&M also takes issue with Mr. Coppola's exclusion of Allete and PNW from his proxy group, arguing that Allete's earnings from non-regulated affiliates were related in part to a damage settlement and should not be considered in screening the Company out. In addition, I&M asserts that the "surprise" rate order that impacted PNW's earnings is no longer an issue and that because the Company's earnings are expected to recover, it was inappropriate to exclude PNW from the proxy group.

The Attorney General responds that even excluding the $44 million settlement and "even after I&M recalibrated Allete's regulated-to-non-regulated income ratio, the analysis shows non-regulated operations contributed 12% more income in the first nine months of 2023 versus 2022."[941] She adds, "It is unsurprising that I&M would seek to force Allete into the Attorney General's proxy group. Allete enjoys among the highest expected dividend yield among peer companies, which skews upward the mean and median results in the DCF analysis. Allete also has a relative [sic] high historic Beta in recent years – 0.90 for 2021 through 2023, averaging 0.80 – the third highest of the Company' proxy group. This skews upward the mean and median results in the CAPM and ECAPM analyses."[942]

---

[940] Attorney General brief, 113-114.
[941] Attorney General brief, 115, citing Exhibit IM-60R.
[942] Attorney General brief, 115-116, citing Exhibits IM-55R, IM-56R, and IM-57R.

Regarding, PNW, the Attorney General points out that I&M does not dispute any of the underlying facts about PNW or its reduced earnings in 2021-2023. According to her, "Ms. Bulkley disputes only a narrow part of Mr. Coppola's decision to remove PNW from the proxy group. The argument is this: PNW earnings per share may recover in 2027 to $5.70, so its future earnings growth is positive, so it is appropriate to include PNW in the proxy group."[943] This PFD agrees with the Attorney General that Mr. Coppola appropriately excluded PNW from its proxy group, and that I&M's contention that it should remain, based on future earnings potential, is speculative.

Lastly, this PFD finds that the Attorney General appropriately excluded large companies (as noted, four to nine times larger than I&M) from his analysis and agrees that had I&M done so as well, the small-size adjustment to ROE that I&M advocates would be unnecessary.

b. Discounted Cash Flow

The most significant concern raised by the parties with respect to I&M's DCF modeling was the high growth rate applied in the analysis. ABATE contends that using a growth rate that exceeds the projected growth of the GDP is unsustainable, and therefore, Ms. Bulkley should have relied more on her low growth data or considered the application of a multistage DCF. The Attorney General maintains that the results of I&M's DCF were biased upward due to the inclusion of very large electric utilities in her proxy group.

This PFD agrees with the Attorney General that the issues with Ms. Bulkley's DCF results stem from an inappropriate proxy group that contains companies that are not

[943] Attorney General brief, 116-117.

comparable to I&M. Had these companies been excluded, as Mr. Coppola explained, I&M's DCF results would have been approximately 9.2%.

c. Capital Asset Pricing Model and Empirical CAPM

Mr. Walters again criticized I&M for using an unsustainable growth rate in its CAPM analysis. And the Attorney General argues that Mr. Coppola's use of an historical market RP in the CAPM "is not novel, the historic MRP has been applied in multiple proceedings without reproach[,]" in response to I&M's claim that use of a projected RP is preferable because it better matches the time when rates will be in effect.[944] In response to I&M's complaint that Mr. Coppola relied on an outdated Blue Chip forecast for his 30-year Treasury Bond yield data, the Attorney General points out that Mr. Coppola used the same forecast as the Company did to "eliminate[] the number of variables between the Attorney General and I&M analysis, allowing closer apples-to-apples comparisons."[945]

This PFD agrees with the Attorney General that Mr. Coppola's CAPM analysis and results are more appropriate. As both Staff and the Attorney General argue, using a long-term historical market RP in the CAPM has been accepted by this Commission, and the forecasted market RP Ms. Bulkley utilized tends to bias the results of the CAPM upward.

This PFD further agrees with the Attorney General, Staff, and ABATE that although there are some exceptions, the ECAPM is not widely accepted by other regulatory commissions, and the MPSC has never relied on the results of any ECAPM largely due to the problems with the method discussed extensively by ABATE and the Attorney General. As such, this PFD finds that the results of I&M's ECAPM should be disregarded.

---

944 Attorney General brief, 120, citing March 1, 2024, Order in Case No. U-21389, pp 120-21.
945 Attorney General brief, 119.

d. Risk Premium

As I&M argued with respect to Ms. Bulkley's CAPM, the Company also maintains that the use of projected market RPs, rather than historical RPs, in the risk premium analysis is more appropriate. I&M reiterates that by using historical spreads, "the calculations fail to appropriately account for the dynamic and inverse relationship between risk premia and interest rates[,]" which the Company contends is even more important in the current market environment.[946] ABATE counters that "[I&M's] approach incorrectly assumed a simplistic inverse relationship between equity risk premiums and interest rates without any regard to differences in investment risk or other individual factors which may impact ROEs approved by regulatory authorities. . . . As such it does not provide an appropriate or valid basis for estimating a reasonable ROE for the Company."[947]

Staff notes that by using authorized ROEs, I&M only has about 30 years of data, compared to the 90 years available under the historical RP approach. And Mr. Ufolla pointed out that the regression analysis used by Ms. Bulkley in her RP analysis is not as widely accepted as Staff's more conventional approach. The Attorney General again responds to the Company's claim that Mr. Coppola should have used updated forecast data by noting that the difference between the June 30, 2023, Blue Chip forecast that he and the Company used in direct testimony and the December 28, 2023 forecast "simply reinforces that there is volatility in assessing the cost of equity."[948]

This PFD agrees with Staff, the Attorney General, and ABATE that I&M's RP approach is flawed and should not be relied upon in setting the Company's ROE.

---

[946] I&M brief, 172.
[947] ABATE brief, 22.
[948] Attorney General brief, 122.

e. Other Risk Factors

As discussed above, had I&M used a more appropriate proxy group of companies, eliminating very large utilities that are not comparable to I&M, as the Attorney General did, a small-size adjustment would be unnecessary. Moreover, I&M's claim that a small size adjustment is appropriate for regulated utilities is not persuasive, as Mr. Coppola discussed in his testimony.

While I&M spends considerable time in its brief rehashing the theory behind why flotation costs should be recoverable, going so far as to request that the Commission <u>approve</u> flotation costs that were never actually presented for approval,[949] this PFD finds that I&M presents no compelling reason for why the Commission's holding (that because flotation costs are incurred by the parent Company, they should not be passed through to ratepayers) should be changed. Accordingly, this PFD finds that flotation costs should not be a consideration in setting I&M's ROE, and I&M's request for recovery of flotation costs, first raised in the Company's brief, should be rejected.

D. <u>Other Capital Structure Components</u>

For the test year ADITC balance, Ms. Luedtke testified that I&M estimates the average balance will be $11.5 million based on internal projections from the Company's Tax Department. This is the same amount recommended by Staff and the Attorney General.[950]

E. <u>Overall Rate of Return</u>

[949] I&M brief, 147-148.
[950] See, Exhibit S-4, Schedule D-1; Exhibit AG-33.

Based upon the foregoing discussion, this PFD recommends that the Commission adopt a capital structure of 52% debt and 48% equity, along with a long-term debt cost of 4.59%, a short-term debt cost of 4.53%, and a return of equity of 9.90% resulting in an estimated overall weighted after-tax cost of capital of 6.05% as shown in Appendix D to this PFD.[951]

VII.

ADJUSTED NET OPERATING INCOME

Net operating income (NOI) constitutes the difference between a Company's operating revenue at current rates and its operating expenses including depreciation, taxes, and allowance for funds used during construction (AFUDC). Adjusted net operating income (ANOI) includes the ratemaking adjustments to the recorded test year, NOI for projections, and disallowances. I&M's filing projected a Michigan jurisdictional ANOI of $50,695,000[952] and Staff projected a ANOI of $ 59,067,000.[953]

Disputes regarding ANOI-related items are broken out by category and discussed below.

A. Sales Forecast and Revenues

1. Sales Forecast and Revenue

The Company forecast for total jurisdictional electric sales in the test year, including Michigan, Indiana, and wholesale customers, is 20,705 GWh with an average

---

[951] The overall weighted after-tax cost of capital of 6.05% is exclusive of the Rockport plant. Per the settlement agreement approved on February 2, 2023, in Case No. U-21189, the ROE for Rockport is set at 9.0% and the overall weighted after-tax cost of capital of 5.69% as shown in Appendix D: Rockport to this PFD.

[952] I&M brief, 240. Exhibit A-13, Schedule C-1.

[953] Staff brief, 77.

customer count of 611,486 and an annual peak demand of 3,981 MW.[954] The Michigan jurisdictional forecast is 2,807 GWh with an average customer count of 131,587 and an annual peak demand of 641 MW.[955] Mr. White testified that the Company projected Michigan jurisdictional sales to be 53 GWh lower than the weather-normalized actuals from 2022.[956] Based on Mr. White's testimony, I&M asserts this includes an increase in Commercial class sales which is more than offset by lower Residential and Industrial class sales.[957] I&M argues: "Broken down, in Michigan, there was a 56 GWh increase in Commercial class sales and decreases of 14 GWh and 95 GWh for Residential and Industrial class sales, respectively, when compared to the 2022 weather normalized actuals."[958] Mr. White testified that a large Industrial class customer was reclassified to a Commercial class customer after 2022, and "[t]his accounts for a majority of the commercial gains and industrial losses through the 2024 test year compared to 2022 weather normalized actual load."[959]

Mr. White testified that the Company "uses a load forecast methodology, which is consistent with the prior rate case, Case No. U-20359, and is proven to produce reasonable projections that are useful for planning and setting rates."[960] He asserted that the projection reflects a tight labor market and increasing inflation. Using Figure DMW-3, Mr. White stated the forecasted customer count aligns with the historical data. He compared the 2022 actuals to the projection for the test year and stated the projected

[954] I&M brief, 174. 5 Tr 1523.
[955] I&M brief, 174. 5 Tr 1523.
[956] 5 Tr 1522.
[957] *Id*.
[958] I&M brief, 176. Citing 5 Tr 1524.
[959] 5 Tr 1525.
[960] 5 Tr 1522.

Michigan jurisdictional customer count is 587 higher in the test year than in 2022.[961] He described I&M's load forecasting method and how the forecast is monitored and updated.[962] Mr. White described two methods that can be used for forecasting customer accounts and kWh, long-term and short-term. The short term is from 0 to 24 months "following the last actual data point utilized," which was in July 2022, and the long term is 0 to 30 years following that data point.[963] Mr. White explained that I&M used the long-term method because the test year falls outside of the short-term period.[964]

Both Staff and the Attorney General proposed adjustments to the test year sales forecast presented by I&M. The proposals are addressed separately herein.

a. Attorney General

Based on the testimony of Mr. Coppola, the Attorney General argues that Commercial sales should be increased in the test year by 169,347 MWh, with an incremental revenue (net of power supply costs) of $12,164,000.[965] Mr. Coppola testified that he performed an analysis of the weather-normalized sales as compared to the Company's forecast sales. He concluded the forecast for Residential sales per customer indicated a decline of 0.5% in 2023 and 1.0% in 2024, which is in line with historical averages, and Industrial sales per customer have declined over the historical period "but appear to have leveled off."[966] Mr. Coppola stated that Commercial sales have increased since 2021, but I&M forecasted lower Commercial sales of 46,566 MWh in 2024 (as

---

[961] 5 Tr 1526.
[962] 5 Tr 1527-1530.
[963] 5 Tr 1530.
[964] *Id*.
[965] Attorney General brief, 128. 6 Tr 2477.
[966] 6 Tr 2473. See Exhibit AG-47.

compared to 2023 sales of 47,125 MWh) despite projecting an increase in Commercial customers from 18,247 in 2023 to 18,316 in 2024.[967] Noting that I&M made several adjustments to the outputs of its model to project total sales, Mr. Coppola testified "it appears that the forecasting model used by the Company to forecast commercial sales provide a low forecast."[968] He stated I&M provided 10 months of actual weather normalized sales for 2023 which shows an increase of 198 Commercial customers during that period, and commercial sales that are higher by 125,347 MWh.[969] He testified:

> The 2023 trend in commercial sales will likely continue into 2024. In fact, in response to a discovery request, the Company provided a more recent forecast of 2024 sales completed in September 2023. The updated forecast shows forecasted commercial sales on a billed basis for 2024 of 1,036,225 MWh. After adjusting these sales to an unbilled-basis and for EWR sales loss adjustments forecasted by I&M outside of the forecasting model, the updated and adjusted commercial forecasted sales are now 1,022,225 MWh. This new level of commercial sales is 169,347 MWh or 20% higher than the 852,878 MWh included in the rate case in Exhibit A-15, Schedule E-1. (citations omitted)[970]

The Attorney General recommends the Commission include the additional revenue resulting from the increased Commercial sales in the amount of $12,164,000 to reduce the Company's proposed revenue deficiency.[971]

In rebuttal, Mr. White first criticized Mr. Coppola's use of updated actual load data, in the September 2023 forecast, rather than the information presented in the Company's original filings.[972] And, he stated that while Commercial sales have increased since the original test year forecast was developed, Mr. Coppola fails to consider the updated data

---

[967] 6 Tr 2474.
[968] 6 Tr 2474. Exhibit AG-48.
[969] 6 Tr 2475. Exhibit AG-48.
[970] 6 Tr 2476.
[971] Attorney General brief, 128. 6 Tr 2478.
[972] 5 Tr 1544.

as a whole, which shows downward shifts in Residential and Industrial sales as compared to the test year forecast.[973] Mr. White testified that when the effects of lower projected Residential and Industrial sales are netted against the higher projected Commercial sales, the forecast is increased by 102 GWh, a much smaller increase than that proposed by Mr. Coppola.[974] And asserting there are discrepancies in Mr. Coppola's analysis, Mr. White testified that Mr. Coppola's attempt to account for unbilled and EWR sales loss adjustments was erroneous. He testified that the Company's September 2023 forecast was already adjusted for unbilled and EWR sales losses; he stated that when corrected, the Commercial sales as calculated by Mr. Coppola should be 14 GWh higher.[975] And Mr. White testified that Mr. Coppola "does not accurately price out his sales forecast which results in an overstatement of the revenue impacts associated with the increase in commercial sales."[976] Ms. Duncan testified that the increased Commercial load, reflected in Figure DMW-1R, is attributable to one specific customer. She testified that this customer takes service under the LP sub tariff and participates in the Economic Development Rider.[977] She testified that Mr. Coppola incorrectly allocated the Commercial load forecast across many Commercial tariffs which resulted in a much higher rate than associated with this one specific customer.[978]

Mr. White also stated that Mr. Coppola ignored the declines in Residential and Industrial sales when he calculated sales and revenue impacts. He testified:

---

[973] 5 Tr 1544-1545.
[974] 5 Tr 1546. See Figure DMW-1R.
[975] 5 Tr 1547.
[976] *Id.*
[977] 5 Tr 1645.
[978] 5 Tr 1646.

> Including these declines offsets almost half of the increase in commercial sales. In fact, the revenue impacts of these offsets combine to be larger than those of the gains in commercial load. While the commercial gains will be realized at 5.6 cents per kWh, the residential and industrial declines will be realized at prices of 15.1 cents per kWh and 6.1 cents per kWh, respectively.[979]

Ms. Duncan testified that Mr. Coppola failed to remove the full level of PSCR expense when calculating his adjustment. Specifically, she stated that Mr. Coppola included the fuel factor and retail energy transmission factors but disregarded the transmission factor.[980]

She calculated the net revenue impacts associated with 102 GW hours of incremental load based on the September 2023 forecast and asserted it would result in an increase to the revenue deficiency of approximately $3.4 million.[981]

Company witness Morgan testified, "any adjustment to the load forecast also impacts the demand and energy allocation factors used by the Company in the Jurisdictional Cost-of-Service study (JCOS) to allocate total Company costs."[982] He further stated that the use of the September 2023 forecast will increase Michigan Retail jurisdictional allocation factors, which will, in turn, result in greater costs being allocated to the Michigan retail jurisdiction.[983] He asserted that any deviation from the originally-filed forecast, must account for the change in the Michigan allocation factors.[984]

In her brief, the Attorney General argues that I&M witnesses did not address the inconsistent trends in its forecast, showing that Commercial sales per customer reversing

[979] 5 Tr 1548.
[980] 5 Tr 1646.
[981] 5 Tr 1647.
[982] 5 Tr 1794.
[983] 5 Tr 1795.
[984] 5 Tr 1795-1796.

from yearly increases to a decline in 2024, even though the total number of Commercial customers is projected to increase.[985] Asserting that the Company did not support this projection, the Attorney General argues: "Simply asserting that the forecast was reasonable when it was prepared without explaining these incongruities does not make the forecast reasonable."[986] The Attorney General argues that Mr. White's forecast of a 28 GWh drop in residential sales is not reliable and therefore, the Company's assertion that reduced Residential sales would offset some of the gains from Commercial sales was not supported.[987]

The Attorney General also claims that Ms. Duncan "cut several corners in her commercial review analysis all of which had the effect of reducing the incremental net revenue from the additional commercial sales."[988] And, noting that Ms. Duncan acknowledged that she did not know how I&M is billed for transmission in the PSCR, the Attorney General argues that she incorrectly criticized Mr. Coppola's method. The Attorney General explained that transmission that costs are billed based on the Company's peak load capacity for the 12-month coincident peaks for the prior year.[989] Based on this assertion, the Attorney General argues that the transmission component of the large Commercial customer's incremental PSCR revenue would not be completely offset by the incremental PSCR costs. The Attorney General argues, therefore, that Mr. Coppola correctly removed the transmission component from his calculation.[990] And

---

[985] Attorney General brief, 128.
[986] Attorney General brief, 128-129.
[987] Attorney General brief, 132. See Figure DMW-1R.
[988] Attorney General brief, 133.
[989] Attorney General brief, 134. Exhibit AG-136; Direct testimony from Michelle Howell in Case No. 21427, I&M's 2024 PSCR Plan case.
[990] Attorney General brief, 134-135.

the Attorney General points out that Mr. Morgan testified that use of a different sales forecast than originally filed by the Company would result in an increase to the revenue deficiency, but could not provide information about how much of an increase he anticipated.[991] The Attorney General argues that I&M's rebuttal testimony did not "rehabilitate the commercial sales forecast", and argued that the Commission should adopt the Attorney General's adjustment because it is reasonable and prudent based on the information available.[992]

In its reply brief, I&M argues the Attorney General's reliance on the September 2023 forecast was misplaced, and asserts that Mr. White provided testimony concerning the decline in the total number of Commercial customers in his direct testimony.[993] As noted above, Mr. White testified that offsetting trends in Commercial and Industrial load and the reclassification of a large customer from Industrial class to Commercial class accounted for the decline.[994] I&M also argues that Mr. White supported the September 2023 data. And the Company maintains that its witnesses did not replicate a full cost of service study for the September 2023 forecast and only used it to demonstrate the effects on pricing and allocation that could result from changes to the Company's test year forecast.[995]

The Company argues that the Commission should find that the revenues associated with the test year load forecast, included with the Company's case, are reasonable. I&M requests the Commission approve its forecast. However, the Company

---

991 Attorney General brief, 135.
992 Attorney General brief, 136.
993 I&M reply, 69.
994 5 Tr 1525.
995 I&M reply, 70-71.

argues that if the Commission adopts updated sales numbers, the Commission should increase the Michigan jurisdictional revenue deficiency by $3,359,051 to recognize the projected lower sales volume.[996]

This PFD finds I&M's arguments to be more persuasive. As I&M notes, Mr. Coppola erroneously attempted to account for unbilled and EWR sales loss adjustments that were already accounted for in the Company's forecast. This PFD also finds that the Attorney General did not properly account for Commercial sales related to a large customer whose rates are significantly lower than the rates charged to other Commercial class customers. And while the Attorney General witness Mr. Coppola's calculations appropriately addressed inclusion of PSCR costs, Staff asserts (below) that the Attorney General did not make the appropriate PSCR adjustment related to her sales adjustment. Accordingly, this PFD recommends that the Commission reject the Attorney General's sales forecast adjustment.

b. Staff

Staff proposes an adjustment to increase the Michigan jurisdictional retail sales in the amount of 104,565 MWh.[997] Mr. Ausum testified that Staff's proposal includes revisions to all customer classes.[998] He calculated Staff's proposed adjustment and testified:

> I computed monthly weather normalized sales per customer by taking the yearly average of the customers being served in each customer class for each calendar year from 2018-2022 and then divided that by the weather normal sales figure for each month in the historical data. I then computed annualized normal sales per customer by summing the monthly normal MWh sales for each 12-month period in the historical data. Next, I repeated

---

[996] I&M brief, 178. 5 Tr 1549.
[997] Staff brief, 80. 6 Tr 2086.
[998] 6 Tr 2086. See Figure PRA-1.

> the process with projected data for through the 12 months ending 2024 (the Test Year). I compared the Company's expectation for deliveries in the Test Year to the trends experienced over the recent past and computed a simple linear regression with the historical annualized normal sales per customer data with a projection of sales per customer through the end of the Test Year. These sales per customer projections were multiplied by the average number of customers the Company expects to serve in the Test Year to arrive at Staff's recommended sales adjustment.[999]

Acknowledging that Staff's method is simpler than I&M's, Mr. Ausum asserted that this does not mean the results are less accurate.[1000] He asserted that Staff's forecast is supported by information that was not included with the original filings. Mr. Ausum testified that the Company's forecast utilized data through the first seven months of 2022; however, through audit, Staff received actual data through October of 2023.[1001] Therefore, Staff argues that its forecast is supported by this additional 15 months of data.[1002] Staff asserts this method resulted in a large increase to Industrial sales, a smaller increase to Residential and other sales, and a small decrease in Commercial sales.[1003] The result is a Michigan jurisdiction retail sales forecast equal to 2,911,980 MWh, an increase over the Company's forecast in the amount of 104,565 MWh.[1004] Staff recommends that the Commission adopt this adjustment.

In rebuttal Mr. White testified that the more recent data utilized by Staff supports a reduction in Industrial sales as compared to the test year forecast.[1005] He stated that the September 2023 forecast projected industrial sales of 755 GWh in the test year which is

[999] 6 Tr 2086-2087. See Figure PRA-2.
[1000] 6 Tr 2088.
[1001] 6 Tr 2088-2089.
[1002] 6 Tr 2089.
[1003] Staff brief, 81.
[1004] *Id.*
[1005] 5 Tr 1549.

53 GWh lower than the Company's forecast and 154 GWh lower than Staff's recommendation.[1006] Mr. White stated that Industrial class customers are very diverse, and relying on average usage data can cause significant forecasting errors. And he asserted industrial usage can vary significantly over time.[1007] He testified that a straight-line linear regression misses much of the near-term variation in sales data. He testified "[t]his rudimentary methodology is inappropriate for industrial sales forecasting."[1008] And Mr. White claims that Staff's adjustment increasing Industrial sales is inconsistent with the updated data showing a greater decrease than included in the original filing.

In its brief, I&M challenges Staff's use of data that was not available at the time the original forecast was developed, but also argues that the updated data supports the test year forecast and results in an even larger decrease in industrial sales. Based on Mr. White's testimony, the Company is critical of Staff's use of a linear regression model, arguing that it is less accurate than the Company's statistically-adjusted, end-use and econometric model.[1009] I&M argues that Mr. Ausum's data shows a decline in average Industrial customer sales in the 12 months ending October 2023, but that the linear regression did not capture this which resulted in Staff's erroneous recommendation that Industrial sales be increased.[1010] And the Company argues that Staff did not consider the impact that its adjustment to Michigan retail sales will have on the jurisdictional allocators, resulting in an inaccurate forecast.[1011]

[1006] 5 Tr 1551.
[1007] 5 Tr 1550.
[1008] *Id*.
[1009] I&M brief, 179.
[1010] I&M brief, 179. 5 Tr 1550.
[1011] I&M brief, 179.

In its brief, Staff responds that it does not dispute Mr. White's claim that Industrial customers have a diverse set of usage patterns or that there will be significant variations in usage. However, based on Mr. Ausum's testimony, Staff contends: "It should be noted however that the goal of any forecast is to predict the future with as much accuracy as possible regardless of the techniques employed."[1012] And Staff recounts considerable difficulties utilizing the data provided by the Company and therefore, maintains that its forecasting methodology "is based upon what that which is feasible given the constraints of time in a given rate case."[1013] Staff contradicts I&M's assertion that its forecasting method did not capture recent downward trends in Industrial customer sales, and states that an analysis of the Company's Industrial load should consider recent trends as well as the sharp increase in customer usage shown in the data from March 2021.[1014] Staff argues that decreasing trends in the near term could be reversed through the test year and assert the increase in the historical Industrial load data corroborates Staff's proposed adjustment[1015].

As a result of its proposed adjustment, Staff recommends increasing forecast sales revenue by $9,243,979, with an offsetting increase to fuel and purchased power (PSCR) expense of $3,147,280.[1016] To calculate this adjustment in sales revenue, Staff used sales billing determinants and PSCR expense adjustments. Ms. Braunschweig testified that the Company did not submit the workpapers used to convert I&M's forecast sales to billing determinants, so Staff had to paste these new values into the billing determinants

---

[1012] Staff brief, 82.
[1013] Staff brief, 82. See also Staff brief, 78-79.
[1014] Staff brief, 83.
[1015] *Id*.
[1016] Staff brief, 78. See Exhibit S-3, Schedule C-4.

sheet and rate design work papers manually as I&M uses a proprietary software for its forecast modelling.[1017] To prevent this in the future Staff proposes:

> [in] its next general rate case and going forward, the Company submit a fully auditable rate design and forecast model in a non-proprietary software (such as Microsoft Excel) with all links and formulae intact. If calculations or inputs are copied between the models, the Company must include references so that Staff and intervenors can trace origins of data. (Citations omitted)[1018]

Staff argues that if the Commission approves its suggestion to require that I&M use an improved rate design model to include references for inputs and billing determinants, then the other parties would not be confused when attempting to incorporate a sales adjustment and resulting impacts.[1019] And in response to Ms. Seger-Lawson's assertion that I&M provided the information in native formats with the formulas intact, Staff reiterates that it was not provided a billing determinant workpaper that would accept sales adjustment revenue impacts.

Staff did not recommend the Attorney General's sales adjustment in its sponsored revenue requirement, but Staff contends that Mr. Coppola's adjustment is worthy of consideration as it is backed by an output from the Company's own model.[1020] Staff recommends that the Commission consider the Attorney General's Commercial sales forecast if the Commission does not adopt Staff's recommended amount.[1021] Ms. Braunschweig testified that the Attorney General apparently did not make a PSCR expense adjustment related to her proposed sales adjustment and recommended this

---

[1017] Staff brief, 78. 6 Tr 2303.
[1018] Staff brief, 78.
[1019] Staff brief, 79.
[1020] Staff brief, 84.
[1021] Staff brief, 83.

adjustment be made for the Attorney General's calculation.[1022] And, she testified that in order to incorporate the Attorney General's adjustments into the Commission's final order: "Staff recommends inputting the updated sales into any inputs to workpapers or attachments that rely on the sales forecast (cost of service study, rate design, power supply reconciliation expense, calculation revenue sheets, etc.) to ensure that all references to that data are updated correctly."[1023] Staff recommends use of its methodology to incorporate its sales forecast.

This PFD finds the arguments of Staff to be more persuasive and recommends that the Commission accept Staff's proposed adjustment increasing the Company's forecast sales, and the resulting revenue increase of $9,243,979, with an offsetting increase to fuel and purchased power (PSCR) expense of $3,147,280.

Staff recommend that I&M submit a "fully auditable rate design and forecast model in a non-proprietary software (such as Microsoft Excel) with all links and formulae intact" in all future rate cases. This PFD agrees with Staff's proposal. If Staff and ultimately the Commission cannot fully audit the model's outputs, it is not able to determine if the projections are reasonable and prudent. Accordingly, this PFD recommends the Commission adopt Staff's recommendation.

Based on Mr. Ausum's testimony, Staff also recommends that I&M normalize sales based on a 15-year historical rolling basis in future rate cases.[1024] Mr. Ausum also recommended the Company consider incorporating more weather stations within the

---

[1022] 6 Tr 2311. In its Reply Brief, Staff note the Attorney General allegedly made a PSCR adjustment but did not identify where or how the adjustment was made.
[1023] 6 Tr 2311.
[1024] 6 Tr 2090.

Michigan service area.[1025] Currently the Company utilizes a "rolling 30-year average of heating and cooling degree days to compute the projected normal degree days that are used in the forecast models."[1026] Mr. Ausum testified that volatility in weather trends related to climate change "raises the potential for inaccurate depictions of normal customer behavior when compared to normal consumption over a 30 year history."[1027] While not guaranteed, he explained this could more accurately capture weather conditions.[1028]

I&M challenges Staff's recommendation that weather normalized sales should be based on a 15-year rolling basis. In its brief, I&M argues that use of a specific time period is inappropriate and may not lead to more accurate forecasts. And the Company asserts that requiring a 15-year period would prevent the most accurate forecasts because "it would prohibit the Company from evaluating other time periods that may be more appropriate."[1029] In its reply brief, I&M argues that it is not appropriate for the Commission to order the use of any specific time period.[1030] Mr. White testified that I&M is committed to continued study of the matter, but requests that the Commission reject Staff's recommendation.[1031]

In its brief, Staff notes that the purpose of a forecast is to accurately predict an outcome and argues that its recommendation was not intended to limit I&M's selection of a specific time period in its modelling. But Staff argues:

[1025] 6 Tr 2090.
[1026] 5 Tr 1534.
[1027] 6 Tr 2090.
[1028] *Id*.
[1029] 5 Tr 1552. I&M brief, 180.
[1030] I&M reply, 72.
[1031] 5 Tr 1552.

> [O]nce the relationship between load and the various explanatory variables is established, the Company should use the most recent 15 years of weather data to both normalize historical load observations and as an input to the forecast model to project monthly weather conditions through the forecast horizon. If the Company insists upon using a 30-year average of weather data, it should prove its usefulness by demonstrating that a 30-year average would lead to less forecast error.[1032]

Staff contends that I&M can demonstrate the accuracy of a 30-year period in its modeling by providing a comparison with a 15-year period using the same model.[1033]

I&M also contests Staff's suggestion that it utilize more weather stations in its Michigan service territory to better more accurate data in its brief. The Company argues that it uses weather data from NOAA weather stations and that there are no NOAA stations in its Michigan territory.[1034] Mr. White testified that while there are non-NOAA stations, they do not collect the robust data necessary to for its forecasts.[1035] The Company states if a NOAA weather station is established in Michigan, it would be incorporated into its future filings.[1036]

This PFD finds that Staff's recommendation to normalize sales based on a 15-year historical rolling period is reasonable and prudent. Given that the Company asserts its use of a 30-year period is more accurate, this PFD finds Staff's suggestion that I&M demonstrate this by providing a comparison of the 15-year and the 30-year data using the same model to be reasonable. Accordingly, this PFD recommends that the Commission instruct I&M to provide a comparison of normalized sales using a 15-year and a 30-year period. And this PFD finds that I&M's use of NOAA weather stations is

---

[1032] Staff brief, 85.
[1033] Staff brief, 85-86.
[1034] I&M brief, 180.
[1035] 5 Tr 1552.
[1036] I&M brief, 180. 5 Tr 1552-1553.

reasonable and prudent. The Company explained that these weather stations collect more granular data and asserts that this data better informs its forecasts. And while noting that there are no NOAA weather stations in Michigan, I&M agrees to use that data if one is established. Accordingly, this PFD does not recommend that the Commission instruct the Commission to utilize more weather stations in Michigan.

2. Other Operating Revenue Issues

As noted above, this PFD recommends that the Commission adopt Staff's proposed sales forecast and resulting revenue in the amount of $9,243,979, with an offsetting increase to fuel and purchased power (PSCR) expense of $3,147,280.[1037]

Staff also make some other operating revenue proposals, addressed herein.

a. Special Service Charges

Staff proposes an adjustment to the Company's Special Charges. Based on the testimony of Ms. Braunschweig, Staff asserts that Special Charges should not increase more than 25% over existing charges to "reduce undue rate impacts to affected customers."[1038] Staff's adjustment results in a decrease in miscellaneous revenue of $1,241, and a decrease in miscellaneous distribution expense of $32 revenue decrease, for a total revenue decrease of $1,319.[1039]

In its brief, I&M states "[i]n the spirit of gradualism, the Company would accept proposed cap of 25% on all proposed increases in special service charges."[1040] The Company detailed how the changes have been implemented in its exhibits.[1041]

[1037] Staff brief, 78. See Exhibit S-3, Schedule C-4.
[1038] 6 Tr 2295.
[1039] Staff brief, 77. 6 Tr 2295.
[1040] I&M brief, 255.
[1041] I&M brief, 255-256.

As the Company did not dispute the adjustment, this PFD recommends the Commission accept Staff's proposal.

b. Open Access Transmission Tariff (OATT)

In its brief, Staff proposes that OATT expenses should be increased to $2,121,000 which is an increase of $544,000 from the $1,577,000 listed by the Company.[1042]

I&M did not address the issue in testimony or its brief. As the Company did not dispute the adjustment, this PFD recommends the Commission accept Staff's proposal.

c. VAPS and LICUS Revenue

Based on the testimony of Ms. Braunschweig, Staff originally argues that I&M did not include Value Added Program or Service (VAPS) revenue and expenses in this rate case. Staff asserts this net revenue should be included to offset rates.[1043] However, in rebuttal, Ms. Gruca testified that I&M already included Michigan jurisdiction total VAPS revenues as on offset to rates.[1044] The Company revised its discovery response in rebuttal, indicating that there was a miscommunication. In response to the new information, Staff changed its recommendation and now recommends the Commission accept I&M's inclusion of VAPS in this case.[1045]

And as with VAPS, Staff originally recommended an adjustment to the Low-Income Assistance Source Code (LICUS) recovery figure included in I&M's rates. But, in rebuttal, Company witness Duncan clarified that "[t]he Company did not include these credits for recovery in rates."[1046]

[1042] Staff brief, 84.
[1043] 6 Tr 2297.
[1044] 3 Tr 341. See Exhibit IM-13.
[1045] Staff brief, 141.
[1046] 5 Tr 1650.

In its brief, Staff states that it does not take issue with this decision and retracks its proposed LICUS adjustment.[1047] And because LICUS is not included in the projected expenses for this rate case, Staff also "rescinds its opposition to continuance of the deferral for purposes of the instant case."[1048]

As there is no longer any dispute concerning these adjustments, this PFD agrees with Staff and recommends no adjustment to I&M's treatment of VAPS revenue or decision not to include the LICUS expense in this case.

d. Employee Bill Discounts

Staff originally argued that I&M inappropriately included employee rate/bill discounts for recovery in this matter. Based on the testimony of Ms. Braunschweig, Staff recommended that the Commission increase test year revenues by $66,950 as these are employee subsidies that do not benefit ratepayers.[1049]

In rebuttal, however, Ms. Duncan testified that "the Company is not proposing to recover employee bill discounts in base rates."[1050] Because I&M is not seeking recovery of these expenditures, it recommends that the Commission reject Staff's proposed increase to test year revenues.[1051] Staff did not address the issue further in testimony and did not discuss it in its brief.

As the issue is no longer in dispute, this PFD recommends the Commission reject Staff's proposal.

B. <u>Operations and Maintenance Expense</u>

[1047] Staff brief, 142-143.
[1048] Staff brief, 143.
[1049] 6 Tr 2301.
[1050] 5 Tr 1649.
[1051] I&M brief, 182.

The Company's total projected O&M expenses, including adjustments, is $862,517,000.[1052] Mr. Coppola noted that when compared to $823.6 million for the 2022 historical test year, this is an increase of $38.9 million.[1053] He testified that the process utilized by I&M to project O&M expenses is "somewhat convoluted and difficult to validate" the assumptions, source documents, or actual expense projections. He stated that the Company did not provide clarification in discovery but did provide historical data for 2018 to 2022 and the O&M expenses for the first 10 months of 2023.[1054] Mr. Coppola testified that an annualized version of this 2023 data provides the most reasonable proxy for unsupported projected expenses.[1055] Adjustments proposed by the parties are discussed below.

1. Fuel, Consumables, Allowances, and Purchased Power Expense

Mr. Wnek testified that I&M projects O&M expenses for this category to be $529,000,000 in the test year, which is significantly lower than the 2022 costs of $364,000,000.[1056] He testified that the decrease resulted from the Rockport Unit 2 transition to a merchant plant, which reduced expenditures for fuel, consumables, and purchased power.[1057] The Company projects $3,487,000 in Fuel Handling, Affiliated Transportation expense and $5,059,000 for Ash Disposal expense in the test year.[1058]

[1052] I&M brief, 183. The Company's proposed adjustments are summarized in Exhibit IM-50.
[1053] 6 Tr 2478. Exhibit A-13, Schedule C-5.
[1054] 6 Tr 2489. Exhibit AG-53.
[1055] 6 Tr 2480.
[1056] 5 Tr 1718.
[1057] *Id*.
[1058] Attorney General brief, 150.

Staff recommends a Michigan jurisdictional fuel and purchased power expense of $79,896,000, which is $3,147,000 higher than the Company's projection.[1059] Staff states that this adjustment results from its sales forecast adjustment.[1060] (discussed above)

Mr. Coppola recommended two adjustments, asserting that the Company did not provide an explanation for the projected expenses, making its forecast unsupported.[1061] In reviewing historical expenses for 2018 to 2022 for Fuel Handling and Ash Disposal, Mr. Coppola observed these expenses include costs for Rockport Unit 2 which ceased operation in 2022. He explained his forecast method:

> To determine a reasonable forecast of expense for Fuel Handling and Ash Disposal for 2024, I used 50% of the average amount of the historical expense from 2020 to 2022 in order to remove the portion applicable to the Rockport Unit 2 and adjusted that amount for 2023 and 2024 inflation. For Fuel Handling, the result is 2024 forecasted O&M expense of $2,744,000.[1062]

Mr. Coppola recommended that the Commission remove the difference between I&M's projected amount for Fuel Handling and the amount he calculated, which results in a total jurisdictional disallowance of $743,000, or $106,000 for the MI jurisdiction.[1063]

Mr. Coppola performed a similar calculation as above for the Ash Disposal category, which resulted in a forecast amount of $1,993,000. Noting that the Company projected $5,059,000 expense, Mr. Coppola stated the difference is $3,067,000, or $437,00 for the Michigan jurisdiction.[1064]

[1059] Staff brief, 87.
[1060] Staff brief, 87.
[1061] 6 Tr 2486.
[1062] *Id*.
[1063] *Id*.
[1064] *Id*.

In rebuttal, Mr. Wnek disputed Mr. Coppola's disallowance and argued that he did not consider the fact that I&M is closing the West Bottom Ash Pond in 2024. He testified that the projected expenditures related to that project are not captured by Mr. Coppola's annualization of the 2023 expenditures.[1065] In its brief, the Company again argues that it is appropriate to include these costs in base rates, rather than in PSCR costs, pursuant to a Commission order in Case No U-16433.[1066] Then, I&M asserts that an explanation related to these expenditures was provided in discovery and rebuttal testimony.[1067]

In her brief, the Attorney General argues that the Commission failed to adequately support the projections for these expenditures. The Attorney General argues that I&M did not provide any information about the West Bottom Ash Pond until it was discussed in Mr. Wnek's rebuttal testimony, despite several discovery requests. The Attorney General repeats the assertion that failure to provide this information timely bars its use as support for a forecast.[1068] And the Attorney General asserts that Mr. Jessee did not provide information on the estimates for that work.[1069] Based on Mr. Coppola's testimony, the Attorney General recommends that the Commission remove $106,000 in O&M expense from the Fuel Handling category and $437,000 from the Ash Disposal category, for total Michigan jurisdictional amount of $543,000.[1070]

This PFD agrees with the Attorney General's argument that it is improper for I&M to rely on information provided in rebuttal when that information was not provided in

---

[1065] 6 Tr 1935.
[1066] I&M brief, 188; referencing October 4, 2011, Order, Case No. U-16433. 5 Tr 1733.
[1067] I&M brief, 188-189.
[1068] Attorney General brief, 152. See December 20, 2011, Order, Case No. U-16582, p 15-16 and December 19, 2013, Order, Case No. U-17302, p 3.
[1069] Attorney General brief, 152.
[1070] *Id*.

response to discovery. Accordingly, this PDF finds the Company did not support the above projected expenses and recommends that the Commission adopt the Attorney General's proposed disallowances.

And this PFD recommends that the Commission accept Staff's adjustment increasing the Michigan jurisdictional fuel and purchased power expense by $3,147,000. This adjustment is necessitated by Staff's proposal to increase in the Company's sale forecast. As discussed above, this PFD recommends that the Commission adopt that adjustment.

2. Fossil (Steam), Hydro, and Solar Generation O&M expense

Mr. Jessee described the need for generation O&M and testified in support of this category of expenses.[1071]

Mr. Coppola noted that the Company provided an actual expense of $1,554,000 for the category Miscellaneous Steam Power Expense for the first 10 months of 2023.[1072] He stated that I&M forecasted $3,171,000 for this category in 2024 test year but did not provide any support for the projection. Mr. Coppola testified that the projected amount is considerably greater than the actual 2023 expense "when annualized for the entire year result in annual expenses of $1,865,000 and with the 2024 inflation adjustment result in a forecast expense of $1,910,000."[1073] Based on this testimony, the Attorney General recommended that the Commission disallow the difference between the amount projected

[1071] 6 Tr 1906-1914.
[1072] 6 Tr 2484.
[1073] *Id*.

by I&M fand the amount he calculated resulting, in removal of a total Company amount of $1,262,000, or an amount of $180,000 for the Michigan jurisdiction.[1074]

Next, Mr. Coppola observed that the Company shows an expense of $2,836,000 for the category Maintenance of Boiler Plant for the first 10 months of 2023.[1075] He testified, "[t]his actual expense when annualized for the entire year result[s] in an annual expense of $3,403,000, and with the 2024 inflation adjustment, results in a forecasted expense of $3,485,000."[1076] Again, asserting that the Company did not support the 2024 projected increase for this expense, Mr. Coppola recommended that the Commission remove the difference between I&M's projected amount and the amount he calculated, which results in a disallowance of $938,000, or $134,000 for the Michigan jurisdiction.[1077]

In rebuttal, Mr. Jessee testified that the forecast for these steam O&M expenditures is based on a forecast budget and while actual expenses and work performed will vary due to emergent issues and reallocated funding. And he repeated I&M's argument that its forecast should be evaluated based on the initial filing.[1078] He testified that if Mr. Coppola's methodology was applied across the steam generation O&M budget, it would result in an increase of $940,000.[1079]

In its brief, the Company disputes Mr. Coppola's assertion that no explanation was provided for the increased expenditures and asserted that the information was not available at the time of filing and was provided in discovery. The Company criticizes

---

[1074] Attorney General brief, 148. 6 Tr 2484.
[1075] 6 Tr 2485.
[1076] *Id*.
[1077] *Id*.
[1078] 6 Tr 1932.
[1079] 6 Tr 1933.

Mr. Coppola's focus on two accounts, rather than the entire budget, and argues that it undermines his analysis.[1080] I&M repeats that managing its entire budget requires an ability to reprioritize funds.[1081] Finally, the Company criticizes Mr. Coppola's use of annualized 2023 data rather than a historical comparison of averages, arguing that this indicates his analysis was arbitrary and inconsistent.[1082] The Company therefore argues that the Attorney General's proposed disallowance should be rejected.[1083]

The Attorney General argues that I&M's assertions about the propriety of using a budget to forecast expenditures are erroneous, and asserts that the Company did not support the large increase in these projected expenditures.[1084] The Attorney General contends that "I&M has not shown it is likely to spend the forecasted amounts for these two generation O&M accounts."[1085] The Attorney General argues that Mr. Coppola's methodology is appropriate and the Commission should accept his proposed disallowances of $180,000 for Miscellaneous Steam Power expense and $134,00 for Maintenance of Boiler Plant expense.[1086]

This PFD finds the Attorney General's arguments to be more persuasive and recommends the Commission adopt the Attorney General's proposed disallowances. As the Attorney General correctly notes use of budget, rather than creating projections for specific projects does not establish that the projections are reasonable and prudent.

3. Nuclear O&M Expense

1080 I&M brief, 185.
1081 I&M brief, 186.
1082 I&M brief, 186-187.
1083 I&M brief, 187.
1084 Attorney General brief, 150.
1085 *Id*.
1086 *Id*.

Ms. Ferneau testified that the unadjusted forecast for total jurisdictional nuclear O&M expenses in the test year is $254,281,000.[1087] She explained that an adjustment (O&M-17) of $12,400,000 was made to increase the total projected nuclear O&M expenses to $266,000,000.[1088] She acknowledged that the total nuclear O&M expenses for the test year are projected to be $23,400,000 higher than the 2022 historical period.[1089] Ms. Ferneau stated that the Cook plant O&M expenses include the categories of labor, planned outages, maintenance activities, and operating expenses, and testified that "[t]he main drivers for the difference of approximately $11 million between the Historical Period and Test Year O&M expense is outage amortization, and inflation related to services and material costs."[1090] Ms. Ferneau also testified that the additional $12 million increase in adjustment O&M-17 was necessary "for an identified increase to outage amortization and plant maintenance expense. The increase in outage amortization expense is related to ice condenser scope, updated vendor proposals and cost escalations."[1091]

Mr. Coppola testified that I&M did not adequately support the large increase projected in nuclear O&M expenses. However, he noted that Company witness Ms. Ferneau provided testimony in which she provided reasons for the increase in O&M expenses, and that some additional information was provided in discovery. And while maintaining that the information provided was not sufficient to support the increase, Mr. Coppola acknowledged that some of the increase could be justified.[1092] Noting that

---

[1087] 3 Tr 1025. Figure KJF-1. Exhibit A-13, Schedule C-5.
[1088] 3 Tr 1027. I&M brief, 189-190. This adjustment is O&M-17 and is included on Exhibit IM-50.
[1089] 3 Tr 1028. I&M brief, 190. Exhibit A-13, Schedule C-5.
[1090] 3 Tr 1023, 1028.
[1091] 3 Tr 1027.
[1092] 6 Tr 2489.

I&M reported operating expenses of $98,914,000 in the first ten months of 2023, Mr. Coppola proposed that an annualized amount would be the best proxy for projected O&M expenses in the test year. He testified:

> This amount, once annualized and adjusted for inflation, results in a forecasted expense of $121,546,000 for 2024. This amount is $4,550,000 lower than the $126,096,000 forecasted by the Company. The portion applicable to the Michigan jurisdiction is $719,000.[1093]

He, therefore, recommends that the Commission disallow $719,000 from the Nuclear O&M expenses in this case.[1094]

Mr. Coppola also challenged the propriety of adjustment O&M-17, which increased the projected expenses by $12.4 million.[1095] He again recognized that testimony from Ms. Ferneau provide some explanation and acknowledged that the Company provided additional details in discovery, but stated the information was insufficient to support the adjustment.[1096] Then Mr. Coppola discussed information provided in a discovery response which identified $8.8 million in projected expenses for refueling outages at the two Cook nuclear units, and $3.6 million for additional O&M projects. Mr. Coppola compared the cost of refueling outages in 2023, which he stated were $6.0 million, with the amount projected by the Company in the test year. He asserted that the increase was unreasonable and recommended that the Commission disallow the difference of $2.8 million.[1097]

[1093] 6 Tr 2489-2490.
[1094] 6 Tr 2490.
[1095] *Id*.
[1096] 6 Tr 2489-2490.
[1097] 6 Tr 2490-2491. Exhibit AG-58.

Remarking that the Company stated that there were no similar historical projects with which to compare the projected O&M levels for the “additional” projects, Mr. Coppola posited that assuming the projects are necessary, and that the costs should be spread over the two-year capital forecast period. He recommended that the Commission remove $1.8 million from the projected test year Nuclear O&M, which is half the projected amount of $3.6 million.[1098]

Ms. Ferneau testified in rebuttal that Mr. Coppola’s assertion that the nuclear O&M expenses was not supported, was misplaced, and asserted that all information was included in testimony, Exhibit A-13, Schedule C-5, and through discovery.[1099] She testified that a large portion of the increase is related to outage amortization. She criticized Mr. Coppola’s comparison of the projected outage expenses with historical expenses and stated that “[o]utage scopes and durations vary, therefore, comparing past outage costs to future outage costs without considering the scope differences does not result in an accurate comparison.”[1100] Ms. Ferneau also testified that Mr. Coppola’s attempt to compare the historical period actual costs to those in the forecast is inappropriate, as it does not consider increased year-end spending or other factors that impact the 2024 forecast.[1101] She presented a table detailing the allocation of $3.6 million for “additional” projects, and asserted that the details were provided in early testimony.[1102] And Ms. Ferneau testified that Mr. Coppola’s 50% reduction of nuclear O&M expenses in

[1098] 6 Tr 2491. Exhibit AG-58.
[1099] 3 Tr 1065.
[1100] 3 Tr 1066.
[1101] 3 Tr 1069.
[1102] 3 Tr 1068. See Table KJF-2R.

the test year is arbitrary, and repeated that Mr. Coppola's analysis did not consider "outage timing and work alignment."[1103]

In her brief, the Attorney General argues that while Ms. Ferneau provided a general explanation for the increased costs in testimony, the Company could not provide additional information when requested in discovery. Based on Mr. Coppola's testimony, the Attorney General asserts that the information presented was insufficient to support the large increase in this O&M expense.[1104] Focusing on labor costs, the Attorney General reviewed employment records and contends that I&M did not explain projected increase in these expenses.[1105] In support of Mr. Coppola's calculations, the Attorney General argues that "in the absence of reliable and detailed evidentiary support for such a large expense increase, the best alternative is to rely on historic information."[1106] And the Attorney General argues that the Company did not support the increase of $12,400,000 to nuclear O&M costs resulting from O&M-17. Relying on Mr. Coppola's analysis, the Attorney General argues that the refueling outage expenses are too high, and I&M did not justify the forecasted $3.6 million for the additional projects.[1107] The Attorney General supports Mr. Coppola's comparison of prior refueling outage costs to the costs forecasted in this case and argues that Ms. Ferneau provided information in her rebuttal testimony that I&M did not provide when information was requested in

[1103] 3 Tr 1069-1070.
[1104] Attorney General brief, 154. 6 Tr 2488.
[1105] Attorney General brief, 154.
[1106] Attorney General brief, 155. 6 Tr 2489.
[1107] Attorney General brief, 157. 6 Tr 2491-2492.

discovery.[1108] The Attorney General maintains the Commission should not rely on the information.[1109]

In its brief, I&M argues that Ms. Ferneau provided ample support for the forecasted nuclear O&M expenditures and reiterated some of her explanations.[1110] The Company critiques Mr. Coppola's claims of insufficient support and stated requested information was provided in discovery.[1111] The Company also emphasized that Ms. Ferneau provided a breakdown of the additional projects related to O&M-17 and repeated its arguments that use of annualized data is inappropriate and fails consider the need to redistribute funds.[1112] And in its reply brief, I&M refutes the Attorney General's assertion that information was provided in rebuttal which was not provided in response to discovery, arguing "[t]hat claim is inaccurate. The Company provided the information contained in Table KJF-1 in response to Attorney General DR 2-32 and again in Attorney General DR 13-295."[1113] I&M argues the evidence is proper rebuttal and clearly relevant.[1114]

This PFD finds the Company's arguments to be more persuasive than the Attorney General's. Ms. Ferneau provided credible testimony to explain the drivers of the forecasted increases in these expenses. And this PFD finds the Company provided appropriate support for its forecast. Accordingly, this PFD recommends that the Commission reject both of the Attorney General's proposed nuclear O&M disallowances.

4. Distribution O&M Expense

[1108] Attorney General brief, 158; referring to Tables KJF-1 and KJF-2R.
[1109] Attorney General brief, 159-160.
[1110] I&M brief, 189-190. 3 Tr 1023-1028.
[1111] I&M brief, 190-191.
[1112] I&M brief, 193. 3 Tr 1068.
[1113] I&M reply, 74. See Exhibit IM-74R and Exhibit AG-57.
[1114] I&M reply, 74; citing December 17, 2020, Order, Case No. U-20697, p 19.

I&M forecasts its total distribution O&M expenses to be $90.4 million in the test year.[1115] This is an increase of approximately $5.1 million above the historical year expenses of $85.3 million.[1116] Mr. Isaacson testified that the Company has experienced several factors which directly impact distribution O&M costs. "These impacts are seen primarily in resource availability, increasing minor storm events, supply chain challenges, and overall inflationary activities."[1117]

However, the parties have raised a few issues regarding vegetation management costs and procedures addressed below.

a. Vegetation Management – Tree-Trimming Cycle

As part of its Distribution Management Plan, I&M is moving from a five-year vegetation management cycle to a four-year cycle, with $13.2 million in costs forecasted for 672 primary line miles cleared for 2023 and $15.3 million forecasted for 850 miles cleared for 2024.[1118] Mr. Issacson stated that beginning in 2020, I&M's vegetation (trees, brush, and vines) management program moved from a reactive approach to a systematic, cycle-based approach, and that through the first three years of this initial cycle-based program, I&M realized an improvement of nearly 20% in vegetation-caused non-Major Event Day (MED) SAIDI from the end of 2019 through 2022.[1119] He added that I&M is presently in the fourth year, expects to complete its first cycle of all circuits in 2024, and

[1115] 4 Tr 1282. Exhibit A-13, Schedule C-5.
[1116] 4 Tr 1282.
[1117] *Id*.
[1118] 4 Tr 1258-1259.
[1119] *Id*. The System Average Interruption Duration Index (SAIDI) indicates the time the average customer is without service due to sustained interruptions. 4 Tr 1244.

is proposing to move to a four-year cycle beginning in mid-2024.[1120] He stated that switching to a four-year cycle would identify and remediate problematic trees in a more timely manner, and that vines would be addressed quicker, with the expectation that those would be controlled prior to causing an actual interruption.[1121]

Mr. Isaacson testified that despite the notable improvements in SAIDI and SAIFI attributed to vegetation, this collective category still is the top cause of interruptions across I&M's Michigan service area, averaging about 50% of the total CMI over the past three years.[1122] He asserted that a significant contributor to these events is trees located outside the existing right-of way (ROW), which average about two-thirds of all tree related events, while another, lesser cause are vines, which account for about 5% of the events.[1123]

Mr. Isaacson explained that control of vegetation in a systematic and timely manner has proven effective and that the five-year cycle I&M has maintained in Michigan has proven beneficial, with a further reduction in non-Jurisdictional Major Event Day (non-JMED) vegetation caused SAIDI in 2023 vs. 2022 of 38%.[1124] He added that performing this type of work on a more aggressive timeline will contribute towards I&M's stated objective of reaching a SAIDI of 150 minutes or less by the end of 2026, noting that at

---

[1120] 4 Tr 1258. This PFD notes that this testimony is consistent with a statement included in I&M's Michigan Five-Year Distribution Plan (2023-2027), which provides that "I&M began its initial cycle-based program in 2020, starting with completing this in a five-year period" (Ex. IM-104R, p. 42), but appears to be inconsistent with other statements in the Plan which provide that "I&M has completed its initial five-year cycle throughout its Michigan service area" and that "[h]aving completed this cycle, I&M began its second five-year cycle in 2023." (Ex. IM-104R, p. 43.)
[1121] *Id*.
[1122] 4 Tr 1258. The System Average Interruption Frequency Index (SAIFI) indicates how often the average customer experiences a sustained interruption. 4 Tr 1244. CMI is Customer Minutes of Interruption. Id.
[1123] *Id*.
[1124] 4 Tr 1301.

present, as of the end of 2023, I&M was at a SAIDI of 218.5 in Michigan, which is a notable reduction from the 2022 SAIDI of 235.9.[1125]

Staff supports the Company's forecast distribution O&M expenses and disagrees with proposed adjustments.[1126] Mr. Boutet testified that the projected annual increase "is approximately 3%, which is in agreeance with Staff's estimated inflation values of 3.48% in 2023 and 2.79% in 2024."[1127]

The Attorney General recommends that the Commission remove the additional $2.1 million of expense included in the 2024 project test year attributed to I&M's proposed move to the four-year clearing cycle in 2024.[1128] Mr. Coppola testified that I&M has not made a compelling case to move to the four-year cycle considering the additional cost.[1129] Mr. Coppola noted that in discovery, I&M was asked if it had performed an analysis to evaluate whether a four-year or five-year cycle was the most optimal clearing cycle, pointing out that DTE Electric and Consumers have found that a five-year vegetation clearing cycle and a seven-year clearing cycle to be optimal clearing cycles in Michigan, and that in its response, I&M stated that it had not performed such an evaluation.[1130] Thus, he asserted that I&M has no sound basis to move to a four-year cycle other than it would be able to clear vegetation more often.[1131]

[1125] *Id*.; Ex. IM-104R, p 83. This PFD notes that I&M's Plan also states that "I&M expects to maintain its current CEMI performance in alignment with the Commission expectation of being under 5% for CEMI6 by 2030." *Id*. CEMI6 appears to mean Customers Experiencing Multiple Interruptions six or more times over a given period. See 4 Tr 1248.
[1126] Staff brief, 94-95.
[1127] 6 Tr 2244. Staff brief, 94.
[1128] 6 Tr 2482.
[1129] *Id*.
[1130] 6 Tr 2482.
[1131] *Id*.

CUB witness Ozar stated that I&M has failed to demonstrate that the proposed shortening of the cycle length by one year provides the optimal combination of reliability improvement and cost effectiveness, asserting that I&M's plan to move to a shorter, four-year cycle length before I&M has completed its first five-year trimming interval is premature.[1132]

Mr. Ozar testified that trees outside of I&M's ROW result in two thirds of tree-related outages on the Company's distribution system, requiring "immediate, direct, and comprehensive action".[1133] While he explained that I&M's current uniform five-year vegetation management cycle has not solved this "massive issue" and while he acknowledged I&M's core reason for decreasing the cycle time is to be able to eliminate reliability threats from trees outside the ROW and reduce reliability events from trees inside the ROW, Mr. Ozar testified that I&M has not provided a rational explanation or any credible evidence that the proposed one-year reduction in the trimming cycle time is a solution commensurate with the scope of the problem, or a cost-effective approach.[1134] In addition, while he agreed that a possible advantage provided by the reduction in cycle time is that the arborist crews can survey lines and identify problematic trees outside of the ROW every four years rather than every five, he opined that the ability to identify newly-diseased or dying trees one year sooner seems likely to provide only marginal value.[1135]

[1132] 3 Tr 240, 241.
[1133] 3 Tr 245.
[1134] *Id*.
[1135] 3 Tr 246.

Mr. Ozar stated that the solution is a detailed investigation by I&M into why its current program has failed so substantially to address the issue of trees outside of its ROW, followed by the development and implementation of ancillary programs, policies, or practices, including new high-tech survey methods and the transition to a risk-based approach for I&M's vegetation management program.[1136] In this regard, Mr. Ozar testified that the foundation of a risk-based vegetation management program is "[u]sing survey-grade aerial lidar, advanced data insights, 3D modeling and predictive analytics" to target vegetation management work to the areas where there is the most risk, making these efforts more cost-effective, efficient and impactful."[1137]

Mr. Ozar recommended that the Commission condition its approval of I&M's proposed move to a four-year cycle based program upon I&M implementing an information-gathering pilot so that it may perform an optimality analysis, with I&M's proposed vegetation management expense for 2024 being set to the 2023 forecasted vegetation management cost amount, and that I&M be granted regulatory asset treatment for any reasonable capital costs or O&M needed to pilot a risk-based approach.[1138]

In rebuttal, Mr. Isaacson stated that with a shift from a five-year cycle to a four-year cycle, its customers will see a reliability improvement by reducing the vegetation management cycle by one year.[1139] He asserted that I&M has proven that this is the case with the "remarkable success" I&M has had in its Indiana service territory.

> In 2022, vegetation SAIDI was at 28 minutes across its entire Indiana service area. In 2023, this decreased to 19 minutes, a 32% reduction. As part of the Company's response to AG DR 12-264 (Exhibit IM-106R (DSI-

---

[1136] 3 Tr 246-247.
[1137] 3 Tr 247. Lidar is short for 'light detection and ranging" technology. *Id*.
[1138] 3 Tr 240, 241.
[1139] 4 Tr 1301.

10), I&M stated that although it had not completed an analysis, it still compared the five-year cycle of Michigan to the four-year cycle of Indiana. Based on this comparison, including the advantages conferred by a four-year cycle (improved reliability, improved timely control of vines, and improved system safety monitoring), the Company concluded a four-year cycle would also be advantageous to the customers in its Michigan service territory.

* * *

The Company initially selected a five-year clearing cycle. While this has proven to make an impact on vegetation related outages, a four-year cycle will provide a better customer experience by being able to eliminate reliability threats from dead and dangerous trees outside the right of way and will reduce reliability events occurring from trees inside the right of way. I&M cannot comment on other utilities cycles as factors impacting other utilities are not the same as those impacting I&M.[1140]

Mr. Isaacson added that the Commission has made a clear statement that improving reliability and resiliency is a primary focus of electric utilities, and asserted that moving to a four-year cycle would improve performance in a manner that would justify the incremental cost.[1141] Further, Mr. Isaacson noted that in Case No. U-20147, Staff commended I&M's plan to move to a four-year cycle and its commitment to improving reliability.[1142] I&M asserted that it is time consuming and costly to conduct a cost benefit analysis as recommended by CUB, and is not a good use of I&M's resources.[1143]

This PFD recommends that the Commission approve I&M's proposed increase from $13.2 million in costs forecasted for 2023 to $15.3 million forecasted for 2024. As I&M asserts, vegetation issues remain the top cause of interruptions across I&M's

---

[1140] 4 Tr 1305-1306, quoting Ex. IM-106R, p1; 4 Tr 1302.
[1141] 4 Tr 1302, citing Ex. IM-105R, p 18.
[1142] 4 Tr 1303.
[1143] I&M Initial Brief, 197. This PFD notes that both I&M and the Attorney General mistakenly assert that Staff's witness Mr. Boutet recommends that I&M complete a cost benefit analysis to determine if moving from a five-year cycle to a four-year cycle is justified. *See*, *Id*., *citing* 6 Tr 2247; Attorney General Initial Brief (dated and filed March 22, 2024), p 141, n. 613, *citing* 6 Tr 2247-48. However, while Mr. Boutet recommends cost-benefit analyses regarding changing the distances and measurements for overhang pruning, tree removal, and expanding right of way clearances (see, discussion, *infra*), he does not address I&M's change to a four-year cycle. *See*, 6 Tr 2246-2248; Staff's Initial Brief, 137-139.

Michigan service area, and switching to a four-year cycle would remediate problematic trees in a more timely manner.[1144] Indeed, I&M projects that the cycle change will result in an increase from 672 primary line miles in 2023 and to 850 miles in 2024, which this PFD notes constitutes a reduced cost per mile.[1145] In addition, this PFD also notes that moving to a four-year cycle will dovetail with I&M's Vegetation Management Standards which provide that "trees marked for pruning will achieve 4 years of growth clearance."[1146]

In support of her assertion that I&M has not established a good basis for moving to a four-year cycle, the Attorney General notes that I&M stated in its discovery reply that it had not performed an evaluation of whether moving to a four-year cycle would be optimal. However, I&M did compare the results from its five-year cycle for Michigan to the four-year cycle it uses in Indiana.[1147] Moreover, this PFD finds that the Attorney General's inference that longer cycles used by other utilities (i.e., a five-year cycle for DTE Electric and a seven-year cycle for Consumers) are the most efficient is not supported; rather, the significantly divergent cycle time frames adopted by DTE and Consumers just as likely demonstrate that there is not necessarily an optimal cycle time frame for vegetation removal applicable to any given utility with that utility's particular vegetation circumstances.

Similarly, CUB's assertion that I&M has failed to demonstrate that the proposed shortening of the cycle length by one year provides the optimal combination of reliability

---

[1144] 4 Tr 1258.
[1145] For 2023, the projected cost of $13.2 million for 672 miles amounts to an approximate cost of $19,600 per mile. For 2024, the projected cost of $15.3 million for 850 miles amounts to an approximate cost of $18,000 per mile.
[1146] 6 Tr 2246.
[1147] 4 Tr 1305-1306, quoting Ex. IM-106R, p 1.

improvement and cost effectiveness is also rebutted by I&M's favorable comparison of the results from its five-year cycle for Michigan to the four-year cycle it uses in Indiana. Moreover, the bases for CUB's recommended information-gathering pilot also are not supported. Mr. Ozar's assertion that problematic trees located outside of the ROW require immediate action dismisses that I&M's Plan specifically indicates that moving to a four-year cycle will help to remediate this issue in a more-timely manner.[1148] In addition, Mr. Ozar's preference that I&M transition to a risk-based vegetation management approach utilizing "survey-grade aerial lidar" dismisses I&M participation in the application for the Michigan Statewide Light Detection and Ranging for Vegetation Management database project.[1149]

Moreover, Mr. Ozar's characterization of I&M's vegetation management system as implementing a "uniform cycle-length concept," which he asserted can produce inefficiencies as it "conflicts with the fact that not all circuits, or sections of circuits, have uniform tree cover, uniform tree species, uniform growth rates, uniform risk of tree growth into conductors, uniform risk of trees falling into conductors, uniform customer density, outage history, wire-down history",[1150] overlooks that I&M's Plan provides for annual evaluations of completed circuits and evaluations of the entire system every two years, with adjustments to address site/situational changes as appropriate:

> *Dynamically evaluating performance and adjusting scheduled circuits based on results.* Cycle-based programs can take a couple of different approaches; I&M considers the most effective approach as one that incorporates both performance and evaluation. Near recent performance, starting when a circuit was last maintained, is evaluated annually to

---

1148 Ex. IM-104R, pp 42, 44.
1149 4 Tr 1281; 5 Tr 1483-1484, Ex. IM-33, p 5.
1150 3 Tr 242.

> determine if any locations/sections require additional attention prior to the next cycle-based field patrol. This allows for an enhanced dynamic approach that seeks to effectively control vegetation for I&M's customers recognizing that over a four- or five-year period, site/situational changes occur.
>
> *Performing a patrol of every circuit every other year*. This evaluation of the entire system every two years will provide a timely assessment of current site conditions, which can change over time (within a four- or five-year period). Trees that have been compromised by weather, site use changes (construction), insects or disease, would be identified and remediated in a quicker timeframe all with the intent of controlling vegetation-caused interruptions before they cause a problem. Additionally, vines cause about 5% of the annual outages involving vegetation; a two-year patrol would identify and remediate these before causing an outage.[1151]

Finally, despite asserting that trees outside of its ROW cause significant tree-related outages, requiring "immediate, direct, and comprehensive action", and despite acknowledging that reducing the cycle time will allow I&M to identify problematic trees outside of the ROW sooner, Mr. Ozar inconsistently proposes I&M undertake a delayed and indirect response; namely, that I&M should implement a time-consuming, information-gathering pilot to perform a cost-benefit analysis to determine the optimum vegetation management program structure.[1152]

b. Tree-Trimming Procedures

Staff witness Boutet explained that I&M follows a "zoned" approach to tree trimming in which three zones exist, Multi-phase Line Segments, Single-Phase Line Segments, and Secondary and Service Conductors.[1153] He added that both Multi-phase and Single-Phase Lines are trimmed of all overhangs within 20 feet above the conductors and select overhangs above 20 feet at a 45-degree angle or more to the main trunk of

---

[1151] Exhibit IM-104R, p 44.
[1152] 3 Tr 240, 245, 246.
[1153] 6 Tr 2246.

the tree, with the Multi-phase Line Right-of-Ways being clear to a 15 foot radius while Single Phase Line Right-of-Ways are cleared to a 10 foot radius. He testified that in both cases, trees under 18 inches in diameter breast height will be scheduled for removal, and trees marked for pruning will achieve four years of growth clearance with a minimum of 10 feet of separation from the primary conductor. He added that within the Multi-phase Line Segment zone exists a special Circuit Breaker Zone (CBZ) which includes any unfused line sections beyond the substation and up to the first sectionalizing (isolation) device, and in this zone, all overhangs are trimmed regardless of clearance height or approach angle.[1154] He stated that secondary and service conductors receive less extensive efforts, as pole-to-pole triplex is maintained with a 10 foot clearance zone and a 5 foot radius around the wire, with all overhangs being evaluated and removed if necessary, tree pruning done to achieve 3 foot clearance minimums, and trees under 10 inches in diameter breast height being scheduled for removal.[1155]

Mr. Boutet noted that I&M states in its latest distribution Plan an intention to expand right-of-way clearances to allow for more aggressive trimming of trees that pose threats.[1156] However, he testified that the specifics such as how much the clearance range is increasing, or which parts of their circuits will be impacted, are unclear.[1157]

Thus, Mr. Boutet recommended that I&M conduct a cost-benefit analysis evaluating: (1) expanding Right-of-Way Radius for both single and multi-phase lines by five feet, such that a 15-foot radius is achieved for single phase lines, and a 20-foot radius

---

[1154] *Id*.
[1155] 6 Tr 2247.
[1156] *Id.*
[1157] *Id*. Citation omitted.

is achieved for multi-phase lines; (2) the costs and impacts of clearing all overhangs regardless of height or approach angle for all single and multi-phase primary lines; (3) the costs and impacts of doubling the clearance zone and radius around pole-to-pole triplex, to 20 feet and 10 feet, respectively; and (4) the costs and impacts of increasing the clearance range for tree pruning around secondary and service conductors from 3 feet to 5 feet.[1158] He asserts that if any of these analyses prove a particular recommendation to be "financially prudent", then I&M should develop a plan to implement that recommendation.[1159]

In its brief, Staff asserts that its recommendation is supported by recent Commission orders for DTE Electric and Consumers Energy, which require an analysis on the feasibility of more aggressive tree trimming outside of their first zones of distribution circuits.[1160]

In rebuttal, Mr. Isaacson stated that the increased clearing within expanded ROWs around primary conductors is part of the basis of the increased vegetation management spending of $2.1 million in O&M.[1161]

This PFD finds that the Commission should reject Staff's recommended cost-benefit analysis regarding I&M's use of different specific distances for ROW radiuses and clearance zones. The different distances Mr. Boutet's proposed be analyzed appear to be randomly chosen, without any supporting evidence showing any correlation to possibly improving the effectiveness of I&M's vegetation-clearing efforts while avoiding

---

[1158] *Id*.
[1159] 6 Tr 2247-2248.
[1160] Staff Initial Brief, 135, citing Case No. U-21297, Order, December 1, 2023, p 376; Case No. U-21389, Order, March 1, 2024, p 311.
[1161] 4 Tr 1303; Ex. IM-104R.

unnecessary vegetation management costs by over-trimming.[1162] Moreover, as Mr. Boutet acknowledged, I&M's Plan provides that I&M is expanding its right-of-way clearances to allow for "more aggressive trimming of trees" that pose threats.[1163] Thus, the recommended cost-benefit analysis is not needed for that which I&M has committed to undertake.

Regarding Staff's assertion that its recommendation is supported by prior Commission orders, this PFD notes that neither referenced Order mandated a cost-benefit analysis for recommended specific distances for clearing radiuses or clearance zones; rather, both Orders directed the utility to provide an analysis of the feasibility of more aggressive tree trimming,[1164] which Mr. Boutet acknowledges is exactly what I&M has already committed to do.[1165]

c. Service Drop Tree Trimming

Mr. Boutet testified that when I&M receives customer inquiries and concerns about service drops, I&M will determine if work is necessary and how urgently. He added that if mitigation is necessary, I&M will directly trim the service drop to I&M's standards for clearance. He states that if mitigation is not immediately necessary, the customer may hire a contractor to trim beyond clearance ranges.

[1162] See, e.g., 3 Tr 243-244. ([O]ver-trimming of those circuits that do not require such a short maintenance schedule will further offset the cost savings . . . [with] resultant unnecessary vegetation management costs.")

[1163] 6 Tr 2247. See, also, Ex. IM-104R, p 44.

[1164] Case No. U-21297, Order, December 1, 2023, pp 352-353 (The Commission adopts Staff's recommendation for an "analysis of the feasibility of trimming trees more aggressively."); Case No. U-21389, Order, March 1, 2024, p 163 (The Commission directs Consumers to provide "an analysis of the feasibility of more aggressive line clearing.").

[1165] 6 Tr 2247.

Noting that I&M does not track the status and timelines of customer requested service drop trimming, Mr. Boutet stated that Staff recommends that I&M should begin tracking the status of residential service drop trimming requests, with dates being recorded for when a customer inquiry is made, when the work is evaluated for necessity, and if applicable, the date on which work was completed. He testified that this data should be maintained by I&M for a minimum of three years in the event a future request is made by Staff or the Commission to review such data. He stated that this will allow I&M to demonstrate that service drop issues are being evaluated and handled in a timely manner.[1166]

Mr. Ozar testified that I&M's customers are responsible for maintaining I&M's facilities free from obstruction. He observed that I&M does not trim limbs in the vicinity of service drops, or otherwise create any type of clearance zone, despite the fact that an incidental inspection will not occur for another five years.[1167] While noting that I&M owns the service drop lines, Mr. Ozar opined that the Company's policy is not reasonable and prudent. According to him, although I&M transitioned to a proactive vegetation management program approximately five years ago, that change was limited to primary and secondary distribution lines, and that for overhead service lines, I&M still relies upon customer compliance as the primary means of maintaining a clearance zone around its overhead service lines, and the Company only intervenes when there is a service line outage.[1168] Mr. Ozar stated that in the 2022 historical test period, I&M experienced 1,273

[1166] 6 Tr 2248.
[1167] 3 Tr 248-249.
[1168] 3 Tr 249.

Non-MED, tree-related service line outages and 1,795 MED tree-related service line outages.[1169]

Mr. Ozar opined that the economic challenge created by placing responsibility for properly maintaining I&M's overhead service lines upon low-income customers is likely a significant barrier to compliance, as tree trimming is particularly expensive, requiring highly skilled workers with expertise to work along energized power lines. He added that not all residential customers may be aware of I&M's policy, which may be a compounding factor causing more tree-related outages on service lines than there should be. He testified that that there are multiple problems impeding customer/landowner compliance with the I&M requirement that they are responsible for maintaining a clearance zone around their service lines.[1170]

Mr. Ozar asserts that I&M's policy requiring customers to maintain a clearance zone around overhead service lines is not sufficiently justified by the fact that many other utilities also require customers to maintain a clearance zone around overhead service lines. According to him, I&M is not "benchmarking" a best practice, and instead, I&M "should be focused on learning from utilities that have superb intervention policies. Because tree-related outages are the predominant cause of outages in its service territory, it behooves the Company to take every reasonable action to reduce the level of those outages and mitigate the cost of restoration and adverse impact to customers experiencing such outages, irrespective of what other utilities do."[1171]

[1169] 3 Tr 250. Exhibit CUB 1-20.
[1170] 3 Tr 251-252.
[1171] 3 Tr 252-253.

Accordingly, Mr. Ozar recommended that I&M develop a concrete plan to remediate its maintenance policy with respect to overhead service lines, including a pilot if deemed necessary by I&M, and file a proposal in its next general rate proceeding.

In rebuttal, Mr. Isaacson testified that no evidence suggests that expanding I&M's tree-trimming protocol and procedures around service drop wires is necessary at the present time. He adds that Mr. Boutet and Mr. Ozar's assumption that this is a current issue or concern with customers is not evident. He states that over the past five years, I&M is unaware of this being a concern with its customers, and that I&M promptly addresses questions regarding services related to tree issues. He adds that I&M's practice has proven adequate to alleviate pressing issues, and that expansion of clearance around service drops would appear imprudent and potentially very costly for no identifiable benefit.

This PFD finds that the Commission should adopt Staff's recommendation that I&M should begin tracking the status of residential service drop trimming requests as a prudent first step in determining whether the Company's service drop tree trimming policy should be amended. Indeed, Mr. Boutet stated that compiling and maintaining this data might allow I&M to prove that service drop issues are being evaluated and handled in a timely manner.

This PFD further finds that CUB's recommendation to begin a process of amending the Company's service drop line clearing policy should be rejected at this time. The PFD notes that CUB's representation of the number of service line outages I&M's customers experienced – upon which representation Staff also relies – may be inaccurate. In this regard, Mr. Ozar relies on I&M's discovery response as setting forth the number of tree-related service line outages. However, I&M's discovery response makes clear that the number of outages listed there are those for "any overhead distribution line". And while neither party's witnesses appear to specifically clarify what constitutes a "service line" or a "service drop" and what constitutes a "distribution line", Mr. Ozar suggests that these terms describe separate and distinct line categories. As such, the number of outages I&M identifies in its discovery response as being for any "distribution line" appears to relate to a category of lines different from and likely larger than any category limited to "service lines."

d. Major Storm Expense

The Company projects the Major Storm O&M expenditures to be $3.76 million in the test year.[1172] This amount is based on a five-year average of the spending in this category. I&M states that this methodology was ordered by the Commission in Case No. U-20359 with: "In its next general rate case I&M will propose that major storm expense be based on a five-year average."[1173] Mr. Isaacson provided the Major Storm expenses for the period 2018 through 2022 and calculated the average.[1174]

Mr. Coppola observed the Company made a special adjustment (O&M-1) to the forecast for distribution O&M expenditures of $1,603,000.[1175] He testified that the Company did not provide support for this adjustment.[1176] In reviewing work papers, he discovered that the Company's forecast model showed an amount of $2,159,025 for Major Storm expense. He noted the forecast amount equals the amount projected in this

---

1172 4 Tr 1284.
1173 January 23, 2020, Order, Case No. U-20359, p 4.
1174 4 Tr 1283-84. Figure DSI-16.
1175 6 Tr 2483. This adjustment is O&M-1 and is shown in Exhibit IM-50.
1176 6 Tr 2483.

matter plus the amount in adjustment O&M-1. Mr. Coppola testified adjustment O&M-1 appears to be a mathematical adjustment to increase the O&M expense amount produced by the Company's financial model to the five-year average. Noting that the Company did not provide a copy of its financial model to support the original expense calculation or the adjustment, Mr. Coppola testified that parties have no ability to validate the source data from the Company's financial model. He recommended that the Commission disallow $1,603,000 from this O&M expense.[1177]

Ms. York also recommended an adjustment to I&M's projected O&M related to Major Storm expenditures. Asserting the historical expense amount for 2022 is much higher than in other years, Ms. York recommends that the Company base its average major storm expense on the period 2018 through 2021. This results in an expense of approximately $2.860 million, a reduction of the projected amount by $900,000.[1178] Noting that the number of major event days remained fairly consistent during the period, except for a small increase in 2021, Ms. York testified Major Storm expense increased from approximately $1.5 million in 2018 to $7.4 million in 2022.[1179] She asserted that rising inflation and a major "derecho" storm event in 2022 may have increased the cost for 2022, creating an outlier amount of major storm expenditures.[1180] Ms. York testified that the Company has not explained why the major storm expense increased by 78% in 2022, relative to 2021 despite the number of major event days remaining steady. She

[1177] 6 Tr 2483.
[1178] 3 Tr 106.
[1179] 3 Tr 105.
[1180] *Id*.

therefore recommended exclusion of that data from the average used to calculate this expenditure.[1181]

In its brief, ABATE argues I&M did not adequately demonstrate the reasonableness or prudence of its projected Major Storm expense and recommends that the Commission adjust expenditures based on Ms. York's calculations.[1182] ABATE contends "[t]he five-year average utilized by the Company reflects an anomalous 2022 expense which is not reasonable to include in the determination of a projected test year expense."[1183] And ABATE reiterates Ms. York's comparison of major event days and major storm expenditures.[1184] Based on Ms. York's testimony, ABATE recommends that the Commission reduce I&M's forecast Major Storm expenditures by $900,000.[1185]

In her brief, the Attorney General did not dispute the Company's calculation of a five-year average for major storm expense to project the amount for the test year. However, the Attorney General asserts that the $1,603,000 adjustment in O&M-1 did not result in an amount equal to the five-year average.[1186] The Attorney General explains in detail her assertion that the Company actually based its calculation on the 2022 historical amount which was already higher than the five-year average.[1187] The Attorney General argues:

> At a minimum, the Commission should adopt the Attorney General's recommendation to remove the $1.6 million adjustment, because it is unfounded and inaccurate. Alternatively, the Commission should remove the $1.6 million adjustment, and then also remove the difference between

---

[1181] 3 Tr 106.
[1182] ABATE brief, 9-10.
[1183] ABATE brief, 9.
[1184] ABATE brief, 9.
[1185] ABATE brief, 10.
[1186] Attorney General brief, 143.
[1187] Attorney General brief, 143-147.

the $7,359,000 of actual major storm expense for 2022 and the five-year average figure of $3,760,000 mandated by the settlement, or $3,599,000, for total major storm expense removed of $5.2 million.[1188]

In its brief, I&M argues that both Mr. Coppola's and Ms. York's recommendations are contrary to the Commission's order in Case No. U-20359.[1189] The Company states that ABATE's proposal to use a four-year average is inconsistent with the Commission's order and use of an average is reasonable and prudent.[1190] And the Company asserts that Mr. Coppola aptly characterized the O&M-1 adjustment to be a mathematical increase; the adjustment increases the projected Major Storm expense to the amount required by the Commission.[1191] The Company took issue with the Attorney General's analysis of how the Major Storm expense was calculated in its reply brief, referring to it as nonsensical.[1192] I&M argues that Mr. Wnek's explanation during cross-examination was clear when he explained where the figure of $3,759,548 came from. He testified that the Company's forecast model projected Major Storm expense to be $2,159,025 and, in order to propose the five-year average, the O&M-1 adjustment was necessary.[1193]

This PFD finds that, while there are anomalies in the rebuttal testimony of the Company witnesses, there is also clarity in Mr. Wnek's cross-examination testimony. He clearly testified that I&M calculated Major Storm expense based on the Commission's order to use a five-year average of historical data. The five-year average equals $3.759 million. Mr. Wnek unmistakably testified that in order to comply with the Commission's

[1188] Attorney General brief, 147.
[1189] I&M brief, 201.
[1190] *Id*.
[1191] I&M brief, 201; referencing January 23, 2020, Order, Case No. U-20359, p 4.
[1192] I&M reply, 78.
[1193] 5 Tr 1866-1867.

order, the Company implemented adjustment O&M-1 to adjust the amount forecast by its model.[1194] The adjustments proposed by both the Attorney General and ABATE do not comply with the Commission's order to use a five-year average. Accordingly, this PFD recommends that the Commission reject the disallowances proposed by the Attorney General and ABATE.

On behalf of CUB, Mr. Ozar recommended that the Commission direct I&M to adjust its the historical five-year average for inflation less productivity in future rate cases.[1195] He stated that the Company has experienced a 25% improvement in reliability due to capital investments in distribution and claimed:

> Because historical cost data for service restoration does not fully reflect improvements in reliability in past years, nor improvements expected via investments in reliability made through the projected test year, adjustment of historical data is appropriate. In this way, ratepayers will obtain the full benefits of the investments which they are funding through their rates. As to inflation, it is reasonable to also adjust historical data for cost increases not fully reflected in historical data.[1196]

In rebuttal, Mr. Isaacson disagreed with CUB's proposal. He noted that the Commission ordered use of a five-year average and testified: "Anything other than the previously agreed upon methodology would be contradictory to the Commission approved Settlement Agreement in its last base rate case."[1197] He asserted that Mr. Ozar's recommendation does not account for the number of storms or the increasingly erratic and unpredictable nature of storm events and asserted that the five-year average accounts for these factors.[1198] Mr. Isaacson testified that the increases in costs related

---

[1194] 5 Tr 1866-1867.
[1195] 3 Tr 239.
[1196] *Id*.
[1197] 4 Tr 1306; referencing January 23, 2020, Order, Case No. U-20359, p 4.
[1198] 4 Tr 1306-1307.

to these events is attributable to inflation and opined that the Commission likely understood this when approving the method in I&M's prior rate case.[1199]

In its brief, CUB reiterates Mr. Ozar's arguments asserting that the five-year average does not reflect the cumulative improvement in reliability that result from the distribution capital expenditures and therefore, does not reflect the associated cost savings.[1200] Describing Mr. Ozar's suggestion as "a refinement in the five-year average methodology, not a wholesale replacement," CUB argues this will allow customers to experience the benefits of the Company's capital investments.[1201] And CUB argues that Mr. Isaacson's assertion that the Commission reasoned that inflationary projections are not included in the Company's calculations, is speculation.[1202]

In its brief, I&M reiterates it followed the Commission's order and argues CUB's proposal should be rejected. The Company asserts that: "Mr. Ozar's proposition does not acknowledge the number of storms or the inherent costs that are affiliated with each storm."[1203]

This PFD finds I&M's arguments to be more persuasive. As I&M notes CUB's recommendation is speculative and while its goals are laudable there is no evidence that the proposal will achieve those goals. More importantly the Company followed the Commission's order when it utilized the five-year average. Accordingly, this PFD recommends that the Commission reject CUB's proposal.

e. Other

[1199] 3 Tr 1307.
[1200] CUB brief, 26.
[1201] CUB brief, 27.
[1202] *Id*.
[1203] I&M brief, 200.

Mr. Coppola testified that I&M's test year projection for distribution O&M is over-inflated and asserted that the Company did not support the distribution expense projections.[1204] He stated that I&M provided an operations expense of $23,722,000 for the first 10 months of 2023. After annualizing this amount, and applying an inflation factor, he estimated the 2024 O&M expense to be $29,149,000. He stated this is $5,036,000 above the Company's forecasted expense of $34,182,000.[1205] He asserted the I&M did not provide a justification for this increase and recommended that the Commission disallow this unexplained increase. He testified that $984,000 is the portion attributable to the Michigan jurisdiction.[1206]

Mr. Isaacson testified that there were several concerns with Mr. Coppola's recommendations and repeated the Company's objections to use of historical data rather than the data provided in the initial filings and does not consider changes in work plans. He asserted Mr. Coppola's method of annualizing 10 months of data "does not take into consideration variations in monthly spend, which at the end of the year could vary significantly."[1207] Mr. Isaacson contradicted the assertion that insufficient support was provided for this expense.[1208] And he noted that Staff supports the Company's projected distribution O&M, and Mr. Boutet found the increase to be in line with inflation.[1209]

The Attorney General maintains in her brief that I&M did not support its projected increase in distribution O&M expenditures and asserts that Mr. Isaacson did not explain

---

[1204] 6 Tr 2480-2481.
[1205] 6 Tr 2481.
[1206] 6 Tr 2481. Exhibit AG-53.
[1207] 4 Tr 1309-1310.
[1208] 4 Tr 1311.
[1209] *Id*.

the significant year over year increase and the Company did not provide answers in discovery.[1210] The Attorney General asserted that there were flaws in Mr. Isaacson's rebuttal arguments and claimed Staff did not perform a detailed analysis.[1211] Finally, the Attorney General argued Mr. Coppola's approach was consistent with Commission precedent.[1212]

In its brief, I&M disputes the Attorney General's contention that its forecast was over-inflated. The Company repeats its contention that it is improper to use annualized data rather than the projections supplied in the original filing, asserting it is inconsistent with a projected test year. And in its reply brief, I&M reiterates that the Attorney General's comparison to historical spending fails to account for future demands.[1213] The Company also points to Staff's support and observes that Staff specifically argues, in its brief, that the Company's forecast for its distribution O&M expenditures is reasonable.[1214]

This PFD finds the Company's arguments to be more persuasive than the Attorney General's arguments. While the Attorney General argues that the Company's forecast is over-inflated, Staff analyzed the data and concluded I&M's projected increase is in line with inflation. And the Company provided support for the forecast. Accordingly, this PFD recommends that the Commission reject the Attorney General's proposed disallowance.

5. Information Technology and Security O&M Expenses

[1210] Attorney General brief, 139.
[1211] Attorney General brief, 139-140.
[1212] Attorney General brief, 140.
[1213] I&M reply, 76.
[1214] I&M reply, 76; referring to Staff brief, 94.

The Company forecasts its O&M expenses for Technology and Security to be $21.9 million for the test year.[1215] Mr. Brenner testified the Company made an adjustment (RB/O&M-3) to the forecast amount which increased O&M expenses for IT by $5.928 million.[1216] He testified that this increase reflects expenditures to address aging infrastructure, "[i]n particular the O&M expenses reflect an increased focus on stability and security issues including a shift to cloud based technologies."[1217] He testified that this results in an increase in costs for subscription services, software, hardware, and labor services, and this adjustment accounts for the increase. He described the drivers of the increase in Technology and Security IT expenditures and testified that the Company anticipates growth in demand for these services.[1218]

Based on Mr. Coppola's testimony the Attorney General does not dispute I&M's original forecast, of $21.9 million, for the IT O&M expenses. However, Mr. Coppola testified that I&M made an adjustment (RB/O&M-3) which increased this expense by $5.6 million on a total Company basis or $913,000 allocated to the Michigan jurisdiction.[1219] He testified that the Commission should disallow this adjustment as I&M provided only broad reasons for the increase, such as aging infrastructure, higher software and equipment costs, and higher labor costs, but did not provide specifics, even after

[1215] 3 Tr 851.
[1216] 3 Tr 852. This adjustment is O&M-1 and is shown in Exhibit IM-50.
[1217] 3 Tr 852.
[1218] 3 Tr 852-853.
[1219] 6 Tr 2492. There is an anomaly between the amount provided by Mr. Brenner and the amount provided by Mr. Coppola for this expense. Mr. Brenner stated the amount is approximately $5.9 million (3 Tr 852) and Mr. Coppola stated the amount is $5.6 million (6 Tr 2492; with an apparent typographical error of $6.6 million at 6 Tr 2492.) The parties repeat the inconsistency in their respective briefs. This PFD notes that Mr. Brenner refers to an adjustment amount of $5.6 million when addressing Mr. Coppola's proposed adjustment. Therefore, this PFD is using the $5.6 million figure noting it is supported by Exhibit AG-101.

requested in discovery.[1220] Mr. Coppola stated that the projected costs, prior to the adjustment, are in line with historical costs. And he testified "it is perplexing why the Company would not have included the expense items . . . in the financial model forecast if these items are critically necessary."[1221] He contended that these cost items should have been accounted for in the financial model. He asserted that the costs identified by Mr. Brenner in this category did not arise suddenly and should have been included in the original 2024 forecast created by the financial model.[1222] And he testified, based on ten months of actual expenses in 2023, the IT O&M expenses in the test year would only reach the amount originally forecasted by the model and therefore adjustment RB/O&M-3 is excessive.[1223]

In rebuttal, Mr. Brenner disputed Mr. Coppola's assertion that RB/O&M-3 unnecessarily increases IT O&M costs and reiterated the reasoning for the adjustment.[1224] Based on Mr. Brenner's testimony, I&M challenges Mr. Coppola's assertion that the costs associated with adjustment RB/O&M-3 should have been captured in the forecast, arguing that the forecast was based on the best information available at the time; however, the Company later determined there were legitimate cost increases in the budget which required the adjustment.[1225] The Company reiterates that significant increases in software and hardware maintenance and subscription costs account for the increase.[1226]

[1220] 6 Tr 2493.
[1221] *Id*.
[1222] 6 Tr 2494.
[1223] *Id*.
[1224] 3 Tr 919.
[1225] I&M brief, 208. 3 Tr 919.
[1226] *Id*.

In her brief, the Attorney General repeats that reasons provided for the increased expenses do not arise suddenly and should have been included in the forecast generated by the financial model.[1227] Pointing to Mr. Brenner's testimony in cross-examination, the Attorney General argues he could not explain the need to adjust the original forecast amount.[1228] Noting that the original forecast was finalized in February of 2023 and that the adjustment was made in April 2023, the Attorney General claims that the evidence does not establish I&M's contention that increase costs are responsible for the adjustment. The Attorney General argues that the Commission should not rely on the "generalities and inconsistent [and] unsupported information to approve significant cost increases."[1229] The Attorney General included a breakdown of the specific expense adjustments covered by RB/O&M-3, which, when totaled, equal approximately $5.6 million.[1230]

In its brief, I&M repeats Mr. Brenner's assertions and argues the O&M portion of adjustment RB/O&M-3 should not be disallowed.[1231] The Company reiterates that the cost increases should be considered in light of its budget and increases in software costs, need for efficient operations, are reflected in the adjustment. And the Company notes that no other party took issue with the adjustment.[1232]

This PFD finds the arguments made by the Attorney General to be more persuasive. The Attorney General persuasively argues that the reasons provided for

[1227] Attorney General brief, 162.
[1228] Attorney General brief, 162-163.
[1229] Attorney General brief, 164.
[1230] Attorney General brief, 163. This information supports the conclusion that the amount of this adjustment is $5.6 million.
[1231] I&M brief, 208.
[1232] I&M brief, 209.

adjustment RB/O&M-3 do not support the additional costs. It is reasonable to expect that the Company's forecast to capture inputs such as aging infrastructure, higher labor costs, and higher equipment costs. Accordingly, this PFD recommends that the Commission disallow adjustment RB/O&M-3 which increased the IT expenses by $5.6 million on a total Company basis or $913,000 allocated to the Michigan jurisdiction.

6. AMI O&M Expense

The Company states that deployment of AMI is complete and argues a review of the evidence associated with capital costs (discussed above), establish the program was prudently implemented.[1233] I&M argues customers have already realized benefits from AMI.[1234] Mr. Walters presented a comparison of the expected 2023 cost reductions in the AMI CBA to the actual 2023 results and asserted they are consistent with the level of reductions contemplated in the AMI CBA[1235] He testified:

> All avoided O&M benefits reflect an absence of cost for the specific activities in the forecast test year. Some are distinctly identifiable at the FERC account level, like meter reading, while the others are not. As stated by Company witness Isaacson in his direct and rebuttal testimony, the Company is realizing the benefits of AMI but the costs for other related activities accounted for within the same FERC accounts can mask the absence or reduction of pre-AMI costs. . . . the nature of these costs and the appropriate accounting of the costs do not provide clear identification that would allow for a one-for-one type of comparison.

Mr. Coppola asserted that I&M did not account for any financial benefits associated with the AMI program in its filings and the Company stated in discovery it had not identified or analyzed the financial benefits of AMI.[1236] Pointing to Exhibit I&M-29, showing the cost

---

[1233] I&M brief, 203.
[1234] *Id*.
[1235] 5 Tr 1494. Figure JCW-1R.
[1236] 6 Tr 2494-2495.

benefit analysis, he testified a total of $1,200,000 in financial benefits are identified which should be included in this case.[1237] Mr. Coppola testified:

> For 2024, the analysis shows $700,000 of avoided O&M expense and $500,000 of increased revenue from reduced bad debt expense, less gas theft, and less unauthorized power usage. These amounts are increases over the financial benefits in 2022. The total financial benefits from these two areas are $1,200,000. On page 54 of the exhibit, the Company shows incremental expense from the implementation of AMI of $600,000, which is an increase of $100,000 over 2022. Therefore, the net financial benefit that should accrue to customer for 2024 is $1,100,000.[1238]

Mr. Coppola recommended that the Commission included this $1,100,000 reduction to the projected 2024 O&M expenses for AMI.[1239]

In its brief, the Company acknowledges that it did not conduct an analysis of avoided O&M expense after deployment, but argues that Mr. Walters demonstrated that customers are receiving benefits.[1240] I&M argued The Commission should not accept the argument that because the Company cannot identify a specific account reduction AMI benefits have not been realized and asserted this would in penalize the Company for properly accounting for costs according to the FERC uniform system of accounts.[1241]

In her brief the Attorney General disputes I&M's assertion that Mr. Walters comparison demonstrated that the Company is realizing benefits and argues:

> The problem is that the table does not prove that I&M is realizing any cost-savings benefits from AMI. Nor does it prove that the costs are already avoided and included in the forecast. The CBA columns of the table include projections of both avoided units and avoided costs, but the columns comparing actuals to forecast omit any estimate of avoided costs associated with the avoided units. That is the case even though the CBA

[1237] 6 Tr 2495.
[1238] *Id*.
[1239] *Id*.
[1240] I&M brief, 204.
[1241] I&M brief, 206.

> used per-unit cost estimates to calculate all of its avoided O&M expense estimates.[1242]

The Attorney General also notes that that Mr. Coppola's analysis addressed the test year, not 2023 and any alleged benefits that may have accrued in 2023 are note pertinent to the test year.[1243] Because the Company has not provided even a reasonable estimate of the O&M savings, the Attorney General requests the Commission to accept the disallowance calculated by Mr. Coppola.

Staff recommends the Commission disallow all requested capital expenditures associated with the Company's AMI program. Staff challenges I&M's assertions that benefits have resulted from the deployment of AMI.[1244] Staff argues that the Company's assertions of benefits that cannot be quantified does not support the AMI projections and maintains:

> [I]n this case the Company fails to prove that it intends to pass these benefits onto its customers and not its shareholders. O&M costs are a key component of setting rates that are reasonable and prudent. As stated above, a failure to demonstrate expected O&M reductions as a result of an investment that the Company expects customers to pay for means that shareholders are the sole beneficiaries of the investment.[1245]

As noted above, this PFD recommends that the Commission adopt Staff's proposed disallowance of all capital expenditures associated with AMI. As part of the reasoning, this PFD agrees with the assertion that I&M has not demonstrated that any benefits have been realized by the AMI deployment. This PFD finds Staff's argument that I&M failed to support the expenditures associated with AMI to be persuasive (discussed

[1242] Attorney General brief, 169-170. See Exhibit IM-29.
[1243] Attorney General brief, 169.
[1244] Staff brief, 32-33.
[1245] Staff brief, 32.

above). While the Company repeatedly argues the alleged benefits associated with AMI are avoided costs, it did not even account for the quantified costs found identified in the CBA. Any AMI expense included in I&M's projected O&M are related to its proposed capital expenditures and therefore should be disallowed for the same reasoning discussed above. Accordingly, this PFD recommends that the Commission reject all O&M expenses related to the AMI program. In the alternative, if the Commission does not accept Staff's proposed adjustment, this PFD recommends the disallowance proposed by the Attorney General.

7. General O&M Expenses

The Attorney General and Staff recommend adjustments to the forecast O&M expenses in this category.

a. Supplemental Employee Retirement Plans (SERP)

I&M forecasted total Company SERP O&M expenditures to be $125,911 in 2023 and $209,008 in 2024.[1246] The Company argues that these qualified retirement plans "are an integral component of a reasonable and market competitive total rewards package for employees at these compensation levels with the scarce experience, knowledge, capabilities, and skills to ensure efficient and reliable service to customers.[1247]

Mr. Coppola recommended that the Commission remove $209,000 included by I&M in O&M for SERP expense in the projected test year. He testified that the Commission routinely rejects inclusion of SERP expenses in base rates. He calculated

[1246] I&M brief, 209. 4 Tr 1160.
[1247] I&M brief, 210. 4 Tr 1178.

the Michigan jurisdiction amount to be $34,000 and recommended that the Commission disallow it in this case."[1248]

Staff also recommends that the Commission disallow $34,000 in SERP O&M expenses. Staff argues that the Commission has consistently ruled "that the benefits of this plans accrue to investors in the form of higher share prices and dividends but benefit ratepayers only tangentially."[1249]

Ms. Kerber provided rebuttal testimony to support inclusion of SERP expenses, repeating arguments that the compensation is necessary to attract and retain qualified employees.[1250] And in its brief, I&M reiterates the assertion that "SERPs are an integral component of a reasonable and market competitive total rewards package for employees at these compensation levels with the scarce experience, knowledge, capabilities, and skills to ensure efficient and reliable service to customers."[1251]

Staff and the Attorney General repeat that the Commission has long disallowed these expenditures, and both argue the SERP O&M expenditures in the test year should be disallowed.[1252]

This PFD finds the argument of Staff and the Attorney General to be more persuasive and consistent with Commission precedent. Accordingly, this PFD recommends that the Commission accept the disallowance of $34,000 as proposed by Staff and the Attorney General.

[1248] 6 Tr 2499. Exhibit AG-62.
[1249] Staff brief, 68; citing April 22, 2018, Order, Case No. U-18370, p 57-58. (This was I&M's last contested rate case.) See also December 22, 2005, Order, Case No. U-14347, p 34.
[1250] 4 Tr 1177.
[1251] I&M brief, 210; citing 4 Tr 1178
[1252] Staff brief, 93. Attorney General brief, p 177.

b. Nuclear Electric Insurance Limited (NEIL)

The Company states that a substantial factor in the forecasted increase in spending for the Administrative and General expenses category is related to an increase in property insurance associated with a NEIL refund that occurred in the 2022 historical.[1253] Mr. Wnek testified that I&M projects a total refund in the amount of $4 million based on information provided by NEIL.[1254] He testified NEIL estimated $225 million in policy distributions from 2023 would be paid in the test year. He stated:

> The AEP system receives approximately 2.2% of the overall distribution, of which a portion is allocated to I&M's Nuclear business unit. In this case, the total estimated refund for the AEP system was approximately $5 million, of which approximately $4 million was allocated to I&M's Nuclear business unit which is reflected in the Company's projected Test Year O&M Expense.[1255]

Mr. Coppola testified that this NEIL refund amount is based on preliminary guidance and should not be relied upon as it is "considerable understated."[1256] He testified that the Commission has approved use of a five-year average of historical refunds because of the annual volatility of these refunds. Observing that the annual refunds have ranged from $5.9 million to approximately $12 million during the period from 2018 to 2022, Mr. Coppola testified he calculated the five-year average to be $9,559,000.[1257] He testified that the guidance from NEIL has been unreliable in the past and discussed some examples.[1258] He recommended that the Commission utilize the

[1253] I&M brief, 213. Exhibit IM-101R
[1254] 5 Tr 1750. I&M brief, 213.
[1255] 5 Tr 1750-1751.
[1256] 6 Tr 2497-2498. Exhibit AG-60.
[1257] 6 Tr 2497.
[1258] 6 Tr 2498.

five-year average, which is a total increase of $5,559,000 or $914,000 for the Michigan jurisdictional amount.[1259]

In rebuttal, Mr. Wnek testified that Mr. Coppola's use of a five-year average was inappropriate because it does not take into account the relevant information provided by NEIL to develop the forecast and he asserted that "the NEIL distribution is based on underwriting results and expected investment returns, therefore past performance is not necessarily indicative of future results."[1260] And Mr. Wnek testified that the Company received an updated projection from NEIL in December of 2023 showing an increase in the projection, with $5.6 million allocated to I&M.[1261]

In her brief, the Attorney General argues that the Company's reliance on preliminary guidance from NEIL was inappropriate because it is "typically unreliable." The Attorney General argues that use of a five-year average of the refunds is more reasonable.[1262] Noting that Mr. Wnek testified that the NEIL preliminary guidance has already been increased, the Attorney General claims this supports Mr. Coppola's contention and that use of his calculations are more appropriate.[1263]

In its brief, I&M relies on Mr. Wnek's testimony and argues that use of the guidance from NEIL was reasonable.[1264] The Company argues that the amount proposed by the Attorney General is over-inflated and points to the fact the updated guidance showed an amount of $5,600,000, which is significantly lower than the $9,559,000 calculated by

---

[1259] 6 Tr 2498.
[1260] 5 Tr 1751.
[1261] 5 Tr 1752.
[1262] Attorney General brief, 175.
[1263] Attorney General brief, 176.
[1264] I&M brief, 213-214. 5 Tr 1751.

Mr. Coppola.[1265] However, I&M states that "[b]ased on prior allocation a proxy of $5.6 million allocated to I&M is likely."[1266]

This PFD finds that, in this case, reliance on NEIL guidance on the refund amount is reasonable. The Attorney General's argument that NEIL preliminary guidance is unreliable is not wholly without merit, as new guidance was released during the pendency of this case. However, the amount calculated by Mr. Coppola is significantly higher and his methodology has not been shown to be more appropriate than relying on the NEIL guidance. Having said that, however, there is updated guidance from NEIL, and this PFD recommends that the Commission utilize the updated guidance for NEIL for the proposed expenses in this case. Accordingly, this PFD recommends that the Commission adjust the total refund for NEIL to the amount provided in that guidance to $5,600,000, from the amount originally forecast in this case.

c. Medical Expenses

Mr. Coppola stated that I&M forecasted $27,408,000 for Group Medical Insurance Premiums in the test year[1267] Asserting that this amount is overstated, he testified that this expense has ranged between $22.2 million and $22.6 million from 2019 to 2022 and that the Company did not explain its forecast methodology or the reason for the increase.[1268] He testified that "[f]or the first 10 months of 2023, the Company incurred expenses of $19 million, which when annualized indicate an annual expense of $22,825,000. This amount, when adjusted for 2024 inflation, results in an expense

---

[1265] I&M brief, 214-215. 5 Tr 1752.
[1266] *Id*.
[1267] 6 Tr 2494; referencing Account 926005.
[1268] 6 Tr 2496.

amount of $23,373,000."[1269] Mr. Coppola compared the difference between his computation and the Company's and recommended that the Commission disallow the difference of $4,035,000, which resulted in a decrease of the O&M expense allocated to the Michigan jurisdiction of $664,000.[1270]

In rebuttal, Ms. Kerber testified that the Company's forecasted Group Medical Insurance premiums are based on accepted industry practices and health care spending projections. She challenged Mr. Coppola's method of using annualized data from part of 2023 and stated this is not an accurate forecast method.[1271] Ms. Kerber explained that the group and medical insurance premiums for the test year were developed in consultation with a reputable consulting firm "to provide actuarial services that leverage an array of available data."[1272] She detailed the forecasting inputs and assessments made, along with adjustments for known changes and projected fees. She testified that the "test year forecast reflects a projected spend resultant from a consistent methodology, applied each year across the AEP System, and uses the best data and information available at the time of forecast development."[1273]

In her brief, the Attorney General repeats the assertion that the Company did not support the projected increase in this expense and argued that Mr. Coppola's calculations were more reflective of the actual expenses.[1274] The Attorney General objects that the Company did not provide any meaningful information in response to discovery and then

[1269] 6 Tr 2496.
[1270] *Id*.
[1271] 4 Tr 1178.
[1272] 4 Tr 1179.
[1273] *Id*.
[1274] Attorney General brief, 171.

relies on Ms. Kerber's testimony as rebuttal. Arguing that this is improper, the Attorney General asserts the Commission should not rely on this rebuttal testimony as support.[1275]

In its brief, I&M repeat its assertion that its forecast was supported, and it was improper to annualize data from 2023. And the Company argues that Mr. Coppola's analysis what is simplistic and inappropriate for projecting O&M expenses with numerous and complex variables such as health care spending costs.[1276] And the Company argues that it used industry standard methodologies and the best data available to forecast this expense.[1277]

In its reply brief, I&M argues that Ms. Kerber "did not change the Company's discovery position but elaborated and explained the increase was due to expected increase in insurance premiums and that expectation was supported by industry standard methodologies."[1278]

The Attorney General's complaint about I&M's response to her discovery request is meritorious. The Company provided a circular response in discovery, and then provided rebuttal to Mr. Coppola's proposed disallowance with a detailed answer to the question asked in discovery. As noted above, the Commission has ruled that this is not acceptable. Accordingly, this PFD finds I&M did not support this proposed O&M expense and recommends the Commission decrease on the O&M expense allocated to the Michigan jurisdiction by $664,000.

d. Credit Card Fees

[1275] Attorney General brief, 173-174.
[1276] I&M brief, 211.
[1277] I&M brief, 211-212.
[1278] I&M reply, 82. 4 Tr 1178-1179.

Ms. McMillan-Sepkoski testified that the Company included $2,084,000 in credit card expenses in the projected test year.[1279] She testified that Staff calculated a five-year average based on the historical costs and find it to be a more reasonable method to calculate the projected credit card fees going forward[1280] Based on this calculation Staff recommend a $193,000 disallowance, resulting in an expense amount of $1,891,000 in the projected test year.[1281]

Staff also recommends that the Company socialize (or allocate) the credit card fees to those rate classes for whom this is a payment option. Ms. McMillan-Sepkoski testified that Staff learned in response to discovery that these credit card fees are socialized to all rate classes. She stated there should be no cross subsidization of these fees to customers who are not permitted to use them. Staff therefore recommends the Commission direct I&M to socialize credit card fees to the rate class where there is no cost for the service.[1282]

In rebuttal, Ms. Seger-Lawson asserted that its forecasting methods are the more appropriate to project these expenses than Staff's five-year average.[1283] And she responded to Staff's proposed change to the socialization process with:

> I&M recovers the residential fee-free payment costs in base rates similar to other costs which are shared amongst all customers, such as the cost to print and mail bills. The more convenient I&M can make it for residential customers to pay bills, the more it can benefit all customers. Residential customers who self-serve, pay on time and are satisfied with the options they have are the least expensive to serve, which is a benefit to all customers. Residential customers who do not pay on time and end up in

[1279] 6 Tr 2238.
[1280] 6 Tr 2238. See Exhibit S-9.4.
[1281] *Id*.
[1282] *Id*.
[1283] 6 Tr 2019.

the credit collections cycle drives increased uncollectible expenses, which ultimately increase rates for all customers.

In its brief, I&M repeats its disagreement with Staff's use of a five-year average, noting that the projected expenditures are in line with historical averages. And in response to Staff's other proposal, the Company repeats Ms. Seger-Lawsons' contentions.

This PDF finds Staff's arguments to be persuasive and finds the forecast method for calculation of the credit card fees, based on a five-year average, to be more precise than the method used by I&M. Accordingly, this PFD recommends that the Commission disallow the $193,000 amount proposed by Staff. This PFD also finds Staff's proposal to socialize or allocate the costs associated with credit card fees to customer classes that are not charge for the service to be more equitable than the method used by the Company. Accordingly, this PFD recommends that the Commission adopt Staff's proposal.

8. Customer Service Information (CIS) system O&M

Staff recommends a disallowance of the Michigan jurisdictional amount of $103,000 related to the CIS program. Staff makes reference to its arguments related to disallowance of the capital expenditures related to the CIS program and recommends disallowance of the O&M expenses for the same reasons.[1284]

In its reply brief, the Company argues that Staff's proposed disallowance of O&M expenses related to the CIS project should be rejected.[1285]

[1284] Staff brief, 89.
[1285] I&M reply, 80.

As noted above, this PFD recommends that the Commission disallow all capital expenditures associated with the CIS project. This PFD finds that the Company did not support the projected expenditures for this program. Accordingly, this PFD recommends the Commission Staff's proposed disallowance of $103,000 related to the CIS project.

9. Uncollectible Accounts Expense

a. Test Year Projection

Mr. Coppola observed that I&M forecasted uncollectible accounts expensed for the projected test year to be $1,359,000.[1286] He asserted I&M unnecessarily "mingles" costs between Indiana and Michigan because it used the total jurisdictional uncollectible expense and allocate approximately 19.5% to the Michigan jurisdiction.[1287] He testified that "[t]his approach is inappropriate when specific information pertaining to Michigan customers is available."[1288] Pointing to Exhibit AG-64, in which I&M provided historical information for sales and net charge-offs for Michigan customers, the Attorney General argues that specific data exists and its use is more appropriate.[1289]

Next, the Attorney General argues that the Company used forecasted uncollectible accounts expense for 2024 but did not use the ratio of bad debts net charge-off to sales revenue, which is the conventional approach.[1290] Using Exhibit AG-65, Mr. Coppola testified:

> I first calculated the average ratio of historical bad debts charged-off to historical sales revenues for the past three years from 2020 to 2022. I then applied the resulting ratio of 0.2221% to the projected Michigan sales

[1286] 6 Tr 2501.
[1287] 6 Tr 2501. Exhibit AG-64.
[1288] 6 Tr 2501.
[1289] Attorney General brief, 180.
[1290] Attorney General brief, 180. 6 Tr 2501.

revenue for 2024. The result is the forecasted uncollectible accounts expense of $828,000 for the projected test year.[1291]

Mr. Coppola testified that this calculation resulted in a projected uncollectible account expense of $828,000 in the test year, a decrease of $531,000 from the expense projected by the Company.[1292] Based on Mr. Coppola's calculations, the Attorney General recommends the Commission accept the uncollectible account expense as $828,000, rather than $1,359,000 as project by I&M.[1293]

I&M did not directly address this issue in its brief; however, Company witness Morgan testified the method used by Mr. Coppola to calculate the attorney general's proposed disallowance was flawed.[1294] He testified that the allocator of 19.5% used by the Company was based on actual historical uncollectible account expense for the calendar year ending 2022, and asserted that its use was more reasonable.[1295] And Mr. Morgan testified that "Mr. Coppola's approach inappropriately uses a historical three-year average, which includes the abnormal effects of COVID."[1296] He testified that use of 2022 historic data represents a more accurate allocation, and asserted that the method was approved "by the Commission in its most recent base cases, Case Nos. U-20359 and U-18370."[1297]

In her brief, the Attorney General challenges the assertion that I&M's method was approved by the Commission and states: "The order in U-18370 never discusses I&M's

---

[1291] 6 Tr 2506.
[1292] 6 Tr 2502.
[1293] Attorney General brief, 180. 6 Tr 2502.
[1294] 5 Tr 1798-1799.
[1295] 5 Tr 1798.
[1296] 5 Tr 1799.
[1297] *Id*.

method for calculating uncollectible expense. And Case No. U-20359 was a black-box settlement that also mentions nothing about I&M's method for calculating uncollectible expense."[1298] The Attorney General also asserts that the Commission has approved use of the average of the ration of net charge offs to sales revenue in Case No. U-17990.[1299]

This PDF finds the Attorney General's arguments to be more persuasive. Despite I&M's arguments to the contrary, this PFD finds that use of actual data from the Michigan jurisdiction is more accurate than the allocation method used by I&M. And, as the Attorney General properly notes, the Company did not use the ratio of bad debts net charge-off to sales revenue which distorts the bad debt projection. Finally, I&M's assertions that the Commission has approved its approach is not supported citations to Case Nos. U-20359 and U-18370 as they did not specifically address the issue. Accordingly, this PFD recommends that the Commission accept the Attorney General's proposed disallowance of $531,000, the difference between I&M's calculated uncollectable expense ($1,359,000), and that calculated by Mr. Coppola ($828,000).

b. Deferred Uncollectable Expense Related to COVID-19

I&M proposes to amortize bad debt expenditures related to COVID-19, deferred from December 31, 2022, in a total amount of $133,612.[1300] I&M requests that the Commission approve deferred accounting over a two-year period, which results in an increase in the O&M expenses for the test year in the amount of $66,806.[1301] I&M states

---

[1298] Attorney General brief, 180.
[1299] Attorney General brief, 180; citing February 28, 2017, Order Case No. U-17990, p [sic] 109.
[1300] I&M brief, 220. This amount is listed in Adjustment O&M-2 on Exhibit IM-50.
[1301] I&M brief, 220.

that the Commission's July 2022 order in Case No. U-20757 approved deferral of this COVID-19 bad debt expense.[1302]

The Attorney General asserts that the Company did not establish the proposition that it incurred increased uncollectible expenses related to COVID-19.[1303] The Attorney General also argues, based on Mr. Coppola's analysis, that "the Commission [should] remove both the amortization expense of $66,806 and the average deferred balance of $100,209 from 2024 working capital."[1304] Mr. Coppola testified that the fact that the net charge-off to sales ratios were the lowest, when compared to 2018, 2019, 2021, and 2022 indicates "there was no significant spike in uncollectible costs increase subsequent to the outbreak of COVID-19 and the Commission order in Case No. U-20757."[1305] He also noted that the Accumulated Provision for Uncollectible Accounts shows a very low balance of $2,568 for 2022 and opined either too much was written-off in the past or no significant uncollectable account expense should be expected in the future.[1306]

The Company disputes Mr. Coppola's assertion that this the expense is not appropriately supported.[1307] Mr. Ross provided rebuttal testimony stating:

> This deferral captured the I&M Michigan jurisdictional percentage of bad debt costs related to I&M's Michigan retail utility receivables that were above the level included in the Company's most recent Michigan base rate case, Case No. U-20359. It is only reasonable to assume that if the Commission ordered utilities to defer these costs that they would be recoverable, otherwise there would be no reason to defer them.[1308]

[1302] I&M brief, 220. Referring to July 2, 2022, Order Case No. U-20575, p 1.
[1303] I&M brief, 182.
[1304] I&M brief, 183. 6 Tr 2506.
[1305] 6 Tr 2504. Exhibit AG-64.
[1306] 6 Tr 2504. Exhibit AG-67.
[1307] I&M brief, 221.
[1308] 5 Tr 1861.

And Mr. Ross testified that the Accumulated Provision for Uncollectible Accounts referred to by Mr. Coppola does not involve retail utility sales, but includes non-utility sales, including sale of scrap.[1309]

In her brief, the Attorney General argues I&M did not establish that any increase in uncollectible expense was related to COVID-19 and therefore the Commission should disallow the expense.[1310] Noting I&M's contention that the reduction of bad debt in Michigan was attributable to a "favorable collection experience," the Attorney General contends that this makes it impossible to separate COVID-19 bad debt from other uncollectible expenses.[1311] And disputing I&M's assertion that the Order approving deferral supports the expenses, the Attorney General argues the Commission did not approve the expenditures, only the deferral. The Commission held:

> The Commission further finds it appropriate for I&M and UPPCo to include their uncollectible expense deferral amounts in their next general rate case. The uncollectible expense deferral amounts will be subject to review and Commission approval.[1312]

Finally, based on Mr. Ross' testimony, I&M argues that UPPCo received approval to recover its deferred COVID-19 bad debt.[1313] And the Attorney General responds recovery by UPPCo does not establish that I&M's proposed expenses are reasonable and prudent.[1314]

While the Attorney General's argument that the Company provided minimal support for the COVID-19 bad debt expense has some merit, this PFD finds the

---

[1309] 5 Tr 1863.
[1310] I&M brief, 185.
[1311] Attorney General brief, 183.
[1312] August 23, 2022, Order, Case No. U-20757, p 3.
[1313] 5 Tr 1863
[1314] Attorney General brief, 184. Attorney General reply, 45-46.

Company's arguments to be more persuasive. The Attorney General argues that the 2020 net charge-off to sales ratios were the lowest in the five-year period from 2018 to 2022; however, this is misleading as the deferral period included 2021 and 2022, as well as 2020. Most notably, the Accumulated Provision for Uncollectible Accounts utilized by Mr. Coppola does not involve retail utility sales. Accordingly, this PFD recommends that the Commission reject the Attorney General's proposed disallowance.

Mr. Ross testified that "for purposes of determining the adjustment to retail rates for amortizations of various regulatory assets described above, the Company proposes a two-year amortization. The amortization period is based on a reasonable period of time the base rates approved in this proceeding may be in effect."[1315] No party disputed the use of a two-year amortization period for the COVID-19 bad debt expense. However, this PFD recommends that the Commission adjust the amortization period to four years, rather than two. This is consistent with the timeframe recommended for other amortizations in this PFD, and as the Attorney General notes, a two-year amortization would unfairly enrich the Company at the expense of customers if I&M does not file another rate case within the next two years. Accordingly, this PFD recommends that the Commission amortize the COVID-19 bad debt expense over a four-year period. In the alternative, if the Commission determines that a four-year amortization period is inappropriate, this PFD recommends the acceptance of I&M's suggested two-year period.

[1315] 5 Tr 1843.

c. Account Factoring Expense

The Company forecasted a total Company Account Receivable Factoring expense of $12.2 million, which consists of $5.7 million of Bad Debt expense and $6.5 million of carrying costs.[1316] Mr. Coppola concisely explained this factoring expense:

> The Company and other affiliated utilities of AEP sell (factor) most of the customer accounts receivable to AEP Credit. This affiliated entity then securitizes the accounts receivable and is able to finance the balances owed from customers at a lower financing rate than if the Company retained that portion of the accounts receivable in working capital and finance them at the overall cost of capital.[1317]

Mr. Coppola testified that I&M appears to have calculated the revised carrying costs for the test year based on actual receivable balances from 2022, and revenues from 2021 and 2022, with a forecasted growth rate of approximately 5%. He asserted that the calculations are "fundamentally flawed" because they are based on a revenue increase, but operating revenues are projected to be 9% lower than in 2022, not higher.[1318] He testified that the carrying costs "should be based on 2022 carrying costs adjusted for the decline in revenues and accounts receivable forecasted for the projected test year." He stated he reduced the 2022 carrying costs by 9% resulting in $4,861,439. When compared to the $3,425,000 of carrying costs included in the rate case filing, the difference is an incremental amount of $1,436,000. Of this amount, the portion applicable to the MI jurisdiction is $282,000.[1319] Therefore, Mr. Coppola recommended that the Commission add $282,000 to the accounts receivable carrying costs in this case.[1320]

[1316] I&M brief, 222. These are corrected amounts shown in Exhibit IM-100R.
[1317] 6 Tr 2505.
[1318] 6 Tr 2506.
[1319] 6 r 2506-2507.
[1320] 6 Tr 2507.

Mr. Wnek provided rebuttal testimony disputing Mr. Coppola's calculations and asserted that his methodology was flawed as it included approximately $1 million in bank fees and he did not calculate the projected cost of funds.[1321] He testified that, when correctly calculated, Mr. Coppola's method would result in total carrying costs that are $2.7 million higher.[1322]

The Attorney General did not address the adjustment proposed by Mr. Coppola in her brief or reply brief. As the matter was not argued, this PFD concludes that the Attorney General no longer proposes this adjustment. Accordingly, this PFD recommends that the Commission accept the carrying costs projected by the Company.

10. Uncollectables Gross-up and MPSC Assessment Fee Gross-up

Ms. Schreur testified that typically, the revenue conversion factor gross up is exclusively for income tax line items. Staff recommends removing the non-income tax items from the revenue conversion factor.[1323] Because they are not income tax-related, Staff recommend removing the uncollectibles gross up and the MPSC assessment fee gross up (also referred to as he Michigan Public Utility Assessment or (PUA) fee) from the revenue conversion factor [1324] Staff asserts that if included, the uncollectible accounts expense of the revenue conversion factor, these non-income tax items would increase cost by $70,959 and the PUA component would collect an additional $100,526.[1325] To properly project the impacts of these expenses, Staff include "an incremental $70,959 of

[1321] 5 Tr 1748.
[1322] *Id*.
[1323] 6 Tr 2228-2229.
[1324] 6 Tr 2229-2230.
[1325] Staff brief, 88. 5 Tr 2228-2229.

uncollectible O&M expense, $100,526 of PUA fee O&M expense, and removed the uncollectibles and PUA gross-up percentage in the revenue conversion factor."[1326]

The Company did not address this recommendation in its brief and does not appear to dispute Staff's recommendation. Accordingly, this PDF recommends that the Commission adopt Staff's adjustments.

11. Demand Response

Mr. Walter briefly described I&M's DR programs, explaining that in Case No. U-20938, the Commission issued an *ex parte* Order authorizing changes to the Company's Home Energy Management (HEM) Rider and Work Energy Management (WEM) Rider to include four pilot programs.[1327] Three new pilots were added under the HEM Rider: Residential Customer Engagement Demand Response Pilot, Residential AMI HVAC Direct Load Control (DLC) Pilot, and Residential AMI Electric Water Heater DLC Pilot. The WEM Rider was amended to include the Small Business AMI DLC Pilot.[1328] Mr. Walter testified that, consistent with the Commission's requirements in Case No. U-20938, the Company completed pilot activities and results evaluation.[1329] I&M filed two required reports in that case; the final report, which was filed on June 30, 2023, is included as Exhibit IM-30.[1330] Also in Case No. U-20938, the Commission ordered I&M to file a comprehensive pilot plan as part of its next general rate case, which is contained in Exhibit IM-31.[1331]

[1326] Staff brief, 88.
[1327] 5 Tr 1464.
[1328] *Id*.
[1329] 5 Tr 1465.
[1330] *Id*.
[1331] 5 Tr 1465, 1468.

Mr. Walter further testified that as part of its 2021 IRP in Case No. U-21189, the Company presented a Demand Response Plan that included the four pilot programs.[1332] That case was resolved through a settlement agreement, and Mr. Walter explained that the resulting IRP order approved the cost of the DR Plan and included a financial incentive mechanism.[1333] Mr. Walter testified that the DR Plan approved in the IRP order identified total DR program expense budgets of $888,431 for 2023 and $949,435 for 2024.[1334] He then discussed adjustment O&M-9, shown in Exhibit IM-50 Summary of Projected Adjustments, which adjusts the 2024 budget by $54,014.[1335] Regarding the adjustment, Mr. Walter testified:

> Adjustment O&M-9 DR uses the 2024 amount above and adjusts for DR program costs included in the 2024 jurisdictional cost of service, $54,014. When subtracted from the DR Plan 2024 budget of $949,435, the total incremental DR expense included in the 2024 forecast is $895,421. This adjustment is consistent with the [Commission's three-phase process for evaluating DR proposals] and therefore the total 2024 budget of $949,435 will be used to set the total DR program cost to be reconciled against in future load management reconciliations, after the adjustment amount is included in general rates.[1336]

Next, Mr. Walter addressed the Company's comprehensive pilot plan set forth in Exhibit IM-31. He testified that the plan complies with the objective criteria for pilot programs that the Commission adopted in Case No. U-20645, and he cited the MPSC Pilot Criteria Compliance Schedule included in Exhibit IM-31 as demonstrating compliance with those criteria.[1337]

[1332] 5 Tr 1465-1466.
[1333] 5 Tr 1466.
[1334] 5 Tr 1467.
[1335] *Id*.
[1336] *Id*.
[1337] 5 Tr 1468.

Mr. Walter explained that I&M developed a revised future DR program cost effectiveness estimate under the Utility Cost Test (UCT) for each pilot program.[1338] These estimates were completed using actual pilot results and are contained in the pilot report.[1339] He testified that two of the pilots were shown to be cost-effective programs, with a cost effectiveness score above 1.0, while the other two pilots, the Residential HVAC DLC Pilot and the Residential Water Heater DLC Pilot, fell below that threshold.[1340]

Mr. Walter claimed that all four pilots "are appropriate and reasonable to move forward as future programs."[1341] He testified: "From a quantitative perspective, two of the four pilots are shown to be cost effective programs with net benefits accruing to I&M Michigan customers overall."[1342] Regarding the two programs that are not cost effective, Mr. Walter explained "the Company concludes these pilots should move forward as future programs due to their direct, or near term, benefits provided to the specific customer segments they serve—income qualified customers, senior citizens, and rural customers—that all may be disadvantaged from receiving modern utility grid services."[1343] Mr. Walter opined that those pilots "should not be required to pass cost effectiveness as future programs due to their greater benefits."[1344] He testified:

> While these programs offer I&M's income qualified, rural, and senior citizen customer segments improved affordability through enrollment incentives, DR event bill credits, and shared program service costs, the vulnerability of these customer segments to potential living conditions exacerbated by efforts to improve demand response results—aimed at improving cost

---

[1338] 5 Tr 1469.
[1339] *Id*.
[1340] 5 Tr 1469-1470.
[1341] 5 Tr 1469.
[1342] *Id*.
[1343] 5 Tr 1469-1470.
[1344] 5 Tr 1470.

> effectiveness alone—is not appropriate and may ultimately detract from their desire to continue their participation.[1345]

Mr. Walter added, “as discussed in Exhibit IM-30, pilot participants recognized that their demand response contributions help improve the environment and grid capability.”[1346]

Staff objected to I&M’s proposal to transition the Residential HVAC DLC Pilot and the Residential Water Heater DLC Pilot into permanent programs. Mr. Doherty emphasized that neither pilot was cost effective.[1347] Citing Exhibit IM-31, he noted that the Residential HVAC DLC Pilot had a benefit cost ratio of 0.457, while the Residential Water Heater DLC Pilot had a benefit cost ratio of 0.168.[1348] Mr. Doherty testified, “Not only are these programs not projected to be cost effective, but they are not particularly close, needing a benefit cost ratio of 1.0 or greater to be cost effective.”[1349] He disagreed with the Company’s claim that the pilots should move forward due to their benefits to income qualified customers, senior citizens, and rural customers: “Continuing to offer non-cost-effective DR programs increases costs for all customers, including those customers in the target demographic that are not participating in the program.”[1350]

Consistent with his recommendation to terminate the two pilots, Mr. Doherty proposed a total disallowance of $430,727 in O&M expense, which is comprised of all the projected costs ($296,836 for the Residential HVAC DLC Pilot and $133,891 for the Residential Water Heater DLC Pilot) for 2024.[1351]

[1345] *Id.*
[1346] *Id.*
[1347] 6 Tr 2317.
[1348] *Id.*
[1349] *Id.*
[1350] 6 Tr 2317-2318.
[1351] 6 Tr 2318.

Mr. Doherty also requested removal of DR balances related to the 2024 Forecast Test Year Adjustments O&M-4 and O&M-5 until the conclusion of I&M's 2022 DR reconciliation case.[1352] In support of this request, Mr. Doherty testified as follows:

> The Company filed the 2022 DR reconciliation case (Case No. U-21457) on September 29, 2023. The U-21457 case schedule has Staff/Intervenor Testimony due May 16, 2024 and a target for proposal for decision of October 18, 2024. This is the first DR reconciliation case that the Company has filed under the three-phase framework for DR established in Case No. U-18369. The exact amount that should be booked for DR related expenditures from 2022 and earlier will be scrutinized and ultimately determined by the Commission in Case No. U-21457. Prior to the conclusion of the reconciliation case, these amounts are subject to change and should not be included as regulatory assets in rates. The Company should continue to defer these amounts until the Company's next rate case, following the conclusion of the reconciliation case.[1353]

Mr. Doherty added that, in the event the reconciliation case were to conclude before the final order is issued in this case, "Staff would not be opposed to adding the appropriate amounts, as ordered in the reconciliation case, back into this case."[1354]

Mr. Witt provided testimony in support of Staff's position that DR balances should be removed until conclusion of the 2022 DR reconciliation case. Referring to Staff Exhibit S-2, Schedule B-4, he testified that Staff's total projected working capital of $45,577,000 reflected a decrease of $860,000 from I&M's projection of $46,436,000 as presented in Exhibit A-12, Schedule B-4.[1355]

In rebuttal, Mr. Walter provided additional support for continuing the Residential HVAC DLC Pilot and the Residential Water Heater DLC Pilot as full programs,

---

[1352] 6 Tr 2318-2319.
[1353] 6 Tr 2319.
[1354] *Id.*
[1355] 6 Tr 2095.

characterizing Mr. Doherty's testimony as failing to "recognize any qualitative merits, participant perspective, and need for these pilots."[1356]

He reasserted I&M's position that the pilots' low cost-benefit scores should not be controlling because the programs are beneficial to "disadvantaged customers" or those "living in areas that reflect potential under-development for modern technologies such as broadband internet access or efficient technologies acceptance and awareness."[1357] Mr. Walter elaborated on this point:

> [T]he lower level of pilot demand response results reflects the peak use reductions these specific customer segments can offer without seeking to maximize their benefit and potentially further exacerbate their living conditions. Strict reliance on cost benefit ratio estimates for these two future programs reflects the intent that the Company should seek to maximize results and lower costs regardless of customer situations, need, and ability for contribution. I&M designed these two DR offerings to offer benefits to its uniquely challenged customer segments by increasing utilization of its AMI infrastructure.[1358]

He urged the Commission to "recognize the [cost-benefit estimates] are point-in-time estimates, and only include the quantified benefits of avoided capacity, avoided energy, and avoided T&D future expenditures."[1359] And he testified, "while it may be possible to improve, but not maximize, the quantified benefit streams through better timing and response to the actual top 5 coincident peak hours (5 CPs), for the reasons described above, it is not appropriate to seek more individual contribution from these customer resources."[1360] Furthermore, although the pilots "are not shown to be cost effective under

---

[1356] 5 Tr 1490.
[1357] 5 Tr 1500-1501.
[1358] 5 Tr 1501.
[1359] 5 Tr 1503.
[1360] *Id*.

the more traditional resource evaluation approach, there are qualitative aspects for these two programs that warrant consideration and discernment."[1361]

Mr. Walter also testified that Mr. Doherty failed to consider customer satisfaction, as shown in Exhibit IM-30.[1362] He explained that based on customer surveys, both pilots have "high net promoter scores" that indicate a "positive level of pilot customer acceptance and likelihood to continue participation."[1363]

Mr. Walter further asserted that I&M "anticipates being able to streamline enrollment and operations in the [two pilot] programs but ending both in just the Company's Michigan service territory will preempt these efforts and dampen the benefits that could be realized with implementation across I&M's full-service territory."[1364] In a similar vein, he testified that the pilots' cost-benefit scores did not fully reflect synergy and cost efficiency, explaining as follows:

> DR pilot evaluation and report timing, coupled with the DR reconciliation filing and the full DR plan presentation in this case, only captured initial estimates of these aspects [synergy and cost efficiency] where I&M has continued efforts to find these opportunities and acquire vendor resources to facilitate them. For example, I&M has recently contracted with the same HVAC DLC vendor for IQ water heater services, where the cost benefit test for the IQ Water Heater program estimate did not capture new equipment costs and communication network efficiencies. As a pilot learning, the Company found that the pilot vendor's equipment was not operationally ready to function as a node on the AMI network. As a result, the Company contracted with the HVAC DLC vendor to align the IQ Water Heater program with the AMI network.[1365]

[1361] 5 Tr 1504.
[1362] 5 Tr 1501.
[1363] *Id*.
[1364] 5 Tr 1502.
[1365] *Id*.

Mr. Walter also testified that, “the reality is that program outreach, education, and enrollment take time and resources especially when focusing on unique customer segments.”[1366]

Finally, Mr. Walter testified in opposition to Staff’s proposal to remove DR balances from the 2024 test year pending resolution of the Company’s reconciliation case:

> The Company believes DR adjustments O&M-4 and O&M-5 should remain in the 2024 forecast test year, since the Company followed the Commission’s cost recovery framework for load management programs and the Company has no load management costs included in general rates from which to reconcile against. It is not understood by the Company that the Commission’s load management framework is subject to timing preference by Staff for cost adjudication. From this perspective, Staff witness Doherty’s recommendation to remove costs until all costs for one year are reconciled is overly presumptive. While 2022 costs are weighed in the pending load management reconciliation Case No. U-21457, the presumption in the Commission’s framework is that there are DR costs already included in I&M’s general rates in which to reconcile against. It is presumptive by Mr. Doherty to conclude that since costs may change, a proposed amount cannot serve as a reasonable basis from which to reconcile against. From the Company’s perspective, it is alternatively reasonable to allow the Company to come into alignment with the framework’s intent, as opposed to moving cost recovery to a time that better suites Staff.[1367]

Staff’s brief relies on Mr. Doherty’s testimony. In response to I&M’s rebuttal, Staff states that it considered the overall benefits of the pilot programs and discerned the pilot report but “does not find the Company’s argument compelling.”[1368] Staff again observes that the two pilot programs in dispute are not cost effective and would result in higher rates for all customers:

> The costs to deliver programs that are not cost effective will be borne by all rate payers, including the disadvantaged customers that these programs are supposed to benefit. Staff asserts that the largest benefit to these

[1366] 5 Tr 1503.
[1367] 5 Tr 1504-1505.
[1368] Staff brief, 91.

> customers would be lower rates, which is achieved by investing in cost-effective programs. It is also worth noting that the most-disadvantaged customers likely don't have air conditioners and would not be able to participate in the Home AC program, therefore paying higher rates, because the Company invested in programs that were not cost-effective, while getting none of the benefits.[1369]

Staff also provides further support for its argument that DR balances should not be included as regulatory assets in rates until the Commission issues its Order in the ongoing reconciliation case.[1370] Staff explained that the three-phase framework established in Case No. U-18369 is a process in which deferred accounting is used to reconcile actual capital and O&M expenditures against the amounts recovered in rates, and "[i]n the case where the Company did not have any costs included in rates to reconcile against, then the reconciliation would simply reconcile against zero."[1371] It further states:

> Including a regulatory asset from DR program years still subject to a reconciliation case is inappropriate and risks booking a regulatory asset that is later found to be an incorrect amount. The amount of the regulatory assets for O&M-4 and O&M-5 will be determined in the ongoing DR reconciliation case. These regulatory assets should not be included in rates until the Commission has approved the appropriate amount. Continuing to defer these costs until a regulatory asset amount is approved does not adversely affect the Company financially.[1372]

I&M reasserts its claim that benefit cost should not be the sole criterion used to assess the reasonableness and prudence of pilot programs.[1373] I&M encourages the Commission to "recognize the Company's need to develop demand response resources through targeted offerings to specific customer segments" and emphasizes that the "quantified benefits and expenditures from these programs can collectively be considered

---

[1369] *Id*.
[1370] Staff brief, 7.
[1371] *Id*.
[1372] Staff brief, 7-8.
[1373] I&M brief, 225-229.

to provide betterment for the overall good of I&M's Michigan service territory."[1374] I&M reiterates its opposition to removing DR balances from working capital on the basis that the Company "followed the Commission's cost recovery framework for load management programs and, if excluded, the Company has no load management costs included in general rates from which to reconcile against."[1375]

In its reply brief, Staff disputes I&M's argument that the pilots' net promotor scores justify the continuation of programs that are not cost effective: "Demand response programs that are not cost-effective do not constitute reasonable and prudent spending, regardless of customer satisfaction with the program."[1376] Staff maintains its position that the pilots should be eliminated but also asserts that, should the Commission decide to continue the pilots, "they should still be included in the benefit-cost analysis of the portfolio."[1377]

In its reply, I&M "refutes Staff's assumption" that the most disadvantaged customers likely would not be able to participate in the HVAC DLC Pilot by again emphasizing the program's high net promoter scores.[1378] I&M also opposes Staff's request to reduce O&M expenses by removing Adjustments O&M-4 and O&M-5 pending the results of the reconciliation case based on the Company's previous argument that it followed the cost recovery framework and has no costs in its general rate to reconcile against.[1379]

[1374] I&M brief, 228-229.
[1375] I&M brief, 132, 229-230.
[1376] Staff reply, 20.
[1377] *Id*.
[1378] I&M reply, 85.
[1379] I&M reply, 86.

This PFD agrees with Staff that the Residential HVAC DLC Pilot and the Residential Water Heater DLC Pilot should be eliminated. The pilots have benefit cost ratios of .457 and .168, respectively, when analyzed under a forecasted 20-year future program period.[1380] These low scores indicate that the pilots are not effective tools for accomplishing I&M's laudable goal of extending the benefits of DR programs to disadvantaged customer segments. As Mr. Doherty pointed out, although the two pilots may provide additional opportunities to participate in DR for certain groups, the excessive costs associated with these pilots will be borne by all ratepayers, including disadvantaged customers who do not participate in these DR pilots.[1381] This PFD also agrees with Staff's assertion that disadvantaged customers would receive greater benefit from lower rates, "which is achieved by investing in cost-effective programs."[1382] Therefore, this PFD recommends a disallowance of $430,727 in O&M expenses, which is the total 2024 projected cost of the two pilot programs.

In the alternative, the Commission could consider extending one or both of the pilots for another year to assess whether costs decrease as the pilot(s) mature. It is worth noting that while these pilots were designed to run for two years, there were delays in launching the programs that resulted in them operating for only a single summer cooling season.[1383] In addition, Mr. Walter's testimony suggests there are further opportunities to "streamline enrollment and operations" and to improve "synergy and cost efficiency" through the process of contracting for vendor resources.[1384] Mr. Walter also notes that

[1380] 6 Tr 2317; Exhibit IM-31, p 2.
[1381] 6 Tr 2317-2318; see also Staff brief, 91.
[1382] Staff brief, 91.
[1383] Exhibit IM-30, 1-2.
[1384] 5 Tr 1502.

"program outreach, education, and enrollment take time and resources especially when focusing on unique customer segments."[1385] Given that the pilots were tested for a single year and that I&M has identified opportunities for refinement of program implementation, continuing them as pilots could prove informative. If the Commission elects to continue one or both pilots, it should allow $296,836 in O&M expenses for the Residential HVAC DLC Pilot and $133,891 for the Residential Water Heater DLC Pilot for the test year.

Turning to Staff's recommendation regarding the removal of DR balances pending the outcome of I&M's 2022 reconciliation, this PFD agrees with Staff that I&M should continue to defer these amounts. As Staff points out, the reconciliation could result in some adjustment to the deferred balance that is not reflected in the record in this proceeding. It is premature to allow recovery of DR expenditures before the Commission determines the appropriate amount of those expenditures; to do so could result in booking a regulatory asset that is later found to be incorrect. Consistent with this recommendation, I&M's projected working capital should be reduced by $860,000.

12. Employee Incentive Compensation Expense

I&M witness Kerber testified regarding the Company's incentive compensation program, explaining that American Electric Power Service Corporation (AEPSC) provides engineering, accounting, financing, and other services to AEP's electric operating companies, including I&M.[1386]

Ms. Kerber testified that the compensation approach taken by the AEP System allows the Company to attract and retain "employees with the skills and experience

[1385] 5 Tr 1503.
[1386] In her testimony, Ms. Kerber refers to AEPSC, I&M, and other AEP utility operating companies collectively as the "AEP System".

necessary to provide reliable electric service, efficiently, and effectively to customers."[1387] She stated that the AEP System uses a compensation method consisting of fixed base compensation and a variable annual or short-term incentive compensation (STI), the two of which combine to make up an employee's total cash compensation (TCC). Additionally, certain employees also receive a long-term, equity-based incentive compensation (LTI). Base pay, STI, and LTI comprise an employee's total compensation (TC). Ms. Kerber testified that a bonus is not the same as incentive compensation, describing a bonus as a payment in addition to a market-competitive base salary, and incentive compensation as pay used to supplement a lower base pay to reach market-competitive pay levels.[1388]

In determining appropriate market-level compensation, Ms. Kerber testified that the AEP System "participates in utility and general industry surveys which provide information regarding base pay, STI and LTI."[1389] She testified that I&M's STI compensation helps the Company attract, retain, and motivate employees. And she testified: "During 2022, the Company's annual STI compensation payout was based on financial performance (20%), operational and customer factors (45%), and safety and culture (35%)."[1390] Regarding specific employee STI compensation, Ms. Kerber stated that opportunities for this compensation is designed to be consistent throughout employment grades and classifications. She further asserted that "any reduction or elimination of employee annual incentive compensation would need to be replaced with increases in base pay, thus becoming fixed costs, to maintain market-competitive TC."[1391]

[1387] 4 Tr 1152.
[1388] 4 Tr 1154.
[1389] 4 Tr 1156.
[1390] 4 Tr 1155.
[1391] *Id*.

Ms. Kerber described the AEP System scorecard used in the incentive compensation program as "designed to ensure that certain measures are not achieved at the expense of other important objectives, such as safety, operations, and environmental objectives."[1392]

Regarding the LTI program, Ms. Kerber testified that the primary purpose of the program is to encourage leaders within the AEP System to use a long-term perspective when making business decisions. She stated: "During the historical test year, the Company provided LTI awards in the form of 75% performance shares and 25% restricted stock units (RSUs)."[1393]

Ms. Kerber testified that the LTI program directly benefits customers by promoting the efficient use of financial resources and maintaining long-term financial discipline. She asserted:

> The earnings per share and Total Shareholder Return measures associated with the performance units granted as part of the LTI plan communicate this goal and strongly encourage its continued pursuit by tying a substantial portion of compensation for management and executive employees to both internal and external measures of long-term financial performance.[1394]

Ms. Kerber asserted that LTI provides a strong retention incentive to its participants and helps foster continuity within the Company. Noting that employee turnover leads to costs for an employer including the loss of knowledge, productivity, and experience as well as costs associated with procuring and training new employees, Ms. Kerber testified that LTI

[1392] *Id*.
[1393] 4 Tr 1158.
[1394] 3 Tr 1159.

compensation is an important part of the market-competitive compensation for its employees and is therefore included in cost of service.[1395]

ABATE witness York testified that I&M's "testimony and exhibits do not clearly identify the amount of incentive compensation included in its test year revenue requirement,"[1396] but stated that in its response to ABATE's discovery request, the Company indicated approximately $6.285 million of incentive compensation expense is included in the test year revenue requirement, comprised of approximately $5.048 million in O&M expense and approximately $1.237 million in capital.[1397] I&M's discovery response states that "these amounts cannot be readily identified in the Jurisdictional Cost of Service as these costs are embedded in various accounts."[1398] Noting that Ms. Kerber testified that I&M's incentive compensation is tied to financial, operational, and customer factors, and a safety culture factor, Ms. York testified that I&M has not identified the specific metrics used to assess those achievements.[1399]

Ms. York further testified that the Company confirmed that the incentive compensation expense in the proposed revenue requirement is tied to both operational goals and financial performance.[1400] She stated that when asked to identify the portion of incentive compensation tied to financial performance, I&M responded that the "metrics and weights for the short- and long-term incentive plans have not been approved for 2024, and therefore, it cannot break out the financial versus non-financial portions of the

---

[1395] 4 Tr 1160.
[1396] 3 Tr 100.
[1397] Exhibit AB-5.
[1398] 3 Tr 101.
[1399] *Id*.
[1400] 3 Tr 102. Exhibit AB-5.

forecasted 2024 target compensation."[1401] Opining that "Incentive compensation programs that are designed to align the interests of employees with shareholders should be paid for by shareholders,"[1402] Ms. York noted that incentive compensation costs tied to financial measures have been consistently disallowed by the Commission.[1403]

Ms. York additionally testified that I&M has not provided an analysis of the cost of its incentive compensation programs compared to the benefits received by customers for such programs. As such, Ms. York concluded that I&M has not provided adequate information to support its projected test year incentive compensation expense and recommended that the Commission exclude all incentive compensation expense from the projected test year revenue requirement.

Alternatively, Ms. York recommends that the Commission disallow the portion of the incentive compensation expense tied to financial performance. Despite I&M not identifying the amount of its incentive compensation programs tied to financial performance, Ms. York estimated the amount tied to financial performance to be roughly 60% of the total and testified:

> My estimate is developed on Exhibit AB-6, page 1, and is based on an analysis of the historical split between financial and non-financial incentives from 2018 through September 2023, provided in response to discovery request AG 3-47. I recommend reducing I&M's proposed incentive compensation expense by 60%, or $3.753 million. (citations omitted)[1404]

Attorney General witness Coppola noted that I&M forecasted an incentive compensation expense of $4.95 million for the projected test year, with $3.43 million for

---

[1401] *Id*.
[1402] 3 Tr 102.
[1403] 3 Tr 103.
[1404] 3 Tr 104.

the STI and $1.52 million for the LTI.[1405] He noted that a "portion of the incentive compensation originated outside of the Company and was billed through affiliated Company billings from AEP Service Company."[1406] Mr. Coppola testified that the overall size of benefits distributed to I&M employees under the plans at issue is highly dependent on AEP's earnings. He stated that for STI, "AEP earnings drive 60% of the outcome in determining the overall benefit levels of its subsidiary companies."[1407] Further, Mr. Coppola stated that for LTI, "90% of the outcome under this plan in recent periods have been driven by financial results."[1408]

Mr. Coppola testified that under the STI program, subsidiaries of AEP distribute the benefits as determined by AEP based on performance metrics determined at the I&M level including financial performance in the range of 20% to 30% "based on the Company's incentives approach."[1409] He also noted that I&M has established 47 different metrics for 2023. He considered that this is a large number of metrics, with many of the metrics involving work activities instead of performance measures that benefit customers and that many of the metrics lacking definition or are seemingly too simplistic. Mr. Coppola testified that the number of operational metrics employed by the I&M STI likely leads to a lack of focus on key priorities and stated that mediocre performance will be rewarded even if only a single metric or handful of metrics are achieved, as the plan "contains no provision for a minimum number of operational metrics to be achieved to trigger a

---

[1405] 6 Tr 2508. Exhibit AG-70.
[1406] 6 Tr 2508.
[1407] *Id.*
[1408] *Id.*
[1409] 6 Tr 2509.

payout."[1410] He noted that the incentive compensation payments for operating metrics made by Consumers Energy in recent years and, by way of comparison, stated "I&M's incentive compensation payments are ten times the amount of a utility twice the size."[1411]

Mr. Coppola testified that I&M did not provide cost justification showing the performance improvements included for incentive compensation create financial benefits to customers that exceed the incurred costs. He stated that Ms. Kerber's direct testimony "is devoid of any financial benefits or cost savings from the payment of incentive pay to employees."[1412] He stated that the items Ms. Kerber points to in her testimony are generic items that could be applied to any type of compensation. Mr. Coppola further testified that the 60% financial metric level has not been uniformly applied by AEP in recent years. He stated that in "2018 and 2019, a 70% ratio was used, and in 2020 AEP earnings per share determined 100% of the size of the benefits distributed."[1413] Therefore, he asserted that AEP exercises "substantial influence in determining the incentive compensation payments available to pay I&M employees from year to year."[1414]

Regarding I&M's LTI, Mr. Coppola testified that payments under this compensation plan are "90% dependent upon AEP earnings and 10% upon the Company's strategic efforts."[1415] He stated that I&M witness Kerber "provided little to no useful information about the LTI in her testimony,"[1416] and stated that he excluded most of the LTI expense from O&M in this case in light of the reliance on financial measures.

[1410] *Id*.
[1411] 6 Tr 2512.
[1412] 6 Tr 2510.
[1413] 6 Tr 2511.
[1414] *Id*.
[1415] *Id*.
[1416] *Id*.

Mr. Coppola recommended that the Commission remove a total $4.2 million of incentive compensation expense from I&M's forecasted O&M expense in this matter. He stated that the focus of the incentive compensation plans is "overwhelmingly directed at creating shareholder value and not customer benefits."[1417] Mr. Coppola testified that he arrived at the amount of his recommended disallowance by removing 90% of the LIT expense that is driven by financial measures and 60% of STI that is driven by AEP earnings. Further, he removed "50% of the remaining $1.5 million of STI and LTI expense for non-financial metrics due to the Company's inability to identify any financial benefits emanating from those non-financial metrics."[1418] Mr. Coppola noted that management and other employees have received large annual merit salary increases since 2018, and that shareholders benefit from talented management, possibly even more so than customers. He stated: "Customers are paying for higher base pay each year. Shareholders can share the burden by paying for a portion of the incentive compensation that disproportionately favors their interests."[1419]

Staff witness McMillan-Sepkoski observed that I&M is seeking recovery of $6,344,870 in capital and O&M expenses in the revenue requirement for employee compensation incentives. She testified that Staff is recommending the disallowance and removal from rate base of incentive compensation based on financial measures. She testified that the Commission has previously disallowed recovery of financially based incentive compensation tied to Company earnings and cash flow "because these types

[1417] 6 Tr 2513.
[1418] 6 Tr 2514.
[1419] *Id*.

of performance measures largely benefit shareholders and should not be paid for by ratepayers."[1420]

Ms. McMillian-Sepkoski testified that Staff recommends disallowing "$2,728,760 for 100% of LTI ($1,824,731) and the 20% of STI ($904,029) that is based on financial measures,"[1421] and Staff recommends allowing "the inclusion in rates for STI in the amount of $3,616,110, STI Capital O&M expense for $1,169,475, and STI O&M expense for $2,446,635."[1422]

In rebuttal, Ms. Kerber testified she disagreed with the recommendation to disallow the incentive compensation expense because it is tied to financial measures. She stated that I&M's objective to provide reliable and safe service for its customers and therefore must pay its employees to do so.[1423] Ms. Kerber reiterated that the AEP System targets market median total compensation for its employees and includes incentives to do so. She asserted that the compensation is not excessive and stated: "It only makes sense to tie a portion of employee pay to the Company's performance, and to have that measured by a mix of financial responsibility and operational achievements."[1424]

In response to Ms. McMillan-Sepkoski's recommended disallowance, Ms. Kerber claimed that the recommendation has two errors. First, she testified that Ms. McMillan-Sepkoski's "methodology to use historical data is inappropriate basis because the Company submitted a forecasted Test Year."[1425] Second, Ms. Kerber testified that

---

[1420] 6 Tr 2237.
[1421] I*d.*
[1422] *Id*.
[1423] 4 Tr 1165.
[1424] *Id.*
[1425] 4 Tr 1172.

Ms. McMillan-Sepkoski's recommended disallowance of incentive compensation tied to financial metrics is inappropriate. She stated that financial performance is balanced with operational performance, and asserted that by using both, I&M "determines compensation in a manner that benefits customers because it requires employees to focus on operational performance factors (safety, efficiency, etc.) while also considering performance of tasks in a cost-effective manner."[1426] Ms. Kerber further asserted that financial performance is only 20% of the calculated amount of incentive compensation, and therefore, the majority of incentive compensation is for operational performance. Ms. Kerber reiterated these same two points to dispute the recommendation of ABATE witness York. Additionally, she stated that if Ms. York's approach were to be accepted, the year 2020 should be excluded as an outlier due to the pandemic. Ms. Kerber stated that Figure KK-2R at 4 Tr 1169 shows "that for 2024, 20% of the ICP will be related to financial measures and 80% continues to be operational."[1427]

Ms. Kerber disputed that I&M did not provide metrics for the projected test year, stating that I&M did provide numerous details about the compensation plans and referring to Exhibit IM-87R, she stated:

> The Company informed ABATE in ABATE 1-14 and AG 3-45 that the 2024 scorecard was not yet finalized. Since that time, the Company has received a proposed scorecard and can provide the proposed metrics for both short and long-term incentive plans for the test year. The proposed scorecard will receive final approval from the Human Resources Committee of the Board of Directors in February or March.[1428]

[1426] 4 Tr 1173.
[1427] *Id.*
[1428] 4 Tr 1167.

Focusing on Figure KK-1R, Ms. Kerber stated that I&M's short-term plan will continue to have "20% of the scorecard tied to financial performance . . . with the remaining 80% tied solely to operational goals."[1429] She testified that the proposed metrics for the 2024 incentive plans are consistent with the metrics of the 2018 through 2023 incentive plans. Ms. Kerber also referred to Figure KK-2R at 4 Tr 1169 as showing comparisons between the metrics and weighting for 2023 and 2024. Ms. Kerber additionally testified that the "LTI goals and weights will continue to consist of 50% Earnings per Share (EPS), 40% Total Shareholder Return (TSR) and the remaining 10% will be Maintaining Reliability Through the Clean Energy Transition."[1430]

In response to Mr. Coppola's testimony regarding the 47 performance metrics included in the incentive plans, Ms. Kerber surmised that Mr. Coppola was referring to the metrics of four separate plans.[1431] She stated that employees in the AEP System only participate in one plan which has defined metrics relating to the goals of their respective business unit or operating Company. She stated that "For each separate plan, employees have approximately 10-15 specific metrics related to the business unit or operative Company."[1432] Ms. Kerber further noted that of the 47 metrics Mr. Coppola refers to, 41 include non-financial measures such as safety, reliability, and other goals. Ms. Kerber also disputed Mr. Coppola's assertion that the AEP System heavily influences STI and his references to the fluctuation of the weight applied to the financial metrics from 2018 through 2020, describing an "isolated situation in 2020 when the Earnings Per Share

---

[1429] 4 Tr 1168.
[1430] *Id*.
[1431] 4 Tr 1169.
[1432] 4 Tr 1169. Exhibit IM-87R.

(EPS) measure was changed mid-year to 100% weighting."[1433] Ms. Kerber testified that this action was taken in preparation for economic disturbances caused by the COVID 19 pandemic. She further stated that "Mr. Coppola fails to mention that in 2021 the EPS weighting went to 60%, and is balanced with operational goals, which is the standard practice, and it has remained at 60% since."[1434]

Ms. Kerber disputed Mr. Coppola's comparison of I&M to Consumers Energy regarding incentive compensation. Characterizing it as vague, stating that he "does not offer any analysis of Consumers Energy's employees' total compensation compared to the Company's employees' total compensation to see if one is 'richer' than the other."[1435] She noted that Mr. Coppola's statement does not compare salaries or identify whether all employees are included in the short-term incentive plan. Therefore, Ms. Kerber asserted that there are too many variables in the comparisons and that Mr. Coppola's comparison should be disregarded.

Ms. Kerber further disputed Mr. Coppola's claim that 60% of the incentive compensation plan is tied to AEP System earnings.

> It is true that the AEP System scorecard for the historical and bridge years included a 60% Earnings Per Share (EPS) goal. The AEP System performance results, including results against an EPS goal, only play a role in the Company's ICP in that the AEP System results determines the overall funding for all business units and operating companies depending on how they performed relative to each other. What the Company receives from this pool of available funds depends on the I&M scorecard results which is 20% financial as shown in the historical plan metrics provided in Exhibit IM-87R (KK-1) TMS-1 I&M Scorecard and in Figures KK-1R and KK-2R above for the Test Year.[1436]

[1433] 4 Tr 1170.
[1434] *Id*.
[1435] 4 Tr 1170-1171.
[1436] 4 Tr 1171.

She stated that I&M's response to the MPSC Audit request shows the goals and metrics measured in 2023 to determine the system-wide allocation of incentive compensation, and that the I&M scorecard shows "the 20% financial measure for the Company's STIP scorecard that would be related to the Company's allocation of ICP."[1437] She further stated that financial measures are important to both the I&M plan and the AEP System plan to responsibly balance both financial and operational measures.

Ms. Kerber also responded to Mr. Coppola and testified that LTI is not solely linked to financial performance, and that Mr. Coppola's assertion that 90% of LTI is tied to financial metrics is incorrect. Ms. Kerber stated that the LTI awards consist of 75% performance shares and 25% RUS's. She stated:

> The 25% RSU portion of LTIP is not linked to any financial measures and is tied primarily to participant retention through vesting requirements, and actual value at vesting will be based on the stock price at that time. The 75% performance shares portion is measured on 50% EPS, 40% Total Shareholder Return (TSR) and 10% renewable initiatives.[1438]

Ms. Kerber further stated that applying a 90% disallowance of LTI based on financial measures is inaccurate. She stated, "If anything, it would be 90% of 75% of total LTI. Furthermore, the LTI that participants receive is based on market-median total compensation at targeted (100%) grant levels."[1439]

In response to Ms. York's recommendation to disallow 100% of LTI, Ms. Kerber countered that, like STI, it is inappropriate to rely on historical years. She reiterated her direct testimony and asserted that LTIP benefits I&M customers by fairly compensating employees for their labor, that LTI is a part of market median total compensation for

---

[1437] 4 Tr 1172. Exhibit IM-87R.
[1438] 4 Tr 1174.
[1439] *Id*.

certain positions, and that disallowance of LTIP could lead to increased employee turnover and associated costs.

Ms. Kerber further testified regarding Mr. Coppola's recommended disallowance of STI and LTI expenses for non-financial metrics due to I&M's failure to identify any financial benefits emanating from non-financial metrics. She stated, "Mr. Coppola is applying discounts on top of discounts. For ICP he is discounting by 60% for the corporate funding measure tied to EPS, he is discounting LTIP by 90% that he perceives is strictly financial, and then he is applying another 50% arbitrarily."[1440] She stated that I&M's incentive plans are "supported by balanced scorecards to drive performance that is both operational and financial focused which is prudent for any Company."[1441] Ms. Kerber further stated, "The Commission should focus on the customers' benefit tied to paying at least market median compensation, not on how it is measured, or the metrics used to get to that target."[1442]

Additionally, Ms. Kerber disputed Mr. Coppola's contention that I&M management and employees have received large merit increases since 2018. She testified that I&M determines salary increases by looking at national surveys that indicate what companies set their budgets at for current and future years. She further stated that the AEP System sets salary budgets at the market median, and that the salary increases for 2018 -2023 are reasonable and consistent with the market.

In its brief, I&M states it is requesting recovery of test year costs of its annual employee incentive compensation program. I&M relies on the testimony of Ms. Kerber

---

[1440] 4 Tr 1176.
[1441] *Id.*
[1442] *Id.*

and asserts that the incentive compensation program should be approved because it is a reasonable part of the Company's market-based compensation and benefits customers by creating "beneficial incentives for employees to improve performance and achieve targeted performance goals".[1443]

I&M notes that the Commission requires that incentive compensation provide appreciable benefits to customers to be included in the cost of service. I&M argues that it has shown appreciable benefits to customers in the instant matter. It states, "The parties' assumption that anything tied to financial metrics should automatically be disallowed without attempting to understand the intentional structure of I&M's compensation packages is unfair."[1444] I&M asserts that no party has offered evidence showing that the incentive compensation program provides a pure benefit to shareholders and that the parties have misconstrued the Company's compensation structure. "No party, however, acknowledged how the financial component plays into the overall metrics, which are designed to balance the goals employees must consider for the benefit of customers."[1445] I&M asserts that it has achieved this balance by first only seeking to include in cost of service base salary and incentive compensation that bring total compensation to market-level compensation. And I&M avers that "including at least an element of financial metrics ensures that incentive compensation balances a mix of financial responsibility and operational achievement."[1446] I&M asserts it would be financially irresponsible to move all its goals to operational goals and focus employees on achieving those goals at any cost.

[1443] I&M brief, 215.
[1444] I&M brief, 216.
[1445] I&M brief, 217.
[1446] *Id*.

I&M contends that witnesses York and Coppola are incorrect in their respective assertions that the STI scorecard discussed above "is informed by AEP earnings by 60%."[1447] I&M argues that while the AEP System's earnings per share (EPS) do play into the scorecard, it is only in relation to the business performance category, which is 20%. I&M asserts that, "Stated differently, of I&M's total STI compensation, only about 12% (60% of 20%) will be based on AEP's EPS."[1448] Regarding the LTI, I&M again contests the testimony of witnesses York and Coppola and the assertion that 90% of the LTI is tied to AEP's EPS. I&M points to the testimony of Ms. Kerber wherein she described LTI as being in the form of 75% performance shares and 25% restricted stock units (RSUs).

I&M argues that it has shown that both the STIP and LTIP provide appreciable benefits to customers and asserts that the Commission should "not look at how the compensation plan is structured but should instead find that the level of compensation is reasonable and prudent and should allow inclusion of the Company's incentive-based labor expense in this case."[1449]

ABATE is recommending the Commission reduce I&M's proposed incentive compensation expense by $3.753 million. In its brief, ABATE argues that I&M has not adequately identified the amount of incentive compensation which is related to operation performance as opposed to financial performance, citing prior Commission orders as "repeatedly reject[ing] cost recovery of incentive compensation related to utility financial performance."[1450] In the instant matter, ABATE contends that I&M failed to provide

[1447] I&M brief, 218.
[1448] *Id*.
[1449] *Id*.
[1450] ABATE brief, 6.

program descriptions or documentation for the incentive compensation programs included in the revenue requirement. ABATE asserts that when asked to provide such information, I&M "objected and asserted that 'program plans/descriptions for 2024 have not been determined and approved at this level of detail as of the date of this request' and '2024 incentive compensation will include both financial and operational goals as part of a balanced scorecard.'"[1451] ABATE states that I&M indicated it was not able to separate the financial versus non-financial portions of the forecasted 2024 target compensation and argues that in its filing: "I&M neither identified which portion of incentive compensation is related to operational, rather than financial, performance, nor did it quantify any claimed customer benefits of these costs, or compare any purported benefits to the cost of the incentive compensation programs."[1452]

ABATE contends that the cost of incentive compensation programs which operate to serve shareholder interests, as opposed to customer interests, should be paid for by shareholders. ABATE further argues that it is only fair and reasonable to collect incentive compensation expenses from ratepayers when such incentive compensation reflects operational goals like service and reliability meant to benefit customers, while in the instant matter, "I&M has not provided adequate information to demonstrate its projected test year incentive compensation expense is related to operational goals or would be reasonably or prudently recovered from ratepayers."[1453] ABATE therefore argues that all incentive compensation expense should be excluded from the projected test year revenue requirement.

[1451] ABATE brief, 7. Exhibit AB-5, pp 2-4.
[1452] ABATE brief, 7.
[1453] ABATE brief, 8.

In the alternative, ABATE asserts the Commission should disallow a portion of the test year compensation expense related to financial performance. ABATE states:

> While I&M declined to identify the amount of its projected 2024 incentive compensation expense tied to financial performance, given the historical split between financial and non-financial incentives from 2018 through September 2023 that amount can be estimated as roughly 60% of the total.[1454]

Therefore, while ABATE maintains the Commission should disallow all expenses related to incentive compensation, it asserts the Commission should, at a minimum, reduce the proposed incentive compensation expense by 60%, or $3.753 million.

The Attorney General recommends that the Commission remove $4.2 million in incentive compensation expense as unsupported, excessive, and contrary to MPSC precedent, relying on the testimony of Mr. Coppola, Ms. York, and Ms. McMillan-Sepkoski. The Attorney General also notes that the Commission has been clear that incentive compensation tied to financial performance has not been shown to benefit ratepayers. She refers to Mr. Coppola's testimony explaining that I&M participates in the AEP incentive compensation plans and that the incentive benefits distributed to I&M's employees is highly dependent on AEP's earnings, and his testimony that for STI, AEP earnings drive 60% of the outcome in determining overall benefit levels and that for LTI, AEP earnings drive 90% of the outcome in determining overall benefit levels.[1455]

In her brief, the Attorney General also discusses the performance metrics developed by I&M. The Attorney General points to Mr. Coppola's testimony in describing the metrics used by the Company as mostly populated by work activities instead of

---

[1454] *Id*.
[1455] Attorney General brief, 186.

performance measures directly benefitting customers and his assertion that the incentive compensation plan lacks a minimum number of operational metrics to be achieved before payout. The Attorney General also argues that while Ms. Kerber testified how the plan would help employees understand how they contribute to I&M's overall success and would help the Company recruit and retain those employees, she did not "explain how the plan would create cost savings or other financial benefits for customers."[1456]

The Attorney General asserts that to the extent "I&M bases compensation on achievement of financial performance measures, recovery in rates is not permitted. Beyond that, compensation must benefit ratepayers – not just shareholders – to be recoverable in rates."[1457] The Attorney General also disputes Ms. Kerber's testimony that the incentive compensation is a necessary part of I&M's total compensation package that will allow it to attract and retain talented employees. She points to Mr. Coppola's testimony wherein he asserts that shareholders benefit from talented management as much if not more than customers, and therefore, the shareholders should share in the burden of paying for incentive compensation.[1458] The Attorney General further argues that when asked in discovery about Mr. Coppola's assertion that 60% of the Company's incentive compensation is tied to AEP System earnings, I&M's response failed to rebut Mr. Coppola's assertion, adding: "If 60% of the incentive compensation funding is tied to AEP's financial performance, then AEP's financial performance is driving the incentive compensation amount irrespective of how that amount is subsequently apportioned."[1459]

[1456] Attorney General Brief, 188.
[1457] Attorney General brief, 189.
[1458] Attorney General brief, 191.
[1459] Attorney General Brief, 192.

In her reply brief, the Attorney General stated she stands on her initial brief and also supports the arguments of Staff and ABATE on this issue.

In its brief, Staff states that it is recommending the Commission disallow $2,243,682 of incentive compensation expense. Staff asserts that this amount of incentive compensation expense relates to the achievement of financial measures. Staff argues that the Commission "has repeatedly disallowed financially based incentive compensation from the revenue requirement."[1460] As such, Staff recommends that the Commission disallow $2,243,682 of incentive compensation as based on financial measures. Staff did not address this issue further in its reply brief.

In its reply brief, I&M argues the contention that the Commission always disallows incentive compensation tied to financial measures is not accurate. I&M states that for incentive compensation to be included in rates, it must provide appreciable benefits to customers. I&M points to the Commission Order in Case No. U-20162, page 93, and states that in this case, the Commission "has allowed full recovery of an incentive compensation expense when that compensation package was designed to offer market competitive pay through both base pay and incentive pay even when a portion of that expense was tied to financial measures."[1461] Additionally, I&M points to Case No. U-17735, where Consumers Energy was permitted by the Commission to "recovery incentive compensation that was structured with 50% of an employee's incentive based on achievement of operational and performance measures, and the other 50% based on the achievement of financial measures."[1462] I&M avers its EICP is similar to the incentive

---

[1460] Staff brief, 92.
[1461] I&M reply brief, 83.
[1462] *Id*.

compensation plan in U-17735 asserting its incentive compensation is not a bonus or profit sharing, and that the incentive compensation brings an employee's total compensation to market rates.

In its reply brief, ABATE reasserts that I&M's request for incentive compensation is not adequately supported. ABATE argues that I&M has explained that its employees' incentives and the financial metrics of the Company are effectively blended and "As such the Commission should reject cost recovery of this amount."[1463] ABATE contends that the "Commission has, for over a decade, unequivocally and consistently disallowed incentive compensation costs tied to financial measures"[1464] and cites the May 8, 2020, Commission Order in Case No. U-20561. ABATE further argues, "Here I&M has effectively conceded that its incentive compensation is tied to financial goals. As such it cannot be reasonably or prudently recovered from ratepayers."[1465] ABATE therefore recommends the Commission exclude all incentive compensation from the projected test year revenue requirement.

This PFD agrees with the arguments and reasoning proffered by ABATE, the Attorney General, and Staff. All three of these parties have properly articulated Commission precedent regarding incentive compensation tied to financial measures. While I&M argues that only a portion of the scorecard for incentive compensation relates to financial performance, this PFD agrees with the argument proffered by the Attorney General that I&M has not shown how the incentive compensation plan creates cost savings or other financial benefits for customers.

[1463] ABATE reply brief, 7.
[1464] *Id.*
[1465] *Id.*

In offering what purported benefits customers will receive from the incentive compensation plan, I&M discusses the ability to attract and retain talented employees to provide service for its customers. Having a skilled workforce capable of providing service to customers is essential to the operation of the utility. I&M has not shown what savings or other financial benefits this program would bestow on customers beyond the ability to maintain normal utility operations.

The Attorney General, Staff, and ABATE all argue that I&M's incentive compensation program is tied to financial performance. As such, all argue that the Commission has consistently disallowed incentive compensation tied to the financial performance of the Company. This PFD finds the arguments that the incentive compensation is tied to financial performance to be persuasive. This PFD notes the testimony of Mr. Coppola wherein he opines that shareholders benefit from talented employees as much if not more than customers, and therefore, the shareholders should share in the burden of paying for incentive compensation. This PFD finds that I&M has not adequately shown a separation of operational versus financial measures tied to the issuance of incentive compensation, and as such agrees with the Attorney General's recommendation that $4.2 million of incentive compensation expense from I&M's forecasted O&M expense.

13. Depreciation and Amortization Expense

The Company forecast depreciation and amortization expense of $492 million.[1466] Mr. Wnek testified:

[1466] 5 Tr 1719. Exhibit A-3, Schedule C-6.

The forecasted depreciation expense was developed, on a Total Company basis, by applying the composite depreciation rates approved by this Commission, the Indiana Utility Regulatory Commission (IURC), and FERC to projected monthly plant in service balances.[1467]

He asserted because plant in service is expected to rise by approximately $856 million from 2022 through 2024, the forecasted increase in depreciation and amortization expense of approximately $35 million reasonable.[1468]

Noting that new depreciation rates were approved subsequent to the filing of this case, which are not reflected in Exhibit A-13, Schedule C-6, Mr. Coppola originally calculated a reduction in the depreciation expense for the Michigan jurisdiction of $1,477,000.[1469] However, Mr. Coppola observed that Staff found I&M had used the value of plant balances at the end of 2024, rather than the monthly average balances in its depreciation calculation, and he testified that Staff's adjustment was more appropriate.[1470] He testified the result of his analysis, using Staff's methodology, is a net increase in depreciation expense of $516,000 in this case and recommended the Commission accept this adjustment.[1471]

Staff recalculated the depreciation expense using the new rates to $478,226,127, which is an increase of $17,675,000 for the total Company and $1,993,000 for the Michigan jurisdiction.[1472] Mr. Hecht performed Staff's calculations and testified:

Staff's methodology calculated the amount of depreciation expense on the sum of monthly depreciation expense for the test year period. Confirmed by the Company on pages 8 and 9 of Exhibit S-7.2, this is the same methodology used by I&M in its 2017 rate case (Case No. U-18370) and as

[1467] 5 Tr 1719.
[1468] *Id*.
[1469] 6 Tr 2519. Exhibit AG-28. See generally, October 12, 2023, Order, Case No. U-21412.
[1470] 6 Tr 2519-2520. Exhibit AG-71.
[1471] 6 Tr 2520.
[1472] 6 Tr 2111. 6 Tr 2519.

proposed by Staff in I&M's previous rate case (Case No. U-20359) and agreed to by the Company.

Mr. Hecht testified that the Company used its ending test year plant balances to project its annual depreciation expense for the test year and proposes to utilize this method going forward.[1473] He testified that the amount of depreciation expense should be calculated based on the sum of monthly depreciation expense for the test year period, not projecting changes that may occur beyond the test year.[1474]

In its brief, I&M reiterates that Mr. Wnek's testimony and argues that the Commission should adapt its methodology for calculating the depreciation and amortization expense and reject Staff's adjustment.[1475]

The Attorney General argues that the Commission should adopt Staff's methodology to calculate the depreciation and amortization expense, based on Mr. Coppola's analysis.[1476]

Staff repeats Mr. Hecht's assertions and argues the method he utilized to calculate the depreciation rates is the most appropriate. And, noting the Company did not object to Staff's proposal with rebuttal testimony, Staff argues that the Commission should adopt its method and proposed adjustment to the depreciation and amortization expense.

First, this PFD notes that the differences among the amounts proposed by the parties related to the depreciation and amortization expense reflect the differences in plant balances resulting from various adjustments. This amount will be established consistent with the Commission's Final Order.

[1473] 6 Tr 2112.
[1474] *Id*.
[1475] I&M brief, 220.
[1476] Attorney General brief, 198-199.

And this PFD finds that Staff's method for calculating this expense is more appropriate than the method use by I&M. As Mr. Hecht testified, Staff's method is consistent with the method approved by the Commission in several recent I&M rate cases. And I&M did not establish that its methodology is more appropriate than the method approved, multiple times, by the Commission. Accordingly, this PFD recommends that the Commission utilize Staff's methodology to calculate this expense.

14. Rate Case Expense

I&M included a regulatory asset in the amount of $979,000 in the projected test year for the Michigan jurisdiction to recover forecasted expenses to prepare and litigate this case.[1477] Ms. Seger-Lawson testified that the Company request approval to recover that amount over a two-year amortization period.[1478]

Mr. Coppola asserted that the projected $979,000 rate case expense in this case is significantly higher than the amount incurred in the Company's previous rate case (i.e., $564,111).[1479] He testified that "[t]he major components of the $979,000 are $635,000 for legal fees, $150,000 for Company witness training by an outside firm, and $130,000 for preparation of testimony for the equity return by an outside consultant."[1480] He contended that I&M already spent $125,000 for witness training in the previous rate case, and that several witnesses in this instant case also provided testimony in the previous case. He contended that "[i]t is not clear why the Company witnesses need to be trained and retrained to provide testimony that discloses information they should be intricately familiar

---

[1477] Exhibit A-12, Schedule B-4.
[1478] 6 Tr 1986.
[1479] 6 Tr 2430.
[1480] 6 Tr 2430 (citing Exhibit AG-32, including DR AG 2.23 and pp 1-3 from WP-DSL-1).

with and is reviewed by management and legal counsel."[1481] He opined that the witness training expense was "superfluous" and should not be recovered from customers, particularly when the testimony provided by Company witnesses is often to the detriment of customers and to the benefit of the Company's shareholders.[1482]

Mr. Coppola recommended an adjustment to the rate case expense based on I&M's previous rate case expense, excluding witness training expenses, and with upward adjustments for inflation ($97,000) and an assumption that this case would be fully litigated through briefing rather than settled ($105,000).[1483] With these adjustments, Mr. Coppola recommended a total forecasted rate case expense amount of $640,705.[1484]

Mr. Coppola also rejected a two-year amortization period for the expense, noting that approximately four years have elapsed since the Company filed its last rate case.[1485] Overall, Mr. Coppola recommended adopting a four-year amortization period and an annualized amortization expense of $160,176 (i.e., $640,705 ÷ 4). He testified that accepting his recommendations would reduce the Company's proposed working capital by $418,373 in the projected test year, and it would result in an average deferred regulatory account balance of $560,627 in the projected test year.[1486]

In rebuttal, Ms. Seger-Lawson defended the witness training component of rate case expenses. She testified that the Company retained Communications Consulting Associates (CCA) "to provide training on the Michigan regulatory process and

---

[1481] 6 Tr 2430.
[1482] *Id*.
[1483] See Exhibit AG-29, footnote 4.
[1484] 6 Tr 2431 (citing Exhibit AG-29, footnote 3 for supporting calculations).
[1485] 6 Tr 2431-2432.
[1486] 6 Tr 2432.

communications skills to subject matter experts preparing testimony specifically for this case."[1487] She stated that this type of training and communication is outside the scope of the day-to-day activities of the Company's witnesses and that the cost of such training is simply a cost of doing business reasonably included in I&M's cost of service.[1488]

In its brief, I&M reiterates that costs related to the regulatory process are a cost of doing business for utilities and that it is reasonable for the Company to recover such costs. The Company argues that the rate case expense is consistent with the types of costs approved in past rate case filings in Case Nos. U-18370 and U-20359.[1489] I&M rejects Mr. Coppola's call to disallow witness training expenses, arguing that witness training is not unique to I&M and that "[f]or most witnesses in this case, testifying before regulatory bodies is not a common occurrence."[1490] The Company opposes Mr. Coppola's proposed four-year amortization period for rate case expense; I&M explains that the four-year gap between its last rate case and the present rate case was agreed upon as part of the settlement of its last rate case and is not indicative of future case filing plans. Accordingly, I&M urges acceptance of its proposed two-year amortization period and emphasizes that it is consistent with the Company's last contested rate case, Case No. U-18370.[1491]

The Attorney General's brief critiques I&M's legal expenditures noting that the Company listed $160,000 to "prepare a direct case" when the Company's witnesses write

[1487] 6 Tr 2018
[1488] 6 Tr 2018-2019.
[1489] I&M brief, 238.
[1490] I&M brief, 239.
[1491] *Id*.

their own testimony and prepare their own workpapers.[1492] She also questions the Company's two line items for discovery—one for $140,000 and another for $150,000—when no explanation was given for the potential duplication. Similarly, the Attorney General questions the costs listed for preparing and attending the four-day cross-examination hearings, which totaled $150,000 or $37,500 per day.[1493] Additionally, the Attorney General repeats her contention that $150,000 of witness training costs are superfluous and should not be recoverable.[1494]

The Attorney General responds to Ms. Seger-Lawson's claim that witness training was necessary by discussing the witness training services provided by CCA. The Attorney General asserts that per Ms. Seger-Lawson's testimony during cross-examination, she attributed witness training expenses totaling $25,620 to merely talking with counsel about what issues might arise in the case.[1495] Per Ms. Seger-Lawson's testimony, CCA also charged $69,500 for three sessions of practice cross-examination and charged $34,910 for video services to record those practice sessions (totaling $104,410).[1496] Further, the Attorney General contends that despite arguing that CCA provided training related to the Michigan regulatory process, Ms. Seger-Lawson admitted that CCA had no Michigan-specific expertise and coached witnesses "on how to communicate about issues specific to this case."[1497]

[1492] Attorney General brief, 91-92.
[1493] Attorney General brief, 92.
[1494] *Id*.
[1495] Attorney General brief, 94 (citing 6 Tr 2049-2050).
[1496] Attorney General brief, 95 (citing 6 Tr 2050); see also Exhibit AG-162.
[1497] 6 Tr 2055; See also Attorney General brief, 95.

The Attorney General asserts that rate case litigation expenses should not be recoverable at all, but "in the spirit of generosity [Mr. Coppola] recommended that the Commission approve an adjusted amount."[1498] The Attorney General argues that the Commission should accept Mr. Coppola's adjusted amount, which removes the witness training expense and sets the allowable expense based upon the expense in the Company's last rate case plus an upward adjustment for inflation.[1499] The Attorney General asserts that this adjusted amount is $535,705,[1500] an increase of 18% from the Company's last rate case after excluding witness fees.[1501] Overall, the Attorney General asserts that the adjusted amount should be amortized over four years with annual amortization expense of $160,176, which reduces I&M's working capital amount by $418,373 in the projected test year.[1502]

In reply briefing, I&M expresses dismay that "the Attorney General has abandoned its historic role of determining the reasonableness of costs to singularly focus on recommending cost cuts[.]"[1503] The Company asserts that the increase in legal fees expended in this case compared to its previous rate case filed over four years ago is attributable to inflation and to the increased size and complexity of the instant case compared to the pervious one.[1504] I&M contends that there is no duplication of charges

---

[1498] Attorney General brief, 93.
[1499] *Id*.
[1500] Notably, the amount of $535,705 listed in the Attorney General's brief excludes estimated expenses for legal briefing in the case, which Mr. Coppola estimated would add $105,000 to bring the total forecasted rate case expense to $604,705. See 6 Tr 2431; see also Exhibit AG-29, footnote 4.
[1501] Attorney General brief, 93.
[1502] Attorney General brief, 93. Notably, these figures appear to accept a total rate case expense of $604,705 as stated by witness Coppola (which includes the cost of briefing) rather than the $535,705 amount listed in the Attorney General's brief. see Exhibit AG-29, footnote 4.
[1503] I&M Reply, 87.
[1504] I&M Reply, 88.

for discovery in its legal budget, and that the separate charges are for different stages of the case, i.e., discovery before and after the filing of rebuttal.[1505] Finally, I&M emphasizes that witness training expenses are a normal expense for a multi-jurisdictional utility and that the Company has recovered these expenses in previous rate case.[1506] In turn, the Attorney General's reply stands on her initial brief.[1507]

This PFD agrees with the Attorney General that the $150,000 expense incurred in professional witness training fees should be disallowed. The Company necessarily must employ licensed legal counsel to represent it in contested proceedings before the Commission,[1508] but there is no requirement that the Company's witnesses must be professionally trained regarding seemingly commonplace functions such as "how to communicate about issues specific to this case."[1509] Unlike answering discovery requests or drafting legal briefs, professional witness training is not a required rate case expense implicit in the adjudication process. Instead, professional witness training is undertaken at the Company's sole discretion and for the Company's own benefit. As such, witness training is readily distinguishable from required legal expenses, and ratepayers should not be compelled to bear the cost of such expenses. While I&M may have included and recovered such witness training expenses in previous rate cases, this PFD notes that there is no indication that witness training expenses were specifically contested in previous cases.

[1505] I&M Reply, 88-89.
[1506] I&M Reply, 89.
[1507] Attorney General Reply, 49.
[1508] See Mich Admin Code, R 792.10419 (Requiring all parties before the Commission in a contested case to be represented by attorneys).
[1509] 6 Tr 2055.

However, this PFD rejects the Attorney General's recommendation to make an adjustment to rate case legal expense by starting with the expense in the Company's previous rate case as a base amount and making an upward adjustment for inflation. Aside from inflation in the intervening years, the size and complexity of individual rate cases and other variables in the litigation and adjudication process make it difficult to provide a clear comparison between cases such that an adjustment of this type would generally be inappropriate, particularly absent any showing that a specific legal expense was unreasonably incurred. Accordingly, this PFD recommends that the total recoverable rate case expense be limited to $829,000, i.e., $979,000 in total rate case expense less the $150,000 witness training costs.

Finally, this PFD adopts the Attorney General's recommendation to set a four-year amortization period for rate case expense. I&M opposed this position arguing that the approximately four-year gap between filing its previous rate case and the present case was caused by a negotiated provision of the settlement agreement in the Company's last rate case and is not indicative of future case filing plans. However, the settlement agreement in I&M's last rate case (filed in June of 2019) only required an approximately two-and-a-half-year gap between filing rate cases, not a four-year gap.[1510] In any event, this PFD finds that a four-year amortization period is appropriate and that the Company can still recover the remaining unamortized balance if it files another rate case in two years.

[1510] See Case No. U-20359, January 23, 2020, Settlement Agreement, p 3 ¶ 10(b) ("I&M will not file a general rate case application prior to January 1, 2022, nor will it seek an effective date for new rates that is prior to January 1, 2023.").

C. Property Taxes

Referencing newspaper articles that noted I&M filed a petition in May 2022 asking the Michigan Tax Tribunal to reduce the Cook nuclear plant's taxable value from $1.1 billion to $780 million, Attorney General witness Coppola expressed concern with the amount of property taxes I&M included in this rate case and recommended the Commission order the Company to record any reduction in property taxes in a deferred regulatory liability account.[1511]

Ms. Seger-Lawson confirmed on rebuttal that I&M has a case pending before the Michigan Tax Tribunal regarding the Cook property but said that witness Coppola's recommendation was premature because the amount of the property tax reduction or increase was not yet known.[1512] She said the Company should be allowed to reflect a regulatory liability or a regulatory asset that includes the annual difference (if any) in actual Cook property tax from what is authorized in rates.[1513] And during cross-examination, Ms. Seger-Lawson reiterated that the Company does not know if the property tax will increase or decrease, but is not opposed to using a regulatory asset or liability mechanism.[1514]

The Attorney General argues the Commission should order the creation of a regulatory asset account and allow the Company to recover any increase in property tax expense in its next rate case if the Commission finds that it was prudently incurred, and

---

[1511] 6 Tr 2520.
[1512] 6 Tr 2014-2015.
[1513] 6 Tr 2015.
[1514] 6 Tr 2056-2059.

if property taxes are reduced or refunded, any such amount be credited back to customers in the Company's next rate case.[1515]

I&M argues property taxes are a cost of providing electric service and that it should be authorized to reflect a regulatory liability or a regulatory asset for any annual difference in actual property tax compared to what is authorized in rates.[1516] The Company also explains that it "fully intends" to take action in response to the Cook property tax proceeding and that a specific directive to do so now is unnecessary because the outcome of the tax proceeding is not yet known.[1517] However, the Company "accepts the Attorney General's recommendation since the Attorney General agrees that the appropriate deferral mechanism permits the Company to record either a regulatory asset or a regulatory liability depending on the resolution of the Cook property tax proceeding."[1518]

The Attorney General and the Company are the only parties to take positions on this issue.

Although generally used for state and federal income tax, the Commission has found it acceptable and preferrable for utilities to apply deferred tax accounting.[1519] The Commission previously determined that deferred tax accounting is not harmful to customers and utilities have even requested that the methodology be used in other cases.[1520] The Court of Appeals has upheld the Commission's practice, finding it does

[1515] Attorney General brief, 203.
[1516] I&M brief, 237.
[1517] I&M's reply, 86.
[1518] I&M's reply, 87.
[1519] See February 15, 2012, Order in Case No. U-16864, p 3; February 8, 1993, Order in Case No. U-10083, p 5.
[1520] February 28, 2017, Order in Case No. U-17990, pp 119-121.

not violate the rule against retroactive ratemaking.[1521] Consistent with this practice, the Commission has required utilities to return or write off deferred taxes to the ratepayers when it was not required to pay the full tax amount recorded in the rate case.[1522]

This PFD finds the recommendation to take a proactive, rather than reactive, approach with the treatment of property taxes to be reasonable and recommends that deferred accounting be approved to capture any changes in the Company's property tax expenses, with any reduction or refund recorded in a deferred regulatory liability account and flowed to ratepayers as a credit in the next rate case. Similarly, if actual property tax expense is higher than projected, then I&M can recover the difference in a future rate case.

In a recent electric rate case, the Commission found that utilities should provide a list of pending tax assessment litigation cases and negotiations in their rate case filings, an accounting of estimated compared to actual tax assessments for the 10 years prior to the rate case filing, and records of any proceeds received.[1523] And given the evidence on this record that I&M has at least one pending case before the Michigan Tax Tribunal, this PFD recommends that in its next rate case, the Company should be required to provide a list of all pending tax assessment litigation cases and negotiations involving Michigan properties, an accounting of estimated compared to actual Michigan tax assessments for 10 years prior to the filing, and records of any proceeds received.

D. <u>Allowance for Funds Used During Construction (AFUDC)</u>

[1521] *Public Service Commission*, 262 Mich App at 658.
[1522] *Detroit Edison Company v Public Service Commission*, 127 Mich App 499, 519 (1983).
[1523] March 1, 2024, Order in Case No. U-21389, p 209.

The Company forecast a total AFUDC level of $20,665,000.[1524] Mr. Wnek provided support for this projection.[1525] And Staff recommend adoption of I&M's forecast, noting the Michigan jurisdictional amount is $2,377,000.[1526] No other party addressed the issue.

As there is no dispute concerning I&M's forecast for AFUDC, this PFD recommends the Commission adopt the projection.

E. Net Operating Income Summary

Based on the findings and recommendations above, this PFD estimates an adjusted net operating income of $63,903,000 for the Michigan jurisdiction, as shown in Appendix C to this PFD.

VIII.

REVENUE DEFICIENCY

Based on the findings and recommendations in sections IV through VII above, this PFD recommends finding a revenue deficiency of $6,590,000 as shown in Appendix A.

IX.

OTHER REVENUE-RELATED ITEMS

A. Regulatory Asset Deferrals and Amortizations

1. Accelerate SO_2 Costs

Ms. Seger-Lawson testified: "The Company is seeking authority to accelerate recovery of the noncurrent SO_2 allowance inventory that is currently recorded in FERC Account 158."[1527] I&M proposes to recover the total Company noncurrent SO_2 allowance

[1524] I&M brief, 240.
[1525] 5 Tr 1709.
[1526] Staff brief, 99.
[1527] 6 Tr 1987.

inventory over a five-year period.[1528] The total of these costs is approximately $25 million as of the end of 2022. Mr. Coppola stated the five-year period results in a total Company yearly amortization amount of $5,052,000, with $720,235 allocated to the Michigan jurisdiction.[1529]

Staff supports I&M's proposition to amortize these noncurrent SO_2 allowance inventory over a five-year period.[1530] Noting that the Company's proposal accelerates recovery, Mr. Bodiford testified that Staff conducted a review, which included examination of Ms. Seger-Lawson's testimony about a similar request before the Indiana Utility Regulatory Commission (IURC).[1531] He asserted the IURC docket contained a robust discussion of the request and testified:

> After consideration of the information Staff is compelled to accept the Company's explanation of how they prudently incurred the costs for SO2 allowances that are now non-current; how and why the inventory has grown to over $25 million; and the reasoning for why I&M has requested to accelerate recovery of the noncurrent SO2 allowances inventory to coincide with the retirement of Rockport 1.[1532]

Staff did not address the issue further.

Based on Mr. Coppola's testimony, the Attorney General argues the Commission should reject I&M's proposed amortization.[1533] Mr. Coppola testified: "The SO2 costs are part of the plant costs and not much different than the equipment and plant assets that will remain unamortized at the retirement date of the Rockport plant."[1534]

[1528] 6 Tr 1987. This is adjustment O&M-15. See Exhibit IM-50.
[1529] 6 Tr 2515.
[1530] 6 Tr 2187-2188.
[1531] 6 Tr 2187.
[1532] 6 Tr 2187-2188.
[1533] Attorney General brief, 193. 6 Tr 2515.
[1534] 6 Tr 2515.

In rebuttal, Ms. Seger-Lawson testified that Mr. Coppola did “not adequately support his position,” and asserted the Attorney General’s position would result in future customers paying for costs associated with generation resources that are no longer providing service to those customers.[1535]

In her brief, the Attorney General argues that Ms. Seger-Lawson “appears to be confused about the burden of proof” and explains I&M has the burden to prove that its requested relief is reasonable; other parties do not have a burden to prove the Company is not entitled to relief.[1536] And the Attorney General repeats Mr. Coppola’s recommendation that the Company request be rejected.[1537]

In its brief, I&M reiterates Ms. Seger-Lawson’s testimony and argues that recovery of the SO_2 allowance inventory over a five-year period is appropriate.[1538] And the Company notes Staff’s approval.[1539]

This PFD agrees with Staff’s analysis that I&M has adequately established that the proposed amortization is reasonable, under the circumstances, and recommends that the Commission grant the Company authority to recover the noncurrent SO_2 allowance inventory over a five-year period.

2. AMI Cost/Benefit Analysis

I&M conducted a cost/benefit analysis for the AMI program in 2019 and incurred $693,800 in expenses.[1540] The Company recorded the costs in a deferred regulatory

[1535] 6 Tr 2012.
[1536] Attorney General brief, 193.
[1537] Attorney General brief, 192-193.
[1538] I&M brief, 282-283.
[1539] I&M brief, 283.
[1540] 5 Tr 1459. 6 Tr 2515-2516.

asset. Now, I&M requests to amortize these costs over a two-year period resulting in $346,900 expense in the test year.[1541]

The Attorney General argues that the Commission should reject recovery of these deferred expenses because I&M never requested or received authority from the Commission for deferred accounting treatment of these costs.[1542] Based on Mr. Coppola's testimony, the Attorney General recommended the Commission "reject the Company request to include the amortization expense of $346,900 . . . and the related working capital amount of $520,350."[1543]

In rebuttal, Mr. Ross testified that the costs for the AMI cost/benefit analysis resulted from the settlement agreement in Case No. U-20359, and he asserted the costs were reasonable and a necessary part of AMI deployment. He stated:

> Typically costs that are incurred to support a capital investment are capitalized to the plant asset account. In this case, given the number of units of property and the duration of the project, it was more reasonable and administratively efficient to defer the costs for later recovery when the related assets were reflected in I&M's rates.[1544]

Mr. Ross also contended that accounting standards demonstrate that this is appropriate.[1545] Mr. Walters also noted that the cost/benefit analysis was included in Case No. U-20359 and repeated that accounting standards permit the deferral method used by the Company.[1546]

[1541] 5 Tr 1458-1465. 6 Tr 2516. See Exhibit IM-29.
[1542] Attorney General brief, 194. 6 Tr 2516.
[1543] *Id*.
[1544] 5 Tr 1863.
[1545] 5 Tr 1864.
[1546] 5 Tr 1499-1500.

In her brief, the Attorney General repeats the argument that I&M's failure to obtain authority for the deferral is dispositive and responds to the rebuttal testimony with:

> There are several problems with I&M's arguments. First, if I&M believed that the AMI study was a cost of providing electric service in Michigan, and therefore wanted deferral accounting authority for it, the Company could have written that provision into the settlement agreement. But the Company failed to do so. Second, Mr. Ross assumes that every cost that is probable of recovery is *ipso facto* a regulatory asset. He provides no authority for that position. Third, the Company cites no MPSC precedent that states deferral authority is left up to "management discretion." That position would be inconsistent with the ubiquitous practice of seeking approval from the Commission for such authority prior to recording regulatory assets.[1547]

The Attorney General also recommends, if the Commission approves the deferred accounting treatment for this expense, that the amortization period be extended to four years, rather than the two-year period requested by the Company.[1548]

While the Company does not appear to have addressed this issue specifically in its brief, I&M argues extensively that its AMI deployment was reasonable, and the cost/benefit analysis is part of that implementation.

This PFD finds the Attorney General's arguments to be more persuasive. The Company does not have specific authority from the Commission for the deferral of these expenses. The Attorney General correctly notes that I&M could have included this amortization in the settlement agreement in U-20539 but did not. And this PFD does not find that I&M's assertion that "management discretion" or accounting standards establish that the deferral was reasonable. Accordingly, this PFD recommends that the Commission reject I&M's request to recover the deferred amount in this case. In the

[1547] Attorney General brief, 194-195.
[1548] Attorney General brief, 194. 6 Tr 2516.

alternative, if the Commission finds that the Company's use of the deferral mechanism was appropriate, this PFD recommends that the Commission utilize an amortization period of four years, rather than the two-year period proposed by the Company. The Attorney General argues four years elapsed between the filing of I&M rate cases, and that a two-year amortization could unfairly enrich the Company at the expense of customers if the utility decides not to file another rate case within the next two years.[1549]

3. AMI Pilot Program

The Company incurred costs related to four AMI-related pilot programs in the amount of $338,205 and deferred these costs.[1550] I&M proposes to amortize these costs over a two-year period resulting in $169,103 included in the test year.

Mr. Coppola did not dispute the amount deferred but testified that the two-year amortization period is too short and recommends use of a four-year period.[1551] He reiterated the above assertion that I&M could be unfairly enriched if it does not file a rate case within two years.[1552]

Based on Mr. Coppola's testimony, the Attorney General argues that a four-year amortization period is more appropriate.[1553]

This PFD recommends that the Commission adopt the Attorney General's proposed four-year amortization period resulting in an expense of $85,000. As noted above, the Attorney General convincingly argues that a two-year amortization could

---

[1549] Attorney General brief, 196-197. 6 Tr 2517.
[1550] Related to adjustment O&M-4 reflected on Exhibit IM-50.
[1551] 6 Tr 2517.
[1552] *Id.*
[1553] Attorney General brief, 197.

unfairly enrich the Company at the expense of customers if the utility decides not to file another rate case within the next two years.[1554]

4. Energy Management Program

The Company proposes to amortize a total amount of $825,000 in costs for energy management programs over a two-year period.[1555]

As with the AMI Pilot program expenses, Mr. Coppola did not dispute the deferred amount, only the two-year amortization period and he again recommended a four-year amortization period for the same reasons.

For the reasons above, this PFD recommends that the Commission adopt the Attorney General's proposed four-year amortization period resulting in an expense of $206,253 in the test year.[1556]

5. Uncollectable Costs - COVID 19

Because the determination of the suggested amortization period for this expense has an effect on working capital, this PFD recaps it recommendation. Consistent with the time period recommended for other amortizations, this PFD recommends that the Commission adjust the amortization period to four years. While the Company recommended a two-year amortization, this PFD finds the Attorney General's assertion that a two-year amortization would unfairly enrich the Company at the expense of customers if I&M does not file another rate case within the next two years to be persuasive. Accordingly, this PFD recommends that the Commission amortize the COVID-19 bad debt expense over a four-year period. In the alternative, if the Commission

[1554] Attorney General brief, 196-197. 6 Tr 2517.
[1555] Related to adjustment O&M-5 reflected on Exhibit IM-50.
[1556] 6 Tr 2517.

determines that a four-year amortization period is inappropriate, this PFD recommends the acceptance of I&M's suggested two-year period.

X.

COST OF SERVICE AND RATE DESIGN

A. Cost of Service

Mr. Morgan presented the Company's jurisdictional cost-of-service study (JCOSS), which addressed the allocation of the Company's cost of providing service to the Michigan retail jurisdiction.[1557] Mr. Hornyak presented the Company's class cost-of-service study (CCOSS) which addressed the allocation of the total Michigan retail jurisdictional rate base, revenues, and expenses to each rate schedule.[1558] In turn, Mr. Revere testified regarding the process used to create Staff's JCOSS and CCOSS, which relied in part on the Company's studies with modifications made by Staff.[1559]

1. Coincident Peak Allocation

For ABATE, Mr. Andrews asserted that in calculating the cost of service, the Company should have used a 4 coincident peak (4 CP) allocation instead of a 12 CP allocation for transmission, subtransmission, and primary distribution plant; he also suggested that the Company perform a minimum distribution study to classify customer-related and demand-related costs.

Mr. Revere opposed the proposal to switch to a 4 CP allocation because the reasons Mr. Andrews offered for doing so were unproven, and because Staff's own

---

[1557] See 5 Tr 1775-1790. See also Exhibit A-16, Schedule F-1 (Projected Jurisdictional Cost-of-Service Allocation Study).
[1558] See 3 Tr 626-649. See also Exhibit A-16, Schedule F-1.1 (Projected Class Cost-of-Service Study).
[1559] 6 Tr 2260-2261. See also Exhibit S-6, Schedule F1.

testing demonstrated that 12 CP should continue to be used as the measure of demand. Nevertheless, Mr. Revere recommended that the Commission require the Company to conduct cost allocation tests for the most recent five years on both a total Company and Michigan-jurisdictional basis and file the results in the Company's next rate case. Similarly, he recommended that the Commission require the Company to file a calculation of the 6 CP allocator (as is apparently used in Indiana) in the next rate case so it may be examined for appropriateness in application to PJM demand charges. Mr. Revere testified that the proposal to require I&M to undertake a minimum distribution study would fail to properly reflect cost causation, and he explained that the current methodology of classifying costs should continue.

ABATE's initial brief neglected to raise this issue, and Staff's brief repeats the positions taken by Mr. Revere. ABATE's reply brief acknowledges Staff's opposition to its proposals and states that "ABATE is not challenging the cost allocation method filed by the Company in this case."[1560] However, ABATE asserts that it supports Staff's proposal to require the Company, in its next rate case, to conduct and file cost allocation tests and to file a calculation of the 6 CP allocator to examine the appropriateness of its application for PJM demand charges. In its reply brief, I&M argues that its current 12 CP methodology of allocating costs should be approved because ABATE withdrew its proposals for 4 CP allocation and a minimum distribution study.

This PFD notes that ABATE abandoned its allocation issues, thus the Company's current method of allocating transmission costs using the 12 CP method should be

[1560] ABATE reply, 11.

approved. However, this PFD adopts Staff's recommendation that the Company should be required, in its next rate case, to: (1) conduct cost allocation tests for the most recent five years on both a total Company and Michigan-jurisdictional basis, and (2) to file a calculation of the 6 CP allocator to examine the appropriateness its application for PJM demand charges.

2. PSCR Issues and Cost-of Service/Rate Design Model Formatting

Mr. Revere testified regarding the process used to create Staff's jurisdictional and class cost of service studies.[1561] He contended that an adjustment to the power supply cost recovery (PSCR) expense was required. Mr. Revere explained that utilities generally use Schedule C4 to calculate the amount of revenue assumed to be received for the PSCR and set the expense equal to this revenue because PSCR is separately reconciled.[1562] He testified that "[t]his [practice] makes modifying the expense for a change in the sales forecast relatively simple, as the new total kWh forecast is entered into the equation and the expense changes accordingly."[1563] However, he asserted that I&M's Schedule C4 did not work in this way, and he recommended that the Commission should require the Company to alter its Schedule C4 to mirror the method used by other utilities or to provide a method by which changes to the sales forecast can be used to calculate PSCR adjustments. In a similar vein, he recommended that the Commission should also require the Company to file an exhibit showing that PSCR revenues and expense are equal.[1564]

[1561] 6 Tr 2260-2261. See also Exhibit S-6.
[1562] 6 Tr 2261.
[1563] *Id*.
[1564] *Id*.

Further, Mr. Revere opined that the Commission should require the Company to include clearly labelled sources and cell references for all hard-coded values in the COSSs and associated workpapers such that Staff and intervenors do not need to use the discovery process to inquire how the Company calculated certain values.[1565] Ms. Braunschweig similarly opined that the Company should be required to label source cells and references for all hard-coded values in the Company's Schedule F-3 and related workpapers.[1566]

Ms. Braunschweig testified that Staff encountered numerous difficulties caused by the Company's rate design models, including rounding functions in the rate design workpaper and the Company's separation of the actual rate design model from the present and proposed revenue model.[1567] She stated that the separation of the models necessitated copying values between the two, which introduced opportunities for error. Ms. Braunschweig provided an example where the Company recorded per kWh rates in dollars in one file while recording it in cents in the other, which required Staff to manually copy and then convert values between the two models.[1568] Ms. Braunschweig recommended that the Commission require the Company to "combine its Schedule F-2/F-3 file and rate design workpaper into a single file with linked formulas, as is standard with other utilities."[1569] In the alternative, she recommended that the Commission direct the Company to either file the Schedule F-2/F-3 and rate design workpaper with consistent formatting (to allow copying and pasting without the need to convert units) or

---

[1565] 6 Tr 2262.
[1566] 6 Tr 2293.
[1567] 6 Tr 2292.
[1568] *Id*.
[1569] *Id*.

to add an input/output sheet to both documents with links within each workbook that creates consistent formatting necessary for copied and pasted inputs between the two files.[1570] She opined that the Commission should require the Company to work with Staff at least one month prior to its next general rate case to ensure that all Microsoft Excel formulae pathways are fully linked or that formatting is consistent enough to allow inputs to be copied and pasted without the need for converting units or changing formatting.[1571]

In rebuttal, Ms. Duncan testified that she was surprised to learn of Staff's difficulties, and she opined that this was an "an issue that I&M would have been willing to discuss with Staff, to ensure they had an understanding of the structure of I&M's rate design files to overcome any difficulties they were encountering."[1572] She testified that while the exact format of the information provided "may not have been what Staff is accustomed to, the substantive information needed to evaluate the Company's rate design was provided."[1573] Ms. Duncan explained that I&M has a non-Excel based system used to calculate billing determinants, and that upon request from Staff to provide the information in Excel, the Company "undertook an effort to provide Staff with a tool to perform this calculation."[1574] Ms. Duncan asserted that the Company is willing to work with Staff to help overcome any issues; however, she opined that many of the recommendations proposed by Staff would be unnecessary if Staff reached out to the

[1570] 6 Tr 2292-2293.
[1571] 6 Tr 2293.
[1572] 5 Tr 1653.
[1573] *Id*.
[1574] *Id*.

Company.[1575] She also cautioned that many of the recommendations offered by Staff "may not be relevant to the issues in I&M's next case."[1576]

In its brief, Staff argues that the Commission should order the Company to improve its rate design model formatting in the ways recommended by Staff.[1577] Staff also reiterates its recommendation to require the Company to include a PSCR expense adjustment and an update to Schedule C4.[1578] Staff states that it appreciates the Company's open lines of communication, but Staff emphasizes that the fast pace of rate cases leave little time for Staff and the Company to address and resolve formatting issues, which would be better addressed earlier.[1579] Neither the Company nor Staff addressed this issue further in briefing.

This PFD recommends that the Commission direct the Company to alter its Schedule C4 to mirror the method used by other utilities as described by Mr. Revere. This PFD further recommends requiring the Company to file an exhibit showing that PSCR revenues and expenses are equal.

Given the unrelenting pace of rate cases, this PFD finds it troubling that the Company's schedules and other documents presented a significant challenge to Staff because of their formatting or lack of transparency. This PFD therefore recommends adopting Mr. Revere's recommendations regarding the Company's presentation. Accordingly, this PFD recommends that the Commission direct the Company to include clearly labelled sources and cell references for all hard-coded values in the COSS and

---

[1575] 5 Tr 1654.
[1576] *Id*.
[1577] Staff brief, 105-108.
[1578] Staff brief, 119.
[1579] Staff brief, 107.

associated workpapers; this includes providing exhibit numbers or workpapers detailing how all hard coded values were calculated or including linked input sheets within the model that accomplish the same goals as an exhibit or workpaper. Providing this information at the time of filing the case will aid Staff's ability to analyze the relevant matters without the need for discovery requests related to this information.

For similar reasons, this PFD recommends adopting Ms. Braunschweig's recommendation to require the Company to combine its Schedule F-2/F-3 file and rate design workpaper into a single file with linked formulas, as is standard with other utilities. This PFD also recommends requiring the Company to work with Staff at least one month prior to filing its next general rate case to ensure that all Microsoft Excel formulae pathways are fully linked or that formatting is consistent enough to allow inputs to be copied and pasted without the need for converting units.

3. Residential and Other Customer Charges

Ms. Seger-Lawson testified that the Company proposed to increase its monthly residential customer service charge from $7.25 to $11.50.[1580] She opined that this increase was needed to "better reflect the fixed cost of service" and that the increase was "in line with the cost causation principle of ratemaking."[1581] Ms. Duncan testified that the Company's currently monthly service charge "is not set to fully recover customer-related costs, as such costs are also being collected through an energy charge."[1582]

[1580] 6 Tr 1992.
[1581] *Id*.
[1582] 5 Tr 1625-1626.

Mr. Revere testified regarding Staff's methodology used to calculate an appropriate residential customer charge.[1583] He asserted that Staff's cost-of-service based calculations resulted in a monthly residential customer charge of $7.38, and he recommended that the Commission reject the Company's proposal to increase the charge from $7.25 to $11.50.[1584] He explained that the current charge "is reasonably close to the currently approved monthly service charge."[1585] Mr. Revere asserted that Staff's calculation methodology was based upon the method used in the Company's last contested case, i.e., Case No. U-18370, whereas the Company's methodology included costs that are not appropriate for inclusion in the customer charge.[1586] He stated that Staff's methodology correctly "includes only costs directly related to the customer's existence as a customer, including meters, services, and customer service" which adheres to Commission guidance in numerous past cases, including the above-mentioned Case No. U-18370.[1587]

Further, Mr. Revere made the following recommendation for customer charges for other, non-residential customer classes:

> 1. If Staff's customer charge in Exhibit S-6, Schedule F1.5 is less than the current customer charge, Staff's recommendation is to stay with the current charge.
>
> 2. If Staff's customer charge is more than the Company's proposed charge, Staff recommends the Company's charge.

[1583] 6 Tr 2262. See also Exhibit S-6, Schedule F1.5.
[1584] 6 Tr 2263.
[1585] *Id*.
[1586] 6 Tr 2263, 2264.
[1587] 6 Tr 2264.

3. If Staff's customer charge is more than the current customer charge, but less than the Company's proposed customer charge, Staff's customer charge should be adopted.[1588]

Mr. Revere also recommended that the Commission direct I&M to file a calculation for customer cost that is consistent with Staff's proposal in the Company's next general rate case.[1589]

Mr. Coppola opposed the Company's proposal to increase the residential customer service charge; he testified that such a large increase of approximately 59% could "cause rate shock to customers[.]"[1590] He also opposed the Company's proposal to increase the small commercial customer service charge from $6.25 to $11.50; he opined that this was an excessive increase that should not be implemented.[1591] Mr. Coppola recommended that current customer service charges should remain the same. Alternatively, if the Commission saw merit in the proposal for increases, then he recommended that increases be limited to no more than $1.00 in the interest of rate gradualism.[1592]

In rebuttal for I&M, Mr. Hornyak disputed Mr. Revere's implication that the Company's calculations for the customer charge were inconsistent with those in Case No. U-18370. Mr. Hornyak asserted that the COSS methodology was not at issue in that case.[1593] Instead, he opined that the ALJ in that case merely recommended keeping the then-current customer charge the same because of concerns about assumptions made in the Company's COSS.[1594] Mr. Hornyak also asserted that Mr. Revere's CCOSS

[1588] 6 Tr 2265.
[1589] 6 Tr 2265.
[1590] 6 Tr 2524.
[1591] *Id*.
[1592] 6 Tr 2524-2525.
[1593] 3 Tr 663.
[1594] *Id*.

workpaper omitted many customer-related accounts that do not appear in his customer charge calculation.[1595] He opined that failing to recognize these costs violated the basic cost of service principal of equitable apportionment and cost classification.[1596]

In her rebuttal testimony, Ms. Duncan testified that Mr. Revere's calculations did not adhere to his own testimony because his calculations did not divide the appropriate costs by the number of bills for each class.[1597] She explained that instead, Mr. Revere divided the identified costs by the number of rate class customers.[1598] Ms. Duncan further asserted that the current residential charge of $7.25 and small commercial customer charge of $6.25 have "remained static for over ten years" and "do not sufficiently recover all customer-related costs as assigned to these classes" in the Company's CCOSS.[1599]

She further rejected Mr. Coppola's claim that the increase in customer service charges would lead to "rate shock" because such a claim must be examined based upon a customer's total bill instead of a single billing component; she explained that the residential class would only receive a 9.58% total increase under the Company's proposals.[1600] Ms. Duncan also asserted that magnitude of the increase in the customer service charge is because the charge has been held flat for over 10 years and was last increased in 2010.[1601] She also rejected Mr. Coppola's suggestion to limit charge increases to only $1.00 arguing that he provided no evidence to support this recommendation and that the Company's proposed charges are reasonable based upon

---

[1595] 3 Tr 664. See also Table SH-1 at 3 Tr 664.
[1596] 3 Tr 665.
[1597] 5 Tr 1639.
[1598] *Id*.
[1599] *Id*.
[1600] 5 Tr 1640.
[1601] 5 Tr 1641.

the cost of providing service.[1602] Ms. Duncan partially agreed with Mr. Revere's recommendations for rate classes other than residential in that she agreed that no rates should be reduced; however, she opposed the recommendations to the extent that they could result in a charge lower than one proposed by the Company.[1603] Finally, she rejected Mr. Revere's recommendation to require the Company to use Staff's customer charge calculation in future rate cases "because of Staff's inappropriate classification of which customer-related costs should be included in the calculation."[1604]

In its initial brief, the Company defends its proposal to increase residential and small commercial customer charges to $11.50 by arguing that the change is needed to align with the Company's cost of service.[1605] I&M's brief largely relies on and repeats the arguments presented in the rebuttal testimony of witnesses Duncan and Hornyak.[1606]

Similarly, Staff's brief reiterates the points raised in Mr. Revere's testimony and argues that Staff's calculation methodology is aligned with Commission precedent while the Company's methodology includes inappropriate costs.[1607]

The Attorney General's brief expresses support for Staff's position as articulated in the testimony of Mr. Revere, and the Attorney General reiterates her recommendation, in the alternative, to increase service charges by only $1.00 if the Commission finds merit in the Company's request to raise service charges.[1608]

[1602] 5 Tr 1642.
[1603] *Id*.
[1604] 5 Tr 1643.
[1605] I&M brief, 248-250.
[1606] I&M brief, 250, 251.
[1607] Staff brief, 112-114.
[1608] Attorney General brief, 206-208.

In its reply, the Company faults Staff for failing to address Mr. Hornyak's rebuttal testimony, which argued that COSS methodology was not at issue in Case No. U-18370.[1609] The Company similarly argues that Staff's brief did not address the Company's rebuttal testimony regarding the alleged omission of certain customer-related accounts in Staff's calculation of the customer charge calculation.[1610] The Company contends that Staff is incorrect to claim that the customer service charge must be calculated in the same way as in Case No. U-18370, and that, in any event, Staff's calculation would still be flawed.[1611]

Staff replies that it is the Company that is incorrect and that Staff's initial brief and testimony explained the reason that it intentionally omitted certain customer-related accounts from its calculations.[1612] Staff rejects the Company's contention that the service charge should include absolutely all fixed or customer-related costs, and Staff reiterates that the appropriate method for calculating service charges was performed in Case No. U-18370, which itself relied on previous Commission precedent.[1613]

The Attorney General stands on her initial brief and supports the arguments presented by Staff.[1614]

This PFD notes that both Staff and the Company repeatedly reference Case No. U-18370 (i.e., the Company's last contested rate case) and the methodology used therein to calculate cost of service and to set the appropriate customer charge. In that case, Staff

[1609] I&M reply, 93.
[1610] I&M reply, 93.
[1611] I&M reply, 94.
[1612] Staff reply, 32.
[1613] See Staff reply, 32.
[1614] Attorney General reply, 49.

advocated the same methodology that it does in the current case, which is based on Commission precedent from the 1970s that describes the allowable components of a service charge as being limited to only those costs associated directly with supplying service to a customer.[1615] I&M argues that COSS methodology was not at issue in Case No. U-18370, and that assertion appears to be accurate, although not necessarily significant. The critical issues regarding the residential customer service charge in Case No. U-18370 were that I&M sought to recover costs that may have already been recovered, and the Company also claimed that its then-current marginal costs were equivalent to its overall marginal costs.[1616] The Commission rejected the latter claim and found it to be a root cause of I&M's proposal to dramatically increase the residential customer service charge to $18.00[1617] per month in that case.[1618] Accordingly, the Commission agreed with the ALJ that Staff's proposal to maintain the residential customer service charge at $7.25 per month was reasonable and prudent given that Staff's calculation of the charge in that case was close to the $7.25 amount.[1619]

Here too, this PFD finds that it is reasonable and prudent to maintain the residential customer service charge of $7.25 per month because Staff's cost-of-service calculations, based upon Commission precedent, demonstrate that Staff's calculated charge of $7.38 is reasonably close to the current charge of $7.25 such that the difference between the

---

[1615] See Staff brief, 113; citing January 18, 1974, Order, Case No. U-4331, p 30 and May 10, 1976, Order, Case No. U-4771, p 2.
[1616] April 12, 2018, Order, Case No. U-18370, p 83.
[1617] This PFD notes that I&M proposes a monthly residential service charge of $11.50 in the current case, which suggests that—by the Company's own reckoning—the cost of serving its customers must have decreased significantly since the Company's last rate case.
[1618] April 12, 2018, Order, Case No. U-18370, p 80-83.
[1619] April 12, 2018, Order, Case No. U-18370, p 83.

two is de minimis and does not warrant a modification. For similar reasons, this PFD adopts Staff's recommendations regarding customer service charges for other customer classes.[1620]

XI.

TARIFF ISSUES

A. PowerPay Program Tariff

As discussed above, the Company proposes a new program known as PowerPay and is proposing a new tariff to implement the program.[1621]

Ms. Klocke testified that the proposed tariff sheet for the PowerPay program does not contain all the information needed to recommend approval. She testified:

> Because the tariff sheet would be the prevailing authority for the PowerPay program, should it be approved, it is essential that it contain precisely detailed elements of the program; in other words, the tariff sheet would be the blueprint for how the PowerPay program is structured and it must contain all elements for how to run that program.[1622]

Staff recommends three significant revisions to I&M's proposed tariff, which were detailed by Ms. Klocke in her testimony.[1623]

In rebuttal, Mr. Cooper addressed Staff's proposed changes and testified that the Company was agreeable to some but not all of the changes.[1624] And I&M reiterated Mr. Cooper's assertions in its brief.[1625]

[1620] See 6 Tr 2265.
[1621] I&M brief, 252. 4 Tr 1188-1202.
[1622] 6 Tr 2142.
[1623] 6 Tr 2142-2144.
[1624] 3 Tr 395-396.
[1625] I&M brief, 252-253.

As discussed above, this PFD agrees with Staff and CUB that the PowerPay program was not appropriately supported by the Company and recommended that the Commission disallow all expenditures related to the program. Obviously, if the Commission approves that recommendation, the disputes involving the tariff become moot. In the alternative, if the Commission accepts the Company's proposed PowerPay program, this PFD finds that all of Staff's proposed revisions to the PowerPay tariff should be implemented based on the reasoning provided by Ms. Klocke.[1626]

B. AMI Opt-Out Reconnection Fees and Pole Reconnection Charges

Mr. Cooper testified that the AMI opt-out reconnection fees are one-time fees charged for services to customer who have opted out of the AMI program.[1627]

Ms. Fromm testified that Staff recommends a change to the after-hours, Saturday, Sunday, and Holiday charges. She stated that Staff discovered that the Company had applied an incorrect percentage of labor costs associated with these fees. Using the correct rates, Ms. Fromm calculated new rates.[1628]

In its brief, I&M agrees with Staff's calculations and accepts Staff's proposal for the charge of $112 for after business hours and Saturdays, and a charge of $211 for Sundays and Holidays.[1629] And the Company acknowledges that its error also affected the fees for reconnections at a pole during non-business hours. I&M explains that these reconnection fees should be $183 for after business hours and Saturdays and $38 for Sundays and holidays.[1630]

[1626] 6 Tr 2142-2144.
[1627] 3 Tr 388.
[1628] 6 Tr 2132.
[1629] I&M brief, 254.
[1630] I&M brief, 254. 3 Tr 389. These corrections are documented on Exhibit IM-51.

Based on I&M's response to Staff's proposal, the issue is resolved. Accordingly, this PFD recommends that the Commission accept the rates calculated by Staff in this case.

C. <u>CIAC Line Extension Charge</u>

The Company did not propose any changes to its Contribution In Aid of Construction (CIAC) line extension rates in this case.

Noting that these rates were last updated in 2016, CUB recommends that the Commission order updated charges in this case.[1631] Mr. Ozar testified that the Company's current line extension charges do not align with actual costs our current costs of construction. He stated the Commission found these charges were too low in 2016 and increased them in Case No. U-18370. He stated that the amount of the increase was reduced by the Commission based on Staff's recommendation, and he asserted that the Commission ordered a phased in approach to increase the rates further, after implementation of the order; he alleged this never happened.[1632]

Mr. Ozar testified that the Company did not provide updated information on these charges, so Mr. Ozar used the tariff originally proposed in that case as the basis to calculate new costs for overhead and underground lines, which CUB proposes should be included in this rate case.[1633] Mr. Ozar testified that failure to address the out of date costs associated with CIAC "constitutes an implicit (or indirect) and unjustified rate increase."[1634] He explained:

[1631] CUB brief, 62, 65.
[1632] 3 Tr 230.
[1633] 3 Tr 233-234.
[1634] 3 Tr 232.

> Line extension charges collected from new customers are a direct offset to the capital costs of construction for new connections. The lack of an update to line extension charges means that the Company's capital forecast for new customer additions is artificially inflated. The adverse impact on future rate base, and customer rates, is compounded over time if line extension costs are persistently understated.[1635]

In rebuttal, Mr. Cooper disputed the assertion that the Commission directed I&M to increase CIAC rates using a phased approach in Case No. U-18370. He asserted that the Commission made no such finding and maintained that I&M properly implemented the Commission's order.[1636] He stated that the Company is willing to perform an analysis of the CIAC line extension charges, similar to the steps that were used to develop the Company's proposed CIAC line extension charges in Case No. U-18370 and present it in its next rate case.[1637]

In its brief, CUB repeats Mr. Ozar's contentions and suggestions.[1638] Responding to the Company's proposition to perform an analysis of CIAC charges and present it in its next rate case, CUB agrees with the suggestion but argues that because these charges are drastically out of line with current costs, new rates should also be implemented in this case. CUB recommends that the Commission adopt the rates calculated by Mr. Ozar. CUB also agreed with I&M's proposal to include an analysis of CIAC in its next rate case.[1639]

In its brief, I&M repeats its assertion that conducting a new analysis that will be presented in its next rate case is the most appropriate method to address CUB's

---

[1635] 3 Tr 232-233.
[1636] 3 Tr 397.
[1637] 3 Tr 398.
[1638] CUB brief, 62-64.
[1639] CUB brief, 65.

concerns.[1640] And the Company reiterates that Mr. Ozar's account of the Commission's finding in Case No. U-18370 are erroneous.[1641]

This PFD agrees with I&M that CUB mischaracterizes the holdings in Case No. U-18370. The holding in the PFD states:

> The ALJ agrees with the Staff on this issue, finds that I&M's proposed increase in its line extension rates should be rejected (and, if necessary, phased-in over a number of years), and that the Staff's proposed rates should be adopted for purposes of this case. (citation omitted)[1642]

And the Commission addressed the issue in its entirety with:

> The ALJ found the Staff's position persuasive and recommended approval of the Staff's costs . . . The ALJ stated that "The immediate adoption of the Company's proposed line extension cost recovery plan would, it appears, keep many potential customers off the grid." Thus, the ALJ recommended that I&M's proposed line extension rates should be rejected at the present time, and if necessary, phased-in over a number of years.
> No exceptions were filed and, therefore, the Commission adopts the ALJ's findings and recommendation on this issue. (citations omitted)[1643]

A clear reading of the above holding disproves CUB's assertions. The Commission did not order an increase in CIAC charges be phased in over time.

However, this PFD also finds that CUB's assertions that the CIAC rates are outdated and should be updated to be meritorious. And, because I&M agrees, this PFD recommends that the Commission direct the Company to present an analysis of its CIAC rates in its next rate case. This PFD also suggests that analysis include a proposal to phase-in rates over a period of time, as the required increase to rates could be significant in order to bring the charges in line with costs.

[1640] I&M brief, 257.
[1641] I&M brief, 256.
[1642] February 8, 2018, PFD, Case No. U-18370, p 34.
[1643] April 12, 2018, Order, Case No. U-18370, p 26.

D. Removal of TOU Pricing Period from CPP Rate

Ms. Duncan described the current rate structure of I&M's Residential Service Critical Peak Pricing tariff (RS-CPP) and General Service Critical Peak Pricing tariff (GS-CPP) as including "winter and summer rates as well as blocking of summer rates into low, medium, and high-cost hours."[1644] The Company proposes revising those tariffs by removing the low, medium, and high rate periods and by creating a three-part rate structure that includes a monthly service charge, critical peak hours energy charge, and an "all other hours" energy charge.[1645] Mr. Cooper testified that the modifications would "simplify the tariff for ease of explanation and understanding by potential customers of these tariff offerings."[1646]

Staff objects to I&M's proposal. Mr. Revere testified that "[e]liminating the Company's most granular time-of-use (TOU) rates, which best reflect the temporal variation in the cost of providing electricity, would be a step backwards," and he further opined that "[s]uch rates are not terribly complicated, and are widespread among utilities, including those in Michigan."[1647] Mr. Revere also recommended that because Staff was unable to modify the CPP rates consistent with the current rate structure due to issues with the Company's rate design model, the Commission should "require the Company to file an application to amend the current rates to be revenue-neutral to rate RS within 60 days of the final order in the instant case."[1648]

[1644] 5 Tr 1623, 1630.
[1645] 3 Tr 374. 5 Tr 1630.
[1646] 3 Tr 374.
[1647] 6 Tr 2257.
[1648] *Id*. See also Staff brief, 115.

CUB likewise recommends that the Commission reject I&M's proposal. Mr. Ozar described the proposal as "a reversal in direction away from a rate structure that better reflects the underlying nature of the costs incurred to serve customers, *i.e.*, reflecting cost causation during peak and off-peak periods, and toward a simplistic, uniform per-kWh charge."[1649] He questioned "whether any asserted lack of [customer] understanding is due to the structure of TOU tariffs, or because of a deficiency in I&M's customer education efforts," noting that both Consumers Energy and DTE Electric have even more complex rate structures for their CPP tariffs.[1650] "If the Company believes that its relatively simple . . . CPP tariffs are confusing or too complex for customers to understand, then it should take concrete corrective actions to better educate its customers rather than eliminate the TOU periods from the tariff."[1651]

Mr. Ozar further testified that the ability to facilitate TOU rates is "a major justification" for implementing AMI technology, and that the Company's proposal to remove TOU pricing periods from the CPP tariffs would result "in a loss of value for the AMI investment being funded by ratepayers."[1652] Likewise, "the proposed simplification of the existing CPP tariff deleverages the level of granularity in usage information that the current [CIS] can accommodate, again resulting in a loss of value to ratepayers for the existing CIS system."[1653] Mr. Ozar noted that I&M was "planning massive investments in

---

[1649] 3 Tr 200.
[1650] 3 Tr 201.
[1651] 3 Tr 202.
[1652] 3 Tr 201.
[1653] *Id*.

a new CIS to allow more complex TOU rate structures," while, at the same time, proposing to simplify those tariffs.[1654]

In rebuttal, Mr. Cooper testified that the "driving force" for requesting changes to the CPP tariffs was feedback from customer service representatives that customers want easy to understand rate schedules, as well as participation levels.[1655] He concluded by testifying that "if the Commission agrees with Staff and in an effort to continue to offer a variety of time-based rate schedules that utilize the benefit of having access to AMI data, the Company will withdraw the request to modify Tariffs RS and GS CPP upon order to do so."[1656]

In briefing, the parties reiterate their respective positions as presented in testimony.[1657] CUB recommends that the Commission "direct I&M to develop a plan to better educate and empower customers on how to use TOU rates."[1658]

This PFD agrees with Staff and CUB that I&M's proposal to change the CPP rate structure should be rejected as both unnecessary and counterproductive. As CUB observes, simplification of the CPP tariffs is inconsistent with the Company's past and current justifications for investing in new technology.[1659] And I&M's rationale for its proposal is not persuasive; the Company fails to present any real evidence showing that its current CPP rate structure is too confusing, resulting in lower participation levels. If such a problem did exist, the proper remedy would be to better educate its customers

---

[1654] 3 Tr 202.
[1655] 3 Tr 386-387.
[1656] 3 Tr 387.
[1657] I&M brief, 257-258; Staff brief, 115-116; CUB brief, 28-30; I&M reply, 95-96.
[1658] CUB brief, 30.
[1659] CUB brief, 29.

rather than to simplify the tariff.[1660] In the end, I&M's proposal would only serve to undermine an important demand-side resource.

In a related issue, I&M did not respond to Staff's request that the Commission order the Company to "file an application to amend the current rates to be revenue-neutral to rate RS within 60 days of the final order in the instant case."[1661] This PFD finds that the request is reasonable and should be adopted.

E. Distributed Generation 2 Rider (DG 2)

When I&M initiated this case in September 2023, the Company requested approval of a DG 2 Rider that would be available for customers after the statutory caps established in MCL 460.1173(3) were reached. Ms. Seger-Lawson testified that in May 2023, the Company notified the Commission in Case No. U-15787 that it would no longer be accepting new Category 1 DG customers (installed generation capacity of 20 kW or less) under its existing DG Rider because it had reached the program size limits.[1662] Ms. Seger-Lawson explained that customers with completed Category 1 applications pending as of May 15, 2023, would be permitted to participate in the program under the existing DG Rider "regardless of the statutory cap."[1663] She also testified that the Company continued allowing customers to interconnect Category 1 DG resources but that I&M was "currently using existing approved tariffs to provide credits for Outflow generation."[1664]

[1660] This PFD does not find it necessary, based upon this record, to order I&M to develop a corrective plan as recommended by CUB.
[1661] 6 Tr 2257. See also Staff brief, 115.
[1662] 6 Tr 1988-1989.
[1663] 6 Tr 1989-1990.
[1664] 6 Tr 1989.

Ms. Seger-Lawson testified that I&M's proposed DG 2 Rider (included as Tariff Sheet D-110.1 in Schedule A-16, F5.4) would be offered to Category 1 customers who apply to the program after May 15, 2023, and to those customers who apply after the statutory caps are met for Categories 2 and 3.[1665] The DG 2 Rider would pay customers a market-based rate for excess generation.[1666]

Staff witness Stow,[1667] CUB witness Ozar,[1668] CEO witness Kenworthy,[1669] and MEIU witness Hoyle[1670] each opposed the implementation of the DG 2 Rider because it would be contrary to new requirements for DG programs established in 2023 PA 235 (Act 235), which became effective on February 27, 2024, after the initial testimony in this case was filed. Section 173(3) of Act 235 increased DG program capacity from 1% to 10% of a utility's average in-state peak load for the preceding 5 years.[1671] It also revised the allocation of that capacity to "[n]ot less than 50% for customers with an eligible electric generator capable of generating 20 kilowatts or less" and "[n]ot more than 50% for customers with an eligible electric generator capable of generating more than 20 kilowatts but not more than 550 kilowatts."[1672] In addition, Section (5)(e) of Act 235 amended the definition of "eligible electric generator" to mean "a methane digester or renewable energy system with a generation capacity limited to 110% of the customer's electricity consumption for the previous 12 months."[1673] The new law also specifies that credits for

---

[1665] 6 Tr 1990. At the time of Ms. Seger-Lawson's testimony, only the Category 1 cap had been reached. 6 Tr 1989.
[1666] 6 Tr 1990.
[1667] 6 Tr 2348.
[1668] 3 Tr 204.
[1669] 3 Tr 304-305.
[1670] 3 Tr 170-172.
[1671] MCL 460.1173(3) (effective February 27, 2024).
[1672] *Id*.
[1673] MCL 460.1005(e) (effective February 27, 2024).

distributed generation outflow “must reflect cost of service.”[1674] And it removed the previous requirement that certain DG customers have a generation meter installed.[1675] The Commission has since opened Case No. U-21569, seeking comment on implementation of the new DG program requirements set forth in Act 235.

Ms. Stow summarized the relevant changes resulting from Act 235, and she recommended that I&M withdraw its DG 2 Rider and revise the current DG Rider to reflect those changes.[1676]

Similarly, Mr. Ozar opined that the Commission “cannot approve I&M’s proposed DG 2 Rider as it is inconsistent with the new law.”[1677] Mr. Ozar believed that the Company would need to be in compliance with Act 235 on its effective date of February 27, 2024, and “[d]oing so will require an application from the Company for a replacement DG Rider that satisfies the new DG program requirements.”[1678] In addition, “As the effective date [of Act 235] is well in advance of the expected date of the Commission’s Order in this general rate proceeding, an I&M filing and contested proceeding that is separate from this proceeding will be required.”[1679]

Mr. Ozar also addressed I&M’s decision to close new Category 1 enrollments for applications that were submitted after May 15, 2023.[1680] He testified that I&M’s proposal to offer the DG 2 Rider to customers who submitted applications between May 15, 2023, and the date of the Commission’s order in this case, “on the presupposition that the DG

[1674] MCL 460.1173(7) (effective February 27, 2024).
[1675] See MCL 460.1177(1) (effective February 27, 2024).
[1676] 6 Tr 2347.
[1677] 3 Tr 204.
[1678] *Id*.
[1679] *Id*.
[1680] 3 Tr 205.

2 Rider will be approved," was problematic because the DG 2 rider does not comply with Act 235.[1681] According to Mr. Ozar, "This creates a situation that could conceivably result in no enrollment at all between May 15, 2023, and the effective date of the new law on February 27, 2024."[1682]

Mr. Ozar recommended that the Commission direct the Company "to continue enrolling Category 1 customers, including those who applied after May 15, 2023, in its existing DG program unless and until it receives approval for a new DG tariff that complies with the new law."[1683] He testified that because Act 235 substantially raises the statutory cap on enrollments, and "because the cap is a discretionary cap at a utility's prerogative," it would be reasonable for I&M to continue to enroll all customers into its existing DG program who apply between May 15, 2023, and when the Company receives approval for a new tariff.[1684]

Mr. Kenworthy also took issue with I&M's proposed DG 2 Rider on the basis that it "significantly undercompensates DG customers for the energy they provide to the Company as outflow."[1685] While he recommended that I&M withdraw the DG 2 Rider proposal, he also believed that the DG 2 Rider was "ultimately irrelevant" because Act 235 raises the "minimum required offering ('cap')" from 1% to 10%, which "therefore mandates a restoration of the Company's original DG tariff for outflow at the full power supply cost."[1686] Mr. Kenworthy testified that the new 10% cap will be effective before the

[1681] *Id*.
[1682] *Id*.
[1683] 3 Tr 204.
[1684] 3 Tr 205.
[1685] 3 Tr 304.
[1686] 3 Tr 304-305.

Commission issues a Final Order in this case and, therefore, "the Company should immediately re-open the original distributed generation program under the previous DG Rider, amend the DG Rider to reflect the new caps and size limits, and withdraw the DG 2 Rider."[1687]

With respect to the existing DG Rider, Mr. Kenworthy recommended that I&M change the outflow credit by adding avoided distribution system costs and "other benefit-cost values identified in numerous reports and studies."[1688] He testified that I&M's DG Rider outflow credit adopted in Case No. U-20359 is power supply including transmission, which is the same outflow credit structure that was approved for both Consumers Energy (Case No. U-21224) and DTE Electric (Case No. U-20836).[1689] Mr. Kenworthy then cited MCL 460.6a(14), which requires the DG tariff to "reflect[ ] the equitable cost of service," and he cited a report from the National Regulatory Energy Laboratory (NREL) that "demonstrated environmental, transmission, and distribution benefits of distributed generation which are currently unaccounted for in the outflow credit."[1690] He also quoted the Commission's April 18, 2018, Order in Case No. U-18383, which stated that "[t]he cost and benefit impacts associated with DG customers are not static," and "[a]s the DG program evolves and more data becomes available, the Commission will better be able to assess the cost and benefit impacts and conduct rate design consistent with COS principles."[1691]

[1687] 3 Tr 306.
[1688] 3 Tr 306, 308.
[1689] 3 Tr 306.
[1690] *Id*.; citing Exhibit CEO-3.
[1691] 3 Tr 306-307.

Mr. Kenworthy opined that the current outflow rate undercompensates customers, and he recommended that "[i]n light of [Act 235], which guarantees the DG Rider's availability for several more years, now would be an excellent time for the Commission to revisit the discussion around the value of outflowed DG energy."[1692]

Finally, Mr. Kenworthy addressed the new allocation requirement in Act 235, which states that not less than 50% of the 10% cap shall be allocated for customers capable of generating 20 kW or less, while not more than 50% shall be allocated for customers capable of generating more than 20 kW but not more than 550 kW.[1693] He testified that the new statutory language "means that some amount of capacity must be available for projects greater than 550 kW."[1694]

Mr. Hoyle likewise recommended that the Commission reject the DG 2 Rider because it does not provide a cost-of-service credit for electricity outflow as required by Act 235.[1695]

With respect to customers who applied to the Category 1 DG program after May 15, 2023, Mr. Hoyle quoted I&M's June 30, 2023, filing in Case No. U-20890 stating that those customers were advised "that service under the I&M Cogeneration and/or Small Power Production Service tariff (Tariff Cogen/SPP) is available."[1696] Mr. Hoyle noted: "The Company has not indicated whether or not those Level 1 customers submitting applications for the DG program after May 15, 2023 were placed on a wait list

---

[1692] 3 Tr 307.
[1693] *Id*.
[1694] *Id*.
[1695] 3 Tr 170.
[1696] 3 Tr 163.

or whether some portion of them signed up for the new tariff option."[1697] He testified that it was unclear how or if I&M planned to allow those customers' admission to the DG program.[1698] "To my knowledge, I&M continues to advise Level 1 DG customers that service under the I&M Tariff Cogen/SPP is available despite the expansion of the DG program cap under PA 235."[1699] Mr. Hoyle explained that Tariff Cogen/SPP "is designed for customers with up to 5 MW of capacity" and opined that it is "wholly inappropriate for DG customers."[1700]

In turn, Mr. Hoyle recommended that the Commission require I&M to "identify and contact customers who submitted an application for the DG program or who were directed to a different Company tariff in lieu of the DG program after . . . May 15, 2023," notify those customers "concerning their renewed eligibility for the Company's DG program under PA 235," and provide them "a reasonably efficient and simple mechanism to participate in the DG program" under the existing DG Rider.[1701]

Mr. Hoyle went on to address the changes that Act 235 made to the definition of eligible electric generator in Section 5(e) and to the allocation of program capacity in Section 173(3).[1702] He opined that the amended statute allows for the participation of large eligible electric generators (LEEGs) in DG programs:

> I am not a lawyer, but it seems to me from a plain reading of Sections 5(e) and 173(3) of PA 235 that LEEGs should be eligible to participate in the DG program since these systems fall within the definition of "eligible electric generator" as revised under PA 235. In my opinion, there is no reason why the allocation categories in Section 173(3) need be exclusive. These

---

[1697] *Id.*
[1698] *Id.*
[1699] 3 Tr 164.
[1700] *Id.*
[1701] 3 Tr 169.
[1702] 3 Tr 165.

> categories simply ensure that at least 50% of the 10% limit is allocated to systems less than 20 kW in capacity and then provide that "not more than 50%" should be allocated to generators larger than 20 kW but no larger than 550 kW. The statute does not say anything at all as to whether some portion of the 50% leftover after accounting for systems less than 20 kW in capacity . . . could be used by LEEGs. Clearly, exactly 50% could be allocated to systems less than 20 kW in capacity and less than 50% could be used by systems 20-550 kW in capacity, leaving some percentage available for LEEGs. This approach of allowing for LEEGs to use some portion of the "not more than 50%" allocation of the total 10% DG program soft cap established under PA 235 Section 173(3) is, in my opinion, a reasonable approach since it allows for DG customer projects "with a generation capacity limited to 110% of the customer's electricity consumption for the previous 12 months" per Section 5(e) of PA 235 but still respects the allocations in Section 173(3) and overall DG program soft cap.[1703]

Based on his analysis, Mr. Hoyle recommended that I&M's existing DG tariff "be made available to any customer with a DG system size of up to 110% of the customer's electricity consumption for the previous 12 months."[1704]

Mr. Hoyle further testified that Section 177(1) of Act 235 deleted the requirement of a generation meter for customers capable of generating more than 20 kW.[1705] He noted, however, that the Commission has yet to adopt new Interconnection and Distributed Generation Standards in response to Act 235 and the existing standards still include the generation-meter requirement.[1706] As a result, Mr. Hoyle recommended that the Commission grant a blanket waiver from the generation-meter requirement and "explore any and all expeditious means to modify and update the Interconnection and Distribution Generation Standards to comply with PA 235."[1707]

[1703] 3 Tr 166.
[1704] 3 Tr 169.
[1705] 3 Tr 167.
[1706] 3 Tr 168.
[1707] 3 Tr 169.

In rebuttal, Ms. Seger-Lawson acknowledged that Act 235 amended the requirements for DG programs.[1708] She testified that I&M "will comply with [Act 235] and modify its DG tariff accordingly and plans to file a modified DG tariff in a separate proceeding, in accordance with MPSC directives on how to comply with the new law."[1709] She added, "I&M expects that all issues related to I&M's DG tariff will be addressed in that separate proceeding."[1710] In response to Mr. Ozar's recommendation that I&M resume enrollment of eligible Category 1 customers into the DG program, Ms. Seger-Lawson testified:

> I&M continued to enroll customers with distributed generation resources that would otherwise qualify for DG category 1 after May 15, 2023. Because the DG program was closed based on I&M exceeding the cap, these customers were placed on I&M Tariff COGEN/SPP (Cogeneration and/or Small Power Production Service). After the Company filed this case, the Michigan law changed. I&M plans to file a revised DG tariff to comply with [Act 235]. It was never I&M's intention to limit customers['] participation in the DG tariff, instead the Company simply was attempting to comply with the then existing Michigan law.[1711]

Staff witness Krause testified in opposition to recalculating the DG tariff outflow credits as recommended by Mr. Kenworthy.[1712] He testified that the NREL report cited by Mr. Kenworthy "discusses methods for analyzing the benefits and costs of distributed photovoltaic generation to the U.S. electric utility system" but "provides no actual calculations."[1713] He explained that the concepts presented in the report were similar to the value of solar and that many of those considerations were already included in the

---

[1708] 6 Tr 2017. Ms. Seger-Lawson incorrectly identifies Act 235 as "2023 PA 321."
[1709] *Id*.
[1710] *Id*.
[1711] 6 Tr 2018.
[1712] 6 Tr 2068-2070.
[1713] 6 Tr 2068.

approved DG tariff.[1714] With respect to including environmental benefits in the DG tariff, Mr. Krause testified that "[s]ome environmental costs, such as social cost of carbon, or public health costs, reflect costs that are not actually paid by the Company and may require legislation to include in rates."[1715] To include those costs "will mean ratepayers pay more for energy without the economic benefits that would accrue if these costs were made actual to all those who impose them."[1716] Mr. Krause recommended against compensating DERs for all benefits because "then there are no benefits that flow to other customers, so other customers and the Company would be indifferent between DERs and other options."[1717] And he recommended against compensating for distribution benefits because "[t]he outflow has not been shown to offset distribution costs and it should not be treated as if it has."[1718]

Mr. Krause further testified that some rates may need to be re-evaluated given the resulting changes to DG programs after enactment of Act 235:

> MPSC case U-18383 was undertaken as a study for DG rates and resulted in the inflow/outflow method. Since that time much of the focus has been on the appropriate outflow rate. The report that was issued as a result of U-18383 only contemplated renewable projects up to 150 kW and methane digesters up to 550 kW. It is possible that for solar or other projects over 150 kW that a different rate structure, or a different outflow rate may be more appropriate. As Staff is still internalizing the recent energy acts, Staff will continue to consider the appropriate actions to implement these acts, including the appropriate rates.[1719]

[1714] *Id*.
[1715] 6 Tr 2069.
[1716] *Id*.
[1717] *Id*.
[1718] *Id*.
[1719] 6 Tr 2070.

Staff witness Revere responded to Mr. Hoyle's and Mr. Kenworthy's position that DG programs should now be open to customers capable of generating more than 550 kW.[1720] He analyzed the text of Section 173(3) of Act 235 and opined that it did not support Mr. Hoyle's and Mr. Kenworthy's interpretations:

> The statute states the allocation shall be between two categories, neither of which encompasses LEEGs. It is also clear that the intent of the "not more than 50%" and "not less than 50%" is to ensure that *at least* 50% is reserved for the smaller category, rather than creating space for a category that the legislature did not include in the allocation, but could have had they intended for its creation. Contrary to CEO witness Kenworthy's claims, there also need not be some amount left over for the non-existent category of over 550 kW; the sum of the two categories would be 100% if both were at 50%, and similarly for a number of combinations of percentages greater than and less than 50% for the respective categories.[1721]

Mr. Revere likewise opined that the definition of eligible electric generator in Section 5(e) of Act 235 should not be interpreted to include generators above 550 kW.[1722] Under his analysis, the amended definition eliminates the restriction that generators over 150 kW and less than 550 kW could only be methane digestors and not renewable energy systems.[1723] "This change did not create a new category for allocation of the cap, which still contains only two categories . . . ."[1724]

I&M's brief largely relies on Ms. Seger-Lawson's testimony. The Company reiterates that it plans to file a modified DG tariff in a separate proceeding and asserts that it would be "premature" to address any objections to the DG 2 Rider before filing that tariff.[1725]

[1720] 6 Tr 2272-2274.
[1721] 6 Tr 2273-2274.
[1722] 6 Tr 2274.
[1723] *Id*.
[1724] *Id*.
[1725] I&M brief, 258-259.

Staff relies on Mr. Revere's testimony to support its argument that Act 235 "did not create a new category of eligible DG generators above 550 kW."[1726] It also reiterates Mr. Krause's objections to the recalculation of DG compensation as proposed by Mr. Kenworthy.[1727] Regarding Mr. Kenworthy's use of the NREL report to support his argument, Staff notes that Mr. Kenworthy "did not calculate any of the benefits listed in the NREL report specific to the Company such that the parties could evaluate the proposal properly."[1728] Staff repeats that DG compensation may need to be re-evaluated given that Act 235 "changed which generators are eligible for DG."[1729]

CUB reasserts its argument that the Commission should reject the proposed DG 2 Rider and require I&M to continue enrolling customers under its existing DG Rider until a revised tariff is approved.[1730] CUB notes that I&M has indicated it will make a separate filing to modify its DG tariff, "while conspicuously failing to withdraw the proposed DG 2 Rider or commit to allowing DG applicants who were enrolled in the COGEN/SPP tariff after May 15, 2023, to elect to move to the existing DG Rider."[1731] "Since all categories of DG customers have not yet reached their respective caps under the new law, there is no reasonable basis for continuing to treat Category 1 customers who applied after May 15, 2023, differently from other DG customers."[1732] CUB also asserts there is no reason to wait until the conclusion of a separate proceeding "before putting an end to the Company's current DG practices that are no longer sanctioned by law and rejecting the

[1726] Staff brief, 120-121.
[1727] Staff brief, 128-129.
[1728] Staff brief, 129.
[1729] Staff brief, 129-130.
[1730] CUB brief, 30-33.
[1731] CUB brief, 31-32.
[1732] CUB brief, 32.

creation of a new tariff whose purpose is no longer relevant."[1733] CUB again recommends that the Commission order I&M to address those customers who applied for DG service after May 15, 2023, but were enrolled in the COGEN/SPP tariff by automatically moving them to the DG Rider or by notifying them that they can elect to move to the DG Rider.[1734] It further proposes that I&M be required to "retroactively compensate [those customers] for the difference in outflow rates between the COGEN/SPP tariff and the current DG Rider during the interim period of February 27, 2024, and the date the Category 1 customers are moved to the existing DG Rider."[1735]

CUB also agrees with the testimony of Mr. Hoyle and Mr. Kenworthy arguing that LEEGs should now be eligible to participate in DG programs.[1736] It notes that neither MCL 460.1173(3) nor MCL 460.1005(e) "explicitly exclude LEEGs from DG programs" and asserts that the "Legislature made an active decision to leave size limits out of the definition of 'eligible electric generators.'"[1737] In rejecting Mr. Revere's analysis of the new definition of eligible electric generators, CUB states:

> [I]f the Legislature had intended to keep the 550 kW size limit, it could have simply eliminated the distinction contained in PA 342 between methane digesters and renewable energy systems so that eligible electric generators would be defined as having "a generation capacity limited to 110% of the customer's electricity consumption for the previous 12 months *and that does not exceed 550 kilowatts of aggregate generation at a single site*." Instead, all mentions of size limits are conspicuously absent from the bill's final version as it was codified into law.[1738]

[1733] CUB brief, 33.
[1734] *Id.*
[1735] *Id.*
[1736] CUB brief, 34-38.
[1737] CUB brief, 35.
[1738] CUB brief, 36.

Likewise, CUB states that in amending MCL 460.1173(3), the Legislature could have explicitly ruled out the possibility of allocating capacity to LEEGs, but instead, the statute's "flexible language intentionally leaves room for the development of larger distributed generation facilities in Michigan."[1739] CUB argues that allowing LEEGs to participate in DG programs would support the goals identified in the new law.[1740] And it asserts that "[b]y including LEEGs in utility DG programs, the Commission would not be taking an unprecedented step," noting that Rhode Island and Maine allow participation by generation facilities with a capacity of up to 5 MW.[1741]

CEO states in its brief that in addition to re-opening the original DG program and amending the DG Rider to comply with the new law, I&M should "contact customers who are currently on COGEN/SPP or who had applied for the original DG Rider and have not interconnected in order to restore them to the proper tariff."[1742] CEO also recommends that the Commission order a DER valuation study that includes "a marginal cost of service analysis that identifies the different value streams DG can provide."[1743] Regarding Mr. Kenworthy's testimony on the issue, and Mr. Krause's response to that testimony, CEO clarified:

> Of course, [the value associated with DG] cannot be verified with accuracy prior to a detailed study of the marginal value of added distributed generation. That is why the study is necessary. The Commission should view Witness Kenworthy's testimony as illustrating examples of the types of values a study of distributed generation could focus on, rather than a recommendation of what *precisely* to include in the outflow credit. A DER valuation study including a marginal cost of service analysis is essential to

---

[1739] CUB brief, 36-37.
[1740] CUB brief, 37.
[1741] *Id*.
[1742] CEO brief, 4.
[1743] CEO brief, 5.

continue to ensure that the DG tariff is cost based and fairly and accurately compensates DG customers for the value they provide the grid.[1744]

MEIU's brief relies on the testimony of Mr. Hoyle. MEIU asserts that the increase in DG program capacity required by Section 173(3) of Act 235 "is not conditioned on and does not require any Commission action to implement."[1745] Therefore, "[t]o the extent that I&M continues to refuse to reopen its DG Rider to new customers with systems capable of generating 20 kW or less, . . . the Commission must order the Company to do so in its Order in this proceeding or through an alternative administrative mechanism prior to the conclusion of this case."[1746] MEIU also sets forth multiple changes it believes should be made to I&M's DG Rider as a result of Act 235, and it encourages the Commission to order those changes in this case, "contrary to the Company's suggestion that a separate proceeding be convened."[1747] MEIU's brief also parses the text of Sections 5(e) and 173(3) of Act 235 before concluding:

> In sum, because an electric generator with a capacity limited to 110% of a customer's electricity consumption for the previous 12 months is expressly made an "eligible" electric generator in MCL 460.1005(e) (section 5(e) of PA 235), imposing a 550 kW limit on electric generators eligible for the DG program—in effect making otherwise eligible generators ineligible for the program—would violate the statute as amended. The Commission should therefore reject arguments to that effect and require I&M to revise its DG Rider to permit systems larger than 550 kW—provided they do not violate the always-applicable 110% limitation—to participate.[1748]

MEIU further recommends that, in addition to granting a blanket waiver of the generation-meter requirement in its interconnection rules, the Commission should "clarify that I&M

[1744] CEO brief, 6.
[1745] MEIU brief, 5.
[1746] *Id*.
[1747] MEIU brief, 6-10.
[1748] MEIU brief, 10-13.

cannot at its option require a customer to accommodate a generation meter installed and paid for by I&M."[1749]

GLREA filed a brief encouraging the Commission to require that I&M's DG tariffs comply with Act 235.[1750] It recommends that "DG customers be compensated for their DG generation up to the Company's full retail charges applicable to the customer's consumption," and that compensation for outflow energy "should be based upon I&M's energy (PSCR) and transmission costs, and also a portion of the Company's distribution costs since a DG customer's outflow benefits neighboring customers served by the distribution system, while also mitigating a portion of the Company's distribution costs."[1751] In addition, GLREA urged the Commission to order I&M to reopen its DG program to new customers, immediately connect any customers who previously tried to participate in the program but were denied due to the previous DG cap, and ensure that those customers who were shifted to an alternative tariff program be offered the opportunity to switch to the DG program.[1752]

In reply briefing, I&M restates its position that objections to its DG tariff should be addressed in a separate proceeding "once there is additional guidance" and "in accordance with the Commission's directives on how to comply with the new law."[1753]

Staff provides additional analysis refuting CUB's and MEIU's proposals to allow generators above 550 kW to participate in the DG program: "While the exclusion of [generators over 550 kW] may be implicit in the definition of an eligible generator, . . . they

[1749] MEIU brief, 14-16.
[1750] GLREA brief, 1-2.
[1751] *Id*.
[1752] GLREA brief, 2.
[1753] I&M reply, 96.

are explicitly excluded from the categories to which the cap is allocated; thus, it certainly would not be correct to state that the definition of eligible electric generator expressly included generators over 550 kW."[1754] While Staff "continues to support exclusion of projects over 550 kW in the DG program," it proposes that the DG 2 Rider "or something other than the current DG rider" could be appropriate for those large generators if they are "ultimately included in the DG program."[1755] Staff also sees the need for "substantially more investigation and discussion into the appropriate tariffs for large DG projects," while encouraging the Commission to reject "the assumption that expanding the DG program means that large projects must get the same rate treatment as small projects."[1756] Finally, Staff argues for the rejection of proposals that are raised for the first time in briefing, specifically CEO's recommendation for marginal cost-of-service and DER valuation studies and GLREA's request for a DG distribution credit.[1757]

In its reply brief, CEO argues that I&M "had plenty of time to make their [DG] offering compliant with the law" and that the Company "does not have the discretion to elect to delay in offering a legally-compliant DG tariff."[1758] CEO agrees with CUB's proposal that customers should be retroactively compensated, which will prevent I&M from being unjustly enriched.[1759] CEO reiterates its recommendation for a DG valuation

[1754] Staff reply, 34.
[1755] Staff reply, 37.
[1756] *Id*.
[1757] Staff reply, 38-40.
[1758] CEO reply, 2.
[1759] CEO reply, 3.

study.[1760] It also reasserts its support for allowing LEEGs to participate in the DG program, adopting the statutory analysis made by CUB in its brief.[1761]

MEIU's reply brief emphasizes concern that I&M "ignores or dismisses the fact that it is currently violating the law as amended by PA 235" and argues that the Commission must "bring I&M's DG Rider tariff into compliance with PA 235 by making the necessary changes to the tariff in its final order in this case."[1762] "I&M's willful failure to update its DG Rider tariff since the February 27 effective date [of Act 235] has already harmed its customers, and such recalcitrance should not be condoned or rewarded."[1763] If the Commission decides to address the issue in a future docket, MEIU urges the Commission to "expressly state in its final order that any impacted customer will be made whole for the period running from the effective date of PA 235 and the resolution of such future docket."[1764] MEIU also maintains its position that Act 235 allows generators above 550 kW to participate in DG programs, and, like CEO, it agrees with CUB's statutory analysis on the issue.[1765]

This PFD agrees with Staff and the intervenors that the DG 2 Rider should be rejected on grounds that the tariff does not comply with the requirements of Act 235, or with the Commission's finding that the credit for energy returned to the grid, based on the inflow-outflow method, is cost-based. I&M should be directed to initiate a separate proceeding to apply for a new DG tariff that complies with Act 235 and to request

---

[1760] CEO reply, 3-5.
[1761] CEO reply, 5-6.
[1762] MEIU reply, 2-3.
[1763] MEIU reply, 3.
[1764] *Id.*
[1765] MEIU reply, 3-4.

expedited review of its application. Until it receives the Commission's approval for a new tariff, I&M should enroll new eligible customers under the terms of its existing DG Rider.

In addition, the PFD finds that DG customers currently taking service under I&M's COGEN/SPP tariff should be immediately transferred to the original DG tariff until such time as a new DG tariff is approved. And this PFD agrees with CUB and CEO that those customers should be retroactively compensated.[1766] Beginning on the February 27, 2024, effective date of Act 235, I&M no longer had a legal basis to restrict Category 1 enrollment or to compensate DG customers under the COGEN/SPP tariff. Therefore, any DG customer who remained under the COGEN/SPP tariff after February 27, 2024, should receive total compensation equal to what they would have received under the original DG tariff during the interim period of time until they are transferred to the DG tariff.

This PFD further finds that issues concerning the appropriate outflow credit should be deferred to another proceeding, consistent with Mr. Krause's observation that the credit should be reevaluated for some rates.[1767] Lastly, the PFD notes that the Commission has opened a docket, Case No. U-21569, specifically intended to address issues associated with generation meters and system sizing, among other matters raised by the enactment of Act 235.[1768] It would not be prudent to decide in this case those issues that the Commission is currently addressing in Case No. U-21569.

F. Economic Development Rider

The Company is proposing a new Economic Development Rider (EDR-2), that would replace the currently approved Economic Development Rider (EDR). Company

[1766] CUB brief, 33; CEO reply, 3.
[1767] 6 Tr 2070. Staff brief, 129-130. Staff reply, 37.
[1768] See February 8, 2024, Order, Case No. U-21569, pp 1-2 and 3-4.

witness Gruca testified that I&M has consistently engaged in economic development in the communities it serves and that the economic development team "works with local, regional, and state economic development groups to identify potential customers and scope out sites that would be conducive to meeting a prospective customer's needs."[1769] She testified that the Company's economic development efforts have "contributed to the creation of over 270 jobs and nearly $105 million of capital investment in I&M's Michigan service area over the last five years."[1770]

The current EDR was initially approved in Case No. U-20359 and modified in Case No. U-20902 and is promoted by I&M's economic development and customer service Staff. Ms. Gruca testified that nine customers have applied for and been approved for the current EDR, consisting of two new customers and seven existing customers. Of the nine approved customers, five are receiving an EDR billing credit while the remaining four new customers "will begin receiving credits after their respective projects move forward into operation and existing customers will begin receiving credits when they reach the minimum incremental demand threshold of 300 kW."[1771] The current EDR Tariff is set to expire when an order is issued in the instant case.

The EDR-2 proposed in this case would be available to the Company's commercial and industrial customers who meet the following criteria:

1) New customers with a billing demand of 300 kilowatts (kW) or more, or existing customers that are increasing their billing demand by 200 kW or more over the average billing demand during the 12 months prior to the date of application for service under this rider (Base Average Billing Demand).

[1769] 3 Tr 322.
[1770] *Id.*
[1771] 3 Tr 323.

2) A new customer must create at least 10 full-time equivalent (FTE) jobs or $1,000,000 dollars of capital investment at the service location. For an existing customer, I&M will calculate a score based upon the number of FTEs created, capital investment made, Base Average Billing Demand, and estimated load increase in kW. An existing customer must achieve a score of 100 or greater to receive discounts under this Rider. Further discussion on how the score is calculated is included in Q32 of my testimony.

3) I&M reserves the right to verify that FTE job counts and/or capital investment requirements are met. Each EDR 2 customer shall comply with reasonable requests for information from the Company for the purpose of determining such compliance. Failure to maintain the minimum required FTE jobs or satisfy the capital investment requirement may result in the termination of the contract or agreement addendum for service under this Rider.

4) The customer must apply for and receive economic development assistance from the State, local government, or other public agency.

5) The customer must demonstrate that, absent the availability of the EDR 2, the qualifying new or increased demand would be located outside of I&M's service territory or would not be placed in service due to poor operating economics.

6) Revenues expected to be derived from the EDR 2 customer must be expected to exceed the incremental costs of serving that customer over the term of the contract.

7) Open Access Distribution Service (OAD) customers are not eligible for the EDR 2.[1772]

In addition, participation in the EDR-2 would require a customer to contract for service for a period of eight years. Ms. Gruca testified that customers will receive a monthly billing credit which is "the product of the customer's total non-fuel bill and the applicable discount percentage."[1773] She stated that a customer's total non-fuel bill is a customers' bill with all billing associated with the portion of fuel included in base rates and

[1772] 3 Tr 324-325.
[1773] 3 Tr 325.

the PSCR factor excluded. A customer's discount percentage is based on whether the customer is new or an existing customer.

Ms. Gruca summarized the differences between the current EDR and the proposed EDR-2, stating that the EDR-2:

> 1) Reduces the billing demand requirement for an existing customer from 300 kW or more over the Base Maximum Billing Demand to 200 kW or more over the Base Average Billing Demand;
>
> 2) Requires FTE jobs and capital investment criteria for a new customer of 10 new FTE jobs or $1,000,000 minimum capital investment;
>
> 3) Restructures the credit option/discount model. This includes offering a declining credit option instead of offering three different credit options (inclining, levelized, and declining), and providing a monthly billing credit rate through year seven that is determined by applying a discount percentage on the customer's total non-fuel bill (based on certain criteria described later in my testimony) versus applying a dollar per kW rate through year five; and
>
> 4) Includes tariff language that customers are ineligible to apply for service under this Rider if they are able to relocate quickly in response to short-term economic signals and/or when load is portable.[1774]

Ms. Gruca testified that I&M is proposing the EDR-2 to:

> 1) Better align economic development credits to reflect the change in I&M's capacity and generation position due to Rockport Unit 2 lease expiration and increased market prices, and to address existing smaller customer needs;
>
> 2) Help I&M avoid a situation where the incremental cost to serve the customer is greater than the customer rate with the EDR 2 credit; and
>
> 3) Address I&M's concerns with uncertain permanence of load and/or life of operation due to the ability of certain customers to relocate quickly in response to short-term economic signals and/or portable load.[1775]

[1774] 3 Tr 325-326 (footnotes omitted).
[1775] 3 Tr 326.

Ms. Gruca further testified that customers on the current EDR, and those who have an approved application for such, will be able to remain on that tariff until their contact term expires. Ms. Gruca testified that customers who have been approved for the current EDR but who have not entered into an EDR contract with the Company would be able to make a "one-time transition to the new EDR 2 tariff within 90 days of the effective date of EDR 2 tariff approval."[1776]

Regarding the proposed reduction of the base demand requirement from 300 kW to 200 kW for the EDR-2, Ms. Gruca testified that the proposed reduction was made to provide an incentive for existing customers to increase their demand. She asserts that the expansion of existing operations provides benefits to the communities where they want to expand, to I&M, and to other customers by way of benefits to the tax base and the creation of jobs.[1777] Ms. Gruca testified that the Company's proposal to change its "Base Billing Demand from a Base Maximum Billing Demand to a Base Average Billing Demand improves recognition of seasonal loads."[1778] She stated that a base average billing demand helps reduce credit volatility by recognizing all seasons over the 12 month period. Ms. Gruca further testified that the EDR-2 proposal to "include criteria for a new customer of 10 new FTE jobs or $1,000,000 minimum capital investment provides a greater focus on jobs and investment in addition to load growth."[1779]

The proposed EDR-2 also restructures the credit option/discount model. Ms. Gruca testified that under the EDR-2 as proposed, a customer's monthly billing credit is

---

[1776] 3 Tr 327. Exhibit A-16, Schedule F-5.4.
[1777] 3 Tr 328.
[1778] 3 Tr 329.
[1779] *Id*.

determined by applying a discount percentage to the customer's total non-fuel bill. She stated, "The discount percentage the customer receives is based on the customer account status, a final score (for an existing customer), and the number of years the customer has been on the EDR 2, which will be applied through year seven of the eight-year contract term."[1780] Ms. Gruca testified that the proposed model applies a gradually declining credit option which will help transition a participating customer to full tariff rates. She also testified that the restructuring of the model will help avoid a situation where "the incremental cost to serve the customer is greater than the customer rate with the EDR 2 credit, which is not permitted under the current EDR or proposed EDR 2 and would unfairly shift the cost burden onto other customers."[1781] Figure SRG-2 on page 3 Tr 331 of Ms. Gruca's direct testimony illustrates the proposed discount model.

Ms. Gruca testified that I&M's customers benefit from economic development, asserting that all customers benefit from a growing economy as an increasing customer base helps spread out I&M's fixed costs of operations. She stated, "A flat economy with stagnant load growth does not allow I&M to absorb cost increases that are occurring in a rising-cost environment. This will force I&M to seek rate increases more frequently and inevitably result in higher rates to customers."[1782] She further testified that the proposed EDR-2 is a tool that will help attract new investment and jobs, leading to increased prosperity, tax base, and customer base. She asserted that the proposed EDR-2

[1780] 3 Tr 329-330.
[1781] 3 Tr 330.
[1782] *Id*.

"complements the State's current economic development efforts in giving I&M the ability to make Michigan's cost of doing business even more competitive."[1783]

Ms. Gruca additionally testified that "I&M's proposal to apply the discount percentage on the customer's total non-fuel bill benefits non-participating customers by ensuring the EDR 2 customer pays its fair share of fuel costs."[1784] She testified that the EDR-2 is designed to assure that the new load will contribute the full rate revenue to offset the Company's cost of service in the long term. She stated that "temporarily offering a discount is reasonable because the short-term loss of revenues continues to cover the variable cost of the new load and make a contribution to I&M's fixed costs."[1785] She testified that "scoring rubric for existing customers and minimum demand, and jobs or investment criteria for new customers, ensures the level of discount is commensurate with the incremental job, capital investment and demand."[1786] Ms. Gruca stated that the proposed EDR-2 is reasonable and will assist I&M in competing for new economic development opportunities which will contribute to load growth and in turn, positively impact the State and local economies.

Mr. Zakem provided testimony on behalf of Energy Michigan regarding I&M's proposed EDR-2. Mr. Zakem testified that an increase in jobs and economic investment in Michigan may be benefits of an incentive rate, but as neither the Commission nor I&M are governmental entities with authority to "to take money from one segment of utility customers or stockholders for the purpose of enriching another segment of

---

[1783] 3 Tr 335.
[1784] 3 Tr 335-336.
[1785] 3 Tr 336.
[1786] *Id*.

customers,"[1787] he stated that these benefits alone are not justification for the design of an economic development rate.[1788] He described the proposed EDR-2 as an incentive rate, as it operates to provide a discount to customers from the normal rate if the customer increases its demand under specified conditions. He listed the four main principles of an incentive rate as:

1. True Incentive -- The incentive rate must result in additional load -- additional sales for the utility -- that would not have occurred without the rate. That is, a "but for" condition.

2. Cover Incremental Cost -- The incentive rate must pay for the true and complete incremental cost of serving the additional load. This cost can be "cash-out-the-door" or foregone revenue from facilities which instead are used to serve the additional load.

3. Benefits for Other Customers -- The other customers not on the incentive rate should be better off with the incentive rate -- that is, their cost should decrease due to the additional revenue from the incentive rate.

4. Stockholders Neutral -- Stockholders should be neutral with respect to the return on their investment -- that is, if additional investment is needed to serve the additional load, stockholders should earn a reasonable return on such investment.[1789]

Mr. Zakem testified that an economic development rate should satisfy all four of these principles, but that his testimony only addresses the incremental cost aspect.

Mr. Zakem testified that I&M's proposed EDR-2 does not sufficiently cover its true and complete incremental cost. He stated that the four aspects of incremental cost for additional load include : (1) the cost of additional fuel and purchased power; (2) the cost of increased transmission expense due to the increased load; (3) the cost of additional

---

[1787] 3 Tr 186.
[1788] *Id.*
[1789] 3 Tr 185-186.

capacity obligations imposed by the relevant RTO; and (4) The cost of investment in additional distribution facilities that the utility otherwise would not have to build but for the additional EDR load.[1790]

Mr. Zakem testified that I&M's reference to incremental costs "covers only fuel, and ignores the other types of incremental costs."[1791] He stated that I&M applies the EDR-2 discount to every cost in the regular rate except fuel and therefore the proposed EDR-2 does not cover the true and complete incremental cost of serving the customer on that rate. He stated, "There is a distinction between a variable cost and an incremental cost. Just because fuel is a variable cost does not mean that it alone determines the true and complete incremental cost of serving EDR-2 additional load."[1792]

To determine the incremental cost for the proposed EDR-2, Mr. Zakem suggested that the PSCR Base plus the PSCR Factor be charged as incremental cost on a per-kWh basis. He stated that as fuel, purchased power, and transmission are included in the PSCR Base and PSCR Factor, this would cover items 1 and 2 of the four aspects of incremental costs for additional load as detailed above. Mr. Zakem further testified that I&M has already accounted for any extra distribution facilities needed for the additional EDR-2 load and noted section 5 of the proposed EDR-2 tariff. Mr. Zakem also testified that the incremental cost of additional capacity should reflect a reasonable value. He stated that in relation to item 3 mentioned above, the reasonable incremental cost of capacity to the utility is the clearing price in the Base Residual Auction and that, "This

---

[1790] 3 Tr 187-188.
[1791] 3 Tr 188.
[1792] 3 Tr 189.

clearing price should be applied to the additional demand for a customer on EDR2 to determine the incremental cost of capacity."[1793]

Mr. Zakem therefore recommended that for the purpose of the proposed EDR-2, incremental cost of additional load should be determined as follows:

A. Assess the PSCR Base and PSCR Factor on the EDR2 customer's additional energy use. This will cover incremental fuel, purchased power, and transmission.

B. Assess the PJM Base Residual Auction clearing price on the EDR2 customer's additional demand. This will cover incremental capacity.

C. Continue the contribution in aid of construction for any additional distribution facilities, as currently proposed in the draft EDR2 tariff, as described above.[1794]

He further recommended that the EDR-2 discount be applied to the customer's total bill excluding the sum of A, B, and C as listed above. Mr. Zakem also recommended that "the percentage of discount on the remaining portion of the bill after excluding incremental cost should be less than 100% in order to retain financial benefits for the other non-EDR2 customers."[1795] He stated that EDR-2 customers should cover their true and complete incremental cost and provide a benefit to other customers.

Mr. Revere provided testimony on behalf of Staff pertaining to I&M's proposal regarding its EDRs. Mr. Revere testified that Staff agrees with allowing current EDR customers to finish their contracts, but that Staff otherwise does not agree with I&M's EDR proposals. He stated, "Economic development is not a core utility function. To the extent economic development efforts are undertaken, they should not be undertaken by

---

[1793] 3 Tr 190.
[1794] 2 Tr 191.
[1795] *Id*.

the utility and paid for by ratepayers."[1796] Mr. Revere testified that economic development efforts are best undertaken by specialized organizations or governmental entities that represent the people who may benefit from such. He added:

> [T]here is a question as to whether or not load that only materializes as the result of a discount can be counted on to continue as a customer under non-discounted rates. Approval of such discounts would expose non-participating customers to additional risk beyond that of new load without such discounts.[1797]

Mr. Revere testified that Staff is proposing that the current EDR be closed to new customers, and that the Commission reject the proposed replacement EDR-2. Mr. Revere testified that should the Commission determine that the proposed EDR-2 rider is appropriate, "Staff recommends that the discount associated with the Rider be subject to the same recovery method as is applied to special contracts."[1798] Mr. Revere testified that the justifications for approving economic development riders are the same as those for special contracts, and therefore the same ratemaking treatment should be applied to each. He stated:

> Similarly, in the instant case, the Company has not clearly quantified any additional costs beyond the discount to serve the customers under the ED riders, such as capacity currently not included in customers rates. Nor has the Company quantified the benefit of the claimed rate reduction or additional contribution to existing fixed costs the added load would provide.[1799]

Mr. Revere noted that in Case No. U-10646, the Commission held that a utility bears a substantial burden to show why non-participating ratepayers should bear the cost of a discount as opposed to the Company. He also noted that the Commission held that

---

[1796] 6 Tr 2258.
[1797] *Id*.
[1798] *Id*.
[1799] 6 Tr 2259.

the Company would need to demonstrate that contract prices and terms are justified on the basis of cost of service and that the benefits for non-participating customers are substantial and have a value that outweighs the costs not recovered from the contract customers.[1800] Accordingly, Mr. Revere opined, "Should the Commission approve the ED Rider, the Company should bear the burden to show that the benefits to ratepayers substantially outweigh all costs of serving the discounted customers in order to recover the credit from other customers."[1801]

In rebuttal to Mr. Zakem, Ms. Gruca testified that the proposed EDR-2 is designed to meet each of the four principles of an incentive rate described by Mr. Zakem. She pointed to the provision in the EDR-2 tariff which states:

> The customer must demonstrate to the Company's satisfaction that, absent the availability of this Rider, the qualifying new or increased demand would be located outside of the Company's service territory or would not be placed in service.[1802]

Ms. Gruca asserted that this language in the tariff satisfies the first principle raised by Mr. Zakem. She also testified that in relation to the second principle articulated by Mr. Zakem, the proposed EDR-2 "covers incremental cost as defined by EM witness Zakem, including the four aspects – additional energy, transmission, capacity, and distribution facilities."[1803]

Regarding the third principal noted by Mr. Zakem, Ms. Gruca testified that EDR-2 is designed so that the customer rate applying the EDR-2 discount is greater than the incremental cost to serve the EDR-2 customer, pointing to the provision in the EDR-2

[1800] *Id*.
[1801] 6 Tr 2259-2260.
[1802] 3 Tr 345. Exhibit A-16, Schedule F-5.4.
[1803] 3 Tr 345.

tariff that states, “Revenues expected to be derived from the EDR 2 customer must be expected to exceed the incremental costs of serving that customer over the term of the contract.”[1804] Furthermore, Ms. Gruca testified that the contribution-in-aid of construction language in the EDR-2 tariff terms and conditions satisfies the fourth principal raised by Mr. Zakem.[1805]

Ms. Gruca also responded to Mr. Zakem’s assertion that the EDR-2 does not sufficiently cover its complete incremental cost. She stated, “I&M developed its EDR 2 proposal to ensure its incremental cost to serve the customer would not exceed the customer rate with the EDR 2 discount applied, meaning there is enough headroom to cover incremental costs.”[1806] She stated that the Company has accounted for additional energy, transmission, capacity, and delivery costs in determining the incremental cost.

Ms. Gruca further testified that she disagrees with Mr. Zakem’s assertion that I&M has specified incremental cost such that it only covers fuel and not other types of incremental costs. She stated that Mr. Zakem interpreted her direct testimony “to mean that the total non-fuel bill 1) excludes all billing associated with only the portion of fuel included in base rates and 2) excludes only the portion of fuel included in the PSCR factor. EM witness Zakem’s interpretation is incorrect.”[1807] Ms. Gruca quotes the proposed EDR-2 tariff which states in part, “The customer’s total non-fuel bill shall be the customer’s bill excluding all billing associated with the portion of fuel included in base rates and the Power Supply Cost Recovery (PSCR) Factor, both as defined in the PSCR Rider.”[1808]

[1804] 3 Tr 345-346. Exhibit A-16, Schedule F-5.4.
[1805] 3 Tr 346. Exhibit A-16, Schedule F-5.4.
[1806] 3 Tr 346-347.
[1807] 3 Tr 347.
[1808] 3 Tr 347. Exhibit A-16, Schedule F-5.4.

She testified that the language "portion of fuel included in base rates" refers to the PSCR basing point consisting of a PSCR Fuel Factor and a PSCR Transmission Factor, defined by the PSCR Rider as "'representing power supply costs included in base rates' as well as 'the allowance for cost of power included in base rates.'"[1809] Ms. Gruca therefore states that the billing associated with the PSCR Base identified by Mr. Zakem, is excluded from the EDR-2 customer's total non-fuel bill, as are all components of the PSCR Factor including fuel, purchased power, transmission, and capacity. She testified:

> This means the EDR 2 discount an EDR 2 customer receives is not applied to the PSCR Base or the PSCR Factor. Stated differently, EDR 2 customers do not receive an EDR 2 discount on the PSCR Base included in base rates or on the PSCR factor - EDR 2 customers, like non-EDR customers, pay the full PSCR Base in base rates as well as the full PSCR Factor amount.[1810]

Ms. Gruca asserted that this covers three of the four aspects of incremental cost that Mr. Zakem stated are needed to cover the Company's true and complete incremental cost.

In response to Mr. Zakem's assertion that the PJM BRA clearing price represents a reasonable incremental cost of capacity and should be used in determining incremental costs of capacity, Ms. Gruca stated that the incremental cost of additional capacity for an EDR-2 customer is already covered within the PSCR Factor. She stated:

> Additionally, I&M is a Fixed Resource Requirement (FRR) entity and as a result neither I&M's capacity nor load is included in the PJM Reliability Pricing Model (RPM) BRA. Although as an FRR entity I&M has the option to sell any extra capacity in the PJM RPM BRA, the PJM RPM BRA clearing price has been volatile over its history, which clearly demonstrates that it does not represent the cost of capacity, as capacity is provided by long-

[1809] 3 Tr 348. Exhibit A-16, Schedule F-5.4.
[1810] 3 Tr 348.

> lived assets whose fixed costs do not change significantly over short periods of time.[1811]

Ms. Gruca testified that the PJM RPM BRA clearing price is unrelated to the actual cost of capacity because: (1) the clearing price does not apply to capacity in the Company's service territory, (2) the clearing price is based on an administrative auction, and (3) the administrative rules used to establish the clearing price have changed many times over the years.[1812] She also referenced a June 9, 2023, Federal Energy Regulatory Commission Order which postpones capacity auctions starting in the 2025/2026 delivery year through the 2028/2029 delivery year to allow for consideration of resource adequacy reform.[1813]

Ms. Gruca explained how I&M determined incremental costs in designing the proposed EDR-2 credit/discount model:

> I&M verified headroom based on the full EDR 2 (20%) annual discounted prices compared to incremental/marginal costs (including capacity, transmission, energy, and delivery costs). I&M determined the capacity component utilizing the avoided capacity rate from its most recent Indiana Cogeneration filing (30-Day Filing No. 50634), representative of I&M's current best estimate for capacity costs. I&M calculated the transmission component utilizing the PJM Open Access Transmission Tariff to determine a transmission incremental cost estimate. I&M determined the energy component utilizing the non-Time of Day Energy Charge from its most recent Indiana Cogen filing (30-Day Filing No. 50634), reflective of I&M's current best estimate for energy costs. I&M calculated the delivery component utilizing the sum of the delivery pieces in customer rates, which includes the Customer Charge, the delivery portion of the Demand Charge, Energy Waste Reduction Surcharge Rider, Nuclear Decommissioning Surcharge, and the Low-Income Energy Assistance Fund Surcharge.[1814]

[1811] 3 Tr 349.
[1812] 3 Tr 350.
[1813] *Id*.
[1814] 3 Tr 350-351.

She testified that I&M did not use the SRM capacity charge when determining the incremental/marginal cost of capacity for a potential EDR-2 customer as suggested by Mr. Zakem. She stated that "I&M utilized the avoided capacity rate from its most recent Indiana Cogen filing to determine the incremental/marginal cost of capacity."[1815]

In further response to Mr. Zakem, Ms. Gruca testified that the EDR-2 determines incremental cost of additional load by "assessing the PSCR Basing Point included in base rates and the PSCR Factor on the EDR 2 customer's additional energy and capacity use" and "also continues the contribution in aid of construction for any additional distribution facilities, as recommended by EM witness Zakem."[1816] Ms. Gruca further testified that "I&M disagrees with EM witness Zakem's recommendation to assess the PJM RPM BRA clearing price on the EDR 2 customer's additional demand."[1817] She reiterated that the incremental cost of capacity is already addressed within the PSCR Factor. In further response to Mr. Zakem, Ms. Gruca testified, "The Company maintains financial benefits for the other non-EDR customers by excluding the PSCR Basing Point included in base rates as well as the PSCR (Rider) Factor from the portion of the EDR 2 customer's bill that is discounted."[1818]

Responding to Mr. Revere, Ms. Gruca noted the rebuttal testimony of witness Baker who stated that utilities play a key role in partnering with specialized organizations regarding economic development. She responded to Mr. Revere's concern that the EDR-2 would expose non-participating customers to additional risk, stating "Non-participating

---

[1815] 3 Tr 351.
[1816] 3 Tr 352.
[1817] *Id.*
[1818] 3 Tr 353.

customers are not exposed to any additional risk beyond that of new or additional load without such discounts."[1819] She reiterated that the EDR-2 discount is designed such that the EDR-2 customer rate with the discount is greater than the incremental cost to serve that customer.

Ms. Gruca disputed Mr. Revere's contention that the EDR-2 tariff is designed to bring in more load to reduce rates as opposed to retaining load. She testified that the EDR-2 tariff is designed to do both and referred to her direct testimony. Ms. Gruca testified that in Case No. U-21160, the Commission approved Consumers Energy's economic development tariff and that in Case No. U-21160, the Commission approved DTE's Rate Schedule D13 High Load Factor Rate.[1820] Ms. Gruca further disputed Mr. Revere's suggestion that should the Commission approve the EDR-2, that the discount from the rider be subject to the same recovery method as applied to special contracts. She stated that "with I&M's small customer base in Michigan, such an approach has not been warranted."[1821] Ms. Gruca additionally testified that I&M has shown that the benefits to ratepayers substantially outweigh the costs of serving the discounted customer. She stated, "Under I&M's EDR 2 proposal the incremental costs of serving the EDR 2 customer are covered within the EDR 2 customer's rate and therefore the credit is not being recovered from other customers."[1822]

In its brief, I&M reiterates its assertion that its economic development efforts have contributed to the creation of over 270 jobs and approximately $105 million of capital

[1819] 3 Tr 354.
[1820] 3 Tr 356-357.
[1821] 3 Tr 357.
[1822] *Id*.

investment in its Michigan service area over the last five years. I&M argues it is "committed to improving Michigan's economy and recognizes that it needs to improve its economic development programs to better retain and attract more economic development opportunities to Michigan."[1823] I&M relies on and summarizes the testimony of Ms. Gruca regarding the design of the EDR-2 and how it compares to the current EDR. The Company asserts that one of the proposed EDR-2's advantages is that it will:

> better align economic development credits to reflect the change in I&M's capacity and generation position due to Rockport Unit 2 lease expiration and increased market prices, and to address existing smaller customer needs; help the Company avoid a situation where the incremental cost to serve the customer is greater than the customer rate with the EDR 2 credit[1824]

I&M further argues that the proposed EDR-2 will generally improve quality of life because it will "help economic development partners with the Michigan Economic Development Corporation [MEDC] and local communities attract new investment and jobs."[1825] I&M additionally avers the design of the proposed EDR-2, "ensures the level of discount is commensurate with the incremental job, capital investment and demand, and will result in an effective rate that does not shift cost burden onto other customers."[1826]

Addressing the objections raised by Mr. Zakem, I&M argues the four main principles of a design for an incentive rate he articulated have been met as Ms. Gruca explained. I&M emphasizes that Mr. Zakem is incorrect in his assertion that the Company has specified incremental cost such that it cover only fuel. I&M asserts that "all billing associated with the 'PSCR Base' as identified by EM witness Zakem is excluded from the

---

[1823] I&M brief, 260.
[1824] I&M brief, 262.
[1825] *Id*.
[1826] I&M brief, 262-263.

EDR customer's total non-fuel bill."[1827] I&M reiterates its position that the PJM BRA clearing price "is volatile and does not represent the cost of capacity, as capacity is provided by long-lived assets whose fixed costs do not change significantly over periods of time."[1828]

For the third main principle raised by Mr. Zakem, I&M contends the EDR-2 proposal "is designed so that the customer rate with the EDR 2 discount is greater than the incremental cost to serve the EDR 2 customer."[1829] I&M goes on to assert that non-EDR "customers are not harmed by I&M serving this additional load and will benefit from an EDR 2 customer's contribution to fixed costs."[1830] For the fourth principle articulated by Mr. Zakem, I&M quotes the language in the EDR-2 tariff Terms and Conditions stating that if new construction or expanded facilities is needed to serve the additional load, the customer may be required to contribute to such. I&M asserts that this language shows stockholders neutral with respect to return on their investment.

I&M also responds to the concerns raised by Mr. Revere, relying on Ms. Gruca's testimony regarding job creation and capital investment in I&M's Michigan service area. The Company reasserts, "the EDR 2 will promote load growth, strengthen customer relations, and incentivize new customers to locate within the service territory at affordable rates."[1831] I&M argues that the EDR-2 tariff is designed to both bring on more load to reduce rates and to retain load to help avoid rate increases. I&M notes that the

---

[1827] *Id*.
[1828] *Id*.
[1829] I&M brief, 267.
[1830] *Id*.
[1831] I&M brief, 268.

Commission has “supported economic development rates/tariffs in the past in attracting more load through competitive rates.”[1832]

Responding to Staff’s recommendation that if the EDR-2 tariff is adopted the discount associated therewith be subject to the same recovery method as for special contracts, I&M argues that with its small customer base in Michigan, such approach is not warranted.

I&M additionally contends it has shown that the benefits to ratepayers substantially outweigh the costs of serving the EDR-2 customers asserting that, “Under its proposal, the incremental costs of serving the EDR 2 customers are covered within the EDR 2 customer’s rate and, therefore, the credit is not being recovered from other customers.”[1833] Additionally, I&M states that if the EDR-2 proposal is adopted, I&M would be “willing to make a confidential compliance filing under this case number that would include a fixed customer analysis verifying incremental costs of serving the EDR 2 customer are covered at the time a customer becomes enrolled.”[1834]

In its brief, Energy Michigan states it is not taking a position on the overall reasonableness of the proposed EDR-2, rather it is addressing how the incremental cost to serve an EDR-2 should be defined and applied within the proposed discount. Energy Michigan relies on the testimony of Mr. Zakem and notes the four aspects of incremental costs he described in his direct testimony. It argues that the proposed EDR-2 should include all costs recovered through the PSCR process as incremental costs, not just the fuel portion of the PSCR process.

[1832] I&M brief, 269.
[1833] *Id.*
[1834] *Id.*

Energy Michigan states that based on the direct testimony submitted by I&M, only fuel is applied to the EDR-2 discount; however, Energy Michigan acknowledges that I&M's rebuttal testimony "points out that the discount for EDR2 defines the 'non-fuel bill' as excluding 'all billing associated with the portion of fuel included in base rates and the Power Supply Cost Recovery (PSCR) Factor, both as defined in the PSCR Rider.'"[1835] Energy Michigan goes on to state:

> In light of I&M's rebuttal testimony, it appears to Energy Michigan that the parties may be agreeing in substance but simply failing to agree on the precise language that should be used to express that agreement. If I&M now agrees that all of the PSCR costs should deemed to be incremental costs and therefore should be excluded from the EDR2 discount, this is exactly what Energy Michigan has recommended.[1836]

Therefore, Energy Michigan avers that the language used in the tariff should clearly reflect this understanding. It argues that should the Commission approve the EDR-2, the language of the tariff should be changed in that "the wording under the 'Determination of Monthly Billing Credit' should be clarified to specify 'non-PSCR bill' rather than 'non-fuel bill' and to use the exact terminology that appears in the PSCR portion of the tariff."[1837]

Additionally, Energy Michigan recommends that the EDR-2 should specifically define capacity costs as incremental costs and exclude those costs from the discount applied within the tariff. Energy Michigan states, "Incremental cost of capacity is not specified in EDR2, but the incremental cost of additional capacity to be paid by an EDR2 customer should reflect a reasonable and visible value."[1838] Energy Michigan reiterates

[1835] Energy Michigan brief, 2 (citations omitted).
[1836] Energy Michigan brief, 2-3.
[1837] Energy Michigan brief, 3.
[1838] Energy Michigan brief, 4.

its suggestion that a reasonable incremental cost of capacity would be the PJM BRA. In conclusion, Energy Michigan requests that, if the EDR-2 is approved, the Commission:

(a) Require I&M to clarify the proposed EDR2 tariff to ensure that all costs recovered via the PSCR are defined as incremental costs, not just the fuel portion of the PSCR process; and

Require I&M to specifically define capacity costs as "incremental costs" in its proposed EDR2 tariff and exclude capacity costs from the discount applied within the tariff.[1839]

In its brief, Staff recommends that the Commission reject the proposed EDR-2 and close the current EDR to new customers. Staff reasserts that "economic development is not a core utility function, and it is inappropriate for the utility to engage in, particularly when such costs are included in rates."[1840] Staff points to witness Revere's testimony stating that economic development is best suited for governments or specialized organizations, such as the MEDC. Staff further notes Mr. Revere's testimony stating that it is unclear that a "customer who only becomes a customer due to rate discounts will continue as a customer once those discounts expire, exposing the Company and its customers to additional risk."[1841]

Staff argues that, should the Commission determine that an economic rider is appropriate, "recovery of any discounts under such a rider should be subject to the same rules as recovery of special contract discounts."[1842] Staff points to the Commission's Order in Case No. U-10646 and notes that the Commission "recognized . . . that, absent clear definition and quantification of the costs of retaining load through the contracts, it

---

[1839] Energy Michigan brief, 5.
[1840] Staff brief, 108.
[1841] *Id*.
[1842] *Id*.

would be difficult to determine at what point the load leaving would be preferable to the discount."[1843] Staff asserts that I&M has not clearly quantified the benefits of the added load or the costs of serving customers on the riders beyond the rider's discount, and therefore has not met the "substantial burden" to show why ratepayers should bear the cost of the discount as the Commission articulated in U-10646.[1844]

In its reply brief, I&M reiterates its arguments made in response to Staff. Additionally, I&M reiterates its arguments made in its initial brief in response to Energy Michigan's recommendation to use the PJM BRA as incremental cost of capacity. In response to Energy Michigan's position regarding incremental cost, I&M states "As the Company's brief made clear, 'all billing associated with the 'PSCR Base' as identified by EM witness Zakem is excluded from the EDR customer's total non-fuel bill.' I&M's Initial Brief, p. 264. Thus, there does not appear to be a dispute on this point."[1845]

In its reply brief, Energy Michigan stands by the position it took in its initial brief. Energy Michigan states, "descriptions of the incremental costs that are to be excluded from the EDR2 discount should be specific, understandable, and precise, and all necessary detail should be included in the tariff itself."[1846] Energy Michigan restates its position that incremental capacity costs must be excluded from the EDR-2 discount in the tariff. Energy Michigan argues that it and I&M appear to agree that the portion of an EDR-2 customer's bill covering incremental costs should not be subject to a discount. Additionally, they appear to agree that the four components of incremental cost are

[1843] Staff brief, 108-109.
[1844] Staff brief, 109. March 23, 1995, Order, Case No. U-10640, p 21.
[1845] I&M reply brief, 97-98.
[1846] Energy Michigan reply, 2.

additional energy, transmission, capacity, and distribution facilities. However, it states "The disconnect appears to continue to be in the arena of terminology and on the question of how to interpret the proposed language of the EDR2 tariff."[1847]

Energy Michigan argues that although I&M agrees that incremental revenue from the EDR-2 tariff should fully cover incremental capacity costs, the EDR-2 tariff as proposed does not mention excluding capacity costs from the discount. Energy Michigan continues to dispute "that the term "fuel" as used in the EDR2 tariff is an adequate stand-in for all PSCR-related expenses."[1848] Furthermore, Energy Michigan asserts I&M's claim that capacity costs are included in the PSCR Factor is erroneous. Energy Michigan argues that the PSCR Factor referenced in the tariff is only the adjustment factor not the entire cost recovered through the PSCR process. It further states, "the Power Supply Cost Recovery Factor simply does not include incremental capacity costs, as I&M claims."[1849]

Energy Michigan argues that the language of the EDR-2 tariff defines what the PSCR Factor includes, i.e., fuel, purchased power, and transmission, but not capacity. Additionally, Energy Michigan asserts "the term 'capacity' does not appear in the Power Supply Cost Recovery Factor tariff."[1850] Furthermore, it argues that as power supply costs are paid by all customers on a per-kWh basis, "if EDR2 incremental capacity costs are included as power supply costs in the PSCR, the EDR2 customer will pay only a small share of its incremental costs."[1851] Energy Michigan further notes that I&M bills customers a separate capacity charge in its rates and bills customers for both the PSCR and rate

---

[1847] *Id*.
[1848] Energy Michigan reply, 3.
[1849] *Id*.
[1850] *Id*.
[1851] Energy Michigan reply, 4.

capacity charges. Energy Michigan contends that “the currently proposed tariff language does not clearly and adequately exclude incremental capacity costs form the EDR2 discount”[1852], therefore, if the Commission approves the proposed EDR-2, Energy Michigan recommends that changes by made to the language of the tariff to ensure that incremental capacity costs are excluded from the EDR-2 discount.

In its reply brief, Staff distinguishes the Commission’s prior approvals of economic development rates and tariffs by noting that in the cases cited by I&M, “the Commission made it clear that these rates were only for exceptionally large and unique potential customers above 35 MW and 50 MW.”[1853] Staff argues that the proposed EDR-2 would apply to load as small as 200kW, and that the current EDR applies at 300kW. Staff asserts that the current and proposed load levels for the EDR and EDR-2 are not exceptionally large or unique, and that the reasoning for the Commission’s prior approvals does not support approval in this matter.

This PFD finds Staff’s arguments to be more persuasive and agrees with Staff’s contention that it is not the utility’s role to foster economic development in the State of Michigan. While it is true that the Commission has approved economic development rates/tariffs in the past, Staff properly notes that those cases involved exceptionally large and unique customers with potential load above 35 MW and 50 MW. In the instant matter, I&M is seeking approval of economic development rates for customers with load as small as 200 kW. Staff’s distinction is well taken and does not find that I&M’s citation of previous Commission approvals is analogous to the current EDR-2 proposal. This PFD finds that

---

[1852] Energy Michigan reply brief, 5.
[1853] Staff reply brief, 31.

I&M has not shown that the benefits to ratepayers outweigh the cost of servicing the discounted customers, therefore ratepayers should not bear the cost of the discount for the customers receiving such. Accordingly, this PFD recommends that the Commission reject the proposed EDR-2 and close the current EDR to new customers.

Should the Commission approve the proposed EDR-2, this PFD agrees with Staff's recommendation that rate recovery for the discount be subject to the same rules as for special contract discounts. Furthermore, this PFD agrees with Energy Michigan that the language of the proposed tariff does not adequately exclude capacity costs from the discount. If the EDR-2 is approved, this PFD recommends that the Commission adopt the language proposed by Energy Michigan to ensure the language of the tariff is clear in what costs are subject to the discount of the rider.

G. Tax Rider

The Company proposes incorporating a new Tax Rider. Company witnesses Baker and Cooper testified that the rider would be used as a rate adjustment mechanism so the Company can recover costs that fluctuate over time, provide long-term stability in rate structures, and timely share federal tax credits with customers on their bills.[1854] Company witnesses Seger-Lawson and Criss identified the sources of those tax credits as Corporate Alternative Minimum Tax (CAMT) benefits and nuclear Production Tax Credits (PTCs) from the Inflation Reduction Act of 2022 and the excess accumulated deferred federal income taxes (ADFIT) that resulted from the Tax Cut and Jobs Act of 2017.[1855]

[1854] 3 Tr 381, 679.
[1855] 5 Tr 1429, 1434. 6 Tr 1976.

Witness Criss testified that the CAMT imposes a 15% minimum tax on the adjusted financial statement income (AFSI) for the taxable year over a Company's regular income tax liability and the PTC is a new tax credit applicable to electricity produced from existing nuclear facilities and sold to unrelated parties for tax years 2024 through 2032.[1856] She said the Company calculated the CAMT as $0 for the 2024 test year.[1857] Ms. Criss testified that the Company estimates the nuclear PTCs could range from $0 to $125 million in any given year depending on the IRS definition of revenue, the prevailing wage requirements provide for a bonus to the per MWh credit of up to $15/MWh, and the MWhs generated annually.[1858] She said the Company proposes to defer the pass back of the PTC benefit until 2025 and only once they have been monetized by utilization on the federal tax return or via a transfer net of transfer costs which will mean the amount of PTCs reflected in I&M's cost of service is fixed, known, and measurable.[1859]

Witness Seger-Lawson said the Company has calculated the revenue requirement to be the remaining excess unprotected federal income tax since it is the only component that is currently known and is seeking authority to defer the accounting for the remaining tax expenses and credits included in the rider.[1860] Witness Criss testified that the remaining balance of the unprotected excess amortization will be $1,573,751 as of December 31, 2024.[1861] The Company prepared a tax rider tariff sheet and proposed that the rate be reset each year to reflect credits and charges associated with the different

[1856] 5 Tr 1419.
[1857] 5 Tr 1426; Exhibit IM-28.
[1858] 5 Tr 1428.
[1859] 5 Tr 1429.
[1860] 6 Tr 1978.
[1861] 5 Tr 1434. Exhibit IM-2.

components.[1862] Company witnesses Criss and Seger-Lawson testified that the proposed tax rider is necessary and reasonable given that the benefits are expected to be significant, variable, and based on federal policies outside the Company's control.[1863]

Staff witness Putnam testified in support of using the tax rider to credit the benefits of amortizing the unprotected excess ADFIT to customers which would result in a $7.066 million decrease to the revenue requirement, but he said that the rider should be discontinued after the ADFIT completes the amortization period in 2025.[1864]

Mr. Putnam opined that a tax rider for CAMT and PTCs is unnecessary given that the Company forecasts that no such benefits will be realized for the test year ending December 31, 2024.[1865] To support his position, he referenced a recent rate case for DTE Electric Company that presented testimony noting the uncertain value of the nuclear PTCs, the potential for the value to fluctuate materially from year to year, and the potential for the customer or the utility to be harmed if the PTCs were reflected in base rates.[1866] He also noted that the Company in this case describes the PTCs as potentially significant in amount, and volatile or variable in nature.[1867] He recommended that any future CAMT be incorporated into the projected FIT expense and future PTCs be handled in the Company's annual power supply cost recovery (PSCR) reconciliation process.[1868]

On rebuttal, witness Seger-Lawson again said that the Company intended for the tax rider to be used to recover costs and/or provide credits for benefits that are variable

---

[1862] 6 Tr 1978. Exhibit A-16, Schedule F-5.4.
[1863] 5 Tr 1395, 1418-1427, 1434. 6 Tr 1977.
[1864] 6 Tr 2356, 2358. Exhibit A-11, Line 22.
[1865] 6 Tr 2356-2357.
[1866] 6 Tr 2357.
[1867] 6 Tr 2358.
[1868] 6 Tr 2357.

or volatile in nature, outside the Company's control, difficult to predict, and where the amount could be significant.[1869] She also said that if the Commission does not authorize an ongoing rider, the Company should be allowed to defer PTCs and CAMT for future ratemaking and/or pass them through an existing rider such as the PSCR.

Witness Criss also testified on rebuttal that while the Company can reasonably forecast the CAMT, it has the potential to be volatile, variable, and significant; all of which impacts the FIT expense.[1870] She also said the rider allows the Company to manage multiple tax credits through one mechanism.[1871]

In its brief, the Company requested authority to establish the annually adjusting tax rider.[1872] The Company acknowledged that the only known component of the tax rider at this time is the remaining excess unprotected ADFIT that resulted from the Tax Cut and Jobs Act of 2017.[1873] The Company argues, however, that CAMT benefits and PTC credits are anticipated in the future and those figures should be included in the tax rider because they have the potential to be significant, variable or volatile, and are driven by federal tax policies largely outside of the Company's control, which are factors often evaluated in the context of tracking revenues and expenses through rider mechanisms.[1874] Still, the Company contends that if the Commission does not authorize the tax rider to continue after the ADFIT is fully amortized, the Company could defer PTCs

[1869] 6 Tr 2009.
[1870] 5 Tr 1444.
[1871] 5 Tr 1445.
[1872] I & M brief, 270.
[1873] I & M brief, 270-271, 273.
[1874] I & M brief, 271-273.

and CAMT for future ratemaking and/or pass them through an existing rider such as the PSCR.[1875]

Staff accepts the Company's calculation of $7.066 million for the ADFIT credit and supports implementing a tax rider to flow the unprotected excess ADFIT to customers.[1876] Staff argues that the tax rider will not be necessary after the ADFIT is completely amortized since any potential CAMT can be incorporated into projected FIT expense in future rate cases and PTCs may be applied as a reduction of PSCR expense instead of tax expense in base rates.[1877]

The Company replies that Staff's rationale for discontinuing the tax rider is insufficient and maintains that a tax rider is a reasonable mechanism to handle a potential CAMT.[1878]

This PFD agrees with Staff reasoning that the Company's proposal for a tax rider is appropriate to amortize ADFIT and then should be discontinued. The Company estimates PTCs for 2024 will be $0.00[1879] and any future PTCs can be handled in the PSCR. Similarly, the Company calculates CAMT at $0.00 in 2024[1880] and any future CAMT could be treated in future rate cases as a component of projected FIT.

XII.

OTHER ISSUES

A. Net Lost Revenue Tracker (NLRT)

[1875] I & M brief, 274.
[1876] Staff brief, 98.
[1877] Staff brief, 98-99.
[1878] I & M reply, 98.
[1879] I & M brief, 276.
[1880] I & M brief, 271.

The Commission approved I&M's current NLRT in Case No. U-18370. In that case, Staff objected to I&M's proposed tracker on the grounds that it would allow the Company to recover revenue even if its revenues increased through other sales.[1881] Staff also found it problematic that the proposed tracker lacked a cap and therefore had "the potential to accumulate vast sums over time."[1882] Accordingly, Staff recommended an alternative NLRT that required I&M to "demonstrate that its actual sales declined from the projected levels in the last rate case" and included a "3% cap on the total cumulative net lost revenues."[1883] The Commission adopted Staff's proposal, finding:

> The Staff's proposed RDM mechanism calculates the portion of overall revenue loss attributable to EWR programs. Only sales losses attributable to EWR program savings are eligible for recovery in the RDM and only if I&M achieves Act 341's minimum annual incremental energy savings. Also, as argued by the Staff, a cap is necessary to protect customers from significant price variability and to ensure that the mechanism does not amass excessive amounts. The Commission finds that the Staff's proposed RDM is limited in scope, eliminates the Company's disincentive to offer EWR programs, appropriately complies with Act 341, and ensures that ratepayers are charged a reasonable amount *only* when there is a shortfall.[1884]

Mr. Walter testified that I&M is requesting to continue its NLRT that was approved in Case No. U-18370, with two proposed changes.[1885] First, the Company asks that the tracker be modified "to determine eligible net lost revenues based solely upon the actual throughput impacts of mandated energy waste programs by adjusting for annual verified incremental energy reductions (i.e., actual lost kWh sales)."[1886] Mr. Walter explained that

---

[1881] April 12, 2018, Order, Case No. U-18370, p 76.
[1882] *Id*.
[1883] April 12, 2018, Order, Case No. U-18370, pp 76-77.
[1884] April 12, 2018, Order, Case No. U-18370, p 78, emphasis in original.
[1885] 5 Tr 1474-1475.
[1886] 5 Tr 1475.

under this proposal, "the Company would no longer be required to demonstrate that actual sales have declined from projected sales levels used to set final rates from this case."[1887] Second, the Company is proposing elimination of the 3% cap on net lost revenue recovery.[1888]

Mr. Walter testified that the Company's first proposed change would simplify the determination of net lost revenue and ensure that EWR investments are competitive with supply side investments.[1889] Addressing the second proposal, he described the cap as "arbitrary" and testified that it "puts at risk the Company's ability to recover lost revenues associated with EWR programs and only requests customers to pay for actual lost revenue based on EWR program performance in-between general rate case historic test years for a maximum of three years."[1890] He further explained I&M's opposition to the current tracker:

> The use of actual sales as a threshold to determine whether the Company is eligible to recover any net lost revenues unreasonably includes impacts beyond the Company's control, including the impact of weather, changes in customer count and changes in customer usage levels not driven by the influence of EWR participation. Meaning, if the Company experiences sales growth due to weather, customer count or customer expansion in these non-EWR influences, it reduces or eliminates the Company's ability to recover the throughput impact to fixed costs and imposes an opportunity cost associated with the state mandated EWR programs. In addition, if the opposite is true, that the Company experiences decline in these non-EWR areas, the Company does not have any ability to recover the cost associated with these other losses through the NLR Tracker as designed currently.[1891]

[1887] *Id*.
[1888] *Id*.
[1889] *Id*.
[1890] *Id*.
[1891] 5 Tr 1475-1476.

Mr. Walter testified that the proposed modifications were reasonable and necessary because the current mechanism "makes investing in EWR resources less desirable than supply side resources."[1892]

Mr. Walter also presented an alternative proposal that "if the Commission continues to require the inclusion of the impact from actual sales compared to the level used to set base rates, a decline in actual sales more than the EWR-related impacts should be recoverable under the tracker as well."[1893] Under this recommendation, "if actual sales have declined resulting in $3 million of lost fixed cost recovery and only $2 million is due to EWR-related program savings, the additional $1 million should also be recoverable under the tracker."[1894] According to Mr. Walter, "This will ensure symmetry in application of the test and ultimate recovery of lost fixed cost recovery through the tracker."[1895]

Regarding I&M's proposed plan to implement the modified tracker, Mr. Walter testified:

> I&M would prorate net lost revenue recovery related to 2024 by following the methodology approved by the Commission in Case No. U-18370 until new rates are implemented from this case at which time I&M would begin net lost revenue recovery under the methodology approved in this case. Since I&M is using a 2024 calendar year Test Year, beginning in calendar year 2025, the annual kWh reductions resulting from 50% of the 2024 energy waste program measures would be the first eligible for NLR Tracker recovery. Thereafter, 100% of post-2024 measures verified in each energy waste program year would qualify for NLR. The Company will continue to file and reconcile NLR tracker rates annually and separate from I&M's annual Energy Waste Reduction proceedings.[1896]

[1892] 5 Tr 1475.
[1893] 5 Tr 1476.
[1894] *Id*.
[1895] *Id*.
[1896] 5 Tr 1477.

Mr. Walter further testified that I&M is requesting to continue the accrual of carrying costs on the NLRT's over- or under-recovered balances.[1897]

Mr. Tiwana testified that Staff objects to I&M's proposed changes to the NLRT.[1898] He described the Company's request to determine eligible net lost revenue based solely on incremental energy reductions as "unreasonable."[1899] "This would mean that the Company would no longer be required to demonstrate that actual sales have declined from projected sales levels used to set final rates from this case."[1900] As a result, Mr. Tiwana opined that I&M's proposal would violate MCL 460.6a(12), which requires that an RDM "adjusts for decreases in actual sales compared to the projected levels used in that utility's most recent rate case that are the result of implemented [EWR]."[1901] Mr. Tiwana also testified that there was no disincentive to offer EWR programs where the Company's sales have not decreased or have actually increased.[1902]

Mr. Tiwana testified that the 3% cap was established based on Staff's research finding "a 3% cap sufficient for the Company to recover lost revenue due to EWR programs in the short term."[1903] He also testified that the NLRT is a short-term solution to address revenue loss between rate cases, and he noted the 3% cap is double the 1.5% EWR goal for reducing energy consumption that the Company implements in order to receive a financial incentive.[1904]

[1897] *Id*.
[1898] 6 Tr 2324-2326.
[1899] 6 Tr 2324-2325.
[1900] 6 Tr 2325.
[1901] *Id*., quoting MCL 460.6a(12).
[1902] 6 Tr 2325.
[1903] *Id*., citing *Regulatory Assistance Project: Revenue Regulation and Decoupling: A Guide to Theory and Application*.
[1904] 6 Tr 2325.

Staff further opposes I&M's alternative recommendation that the Company should be allowed to recover a decline in actual sales in excess of EWR-related impacts.[1905] Referencing MCL 460.6a(12), Mr. Tiwana testified that an RDM "adjusts for decreases in sales that are the result of implemented EWR, conservation, demand-side programs, and other waste reduction measures," and he concluded that I&M's "proposal has included costs that are inappropriate for inclusion in the NLRT."[1906]

Mr. Tiwana recommended that the Commission approve the same NLRT as was approved in Case No. U-18370.[1907] He testified this mechanism "relies on a computation of lost sales that directly result from energy efficiency program efforts," it "directly addresses the primary disincentive for a utility to promote EWR measures," and it aligns with MCL 460.6a(12).[1908]

Mr. Coppola likewise recommended that the Commission reject I&M's proposed changes to the NLRT.[1909] In doing so, he disagreed with Mr. Walter's claim that the 3% cap creates a disincentive and is potentially harmful to the Company:

> The Company has not provided any evidence that the current NLR Tracker has created financial harm. In fact, the reverse has occurred with the Company receiving incentive payments for implementing its EWR program. Those incentive payments have been near or above half a million dollars in three of the past five years.[1910]

Mr. Coppola also testified there was a "larger overriding issue" with continuing the NLRT, suggesting that the tracker was improper under *In re Application of Detroit Edison*

[1905] 6 Tr 2325-2326.
[1906] 6 Tr 2326.
[1907] *Id*.
[1908] *Id*.
[1909] 6 Tr 2522.
[1910] 6 Tr 2522.

Co, 296 Mich App 101; 817 NW2d 630 (2012), where the Court of Appeals held that the Commission lacked statutory authority to implement an RDM for an electric utility.[1911]

Mr. Ozar testified in opposition to modifying the NLRT and explained that the combination of I&M's two proposed changes "would allow for a surcharge even when load increases above rate case projected sales due to weather, economic conditions, or other factors, and would allow for an unlimited level of lost revenue recovery between rate cases."[1912] He addressed the Commission's authority to approve "an appropriate revenue decoupling mechanism" under MCL 460.6a(12), noting that "[t]he word 'appropriate' suggests that the Commission has flexibility with respect to the details of the mechanism."[1913] But Mr. Ozar testified that the statute specifically limits the operation of an RDM to decreases in actual sales from rate-case projected sales and "allows for a limited portion of the difference between actual sales and rate case projected sales—*i.e.*, those 'that are a result of implemented' EWR or other demand-side programs—to qualify for the decoupling mechanism."[1914] Under Mr. Ozar's analysis, the statute "rules out" I&M's request to expand the calculation of net lost sales to include decreases beyond those caused by implementation of its EWR program.[1915] Mr. Ozar further opined that the Company's current NLRT complies with the law, and he recommended continuation of that tracker.[1916]

[1911] 6 Tr 2522-2523.
[1912] 3 Tr 227.
[1913] *Id*.
[1914] 3 Tr 228; quoting MCL 460.6a(12).
[1915] 3 Tr 228.
[1916] 3 Tr 228-229.

Mr. Ozar testified that the Commission established the 3% cap to keep the level of surcharges between rate cases at a reasonable level.[1917] He disagreed with I&M's claim that the cap is unduly restrictive:

> The Company has the right to file a new general rate request, should over a period of several years the 3% cap significantly reduce the level of lost revenue surcharges that would otherwise be retroactively billed customers. Large cumulative changes in actual sales levels due to implementation of EWR programing, and the consequent large level of lost revenue, are more appropriately handled in a contested general rate proceeding.[1918]

Regarding the Company's alternative request to recover sales declines beyond EWR-related impacts, Mr. Ozar noted that some of those declines could be the result of other demand-side programs such as I&M's DR program.[1919] Mr. Ozar testified that the statute allows the Commission to include sales losses from DR programs in the decoupling mechanism, which would help "mitigate" the issue that the Company is attempting to address.[1920] However, Mr. Ozar also testified that it is the Company's responsibility to request such a modification and it has not yet done so.[1921]

In rebuttal, Mr. Walter disagreed with Mr. Tiwana's and Mr. Ozar's positions "that EWR sales decreases alone are not appropriate to determine the impacts to the Company from lost EWR sales."[1922] He explained the Company's position:

> EWR energy savings are a direct sales reduction, only influenced by a customer's decision to participate in reducing energy waste through one of the Company's EWR programs. Those EWR savings are required to be evaluated for the extent to which the Company's EWR programs influence or effectuate the customer's motives and actions. The intent for such an evaluation requirement is to solely identify the actual sales reduction that

---

[1917] 3 Tr 228.
[1918] *Id*.
[1919] 3 Tr 229.
[1920] *Id*.
[1921] *Id*.
[1922] 5 Tr 1505.

> results from the Company's EWR programs. In short, EWR savings evaluation identifies actual lost sales from the bottom up. This means each EWR measure implemented by an EWR participant is measured for its lost energy sales, or energy savings, annually per unit. The full impact on total lost sales is then built from the ground up and then aggregated into a total annual impact from all EWR measures implemented by I&M's EWR participants. This process produces consistency with actual sales, not the inconsistency espoused by Mr. Tiwana or the preclusion of the Company's proposed NLRT as espoused by Mr. Ozar.[1923]

Mr. Walter also took issue with Mr. Ozar's claim that the Company's proposal would include other sales decreases such as those from weather impacts, testifying, "The Company's proposed NLRT identifies and determines lost revenue from only the evaluated EWR lost sales that result from EWR."[1924]

Mr. Walter disputed that the proposed NLRT would violate MCL 460.6a(12).[1925] He testified: "Since EWR savings is required to be evaluated as the single impact to actual sales, use of EWR savings alone for the actual sales reduction is the most appropriate, and only, indicator of lost sales for use when applying Section 6a(12)."[1926] In addition, factors that may affect sales that are unrelated to EWR influences "are beyond the Company's control and not related to customers reducing their energy waste through participation in the Company's EWR programs."[1927] Mr. Walter testified that Mr. Tiwana's interpretation of section 6a(12) "ignores the underlying intent in the Company's NLRT request and results in financial harm to the Company."[1928]

[1923] 5 Tr 1505-1506.
[1924] 5 Tr 1506.
[1925] *Id*.
[1926] *Id*.
[1927] 5 Tr 1507.
[1928] *Id*.

Mr. Walter again advocated for removal of the 3% cap.[1929] Regarding Mr. Tiwana's testimony that the NLRT is a short-term solution to address revenue losses between rate cases, Mr. Walter responded:

> While this approach may be appropriate in some instances, in others the revenue loss can be significant and cause financial harm to utilities if the time between rate cases is not "short-term." This is why it is useful to recognize EWR measure life and how long the Company's sales can be impacted for between rate cases. Such identification and tracking create direct linkage to how long the Company will be subject to lost sales from any one EWR measure.[1930]

Mr. Walter also disputed that removal of the cap could result in an unlimited level of lost revenue between rate cases, testifying it is "impractical" to suggest that the Company's "actual electricity sales could effectively be reduced to zero via the NLRT."[1931] He further testified that under the proposed NLRT, "EWR savings over EWR measure life could be identified, tracked, and used for NLRT cost recovery determination," and "[s]ince no EWR measure has infinite life, the Company's NLRT cost recovery could be naturally constrained, as opposed to an artificial and approximate cap supported by Mr. Tiwana and Mr. Ozar."[1932]

Mr. Walter testified that MCL 460.6a(12) authorizes the Commission to implement an NLRT in this case, rebutting Mr. Coppola's claim to the contrary.[1933] Mr. Walter also disagreed with Mr. Coppola's suggestion that financial incentive payments could negate financial harm resulting from a lack of NLRT cost recovery.[1934] He testified that

---

[1929] 5 Tr 1507-1508.
[1930] *Id*.
[1931] 5 Tr 1508.
[1932] *Id*.
[1933] *Id*.
[1934] 5 Tr 1509.

"[i]ncentives serve a different purpose than NLRT" and noted that in some years I&M did not earn a financial incentive while also not recovering lost sales through an NLRT.[1935]

Mr. Tiwana's rebuttal testimony focused on Mr. Coppola's claim that the Commission lacks authority to implement an NLRT for electric utilities.[1936] He explained that MCL 460.6a was amended by Public Act 341 of 2016 to allow revenue decoupling for electric utilities with less than 200,000 customers, and the 2012 Court of Appeals decision upon which Mr. Coppola relies was decided before that change in the law.[1937]

I&M's brief reiterates the Company's position as presented through Mr. Walter's testimony.[1938]

Staff's brief relies on Mr. Tiwana's testimony to support its argument that I&M's proposed changes to its NLRT are not reasonable and do not align with MCL 460.6a(12).[1939] Staff quotes the Commission's decision in Case No. U-18370 as evidence that the current tracker is prudent and should be continued.[1940] In addition, Staff cites MCL 460.6a(12) to dispute Mr. Coppola's claim that the Commission lacks authority to approve the NLRT.[1941]

The Attorney General's brief simply encourages the Commission to reject I&M's request to remove the 3% cap, "adopt[ing] the arguments in CUB's brief on this issue."[1942]

[1935] *Id*.
[1936] 6 Tr 2328-2329.
[1937] *Id*.
[1938] I&M brief, 278-282.
[1939] Staff brief, 112-113.
[1940] Staff brief, 112.
[1941] Staff brief, 113-114.
[1942] Attorney General brief, 206.

CUB reasserts its argument that I&M's proposals should be rejected because they are unreasonable and contrary to the law.[1943] CUB addresses the history of the current NLRT, asserting that I&M is now asking to remove the modifications Staff had proposed and the Commission had approved in Case No. U-18370 and arguing that the Company's request should be rejected for the same reasons as before.[1944] CUB also states that "I&M has presented no evidence of changed circumstances" to justify removal of the cap and recommends, "If at some point I&M can demonstrate that the cap has unreasonably limited its recovery of actual lost sales revenues, it may request relief in a future rate case."[1945] CUB further argues that I&M's alternative proposal to recover sales declines beyond EWR-related impacts should be rejected because MCL 460.6a(12) "expressly limits recovery to revenue lost as a 'result of implemented energy waste reduction, conservation, demand-side programs, and other waste reduction measures.'"[1946]

Only I&M addresses this issue in reply briefing. The Company reiterates that its proposal to modify the NLRT "is intended to simplify the determination of net lost revenues and ensure EWR investments are competitive and balanced with supply side investments."[1947] In addition, "The proposal ensures a 1-for-1 correlation between EWR verified savings to actual sales reductions, which is the most appropriate alignment to incentivize the Company to invest more in EWR."[1948] I&M also disagrees with Staff's

---

[1943] CUB brief, 52-55.
[1944] CUB brief, 54.
[1945] CUB brief, 54-55.
[1946] CUB brief, 55; quoting MCL 460.6a(12).
[1947] I&M reply, 100.
[1948] I&M reply, 100-101.

argument that there is no disincentive to offer EWR programs where there is no decrease in overall sales:

> As an example, the amount of weather impact to sales should only be expected to recoup the variance to the level of weather impact already built into the forecast used to set general rates. If actual weather impacts fall short of that measure, EWR sales losses are not recouped, and the Company is not made whole from EWR.[1949]

As an initial matter, this PFD rejects Mr. Coppola's claim that the Commission lacks authority to implement an NLRT in this case.[1950] Mr. Coppola fails to acknowledge MCL 460.6a(12)—which expressly provides the Commission authority to approve a revenue decoupling mechanism for an electric utility with less than 200,000 customers—and he erroneously relies on a Court of Appeals case that was decided before the legislature changed the law to grant such authority.

Next, this PFD agrees with Staff and the intervenors that the Commission should continue the current NLRT without I&M's proposed changes. The parameters of a decoupling mechanism are limited by MCL 460.6a(12), which requires the mechanism to "adjust[ ] for decreases in actual sales compared to the projected levels used in that utility's most recent rate case that are the result of implemented energy waste reduction, conservation, demand-side programs, and other waste reduction measures . . . ." As Mr. Walter testified, I&M asks to modify the tracker so that the Company "would no longer be required to demonstrate that actual sales have declined from projected sales levels used to set final rates from this case."[1951] In practice, I&M could impose a surcharge even when its revenues have increased through other sales. Such a proposal does not align

---

[1949] I&M reply, 101.
[1950] The Attorney General does not address this issue in her briefs.
[1951] 5 Tr 1475.

with MCL 460.6a(12), and the Commission previously rejected the tracker I&M initially proposed in Case No. U-18370 on these grounds.[1952] In addition, this PFD agrees with Staff that there is little disincentive to offer EWR programs when the Company's sales have not decreased, a factor the Commission considered in adopting the current NLRT.[1953]

Likewise, the Commission previously determined that "a cap is necessary to protect customers from significant price variability and to ensure that the mechanism does not amass excessive amounts."[1954] I&M has not shown financial harm or a change in circumstances justifying removal of the 3% cap, and this PFD recommends the proposal be rejected. As CUB observes, if I&M can demonstrate that the cap becomes unduly burdensome, the Company can raise the issue in a future rate case.[1955]

Lastly, this PFD finds I&M's alternative proposal to allow recovery of sales declines beyond EWR-related impacts is not viable for those reasons raised by Staff and CUB.[1956] To the extent sales losses are not the "result of implemented energy waste reduction, conservation, demand-side programs, and other waste reduction measures," they cannot be recovered under MCL 460.6a(12).

B. Outage Credits

Ms. Seger-Lawson testified that I&M proposes to defer outage credit costs for those customer outage credits paid for which the outage duration/restoration is not attributable to I&M's actions or are beyond I&M's control. She provided examples of

[1952] See April 12, 2018, Order, Case No. U-18370, p 78.
[1953] See 6 Tr 2325. See also April 12, 2018, Order Case No. U-18370, p 78.
[1954] April 12, 2018, Order Case No. U-18370, p 78.
[1955] 3 Tr 228. CUB brief, 54-55.
[1956] 6 Tr 2326. CUB brief, 55.

outages outside of I&M's control including "trees falling from outside of the right of way; public interference; outages caused by customer negligence, and those caused by the transmission system operator" as well as "[o]utages caused by a customer's failure to keep clear from vegetation the service line and the customer's service entrance cable to the meter."[1957] She added that those deferred amounts would be reviewed for reasonableness and prudence in the subsequent rate case, and only after the deferred amounts are approved by the Commission for recovery, would I&M amortize the deferral and establish rates set to recover the costs.[1958] She stated that I&M's proposal is consistent with the Commission's November 18, 2022, Order in Case No. U–20836.[1959]

Mr. Evans testified that Staff supports I&M's request for deferral accounting authority for certain outage credits provided to customers, explaining that the Company's proposal is very similar to Staff's proposal in Case No. U-20836.[1960] He reviewed Staff's recommendation, as follows,

> For service quality rules R 460.744 and R 460.745, which requires that bill credits be provided to customers if interruptions are not resolved within certain time periods, Staff proposes that [I&M] recover from ratepayers only those outage credits that are paid out due to outages that are outside the control of [I&M] to resolve, such as an outage caused by the transmission system operator; and due to outages caused by customer negligence. However, under this proposal, credits paid out due to events such as a car hitting an I&M-owned pole or an animal damaging equipment could not be recovered from ratepayers, because restoring customers in a timely manner after car-pole accidents or animal interference is an expected utility function. Staff anticipates that outage credits paid out after a storm due to not meeting the time requirements in R 16 460.744 would also not be

[1957] 6 Tr 1982-1983.
[1958] *Id*. Mr. Ross states that upon receiving deferral authority from the Commission, I&M would defer these costs as a FERC Account 182.3 regulatory asset and would request recovery of this regulatory asset in a future I&M Michigan base rate proceeding. 5 Tr 1849.
[1959] 6 Tr 1982.
[1960] 6 Tr 2341.

> recoverable, because restoring customers after storms is an expected utility function. . .
>
> For service quality rule R 460.746, which covers repetitive interruptions, Staff proposes that [I&M] recover from ratepayers those funds used to pay outage credits that were paid out due to sustained interruptions caused by factors outside of [I&M's] control.[1961]

He added that although the Commission's Order in Case No. U-20836 stated that DTE Electric Company shall work with Staff "toward the full development of the Commission Staff's proposed limited recovery of outage credits," DTE Electric and Staff did not work on full development of Staff's proposal.[1962]

Mr. Evans cautioned that if the Commission approves I&M's proposal, it could ultimately end up conflicting with any requirements and policies promulgated by the Commission in Case No. U-21400.[1963] He added that if these requirements and policies are later extended to other rate-regulated utilities in the state, such as I&M, this proposal could be overruled by whatever financial incentives and disincentives are promulgated by the Commission.[1964]

In its brief, Staff reiterates that I&M should recover from ratepayers "only those outage credits that are paid out due to outages that are outside the control of I&M to resolve, and due to outages caused by a customer."[1965] Staff acknowledges that, based on the testimony of Mr. Ozar, Staff has modified its initial proposal in two ways: (1) the proposal no longer includes the term "negligence", as this is a legal concept, and (2) Staff no longer considers transmission system outages to be outages beyond the control of

---

[1961] 6 Tr 2341-2342.
[1962] 6 Tr 2340.
[1963] 6 Tr 2342.
[1964] *Id.*
[1965] Staff brief, 132.

I&M to resolve, because I&M's parent Company, AEP, owns the transmission Company.[1966]

For service quality rule R 460.746, which covers repetitive interruptions, Staff proposes that I&M "recover from ratepayers one-sixth of the prevailing bill credit amount [ ] for each sustained interruption caused by factors outside I&M's control."[1967]

Mr. Ozar testified that the specific qualifying outage categories proposed by I&M in this case are in direct conflict with the limitation principles set forth in the Commission's Order in Case No. U-20836, are unreasonable and unsupported, and should be rejected.[1968] He asserted that I&M did not attempt to rectify the shortcomings acknowledged by the Commission in U-20836 and, in large measure, I&M merely added back the very outage circumstances that would be precluded by the Staff's proposal in U-20836.[1969]

Mr. Ozar posited that in Case No. U-20836, the Commission acknowledged the general concept that credits paid for some outage categories could be deferred for possible future recovery but rejected DTE Electric's excessively broad "outages not the fault of the utility" criterion, and instead found reasonable a more restrictive, partially developed, proposal from the Staff, while directing DTE to work with Staff to fully develop the proposal.[1970] He noted that the Order stated that "Staff makes clear that it finds that DTE Electric should recover only those credits that were paid due to outages that are not within the Company's control to resolve such as outages caused by the transmission

[1966] *Id.*, pp 132-133; citing 3 Tr 261, 263.
[1967] Staff brief, p 133; citing 6 Tr 2341-2342.
[1968] 3 Tr 257.
[1969] 3 Tr 258.
[1970] 3 Tr 256.

system operator and outages caused by customer negligence," that the ALJ found the Staff's "incomplete proposal" reasonable, and that the Commission adopted the ALJ's findings and conclusions, including her recommendation that DTE Electric "work with Staff toward the full development of the Staff's proposed limited recovery of outage credits."[1971]

Mr. Ozar stated that I&M provided no evidence that the Company is disadvantaged by the current method of expensing outage credits, or that the level of outage credits has or will increase so substantially that a change in recovery method is even warranted.[1972] He added that I&M provided no evidence that it has unfairly paid or has a reasonable probability of paying outage credits.[1973]

Mr. Ozar testified that a utility need not pay outage credits irrespective of the underlying cause of its inability to resolve an outage within the thresholds set by Rules 44-46, noting that Rule 51 provides that a utility may petition for a waiver or exception "when specific circumstances beyond the control of the electric utility or cooperative render compliance impossible, or when compliance would be economically burdensome, or technologically infeasible."[1974] He added that the utility should bear the cost of the outage credits, not the customer.[1975]

As such, Mr. Ozar testified that when outage restoration is "outside of [I&M's] ability to resolve," (i.e., when it is impossible for [I&M] to meet the service restoration standards), no credits should be issued because I&M has a responsibility to petition the Commission

---

[1971] 3 Tr 257, citing November 18, 2022, Order Case No. U-20836, p 366.
[1972] 3 Tr 258.
[1973] *Id*.
[1974] 3 Tr 258-259.
[1975] 3 Tr 259.

for a waiver or exception under Rules 51 and 52.[1976] He opined that it is unfair for customers to shoulder the costs of credits paid out when utility compliance is impossible, given the availability of a waiver or exception that would relieve the utility of the obligation to pay the credits.[1977]

Mr. Ozar stated that even when an outage is caused by “customer negligence”, I&M should still bear the cost of credits issued, asserting that the ALJ’s conclusion in Case No. U-20836, that it was “reasonable” to allow DTE recovery of credits paid for outages caused by “customer negligence,” conflates responsibility for the outage with responsibility to restore service in a timely manner.[1978] He added that irrespective of the cause of the outage, generally I&M has a responsibility to restore service within the timeframes specified by the rules.[1979] Noting that Rule 21 requires I&M to operate and maintain its distribution system to meet the Commission’s Service Reliability and Quality Standards, he testified that it is reasonable to conclude that I&M should take prudent precautions to mitigate the risks of damage to its distribution system and the consequent customer outages, and that I&M should not be allowed to pass on to its customers the costs of outage credits required to be paid should restoration of service not occur within the specifications set forth in the Commission’s Rules 44-46.[1980]

Mr. Ozar stated that the failure of a customer to maintain a vegetation clearance zone around service lines is not “customer negligence” because there are many reasons a customer might not keep a vegetation clearance zone around the overhead service line

---

[1976] *Id.*
[1977] *Id.*
[1978] 3 Tr 260.
[1979] *Id.*
[1980] 3 Tr 260-261.

that would not constitute “negligence”, and that the Commission should not allow a utility to recover costs based on its own self-serving determinations of customer “negligence”.[1981]

Mr. Ozar testified that I&M provided examples of outages outside I&M’s control that were not limited to customer negligence or outages outside I&M’s control to resolve, such as outages caused by trees falling from outside of the right-of-way, and that these are the kind of outages that the Staff in Case No. U-20836 excluded from the scope of its proposal, having argued in that case “that restoring service for an outage caused by an auto accident or by a storm is a function that is expected of the Company.”[1982]

While noting that an outage under the control of the transmission operator might not be within DTE Electric’s control to resolve, Mr. Ozar explained that I&M exercises control to resolve outages at both the distribution and transmission levels because AEP owns both the transmission Company (AEP Transmission) and the distribution Company (I&M).[1983] Consistent with his testimony, Mr. Ozar recommended that the Commission reject any request for recovery of outage credits as O&M or other expenses.[1984]

In rebuttal, Ms. Seger-Lawson reasserted that she proposed deferral of outage credits when “the outage was caused by customer negligence or the transmission system operator, among other limited circumstances,” again citing the example of a tree outside the ROW falling onto the line, or public interference, both of which should be viewed as outages caused by circumstances outside the utility’s control.[1985] She added that “while

[1981] 3 Tr 261.
[1982] 3 Tr 262-263; citing November 18, 2022, Order, Case No. U-20836, p 364.
[1983] 3 Tr 263.
[1984] 3 Tr 264.
[1985] 6 Tr 2014.

the specific language used can be modified or refined," it was I&M's intent to defer outage charges "that were a result of an issue that is not within I&M's direct control."[1986] She stated that Staff agrees with I&M's proposal.[1987]

In its brief, I&M maintains that there is no evidence that the Company over-recovers outage credits or attempts to circumvent the Commission's Service Quality and Reliability Standards.[1988]

This PFD recommends that the Commission adopt Staff's amended recommendation for I&M's limited recovery of outage credits, which this PFD relates as follows:

1. For service quality rules R 460.744 and R 460.745, I&M may recover from ratepayers outage credits that are paid due to A) outages that are outside the control of I&M to resolve, excluding an outage caused by the transmission system operator, and B) due to outages caused by a customer, including outages caused by a customer's failure to keep clear from vegetation the service line and the customer's service entrance cable to the meter. Outage credits paid due to a car hitting an I&M-owned pole, an animal damaging equipment, or trees falling from outside of the right of way, or credits paid after a storm or weather event may not be recovered from ratepayers.

2. For service quality rule R 460.746, I&M may recover from ratepayers outage credits that were paid due to sustained interruptions caused by factors outside of I&M's control.[1989]

[1986] *Id*.
[1987] *Id*.
[1988] I&M reply, 102-103; citing Exhibit CUB-8.
[1989] This PFD notes that Staff's brief includes the following statement: "For service quality rule R 460.746, which covers repetitive interruptions, Staff proposes that the Company recover from ratepayers one-sixth of the prevailing bill credit amount ($38 as of March 2024) for each sustained interruption caused by factors outside the Company's control. (6 TR 2341-2342.)". Staff brief, p 133. However, including the reference to "one-sixth of the prevailing credit amount" appears to be in error, mistakenly taken from Mr. Evans's testimony wherein he described a hypothetical "example" of how the recoverable outage credit would be calculated where a customer had six sustained interruptions, with five of the interruptions caused by factors outside of I&M's control and one caused by an error by I&M. See 6 Tr 2341, lines 22-23; 6 Tr 2342, lines 1-4. Mr. Evan's immediately prior statement of Staff's recommendation for R 460.746 does not include a reference to "one-sixth": "For service quality rule R 460.746, which covers repetitive interruptions, Staff proposes that the Company recover from ratepayers those funds used to pay outage credits that were paid out due to sustained interruptions caused by factors outside of the Company's control." See 6 Tr 2341, lines 19–22.

While I&M seeks the recovery of outage credits for a broader category of circumstances than recommended by Staff, this PFD notes that the Commission in Case No. U-20836 previously adopted Staff's recommendation for a narrower category of applicable circumstances for recovery of outage credits.[1990] In that regard, this PFD notes that I&M's proposal in this case to include "trees falling from outside of the right of way" as an example of when the outage duration/restoration is "not attributable to I&M's actions" or is "beyond I&M's control" was raised by DTE Electric in its case, but it was not adopted by the PFD or the Commission.[1991] Indeed, as Mr. Ozar testified, outages caused by trees falling from outside of the right of way are of the kind of outages that Staff in Case No. U-20836 and in this case excluded from its proposals because "restoring service for an outage caused by an auto accident or by a storm is a function that is expected of the Company."[1992]

Regarding CUB's proposal that the Commission reject any request for recovery of outage credits as O&M or other expenses, this PFD notes that the Commission previously found that "it is reasonable that the Company have the ability to recover outage credits when the outage was caused by [the] customer . . . among other limited circumstances."[1993]

[1990] November 18, 2022, Order, Case No. U-20836, p 363-367. Citations omitted.
[1991] Case No. September 19, 2022, Order, Case No. U-20836, PFD, p 602. Citation omitted; November 18, 2022, Order, Case No. U-20836, p 363-367. Citations omitted.
[1992] November 18, 2022, Order, Case No. U-20836, p 364.
[1993] November 18, 2022, Order, Case No. U-20836, pp 363-367. Citations omitted.

Staff also recommends a full disallowance of O&M expenses associated with O&M for CIS in a total amount of $623,406 with the Michigan jurisdiction amount of $102,539.[1994]

Based on Ms. Seger-Lawson's testimony, I&M proposes to defer depreciation expense and post-in-service carrying costs at the pre-tax weighted average cost of capital, for this CIS project until such time as these amounts can be included base rates.[1995] The Attorney General recommends the Commission disallow I&M's request to defer the costs associated with CIS.[1996] Mr. Coppola testified "[t]he proposal attempts to circumvent typical regulatory lag" which is an incentive to control spending of capital expenditures until they are included in a subsequent rate case.[1997] Based on Mr. Coppola's testimony, the Attorney General recommends the Commission reject the proposed deferral.[1998]

C. Nuclear Decommissioning Surcharge

In its original filings, I&M requested funding for a surcharge used for its Nuclear Decommissioning Trust fund which has been approved in prior cases.[1999] The City of Auburn Indiana demonstrated that the nuclear decommissioning trust fund was fully funded and that the Company's surcharge in Indiana was currently set to zero ($0.00).[2000]

[1994] Staff brief, 39.
[1995] Attorney General reply, 23. 6 Tr 1980.
[1996] Attorney General brief, 68-69.
[1997] 6 Tr 2414-2415.
[1998] Attorney General brief, 69. 6 Tr 2415.
[1999] I&M brief, 284.
[2000] City of Auburn brief, 2-4. 3 Tr 294.

The City of Auburn recommends the Michigan Public Service Commission follow suit and set this surcharge to zero.[2001]

In rebuttal and its brief, the Company agrees that this surcharge should be set to zero for all retail classes, and agreed this results in "a $1,311,310 reduction.[2002] However, I&M asserts this funding should be reevaluated in the Company's next Michigan rate case.[2003]

Based on the Company's response this PFD finds that the matter is resolved and recommends that the Commission set the Nuclear Decommissioning Surcharge to zero in this case.

D. Electric Vehicle Charging Program

I&M requests to continue its existing electric vehicle (EV) program in this case, IM Plugged In, with plans of future expansion.[2004] The Company argues continuation of the EV program is uncontested and I&M requests to continue the deferred accounting authority for these costs.[2005]

Staff reviewed I&M's proposal and Mr. Freeman testified "Staff supports the Company's request to maintain the status quo."[2006] However, Mr. Freeman stated that Staff recommends the Company include a "robust and thorough benefit cost analysis" of its EV plan. Staff also recommends that I&M file its comprehensive EV program proposal as a transportation electrification plan in a separate proceeding in Case No. U-21538.

2001 City of Auburn brief, 1-2.
2002 I&M brief, 284. 3 Tr 358.
2003 I&M brief, 284.
2004 I&M brief, 276. 4 Tr 1188. 6 Tr 1984.
2005 I&M brief, 278.
2006 6 Tr 2364.

Mr. Freeman asserted this docket remains open for the future filings of transportation electrification plans from other regulated utilities.[2007]

In rebuttal Mr. Walter testified: "I&M acknowledges Mr. Freeman's statement regarding its EV Plan benefit cost analysis and intends to comply with what it considers to be a comparably robust and thorough analysis for any EV pilots proposed in the upcoming EV plan filing."[2008] And he stated that the Company will comply with the commission's pilot requirements and cost recovery framework.[2009] Ms. Seger-Lawson testified that the Company is concerned that filing its EV plan in Case No. U-21538 would result in all parties to this case, being considered parties in that EV plan case, and questions whether the Company would be required to serve all these parties with filings or discovery.[2010] She stated the Company was not opposed to sharing information but opined it may not be procedurally efficient.[2011] In its brief, I&M repeated the concerns expressed by Mr. Walter and Ms. Seger-Lawson.[2012]

First, this PDF finds there is no dispute concerning I&M's request to continue its current EV program, or the continued deferral accounting for associated costs. Accordingly, this PFD recommends that the Commission approve the Company's request to continue the EV program and the related deferred accounting authority.

This PDF also finds that Staff's recommendation that I&M file its comprehensive EV plan in the docket already established to review transportation electrification plans

---

[2007] *Id*.
[2008] 5 Tr 1510.
[2009] *Id*.
[2010] 6 Tr 2020.
[2011] *Id*.
[2012] I&M brief, 278.

should be adopted by the Commission. While there does not appear to be any authority for parties in this matter to automatically be parties in another case, the Company's concerns could easily be addressed by the Commission at the time of filing. Accordingly, this PFD recommends that the Commission also direct I&M to file its transportation electrification plan in Case No. U-21538.

E. DOE Dry Cask Storage Accounting Request

The Company requests continuation of its deferred accounting authority for nuclear dry cask storage costs pursuant to a settlement agreement with the United States Department of Energy (DOE); this deferred accounting authority was originally approved in Case No. U-18370.[2013] I&M explains these expenses are incurred as a result of loading spent nuclear fuel into stainless steel canisters which are then transferred into dry concrete casts.[2014] The Company states it's settlement agreement with the DOE provides for reimbursement of the costs associated with the storage and I&M has received notification that the agreement is extended through December 31st 2025. The Company explains it did not include dry cask storage costs in the test year because it anticipates the DOE will continue to reimburse these costs.[2015] However, I&M wishes to continue the authority to defer expenses in the event disbursements from the DOE cease or if the costs exceed the reimbursed amount.[2016] No party contested this request.

Based on the Company's representations, this PFD recommends the Commission continue the deferred accounting authority related to dry cask storage expenses.

[2013] I&M brief, 285. 5 Tr 1841.
[2014] *Id*.
[2015] *Id*. 6 Tr 1985.
[2016] I&M brief, 286.

F. <u>Effective Date of Rates after Commission Order</u>

Ms. Seger-Lawson testified that I&M requests that the Commission issue a final order as soon as possible "but no later than ten months after the date of filing of the Company's case" consistent with the requirements of MCL 460.6a(5) and allow the Company to implement new rates the same day that the final order is issued.[2017]

Staff witness Braunschweig testified that Staff disagreed with the Company's proposal to implement new rates on the day of the Commission order. Referencing Exhibit S-8.0, Ms. Braunschweig explained that I&M had not presented a compelling reason to set new rates on the date of the order. Moreover, Ms. Braunschweig testified that based on Staff's understanding of the process of updating the Company's billing system, it would not be possible to accurately input the data into I&M's billing system in one day.[2018] Instead, Staff recommended that:

> To allow more time to confirm accuracy of the rates and tariffs approved by the Commission, Staff proposes that the rates and tariffs attached to the order in the instant case be given an effective date after a designated time period (Staff recommends fourteen calendar days, consistent with the DTE Electric U-21297 final order on 12/1/2023) for all parties to review the calculations and tariff sheets. This time period gives all parties time to identify and notify the Commission of any errors, which ensures the rates and tariffs put into effect by the Company are reflective of the Commission's decisions. If no errors are found, then the rates and tariffs would go into effect at the end of the review period set in the order. If, however, errors are identified, corrections would be filed in the docket prior to implementation.[2019]

[2017] 6 Tr 1970.
[2018] 6 Tr 2294.
[2019] *Id*.

In its brief, I&M states that it opposes Staff's recommendation averring, "The Company is in the best position to know how quickly it can implement new rates in its billing system."[2020]

This PFD finds that Staff's recommendation is reasonable and should be adopted. As Staff suggests, numerous tariffs will need to be updated, and errors and omissions are entirely possible during that process. As such, providing an opportunity for all parties to review, and possibly correct, the tariffs before they become effective is a prudent approach.

G. Proposals Raised in Briefing

Staff objects to two proposals first raised in the CEO's initial brief: (1) that the Commission should undertake a detailed study of the marginal value of added DG; and (2) that the Commission should direct a new study of the value of DG.[2021] Staff points out that neither of these proposals are in the evidentiary record. In addition, Staff objects to GLREA's recommendation to include a distribution credit as part of the DG outflow credit calculation.[2022]

Staff argues that, consistent with the Michigan Constitution and MCL 24.285, the Commission must make its determinations "based on competent, material, and substantial evidence on the record as a whole[,]" and that there was no record evidence to support these recommendations. In addition, Staff points to Mich Admin Code, R 792.10434(3), that requires that factual allegations contained in briefs must include

---

[2020] I&M brief, 292.
[2021] Staff reply revised, 38, quoting CEO brief, 6.
[2022] Staff reply revised, 40, quoting GLREA brief, 1-2.

citations to the record that support the assertions, but no record cites for these proposals were provided.[2023]

For the reasons discussed in Staff's reply brief, this PFD agrees that the proposals first raised in the CEO and GLREA initial briefs should be disregarded.

XIII.

CONCLUSION

Based on the foregoing discussion, this PFD recommends that the Commission adopt the findings, conclusions, and recommendations set forth above, including the findings and recommendations on rate base, capital structure, cost of capital, and operating revenues and expenses leading to an estimated revenue deficiency of approximately $6,590,000, with an authorized return on equity of 9.9% and an overall cost of capital of 6.05%, as well as the recommendations regarding various accounting requests, cost of service allocations, and rate design, and including recommendations for additional Commission investigation, and additional utility reporting and analysis.

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

Katherine E. Talbot

Digitally signed by: Katherine E. Talbot
DN: CN = Katherine E. Talbot email = talbotk@michigan.gov C = US O = MOAHR OU = MOAHR - PSC
Date: 2024.05.10 15:19:49 -04'00'

Katherine E. Talbot
Administrative Law Judge

Issued and Served:
May 10, 2024

2023 Staff reply revised, 38.

Appendix A

Case No. U-21461
PFD
Appendix A

Indiana Michigan Power Company
Revenue Deficiency
Projected 12-Month Period Ending 12/31/2024
($000)

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
Line No.	Description	Source	Applicant Projection Total Jurisdictional	PFD Adjustment	PFD Projection Total Jurisdictional	Applicant Projection Excluding Rockport U2	PFD Adjustment	PFD Projection Excluding Rockport U2	Applicant Projection Rockport U2 Rate Base	PFD Adjustment	PFD Projection Rockport U2 Rate Base
1											
2	Rate Base	Exh. A-16, Sch.F-1	1,251,903	(51,498)	1,200,405	1,234,615	(51,498)	1,183,117	17,288	0	17,288
3											
4	Adjusted Net Operating Income	Exh. A-16, Sch.F-1	50,695	13,208	63,903	50,695	13,208	63,903			
5											
6	Overall Rate of Return	Line 4 / Line 2	4.05%	1.27%	5.32%						
7											
8	Rate of Return	Exh. A-14, Sch. D-1				6.42%	-0.37%	6.05%	5.78%	-0.09%	5.69%
9											
10	Income Requirement	Line 2 x Line 8	80,262	(7,695)	72,566	79,262	(7,679)	71,583	999	(16)	983
11											
12	Income Deficiency	Line 10 - Line 4	29,566	(20,903)	8,663						
13											
14	Revenue Conversion Factor	Exh. A-13, Sch. C-2	1.3372	(0.0057)	1.3315						
15											
16	Subtotal	Line 12 x Line 14	39,536	(28,001)	11,535						
17											
18	OATT Costs	Ex A-16, Sch. F-1.1	1,577	544	2,121						
19											
20	Total Revenue Deficiency	Line 16 + Line 18	**41,113**	**(27,457)**	**13,656**						
21											
22	Tax Rider Credit	Ex. IM-53 (JCD-2)	(7,066)	0	(7,066)						
23											
24	Total Revenue Deficiency, net of Tax Rider	Line 20 + Line 22	**34,046**	**(27,457)**	**6,590**						

Appendix B

Michigan Public Service Commission	Case No. U-21461
Indiana Michigan Power Company	PFD
Projected Rate Base	Appendix B
Projected 13 Month Average Period Ending 12/31/2024	
($000)	

Line No.	Description (a)	Source (b)	Applicant Projection Jurisdictional (c)	PFD Adjustment (d)	PFD Projection (e)
1					
2	Plant in Service	Ex A-12, Sch B2, Ln 16	$ 1,896,009	$ (44,849)	$ 1,851,160
3	Plant Held for Future Use	Ex A-12, Sch B2, Ln 22	217	-	217
4	Construction Work in Progress	Ex A-12, Sch B2, Ln 31	39,922	-	39,922
5	Total Utility Plant		$ 1,936,148	$ (44,849)	$ 1,891,299
6					
7	Less: Depreciation Reserve	Ex A-12, Sch B3, Ln 10	(728,617)	5,176	(723,441)
8					
9	Net Utility Plant		$ 1,207,531	$ (39,673)	$ 1,167,858
10					
11	Net Capital Lease Property		-	-	-
12					
13	Total Utillity Property and Plant		$ 1,207,531	$ (39,673)	$ 1,167,858
14					
15	Less: Capital Lease Obligations	Ex A-12, Sch B2, Ln 11	-	-	-
16					
17	Net Plant		$ 1,207,531	$ (39,673)	$ 1,167,858
18					
19	Accounts Payable Retention	Ex A-12, Sch B4, Ln 35	(2,064)	-	(2,064)
20					
21	Defd Gain - Foreign Currency Derivative	WP-ZBW-5	-	-	-
22					
23	Allowance for Working Capital	Ex A-12, Sch B4, Ln 50	46,436	(11,825)	34,611
24					
25	Total Projected Test Period Rate Base		$ 1,251,903	$ (51,498)	$ 1,200,405

Note: Rate Year Adjustments column includes the following Adjustments as sponsored by various Company witnesses:
Also refer to IM-50 (JWM-1)

[a] Adjustments RB-1, RB-2, RB-3, RB-5, RB/O&M-2, and RB/O&M-3
[b] Adjustments RB-1, RB-2, RB-3, RB/O&M-2, RB/O&M-3, and DEP-1
[c] Adjustment RB-4 and RB/O&M-1

Appendix C

Michigan Public Service Commission
Indiana Michigan Power Company
Adjusted Net Operating Income
Projected 12 Month Period Ending 12/31/2024
($000)

Case No.: U-21461
PFD
Appendix C

		Revenues	Expenses							NOI		
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
Line No.	Description (Witness)	Total	Fuel & Purchased Power	Other O&M	Depreciation & Amort.	Property & Other General Tax	Other	Income Taxes	Total	NOI	AFUDC	Adjusted NOI
	Company Filed											
1	MI Jurisdictional Operating Income	395,374	76,749	158,629	88,739	14,714	-	8,224	347,055	48,318	2,377	50,695
	PFD Adjustments											
2	Uncollectibles (in lieu of RCF) (Schreur)			71				(18)	53	(53)		(53)
3	MPSC Assement (in lieu of RCF) (Schreur)			101				(25)	75	(75)		(75)
4	Reverse Company Adj O&M-4 - DR - 2yr Amort. Acct 908 (Doherty)			(169)				42	(127)	127		127
5	Reverse Company Adj O&M-5 - DR - 2yr Amort. Acct 908 (Doherty)			(413)				103	(310)	310		310
6	Remove CIS Project O&M			(103)				26	(77)	77		77
7	Special Charges (Braunschweig)	(1)						(0)	(0)	(1)		(1)
8	Special Charges (Braunschweig)	0						0	0	0		0
9	Sales Forecast Adjustment (Braunschweig)	9,244	3,147					1,518	4,665	4,579		4,579
10	Uncollectibles Adj (AG)			(531)				132	(399)	399		399
11	Deferred Cost Amortization (AG)			(663)				165	(498)	498		498
12	Fuel Handling (AG)		(106)					26	(80)	80		80
13	Ash Disposal O&M (AG)		(437)					109	(328)	328		328
14	Miscellaneous Steam Power O&M (AG)			(180)				45	(135)	135		135
15	Maintenance of Boiler Plant O&M (AG)			(134)				33	(101)	101		101
16	Information Tech (AG)			(913)				227	(686)	686		686
17	NEIL Insurance Refunds (I&M update)			(263)				66	(198)	198		198
18	Medical Insurance O&M (AG)			(664)				165	(499)	499		499
19								-	-	-		-
20								-	-	-		-
21								-	-	-		-
22	Home AC DR Program (Doherty)			(297)				74	(223)	223		223
23	Water Heater DR Program (Doherty)			(134)				33	(101)	101		101
24	Incentive Compensation (AG)			(4,188)				1,043	(3,145)	3,145		3,145
25	Credit Card Fees (McMillan-Sepkoski)			(193)				48	(145)	145		145
26	SERP (McMillan-Sepkoski)			(34)				9	(26)	26		26
27								-	-	-		-
28	Impact of Cap Ex Adjustments of Depreciation (Hecht)				(4,163)			1,037	(3,127)	3,127		3,127
29	Roll in new rates and correct Co. DEP-1&2 adjustments (Hecht)				1,993			(496)	1,497	(1,497)		(1,497)
30	Proforma Interest (Rockport)							(5)	(5)	5		5
31	Proforma Interest	-	-	-	-	-	-	(49)	(49)	49	-	49
32	**Total Adjustments**	9,243	2,604	(8,707)	(2,170)	-	-	4,308	(3,965)	13,208	-	13,208
33	**PFD NOI - Test Year (MI Jurisdictional)**	404,616	79,353	149,923	86,569	14,714	-	12,532	343,090	61,526	2,377	63,903

Appendix D

Michigan Public Service Commission | Case No. U-21461
Indiana Michigan Power Company | PFD
Projected Rate of Return Summary | Appendix D
Projected 13 Month Period Ending 2024

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
		Capital Structure				Weighted Costs			
Line No.	Description	13-Month Average Balance ($)	Permanent Capital (%)	Total Capital (%)	Cost Rate (%)	Permanent Capital (%)	Total Cost (%)	Conversion Factor	Pre-Tax Return (%)
1	Long-Term Debt	3,228,600,000	52.0%	43.6%	4.59%	2.39%	2.00%	1.00	2.00%
2	Preferred Stock	0	0.0%	0.0%	0.00%	0.00%	0.00%	1.3315	0.00%
3	Common Shareholders' Equ	2,978,600,000	48.0%	40.2%	9.90%	4.75%	3.98%	1.3315	5.30%
4	Total Permanent Capital	6,207,200,000	100.0%			7.14%			
5	Short-Term Debt	86,513,229		1.2%	4.5%		0.05%	1.00	0.05%
6	ADFIT	1,096,208,288		14.8%	0.0%		0.00%	1.00	0.00%
7	ADITC	11,510,491		0.2%	7.1%		0.01%	1.3315	0.01%
8	Total	7,401,432,007		100.0%			6.05%		7.37%

Appendix D: Rockport

Michigan Public Service Commission | Case No. U-21461
Indiana Michigan Power Company | PFD
Projected Rate of Return Summary | Appendix D: Rockport
Projected 13 Month Period Ending 2024

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
		Capital Structure				Weighted Costs			
Line No.	Description	13-Month Average Balance ($)	Permanent Capital (%)	Total Capital (%)	Cost Rate (%)	Permanent Capital (%)	Total Cost (%)	Conversion Factor	Pre-Tax Return (%)
9	Long-Term Debt	3,228,600,000	52.0%	43.6%	4.59%	2.39%	2.00%	1.00	2.00%
10	Preferred Stock	0	0.0%	0.0%	0.00%	0.00%	0.00%	1.3315	0.00%
11	Common Shareholders' Equ	2,978,600,000	48.0%	40.2%	9.00%	4.32%	3.62%	1.3315	4.82%
12	Total Permanent Capital	6,207,200,000	100.0%			6.71%			
13	Short-Term Debt	86,513,229		1.2%	4.53%		0.05%	1.00	0.05%
14	ADFIT	1,096,208,288		14.8%	0.00%		0.00%	1.00	0.00%
15	ADITC	11,510,491		0.2%	6.71%		0.01%	1.3315	0.01%
16	Total	7,401,432,007		100.00%			5.69%		6.89%

Appendix E

Michigan Public Service Commission	Case No.: U-21461
Indiana Michigan Power Company	PFD
Capital Expenditure and Rate Base Adjustments	Appendix E
Projected 13 Month Period Ending 2024	
($000)	

	(a)	(b)	(c)	(d)	(e)	(f)
		Total	Test Year Impacts			
Line	Capital Project Bucket/Description	Cap Ex Adj.	Plant	Accum Dep.	Rate Base	Depreciation
1	**CONTINGENCY**	(1,293)	(1,114)	(81)	(1,033)	(91)
2	**PRODUCTION PLANT**					
3	Production Plant - Cancelled or Postponed Projects	(523)	(460)	(37)	(423)	(40)
4	Production Plant - Updated Project Information	9	284	29	256	15
5	Production Plant - Low-Cost Class Estimate	(181)	(90)	(3)	(87)	(6)
6	**TOTAL PRODUCTION PLANT**	(694)	(266)	(11)	(255)	(30)
7	**NUCLEAR**	(525)	(494)	(22)	(472)	(23)
8	**DISTRIBUTION**					
9	Distribution - Placeholders	(5,339)	(3,039)	(63)	(2,976)	(101)
10	Distribution - AMI	(15,079)	(15,013)	(900)	(14,113)	(500)
11	Distribution - Work Place Service & Other Projects	(2,284)	(1,670)	(45)	(1,624)	(56)
12	**TOTAL DISTRIBUTION**	(22,702)	(19,722)	(1,009)	(18,713)	(657)
13	**INTANGIBLE**					
14	Intangible & General - Capital Software Development	(12,090)	(9,567)	(2,887)	(6,680)	(1,913)
15	Intangible & General - CIS Project	(4,126)	(3,211)	(551)	(2,660)	(642)
16	Intangible & General - Cyber Security Blanket Work Orders	(2,805)	(2,095)	(348)	(1,747)	(419)
17	Intangible & General - HR Human Capital Mgmt Modernization	(158)	(123)	(21)	(102)	(25)
18	Intangible & General - Telecommunication Blanket Orders	(1,763)	(1,439)	(50)	(1,388)	(56)
19	Intangible & General - Other IT Capital Investments	(2,399)	(2,160)	(104)	(2,056)	(85)
20	Intangible & General - PowerPay	(107)	(53)	(5)	(48)	(11)
21	**TOTAL INTANGIBLE**	(23,448)	(18,648)	(3,966)	(14,682)	(3,151)
22	**CAPITALIZED INCENTIVE COMPENSATION**					
23	Capitalized Incentive Compensation	(4,843)	(4,601)	(384)	(4,217)	(211)
24	Supplemental Employee Retirement Plan (SERP)	(4)	(4)	(0)	(4)	(0)
25	**TOTAL CAPITALIZED INCENTIVE COMP**	(4,847)	(4,605)	(384)	(4,221)	(211)
26	**IMPACT OF ROLLING IN NEW DEPRECIATION RATES**			297	(297)	
27	**TOTAL**	(53,509)	(44,849)	(5,176)	(39,673)	(4,163)
28	**WORKING CAPITAL**					
29	Accrued Taxes				(4,300)	
30	Other Current and Accrued Liabilities				(5,600)	
31	Deferred Reg Asset - Rate Case Costs				(254)	
32	Deferred Reg Asset - AMI CBA				(694)	
33	Deferred Uncollectible Cost				(117)	
34	Deferred DR Balances related to O&M-4				(202)	
35	Deferred DR Balances related to O&M-5				(658)	
36	**TOTAL WORKING CAPITAL**				(11,825)	
37	**TOTAL**				(51,498)	